

# **CRIME AND JUSTICE IN ASIA AND THE PACIFIC**

**A Report on the Third United  
Nations Survey of Crime Trends,  
Operations of Criminal  
Justice Systems and Crime  
Prevention Strategies, 1980-1986**

**Tokyo**

**Canberra**

**1990**

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**Compiled and published by  
UNAFEI and AIC**

UNAFEI and AIC  
gratefully acknowledge that  
ASIA CRIME PREVENTION FOUNDATION  
has generously supported this series of  
publications financially.

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## FOREWORD

This report represents a cooperative effort between the United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders (UNAFEI) and the Australian Institute of Criminology (AIC) in preparation for the Eight United Nations Congress on the Prevention of Crime and Treatment of Offenders, to be held in Havana, Cuba from 27 August to 7 September 1990. While the two week long Congress will deal with a number of issues, this volume contains only one aspect of the activities of the United Nations in the field of criminal justice. This report embodies the results of the analysis of the responses to the Third United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies from the Asia and Pacific region.

The United Nations seek much valuable information on crime and criminal justice from the member countries. But because of many and varied reasons the responses from the countries often lack information which hamper meaningful analysis. The United Nations Asia and Far East Institute realises this difficulty and organised a special workshop to discuss the United Nations survey from 23 to 25 October 1989. The workshop coincided with the Eighty-Third UNAFEI International Training Course on Crime Prevention and Criminal Justice in the Context of Development. The workshop was attended by 26 representatives of 16 countries from the Asia and Pacific region, Africa, the Middle East and Latin America. The experts participating in the workshop were Dr Satyanshu Mukherjee, Principal Criminologist, The Australian Institute of Criminology (Australia) who chaired the workshop; Mr Adi Andoyo Soetjito, Deputy Chief Justice (Indonesia); Ms Aglaia Tsitsoura, Head of the Division of Crime Problems, Council of Europe (Strasbourg); and Mr Abdel Aziz Abdalla Shiddo (Sudan) member of the Committee on Crime Prevention and Control.

This regional report has been organised in accordance with the structure approved unanimously at the meeting in Helsinki on 10 and 11 December 1988. There are four main parts, also an introduction. The parts are:

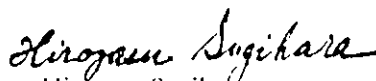
- Part One      --    Conclusions and Recommendations
- Part Two      --    Criminal Justice and Crime Trends
- Part Three    --    Dynamics in Criminal Justice
- Part Four     --    Criminal Justice Profiles

The entire report reflects responses to the Third United Nations Survey, but the workshop focussed on issues relating to parts one to three only. Dr Mukherjee


analyzed and prepared the introduction and parts one to three. Part four was written by members of the Faculty of UNAFEI and Dr Mukherjee.

While official responses to the United Nations Survey questionnaire formed the basis of this report, it was supplemented by data and clarifications obtained by UNAFEI through its large network of contacts. Admittedly a report for the region, prepared by a handful of experts working in Tokyo and Canberra and using a variety of sources, will unavoidably contain some errors, inconsistencies and misrepresentations. Nonetheless, we believe this report is informative and useful to the countries of the region.

We wish to express our sincere appreciation and gratitude to all individuals including members of UNAFEI staff who have helped diligently and enthusiastically in the publication of this report. Dianne Dagger, Anita Scandia and Joylene Chapman of the Australian Institute of Criminology have made significant contributions in preparing the manuscript for publication. Particular mention should be made of Professor Shigemi Satoh of UNAFEI who provided valuable and timely advice and support for the project. And finally, we thank Dr Satyanshu Mukherjee for making valuable contributions to the project.

  
Hiroyasu Sugihara  
Director, UNAFEI

May 1990

  
Duncan Chappell  
Director, AIC

## INTRODUCTION

### Introduction

At each succeeding United Nations Congress for the Prevention of Crime and the Treatment of Offenders, delegations from member states have expressed concern with rising crime. The United Nations, through various means, have attempted to alert member states on the problem facing their countries and have made recommendations, passed resolutions, and established standards and guide-lines. Yet, it appears, the concerns of the member states have, if anything, increased over the years. The emphasis has, albeit, shuttled between juvenile delinquency vs urbanization on the one hand and crime vs development on the other. Traditional crimes, new forms of crime, transnational crime, crimes of abuse of power, etc., have been debated and declarations issued. Over the last forty years or so, the United Nations have been severely handicapped by not having hard quantitative information on the nature and level of criminality in most member states. The pronouncements on the level and nature of crime therefore, were at best intuitive and impressionistic in nature.

This is not to take away the credit that is due to the United Nations. Its most important contribution has been to sensitize governments on the problem of crime and persuade them to act. Ever since the first Congress held in Geneva in 1955 the United Nations has repeatedly stressed the need for research and statistical information on crime, criminals and criminal justice. At the first Congress in 1955, the importance of research was described as follows:

More important, perhaps, than any of the specific conclusions and recommendations submitted above is the obvious need for the development of more research relating to the definition of the term "juvenile", to delinquency causation, prediction and prevention. Efforts to prevent juvenile delinquency should become more effective and economical as more accurate knowledge is available. Research should be directed both to the identification of the measures that are currently employed in the effort to prevent juvenile delinquency and to objective and critical evaluation of the effectiveness of such measures. Comparative, co-ordinated and interdisciplinary research should be carried out to determine the relative effects of programmes in different countries. Through co-operation between researchers

from different countries it may be possible to develop a highly promising new field of comparative criminology, based on research employing standard definitions and techniques. In this way, uniformities and differences in causal influences, in predictive factors and in results of preventive and treatment programmes can be determined and progress made toward a true science of criminology. Research should also be devoted to the causation, diagnosis and treatment of delinquency.<sup>1</sup>

While no one can deny that the quantity and quality of research and statistics have made improvements in North America and some West European countries, most of the world remained almost unchanged. This is not necessarily because of lack of will, but more so because of lack of resources and expertise. Crime in several developing countries is not as pressing a problem as in others. It is not simply a question of 'low' priority given to crime control, rather a question of organising the basic needs of the population because depravity often changes ones understanding and ethics of 'acceptable' behaviour. In this respect a response from a developing country is illustrative.

Unemployment, under employment, broken family, lack of proper care and education to the children and the population boom are the main causes of crime and delinquency in this country. The improvement of living conditions, formation of good family ties and community feeling are a must for our society.<sup>2</sup>

And this is precisely the course that the United Nations has adopted. In issuing future directions, the seventh United Nations Congress, held in Milan in 1985, highlighted -

The need to eliminate negative conditions from the life of young persons, such as illiteracy, unemployment, racial and national discrimination and other forms of social inequality. As part of the process of economic and social development, it stressed that all states should take measures for the proper upbringing and education of youth and for the provision of employment of young people...<sup>3</sup>

It appears quite logical, therefore, that the United Nations decided to conduct surveys of crime trends, operations of criminal justice systems and crime prevention strategies. The area of statistics is not new to the United Nations. Through its various offices and agencies the United Nations regularly publishes



statistical data concerning demographic, social, economic, health, education, technology, etc from many countries. Statistics on homicide from a great many countries are published by the World Health Organisation as part of causes of death statistics. Thus, the United Nations has, over the years, developed a significant amount of expertise in the area of statistics.

So far the United Nations has conducted three surveys of crime trends. The first was commissioned in 1976 and a report was presented to the 6th United Nations Congress, held in Caracas, Venezuela in 1980. The second survey was launched in 1983 and a preliminary report was presented at the 7th United Nations Congress, held in Milan, Italy in 1985. The third survey was initiated in 1988 and data analysis are continuing. The first two surveys provided valuable information which also led to a substantive revision of the questionnaire for the third survey.

Apart from reports presented at the United Nations Congress, the European Institute in Helsinki and UNAFEI published reports of analysis of the second United Nations Survey for European and Asian countries respectively.

### **The purpose of this report**

The main purpose of this report is to examine the responses to the Third United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies, provided by the countries in the Asia and Pacific region. Such an examination will involve.

- description of the criminal justice systems of the responding countries from the Asia and Pacific region;
- description of the system of record keeping and statistical information on crime, criminals, and processing criminals by various organs of the criminal justice systems;
- examination of the nature and level of crime and punishment in the region; and
- examination of the changes in the nature and level of crime vis-a-vis socio economic changes.

The primary source of information and statistics for this report has been the responses to the survey questionnaire. But as for the third survey, the UNAFEI held a four day workshop to discuss the United Nations Survey. All the participants of the 83rd training course at UNAFEI attended the workshop. They came mainly from the Asia and Pacific region. But there were participants also from four African countries, and one each from Saudi Arabia and Costa Rica. Participants came from all sectors of the criminal justice system, eg., eight senior police officers; five senior public prosecutors; four judges; three senior policy makers and planners; five senior officers from childrens departments (probation or corrections); one lawyer -- technical expert. Also present were visiting experts from the Council of Europe, the Sudan, Indonesia and Australia.<sup>4</sup> A substantial portion of system details were obtained through the workshop discussions.

The report is organised in several parts. Part One includes conclusions and recommendations emerging from the analysis of the responses to the United Nations Survey questionnaire and from the workshop discussions. Part Two discusses the criminal justice systems, and relevant issues, and analysis of statistical material. Part Three examines the dynamics of criminal justice and explores the relationship between crime and exogenous variables. And Part Four presents criminal justice profiles of responding countries.

Based on the Second United Nations Survey, UNAFEI prepared a document for the Seventh Congress which described the criminal justice systems of some countries in the region. It is important to emphasise that the present report recognises serious problems in comparing systems among various countries. Particularly statistical information present insurmountable hazards, as will be evident from discussion in Part Two. Hence, cross national comparisons must be undertaken with utmost care. The criminal justice system and its statistical information systems are seriously influenced by cultural, historical, political, economic and technological factors. Therefore, the presentation of cross national descriptions in this report are aimed at informing each country of the region about systems in other countries.

## **PART ONE**

### **CONCLUSIONS AND RECOMMENDATIONS**

#### **Recommendations regarding the distribution of the United Nations Survey questionnaire.**

The workshop agreed that the present manner of distributing the questionnaire was not the most effective one. A number of issues were raised with regard to delay in receiving the questionnaire by the respondents, not reaching the appropriate agency or individual, and its completion by persons/agencies who have no direct knowledge of or experience with the criminal justice systems and/or statistics on crime and crime control. A number of suggestions were considered: the questionnaire be sent also to non-government or voluntary organisations and universities in each country. It was pointed out that the government view is not always an accurate one. This suggestion was rejected by most participants on the grounds that voluntary organisations and universities often reflected views contrary to those held by the government and therefore will not be acceptable. Also, statistics on crime are produced by official agencies, and non government bodies and universities will have to obtain information from these agencies. Furthermore, crime data in several countries are 'confidential' or 'restricted' material and therefore access to outsiders are limited. For example, in some countries homicide data may include 'missing persons' and therefore, are sensitive materials.

The prevailing view of the workshop was that the United Nations must use normal channels through respective governments and might consider -

- forwarding to the office of the head of government in each country. From that office the questionnaire will be forwarded to the appropriate agency and such a move will have some force; or
- in the forwarding letter from the United Nations, names of appropriate ministries be mentioned; or
- distribute the questionnaire through regional institutes. Such a move might obviate the diplomatic and bureaucratic problems.

The workshop concluded that in order to obtain reliable and speedy response, the United Nations must find suitable and effective means of distributing the questionnaire.

#### **Recommendations regarding the utility of the United Nations Survey.**

The workshop observed that the utility of the survey, particularly to the member states, was not at all clear. Responding to the questionnaire properly requires substantial effort and resources. The quality of response and readiness to

respond will improve if the United Nations explains the benefits of the survey. Unfortunately, neither the questionnaire nor the reports of the first two surveys, throw any light on the issue.

The workshop concluded that the benefits of the survey to individual nations be explained in some detail. Also, if comparability of crime statistics between countries is problematic, what benefits individual nations can derive from an analysis of crime in a number of countries be clarified.

One way would be to explain what some of the data items, included in the third survey questionnaire, can offer. For example, items 47 and 49, which seek information on time taken in processing cases, can be most useful in identifying bottle-necks in the system. Delay in the administration of justice is a global problem. Countries where this problem is endemic could learn from those that have been successful in reducing the delay. The mechanisms to solve this problem may reside in the improvement in the procedural laws, altering the jurisdictions of the courts in terms of limits to triable offences, establishing more courts, or in the introduction of technology.

Statistical and other information relating to various aspects of the criminal justice system could serve as an important basis for decision making. Such data can help identify weaknesses in the system and enable development of strategies for improvement and effective use of scarce resources. Information from other countries and knowledge of differences may encourage exchange of details and eventual action.

The United Nations can consider technical assistance of any kind only if countries desiring such assistance provide information to enable the United Nations to evaluate requests, identify the nature and quality of assistance desired, propose possible experts, and foresee potential costs and benefits to countries concerned. Responses to the United Nations survey questionnaire would assist the international body to examine weaknesses in the information system and identify loss of potentially valuable data for useful purposes.

#### **Recommendations regarding follow-up and feed back.**

So far the follow-up of the questionnaire has been hampered by the inability of the United Nations to locate the whereabouts of the questionnaire once it is sent to the delegations. Unless and until a response is received and the name of the person completing the questionnaire is noted, an effective follow-up is difficult. The report on the first two surveys also indicate either no follow-up of the responses was carried out or it was not necessary. The two reports only emphasise the dangers of comparing statistics across countries, but these do not reflect some fundamental differences in reporting and recording offences, their solution, and processing of offenders.

Similarly, once a response is received by the United Nations, there is almost no feed back. Simply distributing the reports of analysis as congress documents during each quinquennial congress, does not constitute an appropriate feed back.

Very often the agency omit the name of the individual filing the response and he/she is not even represented in the delegations of countries attending these congresses. Once the delegations return home, it appears the congress documents get buried under other papers. Thus, the agencies responsible for criminal statistics may never know how their country's responses were used and where their country stands vis-a-vis crime in other countries. Simply acknowledging the response is, no feed back. Even a 'preliminary' analysis must be sent to each country, so they know their response was made use of. If improvement in the criminal statistics and information system is desirable, systematic follow up is necessary. The analytic report of these surveys must be able to indicate how and what types of statistical data and information will assist countries in legislative, policy, administrative, and operational decisions.

#### **Recommendations regarding dissemination of the results of the survey.**

At present the results of the United Nations Survey are not seen by many, and they do not filter through to the operational levels at all. Furthermore, reports of results of these surveys take an unusually long time. For instance at the time of the workshop a report of the Second United Nations Survey, encompassing 1975-80, was not finalised.

The workshop concluded that the United Nations should develop a suitable procedure for the dissemination of these reports. One of the procedures could be to ask the Regional Institutes to distribute the reports to their alumni, and seminar and conference participants.

#### **Recommendations regarding the format and content of the survey questionnaire**

##### **Format**

The workshop examined in detail the questionnaire and arrived at the following conclusions and recommendations

1. The questionnaire is too long and it tends to inhibit response. It should be recognised that not all countries regularly compile and publish crime statistics. Therefore, a large amount of statistical information sought in the questionnaire has to be assembled, if not collected especially for the survey purpose. Specific recommendations regarding deletion of some sections of the questionnaire will be made.

The workshop recommended that the United Nations consider the implications and the feasibility of splitting the questionnaire and conduct separate surveys on the activities of each branch of the criminal justice system.

2. The data items, eg crimes recorded, formal contact, persons prosecuted, etc., needs to be defined carefully and in detail. The differences in the definitions of data items between countries are much greater than one could anticipate. It is advisable that the data items be explained with the help of examples. For instance, crimes recorded in one country may mean the

number of crimes reported or becoming known to the police, it may mean only those crimes which after investigation have been found to be true, it may mean only relatively serious crimes -- that is excluding 'trivial' or 'minor' crimes. In countries where there exists a separate prosecution branch, the public prosecutor often initiates cases, these cases of crimes are not included in 'crimes recorded'. The importance of this becomes very clear when one examines the crime and offender data. In some countries the number of offenders is more than three times the number of crimes. This situation is incomprehensible in terms of North American, West European and some Asia Pacific country data. In most industrialised nations only a fraction of crimes recorded by the police are cleared by the arrest of suspects. Thus, the number of offenders coming into contact with the police is always much less than the number of crimes recorded.

3. Similarly 'offenders brought into formal contact' needs clarifications. In several countries this includes also those who have been identified, not necessarily arrested. Very often, when the victim files a complaint, he/she is asked to name the suspect, and if he/she does then this information will be transformed as offender even though the named person may never be arrested or proceeded with.

The workshop also felt that the jump between 'crimes recorded' and 'offenders brought into formal contact' is substantial, yet the questionnaire appears to totally ignore this jump. The fact that in most countries only a portion of the offences recorded are cleared by arrest of offenders is not clear from the questionnaire. On the contrary, the questionnaire appears to give the impression that the number of offenders brought into formal contact are responsible for all the crimes recorded by the police. That is to say that the numbers shown in Tables 16-20, appear to be responsible for the crimes recorded as shown in Table 14 of the questionnaire. Unless clarified, such a conclusion is inevitable and that will be totally misleading. The workshop concluded that for the sake of clarity and accuracy, the report of the analysis of the third survey must explain the problem.

4. Problems similar to above also emerge in prosecution and court statistics. Statistics on courts present another major problem. All countries in the region have different levels of courts. Rarely judicial statistics for all the court systems are incorporated in one volume. The counting rules for various levels of courts are different and it is often difficult to make any sense by combining data from different courts. This problem needs to be highlighted.

## **Content**

The following conclusions and recommendations emerged from the workshop discussion:

1. Several participants voiced the opinion that it would be advisable for the United Nations to include questions which deal with matters that are non-sensitive in nature -- from the country perspective. Particularly, items in question 3, 12 and 13, were considered highly sensitive. Such a voice was

expressed not only by participants from developing countries but also from countries with high standards of living. The workshop recommended that while preparing for the fourth survey these opinions must receive due consideration.

2. Several changes were suggested in Table 14, pages 14 and 15.

- (a) A considerable amount of time was spent in discussing even a crime like homicide. Several participants felt that separate data for intentional homicide were not available in their countries. Several raised the question why not murder? Some criminal codes include several types of murder. Often the persons responding to the questionnaire are not knowledgeable. Problems also emerged, in defining non-intentional homicide. In some countries there exists only one set of homicide statistics which include, politically motivated killings, auto accident death, deaths resulting from callous driving, accidental death from firearm, attempted murder, etc. As a result homicide rates in these countries appear excessively high. After a lively deliberation the workshop agreed that the two categories of homicide to be included should be --

Intentional homicide  
All homicides including  
intentional homicide

This way if countries have separate data they can provide that for intentional homicide, if not the United Nations will still receive data for total homicides. It must be necessary, therefore, to ask each respondent for a note explaining the types of deaths included in the crime category of homicide.

- (b) Discussion on assault resolved that the two categories should be as follows:

Major assaults only  
All assaults including  
major assaults

The workshop felt it would be valuable if countries can provide definition of 'major assaults' in terms of type of injury or number of days spent in hospital or number of days absent from work, school, etc.

- (c) Considering far reaching changes in the definition of 'rape' in many countries the workshop indicated that the United Nations should be extra careful in dealing with this crime. Countries such as Canada and several areas in Australia have abolished the crime of rape. Among many reasons for doing so was the serious stigma attached to the crime of rape and, as evident from crime victims surveys, very low reportability rate of this crime. In several criminal codes, the provision exists whereby a husband can be charged with rape of his wife. Where the crime of rape has been abolished, categories of sexual assaults with varying degrees of violence used in committing rape have been

incorporated in law. Therefore, while the workshop agreed to maintain this crime category in the questionnaire, countries should be asked to provide definition of rape.

- (d) Robbery -- this crime category should remain as it is. However, in several countries statistics on robbery are known to include the crime of extortion. Countries should be requested to clarify this.
- (e) Theft -- in a number of countries theft was the most common crime, and this is the crime which significantly influences rises or falls in the level of total crime. Also, a very large majority of these thefts are petty in nature. The workshop concluded that the definition of theft on page 7 be amended to read:

Theft refers to the taking away of property without the owner's consent, including burglary and housebreaking. It includes the theft of a motor vehicle. Shoplifting and other minor property offences, eg. pilfering and petty theft be included in this category.

Thus the two categories of theft in Table 14 should be --

Major thefts  
All thefts including major thefts

- (f) The crime of fraud expresses, in a sense the gullibility of the public but as to the extent of offences committed it is a crime which is not understood properly. In fraud the amount is also very important. The comparability of this crime is difficult because the type of fraud which is becoming endemic in developed countries, eg credit card fraud, is non-existent in many developing countries. But the crime of deceit is not unknown. The workshop concluded that fraud be changed to --

Crimes of deceit relating to property  
and it should be defined with the help of an example. Embezzlement may be maintained.

- (g) The workshop found no problem with the definition of the crime of kidnapping.
- (h) Drugs -- the workshop debated in detail the inclusion of this crime in the questionnaire, and observed that the term 'Drug-related Crime' is confusing. Most countries are concerned about the problem of drugs. But the participants felt the term 'drug-related' could mean a robbery which is drug related, or a burglary or even murder which could be drug related. It is important to differentiate between acts such as possession or abuse of drugs, or manufacture, traffic or importation of drugs from violent or property crimes which could be linked to above drug crimes. The workshop recommended that the crime be termed as



'drug crimes' and that no further categorisation such as possession or other be contemplated at this stage.

As regards crimes that could be drug related, the workshop felt that considerable work is necessary before such crimes could be included in the survey.

- (i) The workshop felt the crime of bribery and/or corruption be maintained, although it has some doubts about the veracity of the information supplied by the respective countries.

Thus, the main table on crimes recorded, item 14 of the questionnaire for the third survey, should appear as shown in proforma 1.1. Other tables in which information on crime categories is desired should be amended accordingly.

- 3. Table 15 (containing statistics for the largest city) should be amended according to the changes suggested for Table 14.
- 4. Tables 16-20 -- the workshop noted several problems with statistics required to fill these Tables. The following issues were discussed:
  - (a) These Tables are designed to obtain statistics on offenders (Table 16) and persons (Tables 17-20). Yet no country could say whether these meant the number of distinct offenders, or the number of arrests (eg one person may be arrested several times during the reporting period). Another factor which complicates the counting is the inclusion of 'suspect' data in these Tables. As indicated elsewhere, suspects identified or named and who may never be arrested or proceeded with are also included in the statistics pertaining to these Tables. However, the workshop observed that under the present accounting system in individual countries, it is not possible to make changes so as to separate offenders arrested from named suspects. While mindful of such deficiency, the workshop felt that statistics, as they exist now, should be collected. The workshop made the following recommendations:
    - (i) Table 16-20 follow immediately the two Tables concerning crimes recorded. While analysing the survey data it should be stressed that the offender statistics relate to those crimes solved and not to all crimes recorded (Tables 14-15)
    - (ii) The title of the Tables be limited to --  
'Offenders brought into formal contact with the criminal justice system.'
    - (iii) In Definition of Terms (p8) 'offenders brought into formal contact' be defined.

**PROFORMA 1.1 - Amended table concerning Recorded Crimes.**

**14. Number of Crimes Recorded**

**Total for Country**

Type of crime	<u>Total for calendar year</u>		
	1986	...	1990
Homicide			
14.1 Intentional homicide			
All homicides including intentional homicides			
Assault			
14.2 Major assaults			
All assaults including major assaults			
14.3 Rape			
14.4 Robbery			
Theft			
14.5 Major theft			
All thefts including major thefts			
14.6 (i) Crimes of deceit relating to property			
(ii) Embezzlement			
14.7 Kidnapping			
14.8 Drug crimes			
14.9 Bribery and/or corruption			
14.10 Other Penal Code Crimes not included in items 14.1 to 14.9			
14.11 Total number of recorded penal code crimes			

- (iv) The crime categories listed in these Tables be harmonised with recommendations made for Tables 14-15.
- (b) The workshop recognised the importance of age and sex breakdown of offender data. However, after thorough discussion, it arrived at the following conclusions:
- (i) For most of the developing countries details of age and sex of offenders were not always available.
  - (ii) The definition of a juvenile varied from country to country. So that in some countries a juvenile could be a person under the age of 17 years, in others the age limit may extend up to 20 years. Hence, any use of the data to show the extent or nature of juvenile delinquency in various countries of the region will be misleading.  
The rate of criminality of those under 17 years of age may be significantly different from the rate of those under 21 years of age. Arrest statistics for West European and North American countries show that those between the ages of 18 and 20 years are grossly over represented.
  - (ii) Although the age of a juvenile is clearly defined in various laws, crime statistics need not be available for juveniles. For example, in India a boy who has not attained the age of 16 years and a girl who has not attained the age of 18 years is a juvenile. Yet the offender data for juvenile male and female (Tables 19 and 20) pertain to persons in the age range of 7 to 21 years.  
Considering these problems the workshop concluded that for the time being offender data be requested for Table 16 (all offenders) only, and Tables 17-20 be deleted from the fourth survey.
5. The workshop reached the conclusion that statistics desired in Tables 28-31 (pertaining to persons prosecuted) should be deleted. The reasons for such a recommendation are similar to those stated in point 4 above.
  6. The workshop felt that whereas it was useful to seek information on type of sanction (Table 35), it should be recognised that often two sentences may be imposed on one offender, eg deprivation of liberty and fine or control in freedom and fine. The statistics may therefore, over count or under count the number of adults convicted.
  7. The workshop was informed, that in some countries there are categories of magistrates called executive magistrates.
  8. The workshop concluded that Tables 39-42 (persons convicted in the criminal courts) be abandoned for the time being. The reasons for such a conclusion may be found under item 4 above.
  9. The workshop examined the section of the questionnaire dealing with penal and correctional institutions. In several countries these two types of

institutions are meant for different types of offenders. Penal institutions are often referred to as prisons and offenders convicted of serious offences are sent to these for punishment. Correctional institutions, on the other hand, have rehabilitation as their main goal and offenders convicted of less serious offences are held in these institutions. In order to avoid confusion, it was recommended that the same terminology be used throughout this section. Although defined on page 48, perusal of responses from some countries revealed that countries misunderstood the questions. The workshop recommended that the term 'penal and Correctional Institutions' be used throughout rather than prisons.

10. The workshop examined Tables 47 and 49 (statistics on average length of time spent in custody) and noted that such data are not available in most of the countries in the region. However, the participants recognised the usefulness of the information sought through these two questions. Table 47 in particular contains items of information which, if available, could be highly useful. Such information offers an indication of speed with which justice is administered and, therefore, can assist magistrates and judges in developing appropriate procedures to process cases. The workshop concluded that --
  - the utility of statistics sought in Tables 47 and 49 be specified and authorities in countries should be urged to develop information systems which would provide such statistical data; and
  - for the time being, these two Tables should seek data for average length of time spent in detention for all offences only and not for different categories of offences.
11. The workshop concluded that statistics required under Tables 56 to 65 were important and countries should be urged to gather such data. However the workshop recommended that the titles of these be changed to Penal and Correctional institutions and the offence categories be amended to be consistent with Table 14 and the rest.
12. The workshop deliberated in detail on part two of the questionnaire which deals with crime prevention strategies. The workshop felt handicapped because no definition of crime prevention strategy was provided by the United Nations Survey questionnaire. The participants felt that there were a number of ways one can discuss crime prevention, depending upon the perspective it takes.  
 One of the major themes that emerges from criminological theory and research is that social and economic disadvantage could precipitate anti-social behaviour. That is to say that social injustice, inequality, inadequate schooling, negative family circumstances, lack of legitimate economic opportunity, poor housing, recreation and health facilities, etc., need to be dealt with in order to eliminate criminogenic circumstances. But the criminal justice system can exercise very little influence over these aspects of society. Governments make every effort to eradicate social and economic disadvantage. Thus improvement of quality of life and living standards form a major part of the developmental process. Under such a process services

are not designed solely for a particular group of individuals, eg known or suspected juvenile offenders, but rather for all juveniles.

Some participants raised questions as to whether the law enforcement or other branches of the criminal justice system should participate in national planning. The question was not resolved particularly because of a lack of definition.

On the other hand there are services and measures that are so specific that they could not be envisaged and implemented through the national planning process, but could benefit from the participation of the criminal justice system. Law enforcement in particular can offer advisory services in the area of crime prevention through environmental design, opportunity reduction, home security, youth clubs, marking of valuables, etc.

The workshop recommended that the United Nations should define clearly the concept of crime prevention strategies and tactics.

### **Recommendations regarding alternative sources of crime data**

The workshop debated and noted the inherent deficiencies in the official crime figures. It recognised that these statistics cannot be used to estimate the true level and nature of crime in a society. The workshop concluded that other methods of statistical information must be developed for such purposes. The workshop discussed the usefulness of crime victims surveys and unanimously endorsed the view that the United Nations recommend and assist countries to conduct such surveys at regular intervals. The workshop reiterated the value of such surveys in designing crime control and crime prevention policies.

### **Recommendations on the findings of the third survey**

The workshop concluded that keeping in mind the diversity of statistical systems, lack of clarity with regard to definitions of items, standards of record keeping and other factors it is inappropriate and misleading either to compare statistics from different countries or to aggregate statistics to present a regional or world crime picture. The workshop also felt that the United Nations, having conducted three surveys, should scrutinise the responses from countries in depth, identify problems in each country, and take action for the development of reliable criminal justice statistical systems. In this context, the resources, contacts, and cultural relevance of United Nations regional institutes in the field of crime prevention should be utilised fully.

## **PART TWO**

### **CRIMINAL JUSTICE AND CRIME TRENDS**

#### **Introduction**

A total of 20 countries<sup>5</sup> in the region responded to the questionnaire for the Third United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies. Naturally, the type, quality and amount of data supplied varied from country to country. The most encouraging aspect of this whole exercise has been the interest and willingness shown by countries in assisting the United Nations. There is sufficient evidence to indicate that the countries have made sincere efforts to supply whatever statistical and other information available. This would indicate that most countries found the survey of some value. The workshop did not question the motive behind the survey but the participants felt that the usefulness and benefits of the survey to countries must be clearly stated. However, the quality of the United Nations Survey can improve only after the quality of record keeping and statistical systems in each country has made improvements. Resources may be allocated, to improve the statistical information system, only when it can be shown how an improved statistical system would assist the day to day operations of the criminal justice system, and how these may be useful in decision making.

Resources appear to be a key issue. In some developing countries, it is extremely difficult to convince the policy makers to invest more in criminal justice. It is true that crime consumes a portion of the gains of development, yet problems of poverty, illiteracy, malnutrition, etc must necessarily receive priority. Before describing criminal justice systems, it seems appropriate to present some information about these countries so that crime and criminal justice be examined against this backdrop.

Tables 2.1 and 2.2 attempt to provide the developmental profile of the countries on which data were available.

Data in the two Tables hardly require elaboration. It is quite evident that variations in population growth rate, infant mortality, physician to population ratio, and secondary education enrollment are very substantial. Japan, Australia, New Zealand and Singapore form a cluster of countries which are most favourably positioned. Nepal, Bangladesh, China, India and Indonesia constitute the other extreme, in terms of demographic and social situations. In terms of the economy and related characteristics, whereas the unfavourably placed countries can be identified clearly, developed economies appear to differ in certain characteristics. For example, growth rate of gross national product, inflation rate, and proportion of economically active population of developed countries vary. Similarly, developing countries vary enormously in terms of central government expenditure on defence and education. A more detailed analysis of these characteristics and crime will be presented in Part Three.

**TABLE 2.1**  
**Demographic Characteristics of**  
**Countries Responding**

Country	Popula- tion in Millions (1986)	Population Growth Rate (1985)	% 15-29 Year Old in the Population 1985	Life ex- pectancy at Birth 1987	Infant mortality 1986	Population Per Physician 1984	Population Per Nursing Person 1984	% Age Group Enrolled in Secondary Education 1986
Australia	16.0	1.2	25.4	76	8.8	440	110	96
Bangladesh	103.0	2.5	29.0	51	109.2	6730	8980	18
China	1054.0	0.9	29.1	69	35.0	1000	3000	42
India	781.0	2.0	27.2	58	85.9	2520	1700	35
Indonesia	167.0	2.2	28.0	60	101.0	9460	1260	41
Japan	121.0	0.6	20.7	78	5.5	660	180	96
Korea	41.5	1.4	31.4	69	27.0	1170	590	95
Malaysia	16.1	2.6	28.0	70	17.5	1930	1010	54
Nepal	17.0	2.7	25.7	51	136.0	32710	4680	25
New Zealand	3.3	0.6	26.3	75	10.8	580	80	84
Pakistan	102.5	3.0	30.0	55	109.0	2900	4900	18
Philippines	57.1	2.5	28.7	63	49.0	6700	2740	68
Singapore	2.6	1.1	31.9	73	9.3	1310	n/a	71
Sri Lanka	16.1	1.5	29.6	70	29.5	5520	1290	66
Thailand	52.6	1.9	30.7	64	11.3	6290	710	29

Source: *World Development Report 1989*, Published for the World Bank, Oxford University Press, 1989.

**TABLE 2.2**  
**Economy and Related Characteristics of**  
**Countries Responding**

Country	GNP Per Capita Average Annual Growth Rate (Percent) 1965-87	Average Annual Rate of Inflation (Percent) 1980-87	Energy Consump- tion Per Capita Kgs. of Oil Equivalent 1987	Economic- ally Active Popula- tion Percent 1985	Average Annual Growth Rate (percent) 1980-87			Percentage of Total Central Government Expenditure 1987			
					Agricul- ture	Industry	Manufac- turing	Defence	Education	Health	Housing, Amenities, Social Security & Welfare
Australia	1.8	7.8	4821	60.2	5.0	1.9	0.4	9.3	7.0	9.5	28.6
Bangladesh	0.3	11.1	47	29.9	2.4	4.7	2.4	10.0	10.6	5.0	9.8
China	5.2	4.2	525	51.2	7.4	13.2	12.6	n/a	n/a	n/a	n/a
India	1.8	7.7	208	36.8	0.8	7.2	8.3	21.5	2.7	1.9	5.7
Indonesia	4.5	8.5	216	38.5	3.0	2.1	7.8	8.6	8.8	1.5	1.7
Japan	4.2	1.4	3232	49.4	0.8	4.9	6.7	n/a	n/a	n/a	n/a
Korea	6.4	5.0	1475	37.9	4.4	10.8	10.6	27.3	18.3	2.3	7.2
Malaysia	4.1	1.1	771	37.5	3.4	5.8	6.3	n/a	n/a	n/a	n/a
Nepal	0.5	8.8	23	65.1	4.2	n/a	n/a	6.2	12.1	5.0	6.8
New Zealand	0.9	11.5	4211	42.4	3.1	4.0	3.3	4.7	11.1	12.4	29.7
Pakistan	2.5	7.3	207	32.0	3.4	9.1	8.9	29.5	2.6	0.9	8.7
Philippines	1.7	16.7	241	39.6	1.8	-2.8	-1.1	9.2	18.0	5.5	4.3
Singapore	7.2	1.3	4436	47.1	-3.9	4.0	3.3	19.0	18.2	4.1	15.9
Sri Lanka	3.0	11.8	160	33.4	3.1	4.2	6.2	9.6	7.8	5.4	11.7
Thailand	3.9	2.8	330	53.0	3.7	5.9	6.0	18.7	19.3	6.1	5.2

Source: *World Development Report 1989*, Published for the World Bank, Oxford University Press 1989.



## **Criminal Justice Systems**

The criminal justice systems of the countries in the region in general consisted of four sectors -- the police, prosecution, courts and corrections. However, these four functional parts were not under the same or one organisation in all countries. Thus, while the functions of recording of crime, clearance of crime, investigations of criminal incidents, and arrest of offenders rest with the police, prosecution of offenders and suspects need not necessarily be under a separate organisation. In several countries, Australia, Bangladesh, Fiji, Nepal and New Zealand, police also performed the function of prosecution. In Indonesia, Japan, Republic of Korea the Philippines, Singapore, Sri Lanka, Thailand, Vanuatu and China, prosecution remains a distinct functional part of the Criminal Justice System.

In recent years there have been changes in decision making powers in certain cases in several countries. For instance police in Australia, Bangladesh, China, India, Japan, Republic of Korea, New Zealand and Sri Lanka, can terminate certain types of criminal cases by their own decisions. The content of such actions vary. Thus in some countries the police can terminate cases concerning juveniles only, in others petty criminal cases involving both juveniles and adults can be terminated by the police. In this context, measures such as 'caution' or 'warning' have been introduced in some countries, whereby a police officer can release a person without keeping any record of the incident.

The workshop and written presentations from participants raised two major issues with the functioning of the criminal justice systems in the region. One related to the co-ordination of activities of various functional parts and the other concerned with the role of criminal justice in development planning.

It was acknowledged by all participants of the workshop that there existed a certain degree of discord in their criminal justice systems. While crime control and justice continue to be the objectives of the entire criminal justice and legal systems of countries each functional part has its goals. At times these goals conflicted with the goals of the entire system. Such conflicts, however, are neither explicit nor pervasive, they exist at everyday working levels. These have become so routine, that many countries fail to notice the conflicts of objectives among the various organs of the criminal justice systems. In any case the workshop emphasised the need for co-ordination between and among functional organs. Information flow and feed back among these organs are vital to developing an integrated and co-ordinated criminal justice system. Participants to the workshop also recognised the real need for co-operation from the public. In several countries, it was reported, public apathy hampered the investigative work of the police although no evidence, empirical or descriptive, was available to examine the level of confidence of the population in the criminal justice system, the workshop felt relations with the public need improvement.

On the issue of the role of criminal justice in development planning, the workshop was divided. Some countries, particularly the Philippines and Indonesia, felt that criminal justice specialists are always consulted in the

planning process, countries like India, Bangladesh and Nepal felt the criminal justice does not receive the recognition that it deserves. This is an issue which cannot be solved at one workshop like the present one. The most important element that requires clarification is whether crime control, prevention, and treatment of offenders are the functions solely of the criminal justice system or other government and public instrumentalities have any role to play.

### **Cross national studies in crime and justice**

There are numerous difficulties in conducting cross-national research. The difficulties compound in all encompassing research like the United Nations Survey. It is necessary therefore, to state some of the more general difficulties which might be applicable to all countries. Specific problems concerning particular systems will be discussed in appropriate sections.

Cross national research in this field must consider the state of health, education, technology, etc., in each country. Even a serious crime like homicide may be seriously influenced by the standard of emergency medical facilities, ambulance services, the road system, energy, etc. It is not hazardous to assume that but for the speedy and advanced medical services, homicide figures could be much higher in developed countries than at present. Similarly, homicide numbers in developing countries could be much lower than at present if adequate medical facilities were available. One can further support this assumption by homicide data from developing countries which show that only a small portion of homicides are committed by guns.

*Definitions of crime:* The first major problem in cross-national studies of crime is the differences of definitions of crime. Even as serious a crime as homicide presents problems. In one country a killing in the process of robbery, rape or physical injury may not be included in homicide, in others it will. Similarly, in many countries a husband cannot be charged with raping his wife, in others rape in marriage is included in the definition of rape.

*Enforcement of laws:* Interpretation of legal definitions of crime could be a much more serious problem in cross-national studies. Whether a crime is recorded as a serious assault or a minor assault depends on the interpretation and understanding of laws by individual police officers. Particularly in violent crimes the scope for differing interpretation is much greater than in property offences.

*Discretionary powers:* In several countries decision making powers have shifted in recent years, so that comparisons over time within a country may not be valid. Police powers to terminate certain criminal cases could impact court case load and conviction data. Therefore, comparison of court data across nations may be misleading.

*Attitude of victims of crime:* The number of crimes recorded could vary from country to country because of differences in the attitudes of victims toward reporting crime to the police. Crime victims surveys, carried out in many

countries, show that considerable variations exist not only between countries, but within a country according to victim attributes.

*Mechanisms of reporting:* Unlike Western and highly developed countries, most developing countries in the region have limited telephone facilities and victims may have to travel a long distance to a police station to file a complaint. Such a situation may inhibit victims from reporting especially minor crimes. Not only that but most developed countries have adopted a three digit emergency phone number to call police, ambulance or fire brigade. This makes reporting much easier.

*Recording crimes:* Amount of recorded crimes may vary across countries because of variations in rules for counting incidents and classification of offence categories. For example attempts may not be recorded in some countries but recorded in others.

*Procedural changes:* Certain changes in the law enforcement procedures, may influence the level of some crimes. Violence in the family, including wife bashing and child abuse, are being treated as criminal assaults in some countries. Against mounting criticisms of police practices in domestic violence cases, police procedure of recording those acts and of arrests, have led to significant increases in the number of assaults in some countries.

### **Crimes examined in this report**

The Third United Nations Survey of Crime Trends, Operations of Criminal Justice Systems, and Crime Prevention Strategies, sought statistical information on a number of specific crimes as well as total recorded crimes. The specific crimes were -

- Intentional homicides
- Non-intentional homicides
- Assault
- Rape
- Robbery
- Theft
- Fraud
- Embezzlement
- Kidnapping
- Drug-related crimes
- Bribery and corruption
- Other crimes

At the adhoc expert group meeting for Europe, held in Helsinki on 10 and 11 December 1988, the format of the regional reports were decided. In that context it was also decided that only four crimes be examined in this report. Such a decision was taken in light of greater possibilities of ambiguities in other crimes. The crimes included and their working definitions adopted by the survey are as follows:

*Intentional homicide* refers to death purposely inflicted by another person, including infanticide.

*Assault* refers to physical attack against the body of another person, including battery but excluding indecent assault. Some codes distinguish between aggravated and simple assault; please provide the major criterion for this distinction if it applies in your country.

*Robbery* refers to taking away of property from a person, overcoming resistance by force or threat of force.

*Theft* refers to the taking away of property without the owners' consent, including burglary and house breaking. It includes the theft of a motor vehicle. Shoplifting and other minor offences, eg pilfering and petty theft may or may not be included as minor thefts, according to the usual practice of your country.

As will be seen legal definitions and classification of crimes by the law enforcement for statistical purposes are two entirely different things. In this respect, the situation with regard to crime statistics, many developing countries have not made any improvement since the first United Nations Survey conducted during the mid 1970s.

#### **Sources of data**

The primary source of data for the Third United Nations Survey is the government supplied information in response to the questionnaire. Although the workshop discussed the United Nations Survey and the questionnaire, no statistical information was supplied by the participants. Some participants, in response to the request from the Director of UNAFEI, brought with them the latest statistics on crime and other matters published by the respective governments. These were of substantial value.

Not all of the countries in the region regularly publish crime statistics, nor are the reports containing information on crime and criminals easily available to the general public. Also, sometimes such statistics are dated, 4 - 5 years old. Very rarely, statistical information generated by all the functional parts of the Criminal Justice System, is incorporated and published in one volume. Most countries did not provide the details of sources of data, workshop participants in most cases could not identify sources. Responses from some countries noted either name or position of person for contact.

Of the four functional parts of the criminal justice system, data for the police sector were supplied by most countries of the region; a lesser number of countries supplied prison statistics, and prosecution and court statistics were received from only a few countries.

The main source of information on the incidence of crime and processing criminals is from police agencies. From the responses to the three United

Nations Survey questionnaires we learn that the types of information that are usually available from this source are:

- i) the number of offences reported to/recorded by the police;
- ii) limited details of those arrested/suspected/booked.

Further along the path, some details are available at the prosecution, trial, and sentencing stages of the criminal justice system. There are several difficulties in understanding the sets of statistics on crime and criminals produced by various agencies. At present, however, the most often used statistics for examining the level and nature of crime are the ones produced by the police.

It has long been recognised that police statistics are not a reliable measure of criminal activity in a community. First through surveys of hidden delinquency/self reported delinquency and then through crime victims surveys we are informed that a majority of crimes that occur in a society are neither detected by the police nor reported to the police. Also those that are reported do not necessarily constitute a representative sample of the types of crimes that occur.

Improvements in the official statistical systems can clarify definitions and counting rules, help describe the nature and occurrence of reported incidents of crime, and assist significantly the police forces in their day to day work. But these improvements fail to disclose the true level of crime or the public's perception of or attitude to crime.

A number of countries in recent years have begun conducting large scale surveys of criminal victimisation. Comparing the findings with official (police) statistics, these surveys reveal that crimes such as burglary, theft, assaults and rape occurred two to four times as frequently as reported to the police. In several of these countries, policy makers, administrators, and researchers have recognised the value of such surveys in determining, defining, or evaluating offensive behaviour, seriousness of offences, allocation of resources, legislative changes, effectiveness of crime prevention measures, confidence in the police forces, protection of the community, and more.

The two basic features of crime victims surveys are that they use random samples of population to ascertain the number of victims of crimes and to ask specific questions about crime, feelings about crimes, attitude to and participation in crime prevention, etc. The crime victims survey is most effective in obtaining valuable information on crimes that occur with high frequency and which concern the ordinary citizens, viz., assaults, robbery, personal and household thefts, burglary, motor vehicle theft, vandalism, etc. Such surveys do not appear to be promising in measuring low frequency offences like rape, kidnapping, terrorism, etc., nor have they been used to explore the incidence of white collar crime, corporate fraud, consumer fraud, medical fraud, tax cheating, etc., which may inflict much more harm to the community than traditional property crimes such as theft, burglary etc.

Victim surveys offer information on:

- i) The amount of crime in the community, both in relation to violent and property offences

- ii) For violent crimes further information on
  - victim-offender relationship (stranger, friend, relative)
  - nature of injury
  - place and time of attack
  - number and characteristics of offenders
- iii) For property crimes information on
  - nature and amount of damage/loss
  - place of occurrence
- iv) Use of weapon
- v) Fear of crime
- vi) Attitude toward reporting incidents to official agencies
- vii) Characteristics of victims
- viii) Other life style variables, viz.
  - characteristics of housing
  - level of home security
  - insurance coverage
  - surrounding of the neighbourhood

The above types of information will enable estimating:

- i) Risk of crime
- ii) Direct and indirect cost of crime
- iii) Differences in risk of victimisation for
  - the elderly
  - women
  - migrants
  - youth
  - economically disadvantaged
- iv) Effectiveness of programs
- v) Confidence in police
- vi) Changes in crime over time
- vii) Changes in Criminal Justice policy toward crime.

Victim surveys use one definition for the entire country and as such results are comparable across states. The workshop strongly recommended that countries in the region be encouraged to conduct crime victims surveys in order to assist in designing crime control and crime prevention policies.

### **Reporting and recording of crime**

Statistics on crimes compiled and published by the police reflect the number of law violations recorded by the police. In all the countries of the region these are the statistics most often used to measure crime in society. However, the number of crimes recorded by the police do not take into account violations recorded by the prosecution arm of the criminal justice system ( a public prosecutor can lay charges against an individual without going through or referring to the police), Taxation Department, regulatory bodies like Corporate Affairs Commission, etc. Finally, crime victims surveys, described in the previous section, show that a majority of offences that occur in a community are never reported to the authorities.

Crime victims surveys also offer information on reasons for not reporting a crime. In the region only Australia, Japan and New Zealand have ever conducted victims surveys. These surveys confirm that a large number of victims of crime do not report the incidents to the authorities. Like surveys in North America and Western Europe, the surveys show that the most frequently cited reason for not reporting a crime was that the theft of or damage to property was too small or the injury to the victim was trivial. Among other reasons for non-reporting were: police could not or would not do anything about it; did not want offender to be punished; being afraid of reprisals; etc. One of the major limitations of these surveys so far is that almost all of these measure personal and/or household victimisations. Hence victimisations of shops warehouses and other commercial properties, of consumer fraud, and the state are not accounted for.

Crimes come to the attention of the authorities through various means. They can be reported by the public (as victims, relatives of victims, witnesses or bystanders), by official agencies; crimes can be detected by the police or by investigative organs of other agencies.

A large portion of the traditional crimes, eg homicide, rape, robbery, assault, burglary, thefts of all kinds, vandalism, etc, are reported to the police by the public, the police are rarely, if ever, there when these crimes occur. And this constitutes only a minority of crimes that occur in a community. As indicated above, a majority of crimes are not reported to the authorities. Crime victims surveys offer some very important clues for not reporting crimes. Reasons for non-reporting such as 'the crime is not a matter for the police', or 'the police could not or would not do anything about it', or 'the police are uncooperative', have important implications for the police, especially in investigation of cases. At the workshop held to discuss the Third United Nations Survey, several participants raised the issue of public apathy, disrespect toward the police, and lack of confidence and trust in the police, which were evident in their countries. Although little empirical evidence on this matter is available, the declining clearance rate of offences in several countries appear to suggest that the police are not receiving sufficient cooperation from the public. In order for a crime to be cleared it is vitally important that the police be given prompt, accurate and detailed information on the criminal incident. The longer it takes to report a crime and the longer vital information concerning the crime is withheld, the lesser becomes its chances of being cleared.

Confidence in and respect for the police may affect the attitude toward reporting crimes. But certain situational and developmental factors may also seriously influence such attitudes. For example, lack of telephone and speedy transport facilities may dissuade a victim from reporting a crime. There are countries in the region where telephone ownership by the population is extremely rare and railway, bus and air services few and expensive. At the opposite end there are countries in the region where telephone ownership is almost 100 per cent and transport services are ample. Furthermore, the opportunity to dial a three digit to call emergency services such as fire brigade, ambulance and police makes it much easier to report incidents. The implications of these could be most significant particularly in relation to trivial offences. One could speculate that

many more petty crimes are likely to be reported in New Zealand than in Bangladesh.

Thus reporting of crime by the public is important. But we must recognise the fact that a large part of serious property crimes occur in the absence of the victim. For example, burglaries of private dwellings and theft from houses, often occur when the victim is absent. Whether the houses were empty because children were at school and parents at work or shopping or visiting friends, or the family was on vacation, the fact remains that neither time of occurrence of the crime is known nor is it reported promptly. Contrary to conventional thinking, a majority of these crimes occur in the day time. Similarly, a substantial part of the thefts, from commercial premises occur during night time or when the premises are closed. In such cases, a lot more work by the police is necessary to clear the offence.

A substantial portion of other offences are detected by the police. Particularly drug offences -- possession, abuse and obtaining drugs -- are uncovered by the police. Drunkenness and traffic offences are also detected by the police while on patrol. There are also other authorities who report crimes and investigate as well.

Not all crimes reported to the police are necessarily recorded and included in the statistics. Also, at times classification of a reported incident may be changed. For example, a crime initially recorded as attempted murder may be reclassified as aggravated assault. While such corrections are necessary for the sake of accuracy, some participants at the workshop felt that some times the police deliberately downgrade crimes. An officer called to a scene of crime may classify a crime according to his/her understanding of the circumstances and the law, but the station officer may, after weighing the facts, change it to another offence. It must also be noted that a crime recorded by the police may, during the court proceedings, be reclassified as some other offence but such a change will not be reflected in the police statistics. As an example, a reclassification could occur at the higher courts where a crime of murder may be reclassified as manslaughter or vice versa.

Apart from the above practices, there are other situations where a reported crime may not be recorded at all. These situations fall under both formal and informal practices. Among formal practices discretion has become quite common. That is to say, either through legislation or changes in police procedures, a police officer obtains the power whether to record or not to record a crime. There are many variations to such practices. Usually such practices are applicable in cases where the offender is a juvenile, but in some countries discretion may be applicable to adults as well. Thus age of offender, type of crime, prior record, family condition are some of the factors that are considered in using discretion. In some countries such incidents may not be recorded and the offender will incur no formal action except a warning.

Informal practices are usually extra legal and decided upon by the law enforcement. In cases of property loss from a dwelling, if the loss is within the



deductible amount, the police may not record the offence because no insurance claim will be lodged. Also, if the contents within a house are not insured, there will be no need to file a claim and sometimes such a loss may not be recorded. The other informal practice is somewhat intriguing and dangerous. This is where a police department decides that because of increasing workload certain types of offences may routinely be rejected and not investigated.

There are other situations where a reported crime may be expunged. A case in point is domestic violence. Often the victim of such violence may report the assault but by the time police arrive, the victim decides or is persuaded or forced to withdraw the report.

The Third United Nations Survey asks for statistics on the number of crimes recorded. As described above the practices for recording offences vary and therefore, comparison of such statistics between countries of the region could be misleading. A few examples from the responses to the Third Survey serve to illustrate this point.

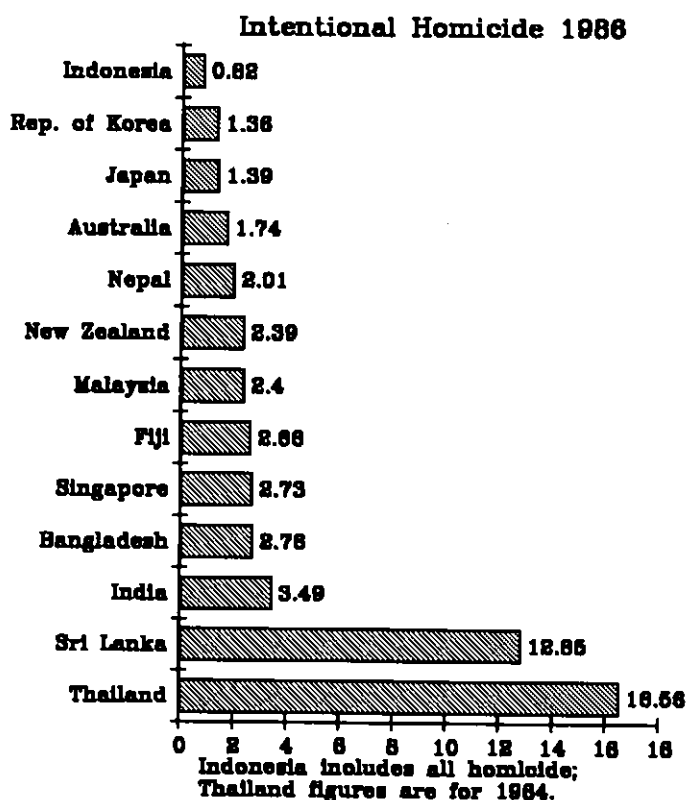
1. Figure 2.1 presents rates of intentional homicides recorded by the police per 100,000 population. Although the Third Survey questionnaire carefully defines intentional homicide as 'death purposely inflicted by another person, including infanticide,' a number of countries do not compile data on that basis. Although a low frequency offence albeit the most serious, most countries combine a variety of offences under this category. This confusion emanates partly from the provisions in the criminal/penal codes, partly from the lack of resources, partly from lack of knowledge of the law, and partly from poor training of law enforcement. Death occurring as a result of a criminal incident may be classified into murder, homicide, culpable homicide, culpable homicide not amounting to murder, manslaughter, infanticide, etc. At the initial stage it is often difficult to place an incident in a particular class. To further confuse the issue there are, in the criminal/penal codes, offences such as attempted murder and conspiracy to murder and very often these are classified with murder.

The data in Figure 2.1, at least for countries up to India, do not show very dramatic differences between countries, but Sri Lanka and Thailand are starkly different from the rest. While it may be argued that some countries do have very high homicide rates, we still need to be sure. Within the general Asia and Pacific culture, it is extremely hard to rationalise the high intentional homicide rate in Sri Lanka and Thailand. Unfortunately no-one from Sri Lanka was present at the workshop but the clarification for Thailand was revealing. The intentional homicide figures for Thailand include all deaths as a result of criminal acts and attempts, but more importantly **they also include deaths caused by motor vehicle accidents and accidental deaths by firearm.**

Such discrepancies could arise as a result of one or more factors. Separate data for intentional homicide may not be available and may not be compiled. It is possible that the person completing the United Nations questionnaire

may not be familiar with crime statistics. It also shows that the United Nations, or at least the individual/agencies examining the responses must follow up the questionnaire and ask for clarifications if figures appear unusually high or low. Such relativities can be examined from various perspectives -- within a country over time, within a country as compared to other crimes, within a region, etc.

Figure 2.1



2. Another example which shows that 'crimes recorded' do not mean the same thing in different countries is seen in Table 2.3. When the data in this Table were presented to the workshop, there was a sense of disbelief expressed by some participants and visiting experts. Data from India, the Republic of Korea, and from Bangladesh in particular, are significantly different from the rest of the region. In Bangladesh for every offence recorded there are on an average 3.3 offenders; in India and Korea the ratio is less dramatic.

Involvement of a number of offenders in say a homicide or an armed hold up may not be unusual but statistics which consistently show on an average more than seven offenders in every assault, and four in every incident of robbery must alert the investigator. This should particularly be of concern when statistics from a majority of the countries of the region show a significantly lower offence to offender ratio than that in Bangladesh (See Table 2.4).

The patterns shown in Tables 2.3 and 2.4 indicate very clearly that 'crimes recorded' may have different meanings. The workshop considered the question 'when does a crime come to the attention of the police and when is the incident recorded?'

In most of the developing countries victims come to the police station to lay a complaint. The complainant is asked about the details of the incident and also asked to name suspects. These details are noted. But in several of the countries, a crime is recorded only after investigations have proved that a crime had occurred, otherwise it is not recorded. Furthermore, there were the following responses from the participants:

'minor cases sometimes are not recorded'

'patently false cases are excluded later'

'trivial incidents are not recorded'

'at times serious cases may be minimised - downgraded'

'there is subjective interpretation of recorded -- if found no crime in the final analysis these will not be included'

If one were to compare levels of crime over time within a country, the above descriptions may not be terribly important. But when crime statistics from Bangladesh and New Zealand are placed side by side, the above remarks assume significance. It could be hypothesized that crimes recorded data in a specific country may be compared with crimes cleared in another, or crimes brought before the courts in still another, or even crimes proven and convicted in yet another country.

3. Yet another type of difficulty arises when crime figures over time and within countries are compared. The second United Nations Survey of Crime Trends required data for the years 1975-1980 and the Third Survey sought data for 1980-1986. Thus, 1980 served as an overlapping period. An examination of the responses from Singapore for the two surveys reveals inconsistencies shown in Table 2.5.

**TABLE 2.3**

**Total Offence and Offender  
Rate per 100 000 Population, 1986**

Country	Offence Rate	Offender Rate
Australia	6168.4	1929.8
Bangladesh	53.0	175.3
Fiji	2188.5	1245.5
India (1983)	581.9	713.7
Japan	1307.0	330.5
Korea	1972.8	2048.7
Malaysia	679.2	136.5
New Zealand	12523.8	4232.3
Singapore	2067.5	738.6
Sri Lanka	627.8	336.5

**TABLE 2.4**

**Offences Recorded to Offender Ratio 1986**

	Intentional Homicide	Assault	Robbery	Theft
Australia	1:0.9	1:0.4	1:0.3	1:0.14
Bangladesh	1:3.7	1:7.5	1:4.2	1:1.3
Fiji	1:1.2	1:1.0	1:0.6	1:0.14
India (1983)	1:2.4	-	1:2.2	1:0.7
Japan	1:1.0	1:1.3	1:0.9	1:0.2
Republic of Korea	1:1.1	1:1.1	1:1.4	1:0.6
Malaysia	1:0.5	1:0.4	1:0.1	1:0.2
Nepal*	1:1	1:1	1:1	1:1
New Zealand	1:1.2	1:0.02	1:0.4	1:0.2
Philippines (1984)	-	-	1:1.6	1:2.0
Singapore	1:1.2	1:0.4	1:0.2	1:0.2
Sri Lanka	1:1.1	1:1.4	1:1.0	1:0.5
Thailand (1984)	1:0.4	1:0.7	1:0.6	1:0.5

**TABLE 2.5****Comparison of Second and Third  
Survey data, Singapore**

Type of Crime	1980	
	Second Survey	Third Survey
Intentional Homicide	62	64
Non-Int. Homicide	68	1
Assault	491	491
Drug Crime	1571	3731
Rape	68	68
Kidnapping	11	11
Robbery	1235	1264
Theft	18694	18694
Fraud	1470	1470
Other	104	7099

Some such inconsistencies appear in the New Zealand data as well. Here, the main problem arises in relation to the numerically most frequent offence of theft -- the second survey figure for 1980 was 101 983 and the third survey figure for 1980 was 192 439.

These inconsistencies again suggest that systematic follow up of survey responses is not only essential for consistency but also for examining trends over time. Examination of New Zealand data for the third survey clearly indicate that theft data supplied for the second survey did not include either major or minor thefts.

4. And finally a coincidence of the type revealed by the response from Nepal. The number of offences recorded (Table 14) and the number of offenders (Table 16) are exactly the same for each of the seven years 1980-86 and for each of the four crimes. Consider data presented in Table 2.6. We have no reason to doubt the authenticity of the data. It is, however, important to present the data because none of the other nineteen countries of the Region demonstrated such a uniform crimes to offender ratio. Also, such an uniformity indicate the need for a follow up.

TABLE 2.6

**A Comparison of Crimes Recorded (Table 14)  
and all Offenders Brought into Formal Contact  
with the Police (Table 16)  
Third Survey -- Nepal**

Crimes	<u>Year</u>						
	1980	1981	1982	1983	1984	1985	1986
<b>Intentional Homicide</b>							
Crimes Recorded	287	258	296	281	313	311	341
All Offenders	287	258	296	281	313	311	341
<b>Assault</b>							
Crimes Recorded	165	122	115	132	129	111	84
All Offenders	165	122	115	132	129	111	84
<b>Robbery</b>							
Crimes Recorded	298	356	271	245	206	173	133
All Offenders	298	356	271	245	206	173	133
<b>Theft</b>							
Crimes Recorded	1641	1560	1408	1415	1037	830	749
All Offenders*	1641	1560	1408	1415	1037	830	749

\*There appears to be another complication. The offender data for theft were actually typed against the crime category 'Fraud'. Since very few crimes were recorded under Fraud (none in 1980), I assumed the offender figures were for theft. The data raise a number of questions all of which point to the dangers involved in cross national research.

It is an understatement to say that there exist enormous differences in the way crimes are reported, recorded, and classified in the countries of the region. There appears significant differences in the way statistical information is processed and published. In some of the countries elaborate computerisation of criminal justice information has taken place some years back, yet the quality of statistical information do not appear to be of a high standard. Also, some of these countries with sophisticated computer technology, have not been able to supply data for the entire period of the third survey. The problems appear to be two-fold --i) lack of mechanisms to process and transmit data from police stations or districts, and ii) lack of trained personnel to manage the technology. A problem not totally unrelated to technology is simple arithmetical errors. For example in Sri Lanka (see Table 14) the total number of recorded crimes for several years were less than the number of thefts. In 1980 there were 64 190 thefts recorded but the total number of recorded crimes for that year was shown as 58 777; similar was the case in 1981.

## **Recorded crime trends in countries**

Bearing in mind all the problems exemplified above and the problems we have not identified, it is obvious that cross-country comparison of crime data will be misleading. It also makes no sense to present the state of crime in the Asia and Pacific region by simply aggregating the data for the twenty respondent countries. And therefore, by implication development of a 'world crime picture' is going to be a meaningless exercise.

Crime still remains predominantly a national problem. Albeit, it is recognised that certain types of drug crimes, terrorism, and some economic crimes have international implications. It is hard to see how assaultive behaviour, interpersonal conflict resulting in homicide, stealing, vandalism, etc. assume world dimension. A world or regional picture of crime cannot reflect the situation in each country and hence such scenarios will not assist in designing crime control/prevention strategy. So that nations can benefit from the analysis of crime data, presentation of trends for each country makes good sense. In this section we wish to present trends in the rates of intentional homicide, assault, robbery and theft for thirteen countries which offer data for the last seven to twelve years. The countries are:

<u>1975-86</u>	<u>1980-86</u>
Australia	Bangladesh
Fiji	Indonesia
India	Malaysia
Japan	Sri Lanka
Pakistan	
Republic of Korea	
Nepal	
New Zealand	
Singapore	

The actual data submitted for the United Nations Surveys will eventually be available to interested persons. But it is important to reiterate that before such data are released for research or other purposes, they must be cleared through follow up. Most scholars and interested persons around the world do not have an adequate understanding of either the criminal justice or the criminal statistics systems of countries other than their own. Therefore, it is highly probable that the problems of inconsistency, irregularity, and misunderstandings cited earlier and some that will be described later will not be fully understood. In other words, the survey data collected by the United Nations will be totally misused.

In this connection, the observation made by the Secretary General of the United Nations while presenting the results of the first United Nations Survey, appears highly pertinent:

...not all parts of the world document crime events adequately and, even where they try to do so, lack of uniformity in legal systems, in

statistical classifications and recording procedures, in police methods or geographical spread may render comparison misleading -- so misleading, in fact, that the countries keeping the most careful records are likely to be regarded as having the most criminality when, in fact, they may be doing more to detect and record crime than many others.<sup>6</sup>

But even this serious limitation did not prevent the United Nations from drawing the following conclusions based on the data supplied by countries for the First United Nations Survey:

Three important general conclusions emerge from the preparation of this report. First, crime is increasingly becoming a major world problem: its extent, variety and impact, both nationally and internationally, cannot be underestimated. Secondly, in view of the seriousness of the problem and of its ramifications and repercussions which extend far beyond national frontiers, international cooperation in relation to crime must be strengthened. Lastly, the United Nations has a primary and unique role to play in this direction, not only in the sharing of common experiences and the dissemination of reliable and internationally comparable data, but also in providing advice and technical assistance services to requesting countries in the development and promotion of relevant research and in the elaboration of policy guidelines and planning strategies in specific areas of common concern.

In a report on the second survey the United Nations states:

(a) The incidence of recorded crime in most of the reporting countries, including crime at the regional levels, has mostly continued to increase;

(b) If this increase continues, the implications for many countries could be disturbing. Concerted action within and among nations seems therefore to be an even more urgent need;



(c) Continuous efforts should be made to create comprehensive, extended, and, wherever they exist, improved systems of crime-related statistics. Such systems should be able to serve a variety of purposes, including their combined use with data existing in other social and economic sectors, for informed decision-making in the administration of justice, and for achieving the dispensation of justice in a fair, impartial and efficient manner;<sup>8</sup>

Substantively, there appears nothing wrong with the conclusions of the two surveys. But as the data from countries in the region show, there is a high degree of variation in the trends of specific crimes. What such conclusions do, however, is to sensitise countries, which may be viewed in different ways. Some countries even with low or declining crime rate may embark on a campaign of fear of crime just because the United Nations has said so. Both the first and the second surveys revealed that the developing countries have three times as many police officers per unit of population as the developed countries. The disturbing part of this finding is that between the first and second surveys the police to population ratio in developing countries more than doubled whereas in developed countries the ratio, if anything, declined slightly. This aspect will be discussed later, but a few issues raised by the United Nations conclusions must be elaborated.

It is certainly a possibility that careful record keeping and strenuous measures to detect crime may inflate crime figures, or more accurately perhaps reflect close to true level of crime; but excessively low crime rate do not necessarily reflect poor record keeping and little effort invested in detecting crime. In the Asia and Pacific region Bangladesh, Indonesia and Nepal show a theft rate of well below thirty per 100 000 population; and except for Australia and New Zealand no other country has a rate higher than 1 100 per 100 000 people. The theft rates in Australia and New Zealand are over 5 000 and 7 000 respectively. Can the massive difference in the rates between these two countries and the rest be explained by the sophistication in record keeping and detection procedure? Actual ability of the criminal justice system to detect crime has very little to do with crimes reported or recorded. On the other hand, high levels of detection should reflect in the clearance rate, which unfortunately is very low in Australia and New Zealand.

Another factor which concerns this issue is the true level of crime. If crime victims surveys are to be taken seriously, the true rate of theft in Australia and New Zealand should be at least twice as high as reported in police statistics. Besides these two countries, the only other place in the region where a crime victims survey was conducted is Japan. The Japanese survey commissioned in association with the office of the Prime Minister found that about fifty per cent of the crimes that occurred were reported to the police.<sup>9</sup> Multiplying the Japanese theft rate by two brings the rate to 2 200 per 100 000 population, much lower than that of Australia or New Zealand.

There must be other more convincing explanations for extremely low crime rates in some countries. Certainly, culture of the country must account for something. Is it not possible to hypothesize that in traditional societies families and friends try to solve at least trivial law violations? Victim surveys in the Western countries indicate that one of the main reasons for not reporting a crime to the police is the trivial or petty nature of the incident. Maybe in a traditional setting the offender and the victim, through their respective families, settle the dispute informally.

Secondly, the 1980s have seen great emphasis being placed on the opportunity theory. This approach is based on the premise that modern developed economies offer immeasurable opportunities for major as well as minor property crimes. Not only in terms of proliferation of consumer goods and their marketing but also the changes in life style that have accompanied development needs to be considered. Undoubtedly most countries in the Asia and Pacific region have made significant economic advances, yet in a large majority of these countries neither the consumer goods have proliferated to an extent that in the Western world or in Japan and Singapore nor the marketing and display of consumer goods have attained the level of sophistication as observed in developed countries. Changes in the life style have to a certain extent affected the cities, the vast majority of population in rural areas still maintain a traditional life style. Thus, the relevance of the opportunity theory for explaining crime is at best uncertain.

The nature of record keeping and efforts to detect crime are in our view related to the life style of the country, and they cannot be examined in isolation. That does not mean that record keeping in developing countries of the region is necessarily bad or efforts to detect crime are slack; there appears, therefore, no reason to disbelieve the data. This raises the question -- why the developing countries, with substantially low crime rate, should invest scarce resources to conduct research into low crime rate? One can respond by saying that to contain the low crime rate and to bring it down further. This of course depends upon the priorities of each country. But there appears a very rational way to go about it. Countries with very high crime should, if they wish to address their problem, invest their resources to investigate why some countries have extremely low crime rate. Countries with high crime rate have several advantages over those with low crime rate. They have more resources, better research expertise, careful record keeping, and better overall technology than countries with extremely low crime rate. While those investigating obtain the knowledge, countries being investigated may benefit from the expertise and improve their research skill and record keeping. It is particularly hard to justify spending resources when a problem is relatively minor. But for countries trying to grapple with their serious problem, such an investment could be highly beneficial. However, one warning which several of the workshop participants signalled must be stated. High power technical experts, who tend to spend only a few days in a country and spend most of the time meeting ministers, justices and sight-seeing will not be of much value. They think experts who can sit with workers, and be prepared to learn as well, will be of great benefit.

Figure 2.2 presents the trend in recorded number of homicides, assaults, robberies, and thefts for Australia, New Zealand, Singapore, Japan, the Republic of Korea, Fiji, Nepal, India, Pakistan, Bangladesh, Indonesia, Malaysia and Sri Lanka. In the presentation the frequencies have been converted to rates per 100 000 population. This was done not with an aim to compare across countries but to examine trends over time in a standardised manner. For each country there appears two graphic presentations. Generally, the trends in three violent crimes -- homicide, assault, and robbery could be included in one picture because of their rates being not too high; the trend in theft -- which appears to be numerically the most frequent crime -- has been shown in a separate picture. There are, however, certain exceptions -- India and Pakistan did not supply assault data and the assault rates of New Zealand and Fiji were high relative to homicide and robbery and therefore for these two countries assault and theft trends have been included in one picture.

While looking at the trends the reader is reminded of the problems in reporting and recording of crimes as described earlier. Furthermore, we wish to stress that the rates shown in the Figures for each country are on a different scale. The general trends in recorded crimes in each of the countries can be summarised as follows:

Figure 2.2

Crimes Recorded Per 100 000 Population

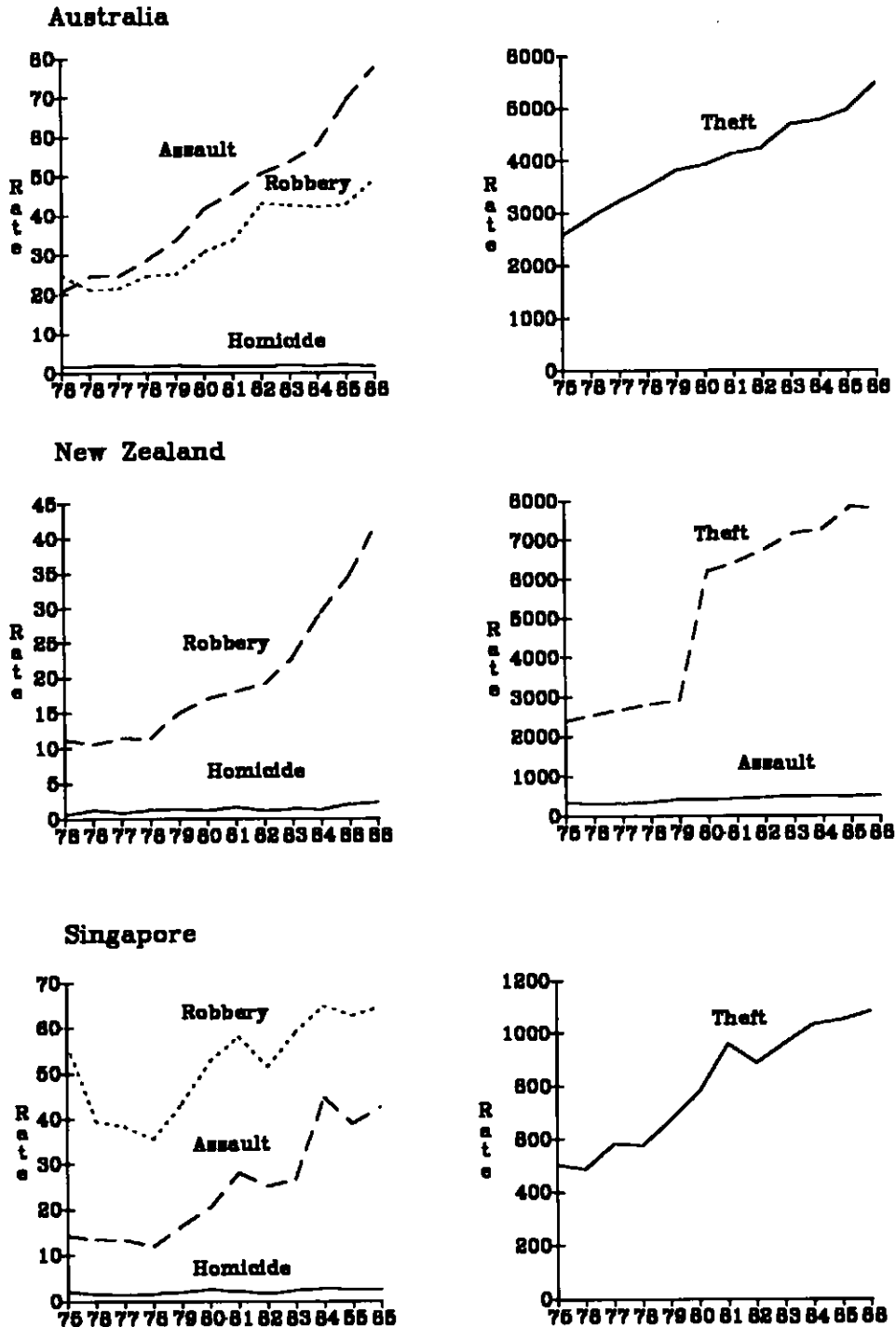
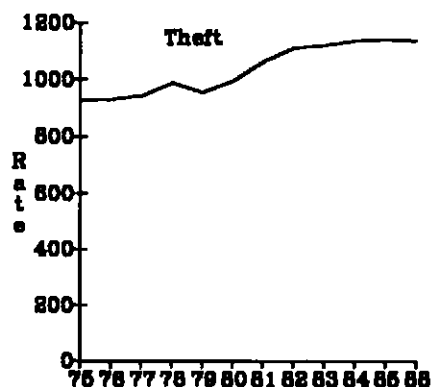
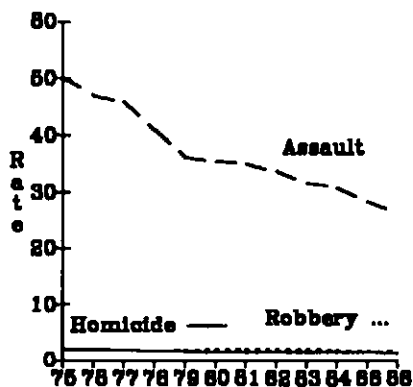


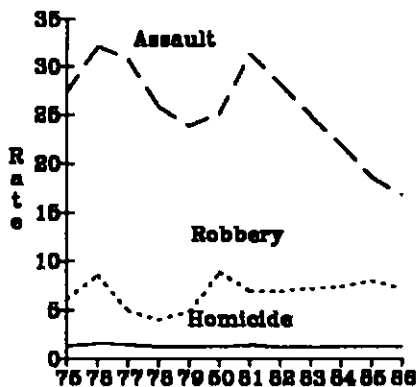
Figure 2.2 Continued

Crimes Recorded Per 100 000 Population

Japan



Republic of Korea



Fiji

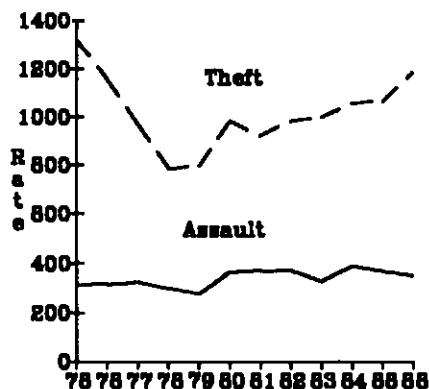
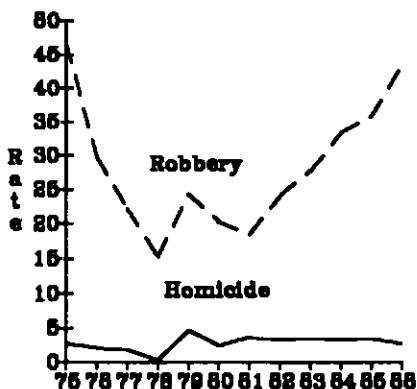
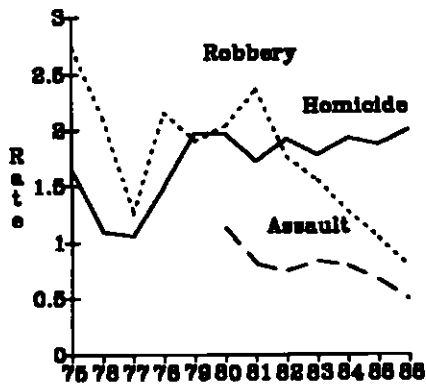


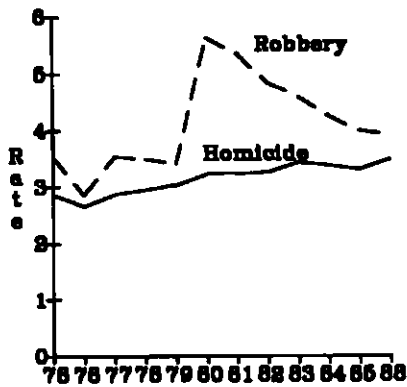
Figure 2.2 Continued

Crimes Recorded Per 100 000 Population

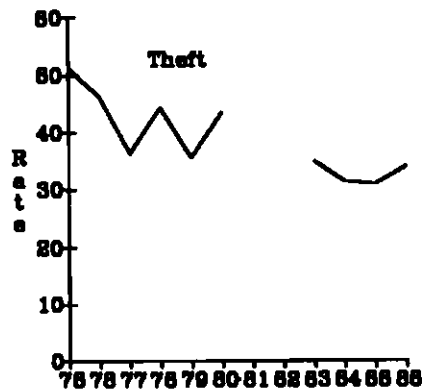
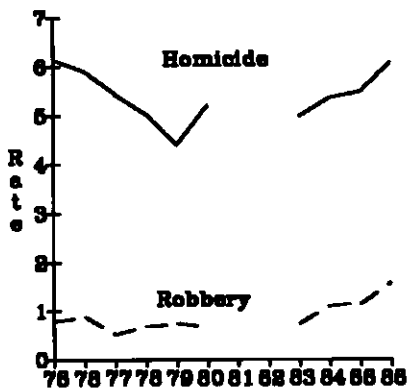
Nepal



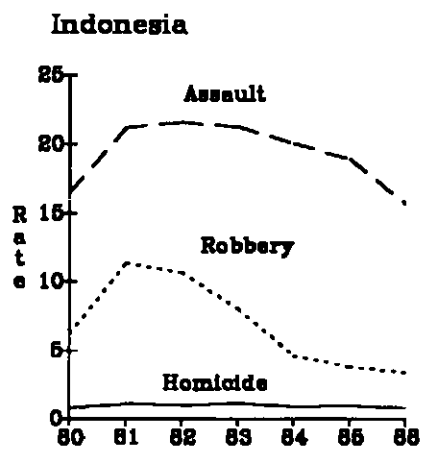
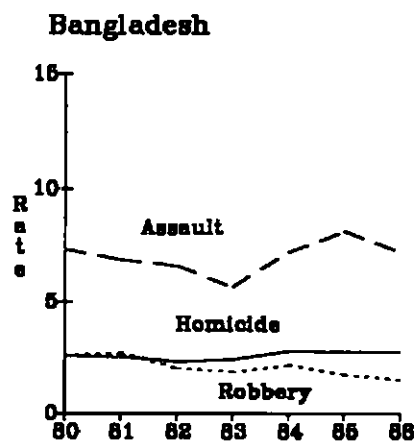
India



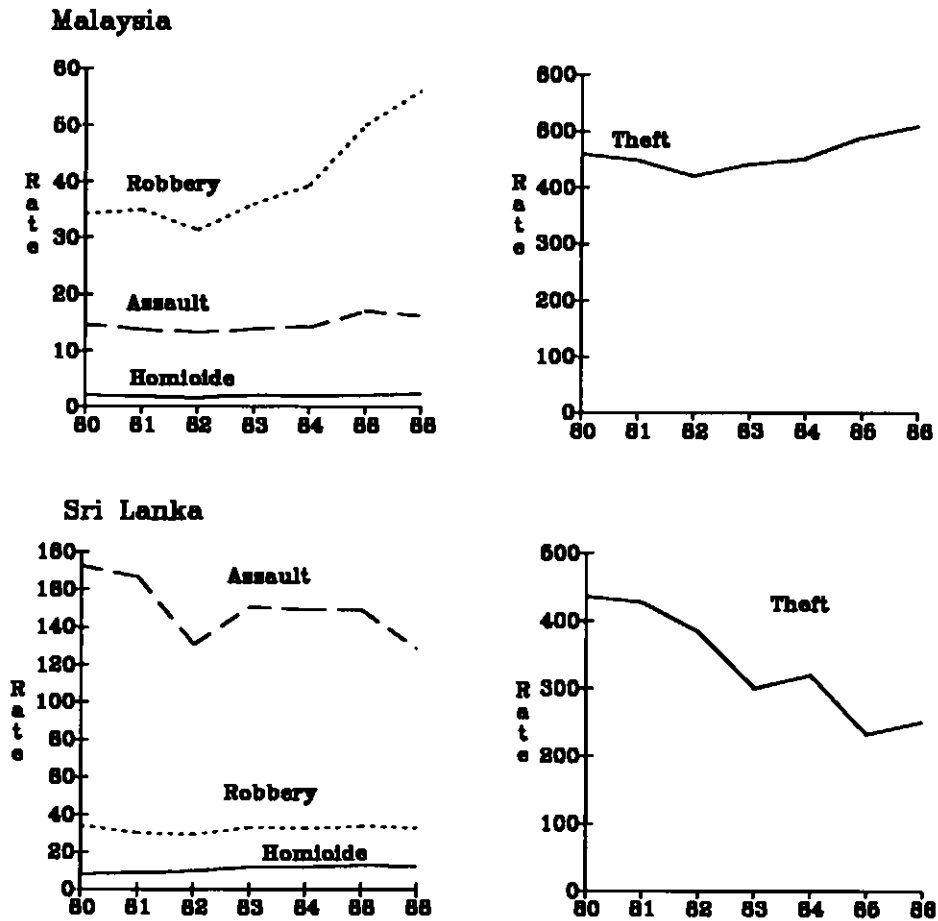
Pakistan



**Figure 2.2 Continued**  
**Crimes Recorded Per 100 000 Population**



**Figure 2.2 Continued**  
**Crimes Recorded Per 100 000 Population**





In **Australia** recorded number of homicides remained stable but assaults, robberies and thefts show an increasing trend. **New Zealand** and **Singapore** demonstrate increasing trends in all the four crime categories over the 1975-86 period. A mention must, however, be made about theft data from **New Zealand**. The sudden and sharp jump in theft rate between 1979 and 1980 is nothing but a classification problem, up to 1979 the theft data included only major thefts but since 1980 all thefts are include

The data from **Japan** show a sharp declining trend in assaults and gradual declining trends in the number of recorded homicides and robberies. During the period 1975-86 thefts show an increasing trend.

Trends in robbery, assault and theft in the **Republic of Korea** present erratic trends, although if one were to draw a line of best fit it would most certainly reveal a declining slope for assaults. The recorded number of homicides remain fairly stable over the period.

Within the twelve year period the trends in robberies and thefts in **Fiji** nose-dived between 1976-81 and back up again from 1982-86. Assaults and homicides show a gradual increasing trend.

Besides homicides, the other three crimes in **Nepal** have declined substantially. After a sharp increase in the late 1970s the trend in recorded homicides is steady.

After a sharp increase between 1979 and 1980 robberies present a declining trend in **India**; recorded thefts show a sharp declining trend; but the number of homicides are on a gradual rising trail.

The number of recorded robberies and homicides demonstrate rising trends in **Pakistan** but the trend in thefts is an opposing one.

For the four countries described below, crime trends relate to the period 1980-86.

In the seven year period trends in robberies and thefts in **Bangladesh** have been declining, whereas those for homicide and assaults are steady.

In **Indonesia** a very sharp declining trend is observed for the recorded number of robberies, assaults and thefts; while homicides remain stable.

In **Malaysia** trends over the seven year period show assaults, robberies and thefts increasing and homicides remaining steady.

The recorded number of thefts demonstrate a sharp declining trend in **Sri Lanka**. For the other three crimes, robberies and assaults are steady and homicides rising.

If one were to summarise the trends of the four crimes in the region, the situation depicted in Table 2.7 would be the outcome. The Table shows that the

**Table 2.7**  
**Trends in Crime in Countries of the**  
**Asia and Pacific Region**

Country	Decline	Stable	Increase
Australia	-	H	ART
New Zealand	-	-	HART
Singapore	-	-	HART
Japan	A	HR	T
Republic of Korea	A	HR	T
Fiji	-	-	HART
Nepal	ART	H	-
India	RT	-	H
Pakistan	T	HR	-
Bangladesh	RT	HA	-
Indonesia	ART	H	-
Malaysia	-	H	ART
Sri Lanka	T	AR	H

A = Assault; H = Intentional Homicide; R = Robbery; T - Theft.

recorded rate of thefts declined in six countries, robberies and assaults declined in four countries. The crime of intentional homicides remained steady in eight countries, robbery remained stable in four and assault stable in one country. Homicides, assaults and robberies increased in five countries and theft in seven. In four of the thirteen countries crimes either remained stable or declined.

#### **Offenders brought into formal contact**

The Third United Nations Survey did not include a question on clearance of crimes or solution of crime. The design of the survey questionnaire and the sequence of questions are likely to mislead readers in certain areas. The item on the number of crimes recorded is followed by the item which seeks statistics on the number of offenders brought into formal contact with the criminal justice system. Such an arrangement gives a very clear indication that the number of offenders shown under item 16 are responsible for crimes recorded under item 14. There is no explanation in the survey questionnaire and as such it is quite wrong. Official statistics from most countries show that a large number of crimes reported to or recorded by the police are never solved. The offender data supplied by most countries relate to crimes that are solved and for which person(s) have been identified. Therefore, who commits the large number of crimes that are not solved is not known. The extent of the inaccuracy of this impression becomes much more serious when one looks at the crime victims

survey data which show that only about half of the crimes that occur in a community are ever reported to the police.

The United Nations survey includes in the offender data all those coming in contact with the criminal justice system as suspected, arrested or otherwise. Such a description creates confusion. The offender data supplied by the countries of the region fall in any one, two or more categories described below:

- (i) the number of distinct individuals arrested
- (ii) the number of distinct individuals charged and thus brought before the courts
- (iii) the number of persons arrested -- this may mean that a person may have been arrested more than once during the year.
- (iv) the number of arrests made -- that is one person may be arrested several times for different incidents
- (v) the number of individuals suspected of committing crimes -- not necessarily arrested
- (vi) the number of individuals named as suspects by the victim or complainant
- (viii) the number of offenders, for some reason, may be the same as the number of crimes.

That there exists significant variation in the way countries report offender details is very evident from the data presented in Table 2.4. The data show the average number of offenders per crime recorded as gleaned from the country responses. Thus, looking at intentional homicide the average ranges between two offenders, for every five intentional homicides in Thailand and 3.7 offenders for each intentional homicide recorded in Bangladesh. A much greater variation than that exists for the crime of assault. According to the New Zealand response, on an average one offender was brought into formal contact with the criminal justice system for 50 assaults recorded. At the other extreme it was Bangladesh where on an average 7.5 offenders were brought into contact for each assault recorded. Variations of different magnitudes are also observed for the crime of robbery and theft.

If one follows the pattern in the majority of countries, that is, crimes recorded constitute a much larger number than offenders brought into contact with the criminal justice system, then the Bangladesh, Republic of Korea, India, and the Philippines situation appears quite different from the rest. One can only speculate as to why such a difference. Only through follow-up and through examination of records will it be possible to substantiate the differences.

### **Offenders processed**

Once a suspect has been arrested, identified or named the next stage is to process him/her through prosecution and the court system. The terminologies used to signify the steps vary across countries. Thus a suspect may be prosecuted in a country and charged in another and brought before the courts in still another. There are also different agencies performing the tasks of bringing a suspect to

justice. According to the responses to the third United Nations Survey the agency responsible for prosecution work is as follows:

The Police - Australia (except the Australian Capital Territory), Bangladesh, Nepal and New Zealand.

Other than Police - China, Fiji, India, Japan, Republic of Korea, Sri Lanka, Thailand and Vanuatu.

However, as with data for other sections, comparability across countries of prosecution data is difficult. Without clarifications it appears hazardous to make explanatory comments. Only a handful of countries provided both the number prosecuted and the number convicted in courts. These included Bangladesh, Fiji, Japan, Malaysia, New Zealand and Singapore. The two sets of data for these six countries for the crimes of intentional homicide, assaults, robbery and theft have been presented in Figure 2.3. Since the relationship between the offenders brought into contact with the criminal justice system and the number prosecuted are not always clear, data for these could not be compared. In Figure 2.3, therefore, the number prosecuted has been shown in terms of rate per 100 000 population and the number convicted has been shown as per cent of those prosecuted. It may be of interest to note that the number of offenders prosecuted for the four crime types in Fiji and Sri Lanka is the same as the number of offenders brought into contact with the police. Both Fiji and Sri Lanka also reported to have a prosecution arm separate from the police. We need further information to understand the strength of the data. For the data from Fiji, a further unclear aspect is the resemblance of the conviction data with the prosecution and arrest data. Table 2.8 illustrates this problem for intentional homicide.

**Table 2.8**

**Numbers Arrested, Prosecuted and Convicted  
for Intentional Homicide - Fiji 1981-86.**

	1981	1982	1983	1984	1985	1986
Number of offenders arrested (item 16)	33	26	42	41	28	22
Number of Persons prosecuted (item 27)	33	26	42	41	28	22
Number of Persons convicted (item 39)	33	26	42	41	28	22

Figure 2.3 shows striking differences in the trends for prosecution and convictions. The data from the countries raise many questions which only a careful study of the legal system can answer. The following summarises the trends in the six countries, as shown in Figure 2.3:

Bangladesh - During the seven year period, only less than 19 per cent, or 1 in five persons prosecuted for intentional homicides were convicted. For assault the conviction rate was even lower - only 4.4 per cent in 1981 and 17.6 per cent in 1985 were convicted. For robbery and theft, the proportion of offenders convicted was higher than that for intentional homicides and assault but by not much.

Fiji - As indicated earlier the conviction rate of persons prosecuted for all the four crime types were 100 per cent.

Japan - The courts in Japan convicted those charged with intentional homicide and robbery at a very high rate. Comparatively, only about 1 in 5 prosecuted for assault and 2 in 5 charged with theft were convicted.

Malaysia - Offenders prosecuted for intentional homicide receive a conviction disposition less frequently than those prosecuted for assault, robbery or theft. Well over 4 out of 5 offenders charged with theft are convicted.

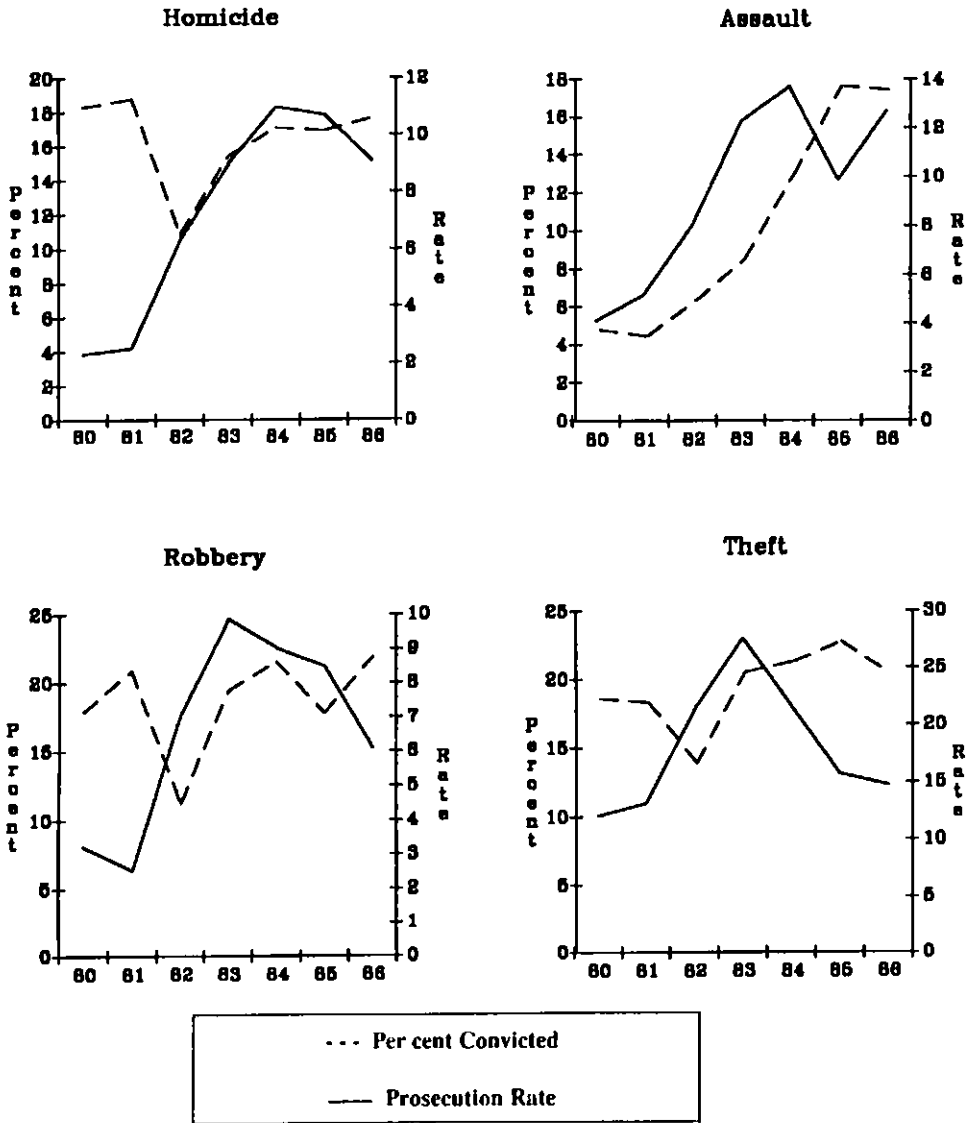
New Zealand - Persons prosecuted for intentional homicide are convicted far less frequently than those prosecuted for assault, robbery or theft. On average, the conviction rate of robbers and thieves are very high.

Singapore - An extremely low proportion of offenders prosecuted for intentional homicide are convicted by the courts. As the data in Figure 2.3 show, the conviction rate for those charged with this crime fluctuated erratically and ranged between a low of 1.7 per cent in 1986 and a high of 24.0 per cent in 1983. Conviction rate of offenders charged with other crimes also fluctuated substantially during the period.

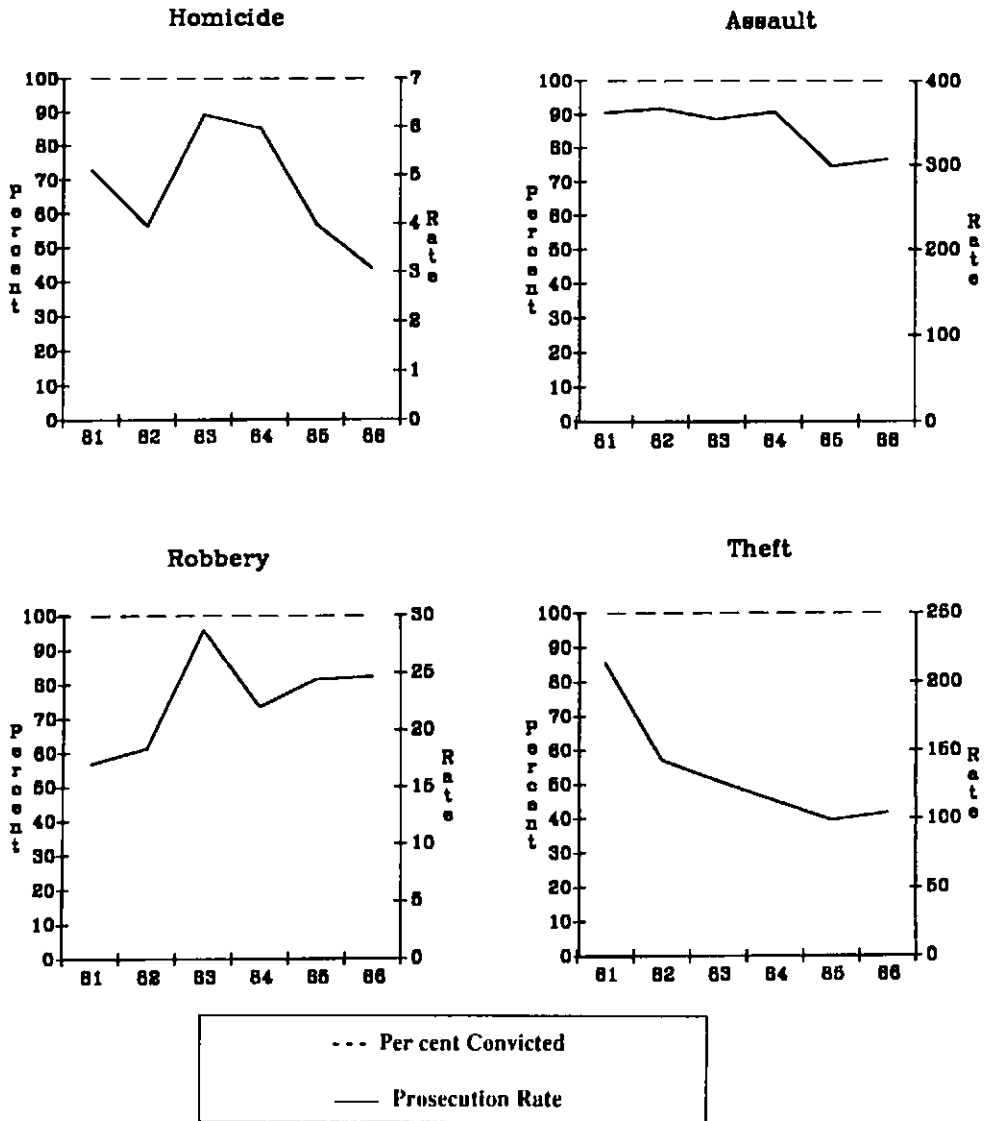
In summary, it must be stressed that a low conviction rate may not necessarily mean a high acquittal or dismissal rate. It is possible to speculate that persons may be convicted for lesser charge or for a charge different from the original one. Also, if several offenders are charged with the same crime, the court may wish to apportion responsibility and deal with them accordingly. Extremely low conviction rate for intentional homicide in some countries may also reflect laying of false charges, poor preparation by the prosecution and strong defence, inadequate evidence or simply delay in justice.

Figure 2.3

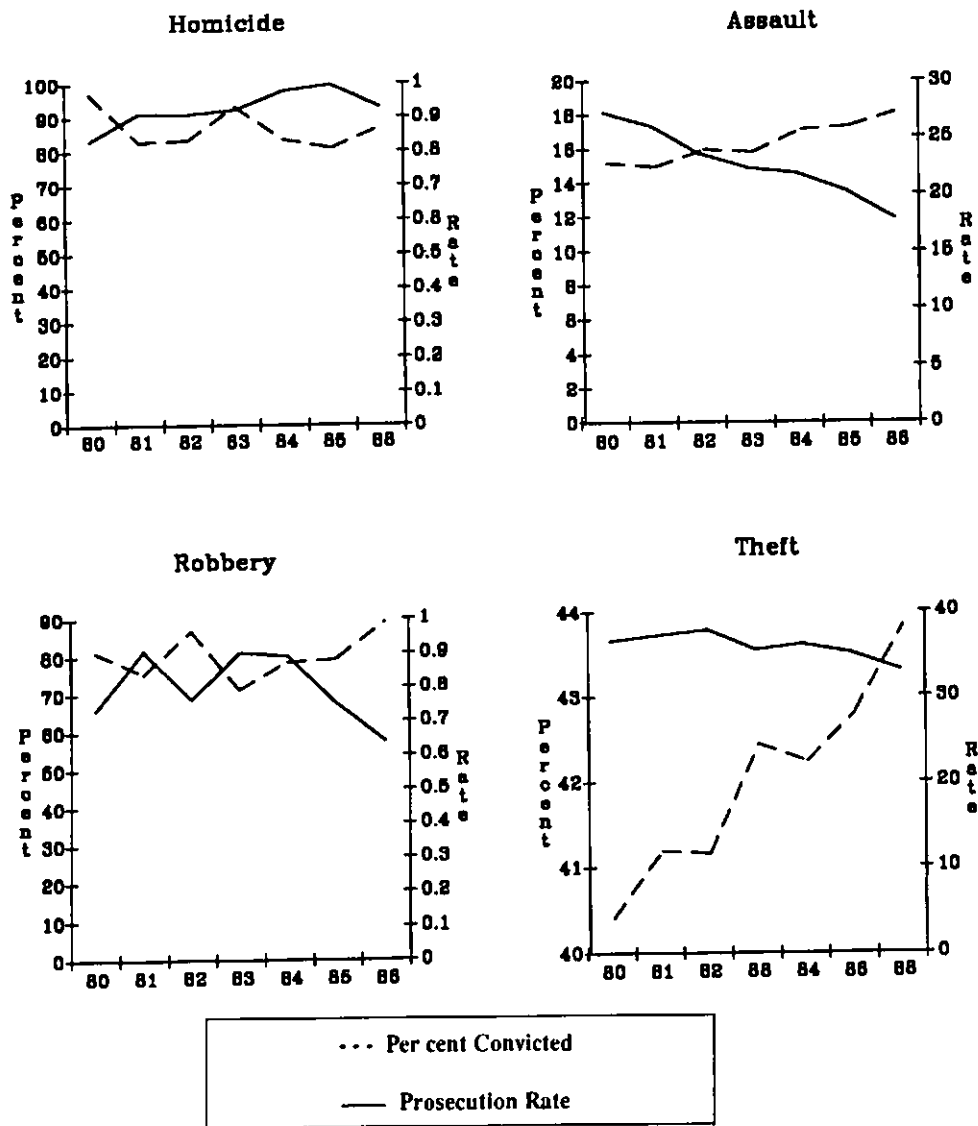
Prosecution Rate Per 100 000  
and Per cent Convicted  
Bangladesh



**Figure 2.3 Continued**  
**Prosecution Rate Per 100 000**  
**and Per cent Convicted**  
**Fiji**



**Figure 2.3 Continued**  
**Prosecution Rate Per 100 000**  
**and Per cent Convicted**  
**Japan**





**Figure 2.3 Continued**  
**Prosecution Rate Per 100 000**  
**and Per cent Convicted**  
**Malaysia**

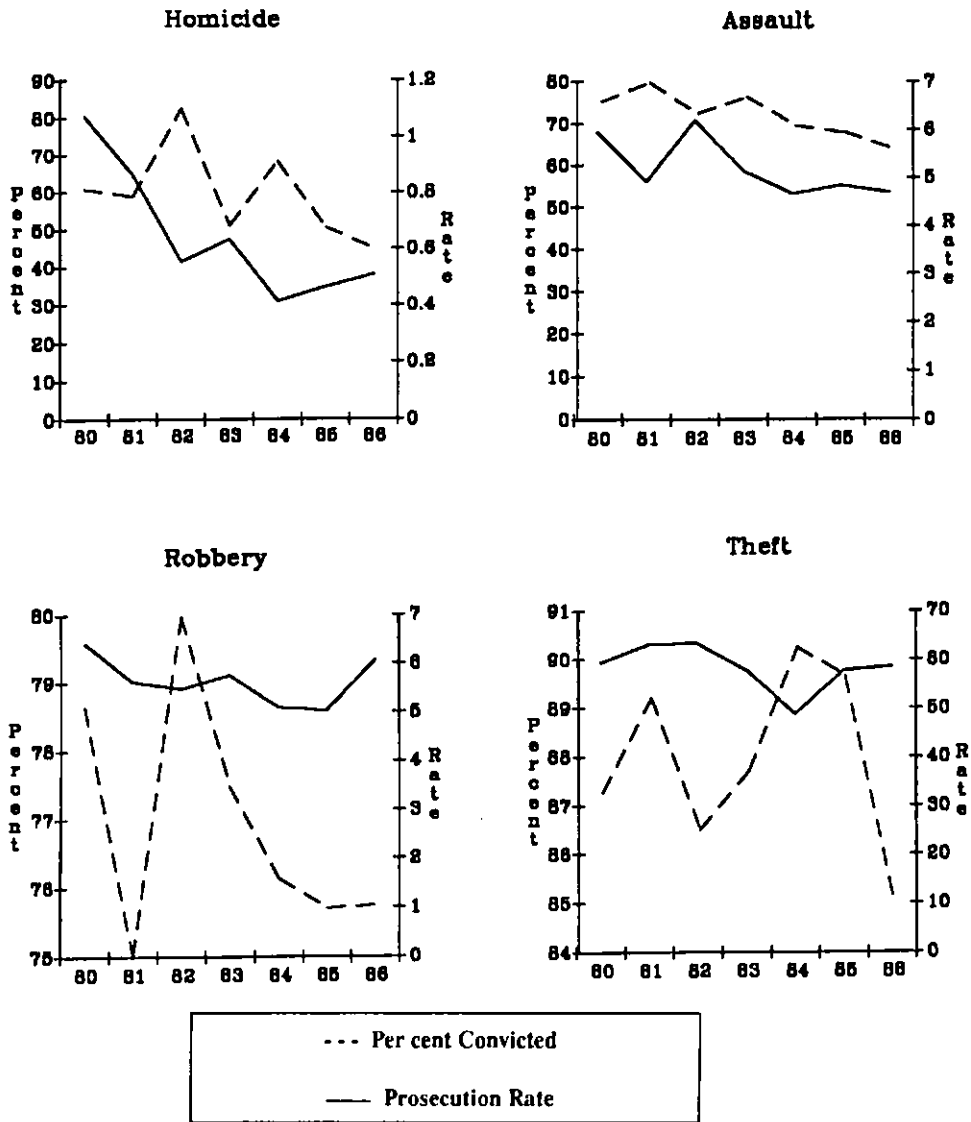


Figure 2.3 Continued

Prosecution Rate Per 100 000  
and Per cent Convicted  
New Zealand

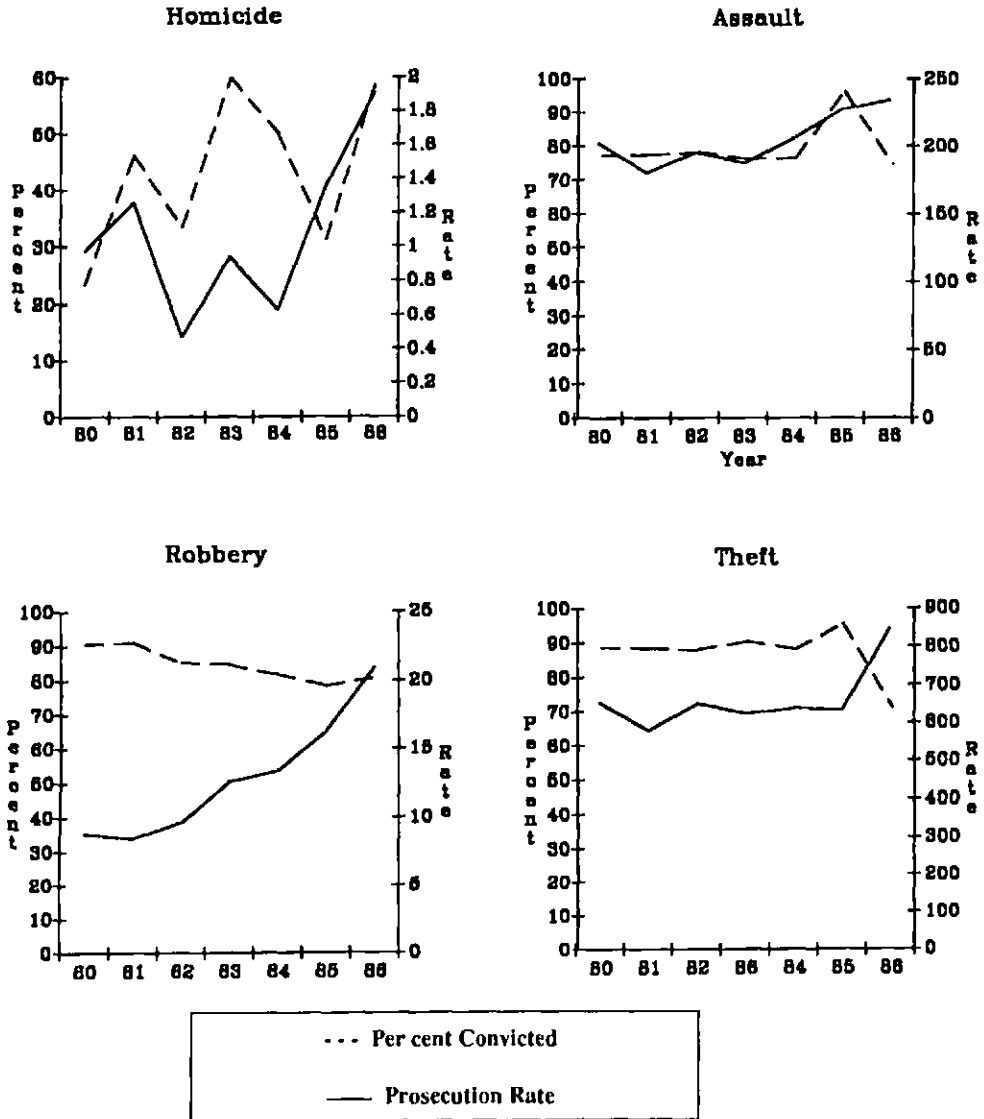
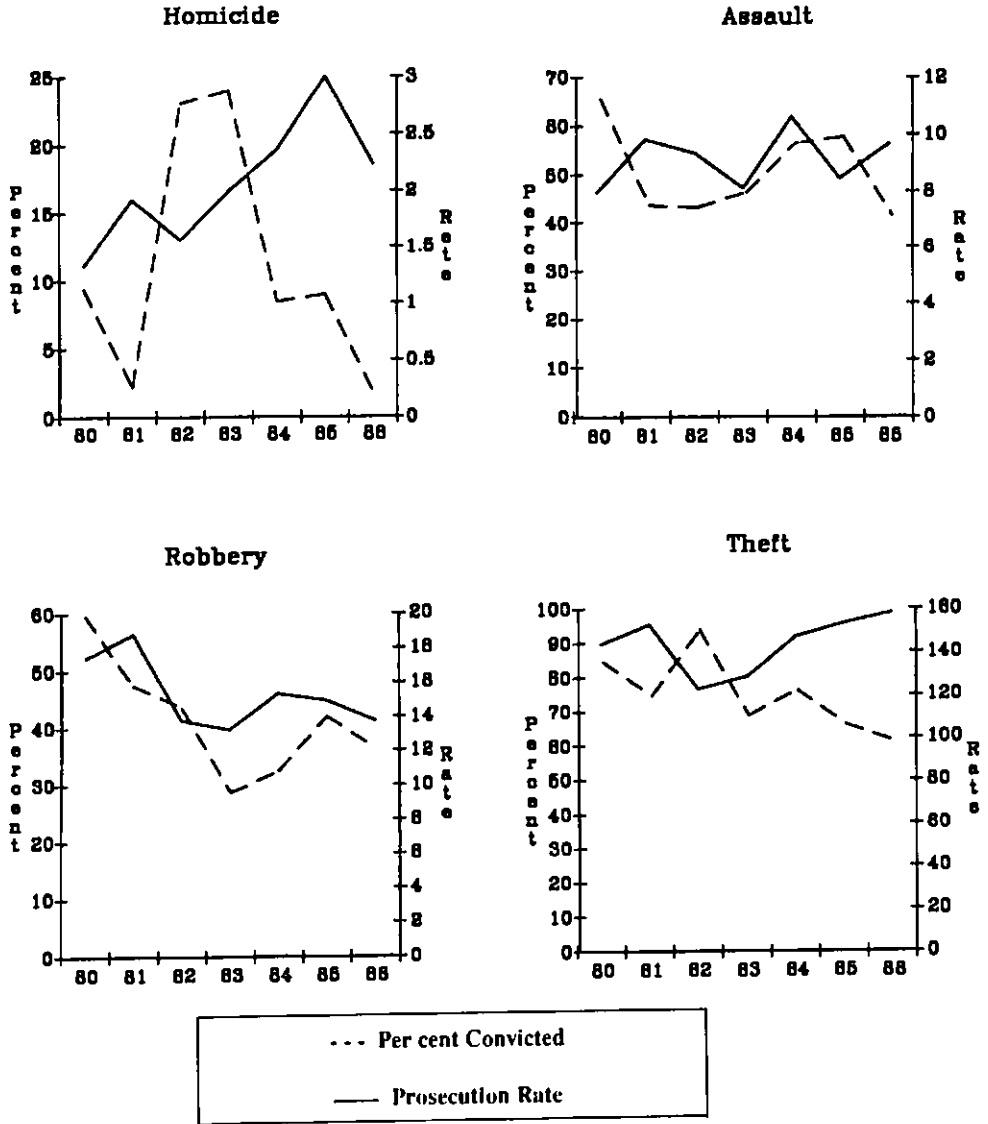


Figure 2.3 Continued

Prosecution Rate Per 100 000  
and Per cent Convicted  
Singapore



## **Trial and Sentencing**

From the time a crime occurs and a suspect is identified to the sentencing of offenders, there are several stages and procedures which must intervene. The nature of the crime, the veracity of evidence and the ability of the criminal justice system to respond, determines the time it takes to process a case. The legal system and procedures vary from country to country. Furthermore, the age of the suspect/offenders also prompts variations in the procedures. In most countries of the region, law and procedures employed to deal with children as persons under certain age are different from those used to deal with adults. Severity of a crime and the perceived dangers to the society dictates whether a suspect is restrained in custody or be allowed to live in the community while under trial. Procedures relating to this aspect also vary across countries. Also, while protection of the society remains a predominant function of the criminal justice system, in processing a case and during trials due regard must be paid to the fundamental rights of the suspects so that a fair trial is exercised. Countries of the region have developed various sets of standards and guidelines to assist the system.

Statistical and other information on aspects such as time taken to process a case, decisions to allow the suspect to remain in the community while under trial, use of bail, availability of legal aid, and the types of sentences used help in determining an efficient system of justice. The Third United Nations Survey sought, in a limited way, to examine these issues. One question concerned the average length of time spent in prison awaiting trial, but very few countries in the region could offer information on this subject. Pretrial and undertrial detention practices present legal as well as humanitarian problems. The mechanisms used to apprehend a suspect, time taken to produce him/her before a judicial authority, the grounds on which bail is granted or refused, and the period for and manner in which the suspect is held in custody while under trial are issues which reflect the strengths and efficiency of a criminal justice system. Systematic information on these aspects can help improve the system.

Deprivation of liberty is one of the most severe forms of punishment that can be inflicted on an offender. The use of this punishment reflects the punitiveness of a system and the country. It should be of concern to all modern societies that such punishment be used judiciously and should be used for those awaiting trial only sparingly. Statistics supplied by the countries of the region show that among prisoners, those awaiting trial constitute a substantial proportion. As data in Table 2.9 indicate, remandees in prisons constitute a low 4.8 per cent in Brunei Darussalam and a high of 66.9 per cent in Bangladesh.

**Table 2.9**

**Proportion of those Awaiting Trial in  
Prison Population, 1986**

Country	Total Prison Population	Proportion of those Under Trial
Australia	11497	12.1
Bangladesh	105020	66.9
Brunei Darussalam	186	4.8
Japan	55641	17.0
Republic of Korea	52733	41.5
Malaysia	21944	32.9
New Zealand	2690	10.2
Singapore	4140	9.5
Sri Lanka	11704	52.2

Besides persons awaiting trial, there are others who can also be detained in prisons. Prisons are meant to hold in custody individuals sentenced to terms of imprisonment. However, at times prisons also receive persons not sentenced to terms of imprisonment, these may include those for non-payment of fines, civil law violations, and for preventive detention. Although, the United Nations Survey sought information of these details, only a handful of countries could provide data.

The above description indicates that it is difficult to calculate even as simple a fact as imprisonment rate. Besides the fact that a prison population includes undertrials, sentenced, and other individuals, there are other problems. For instance, often a prison sentence passed by a judge may be shorter than the period one has already spent in custody as a remandee. In this case there will be no occasion to count the prisoner as a sentenced prisoner.

The third United Nations Survey also sought statistics on the number of admissions to prisons each year. In this case, the differences in counting rules used in countries make it difficult to compare. A few examples may illustrate this point. As the data in table 2.10 show, the number of persons admitted to prisons in Bangladesh in 1986 far outnumber the number of offenders arrested or prosecuted or convicted for each of the four crimes.

**Table 2.10****Arrest to Imprisonment, Bangladesh 1986**

Suspects/ Offenders	Intentional Homicide	Assault	Robbery	Theft
Number arrested	10491	17587	6494	25248
Number prosecuted	9351	13078	6276	15131
Number convicted	1648	2277	1376	3082
Number admitted to prisons	11856	39708	31712	43634
Number of convicted prisoners	5027	6636	3982	9588

Statistics from none of the other countries show such a pattern. Another type of difficulty emerges in statistics from the Philippines. It is difficult to understand as to why the number of prisoners admitted during the year should always be equal to the number of convicted prisoners on a typical day in prisons. Thirdly, the figures on admissions to prisons in Japan 'represent only those whose convictions have become finally binding'. As such, the number of persons admitted to prisons each year is lower than the number of offenders convicted by the courts and lower than the number of convicted prisoners in prison on a particular day. Fourthly, the number of convicted prisoners in prison on a typical day in Indonesia appears incredibly low. In response to item 61 of the United Nations Survey questionnaire 'Number of convicted prisoners' - on a day, Indonesia supplied the following statistics:

**Grand Total Number of all Convicted  
Prisoners, Indonesia**

Year	Number
1980	1798
1981	1722
1982	1743
1983	1665
1984	1526
1985	1536
1986	1647

Converting these data to rate per 100 000 yields (for 1986) 0.99. And finally consider the data from Brunei Darussalam. In response to item 45 'Persons held in incarceration (total)' of the questionnaire the number sentenced on 31 December 1986 is given as 156. But in response to item 61 'Number of convicted prisoners' on a day, the figure for 1986 is given as 533. Of the 533 prisoners 338 were in prison convicted of immigration offences and 27 of Islamic Religious offences.

We believe that the questions in the United Nations survey are not clear and as such open to different interpretations. For example, the survey in item 45 uses the term 'sentenced' prisoners whereas in item 61 it is 'convicted' prisoners. What is the difference between the two? Or are they the same? Likewise, item 61.12 seeks statistics on 'Grand total number of all convicted prisoners (including those not covered by the specific categories given'. Should persons convicted of violations under laws other than criminal laws be counted? May be the statistics from Brunei Darussalam reflect this ambiguity.

Bearing in mind the difficulties described above, we now present in Figure 2.4 the trends in imprisonment rates of convicted prisoners. A majority of the countries have not nominated the day of the year. For Japan, Malaysia, New Zealand, and Singapore the statistics relate to 31 December of each year and for Australia 30 June.

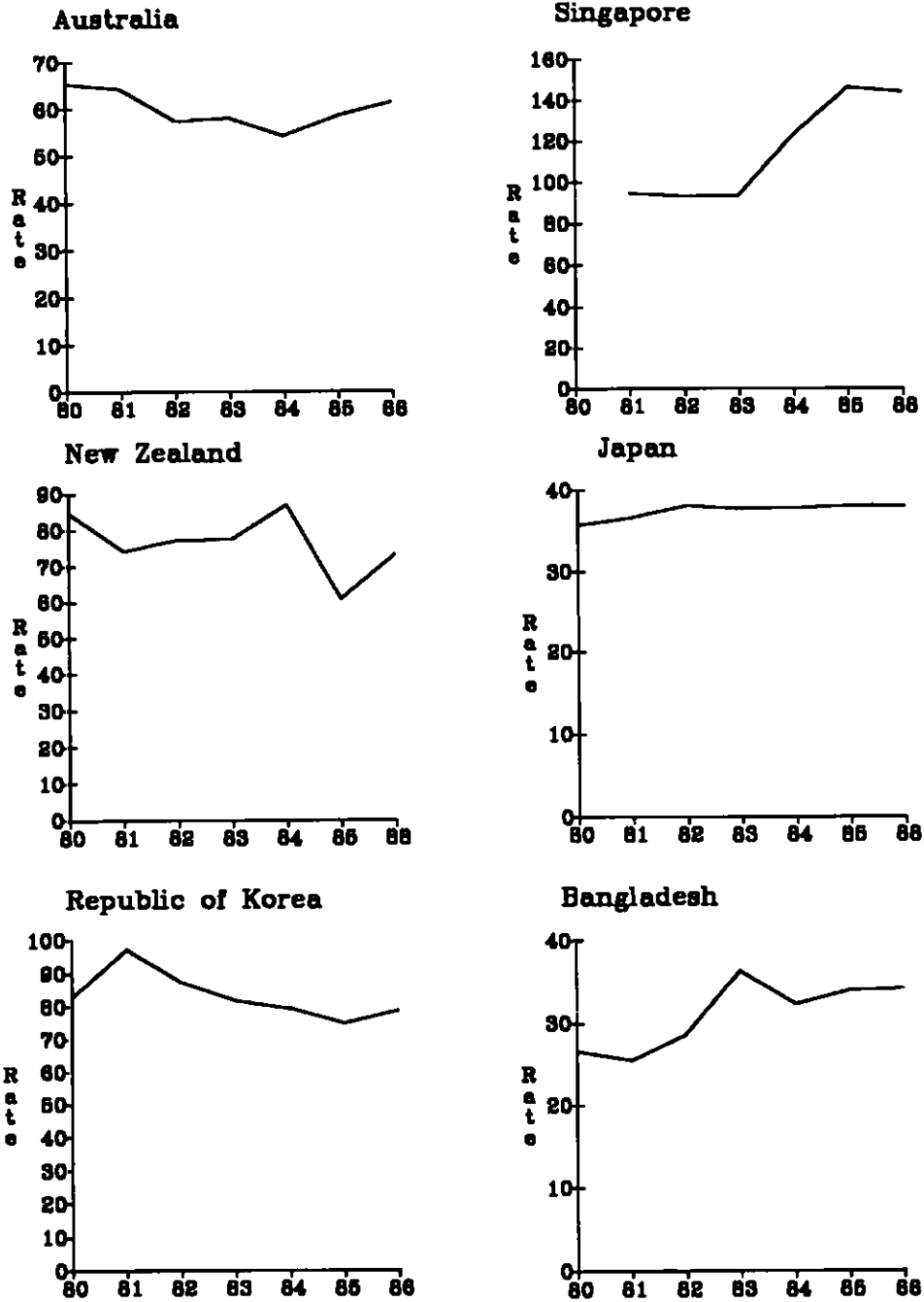
The imprisonment trends shown in Figure 2.4 are nothing out of the ordinary, except of course for Indonesia. Data clearly demonstrate that the countries of the region have some of the lowest imprisonment rates in the World. Singapore and Thailand display imprisonment rates of convicted prisoners of over 120 per 100 000 population. Philippines, Bangladesh and Japan, on the other hand, show the imprisonment rates of around 30 per 100 000 population, this by any standard is pleasantly low.

The major purpose of this chapter has been to present the situation pertaining to crimes, criminals and sanction in countries of the Asia and Pacific Regions. In the process of data analysis numerous difficulties were encountered. Difficulties which were obvious and those that were observed at the UNAFEI workshop have been identified and described. Those that could not be detected either from the questionnaires or by the participants of the workshop need to be followed up. It is, therefore, an understatement to say that the data supplied by the countries of the region are not comparable, at least until detailed clarifications have been obtained. Thus, whether 'crimes recorded' means the total number of crimes reported or becoming known to the police, or only those recorded/registered by the police, or those for which perpetrator(s) has been identified/apprehended, or those for which someone has been convicted, is not clear in several countries. Similar difficulties emerge at all data stages and levels. Even for a data set such as imprisonment rate, the problems appear complicated.

What then are the conclusions that one can draw? Obviously, the analysis of the data for the third survey, and the previous two surveys, have revealed the numerous pitfalls in the statistical systems depicting state of crime and punishment in countries of the world. The surveys have shown critical need for systematic, accurate and relevant criminal justice statistical information, United Nations must be complimented for initiating these surveys. The tasks before the world body today are as follows:

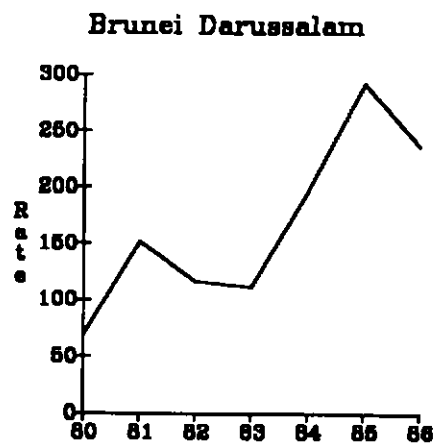
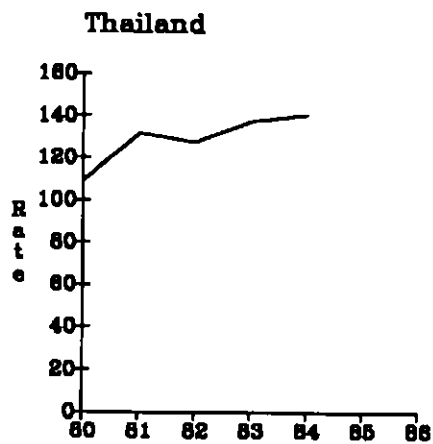
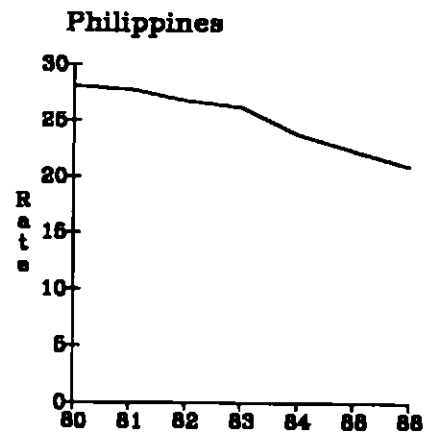
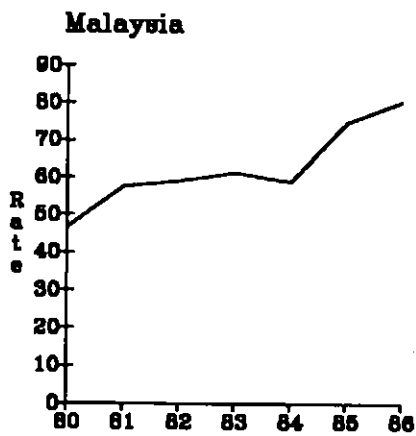
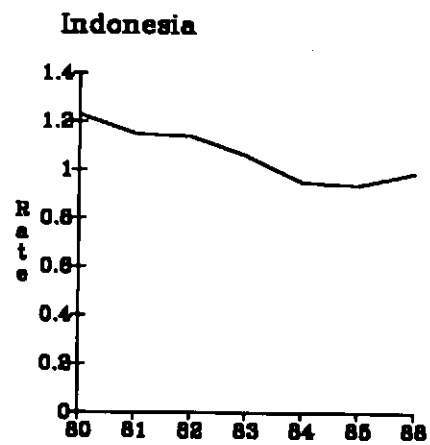
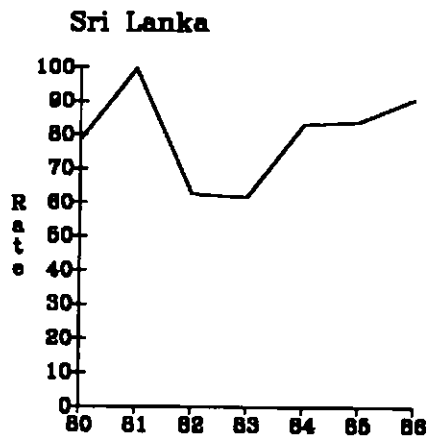
Figure 2.4

Imprisonment Rate Per 100 000 Population





**Figure 2.4 Continued**  
**Imprisonment Rate Per 100 000 Population**



- preparation of a report documenting the difficulties in the data systems. This should be done without any value judgement on the quality and reliability of data. Concrete examples should be used to pinpoint problems and indicate possible improvements.
- Explain in detail how and why criminal justice statistics are useful to each country. Such explanations must emphasize the benefit to the country first and the development of an international data system as a by product. Most of this work has been accomplished by the United Nations already through its Publication *Manual for the Development of Criminal Justice Statistics*. The task ahead is to expand the document with the help of data and information collected through the third United Nations crime survey.
- Disseminate the above, through the United Nations Regional Institutes. Through contacts with criminal justice personnel of different levels, the regional Institutes can effect a much more influential dissemination system.
- Encourage the regional institutes to hold periodic workshops and training sessions for operators of criminal justice statistical systems.
- Provide technical assistance, not high powered advisers who meet only top political and bureaucratic leaders in the capitals of nations, but knowledgeable experts who can spend at least a few weeks working with the statisticians and operators of information systems and who remain available to guide the development of statistical systems. Here again, the input of regional institutes in selection of such experts is vitally important.
- until such time as comparable statistical systems develop, it may be advisable for the United Nations to continue with the periodic surveys, by concentrating on the four crimes - homicide, assault, robbery, and theft - in a much more systematic way. The selection of these crimes for deeper analysis by the United Nations is a logical and sensible step. When designing the questionnaire for the next survey, suggestions embodied in the report should be considered.

## PART THREE

### DYNAMICS IN CRIMINAL JUSTICE

Scholars, researchers, criminal justice administrators, and legislators have made numerous attempts over the last 100 years to explain crime in societies. While no definite causes have yet been established between crime and characteristics of societies, it is generally agreed that the level and nature of crime in a society are influenced by various economic, social, demographic, cultural, technological, political, and attitudinal factors. Scholars and researchers have in the past attempted to examine the links between crime and economic conditions, broken homes, and other factors. The United Nations over the last four decades have debated the same links in terms of crime and urbanisation; industrialisation; crime and development.

Analysis of crime has been seriously handicapped by lack of reliable and meaningful statistical information in most countries. Many problems surrounding crime statistics have been highlighted in Part Two of this volume. Analysts of crime in all societies rely heavily on crime statistics produced by official agencies such as the police, courts, prisons etc. Police statistics in particular are used extensively to examine the extent and nature of crime and crime trends. During the past two decades the veracity of official crime statistics has come under deeper scrutiny. Examination of police practices and procedures, police resources, survey of citizen perception of and attitude to crime, citizen attitude to the police, attitude towards reporting criminal incidents, etc., in various settings indicate that official crime statistics alone cannot reflect the true extent and nature of crime in a society. It is now generally agreed that the amount of crime recorded by the police is greatly influenced by numerous factors, particularly --

- resources available to the police
- classification and counting rules used by the police
- citizen confidence in the police
- citizen attitude towards reporting of criminal incidents
- changes in laws defining crime
- level of technology in a country.

The above and the limitations of contemporary criminal statistics described in Part Two make it abundantly clear that the quality of crime statistics leaves a lot to be desired. It would be a futile and wasteful exercise to utilise sophisticated statistical techniques to analyse the relationship between socio economic factors and crime as measured by official statistics. It would also be a meaningless exercise to aggregate existing crime data from countries in terms of their location (regions or continents) or in terms of levels of economic development. Differences between countries within a region or within an economic block are such that aggregation of crime data makes the importance of the United Nations

survey irrelevant. The primary aim of the United Nations Survey of Crime Trends remains to be the improvement in the quality of criminal statistics. Estimating levels, nature and trends of crime in the world by aggregating a disparate set of statistics offers no hope for the member countries.

Accordingly, the main focus of this part is to examine conditions in individual countries. For this effort the following methods and data sets will be used:

1. Rather than using regression analysis, conditions in countries will be differentiated in terms of high, medium and low. For example, population growth rate will be placed in these three categories. Among the countries of the region responding to the United Nations survey, the population growth rate for 1985 ranged between 0.6 per cent in Japan and 3.0 per cent in Pakistan (see Table 2.1). Countries will be placed in high, medium and low population growth rate according to the procedure described later.
2. Although data on a large number of socioeconomic factors are currently available through various United Nations, the World Bank, and other agency publications, it is not absolutely necessary to examine each and every one of these factors. Often, several factors in one general area show similar movements and therefore, any one of these could reflect as much of reality as all of these. For example, infant mortality and life expectancy both indicate standard of medicine and health and therefore one of these is as good an indicator of health as the other. Other supporting indices are the number of physicians and nurses per unit of population, expenditure on health, etc.
3. The main source for socioeconomic data was the latest edition of the World Development Report 1989. Other sources used were documents produced by the Economic and Social Commission for Asia and Pacific and responses to the United Nations Survey of Crime Trends. From these sources, data on the following items were selected:

*Demographic* -- Total population, population growth rate, and per cent of 15-29 year olds in the population;

*Social* -- Per cent age group enrolled in secondary education;

*Health* -- Infant mortality, life expectancy, population per physician, population per nursing person;

*Economic* -- Average annual growth rate of Gross National Product (GNP) per capita, average annual rate of inflation, economically active population, average annual growth rate in agriculture, industry and manufacturing;

*Central Government Expenditure* -- Defence, Education, Health, and Housing Amenities Social Security and Welfare;

*Technological* -- Energy consumption per capita.

*Crime* -- Data supplied by the countries.

Tables 2.1 and 2.2 describe the data items and annual averages. The definitions of the items and method of compiling the data items are described in detail in the *World Development Report 1989*.

4. The procedure for classifying values of particular data sets, for example, energy consumption, into high, medium and low was examined carefully. Cluster analysis was examined but the number of responding countries was too small to obtain two or more clusters of meaningful size. Using average value for each data set was also considered but the dispersion in the values was such that the size of the standard deviation was at times as large as the average. We, therefore, decided to use median. Any value below the median was designated low and the medium and high values were determined arbitrarily. The value ranges low, medium and high categories for each of the data sets are shown in Table 3.1. For example, Nepal, Bangladesh, Sri Lanka, Pakistan, India, Indonesia and Philippines were low energy consuming countries and the range of this was between 23 and 241 kilograms of oil equivalent; Thailand, China, Malaysia and the Republic of Korea were in medium category -- range between 330 and 1475, and Japan, New Zealand, Singapore and Australia were among the high energy consuming countries.

**TABLE 3.1**

**Value Ranges of High, Medium and Low  
Standards Socioeconomic Conditions**

Variable	High	Medium	Low
Population growth rate	2.6% and above	2.0 to 2.5%	Below 2.0%
% Age group enrolled in secondary education	84% and above	54 to 71%	Below 54%
Infant mortality	50 per 1000 live birth and over	28 to 49 per 1000 live births	Below 28 per 1000 live births
GNP growth rate	4.6% and above	3.0 to 4.5%	Below 3.0%
Growth rate in agriculture	4.1% and above	3.0 to 4.0%	Below 3.0%
Growth rate in manufacturing	8.1% and above	6.0 to 8.0%	Below 6.0%
Per cent of total central government expenditure			
- Education	18.0% and above	11.0 to 18%	Below 11%
- Housing Amenities, Social Security and Social Welfare	15.1% and above	8.0 to 15%	Below 8%
Energy consumption	3000 and above	330 to 2999	Below 330

The number and type of socioeconomic variables needed to examine the dynamics in criminal justice can be systematically limited to facilitate analysis. As stated earlier, values of variables signifying the same general area move in the same logically expected direction. Examples of such movements are shown in Figures 3.1 to 3.3.

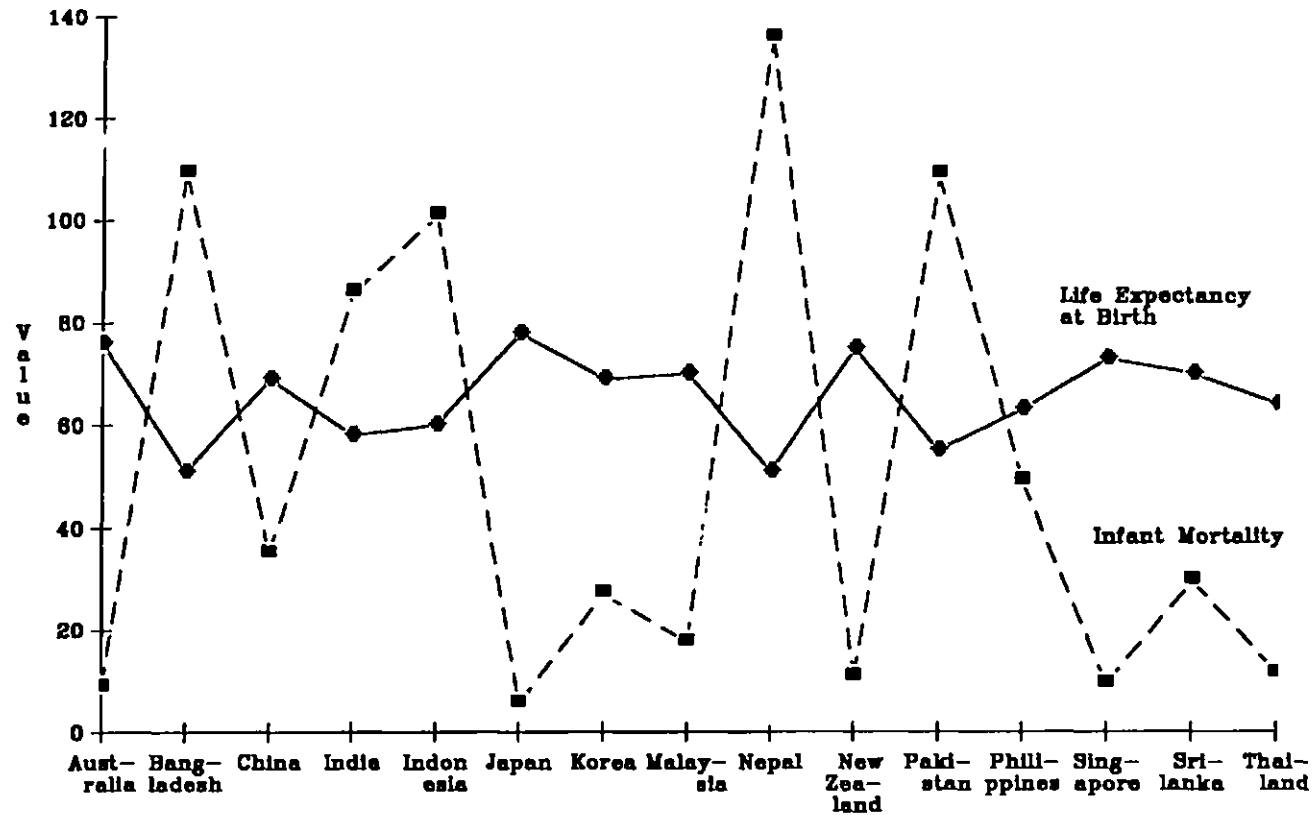
Figure 3.1 present values for infant mortality and life expectancy. Both these variables, to a large extent express the state of health and medical services in a country. It is no coincidence, therefore, to observe that countries which have high infant mortality rates also have low life expectancy rates. Similarly, growth rates in industrial production and manufacturing, Figure 3.2, show more or less similar movements. And finally, changes in social variables, like education and housing amenities social security and social welfare tend to show similar movements, Figure 3.3.

The examples shown in these Figures tell us two things -- it is not necessary to collect and examine data on a large number of variables just because they are available and secondly it is preferable to identify factors which affect quality of life and then select one or two variables which reflect each factor. Thus subjects such as population, education, health, transport and communication, economy, technology, etc., are factors and some of the variables shown in Tables 2.1 and 2.2 can be selected to reflect these factors. We believe using the concept, 'factors affecting quality of life' has much meaning. For instance, it is possible to speculate that at least lives of some of the homicide victims could have been saved if health and medical facilities were adequate, and therefore recorded homicide rate could have been lower than at present.

During the last three to four decades significant efforts have been made to develop standard and comparable international statistical series on socioeconomic conditions. The United Nations, World Health Organisation, United Nations Educational Scientific and Cultural Organisation, International Labour Organisation, World Bank and the International Monetary Fund, and regional agencies of the United Nations have been in the forefront of such efforts. The quality of data series developed by these agencies continue to improve. Data on the state of crime, however, require much more work before international series can be developed. Therefore, it does not seem appropriate to statistically relate standardised series with a totally unstandardised series.

In this report our main concern is with the official crime statistics. An increasing number of surveys in a number of countries indicate that official crime statistics relate only to that portion of crime which is reported to the police; a majority of crimes that occur in a country do not come to the attention of the police. Furthermore, recording of crimes is also significantly influenced by resources available in a country, the level of technology used, and the standard of socioeconomic conditions. Allocation of resources and technology to different factors contributing to quality of life is dependent upon the priorities that the countries give to specific factors. For example, reducing population growth and

Figure 3.1  
Values for Health Factor



NB. Disregard the lines joining the points; these are to facilitate easy reading.

Figure 3.2

## Values for Growth in Production

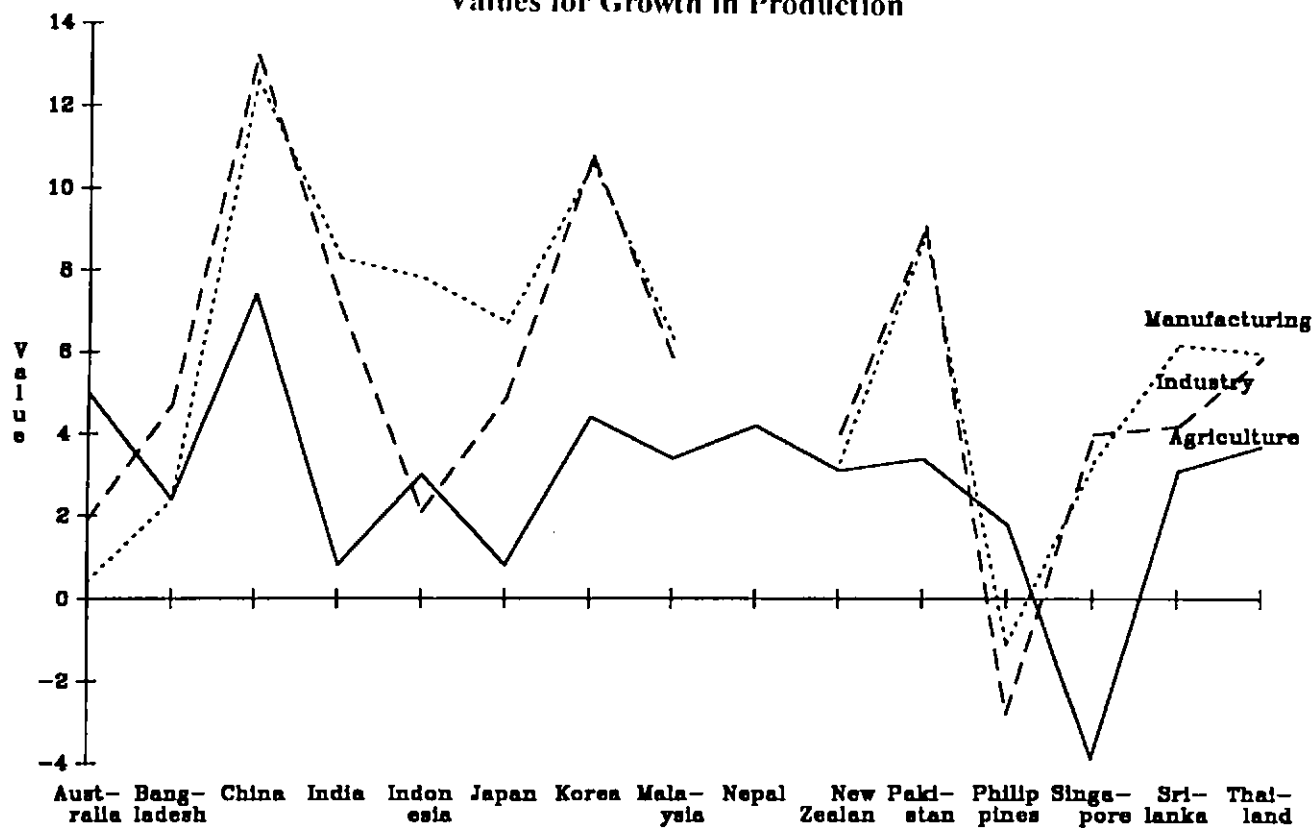
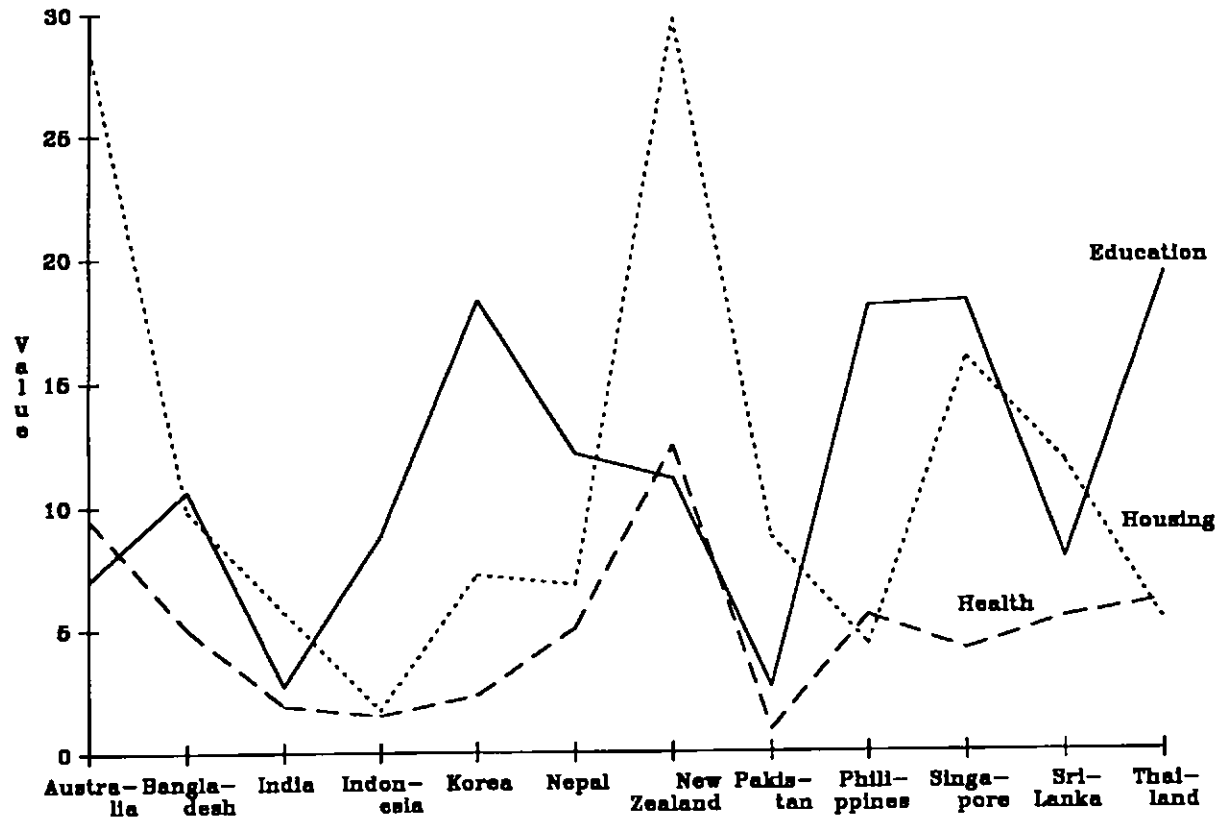




Figure 3.3

Values for Central Government Expenditure Variables



improving the manufacturing and industrial base of the country may receive a higher priority than investing resources and technology to contain the crime of theft. Similarly, improved road conditions may receive higher priorities than developing a most sophisticated homicide division -- because on an average there are approximately ten road fatalities for each homicide death.

Table 3.2 presents the standard of socioeconomic conditions in the countries. For this report, we intend only to compare information in Table 3.2 with the number of crimes -- intentional homicide; assault; robbery; theft -- recorded in each of the countries. Once the data and other sections of the criminal justice systems are cleared these can be examined as well.

Some of the patterns obtained through this type of analysis are as follows:

1. It may be recalled that five countries -- Bangladesh, India, Indonesia, Nepal and Pakistan -- showed consistently low rates of recorded numbers of crime presented in Figure 2.2. All of these five countries, with rare deviations, show (see Table 3.2) that their standards of socioeconomic conditions are significantly different from others. For example, these countries continue to face a medium to high population growth rate and when this growth rate is weighted in terms of the current total population in each of these countries, the phenomenon obtains added significance. These countries also continue to have low standards of health and education -- these are shown through infant mortality rates, enrollment in secondary education and investments (as shown by central government expenditure) in education and health. The five countries show low growth in gross national product per capita and low agricultural productivity. Finally, these countries are low in technology as expressed by energy consumption.
2. Compared to the above five countries, consider Australia and New Zealand. These two countries, as shown in Figure 2.2, showed very high rates of recorded crimes. These countries have a very low population growth rate, high rate of enrollment in secondary education, low infant mortality rate, low growth rate in GNP per capita (must be examined in relation to relatively high per capita GNP), and high in technology. These two countries have successfully contained the population growth rate and improved health, education, housing, manufacturing, and technology in general. They have made significant investments in terms of resources (not necessarily only personnel) and technology in crime recording, crime investigation and detection.
3. Countries like Singapore, Japan, Fiji, the Republic of Korea, Malaysia and Sri Lanka, show crime rates at a level which falls in between the rates shown by the two sets of countries described above. Some of the countries in this group, for example Japan, has very low population growth rate, extremely high standards of health and education, and a high level of technology -- yet

TABLE 3.2

Standards of Socioeconomic Conditions in  
Countries of Asia and Pacific Region

Country	Population Growth Rate	% Age Group Enrolled in Secondary Educ.	Infant Mortality	Energy Consumption	GNP Growth Rate	<u>Growth Rate</u>		<u>% of Total Central Govt. Expenditure</u>	
						Agric.	Manuf.	Educ.	Housing
Australia	L	H	L	H	L	H	L	L	H
Bangladesh	M	L	H	L	L	L	M	L	M
China	L	L	M	M	H	H	H	n/a	n/a
India	M	L	H	L	L	L	H	L	L
Indonesia	M	L	H	L	M	L	L	L	L
Japan	L	H	L	H	M	L	M	n/a	n/a
Korea	L	H	L	M	H	H	H	H	L
Malaysia	H	M	L	M	M	M	M	n/a	n/a
Nepal	H	L	H	L	L	H	n/a	M	L
New Zealand	L	H	L	H	L	M	L	M	H
Pakistan	H	L	H	L	L	M	H	L	M
Philippines	M	M	M	L	L	L	L	H	L
Singapore	L	M	L	H	H	L	L	H	H
Sri Lanka	L	M	M	L	M	M	L	L	M
Thailand	M	L	L	M	M	M	M	H	L

recorded crime rate in Japan is much lower than that in either Australia or New Zealand.

What conclusions can we draw from these descriptions? The following appear to be relevant:

1. The descriptions of relationship strongly suggest that aggregation of statistics, for crime as well as socioeconomic conditions, for the region cannot offer any clues to the understanding of the problem of crime. The crimes that we have dealt with in this report have very little, if any, relevance to the Asia and Pacific regional patterns. Why these crimes occur and how they are recorded, processed and treated depend entirely upon the conditions and characteristics of the particular country. At best, the similarities of socioeconomic and crime situations among some countries may point to a sub-regional relevance.
2. Before any further analysis of crime data is undertaken, we must try to understand the data in much detail. Much more scrutiny of statistics other than that which has been conducted is necessary before we can speak in terms of levels of crime.
3. The problems relating to the quality of crime data in various countries cannot be resolved in a short period of time. While efforts to understand and improve official crime statistics continue, the level of crime in countries can be assessed with the help of surveys of citizens. Surveys like crime victimisation have proven quite useful in this respect. Additionally, such surveys are gradually being enlarged in scope to elicit information on attitudes and perceptions of people on a variety of issues -- crime prevention, policing, treatment of offenders, etc.

- 1 First United Nations Congress on Prevention of Crime and Treatment of Offender, Geneva, 1955.
- 2 Response to the Third United Nations Survey from Bangladesh.
- 3 Seventh United Nations Congress on Prevention of Crime and Treatment of Offender, Milan, 1985.
- 4 A list of participants is given at the end of this report.
- 5 Countries responding to the United Nations Survey questionnaire were: Vanuatu, Thailand, Sri Lanka, Singapore, Philippines, Pakistan, New Zealand, Nepal, Maldives, Malaysia, Republic of Korea, Kiribati, Japan, Indonesia, India, Fiji, China, Brunei Darussalam, Bangladesh and Australia.
- 6 United Nations, *Crime Prevention and Control*: Report of the Secretary General, Document A22/199, 22 September 1977, p.7.
- 7 Ibid, p.4.
- 8 United Nations, *New Dimensions of Criminality and Crime Prevention in the Context of Development: Challenges for the Future*, Second United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies, Report by the Secretariat, Document A/CONF. 121/18, 30 May 1985, P.5.
- 9 Ministry of Justice Japan, Summary of White Paper on Crime, 1986 and 1987.

## **PART FOUR**

### **CRIMINAL JUSTICE PROFILES**

Twenty countries from the region responded to the Third United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies. As is evident from Parts two and three, the amount and nature of data supplied by the countries varied markedly. It was, therefore, not possible to prepare a detailed profile for all the countries. In this part detailed profiles of the following countries have been provided:

Australia  
Peoples Republic of China  
India  
Republic of Indonesia  
Japan  
Republic of Korea  
Malaysia  
New Zealand  
Republic of the Philippines  
Republic of Singapore  
Republic of Sri Lanka  
Kingdom of Thailand

Also included is a profile of Hong Kong.

Profiles for the following countries could not be prepared either because of a lack of statistical data, or a lack of descriptive material, or both:

Bangladesh  
Brunei Darussalam  
Fiji  
Kiribati  
Maldives  
Nepal  
Pakistan  
Vanuatu

It is hoped that sufficient information from these countries will be available for the next survey and detailed profiles produced.

## **Australia**

### **Background**

The colonisation of Australia by the British, which began in the late eighteenth century, was completed in the mid nineteenth century with the formation of six separate colonies, each with its own constitution and parliament and each with power to make its own laws. Not surprisingly, the English law formed the basis for much of the legislation in the colonies. In 1901 Australia became a Federation the six colonies became states and an elaborate scheme for the sharing of legislative powers between the states and the commonwealth was devised. In 1911, the Northern territory was carved out of South Australia and the Australian Capital Territory came into existence.

The six states and the two territories have elected parliaments/assemblies with the powers of law making. As legislative powers with respect to criminal law and the administration of criminal justice rest with each jurisdiction, there is no single criminal justice system in this country. There are several systems that, while similar, are individually unique. Thus, the states and the territories have their own criminal laws, police forces, courts, prisons and juvenile institutions, and other corrective and treatment services. In the Australian Capital Territory, the Australian Federal Police look after policing and there are no prisons, although there are remand facilities. In addition the commonwealth government has its own criminal laws which may apply to all jurisdictions and if there is a conflict the commonwealth laws prevail.

In most incidents of known crime police are usually the first contact agency. Many crimes get no response from the justice system because they have neither been discovered nor reported. The police usually learn about crime from the reports of citizens - the victim, a neighbour, a bystander, etc. In a minority of instances crimes are detected either by the police officer in the field or from investigative and intelligence work.

Once the report of a crime is accepted, the police investigate to establish that the crime has in fact been committed; search for suspects; make arrests and process the case through the system. Sometimes, a suspect is arrested at the scene; however, identification and arrest of a suspect usually takes time and extensive investigation.

Arrested persons are brought to a police station where they may be charged. Before being charged it is usual for the person to be searched, and if this is resisted the police are empowered to use force. In all serious cases, arrested persons are photographed and fingerprinted after being charged. But if no charges are filed, the accused is released.

In most Australian jurisdictions police permit arrested persons to make a telephone call to a legal adviser, friend, or relative. After the charge proceedings are completed, the accused may be either released on bail or held in custody. The police play a central role in pre-trial decision making; they do the detection and investigative work; file charges; and conduct the prosecution case.

## **The court hearing**

There are basically two kinds of court hearing: those conducted in the magistrates courts and those conducted in the higher courts. The magistrates' courts have no jury and, as a general rule, magistrates decide the guilt or innocence of the accused. At the higher court the task is shared by a judge and a jury. The judge presides over the court and determines the law; the jury determines the guilt or innocence of the accused. As there are many more minor crimes than serious ones, the great bulk of criminal charges are heard and determined by the magistrates courts.

From the point of view of the courts, crimes are classified into summary offences (i.e. those triable by a magistrates court) and indictable offences (i.e. those triable by a higher court). Hearings at the magistrates courts are quicker and the penalties less severe than trials involving indictable offences. There are strict limits on the amount of a fine and duration of a prison sentence that a magistrate may impose. Most serious offences such as murder, rape, grievous bodily harm, armed hold-up, etc., are triable only at the higher courts but offences such as traffic violations, shoplifting, drunkenness, etc., are dealt with summarily by magistrates courts.

Once a charge has been filed or indictment issued, a hearing date is set and the accused informed. At the hearing the accused is informed of the charges and asked to enter a plea to the charges. If the accused pleads guilty, the judge or magistrate may accept or reject the plea. If the plea is accepted, no trial is held and the offender is sentenced at the same hearing or at a later date. The plea may be rejected for a number of reasons and if this happens the case may proceed to trial. Entering into plea plays a vital role in processing of cases. Guilty pleas not only expedite the flow of cases but also reduce overloading of the court system.

If the accused pleads not guilty or not guilty by reason of insanity, a date is set for the trial. A person accused of an indictable offence is entitled to a jury trial. However, for some charges involving indictable offences the accused may wave the right to a jury trial and opt to be tried summarily, at a magistrate's courts. In both instances, the prosecution and defence present evidence by questioning witnesses. The trial results in acquittal or conviction on the original charges, or on lesser included offences.

After the trial and conviction, the offender may appeal for a review of the conviction or sentence. In other instances, the Crown or the state may appeal for a review of the sentence.

## **Sentencing and correction**

If the offender pleads guilty or is convicted, the judge may then impose the sentence. If the judge/magistrate does not impose the sentence at this trial then, the offender is remanded in custody, or on bail, to appear for sentence at a future date.



At this stage additional enquiries may be made as to the offender's background. This may be done by obtaining a pre-sentence (or welfare) report which is prepared by a social worker or probation officer. Such a report contains information concerning the offender's personality, family background, work record, his/her associates, etc. Sometimes these reports contain recommendations relating to suitability or otherwise of particular sentencing measures, although they are intended only as a guide to the sentencing court. In arriving at an appropriate sentence, a sentencing hearing may be held at which the pre-sentence report and evidence of aggravating or mitigating circumstances will be considered.

There are a number of sentencing choices available to the courts, they include -

- . Imprisonment
- . Community service orders - a means of restitution to the community which requires the offender to perform certain tasks for a prescribed duration.
- . Probation - allowing the convicted person to remain at liberty but subject to certain conditions and restrictions. Such a sentence may or may not involve supervision by a probation officer.
- . Fines - primarily applied as penalties for relatively minor offences.

If sentenced to a prison term, the offender may be eligible for parole after serving a specific portion of the sentence. Parole is a conditional release of a prisoner before serving the full sentence. The decision to grant parole is generally made by a parole board. The system of parole applies to all the states and territories. Some jurisdictions also have measures such as after-care probation and pre-release orders.

### **The juvenile justice system**

The processing of juvenile offenders is, in most respects, similar to adult criminal processing. A child can be arrested, convicted and committed to an institution. For serious offences, such as murder and armed hold-up, a child receives a supreme court trial similar to an adult.

The pre-trial procedures for juveniles follow the same legal rules as for adults. The police have the power to ask questions, to arrest, to search, and to charge a juvenile. At trial, or hearing, the rules of evidence, the right to legal representation, etc., are the same for juveniles as for adults. In practice, however, these procedures appear much more informal for juveniles than for adults.

### **In summary**

The responsibility to respond to most crimes rests with the state and territory governments. Police protection, judicial administration, prisons, probation, parole, etc., are primarily state/territory government functions. The commonwealth government exercises exclusive jurisdiction on a few crimes, eg., income tax and social security fraud, importation and traffic in illicit drugs, crimes against Australia Post, violation of customs law, etc. There are other crimes, many drug offences and fraud - where the commonwealth and state/territory governments both have jurisdiction. In this last category of crimes the investigation and prosecution may be undertaken by several agencies, but only one level of government usually pursues a case.

### **Selected crimes**

The crimes of intentional homicide, assault, robbery and theft, were selected for presentation. In order to understand the change in the number of reported crimes over time, frequencies as well as rates per 100 000 population have been shown in Table 1.

**TABLE 1**  
**Selected Crimes Reported and Rate Per 100 000**  
**Population, 1975 to 1986**

		1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986
Int. Homicides	N	247	259	260	247	292	233	269	270	294	262	308	282
	R	1.77	1.84	1.82	1.71	2.00	1.56	1.77	1.76	1.89	1.66	1.92	1.74
Assault	N	2879	3473	3538	4154	4923	6250	6925	7782	8335	9144	11095	12642
	R	20.69	24.68	24.81	28.80	33.68	41.88	45.62	50.60	53.58	58.03	69.26	77.80
Robbery	N	3467	2973	3070	3577	3683	4601	5126	6606	6624	6670	6858	7969
	R	24.91	21.12	21.53	24.80	25.20	30.83	33.77	42.96	42.58	42.33	42.81	49.04
Theft	N	360461	411504	461551	505211	558710	584974	629540	654007	731146	752396	797329	893239
	R	2590.35	2923.84	3236.90	3503.08	3822.62	3919.88	4147.60	4252.70	4700.12	4774.59	4977.60	5497.25

The data presented in Table 1 show trends in the recorded number of crimes from 1975 to 1986. It is clear from the statistics that the volume of recorded number of intentional homicides in Australia has remained fairly constant during the 12 year period. The number has fluctuated between a low of 233 intentional homicides in 1980 and a high of 308 in 1986. Adjusting for population growth, intentional homicide rate per 100 000 population has generally remained under two.

The number of assaults recorded by the police has increased very sharply between 1975 and 1986, the number in 1986 was more than four times that in 1975. Even accounting for population growth, the volume of assaults show a steep increase.

During the 12 year period the number of robberies reported to the police has doubled.

The crime of theft, according to the United Nations survey description includes motor vehicle theft and burglary. The reported incidents of these crimes have more than doubled during the period 1975-86.

#### **Offenders in selected crime**

Not all crimes that are reported to the police are cleared or solved. While a very high proportion of intentional homicides are solved, about 30 per cent of assaults remain unsolved. On an average only about one in four robberies are solved and less than one in five thefts. When a crime is solved, more than nine out of ten times it is solved through arrest. The offender data or the arrest data, therefore, have very little relevance to the number of offenders who commit the reported crimes and even less relevance to those who commit reported as well as unreported crimes. A further point that should be made is that particularly for theft which includes a large number of petty crimes, a substantial number of juveniles are arrested. There are a number of reasons which enable one to speculate about crimes that are never solved, juveniles will figure in the same proportion as for those solved.

The offender data presented in Table 2 relates to the number of arrests for crimes cleared for the period 1980-86.

**TABLE 2**  
**Number of Arrests by Crime, 1980 to 1986**

	1980	1981	1982	1983	1984	1985	1986
Assault	4663	5133	5597	6010	6353	4568	5075
Robbery	1353	1360	1353	1980	1961	2134	2402
Theft Inc. MVT,Burg,Steal	102943	111087	114407	117671	118351	116361	128873

Unlike crimes reported, trends in arrests do not show dramatic or sharp movements. As is evident from Table 2 the number of arrests for assault has fluctuated between a low of 4568 in 1985 and a high of 6353 in 1984, arrests for robbery and theft show similar movements.

### **Sanctions**

The courts have a number of options while passing a judgement on an offender. Apart from acquittals and discharges, the courts can release an offender:

- with an admonition
- on his/her own recognizance
- on probation with or without supervision
- on community service orders
- on orders to pay fine
- sentence to a term of imprisonment
- on a combination of measures

Australia and all its jurisdictions have abolished capital punishment and the last execution in Australia was in 1967.

**TABLE 3**

#### **Adults Placed on Probation, Paroled and Admitted to Prison 1984 and 1986**

Sanction	1984	1986
Probation	24459	25690
Paroled	5578	4851
Admitted to prison	24982	25690
Imprisonment rate	54.18	61.44

The Australian imprisonment rate, however, remained steady as shown in Table 3, in 1986 the number of convicted prisoners in prison on 30 June 1986 was 61.44 per 100 00 population.

### **Criminal justice resources**

The expenditure on criminal justice has increased steadily. As revealed from data in Table 4, annual expenditure of police has increased from over 1 039 million Australian dollars in 1982 to over 1 705 million dollars. During the same period

**TABLE 4**  
**Expenditure on Criminal Justice**

Criminal justice agency	<u>Total for calendar or fiscal year</u>		
	1982	1984	1986
Police	\$1 039 322 100	\$1 358 429 800	\$1 705 659 900
Prosecution	n/a	n/a	n/a
Courts	n/a	n/a	n/a
Prisons (penal and correctional institutions)	\$243 326 700	\$317 065 000	\$442 387 000
Non-institutional services	n/a	n/a	n/a
Total Justice	\$1 343 627 000	\$2 129 238 000	\$2 579 748 000

expenditure on prisons almost doubled -- from 243 million to 442 million Australian dollars. Expenditure data on the judiciary are not readily available. However, reports of the Commonwealth Grants Commission reveals that total cost of criminal justice in Australia has increased from about 1 344 million to 2 580 million Australian dollars, between 1982 and 1986.

### **Crime prevention**

The 1980s saw the emergence of community based crime prevention programs in Australia. The first such program began in Western Australia in 1982 but it was not until Victoria launched Neighbourhood Watch in March 1984 that such programs became well known in Australia. Currently, all the states and territories in Australia have organised neighbourhood watch, but these do not cover every part of the country. Neighbourhood Watch in every jurisdiction is organised by the respective police departments and private insurance companies share substantial parts of expenses connected with publicity, local organising committees, printing of newsletters, brochures, labels and stickers, engraving of valuable items, etc. A major thrust of Neighbourhood Watch is to reduce opportunity for crime. This task is carried out by improving citizens awareness of public safety, by improving residents attitudes and behaviour in reporting crime and suspicious events in the neighbourhood, and by reducing vulnerability to crime with the help of property identification and installation of effective security devices. The individual watch programs within a state or district may vary in emphasis and organisational context.

## **People's Republic of China**

### **Background**

China is a large country with a total land area of 9.6 million square kilometres, and 1.1 billion population which amounts to one fourth of the world population.

People's Republic of China was established as a socialist country in 1949. Since then, efforts have been made to enact basic laws concerning criminal justice administration. It was in 1979, after the period of 'Cultural Revolution' which lasted for ten years, that the Criminal Law and Criminal Procedure Law were enacted. At the same time, laws concerning the organisation and function of the courts and public prosecution were also re-organised. Basic laws with regard to the lawyers, arrest and detention of the suspects, civil suit procedures, marriages, etc. have been established.

The Chinese Criminal Law takes the concept of Marxism, Leninism and Mao Zedong as its guide. It proclaims that its tasks are to use criminal punishments to struggle against all counter-revolutionary and other criminal acts in order to safeguard the system of the people's democratic dictatorship and the smooth progress of the course of socialist construction.

The Law takes the Constitution as its basis. Article 28 of the Constitution stipulates that 'The State maintains public order and suppresses treasonable and other counter-revolutionary activities; it penalizes acts that endanger public security and disrupt the socialist economy and other criminal activities, and punishes and reforms criminals'.

Since 1979, higher legal education has considerably developed through universities and other institutions. High priority is being given to publicising information on the legal system through, eg. the China Law Journal, and many provincial and municipal journals, magazines and newspapers. Law education has been introduced in the primary, middle and other schools. Studies, symposia and public lectures are often organised in factories, mines, rural communes and brigades in order to give increased publicity to the Constitution and other laws.

The age for bearing criminal responsibility is sixteen. Minors under the age of fourteen are entirely exempted from criminal responsibility, even if they commit acts harmful to society. Minors aged fourteen but under the age of sixteen shall partially bear criminal responsibility, that is to say they are responsible criminally only in cases involving murder and manslaughter, serious injury, robbery, arson, habitual theft or other acts seriously undermining social order. For delinquents aged fourteen to seventeen but younger than eighteen, the Law requires a lenient punishment - to be specific, a lessor penalty within the range of the legally-prescribed punishment. When minors are not punished because they are under sixteen, the heads of their families or their guardians are to be ordered to subject them to discipline or when necessary, the minors may be given shelter or rehabilitation by the Government.

The crime rate in China stayed around the level of 0.05 plus consecutively for the four years up to 1988, but the year of 1988 saw a drastic increase in crime and the rate rose to about 0.07%. Still China remains one of the countries with the lowest crime rate in the world. Of all the crimes reported, theft accounted for about 80%, but the violent crimes like murder and robbery were also up. Crimes associated with gangs abroad, such as trafficking in narcotics, smuggling of gold and relics, and counterfeiting of currency and credit cards also increased during 1988.

#### **Selected offences (intentional homicide, assault, theft, robbery)**

The number of selected offences recorded in the criminal statistics from 1981 to 1986 is shown in Table 1. Total number of recorded crimes over the same period is also shown in the same table. Statistical data on what portion of these offences were arrested or brought into formal contact with the criminal justice system is not available. However, statistics show that the total number of prosecutions initiated during the year of 1986 was 257 219. This number indicates that the number of formal prosecutions is less than half of the total number of recorded crimes in 1986.

**TABLE 1**

**Offences and Offenders - Statistical Questions**  
**Number of crimes recorded in the criminal (police) statistics**  
**(Include "attempts to commit" in the figures given)**

Type of crime	Total for calendar year						
	1980	1981	1982	1983	1984	1985	1986
Intentional homicide		9576	9324		9021	10440	11510
Non-intentional homicide							
Assault: Major assaults only							
Including minor assaults		21499	20298		14526	15586	18364
Rape		30808	35361		44630	37712	39121
Robbery		22266	16518		7273	8801	12124
Theft: Major thefts only		16873	15462		16340	34643	42192
Including minor thefts		744374	609481		395319	431323	425845
Fraud		18665	17707		13479	13157	14663
Kidnapping							
Drug-related crimes							
Bribery and/or corruption							
Other							
Total number of recorded crimes		890281	748476	610478	514369	542005	547115



The number of persons convicted in the criminal courts during the above-mentioned period is not available. However, the number of admissions to prison per year from 1980 to 1986 is shown in Table 2. These figures, compared with Table 1, indicate that the proportion of the admissions to prison to the total number of recorded crimes per year varies much from year to year, and was 40.4% in 1986.

**TABLE 2**

**Prisons - Admissions**  
**Number of Admissions to Prison Per Year**

TOTAL OF ALL ADMISSIONS		Total number of persons for the year					
By type of crime	1980	1981	1982	1983	1984	1985	1986
Total number of all admissions	142796	172559	180383	478943	495983	196131	220901

### Sanctions

The Criminal Law provides that Principal Punishments are classified as control, criminal detention, fixed term imprisonment, life imprisonment and death penalty.

Control is a criminal penalty imposed for minor offences. The offender continues to work in his place of employment and continues to receive his normal wages, while undergoing the supervision of the public security organs (police) and the masses. He is required to make periodical reports on his circumstances to the public security organ concerned.

Criminal detention is a criminal penalty imposed for relatively minor offences, and totally different from pre-trial detention. The criminal on whom this penalty is imposed is deprived of his freedom and confined in a detention house by the local organ of public security rather than being put in prison. He may go home for one or two days each month and be paid for work. The term of fixed-term imprisonment is not less than six months and not more than fifteen years. An offender sentenced to fixed term imprisonment or life imprisonment is to have his sentence executed in prison or in other places for reform through labour. Reform through labour is to be carried out on any offender who is imprisoned, as long as he has the ability to labour.

The death penalty is only to be applied to those offenders who commit the most heinous crimes. The Criminal Law provides for two types of death penalty viz. death penalty with two year suspension of execution and death penalty without suspension of execution. The Law stipulates that in the case of a criminal who should be sentenced to death, but for whom immediate execution is not essential, a two-year suspension of execution may be pronounced at the time the sentence of death is imposed; the criminal will be put into prison and reform-through-labour carried out

and the results observed. If the criminal truly repents during the period of suspension, he is to be given a reduction of sentence to life imprisonment upon the expiration of the two-year period; and, if he not only truly repents but also demonstrates meritorious service, he is to be given a reduction of sentence to not less than fifteen years and not more than twenty years of fixed-term imprisonment upon the expiration of the period. Only those who have resisted reform in an odious manner, provided the evidence of such behaviour is verified, are to be executed upon a ruling or an approval of the Supreme Court.

The Criminal Law provides for the following supplementary punishments: fines, deprivation of political rights, and confiscation of property. These supplementary punishments may also be applied independently.

### **Resources**

*Police:* The number of police personnel in the whole country was 1 200 000 in 1986. Chinese police utilises mass-organisation in the various ways of treatment of offenders, as explained more in detail below.

*Prosecution:* The people's procuratorates (public prosecutors) are responsible for initiating public prosecution. The people's procuratorates have the power to investigate criminal cases as well as the power to make decisions of prosecution, non-prosecution or exemption from prosecution in each criminal case considering the evidence of the case and nature and circumstances of the crime. The total number of public prosecutors as of 31 December 1986 was 140 246.

*Judiciary:* The people's courts are responsible for adjudication, and no other bodies are given the power to adjudicate criminal cases. The number of professional judges as of 31 December 1986 was 137 066, out of which 19 897 were female judges. More than 144 000 employees are working in the judicial system.

*Prisons:* Statistical data regarding the personnel and budget of prison services are not available.

In Chinese prison services, there have been various new ways of mobilising public participation in helping re-mould prisoners. For example, famous scholars, writers, educators, artists, musicians and sportspeople are invited to call on prisoners, and encourage them to make more efforts to reform themselves; former prisoners who have been already integrated into the society after release are organised to persuade current inmates to re-mould themselves; family members, relatives and friends of the prisoners are encouraged and provided with every facility to admonish and educate them.

*Non-institutional services:* Statistical data regarding the personnel and budget allocated to the non-institutional services are not available. In China, supervision of offenders both during the suspension of execution of sentence and after release on parole is carried out by the public security organ (police). Probationers and parolees are turned over by the public security organ to a work unit or a basic level organisation. The policeman in charge of the community shall supervise their daily

life, their work and ideological trend and encourage their consciousness to become law-abiding citizens. Meanwhile the policeman shall keep in touch with their neighbours if they conduct any law-breaking activities.

### **Selected issues**

*Pre-trial detention:* The number of persons held in incarceration while awaiting trial or adjudication were 355 603, whereas the number of convicted prisoners was 1 122 351, in 1986. Generally speaking, trial in China is carried out expeditiously. The Criminal Procedure Law stipulates that, in hearing a case of public prosecution, the people's court shall announce judgement within one month after accepting the case, and it may extend one month and one-half at the latest. Accordingly, pre-trial detention is not considered to pose any serious problem.

*Diversion:* There are several diversion schemes to imprisonment.

Police are empowered to give warnings or to impose a certain limited amount of fines (not more than 200 yuan) to criminals who have committed minor offences (Security Control and Enforcement Law). This warning and fine are regarded as a final sanction imposed by the police and they need not send the case to either the public prosecutor nor the court. This system is applicable to various types of minor offences including theft, embezzlement, fraud, assault, gambling, violations of traffic regulations and various types of public disturbances. If the person who receives this summary sanction is dissatisfied with the disposition, he/she can appeal to the higher police organ and finally to the courts. This scheme is fully utilised as an alternative and diversion to the formal criminal justice procedure and imprisonment.

At prosecution stage, public prosecutors are empowered to grant exemption from prosecution, considering the gravity of the crime and other circumstantial factors, even if there is enough evidence to convict the suspect. According to the Criminal Law, suspension of sentence may be pronounced for an offender who has been sentenced to criminal detention or to fixed-term imprisonment for not more than three years according to the circumstances of his/her crime and his/her demonstration of repentance, and where it is considered that applying a suspended sentence will not result in further harm to society.

An offender sentenced to fixed term imprisonment of which not less than half has been executed, or an offender sentenced to life imprisonment of which not less than ten years have been actually executed, may be granted parole if he/she demonstrates true repentance and will not cause further harm to society. If special circumstances exist, the above restrictions relating to the term executed need not be imposed.

During the period of suspension of sentence and parole, the offender is placed under the supervision of the public security organ (police), and the public security organ utilises the mass organisation of the community to help watch the offender's daily behaviour and lead him/her to become a law-abiding citizen.

It is said that the number of the revocation of suspension of sentence and parole because of the committal of new crime is very small, and that this type of community based treatment has been proving very successful, although clear statistics are not available in this regard.

*Reform through labour:* Offenders who have been sentenced to detention, fixed-term imprisonment, life imprisonment or the death penalty with suspension of execution, provided that they can work, are obligated to work. Under the basic policy of 'reform through labour', emphasis is placed on educating and redeeming prisoners to law abiding citizens through daily labour in the institutions. The purpose of this policy is considered to re-mould their ideology, freeing them from bad influence and habits, and to resocialize them into someone who can live on their own labour and are useful to society. Labour is considered to be a principal measure of reforming criminals, though it is not the only one.

The system of reform-through labour has been said to be effective and successful over the past forty years. It is reported that, according to some sample statistics, among those who have served a term of imprisonment, 4-6% of them committed a crime again after release.

## Hong Kong

### Background

*Organisation of the judiciary:* The courts of justice are the Supreme Court (comprising the Court of Appeal and the High Court), the District Court, the Magistrate's Court, the Coroners' Court, Juvenile Court and also include the Land Tribunal, the Labour Tribunal, the Small Claims Tribunal and the Obscene Articles Tribunal.

The members of the Judiciary are completely independent of the executive and legislative organs of government in performance of their judiciary acts. The most serious criminal offences, such as murder, manslaughter, rape, armed robbery and drug offences involving large quantities, are tried by a judge of the High Court, sitting with a jury consisting of seven or, where a judge so orders, nine. It is the jury which decides whether the accused is guilty or not guilty.

*Definition of young offenders and criminal responsibility:* In Hong Kong, the legal age limit of criminal responsibility is seven years and a 'Child' is interpreted as a person who is under the age of 14 years. A 'Young Person' means a person who is 14 years of age or upwards and under the age of 16 years. A Child or Young Person charged with an offence other than homicide is heard and determined by a juvenile court. The common term 'Young Offenders' is used to include offenders aged 20 and under, whereas 'Young Adult Offenders' refers to those aged between 21 and 24.

*Refugees:* Vietnamese refugee boat people and Ex-China Vietnamese Illegal Immigrants continued to arrive in Hong Kong during 1988. At the end of the year, there were 18 525, compared with 6 476 at the end of 1987. Keeping up with the increase of the refugees (being accorded the criteria set by the UNHCR) or disguised refugees (Illegal Immigrants), on 16 June 1988, the Hong Kong government promulgated a new policy under which all new arrivals from Vietnam would be screened to determine their status. The problems of refugees have a tremendous impact on the various aspects of the society such as financial affairs, anti-social behaviour and cultural disorganisation in recent years.

### Selected offences

*Number of reported crimes:* The number of reported crimes in 1986 was 81 411, a decrease of 5 533 (6.4%) over the previous year, but an increase of 1 794 (2.3%) from 1981. Among them, intentional homicide numbered 67 in 1986, a decrease of 26 (24.8%) against those reported in 1981, assaults were 4 622, with a decrease of 1 609 (25.8%) from 1981, and robberies were 5 372 with a decrease of 2 891 (35.0%) from 1981. As to theft there were 32 750 reported cases in 1986, a decrease of 1 472 (4.3%) from 1981. In 1986, Serious narcotics offences such as manufacturing of drugs, trafficking in drugs, possession of drugs for trafficking and others amounted to 4 118, which showed a remarkable increase of 2 675 (185.4%) compared with statistics of 1981.

In 1986, the total reported cases of bribery and corruption registered by the Independent Commission Against Corruption (ICAC) was 251, which decreased by 227(47.5%) from 1981.

The legal age limit of criminal responsibility is seven years and a 'Child' is defined as a person who is under the age of 14 years. A 'Young Person' means a person who is 14 years of age or upwards and under the age of 16 years. Cases involving Children or Young Persons charged with offences other than homicide are heard and determined by a juvenile court. The common term 'Young Offenders' comprise the group aged 20 and under, whereas 'Young Adult Offenders' refers to those aged between 21 and 24.

The total estimated national population at the end of 1986 was 5 588 000, comprising 2 875 500 males and 2 712 500 females. This represents an increase of 7.3% over the 1981 population estimate of 5 207 000.

The total expenditure on the gross domestic product (GDP) at current market prices in 1986 was 291 897 \$ million, with an increase of 154 520 \$ million (112.5%) as compared to 1981. As to the per capita GDP at current market prices, 1986 figures reached 52 759 \$ million an increase of 26 105 \$ million (97.9%) over 1981.

*Number of Cases Cleared and Clearance Rate:* In 1986, the total number of cases cleared were 38 978, and the clearance rate (the number of offences cleared divided by the number of offences reported x 100) was 47.9%. The number of cases cleared in 1981 was 40872 and the clearance rate totalled 51.3%. In terms of cases cleared and the clearance rate by offence in 1986, intentional homicide totalled 49 cases with a clearance rate of 73.1%, assaults numbered 3 028 (65.5%), robberies were 1 162 (21.6%), theft was 12 551 (38.6%), and serious narcotics offences approximated 4 107 (99.7%). Comparatively 1981 statistics show, intentional homicide cases numbered 62 with a clearance rate of 59.0%, assaults came to 3 439 (67.6%), robberies were 1 747 (21.1%), theft reached 14 560 (46.9%), and serious narcotics offences were 1 831 (99.7%) respectively.

*Number of persons prosecuted and rates of prosecution:* In 1986, the total number of persons prosecuted was 37 863 and the rate of prosecution (the number of offences cleared divided by the number of persons prosecuted x 100) was 46.5%, which increased by 8 125 cases (27.3%) from 1981. The prosecution rate in 1981 was 37.4%.

The overall detection rate in 1986 was (excluding blackmail and associated thefts) 47.9% against 50.5% registered in 1981.

### **Sanction**

*Number of persons convicted at magistracies:* A total of 689 932 defendants were adjudicated at magistracies in 1985, indicating a decrease of 319 712 (31.7%) from that of 1983. Among those convicted in 1985, 673 722 (97.7%) were given fines, 8 531 (1.2%) were sentenced to imprisonment, 7 675 (1.1%) were given bind over or caution, etc. As for the High Court and District Court, no data are available.

*Persons incarcerated:* The criminal justice system in Hong Kong provides the courts with a wide variety of options when dealing with young offenders. Under the Prisons Ordinance, anyone over 14 years of age can be incarcerated.

As of 31 December 1986, the number of inmates in correctional institutions amounted to 7 606 of which 74.5% (5 670) were imprisoned, followed by 13.4% (1 022) in treatment centres, 7.7% (586) in training centres, 2.3% (177) in detention centres and 2.0% (151) in psychiatric centres.

During 1981, 6 772 adult prisoners (6 137 male, 635 female) were sentenced to imprisonment, an increase of 1 226 inmates or 22.1% over 1981, and those receiving safe custody or remand approached 5 686 (5 350 male, 333 female), or 2 610 less cases than in 1981. During 1981, the total number of convicted adults sentenced to imprisonment was 5 546 (male 5 265, female 281), in addition, a total of 8 296 (male 7 954, female 342) were received for safe custody on remand.

An adult offender over 20 years can be detained in an institution including prisons, detention centre, or psychiatric centre.

Under the Training Centres Ordinance, a person aged less than 20 can be detained for a minimum period of 6 months to a maximum of 3 years. Under the Detention Centre Ordinance, a person aged between 14 and 24 sentenced to a detention centre can be detained for a minimum period of one month to a maximum period of 12 months.

As for the average length of pre-trial detention in 1987, it was 20.4 days for Magistrates Court Remand, 46.1 days for District Court Remand, and 79.0 days for Trial Court Remand.

*Capacity of institutions:* In 1986, with an establishment of 6 368 staff, the Correctional Services Department operates 20 correctional institutions (13 prisons, 2 drug addiction treatment centres, 3 training centres, 1 detention centre, 1 psychiatric centre) 3 half-way houses, and an escort unit. There is capacity for 8 876 inmates, and average daily population in 1986 was 8 106. In 1986, the average daily population in prison was 5 940, which increased by 858 (16.9%) from 1981. It can be pointed out that there are no crucial problems of overcrowding of prison populations which many countries in Asia and the Pacific region are presently faced with.

## **Resources**

*Personnel:* The number of personnel engaged in criminal justice fields such as police, prosecution, courts, and prison, as of December 31 1986, are as follows:

The Royal Hong Kong Police Force has an establishment of over 26 600 of whom some 10% are women, together with a civilian staff of over 5 800. In addition to the Force, The Royal Hong Kong Auxiliary Police Force, which as an establishment of nearly 5 800 volunteer citizens who do part-time police work, provides valuable assistance to the regular force in fulfilling its duties and commitment.

The Prosecutions Division is the largest of the four divisions under Attorney General's Chambers. There are 120 Crown Counsel who are involved in all major criminal matters referred by the police and other law enforcement.

The court of Appeal is the highest court in which there are ten members of the court with Chief Justice. The High Court consists of 30 judges, there are 35 district judges who usually exercise their jurisdiction sitting alone. There are about 50 magistrates, and these judicial officers also staff the Juvenile Courts.

The staff establishment of the Correctional Services is 6 368 and strength is 6 167.

*Budget:* No data are available.

### **Selected Issues**

*Programs provided by voluntary organisations for drug addicts:* In the Rehabilitation of drug addicts, various voluntary organisations play an important role. Programs provided such voluntaries as Caritas Lok Heep Club, Pui Hong Society for the Aid and Rehabilitation of Drug Abusers, Wu Oi Christian Centre, Operation Dawn, St. Stephen's Society, and Finnish Missionary Society, for drug addicts in the community, can be used as a community-based corrections resources. These agencies offer such services as counselling, casework, group work therapeutic, to help clients to deal with their personal and family problems. In addition, mass functions, recreational programs, community services programs, as well as services such as assembling work program, trade skills training programs are offered to supplement the casework and group work services.

*Recidivism:* No data on recidivism for adults are available. As for juveniles, in 1985-1986, 2 252 of a total of 2 774 probationers completed their probation order satisfactorily, that is, without reconviction or breach of conditions as specified in the probation order. The success rate thus calculated is 81%. Detention centre programs were introduced in 1972, since then the total number of young offenders who have passed through the program up until the end of the year 1986 is 6 433. Of the 6 064 who have completed the statutory supervision period, 5 705 have not been reconvicted during the period, indicating a success rate of 94%. Drug Addiction Treatment Program for Young Offenders commenced in 1969, since then to the end of 1986, 71% of the young inmates discharged under 12-month supervision have remained drug free and were not reconvicted of any criminal offence during the supervision period. Young Prisoners' Program started in 1980, since then up to the end of 1986, 827 male and female young prisoners had undergone the program and the success rate is 86% and 89% respectively.



*The Joint Declaration over the future of Hong Kong after the cessation of the lease over the New Territories:* The United Kingdom and the Chinese People's Republic reached agreement in the Joint Declaration signed in Beijing on 19 December 1984. Recognising the success of Hong Kong, and anxious that this should continue after 1997, the Chinese government conceived the idea of 'One country-two systems' under which Hong Kong would be restored to China, but would continue its present capitalist system, with a high degree of autonomy. In particular, the present legal system would remain for at least 50 years after 1997.

# India

## Background

**Fundamentals :** India is a great country with an area of 3 287 320 square kilometres. According to the national census in 1981, her population was 685 million 180 000. With a population increase rate of 2.1%, the population in 1989 is estimated at over 800 million.

India is a continent of infinite variety where vast numbers of people of different race, religion and dialects live together harmoniously.

The basis of Indian Society lies in villages. The 1981 national census shows that 76.7% of the population live in farm villages and 70.6% of the labour population engages in agriculture. The social structure of India is based on three concepts, i.e., the village community, joint family and caste system.

India attained independence from the United Kingdom in 1947. As for the structure of the government, India is a federal nation with 22 states and 9 union territories. The constitution stipulates the respective independence of the legislature, the executive and the judicature. India is a nation of parliamentary democracy with the parliament consisting of two houses, Rajya Sabha and Lok Sabha. The president, the head of the nation, is elected through indirect election by members of both houses and state assemblies. The prime minister who represents the executive branch is usually elected among the lower house members. The executive authority is divided into the federal government and states. The responsibility for crime prevention and the treatment of offenders, including the administration of the police and prisons, belong to state governments. The federal government exercises jurisdiction over financial and technical assistance, enactment of laws, information exchange, and training of personnel and research.

## Basis of criminal law and procedure

The basic substantive law is the Indian Penal Code, 1860 which stipulates offences and punishments. Major categories of offences prescribed are offences against the state, offences by or relating to public servants, offences relating to elections, offences against public justice, offences affecting public health, safety and morals, offences affecting the human body, offences against property and offences relating to documents.

Juvenile is defined as a boy who has not attained the age of 16 years or a girl who has not attained the age of 18 years. A minimum age limit of criminal responsibility is 7 years. A boy of 16 years of age or over and under 21 years of age, or a girl of 18 years of age or over and less than 21 years of age is considered a youthful offender, and receives different treatment from an adult offender. The Juvenile Justice Act, 1986 was enacted for the protection, adjudication, treatment and rehabilitation of neglected or delinquent juveniles.

The main law on criminal procedure is the Code of Criminal Procedure, 1973. The Code classifies offences into two categories; cognizable offence and non-cognizable offence. For cognizable offences, the police officer may arrest the offender without warrant.

As for the investigation procedure, an arrested suspect must be forwarded by the police to the nearest magistrate within 24 hours, by whom the legality of arrest and necessity of detention is examined. The magistrate may authorise detention of the suspect in police custody for a term not exceeding 15 days. The magistrate may also authorise pre-trial detention of a suspect in judicial custody for a period not exceeding 90 days in respect of offences punishable with death/life imprisonment or imprisonment for not less than 10 years and 60 days in respect of other offences. The suspect can be released on bail at any stage. The police have the capacity to terminate a case by using their own discretion. In 1982, 174 642 cases were dismissed by the police without any measures (The Third United Nations Survey). On completion of investigation, the police submit the charge sheet to the public prosecutor with reports and documents. The public prosecutor examines the case and sometimes gives advice to the police on legal issues or sufficiency of evidence, but it is not binding. The case is prosecuted in court by the public prosecutor.

Regarding the courts system, the Supreme Court, with 17 justices, is the highest judicial organ and has jurisdiction over the whole nation and whose legal judgement is binding upon all the lower courts. Each state has a high court which is the highest court in the state and adjudicates appeals from subordinate courts. A state consists of several sessions which are also divided into several districts. In each session there is a session court and in each district there are magistrate courts.

The maintenance and development of prisons is a state subject and the state governments have their own prison manuals. Prisons are categorised as below: central prisons; district gaols; state gaols for women; special gaols; open gaols and sub-gaols. Gaols having accommodation for more than 500 prisoners are called central prisons. Prisoners sentenced to imprisonment over 2 years are detained in central prisons. Prisoners sentenced to imprisonment up to 2 years are confined in district gaols. Special gaols are opened whenever necessary for the confinement of such prisoners as the state government may order. Sub-gaols are for under trial prisoners.

### **Trends in the number of reported offences**

According to the Third United Nations Survey, the number of crimes recorded in the criminal (police) statistics are shown in Table 1.

During the period, 1980 to 1983, the total number of recorded crimes in 1982 and 1983 showed an increase compared to those of 1980 and 1981. The number of violent offences such as intentional homicide, non-intentional homicide and rape increased, while the number of property offences such as robbery, theft and embezzlement showed a decline.

**TABLE 1**

**The Number of Crimes Recorded in the  
Criminal (Police) Statistics (Include  
'Attempts to Commit' in the Figures given)**

Types of Crime	<u>Total for calendar or fiscal year</u>			
	1980	1981	1982	1983
Intentional homicide	22149	22727	23339	25112
Robbery	38687	37622	34638	33692
Theft major thefts only	597731	579599	517966	492639

**Source:** Third United Nations Survey, page 14-15.

**Note:** The definition of each 'crime' is given on pages 7 and 8 of the Third United Nations Survey

#### **Disposal of persons arrested**

According to the 1982 Indian statistics, published by the Bureau of Police Research and Development, Ministry of Home Affairs, a total of 2 334 028 persons were under custody or on bail during investigation stages in 1982. The charge-sheets were laid for 76.9% of the total persons under arrest and 14.6% of the total remained under custody or on bail at the end of the year pending completion of investigation. The remaining 8.5% of the total were released by the police or the magistrate before trial.

The Indian statistics also shows that a total of 5 559 272 persons were under trial during 1982 out of which the cases of 72.6% of the total persons under trial remained pending at the end of the year. The percentage of persons convicted to the total persons in whose cases trials were completed during the year 1982 was 42.4%. This percentage was the highest under the crime head 'Thefts' (49.7) and the lowest under 'Kidnapping and Abduction' (33.3).

#### **Selected offences**

*Intentional Homicide:* The number of intentional homicide cases recorded by the police, the number of offenders arrested by intentional homicide, the number of offenders prosecuted by intentional homicide charge, and the number of offenders convicted by intentional homicide during the period, 1980 to 1983, are shown respectively in Table 2.

**TABLE 2**  
**Trends in Detention, Arrest, Prosecution and**  
**Correction of Intentional Homicide**  
**1980 to 1983**

	1980	1981	1982	1983
The number of cases recorded	22149	22727	23339	25112
The number of offenders arrested	53117	56060	56421	59802
The number of offenders prosecuted	46625	52073	52563	55513
The number of offenders convicted	14768	16372	17090	18318

**Source:** The Third United Nations Survey, page 14, 18, 29 and 41.

During the four year period, all of the four categories, i.e., the number of cases recorded, offenders arrested, offenders prosecuted and offenders convicted, have shown a steady increase.

*Assault:* Statistical data regarding assault, was not available.

*Robbery:* Table 3 shows the trends in detection, arrest, prosecution and conviction of robbery from 1980 to 1983.

As seen from the Table, the number of cases recorded and the number of offenders arrested and prosecuted are showing downward trends. This category of robbery includes, dacoity (robbery committed by five or more offenders conjointly). According to the publication *Crime in India, 1982*, the number of dacoity recorded was 15 194 in 1980, 14 626 in 1981 and 12 700 in 1983, a steady shift downward.

**TABLE 3****Trends in Detention, Arrest, Prosecution and  
Conviction of Robbery, 1980 to 1983**

	1980	1981	1982	1983
The number of cases recorded	38687	37622	34638	33692
The number of offenders arrested	85208	82222	74494	72836
The number of offenders prosecuted	64026	64732	58292	57167
The number of offenders convicted	19027	17710	19143	18512

**Source:** same as Table 2

*Theft:* Table 4 shows the trends in detection, arrest, prosecution and conviction of theft from 1980 to 1983.

This Table shows a downward trend in the number of theft cases recorded. While the number of conventional property offences such as theft and robbery is decreasing, according to the Third United Nations Survey, page 14, the numbers of fraud recorded in 1980 was 17 416, which increased to 19 767 in 1983.

**TABLE 4****Trends in Detention, Arrest, Prosecution and  
Conviction of Theft, 1980 to 1983**

	1980	1981	1982	1983
The number of cases recorded	597731	579599	517966	492639
The number of offenders arrested	358937	358367	337043	339911
The number of offenders prosecuted	304964	312586	284703	282189
The number of offenders convicted	124467	129436	112557	115980

**Source:** same as Table 2

## **Sanctions**

**General:** The Penal Code provides that punishments are classified as death, imprisonment for life, imprisonment with or without labour, forfeiture of property and fine.

**Capital punishment:** For example, the punishment provided for murder under the Indian Penal Code is life imprisonment or death. The current position in India as interpreted by the Supreme Court is that the death sentence may be laid down, but only in exceptional cases, the normal penalty being the lessor one. In addition, the Code of Criminal Procedure requires the court passing a sentence of death to submit the proceedings to the High Court for confirmation of death sentence, which can confirm the sentence of death or pass any other sentence warranted by law.

**Imprisonment:** According to the publication *Asia no Keijisihou (Criminal Justice in Asia, Yuhikaku, 1988, pp 249-251)*, there are 1 054 prisons all over India with the total authorised capacity of 183 616, while the total number of inmates as on 30 June 1986 was 165 930. This means that prisons are not overcrowded as a whole. Overcrowding exists, however, in some states and union territories. Prison overcrowding is most serious in Delhi where 3 914 prisoners were incarcerated despite the authorised capacity of 1 823 making the incarceration rate 215%. As on 30 June 1986, 105 832 out of 165 930 inmates (63.78%) all over India were remand prisoners under trial, which contributed to the overcrowding in some areas.

The following are counter measures to overcrowding considered to be effective: the decrease in number of arrest by scrutinising the necessity of arrest strictly; practical use of bail; swift investigation and disposal of cases; speedy trial and expansion of prison facilities.

## **Alternatives to imprisonment**

The suspension of sentence and release of offenders on probation has been accepted as the most constructive alternative to imprisonment in India. According to the Code of Criminal Procedure and the Probation of Offenders Act, 1958, the courts have been empowered to release on probation, in all suitable cases, an offender found guilty of having committed an offence not punishable with death or life imprisonment. Where the sentence is up to seven years imprisonment, the courts should firstly consider the desirability of release on probation. The courts, while releasing the offender, may pass a supervision order directing that the offender remain under the supervision of a probation officer for not less than a year and may impose certain conditions regarding residence, abstention from intoxication, etc. If the offender has failed to observe any of the conditions, the court may sentence him/her for the original sentence.

In India, about 13 000 persons are sentenced to imprisonment every year for a period not exceeding six months and about 12 000 more for a period not exceeding one year. Thus, about 25 000 persons per annum can easily be released on probation for good conduct and placed under the supervision of probation officers.

### **Resources**

Due to the lack of data, resources in each segment of criminal justice, except for police strength, is not clear. According to Indian statistics, 1982, the number of personnel in the whole country as of 31 December 1982 was 932 910. There were 28.4 policemen per hundred square kilometres in the country. The number of policemen per ten thousand of population was 13.2 for the country as a whole.



## Republic of Indonesia

### Background:

*The new Code of Indonesian Criminal Procedure:* On January 1, 1982 the new Code of Indonesian Criminal Procedure was promulgated. The police are the prime investigators and also the coordinators of criminal investigation agencies in the country. The Public Prosecutor has no right to investigate a case except some major offences ruled by special procedure in certain statutes, inter alia economic crimes, corruption. Prior to 1961, Indonesian prosecutors had the power of non-prosecution, even though there was sufficient evidence, for the sake of the public. Now this power is vested to the Prosecutor General only.

*Organisation of the judiciary:* The courts of justice are composed of the Supreme Court (Mahkamah Agung), the High Court (Pengadilan) and the District Court (Pengadilan Negeri). In addition to that, the Islamic, Military and Administrative Courts including the Housing Tribunal (Kantor Urusan Perumahan), the Labour Tribunal (Penyelesaian Perselisihan Perburuhan Daerah), the Taxes Tribunal (Nadjelis Pertimbangan Pajak), have jurisdiction over the relevant matters. The members of the judiciary are independent of the executive and legislative organs of government in performance of their judicial duties. The Supreme Court was created primarily to determine the questions of law, and decisions are rendered, as a rule, on the basis of the appellate brief and records of the courts below. In addition to the primary function of exercising judicial power, the Supreme Court is vested with the power to make an official notice to the Court below. The High Courts (26) are located in major cities, and each High Court has jurisdiction over appeals filed against judgement rendered by the District Court according to its own territorial jurisdiction. There are 292 District Courts having territorial jurisdiction over their respective judicial district. The District Court is primarily the court of general original jurisdiction, and handles all cases in the first instance except those specifically coming under the exclusive jurisdiction of other kinds of courts.

*Definition of young offenders and criminal responsibility:* In Indonesia, the minimum age limit of 'criminal responsibility' for juveniles is less than 16 years.

*Narcotics abuse problems:* Indonesia comprises 13 667 islands, 992 of which are inhabited, all with wide beaches that make it difficult for authorities to control smuggling. Moreover, the country lies close to the Golden Triangle region of Yunnan, Thailand and Laos, a major source of illegal opium and opium derivatives. In 1985, the number of the drug offences investigated by Indonesian police was 2 261. Consequently, the Indonesian government accords drug abuse prevention and control as high a priority as suppression of counterfeiting, smuggling and juvenile delinquency.

### Selected offences

*Number of reported crimes:* The number of reported crimes in 1986 was 244 496, a decrease of 69 302 (22.1%) over the previous year, and also a decrease of 79 838 (24.6%) from 1981. Of these, intentional and non-intentional homicide totalled 1 369

in 1986, a decrease of 247 (15.3%) against those reported in 1981; assaults, including minor assaults, were 14 582 a decrease of 1 942 (11.8%) from 1981; and robberies were 5 647 recording a decrease of 11 401 (66.9%) from 1981. As to theft, there were 47 105 reported cases in 1986, a decrease of 51 094 (52.0%) from 1981. In 1986, rape accounted for 1 541 cases, which showed a decrease of 635 (29.2%) compared with 1981 statistics.

In 1986 the total reported cases of bribery and corruption was 68, an increase of 40(142.9%) from 1981.

*Number of cases cleared and clearance rate:* In 1985, the total number of cases cleared were 96 869, and the clearance rate (the number of offences cleared divided by the number of offences reported x 100) was 53.8%. The number of cases cleared in 1981 was 113 827 and the clearance rate totalled 49.5%. In terms of cases cleared and the clearance rate by offence, in 1985 intentional homicide and non-intentional homicide amounted to 978 cases with a clearance rate of 63.1%, assaults numbered 12 510 (68.0%), robberies were 2 086 (33.7%), theft was 5 225 (48.1%) and rape was 1 182 (68.4%). 1981 statistics show, intentional homicide and non-intentional homicide cases numbered 1 093 with a clearance rate of 67.6%, assaults came to 10 822 (65.5%), robberies were 6 173 (36.2%), theft reached 5 324 (45.4%), and rape numbered 1 457 (67.0%) respectively.

*Number of persons prosecuted and rates of prosecution:* In 1985, the total number of persons prosecuted was 74 345 and the rate of prosecution (the number of offences cleared divided by the number of persons prosecuted x 100) was 23.7%, which was a decrease of 1 638 cases (2.2%) from the previous years. The prosecution rate in 1984 was 28.6%.

## **Sanction**

*Number of persons convicted in the criminal courts:* A total of 58 658 defendants were adjudicated in the criminal courts in 1986, indicating a decrease of 21 781 (27.1%) from that of 1981. Among those convicted in 1986, 1 530 (2.7%) were given fines, 45 883 (81.8%) were sentenced to imprisonment, 9 055 (16.1%) received suspended sentences of imprisonment and 2 013 (3.6%) were freed without accusation.

*Persons incarcerated:* Under the Prisons Regulation, anyone less than 16 years of age can be incarcerated. Age groups of convicts are classified into three: adults are those above 18 years of age, youth are those between and including 16 to 18 years of age, and children are those of less than 16 years of age. Appropriate treatment is provided to each category of offender. Remission was adopted and allows reduction of sentence or the imprisonment period. There are two types of remission, namely partial remission and total remission of the sentence or imprisonment period.

As of 31 December 1986, the number of inmates in correctional institutions amounted to 56 098. Breakdown by the age group of inmates, shows adults numbered 37 090 (66.1%), youths were 16 052 (28.6%) and children were 2 956 (5.3%). As for the averaged length of pre-trial detention at the primary courts, there was some variance according to the types of offence. In 1986, pre-trial detention averaged three

months for murder, about one month for burglary, and approximately nine months for offences against government leaders of the country.

*Capacity of institutions:* In 1987, the Correctional Department operated 132 correctional institutions and 293 detention houses. The authorised capacity for the correctional institutions was 42 957 in 1988, and 26 509 for detention houses. In general, there are no crucial problems of overcrowding of prison populations.

## **Resources**

*Personnel:* As of 31 March 1987, the number of personnel engaged in the criminal justice field including police, prosecution, courts and prison are listed below. The Indonesia National Police belong to the Department of Defence and Security. The number of personnel engaged in police activities was approximately 142 000. There are 4 785 Public Attorneys who are in the Attorney General's Office and are supervised by the attorney-General, a non-ministerial government official.

The Supreme Court is the highest court in which there are 51 members including the Chief Justice. The High Court consists of 215 judges. There are 2 150 district judges who usually exercise their jurisdiction sitting alone except for serious cases. The staff of the correctional department which is under the Ministry of Justice, is estimated at 16 463.

*Budget:* No data are available

## **Selected issues**

*The system PEMASYARAKATAN:* Pemasyarakatan was introduced on 27 April 1964, as a system of treatment for offenders. The main goal of Pemasyarakatan is giving guidance and education for offenders in order to enable them to return to society as law abiding citizens. The system is based on five principles: Believe in one God, Humanitarianism of Internationalism, Indonesian Nationalism, Democracy and Social Justice. It is a system that concentrates on assisting offenders in the process of their reintegration into the community.

*Increasing citizen's participation in crime prevention activities:* The role the people are expected to play in crime prevention and control is their full and dedicated participation in line with their level of legal knowledge. In assisting in crime prevention the public maintains law in overcoming crime through 'Keluarga Sejahtera' (A happy family), that is a family who together, or each member individually, has the courage to report when he or she is the victim or witness to a crime; and to the members of a family the public is expected to help each other in facing threats of crime, and watching over the community.

Some private foundations participate in crime prevention, but so far these foundations have focussed on juvenile delinquency.

*Extra-institutional treatment:* Under the Department of Corrections, (the Ministry of Justice as of 1987), there are 42 extra institutional treatment offices (probation offices), with 50 probation officers and 24 administration staff, throughout the country. Since the supervision of probationers is carried out by the public prosecutors, the role of the probation officers is limited to provide assistance to probationers.

## Japan

### Background

Japan consists of four main islands and a total land area of 377 765 square kilometres. Of its entire land area, 72% is mountainous and the remaining 28% is relatively flat. The population of Japan as of 1 October 1986, was 121 700 000, the population grew by 4 7000 000 (a rate of increase is 4%) compared with that of 1980. As to the age structure of the Japanese, it can be observed the remarkable speed and extent of the aging of the population structure. Crime committed by the elderly is also on the increase and it is beginning to become a social problem.

As provided by the 1945 Constitution of Japan, the government of Japan has the Parliamentary Cabinet system based on the separation of the legislative, executive, and judicial branches.

The procedures followed in a criminal case is the same throughout Japan. There is only one territorial jurisdiction and it is on a national level. The Code of Criminal Procedure of 1948 and the Rules of Criminal Procedure of 1949 are the principal sources of law governing criminal procedure.

The minimum age limit of 'criminal responsibility' is over 14 years old. The family court handles cases involving delinquent juveniles under 20 years of age, and has primary jurisdiction in regard to all juvenile offences, whether they are felonies such as homicides or arsons, misdemeanours such as traffic offences or violations of administrative control laws.

The Japanese economy in the 1980-1986 period, on the whole, performed favourably, overcoming the effects of the second oil crisis. The amount of gross national product was 334 652 billion yen in 1986, an increase of 93 805 billion from 1980. Yen rate against dollar appreciated sharply in this period, the average rates for 1980 and 1986 being 226.7 and 168.5 yen/dollar, respectively.

The general trends in crime from 1980 to 1986 are reflected in statistics on the number of Penal Code offences known to the police (Table 1). In 1986, the total number of Penal Code offences reported to the police was 2 124 239, an increase of 311 484 (17%) over six years ago. The rate of clearance by the police of known Penal Code offences was 72.2 per cent in 1986. The annual clearance rate from 1980 to 1986 has varied between 69.2 per cent and 72.9 per cent of offences known to the police. This increase in Penal Code offences involved mostly a disproportionate increase in automobile accidents constituting the Penal Code offence of professional gross negligence causing death or bodily injury.

**TABLE 1**  
**Number of Penal Code Offences Reported and  
Cleared by Police, and of Suspects of Offences Cleared**

Year	Number of Offences Reported	Number of Offences Cleared	Number of Suspects	Clearance Rate
1980	1812755	1266482	869766	69.9
1981	1925792	1333084	904609	69.2
1982	2005292	1392573	944005	69.4
1983	2039181	1427786	963494	70.0
1984	2080297	1494526	961339	71.8
1985	2121410	1546597	970226	72.9
1986	2124239	1533485	967972	72.2

**Selected offences (*intentional homicide, assault, theft, robbery*)**

The number of selected offences, reported to and cleared by the police, the number of offenders cleared and the clearance rate between 1980 to 1986 are shown in Tables 2-1 to 2-4. As Table 2-1 shows, the number of reported homicide cases (include an attempted homicide) peaked at 1 780 in 1985, and decreased by 104 to 1 676 in the following year. There was a slight fluctuation, from 96.5 to 97.4, in the clearance rate of homicide cases.

**TABLE 2-1**  
**Number of Homicides Reported and Cleared  
by Police, and of Suspects of Offences Cleared**

Year	Number of Offences Reported	Number of Offences Cleared	Number of Suspects	Clearance Rate
1980	1684	1637	1560	97.2
1981	1754	1709	1712	97.4
1982	1764	1713	1768	97.1
1983	1745	1698	1789	97.3
1984	1762	1712	1788	97.2
1985	1780	1717	1833	96.5
1986	1676	1620	1692	96.7

**TABLE 2-2****Number of Assaults Reported and Cleared by Police,  
and of Suspects of Offences Cleared**

Year	Number of Offences Reported	Number of Offences Cleared	Number of Suspects	Clearance Rate
1980	15301	14287	21362	93.4
1981	15851	14768	21315	93.2
1982	14836	13792	19964	93.0
1983	13975	13063	18555	93.5
1984	13615	12959	17670	95.2
1985	12171	11557	15739	95.0
1986	10808	10174	13762	94.1

Note: Clearance rate =  $\frac{\text{number of offences cleared}}{\text{number of offences reported}} \times 100$

Source: National Police Agency

The number of reported assaults have been showing a downward trend in general from 1981, as shown on Table 2-2. As to the clearance rate of assault cases, it was confined to a small amount of fluctuation, from 93.0 to 95.2. Of the total Penal Code offences reported to the police, theft was the most prevalent offence, comprising 64.7% followed by traffic (professional negligence) offences which accounted for 25.6% in 1986. Among theft offences, motorcycle theft, thefts from vehicles and thefts from vending machines were significant. In 1985, the number of theft cases reported to police reached a peak of 1 381 237, since 1980, but it decreased by 6 141 to 1 375 096 in 1986, as shown in Table 2-3. The clearance rate of theft cases ranged from 54.7 to 59.9, which was the lower figure compared with such categories as intentional homicide, assault and robbery.

**TABLE 2-3**

**Number of Theft Reported and Cleared by  
Police and of Suspects of Offences Cleared**

Year	Number of Offences Reported	Number of Offences Cleared	Number of Suspects	Clearance Rate
1980	1165609	641382	248389	55.0
1981	1257354	688085	266928	54.7
1982	1313901	726032	281878	55.3
1983	1335258	747981	285178	56.0
1984	1365705	801481	292835	58.7
1985	1381237	827818	281063	59.9
1986	1375096	806634	260533	58.7

As for robbery, the number of offences reported to and cleared by police, the number of suspects and clearance rate are shown in Table 2-4. In 1981, the number of robbery cases reported to and cleared by police reached a peak of 2 325 and 1 895 respectively during the period (1980 to 1986), but showed a downward trend since then, decreasing by 376 to 1 949, and by 366 to 529 in 1986 respectively. The clearance rate of robbery cases from 1980 to 1986 ranged from 74.8 in 1982 to 82.5 in 1985.

**TABLE 2-4**

**Number of Robbery Reported and Cleared by  
Police, and of Suspects of Offences Cleared**

Year	Number of Offences Reported	Number of Offences Cleared	Number of Suspects	Clearance Rate
1980	2208	1667	2064	75.5
1981	2325	1895	2124	81.5
1982	2251	1684	2072	74.8
1983	2317	1799	2069	77.6
1984	2188	1725	2031	78.8
1985	1815	1497	1777	82.5
1986	1949	1529	1842	78.5

Note: Clearance rate =  $\frac{\text{number of offences cleared}}{\text{number of offences reported}} \times 100$

Source: National Police Agency



## Sanctions

**General:** The Penal Code provides that principal punishments are classified as death, imprisonment with labour, imprisonment without labour, fine, penal detention, and minor fine, and confiscation is a supplemental punishment. Imprisonment both with labour and without labour shall be either for life or for a limited term of imprisonment not less than one month nor more than 15 years. Nevertheless, when the accumulative crimes include two or more crimes punishable by imprisonment with or without labour for limited terms, or punishment for a recidivist, the term of imprisonment may be extended to 20 years. A fine shall be not less than 4 000 yen. Fines are imposed in a great number of cases in Japan: in 1986, as many as 95.7% of all offenders, including traffic violators, were fined and most of them were disposed of by summary proceedings. This system of summary proceeding for fine or minor fine without a doubt contributes much to reducing the burden on the courts, thereby enabling them to concentrate on the more serious or complicated cases. A minor fine shall be 20 yen or more and less than 4 000 yen.

A person unable to pay their fine or minor fine in full shall be detained in a work-house. However, average daily population of work-houses was small and its number was 148 in 1986.

A penal detention shall be for one day or more and less than 30 days, and it shall consist of confinement in a penal detention house. Number of newly admitted prisoners to penal detentions was 77 in 1986.

## Number of convicted

Table 3 shows the number of convicted by category of sentence for 6 years since 1980. The total number Convicted for Penal Code offences or Special Law offences such as the stimulant drugs law, road-traffic violations law and the like, was 2 362 958 in 1986 with an increase of 224 959 (10.5%) over the number in 1980. The majority of this increase was disposed of by fine with an increase of 223 289 from 1980 to 2 260 791 in 1986, and minor fine, rose from 24 780 in 1980 to 27 004 in 1986. Daily average population of penal institutions was 50 596 in 1980, with an increase of 4 752 (9.4%) to 55 348 in 1986. As to the number newly admitted to penal institutions, 32 837 inmates were incarcerated in 1986, an increase of 4 463 (15.7%) as compared with that of 1980. Out of them 30 651 (95.8% male and 4.2% female) were newly sentenced prisoners, and 2 186 were persons who were returned to penal institutions for correctional administrative reasons such as revocation of parole. Seeing the types of offences committed by newly admitted prisoners in 1986, 8 568 (28.0%) were violations of the stimulant drugs control law, and 8 231 (26.9%) were larceny.

In 1986, the probation office newly received 18 130 adult parolees from penal institutions, with an increase of 2 924 (19.2%) compared to that of 1980, and received 5 580 juvenile parolees from juvenile training school, an increase of 1 517 (37.3%) compared with that in 1980. As to the newly received adult probationers who were placed on probation by the criminal court upon the pronouncement of suspended sentence of imprisonment, the number decreased from 6 456 in 1980 to 1 602 (19.9%) in 1986. The number of newly received juvenile probationers who were placed on

**TABLE 3****Number of Convicted (1980 to 1986)**

Category	1980	1981	1982	1983	1984	1985	1986
Total	2137999	2181243	2211640	2375708	2482507	2490816	2362958
Death	7	3	1	1	3	2	0
Life imprisonment with labour	40	33	36	36	43	38	41
Imprisonment with labour	69947	71601	71929	72265	73941	72238	69803
Imprisonment without labour	5690	5051	4817	4977	4947	5088	5197
Fine	2037502	2079519	2110044	2272970	2374394	2383868	2260791
Penal detention	33	53	47	41	41	77	122
Minor fine	24780	24983	24766	25418	29138	29505	27004

probation by the family court numbered 72 268 in 1986, with an increase of 15 946 (28.3%) over 1980.

## Resources

The number of personnel engaged in such criminal justice fields as police, prosecution, courts, prison and non-institutional services, as of 31 December 1986, were as follows:

*Police:* The total number of police personnel was 256 546 (male 239 900; female 16 600), an increase of 4 553 (1.8%) over that of 1982. Of whom 217 934 were police officers engaged in patrolling, crime investigation and the like, and 35 697 were in charge of the clerical work.

*Prosecution :* The total number of qualified prosecution personnel was 2 092 (male 2 068; female 24), which was the same number as that of 1982.

*Judiciary:* The total number of professional judges was 2 800 (male 2 701; female 99), an increase of 33 (1.2%) over that of 1982.

*Prisons :* The total number of staff of adult prisons was 15 301, an increase of 63 (0.4%) over that of 1982. Breakdown of the number by functions: 2 121 (13.9%) were management, 11 231 (73.4%) were custodial, 1 133 (7.4%) were treatment, and 816 (5.3%) was other.

As for juvenile prisons, the total number was 1 649, an increase of 7 (0.4%) over that of 1982. Breakdown of the number indicated, 239 (14.5%) were management, 1 148 (69.6%) were custodial, 169 (10.2%) were treatment, and 93 (5.6%) were listed as other.

TABLE 4

Criminal Justice Agency	(In Thousands)		
	<u>Total for calendar or fiscal year</u>		
	1982	1984	1986
Police	1931681826	2004195159	2181107892
Prosecution	65756122	66220239	70902582
Courts	198193026	209544522	229790264
Prisons (penal and correctional institutions)	120461780	121010708	130042056
Non-institutional services	10138642	10452909	11445296

### **Non-institutional services**

The total number of probation officers was 920. In addition to the professional probation officer, about 48 000 persons are on the volunteer probation officer's position throughout the country. Table 4 shows the allocation of budgetary resources to criminal justice activities.

### **Selected issues**

*Pre-trial detention:* The Code of Criminal Procedure requires that the persons arrested by the police, if there is need to detain, must be transferred to the public prosecutors office within 48 hours of arrest. If the public prosecutor who receives custody of a suspect in this way, believes further detention is necessary, he must within 24 hours after he receives custody of the suspect and within 72 hours after the time of arrest, request a judge to authorise detention.

A number of the persons awaiting trial or adjudication in custody as of 31 December 1986 was 9 455. As for the time periods required to finalise adjudications in district courts after being indicted, 70.7% were within three months in 1986.

### **Crime prevention activities**

Steady, increasing efforts for crime prevention are required. Without the active support and understanding of the entire population, crime cannot be eliminated nor can offenders be rehabilitated. Viewed in this light, annual campaigns such as 'Movement Toward a Brighter Society' sponsored each July by the ministry of justice, 'National Crime Prevention Campaigns' conducted under police sponsorship, 'National Sound Youth Nurture Month' sponsored by Youth Affairs Administration Management and Coordination agency are actively promoted. Moreover, private and voluntary associations such as crime prevention associations and traffic safety associations are formed in every police district to undertake various activities aimed at preventing the commission of offences and control dangerous activities. As for juvenile delinquency, the juvenile guidance centre was established and is staffed by police officers, public officials (mainly social workers from local governments), school teachers and volunteers. They go out on the street and offer guidance and counselling to those juveniles who show delinquency.

### **Public participation**

Active public cooperation is indispensable to effective functioning of the criminal justice system. In addition to the above mentioned field of police work, there is, in the field of prosecution, a unique system called Inquest of Prosecution which was designed to reflect the opinion of lay citizens in handling public prosecutions. Laymen can also take part in court proceedings. One of the examples is the laymen counsel in criminal cases before the Summary Court, Family Court and the District Court. A defendant can select a person or persons, who are not qualified attorneys, to be their own counsel by permission of the court. Various programs for treatment of offenders also have been instituted to involve members of the community in

correctional and rehabilitative processes. As for institutional treatment, religious functionaries counsel individual prisoners at the latter's request, and volunteer prison visitors interview and provide guidance to prisoners about their personal problems and future prospects. Regarding the non-institutional treatment, it is characterised by the extensive participation of volunteers. About 48,000 persons have been Volunteer Probation Officers commissioned by the Minister of Justice, whose roles are to help offenders rehabilitate themselves in society and to influence public attitude for the promotion of crime prevention. One hundred Rehabilitation Aid Hostels run by non-governmental bodies under approval and subsidised by the Minister of Justice to provide housing, assistance and guidance to released prisoners and probationers who otherwise would return to or remain in inadequate or criminogenic surroundings. In addition to the above mentioned, Big Brothers and Sisters Associations with some 7 000 members, who counsel juveniles on a one-to-one basis, Women's Associations for Rehabilitation Aid with some 170 000 members and cooperating employers also participate significantly in crime prevention activities and the restoration of rehabilitated offenders into the community.

### **Diversion**

There are some diversion schemes to avoid imprisonment of offenders at every stage of the criminal justice system. In the field of police work, there is the 'disposal on trivial cases by police' in which trivial cases may be disposed of by police officers without referral to public prosecutors offices according to the criteria designated by a public prosecutor. In the field of Prosecution, the public prosecutor is authorised to use 'Suspension of Prosecution' to suspend prosecution at his own discretion in consideration of the interests of society and offender, even if there is sufficient evidence to prove the guilt of the offender. In recent years, about 40 per cent of non-traffic Penal Code offenders were granted suspension of prosecution. In the trial stages, in case of the sentence of imprisonment is for not more than three years, the court may, at its discretion, give judgement 'suspension of execution of sentence of imprisonment' the rate of application to total sentences of imprisonment was 56.0% in 1986. Parole after service of part of sentence of imprisonment also confirm the belief on the part of citizens that the criminal justice system affords them adequate protection without inflicting unneeded harshness on criminal offenders.

## Republic of Korea

### Background

The Republic of Korea was founded in 1948, three years after World War II. It covers the southern part of the Chosen Peninsular with an area of 98 000 square kilometres and a population of about 40 million. Experiencing rapid growth, Korea's GNP per capita in 1986 was 29 times the 1960 figure.

Though the Constitution of Korea has been changed several times since the foundation of Korea, it has consistently pursued freedom and democracy. Under the present Constitution, the President is elected directly by the people for a 5 year term after which the President must step down; he cannot be re-elected. The legislative, executive and judicial branches are separate and incorporate a system of checks and balances.

The judicial system is composed of 13 district courts, 4 high courts and one supreme court. At the same level as the district court, one family court is located in Seoul. Juvenile (below the age of 20) cases are dealt with by the family court and the juvenile department of the district court in principle. The minimum age limit of 'criminal responsibility' is 14 years of age.

The general trends of crime from 1980 to 1986 are reflected in the crime statistics in Table 1.

In 1986, the number of crimes reported showed an increase of 31.8 per cent over the year of 1980. However, in the statistics, traffic accident cases and traffic control law violation cases as well as various kinds of misdemeanour cases are included. Generally, not all of the selected offences show a rapid increase in occurrence.

**TABLE 1**  
**Number of Crimes Recorded**

Year	Total Number of Crimes Recorded
1980	620710
1981	631950
1982	655183
1983	786939
1984	784777
1985	794777
1986	818718

Source: The Third Survey

**Selected offences (*intentional homicide, assault, theft, robbery and rape*)**

The number of selected offences reported to the police, suspects apprehended by the police, persons disposed of by the public prosecutor, and persons prosecuted are shown in Table 2-1 (intentional homicide), Table 2-2 (assault), Table 2-3 (theft), Table 2-4 (robbery) and Table 2-5 (rape).

**TABLE 2-1**

**Number of Homicides Recorded, Suspects Apprehended  
by Police, Persons Disposed of by the Public  
Prosecutor, and Persons Prosecuted by the  
Public Prosecutor**

Year	Number of Offences Reported	Number of Suspects Apprehended by the Police	Number of Persons Disposed of by the Public Prosecutor	Number of Persons Prosecuted by the Public Prosecutor
1980	527	568	558	
1981	568	576	636	
1982	498	547	598	
1983	493	546	597	
1984	551	547	650	
1985	541	573	672	
1986	565	599	631	486

Source: The Third Survey (The number of persons prosecuted is from the White Paper on Crime, 1988)

**TABLE 2-2**

**Number of Assaults Recorded, Suspects Apprehended  
by Police, Persons Disposed of by the Public  
Prosecutor, and Persons Prosecuted by the  
Public Prosecutor**

Year	Number of Offences Reported	Number of Suspects Apprehended by the Police	Number of Persons Disposed of by the Public Prosecutor	Number of Persons Prosecuted by the Public Prosecutor
1980	11183	12127	9564	
1981	12128	12804	10646	
1982	11051	12328	10166	
1983	9904	10566	8855	
1984	8862	9293	8056	
1985	7666	8172	7107	
1986	7007	7767	6795	2632

Source: The Third Survey (The number of persons prosecuted is from the White Paper on Crime, 1988)

**TABLE 2-3**

**Number of Thefts Recorded, Suspects Apprehended by Police,  
Persons Disposed of by the Public Prosecutor, and  
Persons Prosecuted by the public Prosecutor**

Year	Number of Offences Reported	Number of Suspects Apprehended by the Police	Number of Persons Disposed of by the Public Prosecutor	Number of Persons Prosecuted by the Public Prosecutor
1980	91492	54061	63059	
1981	105675	66032	68911	
1982	112428	75693	77753	
1983	119359	68909	72244	
1984	106731	61126	67725	
1985	103006	60349	67141	
1986	100562	61463	67851	25892

Source: The Third Survey (The number of persons prosecuted is from the White Paper on Crime, 1988)

**TABLE 2-4**

**Number of Robberies Recorded, Suspects Apprehended  
by Police, Persons Disposed of by the Public  
Prosecutor, and Persons Prosecuted by the  
Public Prosecutor**

Year	Number of Offences Reported	Number of Suspects Apprehended by the Police	Number of Persons Disposed of by the Public Prosecutor	Number of Persons Prosecuted by the Public Prosecutor
1980	2685	3529	3382	
1981	2680	3728	3529	
1982	2720	3895	3706	
1983	2887	3891	3686	
1984	3007	3908	3994	
1985	3288	4308	3568	
1986	2983	4185	4551	3259

Source: The Third Survey (The number of persons prosecuted is from the White Paper on Crime, 1988)



**TABLE 2-5**

**Number of Rapes Recorded, Suspects Apprehended  
by Police, Persons Disposed of by the Public  
Prosecutor, and Persons Prosecuted by the  
Public Prosecutor**

Year	Number of Offences Reported	Number of Suspects Apprehended by the Police	Number of Persons Disposed of by the Public Prosecutor	Number of Persons Prosecuted by the Public Prosecutor
1980	3003	4022	5614	
1981	3446	5011	6756	
1982	4164	6004	7891	
1983	3973	5758	7385	
1984	4051	5831	7679	
1985	4188	5795	7591	
1986	3909	5158	6742	2963

**Source:** The Third Survey (The number of persons prosecuted is from the White Paper on Crime, 1988)

Trends of these selected offences between 1980 to 1986, show rape cases increased rapidly by 30.0 per cent, other offences like homicide, robbery and theft rose at a considerably low pace, 7.4 per cent, 11.1 per cent and 12.1 per cent respectively, and the number of assaults recorded a substantial decrease of 26.3 per cent.

Because in some offences the number of suspects apprehended by the police is bigger than that of reported cases, and the number of persons disposed of by the public prosecutor is bigger than that of suspects apprehended by the police, some explanations are necessary for the data reported in the United Nations third Survey. As many cases are committed by groups of criminals, the numbers of suspects apprehended by the police are generally those of cases reported to the police except theft.

In reporting the number of persons prosecuted in Tables 27 to 31 of the Third Survey, they failed to report the number of persons prosecuted, but reported the number of persons disposed of by the public prosecutor. As for the number of persons prosecuted, only the number in 1986 was available in the White Paper on Crime (1989).

In Korea, many agencies other than the police, the Forestry Bureau for example, have limited authority to conduct investigation and refer cases to the public prosecutor, so the number of persons disposed of by the public prosecutor is not the same as the number of persons apprehended by the police. Furthermore, the public prosecutor in Korea often initiates investigation. Therefore, the number of persons

disposed of by the public prosecutors is generally larger than the number of suspects apprehended by the police.

Among persons disposed of by the public prosecutor, the ratio of prosecution is not high. That is because the public prosecutor in Korea possesses but chooses to exercise prudence in prosecution.

### Sanctions

The Penal Code provides that principal punishments are classified as death, imprisonment with labour, without labour, cancellation of qualification, suspension of qualification, fine, penal detention, and minor fine. Confiscation is imposed as a supplemental punishment. Imprisonment both with labour and without labour shall be either for life or for a limited term of imprisonment not less than one month nor more than 15 years. Nevertheless, when the offender accumulates two or more crimes punishable by imprisonment with or without labour or punishment, the term of imprisonment may be extended to 25 years. A fine shall be 500 won or more. Minor fine shall be 50 won or more and less than 500. A penal detention shall be for one day or more and less than 30 days, and it shall consist of confinement in a penal detention house.

*Number of convicted:* Table 3 shows the number of convicted after formal trial at the first instance court by category of sentences.

Though the total number of convicted has increased by 11 525 (11.2%) from 1980 to 1986, this rise in convictions is mainly attributable to the increase of fine (5 466), suspension of prosecution (2 263) and cases referred to the juvenile court (813). As almost all cases prosecuted in formal trial are the cases which the public prosecutor wishes the punishment of imprisonment without suspension of execution, the intensified use of fine, suspension of execution and referral to juvenile court indicates a lenient attitude of the court. The number of the death penalty sentences has decreased dramatically from 32 in 1980 to 8 in 1986.

**TABLE 3**  
**Number of Convicted after Formal Trials**  
**(1980 to 1986)**

Category	1980	1981	1982	1983	1984	1985	1986
Total	103290	102054	110902	107710	105946	106424	114815
Death	32	33	35	19	18	25	8
Life Imprisonment	59	70	90	83	108	104	88
Imprisonment	35244	36645	37955	36211	34885	34833	35145
Suspension of Execution	45577	42566	45650	44465	42617	42974	47840
Fine	11203	11571	14261	14178	14179	14374	16649
To Juvenile Court	5098	4976	5567	5359	4842	4950	5911
Acquittal	505	544	582	549	520	466	458
Others	5572	5649	6762	6864	8777	2881	8716

Source: White paper on Crime (1988)

*Penal institutions :* Table 4 shows the daily population of penal institutions and the number of prisoners admitted annually.

It is noteworthy that, though the number of offenders sentenced to imprisonment at the first instance court has been almost stable from 1980 to 1986, the number of daily population of penal institutions and the number of those convicted and admitted to prisons has increased in the same period. It may be concluded that for comparatively minor cases alternative measures such as suspension of execution of sentence, fine, and referral to juvenile courts are imposed more frequently while revocation by the high court of imprisonment sentence of the first instance court are occurring less frequently.

**TABLE 4**  
**Average Daily Population of Penal Institutions**  
**and Number of Prisoners Annually Admitted**  
**(1980 to 1986)**

Category	1980	1981	1982	1983	1984	1985	1986
Capacity of Penal Institution	50000	55000	55000	55000	55000	53000	53000
Average Population	48755	49929	54586	52770	51506	52050	54010
Convicted	27245	28109	31882	31261	30010	30001	30933
Remanding	3422	3055	2965	2515	2528	2280	2398
No Payment of Fine	231	354	395	355	420	394	377
Annual Admission	46794	52556	51482	49826	50761	52358	52733
Convicted	27256	32694	31632	30715	30681	30094	30790
Remanding	19538	19862	19850	19111	20080	22264	21943

Source: White paper on Crime (1988)

The daily population of penal institutions per 100 000 of general population was 128 in 1986, that is still high when compared with the Japanese figure of 45 registered in the same year.

*Resources:* The number of personnel engaged in such criminal justice fields as police, prosecution, courts, correction in the years 1982, 1984 and 1986 is shown in Table 5.

Though the number of police personnel showed a decrease in 1984, the number accelerated thereafter. More than 5 000 officers were newly employed in 1984 and 1986. As for public prosecutors and judges, the numbers have consistently risen. The number of correction personnel is stable reflecting the stable situation of penal institutions during the period 1982 to 1986.

**TABLE 5**  
**Resources of Criminal Justice Administration**  
**(As of 31 December)**

	1982	1984	1986
Police	61051	58267	63471
Prosecutors	431	481	613
Judges	619	704	836
Adult Institutions	7700	7699	7699
Juvenile Institutions	376	372	393

**Source:** The Third Survey

### **Selected issues**

*Pre-trial detention:* When the police arrest a suspect, they should complete the investigation within 10 days, otherwise the suspect should be released. After the completion of the investigation, police will transfer the suspect to the public prosecutors office. The public prosecutor can detain the suspect for up to 10 days. The 10 days detention in police custody and a further 10 days detention under the public prosecutor is granted by warrant of arrest. If the public prosecutor needs more time for his investigation, he can request the judge to grant another 10 days detention. The maximum term of pre-prosecution detention is 30 days. After prosecution, bail can be granted.

As for pre-trial detention in general, the most significant requirement is that all cases involving detainees should be concluded within 6 months, including the pre-prosecution detention at the district court, and only 4 months are granted for the high court and the supreme court respectively. That means, however serious or complicated the case, such cases involving detainees should be concluded within 14 months. If it is impossible for the court to conclude the case within the predetermined period the defendant must be released.

These rules for pre-trial detention contribute greatly to expediting the trial process. In 1986, 77.0 per cent of all the cases were adjudicated within 3 months and 93.8 per cent were adjudicated within 6 months at the district court.

*Diversion:* There are some diversion schemes at each stage of the criminal justice process to avoid imprisonment of offenders.

At the police stage, as for trivial cases punishable by fine of 100 000 wan or less, the chief of the police station is authorized to prosecute the suspect to the court for fine or release him on admonition.

At the stage of the public prosecutor, as mentioned above, the public prosecutor in Korea has wide discretionary authority in prosecution. They can suspend

prosecution even when enough evidence is at hand or when consideration for the best interest of the suspect and the public are paramount. In 1986, the ratio of non-prosecution of total Penal Code suspects was 64.9 per cent, and among them 20.5 per cent of cases were suspended. This ratio has been constant over the years.

Another diversion scheme at the stage of the public prosecutor is suspension of prosecution on condition for juveniles. This scheme is for those juveniles who show rather advanced criminality to provide them an opportunity for community treatment. In this scheme, the public prosecutor provides the juvenile with a sort of probationary supervision on the consent of the juvenile. If he/she keeps good behaviour for 6 months under the supervision of a volunteer probation officer, the public prosecutor may suspend prosecution.

At the stage of judiciary, the court has broad discretionary authority regarding the gravity of the punishment. Even after sentencing imprisonment, it can suspend execution. If the defendant will not be sentenced to imprisonment on another crime during the term of suspension, the original sentence will become invalid. In 1986, among the 82 985 who were sentenced to imprisonment, 57.6 per cent of 47 840 were granted suspension of prosecution.

At the stage of correction, the prisoner can be released on parole when it is granted by the Minister of Justice. In 1986, among the 32 009 released from prison, 24.0 per cent or 7 690 were released on parole. This ratio is increasing gradually year by year. (All the statistical data in this paragraph are from the White Paper on Crime 1988).

# **Malaysia**

## **Background**

The legal system in Malaysia is based on a set of written and unwritten laws. Among the written are: the Federal Constitution together with the constitutions of the 13 states comprising the Federation, legislations enacted by the Parliament and State Assemblies, and delegated or subsidiary legislation made by bodies under powers conferred on them by Acts of Parliament or State Assemblies. The unwritten laws comprise of the principles of English Common law adapted to local circumstances, case law and local customary law; Muslim law is also an important source of law applicable only to the Muslim population and administered by a separate system of courts.

## **The judicial system**

The Malaysian Constitution provides for the exercise of powers by the Legislature, the Executive and the Judiciary. By virtue of Act 121 (1) of the Federal Constitution judicial power in the Federation is vested on two High Courts of Coordinate jurisdiction and status namely the High Court of Malaya and the High Court of Borneo and the inferior courts. The Federal Court with its principal registry in Kuala Lumpur is the Supreme Court in the country. The head of the judiciary is the Lord President of the Federal Court and he exercises direct supervision over all courts. In the hierarchy of courts the lowest is the Penghulus Court. A Penghulu is a headman appointed by a state government. The criminal jurisdiction of a Penghulus Court is limited to the trial of offences of a minor nature which can be adequately punished by a fine not exceeding \$25.00. The subordinate courts in Malaysia include the Juvenile Courts, Magistrates Courts and the Sessions Courts.

The courts can pronounce on the legality or otherwise of executive acts of government. They can pronounce on the validity or otherwise of any law passed by parliament and they can pronounce on the meaning of any provision of the constitution.

## **Law enforcement**

The nation's police force is headed by an Inspector General of Police, his Deputy and four Directors of Divisions, viz: the Criminal Investigation Department, The Special Branch, Security and Public Order, and Management. The Inspector General of Police is responsible to the Minister of Home Affairs. The police force performs the duties of preventing crime, protection of the general welfare of the people, investigating and detecting crime, identifying and apprehending offenders, and prosecuting criminals. The force also has to perform the onerous task of jungle operations, tracking down undesirable elements, investigating the smuggling of drugs, arms, and other contraband items.

The police and the prison service in the country have established a very close working relationship. Such a relationship is clearly outlined in both the Prison

Ordinance of 1952 and the Police Act of 1967. These two laws establish the powers and relative duties and responsibilities of the officers in the two services. This clearly establishes the fact that not only are the functions interchangeable, the authority and relative power vested in one can and is exercised by the other.

### **Selected crimes reported**

During the third survey period, selected crimes showed a gradual increasing trend. Data in Table 1 highlight this trend. During 1980 to 1986 the number of intentional homicides recorded by the police ranged between a low of 225 in 1982 and a high of 386 in 1986.

**TABLE 1**  
**Selected Crimes Reported and Rate Per 100 000**  
**Population, 1980 to 1986**

		1980	1981	1982	1983	1984	1985	1986
Int. Homicides	N	279	258	225	303	293	327	386
	R	2.02	1.83	1.56	2.05	1.93	2.08	2.40
Assault	N	2019	1955	1931	2059	2163	2684	2622
	R	14.63	13.87	13.41	13.91	14.23	17.10	16.29
Robbery	N	4737	4934	4510	5336	5991	7881	9065
	R	34.33	34.99	31.32	36.05	39.41	50.20	56.30
Theft	N	63543	63356	60570	65551	68959	77070	82314
	R	460.46	449.33	420.63	442.91	453.68	490.89	511.27

Relatively speaking, the number of assaults, robberies and thefts showed a marginally slower increase than intentional homicide. The crime of theft, including theft of motor vehicle, house breaking and all other thefts continue to be the most frequent crime recorded in Malaysia, currently constituting over 80 per cent of all crimes recorded annually.

### **Offenders in selected crimes**

The number of offenders coming in contact with the criminal justice system does not show a trend similar to that noted for crimes recorded. For example, the number of intentional homicides recorded by the police peaked in 1986 but the number of offenders apprehended by the police in 1986 for this crime was the lowest during the 1980-1986 period.

**TABLE 2**  
**Number of Arrests by Crime, 1980 to 1986**

	1980	1981	1982	1983	1984	1985	1986
Intention homicide	212	220	252	263	287	266	191
Assault	786	809	859	1079	1056	1181	986
Robbery	851	839	815	986	987	1220	1047
Theft	8596	8541	8119	9057	8952	9999	9224

Similar patterns are obtained for the other three crimes.

#### **Offenders prosecuted**

The number of prosecutions demonstrate a trend similar to that noted for offenders. For assaults, robberies and theft the actual number of persons prosecuted are quite similar to offenders coming in contact with the police. But it appears that for serious violent crime like intentional homicide far fewer are prosecuted than apprehended.

**TABLE 3**  
**Prosecution and Conviction, 1980 to 1986**

	1980	1981	1982	1983	1984	1985	1986
Intentional homicide	148	122	80	94	63	73	82
Assault	823	693	893	761	709	759	756
Robbery	885	792	789	853	775	790	977
Theft	8188	8917	9123	8555	7413	9064	9430

#### **Sentencing**

The number of persons convicted for selected crimes are shown in Table 4. A comparison of number of convictions with number of prosecutions reveal some interesting patterns. It appears that a much higher proportion of those prosecuted for



property and property related crimes, eg., robbery and theft, than that for violent crimes, receive a conviction disposition. Whereas only about half of those prosecuted for intentional homicide are eventually convicted, well over 80 per cent of those prosecuted for theft are found guilty and convicted.

**TABLE 4**  
**Number of Persons Convicted in the Criminal Courts**  
**1980 to 1986**

	1980	1981	1982	1983	1984	1985	1986
Intentional homicide	90	72	66	48	43	37	37
Assault	619	552	645	580	492	515	484
Robbery	696	594	631	661	590	598	740
Theft	7146	7955	7892	7503	6690	8127	8014

### **Imprisonment**

Imprisonment rates in the countries of the Asian and Pacific Region have been presented in Part Two. Table 5 presents information on the number of admissions to prisons each year for persons charged with selected crimes. The figures do not refer only to sentenced prisoners.

**TABLE 5**  
**Number of Admissions to Prison Per Year**  
**1980 to 1986**

	1980	1981	1982	1983	1984	1985	1986
Intentional homicide	17	13	14	14	5	19	38
Assault	68	52	41	45	40	59	204
Robbery	806	663	427	546	553	1196	1638
Theft	3494	3963	3126	2984	2577	3789	4298

## Criminal justice resources

Expenditure data, presented in Table 6, show that whereas the police and prosecution are operating at almost constant cost, expenditure on prisons has increased over the years.

**TABLE 6**  
**Expenditure on Criminal Justice**

	<u>In Millions of Malaysian Dollars</u>		
	1982	1984	1986
Police	929.1	835.3	960.8
Prosecution	1.8	1.7	1.8
Prisons	57.2	60.9	81.8

## Crime prevention strategies

A number of specific measures have been initiated in recent years in the area of crime prevention. Basically these are in two main categories -- those which come within the enlightened police functions and those requiring community involvement.

*1. The role of the Royal Malaysia Police - preventive measures:* A combined proactive -- situational approach has been adopted by the Royal Malaysia Police to prevent and control crime in Malaysia. Circumstances which go towards constituting a crime risk are constantly evaluated and measures are taken to remove or at least reduce that risk. Police action covers every type of action that can be legally and fairly taken to prevent or reduce the opportunity for crime. Some of the preventive and enforcement measures undertaken by the Royal Malaysia Police are:

- Target-hardening related activities -- such as advising banks, financial institutions, goldsmiths and other commercial sectors, to upgrade their security systems and securing their premises from being potential targets of criminal attacks. Members of the public are also advised via the mass-media to take steps to minimise opportunities for the commission of crime;
- Improving the image of the police through improved police-public relations.
- School information program -- police officers are assigned to schools not only to investigate any crimes involving students but also as guest speakers. These officers are from time to time called upon by the school to deliver

talks on the various components of the criminal justice system and on specific criminal matters.

2. *Community involvement in crime prevention:* Community involvement is a necessary crime prevention ingredient. It has been acknowledged as the most influential component of the Criminal Justice System in Malaysia. It has been recognised that because of its pervasiveness people can make a significant difference in the prevention and detection of crime and in the treatment and rehabilitation of offenders. There are voluntary organisations, societies, clubs and associations that have responded positively to prevention initiatives and other activities incidental thereto.

*Specific programs in this area are:* The formation of Vigilante Corps; one of the objectives of this corps is to assist in the maintenance of peace and security in outlying rural areas.

The Neighbourhood Watch Group; this program aims at:

- fostering closer relationships among the multi-racial communities and instilling a sense of responsibility among them to maintain the peace that is prevailing in the community;
- strengthening the relationship between the government and the people based on mutual respect, trust and confidence;
- promoting good citizenship and unity among the multi-racial communities within a neighbourhood through good neighbourliness.

## **New Zealand**

### **Background**

The law of New Zealand consists of the common law, statute law enacted by the New Zealand parliament, a number of United Kingdom laws which are still in force, regulations, by-laws and other forms of subordinate legislation. When applying the common law, New Zealand courts take into account common law principles developed in New Zealand and countries such as the United Kingdom, Australia and Canada.

### **The judiciary**

The hierarchy of courts of New Zealand consists of Her Majesty the Queen in Council (the Judicial Committee of the Privy Council); the court of Appeal; the High Court and the District Courts. All courts exercise both criminal and civil jurisdiction.

The Judicial Committee of the Privy Council is the final appeal tribunal. The Court of Appeal is the highest appeal court and exercises an appeal jurisdiction only. In criminal matters the Court of Appeal hears appeals against convictions and sentences imposed in the High Court or District Court. The decisions of this court are final except where an appeal lies to the Judicial Commission of the Privy Council.

The jurisdiction of the High Court is very wide. Its jurisdiction extends to cases of major crimes, the more important civil claims, appeals from inferior courts and tribunals, and reviews of administrative actions.

District Courts are established in various localities and they have extensive civil and criminal jurisdiction. Justices of the Peace can sit as a District Court to hear a limited number of minor criminal charges. The Family Court, established in 1980 and Small Claims Tribunals, established in 1976 are divisions of the District Courts.

Among the courts with specialist functions is the Children and Young Persons Court, established under the Act of 1974, which deals with every complaint under the Act relating to care, protection, or control of a child or young person. Specially warranted district court judges exercise the jurisdiction of these courts. Children and Young Person Courts have criminal jurisdiction to deal with offences committed by children and young persons, except in cases of murder, manslaughter, and traffic offences not punishable by imprisonment. Appeals from decisions of these courts may be brought to the High Court.

A majority of indictable offences are dealt with summarily by the District Court judges. They have jurisdiction over all crimes against property and all but the most serious of other crimes, such as treason, homicide, rape, and perjury. A District Court judge may, however, decline to deal with an offence summarily, and the accused is committed for trial in the High Court. The accused person also has the right to claim a jury trial if he/she is charged with any offence punishable by imprisonment of more than three months.

New Zealand is the first country in the world to introduce a statutory scheme for compensation by the state to persons injured by crimes of violence and to the dependants of persons killed by such acts. The Criminal Injuries Compensation Act 1963 is administered by the Accident Compensation Corporation. The Corporation caters for all personal injury by accident in New Zealand, and thus covers the whole range of listed criminal injuries, including pregnancy by rape, and criminal infection with disease. This scheme is designed as a fund of first resort.

New Zealand also has a scheme of legal aid to the needy. The Legal Aid Act 1969 is based on the principle that no one should be prevented by lack of means from having their grievances heard and determined fairly by the courts. The scheme is administered by the Department of Social Welfare.

### **Selected crimes**

Four crime types were selected for presentation -- intentional homicide, assault, robbery and theft. For a proper assessment of trends in these crimes, frequencies as well as rates per 100 000 population of those reported have been shown in Table 1

The data in Table 1 reveal that since 1975 the level of intentional homicides in

New Zealand has been increasing gradually, from a rate of 0.65 per 100 000 population in 1975 to 2.39 in 1986. In terms of numbers, there were only 79 intentional homicides reported in 1986 as against only 20 in 1975.

Level of assault, robbery and theft also showed increases. It is important to point out some serious inconsistencies in theft data of New Zealand. The second survey data supplied by New Zealand did not include all thefts, the third survey data did. As a result the number of thefts jumped from 90 049 in 1979 to 192 439 in 1980. Readers with no access to the original response of the United Nations Survey may find the sudden increase in the number of thefts between 1979 and 1980 strange. But in this case at least the explanation is inconsistency in data definition.

### **Offenders in selected crime**

The data supplied by New Zealand on the number of offenders brought into formal contact with the system do not refer to individuals or distinct persons. These are termed as 'identified suspects' and the data reflect offender characteristics associated with distinct persons. That is to say that an offender apprehended for four offences related to the same incident appears four times in the statistics.

Statistics in Table 2 show contacts with the criminal justice system, as defined above. The data also reveal the proportion of contacts involving juveniles. the number of contacts for assaults and robberies show a clear increasing trend. A special feature of the data is that for the crime of theft, which includes a large number of very petty incidents, the juvenile involvement is indeed very high, much higher than their representation in the population.

TABLE 1

**Selected Crimes Reported and Rate Per 100 000  
Population, 1975 to 1986**

		1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986
Int. Homicides	N	20	40	27	41	43	38	51	37	46	40	67	79
	R	0.65	1.29	0.87	1.32	1.39	1.23	1.65	1.16	1.44	1.25	2.03	2.39
Assault	N	10289	9941	10005	10807	13097	12713	13570	14942	15764	16211	16368	16168
	R	331.90	320.68	322.74	348.61	422.48	410.10	437.74	466.94	492.63	506.59	496.00	489.94
Robbery	N	345	328	355	353	465	529	558	612	734	938	1140	1396
	R	11.13	10.58	11.45	11.39	15.00	17.06	18.00	19.13	22.94	29.31	34.55	42.30
Theft	N	74042	79079	83244	87258	90049	192439	199631	216548	229482	232416	258896	256909
	R	2388.45	2550.94	2685.29	2814.77	2904.81	6207.71	6439.71	6767.13	7171.31	7263.00	7845.33	7785.12

TABLE 2

**Offenders Arrested - Identified Suspects, 1980 to 1986**

	1980		1981		1982		1983		1984		1985		1986	
	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%	Total	%
	Offenders	Juveniles	Offenders	Juveniles	Offenders	Juveniles	Offenders	Juveniles	Offenders	Juveniles	Offenders	Juveniles	Offenders	Juveniles
Int. Homicides	41	12	55		35	14	39	2	33	3	76	8	95	4
Assault	8218	13	8333	n/a	9478	11	9631	13	10141	14	10178	12	10250	13
Robbery	263	26	321	29	330	21	421	30	469	40	519	31	615	33
Theft	46450	53	47554	53	55234	45	53113	48	51260	48	53169	47	51164	46

## Prosecution

Most criminal prosecutions are handled by the police. Other crown agencies, however, can prosecute for breaches of legislation they administer; eg Department of Justice can prosecute for breaches of parole conditions and the Ministry of Transport for traffic offences, etc.

Table 3 shows the number of persons prosecuted for the four selected crimes.

**TABLE 3**  
**Number Prosecuted, 1980 to 1986**

Crime Type	1980	1981	1982	1983	1984	1985	1986
Int. homicide	30	39	15	30	20	45	63
Assault	6290	5594	6256	6006	6579	7502	7727
Robbery	273	263	308	404	427	537	692
Theft	20242	17956	20797	19975	20421	20880	27886

## Sanctions

Table 4 presents statistics on the number of persons convicted by type of crime. The data refer to distinct persons indicted, offences by disposals at District and Children and Young Persons Courts.

**TABLE 4**  
**Persons Convicted**

Crime Type	1980	1981	1982	1983	1984	1985	1986
Int. Homicide	7	18	5	18	10	14	37
Assault	4856	4331	4889	4568	5030	7210	5738
Robbery	247	239	262	342	349	421	559
Theft	17950	15867	18277	18030	17971	19930	19800

## Imprisonment

The imprisonment rate for New Zealand has been presented in Part II. In Table 5 data on the number of admissions to prison by crime type has been shown. There appears no set trend in these numbers.

**TABLE 5**

**Admissions to Prisons**

Crime Type	1980	1981	1982	1983	1984	1985	1986
Int. Homicide	7	15	0	15	10	13	34
Assault	443	420	256	463	556	530	551
Robbery	142	146	88	197	186	198	274
Theft	1572	1642	983	1939	1911	1537	1595

**Criminal justice resources**

Expenditure on criminal justice has increased steadily over the years. As the data in Table 6 show, the expenditure on police has increased from about \$167 million in 1982 to over \$242 in 1986. Expenditure to maintain prisons shows similar increases. But the cost of maintaining the courts showed the sharpest increase, from \$3 million in 1982 to over \$25 million in 1986.

**TABLE 6**

**Expenditure on Criminal Justice  
in Millions of Dollars**

Justice	1982	1984	1986
Police	166.8	191.2	242.4
Courts	3.0	5.9	25.4
Prisons	44.1	49.9	74.8

**Crime prevention strategies**

During the period 1980-1986 the majority of the crime prevention strategies which were operating in New Zealand did not have crime prevention as their main aim. Instead the focus was on other areas such as the provision of employment and training opportunities, leisure activities and family support. These schemes alleviate some of



the factors which lead some individuals into criminal activity and so have some impact in preventing crime.

*Training assistance program (TAPS):* This program was begun in January 1986 and offered training with a focus on progressive development towards employment, whether directly or through further training or higher education. Entry to TAPS was open and there were no job search requirements or age differentials. The duration of the training was flexible and responsive to the needs of individuals.

The key features of TAPS were that it was available to registered unemployed job seekers assessed as needing training, that it was designed to equip individuals with non-apprenticeable skills which were marketable and relevant to local labour market demands, and that trainees in a training environment were paid a training allowance.

TAPS was the first step in the introduction of the ACCESS system of work related training which was introduced in 1987 and which replaced the TAPS scheme.

*Group employment liaison scheme (GELS):* GELS was introduced in 1982. It aims to facilitate access to and use of the employment and training programs and the services of various government departments by those members of the unemployed who prefer or respond to group work or training activities. Specialist staff act as a liaison between the departments and groups such as gangs, street kids, marae communities and newly emerging work trusts, who are severely disadvantaged in the labour market, helping them to take full advantage of the job creation and training programs which are available.

*Contract work scheme:* The contract work scheme was a fully subsidised employment program targeting individuals who were members of a group, who were committed to working in a group situation and who did not have a current or previously well established connection to the work force.

Employing organisations were reimbursed for the cost of the work by the Department of Labour on the basis of award wages for the workers concerned plus a per capita allowance for overheads. To be eligible, employing organisations had to be non-profit making, publicly accountable bodies.

Scheme clients were typically non-Pakeha, male and in the mid-twenties to mid-thirties age group. Many clients were ex-offenders and members of established gangs. The scheme was cancelled in February 1987.

*Job opportunities scheme (JOS):* This scheme provided partial subsidies to help meet the employment needs of the long term unemployed and those who are particularly disadvantaged in the labour market. The scheme offers four distinct options. The Self-Employed option offers partial subsidies to assist the unemployed in the establishment of a business venture while the Special Groups option offers disadvantaged job seekers, who wish to establish a cooperative or a group enterprise, a period of initial assistance in which they can develop their skills before becoming self-supporting.

*Small cooperative enterprises scheme (SCOPE):* This scheme aims to encourage the development of small-scale cooperative business ventures among people having difficulty finding employment. Those who benefit from the scheme may receive support and business advice, training opportunities and financial assistance. The scheme was established in 1980 and has been expanded several times. In the 1986/1987 financial year funding for SCOPE was doubled to \$1.2 million.

*Work development scheme:* Improving the employment opportunities of young people who for a variety of reasons are experiencing difficulties in finding work and may require long term personal assistance is the aim of the Work Development Scheme. The scheme provides advice, support and finance to selected community based work development projects. To be eligible for funding a project must be able to provide skill training and work opportunities as well as personal support, education and recreational experiences for the young people involved. The focus of the Work Development Scheme is on encouraging groups to explore the feasibility of new work enterprises.

*Community employment initiative fund (CEIF):* Genuine community based groups with clear objectives for promoting or generating additional employment opportunities, and who are not eligible for funding from other sources may receive assistance from the Community Employment Initiatives Fund. CEIF grants have often been used by community organisations to pay the salaries and expenses of people who can act in an entrepreneurial or work broker capacity.

*Community education initiatives scheme (CEIS):* Through this scheme funds are given by the Department of Education to local communities to distribute to community organisations and local support systems. The local distribution committees use their local expertise to mount a coordinated campaign aimed at disadvantaged young people. The funds are used to assist communities in promoting and initiating programs and activities for young people which aim to assist them in establishing lifelong leisure habits and life skills.

*Neighbourhood services program:* This program was introduced to provide funding for voluntary organisations to undertake projects which will support and develop neighbourhoods and assist them to support families and individuals. Emphasis is placed on projects which arise out of neighbourhood initiatives and focus on preventive work. In the 1985/86 financial year \$400 000 was allocated to the neighbourhood services program.

*Youth initiatives fund:* The Youth Initiatives Fund recognises that young people may face particular difficulties in today's society and aims to assist their involvement in innovative social, cultural and recreational projects. Emphasis is placed on helping those who are unemployed or otherwise disadvantaged.

*Detached youth worker scheme:* Under the Detached Youth Worker scheme 26 grants are made annually to community groups for the support of youth workers who are in contact with young people on their own ground. This is designed especially to assist those under 25 who have not responded to a more conventional social work approach. Detached Youth Workers work alongside these young people, supporting

them in their initiatives, encouraging awareness and development of their talents and abilities, and providing an initial link between them and appropriate community services.

An evaluation of the Detached Youth Worker scheme concluded that it had helped raise community awareness of youth needs and has stimulated the involvement of organisations in youth work, as well as having a positive impact on individual young people through improved social, recreational and employment skills and increased self esteem.

*Policing:* The New Zealand Police Force has long recognised that the most effective policing is that which prevents crime since it is more expedient, more humane, less socially disruptive and far less costly.

The Neighbourhood Watch scheme was launched in October 1980 to encourage and assist families in protecting their own home and those of their neighbours from crime. Neighbourhood Support Groups, which were initiated by two members of the public in 1985 and actively supported by the police, extend this philosophy and aim to create a responsive, caring community where all people are committed to take responsibility for their own well-being in a violence free environment.

The strength of Neighbourhood Support Groups is that they are grass roots organisations which arise out of the community, respond to the community's needs and find solutions to the problems the community identifies. They concentrate not just on the protection of property but also on domestic violence, incest, child abuse and sexual harassment. Kits which advise communities on how to set up these groups contain advice on how to handle these situations whether as the victim or as a member of the community, and also contain information on home security and self-defence. Rural Support Groups are a modification of the Neighbourhood Support Group scheme to meet the special needs of those living in rural areas.

By January 1986 there were over 5 300 groups established throughout New Zealand. Police have credited these groups with the significant increase in the number of people contacting them regarding suspicious activities.

Crime prevention officers speak annually to approximately 21 000 members of the public on various crime prevention topics and complete over 1 100 security surveys. They also make use of the local media to publicise their crime prevention message. In 1981 a week long crime prevention seminar was held in a major city while displays in shopping centres in other areas helped ensure wide coverage.

Community constables give the police a more visible presence and a higher profile in the areas they serve and provide a personal contact point for the residents in that area. In the period under consideration the number of community constables has been slowly increasing and in small areas where the appointment of a community constable could not be justified, officers on mobile beat duties provide the same type of service.

The Youth Aid Section of the police aims to help keep young people out of trouble and to assist with the rehabilitation of those who have offended. The blue light discos which they run provide entertainment for young people in an environment free from alcohol, drugs and violence. The discos also serve to encourage better relations between the police and young people.

Officers in the Youth Aid section are also involved in the Law Related Education Program. This program is run in primary and secondary schools and is designed to illustrate the roles of the law and the police, as well as promoting the benefits of a law abiding community. In 1982 a comprehensive teaching kit 'Play a Part in Crime Prevention' was produced as part of the Law Related Education Program.

## **Republic of the Philippines**

### **Background**

The Republic of the Philippines, with Manila as its national capital, is a cluster of 7 080 islands which has a present population of 58 million inhabiting an area of 300 000 square kilometres, and is subdivided into 13 regions (including Metro Manira) consisting of 73 provinces, 61 cities, 1 448 towns or municipalities, and 34 330 barangays (villages).

The annual population growth rate is approximately 2.5% with an approximate life expectancy rate at birth of 63 years. Of the total population of 58 million registered in 1988, approximately 22 million or 47% represented youth between 7 and 24 years.

Approximately 50% of the population is Catholic, while the remaining half of the people are followers of Islam, Buddhism or other religious traditions.

The Republic of the Philippines proclaimed her independence on 4 July 1946, after a long history of Spanish and American domination. The government advocates a principle of separation of the legislative, executive and judicial but with a system of checks and balances.

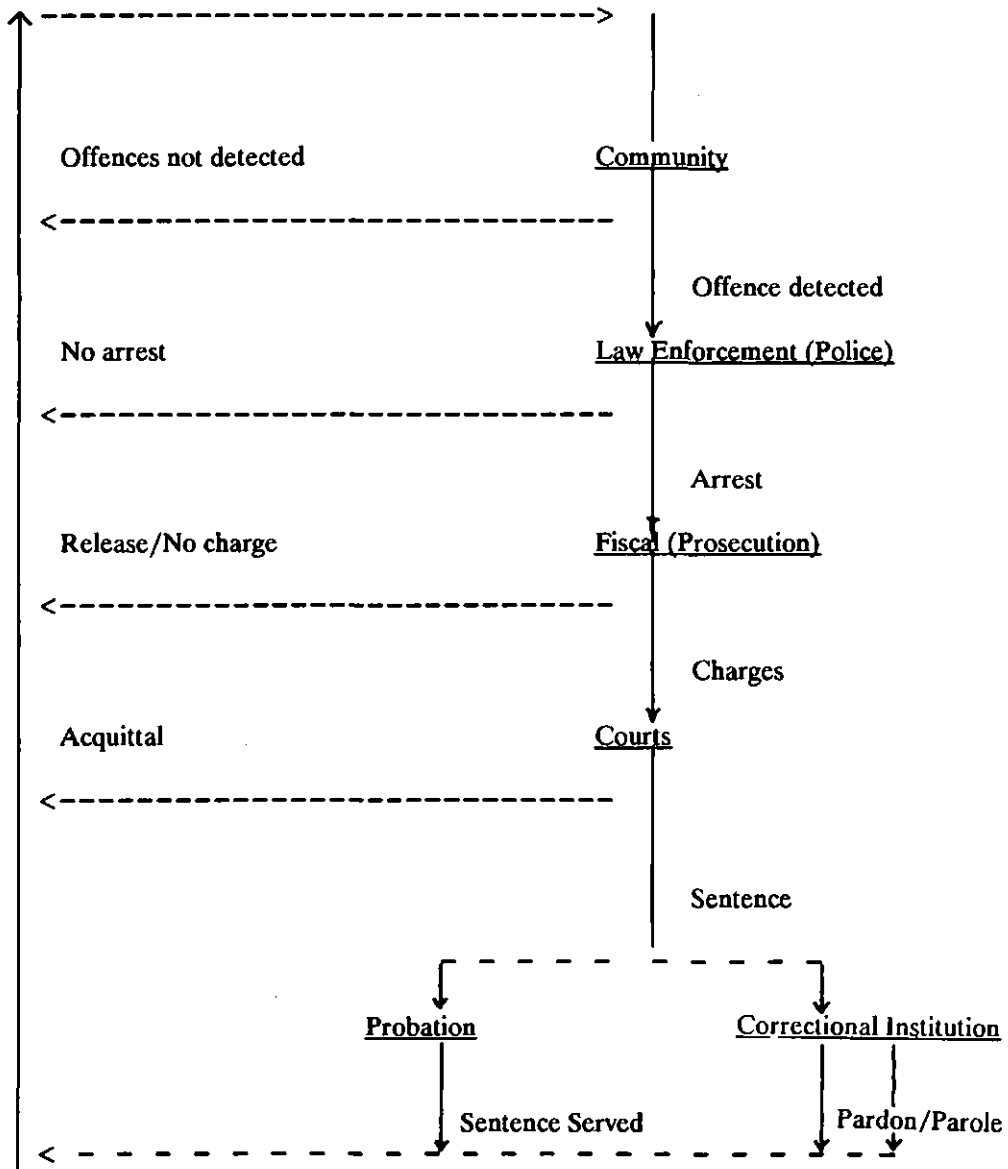
The new constitution, adopted in February 1987, has an all-embracing expanded Bill of Rights. The traditional guarantees of the rights to life, liberty, prosperity, due process of law equal protection under the law have been strengthened. Freedom of speech, the press, assembly, freedom of travel and abode have been fortified. The 1987 Constitution also specifically provides for the abolition of the death penalty, 'unless for compelling reasons involving heinous crimes, the congress will hereafter provide for it'.

The gross national product was \$29.96 billion (\$535 per capita) in 1986. The national unemployment rate rose to 12.5% in 1985; however, in the Metro Manira area, the centre of industrial activity and the nation's most populous area which contains approximately 80% of the nation's business and industry, the unemployment rate increased from 17.5% in 1983 to 24.9% in 1985. In response to the problems affecting the socio-economic conditions of the people, the government has carried out a series of five-year development plans to address the current difficulties, and implemented a six-year development plan called the 'Medium Term Philippine Development Plan for the years 1987-1992'.

The Philippines considers its criminal justice system as a conglomeration of five vital components, commonly referred to as the five pillars of the criminal justice system, namely: law enforcement, prosecution, courts, corrections and the community. The criminal justice system flow models appear in Figure 1.

**FIGURE 1**

**The Criminal Justice System and Main Flows**



## **The Police**

*Philippine Constabulary/Integrated National Police:* The duly constituted national police agency within the territorial limits of the Philippines is the Integrated National Police (INP). Established in 1976 by Presidential Decree No. 765, INP is composed of the Philippine Constabulary (PC) as nucleus, and local police forces, the fire service and gaols all over the country as components.

Prior to 1966, the Philippine police system was characterised by the existence of localised and independently organised police forces. Reformation and improvement of the police service was made possible with the enactment of Republic Act No. 4864, otherwise known as the Police Act of 1966, which initiated reforms in training and personnel selection at the national level. This was subsequently followed by the implementation of the police integration program, or the establishment of a single police command with national jurisdiction.

On the other side, established initially as an insular police in 1901, the Philippine Constabulary (PC) became one of the four major services of the Armed Forces of the Philippines pursuant to Executive Order No. 389 of 1940.

As provided for in Presidential Decree No. 765 of 1976, local police forces, fire services and gaol personnel were integrated into the existing PC organisation and thus INP was established.

*National Bureau of Investigation:* The National Bureau of Investigation (NBI), under the Department of Justice, is oriented towards providing needed assistance to other existing law enforcement agencies. It is patterned after the FBI in organisation, functions and objectives.

*The prosecution:* It is the role of the prosecutor to exercise discretion in screening cases at the preliminary investigation where called on by law to conduct and to decide whether or not to prosecute. Only cases which establish a prima facie evidence of guilt should be prosecuted, and the prudent exercise of prosecutorial discretion is limited to determining the sufficiency of evidence to warrant prosecution. If there is such evidence, the prosecutor cannot, regardless of convictions, refrain from instituting prosecution. Thus, notwithstanding other circumstances in the case, the prosecutor is not empowered to suspend prosecution if there is sufficient evidence of guilt as is the case in some other countries.

The prosecutor can exercise discretion in setting bail and in plea bargaining before the trial has formally begun. The prosecutor's discretion, with respect to bail, is limited by regulations of the Ministry of Justice which prescribe the rules for fixing the amount of bail to be recommended for each type of crime under a graduated schedule.

The plea bargaining system which is a recent innovation in the Philippines involves discussion among the concerned parties for the purpose of negotiating a satisfactory settlement whereby the defendant offers to enter a guilty plea for an

alternative that may refer to sentence recommendation, reducing the original charge to a lesser one, or dismissal of other charges related to the same incident.

Under Presidential Decrees, a number of procedural reforms were instituted which removed the time consuming process of confrontations and cross examinations of witnesses during preliminary investigation, and set the time limit for the resolution of cases heard through preliminary investigation within ten days from the date of termination of the proceedings. The adoption of these procedures has streamlined judicial case loads (backlogs).

To investigate graft and corruption the 1973 Constitution created the office of the *Tanodbayan* (Ombudsman). This office was constitutionally mandated to investigate and prosecute cases pertaining to government officials and employees. Under the 1987 Constitution, this office was renamed the Office of the Special Prosecutor.

### **The court**

The Philippines has decreed important and effective measures to hasten the speedy disposition of criminal cases. The Judiciary Reorganisation Act of 1980 deals with the jurisdiction and reorganisation of the courts. The adoption of Revised Rules of Criminal Procedure by the Supreme Court in 1985 will also contribute to more speedy trial and disposition of cases. To further relieve court case load, a Constitutional Court (*Sandigang bayan*) was established to try and adjudicate cases involving graft and corruption by government officials.

Pursuant to the Judiciary Reorganisation Act of 1980, the former Court of Appeals will now be known as the Intermediate Appellate Court (IAC) which is composed of a Presiding Appellate Justice and 44 Associate Appellate Justices. IAC exercises its powers, duties and functions through 9 divisions (4, 2 and 3 shall be known as Civil Cases, Criminal Cases and Special Cases Divisions, respectively), each division is composed of 5 members.

The courts of first instance are now known as the Regional Trial Courts (RTC). 13 RTCs are organised and created in the 13 judicial regions throughout the country entailing the creation of 624 branches/Regional Trial Judges. These courts exercise appellate jurisdiction over all cases decided by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts. RTC also exercise exclusive original jurisdictions in all criminal cases, not within the exclusive original jurisdiction of any court, tribunal person or body, except those now falling under the exclusive and concurrent jurisdiction of the *Sandigang bayan*.

The lowest level in the hierarchy of courts consist of the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Courts. Metropolitan Trial Courts will be created in each Metropolitan Area, Municipal Trial Courts in other cities or municipalities and Municipal Circuit Trial Court in each Circuit Cities and/or municipalities as grouped together pursuant to law.



## **The correction and the after-care**

*Gaols and prisons:* The gaol and prison system of the country consist of three categories:

- i) The municipal and city gaols under the administration of the integrated national police for offenders that are convicted by municipal and city courts to serve imprisonment not exceeding 6 months;
- ii) The provincial gaol under the administration of the provincial Governors of the provinces for offenders convicted by the municipal and city courts to prison sentences over 6 months but less than 3 years, for other offenders whose cases are being tied to the Courts of First Instance who cannot put up bail for their temporary liberty; and
- iii) The National Prison System under the Bureau of Prisons of the Ministry of Justice for convicted offenders by the courts to serve prison sentences for more than 3 years.

There are more than 1 500 correctional institutions in the Philippines: 8 national prisons; 72 provincial gaols; and 55 city and 1 447 municipal gaols.

For several decades, overcrowding of the various prisons and other correctional institutions, in terms of an increase in both convicted and remand prisoners, has been a severe problem, and a series of reforms were introduced to ameliorate this condition. A number of laws have been enacted which allow the release of offenders in particular circumstances.

*Treatment for juveniles:* Outside the jurisdiction of gaols and prisons, correctional services are available for juvenile delinquents.

The Child and Youth Welfare Code of 1974 enacted under Presidential Decree No. 603 provides for the protection and care of youthful offenders. The segregation of juvenile from adult offenders has been made mandatory under the law. Two National Training Schools, one for boys and one for girls, are maintained and administered by the Bureau of Youth and Child Welfare under the Ministry of Social Services and Development. After being tried and found guilty of committing offences, the youth offenders, instead of being convicted by the court, are committed to the care of the Ministry of School Services and Development of other authorised agencies or persons until they reach the age of 21 or are released by the court through suspension of sentence or probation.

*Probation and parole:* Probation as a form of correctional treatment has been available to delinquent children below 16 years of age under Presidential Decree No. 603 as amended by Presidential Decree No. 1177. It is also available to drug users convicted under the Dangerous Drug Act if they are under 20 years of age.

Since January 1978, probation has been available to qualified adult first offenders, sentenced by the court to final judgement for a prison term not exceeding 6 years. Adult probation was re-introduced in the Philippines after a lapse of 39 years

by the signing on 1976 of Presidential Decree No. 968 known as the Adult Probation Law.

Parole decisions are made by the Board of Pardons and Parole under the Ministry of Justice. Parole supervision is maintained by parole officers in the Greater Manila Area and is administered by municipal judges with varying degrees of success for parolees outside of Manila.

### General trends in crime

The general trends in crime from 1980 to 1988 are reflected in statistics on the volume of the crimes recorded to the police (Table 1) and the crime rate (Table 2).

**TABLE 1**  
**Crime Volume**

	All of the Crimes	Index Crimes
1980	132997	67452
1981	142771	79231
1982	153691	85337
1983	160350	93003
1984	167336	99365
1985	169815	100836
1986	172872	102187
1987	179235	117847
1988	183353	107114

**TABLE 2**  
**Crime Rate**

	1980	1981	1982	1983	1984	1985	1986	1987	1988
All Crimes	270	288	302	308	315	312	309	312	312
Index Crimes	139	151	168	170	187	185	182	205	182

**Source:** 1989 National Crime Prevention Program/National Police Commission of the Philippines, Asia no Keiji Shihho (Criminal Justice in Asia) / Edited by Hideo Utsuro)

**Notes:** These numbers are recorded when a particular law enforcement office begins to take initial statements of complainants or when reports or incidents are being reflected on the police blotter.

'Crime Rate' means the volume of crimes per 100 000 inhabitants.

'Index Crimes' includes murder; homicide; physical injuries, robbery; theft and rape.

The data for 1988 is projected number.

There has been a continuing upward trend in the Philippines crime volume from 1980 to 1988. The highest increase in crime volume was recorded between 1986 and 1987 with crime volumes of 172 872 and 179 235, respectively or an increase of 6 363 or 3.68%. The crime volume for 1988 is projected to reach 183 353, indicating an increase of 16 017 or 9.5% over the five year (1984-1988) period.

The 1988 projection also shows that index crimes would rise to 107 114 or a projected increase of 7 749 or 7.8% over the 1984 figure of 99 365. The upward pattern for index crimes is true for all crimes under this category. Theft and physical injuries ranked first and second with a crime volume of 36 612 and 28 579, respectively, robbery ranked third, with 17 782.

The country's crime rate stood at 246 in 1971, dipped to 144 in 1975, then increased in 1980 to 270. From 1984 to 1987, a slight decrease was observed with 315 in 1984 and 312 in 1987. As projected, the 1988 crime rate will remain constant relative to 1987.

Index crimes totalled 187 in 1984 and reached 205 in 1987. The 1988 projected index crime rate of 182 shows a decrease of 23 or 11.22% compared with the 1987 index crime rate. As in the previous years, theft and physical injuries will rank first and second at the rate of 62 and 49, respectively.

Highly urbanised Metro Manila has the highest rate of crime. This area attracts and accommodates a large number of rural migrants seeking improved living standards. The majority of this migrant group belongs to the 15 to 29 year age bracket, and crime figures for the year 1980 indicate that two-thirds of criminal offenders were in this age group.

As the youthful population continues to grow, an increasing portion of urban youth are being forced to join the ranks of the disadvantaged which presents an explosive potential for an increase in juvenile delinquency. These young people can become vulnerable to criminal activity, labour exploitation, sexual abuse and drug addiction. With respect to reported drug offences, out of total drug cases for 1986, 3.36% involved youths 14 years or younger, 38% were 15-19 years old, and 38.66% were 20-24 years old.

### **Selected offences (intentional homicide, assault, theft, Robbery)**

The total number of admissions to the national prison by selected offences between 1982 to 1986 are shown on Table 3.

**TABLE 3**  
**Admissions to the National Prison per Year**

	1982	1983	1984	1985	1986
Int. Homicide	310	515	589	571	503
Assault	14	6	2	-	8
Theft	150	210	247	310	264
Robbery	340	598	585	346	527

**Source:** National Prison Data/Bureau of Prisons of the Philippines.

**Note:** 'Admissions' includes sentenced prisoners, detentioned suspects and safekept offenders.

As table 3 shows, the number of admissions by homicide registered the highest increase between 1982 and 1983. The number peaked at 589 in 1984 and decreased in the following years.

As aforesaid, index crimes per 100 000 population was 187 in 1984 and reached 205 in 1987. As in the previous years, theft and physical injuries will rank first and second at the rate of 62 and 49, respectively.

The 1988 projection number for index crimes is 107 114. Theft and physical injuries ranked first and second with a crime volume of 36 612 and 28 579, respectively. Robbery ranked third, with 17 782.

### **Selected issues**

*Pre-trial detention:* In the Philippines, many inmates confined in city and municipal gaols are prisoners awaiting or undergoing trial. Some of them are confined because they pose grave risks to society, but a larger group is detained simply because they cannot afford bail. The resulting high rate of detention is said to be the major cause of overcrowding in gaols. To reduce the number of detained prisoners other than through bail, release on recognizance or into the custody of social services (in the case

of indigents) or parents (in the case of juvenile delinquents) are measures that are commonly practiced. A number of laws have been enacted which allow the release of offenders in the following circumstances:

- a) persons charged with violations which carry a penalty not higher than imprisonment of one to six months and/or a fine of P2 000 or both;
- b) offenders who have undergone preventive imprisonment during their trial are allowed full time credit;
- c) offenders who have undergone preventive imprisonment equal to or more than the maximum prison sentence which could be imposed.

Under this system, it is reported that these measures have reduced to a great extent the number of people detained in gaols.

### **Crime prevention activities**

As early as 1976, the National Police Commission (NAPOLCOM), a government agency, published the 'National Strategy to reduce crime under the new society', a multi-sectoral and interdisciplinary strategy to reduce crime in the Philippines through the active participation of and coordination among the five pillars of the criminal justice system.

The 'National Strategy to Reduce Crime in the 1980's', the follow-up strategy to the 'National Strategy to Reduce Crime under the New Society', seeks to attain the following objectives and targets within a span of five years (1985-1989).

- 1) To promote the security of persons and property;
- 2) To provide fair and humane treatment of suspects;
- 3) To provide effective rehabilitation of offenders; and
- 4) To enhance citizens' awareness and participation in the functions of the criminal justice agencies.

The '1989 National Crime Prevention Program' covers projects and activities which are envisioned to be implemented in 1989 by the concerned agencies of the criminal justice system.

### **Participation by the volunteers and community**

*Barangay/Lupong Tagapayapa:* In the Philippines, members of the community in each *Barangay* (the smallest political unit of the country) usually organise themselves into neighbourhood action groups called *Rondas* for purposes of crime prevention activities. This has been given impetus recently with the issuance by the president of the country of a directive (Presidential Memorandum Circular No.103 of 1989) authorising each *Barangay* head (called '*Barangay captain*') to organise a 'Neighbourhood Support Group' that shall play the role of the performance of policeman.

Significantly, the Philippines has formally organised and institutionalised (Presidential Decree No. 1508 of 1978) a system of amicably settling disputes at the community or *Barangay* level in order to help relieve the courts of docket congestion. For this purpose, conciliation bodies, known as *Lupong Tagapayapa* have been created in each barangay, composed of the narangay captain as chairman and not less than 10 nor more than 20 members. For each dispute brought before said conciliation body, a conciliation panel, known as *Tagapagkasundo*, is constituted, consisting of three members chosen by agreement of the parties to the dispute from the list of membership of the conciliation body. The jurisdiction of the aforesaid barangay conciliation body extends to all forms of disputes, except offences punishable by imprisonment exceeding 30 days or fine exceeding P200. No complaint involving any matter falling within the jurisdiction of the barangay conciliation body can be filed or instituted in court or any other government office for adjudication unless there has been a confrontation of the parties before said body and no conciliation or settlement has been reached as certified by the said body.

In terms of resolved cases, this system has settled a total of 716 262 on the *Balangay* level nationwide from 1980 to 1987, valued at a minimum aggregate national savings of P2 007 448 100, excluding the unquantifiable values of the resultant peace and harmony, not only among the litigants themselves, but also among the members of the community.

*The others:* There are numerous non-governmental organisations which, directly or indirectly, contribute to crime prevention and control at the grass-roots level. In the forefront of these are educational and regional institutions. Private organisations including lawyers club and other law associations which provide free legal aid to the poor; the Drug Abuse Rehabilitation Network and similar civic-minded organisations concerned with narcotic addiction provide treatment and rehabilitation facilities and services to drug abusers, especially among the youth. Over the past seven years, these latter organisations have assisted government agencies in the treatment of approximately 10 000 addicts. There are also local chapters of international civic organisations such as Jaycees, Rotary, Kiwanis and Lions Club which are active in their communities as well as some 300 private charitable associations involved in a nation-wide network of services for youth and children.

### **Diversion**

*Pre-trial diversion:* Settling Disputes by Traditional Local Organisations as aforesaid, under the Philippine criminal justice system, petty crimes are no longer lodged formally for adjudication by the courts. Instead, the *Lupong Tagapayapa* (Village Court) were established in 1978 to settle these cases.

*Alternatives to detention - bail/release on recognizance:* The Philippines provides for a bail system, under which a person taken into custody prior to trial, should be released on bail on specified conditions designed for securing appearance at court.

*Alternative to imprisonment - probation:* In the Philippines, probation for juvenile offenders was introduced in 1924 and its use has been gradually expanded. In addition, emphasis on the community-based programs for the rehabilitation of

offenders led to the adoption of an adult probation system. The Adult Probation Law of 1976 provided for the use of probation as an alternative to imprisonment. According to the law, the court may, after it has convicted and sentenced a defendant, suspend the execution of the sentence and place the defendant on probation for such period and under such terms and conditions as it may deem proper.

*Suspended sentence:* In the Philippines, there is a scheme to save offenders from incarceration at the stage of sentencing such as suspended sentence. This scheme is applicable only to minors under 16 years of age at the date of the commission of a felony. The court may, instead of pronouncing judgement of conviction, suspend all further proceedings and commit such minor to the custody or care of a benevolent or charitable institution, until such minor reaches the age of majority or for such period as the court may deem proper.

*Parole:* Parole, which is the conditional release of an offender from a penal or correctional institution after they have served a part of the sentence, is adopted in the Philippines as a major form of extramural treatment following incarceration.

As a rule, all prisoners with no pending criminal cases are eligible for parole on or before the expiration date of their minimum sentences. A parole does not pardon the prisoner; they still remain in legal custody. It suspends the execution of the penalty, and temporarily releases the convict from imprisonment on conditions which they are at liberty to reject. They are still under the supervision of the Parole Board, and subject to be remanded to prison if they fail to perform or violates the conditions of the parole.

For the last five years (1983 to 1987), a total of 12 070 inmates in the national prisons have been granted parole by the president through the Board of Pardons and Parole.

Public cooperation is considered to be indispensable for effective implementation of parole services and in the Philippines, volunteer workers play a significant role in the treatment of parolees.

## **Republic of Singapore**

### **Background**

For most of the 19th Century the criminal law which was applied in the three Straits Settlement of Singapore, Penang and Malacca was that of England, in so far as local circumstances were permitted. There was little doubt that English common law crimes were recognised in these territories at the time. Certain problems, eg the application of certain Indian Acts, however, arose in 1871 and the Straits Settlements Penal Code was passed. It came into operation on 16 September 1872. The Code is practically a re-enactment of the Indian Penal Code.

The original Code, as amended on numerous occasions, presently states the law of Singapore. The most recent amendment was made by the Penal Code (Amendment) Act 1984 which came into effect on 31 August 1984. The effect of this amendment was that minimum penalties were provided for certain offences. The last major amendment of the Code prior to 1984 took place in 1973 when punishments for certain offences were enhanced.

Prior to 1870 the law relating to Criminal Procedure in force in Singapore was mainly found in the Indian Act XVI of 1852. As a consequence of the passing of the Straits Settlements Penal Code in 1871, the Criminal Procedure Ordinance V of 1870 was passed which replaced the Criminal Procedure Act XVI of 1852 but continued the English system of Criminal Procedure and made it applicable to the Penal Code. This was found impracticable as the Penal Code did away with the division of crimes into felonies and misdemeanours and the Criminal Procedure Ordinance VI of 1873 was passed accordingly. The Ordinance VI of 1873 marked the passage of the English Criminal Law in favour of the Indian. The Ordinance did away with indictments and instituted charges for all criminal offences; it abolished the Grand Jury and Special and Common Juries.

A new Code of Criminal Procedure was enacted in 1902. The present Code was passed by the Legislative Council on 28 January 1955. It repeals and re-enacts with the amendments the previous Code. All offences under the Penal Code are inquired into and tried according to the Criminal Procedure Code.

As a rule, the investigation of offences is dealt with by the police. Besides the police officers, there are also custom officers, immigration officers and narcotic officers who are empowered to investigate limited offences in contravention of custom, immigration and drug laws. The police operate under the supervision of the Ministry of Home Affairs.

Criminal prosecution in Singapore is instituted by the state which is represented by the Attorney General's Department, with some exceptions like private summons which are brought by individuals for certain minor offences or nuisances. The Attorney General's Department is headed by the Attorney General, assisted by the Solicitor General and a staff of deputy public



prosecutors, all of whom are legally qualified and recruited through the Legal Service Commission. The Attorney General is appointed by the President on the advice of the Prime Minister from among persons qualified as Supreme Court judges.

The prosecuting department of each investigative agency mentioned above is also empowered to prosecute only minor cases not involving points of law or complex legal issues under its jurisdiction. The Attorney General who is also the Public Prosecutor, controls and directs prosecutions in Singapore, with the assistance of several Deputy Public Prosecutors. The Attorney General initiates proceedings and can also terminate proceedings at pre-prosecution stage and even during the trial, if for good reasons, he deems it unnecessary to proceed further with the case. Proceedings can also be terminated or discontinued by the Attorney General even though the proceedings were not initiated by him in the first instance.

The court system in criminal matters consists of the Supreme Court and the Subordinate Court. The Supreme Court consists of the Chief Justice and the judges of the Supreme Court and divided into the High Court, Court of Appeal and the Court of Criminal Appeal.

The High Court exercises unlimited original jurisdiction in criminal cases. Generally, the High Court sits with one judge, but since the abolition of the jury system in 1969, offences in which the punishment of death is authorised by law are now triable by a court of two judges, one of whom presides. The Court of Criminal Appeal hears appeals by persons convicted by the High Court.

Lower courts, known as Subordinate Courts, consist of the nine District Courts, eleven Magistrates' Courts, one Juvenile Court, one Coroners Court and the Small Claims Tribunal. The District Courts try all offences for which the maximum term of imprisonment provided by law does not exceed seven years or which are punishable by a fine only. A District Court has one judge sitting. Magistrates' Courts have the power to hear, try, determine and dispose of offenders in summary prosecution for offences where the maximum term of imprisonment provided by law does not exceed three years or which are punishable by a fine only. The procedure and functions of criminal courts are defined mainly by the Criminal Procedure Code, the Supreme Court Judicature Act, the Subordinate Courts Act, and the Children and Young Persons Act.

The minimum age of criminal responsibility is seven. In addition, a child above seven years of age and under twelve, is not criminally responsible if he/she has not attained sufficient maturity of understanding to judge the nature and consequence of his/her conduct on that occasion.

### **Selected offences**

In Singapore, the number of major crimes reported to the police increased over the period, 1980-1986 (Table 1).

**TABLE 1.**

**Number of Crimes Recorded in the Criminal (Police)  
Statistics (Include 'Attempts to Commit'  
in the Figures Given)**

**TOTAL FOR COUNTRY**

Type of Crime	Total for Calendar Year						
	1980	1981	1982	1983	1984	1985	1986
Intentional homicide	64	53	43	61	69	70	71
Assault:							
Major assaults only	491	672	626	662	1115	1011	1105
Theft: Minor thefts	13813	16847	16629	16895	18371	19629	21649
Robbery	1264	1392	1286	1472	1620	1628	1676

*Intentional homicide:* The number of homicide cases recorded in the police statistics from 1980 to 1986 is shown in Table 1. The number of the cases decreased to 43 in 1982 but from then rising steadily until 1986.

*Assault:* The number of major assault cases recorded in the criminal statistics from 1980 to 1986 is shown in Table 1. The number of the cases jumped to 1 115 in 1984, representing a 168.4 per cent increase from the figure of the previous year. Since 1984 the figure has been stabilised at the level of 1 000-1 100.

*Theft:* The number of theft cases recorded in the criminal statistics from 1980 to 1986 is shown in Table 1. The number of major theft cases including motor vehicle theft and housebreaking and theft increased annually until 1985, when it showed a considerable decrease. The number of minor theft cases showed a steady increase during 1980-1986 with a slight decrease in 1982.

*Robbery:* The number of robbery cases recorded in the criminal statistics from 1980 to 1986 is shown in Table 1. The number of cases has been on the increase during the above period except for a slight decrease in 1982.

**Sanctions**

Punishments prescribed under the Penal Code are: death; imprisonment; forfeiture of property; fine; and caning. Apart from these penalties, habitual offenders may be sentenced to corrective and reformatory training, preventive detention. The number of capital punishment and life imprisonment cases are shown in Table 2.

**TABLE 2****Adults Convicted, by Type of Sanction**

	<u>1982</u>	<u>1984</u>	<u>1986</u>
Capital punishment	3	4	3
Life imprisonment	1	3	5

**Source:** *Third United Nations Survey*

In spite of the decrease of total convictions, there was a striking increase in prison population. This may suggest that judges in Singapore have preferred to use imprisonment more or that they have chosen longer terms of imprisonment. Singapore, however, is not facing overcrowding in prisons, since Singapore prisons have sufficient capacity and the proportion of remand prisoners is not large in the total prison population.

The number of the persons held in incarceration is shown in Table 3

**TABLE 3****Persons Held in Incarceration**

	<u>1982</u>	<u>1984</u>	<u>1986</u>
Awaiting trial	190	250	395
Sentenced	2332	3077	3745

**Source:** *Third United Nations Survey*

The number of admissions to prison per year is shown in Table 4.

**TABLE 4**  
**Number of Admissions to Prison Per Year**  
**(Convicted Prisoners Only)**

<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>
4334	4703	4576	6460	7515	7173

**Source:** *Third United Nations Survey*

Alternative measures to imprisonment are being utilised to some extent in Singapore. Among others, probation plays a significant role in dealing with convicted offenders. In practice, however, the courts tend to be hesitant to place adult offenders, above the age of 21 years, on probation.

The number of people placed on probation is shown in Table 5.

**TABLE 5**  
**Number of people Placed on Probation**

	<u>1982</u>	<u>1984</u>	<u>1986</u>
Adult	318	421	400
Juvenile	251	215	318

**Source:** *Third United Nations Survey*

### **Resources**

*Personnel:* a. The number of the police personnel is shown in Table 6.

**TABLE 6**

**Police Personnel by Number, Sex as of  
31 December in 1982, 1984 and 1986**

	<u>1982</u>	<u>1984</u>	<u>1986</u>
Male	5871	3114	6383
Female	893	929	1014
Total	6764	7043	7397

*Source: Third United Nations Survey*

b. The number of public prosecutors is shown in Table 7.

**TABLE 7**

**Prosecutors by Number of Sex as of  
31 December in 1982, 1984 and 1986**

	<u>1982</u>	<u>1984</u>	<u>1986</u>
Male	51	50	51
Female	6	8	6
Total	57	58	57

*Source: Third United Nations Survey*

c. The number of judges is shown in Table 8.

**TABLE 8**

**Judges by Number as of 31 December  
in 1982, 1984 and 1986**

	<u>1982</u>	<u>1984</u>	<u>1986</u>
number of professional judges or magistrates	24	29	36

**Source:** *Third United Nations Survey*

d. The number of staff of prisons is shown in Table 9.

**TABLE 9**

**Staff of Prisons by Sex and Function as of  
31 December in 1982, 1984 and 1986**

	<u>1982</u>	<u>1984</u>	<u>1986</u>
Management staff	15	17	20
Custodial staff	650	688	715
Treatment staff	325	314	326
Others	120	118	124

**Source:** *Third United Nations Survey*

**Budget:** Financial resources of the criminal justice system which is reported in the Third United Nations Survey is shown in Table 10.

TABLE 10

**Allocation of Budgetary Resources to Criminal  
Justice Activities (in Local Currency)**

Criminal justice agency	Total for calendar or fiscal year		
	1982	1984	1986
1 Police	218 928 590	227 366 530	219 860 730
2 Prosecution	6 585 800	6 791 820	7 455 470
3 Courts	11 642 570	13 670 370	14 299 200
4 Prisons (penal and correctional institutions)	28 935 330	35 770 960	34 113 970
5 Non-institutional services	n/a	n/a	n/a

**Selected issues**

*Crime prevention activities:* (a) At present there are three types of volunteer crime prevention associations as mentioned below according to the Singapore report of the Third United Nations Survey.

(i) *Neighbourhood watch scheme*

The neighbourhood watch scheme caters to residents both in the private and public housing estates. The police oversee the implementation of this scheme where immediate neighbours in groups of five or six neighbouring households help to look after each other's safety. Police regularly maintain contact with them through newsletters advising them on crime trends as well as providing them with crime prevention advice.

(ii) *Crime prevention committees*

Crime prevention committees are the counterpart of the neighbourhood watch scheme in business and industrial sectors. In these committees tenants of shopping complexes and industrial estates are brought together by the police with the co-operation of the management. Committee members receive crime prevention advice from police officers and help to oversee the security of their complexes.

(iii) *National crime prevention council*

This council is a registered body administered by a board of directors comprising government officials, reputable individuals and corporate members from various sectors of society. The council organises and directs programs to enhance community awareness and participation in

crime prevention. Education of citizens on the perils of crime is conducted through seminars, lectures, training courses, periodicals, pamphlets and other crime prevention literature organised by the council.

Preventive patrolling is provided by neighbourhood police officers. These officers operate from Neighbourhood Police Posts (NPPs) on bicycles, patrol cars and on foot. NPP officers are familiar with their neighbourhood and most of their residents. NPP officers make house visits to promote the Neighbourhood Watch Scheme and to provide crime prevention advice to residents. At present there are 71 such NPPs in Singapore.

- (b). In 1958, the Criminal Law Act was introduced and enacted so as to suppress the secret societies. Under the law, an active secret society member can be detained by the police up to sixteen days during which a request can be submitted to the Minister of Home Affairs for the issue of a detention order or a police supervision order. A detention order is normally issued for a period of one year. The maximum period of a police supervision order is two years.

#### **Public participation in the rehabilitation of offenders**

The Probation of Offenders Act (Amendment) of 1975 became effective in March 1976, and entrusts volunteer probation officers with the legal responsibility for supervising probationers. There are three categories of VPOs, namely gazetted VPO, registered VPO and Trainees. All volunteer officers have to undergo basic training which consists of a short intensive course on crime and delinquency and the mechanics of working with offenders. The Volunteer Probation Officers are working under the guidance and supervision of trained Probation Officers.

A large pool of volunteers have also been tapped for aftercare work with drug abusers who are placed on compulsory supervision for two years after their release from Drug Rehabilitation Centres. This voluntary action has been initiated to combat the drug abuse problem among some youths in the community. The volunteers who are mobilised for this type of service, are trained and organised by Singapore Anti-Narcotics Association (SANA). The aftercare counselling of the SANA can be perceived to have two functions. It has the elements of treatment processes and the preventive aspect in their work.



## Republic of Sri Lanka

### Background

*Fundamentals:* Sri Lanka, known as Ceylon until 1972, is a tropical island nation in the Indian Ocean lying off the southeast coast of peninsular India. It has the total land area of 65 607 square kilometres, and the total population of 16.1 million (as of 1986). The annual population growth rate is estimated at 1.7%.

The two principal linguistic (racial) groups in Sri Lanka are the Sinhalese (74%) and the Tamils (18.2%). Also, approximately 7.1% of the population are of the Arabic origin, who are mentioned as the Sri Lankan Moors. As for the religious groups, approximately 69.3% of the people are Buddhists, most of whom are the Sinhalese, and 15.5% are Hindus, who are mostly the Tamils. Besides, 7.6% are Muslims and 6.8% are Christians of various denominations.

As for the structure of the government, Sri Lanka became independent in 1948, and is now an independent republic within the commonwealth nations. The national law making body is the Parliament, formerly called the National State Assembly or the House of Representatives, which is, as of 1986, composed of 168 seats. The members of the Parliament are elected by the Sri Lankan citizens aged 18 years or older. The head of the Republic is represented by the President, who is directly elected by the citizens aged 18 years or older. The term of the President is also for 6 years.

The cabinet is led by the Prime Minister who is appointed by the President from among the Parliament members. As of 1986, the cabinet is composed of 49 ministerial posts, excluding the Prime Minister.

The entire nation is divided into 25 administrative regions as of 1986. Each region is governed by the Government Agent, who is appointed by the central government.

As of 1986, the armed services comprised the army (30 000), navy (3 960) and air force (3 700), and service is on a voluntary basis.

The economy of the country is still precariously dependent on the exports of its plantation products such as tea, rubber and coconuts. The GNP (gross national product) was estimated at US\$6 600 million, and GNP per capita was US\$354 as of 1986. The total values of exports and imports were respectively US\$1 229 million and US\$1 948 million. The unit of the national currency is Rupee (Re or Rs); and as of 30 October 1987, 30.40 Rs was equivalent to US\$1.00.

*Basis of criminal law and procedure:* According to the colonisation by the British Empire, the British laws were gradually applied throughout the nation. However, due to the unsatisfactory state of the then existing criminal laws which led to a state of uncertainty, the Penal Code of Sri Lanka, then Ceylon, was first enacted

in 1833. It is said that the Law was based on the corresponding Indian law. This Penal Code holds good up to now with several amendments.

The Penal Code embodies categories of offences, the punishments to which offenders are liable under the Code and general exceptions to criminal liability.

The broad categories of offences are: offences against the state, offences against public tranquillity, offences affecting the human body, offences against property, offences relating to religion, sexual and marital offences and offences relating to coins and government stamps.

Punishments prescribed under the Penal Code are: death, imprisonment (simple and rigorous), whipping, forfeiture of property and fine.

The principal general exceptions to criminal liability recognised by the Code are: insanity, intoxication, necessity, duress and private defence.

The minimum age of criminal responsibility is eight years. A child under eight years of age is considered incapable of possessing 'mens rea'. Those over eight years but under twelve years are not punished unless they have attained sufficient maturity.

As for criminal procedure, the first law of this kind was the Criminal Procedure Code of 1882, which was replaced by the Criminal Procedure Ordinance of 1898. In 1974, the Administration of Justice Law was introduced but it was only operated for 4 years. The present law is the Code of Criminal Procedure Act, which was enacted in 1979. Also, the Judicature Act was enacted in 1978, which provides the basis of judiciary administration.

Among other significant crime-related special legislations are: the Poisons, Opium and Dangerous Drugs Ordinance, the Explosive Ordinance, the Firearm Ordinance, the Offensive Weapons Act, the Prevention of Terrorism Act, and the Offences Against Aircraft Act.

As for the courts system, the procedure and functions of the criminal courts are today governed by the Code of Criminal Procedure Act and the Judicature Act. The Magistrate's Court is the criminal court to deal with most of the offences, and the Primary Court also deals with some minor criminal cases.

According to the law, certain grave offences such as murder, attempted murder and rape are tried in the High Court. A case in the High Court is handled by judge and jury or by judge alone. The jury is composed of 7 jurors, elected at random from the jury list.

The appeal or the second instance of criminal trial is conducted by the Court of Appeal. The Supreme Court exercise final appellate jurisdiction as well as special jurisdiction for alleged violations of fundamental rights and freedom guaranteed under the Constitution. The Supreme Court consists of 11 justices including the Chief Justice.

The justices of the Supreme Court and the judges of the Appeal and High Courts are appointed by the President; the judges of the lower courts are appointed by the Judicial Service Commission. The Commission is the judiciary administrative body which is composed of three Supreme Court Justices headed by the Chief Justice.

Most of the prosecution against criminal cases are conducted by the investigation officers, namely the police themselves. However, as far as those serious offences to be tried in the High Court are concerned, or whenever it deems necessary, the public prosecutors, who are entitled as the State Councils or the State Attorneys, shall prosecute the cases. These public prosecutors are under the Attorney-General's Department and supervised by the Attorney-General, who is appointed by the President.

### **Selected offences**

*Trends in the number of reported offences:* According to the Third United Nations Survey, the number of crimes recorded in criminal (police) statistics is shown in Table 1.

*Homicide:* It is found that the number of homicide cases has been on a steady increase during the said period.

**TABLE 1**  
**Number of Offences Recorded in the Criminal**  
**(Police) Statistics**

	1980	1981	1982	1983	1984	1985	1986
Homicide	1227	1334	1501	1862	1883	2069	2069
Major Assault	9703	9643	6363	10654	11316	10625	11010
Major Theft	31464	32398	33282	26053	25411	22150	28451
Robbery	5058	4533	4505	5138	5156	6345	5319

**Source:** Third United Nations Survey

*Assault:* It is observed that the number of assault cases has been stable during the said period, except for the year of 1982.

*Theft:* It is observed that the number of theft cases was on the level of 30 000 in 1980-1982 and then reduced to the level of 20 000 since 1983.

*Robbery:* It is observed that the number of robbery cases has been rather stable during the said period, around 5 000 cases per year, ranging from 4 500 to 6 300.

### **Sanctions**

*Imprisonment:* One of the major sanctions in Sri Lanka is imprisonment: According to the Prison Statistics of Sri Lanka, 1987, published by the Prison Headquarters of Sri Lanka (address: Baseline Road, Colombo 9, Sri Lanka), the daily average population of the convicted prisoners are shown in Table 2. It found that the daily population in prisons was stable or slightly decreasing from 1976 to 1982, but it began to increase from 1984. Also, Table 3 shows the length of sentence for the convicted prisoners. It is observed that the majority of inmates served their sentence for one year or shorter; and that those who served their sentence for more than 10 years were only around 1% or even less of the total.

**TABLE 2**  
**Daily Average of Convicted and Unconvicted**  
**Prisoners from 1976 to 1985**

Year	Average of Convicted	Average of Remandees	Total	Ratio of Convicted to Remandees	Percentage of Remandees
1976	5732	4903	10635	1:0.9	46.0
1977	5161	4732	9893	1:0.9	48.0
1978	4907	4529	9436	1:0.9	48.0
1979	5179	6204	11383	1:1.2	54.0
1980	4777	6005	10782	1:1.3	56.0
1981	4211	5991	10202	1:1.4	59.0
1982	3843	5720	9563	1:1.5	60.0
1983	3909	7311	11220	1:1.9	65.0
1984	4252	7441	11693	1:1.7	64.0
1985	4690	6472	11162	1:1.4	58.0

**Source:** Prison Statistics of Sri Lanka, 1987, p.17 (Published by the Prison Headquarters, Sri Lanka)

According to the Third United Nations Survey, the number of prisons by capacity, for adults and for juveniles, is shown respectively in Tables 4 and 5.

**TABLE 3**  
**Length of Sentence for the Convicted Prisoners, from 1982 to 1986**

	1982		1983		1984		1985		1986	
Length of Sentence	No. of Convicted Prisoners	Percentage of Total Convicted Prisoners	No. of Convicted Prisoners	Percentage of Total Convicted Prisoners	No. of Convicted Prisoners	Percentage of Total Convicted Prisoners	No. of Convicted Prisoners	Percentage of Total Convicted Prisoners	No. of Convicted Prisoners	Percentage of Total Convicted Prisoners
Under 1 Month	1923	20.15	1782	18.69	2328	17.93	2181	16.44	2051	14.03
1 Month to 3 Months	2205	23.11	2096	21.99	2401	18.49	2483	18.71	2687	18.38
3 Months to 6 Months	1838	19.26	2050	21.51	3230	24.88	3682	27.75	5156	35.27
6 Months to 1 Year	1209	12.67	1391	14.59	2077	16.00	1900	14.32	2236	15.30
1 Year to 1 <sup>1/2</sup> Years	634	06.64	571	05.99	837	06.45	1167	08.79	665	04.55
1 <sup>1/2</sup> Years to 2 Years	378	03.96	391	04.10	516	03.97	629	04.74	813	05.56
2 Years to 3 Years	460	04.82	432	04.53	508	03.91	554	04.18	519	03.55
3 Years to 5 Years	482	05.05	447	04.69	807	06.22	392	02.95	246	01.68
5 Years to 10 Years	236	02.47	221	02.32	117	00.90	140	01.06	119	00.81
Over 10 Years	178	01.87	151	01.58	162	01.25	141	01.06	125	00.86
Total	9543	100.00	9532	100.00	12983	100.00	13269	100.00	14617	100.00

**Source:** Prison Statistics of Sri Lanka, 1987, p.46 (Published by the Prison Headquarters, Sri Lanka)

**TABLE 4**  
**Number of Adult Prisons by Capacity**  
**as of December 31, 1982, 1984 and 1986**

	1982	1984	1986
Very small (less than 100 persons)	8	8	8
Small (between 100-499 persons)	14	14	14
Medium size (between 500-999 persons)	2	2	2
Large (1000 persons or more)	1	1	1
Total number of spaces (beds)	-	-	-

Source: Third United Nations Survey, p.53.

**TABLE 5**  
**Number of Juvenile Prisons by Capacity**  
**as of December 31, 1982, 1984 and 1986**

	1982	1984	1986
Very Small (less than 100 persons)	-	-	-
Small (between 100-499 persons)	3	3	3
Medium sized (between 500-999 persons)	-	-	-
Large (1000 persons or more)	-	-	-
Total number of spaces (beds)	-	-	-

Source: Third United Nations Survey, p.53.

*Probation:* According to the Third United Nations Survey, the number of offenders placed on probation is shown below. It may be said that the number of probationers was limited in Sri Lanka.

**TABLE 6**

**Number of Persons Placed on  
Probation in 1982, 1984 and 1986**

	1982	1984	1986
Adults	841	933	688
Juveniles	-	-	-

**Source:** Third United Nations Survey, p.52

*Parole:* According to the Third United Nations Survey, the number of persons paroled from prison is shown below. It may be said that the number of parolees was very limited in Sri Lanka.

**TABLE 7**

**Number of Persons Paroled from  
Prison in 1982, 1984 and 1986**

	1982	1984	1986
Adults	27	37	27
Juveniles	-	-	-

**Source:** Third United Nations Survey, p.52

**Other forms of sanctions**

Punishments prescribed under the Penal Code are: death, imprisonment (simple and rigorous), whipping, forfeiture of property and fine. According to the Third United Nations Survey however, statistical data are not available with regard to death penalty, whipping and property sanctions such as fine and forfeiture.

According to other sources available at UNAFEI, it is reported that the death penalty has been suspended since 1977. Table 8 shows the number of admissions of prisoners sentenced to death from 1982 to 1986.

**TABLE 8**  
**Number of Admissions of prisoners**  
**Sentenced to Death from 1982 to 1986**

	1982	1983	1984	1985	1986
Male	68	48	59	81	50
Female	-	-	1	-	-

**Source:** Prison Statistics of Sri Lanka, 1987, P.51 (Published by the Prison Headquarters, Sri Lanka)

### **Resources**

**Personnel:** The number of police personnel reported in the Third United Nations Survey is as follows:

**TABLE 9**  
**Police Personnel by Sex as of 31 December**  
**1982, 1984 and 1986**

	1982	1984	1986
Male	15556	17112	22976
Female	272	272	763
Total	15828	17384	23739

**Source:** Third United Nations Survey, p.12.

The number of public prosecutors reported in the Third United Nations Survey is as follows:



**TABLE 10**

**Number of Prosecutors by Sex as of  
31 December, 1982, 1984 and 1986**

	1982	1984	1986
Male	79	82	81
Female	2	6	7
Total	81	88	88

**Source:** Third United Nations Survey, p.27

The number of staff in adult prisons and in juvenile prisons is shown respectively in Tables 11 and 12.

**TABLE 11**

**Staff of Adult Prisons by Sex and  
Function as of 31 December, 1982, 1984 and 1986**

	1982	1984	1986
<b>Management staff</b>			
Male	19	23	25
Female	-	-	-
Total	19	23	25
<b>Custodial staff</b>			
Male	2638	3039	2983
Female	266	290	326
Total	2904	3329	3309
<b>Treatment staff</b>			
Male	33	43	44
Female	-	-	-
Total	33	43	44
<b>Others</b>			
Male	330	299	224
Female	1	1	3
Total	331	300	227

**Source:** Third United Nations Survey, p.54

**TABLE 12**

**Staff of Juvenile Prisons by Sex and Function  
as of 31 December, 1982, 1984 and 1986**

	1982	1984	1986
<b>Management staff</b>			
Male	2	2	2
Female	-	-	-
Total	2	2	2
<b>Custodial staff</b>			
Male	153	160	223
Female	-	-	-
Total	153	160	223
<b>Treatment staff</b>			
Male	3	3	4
Female	-	-	-
Total	3	3	4
<b>Others</b>			
Male	53	53	54
Female	-	-	-
Total	53	53	53

**Source:** Third United Nations Survey, p.55

The number of personnel working in other criminal justice agencies concerned is not reported in the United Nations Survey.

*Budget:* Allocation of budgetary resources in the field of police administration is reported as follows. Budgetary resources in other fields such as prosecution, court, correctional institutions and non-custodial correctional services, are not reported.

**TABLE 13**

**Budgetary Resource of Police,  
1982, 1984 and 1986**

	1982	1984	1986
Police	412 032 254	681 605 000	1402 905 000

## **Selected issues**

*Overcrowding in prisons:* This section is written by the editor on the basis of the following two papers: 'Sri Lanka Prisoners', by C T Jansz. A paper presented at the Sri Lanka -- UNAFEI Joint Seminar on the Prevention of Crime and the Treatment of Offenders, 1987, in Colombo, Sri Lanka; and, 'Overcrowding in Prisons and Countermeasures', by H G Dharmadasa. A paper presented at the 81st International Seminar of UNAFEI, 1989, at UNAFEI, Tokyo Japan.

It was recorded that, in 1986, 384 unconvicted persons per 100 000 population and 91 convicted persons were admitted into prisons. The number of admissions of the unconvicted inmates was more than 4 times larger than that of the convicted inmates. In terms of the daily average population, the number of unconvicted inmates was 1.3 times larger than that of the convicted inmates. It is therefore considered that overcrowding in prisons is mainly due to the large number of unconvicted inmates, or remand prisoners.

It is said that the reason for overcrowding of remand prisoners is mostly due to the delays in bringing the offenders to trial, which is commonly known as 'court delays' in Sri Lanka. It is also mentioned that inadequate use of bail provisions have contributed to the increase in the remand population. It is common to see a large number of inmates detained in jails for their inability to furnish the bail ordered to them.

Another cause of overcrowding in prisons is the large portion of short-term prisoners. In fact, it is found that, out of a total of 13 355 persons convicted to prisons in 1987, 8 169 or 61.6% were sentenced to less than 6 months. Reportedly, still another reason for the increase of prison population is the large number of persons admitted into prison for the default of payment of their fines.

Therefore, various countermeasures against prison overcrowding are researched and studied jointly by agencies in the field of criminal justice in Sri Lanka. Among the suggested countermeasures are: limited use of remand in prisons, increased use of release on personal bond, modification of penal sanctions, active use of alternatives such as probation and community service order.

*Facilities for juvenile delinquents and protection of juveniles:* This section is written by the editor on the basis of the Sri Lankan Report of the Third United Nations Survey.

There are various facilities for the protection and rehabilitation of delinquent and pre-delinquent juveniles. It could be summarised as follows:

In order to facilitate the rehabilitation of delinquents and pre-delinquent juveniles, whose home circumstances are disorganised, the legal provision exists for the approval of private residences as accommodation where necessary care and protection may be provided for these delinquent juveniles. There are now over 200 voluntary homes in Sri Lanka and the government pays monthly 'per capita grant' for their services.

There are also 263 day-care centres for orphans, destitutes or deserted children, with the assistance granted by the Department of Probation and Child Care Services.

There are institutions run by the government and other voluntary organisations, which provide protection especially to the juveniles who fall into the category of 'Protection Service'. There are seven state-run institutions, and 49 such voluntary institutions throughout the nation.

## **Kingdom of Thailand**

### **Background**

Thailand is located in the central portion of southeast Asia with a total area of 198144 square miles. The country possesses almost every type of terrain including mountains, rivers, beaches, plateaus, sandy plains and jungles. Agriculture plays a significant part in the economy employing about 60 per cent of the entire population although the government is shifting its emphasis to manufacturing goods in its present development plan. In 1986, Thailand's population was 52 969 204 with 26 642 889 men and 26 326 315 women. It was, however, 48 846 927 in 1982 with 24 549 873 men.

Historically, Thailand has always been independent which allows the Thai to preserve much of their heritage such as respect for elders, devotion of the Royal family and a strong sense of freedom.

The Thai constitution, which recognises the King as Head of State, provides for a bi-cameral parliament comprised of a House of Representatives, elected by the people and a House of Senate, appointed by the King on the recommendation of the Prime Minister. The King's power, which emanate from the people, is exercised in three ways: legislative power through the Parliament, executive power through the Cabinet, and judicial power through the law courts.

### **Crime trends**

In 1986, there were 563 824 criminal cases known throughout the country which shows a slight decrease from 654 115 criminal cases known in 1982 (see Table 1). Accordingly, the number of serious crimes decreased 29.9 cases per 100 000 people in 1982 to 20.4 cases in 1985. The number of arrests increased from 33.8 per cent in 1982 to 47.8 per cent in 1985. As many as 42 012 cases involving narcotics were investigated in 1986.

Looking from a narrow point of view by considering criminal cases taking place in Bangkok, about 11.2 per cent of Bangkokians were victimised by property criminals in 1983.

The rate of offences cleared by the police is shown in Table 2 and 3. The clearance rate is basically utilised as an indicator of the effectiveness and efficiency of the police agency. Practically speaking, the Thai police were successful in solving approximately 57.6 per cent of the recorded ordinary crimes in 1983, while they were able to solve about 55.2 per cent in 1982. Stated differently, the Bangkok Metropolitan Police Bureau in 1983 increased the annual clearance rate by 2.4 per cent. During 1976 and 1983, the police were able to solve 46.3 per cent of the murder cases, 46.9 per cent of the robbery cases and 45.2 per cent of the larceny cases.

Section 73 of the Penal Code prescribes that a child not yet seven years of age shall not be punished for committing what is provided by the law to be an offence. A young person over seven full years but not exceeding fourteen years assumes the liability but is subject to lenient disposal by the court in various manners, eg admonition, being put under bond or probation, or being placed under care or attention of appropriate person or institution. And whenever a person over fourteen full years but not over seventeen years of age commits an offence, the court will take into account the sense of responsibility and all other things concerning him before deciding whether it is appropriate to convict him. If the court does not deem appropriate to convict him, it may impose such lenient measures as mentioned above.

In 1986, the cases which were brought to the Public Prosecution Office amounted to 478 000 and 462 000 cases were prosecuted.

### **Criminal justice system**

The Constitution of 1978 guarantees the rights of alleged offenders and defendants by providing in section 27 that before a final judgement of conviction, they shall not be treated as offenders. The criminal justice refers to five major components which are the police, the public prosecution, the defense counsels, the courts and the corrections.

The police department, primary agency responsible for crime prevention and criminal investigation, is divided into eight bureaus, namely: Central Investigation Bureau; Metropolitan Police Bureau; Provincial Police Bureau 1-4; Border Patrol Police General Headquarters and Police Education Bureau.

The public prosecution has discretionary power to decide whether to prosecute a case or not. However, a non-prosecution order must be submitted for approval to the Director General of the Police Department if it is in Bangkok, and to the Governor of the Province it is in. The data shows that most of the cases tend to be prosecuted once they are brought to the Public Prosecution Office.

Both the prosecution and the injured person can institute criminal prosecutions so that an individual can protect Their own interests. Under sections 31 and 32 of the Criminal Procedure Code, however, the prosecution may intervene in a private prosecution case to prevent the private prosecutor from abusing power.

Sections 173 and 176 of the Constitution guarantee the independence of the court in trying and adjudicating cases. In some cases, the court may order the probation officer, an official of the court, to investigate past records and behaviour of the defendant and submit the report thereof. According to the Act on Probation Procedure under the Penal Code 1979, Section 11 the court can use this report in deciding appropriate punishment to be imposed upon the defendant.

Courts are divided into three levels, namely, (1) Courts of First Instance, (2) The Court of Appeal, (3) the Supreme Court. The courts of first instance may be divided into two categories: courts of first instance in Bangkok and Thonburi Metropolis, and courts of first instance in the provinces. Most courts have jurisdiction in civil and criminal cases, except the criminal, civil and labour courts in Bangkok/Thonburi. The courts of first instance are located in districts and provinces throughout the country in the name of the Kwaeng or magistrates' court, the juvenile court and the provincial court.

### **Types of punishment**

Thailand claims the principle that no one shall be subjected to cruel, inhuman or degrading punishment or treatment. According to section 18 of the Penal Code, there are five forms of punishment which are universally recognised, namely, forfeiture of property, fine, confinement, imprisonment and death.

If the person who was inflicted a fine fails to pay the stipulated amount to the court within thirty days from the day on which the judgement is passed, their property will be seized to pay for the fine, or else they will be confined in the facility of confinement in lieu of fine.

The penalty of confinement of not exceeding three months is a substitute penalty for the penalty of imprisonment, where the punishment of imprisonment to be imposed by the court on the accused committing an offence punishable with imprisonment does not exceed three months and it appears that the accused has never previously undergone the punishment of imprisonment or has so undergone for an offence committed by negligence or for petty offences. A person receiving the punishment of confinement must be held in a place of confinement which is not a prison but the court may, if it thinks fit, order in judgement, the confinement of the accused in their own dwelling place or in the dwelling place of another person who consents to accept them.

The punishment of imprisonment may be for life or for a definite term. The court, after passing judgement that an accused person is guilty, may suspend the determination of the sentence or, after the determination of punishment, it may suspend the execution of the sentence and release them.

The death penalty is reserved for the most heinous crime. In most cases of capital offence, the courts impose various terms of imprisonment and even when a person is sentenced to death it is quite likely that one of the appellate courts may reduce the sentence. One appeal may be made to the Court of Appeal and another to the Supreme Court. Even when there is no appeal against the judgement of court of first instance inflicting a death penalty, it must, by law, be reviewed by the Court of Appeal. This review, or the double appeal, together with the full use of the Royal Prerogative of Mercy really mitigates the harsh application of the law, and safeguards against fallibility of the judicial system in such a way that the conviction of an innocent person is most unlikely. The execution of the death penalty in Thailand is done by shooting.

## **Treatment of offenders**

The Department of Corrections regulates imprisonment, detention, liberty restriction and rehabilitation. The Central Probation Office regulates behaviour control of offenders, on those whom the court has suspended imprisonment sentence and imposed behaviour controlling conditions under sections 56-58 of the Penal Code.

*Institutional treatment:* The average daily population of prisons in 1986 amounted to 92 841 which marked a substantial increase as compared with the figure of 71 387 in 1982 (Tables 5 and 6). There are over a hundred penal and correctional institutions under the administration of the department. These include 21 central prisons, 20 special prisons, 46 provincial prisons, 13 district prisons, 2 female correctional institutions, 5 drug addict rehabilitation centres, 5 youth correctional institutions, 6 open prisons, 1 central house of confinement, 1 house of relegation and 48 prison camps.

While the prison population has increased greatly despite the total capacity of 80 000, many innovative schemes have been implemented partly in order to solve the overcrowding condition and to attempt effective rehabilitative treatment in prison. Since the problem of over-crowding results mainly from the use of imprisonment as the principal penal system, it is now desired that the alternative measures to imprisonment will be more generally accepted among the judges and the public in Thailand. An attempt was made to stop sending so many people to prison in the first place when the adult probation system was set up in 1979. Nonetheless, it failed to deter the increase in prison population.

Prisoners are classified into six classes in accordance with their practices and conduct, namely, excellent, very good, good, fair, bad and very bad. If they perform their responsibilities well and maintain good conduct, they will gradually be promoted according to their merit and will be afforded a greater number of privileges and benefits.

The prison authorities provide both formal and moral education as well as training in various vocations for prisoners to enable them to obtain profitable and regular jobs on their return to society as free citizens. The work programs of vocational training within prisons are designed to help prisoners employed for a normal working day with similar working hours to those of free citizens. A product from a prison yields some profit when sold. Thirty five per cent of the net profit is returned to the prisoner who produces the product.

The Department of Corrections may grant parole to a prisoner who fulfils certain conditions. A prisoner of excellent class, for example, shall become eligible for parole when one third of the term of imprisonment remains to be served.



Apart from parole, a prisoner may be granted remission of part of the sentence depending on the attitude or special conditions. Only a prisoner with a definite term of sentence who has served their sentence for more than six months is eligible for remission.

The Corrections Department trains volunteer parole officers to assist parole officers in an attempt to settle the lack of parole officers. Up to 1985, 8 139 volunteers, 7 492 of which are in provinces, have been trained. Each volunteer takes care of approximately ten conditionally released prisoners. Volunteers work, with no salary, under the supervision of and the coordination with full-time after-care officers.

The Department of Corrections employs prisoners for public work outside prison. This program provides an employment opportunity for prisoners and allows the prison to utilise prison labour for public interest. The prisoners who are assigned to work in public work projects would gain payment not over 80 per cent of the net profit. The other benefit earned by the assigned prisoner is sentence remission by one day for each day worked outside.

The program which is called penal settlement provides an opportunity for a pre-released prisoner to readjust themselves to the community. The participant prisoners may receive eight acres of land at a penal settlement. They are allowed to have their family living with them and maintain ownership of all products derived from their farm. They build their own house and stay there as long as they like. After death, the land may be given to their successor.

Pardon is the main countermeasure against prison over-crowding in Thailand. It is occasionally granted to all convicted prisoners on special or important national events. Under the Royal Pardon Decree, convicted prisoners are entitled either to a certain amount of sentence remission or unconditional release depending on the details of its condition. The number of pardons granted can be seen in Table 5.

*Community corrections:* Probation for adult offenders was initiated in Bangkok with 41 officers and 320 supervision cases in 1979 as the result of the Probation Procedure Act. It has been extended to fourteen provinces with 238 officials and 9 402 supervision cases in 1986 as compared with 3 920 in 1982.

Supervision begins after the offenders have been placed under probation. The probationers must report themselves periodically to the probation office. The probation officer must also visit the client at their home or place of work at least once a month to see whether or not they follow the conditions of probation at home or work environment. A probationer may apply for investment fund, employment guarantee and lunch allowances from the Offender Rehabilitation and Welfare Foundation of the Ministry of Justice. The implementation of the volunteer probation officer program seems to not only enhance cooperation from

the community but also tremendously cut down the cost of expenditures required for the treatment of offenders in society. Currently there were four hundred and nineteen volunteers working in close cooperation with professional officers in four provinces in 1987.

### **Juvenile justice**

The juvenile court has the jurisdiction over any criminal cases where a juvenile whose age is over seven but does not exceed eighteen is alleged to have committed what the Thai laws prescribe.

The remand home is a place in which observation of the arrested juvenile is housed and a report on the result of the observation will be prepared by its superintendent. Out of seventy three provinces throughout the country, the juvenile justice system is fully operated only in Bangkok and seven other provinces. In all the rest, the juvenile offenders are subjected to the normal criminal procedure of the ordinary provincial courts.

In adjudicating the cases, the judge may select the decision from among non-custodial or institutional treatment schemes. Non-custodial treatment includes admonition, probation, substitute corporal punishment and fine while institutional treatment means accommodation to a training school. Imprisonment shall not be imposed upon a juvenile under fourteen years of age.

A total of 2 400 juveniles were under probation supervision in 1983. The number of probation officers is still inadequate at the present time. A volunteer is expected to render services to juvenile probationers. They report to the probation officers in charge, then the officer will step in at a suitable time.

At present, there are eight training schools for boys and six training schools for girls all over the country. These training schools are cottage type institutions and the policy governing the school is to give as much benefit as possible to a juvenile who shows progressive adjustment and gradually allow them more privileges. In the training school, primary education courses as well as vocational training programs are offered and those who pass the examination will receive the certificates from the Ministry of Education.

### **Work force in criminal justice administration**

The total manpower of the National Police Department was 140 878 in 1985, consisting of 133 012 uniformed staff and 7 866 administration officials. The total figure for the police force in 1982 was 147 467.

As of July 1988, there were 1 458 public prosecutors working either for central administration or provincial offices. The number of public prosecutors is steadily increasing. The figure was 1 132 in 1982.

There were 1 239 judges in 1984. The strength of the judiciary was 1 209 in 1982. As the volume of litigation is increasing, the number of judges tends to lag behind, especially in the courts of first instance.

The number of correctional officers fail to keep up with the increase in prison population. The trends in staff strength is seen in Table 6.

Adult probation service was administered by 195 professional probation officers and 43 clerical staff under the Central Probation Office in 1986. In 1982, however, there were only 95 officers including both professional and clerical categories.

### **Selected issues**

*Establishment of a new office in prosecution :* Since 1982 there have been several revisions of practical regulations with the aim of providing justice to the people on the issues of provisional release, alleged offender's rights and pretrial evidence preservation. One of the most important projects of the prosecution in recent years is the establishment of the Bureau of Civil Liberties and Public Interest Protection (BCLPIP).

The bureau is responsible for making inquiry or investigation into the cases where individual rights, liberties and interests are allegedly violated. Based upon the result of investigation, it will inform concerned government agencies of remedy or take necessary action within the scope of the public prosecutor's discretion. The bureau is also expected to study and analyse some pressing problems and recommend guide-lines for speedy and fair litigation in both civil and criminal cases or execution of judgements. This bureau will provide legal consultation service to the public and to offer counsel in trial for indigent defendants at no charge.

*Transfer of prisoners:* The objective of the scheme is to transfer foreign prisoners convicted in Thailand back to their country of origin to complete their sentence. The provision of a transfer aims at promoting the rehabilitation of prisoners by enabling them to serve the remainder of their sentences in their own country, relieving the special hardships on prisoners incarcerated far from home, and hopefully reducing the strains that can arise between two countries that confine a number of foreign nationals.

Before 1982, there was no legal instrument allowing any foreign prisoners to serve their term outside Thai jails with an exceptional application of royal pardon which would set the prisoners totally free. At present, 6 treaties have been signed with 6 countries and only the treaty with France has been ratified. Furthermore, treaties with the United Kingdom and Sweden are under negotiation. Because of the restriction requiring a specific period to be served before the prisoner becomes eligible for the transfer or exclusion of some types of offences, the transfer of foreign prisoners has not as yet taken place. Incidentally, most foreign

prisoners incarcerated in Thai prisons committed an offence against the Narcotics Act, the maximum penalty of which is life imprisonment. Therefore, it is obvious that most of them are not eligible for the scheme of transfer. More than 700 foreign prisoners are incarcerated in Thai prisons to date.

**TABLE 1**  
**Criminal Cases throughout the Country**  
**from 1982 to 1986**

Year	Crime Rate
1982	564115
1983	545777
1984	545061
1985	592828
1986	563824

**Source:** *Research and Planning Division, Police Department, Ministry of the Interior.*

TABLE 2

Volumes of Crimes Against the Person, Crimes Against Property  
and Sex Crimes in Bangkok and Thonburi, 1976-1983

	1976		1977		1978		1979		1980		1981		1982		1983	
	K	A	K	A	K	A	K	A	K	A	K	A	K	A	K	A
Murder	467	165	434	179	447	205	506	248	531	251	602	279	501	259	458	246
Manslaughter	32	18	24	20	32	17	26	11	31	19	29	17	15	11	16	10
Attempted Murder	467	234	339	160	332	159	409	213	404	201	375	162	322	134	351	156
Assault	1790	1291	1549	978	1336	925	1519	1057	1491	1066	1668	1191	1667	1220	2072	1594
Gang Robbery	412	202	382	203	319	173	432	243	385	247	291	181	251	172	1254	165
Robbery	720	261	649	278	625	308	875	481	872	414	832	405	678	300	760	373
Pickpocketing	409	279	470	348	456	363	527	447	493	400	403	300	452	310	445	336
Larceny	8184	2966	6600	2558	6450	2505	6350	3081	7132	3575	7913	3717	7341	3671	7126	3634
Fraud	761	595	625	475	580	443	736	521	923	623	975	644	1157	730	1216	747
Forcible Rape and Murder	0	0	3	2	3	0	0	0	1	0	4	2	6	3	2	1
Forcible Rape	264	196	284	226	247	191	257	191	281	210	228	176	203	144	233	183

K = Known, A = Arrests

Source: National Police Department, Thailand

**TABLE 3**  
**Violent Crimes Known to the Police and**  
**Arrests by Type, 1979 to 1984**

Offence	1979	1980	1981	1982	1983	1984
<b>Cases Known</b>						
Total	18476	17093	17178	14649	12122	11023
Wilful murder	12583	11715	12535	10830	9040	8377
Gang robbery	4715	4314	3566	2789	2244	1906
Robbery	898	838	837	812	665	589
Arson	270	226	240	218	173	151
<b>Cases with Arrest</b>						
Total	5210	5030	4523	4603	4580	4744
Wilful murder	2864	2770	2637	2822	2898	3222
Gang robbery	1907	1851	1507	1339	1288	1131
Robbery	332	323	303	352	309	297
Arson	107	86	76	90	85	94
<b>Cases with Arrest as Percent</b>						
of Cases Known	28.2	29.4	26.3	31.4	37.8	43.0
Wilful murder	22.7	23.6	21.0	26.1	32.1	38.5
Gang robbery	40.4	42.9	42.3	48.0	57.4	59.3
Robbery	37.0	38.5	36.2	43.3	46.5	50.4
Arson	39.6	38.1	31.7	41.3	49.1	62.3

**Source:** *Research and Planning Division, Police Department, Ministry of Interior.*

**TABLE 4**  
**Convicted Prisoners, by Type of Offence 1986**

Type of Offence	Number of Prisoners	Per cent
Offence against property	30417	47.25
Narcotics	11705	18.18
Offences against life	8212	12.76
Offence against the person	2323	3.61
Sex offence	2814	4.37
Other	8906	13.83
Total	64377	100.00

**TABLE 5**  
**Number of Pardons Granted, 1977 to 1987**

Occasions	Year	Unconditional Release	Sentence Remission
Royal Marriage of H.R.H. Crown Prince	1977	13359	22319
His Majesty the King's Birthday	1977	17595	23010
Royal Ordination of H.R.H. Crown Prince	1979	12033	32158
Her Majesty the Queen's Birthday	1980	16174	29661
Rattanakosin Bicentennial Celebration	1982	18438	36188
His Majesty the King's Birthday	1987	36397	46701

**TABLE 6**  
**Comparison of Staff - Inmate Ratio,  
1977 to 1986**

Year	Total Number of Correctional Staff	Total Number of Prison Officers	Average Number of Inmates in Custody	Ratio of Officer to Inmates
1977	7268	6957	66788	1:10
1978	7366	7055	69797	1:10
1979	7457	7130	68329	1:10
1980	7751	7415	75496	1:10
1981	8120	7784	73464	1:9
1982	8270	7934	71387	1:9
1983	8467	8130	80463	1:10
1984	8633	8290	85208	1:10
1985	8805	8456	89053	1:11
1986	8931	8582	92841	1:11

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