

Fourth United Nations Congress on the Prevention of Crime
and the Treatment of Offenders
(Kyoto, Japan, 17-26 August 1970)

**PARTICIPATION OF THE PUBLIC IN THE PREVENTION
AND CONTROL OF CRIME AND DELINQUENCY**

Working paper prepared by the Secretariat



UNITED NATIONS
New York, 1970

CONTENTS

| | <u>Paragraphs</u> | <u>Page</u> |
|---|-------------------|-------------|
| INTRODUCTION | 1 - 6 | 1 |
| <u>Chapter</u> | | |
| I. HISTORY | 7 - 10 | 3 |
| II. PUBLIC PARTICIPATION IN DEVELOPED AND DEVELOPING COUNTRIES | 11 - 18 | 5 |
| III. DEFINITION OF PUBLIC PARTICIPATION | 19 - 26 | 7 |
| IV. PUBLIC PARTICIPATION FOR WHAT? | 27 - 36 | 10 |
| V. MODALITIES OF PUBLIC PARTICIPATION | 37 - 69 | 12 |
| A. Political support of social defence programmes . | 38 - 46 | 12 |
| B. Public co-operation with social defence pro- grammes | 47 - 57 | 14 |
| C. The delegation to community groups of elements of social defence programmes | 58 - 66 | 19 |
| D. The provision by community groups of autonomous social defence programmes | 67 - 69 | 21 |
| VI. RESEARCH AND THE PARTICIPATION OF THE PUBLIC | 70 - 71 | 22 |

70-08918

INTRODUCTION

1. There is no scarcity of exhortations to involve the public in the prevention and control of crime and delinquency; the scarcity is in the knowledge of how to do so - in what ways, for what purposes, and with what results. And there is a simplistic belief that the more the public is involved in this work, the better it will be done. This is by no means always true. Community and group prejudice can be socially harmful and can lead to a denial of human rights. The lynch mob is also "public participation" and must be controlled.

2. As is clearly revealed in the preparatory reports on this topic submitted by experts and various national correspondents and discussed at regional meetings,^{1/} there is the widest diversity of ways in which the public participates.^{2/} Some of these require official support and encouragement, while others demand careful control. Since the benign effects of public participation are generally accepted, it may be useful to mention a negative example reported in the preparatory paper submitted by Japan:

"The felt desire to preserve local unanimity against non-conforming elements of the community and to punish those who oppose local control systems, such as the elders of the village, can lead to harsh punishments. In extreme cases, mob violence or lynching might be threatened. In a rural village in Japan, less than twenty-five years ago, ostracism was practised and the Civil Liberties Bureau of the Ministry of Justice had to intervene to help the ostracized family."

^{1/} The regional meetings referred to in this paper were meetings of experts convened by the United Nations in 1969 in Africa, Asia, and Latin America and the Caribbean, in preparation for the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. The reports on these meetings have been issued as United Nations documents in the following series: African region (Addis Ababa) (A/CONF.43/RM.1); Asia (Bangkok) (A/CONF.43/RM.2); Latin America and the Caribbean (Buenos Aires) (A/CONF.43/RM.3). Preparatory reports were submitted to these meetings by participating experts. A regional meeting for the Arab States was also convened by the United Nations with the co-operation of the League of Arab States at Kuwait in April 1970. The report on this meeting had not been issued by the time of the publication of the present working paper. The term "national correspondent" refers to the national correspondents with the United Nations Secretariat in the field of the prevention of crime and the treatment of offenders who, under General Assembly resolution 415 (V), periodically submit material on developments in their respective countries to the United Nations.

^{2/} Examples will be offered throughout this working paper of these modal relationships of public participation in social defence; to save frequent reiteration of "for example", or synonyms for it, examples will be set in from the text. The descriptions of the examples are, so far as practicable, those offered in the preparatory reports or as communicated to the Secretariat by national correspondents.

Such examples of undesirable public participation can be found in all regions; in one sense, the entire evolution of the criminal law is a movement from uncontrolled local punishment to centralized control of the criminal sanction. By contrast, many of the most promising traditional practices and modern developments in crime control display heavy reliance on public participation.

3. A centralized criminal justice system must foster and encourage those aspects of public participation which effectively prevent and control crime and juvenile delinquency without sacrificing proper respect for individual liberty, while at the same time rigidly controlling excessive and prejudiced local punishments. It becomes necessary, therefore, to understand and to apply the mechanisms of public participation in the prevention and control of crime and delinquency that distinguish the socially protective from the socially disruptive.

4. There are at least two key problems in making this necessary distinction. First, there is the widest diversity throughout the world in the ways in which the public is mobilized for and involved in this work. Different nations' paths of social development and community organization reflect different ways in which the family and the local community act as crime prevention and treatment agencies. Our diversity of economic organization creates a similarly vast range; the public is necessarily differently involved in a complex, industrialized, crowded, anonymous city than in a far less complex, rural, sparsely populated, familial rural village. We cannot assume that effective public participation in social defence is to be achieved by similar methods in each. There may well be traditional, cultural, social, economic and demographic differences between peoples.

5. Secondly, the prevention and control of crime and delinquency involve a multiplicity of official and community agencies. The usual control organizations are the police, the courts and the correctional agencies. But if we look at the wider aspects of social defence, we are inexorably led to consider almost the entire spectrum of social organization. The family and its support by government and the local community, the school, the church, the organization of industry and transport, the structure of social services - all these and much else are relevant to the prevention and treatment of crime and delinquency. All require some degree of public support; most require some degree of public participation. Primary prevention of crime and juvenile delinquency through social planning and its heavy reliance on public participation for general social welfare may well be more important to the reduction of crime and delinquency than the prevention of recidivism and the prevention of crime through the threat of punishment, which are the prime purposes of the criminal justice system.

6. Thus, viewed generally, public participation is not only one of the basic issues in social defence; it is basic to the science of government. All forms of government require some measure of public support. Government should be a partnership with the people in which their participation gives strength to the partnership. Their participation thus embraces all the forms of allegiance which a citizen gives to his community and State. He elects those who create laws and develop the judicial and administrative machinery for their enforcement. He plays a variety of roles as member of a family, of a social or industrial group, of a clan, tribe, neighbourhood, or voluntary or official agency, all of which involve his participation in governmental processes, including those directed to the prevention and control of crime and juvenile delinquency.

I. HISTORY

7. The criminal justice system and its subsystems of police, courts and corrections throughout the world originate in public participation. The earliest societies, living by custom and unwritten tradition, prized conformity and induced it by everyone in the group propagating and enforcing its principles, particularly on their children and youth. This is the paradigm of public participation in achieving individual conformity to group values. In this sense, then, public participation antedates all institutional arrangements society has been able to devise in its internal defence against crime. The very concept of crime itself has its origin in the idea of public wrong and the intervention by the community between the perpetrator and the injured party. Thus, all the formal agencies of crime control - police, courts, corrections - are the product of this governmental intervention in what traditionally were local and small-group problems.

8. The classical periods of Greek and Roman history provide numerous examples of public participation in crime prevention, even if the concept of the public excluded slaves and others not recognized as citizens. Thus, in Greece, matters of public concern were discussed and decided in general assemblies. The small size of the Greek city-states and their governmental structures thus brought most citizens into the vortex of public affairs, including problems of preventing and treating crime. Similarly, Roman law developed in a society in which the need for public participation was both felt and expressed, with Cicero writing in De Republica (1,25):

"The commonwealth, then, is the people's affairs and the people is not every group of men, associated in any manner, but it is the coming together of a considerable number of men who are united by a common agreement about law and right and by the desire to participate to mutual advantage."

9. Hierarchical societies, such as the feudal systems of mediaeval Europe or the corresponding caste or class structures of China, India or Japan, provide tangential but still valid evidence of public involvement in the maintenance of order and the restraint of crime. These systems generally rested upon a foundation of rights and allegiances in which everyone was expected to play his part in return for the protection and support of his immediate superiors. The very concept of crime in the Middle Ages revolved about questions of allegiance and the fulfilment of expectations. The most serious offence was treason; "felony", the term for a less serious offence, is derived from the Latin word for a vassal who has failed in his allegiance to his lord. The pattern may be almost duplicated in economic and political terms if not in cultural significance in a later stage of Japanese history when allegiance to a family, which in turn owed service to a particular lord, was a basic concept of order in society.

10. Thus, "human communities have always had their ways of protecting themselves, their resources, their members, and their common standards against persons who fail to respect them. Community justice is one of the oldest of human institutions. However, it is now questionable whether public participation is still useful, or whether it is just a useless survival of backward-looking romanticism. What is new in social defence is not the role of the community but the roles of the government and of the professions."^{3/}

^{3/} W. H. Wickwar, "Community development for social defence", International Review of Criminal Policy, No. 27 (United Nations publication, Sales No.: 70.IV.7).

II. PUBLIC PARTICIPATION IN DEVELOPED AND DEVELOPING COUNTRIES

11. In all cultures, there has been an evolving relationship between local community and centralized authority in the definition and enforcement of the criminal law. Crime is controlled in its origins, within the family, the tribe and the locality; only gradually, as the centripetal pressures of government create the State and the nation, does centralized authority take over the task of defining those acts which are called crimes and of enforcing minimum standards of behaviour. One perspective on the relationship between public and governmental roles in the treatment of crime and delinquency is to see criminal law as a control of and limitation on individual and community self-help against disruptive, discordant and unacceptable behaviour. But if it is to be at all effective, this centralization of authority requires acceptance by the local community and hence some degree of public support.

12. The need to elicit public support for and participation in the work of the criminal justice system sometimes runs counter to the use of the criminal law as an instrument for educating and shaping public opinion. The law must both reflect and shape popular view, a difficult but essential balance. Examples of this balancing process are seen in the use of the criminal law to achieve racial desegregation, to eliminate religious and class discrimination and to abolish capital punishment. Sometimes it is necessary for national laws, including criminal laws, to restrain the actions of subgroups; for example, by limiting the punitive powers of trade unions and professional bodies against those of their members of whose actions they disapprove or by obliging gypsies or other special groups to send their children to school.

13. At the least, public opinion relates closely both to criminal law reform and to developments in the criminal justice system. Whether public opinion can lead and precipitate reform is doubtful; but that it must be considered in setting the pace and direction of reform and change is beyond doubt. Without some public support, criminals are not caught and official agencies cannot be even reasonably efficient. The criminal justice system has great inertia. The public can sometimes help in overcoming that inertia when it is outraged by scandal or breakdown within the system; public opinion can likewise impede necessary developments which might otherwise be realized by creative leaders within the criminal justice system. Nor should the strong punitive elements in the public's attitude to crime be ignored. The entire range of public attitudes must be recognized if relationships are to be built up between the centralized agencies and public participation suited to a nation's social defence needs.

14. United Nations congresses on the prevention of crime and treatment of offenders themselves illustrate this partnership, bringing together official government representatives, the representatives of non-governmental organizations, and those who, as individuals with skills and knowledge essential to effective social defence, represent no one but themselves. Here, surely, is a microcosm of the collaboration which must be achieved in each country's programme for the prevention and control of crime and delinquency.

15. It is comforting but superficial to say merely that "public participation is a good thing and should be fostered". As participants in this Congress, if we are to face the importance, difficulty and challenge of our subject, we must recognize

the need to structure our discussion carefully so that it will be mutually helpful and will advance knowledge. We shall have to define our terms carefully and analyse the subject so that we shall not be engulfed by its vast range.

16. One convenient method of analysis, followed in this paper, is to consider public participation in terms of increasing degrees of reliance on the community, starting from public political approval and progressing to the point where the local community takes over entirely the social defence functions previously performed by state agencies. Yet it would be a mistake to assume that what is desirable in one culture, as regards the public's participation in social defence, is also necessarily appropriate to another culture. This clearly emerges in the report on this topic from the African region:

"The social structure of the community has always influenced public participation in African countries, as elsewhere. The present trends throughout the continent may be seen as the result of a medley of influences of at least three forms of structure. There are the traditional social structures under which only the elders (by age and status) of an area, and generally the men only, can participate in public life of any sort. There are also the structures of States with one-party state governments where only those who belong to that party can have any say in public affairs irrespective of age or position in life. Then, there are the third forms which are emerging along the lines of the western democracies where public participation is not restricted either to elders or males or to people of the party only but is open to almost all provided they have the capability and the willingness to serve their country conscientiously."

17. Our topic gains importance because of the strong movement in many complex industrialized and urbanized societies to divest the criminal law and the police, the courts and the correctional agencies of some of their functions; to reduce their involvement in behaviour that is merely undesirable and to concentrate their efforts on the socially harmful. The expansion of the State's range of political control has led, in the opinion of many political scientists to too great a concentration of power in the criminal justice system. And many practitioners and scholars in developed countries believe that some planned reversal of this tendency is required.

18. A mechanism much relied on for this purpose is the establishment of community agencies, local citizens' groups and welfare boards to handle those problems of which, it is thought, the courts and the police should be divested. For example, the youth service bureaux, described hereunder (paragraph 62), are to take over some of the work of the juvenile courts; local public participation is to take up that which is diverted from the centralized government system. By contrast, in other cultures, the village council, the local head-man's court and the tribal elders have traditionally disposed of lesser criminal matters. The task in these cultures is thus not that of mobilizing the local community, as it is in many developed countries; rather, it is the task of preserving, supporting and controlling that which already exists. We come to realize that we pay a price for relying too heavily on criminal law controls instead of buttressing other local community social control mechanisms which depend on public participation. This is an area, therefore, where the developed countries may well have much to learn from the developing countries and the developing must learn to avoid the errors of the developed.

III. DEFINITION OF PUBLIC PARTICIPATION

19. The phrase "participation of the public" is by no means unambiguous. It can embrace whatever is necessary by way of public support for governmental action to prevent and treat crime and delinquency. Alternatively, the topic can be limited to a discussion of the ways in which the public can be brought to co-operate with official social defence programmes by doing some of the work that otherwise would fall to governmental agencies, assuming duties and functions in the prevention and treatment of crime and delinquency.

20. A broad definition of "the participation of the public" would include all ways in which community groups assist in the prevention and treatment of crime and delinquency. Some concentration on the relationship between public participation and the work of the centralized agencies of the criminal justice system should, however, be aimed at.

21. Sometimes public participation is seen as lay participation, as distinct from professional roles, which are seen as governmental. This is most misleading. The prevention and control of crime and delinquency involve a great range of technical skills. Some of these skills, such as that of the detective, the judge or the treatment staff in a probation service may properly be described as professional. But there are so many skills requisite to a complex system of crime and delinquency control that members of the public and of community groups may possess some of them more amply than the technically trained. Knowledge of local community tolerances is of vital importance to the disposition or rational treatment of much crime and delinquency. That knowledge may be held in much larger measure by the local citizen than by the case worker treating an individual in the community. The distinction between professional and laymen is not helpful if it assumes superior knowledge on the part of the professional or casts doubt on the value of public participation.

22. Public participation thus takes in all the ways in which community groups assist in the prevention and treatment of crime and delinquency; but since the focus of this Congress is largely on the criminal justice system, it is appropriate here to stress aspects of community group participation in the work of the criminal justice system, in the work of the police, of adult and juvenile courts, and of agencies and institutions for the treatment of convicted adult and adjudicated juvenile offenders.

23. It may be thought that the emphasis on community groups is misleading and that ways in which individual citizens can be brought to collaborate in social defence should also be treated. Of course, while definitions are a function of their purpose, they are rarely absolutes; certainly there is much to discuss in relation to groupings of citizens for social defence and it particularly is between such groups and governmental authority that immediately important and challenging tasks of more effective action for social defence are to be found. Yet without denying the importance of the individual citizen in preventing and controlling crime and delinquency, it is useful to concentrate on those aspects of his participation in social defence in which he is brought into collaborative relationships with others. Our legal systems depend in a variety of ways on the collaboration of the individual citizen. As a witness, he is of central importance throughout the world. The climate of efficiency and decency in a

criminal justice system will be important in the determination of the citizen's willingness energetically to collaborate with governmental authority. There are problems to discuss at every point of this contact between the individual and the criminal justice system which cannot all be dealt with here. Two issues of individual participation in social defence may, however, merit attention now.

24. The police can hope to deal only with those crimes which they see or which are reported to them. It is clear that there is a great diversity in reporting practices in different cultures and subcultures. The citizen's duty to report crime is sometimes enforced by criminal sanctions but is more usually left to his sense of community responsibility.

"All over Africa today, there are constant requests from both legal and administrative sources to members of the public for their participation in one way or another in the prevention and treatment of crime. For instance, in the French-speaking countries where cattle rearing is one of the chief tribal occupations, stock theft poses a serious problem and is the subject of severe punishment in places like Malagasy and Niger. The law requires that tribal, clan or village heads who possess any knowledge of stock theft should at once notify the administrative or judicial authorities or else become liable as accomplices to the theft."^{4/}

The desirability of reporting crime to the police may be treated as a matter of public education in which the burden is placed on the schools and other educational forces in the community and on the public relations departments of the police forces. Alternatively, such reporting may be made a legal duty with penal sanctions for non-compliance. In the long run, however, it must be recognized that precept is a better teacher than exhortation and that the amount of reported crime in relation to crime committed will be increased more by providing efficient prevention and treatment of crime and delinquency than in any other way.

25. There is another relationship which the individual citizen has with social defence. To what extent should he be encouraged or indeed compelled by law to come to the aid of his fellow citizen who faces an imminent criminal threat? The social philosophies of all countries and the precepts of all moralists urge the individual to a sense of brotherhood which would lead him to assist his imperilled neighbour unless the threat to his own safety be too substantial. Some countries go further and seek to impose this duty on the citizen by law.

"The legal duty of all persons in Finland is to prevent the crimes of high treason, treason, and crimes against another person's life."

"In Cyprus there are statutory provisions which, on the one hand, give legal powers to members of the public to arrest and prevent the commission of the offence or of further offence and on the other hand impose upon the citizens an obligation under the threat of punishment to participate in the prevention of crime."

^{4/} See, also, African Penal System, Alan Milner, ed. (London, Routledge and Kegan Paul, 1969), chapter 13, pp. 369-373.

"Other countries whose citizens are legally bound to prevent certain defined crimes included Denmark, Italy, the Netherlands, Norway, Poland, Portugal, Romania and Turkey."

There is a lack of empirical evidence of the success of such laws in influencing human behaviour. There may well be an advantage in an exchange of views on the ways in which the individual citizen's role in the prevention of crime can be encouraged. One aspect of this discussion merits consideration as a strong recent movement in law reform. An increasing number of States are coming to the view that, whether or not the law compels the citizen to help his neighbour, he should be compensated for any loss he suffers if he does in fact assist another citizen who is threatened by crime. These compensation schemes seem to be reasonably inexpensive and have tended rapidly to gain public approval and support in countries which have experimented with them. Certainly, when the citizen comes to the aid of the policeman, it would seem clear that he should not suffer financial loss thereby.

26. Again, it seems, the developed societies are harking back to long-established traditional social processes to achieve decency and efficacy in the prevention of crime and the treatment of offenders. The early evolution of the criminal law in many countries and current practice in many others requires the offender, if he has the funds, to compensate financially the person he has injured. Compensation schemes in their modern emergence are examples of the State's taking over this duty, previously imposed on the criminal by the local group, and seeking to ensure such compensation of the injured person whether or not the criminal has the financial capacity to pay. The State is then subrogated to the wronged citizen's financial claim against the criminal. The centralized criminal justice systems thus take over, adapt and apply traditional public participation processes.

IV. PUBLIC PARTICIPATION FOR WHAT?

27. There are, however, limits to man's capacity for the deep feelings of sharing which most effectively support public participation. In a small, undifferentiated society such as a tribe or rural hamlet out of touch with the rest of the modern world, participation will be natural simply because the circumstances compel recognition of common interest and interdependence, and traditions reinforce this imperative of standing together against outsiders as well as internal disturbers. Moreover, in conditions such as these, the public injury is more immediately apprehended. Practically all behaviour comes under public scrutiny, and misbehaviour is not an offence against a rule made by some outsider but usually against each and every person in the area - and it is often felt by each member of the community in this way. The reaction is equally personal and communal rather than formal and may need outside control if it is not to go too far.

28. At the other extreme, in a city of several million inhabitants, the feeling of belonging may be diffused among a large number of competing groups. The citizen feels part of his country, his municipality, his trade union, professional association, college or alumni society, income group, club or sports association, church and neighbourhood group. His interests diverge and perhaps clash at times - when, for instance, he may have to choose between supporting his church against some proposed control of the local authority or his municipality against new state taxes. Offences committed in his city are often unknown to him and even when known touch him only remotely. No doubt, in a city of such size, there will be much talk of public participation and any number of formal devices for directing public interest by means of commissions, committees, action groups, seminars on special problems etc. Yet it becomes more difficult to feel a personal affront or a sense of responsibility to do something when an offence or a number of offences have been committed. Even if one did want to do something, the society is usually far too complex to permit much more than formal participation.

29. In fact, in the larger society, with its multiplicity of subgroups and subcultures and with the problem of crime mainly delegated to professional services, a person who does become involved may often suffer from an outburst of overzealousness; or he may be seen as an officious meddler rather than a dutiful citizen. Virtue and public esteem do not necessarily attach to individual or local efforts to deal with offenders or to become implicated in their discovery and apprehension.

30. There is, nevertheless, one quality common to practically all forms of public participation, whether spontaneous, contrived, formal or informal, planned or entirely unexpected, and in whatever type or level of social structure it may occur. This common chord is sounded by the fact that public participation either reflects or is designed to promote a feeling of belonging.

31. This feeling of oneness, community or shared interests which participation either manifests or engenders, may be directed towards the nation, the professional group or the neighbourhood; it may be towards the tribe, class or income group or commuter area with which one feels associated, but it will always be a fundamental element in the shared activity, and this will be so whatever may be the goal or purpose of participation.

32. Therefore, in the larger societies, public participation may be highly formalized at all levels of local and central government. There may be advisory groups, commissions, action committees, gatherings of local voluntary bodies and regular meetings between officials, church leaders, local politicians and representatives of neighbourhood councils, but this is increasingly realized to be insufficient. Serving on one committee after another and even belonging to a number of voluntary societies does not necessarily bring the ordinary citizen into the kind of participation with the authorities which is needed to prevent crime and help offenders to reform. He may be going through the motions without feeling really involved, so that this kind of widespread formal co-operation of the public with the authorities can exist side by side with a situation in which keeping out of trouble and avoiding contact with crime, criminals or the authorities has become at best a neutral virtue and at worst a means of survival in a society which the police can no longer control.

33. If, then, it be true that a sense of belonging or of shared interest is essential to effective public participation in crime prevention, it may be that effectiveness is a function of the size of the group, community or society to be served. More evidence is required before this kind of proposition can be accepted, but it is clear that, for most people in urban conditions, some kind of simplification is needed.

34. Another aspect of public participation in any large society is that it will probably be a function of the efficiency of the police, not only in prosecuting offenders, but, more significantly, in detecting crime. It becomes difficult to feel a need to prevent a person from doing something which, in fact, a large number of people are publicly known to be doing without being caught. As we have seen, an important feature of public participation in a small society is that misbehaviour is quickly detected. There is little possibility, therefore, that an offender is merely an unfortunate representative of a much wider group not yet caught or even suspected.

35. In a large urban community, there is probably an increasing need to give the communities and neighbourhoods more responsibility for controlling the behaviour of their people. This is more difficult to handle, however, if there is great mobility within the areas concerned, if offenders are likely to come in from outside, if standards of conduct as between neighbourhoods are likely to vary considerably or if the subculture is antipathetical to the rest of society. Nevertheless, there needs to be more experimentation with the closer involvement of local communities in protection of their property, in the control of behaviour and in measures to prevent crime in the next generation.

36. It is unlikely that there will be or can be really effective participation by the public in crime prevention if (a) the value systems as between the national and local groups diverge seriously, or (b) there are great differences of opinion as to what the public can do to prevent crime. Both (a) and (b) apply in a number of the world's great cities and probably account for the general lack of effectiveness in the public participation that takes place. Here again the importance of goals to give public involvement a meaning is underlined. It may well be that with all the problems the world is experiencing in trying to organize public involvement in crime prevention, there may be a need for each country to return to first principles and to begin by asking "public participation for what...?"

V. MODALITIES OF PUBLIC PARTICIPATION

37. There is such a range of ways in which community groups can be involved in the prevention and control of crime and delinquency that an artificial classification of those relationships is offered to assist analysis and discussion. Four modalities of public participation in social defence are suggested:

- (1) Political support of social defence programmes;
- (2) Public co-operation with social defence programmes;
- (3) The delegation to community groups of elements of social defence programmes;
- (4) The provision by community groups of autonomous social defence programmes.

This classification is not precise and suffers from some overlap; it is, nevertheless, a convenient means of ordering the many modes of public participation in the prevention and control of crime and delinquency.

A. Political support of social defence programmes

38. As we have seen, all political systems need some support for their governmental processes if they are to function at all, and substantial support if they are to function effectively. This is particularly true in the criminal justice system, which is concerned with deeply ingrained forms of behaviour that require the collaboration of the public for prevention, detection and control. Public political participation is thus a guide and a limitation, the frame of reference in which the government creates its agencies for the prevention and control of crime and delinquency.

39. It is the duty of the government to lead the public in relation to social defence and provide it with accurate information on which to base its views. Hence, the press, television and radio deserve consideration as agencies for achieving effective collaboration of the community in the prevention and control of crime and delinquency.

"In the Netherlands, Sweden and the United Kingdom, campaigns to enlighten public opinion by means of exhibitions, articles in the press, films and television and radio broadcasts are being conducted with success. Their objectives are, in particular, to alert public opinion to the serious consequences of certain breaches of the law for persons committing them, for the victim and the community, and to draw attention to the negligence and carelessness on the part of the victim which provide favourable opportunities for the commission of certain offences."

40. The whole political life of the community is also of relevance. Political authority expresses its social priorities in its budgets. In its planning for social defence, related to its budgetary provisions, governmental authority expresses its view of the relationship among community needs, public needs and the importance of reducing crime. The individual citizen and organized groups have important roles in defining social priorities. Perhaps, for this reason, many countries have seen the growth of state-wide organizations of concerned citizens.

"In the United States of America there is a co-ordinating National Council with twenty state citizen councils in operation which cover about 85 per cent of the population of the country. Among the achievements of these councils are the enactment of new laws, the establishment of new police training programmes, training institutes for judges and prosecutors, the extension of work furlough programmes, the diversion of construction funds from institutions to community-based services, the employment of social workers within public schools, and the change from political patronage to merit system appointments." 5/

41. Similar citizens' councils exist in many countries and operate as powerful supports of state agencies in the criminal justice field and steady spurs to the improvement of social defence practices generally.

42. It is hard to exaggerate the importance of non-governmental agencies in this work. They gain their strength from the quality of their work, from the vital relationship between public opinion and governmental capacities and also, and more particularly, from the fact that they create an informed and thoughtful community voice.

43. Community groups also exist as one means of preventing or controlling the abuse of power by governmental authorities in the criminal justice field. The civilian review board has been created in many countries to control abuse of power by the police. Other countries have created the ombudsman to function as an informed watchdog against any governmental abuse of power. In all legal systems, the firm insistence on public trial has a similar purpose: to achieve a balance between power and liberty through critical observation by individuals and community agencies.

44. If the public sector is to be properly informed about the operations of governmental agencies within the criminal justice system, those agencies must consciously and deliberately make available information about their operations. So far as practicable, they must make available to responsible community groups information about their actual day-to-day work. Effective collaboration between the public and private sectors presupposes that the public sector be neither secretive nor unduly protective about its operations.

45. There is sometimes a divergence between public support of social defence programmes in the abstract and public support in relation to particular cases. Throughout the world, there is general public support for half-way house release procedures for certain adult and juvenile offenders who have been institutionalized. There is also a widespread acceptance of the half-way house as an alternative to placement in an institution. Sometimes, however, these generalized supports fade away when it is suggested that such a half-way house be located in a particular area. Citizens not infrequently find cogent reasons why the half-way house should be located elsewhere. There is no avoiding the reality of this problem. It raises difficult questions of the balance between local public attitudes and the larger needs of the criminal justice system.

5/ Milton G. Rector, "Mobilizing public participation in social defence: a blueprint for action", International Review of Criminal Policy, No. 27 (United Nations publication, Sales No.: 70.IV.7).

46. Community groupings not specifically related to the criminal justice system often provide major sources of support for that system. Thus, industry, labour organizations and similar major community structures often have some groups which support developed social defence programmes.

"Organizations which started out as direct-service prisoners' aid societies have either abandoned direct services to offenders or have added a range of indirect services such as programmes of public education, support of enabling legislation and sponsorship of correctional demonstration programmes and research. Increasing numbers of business, industrial, and trade-union organizations are also becoming active in developing community resources for offenders and are exerting nation-wide efforts to expand opportunities for occupational training and employment. Colleges, universities and local public school systems have opened their doors to the enrolment of offenders and former offenders and actively participate in the development of curricula designed to meet special needs of offenders. Local health and welfare agencies have begun to include offenders as targets of service."

It is through agencies such as these that governmental authority can appeal for interpretation of its programme to the community. They provide the bridge to the next level of collaboration between government and community groups.

B. Public co-operation with social defence programmes

47. We move from public support of governmental programmes to consider those in which community groups have a defined function in the prevention and treatment of crime and delinquency. Such a function might be in the prevention of crime or delinquency, in police work, in the work of the courts, in correctional work, or in planning social defence. Let us consider the possibilities in that sequence.

48. A wide range of community agencies provide prevention and welfare services, many of which have an important function in relation to crime and delinquency. Community agencies frequently run street-worker programmes, providing youthful workers who understand the problems of cities and of young people in the cities and can, on a voluntary basis, do important crime and delinquency preventive work. The Japanese Crime Prevention Association provides a good example of this type of co-operation.

"Members of the Crime Prevention Association are recruited from among citizens living in the area covered by the local police station. They and the Association have as their purposes a general co-operation with the police and their crime prevention activities and the organization of various citizen activities to that end."

This is an excellent example of sound collaboration between community groups and the police in the prevention of crime. The same can be said of student-tutor programmes in which the older and more privileged children are involved in educational services to the less fortunate and less well-educated children in their community. Indeed, all that is best in community activity and social welfare tends to have the function of diminishing and preventing crime and

delinquency. Social planning presupposes active support from such community groups.

49. In some countries, there are arrangements for the creation of local community police-auxiliary forces. These tend to be local citizens given some training by the police, sometimes functioning as police cadets, sometimes being given an area in which they are to collaborate with the police by taking on certain prescribed police functions.

"Community guards in Nigeria are supported by the Government in their local control of behaviour as extensions of the police system."

"In Japan, in the general field of crime prevention, there are organized area crime prevention associations (unions) at the localities of the local police stations established in all cities, towns and villages. These associations co-operate with the police authorities by engaging in the following activities in the areas concerned:

"(1) Crime prevention campaigns and public information and education activities;

"(2) Crime prevention activities, such as patrolling at night-time;

"(3) Inspection with policemen of equipment for crime prevention, such as locks of doors and emergency bells."

"About 1948 in Ceylon, the Rural Development Department societies encouraged the promotion of bands of rural volunteers to (1) help villages in emergencies; (2) settle disputes among villagers or bring such disputes before the notice of the conciliation boards; (3) aid in community schemes organized by the rural development society; (4) co-operate in work of national significance; (5) aid and assist public servants in performing their duties; (6) provide information to the grama sevaka (village head-man) or police regarding crimes or law-breaking (this was to be given in secrecy in the case of grave crimes); (7) aid the police or the grama sevaka in patrolling; (8) promote the maintenance of law and order in the village generally with the approval and aid of the rural development society."

50. In several countries, there are plans for taking these levels of co-operation a step further and recruiting cadet police and special policemen from these community groups and some actual experiments have been undertaken. Through their knowledge of community values and of the subcultural pressures within the larger values of the criminal justice system, such groups may be able to bring about a closer collaboration between the police and the community, particularly in the depressed inner areas of some larger cities.

51. When we turn from the police to the judicial aspect of the criminal justice system, we find many models of co-operation between community groups and governmental authority. The various Eastern European comradeship courts and factory and

local community courts using lay judges either alone or sitting with professional judges are well known and much discussed. A few other examples may assist understanding of the range of co-operation between community groups and the judicial process of the State.

"In Africa, for example, where juvenile courts have been established, they are presided over by panels who are largely lay men and women and who can bring their rich experience as parents, educators, ministers of religion and social workers to bear on the work of catering for the re-education of the delinquent or the child in need of care or protection. To enable these men and women to function in the right direction, lay magistrates' associations have been established in which they receive orientation and training for their work."

"Laymen in Japan take part in civil and domestic court proceedings as summary court judicial commissioners, family court councillors and arbitrators. Summary court judicial commissioners, upon the request of the summary court judge, assist the court in reaching a friendly settlement of the pending case or offer their opinion on the case being tried. When the family court conducts proceedings to form, change, or dissolve personal relations or status in a family, the family court councillor attends the proceedings and offers his opinion to the judge. A conciliation committee is composed of two laymen (arbitrators) and one judge. It is attached to the district court and the summary court. Its role is to secure an amicable settlement of disputes, either by recommending mutual concession and compromise to both parties or by persuading the parties to accept the plan of compromise worked out by the committee."

"In juvenile courts in Poland, there are unpaid people's magistrates who have special experience in the aid and education of adolescents."

The jury as it exists in many countries is an example of this collaboration. So also are assessors when they are placed in courts. The same is true of lay magistrates, to whom, in many parts of the world, court and judicial functions are given. All of these people represent community attitudes or community groups in the official judicial process of the State.

52. Turning now to co-operation between community groups and the services the State provides for treating convicted criminals and those adjudicated as juvenile delinquents, we find a luxuriant collaboration. In Europe, both probation and after-care work are often the province of community volunteers, their work being organized and to a degree supervised by state agencies. Much that is vital and creative in probation and after-care has emerged from the initiative of community groups. And in most countries, in this work, there is an attempt to strike a balance between the functions of the full-time, sometimes trained professional probation and after-care officer and his part-time, sometimes untrained colleagues representing a community group. This relationship is of great importance to correctional work.

"The probation system in Ghana uses probation committees whose members are drawn from many walks of life. As it often happens, some

of them may already be serving also as juvenile court magistrates or even as lay magistrates. As a rule, a probation committee meets quarterly to review the progress of the cases handled by the probation officers in their area. The review covers problems of all kinds, with special attention to the progress being made by the individual probationers under supervision in the area. This often ends in committee members volunteering to help probation officers with their difficult cases. Where juveniles are involved they would undertake visits to their homes from time to time to meet the parents in order to discuss the best approach to their problems."

"In Nigeria, it becomes necessary that an arrangement be made for some kind of non-institutional treatment for all newly released prisoners. It was to meet this need, for instance, that the Lagos Discharged Prisoners' Aid Society was established in the 1930s to cater for the then colony of Nigeria. Similar organizations were soon established in certain urban centres throughout Nigeria."^{6/}

53. The host country to this Congress has been particularly creative in drawing community groups into a collaborative relationship in probation and after-care work. There are in Japan about 50,000 voluntary probation officers on whom fall the main burden of day-to-day supervision and support of those on probation and those discharged from penal institutions. They are appointed by the Minister of Justice on the advice of the Voluntary Probation Officers Selection Council. They are unpaid, though a small contribution is made to their travel expenses. Their average case-load varies between one and two. A recent study by the Ministry of Justice shows their morale to be high. Similarly, voluntary groups are mobilized to run rehabilitation aid hostels for discharged offenders. These hostels, run by about 130 different community organizations, licensed and supervised by the Ministry of Justice, provide essential support and assistance for those probationers and parolees who are referred to them by the relevant state agencies. The hostels can provide residential facilities, support and supervision for 3,400 offenders. About 40 per cent of the cost is borne by the central government, the remainder being raised by the community groups which run them.

54. Somewhat similar developments are also to be found in many countries. More and more community groups are providing hostels and half-way houses for convicted offenders. But this by no means exhausts the range of co-operation between community and state in correctional work. Prison visitor organizations function throughout the world.

"In Ghana, provision is made in both the prisons and the industrial schools for visiting committees made up of ordinary citizens of the country. Their functions are to visit the relevant institutions at stated times and to look into welfare problems which may be beyond the scope of the administration. These may pertain to inadequate accommodations, the unsuitable site of a particular institution, or the provision of some kind of amenity which may be very much needed."

^{6/} T. O. Elias, "Traditional forms of public participation in social defence", International Review of Criminal Policy, No. 27 (United Nations publication, Sales No.: 70.IV.7).

"In the United States of America, college students for some years have accepted assignments as tutors to assist prisoners pursuing various courses of study."

"In Japan, persons who are found to be satisfactory from the view-points of both custodial safety and likely re-educative effect on the inmate are appointed as voluntary visitors to correctional institutions by the director of district correction headquarters. The number of such visitors at the end of 1968 was 1,640. In 1968, these voluntary visitors had a total of 12,045 individual interviews, mainly in the form of consultation and counselling, and a total of 6,033 group interviews in the form of lectures and instruction in club activities, such as flower arrangement, the composition of haiku, painting and sports. Voluntary visitors have access to inmate records and documents and are allowed to have interviews with inmates without the attendance of officers. The confidential nature of the interview is respected to a great extent, although an official report on the interview is to be submitted to the head of the institution."

Indeed, as the whole correctional process comes more and more to stress the need for effective control, supervision and assistance of the offender in the community, so it has become more and more necessary to turn to community groups for co-operation.

55. Many aspects of this co-operative relationship merit the attention of those attending the Congress. For example, what training should be given to people undertaking this work on behalf of the community? The training programmes have tended to be confined to employees of governmental agencies; yet there is a great deal to be said for relatively brief, in-service training courses for the wide variety of community workers involved in the prevention and treatment of crime in collaboration with a state agency. The justification for such courses is not only to facilitate collaboration, but to give the lay worker a clearer perspective on the challenge and importance of his work and to help him do it better by training him in appropriate techniques.

56. The recruiting and screening of suitable community workers also merit consideration. If the government partnership with community groups is to be effective, there must be constant attention to defining the characteristics of community workers so as to select those most likely to contribute to the programme and reject the others.

57. Finally, as States seek to co-ordinate their social defence work and plan for the future, it becomes clear that effective planning requires community participation in the planning process itself. There are many promising developments of this nature. In many countries, legislative and other commissions of inquiry into crime prevention and treatment methods include in their membership representatives of diverse social groups not directly involved in social defence work; this is a highly desirable development. It is of at least equal value to include on such commissions representatives of those community groups which, as we have seen, often work in such close co-operative relationship with the official state agencies - police, courts and prisons - of the criminal justice system.

C. The delegation to community groups
of elements of social defence programmes

58. In some cases, certain functions are delegated in their entirety to community groups. This delegation of functions can be considered in relation to police, judicial and correctional functions.

59. There are many examples of the recruitment of individuals from community groups or defined cultural areas to assist the police in their work among those groups or in those areas. Certain village police forces in Africa and Asia deal with all crime in the local community, other than a few offences which are seen as directed against the State and therefore are the responsibility of the centralized police.

"In Thailand, in 1884, a law was passed authorizing village headmen to organize local young men of twenty-one years of age into a kind of police force to protect property. Buffalo, cattle and other animals were herded together, and the responsibility for their care and control circulated around the villagers. This practice continues in the rural areas, which contain approximately 70 per cent of the population."

"In recent years, in the Union of Soviet Socialist Republics, much of the task of preserving order and making arrests for minor offences has been entrusted to volunteer citizen's militia and people's brigades operating within the geographic area they know best and among people they know well. Their militia work is carried forward into the criminal justice system by the use of comradeship courts to decide cases brought to them by these volunteer community militia units. Similarly, other unpaid workers have been mobilized in numerous and varied organizations to guide and control their fellows to exert pressures for conformity to social values and accepted standards of morality and law and, if need be, to exert some of the disciplinary pressures ordinarily reserved to the State."

60. At this point, the discussion moves almost beyond the question of collaboration between government and local community groups into a consideration of the degree of decentralization of governmental authority. Countries differ sharply in the degree to which they centralize the police, from those with a single centralized police force to others in which virtually all police work is locally controlled; for example, the United States of America has no centralized police agency dealing with local jurisdiction, but it has no less than 40,000 federal, state and local police forces. Decentralization of police powers, as of other governmental authority, is based on a belief that it is desirable to involve the local community deeply in governmental processes.

61. The same generalization also applied to the delegation of judicial functions to community groups, though here the specialized role of voluntary groupings of citizens is even clearer. Village councils, factory councils, family welfare councils and youth service bureaux are among the specialized community groups used to take over wide areas of judicial work.

62. Village councils, factory councils and family welfare councils are reasonably well-known examples of the delegation of judicial power to community groups. Youth service bureaux, with which there is now extensive experimentation, have a

similar purpose: neighbourhood youth agencies draw together with state support to establish a quasi-judicial agency to assist juveniles (delinquents and non-delinquents) referred by the police, the juvenile courts or by parents, schools or other responsible bodies. Their aim is to relieve the courts, the police and the state child-welfare and youth correctional agencies of much of the discordant, socially upsetting behaviour of children and youth, short of serious crime, which so often finds its way into the official police, court and correctional services. It is a planned effort to turn back to the local community the responsibility for handling a larger proportion of juvenile misbehaviour than heretofore, a deliberate delegation of authority and power to the local community where, it is believed, in the last resort these problems must be handled if they are to be solved. Somewhat similar practices are to be found in many countries.

"In West Pakistan, a new Act passed ... extends the jirga system to certain specified offences The prescribed offences include attempt to murder Other scheduled offences are those of kidnapping and robbery and of ... corruption by public servants. Trial takes place before a jirga tribunal of five persons of whom the Chairman is to be an experienced Magistrate Sentencing is by the head of the district, and there is no appeal, but the Commissioner of the Division (which includes a number of districts) has power in revision."7/

"In India, local bodies called panchayats, have been set up to deal with developmental and minor governmental activities. Consisting of government selected local leaders in a small area, these judicial, or nyaya panchayats are dispensing justice in minor disputes, both civil and criminal. Although their members - the panches - seldom have any legal background and are frequently barely literate, it is hoped that, being part of the community, public opinion will operate to ensure their impartiality. It is reasoned, moreover, that the intimate knowledge of the area and its customs which the panches enjoy will make it extremely difficult for plaintiffs to manufacture evidence or engage in vexatious suits. The fact that the proceedings are informal and take place in the villager's own area and before people of his own type should, it is hoped, permit plaintiffs to explain their grievance more accurately."8/

63. There is a lack of sufficient reliable data to assess the efficacy of these processes of delegating judicial authority to community groups. General experience, however, indicates great social advantage in this type of delegation of responsibility. There is a clear need for more critical, methodologically informed, sociologically and juridically sophisticated studies of the weaknesses and strengths of this government-community relationship.

7/ Justice A. R. Cornelius, "Crime and the punishment of crime" (West Pakistan), Excerpta Criminologica, vol. 6, No. 1 (Leiden/Amsterdam, January-February 1966), pp. 1-12.

8/ R. S. Robins, "India: Judicial panchayats in Uttar Pradesh", American Journal of Comparative Law, vol. 11, No. 2, Spring 1962, pp. 239-246.

64. Some experimentation is taking place with more innovative delegation of judicial authority. Thus, in some housing areas the tenants with authority derived from the police and the housing agencies, are writing their own codes of conduct and endeavouring to provide their own processes of justice and sanctions, thereby changing what had been issues of law into domestic, tenant-housing issues. Again, it is interesting to note the way in which the developed countries are emulating traditional processes in the "developing countries and finding more social stability in that emulation than they did in their previous rush towards the centralization of power.

65. In the treatment of convicted offenders and adjudicated delinquents, many examples are reported of increasing delegation of authority from the State to community groups. This is particularly true in those places where probation and after-care work is a community responsibility.

"In Nigeria ... the National Association of Prisoners' Welfare, (a non-governmental organization) co-ordinates the efforts of all voluntary organizations in the implementation of social defence programmes, often in collaboration with the various departments of social welfare throughout the country. The three stated aims of this organization are: to see that ex-prisoners are given another chance in life; to facilitate their living happily with their families and neighbours; and to find them work so that they can earn their living."^{9/}

"In an Asian country, Friendship Inc. has established livelihood loan projects and has operated a truck garden, a piggery, a poultry enterprise and similar businesses employing ex-prisoners exclusively. It takes over, in effect, large areas of the after-care work with released prisoners."

"One of the best examples of this more specialized use of citizens can be seen in the California management-labor advisory committees. Usually referred to as trade advisory committees, these groups are organized around local correctional institutions to meet the need for current advice and counsel to ensure that extensive programmes of vocational education introduced in correctional institutions were consistent with the needs of counterpart industries in the community; to open up opportunities for the placement of released prisoners; and to involve both the labour unions and employers in each separate industry so that they would feel they had a stake in the enterprise of training and employing released offenders. Each committee was chaired jointly by an employer and a member of the relevant union. Currently, more than 1,000 persons in California serve on more than seventy such committees."

Sound economic planning is increasingly leading centralized governmental authority to appreciate the merit in subsidizing local community efforts of this kind. One particularly striking idea of this nature, currently being effectively applied, is the probation subsidy programme: the State subsidizes the local community to the extent that the community reduces the number of convicted offenders, adult and juvenile, committed to correctional institutions. The more such offenders

^{9/} T. O. Elias, op. cit.

are maintained in the community under high-standard probation supervision of defined quality, the larger is the community's subsidy from the State.

66. This theme of delegation of power to the local community is pervasive. To the extent that an attempt is made to have correctional processes community-based, then to that extent local community groups must be mobilized to accept these processes - by co-operative arrangements and sometimes by delegation and subsidization. One long-standing example of such acceptance is that of the subsidized foster home which is to be found throughout the world.

D. The provision by community groups
of autonomous social defence programmes

67. This fourth form of decentralization of governmental authority in social defence to local community groups is more speculative and less easy to describe than the three types considered so far. Sometimes the central Government leaves a substantial part of what had been regarded as social defence programmes to local effort. For example, a private police or security force may be maintained by a housing community. A settlement might likewise provide its own police force. Such forces would not report illegal behaviour to the central authority; rather, they would handle it entirely through community police, judicial and correctional processes. Usually, there are exceptions to their authority and some types of behaviour threatening to the State are often excluded from local control.

68. It may be thought that such arrangements pass beyond participation of the public in social defence and raise questions about the entire structure of governmental power within a geographic region. However, this process must be considered in any attempt to provide a global perspective.

69. Another development of this kind demands attention. In some of the developed countries, there has been a growing realization that too great a reliance has been placed on the criminal justice system and that a range of socially discordant and privately injurious behaviour has been drawn within the net of crime which would be better handled elsewhere. In this strong movement towards diversion from the criminal justice system, there is a tendency to seek other, normally local community-based means of treating behaviour previously regarded as criminal. A good example is to be found in criminal prohibitions against public drunkenness: it has come to be realized that such behaviour might well be left to other community organizations outside the criminal justice system. This is a wider issue; it raises many problems, some of which may be thought worthy of discussion at this Congress. It involves the difficult political and ethical questions of the proper role of the criminal law in relation to many other processes and agencies of social control.

VI. RESEARCH AND THE PARTICIPATION OF THE PUBLIC

70. This paper has, it is hoped, revealed the wide diversity of the relationships between governmental authority and community groups. It is hoped, too, that dogmatic conclusions have been avoided about which modalities of public participation are effective. Dogmatism would be unjustified: reliable data are lacking; there is widespread failure to measure critically the consequences of different arrangements for public participation in social defence. Description is easier than measurement, enthusiastic advocacy less demanding than critical evaluation. Indeed, as yet we have hardly developed the methodology for such measurement, let alone applied it. Nevertheless, it is clear that, in the long run, effective prevention and treatment of crime demands evaluation of this aspect of our work. It will not happen until planners recognize this need in their planning and provide funds for it in their budgets.

71. In the meantime, so that improvements in criminal justice will not have to wait on research, at least this conclusion emerges from the information reported to the Congress: there is a general tendency to encourage controlled public collaboration in the criminal justice process in a variety of ways. The official system needs not only the public's support but its collaborative effort. This can be achieved only if responsible elements in the community have knowledge of official efforts to prevent crime and treat offenders and are accepted as reliable and worthy colleagues in these endeavours.

This archiving project is a collaborative effort between United Nations Office on Drugs and Crime and American Society of Criminology, Division of International Criminology. Any comments or questions should be directed to Cindy J. Smith at CJSmithphd@comcast.net or Emil Wandzilak at emil.wandzilak@unodc.org.