

The Problem of Overcrowding of Juvenile Institutions and Non-Institutional Treatment of Juvenile Offenders

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As a result of the growth in the growth in science, technology, industrialization, urbanization and the intensive flow of information, Thailand right now is facing a transition in values. The existence of the value transition can be marked by the diminishing of traditional value, the emergence of new value such as a changing family pattern and life style, and the lessening of community social control. Along with this growth and changes, the number rate and spread of juvenile delinquency especially drug abuse among teenagers are apparently increasing every year. Table 1 and 2 show the statistics regarding the number of juvenile offence and the juvenile drug offence during 1993 - 1998

Table 1 : Number of juvenile offence during 1993 - 1998

| Year | Number of Juvenile offence |
|------|----------------------------|
| 1993 | 10,061 |
| 1994 | 11,345 |
| 1995 | 20,419 |
| 1996 | 23,591 |
| 1997 | 30,668 |
| 1998 | 38,472 |

Table 2 : Number of juvenile drug offence during 1993-1998

| Type of drug | Year | | | | | |
|--|------|------|-------|-------|-------|--------|
| | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 |
| Opium | 2 | 3 | 30 | 23 | 6 | 1 |
| Morphine | 1 | - | 54 | 3 | 3 | 4 |
| Heroin | 317 | 850 | 1,376 | 1,440 | 669 | 1,593 |
| Amphetamine | 54 | 119 | 941 | 3,690 | 7,726 | 15,411 |
| Marijuana | 157 | 27 | 915 | 967 | 1,088 | 893 |
| Yielding leaves which are Ground into a habit-forming drug | - | - | 1 | 29 | 37 | 12 |
| Volatile | 255 | 316 | 2,381 | 3,107 | 4,129 | 3,072 |

| | | | | | | |
|-----------|-----|-------|-------|-------|--------|--------|
| substance | | | | | | |
| Total | 786 | 1,315 | 6,698 | 9,259 | 13,658 | 20,986 |

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In Thailand, the Observation and Protection Centre which is attached to the Ministry of Justice has responsibilities both for detention and rehabilitation of juvenile offenders. It is also responsible for taking into custody of a child or young person awaiting trial.

At present, Thailand has 38 remand homes in 19 provinces (19 homes for male and 19 homes for female) and 20 remand homes both male and female in 10 provinces are under construction. At the end of 1997 and 1998, there were 30,668 and 38,472 detainees of all types in remand homes. When the authorized capacity for 38 remand homes are only 2,350 detainees and staff strength is 368 persons.

For juvenile training school, it has 22 facilities in 10 provinces (12 schools for male and 10 for female). In 1997 and 1998, there were 8,970 and 9,895 trainees of all types in training schools. When the authorized capacity for 22 training schools are only 47,50 trainees and staff strength is 948 persons.

Furthermore, it has 3 juvenile drug addict treatment and rehabilitation centres in 2 provinces (All centres are only for male juvenile drug abusers). In 1997 and 1998, there were 345 and 370 trainees for heroine and amphetamine types of drug abusers. When the authorized capacity for 3 centres are only 250 trainees staff strength is 96 persons.

Consequently, each year there are over-populated detainees in remand homes, trainees in juvenile training schools and in drug addict treatment and rehabilitation centres.

1. Identification of the Problem of Overcrowding of Juvenile Institutions

The problem of overcrowding in juvenile institutional establishments is an universal phenomenon and have been a persistent and pressing problem confronting correctional and rehabilitative administrators in many parts of the world. Overcrowding in juvenile institutions may have different meaning to the developed countries and developing countries. The

developed countries use criteria as minimum floor space, cubic content of air ventilation and other basic amenities to measure overcrowding. However, it means more than just shortage of accommodation for the inmates, it also develops an unhealthy criminate affecting juvenile treatment and rehabilitation programmes as well as creates other problems, such as security, social services, discipline, riot and escaping.

The criteria for measurement of overcrowding of juvenile institutions, there is a common standard regarding accommodation of juvenile offenders under the United Nations Standard Minimum Rules for the Treatment of Prisoners in this regard Rule 10 states that "All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard be paid to climate condition and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation. And also the United Nations Rules for the Protection of Juveniles Deprived of their Liberty in this regard Rule 33 and 34 state that "Sleeping accommodation should normally consist of small group dormitories or individual bed rooms, while bearing in mind local standards. During sleeping hours there should be regular, unobtrusive supervision of all sleeping areas, including individual rooms and group dormitories in order to ensure the protection of each juvenile. Every juvenile should, in accordance with local or national standards, be provided with separate and sufficient bedding, which should be clean when issued, kept in good order and changed often enough to ensure cleanliness"

"Sanitary installations should be so located and of a sufficient standard to enable every juvenile to comply, as required with their physical needs in privacy and in a clean and decent manner"

To be related to these Rules, Thailand has had the major codes and standards of architectural design and building control to be applied for the architectural and utility designs of juvenile institutions in principle. In cases where there are no relevant codes or standards or the existing one is deemed sufficient may be applied on a case by case basis. Thus, for architectural design and building construction of juvenile institutions this code and standard have been applied for specified floor, or cubic space, ventilation and light as follows ;

(1) Sleeping accommodation

a) **Remand Home**

- Old design - One dormitory accommodated of 100 inmates

- Type of dormitory is big group room
- Floor area per 1 person is 2 Sq. m
- One dormitory total floor area is 200 Sq. m

- New design - One dormitory accommodated of 50 inmates

- Type of dormitory is big group room
- Floor area per 1 person is 2 Sq. m
- One dormitory total floor area is 100 Sq. m
- Activity Space (space for meetings and recreational activities)

$$50 \text{ persons} \times 3.6 \text{ Sq. m} = 180 \text{ Sq. m}$$

b) Training School

- One dormitory accommodated 100 inmates
- Type of dormitory is big group room
- Floor area per 1 person is 2 Sq. m
- One dormitory total floor area is 200 Sq. m

c) The Sirindhorn Vocational Training School under Japanese Grant-Aid

- Type of dormitory is group rooms; 5 rooms for 6 persons each (with bed and desk) at 5 dormitories. 1 rooms for 5 persons (with beds and desks) at 1 dormitory.

$$5.2 \text{ Sq. m} \times 6 \text{ persons} = 32 \text{ Sq. m}$$

$$32 \text{ Sq. m} \times 6 \text{ rooms} = 192 \text{ Sq. m}$$

- Activity Space is for meetings lectures and recreational

$$\text{activities ; } 36 \text{ persons} \times 2.3 \text{ Sq. m} = 82 \text{ Sq. m}$$

- Study Room ; 2 rooms per 1

$$10 \text{ Sq. m} \times 2 \text{ rooms} = 20 \text{ Sq. m}$$

- Teacher's Rooms ; 1 person room for dormitory instructors, 1 room per dormitory 15 Sq. m

- Toilet 1 location per dormitory ; 15 Sq. m

(2) Standard with ventilation and light

State that windows shall be large enough to enable the inmates to read or work by natural light and also to allow the flow of fresh air and sufficient artificial light shall be provided to enable the inmates to read or training without injury to eyesight. This would mean the whether it is in dormitory, classroom or workshop there must be sufficient air circulation, full of natural light and also artificial lighting. Moreover, where the climate warrant group rooms that can not be adequate ventilated by other means should be electric fan.

The problem of overcrowding of juvenile institutions could be examined from two angles; overcrowding of untried juveniles during trial and overcrowding of trainees after adjudication.

2. Reasons for the overcrowding of juvenile institutions

There are many reasons for the overcrowding of juvenile institutions within the following aspect should be regard as for the major reasons for this phenomenon.

(2.1) Reasons for the overcrowding of untried juveniles during trial awaiting

The rapid increase in juvenile crime rate especially the in crease of juvenile drug abusers since 1996 – 1998, the number of remand homes and the accommodations have not kept pace. Old, out dated homes and construction of new remand homes are being grossly under facilitated and unable to cope with the ever increasing. Furthermore, laws delays or long period taken for the disposal of cases. In general case it will be taken for 90 days. (Article 51 of the Act for the Establishment of and Procedure for Juvenile and Family Court BE. 2534)

Excessive bail or inadequate use of bail provision or some untried juveniles are either to ignorant or too poor to retain counsel to make application for bail or for bail given by the Directors of the Observation and Protection Centres , they are reluctant to relax the requirements or condition of bail in fear of the difficulties of serious case, making untried juvenile appear in court and some untried juveniles breaking conditions of bail quite often especially the juvenile drug abusers, in consequence of these matters, it has also contributed to the increase in the untried juvenile populations.

(2.2) Reasons for the overcrowding of trainees after adjudication

The juvenile justice system in Thailand aims at rehabilitation of a juvenile offender is actually mixed with treatment and punishment model. The juvenile proceedings have focused on proven guilty as well as care. A training institution which is actually a minimum security detention facility is a preferable or an alternative place. Alternatives to the juvenile delinquency problems rather emphasize on criminal proceedings than care and social proceedings. Diversion from juvenile justice to non-institutional treatment or non-punitive juvenile shelter administered by a welfare agency or private organization is not be preferable. Thus, institutional treatment would be a routine recommendation or adjudication process as the most powerful and effective measure against juvenile offence but not a measure imposed as a last resort. Other reasons are long treatment sentence and the large numbers admitted to juvenile training school for juvenile drug offences also contribute toward the increase of juvenile populations.

Moreover, a very significant factor in the overcrowding of juvenile training school is that Thailand have not constructed adequate new juvenile facilities especially the facilities for juveniles drug addict of which have to be separated from general juvenile facility. However, for construction of the new buildings of other types of juvenile training schools or juvenile drug addict treatment and rehabilitation centers, there are taken very long time (about 3 years) and very expensive item for Thailand during economic crisis and are therefore placed at the last of the priority list.

3. Effect of overcrowding of juvenile institutions

(3.1) Effects on juvenile

Juvenile institutions overcrowding creates many difficulties in the observance of Convention on the Rights of the Child, United Nations Standard Minimum Rules for the Administration of Juvenile Justice, and United Nations Rules for the Protection of Juvenile Deprived of their Liberty. It causes severe strain on the already meager essential services and amenities resulting in deprivation of basic necessities for human living, child and juvenile welfare. Overcrowding leads to keeping together different categories of juvenile offenders. Classification and segregation become impossible. There is, therefore the risk of contamination as first offenders, recidivists serious offenders and petty offenders, long and short-term offenders have to be housed

in the same institution. Once the juvenile offenders are not properly classified or segregated and left untrained, they become idle and mixed up with the group that they are not supposed to. This is the most dangerous period or stage where pollution can easily take place. One pollution take place, juvenile institutions become “ School of Crime” because harmful contact greatly outweigh beneficial contact. Furthermore, stigmatization of juvenile incarceration breeds more social unacceptance, resentment and ostracism by the wider society of the released juvenile to a “life” of juvenile crime which ultimately manifests itself in recidivism.

(3.2) Effects on administration and staff

Overcrowding hinders realization of the goals of juvenile institutional administration. Due to the limitations of manpower, material resources and technical equipment, juvenile institutional administration have to be immersed in coping with daily affairs, and can not carry on treatment and rehabilitation programmes. Increasing juvenile populations and limited incarceration facilities such as accommodation facilities cause different categories of juvenile offenders to be kept mixed. As a result different kinds of offenders impart their bad behavior and crime experiences to each other in juvenile institutions. Overcrowding also weakens juvenile institutions security staff cannot keep close watch on juvenile’s movement so that the phenomenon of escape is frequently occurred in many remand homes and juvenile training schools and contributes to additional pressure on staff and tension between staff and inmates. Besides the above-mentioned negative effects, juvenile institutions

overcrowding impedes to effectively implement international standards, in particular the Convention on the Rights of the Child, UN. Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), UN. Rules for the Protection of Juvenile Deprived of Their Liberty, which cover standards in many aspects.

Moreover, the United Nations in the procedures for effective implementation of the concerned standard minimum rules and other rules ask that the states should incorporate those rules in national laws and regulation. Unfortunately, increasing juvenile institutional populations and the inadequacy of basic necessities, juvenile welfare services and incarceration facilities have created difficulties in the observance of the convention, UN

standard Minimum Rules and UN rules in juvenile institutional administration of Thailand.

4. Measures to reduce overcrowding of juvenile institutions
 solutions to this thorny problems are not easy and could not be found by the strategies adopted by the juvenile correctional and rehabilitative administrators alone. It is widely acknowledged that all components within the juvenile criminal justice administration i.e. the police, the prosecution, the judiciary, the juvenile correctional and rehabilitative organs, social welfare services agencies, and public each has a vital part to play in an integrated approach to formulate countermeasures in alleviating pressure exerted to the over-populated, dynamic and under facilitated juvenile institutions. Therefore, Thailand has carried out a comprehensive policy to seek the solution to this problem.

(4.1) Measures to reduce overcrowding of untried juveniles

Untried juveniles in remand homes aggravate the problem of overcrowding. In order to reduce the number of untried juvenile committed to this home, these measures would be effective at the pre-trial stage such as warning, summons, application of voluntary investigation, suspended prosecution, and bail.

(4.2) Measures to reduce overcrowding of trainees

Thailand emphasize juvenile institutional treatment would be a routine recommendation or adjudication process as the most powerful and effective measure against juvenile offence but not a measure imposed as a last resort. Time is ripe to consider modification of Juvenile Act. Institutional treatment should not be a routine recommendation or adjudication process but should be a measure imposed as a last resort and for the minimum necessary period. Moreover, implementation for non-institutional treatment (such as diversion, probation, restitution, community service, temporary release, pre-released, individual-centered, non-institutional treatment, family and community non-institutional treatment and parole or semi-institutional arrangements (such as half-way houses, educational homes, day-time training centres and other such appropriate arrangement that may assist juvenile in their proper reintegration into society) should be taken to reduce the judiciary's heavy caseload, juvenile institutional overcrowding and the high financial cost of maintaining institutional system.

5 Non-institutional treatment of juvenile offenders

Resolution of the 7th United Nations Congress on Prevention of Crime and Treatment of Offenders advocates the use of non-custodial sanctions to achieve a reduction in the prison as population. The resolution emphasizes that imprisonment should be used as sanction of last resort, taking into account the nature and gravity of the offences and other legally relevant factors and for reduction in juvenile institutional population, the United Nations Standard Minimum Rules of the Administration of Juvenile Justice (The Beijing Rules) , which were adopted by the General Assembly in its resolution 40/33 29 November 1985, stipulate that detention should be used only as a last resort and for the shortest possible period of time. The Rules, thus, encourage the use of alternatives to institutionalization to the maximum extent

(5.1) United Nations Standard Minimum Rules for Non-Custodial Measures (resolution 44/110,14 December 1990) more popularly known as “Tokyo Rules” assumes a very significant place in this area. It emphasizes the perspective that non-institutional treatment measures are conducive to rehabilitation more effectively than costly institutional treatment and advocates that member countries incorporate such measures in the national policies.

For the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (resolution 40/33,25 November 1985) more popularly known as “Beijing Rules” assumes a very significant place in this area. It emphasizes the perspective that progressive criminology advocates the use of non-institutional over institutional treatment. Little or no difference has been found in term of the success of institutionalization as compared to non-institutionalization. The many adverse influences an individual that seem unavoidable within any institutional setting evidently cannot be out balanced by treatment efforts. In the same time, the negative effects not only of loss of liberty but also of separation from the usual social environment are certainly more acute for

juveniles than for adults because of their early stage of development. Rule 19 aims at restricting institutionalization in two regards; in quantity (“last resort”) and in time (“minimum necessary period”) . In fact, priority should be given to “open” over “closed” institutions. Moreover, this include advocates that member countries as well as Thailand should be incorporated

such measures in the national social policies and the national child welfare policies.

(5.2) In the late 1950s and 1960s the concept of non-institutional treatment of offenders and juvenile offenders or community based corrections gained recognition and support in many developed countries as well as Thailand. These programmes including diversion (such as diverted from the juvenile justice system, diversion from formal court process and diversion from custody), pre-trial release, probation, restitution, community service, temporary release, pre-released, half-way houses, educational homes, day-time training centre, individual-centred, non-institutional treatment (such as individual psychotherapy, group psychotherapy, behavior therapy, cognitive therapy and pharmacotherapy) and family and community non-institutional treatment (such as family-focused treatment, parent management training and community-based treatment (community-wide interventions) and parole from a continuum of options for dealing with juvenile offenders in the community. However, in Thailand where such sentencing options for juvenile offenders have been introduced

and have found that it has not had an effective impact on incarcerated rates. There are several reasons for this, such as the criticism against lenient punishment by police and public, misunderstanding of non-custodial sentences, the resultant reluctance of the judges to utilize these sentencing option and bearing the public safety in mind much more than consideration on the well-being and the future of a child and young person are the main reasons. It is therefore necessary that these sectors be better informed of the importance and advantage of non-custodial sentences compared with incarceration. The task of juvenile correction and rehabilitation includes building solid ties between juvenile offender and community reintegrating the juvenile offender in to community life securing in a larger sense a place for the juvenile offender in the routine functioning of society. This requires not only efforts directed towards changing the individual juvenile offender but also changing the attitudes of the community and its juvenile institutions and its mobilization.

(5.3) Participation of citizens in rehabilitation of juvenile offenders

For the successful treatment and rehabilitation of juvenile offenders in community citizen's positive regards to and

involvement in programmes are indispensable factors. In Thailand, it is officially organized and mobilized as Volunteer Probation Officer and Para-probation Officer who assist probation officers in helping rehabilitation of probationers. Furthermore, voluntary organization, local institutions and other community resources shall be called upon to contribute effectively to the rehabilitation of juvenile in a community setting and as far as possible, within the family unit. There also can be found a variety of activities for citizens, voluntary organization, local institutions and other community resources to be involved in prevention of juvenile crime and rehabilitation of juvenile offenders.

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