

THE HONOURABLE THE CHIEF JUSTICE'S  
KEYNOTE ADDRESS

YOUTH JUSTICE CONFERENCE 2000:  
MANAGING A NEW WORLD IN TRANSIT

1. National responses in many countries to youth offending throughout the 20<sup>th</sup> century have fluctuated between the 'welfare' and the 'justice' models: broadly whether young offenders are seen as being primarily in need of care and rehabilitation, or deserving of correction or punishment. Both the approaches have received their share of criticism. Both have had unintended and unwelcomed consequences.

2. In the 1970's, the research community concerned with the use of prevention and treatment programmes for juveniles concluded that nothing works. This conclusion, together with serious juvenile delinquency, resulted in the confinement of larger numbers

of juveniles throughout the 1980's. A recent US nationwide survey of 1,100 programmes and 3,000 juvenile justice professionals, including juvenile and family court judges, court administrators, probation officers and line staff, compiled by the National Centre for Juvenile Justice now says that treatment programmes for juveniles do work and were working all the while. The report described a variety of successful prevention and treatment programmes in the American juvenile justice system.

3. We studied the juvenile trends in the USA and the UK. In these countries, in the 1990's, fear of juvenile crime rose, fuelled by such things as joy-riding incidents in deprived areas, increased publicity about persistent young offenders, the James Bulger murder in the UK and the school shootings in the USA.

4. The US Government's Office of Juvenile Justice Delinquency Prevention March 1996 Juvenile Justice Action Plan acknowledged that "the problem of violent crime committed by and against juveniles is a national crisis". It went further to state that:

“ In the 1990s, pervasive problems with juvenile violence threaten the safety and security of communities across the country, and projections for the future are cause for nationwide alarm. Demographic experts predict that juvenile arrests for violent crimes will more than double by the year 2010, given population growth projections and trends in juvenile arrests over the past decade. It is clear that our children and the juvenile justice system need immediate help.”

5. The UK saw several juvenile justice legislative changes from the Children Act 1908 to the Children and Young Person Acts of 1933 and 1969, the Criminal Justice Acts of 1982 and 1999 and the Criminal Justice and Public Order Act 1994. The recent British report ‘Restoring youth justice: New Directions In Domestic And International Law And Practice’ commented thus:

“Given this see-saw between punishment and rehabilitation, justice and care, it is scarcely surprising that the youth justice system is widely perceived as ineffective, and as failing to deliver satisfaction to society, victims or offenders.”

6. A serious situation had arisen. There was a perceived need to get tough on crime. The use of cautions and warnings was heavily criticised as being ineffective and routine, and was actively discouraged. Confidence dropped in the welfare or the justice approaches as ineffective or irrelevant to the needs of both society and young people.

7. We took stock. We did not want to throw the baby out with the bath water. The founding principles of the Juvenile Court in our Children and Young Person's Act which became law as early as 23 September 1946 are still relevant in present day circumstances. Welfare of the juvenile is a guiding principle of this Act. The juvenile delinquent is not excused of responsibility or accountability for his misconduct. The Act determines the jurisdiction of the Juvenile Court for the 7 to 16 year olds. The Act also spells out clear principles for care orders, fit person orders, social work and supervised treatment, approved school and young offender incarceration. It balances parental authority and State intervention. But we were at the same time concerned with worldwide trends.

8. The Singapore Government took proactive preventive measures. In 1995 it established the Inter-Ministry Committee on Youth Crime (IMYC). Several studies on our youth were made so that direct beneficial programmes could be put into place. The Judiciary did not stand still.

9. The Subordinate Courts had, as part of their overall judicial reforms, done a scenario planning analysis of our domestic juvenile demographic and delinquency crime trends. This led to our introduction and implementation in 1995 of the restorative justice model, a model which has now become widely accepted in other countries. This process attempted to break the cycle of the juvenile justice models that had lasted for most of the 20<sup>th</sup> century, and reflected the worldwide momentum for change. We monitored the effectiveness of the restorative justice programmes in five surveys. These were on the effectiveness of family conferencing and community service orders, typology of youth rioters, profile of juveniles before the Juvenile Court who were beyond parental control and on juvenile shoplifters.

10. We, however, implemented the restorative justice programmes, not as a model of diversion from the Juvenile Court but as an integrated juvenile justice system, essential to the judicial disposition process. Restorative justice seeks to deal with the underlying causes of offending and to integrate offenders and their families into society. It involves the victim, the parents of the offender and the victim, their school and religious teachers, their extended families and even their peers as essential to the process of seeking a solution and support system for the offenders and their families. It brings within its remit all available community resources and relevant juvenile justice constituents or stakeholders including faith-based organisations. As a critical juvenile justice programme, restorative justice is rightfully driven by the juvenile court judge lending authority and legal credibility to the process.

11. The restorative justice programmes and the IMYC's measures contributed to the general decline of juvenile crime in Singapore. We supported the Juvenile Court with some of the best practising social workers in the Family Conciliation and Resolution Centre, senior legally qualified court administrators in the Juvenile

Justice Center and a Harvard trained and experienced psychologist as Director of Psychological Services. They are part of the Subordinate Courts, and not mere adjunct bodies. This is to ensure that the juvenile system is sufficiently informed and guided by other relevant disciplinary professions in dealing with juveniles and their behaviours.

12. The Juvenile Court is not the stepchild of criminal justice, as has happened elsewhere, but rather is a critical institution in its own right. Further, the juvenile justice system must be saved from becoming the “farm system” for adult criminal offenders. Hence, the infusion of these complementary resources. They ensure that early and effective intervention will take place during a juvenile’s first contact with the Juvenile Court at the point where, developmentally, the general potential for rehabilitation is greater than for adult criminals.

13. The general inclination of our judicial disposition of juvenile cases is towards individual rather than crime based sanctions. This is individualised justice. Personal and specialised

attention is paid to each juvenile offender, his character, his family and environment for a holistic approach. Such inclination is tempered by legislative policies, such as in the Children and Young Persons Act and the Probation of Offenders Act. I have referred to the guiding principles of the Children and Young Persons Act. I now refer to the Probation and Offenders Act for completeness as the Conference is deliberating and seeking solutions to juvenile justice. The legislative scheme under our Probation of Offenders Act Chapter 252 requires the Courts to take into account all the circumstances of the case, including the nature of the offence and the character of the offender. Recently, in the course of hearing an appeal from the Subordinate Courts, I stated the following:

“ The traditional and broad rationale of probation therefore has always been to wean offenders away from a life-time career in crime and to reform and rehabilitate them into self-reliant and useful citizens. In the case of youthful criminals, the chances of effective rehabilitation are greater than in the case of adults, making the possible use of probation more relevant where young offenders are concerned. Nevertheless,

... 5(1) of the [Probation of Offenders] Act [Chapter 252] makes it clear that probation is never granted as of right, even in the case of juvenile offenders.”

14. The reality is that no court system by itself can solve the delinquency or juvenile crime problem. The socioeconomic factors in our society, along with cultural and diversity issues and personality of individuals will continue to have a significant role on juvenile delinquency. Prevention and social control programmes would need to be implemented, particularly those that target risk and protective factors.

15. These factors and programmes are within the remit of the Government or its executive agencies. Further, individualised justice exerts a tremendous strain on the juvenile justice system. It necessitates the commitment of a huge amount of resources to deal with each individual case, an amount that may be disproportionate to the entire caseload before the Juvenile Court. This is the reality of distributive justice in which the Juvenile Court is required not only to decide cases according to the law and facts, and then make

appropriate disposition orders, but also to ensure that the limited resources of the juvenile justice system are fairly distributed amongst all offenders, juveniles beyond parental control or youth at risk and their families who seek justice and intervention across the system.

16. We have attempted what we call the citizenship of the juvenile justice system. This is really collaborative justice which brings together all the justice constituents and stakeholders to achieve the practical ideal of individualised justice and the reality of distributive justice. The elements of such collaboration must be well defined to ensure optimal utilisation of limited resources and to prevent any pinches among the juvenile justice constituents. I would suggest the following elements for a working and effective juvenile justice framework:

- (i) The Juvenile Court, as the primary institutional interpreter of the standards of fairness of juvenile justice and of juvenile law under the Children and Young Person's Act, must, for this and the reasons which I have mentioned, play a central

role, unlike in other countries where such courts have much more of a background and supervisory role.

- (ii) Judicial disposition would need to be multi-systemic. At its core must be the specific needs and problems of the offender and his integration within his family who must play a critical role, and within his community and peer environment. Yet the interest of the society at large must not be prejudiced. In other words, there must be a continuum of graduated yet flexible sanctions that responds to the needs of each juvenile offender while providing for community safety.
  
- (iii) Immediate and therapeutic intervention by the Juvenile Court Judge, or the Family Conciliation and Resolution Centre, or the Psychological Services of the Juvenile Justice Centre, MCDS, the police or the correctional agency, whichever is appropriate, at the first sign of delinquent behaviour for a youth at risk or beyond parental control, or for breach of the law or judicial order or institutional discipline.

- (iv) The role of the other core institutions and organisations must be enhanced to manage the diversionary and post-sentence programmes for the delinquent and his family and propagate social values and ensure order in the community. Education and social integration of the delinquent is essential.
- (v) The family of the delinquent must take primary responsibility in the rehabilitation of the delinquent.
- (vi) That delinquency prevention is the most cost effective approach in combating juvenile crime;
- (vii) There must be differential case management and pre and post sentence classification of the juvenile offender, particularly for the segment of serious, violent and chronic juvenile offenders. The classification would need to identify and differentiate between life-course persistent offenders from adolescence-limited offenders. Additionally, there would, from time to time, be offenders who would require special attention such as those who are developmentally retarded, clinically emotionally disturbed or severely suicidal. This element would lead to a juvenile justice

process informed by developmental psychology of the juvenile delinquent. This will ensure, as far as is possible, the juvenile's reintegration and the juvenile assuming a constructive role in society. This would also avoid criminalising the juvenile for behaviour which does not cause serious damage and which is a transient, developmental process.

17. These elements build on the classic "broken window" doctrine in juvenile justice. This doctrine envisages that a mere broken window in the community which may start of in mischief, if not repaired by all those involved in the juvenile justice system, will escalate into acceptance of unlawfulness by our young and a breakdown in social order. The process of dealing with the broken windows of a juvenile delinquent, his family and in the community is as important as the outcome desired. Equally important is the participation by the relevant constituents. The juvenile's respect for the rights and freedom of others as well as his sense of worth and dignity must be dealt with early.

18. The Juvenile Court, through its administrative arm, the Juvenile Justice Centre, has been in close partnership with all those involved in the juvenile justice system. Especially in the last five years we have successfully implemented several programmes. I will name a few restorative and diversionary programmes. A fuller list will be discussed at this Conference. These programmes are:

- i) Family Conferencing
- ii) Peer Mediation
- iii) Youth Family Care
- iv) Family Care Conferencing
- v) Streetwise Programme
- vi) Boot Camp
- vii) Educational talks and visits to the Prisons

19. I should also mention that over the last 30 years, international human rights law and standards on children and young people caught up in the criminal justice process have sought to recognise the specific needs of children, and to develop more

flexible and positive ways of dealing with them while retaining the safeguards of due process standards.

20. The values and philosophy expressed in these conventions, like the UN Guidelines for the Prevention of Juvenile Delinquency (which are known as the Riyadh Guidelines), the UN Rules for The Protection of Juveniles Deprived of Their Liberty, the UN Standard Minimum Rules for the Administration of Juvenile Justice (commonly known as the Beijing Rules), the International Convention on the Rights of The Child, have already transformed practice and procedures in some parts of the world. Their promotion of diversion and restorative measures, as well as their insistence on rights and safeguards, signals a new approach to the treatment of young people that has been increasingly influential. We have kept faith with these international standards. On 7 September 2000, Singapore was among the first countries in the world to sign the Optional Protocol to the Convention on the Rights of the Child.

21. I leave the issues and comments I have raised for the Conference. The institution of the juvenile court is 100 years old this

year. The first juvenile court was established in the State of Illinois. The Singapore Juvenile Court will, on the 23 September 2000 next week, be exactly 54 years old. The juvenile court is a landmark institution of the last century. We now enter the 21<sup>st</sup> century, and the second century of the juvenile court's existence. This Conference is therefore timely. Appropriately, it is co-convened by the Ministry of Community Development and Sports and the Subordinate Courts. I see before me an international gathering of juvenile justice experts and participants from 20 countries. We must all confront the critical issue of how we treat children who become delinquent or offenders. On that note I declare this Conference open.