

CHAPTER 2

Theories of delinquency

Introduction

This chapter will discuss the theories that have been advanced by various authors as factors of juvenile delinquency. It will help us understand the causal problems. In other words, it will be meaningless to proceed to the factors of delinquency without underlying what the people have said to have been the contributing factors. There are four basic causal theories and approaches to understanding the problem of delinquency.¹ These may be listed as follows:

- (i) hereditary approach;
- (ii) the personality approach;
- (iii) the learning approach; and
- (iv) the social control approach

Perhaps, a fifth approach may be suggested, i.e. the economic approach. This approach is neglected and discarded by western writers on the ground that there is no difference between rich and poor communities in so far as they all show signs of being infested with juvenile delinquency. In the last chapter we looked at the introduction of the juvenile system in Britain and United States and how the same has been imported to Zambia. We looked at the objects for coming up with the idea of

¹ Mudenda, C.M. Obligatory Essay UNZA, 1976/77 p. 13

establishing Houses for the protection of young offenders and the reasons advanced for keeping them separately from adult offenders so as to avoid their pollution. The theories of delinquency discussed herein will try to throw some light on certain behavioural aspects of the delinquent.

The Personality approach

Early attempts to explain various forms of element behaviour i.e. crime, mental illness, etc. focused on demon or spirit possession.² Individuals who violated societal norms were thought to be possessed by some evil spirit which forced them to commit evil deeds through the exercise of mysterious supernatural power. Deviant behaviour then, was viewed not as a product of free-will but as determined by forces beyond the control of the individual. In order to control it, a variety of techniques were employed to drive the evil spirits from the mind or body of the deviant.³ One process that was employed was "trephining" which consisted of drilling holes in the skulls of deviants to allow the spirits to escape. Various rites of exorcism including beating and burning were practiced to make the body of the deviant un-comfortable place to reside that the evil spirit would leave. In most cases it resulted in death or permanent disability to those who were allegedly possessed.

² Steven, M.C./Conrad J.J. Juvenile Justice Iowa, Dubuque C Brown Publishers) 1979 p. 49

³ Op. cit. p.50

The Social Control approach

This emerged in the last half of the 18th century in Italy and England.⁴ This approach is explaining and controlling crime was based upon the belief that human beings exercise freee-will and that human behaviour results from rationality calculating rewards and costs in terms of pleasure and pain. Under the classical theory, threat of punishment was considered to be a deterrent to criminals who rationally calculated the consequence of their illegal action.

By 1765, Cesare Beccaria recognised that not all individuals were capable of rationally calculating rewards and costs and called for the exclusion of the insane and juveniles from punishments identical to that of sane adults.⁵

The Hereditary Approach

The positive school of criminology emerged in the second half of the 19th century.⁶ Cesare Lombroso is recognised as the founder of positive school and also as the "father" of modern criminology. Lombroso with others like Garofalo and Feuri believed that criminals should be studied scientifically. They emphasised the need for empirical research in criminology and some stressed the importance of environment as a causal factor in crime.

⁴ Op.cit. p.51

⁵ Ibid p. 51

⁶ Op. cit. p. 53

The biological approach to delinquency was based on the assumption that delinquency is inherited. Over the past century, the approach has tended to emphasis more the belief that heredity predisposes certain individuals towards delinquency rather than determines delinquency. This school has offered a number of different explanations of delinquency, ranging from glandular racial functioning to learning disabilities to racial heritage intuition.

Lombroso became known for the theory of the "born criminals." According to him, these born criminals could be recognised by a series of external features such as receding foreheads, enormous development of the jaw, mouth and large or handle-shaped ears. These external traits were thought to be related to personality types characterised by laziness, moral insensitiveness and absence of guilt feelings. Following Lombroso, there were a number of attempts to find biological or genetic causes for crime and delinquency. Identical twin studies were conducted based on the belief that if genetics determine criminality, when one twin is criminal the other will be also. In general these studies provide evidence that genetic structure is not the sole cause of crime since none of them indicate that one-hundred per cent of the twins studied were identical with respect to criminal behaviour.

2.5 Learning Factors

There is an approach to the factors of juvenile delinquency which proceeds on the theory that a child learns delinquent behaviour just as he learns other kinds

of behaviour. This approach has three major propositions as epitomised by the theory of differential association. The first of these propositions is straight forward: the child is said to learn his values and behaviour from those with whom he associates.

The second proposition is that delinquents are differentiated not by their psychological needs but by the way they learn to meet them.

The third line of thought proceeds to say that the process of learning delinquent values and behaviour involves not only conscious imitation but all the mechanisms of learning. On this premise, it is held, all of the culture influences which surround the child are presumably part of his learning environment.

.6 Economic Approach

The economic approach to the factors of juvenile delinquency is perhaps the most important one. In developed industrial societies, it is economic affluence and progress that puts the youth in a state of permanent rebellion against parental authority and duly constituted forces of law. The frustrations of technological advancement alienate and estrange the youth from normal life.

In under developed countries like Zambia, economic backwardness and the general state of poverty that afflicts the greater majority of society is the cause of the youth problem. Economic deprivation leads to such side effects like crime. On the other hand, economic affluence

leads to such things as moral decadence and a general sense of spiritual bankruptcy. Thus, it can be safely concluded that economic poverty leads to an insecurity resulting from want of material effects and necessities

2.7 Major Factors of Juvenile Crime in Zambia

Zambia has its own share of the factors of the problem of delinquency. Efforts by the government through the ministry of Community Youth and Child Development are being put in place. The Department of Social Welfare has a section which deals with the problem of delinquency in Zambia. The question on the lips of most Zambians is; what is the cause of Juvenile crime in our society. Different answers have been put forward. Among the answers are:

- (i) Unemployment
- (ii) Structural Adjustment programme (SAP)
- (iii) Changed values; and
- (iv) poverty.

Unemployment is one of the causes of juvenile delinquency. With the coming of independence in 1964, Zambia was plagued by a rural-urban drift.⁷ The economy of the country is based on copper. For some time now the economy has not been growing. There are no jobs to satisfy all the seekers. The incidence of unemployment is much higher among the youth in the age groups of fifteen to twenty-five years. One obvious reason is that most employers look for experience labour force. Every year, we see more and more students/pupils being thrown onto the streets after either

⁷ National Workshop on Street Children, Lusaka, 14.2.1992

dropping at Grade 7 and 9 or after completing Grade 12.

The coming of the Third Republic has seen the introduction of a liberalised economy. there is in place the Structural Adjustment programme commonly known as SAP. There is also the privatisation of Industries. This being the case, a sale of parastatals has been embarked upon. This has led to a massive number of people being left jobless. In most cases, this has not only affected the bread-winner, his family as well. The children of some of the retrenched workers have resorted to crime to keep themselves going as a means of survival as more people are being thrown onto the streets. The effects of unemployment slowly begins to show in their children.

We have seen changed values among Zambians. In the past, particularly during the pre-colonial days, a family was more stable. Divorce was rare and children were looked after by both or several parents, depending upon how many wives a man had. In the traditional society, children were kept busy at an early stage. They looked after cattle, collected fire-wood assisted in farming, etc. Children had a code of conduct, stealing was for a example a taboo. Children were made aware of the shame they would bring to their parents if they behaved in a disgraceful manner.

The advent of colonialism saw an invasion of our rich traditional values and culture. Colonial rule brought with it urbanisation. More people drifted to the Copperbelt and Lusaka in search of employment. Not all drifters were employed in good paying jobs. The majority of the drifters were employed as labourers and staying in shanty compounds.

This lack of accommodation brought with it the spiralling or mushrooming of shanty compounds. The poor living conditions, no tap-water, electricity, has exacerbated crime. This ground agrees with learning factor as a theory of causation that the cultural influences which surround the child really are presumed part of his environment. The child is exposed to all bad values and behaviour from those with whom he/she associates. We are all aware that children are agents of socialisation. The deplorable living conditions have a bearing on the behaviour and mind of a child. It has to survive and to survive it resorts to stealing other people's property. Most of the drifters failed to provide for their families.

Poverty is another factor of delinquency amongst the youth. Malnutrition has increased as food production fails to keep pace with population growth. Attendance at school is secondary, so the child's aspirations for a better life are suffocated. The daily struggle for physical survive force the children into the street, begging, stealing etc.

Teenage girls are not an exception. They have to supplement the households income by resorting to prostitution. Again this point ties well with the economic approach earlier discussed as a causal factor. It is economic affluence and progress that puts the youth in a state of permanent rebellion against parental authority and the law. Most parents leave their children alone to fend for themselves. They are left to cope with the physical, mental and emotional changes during their most vulnerable time in life.

.8 Conclusion

Therefore, we are able to conclude that juvenile delinquents are a product of the manner in which society itself is organised. Many factor which are interlinked contribute to the spread of juvenile delinquency in our society. The teenage girl who is not properly fended or fed, resorts to prostitution as a means of eking out a living while a boy will turn to stealing. Since most of them are un-educated, they cannot get employed. Survival is the only word they know. The government should take programmatic steps to find a lasting solution to the problem.

CHAPTER 3

The Role of the Police and the Court

1 Introduction

This chapter examines the role of the Police and the Subordinate Court in combating juvenile crime. Discussion of the police usually recognises their prominence as primary representatives. The police are usually the first contact of the juvenile. The police exercise considerable amount of discussion in handling the juvenile. Juvenile courts in Zambia operate within the underlying principle of the Juveniles Act, which provides for care, guidance and protection for the offender. This chapter will discribes and evaluates the important roles of the police and the juvenile court in the Juvenile Justice System.

2 Zambia Police

The Zambia Police are governed by the Zambia Police Act, cap. 133 whose objectives are to protect life and property, to prevent, detect and apprehend offenders, to preserve peace etc.¹ The founders of the juvenile justice system envisaged that the offenders needed protection from identity. Hence, he should be separated from adult criminals when in police hands to avoid pollution.

¹ Zambia Police Act, cap. 133

3 Need for Presence of Guardian/Parent

When a crime has been committed, the complainant will report it to the police for investigation. The investigation may lead to the apprehension of the juvenile offender. Once a juvenile is arrested, the guardian is supposed to be informed. In most cases this is not done. In most cases the parents will know of it at when an offender is already in cells or when then they go to make a report that their child is missing. This is when the police ask parents of the offender his particulars and if he is in cells they will be told.² In Mbewe v. The People,³ Bruce Lyle S. Judge had this to say:

"We feel reluctant to lay down any judges rules in this regard. s. 127(i) of the Juveniles Act stresses the importance which the legislature attaches to the attendance whenever possible, during all stages of the proceedings in court, of a parent or guardian of a juvenile but there is no such provision in the Act for the attendance of a parent or guardian at police stations during the taking down of a statement of a juvenile. We would however, urge that it is desirable to have a parent or guardian when possible to be present at the police when a statement is being taken from a juvenile."

² Simaluwani, Ph.D Thesis University of London, July, 1994
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³ [1976] ZR 317 and 319

This decision has not been followed why? This is because there are no guidelines for police operations and there is lack of specialisation. These traditional police attitudes have hampered the development of a professional corp of police juvenile offices and have led many juvenile officers to see their role in unfavourable light. Steven⁴ [1987] writes in the Juvenile Justice that:

"We would like to point out that being a good juvenile police officer requires more skill than being a good patrol officer. In addition to learning the basics of policing the juvenile officer needs to learn a great deal about the special requirements of juvenile law, about the value of adolescence and about the nature of parent child relationship. These skills are not easy to acquire and those who have mastered them should take pride in their accomplishment."

It does little good to have a competent juvenile officer if the initial encounters between the juvenile and the police has been mishandled. Police officers dealing with juveniles need to be aware that all guarantees in terms of self-incrimination and searches and seizures characteristic of adult proceedings also hold for the juvenile. Thus, the police are supposed to notify the juvenile's parents about their child's whereabouts, and are required.

⁴ Steven M.C./J.J. Conrad, Juvenile Justice Iow A, Dubuque (MC publishers) 1987; p. 128

3.4. provisions As to Bail

The police are supposed to release the juvenile to his parents unless good cause exists for further detention. s.123 of the Criminal procedure Code,⁵ cap. 1`60 sets out the provisions for bail. However, murder, treason, aggravated robbery and offences under The Narcotic Drugs and Psychotropic Substances,⁶ (Act No. 37 of 1993) are not bailable. s.43 of the Act needs:

"Whenever any person is arrested or detained upon reasonable suspicion of his committed a cognisable offence under this Act, no bail shall be granted when he appears or is brought before any court."⁷

This means that an offender is entitled to bail in all cases except these mentioned above. If an offender has committed a non-bailable offence, he is supposed to be separated from adult criminals in cells. The police must make special arrangements for the offender so that he is separated from other criminals. S. 58 of the Juveniles Act cap. 217 is an instruction to the Commissioner of Police to make such arrangements.⁸ It is supposed to be the same when he is being conveyed from the police station to the

⁵ Criminal Procedure Code, cap. 160

⁶ Act No. 37/93

⁷ Juveniles Act, cap. 217

⁸ Juveniles Act, cap. 217

court and back. The offender is supposed to use separate transport. s. 59 of the Act, gives authority to the officer-in-charge of the police station to grant the offender bail....and

- (a) unless the charge is one of homicide or other grave crime; or
 - (b) unless it is necessary in the interest of such person to remove him from association with any reputed criminal or prostitute; or
 - (c) unless the officer has reason to believe that the realise of such person would defeat the ends of justice. The offender can be released on his own recognisance with or without sureties. Normally, he is released into the custody of his poverty.
- *A perusal of the Chililabombwe police station occurrence.

3.5 The Rights of the Offender

The Constitution of Zambia⁹ guarantees to an offender his constitutional rights. Article 18 needs:

"If any person is charged with a criminal offence, then unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an indepevelent and impartial court established by law."

⁹ Constitution of Zambia

* Book repeals that most offenders are denied bail until they appear in court for mention

These are provisions to secure protection of law and guarantees the rights of the offender. The offender has a right to a counsel of his choice, give evidence on oath, make unsworn statement, or elect to remain silent. He also has the right to call witness(es). This means that he cannot be compelled to speak. This requirement may delay interrogation until either a parent and/or counsel is present.

6 Professionals' Views

Efforts were made to interview a few professionals in the Police office on how they felt about the juvenile justice system in Zambia. It was not successful due to the police bureaucracy that the writer be screened before any documentation or information could be released. Ms Edith Chinkobele,¹⁰ Police Public Relations Officer (Assistant Suprentendent) refused to grant the writer permission to permission to physically interview criminal investigations officers of senior police stations in Lusaka. The reason given was security and that they could not release official or classified information to a researcher. She said police records are not open to the public. The introductory letter from the Dean, School of Law, did not help matters.

However, after persisting for long, the writer was only availed crime statistics on juvenile offenders reported to the police stations throughout the country.

¹⁰ Interview: Edith Chinkobele (P.R.O), Lusaka, 21st August, 1995

Assistant Superintendent Kayoba of the Police Research Bureau was very helpful in this regard. Table 1 shows the statistics. The statistics relate only to cases taken to court and how they were disposed.

The writer in Chililabombwe managed to have an interview with Constable Godfrey Chipampa¹¹ of Chililabombwe Police station on whether the police adhered to the provisions of the Juveniles Act, cap. 217, s.58 which reads:¹²

"It shall be the duty of the Commissioner of Police to make arrangements for preventing, as far as possible, a juvenile while detained in a police station, or while being conveyed to or from any criminal court ...from association with an adult...other than an offence with which the juvenile is jointly charged."

In reply Police Officer Godfrey Chipampa told the writer that the station had only one cell. In other words, there was no separate cell for offenders and even for women suspects. The practice at the station was that if the offence committed by the offender is one which is bailable e.g. assault, the police adhere to s.59¹³ of cap. 217 which reads:

¹¹ Interview, Godfrey Chipampa, Chililabombwe, 2.9.95

¹² Cap. 217, Juveniles Act

¹³ s.59

"Where a person apparently under the age of nineteen is apprehended, with or without a warrant, and cannot be brought forthwith before a court, the police officer in charge of the police station to which he is brought shall inquire into the case and may in any case and... release such a person on a recognisance with or without sureties....

And if the offence is one which is not bailable for instance, homicide, the offender is detained in the corridor together with the female suspects. The offender is not chained. This simply means that if he is detained for over a day or so, the offender will be sleeping on the floor in the corridor, a very unhealthy situation. Constable Chipampa went on to say that the station had no provision for cells for offenders at the station. The situation is the same with other police stations where he had served. In most cases when being interrogated, the offender is not accompanied by his guardian. The records of the offenders are not kept separately from those of the adults. When a crime is reported, both reports of any offender and an adult are entered into the same book-Occurrence Book. This makes it easy for any one to see which offender has committed a particular offence. The police have no reliable transport of their own. In most cases, suspects are ferried to and fro in Zambia Consolidated Copper Mines (ZCCM) land-cruisers. This means that the offender cannot be conveyed separately from the police station to court and back. In other words, the

offender is made to mix with other suspects contrary to s.58. Constable Chipampa further said that in the Zambia Police, there are no officers who have specialised in juvenile offences. This lack of specialisation means that an officer can deal with both an adult and juvenile offender and when pressed whether he would like to specialise, he said he preferred the present arrangement of no specialisation. "According to him the reason is that while it may be workable in big towns like Lusaka Ndola, Kitwe etc. it would not work in small towns like Chililabombwe where there are few cases of delinquency. Over the non-availability of cells for offenders, he said that both Ministries of Home Affairs and Community, Child and Youth Development are aware.

Mrs Jennipher Mwenda,¹⁴ an Assistant Director with the Department of Community Development echoed the sentiments expressed by Constable Chipampa. According to Mrs. Mwenda, the problem is not with Home Affairs or Community Development. The problem squarely lies on the government. The government is aware of this unfortunate situation obtaining at police stations throughout the country. She said the MMD government just like the fallen UNIP government has continued to pay lip-service. Most governments department/ministries are not funded adequately. This being the case the Ministry of Works and Supply, which is responsible for government infrastructures has not been able over the years to build new structures let alone renovate the dilapidated police stations. This

¹⁴ Interview Jennipher Mwenda (Mrs), Lusaka, 6.9.95

explains why police stations throughout Zambia do not have separate cells for juvenile offenders. She could not comment further except only to say it was a policy matter over which she had no say. It was not possible to get government reaction on the matter.

7 Analysis of Crime Statistics - Table

Table One shows police crime statistics for juveniles as reported throughout the country. The information was provided by Assistant Superintendent Kayoba of Police Headquarters, Lusaka. The statistics are for the year under review, 1994.

It is clear from the statistics that the common offences are Assaults, Affray and Theft or offences relating to property. These are committed most by juveniles between the ages of fourteen and eighteen. This age group is prone to delinquent behaviour and many are dropouts with nothing to occupy their minds. An idle mind is a devil's workshop. Our educational system may be a contributing factor. Every year brings with it sorrow; numerous numbers of school-leavers are thrown onto the streets with no job prospects in sight. They have no professional qualification to enable them get employed in industries. Chances of getting employed are non-existent. They have to survive. This age group is very vulnerable to anything. They commit anti-social behaviour to express their protest against the distribution of societal values. They also seek means and ways of self-support.

We said in Chapter one that Economic factor contributes to child delinquency. Industries are not growing and as a result there is lack of employment. This is reflected in the behaviour of most boys who are on the streets committing crimes. Their parents are unable to support them and are even unable to provide the family with one meal. The children are denied the basic facilities of life; shelter, food, clothes, money etc. This is beyond their reach.

There is a higher proportion among male juveniles to commit delinquent activities than there is among the girls. The boys in our society tend to be more adventurous. They also fall prey to peer psychology. As agents of socialisation, they easily pick or learn bad habits in their early stages of their lives. Most environments chart out the behaviour of children.

Another factor would be loss of tradition values in urban societies. It ought to be appreciated that as the drift from the land continues, traditional ways of life correspondingly continue to crumble under the impact of the harsh economic climate. This makes the figures to swell. Furthermore, the extended family system whereby the whole family or clan were responsible for all the children is falling apart in towns. It is clear that due to the social and economic hardship they are compelled to resort to committing offences i.e most crimes are against property (or goods) these are easy to sell. Table 1 shows that more offences against property are committed compared to the

other type of offences i.e. against person or against morality.

8 The Subordinate Courts

Subordinate Courts are established by the Subordinate Court Act, cap. 45.¹⁵ The jurisdiction of the courts is defined by the Act. As a general rule all subordinate courts are empowered to try any offence defined by the penal code or any other written law and may pass any sentence or make any other order permitted by the penal code, or any other written law.

Once the police decide that the offender appears in court, he will either be produced from the cell or on police bond. At all stages the offender is supposed to be accompanied by the guardian/parent. s.63 of the Juveniles Act creates the Juvenile Court.¹⁶ The section states:

"A juvenile court is a court sitting for the purposes of
(a) hearing any charge against a juvenile;
(b) exercising any other jurisdiction conferred on juvenile courts..." and
s.64(1) reads:

"Where a juvenile is brought before a juvenile court for any offence other than homicide or attempted murder, the case shall be finally disposed of in such court."¹⁷

¹⁵ Subordinate Court Act, Cap. 45

¹⁶ Juveniles Act, cap. 217

¹⁷ Ibid s.64(1)

5(1) states:

"No charge against a juvenile...shall be heard by a subordinate court which is not a juvenile court provided that - (i) a charge jointly against a juvenile and a person who has attained the age of nineteen years shall be heard by a subordinate court which is not a juvenile court."¹⁸

It is the duty of the court to ascertain the age of the offender appearing before it. Once the offender is before the court, the proceedings should go in camera.

The Trial Process in Juvenile Courts

Once the proceedings are in "camera" a plea will be recorded and if he pleads guilty, the public prosecutor will read out the facts of the case. The case will adjourn for the social welfare report. The probation officer will prepare a report after examining the offender's background. the report helps the court in assessing the offender and in arriving at a suitable punishment.

If the offender denies the charge, trial will commence the state will call its witnesses. the offender is entitled to cross examine them after their evidence-in-chief. The court is also empowered to put questions to the witnesses on behalf of the offender.

¹⁸ Ibid s.65(1)

65(5) of Juveniles Act states:

"If in any case where the juvenile is not legally represented, the Juvenile, instead of asking questions by way of cross examinations, makes assertions, the court shall then put to the witness such questions as it thinks necessary on behalf of the juvenile..."¹⁹

Provided that where the court puts any question to a witness...the prosecution shall have the right to re-examine the witness upon the answers to such questions. The prosecutor will re-examine his witness to straighten up the evidence or clear any doubts but no new evidence will be adduced by the prosecution. If at the end of the prosecution case, the court finds that the state has failed to raise a prima facie case, the offender is entitled to an acquittal. If he is found with a case to answer, he will be put on this defence. He will choose whether to give evidence on oath, remain silent or make un-sworn statement. He has also a right to call witness(es). If he chooses to give evidence on oath, he shall be cross-examined by the public prosecutor. If there are contentious issue, both parties will make submissions. the court shall then consider the weight of both versions of evidence. If the offender is guilty, he will be

¹⁹ Ibid s.65(5)

ordered in accordance with s.68 of cap. 217 which reads:²⁰

"The words "conviction" and "sentence" shall cease to be used in relation to juveniles dealt with by a subordinate court and any reference...whether passed before or after commencement of this Act...a conviction, or a sentence shall in the case of a juvenile be construed...an order made upon such a finding...And if he is not guilty he shall be acquitted and set free."

When the court is in camera, the general public is excluded except parties, counsel, witnesses and other persons requested by a party and approved by the court as having an interest in the case or in the work of the court. Those persons having an interest in the work of the court include members of the Bar and the press who may be admitted on the condition that they will refrain from disclosing the particulars of the offender from undue publicity which can be very detrimental.

10 Analysis on Juvenile Courts' Operation

A visit by the writer at Chililabombwe Subordinate Court revealed very serious anomalies on the part of the trial court. A look at some records showed that the court was deliberately frustrating the philosophy behind the

²⁰ Ibid. s.68

Juveniles Act. In one case involving an offender from Kasumbalesa, Zaire; The People v. Meta Ntumba,²¹ plea was taken in the absence of his parent or guardian or the social welfare officer. The offender was found guilty., He was convicted. There was no record of a report by the probation officer. He was facing the charge of Unlawful Entry into Zambia. The same applied to the case of The People v. Grace Chifinga.²² Out of a sample of nine(9) cases, the court only complied with the Juveniles Act in only two cases; The People v. Manase Nyirenda²³ and The People v. Roy Simbeye.²⁴ In The People v. Nambeye,²⁵ plea was taken in open court. All these cases were heard by the same magistrate. All the offenders were below the age of nineteen. The most unfortunate was Mathews Mwansa,²⁶ aged 18. The record was silent as to whether when plea was taken, his guardian or probation officer was present. There was no social welfare report. He was convicted and sentenced to 9 months with hard labour. s.73(1) of the Juveniles Act reads:

"where a juvenile charged with any offence
is tried by any court, and the court is
satisfied of his guilty, the court shall
take into consideration the manner in which...

²¹ E1/387/94 (Unreported)

²² E1/383/94 (Unreported)

²³ E1/377/94 (Unreported)

²⁴ E1/348/94 (Unreported)

²⁵ E1/100/93 (Unreported)

²⁶ E1/108/93 (Unreported)

the case should be dealt with namely-

(i) where the offender is a young person by sentencing him to imprisonment."

The interpretation of this section is that the offender is not supposed to do Hard Labour but simple imprisonment.

3.11 Department of Social Welfare

Chililabombwe district did not have this office until about September, 1994. Probation officer were based in Chingola. The Chingola office was responsible for Chililabombwe. However, the office did not have enough officers. With the transfer to Lusaka of Ms Doris Mutunwa. The station remained with only two officers. As a result they could not effectively run Chingola and Chililabombwe. Preference was given to matters in the High Court at Kitwe. The Department has now transferred Mr. Emmanuel Sukamanga from Ndola to Chililabombwe. His assistant is being awaited.

Social welfare reports are very important. If the cases above had gone on appeal or if the judge had noted them from the Monthly Criminal Returns he would have definitely called them for review or re-trial or even acquittal. Most likely the magistrate would have been taken to task.

The provisions of the Juveniles Act on Social Welfare report are clear. Failure to observe them renders the proceedings a nullity. The records clearly shows that he was aware of the provisions. This is show by the fact that

in some cases he complied with the provisions and in other instances he chose not to. The social welfare report is a MUST. The lapses by the court pose a danger to the juvenile justice system. There is need to be redressed. Even for Zairean offenders he could have sought the assistance of the social welfare office. If he allowed the proceedings to be in Swahili I fail to believe why he could not ask for a probation officer. Some of the Zairean offenders interviewed through a Swahili interpreter come to Zambia by avoiding the border control. They enter through bush-paths without visas or temporary passes to look for casual employment. This makes it difficult for the social welfare office to locate their parents in Kasumbalesa, Zaire. Where a report has been prepared on Zaire offender, it is based on what the offender himself tells the probation officer. Even where their parents are aware that they are appearing in court, their parents refuse to come to Zambia. They have no money to pay for the visa or fine. They only wait for the outcome of the case.

Table 2 and 3 show case involving offenders and handled by Chililabombwe subordinate court in 1993 and 1994. Due to its smallness and proximity to Zaire, most of the offenders are Zaireans who come in search of casual employment and to sell merchandise. Again the common offence is Theft. Table 2 and 3 seem to agree with Table 1, which shows that Theft is a very common offence. The social and economic climate has not spared most African countries. It is clear to deduce from the tables that the offences are committed by offenders who have not been to

school or have either dropped out. They have no jobs and have to survive and to survive they resort to stealing, violence etc. Assaults and Thefts again top the chart. A look at Tables 2 and 3, shows that while Assaults reduced in 1994, Thefts increased. The number of Prohibited Immigrants also increased. the three tables also agree that poverty is a contributing factor to commission of these offences.

12 Conclusion

the aim of the Juveniles Act is to offer maximum protection and rehabilitation of the offender. The police do not have the specialised training in this direction. I wonder what will be the situation in the next decade. Constable Chipampa says he is not in favour of specialising. He advocates the general role the police play. Lack of specialisation means lack of quality service for a juvenile. Since they have not specialised it is likely that they do not fully understand the philosophy of the Act. The police do not devote an extra mile (more time) to cases involving offenders. In most cases, they are busy investigating or dealing with cases in which adult criminals are involved. At Chililabombwe police station, the corridor which houses the offenders is next to the cells. The likelihood of pollution is high. And since the police do not provide meals, the adult criminals and offenders mix at meal time contrary to the tenets of the Act and the belief of

the founders of the juvenile justice system like Mrs. Carpenter. The police tend to be harsh and in most cases mete out unfair treatment to them. It is rare that a guardian/parent is called to be present when the offender is being interrogated or cautioned. Most of the offenders affix to their statements without knowing what they are deposing to. The Chililabombwe cells are in poor conditions, and unsuitable for human habitation. The offenders and adult criminals use bucket toilets to answer the call of nature. Perhaps, the situation would improve if the police had specialised training in handling offenders. They would be sympathetic to them. As of now nothing seems to be in sight.

The role of the Juvenile Court is rehabilitative. This is not being observed by magistrates. We have noted from the records at Chililabombwe Subordinate Court that the court of the First Class deliberately ignored the provisions of the Juveniles Act. In one instance, he observes it, and in another instance he chooses not to for no apparent reason. The end result is that the offender is denied justice. Courts are punitive rather than rehabilitative. It is not supposed to be the case.

We have also noted from the records that the same court did not bother to obtain the assistance of the social welfare officer in cases involving offender from Kasumbalesa, Zaire. The nearest office is in Chingola, a distance of 22 kilometres. He could definitely get in

touch with them on the phone. Most of the cases involving offenders did not have social welfare reports. He went ahead and convicted and sentenced the offender. Alas, sentences were very harsh indeed with no due regard to the age of the offender.

Leniency and understanding are expected to be evident. The purpose is to help juveniles rather than punish them. My experience at Chililabombwe Subordinate Court reveals that magistrates²⁷ have not specialised. They hear both cases in the same court and venue. And like the police, the case records on juveniles offenders are not kept separate. They are mixed with the other records and kept in the same locker. They hear both cases in the same court and not on different days. This is contrary to the provisions of the Juveniles Act, which provides for separate court-rooms or different times of sitting. We need not mention that the role of the parents or guardian is cardinal and recognised in the Act but not by the police, prosecutors or courts. Courts as providers of justice should help matters by adhering to the Act. The court is not supposed to proceed with the matter if the parent/guardian is not present. As for Zairean offenders, the courts can always rely on the assistance of the social welfare officers. The Juveniles Act provides for separate court-rooms or different times of sitting. We need not mention that the role of the parents or guardians is cardinal and recognised in the Act. This is not so by the

police, prosecutors or even the magistrates. Courts as providers of justice should help matters by adhering to the Act. The court is not supposed to proceed with the matter in the absence of either the guardian or parent. As for Zairean offenders, courts can always rely on the assistance of the social welfare officers.

CHAPTER 4

Probation as a Form of Treatment

1. Introduction

This chapter discusses probation as a form of juvenile treatment in Zambia. The other forms of treatment have already been dealt with in chapter three table one. As a form of treatment, it allows the offender to be with his/her family. In other words the family ties are not broken. Besides, it does not leave a juvenile with a stigma since it is non-custodial. In this chapter, we shall explore the extent and effectiveness of probation as a form of treatment.

2. Genesis of Probation Service

Before examining in detail, the development of the probation service in this country, it is necessary to give a brief account of how the service started in England as a form of punishment under the English legal system¹. Briefly in 1863, a Committee of the House of Lords reported in favour of severe deterrence regime based on hard labour, hard fare and hard bed...and expressed the view that in so far as the moral reformation of the prisoners might also be an aim, it should be achieved primarily through the discipline of stringent punishment².

¹ Chazanga, R.J. Obligatory Essay, UNZA 1991, p.16

² Young, L.K. Magistrates Hand Book, Lusaka, (Government printers) 1969, 5th ed., p. 45

In 1895, Gladstone Report was published. They recommended separate confinement and primitive hard labour. Thus, prisoners were isolated at all times in their cells, at work, in the chapel and at exercise while they were employed on such degrading and unproductive work..³ The Report recommended that for the future, reformation, and deterrence should be treated as primary and concurrent objectives and that prison treatment should be effectively designed to maintain, stimulate and awaken the higher susceptibilities of prisoners and turn them out of prisons better men and women physically and morally than when they went in.⁴ Later it spread to the United States and today many franco-phone countries use trained volunteers working under a trained assistant social welfare officer Modern Probation Theory and methods are more intimately related with the development in social work. It should be noted that rehabilitation did not really come into its own as a motive for punishment until after the emergence of imprisonment as a method of punishment.

3 The Development of Probation Service in Zambia

In Northern Rhodesia, the legal position for probation service was first made in 1933. It was not until 1954 that a regular system of probation was developed. probation started after the First World War. Before that offenders were being sent to South Africa and Southern Rhodesia where probation facilities existed. After the Second World War

³ Ibid p.45

⁴ Op. cit. p.47

i.e. in 1953 the colonial government passed the Probation of Offenders ordinance, the fore runner to the Probation of Offenders Act, Cap. 147 of the laws of Zambia. This Ordinance set out the law in relation to probation.⁵

Probation was established under the social welfare service. The service had trained personnel. The Director of Social Welfare was gazetted as the Principal Probation Officer.⁶ During the Federation of Rhodesia and Nyasaland, the prisons service ceded to the Federation. But the Federal Constitution recognised territorial responsibility of their approved schools. Northern Rhodesia had its first approved school in Ndola in 1961 and another in Mazabuka in 1963.⁷

4 The Institution of probation

We saw in chapter three that the Juvenile Court is constituted under s.63(1) of the Juveniles Act, cap. 217, whose essence is protection, rehabilitation and reformation of the juvenile offender.⁸ Section 73(1) of the Act gives power to the court to deal with an offender who has been found guilty.⁹ Probation is covered in s.73(1)(b).¹⁰ We shall now consider in detail probation as a form of treatment for juveniles in Zambia.

⁵ Chazanga R.S. Obligatory Essay, UNZA, 1991 p. 17

⁶ Ibid p.17

⁷ Op.cit p. 18

⁸ Juveniles Act, cap. 217

⁹ Ibid s.73(1)

¹⁰ Ibid, s.73(1)(b)

There is no statutory definition of probation. However, the term is well defined in the Department of Social Development 1986 annual report. Probation is an open non-custodial method of treatment of offenders provided for under the Probation of Offenders Act, cap. 147, thereby affording the offender the opportunity to reform without being removed from his/her family and community.¹¹

It is a disposition by the juvenile court in which the offender is placed and maintained in the community under the supervision of a duly authorised officer, the probation officer. It allows the offender to be with the family/community or a foster family under conditions prescribed by the court to ensure acceptable behaviour in a community setting. The probation officer is an important officer at all levels of the offender's trial. After hearing the probation officer is often charged with conducting a social back ground investigation. This investigation is used to help the court make a disposition decision. Her is also charged with supervising those juveniles who are placed on probation and released in the community and they have the power to request a revocation of probation if the offender violates the conditions of probation.

Modern probation theory and methods are more intimately related with the development in social work. Probation supervision means a great deal of more than mere

11 Chazanga R.S, Obligatory Essay, UNZA, 1991, p.17

surveillance of the offender by the probation officer. It consists primarily helping the relationship between the officer and the probationer through which case work and counselling change the offender's attitude and strengthen his ability and desire to remain law-abiding and responsible. We have two types of supervision. One is institutional based and calls for an offender to be put in a correctional institution like Insankwe in Ndola. Community based means that the probationer is supervised from his/her place of residence.

When a juvenile court finds an offender guilty, it shall ask the Social Welfare officer or Probation Officer to investigate the offender's background and then submit a report to the court in order to assist the court in arriving at a suitable treatment. This social diagnosis is an attempt to arrive at an exact definition as possible of the social situation and personality of an offender. We have seen in chapter three that the court for no reasons ignores the social welfare report and where it is submitted, little regard is paid to it.

Pursuant to s.3(2) (4) of cap. 147, when the offender fails to observe any of the conditions of this recognisance during the period set, he may be summoned to court and be sentenced for the original offense.¹² The terms and conditions must be reasonable and relevant to the offence for which probation is being granted. The court should not grant queer orders such as that an offender should not become pregnant while unmarried in a case where she has

¹² Probation of offenders Act, cap. 147

been found guilty of robbing. In The People v. Gladys Nsofwa,¹³ the court of the Second Class at Chililabombwe ordered that the offender while on probation should not commit a similar offence. The offender was put on probation for procuring an abortion.

A probation order has the effect for a maximum of three years and a minimum of one year. If an offender is convicted of a similar offence while on probation, he/she may be summoned and sentenced for the original offence. The same is true if the probationer violates any of the conditions of probation. s.11(1) deals with amendment of Probation Order. it states that:

"Subject to the provisions of this section, where on the application of a probation officer responsible for the supervision of the offender the court which made the order is satisfied that the provision of the probation order should be varied or that any provision should be inserted or cancelled the court may amend the probation order accordingly.¹⁴ Provided that no order shall be made under this section reducing the probation period, or extending that period beyond 3 years from the date of the probation order.

¹³ E1/00195 (Unreported)

¹⁴ Probation of Offender Act, cap. 147

s.12(1) deals with the discharge of the probation order. it takes that:

"The court by which a probation order was made may, on application of the probationer or the probationer officer responsible for the supervision of the probationer discharge the probation order, and where the application is made by the probation officer responsible for the supervision of the probationer, the court may deal with it without summoning the probationer."¹⁵

S. 12(2) reads as follows:

"Where an offender in respect of whom a probation order has been made is subsequently sentenced for the offence in respect of which the probation order was made, it shall cease to have effect."¹⁶

s.13(1) deals with the selection of probation officers.

It reads:

"The probation officer who is to be responsible for the supervision of any probationer shall be selected by a senior probation officer."¹⁷

¹⁵ Ibid s.12(1)

¹⁶ Ibid s.12(2)

¹⁷ Ibid s.13(1)

And sub-section 2 states that where a woman or girl is placed the supervision of a probation officer, the probation officer shall be a woman.¹⁸

The probation order shall:

- (a) name the place (residence) where the probationer will reside
- (b) name the district where the probationer will reside; and
- (c) name the institution where the probationer will reside if it is ordered that he be sent to an institution. The order has also to specify the period of a probationer shall remain in the institution.

The offender is obliged to inform the probation officer responsible for his supervision of any change of residence. This is important because if the probationer changes residence without informing the probation officer, the probation officer will lose contact of the probationer.

The Rationale For Probation

A probationer is released into the community with the understanding that his/her continued freedom depends upon good behaviour and compliance with the conditions established by his/her probation order. Probation, then gives the offender a second chance to demonstrate that he/she can function well in the community. This is because the goal of the juvenile court is therapeutic rather than punitive. Probation is in accord with the Philosophy of

¹⁸ s.12(2)

the Act. When circumstances warrant probation and when the offender for whom probation is a viable alternative are carefully selected, and when adequate supervision by probation officer is available, problems seems to have potential for success. Failure to take proper precautions in any of these areas, however, jeopardises chances of success and adds to the criticism of probation as an alternative that "coddles" delinquents.

Once probation has been decided upon certain terms and conditions are imposed on the probationer. Within broad limits, these terms and conditions are left to the discretion of the court and/or the probation officer. The requirements that the probationer obeys all the laws of the land, avoid associating with criminals and other persons of ill-repute, remain within jurisdiction and report regularly to the probation officer are general terms and conditions usually imposed by statutory decree. The terms and conclusion must be reasonable and relevant to the offence for which probation is being granted.

Conclusion

We have seen that probation is non-custodial and it is a community based mode of treatment. It afford the offender time to undergo statutory supervision and thereby continue to lead a normal life. However, probation is not operating effectively in Chililabombwe. Up to 1994, there was no office for probation officers. The district was being serviced by officers from Chingola. The Chingola office has no transport and like other government departments, it is under-funded. This made supervision of

offenders in Chililabombwe very difficulty. In most cases, once probation order is made, it is the end of the matter. There is no follow-up by social workers to supervise the offender. There is now a probation officer in Chililabombwe, Mr. Emmanuel Sukamanga. Since his arrival, he has not been properly accommodated; both housing and office accommodation. This state of affairs greatly affects his performance. The office has no phone. Unless the Department of Social Welfare posts another officer to help him, it will be difficult for him to adequately run the district. Lack of transport means that he cannot effectively supervise offenders in outlying areas like Tchinsenda and Chimfunshi. Until the situation improves in the Department of Social Welfare, supervision of offenders will not be achieved. Social workers are supposed to be in the fore-front of juvenile crime prevention and control. The government should adequately fund the department so that they can effectively perform their statutory functions. Most probationers, unfortunately, do not understand the meaning of probation as a result they commit offences while on probation. In most cases no effort is made to bring them before the court of law. The courts and the probation officers do not explain these orders. Some probation officers are not even trained to do this task. Once on probation, the probation officers do not send progress reports to the courts and principal probation officer. The probation officer is supposed to closely supervise the probationer. This is not done. Where a probation officer has too much work or

alone like in Chililabombwe not much time is spent in discussing his case. The result is that the probationer does not gain anything from his probationary period because the probation officer is very busy with other cases. Most probationers do not successfully complete their probation because of lack of commitment from both the probationer and the probation officer.

CHAPTER 5

Discussion and Conclusion

1 Introduction

This concluding chapter is a review of the paper. Various factors have been advanced by both founders and writers sociologists, psychologists as contributing to the problem of delinquency. This was purely to save the child from contamination from adult criminals. The essence has been to treat and not punish the offender. Emphasis is on reformation and rehabilitation.

The belief that juveniles should be treated differently from adults is not new. The state has both the right and the responsibility to act on behalf of juveniles. This was a key element in England and remains central to the juvenile justice system in Zambia today. Age of

responsibility and the ability to form criminal intent have also been important issues in juvenile justice and the concepts of "parents patriale" and in "loco parents" remain basic to the juvenile justice philosophy.

Official delinquency statistics reflect a small proportion of all delinquent behaviour and are subject to errors in compilation. Police reports to a certain extent help to better assess the extent of the un-official or "hidden" delinquency. it is important to remember that official statistics i.e. Tables 1, 2, and 3 reflect only as small proportion of all delinquent activities. Attempts should be made to improve the quality of family life by creating more job opportunities so that they get employed. Education plays an important part. The government should build more schools, training centres to allow as many as possible i.e. school leavers who have attained Grade 7 and 9 and even those who have reached Grade 12, obtain some skills, in carpentry, tailoring, sewing/needle- work, farming, mechanics etc. Improvements in these areas might go a long way toward reducing the frequency of certain types of delinquent activity.

The Impact of Theories of Causation

Various schools advanced different theories of causation. Some were positive in approach, others advanced the biological school and indeed others looked at the psychological theories. What is important is to bridge the gap between theory and practice. This is crucial to the control of delinquency and to improvement of the juvenile

justice system. The input of practitioners is extremely useful in testing our theoretical statements. The benefits to be reaped if and when a sound theoretical base is established are considerable. We can no longer afford to ignore the importance of theory, nor can we continue to rely on "common sense" notions of causation, which as, we saw in chapter one, very often inaccurate.

The Role of The Juveniles Act

The Juveniles Act spells out appropriate procedures for dealing with juveniles from the initial apprehension through final disposition. It is imperative that all the players i.e. police, courts, social workers/probation officers become fully familiar with it. All should understand its application. it will then operate in the best interests of juveniles, other practitioners and society may be served to the maximum extent possible.

Police Need for Specialisation

It is not in dispute that the police are the first contact with the juvenile offender. But how many of them do understand the philosophy of the Juveniles Act? The Police Officers while at Lilayi Training School undergo general police training. They do not undergo training with a bias to juveniles. This is not in their syllabus. After their training, they are then posted to various stations throughout the country. Those who take up criminal investigations functions/duties begin to learn on the job from senior police officers in the section. Such an

officer will face a lot of problems when he is given a docket in which a juvenile is involved. It is therefore important that the decisions concerning proper disposition of juvenile cases by police officers be based upon a thorough knowledge of procedural requirements and the problems of youth. When trained, competent officers make such decisions. The imposition of punishment by police officers handling cases could be reduced thereby the rights of the offender can be protected. In order to insure that police officers handle cases properly, specialised training programmes need to be developed and utilized and incentives for good performance to be provided.

The Juvenile Court

As we saw in chapter three, the purpose of the Juveniles Act is to create juvenile court with authority to hear cases; to discuss the procedural rules to be used, and to provide for the best interests of juveniles while at the same time protecting the interests of family and society. This has not been achieved. They lay magistrates¹ like their police counterparts only undergo a two year general magistrates Diploma course. They do not undergo specialist training relating to juveniles. The same is the position with Resident Magistrates who are degree holders. We again saw in chapter three that the court of the First Class while aware of the provisions of the Act, he deliberately ignored its provisions. This is very unfortunate on the part of the magistrate. The magistrates hear both adult

1

* Personal experience of the writer as a Magistrate

criminals and offenders' cases on the same day and venue.

My experience at Chililabombwe Subordinate Court is that every day, the police will use same transport and when there is no transport, both offenders and are adult criminals walk to the court in the company of a court-orderly, a constable. They are not separated. At the court they are still grouped together. By that time the court will be in session and packed. It is therefore easy for members of the public in the gallery to see and identify the offender either by face or name. Courts normally begin with adult criminals. Chililabombwe Subordinate has no cells and when suspects are brought they are put in the court-room. We can safely say that the same court-room is a "cells". They are also no public toilet facilities. When an offender wants to answer a call of nature, he is taken to the toilets at Civic Centre or Local Courts which are about 100 metres away. Normally Local Courts sessions attract a lot of people and as the offender is being escorted to and fro, he is easily identified by the public. His identity can therefore not be concealed. He is exposed. Perhaps, one can understand the position of the court. Initially, there was no subordinate court in the district. The only court was in Chingola about 22 kilometres away. With the increase in population came crime. The Zambia Consolidated Copper Mines, Konkola Division, donated to the government, Moth Theatre Club. This was turned into the Subordinate Court after making necessary partitions to it. However, plans

are under-way to build a modern court with all the facilities.

6 The Importance of Probation

We saw in chapter four that probation is non-custodial and is community based. The aim is not to break the family ties. The offender is released back to join his/her community. This being the case, proper supervision can be essential to the offender. He is given a second chance.

Probation officers are crucial if the juvenile justice philosophy is to be implemented. Their services to both the court and to juveniles with problems complement the role of the police . The major draw back is that the Department of Social Welfare is not adequately funded. Officers have no official transport. While they can cover the urban areas in Chililabombwe, they cannot reach outlying areas like Tchinsenda, Fitobaula, Chimfushi etc. The only district probation officer, Mr. Sukamanga, has no assistant.

7 Recommendations

The environment play a very important role in shaping a child. Attempts should be made by the government to absorb them in some form of occupation. The government should set up training centres where they can undergo training in carpentry, tailoring, and mechanics. There is need to be occupied with something so that their minds stop wandering.

Attempts should be made to supplement the efforts of the government. Perhaps, the church and other non governmental organisation (NGO's) can come in. They can definitely provide counselling to the delinquents. They should be in place recreational facilities.

In conclusion, we can say that the most efficacious approach would be the establishment of community centred programmes of prevention. We wish to stress that the effectiveness of whatever suggestions which have been advanced in this paper will largely depend on the availability of funds and trained personnel. There is also need for review of the law constantly to cope with changing times. These changes cannot be effected without a concerted or combined effort of every body in the country because children, unlike adults, cannot protect themselves against adverse effects of the society. It is up to every Zambian to ensure that they are best protected by the law for they are the generation of tomorrow - as the Bemba saying goes - "Imiti ikula empanga" (which literally means growing trees make the bush).* The quality of that future generation wholly depends on what facilities are available to them. We should not relent.

TABLE 1

JUVENILE DELINQUENCY STATISTICS FOR THE YEAR

1994

OFFENCES	FINED	IMPRISONED	CANED
AFFRAY	81	-	1
Threatening Violence	-	2	-
Against Lawful Authority	-	-	-
Escaping from Lawful Custody	-	5	5
Offences Injurious to Public General	-	4	6
Indecent Assault on Female	-	3	-
Offences against the Person	-	3	-
Assault O.B.H	80	32	14
Grevous Bodily Harm	3	1	10
Manslaughter	-	1	-
UNlawful Wounding	5	13	9
Offences relating to Property	2	10	9
Burglary/Theft	1	40	26
H/Breaking & Theft	3	17	40
Other Breakings	6	15	24
Obtaining Goods by F.P	-	-	-
Cycle Theft	-	1	2
Theft by Agent	1	8	111
Stock Theft	-	10	5
Theft	18	77	95
Theft from Person	1	7	11
Robbery	-	7	1
Malicious Ingury to Property	-	4	-
Malicious Damage	4	5	5
Forgery	-	-	1

Uttering	-	2	-
Offences under Other Laws	-	-	1
Dangerous Drugs Act	4	4	1
Immigration/Deportation Act	2	2	-
Fauna Conservation Act	-	1	-
Firearms	1	1	1
Liquor Licensing Act	29	-	-
Local Govt. Act other than Traffic	36	-	-
Public Order Act	5	-	-
<u>GRAND TOTAL</u>	= 680	278	342

STATISTICS FOR CHILILABOMBWE SUBORDINATE COURT FOR THE YEAR, 1993

JUVENILE OFFENDERS

OFFENCES:	TOTAL NO.	AGE						
		12	13	14	15	16	17	18
Assault	5	-	-	-	2	1	1	1
Obtaining frauds by False Pretences	-	-	-	-	-	-	-	-
Breaking into building	-	-	-	-	-	-	-	-
Rape/Defilement	-	-	-	-	-	-	-	-
Unlawful wounding	-	-	-	-	-	-	-	-
Theft	9	-	-	1	1	4	-	3
Prohibited Immigrant	3	-	-	-	2	1	-	-

JUVENILE OFFENDERS

OFFENCES:		TOTAL:						
		AGES						
		12	13	14	15	16	17	18
Assault	4	-	-	1	-	1	-	2
Theft	8	-	1	-	2	1	2	2
P/Immigrant	2	-	-	-	1	1	-	-
H/Breaking	1	-	-	-	-	-	-	1
Threatening violence		-	-	-	-	-	-	-
Robbery	1	-	-	-	-	-	-	1
Defilemnt	1	-	-	-	-	-	-	1
Unlawful wouldding	3	-	-	-	1	-	-	2
A.O.A.B.H.		-	-	-	-	-	-	-
Criminal respass	1	-	1	-	-	-	-	-
Obstructing Police Offences		-	-	-	-	-	-	-
Concealing birth of child		-	-	-	-	-	-	-

OT NOTES FOR CHAPTER 1

Shaw, C.R./Mackay, S. Criminal Psychology, Chicago, (foundation Press) 1900, p.11

David, M. Treatment for Children, London, (George Allen/Unwin) 1970. p.14

Rosenheim, K.M. Justice for the Child, New York (The Free Press) Glencoe, 1962, p.11

O.cit. p.1

Simaluwani, E.S. Thesis, London, (University of London July, 1994

Op.cit. p.238

Op.cit. p.242

Mudenda, C.M. Obligatory Essay, UNZA, 1976/77 Pp. 11 - 12

OT NOTES FOR CHAPTER 2

Mudenda, C.M. Obligatory Essay, UNZA, 1976/77

Steven, M.C./Conrad J.J. Juvenile Justice Iowa, Dubuque (Wm. & Brown Publishers) 1987, p.49

Op.cit p. 50

Op.cit p. 51

Ibid p.51

Op.cit p.53

National Workshop on Street Children, Lusaka, 14th February, 1992

OT NOTES FOR CHAPTER 3

Zambia Police Act Cap. 133

Simaluwani, E.M. Ph.D Thesis, (University of London) July, 1994 p.317

[1976] ZR 317 and 319

Steven, MC/J.J. Conrad, Juvenile Justice Iowa, Dubuque
(Wm.c. Brown Publishers) 1987, p.128

Criminal Procedure Code, cap. 160

Act No. 37,1993

Juveniles Act, cap. 217

Ibid. s.59

Constitution of Zambia

Interview: Edith Chinkobele, Lusaka, 21st August, 1995

Interview: Godfrey Chipampa, Chililabombwe, 2.9.95

Juveniles Act, cap.21

Ibid s.59

Subordinate Court Act, cap. 45

Juveniles Act, cap. 217

Ibid, s.64(i)

Ibid s.65(i)

Ibid s.65(5)

Ibid, s.68

El/387/94 (Unreported)

El/383/94 "

El/377/94 "

El/348/94 "

El/100/93 "

El/108/93 "

NOTES FOR CHAPTER 4

Chazanga, R.J. Obligatory Essay, UNZA, 1991, p.16

Young, L.K. Magistrates Hand Book, Lusaka (Government
Printers) 1968 5th ed. p.45

Ibid p.45

Op.cit p.47

Chazanga, R.J. Obligatory Essay, UNZA, 1991, p.7

Ibid p.17

Op.cit p.18

Juveniles Act, cap. 217

Ibid s.73(1)

Ibid. S. 73(1)(6)

Chazanga, R.s. Obligatory Essay, UNZA, 1991, p.17

Probation of Offenders Act, cap.147

E2/001/95 (Unreported)

Probation of Offenders Act, cap. 147

Ibid, s.12(1)

Ibid s. 12(2)

Ibid s. 13(1)

Ibid, s.12(2)

BIBLIOGRAPHY

- Worth, A. Sentencing and Criminal Justice, London
Weidenfeld and Nicolson, 1992.
- gh, J.K. Changing Concepts of Crime and its Treatment,
Oxford, Symposium Publications Division, 1966
- ional Workshop on Street Children, Lusaka 14th February,
1992.
- reman, C.H./Reamer F.G. Rehabilitating Juvenile Justice,
New York, Columbia University Press, 1986
- even, M.C./John J. Conrad, Juvenile Justice, Iowa, Dubuque,
Wm.c. Brown Publishers, 1987
- ng, L.K. Magistrates Hand Book, Lusaka, Government
Printers, 1968