

**WORKSHOP TO EXPLORE THE DEVELOPMENT  
OF A COMMON INTERNATIONAL CURRICULUM  
FOR CRIMINAL LAW AND CRIMINAL JUSTICE POLICY**

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Organized by the

International Centre for Criminal Law Reform and Criminal Justice Policy  
*Vancouver, Canada*

and the

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at Vancouver, B.C., Canada

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**REPORT**

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# WORKSHOP TO EXPLORE THE DEVELOPMENT OF A COMMON INTERNATIONAL CURRICULUM FOR CRIMINAL LAW AND CRIMINAL JUSTICE POLICY

Vancouver, British Columbia, Canada  
*April 5 - 8, 1994*

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## ANNEX

1. List of Participants: Workshop to Explore the Development of a Common International Curriculum

## **INTRODUCTION**

The Workshop to Explore the Development of a Common Curriculum was held in Vancouver, British Columbia, Canada from 5–8 April, 1994 inclusive. The meeting was organized by the International Centre for Criminal Law Reform and Criminal Justice Policy in Vancouver, Canada, and the Max-Planck-Institute for Foreign and International Criminal Law of Freiburg, Germany. Twenty-five experts representing several of the world's legal traditions attended the workshop. The question considered by the participants was whether a new field of knowledge now exists in international and comparative criminal law and criminal justice which could be studied in a systematic fashion and which could provide the focus for the development of common international graduate program. Special funding for the workshop was received from the International Higher Education Division of the Canadian Department of Foreign Affairs and International Trade as well as the British Council Representative to Canada.

In a welcoming address, Dr. Dan Birch, Vice President, Academic and Provost, University of British Columbia, highlighted the potential and challenges facing the workshop participants, which he appreciated from his own direct experience in similar endeavors. He indicated his strong support for the present project in transnational and transcultural communication, and expressed the University of British Columbia's pleasure in playing a role in the challenging tasks at hand.

Dr. John Stubbs, President, Simon Fraser University, also welcomed the participants and noted that the subject of the workshop raises significant human questions. As a scholar of modern history, he emphasized the importance of signaling the existence of internationally agreed-upon norms particularly in view of the enormous cultural challenges between the societies represented at the United Nations. President Stubbs commended the International Centre for its work and was delighted that Simon Fraser could be part of the process of developing a common international curriculum.

## **BACKGROUND TO THE WORKSHOP**

At the public and political levels, increasing attention is being paid to developments in the field of international criminal law and justice. One manifestation of this is the establishment, in 1993, of the International Tribunal for Crimes in the Former Yugoslavia. To date, legal and sociological scholarship has figured very little in these ventures. Academic research has not directly informed, analyzed or assessed the transformations of law and legal institutions at the international level. These present research scholars with a wide array of themes and problems not only in international criminal law and justice policy but also comparative methodologies. A common international curriculum in this field would enable scholars representing a variety of disciplines to participate in research on important criminal justice developments to the benefit of a worldwide network of interested academics.

The idea of holding the workshop originated in discussions in Freiburg between the Director of the Max-Planck-Institute and the President of the Society for the Reform of Criminal Law in September 1985 and, again, in November 1991. In August 1992, members of the International Centre and the Max-Planck-Institute agreed at a meeting in Vancouver that a workshop should be convened that would include scholars from a number of the world's legal traditions to determine whether it was now timely to attempt to define a common international program of study in this area.

Background papers were prepared and circulated prior to the workshop: one by Albin Eser, Director, Max-Planck-Institute and his colleagues there; and another by Christine Boyle, Professor, Faculty of Law, University of British Columbia, and Ted Palys, Associate Professor, School of Criminology, Simon Fraser University. In addition, the participants had before them comments transmitted by electronic mail by Roger Clark, Professor, Rutgers Law School at Camden, U.S.A., and Brent Fisse, Professor, Faculty of Law, University of Sydney, Australia.

## **GOALS OF THE WORKSHOP**

The general goals were: first, to determine whether there is sufficient common ground to enable the development of a curriculum of advanced study in transnational and comparative criminal law and criminal justice; second, if such sufficient common ground exists, to reach agreement on the elements, structures, and principles of such a curriculum, and third, to examine the technology available to support the development of such a common curriculum.

Vincent Del Buono, President, Society for the Reform of Criminal Law, identified three stages in the construction of a common program: curriculum development, delivery of that body of learning, and accreditation. He suggested that the focus of this workshop should be on the first of these, as delivery would vary according to what was available locally, whilst accreditation would depend on the requirements of the institutions (usually universities) concerned. He said that curriculum development is essentially a cooperative enterprise, in which participants in this meeting could provide an overview which would otherwise be difficult to obtain. People working in this area are often isolated and it is difficult for a single individual to keep up with the rapid developments particularly those which are being driven by international politics rather than by academic concerns.

By the end of the workshop, the participants had identified the parameters for such a common international curriculum. Further work is necessary detailing the contents and methodology according to the agreed upon parameters.

## OBJECTIVES AND SCOPE OF THE CURRICULUM

There was a discussion of what purposes such a common curriculum might serve, what was meant by the term "curriculum" and what field of inquiry would the curriculum encompass.

Professor Burns suggested that there is a need for highly trained specialists with both a broad understanding of the policies and values underpinning our existing and emergent international criminal justice institutions and a capacity to evaluate what currently exists and what will be proposed. While emphasizing the clear need for training, he also noted the need to go beyond this aim in assessing the potential benefits of a common curriculum.

In reply to the question of what was meant by the term "curriculum," Professor Eser said he hoped that it would be a detailed set of materials or source book which would serve not only for teaching but also for research and policy reform. With respect to teaching, there should be cooperation between academic institutions so as to be able to benefit from respective areas of strength. This could be aided through the use of communications technology. Research would be facilitated by an added comparative dimension. Indeed, the process of producing the material would itself bring about links which would encourage research. Reform was not only integral to the program as a whole but should be a specific goal of the endeavor. A key objective of any curriculum should be to engender critical perspectives in those following it.

It was agreed that the curriculum should take the form of a self-contained guide to research as well as teaching. It would comprise a whole programme of research themes, with detailed bibliographies and sets of materials for each topic. For each research topic, there would be a source book, a syllabus or outline, a bibliography, and materials, including audio-visual materials.

Concerns were expressed about the scope of the proposed curriculum and the need for a rational basis for deciding on its focus. Not all of criminal law and criminology could be included. A more principled basis for delimitation was required than the distinction between international and comparative criminal law and criminal justice. Some participants regarded international criminal law as part of criminal law in the broad sense. Comparative law, however, did not fit easily into this mold. In response, it was said that the problem did not arise if by "curriculum" one meant a constellation of several components. In this way, international criminal law in the narrow sense and various comparative perspectives could be embraced and a variety of disciplines incorporated. The attempt to identify the boundaries of a common curriculum also raised the question of description. Some participants suggested that it was essential to have at least a preliminary description of the subject matter before embarking on a critique. However, the possibility of providing any value-neutral description was challenged by others.

In the end, the clear need for sociological and legal inquiry into modern developments in international law and structures was recognized. Given the prevailing challenges to scholarship, the curriculum should be designed primarily as a learning program for persons who intend to pursue scholarly research and who are at an advanced level of study. It should also satisfy related teaching and reform purposes. One objective of the curriculum would be to broadly educate persons, not only students in institutional learning programs, but also practitioners in the field. It should provide those who take the program with useful analytical and practical skills. Persons embarking on it should have experience or advanced study in one or more of the following fields: criminal law, criminology, public international law, international institutions, criminal justice or international relations.

Given the need for highly trained specialists with both a broad understanding of existing and emergent transnational and comparative criminal law and criminal justice policy, the curriculum will serve an important purpose. The curriculum would be available for use at interested universities around the world. However, participants from continental Europe stressed that differing structures of university education did not allow for a standard post-graduate program throughout the world. For all of these possible audiences, a key objective would be to engender critical perspectives keeping with the need for continuing re-assessment and reform.

## **NEW LEARNING TECHNOLOGIES AND DISTANCE EDUCATION**

Peter McMechan and David Walker from the Commonwealth of Learning outlined several projects which their organization had pioneered in the electronic delivery of distance learning programs internationally. Their presentation provided a springboard for a discussion as to the possible uses of electronic media in the proposed program. Electronic media present a range of opportunities, including participating electronically in United Nations information networks and obtaining the texts of treaties from United Nations electronic data banks. Internet and compressed video-teleconferencing provide possibilities for students who would otherwise not have access, or lack the resources, to study the curriculum in the traditional way. As well, electronic data processing is becoming essential for keeping materials up-to-date.

Patrick Guiton of the Commonwealth of Learning indicated how a combination of low-technology methods, including print, and audio tapes, was being used to develop a program for training legislative drafters in smaller Commonwealth countries. The specific problem they had faced was one of a small number of students who are scattered around the world. To date, anyone who wants to study legislative drafting has had to travel to either England or Canada, at considerable expense, and study for an entire year. The new program will allow students to stay in their own jurisdictions and receive the same, or better, training at a fraction of the cost. This is of considerable benefit in developing countries provided there is an initial cost outlay for the technology.

A discussion about technology followed. It was pointed out that the techniques of delivery were secondary to the substantive content. Much extraneous information is transmitted electronically, and the task of searching it for relevant material is time-consuming. A framework of principles was required to inform the search. Some participants emphasized that technology could not substitute for face-to-face interactions, particularly in graduate programs. It was agreed, however, that new technologies such as the Internet and interactive video-conferencing would provide useful tools for delivery of certain components in certain contexts.

## **THE FRAMEWORK FOR A CURRICULUM**

A discussion followed on a possible framework for the curriculum, and the assumptions underpinning it. Professors Palys and Boyle discussed their background paper. Professor Palys emphasized that there had to be a basic choice between "descriptive" and "idealistic" approaches. He favoured the latter and posed the question of what curriculum would best promote reform. International criminal law should not be regarded as a neutral entity; it has a history involving certain vested interests. In its creation many people and groups had not been consulted, and it was important to approach the new curriculum from a model which attempted to draw on a wider range of perspectives, was consensual, and therefore more democratic. Professor Boyle complemented the call for diversity by emphasizing the need for a feminist perspective to be present from the start. She observed that the proposed common curriculum does not deal with a field which has had time to build in, and consolidate, its own limitations, and therefore does not have to repeat a pattern of feminist "add-ons" to an already mapped terrain. Through the curriculum, international criminal law reform and criminal justice policy could be taught as if women really mattered. In others words, one of the objectives of the curriculum could be to help people learn to take the gender implications of legal and policy issues into account. She suggested that workshop participants decide that the consideration of gender implications will be an integral part of the content of the common curriculum from the outset.

Professor Boyle indicated that a focus on diversity is primary to a common curriculum. One might draw on international initiatives against drugs as an example. What is known about the impact of such initiatives on women in the Third World? What about drugs that have not been criminalized? What questions should be asked about testing in the Third World and about the willingness to profit from dangerous, but legal, drugs all over the world? As to the importance of a partnership between normative criminal law and empirical criminology, Professor Boyle quoted Albin Eser and Gunther Kaiser who have written that "criminal law without criminology is blind, criminology without criminal law has no boundaries." They have also pointed out that the Max-Planck-Institute is dedicated to consolidating the approaches of criminal law and criminology. Professor Boyle stated that this was consistent with a feminist focus on the importance of taking what is known about social and economic context into account

in analyzing legal issues. She also noted that the idea that interdisciplinary study is now familiar in the literature as the prototype for organizing academic inquiry as we move into the twenty-first century.

Professor Eser said that a critical approach could either proceed from a progressive or a reactionary perspective. A single point of departure should not be adopted but a perspective such as feminism could be used to select specific examples. Professor Eser drew a distinction between multinational, international and supranational dimensions of criminal law. Multinational criminal law, insofar as it deals with more than one country, requires comparative approaches to the subject. International criminal law, narrowly defined, refers to conflict and cooperation between states in the criminal justice sphere. Supranational criminal law refers to those matters which states delegate, or ought to delegate, to "higher" authorities such as international courts or tribunals. War crimes could be placed in this last category. In the discussion that followed, it was pointed out that the distinction between international and supranational criminal law, in particular, was controversial.

Further discussion returned to the question of values and ideological choice. It was suggested that where such choices were made they should be clearly articulated. Some participants emphasized the importance of a curriculum which was sensitive to a multiplicity of interests and took into account internationally-accepted principles of human rights. However, there was disagreement about whether a sociological approach, which treated values analytically and approached them only from the point of view of the sociology of law, would suffice or whether it was necessary to enter the debate about values directly.

A telephone link was established with colleagues in Australia who joined the discussion. Professor Fisse and his colleagues emphasized their support for the theoretical and interdisciplinary approach proposed by Professors Palys and Boyle. They were confident that any proposed curriculum could be incorporated in the Australian postgraduate course structure. They were particularly attracted by the comparative elements and suggested that a broad range of subject options be offered as these would be attractive to students.

Professor Neil Boyd, Director of the School of Criminology, Simon Fraser University, chaired the second session, where the discussion of the framework for the curriculum was continued with reference to written comments received from Professor Roger Clark. These emphasized the importance of a new program in providing both a broad education and useful skills for those completing it successfully. Professor Eser said that there appeared to be two approaches: the Freiburg approach, which he regarded as comprehensive, and the approach set out in the paper by Professors Boyle and Palys, which in his view implied a focus on specific issues. A prolonged discussion followed as to whether there was, indeed, a major difference between the two perspectives. Some of those who regarded the difference as significant were of the opinion that it was necessary to define precisely the fields of study central to each of the two approaches so that an attempt could be made to see if there was common



ground. It was suggested, however, that the Boyle/Palys approach was a methodology rather than a list of topics. These, it was claimed, would emerge as the curriculum developed. The interdisciplinary nature of any curriculum was considered to be crucial. Law should not be privileged by being the point of departure, and therefore the dominant analytical paradigm. The Freiburg participants explained that while they saw criminal law as being a central focus, this did not mean that it should dominate the curriculum.

The discussion turned to the subject-matter of the curriculum and what should be taught in preparatory courses. In this context, there was considerable debate about the proper place of the cultural dimension which all participants regarded as essential. It was pointed out that law often did not function in the way that law-makers intended and that this could only be understood in the social context of the country concerned. The sociological principles for studying the context of law-making should, it was argued, form part of the curriculum. Such perspectives are particularly important when analysing the impact of law in different societies.

In order to further explore the possible differences and similarities between the two approaches, consideration was given to a proposal put forward by Dr. Susanne Walther and Professor Hans-Jörg Albrecht, as to a program of study in relation to sanctions. It was emphasized that various perspectives should be brought to bear on the topics outlined. Suggestions from others included a consideration of the international dimension as expressed in United Nations standards and other international instruments, wider discussion of varying sentencing philosophies, and the importance of setting the cultural context in relation to the specific topic of sanctions. The question of prerequisites was raised again in the specific context of sanctions. It was stressed that the cultural significance of sanctions varied as they dealt with approaches to the body of the person being punished which may vary in relation to that person's position within society. A less legal approach would focus on these aspects of punishment.

The workshop then broke into two groups to consider: a) what topics would be dealt with in a curriculum on transnational crime, criminal law and institutions, and b) what would be the elements of a framework for comparative approaches to crime, criminal law, and criminal justice.

## **ELEMENTS OF CURRICULA**

### **I. TRANSNATIONAL CRIME, CRIMINAL LAW AND INSTITUTIONS**

The "International Group" defined its purpose as: to set out a program of study in a number of components for persons interested in transnational crime, criminal law and criminal justice institutions. The Group sought to formulate a comprehensive

definition of the field by identifying the subjects that needed to be addressed. The approach of the "International Group" differed from that of the "Comparative Group," which did not attempt to comprehensively define all of the major components of the field of study, but rather outlined a framework for comparative approaches and methodologies to an open-ended number of topics.

The "International Group" determined that the target group for its program of studies should be left open, subject to the proviso that it is assumed that persons embarking on this program of study would bring to it advanced study or background in one of: criminal law; criminology; public international law; international institutions; criminal justice; or international relations. As few people would have a background in all these relevant areas, the curriculum should include a component that would provide for materials which would give an adequate background in substantive subjects in which there was a lack.

Given the various meanings of the terms in this field it was important, at the outset, to define the subject-matter of the curriculum and thereby set some of its parameters at least with respect to subject-matter. For the purpose of this curriculum the terms "transnational criminal law," "international criminal law," and "supranational criminal law and supranational institutions" should be given the following meanings:

"Transnational Criminal Law" addresses crime that crosses borders, both at the international and/or supranational level.

"International Criminal Law" includes: 1) national criminal law and national criminal justice operations with extraterritorial aspects, 2) competition or conflict between national criminal laws, and competition or conflicts between national and supranational criminal laws; and, 3) cooperation between nations related to criminal justice.

"Supranational Criminal Law" includes internationally recognized substantive criminal law (defined by international convention, regional treaties, other relevant international instruments, and by international common law). Examples include, but are not limited to: (1) Genocide, (as defined in the Convention of the Prevention and Punishment of Crime of Genocide, 1948); (2) War Crimes as defined in The Hague and Geneva Conventions on the Law of War and customary international law; (3) Piracy (as recognized according to customary international law); (4) Terrorist criminal activities including hijacking and kidnapping (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, 1970; the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, 1971; and Protocols thereto, and the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, 1973); and (5) Torture; (as defined in the Convention Against Torture and Other the Cruel, Inhuman or Degrading Treatment or Punishment, 1984).

"Supranational Criminal Justice Institutions" would include organizations concerned with the formulation of supranational criminal justice policy including the development of substantive international criminal law, adjectival or procedural law, enforcement policy and allocation of jurisdiction. Examples would include, but are not necessarily limited to, the United Nations in all of its agencies and regional organizations such as the Arab League, the Commonwealth, the European Union, Council of Europe and the Organization of American States. Law and organizations concerned with enforcement of transnational criminal law would also be included, such as a transnational criminal procedure law and any policing agencies or juridical bodies assigned jurisdiction by the appropriate international policy body. Agencies operating under the auspices of the United Nations, or a regional authority such as the European Union, would qualify. Some other organizations might also qualify based on their transnational character. Some international organizations which began as federations of national organizations, such as Interpol and Amnesty International, might also be studied.

On the basis of these definitions, the curriculum would consist of the following components:

1. Key Concepts

The Key concepts would include: (i) The nature of power; (ii) Legitimacy & authority; (iii) The idea of the nation state; (iv) Sovereignty and its limitations, as between equivalent authorities; (v) The nature of supranational authority; (vi) The concept of jurisdiction; (vii) The power to sanction; and (viii) Requirements for criminal responsibility - individual, group, and state criminal liability

2. Etiology of crime and crime prevention

An in-depth analysis of various theories that purport to explain the origins, evolution and incidence of crime, including criminological, psychological, sociological, economic, political and other perspectives and approaches. In addition, this part of the curriculum would analyse approaches and practices of crime prevention, their efficacy, theoretical base, and potential transferability.

(This component was included by both groups as it was considered relevant to both areas.)

3. The Cultures of Transnational Crime, Criminal Law, and Institutions

An examination of the legal, political and social cultures in which national crime which crosses borders, transnational criminal law, and criminal justice institutions operate. For example the role of international standards and norms; different legal cultural dimensions and their manifestations such as the double criminality requirement and the attitudes of that legal system to the extradition of one's own citizens would be examined. This component would also compare legal cultures and examine how crime is defined and its relation to broader issues of justice; views of the place of natural law, international convention, supranational authorities, and

other norms and institutions and, for instance, look at peculiarities which impact on transnational criminal law such as the existence of the death penalty.

4. The role of human rights in international criminal law and justice

An examination of human rights from their historical definition; whether human rights are universal in this area and whether they are also interdependent and indivisible. This component would examine the inter-relationship between international conventions and domestic legislation, and, specifically, the obligation to: (a) create sanctions to encourage the observance of human rights, and (b) provide for due process and procedures. This component would also look at the effect of "soft law," i.e., international norms, standards and guidelines, in influencing behaviour.

5. The phenomena of transnational crime

An examination of the incidence of transnational crime, and the characteristics of those who commit it, especially those of criminal associations or organizations. Some of the specific crimes examined will be narcotics trafficking, slave-trading, money-laundering, smuggling persons and goods, criminal appropriation of intellectual property - trade secrets, environmental harms, e.g. hazardous waste, and fraud and financial manipulation.

6. Conflict, competition and cooperation between states and their laws at the transnational level

This component will address the role of sovereignty and the concept of jurisdiction. It will also examine the effectiveness of cooperation in dealing with transnational crime including the nature of lateral cooperation; the informal arrangements of such cooperation; formal international instruments of cooperation such as extradition treaties, treaties on mutual legal assistance, reciprocal enforcement of judgments; transfer of proceedings; and transfer of prisoners. It will also examine instances of cooperative sanctions as opposed to supranational sanctions.

7. Supranational substantive criminal law

An inquiry into the incidence and growth of supranational criminal law, whether as customary international law such as piracy, or the new international law defined by a supranational statute such as the definitions of crimes which form the basis of the jurisdiction of the International Tribunal for Crimes in the Former Yugoslavia or through the role of the many international conventions such as those outlined in the definition of supranational criminal law on pages 9 and 10 above.

8. Supranational institutions of criminal justice

This is an examination of the structures, practices and operations of supranational or multinational institutions of criminal justice policy-making such as the United Nations Commissions, the Council of Europe, the Commonwealth, the Organization of American States and including new institutions carrying out policy such as the International Tribunal for Crimes in the Former Yugoslavia. It will also include an examination of the role and operation of non-governmental organizations which

seek to influence policy and other groups, whether governmental or private, which exist for the management of the risks and consequences of criminality, such as multinational banking, insurance investigative units, or private police. This component would also examine the role of international social movements as to their impact on criminal law and justice.

## **II. COMPARATIVE APPROACHES TO CRIME, CRIMINAL JUSTICE, AND CRIMINAL LAW**

The working group first considered the target audience for the curriculum, based on the assumption that this would help define the basic purposes of the curriculum. Participants expressed their views on this issue, based on experience in teaching in their home countries. From this discussion, four models emerged. The first was a model of specialization, primarily geared to lawyers and legal staff. One participant stated that, in his country, the program might also be used for training of judges, and, perhaps, for training of governmental officials. The second model suggested was use of the curriculum for research or advanced training in certain fields, for example, specialized Masters or Ph.D. programs. The third model was that of integration into the ordinary, existing legal education system, as one component of legal research and education. In this connection, it was observed that the importance of such a program may be increasing in Europe, as a consequence of the attention being paid to issues of European Community harmonization. The fourth model was that of an independent, free standing program, or a new interdisciplinary program.

As a starting point for the discussion of the curriculum's content, it was suggested that one should first examine and define the social problems, and then consider the means of their resolution, rather than beginning examination with the positivistic or black letter law solutions. This discussion led to the conclusion that the problem of method and function should be part of the curriculum. An example of an approach to comparative criminal justice that, in part, reflects this method was a project on comparative juvenile justice by Malcolm Klein, that looked at causes of juvenile delinquency, approaches to the problem, and their results across several societies. Firearms regulation was also raised as an example of an area in which it would be valuable to have experts who could evaluate the impact of such regulations from a transnational perspective, informed both by an understanding of the socio-cultural setting, and a knowledge of legal doctrine. It was agreed that the inclusion of such experts in the program would be invaluable, but that such experts might be difficult to find.

It was agreed that there should be a core component on Comparative Law and Culture. It was also agreed that there should be a core component on Methodology. This led to a discussion of comparative methods. Several participants pointed to the

availability of a theoretical framework for comparative methodology mainly developed for comparison within the civil law tradition. Others argued that methodology should be defined more broadly, to include, for example, the feminist perspective. It was also pointed out that there are differences between legal methods and methods in other social sciences. A question was raised as to whether the comparative methods developed in the civil law tradition could appropriately be employed in comparing systems as different as the civil law and common law. To this, another participant stated that the great differences between traditions would in fact present a valid basis for comparison because of the great contrasts available. He suggested a comparison that would look at values—the goals of criminal justice systems are likely to be similar, that is, relating to the maintenance of social order, but other values and mechanisms might provide worthwhile grounds for comparison. The discussion then turned to a somewhat more focused discussion of what might go into the Methodology component. Aspects of methods suggested included comparative legal research and comparative legal methods, historical methods, statistical methods, and such other social science methods as psychological, criminological, and sociological methods.

The working group then refocused on the major elements of the curriculum. Rather than identifying specific components, it was decided to first consider elements, goals and purposes; the potential and limits of the study program; methods to be used, and outcome. The working group described the Comparative Law and Culture component as an overview of major legal systems to provide information on a wide range of legal traditions, and familiarize students with various perspectives. As elements in such a component, discussion addressed the range of legal traditions that might be included: civil law, common law, non-European, Islamic, African, Aboriginal, Asian, and mixed jurisdictions (such as South Africa and Israel). Themes that might be covered included: informal versus formal processes; the state versus individual; individualistic versus communitarian (collective); civil versus criminal; non-legal and extralegal controls such as the village, and fears of the supernatural; codified versus non-codified; and maternalistic versus paternalistic. Goals for this component included sensitizing scholars (who might not go beyond this component) to the wide diversity of approaches and values that exist; providing a basic level of knowledge for students likely to go on to more advanced study; avoiding an ethnocentric approach to comparative criminal justice; and considering whether there are certain basic universal values and fundamental human rights that exist in all societies.

One participant suggested that indigenous elements might be discussed in the context of an examination of the laws of particular countries. Another participant objected to this approach, voicing the view that, for the majority in Africa, for example, indigenous elements may represent the only effective criminal justice system. A participant noted the importance of including the themes of history and law reform in coverage of such a component. A focus on such basic questions as the manner in which norms are generated was suggested as one way in which the component might begin to approach issues. Another participant then asked whether administration of justice—the police, prosecutors, courts, and corrections officials—would properly be

regarded as a subject of this component. The group briefly considered how this topic might fit into other subsequent components in a curriculum. It was observed that other topics such as criminal law, criminal procedure, and sanctions each involve some of the administrative functions, but none covers all. Whether the topic was treated in an introductory overview component, or reserved for other components, it should be included in the curriculum.

The Comparative Group agreed that the following topics should be addressed. The first two components were seen as fundamental to the understanding of comparative scholarship in criminal justice:

1. Comparative methodologies

A survey of the comparative methodology used in various disciplines including law, history, cultural anthropology, sociology, and criminology, to both enable students to critique comparative literature and to enable them to conduct comparative research.

2. Law and culture

An overview of major legal systems and historical developments within the world community and the cultural context from which they evolved. Included would be an analysis of Anglo-American legal traditions, continental European systems, Islamic systems, Asian systems as well as tribal and Aboriginal systems of justice.

3. Comparative analysis of the criminal justice processes

A comparative overview of the organization and administration of various agencies of justice, including law enforcement, prosecution, courts, probation, prisons and non-institutional entities involved in the administration of justice. This would include an analysis of such issues as recruitment and selection, training, education, and administrative law governing the exercise and performance of the administration of justice. This component would also include analysis of the relationship between justice agencies and the community as well as the interaction between justice agencies and other governmental entities that deal with human services.

4. Law reform and the public policy process

A comparative and multi-disciplinary analysis of the legislative process whereby criminal law and procedure is enacted and an analysis of the political dynamics which form, and characterize, this process. Included is a discussion of how issues are placed on the public agenda, the negotiating process whereby public concerns are enacted into law, an evaluation of the impact of criminal law reforms and the reformulation and renewal of the policy process. In particular, consideration would be given to the process whereby society and its institutions evolve norms, and criminalize and sanction behaviour.

5. Comparative criminal sanctions

A comparative analysis of the various approaches taken by the family of nations in sanctioning offenders. Included would be a discussion of theories and economies of sanctioning processes and the variety of means with which sanctions are implemented. It would particularly include analysis of the diversity of sanctions e.g. those reflected in the paper entitled "Proposal for Amendment to Part B.IV".

6. Comparative criminal law and comparative criminal procedure

Comparative analysis of features and structures of criminal law and procedure in the world community. It would include, but would not be necessarily limited to, the items included in the Freiburg paper presented by the Max-Planck-Institute (B.II. and III.).

7. Etiology of crime and crime prevention

An in-depth analysis of various theories that purport to explain the origins, evolution and incidence of crime, including criminological, psychological, sociological, economic, political and other perspectives and approaches. In addition, this part of the component would analyse approaches and practices of crime prevention, their efficacy, theoretical base, and potential transferability.

(This component was included by both groups as it was thought to be relevant to both areas)

8. Comparative juvenile justice

An analysis of the variety of approaches taken by society to define, measure, control and treat problems of youth deviance and juvenile crime. The approach will be multi-disciplinary including legal perspectives, definitional issues, institutional approaches and cultural origins.

9. Special topics

The program would include "core topics" and "special topics." The "special topics" would include advanced seminars focusing on selected topics such as terrorism, drug distribution and control, corporate crime, environmental crime, rape, treatment of minorities, elderly people, women, etc.

10. Differential impact of criminal justice system/discrimination/equity and equality of treatment

An analysis of the conflicts and inadequacies associated with the society in providing access and rendering justice to particular groups of people including women, Aborigines, minorities, people that are economically, physically or mentally vulnerable.

Included in the curriculum as a whole, as opposed to in each research topic, will be a component to provide background in subjects in which particular students lack knowledge, i.e., a remedial component. Further, an examination of the cultural



dimensions of the areas, or the social and cultural contexts in which the law or institutions operate, i.e., a multicultural background component will be considered in the curriculum. In addition, the relationship between international law and domestic law would be explored in the curriculum. "Soft law" e.g., international monitoring mechanisms for human rights protection, would be included.

## STRATEGY TO DEVELOP A CURRICULUM

In the concluding session of the Workshop, the participants began to map out a strategy to formulate the common curriculum. Several participants reiterated the consensus which had emerged during the workshop that there was a convincing need for scholarly inquiry into contemporary transnational and comparative law and justice. Accordingly, the focus of the curriculum will be research, recognizing that teaching and reform are directly related to the primary aim.

A key consideration in determining how to proceed was the far-reaching scope of the task of creating a curriculum and the need to involve specialists with expertise in a range of disciplines to provide the required multidisciplinary approach. In view of such considerations, it was understood that the project is necessarily a long-term and dynamic or evolving one. Both "top down" and "bottom up" approaches should be used to develop the curriculum. The "bottom up" strategy would entail interested scholars indicating what they are willing to contribute to the effort. For example, Professor Boyle offered to make available the course she and Professor Chunn are preparing on women and criminal law reform. Expressions of interest will be sought from other scholars who might wish to contribute but have not been involved to date. In addition, "top down" overall coordination of the effort is necessary. Accordingly, a central coordinating committee will be formed to oversee and participate in the development of the common curriculum. In this regard, there needs to be a meeting of the coordinating committee who will oversee this effort. After that teams will be formed around the various components identified by the two working groups.

In order to determine a feasible strategy, there was a review of the documentation which was to be compiled. Many countries do not have comprehensive libraries available to scholars. It was agreed that the curriculum would essentially consist of three elements: an outline, a bibliography and a source book. It was thought that a bibliography of the relevant areas could be assembled at an early stage in the development of the curriculum. It would be updated electronically and would take into account journal articles, books, materials and other learning resources from around the globe. The sources cited in the bibliography would be related to various disciplines and in several languages. A source book would be designed so that a core of relevant materials would be accessible to researchers, whether or not they had access to advanced technology. Hence, for practical purposes, basic materials would be contained within the source book itself. Moreover, the source book would provide the context for research into the field in the form of a commentary and serve as a guide for multidisciplinary scholarly inquiry. To provide current information, data and scholarship to the target audience, and to be cost-effective, the materials comprising the curriculum will be gathered, stored and distributed primarily by electronic means.

It was necessary to revisit the question of language in the discussion of how the curriculum would be compiled. United Nations documentation is published in six languages: Arabic, Chinese, English, French, Russian and Spanish, and the two

working languages are English and French. However, it was agreed that at the outset of the curriculum development process, English would be the common language initially used for the outline and commentary. While the bibliography would be written in English, it would include citations of sources published in other languages and would provide an English translation of the title of the specific source. It was understood that other languages would be used for the elements of the curriculum as soon as possible.

It was agreed that although some participants may have their participation in this exercise funded in whole or in part by their respective institutions, additional funding would have to be found both for the overall coordination of the curriculum development project and to financially support the participation of some of the participants including travel and, possibly, communications costs.

It was agreed that evaluation should be addressed at the outset of the process of curriculum development. Criteria and mechanisms for evaluation are necessary to assess reactions to the curriculum. Once components of the curriculum are offered in institutions, feedback about them will be used to enhance and modify the components.

**The following steps were set out as a strategy to begin to develop the curriculum:**

- 1. A central coordinating committee will be struck by the International Centre and the Max-Planck-Institute;**
- 2. The coordinating committee will set out a more detailed strategy including timetable and workplans for developing the curriculum and assemble teams to prepare the materials for the various components;**
- 3. Expressions of interest will be sought by the coordinating committee from those who might wish to participate in the development of the curriculum but have not been involved to date;**
- 4. Electronic mail and Internet will be used to facilitate the development and distribution of the components of the curriculum;**
- 5. A proposal for funding will be prepared in the immediate future based on the objectives and content of the curriculum proposed at the workshop. Funding is needed for operations of the central coordinating committee and the project teams. Further funding will be sought to develop or adapt the electronic communications which will be used to both develop and possibly deliver the curriculum;**
- 6. A follow-up meeting will be convened to review progress and chart next steps;**
- 7. Criteria and mechanisms for evaluating the curriculum will be established.**

Expressions of interest from those who might wish to participate in this curriculum development are welcome and should be addressed to either Daniel C. Préfontaine at the International Centre or Professor Albin Eser at the Max-Planck-Institute at the addresses indicated at the beginning of this report.