

KEYNOTE ADDRESS
TWELFTH REGIONAL SEMINAR ON GOOD GOVERNANCE
FOR SOUTHEAST ASIAN COUNTRIES

*Takeshi Seto**

Dr. Tran Con Phan, honourable Deputy Prosecutor General of the Supreme People's Procuracy of Viet Nam,

Distinguished members and staff of the SPP,

Distinguished delegates, experts and guests,

Ladies and gentlemen,

First, I would like to express my heartfelt gratitude to all the representatives from Southeast Asian countries and visiting experts for their dedicated preparation and forthcoming contributions to this seminar. Also, I would like to extend my sincere appreciation to the Supreme People's Procuracy of Viet Nam for co-hosting this twelfth Good Governance Seminar, for their dedicated efforts, and for their warm hospitality in welcoming us.

It is my great honour and privilege to be here before you to deliver the keynote speech as the Director of UNAFEI. Personally, I am particularly grateful to attend this seminar again, as I participated in the First Good Governance Seminar in Thailand 11 years ago as the Deputy Director of UNAFEI. The first seminar has remained in my memory as a truly unforgettable and exciting experience.

Ladies and Gentlemen,

This regional seminar began in 2007, just a few years after the

* Director, United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI).

adoption of the United Nations Convention Against Corruption, otherwise known as UNCAC, in 2003, and its entry into force in 2005. This seminar was launched, in order to enhance the capacities of anti-corruption agencies and to establish and strengthen the network of competent authorities within Southeast Asia. This annual seminar has surely contributed to the development of effective countermeasures against corruption in each participating country, by sharing experience and maintaining close relationships among our respective agencies and among us as practitioners.

Ladies and gentlemen,

This Twelfth Seminar, upon consultation with our partner, the Supreme People's Procuracy of Viet Nam, is entitled "The Latest Regional Trends in Corruption and effective countermeasures". Last year, at the Eleventh Seminar, we focused on institutional and practical developments to fight corruption that took place over the past decade in the Southeast Asian Region. As stated in the keynote speech at the Eleventh Seminar last year, by our former Director, Keisuke Senta, the past ten years since the first seminar in 2007, can be described as the "UNCAC decade". Starting with the accession by Cambodia in 2007, and culminating with the ratification by Myanmar in 2012, all eleven Southeast Asian countries, including Timor-Leste, have become State Parties to the UNCAC. In addition, Japan finally ratified UNCAC at the end of this period, in 2017.

Without doubt, efforts towards the implementation of UNCAC led to many legislative improvements and the enhancement of investigative and prosecutorial capacity and skills of anti-corruption authorities in the region. As we reviewed at the previous seminar, we observed tremendous advances in the adoption of implementing legislation, including laws on the criminalization of corruption offences, asset recovery, and mutual legal assistance and extradition. Taking a few examples, Malaysia enacted the new Anti-Corruption Law in 2009, which established a new anti-corruption body, the Malaysian Anti-Corruption Commission, known as the MACC, and has undergone a number of legislative developments to criminalize specific corruption offences, introduce plea bargaining,

strengthen asset forfeiture and recovery, and witness and whistleblower protection. Cambodia has established an anti-corruption framework through a series of laws such as the Code of Criminal Procedure 2007, the Criminal Code 2009, the Law on Anti-Corruption 2010, the 2011 amendment thereto and the Law on Public Procurement 2012. Myanmar adopted the Anti-Corruption Law in 2013 and the Anti-Money-Laundering Law in 2014.

In addition to these legislative developments, all countries made great steps towards the adoption of national anti-corruption strategies, establishing anti-corruption frameworks, and implementing effective anti-corruption enforcement—all of which facilitated the investigation and prosecution of corruption offences in practice.

Here, I would like to make a brief observation on some of the interesting steps taken in this regard by each representing country.

Over the years, the Anti-Corruption Bureau of Brunei Darussalam, which is the country's sole independent investigative authority, has invested in creating specialized officers for information technology, accounting and legal expertise from the viewpoint of effective evidence management. Following the evolving trends of corrupt transactions, the Bureau's investigative measures have shifted from conventional methods to more proactive and innovative ones such as wire-tapping, undercover operations, telecommunications interception and consensual recordings.

Cambodia established the Anti-Corruption Institution (ACI), which has two bodies: the National Council against Corruption (NCAC) and the Anti-Corruption Unit (ACU). The NCAC is an advisory body involved in formulation and recommendation on anti-corruption policies and strategies. The ACU is an investigative body that has exclusive authority to investigate corruption cases, and has the power, for instance, to arrest, obtain bank records, subpoena documents, conduct wiretapping, and freeze assets.

In Indonesia—although very few convictions had been rendered

against corporations for corrupt conduct due to ambiguities of previous regulations on corporate liability—Supreme Court Regulation No. 13 in 2016 clarified the conditions for corporate liability. Pursuant to the regulation, liability is triggered by a criminal act done by any person who is employed by or has some other relationship with the corporation, both in respect of domestic and foreign corporations.

Laos structured the anti-corruption framework in four layers: the national level through the State Inspection and Anti-Corruption Authority (SIAA), the ministry and agency level, the provincial level, and the district level. Over the past decade, the SIAA has coordinated corruption prevention and enforcement efforts, prioritizing prevention and encouraging public participation to combat corruption. Measures for prevention include anti-corruption education at all levels, anti-corruption promotion by the mass media, and declaration of assets and income by public officials.

In Malaysia, the Anti-Corruption Commission has developed a number of best practices for anti-corruption investigation. Important practices include establishment of the Malaysian Anti-Corruption Academy to provide training in advanced investigation techniques, the use of video technology during interviews and interrogations, the implementation of team-based investigation, private-sector investigation, intelligence-based investigation, introduction of a technology-based complaint management system, and enhancement of forensic-accounting skills.

In this seminar, Mr. Mohamad Zamri Bin Zainul Abidin, our visiting expert from the MACC, will lecture on the keys to successful witness and whistleblower protection in corruption cases. I believe that his lecture will bring us valuable insights and knowledge in dealing with corruption crimes.

Myanmar has undertaken significant efforts over the past decade to enhance anti-corruption enforcement. The Anti-Corruption Commission has the power to conduct investigations and to take action against

offenders who commit corruption. The Commission can examine financial records, issue prosecution orders and confiscation orders of money and property, and provide witness protection.

The Philippines has a number of best practices in terms of implementation of UNCAC's provisions, in particular, those related to law enforcement, such as the Witness Protection, Incentive and Rewards System, the use of special anti-graft courts known as *Sandiganbayan*, among others.

In Singapore, the CPIB is the only agency authorized to investigate corruption and related offences. The CPIB is a founding member of the new International Anti-Corruption Coordination Centre (IACCC) launched in July 2017. The IACCC, serves to improve information sharing and coordinate law enforcement actions between law enforcement officers of its member countries. In terms of initiatives to address corruption in the private sector, the CPIB developed "PACT", a practical guidebook for businesses in Singapore which sets out to guide business owners in Singapore in developing and implementing anti-corruption systems within their companies.

In Thailand, a new type of corruption called "policy corruption" was reported. Policy corruption involves the creation of illegal schemes or management mechanisms for certain beneficiaries. The National Anti-Corruption Commission, established in 1997, expanded its power to engage in mutual legal assistance. In addition to a Criminal Division for Persons Holding Political Positions to adjudicate cases involving high-ranking level public officials including ministers and members of parliament, the Supreme Court has established the Central Criminal Court for Corruption and Misconduct Cases to deal with cases involving other public officials.

Viet Nam has made efforts in applying measures in criminal laws to freeze and confiscate proceeds of corruption, to distrain and seize property and to impose fines for the purpose of recovering them, as well as administrative and civil measures provided in civil laws, at relevant stages

of proceedings, such as investigation, prosecution and adjudication.

Ladies and gentlemen,

As I summarized, in the past decade, we have seen significant developments in the Southeast Asian countries in the legislation, institutional frameworks, strategies and practices in anti-corruption prevention, investigation, prosecution and adjudication.

However, during the past decade, our society has drastically changed. For instance, rapid progress of information technology and its communication tools have brought about massive and interactive information flows worldwide through a variety of media, as well as an increase in cross-border financial transactions by various means, which have reached a level far greater than what we had expected ten years ago.

Despite the efforts and considerable level of developments that have been made by criminal justice authorities in this region, due to negative impacts stemming from recent rapid social development, corruption has become more complicated and sophisticated, and has become highly secretive in nature, making it more difficult to detect, investigate and prosecute. Moreover, the increasing trend towards the transnationalization of corrupt practices has made these tasks even more complicated and difficult. We must recognize that, following this “UNCAC decade”, we have now entered a new phase in the fight against corruption. Simply relying on conventional methods to fight corruption may no longer be sufficient to suppress the increasingly transnational and complex nature of corruption.

In order to respond to new and forthcoming challenges, we should examine the current trend of corruption and share experience to tackle it. In this regard, this seminar is designed to share information on the current trends in corruption typologies observed in each country, exchange investigative and prosecutorial experiences and explore the way forward to address the identified challenges.

I may not be able to give a full overview of forthcoming challenges,

yet it is clear that, in this new era of anti-corruption enforcement, practitioners will continue to face traditional challenges as new challenges arise. These new challenges may include: insufficient investigation skills to respond to new trends; insufficient legal tools and equipment to collect admissible evidence, including evidence in electronic form; poor interaction between intelligence and criminal justice officials; differences in systems and practices in cases involving international elements; the lack of modern equipment; the lack of legal basis for special investigation techniques; dealing with underground banking systems; and the dissipation of illicit assets prior to confiscation.

In regard to challenges pertaining to international cooperation, Dr. Claire Armelle Leger, our visiting expert from the OECD, will lecture on common challenges in, and best practices of, mutual legal assistance in the region based on her expertise gained through the Anti-corruption Asia-Pacific Initiative. I am certain that her analysis will provide helpful clues to successful MLA practice.

Ladies and gentlemen,

Corruption has become increasingly transnational. Of course, this means that international cooperation is increasingly important. But it also means that corruption trends in one country may appear in other countries. From such perspective, it is effective and helpful to share with one another knowledge and experience of current corruption trends. Through such exercise, we may be able to prepare for new *modus operandi* and make use of other countries' experiences, once we come across similar corruption allegations. Further, introducing other countries' effective anti-corruption practices may well result in formulating and implementing good anti-corruption measures in our own countries. Therefore, it is quite valuable to share each country's experience and expertise in this seminar in the fight against corruption.

Ladies and gentlemen,

It is evident that many of the challenges that we face in Japan in combating corruption are also challenges for other developed and developing countries. On the other hand, it is also clear that the causes of

corruption are deeply connected with each jurisdiction's own customs, culture, economy and other social environments. It will continue to be quite a challenge for each country to address all underlying social and economic factors to prevent and suppress corruption. Further, it would be impossible to collectively respond to all the challenges without due regard to diversity among jurisdictions. In order to respond, each country is expected to address its own challenges in a manner suited to its own legal system, customs, culture, economy and social environments, making use of the knowledge and experience shared in this seminar as a valuable basis.

Ladies and gentlemen,

After its adoption in 2003, Japan ratified UNCAC in 2017. Meanwhile, UNAFEI, as a United Nations Crime Prevention and Criminal Justice Programme Network Institute, has conducted annual multilateral UNAFEI-UNCAC training courses for criminal justice practitioners, which aim at facilitating effective implementation of UNCAC, as well as this annual Good Governance Seminars. Such activities contribute to the promotion and implementation of United Nations standards and norms, including UNCAC, and contribute to the achievement of the Sustainable Development Goals, in particular, Goal 16.5, to substantially reduce corruption and bribery in all their forms.

UNAFEI, through these training courses and seminars, has endeavoured to support participating countries around the world in preventing and combating corruption, with considerable focus on Southeast Asian countries. I am sure that these courses and seminars have offered good opportunities to share knowledge and experiences for fighting corruption effectively. Moreover, relationships built among the participants facilitate and enhance international cooperation in the effort to prevent and fight corruption.

I strongly believe that UNAFEI's courses and seminars have largely facilitated each country's efforts in improving its criminal justice system and practices in the fight against corruption. Given its importance, I am fully convinced that UNAFEI's continuous efforts in the field of

capacity-building for criminal justice practitioners have contributed to enhancing the region's anti-corruption measures and have played an important role in our collective fight against corruption. Bearing this in mind, UNAFEI will continue to hold these training courses and seminars to enhance our collective capacity to fight corruption.

Ladies and gentlemen,

In this Twelfth Seminar, the knowledge and experience of nine participating countries will be exchanged and discussed. Facing a new era of complex transnational corruption, closer cooperation will add more value than ever to the fight against corruption. Let us continue to work hand in hand in this tough and endless fight.

In closing, expressing my sincere hope and expectation for successful and fruitful discussions at this Good Governance Seminar and my heartfelt thanks to all of the participants for attending, and again my deepest gratitude to the Supreme People's Procuracy of Viet Nam for co-hosting this seminar in Danang, I would like to conclude my keynote address.

Thank you for your kind attention.