

A Note on the 14th UNAFEI UNCAC Training Programme: “Effective Legal and Practical Measures against Corruption”

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1. Introduction

From 13 October to 10 November 2011, the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) conducted the 14th UNCAC Training Programme. The main theme of the Programme was “Effective Legal and Practical Measures against Corruption.” This programme was attended by 22 participants from eleven different countries (Afghanistan, Bangladesh, Cambodia, the Democratic Republic of the Congo, Kenya, Laos, Maldives, Mongolia, Nepal, Nigeria, and Japan): sixteen participants were from overseas and six from Japan. Those who participated are all criminal justice practitioners: police officers, public prosecutors, judges/court officers, officers/investigators from anti-corruption authorities, and a securities investigator. In this note, I would like to present an overview of the Programme from my perspective as its Programming Officer.

Please be reminded that the opinions expressed in this note are my own personal views.

2. Major Points and Issues of the Main Theme and the Objective of the Programme

Corruption involving politicians, elite bureaucrats, or public officials is considered a worldwide problem. Japan, where corruption is said to be a relatively less serious issue, still sees no end to the fight against it. Little wonder that it is of much graver concern, in terms of both volume and severity, to some developing countries, where sufficient countermeasures against corruption have not yet been introduced. In the past, in some countries, such as the Philippines, Nigeria, and Peru, political rulers took advantage of their authority and embezzled public funds, and consistently took bribes to feather their own nests. Presently, the same kinds of misconduct is suspected in the Middle Eastern countries, which have just realized the “Arab Spring.”

According to a shocking report from the World Bank, as much as 20 to 40 percent of the total ODA (Official Development Assistance) offered to developing countries worldwide is pocketed by corrupt persons of high rank in the recipient governments. In some cases, grim actualities of corruption even include police officers, public prosecutors, and personnel of the judiciary, including judges, as well as officials of municipal, customs, immigration, and other offices handling everyday public services, who take relatively small bribes or misappropriate public funds. As seen in some developing countries, corruption rampant at various levels significantly lowers the quality of public

services, and seriously impedes appropriate distribution of wealth to the general public, whom are its proper recipients, resulting in continuing poverty.

This reality led countries to the adoption of the United Nations Convention against Corruption (UNCAC) in 2003, which was the first global-scale international legal instrument in regard to countermeasures against corruption. As of October 2011, over 150 countries have become states parties of the UNCAC. Regrettably, Japan has yet to ratify the UNCAC. The UNCAC defines a variety of measures that countries should take in concert, in the following four major areas:

(1) preventive measures (e.g. development of institutions and systems to properly employ and manage public officials and personnel in the judiciary);

(2) law enforcement and criminalization of corrupt practices (e.g. introduction of laws that criminalize various kinds of corrupt practices, as well as administration of appropriate investigation, prosecution, and punishment of corrupt practices regulated by those laws);

(3) international cooperation (e.g. cooperation among countries in instances of those who have committed corruption fleeing their countries); and

(4) recovery of assets looted by corruption (e.g. development of a legal framework which enables identification and confiscation of assets appropriated from national coffers through corrupt practices, and recovery and return of the assets to the victim country).

The main objective of this Programme was to learn best practice in the field of anti-corruption, as implemented in various countries around the world, referring to the requirements of the UNCAC in the above-mentioned four areas. A further primary objective was to discuss effective legal and practical anti-corruption measures that may be feasible for participating countries to adopt into their own criminal justice systems.

3. Shared during the Programme: Effective Countermeasures against Corruption

In the Training Programme, three visiting experts from overseas, specialists in countermeasures against corruption and investigation of corruption cases, offered us their knowledge and information of various advanced approaches in different countries and regions, and the United Nations' activities aiming to implement the UNCAC. The visiting experts were:

- Mr. Dimitri Vlassis, Chief, Corruption and Economic Crime Branch, Division for Treaty Affairs, United Nations Office on Drugs and Crime (UNODC)
- Mr. Tony Kwok Man-wai, Former Deputy Commissioner, Independent Commission

- Mr. Koh Teck Hin, Director (Operations), Corrupt Practices Investigation Bureau (CPIB) of Singapore

The visiting experts were joined by ad-hoc lecturers from Japan, including Professor Keisuke Senta of the University of Tokyo Graduate Schools for Law and Politics. Then, participants had a series of group discussions based on the new learning and their own knowledge and experience. The programme participants are active practitioners with expertise related to anti-corruption activities in their home countries, engaging in investigation of corruption cases or drafting of anti-legislation, which inevitably made for lively and fruitful discussions. Their eagerness to learn as many things as they could to help improve their own countries was evident.

As a result, the participants were able to share various effective legal and practical measures against corruption; thus, the intended objective of the Programme was fulfilled. Due to limitation of space, let me list up here only a part of the effective countermeasures shared during the Programme.

1) Preventive measures:

- Establishing codes of conduct and ethics for public officials and judicial professionals, and closely monitoring how they conform to them;
- Establishing clear criteria for assignment of and disciplinary actions against judges, prosecutors, and other judicial professionals, and preventing undue political interventions;
- Imposing duties on politicians and public officials to report on their assets and donations; and
- Public awareness raising and building up a culture of refusing corruption.

2) Criminalization of corrupt practices and law enforcement:

- Enacting laws that criminalize all the corrupt practices required by the UNCAC ;
- Introducing measures to facilitate reporting of corrupt practices, such as opening a hotline or website, which accepts reporting at any time;
- Organizing an investigation team specially designed for corruption cases, which has sufficient number of investigators and ample investigative ability, and which makes effective and large-scale investigations with a clear-cut assignment of roles and strict confidentiality;

- Introducing a witness protection programme and a system that effectively induces accomplice witnesses to give useful testimony (i.e., a system where accomplices who cooperate in investigations should be granted mitigation of punishment); and
 - Defining disputed issues and realizing speedy trials in corruption cases.
- 3) International cooperation and recovery of proceeds of corruption:
- Making a bilateral or multilateral treaty or agreement in regard to extradition and/or mutual legal assistance;
 - Aside from making an official request for international cooperation through diplomatic channels, taking advantage of informal human networks to accelerate and facilitate procedures;
 - Enacting laws that allow prompt freezing and confiscation of crime proceeds (including laws that allow non-conviction based confiscation); and
 - Enacting laws that allow return of crime proceeds identified and confiscated in one country to the country from which the proceeds originated.

4. Conclusion

There was another important purpose for this Training Programme, which was “Building close human networks among criminal justice practitioners in different countries/regions.” UNAFEI has provided over 200 training courses/seminars for criminal justice practitioners from different countries/regions and has more than 4,500 international and domestic alumni since its establishment around 50 years ago. During the training programmes, participants stay at the UNAFEI dormitory, living and working together. Close interaction and shared time in public and private life allows participants to know each other well, which, in many cases, leads them to keep in touch with one another even after the completion of the training programme. And it is true to say that there have been many instances where alumni working in different countries made full use of these informal human networks mentioned earlier and helped accelerate and facilitate cooperation between countries when criminal investigations crossed borders.

Both overseas and Japanese participants of the Training Programme spent time together and built invaluable friendships through this four-week programme at UNAFEI. I hear a number of participants stay in touch through Facebook and via other means since the conclusion of the Programme. Therefore, I believe that the second objective of this Programme—building human networks—was fully achieved as well.

Finally, I would like to conclude my note by quoting one of the overseas participants who made the following statement on the last day of the Programme.

“My country is rife with corruption because order has not been restored due to a prolonged internal war. Corruption is a matter of course, and before I participated in this Training Programme, I thought it was quite impossible for us to eradicate it. Through this Programme, however, I learned that various countries have taken steps against corruption, which actually produced good results, giving me the first ever hope in my mind that we may be able to eradicate corruption. When I return home, I will share this hope with others and try to change people’s mindset.”

I sincerely hope that the Programme helps participating countries’ respective activities for our common goal of eradicating corruption and other crime, and that it is conducive to the promotion of international cooperation.

For your information, the lectures made by the visiting experts, results of the group discussions, and individual presentations made by some Programme participants, which are all mentioned in this note, will be included in Resource Material Series No. 86, to be published by UNAFEI in due course. This publication will also be uploaded onto UNAFEI’s website. If you are interested in any of the above, please refer to the publication or the website.