

KEYNOTE ADDRESS

by

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Director

of

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at the opening of

**“THE 27TH CAMBRIDGE INTERNATIONAL
SYMPOSIUM ON ECONOMIC CRIME”**

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The Executive Director and Co-Chairman of “THE CAMBRIDGE INTERNATIONAL SYMPOSIUM ON ECONOMIC CRIME”, Professor Barry A.K. Rider, distinguished participants, ladies and gentlemen, it is a great privilege and pleasure for me to be given the opportunity to deliver a keynote address at the opening of this significant symposium.

At the outset, I would like to give a brief overview of my institute, the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, commonly known as UNAFEI.

UNAFEI was established in 1962 by agreement between the United Nations and the Government of Japan. The major focus of the activities of UNAFEI is to organize and conduct, on a regular basis, international training courses and seminars for practitioners in the field of crime prevention and criminal justice. UNAFEI endeavours to assist in the sound development of criminal justice

systems and one of the current emphases of its work is strengthening of mutual co-operation between the UN Member States, in particular, developing countries in the Asia and Pacific region. We invite criminal justice practitioners, including judges, prosecutors, police investigators, corrections officials, and rehabilitation specialists from Asian countries and other regions of the world to participate in these courses and seminars, so that the course of study is practical, not just theoretical, and the participants can address the particular problems considered by the course in the context of their justice system as a whole. Given the international nature of the participation in our courses and seminars, participants are also strongly encouraged to take a comparative approach in considering the various issues.

With regard to our faculty, experienced and learned practitioners from the full spectrum of the Japanese criminal justice system are selected to serve as faculty members. We have professionals from the prosecution service, judiciary, correctional institutions, probation office and the police force. My own

professional background is in the prosecution service, where I have 30 years of experience.

UNAFEI continues to be administered under the joint auspices of the United Nations and the Government of Japan, meaning that training and research programmes are developed in close contact with the United Nations, and regular reports on UNAFEI's activities are submitted to both the United Nations and the Government of Japan.

In the 47 years since its inception, UNAFEI has welcomed more than 4,100 participants from more than 130 countries. Two thousand eight hundred of these participants are from overseas and the others are Japanese. Although the Institute's name is the United Nations Asia and Far East Institute, over the years we have welcomed participants from parts of Africa, Eastern Europe, the Middle East, Latin America and the Caribbean.

UNAFEI is also recognized as the oldest member of the United Nations Crime Prevention and Criminal Justice Programme Network Institutes (PNI). This requires that UNAFEI

contributes, as a co-ordinator, to the planning and organization of the workshops held within the framework of the United Nations Congresses on crime prevention and criminal justice. In fact, UNAFEI is now planning the Workshop on the “Strategies and best practices against overcrowding of correctional facilities” to be held at the 12th Congress in Brazil next year.

Distinguished participants,

I would now like to introduce some of UNAFEI’s activities concerning economic crime. In recent years, UNAFEI has conducted a considerable number of training courses and seminars relating to this issue. For example:

- In 2009, we held a course on Effective Legal and Practical Measures for Combating Corruption: A Criminal Justice Response;
- In 2008, we addressed Corporate Crime and the Criminal Liability of Corporate Entities;

- In 2007, we conducted a course on theme of Challenges in the Investigation, Prosecution and Trial of Transnational Organized Crime;

In 2004, we held three courses on the topic of economic crime, as follows:

- Measures to Combat Economic Crime, Including Money Laundering;
- Economic Crime in a Globalizing Society - Its Impact on the Sound Development of the State; and
- The Current Situation and Countermeasures against Money Laundering.

Through these training courses and seminars, we have discussed many practical problems relating to tackling economic crime. Hereafter, I would like to summarize the content of some of our discussions and deliberations.

Firstly, I will address the increasing threat of economic crime, and secondly, I will mention the response to the increasing

threat of economic crime and practical issues in investigation, prosecution and adjudication.

1. The Increasing Threat of Economic Crime

Economic crime is one of the most serious problems now facing the international community. Economic crime includes a broad range of illegal activities: from conventional types—such as fraud, embezzlement, breach of trust and corruption, and submission of securities reports containing false information—to newly recognized types—such as offences in which criminals abuse the financial system; offences against free and fair trade (private monopolization, bid-rigging, foreign bribery, bankruptcy fraud); violation of intellectual property rights; fraudulent price manipulation and insider trading in the stock/financial markets; and money laundering. These new types of crimes, especially large-scale cases, have recently become the focus of public attention.

Economic crime also covers many activities instrumental to the above mentioned offences, such as forgery of documents and payment cards and computer related crimes, especially the misuse of the Internet.

Economic crime encompasses corporate crimes including window-dressing, tax evasion and violation of regulations, and on the other hand, consumer fraud, such as pyramid schemes, which can often involve many victims.

Furthermore, experience has shown us that these various forms of economic crime are often interwoven and interrelated; for example, a criminal group may be involved in fraud or embezzlement using various fraudulent methods in collusion with corrupt public officials or company executives, and then launder their ill-gotten money.

Thus, there are crimes involving corporations not only as criminals but as victims, such as when an employee abuses his/her position. And, just as this symposium focuses on the problem of the vulnerability of banking and financial institutions

to threats from within their operations and structures, the threat of banks and other financial institutions being inveigled into money laundering and other abusive schemes which undermine the reputation and stability of the institution and expose it to legal and regulatory risks is very real.

The reason why economic crime has become more serious is that it now often takes place beyond national borders. The globalization of the economy as well as rapid development and the worldwide spread of communications technology, including the Internet, have offered to criminals new and easier opportunities to commit economic crime transnationally. Economic crime sometimes creates a great number of victims and substantial loss, leads to the bankruptcy of companies, and can also cause great damage to public property. Besides such direct damage, this crime may have a deleterious impact on legitimate business, undercut confidence in and the reputation of the financial system, destabilize the market economy and ultimately

undermine sound socio-economic development in each affected country.

One of the characteristics of recent economic crime is the complex and sophisticated nature of its modus operandi. There has been a dramatic increase in the use of advanced technology; criminals fully exploit the Internet and electronic commerce to commit their offences. For example, they conduct multiple frauds against many victims simultaneously, and also carry out identity theft and identity fraud as well as consumer fraud and auction fraud using fraudulent or fake web-sites. The transnational nature of this crime hampers its detection, and makes the tracing and return of the proceeds of crime much more difficult. In addition to that, evidence preserved in computers can be instantaneously altered or destroyed.

Another remarkable characteristic is that most economic crimes are committed, on a large scale and in a well-organized fashion, by groups. Such groups range from organized criminal groups to legitimate companies. In such cases, it is difficult for

the authorities to gather information from insiders and to outline fully the scope of their illegal activities, which hinders the authorities from bringing the leaders to justice.

2. Response to the Increasing Threat of Economic Crime and Practical Issues in Investigation, Prosecution and Adjudication

Each country has to recognize the gravity of this new challenge and tackle economic crime with more effective countermeasures.

To begin with, we need to examine ways to improve investigation, prosecution and trial.

First, we should take into consideration the establishment of a special investigation unit or agency consisting of experts who have sufficient expertise and capacity to appropriately tackle complicated economic crimes.

Secondly, considering that influential politicians and high-ranking public officials may sometimes be deeply involved in economic crimes, the investigative agencies should act independently so as not to be subject to their influence.

Thirdly, concerning investigative methods, in addition to the improvement of conventional methods, new types of investigative techniques such as interception of communications and undercover operations should be introduced and utilized. Moreover, it is necessary to consider introducing a system of protection of whistle-blowers and/or immunity for the purpose of collecting information and critical statements. It is also imperative to establish enforceable measures to collect records from financial institutions and not to allow investigative authorities to be hampered by bank secrecy laws.

Fourthly, at the trial stage, in cases where witnesses are reluctant to testify due to fear of retaliation by the offenders or related criminal groups, we need to explore measures for securing their testimony, such as witness protection programmes.

Next, we need to review and strengthen our legal framework to combat various types of emerging economic crimes, and to discuss the punishment of legal persons. There are various views in respect of the imposition of sanctions for economic crimes: for example, some say that criminal sanctions against economic crime are too lenient, and others say that civil or administrative sanctions should be more widely utilized in combination with criminal punishment. Since we need to pay due attention to various factors, it is important to determine what kinds of sanctions against economic crime are more effective and should be taken.

Because economic crime is committed in order to gain profit, it is critical to deprive criminals of the proceeds of crime. By doing so, we can deprive criminals of their incentive to commit crime. It is therefore imperative to establish an appropriate legal framework for the forfeiture and confiscation of illegal proceeds as well as for the freezing of illegally acquired funds. To this end

we have to strengthen and implement mechanisms for tracing money both domestically and internationally.

It is also necessary to establish mechanisms to combat money laundering. Such measures include: promoting customer due diligence (CDD) measures in financial institutions, such as identifying the beneficial owner to prevent anonymous accounts being opened; imposing a legal duty on financial institutions to make suspicious transaction reports (STR) to the designated authority; establishing a Financial Intelligence Unit (FIU); and ensuring that designated law enforcement authorities have a responsibility for money laundering investigations.

Due to the global nature of economic crime, international co-operation and the harmonization of countermeasures by all countries are indispensable, especially so as not to create safe havens for criminals and their illicit proceeds. If some countries do not join our concerted battle, illicit funds will flow into those countries to be laundered. In this context, all countries need to work together by implementing the international standards shown

by the United Nations—such as “the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances in 1988”, “the UN Convention against Transnational Organized Crime in 2000”, and “the UN Convention against Corruption in 2003”—, and “The Forty Recommendations” of the Financial Action Task Force on money laundering (FATF). In addition, we have to make every effort to explore better ways to ensure that international co-operation, including information exchange mechanisms and mutual legal assistance and extradition, is carried out in a more effective and expeditious manner.

On the other hand, the importance of “prevention” of economic crime cannot be overlooked. Every government and corporation should be required to establish a legal and/or organizational system of “good governance” so that transparency and accountability are ensured. The introduction of an independent monitoring organization and/or an ombudsman system for this purpose is worthy of consideration. Additionally,

public awareness and education in relation to economic crime is essential.

Distinguished participants,

I have sketched out a broad summary of several of the main issues relating to economic crime that we have addressed at UNAFEI. These issues have recently been discussed by the professors and participants of our international training courses and seminars.

We would be honoured and pleased if this small contribution proves meaningful and useful for you in your endeavours against economic crime.

Thank you very much for your attention.