

# UNAFEI NEWSLETTER



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FOR THE PREVENTION OF CRIME  
AND THE TREATMENT OF OFFENDERS

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## Course Summary

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### **Lectures**

In total, 30 lectures were presented: 8 by visiting experts, 3 by Course Counsellors, 13 by *ad hoc* lecturers, 4 by the faculty, 1 by an *ad hoc* professor, 1 by the Deputy Director.

During the first two weeks of the Course, an introductory lecture series entitled "Criminal Justice System of Japan" (C.J.S.J.) was presented by the UNAFEI professors and an *ad hoc* professor from the National Police Agency of Japan. During the fifth week, the Deputy Director lectured on current crime trends in Japan

Five distinguished criminal practitioners from abroad served as UNAFEI visiting experts for an average of two weeks. They lectured on issues relating to the main theme. They also contributed significantly to the Course by encouraging discussions after their own lectures, participating in the discussions of the other programmes, and conversing with the participants on informal occasions. Also, 13 *ad hoc* lecturers represented various government agencies, universities and research institutes.

The lecturers and lecture topics are listed on pages 6 and 7.

### **Individual Presentations**

During the second through fourth weeks, each participant delivered a one-hour Individual Presentation, which introduced the actual situation, problems and future prospects of his/her country. These papers were compiled into a book entitled "COUNTRY REPORTS FOR THE GROUP TRAINING COURSE IN CRIME PREVENTION" and distributed to all the participants. The titles of these Individual Presentation papers are listed on pages 8 and 9.

### **Group Workshops**

Group Workshops further examined the subtopics of the main theme. The participants were divided into three groups. Each group elected a chairperson(s) and rapporteur(s) to organize the discussions. The group members seriously studied the designated subtopics and exchanged their views based on information obtained through personal experience, the Individual Presentations, lectures and so forth. Nineteen sessions were allocated for Group discussion.

In the sixth week, Plenary Meetings were held to discuss the interim outline of the Group Workshop reports and to offer suggestions and comments. During the final Plenary Meetings in the ninth week, drafts of the Group Workshop reports were examined and critiqued by all the participants and the UNAFEI faculty. Based on these discussions, the Groups further refined their reports and presented them at the Report-Back Session, where they were endorsed as the reports of the Course. Summaries of the Group Workshop reports are provided on pages 10 through 17.

### **Visits and Special Events**

Visits to various agencies and institutions in Japan helped the participants obtain a more practical understanding of the Japanese criminal justice system. In addition to the Course's academic agenda, many activities were arranged to provide a greater understanding of Japanese society and culture with the assistance of various organizations and individuals, including the Asia Crime Prevention Foundation (ACPF) and the Fuchu Rotary Club. For more detailed descriptions, please refer to pages 20 through 23.

I would like to offer my sincere congratulations to all the participants for their successful completion of the Training Course made possible by their strenuous efforts. My hearty gratitude goes to the visiting experts and *ad hoc* lecturers who contributed a great deal to the Training Course's success. Furthermore, I appreciate the indispensable assistance and cooperation extended to UNAFEI by the various agencies and institutions which helped diversify the programme.

A warm tribute must be paid to the Japan International Cooperation Agency (JICA) for its immeasurable support throughout the Training Course. At the same time, I must express great appreciation to the Asia Crime Prevention Foundation (ACPF) and its branch organizations for their substantial contributions.

I also wish to thank the various community organizations and individuals who provided the participants with the opportunity to experience various aspects of Japanese culture, in particular the Fuchu Rotary Club and the International Soroptimist Tokyo Fuchu for their continuous contributions to UNAFEI activities.

Lastly, I owe my gratitude to all the individuals whose unselfish efforts behind the scenes contributed significantly to the successful realization of this Training Course.

Upon returning to their home countries, I genuinely believe that, like their predecessors, the strong determination and dedication of the participants will enable them to contribute significantly to the improvement of their respective nation's criminal justice systems, and their society as a whole. For the participant who was the first to represent his country at UNAFEI, I sincerely hope that the future brings new additions to the UNAFEI family from Gambia.

Finally, I would like to reiterate my best regards to the participants of the 110th International Training Course. I hope that the experience they gained during the Training Course proves valuable in their daily work and that the human bonds fostered among the participants, visiting experts, lecturers and UNAFEI staff continue to grow for years to come.

November 1998



Toichi Fujiwara

Director, UNAFEI

**THE 110TH INTERNATIONAL TRAINING COURSE**  
**“EFFECTIVE COUNTERMEASURES AGAINST ECONOMIC CRIME AND**  
**COMPUTER CRIME”**

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**Course Rationale**

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In recent years, business activities, such as commercial and financial trading, have expanded dramatically both domestically and internationally, and new technologies (epitomized in transportation, telecommunications and computer networks) have developed with equal rapidity. Despite the unquestionable benefits of such advancements, these trends also have been manipulated for illegal purposes, thereby significantly increasing the scale, transnationalization sophistication of crime. The interrelated offences of economic crime and computer crime are particular forms of great concern in today's society.

The nature and scope of economic crime is incredibly diverse and includes such manifestations as:

- large-scale fraud relating to finance, future commodities and real estate transactions,
- breach of trust committed by executives of enterprises and large-scale embezzlement committed by employees,
- unjust enrichment through unfair price fixing of commodities, illicit manipulation of stock prices and insider trading, and
- fraud with securities and counterfeited credit cards.

The detection, investigation and prosecution of economic crimes such as those mentioned above are impaired significantly by various factors including the complexity of the transactions used to effectuate these offences and the limited expertise of criminal justice officials in these fields. Moreover, the reluctance by the victims to report such crimes for fear of negative business repercussions, such as the loss of consumer confidence, further frustrates and delays detection.

Computers are widely utilized in the activities of commerce and banking as well as in the life of ordinary citizens. Regrettably, the advancement of computer technology has facilitated also various crimes, whether as instrumentality of crime (e.g., economic crime, forgery, copyright infringement of intellectual property and pornography) or the target of crime (e.g., unauthorized access and damage to or modification of computer data/programs).

Considering the extensive damage that can be caused in an instant worldwide by crime facilitated by computer technology, a proper and immediate response by criminal justice agencies to computer crime is indispensable. However, since such crimes are relatively new to many countries, responsive legal frameworks, including what conduct should be criminalized, has not been specifically developed to date. Even if such legal framework is effectuated, difficulties will ensue undoubtedly in the investigation and prosecution of these crimes due to the limited knowledge of criminal justice officials about computer-related crime and technological problems stemming from the vulnerability of computer systems to sabotage, particularly as to the identification of offenders and the collection of evidence.

The organization for economic Co-operation and Development (OECD), the Council of Europe and the United Nations have discussed extensively computer crime, thereby producing guidelines for policy makers and legislators. Moreover, the "Meeting of Justice and Interior Ministers of The Eight" (known as G8) issued a communiqué delineating principles and an action plan to combat high-tech crimes, such as the enhancement of investigation and prosecution skills, a review of domestic legal systems to ensure the appropriate criminalization of abuses of computer systems, re-consideration of effective mutual legal assistance in criminal matters, and the development of new technologies to collect critical evidence.

It is noted that threat posed by the proliferation of both economic and computer crimes to the sound development of a nation, as well as the international community has been severely underestimated. Thus, the appropriate stringent control and prevention measures for these crimes should be introduced as soon as possible. To this end, it is imperative for criminal justice agencies to understand thoroughly the current situation of these crimes; to establish a proper legal framework to address such crimes; to develop more advanced techniques commensurate with the nature of these crimes; and to enhance international criminal justice cooperation in this regard.

This International Training Course will focus primarily upon economic crime. Nevertheless, bearing in mind the interrelationship between computer crime and economic crime, computer crime will be discussed in relation to economic crime as well as from a general perspective. In this Course, economic crime will refer only to those crimes which arise during or in relation to economic activities for the purpose of obtaining monetary profits. Specifically excluded will be traditional theft and crimes (e.g., robbery and extortion) in which such profits are obtained through violence.

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### **Discussion Guidelines**

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To facilitate discussions, the following guidelines were provided to focus the participants throughout the Training Course (Individual Presentations, Group Workshops, etc.).

**A. Economic and Computer Crime**

1. Actual situation of economic crime in each country;
2. Problems in investigation and prosecution of economic crime and their countermeasures;
3. Crime prevention measures to control economic crime;
4. Actual situation of computer crime in each country (If yet to be criminalized, the perceived impact or damage of such crime);
5. Problems in collecting evidence of computer crime and their countermeasures;
6. Legal framework and crime prevention measures to control computer crime.

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## LETTER FROM THE DIRECTOR

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It is my privilege to inform the readers of the successful completion of the 110th International Training Course on, "Effective Countermeasures against Economic Crime and Computer Crime" from 31 August to 20 November 1998.

In this Training Course, we welcomed 16 overseas and 12 Japanese participants: 10 from Asia, 2 from Latin America and 4 from Africa. They included police officials, public prosecutors, judges and other high-ranking officials. I am particularly delighted to have welcomed a participant representing Gambia for the first time.

As this newsletter will demonstrate, this Training Course was definitely productive. It consisted of Individual Presentations, Group Workshop Sessions, visits to relevant criminal justice agencies, and presentations by visiting experts and *ad hoc* lecturers.

The 110th Course endeavored to explore the best means to more effectively combat economic and computer crime by discussing the strengthening of criminal justice systems. This was accomplished primarily through the comparative analysis of the current situation and problems in the participating countries. Our in-depth discussions enabled us to put forth effective and practical countermeasures to such problems, so as to improve the fight against economic and computer crime.

We all agreed that the successful combat of economic and computer crimes will not be easy, particularly in light of the fact that in recent years, such crimes have become serious, and significantly increased in scale, transnationalization and sophistication. The threat posed by the proliferation of both economic and computer crimes to the sound development of a nation, as well as the international community has been severely underestimated. Thus, the appropriate stringent control and prevention measures for these crimes should be introduced as soon as possible. To this end, it is imperative for criminal justice agencies to understand thoroughly the current situation of these crimes; to establish a proper legal framework to address such crimes; to develop more advanced techniques commensurate with the nature of these crimes; and to enhance international criminal justice cooperation in this regard.

This Training Course provided a forum for the exchange of information and views on how the criminal justice agencies in the respective countries detect, investigate and prosecute economic and computer crime cases, as well as the problems and difficulties encountered in that regard. Discussions also highlighted the importance of establishing a more efficient system and effective countermeasures, and the need to increase international cooperation in this field in order to eradicate such crimes.

Our common interest in eradicating economic and computer crime at both national and international levels motivated our in-depth study and produced results beneficial to us all. I have no doubt that the valuable outcome produced in this Course will enable all of us to face such challenges more resolutely.



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### **Lecture Topics**

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#### **Deputy Director's Lecture**

- Mr. Masahiro Tauchi, Deputy Director, UNAFEI  
•Current Crime Trends in Japan

#### **Criminal Justice System in Japan (C.J.S.J.) Lectures**

- 1) Mr. Haruhiko Higuchi, National Police Agency  
•Police Organization System in Japan
- 2) Ms. Tomoko Akane, Professor, UNAFEI  
•Criminal Justice System in Japan: Prosecution
- 3) Mr. Hiroshi Iitsuka, Chief of Training Division, Professor, UNAFEI  
•Criminal Justice System in Japan: The Courts
- 4) Mr. Shinya Watanabe, Professor, UNAFEI  
•Criminal Justice System in Japan: Corrections
- 5) Kayo Konagai, Chief of Information and Library Service Division, Professor, UNAFEI  
•Criminal Justice System in Japan: Rehabilitation in the Community

#### **Visiting Experts' Lectures**

- 1) Mr. Donald Kenneth Piragoff (Canada)  
•Combating Credit Card Crime: Enacting Effective Criminal Laws  
•Search and Seizure of Computer
- 2) Mr. Lee, Tae-Hoon ( Republic of Korea)  
•Economic Crimes in Korea
- 3) Mr. Soh Thiam Sim (Singapore)  
•Effective Countermeasures against Economic Crime and Computer Crime
- 4) Mr. John D. Arterberry (United States)  
•Economic Crime and the Global Economy: Understanding the Threat and Identifying Effective Enforcement Strategies and Countermeasures.

#### **Course Counsellor**

- 1) Mr. Slawomir Redo (United Nations)  
•United Nations and Effective Countermeasures against Economic and Computer Crime
- 2) Mr. Peter Grabosky (Australia)  
•Crime in Cyberspace  
•The Prevention and Control of Economic Crime  
•Citizenship Co-Production and Corruption Control

- 3) Mr. Shri L. C. Amarnathan (India)
  - Crimes Related to Computer Network
  - Economic Crime in India

#### **Ad Hoc Lectures**

- 1) Mr. Masayo Hirao, Deputy Director, Special Investigation Division, Executive Bureau, Securities and Exchange Surveillance Commission, Tokyo, Japan
  - Violation of the Securities Exchange Law: Current Situation and Problems in Japan
- 2) Mr. Shuzo Yamamoto, Deputy Director, Special Investigation Department of the Tokyo District Public Prosecutors Office, Tokyo, Japan
  - Criminal Cases Investigated by the Special Investigation Department of the Tokyo District Public Prosecutors
- 3) Mr. Takahiko Iiri, Superintendent, Assistant Director 2<sup>nd</sup> Investigation Division, Criminal Investigation Bureau, Tokyo
  - Economic Crime in Financial Institutions
- 4) Mr. Kunio Mikuriya, Director of Enforcement, Customs and and Tariff Bureau, Ministry of Finance of Japan
  - Combating against Customs
- 5) Mr. Mamoru Izumisawa, Director, Management and Planning Division, Investigation Bureau, Fair Trade Commission, Japan
  - Antimonopoly Act Guide Book
- 6) Mr. Hideo Arai, Director, Criminal Investigation Division, Examination and Criminal Investigation Department, National Tax Administration, Japan
  - Criminal Investigation System and Actual Circumstances of Tax
- 7) Mr. Akira Nakata, Public Prosecutor, Tokyo High Public Prosecutors Office, Japan
  - Computer Related Crime in Japan
- 8) Mr. Chin Fook Leong, Deputy Director, Public Affairs Department, Singapore Police Force
  - Crime Prevention: A Community Policing Approach
- 9) Mr. Kunihiro Matsuo, Director General, Criminal Affairs Bureau, Ministry of Justice of Japan
  - Criminal Justice Issues
- 10) Mr. Takashi Nonoue, Counselor, Criminal Affairs Bureau, Ministry of Justice of Japan
  - Current Situation and Countermeasures against Economic Crime in Japan
- 11) Mr. Mikio Itoh, Assistant Director of Life Environment Division, Life Security Bureau, National Police Agency, Japan
  - Modus Operandi of Large Scale Economic Crime in Japan
- 12) Mr. Kiyoshi Yasutomi, Professor of Law, Keio University, Japan
  - Upon Subject Toward Safe Network Society Realization
- 13) Mr. Shikita, Chairman, ACPF
  - The Role of ACPF in the Prevention of Crime



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### **Individual Presentation Topics**

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#### ***Overseas Participants***

- 1) Mr. Saadi Lahcene (Algeria)
  - Effective Countermeasures against Economic Crime and Computer Crime
- 2) Mr. Md. Mahfuzur Rahman (Bangladesh)
  - Effective Countermeasures against Economic Crime and Computer Crime
- 3) Mr. Ramon Crespo Carrilho Machado (Brazil)
  - Effective Countermeasures against Economic Crime and Computer Crime
- 4) Mr. Mao Borin (Cambodia)
  - Effective Countermeasures against Economic Crime and Computer Crime
- 5) Ms. Wang Yabin (China)
  - Effective Countermeasures against Economic Crime and Computer Crime
- 6) Mr. Marino Francisco Sagot Somarribas (Costa Rica)
  - Effective Countermeasures against Economic Crime and Computer Crime
- 7) Mr. Burama Dibba (Gambia)
  - Effective Countermeasures against Economic Crime and Computer Crime
- 8) Mr. Mahavir Singh Bali (India)
  - Effective Countermeasures against Economic Crime and Computer Crime
- 9) Mr. Patrick Ochieng Obimo (Kenya)
  - The Kenyan Situation on Economic Crime
- 10) Mr. Wasana Sisaykeo (Laos)
  - Effective Countermeasures against Economic Crime and Computer Crime
- 11) Mr. Kedar Paudel (Nepal)
  - Effective Countermeasures against Economic Crime in Nepal
- 12) Mr. Asif Nawaz (Pakistan)
  - Crime Prevention/Criminal Justice Administration in Pakistan
- 13) Mr. Wilfred Vizon Lapitan (Philippines)
  - Effective Countermeasures against Economic Crime and Computer Crime
  - The Philippine Experience
- 14) Mr. Choi, Joon-Weon (Republic of Korea)
  - Economic Crime and Computer Crime in the Republic of Korea
- 15) Mr. Jeshop Remember Shabangu (South Africa)
  - Economic Crime in South Africa
- 16) Mr. Torsak Buranaruangroj (Thailand)
  - Economic Crime and Its Countermeasures in Thailand

***Japanese Participants***

- 17) Mr. Shinji Iwayama (Japan)
  - Effective Countermeasures against Economic Crime and Computer Crime
- 18) Mr. Takahiro Maeda (Japan)
  - Effective Countermeasures against Economic Crime and Computer Crime
- 19) Mr. Masahiko Motoyoshi (Japan)
  - The Reality of Probation Supervision in Japan from the Perspective of a Bribery Case
- 20) Mr. Tetsuo Nagakura (Japan)
  - Effective Countermeasures against Economic Crime and Computer Crime
- 21) Mr. Akihide Nakamura (Japan)
  - The Present Situation of the Community-Based Treatment of Economic Crime Offenders
- 22) Mr. Hiroshi Narikawa (Japan)
  - Obscenity Crime in Cyberspace
- 23) Mr. Tetsuo Ogura (Japan)
  - The Actual Condition of and Countermeasures for Economic Crimes by Boryokudan
- 24) Mr. Shuji Ohta (Japan)
  - The Usage of Computers in Japanese Juvenile Training Schools
- 25) Mr. Yoshihiro Ono (Japan)
  - Treatment of the Prisoners Who Committed Economic Crime or Computer Crime
- 26) Mr. Teru Taniguchi (Japan)
  - Effective Measures to Deal with Economic Crime and Computer Network Crime
- 27) Mr. Atsushi Tohyama (Japan)
  - Role of the Japanese Maritime Safety Agency and Case of Economic Crime at the Sea
- 28) Ms. Kiyoko Yokota (Japan)
  - Economic Crimes in Japan-Fraud Targeting Individual Investors and General Consumers

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### Group Workshop Sessions

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The following section summarizes the Group Workshop reports. The full text of the reports will be included in UNAFEI Resource Material Series No. 55.

#### Group 1

#### ECONOMIC CRIME DAMAGING GOVERNMENT AND THE NATIONAL ECONOMY

<b>Chairperson</b>	Mr. M. S. Bali	(India)
<b>Co-Chairperson</b>	Mr. Jeshop Remember Shabangu	(South Africa)
<b>Rapporteur</b>	Mr. Kedar Paudel	(Nepal)
<b>Co-Rapporteur</b>	Mr. Takahiro Maeda	(Japan)
<b>Members</b>	Mr. Mao Borin	(Cambodia)
	Ms. Wang Yabin	(China)
	Mr. Shinji Iwayama	(Japan)
	Mr. Masahiko Motoyoshi	(Japan)
	Mr. Atsushi Tohyama	(Japan)
	Mr. Wasana Sisaykeo	(Laos)
	Professor Hiroshi Iitsuka	(UNAFEI)
<b>Advisers</b>	Professor Shinya Watanabe	(UNAFEI)
	Professor Shoji Imafuku	(UNAFEI)

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#### *Report Summary*

#### I. INTRODUCTION

A common conscience has begun to emerge in the world that is creating a joint front to fight economic crime. Tax evasion, smuggling and money laundering have become the tools of the economic criminal with corruption playing the part of oil for the smooth running of the machine. Keeping in mind this view, the group studied the following types of economic crime particularly in participating countries, with a view to assessing its prevalence, the impact on the government and economy, and the difficulties encountered in its investigation, prosecution, trial and countermeasures.

- I. Corruption
- II. Tax Evasion
- III. Smuggling
- IV. Money Laundering

#### II. CORRUPTION

Corruption in public and corporate life has assumed serious dimensions particularly in many countries of the developing world. Aspects of corruption like bribery, abuse of authority, political corruption and embezzlement of public money exist in varying degrees in countries like Bangladesh, Cambodia, China, India, Japan, Korea, Laos, Nepal, Pakistan, Philippines and South Africa. Although anti-corruption laws and penal provisions exist in the statute books of

some of these countries, problems in the criminal justice system, as well as at the level of governments and societies, make implementation less effective than should otherwise be the case.

Lack of political commitment and transparency, and weak internal controls and audits, are drawbacks which have encouraged corruption in the administration. At the same time, lack of ethical standards in the society, non-adherence to codes of conduct by public servants, chartered accountants and tax experts, coupled with poverty, shortage of essential supplies, and inadequate pay structures, are factors which have generated an environment for corruption and compounded the problems of enforcement. In the field of criminal justice, problems have been encountered in the areas of independence and neutrality of the investigating and prosecuting agencies, difficulty in gathering information and evidence, shortage of courts, and the requirement of proving a case beyond a reasonable doubt. The problems have resulted in large number of non-guilty judgements thereby de-motivating enforcement agencies and the public on one hand, and resulting in lack of deterrence for corrupt on the other.

At the level of government, efforts have to be made to make the administration transparent by scrapping secrecy laws and mobilizing public co-operation in fighting corruption. The criminal justice system must ensure investigations and trials are conducted freely, fairly and expeditiously. International co-operation is required to speedily extradite the corrupt who have taken shelter in other countries.

### **III. TAX EVASION**

Crimes of tax evasion and smuggling are found in significant proportion in most countries referred to above. The governments of these countries have been deprived of vital revenues needed for economic development. Their economies have also been damaged due to the presence of large scale unaccounted funds leading to the creation of parallel economies. Tax shelters, faulty fiscal policies and lack of deterrence in the implementation of tax laws have encouraged tax evasion. The criminal justice system has not been effective in curbing tax evasion due to corruption in the tax administration, lack of modern accounting skills amongst investigators, and absence of reporting requirements of transactions by financial institutions. To correct these weaknesses, a sharp edge has to be given to the tax administrators by computerizing tax records, creating financial databases, and public education.

### **IV. SMUGGLING**

Besides interfering with government revenue, anti-social smuggling consisting of drugs, firearms etc. has created serious social and political problems within countries. To curb smuggling, close co-ordination between enforcement agencies within a country both in information sharing, and in organization of joint operations, must be ensured. As smuggling is a transnational crime, information sharing and joint operations at the international level are extremely essential to attack smuggling syndicates from both ends. International forums like the Asia-Pacific Maritime Safety Agencies forum, the World Customs Organization and UNDCP have played a useful role in bringing together enforcement agencies of various countries in their related fields.

## **V. MONEY LAUNDERING**

Proceeds of drug related crimes are an important source of money laundering world over. Tax evasion and violation of exchange regulations play an important role in merging the ill-gotten money so as to obscure its origin. In some parts of Asia, launderers use illegal underground banking called 'Hawala' as it leaves no paper trail. In recent years, money laundering has also surfaced in various developing countries. Most countries have criminalized the laundering of drug related money and are now in the process of extending the same to other crimes.

Tax havens, free trade zones, and cash rich big businesses have been used to launder funds. Absence of effective regulatory provisions of these and other non-banking financial institutions, bank secrecy regulations and recent advances in information technology relating to electronic transfer of funds, has made the job of tracing money laundering operations extremely difficult. In addition to instituting controls and imposing reporting requirements of transactions, sophisticated methods of pre-shipment inspection, creation of financial data base agencies, and legislation in the area of digital money transfer are the steps to be contemplated for combating the crime of money laundering.

## **VI. CONCLUSION**

The study of economic crime both from theoretical and practical aspects has the common objective of making the world safe and secure for free trade and commerce, and for ensuring stability of national economies. The task requires educating the public about the danger facing economies from actions of economic criminals and thereby ensuring international co-operation in controlling economic crime.

**Group 2**

**ECONOMIC CRIME AGAINST THE PRIVATE SECTOR**

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<b>Chairperson</b>	Mr. Asif Nawaz	(Pakistan)
<b>Co-Chairperson</b>	Mr. Teruo Taniguchi	(Japan)
<b>Rapporteur</b>	Mr. Patrick Ochieng Obimo	(Kenya)
<b>Co-Rapporteur</b>	Mr. Marino Francisco Sagot Somarribas	(Costa Rica)
<b>Members</b>	Mr. Saadi Lahcene	(Algeria)
	Mr. Ramon Crespo Carrilho Machado	(Brazil)
	Mr. Tetsuo Nagakura	(Japan)
	Mr. Tetsuo Ogura	(Japan)
	Mr. Yoshihiro Ono	(Japan)
<b>Advisers</b>	Deputy Director Masahiro Tauchi	(UNAFEI)
	Professor Tomoko Akane	(UNAFEI)
	Professor Ryosuke Kurosawa	(UNAFEI)

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*Report Summary*

**I. INTRODUCTION**

This group workshop was assigned the issue of economic crime against private enterprise. It was agreed that the group would consider crimes where private enterprise is the victim. However, it was felt that at times crime against private enterprise would have an effect on investors.

It was noted that economic crime is rampant in both developing and developed countries and is eating at the very core of society. It is vitiating the business atmosphere, and the public in general is losing faith in the regulatory apparatus of the state/criminal justice system.

The group decided to tackle the subject by discussing the actual situation of economic crime in various countries. For this purpose, crimes against private enterprise were categorized as follows:

- A.** Breach of Trust by Executive/ Staff of Enterprise, Embezzlement by Executives/ Staff of Enterprise, Fraud/ Fraudulent Management by Executives/ Staff of Enterprise/ and others
- B.** Infringement of Intellectual Property Rights
- C.** Counterfeit Credit cards/ Prepaid Cards
- D.** Computer related Crime

Facts and figures were gathered to ascertain the prevalence of crime in the countries studied. Additionally, case studies were undertaken to identify problems faced by criminal justice officials at various stages in the criminal justice process including investigation and prosecution. The difficulties commonly faced and proposed solutions were categorized as follows:

**A. Globalization of Crime.**

**1. Difficulties**

The world is now characterized by unprecedented mobility of information, finance, goods, services and people. This globalization has also provided opportunities for criminals to operate transnationally. Consequently, criminals commit crime in one country and find safe havens elsewhere in the world.

Even if one were able to mobilize the law, the chances of locating an offender, obtaining extradition, and launching successful prosecution or recovering compensation, would be almost impossible. The operation of different laws in different countries further accentuates the problem

**2. Countermeasures**

International cooperation in the field of criminal justice administration should be enhanced. Governments should enter into bilateral and multi-lateral treaties for extradition of offenders and ensure mutual legal assistance. In the absence of treaties, governments can co-operate with each other on the basis of the reciprocity principle. Having common training programs encourages informal contacts between law enforcement officers of various countries.

**B. Lack of Technical Expertise**

**1. Difficulties/Problems**

Modern information systems provide an effective means by which offenders can communicate in order to plan and execute their activities. Emerging technologies of encryption and high-speed data transfer can greatly enhance the capacity of criminal organizations to place their communications outside the reach of police. The offenders are able to disguise their identities through the use of complex electronic technologies. Computer technology requires knowledge beyond the expertise and skills of most investigating officers. Furthermore, complex commercial and financial transactions require special knowledge of these laws/operations and therefore, criminal justice officers find it difficult to successfully prosecute offenders.

**2. Countermeasures/Solutions**

Criminal justice officers may be trained in the latest technologies, and provision may be made for hiring the services of experts to assist investigators. Services of investigators from regulatory bodies like the Security Exchange and Surveillance Commission (SESC) may be sought to assist police Investigators.

**C. External Influence in the Criminal Justice System**

**1. Difficulties/Problems**

Most developing countries have remained under colonial yoke. The political authorities in developing countries inherited that legacy but political institutions, being nascent, were not strong enough to put the system on the right track i.e. ensuring the rule of law and democratic control of the criminal justice system. Instead, political authorities attempted to gain control over criminal justice officers to perpetuate their rule. Thus criminal justice officers were made to act as servants of the political executives rather than the custodians of the rule of law. This has bred corruption in the system and created a gap between criminal justice officers and the public resulting in loss of support/cooperation from the citizenry.



**2. Countermeasures/Solutions**

Criminal justice officers may be provided operational autonomy by institutional arrangements so as to insulate them from external interference. The concept of accountability of officers, both external and internal, should be strengthened. This will restore the confidence of the public and also help earn their cooperation in combating crime.

**D. Lack of Cooperation by Victims with Criminal Justice Officers**

**1. Difficulties/Problems**

Business enterprises are reluctant to report crime committed against them to police for fear of negative business repercussions. Employees of these organizations are also not prepared to report against their colleagues/seniors. Further, corruption in the criminal justice system of developing countries erodes the confidence of the public in the system.

**2. Countermeasures/Solutions**

Close co-operation between government and industry will help in building the confidence of entrepreneurs in the criminal justice system. Better training of officers and operational autonomy will bring professionalism to criminal justice officers and earn them the confidence of the public.

**E. Poor Coordination Amongst Various Agencies.**

**1. Difficulties/Problems**

It has been noted that many a times regulatory agencies like the Central Bank, Corporate Law Authority, Income Tax Bureau and other financial bodies detect fraud/crimes, but they do not pass on this information promptly to investigation agencies, resulting in destruction of evidence and missing material witnesses.

**2. Countermeasures/Solutions**

Organizing common training courses with officers from different fields will promote understanding among various organs of the state. Such interactions also help to establish personal contact points in the event of actual investigation and promote better coordination for the future among different organizations.

**F Search and Seizure of Digital Data**

**1. Difficulties/Problems**

Collection of digital data from computers poses problems to investigators as computers are not just storage repositories but rather, perform multiple functions in an organization and hold large amounts of data. The exact location of data in the computer system may not be known. Data may be stored in server, hard drive, and diskette or paper printouts. Data at times may be mingled with other irrelevant information. Courts in certain jurisdictions require that investigators intimate the exact location of data for issuing search and seizure warrants. Further, the seizure of entire system containing evidence could affect interests of others and may cause obstruction to a legitimate business. Selective retrieval of data may damage information contained in the computer system. The problem can be further compounded where cross-border searches may be involved in future.

**2. Countermeasures/Solutions**

To ensure proper search and seizure of data, investigation agencies may be staffed with computer experts for identification/safety of data. Courts may flexibly interpret the principle of particularity of data while issuing search and seizure warrants. New legislation may be considered

to make it obligatory upon computer operators to co-operate with investigation authorities in certain circumstances. Computer generated copies may be made admissible as evidence in special circumstances.

## **CONCLUSION**

Economic crime is a complex phenomenon acquiring greater significance in this global era. The economic offender does not act on the impulse of the moment but rather, carefully plans his crime and executes it in a manner so as to leave no trace. Present day technology has provided the offender with opportunities to act transnationally with ease. It is imperative that governments over the world work in close cooperation by entering into formal/informal assistance arrangements. Regulatory agencies may be strengthened to play a proactive role in combating economic crime. It is important to enhance the investigative capacities, facilitate coordination of tasks, and encourage cooperation amongst regulatory agencies. Awareness of the problem is in itself part of the solution.

### Group 3

#### **ECONOMIC CRIME AGAINST CONSUMERS AND INVESTORS**

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<b>Co-Chairperson</b>	Mr. Hiroshi Narikawa	(Japan)
<b>Rapporteur</b>	Mr. Torsak Buranaruangroj	(Thailand)
<b>Co-Rapporteur</b>	Ms. Kiyoko Yokota	(Japan)
<b>Members</b>	Mr. Md. Mahfuzur Rahman	(Bangladesh)
	Mr. Burama Dibba	(Gambia)
	Mr. Akihida Nakamura	(Japan)
	Mr. Shuji Ohta	(Japan)
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<b>Advisers</b>	Professor Chikara Satoh	(UNAFEI)
	Professor Kayo Konagai	(UNAFEI)
<b>Experts:</b>	John Arterberry &	(U.S.A.)
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#### *Report Summary*

### **I. INTRODUCTION**

Offenses against consumers and investors belong to a new category of crime known as “economic crime,” a term that experts are still groping to define in a manner acceptable to all nations of the world. In this Group Workshop, crimes against consumers and investors, as a focus of study, refer to fraud, cartels, securities manipulation and insider trading. These crimes principally involve an individual or organization skilled or knowledgeable in business taking advantage of the ignorance or gullibility of consumers and investors in commercial transactions through fraud, conspiracy, undue advantage, manipulation, or other deceptions. The complex and sophisticated methods with which these crimes are being committed pose serious problems for the criminal justice system, which requires more advanced and appropriate countermeasures than the traditional ones.

The objectives of this study were to (1) focus on and analyze actual situations in participating countries, (2) identify the problems confronting the pillars of the criminal justice system, especially in the investigation, prosecution and trial stage, (3) propose countermeasures that will address such issues in all participating countries. To this end, group members conducted this study on crimes against consumers and investors through surveys, interviews, examination of the individual country reports, experts' lectures and papers, and library and Internet research.

## **II. NATURE OF CRIMES UNDER STUDY**

As to the mode of commission, crimes against consumers and investors are usually committed through non-violent means. No force or intimidation is employed. Generally, these crimes are committed by means of fraud through deception, concealment, undue advantage, and manipulation. Sometimes the organization or business enterprise may appear to be legitimate but would nevertheless be exposed eventually as illicit or fake only after damage had become serious and widespread. As to the offender, it may be a person or persons who usually hold positions of high status, influence, or wealth or it may be an organization. The offender capitalizes on specialized knowledge, skill or high position or influence in society or connections with politicians or businessmen. Fraud and other deceptions are employed. As to the victims, they are usually in large number; they belong to the common mass of people like housewives, employees, senior citizens, etc. who are gullible or ignorant about business procedures and/or transactions. The victims may also be motivated by greed to make fast money with the least or no effort at all. As to the impact or damage, these crimes cause serious damage to society, directly or indirectly. The individual loss may be small but the total damage to the various victims is great.

For purposes of discussion, the Group decided to classify the assigned topics into three major categories, namely: A. - fraud against consumers and investors; B. - unjust enrichment through unfair price fixing of commodities or cartel; and C. - illicit manipulation of stock prices and insider trading. Under fraud against consumers and investors, three sub-classifications were made: (1) large-scale fraud which includes high interest investment fraud, venture capital fraud, advance fee fraud, commodities future fraud, membership fraud, fraud in insolvent stock sale and misrepresentation in advertisement; (2) pyramid fraud which includes pyramid investment scheme and pyramid multi-level sale fraud; and (3) commodity fraud through telecommunication/computer network.

## **III. PROBLEMS RELATING TO CRIME UNDER STUDY**

After deliberating on the actual situation of crime in participating countries, the Group Workshop members went on to identify and discuss the problems that confronted these countries. First, the group focused the discussion on the common problems in the investigation, prosecution, and trial stages. Thereafter, the group deliberated on the problems commonly found in every stage of the criminal process.

The following problems were identified in the investigation stage: (1) reluctance of the victims to report resulting in difficulty in detection and delay of investigation; (2) difficulty in identification of the offense and the principal offender (mastermind); (3) difficulty in evidence collection; and (4) existence of limitations by statute. On the other hand, the problems encountered in the prosecution and trial stages include: (1) ineffective coordination among the administrative, investigating and prosecuting agencies; (2) failure of witnesses to testify or change of their testimonies; (3) excessive use of delaying tactics by the defense; and (4) difficulty in proving guilt beyond reasonable doubt. In the sentencing stage, the only problem observed by the Group members is that the punishment is too lenient as it could come under sentence suspension.

The group identified the following problems commonly found in every stage of the

criminal process: (1) shortage of competent personnel; (2) lack of expertise among criminal justice officials; and (3) political influence.

After due deliberation and analysis, the group agreed to recommend the following countermeasures: (1) educating the consumers and investors; (2) enactment of adequate laws such as laws that – (a) criminalize fraudulent schemes and long-arm statutes that have cross-border reach, (b) upgrade the criminal penalties, and (c) increases use of measures to deprive ill-gotten benefits, (3) increase the training of criminal justice officials; (4) effective coordination among the administrative, investigating and prosecuting agencies; (5) creation of specialized investigating body; (6) use of special investigative techniques such as judicially approved undercover operations, wire-tapping, and eavesdropping; (7) setting-up of witness protection program; (8) grant to indispensable witness of immunity from prosecution; (9) admission of hearsay evidence under certain conditions wherein the proper foundations had been properly laid; (10) creation or designation of a specialized court or branch thereof to try and decide crimes against consumers and investors; (11) shifting the burden of proof on the accused as to certain elements of the crime under certain conditions; (12) private prosecution as additional relief to the victim and additional deterrence against the offender; and (13) international cooperation and coordination such as bilateral and multilateral agreements or treaties in order to effectively and successfully fight or control crimes against consumers and investors.

#### **IV. CONCLUSION**

In order to successfully combat or control the onslaught of economic crimes against consumers and investors that are expected to reach serious proportions in the near future. As fast as information technology progresses, every country, whether developed or developing, must, as a first measure of defense, strengthen all the pillars of its criminal justice system. This will ensure that the necessary and adequate manpower and machinery are in place to detect, investigate, prosecute, try and penalize the ingenious offender or syndicate. Aside from the requisite expertise, full cooperation and coordination among all pillars of the criminal justice system is imperative to prevent, minimize, or control the commission of economic crimes against consumers and investors. As a matter of policy, every government must see to it that its law enforcement, prosecution, and judicial system are a step ahead of the criminal mind in order to “out-fox the foxes.”

The transnational and sophisticated nature of some economic crimes against consumers and investors, however, requires international cooperation as an imperative condition to effectively prevent, minimize, or control the commission of the offenses. One nation cannot be a successful crusader against economic crime offenders while others allow themselves to harbor the criminals who spread serious global economic menace. It is the responsibility of every country in the community of nations to play a crucial role in a cooperative and coordinated effort to adopt and enforce countermeasures that effectively deals with these economic crimes.

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**Observation Visits**

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<b><u>Date</u></b>	<b><u>Agency/Institution</u></b>	<b><u>Main Persons Concerns</u></b>
Sept. 3	Tokyo Metropolitan Police Department	•Mr. Hirosaburo Ohtomo Assistant Advisor Liaison Officer
Sept. 3	Shimbashi Traffic Control Center	•Mr. Hirosaburo Ohtomo Assistant Advisor Liaison Officer
Sept. 8	Ministry of Justice	•Mr. Shozaburo Nakamura Minister of Justice
Sept. 8	Tokyo District Public Prosecutors Office	•Mr. Akihiro Kubota Deputy Director, General Affairs Department
Sept. 22	Supreme Court	•Mr. Shigeharu Negishi Justice •Mr. Yoshimitsu Gohda Chief, Second Division, Criminal Affairs Bureau General Secretariat •Mr. Toshiharu Takano Foreign Liaison Officer, Secretary Division, General Secretariat
Sept. 24	Nikko Study Tour: Kitsuregawa Juvenile Training School	•Mr. Akio Iizuka Superintendent
Sept. 24	Nikko Study Tour: Utsunomiya District Public Prosecutors Office	•Mr. Yuki Furuta Chief Prosecutor •Mr. Chikayuki Fukuda Deputy Chief of the General Affairs Section
Sept. 30	NTT Musashino Research and Development Centre	•Dr. Eng. Noriyoshi Yamauchi Research Group Leader •Mr. Takatoshi Ichikawa Submanager, R&D Public Relations
Oct. 6	Bank of Japan	•Ms. Kaori Inada Public Information Division Public Relations Department

<u><i>Date</i></u>	<u><i>Agency/Institution</i></u>	<u><i>Main Persons Concerns</i></u>
Oct. 6	Tokyo Stock Exchange	•Mr. Go Daimon Assistant Manager Office of Public Relations
Oct. 30	Nagano Study Tour: Nagano District Public Prosecutors Office	•Mr. Yoshimasa Asano Deputy Chief Prosecutor
Nov. 4	Tokyo District Court	•Mr. Toyozo Ueda Chief Judge •Mr. Kenjiro Tao Deputy Chief Judge of Criminal Department •Mr. Kaoru Kanayama Presiding Judge •Ms. Kiyuko Suzuki Liaison Officer, General Affairs Division
Nov. 9	Hino Motor Limited	•Mr. Kenji Iwashita General Affairs Division, Public Relations Team
Nov. 11	Hiroshima-Kansai Study Tour: 6th Regional Maritime Safety Headquarters	•Mr. Takashi Suyama Commander •Mr. Masanori Yoshimoto Special Assistant to the Chief Guard Division
Nov. 12	Hiroshima-Kansai Study Tour: Kyoto District Public Prosecutors Office	•Mr. Kazumitsu Tomimura Chief Prosecutor
Nov. 16	Rehabilitation Aid Hostel Anryuen	•Mr. Seiji Kuriyama Director of Social Welfare Department Permanent Director of Board
Nov. 16	Suntory Musashino Brewery	•Dr. Takao Takahashi Plant Manager
Nov. 17	Fuchu Prison	•Mr. Yasutaka Mizusaki Warden •Mr. Atsushi Kasuga Assistant Director, General Affairs Division



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**Group Study Tours**

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<b><i>Date</i></b>	<b><i>Group</i></b>	<b><i>Agency/Institution</i></b>	<b><i>Main Persons Concerned</i></b>
Oct. 22-23	<b>Chiba</b>	•Chiba District Public Prosecutors Office	•Mr. Shoji Mizoguchi Chief Prosecutor
		•Tokyo Customs Narita Branch	•Mr. Masaru Fujita Assistant Supervisory Investigator
Oct. 22-23	<b>Kofu</b>	•Kofu District Public Prosecutors Office	•Mr. Masao Nobuta Third Chief Prosecutor
Oct. 22-23	<b>Yokohama</b>	•Yokohama District Public Prosecutors Office	•Mr. Norio Igarashi Chief Prosecutor
		•Yokohama Customs	•Mr. Hiroshi Wakamatsu Director of Surveillance

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**Special Events**

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August 31 *Welcome Party*

Sept. 2, 4, 7, 9, 10, 14, 16, and 17

*Japanese Conversation Classes*

The overseas participants attended Japanese conversation classes provided by JICA. They learned practical Japanese expressions. The Sensei (teachers) were Ms. Yumiko Nakamura, Ms. Yukiko Shiina and Ms. Kazue Suzuki. *Iroiro Arigato Gozaimashita.*

Sept. 5 *Mt. Fuji Hike*

The overseas participants greatly enjoyed visiting Japan's most treasured natural landmark at the invitation of JICA.

Sept. 8 *Courtesy Visit to Minister of Justice*

Minister of Justice Mr. Shouzaburo Nakamura greeted the participants during their visit to the Ministry of Justice.

Sept. 8 *Reception by Vice-Minister of Justice*

After visiting the Ministry of Justice, a reception was held by Vice-Minister of Justice, Mr. Akio Harada at the Lawyers Club.

Sept. 11 *Mt. Takao Hike*

The participants hiked Mt. Takao with the UNAFEI staff. After enjoying a relaxing lunch at the summit, they descended the mountain by cable car and chair lifts.

Sept. 18 *UNAFEI Olympics*

The UNAFEI Olympic Games were held at the gymnasium of the Training Institute for Correctional Officials. The participants competed in such events as the Roll-the-Tire race, Musical Chairs and the True-False quiz. Afterwards, there was a friendship party at UNAFEI.

Sept. 19, 26; Oct. 3, 24; and Nov. 7 and 14

*Japanese Conversation Classes: Follow-up Course*

The overseas participants attended follow-up Japanese conversation classes provided by instructors from the Nihongo Study and Support Volunteers of ACPF Fuchu, headed by Ms. Kimiko Hiraiwa. *Taihen Osewa ni Narimashita.*

Sept. 19 *Flower Arrangement*

A group of volunteer instructors, led by Ms. Kuniko Mori, explained and demonstrated to the participants "Ikebana", traditional Japanese flower arrangement. Afterwards, the participants had the opportunity to arrange flowers themselves

- Sept. 22 *Courtesy Visit to Supreme Court Justice*  
During their visit to the Supreme Court, the Honorable Justice Shigeharu Negishi invited the participants to his private chambers.
- Sept. 24-25 *Nikko Trip*  
After an official visit to the Kitsuregawa Juvenile Training School, the participants attended a dinner hosted by ACPF Tochigi Branch. The next day, the participants enjoyed sightseeing, including visits to the Senjogahara Plain, Ryuzu Falls and Nikko Toshogu Shrine.
- Oct. 2 *End of I.P.s*  
The participants celebrated in Lounge B the completion of their Individual Presentations.
- Oct. 10 *Tea Ceremony*  
"Cha-no-yu" or "Sado", a formal Japanese tea ceremony, was demonstrated for the participants in UNAFEI Lounge B by Ms. Suiko Kobayashi, an Ura Senke Tea Master, and her apprentices.
- Oct. 12 *Legal Apprentices' Visit*  
UNAFEI welcomed legal apprentices from the Kofu District Public Prosecutors. They toured the Institute and attended a lecture by Course Counsellor, Dr. Grabosky.
- Oct. 12 *Koto Concert*  
The Ensemble 21st Century, a group of volunteer musicians, performed traditional Japanese "Koto" music for the participants at UNAFEI. Mr. Masaki Watanabe played the Japanese traditional flute "Shakuhachi," and Mr. Yoshinori Shimizu conducted.
- Oct. 13 *Legal Apprentices' Visit*  
UNAFEI welcomed legal apprentices from the Urawa District Public Prosecutors Office. They attended a lecture by Course Counsellor, Mr. Amarnathan.
- Oct. 15 *UNAFEI-ACPF International Bowling Tournament*  
ACPF Fuchu Branch sponsored the Ninth UNAFEI-ACPF International Bowling Tournament. The participants enjoyed bowling and later socializing with members of ACPF Fuchu Branch.
- Oct. 17 *Tokyo Horse Race Course*  
At the invitation of the Fuchu Rotary Club, the participants observed and bet on horse races at the Tokyo Horse Race Course. Mr. Akihiko Sato, General Manager of the Tokyo Horse Race Course, hosted the event.
- Oct. 28 *UNAFEI Barbecue*  
The participants hosted a party to express their appreciation to the entire UNAFEI staff for its efforts throughout the Training Course.

Nov. 7

*Home Visits*

ACPF Fuchu Branch organized dinners for the participants in the homes of members from the Fuchu International Exchange Salon. The hosts were Ms. Junko Ogawa, Mr. Yoshiyuki Sakano, Mr. Rinshi Sekiguchi, Ms. Yachiyo Maeda, Mr. Houtoku Onuki, Mr. Toshimitsu Ito, and Mr. Yasuhiko Mori.

Nov. 9

*TICP Friendship Party*

The participants of the Training Institute for Correctional Personnel (TICP) invited all participants and UNAFEI staff to a friendship party.

Nov. 10-13

*Hiroshima and Kansai Visit*

Hiroshima: On their first day, the participants visited the Peace Memorial Park and Museum, as well as the Atomic Bomb Dome in Hiroshima. On Nov. 11th, two Maritime Safety Agency vessels escorted the participants to Miyajima Island, located in the Seto Inland Sea near Hiroshima.

Kyoto: On Nov. 13th, the overseas participants went on a guided bus tour to Nijo Castle, Kinkakuji Temple and the Kyoto Imperial Palace.

Nov. 19

*Farewell Party*

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**Reference Materials Distributed**

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**Statutes of Japan**

- (1) Criminal Justice Legislation of Japan

**Publications about the Japanese Criminal Justice System**

- (2) Summary of the White Paper on Crime 1997

**UNAFEI Publications**

- (3) UNAFEI Resource Material Series Nos. 41 and 47  
(4) UNAFEI Newsletters Nos. 76, 85 and 95

**Others**

- (5) 110th International Training Course lecture and presentation papers  
(6) Pamphlets, leaflets, etc., from various criminal justice institutions

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## INFORMATION ABOUT FORTHCOMING PROGRAMMES

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### *Training Programmes*

#### **1. The 111th International Seminar:**

The 111th International Seminar, "The Role of Police, Prosecution and the Judiciary in the Changing Society", is scheduled to be held from 18 January to 19 February 1999. Such factors as industrialization, technological advancements and socio-economic change will be explored in terms of their effect upon crime, the criminal justice system and society as a whole. Particular attention will be given to the suitability of present-day criminal justice measures.

#### **Rationale**

The phenomenon of crime is intricately related to every element of society: social, economic and cultural. Recent manifestations of social development such as urbanization, industrialization and advancements in science and technology have transformed further the nature of crime. Of course, from country to country, the impact of such factors differs. Nonetheless, many countries have seen recently an increase in and aggravation of traditionally recognized crimes such as economic crimes, drug crimes, firearms-related crimes, corruption and juvenile delinquency to cite a few. The threat of such crimes has become even greater in light of the increasing tendency of internationalization and links with organized crime. Moreover, newly recognized manifestations of crime, such as computer crime and environmental crime, further complicate the present-day nature of crime.

While crime control is an issue concerning society as a whole, the criminal justice system, particularly the police, prosecution and the judiciary, is vested with a particular duty in this regard. In short, the role of the criminal justice system is twofold: control and prevention. As to the former, it is needless to say that issues of prime importance include more readily identifying the commission of crimes; clearing cases without fail; conducting prompt and appropriate investigations; collecting and securing sufficient evidence; ensuring fair and efficient judicial proceedings; and punishing offenders appropriately.

The criminal justice system in every nation is exerting the utmost effort to counter the aforementioned crimes. However, many problems still remain. For instance, the very nature of such crimes impairs detection. Moreover, even when identified, many countries experience a low clearance rate of offenders, particularly as to complex crimes. Additionally, difficulties in collecting evidence, thereby preventing exhaustive investigations; trial delays; and uncooperative witnesses further frustrate the criminal justice process and contribute to low conviction rates. Furthermore, regarding international crimes, international cooperation mechanisms, such as the transfer of offenders and mutual assistance in criminal investigations, are not always implemented in a timely and reliable manner. As a result of such circumstances, a considerable number of offenders evade justice. One cannot say, therefore, that the criminal

justice system is meeting fully its expected functions.

In addition, newly recognized manifestations of crime pose a serious problem to the criminal justice system of many countries as proper legislation is not yet in place to tackle such crime and investigation methods are insufficient. Thus, these criminal justice systems are not always able to effectively counter such crime.

Therefore, discussion is necessary for the development of practical and feasible countermeasures which would enable the realization of the following: enhancing investigative systems; conducting exhaustive investigations; effective prosecution; more speedy investigations and trials; appropriate sentencing; cooperation from the citizenry; promoting international cooperation; promulgating new legislation and/or amending existing laws; and improving such sanctions as confiscation and divestiture of interests.

The criminal justice system also has a significant responsibility towards the prevention of crime. Thus proactive factors as legislative reform and enhancing public cooperation schemes should also be given due consideration in this regard. For example, regulation on the possession of firearms would contribute significantly to curtailing firearms-related crime. Similarly, police activities rooted in the community which fortify collaboration between families and schools and provide guidance for juveniles on the streets would assist in tackling juvenile delinquency before it even begins.

As evidenced above, the changes presented by modern society have transformed significantly the nature of crime as well as the response required from the criminal justice system. It is, thus, imperative for relevant agencies, particularly police, prosecution and the judiciary, to address these ever changing issues from a reactive, as well as a proactive, approach.

## **2. The 112<sup>th</sup> International Training Course:**

The 112<sup>th</sup> International Training Course, "Participation of the Public and Victims for More Fair and Effective Criminal Justice Administration", is scheduled to be held from 12 April to 4 July 1998. Participants are expected to explore measures to enhance participation of public and victims in all aspects of criminal justice administration from crime prevention, to community-based treatment of offenders, to develop a more fair and effective criminal justice administration.

### **Rationale**

In recent years, society has been gravely threatened by crimes which have been rapidly increasing in number and seriousness. Notably, they are becoming more complex and sophisticated in many countries. In such circumstances, it is indispensable for the sound development and prosperity of a country to effectively prevent and control crimes through fair and effective administration of criminal justice. It should be noted, however, that it can not be achieved solely by the government's efforts, but requires public participation and cooperation. Public participation and cooperation play an important role in all aspects of criminal justice administration including crime prevention (e.g., community policing and activities for

enhancing public awareness); investigation and prosecution (e.g., witness and public participation in the review of non-prosecution decisions); judiciary (e.g., trial by lay judge); institutional treatment (e.g., board of visitors, chaplain and cooperation of business sector in prison labor), and community-based treatment (e.g., volunteer probation officer and halfway house). Regrettably, many countries have not successfully obtained such participation and cooperation due to little public confidence in the criminal justice administration, community disorganization following rapid urbanization, and lack of policies relating to public participation and cooperation.

In order for the criminal justice administration to be fair and effective and obtain public confidence and cooperation, the protection and promotion of rights and interests of victims of crime (hereinafter called victims) in the criminal justice process are very important, not to mention the importance of fair and humane treatment of offenders. It is said, however, that rather little attention is given by the criminal justice system to the protection of rights and interests of victims. In this regard, there are growing concerns that the administration of the criminal justice system results in unfair treatment of victims.

Assistance and protection of rights of victims are, in some jurisdictions, provided at all stages of the criminal justice process from pre-trial to post-trial as the following examples illustrate: a right to make a complaint, private prosecution, inquest of prosecution, mental assistance after an incident, victim compensation programme, victim-offender mediation programme, protection of and support to victim as a witness, special arrangement for minors and victims of sex crimes in terms of criminal procedure, notification of information about imprisoned offenders, participation in decision-making of early release, and a programme to prevent offenders from contacting victims. Although some countries in Europe, North America and other regions have taken initiatives in this field, measures for assistance and protection of victims are still lacking in many countries including Asian and African countries.

Public participation and cooperation have been discussed extensively at the national, regional, and international levels. The United Nations has also produced several minimum standard rules emphasizing the significance of public involvement. Moreover, in 1985, the General Assembly of the United Nations adopted "the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power" aimed at developing comprehensive assistance services for victims. In addition, community involvement in crime prevention as well as fairness to victims and offenders in the criminal justice process are expected to be substantive agenda items and workshop topics of the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders which will be held in 2000. Notably, the United Nations instruments mentioned have not been embraced fully in the policies and practices of many countries. Thus, it is important for countries to take into account the fruits of international efforts and develop policies and practices to enhance participation of the public and victims in the criminal justice administration.

## ***Other Activities***

### **1. Experts Meeting on Crimes Related to the Computer Network**

From 5 to 9 October 1998 during the 110th International Training Course, the "Experts Meeting on Crimes Related to the Computer Network" was convened at UNAFEI in preparation for the Workshop on "Crime Related to the Computer Network" at the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. UNAFEI willingly assumed this responsibility to organize and host the experts meeting, as well as act as a coordinator for said Workshop, in response to a request made during the Twelfth Co-ordination Meeting of the United Nations Crime Prevention and Criminal Justice Programme Network held in Courmayeur, Italy in 1997.

Participants in the Expert Meeting included sixteen experts from eleven countries representing all regions of the world and 2 United Nations officers, as well as the UNAFEI Director and faculty. The Experts and other participants discussed the scope of issues to be taken up at the Workshop, its objective, programmes, methodology, etc. It was agreed that the Workshop will focus primarily on issues relating to investigation, search and seizure of computer systems, tracing of communications to determine their source and destination, industry cooperation and mutual legal assistance, together with some preliminary attention devoted to issues of the nature of the problem, prevention, and to the substantive criminal law in proscribing conduct as criminal.

### **2. India-UNAFEI Joint Seminar**

The India-UNAFEI Joint Seminar will be held in Delhi under the theme of "Crime Prevention and Control Strategies in the Fight against Organized Crime" from 14 to 17 December 1998. The Government of the Republic of India through the National Institute of Criminology and Forensic Science of the Ministry of Home Affairs and UNAFEI will organize the Joint Seminar.

### **3. Preparatory Survey for Costa Rica Regional Seminar**

In February 1999, the Preparatory Survey for the Regional Seminar on Effective Measures for the Improvement of Prison Conditions and Correctional Programmes is tentatively scheduled to be held in San Jose', Costa Rica. The Government of Costa Rica through the United Nations Latin American Institute for the Prevention of Crime and Treatment of Offenders will organize and host this seminar, should the results of the Preparatory Survey be positive, with the support of JICA and UNAFEI. This seminar will be held annually for five years and will target correctional officers in Latin America.

### **4. Chinese Seminar**

The 3<sup>rd</sup> Special Seminar for Senior Officials of Criminal Justice in People's Republic of China, "Rational Structure of Criminal Justice and Relationship between the Different Agencies of Criminals Justice," is scheduled to be held from 1 to 19 March 1999.

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## **ADMINISTRATIVE NEWS**

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### **Faculty Changes**

Ms. Ana M. Vander Woude retired from the UNAFEI faculty on 30 September 1998.

Ms. Priscilla Ferrazzi joined the UNAFEI faculty on 1 October 1998.

### **Overseas Trips by Staff**

Mr. Toichi Fujiwara (Director), Mr. Hiroshi Iitsuka (Chief of Training and Professor), Mr. Shinya Watanabe (Professor) and Ms. Tazuko Saitoh (Librarian) conducted research on the criminal justice system of the People's Republic of China from 6 to 15 July. Additionally, they visited various Chinese criminal justice agencies during their stay.

Mr. Toichi Fujiwara (Director) represented UNAFEI at the Thirteenth Meeting of the United Nations Crime Prevention and Criminal Justice Programme Network in Courmayeur, Italy from 21 to 29 September. Additionally, Mr. Fujiwara attended the Asian and Pacific Regional Preparatory Meeting on the Prevention of Crime and Treatment of Offenders held in Bangkok, Thailand from 2 to 4 November.

Mr. Masahiro Tauchi (Deputy Director) attended the International Crime and Technology Conference in Singapore from 13 to 17 October. Additionally, Mr. Tauchi served as a visiting expert for the International Symposium on the Prevention and Control of Financial Fraud held in China from 18 to 24 October.

Mr. Hiroshi Iitsuka (Chief of Training and Professor) participated in the Working Group Meeting on Drugs organized by the Asia Crime Prevention Foundation and held in China from 27 October to 1 November.

Ms. Tomoko Akane (Professor) served as a visiting expert for the Regional Seminar for Police Officials of United Arab Emirates hosted by the Naiif Arab Academy for Security Sciences in United Arab Emirates from 13 to 17 November.

Ms. Kayo Konagi (Professor) conducted research on the treatment and rehabilitation system for adult offenders in Malaysia from 22 to 24 November. A similar research study was undertaken by Ms. Konagi and two administrative staff from UNAFEI, Mr. Kenji Matsuda and Mr. Yoshinori Todaka, in Thailand from 24 to 27 November.

Mr. Shoji Imafuku (Professor) served as an expert and provided technical assistance to The Juvenile Crime Prevention and Treatment of Offenders Project in Kenya from 27 July to 3 October.

### **UNAFEI Home Page**

Towards the goal of widening the scope of its target audience and disseminating quickly contemporary criminal justice information, UNAFEI is pleased to announce the

opening of the UNAFEI Home Page on 1 July 1998. This site carries such information as training programme results and alumni listings. Additionally, the full texts of UNAFEI publications will be printed, including the Resource Material Series and the UNAFEI Newsletter. You are cordially invited to visit our home page at the following address:

<http://www.unafei.or.jp/>

#### **UNAFEI E-mail Address**

Please note that UNAFEI's e-mail address has changed to the following:

**LDJ00272@nifty.ne.jp**

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#### **MAIN STAFF OF UNAFEI**

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#### **Faculty:**

Director	Mr. Toichi Fujiwara
Deputy Director	Mr. Masahiro Tauchi
Chief of Training Division, Professor and 110 <sup>th</sup> Assistant Course Programming Officer	Mr. Hiroshi Iitsuka
Chief of Information and Library Service Division and Professor	Ms. Kayo Konagai
Chief of Research Division and Professor	Mr. Ryosuke Kurosawa
Professor and 110 <sup>th</sup> Course Programming Officer	Mr. Chikara Satoh
Professor	Ms. Tomoko Akane
Professor	Mr. Shinya Watanabe
Professor	Mr. Shoji Imafuku
Linguistic Adviser	Ms. Priscilla Ferrazzi

#### **Secretariat:**

Chief of Secretariat	Mr. Tadashi Ito
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110th Course Assistant Programming Officer

Mr. Shunichi Komatsu

**Kitchen:**  
Chef

Mr. Tomohiko Takagi

**Coordinator:**  
JICA Coordinator

Ms. Hiroko Aratani

**«AS OF 20 NOVEMBER 1998»**