

**KEYNOTE ADDRESS**  
**ELEVENTH REGIONAL SEMINAR ON GOOD GOVERNANCE FOR**  
**SOUTHEAST ASIAN COUNTRIES**

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**I. INTRODUCTION**

This Good Governance Seminar has entered a new decade. First and foremost, I would like to express my heartfelt gratitude to all the representatives of all countries who have been involved in the planning and implementation of the sessions since the inception in 2007, without whom the continuation of this Seminar would have never been possible. And my special thanks this time goes, of course, to the members of the Supreme People's Procuracy of Viet Nam for co-hosting this eleventh Seminar and also for their willingness to co-host the next Seminar here in this dynamic and beautiful land.

While it is indeed a great honour and pleasure for me to deliver the keynote speech at this quite important event, I am afraid that this time, I must start with rather sad news. We lost a prominent gentleman who was greatly influential in making the GG Seminar a reality. Mr. Keiichi Aizawa, who served as UNAFEI Director from 2006 to 2009 and whom we can describe as the founder of this GG Seminar, suddenly passed away on the 21st of July this year. Having retired from prosecution in 2013, he had been working as a notary public in Tokyo. He was 63 years old and his untimely departure was really a shock to us. Maybe some of you remember the first two GG Seminars held in Bangkok which Mr. Aizawa organized. I remember well. At those times, I was working for the UNODC Regional Centre for East Asia and the Pacific in Bangkok which was one of the co-hosts of those seminars and had the pleasure to attend the sessions and speak. The good planning and fruitful results of the GG Seminars are truly attributable to Mr. Aizawa. We owe him so much. We pray that his soul may rest in peace.

Now, this year, upon consultation with our partner, the Supreme People's Procuracy of Viet Nam, we entitled the seminar "Best Practices in Anti-Corruption: A Decade of Institutional and Practical Development in Southeast Asia". Actually, ten years is not a short time, and we have seen a lot of development in the field of anti-corruption in the Southeast Asian Region – for me personally, maybe the biggest event was the recent acceptance of the United Nations Convention against Corruption (UNCAC) by Japan, together with the United Nations Convention against Transnational Organized Crime (UNTOC), because I, myself, was involved in the UNTOC negotiations at the UN—which we are eager to discuss over the next couple of days. But for the sake of streamlining this keynote address, I would like to start by briefly revisiting the discussions we have had at this forum during the past decade, and then try to lay down a rough overview on what has happened in the Southeast Asian region and Japan, in terms of legislation and practice relating to the fight against corruption. And lastly, I would like to make some brief personal comments on the future of anti-corruption in this region and on the future of this GG Seminar.

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## II. THE PAST DECADE OF THE GG SEMINAR

The commencement of the GG Seminar back in 2007 reflected the considerable need for effective countermeasures against corruption, which has been plaguing many countries in the Southeast Asian region. As cited by Mr. Akira Fujino, the then representative of the UNODC Regional Centre for East Asia and the Pacific in his speech at the first GG Seminar in Bangkok, Mr. Kofi Annan, the UN Secretary General at the time of the adoption of UNCAC in 2003, stated that corruption “...is found in all countries – big and small, rich and poor – but it is in the developing world that its effects are most destructive. Corruption hurts the poor disproportionately – by diverting funds intended for development, undermining a government’s ability to provide basic services, feeding inequality and injustice, and discouraging foreign investment and aid. Corruption is a key element in economic under-performance, and a major obstacle to poverty alleviation and development.” Participants of the first GG Seminar and the subsequent seminars have shared the same thought that corruption is not just immoral, but causes serious and tangible damage to all countries and societies, especially to those striving for sustainable development. And regrettably, after a decade, it still does.

### A. The First Seminar (Bangkok)

With a global consensus that something must be done, the GG Seminar, co-hosted by UNAFEI, the Office of the Attorney General of the Kingdom of Thailand and the UNODC Regional Centre for East Asia and the Pacific under the auspices of the Japan International Cooperation Agency (JICA), started in December 2007. The topic was “Corruption Control in the Judiciary and Prosecutorial Authorities” which was a serious issue, because, as late Mr. Aizawa appropriately pointed out at that time in his introductory remarks, “*the integrity and autonomy of the judiciary and the prosecutorial authorities is the cornerstone for securing the rule of law and maintaining the confidence of the general public in the judiciary.*” If the judiciary and prosecutorial authorities which exercise decisive powers to check the legality and impartiality of any action by the state and its people, and are therefore expected to be cleaner than everyone else, are infected by corruption, the outcome will, of course, be devastating. Rule of law will perish, and the people will lose faith in their last resort against corruption.

The participants of the first Seminar engaged in intensive discussions on every conceivable issue with respect to this very challenging topic and came up with eighteen recommendations aimed at building and improving a robust, integral and corruption free judiciary and prosecution, all of which are relevant to all participating countries regardless of the differences in their systems and the significant variation of forms and manifestations of corruption in different jurisdictions.

### B. The Second Seminar (Bangkok)

We gathered again in July 2008 in Bangkok for the second Seminar, again co-hosted by UNAFEI, OAG Thailand and the UNODC, to discuss another area-focused issue, which was “Corruption Control in Public Procurement”. It is well known that the area of public procurement is especially vulnerable to corruption because the process is one in which big money and discretionary power converge. Many of the notorious cases involving the misappropriation of huge amounts of state property, bribery, bid rigging, etc. are found in public procurement.

While discussing the criminal justice response to corrupt acts and deeds of culprits

distorting public procurement, the participants also focused on the administrative scheme and practices for prevention of wrongdoing in the procurement procedure. They recognized that comprehensive preventive measures such as clear regulations and transparent procedures are necessary. The seventeen recommendations stressed, among others, the necessity of enhancing cooperation between the criminal justice authorities and other governmental authorities such as taxation, auditing and competition authorities as well as networking and cooperation with private sector specialists such as certified accountants and engineering experts. Also, the vital importance of international cooperation was also underlined.

### **C. The Third Seminar (Manila)**

The GG Seminar moved its venue in September 2009 to Manila where the Department of Justice of the Republic of the Philippines kindly co-hosted the event together with UNAFEI and the UNODC. There, the topic became much more specific and technical, namely “Measures to Freeze, Confiscate and Recover Proceeds of Corruption, including Prevention of Money-Laundering”. This topic, which is still today attracting much attention throughout the world, covered a wide range of systems, practices and techniques, all aimed at identifying, tracing and freezing proceeds of crime, depriving perpetrators thereof and returning the assets to where they belong.

At this session, a presentation made by a visiting expert from the World Bank attracted much attention. He explained the cutting-edge techniques and system promoted worldwide by the Stolen Asset Recovery (StAR) Initiative, a framework launched by the World Bank and the UNODC. The quite comprehensive recommendations included, among others, useful concepts, systems and techniques for efficient asset recovery actions such as “politically exposed persons (PEPs)”, the integration of anti-money-laundering and the anticorruption agenda, non-conviction-based forfeiture and more. Since the discussion at this session was very much focused on international aspects of asset hiding and money laundering, the participants again stressed the importance of international cooperation among concerned authorities and stakeholders as well as the proper utilization of financial intelligence. The issue of asset recovery and international cooperation has continued to attract attention of subsequent GG Seminar participants, and they were repeatedly brought to the table during further Seminars.

### **D. The Fourth Seminar (Manila)**

The second GG Seminar in Manila, co-hosted by UNAFEI and the DOJ of the Philippines and conducted in December 2010, also focused on the very specific subject of witness and whistle-blower protection. Whatever the differences in their respective legal systems may be, countries face difficulties in striking a balance between the due process of law protecting the rights of suspects and defendants and the protection of witnesses and whistle-blowers. While the protection of witnesses is more seriously considered and discussed in the context of organized crime and terrorism, it is equally crucial in the area of the criminal response to corruption, especially systemic and grand corruption where powerful and influential politicians and high-ranking officials are involved. Some of these offenders may even have connections with organized crime members or gangs. Whistle-blower protection is also important for the detection of corrupt practices, especially in the business sector.

The participants intensively discussed what effective criminal procedures for witness and whistle-blower protection should look like, and how they should be implemented. They found out that the level of development of such procedures significantly varies from jurisdiction to jurisdiction, depending on various factors including the fundamentals of their substantive and procedural criminal law as well as the human and financial resources they are

able to mobilize. Still, the participants were able to agree on what should be promoted, and made recommendations in areas such as protection by the police, procedural protection, witness protection programmes and so on.

#### **E. The Fifth Seminar (Tokyo)**

UNAFEI was truly honoured and delighted to host, with the support of the Ministry of Foreign Affairs of Japan, the fifth GG Seminar in Tokyo and to welcome participants to its premises in December 2011. At this occasion, we broadened the scope of discussion to try to obtain a macroscopic view on the prevention of corruption. Under the title “Preventing Corruption – Effective Administrative and Criminal Justice Measures” participants were asked not to limit their explanations and opinions to the area of criminal investigation, prosecution and adjudication, but to introduce their own good practices in the area of prevention where administrative and educational measures play important roles. Thus, there was much to talk about. Besides discussing criminal justice measures, the exchange of information and opinions went on to, for example, public education, administrative measures and systems for elimination of risks of corruption, international and domestic anti-corruption policies and public-private cooperation and partnership.

As a final result, participants shared common views on several points. They all agreed that early ratification and full implementation of UNCAC is important. Further, there was common understanding that criminal justice alone cannot cope with corruption; it is just one part of the overall efforts and endeavours to eradicate corruption – preventive measures and enforcement must go hand in hand. Strategies that can limit opportunities for corruption by promoting efficiency, transparency and accountability of governmental business are important. Still, the criminal justice response plays a major role in the deterrence of corrupt practices, and we all should learn from international and foreign good practices.

#### **F. The Sixth Seminar (Tokyo)**

In accordance with the customary practice of holding the GG Seminar in the same country for two consecutive years, another seminar was held at the Ministry of Justice of Japan in December of the following year, 2012, again with the support of the Ministry of Foreign Affairs of Japan. Since the GG Seminar is an international gathering, it was quite natural that participants were interested in discussing international cooperation in the field of criminal investigation, prosecution and adjudication, given the fact that crimes of corruption often have transnational elements. Apprehending the culprits and securing evidence in foreign jurisdictions are crucial matters, but it seems that, despite of the development of mutual legal assistance and extradition, on which UNCAC places much importance, effective implementation of MLA and extradition still remains as a bottleneck for every country in the region. Therefore, the topic of this sixth Seminar was “International Cooperation: Mutual Legal Assistance and Extradition”.

Each country explained its own system of MLA and extradition and shared practical information that was ready for immediate use in the submission of MLA or extradition requests. A good example is that the Malaysian participants kindly shared with us model forms which could be used to request assistance or extradition from Malaysia. Some other participants shared with us highly interesting case studies of MLA and extradition. Thus, the Seminar provided the participants with practical knowledge and a very precise understanding of the procedures for MLA and extradition requests.

### **G. The Seventh Seminar (Kuala Lumpur)**

In December 2013, the Malaysian Anti-Corruption Commission (MACC) and the Malaysian Anti-Corruption Academy (MACA) generously co-hosted with UNAFEI the seventh GG Seminar in Kuala Lumpur. Upon consultation with our co-hosts, we chose the topic “Enhancing Investigative Ability in Corruption Cases”. Although we should never neglect the importance of education or administrative measures to eliminate the opportunity for corruption, the criminal justice response – bringing perpetrators to justice – is undoubtedly one of the most powerful measures to deter corruption, and towards that end, expedient and thorough investigation is of course indispensable. And, since crimes of corruption are generally hidden from public view and often hard to uncover, investigators have to be equipped with a high level of knowledge, skills and practical techniques: finding leads, acquiring necessary information and evidence through the proper and lawful use of modern techniques such as wiretapping, sting and undercover operations, analysing bank records, accounting books and so on.

The participants learned a lot from the lectures delivered by visiting experts such as experienced officers from two of the most successful independent anti-corruption agencies in the Southeast Asian region: the Corrupt Practices Investigation Bureau (CPIB) of Singapore and the Independent Commission Against Corruption (ICAC) of Hong Kong. They also were much inspired by an American expert who shared the U. S. perspective and explained various investigative tactics including wiretapping and the pros and cons of “cooperation plea agreements”. Based upon a proactive exchange of valuable information, the participants further discussed which investigative measures would be useful in their respective jurisdictions. Although an effective tool in one jurisdiction may not always be a fit for use in another, or may even be regarded as unlawful, participants obtained useful knowledge from each other, and gained insight on how they might modify and adapt certain tools or techniques used in other jurisdictions into their own systems.

### **H. The Eighth Seminar (Kuala Lumpur)**

Once again, MACC, MACA and UNAFEI co-hosted the GG Seminar in Kuala Lumpur, in November 2014. The co-hosts were delighted that for the first time all 10 ASEAN members were represented at this forum. This time, the seminar also focused on the criminal justice response to corruption, but from a broader perspective including prosecutorial and judicial matters. While a brief comparative study compared the anti-corruption approaches of countries having independent or specialized anti-corruption agencies with countries that use conventional investigation and prosecution forces, the participants also looked into rather technical matters at the prosecution stage and trial process, such as the admissibility of certain types of evidence, including digital evidence, as well as proper witness examination, etc. Presentations by the learned experts from Korea and Hong Kong helped the participants to gain a better understanding as to these issues. The subject of international cooperation was also revisited and intensively discussed.

The participants were asked to bring, insofar as was possible, actual cases they have handled and explain what difficulties they had experienced and what might have been the key to successful disposition and adjudication of such cases. Many interesting and inspiring case studies were brought to the table and different views were shared. The participants were reminded of the challenges that arise in proving a corruption case involving international elements, and that in order to overcome these challenges, investigators and prosecutors must be fully equipped not only with investigative techniques, but also with a high level of legal skills.

## **I. The Ninth Seminar (Jakarta)**

In November 2015, the venue of the GG Seminar went further down south, across the equator, to the capital city of the Republic of Indonesia, where we all were welcomed by our co-hosts, the Corruption Eradication Commission (KPK) and the Attorney General's Office (AGO) of Indonesia. The theme of discussion was "Current Challenges and Best Practices in the Investigation, Prosecution and Prevention of Corruption Cases – Sharing Experiences and Learning from Actual Cases". Since the GG Seminar mainly targets practitioners in this field rather than policymakers or legislators, it naturally focuses on practical issues and actual experiences and tries to learn lessons therefrom. Although a wide range of issues could have been covered under this theme, the discussion circled around some the most contemporary challenges in the anti-corruption area which all participants showed a strong interest in – international cooperation, asset recovery and public-private partnership.

After intensive discussions, the participants came to the conclusion that although all countries have proper legal frameworks to implement international assistance, it is of vital importance that related agencies actively exchange information not only through formal channels, but also informally. In the area of asset recovery, the participants recognized the wide gaps that exist between different systems and jurisdictions and recommended that domestic legislation should be further improved and that anti-corruption practitioners should establish closer relationships with counterparts in other jurisdictions. They also stressed the importance of a good relationship with the private sector and agreed that further innovative efforts should be done while duly taking into account the legitimate rights and interests of private businesses and enterprises.

## **J. The Tenth Seminar (Yogyakarta)**

Our co-hosts, the AGO and the KPK of Indonesia were so kind to invite the GG Seminar in July 2016 to the beautiful, ancient city of Yogyakarta. There, the Seminar picked up the topic of international cooperation again, entitling the session "Contemporary Measures for Effective International Cooperation". But it was of course not a repetition of the past seminars. This time, straightforwardly focusing on real challenges countries are facing in terms of international cooperation including information sharing, mutual legal assistance and extradition, the problems and solutions were explored in much greater depth. Interesting case studies were brought to the floor from every participating country and good practices were shared.

Although bottlenecks still remain in the implementation of cooperative cross-border activities it seems that the situation is gradually improving. The numerous examples of successful cooperation introduced in the session by the participants were quite encouraging. At the end of the seminar, the participants shared a common view that, in the modern era where technology facilitates the rapid transfer of communications, funds and people all around the world, corruption investigation becomes more and more complex and time consuming. In order to cope with this situation, informal information sharing among investigators should be further enhanced, and MLA should be utilized in a more skillful way. Effective cooperation is not only needed between investigators. Cooperation and mutual understanding are needed between prosecutors and investigators, domestically and internationally. The participants also agreed that international asset recovery remains a major challenge, and relevant officers should further enhance their skills and abilities by making use of trainings, technical assistance and the development of professional networks.

### III. DEVELOPMENTS

In the past ten years, while the GG Seminar continued its active discussions and dialogue, noteworthy development in the area of legislation and practice was observed in the Southeast Asian region, and many of these developments were reported and introduced by the participants of this Seminar. Let's take a quick look.

First of all, I must say that the past decade can be described as the "UNCAC decade" for Southeast Asia, because it was in this decade that UNCAC entered into force in all eleven Southeast Asian countries, including Timor-Leste. Although many of these countries had already signed UNCAC in 2003, it took more time for these countries to ratify it, and following the relatively early ratification by the Philippines and Indonesia in 2006, shortly before the beginning of the decade I am talking about right now, countries started to ratify, or accede to the convention, one after another. Finally, with the ratification by the Union of Myanmar, all Southeast Asian countries became members of UNCAC.

This of course led to accelerated legislative movements here and there. Some countries established special anti-corruption units or institutions, while others came up with new pieces of legislation aimed at strengthening capabilities to investigate and prosecute crimes of corruption. Another important development is that in many countries in this region, the investigators, prosecutors and judges experienced large-scale investigation, prosecution and adjudication of corruption cases, including the tracing, seizing and forfeiting of stolen assets and proceeds of crime, and thereby further accumulated experience and enhanced their professional skills. Even by briefly going through the reports of our participants which were kindly sent to UNAFEI in advance to the commencement of this Seminar, I was almost overwhelmed by the dynamic and powerful movement this region made in the past decade. I delightfully expect that each of our learned participants will, in the next couple of days, share with us all the precious experiences his/her homeland has gained so that we can together discuss what we can extract from such experiences.

A good example of having set up a new anti-corruption body in the last decade would be Malaysia. The Malaysian Anti-Corruption Commission, known as MACC, was created by a new anti-corruption law in 2009, and since then, achieved remarkable results and, therefore, is enjoying a very high level of prestige. Our Malaysian delegates will surely tell us about the MACC's success and experiences. Another example, Cambodia, about which we will hear very soon from our Cambodian colleagues, has also something to be proud of, I'm sure. Based on the new criminal procedure code and the criminal code enacted in 2007 and 2009, respectively, a rather powerful organization, the Anti-Corruption Institution with its two sub-organizations, the National Council against Corruption and the Anti-Corruption Unit, was created in 2010 and seems to be in full gear now. Later, in 2014, the Union of Myanmar also formed an Anti-Corruption Commission which is responsible for implementing the new 2013 Anti-Corruption Law. We are eager to hear from our Myanmar delegates about its progress so far.

Legislative developments have been observed in many jurisdictions. In addition to promulgation of and amendments of laws, attention should also be drawn to subordinate legal normative documents such as decrees and orders which push anti-corruption activities forward, not only in the area of the criminal justice response, but also in the administrative area and in terms of public participation and awareness raising. Another important development, especially for practitioners, is in the area of jurisprudence, where the judiciary adopted new ways to interpret certain provisions of existing laws and regulations.

Here, inspiring examples will be introduced by our fellow participants from various countries. For example, Malaysia did not only enact the new Anti-Corruption Commission Law in 2009, but in the same year and the following year, it seems to have promulgated the Witness Protection Act and the Whistleblower Protection Act. The Philippines, seemingly encouraged by UNCAC, is coping with various issues and challenges by issuing a number of Executive Orders, which is a quite interesting measure for us all to learn about the details. Thailand also seems to have undergone several amendments of laws related to anti-corruption, such as the 2015 Organic Act on Corruption, which authorizes their anti-corruption body, the National Anti-Corruption Commission (NACC), to engage in mutual legal assistance with other countries. Singapore, despite being a country which is advanced farther than any country in this region, is not standing still either. In order to make the country even cleaner and more integral, they seem to have made use of the concept of “high-risk officials” and introduced rules relating to public officers. Our participants from Singapore will also tell us about the sentencing policy of its apex court with respect to private sector corruption, which is extremely interesting and inspiring for practitioners. Our Indonesian delegates will explain to us the very interesting action taken by the Supreme Court of Indonesia in 2016, which established a series of rules relating to corporate liability in cases of corruption.

In the area of practice, our co-host, Viet Nam, seems to have gained invaluable experience by pursuing justice in a number of large-scale corruption cases over the past decade. Among them, they will kindly share with us their experiences and information concerning property misappropriation cases, where much has been done in mutual legal assistance and asset recovery practice, achieving good results. The Lao People’s Democratic Republic, with its quite unique scheme of anti-corruption operations involving much administrative action and with the 2012 amendment of its anti-corruption law, seems to be steadily moving forward by experiencing a large number of actual cases in the area of infrastructure projects. We are eager to hear the Laotian good practice for the suppression of corruption. It is a bit sad that, this year, we do not have the opportunity to hear from our Bruneian friends, but we know from their presentations they gave us in the past sessions that Brunei is also making progress by successfully implementing mutual legal assistance in corruption investigation, especially in collaboration with their Singaporean and Malaysian counterparts.

Of course, the developments I have just mentioned are just a small sample, and I am sure we will hear much more from our learned participants during this Seminar, and most importantly, get to know each other better.

#### **IV. CHALLENGES**

In spite of the pious efforts made by each country gathered here today, challenges still remain. Although all countries in this Southeast Asian region are members of UNCAC, full and proper implementation is not so easy. Some of your countries may already have experienced its review process. And corruption does not seem to vanish. Grand corruption crimes are being committed in more skillful ways than ever before, and with their transnational dimensions plus the use of modern technology by the perpetrators, detection, investigation and prosecution become even more difficult. Challenges and bottlenecks are everywhere. Setting aside the general causes which hinder effective anti-corruption activities just like any other activities aimed at social development, such as lack of political will and insufficient financial and human resources, we, criminal justice practitioners, have to face our own problems in the criminal justice area. These may include, among other things, insufficient investigation skills, insufficient legal and physical tools to collect admissible evidence, poor interaction between



intelligence and criminal justice officials, differences in systems and practices in cases involving international elements requiring mutual legal assistance, low level of public understanding and uncooperative attitudes; the list may go on, and we will hear from our participants numerous concrete problems and challenges they face in discharging their duties as anti-corruption officers. Nevertheless, all of us share the common desire to find solutions to these problems and challenges.

As the keynote speaker, I am not quite able to give you clear answers. It is the task of all of us gathered here to place our collective knowledge, skills and wisdom on the table, to streamline them, and to distill them to a state in which they are useful for each of the participants in their own contexts. The GG Seminar is designed to enable each participant to access information and knowledge of other countries and make full use of them.

## V. CONCLUSION

Looking back at the decade of this GG Seminar and revisiting the discussions by going through the records, I am quite confident that the past discussions were helpful for us all. I would recommend that you read the UNAFEI reports again. You will find that, in those reports, there are clues which may lead to solutions to the problems and obstacles you are, or will be, facing in the course of your fight against corruption in your own jurisdiction. And I expect that the discussions this year will have the same function as an intellectual asset for each one of you. With the cooperation of nine participating countries, the discussion will be a rich one. Indeed, the beauty is that so many countries come together and cooperate. No one is alone in the fight against corruption. We are together.

Expressing my sincere hope and expectation for successful and fruitful discussions at this GG Seminar and my heartfelt thanks to all of the participants for coming, and again my deepest gratitude to the Supreme People's Procuracy of Viet Nam for co-hosting this Seminar here in this beautiful "City of the Rising Dragon", I would like to conclude my keynote address.

Thank you for your kind attention.

