
INTRODUCTORY NOTE

It is with pride that the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) offers to the international community the Resource Material Series No. 77.

This volume contains the work produced in the 138th International Senior Seminar which was conducted from 17 January to 15 February 2008. The main theme of the 138th Seminar was “Effective Legal and Practical Measures for Combating Corruption: A Criminal Justice Response”.

Corruption poses a serious threat to the stability and security of societies, particularly when corrupt practices prevail in the public sphere. Illegal diversion of scarce resources adversely affects the quality and quantity of basic services provided to citizens, and jeopardizes a State’s sustainable economic, social and political development. It discourages economic investment, and breeds feelings of distrust and unfairness towards the public authorities and amongst private businesses. In short, corruption undermines the values of democracy, justice and the rule of law, and may ultimately disrupt the foundation of a State.

Globalization in the commercial sphere has brought about the internationalization of corruption, thus making the problem even more complex. Bearing in mind the enormous negative impact of corruption and its increasing transnational aspects, the international community recognizes the importance of tackling this phenomenon collectively at an international level. Since the mid-1990s, several multilateral instruments against corruption have been adopted, the most important being the adoption on 31 October 2003 by the UN General Assembly of the United Nations Convention against Corruption (hereinafter referred to as “UNCAC” or the “Convention”), whereby setting a new benchmark for this global issue. The UNCAC entered into force on 14 December 2005 and as of February 2009, more than 130 states have become parties to the Convention and many others are going through the ratification process. In addition, mindful of the links between transnational organized groups and corruption, corruption provisions were stipulated in the United Nations Convention against Transnational Organized Crime adopted in November 2000.

Needless to say, the role of the criminal justice system is crucial in the fight against corruption. Successful detection, investigation, prosecution, adjudication and punishment of corrupt offenders contributes greatly to the prevention and eradication of corruption. Also, suppression from the financial point of view, through depriving the offenders completely of crime proceeds by means of confiscation, is necessary and quite effective as a deterrent.

However, these are not easy tasks to accomplish. First, corruption is normally committed by a very limited number of consensual parties to their mutual satisfaction. Therefore, it is very difficult for the criminal justice authorities to obtain information on corruption allegations and to investigate them. Second, since those involved in corruption are often powerful, for example, high-ranking officials, politicians or rich businessmen, and frequently try to jeopardize criminal proceedings by using their influence to tamper with witnesses and evidence, or bribe, or put pressure on, criminal justice personnel. Third, as corruption and subsequent laundering of proceeds frequently involve sophisticated methods to disguise illegal transactions, it is necessary to have highly skilled investigators to identify, trace, freeze and confiscate the crime proceeds. Fourth, increased transnational elements in corrupt practices and subsequent laundering of crime proceeds have made these tasks more complex and difficult, due to national laws not being updated, jurisdictional problems and the differences in the criminal justice systems and legislation.

In this regard, the UNCAC introduces a comprehensive set of standards, measures and rules that States Parties can apply to strengthen the legal and regulatory regimes to fight corruption. Once the measures stipulated in the Convention are fully implemented, criminal justice authorities will be empowered with useful legal weapons to detect, investigate, prosecute, adjudicate and

punish corrupt offenders and to confiscate illegal benefits and return them to their legitimate owners. In addition, where there is an international element, international co-operation between States Parties will be enhanced. This should make it much more difficult for offenders to take advantage of the difficulties inherent in the investigation, prosecution, etc. of cases involving several jurisdictions.

UNAFEI, as a regional institute of the United Nations Crime Prevention and Criminal Justice Programme Network, decided to hold this Seminar in order to review each country's criminal justice system, and explore how it could be strengthened, with special attention to the UNCAC.

In this issue, in regard to the 138th Seminar, papers contributed by visiting experts, selected individual presentation papers from among the participants, and the Reports of the Seminar are published. I regret that not all the papers submitted by the Seminar participants could be published.

I would like to pay tribute to the contributions of the Government of Japan, particularly the Ministry of Justice, the Japan International Cooperation Agency, and the Asia Crime Prevention Foundation for providing indispensable and unwavering support to UNAFEI's international training programmes.

Finally I would like to express my heartfelt gratitude to all who so unselfishly assisted in the publication of this series; in particular, the editor of Resource Material Series No. 77, Ms. Grace Lord.

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