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## REPORTS OF THE SEMINAR

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### GROUP 1

### SUPPORT FOR VICTIMS

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<b>Chairperson</b>	Mr. Philip Kaya WELIA	(Papua New Guinea)
<b>Co-Chairperson</b>	Mr. OTA Tomohiko	(Japan)
<b>Rapporteur</b>	Mr. AKAGI Kazuo	(Japan)
<b>Co-Rapporteur</b>	Ms. Chirawan KHOTCHARIT	(Thailand)
<b>Members</b>	Ms. Veronica Guadalupe URIARTE	
	FLORES	(El Salvador)
	Mr. DIALLO Amadou Tanou	(Guinea)
	Ms. KIKUCHI Shizuka	(Japan)
	Ms. TAJIMA Kayoko	(Japan)
<b>Adviser</b>	Prof. MIO Yukako	(UNAFEI)

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### I. INTRODUCTION

In the framework of group workshops during the 156th International Senior Seminar held by UNAFEI and sponsored by JICA from 13th January to 14th February 2014, Group 1, composed of participants from Japan, Papua New Guinea, Thailand, El Salvador and Guinea, focused its discussions on the following points:

- a) Access to the justice system by victims,
- b) Victim compensation and restitution, and
- c) Prevention against secondary victimization and revictimization.

With a large consensus, the group elected Mr. Philip Welia as Chairperson, Mr. Ota as co-chairperson, Mr. Akagi as rapporteur and Ms. Chirawan as co-rapporteur.

### II. SITUATION OF SUPPORT FOR VICTIMS

In criminal procedure, protecting the perpetrator's rights has been considered most important. On the other hand, the victim's rights have not been focused on much. Often the victims are required to participate in the criminal procedure for the case, even though the victim does not want to speak about what happened to him (or her). Victims have no fault in the criminal case. However they have a hard time talking about the case many times and sacrifice their precious time. Therefore, criminal justice systems and organizations should pay more attention to protecting "innocent" victims.

### III. SUMMARY OF THE DISCUSSION

#### A. Access to the Justice System

##### 1. Specific Issues Preventing Crime Victims from Accessing the Justice System in Each Country

First of all, all participants' countries share some common problems, such as lack of man power and financial support from their governments, the huge caseload which affects the final court decision, and also the trustworthiness of the criminal justice system as a whole. Also, the crime victim's information is often published in newspapers and news programmes on national television. In El Salvador, the gang-related offenders deter crime victims' access to the justice system. In most gang-related crimes, the crime victim has been intimidated not to report the crime to the police, and they are also discouraged from giving testimony in court as a witness. Secondly, victims of sexual offences tend not to report said incidents to police because of embarrassment.

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2. The Measures to Ensure that All Victims Have Access to the Justice System

(a) *Informing victims of their rights and developments in the case*

The group agreed that victims have to be informed about their rights, and all criminal justice organizations should educate the general public via mass media and national or organizational campaigns.

(b) *Victim involvement in decision-making*

The crime victim's right to withdraw the ongoing case is respected in many criminal justice systems among the participating countries; however, if such cases are considered as crimes against the State, the crime victim's request to withdraw the case does not jeopardize the public prosecutor's complaint.

(c) *Victim participation at trial*

The group noticed that in general the crime victim has his or her right to participate at trial but as an observer and not as a victim. However, in Japan and Thailand, the victim may ask questions with the public prosecutor's advice.

**B. Victim Compensation and Restitution**

1. Current Situation in Each Country

The current situation in all participants' countries is similar: when the victim appeals for restitution in court, the court can order the offender to pay it.

2. State Compensation

The group came to a consensus that a State compensation system is beneficial to the victims, even though it is difficult to set up, because of the financial difficulty. Victims should be compensated by the perpetrator, but sometimes the perpetrator is not able to pay full restitution. The victims have to pay for doctors' fees, transportation costs and other expenses. For these reasons, State compensation systems should be adopted by the governments. For example, in January 1981, the Law for Providing Compensation to Innocent Victims of Crime (Japanese law) was put into operation for survivors, disabled and severely injured persons.

3. Restitution by Offenders to Victims and to the Community

Restitution should be paid by the perpetrator. For the community, the perpetrator indirectly contributes after being rehabilitated in prison by learning job skills, which are intended to help offenders avoid criminal activity and thus reduce recidivism.

**C. Preventing Secondary Victimization and Revictimization**

1. Current Situation in Each Country

The current situation in all participants' countries is similar because the crime victim has to answer the same questions repeatedly during the criminal justice process from police officers, public prosecutors, judges and physicians who gave victim the clinical (or medical) check-ups. Moreover, the mass media is always longing to present in depth news about crime incidents as soon as possible. There are some distinguished justice systems in Guinea and Papua New Guinea where the community plays a crucial role in prevention revictimization. "An eye for an eye" revenge seems acceptable for such jurisdictions with tight and strong community relationships.

2. Information Protection Systems for Victims

In the investigation process, the information protection system for victims should be managed by sealing the victim's information; however, in some cases disclosure of such information cannot be avoided. Trials have to be in public, but when the victim makes a request, the trial can be closed to the public.

3. Ensuring Safety of Victims

As a witness, the crime victim is concerned with proving the defendant's guilt. The police officers and courts will escort and protect the victim only for important cases or when he or she makes such a request. However, all participants agree that crime victims should be protected from any further

harm. NGOs can play an important role to ensure the safety of victims involved in sexual offences or domestic violence, and also with the financial support at the governmental and international level. This protection measure can be used in every country.

4. Prevention against Revenge by the Perpetrator

In domestic violence offences and stalking cases, in some participants' countries, such as Japan, Papua New Guinea and Thailand, the court has authority to issue a restraining order against the offender; however, some participants' countries do not implement such orders. In cases in which the suspect or defendant is on bail, he or she must abide by the court's restraining order as well. One of the effective prevention measures against revenge by the perpetrator is implementation of a rehabilitative justice system instead of a retributive justice system and using this restraining order. In some African countries, revenge by the perpetrator is very rare because the community supports the victim and his or her family.

5. Alleviation of Burden and Distress of Victims

The group agreed that collaboration has to be on two levels: between intergovernmental organizations and private organizations as well. "One-stop service", for example, in Japan has been recognized as a channel to alleviate the crime victims' burdens. The "One-stop service" model is a practical system and should be adopted by other countries.

6. Training for Police Personnel, Prosecutors and the Judiciary

Training on the topic of "Victimization" will broaden the knowledge of all criminal justice organizations and allow such organizations to feel empathy for crime victims. This kind of feeling and understanding enables criminal justice professionals to treat victims properly. The training should be held at least yearly and should invite victims to participate and share their emotions.

#### **IV. CONCLUSION AND RECOMMENDATIONS**

To realize a safe society without crime, criminal procedure should be done properly. It is important to obtain victim cooperation with the police or prosecutor's investigation and to testify in court what happened to him or her precisely. If the perpetrator had not committed the crime, the victim would never have to sacrifice his or her time, emotions or embarrassment for the investigation and the trial. But the judicial system requires victims' cooperation to punish the perpetrator appropriately, with the goal of creating a society without crime. Without victims' cooperation, the judicial system does not work and people will start to bypass the judicial system, and maybe even the government. As a result, we should use our best efforts to support victims and to create a society without crime. We hope the results of this discussion contribute to the creation of safer communities, even world peace.