



ASIA AND FAR EAST INSTITUTE  
FOR THE PREVENTION OF CRIME  
AND THE TREATMENT OF OFFENDERS

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## Course Summary

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### Lectures

In total, 34 lectures were presented 13 by visiting experts, 13 by *ad hoc* lecturers, 6 by faculty members and the Director and Deputy Director of UNAFEI. Six distinguished criminal justice practitioners from abroad served as UNAFEI visiting experts. 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 other programmes, and conversing with the participants on informal occasions. Additionally, *ad hoc* lectures were delivered by distinguished academics and senior officials of the Government of Japan. The lecturers and lecture topics are listed on pages 7 to 10.

### Individual Presentations

During the first four weeks, each Japanese and overseas participant delivered a forty-five minute or one-hour and thirty-minute Individual Presentation respectively, 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 11 and 12.

### Group Workshop Sessions

Group Workshops further examined the subtopics of the main theme. The participants were divided into three groups. Each group elected a chairperson and rapporteur 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. Seventeen sessions were allocated for Group discussion.

In weeks five to ten, Plenary Meetings were held to discuss the interim outline of the Group Workshop reports, and to offer suggestions and comments. During the final Plenary Meeting in the tenth 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 13 through 21.

### 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). For more detailed descriptions, please refer to pages 22 through 28.

I would like to offer my sincere congratulations to all the participants for their successful completion of the Course, made possible by their strenuous efforts. My heartfelt gratitude goes to the visiting experts and *ad hoc* lecturers who contributed a great deal to the 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 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 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.

Finally, I would like to reiterate my best regards to the participants of the 113th International Training Course. I hope that the experience they gained during the Course proves valuable in their daily work and that the human bonds fostered among the participants, visiting experts, lecturers and UNAFEI staff will continue to grow for years to come.

November 1999



Mikinao Kitada  
Director, UNAFEI

**THE 113TH INTERNATIONAL TRAINING COURSE**  
**“THE EFFECTIVE ADMINISTRATION OF CRIMINAL JUSTICE FOR THE  
PREVENTION OF CORRUPT ACTIVITIES BY PUBLIC OFFICIALS”**

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**Course Rationale**

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Corrupt activities by public officials undoubtedly disrupts their integrity and neutrality in performing their official duties. It also breeds a feeling of distrust and unfairness toward the national or local government by the citizenry. As a consequence, the corrupt activities by public officials may ultimately weaken gravely or collapse the national or local ruling government and economic structure of a country. Needless to say, the prevention and exposure of such activities are vital.

Corrupt activities in varying magnitudes and types have persisted in many countries for years. They range from large-scale corruption involving politicians and big business, or bureaucrats at both national and local levels, to small-scale activities by low level government employees. Thus the term "public officials" includes both national and local government officials, not only with policy-making powers, but also low-level government employees without such formal power.

It is suggested that organized crime groups are involved in many corruption cases. There is an indication that in keeping with the globalization of economic activities by various enterprises, corrupt activities are also gaining a global dimension. In this regard, it can be noted that corrupt activities of public officials were formerly of a domestic nature, but now are transnational in character.

Corrupt activities of public officials encompass not only instances of bribery by public officials, but also activities whereby public officials use their professional status and power to obtain personal gains such as embezzlement, breach of trust, and tax evasion.

One of the most important tasks for the criminal justice system is to expose the corrupt activities of public officials and to punish the wrongdoers effectively. However, the clandestine nature of such activities obscures the ability of investigators to detect and expose them. Other obstacles include the difficulty in securing the cooperation of the people involved in the case during investigation and trial; the scarcity of personnel and material resources in the criminal justice system; laws limiting the authorized methods of investigation; and the limited skill and/or low morale of the investigators. In many countries, there is some doubt that the current criminal justice systems work properly and effectively to expose and punish the corrupt activities of public officials.

To respond to the corrupt activities of public officials, firstly, the independence and neutrality of investigative agencies and the courts must be secured. Secondly, investigators must gain more professional knowledge and skill to improve their investigative abilities. Thirdly, the introduction of new measures at the detection and investigation stages are necessary, such as immunity given to important witnesses and wire tapping.

At the trial and sentencing stages, consideration should be given to adopting new principles regarding the burden of proof, such as shifting the burden of proof with regard to subjective factors such as intent to bribe. Also measures to obtain a speedy trial and to secure more appropriate and effective sentences should be further examined.

Furthermore, criminal justice officials are required to appeal to policy-makers to re-examine and amend domestic legal systems, if necessary, to be able to counter the phenomena of corruption. Moreover, the management system of personnel must be improved in many aspects, such as recruiting, the labor conditions of personnel, internal inspection, and disciplinary measures. It is also imperative that a code of conduct for public officials be enacted. Additionally, it is desirable to introduce an auditing system by an outside organization or ombudsman. Promotion of further cooperation and coordination between the criminal justice system and other public organizations at the national level and local level is also important.

In light of the fact that corruption transcends national borders, the United Nations has attempted to tackle the problem of corruption at an international level. In 1990, the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders adopted a draft resolution entitled "Corruption in Government", which incorporated the principles espoused in the manual "Practical Measures against Corruption" published by the United Nations. In 1995, the Ninth United Nations Congress held a one-day plenary discussion entitled "Experiences in Practical Measures Aimed at Combating Corruption Involving Public Officials".

Subsequently, the United Nations General Assembly adopted an "International Code of Conduct for Public Officials" which has been recommended to member states as a tool to guide their efforts against corruption. In other international forums such as G8, Council of Europe, and OECD, corruption of public officials has been identified as an important issue. In such forums, various issues have been discussed including corruption and organized crime, anti-money laundering policies, criminalization of bribery to foreign public officials, and international cooperation in corruption cases through extradition, and mutual legal assistance.

Based on the above rationale, participants of this course will discuss the main topics by addressing the following sub-topics:

1. Current situation of the corrupt activities of public officials:
  - (a) The phenomenon of corruption, reasons and background (including corruption by domestic/transnational organized crime groups).
  - (b) Systems and measures for the prevention of corruption.
  - (c) Criminal provisions against corruption and their judicial interpretations.
  - (d) Data and case studies regarding the discovery and punishment of corrupt activities within the criminal justice system.
2. Current problems in responding to the corrupt activities of public officials in the criminal justice system and solutions for them:
  - (a) The problems and solutions at the investigation level.
    - (1) The problems and solutions for securing independence and neutrality of investigative agencies.
    - (2) The problems and solutions for detection and investigation. For example: gathering necessary information; securing cooperation

from the people involved in the case; improving investigation skills; amending legislation to increase the investigation period; coordination amongst different investigative organizations, etc.

- (3) Current measures of investigation and the necessity of introducing new measures.
  - (4) The necessity of expanding and intensifying anti-corruption laws.
  - (5) The problems and solutions in disposing of cases by investigative agencies and/or prosecution.
- (b) The problems and solutions at the trial level:
- (1) The problems and solutions for the independence and neutrality of the court.
  - (2) The problems and solutions for speedy and efficient administration of the trial (including the necessity of introducing witness protection programs and enacting new legislation for reversal of the burden of proof).
  - (3) Current sentencing policies and new measures for securing appropriate and efficient sentences.
- (c) Measures to prevent corrupt activities of public officials in general:
- (1) Current situation, its problems and solutions for recruiting, improving labor conditions, disciplining and promoting public officials.
  - (2) Enactment of code of conduct for public officials, introducing asset disclosure systems for high-ranking officials.
  - (3) Current situation, its problems and solutions for internal inspection and disciplinary action and the related issue of cooperation and coordination between criminal justice agencies and administrative organizations.
  - (4) Introducing auditing or ombudsman systems to discourage corruption, and activities to increase public awareness.
- (d) International cooperation in corruption cases:
- (1) Current situation, its problems and solutions for extradition.
  - (2) Current situation, its problems and solutions for mutual legal assistance, and other measures for international cooperation in corruption cases.



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## LETTER FROM THE DIRECTOR

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It is my privilege to inform readers of the successful completion of the 113th International Training Course on "The Effective Administration of Criminal Justice for the Prevention of Corrupt Activities by Public Officials" from 30 August to 18 November 1999. In this Course, we welcomed 12 Japanese and 18 overseas participants: 10 from Asia, 1 from Oceania, 4 from South America and the Caribbean, 1 from the Newly Independent States, 1 from the Middle East and 1 from Africa. They included police, public prosecutors, judges and other high-ranking public officials. As this newsletter demonstrates, this Course was extremely productive. It consisted of Individual Presentations, Group Workshop Sessions, visits to relevant criminal justice agencies, and presentations by visiting experts, faculty and *ad hoc* lecturers.

During the twelve-week period, the participants diligently and comprehensively examined measures to enhance the transparency and accountability of public officials in their duties. Where corruption exists, methods to ensure the effective administration of criminal justice, in terms of detection, punishment, deterrence and prevention, were canvassed and developed. This was accomplished primarily through comparative analysis of the current situation and problems in the participating countries. Our in-depth discussions enabled us to put forth effective and practical solutions to emerging problems in the changing society.

Corruption is a social phenomena escalating in magnitude and form. Its activities can manifest as bribery, undue influence or misuse of professional status for personal gain, incorporating a range of traditional, punishable offences including breach of trust and embezzlement. With the globalization of economic activities, many countries have recently seen a corresponding increase in the number of corruption cases of a transnational nature. The acknowledged difficulties of detecting, preventing and punishing corrupt activities are increased in the international arena.

Corruption erodes the core of civil society; effecting the integrity of public agencies, breeding distrust of government bodies in the citizenry, and weakening economic and social structures. This Course provided a forum for the exchange of information and views on how corruption has manifested in society, as well as the response required from the criminal justice system. We found that there were many common problems in responding to the corrupt activities of public officials at the level of detection, investigation, prosecution and trial, although our legal frameworks and systems vary from country to country.

We explored possible solutions to these common problems through frank discussions in the Group Workshop Sessions. As a result, we were able to produce a number of valuable recommendations with regard to the prevention of corrupt activities by public officials in criminal justice administration. Our common interest in dealing with the challenges of modern society motivated our in-depth study and produced results beneficial to us all. I have no doubt that the 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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### ***Director's Lecture***

*Mr. Mikinao Kitada, Director, UNAFEI*

- International Action against Corruption

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

Mr. Masahiro Tauchi, Deputy Director, UNAFEI

- Current Crime Trends in Japan
- Situation of Corruption

### ***Professors Lectures***

1) Mr. Chikara Satou, Professor, UNAFEI

- Public Prosecutors in Japan

2) Mr. Hiroshi Iitsuka, Professor, UNAFEI

- Court System in Japan

3) Mr. Keiichi Aizawa, Professor, UNAFEI

- Outline of the United Nations Commission on Crime Prevention & Criminal Justice and its Activity at the Eighth Session

4) Mr. Shoji Imafuku, Professor, UNAFEI

- The Criminal Justice System in Japan : Rehabilitation in the Community

5) Mr. Shinya Watanabe, Professor, UNAFEI

- Corrections in Japan

6) Mr. Hiroshi Tsutomi, Professor, UNAFEI

Mr. Shoji Imafuku, Professor, UNAFEI

- Technical Assistance in the Treatment of Juvenile Delinquents and Crime Prevention : Report on Experience in Kenya



### *Visiting Experts' Lectures*

- 1) Mr. Donald Kenneth Piragoff ( Canada)
  - International Anti-Corruption Initiatives
- 2) Mr. Thomas C. S Chan (Hong Kong)
  - Hong Kong's Efforts in Fighting Corruption
  - Corruption Prevention: A Systemic Approach
- 3) Dr. Laurence Giovacchini (French Republic)
  - Good Governance: A Mere Motto or a Pragmatic Endeavor for a Realistic Strategy? (The French Example of an Anti-Corruption Agency)
- 4) Mr. Tunku Abdul Aziz (Malaysia)
  - Strengthening Integrity: The Importance of Transparency and Accountability in Economic Sustainability
  - International Case Study : Stamping out Corruption in Malaysia
- 5) Prof. A. Didrick Castberg (United States of America)
  - Current Problems in the Fight Against Corruption and Some Possible Solutions : A U.S Perspective
  - Campaign Financing and Corruption in the U.S
  - Illegal Drugs : the Challenge to Law Enforcement
  - Corruption in Japan and the U.S.
  - Group Workshop Reports : An Synthesis
- 6) Mr. Michael A. DeFeo (United States of America)
  - Prevention and Repression of Corruption within a Law Enforcement Agencies
  - Prevention and Repression of Corruption in Non-Law Enforcement Agencies

### ***Ad Hoc Lectures***

- 1) Mr. Haruhiko Higuchi  
*Deputy Director, International Research & Training Institute for Criminal Investigation, National Police Academy*  
• Police of Japan
- 2) Mr. Shigeru Yotoriyama  
*Assistant Director, Second Investigation Division, Criminal Affairs Bureau, National Police Agency*  
• Police Investigation in Bribery Cases
- 3) Mr. Kunihiro Matsuo  
*Director-General of the Criminal Affairs Bureau, Ministry of Justice*  
• Criminal Justice Issues
- 4) Mr. Haruo Kasama  
*Director of the Special Investigation Department, Tokyo District Public Prosecutors Office*  
• Investigation and Trial in Bribery Cases by the Special Investigation Department and Special Trial Department of the Tokyo District Public Prosecutors Office
- 5) Mr. Takashi Nonoue  
*Counselor, Criminal Affairs Bureau, Ministry of Justice*  
• Combating Bribery of Officials in International Business Transactions
- 6) Mr. Masayuki Watanabe  
*Deputy Director, Research and International Division, the Board of Audit*  
• Organization and Mandate of the Board of Audit
- 7) Mr. Toshikazu Oobuchi  
*Judge, Tokyo District Court*  
• Some Issues at Trial in Corruption Cases
- 8) Mr. Shigeru Edane  
*Associate Professor, Japan Industrial University*  
• Direction of the Ombudsman System in Japan: Ombudsmen of National and Local Governments
- 9) Mr. Minoru Shikita  
*Chairman, Board of Directors, Asia Crime Prevention Foundation*  
• International Cooperation for “Prosperity Without Crime”: Past , Present and Future of the Asia Crime Prevention Foundation
- 10) Mr. Hiroshi Yokoyama  
*Assistant Director, Administrative Management Bureau, Management and Coordination Agency*  
• Main Points of Law Concerning Access to Information held by Administrative Organs

- 11) Mr. Yoichiro Ueno  
*Senior International Affairs Officer, National Personnel Authority*
  - Discipline and Ethics for the Public Service in Japan
- 12) Mr. R. K Raghavan (India)  
*Director, Central Bureau of Investigation, Government of India*
  - Recent Innovations in Tackling Corruption in Civil Service
- 13) Mr. Toshiya Kawahara  
*Attorney, Public Security Division, Criminal Affairs Bureau, Ministry of Justice*
  - Law for Punishing Acts Related to Child Prostitution and Child Pornography, and for Protecting Children

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### Individual Presentation Topics

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#### *Overseas Participants*

- 1) Mr. Md. Kamal Uddin Bhuiyan (Bangladesh)
  - Crime Prevention : Prevention of Corrupt Activities of Public Officials
- 2) Mr. Luis Fernando Viana Artigas Jr (Brazil)
  - The Effective Administration of Criminal Justice for the Prevention of Corrupt Activities by Public Officials in Brazil
- 3) Mr. Li Hai-Teng (China)
  - Economic Crimes and the Corruption of Civil Servants: A Case Study of China's Experience
- 4) Mr. Ruben Anthony Maitland (Grenada)
  - The Effective Administration of Criminal Justice for the Prevention of Corrupt Activities by Public Officials
- 5) Mr. Chandrashekara (India)
  - The Effective Administration of Criminal Justice for the Prevention of Corrupt Activities by Public Officials
- 6) Mr. Yudi Handono (Indonesia)
  - The Attorney's Function and Position as one of Law Enforcement's Officers in Effectively Administering Criminal Justice for Corrupt Activities by Public Officials
- 7) Mr. Omur Nogoyev (Kyrgyz)
  - The Effective Administration of Criminal Justice for the Prevention of Corrupt Activities by Public Officials
- 8) Mr. Asmadi bin Hussin (Malaysia)
  - The Effective Administration of Criminal Justice for the Prevention of Corrupt Activities by Public Officials with Reference to Malaysia's Corruption Laws
- 9) Mr. Onuoha Emmanuel Ifeanyi (Nigeria)
  - The Effective Administration of Criminal Justice for the Prevention of Corrupt Activities by Public Officials: the Nigerian Position
- 10) Mr. Sardar Muhammad Raza (Pakistan)
  - The Effective Administration of Criminal Justice for the Prevention of Corrupt Activities by Public Officials
- 11) Mr. Joma J.A. Zidan (Palestine)
  - The Effective Administration of Criminal Justice for the Prevention of Corrupt Activities by Public Officials
- 12) Mr. Roderick Kamburi (Papua New Guinea)
  - The Effective Administration of Criminal Justice for the Prevention of Corrupt Activities by Public Officials
- 13) Mr. Nelson N. Moratalla (Philippines)
  - Graft and Corruption : The Philippine Experience
- 14) Mr. Nihal Sunil Rajapaksa (Sri Lanka)
  - The Effective Administration of Criminal Justice for the Prevention of Corrupt Activities by Public Officials: Report on Sri Lanka

- 15) Mr. Errol Ozil Hinson (St Vincent & Grenadines)
  - The Effective Administration of Criminal Justice for the Prevention of Corrupt Activities by Public Officials in Saint Vincent and the Grenadines
- 16) Mr. Pravitt Roykaew (Thailand)
  - Measures of Corruption Suppression in Thailand
- 17) Mr. Hector Efrain Castillo Guevara (Venezuela)
  - The Current Judicial Situation in Venezuela and the Fight Against Corruption
- 18) Mr. Nguyen Thanh Hai (Viet Nam)
  - The Effective Administration of Criminal Justice for the Prevention of Corrupt Activities by Public Officials in Viet Nam

### *Japanese Participants*

- 19) Mr. Tamotsu Hasegawa (Japan)
  - Investigation of Corruption in Japan
- 20) Mr. Hiroshi Matsui (Japan)
  - Practical Measures in Criminal Justice: Towards Prevention of Corruption by Civil Servants
- 21) Mr. Yuji Suzuki (Japan)
  - Effective Criminal Justice Administration Against Corruption
- 22) Mr. Naoki Ujita (Japan)
  - Effective Countermeasures Against Corruption by Correctional Officials
- 23) Ms. Kyoko Fujino (Japan)
  - Corrupt Activity by Public Officials
- 24) Ms. Yoko Nihei (Japan)
  - Policy to Prevent Corruption in the Community-Based Treatment of Offenders in Japan
- 25) Mr. Yoji Tanaka (Japan)
  - Public Servant Ethics
- 26) Mr. Masaki Kitahara (Japan)
  - Immigration Inspector Corruption : Case Study and the Measures Taken Against it
- 27) Mr. Yasushi Hatayama (Japan)
  - Current Situation and Problems of Administration of Trial and Sentencing for Corruption Cases in Japan
- 28) Mr. Yasuhiro Muraki (Japan)
  - Judicial Issues and Countermeasures for Corruption by Public Officials
- 29) Mr. Masaki Kitahara (Japan)
  - Immigration Inspector Corruption: Case Study and the Measures Taken Against It
- 30) Mr. Tetsuya Yamaji (Japan)
  - The Current Situation of Public Officials Corruption in Japan and Countermeasures
- 31) Mr. Masahiro Okamura (Japan)
  - Recent Major Examples of Corruption in Japan : their background and countermeasures

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### Group Workshop Sessions

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The following section summarizes the Group Workshop Session reports. The full text of the reports will be included in UNAFEI Resource Material Series No. 56.

#### **Group 1      CURRENT SITUATION OF AND RECENT TRENDS IN THE CORRUPT ACTIVITIES OF PUBLIC OFFICIALS AND CRIMINAL LEGISLATION AGAINST CORRUPTION**

<b>Chairperson</b>	Mr. Joma Zidan	(Palestine)
<b>Co-Chairperson</b>	Mr. Chandrasekar	(India)
<b>Rapporteur</b>	Mr. Asmadi bin Hussin	(Malaysia)
<b>Co-Rapporteur</b>	Mr. Pravitt Roykaew	(Thailand)
<b>Members</b>	Mr. Li Hai-Teng	(China)
	Mr. Hiroshi Matsui	(Japan)
	Mr. Naoki Ujita	(Japan)
	Mr. Yoji Tanaka	(Japan)
	Mr. Masahiro Okamura	(Japan)
	Mr. Hector Guevara	(Venezuela)
<b>Advisers</b>	Prof. Chikara Satou	(UNAFEI)
	Prof. Hiroshi Tsutomi	(UNAFEI)
	Prof. Shoji Imafuku	(UNAFEI)

#### *Report Summary*

### **I. INTRODUCTION**

This Group dealt with the phenomenon of corruption, its reasons and background (including by domestic/transnational organized crime groups), current criminal provisions against corruption and their judicial interpretation, as well as proposing domestic and international countermeasures against corruption.

### **II. THE PHENOMENON OF CORRUPTION**

#### **A. Definition of Corruption**

It is extremely difficult, if not impossible, to define what corruption means. To avoid controversy and for guidance, it was unanimously agreed to adopt and use the definition of corruption formulated by the Council of Europe; *"bribery and any other behavior in relation to a person entrusted with responsibilities in the public... which violates their duties that follow from their status as public officials...and is aimed at obtaining undue advantages of any kind for themselves or for others."* Based on this definition, actions and omissions by public officials which constitute corruption covers the offence of bribery, leaking of information, abuse of power, breach of trust, conflict of interest and misappropriation of public funds.

**B. Aims of Corruption**

Public officials involved in corrupt activities are influenced by two main motives. One is the economic motive, which aims for pecuniary interest. The other is non-economic, which aims at other kinds of benefits such as fame, power or status etc.

**C. Subject and Impact of Corruption**

Corruption involves not only lower, but also high-ranking, public officials. However, corruption committed by high-ranking officials is often more difficult to expose and investigate. Corruption committed by high-ranking public officials has far-reaching adverse effects on the society and nation. Special attention should be paid to judicial officers; if corruption is allowed to penetrate this area, the whole justice system may be destroyed. The crime of corruption adversely affects the sound administration of the government, depriving citizens of their access to basic needs and destroying the economic climate as well as political stability.

**D. International Dimension of Corruption**

Along with social progress, crime in the form of corrupt activities, has become a major global problem. Tackling this problem effectively no longer rests on an individual country but needs the total commitment of the international community. The involvement of transnational organized crime groups is of current concern. Transnational organized crime groups, in collaboration with domestic officials, venture into the smuggling of drugs or weapons; trafficking of illegal immigrants, women and children etc, making use of opportunities for corruption.

**E. Background of Corruption**

The problem of corruption is the problem of systems and institutions combined with human factors. Causes of corruption include lack of transparency and accountability, wide and broad discretionary power, monopolistic or oligopolistic situations, low salary, lack of ethical consciousness and greed.

**III. CURRENT CRIMINAL PROVISIONS AGAINST CORRUPTION AND THEIR JUDICIAL INTERPRETATION****A. Criminal Provisions against Corruption**

Corrupt practices were considered by all participating countries as evil activities. Though legal systems differ from country to country, many countries have evolved and strengthened their legislation in order to suppress all forms of corrupt activities. However, continuing to review and improve legislation is still needed by every participating country, as many countries legislative provisions against corruption are inadequate.

**B. Judicial Interpretation of Corruption Offences**

One of the most important factors contributing to the ineffectiveness of fighting corruption is the legal interpretation in each country. The courts of some countries have interpreted the meaning of 'bribe' narrowly; restricted only to tangible things such as, money or land, whereas in the other countries, intangible things can be the object of the bribe. Besides that, interpretation of the meaning of 'bribe' is vague and inconsistent due to the lack of binding precedent.



#### **IV. PROPOSED DOMESTIC AND INTERNATIONAL LEGISLATIVE MEASURES EFFECTIVE AGAINST CORRUPTION**

##### **A. Domestic Substantive Criminal Law**

The following countermeasures are recommend:

1. Every country should consider increasing the punishment of corruption and related offences.
2. All kinds of undue advantage, direct or indirect, from the corrupt activities should be considered as the subject of corrupt offences.
3. Along with the increasing of punishment, full competence should be vested in the court to confiscate and forfeit unlawfully gained assets.
4. Legislation that promotes and guarantees transparency and accountability in the decision making process and public management should be encouraged.
5. Anti-money laundering laws should be introduced.
6. Every country should consider introducing legislation to clarify the responsibility of, and encourage cooperation from, financial institutions.
7. Every country should consider criminalizing illegal enrichment.
8. Legislation prohibiting former public officials from taking part in private companies, which may cause a conflict of interest, should be considered.
9. Countries should consider legislation that would prohibit tax deductions for bribes or other expenses related to corruption.
10. All countries should consider enacting legislation to criminalize citizens who bribe or attempt to bribe foreign public officials.

##### **B. Domestic Procedure Law**

To ensure the efficiency of the substantive laws, procedural law also should be reviewed and improved on a regular basis. Relaxing bank secrecy laws, reversal the burden of proof in corruption cases and introducing witness protection schemes should be considered by every country.

##### **C. International Cooperation**

It is generally accepted that corruption is growing to be a global problem. Close cooperation among all countries through bi-lateral and multi-lateral agreements should be encouraged. All kinds of corrupt and related activities, including the bribery of foreign public officials, should be included in treaties for mutual legal assistance and should be deemed by every country as an extraditable offence.

**Group 2      CURRENT PROBLEMS IN RESPONDING TO THE CORRUPT  
ACTIVITIES OF PUBLIC OFFICIALS AT THE INVESTIGATION  
AND TRIAL STAGES, AND SOLUTIONS FOR THEM**

<b>Chairperson</b>	Mr. Sardar Muhammed Raza	(Pakistan)
<b>Co-Chairperson</b>	Mr. Tamotsu Hasegawa	(Japan)
<b>Rapporteur</b>	Mr. Onuoha Emmanuel Ifeanyi	(Nigeria)
<b>Co-Rapporteur</b>	Mr. Yasushi Hatayama	(Japan)
<b>Members</b>	Mr. Luis Artigas Jr	(Brazil)
	Mr. Ruben Maitland	(Grenada)
	Mr. Yuji Suzuki	(Japan)
	Mr. Yasuhiro Muraki	(Japan)
	Mr. Omur Nogoyev	(Kyrgyz)
	Mr. Nihal Sunil Rajapaksa	(Sri Lanka)
	Prof. Keiichi Aizawa	(UNAFEI)
<b>Advisers</b>	Prof. Hiroshi Iitsuka	(UNAFEI)

*Report Summary*

**I. INTRODUCTION**

The group discussion was executed under three sub-topics: (1) Securing the independence and neutrality of the investigative agencies and the court; (2) Detection and investigation of corruption; (3) Speedy and efficient administration of trial. However, in the discussion, the group realized the importance of: (4) Effect of the mass media on investigations and trial, hence it was subsequently discussed. The result of our examination is as follows.

**II. THE PROBLEMS AND SOLUTIONS FOR SECURING INDEPENDENCE AND NEUTRALITY OF INVESTIGATIVE AGENCIES AND COURTS**

Whether the investigation of corruption cases is executed by a special agency or by conventional investigative organs, differs from state to state. In this group, only Pakistan and Sri Lanka have special agencies to combat corruption, while in other countries, investigation is conducted by the conventional police, or the police and prosecutor. In order to secure the independence and neutrality of investigative agencies, they need to be free from political and bureaucratic influence. Thus, in a situation where members of a special agency are subject to political pressure, the neutrality of the agency is not secured. Among those special agencies examined, the most noteworthy is the Independent Commission Against Corruption (ICAC) in Hong Kong, which not only has powerful investigative authority but is also responsible for corruption prevention and educational activities.

As for the court, while the independence of the court is secured by the respective constitutions of all countries, there are some countries where judges are politically appointed or the budget of the court is controlled by the Ministry of Justice. In order to secure the independence and neutrality of investigative agencies and the court, the following solutions are recommended:

- (1) The strengthening of the commitment to duty, professionalism and economic base of the investigators and judges through adequate remuneration and training, so that they can avoid external influence;
- (2) Exclusion of political and bureaucratic control by applying constitutional and legislative measures. This is required to curtail the excessive discretionary powers of the executive arm of government and bureaucrats, and to infuse transparency into governance;
- (3) Democratization of procedures for appointment of judges and leadership of investigating agencies;
- (4) Establishment of an independent agency to investigate corruption cases in those countries where corruption is serious and the current system is not effective; and
- (5) The budget of the judiciary and investigative agencies should not be subject to undue bureaucratic control.

### **III. THE PROBLEMS AND SOLUTIONS FOR DETECTION AND INVESTIGATION**

#### **A. Sources of Information**

In corruption cases, the task of the investigator is often exacerbated by the limited sources of information. Corruption cases are detected from 1) investigation of other cases; 2) accusation/complaint; 3) news media; 4) parliamentary question and answer sessions; 5) anonymous reports; and 6) reports from other agencies such as an audit unit. The problem in most countries is that people tend to be unwilling to make complaints and are reluctant to testify. Improving tools for the collection of information such as the introduction of a P.O. Box, as in Hong Kong, and public education on the evils of corruption, as well as promoting a strong witness-protection scheme, are required.

#### **B. Problems and Solutions for Improving Investigative Tools**

##### **1. Resources**

In developing countries, investigations of corruption cases are hampered by a lack of resources. Improving infrastructure, such as the means of transportation and telecommunications, as well as adequate operational funds, is required.

##### **2. Covert Operations**

In order to overcome the clandestine nature of corruption, covert operations such as decoy operations and wire-tapping should be considered. For instance, decoy operations are utilized as an efficient investigative tool in Pakistan. In the United States, wire-tapping is also conducted by the investigative agency under court approval. However, there are few countries where wire-tapping is allowed in corruption cases. Introduction of these measures requires careful consideration to secure adherence to due process and will depend on the situation of each country.

##### **3. Secrecy of Financial Transactions**

Financial records of the suspect often provide valid evidence of corruption. However in some countries, the financial institutions may not cooperate with investigative agencies

because of bank secrecy laws. The investigative agencies should work in concert with financial institutions. In addition, legislation should be made in each country making it mandatory for financial institutions to report suspicious transactions.

**C. Problem and Solutions for Improving Investigator's Skills**

The investigation of corruption cases is often hindered by the investigators' lack of experience and professional skill, as well as a heavy workload. The development of a professionally competent investigative team, provided with specialized training in accounting and information systems is required, as is the deployment of an adequate number of skilled personnel to the responsible agencies in each country.

**D. Problems and Solutions for Coordination Among Different Investigative Organizations**

A multi-agency committee against corruption, comprised of representatives of different agencies, should be established to exchange information and ideas on how to tackle corruption. The cooperation between audit units and investigative agencies should be strengthened, and adverse audit reports should be sent to the investigative agencies as early as possible. At the international level, each country should strive to increase bilateral or even multi-lateral agreements with different countries on criminal matters.

**IV. THE PROBLEMS AND SOLUTIONS FOR SPEEDY AND EFFICIENT ADMINISTRATION OF THE TRIAL**

**A. Court Problem**

The first problem is the lack of personnel and material resources. An increase in the number of judges and court assistants (in order to reduce their excessive workload), and an increase in court budget and material equipment, such as information systems, is required. Secondly, as many judges and court assistants are inexperienced, initial and periodic training courses to improve their ability is recommended. It is also necessary to establish effective procedures to monitor their performance. In this regard, establishing a special court for corruption may be effective to speed up trials while maintaining efficient proceedings. However, such a court would not function well unless it is provided with enough personnel and material resources.

**B. Reversal of Burden of Proof**

The onus of the burden of proof on prosecutors is excessively heavy, not only because of the secret nature of corruption cases, but also because they have to establish difficult issues such as recognition of the bribe, which is said to be one of the major causes for trial delay. In this respect, the regions of Hong Kong, India, Pakistan and other countries have laws requiring an accused in a corruption case to prove that assets considered disproportionate to their income were not obtained through corrupt practices. For those countries in which corruption prevails, such a law seems to be effective for detection. However, such laws cannot easily be introduced (to shift the burden of proof), since the basic principle of the presumption of innocence should not be overlooked.

### **C. Witnesses**

The prosecution witnesses sometimes refuse to attend court or to testify in a case due to transfer to a different location or the lack of witness protection. Strong witness protection may be put in place and payment of adequate compensation to witnesses may also be necessary.

### **D. Delay Tactics by Defense Counsel**

Trials of corruption cases tend to take a long time due to defense counsel delay tactics, such as unnecessary and lengthy examination of witnesses. Judges should intervene during trial proceedings if the defense counsel is using dilatory tactics. They can also organize trial issues by utilizing pre-trial meetings and other measures.

## **V. EFFECT OF THE MASS MEDIA**

Needless to say, mass media plays an indispensable role in the detection and prevention of corruption. However, it is also a fact that excessive press coverage interferes with investigation and trial. In our group, opinion was that the influence of the media is so strong that it can violate the independence and neutrality of the investigative agencies and the courts. Thus, adequate counter measures against this problem should be implemented.

Recommended solutions are:

- 1) Implementation of strict codes of conduct for media practitioners;
- 2) Programs of mutual cooperation between investigative agencies and the mass media;
- 3) Application of existing laws on contempt of court by judges; and
- 4) Developing training programs for judges and investigators to enable them to resist the influence of mass media.

**Group 3****GENERAL PREVENTIVE MEASURES AGAINST  
THE CORRUPT ACTIVITIES OF PUBLIC OFFICIALS**


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*Report Summary***I. INTRODUCTION**

The mission of public officials is to pursue the public interest. Therefore, public officials should be attentive, fair and impartial in the performance of their functions and, in particular, in their relations with the public. However, corrupt activities by public officials have persisted in many countries for years. These corrupt activities undoubtedly disrupt their integrity and neutrality in performing their official duties. It also breeds a feeling of distrust and unfairness toward the government by the citizenry. As a consequence, corrupt activities by public officials may ultimately weaken or collapse the government and economic structure of a country. They undermine good governance and cause great damage to the country. In this report, general preventive measures against the corrupt activities among public officials are discussed.

**II. ESTABLISHING A MANAGEMENT SYSTEM OF PERSONNEL AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS**

First, in the relationship between corrupt activities and recruitment, a fair process of recruitment is considered necessary to avoid corrupt activities at the stage of the recruitment of public officials. Devices to recruit applicants who have aptitude to be public officials are also desirable. Secondly, subjects on morals and ethics should be included in the training of public officials. Thirdly, it is recommended that personnel/staff be rotated to different functional positions within the organization or be transferred to an organization located in a different place. Fourth, preparation of appropriate working environments which motivates people to continue public duties without engaging in corrupt activities may contribute to the reduction of corrupt activities among public officials. Fifth, on promotion, not only seniority but also merit and competence should be considered; although it is necessary to guarantee fair evaluation the latter two. Sixth, establishing a system which ensures the transparency of public officials' duties is important to avoid abuse of discretionary power. Finally, the existence of a code of ethics is an effective tool to prevent corrupt activities, if it is understood and enforced properly by all public officials.

### **III. INTERNAL INSPECTION AND DISCIPLINARY ACTION**

While self-management may be a difficult task for people, selfish behavior may be deterred if individuals know that their behavior is being monitored. In this context, inspection and disciplinary action play an important role. For internal inspection, establishing a procedure to assure the fairness and transparency of the achievement of internal inspection is highly recommended. An internal inspection unit will be effective if it is attached to the head office of the organization, in order to keep its independence. Internal inspectors are expected to have enough professional knowledge to inspect the section and/or division.

It is needless to say that internal inspectors should be given power enough to inspect effectively. In addition, it is important not only to conduct inspections but also to report the results as soon as possible. How we conduct internal inspections (e.g., unscheduled/scheduled, frequency) should also be considered, based on the intent of the inspection. For disciplinary action, the process, the rights of accused officials, the people who take charge of decision-making, and the types of administrative disciplinary sanctions, should be regulated clearly. Based on the regulations, disciplinary action should be administered properly.

### **IV. AUDITING AND OMBUDSMAN SYSTEMS TO DISCOURAGE CORRUPTION AND ACTIVITIES TO INCREASE PUBLIC AWARENESS & ACCESS TO INFORMATION**

Auditing is a function to check that an organization's funds have been properly used and that there have been no discrepancies involved. To pursue this role appropriately, it is important to guarantee the auditors' independence. It is proposed that auditors be given wide powers in the performance of their functions. Creation of an ombudsman system will help combat corruption in the public service. Since an ombudsman is selected as the representative of citizens, it is very important to keep his/her independence and neutrality. Thus, this system may work effectively to pursue the interests of citizens. The right of access to government information contributes to encouraging government officials to devote themselves to their duties and be accountable. It is also a basic right of citizens.

Finally, various devices to increase public awareness of government matters is proposed to let citizens play the role of watchdog. As the means of such activities, educational programs in schools; using mass media and posters; conducting workshops, seminars and public forums/dialogues; prize giving contests etc, are suggested. These activities may be planned by not only the government itself but also by civilian groups such as NGOs. The government is strongly recommended to cooperate with such groups in promoting public awareness.



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**Observation Visits**

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<u><i>Date</i></u>	<u><i>Agency/Institution</i></u>	<u><i>Main Persons Concerned</i></u>
Sept. 1	Tokyo District Public Prosecutors Office	<ul style="list-style-type: none"> <li>• Mr. Masaki Sasaki Assistant Director, General Affairs Department</li> </ul>
Sept. 9	Ministry of Justice & National Diet	<ul style="list-style-type: none"> <li>• Mr. Shuji Kitaoka State Secretary for Justice</li> <li>• Mr. Keigoh Tabira Director, Office of International Affairs, Secretarial Division</li> <li>• Mr. Masaru Katou Secretarial Division, Ministry of Justice</li> </ul>
Sept. 16	Supreme Court	<ul style="list-style-type: none"> <li>• Judge Tsugio Kameyama Supreme Court Justice</li> <li>• Mr. Naoto Outani Director, First Division, Criminal Affairs Bureau</li> <li>• Mr. Junichi Shirakura Liaison Officer, Secretariat Division, General Secretariat</li> </ul>
Sept. 29	Tokyo Metropolitan Police Department & Command Communications Center	<ul style="list-style-type: none"> <li>• Mr. Hirosaburo Ohtomo Assistant Adviser/ Liaison Officer</li> <li>• Mr. Shinsuke Saiki Police Sergeant/ Liaison Officer</li> </ul>
Oct. 5	Fuchu Police Station	<ul style="list-style-type: none"> <li>• Mr. Yoshio Furukawa Chief</li> </ul>

<u><i>Date</i></u>	<u><i>Agency/Institution</i></u>	<u><i>Main Persons Concerned</i></u>
Oct. 14	Tokyo District Court	<ul style="list-style-type: none"> <li>• Mr. Kenjiro Tao Deputy Chief Judge of Criminal Department</li> <li>• Mr. Kaoru Kanayama Presiding Judge</li> <li>• Ms. Kiyoko Suzuki Liaison Officer, General Affairs Division</li> </ul>
Oct. 27	Fuchu Prison	<ul style="list-style-type: none"> <li>• Mr. Tatsuhiro Yasutake Assistant Director, General Affairs Division</li> </ul>
Nov. 15	Suntory Musashino Brewery	<ul style="list-style-type: none"> <li>• Dr. Takao Takahashi Plant Manager</li> </ul>
Nov. 17	Hino Motor Limited	<ul style="list-style-type: none"> <li>• Mr. Kenji Iwashita Public Relations Team, General Affairs Division</li> </ul>

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### Group Study Tours

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<u><i>Date</i></u>	<u><i>Group</i></u>	<u><i>Agency/Institution</i></u>	<u><i>Main Persons Concerned</i></u>
Sept. 22~24	Hokkaido	<ul style="list-style-type: none"> <li>• Sapporo Prison</li> <li>• Sapporo High Public Prosecutors Office</li> <li>• Sapporo District Public Prosecutors Office</li> </ul>	<ul style="list-style-type: none"> <li>• Mr. Ryosuke Sugiyama Prison Warden</li> <li>• Ms. Mariko Abe Chief Program Supervisor</li> <li>• Mr. Hideo Iida Superintending Prosecutor</li> <li>• Mr. Masaki Kazawa Deputy Chief Prosecutor</li> </ul>
Oct. 7 & 8	Nikko	<ul style="list-style-type: none"> <li>• Rehabilitation Aid Hostel “Shotoku Yurin-Kai”</li> </ul>	<ul style="list-style-type: none"> <li>• Mr. Kanjiro Suzuki Chairman, Board of Directors</li> </ul>
Oct. 29 & 30	Nagano	<ul style="list-style-type: none"> <li>• Nagano District Public Prosecutors Office</li> </ul>	<ul style="list-style-type: none"> <li>• Mr. Yoshimasa Asano Deputy Chief Prosecutor</li> </ul>
Oct. 29 & 30	Nagoya	<ul style="list-style-type: none"> <li>• Nagoya District Court</li> <li>• Nagoya High Public Prosecutors Office &amp; Nagoya District Public Prosecutors Office</li> </ul>	<ul style="list-style-type: none"> <li>• Mr. Takeo Inabu Chief Judge</li> <li>• Mr. Tokunori Yoshimura Superintending Prosecutor</li> </ul>
Oct. 29 & 30	Kita-Kyushu	<ul style="list-style-type: none"> <li>• Kokura Branch of Fukuoka District Public Prosecutors Office</li> </ul>	<ul style="list-style-type: none"> <li>• Mr. Yoshinori Nakajima Chief Public Prosecutor</li> </ul>
Nov. 9~12	Hiroshima- Kansai	<ul style="list-style-type: none"> <li>• 6th Regional Maritime Safety Headquarters</li> <li>• Uji Juvenile Training School</li> </ul>	<ul style="list-style-type: none"> <li>• Mr. Kaoru Kuwabara Commander</li> <li>• Mr. Masanori Yoshimoto Special Assistant to the Chief Guard Division</li> <li>• Mr. Yoshitaka Azabu Superintendent</li> </ul>

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### Special Events

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August 30

*Welcome Party*

September 2, 3, 8, 13, 14, 17, 20, 28, 30

October 2, 9, 16, 23 & November 6

*Japanese Conversation Classes*

The overseas participants attended Japanese conversation classes provided by JICA and ACPF. They learned practical Japanese expressions. The Sensei (teachers) were Mr. Michio Kawachi, Ms. Mariko Kambayashi, Ms. Kimiko Hiraiwa, Ms. Kyoko Fujimaki, Ms. Ekuko Ono and Ms. Yukiko Shiina. *Iroiro Arigato Gozaimashita.*

September 9

*Courtesy Visit to State Secretary for Justice*

State Secretary for Justice, Mr. Shuji Kitaoka greeted the participants during their visit to the Ministry of Justice.

*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.

September 11

*Mt. Fuji Tour*

The participants toured the Mt. Fuji/ Hakone region with the JICA staff.

September 16

*Courtesy Visit to Supreme Court Justice*

During their visit to the Supreme Court, the Honorable Justice Kameyama received the participants in his private chambers.

*ACPF Tokyo Minoru-kai Party*

ACPF Tokyo Minoru-kai Branch, affiliated with ACPF Headquarters, hosted a dinner party on the 20<sup>th</sup> floor of the Ministry of Justice Building in honor of the participants.

September 18

*Home Visits*

ACPF Fuchu Branch organized dinners for the participants in the homes of members from the Fuchu International Exchange Salon, Tokyo Fuchu Rotary Club and Soroptimist International of Tokyo, Fuchu. The hosts were Mr. Rinshi Sekiguchi, Ms. Kazuko Seki, Mr. Yoshiyuki Sakano, Mr. Yasuhiro Momota, Mr. Shigeo Koshimizu, Mr. Yasuhiko Mori and Mr. Tsuneo Kashima.

September 21

*End of Individual Presentations*

The participants celebrated the completion of their Individual Presentations in Lounge B.

September 22, 23 & 24      *Hokkaido Trip*

After official visits to criminal justice agencies, the participants attended a dinner hosted by Mr Takashi Yamane, Chief of ACPF Sapporo Branch, on the 3<sup>rd</sup> floor of the Sapporo Royal Hotel. The participants also enjoyed sightseeing during their stay, including visits to Otaru city, Herrings Palace, Miyanomori Shanze, Hokkaido Jingu and Sapporo Beer Garden.

September 27      *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 the flowers themselves.

October 3      *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.

October 7 & 8      *Nikko Trip*

After an official visit to the "Shotoku Yurin-Kai Rehabilitation Aid Hostel", the participants attended a dinner hosted by ACPF Tochigi Branch. The next day, the participants enjoyed sightseeing, including visits to the Kegon Falls, Ryuzu Falls and Nikko Toshogu Shrine.

October 15      *UNAFEI-ACPF International Bowling Tournament*

ACPF Fuchu Branch sponsored the twelfth UNAFEI-ACPF International Bowling Tournament. The participants enjoyed bowling and socializing with members of ACPF Fuchu Branch.

October 16      *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. Shoji Nagai, General Manager of the Tokyo Horse Race Course, hosted the event.

October 18      *VPOs' International Training*

Ten Volunteer Probation Officers visited UNAFEI for an International Training Program. It was jointly organized by UNAFEI and the Rehabilitation Bureau of the Ministry of Justice of Japan. A discussion session and friendship party were arranged to exchange views between VPOs and the participants.

October 20      *Edo-Tokyo Museum*

The participants attended the Edo-Tokyo Museum located in Ryogaku with UNAFEI staff. The participants learnt about Tokyo's historical development through guided tours of the facility.

October 25 *Friendship Party*

A friendship party was held to introduce participants to the international experts attending the second Experts Meeting convened at UNAFEI, in preparation for the Workshop on Crimes Related to the Computer Network, as part of the tenth United Nations World Congress, April 2000.

October 29 & 30 *Nagano Trip*

After an official visit to the Nagano District Public Prosecutors Office, the participants attended a seminar and party hosted by ACPF Nagano Branch at the Hotel Kokusai. The next day, the participants enjoyed sightseeing, including visits to the Zenko-ji temple, "Ohjo-chi garden" apple orchard and the Nagano Olympics bobsledding and tobogganing rink.

October 29 & 30 *Nagoya Trip*

Select participants accompanied the Director of UNAFEI to Nagoya. After an official visit to the Nagoya District Court and the Nagoya High Public Prosecutors Office & District Public Prosecutors Office, a public lecture was conducted by the participants. At the conclusion of the lecture, a reception was held for the participants at the Hotel Asosia, hosted by ACPF Nagoya Branch. The next day, the participants enjoyed sightseeing, including visits to Nagoya Castle and the Industry and Technology History Museum.

October 29 & 30 *Kita-Kyushu Trip*

Select participants accompanied UNAFEI staff to Kita-Kyushu. After an official visit to the Mayor of Kita-Kyushu, Mr. Kouichi Sueyoshi, and to the Kokura branch of the Fukuoka District Public Prosecutors Office, a reception was held for the participants at the Kita-Kyushu Prince Hotel, hosted by ACPF Chikushi Branch. The next day, the participants enjoyed sightseeing around the Kita-Kyushu district.

November 1 *Koto Concert*

The *Ensemble 21st Century*, a group of volunteer musicians, performed traditional Japanese 'Koto' music for the participants at UNAFEI.

November 5 *End of Group Workshops*

Each group individually celebrated the completion of the Group Workshops in Fuchu.

November 8 *TICP Friendship Party*

A friendship party was held to introduce the participants to the trainees of the Training Institute for Correctional Personnel (TICP), Fuchu. The evening included demonstrations of karate, Noh theatre and a guitar performance by the trainees. The party concluded with singing and dancing, and will be fondly remembered by all.

November 9, 10, 11 & 12     *Hiroshima-Kansai Study Tour*

*Hiroshima:* On their first day, the participants visited Peace Memorial Museum and Peace Memorial Park in Hiroshima. Participants were also escorted by two Maritime Safety Agency vessels to Miyajima Island, located in the Seto Inland Sea near Hiroshima.

*Kyoto:* On their fourth day, the participants went on a guided bus tour to Nijo Castle, Kinkakuji Temple and the Kyoto Imperial Palace.

November 16

*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**

- (1) Summary of the White Paper on Crime 1998
- (2) Criminal Justice in Japan : various publications
- (3) Prison Administration in Japan
- (4) The Community-Based Treatment of Offenders System in Japan
- (5) Ministry of Justice: various publications
- (6) Adult Probation Profiles in Asia

**UNAFEI Publications**

- (1) UNAFEI Resource Material Series No. 52
- (2) Extracts from UNAFEI Resource Material Series Nos. 47 and 48
- (3) Criminal Justice Profiles of Asia
- (4) UNAFEI Pamphlet

**United Nations Instruments**

- (1) United Nations Declaration against Corruption and Bribery in International Commercial Transactions (General Assembly resolution 51/191 annex of 16 December 1996)
- (2) International Code of Conduct for Public Officials (General Assembly resolution 51/59 annex of 12 December 1996)

**International Forums**

- (1) “Practical Measures against Corruption”, International Review of Criminal Policy, Nos. 41 and 42
- (2) Guiding Principles for Fighting Corruption and Safeguarding Integrity among Justice and Security Officials (Global Forum on Fighting Corruption, Washington D.C, 24 –26 February 1999)
- (3) Report of the Expert Group Meeting on Corruption and its Financial Channels, Paris, 30 March to 1 April 1999

**Others**

- (1) 113th International Training Course lectures and presentation papers
- (2) Pamphlets, leaflets, etc from various criminal justice institutions

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## INFORMATION ABOUT FORTHCOMING PROGRAMMES

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### *Training Programmes*

#### **1. The 114<sup>th</sup> International Senior Seminar**

The 114<sup>th</sup> International Senior Seminar, “International Cooperation to Combat Transnational Organized Crime – with Special Emphasis on Mutual Legal Assistance and Extradition”, is scheduled to be held from January 10 to February 20, 2000. The extensive international discussion, culminating in the drafting of the United Nations Convention against Transnational Organized Crime, currently in process, prompted the selection of this theme. The 114<sup>th</sup> Seminar purports to explore the ways and means of strengthening and improving international cooperation in the fight against transnational organized crime, particularly through effective implementation of the mechanism of mutual legal assistance and extradition. Sharing practical information and experience on how other countries tackle common issues will facilitate our efforts in the fight against transnational organized crime.

#### Rationale

Transnational organized crime is a growing threat to the security of the international society and the stability of sovereign states. It undermines the integrity of legitimate national economies, global financial systems, the rule of law and fundamental social values. It is of particular concern that transnational organized crime breeds corruption, and weakens emerging democracies and developing countries around the world.

Drug trafficking, money laundering, use of violence and extortion, acts of corruption, trafficking in women and children, illicit manufacturing of and trafficking in firearms, and the illegal trafficking and transportation of migrants, perpetrated under the influence of criminal organizations, have been serious problems in various countries in the world including Asia and the Far East.

In recognition of the gravity of the above-mentioned situation, the United Nations has given special attention to the issue of transnational organized crime. Initiatives were taken by the United Nations Ministerial Conference on Organized Transnational Crime, which was held at Naples, Italy in 1994. The Conference adopted an international document entitled the “Naples Political Declaration and Global Action Plan against Organized Transnational Crime”, which was subsequently endorsed by the United Nations General Assembly.

Furthermore, pursuant to a General Assembly resolution, the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime was created for the purpose of drafting a comprehensive international convention on transnational organized crime. An intensive drafting exercise is ongoing in the Ad Hoc Committee, with the goal of completing its work by the year 2000. During the debates of the Committee, it has been generally understood among participating countries that mutual legal assistance and extradition are two major weapons for the international society to effectively combat transnational organized crime.

Although there has been a long history of study and experience in the field of mutual legal assistance and extradition, law enforcement and prosecutorial authorities, as well as the judiciary, are still facing a number of crucial issues in discharging their mandates. First of all, it is considered that the existence of treaties for mutual legal assistance or extradition will facilitate and expedite the process of mutual legal assistance and extradition between the countries concerned. However, international cooperation should also be promoted between countries without such treaties.

Secondly, our past experience reveals that examination of dual criminality, one of the traditional prerequisites for rendering mutual legal assistance and extradition, is often a difficult and time-consuming task for both the requesting and requested states. Up-to-date information on the pertinent law and its interpretation by both states is essential for conducting examination of dual criminality requirements. However, such information is not always fully available to the states. Requiring dual criminality rigidly may sometimes undermine the efficiency and effectiveness of the mutual legal assistance and extradition procedure. Upon these observations, the draft Convention is proposing, with reference to mutual legal assistance, that state parties may not decline to render mutual legal assistance on the grounds of absence of dual criminality; unless the assistance required involves the application of coercive measures. Another proposal is that state parties shall permit testimony, statements or other forms of assistance to be given via video link or other modern means of communication. This Convention will be of particular importance to criminal justice in the coming century, since it corresponds with recent developments in scientific technology throughout the world.

Difficulty may be further encountered when the request for extradition is refused on various grounds, including the principle of non-extradition for political crimes, the principle of non-extradition for its nationals, existence of death penalty in the requesting state, etc. Some of these grounds for refusal are well established in the international society. However, it would be unreasonable and intolerable if certain wrongdoers could flee from justice as a result of those principles. Therefore, another principle *aut dedere aut judicare* (extradite or punish) has to be employed, where necessary and appropriate.

Taking this into consideration, UNAFEI, as a regional institute (affiliated with the United Nations) for the prevention of crime and the treatment of offenders, decided to undertake a series of international training courses and seminars for the coming few years under the general subject of “transnational organized crime”. This seminar will be the first of those to be conducted. It should be noted that discussions at the seminar will focus on mutual legal assistance and extradition rendered mainly through diplomatic channels or central authorities.

## **2. The 115<sup>th</sup> International Training Course**

The 115<sup>th</sup> International Training Course tentatively entitled “Current Issues in Correctional Treatment and their Effective Countermeasures” is scheduled to be held from 15 May to 7 July 2000. The shortened duration of this course is a result of UNAFEI’s participation in the Tenth United Nations Congress for the Prevention of Crime and Treatment of Offenders in Vienna, Austria, from 10 April to 17 April 2000. The 115<sup>th</sup> International Training Course will examine current trends and issues in correctional treatment, including the improvement of prison conditions and the effective transfer of prisoners through the development of bilateral and multilateral treaties.

### ***Other Activities***

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

UNAFEI hosted the second Experts Meeting on Crimes Related to the Computer Network from 25 October to 28 October 1999 in preparation for the Workshop on Crimes Related to the Computer Network, as part of the Tenth United Nations Congress for the Prevention of Crime and the Treatment of Offenders. To this end, UNAFEI welcomed representatives from all world regions to our institute to discuss Workshop issues in terms of their significance to Member States.

UNAFEI willingly assumed responsibility to organize and host the Experts Meetings, as well as to act as coordinator for the Workshop at the Congress, 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, 1997. The first Experts Meeting was held at UNAFEI in October 1998. The work product of this initial meeting was submitted to the eighth session of the Commission on Crime Prevention and Criminal Justice in April 1999. The second Experts Meeting was organized to finalize preparations for the Workshop based on the outcome of the first Experts Meeting and subsequent administrative changes.

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

The Thailand-UNAFEI Joint Seminar will be held in Bangkok under the theme of "Community and Victim Involvement in Criminal Justice Administration" from 13 to 16 December 1999. The Government of the Kingdom of Thailand, through the Office of the Attorney General, and UNAFEI will organize the Joint Seminar.

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## ADMINISTRATIVE NEWS

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### Overseas Trips by Staff

Mr. Shinya Watanabe (Professor) and Mr. Chikara Satou (Professor) represented UNAFEI at the 1<sup>st</sup> International Training Course on the Improvement of Prison Conditions and Correctional Programmes, San Jose, Costa Rica, from 7 August to 21 August 1999.

Mr. Shoji Imafuku (Professor) and Mr. Hiroshi Tsutomi (Professor) visited Kenya as short-term experts, as part of a JICA international assistance scheme for the Prevention of Crime by Children and Young Persons, from 15 August to 5 October 1999.

Mr. Hiroshi Tsutomi (Professor) represented UNAFEI at the 19<sup>th</sup> Asia and Pacific Conference of Correctional Administrators (APCCA), Shanghai, People's Republic of China from 24 October to 29 October 1999.

Mr. Keiichi Aizawa (Professor) attended the International Association of Prosecutors 4<sup>th</sup> Annual Conference General Meeting in Beijing, the Peoples Republic of China from 5 September to 11 September 1999.

Mr. Keiichi Aizawa (Professor) represented UNAFEI at the International Conference for Combatting Child Pornography on the Internet in Vienna, Austria, from 28 September to 2 October 1999.

Mr. Mikinao Kitada (Director) attended the fourteenth Co-ordination Meeting of the Network of United Nations Institutes, 18 November 1999, and the ISPAC International Conference on Responding to the Challenges of Corruption, 19-20 November 1999, in Milan, Italy.

Mr. Masahiro Tauchi (Deputy Director), Mr. Shoji Imafuku (Professor) and Mr. Chikara Satou (Professor) attended the ACPG International World Conference in New Delhi, India, from 21 November to 26 November 1999.

Mr. Chikara Satou (Professor) attended the ILEA Senior Criminal Justice Executive Program on Organised and Transnational Crime in Bangkok, Thailand, from 29 November to 1 December 1999.

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