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~Features~

Contribution

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ONLINE SEMINAR ON INTERNATIONAL ARBITRATION AND MEDIATION

~JAPAN-SINGAPORE PARTNERSHIP PROGRAMME FOR THE 21ST
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- I. Contributions -

SOME REMARKS ON INTERNATIONAL LABOUR MIGRATION STANDARDS

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Migratory processes play a huge role in today's globalized economy and flow of capital which bring their own share of economic benefits. With the spread of irregular migration, trafficking and smuggling of persons, international labour migration is becoming increasingly complex and more complicated to regulate. Many migrant workers, especially women, face abuse, exploitation and other serious issues which constitute barriers to cross-border labour mobility.

To cope with such challenges to protection of labour and other rights of migrant workers, we need effective tools to regulate labour migration, in addition to the international instruments developed over the last few decades¹.

For over a century, the International Labour Organization has been crafting a comprehensive system of international labour standards with a view of maintaining a proper labour migration system, creating equal opportunities for women and men to enjoy their right to work, along with related values.

The ILO established a so-called tripartite structure for states to formulate their respective national employment and migration policies which envisages cooperation between governments, employers and workers.

The result of the decades of work has become a bulk of international conventions and recommendations addressing labour standards in general as well as instruments addressing migrant workers specifically. It should be borne in mind that any such recommendations and conventions emanating from the International Labour Organization represent a minimum standard in the sphere of migrant workers' rights protection and states are free to set a higher level of protection in their domestic legislation. Moreover, all states set their own conditions for admission of migrant workers and members of their families by way of national legislation or international agreements with other states.

The International Labour Organisation aims to ensure protection of workers who undertake employment in a country other than their own. Its conventions and recommendations

¹ ILO. International Migration Programme ILO's Multilateral Framework on Labour Migration; Non-binding principles and guidelines for a rights-based approach Geneva, International Labour Office, 2006, p. v)

are inspired by and draw on the principles embodied in such fundamental international instruments as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and others.

In formulating international standards on labour migration the ILO works in close cooperation with other United Nations bodies such as the Commission on Human Rights, the Commission for Social Development, the Food and Agriculture Organization, the Educational, Scientific and Cultural Organization (UNESCO), the World Health Organization, etc.

It is stressed that the guidelines in the non-binding ILO Multilateral Framework on Labour Migration draw on best practices accumulated from different countries with notable international labour migration standards. In this regard, the work undertaken by the International Labour Conference of the ILO in formulating international labour standards over the years cannot be overestimated.

All international labour standards along with international human rights standards are applicable to migrant workers.

These standards cover fundamental rights conventions such as:

Protocol of 2014 to the Forced Labour Convention, 1930

Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203)

Forced Labour Convention, 1930 (No. 29)

Abolition of Forced Labour Convention, 1957 (No. 105)

Minimum Age Convention, 1973 (No. 138)

Worst Forms of Child Labour Convention, 1999 (No. 182)

Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)

Right to Organize and Collective Bargaining Convention, 1949 (No. 98)

Equal Remuneration Convention, 1951 (No. 100)

Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

migration-specific instruments:

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)

Employment Service Convention, 1948 (No. 88)

Social Security (Minimum Standards) Convention, 1952 (No. 102)

Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955 (No. 100)

Plantations Conventions, 1958 (No. 110)

Equality of Treatment (Social Security) Convention, 1962 (No. 118)
Maintenance of Social Security Rights Convention, 1982 (No. 157)
Private Employment Agencies Convention, 1997 (No. 181)
HIV and AIDS Recommendation, 2010 (No. 200)
Domestic Workers Convention, 2011 (No. 189)
Domestic Workers Recommendation, 2011 (No. 201)

along with instruments of general application such as those on work conditions, safety and remuneration:

Labour Inspection Convention, 1947 (No. 81)
Labour Clauses (Public Contracts) Convention, 1949 (No. 94)
Protection of Wages Convention, 1949 (No. 95)
Employment Injuries Benefit Convention, 1969 (No. 121)
Employment Policy Convention, 1964 (No. 122)
Labour Inspection (Agriculture) Convention, 1969 (No. 129)
Minimum Wage Fixing Convention, 1979 (No. 131)
Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)
Nursing Personnel Convention, 1977 (No. 149)
Occupational Safety and Health Convention, 1981 (No. 155)
Safety and Health in Construction Convention, 1988 (No. 167)
Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172)
Safety and Health in Mines Convention, 1995 (No. 176)
Maternity Protection Convention, 2000 (No. 183)
Safety and Health in Agriculture Convention, 2001 (No. 184).

Aiming at ascertaining the norms which may contribute to the harmonization of national legislation and regulatory acts, the present paper seeks to briefly outline the most important aspects of international regulation of labour migration and standards. International community still suffers from the lack of sufficient recognition of the rights of migrant workers and members of their families. In order to raise the standards of protection applicable to migrant workers, to prevent illegal migration and violation of workers' rights, and solve problems associated with separation of families, it is necessary to implement the basic principles concerning the treatment of migrant workers and members of their families in national legislation.

A starting point of exploration of regulatory instruments in the field is the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families adopted by General Assembly resolution 45/158 of 18 December 1990. It is

noteworthy that the Convention applies to entire migration process – from preparatory stage to the point of return to the home country². In this respect, appropriate consultation services for migrant workers constitute an integral part of the process. In France, the trade union confederations – Confédération Française Démocratique du Travail and Force Ouvrière - run a seasonal work centre for migrant workers that provides consultation to workers regarding their rights, applicable legislation, training options, housing, and possibilities of legalizing their status³.

All states concerned including a state of origin, state of transit and state of employment undertake to guarantee the respect for the human rights of migrant workers and their families at all times when they reside in their territories⁴.

Among the most important human rights of migrant workers and their families which must be ensured one can point out the following: the right to leave any state; to enter and remain in their state of origin; to life; to not be subjected to torture or to cruel, inhuman or degrading treatment or punishment, slavery or servitude or forced labour; to freedom of thought, conscience and religion; liberty of parents to ensure the religious and moral education of their children in conformity with their own convictions; to hold opinions; to seek and receive information; respect for privacy, family, correspondence or other communications; freedom from arbitrary deprivation of property; protection of honour and reputation⁵.

Certain provisions deal with protection of personal liberty and security – in verifying the identity of migrant workers or members of the family by police officers, the procedure prescribed by law must be followed⁶.

Further guarantees include: prohibition of individual or collective arbitrary arrest; communication of the grounds for arrest in a language that migrant worker understands; in case of charges the right to be brought promptly before a judge⁷.

In case the migrant worker is held in custody or awaiting trial in a foreign country, he/she is entitled to expect that the consular or diplomatic authorities of his or her state of origin are promptly informed of his/her situation and can provide legal aid to the person concerned. In case the migrant worker does not understand the language of the proceedings, he/she is entitled to a free interpreter. Migrant workers and members of their families also have the right to appropriate compensation if they are subjected to an unlawful arrest or detention.

When faced with charges and awaiting trial, migrant workers or members of their families shall be separated from convicted persons and receive the respective treatment as unconvicted

² International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families adopted by General Assembly resolution 45/158 of 18 December 1990, Art 1.

³ See note 1, p. 70

⁴ See note 2, Art. 7

⁵ See note 2, Art. 8 - 15

⁶ See note 2, Art. 16

⁷ Ibid.

persons. Special attention is to be paid to minors - accused juvenile persons shall be separated from adults and brought before a judge in the shortest time possible. Furthermore, they should be treated no less favourably than the nationals of the state of employment or the state of transit⁸.

The international standard of bringing a defendant in front of a competent, independent and impartial tribunal established by law applies to migrant workers as well. Sufficient time to prepare a counter-claim, speedy trial, presumption of innocence, prohibition of reverse punishment, legal counsel of own choosing, right to appeal and other fair trial guarantees are to be afforded to the person concerned⁹.

Nor can a failure to fulfil a contractual obligation deprive the migrant worker of his/her authorization of residence or work permit or subject him/her to expulsion unless fulfilment of that obligation constituted a condition for such authorization or permit¹⁰.

It is also prohibited to confiscate, destroy or attempt to destroy identity documents of migrant workers¹¹. In ensuring the right of migrant workers to keep their identity documents, the United States Victims of Trafficking and Violence Protection Act of 2000¹² makes it a criminal offence to retain the identity documents of trafficked victims.

Another instrument - Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) - provides that all Member States of the Convention develop a national policy designed to guarantee equality of treatment of migrant workers with regard to matters pertaining to employment, including social security, trade union participation, cultural and social rights along with other individual and collective freedoms¹³.

Another important principle established by the UN Convention is the entitlement of migrant workers to the same treatment as the nationals of the state of employment in respect of conditions of work, work hours, rest, paid holidays, safety, health, rescission of employment relationship, or an opportunity to join trade unions¹⁴. Exercise of such rights can normally be limited only by measures of national security, public order or the protection of the rights of others.

There are some notable country examples of how international migration and labour standards can be implemented at a national level. For instance, Albanian national law guarantees that hospitals provide free emergency care to all persons, including migrant workers and their dependants on the same terms. Thus, its national policy establishes equal treatment of national and migrant workers including those with irregular status. In the same vein, Czech

⁸ See note 2, Art. 17

⁹ See note 2, Art. 18 - 19

¹⁰ See note 2, Art. 20

¹¹ See note 2, Art. 21

¹² Victims Of Trafficking And Violence Protection Act, Public Law 106 - 386 - Oct. 28, 2000, § 1592

¹³ Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Art. 10

¹⁴ See note 2, Art. 23

Republic and Switzerland adopted similar policies¹⁵.

In Canada, all duly authorized migrant workers enjoy the same social security benefits as are granted to its nationals. Besides, Canada concluded bilateral agreements on social security with other countries. Canadian law also grants migrant workers an opportunity to change employers¹⁶.

To address illegal or clandestine movements and employment of migrant workers in an irregular situation sanctions on natural and legal persons for use of violence, dissemination of misleading information or inciting illegal or clandestine movements of migrant workers or intimidation have been put in place¹⁷. Regarding prevention of and protection against abusive migration practices mechanisms, the United Kingdom's policy provides that workers who leave their original employer due to abuse or exploitation and find themselves in an irregular situation, are entitled to apply for regularization¹⁸.

Provisions on abuse prevention are also contained in another international document. To prevent abuse of domestic workers, including migrant domestic workers by private employment agencies, states should implement relevant preventative practices¹⁹. For this purpose, by way of enacting national legislation states should stipulate that migrant domestic workers who are recruited in another country receive a written job offer, or contract of employment enforceable in the country of destination before they cross borders for the purpose of employment. It is also required to lay down through legal acts the conditions for repatriation on the expiry or termination of the employment contract²⁰.

Particular attention should be paid to adopting special protective measures for the most vulnerable migrant workers taking into account such characteristics as gender, age and migrant status.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) provides guarantees of non-discrimination of migrant workers not solely on the basis of nationality.

One of the most fundamental principles of international labour migration is prohibition of collective expulsion of migrant workers and members of their families. It is on an individual level that each case should be decided. In any case, the decision on expulsion must be in writing, be reasoned, and communicated in the language the migrant understands. In case of a positive decision on expulsion, the worker or his family members cannot bear the costs of expulsion, except for travel costs²¹.

¹⁵ Guidelines 9.3, 9.10. European Institute of Social Security, Leuven, available at <<http://www.eiss.be/>>, accessed February 20, 2022

¹⁶ Guidelines 4.1, 8.1, 9.3, 9.4, 9.7, 9.8, 9.9, 9.12., available at <<http://www.cic.gc.ca/>>; <<http://www.hrdc-drhc.gc.ca/>>; <<http://www.canlii.org/>>; ILO migration survey 2003: Country summaries (Geneva, ILO, 2004), accessed February 20, 2022

¹⁷ See note 2, Art 68; See note 13, Art. 6

¹⁸ See note 1, p. 67

¹⁹ Domestic Workers Convention, 2011 (No. 189), Art. 15

²⁰ Ibid, Art. 8

²¹ See note 2, Art. 22

Further guarantee is provided in case of loss of employment by the worker – such a situation does not put an end to their work permit or authorization to reside in the country of employment provided that the worker has been residing in the country legally²².

States of employment also undertake to provide assistance to migrant workers in preserving their cultural identity and maintaining cultural ties with their home countries. This includes an opportunity for children to learn their mother tongue²³. Reunification of migrant workers' families legally residing in the territory concerned should also be supported²⁴.

Member States are encouraged in cooperation with employers' and workers' associations to put in place procedures on recognition of professional qualification documents acquired abroad including diplomas and certificates²⁵.

Among the measures taken to facilitate cross-border labour mobility one can stress provision of a free public employment service available to all categories of workers which is guaranteed by the Employment Service Convention 1948. At the same time, fee-charging employment agencies should be progressively abolished²⁶.

As far as private employment agencies are concerned, the conditions governing their operation should comply with a number of requirements: non-discrimination of workers, respect for their human rights and privacy, data protection, no fees charging, basic social guarantees, appropriate training, occupational safety, etc²⁷.

To sum up, it is up to each state to craft its migration labour policy taking into account the ILO and other international instruments whose guiding principles are social partnership, dialogue and tripartism. However, even the most carefully developed policies may not prove effective when countries act in isolation; thus, expanding international cooperation has a potential to help manage effectively labour migration and to protect migrant workers.

In designing their policies, Member States shall endeavor to cooperate with employers' and workers' associations and other interested bodies in promoting a well-informed policy. To raise awareness of migrant workers with respect to their opportunities, States enact such legislation and set up educational programmes to ensure smooth implementation of the policy. The ILO Framework will be a useful tool for all stakeholders and actors involved in the labour migration policy - governments, employers' and workers' associations and others. It is also crucial to keep an eye on recent foreign best practices on labour migration policy.

²² See note 13, Art. 8

²³ See note 13, Art. 12

²⁴ See note 13, Art. 13

²⁵ See note 13, Art. 14

²⁶ Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96), Art. 3

²⁷ Private Employment Agencies Convention, 1997 (No. 181).

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UNCITRAL AND ITS DRDE STOCKTAKING PROJECT

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I. Introduction

As Legal Officer at the International Trade Law Division (ITLD) of the UN Office of Legal Affairs, it is my pleasure to contribute this article to provide an overview of the United Nations Commission on International Trade Law (UNCITRAL) and its DRDE stocktaking project. “DRDE” is the acronym of “Dispute Resolution in the Digital Economy”, and ITLD, the division with which I am affiliated, functions as the substantive secretariat of UNCITRAL.

II. UNCITRAL’s role and organizational structure

Established by the United Nations General Assembly in 1966, UNCITRAL is an inter-governmental body with the mandate to progressively harmonize and modernize international trade law. It is the core legal body of the UN system in the field of international trade and commercial law.

UNCITRAL is currently composed of 65 member States, which will be 70 in 2025. UNCITRAL’s composition was recently changed as a result of the initiative to enlarge UNCITRAL’s membership, which was successfully led by the Government of Japan. UNGA adopted by consensus in December 2021 a resolution by which it increased the number of UNCITRAL member States from 60 to 70.¹

UNCITRAL’s work is organized and conducted at three levels. The first level is UNCITRAL itself, referred to as the Commission, which works through an annual plenary session held alternately in New York and Vienna. The second level is the working groups, which to a large extent undertake the development of the topics on UNCITRAL’s work programme. The third level is the secretariat, which assists the Commission and its working groups in the preparation and the conduct of their work.

Currently, work on the following topics is being carried out by the respective working groups.

Working Group I: Micro-, Small- and Medium-sized Enterprises

Working Group II: Arbitration and Conciliation / Dispute Settlement

Working Group III: Investor-State Dispute Settlement (ISDS)

Working Group IV: Electronic Commerce

Working Group V: Insolvency Law

¹ General Assembly resolution 76/109.

III. UNCITRAL's DRDE stocktaking project

A. Dispute resolution as the cornerstone of justice

As discussed above, of the six working groups, two are dedicated to work on dispute resolution-related topics. Dispute resolution is the cornerstone for the delivery of justice, and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, known as the New York Convention, has a long history as the legal foundation of international dispute resolution. On this foundation, UNCITRAL has further developed legal instruments such as the UNCITRAL Model Law on International Commercial Arbitration, and the UNCITRAL Arbitration Rules to establish a credible international framework for dispute resolution. It appears to be that it is for this reason that UNCITRAL's work on dispute resolution continues to attract broad interest and attention. In terms of ongoing work, Working Group II is working to develop texts on technology-related disputes and adjudication, and Working Group III is carrying out work on ISDS reform.

B. Launch of the DRDE stocktaking project

Against this backdrop, and with increased digitalization, accelerated by the outbreak of the global pandemic, UNCITRAL has taken another step forward to intensify its effort in dispute resolution by mandating the secretariat to implement the DRDE stocktaking project.

Proposed and funded by the Ministry of Justice of Japan, the project was endorsed by UNGA and launched in 2021, conferring on the secretariat the mandate to monitor the changing landscape of dispute resolution in the digital economy by compiling, analysing and sharing relevant information with a view to laying the groundwork for possible work on updating UNCITRAL texts or developing new ones if necessary.² The project gives particular attention to the disruptive aspects of digitalization in dispute resolution, especially those with respect to due process and fairness. But it also focuses on the enabling aspects of technology particularly as far as the impact on cost and duration of procedures is concerned.

The Commission, in 2022, requested the secretariat to continue to implement the DRDE stocktaking project and to report back on the preliminary findings at its session in 2023.³ In response to the Commission's request, and as part of the secretariat's implementation of the stocktaking project, the secretariat has embarked on a world tour to seek inputs from different parts of the world to ensure the comprehensiveness of its work.

² General Assembly resolution 76/229, para. 6.

³ Official records of the General Assembly, Seventy-seventh Session, Supplement No. 17 (A/77/17), para. 222.

C. Kick-off of the world tour in Tokyo

The first of the series of discussions was held in Tokyo. Kicking off the world tour, on 15 and 16 December 2022, the UNCITRAL secretariat co-organized with the International Centre for the Settlement of Investment Disputes (ICSID) and the Ministry of Justice of Japan the annual Tokyo Forum on Dispute Resolution, of which the first session held on day one was dedicated to the discussions on the DRDE stocktaking project. With thanks to the co-organizers, and the speakers who made valuable contributions to the discussions, the Tokyo Forum was successfully held with over 100 online participants and 20 in-person participants. I wish to record my special thanks to the Chair of UNCITRAL WGII Mr. Andrés Jana for joining us in-person in Tokyo notwithstanding the travel from Santiago, Chile to Tokyo which takes over 30 hours.

The Tokyo Forum was opened by the three “power women” – Assistant Vice-Minister of Justice Ms. Noriko Shibata, the Secretary of UNCITRAL Ms. Anna Joubin-Bret, and the Secretary-General of ICSID Ms. Meg Kinnear. The ensuing substantive discussions in the first session were conducted in three consecutive panels, which were allocated respectively the topics: (i) the use of technology in arbitration; (ii) online mediation; and (iii) dispute resolution on online platforms. I personally had the honour of coordinating the three panels and of moderating the first two panels.

Regarding arbitration, the topics discussed were: (a) electronic communication; (b) case management; (c) e-document production; (d) new forms of presentation of evidence (e.g. demonstrative exhibits, 3D modelling); (e) online hearings; (f) electronic awards; and (g) AI in the decision-making.

As for online mediation, the panel addressed questions relevant to developing an enabling environment for online mediation. Speakers addressed questions such as how you prepare for online mediation, what needs to be understood by the parties to conduct mediation online, and what the advantages/disadvantages of online mediation are, just to list a few.

Finally on dispute resolution on online platforms, the panel discussed the use of online platforms to administer different types of dispute resolution, and also explored overarching principles applicable to them.

D. The project’s next destination

The DRDE stocktaking project’s next destination is New York. In February, the UNCITRAL secretariat will be co-organizing discussions with partnering institutions at the home of the New York Convention to seek North American perspectives. After New York, in March, discussions will be held in the Latin American and Caribbean region. Furthermore, in May, a roundtable discussion on the stocktaking project will be held during the Vienna Arbitration Days in the lead up to the Commission session scheduled for July 2023. The idea is to

leave no region aside and the UNCITRAL secretariat will be continuing its world tour in the regions of MENA, Sub-Sahara Africa, and Western Europe through to the Commission session in 2024.

IV. Conclusion

The UN Secretariat is grateful for the contributions of the Government of Japan and wishes to reiterate its commitment to implementing the DRDE stocktaking project to deliver concrete outcomes which will lead to further strengthening the legal framework of international dispute resolution.

OVERVIEW OF DRAFTING LEGISLATIVE BILLS IN JAPAN –FOCUSING ON AVOIDING INCONSISTENCY IN LAWS–¹

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Abstract

Today's society has become incredibly complex and internationalized; science and technology are advancing remarkably; the people's awareness and understanding of their rights is also changing. According to these changes, a large number of laws are being enacted in each country, with their contents becoming more and more complicated. Consequently, inconsistency in laws has become a realistic risk and has a negative impact on the rule of law. This paper provides an overview of drafting legislative bills in Japan, in particular the legislative measures to avoid inconsistency in laws.

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1 Introduction

A law includes content which imposes obligations or restricts rights of the people; therefore, it should be accurate as well as comprehensible to those of an average educational level. However, today's society has become incredibly complex and internationalized; science and technology are advancing remarkably; the people's awareness and understanding of their rights is also changing.

In order to respond to these changes, more laws are needed, and their contents are becoming more complex and more difficult to understand. Consequently, inconsistency in laws has become a realistic risk. Inconsistency in laws makes the application and enforcement of laws difficult, harms society's trust in the law, and has a negative impact on the rule of law. It is precisely for this reason that inconsistency in laws has been recognized as a social problem

¹ This paper is based on the presentation delivered on Jan. 27, 2022, at the Virtual Seminar organized by the Japan International Cooperation Organization (JICA) and the Director-General of the Ministry of Law and Human Rights of Indonesia.

in some developing countries, and the appropriate drafting of bills has become an important issue. The International Cooperation Department (ICD), Research and Training Institute (RTI) of the Ministry of Justice (MOJ) of Japan has been supporting Southeast Asian countries in drafting basic laws and regulations.

This paper provides an overview of drafting legislative bills in Japan from the perspective of avoiding inconsistency in laws, focusing on five key areas: an overview of legislation in Japan, the process of drafting legislative bills, the basic principles of interpretation of laws, and various legal measures and techniques used in drafting legislative bills to avoid inconsistency. The following description is based on the author's knowledge and experiences gained while working in the MOJ, the Legislative Bureau of the House of Representatives, etc. The opinions expressed in this paper are the personal views of the author.

2 Overview of Legislation in Japan

(1) Types of Laws and Regulations

In Japan, the Constitution is the supreme law of the nation, and various types of laws and regulations are arranged in a hierarchical manner. Laws and regulations are adopted at the national and local levels. This paper will focus mainly on laws and regulations adopted at the national level.

- A “law” is a statute enacted by the Diet, which is the sole law-making organ of the state.
- An “order” is a regulation established by the administrative organs of the state; it is subordinate to a law. Orders include Cabinet Orders² issued by the Cabinet, Cabinet Office Orders³ issued by the Prime Minister, Ministerial Orders⁴ issued by the Ministers, and Rules⁵ issued by a commission or the director-general of an agency within the administration, such as the Board of Audit and the National Personnel Authority. The independence of these administrative organs from the Cabinet is guaranteed or highly respected, and administrative organs are empowered to adopt their own rules, e.g., the Regulations of the Board of Audit⁶ and the Rules of the National Personnel Authority.⁷ The Regulations of the Board of Audit and the Rules of the National Personnel Authority are characterized as orders.

Also, there are Instructions and Circular Notices issued by a minister, a commission or the director-general of an agency.⁸ They play an important role in ensuring uniformity and clarity

² The Constitution of Japan (1946), Art. 73, Item 6 (hereinafter, the “Constitution”). of the Constitution

³ Act for Establishment of the Cabinet Office, Art. 7, Para. 3.

⁴ National Government Organization Act, Art. 12, Para. 1.

⁵ Ibid., Art. 13, Paras. 1 and 2.

⁶ Board of Audit Act, Art. 38.

⁷ National Public Service Act, Art. 16.

⁸ National Government Organization Act, Art. 14, Para. 2.

in administrative practice; however, they have no binding effect on the courts.

In addition, the House of Representatives and the House of Councillors of the Diet may establish the rules of their respective houses,⁹ and the Supreme Court may also establish the Rules of the Supreme Court.¹⁰ Like orders issued by administrative organs, the rules of both houses and the Rules of the Supreme Court are understood to be inferior to laws.

At the local level, the Constitution authorizes local governments to enact “ordinances” within the scope prescribed by law.¹¹ The head of a local government may issue “regulations”¹² in order to implement the ordinances.

(2) Position of the Diet

The Diet of Japan is the highest organ of state power and the sole law-making organ of the state.¹³ The Diet is bicameral, consisting of the House of Representatives and the House of Councillors.¹⁴

There are two types of bills that form the basis of laws: bills introduced by the Cabinet and those introduced by Diet members. Unless otherwise provided for in the Constitution, a bill becomes a law when it is passed by both Houses.¹⁵

When a law is enacted and promulgated as an act of state by the Emperor,¹⁶ it is given a serial number and signed by both the state minister responsible for the law and the Prime Minister.¹⁷ The law shall come into effect 20 days after promulgation or at any other effective date as stipulated by law.¹⁸

(3) Status of Review after Enforcement of Laws

In Japan, after a law is enacted or amended and comes into effect, the government –composed of the Cabinet and its subsequent administrative authorities – which enforces the law, and the Diet, which supervises the activities of the government, constantly check the status of law enforcement, and if necessary, the law shall be revised.

When a new system is established by enactment or amendment of a law, a “Review Clause” may be established in the supplementary provisions of the law. The supplementary provisions

⁹ Constitution, Art. 58, Para. 2.

¹⁰ Ibid., Art. 77, Para. 1.

¹¹ Ibid., Art. 94; Local Autonomy Act, Art 14.

¹² Local Autonomy Act, Art. 15.

¹³ Ibid., Art. 41.

¹⁴ Ibid., Art. 42.

¹⁵ Ibid., Art. 59, Paras. 1 and 2.

¹⁶ Ibid., Art. 7, Item 1.

¹⁷ Ibid., Art. 74.

¹⁸ Act on General Rules for Application of Laws, Art. 2.

stipulate that the government should review the status of enforcement of the law after a certain period has elapsed. When a “Review Clause” is included in a law, the government reports to the Diet on the status of implementation of the law, and verification is conducted.

[Provision Example No. 1]

-The government shall, within approximately X years after the enforcement of this Act, review the revised Act and take necessary measures based on the results thereof, when it finds it necessary, taking into consideration the status of enforcement of the revised Act by this Act.

(4) Judicial Review of Unconstitutional Legislation

In Japan, the courts have the power to determine whether or not a law conforms to the Constitution,¹⁹ and this is called judicial review. It is customary for any law that has been judged unconstitutional by the court to be amended as necessary.

[Reference Article No. 1] The Constitution of Japan

Article 81 *The Supreme Court is the court of last resort with power to determine the constitutionality of any law, order, regulation or official act.*

In Japan, the Constitution adopts the separation of powers in the relationship between the legislature, the executive, and the judiciary; the right to review unconstitutional legislation is one manifestation of the separation of powers.

There are two types of unconstitutional legislative review systems: abstract unconstitutional review and incidental unconstitutional review. The abstract unconstitutional review system is one in which a specially established court, such as the Constitutional Court, conducts judicial review in an abstract manner, irrespective of specific cases, whereas the incidental unconstitutional review system means that when an ordinary court tries a specific case, it reviews the constitutionality of the applicable articles to the extent necessary to resolve the case. Japan has adopted an incidental unconstitutional review system. In other words, the Supreme Court of Japan is not authorized to judge the constitutionality of a particular law separately from a specific, individual case. In other words, it is only allowed to make a judgment on a specific dispute as an appellate court.

The criteria for the Court’s review of unconstitutional legislation vary depending on the nature of the rights restricted by the law. However, in general, the judgment is made by comprehensively considering the necessity of the legislative purpose and the adequacy of the

¹⁹ Constitution, Art. 81.

legislative means.

Upon drafting a legislative bill, it is essential to make it consistent with the Constitution; it is also necessary for drafters to fully understand the criteria for the Court's review of unconstitutional legislation in advance.

3 Process of Drafting Legislative Bills and Other Related Issues

(1) Legislative Bills Introduced by the Cabinet and Those Introduced by the Diet Members

In Japan, both the Cabinet and the Diet members have the right to submit legislative bills. Japan has adopted a parliamentary cabinet system, and most of the enacted laws are based on the legislative bills introduced by the Cabinet. Therefore, they will be explained first.

If a minister finds it necessary to enact, amend, or repeal a law concerning the minister's area of administrative responsibility – the minister will prepare a draft bill, submit it to the Prime Minister, and request a Cabinet meeting.²⁰ Legislative bills introduced by the Cabinet require prior legal examination by the Cabinet Legislation Bureau,²¹ and the Prime Minister submits the bill to the Diet on behalf of the Cabinet.²²

In Japan, the authority of the Cabinet Legislative Bureau within the administrative body is highly recognized; its prior legal examination of legislative bills is detailed and thorough, and the Director-General of the Cabinet Legislative Bureau also participates in Cabinet meetings. Thus, through experience, the Cabinet Legislation Bureau has established the existing rules and techniques of drafting legislative bills.

The Diet members are also granted the right to introduce legislative bills in Japan.²³ The Legislative Bureau of the House of Representatives and the Legislative Bureau of the House of Councillors contribute to the legislative planning by Diet members in each House.²⁴ It is customary for the legislative bureaus of each house to review legislative bills introduced by Diet members. Furthermore, in order to assist the legislative activities of both houses, the National Diet Library has the Research and Legislative Reference Bureau,²⁵ and a research bureau is established in the secretariats of both houses.

There are some cases in which an urgent legislative bill introduced by Diet members needs to be enacted expeditiously, but the government has not fully prepared legislation to address the matter. If a consensus is reached between the ruling and opposition parties, then the legislative bill can be enacted.

²⁰ National Government Organization Act, Art. 11.

²¹ Act for Establishment of the Cabinet Legislation Bureau, Art. 3, Item 1.

²² Cabinet Act, Art. 5.

²³ Diet Act, Art. 56, Para. 1.

²⁴ Diet Act, Art. 131, Para. 1; Legislative Bureau of the House Act, Art. 1-10.

²⁵ National Diet Library Act, Art. 15.

(2) Process of Drafting Legislative Bills

Since the law contains contents which impose obligations or restrict rights of the people, the purpose of the law and the means to achieve it must be reasonable when enacting, amending, or repealing it.

The social and economic facts that support the necessity of enacting a law are called “legislative facts”. After the research and confirmation of the legislative facts by the department in charge of the bill, the main contents of the bill are compiled as the Outline of the Legislative Bill, and the bill is prepared based on this outline.

In the process of drafting legislative bills introduced by the Cabinet, an advisory council consisting of academic experts and professionals is set up in each ministry. The advisory council deliberates on the contents of the bill in consultation with the Minister, and it is often the case that the outline is prepared based on the deliberations. For example, in Japan, the MOJ is in charge of basic laws such as the Civil Code and the Penal Code, and the Legislative Council, established by Legislative Council Order, conducts research and deliberations on these basic laws and other basic matters related to legal affairs in response to consultations with the Justice Minister. Therefore, upon preparing to submit a legislative bill to enact, amend or repeal these basic laws, the bill should, in practice, be researched and deliberated by the Legislative Council.

The density of contents stipulated in laws varies from country to country. Some countries have a low-context culture in which laws and contracts contain detailed matters, while other countries have a high-context culture in which only important matters are included.²⁶ It is said that Japan has traditionally been considered a high-context culture; however, recently, the content to be included in laws tends to be more detailed than before, responding to the change of the society and the effect of the globalization.

In Japan, the typical matters to be stipulated in laws are: (1) matters that impose obligations or restrict the rights of the people, and (2) basic matters concerning administrative organizations. Other matters to be stipulated in the law include provisions concerning the purport and purpose of the law (“purport provisions”, “purpose provisions”), provisions for definitions of legal terms (“definition provisions”), provisions for guidelines for interpretation when applying laws (“interpretative provisions”), and provisions imposing certain obligations on the government to take action (“instruction provisions”).

(3) Division of Roles between Laws and Orders

Laws must be deliberated and approved by the Diet and, in general, they require a great deal of time and efforts to enact. Today, society is changing so rapidly and complexly that it is

²⁶ These concepts “high-context culture” and “low-context culture” are referenced by the American anthropologist Edward T. Hall in his 1976 book *Beyond Culture*.

not realistic to regulate all procedural, technical and detailed matters by law; there are some matters that should be left to administrative agencies. On the other hand, if the content that should be stipulated by law is left entirely to orders, there is a risk that the legislative body's inherent legislative power will be substantially infringed. That is why the division of roles between laws and orders is important, and it is necessary to draft legislative bills with an awareness of that distinction between the two.

There are two types of orders: "delegation orders" and "execution orders". A delegation order is an order based on the delegation of authority to an administrative agency to determine the matters under the jurisdiction of the law and within the scope of the delegation, while an execution order is an order to enforce the provisions of the Constitution or laws. An execution order is an order that prescribes procedural, technical, or detailed matters in relation to what is already provided for by the law and does not require delegation by a law. However, because the administrative agency does not have authorization by law, it is not allowed to make provisions that impose obligations on or restrict rights of the people.

In Japan, there are provisions in the Constitution and laws regarding the delegation of laws, and it is clearly stated that without delegation, it is not possible for an administrative agency to establish penalties, impose obligations, or make provisions that restrict the rights of the people.²⁷

[Reference Article No. 2] The Constitution of Japan

Article 73 *The Cabinet, in addition to other general administrative functions, shall perform the following functions:*

(vi) Enact cabinet orders in order to execute the provisions of this Constitution and of the law. However, it cannot include penal provisions in such cabinet orders unless authorized by such law.

[Reference Article No. 3] Cabinet Act (Act No. 5 of 1947)

Article 11 *No provisions imposing obligations or restricting rights can be made in a Cabinet Order unless authorized by law.*

[Reference Article No. 4] National Government Organization Act (Act No. 120 of 1948)

(Authority of the Head of the Administrative Agencies)

Article 12 *<Omitted>*

(3) *Without delegation by laws, no penal provisions or any provisions that impose*

²⁷ Constitution, Art. 73, Item 6; Cabinet Act, Art. 11; Act for Establishment of the Cabinet Office, Art. 7, Paras. 3 and 4; National Government Organization Act, Art. 12, Paras. 1 and 3 and Art. 13, Para. 2.

obligations on or restrict the rights of citizens may be established in Ministerial Orders.

(4) “Coordination” and “Arrangement” of Laws

Upon preparing a legislative bill, it is necessary to formally delete unnecessary provisions of other laws and change the wording in accordance with amendments. This is referred to as “Coordination”, and if adjustments to the content are involved, it is referred to as “Arrangement”.

For example, when amending a specific law, if the term “A” was used before the amendment and it is changed to the term “B”, it is necessary to change all the terms “A” cited in other laws to “B”. In order to research all laws under the jurisdiction of other ministries, it is necessary to conduct a comprehensive search of laws on the statutes at large and on the Internet, and to make inquiries to other ministries. Once all necessary amendments to other laws have been identified and added to the legislative bill as supplementary provisions, and after obtaining the approval of all relevant ministries, the legislative bill is submitted to the Prime Minister for consideration at a Cabinet meeting.

In general, “Coordination” and “Arrangement” are provided for in the supplementary provisions of the legislative bill; however, if they make up the majority, another law may be enacted. A legislative bill with a name “Legislative bill concerning the arrangement of related laws in connection with the enforcement of the Act for Partial Amendment of the Civil Code” is one such example.

(5) Key Points for Drafting Legislative Bills

The basic points to remember when drafting legislative bills are: (1) determine and establish the purpose of enactment of the law, (2) make the expressions of the provisions in the legislative bill as accurate and comprehensible as possible in order to achieve the purpose of the law, (3) ensure the effectiveness of the law, (4) maintain a coherent order between the legislative bill and the existing legal system, and (5) coordinate and arrange the related laws. Also, in order to ensure consistency between the legislative bill and the existing legal system, it is important to ensure (1) conformity with the Constitution, (2) consistency with other laws and the appropriateness of delegation to administrative agencies, and (3) consistency between the new law (after the revision) and the old law (before the revision).

4 Basic Principles of Interpretation of Laws

(1) Introduction

Interpretation of laws and regulations needs to be systematic and reasonable; there are some basic principles that are generally agreed upon among legal experts. For those who draft legislative bills, it is necessary to consider in what cases legislative measures are necessary

while taking into account the principles of statutory interpretation.

(2) The Principle of the Hierarchy of Laws

The first of the principles of interpretation is the principle of the hierarchy of laws and regulations. Among the various legal forms, the Constitution has the strongest legal effectiveness in the national legal order, followed by laws and orders.²⁸

(3) The Principle of the Jurisdictional Scope of Laws and Regulations

The second is the principle of the jurisdictional scope of laws and regulations. Under the Japanese legal system, the scope of jurisdiction is determined by the type of form of the legal instrument, and any laws and regulations that exceed their scope are invalid. For example, an order may not impose obligations or restrictions on the people unless authority to do so is expressly delegated by law because it would cause inconsistency in laws.

Also, in the case of a legislative bill introduced by the Cabinet, it is also important to consider each minister's responsibility for administrative work. Ministers are to prepare legislative bills within the scope of the administrative affairs of which they are responsible. The administrative duties of each minister are specified in separate laws that define the scope of the ministry's jurisdiction.²⁹ For example, the administrative duties of the Justice Minister are governed by the Act for Establishment of the Ministry of Justice, which defines the affairs under the jurisdiction of the MOJ.

If there is any question regarding the authority among ministers, the Prime Minister is to make a decision in a Cabinet meeting.³⁰ In order to avoid inconsistency in laws, it is important to have a clear division of duties among administrative departments.

(4) The Principle of the Superiority of Subsequent Laws

The third is the principle of the superiority of subsequent laws, which means that between laws of equivalent legal form, the subsequent law will defeat the former law (*lex posterior derogat priori*). In principle, the standard for judging which law is prior and subsequent, depends on which law has been established before the other.

(5) The Principle of Priority of Special Laws

The fourth is the principle of priority of special laws (*lex specialis derogat generali*). It means that among laws of equivalent legal form, special laws have priority over general laws. Principles of superiority of subsequent laws and priority of special laws are both methods of interpretation for resolving inconsistency in laws and regulations of equivalent legal form. When these principles overlap, in principle, the principle of priority of special laws prevails.

²⁸ Constitution, Article 98.

²⁹ Cabinet Act, Art. 3; National Government Organization Act, Art. 4.

³⁰ Cabinet Act, Art. 7.

5 Legislative Measures to Avoid Inconsistency in Laws

(1) Introduction

Various legislative measures are taken to avoid inconsistency in laws, and these measures will be explained using Japanese laws as examples.

(2) Application of and Exclusion from Laws

The scope of application of a law must be clearly defined. “Application” here means “the provision of the laws and regulations actually takes effect and acts on specific persons, specific areas, and specific matters in an individual and specific manner.”

For example, [Reference Article No. 5] shows the scope of application of the Penal Code to a person who commits a crime in Japan, and the Penal Code also has other provisions to clarify the scope of its application to crimes, such as “Crimes committed by Japanese nationals outside Japan”,³¹ “Crimes committed by non-Japanese nationals outside Japan”,³² “Crimes committed by public officials outside Japan”,³³ and “Crimes committed outside Japan governed by treaty.”³⁴

[Reference Article No. 5] Penal Code (Act No. 45 of 1907)

(Crimes Committed within Japan)

Article 1 This Code applies to anyone who commits a crime within the territory of Japan.

(2) <Omitted>

It is necessary to clarify the scope of application of the law; however, at the same time, it is also important to exclude the application of a specific law in order to prevent possible question or doubt regarding the interpretation. For example, when “Act A” is being applied, and there is a possibility that “Act B” can also be applied from a formal and textual point of view, inconsistency in laws can be avoided by providing a provision to exclude the application of “Act B” in advance.

[Reference Articles No. 6 and No. 7] below stipulate that the labor-related laws that govern the relationship between employers and employees do not apply to national public officials. The exclusion is provided for precaution, since the National Public Service Act is applied to national public officials.

[Reference Article No. 6] National Public Service Act (Act No. 120 of 1947)

Article 16 of the Supplementary Provisions The Labor Union Act (Act No. 174 of 1949), the Labor Relations Adjustment Act (Act No. 25 of 1946), the Labor Standards Act (Act

³¹ Penal Code, Art. 3.

³² Ibid., Art. 3-2.

³³ Ibid., Art. 4.

³⁴ Ibid., Art. 5.

No. 49 of 1947), ...) ... and orders issued under these Acts shall not apply to officials belonging to the regular service of Article 2.

[Reference Article No. 7] Labor Contracts Act (Act No. 128 of 2007)
(Exclusion from Application)

Article 21 *This Act does not apply to national public officers or local public officers.*

(3) Priority between Laws and Customs

In Japan, the priority between law and custom is also coordinated by law. With respect to custom, Japan has provisions in the Act on General Rules for Application of Laws, the Commercial Code, and the Civil Code. With regard to matters relating to commerce, the provisions of the Commercial Code clarify that where there are provisions of the Commercial Code, the provisions of the Commercial Code shall apply; where there are no provisions of the Commercial Code but there are commercial customs, the commercial customs shall apply; and where there are no commercial customs, the provisions of the Civil Code shall apply.

In the area of private law, such as the Commercial Code and the Civil Code, the intention of the parties is respected, except in cases where there are mandatory provisions concerning public order. Therefore, as a judicial norm, unless mandatory provisions are applied, contractual clauses, commercial practices that differ from voluntary provisions, and voluntary provisions of the Commercial Code and the Civil Code are applied in this order.

[Reference Article No. 8] Act on General Rules for Application of Laws (Act No. 78 of 2006)
(Customs Having the Same Effect as Laws)

Article 3 *Customs which are not against public policy have the same effect as laws, to the extent that they are authorized by the provisions of laws and regulations, or they relate to matters not provided for in laws and regulations.*

[Reference Article No. 9] Civil Code (Act No. 89 of 1896)
(Customs Inconsistent with Default Rules)

Article 92 *If a custom is inconsistent with the provisions of laws and regulations that are not related to public policy and it is found that the party to the juridical act has the intention to abide by that custom, that custom prevails.*

[Reference Article No. 10] Commercial Code (Act No. 48 of 1899)
(Purpose, etc.)

Article 1 *<Omitted>*

(2) A commercial matter not provided for in this Code is governed by commercial custom, and if there is no commercial custom, it is governed by the provisions of the Civil Code (Act No. 89 of 1896).

(4) General Laws and Special Laws

There are many examples of articles governing the relationship between general laws and special laws. In Japan, it has already been explained that there is a principle of legal interpretation that prioritizes special laws over general laws. When enacting a new law, it is important to clarify the priority between the new law and the existing law to ensure the consistency of the law.

First, I will explain about the laws concerning criminal penalties. In Japan, penalties are provided in the Penal Code and other laws; however, the General Provisions of the Penal Code also apply to penalties provided in other laws. In other words, the Penal Code is positioned as the general law for all laws and regulations that deal with criminal penalties. In order to exclude the General Provisions of the Penal Code, it is necessary to state the exclusion in a special law.

[Reference Article No. 11] Penal Code (Act No. 45 of 1907)

(Application of General Provisions)

Article 8 The general provisions of this Part also apply to crimes for which punishments are provided by other laws and regulations, except when special provisions are provided in such laws and regulations.

Next, with regard to the relationship between the Code of Civil Procedure and the Code of Administrative Procedure, [Reference Article No. 12] indicates that the Code of Civil Procedure is a general law on procedures related to civil litigation, and [Reference Article No. 13] indicates that the Administrative Case Litigation Act is a special provision to the Code of Civil Procedure and other laws related to civil litigation.

[Reference Article No. 12] Code of Civil Procedure (Act No. 109 of 1996)

(Purpose)

Article 1 Beyond what is provided for in other laws and regulations, procedure in civil litigation is governed by the provisions of this Code.

[Reference Article No. 13] Administrative Case Litigation Act

(Act No. 139 of 1962)

(Matters Not Provided for in This Act)

Article 7 Any matters concerning administrative case litigation which are not provided for in this Act are governed by the provisions on civil actions.

In some cases, one law clarifies the relationship between different laws by placing provisions that apply *mutatis mutandis* to the provisions of another law. The term “apply *mutatis mutandis*” means “to apply, with the necessary changes, the provisions on a certain matter to a similar but different matter”. For instance, in Japan, the Code of Civil Procedure governs procedures related to civil litigation, and the Civil Execution Act governs procedures related to civil execution. Although the two laws govern different areas of law, there are similarities between them, so the provisions of the Code of Civil Procedure “apply *mutatis mutandis*” to the civil execution procedure.

[Reference Article No. 14] Civil Execution Act (Act No. 4 of 1979)

(Application Mutatis Mutandis of the Code of Civil Procedure)

Article 20 Except as otherwise provided for, the provisions of the Code of Civil Procedure shall apply *mutatis mutandis* to civil execution procedures.

In Japan, with regard to contracts, the Civil Code provides for typical contracts, but there are many special laws as well. The Consumer Contract Act is one of them. It regulates contractual relationships from the perspective of protecting “consumers”, taking into account the information gap between “consumers” (individuals (excluding those who become a party to a contract as a business or for a business purposes)) and “traders” (corporations or associations, or individuals who become parties to a contract as a business or for business purposes).

According to Article 11, Paragraph 1 of the Consumer Contract Act in [Reference Article No. 15], the “rescission of the manifestation of intention to offer or accept a consumer contract and the validity of the terms of the consumer contract” are areas regulated by the Civil Code and the Commercial Code; however, it indicates that the Consumer Contract Act is applied. Article 11, Paragraph 2 of the Consumer Contract Act provides that if there is any inconsistency between the Consumer Contract Act and any other provisions of laws other than the Civil Code and the Commercial Code, the separate provisions of other laws shall be prioritized in application over the Consumer Contract Act.

[Reference Article No. 15] Consumer Contract Act (Act No. 61 of 2000)

(Application of Other Laws)

Article 11 Beyond what is provided for in this Act, the rescission of the manifestation of

an intention to be bound by the offer of a consumer contract or by the acceptance of such an offer and the validity of the clauses in a consumer contract are governed by the Civil Code and the Commercial Code (Act No. 48 of 1899).

(2) If a law or regulation other than the Civil Code and the Commercial Code specifically provides for the rescission of the manifestation of an intention to be bound by the offer of a consumer contract or by the acceptance of such an offer and the validity of the clauses in a consumer contract, that law or regulation supersedes this Act.

In Japan, the Civil Code serves as the general law of torts, but there are many special laws of torts. Article 709 of the Civil Code of [Reference Article No. 16] is a basic provision on civil torts. It is understood that Article 709 of the Civil Code stipulates that the intention and negligence of the perpetrator are the requirements for the establishment of liability in tort, and that the burden of proof and assertion of such liability is on the plaintiff. On the other hand, Article 103 of the Patent Act in [Reference Article No. 17] provides that a person who infringes a patent is presumed to be negligent in the act of infringement. Under this provision, the patent holder does not bear the burden of proof for the negligence of the alleged infringer, and the alleged infringer bears the burden of proof for his/her own no-fault claim. Article 103 of the Patent Act shifts the burden of proof for negligence, which is a special provision of Article 709 of the Civil Code.

[Reference Article No. 16] Civil Code (Act No. 89 of 1896)

(Compensation for Loss or Damage in Torts)

Article 709 *A person that has intentionally or negligently infringed the rights or legally protected interests of another person is liable to compensate for damage resulting in consequence.*

[Reference Article No. 17] Patent Act (Act No. 121 of 1959)

(Presumption of Negligence)

Article 103 *A person that infringes another person's patent or violates another person's exclusive license is presumed to be negligent in having infringed or violated it.*

The State Redress Act stipulates that if a public employee exercising public authority of the State or a public entity unlawfully causes damage to another person by willful misconduct or negligence in the performance of his or her duties, the State or a public entity is directly

liable.³⁵ This is also a special provision³⁶ against torts of the Civil Code.³⁷ With regard to the liability of the State or a public entity for damages, in addition to the provisions of the State Redress Act, if there are provisions in other laws other than the Civil Code, such other provisions are to be applied.³⁸

[Reference Article No. 18] Civil Code (Act No. 89 of 1896)

(Liability of Employers)

Article 715 (1) *A person that employs another person for a business undertaking is liable to compensate for damage inflicted on a third party by that person's employees with respect to the execution of that business; provided, however, that this does not apply if the employer exercised reasonable care in appointing the employee or in supervising the business, or if the damage could not have been avoided even if the employer had exercised reasonable care.*

(2), (3) <Omitted>

[Reference Article No. 19] State Redress Act (Act No. 125 of 1947)

Article 1 (1) *When a public employee who exercises the public authority of the State or of a public entity has, in the course of their duties, unlawfully caused loss or damage to another person intentionally or negligently, the State or public entity assumes the responsibility to compensate therefor.*

(2) *In the case referred to in the preceding paragraph, when there was intent or gross negligence on the part of the public employee, the State or public entity has the right to obtain reimbursement from that public employee.*

Article 4 *The State's or a public entity's responsibility to compensate for loss or damage is, in addition to being pursuant to the preceding three Articles, pursuant to the provisions of the Civil Code.*

Article 5 *As to the State's or a public entity's responsibility to compensate for loss or damage, if Acts other than the Civil Code provide otherwise, those Acts take priority.*

(5) Interpretative Provisions

When there is a possibility that the application of a law may be questionable, interpretative provisions may be established to provide guidelines for interpreting the law. The Consumer Contract Act is applied preferentially in the areas regulated by the Civil Code and the Commercial Code; however, as shown in [Reference Article No. 21], Article 6 of the

³⁵ State Redress Act, Art. 1.

³⁶ Ibid., Art. 4.

³⁷ Civil Code, Arts. 709, 715.

³⁸ State Redress Act, Art. 5.

Consumer Contract Act is established as an interpretative provision, which stipulates that the application of the provisions of the Civil Code shall not be precluded in spite of the Consumer Contract Act.

[Reference Article No. 20] Civil Code (Act No. 89 of 1896)

(Fraud or Duress)

Article 96 (1) *A manifestation of intention based on fraud or duress is voidable.*

(2), (3) <Omitted>

[Reference Article No. 21] Consumer Contract Act (Act No. 61 of 2000)

(Rescinding the Manifestation of an Intention to Be Bound by the Offer of a Consumer Contract or by the Acceptance of Such an Offer)

Article 4 (1) *A consumer may rescind the manifestation of an intention to be bound by the offer of a consumer contract or by the acceptance of such an offer if either of the acts set forth in the following items taken by the trader in soliciting the consumer to enter into the consumer contract caused the consumer to be under the mistaken belief prescribed in the items, and manifested the intention to be bound by the offer of that consumer contract or by the acceptance of such an offer:*

- (i) conveying something that diverges from the truth with regard to an important matter: a mistaken belief that what has been conveyed is true;*
- (ii) <Omitted>*

(Interpretative Provisions)

Article 6 *The provisions of Article 4, paragraphs (1) through (4) must not be interpreted as precluding the application of Article 96 of the Civil Code (Act No. 89 of 1896) to the manifestation of an intention to be bound by the offer of a consumer contract or by the acceptance of such an offer falling under these paragraphs.*

(6) Adjustments in the Application of Laws Which Regulate the Same or Similar Objects

When two or more different laws regulate the same or similar objects from their respective purposes, it is necessary to provide provisions to adjust the relationship between those laws in order to avoid inconsistency.

The Act on Penal Detention Facilities and the Treatment of Inmates and Detainees and the Code of Criminal Procedure, as shown in Reference Articles No. 22 and No. 23, have provisions on the prohibition of visits to detainees. The Act on Penal Detention Facilities and the Treatment of Inmates and Detainees stipulates the cases in which the warden of the penal

institution may prohibit visits, and the Code of Criminal Procedure stipulates the cases in which visits should be prohibited by judicial decision. When the warden of a penal institution allows or prohibits visits based on Japanese law, it can be unclear whether the provisions of the Act on Penal Detention Facilities and the Treatment of Inmates and Detainees or those of the Code of Criminal Procedure should be followed.

Accordingly, the Act on Penal Detention Facilities and the Treatment of Inmates and Detainees contains a proviso (“provided, however, . . . ”), as shown in [Reference Article No. 22], that adjusts the relationship between the two laws by providing an exception where the warden of the penal institution must prohibit the visit if it is prohibited by the Code of Criminal Procedure, even if the visit is permitted under the provisions of the Act on Penal Detention Facilities and the Treatment of Inmates and Detainees.

The expression “provided, however, ...” is a provision where exceptions are provided.

[Reference Article No. 22] Act on Penal Detention Facilities and the Treatment of Inmates and Detainees (Act No. 50 of 2005)
(Visitors)

Article 115 *When a person requests to visit a detainee awaiting a judicial decision (except those classified as either a sentenced person or an inmate sentenced to death; hereinafter the same applies in this Division), wardens of penal institutions are to permit the detainee awaiting a judicial decision to receive a visit except for when it is prohibited pursuant to the provisions of Article 148, paragraph (3) or the provisions of the next Section; provided, however, that the foregoing does not apply where receiving a visit is not permitted by the provisions of the Code of Criminal Procedure.*

[Reference Article No. 23] Code of Criminal Procedure (Act No. 131 of 1948)

Article 81 *The court may, when there is probable cause to suspect that the accused under detention may flee or conceal or destroy evidence, upon the request of a public prosecutor or ex officio, prohibit the accused from having an interview with persons other than those prescribed in Article 39, paragraph (1), or censor the documents or articles sent or received by the accused, prohibit the sending or receiving of said documents or articles, or seize said documents or articles; provided however, that the court may not prohibit the sending or receiving of food, nor seize food.*

(7) Dealing with Cases Where the Same Legal Term Has Different Meanings Depending on the Law

When the same legal term has different meanings depending on the law, it is necessary to clearly stipulate and define it. For example, in Japan, it is common to exclude the first day in the calculation of the “period”, when it is determined by a day, week, month or year, in the Civil Code and many other laws. However, the first day is to be included in the calculation of the “period” of punishment in the Penal Code and the “period” of prescription in the Code of Criminal Procedure. In this way, when the same legal term has different meanings depending on the law, it is necessary to clearly describe and define the meaning of the term in the respective law.

[Reference Article No. 24] Civil Code (Act No. 89 of 1896)

Article 140 When a period is provided for in days, weeks, months, or years, the first day of the period is not included in the computation; provided, however, that this does not apply when the period commences at twelve midnight.

[Reference Article No. 25] Penal Code (Act No. 45 of 1907)

(First Day and Last Day of Imprisonment)

Article 24 (1) The first day of imprisonment is calculated as one whole day regardless of the number of hours actually imprisoned. The same applies to the first day of the period of prescription.

(2) <Omitted>

[Reference Article No. 26] Code of Criminal Procedure (Act No. 131 of 1948)

Article 55 (1) In the calculation of time periods, those that are calculated by hours begin to run immediately, and those that are calculated by days, months or years do not include the first day; provided however, that the first day of a period of statute of limitations is included as one day irrespective of the hours of that day.

(2), (3) <Omitted>

(8) Relationship between Laws and Treaties

In Japan, the conclusion of a treaty requires the approval of the Diet; however, the treaty has domestic legal effect upon promulgation, and it is generally recognized that the domestic legal effect of a treaty does not take precedence over the Constitution, but over laws and regulations.

Regarding treaties that regulate the rights and obligations of the people, there are many laws in which provisions are made, such as Article 5 of the Copyright Act, for the purpose of clarifying the domestic legal effect of those treaties.

[Reference Article No. 27] Copyright Act (Act No. 48 of 1970)

(Effect of International Treaties)

Article 5 *If an international treaty provides otherwise with respect to the rights of authors and neighboring rights, the provisions thereof prevail.*

(9) Delegation Provisions

A provision in which a law delegates authority to an administrative agency is called a delegation provision. The delegation provision allows the Diet to grant discretion to the administrative agencies responsible for enforcing the law to a reasonable extent; however, an overly abstract or comprehensive delegation is not allowed, and may be illegal in some cases.

The following is an example of the delegation provisions of Japan's Act on Penal Detention Facilities and the Treatment of Inmates and Detainees regarding visits which prisoners receive. In delegating some restrictions on those visits to an Order, as stated in [Reference Article No. 28], one might consider establishing a simple provision as follows, "With regard to the visits a sentenced person receives, wardens of the penal institution may, pursuant to an MOJ Ordinance, impose necessary restrictions." However, under this provision, it is unclear which matters are restricted with regard to visits and from what necessity they are restricted. Therefore, the actual delegation provision, as in [Reference Article No. 28], states that the matters to be stipulated in the Order are "the number of visitors, the visiting site, date and time, duration and frequency of visits, and other conditions of visits". Furthermore, it specifies that necessary restrictions shall be made from the viewpoint of "either maintaining discipline and order or the management and administration of the penal institution", thereby specifically defining the content of delegated provisions and giving consideration to the discretion of administrative agencies.

[Reference Article No. 28] Act on Penal Detention Facilities and the Treatment of Inmates and Detainees (Act No. 50 of 2005)

(Restrictions on Visits)

Article 114 (1) *With regard to the visits a sentenced person receives, wardens of penal institutions may, pursuant to an MOJ Order, impose restrictions necessary for either maintaining discipline and order or the management and administration of the penal institution as to the number of visitors, the visiting site, date and time, duration and*

frequency of visits, and other conditions of visits.

Some delegation provisions have the purpose of identifying a particular rule, regulation or any other type of laws, by which necessary details should be prescribed.

The delegation in this [Reference Article No. 29] is, in effect, implementing the law, that is, the Supreme Court is delegated the authority to prescribe necessary rules related to procedure in civil litigation for the implementation and enforcement of the Code of Civil Procedure.

[Reference Article No. 29] Code of Civil Procedure (Act No. 109 of 1996)
(Rules of the Supreme Court)

Article 3 *Beyond what is provided for in this Code, necessary particulars in connection with procedure in civil litigation are prescribed by the Rules of the Supreme Court.*

6 Legislative Measures to Avoid Inconsistency in New Laws and Old Laws

(1) Introduction

When a law is enacted, amended, or repealed, it is necessary to avoid inconsistency in laws in the process of transition from the old law to the new law. This is the issue of the provision of the effective date and transitional measures. The effective date and transitional measures are not provided in the main provisions, which are the main body of the law, but in the supplementary provisions, which provide for incidental matters.

(2) Effective Date and Retroactive Application

There are variations in the method of determining the effective date, as shown in the examples. In some cases, the effective date is the date of promulgation. However, it may be undesirable to set the effective date of a law that imposes obligations on or restricts the rights of the people in such a way that the law takes effect immediately after the date of promulgation because there is no grace period for the law to be sufficiently known to the general public. Therefore, in addition to providing a certain grace period between the date of promulgation and the date of enforcement, there are cases where the date of enforcement is delegated to a Cabinet Order or enacted in another law.

[Provision Example No. 2]

- *This Act shall come into effect as of the date of promulgation.*
- *This Act shall come into effect as of MM/DD/YY.*
- *This Act shall come into effect as of the day on which a period of X months has elapsed since the day of promulgation.*

- *This Act shall come into effect as of the date specified by a Cabinet Order within a period not exceeding X months from the date of promulgation.*
- *This Act shall come into effect as of the date specified separately by law.*

In principle, a law has effect as a legal norm on actual events as soon as it comes into effect, and is applied to events as of the effective date, with the exception of “retroactive application”. The term “retroactive application” refers to “the application of the law and regulation to events occurring on or after a certain date prior to its effective date”. However, it is generally avoided as it is detrimental to legal stability, unless it contributes to the benefit of the people. Yet, retroactive application may be appropriate if it is thought that the rights and obligations of the subject to which the law applies will not have negative impact, but rather benefit them. The provision of retroactive application shall stipulate that the revised law shall be applied from the date prior to the effective date.

[Provision Example No. 3]

- *This Act shall come into effect as of the date of promulgation; provided, however, that the provisions of Article X as amended by this Act shall come into effect as of MM/DD/YY.*

(3) Transitional Measures (Other Than Penalty Provisions)

In principle, a law takes effect on the effective date and applies to events after that. However, when it affects existing rights, it is necessary to ensure legal stability, and when it places a heavy burden on the people, it is necessary to set a certain grace period in consideration of the socially vulnerable. Necessity/non-necessity and content of the transitional measures is the part of the legislative bill that requires the most technical and policy consideration.

[Provision Example No. 4]

- *The provisions of the New Act (excluding penal provisions) shall also apply to matters that have arisen prior to the enforcement of the New Act, except as otherwise provided in these Supplementary Provisions. However, this shall not preclude the effect caused by the provisions of the Former Act.*
- *The provisions of Article X shall not apply to . . . made before this Act came into effect.*
- *The provisions then in force shall remain applicable to . . . made before this Act came into effect.*

In some cases, a private business operator obtains a legal license or approval from a

government agency to conduct business. When enacting, amending, or repealing the provisions of laws that serve as the basis for licensing and approval, it is necessary to consider how to provide transitional measures. For example, it may be necessary to treat the effect of a license based on the old law as valid for at least a certain period of time after the new law comes into effect, as losing the effect of a license based on the old law at the same time as the new law becoming effective may cause serious disadvantages to business operators. Provision Example is one example of transitional measures, however, there are many variations of them.

[Provision Example No. 5]

- *A person who is engaged in the business of ... may continue to engage in the business of ... for a period of ____ months from the date when this Act comes into effect, notwithstanding the provisions of Article X.*
- *Permission granted upon enforcement of this Act pursuant to the provisions of Article X of Act X prior to the revision by the provisions of this Act shall be deemed as permission under Article Y of Act Y after the revision.*

(4) Transitional Measures (Penalty Provisions)

It is essential to consider the effective date and transitional measures for the enactment, revision, and abolition of penal provisions. First, there are cases where the new law provides new penalties that were not provided for in the old law. However, the Constitution of Japan provides that: “No person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted, nor shall he be placed in double jeopardy.”³⁹ Therefore, a provision for retroactive application of penalties would be unconstitutional and invalid.

[Reference Article No. 30] The Constitution of Japan

Article 39 *No person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted, nor shall he be placed in double jeopardy.*

Next, questions arise with regard to cases where the statutory penalties of the old law have become stricter under the new law. According to the provisions of the Japanese Penal Code, when the penalty is changed by a law after a crime has been committed, the lighter penalty at the time of the act should be applied.⁴⁰ In this case, since the new law raises the statutory

³⁹ Constitution, Art. 39.

⁴⁰ Penal Code, Art. 6.

penalty to a heavier penalty, the penalties of the old law, which provided for a lighter penalty under the Penal Code, must be applied. It is, therefore, necessary to establish transitional measures in the supplementary provisions of the legislative bill to ensure that the old law will remain in effect after the amendment comes into effect.

[Reference Article No. 31] Penal Code (Act No. 45 of 1907)

(Change in Punishments)

Article 6 When a punishment is changed by law after the commission of a crime, the lesser punishment is applied.

[Provision Example No. 6]

- *With regard to the application of penal provisions to acts committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.*
- *With regard to the application of penal provisions to acts committed prior to the enforcement of this Act, the former Act shall remain in force after the enforcement of this Act.*

Finally, there is a case where the penalties of the old law are abolished by the new law or their statutory penalties are lowered. If there is no transitional measure, in Japan, if the penalty at the time of the act is abolished at the time of the trial, the trial Court will render a judgment of dismissal according to the provisions of the Code of Criminal Procedure,⁴¹ and if the penalty at the time of trial is lighter than the penalty at the time of the act, the lighter penalty at the time of trial will be applied according to the provisions of the Penal Code.⁴² However, from the perspective of criminal policy, if an offender is not punished at all or is punished more lightly than other offenders because the penal provisions are revised or repealed, the punishment would be inappropriate because it is disproportionate to the punishment imposed on others for the same act. Therefore, transitional measures, such as Provision Examples No.7, are often taken.

[Reference Article No. 32] Code of Criminal Procedure (Act No. 131 of 1948)

Article 337 *The court must bar further prosecution through a judgment if:*

- (i) a final and binding judgment has been reached in a case;*
- (ii) the punishment is repealed by laws and regulations established after the crime;*
- (iii) there is a general pardon;*
- (iv) the statute of limitations expires.*

⁴¹ Code of Criminal Procedure, Art. 337, Item 2.

⁴² Penal Code, Art. 6.

[Provision Example No. 7]

- *With regard to the application of penal provisions to acts committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.*
- *With regard to the application of penal provisions to acts committed prior to the enforcement of this Act, the former Act shall remain in force after the enforcement of this Act.*

7 Conclusion

This paper has presented an overview of drafting legislative bills in Japan, in particular the legislative measures to avoid inconsistency in laws. The purpose of this paper is not to explain the details of each provision in each law.

Drafting of legislative bills requires mastery of not only the theoretical aspects but also the technical and practical aspects of the law, as well as a sense of overall and political balance, in addition to certain amount of experience. It is hoped that this paper will be of use for enhancing the capacity of drafting legislative bills.

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Although I have given all possible attention to ensure the accuracy of the contents of this paper, some errors or misunderstandings may remain. The responsibility for those shall entirely lie on me.

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DAMAGES IN JAPANESE TORT LAW -WITH REFERENCE TO THE COMPARATIVE ASPECT-

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I have been working as Professor of the International Cooperation Department (ICD) of the Ministry of Justice since April 2021. I am originally a judge and have 11 years of experience as a judge. I was mainly in charge of civil cases in district courts. In addition, from 2017 to 2018, I was a visiting scholar at Duke University School of Law in the U.S., where I audited the class on tort law.

ICD engages in legal technical assistance to Asian countries. It provides assistance in areas including drafting and amending basic laws, improving legal and judicial system, capacity-building of legal professionals, etc. As part of international cooperation activities, I have had several opportunities to give presentations on damages in Japanese tort law. Based on the contents of those presentations, this paper will introduce damages in Japanese tort law as follows:

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 - c. Non-economic damages
- B. The latter part
 - a. Positive damages
 - b. Lost profits
 - c. Non-economic damages

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- A. The former part
- B. The latter part

5 Conclusion

1 Introduction

Throughout the human history, when a person violates a social order and causes damage to others, law takes some sort of sanction against it. Over time, criminal liability and civil liability became differentiated; and criminal law and tort law began to separate their functions. The basic function of tort law is to compensate for damages.

The purpose of compensation for damages is to realize corrective justice, which is one of the basic principles of justice advocated by Aristotle, and to give compensation equal to the damage suffered. I believe this concept is universal. However, it is also true that the content of damages varies from country to country. Such difference is not only in theory but also in practice.

This paper provides an overview of damages in Japanese tort law by referring to articles of the Civil Code, types of damages, positive damages (*damnum emergens*), lost profits (*lucrum cessans*), non-economic damages and wrongful death with regard to the theory of compensatory damages, calculation of damages in practice based on fictitious cases, and conclusion. The opinions expressed in this paper are personal views of the author.

2 Overview of Damages in Tort Law

(1) Articles of the Civil Code

Japan is a civil law (continental law) country, and there is a chapter on Torts in the Civil Code.

Article 709 of the Civil Code, with the title “Compensation for Loss or Damage in Torts”, stipulates: “A person that has intentionally or negligently infringed the rights or legally protected interests of another person is liable to compensate for damage resulting in consequence.”

Article 710 of the Civil Code, with the title “Compensation for Loss or Damage Other than of Property”, stipulates: “A person liable for compensation for loss or damage pursuant to the provisions of the preceding Article must also compensate for loss or damage other than of property, regardless of whether that person infringed the body, liberty or reputation of another person, or infringed property rights of another person.”

Article 711 of the Civil Code, with the title “Compensation for Loss or Damage to Close Relatives”, stipulates: “A person that has taken the life of another must compensate for loss or damage to the father, mother, spouse, and children of the victim, even if the property rights of the same have not been infringed.”

Article 722(1) of the Civil Code, with the title “Method of Compensation for Loss or Damage, Deduction of Interim Interest, and Comparative Negligence”, stipulates: “The provisions of Articles 417 and 417-2 apply mutatis mutandis to compensation for loss or damage caused by tort.” Article 417 of the Civil Code, with the title “Method of Compensation for Loss or Damage”, stipulates: “Unless a particular intention is manifested, the amount of the compensation for loss or damage is determined with reference to monetary value.” Article 417-2(1) of the Civil Code, with the title “Deduction of Interim Interest”, stipulates: “In the case of determining the amount of compensation for loss or damage in relation to profits to be acquired in the future and deducting an amount equivalent to interest that is to accrue until the time of acquiring the profits, the deduction is made by applying the statutory interest rate applicable as of the time when the claim for the compensation for loss or damage arises.”

Japan’s Civil Code, influenced primarily by German and French laws, came into effect in 1898. The text of the above Article 709 through 711 have basically remained unchanged to date. I will now refer to the theory and practice of damages in tort law, which was developed through scholarly theory and a series of judicial precedents, but, the basic article itself has not changed.

For reference, the basic article of German tort law states: “A person who, intentionally or negligently, unlawfully injures the life, body, health, freedom, property or another right of another person is liable to make compensation to the other party for the damage arising from this.”¹ Also, the basic article of French tort law states: “Any human action whatsoever which causes harm to another creates an obligation in the person by whose fault it occurred to make reparation for it.”² These articles are similar to Article 709 of the Japanese Civil Code.

(2) Types of Damages

As for the types of damages, compensatory damages can be first divided into economic damages and non-economic damages. Economic damages are divided into two categories: positive damages and lost profits. The theory and practice of each of these damages will be explained later in detail.

Common law countries have nominal damages and punitive damages. But in Japan, we do not have these. Punitive damages are damages imposed separately from compensatory damages for the purpose of punishing antisocial behavior and deterring similar behavior in the future. In Japan, there is no legal system that allows punitive damages.

Furthermore, the Supreme Court of Japan has held that “It is evident that the system of punitive damages as provided by the Civil Code of the State of California (hereinafter, ‘punitive damages’) is designed to impose sanctions on the culprit and prevent similar acts in the future by ordering the culprit who had effected malicious acts to pay additional damages on top of the damages for the actual loss, and judging from the purposes, is similar to criminal sanctions such as fines in Japan. In contrast, the system of damages based upon tort in Japan assesses the actual loss in a pecuniary manner, forces the culprit to compensate this amount, and thus enables the recovery of the disadvantage suffered by the victim and restores the status quo ante, and is not intended for sanctions on the culprit or prevention of similar acts in the future, i.e. general prevention. Admittedly, there may be an effect of sanctions on the culprit or prevention of similar acts in the future by imposing a duty of compensation on the culprit, but this is a reflective and secondary effect of imposing the duty of compensation on the culprit, and the system is fundamentally different from the system of punitive damages whose goals are the sanctioning of the culprit and general deterrence. In Japan, sanctioning of the culprit and general deterrence are left to criminal or administrative sanctions. Thus, the system in which in tort cases, the victim is paid damages for the purpose of imposing sanction

¹ The Bürgerliches Gesetzbuch(BGB) Title27 “Torts”, Section 823 “Liability in damages” (1)

² Code civil, “Extra-contractual liability in general”, Art. 1240

on the culprit and general deterrence in addition to damages for the actual loss should be regarded as against the basic principles or basic ideas of the system of compensation based upon tort in Japan. Therefore, part of the foreign judgment in the present case which ordered the appellee company to pay punitive damages for the purpose of deterrence and sanction in addition to compensatory damages and the cost is against public order of Japan; and therefore, has no effect. The portion of the judgment ordering the payment of money as punitive damages is against Japan's public policy and that the Japanese Court cannot enforce this portion of the judgment because its purpose is incompatible with the basic principles of the Japanese damage compensation system.”³

Accordingly, punitive damages are considered against Japanese public order. In Japan, the term “damages” refers exclusively to compensatory damages.

3 Theory of Compensatory Damages

I will now give a concrete explanation of the damages through three examples to make it easier to understand.

(Case1)

Ms. A, 50 years old, was distracted driving in the parking lot of a supermarket. Mr. V, 35 years old, solo bread earner of the family of four, was walking in the parking lot, was run over by A's car and was seriously injured. V was hospitalized for three months, and was eventually left with functional disability in his knee joint. V was earning 5,000,000 yen per year in his company at the time of the accident.

How would you decide? What if V dies after three months of hospitalization?

(Case2)

Mr. B, 30 years old, was feeling hopeless in life and due to such despair and self-destructiveness, he ended up stabbing Ms. W, 12-year-old elementary school student, who happened to be passing by, repeatedly with a knife. W was hospitalized for 6 months. Although her injuries have healed, she has not regained consciousness and is in a vegetative state, so, her parents take care of her at home.

How would you decide? What if W dies instantly?

(Case3)

Mr. C was driving his car at a slow speed when he accidentally collided with a car driven

³ Judgement of the Supreme Court of the second petty bench, Date of judgement (decision) 1997.07.11, Case number 1993 (o)1762

by Mr. X, which was parked in front of his, due to not paying enough attention to the front. Fortunately, X was not injured, but his car was heavily dented and sent for repairs, which cost one million yen. The repairs took a month, and X used a replacement car during that time. How would you decide? What if X works for Company Y, a carrier, and is involved in an accident while driving a truck amid transportation, and Company Y claims that the absence of the truck during the repair period has caused loss of profits of the transportation business?

(1) Positive Damages (*damnum emergens*)

Positive damages are damages that the victim has incurred because of the tort. For example, in case 1, the cost of medical expenses, and in case 3, the cost of repairs etc., fall under this category. It is my understanding that this type of positive damage is basically recognized as damage in any country.

However, there are disputes as to the extent to which this should be allowed. For example, in Case 1, hospitalization expenses due to the accident are allowed without any problem, but would gratuity to doctors upon leaving the hospital also be included in the positive damages? Or for example, in Case 3, if a replacement car was used while the car was being repaired due to the accident, the replacement car fee can be considered as positive damage if the replacement was necessary. However, if the damaged car was a luxury foreign car, would it be also recognized as necessary to have a luxury foreign car replacement? This can be considered both a question of the scope of damages and a question of causation.

Furthermore, what the victim has to spend after the symptoms of the injury caused by the tort have been fixed is also considered as positive damages in Japan. In Case 2, the victim is required to bear future nursing care expenses over a long period of time. Other possible costs include the cost of future medical treatment, home remodeling, and the cost of items that will need to be replaced periodically, which, if causally related to the tort, can be also considered as positive damages.

In this regard, I have seen arguments in countries where we have been involved in legal technical assistance that such damages are not included in damages because they are future damages, since the tort clause in the civil code of the country states that “compensation shall be limited to the actual loss or damages”. Certainly, there is no provision in the Japanese Civil Code that provides such a limitation on damages. In Japan, however, these damages are not recognized as future damages, but as actual damages. Opportunities for the victim to incur disadvantageous situations in the future are subject to compensation as actual damages that have already occurred to the victim in the present. In other words, these damages are

considered to have already been actualized as damages at the time of the tortious act.

In the U.S., future care needs are considered as special damages of personal injury damages in compensatory damages⁴. The American law dictionary definition of actual damages may be helpful. The Black's Law Dictionary defines that "actual damages are an amount awarded to a complainant to compensate for a proven injury or loss, damages that repay actual loss, and are also termed compensatory damages"⁵. Here, it can be seen that actual damages and compensatory damages are considered synonymous, and future care needs are also treated as actual damages in the U.S.

However, as will be explained later in the calculation of damages in practice, future nursing care costs are quite expensive in Japan, and whether or not to recognize them as damages is not simply a matter of logic, but also has much to do with the policies and insurance systems of the country; therefore, it is impossible to say what conclusion is correct.

(2) Lost Profits (*lucrum cessans*)

Lost profits are profits that would have been earned in the absence of the tortious act. For example, in Case 1, the lost earnings caused by absence from work due to hospitalization or hospital visits for treatment of the injury caused by the accident until the symptoms are fixed are called "lost earnings for missed work". Lost earnings for missed work are lost profits. In addition, a decrease in income that is recognized to occur in the future due to a decrease in loss of working capacity caused by the accident, which is called lost earnings due to impairment, are also lost profits. Furthermore, in the latter part of Case 3, there is a business profit lost because the business vehicle was sent for repair due to the accident and could not be used for business, which is also a lost profit.

While positive damages mean a decrease in property that existed, lost profits mean that the expected increase in property has been prevented. Since this expected profit is merely the hope of an increase in property in the future with some high probability, historically, it has been a question of whether or not to recognize this expected benefit as damage. In Japan, lost profits were not considered as damages in the Edo period, and even in the early 1900s, just after the current Civil Code was enacted, there were cases in which lost profits were not claimed as damages, or even if they were claimed, they were not recognized. At that time, the main focus was on compensation for tangible, concrete damages such as medical and funeral expenses.

⁴ See Torts: Doctrine and Process/Donald H. Beskind & Doriane Lambelet Coleman at 370 (2017)

⁵ Black's Law Dictionary, 11th ed

Today, however, lost profits are recognized as damages in many countries without any special conditions. The recognition and awarding of compensation for lost profits, which are invisible to the eye, means that the protection for victims has been greatly expanded. In Japan, lost profits are recognized as a matter of course as damages. German law stipulates that the damage to be compensated for also comprises the lost profits and those profits are considered lost that in the normal course of events or in the special circumstances, particularly due to the measures and precautions taken, could probably be expected.⁶ In the U.S., future lost wages are considered as special damages of personal injury damages in compensatory damages.⁷

However, again, as with the issue of future nursing care costs mentioned earlier under positive damages, I have heard that some countries to which we provide legal technical assistance are operating under the belief that this is not actual damage. The word “lost profit” can be seen as a future loss. However, this is considered to be actual damage. It means that at the time of the tort, the opportunity for the victim to be disadvantaged in the future is incorporated into the process of the factual state of the victim caused by the tort, and is the subject of compensation as damage that has already occurred to the victim in the present. In this sense, the assessment of the present damage includes an objective prediction of the future situation. It is sometimes referred to as “future” lost wages, but in this context, it is only a question of actual damages. In other words, lost profits are the loss of the expected benefit of an increase in property that the victim had at the time of the tort. The problem of uncertainty in the calculation of future lost earnings is ultimately a question of degree of probability.

As will be explained later in the calculation of damages in practice, lost profits are sometimes quite expensive in Japan, and whether or not to recognize them as damages is not simply a matter of logic, but also has much to do with the policies and insurance systems of the country as I explained in positive damages; therefore, it is also impossible to say what conclusion is correct.

(3) Non-Economic Damages

Compensation for emotional damage is called non-economic damages or pain and suffering. It is believed that its origin was an ancient Roman era to satisfy the victim’s retribution and to prohibit revenge. In the Roman era, civil and criminal law were not yet separated, but in the modern law, criminal and civil liability are separated, and punishment is based on criminal procedure, while non- economic damages, a civil liability, is positioned as compensation for emotional damages caused to the victim.

⁶ BGB Sec. 252 “Lost profits”

⁷ See Torts: Doctrine and Process/Donald H. Beskind & Doriane Lambelet Coleman at 370 (2017)

As for whether or not to recognize non-economic damages, some countries where we are involved in legal technical assistance used to deny. However, some countries now recognize it.

In Japan, Article 710 admits non-economic damages. In Germany, if damages are to be paid for an injury to the body, health, freedom or sexual self-determination, reasonable compensation in money may also be demanded for any damage that is not pecuniary loss.⁸ In the U.S., every jurisdiction provides for compensation for the mental effects of physical injury, and some call these mental effects “pain and suffering,” others call them “mental anguish,” and still others describe them as “loss of enjoyment of life.”⁹ As such, non-economic damages are recognized in many countries.

In principle, it is quite difficult to calculate the amount of compensation because the mental suffering caused by tortious acts differs from person to person. It is said that the standard is the pain and suffering caused to an ordinary person, and that it is determined from the standpoint of custom and fairness.

According to the Japanese precedents, in calculating the amount of compensation for mental and physical pain and suffering, the Court does not need to indicate the basis on which the amount was determined, nor does it need to explain each and every fact taken into consideration in the calculation. There is no limitation on the circumstances to be taken into consideration, so the Court can take into consideration not only the status and occupation of the victim, but also the social status and financial condition of the tortfeasor.

I will explain later how the amount of non-economic damages is calculated in practice in Japan, but the amount of non-economic damages has been categorized and standardized through a series of court cases. In the U.S., on the other hand, there is no such standardization.

(4) Wrongful Death

Each country has different conclusions on how to structure the theory if, in Case 1, V died after being hospitalized for three months, or if, in Case 2, W died immediately. This issue is known as wrongful death in common-law countries. In Japan, the issue is whether the heir can claim to have inherited damages of lost profits from the dead V/W, and whether they can claim to have inherited non-economic damages from the dead V/ W.

⁸ BGB, Sec. 253(2)

⁹ See Torts: Doctrine and Process/Donald H. Beskind & Doriane Lambelet Coleman at 382 (2017)

At the time of the enactment of the Civil Code in Japan, the prevailing theory was to deny both of them, but, later the theory moved toward affirmation, and the Supreme Court ruled that both are inherited; and thus this is now firmly established in practice. The strongest reason is that it would be unbalanced to award less compensation for the tort of death, which is far more serious than the tort of injury, and it is also in line with the public sentiment.

In Germany, in cases where death is caused, the person liable in damages must reimburse the costs of a funeral to the person under a duty to bear these costs.¹⁰ If the person killed, at the time of the injury, stood in a relationship to a third party on the basis of which he was obliged or might become obliged by operation of law to provide maintenance for that person and if the third party has, as a result of the death, been deprived of his right to maintenance, then the person liable in damages must give the third party damages by payment of an annuity to the extent that the person killed would have been obliged to provide maintenance for the presumed duration of his life.¹¹

In the U.S., there are 2 causes of action to be considered wrongful death claim. The 1st is “survival action”: the decedent’s own claim for damages up to the time of his death. Such damages include, for example, medical bills and pain and suffering, just as they would have had the decedent survived. The 2nd is the wrongful death claim: the action for the losses of those other than the decedent caused by the decedent’s death. Many states in the US have survival statute and wrongful death statute, however the content varies from state to state. North Carolina enactment is quite broad in allowing for range of damages. Other states have quite severe limit, such as allowing only economic losses and nothing for the loss of the relationship with the decedent.¹²

4 Calculation of Damages in Practice

(1) General Remarks

In Japan, the number of traffic accidents had been rapidly increasing since the early 1960s. In 1962, the Tokyo District Court established the 27th Civil Division, an exclusively specialized division for traffic accidents, in order to respond promptly to this trend. When it was first established, the judges of the 27th Division determined the amount of compensation for expenses such as funeral costs based on the amount actually spent by the plaintiff. However, this individual judgment in each case was complicated and there was also uncertainty as to calculation of compensation.

¹⁰ BGB, Sec. 844(1)

¹¹ BGB, Sec. 844(2)

¹² See Torts: Doctrine and Process/Donald H. Beskind & Doriane Lambelet Coleman at 399-400 (2017)

Therefore, the judges of the 27th Division began to follow certain rules for the calculation of damages; and judges began to attempt to compare their decisions with each other. In doing so, they refined their formulas, and the criteria for calculating damages became more detailed and specific. In 1967, “Hanrei Times” written by the judges of the 27th Division were published. This journal referred a commentary on the calculation standards for damages. In the process of developing the standard for calculating damages, there were discussions with the insurance industry and Bar Associations, and academic theories were also used as references. Even after the judge withdrew the publication, the Japan Federation of Bar Associations (JFBA) took over the task of periodically revising and publishing comprehensive calculation standards, which became the so-called “Red Book”. The Red Book is published annually and provides standards for the amount of compensation based on the practice of the 27th Civil Division of the Tokyo District Court and includes judicial cases for reference¹³.

I believe that categorization and standardization of damages have the benefit of maintaining fairness and balance among victims by eliminating arbitrary decisions by judges among similar cases, contributing to the speedy processing of similar cases, and making it easier to predict the outcome. The Red Book is not a law nor a court rule. It is rather a guideline, so, with a reasonable explanation, judges can deviate from this. While the Red Book is about damages of traffic accidents, it is often referred to when calculating damages in other tort cases as well.

In this regard, I am aware that in the U.S., such categorization and standardization of damages are not made in judicial practice. I think the reason for this is, first of all, the individualistic way of thinking of Americans. Furthermore, in the U.S., the jury system is frequently used in civil cases, and the jury determines the amounts of damages. If a standard for the amounts of damages were to be made, jurors would be guided by it, which would unfairly deprive them of their right to determine the facts, which may not be appropriate.

(2) Case 1

(Case1)

Ms. A, 50 years old, was distracted driving in the parking lot of a supermarket. Mr. V, 35 years old, solo bread earner of the family of four, was walking in the parking lot, was run over by A’s car and was seriously injured. V was hospitalized for three months, and was eventually left with functional disability in his knee joint. V was earning 5,000,000 yen per year in his

¹³ Official name of Red Book is “Civil Traffic Accident Litigation; Standards for Calculating Damages (2022) / Japan Federation of Bar Associations Traffic Accident Consultation Center Tokyo Branch”

company at the time of the accident.

How would you decide? What if V dies after three months of hospitalization?

A. The former part

a. Positive damages

Medical expenses are considered as damages if they are necessary and reasonable. Hospitalization expenses will be allowed, and if the victim visited an orthopedic surgeon after being discharged from the hospital, these expenses will also be allowed.

Next are the expenses incurred during hospitalization. During hospitalization, victims are forced to pay for daily necessities (bedding, clothing, toiletries, tableware, etc.), nutritional supplements, communication expenses (telephone bills, stamps), cultural expenses (newspapers and magazines, radio and TV rental fees, etc.), and transportation expenses for family members to visit the victim, etc. However, it is extremely complicated and unprofitable to prove each of these expenses individually and to judge the reasonableness of every single expense one by one, so it has been standardized. In the Red Book, the amount is set at 1,500 yen per day. This amount is accepted in practice even if it is not proven that the total of miscellaneous expenses reaches 1,500 yen per day.

If the patient needs an attendance during hospitalization, the hospital attendant expenses are also allowed. If his wife was attending him, the standard amount of 6,500 yen per day will be approved.

The actual cost of the patient's transportation to and from the hospital will be allowed, but in the case of a private car, the cost will be calculated as 15 yen per kilometer for gasoline.

There are differing opinions on the gratuity to doctors when leaving the hospital. However, in practice, only a socially acceptable amount will be approved, taking into consideration the duration of hospitalization, symptoms, and treatment conditions. It is said that a review is necessary because the recent trend has been that more and more doctors do not accept gratuities from patients.

b. Lost profits

I will first explain about lost earnings for missed work. The formula is: daily amount of income before accident (basic income) × number of days of absence from work – payment. Since V is a salaried worker, the basic income is the amount of his actual income before the accident. Lost earnings due to hospitalization = 5 million yen (annual income) ÷ 12 months ×

3 months = 1,250,000 yen

Next is the lost earnings due to impairment. In principle, the basic income is considered the same as that of lost earnings for missed work. If there is a probability that the income will be higher in the future, this may be considered. If there was a salary increase after the accident, this fact may be taken into consideration.

The formula for the worker is: basic income × the rate of loss of working capacity × Leibniz coefficient for the deduction of interim interest corresponding to the number of years of loss of working capacity (generally ending at age 67).

In practice, the rate of loss of working capacity is generally determined by referring the disability grade decided by the General Insurance Rating Organization of Japan. Victim usually makes a claim directly to the insurance company to receive payment of damages before litigation. In such cases, the victim must be certified by General Insurance Rating Organization of Japan as to under which grade of disability he falls. In principle, the grading is supposed to be done in accordance with the table published by the Labor Standard Bureau, as shown below. In the case of the knee joint, if it can be said that “the use of the joint has been abolished,” it would be 8th degree, and if it can be said that “significant impairment in the function of the joint remains,” it would be 10th degree. If the injury is considered to have “left an impairment in the function of the joint,” it will be classified as 12th degree. General Insurance Rating Organization of Japan is neutral and makes decisions professionally based on medical records. However, it is not binding on the court’s decision, and sometimes the plaintiff or defendant submits a doctor’s written opinion, claiming that he or she is not satisfied with the decision by General Insurance Rating Organization of Japan, which may lead to a medical dispute, but the decision in such cases is often difficult.

Table published by the Labor Standards Bureau

disability grade	rate of loss of working capacity	disability grade	rate of loss of working capacity
1 st degree	100/100	8 th degree	45/100
2 nd degree	100/100	9 th degree	35/100
3 rd degree	100/100	10 th degree	27/100
4 th degree	92/100	11 th degree	20/100
5 th degree	79/100	12 th degree	14/100
6 th degree	67/100	13 th degree	9/100
7 th degree	56/100	14 th degree	5/100

The reason why the period of incapacity to work ends at age 67 is that the average life expectancy in Japan is 84 years, and companies are currently extending the retirement age, so it is natural to assume that one can work until approximately age 67.

Lost earnings due to impairment are calculated by deducting interim interest, since it is a lump sum payment in the present for earnings that would have been acquired over a long period of time in the future. In practice, this is calculated using the Leibniz method. Leibniz is the name of a German scholar. For example, if a person who could have worked for another 10 years is disabled to work due to an accident, the calculation is not income at the time of the accident \times 10, but income at the time of the accident \times 8.530.

In this case, assuming that V's impairment was determined to be 10th degree for leaving significant impairment of joint functions by General Insurance Rating Organization of Japan, and assuming that there is no dispute between the parties on this point, the amount of lost earnings would be 27,525,150 yen calculated as follows:

5,000,000 yen (annual income) \times 27% (the rate of loss of working capacity) \times 20.389 (the Leibniz coefficient at 32 years).

Leibnitz coefficient

period	Leibnitz coefficient	period	Leibnitz coefficient
1 year	0.971	35 years	21.487
5 years	4.580	40 years	23.115
10 years	8.530	45 years	24.519
15 years	11.938	50 years	25.730
20 years	14.877	55 years	26.774
25 years	17.413	60 years	27.676
30 years	19.600	65 years	28.453

In the U.S., the damages are awarded for loss of earning power, not simply loss of earnings. The proper focus is what the injured plaintiff could have earned over the course of his/ her life without the injury versus what he or she will earn, not what he or she earned or will earn in any given year. Testimony regarding what an injured plaintiff could have earned should take into account factors such as the plaintiff's age, employment record, training, education, ability to work, and opportunities for advancement.¹⁴ The basic concept is similar in Japan, but in the

¹⁴ See Torts: Doctrine and Process/Donald H. Beskind & Doriane Lambelet Coleman at 371 (2017)

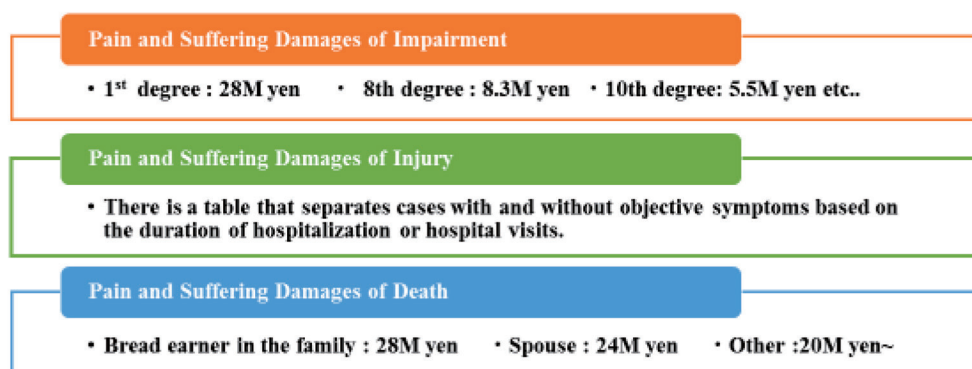
U.S., it seems to be more individualized.

c. Non-economic damages

In Japan, pain and suffering damages for traffic accidents is categorized and standardized. In the Red Book, as shown in the below, pain and suffering damages are divided into pain and suffering damages of impairment, pain and suffering damages of injury, and pain and suffering damages of death. The amount of pain and suffering damages of impairment is standardized according to the disability grade. The pain and suffering damages of injury varies depending on whether or not there are objective findings. There is a table in the Red Book for each of these, which is based on the number of days of hospitalization and hospital visits. The amount of pain and suffering damages of death is standardized according to whether the person is the bread earner in the family, the spouse, or others. Of course, these are only a rough guide, and in determining the specific amount of compensation, if there are circumstances that cause the bereaved family to suffer particularly great emotional distress, the amount of pain and suffering damages may be higher than the standard amount, taking various circumstances into consideration.

This case is divided into two parts: the pain and suffering damages of injury and pain and suffering damages of impairment. According to the table with objective findings in the Red Book, the approved amount of the pain and suffering damages of injury is 1,450,000 yen for 3 months of hospitalization. As for the pain and suffering damages of impairment, according to the Red Book, the amount is 8.3 million yen for 8th degree, 5.5 million yen for 10th degree, and 2.9 million yen for 12th degree. The amount will increase if the negligence of the tortfeasor is serious, if the manner of the accident is malicious, or if the attitude of the tortfeasor after the accident is extremely insincere.

Pain and Suffering Damages (“Red Book”)



B. The latter part

a. Positive damages

Medical expenses, expenses incurred during hospitalization, and hospital attendant expenses are the same.

According to judicial precedents, funeral expenses are allowable to the extent that they are deemed reasonable under socially accepted norms. In the Red Book, the amount is set at 1.5 million yen in principle. Even if the actual funeral expenses exceed 1.5 million yen, only 1.5 million yen is admitted in practice. The reasons for this are: it is not easy to determine an objective amount of funeral expenses that are considered necessary and reasonable in terms of socially accepted norms for each victim; it is possible that the scale of the funeral service differs depending on the social status of the victim; etc., but allowing such a disparity based on social status may cause unfairness. In addition, the amount to be paid by the bereaved family can be close to 1.5 million yen in the end because of the income from condolence money. However, there is room to admit more than 1.5 million yen if the funeral has special characteristics.

b. Lost profits

Lost earnings due to hospitalization are the same.

The amount of lost earnings of death is 71,361,500 yen. The formula is: 5 million yen (annual income) \times 100% (rate of loss of working capacity) \times 20.389 (Leibniz coefficient for 32 years) \times 70% (deduction for living expenses).

When V dies, he is exempted from paying cost of living to earn the income that he would have paid if he had lived, so the victim's own living expenses after his death are deducted when calculating lost earnings. According to the Red Book, when the victim is the bread earner of the family and has two or more dependents, 30% of the living expenses are deducted.

c. Non-economic damages

As explained earlier, the amount of pain and suffering of death is also categorized and standardized, and according to the Red Book, 28 million yen is for the family bread earner.

According to the Red Book, the amount of pain and suffering of injury is 1,450,000 yen.

(3) Case 2

(Case2)

Mr. B, 30 years old, was feeling hopeless in life and due to such despair and self-destructiveness,

he ended up stabbing Ms. W, 12-year-old elementary school student, who happened to be passing by, repeatedly with a knife. W was hospitalized for 6 months. Although her injuries have healed, she has not regained consciousness and is in a vegetative state, so, her parents take care of her at home.

How would you decide? What if W dies instantly?

A. The former part

a. Positive damages

Medical expenses, expenses incurred during hospitalization, and attendant expenses are the same as in Case 1.

In this case, the issue is future nursing care expenses. Future nursing care expenses are not recognized as damages unless there is a need for nursing care. 1st degree and 2nd degree of disability are explicitly defined as disabilities that require nursing care. However, in practice, even for other disabilities, if the necessity for nursing care is recognized after examining of the evidence, future nursing care expenses will be recognized as damages.

The formula is: daily amount \times 365 days \times Leibniz coefficient corresponding to the number of years of nursing care.

The period of nursing care is meant to be the period during which the victim is expected to survive in the future, which is, in principle, the average life expectancy of Japanese people in the year in which the symptoms are fixed. There is an argument that the period of nursing care for a victim in a vegetative state should be limited to a shorter period than the average life expectancy. However, recent court decisions have the tendency that even if statistical data or epidemiological studies exist, they are not sufficient data for determining the lifetime, and therefore, unless special circumstances are found that deny the probability of survival to the average life expectancy of the Japanese people, the average life expectancy of the Japanese people is recognized as the period of viability even if the patient is in vegetative state.

The specific daily amount differs depending on whether the caregiver is a professional caregiver or a close relative providing care at home. In the latter case, the amount is standardized at 8,000 yen per day.

8,000 yen (daily amount) \times 365 days \times 29.365 (Leibniz coefficient for a life expectancy of 72 years) = 85,745,800 yen.

However, as can be seen, future nursing care expenses are more likely to be subject to change in circumstances and are more familiar with periodic installment payments than lump-sum payments. Although there are arguments such as whether a judgment can be entered for periodic payments when the plaintiff is claiming lump-sum payments, there are growing calls for more use of periodic payments.

b. Lost profits

Regarding lost earnings, this 12-year-old girl was an elementary school student and had no income. When the victim is a child, until around 1960, there were judgments dismissing claims for lost earnings as unquantifiable.

In 1964, the Supreme Court held that it was not permissible to deny damages for lost earnings to an 8-year-old boy who died as a result of an accident on the grounds that they were unquantifiable, and that the amount should be calculated as objectively as possible based on statistical tables and other data, and that this should be allowed as damages for lost earnings.¹⁵

In 1974, the Supreme Court ruled that a 7-year-old girl who died in the accident should be awarded damages for lost earnings based on the assumption that she would marry at age 25, the average age of first marriage for women, and that her domestic work after marriage should be calculated as generating earnings equivalent to the average wage of a female worker until she reached the average age of incapacity for work.¹⁶

However, the average wage of women is lower than that of men, which leads to a disparity, and criticism is raised against this. They say that it is gender discrimination to have a disparity in the amount of compensation for children, even though the future possibilities are completely unknown for both boys and girls. Therefore, for younger women, the average wage at the time of death is now used as the basic income, taking future possibilities into consideration and with a view to eliminating gender difference as much as possible.

There is some debate as to whether or not to deduct living expenses since the victim is in a vegetative state, but, since such victims have the same expenses as normal persons, we generally do not deduct living expenses.

In this case, the amount is as follows

¹⁵ Judgement of the Supreme Court of the third petty bench, Date of judgement (decision) 1964.06.24, Case number 1961 (o)413

¹⁶ Judgement of the Supreme Court of the second petty bench, Date of judgement (decision) 1974.07.19, Case number 1969 (o)594

4,872,900 yen (average wage of all workers in 2020) \times 100% (rate of loss of working capacity) \times {26.774 (Leibniz coefficient corresponding to 55 years, the number of years until age 67) - 5.417 (Leibniz coefficient for the six years up to age 18, the age at which employment begins)} = 104,070,525 yen

c. Non-economic damages

The pain and suffering damages of injury is 2,440,000 yen for 6 months according to the Red Book.

According to the Red Book, the pain and suffering damages of impairment is 28 million yen for the 1st grade, but this is the standard for traffic accidents, so the mental anguish caused by the extremely malicious tort in this case is not covered by the standard. The amount will be increased because the mental pain caused by the extremely malicious tort in this case is higher than that of a traffic accident.

B. The latter part

a. Positive damages

The positive damages are funeral expenses in the amount of 1.5 million yen.

b. Lost profits

When the average wage of all workers is adopted for younger women, the practice is to use a cost-of-living deduction rate of 45 percent.

The lost earnings due to death is 57,238,788 yen. The formula is : 4,872,900 yen (average wage of all workers in 2020) \times 100% (rate of loss of working capacity) \times {26.774 (Leibniz coefficient corresponding to 55 years, the number of years until age 67) - 5.417 (Leibniz coefficient for 6 years, which is the age at which the worker begins working, up to age 18)} \times 55% (cost-of-living deduction rate)

The above lost earnings will be received by the heirs, the parents of the victim girl.

In Germany and the U.S., the surviving family members can basically only make a claim for loss of maintenance, so in this case where there is no such loss of benefits, the surviving family members cannot claim for lost earnings. This is where Japan differs from other countries in its conclusions.

c. Non-economic damages

According to the Red Book, the amount of pain and suffering damages of death ranges from

20 million yen to 22 million yen. But the amount is expected to be increased because of the brutality of the murder.

(4) Case 3

(Case3)

Mr. C was driving his car at a slow speed when he accidentally collided with a car driven by Mr. X, which was parked in front of his, due to not paying enough attention to the front. Fortunately, X was not injured, but his car was heavily dented and sent for repairs, which cost one million yen. The repairs took a month, and X used a replacement car during that time.

How would you decide? What if X works for Company Y, a carrier, and is involved in an accident while driving a truck amid transportation, and Company Y claims that the absence of the truck during the repair period has caused loss of profits of the transportation business?

A. The former part

The repair cost of 1,000,000 yen is recognized as positive damages. However, if this exceeds the objective value of the vehicle at the time of the accident and the replacement cost, the objective value of the vehicle at the time of the accident and the replacement cost will be admitted. The reason for this is that if more compensation is awarded, the victim will benefit from the accident.

Replacement car fees are not allowed unless there is a need for a replacement car. If the car was used for commuting to work or school, it is allowed, but if this car was only used for leisure or hobbies, it is controversial.

The period of use of a replacement car is limited to the reasonable period required for repairs. As a general rule, it is considered to be approximately two weeks for repairs. Depending on the reason for the prolonged period, it will be decided whether or not to allow a replacement car fee for the excess period.

In the case of an accident in which only the vehicle is damaged, as a general rule, non-economic damages are not admitted.

B. The latter part

This is an issue of business profits lost due to the inability to use the business vehicle for business purposes because it was sent for repairs due to the accident.

If replacement vehicle fees are allowed, business damages are not allowed. In addition, it is

also necessary to consider whether there were any idle vehicles. Since it is not uncommon for a person who operates a business using vehicles to own several vehicles of the same type, even if a vehicle is unusable due to an accident, the damage may be avoided by using another vehicle. If the idle vehicle could be easily utilized, business profit lost would not be admitted as damages.

The formula is : (operating income per day of the vehicle involved in the accident - variable expenses) × number of days accident vehicle was unusable.

5 Conclusion

As described above, I have explained the theory and practice of Japanese tort law, and the latter half of this paper described how to calculate damages in practice in particular. The purpose of this paper is not explain the details of the theory of Japanese tort law.

In Japan, it seems that the calculation of damages is categorized and standardized, but I hope there is no misunderstanding. Each case is unique and must be judged according to its individuality. As for the calculations for the fictitious cases mentioned, please note that it is just one example, and the conclusion can differ from case to case. I believe that the role of the judge is to pay careful attention to the individuality of each case and make flexible judgments. The Red Book is a reference material, neither a law nor a rule. It is the judge's conscience that will stand in the end.

I would like to extend my sincere gratitude to all those who have assisted me in publishing this paper.

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- II. Introduction to Foreign Laws and Legal Practices -

CAPACITY-BUILDING AND PROMOTION ACTIVITIES FOR JUDICIAL PROFESSION/LEGAL PROFESSIONALS IN LAO PDR¹

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First of all, I would like to thank the esteemed Director NAITO and other members of the ICD, Japanese professors, JICA related persons, and all of you in Laos, for your kind attendance today.

I will introduce myself first. My name is Phetsamay Xaymoungkhouné, and I am the Deputy Director of the National Institute of Justice of the Ministry of Justice. I am currently studying for my master's degree at Keio University in Japan.

Today, I am honored to make a presentation regarding the curriculum for judges, prosecutors, and attorneys, which are the judiciary profession in Laos, and exchange opinions with all of you.

I would like to start my presentation. If you have any questions or comments during the presentation, please feel free to express them. We can also exchange opinions later during the discussion time following my presentation.

CAPACITY-BUILDING AND PROMOTION ACTIVITIES FOR JUDICIAL PROFESSION/LEGAL PROFESSIONALS IN LAO PDR



The theme of my presentation is the training system in the judicial profession in Laos. Before I get into the content of my presentation, I would like to show you just a few photos first. This

¹ This article is based on the presentation made by two international students from Laos at Keio University Graduate School of Law, made when they were accepted as interns at ICD. See ICD NEWS No. 91, p. 78 for the details of the internship.

is the building of the National Institute of Justice of Laos.

CAPACITY-BUILDING AND PROMOTION ACTIVITIES FOR JUDICIAL PROFESSION/LEGAL PROFESSIONALS IN LAO PDR

- I. Fostering of Judicial Professionals and Promotion Activities
- II. Challenges of Judicial Profession in Laos



There are two themes in my presentation today. The first is about the fostering of judicial professionals in Laos, and the second is about the challenges in the fostering of judicial professionals in Laos.

What you see now in the photo is the library of the National Institute of Justice, with students studying.

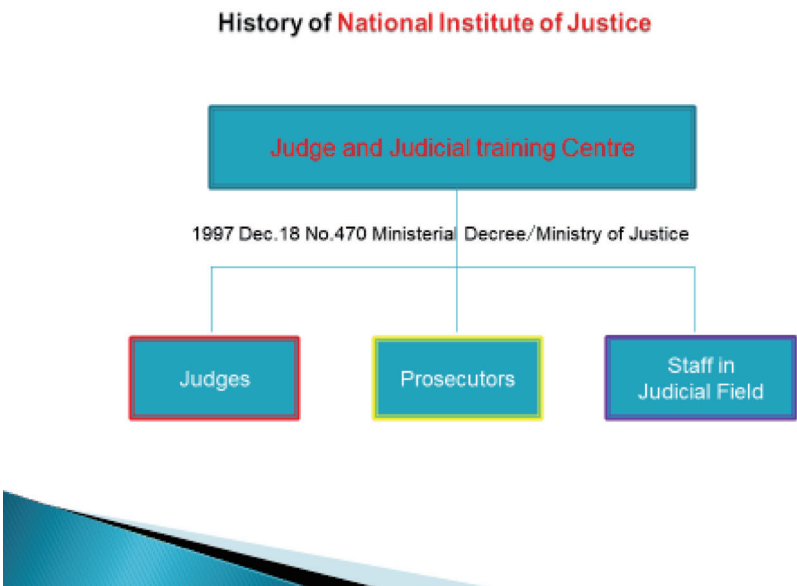
CAPACITY-BUILDING AND PROMOTION ACTIVITIES FOR JUDICIAL PROFESSION/LEGAL PROFESSIONALS IN LAO PDR

- ▶ History of National Institute of Justice
- ▶ Creation of Curriculum for Judicial Profession and Basis for Promotion Activities
- ▶ Comparison of Revised Curriculum
- ▶ Process of Curriculum Revision

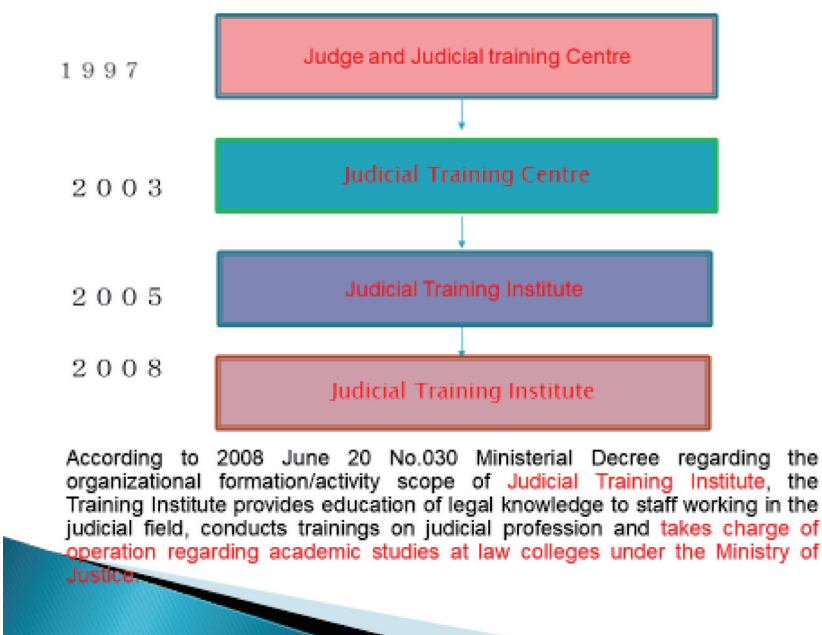


The first major theme is the system of fostering the judicial professionals. There are four items in it. The first is the history of the National Institute of Justice, the second is the rationale for the fostering of the judicial professionals, the third is the comparison and

revision of the curriculum, and the fourth is the process of curriculum revision.
By the way, this photo you see now is part of the building where students study.



I would now like to introduce the origins and history of the National Institute of Justice. The training for working at the Ministry of Justice began in 1997, when a Prime Minister’s Decree was issued stipulating for the Ministry of Justice to conduct trainings regarding the law. In response, the Justice Minister issued the Ministerial Decree No. 470 on December 18, 1997, establishing the ‘Judge and Judicial training Center’ which is the parent organization for the National Institute of Justice. Education was provided for judges, prosecutors, and judicial staff at this Center.



In 2003, the name of the Center was changed from ‘Judge and Judicial training Center’ to

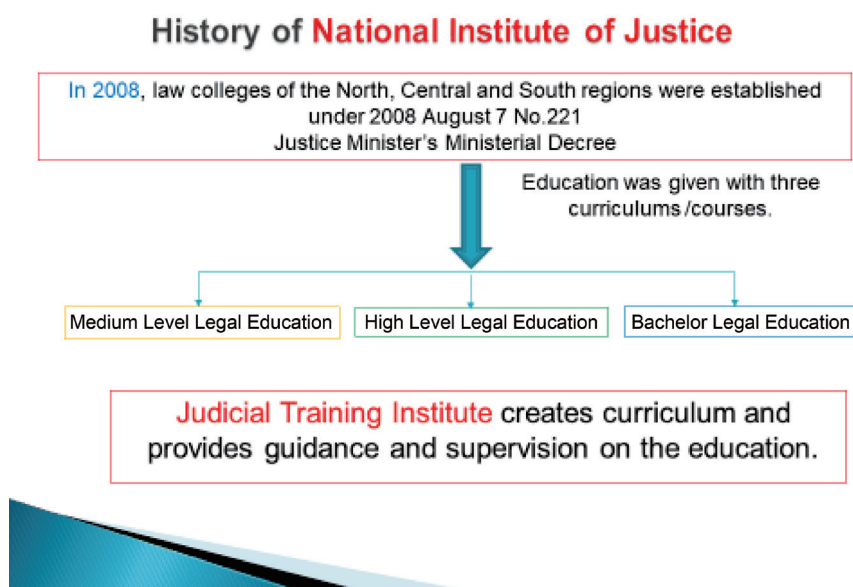
‘Judicial Training Center’. The reason for this change was that the Ministry of Justice handed over the authority to manage local courts to the Supreme Court.

In 2005, the Justice Minister again changed the position of the Training Center in response to the Prime Minister’s decree at the time, and the name was once again changed to ‘Judicial Training Institute’.

The role of the ‘Judicial Training Institute’ back in 2005 was to provide trainings in the field of law and judicial affairs to the employees of the Ministry of Justice.

In parallel with these trainings, a law school was established in 2004, in accordance with a ministerial decree of the Ministry of Justice, and was also authorized by the Ministry of Education and Sports.

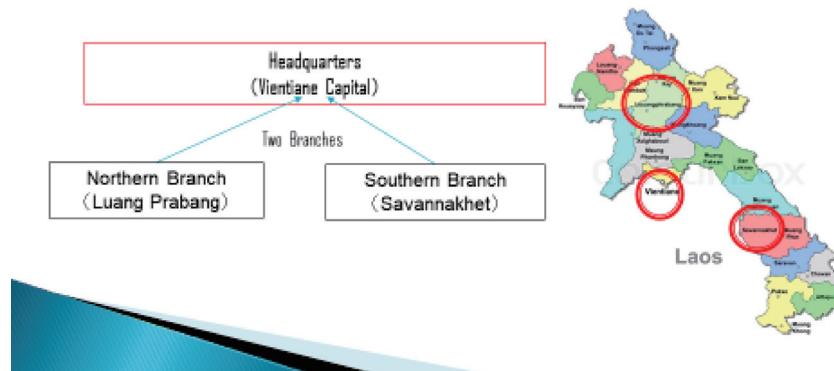
In 2008, this law school officially became a law college.



At that time, law colleges were located in the Northern, Central, and Southern regions of the country, offering technical school-, senior technical school- and bachelor-levels of education. Judicial Training Institute had the authority to manage these law colleges. The Northern region meant Luang Prabang, the Central, Vientiane Capital, and the Southern, Savannakhet at that time.

History of National Institute of Justice

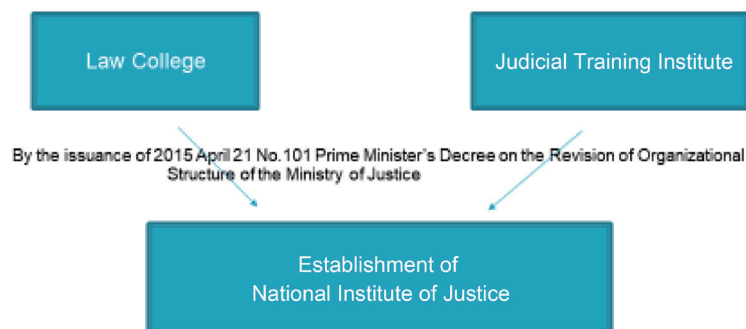
- ▶ In 2013, it was founded under the name of law college under the Ministry of Justice, based on 2013 May 22 No. 469 Justice Minister's Ministerial Decree, merging three law colleges, in order to conform to the clear educational concept and to enhance legal education both quantitatively/qualitatively.



Initially, the Northern, Central, and Southern law colleges were separate institutions, until in 2013, the Ministry of Justice merged the three law colleges to create uniformity in curriculum and education. Vientiane Capital was designated as the headquarters, and Luang Prabang in the North and Savannakhet in the South became its branches.

History of National Institute of Justice

2008 June 20 No.030 Minister's Decision/MOJ



And in 2015, in order to realize the resolutions of the 10th Communist Party Congress, the government's strategy toward 2025, and the Master Plan to realize the rule of law, the law colleges and Judicial Training Institute were combined to form the National Institute of Justice.

The Ministry of Justice

1. Department of Notary
2. Economic Dispute Resolution Center
3. Cabinet of the Ministry
4. Department of International Cooperation
5. Department of Organization and Personnel
6. Department of Legislation
7. Department of Law Dissemination
8. Department of Judgement Enforcement Management
9. Department of Inspection
10. **National Institute of Justice**
11. Department of Judicial Promotion

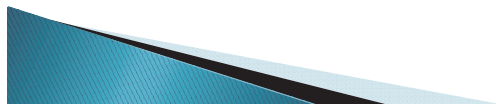


In 2016, the Prime Minister's Decree was issued that the Ministry of Justice would be in charge of law and education of judicial staff. At that time, as you can see in the slide, the Ministry of Justice had 11 bureaus and equivalent departments, including the Secretariat and various bureaus.

National Institute of Justice

National Institute of Justice has conduct activities in accordance with the roles stipulated by the 2017 May 8 No.459 Decision of the Justice Minister. There was a need to change some contents of activities due to the changes of circumstances later, the 2020 September 1 No.990 Decision was newly issued. In the Decision, the duties of the National Institute of Justice are stipulated as follows:

1. Manage activities of branches of the National Institute of Justice in the North (Luang Prabang Province), the Central (Savannakhet Province) and the South (Champasak Province) ;
2. Foster legal academics at respective levels ;
3. Foster judges, prosecutors, attorneys and other judicial professionals ;
4. Strengthen knowledge and capacity of judicial profession staff nationwide ;
5. Cooperate with foreign countries/international organs and conduct joint study/research on jurisprudence and judicial profession.



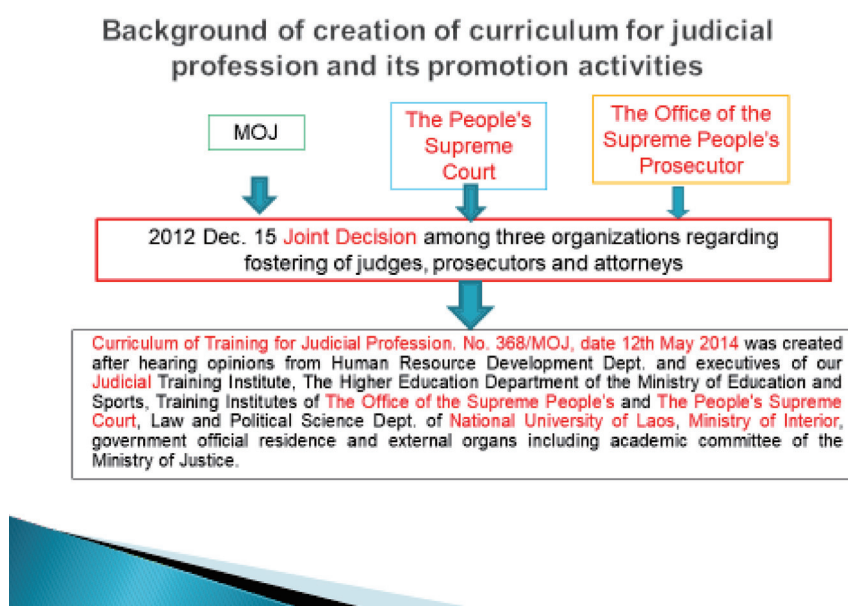
Subsequently, the position and activities of National Institute of Justice were reviewed in accordance with the Ministerial Decree, which is No. 990 the Ministerial Order of September 1, 2020.

In No.990 Ministerial Order, the organization and roles of National Institute of Justice were defined as follows. First, it was stipulated that the headquarters, that is National Institute of Justice shall have jurisdiction over the Northern, Central, and Southern branches. As for the branches, Luang Prabang was designated as the Northern branch, Savannakhet as the Central

branch, and Champasak was newly added to the Southern branch. Vientiane Capital was the headquarters.

As for the education at National Institute of Justice, there were three types of education: (1) fostering/training legal professionals of technical schools, senior technical schools, and bachelor's degrees; (2) fostering people who will become judicial professionals of judges, prosecutors, and attorneys; and (3) fostering/training on law for employees of the Ministry of Justice.

The role of cooperating with international organizations and foreign countries to study law together was also set.



Now, I will explain the basis for the creation of the curriculum for judicial professionals.

In 2014, as a resolution of the 9th meeting of the Party, based on the plan to be realized in the future as a state of the rule of law, and on the resolution of the meeting between the institutions of The People's Supreme Court and the The Office of the Supreme People's Prosecutor, the then Judicial Training Institute created the training curriculum for judicial profession for the first time, based on the resolution of the Ministry of Justice.

It was on December 15, 2012, after a meeting between the judicial institutions - The People's Supreme Court, The Office of the Supreme People's Prosecutor and the Ministry of Justice, when the resolution was issued.

First, I will introduce the contents of what those three parties discussed.

The first point was to provide a unified education for future judges, prosecutors, and attorneys, and to leave the jurisdiction to the Ministry of Justice.

The second point was that the eligibility for admission was to be based on the premise that the applicant must first be a university graduate and not a current national employee, and if the applicant takes the examination and passes it, he/she can be admitted to the program.

The third point was that the first step in the curriculum was going to be the joint training, in a form of classroom learning. After that, individual study on individual duties was to take place. The fourth point was that regarding the curriculum, the three institutions (the Ministry of Justice, the Court, and the Prosecutor's Office) was to work together to create it.

The fifth point, however, was that regarding continuing training, for example, the Court would have continued trainings for judges and clerks, in other words, such continued trainings would take place only after they become employees of each organization offered by each organization.

The sixth point was that graduates, those who graduated from this curriculum at the National Institute of Justice, may be preferentially employed by the Courts or by the Prosecutor's Office.

The seventh point was that regarding the budget for the training, it would be funded by the Ministry of Justice.

As for the written agreement of the discussions of the three parties, it was revised for the second time after that, but most recently, in 2018, an agreement and a resolution of the three parties was issued, which s are as follows.

The first point was that the Justice Minister would appoint a Committee which would guide the trainings.

The second point was that the admission (entrance) examination was now open to graduates of technical colleges, whereas previously it was only open to graduates of universities.

The third point was that the curriculum must be more specific and more technical with respect to each profession, and must be approved by the Ministry of Education and Sports.

The fourth point was that the three organizations would work together on general education, including curriculum development, instructor selection, practical training, and final examinations.

The fifth point was that graduates may be preferentially selected as employees of the Courts, the Public Prosecutor's Office, the Bar Association, and the Ministry of Justice.

The sixth point was that regarding the education implementation budget, as before, it would be the budget of the Ministry of Justice and tuition fees were to be collected. Financial aid from foreign institutions was to be included in the budget to conduct education.

Background of Creation of Curriculum for Judicial Profession and Promotion Activities

- ▶ **Purpose of Curriculum of Training for Judicial Profession :**
- **To enhance the level of legal education in Laos :** Specifically, to raise the level of basic legal education in university law faculties as well as the level of high-level legal education to reach the level of judicial profession. The purpose is to centralize the education of judges, prosecutors, and attorneys in one place. This will provide the knowledge, competence, proficiency, and ethics required for the judicial professions, and establish a deeper understanding of legal knowledge and a unified understanding of the practical methods, techniques, and expertise of each profession. They will also understand the relationship and interaction of each of their duties with respect to the resolution of disputes and case procedures that occur in society.
- **To resolve the issue of non-uniform trainings for the staff in the judicial field :** Specifically, the lack of centralized education of judicial profession in one place leads to inconsistent implementation of party policies and understanding of laws and regulations issued by the government, as well as completely contradictory views in practical dispute resolution, case handling and legal consultation. In addition, the non-uniform interpretation of the law leads to inappropriate case processing and improper dispute resolution, which cannot ensure fairness and is therefore subject to criticism from the public. It can eventually lead to attacking each other for not performing their duties in accordance with the intent of the law, for lack of professional proficiency, or for interfering too much with each other's duties. In order to solve these problems, a policy of education in one place was adopted.

Excuse me for skipping the order of explanation, but, I first explained the agreement by the three parties. Now, I will begin the explanation about Curriculum of Training for Judicial Profession. No. 368/MOJ, date 12th May 2014. The judicial institutions (the Court, the Prosecutor's Office, and the Bar Association) worked together to create the 2014 curriculum. The purpose of the 2014 curriculum was, first, to further improve the knowledge of jurisprudence. Specifically, previously, they began working immediately upon getting employed by the Court or the Prosecutor's Office fresh from universities, however, the intention was to provide them with opportunities to improve their readiness before entering each organization.

The second purpose was to have the three legal professionals receive the education at the same place.

The idea of having the three legal professionals educated at the same place came from the fact that previously, there was a problem with legal practice that the three parties had separate interpretations of the law did not work well. The purpose of this program is to help the three legal professionals study in one place so that they can better understand the interpretation of the law, and each other's work.

Background of creation of curriculum for judicial profession and its promotion activities

As a result of the evaluation by the faculty, students and relevant institutions, Curriculum of Training for Judicial Profession. No. 368/MOJ, date 12th May 2014, was revised and Curriculum of Judicial Profession: Judge, Prosecutor, and Lawyer. No. 079/MOJ, date 25th January 2017, was prepared for the training of judges, prosecutors and attorneys in the judicial profession.

This curriculum is designed to train law majors with advanced degrees in law to become future employees of courts and prosecutors' offices and high-quality attorneys. In this curriculum, students will learn legal theory and the specific skills, know-how, and abilities required for each job so that they can immediately conduct practical work as judges, prosecutors, and attorneys at law. This curriculum is implemented with the vision of "training quality and ethical judicial employees for the establishment of a nation governed by the rule of law."



The revision process for the 2017 version of the curriculum was based on feedback from instructors and students after the first curriculum and two terms of education were completed. There were two purposes and the first one was to enhance the knowledge of the law for future judges, prosecutors, and attorneys so that they would have the same understanding and interpretation of the law.

The second purpose was for future legal professionals to study and acquire skills in their respective fields of practice; in the case of prosecutors, to gain a better understanding of institution of prosecution and statement of opinion before they are employed.

Background of Creation of Curriculum for Judicial Profession and Promotion Activities

Curriculum of Fostering for Judge, Prosecutor and Lawyer. No. 1711/MOJ, date 31st December 2018



Those who complete Curriculum of Training for Judicial Profession which has been in place since 2015, will receive a professional diploma. In order to improve the professional status of students, National Institute of Justice revised the curriculum for training judges, prosecutors, and attorneys for judicial profession in view of the importance of the curriculum, and also created a new curriculum for training judgments enforcement officers and public notaries. Graduates are eligible for 4/3 of the salary rank above a college degree. Graduates will acquire the unique skills of judges, prosecutors, and attorneys. The introduction of a curriculum for the training of notaries and enforcement officers will ensure the efficient operation of these fields of practice and the preservation of social peace. This will ensure a speedy and fair judicial system.



Now, the next revision was the second revision in 2018.

The main contents of the second revision of 2018 were as follows: first, regarding the curriculum

for legal professionals (attorneys, judges, and prosecutors), from the first term in 2015 until 2017, graduates only received a certificate of completion, but the 2018 revision would give them a higher rank, a kind of diploma. This means that if they are hired as staff, for example, their salary would be higher than that of previous graduates.

In addition to the curricula for judges prosecutors attorneys and other legal professions, a curriculum for the judicial duty of judgement enforcement officers and of notary public was added to the 2018 revision.

The photo on the 14th slide is the ceremony for the first and second class students to receive their certificates of completion.

Comparison of Revised Curricula

- Change of names of curriculum
- In 2014, the requirement for admission was graduation from High Level Legal Education but in 2018, the requirement for admission was a Bachelor of Laws (college degree) or higher.
- The third revision is basically based on the 2018 curriculum, but since it was approved by the Ministry of Education in 2021, students can obtain a diploma and fall under the 4/3 salary rank, which is more than a college degree.
- Previously, first through sixth terms conferred a certificate of completion, but after approval by the Ministry of Education, they can now obtain a professional diploma.
- The number of credits shall be in line with the Ministry of Education's regulations on the conditions for the creation of professional curricula.
- Initially, the ratio of theory/practical and practical training was 6-4-2, but since 2017 it has been 5-6-1.
- The duration of practical training in each place went from 2.5-2-1 (months) to 2-2-2.
- List of subjects



I will now explain about the comparison regarding the revisions of the curriculum.

I have created a comparison chart, with the older curriculum listed from left to right. Curriculum 4 is the latest curriculum².

To explain the difference first, the name is different. In the 2014 version, it is called 'Curriculum of Training for Judicial Profession': in the second edition, it is called "Curriculum of Judicial Profession: Judge, Prosecutor and Lawyer"; in the third edition, it is called 'Curriculum of Fostering for Judge, Procecutor and Lawyer'; and in the third edition, the word 'fostering' was added. The First curriculum had the short-term word 'training', and we used the word 'fostering' in the third curriculum.

Also, as for the eligibility of entrance for the first curriculum, it was originally stipulated that they be university graduates, but during the first term, even those who had graduated from technical colleges were accepted, taking into consideration various circumstances. Regarding

² See Appendix 1. For convenience of publication in the paper, the formal aspects of the submitted tables have been slightly modified.

their age, the first curriculum stipulated that the age of admission should be under 33 years old.

In the second curriculum, technical college graduates were officially accepted, and there was no age limit any more.

In the third curriculum, those eligible for admission would be university graduates.

The first curriculum for the 2014 version was implemented for first and second batch students.

The second curriculum was used from third through sixth batch students.

Students in the first through sixth batch only received a certificate of completion, but from the seventh batch, students receive a degree in an individual specialized field. This will allow students to earn one rank higher in salary when they are hired as national public servants.

The third curriculum is basically the same as the previous one, but the number of credits has been reduced to conform to the Ministry of Education's standard. That is, the second curriculum had 56.5 credits, while the third curriculum has reduced down to 24 credits.

In 2014, education was provided in the ratio of 6, 4, 2; that is, 6 months of classroom training, 4 months of practical training, and 2 months of preparation for the final exam.

In the second curriculum, this ratio was revised to 5 months for classroom lectures, 6 months for practical training, and 1 month for preparation for examinations and thesis. This revision was made during the time when Mr. Suda, the Deputy Director of ICD was a JICA expert in Laos, and I believe the revision was the result of a study conducted by the Education Improvement Group of the JICA Project. In short, a review of the ratio of university-study level and the ratio of study at National Institute of Justice was considered and reflected in the curriculum. The division of roles between theory and practical study was also examined by the Education Improvement Group and applied to this second curriculum. At National Institute of Justice, 40% of the content is theoretical while 60% is practical.

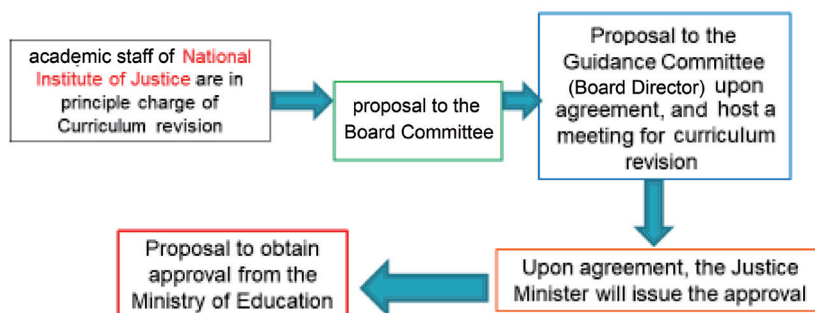
Regarding the period of practical training, the first curriculum was 2.5 months at the Court, 2 months for the Prosecutor's Office, and 1 month for the Bar Association, while the second curriculum changed to 2 months for each.

In the first curriculum, there are 33 subjects; in the second curriculum, reflecting the agreement on the division of educational roles and the improvement of education, duplicated subjects were eliminated, leaving only 27 subjects. The content that overlaps with that of the university has been removed at National Institute of Justice.

In the third curriculum, the number of subjects seems to be a little less, but the actual content is not so different from the second curriculum.

The third curriculum can be called a revision of formality. The number of subjects was reduced to match that of the Ministry of Education in order to move up in rank, but the content of the curriculum was not so different from that of the second curriculum.

Process of Curriculum Revision



Next, I will explain the process of curriculum along with the slides.

The leftmost side shows the staff members, who are the instructors and academic staff in charge of each subject, who review the top, leftmost side of the slide. Next, the above center, at this time, it is proposed to the Board Committee. After the Board Committee has reviewed the proposal, it is submitted to the Guidance Committee (Board Director), which is on the top, right side. After the Guidance Committee (Board Director) has approved it, it is then proposed to the Justice Minister, which is at the bottom right. After the Justice Minister approves it, the final step is to send it to the Ministry of Education for approval, which is on the left, at the bottom of the arrow.

Creation and revision go through the same process.

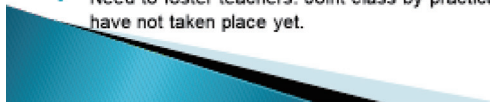
As it may be of your interest, there is a Board Committee in the center green above, and this structure has been in place since 2014. There are the Board Committee and the Guidance Committee (Board Director).

The Board Committee is composed of the Director of National Institute of Justice, the Director of Trainings at Court, the Director of Trainings at the Prosecutors' Office, and the President of the Bar Association. This is the Board Committee. The Guidance Committee, on the right above, is composed of deputy minister-level officials.

The appointment of this Board Committee and the Guidance Committee (Board Director) is made by the Justice Minister.

Challenges in Fostering Judicial Professionals

- This curriculum is specially designed for professionals (levels above the bachelor's degree) approved by the Ministry of Education. Currently, only our Institute and the University of Health (Ministry of Health) have received approval from the Ministry of Education.
- There is not yet widespread understanding of this curriculum from society. Some want to maintain the traditional approach (to become a practitioner without going through the training institute process).
- Students do not fully understand the content of the curriculum and the goals to be attained in the training.
- Laws and regulations concerning the training for judicial professionals are not yet in place. There are still only a few employment opportunities to accept graduates from out Training Institute as public officials.
- Cooperation with related institutions is still insufficient.
- There are not enough teaching materials. The standard method for conducting mock trials has not yet been established.
- Budget for creation of teaching materials is still limited.
- Need to foster teachers. Joint class by practical instructors and academic instructors have not taken place yet.



Now, the last slide, and this is the challenges related to judicial professionals in Laos.

The first of the challenges is that the latest curriculum was approved by the Ministry of Education as a specialized curriculum for individual duties, so this is extremely new for us. Only the curriculum of National Institute of Justice and the post-university courses of the Ministry of Health were approved by the Ministry of Education.

However, there is a lack of understanding from the relevant institutions and the general public regarding the curriculum and education at National Institute of Justice; there are still many people who think that after graduating from the university, they can directly work at the Court or at the Prosecutors' Office.

Also, as for the entering students, some of them seem to lack sufficient understanding as to what they can study after the enrollment and what they can obtain after graduating with regard to their goals to be achieved.

There are no laws or subordinate statutes in Laos that stipulate that in order to become a legal professional, one must be educated at National Institute of Justice. Compared to Thailand or Japan, we can see that the regulations in Laos are not yet developed. The implementation to date has only been based on the decisions of the three organizations.

The next challenge is that we have not secured enough recruitment slots, for example, with the slots at the Court or the Prosecutors' Office.

Furthermore, we have not yet established teaching materials and methods for conducting mock trials, etc., so we are still doing things on a trial-and-error basis.

Limited budget for the creation of teaching materials is also still a challenge.

Fostering teachers and instructors is not sufficient yet. Specifically, the consistency of the contents to be taught by those who teach theory and by those who teach practice has not yet been fully established.

As our final challenge, cooperation between institutions is not yet smooth enough.

Lastly, I would like to show you the data of our alumni, from 2014 to date³.

As described in the chart, we had many students enrolled, graduated and employed with the first and second terms. However, we cannot see the number of employed students with the fourth and fifth terms, as you know.

Currently, the number of applicants who would like to enter National Institute of Justice has been drastically dropping, which, I believe, is our challenge.

Thank you for your kind attention.

Thank you for your kind attention!



³ See Appendix 2.

Curriculum comparison table

Order	Description	Curriculum 1	Curriculum 2	Curriculum 3	Curriculum 4	Curriculum 1
1	Time of preparation and revision	2014	2016	2018	2021	2021
2	Curriculum name	Curriculum of Training for Judicial Profession. No. 368/MOJ, date 12th May 2014	Curriculum of Judicial Profession: Judge, Prosecutor, and Lawyer. No. 079/MOJ, date 25th January 2017	Curriculum of Fostering for Judge, Prosecutor and Lawyer. No. 1711/MOJ, date 31st December 2018	Curriculum of Fostering for Judge, Prosecutor and Lawyer. No. 1711/MOJ, date 31st December 2018 (Ministry of Education and Sport approved professionals curriculum No.4095/MOEs, date 8th September 2021)	1 Training Curriculum for Judicial Duties of Notary Public 2 Curriculum for Judicial Duties of Judgment enforcement
3	Period of use	2014-2015 (First batch) 2015-2016 (Second batch)	2016-2017 Do not recruit students due to curriculum revision 2017-2018 (Third batch) 2018-2019 (Fourth batch) 2019-2020 (Fifth batch) 2020-2021 (Sixth batch)		2021-2022 (Seventh batch)	2021-2022 (First batch)
4	Evaluation and revision of curriculum	Revised one year later	Revised two years later	Revised two years later	Although the curriculum stipulates that the curriculum will be revised in two years, the curriculum will be reevaluated in one year in accordance with the Ministry of Education.	Although the curriculum stipulates that the curriculum will be revised in two years, the curriculum will be reevaluated in one year in accordance with the Ministry of Education.
5	Number of applicants	150 students per year	150 students per year	100 students per year	The curriculum stipulates that there are 100 students in one grade, but the Ministry of Education has approved 60 students.	The curriculum stipulates 50 students per grade, but the Ministry of Education has approved 30 students per grade.
6	Entrance requirements for trainees	<ul style="list-style-type: none"> Those with political beliefs, ethics, and revolutionary spirit; Persons with degrees from high level legal education or higher; Not healthy or infected with a major infectious disease; Being under the age of 33, except for those who wish to be a lawyer; Persons who have not been convicted intentionally; Foreigners who wish to be lawyers are fluent in Laotian; Persons who are not employed as national public employees. 	<ul style="list-style-type: none"> Those with political beliefs, ethics, and revolutionary spirit; Persons with degrees from high level legal education or higher; Not healthy or infected with a major infectious disease; Persons who have not been convicted intentionally; Foreigners who wish to be lawyers are fluent in Laotian; Persons who are not employed as national public employees. 	<ul style="list-style-type: none"> Those with political beliefs, revolutionary spirit; Persons who hold a bachelor degree of law or higher; Not healthy or infected with a major infectious disease; Persons who have not been convicted intentionally; Foreigners who wish to be lawyers are fluent in Laotian; Persons who are not employed as national public employees. 	<ul style="list-style-type: none"> Those who have obtained a bachelor degree of law or higher and have passed the examination; Not healthy or infected with a major infectious disease; Persons who have not been convicted intentionally; Persons who are not employed as national public employees. 	
7	Selection method	<p>The applicant has passed the screening examination for the standards set by the Legal and Judicial Training Institute. The selection committee is composed of the following bodies:</p> <ul style="list-style-type: none"> Ministry of Justice, MOJ; The Office of the Supreme People's Prosecutor, OSPP The People's Supreme Court, PSC Bar association <p>Timing of the entrance examinations</p> <ul style="list-style-type: none"> Around August of each year <p>Examination contents: Legal general knowledge, legal subjects related to duties</p>	<p>Pass a selective examination of the Institute's standards adopted by National Institute of Justice, NUJ Board Committee in collaboration with the Supreme Court Institute and the Supreme Public Prosecutors' Office Institute.</p>	<p>Pass a selective examination of the Institute's standards adopted by National Institute of Justice, NUJ Board Committee in collaboration with the Supreme Court Institute and the Supreme Public Prosecutors' Office Institute.</p>	<p>Pass a selective examination of the Institute's standards adopted by National Institute of Justice, NUJ Board Committee in collaboration with the Supreme Court Institute and the Supreme Public Prosecutors' Office Institute.</p>	

8	Implementation of classes	<p>Methods of teaching</p> <p>The full-time lesson system is implemented for a total of 12 months.</p> <p>-The study period is 6 months (1008 hours).</p> <p>-Field training of each judicial function: 4 months (672 hours)-2 months (336 hours) including test, report drafting, review, vacation, study tour and activities</p> <p>Calculation of lesson hours</p> <p>-21 days per month, 252 days per year (not including 103 days on Saturdays and Sundays, New Year's Day, National Foundation Day, and 10 other holidays)</p> <p>-5 days per week (Monday to Friday) (40 hours)</p> <p>-8 hours of study per day</p> <p>- A 50-minute frame of class</p>	<p>Classification of subjects and number of hours</p> <p>1. 1. Basic theoretical subjects: 288 hours;</p> <p>2. 2. Specialized: 720 hours</p> <p>3. 3. Field training of each judicial function: 672 hours</p> <p>4. 4. Test and report drafted: 336 hours</p> <p>Total: 2016 hours (6-4-2)</p>	<p>Full-time classes are held for a total of 12 months (one year)</p> <p>-4 weeks per month</p> <p>-5 days per week (Monday to Friday)</p> <p>-7 hours per day</p> <p>-50 minutes per class frame</p>	<p>Full-time classes are held for a total of 12 months (one year)</p> <p>-4 weeks per month</p> <p>-5 days per week (Monday to Friday)</p> <p>-7 hours per day</p> <p>-50 minutes per class frame</p>	<p>Full-time classes are held for a total of 12 months (one year)</p> <p>-4 weeks per month</p> <p>-5 days per week (Monday to Friday)</p> <p>-7 hours per day</p> <p>-50 minutes per class frame</p>
9	Classification of subjects	<p>Classification of subjects</p> <p>-Basic technical subjects: 64 hours (4 units)</p> <p>-280 hours (17.5 units) technical subjects in judgeship functions</p> <p>-280 hours (17.5 units) of public prosecutor's technical subjects</p> <p>-280 hours (17.5 units) of technical subjects for practicing attorneys</p> <p>Total: 904 hours (66.5 units)</p> <p>-Field training of each judicial function 6 months (2.5 months at courts, 2 months at public prosecutors offices and 1.5 months at bar associations) (5-6-1)</p>	<p>General knowledge subjects (4 units)</p> <p>Specialized basic subjects (12 units)</p> <p>Elective subjects (2 units)</p> <p>Moot court (two units)</p> <p>Field training of each judicial function (2 credits) (2 months in courts, 2 months in public prosecutors offices, and 2 months in bar associations)</p> <p>Drafting of report (2 units)</p> <p>Total: 24 units</p> <p>One unit (16 hours) of theory</p> <p>One unit (32-48 hours) of practical training</p> <p>One unit (48-96 hours) of Field training of each judicial function</p>	<p>General knowledge subjects:</p> <p>1. 1. Judicial (legal) ethics, political ethics and revolutionary beliefs</p> <p>2. 2. International Cooperation in the Judicial Field, Coordination among Judges, Public Prosecutors and Attorneys</p> <p>Specialized basic subjects:</p> <p>1. 1. Public prosecutor's skill in criminal cases</p> <p>2. 2. Attorney's skill in criminal cases</p> <p>3. 3. Judge's skill in criminal cases</p> <p>4. 4. Legal skill in a civil case</p> <p>5. 5. Judges and Public Prosecutors' Techniques for Handling Cases in Civil Cases</p> <p>6. 6. Legal consultation technology</p> <p>Selective subjects:</p> <p>1. 1. Majoring in prosecutorial skills</p> <p>2. 2. Major in Judgeship Techniques</p> <p>3. 3. Majoring in professional skills of lawyers</p>	<p>General knowledge subjects:</p> <p>1. 1. Judicial (legal) ethics, political ethics and revolutionary beliefs</p> <p>2. 2. International Cooperation in the Judicial Field, Coordination among Judges, Public Prosecutors and Attorneys</p> <p>Specialized basic subjects:</p> <p>1. 1. Public prosecutor's skill in criminal cases</p> <p>2. 2. Attorney's skill in criminal cases</p> <p>3. 3. Judge's skill in criminal cases</p> <p>4. 4. Legal skill in a civil case</p> <p>5. 5. Judges and Public Prosecutors' Techniques for Handling Cases in Civil Cases</p> <p>6. 6. Legal consultation technology</p> <p>Selective subjects:</p> <p>1. 1. Majoring in prosecutorial skills</p> <p>2. 2. Major in Judgeship Techniques</p> <p>3. 3. Majoring in professional skills of lawyers</p>	<p>General knowledge subjects (4 units)</p> <p>Specialized basic subjects (12 units)</p> <p>Elective subjects (2 units)</p> <p>Moot court (two units)</p> <p>Field training of each judicial function (2 credits) (2 months in courts, 2 months in public prosecutors offices, and 2 months in bar associations)</p> <p>Drafting of report (2 units)</p> <p>Total: 24 units</p> <p>One unit (16 hours) of theory</p> <p>One unit (32-48 hours) of practical training</p> <p>One unit (48-96 hours) of Field training of each judicial function</p>
10		<p>Basic theoretical subjects (288 hours)</p> <p>1. 1. Political ethics and revolutionary beliefs of judicial officials</p> <p>2. 2. Judicial Duties (Legal Profession) Ethics</p> <p>3. 3. Public prosecutor's duty</p> <p>4. 4. Judgeship function</p> <p>5. 5. Practicing attorney</p> <p>6. 6. Cooperation among judges, public prosecutors and attorneys in the performance of their duties</p> <p>7. 7. Criminal procedure</p> <p>8. 8. Civil proceedings</p> <p>9. 9. Procedures for juvenile cases</p> <p>10. 10. International Cooperation in the Judiciary</p> <p>Specialized subjects (720 hours)</p> <p>Civil subjects</p> <p>1. 1. Civil proceedings</p> <p>2. 2. Art of drafting attorney's papers in civil cases</p> <p>3. 3. Arbitration procedure</p> <p>4. 4. Statements of Opinions and Orders in Civil Cases/Public Prosecutors Office, Courts, Attorneys</p> <p>5. 5. Skill in interviewing (interrogation) in civil cases</p> <p>6. 6. Art of defense in civil cases</p> <p>7. 7. Review of civil files</p> <p>8. 8. Art of civil litigation</p> <p>9. 9. Art of drafting a civil decision</p> <p>10. 10. Legal counseling skills of attorneys in civil cases</p> <p>11. 11. Audit by the Public Prosecutor's Office and the execution of civil judgments in civil cases</p>	<p>Subjects of basic technology</p> <p>1. 1. Political ethics and revolutionary beliefs</p> <p>2. 2. Judicial Duties (Legal Profession) Ethics</p> <p>3. 3. Cooperation among Judges, Public Prosecutors and Attorneys</p> <p>4. 4. International Cooperation in the Judiciary</p> <p>Subjects of judge's professional skills</p> <p>1. 1. Judgeship function</p> <p>2. 2. Proceeding of the case by a judge</p> <p>3. 3. Judge's case file review technology</p> <p>4. 4. Techniques for collecting evidence and evaluating evidence by judges</p> <p>5. 5. Judge's mediation</p> <p>6. 6. Judge's skill in trial</p> <p>7. 7. Drafting of court documents and decisions</p> <p>Subjects of public prosecutor's professional skill</p> <p>1. 1. Duties of Public Prosecutors and General Audits</p> <p>2. 2. Procedures for juvenile cases</p> <p>3. 3. Prosecutor's skill in proceeding to a criminal case</p> <p>4. 4. Public Prosecutor's interrogation Procedure</p> <p>5. 5. Analysis of Components of Crimes, Identification of Crimes, and Prosecution</p> <p>6. 6. Public prosecutor's review of criminal case files</p> <p>7. 7. Drafting of various warrants and statements of opinion in criminal cases</p> <p>8. 8. Examination of case files in civil cases and submission of written opinions</p>	<p>General knowledge subjects:</p> <p>1. 1. Judicial (legal) ethics, political ethics and revolutionary beliefs</p> <p>2. 2. International Cooperation in the Judicial Field, Coordination among Judges, Public Prosecutors and Attorneys</p> <p>Specialized basic subjects:</p> <p>1. 1. Public prosecutor's skill in criminal cases</p> <p>2. 2. Attorney's skill in criminal cases</p> <p>3. 3. Judge's skill in criminal cases</p> <p>4. 4. Legal skill in a civil case</p> <p>5. 5. Judges and Public Prosecutors' Techniques for Handling Cases in Civil Cases</p> <p>6. 6. Legal consultation technology</p> <p>Selective subjects:</p> <p>1. 1. Majoring in prosecutorial skills</p> <p>2. 2. Major in Judgeship Techniques</p> <p>3. 3. Majoring in professional skills of lawyers</p>	<p>General knowledge subjects:</p> <p>1. 1. Judicial (legal) ethics, political ethics and revolutionary beliefs</p> <p>2. 2. International Cooperation in the Judicial Field, Coordination among Judges, Public Prosecutors and Attorneys</p> <p>Specialized basic subjects:</p> <p>1. 1. Public prosecutor's skill in criminal cases</p> <p>2. 2. Attorney's skill in criminal cases</p> <p>3. 3. Judge's skill in criminal cases</p> <p>4. 4. Legal skill in a civil case</p> <p>5. 5. Judges and Public Prosecutors' Techniques for Handling Cases in Civil Cases</p> <p>6. 6. Legal consultation technology</p> <p>Selective subjects:</p> <p>1. 1. Majoring in prosecutorial skills</p> <p>2. 2. Major in Judgeship Techniques</p> <p>3. 3. Majoring in professional skills of lawyers</p>	<p>General knowledge subjects (4 units)</p> <p>Specialized basic subjects (12 units)</p> <p>Elective subjects (2 units)</p> <p>Moot court (two units)</p> <p>Field training of each judicial function (2 credits) (2 months in courts, 2 months in public prosecutors offices, and 2 months in bar associations)</p> <p>Drafting of report (2 units)</p> <p>Total: 24 units</p> <p>One unit (16 hours) of theory</p> <p>One unit (32-48 hours) of practical training</p> <p>One unit (48-96 hours) of Field training of each judicial function</p>

11	<p>Criminal subjects</p> <ol style="list-style-type: none"> 1. Criminal procedure 2. Procedures for juvenile cases 3. Review of Criminal Case Files/Public Prosecutor's Office/Court 4. Investigation and interrogation techniques in criminal cases 5. Analysis of Components of Crime and Identification of Crimes 6. Law of defense in criminal cases 7. Drafting of written statements of opinion and warrants in criminal cases 8. Institution of prosecution 9. Criminal Trial Technology 10. Legal consultation skills in criminal cases 11. Judgment-drafting techniques in criminal cases 12. General Audit and Execution of Criminal Judgments by Public Prosecutors Offices in Criminal Cases <p>Field training of each judicial function (672 hours)</p>	<p>Subject of the professional skill of attorney</p> <ol style="list-style-type: none"> 1. Practicing attorney 2. Attorney's legal skill 3. Law attorney's case file review 4. Practice of counseling lawyers 5. Art of drafting attorney's papers 6. Technology to participate in a lawyer's case process 7. Law firm 8. Legal aid 			
12	<p>Evaluation and completion of education</p>	<p>It is recognized that the course of training will be completed by attaining an average score of 50% or more in all subjects and ensuring good attitude, observing the rules of apprentices properly, completing the performance of the duties concerning education, and not being subject to criminal prosecution for deliberate crimes during the period of the training. A certificate of completion of the judicial service (legal profession) training curriculum is then granted.</p> <p>The first to fiftieth degree apprentices may be selected preferentially from among judicial functions (judges, prosecutors and lawyers). The apprentices in the 51st to 100th ranks will have the second priority, and the apprentices in the 101st to 150th ranks will have the last job.</p>	<p>To complete the course, the apprentice must meet all of the curriculum hours. The cumulative mean score should be 70 or not less than C grade.</p> <p>Those who attend less than 80% of the curriculum hours and have a cumulative average score of less than 60 or Grade D+ are not considered to complete.</p> <p>Each term is evaluated in each subject's class. Specifically, there are two methods of evaluation. The first is an on-going quizzes test system during the course of a lesson, the apprenticeship's attitude toward participating in the lesson (speaking out, etc.), and the final exams at the end of each lesson.</p> <p>Scores for each class are given in percentage. The percentage is 30% for continuous quizzes, 10% for participation in classes, and 60% for the final tests. This is evaluated by instructors and department officials.</p>	<p>To complete the course, the apprentice must meet all of the curriculum hours. The cumulative mean score should be 70 or not less than C grade.</p> <p>Those who attend less than 80% of the curriculum hours and have a cumulative average score of less than 60 or Grade D+ are not considered to complete.</p> <p>Each term is evaluated in each subject's class. Specifically, there are two methods of evaluation. The first is an on-going quizzes test system during the course of a lesson, the apprenticeship's attitude toward participating in the lesson (speaking out, etc.), and the final exams at the end of each lesson.</p> <p>Scores for each class are given in percentage. The percentage is 30% for continuous quizzes, 10% for participation in classes, and 60% for the final tests. This is evaluated by instructors and department officials.</p>	<p>To complete the course, the apprentice must meet all of the curriculum hours. The cumulative mean score should be 70 or not less than C grade.</p> <p>Those who attend less than 80% of the curriculum hours and have a cumulative average score of less than 60 or Grade D+ are not considered to complete.</p> <p>Each term is evaluated in each subject's class. Specifically, there are two methods of evaluation. The first is an on-going quizzes test system during the course of a lesson, the apprenticeship's attitude toward participating in the lesson (speaking out, etc.), and the final exams at the end of each lesson.</p> <p>Scores for each class are given in percentage. The percentage is 30% for continuous quizzes, 10% for participation in classes, and 60% for the final tests. This is evaluated by instructors and department officials.</p>

Number of NIJ students (until April 2019)

	2014-2015	2015-2016	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022
	1st batch	2nd batch	3rd batch	4th batch	5th batch	6th batch	7th batch
Number of examinees	192	291	341	274	46	43(Female 20)	
Number of successful applicants	146	200	200	146	41(Female 10)	43(Female 20)	36
Number of new students	0	0	0	0	0		
Number of graduate students (total)	125(Female 31)	170(Female 59)	151(Female 51)	113(Female 39)	34(Female 8)	43(Female 20)	
1) Judge	42(Female 8)	35(Female 13)	2(Female 1)	1(Female 1)	2	0	
2) prosecutor	4	1	0	0	1	0	
3) lawyer	38(Female 9)	24(Female 6)	23(Female 5)	13(Female 2)	-		
4) Lawyer apprentices	5(Female 1)	1	4(Female 2)	4	18(Female 6)	14(Female 6)	
	Use of curriculum 1 6-4-2	Use of curriculum 1 6-4-2	Using Curriculum 2 5-6-1	Using Curriculum 2 5-6-1	Using Curriculum 2 5-6-1	Curriculum 2 used 5-6-1	Use of Curriculum 3, approved by the Ministry of Education and Sports in 2021
	2014	2014	2017	2017	2017	2017	2018

Reasons for decline in number of graduates are dropouts

Timing of curriculum revisions is defined in each curriculum.

The reason for the first curriculum revision is to adjust the ratio of theoretical study to Field training of each judicial function.

Curriculum 3, approved by the Ministry of Education and Sports in 2021, is basically similar to Curriculum 2 in 2017.

THE PROSECUTOR'S PARTICIPATION IN THE CIVIL PROCEDURE IN LAOS

PHAPHAJDY Lattanaphone

Deputy Director General of Inspection Department

The Office of the Supreme People's Prosecutor of Lao PDR

I: General Introduction of the Office of the Prosecutor in Lao PDR

Participating in court proceedings to monitor and inspect the adherence to the law, especially in civil cases, is one of the roles of the Office of People's Prosecutor in Lao PDR. Prosecutors implementing such duties is a specific feature of the Lao judicial system, while prosecutors in many countries in general, including Japan, do not deal with civil cases.

Prosecutors in Lao PDR conduct the above monitoring and inspection to ensure that the court has taken measures under the law to hear a case in a comprehensive, complete, and objective manner to determine facts based on evidence, eventually bringing an accurate and fair decision in a case with conflicting issues.

1. History of the People's Prosecutor in Laos

The history of the people's prosecutor in Lao PDR can be divided into two parts: the first period from 1975 to 1989, before the promulgation of the Law on the organization of the People's Prosecutor; and the second period from 1990 to present, after the enactment of the Law on the Organ of the People's Prosecutor of Lao PDR.

1.1 The 1st period from 1975 to 1989

Since the establishment of Lao PDR on December 2, 1975, the state organs of the People's Democracy were systematically developed from the central to local level. The prosecutorial function at the central level was performed by the Ministry of Justice, and at the local level by the justice department of province and municipality and the justice office of district. The office of people's prosecutor at the central level was a department of the Ministry of Justice called the "people's prosecutor department; people's prosecutors were appointed and dismissed by the Minister of Justice.

At that time, people's prosecutors had rights and duties, not stipulated by a law but by the order of the Prime Minister No. 53/PM on "The Arrest, Investigation and the Sentence of the Offenders" dated October 15, 1976, to prosecute before the court, coordinate with the police to conduct investigations of certain types of cases, issue the order of search, arrest, detention, pretrial detention, and release the accused.

In 1983, the prosecutorial function was reformed to become a part of the People's Supreme

Court under the leadership and appointment of the Minister of Justice. At the provincial, municipal, and district levels, the positions of the deputy director of the justice department of the province, municipality, and the justice office of the district were held by people's prosecutors, while those of the director of these organizations were held by court presidents. The prosecutorial function belonged to the People's Supreme Court until 1989.¹

1.2 The 2nd period from 1990 to present

The second official plenary session of the National Assembly of the second Legislature adopted the Law on the Office of the People's Prosecutor of Lao PDR No.31/SPN, dated December 23, 1989 which was promulgated by the presidential decree No. 5, dated January 9, 1990. This date was declared to be the official foundation day of the Organ of the People's Prosecutor of Lao PDR.² The offices of people's prosecutor were established at the central and local level. At the central level was the Office of the People's Prosecutor General; at the provincial level, provincial and city people's prosecutor's offices; at the district level, district and municipal people's prosecutor's offices.³

By the amendment of the Law on the Office of the People's Prosecutor of Lao PDR in 2003, the Office of the Supreme People's Prosecutor of Lao PDR replaced the former Office of the People's Prosecutor General at the central level, whereas at the local level, Appellate People's Prosecutor's Offices were newly established in three parts of Lao PDR (in Luangprabang for the northern part, Vientiane Capital for the central part, and Champassak Province for the southern part of Laos).

By the second amendment of the Law on the Office of the People's Prosecutor in 2009, the Appellate People's Prosecutor's Offices in three parts of Laos were reorganized into the Offices of the Regional People's Prosecutor, and the offices of the district and municipal people's prosecutor were replaced by the Offices of the Zoning People's Prosecutor which integrated the former offices based on the geographical location, the degree of economic development, or the number of cases handled. [See Figure 1]

The Law on the Office of the People's Prosecutor was most recently amended in 2017 to improve the prosecutorial system, its organization, personnel, and quality of work to meet the demands of the current economic and social situation.

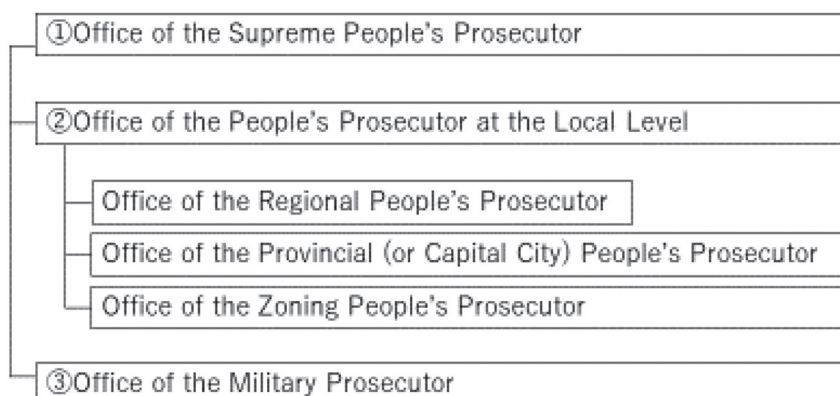
¹ The Office of Supreme People's Prosecutor of Lao PDR. http://ospp.gov.la/?page_id=211 (last accessed on November 16, 2022)

² Ibid.

³ Article 72 of Constitution of Lao PDR (1991).

[Figure 1]

Structure of the Organization of the People's Prosecutor of Lao PDR



2. Position and role of the Office of the People's Prosecutor

2.1 Rights and Duties of the Office of the People's Prosecutor

The Office of the People's Prosecutor of Lao PDR is a state organization responsible for monitoring and inspecting the proper and uniform adherence to the law in the whole country and for prosecuting the accused before the court.

The Office of the People's Prosecutor assumes following rights and duties to:

1. Monitor and inspect the proper and uniform adherence to laws and regulations by all ministries, ministry-equivalent organizations, government organizations, Lao Front for National Construction, mass organizations, social organizations, local administrations, enterprises and citizens. These monitoring and inspection are referred to as general monitoring and inspection;
2. Monitor and inspect the compliance with laws by investigation organizations;
3. Undertake the whole investigation or those portions of it within its authorities as provided by the laws;
4. Prosecute the accused before the court;
5. Monitor and inspect the adherence to the law in court proceedings;
6. Monitor and inspect the implementation of the effective instruction, decisions [and] judgments of the court;
7. Monitor and inspect the adherence to the law in places of arrest, places of detention, re-education centers, [and] prisons during the implementation of deprivation of liberty and the enforcement of other court measures;
8. Monitor the examination, proposal and implementation of the amnesty according to the presidential degree of the President of State;

9. Coordinate with the investigation agencies and other organizations to undertake measures to prevent and counter crime or offence and other violations of the laws and to eliminate the causes and conditions which result in wrongdoing;
10. Reopen cases according to the law in case where there is new evidence;
11. Exercise such other rights and perform such other duties provided by the laws.⁴

2.2 Recruitment and Promotion of Prosecutors

As for titles of people working at the offices of the people's prosecutor, there are the people's prosecutor, assistant prosecutor, and administrative officer. There are three ranks of people's prosecutor: level I to III, from top to bottom.

After being recruited as an employee of a prosecutor's office, one who wishes to be a prosecutor must duly perform the tasks stipulated in the Article 10 of the Law on the Office of the People's Prosecutor. In addition, one must meet a complete set of qualifications in the Law on the Office of the People's Prosecutor as well as specific regulations of the Office of the Supreme People's Prosecutor to be able to take the examination to be appointed as a People's Prosecutor.

General qualifications of the people's prosecutor are: a Lao citizen who is 25 years old or above; possesses strong political qualities, revolutionary moral qualities, good ethics, and purity and honesty in the performance of one's duties; has at least one undergraduate law education and must pass the prosecutor's course training; has never been convicted of a criminal offence for willful misconduct; has good health.⁵

The agreement of the Supreme People's Prosecutor on the people's prosecutors and assistants No. 336/Ospp, dated June 29, 2020, stipulates the principles, rules, criteria, and methods of the examination of assistant prosecutor and people's prosecutor.

The examination to be appointed as an assistant prosecutor is held once a year, the goal of which is for a technical staff to become an assistant prosecutor. Likewise, the examination for promotion, that is for an assistant prosecutor to be a level III prosecutor, and from level III to level II prosecutor, is held once a year.⁶ As for the correspondence between the rank and

⁴ Article 10 of the Law on the Office of the People's Prosecutor (amended in 2017).

⁵ Article 25 of the Law on the Office of the People's Prosecutor (amended in 2017).

⁶ The qualifications for each level of people's prosecutor are as follows:

The qualifications to be an assistant prosecutor are: 27 years old or above; completed four years of continuous legal work as a technical staff; passed the above examination and the assessment by the Supreme People's Prosecutor's Committee (hereinafter referred to as "committee").

The qualifications for a level III people's prosecutor are: 31 years old or above; worked as an assistant prosecutor for three years or more; passed the above examination and the evaluation by the committee to be promoted to a level III people's prosecutor.

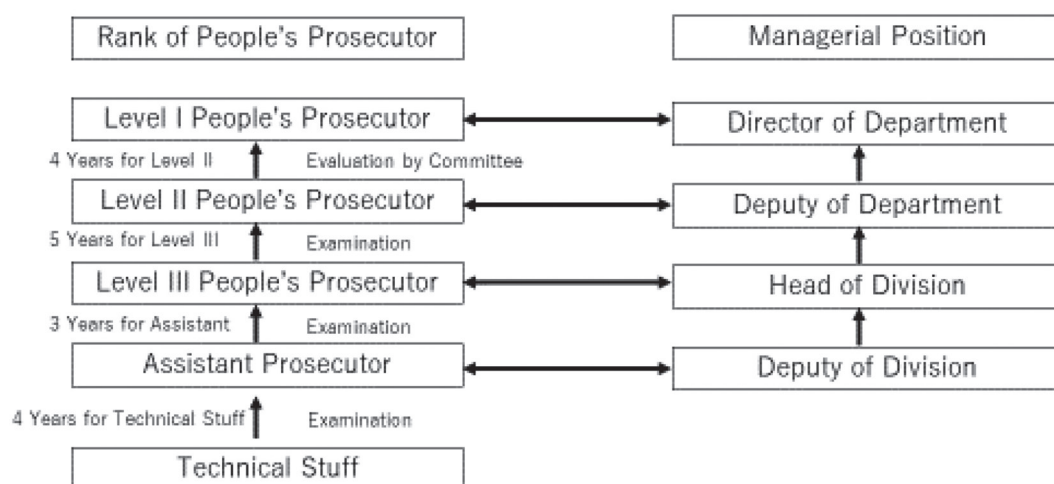
The qualifications for a level II people's prosecutor are: 36 years old or above; worked for five years or more as a level III people's prosecutor; passed the above examination and the evaluation by the committee to be promoted to a level II people's prosecutor.

The qualifications for a level I people's prosecutor are: 41 years old or above, worked as a people's prosecutor level II for four years or more; passed the evaluation by the committee to be promoted to a level I people's prosecutor.

managerial position of people's prosecutor, see below.

[Figure 2]

Correspondence Between the Rank and Managerial Position



II: Monitoring and Inspection by the Office of the People's Prosecutor of the Implementation of the Law in Court.

(Relevant provisions of the law)

The rights and duties of the Office of People's Prosecutor include monitoring and inspection of the implementation of the law in civil, commercial, family, juvenile, labor, and other court proceedings and protecting the interests of the State, society, and individuals lacking capacity. The Office of People's Prosecutor assumes the following role for the case where there are not any plaintiffs:

- To be a civil plaintiff;
- To collect evidence of the case and file a lawsuit to the people's court;
- To make a statement in writing to the people's court;
- To participate in a court hearing at its own level to make a statement.

For the case where there is a plaintiff:

- To examine the case file and make a statement in writing to the people's court;
- To participate in a court hearing corresponding to its level as a people's prosecutor and make a statement;
- To exercise other rights and perform such other duties as the laws provide.⁷

⁷ Article 49 of the Law on the Office of the People's Prosecutor (amended in 2017).

1. The Office of the People’s Prosecutor participates in civil procedure as a plaintiff in civil cases

The Office of the People’s Prosecutor may conduct civil litigation in cases that affect the interests of the State and society and must exercise the same rights and responsibilities as litigants. As a civil plaintiff, the Office of People’s Prosecutor must be authorized by the relevant government agencies to collect materials necessary to conduct litigation. For example, when the State Audit Office inspects construction documents of a contract between a private company and the State and finds any violation of the law on the part of the company, the State Audit Office will send the documents to the Office of People’s Prosecutor to file a complaint against the private company.

2. The Office of the People’s Prosecutor participates in civil procedure to monitor and inspect the implementation of the law in court

(Relevant provisions of the law)

In order to monitor and inspect the implementation of the law in civil, commercial, family, juvenile, and labor cases, the Office of People’s Prosecutor has to do the following:

- Examine the conclusion or summary of the cases submitted by the court.
- Make statements of the office of the people’s prosecutor.
- Attend the session of a court corresponding to its own level as a people’s prosecutor.
- Propose objections to violation of the law in the court rulings, verdicts, or judgments⁸

2.1. Monitor and Inspect the case files

After receiving a case file from the court, a people’s prosecutor will have to examine all the documents in it to monitor the enforcement of the law in lower courts to see whether or not the court (court of first instance/appellate court) violates the civil procedure. The monitoring is focused on several aspects, such as the court’s authority in the proceedings, jurisdiction, production of evidence, presentation of the case including testimony, legitimacy of court rulings, etc.

After examining all the documents in the case file, the people’s prosecutor in charge of the case must summarize the legal issue and draft the statement for the chief of the office of people’s prosecutor they belong to (hereinafter referred to as “chief”).

2.2. Monitor and Inspect the Court Proceeding

People’s prosecutors attend court meetings as stipulated by the law to observe the hearing, and inspect whether or not the court has fully followed the rules and procedures of the court proceeding as described below:

Procedure for opening the court session

⁸ Article 50 of the Law on the Office of the People’s Prosecutor (amended in 2017).

- The composition of the court panel must be subject to Article 12.
- The presiding judge follows the court session procedure such as the number of cases brought up simultaneously before the court for consideration, notifying the accused of the right of recusal during a court session, etc.
- Whether or not the judicial tribunal in the hearing of the case have ever sat in the same case before. If the case had been heard before, the people's prosecutor who participated in the court meeting must have objected to hearing the case because the law does not allow judges to hear the same case twice.⁹

Procedure for a court proceeding

During a proceeding, the prosecutors monitor proceedings of the case investigation inside the courtroom and must pay attention to the hearing and take notes of the testimonies of the parties and other participants. Also, the prosecutors monitor the conduct of judges from the following perspective. During a proceeding, judges have to allow the parties to produce necessary evidence, provide explanation for the parties, and ask if the parties are satisfied with the court meeting or not. Also, judges have to allow the parties to argue against the opposing party and present the final comments at the end of the proceeding.¹⁰

The prosecutor can ask questions to the plaintiff or defendant, especially about any issue related to the request or appeal of the litigants that the judicial council has not yet asked about or has not yet given the litigants an opportunity to explain and prove. Questions by people's prosecutor must highlight legal issues in the case to contribute to the decisions of the judicial council.

The prosecutor who participates in a court session must keep accurate notes, because after court sessions, the prosecutor must report the decisions or judgment appeared in the session to the chief.

Suppose the prosecutor who participated in a court session found that the decision/judgment was illegal or the court did not accept the statements of the office of the people's prosecutor. In that case, the prosecutor must report to the chief the reasons for the decision/judgment. The chief will then decide whether or not to propose objections to the decision/judgment.

In Lao PDR, there are three levels of court: court of first instance, court of appeal, and court of cassation. As the court of each level exercises different role and jurisdiction, the people's prosecutor must monitor the conduct of each court in light of its distinct role and

⁹ Article 16 of the Law on Civil Procedure (amended in 2012).

Forbiddance of Judges from Participating in the Consideration of the Same Case [Twice] Judges who have already participated in the consideration of a verdict for a given case once are forbidden from participating in the consideration of that same case a second time, regardless of the instance [of the case] unless otherwise specified in law or stipulated by a judge of a court of higher instance.

¹⁰ Article 237, 238, 239, 240 of the Law on Civil Procedure (amended in 2012).

jurisdiction.¹¹

(1) The People's Court of First Instance

The prosecutor will examine the summary of the case submitted by the court, which must include the detail of the case, the issues of dispute and the facts presented by the litigants. If the case summary is not clear, the Office of People's Prosecutor may propose to the court to reinvestigate and clarify any unclear points. A people's prosecutor participates in the questioning of participants during court sessions to monitor and make statements.

(2) The People's Court of Appeal

The prosecutor inspects the evidence in the case file and the summary of the case submitted by the appellate court. The prosecutor makes statements and participates in the questioning of participants during a court session to monitor and make statements.

(3) The People's Court of Cassation

The court of cassation examines the case file in detail and in full; it must create a summary of the events of the case and send the case file along with its summary to the corresponding Office of the People's Prosecutor for monitoring and inspection. The Office of People's Prosecutor must complete its examination and review of the case file within 30 days of receiving it and return it to the court of cassation for consideration in the court session.¹²

The facts of the case determined by the appellate court shall be treated as final. The court of cassation adjudicates only the legal aspects of the case file and does not conduct any further questioning or investigations.

If necessary, however, the court of cassation may call in the litigants to participate in proceedings at the court of cassation and conduct onsite inspections of the factual events of the case.¹³

(4) Reopening a Case

When the request of a litigant to reopen a case is received, the Office of the Supreme People's Prosecutor must inform the litigants and relevant third parties of the case, if any, of the reception and explain the reasons for reopening of the case. It must then inspect the evidence in detail. If there are no grounds for reopening the case, it shall issue an order not to reopen the case; if there are grounds, it shall issue a proposal [to that effect] to the People's Supreme Court. The litigants and relevant third parties must be informed of agreements not

¹¹ Article 5 of the Law on People's Court (2017) defines the jurisdiction of People's Courts as follows:

People's Zoning Court is the court of first instance;

Provincial or Capital People's Court is the court of first instance for cases that exceed the jurisdiction of the People's Zoning Court and the court of appeal for the appeal against the judgment of the People's Zoning Court;

Regional People Court is the court of appeal for the appeal against the judgment of the provincial people's court, capital people's court, or children's court as the court of first instance and acts as the court of cassation for the appeal against the judgment on appeal of provincial or capital people's court;

People's Supreme Court acts as the court of cassation for the appeal against the judgment on appeal of the regional people's court.

¹² Article 297 of the Law on Civil Procedure.

¹³ Article 299 of the Law on Civil Procedure.

to reopen [a case] and proposals to reopen [a case]. Upon receiving a proposal for reopening a case, the People's Supreme Court must examine and consider the case file and evidence comprehensively and objectively before proposing to the General Assembly of Judges.¹⁴

3. Example Cases

Case (1) This is a family case considered in the appellate court which will illustrate the prosecutor's duties in proposing objections to judgments¹⁵ after participating in the court of appeal.

Article 288 of the Law of Civil Procedure states; "[Each of] the plaintiff, the defendant, a third party on the side of either litigant [and] the public prosecutor has the right to file a cassation or objection to the instructions, orders, and decisions [on appeal of the court of appeal]. An individual or the public prosecutor who files such request for cassation or objection must explain his reasons for such request or objection.

[Figure 3]

A: Plaintiff (wife)
B: Defendant (husband)

2003: A and B were married. They had three children (all under legal age (18) at the time of divorce).
2013: A and B had a family problem.
A claimed: 1. Divorce; 2. Division of assets (land); 3. Existence of debt to three creditors; 4. Custody of three children
B responded: 1. Divorce is accepted; 2. Land is B's property; 3. Existence of debt to five creditors; 4. Admit A's custody of three children

Judgment of the Court of First Instance
1. Admit Divorce; 2. A has custody of three children; 3. Assets are to be divided into three (one third for children, two thirds for A and B), 4; There are debt to three creditors

Judgment of the Court of Appeal
1. A and B pay three creditors from assets; 2. (if remained) assets are to be divided into three (one third for children, two thirds for A and B).

Objection of the Office of People's Prosecutor
The interests of three children are to be prioritized in the division of assets.

Facts: A (wife), the plaintiff, and B (husband), the defendant, were married in 2003 and had three children under legal age. The plaintiff and defendant acquired some assets (house, land, and car) during their marriage, but there were still debts to creditors. In 2013, their families were so troubled that A and B could not live together, so the wife filed for divorce.

Issues between the couple were:

¹⁴ Article 318 of the Law on Civil Procedure.

¹⁵ Article 65, Clause 3 of the Law on Civil Procedure.

1. The wife said that she owned the land, but the husband contested it was his property.
2. The number of creditors (the wife admitted the existence of three creditors with the total amount of debt as 160,000,000 kip whereas the husband claimed they had five creditors, including his mother and his brother.)

The provincial people's court (court of first instance) judged that the plaintiff and the defendant be divorced with the three children to be left in the plaintiff's custody. As for division of assets, the court ruled to deduct one-third of their total assets to pay the allowances for the three children and divide the remaining assets between the plaintiff and the defendant. The court also decided that A and B must pay the creditor the total amount of 160,000,000 kip.

The defendant appealed to the Court of Appeal claiming to reconsider the amount of debt and the land ownership.

The Office of the Regional People's Prosecutor stated that the hearing of the case of the court of first instance followed article 245 of the Law on Civil Procedure and article 28 of the Family Law.¹⁶

The central people's court (appellate court) partially reversed the judgment of the court of first instance to pay the debt of 160,000,000 kip using the above asset and split the remainder into three, ordering one-third to be paid for raising three children, and the rest to be shared between A and B.

As the Office of People's Prosecutor found after the monitoring and inspection in the court proceeding that the judgment of the central people's court had not followed the law, the Office of People's Prosecutor objected to the court judgment.

The prosecutor's point of view was that the decision of the people's court on the partition of assets did not respect the rights of the children under legal age. Article 4 of the Law on the Protection of the Rights and Interests of the Child provides that: "In agreeing on all matters relating to the child, such as custody, the appointment of guardians, adoption of children, treatment of children, and criminal proceedings for children, the best interests of the child must be considered." And Article 5 of the Family Law states that: "The State and society protect the interests of mothers and children in family life and when a married couple no longer co-habitate."

¹⁶ Article 28 (Share of Initial and Acquired Assets)

The share of initial and acquired assets between husband and wife is to be implemented as follows:

1. Initial assets of either parties shall belong to their original owners;
2. Acquired assets shall be equally shared between the parties, unless there is a Court decision ruling that the husband or the wife has committed adultery, a fraud or misappropriation of acquired assets, the wrongful party shall be merely entitled to one third of acquired assets.

In case an underage child is remaining with either parties such a party shall be entitled to the one-third share of such acquired assets for the fostering of the child. For the rest of acquired assets shall divided in half.

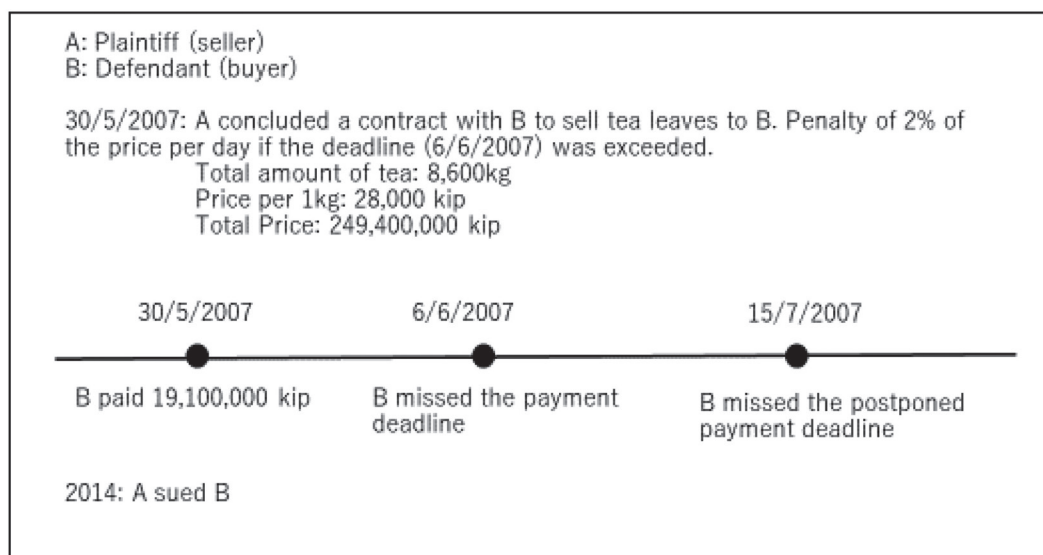
In case the alimony is insufficient as provided under the Article 35 of this law, until the child becomes 18 years old. acquired assets shall be divided after divorce. In case husband and wife are separated, husband or wife has taken acquired assets for the wrongful usage or without faithfulness; the acquired assets can be divided according to the will of either parties.

The Office of the Regional People's Prosecutor proposed the court to reconsider, stating that the interests of children were to be prioritized in the partition of the assets aligned with the intent of the relevant laws.

In this case, the People's Supreme Court decided in cassation to accept the proposal of the prosecutor; the judgment was reversed and the case was sent back to the appellate court for reconsideration¹⁷.

Case(2) This is a commercial case (sale-purchase contract) considered in the cassation court which will explain the prosecutor's duties at this level of court.

[Figure 4]



Facts: On May 30, 2007, A concluded a contract with B to sell 8,600 kilograms of tea to B, 1 kilogram costing 28,000 kip¹⁸, so the total price was set to 249,400,000 kip. B paid 19,100,000 kip in advance and the remaining 230,300,000 kip was agreed to be paid on June 6, 2007. According to the contract, there would be a penalty of 2% of the price per day if the deadline were exceeded. B could not pay the price for the tea by the deadline, but A postponed the payment until July 15, 2007. When the new deadline came, B still could not pay the price.

B claimed that as tea leaves sold by A were not up to standard, he could not sell them to customers and could not pay the price to A. A and B could not reach an agreement despite having a number of mediation.

On August 25, 2014, A filed a lawsuit against B before the provincial People's Court. A

¹⁷ Article 302 of the Law on Civil Procedure.

¹⁸ Kip is the Lao currency. The exchange rate in 2014 was 1 USD to around 8,500 kip.

claimed that (1) according to the tea sales contract, B has to pay 230,300,000 kip; (2) B pays the penalty according to the contract.

In the court proceeding, B agreed to pay 230,300,000 kip, but refused to pay the penalty, because the tea leaves sold were not up to standard.

Court judgment: The judgment of the Court of First Instance of Province, in 2014 said: A's claim is justified; let B pay 230,300,000 kip and the fine according to the contract for the plaintiff. The defendant appealed and proposed that the court reconsider the payment of the penalty. The Office of People's Prosecutor stated that the court of first instance should consider the case following the law. The People's Court of Appeal in 2015 denied the defendant's appeal and confirmed the judgment of the court of first instance. B appealed to the People's Court of Appeals, claiming that ordering to pay the penalty exceeding the amount of the debt is against the Law.

The Statement by the Office of the Supreme People's Prosecutor (cassation) was as follows: in the proceedings, B consistently acknowledged the existence of an agreement to buy tea from A (the detail of which is same as described in the above "Facts"). Despite the agreement, B could not pay the price to A, so it was B who violated the contract according to the Article 39 of the Law on Contract which stipulates: "A sale-purchase contract is an agreement between contracting parties whereby the seller must transfer assets to the buyer's ownership, and the buyer must accept such assets and must pay an agreed price".

B, the defendant, is responsible for the consequences of the defendant's violation of the contract according to Article 33 of the Law on Contract which stipulates: "A breach of contract means non-performance of contractual obligations, in whole or in part, or unreasonable performance of obligations by either contracting party, such as low quality performance of obligations, untimely performance, [or] performance not according to locations as specified by the contract. If either contracting party breaches a contract, that party must be liable to compensate [the other party] for damages which arise, except if the contract breach occurred as a result of an accident or force majeure such as lightning strikes, floods, earthquakes, etc." The people's court of appeal's judgment is correct according to the Law on Civil Procedure (2012) Article 273¹⁹ and the Contract Law, Article 36²⁰ Article 39.

In this case, the People's Supreme Court's judgment confirmed the sentence of the people's court of appeal in 2015.

¹⁹ Article 273 (Scope for Consideration by an Appellate Court)

An appellate court considers the issues of evidence and the law adjudicated by a court of first instance for which a request for appeal or proposal for objection was made.

Any issues which the court of first instance has not yet considered or for which a litigant has not requested appeal cannot be taken up for consideration by an appellate court.

²⁰ Article 36 (Penalties)

A penalty is a measure applied against those who do not perform their contracts or who have rendered incomplete performance or untimely performance. Penalties are to be applied according to specific regulations of relevant sectors or as agreed between the contracting parties agree in the case where that there are no specific regulations.

III: Conclusion

After the success of the Revolution of 1975, the role of supervising the observance of the law in Laos was assigned to various state agencies. This led to scattered, overlapping activities, and low efficiency in the legal and judicial system, which is not favorable to protect the socialist legality. At the time of the Revolution, building and developing a new social system was a top priority, then building a unified legal system throughout the country became an essential task, requiring the establishment of a state agency that supervises the observance of the law and ensures uniform application of the law in all areas of the State's activities. Against this background, the office of people's prosecutor was established in 1990. It was said that the model of the people's prosecutor came from socialist countries like the Union of Soviet Socialist Republics and Viet Nam.

Participation of the Office of People's Prosecutor in civil proceedings aims to ensure that the law is properly enforced and implemented throughout the country. To this end, the Office of the People's Prosecutor will participate in all civil proceedings to ensure that all case proceedings are complete, objective, correct, and just. The rights and duties of the Office of People's Prosecutor are to monitor and inspect what is happening in the court, but not to control the court's authority in hearing the case; judges must remain independent and act according to the law only.

The Office of People's Prosecutor, in participating in the civil proceedings, perform two duties: (1) in a case in which there is no plaintiff, as a civil plaintiff to protect the rights and interests of the State, society, and incapacitated individuals; (2) in a case in which there is a plaintiff/s, to monitor the respect and implementation of the law.

There are two significant means to participate in the civil proceeding: (1) monitoring of the case files and making a statement; (2) monitoring and inspection in the court proceeding. The former means that people's prosecutors monitor the case files after the conclusion of a case by a people's court and make a statement out of these files, in which legal issues must be pointed out in two ways: (a) the statement confirms the lower court's decision if the court's consideration is legal and is based on the actual events of the case; (b) the statement objects to the court's decision if its consideration is found to be invalid as a matter of law. The latter means that people's prosecutors shall attend a court meeting to monitor the proceeding of the case investigation conducted inside the courtroom, and, following the final opinions of the litigants, shall present their views and statements on the elements of the case. Also, prosecutors will provide opinions on the conduct of judges and court panel in proceedings. Prosecutors engage in the civil proceedings from the time of receiving the cases until the court makes a decision, and make comments on the resolution of the issue. If the court's decision is invalid from the prosecutor's eye, the prosecutor has the right to oppose, under the

conditions set by the law, to the court's decision. This is required for the Office of People's Prosecutor under the Constitution and the Law on the Office of People's Prosecutor.

In Laos, as people are not fully aware of their legal rights and obligations, they encounter difficulties when arguing a case to protect their legitimate rights and interests in proceedings. Many people do not have the conditions to hire a lawyer even when there is a need to protect their legitimate rights and interests. When a lawyer is not available to participate in a civil case, participation of a people's prosecutor is necessary. In carrying out this role, the Office on People's Prosecutor is not an agent of any of the parties, but performs the task of monitoring and inspecting the application of the court's law.

In the first place, people's prosecutors participate in civil proceedings as a plaintiff in order to protect the interests of the State, society, and individuals lacking capacity in Laos. Similarly, public prosecutors of Japan act as representatives of public interests²¹ when authorized by the Civil Code and other laws. For example, if it is not evident whether an heir exists to an inherited property, the family court, in view of public interests, shall appoint an administrator of the property at the request of an interested party or a public prosecutor (Article 952, Section 1 of Japanese Civil Code). Having said that, it is rare to have a prosecutor as a plaintiff in Laos.

In different countries, there are various models of the prosecutor's duties; one model would define the role of prosecutor mainly in criminal proceedings whereas another model puts emphasis on the role of prosecutor in supervision of compliance of law by state agencies. The people's prosecutor model in Laos must combine the monitoring of state agencies' compliance with laws and the protection of the unified legislation, which are both required for a state with the rule of law.

As for the prosecutorial function in Lao PDR, there has been a gradual strengthening of the capacity of personnel at each level. Nowadays the people's prosecutors are equipped with the knowledge, ability, and experience to monitor and inspect the proceedings in court. In the future, as in other countries, the role and responsibility of prosecutors in monitoring civil cases will improve by focusing on protecting the rights and interests of the State, society, and incapacitated individuals. At the same time, it is expected to promote the law to allow citizens to recognize and understand their rights and obligations, which is vitally important in a state with the rule of law.

²¹ Article 4 of the Law on the Office of the Public Prosecutor.

LEGAL SYSTEMS RELATING TO LAND RIGHTS IN TIMOR-LESTE

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1 Introduction

International Cooperation Department, Research and Training Institute, Ministry of Justice, Japan (hereinafter referred to as “ICD”) has supported to the Ministry of Justice (hereinafter referred to as “MOJ”) of the Democratic Republic of Timor-Leste (hereinafter referred to as “Timor-Leste”) in legal drafting capacity-building on the subject of land related laws since FY 2017. Código do Registo Predial or Property Registration Code, which is one of such laws, was promulgated on April 6th and enacted on November 28th, 2022. Besides, the Decleto-Lei de Infomação Cadastral Predial or Decree-Law of Property Cadastre Information was promulgated on August 31st, 2022 and enacted on the same day as the Property Registration Code.

Amid such situations, this article would thus like to introduce legal systems relating to land rights, mainly land ownership rights in Timor-Leste. In the next chapter, situation of land rights in Timor-Leste is summarised. In Chapter 3, the legislation with relevant to recognition of the first ownership right holder of a parcel of land in Timor-Leste is described. In the last Chapter, the summary of the Property Registration Code is described¹.

2 Situation relating to land rights in Timor-Leste

(1) Historical background of Timor-Leste

Timor-Leste had been a Portuguese territory since 16th century and unilaterally declared its independence in 1975. It was, however, occupied by Indonesia shortly after the declaration. In August 1999, a referendum on the independence was taken place but just after it, it is said that opposition groups to the independence committed arson and looting, violence caused many internally displaced people which were 75 % of the population and destruction of more than 70% of infrastructure². In October the same year, the United Nations Transitional Administration in East Timor (UNTAET) was established and the foundation of the country was formed; for example, the Constitution was drafted. The Republic of Timor-Leste, finally

¹ This article is mainly translation of the author’s article written in Japanese, titled “Summary of Legal Systems relating to land rights in Timor-Leste”, ICD News No.91, June, 2022 (Japanese version) and some descriptions are modified and updated from it. The opinions expressed in this article are author’s personal ones; they do not represent those of the organisation the author belongs to. In addition, laws of Timor-Leste described in this article are originally written in Portuguese and based on tentative translation.

² First Asia Department of the Japan International Cooperation Agency, “General Report on restoration and development assistance for Timor-Leste (2002) p.2, <https://www.jica.go.jp/easttimor/office/activities/ku57pq00001uyovv-att/report200206.pdf>

restored their independence in 2002. However, demonstration by armies escalated to riot and about 150 thousand people became internally displaced again in 2006.

Regarding land management by the authority, fixed property tax was introduced under the Portuguese administration and lands and buildings were also managed as a subject to taxation under the Indonesian administration. This information, however, did not seem to be succeeded to the government of Timor-Leste due to confusion before the independence³.

Because of these complex backgrounds, land owners in Timor-Leste are divided mainly into four types: customary land possessors; land rights holders recognised by Portuguese administration; land rights holders recognised by Indonesian administration; and occupants. They declare their rights on the same parcel of land by use of different kinds of evidence so that land disputes have occurred constantly⁴.

In this situation, the government of Timor-Leste sets a goal relating to land rights as “an autonomous, independent body [which is] able to manage the cadastre of lands and the immovable property of the State, and to implement legislation to govern property and the use of land in Timor-Leste, will have been established” in the “Strategic Development Plan 2011-2030”⁵ compiled in 2011. The “Justice Sector Strategic Plan for Timor-Leste 2011-2030” compiled by the MOJ in 2011 also describes recognition of land owner as one of their main challenges⁶.

(2) Legislative history relating to the recognition of land ownership rights holders

Only national citizens have the right to ownership of land in Timor-Leste (Section 54 (4) of the Constitution) and the Civil Code provides that real estate without a known owner is considered to be a State property (Article 1265).

Other than those provisions, with regard to land ownership right, Regime Jurídico dos Bens Imóveis or Legal regime of immovable property, Law No. 1 / 2003 of March 10 was enacted in 2003 for resolving land disputes described in (1) above. This law recognises state-owned lands under the Portuguese administration and lands without an owner as state-owned lands, which means the ownership right holder on such lands are the government of Timor-Leste. The law also sets penal provisions and these are applied to a person occupying lands illegally or converting other people’s lands. It is, however, difficult to make a decision when these

³ Tsujimura Nao, “New bridge construction plan on Comoro river in Timor-Leste, Process report of land acquisition and resettlement, compensation by the government of Timor-Leste” (2016), JICA Timor-Leste office, p.29, <https://openjicareport.jica.go.jp/pdf/12261293.pdf>

⁴ *Ibid*, pp.30-33, Bernardo Almeida, “Land Tenure Legislation in Timor-Leste” (2016), The Asia Foundation, P.5, https://asiafoundation.org/wp-content/uploads/2016/04/Land-Tenure_TL_EN.pdf

⁵ “Timor-Leste Strategic Development Plan 2011-2030”, version submitted to the National Parliament, p.180

⁶ “Justice Sector Strategic Plan for Timor-Leste 2011-2030” (2010), p.25

provisions should be applied⁷ and there were not clear provisions how to recognise a right holder of other lands than state-owned lands under the Portuguese administration and lands without an owner. As a result, occupying illegally and converting other people's land occurred continuously.

In 2011, *Regularização da Titularidade de Bens Imóveis em Casos Não Disputados*, or Regime to Regulate Ownership of Real Estate in Undisputed Cases, Decree Law No. 27/2011 of July 6 was enacted. This law prescribes process to recognise an owner of undisputed land. Under this law, a person who has a land right should declare his/her right during cadastral survey. If there is more than one person declaring their rights on the same parcel of land or there is not an agreement on more than two boundaries of a parcel of land, these cases are categorised as “disputed cases” and other cases are categorised as “undisputed cases”. A right holder of an undisputed land is registered in the National Cadastre Database and he/she is presumed as the ownership right holder. On the other hand, there was still not any provisions how to recognise a right holder on disputed lands and this had remained as a big issue to be resolved in Timor-Leste.

Several public hearings have taken place since then; *Regime Especial Para a Definição da Titularidade Dos Bens Imóveis* or Special Regime for Definition of Ownership of Immovable Property, Law No.13/2017 of June 5 (hereinafter referred to as “Special Regime”) was enacted in 2017. The summary of the Special Regime is described in the next chapter but this regime provides the process to figure out physical information of land thorough cadastral survey and to issue a “título” or title certificate to a recognised or attributed land ownership right holder based on his/her declaration and required measures.

To sum up, the measures to recognise the first ownership right holder of land have been legalised gradually after the restoration of independence in Timor-Leste as mentioned above. Furthermore, the Property Registration Code was enacted last year which prescribes measures to register and publicise rights changes such as transference of ownership right and creation of mortgages of a parcel of land which ownership right holder has already been recognised under the Special Regime.

3 The recognition or attribution of the first ownership right of a parcel of land

The rules for the recognition or attribution of the first ownership right of a parcel of land is considerably interesting, therefore this chapter explains more about the Special Regime. Article numbers in this chapter are ones of the Special Regime, unless noted otherwise.

⁷ Cynthia Barmore, Zach Kolsap, Nikki Marquez, Ashlee Pinto, Keny Zurita & Megan Karsh, “Introduction to Property Law in Timor-Leste” Stanford Law School, Rule of Law Program, Timor-Leste Legal Education Project (TLLEP), (2015), p.26, <https://law.stanford.edu/publications/introduction-property-law-timor-leste/>

(1) Cadastral Survey

On the premise of the recognition or attribution of the first ownership right, cadastral survey is implemented in order to collect physical information of land by the National Directorate of Land, Property and Cadastral Service (DNTPSC)⁸. The survey area is decided first, and information of lands within the area is collected such as address and geographical location data (Art.30). During the process of this cadastral survey, a person who has the right to land within the survey area is able to declare his/her right (Art.32).

The DNTPSC then publicises the information of land including the information of declarants which they collected during the cadastral survey for 90 days (Art.33). If there is no person who objects to the information and there is no dispute between the declarants, the title is issued to the first ownership right holder. There are some cases where several people declare their rights on the same parcel of land in fact. The way to recognise or attribute to the first ownership right in such cases is explained in (2) below.

Meanwhile, the cadastral survey was implemented in compliance with the Ministerial Diploma No. 45 / 2016 and No.46 / 2016 of MOJ but these diplomas were modified and became the Decree-Law of Property Cadastre Information in 2022. The contents of the decree-law is not further described in this article, however, this decree-law is one of the subjects to ICD's legal technical assistance activities for MOJ, too.

(2) Existing right relating to land ownership

The Special Regime provides six rights as below in relation to land ownership existing in Timor-Leste.

- Direitos Informais de Propriedade: immovable property rights which arise under customary law and are the result of long-term possession and which have the essential characteristics of property rights
- Direito de Propriedade Perfeita: the right to full and exclusive enjoyment of the rights of use, fruition and disposal of immovable property, recognised as such in the law applicable during the Portuguese administration.
- Aforamentu: the right of the lessor to use and enjoy immovable property by paying a rent, to the extent that the right of redemption extends, recognised as such in the law applicable during the Portuguese administration
- Hakmilik: the right to full and exclusive enjoyment of the rights of use, fruition and disposal of immovable property, recognised as such in the law applicable during the Indonesian administration
- Hakguna-bangunan: the right to temporarily build or maintain a work on someone else's

⁸ The Special Regime prescribes as DNTPSC but it seems that the cadastral survey is now implemented by the General Directorate of Land and Property (DGTP) due to organisational restructuring in the MOJ.

land, recognised as such by the law applicable during the Indonesian administration

- Hakguna-usaha: the right to the economic use of the state-owned land for a determined period of time, recognised as such in the law applicable during the Indonesian administration

Direitos Informais de Propriedade and Direito de Propriedade Perfeita, Hakmilik are categorised as “premiere rights” and others are categorised as “secondary rights”. When a premiere rights holder declares his/her right and there is no one who has an objection to it during cadastral survey, the premiere rights holder is recognised as an ownership right holder (Art.36)⁹.

In the case of a secondary rights holder, there are three conditions to be fulfilled for the attribution of a land ownership right. Firstly, he/she has a valid secondary right in accordance with the Special Regime. This means having *aforamentu* whose expiry date is after November 28th, 1975¹⁰ or having Hakguna-bangunan or Hakguna-usaha whose expiry date is after August 30th, 1999¹¹. Secondly, he/she occupies the property actually and peacefully. Thirdly, the occupation is long lasting (Art.37).

Furthermore, a person who has neither premier rights nor secondary rights but occupies a land may be attributed to a land ownership right as “special acquisition by prescription” by fulfilling following conditions; which are holding Timorese nationality and possessing the property with *animus occupandi* continuously and publicly, commencing the occupation peacefully prior to December 31st, 1998 without using physical violence or moral coercion, not having other property for habitation or cultivation than that of occupation (Arts.19 and 21). In this regard, however, state-owned land and land occupied as a result of acts of forced displacement of populations during the Indonesian administration may not be subject to the special acquisition by prescription (Art.20). The ownership right may be attributed to a merely possessor who does not fulfil the conditions of special acquisition by prescription, but they fulfil such conditions that occupying the land peacefully, being without any objection of the occupation and the land is not state-owned (Art.38).

(3) Process to recognise or attribute to a land ownership right in disputed cases

Regarding the process to recognise or attribute to a land ownership right when more than one person declare their rights on the same parcel of land, the case should be resolved by a court or administratively based on rules described below if the case is not resolved by negotiation or mediation, etc. (Art.39)

When more than one person declare their premiere rights on the same parcel of land, a person

⁹ Foreign people are excepted. Same as follows.

¹⁰ The day which the independence from Portugal was declared.

¹¹ The day which the referendum on the independence took place.

who occupies the part of the land (Art.40) or a person who declares his/her right first (Art.45) when there is no occupant of the land is recognised as a land ownership right holder.

When there is a person who declares his/her premiere right and a person who declares his/her secondary right on the same parcel of land, the premiere right holder is recognised as a land ownership right holder (Art.41).

When more than one person declare their secondary rights on the same parcel of land, the land ownership right is attributed to in proportion with their occupation. If the people do not occupy the land, the land is returned to the state (Art. 42).

When there is a person who declares his/ her premier right and a person who meets conditions of special acquisition by prescription or a merely possessor on the same parcel of land, the premiere right holder is recognised as a land ownership right holder (Art.43).

When there is a person who declares his/her secondary right and a person who meets conditions of special acquisition by prescription, the latter person is attributed to a land ownership right. In addition, when there is a person who declares his/her secondary right and a merely possessor, the secondary right holder is attributed to a land ownership right (Art.44).

(4) Organisation for land disputes resolution

Having said that conditions of recognition or attribution of a first land ownership right is clarified by the Special Regime as described above, there are various challenges such as how to prove the premiere rights or secondary rights in the situation where uncounted certified documents have been lost. Moreover, it has occasionally occurred that land boundaries are not agreed between neighbouring land owners. There are some disputes on owners and/or boundaries of a parcel of land even cadastral survey is implemented¹², therefore, the Special Regime prescribes to establish the Land and Property Commission as a specialised organisation for resolving such land disputes (Art. 55).

The Commission established in 2020 and has already started their business. In particular, disputed cases under the cadastral survey process are brought to the Commission when the declaration duration is completed and the Commission reviews information which was collected during the cadastral survey and testimonies of related parties and decides a first ownership right holder on the parcel of land concerned (Arts. 59 to 61).

The MOJ has been interested in the process of dispute resolution of Japan thus the ICD has already provided them some information of Japanese system. However, it is presumed that difficult cases will occur due to the establishment of the Commission. We, therefore, would like to keep attention to the trend of land dispute resolution in Timor-Leste.

¹² According to the MOJ, disputed cases are about 30% of parcels of land which cadastral survey has been conducted.

4 Summary of the Property Registration Code

The Property Registration Code is aiming for registration and publication of the rights changes of a parcel of land after the first ownership right holder is recognised or attributed. The code is consisted of 180 articles and seems to be based on the property registration code of Portugal with some modification according to the social situation of Timor-Leste.

This chapter explains main articles of the Property Registration Code with respect to each title in comparison with the Real Property Registration Act of Japan. Article numbers in this chapter are ones of the Property Registration Code, unless noted otherwise.

(1) Title 1 Nature and value of the registration

a) Object and effect of the registration

The main object of registration is to publicise the legal status of immovable properties with a view to securing legal transactions of them. Meanwhile, “immovable property” means the integral parts of rural and urban property, waters, trees and shrubs, natural fruits as long as they are attached to the ground (Art. 195 of the Civil Code). This seems that land and buildings are not separate properties and this is different from the legal system of Japan.

Regarding the effect of the registration, Timor-Leste adopts the principle that registration is a requirement for effectiveness of mortgage; that means mortgage takes effect when it is registered (Art. 621 of the Civil Code). Other rights than mortgage, the principle of intention is adopted; for example ownership rights are prescribed in Article 1238 of the Civil Code. In short, registration of rights excluding mortgage and some other cases such as prescription acquisition are perfection against a third party (Art. 6).

b) Facts subject to registration

Legal facts relating to the recognition, constitution, acquisition or modification of the right of ownership, usufruct, use and habitation, servitude over immovable property are subject to registration. In addition, attachment, the constitution or modification of horizontal ownership rights which is known as building unit ownership rights in Japan should be registered. Merely possession should also be registered (Art. 3) which does not prescribed in Japanese laws.

c) Persons required to apply for registration

In principle, natural and legal persons who intervene the facts subject to registration are obliged to apply for registration (Arts. 11 and 51). This does not clarify whether joint application by a person entitled to register and a person obliged to register is required as in Japan or application by only one of the related parties is sufficient even though this point was discussed with MOJ several times.

The registration should be applied within thirty days after the facts subject to registration occurred and double fee is charged when the registration is not applied within the time frame. Therefore, it is considered that persons required to apply for registration should be clarified

by subordinate legislation.

Meanwhile, a public deed is required for the contract such as sales and gift (Art. 809 and 881 of the Civil Code) and the public deed should be provided to a property registration service when the registration is applied so it is supposed that joint application which Japan adopts is not necessary in Timor-Leste.

(2) Title 2 Organisation of registration

a) Competent authority of the administration in relation to property registration

The municipality property registration service where the property is located is competent to the administration of the property registration (Art.25). According to MOJ, thirteen property registration services have already been set out nationwide in each municipality.

b) Archives of registration information

Registration information should be stored by document or electronically, if possible (Art.31). It will be stored by document just after the enforcement of the Registration Code.

In order to search for registration information, “real file” and “personal file” should be compiled. The real file includes unique property identification number (NUIP) which is assigned during cadastral survey, location and attributes of the property. On the other hand, the personal file includes name and address of owner or possessor of the property, NUIP, location of the property, and it is stored by alphabetical order (Arts. 33 and 34).

c) Harmonisation of registration information and cadastral information

The cadastral information is obtained by the cadastral survey mentioned in Chapter 3 and it is stored by cadastral services which are different administrative organisation from property registration services. Therefore, registration information should be harmonised with cadastral information (Arts. 38 to 43).

For instance, property description of registration information should include the information such as location, area and boundaries of each property (Art.96). Such information should not be contradicted to cadastral information of the same property. Moreover, registration information should be modified when the cadastral information of the same property has changed (Art.42). In addition, cadastral certificate issued by a cadastral service should be provided to a property registration service at the time of registration application (Art.43) and when cadastral information and registration information are not the same, one or another information should be modified before the registration application (Art.41).

It has been discussed with MOJ several times regarding this point, especially how to record the information of first ownership right holder recorded in a cadastre to property registration and the means to share information between these two organisations. It is believed that more consideration on this point is necessary for the smooth operation of the Property Registration Code.

(3) Title 3 Registration Procedure

a) Principles with relevant to registration application

The property registration should be made by application in principle. The registration should be applied at a property registration service or online when it is ready (Art. 52) and only application at a property registration service will be received just after the enforcement of the Property Registration Code.

Application form and accompanied information should be provided for the registration application. Accompanied information is such cadastral certificate, a public deed which certifies the fact subject to the registration and identification of the applicant (Art.55). In addition, other required accompanied information is prescribed individually depending on a fact which subjects to the registration such as attachment and public auction (Arts. 62 to 74).

b) Provision of application form

When an application form is provided to a property registration service, this is recorded by application order in a book called “diário” and the certificate of the application is issued (Arts.75 to 77).

If the fee is not paid or name and address of the interested party is not indicated in the application form, the application is rejected (Art.79). This is distinguished from the rejection after the examination of an application form and accompanied information (Art.82). Such distinguish does not exist in Japan thus it is interesting to examine the operation of these provisions.

c) Application withdrawal

The registration application can be withdrawn only when the application has flaws or there is a document which certifies the fact based on the registration has been extinguished after the provision of application form and until the registration process is completed.

(4) Title 4 Registration

a) Principle of registration administration

The registration procedure should be completed within fifteen days after the application (Art.87). The signature on a registration sheet and record shall be made by a registrar called “conservador” belonging to a property registration service (Art. 88).

b) Registration sheet

There are two different types of registration sheets; physical information of property is recoded in the “descrição” and rights of the property is recoded in the “inscrição”. Both sheets are able to be endorsed and the endorsement sheet is called “averbamentos” (Art.31).

The registration record is prepared for each immovable property.

It is considered that descrição is similar to the heading section and inscrição is similar to the rights section of the registration information of Japan.

Descrição is aiming for the identification of the property physically, economically and administratively. It includes such information as NUIP, the nature of land which means residential land or agricultural land, location, boundaries, area and the fact of community protection zones where applicable (Art.96). If the rights of property are horizontal ownership, not only descrição but also “subordinate descrição” including composition of the property should be created (Art.97).

When the information recorded in the descrição is changed, the modified information is recorded in the averbamentos (Art.103). When it is recognised that the recorded information has changed by the information from a cadastral service etc., a property registration service should modify the information in descrição officially (Art.104).

On the other hand, inscrição includes number, date and time of the application, fact subject to the registration, name and address, marital situation of related parties of the fact (Art.108). In addition, other information should be registered depending on a fact subject to the registration, such as the cause when the right is obtained or owner and contents, obligation of usufruct (Arts.110 to 114).

As well as descrição, when the information recorded in the inscrição is changed or the property is seized or conserved, these facts are recorded in the averbamentos with number, date and time of application and the name of applicants (Arts.115 to 118).

The models of registration sheets will be prescribed in the ministerial diploma by the MOJ (Art. 3 of the law of Approva o Código do Registo Predial), thus more attention should be paid for the information of the models.

c) Provisional registration

Sale or attachment by judicial process or the registration of conservation measures can be registered provisionally before the judgment or decision comes into effect. The horizontal ownership can also be registered provisionally before the construction of the property is completed (Art.106). Such registration is called provisional registration. The effective period of the provisional registration differs from the fact subject to the registration, however, it is going to be invalidated if the definitive registration or declaration of extension is not made during the effective period (Art.17). When definitive registration is applied, this fact is recorded in the averbamentos of the inscrição (Art.116).

This registration has a similarity to *Kari-toki*, or provisional registration in Japan partially. On the other hand, it also seems to be similar to the notice registration which was prescribed in the Real Property Registration Act of Japan before 2005. To clarify, the operation of provisional registration in the Timor-Leste should be further examined.

(5) Title 5 Disclosure and proof of the registration

a) Disclosure of registered information

Any person may request a certificate of registration acts and documents filed on payment of the respective fees (Art.119) and the valid duration of the certificate is one year (Art.131). Uncertified copies of registered information can also be issued (Art.120). This is considered to be the same as “certificate of registered matters” and “summary of registered matters” in Japan. Moreover, the negative certificate may be issued (Art.132). According to MOJ, this document certifies that a property is not registered.

b) Process of certificate issuance

A certificate and an uncertified copy of registration can be obtained at a property registration service where the property is located. When electronic system is set out, the certificate and an uncertified copy can be obtained at any property registration service nationwide (Art.132).

Certificates may be requested orally or in writing (Art.133). A certificate is issued within two working days and a negative certificate is issued within five working days after the request (Art.135).

The certificate includes the descriptions of the registered acts in force concerning a property, mention of the pending presentations about the property if applicable, irregularities or registration deficiencies being not rectified if applicable, and documents filed to which the registration refer to (Art.134). The models of certificate will be prescribed in the ministerial diploma by the MOJ (Art. 3 of the law of Approva o Código do Registo Predial), therefore it should be focused, especially, how to describe filed documents on a certificate.

c) Information security and protection of personal data

The property registration database should be kept up-to-date and should not be used for any other purpose incompatible with the main purpose referred to in Article 1, that is to publicise the legal status of immovable properties with a view to securing legal transactions of them (Art.122). Personal data which is collected for the property registration and measures of the collection are clearly prescribed in Arts.124 and 125. When the collected personal data is shared with other national or public entities, MOJ should sign a protocol with these entities which clearly defines its limited usage in relation to the competences defined by law (Art.126). It can be said that this code respects for personal data sufficiently. In addition, only a limited person can access to the property registration database and officials dealing with registration are obliged to maintain confidentiality of the information (Arts.129 and 130).

(6) Title 6 Supplement, rectification and reconstitution of the registration

a) Supplement of the registration

Unregistered transfer of ownership rights can be supplemented by a public deed (Art.136) and some other cases which can be supplemented are prescribed in the Code (Arts 137 to 139). It

is still unclear about these provisions so the operation should be examined.

b) Rectification of the registration

Inaccurate or wrong registration is rectified at the initiative of conservador and rectification is recorded in averbamentos (Art.141). Registrations without any presentation of information may be cancelled with the consent of all the interested parties or by a court decision (Art.144). For requesting the rectification, evidence and identity of interested parties should be specified (Art.146). The consent is also one of requisitions for the rectification by requesting from all the interested parties or at a conference convened by a conservador (Art.147). When interested parties are uncertain, notification shall be taken in accordance with the terms provided for in the Civil Procedure Code (Art.153).

The decision on the rectification request should be made by a conservador within ten days after the conclusion of investigative procedure for evidence (Art.155).

c) Reproduction of the registration

When registration record is lost or cancelled¹³, the record can be remade by reproduction from existing archives (Art.159). In order to do so, backup of documents and registration record should be kept in different place from a property registration service (Art.160).

d) Reconstitution of the registration

When registration record is lost or cancelled and thus it is impossible to make a reproduction by measured described in c) above, a conservador should make a document including the circumstance of loss or cancellation and send it to the Public Prosecutor's Office. The Public Prosecutor's Office leaves the decision to a judge whether interested parties should be summoned. If the judge decides a summon is necessary, the Public Prosecutor's Office collects interested parties and they are able to request for rectification of reconstituted registration by a conservador (Arts.163 to 164).

(7) Title 7 Appeal to a qualified decision by a conservador

a) Administrative appeal

When the applicants and interested parties directly affected by the decision of conservador disagree with the decision of the rejection of registration or rectification, they may appeal to a superior organisation to a property registration service which the decision was made (Arts.166 to 167). This appeal should be decided by the head of the organisation within thirty days. If the decision is favour for applicant, conservador should obey for the decision within five days (Art.171).

b) Judicial appeal

When administrative appeal is rejected or the decision is not made within ninety days, it

¹³ For example, descrição of merged property and nullified horizontal property should be cancelled (Art. 101). This is considered to be similar to closing registration information in Japan.

is possible to appeal to the court within twenty days from the date which rejection notice was made or expiration date of the ninety days. The judicial procedure is implemented in accordance with the Civil Procedure Code (Art.172).

c) Appeal regarding to refusal of a certificate issuance

Administrative and judicial appeal can also be made when there is disagreement with a refusal of a certificate issuance and wrongful application of fee for a certificate. When this appeal is accepted, a conservador should issue certificate within two days (Arts.177 and 178).

(8) Title 8 Miscellaneous provisions

There are some provisions about those who have to pay for fee regarding registration and liability of a person who registers false fact.

5 Conclusion

This article tried to describe laws to recognise a first ownership right holder of land and summarise the Property Registration Code as legal systems relating to land rights in Timor-Leste. This article was mainly written before visiting to Timor-Leste and used tentative translation of laws written in Portuguese, thus some descriptions may be based on misunderstanding and misinterpretation. I hope, however, this article will be a reference to legal technical assistance to Timor-Leste in the future.

The Property Registration Code is applied after the first ownership rights are recognised or attributed and there are many parcels of land whose ownership rights holders have not been recognised yet. Having said that, drafting the Code was long-standing issue and the enactment of it is considerably a big step in Timor-Leste. The Code contributes to protection of land rights and development of immovable property transaction since people can access to immovable property information easily. It is believed that this will lead to economic development eventually.

On the other hand, there are still several details of the Code that should be prescribed in subordinate legislation, therefore, we would like to continue support for officials of MOJ in Timor-Leste to develop their legal drafting capacity especially land related laws.

- III.Recent Trends and Activities of Legal Technical Assistance and Cooperation -

OUTLINE AND CURRENT STATUS OF THE “ENHANCING THE QUALITY AND EFFICIENCY OF DEVELOPING AND IMPLEMENTING LAWS IN VIETNAM” IN VIETNAM

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I. Introduction

In Vietnam, a new project, “ Enhancing the Quality and Efficiency of Developing and Implementing Laws in Vietnam” (hereinafter referred to as the “New Project”) was launched in January 2021 with the aim of improving the quality of the legal normative document system and its effective enforcement in light of international standards, in order to contribute to the promotion of legal and judicial reforms in Vietnam and to strengthen the nation’s international competitiveness. The framework of the New Project is based on the selection of the highest priority themes in each counterpart (Phase 1), analysis of the causes of these themes through working group activities, and study and proposal of solutions to these themes (Phase 2). I was involved in Phase 1 of the New Project from its inception, and my term of office ended at the end of March 2022; therefore, I would like to take this opportunity to report the outline of the New Project once again and the status of its activities during this period. The opinions expressed in this article are my personal views.

II. Background of New Project Formulation

1 The Challenge

The formulation of JICA projects usually follows a process of several rounds of detailed planning surveys. The survey on the New Project was conducted four times in January 2019, September 2019, January 2020, and May 2020, and the following two main issues regarding the formulation of the new project were identified in these surveys.

First, since the Doi Moi policy began in 1986, Vietnam itself has steadily advanced on the path to a market economy and achieved economic development, and in step with this, many results have been achieved in JICA projects in the field of legal development. With such

¹ The term of office as a long-term Vietnam expert was from December 25, 2019 to March 31, 2022.

background², we responded to the trend toward diversification and expansion of requests from the Vietnamese side to the Japanese side during this period. The diversification and expansion of requests from the recipient countries is in itself a welcome sign of the high expectations of Japan, but on the other hand, when proceeding with various activities as JICA projects, it is inevitable that they will be subject to constraints under the Project Design Matrix (PDM) framework for achieving results, while taking into account the input from the Japanese side. In fact, this awareness of the issue became apparent, at the latest, in the remarks made in the interim evaluation of the previous project conducted in January 2018³; subsequently, in response to the recommendations of the evaluation, the previous project revised the original PDM under the policies of “clarification of goals and results,” “selection and concentration of activity areas,” etc⁴. In response to this trend, one of the major issues for the New Project was how to create a framework that would allow the Project to narrow down the activities to be handled in terms of effective management to achieve the Project’s results.

Second, the legal technical cooperation projects in Vietnam have been carried out in line with the basic policy on legal and judicial reform in Vietnam, and the timing of the launch of the New Project coincides with a milestone in this policy. The policy on legal and judicial reform in Vietnam was set out in the 2005 Party Politburo Resolutions No. 48 and No. 49⁵; however, since the resolutions set the period up to 2020 as a medium-term policy, it was expected from the outset that a new policy for legal and judicial reform (hereinafter referred to as the “New Policy”) would be presented after 2021, based on the summary results of the said resolutions. On the other hand, since the formulation of the New Policy would begin after the 13th Party Congress to be held in January 2021 and the subsequent cabinet formation in the National Assembly, it was assumed that the specifics of the New Policy would not necessarily be clear at the project formulation stage or even at the start of the New Project. Therefore, in considering the framework for the New Project, unlike previous projects, it was necessary to design it so that it would be in line with the contents of the New Policy to be formulated shortly, and also to consider the time required for the process in Vietnam until the New Policy is formulated.

² A brief summary of the Project’s achievements to date is contained in ICD NEWS No. 87, “Assistance to Vietnam - Overview Article,” by KONO Ryuzo, then ICD professor. For more details, please refer to the previous ICD NEWS articles cited in the same article.

³ The previous project was the “Law and Justice Reform Project Targeting 2020 “ with a project period from April 2015 to December 2020 and five counterparts: the Ministry of Justice (MOJ), the Office of the Government (OOG), the Supreme People’s Court (SPC), the Supreme People’s Procuracy (SPP), and the Vietnam Bar Federation (VBF). The mid-term evaluation of the Project pointed out that “the project activities are wide-ranging and diverse, with activities that do not necessarily have a clear link to the project goals, thereby reducing the overall effects of the Project”.

⁴ For details, see ICD NEWS No. 78, “Revision of the Project Design Matrix (PDM),” by TSUKABE Takako T, then JICA long-term expert dispatched.

⁵ For details, see ICD NEWS No. 28, “International Studies I: Overview of the Vietnamese Governance and Judicial System,” by ITO Fuminori, then ICD professor.

2 Planning Surveys

The first three detailed planning surveys were conducted with the survey team traveling to Vietnam, but the fourth survey, scheduled for March 2020, was postponed to May of the same year due to the difficulty of the survey team visiting Vietnam because of tightened regulations following the spread of the new coronavirus, and it was conducted online. In April, several long-term experts were forced to temporarily return to their home countries due to COVID-19, and thereafter, in parallel with the activities of the previous project, Japanese and Japanese-Vietnamese parties continued to study and discuss the New Project, utilizing the online system; and eventually on October 9, a Record of Discussions (R/D) for the New Project was officially signed between the two countries.

III. Framework for the New Project

1 Project Purpose and Outcomes

The New Project was formulated based on the aforementioned issues and other factors. The period is five years, from January 2021 to December 2025. For details of the framework, please refer to the attached PDM, which outlines the following⁶:

- Overall Goal: Legal and judicial reforms are promoted and the nation's international competitiveness is strengthened.
- Project Purpose: To improve the quality of Vietnam's legal normative documentation system and its effective enforcement in light of international standards in order to contribute to the promotion of legal and judicial reforms and the strengthening of the nation's international competitiveness.
- Output 1: In anticipation of the development of new policies in the Party, the National Assembly, and the government, a working group will be established to study solutions to the highest priority themes selected based on the identified priorities, with a view to ensuring uniformity, consistency, feasibility, and availability of the legal code documentation system, reducing the burden of legal regulation by the government, and improving efficiency in law enforcement.
- Output 2: In line with the content of the New Policy, specific solutions are proposed for the highest priority themes with a view to ensuring the uniformity, consistency, feasibility, and availability of the legal normative document system, reducing the burden of government regulation and improving efficiency in the enforcement of the law.

As mentioned above, the New Project is characterized by the fact that it is divided into

⁶ The details of the indicators of the two outcomes were designed to be determined later based on the survey by the study team.

two phases: the first phase, in which the highest priority themes are narrowed down for each counterpart, and the second phase, in which solutions are proposed for the selected highest priority themes. Its purpose is to take into account the aforementioned themes and the time required for the Vietnamese side to formulate a New Policy after 2021, to some extent, while narrowing down the activities to be handled in the Project to “highest priority themes” that meet the requirements, such as being in line with the New Policy. In the second phase, working groups established in each counterpart are expected to investigate the actual situation, analyze the causes of themes, consider solutions, and make proposals regarding these highest priority themes through joint discussions. The framework also allows for the establishment of a “High-level Forum” as a platform for making proposals to higher-level executives for themes that are difficult to resolve in the working group alone, such as issues that cut across counterparts.

2 The Formation of Counterparts and the Japanese Side

The counterparts newly include Central Internal Affairs Committee of the Communist Party (CIAC) in addition to the Ministry of Justice (MOJ), Office of the Government (OOG), Supreme People’s Court (SPC), Supreme People’s Procuracy (SPP), and Vietnam Bar Federation (VBF) from the previous project. The CIAC advises the Party Central Executive Committee on major policies and policies in the areas of internal affairs, anti-corruption and judicial reform, and is the leading body responsible for formulating new policies for Vietnam after 2021. As for the formation of the project office, the previous project had four- to five-member Japanese members consisting of a prosecutor, a judge, a lawyer, and a coordinator, depending on the time of year, while the new project has four Japanese members consisting of a prosecutor, a lawyer, an expert from the Ministry of Justice, and a coordinator. In addition, an advisory group consisting of university professors and practitioners was established to provide support to the local project office from the Japanese side.

IV. Activities in the New Project, etc.

1 Launching Ceremony

To commemorate the launch of the New Project, a launching ceremony was held in December 2020. The ceremony was held online between Hanoi and Japan, and was attended by the Vietnamese side, Justice Minister Ron, Deputy Minister Ngoc, and other vice chiefs from each counterpart and from the Japanese side by then Justice Minister KAMIKAWA Yoko, Ambassador YAMADA Takio of Japan to Vietnam, MORISHIMA Akio, Professor Emeritus of Nagoya University, NAKAMURA Toshiyuki, JICA Senior Vice President, and SHIMIZU Akira, Director of JICA’s Vietnam Office. Minister RON expressed his gratitude for the longstanding cooperation between the two countries in the field of legal development and his

joy at the start of the New Project, while Minister KAMIKAWA expressed her hope for the deepening of relations between the two countries and the New Project.

2 Formulation and Approval of the Project Operational Regulations and Guidelines (“ORG”)

Then, from the beginning of the year, as the first project activity, we started to prepare a draft ORG that defines the criteria for proceeding with the project activities, etc., and the project proceeded with its study. In April 2021, a kick-off meeting was held as the first opportunity for the six counterparts to come together, which led to a series of discussions between Japan and Vietnam on the ORG proposal, followed by the formal approval of the ORG at the first JCC meeting held in September of the same year.

The working group activities, which are the core of the activities in the second phase of the current project, were not necessarily familiar to all but a few counterparts who were involved in joint activities, etc. by the judge, prosecutor, and attorney in the previous project. Moreover, a new counterpart has been added to the project. For these reasons, the ORG focused on setting out the specific rules for working group activities, including the purpose of the working group, its establishment, its members, how to proceed with activities, and the content of activities. In addition, among other things, the ORG also established specific procedures for holding the aforementioned high-level forum, which is a platform for proposing new themes, and so on.

3 Selection of Highest-Priority Themes

(1) Discussions with each counterpart regarding the selection of the highest-priority themes have proceeded in parallel since the aforementioned kick-off meeting.

The selection of the highest-priority themes was aimed for approval at the 2nd JCC to be held in March 2022, taking into account the corona situation in Vietnam during that period. However, due to the rapid deterioration of the corona situation in Hanoi since mid-February of the same year, as of March of the same year, de facto agreements were reached for each of the four counterparts, OOG, SPC, SPP, and VBF, while the situation regarding CIAC and MOJ was recognized as still requiring further consideration and consultation among the parties concerned. Therefore, at the 2nd JCC held in the same month, the JCC discussed the possibility of approving counterparts who are capable of approving highest priority themes on an individual basis, but Vietnam expressed a strong desire to approve all counterparts at the same time. Finally, it was agreed to hold the next (the 3rd) JCC meeting as early as possible after April, and to approve the highest-priority themes and activity plans of all counterparts at the JCC, and to proceed with the activities under this policy as soon as possible. The proposed highest priority

themes for each counterpart as of the end of March of the same year were as follows⁷.

a. OOG

The OOG's top priority will be "enhancement of the quality and skill in the verification of the draft of the legal normative documents by OOG". Since the OOG is responsible for examining many individual bills, it is envisioned that these bills will be positioned as specific examples of investigation and analysis of causes, etc. on the OOG's examination process, and through the accumulation of such issues, the OOG will analyze issues common to the entire examination process, propose solutions, and conduct activities to improve the examination capacity of its staff.

b. SPC

The top priorities of the SPC will be "development of case laws through adjudication in the people's court (e.g., preparation of written judgments, selection and use of precedents, etc.)" and "enhancement of effectiveness and efficiency of the Law on Mediation and Dialogue at Court". Development of case laws is one of the ongoing and important issues in the judicial field in Vietnam; it is expected that the Project will also make use of the knowledge gained from the assistance provided in the past projects regarding the preparation of written judgments.

c. SPP

The top priorities of the SPP will be to "reform the organization of the People's Prosecutor's Office" and "improve the practical capacity of prosecutors". These can be said to be a substantial continuation of the policy in the SPP based on the aforementioned Resolutions No. 48 and No. 49 from 2021 onward. With regard to the former in particular, the SPP is currently implementing its own "People's Prosecutor's Office Project in Socialist Nation Ruled by Law in Vietnam from 2021 to 2030" with the aim of reforming the status, roles, functions, duties, organization, and operation of the People's Prosecutor's Office, and this should be carried out in light of the progress of the above "People's Prosecutor's Office Project".

d. VBF

The top priorities of the VBF will be to "strengthen the organization of bar associations" and "strengthen the capacity-building of lawyers". Specific activities being considered for the former include strengthening the public relations of bar associations and the relationship between the VBF and local bar associations, while for the latter, strengthening advocacy in response to digital transformation and enhancing training for attorneys using online resources.

e. CIAC

The pillar of the top priorities of the CIAC will be the "prevention of corruption", which is one of its main roles. In addition to this, the CIAC is also considering adding as one of its

⁷ Subsequently, on April 28, 2022, the third JCC meeting was held and approved the working groups and this year's activity plan based on them, as well as the highest-priority themes for all counterparts, as described in the respective descriptions.

pillars the “implementation of a strategic resolution to build and perfect the socialist rule of law in Vietnam by 2030 with a view to 2045,” since its main duty is to provide advice within the Party on the new policy.

f. MOJ

The top priorities of the MOJ will be to “improve the quality and efficiency of development of laws” and “improve the quality and efficiency of law enforcement”. For the former, based on the results of the fact-finding survey on inconsistencies in legal normative documents, which has been conducted in the previous project, a study will be conducted to find solutions to these problems. For the latter, based on the results of law enforcement monitoring activities to date, it is envisioned that problems for proper enforcement of the law will be identified and solutions to these problems will be discussed, etc.

4. Implementation of Urgent Needs Activities (Exceptional Activities)

In addition to the above, based on strong requests from the Vietnamese side for the implementation of activities of high urgency in each counterpart and department, and in accordance with the requirements set forth in the aforementioned ORG, several exceptional activities were implemented in each counterpart.

5. Organizing Materials in the Project Office

While in Vietnam a great deal of knowledge through project activities has been accumulated over the past 25 years, the materials created in the process remained unorganized within the Project Office. Therefore, with the aim of organizing these materials and making the useful ones available for working group activities in the second year and beyond, all of the materials that existed in the Project Office in paper form (approximately 8,000 items) and electronic data files (approximately 20,000 items) were listed in Excel data in the form of a catalog and made searchable by keyword.

In addition, paper-based materials have been linked to storage shelves and electronic data has been given a clear link to its location on the server so that these materials can be easily accessed. While there is room for continued work to improve the accuracy and usability of the data, the fact that the materials have been listed and organized in a searchable format provides the foundation for effective tools for future use of the materials.

V. Concluding Remarks

As noted above, the New Project, through its formulation and first phase, coincided with the timing of the spread of the novel coronavirus.

In particular, from late July to late September 2021, strict social quarantine measures were implemented in Hanoi, including the imposition of curfew restrictions with penalties, and

from mid-February to mid-March 2022, the number of positive cases in Hanoi exceeded 30,000 per day, with many positive cases occurring within each counterpart and the project office, which had a significant impact on local project activities. Despite these circumstances, we have been able to move the project activities forward step by step, thanks to the support of everyone involved. We would like to express our sincere gratitude again for the support we have received from everyone involved during this period, and ask for your continued warm support and cooperation as the second phase of the Project is fully initiated.

Project Design Matrix [English version]

Project: Enhancing the Quality and Efficiency of Developing and Implementing Laws in Vietnam
 Implementing organizations: Ministry of Justice, Central Internal Affairs Committee, Office of the Government, Supreme People's Court, Supreme People's Procuracy, and Vietnam Bar Federation
 Target Groups: Ministry of Justice, Office of the Government, Supreme People's Court, Supreme People's Procuracy, Legal Practitioners and Judicial Officials of the Petnam Federation of Bar Associations
 Project Term: January 1, 2002-December 3, 2005 (5 years)
 Project Site: Vietnam (mainly Hanoi)

Narrative Summary		Objectively Verifiable Indicators	Means of Verification	Important Assumption	Achievement	Remarks
Overall Goal	Legal and judicial reforms are promoted and national competitive capacity is strengthened.	Among the new legal and judicial reform items compiled by the Vietnamese government, reform will make progress on items related to the nation's international competition.				
Project Purpose	The quality of Vietnam's legal normative document system and effective law implementation are enhanced to contribute to the promotion of legal and judicial reforms and the strengthening of national competitive capacity according to international standards.	Indicator 1: The drafting and review process improves in light of international standards. Indicator 2: Law enforcement/operation improves in light of international standards. Indicator 3: Measures based on the solution proposed in the Project is implemented.		New policies on legal and judicial reform are announced by the Communist Party of Vietnam, the National Assembly and the Government of Vietnam.		
Outputs		Indicators 1-1: Priority issues will be identified that will be assessed as key challenges to be addressed by counterpart institutions for the phase through 2025 and the following period. Indicators 1-2: Themes for which counterpart institutions are deemed capable of researching and proposing solutions to priority issues are selected as the highest priority issues and reported to the heads of the respective institutions. Indicators 1-3: A working group is established to consider solutions to high priority issues.				
Result 1	(i) The Highest-Priority Themes with a view to ensure uniformity, consistency, feasibility and accessibility of the legal normative document system to reduce the burden of government regulations, and enhance efficiency of law implementation are identified on the basis of the result of the summary reports of policies of legal and judicial reforms in the period of 2005-2020 and new orientations on legal and judicial reforms of the Communist Party, the National Assembly and the Government of Vietnam (hereinafter "the New Orientations"); (ii) Working groups responsible for discussing and considering solutions for the Highest-Priority Themes identified in (i) are established.	Indicator 2-1: Individual working groups with either counterpart organization serving as secretariat are held at least x times per year for each group. Indicators 2-2: Solutions to improve the consistency and viability of legal norm document system and its effectiveness in ensuring availability and in enforcing the law, compiled by each working group, are provided to the respective agency heads. Indicators 2-3: Information on the working group's deliberations will be shared with the Japanese legal and judicial organs at least X times a year.	Inputs The Japanese Side (1) Long-term Experts (Chief Advisor (Prosecutor), Attorney-at-law, Civil Affairs, Project Coordinator (subject to change)) (2) Dispatch of JICA Mission (Experts in Japan) (3) Trainings in Japan (4) Part of Project activity cost (5) Conference rooms in Japan for seminars and workshops	The Vietnamese Side (1) Counterpart Personnel - Project Director - Project Manager - Representatives of the Working Groups -Personnel (2) Facilities and Equipment -Conference rooms for seminars and workshops to be held at the offices of the implementing partners -Office equipment for project implementation -Communication and coordination expenses	Important Assumption • No major reorganization will occur in the implementing organs. • No major changes will be made to the jurisdiction of the implementing organs. • Overall results of the Legal and Judicial Reform Strategy toward 2020 will be shared by the Vietnamese Government. • The elected members of the working group are committed to actively participating in the project activities.	
Result 2	Concrete solutions for the Highest-Priority Themes are proposed with a view to ensure uniformity, consistency, feasibility and accessibility of the legal normative document system to reduce the burden of government regulations, and enhance efficiency of law implementation in line with the "New Orientations".					

<p>(2-1) Each working group, with the cooperation of experts from Japan, will improve their own priorities. The action plan of each working group shall be established until the solution is proposed.</p> <p>(2-2) Counterpart organizations, under the supervision of the project managers of each organization and the collaboration of experts from Japan, will select and provide to each working group materials that are considered to be useful from the viewpoint of reducing the legal and regulatory burden on the government by ensuring the integrity, consistency, feasibility, and usability of legal norm document system, and improving the efficiency of the enforcement of the law, among the materials that have been accumulated in the course of past cooperative activities between Japan and Viet Nam in the legal and judicial fields, provided by experts from Japan.</p> <p>(2-3) Each working group carries out its activities based on the action plans formulated by each working group under the cooperation of experts from Japan (2- 1), researching and discussing top priority issues, and compiling specific proposals for solutions in writing. During the consultations, Japanese experts compile the content of the discussions and, where necessary, provide Japan with their knowledge, experience and information.</p> <p>(2-4) Each of the working groups will conduct a social survey, seminar or workshop with the agreement of both Japan and Vietnam, in accordance with the rules and procedures for the operation of the following project, with the cooperation of Japanese experts, on the specific hail priorities to be assigned under the following conditions: (i) for the purpose of compiling a specific proposal for the study of the top priority issues and its solution as a result of the study by the relevant working group, which also includes Japanese experts, information gathering through social surveys, seminars or workshops is considered essential (i) there is no other alternative to the secretariat, such as its own implementation (1) 1) its implementation does not impose an excessive burden on the members of the working group or Japanese experts.</p> <p>(2-5) The expert on the Japanese side, in accordance with the project operating rules and procedures, faces high urgency and is judged essential by the counterpart institutions in the priorities identified in Activities 1-3 and the project is implemented. Provide reference materials (including seminars) and support to counterpart organizations in an appropriate manner only when relevant issues are included in detailed annual action plans and approved by the Joint Coordination Committee.</p> <p>(2-6) Counterpart Organizations, with the cooperation of experts from Japan and other relevant Japanese organizations and stakeholders, will hold a high-level forum in accordance with the Project Operating Rules and Procedures, with the aim of discussing, at a high level, issues that cannot be easily resolved, among the various priorities or related issues to be researched and discussed by each working group. At the High Level Forum, participants will receive reports on the results of their activities or interim reports on progress from each working group.</p> <p>(2-7) The counterpart organizations and JICA, under the cooperation of Japan and Viet Nam in the legal and judicial fields, share information on the activities of the project with the legal and judicial institutions of Japan from time to time, thereby broadening the scope of Japan-Viet Nam legal and judicial Promote collaboration among law-enforcement agencies</p>	<div data-bbox="193 443 225 539"> </div> <div data-bbox="236 383 256 600"><Issues and countermeasures></div>
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ONLINE SEMINAR WITH UNDP ON BUSINESS AND HUMAN RIGHTS

KUROKI Kota

Former ICD Professor/Judge at Tokyo District Court

I. Introduction

The International Cooperation Department (ICD) hosted an online seminar on Business and Human Rights on Tuesday, February 22, 2022, with specialists from the United Nations Development Program (UNDP).

UNDP is a core agency of the United Nations in the field of development, with offices in more than 170 countries around the world, working in a wide range of areas including poverty reduction, governance, climate change, and gender equality. It is also closely involved with our legal technical assistance, and we have had UNDP experts participate as guest speakers at our Annual Conferences.

In Japan, the “National Action Plan on Business and Human Rights (2020-2025)” was formulated in October 2020, and one of the activities in the National Action Plan is legal technical assistance in developing countries. ICD has been holding study sessions on “Business and Human Rights” with voluntary professors, and this time, with the cooperation of Mr. INAGAKI Kenta, UNDP Rule of Law, Security and Human Rights Specialist (formerly with the International Division, Minister’s Secretariat, Ministry of Justice of Japan), we have invited Mr. Livio SARANDREA, UNDP Global Advisor on Business and Human Rights and Mr. Sean LEES, UNDP Business and Human Rights Specialist as lecturers to this online seminar.

From ICD, Director NAITO Shintaro, Deputy Director SUDA Hiroshi, International Affairs Officer HARASHIMA Takahiro (at the time), and many professors including myself participated in the event, and more than 50 people from UNDP offices around the world and people related to legal technical assistance in Japan (JICA, ICCLC, JETRO, Ministry of Justice International Affairs Division, Research and Training Institute (RTI), UNAFEI) participated online.

II. “Business and Human Rights” and Legal Technical Assistance¹

1. What is “Business and Human Rights”?

In 2011, the UN Human Rights Council unanimously adopted the “UN Guiding Principles

¹ For more information on how the perspective of “business and human rights” should be incorporated into future legal technical assistance, see YAMADA Miwa, “Rethinking the UN Guiding Principles on Business and Human Rights: How to incorporate the perspective of ‘business and human rights’ into legal support,” ICDNEWS No. 90 (March 2022 issue), p. 32 and below. <https://www.moj.go.jp/content/001368533.pdf>

on Business and Human Rights”. This Guideline has become an international standard in this area, as respect for human rights in business activities has become increasingly important in response to the globalization of business activities and the demands of investors and other stakeholders. The Guiding Principles consist of the following three pillars

- (1) State duty to protect human rights
- (2) Corporate responsibility to respect human rights
- (3) Access to remedy

Because the Guiding Principles on “Business and Human Rights” are soft law, the actual policies are left to each State. It stipulates that each country should enforce actual policies that promote respect for human rights by businesses as the responsibility of each State.

2. What is Human Rights Due Diligence?²

As mentioned above, companies are required to respect human rights in response to the demands of investors, etc., and companies themselves need to identify risks related to human rights and take measures to address them.

Human rights due diligence refers to identifying, preventing/mitigating, addressing, and sharing information on the human rights impacts of corporate activities. In practice, the process is likely to follow the steps of (1) identification of human rights risks (identification of risks, classification of risks, evaluation of risks, involvement of the company, etc.) → (2) addressing the issue (formulation of an action plan, implementation and monitoring, etc.) → (3) communication (e.g., information dissemination of initiatives, etc.). Human rights risks here include not only risks within the scope of the business activities of the company in question, but also risks of human rights violations by people in the supply chain.

3. International Trend

An international trend is to legislate human rights due diligence, particularly in Europe.

In the EU, the European Commission announced a draft Corporate Sustainability Due Diligence Directive in February 2022, which will impose an obligation on companies that meet certain requirements to prevent and remedy adverse human rights and environmental impacts in their business activities. The draft Directive will now be discussed by the Council of the EU (Council of Ministers) and the European Parliament, and if adopted, will become applicable after a two-year period of domestic legislation by the member states.

Examples of legislation by European countries include: (1) the UK’s “Modern Slavery Act”; (2) France’s “Duty of Care Act”; (3) the Netherlands’ “Child Labor Due Diligence Act”; (4) Germany’s “Act on Corporate Due Diligence in the Supply Chain”; and (5) Norway’s “Act on Business Transparency and Basic Human Rights and Decent Work Initiatives”.³ For

² See the overview of Business and Human Rights Action Plan.
<https://www.mofa.go.jp/mofaj/files/100104258.pdf>

³ Human Rights Due Diligence Legislation and Corporate Initiatives advancing in Europe
<https://www.jetro.go.jp/biz/areareports/2021/b369e53aa804d97f.html>

example, Germany’s “Act on Corporate Due Diligence in the Supply Chain”⁴ was approved and passed by the German Bundesrat (Senate) in June 2021 and will enter into force in January 2023. Under the Act, companies above a certain size based in Germany are required to establish a risk management system related to human rights and the environment, clarify who is responsible, conduct regular risk analysis, and take corrective measures when specific risks are identified as a “duty of care (due diligence)”. The scope will be extended in stages, initially to companies with 3,000 or more employees, and after January 2024 to companies with 1,000 or more employees.

4. Trends in Japan and Legal Technical Assistance

In Japan, the “National Action Plan on Business and Human Rights (2020-2025)” was formulated by the Liaison Conference of Relevant Ministries and Agencies in October 2020 to promote respect for human rights in corporate activities⁵. In this National Action Plan⁶, the government describes various measures it will take regarding “business and human rights,” and also expresses its expectation that companies will identify, prevent, mitigate, address, and share information about the human rights impacts of their business activities, in other words, to promote the introduction of human rights due diligence.

The specific action items (Chapter 2 Action Plan (5) Other Measures) include legal technical assistance activities as follows.

Therefore, it is necessary to consider how we can contribute to the protection of human rights of people affected by corporate activities through legal technical assistance. Amid this background, ICD has been holding study groups on “Business and Human Rights” led by volunteer staff members, which led to the holding of this online seminar as part of such efforts.

III. Overview of the Online Seminar

Details are shown in the agenda in Attachment 1 and the flyer in Attachment 2.

1. Date and time

Tuesday, February 22, 2022, 10:00 a.m. - 11:30 a.m. (Japan time)

2. Format

Online using Zoom

3. Language

English and Japanese (simultaneous interpretation)

4. Participants

⁴ Due diligence law passed, effective January 2023 (Germany)
<https://www.jetro.go.jp/biznews/2021/06/e19fe7d028599c7e.html>

⁵ Ministry of Foreign Affairs of Japan website, “Action Plan on Business and Human Rights (2020-2025)”
https://www.mofa.go.jp/mofaj/press/release/press4_008862.html

⁶ “Action Plan on Business and Human Rights” (Japanese)
<https://www.mofa.go.jp/mofaj/files/100104121.pdf>

More than 50 participants from UNDP, JICA, ICCLC, JETRO, International Division, Minister's Secretariat of the Ministry of Justice, RTI, UNAFEI, ICD, etc.

5. Summary

(1) Explanation of UNDP's efforts on "Business and Human Rights"

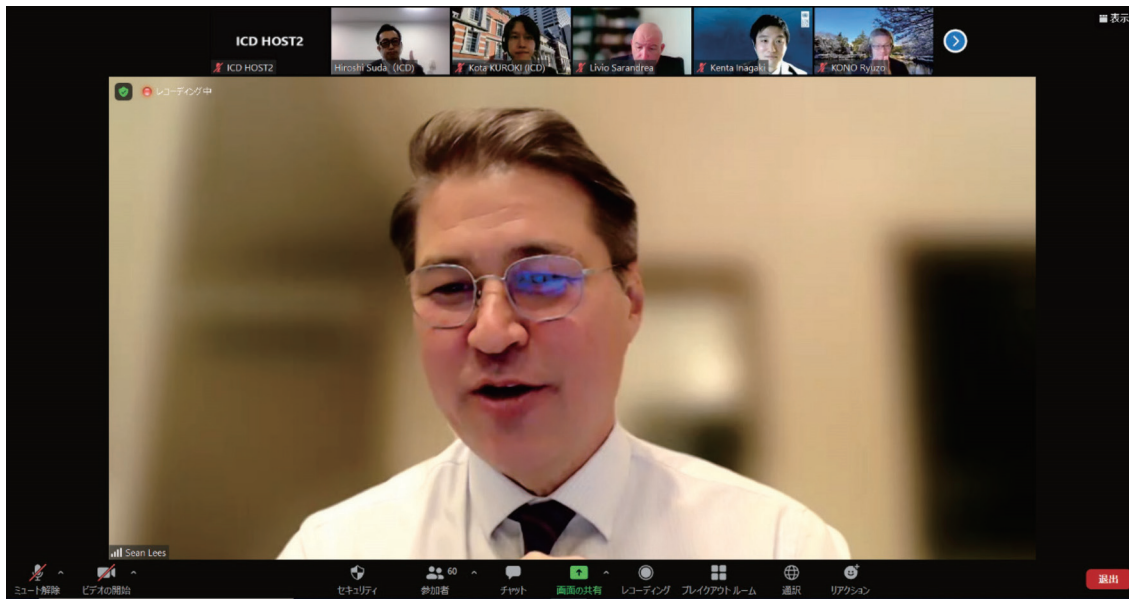
Mr. Livio SARANDREA, UNDP Global Advisor on Business and Human Rights, explained that UNDP has been developing programs on "Business and Human Rights" mainly in the Asian region and supporting countries in preparing their NAPs (action plans).



【Presentation by Mr. Livio SARANDREA】

(1) Presentation on Human Rights Due Diligence

Mr. Sean LEES, UNDP Business and Human Rights Specialist, gave an overview of human rights due diligence, referring to the three pillars of the Guiding Principles on Business and Human Rights mentioned above. The UNDP Human Rights Due Diligence Training Facilitation Guide, which was also introduced in the presentation, is available for downloading at <https://www.undp.org/publications/human-rights-due-diligence-training-facilitation-guide>.



【Presentation by Mr. Sean LEES】

(1) Presentation on Legal Technical Assistance by ICD

I explained about the legal technical assistance provided by ICD, mentioning the recipient countries of legal technical assistance in the Asian region.



【Presentation by author】

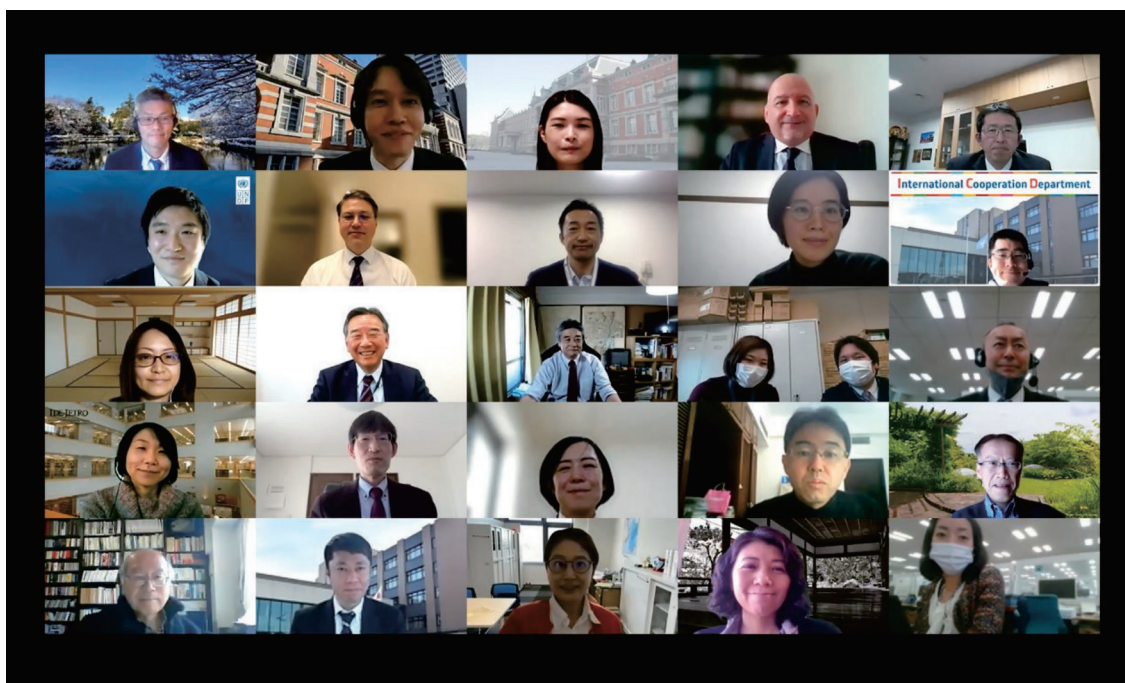
IV. Conclusion

As respect for human rights in corporate activities attracts attention, “Business and Human Rights” is positioned as an important initiative, and from the perspective of contributing to the achievement of the Sustainable Development Goals (SDGs), it is also recognized as important.

Human rights risks in the supply chain are diverse, including forced labor, child labor, conflict minerals, and ethnic oppression, and are considered to require consideration from a global perspective.

In my opinion, Access to Remedy, the third pillar of the Guiding Principles on “Business and Human Rights,” is a familiar issue with legal technical assistance, and it may be possible to improve access to judicial and non-judicial remedies for cases of human rights violations in the field of “business and human rights” through legal technical assistance in the future.

UNDP has been developing a program on “Business and Human Rights” mainly in the Asian region, and many of the countries are also the recipient countries of Japan’s legal assistance. In the future, it will be necessary to promote efficient and effective legal technical assistance in cooperation with UNDP and other related organizations, taking into account the perspective of “Business and Human Rights”.



【The Online Seminar】

**Agenda for the Online Seminar on
Business and Human Rights
UNDP – ICD Japan**

- Date: February 21、 2022 (* February 22 in Japan)
- Venue: Online (Zoom Meeting)
- Languages: English、 Japanese (Simultaneous interpretation)
- Time Schedule:

(NY Time) (Japan Time + 14h)

20:00-20:20 Opening Remarks (ICD) (5 min)

Mr. Hiroshi SUDA

Deputy Director of International Cooperation Department (ICD)、Research and Training Institute、 Ministry of Justice Japan

Presentation on UNDP’s work on Business and Human Rights (UNDP) (15 min)

Mr.Livio SARANDREA

UNDP Grobal Advisor on Business and Human Rights (BHR)

20:20-20:45 Presentation ”Human Rights Due Diligence” (25min)

Mr. Sean LEES

UNDP Specialist on Business and Human Rights (BHR)

20:45-20:55 Presentation “ Legal Technical Assistance by ICD” (10min)

Mr. Kota KUROKI

ICD Professor (Judge)

20:55-21:25 Q&A 、 Opinion Exchange (30min)

21:25-21:30 Closing Remarks (ICD) (5 min)

Mr. Shintaro NAITO

Director of ICD



令和4年

2月22日 火
10:00~11:30

Business and Human Rights Online Seminar ビジネスと人権セミナー

- 10:00 ▶ 開会挨拶、UNDP の取組についての説明
- 10:20 ▶ プレゼン「人権デューデリジェンスについて」
ショーン・リース氏 (Mr. Sean LEES)
- 10:45 ▶ プレゼン「国際協力部による法整備支援について」
- 10:55 ▶ Q&A、意見交換
- 11:25 ▶ 閉会挨拶

*** 日英の同時通訳を利用できます ***

THE 23RD ANNUAL CONFERENCE ON TECHNICAL ASSISTANCE IN THE LEGAL FIELD

SHOJI Minako

Professor and Government Attorney, International Cooperation Department

I. Introduction

The 23rd Annual Conference on Technical Assistance in the Legal Field was held on Saturday, June 25, 2022, jointly hosted by the International Cooperation Department (ICD) of the Research and Training Institute (RTI) and the Japan International Cooperation Agency (JICA).

Continuing from last year, the Annual Conference was held as a hybrid of on-site and online distribution, with approximately 140 participants inside/outside Japan. The following is a summary of the meeting.

II. Theme of the 23rd Annual Conference

The theme of the 23rd Annual Conference was “Roles Played by Legal Theories and Legal Education in Legal Technical Assistance- Focusing on approaches to the training practitioners.”

In recent years, the international situation has been drastically changing, and the importance of the rule of law has been widely recognized once again amidst a growing sense of crisis regarding the rule of law, such as the military coup in Myanmar, a recipient country of Japan’s legal technical assistance, and Russia’s invasion of Ukraine in Europe.

Japan’s legal technical assistance has focused on the capacity-building of practitioners. The development of jurisprudence and the enrichment of legal education that supports this development provide the foundation for the training of high-quality legal professionals, and are indispensable for the realization of the rule of law, fair justice, and the guarantee of the rights of citizens, which are the goals of Japan’s legal technical assistance.

Therefore, the theme of this Annual Conference was set to deepen the understanding of the role of legal technical assistance in this area through a keynote speech, panel discussions, and other means, focusing on the capacity-building of practitioners through legal technical assistance, particularly in legal theory and legal education.

Although the term “legal theory” is polysemic, the panel discussion focused on “practical legal hermeneutics and practical jurisprudence that serve practical needs in the scenes of law application”.

III. Contents of the Annual Conference

In Part 1, there were reports on the activities of long-term experts dispatched to Vietnam and Cambodia, as well as from domestic and foreign organizations involved in legal technical assistance.

In Part 2, Professor UCHIDA Takashi, University Professor of Waseda University and Professor Emeritus of the University of Tokyo, gave a keynote speech titled “Technical Assistance in the Legal Field and Juridical Science”.

Professor Uchida explained that, from the viewpoint of what is necessary for the proper operation and establishment of the enacted code, it is necessary to be able to make legal arguments using legal concepts, based on the history of the establishment of modern law in Japan during the Meiji period, and that juridical science is a tool, a language, so to speak, that is required to extract legally meaningful facts from social facts, replace them with legal concepts, and constitute the rights and obligations of the parties concerned in order to resolve actual disputes.

In the Q&A session that followed, many questions were raised by the participants, especially from the ICD professors and experts dispatched to recipient countries, such as “We understand from your lecture that, in order to develop juridical science, outstanding figures who can lead the discipline are requisite, even if they are small in number. What is required in the legal and technical assistance to bring such a person to the fore?”, “Why was Japan able to attract outstanding people in the field of justice in the early Meiji period?” etc. Professor Uchida provided us with all kinds of suggestions on these questions. Following this, panelists Mr. Manodeth CHOUNTHAVONG from the Lao People’s Democratic Republic and Mr. Lyhong LIM from the Kingdom of Cambodia, both of whom had studied law in Japan, exchanged opinions on the development of legal theory and legal education in their countries. This session was intended to examine how education is provided in Japan from the perspective of students from recipient countries, comparing it with the education in their home countries, and to obtain suggestions on how to develop legal education and legal theory in recipient countries. Both speakers spoke from their own experiences about the importance of studying law from a comparative legal perspective and using precedents and court cases as material.

In the panel discussion, Professor MATSUO Hiroshi of Keio University Graduate School of Law, Director MURAKAMI Masako of Nagoya University Center for Asian Legal Exchange (CALE), Attorney EDAGAWA Mitsushi, JICA International Cooperation Specialist (former long-term expert in Vietnam), and Prosecutor FUKUOKA Fumie of Chiba District Public Prosecutors Office (former long-term expert in Cambodia) served as panelists to discuss the role of legal theory and legal education in legal technical assistance.

Prosecutor FUKUOKA and Specialist EDAGAWA pointed out that in their field activities,

they often found a lack of interpretation and application of the law connecting facts and conclusions, and spoke about the importance of legal hermeneutics taking root in the recipient countries. Professor MATSUO and Professor MURAKAMI spoke about the challenges and future prospects of support for international students from the recipient countries.

IV. Conclusion

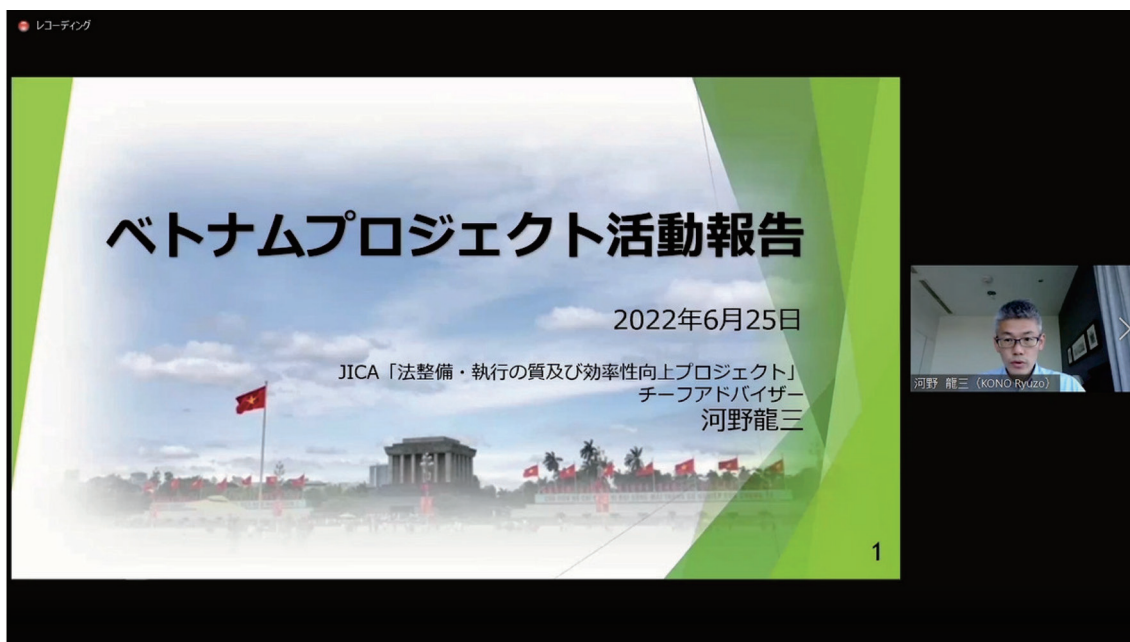
As Professor MATSUO mentioned during the panel discussion, as a result of Japan's long years of support, laws and regulations in the recipient countries have been steadily developed. The discussion is now in the phase of how to properly implement the enacted laws and regulations, and how citizens of these countries comply with the enacted laws as "their own". As Prosecutor FUKUOKA and Specialist EDAGAWA introduced during the panel discussion, the field of assistance in Japan and abroad is undergoing repeated trial and error in interpreting and implementing the law.

As for the enacted laws themselves, inconsistencies between laws and regulations have been a problem in several recipient countries, and there are various factors behind the problem. However, if the entire legal profession can have a common standard of judgment for interpreting laws without contradiction or conflict between legal norms, there is no doubt that the problem of inconsistency between laws and regulations at the stage of drafting and subsequent implementation will be eliminated, and the development of jurisprudence in the country concerned is essential for this purpose.

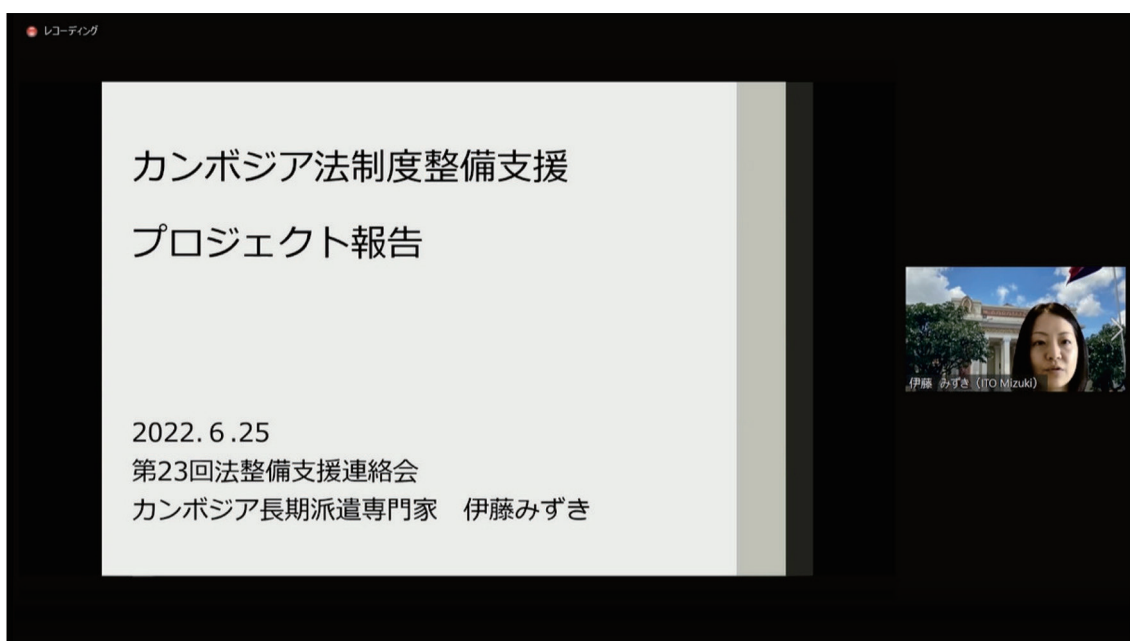
Unlike assistance in drafting of the law, human resource development is not an issue for which a clear answer can be given immediately. That is because, the results are less visible, how laws are interpreted and legal education is provided greatly depend on the historical and cultural background of each recipient country, and furthermore, the fundamental question as to what extent legal technical assistance should (and can) be provided is involved.

However, at this year's Annual Conference, Professor UCHIDA spoke about the role of the development of juridical science in the process of establishing modern law and the importance of raising human resources to engage in the development of the discipline. The lecture clarified the issues and also provided us with guidance to explain the problems we are facing now. The panelists, including those who reported on their activities and those who have studied abroad, shared their various experiences and knowledge, and we believe that this was a valuable opportunity for the participants to gain new perspectives on how to provide legal technical assistance with their respective positions in the future.

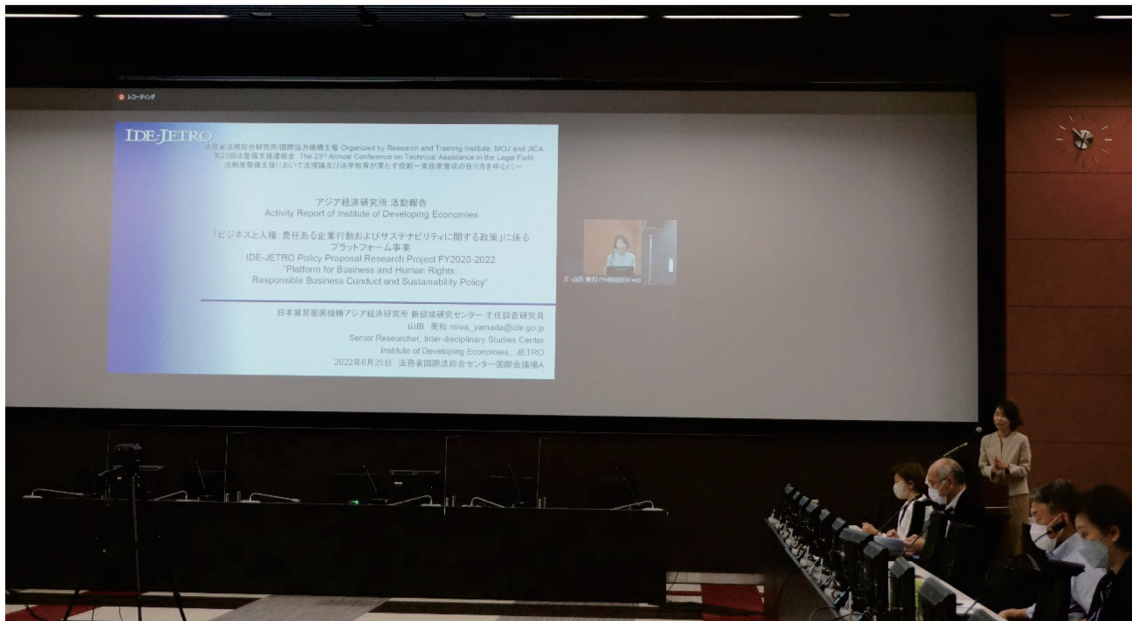
I would like to take this opportunity to express my deepest gratitude again to Professor UCHIDA, the presenters, and the panelists.



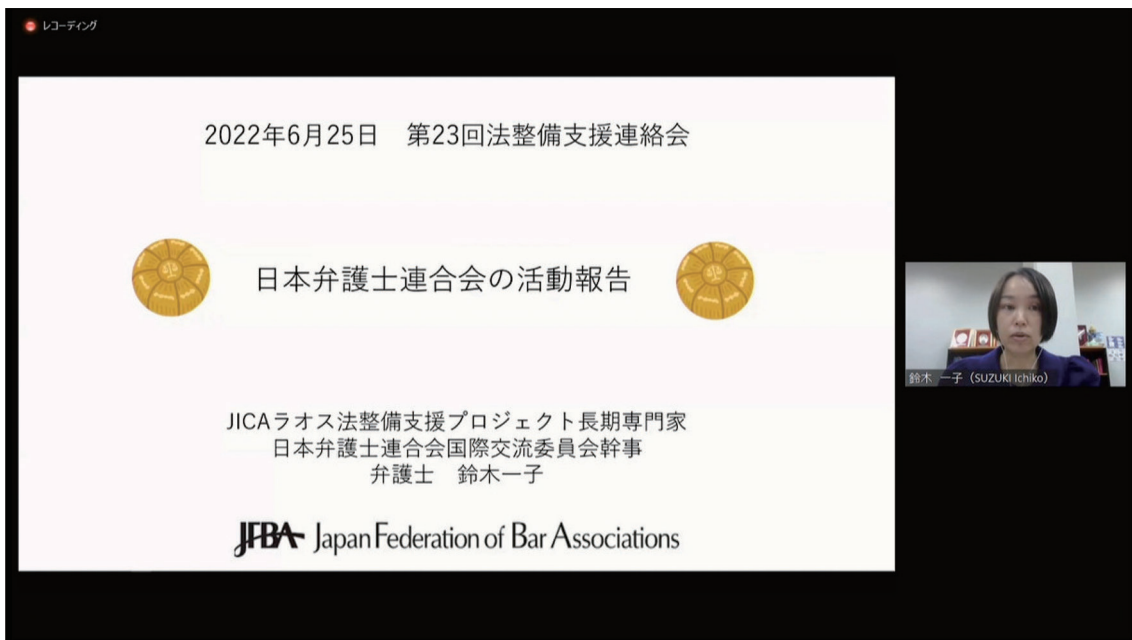
【Part 1 Activity Report by JICA Long-term Expert to Vietnam】



【Part 1 Activity Report by JICA Long-term Expert to Cambodia】



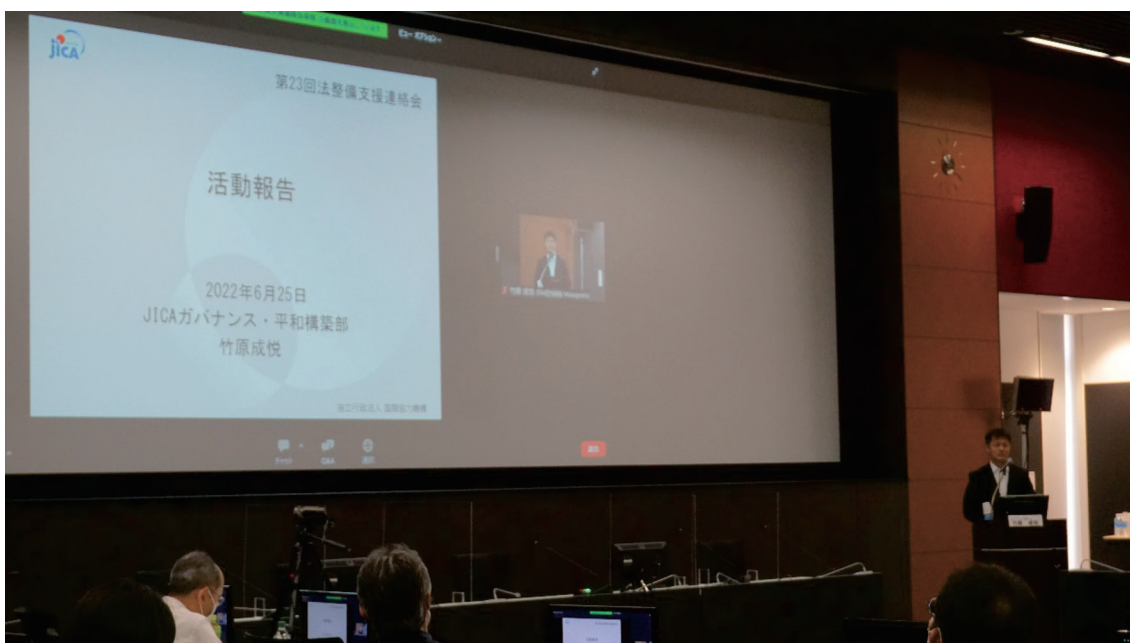
【Part 1 Activity Report by Senior Researcher, Inter-disciplinary Studies Center, Institute of Developing Economies, JETRO】



【Part 1 Activity Report by JICA Long-term Expert to Laos】



【Part 1 Activity Report by Public Prosecutor at the International Affairs Division,
Minister's Secretariat】



【Part 1 Activity Report by Senior Director, Governance and Peacebuilding Department, JICA】



【Part 1 Activity Report by ICD Deputy Director】



【Part 2 Keynote Lecture by Prof. UCHIDA Takashi, Professor of Waseda University and Professor Emeritus of the University of Tokyo】



【Part 2 Session by Former International Students to Japan】



【Part 2 Panel Discussion】

**ONLINE SEMINAR ON INTERNATIONAL ARBITRATION
AND MEDIATION
～ JAPAN-SINGAPORE PARTNERSHIP PROGRAMME
FOR THE 21ST CENTURY (JSPP21) ～**

SOGA Manabu

Professor and Government Attorney, International Cooperation Department

SAKAMOTO Tatsuya

Professor and Government Attorney, International Cooperation Department

I. Introduction

From September 5 to 7, 2022, an online seminar on international arbitration and mediation was held at the Singapore International Mediation Centre (SIMC) for officials of administrative agencies from Southeast Asian, Pacific, and South Asian countries. The International Cooperation Department (ICD) has been involved in the planning and implementation of this seminar, therefore, we would like to report our activities.

II. Background

In 1994, with the termination of Japan's bilateral assistance to Singapore, Japan and Singapore launched the Japan-Singapore Partnership Programme (JSPP) as a program of technical cooperation between Japan and Singapore for a third country, based on an agreement between the two leaders, with the aim of making Singapore a donor country and promoting South-South cooperation. Later, in 1997, based on an agreement between the Foreign Ministers of Japan and Singapore, the JSPP was reorganized as the Japan-Singapore Partnership Programme for the 21st Century (JSPP21), with costs split equally between the two countries, and the relationship between the two countries positioned as one of equal partnership. In December 2007, a Memorandum of Discussion (MOD) was signed between the Foreign Ministers of Japan and Singapore, which calls for strengthening JSPP21 in a way that contributes to enhancing ASEAN integration, and in December 2018, strengthening connectivity and the rule of law were added as business objectives of JSPP21.

JSPP21's specific activities include the implementation of approximately one-week training courses, mainly in Singapore, with training institutions are selected by the Singaporean side for each field, lecturers dispatched by the Japanese side. To date, approximately 410 courses have been conducted, with approximately 7,100 trainees from 95 countries and regions taking part; from FY2020, all training has been conducted online due to the COVID-19 pandemic.

At this time, following the Memorandum of Cooperation between the Ministries of Justice of Japan and Singapore signed in July 2021, the Ministry of Foreign Affairs of Singapore proposed to conduct a training course on international arbitration and mediation as a new course under JSPP21, and this online seminar was to be held in response to this proposal. This seminar was co-sponsored by the Ministry of Foreign Affairs of Singapore and the Japan International Cooperation Agency (JICA).

III. Program

1 Outline

(1) Format

Online using Zoom

(2) Participants

15 officials from administrative agencies in India, Laos, Cambodia, Indonesia, Maldives, Nepal, Pakistan, Philippines, Samoa, Thailand, and Timor-Leste

(3) Dates

September 5 to September 7

(4) Language

English

2 Contents

(1) Opening Session

Mr. CHUAN Wee Meng, CEO of the Ministry of Foreign Affairs of Singapore, Embassy of Japan in Singapore and Singapore International Mediation Center, gave opening remarks and explained the background of this seminar.

(2) Overview of International Commercial Mediation and Arbitration in Singapore

Ms. Ellis SEE, Director of the Legal Industry Division of Singapore's Ministry of Justice, gave an overview presentation on international commercial mediation and arbitration in Singapore. She explained that Singapore has been focusing on the infrastructure for international commercial dispute resolution to stimulate business activity and investment, and has developed/ enhanced the environment, legal framework, facilities, institutions, and expertise to stimulate international commercial mediation and arbitration, with government, judiciary, and legal professionals cooperating with each other. Excellent facilities include the Singapore International Arbitration Centre (SIAC) and the Singapore Chamber of Maritime Arbitration (SCMA) for arbitration, the Singapore International Mediation Centre (SIMC) for mediation, the Singapore International Commercial Court (SICC) for trials, the Singapore Management University (SMU) for thought leadership, and the Singapore Chamber of Commerce (CMC) and the Singapore Institute of Management (SIM) for legal services, and for infrastructure, Maxwell Chambers,

respectively.

(3) Sharing of Pre-workshop Survey – Group Discussion (Country Presentation)

A brief questionnaire was administered to the participants using Wooclap. Although only a few participants had actual experience with arbitration or mediation, the questionnaire indicated that mediation was the most desirable means of dispute resolution, followed by arbitration. Participants from the Maldives, Nepal, Thailand, the Philippines, and Indonesia also made presentations on the actual legal systems and practices of arbitration and mediation in their respective countries.

(4) Introduction to Mediation

Mr. LEE Beng Tat, Registrar of the Singapore International Mediation Center, gave a presentation on an overview of mediation. As advantages of mediation, he mentioned that the parties can choose the mediator and control the outcome of the dispute resolution, that it is not adversarial and allows for restoration of relationships, that it saves time and cost, that we should aim for a fruitful mediation where none of the parties involved feel that they have lost, and that in recent years, with the use of med-arb protocols, there has been an increase in the use of international mediation within ADR as a whole, as well as explanation of the use of model clauses of Singapore International Mediation Center.

(5) Stages of International Mediation

Mr. CHUAN Wee Meng gave a presentation on the procedure of international mediation. The process of international mediation consists of the mediator's Opening Statement, Parties' Initial Statements, Summarizing, Issue Identification & Agenda Setting, Discussion, Option Generation, Initial Negotiation, Private Session, Bargaining Phase and Outcome & Documentation. After explaining the purpose and specifics of each of these situations, he pointed out that the skills required for international mediation include Active Listening, Reframing, Questioning, Hypothetical Questioning, and Agreement Drafting.

(6) 7 Element Framework: The Substantive and Connecting Elements

Mr. LEE Beng Tat gave a presentation on the seven-element framework (substantive and connective elements) of negotiation. The 7 elements of Harvard Negotiation Method are Interests, Options, Alternatives, Criteria, Commitment, Communication, and Relationships. Specific explanations were given for each of these elements.

(7) Singapore Convention on Mediation

Mr. LEE Beng Tat gave a presentation on the enforcement of mediation agreements and the Singapore Convention. He explained that ratification of the Singapore Convention provides advantages in situations of enforcement of mediation agreements, and that if the mediation clause is unclear, enforcement will not be possible. He also introduced that the top three countries for users of the Singapore International Mediation Center are India with 21%, China with 18%, and the United States with 11%, followed by Hong Kong,

Korea, Switzerland, Australia, Japan, Malaysia, and the United Kingdom. Specific cases were mentioned as case studies.

(8) International Commercial Arbitration

Mr. Kevin NASH, Registrar of the Singapore International Arbitration Center, gave a presentation on international commercial arbitration. He explained that member countries of the New York Convention have advantages in the enforcement of international arbitration, that Singapore is chosen as the seat of arbitration for international arbitration because it is seen as neutral and fair, that the Singapore International Arbitration Center has arbitrators from many countries and can cover both common law and civil law, and that Expedited Procedure is also available for speedy proceedings.

(9) Investor-State Dispute Settlement – investment arbitration and mediation

Ms. Shwetha BIDHURI, Head of South Asia, Singapore International Arbitration Center, gave a presentation on dispute resolution (investment arbitration and mediation) between investors and States. She explained that the risk for investors from developed countries to invest in emerging countries is changes in the government or policies of emerging countries, but that investment treaty contributes to prevent this risk, that emerging countries must absolutely comply with investment treaty, and that if investors are harmed by not complying with investment treaty, there would be no one left to invest. She also explained that international arbitration is often chosen as the means of dispute resolution in bilateral investment treaty, and that although it takes time, it is important to establish a timeline of the arbitration.

(10) Singapore Infrastructure Dispute Management Protocol Mediation in Intellectual Property Disputes

Mr. LEE Beng Tat gave a presentation on the Singapore Infrastructure Dispute-Management Protocol and IP dispute mediation. He explained that the Infrastructure Dispute-Management Protocol is a voluntary protocol provided by the Singapore Mediation Council (SMC) to efficiently manage and resolve disputes arising from large-scale construction and infrastructure projects, and that it allows for expedited proceedings with the involvement of the Dispute Board. He also explained that under the Revised Enhanced Mediation Promotion Scheme, the Intellectual Property Office of Singapore (IPOS) provides financial assistance to cover part of the mediation costs under certain conditions, and also explained IP dispute mediation using case examples.

(11) Promotion of International Arbitration in Japan

KANEZAKI Teppei, Attorney, International Affairs Division, Minister's Secretariat, Ministry of Justice of Japan, gave a presentation on the promotion of international arbitration in Japan. The Japanese government established the "Liaison Conference of Relevant Ministries and Agencies" in September 2017, and in April 2018, compiled

“Possible Strategy to Encourage International Arbitration,” in which it explained that the purpose of revitalizing international arbitration is contribution to economic growth and cooperation between the government and civil society, and method to achieve these include the development of relevant legislation, human resource development, promotion of international arbitration domestically and overseas, and state-of-the-art hearing facilities. Correspondingly, development of relevant legislation included revisions to the Act on Special Measures Concerning the Handling of Legal Services by Foreign Lawyers and the Arbitration Act; human resource development included the creation of video materials by the Japan International Dispute Resolution Center (JIDRC) and training for certification by the Chartered Institute of Arbitrators (CIArb); and public relations included the publication of Japanese arbitration legislation in English and the holding of seminars in China, Taiwan, and other countries. In terms of state-of-the-art hearing facility, JIDRC has established new hearing facilities dedicated to international arbitration and ADR in Tokyo and Osaka.

As appealing points for selecting Japan as the seat of arbitration, he explained that Japan has world-class arbitration system, support from both the public and private sectors, state-of-the-art hearing facilities, and that it is a safe and secure country. In conclusion, he explained that international arbitration should be activated in many countries rather than a zero-sum game, and that the ultimate goal is to implement of rule of law in the field of cross border transactions.

(12) Practical Issues for International Commercial/Investment Arbitration

Mr.IGUCHI Naoki, partner, Nagashima Ohno & Tsunematsu, gave a presentation on practical issues in international commercial and investment arbitration. Using the model arbitration clause of the Singapore International Arbitration Center and the Japan-Singapore New Era Economic Partnership Agreement (JSEPA) as examples, he first explained the provisions of arbitration agreements and bilateral investment agreements as a foundation, followed by an explanation of the governing law of the contract, seat of arbitration, and treaties related to international arbitration. Then, as Discussion 1, there was a discussion with the participants on factors to be considered in proposing/agreeing seat of arbitration, with participants expressing opinions such as neutrality, limited court intervention, and political stability to be considered. After the explanation of the Singapore International Arbitration Center’s Arbitration Rules regarding arbitrators, as Discussion 2, participants discussed the factors to be considered when selecting arbitrators, and it was explained that factors to be considered include language ability, lack of conflict of interest, experience, and how busy the arbitrators should be. He also explained the factors to be considered in selecting counsel and expert for international arbitration proceedings, the timetable for arbitration, the International Bar Association

(IBA) Rules harmonizing common law and civil law regarding document disclosures and the practice of hearing and settlement.

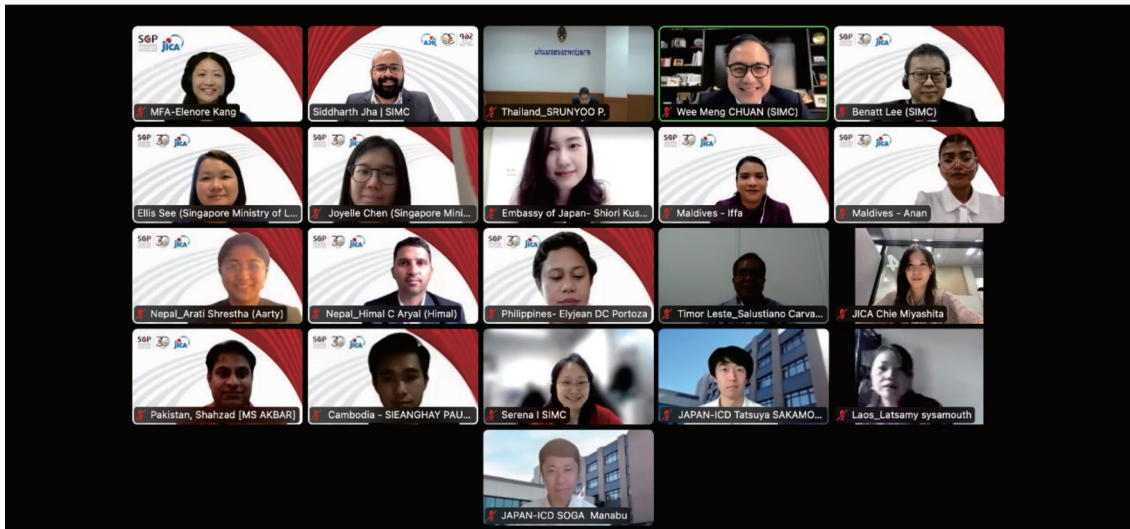
(13) Closing Session

The Ministry of Foreign Affairs of Singapore, JICA Singapore Office and Mr. CHUAN Wee Meng made closing remarks and confirmed the significance of this seminar.

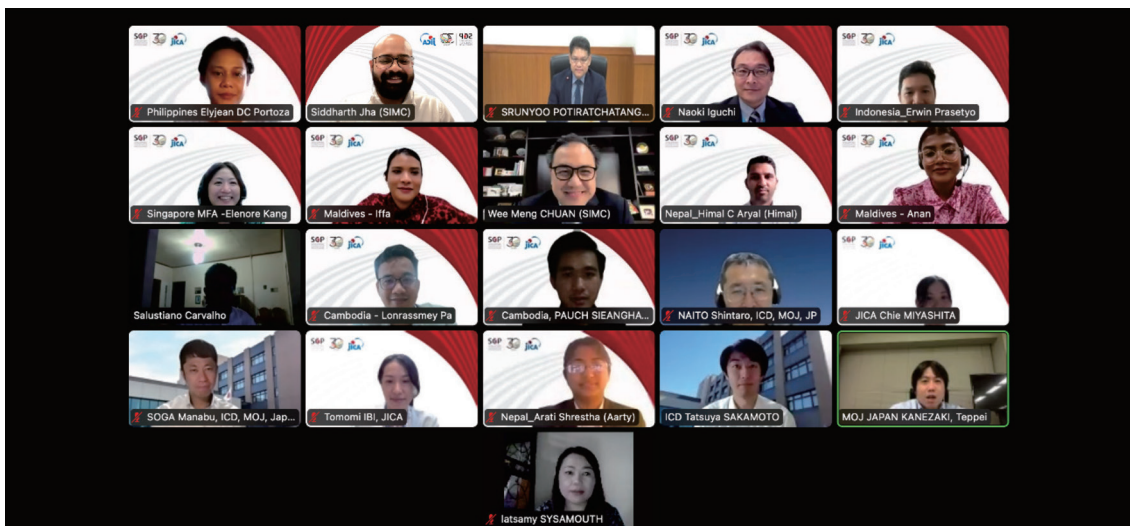
IV. Conclusion

This seminar was a multinational training seminar on the themes of international arbitration and international mediation. While there are differences in domestic court systems, particularly between common law and civil law, such as the existence of discovery systems, on the other hand, global standard procedures are being sought for international arbitration, such as document disclosures that are intermediate between common law and civil law, and the same applies to international mediation. Therefore, the themes of international arbitration and mediation are likely to be familiar to multilateral training programs.

For the Ministry of Justice, it was a good opportunity to publicize Japan's international arbitration activities, and for ICD, it was also an accumulation of experience. Furthermore, for those of us who are professors with a background as judges, it was also a good learning experience that provided us with many suggestions on how we should think about our own litigation. We would like to continue to cooperate with the training on these topics in the future, if there are opportunities to do so.



Opening Session



Closing Session

- IV. Chronology of Legal Technical Assistance -

Chronology of Legal Technical Assistance (Main Chronology Known to RTI)

As of December 31, 2022

Year	Month	Vietnam
1991		The Minister of Justice of Vietnam requested assistance from the Ministry of Justice of Japan
1992		
1993		Prof. Akio Morishima of Nagoya Univ. (then) visited Vietnam to introduce Civil Code [CC] of Japan through cultural exchange project
1994	Oct.	Training course in Japan (on CC of Japan; etc.)
1995	Aug.	• “Survey on development policy to assist transition to market economy” (so-called Ishikawa Project)(1995 – 2001)
	Oct.	• Training course in Japan (on Nationality Act; etc.)
1996	Aug.	• Training course in Japan (on Penal Code and Criminal Procedure Code[CRPC])
	Sep.	• Training course in Japan (on Commercial Code; etc.)
	Dec.	• Cooperation Program in Legal Field, Phase I commenced
	Dec.	• Long-term expert (private attorney) was dispatched
1997	Jun.	• Training course in Japan (on family register, registration, deposition)
	Oct.	• Training course in Japan (on Civil Procedure Code [CPC] and Civil Execution Act)

1998	Jun. Oct.	<ul style="list-style-type: none"> • Local seminar • Training course in Japan (on Companies Act;etc.) • Training course in Japan (on intellectual property right)
1999	Jun. Oct. Nov. Dec.	<ul style="list-style-type: none"> • Local seminar • Training course in Japan (on criminal procedure) • Training course in Japan (on civil liability) • Training course (on criminal procedure and roles of prosecutors)(JICA and UNDP joint project) • Japan-Vietnam Civil and Commercial Law Seminar • Phase I of Above Project terminated • Cooperation Project in Legal Field, Phase II commenced <ul style="list-style-type: none"> - Joint study to amend Civil Code (CC) of Vietnam - Formulation of a bird's-eye view of laws - Human resource development • Supreme People's Court (SPC) and Supreme People's Procuracy (SPP) were added as counterpart organizations • Long-term expert (program coordinator) was dispatched
2000	Jun. Jul. Sep. Oct. Nov.	<ul style="list-style-type: none"> - Local seminar • Three long-term experts (public prosecutor, former judge and private attorney) were dispatched • Training course in Japan (on judicial system in Japan; etc.) • Joint study group to amend CC commenced • Training course in Japan (on lawyer system; etc.) • Training course in Japan (on criminal procedure; etc.) • Training course in Japan (on judiciary; etc.)
2001	May Jun. Sep. Nov.	<ul style="list-style-type: none"> • Two long-term experts (public prosecutor and private attorney) were dispatched • Local seminar • Training course in Japan (on legal training of prosecutors) • Training course in Japan (on capacity development) • Training course in Japan (on CPC) • Phase II of Above Project was extended until Mar. 2003
2002	Feb. May Jun. Sep.	<ul style="list-style-type: none"> • Former Minister of Justice of Vietnam was invited to Japan by JICA • Long-term expert (former judge) was dispatched • Local seminar • Training course in Japan (on CC) • Training course in Japan (on penal provisions concerning economy for developing market-oriented economy) • Training course in Japan (on laws and rules concerning stock exchange; etc.) • Training course in Japan (on CPC)
2003	Feb. Jun. Jul. Dec.	<ul style="list-style-type: none"> • Training course in Japan (on laws and rules concerning secured trading system) • Phase II of Above Project terminated • Phase III of Above Project commenced <ul style="list-style-type: none"> - Joint study group to amend CC - Joint study group on CPC - Joint study group on legal training (composed of MOJ, Supreme Court [SC] and Japan Federation of Bar Associations [JFBA]) - Joint study group (composed of MOJ, SC and JFBA) commenced to establish judgment-writing and judicial precedents • Seminar to assist amendment of Bankruptcy Law • Long-term expert (public prosecutor) was dispatched • Local seminar (on CC, CPC, legal training) • Minister of Justice and other delegates were invited to Japan by Research and Training Institute (RTI) and JICA

2004	Feb.	<ul style="list-style-type: none"> • Training course in Japan (on legal training) • Course on Japanese law at Vietnam National University commenced • Four long-term experts (public prosecutor, former judge, private attorney and program coordinator) were dispatched • Local seminar (on CC, CPC, legal training, judgment-writing/judicial precedents)
	Jun. Jun.	<ul style="list-style-type: none"> • CPC was enacted • Amended Bankruptcy Law was enacted
2005	Jan. Feb.	<ul style="list-style-type: none"> • Training course in Japan (on legal training) • Training course in Japan (on joint study to amend CC) • Long-term expert (former judge) was dispatched • Course on Japanese law at Vietnam National Univ. • Local seminar (on judgment-writing/judicial precedent, Judgment Execution Law, legal training)
	Jun. Sep.	<ul style="list-style-type: none"> • Amended CC was enacted • Training course in Japan (on standardization of judgment-writing)
2006	Feb. Jun.	<ul style="list-style-type: none"> • Training course in Japan (on legal training) • Phase III of Above Project was extended until Mar. 2007 • Long-term expert (program coordinator) was dispatched • Course on Japanese law at Vietnam National Univ. • Local seminar (on judgment-writing/ judicial precedents)
	Oct.	<ul style="list-style-type: none"> • Training course and joint study on Japan-Vietnam judicial systems (on judgment-writing/ judicial precedent, inviting four justices from SPC to Japan)
2007	Mar. Apr.	<ul style="list-style-type: none"> • Phase III of Above Project terminated • Project for Legal and Judicial Reform commenced • Joint study group on CC commenced • Study group to improve court practices commenced • Four long-term experts (public prosecutor, former judge, private attorney, program coordinator) were dispatched • Course on Japanese law at Vietnam National Univ. • Research and Education Center for Japanese Law was established at Hanoi Univ. of Law by Nagoya Univ.
	Sep. Nov.	<ul style="list-style-type: none"> • Local seminar (on State Compensation Law) • Training course in Japan (on drafting State Compensation Law)
2008		<ul style="list-style-type: none"> • Joint study group on CC and study group to improve court practices • Course on Japanese law at Vietnam National Univ.
	Jun. Aug. Nov.	<ul style="list-style-type: none"> • Training course in Japan (on criminology) • Training course in Japan (on improvement of court practices and measures for providing information of judicial precedent, etc.) • Civil Judgment Execution Law was enacted
2009	Mar.	<ul style="list-style-type: none"> • Training course in Japan (on amendment of CRPC) • Joint study group on CC, study group to improve court practices • Course on Japanese law at Vietnam National Univ.
	Jun. Aug. Oct. Dec.	<ul style="list-style-type: none"> • State Compensation Law was enacted • Training course in Japan (on drafting Immovable property registration Law and Secured Transaction Registration Law) • Training course in Japan (on organization and activities of JFBA) • Training course in Japan (on drafting amended CRPC and guidance on operation of Civil Judgment Execution Law) • Local seminar (on Administrative Procedure Law, organization and management of bar federation, etc.)

2010	Feb.	<ul style="list-style-type: none"> • Training course in Japan (drafting Administrative Procedure Law) • JICA Survey Team was dispatched for project-end evaluation and project detailed planning survey • Joint study group on CC and study group to improve court practices • Course on Japanese law at Vietnam National Univ.
	Jun.	<ul style="list-style-type: none"> • Joint study on Japan-Vietnam judicial systems
	Aug.	<ul style="list-style-type: none"> • Local seminar
	Sep.	<ul style="list-style-type: none"> • Training course in Japan (on attorney's business basic rules, roles of each bar association, etc.)
	Oct.	<ul style="list-style-type: none"> • Vice-Minister of Justice was invited to Japan
	Nov.	<ul style="list-style-type: none"> • Training course in Japan (on drafting Family Registration Law)
	Nov.	<ul style="list-style-type: none"> • Administrative Procedure Law was enacted
	Dec.	<ul style="list-style-type: none"> • Training course in Japan (on drafting amended CRPC)
2011	Jan.	<ul style="list-style-type: none"> • Training course in Japan (on drafting amended CPC)
	Mar.	<ul style="list-style-type: none"> • Phase I of Above Project terminated • Amended CPC was enacted
	Apr.	<ul style="list-style-type: none"> • Phase II of Above Project (2011 - 2015) commenced • Joint study group on CC and study group to improve court practices • Course on Japanese law at Vietnam National Univ.
	Jun.	<ul style="list-style-type: none"> • Joint study on Japan-Vietnam judicial systems
2012	Feb.	<ul style="list-style-type: none"> • Training course in Japan (on organization of bar associations, strengthening capacity of attorneys, and countermeasures against depopulation of attorneys)
	Mar.	<ul style="list-style-type: none"> • Training course in Japan (on amendment of Court Organization Law) • Joint study group on CC, and study group to improve court practices • Course on Japanese law at Vietnam National Univ.
	Jun.	<ul style="list-style-type: none"> • Joint study on Japan-Vietnam judicial systems • JICA Survey Team was dispatched (survey for guidance on project management)
2013	Feb.	<ul style="list-style-type: none"> • Training course in Japan (on establishment of rights of defense counsel in criminal justice, amendment of CC)
	Mar.	<ul style="list-style-type: none"> • Training course in Japan (on amendment of Court Organization Law)
	May	<ul style="list-style-type: none"> • JICA Survey Team (mid-term evaluation) • Joint study group on CC, and study group to improve court practices • Course on Japanese law at Vietnam National Univ.
	Aug.	<ul style="list-style-type: none"> • Joint study on Japan-Vietnam judicial systems (Prosecutor General of SPP was invited to Japan at the same time)
	Oct.	<ul style="list-style-type: none"> • Training course in Japan (on Bankruptcy Law; organization and management of bar associations and law firms in the province, and autonomy of private attorneys)
2014	Feb.	<ul style="list-style-type: none"> • JICA Survey Team (Joint Coordinating Committee [JCC])
	Mar.	<ul style="list-style-type: none"> • Training course in Japan (on amendment of CC - amendment of international-private related law) • Field survey by ICD (for preliminary survey to assist in amendment of Penal Code)
		<ul style="list-style-type: none"> • Joint study group on CC, and study group to improve court practices
	Jun.	<ul style="list-style-type: none"> • Joint study on Japan-Vietnam judicial systems (on amendment of CC)
	Jul.	<ul style="list-style-type: none"> • Joint study on Japan-Vietnam judicial systems (on training of prosecutors)
	Aug.	<ul style="list-style-type: none"> • JICA survey team was dispatched (for project-end evaluation)
	Sep.	<ul style="list-style-type: none"> • JICA survey team was dispatched (for pre-project detailed planning survey) • Local seminar (on summary procedure, appeal system, amendment of CPC, etc.)
	Nov.	<ul style="list-style-type: none"> • JICA survey team was dispatched (for project detailed planning survey)
	Dec.	<ul style="list-style-type: none"> • Training course in Japan (on training of prosecutors)
	Dec.	<ul style="list-style-type: none"> • JICA survey team was dispatched (for 3rd project detailed planning survey)

2015	Mar. Apr.	<ul style="list-style-type: none"> • Training course in Japan (on amendment of CC) • Project for Harmonized, Practical Legislation and Uniform Application of Law Targeting Year 2020 commenced (2015 - 2020) • The Office of the Government (OOG) was added as a new counterpart in this project in addition to pre-existing four counterparts • Additional long-term expert (prosecutor) was dispatched in addition to pre-existing four long-term experts • Joint study group on CC, and study group to improve court practices
	Jun. Sep. Oct. Nov. Dec.	<ul style="list-style-type: none"> • Joint study on Japan-Vietnam judicial systems (on criminal policy;etc.) • Training course in Japan (on enhancing consistency of legal normative documents) • JICA Survey Team was dispatched (for participating in JCC) • Training course in Japan (on enhancing consistency of legal normative documents) • Training course in Japan (on training of prosecutors)
2016	Apr. Jul.	<ul style="list-style-type: none"> • JICA survey team was dispatched (for participating in JCC) • Training course in Japan (on enhancing consistency of legal normative documents and training of prosecutors)
	Sep. Nov. Nov. Nov.	<ul style="list-style-type: none"> • Training course in Japan (on property registration act) • Training course in Japan (on training of judges) • Local survey(on Property Registration Act) • JICA survey team was dispatched (for survey for Property Registration Act)
2017	Feb. Apr. May	<ul style="list-style-type: none"> • Local seminar (on Property Registration Act, etc.) • Local survey(for Property Registration Act) • Training course in Japan (on judicial precedent)
	Sep. Sep. Oct. Nov.	<ul style="list-style-type: none"> • Training course in Japan (on property registration act) • Local seminar (on judicial precedent) • Local seminar (on family court) • Training course in Japan (on civil execution system and registration system)
2018	Jan. May Jun. Sep.	<ul style="list-style-type: none"> • JICA survey team was dispatched (for Mid-term Review) • JICA survey team was dispatched (for participating in JCC) • Training course in Japan (on settlement and conciliation) • Local seminar (on judicial precedent)
	Oct. Oct.	<ul style="list-style-type: none"> • Training course in Japan (on enhancing consistency of legal normative documents) • Local seminar (on family court)
2019	Jan. Apr. Aug. Aug. Sep.	<ul style="list-style-type: none"> • JICA survey team was dispatched (for participating in JCC) • JICA survey team was dispatched (for participating in JCC) • Local seminar (on hearing from women and children victims) • Local workshop (on forensic interviews) • JICA survey team was dispatched (for project detailed planning survey)
	Oct.	<ul style="list-style-type: none"> • Above Project was extended until Dec. 2020 • Training courses in Japan (on adversarial principle in the criminal court practices)
2020	Jan. Feb. - Mar. Jul. Dec.	<ul style="list-style-type: none"> • JICA survey team was dispatched (for project detailed planning survey) • Training courses in Japan (on enhancing consistency of legal normative documents) • JCC • JCC and Launching Ceremony of the JICA Project in the period of 2021-2025 • Above Project (2015 - 2020) terminated
	Jan. Apr. Sep. Nov.	<ul style="list-style-type: none"> • Project "Enhancing the Quality and Efficiency of Developing and Implementing Laws in Vietnam" commenced (2021 - 2025) • The Central Internal Affairs Committee (CIAC) was added as a new counterpart in this project in addition to pre-existing five counterparts • Four long-term experts (public prosecutor, private attorney, official of MOJ and program coordinator) were dispatched • Kick-off Meeting of the new project • JCC • Online workshop (on international experiences of juvenile justice)

2022	Mar. Apr. Jun. Jul. Sep. Nov. Nov. - Dec. Dec.	<ul style="list-style-type: none"> • Online workshop (on handover, access, disclosure of evidence and conciliation) • Online workshop (on people participating in judicial activities) • JCC • JCC • Online lecture for intern students from Education and Research Center for Japanese Law (Vietnam) • Local survey • Online workshop (on legal application) • Online workshop (on mediation) • Local seminar (on mutual legal assistance) • Local seminar (on improvement of judgement document)
Year	Month	Cambodia
1993		
1994		• Seminar "Actual Situation of, and Challenges for Judicial System in Cambodia" by JFBA
1995		
1996		• Joint organization of training course in Japan by MOJ, SC and JFBA (annually)
1997		
1998		<ul style="list-style-type: none"> • Survey team was dispatched to JICA Office in Cambodia • Agreement on assistance in drafting Civil Code (CC) and Code of Civil Procedure (CCP)
1999	Mar.	<ul style="list-style-type: none"> • JICA Legal and Judicial Development Project, Phase I began • Two long-term experts (including a private attorney) were dispatched to MOJ of Cambodia • Workshops held by CC and CPC working groups in Japan and in Cambodia to assist drafting of the two codes
2000	Apr. May Oct.	<ul style="list-style-type: none"> • Training course in Japan for assistance in legislative drafting, mainly through discussions with working groups (twice) • Friendship agreement between JFBA and Cambodian Bar Association (CBA) • Judicial survey team was dispatched by JFBA • Judicial survey team was dispatched by JFBA
2001		<ul style="list-style-type: none"> • Judicial assistance project for CBA by JFBA (JICA small-scale development partnership project) commenced • Seminar on continuous education of attorneys (1st to 4th) organized by JFBA (joint project with Canadian Bar Association [which held seminar three times] and Lyon Bar Association [which held seminar once], and seminars were held eight times in total)
2002		<ul style="list-style-type: none"> • Commemorative seminar on completion of draft CC and CCP (speech given by Prime Minister Samdech Hun Sen) • Draft CC and CCP were completed • Judicial assistance project for CBA by JFBA (JICA Development Partnership Program) commenced (until 2005) • Training course in Japan (assistance in legislative drafting, legislative assistance)
2003		<ul style="list-style-type: none"> • Training seminar in Japan (legislative assistance) • JICA survey team was dispatched • JICA short-term expert was dispatched by MOJ of Japan to Royal School for Judges and Prosecutors (RSJP) of Cambodia
2004		<ul style="list-style-type: none"> • Phase II of above JICA Project commenced (until Apr. 2007) <ul style="list-style-type: none"> - Legislative assistance - Drafting ancillary laws • Two long-term experts (including one private attorney) were dispatched to MOJ of Cambodia • Training course on legal training for counterpart organizations • JICA short-term expert (public prosecutor) was dispatched to RSJP

2005	Feb.	<ul style="list-style-type: none"> • Training course in Japan (CC, CCP) • Two long-term experts (including one private attorney) were dispatched to MOJ of Cambodia. • Local seminar (mock trial) • Study group on legal training was established • JICA Project for Improvement of Training on Civil Matters at RSJP (RSJP Project) commenced (until Mar. 2008) • Two long-term experts (including public prosecutor) were dispatched to RSJP • Judicial assistance project for CBA by JFBA (JICA Development Partnership Program) terminated
	Oct.	<ul style="list-style-type: none"> • Training course in Japan (legal training)
2006	Feb.	<ul style="list-style-type: none"> • Training course in Japan (CC, CCP) • Two long-term experts (including private attorney) were dispatched to MOJ of Cambodia • Minister of Justice of Cambodia and other delegates were invited to Japan by RTI and International Civil and Commercial Law Centre Foundation (ICCLC) • JICA Legal Development Project, Phase II was extended (until Apr. 2008)
	Apr.	<ul style="list-style-type: none"> • JICA-Net seminar
	Jul.	<ul style="list-style-type: none"> • CPC was enacted
	Aug.	<ul style="list-style-type: none"> • Short-term experts were dispatched
	Aug.	<ul style="list-style-type: none"> • Local seminar (special lecture on CC)
	Dec.	<ul style="list-style-type: none"> • Local seminar (judgment-writing)
2007	Dec.	<ul style="list-style-type: none"> • Remote seminar
	Dec.	<ul style="list-style-type: none"> • JICA-Net seminar
	Feb.	<ul style="list-style-type: none"> • Training course in Japan (legal training)
	Mar.	<ul style="list-style-type: none"> • Local seminar (special lecture on CCP) • Additional long-term expert (private attorney) was dispatched to MOJ (three long-term experts in total)
		<ul style="list-style-type: none"> • JICA survey team was dispatched
		<ul style="list-style-type: none"> • JICA survey team was dispatched
	May	<ul style="list-style-type: none"> • JICA-Net seminar
	Jul.	<ul style="list-style-type: none"> • Application of CCP commenced
	Jul.	<ul style="list-style-type: none"> • Training course in Japan (legal training and CCP)
	Aug.	<ul style="list-style-type: none"> • Remote seminar (CCP)
2008	Sep.	<ul style="list-style-type: none"> • JICA-Net seminar
	Sep.	<ul style="list-style-type: none"> • Local seminar (CC)
	Dec.	<ul style="list-style-type: none"> • CC was promulgated
	Dec.	<ul style="list-style-type: none"> • Local seminar (civil mock trial)
	Jan.	<ul style="list-style-type: none"> • Local seminar (CCP) • JICA Judicial Assistance Project for CBA commenced • JICA Legal Development Project, Phase III commenced - Drafting ancillary laws • JICA survey team was dispatched • JICA RSJP Project, Phase II commenced • Advisory group on legal training was established
	Sep.	<ul style="list-style-type: none"> • JICA-Net seminar
	Oct.	<ul style="list-style-type: none"> • Training course in Japan
2009	Dec.	<ul style="list-style-type: none"> • Remote seminar (CCP)
	Dec.	<ul style="list-style-type: none"> • Local seminar
	Feb.	<ul style="list-style-type: none"> • Training course in Japan (Immovable property registration Law)
	Feb.	<ul style="list-style-type: none"> • Local seminar
	Mar.	<ul style="list-style-type: none"> • Training course in Japan
	May	<ul style="list-style-type: none"> • JICA-Net seminar
	Jun.	<ul style="list-style-type: none"> • Local seminar
	Aug.	<ul style="list-style-type: none"> • Local seminar
	Oct.	<ul style="list-style-type: none"> • Training course in Japan
	Nov.	<ul style="list-style-type: none"> • Training course in Japan
	Dec.	<ul style="list-style-type: none"> • Local seminar (CCP)

2010	Feb. May May May Sep. Oct. Dec.	<ul style="list-style-type: none"> • Training course in Japan (on immovable property registration) • Dispatch of two long-term experts to RSJP continued, one long-term expert was added (two of total three were from MOJ) • JICA-Net seminar (CCP) • Field survey by RTI (needs assessment) • JICA Judicial Assistance Project for CPA completed. • Local seminar (CC) • Training course in Japan (legal training) • JICA-Net seminar (corporate registration)
2011	Mar. Jun. Jun. Aug. Sep. Oct. Oct. Dec. Dec.	<ul style="list-style-type: none"> • Local seminar (CC) • Civil Code Application Law was promulgated • Training course in Japan (legal training) • Local seminar (on CC in Aug., Sep., Nov.) • JICA survey team was dispatched (for project-end evaluation) • Training course in Japan (legal training) • JICA survey team was dispatched (for project detailed planning) • Application of CC commenced; commemorative ceremony • Local seminar (dissemination of CC)
2012	Jan. Feb. Mar. Apr. Sep. Nov. Dec.	<ul style="list-style-type: none"> • Local seminar (CC) • Training course in Japan (corporate registration) • JICA Legal Development Project, Phase III completed. • JICA Project for Dissemination of CC and CCP commenced <ul style="list-style-type: none"> - Assistance in drafting Joint Ministerial Ordinance on Immovable property registration - Personnel capacity-building of MOJ, RAJP, Bar Association of Kingdom of Cambodia (BAKC), and Royal University of Law and Economics • Local seminar (immovable property registration) • JICA survey team was dispatched (to participate in JCC) • Local seminar (immovable property registration)
2013	Feb. Feb. Sep. Sep. Oct. Dec.	<ul style="list-style-type: none"> • Local seminar (Family Inheritance Law) • Training course in Japan (human resource development) • JICA Project for Assistance in legislative drafting completed • Dispatch of an expert (private attorney) ended • Local seminar (CCP) • JICA survey team was dispatched (for guidance on project management) • Training course in Japan (on human resource development) • JICA survey team was dispatched (to participate in JCC)
2014	Feb. Mar. Jun. Aug. Sep. Oct. Dec. Dec.	<ul style="list-style-type: none"> • Training course in Japan (on human resource development) • Local seminar (CC) • Training courses in Japan • JICA survey team was dispatched (for mid-term review) • Long-term expert (prosecutor) was dispatched, dispatch of an expert ended • Training courses in Japan • JICA survey team was dispatched (to participate in JCC) • Local seminar (publication of judgments)
2015	Feb. Mar. Jul. Sep. Dec.	<ul style="list-style-type: none"> • Training courses in Japan • Local seminar (registration of immovables) • Local seminar (Joint Prakas on registration of immovables) • Training courses in Japan • JICA survey team was dispatched (to participate in JCC)
2016	Jan. Mar. Oct. - May. Aug. Aug. Sep. Oct. Dec.	<ul style="list-style-type: none"> • Local seminar (civil provisional remedies) • Training courses in Japan • Dispatch of a short-term expert (public prosecutor) • Local seminar (Problems in practice in Aug.) • JICA survey team was dispatched (for project-end evaluation) • JICA survey team was dispatched (for project detailed planning in Sep.) • Training courses in Japan (Oct.) • JICA survey team was dispatched (to participate in JCC)

2017	Jan. Feb. Mar. Apr. Aug. Aug.	<ul style="list-style-type: none"> • Local seminar (problems in practice) • Local seminar (compulsory execution) • Above JICA Project continued completed • JICA Project "Legal and Judicial Development Project Phase V" commenced • Working groups on CC terminated • Local seminar (problems in practice) • Advisory group on immovable property registration was formed
2018	Jan. Mar. Mar. Aug.	<ul style="list-style-type: none"> • Japan Federation of Bar Association (JFBA) • Bar Association of Kingdom of Cambodia (BAKC) • ICD seminar (division of inheritance) • RULE • ICD seminar (divorce) • Japan Federation of Bar Association (JFBA) • Bar Association of Kingdom of Cambodia (BAKC) • ICD seminar (divorce) • JFBA • BAKC • ICD seminar (compulsory execution of real property)
2019	Jan. Feb. Feb. Mar.	<ul style="list-style-type: none"> • JICA survey team was dispatched (to participate in JCC) • Training courses in Japan • Workshop in Cambodia (immovable property registration) • JFBA • BAKC • ICD seminar (civil provisional remedies)
2020	Jan. Jan. Jan. Jan. Mar.	<ul style="list-style-type: none"> • JICA survey team was dispatched (to participate in JCC) • Training course in Japan • Workshop in Cambodia (Court Enforcement Officer Act) • Signing MOC between the Royal Academy for Judicial Professions of the Kingdom of Cambodia(RAJP) and RTI • Online workshop (immovable property registration)
2021	Jan. Feb. Mar. Jul. Aug. Oct. Nov. Dec.	<ul style="list-style-type: none"> • JCC • Online discussion about the joint study between ICD and RAJP • Online workshop (Court Enforcement Officer Act) • Online workshop (immovable property registration) • Online joint study between ICD and RAJP (on a loan case) • Online workshop (immovable property registration) • Online workshop (immovable property registration) • Online workshop (immovable property registration)
2022	Feb. Feb. May. Oct. Nov. Dec.	<ul style="list-style-type: none"> • JCC • Online joint study between ICD and RAJP (on a sale contract and training for legal professionals in Japan) • Local survey • JICA Project "Legal and Judicial Development Project Phase V" completed • JICA Project "Legal and Judicial Development Project Phase VI" commenced • Local seminar between RAJP and ICD (on Procedures in Actions relating to Personal Status, etc.)
Year	Month	Laos
1995		
1996		Minister of Justice of Laos requested assistance during his visit to Japan
1997		
1998	Dec.	<ul style="list-style-type: none"> • Training course held in Japan by Nagoya Univ. and RTI as commissioned organizations • Local seminar & survey
1999	Feb. Nov.	Training course in Japan Training course in Japan
2000	Feb. Jun. Nov. Dec.	<ul style="list-style-type: none"> • Local seminar • Field survey on local judicial system (for 3 months) • Local seminar • Training course in Japan • JICA survey team was dispatched for project formulation
2001	Apr. Oct.	<ul style="list-style-type: none"> • Judicial system survey team was dispatched by JFBA • Judicial advisor-style short-term expert was dispatched (8 months in total) • Training course in Japan • Local seminar (twice)

2002	Mar.	<ul style="list-style-type: none"> • Training course in Japan • Long-term expert (public prosecutor) was dispatched • Local seminar (four times)
	Oct.	<ul style="list-style-type: none"> • Training course in Japan
2003	Mar. May.	<ul style="list-style-type: none"> • Training course in Japan • JICA Project commenced <ul style="list-style-type: none"> - Creation of law database - Assistance in publication of statute book - Assistance in drafting of law textbooks and dictionary - Assistance in drafting of prosecutor's manual - Training of trainers • Long-term expert (public prosecutor) was dispatched
	Nov.	<ul style="list-style-type: none"> • Training course in Japan
2004	Feb.	<ul style="list-style-type: none"> • Training course in Japan • Two long-term experts (public prosecutor, private attorney) were dispatched • Training course in Japan (twice)
	Jul.	<ul style="list-style-type: none"> • Local seminar
2005		<ul style="list-style-type: none"> • Two long-term experts (public prosecutor, private attorney) were dispatched • Training course in Japan (twice) • Local seminar (on civil law textbook, judgment-writing manual, prosecutor's manual) • Prosecutor's manual and judgment-writing manual completed
2006		<ul style="list-style-type: none"> • Local dissemination seminar (on judgment-writing manual, prosecutor's manual, civil and commercial law textbook) • Training course in Japan (on project wrap-up, distribution of deliverables, new judicial reform master plan)
	Nov.	
2007	May.	<ul style="list-style-type: none"> • Extension of above project terminated
	May. - Dec.	<ul style="list-style-type: none"> • Follow-up dissemination workshop by each local counterpart organization, monitoring by JICA local office
2008	Sep.	<ul style="list-style-type: none"> • Legal technical assistance simulation workshop held jointly with Nagoya Univ.
	Nov. Dec.	<ul style="list-style-type: none"> • Above workshop held jointly with Nagoya Univ. • Above workshop held jointly with Nagoya Univ.
2009	Jan.	<ul style="list-style-type: none"> • Local survey
	May May Jun. Sep. Sep. Nov.	<ul style="list-style-type: none"> • Legal technical assistance simulation workshop held jointly with Nagoya Univ. • Field survey • Above workshop held jointly with Nagoya Univ. • Local seminar (Sep.) • Field survey • Above workshop held jointly with Nagoya Univ.
2010	Feb.	<ul style="list-style-type: none"> • Legal technical assistance simulation workshop held jointly with Nagoya Univ.
	Mar. May. Jul. Jul. Jul. Jul. Aug. Oct. Dec.	<ul style="list-style-type: none"> • Field survey • JICA-Net seminar (on CC) • JICA-Net seminar (on CC) • Field survey by RTI (on judicial system) • Project for Human Resource Development in Legal Sector (Phase I) commenced • Three long-term experts (prosecutor, private attorney, program coordinator) were dispatched • Advisory groups were formed in Japan (on CC, CPC, CRPC) • Field survey by RTI (on judicial system) • JICA-Net seminar (on CC) • JICA-Net seminar (on CC)

2011	Feb. Mar. Jun. Jul. Aug. Sep. Oct.	<ul style="list-style-type: none"> • Local seminar • Training course in Japan (on CC) • JICA-Net seminar (on CRPC) • JICA-Net seminar (on CC and CPC) • Local seminar (on CC) • Local seminar (on CPC) • Training course in Japan (on CRPC) • Vice-minister level officials from each counterpart organization (MOJ, People's Supreme Court, Supreme People's Prosecutor Office, National Univ. of Laos) were invited to Japan by JICA
2012	Jan. Mar. Jun. Jul. Aug. Oct. Oct. Nov.	<ul style="list-style-type: none"> • Training course in Japan (on CPC) • Local seminar (on CRPC) • Local seminar (on CC) • JICA survey team was dispatched (for mid-term evaluation) *Assistance in drafting CC was added to project • Local seminar (on CC) • Training course in Japan (on CRPC) • JICA-Net seminar (on CRPC) • Training course in Japan (on CPC)
2013	Feb. Feb. Mar. Mar. Apr. May May Jul. Jul. Aug. Oct. Nov. Nov. Dec. Dec.	<ul style="list-style-type: none"> • Additional long-term expert (prosecutor) was dispatched (four experts in total: two prosecutors, private attorney, program coordinator) • Local seminar (on CPC and CRPC) • Training course in Japan (on CC) • Local seminar (on CC) • Training course in Japan (on CC) • JICA-Net seminar (on CRPC) • JICA-Net seminar (on CC) • JICA survey team was dispatched (for guidance on project management) • JICA-Net seminar (on CRPC and CC) • Training course in Japan (on CRPC) • Local seminar (on CC) • Training course in Japan (on CCP) • JICA-Net seminar (on CRPC and CC) • Local seminar (on CC) • JICA-Net seminar (on CC) • Local seminar (on CRPC)
2014	Jan. Feb. Feb. Mar. Mar. Mar. Apr. May Jun. Jul. Jul. Jul. Jul. Aug. Sep. Oct. Oct. Oct. Nov.	<ul style="list-style-type: none"> • JICA-Net seminar (on CC) • JICA survey team was dispatched (project-end evaluation) • Training course in Japan (on CC) • Training course in Japan (on CC) • Local seminar (on CCP) • JICA-Net seminar (on CRPC) • JICA-Net seminar (on CC) • JICA-Net seminar (on CC) • JICA-Net seminar (on CC) • Above Project, Phase I terminated • Above Project, Phase II commenced • JICA-Net seminar (on CC) • Local seminar (on human resource development) • Local seminar (on CC) • JICA-Net seminar (on CC) • Additional long-term expert (private attorney) was dispatched • JICA survey team was dispatched (in Oct. to participate in 1st JCC) • JICA-Net seminar (on CC) • Training course in Japan (on CC)

2015	Jan. Feb. Feb. Mar. Mar. Apr. Aug. Sep. Nov. Dec.	<ul style="list-style-type: none"> • JICA-Net seminar (on CC) • JICA-Net seminar (on CC) • Training course in Japan (on CC) • JICA-Net seminar (on CC) • Local seminar (on CRPC) • JICA-Net seminar (on CC) • Minister of Justice was invited to Japan • Training course in Japan (on human resource development) • Training course in Japan (on CRPC) • Training course in Japan (on Civil and Economic Law)
2016	Feb. Mar. May. Sep. Nov. Nov. Dec.	<ul style="list-style-type: none"> • Local seminar (on CRPC) • Local seminar (on human resource development) • JICA survey team was dispatched (to participate in 1st JCC) • Training course in Japan (on Civil and Economic Law) • JICA survey team was dispatched (to participate in 2nd JCC) • Training course in Japan (on CRPC) • Local seminar (on human resource development)
2017	Feb. Feb. Feb. Mar. May. Jun. Aug. Aug. Nov. Dec.	<ul style="list-style-type: none"> • Training course in Japan (on human resource development) • Local seminar (on CRPC) • Japan-Laos joint study (CC), Symposium "Enactment of Civil Code of Laos and Challenges in Practice" held • Local seminar (on Civil and Economic Law) • JICA survey team was dispatched (to participate in JCC) • Local seminar (on human resource development) • Local seminar (on CC) • Training course in Japan (on Civil and Economic Law) • JICA survey team was dispatched (Project detailed planning survey) • Training course in Japan (on human resource development)
2018	Jan. Jan. Feb. Mar. Mar. Jun. Jul. Jul. Jul. Aug. Aug. Nov. Dec. Dec. Dec.	<ul style="list-style-type: none"> • JICA survey team was dispatched (Project detailed planning survey) • Training Course on the Enforcement of Intellectual Property Rights for Judges in Lao P.D.R • Local seminar (on CRPC) • Advisor for Law Committee, National Assembly and the other two people were invited to Japan, Symposium "New Civil Code of Laos and Legislation Procedure" held • Training course in Japan (on CC) • Local seminar (on human resource development) • Above Project Phase II terminated • The project for promoting development and strengthening of the rule of law in the legal sector of Lao P.D.R commenced • JICA survey team was dispatched (to participate in JCC) • Local seminar (on CC) • Local survey and Local seminar on Legislation Procedure and real property registration • Local seminar (on human resource development) • Training course in Japan (on human resource development) • Civil Code was approved at the 6th Lao National Assembly consideration • RTI and NIJ exchanged a memorandum of cooperation in the field of legal and judicial training
2019	Mar. May. Jun. Aug. Sep. Oct. Dec.	<ul style="list-style-type: none"> • Training course in Japan (on CC) • Training courses in Japan (on CRPC) • Local survey (to Jul.) • Local seminars (on civil judgment) • Local seminars (on CC) • Criminal Law forum with Vietnam and Japan • Criminal Code joint seminar with NIJ • Training courses in Japan (on human resource development)

2020	Jan. Feb. Feb. Mar. Nov. Dec.	<ul style="list-style-type: none"> • Joint seminar with the Prime Minister's Office • JCC • Local seminars (on CC and civil related law) • Local seminars (on CRPC) • Training courses in Japan (on CC) • Civil Law joint seminar of fact finding • JCC
2021	Feb. Mar. Jun. Jul. Sep. Oct. Dec.	<ul style="list-style-type: none"> • Joint retreat seminar (on criminal and civil education) • Criminal Code joint seminar with NIJ (online) • Joint seminar with NIJ (on Penal Code and legal training) • JCC • Joint seminar with NIJ (on Penal Code) • Penal Code seminar • Joint seminar with NIJ (on training for court rnforcement officer and notary)
2022	Jan. Feb. Mar. Jun. Jul. - Aug. Aug. Sep. Oct. Dec.	<ul style="list-style-type: none"> • Seminar (on improvement of Civil Judgement Document Handbook) • JCC • Joint seminar with NIJ (on Penal Code) • Joint seminar with NIJ (on objective elements of crime) • Local survey • Civil Law joint seminar • Joint seminar with NIJ (on objective elements of crime) • JCC • Local survey
Year	Month	Indonesia
1997		
1998	Oct. Nov.	Seminar on Economic Law
1999		
2000	Jun. Oct.	<ul style="list-style-type: none"> • Study group on Antimonopoly Law of Indonesia organized by Japan External Trade Organization (JETRO) • Symposium on APEC Economic Law System held by JETRO, etc.
2001		
2002	Jan. Jul. Jul.	<ul style="list-style-type: none"> • JICA Survey Team was dispatched • Training course in Japan • Symposium on APEC Economic Law System held by JETRO, etc.
2003	Jan. Mar. Jun. Sep. Oct.	<ul style="list-style-type: none"> • JICA Survey Team was dispatched • Chief Justice of Supreme Court of Indonesia was invited to Japan by Ministry of Foreign Affairs and JICA • Training course in Japan • JICA long-term planning researcher was dispatched (private attorney) • Japan-Indonesia ADR Comparative Study Seminar (training course in Japan)
2004	Jun. Jul. Sep.	<ul style="list-style-type: none"> • Training course in Japan • Project on competition policy and deregulation in Indonesia commenced (by Fair Trade Commission) • JICA planning researcher was dispatched
2005	Dec.	• Training course in Japan
2006	Mar. Mar. Jul. Sep. Oct.	<ul style="list-style-type: none"> • ADR local seminar in Aceh (by JICA and JFBA) • Remote seminar on ADR in Aceh (five times in total) (by JICA and JFBA) • Training course in Japan • JICA Survey Team was dispatched and Minutes of Meeting was signed • Project on competition policy and deregulation in Indonesia terminated(by Fair Trade Commission)
2007	Mar. Jun. Aug. Oct.	<ul style="list-style-type: none"> • JICA Project on Improvement of Mediation System commenced, long-term expert (private attorney) was dispatched • Advisory group was formed in Japan • Local seminar • Training course in Japan

2008	Mar. Jul. Jul. Nov. Nov.	<ul style="list-style-type: none"> • Local seminar • 2nd training course in Japan • amended regulation of Supreme Court of Indonesia, PERMA No.1, 2008 was enforced (on court-annexed mediation and rules on mediation procedure) • Local seminar • JICA Survey Team was dispatched for project-end evaluation
2009	Mar. Sep. Nov.	<ul style="list-style-type: none"> • JICA Project on Improvement of Mediation System terminated • Field survey • JICA Country-focused training course (on court-annexed mediation)
2010	Mar. Aug. Nov. Dec.	<ul style="list-style-type: none"> • Discussion meeting with Supreme Court of Indonesia on future cooperation • Field survey by RTI • Judges of Supreme Court were invited to Japan by RTI • Deputy Chief Justice and others of Supreme Court were invited to Japan by RTI • RTI cooperated in JICA Project on Intellectual Property Rights
2011	Aug. Nov.	<ul style="list-style-type: none"> • Field survey on dissemination of mediation system and actual judicial system • Joint study in Japan for strengthening judicial training in Indonesia
2012	Aug. Nov.	<ul style="list-style-type: none"> • Field survey • 2nd joint study in Japan for strengthening judicial training system in Indonesia
2013	May. Nov.	<ul style="list-style-type: none"> • Field survey • JICA survey for information collection and confirmation in legal and judicial field
2014	Feb. Apr. Oct. Dec.	<ul style="list-style-type: none"> • 3rd joint study in Japan for strengthening judicial training in Indonesia • Local survey • Project-end evaluation survey of JICA Project on Intellectual Property Rights • Study on small-claims system with Supreme Court of Indonesia
2015	Feb. Feb. Jul. - Aug. Dec. Dec.	<ul style="list-style-type: none"> • JICA survey team is to be dispatched • 4th joint study in Japan for strengthening judicial training in Indonesia • JICA signed memorandum on cooperation with the Supreme Court in Indonesia (Jul.) and the Ministry of Justice and Human Rights (Aug.) • JICA Project on Intellectual Property Rights Protection and Consistency for Improving Business Environment commenced • JICA survey team was dispatched • Two long-term experts (prosecutor, judge) were dispatched
2016	Mar. Apr. - May May May Jun., Oct., Feb. Jul. Jul. - Aug. Oct.	<ul style="list-style-type: none"> • Local survey • Local survey • Minister of Justice of Japan visited Indonesia for the Ceremony • Joint study with the Ministry of Justice and the Human Rights • Advisory group meeting • Training course in Japan • JICA survey team was dispatched (in Jun. to participate in the International Conference in Aug., to participate in JCC) • Training courses in Japan
2017	Feb. Mar. Apr. Jun. Jul. Sep. Nov. Nov.	<ul style="list-style-type: none"> • Training course in Japan • Local seminar • JICA survey team was dispatched • Local seminar • Training course in Japan • Minister of Justice of Japan visited Indonesia • Training course in Japan • Advisory group meeting
2018	Jun. Feb. May, Aug. Jul. Oct. Nov. Dec.	<ul style="list-style-type: none"> • Local seminar • Training course in Japan • JICA survey team was dispatched (to attend the JCC in May, to attend the International Conference in Aug.) • Local seminar • Training course in Japan • Casebook (vol.1 Intellectual Property Law) completed • Advisory group meeting

2019	Jan. - Feb. Feb. Apr. Jun. Jun. Jul., Sep. Nov.	<ul style="list-style-type: none"> • Training courses in Japan • Local seminar • Advisory group meeting • JICA survey teams were dispatched (to attend the JCC, to attend the International Conference) • Local seminars • Training courses in Japan • Advisory group meeting
2020	Jan. Jan. Nov.	<ul style="list-style-type: none"> • Local seminar • Training course in Japan • JCC (online)
2021	Aug. Sep. Oct.	<ul style="list-style-type: none"> • JCC (online) • Online seminar (on ensuring consistency among laws and regulations) • Project "The Project for Efficient and Fair Disputes Resolution Mechanism and Legislative Drafting Capacity Development for Improving Business Environment " commenced (October 2021 – September 2025)
2022	Jan. Mar. Jul. Aug. Oct.	<ul style="list-style-type: none"> • Online seminar (on ensuring consistency among laws and regulations) • Casebook (vol.2 Trademark Law) completion ceremony • "Question and Answer Books for Local Ordinance and Local Leaders Regulations" completion ceremony • Online seminar (on legislation and ordinance) • Local survey and local seminar (on precedent system, criminal IPRs, legislation making process and drafting of local ordinance) • JCC • Online seminar (on drafting of local ordinance)
Year	Month	Mongolia
1993		
1994		• Prof. Akio Morishima was dispatched as JICA short-term expert to give advice on amendment of Civil Code
1995		
1996		• Assistance regarding registration system by Japan Federation of Shiho-Shoshi Lawyer's Associations
1997		
1998		• Seminar on registration for registrars of Immovable property registration Agency of Mongolia (held by judicial scriveners as JICA short-term experts)
1999		• Same as previous year
2000		
2001	Aug. - Sep. Oct. - Nov.	<ul style="list-style-type: none"> • Preliminary survey on legal technical assistance to Mongolia • Seminar on Japan-Mongolia comparative judicial systems held in Japan by RTI • Assistance regarding registration system in Mongolia by Japan Federation of Shiho-Shoshi Lawyer's Associations
2002	Feb.	• Training course for Mongolia held in Japan by Nagoya Univ.
2003	Mar.	• Short-term experts were dispatched to Mongolia (from Nagoya Univ., private attorney)
2004	Mar. Sep.	<ul style="list-style-type: none"> • Long-term expert (private attorney) was dispatched to Ministry of Justice and Home Affairs of Mongolia (2004 - 2006) • International symposium held in Mongolia by Nagoya Univ.
2005	Sep.	<ul style="list-style-type: none"> • International symposium held in Mongolia by Nagoya Univ. • Sociology of law study project on land law system in Mongolia commenced (by Nagoya Univ.)
2006	Sep.	<ul style="list-style-type: none"> • Project for Strengthening Mongolian Advocates Association commenced (2006 - 2008) • Long-term expert (private attorney) was dispatched (from JFBA) • Research and Education Center for Japanese Law was established at National Univ. of Mongolia by Nagoya Univ.
2007		
2008	Nov.	• Above Project terminated

2009	Jun. Sep.	<ul style="list-style-type: none"> • Survey team was dispatched for project detailed planning for strengthening mediation system in Mongolia • 3rd-year Celebration Event of Research and Education Center for Japanese Law in Mongolia by Nagoya Univ.
2010	May	<ul style="list-style-type: none"> • Project for Strengthening Mediation System commenced (2010 - 2012) • Long-term expert (private attorney) was dispatched from JFBA
2011		
2012	Oct. Nov.	<ul style="list-style-type: none"> • Survey team was dispatched for detailed planning of Above Project, Phase II • Above Project terminated
2013	Apr. Jul.	<ul style="list-style-type: none"> • Above Project, Phase II commenced (2013 - 2015) • Long-term expert (private attorney) was dispatched (from JFBA) • Short-term experts (private attorney, ICD Prof.) were dispatched to Mongolia
2014		
2015	Dec.	• Above Project, Phase II terminated
2016		
2017	Mar. Sep.	<ul style="list-style-type: none"> • Field survey by ICD • Field survey by ICD
2018	Aug.	<ul style="list-style-type: none"> • Field survey by ICD • Joint study (on Trade Laws)
2019	Jun. Sep. Oct.	<ul style="list-style-type: none"> • Field survey by ICD • Field survey by ICD • Joint study (on Trade Laws 2nd)
2021	May Aug. Oct.	<ul style="list-style-type: none"> • Online Seminar on Trade Laws • Signing MOC between the National Legal Institute of Mongolia (NLI) and RTI • Online workshop (on comparison of the criminal justice system in Mongolia and Japan)
2022	Feb. Oct. Dec.	<ul style="list-style-type: none"> • Online Seminar on Trade Laws • Online workshop (on comparative study of prosecution -roles of public prosecutors in Mongolia and Japan-) • Local survey and local seminar (on criminal procedure for juveniles and drafting of Commercial Law) • Lectures commemorating the 50th anniversary of Japan-Mongolia diplomatic relations
Year	Month	Central Asia
1999		
2000	Jul. Aug.	[Uzbekistan] <ul style="list-style-type: none"> • Local seminar held by Cabinet Legislation Bureau • Academic exchange agreement was signed between Nagoya Univ. and three univ. in Uzbekistan
2001	Sep.	[Uzbekistan] <ul style="list-style-type: none"> • JICA Survey Team was dispatched
2002	Feb. Mar. Apr. Sep. Oct. Oct. Oct.	[Uzbekistan] <ul style="list-style-type: none"> • Symposium held by Nagoya Univ. inviting legal experts from three Central Asian countries • Expert was dispatched to Tashkent State Institute of Law by Nagoya Univ. • Training course in Japan • JICA Survey Team was dispatched • Local symposium by Nagoya Univ. • Local survey by JFBA • Local seminar (by RTI and Nagoya Univ.)
2003	Mar. Mar. Sep. Oct. Dec.	[Uzbekistan] <ul style="list-style-type: none"> • JICA Survey Team was dispatched • Field survey and local symposium (by Nagoya Univ.) • Expert was dispatched (by Hokkai Gakuen Univ.) • Training course in Japan • Minister of Justice of Uzbekistan was invited to Japan by MOJ and Nagoya Univ. and symposium was held by Nagoya Univ. • Two experts were dispatched (from MOJ and Waseda Univ.) to hold local follow-up seminar of training course held in Japan

2004	Jun. Jul. Jul. Oct. Oct.	[Uzbekistan] • Expert was dispatched to MOJ of Uzbekistan (by Mie Univ.) • JICA Survey Team was dispatched Minutes of Meeting was signed (on assistance in drafting commentary on Bankruptcy Law) • Training course in Japan (on commentary on Bankruptcy Law) • Assistance in drafting Civil and Commercial Code continued (by Nagoya Univ.) • Deputy Chief Justice of Supreme Economic Court was invited to Japan (by MOJ) • Local symposium (by Nagoya Univ.) • Local follow-up seminar (by MOJ)
2005	May., Nov. May. Aug. Nov. Oct. Oct.	[Uzbekistan] • Training course in Japan (commentary on Bankruptcy Law) • Research and Education Center for Japanese Law was established at Tashkent State Institute of Law (by Nagoya Univ.) • Short-term experts were dispatched (from MOJ, Osaka Univ., etc.) • Project for Drafting Commentary on Bankruptcy Law commenced (by MOJ, until Sep. 2007) • Project to improve civil-related and administrative-related laws for development of corporate activities commenced (by Nagoya Univ.) • Long-term expert was dispatched (by Nagoya Univ.) • Local symposium (by Nagoya Univ.) [Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan] • Comparative Study Project on Constitutional Courts in Central Asia commenced (by Nagoya Univ.)
2006	Apr. May. Aug., Sep., Nov.	[Uzbekistan] • Project for Drafting Commentary on Bankruptcy Law continued (by MOJ until Sep. 2007) • Long-term expert (private attorney) was dispatched through Above Project (by MOJ, until Sep. 2007) • Training course in Japan on commentary on Bankruptcy Law • Additional long-term expert was dispatched (by Nagoya Univ.)
2007	Jun., - Feb. Mar. Jul., Dec. Sep Sep Sep.	[Uzbekistan] • Short-term experts were dispatched (from MOJ, Osaka Univ., etc.) • Commentary on Bankruptcy Law, Russian version was published • Seminar on dissemination of commentary in Uzbekistan • Workshop to promote use of commentary • Commentary, Japanese and Uzbek versions were published • Project for Drafting Commentary ended
2008	Jun. Mar. Dec. Dec.	[Uzbekistan] • Presentation ceremony to commemorate publication of commentary in Uzbekistan • Commentary, English version was published • Project to improve civil-related and administrative-related laws for development of corporate activities terminated (by Nagoya Univ.) [Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan] • Seminar on Central Asia Comparative Legal System Study
2009	Nov. Dec.	• Cooperation preliminary survey team was dispatched for Project to Improve Civil-related and Administrative-related Laws for Development of Corporate Activities (Phase II) [Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan] • Seminar on Central Asia Comparative Legal System Study
2010	Dec.	[Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan] • Seminar on Central Asia Comparative Legal System Study
2011	Dec.	[Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan] • Seminar on Central Asia Comparative Legal System Study
2012	Nov.	[Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan] • Seminar on Central Asia Comparative Legal System Study
2013	Nov.	[Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan] • Seminar on Central Asia Comparative Legal System Study

2018	Mar. Sep.	[Uzbekistan] • Japan-Uzbekistan joint study in Tokyo • Seminar on administrative laws in Tashkent
2019	Feb. Mar. Jul. Jul.	[Uzbekistan] • Seminar on administrative laws in Tashkent • Japan-Uzbekistan joint study in Tokyo • Signing MOC between the Academy of the General Prosecutor's Office of Uzbekistan and Research and Training Institute • Seminar on administrative laws in Tashkent
2020	Apr. Jun.	[Uzbekistan] • JICA Project for Enhancement of Judicial Ability of the Protection of Rights and Liberalization of Economy commenced • Joint Project for Uzbekistan White Paper commenced
2021	Mar May. Jun. Aug. Oct. Nov. Dec.	[Uzbekistan] • JICA Project for Enhancement of Judicial Ability of the Protection of Rights and Liberalization of Economy Online Seminar • Online seminar (on White Paper (1)) • Online seminar (on White Paper (2)) • JICA Project for Enhancement of Judicial Ability of the Protection of Rights and Liberalization of Economy Online Training Seminar • Joint Project for Uzbekistan White Paper and Crime Prevention Research commenced • Online seminar (on crime prevention (1)) • Online seminar (on crime prevention (2)) • Cooperation with the Lawyers' Training Center under the Ministry of Justice of the Republic of Uzbekistan commenced • Online seminar (on White Paper (3)) • Online seminar with the Lawyers' Training Center titled "The reforms in the judicial and legal sphere - the experience of the CIS countries and Japan"
2022	Jan. Mar. May. Jul. Aug. Sep. Oct. Nov. Dec.	[Uzbekistan] • JICA Project on Contracts in Digital Era Online Seminar • JICA Project on Contracts and Electronic Contracts Online Seminar • Joint study (on administrative laws) • Online seminar (on White Paper) • Joint study (on administrative laws) • Joint study (on administrative laws) • Local survey and local seminar (on White Paper and administrative laws) • Joint study (on administrative laws) • Joint study (on administrative laws) • Joint study (on administrative laws)
Year	Month	China
1995		
1996	Nov.	• Japan-China Civil and Commercial Law Seminar held by ICCLC (annually)
1997	Oct.	• Japan-China Civil and Commercial Law Seminar held by ICCLC (annually)
1998	Nov.	• Japan-China Civil and Commercial Law Seminar held by ICCLC (annually)
1999	Jun.	• Japan-China Civil and Commercial Law Seminar held by ICCLC (annually)
2000	Nov.	• Japan-China Civil and Commercial Law Seminar held by ICCLC (annually)
2001	Sep.	• Japan-China Civil and Commercial Law Seminar held by ICCLC (annually)
2002	Sep.	• Japan-China Civil and Commercial Law Seminar held by ICCLC (annually)
2003	Nov.	• Japan-China Civil and Commercial Law Seminar held by ICCLC (annually)
2004	Sep.	• Legal technical assistance to China on Economic Law by Ministry of Economy, Trade and Industry (METI), etc. • Japan-China Civil and Commercial Law Seminar held by RTI and ICCLC • Lecture presentation on Japan-China intellectual property legal systems held in Tokyo and Osaka by RTI and ICCLC
2005	Sep.	• Japan-China Civil and Commercial Law Seminar held by ICCLC (annually)
2006	Sep.	• Japan-China Civil and Commercial Law Seminar held by ICCLC (annually)

2007	Jun. Sep. Nov. Nov. Nov.	<ul style="list-style-type: none"> • JICA Survey Team was dispatched • Japan-China Civil and Commercial Law Seminar held by RTI, ICCLC and JETRO • Record of Discussions (R/R) was signed on JICA Project for Improving Civil Procedure Law (CPL) and Arbitration Law of China • Training course in Japan • Study group was established in Japan
2008	Mar. May., Nov. Oct.	<ul style="list-style-type: none"> • Local seminar • Training course in Japan • Japan-China Civil and Commercial Law Seminar held by RTI and ICCLC • Long-term expert (private attorney) was dispatched by JICA (for two years)
2009	May., Jul. Sep. Nov. Dec.	<ul style="list-style-type: none"> • Local seminar • Lecture on International Private Law and International CPL of China (inviting prof. from Tsinghua University) • Japan-China Civil and Commercial Law Seminar held by RTI, ICCLC and JETRO • Training course in Japan • Tort Law was enacted
2010	Mar. May. Jul. Jul. Oct. Oct. Nov.	<ul style="list-style-type: none"> • Local seminar • Project-end evaluation of Project for Improving CPL and Arbitration Law • Country-focused training course in Japan on "CPL and Civil-related Laws" • Country-focused training course in Japan on "Judicial personnel training" • Training course in Japan on Project for Improving CPL and Arbitration Law • Law on Application of International Private Law was enacted • Local seminar on Administrative Procedure Law in China
2011	Jan. Mar., Oct. Nov. Nov.	<ul style="list-style-type: none"> • Long-term expert (private attorney) was dispatched • Japan-China Civil and Commercial Law Seminar held by RTI and ICCLC • Training course in Japan (on judicial personnel training) • Local seminar (on CPL)
2012	Jan. Jun. Jul. Jul. Aug. Oct.	<ul style="list-style-type: none"> • Training course in Japan (on CPL and civil-related laws) • Local seminar on Inheritance Law in China • Country-focused Training Program on "Administrative Procedure Law and administrative-related laws" commenced • Training course in Japan (on Administrative Procedure Law and administrative-related laws in Jul. • CPL was amended • Japan-China Civil and Commercial Law Seminar held by RTI and ICCLC
2013	Jan. May., Oct. Aug. Oct. Oct. Dec. Dec.	<ul style="list-style-type: none"> • Training course in Japan (on CPL and civil-related laws(Consumer Rights Protection Law)) • Training course in Japan (on CPL and civil-related laws (Consumer Rights Protection Law) in May, (Copyright Law) in Oct.) • Local seminar on Inheritance Law in China • Country-focused training program on "CPL and civil-related laws" completed • Consumer Rights Protection Law was amended • Japan-China Civil and Commercial Law Seminar held by RTI, ICCLC and JETRO • JICA Survey Team was dispatched for project detailed project planning.
2014	May Jun. Jun.	<ul style="list-style-type: none"> • JICA survey team was dispatched to participate in JCC • Project for Legal Development for Imarket Economy and People's Wellbeing commenced • Long-term expert (private attorney) was dispatched (from JFBA)
2015	Jun, Oct. - Nov. Oct. Feb.	<ul style="list-style-type: none"> • Training course in Japan (on Crime Victim's Rights Protection Act in Oct. and Nov., on Industrial Accident Compensation Insurance Act etc in Jun.) • JICA survey team was dispatched to participate in JCC • Japan-China Civil and Commercial Law Seminar held by RTI and ICCLC
2016	Jan. Apr. Sep., Nov. Nov.	<ul style="list-style-type: none"> • Japan-China Civil and Commercial Law Seminar held by RTI and ICCLC • JICA survey team was dispatched to participate in JCC • Training course in Japan (on Patent Act in Sep., on CC in Sep. on Administrative Procedure Act in Nov.) • Japan-China Civil and Commercial Law Seminar held by RTI and ICCLC

2017	Jun. Nov.	<ul style="list-style-type: none"> • JICA survey team was dispatched to participate in JCC • Local seminar on CC
2018	Apr., Sep. May Jul., Nov.	<ul style="list-style-type: none"> • Training course in Japan (on CC in Apr., on Patent Act in Sep.) • JCC • Japan-China Civil and Commercial Law Seminar held by RTI, ICCLC and Japan-China Economic Association
2019	Jan. May Jun., Nov. Sep. Nov.	<ul style="list-style-type: none"> • Local seminar on CC • JCC • Training courses in Japan (on CC in Jun., on Patent act in Nov.) • Local seminar on CC • Japan-China Civil and Commercial Law Seminar held by RTI, ICCLC and Japan-China Economic Association
2020	May Oct.	<ul style="list-style-type: none"> • Civil Code was enacted. • the fourth amended Patent Law was enacted
2021	Jan. Mar. Nov.	<ul style="list-style-type: none"> • Online seminar (on Civil Code and amended Patent Law) • Project for Legal Development for Improvement of Market Economy and People's Wellbeing completed • Online seminar (on Companies Act)
2022	Jul.	<ul style="list-style-type: none"> • Online meeting (on criminal record)
Year	Month	Nepal
2007		
2008		<ul style="list-style-type: none"> • Local seminar (on criminal-related law comparative study (twice))
2009	Jul. Oct.	<ul style="list-style-type: none"> • Local survey • Local seminar (on criminal-related law comparative study)
2010	Jul. Jul. Aug.	<ul style="list-style-type: none"> • Country-focused training course in Japan (on "Comparative Study of Criminal Justice System and Criminal Procedure") • Legal technical assistance advisory long-term expert (private attorney) was dispatched • Country-focused training course in Japan (on "Civil Code and related laws")
2011	Feb. Sep. Nov.	<ul style="list-style-type: none"> • Field survey in Nepal • Japan-Nepal joint study on investigation and prosecution practice • Local survey
2012	Jul. Aug. Sep. Nov.	<ul style="list-style-type: none"> • Japan-Nepal joint study (on criminal justice) • Training course in Japan (on drafting of commentary on Civil Code) • Training course in Japan (on case management) • Local survey
2013	Aug. Sep. Sep. Dec.	<ul style="list-style-type: none"> • Japan-Nepal joint comparative study (on judicial system) • Project for Court Capacity-building for Expeditious and Fair Dispute Resolution in Nepal commenced • Long-term expert (private attorney) was dispatched for above project • 1st training course in Japan for above project
2014	Mar. Jun. Sep. Sep. Nov. Dec.	<ul style="list-style-type: none"> • Local survey • JICA survey team was dispatched (survey for guidance on project management) • Japan-Nepal joint comparative study (on judicial system) • 2nd training course in Japan for above project • Local survey & seminar • 3rd training course in Japan for above project
2015	Feb. Oct. Dec. Nov.	<ul style="list-style-type: none"> • Local survey • Local seminar • 4th training course in Japan for above project • Local survey

2016	Feb. Mar. Jul. Sep. Nov. Dec.	<ul style="list-style-type: none"> • Local survey • Japan-Nepal joint comparative study on judicial system • Invitation to support for enacting, disseminating and enforcing Civil Code • 5th course in Japan for above project • JICA survey team was dispatched (for project-end evaluation) • 6th training course in Japan for above project • Local survey
2017	Mar. Nov.	<ul style="list-style-type: none"> • Japan-Nepal joint comparative study (on judicial system) • Local survey
2018	Feb. Mar. Mar. May Aug. Dec.	<ul style="list-style-type: none"> • Wrap-up seminar for above project • Japan-Nepal joint comparative study (on judicial system) • Above project terminated • Local seminar (on Code of Criminal Procedure) • Local seminar (on Code of Criminal Procedure and Civil Code) • Local survey
2019	Mar. Aug. Nov. Dec.	<ul style="list-style-type: none"> • Japan-Nepal joint comparative study (on judicial system) • Local seminar (on contract law, tort law, private international law and pre-trial conference) • Local survey • Local seminar (on property law, tort law and private international law)
2020	Feb. Dec.	<ul style="list-style-type: none"> • Japan-Nepal joint comparative study on judicial system • Online seminar (on tort law, private international law and pre-trial conference)
2021	Mar. Sep. Dec.	<ul style="list-style-type: none"> • Online seminar (on tort law, private international law and criminal procedure) • Online seminar (on tort law, private international law) • Online seminar (on probation and parole)
2022	Jan. - Mar. (five days) Apr. Jun.	<ul style="list-style-type: none"> • JICA Virtual Program on the Civil Code Reform of Nepal • Local survey and local seminar (on drafting legislative bills, tort law and family law) • High Level Discussion on Civil Code Reform
Year	Month	Timor-Leste
2008		
2009	Jul.	<ul style="list-style-type: none"> • Training course in Japan for legislative drafting capacity-building
2010	Aug.	<ul style="list-style-type: none"> • Training course in Japan for legislative drafting capacity-building (Phase 2)
2011	Mar.	<ul style="list-style-type: none"> • Local survey
2012	Mar. Sep. Dec.	<ul style="list-style-type: none"> • Local survey • Joint study on legal system of Timor-Leste • Local seminar and local survey
2013	Apr.-Mar.2014 Jun. Sep. Dec.	<ul style="list-style-type: none"> • Advice on legal system of Timor-Leste (for legislative-drafting capacity-building) • Local survey and local seminar (on mediation law) • Local seminar (on mediation law) • JICA-Net seminar (on mediation law)
2014	Mar. Jul. Dec.	<ul style="list-style-type: none"> • Local seminar (on mediation law) • Local survey • Joint study on legal system of Timor-Leste (on juvenile law)
2015	Mar. Sep. Dec.	<ul style="list-style-type: none"> • Local seminar and local survey (on juvenile law) • Joint study on legal system of Timor-Leste (on mediation law and marriage law) • Local seminar and local survey (on mediation law)
2016	Mar. Aug.	<ul style="list-style-type: none"> • Joint study on legal system of Timor-Leste (on mediation law and nationality law) • Local survey
2017	Feb. Mar. Aug. Nov.	<ul style="list-style-type: none"> • Joint study on legal system of Timor-Leste (on civil registration law and marriage law) • Local seminar and local survey (on juvenile law) • Local survey • Local seminar and local survey (on immovable property registration law)

2018	Jan. Mar. Aug. Nov. Dec.	<ul style="list-style-type: none"> • Joint study on legal system of Timor-Leste (on land related law) • Local survey • Local seminar and local survey (on immovable property registration law) • Local seminar and local survey (on correction system) • Joint study on legal system of Timor-Leste (on immovable property registration law)
2019	Mar. Jul. Nov.	<ul style="list-style-type: none"> • Local seminar (on judicial system) • Local seminar and local survey (on immovable property registration law and judicial system) • Local survey (on immovable property registration law)
2020	Feb. Nov.	<ul style="list-style-type: none"> • Joint study on legal system of Timor-Leste (on immovable property registration law and judicial system) • Online seminar (on immovable property registration law)
2021	Jan. Feb. Mar. Apr. Jun. Jul. Sep. Nov. Dec.	<ul style="list-style-type: none"> • Online seminar (on immovable property registration law and land dispute resolution) • Online seminar (on immovable property registration law and land dispute resolution) • Online seminar (on land related law) • Online seminar (on cadastral law) • Online seminar (on land related law and cadastral law) • Online seminar (on civil registration law) • Online seminar (on civil registration law) • Online seminar (on immovable property registration law and land dispute resolution) • Online seminar (on immovable property registration law and civil registration law)
2022	Jan. Sep.	<ul style="list-style-type: none"> • Online seminar (on immovable property registration law and civil registration law) • Local seminar and local survey (on land related laws, nationality law, dispute resolution etc.)
Year	Month	Myanmar
2011		
2012	Jul. Aug. Aug. Nov. Dec.	<ul style="list-style-type: none"> • Joint comparative study of legal systems in Japan and Myanmar, inviting former Dean of Faculty of Law of Yangon Univ. and former Director of Research and International Relation Department of Supreme Court of Union (SC) (by RTI) • Policy Research Institute of Ministry of Finance and Central Bank of Myanmar signed memorandum on cooperation for development of capital market • Local seminar on Legal System of Public Companies and Corporate Governance Reform (by JICA and Union Attorney General's Office (UAGO)) • Joint comparative study of judicial systems in Japan and Myanmar inviting five judges including Chief Justice of SC (by RTI and Keio Univ.) • Local seminar on Legal Aspects in Privatizing State Companies (by JICA and UAGO)
2013	Feb. Apr. Jun. Jul. Jul. Aug. Sep. Oct. Nov. Nov.	<ul style="list-style-type: none"> • Meetings with UAGO and SC (by RTI and JICA) • Local seminar on Commercial Arbitration (by JICA and UAGO) • Joint comparative study of legal systems in Japan and Myanmar inviting six officers including Attorney General and Chairman of Drafting Committee on Bills in Hluttaws (by RTI, JICA and ICCLC) • Small-scale local seminar on Intellectual Property (IP) Law and Legal Training (by RTI and JICA) • Securities Transaction Law of Myanmar was established with assistance from Policy Research Institute of Ministry of Finance • Agreement on "Project for Capacity-Development of Legal, Judicial and Relevant Sectors in Myanmar (The Project Phase 1)" was signed between JICA and UAGO/SC on Aug.22 • Small-scale local seminar on IP Law, Bankruptcy Law and Legal Training (by RTI and JICA) • Local survey on Correction (by RTI and JICA) • Small-scale local seminar on IP Law (by RTI, JICA and Japan Patent Office) • The Project Phase 1 commenced on Nov. 20

2014	Jan.	• Long-term expert (Attorney at Law) was dispatched
	Feb.	• Small-scale local seminar on Companies Act several times in and after Feb.
	Feb.	• Small-scale local seminar on Copyright Law
	Mar.	• Local survey and small-scale local seminar on Handling of Electromagnetic Records in Criminal Procedure and Investigation Methods of Intellectual Property Cases (by RTI)
	Apr.	• Small-scale local seminar on Handling of Electromagnetic Evidence in Civil Procedure
	May	• Long-term expert (Program coordinator) was dispatched
	May	• Long-term expert (Prosecutor) was dispatched
	May	• Small-scale local seminar on Outline of Securities Market and Capital Market, etc. (by Japan Securities Exchange)
	May	• 1st Study Tour in Japan on Judicial System of Japan
	Jun.	• Working group activities held on an ad-hoc basis in and after Jun.
	Jul.	• 1st Joint Coordinating Committee (JCC)
	Jul.	• Local seminar on IP Law (by JICA and Japan Patent Office)
	Aug.	• Local seminar on Arbitration Law
	Oct.	• Meeting of Advisory Group on Companies Act
	Nov.	• 2nd Study Tour in Japan on Human Resource Development
2015	Feb.	• 2nd JCC
	Feb.	• 3rd Study Tour in Japan on Legislative Procedure
	Jun.	• 4th Study Tour in Japan on Companies Act
	Jul.	• Mid-term evaluation and 3rd JCC
	Nov.	• 5th Study Tour in Japan on Techniques of Training and IP
2016	Nov.	• Local seminar on IP System
	Feb.	• Local seminar on IP System (jointly hosted by Japan Federal Bar Associations and IP-Net etc.)
	Feb.	• 6th Study Tour in Japan on IP System
	Mar.	• 4th JCC
	May	• Small-scale seminar on IP System (jointly hosted by IP-Net etc.)
	Jun.	• 7th Study Tour in Japan on Bankruptcy Code.
	Jul.	• Local seminar on Dispute Resolution including Arbitration and Mediation
	Aug.	• Local seminar on Drafting Policy Document of IP System
	Oct.	• Survey of management & instruction / Discussion on next project with JICA
	Nov.	• Small-scale seminar on Bankruptcy Code
	Nov.	• 8th Study Tour in Japan on Dispute Resolution including Arbitration and Mediation
	Dec.	• Change of Long-term expert (Prosecutor)
2017	Feb.	• Local seminar on IP system
	Feb.	• 9th Study Tour in Japan on Bankruptcy Code
	Mar.	• 5th JCC
	Mar.	• Local seminar on Mediation System
	May	• Change of Long-term expert (Attorney at Law)
	Jun.	• Local survey on Legal System of Estate (by RTI)
	Jun.	• 10th Study Tour in Japan on Legislation and Training System of Legal Professionals
	Aug.	• Joint study on Legal System of Estate (by RTI)
	Oct.	• Local seminar on Drafting Textbook of IP Law for Judges (newly appointed)
	Oct.	• 11th Study Tour in Japan on IP System

2018	Feb. Feb. Mar. May Jun. Jul. Aug. Sep. Sep. Nov. Dec.	<ul style="list-style-type: none"> • Local survey on Legal System of Estate (by RTI) • Local seminar on IP System • 12th Study Tour in Japan on New Types of Evidences • The Project Phase 1 terminated on May 31 • "The Project for Capacity Development of Legal, Judicial and Relevant Sectors in Myanmar Phase2" commenced on Jun. 1 • 13th Study Tour in Japan on Efficient Dispute Resolutions • Local Seminar on IP Law System • Local Seminar on Mediation System • Local survey and Local Seminar on Immovable property registration-related Legal System (by RTI) • 14th Study Tour in Japan on Improvement of Training of Legal Professions • Local Seminar on IP Law System
2019	Jan. Jan. Jun. Jul. Jul. Sep. Oct. Oct. Nov. Dec. Dec.	<ul style="list-style-type: none"> • Local seminar (on Textbook of Business-related Laws for Judges) • Joint study (on immovable property registration-related legal system (by RTI)) • Local seminar (on IP law system) • 6th JCC • 16th study tour in Japan (on legislative process) • Local survey and local seminar (on immovable property registration-related legal system (by RTI)) • Local seminar (on IP law system) • 17th Study Tour in Japan (on mediation system) • Joint study (on immovable property registration-related legal system (by RTI)) • Local seminar (on Textbook of Business-related Laws for Judges) • Local seminar (on IP law system)
2020	Jan. Jan. Jan. Feb. Mar. Jun. Jul. Aug. Dec.	<ul style="list-style-type: none"> • Local seminar (on Textbook of Business-related Laws for Judges) • Small-scale local seminar (on Copyright Law) • Local seminar (on Mediation (Mediator Training)) • Local survey (on immovable property registration-related legal system (by RTI)) • 18th study Tour in Japan (on actual practice of IP law) (canceled halfway due to COVID-19) • 7th JCC (UAGO) • 7th JCC (SC) • Online seminar (on effective enforcement of Trademark Law) • Online seminar (on immovable property registration-related legal system (by RTI)) • Online joint study (on immovable property registration-related legal system)
2021	Jan. Feb.	<ul style="list-style-type: none"> • Online seminar (on mediation) • Online seminar (on effective enforcement of Trademark Law) • Suspend all activities considering political situations
Year	Month	Bangladesh
2015	Jun.	• Local survey in Dhaka
2016	Mar. Oct.	<ul style="list-style-type: none"> • Preliminary tour for joint study • Joint study (on court proceedings and ADR)
2017	Jul. Dec.	<ul style="list-style-type: none"> • Local survey in Dhaka • 1st study trip to Japan of country-focused training course for "Capacity Building of the Members of the Subordinate Judiciary" (mainly on ADR)
2018	Jul. Nov.	<ul style="list-style-type: none"> • Local seminar in Dhaka • 2nd study trip to Japan (mainly on mediator training)
2019	Mar. Jul. Nov. - Dec.	<ul style="list-style-type: none"> • Local survey in Dhaka and Narsingdi • Local seminar in Dhaka • 3rd study trip to Japan (mainly on mediator training and case management)
2020	Oct. Nov.	<ul style="list-style-type: none"> • Online seminar (on mediation) • 1st online seminar (on case management)
2021	Mar. Jul. Nov.	<ul style="list-style-type: none"> • 2nd online seminar (on case management) • Online seminar (on mediation) • 3rd online seminar (on case management)
2022	July.	• Discussion with a Bangladesh judge (JDS student in Keio Univ.)

Year	Month	Sri Lanka
2019	Aug.	• Local survey and local seminar in Colombo
2020	Jan. Jan. - Feb.	• Preliminary local seminar in Colombo for 1st study trip • 1st study trip to Japan of country-focused training course for "Improvement of the Practice of Criminal Justice Proceedings in Sri Lanka"
2021	Mar. - Apr. Aug Dec	• 2nd Country-focused training course for "Improvement of the Practice of Criminal Justice Proceedings in Sri Lanka" (online) • 3rd Country-focused training course for "Improvement of the Practice of Criminal Justice Proceedings in Sri Lanka" (online) • 4th Country-focused training course for "Improvement of the Practice of Criminal Justice Proceedings in Sri Lanka" (online)
2022	Aug. - Sep.	• Local survey and local seminar (on improvement of the practice of criminal justice proceedings)
Year	Month	Others
1995		
1996		• International Civil and Commercial Law Centre Foundation (ICCLC) was established • International Civil and Commercial Law Symposium held by ICCLC (twice)
1997	Feb. - Mar. Nov.	• Region-focused training course held by RTI (with participation from Mongolia, Myanmar, Vietnam) • International Civil and Commercial Law Symposium (on bankruptcy law system) held by RTI, ICCLC and Study Group on Comparative Legal Systems in Asia-Pacific Region
1998	Feb. - Mar.	• Region-focused training course continued (with participation from Cambodia, China, Laos, Mongolia, Myanmar, Vietnam)
1999	Feb. Feb. - Mar. Sep.	• 2nd International Civil and Commercial Law Symposium (on corporate bankruptcy, mortgage law system) • Region-focused training course continued (with participation from same countries as in previous year) • Japan-Korea Partnership Program held by RTI (with focus on comparative study of registration system)
2000	Jan. - Feb. Jan., Oct. May. - Jul. May., Sep.	• Region-focused training course continued (with participation from same countries as in previous year) • 1st and 2nd Annual Conference on Technical Assistance in Legal Field • Global Conference on Legal Technical Assistance held by World Bank • Region-focused training course held jointly by RTI and ADB • 2nd Japan-Korea Partnership Program held by RTI
2001	Jan. - Feb. Apr., Nov Sep. Jul. Jun., Sep.	• Region-focused training course continued (with participation from same countries as in previous year) • International Cooperation Department (ICD) was established within RTI (Apr.), and relocated to Osaka (Nov.) • Participation in ADB Conference (in the Philippines) • 3rd Annual Conference on Technical Assistance in Legal Field • 2nd Global Conference on Legal Technical Assistance by World Bank • 3rd Japan-Korea Partnership Program held by RTI
2002	Feb. Feb. - Mar. Jun., Oct.	• 3rd International Civil and Commercial Law Symposium (on ADR) • Region-focused training course continued (with participation from same countries as in previous year) • International workshop "Changes in Law, Development, Economy and Society in Asia" held by Institute of Developing Economies (IDE-JETRO) • Training course for the Philippines held in Japan jointly by RTI and ADB • 4th Japan-Korea Partnership Program held by RTI

2003	<p>Jan.</p> <p>Jan. - Feb.</p> <p>Jun., Oct.</p>	<ul style="list-style-type: none"> • Lecture presentation on Japan-Korea Intellectual Property Rights lawsuit held by RTI and ICCLC (Tokyo and Osaka) • General meeting on "legal technical assistance to Asia" held by Nagoya Univ. • Study Council for Promoting Translation of Japanese Laws and Regulations into Foreign Languages • Legal technical assistance requested from Iran • 4th Annual Conference on Legal Technical Assistance in Legal Field • Symposium on Legal Systems of Intellectual Property Rights in Asia • Region-focused training course continued (with participation from Cambodia, China, Kazakhstan, Laos, Mongolia, Myanmar, Thailand) • 5th Japan-Korea Partnership Program held by RTI
2004	<p>Jan.</p> <p>Feb. - Mar.</p> <p>Mar.</p> <p>Jun., Oct.</p>	<ul style="list-style-type: none"> • General meeting on "legal technical assistance to Asia" by Nagoya Univ. • Legal technical assistance (training course in Japan) to Iran begun by Nagoya Univ. • 5th Annual Conference on Technical Assistance in Legal Field • Region-focused training course in Japan on international civil and commercial law (for Cambodia, Laos, Vietnam). • 4th International Civil and Commercial Law Symposium (on intellectual property rights) held by RTI, ICCLC and JETRO • 6th Japan-Korea Partnership Program held by RTI
2005	<p>Jan.</p> <p>Feb. - Mar.</p> <p>Jun., Oct.</p>	<ul style="list-style-type: none"> • 6th Annual Conference on Technical Assistance in Legal Field • Region-focused training course in Japan on International Civil and Commercial Law (for Cambodia, Laos, Myanmar, Vietnam) • 7th Japan-Korea Partnership Program held by RTI
2006	<p>Feb.</p> <p>Feb. - Mar.</p> <p>Mar.</p> <p>Jun., Oct.</p>	<ul style="list-style-type: none"> • 5th International Symposium on Civil and Commercial Law (on international corporate law) held by RTI, ICCLC and JETRO • Region-focused training course in Japan on International Civil and Commercial Law (for Cambodia, Laos, Myanmar, Vietnam) • General meeting on "Legal Technical Assistance to Asia" held by Nagoya Univ. • 7th Annual Conference on Technical Assistance in Legal Field • 8th Japan-Korea Partnership Program held by RTI
2007	<p>Jan.</p> <p>Feb. - Mar.</p> <p>Jun., Oct.</p>	<ul style="list-style-type: none"> • General meeting on "Study of Legal Technical Assistance Strategies" held by Nagoya Univ. • 8th Annual Conference on Technical Assistance in Legal Field • Region-focused training course in Japan on International Civil and Commercial Law (for Cambodia, Laos, Myanmar, Vietnam) • 9th Japan-Korea Partnership Program held by RTI
2008	<p>Jan.</p> <p>Feb. - Mar.</p> <p>Feb.</p> <p>Dec.</p> <p>Jun., Oct.</p>	<ul style="list-style-type: none"> • 9th Annual Conference on Technical Assistance in Legal Field • Region-focused training course in Japan on International Civil and Commercial Law (for Cambodia, Laos, Myanmar, Vietnam) • "Seminar on Derivative Action in Asia" held by RTI and ICCLC • "Kanazawa Seminar" held by Ishikawa International Civil and Commercial Law Center • General meeting on "Study of Legal Technical Assistance Strategies" held by Nagoya Univ. • 10th Japan-Korea Partnership Program held by RTI
2009	<p>Jan.</p> <p>Mar.</p> <p>Dec.</p> <p>Aug.</p> <p>Jun., Oct.</p>	<ul style="list-style-type: none"> • 10th Annual Conference on Technical Assistance in Legal Field. • 6th International Civil and Commercial Law Symposium on Derivative Action in Asia held by RTI, ICCLC and JETRO • "Kanazawa Seminar" by Ishikawa International Civil and Commercial Law Center • General meeting on "Study of Legal Technical Assistance Strategies" held by Nagoya Univ. • Symposium, "Our Legal Technical Assistance - Let's Think Together about International Cooperation in Legal Field" held jointly by RTI, ICCLC and JICA • 11th Japan-Korea Partnership Program held by RTI
2010	<p>Jan.</p> <p>Mar.</p> <p>Aug.</p> <p>Sep.</p> <p>Jun., Oct.</p>	<ul style="list-style-type: none"> • 11th Annual Conference on Technical Assistance in Legal Field • "Kanazawa Seminar" held by Ishikawa International Civil and Commercial Law Center • Internship by MOJ • Seminar on "Audit System in Asia" held jointly by RTI and ICCLC • Summer Symposium "Our Legal Technical Assistance 2010" held jointly by RTI, ICCLC and Nagoya Univ. • 12th Japan-Korea Partnership Program held by RTI

2011	Jan. Mar. Aug. Sep.	<ul style="list-style-type: none"> • 12th Annual Conference on Technical Assistance in Legal Field. • Internship for law school students by National Personnel Authority • "Kanazawa Seminar" held by Ishikawa International Civil and Commercial Law Center • Mini-symposium to study Japan-Korea cooperation in legal technical assistance • Internship by MOJ • Summer Symposium "Our Legal Technical Assistance 2011" held jointly by RTI, ICCLC, Nagoya Univ., Keio Univ., Kobe Univ. and ITP • 7th International Civil and Commercial Law Symposium on "Audit System in Asia" held jointly by RTI and ICCLC
2012	Jan. Mar. Aug. Nov. Jun., Oct.	<ul style="list-style-type: none"> • 13th Annual Conference on Technical Assistance in Legal Field • Internship for law school students by National Personnel Authority • "Kanazawa Seminar" held by Ishikawa International Civil and Commercial Law Center • Internship by MOJ • "Our symposium 'Access to Justice' in Asia" held jointly by RTI, ICCLC, Nagoya Univ., Keio Univ., Kobe Univ. and others • 13th Japan-Korea Partnership Program held by RTI
2013	Jan. Feb. Mar. Nov. Jun., Oct.	<ul style="list-style-type: none"> • 14th Annual Conference on Technical Assistance in Legal Field. • Internship for law school students by National Personnel Authority • "Kanazawa Seminar" by Ishikawa International Civil and Commercial Law Center • "Collaborative Project 'International Cooperation for Asia in the Legal Field'" held jointly by RTI, ICCLC, Nagoya Univ., Keio Univ. and others • 14th Japan-Korea Partnership Program held by RTI
2014	Jan. Feb. Mar. Nov. Sep. Jun., Oct	<ul style="list-style-type: none"> • 15th Annual Conference on Technical Assistance in Legal Field. • Internship for law school students by National Personnel Authority • "Kanazawa Seminar" held by Ishikawa International Civil and Commercial Law Center • "Collaborative Project 'International Cooperation for Asia in the Legal Field'" held jointly by RTI, ICCLC, Nagoya Univ. and Keio Univ. • 8th International Civil and Commercial Law Symposium on "Information providing system" held jointly by RTI and ICCLC • 15th Japan-Korea Partnership Program held by RTI
2015	Jan. Feb. Mar. May., Aug., Nov. Sep. - Oct.	<ul style="list-style-type: none"> • 16th Annual Conference on Technical Assistance in Legal Field • Internship for law school students by National Personnel Authority • "Kanazawa Seminar" held by Ishikawa International Civil and Commercial Law Center • "Collaborative Project 'International Cooperation for Asia in the Legal Field'" held jointly by RTI, ICCLC, Nagoya Univ. and Keio Univ. • 16th Japan-Korea Partnership Program held by RTI
2016	Jan. Mar. Jun., Aug., Dec. Jun., Oct	<ul style="list-style-type: none"> • 17th Annual Conference on Technical Assistance in Legal Field • "Kanazawa Seminar" held by Ishikawa International Civil and Commercial Law Center • "Collaborative Project 'International Cooperation for Asia in the Legal Field'" held jointly by RTI, ICCLC, Nagoya Univ. and Keio Univ. • 17th Japan-Korea Partnership Program held by RTI
2017	Jan. Jun., Aug., Dec. Jun. Jun., Nov. Aug. Sep. Oct. - Nov. Nov.	<ul style="list-style-type: none"> • 18th Annual Conference on Technical Assistance in Legal Field • "Collaborative Project 'International Cooperation for Asia in the Legal Field'" held jointly by RTI, ICCLC, Nagoya Univ. and Keio Univ. • "Kanazawa Seminar" held jointly by Ishikawa International Civil and Commercial Law Center • 18th Japan-Korea Partnership Program held by RTI • Internship for law school students by National Personnel Authority • 9th International Civil and Commercial Law Symposium on "Corporate-Governance in Four Southeast Asian Countries" held jointly by RTI and ICCLC • Judicial Symposium on Intellectual Property 2017 ~ IP Dispute Resolution in ASEAN+3 (Japan-China-Republic of Korea) ~ • "Japan-Korean Judicial Partnership / Immovable property registration Seminar" held by RTI and ICCLC

2018	<p>Jan. Jun., Aug., Dec.</p> <p>Jun., Oct. Jul.</p> <p>Nov.</p>	<ul style="list-style-type: none"> • 19th Annual Conference on Technical Assistance in Legal Field • "Collaborative Project 'International Cooperation for Asia in the Legal Field'" held jointly by RTI, ICCLC, Nagoya Univ. and Keio Univ. • 19th Japan-Korea Partnership Program held by RTI • "Kanazawa Seminar" held jointly by Ishikawa International Civil and Commercial Law Center • Judicial Symposium on Intellectual Property Advanced Seminar for ASEAN+3 2018
2019	<p>Feb. Jun., Aug., Dec.</p> <p>Jun., Oct. Jun.</p> <p>Aug.</p> <p>Sep.</p> <p>Nov.</p>	<ul style="list-style-type: none"> • 20th Annual Conference on Technical Assistance in Legal Field • "Collaborative Project 'International Cooperation for Asia in the Legal Field'" held jointly by RTI, ICCLC, Nagoya Univ. and Keio Univ. • 20th Japan-Korea Partnership Program held by RTI • "Japan-Korean Judicial Partnership 20th Memorial International Academic Conference" held by KTICO and RTI • "Kanazawa Seminar" held jointly by Ishikawa International Civil and Commercial Law Center • Internship for law school students by National Personnel Authority • Judicial Symposium on Intellectual Property 2019 ~ IP Dispute Resolution in Asia - Pacific Region ~ • Selection-based practical training for 72nd legal apprentices
2020	<p>Feb. Nov. - Dec.</p>	<ul style="list-style-type: none"> • 21st Annual Conference on Technical Assistance in Legal Field • "Collaborative Project 'International Cooperation for Asia in the Legal Field'" held jointly by RTI, ICCLC, Nagoya Univ. and Keio Univ.
2021	<p>Jan. Feb.</p> <p>Mar.</p> <p>June. Aug. - Sep. Sep. Oct.</p> <p>Aug., Sep., Nov.</p> <p>Nov.</p> <p>Nov. - Dec.</p>	<ul style="list-style-type: none"> • JSIP Follow-Up Seminar (Laos, Myanmar) • Youth Forum for The Fourteenth United Nations Congress on Crime Prevention and Criminal Justice • 10th International Civil and Commercial Law Symposium on "Laws and Practices of Joint Venture in Four Southeast Asian Countries" held jointly by RTI and ICCLC • The Fourteenth United Nations Congress on Crime Prevention and Criminal Justice Ancillary Meeting • 22nd Annual Conference on Technical Assistance in Legal Field • Internship for law school students by National Personnel Authority • Internship for university students by MOJ • The 1st Global Youth Forum for a Culture of Lawfulness • Judicial Symposium on Intellectual Property 2021 ~ IP Dispute Resolution in Asia - Pacific Region ~ • "Collaborative Project of Legal Technical Assistance" held jointly by RTI, ICCLC, Nagoya Univ. and Keio Univ. • "Kanazawa Seminar" held jointly by Ishikawa International Civil and Commercial Law Center • 22nd Japan-Korea Partnership Program (online)
2022	<p>Feb. May., Aug., Sep.</p> <p>Jun. Aug. - Sep. Sep.</p> <p>Oct. - Nov. Dec.</p>	<ul style="list-style-type: none"> • Online Seminar on Business and Human Rights held by UNDP - ICD • "Collaborative Project of Legal Technical Assistance" held jointly by RTI, ICCLC, Nagoya Univ. and Keio Univ. • 23rd Annual Conference on Technical Assistance in Legal Field • Selection-based practical training for legal apprentices • Internship for law school students by National Personnel Authority; and for university students by MOJ • Japan-Singapore Partnership Programme for the 21st Century • "Kanazawa Seminar" held jointly by Ishikawa International Civil and Commercial Law Center • Center for Asian Legal Exchange (CALE)'s 20th Anniversary Inaugural Ceremony & Symposium • 23rd Japan-Korea Partnership Program • JSIP Follow-Up Seminar (online) • The 2nd Global Youth Forum for a Culture of Lawfulness

- V. Editor's Postscript -

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We are proud to present another issue of ICD NEWS English, with articles by authors who are diverse in terms of their affiliations, countries of origin, and the topics they cover.

This issue begins with articles in the “Contributions” section. The article by RABIEV Sherzad, First Class Counsellor of Justice, Director of the Lawyers’ Training Center under the Ministry of Justice of the Republic of Uzbekistan, seeks to outline important aspects of the international regulation of labor migration and its standards, with the aim of clarifying the norms that can contribute to the harmonization of national legislation and regulatory acts.

TAKASHIMA Takashi, Legal Officer of the International Trade Law Division, Office of Legal Affairs, UN Secretariat, in his article provides an overview of UNCITRAL’s basic framework and its ongoing “Dispute Resolution in the Digital Economy” (DRDE) stocktaking project.

The article by NAITO Shintaro, Director of ICD, gives an explanation of how laws in Japan are drafted by administrative agencies in order to avoid any inconsistencies, citing specific examples in several laws.

SOGA Manabu, Professor at ICD, explains in his article the concept of damages in Japanese tort law from both a theoretical and practical point of view, with particular reference to how Japanese courts calculate the actual amount of damages in tort cases.

In the “Introduction to Foreign Laws and Legal Practices” section, there are two articles by the officials from Lao PDR, one from XAYMOUNGKHOUNE Phetsamay (Deputy Director, National Institute of Justice Ministry of Justice) and the other from PHAPHA KDY Lattanaphone (Deputy Director General of Inspection Department, the Office of the Supreme People’s Prosecutor of the Lao PDR). The former introduces capacity-building and promotion activities for practitioners in the judicial and legal field in Laos, while the latter illustrates the history and role of prosecutorial functions of the country. These articles would be valuable in the area of the topics covered, where materials and literature in English are currently limited.

ICD Professor KAWANO Maiko's article sheds light on the land rights system and its recent developments in Timor-Leste, introducing the newly enacted Property Registration Code, on which there is very little literature in English. It is also an account of the drafting of the law from the perspective of the author who has been involved in advising local authorities through onsite/online meetings and seminars over the past three years.

In the section "Recent Trends and Activities of Legal Technical Assistance and Cooperation", the article by YOKOMAKU Kosuke, former JICA long-term expert in Vietnam and currently a public prosecutor, provides an overview of the latest legal technical assistance project in the said country with the longest history of receiving legal assistance from the Japanese government. This project differs from the previous projects in its unprecedented method, in which the counterpart institutions themselves identify priority issues and form a working group to solve each issue. The project started in 2021 and is expected to end in 2025.

KUROKI Kota, former ICD professor and currently a judge at the Tokyo District Court, reports in his article the online seminar co-hosted by ICD and UNDP on "Business and Human Rights" which was conducted on February 22, 2022. KUROKI introduces the presentations and discussions held at the seminar and discusses how "Business and Human Rights" could be addressed in the area of legal technical assistance by the Japanese government.

The article by ICD Professor SHOJI Minako gives an account of the 23rd Annual Conference on Technical Assistance in the Legal Field held on June 25, 2022. This conference, which began in 2000, aims to strengthen cooperation with related organizations and people in the field by exchanging information and opinions on the status quo and future prospects of legal technical assistance.

The article co-authored by ICD Professors SOGA Manabu and SAKAMOTO Tatsuya describes the online seminar jointly organized by the Ministry of Justice of Japan, JICA, and the Ministry of Foreign Affairs of Singapore under the Japan-Singapore Partnership Programme for the 21st Century (JSPP21). This program is unique in that the Japanese government engages in ongoing legal assistance cooperation with a specific country, and this article illustrates the latest attempt at such an initiative, which provided participants from 15 countries, mostly in Asia, with the opportunity to receive training in international arbitration and mediation.

Finally, it is our sincere wish that readers will find the above articles stimulating and get to

know of the multifaceted aspects of Japan's legal technical assistance as well as its related activities.

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