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Laws of the Republic of Indonesia on Intellectual Property Rights

Prakas on Matrimonial Property Contract Registration Procedure 50

THE BILL OF CIVIL CODE,
CIVIL PROCEDURE CODE AND REPORT, 2010 | MINISTRY OF LAW & ORDER

CHAPTER - 7

Provisions Relating to Usufruct

373. *Usufruct deemed to be constituted:*

Usufruct deemed to be constituted:

(1) When a person is granted a right of usufruct in a property in which he or she has right and ownership, the usufruct is deemed to be constituted from the date of the grant of the usufruct, whether or not the usufruct is actually exercised by the usufructuary.

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सम्पत्ति सम्बन्धी कानून

परिच्छेद-१

परिच्छेद-१
सम्पत्ति सम्बन्धी सामान्य व्यवस्था
खरिद, विक्री

मानिने : उपभोग गर्न, खरिद, बिक्री वा अन्य तवरले हक हस्तान्तरण वा कारोबार गर्न वा कुनै
त गर्न सकिने कुनै नगद, वस्तु वा कार्यालाई सम्पत्ति मानिनेछ ।
यस सहिताको प्रयोजनको लागि "वस्तु" भन्नाले सम्पत्ति सम्झनु पर्छ ।
चलको रूपमा रहेको मानिने : भौतिक वा अचल सम्पत्ति सम्झनु पर्छ ।
सम्पत्ति चल वा अचलको रूपमा रहेको मानिने : भौतिक वा अचल सम्पत्ति सम्झनु पर्छ ।
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Rule of Law

for Sustainable Development and Access to Justice for All

Rule of Law

for Sustainable Development and Access to Justice for All

COOPERATION FOR THE RULE OF LAW PROMOTION: HOW IT STARTED

Law is the foundation for all the people to lead safe and enriched lives. Our life is full of legal issues such as marriage, divorce, establishment of a company, payment of medical fees after traffic accidents and for countless other occasions. In many developing countries, however, the rights of the people – including physical freedom and property rights – are not fully protected because of lacking of laws and appropriate judicial system. Establishing a legal system leads to social and economic development of the country which then contributes to the prosperity of the entire region as well as eventually to peace and security of the international community as a whole.

Under such circumstances of developing countries, Japan launched its first full-scale Cooperation for the Rule of Law Promotion in 1996. The year 2016 marked the 20th anniversary. Over the past twenty years, the number of partner countries as well as the areas of cooperation has steadily increased, and Japan is currently supporting eight countries, mainly in Southeast

Asia, toward the development and improvement of legal and judicial systems. The first country that Japan assisted under ODA framework was Viet Nam. Following the introduction of the Doi Moi (Renovation) Policy in 1986, Viet Nam then was in an urgent need to develop civil laws to accommodate to its transition to a market economy. Japan started the full-scale assistance in 1996 to support the drafting of basic laws and regulations, as well as the human resource development of legal professionals who are in charge of implementation of the laws. In other countries, Japan has been providing assistance in many different fields including support for a judge/prosecutor training school (Cambodia), the assistance for service improvement of the bar association and introduction of the mediation system (Mongolia), and assistance for intellectual property rights protection (Indonesia).

MAKING THE MOST OF JAPAN'S EXPERIENCE AND STRENGTH

Following the Meiji Restoration, Japan adopted the Occidental legal systems and strived to apply it by adapting it to ac-

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commodate Japanese cultural and social norms. Japan learned from other countries and developed its legal system through trial-and-error. This experience now constitutes the distinctive strength of Japan's Cooperation for the Rule of Law Promotion. Wide-ranging human resources for assistance is also the advantage of Japan's cooperation. Legal professionals such as judges, prosecutors and lawyers are dispatched to stay in the partner countries as long-term experts to work together with local counterparts. The counterparts especially appreciate the opportunities to consult practical matters with such Japanese experts as their fellow legal professionals. Inside Japan also, the backup structure consisting of legal practitioners and academics are organized to support and monitor the projects.

Laws become visible only when they are described in specific words in the text of law. Therefore, the experts engaged in the projects work closely with interpreters to carefully verify the exact meanings of the words used. Japanese experts respect ownership of the partner countries so that they can develop legal systems that best suit their own societies and continue to

implement the laws in the future of their own accord. Japanese experts try not to force the Japanese way onto them, but rather, support their counterparts' own efforts by providing information on other countries' law, and sometimes by raising meaningful questions to let them think on their own. It is also essential to notify the context of law to the local people through promotion activities such as seminars or publicity leaflets.

Enactment of law is not the end, but is only the beginning. The ultimate purpose of the projects is to make the laws accessible and usable for everyone in the country. By making the most of its distinctive experience and strength, Japan provides assistance throughout the process from drafting of laws to the phase in which the laws are actually "used", while respecting the partner country's own initiatives. Such attitudes and methods of Japan's cooperation have firmly taken root, and made its own progress over the past two decades. Japan's Cooperation for the Rule of Law Promotion, beyond its 20th anniversary, will continue to pursue further progress to better contribute to the development of many more countries in the world.

Recent Projects

Viet Nam	The Project for Harmonized, Practical Legislation and Uniform Application of Law Targeting Year 2020
Cambodia	Legal and Judicial Development Project (Phase 4)
Laos	The Project for Human Resource Development in the Legal Sector (Phase 2)
Uzbekistan	The Project for Improvement of administrative procedures for the Development of Private Sector Activities
China	The Project on Legal Development for Improvement of Market Economy and People's Wellbeing
Mongolia	The Project for Strengthening Mediation System
Indonesia	The Project on Intellectual Property Rights Protection and Legal Consistency for Improving Business Environment
East Timor	Legal Support Advisor
Nepal	Legal Support Advisor / The Project for Strengthening the Capacity of Court for Expedient and Reliable Dispute Settlement
Iran	Development of Legal System III
Central Asia	Seminar on Comparative Study of Law for Central Asia
Democratic Republic of the Congo	Community Justice Training Project in Bas-Congo Province
Myanmar	The Project for Capacity Development of Legal, Judicial and Relevant Sectors in Myanmar
Cote d'Ivoire	Legal Advisor / Training on Criminal Justice

multiple laws and some laws too old to apply to modern life. "Laws and regulations must be amended so they can contribute to modern society. We are trying to make our rules clear to the legal professionals and also understandable for the general public," says Nalonglith.

In 1998 Japan commenced dialogues with those in the legal profession in Laos; this was a project for quality-improvement in terms of legal education at universities and graduate schools, which was assisted by the Ministry of Justice of Japan. In 2003, the organization of legal textbooks and commentaries was started, and the Civil Code drafting extends this flow.

Nalongth, who has been working with Japanese legal experts for nearly 20 years since the first Japanese-Lao project, expresses his appreciation for Japan's support saying, "Experts both from Japan and Laos join the projects, and Laotian experts are learning and absorbing the way of thinking from the Japanese experts. We go beyond receiving the completed bills; we think and we reach the answers; the Japanese experts support these processes. This also helps us to cultivate the human resources in the legal circles of Laos."

“As Asian country, Japan’s assistance is valuable for us, because Japan has many law experts and also supports us for the drafting work. The Civil Code is the cornerstone of the market economy. While valuing our Laotian tradition, we must form the laws and

The Civil Code is fundamental law that stipulates interpersonal relations. The Japanese Civil Code covers the rules and regulations on buying and selling, the compensations in case we accidentally damage someone's belongings and the succession of property when a family member passes away. "The Civil Code of Japan is systematized as a single, consolidated law. In Laos, however, the laws of each field, such as contracts or family relations, have been established separately," explains Nalonglith Norasing, Director of Planning and Cooperation Department of the Ministry of Justice of Laos. "We are now trying to draft our Civil Code by sorting out these laws and making up for deficiencies to summarize them as a single code."

The civil law of Laos has several problems including insufficient stipulations, discrepancies between



Behind the Scenes of Everyday Life

Establishing Laws and Promoting the Rule of Law



regulations that will fit the economic development of the future,” says Ketsana Phommachanh, Director of Law Department of the Ministry of Justice of Laos, who has also been involved in projects with Japanese assistance since 1998.

Khamphay Xayavong, Head of the Notary office of the Justice Department of Vientiane Capital says, “In the past, the idea of pledges and mortgages were mixed up in the Laotian Law on Secured Transactions. Therefore, these terminologies, definitions, rules and regulations are being re-organized in the parts I am in charge of, with the laws of other countries as references. When I actually write them down as a text, sometimes it does not feel quite right. The Japanese experts are a great reassurance for us in such moments.” Latsamy Sysamouth, Head of the Foreign Affairs Office of the National Institute of Justice, tells us, “Economy-related laws have to be organized in preparation for future economic development. I always keep a mental note; we go beyond just making a law to make a law that really comes into service and functions.”

“With some 600 articles, the Civil Code we are currently working on is the culmination of all the civil laws. Completing the Civil Code is not our goal, however,” says Somsack Taybounlack, the President of the People’s Middle Regional Court. “The handbook of the Law on Resolution of Economic Disputes is almost done. This will be more and more

important as the economy develops. Now we have started to make another handbook: The Labor Law Handbook. Through the process of creating handbooks, We deepen our understanding of laws, which leads more coherence in the practical operation. This is important for establishing the rule of law.”

JICA expert Reiko Tanahashi, an attorney supporting the Labor Law handbook team, states, “Laos is a socialist country with a strong sense of workers’ rights, and the labor union also keeps its position as a sub-organization of the Party. But there still are things to be done as the Labor Law is not being implemented strictly enough at all workplaces.” She continues, “The handbook team includes members from the Ministry of Labor and Social Welfare as well as the labor union. I am trying my best to explain the interests of the workers, which employers must guarantee, in a simple and clear manner.”

FOCUS ON THE HUMAN RESOURCES WHO CAN ACTUALLY IMPLEMENT THE SYSTEMS

In Japan’s assistance promoting the rule of law, the experts stay in the target country for years. During their stays, the experts create legislative bills and books, while working together with local legal professionals and improving mutual understanding. Attorney Osamu Ishioka, a JICA expert who has been staying in Laos since 2010, explains, “The aim of our support is much more than the actual book: it’s cul-



The National Institute of Justice (right), adjacent to the facilities of the National University of Laos. Future law experts and court officials are being trained here.

Rule of Law for Sustainable Development and Access to Justice for All: LAOS

tivating human resources who can make the books. Our real goal is to have Laotian legal professionals capable of creating their own laws and books, by thinking for themselves and by understanding.”

A two-hour drive north of Vientiane took place a workshop in Thalath, a city close to the tourist spot of Nam Ngum Dam. The theme of the day was the rights of suspects who cannot speak Lao in criminal cases.

In Laos, as a rule, police questions and trials are done in Lao, the official language of the country. If a person who does not understand Lao, such as an ethnic minority living in Laos or non-Lao nationals, becomes the suspect of a crime, the police questions are supposed to be conducted with interpreters present. If the suspect is a Laotian citizen, that person can still have an attorney or another proxy. Then, is it legally correct to start questioning the suspect after arranging an interpreter, attorney or proxy but before they arrive? The judges, prosecutors, police officers, attorneys and legal theorists who represent Laos held a series of discussions.

“Within 24 hours after arresting a suspect, you must decide whether or not to request a provisional detention. If questioning before the arrival of interpreters or proxies is illegal, can you adhere to this time restriction? Why don’t we discuss this point while simulating the actual work?” proposed Hiroshi Suda, a JICA expert who had been listening to the discussions.

The profession of Suda in Japan is a prosecutor: a specialist in criminal procedure. It is easy for him to clearly answer to that question from his experiences, but he has a reason not to do so. “The members of the legal community in Laos do not share

a common legal interpretation; their understanding of laws varies from position to position. Also, they often do not look back at the philosophy of the law that was created at the time of its enactment. Thus, I devote myself to set hares running, trying to encourage them to think about the purpose for which a law has been created,” says Suda.

This workshop is to prepare a Q&A book regarding criminal suits. In this Q&A book, the important points of the criminal proceedings are described in questions and answers, targeting the police officers who actually control or investigate crimes, as well as candidates who may become legal experts. Regarding the Code of Criminal Procedure, the handbook was completed in 2010 and has been well received at places engaged in real criminal proceedings, including courts and police academies. This book contains flowcharts illustrating the steps to take during the procedures, which can be checked at a glance, and also commentaries for a wide range of proceedings. Based on this handbook, a Q&A book is now in preparation by wider members including the police and legal affiliates who have not been involved before, so as to have a consensus for a broader perspective. This book is to help the readers better understand the Code of Criminal Procedure.

Suda emphasized the generous and positive attitudes of Lao legal professionals, saying “At first, I was concerned about disputes as the police, prosecutors and attorneys have conflicting interests at the time of a criminal proceeding. Once discussions kicked off, however, they have been quite open about their respective positions and they share each other’s practical experiences as well.”

We interviewed three legal professionals who



In the projects, experts from Japan, coordinators and local staff members are working together as a team.



Legal commentaries, which have been prepared through the project with Japan. They are evaluated highly by the law practitioners.





have been engaged in writing books for the Code of Criminal Procedure since 2010. Syvanh Boutthala, Head of criminal chamber of People's Middle Regional Court, used to teach the Code of Criminal Procedure to the general employees of the court. "In the past, the only thing we could refer to regarding the Code of Criminal Procedure was the Code itself; there were no textbooks or other materials. The charts and handbooks are a great help for the staff members to understand laws," says Syvanh. He believes that this Q&A book being prepared will help to improve understanding of the laws by policemen in the provinces as well as lawyers, and will also reduce unintended illegal investigations.

Souphasith Lovanxay, Deputy Director of Criminal Case Inspection Department, Office of Supreme People's Prosecutor tells us, "The handbooks are now used in law schools as well as procuratorate training centers. Creating the handbook was very difficult as we had no such books and no such know-how then. However, when we distributed the completed handbooks to the provincial organizations of prosecutions, they turned out to be highly effective. I strongly hope to achieve more success with future materials."

Professor Sengthavy Inthavong, Head of Criminal Law Unit in the Faculty of Law and Political Science of the National University of Lao, explains, "By utilizing the charts, on-site law practitioners came to correctly understand the procedures for criminal suits. The Q&A book also answers the questions of staff in different workplaces, promoting the charts and handbooks." He continues, "Japan goes beyond producing books to assist Laotian human resources

who will make the books. We can develop our own legal circles even after Japan leaves."

NURTURING YOUNG LEGAL PROFESSIONALS FOR A JUST SOCIETY

The National Institute of Justice (NIJ) was launched in 2015 to nurture young legal professionals. "Thus far, after choosing a career in law, the candidates for legal experts lacked opportunities to study together. At our NIJ, we offer a 1-year training course including a 4-month internship, targeting law department graduates. The trainees can obtain practical legal affairs capabilities, as well as a better understanding about the standpoints of other legal professions; eventually, they can learn how to contribute to their country" says Bounkhouang Tavissack, the Director of Cabinet of People's Supreme Court. He was engaged in drafting the Civil Code and a member of the working group for enhancing educational training.

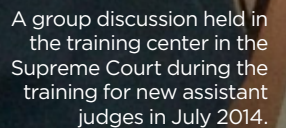
From now on, the NIJ will work on educating teachers and improving curriculums. "With highly qualified legal experts, the system as a law-governed state will become stronger; this can surely provide social justice as well as meet our national interests. Establishing a rule of law means establishing a business-friendly environment, and thus the rule of law is essential for the economy to develop," says Sengphachanh Vongphothong, the Deputy Director of NIJ.

As a member of ASEAN, Laos is seeking further growth along with neighboring countries. Today is another day of legal discussions to underpin Laotian developments for the future.

Meeting for the Q&A book regarding criminal suits. Judges, police officers, prosecutors, attorneys and university professors are in dialogue with their respective professional opinions.



As the sun goes down, the night markets along the Mekong River get crowded with visitors. Behind the scenes of the rapidly developing Lao economy is the work of Japanese legal experts.



Myanmar

Nay Pyi Taw

After a prolonged period of military rule, Myanmar inaugurated a new government in 2011. The country has started to follow the path toward a market economy, and is attracting the attention of the world including Japan as the last frontier in Asia.

“For example, the existing company laws in Myanmar state that a company should obtain the approval of the court or the President when it changes the company memorandum. Such law would be an obstacle for changing business content flexibly according to the economic environment,” pointed out Kenta Komatsu, an expert for JICA’s project of capacity development of legal, judicial and relevant sectors in Myanmar. Komatsu, a lawyer in Japan, used to be in charge of corporate legal work and started to work with JICA in 2011, moving to Nay Pyi Taw, the capital of Myanmar.

The project for the Supreme Court of the Union and the Union Attorney General's Office has two major objectives; one is to improve the capacity to draft and examine bills, second is to enhance the capability of human resources in the legal field. The Supreme Court regulates 52 laws including the civil procedure code and the criminal procedure code and has the authority to draft amendments to these laws. The Attorney General's Office reviews the bills drafted by government agencies.

This initiative features Working Groups of Japanese experts and local staff according to the themes, including drafting bills and human resource development. "In the Working Group discussing bills, I encourage debates of the staff from the Attorney General's Office on points such as if any unclear parts are in the provisions or if it is consistent with other laws," said Komatsu. He explains that Working Groups are advantageous in enabling cooperation fitting their needs by helping the donors to understand the local staff's awareness about the issues through daily discussions.

Japan's experience in the rule of law promotion is also an advantage in this field. After the Meiji Restoration, Japan incorporated the Western legal systems through comparison and examination. Therefore, Japanese experts can propose various legal systems from a comparative perspective and explain the necessity of customizing them so that they are suitable for their country.

LAWS FOR THE PEOPLE

Under military rule, the laws in Myanmar had been influenced by the intentions of the persons in power. In addition, the Department of Law at Yangon University had been closed due to many students' involvement in the 1988 democracy uprising, and the government was cautious about legal education. Komatsu said, "Since laws are recognized as a tool to control people, bills were drafted secretly and the opinions of the persons concerned were offered only after the bills were submitted to the Parliament. Such adjustments may take time."

The mission of the project team is to lay the groundwork in Myanmar to broadly discuss bills democratically and to develop human resources. "When I first started working here, the Attorney General's Office resisted showing us the bills. We consider their cultural background and telling them patiently the new method. As a result of our earnest efforts staff members are now starting to recognize the necessity to broadly seek opinions from the persons concerned while drafting." In the project to improve the litigation system on intellectual property, there is a plan to open the draft of the measures of the Working Group through the internet with invitations for public comment.

The project also handles training in Japan. In 2015, the project provided an opportunity inviting staff members from three organizations; the Directorate of Investment and Company Administration of the Ministry of National Planning and Economic Development, which regulates the Company Law, the Attorney General's Office, which examines the law, and the Supreme Court, which will conduct judicial



Above: Komatsu (second from the left) checked the Case Records in the High Court in Yangon.

Below: JICA experts stationed in Nay Pyi Taw (June 2015).

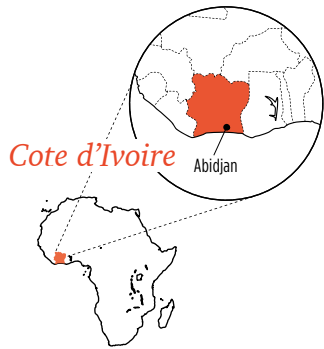
proceedings concerned with the Company Law in the future. A staff member of the Attorney General's Office who took part in the training said, "As specific disputes were assumed in the training, it was good opportunity to examine whether the current draft provisions are appropriate or not."

The judges and government officials' attitude in Myanmar has been changing gradually through the project. "The current target is to connect these changes to a momentum. Since last July, we have started a new reform on the mechanism for civil conflict resolution. This initiative is related to the important function of judicial decisions to protect the rights of the people." Komatsu said, with new enthusiasm.



In February 2015, a meeting was held to review the work and make an annual plan at the Supreme Court in Nay Pyi Taw.

Fighting Against Transnational Crimes



Fighting against terrorism is a serious concern among African countries. In recent years, countries with common concerns are acting hand in hand to strengthen the criminal justice systems in each country as well as to implement training for the promotion of closer collaboration.

THE BEST OF THE JUDICIAL PROFESSIONALS GET TOGETHER MAKING HEADWAY TO ESTABLISH A COOPERATIVE STRUCTURE

The Sahel region stretches on the southern edge of the Sahara Desert. Among African countries, this is a severely impoverished area and faces rising threats of the Islamic militants who are expanding their sphere of influence.

Responding to such concerns, in 2013, the Fifth Tokyo International Conference on African Development (TICAD V) in Yokohama set "Peace and Stability" as one of the main objectives. In order to tackle transnational organized crimes and terrorism, cross-regional collaboration among neighboring countries is essential. In 2014, JICA, in collaboration with the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI), began implementing



February 2016, a two-week seminar on criminal justice was held in Cote d'Ivoire



Diane who is the focal point for JICA in the Ministry of Justice

criminal justice training for eight French speaking countries mainly in the Sahel region: Cote d'Ivoire, Senegal, Mali, Niger, Chad, Burkina Faso, Mauritania and Democratic Republic of the Congo.

JICA Expert Wakaba Hara, lawyer in Japan, was dispatched to the Ministry of Justice in Cote d'Ivoire as a legal advisor in 2014 for two years. She explains, "The purpose of this training is the capacity development of personnel in charge of tasks in the criminal justice such as investigation, prosecution, and court proceedings. The first and second seminars were held in Japan; from the third seminar

onwards, it was decided to hold them in Abidjan in Cote d'Ivoire." For the third seminar, which was held in 2016, there were three main subjects: (1) Basics on investigation, prosecution and court proceedings, (2) Measures against organized crimes, (3) Anti-terrorism measures. About thirty professionals consisting of police officers, public prosecutors and judges from the eight countries participated in the seminar. In addition to the lectures given by UNAFEI instructors and selected lectures, experts from Cote d'Ivoire also led a session on a panel discussion. Hara supported planning of the training

program, coordination of its implementation, and follow-up activities.

Hara adds, “For the participants in the third seminar, we chose at least one participant who attended either the first or the second seminar from each of the eight countries so that they can share the outcomes of previous seminars. Their comments made arguments practical and they reaffirmed opinions on various concerns. Some participants commented that they first thought they had nothing further to learn, but that there were actually many more issues to be discussed.” At the end of the seminar, each country made a presentation on the action plan on how to improve the judicial process in their country. In addition, they have released a joint declaration on the cooperation in the judicial field among countries. They presented a new step toward building a cooperative structure among the eight countries.

THE FIRST LEGAL ADVISOR DISPATCHED TO AFRICA REGAINING TRUST IN THE JUSTICE SYSTEM

In Cote d’Ivoire, the hosting country of the third seminar, a Steering Committee mainly consisting of the participants of previous seminars was organized to assist in implementing the training program. At the closing ceremony, many participants of the seminar dressed up with the clothes tailored by themselves using the same fabric according to the local tradition. This custom is so-called ‘uniform’ to show the sense of solidarity, which actually had built up among the participants.

Due to the internal conflict that had lasted for ten years since 2002, many of the courts and prisons in Cote d’Ivoire were destroyed and many legal professionals fled to the safer places. As a result, criminals were often left unpunished and people’s confidence in the judicial system was damaged. Being hosted by a country under such current situation, this seminar would be more effective to promote ownership of the participating countries and to build a real network among criminal justice professionals in the region.

In addition to assisting the implementation of the seminars, Hara also works to improve access to justice, which is specified under the Sustainable Development Goals (SDGs). During the training programs held in Japan, participants visited the Japan Legal Support Center (Houterasu), which provides legal support services to the general public.

Hassane Diane, Chief of Cabinet of Ministry of Justice in Cote d’Ivoire, reported on the training programs in Japan to the Minister and elaborated a plan to set up a call center in his country, referring to the system of Japan. Currently, in addition to continue emphasising on setting up the operation of call center, the Department of Civil and Criminal Affairs is pushing forward to establish a system to provide legal information to the public through various means such as telephones, leaflet distribution and a website. Hara explains, “We always try not to impose Japanese systems or Japanese ways of practice as they are, but to share our experiences. If some of our experiences correspond to the needs of the partner country, we proceed with it.”

The plan to establish the call center has been re-



Above: JICA Expert Hara, a legal advisor, together with Ngolo Klofanhan Daniogo (left), Director of the Department of Civil and Criminal Affairs, and Saboré Kourouma Guiré (right), the Sub-Director. Tackling improvements for access to justice.

Below: Leaflet on the legal proceedings for crime victims, prepared with the support of Hara.



flected in the action plan of Cote d’Ivoire presented by the participants of the seminar since 2015. This is an innovative plan and might be a model for other African countries through the network which would be built up in the seminars.

The seminar is to be convened in Cote d’Ivoire until 2018. Through this, it is expected that Cote d’Ivoire will take a central role among the regional network of the eight countries in regard to training on criminal justice and advance further as a focal point for cooperation in the criminal justice field. The seminars are leading to the strengthening of transnational cooperation to tackle terrorism and organized crimes for the peace and stability in Africa.



Members of the Steering Committee. Nine members who had a training in Japan also participated in the committee.

Researcher

Kenzo Okawa

Lecturer, Faculty of Law, Setsunan University



Okawa (right) and Khamphay Xayasouk (left), Deputy Head of Technical Division of the Judicial Research and Training Institute of People's Supreme Court in Laos

I studied civil law at university and graduate school. When I was a graduate student, I participated in a survey on the personal status law in Laos as research commissioned by the Ministry of Justice under my professor. Thanks to this experience, I be-

came involved in JICA's cooperation for the Rule of Law Promotion in Laos as a member of the advisory group in 2014.

The project has several activities, and I assist with the development of the Civil Code. I present Japanese and foreign laws to local jurists and examine the content of the draft of the Civil Code together, while being careful not to force the Japanese way of thinking on them. Laos has its own way of thinking; we do not forcibly pursue ideas that are favored by Japan but disliked by Laos. Foreign laws are not necessarily appropriate for Laotian society either. Explaining laws of various countries in a manner that is easy to understand for our counterparts, instead of simply presenting them, is a challenge in the legal and judicial development project.

People in different positions such as prosecutors and lawyers are involved in the project. My role as a researcher is to objectively examine the discussion process during the project and the draft content to explore its significance and background, then spread it widely in Laotian society. It is also important to look back on the activities to reflect on points to improve or reconsider, and examine the content and policy of Japan's cooperation for the Rule of Law Promotion by comparing it with assistance from other countries.

The Civil Code is now nearly complete. Even after its completion, I will continue to give my opinion and advice on revising the content and problematic points in harmony with the economic and social development in Laos.



Objectively examining the meaning of the assistance

So many roles! People who Support the Legal and Judicial Development Project

Project Coordinator

Tsugunori Teramoto

Project Coordinator for the 'Project to support legal and judicial reforms targeting 2020'



Teramoto (third from the left) celebrated the appointment of the new Minister of Justice, Le Thanh Long, with other experts in April 2016

I am involved in the 'Project to support legal and judicial reforms targeting 2020' in Viet Nam as a Project Coordinator. Japan began to assist the promotion of reform in Viet Nam in 1996 and has supported in drafting basic laws and regulations including the Civil Code as well as enhancing the capacity of human resources working in judicial organizations such as the courts

and procuratorates for about 20 years. The current project further enhances such work.

In Viet Nam, inconsistencies between laws and regulations, and differences in understandings among lawyers and judges have become problems in recent years. Therefore the project team is working to improve consistency so that the laws will be applied in a standard manner.

In the project, Japanese experts who are judges, prosecutors and lawyers visit places across Viet Nam to give advice through seminars and workshops for local judicial organizations, including the Ministry of Justice, The Office of Government and The Supreme People's Court. My role is to support such experts. Including the management of budget and accounting, my duties range widely, from confirming the appropri-

ateness of schedules and transportation methods for business trips, to evaluating the quality of interpreters and translators, so I need to consider a number of aspects. I work on such duties daily while I value the teamwork with experienced local staff and drivers.

Including new and former Ministers of Justice in Viet Nam, many people who received JICA assistance now work as core human resources in the legal field. I feel proud that Japan's steady contributions have been useful in developing human resources in Viet Nam.

I worked in a coal mining company as a mining engineer in Hokkaido for 30 years after graduating from university. Actually, I was working in Viet Nam as a JICA expert in a technical assistance project for coal mine safety then. I am happy to be involved again in technical assistance in Viet Nam.



Supporting experts for the smooth project operation

Ryo Yukawa

Professor, International Cooperation Department, Research and Training Institute of the Ministry of Justice



The training in Japan. Yukawa (back left) discussed the system of civil provisional remedies with Cambodian legal professionals.

After becoming a judge in 2010 and working in district and family courts in Nagasaki and Hyogo, I was dispatched to the International Cooperation Department (ICD) at the Research and Training Institute of the Ministry of Justice in 2015. As part of the international cooperation of the Ministry of Justice,

the ICD assists with the drafting and revision of laws, the development of legal systems and the training of legal professionals in Asia. The ICD also cooperates with JICA projects by conducting on-site surveys, organizing training and seminars for the local legal professionals.

Japan has been assisting with the drafting of the Cambodian civil code and civil procedure code; we often assist in teaching local legal professionals as the content is similar to Japanese law. We present the Japanese way of thinking and explain the problematic points with specific examples in order to provide information that responds to local needs. I prepare so that I can do my best to explain the core part in a clear manner and define what I need to convey. As our counterparts are practitioners who have

actual cases that need to be solved, idealism alone is quite futile. I convey what I would like to know if I were in their position and what can be immediately used at work. As a judge, I also feel the need to tell them that both the conclusions and the processes are important in trials.

Cambodian legal professionals are very passionate and we spend nearly half of the time on Q&A sessions. Such is their desire to execute laws and legal systems appropriately on their own and make their country better. I was happy when I met again in Cambodia with a Cambodian judge who had participated in the training in Japan and he told me that the discussion of a case during the training turned out to be useful in a similar case. I hope that more and more people will have experiences like his.



Communicating from a common viewpoint as a legal practitioner



Outstanding human resources from a wide range of fields are the strength of the legal and judicial development project of Japan. Here are the personnel who support developing countries in making laws and training legal practitioners.

Interpreter and Training Coordinator

Yoshie Amakawa

Interpreter and Training Coordinator for the legal and judicial development project in Cambodia



Amakawa (in the middle) chatting with the Secretary of State for Ministry of Justice in Cambodia who visited Japan for training and a project expert who is a judge in Japan.

Just before graduating from junior high school, I took refuge in Viet Nam in 1975. Later, I learned Vietnamese and worked as an interpreter in a refugee camp for Cambodians in Viet Nam.

In 1984, I came to Japan as a Cambodian refugee, went to a language school and graduated from university. In my fourth year in Japan, I started working

as an interpreter in an organization that welcomes refugees from three Indochinese countries. Receiving a recommendation from the organization director, I started working as a training coordinator and interpreter for JICA since 1992.

Today, I am involved in the project to support the drafting of the Civil Code and the Code of Civil Procedure, which started in 1999 in response to a request from the Cambodian government. In addition to interpreting in the training to which Cambodian judicial professionals are invited to Japan, research and interpreting at the seminar in Cambodia are also part of my role.

Laws cannot be explained by charts or photos; therefore, legal interpretation requires extensive vocabulary. For example, in order to accurately communicate the subtle differences between Japanese terms such as approvals and

admissions, it is important to carefully study the meaning of the terms in both languages. When appropriate expressions cannot be found in Cambodian, I explain the meaning of the terms and let the participants themselves suggest suitable terms. As interpreters are expected to have vocabulary as well as an understanding of the contents of the laws, much time is required in advance for preparation and studying.

It was impressive that Cambodian civil servants had the strong will to rebuild their war-torn country at the beginning of the project. As a result of long-term assistance from Japan, the legal system in Cambodia has improved significantly and Cambodia has been developing excellent judicial professionals. Taking pride in these results, I am determined to push forward with this project.



Every word counts; communicating legal terms accurately

· TRENDS ·



Viet Nam

The Vietnam-Japan University Opens in Hanoi



The Vietnam-Japan University, a joint creation of two countries, opened on Sept. 9 in the Vietnamese capital of Hanoi.

The starting point for the university was a 2010 joint Japanese-Vietnamese statement in which they declared “we will consider establishing a high-quality university in Viet Nam with the cooperation of Japan.” Preparations then began under the leadership of the Japanese and Vietnamese governments under a Japan-Vietnam joint human resource development program.

To foster students with broad points of view, the university adopted an educational program that is cross-disciplinary, encompassing both humanities and natural sciences. Japanese universities support its curriculum creation and actual educational and research activities, and half the classes are taught by Japanese faculty.

In addition to these academic courses, Japanese language education and internships at Japanese

companies, some of which are in Viet Nam, have been incorporated into the curriculum to deepen understanding of Japanese culture and the Japanese business style.

The Vietnam-Japan University will be an educational institution that cultivates human resources needed by both Viet Nam, seeking to pursue sustainable development, and by Japan, where many companies consider Viet Nam to be an attractive market.

JICA provided a wide spectrum of assistance, including curriculum development, the dispatching of teaching staff, and university management to establish the master’s program. JICA is also in charge of preliminary surveys for establishing the planned bachelor’s degree and doctorate programs.

Through various approaches JICA will support the development of the Vietnam-Japan University, which will contribute to the sustainable development of Viet Nam and the strengthening of friendship between two countries.

Opening Ceremony



Democratic Republic of the Congo

Japan Disaster Relief helped to fight yellow fever



JICA dispatched its Infectious Diseases Response Team for the first time, from July 20 to Aug. 7, 2016, to the Democratic Republic of the Congo (DRC) to help combat a yellow fever outbreak.

Yellow fever is transmitted via Aedes (Stegomyia) aegypti, also known as the yellow fever mosquito, and the main symptoms are fever, headache and nausea. There are no effective treatment medications, but it can be prevented with a vaccine.

A yellow fever outbreak occurred in Angola in December, 2015, spreading to the DRC, a neighboring country, in April, 2016. More than 1,900 suspected and confirmed cases have been identified across five provinces, including the city-province of Kinshasa, the capital of the DRC. Out of those

suspected cases, 95 people have died, as of July 20, 2016.

The Japan Disaster Relief (JDR) Infectious Diseases Response Team was formed in October, 2015. The team carried out three main types of work in the DRC: advising the Ministry of Health; supporting diagnosis of yellow fever; and, providing technical assistance to prepare for vaccination campaigns.

Since last June, the national laboratory of the DRC had been unable to make definite diagnoses due to a shortage of reagents. A high level of knowledge is required for examination and diagnosis, where Japanese specialty contributed significantly.

Noriko Suzuki, then head of the JDR Secretariat, stressed that JDR to make an active contribution to emergency disaster and infectious disease responses by working with trained experts to meet the specific needs.

An interview on the vaccination campaign



Central America

JICA Receives the Order of Jagger



On Oct. 11 2016, the Secretariat for Central American Economic Integration honored JICA with the Order of Jagger, an award for distinguished service to the Central American Economic Integration Process. The Secretariat is under the umbrella of the Central American Integration System (SICA).

In 2001, JICA began sending experts to SICA as regional cooperation advisors and has continued cooperation for more than 15 years. JICA’s initiatives in the areas of transport and logistics contribute not only to economic integration but also to reinforcement of roads and bridge infrastructure as a measure to curb climate change, which have been well-received by the local society.

The eight member nations of SICA are El Salvador, Guatemala, Costa Rica, Nicaragua, Panama,

Belize, Honduras and the Dominican Republic. Last year, the 80th anniversary of the establishment of diplomatic relations between Japan and five countries in Central America, JICA held direct talks with SICA for the first time. The “SICA-JICA Regional Cooperation Action Plan 2015-2020” was successfully formulated, and it was decided that such talks will continue to be held every year.

The action plan’s goal is to carry out cooperation that contributes to solving regional-level development problems that transcend national borders. It seeks to do so through the creation of regional public goods (policies, strategies, cross-border infrastructure, a regional brand, and more, that are shared throughout the region). Its four areas of emphasis for regional cooperation are: 1. transport and logistics, 2. strengthening road and bridge infrastructure as a measure to curb climate change, 3. eco-system and wetland preservation, and, 4. supporting women’s economic freedom.

Takeshi Takano (right), director general of JICA’s Latin America and Caribbean Department, receives the Order of Jagger.

JICA Nepal Office



Gopal Gurung

Associate Program Manager

After serving as an NGO staff member in the field for almost seven years, Gopal Gurung joined JICA Nepal in 2004 hoping to do more work on policy issues while providing more help for the people.

Now he is in charge of the Central Governance and Energy sector at JICA. In the central governance sector, he has two legal projects assigned to him: drafting the Civil Code and discussing it with stakeholders across Nepal; and 'The Project for Strengthening the Capacity of Court for Expeditious and Reliable Dispute Settlement.'

"In Nepal, cases are often delayed and the case adjudication rate is low. Therefore we are implementing this project with the Supreme Court of Nepal to improve the Court capacity to expedite the cases as well as to conclude them on time to protect the rights of the people," Gopal explains.

In the long history of JICA's cooperation in Nepal, cooperation in the legal field is relatively new. JICA started legal projects after the second political movement in 2006, when Nepal's Constituent Assembly launched to draft the Constitution. Nepal's major political agenda then was to create

more jobs, prosperity and establish the rights of the people. "To ensure that the new Constitution will not hinder the economy, we implemented the State Building Program, in which we organized interactions between stakeholders to establish a common perception to pursue economic growth. I invited influential participants from both central and local levels. They eagerly discussed the growth agenda and I assessed them," says Gopal.

It was also important to make a tangible contribution to the people, so that JICA further assisted the Government of Nepal in drafting the Civil Code. "Once it is approved by the government, it will replace 'Muluki Ain,' a 150 year-old code of laws in Nepal. I hope the new Civil Code will benefit the people."

Besides legal fields, JICA also assists various fields in Nepal from hydropower and drinking water to earthquake resilience. Looking toward the future, Gopal says "I would like to support JICA for offering assistance in line with Nepal's policies. My long term goal is to see Nepal become a middle income country and it is my great pleasure to contribute to that."

Development and Establishment of Mediation System

Tungalag Dagvadorj

Chairperson of the Mediation Council under the Judicial General Council of Mongolia

I have worked as a judge for 35 years. From 1993 to 2015, I developed my career at the Supreme Court of Mongolia and have been also serving as the Chairperson of the Mediation Council under the Judicial General Council of Mongolia since 2013.

In order to help improve the Mongolian legal system, JICA, in cooperation with the Ministry of Justice, conducted research several times between 2004 and 2009 regarding mediation, which was not yet established in Mongolia at the time. JICA supported the establishment of the Legal Consultation and Mediation Center as an institution under the Association of Mongolian Advocates. The center adopted operational programs to handle its basic operations and to train mediators. These programs had been continued and turned into the Project for Strengthening Mediation System, which was supported by JICA in collaboration with the Supreme Court of Mongolia between 2010 and 2015. I worked as the head of the working group for this project.

During the first phase, we selected the First Instance Court of Bayanzurkh District and Darkhan-Uul Aimag Province as model courts. These courts successfully adopted mediation rules and designed how mediation should be operated, in addition to establishing the training programs for the mediators. During the second phase, the State Great Hural (Parliament) of Mongolia passed the Law on Mediation. This law is the legal basis for settling disputes through mediation and outlines the involvement of the courts, government, non-governmental organizations and professional mediation associations. Since the law became effective, 670 mediators have been trained in the 19 training programs. The training is designed to provide new knowledge and skills to develop reconciliation contracts,



mediator ethics and more, aiming to increase the number of mediators.

The project developed the 'Commentary on the theory and methodology of the Mediation Law'. This can be used in the study and research, contributing to the uniform understanding and implementation of the law among mediators. I hope the commentary will enhance the development of mediation in Mongolia. The Judicial General Council also developed Mediation Database as a consolidated part of the civil case database. Its operation started in 2015 and it enabled us to manage, monitor and produce the reports and data on mediation cases efficiently.

The project created a legal environment favoring settlements through mediation of disputes on matters such as labor or family issues, reducing the workload of the courts. Individuals and legal bodies filed a total of 15,437 cases in 2015 for court mediation. Among these, 11,854 cases were actually handled by mediation, including 7,881 cases successfully settled. This number of settlement by mediation consists as much as 22.2% of all the primary civil court cases (35,493 cases) in the nation. Mediation legislation has become an important part of the Mongolian national judicial system.

The Japanese Terminal Evaluation Team came to Mongolia in March 2015. The team concluded that the project had been successfully implemented and produced fruitful results. We are very proud of our success. I am convinced that the contributions of the Supreme Court, the Judicial General Council and the Mediation Council were essential for the effective and smooth implementation of the project. The development of a new part of the national judicial system was a challenging task. We renewed our confidence as we quickly overcame the obstacles and achieved the expected goals.

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Nibancho Center Bldg
5-25, Niban-cho
Chiyoda-ku
Tokyo 102-8012 JAPAN

Tel: +81-3-5226-6660
Fax: +81-3-5226-6396
www.jica.go.jp/english/

Cover: Laws and manuals which were developed with Japan's assistance
(Photo: Shinichi Kuno)

Photo on pages 2-3:
The Hanoi People's Court in Viet Nam, built during the French colonial period
(Photo: Mika Tanimoto)



The Japan International Cooperation Agency (JICA) is the world's largest bilateral development organization, operating in some 150 countries to help some of the globe's most vulnerable people.