

Session 3

Legal Assistance and International Development Cooperation: The Experience and the Goal of the Center for Asian Legal Exchange, Nagoya University

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Abstract

Nagoya University started "Asia-Pacific region law and politic education project" in 1991. Since then, Nagoya University has committed to legal assistance for, and academic cooperation in the legal field with, transitional countries (especially, Viet Nam, Cambodia, Mongolia, Laos and Uzbekistan). This commitment reflects a long and rich history of Nagoya University's academic research on these areas on the one hand. On the other hand, it also goes along with global development in the field of governance reforms.

Since the end of the Cold War and the globalization of economy in the end of the previous century, many countries (even socialist countries) have been urgently required to change and adjust their legal system in order to be more harmonious to the market economy system. Of course, we have to recognize that, in one aspect, it is difficult to deny that this tendency might be the hegemony of the jungle capitalism. However, it is simultaneously the best chance to share the value such as democracy, human rights, the rule of law and sustainable development among various countries.

In 2002, the Center for Asian Legal Exchange (CALE) was established as the center of legal assistance projects in Nagoya University. Some of faculty members both of the Graduate School of Law (GSL) and the Graduate School of International Development (GSID) conducted academic research about legal assistance. The cooperation between these two graduate schools at the institutional level is quite important. Because of this, we are making effort to overcome various difficulties such as curriculum coordination and the limitation of budget and human resources in order to foster the cooperation.

Currently, many countries receive legal assistance from various countries and organizations. Those recipient countries can be categorized as: (1) countries of transitional economy (e.g., Viet

Nam, Laos, Mongolia, East-European countries, CIS countries etc.), (2) post-conflict countries (e.g., Cambodia, former Yugoslavian countries, East Timor, several African countries etc.), (3) countries in the democratization process (such as Indonesia), and (4) least developed countries (e.g. Madagascar). Even though the background and current situation in those countries are diverse, we can find several and significant similarities among them. The first is that informal non-state laws (such as the customary law, the religious law, etc.) are dominant in those countries. Second, the content and enforcement of the state law itself in those countries also strongly reflect their own cultural and historical uniqueness. Third, those countries, almost without exception, desire to achieve economic development through a new and reformed legal system that suits the international standard.

Among those countries, Viet Nam, Laos, Mongolia, Uzbekistan and Cambodia are the countries to which Nagoya University has committed to provide legal assistance project for a long time. There are several principles of the legal assistance cooperation by Nagoya University. First, we collaborate with recipient countries based on a continuous discussion process among professionals from both countries. Second, we put the mutual understanding as the principle of cooperation. In order to nurture mutual understanding in the legal assistance, the Japanese side should have comprehensive and detailed socio-legal knowledge on the partner country. Finally, since legal assistance is an integral part of international development cooperation, an interdisciplinary approach incorporating both legal and non-legal perspective is adopted as an indispensable device.

In the process of academic research activity on the legal assistance, Nagoya University also implemented joint research programs with many research and educational institutions, both from developing and developed countries, as well as from international organizations (i.e. Universities and aid agencies in US and European countries, Korea, Taiwan, China, World Bank etc.).

In this presentation, first, I will outline the legal assistance project that Nagoya University has conducted and its academic outcomes, then I will focus on several research outcomes that affect the direction of the whole legal assistance cooperation program, and finally, I will consider challenges and goals of further legal assistance and international cooperation in the legal field.

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