Institutional Capacity Development in JICA’s Cooperation for “Rule of Law” Promotion

JICA Research Institute
August 29, 2009

Naoshi Sato
Senior Adviser, JICA
Attorney-at-Law (Ushijima and Partners)
Today’s Topics

- JICA’s Cooperation for “Rule of Law” Promotion
- Examples of JICA’s Cooperation for “Rule of Law” Promotion
- Characteristics of JICA’s Cooperation for “Rule of Law” Promotion
- Institutional Capacity Development in JICA’s Cooperation for “Rule of Law” Promotion
JICA’s Cooperation for “Rule of Law” Promotion
Definition

• **Definition**
  Support of efforts undertaken by developing countries to improve their legal and judicial systems

• **Three Core Elements and Capacity Development**
  (a) Supporting the development of rules and regulations
  (b) Supporting the improvement of the capacity of public organizations
  (c) Supporting the legal empowerment of people and society
  (d) **Supporting the development of legal professionals, including legal and judicial affairs officers**
Three Pillars and Capacity Development

(a) Supporting the development of rules and regulations

Support in the development of organizational capacity and the improvement of the professional practice

(b) Supporting the improvement of the capacity of public organizations

Supporting the dissemination of laws, people’s access to legal and judicial systems, and the building of legal-aid institutions

(c) Supporting legal empowerment of people and society

(d) Supporting the development of legal professionals

Education and training involving legal professionals, judicial officials, and legal organization members

Training of personnel involved in (a), (b) and (c)

Development of institutional capacity
Objectives of JICA’s Cooperation

Japan’s ODA Charter
Legal Assistance is a means realizing Good Governance.
The support of developing countries’ self-help efforts in this sector is ‘the most important philosophy of Japan’s ODA.’

‘Rule of Law’ Promotion
‘Rule of Law’ is required to realize Good Governance.

- **Strong State v. Precluding the abuse of power**
- **Well-balanced partnership among government, the private sector and civil society**
- **Legitimate rules and regulations**
- **Neutral system incl. dispute resolution**
- **Assurance of access to rules and systems**

Capacity Development
Examples of JICA’s Cooperation for “Rule of Law” Promotion
The three core elements complement one another, and establishment of “Rule of Law” would not be possible if any of these elements be missing.

Cross-cutting and Comprehensive Viewpoint

The development of human resources to engage in each of the elements (a), (b) or (c) is indispensable.

Focus on Capacity Development
Vietnam Project

- Assistance in Drafting Legal Documents
- Assistance to Supreme Court and Provincial/District Court
- Assistance to Supreme Procuracy and Provincial/District Procuracy
- Assistance to National Judicial Academy
- Assistance to Vietnam Bar Federation

- Supporting the development of rules and regulations
- Supporting the improvement of the capacity of public organizations
- Supporting legal empowerment of people and society
- Supporting the development of legal professionals

Supporting the development of human resources and institutional capacity
Cambodia Project

Supporting the development of rules and regulations

Supporting the improvement of the capacity of public organizations

Supporting legal empowerment of people and society

Supporting the development of legal professionals

 Assistance in Drafting Legal Documents

 Assistance to Ministry of Justice

 Assistance to Royal School for Judges and Prosecutors

 Assistance to Lawyers Training School

 Assistance in Dissemination Program

 Assistance in Legal Aid

 Assistance to the development of human resources and institutional capacity
Characteristics of JICA’s Cooperation for “Rule of Law” Promotion
Characteristics of JICA’s Cooperation (1)

**Focus on Institutional Capacity Development**

- Support for the process of the spontaneous development

  The cultivation of human resources and the development of institutional capacity so as to be able to engage in each of the core elements [(a) Development of rules and regulations, (b) Improvement of the capacity of public organizations or (c) Legal empowerment of people and society] are indispensable for improving legal systems while addressing their harmonization with the cultural and social factors in each developing country.

- Human resources and institutional capacity are the cornerstones of (a), (b) and (c).

- Long-term dialogue taking into account culture, custom and original systems

  Encouraging the creation of specific working groups in the developing country which are able to engage in cooperative work with Japanese experts, as opposed to unilaterally dissemination knowledge.
Support for institutional capacity development based on the experience and knowledge of development of legal system in Japan

Japan has experience in customizing foreign legal systems to accommodate the cultural and social elements of the existing Japanese systems in their diverse forms.

Japanese legal professionals learned the lessons, from Japan’s experience, that the ownership and efforts of the people who have deep understanding of their own culture and existing systems are crucial to the effective use of external support.

Japan’s experience includes those of drafting and revising laws and systems in accordance with the conditions and changes particular to the development of nations, which has led to the upgrading of the legal systems in line with international standards and the realization of social stability and economic growth.

Japan can share its experiences of trial and error with other countries through cooperative works and corporative studies.
Institutional Capacity Development
in JICA’s Cooperation for “Rule of Law” Promotion
Implementation Structure

Developing Country

Counterpart Organizations

Working Groups

Consultation
Advice/Information sharing
Joint Field Survey

Long-Term Experts

Professors
Researchers
Public Attorneys
Lawyers

Coordination
Seminars / TV Conferences
Advice/Information sharing

JICA HQ

Advisory Group

Professors
Supreme Court
MoJ
Lawyers

Consultation
Advice/Information sharing

MoJ
Supreme Court
Supreme Prosecutor's Office
Lawyers Organization
Institutional Capacity Development (1)

Developing Country

Working Group

Lessons

Reflection

Lessons

Reflection

Capacity Development

Application to other laws

Concept Paper

Dialogue

Background Policy
Own Study/Research

Dialogue

Comparative Study
Legal Writing Skill
Japan’s Experience

Draft version 1

Draft version 2

Dialogue

Lessons

Reflection

Long-Term Expert and Advisory Group

Lessons

Reflection

Japanese Side

Application to other projects by JICA
Institutional Capacity Development (2)

- **Pilot Area**
  - Provincial / District Court
  - Supreme Court
  - Cooperative
  - Other Areas

Institutional Capacity Development

- Long-Term Expert and Advisory Group
- Reflection
- Lessons
- Application to other projects by JICA
Case Studies

Vietnam

Social survey on the Civil Code in Phase 1
Social survey on laws related to the revised Civil Code in Phase 3
Cooperative work between the central organization and local organizations

Cambodia

Drafting of the Civil Code and the Civil Procedure Code in Phase 1
Drafting of laws related to the Codes in Phase
Cultivation of lectures at Royal School for Judges and Prosecutors
Some Lessons

Cultivation of human resource and Institutional Capacity Development

Involvement in cooperative works

Preservation of records

Information sharing v. Sectionalism

Short-term plan and Long-term vision

(It is a matter of course, but) “Ownership” is crucial.
Thank you

Sato.naoshi@jica.go.jp