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ผู้อำนวยการสถาบันเพื่อการยุติธรรมแห่งประเทศไทย
วันที่ 13 มิถุนายน 2562
COLLABORATIVE AND INNOVATIVE JUSTICE FOR ALL: TOWARDS THE 2030 AGENDA

"JUSTICE IS EVERYONE’S MATTER"
RoLD Study trip to Japan
RoLD Study trip to Japan

1. The Role of Private Sectors in Making a Better Society
2. Comparative Criminal Justice: Japan as a Case Study
RoLD Study trip to Japan

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1. The Role of Private Sectors in Making a Better Society

Utilization of Dormant Deposits for Social Issues

by Miho Matsushita

Director, Office for Utilizing Dormant Deposits, Cabinet Office, Government of Japan
1. The Role of Private Sectors in Making a Better Society

Diagram:
- A社
- B社
- C社
- D社
- E社
- F社
- G社
- H社
- 余剩利益
- 社会起業家

Text:
- 恩送り相互扶助システム
- 8ヶ国24事業
  2019年4月現在

Images:
- 2006年創業
- 13期目
RoLD Study trip to Japan

1. The Role of Private Sectors in Making a Better Society

2. Comparative Criminal Justice: Japan as a Case Study
Pain Points of the Thai Criminal Justice

1. The “Non-System” of the Criminal Justice System
2. Over-Criminalization and the Excessive Use of Imprisonment
3. Lack of diversion and crime prevention strategies
4. Inadequate Check & Balance and Accountability at the Pre-Trial Stage
5. Ineffective Assistance of Counsel
6. The Judiciary and the Trial Process
7. Failed Rehabilitation and Reintegration
8. Public Participation
9. Changing Mindset
10. Rule of Law + Culture of Lawfulness
2. Comparative Criminal Justice: Japan as a Case Study

- Accountability
- Public Participation
- Diversion / Alternative to Prosecution & imprisonment
Criminal Justice System in JAPAN

Prof Ryo FUTAGOISHI
Prosecution

- Main function
  - investigate criminal cases
  - Decide whether or not to prosecute
  - prove the cases in court
Investigative Process

- The police are the primary investigative agency

- Public prosecutors conduct investigation to supplement police investigation.

Initiate their own investigation without any police involvement, particularly in politically sensitive or complicated cases.
Relationship with the police

- Generally cooperative
  - Public prosecutors have the authority to give
    - General instruction
    - General orders
    - Specific orders
Characteristic of investigation

- Principle:
  Non-compulsory basis as much as possible

- Compulsory measures: arrest, detention, search, seizure, wiretapping

  Judicial warrant is required
Disposition of Cases

- Prosecution
  - Indictment (Formal Prosecution)
  - Summary Prosecution (Fine up to 1,000,000 yen)

- Non-prosecution
  - Insufficiency of evidence
  - Suspension of prosecution (Fine up to 1,000,000 yen)
Characteristics of prosecution

- Monopolization of Prosecution
  - No private prosecution, no police prosecution, no grand jury
  - Prosecution criteria is whether they can prove cases beyond reasonable doubt with sufficient evidence
  - Exception
    - Quasi-prosecution
    - Decision by the committee for the inquest of prosecution

- Discretionary Prosecution
  - Prosecutor may decide to drop the case even though there is sufficient evidence to secure a conviction
Discretionary Prosecution

Article 248 of the Code of Criminal Procedure

Where prosecution is deemed unnecessary owing to the character, age and environment of the offender, gravity of the offence, circumstances or situation after the offence, prosecution need not be instituted
Discretionary Prosecution

- The gravity of the offence and the harm caused thereby
- The offender’s character, age, criminal history, and risk of reoffending
- The circumstances relating to the commission of the offence
- Conditions subsequent to the commission of the offence
Discretionary Prosecution

- Efficient operation of the criminal justice system

- Avoiding the negative effects of prosecution and helping offenders to rehabilitate themselves
Statistics on Case disposition

- Non-prosecution: 671,694 (67.1%)
- Formal prosecution: 83,988 (8.4%)
- Summary Prosecution: 245,529 (24.5%)

Suspension of Prosecution: 70.7%
Other non-prosecution: 29.3%

(White Paper on Crime 2018)
Safeguard against Arbitrary Disposition

- Quasi-prosecution
  - Applicable Offences of abuse of authority

- Committee for the Inquest of Prosecution
  - 11 lay people selected from among citizens
  - Examine whether decision on non-prosecution is proper
Committee for the inquest of prosecution

Meeting of the Committee for the Inquest of Prosecution
Adversarial System

Indictment
With only charging instrument

Request for examination of the evidence

argue

prosecutor

Judge

Counsel
Saiban-in (lay Judges) System

- The recommendation of the Justice System Reform Council in June 2001
- One of key concept “citizen participation”
- Deepen people’s understanding of the judicial system and strengthen popular support for the judiciary
- Started on 21 May, 2009
Saiban-in (lay Judges) System
The Scope of Saiban-in Cases

- Punishable by death or imprisonment for life
- Intentional conduct resulting in the victim’s death
How does Saiban-in System work?

- Positive feelings of National people
- As of December 2018, about 89,000 has participated
- Drastic change of Trial proceedings: witness examination-centered, easy to understand
- Reflect citizen’s view in sentencing
Volunteer Probation Officers in Japan

Hiroyuki WATANABE
UNAFEI
2. The Numbers

In 2017

- Probation and parole cases started = 32,538
- Coordination of social circumstances cases started = 41,172

Probation Officers in the field = 959  (As of 1st April 2017)

On the other hand,

- Volunteer Probation Officers (VPOs) = 47,641 (Capacity is 52,500)
  (As of 1st January 2018)

The number of VPOs is much greater than the number of Probation Officers