



The Implementation of UNCAC  
in China

# 《联合国反腐败公约》 在中国的贯彻

赵秉志 杨诚 主编

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# 前 言

腐败,作为一类严重犯罪,历来对世界各国经济、社会的稳定发展都具有极大的破坏性。对于中国来说,反腐败的形势同样非常严峻。改革开放以来,日益猖獗的腐败犯罪不仅严重地阻碍了中国经济的发展,而且还在某种程度上削弱了执政党和政府的威信与公信力,甚至直接危及政权的根基。在中国,腐败犯罪不仅危害巨大,而且越来越表现出跨国性的特点。因此,在进行反腐败斗争的过程中,积极加强反腐败的国际合作,已经是中国无法回避的重要问题。

基于腐败犯罪的巨大危害及其蔓延态势,国际社会对于惩治与防范腐败犯罪普遍表现出高度的关注与重视,并积极通过国际合作努力增强对腐败犯罪的遏制和打击力度。从20世纪90年代开始,各国便开始寻求反腐败犯罪的国际合作,并缔结了一系列公约。<sup>[1]</sup> 在国际反腐败合作中,联合国一直扮演着重要而特殊的角色。自20世纪70年代以来,联合国先后以联大决议的形式通一系列反腐败的重要文件,以促成和加强反腐败领域的国际合作。其中,最为重要的莫过于2000年11月15日第55届联合国大会第56/61号决议通过的《联合国打击跨国有组织犯罪公约》。但是,鉴于腐败犯罪的严峻形势与反腐败国际合作的迫切需要,第58届联合国大会又于2003年10月31日通过了《联合国反腐败公约》这一独立、全面的用于指导国际反腐败斗争的法律文件。该公约已于2005年12月14日正式生效。作为世界各国及联合国反腐败犯罪共同智慧的结晶,《联合国反腐败公约》是迄今为止关于治理腐败的最为完整、全面而又具有广泛性、创新性的国际法律文件,集中反映出当前国际社会反腐败犯罪的基本趋势,宣示了国际社会在打击腐败犯罪问题上的态度和决心。

中国政府历来都非常重视对腐败的惩治和预防工作,先后在多部法律法规中做出相关的规定。而对于《联合国反腐败公约》,中国政府在其起草的过程中给予了多方面的大力支持,为该公约的通过做了大量工作,并积极予以响应,于2003年12月10日签署该公约。中国第十届全国人大常委会第十八次会议于2005年10月27日批准《联合国反腐败公约》。但是,客观而言,在中国刑事法律制度中,尚有许多方面的规定与该公约存在着差异。所以,在目前的国际国内环境下,若要全面履行该公约所确定的各种法律义务,有效推进中国反腐败活动的进行,加强与其他国家在反腐败领域的国际合作,就有必要促进中国刑事法治和《联合国反腐败公约》的协调一致。可以说,这一问题直接关涉中国刑事法治的协调与完善,关涉中国社会与市场经济能否得到持续、稳定、健康的发展。

北京师范大学刑事法律科学研究院与加拿大刑法改革和刑事政策国际中心多年来有着非常好的学术研究合作关系,对中国乃至世界范围内的重大刑事法律问题都给予充分的关注和深

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[1] 如拉美国于1996年3月通过了《美洲国家组织反腐败公约》;欧盟于1997年5月通过《欧洲委员会打击欧洲共同体官员和欧洲联盟成员国官员腐败公约》,其后又于1999年进一步签署了《欧洲委员会反腐败刑法公约》、《欧洲委员会反腐败民法公约》;2001年11月于东京举行的第二次亚太地区反腐败会议上,亚太地区部分国家也制定了《亚太地区反腐败行动计划》;等等。

入的学术研究。在《联合国反腐败公约》于2003年10月31日在联合国大会通过前后,我们就充分认识到其对于推动全球反腐败犯罪方面的重大积极意义。在中国签署并后来正式批准该公约后,我们更是切实感到,加强研究该公约与中国刑事法治之间的协调完善,对于中国履行该公约所确定的国际法律义务,促进中国反腐败法治活动的进行,有着极为重要的学术意义和实践价值。因而我们双方经过多次研究后,加拿大刑法改革与刑事政策国际中心决定资助北京师范大学刑事法律科学研究院进行“《联合国反腐败公约》与中国刑事法治的协调和完善”课题的研究。考虑到研究的相关性,本课题以子课题的形式被纳入“北京师范大学哲学社会科学创新群体培养计划”支持的“联合国公约在中国刑事法治领域中的贯彻”项目。本研究活动分别从贯彻反腐败公约的宏观问题、在国内刑法领域贯彻公约的问题、在国际刑法领域贯彻公约的问题、在刑事诉讼领域贯彻公约的问题四个方面分二十八个专题进行。贯彻反腐败公约的宏观问题方面涉及到公约在国内法中的转化、人权保障、反腐败法律机制建构等问题;在国内刑法领域贯彻公约方面则主要分析中国刑法典确定的腐败犯罪和公约所涉及的腐败犯罪衔接问题;在国际刑法领域贯彻公约方面则主要研究反腐败的国际刑事合作问题;在刑事诉讼领域贯彻公约方面则探讨反腐败刑事诉讼程序的合理化问题。本书由主编拟定编写大纲,各位作者分工撰写,最后由主编统稿定稿。

理论来源于实践,服务于实践。期望我们的研究活动能够在刑事立法和司法两个层面上促进中国刑事法治与《联合国反腐败公约》的协调,有力推动中国反腐败刑事法治的进程,严厉惩治和有效预防腐败犯罪活动。

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2011年7月

# **Opening the Door to Sino-Canadian Cooperation In Combating Corruption and Criminal Justice — An English Introduction**

Facing the growing threats of corruption and other criminal activities, countries under various social and legal systems are now more prepared to work together in combating corruption and improving criminal justice. The United Nations Convention against Corruption (UNCAC) is a powerful tool to serve this common interest. By now, 154 countries have become members of the Convention.<sup>[1]</sup> These countries, however, have to resolve a broad range of problems in laws and practices. To truly implement the UNCAC, China and Canada need to reform their own laws and improve international cooperation.

China and Canada have both ratified the Convention. The government of Canada was the first, if not the only, government donor in the western world to fund a law – and – policy reform project with China in order to support the implementation of this Convention along with other international instruments in crime prevention and criminal justice. Canada ratified the Convention two years after China’s ratification, but China appears to have more needs in obtaining technical assistance because of its problems in this area during the ongoing transition.<sup>[2]</sup> Canada is more experienced in building and sustaining a system to effectively prevent corruption. It also has a much easier time when working on the problem of corruption and other criminal matters internationally with other western democracies. In 1998, Canada ratified the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. In 2000, Canada ratified the Inter – American Convention against Corruption. More significantly, as demonstrated in the global corruption perceptions index rankings of Transparency International, Canada is consistently recognized as one of the least corrupted countries in the world.<sup>[3]</sup> In the 2010 Corruption Perceptions Index, Canada was ranked No. 6 out of a total of 178 countries, whereas China stood as No. 78 on the list.<sup>[4]</sup> For these reasons, based on the trust relations build over the years, Chinese policy makers and leading scholars often like to use Canada as an important source for the

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[ 1 ] See status of the UNCAC at <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html>.

[ 2 ] China ratified the UNCAC in 2005. Canada ratified it in 2007.

[ 3 ] See rankings in the CPIs 2001 – 2010 published by Transparency International at its official website, [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi](http://www.transparency.org/policy_research/surveys_indices/cpi).

[ 4 ] [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2010/results](http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results).

learning of good laws and best practices when it is time to recommend new changes to the laws and policies on how to deal with the problem of corruption which is indeed rampant and hard to contain in China.

Canadian and Chinese scholars and justice officials have been able to share a great deal of working knowledge regarding hot issues in implementing the UNCAC both nationally and internationally. Their constructive dialogues have led to the publication of this new book, *The Implementation of UNCAC in China*. My Introduction is to provide some insights on what has been done in the past which allowed Canada and China to engage in the sharing of expertise in the fight against corruption and, in a broader scale, in how to improve the criminal justice system in light of international standards. It then highlights some of the key recommendations proposed by the authors of this book regarding what are required for implementing the UNCAC in China. Lastly, given that this is the last publication in the Canada – China criminal justice reform projects that I was pleased to direct for Canada in the past sixteen years, I would like to thank the authors of this publication and also acknowledge all those colleagues in Canada and China for their support and participation in the Canada – China projects over the years.

## **1. Sixteen Years of Constructive Dialogues**

Canada has had a very friendly and constructive relationship with China in the past five decades. In the early 1960s, Canada provided a large amount of food to give China a hand during the difficult years of the famine after the disastrous campaign of the Great Leap Forward. In 1968, Canada supported the return of China to the United Nations. In 1970, Canada became the first country in North America to establish diplomatic relations with the People's Republic of China. In the 1980s, Canada trained thousands of Chinese technical experts and students. In 1994, Canada was the first western country to enter into a treaty of mutual legal assistance in criminal matters with China. In 1995, the Government of Canada became the first western government to engage China in rule of law and governance reform projects. In 1998, Canada was, once again, through the Canada – China projects funded by the Canadian International Development Agency (CIDA), the first country in the world to work with China in developing law and policy options to combat corruption.

As seen in the projects funded by CIDA, Canada and China have engaged in constructive dialogues for at some sixteen years for the sharing of ideas and expertise in crime prevention and criminal justice, including those on the prevention of corruption. During 1995 – 2010, I had the pleasure of serving as the Director of China Program at the International Centre for Criminal Law Reform and Criminal Justice Policies (ICCLR) in Canada, mainly to work with Mr. Daniel Préfontaine, QC, President of the Centre, and my other Canadian colleagues in developing and implementing the CIDA technical assistance projects in the field of criminal justice in China. Those were projects funded through the CIDA bilateral, partnership and “Public Policy Options” programs for China. The main common theme of these projects was to provide technical assistance



to Chinese partner organizations regarding the application of international standards in reforming the criminal justice system. Combating corruption was one of the focal areas of strong interest to Canadian and Chinese participants in nearly all the projects.

In 1998, through the ICCLR China Program, Canada and China held an International Symposium on Combating Financial Fraud in Beijing. This was the first major international conference ever held in China to discuss international cooperation in combating various types of transnational financial fraud including, amongst the others, corruption and money laundering. A large number of senior Chinese officials and scholars joined Canadian and other international experts in this event.<sup>[5]</sup>

With the support from the Canadian government, justice agencies, law enforcement agencies and correctional services, the ICCLR China Program implemented two phases of the Canada – China Criminal Law and Criminal Justice Cooperation Program (1995 – 2002), the Canada – China Cooperation Project for the Ratification and Implementation of Human Rights Covenants (2000 – 2002), and the Canada – China Legal Aid Legislative Development Project (1998 – 2000). All these projects touched upon the problem of corruption either as an obstacle to access to justice or as a threat to human rights and development.

In the 1990s, when Canada and China were still facing tremendous difficulties in some aspects of their relations, these CIDA – funded projects created a unique forum for friendly discussions on the seemingly “sensitive” issues of the rule of law, human rights and criminal justice in China. Indeed, these pioneer projects helped the opening of doors of communication to high level justice officials and influential scholars on both sides of the Pacific Ocean. The projects provided the first opportunities to facilitate the non – official dialogues between Canadian and Chinese justice agencies and experts. They not only helped the sharing of working knowledge about each other’s systems, but also assisted the development of a trust relationship for official dialogues because of the involvement of a large number of justice officials on both sides. The projects were able to address issues in a broad area of work, including the reforms of criminal procedures, training of prosecutors and judges, judicial reforms, prison reforms and community corrections, legal aid and criminal defense, combating transnational financial fraud and corruptions.

In 2002 – 2004, the ICCLR China Program became a platform for two large (multi – million dollar of CIDA funding each) bilateral projects funded by CIDA: the Canada China Legal Aid and Community Legal Services Project (2004 – 2009), which was implemented by the Canadian Bar Association together with the Legal Aid Center of the Ministry of Justice of China, and the Canada – China Procuratorate Reform Co – operation Project (2004 – 2008), which was implemented by ICCLR in partnership with the Supreme People’s Procuratorate of China. I was fortunate to act as

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[5] See symposium proceedings and papers in Chen Guangzhong et al. (eds.), 1999, *Prevention and Control of Financial Fraud*. Beijing: China Democracy and Law Press. ISBN7 – 800783723/D290.

a senior advisor to the Canadian executing agencies in both projects. The Procuratorate Reform Project had a strong anti – corruption component. It also joined force with the International Association of Anti – Corruption Authorities.

From 2003 to 2007, ICCLR implemented the CIDA – funded Implementing International Standards in Criminal Justice in China Project (IISCJP). I was fortunate to act as the Canadian Director of this Project. Built upon the previous work since 1995, this 4 year project was Canada’s main initiative to provide technical cooperation with China in criminal justice reforms. It consisted of three sub – projects. Sub – Project A was to work with the Center for Criminal Law and Justice (CCLJ) in China’s largest law school, the China University of Political Science and Law in Beijing, to promote and assist reforms to the criminal procedures in China. The Chairman of CCLJ, Professor Chen Guangzhong, was also the President of the Research Society of Procedural Laws of China, which is a national umbrella association of all senior experts in this field of legal science. Sub – Project B was to assist the College of Criminal Law Science (RCCJ, the core team was previously based in Renmin University) in Beijing Normal University. It was to address issues relating to the reforms of the substantive criminal law in China. The Dean of the College, Professor Zhao Bingzhi, is also the President of the Research Society of Criminal Law in China, which is a national association of justice officials and criminal law scholars. Sub – Project C was to assist the China Prison Society (CPS) in developing options for prison reforms and community corrections. Among these sub – projects, A and B had a cross – theme focus on the implementation of both the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption.

Over the years, however, there were different voices about the need and effectiveness of CIDA’s rule – of – law and governance programming in China. Some were demanding immediate changes to the fundamental systems in China. Some claimed that nothing had improved through the law reforms in China. Some argued that only confrontation and sanctions could make a change in China. Still, we have seen strong evidence indicating that the CIDA China projects have achieved great successes through friendly dialogues between the experts. When working with China, a pragmatic approach can have much more far – reaching impact than confrontation. As always, though, improving the law will require long – term commitment and real expertise.

From 2008 to 2011, because of the new CIDA funding priorities and policies, its China governance program has become nearly invisible in China. Until recently, Canada has almost disappeared from the field of law and justice reforms in China. However, the results of our work are becoming more visible in this important field, even though the outside contributions could only play a modest role comparing with the real driving forces for the great changes in China.

When joining force with the Chinese reformers, Canada’s modest contribution can make a difference. In 2007, for example, the CIDA funded ICCLR IISCJP Program delivered a joint pub-

lication entitled *A Study on Procedural Law Issues in UNTOC and UNCAC*.<sup>[6]</sup> In this collection of research papers and field reports, Chinese and Canadian experts discussed the use of special investigative techniques in the investigation of corruption and money laundering cases. The recommendation was to allow the investigating agencies use special techniques in the investigation of corruption cases as it is required by the UNCAC. In August, 2011, China's National People's Congress published the Draft Amendments to the Law of Criminal Procedures of China for public consultation.<sup>[7]</sup> Article 56 of the Draft Amendments, for the first time in China, incorporated the above recommendation by allowing the anti-corruption bureaus to employ the special techniques. If this becomes the Law, it could be an important step in implementing the UNCAC.

Strengthening the institutional capacity of key Chinese law reform organizations was an important objective of the CIDA ICCLR China Program. Canada has undoubtedly contributed in a modest way to the improved institutional capacity of our Chinese working partners over the years. During 1995 – 2007, through the CIDA ICCLR China Program, Canada was the first country to work with China on a program basis to systematically introduce and implement United Nations instruments in the reforms of the Chinese criminal justice system. In 2011, nearly four years after the completion of the IISCJP in 2007, with strong support from both the Ministry of Foreign Affairs and the Ministry of Justice of China, the College of Criminal Law Science of Beijing Normal University formally joined the United Nations Crime Prevention and Criminal Justice Programme Network. This move has given the College a new status to operate as the only Chinese academic institution taking the lead in promoting and implementing the UN criminal justice standards and instruments in China.

## 2. Twenty – Eight Topics of Recommendations

The UNCAC was adopted by the United Nations General Assembly on Oct. 31, 2003. Only one month later, on December 10, 2003, the Government of China signed up to this Convention. On October 27, 2005, the Standing Committee of the National People's Congress of China ratified it. In recent years, Chinese researchers published an impressive number of books and papers to explore and discuss the needs and options of improving the Chinese laws and systems in light of the principles and standards of the UNCAC. Amongst the researchers, many were associated with CCLJ and RCCJ, the two key partner research groups of the CIDA ICCLR China Program. Many others participated in the exchange activities in the projects of this Program.

In 2004, Yang Yuguan of CCLJ and a team of researchers published an interpretative re-

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[ 6 ] Chen Guangzhong et al. , 2007, *A Study on Procedural Law Issues in UNTOC and UNCAC*. Beijing: China University of Political Science and Law Press. ISBN: 9787562030621/D3022.

[ 7 ] See Draft Amendments to the Law of Criminal Procedures of the PRC, at official NPC website [http://www.npc.gov.cn/npc/xinwen/lfgz/2011-08/30/content\\_1668503.htm](http://www.npc.gov.cn/npc/xinwen/lfgz/2011-08/30/content_1668503.htm).

search book on the Convention, *A Study on United Nations Convention against Corruption*.<sup>[8]</sup> In 2006, Chen Guangzhong and his research team at CCLJ published their book, *The UNCAC and Re – amending the Law of Criminal Procedures in China*.<sup>[9]</sup> In 2007, a CCLJ team led by Chen Guangzhong and a Canadian team produced a joint publication entitled *A Study on Procedural law Issues in UNTOC and UNCAC*, a key product of the CIDA funded IISCJP.

The work of the RCCJ scholars and associates has been similarly impressive. In 2005, Chen Lei, a RCCJ Associate working with the Fujian Provincial Procuratorate published his doctoral dissertation, *Combating and Preventing International Corruption Crime*.<sup>[10]</sup> In 2008, Chen, as a post – doctoral researcher based in RCCJ, published his second research book on the UNCAC, *An Overview of International Conventions against Corruption and the Chinese Criminal Legislation on Anti – Corruption and Improvements*.<sup>[11]</sup> Also, Li Xiujian, a senior scholar previously participated in the IISCJP with the CCLJ and later joined the RCCJ research team for this publication, published her doctoral dissertation *A Study on Developing Anti – Corruption Laws in China*.<sup>[12]</sup> In 2007, Zen Zhen, a senior prosecutor and professor who had involved in the IISCJP project activities through both CCLJ and RCCJ, led a team of colleagues to publish a book *A Study on the UNCAC and Corresponding Mechanisms in Domestic Laws*.<sup>[13]</sup>

The Implementation of UNCAC in China has incorporated nearly all the key recommendations in the previous research publications in China. This publication proposes a set of research – based recommendations regarding the implementation of the UNCAC through the reforms of the laws and systems in China. Professor Zhao and his research team of scholars present their recommendations in the order of twenty – eight topics, each with detailed research findings and explanations.

This comprehensive research product consists of four parts. Part I examines five general areas of legal topics relating to the implementation of UNCAC standards and norms. They are: (1) issues relating possible models of the transformation of rules from the UNCAC to Chinese laws; (2) issues in ensuring the protection of human rights in combating corruption; (3) issues in improving legal institutions to enhance their capacities to prevent corruption; (4) issues relating to the adoption of more effective measures to fight corruption related money laundering; and (5) effective

[8] Yang Yuguan and Wu Gaoqin, 2004, *A Study on United Nations Convention against Corruption*. Beijing: Chinese People's Public Security University Press. ISBN7810877704/D596.

[9] Chen Guangzhong (ed.), 2005, *The UNCAC and Re – Amending the Law of Criminal Procedures in China*. Beijing: Chinese People's Public Security University Press. ISBN781109262X/D255.

[10] Chen Lei, 2005, *Combating and Preventing International Corruption Crime*. Beijing: China Procuratorate Press. ISBN7801855035/D1478.

[11] Chen Lei, 2008, *Overview of International Conventions against Corruption and the Chinese Criminal Legislation on Anti – Corruption and Improvements*. Beijing: Chinese People's Public Security University Press. ISBN9787811392111.

[12] Li Xiujian, 2007, *A Study on Developing Anti – Corruption Law in China*. Beijing: China Fangzheng Press. ISBN9787802161818.

[13] Mu Ping and Zeng Zhen, 2007, *The UNCAC and Corresponding Mechanisms in Domestic Laws*. Beijing: The Law Press. ISBN 9787503669668.

mechanisms to monitor and control the flow of corruption related proceeds of crime across national borders.

Part II of the book explores issues in the ongoing reform of the substantive criminal law in China, including the Criminal Law and related statutes and regulations. The nine chapters in this part present detailed recommendations to amend the existing definitions of corruption – related offences and to create new offences in the Criminal Law. The key recommended changes, among others, include: (1) to broaden the definition of bribes to include all “undue advantage” as it is defined under Article 15 of the UNCAC, and to criminalize the bribery of foreign public officials and officials of public international organizations; (2) to redefine the offences of embezzlement and misappropriation of public funds in accordance with Article 17 of the UNCAC, especially regarding the status of offenders and other elements of the offences; (3) to broaden the application of the criminal law provision of the offence of trading in influence into the private sector; (4) to assess the practical impact of enforcing the law on illicit enrichment, given that China still has no system to require public officials report and disclose their assets; (5) to broaden the coverage of anti – bribery law in the private sector and increase the penalties; (6) to give more teeth to the anti – money – laundering law in China and target corruption related money laundering activities; (7) to clarify the application of existing legal provisions in the Chinese Criminal Law in cases of concealment and obstruction of justice; (8) to redefine the definition of “unit crimes” in the Criminal Law and introduce new types of punishment in accordance with Article 26 of the UNCAC; and (9) to reconsider the mental elements of corruption related offences in the Chinese law in order to make them more compatible with the typologies under Article 28 of the UNCAC.

Part III deals with issues of international criminal law. The authors have examined seven aspects of issues of importance in this area of research: (1) potential conflicts between the UNCAC and present Chinese Criminal Law regarding competing jurisdictions in the handling of cross – border corruption cases, especially when they involve Chinese fugitives overseas; (2) the need to enter into more treaties and improve the Chinese law in order to facilitate the extradition of fugitives; (3) the need to codify the laws of mutual legal assistance in criminal matters in China (a draft Law is presented in this chapter); (4) the need in developing more effective law enforcement cooperation with foreign countries; (5) issues in developing a system for the direct recovery of stolen assets in corruption cases, namely issues relating to the initiation of civil litigations overseas; (6) the need to establish procedures for indirect recovery of stolen assets or a stand – alone confiscation procedure; and (7) issues in the creation of a system for the quick return and reasonable disposal of assets in corruption cases, in order to balance the lawful interests of the state, the victim and the relevant others.

Part IV discusses what can be done to improve the Law of Criminal Procedures in China in order to make it more compatible with the requirements of the UNCAC. The recommended changes are systematic and well – focused, including: (1) the need to implement “the fundamental principles of due process of law in criminal proceedings and in civil or administrative proceedings,” as

it is required by the UNCAC in its Preamble, which consist of all the fair trial principles; (2) the need to change the law and allow the use of special investigative techniques as well as more effective freezing and forfeiture measures in the investigation of corruption cases; (3) issues in improving the prosecution of corruption cases both to enforce the law more strictly and to give more discretionary powers to the prosecutors; (4) the need to improve the law on supplementary civil proceedings in the criminal process so as to protect the interest of the victim and good – faith third party; (5) the need in creating a system to allow trial by default when the accused person is missing or at large, so as to facilitate the recovery of stolen assets from overseas; (6) the need to systematically amend the Law of Criminal Procedures or to enact the Law of Evidence by incorporating the UNCAC rules of evidence into the Chinese law; and (7) the need to restructure the existing anti – corruption agencies and streamline their powers, functions and responsibilities, especially with respect to the relationship amongst the Disciplinary Committees of the Communist Party, the bureaus of supervision in the governments and the anti – corruption bureaus within the procuratorates.

To encourage further discussions, we have also included as the annex of this book two publications of the United Nations. They are the Chinese language Legislative Guide for the Implementation of the United Nations Convention against Corruption and the Technical Guide for the United Nations Convention against Corruption. Readers of this book may find it helpful to compare the Chinese recommendations with these guidelines of the United Nations.

### 3. Acknowledgement

The initial research for this publication was completed by the Chinese team of scholars at the College in July 2007. However, the research team soon found that the findings of their research had to be updated because of major developments in the field. Indeed, in the past four years, constant changes have been introduced to the relevant law, regulations and practices in China.

In July, 2007, after the chapters of this book were completed the first time, the Supreme People’s Court issued a set of judicial interpretations regarding the application of laws in bribery cases.<sup>[14]</sup> In August, 2007, the Supreme People’s Court and the Supreme People’s Procuratorate jointly issued their judicial interpretation to name two private sector bribery offences.<sup>[15]</sup> In September, 2007, the Central Government of China created a national department responsible for the prevention of corruption – the State Bureau for the Prevention of Corruption under the State Council. These changes forced the research team to postpone the publication to the next year.

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[14] The Supreme People’s Court: “Opinions on Issues relating to the Application of Laws in Handling Criminal Bribery Cases” (July 8, 2007).

[15] The Supreme People’s Court and the Supreme People’s Procuratorate: “Supplementary Provisions on the Determination of the Names of Criminal Offences in Implementing the Criminal Law (3)” (Oct. 25, 2007).

In 2008, however, more changes took place. The Central Disciplinary Committee of the CCP released its Work Plan to Build and Improve the Systems for Punishing and Preventing Corruption during 2008 – 2012. Also, in 2008, China amended the Criminal Law to raise the penalty on the offence of possession of large amount of assets from unknown sources. Further, a court rendered China's first conviction of a case of money laundering.<sup>[16]</sup>

The changes continued in 2009 and 2010. An unprecedented crackdown on high – level corrupted officials was launched, ending with the conviction of 18 minister – level officials in 2009. Also, the government decided to introduce a variety of preventive systems to contain corruption.<sup>[17]</sup> In 2010, the Chinese government for the first time released a White Paper on corruption, entitled *The Work to Combat Corruption and Build Clean Government*.<sup>[18]</sup> This came as a comprehensive government review of all the major actions that had been taken to fight corruption in recent years.

Consequently, the Chinese research team has decided to postpone the publication of this book three times in order to incorporate all these new developments into their research. In fact, in 2011, after the most recent submission of the re – revised main text to the publisher, the laws were once again changed in China. In February, 2011, the National People's Congress adopted the Eighth Amendments to the Criminal Law, which created the new offence of paying bribes to foreign public officials and officials of public international organizations.<sup>[19]</sup> Furthermore, on August 31, 2011, the NPC publicized the Draft Amendments to the Law of Criminal Procedures, which, as discussed earlier, proposed to allow the use of special investigative techniques and trials by default in the handling of corruption cases.

I would like to congratulate Professor Zhao Bingzhi and his team of scholars for the final completion of their research on this project. In particular, Professor Liu Zhiwei should be acknowledged for his work in organizing the RCCJ team to continuously update the chapters. I would take this opportunity to extend my gratitude to Professor Chen Guangzhong and his team of experts at the CCLJ as well as all the other Chinese colleagues and senior officials of Chinese justice agencies for their strong support and generous contribution to the CIDA ICCLR China projects during the past 16 years. These include the senior officials and experts of the Supreme People's Procuratorate, the Supreme People's Court, the Ministry of Justice, the China Prison Society and many provincial justice departments.

I want to acknowledge Mr. Daniel Préfontaine, QC, President of ICCLR, and other Canadian colleagues of ICCLR for all their gracious support, guidance and contribution to the China Program

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[16] <http://fanfu.people.com.cn/GB/140198/8685167.html>.

[17] [http://www.jianshen.cas.cn/yw/201001/t20100113\\_2726457.html](http://www.jianshen.cas.cn/yw/201001/t20100113_2726457.html).

[18] [http://www.gov.cn/zwgk/2010-12/29/content\\_1775173.htm](http://www.gov.cn/zwgk/2010-12/29/content_1775173.htm).

[19] [http://www.npc.gov.cn/npc/xinwen/2011-02/25/content\\_1625679.htm](http://www.npc.gov.cn/npc/xinwen/2011-02/25/content_1625679.htm).

that I directed during 1995 – 2010. I also gratefully acknowledge all the Canadian judges, justice officials, prosecutors, professors, police officers and correctional experts and officers for their significant contribution to the ICCLR China Program. These include the Honorable Justices of the Supreme Court of Canada and judges in British Columbia and other provinces, senior officials and experts of the Department of Justice of Canada and the Ministry of Attorney General of British Columbia, senior officials and experts of the RCMP, the Correctional Services Canada and the National Parole Board, as well as many Canadian professors in Vancouver and Toronto, practicing lawyers and other legal experts in Canada. And last but not the least, the Canadian International Development Agency is acknowledged once again for its generous funding support to this publication.

Implementing the UNCAC is still a relative new development in many countries in the world, including Canada and China. To make the Convention work in the real world, there are still many complicated challenges and obstacles that are often caused by the lack of mutual understanding and trust, differences in laws and systems, and difficulties in cross – cultural communication. Indeed, as demonstrated in the case of Lai Cheong Sing, who was China's No. 1 most wanted fugitive overseas during the last twelve years, it is never easy to overcome these difficulties. In July, 2011, after twelve years of legal battles in Canada, Mr. Lai was deported back to China from Canada. This case serves as a great example of the need of long – term commitment and consistent effort in both countries in order to achieve the results.

This publication has opened one more door for further dialogues on cooperation in criminal justice. The result of cooperation depends on the political will and wisdom of the decision makers in both countries. It is the hope of all the contributors to this book that our work will be helpful to the development of effective cooperation in combating corruption and transnational crimes between our two great nations, Canada and China.

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