

extent of that necessity.

To be sure, we should take a strong attitude against this 'common enemy of humans'. However, the Constitution of Japan prohibits any arms, so that we should be careful about the unconscious expansion of the Self-Defense Forces.

2. Administrative Law

The Fundamental Act on the Public Service

Law No. 40, May 20, 2009 (Effective on July 1, 2009) 11 provisions

Background:

The division of roles between the private sector and the public sector has been changing under the climate of regulative, administrative and financial reforms. In other words, several reforms have been introduced to allow the provision of public services by private agencies. Examples include the foundation of an independent administrative agency, the Marketing Test System (the Act on the Reform of Public Services by Introduction of Competition Law No. 51, June 2, 2006), PFI (Private Finance Initiative), Designated Manager System in Local Government Act. In Japan, the reform of public service provision has been carried out toward deregulation and privatization.

However, a few concerns have been raised concerning the reforms with regard to the unclarity of the responsibilities and duties between the government and the private sector, and to the worsening of working conditions for employees who work in public service provision. These problems will result in a deterioration of service quality, which will dampen the right of access to public services by the citizens.

Under these circumstances the Fundamental Act on the Public Services has been passed, as an ideal legislation for public services, taking the standpoint of the citizens who are entitled to receive civil services, by legislation introduced by a Diet member of the House of Representatives.

Main Provisions:

Article 1 Purpose

Provided public services are fundamental to the daily lives of citizens, and this legislation aims to define the basic principles of public services and the responsibility of the state, in addition to specifying the basic rules of implementing public services and promoting delivery of public services, and finally to contribute to the realization of a society in which citizens can live their lives in a comfortable way.

Article 2 Definition

In this legislation, ‘public services’ denotes ‘the activities that satisfy basic demands of citizens to manage their daily and social lives.’ To be specific, it first covers provision of cash or kind benefits, and services given to the people concerned through the activities or businesses of the state and local public entities; secondly it covers activities related to the regulation, supervision, promotion, and distribution of public information, the preparation of public facilities and acts of contributing public benefits by the state and local public entities.

Article 4 to 7 Obligation of the concerned person

This legislation defines the duties of the state and local public entities to provide public services in accordance with basic principles (Article 4 & Article 5). In addition, it confirms that those who provide public services are aware of their responsibility on behalf of citizens, fulfilling their duties with pride (Article 6), and it assumes the responsibility of the government to make every effort necessary to satisfy the goals of the legislation (Article 7).

Article 8 Establishing the division of roles and obligation in case of public service contracts

When the implementation of public services are outsourced by contract, the division of roles and obligation, and responsibility must be clarified between the contractor and the trustee.

Article 10 Consider the standpoint of the citizens

Public services should be delivered to reflect the standpoint of the citizens who take advantage of public services.

Article 11 Proper working conditions for employees who work in public service provision

Proper actions should be made to ensure that safe and high quality public services be delivered appropriately with certainty and the protection of proper working conditions and other amenities for those who provide public services.

Editorial Note:

All the reforms regarding the delivery system of public services, including the foundation of an independent administrative agency, the Market Test System, the Private Finance Initiative (PFI), and the Designated Manager System, were introduced for the purpose of providing high-quality public services to the public at affordable rates. For instance, the Marketing Test System (the Act on the Reform of Public Services by Introduction of Competition Law No. 51, June 2, 2006), the central government and local public entities shall reconsider constantly public services in general from the standpoint of the people who receive the public service, and shall ensure that the ingenuity of private providers is reflected appropriately in its implementation by means of transparency and just competition.

However, it merits attention that a series of reforms has been implemented to get out of financial difficulties. In other words, the earlier delivery system of public services was unable to function any more, for which the ingenuity and capital of the private sector was utilized to pave a new way for financial consolidation. Therefore, the details of the reforms have leaned toward attracting private participation in public service provision, such as privatization, outsourcing, and so on.

It sounds plausible to evaluate that recent reforms, including the privatization and outsourcing of public services, were successful in terms of enhancing efficiency in service provision and resolving financial difficulties. However, it should be noted that the institutional design and implementation of the reform barely fulfills the basic principles of public ser-

vice, that is, “the provision of public service from the standpoint of citizens at affordable rates”, a situation where the means and goals of public services have replaced one another.

Under these circumstances, the Act on the Reform of Public Services has the significance of reaffirming the rights of the citizens who receive public services that have deteriorated during the process of privatization and outsourcing, and of legalizing the basic stance toward clarifying problems in institutional arrangements.

This legislation has several characteristics. First, it employs the notion of a narrowly defined “public service”, that is, a service provided not only by the administration but by various partners in societal areas. However, this legislation only applies to the public service that is provided by the administration, not that by private agencies. This clearly becomes its weakness.

Secondly, it delineates the labor conditions for those employed in the area of public service provision. This comes out of an interaction effect between the transfer of political power and the influence of labor unions, including the united unions and the official and public service employees’ unions.

Finally, as a basic legislation, this act only provides an ideological direction for the delivery system of public services, limited to stipulating abstract responsibility and sincerity. Therefore, the normative sanction of this legislation depends on the institutional design and implementation of public service provision.

3. Family Law

Act Revising the Part of the Law of Nationality

Law No. 88, December 12, 2008 (Effective on January 1, 2009)

Background:

Art. 3 of the Law of Nationality (newly provided in 1984) gives Japanese nationality to a child born out of wedlock between a Japanese father and a foreign mother in cases where the child (1) becomes legiti-