

that the time was too short to review the Bill in the Diet. Surprisingly, the time for discussion of the Bill in the House was substantially about an hour.

The development of communication technology makes it easy for civil people to communicate by many ways. Clearly, a lone individual can send one opinion to another individual or to the public more easily than before the popularization of the internet. In addition, some traditional media, which are national newspaper companies, are also positively groping for a way to send information by the internet recently. The comprehensive and broader definition of “broadcasts” may have the possibility of connecting with excessive government regulation of public discourse. The government should carefully apply the law based on the principle of free speech protected by the Constitution.

2. Criminal Law and Procedure

The Act on the Partial Revision of the Penal Code and the Code of Criminal Procedure

Law No. 26, April 27, 2010 (Effective on April 27, 2010).

Background:

Recently, a citizens’ movement of crime victims and their family members has grown in Japan, and called for the government to revise the limitation of prosecution of heinous and serious crimes, such as murder. Moreover, it has been noted that the purport of the limitation of prosecution has not always been true of these types of crime. This purport includes the reduction of the emotional request for a harsh penalty over time.

In December 2004, the Act on the Partial Revision of the Penal Code, etc. (Law No. 156, December 8, 2004) was enacted. In this 2004 revision, the period of the limitation of prosecution was extended with regard to the crimes to which the death penalty or life or not less than 15 years imprisonment with or without labor is applicable. This 2004 revision postulated the existence of the limitation of prosecution. In contrast, the said Act

enacted in 2010 has a markedly different character from the previous revision. The 2010 Act contains the abolition of the limitation of prosecution as to a part of crimes, and has a momentum to revise fundamentally the limitation of prosecution.

Main Provisions:

1. The Revision of the Limitation of Prosecution of the Crimes in Which a Person Is Killed

As for the crimes in which another person's life is taken away, such as murder, it is unjust that the passing of time leads to the dispensation of offenders from punishment across the board, and legislators should make it possible to pursue the criminal responsibility of offenders for longer periods of time. Currently such a consciousness is widely shared among the public. Considering these existing conditions relating to the crimes in which a person is killed, it is demanded that the government ensure further the due scope of the power of prosecution of these crimes. Then, through the said Act enacted in 2010, the provisions for the limitation of prosecution of the crimes in which a person is killed were revised in the Code of Criminal Procedure.

As regards the crimes in which a person is killed and to which the death penalty is applicable, which were hitherto subject to the limitation of prosecution, its period was set at 25 years. But, in the 2010 Act, this limitation was abolished (the revised Code of Criminal Procedure, Article 250, Paragraphs 1 and 2).

As regards the crimes in which a person is killed and to which imprisonment with or without labor is applicable, the period of the limitation of prosecution was prolonged as follows:

(a) As for the crimes to which life imprisonment with or without labor is applicable, this period was extended from 15 to 30 years (Article 250, Paragraph 1, Item 1).

(b) As for the crimes to which imprisonment with or without labor for a maximum term of 20 years is applicable, this period was extended from 10 to 20 years (Article 250, Paragraph 1, Item 2).

(c) As for the crimes except (a) and (b) to which imprisonment with or without labor is applicable, this period was extended from 5 or 3 to 10 years (Article 250, Paragraph 1, Item 3).

2. The Revision of the Limitation of Punishment

The limitation of punishment is a rule by which the execution of punishment is remitted when a set period of time has elapsed without this execution after the sentence was finally decided on. If, for all the limitation of prosecution was revised, that of punishment had not been revised, though the power of prosecution against a murderer, for example, is not extinguished, the power of the execution of punishment could be after the court has sentenced him/her to death penalty. This consequence would be inappropriate. Moreover, as for the crimes which are subject to the limitation of prosecution, it would be inappropriate that, when a criminal is sentenced to a maximum prison term for one of these crimes, the period of the limitation of punishment is shorter than that of the limitation of prosecution against him/her. Therefore, as long as the limitation of prosecution is revised, that of punishment also should be revised, and the consistency of these limitations should be ensured. Thus, through the said Act enacted in 2010, the provisions for the limitation of punishment were revised in the Penal Code.

So far, the person who was sentenced to the death penalty could elude its execution by the completion of the limitation of punishment. Its period was set at 30 years. But, in the 2010 Act, this limitation was abolished (the revised Penal Code, Article 31).

As regards life, or 10 years or more imprisonment with or without labor, the period of the limitation of punishment was prolonged as follows:

(a) As for life imprisonment with or without labor, this period was extended from 20 to 30 years (Article 32, Item 1).

(b) As for 10 years or more imprisonment with or without labor, this period was extended from 15 to 20 years (Article 32, Item 2).

Editorial Note:

In recent years, a citizens' movement of crime victims and their family members have urged legislators to develop legal systems to protect their interests and satisfy their punitive sentiments. Such is the case with the said Act enacted in 2010.

Traditionally, it has been believed that the limitation of prosecution is set up to balance the necessity for punishment with legal stability. On the one hand, in order to maintain law and order, it is necessary to punish a

criminal. On the other hand, the legal stability brought through time should also be respected. Usually, this legal stability has three aspects in the limitation of prosecution. First, evidence can be scattered and lost through time. Secondly, over time, the emotional request for a harsh penalty tends to decrease in society, including among crime victims. Thirdly, when a certain period of time has elapsed without punishing a person who committed a crime, his/her current state of affairs ought to be respected.

The demand for the legal stability applies also in cases of the crimes for which the limitation of prosecution was abolished in the 2010 Act. However, ultimately, taking all these factors into consideration, the government, the only actor in the criminal policy, has to decide whether we should attach greater importance to the legal stability and prevent evenly public prosecutors from indicting criminals by the limitation, or whether we should emphasize the necessity for punishment and enable public prosecutors to indict more criminals through the revision of the limitation.

3. Commercial Law

Legislative Council established the Company Law Group

Under the advisory by the Minister of Justice (Advisory No. 91) dated 24 February 2010, the Legislative Council decided to establish the Company Law Legislation Group. Then, Shinsaku Iwahara, Professor of University of Tokyo, has been appointed as the head of the group, and the group launched the review of the Company Law. The work is now ongoing. The first meeting was held on April 28, 2010. Thereafter, 10 meetings had been held until February's 10th meeting, but due to the effect of the massive earthquake in East Japan, the Council has been suspended. The deadline of the bill is yet to be specifically defined.

Background and content of the deliberations

The aforementioned Advisory clearly states the demand of the Minister of Justice: "We have to review the Company Law in light of its important roles in the society and the economy. Especially, to ensure fur-