

Abstracts

Whistleblowing and Labour Law

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The Whistle Blower Protection Law enacted in June 2004 (scheduled to go in effect sometime after April 2006) sets to limit the scope of whistle blowing applicable to penal laws and is aimed at encouraging employers to provide their own in-house reporting systems, by adding increased protection requirements for whistle blowing informed to an outside organization, with the objective of promoting corporate compliance. Furthermore, civil rule provisions such as nullifying personnel dismissals, nullifying the cancellation of worker dispatch contracts, and prohibiting adverse treatment were added regarding “behavior critical of a company” and “whistle blowing” that satisfy the requirements prescribed in the Law. On the other hand, for whistle blowing and critical activities that are not prescribed in the Law, the validity of the employee’s behavior will be determined on an individual basis in the courts in relation to the system of corporate order in place, as in the past. As such, it is feared that the weighted requirements in the Law for reporting to an outside organization may influence court decisions regarding the validity of critical activities against a company. It was sometimes discussed that employees should exert efforts to ask for improvements before informing or whistle blowing to an outside organization takes place according to the customary obligation regarding fidelity regulations included in labour contracts. Also, previous precedents have determined the illegality of whistle blowing, considering the possibility for improvement efforts within the company, in relation to the stringency and extent of the illegality, and the status of the whistleblower. Determining the validity of activities which criticize a company, including whistle blowing, should be conducted as an issue that is on a different level from the objectives of the Law, since the Law has the immediate objective of eliminating wrongdoing on the part of employers.

Sociopsychological Thinking of Whistleblowing

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Whistle blowing has been received in a negative way within the traditional Japanese corporate environment, where the company is compared to a family structure and there is a prevailing sense of close-knit bonds, similar to that shared with relatives, among employees. Some of the factors which have brought about an increased incidence of whistle blowing recently in Japan include shifts in public awareness and drastically changed relationships between individuals and the organization. However, since such changes remain in a transitional period, people continue to feel a need to prioritize the interests of those close to them, rather than the public interest or the sense of social justice, which limits the amount of whistle blowing. Also, the sacrificial burden assumed by whistle blowers in Japan is quite serious and intense. Namely, while it is true that corporate organizations in the United States also try to eliminate whistle blowing and sometimes take reprisals against those who do blow the whistle, in Japan, there is additional pressure from the outside society (which of course ultimately benefits from such reporting of corporate wrongdoing) that is prone to estrange whistle blowers and take a cold attitude towards such “betrayers” or “unforgivable persons.” Four types of motivating factors toward whistle blowing are considered: a sense of social justice, personal enmity, devotion to the company, and factional disputes. As a model case, the present study discusses the example of an anonymous whistle blower who was motivated by a sense of social justice, and it analyzes the psychological processes of the said person.