

Developments in the Law in 2011: Criminal Law

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Abstract

This paper is intended to examine how the legal community in Taiwan responded to criminal law issues in 2011. It includes descriptions and analyses of legal changes, interpretations of the Grand Justice Council, resolutions by the Criminal Divisions Conference of the Supreme Court, and some controversial events in Taiwanese society.

Regarding to legal changes, the legislators revised the elements of and increased the punishments against offenses of burglary, unsafe driving, and property crimes of unknown origin. Regarding to interpretations of the Grand Justice Council, the Grand Justice Council made the Interpretation No. 687. Regarding resolutions by the Criminal Divisions Conference of the Supreme Court, some invalidated several precedents related to J.Y. Interpretation No. 687. Others dealt with individual issues concerning the theory of punishment. During this year, there were no social movements triggered by criminal law issues like last year. What attracted the attention of the society was two controversial cases: the case of Jiang Guo-Qing (regarding the responsibility for creating a miscarriage of justice) and the case of former legislator Lee Chin-An (regarding the culpability of Lee's fraudulent conduct).

To sum up, we could see problems of over-punishment and under-punishment in the field of criminal law. These problems are partially caused by the punitive mentalities prevalent in the society that has affected the content of the law. Thus, what scholars could do is little. The problems are partially caused by theoretical insufficiency. In this respect, only a few of them

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could be mended by the better theorization. But what scholars could do is still not optimistic.

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