

Developments in the Law in 2010: Criminal Law

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Abstract

This article is intended to examine criminal law issues in Taiwan in the year of 2010. The analyses include one legal change, interpretations of the Grand Justice Council, resolutions by the Criminal Divisions Conference of the Supreme Court, and some controversial events in Taiwanese society. The legal change refers to the enactment of the exculpatory clause to the offenses of desertion (Article 249-1 of Criminal Code). The interpretations of the Grand Justice Council include No. 678, No. 679 and No. 680. No. 680 deals with the principle of the explicit authorization in administrative law and the requirement of the explicit elements in criminal law. Both No. 678 and No. 679 deal with the policy issue about the necessity of punishment. The former involves with offenses against regulations in Telecommunications Act, while the latter involve with the convert imprisonment into fine and the combined punishment for several offences. In the year 2010, the criminal law has faced unprecedented attacks and controversies. The controversies are triggered respectively by the conviction of corruption against former President Chen Shui-bian, government's plan to abolish the death penalty, and several court judgments on child rape. The last one even triggered a child rape victims' rights movement -- the White Rose movement. In these events, the most important issue has little to do with legal theories. It is rather about the limitation of the legal theories to meet the punitive demands from the society. The issues in these events are apparently political. It explains why the Criminal Divisions Conference of the Supreme Court made a legally indefensible resolution to respond to the requests by the movement

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activists. Other resolutions made by the Criminal Divisions Conference of the Supreme Court merely intend to unify diverse interpretations of the law for the lower courts.

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