

Developments in the Law in 2018: Criminal Law

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Abstract

This paper focuses on the Criminal Code amended in 2018 and the decisions related to criminal law made by the Supreme Court in 2018 for discussion and review. In 2018, only the provision in Article 190-1 related to criminal law on the environmental destruction was amended. From the perspective of legislative process, the background of the amendment of this provision is that, the legislators argue that the old Criminal Code requires environmental pollution must cause “public danger”. However, the cause between public danger and environmental destruction is very difficult to prove. As a result, some environmental destroyers narrowly escaped from the criminal sanctions in the past because it was impossible to prove the pollution results and the causation, which raised public disapproval and social grievances. The goal of this provision amendment is to eliminate the elements of “public danger” and “causation”. Therefore, the act environmental destruction is easier to be persecuted. The amended provision also increased criminal punishment to prevent the act of environmental destruction.

In terms of the decisions made by the Supreme Court in 2018, this paper focuses on the applications of the criminal law related to crimes committed by fraudulent groups. In recent years, telephone or internet scams have become a serious issue. A behavioral pattern of “aggravated false pretense” in Article 339-4 was added to the Criminal Code in June 2014 in order to increase the punishment of fraud. Regardless, in recent years, various disputes about the application and punishment related to aggravated false pretense still appear in

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practical decisions. Whether the behavior of these fraudulent groups can be also applied to the Organized Crime Prevention Act is highly concerned. Therefore, in this paper, two decisions made by the Supreme Court in 2018 are selected to be discussed.

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