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A summary of my dissertation:
Privacy and Data Protection in Information-Oriented Municipalities

This is a summary of my dissertation, which deals with the issues of the right to privacy and data protection laws in information-oriented municipalities in Japan.

1. Why privacy and what is privacy?

Why privacy? Because the right to privacy is essentially related to personal rights or personal dignity, there is no doubt that it is important to argue this issue. Even though most of the constitutional laws in the world make no explicit provision for privacy rights, judicial precedents acknowledge that they should be contained in the territory of the right to pursue happiness.

Today is the information age, in which many entities in the public and private sector hold individual information or personal data. It is absolutely essential to protect the right to privacy and personal data in order to make this information-intensive society secure and convenient.

Although neither the U.S. Constitution nor the Japanese Constitution specifically provides for a right to privacy, the supreme courts in each country acknowledge this right as one of the human rights which has to be protected by law. It is difficult to explicitly define a privacy right. Roughly speaking, however, it will not be wrong to argue that there are mainly two definitions of the right to privacy. First, it is the right to be let alone. Second, it is the right of individuals to control their own personal information.

2. Personal data protection law

There are statutes in existence which include the words “privacy law” or “personal data protection law” in their titles. These laws are literally statutes to protect privacy rights or personal information. It is said that the Personal Data Act of 1973 in Sweden was the first law in the world to protect privacy or personal data.

Among international laws for privacy, the guidelines of the OECD and EU

Directive are famed for their strong influence on privacy laws in all countries of the world. In fact, Japan's Act on the Protection of Personal Information which will be discussed later has been affected by the OECD guidelines.

In contrast, an all-round personal data protection law was established in Japan on May 23, 2003. Since 1988, there had been an insufficient personal data "protection" law for the public sector. This old personal data protection law for the public sector was only applicable to computerized data and it did not protect any personal data written in official documents. It also lacked penal provisions.

The Act on the Protection of Personal Information of 2003 consists of two parts: a fundamental law part and a specific law part for the private sector. Separate personal data protection laws for the public sector and for semi-public/semi-governmental agencies were established at the same time.

The Act on the Protection of Personal Information for the Public Sector is not only applicable to computerized data and documentary data but also provides for a criminal penalty of up to two years in jail or a fine of no more than one million yen for inappropriate disclosure of personal information or the provision of personal data files to unauthorized recipients.

3. Personal data protection ordinances in municipalities

There are two types of personal data protection statutes for the public sector: national-level law and local-level ordinances. The aforementioned Act on the Protection of Personal Information for the Public Sector is applicable only to state organizations. The fundamental law part of the Act on the Protection of Personal Information stipulates that all 2500 local governments in Japan should independently establish personal data protection ordinances. The proportion of local governments that have enacted personal data protection ordinances is 99.8% as of January 1, 2006.

In 1975, Kunitachi-shi in Tokyo established an ordinance which aimed to protect citizen's computerized data for the first time in Japan. At that time, even the National Diet had not yet passed any such personal data protection regulation into law. Although this ordinance was obviously deficient in that it did not protect personal information in documents, it is correct to call the ordinance advanced for its time. Then, in 1984, Kasuga-shi in Fukuoka became the very first local government in Japan to enact an all-round personal data protection ordinance applicable to both computerized and documentary personal data. Thus, not a few municipalities had already started establishing ordinances to protect citizen's personal information even before the arrival of the national statute in 1988.

With the increased use of information technology, the distribution of personal data becomes greater, and the likelihood of damage caused by the leakage of such information increases. Unfortunately, many accidental spillages of personal information have happened in both private and public sectors. One of the most infamous cases of personal information leakage happened at Uji-shi in Kyoto in 1999, in which MO disks containing citizens' personal data (their names, genders, addresses, and dates of birth) were brought out from the city office by a part-time employee and sold to a trader collecting personal data. Shortly afterwards, the city was sued for infringement of privacy rights by four citizens.

4. Conclusion

After this unfortunate experience, Uji-shi enacted a very advanced personal data protection ordinance and effective information security system, but this was not until immediately before the establishment of the national Act on the Protection of Personal Information. As evidenced by unfortunate spillages of personal information like the Uji-shi case, it is absolutely necessary for the public (and, of course, private) sector to enact personal data protection statutes which can protect any kind of personal information it holds. Such a statute should be a minimum requirement for a computerized municipality or an electronic local government.