

Japanese Civil Code (Law of Obligations) Reform Commission

Mission Statement

The Japanese Civil Code, after 110 years of its enactment, faces an imminent need for fundamental reform – particularly in the field of the Law of Obligations. The reasons are manifold.

First, the social and economic premise of the civil society upon which the Code was built has undergone colossal changes unimaginable at the time of its enactment. In light of the fact that the Code defines the basic framework of civil society, these social changes would inevitably have substantial impact on the Code itself.

Second, an increasingly harmonised body of transnational and international contract law formulated as a response to the rapid globalisation of the market economy has emerged.

Third, the courts have created a vast array of norms outside of the Code through its application. The diffusion of these norms has brought about uncertainty as to how they should be applied.

All of these changes point to the need for the reexamination of the Code's guiding principles and a reconstruction of the Code itself.

While the “Civil Law” which Japan inherited through the process of “*Rezeption*” was predominantly founded on and rooted in European society, the Japanese assimilation of civil law over the past century has resulted in the development of original theories and practices. It should be worthwhile to attempt a projection of the future model of the Law of Obligations based on the particular experience of this Asian country.

These considerations have led the undersigned, as academics participating in their individual capacity, to agree to the establishment of the “Japanese Civil Code (Law of Obligations) Reform Commission” (hereinafter referred to as the “Commission”). Our goal is to propose, in accordance with the plan which appears below, a “basic reform plan” (or a reform draft) with a view toward the official revision of the Civil Code (the Law of Obligations) expected to take place in the near future.

1. The Commission consists of five Working Groups, a Plenary, and a Coordinating Committee.
2. The task of the Working Groups is to prepare a discussion draft of the “basic reform plan” (or reform draft) and its explanatory note. Each Working Group consists of, in addition to the team leader, two academics, the Senior Advisor from the Civil Affairs Bureau of the Ministry of Justice (“the Advisor”) and the Counsellor from the Civil Affairs Bureau of the Ministry of Justice (“the Counsellor”). In addition, a number of attorneys and research fellows from the Civil Affairs Bureau of the Ministry of Justice may sit as secretaries.

3. The task of the Plenary is to deliberate on the Working Groups' report of the "basic reform plan" (or a reform draft). It consists of the members of the Working Groups, a Deputy Director-General of the Civil Affairs Bureau of the Ministry of Justice, and no more than twenty academics in the field of civil law and other related areas. There shall be a chairperson and several vice chairpersons.
4. The task of the Coordinating Committee is to coordinate the work product of the Working Groups and to prepare the agenda of the Plenary. It consists of a chairperson of the Plenary, team leaders of the Working Groups, the Advisor, the Counsellor, and several members of the Working Groups.
5. The work of the Commission shall cover the Book of Obligations of the Civil Code, and the Book of General Provisions as circumstances may require.
6. The Commission targets to finalise the "basic reform plan" (or a reform draft) by March 2009.
7. The Commercial Law Center, Inc. shall serve as the Secretariat of the Commission.

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