

個人情報保護委員会

Privacy Culture and Data Protection Laws in Japan

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Unique Privacy Culture(1)

- ▶ **1961** Trigger to a landmark court decision – a law suit brought by a prominent politician against a famous novelist

Famous novelist *Yukio Mishima* made an unauthorized *roman-a-clef* entitled “*After the Banquet*” on former Minister for Foreign Affairs *Hachiro Arita’s* marital affairs.

Arita sued *Mishima*, alleging *Mishima* invaded a **right of privacy** of him.

The benefits of such notions as “private lives”, “personal affairs”, and “personal secrets” were crystallized into a new household word, **privacy** through said law suit.

- ▶ **1964** Ruling on said lawsuit (on Sept 28), recognizing **privacy as a right**

The Tokyo District Court recognized privacy as a right protected by Japanese law and based its decision on sections 709 and 710 of the Civil Code.

Unique Privacy Culture(2)

▶ Establishment of the **Right of Privacy**

Based on the introduction of 'privacy' by the judgment by the Tokyo District Court on Sept 28, 1964, the right of **privacy** has been established under Article 13 of the Constitution and/or sections 709 and 710 of the *Civil Code* by court precedents and applied to specific cases through the general provisions of tort law in the *Civil Code*.

▶ Increases in court decisions referring **Right of Privacy**

Freedom of Information Ordinances and Protection of Personal Information Ordinances strongly advocated by myself in the 1970s and enacted by local governments since the 1980s have led to an increasing number of court decisions.

▶ Many court cases today referring to '**privacy**'

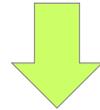
There are over 3,000 court cases which refer to a term of 'privacy'.

Unique Privacy Culture(3)

Wide acceptance of the concept of privacy shown in courtcases



Japanese people and businesses' *law-abiding* nature



A strong *privacy*-based corporate culture

- ▶ Voluntary activities in the private sector in relation to the protection of personal information: *Unique privacy culture*

Business industry organizations have stipulated guidelines for their respective business areas.

Companies have developed and implemented *self-regulatory privacy protection practices and policies*.

Activities in Private Sector

- ▶ Initiative for prefectural wide voluntary activities in relation to the personal information

I was involved in drafting the Personal Information Protection Ordinance 1990 of Kanagawa Prefecture (about 9 million population) and launching the **Personal Data Mark system**.

- ▶ From prefectural wide to nation wide

I proposed a similar nationwide voluntary system.

“Privacy Mark System” was implemented by JIPDEC (then Japan Information Processing Development Center) in 1998 to accredit a business operator that is considered to be handling personal information properly.

OECD Privacy Guidelines 1980 and Data Protection Act for Administrative Organs 1988

- ▶ **1980** OECD Privacy Guidelines
- ▶ **1981** Coe Convention 108
- ▶ Research Committee set up in Japan in response to such initiatives

In response to the OECD Privacy Guidelines ([Recommendation of the Council concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data](#)) adopted on September 23, 1980, the Research Committee on the Protection of Privacy was set up in the Administrative Management Agency, Prime Minister's Office.

I was the youngest member of that Committee, but have recently become the most senior member of such committees.

- ▶ **1988** Act for the Protection of Computer-Processed Personal Data held by the Administrative Organs

Personal Information Protection Acts for Private Sector, etc. 2003

- ▶ **1999** Working Party (Chairperson: Professor Masao Horibe) set up under the Advanced Information and Telecommunications Society Promotion Headquarters (headed by Prime Minister)
- ▶ **2003** Passing a set of Bills through the Diet (on May 23)
- ▶ Promulgated on May 30, 2003 and came fully into force on April 1, 2005

The 2003 Act introduced the System for Accredited Personal Information Protection Organizations based upon self-regulatory rules

Amended Act on the Protection of Personal Information (Amended APPI) 2015

- ▶ Promulgated on September 9, 2015 and came fully into force on May 30, 2017
- ▶ Establishment of an independent data protection authority called the Personal Information Protection Commission (PPC)
- ▶ Specific regulations on cross-border transfer of personal data
- ▶ Enforcement cooperation with the foreign enforcement authorities
- ▶ Penalties against unlawful provision of personal information database
- ▶ Applying to all business operators including SMEs

PPC's Activities

- ▶ The PPC consists of Chairman, 8 Commissioners, and 3 Special Commissioners
- ▶ The PPC Secretariat consists of about 130 officials
- ▶ Issuing rules and guidelines
- ▶ Holding 27 public consultations and receiving over 2,600 comments
- ▶ Promoting campaigns on the rules: 320 seminars, 40,000 people
- ▶ Providing 100-200 consultation services per day
- ▶ Giving guidance and advice to companies
- ▶ **Cross-border Transfer of Personal Data and Enforcement Cooperation**
 - Holding successive consultations with the EU
 - Promoting the APEC Cross-Border Privacy Rules (CBPR) system

Thank you for your attention !