Reforms of Japanese Corporate Law and Political Environment

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I. INTRODUCTION

Corporate law shapes the fundamental business environment and therefore influences various stakeholders, such as shareholders, managers, employees, stock markets, securities brokers, and creditors. Each stakeholder has the incentive to exercise its influence over corporate law. For example, corporate managers may want to build a robust entrenchment against attacks from shareholders, minority shareholders may want to install safety equipment in order to guard against the mismanagement of majority shareholders, and stock exchanges may want to maximize market-fee revenue, and so on.

Because business environment and demand for corporate law have been changing continuously and rapidly, many countries have reformed their corporate laws repeatedly. In addition, various corporate stakeholders influenced the process of these reforms. Japan is no exception. This paper attempts to shed light on how various stakeholders behave in the process of corporate law reform. By understanding the political environment of this process, we can acquire a better understanding of corporate law and the steps necessary to improve it.

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There is a rich body of literature on the political aspect of corporate law. In an early effort, Roe[1] discussed the political formation of corporate governance in the US. With respect to Japanese corporate law, West[2] provided a more recent contribution to the literature. The present paper explores the unique dimension of the political environment of corporate law.

Previous studies focused on the various stakeholders surrounding corporate law, such as corporate managers, shareholders, and creditors. However, these stakeholders cannot form corporate law by themselves. Instead, legislatures and judges perform this role. These lawmakers have their own incentives and do not necessarily follow the orders from the stakeholders. Therefore, we need to understand the political incentives of both lawmakers and corporate stakeholders. This paper explores the role of lawmakers as well as that of corporate stakeholders.

The rest of the paper is organized as follows. Section II provides a brief overview of the legislative history of Japanese corporate law. Section III discusses the role of the bureaucrats of the Ministry of Justice (MOJ) through an empirical analysis. Section IV describes the political environment of the latest corporate law reform and explores its background. Finally, Section V provides several concluding remarks.

II. LEGISLATIVE PROCESS OF JAPANESE CORPORATE LAW

This section provides a brief overview of the regulatory environment of the law-making process in Japan. In order to understand the power of the relevant stakeholders, we need to comprehend the basic structure of the law-making process in Japan. Because the law-making process differs among the areas of law, this section focuses on the process of corporate law. In II.1, we look into the legislative process before 1997, which we call the old legislative process. In II.2, we explore the turning point, the 1997 reform of Japanese corporate law. In II.3, we provide an overview of the legislative process after 1997, which we call the new legislative process.

1. Old Legislative Process

Japanese corporate law has experienced repeated reforms. It was first proposed in 1890 as a part of the Commercial Code, which was drafted under the influence of the German scholar Hermann Roesler. However, like the Civil Code, the Commercial Code of 1890 was not enforced and a new code was enacted in 1899. The Commercial Code of 1899 was subsequently reformed in 1911 and 1938.

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1 M. J. ROE, Strong Managers, Weak Owners: The Political Roots of American Corporate Finance (Princeton 1996).

2 M. D. WEST, The Puzzling Divergence of Corporate Law: Evidence and Explanations from Japan and the United States, in: University of Pennsylvania Law Review 150 (2001) 527–601.

After World War II, Japanese law was subject to the influence of US law, and Japanese corporate law was no exception. The US corporate law system was introduced, and then Japanese corporate law was reformed in 1948 and 1950. After this change, Japanese corporate law was relatively stable. However, during the period of high economic growth, Japanese corporate law was modified in response to repeated corporate scandals. It experienced a drastic change in 1974, and subsequent reforms were implemented in 1981, 1990, 1993, and 1994. The main purpose of these reforms was to strengthen the monitoring system of management in response to corporate scandals.[3]

These reforms were implemented under the old legislative process. The process applies to private laws as well as corporate law. The process is as follows:

1. The Minister of Justice consults the Legislative Council to make reform reports.
2. The Legislative Council discusses the issue and makes reports by unanimous consent.[4]
3. The Ministry of Justice (MOJ) drafts a reform proposal bill.
4. The Cabinet Legislation Bureau (CLB) checks its consistency with the constitution and the precedence.
5. CLB, MOJ, and Legislative Council members discuss the bill.
6. The Cabinet approves the bill and tables it to the Diet.
7. During the Diet deliberation, modifications to the bill rarely occur.

Under this old legislative process, changes to bills during the Diet deliberations are relatively rare events, and the most important decision-making body is the Legislative Council (*Hōsei Shingi-kai*). Therefore, the structure of the council is of great importance to the legislative process.

The main members of the council are legal academics, attorneys, judges, stock market participants (e.g., security brokers and stock exchanges), and representatives of the managers of major corporations. In addition, the members of the secretariat of the council play an important role; they not only manage the council meetings, but also prepare the agenda for each meeting and engage in consensus building among the council members. Since the decision of the council requires unanimous consent, the maneuver of the secretariat is of critical importance. The members of the secretariat are judges and government officials of the MOJ, Ministry of Finance (MOF), and Ministry of Economy, Trade and Industry (METI).

It is characteristic of the old legislative process that among the various stakeholders of corporations, only corporate managers are represented in the council. Neither em-

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3 Part of the background of these reforms is analyzed in B. CAPLAN, The Myth of the Rational Voter: Why Democracies Choose Bad Policies (Princeton 2007).

4 Formally, the Legislative Council employs a majority rule (plurality rule) as its decision-making rule (Art. 7 of the *Hōsei shingi-kai-rei* [Law of the Legislative Council], available at: *http://law.e-gov.go.jp/htmldata/S24/S24SE134.html*, last retrieved on 12 May 2014). However, conventionally almost all of its decisions are made by unanimous consent.

ployees, who are usually represented by labor unions, nor corporate creditors have representatives in the council. Labor unions are not represented in the council, probably because Japanese labor unions do not consider corporate law as a means of protecting corporate employees. In addition, except banks, general corporate creditors do not have a political foundation and hence cannot be represented in the council.

The strong presence of corporate managers and the absence of employees and creditors could have engendered a vacuum of political balance in shaping Japanese corporate law. However, conventionally, legal academics have protected the interests of shareholders, employees, and creditors, thereby counterbalancing the political power of corporate managers and achieving a fair compromise among the various stakeholders in corporate law.

If the council had been managed democratically, the corporate managers, who have strong political power, could have guided Japanese corporate law according to their intentions. However, under the old legislative process, the overrepresentation of legal academics has played a critical role. Thus, the undemocratic nature of the council has enabled the well-balanced development of Japanese corporate law.[5]

2. The Turning Point: The 1997 Reform of Corporate Law

However, the legislative environment changed drastically at the end of the twentieth century. As noted above, the Japanese economy had enjoyed high growth until 1990. Under this economic boom, severe conflict of interest among corporate stakeholders had not been materialized. However, at the beginning of the 1990s, the bubble economy collapsed, and the Japanese economy slid into a deep depression. The Nikkei Stock Average hit a height of 38,957 yen on 29 December 1989, but it decreased to below 10,000 yen over the next two decades.

This economic downturn led to an intensive search for the means to revive the Japanese economy and increase stock prices. At this time, the idea that "good" corporate law, which enables "good" corporate governance, causes a strong national economy had gained popularity. This double motivation increased the pressure to reform corporate law as promptly and flexibly as possible.

However, the old legislative process was considered inimical for such flexible and speedy corporate law reform. Under the old legislative process, reform bills were required to go through deliberation in the Legislative Council, which took time and effort. The criticism against the old legislative process was that the Legislative Council was too cautious and slow to improve corporate governance in Japan and the Japanese economy.

Within this environment, *Keidanren*, a business group, and some members of the Liberal Democratic Party (LDP), the ruling party, cooperated to implement a break-

5 Of course, whether the feature of the Legislative Council is democratic or undemocratic depends on the definition of "democracy." Here we define "democracy" as a formal representative system, not a substantive representative system.

through in the old legislative process: the 1997 reform. Under the old legislative process, a reform bill must be tabled by a member of the Cabinet, not the Diet, and go through the Legislative Council. However, the 1997 reform bill was tabled by members of the Diet. The Diet members who submitted the bill to the Diet argued that this process was more democratic than the old legislative process because the Legislative Council and the MOJ had weak democratic foundations.

The main drivers of the 1997 reform were corporate managers, who formed the strong interest group, *Keidanren*. They were frustrated by the compromising characteristics of the old legislative process. They had been forced to make compromises with legal academics and were not able to implement the corporate law reforms that they wanted. By bypassing the Legislative Council and employing the Diet member's bill system, they were able to realize their interests directly.[6] Interestingly, the mitigating role of legal academics was not included in the process of the 1997 reform.

3. New Legislative Process: Aftermath of the 1997 Reform

Although the 1997 reform was criticized on the grounds that the reform bill was drafted behind closed doors and the Diet member's bill system was rarely employed afterward, it fundamentally changed the political environment. The recognition of the existence of the Diet member's bill system, through which corporate managers can avoid the influence of legal academics and other constituencies, changed the political picture of corporate law reform.

Even if the Legislative Council is still in place, legal academics and other corporate stakeholders can no longer use it to carry through their claims. Corporate managers have

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6 One might think of another anecdotal explanation for the 1997 turning point.

Takeo Suzuki, a former professor of the University of Tōkyō, had been the chairperson of the subcommittee for commercial law of the Legislative Council for a long period after World War II. Professor Suzuki was a commercial law scholar, but at the same time he had strong blood ties with corporate managers. He was a son of the second CEO of Ajinomoto Co., Inc. (a major food company), and his brothers were CEOs of Mercian Corporation (a major alcoholic beverages company), SWCC Showa Holdings Co., Ltd. (a major electrical wire company), JGC Corporation (a major engineering company), Showa Denko K.K. (a major chemical company), and Mitsubishi Motors Corporation (a major car company). Because Professor Suzuki had served as chairperson of the Legislative Council, corporate managers were able to expect that the outcomes of the Legislative Council were not unfavorable to themselves.

However, Professor Suzuki passed away in 1995, and the other academic members of the Legislative Council did not have strong relationships with corporate managers. For example, one of the leading academics in the Legislative Council at the time was Kenjirō Egashira. He was a professor of the University of Tōkyō at that time and a pure academic scholar, but he had no kinship with corporate managers.

Under such an environment, it was natural for corporate managers to expect that the Legislative Council would produce unfavorable outcomes, or at least would not sufficiently respect the interest of corporate managers. This might have been another motive that drove corporate managers to trample down the implicit political norm.

more influence than before because as a last resort they are able to employ the Diet member's bill system, in which their interests are preferentially considered. In other words, the outside option of corporate managers has changed drastically and the political structure of corporate law reform has changed.

Under the new structure, every deliberation in the Legislative Council is carried on in the shadow of the Diet member's bill system. This has strengthened the bargaining power of corporate managers. In addition, the deliberation time in the Legislative Council has been reduced. The long deliberation time was one of the alleged disadvantages of the old legislative process, and the strong bargaining power of corporate managers has enabled the accurate prediction of compromise among the council members. Consequently, many corporate law reforms have been implemented in Japan during the last decade.

The key feature of the new legislative process is the recognition of the Diet member's bill system, in which the interests of corporate managers take priority. The mechanism of this process is that the LDP has been accepting large political contributions from business groups and has prioritized their interests. However, after 2009, this political environment changed and became relatively unstable.

In 2009, the LDP lost the general election of the Lower House (the House of Representatives), and the Democratic Party of Japan (DPJ) took office. Because the labor unions are strong supporters of the DPJ, this government began to prepare an employee-oriented corporate law reform.[7] However, the DPJ lost both the 2010 Upper House election and the 2012 Lower House general election. The DPJ left office, and the LDP regained control of the government. The political environment surrounding Japanese corporate law has become unstable.

III. RESTORING BALANCE: ROLE OF THE MOJ BUREAUCRATS

Under the old legislative process, the undemocratic feature of the Legislative Council has led to the overrepresentation of stakeholders who cannot convey their interests through the standard democratic process. This feature enabled a fair balance among various stakeholders of corporate law.

In contrast, the new legislative process is more democratic than the other one was. Under today's political system, the democratic political process implies that powerful interest groups have more influence than politically passive stakeholders do. Unlike corporate creditors, corporate managers have well-organized interest groups. Stock mar-

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7 The reform plan was originally intended to mimic German corporate law, especially the codetermination system, but the reform plan was stalled immediately. The labor unions in Germany and those in Japan have different characteristics. The Japanese counterpart can easily influence corporate management through the lifetime employment system.

ket participants have some influence, but they consider that their main arena is not corporate law but securities regulation.[8]

Now that the legislative process of corporate law reform has become more democratic, we need a process for striking a balance among various stakeholders. One possibility is the MOJ bureaucrats. As noted above (II.1), the MOJ bureaucrats are the secretariat of the Legislative Council. Since the Legislative Council employs unanimous consent as its decision-making rule, the managing role of the secretariat is crucial. The members of the secretariat seek compromises among various stakeholders and draft reports of the Legislative Council.

Therefore, if the MOJ bureaucrats were trying to achieve an equitable balance among various stakeholders, we could expect that the strong influence of corporate managers would meet counteraction from the MOJ bureaucrats. For example, the MOJ bureaucrats can employ the public comment procedure in order to counteract the strong influence of corporate managers. Morita[9] attempts to explore the possibility through an empirical analysis. This section provides a brief summary of the findings of his work.

1. Public Comment Procedure

The political process in Japan had long been criticized as opaque because politicians and bureaucrats have made important policy decisions behind closed doors. Many people argued that the Japanese political process needed to be more transparent. It was also argued that politicians and bureaucrats needed to show the concrete content of their deliberations in policy formation, to hear public opinion, and to explain how final compromises are achieved. The transparency of the political process is an important feature of the democratic political process.

The Japanese government addressed these criticisms. On 23 March 1999, a cabinet decision was made to introduce the Japanese version of the notice and comment procedure as the public comment procedure. The decision requires each branch of the government to publish a draft of regulations that it wants to make or reform and to invite comments on the draft. Although the branch is not forced to follow the collected comments from the public, it must publish a report that describes the distribution of the comments and how the branch has reacted, or not reacted, to the comments. In 2005, the public comment procedure was formally incorporated into the reformed Administrative Procedure Act.[10]

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8 Japanese securities regulation is under the Financial Services Agency (FSA), not the MOJ, and the FSA has the Financial System Council (*Kin'yū Shingi-kai*) instead of the Legislative Council.

9 H. MORITA, Corporate Law Reform and Political Environment: An Empirical Analysis Employing Public Comment Procedure Data, Working Paper, available at: *http://ssrn.com /abstract=2394451*, last retrieved on 12 May 2014.

10 *Gyōsei jiken soshō-hō*, Law No. 139/1962, as amended by Law No. 94/2011; Engl. transl. available at: *http://www.japaneselawtranslation.go.jp/law/detail/?re=02&dn=1&x=15&y=20*

2. Hypotheses

Considering the political background of Japanese corporate law, several hypotheses emerge concerning the role of the public comment procedure. The key in these hypotheses is that the public comment procedure is implemented by the bureaucrats, and the effect of the procedure falls mainly on the bureaucrats. Therefore, observation of the behavior of the bureaucrats around the procedure could reveal the internal motivations of the bureaucrats. The following are the five hypotheses on the effectiveness of the public comment procedure:

1. The public comment procedure has no effect (i.e., the no effect hypothesis).
2. The public comment procedure has a strong effect (i.e., the strong effect hypothesis).
3. We can observe only the influence of powerful interest groups, namely the corporate managers (i.e., the interest group hypothesis).
4. MOJ bureaucrats employ the public comment procedure in order to countervail the pressure of interest groups (i.e., the independence hypothesis).
5. MOJ bureaucrats are legal specialists and are affected by only "convincing" comments (i.e., the persuasiveness hypothesis).

First, the no effect hypothesis assumes that the MOJ bureaucrats engage in the public comment procedure in order to show that they abide by the Administrative Procedure Act and that their decision-making process is independent of the public comment procedure. According to this hypothesis, we can predict that the solicited comments would not affect the final reform bill drafted by the MOJ bureaucrats.[11]

Second, the strong effect hypothesis assumes that the MOJ bureaucrats utilize the public comment procedure as the Administrative Procedure Act expects. According to this hypothesis, the decision-making process of the MOJ bureaucrats is heavily influenced by the results of the public comment procedure, thereby achieving a more democratic political process.

Third, the interest group hypothesis assumes, similar to the no effect hypothesis, that the MOJ bureaucrats are not directly affected by the result of the public comment proce-

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&co=1&ia=03&yo=procedure&gn=&sy=&ht=&no=&bu=&ta=&ky=&page=2 (as amended by Law No. 73/2005), last retrieved on 23 May 2014. The requirement of the public comment procedure under the Administrative Procedure Act applies only to regulations and not to laws. This is because governmental branches do not have the power to make laws. It is the Diet that has the power to make laws.

However, many governmental branches voluntarily employ the public comment procedure when they draft legislative proposals of councils and bills tabled to the Diet by the Cabinet. The corporate law is no exception, and the MOJ employs the public comment procedure whenever it drafts a reform proposal bill of corporate law.

11 Considering the fact that the requirement of the public comment procedure in the case of the corporate law reform is not mandatory but voluntary, it is natural to expect that the MOJ bureaucrats utilize the public comment procedure as an outlet for various interest groups.

dure. It is assumed that the MOJ bureaucrats are willing to listen to the comments of powerful interest groups because resisting them is of no use under the new legislative process.

Fourth, the independence hypothesis, which was proposed by Croley,[12] assumes that bureaucrats are not simply under the pressure of interest groups, but that they try to fight against the interest groups by employing various procedures under the Administrative Procedure Act. In other words, the public comment procedure is a means of counteracting the influence of politically powerful interest groups.

According to this hypothesis, we can derive a prediction that the comments solicited through the public comment procedure can be employed strategically by the MOJ bureaucrats. Specifically, the comments of legal academics, who are considered politically neutral, are preferable to fighting against the pressure of corporate managers. Therefore, one prediction under this hypothesis is that the comments of legal academics and other groups have a significant effect on outcomes when corporate managers take conflicting positions.

Finally, the persuasiveness hypothesis focuses on the technical aspect of the public comment procedure. Although it is difficult to draw a clear prediction from this hypothesis, we infer that technical comments, such as those of legal academics, courts, and bar associations, would influence the behavior of the MOJ bureaucrats.

3. Empirical Results

Morita performed a quantitative analysis on datasets collected from two recent public comment procedures of corporate law reform. Fortunately, in two recent corporate law reforms, the 2002 reform and the 2005 reform, comments solicited through public comment procedures were acquired. Employing this dataset, Morita estimated which comments the MOJ bureaucrats took seriously with respect to certain issues. Morita found the following results.

First, the MOJ bureaucrats have considerable control over the public comment procedure. This control was strongly evident in the 2005 reform proposal, which was formal and technical, not substantial. This result partly supports the no effect hypothesis, under which the MOJ bureaucrats engage only superficially in the public comment procedure. They are not willing to hear the voices of the public when the issue is technical and in their own arena.

Second, although corporate managers exert a critical influence on the reform process of corporate law, during the public comment procedure their influence is limited to a few cases. When an issue is technical and not fully discussed in the Legislative Council, corporate managers employ the public comment procedure as another venue for achiev-

12 S. P. CROLEY, Regulation and Public Interests: The Possibility of Good Regulatory Government (Princeton 2007).

ing their interests. Thus, the interest group hypothesis is not strongly supported in the case of the public comment procedure.

Finally, legal academics and other legal professional institutions, such as courts, bar associations, and law firms, have influence in some cases. This result provides supporting evidence for the persuasiveness hypothesis, under which technical comments can persuade the MOJ bureaucrats to make "better" corporate law. However, we cannot find supporting evidence for the independence hypothesis, under which the MOJ bureaucrats employ the public comment procedure in order to counteract the influence of politically powerful interest groups.

Therefore, Croley's hypothesis does not hold true in the context of Japanese corporate law, and we cannot expect the MOJ bureaucrats to counteract the strong political influence of corporate managers. Then, under the new legislative process, which is more democratic than the old legislative process, powerful interest groups have more influence than politically passive stakeholders. This seems to imply a triumph of corporate managers in shaping Japanese corporate law.

IV. CHANGE OF POLITICAL PARTIES

However, we observe an interesting counterexample with respect to the 2014 reform of Japanese corporate law.

1. A Puzzling Modification of the 2014 Reform

In 2005, Japanese corporate law separated the Companies Act from the Commercial Code (the 2005 reform of Japanese corporate law). During several years of experience with the new act, many claims to calibrate the Companies Act have risen. Following the request from the Minister of Justice in February 2010, the Legislative Council took charge of drafting a reform proposal for the Companies Act.

During the deliberation in the Legislative Council, one of the most debated issues was whether mandatory requirement of (at least one) outside director should be introduced. Some of the investors, stock exchanges, and legal academics supported the idea of a mandatory requirement of an outside director. However, corporate managers were strongly against the idea, insisting that such a mandatory requirement would harm flexible corporate governance and impair firm value.

As anticipated under the new legislative process, corporate managers won out. The final report of the Legislative Council, which was published in September 2012,[13] abandoned the mandatory requirement of an outside director. It only required that a corporation that has no outside director shall disclose in its annual report a good reason why it has no outside director ("comply or explain" rule).

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13 *Kaisha hōsei no minaoshi ni kakaru yōkō-an* [A report modifying the corporate law], available at: *http://www.moj.go.jp/content/000100819.pdf,* last retrieved on 12 May 2014.

After the report of the Legislative Council was filed, the MOJ bureaucrats and the LDP members began discussions over the reform bill of the Companies Act. During the discussions, the LDP members insisted that a mandatory requirement of an outside director be adopted, which was contrary to the final report of the Legislative Council. Finally, the reform bill of the Companies Act, which was tabled to the Diet on 29 November 2013,[14] adopted a new regulation with respect to outside directors. The new Art. 327-2 provides that a corporation that has no outside director shall explain in its general shareholders' meeting a good reason why it has no outside director. Since disclosure in the general shareholders' meeting is more salient and prone to direct criticism from shareholders than that in the annual report, this provision tries to strengthen the monitoring of corporate managers.

Under the new legislative process as explained in II.3, we predicted that politically strong interest groups, especially corporate managers, would have a strong influence over the legislative process. However, what we observe in the 2014 reform of the Companies Act is contrary to the prediction. The reform bill, compared to the final report of the Legislative Council, was unfavorable to corporate managers. Why did the LDP members act against the interest of corporate managers?

2. Change of Electoral Rules

One possible explanation for this puzzle is the change of electoral rules in Japan. Before 1996, the House of Representatives used a single-nontransferable-vote system (SNTV). Under the SNTV, multiple seats are assigned to each district. However, beginning in 1996, the House of Representatives began to use a mixture of single-member districts that use the plurality rule and a proportional representation system (PR) for the remaining seats. Under this new electoral rule, a major proportion of the Diet members are from single-member districts.

Under the plurality rule, which is adopted in the single-member districts system, it is expected that minority parties will disappear, unless their supporters are concentrated in particular geographic areas, and that a two-party system will emerge.[15] And as expected, a two-party system, consisting of the LDP and the DPJ, has begun to emerge in Japan.

This change, from a multi-party system to a two-party system, may have offered foundations for the median voter theorem. The median voter theorem predicts that the plurality rule voting system will select the outcome most preferred by the median voter.[16] One of the key assumptions of the median voter theorem is the two-party system. When there are three or more candidates, it is known that there are multiple equilibria

14 Available at*: http://www.moj.go.jp/MINJI/minji07_00151.html,* last retrieved on 12 May 2014.
15 D. C. MUELLER, Public Choice III (Cambridge et al. 2003) 271.
16 A. DOWNS, An Economic Theory of Democracy (New York 1957).

and that the median voter theorem does not apply.[17] Therefore, the median voter theorem is more likely to apply after 1996 than before.

In such an electoral environment, political parties need to take account of the interests of the median voter. Simply following interest groups and ignoring the median voter is dangerous. This may be why the LDP members tried to hit the balance among various stakeholders of corporate law rather than simply achieving the interests of corporate managers.[18]

Another possible explanation for the puzzle is retrospective voting. Retrospective voting says voters react to past performance.[19] Since retrospective voting basically holds true in the Japanese political environment,[20] political parties do not have an incentive to achieve an inefficient corporate governance system, which will end up with a bad economic condition.

However, this explanation has a couple of drawbacks. First, even though many institutional investors and academics are arguing for outside directors, the efficacy of outside directors has not yet been empirically established. Relying on such a fragile policy and ignoring the voice of strong interest groups is not rational. Second, retrospective voting has been true in Japan for a long time, so it cannot explain the change that occurred in 2014.

V. CONCLUDING REMARKS

This paper explores the political environment of Japanese corporate law. It describes the changing political balance among various stakeholders of corporate law.

Before 1997, legal academics in the Legislative Council played a mitigating role in the legislative process, thereby achieving the well-balanced development of Japanese corporate law. Although legal academics had a weak democratic foundation, they were crucial for fair political compromises among various corporate stakeholders.

In contrast, since 1997 the legislative process of Japanese corporate law has become more democratic. Corporate managers, who are a politically strong interest group, significantly influence corporate law reforms, while shareholders and creditors, who are

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17 For example, see T. LIN / J. M. ENELOW / H. DURUSSEN, Equilibrium in multicandidate probabilistic spatial voting, in: Public Choice 98 (1999) 59–82, R. D. MCKELVEY / J. W. PATTY, A theory of voting in large elections, in: Games and Economic Behavior 57 (2006) 155–180.

18 The explanation provided here has one shortcoming. It is questionable to assume that most voters care about corporate law. When they do not, preference for corporate law does not constitute an important issue in elections and political parties are free to achieve the interest of specific interest groups.

19 M. P. FIORINA, Retrospective Voting in American National Elections (New Haven / London 1981).

20 I. KUME / Y. KAWADE / Y. KOJŌ / A. TANAKA / M. MABUCHI, *Seiji-gaku*. Political Science: Scope and Theory (Tōkyō 2003) 395–396.

politically silent, do not. And the MOJ bureaucrats do not have the power and effective tools to resist the influence of politically strong corporate managers.

However, it seems that politicians are trying to return to the middle road voluntarily. In the 2014 reform of Japanese corporate law, politicians did not simply follow the interests of corporate managers, but rather tried to achieve a balance among various stakeholders of corporate law. One possible explanation for this change is the change of electoral rules for the House of Representatives.

Understanding the political environment of corporate law reform is crucial to understanding the development of Japanese corporate law. It is helpful to keep observing the changing political environment of Japanese corporate law.

SUMMARY

Corporate law shapes the fundamental business environment and affects various stakeholders such as shareholders, managers, employees, and creditors. Each stakeholder has an incentive to influence the reform process of corporate law. The many corporate law reforms in Japan reflect her rapidly changing business environment. It is important to understand the behavior of various stakeholders by examining the politics of the reform process of corporate law. This paper attempts to provide an analysis of the changing political balance among various stakeholders of corporate law.

Before 1997, legal academics in the Legislative Council played a mitigating role in the legislative process, thereby achieving the well-balanced development of Japanese corporate law. Although legal academics had a weak democratic foundation, they were crucial for fair political compromises among various corporate stakeholders. In contrast, since 1997 the legislative process of Japanese corporate law has become more democratic. Corporate managers, who are a politically strong interest group, significantly influence corporate law reforms, while shareholders and creditors, who are politically silent, do not. And the bureaucrats of the Ministry of Justice do not have the power or the effective tools to resist the influence of corporate managers.

However, it seems that politicians are trying to return to the middle road voluntarily. In the 2014 reform of Japanese corporate law, politicians did not simply follow the interests of corporate managers, but rather tried to achieve a balance among various stakeholders of corporate law. This change may be caused by the change of electoral rules for the House of Representatives.

ZUSAMMENFASSUNG

Das Gesellschaftsrecht schafft die grundlegenden Rahmenbedingungen für die Tätigkeit von Unternehmen und hat Auswirkungen auf die verschiedenen Stakeholder wie zum Beispiel Anleger, Manager, Angestellte und Kreditgeber. Jeder Stakeholder hat ein Inte-

resse daran, den gesellschaftsrechtlichen Reformprozess zu beeinflussen. Die zahlreichen Reformen in Japan spiegeln die sich schnell wandelnden wirtschaftlichen Rahmenbedingungen wider. Dabei ist es von großer Bedeutung, die politischen Aspekte der Reformprozesse zu untersuchen und das Verhalten der verschiedenen Stakeholder nachzuvollziehen. Dieser Beitrag unternimmt den Versuch einer Analyse der sich wandelnden politischen Kräfteverhältnisse zwischen den verschiedenen Stakeholdern.
Vor 1997 spielten die Rechtswissenschaftler im Gesetzgebungsrat eine wichtige Rolle für die Entwicklung eines ausgewogenen japanischen Gesellschaftsrechts. Obwohl der Einfluss der Rechtswissenschaftler auf einer schwachen demokratischen Grundlage fußte, waren sie für das Erreichen fairer politischer Kompromisse zwischen den verschiedenen Stakeholdern entscheidend. Im Gegensatz dazu ist der Gesetzgebungsprozess in Japan nach 1997 demokratischer geworden. Manager, die eine Interessengruppe mit großer politischer Macht bilden, wirken maßgeblich auf die gesellschaftsrechtlichen Reformen ein, während Anleger und Kreditgeber, die politisch ohne Einfluss sind, dies nicht tun. Die Bürokraten des Justizministeriums haben weder die Macht noch verfügen sie über die passenden Mittel, um sich dem Einfluss der Manager zu widersetzen.
Es hat allerdings den Anschein, dass die Politiker von sich aus versuchen, zu dem alten Mittelweg zurückzukehren. Während der laufenden Reform des japanischen Gesellschaftsrechts von 2014 haben sie nicht allein die Interessen der Manager berücksichtigt, sondern versuchten vielmehr, für einen Ausgleich zwischen den Anliegen der verschiedenen Stakeholder zu sorgen. Dieser Wandel beruht möglicherweise auf dem veränderten Wahlrecht für die Wahl zum Repräsentantenhaus.

(Die Redaktion)

The Bill to amend the Companies Act was approved by the Japanese Diet on 20. June 2014. *(The Editors)*