

Inheritance law revisions likely to protect spouses' lives, interests

February 19, 2018

The Yomiuri Shimbun: The latest legislative proposal can be viewed as a reasonable review that is appropriate for coping with an aging society.

The Legislative Council has submitted to Justice Minister Yoko Kamikawa an outline of proposals for inheritance-related revisions to the Civil Code. The main purpose of the move is to protect the livelihoods of bereaved elderly spouses. The government intends to submit to the current Diet session a bill aimed at revising the Civil Code.

One of the outline's main pillars is to establish the spousal right of residence, which would permit spouses to continue living in their own houses. The right would be exclusively accorded to spouses, and they would be able to opt for that right as their share of the inheritance when a deceased person's estate is partitioned.

If spouses obtain the right, they will not have to change their residences even if their homes come into the possession of their children or other persons. The property value of residence rights is, in principle, to be appraised at a lower level than that of intrinsic proprietary rights, and therefore spouses would be accordingly allotted a greater share of cash and other allocated assets — another advantage that would be expected from the legislative change.

It is no easy task for elderly people to secure a new residence. Doing so will be all the more difficult if they have made their houses barrier-free to accommodate their physical limitations.

A notable number of bereaved elderly people who have lost their spouses have been living alone for a long period of time. The proposals are significant in that they would make it easier for such people to secure their residences and living expenses.

From the standpoint of protecting spouses, the envisaged legislation would also introduce a new system by which residences that were inherited as before-death spousal gifts, or through a will, would be excluded from the list of properties subject to legacy partition.

Keep in step with change

The proposals would cover couples who have been married for 20 years or longer, in line with the conditions for applying for spousal tax deductions on real estate given for residential purposes under the Inheritance Tax Law. This is expected to help spouses gain a larger share of property partitioned at the time of inheritance, while retaining their proprietary rights of residence.

The proposals have also paid due attention to a deceased person's relatives other than his or her heirs. If any relatives made efforts to provide nursing care or other assistance for their kin, they would be able to demand an appropriate amount of money from the heirs of the departed. The amount of such money would be calculated based on total expenses, such as those incurred by hiring helpers to provide their kin with nursing care.

This assumes such cases as those in which elderly people were nursed by the wives of their sons. Arrangements to reward people for their hardships will likely be welcomed by many people.

It is unknown whether the new system will function effectively. Generally, it is difficult to understand the methods for calculating the appraisal value of residence rights and the degree of contribution in the form of nursing care. There are concerns that the system would have the opposite effect of bringing about more disputes.

If yardsticks are indicated for making calculations in various cases, they will be helpful in this respect. The government should try to offer easy-to-understand explanations, given that the envisaged change will lead to systemic reform deeply tied to people's lives.

Spouses covered by the latest review will be limited to legally married people. In light of the present situation in which the inheritance system based on legal marriage is ingrained in society, it is understandable to maintain its foundation.

Meanwhile, it is also a fact that the makeup of the family has diversified. It will be indispensable to continue considering an inheritance system that can accommodate changes in the times.

(From The Yomiuri Shimbun, Feb. 19, 2018) Speech