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## Change in Educative Treatment in Japanese Juvenile Training School\*

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### ABSTRACT

In Japan the protective educative treatment in the juvenile training school has developed under the welfare and rehabilitation model prescribed by the current Juvenile Law of 1948. However, in the late 1990's people began to support the tough policy against juvenile delinquents in the upsurge of the movement of crime victims. After a scandal in Hiroshima Juvenile Training School in 2009 the Ministry of Justice made out a draft of the revised Law on Juvenile Training School and the new Law on Juvenile Classification & Detention Center. Although the revised Law on Juvenile Training School was made out after the model of the Law on Penal Institutions and Treatment of Inmates, the Ministry of Justice continues improving the protective educative treatment in the juvenile training school. I will consider the possibility of improvement of

the educative treatment under the revised Law on Juvenile Training School.

*Key Words* : Juvenile Training School, educative treatment, inmate's human rights

## 1 . Juvenile Training School soon after World War II

In 1922 the Juvenile Law and the Correctional School Law were promulgated. At that time only two juvenile training schools, that is, Tama Juvenile Training School and Naniwa School, were founded as a correctional school owing to the poor budget <sup>(1)</sup> (Yokoyama, 2000a : 238). It was not until the finish of World War II in 1945 that the protective educative treatment in the juvenile training school spread all over Japan.

New Juvenile Law was enacted in 1948, by which the maximum age of juveniles applied to the law was lifted from under 18 to under 20. At the same time Correctional School Law of 1922 was replaced by the Law on Juvenile Training School <sup>(2)</sup>. This new law has four characters (Yokoyama, 2002 : 402-403). First, it prescribes that the juvenile training school is an institution to offer correctional education to juvenile delinquents. Secondly, four kinds of the school are established : the primary-class school, the secondary-class school, the special school and the medical school. Thirdly, the compulsory education on the level of a junior high school is guaranteed in the juvenile training school. Fourthly, the treatment system with four progressive stages is introduced to carry out the correctional education.

The primary-class school accommodated juveniles between 14 and 15 years of age without serious mental or physical handicap. The secondary-

class school treated those between 16 and 19 years old without the serious handicap. The special school treated those with criminal tendency between 16 and 22 years of age without the serious handicap. The medical school gave medical treatment to those between 14 and 25 years old with serious mental or physical handicap.

At the end of World War II there were only eight juvenile training schools.<sup>(3)</sup> To enforce the Juvenile Law of 1948 many juvenile training schools were founded, although the budget assigned to the Ministry of Justice was not sufficient.<sup>(4)</sup> By 1949 nine juvenile training schools for female juveniles, and three medical schools were newly established. Owing to the shortage of the juvenile training school, juvenile offenders between 18 and 19 years old receiving the referral to the school were treated in a separate area in a juvenile prison after the enforcement of the Juvenile Law at the beginning in 1949. It was not until 1953 that the treatment in this separate area was abolished.

## 2 . Establishment of Education System in Juvenile Training School

Immediately after the war many juveniles, above all, orphans committed a crime, especially a property crime owing to their absolute poverty.<sup>(5)</sup> Then, we witnessed over-crowdedness in a juvenile training school, from which many inmates escaped. Such chaotic situation was gradually improved by 1950, when the Ministry of Justice issued the notification on job training, corresponding courses of the education on the level of a senior high school and counseling by a charitable volunteer to establish the corrective treatment in the juvenile training school. Under some following notifications the original model of the current system on

academic education, job training, guidance on life skills and activity for recreation was formed in the juvenile training school. In several juvenile training schools assigned by the Ministry of Justice, the experimental treatment was carried out to develop the method on each field of corrective treatment.

In the late 1960s the juvenile training school was specialized to carry out the characteristic treatment. Some schools established the course on the long-term job training. Since 1963 inmates finishing this course have received the certification prescribed under Job Training Law.<sup>(6)</sup>

### 3 . Learning of Method from United States

Soon after the World War II the behavioral sciences including criminology developed in the developed countries, especially in the United States, in which scholars in these sciences took the initiative in experimenting on treatment in correctional facilities to prove the effectiveness of their theory. Japanese scholars and practitioners learned the results of such an experiment, and tried the similar experiment to prove the effectiveness in Japan. The specialist officers in behavioral sciences affiliated with the Ministry of Justice experimented on the treatment invented newly in the United States.<sup>(7)</sup> If they succeeded in proving the effectiveness of the treatment at some juvenile training schools assigned for the experiment, it was adopted uniformly in the juvenile training school under the direction of the Ministry of Justice. The formally adopted treatment was changed a little to adjust to Japanese inmates while getting out of the original theory. In such a way the characteristic educative treatment has been formed in the juvenile training school in Japan.<sup>(8)</sup>

#### 4 . Juvenile Training Schools after 1965

For a decade from 1965 the labeling theory was prevalent in the United States. By this theory the early diversion from the juvenile justice was emphasized to avoid attaching a stigma to juvenile delinquents, especially inmates confined in the juvenile training school. However, at that time in Japan the judge at the Family Court decided the disposition from the perspective of juvenile's best interests in the consideration of diversion. Therefore, the diversion programs did not develop (Yokoyama, 1984).

As the juvenile training school was overcrowded by many juveniles with criminal tendency until 1965, we saw difficulty in offering programs for protective educative treatment to them. Subsequently, the judge and the probation officer at the Family Court respecting the welfare model prescribed by the Juvenile Law distrusted the treatment in the juvenile training school. As they were concerned about infection of criminal sub-culture in the school, they referred fewer and fewer cases to the juvenile training school for a decade from 1964, the second peak of the juvenile crime after the World War II. In addition, during this decade serious offenses, especially violent ones committed by a juvenile decreased as the first baby boomers became adult.<sup>(9)</sup>

#### 5 . Reform of Treatment in Juvenile Training School in 1977

The total number of juveniles newly admitted to the juvenile training school dropped steadily from 8,065 in 1966 to 1,969 in 1974 (*White Paper on Crime in 1999*). In response to the declining number of inmates, in

1977 the Ministry of Justice began to reform the system of the juvenile training school (Yokoyama, 1992). This reform was carried out under the Notification on Operation of Juvenile Training School issued by the director of the Correction Bureau of the Ministry of Justice.

By this notification three fundamental policies were declared ; 1) the organic coordination between the treatment inside the school and that outside the school, 2) the individual treatment and the flexible term of accommodation in the school, 3) the specific treatment in each school, and 4) the cooperation with other agencies concerned and the community. To realize these policies, the system of treatment was changed. First, the system of the short-term school for juveniles with less advanced criminal tendency and that for juvenile serious traffic offenders was introduced.<sup>(10)</sup> As juveniles accommodated in the short-term school had been put on the probation previously, it was the net-widening of referral to the juvenile training school. Therefore, newly established short-termed schools began to use the name of “Home” in the place of “Juvenile Training School” to avoid attaching a serious stigma to inmates with less advanced criminal tendency.

Secondly, to specialize the treatment in each long-term school, five courses were established ; the course for guidance on life skills (G1, G2, G3), for job training (V), for academic education (E1, E2), for special education (H1, H2), and for medical treatment (P1, P2, M1, M2). The notification prescribed that the treatment in a long term school should finish within two years. This limit of the maximum period for the treatment was desirable from the viewpoint of the rehabilitation model, because it is hard for juveniles to receive correctional programs in a juvenile training school continuously for the longer time than two years.

**Table 1. Classification Signs of Inmates in Juvenile Training School in 1977**

G1	Inmates with the need to receive individual and therapeutic guidance owing to serious deviance in their character.
G2	Inmates with mental ability on the level of IQ 70-79 and without ability to control their own behavior owing to their immature character.
G3	Inmates other than juveniles classified as G1 and G2.
V	Inmates with the need to receive the job training.
E1	Inmates with the need to receive an academic education on the level of compulsory education at a junior high school.
E2	Inmates with the need to receive an academic education on the level of a senior high school.
H1	Intellectually handicapped inmates without the need of special medical treatment.
H2	Inmates with the need of special therapeutic education owing to their sentimental immaturity.
P1	Diseased inmates.
P2	Physically handicapped inmates.
M1	Mentally disordered inmates.
M2	Inmates with psychopathy.
S	Inmates treated in the short-term school.
T	Juvenile traffic offenders treated in the short-term school.

The primary-class school and the secondary-class one had four courses for inmates classified as G, V, E and H except for the course of medical treatment for inmates classified as P and M. Some of those schools accommodated only juvenile offenders with the less advanced criminal tendency and juvenile traffic offenders as the short-term school. The special schools which accommodated inmates with the advanced criminal tendency had two courses, that is, the course for guidance on life skills and one for special education. On the other hand, the medical school

offered the course for medical treatment and that for special education.

## 6 . Situation after Reform in 1977

In response to this reform by the Ministry of Justice, the Family Court judge began to refer juveniles actively to the short-term school. Therefore, the total number of juveniles sent to the juvenile training school increased to 6,062 in 1984.

In the early 1980s we witnessed the increase in juvenile delinquency among the second baby boomers. After 1985 the second baby boomers became adult. In addition, the population of all juveniles continued to decline owing to the drop in birth rate. Then, after a peak in 1984 the total number of inmates in the juvenile training school began to decline once again. To cope with this situation, in September in 1988 the Correction Bureau of the Ministry of Justice started the Project to Activate Institutions for Juvenile Correction. In the consideration of the research results by this project team, some reforms in the system of the juvenile training school were carried out to accommodate more juvenile delinquents in the school.

## 7 . Reform in 1991

In 1991 the Ministry of Justice reformed the system of the juvenile training school once again to have more juvenile offenders with the less criminal tendency. First, the short-term school for juvenile serious traffic offenders was replaced by the short-term school for special training within four months, because juvenile traffic offenders declined after 1980, a peak of traffic accidents causing death and injury (Yokoyama, 2015b).

In the newly established school for special training, inmates receive some programs inside the school for one or two months. Then, they are offered the educative program or the job program outside the juvenile training school for the remaining period.<sup>(11)</sup> Typically, under the special job program they commute to a place of work in the morning, and return from it to the school after finishing the work. Secondly, in order to specify the treatment within six months in the general short-term school three courses were introduced : the course for academic education (S1), for job training (S2) and for the career guidance (S3).

## 8 . Reform in 1993

In 1993 another reform on courses in the long-term school was carried out. First, the course for guidance on life skills (G1) was replaced by one for training on life skills (new G1). In addition to those with the need to receive individual and therapeutic guidance owing to serious deviance in their character (old G1), those with the tendency of serious anti-social behavior were assigned to the new G1. Secondly, a course for training on life skills for alien juvenile offenders was established as the new G2, because the juvenile training school began to accommodate some alien juveniles who were not adjusted to Japanese life.<sup>(12)</sup> In the response to this reform two old courses for guidance on life skills (G2 and G3) were replaced by the new course for the development of job ability (V2). Inmates assigned to V2 are given the short-term job training and guidance, while those assigned to V1 are offered the long-term job training programs in two juvenile training schools : Naniwa School and Tohoku School.<sup>(13)</sup> The revised courses are the following.

**Table 2. Classification Signs revised in 1993**

G1	Inmates with the need to receive the individually therapeutic guidance and the mentally and physically training owing to the serious deviance in their character and the tendency of serious ant-social behavior.
G2	Alien inmates with need to be treated differently from Japanese ones.
V1	Inmates with the need to receive a job training for ten months or over prescribed by the Law to Promote Human Resources Development.
V2	Inmates with the need to receive the job training within 10 months.

These reforms could not stop the decrease in inmates in the juvenile training school. The total number of juveniles referred to the school decreased to 3,828 in 1995. At that time Homu Kyokans (teachers in charge of legal affairs) treated juvenile inmates earnestly for correction.<sup>(14)</sup> Several Homu Kyokans in one team have taken care of about ten inmates in a dormitory according to the individual treatment plan for each inmate. At that time this treatment system operated very effectively as the total number of inmates decreased.

## 9 . Change in Juvenile Training School under Tough Policy since the Late 1990s

In the late 1990s the movement of crime victims surged up. Some leaders of the movement, especially those whose child was killed, began to insist that rights of victims and their bereaved family are neglected, while those of juvenile offenders are respected too much under the welfare model prescribed by the Juvenile Law. As their insistence spread through the report by mass media, people accepted it. In the consideration of the public opinion favorite for crime victims the police adopted the tough policy against juvenile delinquents. They activated the arrest of

juvenile offenders with the less criminal tendency and ones committed the less serious offense, by which the inmates in the Juvenile Classification & Detention Center increased. It was followed by the increase in inmates in the juvenile training school a few years later.

This phenomenon was facilitated after the Kobe murder incident in 1997. In this case a boy of 14 years of age living in Kobe killed two children and injured three. Especially, the mass media reported one case sensationally, in which he murdered a boy of eleven years old, mutilated his body, and put his severed head on the gate of a school.

Starting from this case, the mass media continued to report about several murder cases committed by juveniles between 15 and 17 years of age as the big news. By receiving the sensational report on juvenile heinous crimes such as murder and robbery, a growing number of people sympathizing with victims had the opinion that juvenile heinous offenders should be harshly punished to prevent such crimes.

At that time juvenile offenders under 16 years old could not send back from the Family Court to the public prosecutor for the criminal charge. In addition, the treatment in the long-term juvenile training school finished within two years. As the mass media reported about it after the Kobe murder incident, people got angry about it. In response to their anger the Family Court judge began to declare the decision of sending a serious juvenile offender to the long-term juvenile training school with the recommendation on the correctional treatment for over two years.

## 10. Reform in 1997

In the consideration of harsh criticism, in September in 1997 the director of the Correction Bureau of the Ministry of Justice issued the

Notification on Operation of Juvenile Training School. By the issuance of this notification the system of the long-term school was revised, by which a new course for the training on sound life for over two years (G3) was established. This course was applied to those with the need to receive the special treatment for correction and rehabilitation because they have some complex and serious problems owing to having committed a very serious offense. The Ministry of Justice announced that the new course is introduced to correspond to the need of correctional treatment for over two years. However, it was introduced in substance to confine juveniles for the longer period in proportion to seriousness of their offense in the juvenile training school from the retributive perspective. It was the beginning of a retreat from the welfare model.

## 11. Introduction of Education for Taking Perspective from Crime Victims

Under the notification of 1997 the juvenile training school was requested strongly to make inmates atone for their offense. Previously, Homu Kyokans worked as a teacher and a counselor for inmates' best interests without emphasizing the atonement for their offense. Therefore, Homu Kyokans were embarrassed with the request to carry out the education on atonement.

At present the education on atonement is replaced by the phrase of "the education for taking the perspective from crime victims", because inmates are guaranteed their right to freedom of thought and belief under Constitution. In order to make inmates learn the perspective of crime victims the juvenile training school offers such a program as making inmates to reflect on their crime, to listen to a speech by a crime victim,

to watch a video on the crime victim and to discuss problems of crime victims.

## 12. Change in Juvenile Training School by Revision of Juvenile Law in 2000

Toward 2000 more and more people criticized the Juvenile Law for offering the lenient protective educative disposition to spoil juvenile delinquents, as the mass media reported very often about voices of crime victims. Therefore, the ruling Liberal Democratic Party, a conservative party, began to advocate the revision of the Juvenile Law in order to call for tougher measures against juvenile offenders. Under the pressure from <sup>(15)</sup>LDP, members of the Legal System Council discussed a draft of the revised Juvenile Law in a hurry for six months and submitted their affirmative opinion to the Minister of Justice in January in 1999. However, this draft did not pass the Diet owing to the political turmoil. Then, Diet members of three ruling parties initiated by LDP submitted a new draft for severer disposition against juvenile offenders to the Diet. It was enacted at the end of November in 2000 (Yokoyama, 2015a : 185).

The revision of the Juvenile Law focused on accountability after the example of the crime control model, which has prevailed since the *Kent v. United States* 1967 decision in the United States. Then, the minimum age of a juvenile offender who can be referred back from the Family Court to the public prosecutor for a criminal charge, was lowered from sixteen to fourteen. In cases involving a juvenile of 16 years old and over who have committed a homicide or a malicious offense resulting in death, the Family Court judge is obliged in principle to refer back to the public prosecutor.

By this revision the rate of the referral back to the public prosecutor for a criminal charge became higher (Yokoyama, 2009). I think that the course of G3 should be abolished, because most of juveniles classified previously as G3 are referred back for a criminal charge. However, this course is maintained, by which the confinement in the juvenile training school for the longer period from the retributive perspective is justified. At present only a small number of inmates in the long-term school are assigned to G3. In spite of the public opinion for the tough policy the most of inmates accommodated in the long-term school continue to receive the educative treatment for about one year.<sup>(16)</sup>

### 13. Juvenile Prisoners Accommodated in Juvenile Training School

Most heinous murder committed by a juvenile under 16 years old like the Kobe Murder Incident is very rare in Japan. However, a juvenile murderer under 16 years old can be imposed the imprisonment sentence by the revised Juvenile Law of 2000. From the viewpoint of welfare model it is desirable to treat a juvenile prisoner under 16 years old under the protective educative programs. Then, the revised law prescribes a new Paragraph 3 of Article 56 that young juveniles imposed the imprisonment sentence can be treated in a juvenile training school until their birthday of 16 years old, which is regarded as a part of their prison service. The special juvenile training school and the medical school were ready to accommodate these prisoners by providing some facility and equipment for them. However, no juvenile training school receives any juvenile prisoner since 2001, because juveniles committed a heinous offense at their age of under 16 reach to over 16 years old when the criminal trial for

them finishes. The imposition of the imprisonment sentence on juvenile of 14 and 15 years old is undesirable not only from the perspective of the welfare and rehabilitation model but also from that of the cost benefit.

#### 14. Increase in Inmates in Juvenile Training School around 2000

In the late 1990s the juvenile training school widened the net over juveniles having committed less serious offenses, even those coming from a family of middle- and high-class owing to the prevalence of the tough policy in the juvenile justice. We saw a peak of inmates in the juvenile training school in 2000, at which the total number of inmates rose to 6,052 (*White Paper on Crime in 2001*). Of all inmates, 61.6%, 34.6% and 3.8% were treated in the long-term school, the general short-term school and the short-term school for the special training respectively. Around 2000 we witnessed over-crowdedness in the juvenile training school.

Since 2000 more and more juveniles have become conformist, by which their delinquency, especially their serious offense, decreases (Yokoyama, 2015a : 191). Therefore, in spite of the maintenance of tough policy the total number of inmates in the juvenile training school decreased to 3,193 in 2013 (*White Paper on Crime in 2014*). Especially, the total number of those in the general short-term school and the short-term school for special training decreased drastically from 2,092 in 2000 to 774 in 2013 and from 233 to 30 respectively. Under the continuation of tough policy more and more juveniles with less criminal tendency are sent to the long-term juvenile training school in the place of the short-term one.<sup>(17)</sup>

## 15. Change in Juvenile Training School by Revision of both Juvenile Law and the Law on Juvenile Training School in 2007

After the revision of the Juvenile Law in 2000 many academics, lawyers, and probation officers appealed for the return to the previous system under the welfare model. However, their appeal was in vain, because many people sympathizing with crime victims called for greater accountability of juvenile offenders under a shift towards a crime control model. In response to such public opinion the Juvenile Law was revised in 2007 and in 2008 toward partial criminalization. The revision in 2007 was provoked by the following two incidents.

In July in 2003 a 12 year-old male student of a junior high school took a 4 year-old boy to the roof top of a building, and then threw him down from there to death after the sexual abuse. In June in 2004 an 11-year old girl of an elemental school killed a girl classmate with a knife in a classroom. In both cases children were accommodated in the Home to Support Child's Independency prescribed by the Child Welfare Law. People sympathizing with crime victims though that the lenient treatment in the Home to Support Child's Independency spoils a law-breaking child under 14 years old. In response to the public opinion for the tough policy against a child having conducted a heinous law-breaking behavior the Ministry of Justice made out a draft of the revised Juvenile Law and the revised Law on Juvenile Training School. In 2007 both laws were enacted.

Under the revised Law on Juvenile Training School of 2007 the minimum age of a juvenile for sending to the juvenile training school is lowered from 14 to about 12. Younger juveniles between about 12 and 15

years of age could be sent to the primary-class school or the medical school. The Ministry of Justice thought that it is not desirable for a child affiliated with an elementary school to receive the protective educative programs together with other inmates affiliated with a junior high school. Then, the Ministry of Justice provided a special facility and the equipment for the child in the primary-class school and the medical school. In addition, it introduced special treatment for the child by a pair of a male Homu Kyokan and a female one as quasi-parents, which is carried out in the Home to Support Child's Independency. However, since 2007 this system has not been used, because no child affiliated with an elementary school is sent to the juvenile training school for his/her heinous law-breaking behavior. It is ridiculous from the viewpoint of both the welfare model and the cost benefit.

## 16. Assaults against Inmates in Hiroshima Juvenile Training School

In April in 2009 an inmate gave a claim about violence of some Home Kyokans against inmates to a new chief of Hiroshima Juvenile Training School. Then, the Hiroshima District Correction Office of the Ministry of Justice began to research, and found the violence committed by Homu Kyokans. Receiving the accusation from the office, on June 10 in 2009 the Hiroshima Public Prosecutors Office arrested four Homu Kyokans for assault and cruelty committed by the special public officer with police<sup>(18)</sup> power.

According to the report of the Hiroshima District Correction Office several Homu Kyokans including the arrested four suspects among all 35 Homu Kyokans working at the Hiroshima School did violence against a

half of about 100 inmates in the fiscal 2008. Four Homu Kyokans were charged with cruel assaults against four inmates during one year from March in 2008. They committed such assaults against four protesting inmates as choking a neck of an inmate and making another inmate wear the paper incontinence pads while showering with water (Nihon Keizai Newspaper on June 10 in 2009). On August 11 in 2009 a former chief specialist Homu Kyokan in the Hiroshima School who had contributed to introducing the advanced treatment for the developmentally disordered inmates was also arrested for wrapping a sheet around a neck of an inmate in September in 2005 while telling him that he can die by strangling the sheet by himself. At the district court four suspects received the imprisonment sentence, while the former chief specialist Homu Kyokan was imposed the imprisonment with suspension of its execution.

We thought that Homu Kyokans did violence very rarely in the juvenile training school. Therefore, we were shocked by this scandal in Hiroshima Juvenile Training School. In December in 2009 the Minister of Justice announced that the ministry would establish the committee to think about the policy on operation of the juvenile training school and the Juvenile Classification & Detention Center. The Committee of Learned Specialists to Think about Juvenile Correction held the first meeting on December 7 in 2010. In such a situation the escape of a male inmate from Naniwa Juvenile Training School occurred in August in 2011.

## 17. Introduction of Strict Measures to Prevent Inmate from Escaping from Juvenile Training School

The juvenile training school, especially the short-term school does

not have the strict measures to prevent inmates from escaping like those in the United States, because the school is thought as an institution for the protective educative treatment under the welfare model. Without the strict preventive measures the school succeeded in prevention of escape owing to establishment of inmates' confidence in Homu Kyokans. Although the escape from the school is rare, people's concern about inmate's escape has surged up in the conservative atmosphere since 1990.<sup>(19)</sup> Then, every time the escape from a juvenile training school occurs, the mass media report about it as the big news, by which residents living near the school are put in a situation of the moral panic. The panic has become bigger since the late 1990s, as more and more people sympathizing with crime victims want to exclude a juvenile delinquent from their community.

On August 14 in 2011 a juvenile of 18 years old having committed a theft and an injury escaped from Naniwa Juvenile Training School. He received the job training on metalworking during a half year at the school. As he was unsatisfied with the delay in being promoted to the higher stage, he stole the saw blades at a factory in the school. By the blades he cut iron-bars at a window little by little for a week, after which he succeeded in escaping from the school. In the morning on September 23 he was arrested for the destruction of a building structure.<sup>(20)</sup> This incident<sup>(21)</sup> was reported as the big news by the mass media.

After this incident the Ministry of Justice became very sensitive to people's concern about the escape from an institution for confining offenders, which was escalated by the escape of a Chinese prisoner from Hiroshima Prison.<sup>(22)</sup> The ministry acquired the budget to introduce such preventive equipment as a camera for supervision, and to construct the higher wall and fence. By the introduction of these preventive measures

the atmosphere of the juvenile training school as an institution for protection and education is damaged. In addition, as people become very anxious about an accident or an escape outside the juvenile training school, the total number of inmates in the short-term school for the special training decreases drastically. As I mentioned previously, in 2013 only 30 juveniles were accommodated in the short-term school for the special training all over Japan. In spite of the emphasis on the tough policy against juvenile offenders Homu Kyokans continue endeavoring to carry out the protective educative treatment under the welfare and rehabilitation model.

## 18. Draft of Law on Juvenile Training School

At meetings of the Committee of Learned Specialists to Think about Juvenile Correction eleven members including such a specialist as a scholar in criminal laws, a lawyer, a scholar with a career of a Family Court probation officer and a scholar with that of a Homu Kyokan at the juvenile training school discussed four items ; 1) strengthening of the operation system of each institution, 2) strengthening of cooperation with the agencies concerned, 3) improvement of proving effectiveness in treatment and 4) improvement of human resources. Concerning the first item they decided the improvement of the system to receive an objection and a claim from inmates and the introduction of a visiting committee for inspection. In consideration of results of the discussion the Ministry of Justice made out a draft of main items for the revision of the Law on Juvenile Training School and the enactment of the new Law on Juvenile Classification & Detention Center.<sup>(23)</sup>

In the autumn in 2011 the Ministry of Justice invited an opinion about

the draft publicly. I presented my opinion to the ministry on December 3, 2011 (Yokoyama, 2011). The main contents of my opinion are the following.

- 1) Since 1980 the crime control model has been prevalent in the United States and many advanced countries. In Japan juvenile delinquents are treated under the idea of “rearing juveniles soundly” prescribed by the Juvenile Law. The protective educative treatment in the juvenile training school is carried out for juvenile’s best interests. Criminologists and practitioners in the juvenile justice evaluate this practice highly. In consideration of such situation the treatment in the juvenile training school should not be transferred to the direction to the enforcement of imprisonment by the revised Law on Juvenile Training School.
- 2) By the revised Juvenile Law of 2000 the juvenile training school is ready to give accommodation to a juvenile prisoner under 16 years old. However, there is no juvenile prisoner accommodated in the juvenile training school. The Ministry of Justice should not make out a draft of the Law on Juvenile Training School after the model of the Law on Penal Institutions and Treatment of Inmates enacted in 2005, as the treatment of a juvenile prisoner in the juvenile training school is very exceptional.
- 3) In the draft the revised law aims first to assure the adequate operation and administration of the juvenile training school, followed by the phrase that with respecting inmates’ human rights the adequate correctional education and other treatment is carried out, by which the school makes inmates correct their criminal tendency and rehabilitate themselves smoothly into a society for the purpose of rearing them soundly. I criticized this order of the purposes in the draft, because the first purpose should not be to assure the adequate operation and

administration after the model of prisons, of which the first purpose is to assure the confinement of prisoners. According to my opinion the first purpose should be that with respecting inmates' human rights the adequate correctional education and other treatment is carried out for their best interests. The Ministry of Justice did not accept my opinion. However, the phrase of "inmate's best interests" is inserted in Article 15 on the principle of treatment.

## 19. Enactment of the Revised Law on Juvenile Training School in 2014

On March 2 in 2012 the Cabinet decided drafts of the above-mentioned both laws. However, these drafts did not pass the Diet because of the political turmoil for two years. On February 28 in 2014 the Cabinet decided the two drafts again, which passed on June 4 in 2014. The main contents of the revised Law on Juvenile Training School are the following.

### 1) **First Purpose of the Law on Juvenile Training School**

Many articles of the Law on Juvenile Training School of 2014 were made out after the model of the Law on Penal Institutions and Treatment of Inmates. Article 1 prescribes first to assure the adequate operation and administration of the juvenile training school. If the adequate operation and administration for the purpose of preventing the escape from the juvenile training school is emphasized too much, the treatment outside the school such as the treatment in the short-term school for special training may shrink more and more. It is not desirable from the viewpoint of the rehabilitation model.

## 2) Guarantee of Inmate's Human Rights

One of important purposes to enact the Law on Penal Institutions and Treatment of Inmates is to prevent security officers committing a torture and an assault against inmates in a criminal institution, as the torture and assault by security officers in Nagoya Prison drew our attention in 2002.<sup>(24)</sup>

The Law on Juvenile Training School also aims to prevent such an assault committed by a Homu Kyokan as that in Hiroshima Juvenile Training School. Then, under this law inmate's human rights are guaranteed evidently, while a Homu Kyokan is obliged to respect these rights. From this perspective many articles are made. For example, Article 87 prescribes the way in detail how to use handcuffs, while Article 88 prescribes the way how to confine a problematic inmate in a single room for protection. In addition, the objection statement system is improved. If inmates have an objection or a claim, they can write a letter and send it directly to the Minister of Justice (Article 120). Receiving it, the minister can research about the objection or the claim, and revoke the disposition against the objector or the claimer decided by a chief of the juvenile training school if necessary. Members of a visiting committee for inspection can hear from inmates about their objection or claim, and present opinion on improvement to a chief of the juvenile training school.<sup>(25)</sup>

However, if the respect of inmate's rights to freedom is emphasized too much like that in the United States, the fair and equal treatment which is characteristic in Japan may wane.<sup>(26)</sup> It is important for the juvenile training school to rear inmates soundly through the fair and equal treatment, while respecting inmates' rights to freedom in the confinement as much as possible.

The total number of articles of the Law on Juvenile Training School increased from 20 to 147. Like the Law on Penal Institutions and Treat-

ment of Inmates, many articles on the guarantee of due process are introduced. It may be difficult for Homu Kyokans to remember all procedures prescribed by these articles. If they are always concerned about the exact observation of all procedure, they may be deterred from carrying out the protective educative treatment with adequate discretion for inmates' best interests.

### 3) Fundamental System of Correctional Education

Another important purpose of the revised law is to legalize the fundamental system of correctional education in the juvenile training school. From this perspective the previous four kinds of the juvenile training school are replaced by new four kinds of the school. According to the definition of Article 4 the first class school accommodates inmates between about 12 years old and 22 without serious mentally and physically handicap. The second class one is for those between 16 years old and 22 with advanced criminal tendency and without the above-mentioned handicap. The third class school corresponding to the previous medial school is for those between about 12 years old and 25 with serious mentally and physically handicap. The forth class school accommodates juvenile prisoners in order to make them serve their term of imprisonment.

The primary-class school, the secondary-class school and the special school is converted to two ; the first class one and the second class one. If the second class school succeeds the protective educative treatment in the primary-class school and the secondary-class one, it would be desirable from the viewpoint of promoting the welfare model. To the contrary, if it succeeds the treatment in the special school, the stricter confinement would be emphasized in all previous secondary-class schools. If so, it

would bring the wane of the welfare model. The fourth class school will continue to give accommodation to no juvenile prisoner of 14 and 15 years old. Therefore, this category is nonsense.

#### 4) Improvement of Educative Treatment on Rehabilitation Model

Article 23 prescribes the purposes of the correctional education in the juvenile training school, followed by several articles about guidance on life skills and job application, academic education, and so on. To realize these purposes, an individual plan on the educative treatment, the educative courses and the treatment system with four progressive stages are improved.

When juveniles are released from the juvenile training school, they need to have aids given by others, especially a parent. Therefore, the juvenile training school holds protector's meeting periodically in the campus to improve the human tie between an inmate and his/her protector. As more and more protectors attend the meeting recently, the educative treatment is effective for inmates' rehabilitation.<sup>(28)</sup>

Articles 44 prescribes that a chief of the juvenile training school should give aids to the released juveniles with the difficulty in rehabilitating themselves into a society in cooperation with a chief of the probation-parole office. As most of juveniles released from the school are put on the parole, the cooperation of the school with a probation office is important. The juvenile training school helps the released juvenile to find a job in cooperation with the Public Employment Security Office. In addition, the school endeavors to find employers who hire a juvenile released from the school.

## Conclusion

John Winterdyk regards Japanese juvenile justice as the participatory model (Winterdyk, 1997 : xi). As the welfare and rehabilitation model was accepted after the enactment of the current Juvenile Law in 1948, many people have participated in activities to protect and educate juvenile delinquents. In such atmosphere, the protective educative treatment has developed in the juvenile training school.

However, in the late 1990s crime victims began to criticize this treatment for spoiling juvenile inmates. They demanded the juvenile training school to make inmates atone for their crime. It is not easy for Homu Kyokans to do so without intervening in inmate's right to the freedom of thought guaranteed under the Constitution Law. However, Homu Kyokans endeavor to carry out the education to take the perspective from crime victims.

In June in 2014 the revised Law on Juvenile Training School was enacted. It is desirable that inmate's human rights are guaranteed evidently by this law. Under this revised law the Ministry of Justice made a plan to improve the protective educative treatment in the juvenile training school under the welfare and rehabilitation model before its enforcement.

The juvenile training school has good quality of human resources. As I mentioned, Homu Kyokans bear various roles for the educative treatment as a teacher rather than a security officer. Therefore, there are a few specialists in the school. As juveniles are put under the greater stress, inmates with some mental problem increase in the juvenile training school. Then, the Ministry of Justice is requested to hire more medical doctors and therapists for the school.

Japan becomes the aged society, in which the rate of highly old aged people of 65 years old and over reached to 26.7% in October in 2015. The more budgets will be assigned to the welfare for old people. However, it is necessary for the Ministry of Justice to acquire the budget for improving the protective educative treatment in the juvenile training school under the revised Law on Juvenile Training School. It is necessary not only for inmates' welfare but also for the highly aged society, because the current life standard could not be maintained if youngsters including former inmates in the juvenile training school do not support the safety net in the society by paying money as a tax and an insurance premium.

## Epilogue

After the enactment of the Law on Juvenile Training School in June in 2014 the Ministry of Justice and the juvenile training school prepared to improve the system of the operation and the treatment in the juvenile training school during one year. The new system started at the beginning of June in 2015. However, the following situation occurred to obstruct the improvement of the treatment in the juvenile training school under the new system.

Politicians wanted to lower the adult age from 20 years old to 18 to give the suffrage to youngsters of 19 years old and 18. The Revised Law on Public Office Election Law to give the suffrage to those youngsters passed the Diet unanimously on June 17 in 2015. In this revised law there is Additional Article 11 that the national government should take the measures for law-making process necessary for changing the application age of laws including the Civil Code and the Juvenile Law from the viewpoint of taking the balance to the application age changed by the

Revised Law on Public Office Election. After the enactment of this revised law Diet members of the Committee on Adult Age of the ruling Liberal Democratic Party continued discussing the application age of the Juvenile Law. As a result of the discussion they concluded on September 10 in 2015 that the application age of the Juvenile Law should be lowered to under 18 years old with the condition of providing an alternative of taking the protective measures in the place of imposing the criminal punishment as an adult.

If the application age of the Juvenile Law is lowered to under 18 years old, the juvenile training school would lose 40% of inmates. Then, many juvenile training schools would be closed.

Politicians and bureaucrats helping them insist the lowering of the application age of the Juvenile Law only by the logic that youngsters of 19 years old and 18 should take accountability for their offense as an adult. However, youngsters become more and more immature under the over-protection and the over-supervision by adults. In order to make them mature, it is more desirable to give the protective educative measures than to impose the criminal punishment as an adult. The educative treatment in the juvenile training school is more effective for rehabilitation than the treatment in the juvenile prison, because the stigma attached to youngsters released from the school is more mitigated than that to ex-prisoners.

Since June in 2015 I have carried out the campaign against the lowering of the application age of the Juvenile Law in order to maintain the welfare and rehabilitation model under the Juvenile Law and the Law on Juvenile Training School. I wish that my campaign will be successful.

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## Notes

- (1) In the process of discussing the draft of these two laws, supporters for the reformatory school criticized the correctional school as a quasi-juvenile prison. In the consideration of this criticism the name of two schools established for the first time was used the term of a juvenile training school in the place of a correctional school. It was effective to avoid attaching a serious stigma on those released from these schools.
- (2) Concerning the treatment in the juvenile training school before 1948, see Yokoyama, 2000b.
- (3) All eight juvenile training schools accommodated only male juveniles.

- (4) After the end of the war the private school for rehabilitation which gave training to juvenile delinquents to make them become a subject loyal to Showa Emperor was abolished. Many facilities of this school were transferred to the national juvenile training school. The total number of the newly founded school was 3 in 1949, 11 in 1951, 6 in 1952, 11 in 1952 and 2 in 1956 (Yokoyama, 2002 : 404). As a result, the total number of the national juvenile training school amounted to 58 in 1953. At the end of April in 2014 the total number of the national juvenile training school amounted to 52 including three branch schools, while there is no private juvenile training school.
- (5) I guess that the highest rate of juvenile delinquency in our history occurred in the chaos immediately after the World War II (Yokoyama, 2015a : 188).
- (6) This law was renamed as the Law to Promote Human Resources Development in 1985.
- (7) Specialist officers in psychology affiliated with the Ministry of Justice took the initiative in the experimental treatment (Yokoyama, 2012).
- (8) It is difficult to explain about the theory, on which Japanese educative treatment depends. However, the cognitive-behavioral therapy is widely used to correct the wrong cognition of an inmate. Especially, it is used to make a male sexual offender correct his prejudice to a woman in order to prevent him from committing another sexual offense.
- (9) Since 1964 the movement against violence carried out earnestly all over the country. The movement contributed to the decrease in violent crimes committed by a juvenile.
- (10) With motorization the traffic accidents, especially those causing death and injury became a serious social problem. Then, since 1969

some juvenile training schools began to offer the short-term educative program to juveniles committing a serious traffic offense.

- (11) Some inmates in Harima Juvenile Training School came back in the evening on Sunday to their home to commute their junior high school in week days. In the evening on Friday they returned to the juvenile training school to receive the correctional education. However, this educative program was not adopted in other short-term schools for special training.
- (12) At that time the crime by foreigners became a serious social problem (Yokoyama, 1999). However, the total number of alien juvenile inmates accommodated in a juvenile training school remained a small number. During the period from September in 1993 to the end of May in 1996 the total number of male juvenile foreigners assigned to G2 amounted to only 17, while no female one during the same period (*White Paper on Crime in 1996* : 172).
- (13) After 1963 the long-term job training in the juvenile training school was formally authorized by the law. The inmates having finished the course are given the certification by a director of the Human Resources Development of the Ministry of Health, Labor and Welfare. As the issuance of the certification is expanded to inmates classified as V2, the rate of inmates receiving it increases. 49.0% of all juveniles released in 2013 acquired a qualification and/or a license after finishing the course of a job training for such technique as welding, wood work, civil engineering and construction, running of a construction machine, agriculture, gardening and nursing. The certification is helpful for juveniles to find a job after the release from their juvenile training school.
- (14) More and more Homu Kyokans are graduated from a university. Many Homu Kyokans have the license as a teacher on the level of a

high school. In addition, they acquire various licenses for conducting the job training while working in their juvenile training school. They carry out many job programs for inmates without help of a specialist craftsman.

- (15) The conservative insisted that juveniles having committed a serious offense should be imposed the severe criminal punishment in order to awake their consciousness about the norm.
- (16) In the long-term school inmates step up on four stages from the second lower stage to the first upper stage before the release. It takes about one year to pass four stages before the release. At the end of every month inmates are evaluated about their behavior and achievement to be promoted to the higher stage. In case inmates classified as G3 they have the prolonged promotion to the higher stage, which may be regarded as unfair treatment.
- (17) Another reason why inmates in the short-term juvenile training school decreased was the growing concern among people about their escape.
- (18) The age of years of four Homukyokans was 43, 32, 29 and 26 respectively.
- (19) For five years from 2007 we saw only seven inmates escaping from their juvenile training schools (Ehime Prefectural Version of Asahi Newspaper on March 15, 2012).
- (20) He was not arrested for the escape from a criminal institution, because the juvenile training school is an institution for the protective educative treatment to rear inmates soundly.
- (21) Recently male juveniles become herbivore persons. Then, almost all male inmates do not have bravery to cut iron-bars in order to escape like those in days soon after the war. As this incident occurred very

rarely, it was reported as the big news.

- (22) A Chinese man of 40 years old was confined in Hiroshima Prison to serve the twenty three years term of imprisonment for some crimes including an attempted murder. In order to get information about his parents, he escaped by climbing over a temporarily constructed wall of three meters high soon after the excise at a playground in the prison campus in the morning. The prison and the police failed to find him soon after the escape. He succeeded in staying for 54 hours in Hiroshima City. Because his escape was reported as the big news, people worried about his further crimes until the arrest.
- (23) The Juvenile Classification & Detention Center was prescribed by only several articles in the Law on Juvenile Training School.
- (24) In October in 2002 assaults committed by several security officers in Nagoya Prison were exposed. For example, they used a skin belt with handcuffs as an instrument for torture against a prisoner in a single room for discipline. As they fastened a stomach tightly by this instrument, two prisoners were killed. Another prisoner died, as they showered water on his anus by a hose. As tortures and assaults are rare in Japanese criminal institutions, the scandals in Nagoya Prison were reported as the big news by the mass media.
- (25) The system of a visiting committee for inspection is introduced after the model of the Law on Penal Institutions and Treatment of Inmates.
- (26) In Japan the same necessary goods for the life are given or rent to all inmates equally to guarantee the fair and equal treatment. If inmates have complete freedom to bring their belongings from outside, this treatment would wane, because inmates coming from a rich family could enjoy the more comfortable life in the school than poor inmates.
- (27) Recently, such juveniles with advanced criminal tendency as those

affiliated with Boyokudan, a Japanese mafia, and hotroders' group decreases. Therefore, the special juvenile training school accommodated many juveniles whom the Family Court judge recommended to send to the secondary-class school. Judging from this situation, it is desirable that the second class school succeeds the educative treatment in a secondary-class one. It would contribute to reducing the strong stigma which was imposed on juveniles released from the special juvenile training school.

- (28) Recently, children are reared under the over-protection, as a family has only one child or two children. Therefore, inmates in the juvenile training school who are neglected or alienated by their parent or protector decrease.