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# Protective Educative Treatment under Japanese Juvenile Law

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[Abstract]

In Japan the Juvenile Law was enacted in 1922, which was revised in 1948 under the influence of democratization after the finish of World War II. Under the current Juvenile Law of 1948 the protective and educative treatment has been promoted by practitioners working at agencies of juvenile justice, who respect the welfare and rehabilitation model. John Winterdyk evaluates Japanese treatment for juvenile delinquents under the welfare and rehabilitation model. In addition he regards it as that after example of the participatory model, because many volunteers participate in activities to prevent juvenile delinquency and to give protection and education to juvenile delinquents. In this paper the author will analyze how the protective and educative treatment has developed from the historical viewpoint.

In the late 1990s the movement of crime victims surged up. Leaders of the movement advocated that rights of crime victims are poorly guaranteed, while juvenile delinquents are spoiled under lenient Juvenile Law. As many people supported this advocacy of crime victims, Juvenile Law was revised four times toward criminalization since 2000. The author will explain the process of this criminalization.

However, the protective and educative treatment under the welfare and rehabilitation model is maintained fundamentally. Therefore, the author will analyze how practitioners treat juvenile delinquents protectively and educatively in juvenile justice system in the current aged society with the smaller population of juveniles.

By the revised Public Officers Election Law of 2015 youngsters of 18 and 19 years old were given the suffrage. Then, people began to think that the application age of the Juvenile Law should be lowered from under 20 years old to under 18, because offenders of 18 and 19 years old should be imposed the criminal punishment as an adult. The author will explain that the protective educative treatment under the current juvenile justice would be seriously damaged if the application age of Juvenile Law were lowered to under 18 years old.

Key Words : Protective Educative Treatment, Juvenile Delinquents, Juvenile Law

## 1. Introduction of Western System on Treatment of Juvenile Delinquents in Meiji Era

After the Meiji Restoration in 1867 Western systems for juveniles were introduced. Most important was the introduction of the compulsory education system in 1872. In the same year the Prison Rules and the

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illustration of a British style prison was issued. In this law there were some provisions to establish a reformatory prison for juvenile delinquents (Yokoyama, 2015 : 181). However, the educative treatment in a reformatory prison for them was poor because of limited resources of our national government.

In 1880 the Penal Code drafted after the example of French Penal Code was enacted. The code included several provisions for juvenile offenders. For example, by Article 79 the minimum age of culpability was defined as 12.

At that time some Japanese scholars introduced the idea on the educative treatment in a reformatory school in Western countries into Japan. Under the influence of this idea a female priest in a sector of Shinto, Japanese indigenous religion, founded a reformatory school for the first time in 1881. The priests of conventional religions such as Shinto and Buddhism played an important role in establishing a reformatory school. In this movement we saw the start of the participatory model, which John Winterdyk points out as the unique nature of Japanese juvenile justice (Wintedyk, 1997, xxv).<sup>(2)</sup>

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(1) The treaties concluded with the advanced countries at the end of Edo Period were the unequal treaties. To abolish these treaties, our government had to introduce the Western legal system. Shigeya Ohara was dispatched to Hong Kong and Singapore to learn the prison system administrated by British Government. After returning to Japan he made the Prison Rules and the illustration of a British style prison.

(2) Concerning to China Winterdyk mentioned that “partially responsible officially till 18. Law requires limited punishment. Between 1977 and 1991 steady increase and proportionate amount are young offenders, / Participatory” (Wintedyk, 1997, xxv) This statement was maintained in the second version of this book published in 2002. In the third version the statement was modified to “Children partially responsible officially till 18 ; law requires limited punishment : between 1977 and 1991, steady increase in crime, with proportionate number of young offenders ; Participatory model with justice elements” (Wintedyk, 2015, 11).

In July, 1894, the Sino-Japanese War occurred. To make an end of the war, the peace reconciliation was concluded on April 17, 1895, by which China ceded Taiwan to Japan. It was a start of Japanese Imperialism. During the period from 1895 to 1945 people living in Taiwan were compelled to receive the education in Japanese language.

During the Sino-Japanese War nationalism surged up. However, Kosuke Tomeoka, a Christian, succeeded in establishing the Family School as a reformatory school in 1899<sup>(3)</sup>. In each dormitory of the Family School less than ten juveniles having some problem lived together with a teacher and his family. Under the Christian affectionate atmosphere they received the protective educative treatment. At the Family School juveniles learned Christianity and several academic subjects in addition to the job training (Japanese Correctional Association, 1984 : 191). At a class room in the campus they received higher level of academic education than that in an ordinary public high school. The curriculum was composed of such a subject as the Holy Bible, philanthropic work, psychology, history, criminology, sociology, pedagogy, ethics and English. Female juveniles were taught music, cooking and sewing in addition to the above-mentioned subjects. This curriculum was idealistic for Tomeoka who learned the protective educative treatment in a reformatory school in advanced Western countries.

In 1900 the Reformatory Law was proclaimed to endorse activities in reformatory schools. Although the establishment of a public reformatory school was encouraged by this law, only five prefectural reformatory schools were opened by 1908 owing to the poor budget of a prefectural

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(3) Belief in Christianity was prohibited since 1612 when Tokugawa Shogunate issued a Christ ban. It was not until 1873 that people were admitted to believe in Christianity.

government.

In 1907 the current Penal Code was promulgated. The minimum age of culpability was raised from 12 to 14. In addition, the system of a reformatory prison was abolished. Next year the Reformatory Law was amended to give the protective educative treatment in a reformatory school to the former inmates in a reformatory prison. Since then the protective educative treatment for juvenile delinquents and juveniles having some problem developed in reformatory schools with several small-sized dormitories managed by a teacher and his wife.

## 2. Introduction of Juvenile Law

In 1899 the juvenile court was established as a court for the equity at Cook County near Chicago in the United States.<sup>(4)</sup> The Juvenile Law was formed from special procedures and the accumulation of precedents in this court. Under the Juvenile Law juvenile delinquents including juvenile offenders began to be offered the protective educative measures for their best interest instead of the uniform and fair imposition of a penal punishment prescribed in the Criminal Law as the common law.<sup>(5)</sup>

The Juvenile Law was introduced not only to many states in the

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(4) The equity is a body of law, which developed in the English Court of Chancery. In the equity the intervention by the state is justified under the doctrine of "*patens patriae*".

(5) In England the common law was formed from the accumulated precedents. The established common law was applied uniformly all over the country. The rigid application of the common law caused lack of an appropriate result to solve a conflict in an individual case. To supplement this defect, a body of a new law developed as the equity. Therefore, the Juvenile Law as the equity purposes to realize the best interest for an individual juvenile. The procedure is more flexible than that prescribed by the Code of Criminal Procedure as the common law.

United States, but also to many advanced Western countries. In 1907 Shigeto Hozumi gave a lecture on the juvenile court in the United States after he returned from his inspection trip to several advanced Western countries. By his lecture people recognized the necessity of introducing the Juvenile Law to Japan. In 1911 specialists at the Committee to Inquire Law in the national government began to discuss the introduction of the Juvenile Law, which was regarded as a law for offering love to a juvenile delinquent in advanced countries. After the hot discussion in 1919 the first draft of the Juvenile Law and that of the Correctional School Law were completed. However, Shigejiro Ogawa who had contributed to drafting the Reformatory Law opposed these drafts. He insisted that offenders under the age of fourteen should not be adjudicated under the Juvenile Law, and that a correctional school similar to a juvenile prison should not be instituted in place of a well-functioning reformatory school. After the hot discussion these laws passed in the Diet in 1922.

The Juvenile Law of 1922 was applied to juveniles under 18 years of age who commit an offense of a criminal law and who are prone to commit some offense. They were offered nine protective educative measures ; 1) admonition at a Juvenile Tribunal, 2) admonition by a principal of a school, 3) making a juvenile write a letter of the commitment oath for penitentiary, 4) handing over with some conditions to a protector, especially a parent, 5) handing over to a shrine, a temple, a church, a protective organization or an appropriate person for protection of a juvenile, 6) putting under supervision of a juvenile probation officer, 7) referral to a reformatory school, 8) referral to a correctional school, and 9) referral to a hospital.

At the beginning in 1923 the Juvenile Law and the Correctional School Law were enforced. However, owing to budgetary restriction the national

government could establish only two juvenile tribunals located in Tokyo and Osaka.<sup>(6)</sup> In correspondence to these two tribunals the Tama Juvenile Training School and the Naniwa Juvenile Training School were established.<sup>(7)</sup> In these schools juvenile delinquents were offered the protective educative training programs similar to those offered in the Family School. In 1933 the Juvenile Educative Protective Law was enacted in place of the Reformatory Law to coordinate with the system under the Juvenile Law. Under this law a reformatory school was renamed the Educative Protective School.

### 3. Spartan Education During the War

In 1932 the Mānzhōu State was established in the north east region of China under the control of Japanese government. After occurrence of the military crash on July 7, 1937, Japanese army began to invade from the Mānzhōu State into the north part of China. The war continued until the end of World War II in 1945. Under the military regime the education was changed into the Spartan education to make children become a subject loyal to the Showa Emperor who was respected as a god of Shinto. First, many protective organization for juveniles offered a short-term training program for Spartan education to juvenile delinquents. The delinquents were compelled to join a military exercise and to work at a farmland and at a factory. However, it was not until 1943 that a correctional school adopted the training for Spartan education formally. At the end of the war

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(6) During the period from 1934 to 1945 a juvenile tribunal was founded five main cities step by step to expand application of the Juvenile Law all over the country.

(7) To erase the image of a juvenile prison, the name of “a juvenile training school” was used instead of the name of “a correctional school”.

in August, 1945, the Spartan education finished.

#### 4. Protective Educative Treatment of Juvenile Delinquents under Democratization

After the war Japan was democratized under the guidance of the Allied Powers in which the United States took the initiative. To rear children soundly, the Child Welfare Law was enacted in December, 1947, followed by the new Juvenile Law in July, 1948. Both laws proclaimed the same purpose, that is, the sound rearing of children and juveniles.<sup>(8)</sup>

To enrich the welfare and rehabilitation model, the range of cases treated under the Juvenile Law was expanded. The age of juveniles eligible for the law was lifted from under 18 to under 20. People supported it, because they sympathized with many juveniles having committed a crime under the miserable environment in a chaotic situation soon after the war.

The current Juvenile Law of 1948 prescribes three categories of juvenile delinquents, that is, a juvenile offender between 19 and 14 years old, a law-breaking child under 14 years old, and a pre-offense juvenile who is prone to commit an offense in the future.<sup>(9)</sup> In addition, the police guide a juvenile conducting such a deviant behavior as loitering at midnight and smoking as a pre-delinquent in order to give him/her warning for the purpose of the prevention of their future delinquency.

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(8) The author regards the Juvenile Law as a special law of not only a criminal law but also a welfare law.

(9) The age of criminal culpability prescribed by Article 41 of Penal Code is 14 years old. Therefore, a person under 14 years old who has violated some article of a criminal law is called a law-breaking child.

The new Juvenile Law also followed the principle of *parens patriae*. However, the principle of legality came to be more emphasized. For example, the democratized police are obliged to carry out their work under the doctrine of the due process prescribed by Article 31 of a new Constitution Law which was enacted in November, 1946. The police investigate, guide and treat juvenile delinquents first of all under the procedure prescribed by the Juvenile Law, although they should also observe such laws as the Penal Code, the Code of Criminal Procedure and the Child Welfare Law. Therefore, they are requested to conduct the juvenile policing under the welfare and rehabilitation model prescribed by the Juvenile Law.

Under the new Juvenile Law all cases of juvenile delinquency are referred from the police directly or via the public prosecutor to the family court. Public prosecutors lost their power to screen any juvenile case, and were not qualified to appear at the family court.<sup>(10)</sup> At the adjudication the judge presides with wide discretionary power, as the adversary system is not adopted.

To guarantee juveniles' rights more exactly at the adjudication, under the Juvenile Law of 1948 the family court was founded instead of the juvenile tribunal. Receiving all cases, the family court probation officer screens them. In cases of a juvenile delinquent having no serious problem the family court judge gives a decision not to open the adjudication. In other cases the judge orders a probation officer to carry out a research. In

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(10) By the revised Juvenile Law of 2000 the public prosecutor is admitted to appear at a family court by the permission of the judge in a case concerning a juvenile serious offender. At the court the prosecutor is expected to check the recognition about what an offense has committed. However, at the adjudication he/she is prohibited from expressing his/her opinion about the disposal for a juvenile offender, although he/she can write the opinion at the time of referral to a family court.

a serious case or in a case necessary for a special protection the judge gives an order to confine a juvenile delinquent in the Classification & Detention Home for a research by a specialist in behavioral sciences. In the consideration of results of the research by the probation officer and the specialist the family court judge decides whether the juvenile should be offered the protective educative measures or not. The Paragraph 1 of Article 24 of the Juvenile Law prescribes three protective educative measures ; 1) putting on probationary supervision of the Probation & Parole Office affiliated with the Ministry of Justice, 2) referring to facilities for children of up to 18 years old under the Child Welfare Law, and 3) referring to a juvenile training school.

The protective organization for juveniles was abolished by March, 1949, as the Allied Powers regarded it as an organization to support militarism during the war.<sup>(11)</sup> The facilities belonging to the organization were diverted to a juvenile training school or a facility for the Educative Protective School<sup>(12)</sup> prescribed in the Child Welfare Law. Soon after the enforcement of the Juvenile Law and the Juvenile Training School Law we witnessed the chaotic situation in all over-crowded juvenile training schools. With improving this situation the educative programs for juvenile delinquents developed in a juvenile training school.

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(11) In Germany Hitler Youth established in 1926 contributed greatly in waging a war. As an organization similar to Hitler Youth, the protective organization for juveniles seemed to be abolished.

(12) The delinquents treated in the Educative Protective School decreased drastically after the high economic growth period from 1954 to 1973. Then, in 1998 the Educative Protective School was renamed the Home to Support Juvenile's Independency as a facility to accept children with some problem who need support for their independency.

## 5. Change in Juvenile Delinquency after World War II

Soon after the World War II we lived in the chaotic situation of absolute poverty, in which many juveniles, especially orphans, committed crimes, above all, thefts. I estimate that quantity and quality of juvenile delinquency was worst in our modern history.

With the gradual establishment of the system for the juvenile policing in the late 1940s the police could arrest or guide more juvenile delinquents. Then, the rate of juvenile Penal Code offenders caught by the police per the population of 1,000 juveniles between 10 and 19 years old reached 9.5 in 1951, that is, the first peak after the war.

In the early 1960s the baby boomers became teenagers. We drew our attention to their violent crimes, especially those committed at junior high schools. Many juveniles graduated from a junior high school moved to urban areas where there were many good jobs with industrialization. They lived at a house of an employer or a dormitory.<sup>(13)</sup> Some of them having<sup>(14)</sup> dropped out from their place of work often committed a crime. In such a situation the rate of juvenile Penal Code offenders increased to 11.9, the second peak, in 1964. At that time we witnessed many anti-social behaviors conducted by a juvenile offender who felt being alienated from a society.

In the early 1980's the second baby boomers became teenagers. Police carried out the net-widening to arrest or guide more and more juvenile

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(13) Their labor power contributed to great achievements during the high economic growth period.

(14) Borykudan, a Japanese gangsters' group, succeeded in recruiting many dropping-out youngsters as a member (Yokoyama, 2000a : 3).

delinquents for minor offenses and deviant behaviors (Yokoyama, 1989 : 48). Then, we saw the third peak of juvenile Penal Code offenders in 1983, in which the rate reached 17.1. In 1983 police caught 317,438 juvenile Penal Code offenders, the highest number in our history. At that time we saw many juveniles with some psychological problem commit a-social delinquency instead of anti-social one.

In the early 1990s the second baby boomers became adult. Then, juvenile delinquents decreased gradually until 1995 when the rate of juvenile Penal Code offenders declined to 12.1.

In the late 1990s the movement by crime victims surged up. They advocated that juvenile offenders are spoiled by the lenient sanction under the Juvenile Law. This advocacy was supported by people sympathizing with crime victims. In the response to the public opinion the police adopted the tough policy against juvenile delinquents. The Juvenile Law was revised in 2000 toward a partial criminalization (Yokoyama, 2003 : 1552). Under the tough policy backed up by the conservative public opinion the rate of juvenile Penal Code offenders rose to 15.5 in 2003.

Japan becomes a highly old-aged society with the small birth rate. On October 1 in 2015 the percentage of old people of 65 years old and over among all population increased to 26.7%. On the other hand, the percentage of children under 15 years of age among all population decreased to 12.7%. Most of children are grown under the sufficient protection by their parents and adults around them. As they are satisfied with their live,<sup>(15)</sup> they become conformists who commit rarely delinquency. Especially, male juveniles become herbivorous men losing masculinity.<sup>(16)</sup>

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(15) According to results of a research by the Ministry of Health, Labor and Welfare to about 3,000 youngsters between 15 and 39, about 63% of respondents answered that they satisfy with their life (Asahi Newspaper on September 11, 2013).

Then, violent crimes committed by male juveniles have declined. The total number of juvenile Penal Code offenders decreased to 65, 950 in 2015, the smallest number after the World War II. The rate of juvenile Penal Code offenders declined constantly to 5.8 in 2015.

At present the crime committed by juveniles becomes the smaller social problem. However, the preventive measures for juvenile delinquency and the protective educative treatment of juvenile delinquents are still important, because the current high life standard in our aged society would not be maintained in the future without the support by youngsters having grown soundly (Yokoyama, 2018 : 17).

## 6. Change in Character of Juveniles

In a highly old-aged society with the small birth rate children are raised under over-protection in both private and public sector. For example, juveniles living as a child or two children in a family are given affection and goods sufficiently from their parents and persons around them. They lack experiences of fighting each other among siblings. However, they are very sensitive to others' eyes, above all, peer's eyes as the *other-directed* person.<sup>(17)</sup> The *other-directed* juveniles are concerned about a topic on consumption and leisure which they share with their peers through an oral chat and the communication by Social Networking

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(16) Previously, male youngsters behaved violently like a carnivorous animal under the subculture of being proud of masculinity. Owing to the decline of such subculture they do not attack others by use of physical violence. Therefore, they are called "herbivorous-typed persons" in Japan.

(17) Riesman et al. pointed out the social character of *other-directed* at the third stage, that is, the period of "incipient population decline" which was changed from *traditional-directed* at the first stage and *inner-directed* at the second one.

Services. They always have fear that they may be ostracized if they fail to catch up with a topic shared with their peers.<sup>(18)</sup> On the other hand, their parents lack knowledges about a topic shared among juveniles. Therefore, it becomes difficult for parents to control their child.

Recently, many mothers grown in a consumer society begin to endeavor to understand youth culture, by which they maintain friendship with their child, above all, their son.<sup>(19)</sup> Many fathers working hard outside their home are tired when they return to their home. As they also want to acquire affection from their child, they rarely discipline him/her by scolding or by imposing punishment.<sup>(20)</sup> In a family having such parents a child is spoiled.<sup>(21)</sup> Especially, mothers fail to make their son live independently through their strong affectionate tie with him. It is one reason why male juveniles become herbivorous men.

In a nursing home, a kindergarten and a school, teachers become very careful not to hurt feeling of their pupil and student. Corporal punishment is strictly prohibited. Previously, they scolded a student frequently for his/her deviant behavior. They used even a corporal punishment. In case

(18) We estimate that about 20% of high school students live at the relatively poor family, to which many families of a single mother belong. Although a poor student lives by saving as much money as possible, he/she uses a smart phone to associate with his/her peers. Most peers do not know who is a poor student, because the latter pretends to behave like an ordinary student. The teacher also does not know, because the information about student's privacy is strictly guaranteed under the law. Therefore, the real figure of a poor student becomes invisible.

(19) Recently, many male university students enjoy dating, eating and shopping with their mother instead of a girlfriend.

(20) Previously, the horrible thing for a child was an earthquake, a thunder, a fire and a father. Nowadays, the authority of a father over his family members declines.

(21) Many spoiled children do not want to live independently by separating from their parents. Therefore, our government has to offer some programs to help a person under thirty years of age live independently after his/her graduation of a high school, a college or an university.

that the purpose of teacher's discipline seemed to be right, parents appreciated for his/her scolding and punishing. Nowadays, teachers hesitate to scold and punish a pupil and a student, because they may be protested by his/her parent, above all, mother with a high academic career.<sup>(22)</sup>

The environment for children in the community has also changed. Previously, many children were grown in a rural area in which they had strong human tie through face-to-face relation. Children played outdoors in a group, in which they learned how to play together under a leader and how to communicate each other. If they committed a minor offense or a deviant behavior, they were only scolded by others, especially neighbors in their community. Their delinquency was rarely reported to the police. The tolerance level for a deviant behavior was high.

With urbanization many people have moved to an urbane area, in which there is anonymity among inhabitants. As people living in a city become indifferent to a minor offense and a deviant behavior committed by a juvenile, they rarely scold him/her. However, if they judge it as a nuisance, they report about it immediately to the police by their smart phone without scolding him/her. In addition, they become very sensitive to maintain privacy. Then, if a juvenile commit a minor nuisance such as making noise by playing a musical instrument, they report about it to the police by their phone without giving the warning to him/her. The tolerance level for a deviant behavior declines by which juveniles lose freedom to behave adventurously.

Parents, especially mothers are concerned about the safety of their child. Therefore, they prohibit their child from playing adventurously. It

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(22) A parent, especially a mother with a high academic career looking down teachers gives a claim frequently to the school under favoritism for their spoiled child. Such parent is called a monster parent.

is another reason why male juveniles become herbivorous men. Next, the author will analyze how the protective educative treatment is carried out on each stage of the juvenile justice in response to the change in character of juveniles.

## 7. Preventive Activities against Delinquency by the Police

Japan has two unique systems for the community policing : Koban (a police box) in the urban areas and Chuzaisho (a police house) in rural areas.<sup>(23)</sup> In April in 2015 there were 6,250 Kobans and 6,474 Chuzaishos.<sup>(24)</sup> The police officers working at Koban or Chuzaisho carry out many crime preventive activities including those to prevent juvenile delinquency in their territory.

The police have developed their own organizations for the prevention of juvenile delinquency since 1949 when the Notification on Strengthening Juvenile Policing was conveyed to all local autonomous police in Japan.<sup>(25)</sup> As the juvenile policing was strengthened under this notification, we witnessed the first peak in juvenile delinquency in 1951.

During the second peak of juvenile delinquency in 1964, Japan directed attention to offenses by juveniles coming from rural areas after graduation

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(23) At Chuzaisho a police officer works alone while living with his family. He copes with every troubles reported by inhabitants. Recently, a male police officer gets married with a female police officer, as the number of a female police officer increases. Then, the police begin to assign a married couple to Chuzaisho.

(24) In the rural area we see the depopulation. Then, the total number of Chuzaisho decreased gradually.

(25) After the World War II we adopted local autonomous police following the U.S. model (Yokoyama, 2001 : 191). In 1954 the Police Law was revised, by which a new system composed of the National Police Agency and the Prefectural Police was introduced.

from a junior high school. These juveniles were the main target of the newly established company-police conference at which police officers in charge of juvenile policing at a police station in a city offered information about their delinquency preventive activities to companies. Nowadays these activities of the conference have waned, as the companies employ few teenagers.<sup>(26)</sup>

In the early 1960s we witnessed the increase in delinquency of high school students. To cope with this problem, the school-police conference was organized to exchange the information about juvenile delinquency in the community between schools and the police. Every junior high school was required to have a teacher in charge of guiding students by 1969 (Yokoyama, 1981 : 170). In April in 2016 there were approximately 2,300 school-police conferences all over the country (*White Paper on Youth in 2016* : 117). In addition, the liaison council between a school and the police is established to share information about an individual student having committed delinquency inside and outside a school.

In each police station there is a department of the community safety, with which specialist police officers in charge of juvenile policing are affiliated. The specialist officers and guidance volunteers for juvenile policing patrol periodically at the amusement quarter in a city. Their patrol contributes to preventing juveniles from committing a delinquency and from being victimized by a vicious person such as a Boryokudan member.

The police have established three volunteer systems : the guidance volunteer, the police helper for juveniles and the instructor for juveniles. In April in 2016 the total number of guidance volunteers amounted to

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(26) The rate of juveniles entering a senior high school among all juveniles graduated from a junior high school increased from 42.5% in 1950 to 91.9% in 1975.

approximately 51,000. In addition, about 250 people, many of whom are retired police officers, work as police helpers for juveniles in charge of dispersing a group of juvenile delinquents, while approximately 6,600 juvenile instructors authorized by the Law on Regulation of Business Affecting Public Morals of 1985 work to protect juveniles from immoral environments.<sup>(27)</sup> In addition, the police succeed in recruiting university students as a volunteer to work for juvenile delinquents. In March, 2016, the total number of these students amounted to about 4,600. They teach a juvenile delinquent on the voluntary base in response to his/her academic level as a private tutor.

Under the Juvenile Law the police are not qualified to supervise juveniles after providing guidance. However, recently the police activated the after-care treatment of juvenile delinquents, mainly those with a career of being guided or arrested by the police, with their consent and the consent of their parent(s) in order to prevent their future delinquency. The juveniles put under the after-care treatment are offered advice from the police officer in charge of counselling, and suggested to participate in such a voluntary activity for social service as cleaning at a public garden and on a street in a city.

The police took the initiative in introducing the Juvenile Support Team to support a juvenile with some problem in order to prevent his/her future delinquent acts. Nowadays this system is carried out by the leadership of the education board, because the main target is a junior high school student with some problem.

The police have the School Supporter System in order to help a school

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(27) As groups of juvenile delinquents have decreased drastically since 2003, the original task of the police helper for juveniles declines. Therefore, the author insists that three volunteer systems should be unified.

to cope with a delinquency problem. In April in 2016 the police had approximately 850 school supporters, most of whom are retired specialist police officers in charge of juvenile policing. Usually a school supporter waits at the police station while he collects information about the delinquency in the territory. At the request of a principal he visits a school to respond to needs of the school.

The police have the Center for Supporting Juveniles to support both juvenile delinquents and juvenile crime victims.<sup>(28)</sup> In the center several juvenile guidance officers work for them. In case a juvenile and/or his/her protector calls or comes to the center, a juvenile guidance officer gives counselling and advice. The juvenile guidance officers participate in patrolling in the amusement quarter. They play a main role in carrying out the after-care treatment. In addition, they visit a school to campaign on such a topic as juvenile delinquency, drug abuse and traffic safety.

Nowadays, juveniles use a smart phone, through which they enjoy chatting and exchanging information. Boys and girls are often solicited to access the website on pornography and the compensated dating respectively.<sup>(29)</sup> To prevent juveniles from being victimized in such a way, the police check the website, which is called cyber policing. If they find some immoral website, they ask a provider to delete it.<sup>(30)</sup> Some stranger asks a girl on a message board in the website and through SNS to associate with him. She is sometimes victimized by the stranger and even by her

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(28) The Rule on Activities of Juvenile Policing prescribes the activities of a police officer about how to treat a juvenile crime victim, a neglected juvenile and a child under 14 years old in addition to a juvenile offender, a law-breaking child, a pre-offense juvenile and a pre-delinquent.

(29) The compensative dating was transferred from Japan to Taiwan and Hong Kong.

(30) By insisting the freedom of expression, the provider sometimes neglects the request of the police to delete an immoral website.

<sup>(31)</sup> acquaintance. The police work to prevent a girl from being victimized by some crime, especially a sexual crime, and catch a criminal who victimizes her. With development of sexual and semi-sexual industry girls have more risk of being victimized.<sup>(32)</sup>

## 8. Investigation by Police

When the police catch a juvenile suspect with criminal culpability for some offense, they begin to investigate under the Code of Criminal Procedure. However, some special rules for a juvenile suspect are prescribed under the Section 11 of the Rule of Criminal Investigation. Investigators are requested to contact a juvenile suspect with spirit to rear him/her soundly according to the purpose of the Juvenile Law. Article 204 of the rule prescribes that investigators should hear from a juvenile suspect by careful attitude with warm heart and understanding to him/her not to hurt his/her sentiment, and that they should keep secrecy about their investigation.

In addition to collecting evidences about juvenile suspect's offense, investigators are obliged to research causes and motivations of suspect's offense, his/her character, career, family background, and so on. When they summon and interrogate a juvenile suspect, they should report about

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(31) Recently we witness that a male acquaintance asks a girl to take a photo of her nude body and to send it by her smart phone. Receiving the photo, he urges her to have a sexual relation. If she refuses it, he distributes the photo through the website, which she cannot retrieve forever.

(32) We witness the development of so-called JK business, in which female students of a senior high school work. The students waiting at the JK business office earn money in such a way as dating with a male customer or massaging his body in a room. They have high risk of being raped, although some of them are willing to earn money by the dating with compensation.

it to his/her protector, especially parent. They should arrest and confine a juvenile suspect as less frequently as possible. At the press conference they are prohibited from talking about such items as the name and the address of a juvenile suspect. However, the lenient treatment for juvenile offenders by investigators has declined since the adoption of the tough policy in the late 1990s. For example, since then the police have arrested and confined a juvenile suspect more frequently by acquiring a warrant from a judge.

## 9. Treatment by Family Court Probation Officers

Since 1950 the family court has had probation officers who are trained in behavioral sciences such as sociology and psychology. The probation officers are responsible for screening a case and conducting a background research in a serious case. They are also responsible for managing the tentative probation before the adjudication at the family court. Juvenile tentative probationers can be guided by a volunteer or accommodated for correctional education at a private house or facility under the supervision of a probation officer.

The total number of tentative probationary cases of some non-traffic offense dropped from 2,521 in 2000 to 1,550 in 2011. One reason of this decrease is that the family court probation officers become inactive to work as a caseworker for realizing juvenile's best interest. The number of those who were accommodated in a private house or a facility also decreased drastically from 338 to 127 for the corresponding period. The tentative probation by volunteers demonstrates the participatory character in our juvenile justice system. However, this system is declining with the change in our society. Previously, many owners of a small-sized store and factory

took care of juvenile tentative probationers. Nowadays these persons disappeared owing to the change in industrial structure. Even such a famous private facility as Bukkyo Jitoku Gakuen was closed in the recent drastic decrease in juvenile tentative probationers.<sup>(33)</sup>

In some large-sized family courts probation officers treat tentative probationers, above all, those committed some traffic offense with the help of volunteers. For example, probation officers at Tokyo Family Court hold a meeting for tentative probationers and their protector, at which some university students join. At the meeting the students talk with a juvenile tentative probationer and his/her protector to help him/her reflect his/her offense. In addition they teach the probationer some academic subjects as a private tutor.

## 10. Treatment in Juvenile Detention & Classification Home

If crisis intervention is deemed necessary, the family court judge can decide to place a juvenile delinquent in a Juvenile Detention & Classification Home administered by the Ministry of Justice. Previously, the Juvenile Detention & Classification Home was defined insufficiently by several articles of the Juvenile Training School Law. In June, 2015, the Law of Juvenile Detention & Classification Home was newly enacted at the same time as the entire amendment of the Juvenile Training School Law.<sup>(34)</sup> The

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(33) Previously, at Bukkyo Jitoku Gakuen about ten juvenile tentative probationers were offered a training program of polishing the surface of a big hard stone. This unique program was highly evaluated, because the probationers became patient by polishing it for several hours every day.

(34) The Juvenile Training School Law was entirely amended to guarantee human rights of accommodated juveniles more strictly and to make operation in a juvenile training school more transparent.

tasks of the Juvenile Detention & Classification Home are the differential diagnosis of juvenile's character by the use of knowledge and technique of such behavioral sciences as psychology and psychiatry, the observational protective treatment to rear an accommodated juvenile soundly, and the support of activities in the community to prevent delinquency.

At the beginning of 2016 there were 52 Juvenile Detention & Classification Homes including one branch home. As the police arrested juvenile offenders more frequently in the late 1990s, the total number of juveniles newly admitted to the Juvenile Detention & Classification Homes rose to 23,063 in 2003, although more than 30,000 juveniles were accommodated at the second peak of juvenile delinquency around 1965. As juveniles become more and more conformist, they seem to commit a serious offense infrequently. Therefore, in spite of maintenance of the tough policing against juvenile delinquents the total number of juveniles admitted to the Juvenile Detention & Classification Home decreased constantly to 9,132 in 2015.

In the Juvenile Detention & Classification Homes specialist researchers in behavioral sciences carry out many kinds of tests on accommodated juveniles in addition to the observation of their behavior by a Homukyokan, that is, a teacher in charge of legal affairs. The test and the observation are usually finished within four weeks, although maximum term of custody expanded to eight weeks by the revised Juvenile Law of 2000. Previously, scholars in law and lawyers insisted that the educative treatment should not be carried out in the Juvenile Detention & Classification Home as they regarded an accommodated juvenile as a suspect with the possibility of finding innocence at the adjudication. However, under the new Law of Juvenile Detention & Classification Home the observational protective treatment to rear an accommodated juvenile soundly is justified from the

viewpoint of the purpose of the Juvenile Law.

In 2015 the total number of juveniles accommodated in the Juvenile Detention & Classification Homes who received the final decision at the family court amounted to 7,886, of which 2,730 or 34.6% were sent to a juvenile training school. By Paragraph 1 of Article 18 of the Law of Juvenile Detention & Classification Home a chief of the Home assigns a juvenile training school to a juvenile. With documents on results of the research conducted in the Home, a juvenile is sent to the assigned juvenile training school.

## 11. Adjudication by Family Court Judge

In case a family court probation officer judges as a trivial case without necessity of giving any protective educative measures, the family court judge decides the dismissal without hearing from a juvenile. Based on the total number of final disposals of juvenile non-traffic offenders, the percentage of dismissal without hearing amounted to 57.8% in 2015. This high rate reflects the fact that juveniles having committed minor offenses such as a shoplifting of a trivial sum of goods, the riding of a deserted bicycle and an offense of the Minor Offenses Law are actively caught by the net-widening of the police activities.

For other cases the family court judge(s) hears from a juvenile delinquent and his/her protector after receiving a report on the results of a research from the family court probation officer and the Juvenile Detention & Classification Home.<sup>(35)</sup> At the court the judge presides over hearing in an informal way, although some procedures prescribed by the

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(35) By the revised Juvenile Law in 2000 three judges can hear at the adjudication in a complicated case.

Code of Criminal Procedure are applied. Paragraph 1 of Article 22 of the Juvenile Law prescribes that the adjudication should be carried out kindly under the amicable atmosphere, and facilitate a juvenile to reflect his/her delinquency.<sup>(36)</sup>

Article 82 of the Constitution Law prescribes that the confrontation between a plaintiff and a defendant and the declaration of judgment should be conducted at an open court. On the other hand, in juvenile cases the hearing without the confrontation and the declaration of decision are carried out in a closed court to prevent juveniles from being stigmatized. However, by the revision of the Juvenile Law in 2008 crime victims and the bereaved in some serious case can be admitted to listen to hearing at the court.

After the hearing the family court judge refers some cases back to the public prosecutor for indictment to a criminal court. In 2015 the total number of the referral back cases amounted to 2,848, of which 87.5% were the traffic offense cases to impose a criminal fine. The corresponding number of the heinous cases applied by Paragraph 2 of Article 20 of the Juvenile Law amounted to only 20.<sup>(37)</sup> Among 20 juvenile offenders, 8 were referred back for an injury causing death, followed by 5 for a murder, 5 for

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(36) Previously, people thought that juveniles committed delinquency in their bad circumstance. However, in the late 1990s people began to think that juveniles without good normative consciousness commit delinquency. Then, by the revised Juvenile Law of 2000 the facilitation to reflect his/her delinquency was added to Paragraph 1 of Article 22.

(37) Paragraph 2 of Article 20 introduced by the revision of the Juvenile Law in 2000 prescribes that juveniles committed a malicious offense causing death at their age between 16 and 19 are referred back in principle to the public prosecutor. However, the judge can offer the protective educative measures to them in consideration of their motivation of the offense, their reflection for the offense, their character and so on. In 2015 the judge offered the protective educative measures to 20 juvenile offenders as an exception of the application of Paragraph 2 of Article 22 of the Juvenile Law.

a dangerous driving causing death, and 2 for a rape causing death.

Except for these cases of referral back, the judge decides whether or not to give the protective educative measures. Many juveniles are dismissed after receiving warning and advice at the adjudication. The percentage of juveniles receiving decision of the dismissal after hearing among all juveniles on charge of a non-traffic offense disposed of at the family court was 15.4% in 2015. Adding 57.8% of juveniles dismissed without hearing, 73.2% were not offered any protective educative measures prescribed by Paragraph 1 of Article 24 of the Juvenile Law. On the other hand, the percentage of juveniles put under the probation and sent to a juvenile training school is 19.8% and 5.3% respectively.

## 12. Protective Educative Treatment in Facility for Children under Child Welfare Law

The family court judge can place juvenile delinquents of younger ages in the Home for Dependent Children or the Home to Support Child's Independency (Yokoyama, 2012 : 361). The delinquent children placed in such facilities are few in number. In 2015 the total number of those sent to such a facility amounted to 167. Almost all of these children are treated in one of 58 Homes to Support Child's Independency, of which 2, 54 and 2 are managed by the national government, the local one and a private foundation respectively. Usually a law-breaking child with the most serious problem is treated in two national Homes to Support Child's Independency : one for boys and another for girls. Nowadays, most of the Homes give up maintaining the system of the protective educative

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(38) Only a few are released because of their innocence. However, under the principle of *parens patriae*, 'non-guilty sentence' is not formally declared under the Juvenile Law.

treatment at several small-sized dormitories managed by a teacher and his wife, although two national Homes maintain it. Most of the Homes have a school in their campus to carry out the compulsory education prescribed under the School Education Law.

### 13. Protective Educative Treatment in Juvenile Training School

#### 1) Treatment since the late 1990s

In the late 1990s agencies of juvenile justice system widened their net over juveniles who have committed less serious offenses. Therefore, we saw the recent peak of juveniles newly admitted in juvenile training schools in 2000, when the total number of those juveniles amounted to 6,052 (*White Paper on Crime in 2001*). Of all admitted juveniles, 61.6%, 34.6% and 3.8% were sent to the long-term schools, the general short-term schools and the short-term schools with special training course respectively. Around 2000 we witnessed over-crowdedness in these schools.

Since 2000 more and more juveniles have become conformist, by which their delinquency, especially their serious offense, has decreased. Therefore, in spite of the maintenance of tough policy in the juvenile justice the total number of juveniles admitted in juvenile training schools decreased to 2,743 in 2015. Especially, during the period from 2000 to 2014 the number of these juveniles admitted to the general short-term schools and the short-term schools with special training courses decreased drastically from 2,092 to 1,078 and from 233 to 23 respectively. By the maintenance of tough policy more juveniles with less criminal tendency are sent to a long-term juvenile training school instead of a short-term school.

#### 2) Guarantee of Human Rights under New Juvenile Training School Law

The Juvenile Training School Law enacted in 2014 aims to prevent

Homukyokan (a teacher in charge of legal affairs) from committing some violent behavior against an accommodated juvenile (Yokoyama, 2016 : 53). Under this law the guarantee of juvenile's human rights are prescribed evidently in addition to Homu Kyokan's obligation to respect these rights. To realize the guarantee and the obligation, many articles are introduced. For example, Article 87 prescribes the way in detail how to use handcuffs for a raging juvenile. Article 88 prescribes the way how to confine a problematic juvenile in a single room for protection and for reflection.

The objection statement system is improved. If the accommodated juveniles 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. If necessary, the minister revokes the disposition against them decided by a chief of their juvenile training school. Members of the Visiting Committee for Inspection introduced by this new law can hear from the accommodated juveniles about their objection or claim, and present opinion on improvement to a chief of their juvenile training school.

### 3) New Categories of Juvenile Training School

Under the new Juvenile Training School Law the system of corrective education was improved. Under the new law four categories of the school, that is, the primary school, the middle school, the special school and the medical school were abolished. Then, they introduce four new categories; the First Class School for accommodating juveniles without serious mental or physical handicap between approximate 12 years old and under 23, the Second Class School for those with high criminal tendency and without serious mental or physical handicap between approximate 12 years old and under 23, the Third Class School for those with serious mental or physical handicap between approximate 16 years old and under 26, and the Fourth

Class School for those serving a part of their term of imprisonment until their 16<sup>th</sup> birthday.<sup>(40)</sup>

At the time of decision making on the referral of a juvenile training school, the family court judge declares the referral to one among the above mentioned four kinds of a juvenile training school. In case the judge chooses the First Class School, he/she can declare the recommendation on the short-term treatment within six months.

#### 4) New Classification of Course on Correctional Education

Under the new Juvenile Training School Law the course on corrective education was diversified into 16. The First Class School has 10 courses : 4 for academic education (SE, E1, E2, SA), 3 for education for adjustment to social life (A1, A2, A3) and 3 for education to support the handicapped (N1, N2, N3). The Second Class School has four courses : 2 for education for adjustment to social life (A4, A5) and 2 for education to support the handicapped (N4, N5). In addition, the Third Class School and the Forth Class School have a course for medical treatment (D) and that for treatment of juvenile prisoners under 16 years old (J) respectively.

The total number of juveniles admitted in a juvenile training school during period from July to December in 2015 amounted to 1,791, of which 1,710 or 95.5% were accommodated in the First Class School. Those admitted to the Second Class School amounted to only 35, as juveniles

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(39) Kanto Medical Juvenile Training School and Kyoto Medical Juvenile Training School are assigning to the Third Class School, in which medical treatment and care are offered to juveniles as a medical hospital.

(40) By the revised Juvenile Law of 2000 juveniles under 16 years old can be sentenced to the imprisonment at a criminal court. Then, the system of serving the imprisonment in a juvenile training school was introduce to offer the educative programs to a juvenile prisoner under 16 years old. However, since the establishment of this system there is no juvenile prisoner receiving the educative treatment in a juvenile training school.

developing the criminal tendency decreased drastically.<sup>(41)</sup> The Third Class School and the Fourth Class School offered accommodation to 46 and zero respectively. As the number of juveniles accommodated in the Second Class School is small, the Second Class School is operated as the First Class School, too.

Among 1710 juveniles accommodated in the First Class School, 43.6% were assigned to A1 course for ordinary corrective education within two years for adjustment to social life, followed by 18.8% to SA course for the education within six months for adjustment to social life, 10.9% to A2 course for the special education within two years for empowering the self-control, 10.9% to N3 course for the education within two years for the mentally-handicapped, and 6.2% to E2 for the academic education on the level of a junior high school.

#### 5) Guidance on Life

The second section of the fifth chapter of the new Juvenile Training School Law prescribes the contents in five ways on corrective education; guidance on life, vocational guidance, academic guidance, physical training, and guidance on special activities. Concerning the guidance on life, juvenile training schools carry out such activities as training on a basic life,

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(41) In 2015 the total number of male juveniles and female ones admitted to a juvenile training school amounted to 2,498 and 203 respectively. Among all of the male juveniles 53.7% have no affiliation with a delinquent group. 29.2% were affiliated with a delinquent group in the community, followed by 7.8% with a delinquent group of students, 7.5% with a group of hot-rodgers and 1.8% with Boryokudan. In case of female juveniles accommodated in a juvenile training school, 67.0% were not associated with any delinquent group. 19.2% were affiliated with a delinquent group in the community, followed by 6.9% with a delinquent group of students, 5.9% with Boryokudan and 1.0% with a group of hot-rodgers. Juveniles' affiliation with Boryokudan has drastically decreased under the Law to Cope with Boryokudan of 1991, by which members of Boryokudan are prohibited from recruiting a juvenile (Yokoyama, 2000b : 16).

guidance on a problematic behavior, therapeutic guidance, guidance for understanding feeling of crime victims, guidance on adjustment of protective relations, and guidance on career. For these activities they use such a way as giving a lecture, group work, guidance by an interview, and making a juvenile write a composition and a diary. To make a juvenile cope with an individual problem, juvenile training schools offer six kinds of special guidance on life; education to take the perspective of crime victims, guidance to prevent drug-related delinquency, guidance to prevent sex-related delinquency, guidance to prevent physical violence, guidance on family relations and guidance on acquaintanceship, which are carried out the use of group work, group guidance and individual guidance.

The Correction Bureau of the Ministry of Justice developed the programs on drug-related delinquency in 2011, which is used in eleven juvenile training schools. Many juvenile training schools use the programs on sex-related delinquency developed in 2012.

#### 6) Vocational Guidance

Concerning vocational guidance there are three kinds of guidance; the guidance to develop vocational ability, the occupational guidance to support independency, and the guidance to design vocational life. As the guidance to develop vocational ability there are eight courses for vocational training; electrical work, automobile maintenance, water works, data processing, nursing, welding, civil engineering and construction, and cleaning. The accommodated juveniles participate earnestly in the vocational training under the guidance of Homukyokans and specialists coming from the community. Many of them succeed in acquiring a license and a

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(42) Most of Homukyokan are graduated from a university. They acquire some license and qualification to carry out vocational guidance after being assigned to a juvenile training school.

qualification. At a classroom in a juvenile training school they can take the national examination to acquire a license and a qualification of some vocation. Of all juveniles released from a juvenile training school in 2015, 46.7% acquired a license and a qualification by learning under the above-mentioned eight courses for vocational training. In addition, 50.4% of all of the released acquired a license and a qualification on such an item as engineering of hazard materials and a Japanese abacus mainly by their private study or at the correspondence course.

#### 7) Academic Guidance

As many Homukyokans have a teacher's license, they teach academic subjects together with teachers coming from the community. In the First Class School juveniles assigned to E1 course are offered the academic education on the level of an elementary school.<sup>(43)</sup> Those assigned to the correctional course of SE and E2 are offered the education on the level of a junior high school.<sup>(44)</sup> Juveniles assigned to other corrective courses can receive academic education to enter a senior high school, to return to their senior high school, and to acquire the qualification eligible for entrance of a college and a university. Since 2007 the juveniles can take the national examination in a classroom of their juvenile training school in order to acquire the qualification eligible for entrance of a college. In 2015 those who took the examination amounted to 566, of which 187 acquired the qualification eligible for entrance of a college.<sup>(45)</sup> Recently, we see great

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(43) By the revised Juvenile Law of 2007 a juvenile delinquent under 14 years old can be accommodated in a juvenile training school. Then, some juvenile training schools are assigned to accommodate a pupil of an elementary school who receives academic education of E1 course. However, in 2015 there was no pupil assigned to E1 course.

(44) Juveniles assigned to SE and E2 are given academic education within six months and within two years respectively.

(45) In addition, 355 passed a part of subjects eligible for entrance of a college.

achievement of academic education in juvenile training schools.

#### 8) Physical Training

The physical training is carried out for juveniles to develop their sound mind and body. By playing several kinds of sport, juveniles are expected to develop their law-abiding attitude, their cooperativeness, and their physical strength for ordinary life. Homukyokans teach juveniles the rule about a sport and the way how to play it. Usually, they play a sport together with juveniles on the ground and inside a gymnasium in a juvenile training school, by which they acquire juveniles' confidence.

#### 9) Guidance on Special Activities

In a juvenile training school juveniles are obliged to live routinely under rules, by which they may lose their autonomy. To develop autonomy and cooperativeness and to enrich sentiment, juvenile training schools offer programs on such special activities as autonomous activity, circle activity, activity to enrich sentiment, events and voluntary activity for social service. In a juvenile training school about 10 juveniles live together in a dormitory. To facilitate autonomous activity juveniles are assigned in turn to such a role as a leader for working on the day duty, a librarian and a planner of some recreation. In a dormitory under the guidance of Homukyokan they hold a meeting, carry out the homeroom activity, and publish a newspaper. Juveniles with good achievements sometimes participate in a voluntary activity for social service outside their juvenile training school. They visit a nursing home to take care of senior persons, or participate in cleaning in a public garden and at a public facility.

The routine life in a juvenile training school is prone to be monotonous. For the activity to enrich sentiment, volunteers coming from the community teach such art as painting, brush painting and flower arrangement, and the way how to play a musical instrument. In addition, a

juvenile training school holds such an event as a party to see cherry blossoms in April, a party to dance for mourning ancestors in summer, a sport meeting in autumn and a party for Christmas. Members of the Big Brothers and Sisters Movement and those of the Women's Association for Rehabilitation Aid participate in some events. For example, members of the Women's Association for Rehabilitation Aid have a lunch together with accommodated juveniles under cherry trees in April. In summer they dance together with the juveniles wearing Yukata, Japanese summer clothes, which they sew. In such a way they cause affectionate feeling in the juveniles. A juvenile training school invites protectors to participate in some event in order to make a chance to strengthen their human tie with their accommodated child.

#### 10) Process of Treatment

In consideration of results of research sent by the Juvenile Detention & Classification Home a chief of a juvenile training school assigns a newly admitted juvenile to one of courses on corrective education. The chief is responsible for making an individual plan on purpose, content, method and period of the corrective education for him/her. The period of a standard plan on corrective education is eleven months in case of a long-term juvenile training school.

A newly admitted juvenile is put on the first class stage. His/her achievements in the school are evaluated every month for the promotion to the upper class stage. Homukyokan is obliged to take care of several juveniles individually. Homukyokans always observe juvenile's behavior to give warning and advice when he/she causes something wrong or seems to have some problem.

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(46) The total number of members of the former and the latter amounted to about 4,700 and 165,866 in 2016 respectively.

Usually, juveniles accommodated in a juvenile training school have a poor position in their family, in which their protectors does not understand their sentiment. Paragraph 1 of Article 17 of the Juvenile Training School Law prescribes that a chief of the school is obliged to endeavor to acquire the cooperation of juvenile's protectors for his/her rehabilitation. Then, the chief offers information about juvenile's achievements in the school, and asks them to participate in events, especially protectors' meetings held at the school every month. Under Paragraph 2 of Article 17 the chief is given the power to make protectors recognize their responsibility for custody over their child. The chief takes such measures as counseling and giving advice to them especially when they visit the school to meet their child.<sup>(47)</sup>

Many volunteers support the corrective education. Some volunteers visit a juvenile training school periodically for counseling, giving advice and guiding activities to enrich juveniles' sentiment. The total number of such volunteers amounted to 527 at the end of 2015. Juvenile training schools cannot intervene in juveniles' freedom to religion under Article 20 of the Constitution Law. However, the schools offer an opportunity for them to participate in some religious activities. 372 chaplains come to juvenile training schools to carry out some religious activities for juveniles attending on voluntary base.<sup>(48)</sup>

#### 11) Support of Rehabilitation

Juveniles promoted to the third stage begin to prepare for returning to

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(47) When an accommodated juvenile meets his/her protector, he/she is offered a meeting room without any iron-barred windows in which some paintings drawn by accommodated juveniles are decorated to cause affectionate atmosphere. At the meeting room he/she talks with his/her protector without being divided by a guard fence, although a Homukyokan is present for observation.

(48) In addition to an ordinary service to a god, chaplains pray for a person killed by a juvenile and for a dead relative of a juvenile, if he/she wishes.

a society. At this last stage a chief of a juvenile training school applies for juvenile's temporary release to the regional parole board. Then, Hogo Kansatsukan (a probation and parole officer) or Hogoshi (a volunteer probation and parole officer) carries out a research on the environment of juvenile's rehabilitation, and asks his/her protectors to accept him/her at his/her home. After Hogo Kansatsukan affiliated with the regional parole board interviews an accommodated juvenile, the board decides the temporary release.

The Ministry of Justice has cooperation with the Ministry of Health, Labor and Welfare for an accommodated juvenile to find employment after the release. An officer of the Public Employment Security Office visits a juvenile training school to give counselling and advice to juveniles treated on the third stage. The school gives them an opportunity to visit the Office in order to get advice from the officer and to learn the way how to find an employment through the website at the Office.

By Paragraph 1 of Article 44 of the Juvenile Training School Law a chief of a juvenile training school is obliged to offer the after-care supports to a temporarily released juvenile on such items as finding an accommodation, receiving medical treatment and care, learning at a school, and finding a job. The chief carries out these supports in liaison with a chief of the Probation & Parole Office. In addition, such a juvenile with some handicap as the mentally handicapped can receive special service for rehabilitation. Under the system for the special adjustment founded in 2009 caseworkers, especially those affiliated with the Regional Sustained Community Life Support Centers for the Elderly and Handicapped Ex-offenders work for a temporarily released juvenile with some handicap to find such a facility as a nursing home and a hospital after acquiring his/her consent.

## 14. Probation and Parole

### 1) Professional Probation and Parole Officers and the Volunteer Officers

The probation and parole officer is affiliated with the Rehabilitation Bureau of the Ministry of Justice. Hogokansatsukan, that is, a professional probation and parole officer, is expected to work as a specialist with social work training. However, Hogokansatsukans work only as distributors of cases and supervisors for Hogoshi, that is, a volunteer probation and parole officer. Therefore, most of them fail to develop their abilities as social workers.

The Minister of Justice commissions a leader in the community to work as Hogoshi. This is another example of the participatory nature of Japanese juvenile justice system. Hogoshis guide, supervise, and assist almost all probationers and parolees through their experiences. In juvenile cases they treat both juvenile probationers sent from a family court and juvenile parolees released temporarily from a juvenile training school. They may utilize resources in the community more effectively than Hogokansatsukans who are typically transferred to another position every two years.

The total number of Hogokansatsukan amounted to about 1,100, among which about 600 work in the field for probationers and parolees. Owing to shortage of Hogokansatsukans, Hogoshis work for probationers and parolees as a case worker. The fixed total number of Hogoshi is 52,500. However, recently it becomes difficult to recruit a new Hogoshi, especially in the urban area. The total number of Hogoshi remained 47,939 in 2016.

As more females have become Hogoshis recently, the percentage of female Hogoshi amounted to 26.1%. They are expected to have a good

affectionate influence on juvenile probationers and parolees in a different way from that of male Hogoshis. In addition, old-aged Hogoshis increase. The average age of Hogoshi rose from 53.2 in 1953 to 63.0 in 2005 (*White Paper on Crime in 2005*). In 2016 Hogoshis under 40 years old remained only 4.5%, followed by 15.3% of those in 50s years of age, 51.7% of those in 60s and 28.5% of those over 70. Although the generation gap between Hogoshi and a juvenile putting on probation and parole widens, Hogoshi endeavors to understand and accept the juvenile's thinking and sentiment.<sup>(49)</sup> As more people want to exclude offenders and ex-offenders from a society in the conservative atmosphere since 1990, it may become more difficult for Hogoshi to help a juvenile probationer and a juvenile parolee rehabilitate himself/herself in the society. In addition, it is difficult for the Ministry of Justice to recruit community leaders as Hogoshis, especially those under 60 years old.<sup>(50)</sup>

## 2) Change in Number of Juvenile Probationers and Parolees

One of the protective educative measures prescribed by Paragraph 1 of Article 24 of the Juvenile Law is probation. Under Article 66 of the Offenders Rehabilitation Law juvenile probationers can be placed on probation in principle until their 20<sup>th</sup> birthday, although the maximum term of probation for a juvenile over 18 years old is two years.

In 1977 the Ministry of Justice introduced the system of the short-term probation for juvenile traffic offenders.<sup>(51)</sup> Then, the total number of

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(49) Previously, Hogoshi pressed his/her old moral on a juvenile put on probation or on parole. Nowadays such typed Hogoshi disappears.

(50) Previously, many owners of a factory and a store worked as Hogoshi at their free time. However, with the change in industrial structure self-employed persons with a lot of free time have decreased. It is another reason why the Ministry of Justice fails to recruit the middle-aged community leaders as Hogoshis.

(51) Under the system of the short-term probation for juvenile traffic offenders

juveniles put on probation increased drastically to over 70,000 in 1983, when we saw the third peak in juvenile Penal Code offenders. During the period from 1983 to 1991 the number remained over 70,000, after which it dropped. In September, 1994, the system of general short-term probation was introduced, by which the drop stopped temporary. The total number of juveniles put on probation reached 54,221 in 1998. However, it decreased constantly to 18,203 in 2015.

Under Article 137 of the Juvenile Training School Law a chief of a juvenile training school is obliged to give release to the accommodated juveniles when they reach 20<sup>th</sup> birthday. However, in case of those admitted at the time of over 19 years old the chief can continue to accommodate them for a maximum of one year. Except for this case juveniles are released temporarily from a juvenile training school, after which they are put under the parole.

Concerning juvenile parolees released temporarily from a juvenile training school, the total number increased from 1977, when the Ministry of Justice introduced the system of a short-term juvenile training school. It reached 5,585 in 1985. We saw the next peak in 1999, at which the total number of juveniles put on parole amounted to 5,187. Since 1999 the number decreased drastically to 2,871 in 2015.

### 3) Treatment for Juvenile Probationers and Parolees

The juvenile probationer is a juvenile put on probation by the family court judge. The juvenile parolee is a juvenile released temporarily from a juvenile training school. In both cases the juvenile is obliged to appear at the Probation & Parole Office with their protector(s). At the office the juvenile and his/her protector are interviewed by Hogokansatsukan in

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Hogokansatsukan asks probationers to reflect on their traffic offense and to participate in a short course to learn traffic laws and traffic safety.

charge of all cases in a certain region to which he/she returns. Hogokansatsukan informs them about Hogoshi who takes care of them. The juvenile is informed of both the general conditions and the special ones to be observed.

Article 50 of the Offenders Rehabilitation Law prescribes five general conditions, which probationers and paroles should observe. Under Paragraph 1 of Article 50 they are obliged to maintain the attitude toward a sound life not to commit a crime and delinquency again. Under Paragraph 2 they must sincerely accept guidance and supervision by Hogokansatsukan and Hogoshi by observing two items : 1) acceptance of interview when they are summoned or visited by Hogokansatsukan or Hogoshi, and 2) presentation of materials on their work, their attendance at a school, their family environment and so on at request of Hogokansatsukan or Hogoshi. Under Paragraph 3 persons put under probation or on parole are obliged to decide their residence, and report a chief of the Probation & Parole Office about it. Paragraph 4 prescribes that they must live at the place reported to the chief. Under Paragraph 5 they must get permission from the chief in advance when they move their residence or travel for over a week. In addition, if necessary, a chief of the Probation & Parole Office can decide some concrete special conditions to be observed in consideration of the purpose of improvement and rehabilitation of each probationer or parolee. Both general conditions and special ones must to be informed to a probationer or a parolee by a document.

Article 57 prescribes three ways of guidance and supervision; 1) keeping contact with a probationer or a parolee in such a way as interview in order to grasp his/her behavior, 2) giving a direction and taking some measures to make a probationer or a parolees observe general conditions

and special ones, and to make him/her conduct according to a guide on life or behavior, and 3) carrying out a special treatment to correct a certain criminal tendency. If necessary, a chief of the Probation & Parole Office can offer accommodation for guidance and supervision to a probationer or a parolee.

Article 58 prescribes seven ways of guidance and support for a probationer or a parolee to manage to live independently with responsibility for self-help. Seven activities of guidance and support aim for a probationer and a parolee 1) to acquire the suitable accommodation and to return to it, 2) to receive medical treatment and recuperation, 3) to find employment, 4) to acquire measures on cultural training, 5) to improve and adjust his/her environment on life, 6) to receive guidance in order to adjust to social life and 7) to manage sound social life. A chief of the Probation & Parole Office can take such measures as giving guidance and advice to protectors of a juvenile probationer or a juvenile parolee in order to make them recognize their responsibility for custody.

Usually, Hogoshi keeps contact with a juvenile probationer or a juvenile parolee. Hogoshi meets him/her twice in a month to hear about situation of rehabilitation and to give encouragement and advice to him/her. To keep secrecy, Hogoshi decides a meeting place carefully. Some Hogoshis invite a juvenile probationer or a juvenile parolee to their house, in which he/she is entertained like their family member in the affectionate atmosphere. They may visit the juvenile's house to talk with him/her and his/her protector. As Hogoshis are leaders in the community, they can help a juvenile probationer or a juvenile parolee to find a good job in the community.

## 15. Conclusion — Future of Japanese Juvenile System

In Japan the protective educative treatment of juvenile delinquents has been carried out excellently under the welfare and rehabilitation model by the support of many volunteers in the community. Therefore, John Winterdyk evaluates Japanese juvenile justice system highly as the welfare, rehabilitation and participatory model. However, this excellent system faces the danger of collapse in the recent political climate.

On June 17, 2015, the Revised Public Office Election Law to give the suffrage to youngsters of 18 and 19 years old passed the Diet unanimously. This revised law has Additional Article 11 that the national government should take the measures for law-making necessary for changing the application age of other laws including the Civil Code and the Juvenile Law to keep balance with the minimum age for the suffrage. Then, Diet members of the Committee on Adult Age of the ruling Liberal Democratic Party activated discussion on the application age of the Juvenile Law. After the discussion on September 10, 2015, they concluded that the application age of the Juvenile Law should be lowered to under 18 years old with the condition that the exceptional protective educative measures should be given to some offenders of 18 and 19 years old instead of the criminal punishment.

In response to this conclusion the Ministry of Justice established the Study Meeting on Criminal Legal System for Youths (Yokoyama, 2017 : 67). This meeting was held ten times from November 2, 2015, to July 29, 2016. The author expressed an opinion to oppose the lowering of the application age of Juvenile Law at the second meeting held on November 27, 2015. In December, 2016, the Ministry of Justice published a report, in

which two opinions, that is, the opinion for maintenance of the application age of the Juvenile Law and another for the lowering of the age were expressed. Then, the Minister of Justice submitted the topics to Legislation Council on February 9, 2017.

Conservative politicians supporting the tough policy against juvenile offenders and bureaucrats flattering them, main of whom are prosecutors occupying important positions in the Ministry of Justice, insist the lowering of the application age of the Juvenile Law by the logic that youths of 18 and 19 years old should take accountability for their offense as an adult because they are given suffrage. However, these youths become more and more immature under over-protection and over-supervision by parents and adults around them. In order to make offenders of 18 and 19 years old mature, it is more desirable to give the protective educative measures under the Juvenile Law than to impose a criminal punishment as an adult.

As I mentioned, the total number of juvenile delinquents has decreased since 2003. If the application age of the Juvenile Law were lowered to under 18 years old, it would be difficult to maintain the current juvenile justice system. For example, if so, the total number of juveniles accommodated in a juvenile training school would decrease by about 40%. Then, many small-sized juvenile training schools might be closed.<sup>(53)</sup>

The conservative people insist that offenders of 18 and 19 years old should be punished harshly as an adult. However, if those offenders were not treated under the Juvenile Law, many of them would be released under the summary procedure for a petty offense in a police station without receiving any protective educative treatment. In many cases, especially

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(52) [http://www.moj.go.jp/keiji1/keiji12\\_00123.html](http://www.moj.go.jp/keiji1/keiji12_00123.html)

(53) As the total number of juveniles accommodated in a juvenile training school has decreased, two juvenile schools were closed at the end of March in 2018.

those of traffic offenses, they would be imposed only a fine, which their protector may pay. If the application age of the Juvenile Law were lowered, our excellent practice in protective educative treatment for juvenile delinquents would be greatly damaged.

I hope that Chinese scholars understand the real situation in the juvenile justice system and think about how the current system of protective educative treatment for juvenile delinquents should be improved.

#### References

- Japanese Correctional Association (1984). *Modern Development of Juvenile Correction* [written in Japanese].
- Riesman, D. with Glazer, N. and Denny, R. (1973). *The Lonely Crowd — A study of the Changing American character, Abridged edition with a 1969 preface*. New Haven & : London : Yale University Press. The original book was published in 1950.
- Yokoyama, Minoru (1981). Delinquency control programs in the community in Japan. *International Journal of Comparative and Applied Criminal Justice*, 5(2) : 169–178.
- Yokoyama, Minoru (1989). Net-widening of the juvenile justice system in Japan. *Criminal Justice Review*, 14(1) : 43–53.
- Yokoyama, Minoru (2000a). Activities for prevention of juvenile delinquency in the community in Japan. In Tauber Istvan (Ed.), *Tanulmányok, Vigh Jozsef, 70. Születésnapjára*. Budapest : TLTE Allam-es Jogtudományi Kar. : 292–307.
- Yokoyama, Minoru (2000b). Change in Japanese Organized Crime and Enforcement of the Law to Cope with Boryokudan in 1992. *Kokugakuin Journal of Law and Politics*, 38(3) : 1–33.
- Yokoyama, Minoru (2001). Analysis of Japanese Police from the Viewpoint

- of Democracy. In Einstein, Stanley and Menachem Amir (eds.), *Policing Security and Democracy : Theory and Practice*. Huntsville, Texas : The Office of International Criminal Justice, Inc. : 187-209.
- Yokoyama, Minoru (2003). Revision of the Juvenile Law Toward Partial Criminalization in Japan. In A. Manganas (ed.), *Essays in Honour of Alice Yotopoulos-Marangopoulos : Human Rights, Crime-Criminal Policy* : Volume B. Athens : Bruylant : 1545-1562.
- Yokoyama, Minoru (2012). Administration of Japanese Juvenile Justice. In Peter C. Kratcoski (ed.), *Juvenile Justice Administration*. Boca Raton London New York : CRC Press : 349-368.
- Yokoyama, Minoru (2015). Juvenile Justice and Juvenile Crime : An Overview of Japan, In Winterdyk, J (ed.), *Juvenile Justice --International Perspectives, Models, and Trends*. Boca Raton London New York : CRC Press : 179-208.
- Yokoyama, Minoru (2016). Change in Educative Treatment in Japanese Juvenile Training School. *Kokugakuin Journal of Law and Politics*, 53 (4) : 31-65.
- Yokoyama, Minoru (2017). Retreat of Welfare Model for Treatment on Juvenile Delinquents in Japan-Discussion about Issues of Lowering of the Application Age of Juvenile Law-. *Kokugakuin Journal of Law and Politics*, 55 (3) : 47-83
- Yokoyama, Minoru (2018). Changes in Crime and Reactions to Crime in Japan Becoming Stagnant with Aging. In Lui, Janhong and Miyazawa, Setsuo (eds.), *Crime and Justice in Contemporary Japan*. New York : Springer : 13-27.
- Winterdyk, John (1997) *Juvenile Justice System—International Perspectives*. Toronto : Canadian Scholars' Press, Inc.
- Winterdyk, John (2015). *Juvenile Justice—International Perspectives, Mod-*

124 (51) Protective Educative Treatment under Japanese Juvenile  
Law (Minoru Yokoyama)

*els, and Trends.* Boca Raton London New York : CRC Press.