The Debate about the Reform of the Juvenile Law

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Juvenile Delinquency as a result of and cause for social change
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Introduction

- Basic characteristics of the Japanese Juvenile Law (before the reform)
- What led to the urge for reform?
- Some empirical evidence
- The changes to the Juvenile Law
The Court System in Japan

Supreme Court
(1 court)

High Court
(8 courts)

Summary Court
(438 courts)

District Court
(50 courts)

Family Court
(50 courts)

Public Prosecutor

Appeal

Appeal

Appeal

Further Complaint
in juvenile law procedure

in 2 weeks

in 2 weeks

Indictment

All cases concerning persons under 20 years of age

Waiver
Art. 20 Para. 1
Juvenile Law

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The Family Court can decide the following measures

**Protective Measures of the Juvenile Law**

- **Juvenile correction centre**
  - 4 Types: Primary, Intermediate, Advanced, Medical
  - approx. 5000 measures/year

- **Reformatory home**
  - Guidance counseling
  - Academic education
  - Vocational training
  - approx. 270 measures/year

- **Probation**
  - Guidance in the normal life setting
  - Training programs
  - approx. 52’000 measures/year

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Commitment to Juvenile Correctional Centre according to Crime (1999)

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# Juvenile Cases at the Family Court

<table>
<thead>
<tr>
<th>FAMILY COURT — all juvenile cases*</th>
<th>295’296</th>
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<tr>
<td>Waiver to the public prosecutor’s office for adjudication in ordinary criminal procedure</td>
<td>16’343</td>
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<tr>
<td>= serious offences (Art. 20 Juvenile Law) and offenders 20 years of age and over (Art. 19 Para. 2 Juvenile Law)</td>
<td></td>
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<td>56’092</td>
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<td>= Probation, commital to a reformatory home, commital to a juvenile correction centre (Art. 24 Juvenile Law)</td>
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<td>Case referred to the prefectural governor or the child guidance centre (Art. 18 Juvenile Law)</td>
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<td>Dismissal after hearing</td>
<td>74’617</td>
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<td>(without imposing measures)</td>
<td></td>
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<tr>
<td>Dismissal before hearing</td>
<td>117’085</td>
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<td>(without imposing measures)</td>
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<td>Other settlement</td>
<td>31’004</td>
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<td>High Court — complaint</td>
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<td>Only against the imposition of a protective measure, only by juvenile or his legal representative or attendant (Art. 32 Juvenile Law)</td>
<td>452</td>
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<td>Supreme Court — further complaint</td>
<td>n.a.</td>
</tr>
<tr>
<td>Only against the imposition of a protective measure, only by juvenile or his legal representative or attendant (Art. 35 Juvenile Law)</td>
<td></td>
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</tbody>
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* including traffic offences resulting in bodily harm and homicide by negligence and status offences.
What led to the urge for reform?

- Juvenile Law imported from the U.S. & Resistance from the Ministry of Justice
- Fear of crime as consequence of serious crimes committed by very young offenders
- Dominant influence of mass media reporting (moral panics?)
- Victim’s Rights movement in Japan
- Due process in juvenile procedure
Changes to the Juvenile Law  
(effective as of April 2001)

Extending the waiver system

• Waiver is possible with respect to offenders between 14 and 20 years of age  
  (if the crime is punishable with death penalty of imprisonment with or without forced labour)

• Regular waiver of homicide cases, if the offender is 16 or over
Changes to the Juvenile Law
(effective as of April 2001)

Improvement of the family court hearings

- Stress on introspection of the juvenile
- 3 judges will sit in juvenile proceedings
- Participation of the public prosecutor, if the family court rules to that effect
  (only in cases of homicide or the minimal punishment is 2 years of imprisonment)
- If the public prosecutor takes part, a lawyer must be appointed acting as attendant

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Changes to the Juvenile Law
(effective as of April 2001)

Improvement of the victims’ role in juvenile procedure

- Victim and victim’s family may inspect and copy court recordings
- They may convey a statement to the Family Court
- Victim and victim’s family are notified of all important decisions made during the proceedings
Changes to the Juvenile Law
(effective as of April 2001)

Power to appeal for the Public Prosecutor

- If the public prosecutor is taking part in the proceedings, he may file a complaint with the High Court in case the family court ruling contains serious mistakes.
Consequences

- Similar trends in Europe and Japan
  “Get tough” on young offenders

- Lowering of the upper age limit for full criminal responsibility

- Lowering of the lower age limit
  “loss of childhood”

- More institutionalisation or incarceration expected
Conclusion

“Get tough” does not work
No evidence of deterrent effects

Media use youth crimes for entertainment and moral drama
Distorted reporting influences public opinion (similar to fear of crime)

Link to the abolition of the welfare state orientation

Positive aspect: Empowering the victims