

VIOLENT DELINQUENCY AND CRIMINAL RESPONSIBILITY AGE IN JAPAN: A CRITICAL ANALYSIS

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Abstract

Violent delinquency in Japan is not very serious in nature, ranging from drinking alcohol to common assault and murder. Overall crime is decreasing and violent delinquency shows fluctuation. Social and psychological factors are found contributing to violent delinquency. Social and economic structure helps reducing crime. Family, community and institutional values though are positive but some times are criticized as fading away.

Key words: Violent delinquency, criminal responsibility, Japan, delinquency

Understanding violent delinquency: concept and rationale

This meta-analysis article aims to understand nature of violent delinquency in Japan and aims to understand the criminal responsibility of juveniles with reference to age. Delinquency of juveniles is growing and continuous concern for modern world. Delinquency affects all social and economic fabrics of the society, needs serious attention by the professionals, academicians and stakeholders. UNESCO has shared grave consideration for world-wide phenomenon of delinquency and (Kvaraceus, 1964) considers it much serious concern for both either it is developed or developing country and it is even not new to world scene. Romans in 306 B.C. had recognized this problem and had coded laws for thieving

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children. Delinquency today, is not problem of one nation or culture but it is very peculiar characteristic of the young generation in the world. Young people may be small in number, do involve in assaultive and murder action, violence becomes part of delinquency. Young people (Kvaraceus, 1964) meet in streets, form gangs, some may mimic or use abusive language, and some become seriously delinquent to the extent of assaulting and murdering. Young people exhibit serious pattern of delinquency it may be because of joy or aggression and being innocent or evil. They may be small or big number in gangs, participate whether find their life meaningful, seek pleasure and follow rules and loyalties of the gang, but become very serious threat for family, school and social institutions same time. Group of young people severely derailed railroad trains and seriously annoyed passengers with no reason in Poland. Young people in Canada entered into home and ruined all furniture. Young people in Thailand terrorized and injured strangers (Kvaraceus, 1964). In India, gang of young people after much of their delinquency became highly successful smugglers of illicit liquor and drugs, Israel found new pattern of stealing of cars by the young people (Kvaraceus, 1964). Social scientists and scholars have presented numerous theories and arguments to link delinquency with social and psychological factors.

Delinquency being social and psychological phenomenon is not affected by one or two factors that can be identified but same time there may be variety of reasons and factors to influence the behaviour of young to be delinquent. For example, violent films and video games are found increasingly associated with delinquency in Western countries like USA. *Rebel Without A Cause* film was argued to have provoked and incited the young people to be violent in cities (Kvaraceus, 1964). Broken home, where there is absence of one parent imprints negative and low supervision impact on the children, thus delinquency is exhibited, it is also found that homes where parents are in violent conflict and there is domestic abuse influence more young people to be involved in violent delinquency

(Kvaraceus, 1964). Slum areas where there is less economic and social opportunity, young people find themselves in violent delinquency and engage in violent gangs (Kvaraceus, 1964). Behaviour is largely influenced by the surrounding. Social and environmental factors leave deep and decisive impact on the life of the young people. Criminologists and sociologists believe that delinquent behaviour needs to be understood and explored in the relevant social and cultural environment of the young people. It is argued that a young person born and grown in deprived surroundings and opportunities can normally learn naturally learn certain behaviour as opposite to the young who is grown in middle-class or upper-class. Here in deprived areas/slum areas the delinquency becomes tradition and norm to grow up with and follow. He may have low grades in school, antagonistic relation with teacher and may be reluctant to go to school. While middle and upper class people may be encouraged to get good marks and grades, and may have good dreams to achieve (Kvaraceus, 1964). Though it cannot be taken for granted that all slum areas and low-grade people would involve in violent delinquency but researchers have found these factors behind violent delinquency. Although variety of reasons and factors have been found associated with violent delinquency but research is still on to explore more and more.

No matter how much sympathetic person is, he would condemn violent delinquency considering it harmful for the family, community and child himself/herself, and suggest prompt response to control it (Kvaraceus, 1964). Social institutions have suggested variety of responses to control and curb the violent delinquency, parents, school and justice system have provided punitive measures, but even though this problem of delinquency gets more serious. Its there flaw in providing justice and meeting required punitive measures to control and punishment does not at all fit the crime and let it continue? Is there that delinquency of young people is beyond the control? Jean-Jacques Rousseau an eighteenth century

philosopher who gave social contract theory and became inspiration for social revolution could not control himself for stealing though he had received punishment for his previous theft. He wrote, "Instead of looking back and thinking of my punishment, I looked forward and contemplated vengeance...I found that thieving and beating belonged together and were in a sense a single stage...I began to thief with an easier conscience than before, saying to myself, "Well, what will happen? I shall be beaten? All right, that's what I was made for" (cited in Kvaraceus, 1964, p. 30). A teacher in London was acquitted for beating a 13 year child; Magistrate found reasonable arguments of the teacher, found child responsible and ordered a cane for punishment to child. Magistrate argued that beating with a cane was a hard for child, "I don't suppose he liked it, but unless it is something that leaves a mark it is useless" (cited in Kvaraceus, 1964, p. 30).

Violent Delinquency in Japan

There was 43% increase in felonies for the arrested teen-age children in Japan between the ten years of 1988 and 1998. For violent crimes, there was 1000 increase in number of arrested fourteen to nineteen years old children such as murder, robbery and rape was found in 1998 year in Japan. Government of Japan is trying hard to handle increasing problem of violent delinquency and Liberal Democratic Party of Japan had proposed to revise the laws concerning juveniles after fifty years in 1999.

Offences	2002	2003	2004	2005
Drunkenness	348	274	443	417
Common Assault	106	102	82	74
Abusive Language	40	31	45	39
Theft	54	113	191	39

Source: (Korff, 2007, p. 17)

Data related to delinquency fluctuates and is not very much serious in nature. Data shows decreased trend in criminal acts by juveniles.

Drinking behaviour, common assault, abusive language and theft show increase and decrease in the years from 2002 to 2005 (Kuli, 2007; Korff, 2007, p. 17).

First part of the reforms in laws related to juveniles included proposal of three judges instead of single to sit for the serious cases of offences of juveniles and permission of sitting of prosecutors in the cases where juveniles are potentially sentenced for three or more than three years imprisonment and prosecutors would have rights to ask questions, and decide for the detention of juveniles (Hardung, 2000). The lower age from sixteen to fourteen was proposed for criminal responsibility. Japan's Juvenile Law similar in nature with United States, did not intend further to copy Western styles in preventive strategies, has been successful in prevention of juvenile violent crimes in its local practices based (Hardung, 2000). Second part of the reformation session intended to see practicality and feasibility of joint working of formal and informal social control system to juvenile crime and third part of the session was intended to compare and discuss similarities of the Juvenile Laws of both Japan and United States to find best elements in their laws. Fourth part of the session discussed detrimental elements in its juvenile laws especially in reference with the punishment of juveniles and fifth part highlighted that retributive methods in the juvenile laws would not be adopted instead would stress upon the rehabilitation and cultural methods to control the problem of juvenile delinquency in Japan (Hardung, 2000). Japan's juvenile system molded after the juvenile system of United States has focused on and been effectively successful in rehabilitation. Family court and police involvement in the juvenile system have been social control strategy, while involvement of family and community as part of informal system have been used to control delinquency (19, 20 plus author). The laws, the courts and the law enforcement are the formal controlling agencies including institutional structures to maintain and control social deviance and norms (Tedd, 1991; Hardung, 2000). 38% of all Penal Code offenders in Japan were juveniles falling between 14 to

19 years of age in 2003 (Ogino, 2005). Being concerned on the growing and increasing juvenile crime and crime overall in Japan, Prime Minister Junichiro Koizumi pledged to re-establish Japan as to be the safest country and meeting was held to discuss on the increasing juvenile and heinous crime, which resulted in to implement a plan for a society to resist crime (Ogino, 2005).

People under 20 years are considered as juveniles offenders in Japanese Juvenile Law. Juvenile delinquents are categorized into three: one, 'juvenile criminals', second, 'juveniles under 14 charged with illegal behaviour', and third, 'crime-prone juvenile'. For each category different procedures are offered. Juvenile criminals are of 14 years or more but less than 20 years Juvenile criminals are considered who have committed criminal acts with penal punishments including Penal Code offences are, after investigation by public prosecutor, referred to family court if their offence is liable to fine or lesser punishments. Juveniles under 14 charged with illegal behaviour are those who have violated criminal laws. Crime-prone juveniles are those who have shown such tendencies to violate criminal laws or likely to break criminal laws in future either because of their personal character or environment. Police refers the juvenile case to family court, after examining the jurisdiction, age and probability of the delinquency; judge probation officers to initiate the social investigation of the juvenile case (Ogino, 2005; Korff, 2010).

There are three institutions to accommodate juveniles who are under trial or waiting for hearing, namely first, Temporary Protective Units of the Child Guidance Center, Juvenile Classification Homes and Detention Houses in Japan. There are fifty-two in total, the Juvenile Classification Homes (JCHs) working in the country under the family court to accommodate the children waiting for their trial or hearing. These Homes house juveniles from 3 to 4 weeks, where trained psychologists are appointed to assess and measure the personality of the juveniles (Tsutomi, 2000). Twenty years of age

which is higher than any other country, is the upper limit age for the persons classified as juveniles and are considered for special procedures in Japan. The old juvenile Law of 1929 considered persons of 18 years as juveniles was replaced in 1949 which extended the upper from eighteen years to 20 years (Murai, 1988). The extension of the upper limit of the age was made with the idea of child protection prescribed in the Constitution of Japan. The upper age of juvenile has been under discussion; since 1966 and this age was raised to be upto 20 or 23 years likely to be classified as 'the adolescent'. Discussion and proposals came to nothing after criticism of many scholars and practitioners that there could not be change in the Constitution (Murai, 1988). Law requires exact procedure to follow but in reality, there are many differences found in any procedural circumstances. In case of arresting juvenile for delinquency, police avoids, if otherwise, case prosecutor would apply for alternative rather than custody (Oshino, 2007). It is observed that arrest of juvenile and adult is carried out same way and both are placed in custody cells and with reference to treatment, both undergo same procedure (Kuli, 2007).

Assessing Violent Delinquency & Law and Criminal Responsibility age in Japan

In Japan, juvenile delinquency can be attributed to low socioeconomic background, problem behaviour and academic performance; it has also been found delinquents have sound family background (Foljanty-Jost, 2003). Since 1970s delinquency was problem behaviour and an individual act, apparently no clear motivation behind, even students became increasingly violent not necessarily of low grade, even those with high grades (Taki, 1998; (Foljanty-Jost, 2003). Students being frustrated showed no signs of tolerance and social sensitivity to others became violent in their acts (Taki, 1998). Japanese children under 20 years would not hang around in the bars; meet with friends late night, drink alcohol or smoke tobacco and such other dangerous activities. These children

are subjected to the regulations of the Juvenile Laws. German children may be found in drinking alcohol behaviour and smoking tobacco in 18 years or below but Japanese social and legal institutions restrict the children to adopt such behaviour (Foljanty-Jost, 2003). It is argued that social and cultural values in Japan are on deterioration, thus negatively affect violent delinquency (Johnson, 2002). Japanese children between six and eighteen are expected to be regular in schools being highly influenced by the family and school environment, thus social norms are highly effectively transmitted to children and regulated by the Juvenile Laws by police in the social environment. Alcohol and tobacco below twenty years is prohibited and law is well regulated by police, thus social responsibility of child may start later his age of twenty. Children of twenty and below are considered to be highly protected under Juvenile Laws and Constitution. The rules and regulations are followed by the school administration by reporting about violence, bullying and absenteeism of the students regularly to the Ministry of Education. Data related to delinquency is collected and published by the Ministry of Justice, the Ministry of Education and other public institutions. Data of violent incidents and other forms of delinquency can be accessed but in some cases, some schools do not issue very sensitive information regarding the students (Metzler, 1990; Foljanty-Jost, 2003). It is argued that juveniles were more brutal and violent during sixties as compared to 1990s, it could be compared that violence of juveniles was three times higher than the violence committed by today's juveniles in Japan. Violent incidents were found higher during the 1982 and 1985 years as compared to 1991. Delinquency today, is not serious in nature, but illegal use of bicycles and much ratio of theft are regular kind of acts by juveniles between the age group of 14 to 19 years (Metzler, 1990s; Foljanty-Jost, 2003).



Source: Cited in Foljanty-Jost (2003)

Other study contradicts; Nakanishi (2003) argues that violent delinquency like murder in 1998 was also on rise. It is found that crime rate is low but arrest rate is high and overall crime is increasing in Japan. A quantitative study () found that young people observe high level of alienation (80%) in society, which may be contributing factor for their violent delinquency. Delinquency and smoking is found less compared to US. Self-destruction and day dreaming tendencies were found considerable in delinquents in reformatory schools, and rebelling nature was high in delinquents (Sakuta & Saito, 1982).

Overall crime rate in Japan is low as compared to Western countries, many studies suggest that despite of rapid urbanization and modernization, social community, and family values in society and inter-dependency of people all have contributed to slow down crime (Tsushima, 1996). Most importantly, Japanese economic structure focused on healthy communities and cooperative structure of the society have further helped people bind together to drive out crime (Tsushima, 1996). Income inequality is positively correlated with juvenile arrests, thus social and legal structures and values have distilled out delinquency in Japan (Tsushima, 1996). In recent years some serious incidents of violence in Japan related to juveniles have sought attention of world and public. A case of bus-hijacking in 2000, where a young juvenile of 17 years hijacked bus, made

passengers hostages and forced the driver to drive to Hiroshima. On the way, he killed the driver and injured some of the passengers. The boy was discussed as to be mentally ill. Juvenile Law has been subjected to revision three times from 2000 to 2008 and punishment has been extended considering the feelings and demand of the victims, the role of public prosecutor and criminal court were highly discussed. 16 years and above old persons were liable for the criminal punishment and 14 years or less than could not be convicted of delinquency but was handed under supervision of juvenile probation officer. But now juveniles of 14 to 16 years can be punished for an offence in certain circumstances by criminal court. Children are argued to possess certain characteristics of responsibility due to plasticity for their delinquency and crimes. Maturity of the juvenile in relation to delinquency is very important to judge criminal responsibility. If it is judged that he had not maturity in the decision, it would be ascertained that there were external forces like impulsivity, compulsion or etc.) involved (Kai, 2009). It is certain law that penalty cannot be awarded in true measurement if there is found no responsibility, so it is main concern of the Juvenile Law, and it is stressed in the law to judge and understand the maturity. It is still the problem with Japanese Juvenile Law to judge criminal responsibility to know exactly the maturity; it is possible if psychology and psychiatry are taking very role of clinically judging the maturity of decision of the child.

References

Foljanty-Jost, G. (ed) (2003), *Juvenile Delinquency in Japan: Reconsidering the "Crisis"*, Leiden: Brill.

Hardung, J. (2000), The Proposed Revisions to Japan's Juvenile Law: if Punishment is their Answer, They are asking the wrong Question, *Pacific Rim Law & Policy Journal Association*, 9 (1), 139–163.

Johnson, D.T. (2002) *The Japanese way of Crime of Japan: Prosecuting Crime in Japan*, Oxford.

Kai, K. (2009). Juvenile Criminal Responsibility and Punishment in Japan, 1–6.

Korff, B. (2010), *Treatment of Juvenile Offenders and their Reintegration into Society*, South African Police Service Division Training: Education Training and Development Research & Curriculum Development.

Kuli, L. (2007), Presentation paper on "Crime Prevention (The Treatment of Offenders)", Probation and Youth Justice Division, Tonga.

Kvaraceus, W. C. (1964), *Juvenile Delinquency a Problem for the Modern World*, United Nations Educational, Scientific and Cultural Organization, Paris.

Metzler, A. (1990), *Deviancy and juvenile delinquency in Japan*, Occasional Papers, Vol.5, Halle.

Murai, T. (1988), Japan current problems of delinquency in Japan.pdf, *Journal of Law and Politics*, 16, 1–10.

Nakanishi, Y. (2003), Making Sense of Japanese Juvenile Crime Statistics: Beyond an Economic Approach and Policy Implications, *Radical Statistics, Spring* (81), 34–50.

Ogino, T. (2005), *Prevention of Juvenile Crime in the United States and Japan*, Cambridge.

Sakuta, Tsutomu & Saito, S. (1982), State of Delinquent Behaviour, 1982, 31, 169–180.

Tedd, Westermann & James W. Burfeind (1991), *Crime and Justice in Two Societies: Japan and the United States*.

Tsushima, M. (1996), Economic Structure and Crime: The Case of Japan, *Journal of Socio-Economic*, 25(4), 497–515.

Tsutomi, H. (2000) "8th Regional Training Course on Effective Countermeasures against Drug Offenders and the Advancement of Criminal Justice Administration", UNAFEI.