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Redefining the Crisis on Childhood – Investigation through Amending of the Juvenile Act (1949) in Japan from the 1990s into the Next Century

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ABSTRACT

Redefining the Crisis on Childhood – Investigation through Amending of the Juvenile Act (1949) in Japan from the 1990s into the Next Century

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Childhood presents various images associated with words such as ephemerality, vulnerability, innocence, extraordinariness, immaturity, growth, energy, and hopefulness; yet childhood is an invented concept, which does not provide concrete or fixed implications of what a child is or what the being of a child is. Age is set as a rough standard for the adult-child distinction in legal systems. In Japan, the idea of childhood has been discussed with the age of adulthood in the civil code and juvenile law after 2000. The legal age of adulthood had been 20 for almost 150 years. In the civil code, the voting age was lowered from 20 to 18 in 2015. In 2018, the legal age of adulthood was also decided to be lowered from 20 to 18, and that change will take effect in 2022. Lowering the age of criminal responsibility has been discussed in the juvenile law, called the Juvenile Act in Japan, and it is an ongoing area of debate in the Legislative Council of the Ministry of Justice.

Discussions in Japan relating to juveniles under the legal system intensified in the 1990s after two juvenile-related events and one phenomenon took place. Since then, several laws have been amended in response to public reaction. Some amendments of juvenile law led to a more penal stance, because punitive intervention is thought to be a criminal deterrence and appropriate treatment for juvenile delinquents. Although there was no

scientific evidence to confirm that more severe punishment functions as criminal deterrence, the public positively supported the legal changes to juvenile law, and the media, where the term "self-responsibility" repeatedly resounded, contributed significantly to this atmosphere. The idea of "self-responsibility" emerged after 2000 in Japan, and it became a popular term often heard in discussions of social problems. "Self-effort" also became heavily assessed in parallel; poverty is assumed to be the result of a lack of self-effort, for instance. Japanese author and ex-diplomat Masaru Satō (2020) considered this logic to be a characteristic of neoliberalism and a core reason why social problems, such as poverty, have been unsolved or even intensified.

   This neoliberal trend has also been observed in juvenile justice systems globally. The neoliberal stance toward offenders has appeared in European nations and the United States since the late 1960s, illustrated by the assumption that juveniles are rational enough to choose to commit crime, weigh the benefits and costs, and predict the consequences (Bell 2011). Crime came to be considered a private problem, including the result of a psychological disorder or familial inheritance, rather than a public issue, and as a result, juvenile offenders are represented in the media to the public as anarchists or psychopaths rather than vulnerable objects in need of protection; therefore, they are required to take responsibility for their acts as rational individuals (Turner 2014). Hall et al. ([1978] 2013) investigated mugging from the 1960s and 1970s and analyzed how it became the bilateral phenomenon between the United Kingdom and the United States, how "moral panic" was intentionally and unintentionally set up in the dynamics among the media, judiciary, law enforcement, and the general public in the United Kingdom, and what consequences resulted from this moral panic. Sensational and excessive media coverage on muggings contributed to the gap between the actual statistics and the public perception of juvenile crime, deluding the general public, judiciary, and law enforcement into the belief that heinous juvenile crime drastically increased and that,

accordingly, law and order should be maintained by reinforcing police authority. Hall et al. ([1978] 2013) suggested that the problems of juvenile delinquency have been attributed to racial discrimination.

Following the work by Hall et al., this research interrogates the relationship between the media and public opinion regarding juvenile law in Japan during and after the 1990s. The discussion demonstrates how the media constructed the image of juvenile crime, how such an image influenced the perception of the public and the judiciary, and what the dynamics among the media, the public, and the judiciary brought into society, considering a historical concept of the juvenile delinquent as a dependent "child" (not responsible for his/her actions) before the recent amendments of juvenile law.

This research explores interdisciplinary discussions between areas of law, sociology, cultural studies, and media studies and employs discourse analysis and a combination of qualitative and quantitative approaches of official statistical data and secondary data, the voices surrounding juvenile crime, including the juvenile offenders, victims, and their families, the media, and the general public.

Dedication

To my grandfather, Junshirō Udagawa, who devoted himself to protecting human dignity, especially for youth. Through my research, I felt like having a dialogue with him who passed away before I was born. It was a treasured time.

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TABLE OF CONTENTS

CHAPTER

CHAPTER I

INTRODUCTION

I was once what people call a schoolgirl. This was in the late 1990s in Japan. I saw "us" talking about relationships with friends, boyfriends, and parents on TV almost every day at that time. "We" were quite open about our private lives and did not have any secrets to hide. "We" attracted attention from the media and from society, and being a schoolgirl was special enough to make one feel one was the center of the world. "We" were different from any other generation of schoolgirls in the past because nothing could stop "us" from doing what we did. Authority was held by "us," not by our schoolteachers, our parents, or even the police. "We" created and practiced our own rules and were free from what seemed like all restrictions. This "us" refers to anyone who was a schoolgirl in the 1990s in Japan, as I recall. Moreover, it could refer not only to us girls in the spotlight but also to boys who deluded themselves into thinking that there was nothing to fear. It was a time of youth in Japan.

Although the description above is based on my own experience and perspective, there is no doubt that public attention toward adolescents was growing rapidly in the 1990s in extreme ways. In turn, questions regarding the distinction between adult and child and the rights and responsibility of children arose at that time in Japan because of several astonishing and upsetting juvenile-related cases. These social phenomena can be mainly divided into two categories: (1) juvenile crimes which disturbed the public by their hostility and contributed to the amending of juvenile law, and (2) the emergence of controversial practices among schoolgirls which brought into question both the autonomy and freedom of choice available to minors in the context of sexual acts. What links these two categories is the very representation of young adolescents taking advantage of loopholes in the law and claiming

entitlement for their own actions. Cases involving juveniles were constantly and continuously reported in Japan's media and captured public attention.

The legal system's approach to minors has been under reconsideration since then, leading to the establishment of new juvenile-related laws in 1999 regarding prostitution and pornography and an amending of juvenile law in 2000. It's worth noting that this amendment of juvenile law was the first overhaul since its establishment in 1949 when American-inspired discourse was first adopted in the U.S.-dominated, post-war Japanese system. As such, the amendment was understood to be taking a newly punitive stance toward juvenile offenders. This change seemingly initiated knock-on legislation and triggered other amendments in juvenile law after 2000.

Debates over the definition of childhood have accompanied these discussions of Japan's legal system. The lowering of the voting age from 20 to 18 in 2015 was a major legal change emerging in direct response to the childhood debates. Moreover, the Japanese government amended the law in 2018, lowering the legal age of adulthood from 20 to 18 in a change that will take effect in 2022. Discussions on lowering the maximum age have now shifted towards the application of the juvenile law, called the Juvenile Act. This remains an ongoing area of debate in Japan, especially focused in the Legislative Council of Japan's Ministry of Justice. However, there remains significant doubt as to whether there was truly a critical necessity to make these changes, especially in light of the fact that scientific research data and fact-based reasoning have not indicated that children in Japan today are any more mature than they used to be.

The relationship between the media and public opinion regarding juvenile law in Japan also needs to be interrogated. This discussion demonstrates how public opinion reflects law in contemporary society, something especially applicable to any discussion on extant juvenile law in Japan. It is critical to investigate how and why juvenile law was amended in

Japan, how much or how little those in professions concerned with youth, including academia, were included in the process of amending the law, and whether there existed a gap between public opinion and facts with regards to juvenile law. For example, before the recent amending of juvenile law to establish more punitive responses to crime, a juvenile offender was considered a dependent "child," therefore not responsible for his or her actions. If the system determined that there was a good possibility for rehabilitation, as defined within prevailing concepts of juvenile delinquency, the offender was "treated" rather than penalized. It was against this background, then, that the amending of juvenile law toward punitive responses took place. What led to this change? What resulted from it? Did this amendment imply a consensus among jurists and educators that a child should no longer be considered dependent and should, therefore, be treated as an adult? What facilitated this punitive response towards juvenile offenders? It is also critical to explore the outcome of the revision to juvenile law. The changes seem to have engendered both controversy and aporia in the form of an irresolvable logical disjunction in contemporary Japanese society, including academia.

Despite differences in era, identical circumstances and similar discussions were observed in both the United Kingdom and the United States from the 1960s to the 1970s. In the book, *Policing the Crisis: Mugging, the State and Law and Order*, Hall et al. ([1978] 2013) suggest that the problems of juvenile delinquency have been attributed to racial discrimination, a correlation that was established and confirmed when the term "mugging" was conceptualized and imported from the United States to the United Kingdom in the early 1970s. Hall et al. analyzed how mugging became a bilateral phenomenon between the United Kingdom and the United States, how a "moral panic" in the United Kingdom was intentionally and unintentionally created in the dynamics among the media, the judiciary, law enforcement, and the general public. They also examined the consequences that resulted from

this moral panic. Sensational and excessive media coverage of muggings contributed to the gap between the actual statistics on and public perception of juvenile crime, deluding the general public, the judiciary, and law enforcement into a belief that heinous juvenile crime had drastically increased and that, accordingly, law and order needed to be maintained through a reinforcement of police authority. Although their work did not directly focus on the concept of childhood, Hall et al. attentively and sufficiently investigated the phenomenon within an extensive context and from diverse points of perspective. They concluded that the moral panic associated with mugging led to (1) marginalization of and racial prejudice against youth of color, (2) justification of social control by the police, and 3) more severe punishment for juvenile crimes in response to public outcries. They also stressed that the mass media and judiciary lay behind a process including "how the public 'makes sense' of the situation, what actions will be found politically acceptable and legitimate, to what consent is given" (Hall et al. [1978] 2013:xiii). From the 1960s to the 1970s, Japan, too, began an initial discussion around amending the Juvenile Act by its legislative council; yet, Japan's was a different phenomenon from those in the United Kingdom and the United States, since the media was not yet involved in the Japanese case (Ayukawa 2005:21). Almost three decades later, however, Japan did face a similar concatenation of factors as had occurred in the United Kingdom and the United States discourse around mugging. In this research, I employ a methodological approach similar to Hall et al. ([1978] 2013). I examine moral panic as it related to juvenile crime during the 1990s and afterwards. I complement this approach by adding the historical and legal contexts of juvenile delinquency and the participation of victims in media discourse.

Debate concerning the position of juveniles within the legal system intensified in the 1990s in Japan, and several changes to the law have been made as responses to public opinion since then. With these changes, juvenile law took on a more punitive stance. Its goal

became preventing juveniles from committing crimes and providing offenders with appropriate treatments. Despite an absence of scientific data supporting the idea that more severe punishment functions to prevent crime or to rehabilitate offenders, the public actively supported these legal changes to juvenile law. Meanwhile, the media, too, contributed significantly to this atmosphere where the keyword "self-responsibility" resounded. This concept of "self-responsibility" emerged after 2000 in Japan, becoming a popular term often heard in discussions of social problems. Masaru Satō (2020), an author and former chief analyst at the Foreign Ministry of Japan, explains that the idea of self-responsibility was generated in the financial market as clients were required to become aware of the risks of buying financial products. Accordingly, it initially meant "taking full responsibility for your own decisions in the pursuit of profit in the case you encounter unexpected loss." However, the meaning gradually shifted as it began to be used in other contexts. Satō points out that the word "self-responsibility" started being actively used in discussions surrounding irregular employment and the working poor following 2003 and 2004 amendments to the labor law, pushed through by the Liberal Democratic Party's Koizumi Cabinet. A major feature of this discourse is that since workers choose non-regular work from among other options, it is their own responsibility if they end up in poverty. This discourse also presumes it is the workers' fault if they cannot attain regular employment due to inadequate effort to learn proper skills and acquire suitable knowledge. In such discourses, the individual's effort is heavily assessed, and poverty is assumed to be the result of inadequate effort. This shift in understanding led to less sympathetic, indeed more severe, views of poverty in Japan. Sociologist, Jun Naito (2009:115) said, in the system of liberalism, "the rule of responsibility and freedom" and "freedom of contract" correlate to each other in maintaining the social order and as a premise, all members of society are entitled to freedom and expected to be rational enough to make a reasonable choice in practicing freedom. In this sense, such a problem of poverty is perceived

as a result of people's voluntary choice or of people with intellectual disabilities who are unable to make rational choices; consequently, social exclusion rises in any case. According to Satō (2020), the concept of self-responsibility in the discourse is accompanied by a parallel concept of self-effort, producing fallacies of relevance whereby those who do not make enough effort to achieve a goal must take responsibility for its consequence. In other words, whatever the consequence, they do not deserve help from others because of their intrinsic lack of self-effort. Satō considers this logic to be a characteristic of neoliberalism and as a core reason why social problems, such as poverty, remain unsolved or have intensified.

Yet, this neoliberal stance was greatly supported and accepted by the Japanese public in an attitude that corresponded with the popularity of Prime Minister Jun'ichiro Koizumi across his 2001-2006 term. Political scientist Hideo Otake (2003:110) describes Koizumi's political policy as Japanese populism, which he asserts can be characterized by an abandonment of responsibility for governance and a pandering to public opinion. Koizumi improved his popularity ratings by giving daily comments to the media, sometimes with a sense of humor or in a passionate tone, in effect becoming a television star politician (Otake 2003:105-106). One television news anchor pointed out that, to the general public, Koizumi appeared to be "on the citizens' side" or their "ally" and completely different from other deceitful professional politicians in the media. In the populism observed in Koizumi's case, there was a binary opposition established between ordinary people and corrupt politicians, especially from his own ruling party, and Koizumi was represented as a citizen here, capable of stamping out corruption. To this end, Koizumi placed efficiency and exclusion of waste and luxury, such as the profits of high-ranking bureaucrats and of the public sector, at the center of his policies (Otake 2003:120). Unlike American neoliberal populism, such as during the Reagan presidency, Japanese populism was not strongly linked to a systematic neoliberal ideology that distrusts professional groups, including doctors and teachers, especially those

on the left. Yet Otake (2003:124-125) also suggests that both Koizumi and Reagan practiced theatrical politics, a characteristic of neoliberal populism, which is defined as an active appeal to the general public through television appearance. It is critical to consider whether the distrust toward the professional groups emerged in Japan or not and accordingly, whether Japanese populism is similar to, or different from, American populism despite the importance of public opinion in both cases.

In Japan, it is said that public opinion, itself tied to the media, played a leading role in the changes to juvenile-related laws after the late 1990s and that the members of the Diet, Japan's parliament, responded to the voice of the people (Ministry of Justice 2006). Although it may seem desirable to citizens in a democratic nation if the social system reflects public opinion, we must also consider the role of lawyers and jurists, who are still relied upon as "experts," despite the role that public opinion plays in influencing the law. Therefore, when it comes to legal change, the voices of lawyers and jurists are also absolutely essential. Using discourse analysis, this research project will probe the dynamics among the media, general public, members of the Diet, and specialists, such as law professors, family court judges, and lawyers who specialize in topics related to juveniles, in the amendment process and in the ensuing debate over juvenile law.

After the Koizumi Cabinet in 2006, Japanese populism was observed again in the Osaka-based Nippon Ishin no Kai political party during the 2010s. Toru Hashimoto was the former Osaka governor, mayor, and co-founder of Nippon Ishin no Kai and, like Koizumi, he relied upon constructing a binary opposition between the privileged elite (including civil servants) and ordinary people, actively and constantly criticizing the privileged through the media. Jiro Mizushima (2016:198-199), a political scientist, describes Hashimoto's controversial comments designed to break pre-existing taboos in politics, his reformative political agenda, which existing parties were unable to enact, and his success in attaining

support from swing voters. According to Mizushima (2016:217, 225), Hashimoto's political policy was quite similar to European populism, which was known for abandonment or reduction of social welfare systems. In the United Kingdom, cultural theorist Stuart Hall (2011) drew attention to the crisis of the social welfare system through the framework of neoliberalism, saying that "Neoliberalism is grounded in the 'free, possessive individual', with the state cast as tyrannical and oppressive. The welfare state, in particular, is the arch enemy of freedom." Hall points out that the popular neoliberal narrative misled the public to believe that the welfare state indulges individuals, especially the poor, and waives their duty to work. Koizumi also took the same severe stance on the social warfare system, and this strain of Japanese populism along with neoliberalism that was established in the Koizumi Cabinet has become standardized in Japanese politics.

Psychologist, Toshiaki Kozakai (2013:198-199) explained the relation between freedom and state power in two types of society by referring to Beauvois's work: democratic society where citizens are believed to have their own freedom and totalitarian society where state power oppresses its citizens. In totalitarian society, the citizens' behaviors or acts are not determined by their free will but by state power. Their personality, motivation, and way of thinking have little effect on their actions, because state power oppresses and controls them. In a democratic society, the theory suggests, citizens practice their free will and take action on their own decision. Kozakai argues, however, that state power controls the citizens in both societies and that the fabricated belief that citizens are entitled to freedom of choice; this enables state power's greater control over the citizenry in a democratic society. The concept of freedom that Kozakai critiques is closely linked to the "free, possessive individual" of neoliberalism, which hides behind the premise that citizens in a democracy are rational, autonomous individuals.

8

This premise also came to permeate global societies and justice systems. According to Emma Bell (2011:164), a scholar of British politics, the neoliberal stance toward offenders made its appearance in European nations and the United States in the late 1960s, especially in the assumption that offenders are rational enough to choose to commit crimes, weighing the benefits and costs and predicting the consequences. She explained that this logic may have encouraged a more severe, punitive stance towards offenders, though it was already pointed out in 1970 that heavy punishments do not contribute to deterrence. Criminologist, Justin Turner (2014:9) also suggested that this neoliberal trend has been observed in juvenile justice systems globally. Crime came to be considered a private problem, including the result of a psychological disorder or familial inheritance, rather than a public issue, and, as a result, juvenile offenders were represented in the media to the public as anarchists or psychopaths rather than vulnerable objects in need of protection. As a consequence, they are required to take responsibility for their acts as rational individuals.

Similarly, when this trend emerged in the late 1990s in Japan, the concept of self-responsibility was swiftly absorbed into society and frequently used in discussions of social problems, including juvenile crime and delinquency. Self-responsibility and the autonomy of individuals became central, too, in the amendment of the juvenile law. As discussed in the relationship between populism and neoliberalism, it is essential to articulate the role of the media in the prevalence of the trend as the media plays a key role in conveying and disseminating information and messages to the general public and in shaping public opinion. The media reported the general public's belief that juvenile crime had risen and their increasing support for a punitive stance in juvenile law. Meanwhile, statistical data has shown a great decline in the total number of juvenile crimes, including felonious and violent crimes following 2003. What caused this gap between public opinion and the facts? Is it appropriate for the law to be amended as a response to public opinion that is not based on fact?

This neoliberal trend can be understood as intersecting with problematic dimensions of the media precisely in the domain of Japan's juvenile justice system. In addition to conventional problems with mass media, such as excessive news coverage and over-reporting, the era of social media has ushered in renewed problems of fake news and disinformation. Public misunderstanding of juvenile delinquency and crime is significantly attributed to the media through the process of news selection and over-reporting; yet public opinion has greatly influenced the judiciary through the law's amending. Through these amendments to juvenile-related law, the concept of childhood was gradually but undeniably changing; what we now are experiencing can be described as a transitory period, as articulated in Neil Postman's ([1982] 1994) *Disappearance of Childhood* and the "adultification" of children in Japan. If society leans toward a neoliberal stance in which self-responsibility and autonomy are pressed onto individuals, it means that a sense of collective responsibility toward each other, especially toward children, is abandoned. In this way, we expect each other, including children, to act like and to be autonomous and rational individuals. We exclude those who do not meet our expectations. This is a society where "ordinary" people are seemingly placed in the center and "others" are pushed to the periphery, a society that officially encourages division, marginalization, and exclusion and neglects the value or the meaning of being a child.

This dissertation analyzes these debates with particular attention to the ongoing relationships among the public, the media, the government, intellectuals, and jurists on the amendment of juvenile law and media discourse. The next chapter, Chapter II, has identified a recent marked turn in the concept of childhood away from a tradition developed historically from Meiji era Japan (1868-1912). It notes the shift away from a framework of juvenile delinquency and its corollary conception of childhood that the government had supported since World War II. In Chapter III, three legal and media events that shook the concept of

childhood in Japan during the 1990s are introduced. These three events, the Sakakibara Incident, the Hikari City Incident, and the *enjo kōsai* phenomenon, are the cases considered as making significant impacts on the juvenile-related laws, but also as granting the mass media excessive coverage and the exaggeration and scandalization of the events. The chapter examines how these three events and the persons involved were narrated in the media and how the power dynamics of each event were circulated among the media, the public, and judiciary, and concludes that these cases were what led to the change in judiciary attitude after 2000. Chapter IV discusses how significant misunderstandings surrounding juvenile crime were generated and amplified in media discourse and in the general public. This chapter investigates the reasons for these misunderstandings and their influence upon the legal system.

Did these media misunderstandings and the ensuing amendments of the law ultimately lead to changes in the concept of childhood and the erosion of social support systems in Japan? Are children now considered as responsible and autonomous as adults? In other words, has the concept of childhood disappeared? These questions suggest the need for further interrogation: Why do we need childhood and what does it mean to us? What does it matter if we lose the concept of childhood in society? And retrospectively, what might public opinion towards juvenile law look like had the media functioned "properly?" My research questions thus explore interdisciplinary intersections between areas of law, sociology, cultural studies, and media studies. Just as Hall et al. ([1978] 2013) confront the methodological limitations and difficulty in collecting the relevant data, my research faces similar dilemmas, since it aims at exploring the dynamics of *implicit* relations among the media, judiciary, and juvenile crime. It questions the referent, the label, the connotation, and the impression all tied to juvenile crime and juvenile delinquents—the process of "making sense"—which is generally invisible, implicit, and abstract. In order to clarify this murky area,

this research employs a combination of quantitative and qualitative (such as discourse analysis) approaches. The former employs official statistical data, and the latter includes primary and secondary data of the voices surrounding juvenile crime, including the juvenile offenders, victims and their families, the media, and the general public. In recognizing its own methodological challenge, including the limitation of the information sources under the juvenile law, this study will hopefully contribute to new or existing approaches in interdisciplinary research.

CHAPTER II

DEBATES AROUND CHILDHOOD IN JAPAN

During the 1990s, concepts of childhood began to change, both within the international sphere and within Japan. Notions of self-determination, freedom, and responsibility, being debated on several fronts, were applied to children. The application of these notions extended into the functionality of juvenile law simultaneously occurring with a rise in the number of juvenile crimes and the media's focus on the brutal nature of many of these crimes in Japan. People were astonished to learn of these crimes, wondering how cruel juveniles could commit such a thing without adult involvement. This led to a change in the conventional image of the child or a juvenile, from a dependent being in need of protection to an independent being with the same responsibility and conscience as an adult. The questions raised in my research are as follows: Is the child considered an object in need of protection and guidance? Should the child be viewed, similar to the adult, as an independent being with an innate ability for self-determination? How has Japanese society perceived the child or juvenile delinquent over time? What is the difference between being a child and being an adult in a society?

These questions form the core for my investigation of the social, political, and legal transitions within Japanese culture in regards to its children. For instance, voices of children were increasingly disseminated by the media during the 1990s, but what struck society was girls in *enjo kōsai* (援助交際). The term *enjo kōsai*, "financially assisted dating" in English, combines two Japanese words: "*enjo*," implying support, and "*kōsai*," meaning dating and relationship. The term identified a social and cultural phenomenon that took place during the 1990s in Japan and was widespread among schoolgirls at that time. The activity of *enjo kōsai,*

at first, referred only to schoolgirls, dressed in school uniforms, dating older men for money, having dinner, or going to the movie theater together. While the schoolgirls regarded this activity as a part-time "job" for some, sex became part of the process, and this addition complicated the definition of this activity, because it began to resemble juvenile prostitution. The phenomenon raised the debate about the autonomy and decision-making ability of children. In the media, both participating and non-participating schoolgirls in *enjo kōsai* commented that they did not find any issue with the activity, emphasizing property rights that they thought were rightfully theirs.[1] They appeared to challenge adults and overall social norms and to test how far they could bend the law without breaking it. Regardless of whether such was framed intentionally or not, this audacious attitude became a symbolic image of the youth phenomenon of the 1990s and the image also included youth taking advantage of being a minor, being waived from responsibility for their own actions, and being considered an adult who is entitled to autonomy.

The characteristic of this image, being audacious and entitled, applied to other juvenile cases occurring at that time. Although there is no term for this characteristic, they are perceived both as independent persons demanding the right of self-determination and as an oppositional image for the conventional view of the minor in Japan. One of the goals in this research is to reconsider and reconstruct Japanese society in terms of its views toward children during this time, corresponding with the self-determination and self-responsibility of the child and the amendment of juvenile law. In this chapter, I begin with a discussion of the relation between law and children, introducing the history of juvenile delinquency and juvenile laws in Japan. I also illustrate what children's rights secure for children, how juvenile laws historically defined juvenile delinquents, and how such laws were applied to juvenile delinquents. This indicates a social and legal perspective of the child as a passive

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[1] The comments, such as "I don't have any guilt feeling" or "What's wrong with participating in *enjo kōsai*?" were often heard from the participants in the 1990s (Miyadai 1998:280; Maruta 2001:167-168; Miyadai 2006:33-52).

object. I then discuss changes in family relations in Japan, explaining a transition from a vertical to a horizontal relationship between parents and children. Lastly, I explicate the self-determination and self-responsibility of youth and the *enjo kōsai* phenomenon in the 1990s of Japan, clarifying both definitions and their conjunction with one another.

Law and Children - History of Juvenile Delinquency

     All nations have their own histories, which correlate closely with cultural, political, ethnic, religious, and legal traits, and those elements form multiple layers of distinctive characteristics of a nation. Without exception, a history of juvenile delinquency in Japan differs from that in other countries, and it demonstrates a reflection of cultural and historical complexity to some degree. This research specifically focuses on the concepts of child and juvenile delinquency in Japan, predicated on the idea that there are connections or similarities and disconnections or differences between Japan and other countries in terms of these concepts. Referring to a case from the United States. law professor Akira Morita (2008:193-194) pointed out that a juvenile has been portrayed both as an object in need of protection and as an autonomous individual in the legal system for over a century, and this seemingly conflicted portrayal resulted from the deconstruction of the conventional concept of family. The 1967 juvenile case, *In re Gault*, 387 U.S.,[2] became the turning point for the juvenile justice system of the United States to move toward treating a juvenile as an autonomous individual like an adult, and this transition led to weakening the educational system and breaking down the organic protective system for the child (Morita 2008:286-287). Although Japan has been greatly influenced by the United States in political, legal, and ideological perspectives in the post-war era and Japan has also encountered the conflict between protection or autonomy in explicating a juvenile, the cultural and legal concepts of a juvenile

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[2] *In re Gault*, 387 U.S. was a case in which a 15 year-old boy, Gault, was accused of making an obscene phone call to his neighbor, and he was committed to a detention center for 6 years under the juvenile law until he turned 21 (United States Courts 1967).

and juvenile delinquency in Japan and the United States have been differently developed and changed.

According to sociologist Tetsuo Sakurai (1997:56), who researched and published books on the history of juvenile delinquents in Japan, the Japanese term, *furyō shōnen* (bad boy, 不良少年)[3], was first used in a scholarly book, entitled " *Ōbei Furyō Shōnen Kanka Hō*" (欧米不良少年感化法, Western Juvenile Delinquent Reformatory School Act in English), during the Meiji era[4] (1868-1912). There is also another Japanese term, *hikō shōnen,* which specifically indicates "a juvenile delinquent." While the term, *furyō shōnen* holds broader and lighter implications, *hikō shōnen* implied a formal and criminological context. Sakurai (1997:103-105) pointed out that the term was first introduced in the enactment of the present juvenile law, the Juvenile Act, *Shōnen Hō* (少年法) in 1949. After World War II, the Supreme Commander for the Allied Powers (SCAP), known as General Headquarters (GHQ) in Japan, directed the establishment of the Juvenile Act to replace the old one, and it was modeled on the American juvenile law and juvenile justice system. Sakurai (1997:103) stated that the concept of *hikō shōnen*, juvenile delinquent, was defined in the Act and the term replaced *furyō shōnen* (bad boy) in the judicial system. It was used to differentiate juveniles from adult offenders.

These two terms are still in general use in Japan; however, the initial adoption of the terms reflected larger societal changes. When *furyō shōnen* (bad boy) was first created, it was used as a gender-neutral term and obtained a broad implication of juvenile delinquents. The emergence of the term suggests that there was no such word to describe a juvenile delinquent before that time, and this is assumed from the fact that there are two reasons why the term

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[3] The concept of juvenile delinquency obtains a broader implication compared to juvenile crimes. Juvenile delinquency indicates a juvenile under 20 who commits any deviant act, including status offences (Ayukawa 2001:14). *Furyō shōnen* was, on the other hand, determined based on not only their delinquent acts but also their bad behavior.
[4] Meiji era (1868-1912) was the time when Japan abandoned the isolation policy in 1858 that shut the country off from the rest of the world and Western influences penetrated into Japan.

had not existed: (1) there was no distinction between children and adults, especially in terms of legal competency and, therefore, they were treated the same in legal enforcement until then; and (2) the number of juvenile delinquents drastically increased after the Sino-Japanese War of 1894-1895, and it seized the attention of the media and public as a serious social issue. The government and youth specialists faced a necessity to name juvenile delinquents and to discuss the issue separately from adult offenders.

An investigation of the historical context of Japan speaks to the first reason. Twenty years old is the legal age of adulthood in today's Japan and those who are over 20 years old are entitled to smoke and drink alcohol[5]; however, before the Meiji era (1868-1912), juveniles between 11 and 15 could be considered adults, and each family decided when to hold a ritual to celebrate the adult status of their children. As there are different age settings in the various matters, such as a legal age for marriage, for driver's license, and for consent to sex,[6] the distinction between an adult and a child has been somewhat ambiguous in Japan. According to sociologist Jun Ayukawa (2001), in the Edo period (1600-1867) before the Meiji era, a juvenile over 16 was considered an adult in legal enforcement, and juvenile offenders received a lighter punishment compared to adult offenders when committing the same crime. One of the cases that occurred in the Meiji era reported that a 21 year-old man committed a felony that deserved the death penalty, yet he received an indefinite-term of imprisonment[7] instead, as if he were a juvenile offender (Ayukawa 2001:49- 51). Since the first juvenile law, *Taishō Juvenile Law* (旧少年法) was not established yet at the time of the

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[5] The minimum voting age had been lowered from 20 to 18 in 2016, and the revision of the voting law occurred for the first time since Japan adopted universal suffrage in 1945. However, it was pointed out that this revision was made not for youth independence, but for parties to win over new voters. (Nikkei Asia:2016). The government has amended the law lowering the legal age of adulthood from 20 to 18 in 2018, and it will take effect in 2022.

[6] The Age of Consent is the law that sets the minimum age at which an individual is considered mature enough to engage in sexual intercourse, and it varies by country. The Age of Consent in Japan is 13 years old (Matsuzaki and Shirai 2020).

[7] The Japanese legal system does not impose a life sentence; indefinite-term imprisonment is used instead, as the heaviest sentence next to the death penalty in Japan. It indicates an inmate's serving in prison for no definite period of time. Its length is usually determined during imprisonment based on the inmate's conduct, and the inmate can be returned to society or kept in prison for life.

incident, Ayukawa (2001:51) concluded that the age was not necessarily a determining factor for being considered an adult in the criminal justice system in Japan. However, he also pointed out that there is a popular assumption that an offender over 18 was treated as an adult and given a more severe sentence before World War II even though a present juvenile law, *Shōnen Hō,* had not yet been adopted in Japan.

Several law scholars have pointed out that juveniles were considered different from adults at that time, and juvenile offenders received a lighter sentence compared to adults; however, their treatments in jails were similar and had little distinction between adults and juveniles (Kikuta 2013:23; Moriyama and Goto 2009:28-29; Maruyama 2010:13-16). In the early period of the Meiji era, there was no juvenile training school, and juvenile jails did not function as correctional institutions as they do now. Juvenile offenders were sent to a juvenile jail and they served their term of imprisonment there. Law scholar, Koichi Kikuta (2013:23) explained that juvenile jails were not directed based on correctional and preventive purposes at that time, and, therefore, juvenile offenders were detained in a place attached to the adult jail, and they were basically treated the same as adult offenders. When sympathetic living environments and family situations were conceived for most cases of repeat juvenile offenders, a few private preliminary juvenile reformatory schools were opened at the grassroots level, although there were financial difficulties in running them. According to Kikuta (2013:24-25), the rising voice toward correction and prevention for juvenile offenders reached its peak when the numbers of juvenile delinquents and vagrants drastically increased around the Sino-Japanese War of 1894-1895. This led to the nationwide movement for creating a national institution to correct and educate juvenile delinquents. Kōsuke Tomeoka, who studied correction and prevention of juvenile crimes in the United States after he resigned as a preacher at the prison in Hokkaido, led the movement to found a reformatory school that would protect juveniles. Tomeoka garnered support from the Supreme Court

judge and then Minister of Law, and founded the predecessor to the juvenile reformatory school[8] in Tokyo in 1889 (Kikuta 2013:24-25). In the following year, the Tokyo orphan asylum established a reformatory section in the institution. The Reformatory School Act, *Kanka Hō* (感化法) was then implemented in 1900 to establish reformatory schools for the education and rehabilitation of delinquents.

Since experiences at the then juvenile jails accelerated the delinquent behaviors of juvenile offenders, the foundation of institutions that specifically focused on juveniles was an absolute necessity in society (Ayukawa 2001:58-59; Morita 2008:212-213). Also, the tide of the postwar context contributed to its foundation due to the emergence of several social issues, such as increased concentration of the population in urban areas, the disparity between the rich and the poor, and the increasing numbers of abandoned children and orphans as a result of the war (Kikuta 2013:24). In response to the issue of the abandonment of children and orphans, the reformatory school aimed to detain not only juvenile delinquents but also loitering children. The detainees were children in an age group of 8 to 15 who fit into one of two categories: (1) a child without a guardian who was at risk of delinquency, and (2) a child who already had a record of delinquency, and his or her guardian did not have the ability to correct the child (Ayukawa 2001:61). All detainees were retained in the juvenile institution until they turned 20 under the Reformatory School Act. Although the act itself had little effect on practice and there were only five prefectures that established reformatory schools in eight years after the enactment, the act was the first step in creating a juvenile correction system in Japan, and it occurred in the transition between the old juvenile training school act and the implementation of the present Penal Code, *Kei Hō* (刑法).

The concept of bad boy became prevalent in society around that time. To describe the state of social conditions, Ayukawa (2001) introduced quotes from a book written by the

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[8] The juvenile reformatory was renamed the children's self-reliance support facility, *Jidō Yogo Shisetsu* (児童養護施設) in Japanese term, in 1997 (Kikuta 2013:66-67).

head of the Tokyo juvenile court, Gaichirō Suzuki, in 1921, that recession after the Sino-Japanese War (1894-1895) and the Russo-Japanese War (1904-1905) led to poverty in numerous Japanese families, and the rates of juvenile delinquents significantly increased in parallel with abandoned and orphaned children. Both phenomena prevailed, becoming recognized as issues. Suzuki concluded that this was the first time that bad boys or juvenile delinquents attracted public notice as a social problem (Ayukawa 2001:53).[9]

After the Meiji era, the issues regarding juvenile delinquents grew in seriousness and caused a stir in the media as a root of disturbing the public welfare. Sakurai (1997:60-61) introduced an article from a journal, *Bukyō Sekai* (武侠世界), published in 1913, which alerted the public to the negative influence of delinquents. Examples of delinquent acts included making acquaintance with children from an upper-class family and blackmailing them after they set them up, seducing girls for money, and loitering around all day. Some of those delinquents were from lower-working-class families who did not have a place to stay and were street children, yet others from upper-class families were problematized through the language of debauchery. In the former case, poverty resulted in street children. and they committed crimes to survive. For the latter case, the writer of the article stated that parents from the upper class spoiled their children and that their delinquency was attributed to the lack of parental discipline. Sakurai (1997) pointed out that, unlike the western countries where delinquents from the working class were more problematized, what concerned people in Japan were delinquents from the upper or upper-middle classes, because it was assumed that the delinquents from the lower-class usually instigated the ones from the upper-class to wrongdoing. Street children were not considered a social problem since they were believed to become delinquents anyway due to the lack of parental guidance, education, and financial stabilities.

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[9] The definition of delinquent acts varied widely at that time, from mischief to murder (Sakurai 1997:60).

Delinquents from the working class were not a main concern in Japan at the time.

Sakurai (1997) concluded that, referring to an example of the United Kingdom, the

establishment of a juvenile court was an essential step toward solving the issue regarding the

public disturbance by juvenile delinquents. They should be detained in a facility built

specifically for them and receive correctional training from professionals. The importance of

discipline for those delinquents rose in the public conscience, since both delinquents from an

upper or upper-middle class and street children were in need of sufficient discipline. Also,

voices emerged to separate juvenile delinquents from adult offenders in the detention

facilities and provide them with distinct treatment for rehabilitative and correctional purposes.

The Taishō Juvenile Law (旧少年法) was enacted in 1923 as a response to the

ongoing debates about juvenile delinquents. The definition of a juvenile delinquent was

newly presented; it included not only juvenile offenders but also juveniles who were at risk of

delinquency. The law applied to those who were under 18 years old, although there was a

debate about the age and whether or not it should be applied to juveniles under 18 or under 20.

The characteristics of *the Taishō Juvenile Law* indicated that (1) the age of majority was

defined as 18; (2) the juvenile court was established for juvenile delinquents between 14 and

17; (3) probation for juvenile delinquents was implemented in the court system; (4) in

principal, a punishment was assumed for a penal offense, yet under the educational

perspective, special procedures and rules were applied to a juvenile case; and (5) probation

was prioritized for juvenile cases, and punishment was administered when necessary (Kikuta

2013:26-28; Maruyama 2010:19-20). Maruyama (2010:20) pointed out that, in *the Taishō*

Juvenile Law, the prosecutors in the penal court were authorized to decide which juvenile

offender was sent to the juvenile court and that the juvenile offenders were transferred from

the penal court to the juvenile court only when probation was considered apposite for them.

Although there was conflict with the penal law, *the Taishō Juvenile Law* largely consisted of

a paternalistic view toward juvenile delinquents so that protection of the juveniles took precedence over neglect and accordingly, correctional education replaced punishment for juvenile inmates. The juvenile court started as a special judiciary institution, which adopted the casework, yet it functioned as an administrative organ rather than as a tribunal. In addition, the law entitled the authorities to bring juveniles who were at risk for delinquency into custody in order to prevent them from accelerating their delinquent acts.

Regarding authority, local governments were in charge of the treatment of juvenile delinquents before *the Taishō Juvenile Law*. Under the local governments, juvenile delinquents were sent to the reformatory school without sufficient investigation of each case, and their treatment was determined based on police interrogations. In most cases, their rehabilitation failed as they did not receive proper educational and correctional treatment at the reformatory school. There was strong demand that each case needed to be carefully examined from its legal aspects, including their freedom and parental rights, by the professionals, including lawyers, youth specialists, and educators. In response to demand, the judiciary replaced the local governments and juvenile courts, and juvenile delinquents were placed under its jurisdiction. For purposes of prevention of criminal acts, the operation of probation extended treatments outside the judicial institution for juvenile delinquents, since there was no legal measure to supervise them outside a juvenile jail or reformatory school. Probation included the institutional detention of delinquents and *Kyōseiin Hō* (矯正院法), *the Old Training School Act,* was enforced in 1923, to establish the juvenile training schools to fulfill the function in parallel with *the Taishō Juvenile Law* (Maruyama 2010:22). Probation was the first and only system to place delinquents under the protection of authorities. Under *the Taishō Juvenile Law*, the method of casework was introduced, and each juvenile case was independently investigated in the juvenile court.

The Taishō Juvenile Law was established in response to the then-existing issues regarding the treatment of juvenile delinquents and aimed at solving them; however, there was another issue in the way of disseminating and operating the system nationwide. The legislation covered the basic setting for juvenile correction, including the establishment of juvenile training schools, yet its effects applied to limited metropolitan areas, and only three juvenile courts were established, in Tokyo, Osaka, and Aichi Prefectures. It took 12 years to found the one in Aichi after the enactment (Ayukawa 2001:90; Maruyama 2010:22). The possible reasons why the system did not go smoothly into effect were because the delinquents were not considered a matter of priority or the concept of the child was not fixed and too ambiguous to distinguish from an adult at that time in Japan. Although the law defined 18 as the age of adulthood, the definition of a minor in relation to age has generated intense long-term debate in the legal system of Japan, especially when deciding a sentence for a juvenile offender between 18 and 19 years old, since this age group lies in the gray area between an adult and a juvenile. There are also differences between the Taishō Juvenile Law and current juvenile-related laws in regards to age. For instance, the Taishō Juvenile Law determined that 18 was the age of majority, juveniles between 14 and 17 years old who committed crimes were sent to juvenile court, and a juvenile under 16 was waived from receiving capital punishment or life imprisonment. After the enactment of the Taishō Juvenile Law, the Reformatory School Act was revised, and the act was applied to those under 14 who needed to be in protective custody in reformatory school (Maruyama 2010:19). However, Ayukawa (2001:97) referred to a survey conducted during the Taishō period that found juveniles from 18 to 20 years old were counted as juvenile delinquents. He concluded that age was not a deciding factor between a juvenile and an adult at that time.

After the establishment of the Taishō Juvenile Law, a new type of delinquent emerged; the technological invention of moving pictures was closely connected with this. For

instance, eroticism and violence depicted through moving pictures was argued to unnecessarily inflame juveniles' curiosity and drive impulses (Ayukawa 2001). Accordingly, it stimulated youths to commit delinquent activities by imitating a protagonist in a story. This idea has been a dominant and powerful discourse in discussions of childhood development (Bandura et al. 1961; 1963; Bandura 1977), and along with technological advancements, some varieties of the media, including television, animation, and comics, were added into this discourse as devices for producing negative influences on children. The discourse was also fortified by the narrative of juvenile offenders who mimicked or fantasized the crimes seen or read in the media.

Sōichi Morita (1961:27) when he was a judge at Tokyo family court, admitted that it was undeniable that delinquent acts were correlated with violence, eroticism, and grotesqueness pictured in films. Otsuka (1963:76-87), a family court investigating officer, also pointed out that delinquents seemed to perceive protagonists in violent action or historical drama films as heroes who they looked up to. Although there was not sufficient evidence to support a direct relation between the film and delinquency. Sakurai (1997:78) suggested that juveniles tended to commit a crime by imitating a protagonist of a story and that theaters became a site where delinquents randomly met non-delinquents and seduced them into their company and into wrongdoing. Also, many youth tended to steal and rob money to pay admission fees to the theater. The then-existing image of juvenile delinquents was tied with poverty; however, the introduction and popularization of the moving pictures led to a change of this image, since juveniles from various classes, including the middle or upper-middle classes, came to be involved in criminal activities by imitating a story and protagonists of films. Morita (1961:23, 176) also claimed that the negative influence of cinema on juveniles was promoting delinquency and violence and argued that there was a strong relation between delinquency and film. The prevalence of film led to another

circumstance, that juvenile delinquency was no longer a problem only with poverty, but could be a problem for all social classes. The movie theatre was considered a site that produced and connected juvenile delinquents such that merely going to the theatre was perceived as a delinquent activity for a minor (Ayukawa 2001:92-94; 2002:107).

In 1934, the government began to enforce the new juvenile-related law, the Education of the Juvenile Delinquency Act, *Shōnen Kyōgo Hō* (少年教護法), which replaced the original Reformatory School Act of 1900. The main modifications from the former act included the establishment of juvenile classification homes, the adoption of the temporary custody system, and the change of the object juveniles. The new act embraced an educational purpose, respect for each juvenile's individuality, and understanding of children's rights and their protection (Takehara 2007;2015). Following these changes, troubled juveniles who were at risk of delinquency were expected to be corrected by being detained in the institution for educational improvement and prevention of criminal acts. The government aimed to prevent and deter juvenile delinquency, and the legislation placed delinquents under state control. However, when Japan entered World War II, the government bent the educational policy toward a militaristic and collective tone, and juveniles were considered part of the military force (Takehara 2007;2015). Detainees were punished or led to contribute to the military industry; detaining juveniles functioned to segregate them from society in order not to interfere with the fighting spirit of the people during the war (Sakurai 1997:99; Ayukawa 2001:115-116).

After the war ended, drastic reforms of juvenile treatment occurred in Japan in a process of returning to the state before the war and developing the concepts of child protection and children's rights. Under the heavy influence of American legislation, two juvenile-related laws were enacted. The Child Welfare Act, *Jidō Fukushi Hō* (児童福祉法), came into force on the 1st of April in 1948, and the Juvenile Act, which was prepared by the

occupying General Headquarters, was enforced on the 1st of April in 1949. Regarding the definition of a juvenile, these two laws have different interpretations in terms of age. The Child Welfare Act defined those under 18 years old as juveniles and divided them into three categories: those under one year old as infants; those between one year old and 6 years old before going to an elementary school as children, and those between 6 years old to 17 years old as a juvenile. The Juvenile Act, *Shōnen Hō* (少年法)*,* on the other hand, first defined those under 18 years old as juveniles in 1949 and their cases were applied to the Act; however, in 1951 the applied age was raised to 19 years old. In this law, those under 14 years old were not charged with criminal liability, and a family court ruled every juvenile case, including selection of which cases to receive a penal charge or to be referred to the public prosecutor's office.

In 1949, the family court was established in Japan by combining the juvenile court with the predecessor of the family court, and it dealt with not only juvenile cases but also family issues, including divorce and disputes over the inheritance. The first Director of the Supreme Court's Family Bureau and a judge of the Kyoto family court, Junshirō Udagawa (1969) who wrote the article, " The Historical Development of Family Court," explained that the Japanese family courts were firmly influenced by the principles of equity in law and the doctrine of Parens Patriae (国親思想) from the American family court system. The doctrine of Parens Patriae indicated that the government, as a nation, was responsible for neglected and dependent children and should enact a guardianship for them; that family courts were the agency to practice the doctrine; and that family courts were to function as parents of the country in order to protect and help every child in the nation (Udagawa 1969:164-165). While the American family court system was developed from juvenile courts, the Japanese family court system was pressed to combine the two different and opposing courts, a juvenile court and a court for domestic relations cases, in its establishment. This was a transitional

moment for the court system in Japan. Udagawa (1969:216) declared the five fundamental concepts of the family court system, including independent, democratic, scientific, educational, and social characteristics, at the first national meeting of family court judges on January 12, 1949.[10] These concepts implied that the family courts focused on educational and correctional approaches toward juvenile offenders, not punitive methods, and that it was essential to work in close coordination with concerned agencies outside the court system, such as schools, hospitals, and private and public organizations. Since the family courts dealt not only with juveniles but also with families, all trials were closed to the public under protection of privacy and human rights (Udagawa 1969:191-193). The family courts held distinctive and unique characteristics as described above and were differentiated from any other courts, including district courts, though the family and district courts were placed as equivalent.

After World War II, Japan went through a period of great turbulence and change from the pre-war conventional values and norms. In legal circles, there was a clear difference between pre- and post- war in terms of criminal activities among juveniles. Ayukawa (2001:121) quoted data that the number of juvenile crimes by under-20-year-olds was 54,787 in 1945, and doubled to 117,790 a year later in 1946. The number of thefts and robberies among juveniles drastically increased and accounted for 70 percent of the entire juvenile crime rate at that time. The juvenile crime rate reached its first peak in 1951 after the war as a negative outcome for the defeated nation. It is a well-accepted assumption that the defeat in the war led the citizens, especially youth without guardians, to be destitute and pushed them to commit crimes for survival.

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[10] One of Udagawa's son recalled that his father was deeply shocked and saddened by seeing numerous abandoned children and orphans on the streets of Tokyo after World War II and by learning they had to live without the protection of guardians. This experience led Udagawa to devote himself to the establishment of the family court system to help and protect those children. (Kiyonaga 2018)

However, Ayukawa (2001:125), referring to the comments of those in legal circles at that time, argued that the reason for crime was not necessarily for survival, since what they stole were luxury items, such as soda pop , and not living necessities. Some cases of juvenile crimes during the post-war period indicated that they were caused by the individuals' pleasure and resembled present juvenile cases. Although his aims were to question a myth of juvenile delinquency and to point out similarities of juvenile delinquents throughout history, there is no question that poverty caused by the war was strongly connected with their criminal activities, which were their means of survival. It is also possible for people, regardless of age, to succumb to temptation for luxuries, which other people enjoy having, even when they are unable to afford them. Having such envy could have happened to some of those needy juvenile offenders. Regardless of whether they committed crimes for survival or pleasure, this first peak of juvenile crimes was attributed to post-war turbulence.

The second peak occurred in the 1960s and it was related to the baby-boom phenomenon in the post-war period (Ayukawa 2001:126-127). The increased number of juvenile crimes paralleled the increased numbers of juveniles at that time in Japan as the baby boomer generation reached puberty. Characteristics of this second peak include the following: lowering the age of juvenile offenders, an increase of significant criminal types, and a prevalence of juvenile delinquency in the middle-class. The age of juvenile offenders was lowered, and the number of rapes committed by juveniles increased. The number of juvenile offenders between 14 and 15 drastically rose, and more students were involved in criminal activities. Of the total number of sex offenders who committed rape, more than 50 percent were juvenile offenders. Ayukawa (2001:128-130) stated that during the time new types of juvenile delinquency started emerging and that more juveniles committed minor

offenses, such as picking pockets and acts of thrill seeking or enjoyment.[11] Therefore, compared to the post-war period, many juvenile crimes were no longer committed for survival, but for different reasons.

Sakurai also suggests different concepts of juvenile delinquency between the post-war period and 1960, specifically those represented in popular films and books. According to Sakurai (1997:113-115), some films focusing on cruel and violent juveniles, such as *Taiyo no Kisetsu* (太陽の季節 " Season of Violence") and *Kurutta Kajitsu* (狂った果実 " Crazed Fruits"), were made in the late 1950s, and they became big hits in Japan. He pointed out that there was a transition in the concept of a juvenile delinquent during that time. Juvenile delinquency was no longer pictured as a result of poverty, but was considered as oppositional. Youth resisted adults over morality, values, and norms, and the media created a rebellious image of the delinquent, irrespective of class. There was a collection of biographies written by delinquents in the early 1960s. They claimed that they were distressed by their family problems, and their delinquent acts implied their resistance toward their family. Sakurai (1997) added that if the concept of juvenile delinquency symbolized youth resistance against older generations, the majority of teenagers in the 1960s in Japan were considered delinquent teenagers. The 1960s represented a period of time when the image of such a resisting juvenile delinquent was widespread throughout society. Both scholars, Sakurai and Ayukawa, concluded that people started considering the cause of juvenile delinquency shifting in the 1960s, and that the topics of family relations and family structure were more concerning than the social environment around juveniles in juvenile delinquency. Plus, it is necessary to mention that the second peak was linked with the student movement in the late 1960s in Japan, as the movement also represented resistance against adults and aimed at breaking the existing social structure framed by authority.

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[11] Ayukawa (2001;2002) insisted that juvenile crimes for thrill or enjoyment already existed in or before the 1960s, although such crimes were characterized as a contemporary tendency in juvenile delinquency.

The third peak occurred in the 1980s; the number of juvenile offenders peaked in 1983. However, the majority of cases were minor offences, such as theft, and the number of murderers was the lowest since post-World War II (Ayukawa 2001:138). In the 1980s, there was the same alert as from the 1960s, that the age of juvenile offenders was lowered to 14 or 15 years old and younger juveniles were involved in crimes more than before. Those younger offenders committed minor offences as reflected in the increase of juvenile crimes in the data. Yet several scholars pointed out that the historical data collection of juvenile delinquents was attributed to the degree of police engagement in the juvenile field. For instance, when a juvenile commits a felony, and the public finds it astonishing because of its brutality, it receives attention and, therefore, police tend to actively deal with juvenile cases and to actively arrest them for minor or status offences. Ayukawa (2001:18-21;138-139) considers this practice as explaining why the data does not necessarily reflect social conditions, and therefore, argues that the third peak might not be the worst period of time in the history of juvenile delinquency as was widely interpreted.

Sakurai (1997:163-165;169-172), on the other hand, is concerned about the situation of the third peak, indicating that the emergence of motorcycle gangs in the late 1970s, that school violence prevailed in society by the 1980s, and that pathological phenomena among youth, including suicide and bullying, caught public attention through the media. Sakurai (1997) suggests an assumption regarding suicide and bullying that juveniles were oversupervised by school regulations and physical punishments from teachers, and such an environment caused frustration, depression, and ultimately bullying and suicide among them. The 1980s was also a period of time that the discourse, such as "juvenile delinquents who committed crimes for fun without guilt," became tangible and it was problematized in society. For instance, *Joshikōsei konkurīto-zume satsujin-jiken* (綾瀬女子高生コンクリート殺人事件, Concrete-encased high school girl murder case) which occurred in 1988, is still known as

one of the most infamous and cruel crimes committed by delinquents for their own pleasure (Matsui 2019).[12] The bubble economy raised the standard of living throughout Japan and also triggered a change or even rejection of people's conventional values. This kind of social state is depicted by the sociological term, anomie. Émile Durkheim defined anomie in his suicide theory as where people struggle to adjust their lives when they have sudden economic prosperity or depression and come to feel confused and lost in their world (Clinard 1964:5). Anomie also indicates a state of "normlessness" or a breakdown of the existing values and norms resulting from "the malintegration of culture and social structure" (Clinard 1964:13). As Ayukawa (2001;2002) suggests, the 1980s in Japan were characterized as having neither framework nor boundary in society between adults and children, normality and abnormality, delinquency, and practical jokes. It represented a chaotic social condition and the discontinuity of traditional values.

Unlike the 1960s, juveniles did not have specific enemies or objects to resist, and they were lost without having social norms. Sociologist Takayoshi Doi (2003:112,197), also describes the prevalent social trend among youth, where their true personality was placed deep inside of them, necessitating the need to find themselves. The true personality was not meant to be built, but to be discovered by the individual, and this trend pressed emphasis on the self or individual rather than group identity. In this sense, youth were surrounded with a wide range of uncertainties in their lives. The resisting youth and the lost youth may seem somewhat contradictory, yet these two types of juveniles were integrated, establishing a different type of juvenile delinquents in the 1990s.

The 1990s were a period of remarkable transition in the history of juvenile delinquency in Japan as well as in children's rights around the world. The Rights of the Child

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[12] *Joshikōsei konkurīto-zume satsujin-jiken* (綾瀬女子高生コンクリート殺人事件, Concrete-encased high school girl murder case) was the juvenile crime in which a 17 year-old girl was abducted, confined, and physically and sexually abused to death by several juveniles.

was adopted by the Convention of the United Nations in 1989 and Japan ratified it in 1994 (Ministry of Foreign Affairs of Japan 2020). This was a turning point for children under 18, because they were officially and globally recognized to hold their own rights, including the rights to have a secure and safe living environment, to be protected from any harm, and to be treated with respect, as individual human beings. The awareness of children's rights was also spread in 1990s Japan, although the concept of rights was somewhat misinterpreted and confused with the idea of entitlement linked to selfishness or personal profit, especially in the media discourse about the *enjo kōsai* phenomenon. The 1990s were also the time when juvenile crimes and delinquency drew intensive media attention and the conventional concept of the childhood came into question. The significant change that resulted from this period was the amendment of the 1949 Juvenile Act, which took effect in 2001 (Table 1). Although there were times when juvenile delinquency was a serious social problem, as explained earlier, the law had not changed in almost half a century. The change was strongly related to the appalling murders committed by a 14-year-old boy, called the Sakakibara Incident (酒鬼薔薇事件), in 1997. The details regarding this incident are discussed in Chapter III, and this incident was said to trigger other juvenile crimes, as the number of juvenile crimes increased at that time. For instance, a criminal activity called, *oyaji-gari* (オヤジ狩り), which involved a group of juveniles targeting and robbing middle-age men, was on the rise (The White Paper on Police, 1997). The new popular images of contemporary youth were also circulated through the media, such as those who snap and act out of control and those who keep themselves in their own room, rejecting any contact with society (*hikikomori*). There was an emergence of the *enjo kōsai* phenomenon, where schoolgirls dated older men for money. The schoolgirls were depicted as justifying their rights to decide to sell their bodies in *enjo kōsai* activities through the mass media, and this phenomenon was linked with consumerism, sexual liberation, self-determination of the body, freedom of choice, individualism, and

adultification rather than securing the human rights of the child. Such images of schoolgirls were circulated and amplified in society during the 1990s. Issues around juveniles came to be a controversial and critical matter in Japanese society, and publications on contemporary juvenile delinquency were continuously made from the late 1990s to the 2000s. Perceptions developed that juvenile crimes were growing more brutal, and youth were increasingly vicious or irrational.

In the amendments of the Juvenile Act, seven points were mainly debated and changed from the previous act: (1) The age of offenders who are applied to penal punishment is lowered from 16 years old to 14 years old and a juvenile offender over 14 years old received a penal punishment in the new act; (2) If a juvenile over 16 years old commits murder, he or she is automatically transferred from the family court to the Public Prosecutors Office, except cases determined to be put under probation; (3) The family court allows a victim and a victim's family to make a statement regarding a case, to know a decision of the case, and to peruse and copy a part of the records of the case; (4) A prosecutor will be allowed to be present during fact-finding procedures at a felony case; (5) A council system of three judges is installed for a juvenile trial at a family court; (6) The time period of placing a juvenile offender in a detention center during a trial is extended from four to eight weeks; and (7) The amendment enabled prosecutors to request an appeal, when they disagree with a family court's decision (Ayukawa 2001:178-179).

Table 1. Chronological Table

Era	Period	Year	Event
Meiji	1968		
		1894-1895	Sino-Japanese War
		1900	*Kanka Hō* (感化法), the Reformatory School Act enacted
		1904-1905	Russo-Japanese War
Taishō	1912		
		1923	Taishō Juvenile Law (旧少年法), the first juvenile law enacted
		1923	Kyōsei in Hō (矯正院法), the Old Training School Act enacted
Shōwa	1926		
		1934	*Shōnen Kyōgo Hō* (少年教護法), the Education of the Juvenile Delinquency Act enacted
		1945	World War II ended
		1948	*Jidō Fukushi Hō* (児童福祉法), the Child Welfare Act enacted
		1949	Shōnen Hō (少年法), the current juvenile law enacted
		1988	Joshikōsei konkurīto-zume satsujin-jiken (綾瀬女子高生コンクリート殺人事件), Concrete-encased high school girl murder case
Heisei	1989		
		1990s	*Enjo kōsai* (援助交際) Phenomenon
		1997	Sakakibara Incident (酒鬼薔薇事件)
		1999	Hikari City Incident (光市母子殺害事件)
		1999	The Prohibition of Child Prostitution enacted
		1999	The Prohibition of Child Pornography and Sexual Abuse enacted
		2000	Amendments of the Juvenile Act[13] (少年法改正)
		2007	Second Amendment of the Juvenile Act[14] (少年法改正)
		2008	*Higaisha Sanka Seido* (被害者参加制度), Victim Participation System, introduced through the revision of the Code of Criminal Procedure
		2014	Third Amendment of Juvenile Act[15] (少年法改正)
Reiwa	2019		

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[13] The first amendments of 2000 introduced the systems of prosecutor participation, three judges, victims impact statement, as well as lowering the minimum age of minors to be transferred to adult court from 16 to 14.

[14] The second amendment lowered the minimum age of minors to be sent to juvenile training schools from 14 to 12.

[15] The third amendment raised the maximum prison term from 15 to 20 years for the minors who commit the felonious crime while under 18.

Some of the changes were made for victims of juvenile crimes, guaranteeing their rights, and overall, those changes were considered as taking a punitive stance toward juvenile offenders and reflecting public opinion. Even so, the public and the media seemed not to be satisfied with the degree of the changes, and they continued to criticize the Act as overprotecting and indulging offenders and putting the public at risk. Clearly, the Japanese government holds an apathetic and negative attitude towards juvenile offenders. It is essential to mention that the amendment took place as a reflection of the public and of persons of interest, and accordingly, that the jurisdiction seemed to become more responsive to public opinion than before, yet it is also important to inquire what public opinion is and how it is shaped. The 1990s was a transitional period not only for an area of the judiciary, but also for areas of social and cultural traditions, such as a change in family relations and of juvenile behaviors and actions. Those changes corresponded with each other and formed the characteristics of the period.

Changes in Family Relations

(1) Family Relations after the 1990's and Emergence of Tomodachi Oyako. Japanese society of the 1990s experienced the unfolding of new problems in opposition to the old along with the discovery of new forms of deviance. The Japanese economy entered into serious depression in the late 1990s, triggering high suicide and unemployment rates. It is also considered that the drop-out phenomenon of NEET[16], the acronym for "not in education, employment, or training," and *hikikomori* (引きこもり, the new reject recluse)[17] among youths were related to economic depression. Other youth-related phenomena, including *enjo kōsai* and the increase in the number of rare forms of violent juvenile criminal offences, paralleled an increasing mass rejection of shared social values among the population. It is

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[16] NEET indicates a young person who is 15 to 34 years old and not engaged in education, employment, or training. The media reported that the NEET population increased rapidly during the 1990s in Japan.

[17] *Hikikomori* refers to those who keep themselves in their own room, rejecting any contact with society.

essential to examine what caused these changes in Japan during the 1990s, while maintaining

the concepts of family and family relations as key topics in this discussion. Discussions about

juvenile behavior relating to changes within family structures began to emerge in the media

and professional outlets in the 1990s. These phenomena were explored in multiple ways via

statistical data, media presentations, actual juvenile behavior, and the rising conflicts among

theoretical notions of the child. In a similar vein, inter-family relations were viewed as

playing a critical role in the development of children. Several researchers suggested that

growing problematic family relations were deeply related to the emergence of the social

problems created by the depression of the 1990s, and these have especially affected youth.

Besides the traditional family relationship, a new type of family relationship termed

tomodachi oyako ((友だち親子) " friendship-parents-children") which indicated a horizontal

and equal relationship, emerged during the 1990s.

A sociologist, Chie Nakane (1973:111), described in her book, *Japanese Society: A*

Practical Guide to Understanding the Japanese Mindset and Culture, that Japanese society

was built upon inter-personal or inter-group relations of vertical stratification by an institution

or a group of institutions. She first wrote the Japanese version of this book in 1967 and then

published the English version in 1973, though this structural characteristic is still relevant to

Japan in 2020. The family system had the characteristics of the head of household who had

authority, and the parents-children relation was always vertical.[18] However, there was an

adjustment taking place in this vertical stratification, and this adjustment resulted from socio-

economic and cultural changes during the 1970s when high economic growth was achieved

in Japan. According to sociologist Takayoshi Doi (2012:58-62), due to this achievement,

people could no longer share the socially held notion of goal or value, but started pursuing

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[18] Nakane (1973:28) claims that it is normally understood that the head of household has the absolute authority over other members of the family, yet "it is the social group, 'the household,' which has the ultimate integrating power, a power which restricts each member's behavior and thought, including that of the household head himself."

their own fulfilling life in terms of not only material wealth but also mental wellness; therefore, the sense of community which unites them has gradually faded since then. The conventional value of human relationship was simultaneously shifted to some degree, and it led to more varied choices in building a relationship with others. The emergence of *tomodachi oyako* necessarily happened since the parent generation experienced the shifting moment; yet the concept of *tomodachi oyako* was certainly a challenge to the conventional family system, and researchers have considered this development as instigating new problems within the family, resulting in unfavorable effects on juveniles. *Tomodachi oyako* refers to parents who allow themselves and their children to neglect their traditional family roles. These parents believe that this method of parenting builds positive horizontal relationships with their children rather than instituting a negative top-down hierarchy of control, as in more traditional family forms. Therefore, the controversial relationship of *tomodachi oyako* was viewed, in many cases, as permitting parents to abandon their authority over their children and accordingly, there was a lack of disciplining of children within the family. It is assumed that parents in *tomodachi oyako* were baby boomers and that the abandonment of their authority had links with the post-war education they received.

The psychologist, Hideki Wada and the journalist, Hirotaka Futatsuki held discussions on several criminal cases that occurred prior to 2000 in Japan and published their dialogue (Wada and Futatsuki 2000). They came to an agreement that Japanese youth come from a social environment that lacks the tools to give its youth discipline and the ability to make moral judgments. This they assume has contributed to the increase of juvenile crimes that took place in Japan in the 1990s. Futatsuki addressed the phenomena of baby boomers entering into this new form of *tomodachi oyako* relationship, and he viewed this new form as one of the major factors for that change (Wada and Futatsuki 2000:30-33). The idea of *tomodachi oyako* emerged as a major change in parental authority in the 1980s and 1990s,

37

leading to an absence of parental control in a family and resulting in a failure of parenting. Because parents in *tomodachi oyako* allow their children and themselves to neglect their family roles, they believe that they build a horizontal relationship with their children. However, the contradiction is also observed in the fact that those parents actually consider their children as objects in need of protection; therefore, there are parental inconsistencies in their actions and attitudes toward their children. Agreeing with Futatsuki, Wada added an explanation derived from Freud's Oedipus complex, that paternal authority has to be impressed upon children by the time they reach the age of six in order for them to internalize self-discipline. Their concept of *tomodachi oyako* may fail to teach children the difference between right and wrong and not provide children with an internalized guide for behavior for the rest of their lives. This "friendship*"* arrangement is likely to come to an end when children attain to the age of puberty; therefore, Wada and Futatsuki concluded that this friendship between parents and children does not function properly in terms of parenting and discipline.

Regarding the growing changes in parental authority discussed by Futatsuki and Wada, the Japanese pedagogy professor Takashi Saito (1999) pointed out that there is a great difference between the education and discipline that baby boomers received from their parents and the methods that baby boomers used with their own children. According to Saito (1999:151), this change was attributed to the social effects of Japan's defeat at the end of World War II, which led to a rejection of many totalitarian aspects of pre-war Japanese society. Saito (1999:9) suggested that, because of these effects, baby boomers came to believe that what they learned from their pre-war parents was no longer valid as that generation's concept of family was associated with totalitarianism which was regarded as an obstacle to freedom and free expression. Therefore, they neglected the traditional (pre-war) values of discipline and education and failed to apply the new (post-war) concept of freedom

into the traditional (pre-war) parenting system. Saito considered the loss of discipline in parenting, a characteristic of *tomodachi oyako* as a defect of post-war education.

Critics and educators have suggested that this growing abandonment of discipline within the family has contributed to the emergence of many problems affecting youth. Shinji Miyadai, a sociologist, also studied the youth culture and the family relationships, and he observed an emergence of a new type of youth behavior in the 1990s as youth started demanding rights and respect for their opinions. In his book, *Choice of Girls in School Uniforms: After 10 years*, Miyadai (2006) considered that the emergence of this type of behavior was attributed to the *tomodachi oyako* relationship, since it implied equal power relations between a child and an adult. It was a transitory time for societal values in Japan. The newly emerged rebellious or resistant behaviors of youth reflected the cultural conflict between the conventional and the new. The equal relationship between a child and parents was newly introduced in society, even while conventional feudal-patriarchal values existed in Japan. The rebellious behavior of youth indicated a rejection of the conventional values of common and moral sense as well as of authoritarian patriarchy and, according to Miyadai, the *enjo kōsai* phenomenon among young girls in the 90s was an example of this form of resistance.

(2) Parents and Daughters around The Enjo Kōsai Phenomenon. Regarding changes within juvenile behaviors, the case of *enjo kōsai* ("financially assisted dating"), was one of the most complicated topics to be discussed by such scholars. *Enjo kōsai* is known as a social and cultural phenomenon that took place during the 1990s in Japan and was widespread among schoolgirls at that time. The phenomenon raised the debate about the autonomy and decision-making ability of children. The term combines two Japanese words: "*enjo*," implying support, and "*kōsai*," meaning dating and relationship. The activity of *enjo kōsai,* at first, referred only to schoolgirls, dressed in school uniforms, dating older men for money,

having dinner, or going to the movie theater together. While the schoolgirls regarded this activity as a part-time "job," for some, sex became a part of the process, and this addition complicated the definition of this activity because it began to resemble juvenile prostitution. However, unlike conventional prostitution, the girls who were involved in *enjo kōsai* maintained the primary decision-making authority as to whether sex would be a part of the paid date. With *enjo kōsai*, it was also possible for the girls to maintain a normal life while dating older men; they could live at home with their parents and continue with their education. Therefore, this exchange was not commonly assumed to be equal to "prostitution," which normally implies full-time work to make a living.

When the *enjo kōsai* phenomenon emerged in the 1990s in Japan, these controversies intensified as interest focused on the phenomenon. Since the phenomenon could represent either female empowerment or a traditional patriarchal form, many scholars found difficulty in positioning themselves, and especially feminist scholars found the topic very perplexing; therefore, many remained silent. Because of these controversies, these newly emerging social phenomena during the 1990s in Japan presented a suitable example for the investigation of the conceptual changes of the idea of childhood. As a researcher of the *enjo kōsai* phenomenon, Miyadai recognized differences in terms of communications, values, and human relationships between the girls who engaged in *enjo kōsai* activities and their parents who were baby boomers. For example, Miyadai (2006:29-55) pointed out that the girls he interviewed who practiced *enjo kōsai* expressed no feelings of guilt, nor did they perceive *enjo kōsai* activities as being immoral or illicit. In order to investigate where these judgments and values originated, he considers that it was necessary to capture the characteristics of the baby boomers who were the parents. One of these characteristics was their preference to interact with their children on equal terms—a horizontal relationship—rather than to have a vertical relationship. Another characteristic was the loss of an absolute moral sense of parents

and children. Within the horizontal relationship preferred by baby boomers, they neglected the power-relation between parents and children and traditional familial roles, which they linked to paternalism; therefore, they attempted to be best friends with their children rather than taking on their roles as parents. This exactly described the characteristics of *tomodachi oyako* (Miyadai 2006:59-81).

In the *tomodachi oyako* relationship, the parents encourage their children to be open with them, to share everything, such as their true feelings, and not to keep secrets between them, to be a best friend. Children, however, come to the realization that it is impossible to build such a friendship with their parents, yet many children continue to play this role expected of them; being a best friend to their parents. Some cases confirmed the peculiar aspects of this friendship. For example, when some parents learned that their daughters participated in *enjo kōsai* activities, they did not confront their daughters (secrets revealed to the parents, 親バレ) with this information (Miyadai 2006:51, 64-65). No parental confrontation occurred even though the police had informed them of their daughters' behavior in *enjo kōsai* activities, that they were in the temporary custody of the police, and that they needed to be picked up from the police station. These *tomodachi oyako* parents did not attempt to prevent their daughters from participating in *enjo kōsai* nor confront them about the behavior or consequences, but merely talked about various inane topics in the mode of a friend. From the daughters' perspectives, they continued to participate in *enjo kōsai* while they attempted to hide their behavior from their parents in order to maintain their friendship. This was because they knew it would make their parents sad or disappoint them when they found out their involvement with *enjo kōsai*. In this friendship, there were many secrets between them, especially on the side of the daughters. This situation indicated a mere superficial relationship rather than the deeper aspects of a genuine intimate friendship. This led to the second characteristic of the baby boomers' loss of an absolute moral sense.

For a female perspective of the family structure in Japan, in association with the phenomenon of *enjo kōsai*, Miyadai and two female scholars discussed the patriarchal mind-set of pre-baby boomer generations. Yukiko Hayami, the journalist and field researcher of the *enjo kōsai* phenomenon, thought that the family environment was a critical element for encouraging involvement in *enjo kōsai* activities and that a lack of communications or understanding within families indirectly motivated their involvement (Hayami 1998:17; 25; 30). For example, she introduced an actual case of a girl who was given an allowance of $1,000 each month for not participating in *enjo kōsai* (Hayami 1998:35). Hayami criticized such parents for their materialistic attitude that indicated the idea that "money solves everything," and for their indifference toward the welfare of their children. In this example, the parents had little interest in knowing what their children were thinking as long as they believed their children stayed under their supervision. According to Hayami, girls who had these types of parents tended to actually engage in *enjo kōsai* as a show of resistance toward their parents, or they became discouraged and refused to successfully integrate themselves into social life or adapt to their social environment.

Having conducted field research on the phenomenon of *enjo kōsai*, a writer, Yukiko Hayami, identified the family characteristics of female participants that there was discord between parents, and a father was strict, controlling, and abusive (Hayami 1998:25-31). Following Hayami's point, Miyadai developed descriptions of the characteristics of the post-baby boomer family as (1) the parents maintained a broken marriage, and the father had a strict conservative view toward sexual behavior, and (2) the father practiced domestic violence (Miyadai and Ueno 1999:59-63). Hayami, Miyadai, and the feminist scholar, Chizuko Ueno, agreed that post-baby boomers followed the public tendency that viewed status and fame as very desirable, and marriage was considered as an arrangement for the sake of decency, not for love (Miyadai and Ueno 1999:55-61; Miyadai 2006:157). There

were contradictory aspects to the post-baby boomers family structure as well. For example, a father who may have impressed conservative sexual behavior on his children sought prostitutes, and a mother who would have married for the sake of decency, may have held a strong dependency and control over her children. Miyadai assumed that this contradiction, and the patriarchal system that viewed children as property, encouraged daughters to participate in *enjo kōsai* as a form of resistance against their parents' values and behavior (Miyadai and Ueno 1999:66; Miyadai 2006:157). Referring to Hayami's work, Ueno added her interpretation that, although the girls know participation in *enjo kōsai* hurts their parents, the girls intentionally do so in order to achieve revenge against them; however, participation in *enjo kōsai* does more harm to the girls (Miyadai and Ueno 1999:63). Ueno claimed that the practice of *enjo kōsai* contains within it a dual structure consisting of a girl's revenge against her parents and her own self-harm.

Through these discussions of problems within Japanese family structures, the losses of discipline and patriarchal oppression toward children are understood as two main elements in alignment with Japanese social problems, especially in association with the phenomenon of *enjo kōsai*. Although family issues and dysfunctional families have been an essential and core aspect of discussions of juvenile delinquency, this new type of deviance conceived in the phenomenon unintentionally or indirectly introduced the ideas of autonomy and rights into the concept of a child, and it contributed to the image of youth as being an independent individual separated from the definition of being a dependent in the family structure and in the legal system.

These oppositional positions, being dependent versus independent, or being protected under authority versus protecting themselves by their rights, have been the key theme in the areas of education and juvenile law in Japan since the 1990s. As legal developments around juvenile justice and other circumstances implied, a very similar debate

occurred in the United States between the 1960s and1970s, and the autonomy of a child was insisted upon during this period. One juvenile case, called *In re Gault*, 387 U.S. in 1967, was a turning point and led the public to realize that being a juvenile in the legal system means disclaiming his or her rights of freedom. Gault was accused of making an obscene phone call to his neighbor at the age of 15, and he was committed to a detention center until he turned 21 (United States Courts 1967). If he had been 18 at the time of his arrest, the Procedural Safeguards that are granted to adults would have been applied to him as well, and he would not have been detained for six years. This case raised a question to society about a conflict between the rights of and protections for juveniles in the legal system. By confirming this, Media Studies scholar Neil Postman ([1982]1994) suggested in his book, *Disappearance of Childhood*, that the emergence of television eventually played a role in neglecting the importance of education, including literacy, for children as well as of presenting the adultification of children throughout commercials and drama, and that it led to not only ambiguity regarding a line between adult and child, but also transformed the child to a "miniature adult" **i**n the social concept. According to Postman, a miniature adult is conceived as possessing the same rights as adults and to be treated as an adult. Japan, on the other hand, took off in a slightly different direction from the United States and held combined views of rights and protection toward children.

CHAPTER III

THREE MAIN LEGAL MEDIA EVENTS THAT ALTERED THE SOCIAL NOTIONS OF JAPANESE CHILDREN

Two juvenile-related events and one phenomenon took place during the 1990s that transformed socially held notions of children in Japan. These events were (1) the Sakakibara Incident, (2) the Hikari City Incident (光市母子殺害事件), and (3) *enjo kōsai* ("financially assisted dating"). Other juvenile-related cases occurred in the same period of time, yet these three events were quite distinctive and unique; in a way, they were scandalously and excessively covered through the mass media. Also, each case was considered a triggering event, which led to the amendments or the establishment of juvenile-related laws. The circulation of the dynamic relation among the media, public opinion, and the judiciary was overtly observed through each case. These cases were seemingly not related to one another; however, they made a significant impact on Japanese society through the media reports and contributed to the changes in the area of law and judicature. The Sakakibara Incident, for instance, was one of the most brutal and controversial cases in the history of juvenile crime. It led to the amendment of the Juvenile Act and shook the ordinary concept of a child in Japan. The Hikari City Incident occurred in the transition of the Juvenile Act and it was the key event that triggered the nation-wide debate on the victim's rights of juvenile crimes. The *enjo kōsai* phenomenon brought an aporia to Japanese society as to the potential maximum degree of autonomy of the child. The juvenile-related laws and legal system were newly established after each event, and the decisions of the court on juvenile cases had taken a more severe and punitive stance for the juvenile offenders since the late 1990s. Media outlets also guided the direction toward rights and the autonomy of the child, strengthened

45

the image of a child as a responsible and reasonable individual who could judge between right and wrong, and who needed not to be treated differently from an adult. For discourse analysis, this chapter describes the details of each event in this chapter, including how they happened, how the media reacted, and the significance of these events in the societal concept of childhood and juvenile law. I also aim to capture the transitional moments from a conventional protective stance to a disciplinary measure in the legal practice of juvenile crimes.

CASE 1: The Sakakibara Incident

The first case was the Sakakibara Incident, which is remembered as one of the most brutal murders conducted by a juvenile offender in the history of juvenile crime in Japan, significantly impacting change in the juvenile justice system. The incident involved a 14 year old, referred to as "Boy A," who committed two homicides and three assaults on his own in 1997. What made this crime notable and profound in Japanese society and its history of juvenile crime was the way Boy A murdered Jun-kun, an 11 year old mentally handicapped boy. A sociologist, Tomoyuki Suzuki (2013), suggested that the incident was excessively covered by the mass media and its brutality and perplexity caused terror and panic in society. Jun-kun was a good friend of one of Boy A's younger brothers and Boy A and Jun-kun knew each other before the incident. A journalist, Fumihiko Takayama (1998:57, 232) published a report entitled, *Boy A – A Portrait of a 14 Year Old*, in 1998 and described the details of his family relations and crimes. This report and the legal reports submitted to the trial by officials were referred to in the introduction and descriptions of the incident in his research.

Boy A started his vicious crimes by assaulting four elementary school-aged girls with a hammer or a knife on the streets two months before. The first assaults took place on February 10, 1997. Boy A murdered Jun-kun on May 24, three-and-half months after his first assaults. On February 10, Boy A hit the heads of two 6th grade elementary schoolgirls with a

rubber hammer on the street as they were on their way home from school. Both were injured, one seriously. A month after the first assaults, Boy A then used an iron hammer to hit a 10-year-old girl, and this attack led to her death due to brain damage a week later. On the same day as this assault, he stabbed a 3rd grade elementary schoolgirl in the stomach with a knife; she recovered within two weeks.

By the time of his first assaults, Boy A had already exhibited abnormal behaviors, such as secretly killing and dissecting cats and being mesmerized by bizarre events and horror films. None of these behaviors came to the attention of his parents. Takayama implied that there was tension between Boy A and his mother, and that this tension was thought to be related to her abuse of him. Boy A had two younger brothers and his mother treated Boy A differently from the other brothers. Her interference and discipline toward Boy A were so strong and strict that they resembled abuse. She seemed to have tried hard to raise Boy A to be a good role model for his younger brothers, though her attempts failed and were a negative influence on Boy A's mental development.

According to Takayama, there were some signs of Boy A's anguished and troubled psychological state. He refused to go to school, both before and during the period of his assaults. He also mumbled about his agony with his life to his mother almost every day. One day at school he wrote of his desire to become a crematory guard in an essay about his future career goals. He described in detail how he observed a dead body becoming gangrenous. His teacher became very concerned by reading his essay, considering him to be a seriously troubled student. Boy A caused a smoking incident, and his negative reputation was spread among the teachers at school. They and some of his schoolmates predicted that he would be involved in other deviant activities, such as the assaults in February and March. Boy A stopped going to school after he hit and threatened one of his schoolmates outside the school on May 13, though at the time, this incident was not reported as an official assault case. Boy

A's parents finally decided to send him for counseling after this incident. The counseling continued until he was charged as a suspect in the murder of Jun-kun on June 23.

On Saturday, May 24, 1997, Boy A ran into Jun-kun on the street as Jun-kun was on his way to his grandfather's condominium. Boy A asked Jun-kun to go with him to a hill in the neighboring woods to see a small turtle, as a turtle was Jun-kun's favorite animal. He succeeded in taking Jun-kun into the woods and once there, he suffocated Jun-kun to death. Boy A then decapitated Jun-kun, proceeded to mutilate his head, and damaged his face with gashes from a knife. On Monday morning, Boy A placed Jun-kun's head along with a letter at the entrance gate to his junior high school. In the letter, he referred to himself as " Sakakibara," a combination of random Japanese Kanji characters, *酒鬼薔薇* which mean alcohol, demon, and rose in each term, and he wrote very provocative statements directed at the police, indicating that his actions were the beginning of a game, in which he questioned whether they could catch him. He also expressed his desire for killing in the letter.

This incident itself was already shocking due to its cruelty and brutality, then it was revealed that the offender was a 14 year-old boy and that the incident was one of a series of attacks. The incident received massive media coverage and was continuously reported to the public. In fact, Boy A sent a letter to one of the newspaper companies after the murder of Jun-kun. In the letter, he wrote how angry he was about his name being misread in a news program on TV. He blamed the Japanese educational system for isolating him in society and leading him to commit such a brutal crime. The media reported the incident as an extraordinarily eerie event, and they released descriptions of the offender as a psychopathic and perverted adult man. The assumption about the suspect, who turned out later to be Boy A, was also circulated in the media that he might be someone who could not catch up with classes and dropped out of school because he made mistypes and grammatical errors in his letters (Asahi Shimbun 1997; Mainichi Shimbun 1997:29; Takao 1997:42-44). There was no

doubt that the incident was overly controversial to grab media and public attention and that moral panic was already taking place before Boy A was arrested. Media reports proved how transmitted information was exaggerated and inaccurate under the panic and how massive media coverage accelerated the social phenomenon of moral panic and amplified fear among the public.

Media and Juvenile Law. Although Boy A's crimes captured the attention of the media and society to a great degree, little information was available to the public regarding the case because of the principle of juvenile law. The principle of juvenile law stressed rehabilitation and correction of juvenile delinquents. Moreover, revealing personal information about a juvenile offender to the public was considered to hinder his or her rehabilitation. Therefore, juvenile trials were not open to the public, and the privacy of juvenile offenders was strictly protected under article 61 of the Juvenile Act. In Boy A's case, private information regarding him and his trial were not to be provided to the public as well, although the family court provided the partial summary of the decision, including part of his psychiatric evaluation, as an exception after the trials.

However, despite the release of the summary of the decision, the inadequate information and the sensational aspect of these juvenile offences led to curiosity about why Boy A committed such criminal acts and how he became "Sakakibara," an alias by which he is known. In response to public demand, the media continued to cover the incident and attempted to provide any related information about Boy A. For instance, it was reported that, after his grandmother died while in the 5th grade, Boy A started killing small living creatures, such as frogs and snails, and then cats and disjointed them into pieces. Also, Boy A created an imaginary god in his mind and worshipped it as his guardian deity. The victims of his crimes were a sacrifice to this god. His specific behaviors, such as killing cats, created a set of new stereotypes regarding juvenile offenders.

In the absence of further information, the Media emphasized this psychotic aspect of Boy A; therefore, it left the public with many unanswered questions and fears. The media excessively covered the event in this restless state of affairs as reporters attempted to draw a clear picture of the entire matter. Further, the media attempted to correct unfairness caused by the juvenile law, which they interpreted as "overprotecting" the offender. One media source reported Boy A's picture and real name, and this developed into a controversial debate over the ethics of the media. Although reporting the identity of a juvenile offender was against the principles of juvenile law, the law itself did not enforce legal effects and no penalty was given for the violation. Because of the lack of legal consequences, how to report juvenile crimes was attributed to the judgment of each media outlet (Oishi 2005:195).

Judicial Decision on Boy A's Case. At the time of Boy A's crime, a juvenile under 15 years of age was waived from penal offences under juvenile law since he or she is in a compulsory education system in Japan. As explained in Chapter II, the juvenile offender was considered to be corrected through education and training rather than through punishment. Therefore, Boy A, after being arrested and convicted, was sent to a medical juvenile training school. He was released from the institution into society in 2004. For Japanese society, this case highlighted the way juvenile offenders were treated under juvenile law. As a result, the treatment given for such brutal crimes generated negative responses from the public who regarded the law as overprotecting or spoiling juvenile offenders.

After the Incident. Boy A and his incident have been repeatedly referenced in the media when other serious violent juvenile crimes have taken place. Some of the offenders even confessed that they idolized Boy A, and they wanted to share a similar experience with him (Sasaki 2015:316). Boy A became an icon in the discussion of recent juvenile crimes, not simply because of his anti-social behaviors, but because of the fact that a 14-year-old boy could do such cruel and brutal things on his own. Boy A's case completely changed the then-

conventional image of a 14-year-old boy to a more adult-like being. Although Boy A's incident was well known in Japanese society, what happened to Boy A after he was admitted to a medical juvenile training school was veiled under juvenile law until 2015, when the confidential legal report of the incident was leaked to a Japanese magazine.

In 2015, one of the Japanese literary magazines, *Bungeishunju*, revealed the full text of the family court's decision of Boy A's case in the May issue, and it included the details of his development record, his journal written during the incident, a list of his deviant acts, and his complete psychiatric evaluation (Sasaki 2015:314-342). The text described that Boy A committed crimes as an experiment to check how fragile a human being was, how psychiatric examiners determined Boy A's mental state at risk, necessary treatments for him in the training school, how greatly the relationships between Boy A and his mother and between him and his grandmother affected his behavior toward deviance. These revelations were explained as useful in order to investigate the causes of psychotic juvenile crimes, such as the Sakakibara Incident, and to prevent similar crimes from happening. Yet, the release of information elicited a furious response from those in legal circles as a violation of juvenile law.

In his development record, it stated that Boy A experienced a nervous breakdown when he was around 9 years old, and a psychiatrist diagnosed that his mother's excessive interference, such as controlling his behaviors by hitting and scolding, pressured him heavily and caused his unstable mental condition. Upon advice from the psychiatrist, Boy A's mother stopped meddling with or scolding him. At the same time, he started keeping his distance from his parents and stopped showing his true feelings to them (Sasaki 2015:322). The report suggested this distancing was the reason why his parents did not notice any change occurring to Boy A, nor did they know that he had killed frogs and cats or that he hid some of the body parts in the storage until the police officers searched their house after the incident. It also

indicated that Boy A's grandmother's death, whom he had a special attachment to, was a trigger to accelerate his deviancy or to stimulate his curiosity about life since he started killing small living creatures after she died. Based on the psychiatric evaluation, Boy A's sex drive was also strongly related to his deviant acts, and the act of killing directly led him to ecstasy or brought him sexual pleasure. The examiners stated that his sadistic sexual orientation needed to be corrected toward a normal direction and that, although he was not diagnosed as having a serious mental illness, such as schizophrenia, at the time of psychiatric evaluation, he had the potential to develop it in later years. Therefore, they concluded that Boy A needed to receive an adequate sex education as well as psychiatric treatment during his time in the medical training school.

The description in the report contributed more details about Boy A's family relationship and his mental state than media reports had provided during the time of the incident, yet the information was consistent overall. The media reports, however, focused on the psychotic aspect of Boy A and pictured him as a cruel psychopath who heartlessly and intentionally enjoyed hurting innocent children. The image of Boy A still prevails, having become a major representation of serious juvenile offenders in Japan. In the public's eye juvenile offenders are inhumane and monstrous by nature and have no possibility of being rehabilitated. This idea was intensified when Boy A published his autobiography in 2015.

Boy A's Autobiography. Two months after the *Bungeishunju*'s May issue, Boy A's autobiography was published under the name of "the former Boy A" in June, 2015, and it described not only his life before the incident, but also after his release from the medical training school in 2004. The publication of the autobiography was bitterly attacked by the media and critics, claiming that Boy A intended to profit by flaunting his past acts before the public and that his profit-seeking proved that he had no regret for what he had done. They claimed that he should reveal his real name since he was no longer a minor. Also, the family

members of the victims severely criticized Boy A for not informing them in advance regarding the publication and felt betrayed and insulted by him, especially because they thought Boy A had the opportunity to notify them. They protested to the publisher against the publication of the autobiography and requested they collect all of the copies from bookstores, although the publisher refused their request. The publisher also became a target of criticism in the media and in public opinion. Many bookstores refused to sell the autobiography out of respect for the victims' families (Nikkei Shimbun 2015b).

In the autography, Boy A portrayed himself at the time of the incident as suffering from a serious mental problem. He described how he chose an isolated life after the training school, how he always faced fear of being revealed as "Boy A" to people he interacted with, and warned those who idolize him that killing or hurting people will eternally and severely torment them. While Boy A's monstrous image was already established through the media after the incident, he said he attempted to deliver his own voice to the public and to explain what had happened and why killing a person was wrong. His attempt did not seem to succeed since, instead of taking his intention on the face of it, the media problematized his usage of aesthetic and metaphoric expressions in describing his crimes and criticized him for beautification of his wrongdoings, and accordingly, for insulting the victims and their families (Sankei Shimbun 2015). Although the controversy has remained, his autobiography was extraordinary in that it unveiled the Boy A's mysterious life, especially after his institutional confinement.

There were some positive reviews and opinions raised by those in professions, such as psychiatry, that the publication was understood as a sign of Boy A's engagement with society and that it was a step toward rehabilitation. The then-judge who sentenced him to the rehabilitation program at the medical training school also agreed with the aspect of his rehabilitation process to some degree, yet he was concerned about the fact that, because of

the guilty feelings and the troubles Boy A faced by his identity being revealed to others, he chose to isolate from society, including leaving his supporting team, and accordingly, losing his safety-net. The judge considered this choice to be a critical mistake which led Boy A to lose an opportunity for receiving proper advice and guidance from others in this absolute isolation. Not only the judge but also the critics and professionals who reviewed the autobiography agreed that Boy A was still in the process of understanding others' feelings and had not fully reflected on his crimes yet.

Rehabilitation and reflection on his actions are the key themes in reviewing this autography, and it brought back the long-standing question as to whether rehabilitation, which includes development of conscience, is possible for juvenile offenders who commit a felony. Although Boy A's incident was one of the main factors which led to amendments of the Juvenile Act in 2001, the publication of the autography has cast doubt on the possibility of rehabilitation and a more punitive approach toward youth justice has been raised by the public.

CASE 2: The Hikari City Incident

Society began demanding a punitive intervention, such as longer and more severe sentences, as an amendment to the juvenile law after the Sakakibara Incident in 1997. This questioning continued during the trials of the Hikari City Incident that occurred in 1999. In the Hikari City Incident, an 18-year-old juvenile pretended to be an engineer for inspecting drainpipes and randomly visited an apartment unit on April 14. It was reported that this juvenile forced his way into one of the apartments, suffocated a pregnant woman, conducted necrophilia with her corpse, and suffocated her 11-month old daughter using a string. He was arrested four days after the incident on April 18. After several trials, the Supreme Court finally sentenced the offender to death in 2012.

For two reasons this incident became a turning point for the history of juvenile crimes and for the media. The first reason is that this crime was placed in the main debate addressing the age of the offender as to whether a capital punishment is to be applied to an 18-year-old offender. By the time of this incident, there were only a few death-row convicts in Japan whose age was under 18 when committing a crime. Age was a key theme in the discussion, and it is regarded as a measure of conceiving one's stage of maturity and conscience. The second reason has to do with the media coverage and the rights of the victims and their family. This incident was reported in the local newspaper as a regular homicide case and did not attract people's eyes at first. The media started covering the incident after the victim's family held a press conference, expressing their anger and devastation, and criticizing the legal system in Japan for neglecting the victim's rights. The media coverage of the incident became increasingly excessive, having great influence on public opinion, and seemingly, on the court judgment. Detailing the background of this incident helps to understand the perceived legitimacy of the death penalty for this crime, before entering discussions on juvenile crime and the media.

Offender's Side of the Story. When the offender committed this crime in April 1999, he was one month past 18 and he had graduated from high school two months prior. He started working at a company after high school, but he seemed insecure about being in a new environment where people in the company were friendly and welcoming. He was absent from work after the first seven days, and he hid it from his family since he was extremely afraid of his father finding out. One of his former counselors, Jin Imaeda (2008), who wrote a report regarding the incident and the trials, described the offender as a survivor of a harsh family environment. To explain his failure to learn healthy family relations, Imaeda reported that the offender suffered from severe domestic violence of his obstinate father and was traumatized by the loss of his birth mother who had committed suicide. From the time he was a small

child, he had great fear of his father. Therefore, after he committed a crime, he was much more afraid of his father finding out and punishing him than of getting arrested by the police (Imaeda 2008:255). His mother was believed to have suffered from domestic violence by his father for a long time, causing her depression. The offender and his mother protected each other from his father's attacks, and through these survival experiences, they developed a strong but somewhat distorted attachment to each other. After several attempts, his mother finally took her life by hanging herself in the garage when he was 12, and he witnessed her dead body there along with his father. There was no question that this experience traumatized him and affected his mental development.

His counselors, including Imaeda and a journalist who had actual contact with the offender, shared similar impressions about him being extremely immature for his age. His childhood experiences, especially his mother's suicide, seemed to affect the development of his personality. They concluded that these experiences led him to regress or to prevent himself from developing mental maturity, learning discretion, attaining social skills, and establishing regular family relations. People he worked with at the company held family-like ties and they welcomed the offender into their circle; however, he had never established such a relationship with others before, and he was not able to adjust himself accordingly. He rather felt isolated from his colleagues and stopped going to work. He spent time with his friends, playing games during working hours.

On the day of the incident, he went to visit his friend's place in the morning and played a game with him until his friend needed to go out for errands. His friend promised to meet him again later in the day, so the offender went home. When he saw his stepmother at home, he did not tell her that he stopped going to work, but told her instead that he was back home for a lunch break. She told him to go back to work after a while. He later said to his counselors that he wanted to grow close to her, but he received a cold response instead, and

this led to his loneliness and feelings of being left out. Although she was his stepmother, he had a very positive impression of her and perceived her as a comrade who also suffered from the violence of his father. Plus, he seemed to seek someone who always accepted him and let him cling, like his birth mother. He might have hoped his stepmother could play a similar role to some degree.[19]

After his stepmother told him to go back to work, he then needed to find a place to stay or things to do until he met his friend. He was wearing a company jacket, so he came up with the idea of visiting apartments and pretending to be an engineer who was inspecting drainpipes. According to his statements, it was a mischievous game for him and he did not intend to find someone to rape. He told residents that he needed to hear the noise to check if there were any problems with drainpipes and asked them to flush the toilet while he waited outside. He quietly and quickly left the apartments after the residents flushed the toilet. However, one of the residents was a pregnant woman, and she was busy putting her baby to sleep when the offender visited her apartment; therefore, she let him in to flush the toilet for her. He was rattled by her unexpected response because no other residents offered to let him in. He tried hard to pretend that he was an actual engineer, as he hit or moved parts of the toilet. When he told her everything was done, she was patting her sleeping baby in the chair and thanked him for his work. Her kind attitude reminded him of his birth mother, overlapping her with a mother figure who always accepted him and was kind to him. He had not been treated kindly by anyone else but her since his birth mother's passing, and he was so moved that he involuntarily hugged her from behind as he used to do to his birth mother. This

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[19] According to Imaeda, the relationship between him and his birth mother was in some ways distorted, and they psychologically depended on each other. For instance, before entering middle high school, she told him to marry her when he got older and he seriously considered it. Throughout his relationship with his birth mother, he developed a specific concept of an ideal mother figure who always accepted him and let him cling to her, and he continued to seek this in his stepmother after his birth mother passed away and he reached adolescence.

sudden move astonished the victim so much that she resisted him by pushing him back. This was an unexpected reaction to him since he thought she would hug him back.

Debate over Immaturity of Juvenile Offender. His side of the story did not gain understanding from others, and his way of thinking was not considered sensible or rational. His counselors pointed out that his mental immaturity attributed to his abusive family background prevented him from developing normal social skills and a sense of social norms. As an adult, he lacked common rationality and a concept of otherness in his train of thought. His record from the family court, where he was first sent after his arrest, indicated that the results of a paper-based psychiatric test showed his mental development was similar to a 4- to 5-year-old child. Another psychiatrist from the counseling team tested the offender's mental maturity and said his mental age was about 12 years old (Gendaijinbun-sha 2008:31). These psychiatric results showed his incomplete mental development. His reasoning and actions would not be wholly understood by others if they considered him a mature adult; therefore, the counselors insisted that he should be treated as a juvenile offender rather than an adult.

The offender's narrative continued as follows. When the victim actively resisted him, he panicked and only thought about making her quiet. They ended up wrestling, and after a while she became unconscious. He thought she was dead and he was in shock. However, she had only fainted, and after she regained consciousness, she attacked him from behind. This time, his mind went completely blank, and he again wrestled with her, pushing his hand toward her face. His hand reached her neck and he suffocated her (Gendaijinbun-sha 2008:32). After she stopped moving, he thought she had fainted again, so he tied her hands to prevent her attacking him again. While he waited, he came to realize that she was not moving at all. He hoped that she was pretending to be dead, so he attempted to wake her by spraying her face with water and touching her breasts; however, she did not open her eyes, and he finally realized she was dead.

Throughout these unexpected events, he experienced extreme panic, and his mental state became disheveled; therefore, he was unable to give a precise account of what he had done after his arrest. He lost his memory or he was delusional at the time of the event. He then noticed the crying baby, and in his disheveled mental state he attempted to pacify her and put her to bed. He took the baby to the bathroom rather than a bedroom while suffering from delusions. He dropped her in the bathtub, thinking it was a bed, and this caused her to cry harder. Disturbed by her crying, he hastily took her back to the living room. He tied a bow with a string around her neck and the string gradually tightened until she suffocated. Later, he could not recall why he had made a bow, but his counselors assumed that he was not aiming to kill her since the string was loosely tied. After he realized the baby was dead, he put her in a storage cupboard above a Japanese-style built-in closet, hoping the animation character Doraemon[20], a robot cat, would restore her to life. In a similar way, he was reminded of a cartoon in which a sperm restored a dead woman to life (Imaeda 2008:253), and he developed the idea that the woman would come back to life if he had sexual intercourse with her and ejaculated in her. He decided to act on this idea, and then placed her body into the closet with the baby. He then left the apartment. This was the offender's side of the story, which was severely and harshly criticized by the media and public as humiliating for the victims. Another account took the lead in the trials.

Another Story Proposed by the Prosecutors. The other account was developed by the prosecutors who emphasized its veracity, and the district, high, and Supreme courts supported it as true. In that account, the offender was described as a cunning and cruel juvenile who planned to rape someone and visited each apartment to select a victim. This account also implied that he was too frivolous and lazy to go to work. On the day of the incident, he loafed on the job as usual and was extremely bored because there was nothing to do and no one to

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[20] Doraemon is a long-running famous animation, and it has been aired with the English title, *Doraemon: Gadget Cat from the Future*, in the United States since 2015. The main character, Doraemon, is a robot cat; dream gadgets that make anything possible are installed into him.

play with. He started thinking of doing something fun, and he concluded that a fun thing for him was to have sexual intercourse with a woman. Considering the facts that he was a minor at that time and was protected under juvenile law if he committed a crime, he selfishly decided to act on his desire.

After visiting several apartments, he came to the victim's apartment and asked her to show him the bathroom to check the plumbing. She let him in and he then attempted to rape her. She resisted him, so he strangled her with both hands. Her baby started crying hard and annoyed him so much that he lifted her up and threw her forcefully to the floor to make her quiet. The baby continued to cry and crawled to her dead mother. He was irritated with what she was doing, and he strangled her with a string. After he killed the two, he finally conducted necrophilia to fulfill his selfish desire. He took a small amount of money and gift vouchers from the victim's wallet and put their bodies inside the closet to delay the finding of their bodies. After the incident, he maintained his daily routine as before, loafing on the job and playing with his friends. He was not afraid of getting caught because he knew that the juvenile law would protect him from receiving severe punishment. If convicted, he would be released from incarceration in 7 years. He wrote this in a letter to a friend he met in the detention center during the trials. There he listed his justification for raping the victim, and insulted the victim's husband. His emails were submitted by the prosecutor in the trial at the high court. It was clearly assumed from his emails that he did not feel guilt or regret about what he had done to the victims. This was the main account, which was reported by the media regarding this incident and accepted as true during the trial.

Judicial Definition on Juvenile Offenders. The question arises as to why there were two completely different stories narrated about the same offender in the trial. Trials are routinely a place where a battle of persuasion takes place between counselors versus prosecutors, and they present their sides of the stories. The offender's age was one month

past 18; therefore,he could be considered either a juvenile or an adult in the legal system in Japan. The 18-year-old offender was treated as a reasonable adult during the trials, indicating that he was assumed to understand consequents when committing the crime. This was another reason for a gap between the two sides of the stories. Because of the felonious facts of the incident, the case did not stay in family court as a juvenile case, and it was brought to a district court as a penal offence. His age and accordingly, stage of his mental development, should have been carefully taken into consideration when deciding the sentence in the trial, like other juvenile cases. However, it did not occur in this case.

One of his counselors offered an example of the offender's immaturity in that he was unable to distinguish between rape and sex. When his case was sent to the district court, he appeared to misinterpret the difference between having a sex drive and having an intention to rape someone (Gendaijinbun-sha 2008:37). Although he denied the intention of rape from the beginning of the trial, the prosecutor repeatedly urged him to admit to an initial intention of rape as his motivation for visiting apartments, an admission documented in the investigator's record of his oral statement. The prosecutor promised not to demand the death penalty if he admitted to the story they suggested, and the offender decided to accept the offer to avoid receiving capital punishment (Imaeda 2008:258). It turned out that the offender was betrayed, and the prosecutor eventually demanded the death penalty in the district court trial; however, his then-counselor advised him not to deny the prosecutor's version of the incident, because disagreeing with the prosecutor would give a negative impression to the judge that he did not seriously reflect on what he did, possibly leading to the risk of receiving the death penalty. As a matter of fact, his then-counselor had been hired by the offender's father, who had requested that the trial be finished as soon as possible and avoid prolonging it by arguing with the prosecutor. The then-counselor presumed that the case deserved a life imprisonment and that the offender would receive the sentence as long as the trial proceeded as usual.

According to Imaeda and other counselors, the offender had no one who attempted to listen to him or to understand his version of truth and accordingly, he had to keep it in himself. (Imaeda 2008:257; Gendaijinbun-sha 2008:13)

The offender had different counselors at each stage of the courts, and he had one or two counselors to defend him for the district's and the first high court's trials. When the Supreme Court sent back the case to the high court to resume the trial, he had 21 lawyers forming his counselor team, and it was not ordinary to have such multiple numbers of counselors for an individual offender's case. This implied that the high court would overturn their previous decision of his indefinite-term imprisonment. Not many juvenile offenders received the death penalty in the past, and if he, as an 18-year-old juvenile, received capital punishment, it would be a serious matter for the legal system and may change the future pattern of prosecutions of juvenile crimes. The counselor team directed their efforts toward defending their client to save his life, which also meant that they attempted to stop a new precedent from altering the legal code.

Two Main Differences Between Both Sides of Stories. When two chief counselors from the team met the offender for the first time, they heard his version of the story, and they were flustered since his story was completely different from the one told in the trials (Imaeda 2008:257; Gendaijinbun-sha 2008:13). They considered that the offender was falsely accused in the case, and they decided to clear this up in the trials. They focused on proving two points: (1) the absence of the intent to rape, and (2) the absence of the intent to murder. Regarding the rape intent, the counselor team pointed out that the offender had never had any intimate relationship with a woman at the time of the incident. It is extraordinarily rare for a man without any experience of sexual intercourse with a woman to plan out rape. Also, the offender's allegations concerning the intention of rape varied in the record of each process of the investigations. For instance, a record reported by a psychiatrist who conducted the

evaluation of the offender right after his arrest indicated the intention of rape was not the purpose of his visit to the apartments; rather, it was for fulfilling his loneliness or isolated feeling from the society (Imaeda 2008:218). Imaeda (2008:216) pointed out that the offender admitted the intention of rape only when prosecutors or police officers reported his allegation, and he suggested that the offender might be forced to agree with whatever the prosecutors and police officers said.

As to the murderous intent, a medical legal expert, who was asked by the counselor team to examine the victims' cause of death, stated that marks on the victims' bodies proved the offender's story. For instance, the mark on the mother victim's neck showed only one hand of the offender, which meant he did not strangle her with two hands. Therefore, the assumption was that he merely attempted to immobilize her, not suffocate her, by the position of his hand. The string around the baby victim's neck was loosely tied and the mark indicated that the string gradually and naturally suffocated her as her neck swelled. The medical legal expert and the counselor team concluded from this evidence that there was an absence of murderous intent (Imaeda 2008:223). However, it was too late to reverse the narrative from the two trials where the offender admitted his guilt. In addition, suggesting a new and somewhat wicked story to reverse the existing one provided an extremely negative impression about the offender and his counselor team as not showing self-reflection and remorse for his crime. In the retrial at the high court, the judge overturned the life imprisonment, which was the decision of the two previous courts, and sentenced him to death in 2008.

As explained earlier, under juvenile law any information regarding juvenile cases within family court were closed to the public, and therefore, the voices of juvenile offenders could not be heard after their arrests or during their trials. Yet, unlike other juvenile offences, the narratives of both sides in this case, the offender and the victims' family, were actively

and continuously reported in the media. One of the reasons why the narratives of the offender were revealed was because this case was brought to a district court as a penal offence, and the trials were open to the public. The prosecutor to the high court submitted letters written by the offender to his friend during the trial at the high court, and these letters expressed insults toward the victims and their family and indicated his criminal intent. The prosecutor emphasized this material as evidence to indicate how cruel and cunning the offender really was; however, the counselor team considered the prosecutor's activity as a conspiracy against the offender and that he was coerced into writing such letters by the friend, who had a history of juvenile delinquency and was under the control of the prosecutor. Those letters were sensationally and continuously reported by the media and caught the public attention.

Rights for Victims and Their Families. The Hikari City Incident was one of the seemingly ordinary criminal cases that would not attract a lot of public attention. However, the husband and father of the victims, Hiroshi Motomura, made strong statements in the press conference after the district trial judge decided to give the offender an indefinite-term imprisonment. He expressed that he was very disappointed in the Japanese judicial system and that he would not appeal to the high court. He wanted the offender to be released back into society so that he could kill him with his own hands (Shūkan Shinchō 2000; Motomura 2000:26-27; Imaeda 2008:302). It was a tremendous shock for the public to hear these statements from the victim's family through the media. Motomura had devoted himself to an active engagement for victim's family rights through the media, community groups, and legal organizations. His voice and appearance in the media made this incident notable to the public. By the time of the Hikari City Incident, the victims and their families who were involved in juvenile crimes had already begun raising their voices for victim's rights because there was no legal system formulated for supporting their rights at that time. For instance, the offender's information, including name and address, and the details of the trials, were kept

64

confidential from the public under the juvenile law, while the information about the victims

was revealed throughout the media without consent. There was an apparent conflict between

the protection of juvenile offenders versus the rights of the victims and their family.

Although the juvenile law was amended to assure some rights for the victims and their

families in 2000, a year after the Hikari City Incident occurred, the principles of juvenile law

remained based on the possibility of rehabilitation of juvenile delinquents. These principles

are understood as securing an opportunity for a juvenile offender to recognize his problems

and find a way to solve them through the rehabilitation process, helping him to re-learn social

norms to gain his adaptability to society, to develop his mental maturity, and to exercise self-

reflection. Juvenile law is aimed at rehabilitating a juvenile offender and preventing him from

repeating an offence in the future after release from a youth detention center. Therefore,

under the protection purposes for juvenile offenders, the victims' rights were not the first

consideration in the juvenile law (Goto 2005:18-19). Motomura's efforts contributed to the

government taking the rights of victims into consideration when revising the existing penal

code.[21] He was also the first member of a victim's family who was allowed to make

statements and ask the offender questions during the trials.

The Hikari City Incident was also the first case in which the victims' family enlisted

the broadcasting media to tell their side of the story and give their opinions on the then-

ongoing trials. Motomura published a memoir of his wife and daughter, and held press

conferences after each trial, expressing his anger at the offender. He condemned the offender

for not expressing any remorse for what he had done to his wife and daughter. He continually

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[21] *Higaisha Sanka Seido* (被害者参加制度), Victim Participation in Criminal Trials, was introduced through the revision of the Code of Criminal Procedure and was implemented in December, 2008. A law scholar, Masahiko Saeki (2010) explained that, although the system applies to limited cases, it enables the victims and their family members or their attorney to attend the trial and the trial preparations, to express their opinions to the public prosecutors, to question the witness and the defendants, and to make a statement about the sentencing (2010). *Nichibenren* (日本弁護士連合会), the Japan Federation of Bar Association (2012), considered the necessity of revising the system since there were possible risks associated with applying the system, such as obstacles to the protection of victims, finding the facts, and the procedures of sentencing.

pressed his demand for capital punishment through the media during the trials. The Hikari City Incident caught public attention, and debate began as to whether capital punishment should be applied to this 18-year-old offender. While juvenile law was transitioning toward a more punitive direction, as mentioned earlier, the offender's age, one month past 18, could define him as a juvenile rather than as an adult. Because of the nature of the crime, the offender's unpleasant letters, the prosecutor's descriptions of his deliberateness, cruelty, and impossibility of rehabilitation during the trials, their allegations portraying him as a mature, crafty, and brutal criminal, his initial sentence of indefinite-term imprisonment at the district and high courts was returned to the high court by the Supreme Court, and the trial was resumed. The decision of the Supreme Court included the statement that the offender's mental maturity should not be taken into account at sentencing. He was then sentenced to death in 2008 in the second high court trial. This new sentence was finalized by the Supreme Court in its support of the decision of the high court in 2012. His age being one month past 18 at the time of the crime is the youngest record among all the death row convicts in Japan.

The Hikari City Incident was the first case of juvenile crime that the voices from both sides, the victims' family and the offender and his family, were actively reported through the media. Previously, due to the nature of juvenile justice, the voice of the offender wouldn't be heard by the public, and the victim or the family remained silent regarding the case; therefore, it was a new move that the victim's family in the Hikari City Incident appeared in the media, spoke for their legal rights, and actually won the argument. This incident was a turning point for the juvenile justice system with the addition of the perspective of a victim and confirming an 18-year-old boy as a socially and legally responsible adult under juvenile law.

After the Sakakibara Incident which created a formidable stereotype of juvenile offenders, the Hikari City Incident brought into question the definition of a juvenile in terms of age and the conventional idea of a minor as being an object in need of protection. In the

national debates, the voice was raised that, like an adult offender, a juvenile offender should be properly punished based on the level of his or her crime. Accordingly, the meaning of being a minor faded away and childhood was taken away from juveniles in the juvenile justice system. The definition of a minor was also shaken by the juvenile-related phenomenon called, *enjo kōsai* ("financially assisted dating"), which took place during the same time as these two incidents. This phenomenon led to considerations of a child in terms of rights and autonomy as well as an aporia regarding an idea of protection of a child. Unlike the two incidents and other juvenile crimes, the debate leaned toward the importance of protecting a minor in society in the case of *enjo kōsai*.

CASE 3: The Enjo Kōsai Phenomenon

Paralleled with the Sakakibara Incident and Hikari City Incident, another juvenile-related phenomenon, termed *enjo kōsai* ("financially assisted dating"), emerged in the 1990s. As explained in Chapter II, the phenomenon raised the debate of autonomy and decision-making ability of children.

In the beginning of the phenomenon, there were two subcultural products, Buru-Sera Shop and telephone club, which contributed to the spread of *enjo kōsai* activities. At the Buru-Sera Shops, which are adult shops, young women could simply sell their uniforms, school uniform blazers, school swimsuit uniforms, or used underwear, and the shop provided vending machines where customers could purchase used underwear. The Buru-Sera shops were popular among adult men who desired these kinds of items for sexual pleasure. Sociologist Kouji Maruta (2001:150) identifies those men with a similar type of pedophile who believe adolescent females are the most idealized form of beauty. Additionally, a telephone club became a major source for making connections between older men and schoolgirls who wanted to participate in *enjo kōsai*. The telephone clubs are defined as anonymous public chat lines that are advertised by handbills and business cards in

67

entertainment districts (Nagano Prefectural Board of Education 1996). Along with the diffusion of the telephone clubs, public phones, and later mobile phones, played a significant role in this activity as the telephone clubs were a space and a medium between schoolgirls and adults.

Through technological advancements, mobile phone and Internet service businesses took over the role of the telephone clubs and net-dating websites became a space for schoolgirls and men to find and contact potential partners for *enjo kōsai*. As a communication tool, mobile phones became available to all generations for different purposes. For instance, elementary school students have their own mobile phones since their parents thought it would be helpful for them in case of emergency or trouble (Kosaka 2006). The availability of the new communication tool accelerated the use of the net-dating websites for the *enjo kōsai* meetings. Whoever wanted to look for dating partners put advertisements on those websites with their demands and conditions, such as "$600 for dinner and sex" (Weston 2004). The technological advancements, Internet and mobile phones, made it possible to efficiently find ideal partners by matching seeker's demands since they were able to put their desires on a webpage. This is how *enjo kōsai* became easier, more popular, and more secretive for schoolgirls and their clients.

Many scholars who studied *enjo kōsai*, interpreted it as a part of the modernization of Japan or as a part of a youth subculture, rather than prostitution, and some have said that it was a signifier of the liberation of sex and women; therefore, they tended to look upon *enjo kōsai* and prostitution as separate, distinct social activities. Others deplored the decline of the moral standards of young females in Japan. There were also those who criticized *enjo kōsai* as being an exploitation of young females; yet the girls who participated in *enjo kōsai* viewed this activity as the easiest and fastest way to earn money. Invariably, a controversy as to whether or not *enjo kōsai* was actually juvenile prostitution, rather than a form of dating was

central to the ensuing discussions. *Enjo kōsai* was conceived as a social phenomenon, and it was said that a large number of participants were involved in the activities, although they remained anonymous. Due to anonymity, this topic is discussed from larger perspectives, not focusing on the voices of the persons concerned, unlike the other two juvenile cases introduced earlier.

There was no legal enforcement to ban this activity or punish male clients until 1999 when interest in dealing with this issue emerged, and the government began to take an active role against it. In 1999, the government settled the issue with some finality by enacting two laws opposing *enjo kōsai*, and the two laws were *The Prohibition of Child Prostitution* and *The Prohibition of Child Pornography and Sexual Abuse*.[22] Until that time and until the media and school boards began exerting pressure, there had been no legal ban on this activity. No doubt, the *enjo kōsai* phenomenon posed great problems for society and led to fundamental questions concerning the concept of childhood in terms of autonomy and paternalism, such as the protection of a child and how this is presented and operates within the social system.

In the case of *enjo kōsai*, some reasons why the government took years to establish laws to prevent this activity included the legal aspect of the age of consent. Each nation sets the legal age to have sexual intercourse, and accordingly, the age of consent differs from one nation to another. Because *the age of consent* in Japan applies to all teenagers over 13 years old, they were legally allowed to have sex with others voluntarily. Therefore, men who engaged in *enjo kōsai* were not charged with statutory rape. The other reasons why the

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[22] In 2002, the National Police Agency reported 1,945 violations of these laws (The National Association of Juvenile Guidance Counselors 2004). Of these cases, the numbers of cases of juvenile prostitution reported were 1,731. Because of the establishment of these laws, adults are officially punished when they "engage in paid sexual intercourse with a child under the age of 18 (Ministry of Justice 2001). According to Kingston (2001:118), who is the author of the book, *Japan in Transformation*, the number of arrests in relation to these laws has increased significantly every year and has revealed that those who have high social status, such as teachers, monks, government officials, and company executives, have been arrested for participating in *enjo kōsai*. Even though laws were enacted for dealing with this issue, its effectiveness in prevention and deterrence of *enjo kōsai* activities was questioned.

phenomenon of *enjo kōsai* continued were the ambiguity and diversity about the practice of *enjo kōsai*. It seemed too intricate to draw the line between what kinds of practices in *enjo kōsai* are ethically and legally acceptable or not.

According to Miyadai (1998:271-273, 284; 1999:11-12, 47-49), *enjo kōsai* was defined as a completely different practice from the conventional concept of prostitution. He suggested that there was no intermediary (such as pimps or madams) existing between female participants and clients; therefore, no force or control was exerted on female participants by a third party in this practice. Maruta (2001), who studied the *enjo kōsai* phenomenon in Japan and wrote the book, *Who Does Sell Whom to What?,* held a similar perspective to Miyadai and described that *enjo kōsai* was " an exchange of a sexual service and a free communication between two individuals" (168), and unlike prostitution (from the socially conceived notion), there was no tilted power relation between schoolgirls and men as the girls had a right to choose their "clients;" therefore, he determined that no exploitation or marginalization was involved in this practice (170). From monetary aspects, the practice of prostitution contains more definite implications as a means of survival for prostitutes, while *enjo kōsai* had strong dimensions of the pursuit of self-satisfaction and of self-interest oriented toward luxury for schoolgirls rather than need. Maruta also indicated that *enjo kōsai* is an autonomous business of schoolgirls, and that image seems consistent in the media.

One of Maruta's interviewees, who actually participated in the activity, said that *enjo kōsai* is socially bad because it is prohibited by laws, but she personally did not think it was a bad practice, since this activity is based on an agreement between two individuals. Also, as described in Chapter II, Miyadai (2006) suggested that the female participants he interviewed expressed no feelings of guilt, nor did they perceive *enjo kōsai* activities as being immoral or illicit. He considered that these non-traditional judgments and values were formed in their *tomodachi oyako* relationship as (1) parents interact with their children on equal terms

without parental control or authority, and (2) parents neglected traditional familial roles, which they linked to paternalism (2006:51-52, 59-66). Not only *enjo kōsai* participants, but also non-participants seemed to share the same values toward the *enjo kōsai* practice. A very similar response was received from one of my research informants when I conducted research for my master thesis, which concerned this topic, in 2006. My informants were not involved in *enjo kōsai* activities, but they were in high school or middle school when the phenomenon was penetrating into Japanese society. One informant said (Udagawa 2007):

> *"Is enjo kōsai illegal? ---I assume most schoolgirls who participate in enjo kōsai do not know it is such a serious matter, I mean a 'crime.' To me, I did not know it is an illegal act. Actually, I did not care if it is. Young people may not know it is illegal, either. Enjo kōsai does not sound so criminal and so bad since both sides of participants, girls and men, make an agreement" (Personal interview, Rika, 20-year-old female, March 11, 2006).*

Whether it is illegal or not, similar comments were often heard from the young girls through the media during the time and it would seem that the practice of *enjo kōsai* itself was perceived as a socially acceptable act to some extent.

Miyadai (Miyadai 1998; Miyadai and Ueno 1999) approved of the term *enjo kōsai,* as a different practice from prostitution, and he argued that it represented the female's independence and equality with males, and that their behavior ridiculed the culturally "disgraceful" normative sexual relationships between men and women in Japan. Through interviews with female participants of *enjo kōsai*, Miyadai recognized their positive views toward the practice of *enjo kōsai* without hard feelings. The female participants used this practice to express their resistance toward traditional paternalistic society and existing norms, and Miyadai lauded female participants of *enjo kōsai* for attaining self-determination for their own behaviors and actions. In this sense, these female participants would no longer be marginalized as may be the case with prostitution. With consideration of all those reasons above, Miyadai viewed this activity as a signifier for a failure of conventional conservative

71

sexual norms (2006:130-136) and for liberation from paternalistic relations with males (Miyadai and Ueno 1999:42; Matsuzawa et al. 2000:240-242).

However, several scholars and child education specialists opposed Miyadai and Maruta, suggesting and expressing serious concerns about *enjo kōsai* penetrating into the society as a youth sub-culture. Osamu Mizutani (2004), an educator and youth specialist who worked with juvenile delinquents and troubled children, including female participants in *enjo kōsai*, emphasized that *enjo kōsai* is a crime and that the female participants were the victims of criminal activities. Throughout the actual interactions with the female participants, Mizutani (2004) asserted that they were from dysfunctional families or struggled with family problems and that they did not engage with the activities of *enjo kōsai* for monetary purposes, but for gaining a sense of self-affirmation or for finding a place where they feel safe and secure. From the female participants, he often heard comments such as, "The clients were affectionate to me" or "They (the clients) cared about me" to explain their reasons for participation in *enjo kōsai* (Mizutani 2004:16). Paradoxically, this implies the fact that they were unable to obtain affection from their parents, the primary source for constructing a sense of self-affirmation in children; therefore, they attempted to construct this need on their own through the activities of *enjo kōsai*. However, he pointed out that they are rather, in reality, harmed by participation in *enjo kōsai,* while the male participants take advantage of their vulnerable situation. He also critiqued the male chauvinistic notion fielded through the media, believing that it fostered the characteristics of "being a good woman," primarily in the female's obedience to men (Mizutani 2004:158). He considered that such chauvinism is also associated with the *enjo kōsai* phenomenon, and that the phenomenon connotes the more exploitative aspect directed toward female participants. Mizutani and other youth specialists, including the psychologist, Hideki Wada (2000), the school counselor, Jinko Noshiro (1999), and the psychiatrist at juvenile training school, Takashi Okada (2005), considered *enjo kōsai*

as delinquency or criminal behavior, and they used the term "prostitution" to describe the activities of the phenomenon, refusing to use the term *enjo kōsai.*

Feminist Perspectives. The early second-wave Marxist feminist scholar in Japan, Chizuko Ueno (Miyadai and Ueno 1999), made some comments on the *enjo kōsai* phenomenon from her perspective of feminism in a discussion with Miyadai; although Miyadai later pointed out what he perceived as inconsistencies and contradictions within her views toward the *enjo kōsai* phenomenon. Ueno gave some credit to the *enjo kōsai* phenomenon for the liberation of sexuality and from the patriarchal structure. She stated that sexuality is an indication of independence from parents, and it only can be possible outside of the domestic (family) sphere; therefore, parents should let their children practice their sexuality, and build life experiences. To her, considering children as an object in need of protection is equivalent to the disapproval of children's decision-making rights, resulting in an oppression of children. Ueno explained the principle of feminism, that it is not necessary for a woman to have sexual intercourse with a man or to obtain his approval in order to recognize herself as a woman; therefore, regardless of whether to have sex or not or to participate in *enjo kōsai* or not, it should be left up to the individual's choice and no one should intervene in another person's choice. Although not explicitly stated, she seemed to agree that participation in *enjo kōsai* activities is a choice left to the individual, and this independence indicates a freedom from parents and existing social norms. Miyadai (Miyadai and Ueno 1999) pointed out a seeming contradiction in her argument that she supported the *enjo kōsai* phenomenon as a token of liberation for sexuality and from patriarchy, while she regarded prostitution and commodification of sex as productions of patriarchy. Ueno, therefore, concluded that the practice of *enjo kōsai* actually contributed to the old patriarchal structure in Japan and criticized male participants for paying women for sex. From Miyadai's critique, it is assumed that Ueno conceived of the marginalization and exploitation within the

practice of *enjo kōsai*, yet it is also easy to understand the difficulty in articulating the practice of *enjo kōsai* from feminist perspectives.

The journalist and field researcher, Yukiko Hayami (1998) responded to feminist criticism. She explained that girls are more likely to have control over their sexual desires and, like a man, to consider their personality separate from their sexual behaviors. They did not perceive themselves as victims nor did they have hard feelings toward their engagement in *enjo kōsai*. Therefore, the commodification of sex that feminists criticized was conducted under the self-control of the female participants, and there was no force from others and no victim from the commoditization of sex that existed in the practice of *enjo kōsai*. She also discussed the female participants who sought a sense of belonging through the practice of *enjo kōsai* and explained that, to them, the participation of *enjo kōsai* was not necessarily a result of a form of seeking freedom for self-decision, but derived from resistance they felt against their parents. According to Hayami, these types of girls had problems with family discord, or excessive interference from parents. If they could not obtain a sense of self-affirmation from parents, and it seemed available to them by participation in *enjo kōsai*, then that behavior actually provided a space for them to gain self-affirmation and to achieve their goals through their earnings. Because it is the end of subjectivity to rise to the level of freedom of choice or autonomy, Hayami supported the activities of *enjo kōsai* for that reason.

The *enjo kōsai* phenomenon also revealed the conflict between radical contemporary feminists who consider prostitutes as oppressed and marginalized subjects and the sex workers who assert that no one forces them to choose their occupation and that they embrace their freedom of occupational choice. These different standpoints complicated many of the social issues related to women in Japan. This conflict between conventional feminists and sex workers seems to overlap with the movement of Western third-wave feminism, as some similarities may be observed between Japanese and Western feminist movements; however,

there are certain differences existing between them as well, and Japanese feminism has developed a different form from Western feminism. Placing the aspect of age aside, it is essential to understand the Japanese feminist movements, especially the third-wave form, in the debate of the sexual liberation in *enjo kōsai* phenomenon.

   History of Feminist Movements in Japan. The Japanese feminist movement took a different form from that of the United States—the former placing less emphasis on race and ethnicity largely because Japan is a "single ethnic" country with less diversity than the United States; thus, Japanese feminism, including the contemporary movement, has rarely had to deal with race and ethnicity. Japanese feminists have been more focusing on inequality between men and women in terms of conventional gender roles and legal rights. The differences among women in terms of sexuality, life-course (i.e. a career woman versus a full-time housewife), and reproduction (including abortion[23] and sterility, along with the recent social problem of the decline in child births) seem to be considered secondary concerns.

  First-wave feminism began in Japan in the late 19th century and focused on women's suffrage rights and access to jobs. Since there were strict legal regulations toward women at that time (for example, women were not allowed to participate in political activities nor to meet outside the home or in public areas if there were more than three women in attendance without reporting to police beforehand), their main challenges were to change the law and achieve political and legal freedom for women. According to Miyadai, second-wave feminism emerged in the 1970s, known as "*women libu"* (abbreviation of women's liberation), to resist their conventional gender role in Japan and to establish equal work environments for women (Matsuzawa et al. 2000:331): it was also thought to be linked to the students' communist movement in the 1970s because of the similarities of their aims with

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[23] Abortion has been legal in Japan and unlike the U.S., it has never been raised as a political issue or debated whether it should be legalized or abolished.

that of the student movement (i.e. to dismantle traditional values and power structures). The

goals of second-wave feminism appeared to be secured once Japan passed the Equal

Employment Opportunity Law (EEOL) in 1985 as a response to the United Nations

Declaration on Women (Imamura 1996:4). In the book, *Re-Imaging Japanese Women*,

published in 1996, Millie R. Creighton (1996:195) wrote the chapter indicating that the

EEOL "bans sexual discrimination in recruitment and training; calls for equal treatment in

welfare benefits, retirement, and dismissal for employees in the same level of employment;

and urges employers to establish childcare leave for women and reemploy women at their

former job statuses after an absence to bear or raise children." Creighton (1996:195-196) also

critiqued the EEOL in the following ways: first, it did not provide any legal penalty for

violators; and second, the Ministry of Labor continued to allow the differentiation between

career track and non-career track employment within companies (the majority of non-career

track employees were, in fact, women). The EEOL had only a superficial effect on women.

Employers were simply asked to "make efforts to treat women equally" and it primarily

opened the door for equal employment for men and only for "a limited number of qualified

women."

Another aspect of the EEOL addressed male involvement with childcare. Creighton

pointed out that, after the passage of the EEOL, a Japanese department store decided to apply

the daily childcare leave privilege to both female and male employees, which it believed was

the true purpose of the EEOL; yet the Ministry of Labor, with surveys of other countries'

childcare systems, commented that "Japanese society is not ready to have the Ministry of

Labor promote such leaves for male workers, especially because of men's inexperience

concerning such matters" (Ministry of Labor, quoted in Creighton 1996:200). Whether men

actually have the skills for child rearing or not, it is not easy for Japanese men to take

maternal leave from a company in Japan because of their work obligations.[24] As can be

observed, the conventional gender role in Japanese society is deeply rooted and not easily

disrupted. Thus, it appears that the EEOL did not satisfy the goal of the second-wave

movement, and their fight continued and moved on to the Gender-Free movement[25] of the

2000s that actually implied the promotion of gender equality, associated with the Basic Act

for Gender-Equal Society established in 1999.

Contemporary Feminism and Backlash in Japan. Although Japanese feminism rarely

deals with the topic of liberation of sex and sexuality, as indicated in the previous chapter,

scholars from several academic fields—not only feminism, but also sociology, psychology,

and education—engaged in the discussion of sex and sexuality when the *enjo kōsai*

phenomenon emerged. Very few contemporary feminists commented on the liberation of sex

and sexuality in association with *enjo kōsai* activities, yet it seemed abstruse for most

feminists to consider them together and lend their support to the phenomenon. This is

because *enjo kōsai* contains dual aspects that complicate the observer's perspectives toward it,

and they have trouble deciding whether *enjo kōsai* is prostitution or an act for the liberation

of sex and sexuality.

As explained earlier, Chizuko Ueno (Miyadai and Ueno 1999) seemed to confront this

difficulty in order to attempt to articulate *enjo kōsai* activities from the feminist point of view.

Although her definition of the feminist's principal was that no one should intervene in

another person's choice, not many feminists, including Ueno, express their opinions

regarding sex workers and their activities as associated with the liberation of sex and

sexuality. Japanese feminists tend to think of prostitutes as victims of the social class system

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[24] The data indicated that the rates for utilizing maternity leave in Japan were 85.6 percent for women and 1.72 percent for men in 2009 and 83.0 percent for women and 7.48 percent for men in 2019 (Ministry of Health, Labor and Welfare 2020).

[25] The Gender-Free movement was operated in concert with other political projects along with the Basic Act for Gender-Equal Society. For its misinterpretation that Gender-Free was understood as "gender-less," the government later corrected and advised that the term, gender-free was not appropriate to indicate the Gender-Equality movement.

and the male dominated structure that forced women to become prostitutes; thus, prostitutes should be rescued or sympathized with. Japanese feminists find themselves with the difficult task of reinterpreting sex workers and their activities, because many sex workers have started to claim that they are not forced to choose their occupation nor are they victims of social oppression. Rather they embrace their freedom to choose their lifestyle and enjoy sex. Given these new voices, the conventional formula of female sex workers being victims and men being the oppressors may need to be reexamined with the end result that no victimization is involved.

In Japan, this debate concerning sex workers and the liberation of sex came to a head in the 1990s with the emergence of *enjo kōsai*. At the time the media reported that the girls involved did not express any feelings of guilt or shame while participating in *enjo kōsai* activities, but rather they spoke of their enjoyment and their freedom to make choices concerning their actions. Although these girls were not identified as full-time or professional sex workers, the *enjo kōsai* movement was linked with sex workers and their trade.

In 2000, Kureichi Matsuzawa, et al. published *'I' Decide If I Am Selling or Not: Declaration for Prostitution*, in response to the developing criticism directed toward *enjo kōsai* activities and other paid sexual practices. Most of the authors in this book were neither academics nor intellectuals but were professional sex workers, and they defended their occupations and their right to choose their lifestyle. They claimed that, whether they choose to sell their bodies or not, it should be left up to individual choice and that they considered it an individual's freedom (Matsuzawa et al. 2000: 28-29, 179, 220-221). Some also stated that they enjoyed having sexual intercourse and servicing their customers, that they were proud of their jobs, and that conventional feminists and conservative scholars were the ones who discriminated against them or made sex workers into victims (Matsuzawa et al. 2000:181-187, 340-342). The main argument presented by these new voices was that "No one should

78

intervene in another person's choice," echoing Ueno's own principle of feminism, although she was one of the scholars criticized in the text. If third-wave feminism calls for diversity and difference, and for including the voices of the everydayness of all women, as indicated above, the voices presented in *'I' Decide If I Am Selling or Not* should be acknowledged and accepted by feminists. However, it involved more complicated discussions, since the form of prostitution and the commoditization of sex were regarded as productions of patriarchy by conventional feminism. Even if sex workers insist that they are not forced to choose their job, this premise—the relation between prostitution and patriarchy—was not easily overturned or disregarded.

Yoshiko Miya (1998), a former editing reporter of *The Mainichi Newspapers* and a freelance journalist who has published several books on sexuality and gender issues, suggested a compromise between third-wave and conventional feminism in her essay, "Self-Determination of Sexuality and Aporia of Feminism." Noting the current criticism directed against feminism as contributing to a binary between oppressor and victim or as not being applicable to all women, Miya began her essay with the history of feminism as it pertained to a woman's decision regarding her sexuality. In her discussion of the self-determination process, Miya (1998:79) notes the gender difference between men and women, notably that women are capable of reproduction as a natural function of their bodies, and men do not play a central function in this narrative. Therefore, for feminism, the discussion of a woman's self-determination of sexuality began with the topic of abortion, and feminists asserted that a woman should have the right to terminate a pregnancy, thereby attaining the entitlement to her own life and body. With this recognition, women should have autonomy over their own bodies, and the right for individual women to decide became widespread throughout the society.

However, as reproduction technologies and medical sciences developed, and these technologies were able to make conventionally impossible matters possible, new discussions emerged in feminism as to whether an individual should be entitled to make unlimited arbitrary individual decisions on any sort of issues, including infertility treatments, and if so, as to whether this implies an expansion of the sphere of individual "desire" (Miya 1998:79). A feminist group, Women's Rights and Sexuality, of which Miya was a member, suggested that the desire that infertile women have for childbirth might be produced not by their own desire, but by the social norms that encourage women to give birth, and if this is so, the issue of infertility should be a cultural issue, not left up to the individual. Miya also introduced another opinion developed by a women's studies scholar, Eriko Nagata. Her view was that society must ensure all individual choices to the maximum degree and must allow all individual decisions and desires to be possible. Nagata considered such a society as being healthy; therefore, for her, the feminists' claim that a woman's self-determination was actually a matter of cultural imprinting, should be criticized as providing a false consciousness to disapprove of individual decisions (Miya 1998:80).

Miya pointed out that this feminism's aporia which was first observed in the area of reproduction was discerned in the discussions about prostitution and that the feminists were divided in their opinions over such an aporia. In the case of prostitution, it is perplexing whether to articulate it from the position of self-determination, as an idea relating to an individual's free-will, or from an immediate egoistic perspective, as an expansion of individual desire or satisfaction for sexual pleasure or money (Miya 1998:80). According to Miya, the term, the self-determination of sexuality, was originally used when people discussed undesired or forced sexual intercourse perpetrated on women, including sexual misconduct and rape, as the act of invading women's bodies and of depriving women of their sexual freedom (Miya 1998:81). The term implied that women were negatively thought to be

sexually passive or to be objectified by men in a patriarchal society rather than, positively

having the rights to make decisions regarding their own bodies and sexual decisions, as well.

Therefore, this term was directed against the men who were placing themselves in a dominant

sexual relationship with women and against a society that did not fully ensure the equal rights

of both men and women in many areas (Miya 1998:81).

However, feminists again faced another perplexing issue regarding the self-

determination of sexuality when sex workers began to insist that prostitution was an

occupation and that it should be referred to as sex work. As observed in Ueno's example

regarding prostitution, many feminists also used the rhetoric that prostitution was the most

condensed form of sexual discrimination and the commoditization of sex; therefore, they

concluded that prostitution should be abolished in order to remove sexual discrimination, that

prostitution was another form of rape and, accordingly, prostitutes were the victims, that

prostitution was constructed by social structures and was a structural violation of women, and

that prostitutes were innocent and the men who buy and " raped" them were responsible for

this misconduct (Miya 1998:82). Yet, Miya admitted that it contributed to binary positioning,

which labeled men as being oppressors and women as being the oppressed and that it

concealed explication of the phenomenon from feminists who were attempting to articulate it

(Miya 1998:82). This is why the active voice of the sex workers troubled the conventional

feminists.

A Western feminist scholar, Anne McClintock, studied the discrimination against sex

workers regarding the ways they confront it in their daily lives and the ways in which the

unjust rape laws not only discriminate between wives and prostitutes, although wives did not

profit from this law either, especially in the course of rape trials. McClintock's work entitled,

Screwing the System: Sexwork, Race, and the Law, was written in 1992, and it included data

on sex workers, her interviews of several sex workers, and the problems that these workers

encountered in the United States. In her essay, she introduced one of her interviewees'
comment: "It's the stigma that hurts, not the sex. The sex is easy. Facing the world's hate is
what breaks me down" (in McClintock 1992:95). This interviewee was a female prostitute
and revealed her feelings about the stigma directed toward her, mostly by men and the male
dominated social structure. Despite the fact that there is much sexual violence and abuse
happening within this occupation of sex work, the legal protection for sex workers was still
insufficient because of the existing stigma directed toward them. Miya (1998), on the other
hand, pointed out that it is not only men and the male dominated society, but also women,
including feminists and counselors of sex workers, who saddle sex workers with the same
stigma. By raising their voices, sex workers stood up to both men and women who
discriminated against them.

There was another aspect created by the stigma attached to sex workers and the
sympathy directed toward them. It was linked with an outsiders' uninvited interference
toward the sex workers and with disrespect for individual decisions. Referring to Natsuko
Yoshida's book, *Hope of Being a Woman*, Miya (1998:89-90) expressed an agreement with
the author's statement that if someone "seems" to be in a horrible and violent situation, yet if
he or she is satisfied with being there, any opinion or advice from the outside will be
interference directed toward the person concerned, because it is a personal matter in the
private sphere, and any help will not be considered necessary until the person concerned
requests it. In terms of this "interference," she considered feminism made a similar
movement with paternalism regarding sex workers and victims of sexual abuse or misconduct,
although feminism seemed to originally fight for the concept of paternalism.

According to Miya (1998), this interference by feminism was also observed in the
discussion of the *enjo kōsai* phenomenon. For instance, once *enjo kōsai* is termed prostitution,
some feminists automatically assumed that it is a production of patriarchy, and the girls who

engaged in *enjo kōsai* are still subordinated to the men who pay them. Others assumed that men who "buy" girls lack the self-confidence to communicate with mature independent women, and that those men take advantage of the girls, who have not attained worldly wisdom, and attempt to control them. A few feminists even stigmatized the girls as being promiscuous or as being lavish. Those assumptions led to the belief that *enjo kōsai* should be subject to intervention. This is the interference by feminism that concerned Miya.

Deciding whether *enjo kōsai* is prostitution or not was a perplexing task for those concerned, especially scholars in the areas of feminism and sociology. However, for most of those who were not scholars, their decision was heavily influenced by the media's representation of the phenomenon. Because the media distributed specific images of female participants of *enjo kōsai* activities as only "school girls" and that *enjo kōsai* activities were perceived to be equated to prostitution, Miya considered that these facts made it much easier for society, including feminist groups and school teachers, to criticize and to strictly define *enjo kōsai* and its participants. There were several restrictions brought against the *enjo kōsai* phenomenon. Two of these were (1) children should not be entitled to self-determination, because they have neither reached maturity nor have the abilities to make informed decisions regarding their actions; and (2) self-determination of sexuality is generally linked with either the topic of sexual abuse and exploitation, or of sexual delinquency. In the case of *enjo kōsai*, money exchange was involved in the activities, as well as the practice of prostitution; therefore, this led to the categorization of female participants of *enjo kōsai* as victims or delinquents (Miya 1998:92-96). Miya perceived this labeling or categorization as "unnecessary" interference directed towards the girls involved and concluded that social forces used this interference to gain control over these young participants in legal and social ways. This, in turn, deprived the participants of opportunities to explore and take action outside of home and school influences and learn from their mistakes. Moreover, not only

Miya, but also several other scholars pointed out that Japanese sex education was equal to purity education and refused to recognize children as sexual beings. Therefore, it was assumed that students were overly protected and supervised by parents and school personnel.

The discussions of sex education and self-determination regarding sexuality still continue in Japan. The feminist movement moved on to the Gender-Free movement of the 2000s and focused on the issues associated with gender roles in Japanese society, such as domestic violence and occupational choices. The Gender-Free movement also included a revision of the conventional sex education practices and brought to the fore notions of self-determination regarding sexuality in terms of public policy; however, a powerful backlash emerged, severely criticizing the projects of the movement for promoting the destruction of conventional family values, contributing to the decline of the birthrate, and the demolition of traditional culture.[26] Although the projects were adopted into the system, the movement itself engendered controversy and did not reach agreements with several social groups that composed the backlash. As the backlash criticized the movement for rejecting conventional gender-roles and for neglecting gender differences, proponents of the Gender-Free movement, included home economics education scholar Hiroko Tando (2005:112-114), who argued against this criticism that "Gender-Free" does not imply "gender-less," but it promotes human rights and gender-equality which remove discrimination and regulations regarding gender. However, the topics of the liberation of sex and sexuality, sexism, and self-determination of sexuality associated with sex workers seemed to be excluded from the movement and, accordingly, there was a clear distinction between the Gender-Free movement and the Sex-positive movement.

Paternalism, Emancipation, and the Concept of Childhood. Regardless of whether schoolgirls engaged in *enjo kōsai* activities to establish their rights to be independent

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[26] Tando (2005) argued against this criticism that "Gender-Free" does not imply "gender-less," but it promotes human rights and gender-equality, which remove discrimination and regulations regarding gender.

individuals and to resist the concepts of patriarchy and paternalism, the *enjo kōsai*

phenomenon certainly disturbed these two concepts of patriarchy and paternalism as they

were already conceived through the change of the family structure in the 1990s, and the

concept of childhood became obscured in Japanese society. There are various ways to

interpret the *enjo kōsai* phenomenon, and the key words to explore this theme are age, rights,

gender, and paternalism. Possible combinations of the terms lead to multiple topics of

discussion, including a social function of the family, boundaries between a child and adult

and between personal-autonomy and regulation, the liberation or oppression of sexuality and

women, the creation of the stigma, and definition of the law and its legal power. In addition,

the positionality of each person is important to be clarified, since this phenomenon is

considered as the aporia and a person's interpretation differs greatly, even if they share

experience or philosophy. For instance, Mizutani (2004) and Hayami (1998) recognized the

lack of self-affirmation among female participants who are from dysfunctional families;

however, their views toward *enjo kōsai* are completely opposed. Mizutani (2004) severely

criticized the phenomenon, while Hayami (1998) expressed positive implications of it. There

are also differences in the narratives of the female participants used by Mizutani and Miyadai,

and of their views of children: an object in need for protection and guidance (Mizutani) or an

independent being which has an innate ability for self-decision (Miyadai). These differences

clearly framed their interpretations toward the phenomenon and the conclusions were

burdensome. Establishment of the two laws to prevent *enjo kōsai* activities is social

intervention and symbolizes social norms in response to the ways in which the children

should be protected or in which their acts should be regulated under the laws.

The debates on the juvenile offenders in the Sakakibara and Hikari City cases and

enjo kōsai participants were developed in a separate but parallel way. However, the cases

represent disjuncture or even contradiction regarding how to treat a minor in jurisdiction. In

the case of *enjo kōsai*, the protection of juveniles was prioritized; meanwhile in relation to juvenile offences, the autonomy of a minor was prioritized. These two streams of treatment toward a minor were gradually but clearly formed during the 1990s in Japan. In the formation of this process, the media played a critical role of producing and disseminating scandalous images of the participants of those cases. It is essential to examine how the media influenced or formed public opinion and the effect on the judiciary and legal system in order to visualize the power of the media in Japan.

THE ROLE OF THE MEDIA

The role of the media, including TV, newspapers, magazines, and the Internet, is a key component for discussion in this research. It is vital to investigate how the media portrayed these phenomena. Of particular interest is an examination of how the media functioned to construct and spread the representations that it produced, especially that of juvenile delinquency and crime, and how the representations were or were not accepted in society. There is also the question as to whether the media representations influenced the various observations of juvenile behavior and if society developed a consensus in response to these media representations. Exaggeration, scandalization, vulgarization, and normalization were adopted in this process; therefore, it is one of the goals of this study to discern how these many aspects evolved and penetrated into the society and to analyze if there is a gap between what the actual subjects were and how they are represented through media. A careful inquiry is necessary to determine whether juveniles attained new rights and freedoms through the media coverage of their deviant acts or whether they were actually marginalized by the media representations.

Disconnection between the Public Opinion and the Fact

As explained in Chapter II, the Japanese government is considering lowering the upper age of juvenile law to match with the civil code and to respond to public opinion. The government requested that the Legislative Council of the Ministry of Justice (*Hōsei Shingikai*, 法制審議会) discuss the matter of amending the Juvenile Act, and the discussion officially began in 2017. Lowering the age of criminal responsibility from 20 to 18 in Japan (*Shōnen Hō nenrei hikisage*, 少年法年齢引き下げ) was the main theme in the discussion, and it took

three years to reach the conclusion regarding the amendment and to have the proposal drafted. The proposal will be deliberated in the Diet in 2021. The discussion of lowering the age of criminal responsibility initially took place during the 1970s and recurred after Tomomi Inada, who was then Policy Research Council Chairman of the Liberal Democratic Party (*Jimin Tōh*), spoke to the press about the juvenile crime known as the Kawasaki Incident[27], saying that "Juvenile crime is becoming extremely brutal. It will be necessary to consider whether there needs a change on the current Juvenile law for crime prevention" (*Nikkei Shimbun* 2015a). Her comment triggered the current discussion in the Legislative Council of the Ministry of Justice in 2017. Another critical aspect to be considered in the discussion is how to reflect the opinions of the public, experts, and users. There is no doubt that the government continuously seeks to win the support of the public and, accordingly, to reflect their opinion in policy, or even to manipulate the formation of public opinion. It is important to note that public opinion is not necessarily formed based on the facts but on information which sounds understandable, reasonable, or convincing to the audience or readers. Looking through the case of juvenile crime and delinquency, I will investigate the relations between public opinion, the media, and the legislative proceedings, especially focusing on the role of the media in forming opinions, and the gap between public belief and the facts.

Law professor Mikio Kawai (2015) conducted a survey among adults regarding their opinions on juvenile crime and law in 2015, when the Kawasaki Incident occurred and lowering the upper age of juvenile law began to rise as a critical matter. The survey questionnaire was designed to grasp "the public opinion" and to compare it with the actual data. A total of 1,456 respondents were asked if they thought juvenile crime was on the increase. The results showed 61.7 percent of the respondents said "juvenile crime was going

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[27] The Kawasaki Incident involved three juveniles who bullied a 13-year-old boy to death and threw his body in the river. The media covered the unfortunate family environment of the victim and reported the incident as a tragedy while depicting the offenders as cruel. It said that this incident incited the public sentiment toward the penal stance on juvenile crime (Kawashima 2019).

up," 21.1 percent answered "it was going up 'a great deal,'" and only 3.7 percent answered

that the number of youth crimes was decreasing (Kawai 2015). The great majority, 83 percent

of the respondents, believed that juvenile crime was on the rise, while the great minority, less

than 4 percent thought the opposite. The Japanese government also took a public opinion poll

in 2010 and 2015 and the both results supported Kawai's survey (Cabinet Office,

Government of Japan 2015). The 2015 result indicated that 78.6 percent of a total of 1,773

respondents thought juvenile crime was going up and only 2.5 percent answered that the

number of youth crimes was on decline (Figure 1). Compared to the survey in 2010, more

respondents answered that juvenile crime is on the rise in 2015. As to the trend of juvenile

delinquency, about half of the respondents, 47.6 percent in 2010 and 45.9 percent in 2015,

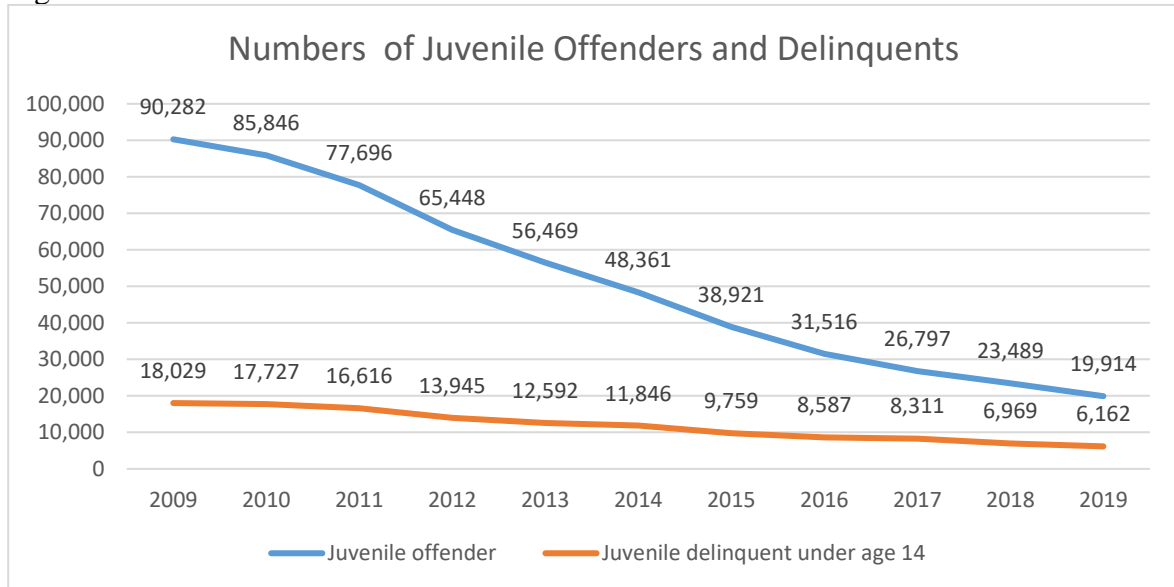answered that more delinquents got involved in vicious and violent acts.

Figure 1.
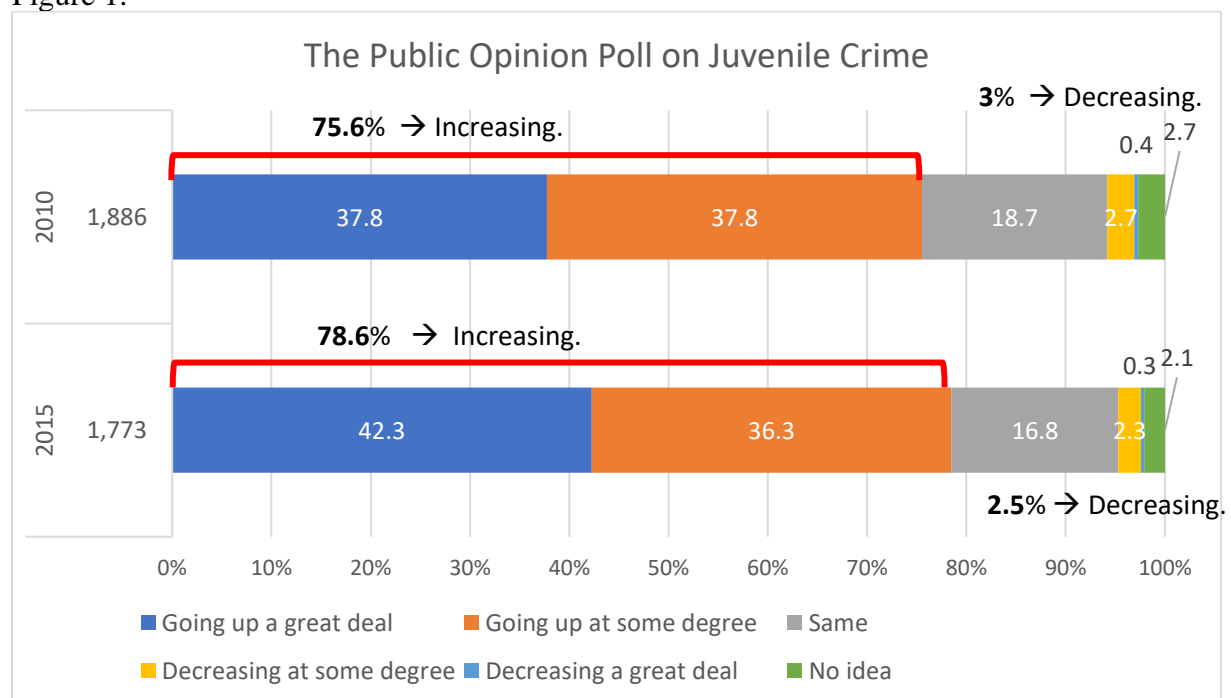
"The Public Opinion Poll on Juvenile Crime 2010 and 2015," by Cabinet Office, Government of Japan.

However, the statistical data completely overturns this public belief. Referring to Kawai's survey, the article in *Japan Times* pointed out that juvenile crime has been going down since 2003 (Brasor 2015). The national crime data from *White Paper on Crime 2019*, by the Ministry of Justice, and "Overview of Youth Development Initiative," by Metro Police Department in 2019, showed the changes in numbers of juvenile offenders and delinquents in Japan, and it is clear that the number of juvenile offenders and delinquents has drastically decreased, 65 percent within 10 years (Figure 2). This decrease is easily assumed to associate with the decline of the birth rate or amendments of juvenile law toward a more punitive stance; yet, these are not necessarily the reasons. Figure 3 suggests that the ratio of juvenile offenders to the total juvenile population has been smaller in the past 10 years and that there are other reasons besides the decline of the juvenile population for the decrease of the juvenile delinquents, such as successful rehabilitation and social reintegration of the juvenile offenders or stable social control. In addition, as for taking a punitive stance on crime, a research team of social scientists, including David J. Harding (2019) from the University of California Berkeley, concluded by referring to data in Michigan that severe punishment, including imprisonment, functions as temporal social control, since it could prevent offenders from committing a crime during their incarceration, yet their prison experiences do not contribute to deterrence for future crimes after inmates' release. Although further inquiry is needed into the relation between crime deterrence and punishment, there is no solid evidence to prove that punitive intervention is effective in crime prevention, especially for juvenile offenders who are in the process of gaining maturity.

Figure 2.

Numbers of Juvenile Offenders and Delinquents

Juvenile offender: 90,282 (2009), 85,846 (2010), 77,696 (2011), 65,448 (2012), 56,469 (2013), 48,361 (2014), 38,921 (2015), 31,516 (2016), 26,797 (2017), 23,489 (2018), 19,914 (2019)

Juvenile delinquent under age 14: 18,029 (2009), 17,727 (2010), 16,616 (2011), 13,945 (2012), 12,592 (2013), 11,846 (2014), 9,759 (2015), 8,587 (2016), 8,311 (2017), 6,969 (2018), 6,162 (2019)

"White Paper on Crime 2019," reported by Ministry of Justice in Japan

Figure 3.

Percentage of Juvenile offenders in total juvenile population between age 14-19

1.42 (2010), 1.3 (2011), 1.08 (2012), 0.86 (2013), 0.74 (2014), 0.69 (2015), 0.59 (2016), 0.51 (2017), 0.48 (2018), 0.41 (2019)
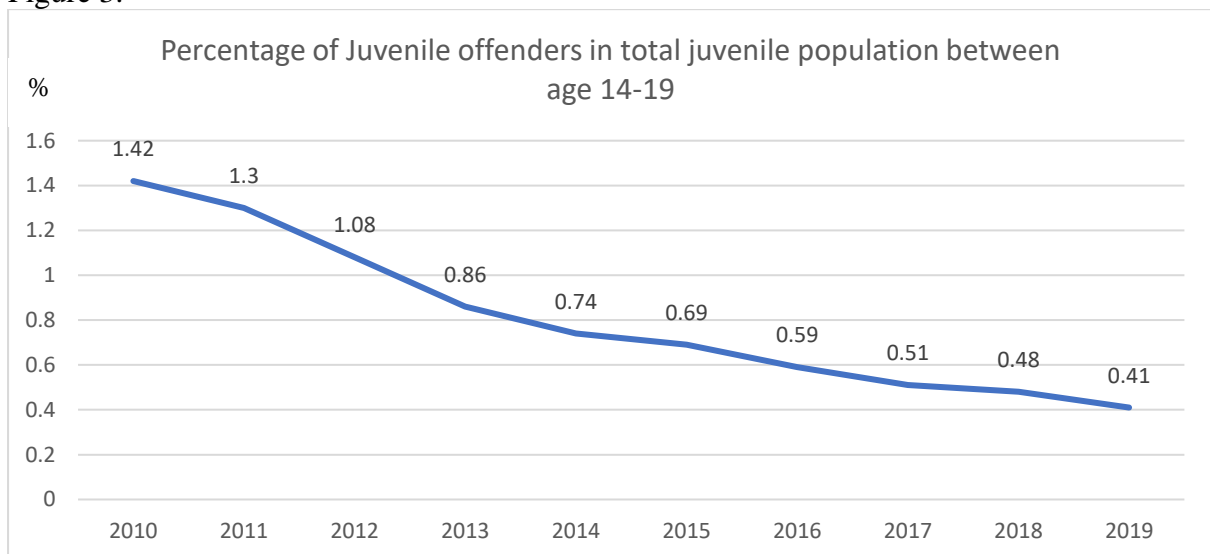
① Juvenile offenders ② Juveniles between age 14 to 19

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
①	8,434	7,790	6,512	5,248	4,589	4,277	3,653	3,205	3,020	2,548
②	594,320	599,723	604,414	610,496	616,689	618,439	623,194	626,247	627,173	625,483
Percentage of ① in ②	1.42	1.3	1.08	0.86	0.74	0.69	0.59	0.51	0.48	0.41

"Overview of Youth Development Initiative" by Metro Police Department in 2019

Figure 4.

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Felonious 凶悪犯	87	131	135	77	99	49	53	70	64	70
Violent 粗暴犯	756	694	727	682	588	576	527	534	534	580
Larceny 窃盗犯	6,967	6,254	4,875	3,939	3,468	3,313	2,806	2,675	2,361	2,061
Intellectual 知能犯	91	119	185	236	199	214	168	184	281	193
Moral 風俗犯	66	70	66	77	59	75	59	72	72	78
Other	2,575	2,301	2,061	1,664	1,524	1,389	1,224	1,033	817	616
Total	10542	9569	8049	6675	5937	5616	4837	4568	4129	3598
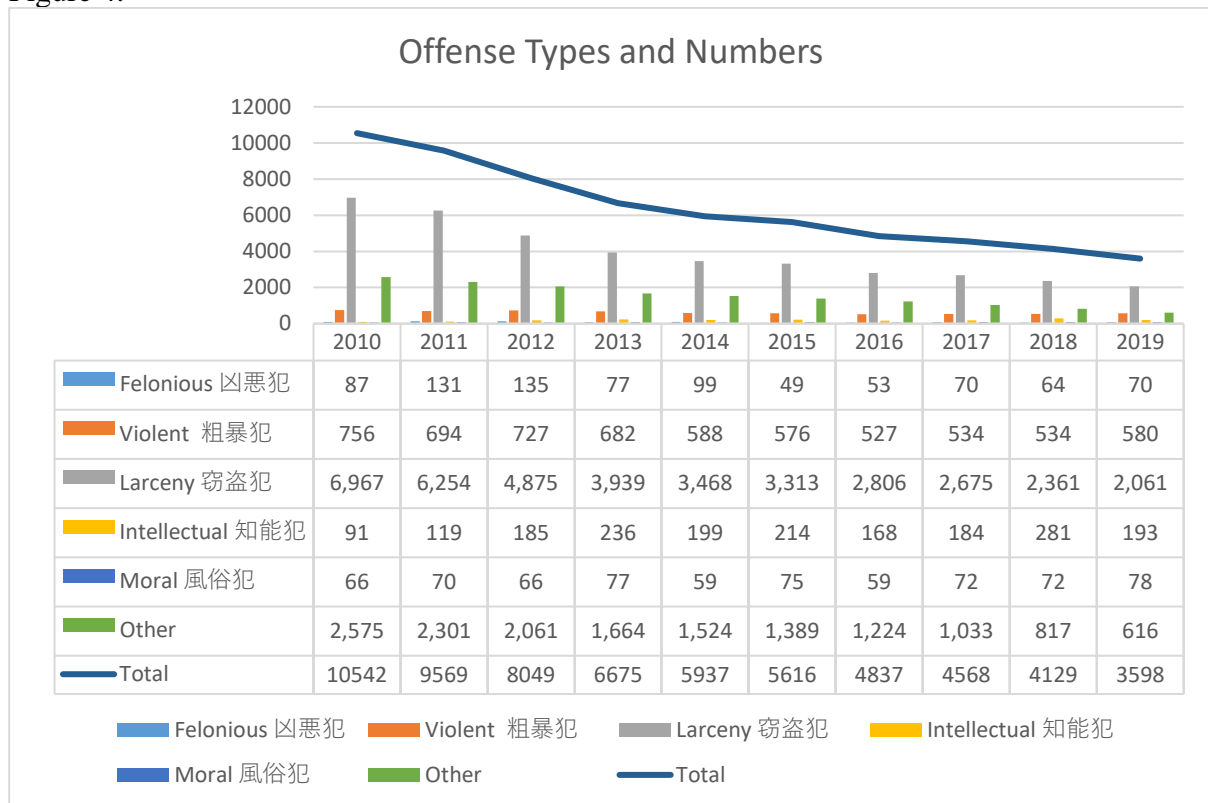
"Overview of Youth Development Initiative" by Metro Police Department in 2019

These data, together with the results of Kawai's poll (2015), confirm that the public

does not receive or understand the correct information and the public belief does not match

with the facts. Also, other data respond to the question of whether juvenile offenders become

more brutal and crueler. Figure 4 indicates the data of juvenile offenses by types of crime

classification, and it shows felony and violent crimes have been decreasing or staying the

same, while intellectual and moral crimes have been relatively increasing. Larceny accounts

for more than half of total juvenile offences, although it is on the decline. The data makes

clear that juvenile offenders were far more inclined to commit misdemeanors than felonious

or violent crimes, and accordingly, the data do not support the common assumption that

juvenile offenders are becoming more dangerous. In addition, the public often questions if the

atrociousness of juvenile offenders is innate or if rehabilitation and correction are possible for

juvenile offenders. It is not feasible to ask every juvenile offender if they are rehabilitated and

92

fully recovered; however, recidivism is always linking with these questions, and there is data to provide tips as to an answer.

"The ratio of repeat offenders is increasing" is the common narrative reported by the media and believed by the imagined public, according to Hitofumi Yanai, a lawyer and a director of NPO, FactCheck Initiative Japan (Yanai 2016). For instance, the Cabinet Office conducted a survey on public opinion toward juvenile crime in 2015, and the result showed that almost 80 percent of the respondents believed that serious juvenile crime was increasing, and about half of them assumed that heinous juvenile crime was on the rise (Kawashima 2019). However, when looking at the numbers, both repeat offenders and the total number of juvenile offenders are decreasing. Where does the narrative come from? It is derived from the data that the ratio of repeat offenders has been slowly and slightly on the increase by 15 percent in the past 20 years (Figure 5). The media extract this particular data point from the other related data, including the frequency and nature of juvenile crime and delinquency, and report that "recidivism becomes higher." Yanai (2016) pointed out that such misleading reports can be found in the major media corporations in Japan, including *NHK*, *Asahi Simbun*, and *Yomiuri Shimbun*. This narrative is apparently misleading and misses important points. It is problematic and fallacious for the media to focus on a fragment of information without the larger context, since it leads to misperceptions and misunderstandings of the matter by the public. As already explained, the numbers of juvenile offences, offenders, and repeat offenders are on the decline. Instead of spreading misinformation to bring fear and anxiety to society, the media is required to report the actual data and raise the discussion of why a certain number of juvenile offenders repeat criminal acts after being discharged from training schools for the first time. Several experts, who work with or support juvenile delinquents, including scholars, social workers, journalists, and Nonprofit Organization (NPO) workers, have pointed out that formerly incarcerated people encounter multiple obstacles to

reintegrating into society after being discharged from training schools, and the main hardship

is social discrimination against them.

Figure 5.
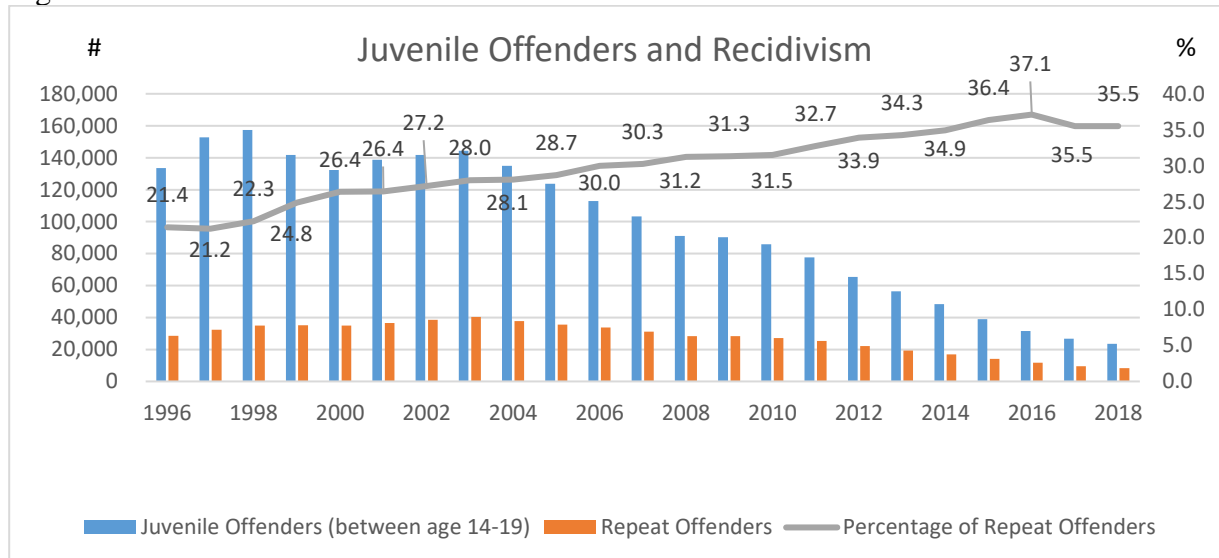
"White Paper on Crime 2019," reported by Ministry of Justice in Japan

For instance, NPO director, Hiroshi Igarashi (2020), who works for employment

support for formerly incarcerated people, said that companies usually avoid hiring someone

whose criminal record or information is found online. He added that formerly incarcerated

people will not be able to circumvent prejudice or discrimination in job hunting. A gas station

owner, Yoshihiro Noguchi, who supports the social reintegration of youth labeled as

delinquent, recalled the moment when his wife asked him to hire a delinquent girl because

she could not find a job due to her past delinquency (Foundation for Social Contribution

2011). He has been actively hiring delinquents since then and promoting employment support

for the delinquents among other entrepreneurs, though he admitted that it is difficult to gain

understanding about the importance of support for delinquents from others. Companies

expect troubles caused by hiring formerly incarcerated people and tend to avoid taking the

risk. Igarashi also pointed out that there are those without work experience or social skills

among formerly incarcerated youth, and they need to learn such skills prior to job training; thus companies consider it to be another burden on their employment. The hesitation among the companies toward the employment of formerly incarcerated youth and delinquents has been increasing in recent years (Kiyonaga 2017).

Most of the delinquents have problems with their family and their living environment. They are from dysfunctional or broken families and have experienced neglect or domestic violence before they started committing delinquent acts; therefore, they tend to lose the opportunities to learn social skills and norms, nor do they have a good role model to look up to before they are brought into the juvenile justice system. In the process of growing up, it is essential for children to foster a spirit of humanity, self-reliance, and self-control, and ordinary parents attempt to give their children such opportunities to learn it. The juvenile training schools are designed to provide a safe environment for inmates to re-learn and to reach mental maturity and reflect on themselves through education, training, and rehabilitation. The juvenile officers in the training schools play the role of parent, mentor, and guide to the inmates and attempt to build respect and trust in them. However, as mentioned earlier, even if the aims of the juvenile training school are successfully achieved, critical issues remain outside of these institutions, and the formerly incarcerated people usually experience discrimination in their attempts at reintegration into society, as with job hunting. If there is no job to make a living nor place to stay for them, it means that they will not have a way to survive in society as an ordinary person. In addition, since a continuous support system for discharged offenders is not fully established, they often miss the safety net and reenter the old delinquent life again (Hattori 2020). Any policy that seriously considers an initiative to lower the recidivism of juvenile offenders needs to destroy the vicious cycle described above and focus on prevention instead of urging punitive measures without firm persuasive evidence.

The data clearly prove that what the majority of people believe does not reflect the facts, yet the working group appointed by Japan's government seems to neglect the data and place value on "public opinion" rather than on correcting it. Isn't it more dangerous to amend the law in response to public opinion formed by misunderstanding and false information? Such misunderstanding and misperception of juvenile crime also occur in other countries, such as Europe and America (Ruigrok et al. 2016; Goidel, Freeman, and Procopio 2006). Why does it happen especially in this arena? What made this gap between the actual data and the popular perceptions of juvenile crime? As Kawai (2015) said regarding the public opinion toward juvenile crime: "If the role of the media is to make the public understand what's going on, then they've completely failed." It is a critical matter to investigate what the media reported to the public, how they failed, how they could function properly, how the emergence of new media affected or related to the conventional communication between the media and the public, and what the role of media is in society. These questions are discussed along with the theoretical frameworks and examples, which have already been raised in Media Studies, Cultural Studies, and Sociology of Deviance.

Emergence of New Media Communication

"The Medium is the message" is one of Marshall McLuhan's key phrases. McLuhan was a Canadian scholar known for helping to found the field of Media Studies. According to him, the medium, including technology, is an extension of the human body, and the introduction of new technologies leads to a change in human senses without awareness or resistance. For instance, the technological development of vehicles, including the ship, carriage, bicycle, wheelchair, train, motorcar, bus, airplane, and spacecraft, all of these are considered to function as substitutes for human legs, and they have contributed to not only the promotion of information exchange and the circulation of knowledge, but also population drift and social mobility. He explains, "For the 'message' of any medium or

96

technology is the change of scale or pace or pattern that it introduces into human affairs," and "It is the medium that shapes and controls the scale and form of human association and action" (McLuhan [1964]1994:7-8). This implies that the medium is the device or appliance to deliver the message to the public and the sign to indicate the flow of the times, accordingly, the emergence of a new communication era. The role of a medium can be observed through an analysis of social and cultural changes, and the relation between the medium and social and cultural changes is inevitable but appears in different degrees, depending on the circumstances.

For instance, as described in the previous chapter, Boy A sent a couple of letters to the newspaper company and attempted to convey his voice to the public via the media in the Sakakibara Incident. His attempt was successful, and the Sakakibara Incident was sensationalized by the media, especially since it was the first case in which a juvenile offender actively used the media to express his/her thoughts, to mock and provoke the police, and to challenge Japanese social structures before he was arrested. In this incident, the media functioned as the transmitter of Boy A's voice to the public, creating and dramatizing a storyline, and projecting an image of a cruel 14-year old boy, and it played a significant role as a persuasive narrator to sensationalize the case and manipulate public sentiment. The time of the incident, 1997, marked the advancement of information technologies such as the Internet and mobile phones, which were broadly introduced in Japan, and the public started appreciating these as an expansion of communication tools from the conventional ones. As the public came to handle the new communication devices, the Sakakibara Incident signaled the fact that the media was no longer a one-way communication but instead obtained the characteristic of a two-way correspondence between the media as the sender and the offender as the target subject, establishing a somewhat "direct" communication system between them to some degree. The change of communication system between the media and the public can

97

be interpreted as one of the messages of the media in this incident.

McLuhan ([1964]1994:18) added, "For the 'content' of a medium is like the juicy piece of meat carried by the burglar to distract the watchdog of the mind. The effect of the medium is made strong and intense just because it is given another medium as 'content.'" He suggested that a medium becomes content through another medium. In the case of the *enjo kōsai* phenomenon, net-dating websites and telephone clubs were featured as a medium between clients and schoolgirls to meet and negotiate a deal. The main difference between these two was that the net-dating websites were virtual online spaces run by invisible owners, while the telephone clubs required physical space for participants. The telephone clubs gradually disappeared as Internet devices, including computers and mobile phones, became broadly prevalent in society and the net-dating websites became more accessible and convenient for the participants. Since the use of the net-dating websites came to be the main medium, the characteristics of *enjo kōsai* activities have become increasingly invisible, anonymous, covert, quick, involving younger female participants, and using direct and instant communication. The police started regulating the activities after the establishment of the laws to prevent *enjo kōsai*, and it was transformed into an underground crime as the anonymity of the Internet media enabled the participants to continue communication in cyber space and avoid surveillance. Internet media have come to function as a covert mass communication medium.

In the case of *enjo kōsai*, it can be sorted out that the *enjo kōsai* phenomenon is interpreted as the "content," Internet and mobile phones as a medium, and net-dating websites as the content and a medium. Internet and mobile phones may also be considered as "content," as McLuhan stated that the content of any medium is another medium. The era of information technology emerged in the late 1990s in Japan, and it penetrated and accelerated rapidly in society. Today, the majority of people, including children in elementary schools,

have their own mobile phone and freely access Internet services without surveillance and regulation. Direct, instant, and anonymous online communications with others became more common and normalized throughout social networking services, such as Facebook, Twitter, Instagram, LINE, and WhatsApp, and this indicates that the characteristics of communication style have changed and become enormously individualized and personalized, not only in Japan but also in other countries. McLuhan seemed to have already predicted this transition decades ago, by asserting that every technological development affects human bodies and senses and that electric technology has more direct impact on the human central nervous system.

However, a sociologist, Neil Postman, was skeptical about McLuhan's theory on the role of the artist. In his book entitled, *The Disappearance of Childhood*, Postman discussed the relation between human senses and technology. He rejected McLuhan's theory by saying "For electric speed was not an extension of human senses, but a denial of them" (Postman 1994:70) because its speed surpassed what humans could ever experience. Postman cited the psychological impact on human communication made by the telegraph, referring to Henry David Thoreau. According to Postman (1994:70), Thoreau was fully aware that the telegraph would be characterized as a one-way communication and change the social and psychological role of information "from the personal and regional to impersonal and global." McLuhan attempted to develop the issues Thoreau raised, that when the electric environment was set up for human beings, their "private identity is merged with the corporate whole" and became a phenomenon of electric speed as "Mass Man" (Postman 1994:70). Although Postman criticized McLuhan for exaggerating the issues, he agreed that the personality or personal style of human beings would be disregarded or removed from human communication in a world where electric technology and its speed promotes instancy and simultaneity. The telegraph contributed to the transformation of information as a product of personal interest to

news as a globally valued item, a transformation that helped to establish the news industry and played a dominant role in distributing news, yet it also led to ambiguity as to where the responsibility lies for the news, since "the telegraph addressed the world, not individuals," as Postman said, and the source of information was unknown or uncertain, except the newspaper. The significant characteristic of the post-telegraph era was that news acquired a new social meaning and value: while the circulation of information became accelerated, the source of the news became more anonymous.

The issue of fake news in today's society would be one of the causes of concern for Postman decades ago, including questions of trustworthiness and quality of the news. Fake news is defined as propaganda or disinformation produced based on the intention of attacking or disgracing specific objects and disseminated with a purpose of deceiving others into believing false ideas (McGonagle, 2017:203-204). There are various ways to distribute the news, including television, newspaper, and digital media, and there are vast numbers of unidentified sources of the news. An essential question to ask is how many people attain a sufficient level of media literacy to distinguish between facts, truth, and fake news and how many receive any kind of news stories as a truth without doubt regardless of sources. The penetration of media literacy and the reliability of news sources have been critical matters in discussing the media and the public in the post-telegraph era. There are no established solutions for these issues. Thus, Postman concluded that the invention of the telegraph eventually triggered "the process of making information uncontrollable" (Postman [1982] 1994:71).

In opposition to Postman who recognized the effects of electric speed as a threat to human communication and society, McLuhan seemed to believe that the effects of technology are conceived and possibly alerted by specific individuals, such as the artist, who he defined as "the only person able to encounter technology with impunity, just because he is

an expert aware of the changes in sense perception" (McLuhan [1964]1994:18). However, the question as to whether human beings control the effects of technology is more advanced and perplexing to answer, especially in the era of social media. For instance, Chris Wetherell, an IT expert who built Twitter's retweet button, confessed in a 2019 interview that he regrets creating the system, as he said, "We might have just handed a 4-year-old a loaded weapon" (Kantrowitz 2019). What he indicated is that his colleagues' and his initial intention of creating a retweet function to the world did not match with the actual circumstance. One of their main purposes for this invention was to provide people in underrepresented communities with an opportunity to raise and elevate their voices. It is true that the innovation of the retweet system opened up new possibilities for information circulation and developed an effective way to spread the information with accelerating speed and increasing scale, yet this also implied that it promoted a quick response from users and accordingly, it led them to lose the moment to think deliberately whether the information is correct, reasonable, and worth sharing before clicking a retweet button. Wetherell realized a dark side of this invention: that the retweet function is utilized by some users to "coordinate their attacks against their targets, disseminating misinformation and outrage at a pace that made it difficult to fight back" (Kantrowitz 2019).

The interview article introduced presidential campaigns and "Gamergate" as examples of such Internet harassment. Not only Twitter, but also other social media platforms, including blogs, Instagram, Facebook, and Youtube have been dealing with similar issues, and the forms of Internet harassment have been newly defined in words, such as "flaming," "trolling," "bashing," and "cyberbulling." Prior to the era of social media, this kind of attack has been observed in every place where human relations take place. Schools, workplaces, houses, and the press, of course, have shared these issues, though Internet harassment occurs

simultaneously and instantly at a much larger scale and moves to a different level with faster speed.

Since its inception, social media platforms created a space for ordinary individuals to present themselves and express their opinions to unlimited numbers of audiences. At the same time, the possibility of receiving Internet harassment increased and, in some cases, their privacy was violated by online revelations, and harassment was moved from the digital virtual world to real life. Besides harassment, there is another example of an issue moving from virtual to real life: false rumors and panicking crowds. In Japan during the 2020 Covid-19 pandemic, a rumor was spread through Twitter in late February that face masks, which had already been out of stock from stores for weeks, were made from paper materials, and excessive production of the masks would cause a shortage of daily paper-related necessities, such as toilet paper and paper towels (Tokunaga 2020; Omura 2020; Shibata 2020). Within the next 24 hours after this rumor started being circulated in social media, including Twitter, panicking crowds rushed into stores and bought up those paper-related necessities from the shelves. The manufacturers immediately denied the rumor as false information and informed the public that the pandemic would not influence the production of paper necessities and that there was plenty of toilet paper in stock in factories; however, the panic continued, and those necessities were gone from the stores for weeks, especially in central Tokyo.

This is a clear point where virtual reality connects with real life and an example of how human acts are controlled via social media, as McLuhan ([1964]1994) anticipated. The problems above, including an ambiguous boundary between fiction and non-fiction or reality and fabricated reality, might not be what McLuhan imagined for future society. Questions are also raised in academia as to how human beings manage and embrace technological advancements in an effective and ethical manner, what role scholars are expected to play in the era of social media, and how scholars can propose possible solutions to society regarding

the problems of media literacy and communication systems, especially when anyone is able to participate in opinion exchange or even become an influential voice through chance. With these questions, it is necessary to consider the cultural shift from one-way to two- or multiple-way communications and a change of the balance between information sender and receiver, including the general public. Those questions are extended to the larger debate between humanity versus technology; accordingly, the problem of media literacy is correlational to the social issues resulting from human acts.

In a similar vein, the problems of children and youth, including the three cases I discussed earlier, do not stand alone and should not be discussed only within the arena of juvenile delinquency or social deviance. Since the prevalence of Internet technology in the 1990s, further technological advancements have greatly and globally influenced daily life, and youth were the ones who adopted direct and private online communication easily and smoothly. Youth tend to be more flexible but also more vulnerable to the changes caused by new technology, and they naturally accept changes without awareness or resistance because the lack of knowledge about the continuity of time enables them to ignore the "newness" of the changes. This is the difference between adults and youth, and this is a part of the reason why a generation gap takes place and why adults have a hard time understanding the thoughts and actions of youth. The two or multiple-way communications between the information sender and the ones who are represented and between a sender and a receiver in the new media have been replacing the conventional one-way communication of old media since the 1990s.

I have suggested the divergence between the facts and public belief in understanding the problems of juvenile crime and delinquency, the close relation between the media communication and human acts, and the different nature of responding to technological advancements between youth and adults. I now move on to a discuss communication systems

and cycles of representation and reception between the media and the public along with the power mechanisms that inform these cycles.

Encoding/Decoding and Crime as News

Cultural theorist, Stuart Hall identified the mechanism of media communication in the process of news production and reproduction. In "Encoding/Decoding," Hall (1999) discussed the circulation and reproduction of the news and the difference between what was encoded into a news item and what was decoded from it. According to Hall's premise, there is no plain reality. Reality consists of overflowing complexity in cultural and social settings, and the perspectives about reality vary depending on who receives the information. Hall (1999:55) pointed out that since "reality exists outside language, but it is constantly mediated by and through discourse," it is not feasible to precisely depict and convey the exact state of reality through language and pictures throughout the conventional mass media, including television and newspapers. Yet it is also true that language and pictures are the only methods to transmit information about reality. Language and pictures function as articulations of connecting pieces of information or as the sign or representation of what happened. Therefore, whenever information or story is mediated through language and pictures, these words and images do not transmit actuality but instead produce the representation of a subject. Some representations are a reflection of fragmented reality, and others are fabricated images. The encoding side, which is the sender, intentionally or unintentionally adds explanation to the item in order to clarify, while the decoding side, which is the receiver, interprets the item based on his or her own experience, family background, political preference, cultural setting, social norm, living environment, and so on. Thus, what is decoded from the item varies depending on the individual or the social and cultural settings where he or she belongs.

As Hall (1999:56) also stated, "The articulation of an arbitrary sign – whether visual or verbal – with the concept of a referent is the product not of nature but of convention, and

the conventionalism of discourses requires the intervention, the support, of codes;" a sign itself is a pure substance until it associates with a referent. The sign, then, obtains meanings that closely attach to the sphere of societal, cultural, and political ideologies. This process occurs in decoding and correlates with social norms and cultural and traditional customs. Throughout this process, codes are maintained, altered, or terminated based upon whether or how they suit the conventions, and the signs are articulated as the result of this selection and allude to a reflection of a mainstream ideology residing in a society to some degree. The relation between the codes and the sign directly links with ideologies and power, and Hall (1999:56) identified the codes as "the means by which power and ideology are made to signify in a particular discourse." Connotative codes are open to multiple different interpretations, but those interpretations are not equally taken into account, as he clearly distinguished between polysemy and pluralism. He stated (Hall 199:57) that there is "a pattern of preferred readings," which also correlates with norms, ideology, and power in the societal, political, and economic context and discerns a misunderstanding in interpretations; however, people do not necessarily and fully accept every code without any doubt or persuasive logic, and they are likely to conceive the code depending on which interpretation seems the most reasonable, understandable, and appropriate to them. This selection of the decoding on the receiver side occurs in the communicative process. Hall et al. ([1978] 2013) emphasized that this is the process of making sense of society, even if it does not match with the fact, and what makes sense becomes common truth after the process is completed. They also pointed out that media coverage and representation contributed to marginalization and racial discrimination of youth of color in the case of mugging.

Hall noted the critical aspects of representation by discussing the ways in which black people have rarely been subjects within white representations and have instead been made into objects in the processes or practices of representation where negative figurations are

embodied in the features of the representations of the subjects. The concerns stemming from these representations are not merely because of the absence or marginality of the minority experience, but more from the overly simplified and stereotypical characters of the subjects produced through the processes (Hall 1996:442), as well as the typical binary frame of representation that promotes and clarifies the difference between belongingness and otherness (Hall 1996:445). As a consequence, the role of representation not only establishes and spreads the images of subjects or groups, but also allows the people who consciously or unconsciously receive and accept these images to distance themselves from those of the "type" by a recognition of the differences between them. This process will also be examined in regard to the stereotype of the atrocious nature of juvenile crime and the matter of sexual liberation in *enjo kōsai*.

Hall (1996:445) wrote, "The epistemic violence is both outside and inside, and operates by a process of splitting on both sides of the division – in here as well as out here. That is why it is a question, not only of 'black-skin' but of '*Black-Skin, White Masks*' – the internalization of the self-as-other." Although his focus was on racism, his statement is also applicable to the predominantly represented "type" of schoolgirl in *enjo kōsai* who is always linked with promiscuity, even though it is not necessarily true for all of this type. Similarly, schoolgirls who are outside of the "type" will most likely be perceived as non-promiscuous. In this sense, it may be said that this "type" of schoolgirl pulls in and creates representations of girls not associated with the activity as a counterpart of the "type," even though it is merely a socially constructed perception and does not contain their truth in it. Sociologist Erving Goffman (1986) pointed out, however, that people and a society may be willing to accept these perceptions toward the "type" so that they will be exempted from the responsibility for the phenomenon or schoolgirls' actions and accordingly; such thinking has

led to some indifference within Japanese society toward schoolgirls and the activity of *enjo kōsai*.

According to Hall (1999:54), in the process of communication exchange, the difference and "the *lack of equivalence*" between the two sides of encoding and decoding cause "distortions" or "misunderstandings" of the information, as in the case of schoolgirls and the activity of *enjo kōsai*. The "distortions" or "misunderstandings" closely correlate with the representation of a subject, and this correlation amplifies in some cases that attract public interest. For instance, fake news itself is already distorted from the fact through manipulative intention, and if the lack of equivalence occurs in fake news, what is decoded is a distortion of what is distorted in encoding. However, the manipulation on the encoding side would be more transparent in the case of fake news only if the news is acknowledged as "fake" to the public. Regardless of whether the news is fake or not, every news story involves producing a representation of each item and conveys a certain image or impression to the public. There are countless numbers of incidents and events occurring, and only selected items are delivered as news. What is considered to be important to inform the public is newsworthy, and, by constructing a storyline and making sense of it, it becomes news.

Regarding the media function on the production of news, Hall et al. ([1978] 2013:64) stated that "Concentrated media attention confers the status of high public concern on issues which are highlighted . . . . This is part of the media's agenda-setting function. Setting agendas also has a reality-confirming effect." The media's agenda-setting function is a key indicator of what news items are prioritized over other incidents or events and why, and in this sense, this function enacts the process of selecting the news items and conferring value to them. This part of the media's function resonates with the public's interests or concerns as well as accomplishing a reality-confirming effect. The reality-confirming effect is powerful, especially when it comes to vicious criminal cases involving innocent victims, which bring

107

fear and anxiety to society. Hall et al. ([1978] 2013:70) distinguished violent crime from non-violent crime by stating that there is "the special status of *violence* as a news value" and that violence is "the supreme example of the news value 'negative consequences.'" Crime is not necessarily equal to violence, but once any crime relates to violence, it immediately produces an image of two sides of people: one side who are victims of the crime and another side who are offenders of the crime, and this image then attains the power to impact the public. Hall et al. ([1978] 2013:70) stated, "Violence represents a basic violation of the person. . . . Violence is also the ultimate crime against property, and against the state. It thus represents a fundamental rupture in the social order." As such, violence toward the individual is seen as a critical matter from a personal to a national level, and therefore, the public has to be sensitive or reactive to it by considering it as their own issue. The way the public perceives a violent crime as their own issue is determined by choosing a side between a victim and an offender, and the public opinion leans toward identifying with the victim most of the time. Hall et al. ([1978] 2013:70) added "The use of violence marks the distinction between those who are fundamentally *of* society and those who are *outside* it," and accordingly, the general public follows this distinction, perceiving the victim as a member and the offender as an outsider. Since the general public significantly occupies the great space *of* society, they are involved in selecting the members of the society and accordingly, the outsiders are generally and automatically excluded or marginalized unless the public is permissible to "others." With the representational function of violence, labeling offenders as outsiders through news reports is a part of the circumstance or side effect produced by the media, and it leads to social exclusion and marginalization of the outsiders by the general public.

The general public is inclined to sympathize with the victims' side by imagining becoming a victim or being subjected to a crime. The public's feelings of fear and anxiety connect with their sense of reality about the reported crimes, and these feelings and senses are

accelerated when the media spotlights specific criminal cases and mystifies them with uncertainty. In some cases that raise public controversy, such as juvenile crimes, and those that harm human lives, such as the Covid-19 pandemic, this correlation eventually leads to the phenomenon of "Moral Panics" in society. Yet it is critical to note that this reality-confirming effect needs to be concerned with the issue of 'distortions' and 'misunderstandings' caused from encoding/decoding, since there is always the possibility of a false accusation or exaggeration of the fact. In other words, false information could possibly shake the public, re-frame "reality" for them throughout this encoding/decoding process, and, in the worst case-scenario, trigger a change in the social or legal system.

It is also important to inquire into the perspectives of the victims. Sentiments of victims and their families in juvenile crimes are generally imagined or assumed by the general public through media reports; needless to say, their voices are not simple nor monolithic, but different with each individual. Thus, the question is raised as to what and whose voices are covered and dominate in the media, and how the discourse is established in the victims of juvenile crimes. Since 1997, whenever serious juvenile crime has occurred, the media has brought back the Sakakibara Incident and lets Boy A speak for all juvenile offenders. In contrast, what voices represent the victims?

Whenever juvenile crime occurs and the amendment of the juvenile law is brought out as a news topic, the media introduce the comments of the victims and their families. Their comments are generally criticism toward the Juvenile Act, such as "Juvenile law is too easy on juvenile offenders," "Juvenile offenders deserve the sentence matched with their own crime," or "Juvenile law only protects the offenders and completely neglects the victims" (Asahi Shimbun 2000a; 2008; 2014; Mainichi Shimbun 2014; Yomiuri Shimbun 2007). Hiroshi Motomura, the father and husband of the victims of the Hikari City Incident, was one of the victims' families who actively expressed opinions about the incident and the offender

in the media. For instance, after the decision of the sentence in the district court in 2000,

Motomura told the press that he was very disappointed with the justice system, which does

not show any support for the victim's family, but provides an inflexible assessment of the

culpability of the offense (Asahi Shimbun 2000b; Shūkan Shinchō 2000). Motomura became

an iconic figure for the victims' families of juvenile crime and played the role until 2012

when the offender was sentenced to death as a final decision in the court. Other victims'

families, and eventually the general public, have resonated with Motomura, and their voices

are described in the media as a main reason for amending the juvenile law (Ichikawa 2007;

Tamura and Aoike 2012; Asahi Shimbun 2014; Yomiuri Shimbun 2014; Mainichi Shimbun

2014).

However, there are also quite different voices raised by the victims' families. Yumiko

Yamaguchi is one of the survivors and victims of the 2000 Nishitetsu Bus Hijack Incident, in

which a 17-year-old boy hijacked a bus in southwestern Japan, stabbed one passenger to

death, and injured two others (Hiratsuka 2020). The scar resulting from the attack still

remains recognizable on her face. Yamaguchi's standpoint is oppositional to the ordinal

image of "victims" as she expressed support for the juvenile law and objection to its

amendment toward a penal stance in her speech at the National Diet in 2000 (Asahi Shimbun

2000a). As for the reason why she took her standpoint, she wrote to Amnesty International

Japan in 2004 that

> I used to think, if you commit a crime, you should be punished, and if you commit a
> murder, you deserve a death penalty. I thought that way without thinking it through.
> When I encountered the incident as a victim, I learned how someone came to commit
> a crime. Through the offender in my case, I realized that most of the offenders were
> the victim in the first place as they were bullied and abused by people around them,
> but no one understood their hurt feelings or wounds. So, for the offenders, attacking
> others (committing a crime) was a very last step to protect or rescue their own dignity.
> (quoted in Amnesty International:2004)

Yamaguchi has been working for child education and rehabilitation of delinquents since then. There are other victims' families working on prevention and reduction of recidivism. Wings of Human Rights is the group started by three members who lost their beloved family members through crime, and they explained the purpose of this group as follows:

> We believe, in order to reduce the recidivism, it is essential for offenders to spontaneously lead a fulfilling life as well as for us to contribute to an inclusive society where people support each other. It will be a steady step for us to break the chain of hatred and to create a society where everyone is able to feel joy and happiness, rather than blaming the offenders for their crime. (Wings of Human Rights 2016)

Yamaguchi, the members of Wings of Human Rights, and other victims' families have been giving a talk at various symposia and public or private institutions, including high school or juvenile training schools, and speaking to the press (Watanabe 2014; Kato 2018; Tanaka 2019); yet the media rarely reported or introduced their voices and activities, especially when the amendment of juvenile law comes up as a news item.

Hall's Encoding/Decoding theory clarified the process of news selection and the mechanism of transmitting information between the sender and the receiver and the ideological effect within the process. He also indicated specific characteristics of crime as having news value and how it contributes to a division between "us" as the public and "others" as offenders in society. Hall's points regarding the media and the public are critical to consider in relation to the issue of social control and deviance in the topic of juvenile crime. Also, the way the public reaction to certain crimes or events relates to changes in legal frameworks needs to be analyzed, especially in the context of the moral panic phenomenon.

Moral Panics and Social Control

In conjunction with media-disseminated representations and the issue of distortions and misunderstandings, the concept of moral panic is also essential to be discussed in this study. Moral panic is caused by an event or incident, which does not conform to or which

threatens the societal standards of morality and social norms. Several scholars identified mugging, the gang phenomenon, teenage pregnancy, and the AIDs epidemic as examples that inspire moral panics. In the book *Folk Devils and Moral Panics*, sociologist Stanley Cohen (2002:xxxiv) wrote that moral panics cause "unnecessary trouble" and "social anxieties" and that the societal reaction, including of the public and the media, is overly one-sided and "always *more* severe (hence exaggerated, irrational, unjustified) than the condition (event, threat, behaviour, risk) warrants." Although moral panics are induced by events that threaten conventional norms, it is important to note that the media and the public lack the perspective to articulate the actual course of events from a variety of angles, and they only focus on a fragment of the whole story. In other words, the public and the media make a judgment on the event based upon their impression when they first hear about the story, and most of them are not interested in looking into the other sides or the behind-the-scenes story. In the meantime, the one-sided report is sustained or even accelerated by the media.

According to Cohen, there are two types of moral panics: one is characterized as ephemeral and independent and the other as permanent. The former one is absorbed into moral standards to become social norms, while the latter continues to be perceived as immoral or deviant and to stimulate social anxieties regardless of generational change. Cohen (2002:xii) stated that moral panics are provoked under three conditions: "suitable enemy," "suitable victim," and "a consensus that the beliefs or action being denounced were not insulated entities ('it's not only this') but integral parts of the society or else could (and would) be unless 'something was done.'" The first two categories are placed in binary opposition. The "suitable enemy" is defined as someone who is "easily denounced" by the general public because his or her behavior or action is perceived as deviant and who belongs to the peripheral groups of society "with little power and preferably without even access to the battlefields of cultural politics." The "suitable victim," on the other hand, is identified as

112

an ordinary person who is not different from us and who you can easily relate to, allowing you to imagine that the crime could happen to anybody. The third category connects with the public belief that the events occur in their society and something needs to be done to protect themselves from the further harm. Authorities, including the police, intervene among these three categories, yet they often correlate with the third category, the public, through the media. It is critical for the public to identify who the "enemy" is, to draw the line between themselves and the enemy group, and to maintain a certain distance from or segregate the group in society. This defense mechanism of the public reflects the entire social reaction to the event in moral panics and influences the consequences.

Other scholars also argued that the moral panic phenomenon is being implicated in social, cultural, and legal alienation and discrimination. In the book *Policing Desire: Pornography, AIDS, and the Media*, Simon Watney (1997) described how moral panic surrounding the AIDS epidemic developed in Western countries, examining who were the principle targets of the panic and what were the issues that the panic created. Watney suggested that there is a clear difference between Africa and the West in circumstances and consequences of the AIDS epidemic. According to Watney (1997:38), one of the main reasons why the AIDS epidemic caused moral panics in Western countries was "the values and language of homophobic science," which indicates gay men are not properly human, while both men and women contracted HIV virus in Africa. As for the circumstances of the West, the media set up an imaginary audience as the "general public" or "national family unit," which consists of "both white and heterosexual," and those who are outside the "general public" become an easy target in the moral panic as threat or discord to the society or social norms because of their underprivileged status. Watney (1997:43) said, moral panics "provide the raw materials, in the form of words and images, of those moral constituencies with which individual subjects are encouraged to identify their deepest interests and their

113

very core of being," though the ones who try to protect the society form the presumed threats are also vulnerable in their defense mechanism. He concluded that moral panics are engendered by paternalistic ideology in order to maintain the status quo as well as are used to justify increasing law enforcement and social control. Therefore, he criticized moral panics as contributing to the prevention of the exercise of a people's complete autonomy (Watney 1997:57).

In terms of human rights, law scholar Martha C. Nussbaum (2004:278), discussing moral panics generated from the AIDS epidemic and gang phenomena in her book, *Hiding from Humanity: Disgust, Shame and the Law*, emphasized the importance of "individual-liberty rights" and of "the equal protection of the laws" to all citizens. She pointed out that in moral panics targeted groups are usually from "vulnerable minorities," and the authorities use the law to engrave a stigma on them to prevent an imminent danger to society. However, the process of this legal judgment is questionable, as Nussbaum (2004:278-279) states that "the law should not use shaming as a part of the public system of punishment," and any laws should be invalidated if their purpose is to discriminate against or segregate those minority groups from the society. Goffman (1986:5) explores how stigmatization functions in society and influences perspectives of the self and the public in his book, *Stigma*, writing, "We believe the person with a stigma is not quite human." He also stated that a person's social identity is modified when "the meaning of the social characteristics we impute to him" are updated or revised. Therefore, inflicting stigma on individuals indicates not only the deprivation of their rights but also a defect in themselves. It is critical to discern how the law and the media correlate to each other in the process of stigmatization during moral panics.

As for the role of the law and social control, Hall et al. ([1978] 2013:70) suggested, "The basis of the law is to safeguard that 'right way of doing things'; to protect the individual, property and the state against those who would 'do violence' to them. This is also the basis of

114

law enforcement and of social control." It is a commonly shared notion in society that the law functions as the safeguard for both the individual and the state; however, the relation between law enforcement and social control needs a careful inquiry, since there is always a possibility of the authorities abusing the law in the name of justice or social control, as Nussbaum pointed out. Thus, it is important to note that power dynamics are more observable during moral panics.

Regarding the exercise of power, Michel Foucault presumed "power" to be a mechanism of control but not necessarily to be linked with connotations of oppression, domination, or forcible power. In his essay "The Eyes of Power" from *Power/Knowledge,* Foucault (1980) specifically described that "techniques of power are invented to meet the demands of production" (161) and "power is constantly being transformed along with them (the development of forces of production)" (159). As an example of Foucault's idea, he introduced Bentham's invention of the panopticon as contributing to creating a new technology of power by using a gaze, an invention that seemed to be a necessary product for the society at that time. He also said, "Power is no longer substantially identified with an individual who possesses or exercises it by right of birth, it becomes a machinery that no one owns. --- class domination can be exercised just to the extent that power is disassociated from individual might" (Foucault 1980:156). While accepting the fact that new types of power are created or that power itself is transformed with and by social demand rather than by powerful individuals, he also criticized those eighteenth-century reformers for focusing on productivity and efficiency and ignoring the actual purpose of jails: the rehabilitation and correction of inmates. According to Foucault, power is circulative and fluid without agency and could play specific roles depending on the situation, while the law exists as an indicator of moral standards or social norms. At first glance, his idea of power seems to conflict with the concept of other scholars, who believe that individuals exert power as agency. Yet the

115

specific characteristics of power, including fluidity and circulation, are vital aspects in examining power dynamics between the authorities, the public, and the media, especially in moral panics. In cases such as the Sakakibara Incident and the Hikari City Incident, the authorities seem to hold power over controlling the persons involved, especially the offenders; however, power was moved to the media and then the public, which influenced the decision of the judiciary and even the change of the existing law. This power dynamic also suggested a reason why approval ratings are a serious concern for the government and why the principle of law becomes more fragile and neglected under populism.

Media plays a critical role in the development of moral panics by using exaggerated expressions and controversial images to make the events more scandalous. According to Cohen (2002:26-27), some of their techniques to amplify moral panics include inventing memorable phrases or repeating specific phrases, such as "orgy of destruction" or "attack" in the case of juvenile delinquency, which immediately link with violence, to narrate a story. In some cases, the media intentionally adds extra expressions, such as "peaceful" or "calm," to describe the incident scene as an ordinary neighborhood and, by contrast, to highlight the brutality of the crime. Unlike newspapers or political magazines, the weekly magazines tend to scandalize and sensationalize a crime and to be broadly read by the general public. In the Sakakibara Incident, for instance, the weekly magazine, *AERA* depicted the neighborhood of the incident scene as "a bedroom community full of green plants and flowers," "modest and beautiful residential area," and "award-winning scenery" and began reporting the incident that "one day, very horrible crime befell" in such an environment (Takahashi 1997). The offender, Boy A was also described as a psychopathic and mysterious figure in the media, described as "showing no remorse" or "usually quiet, but when it comes to the topic of murder or its process, he got excited to start talking with bright eyes during the investigation" (Shūkan Hōseki 1997:36). In *Shūkan Bunshun*, the weekly magazine, the "over-reporting" of

the Sakakibara Incident was pointed out as the media agencies competed with each other by reporting the bizarre and wicked acts of murderous Boy A and highlighted his insanity, a conclusion formed from the interviews of his "friends" (*Shūkan Bunshun* 1997). They also revealed the fact that the reporters from television or newspapers paid the youths for speaking about Boy A, although they did know him in person. This type of "over-reporting" and dramatization is often observed during moral panics. These media effects incite social anxiety and form negative impressions of the event to the audience.

Another aspect of the media relating to the connection between moral panics and the concept of children is addressed by Postman ([1982]1994). Postman was deeply concerned about the effects of media, especially when television started commercializing childhood, as with the Brooke Shields Phenomenon, and he argued that television images contributed to a change of human nature, specifically the disappearance of the old model of childhood. As young girls became portrayed as erotic objects and the "'adultification' of children" emerged on television, the distinction between childhood and adulthood disappeared, and they came to merge. Postman suggested that the public perception of children as "miniature adults" was strengthened by the rapid increase of serious juvenile crime and youthful sexual activity and that children came to resemble adults in actions and behavior, and accordingly, the difference between them was quickly narrowing. In the situation in America, Postman identified the parallel direction between crime and punishment, that the smaller the difference between adult crimes and children's crimes became, the more similar punishments between them became. The visual images of girls as sexual objects and the rapid increase of juvenile crimes and delinquency have played an essential role in the process of the adultification of childhood; however, it is important to note that there is no credible supporting data nor contextual explanation to verify the question of whether children are mature enough to be treated as adults.

117

How could this adultification be possible? Postman answered that quick judgment is already installed into human minds through what is exhibited in television programs and commercials. Television plays a role in displaying an image as normative, and the visual impact on the human mind occurs automatically and inevitably; therefore, audiences unconsciously respond to an image before introspecting about its implication. For instance, many outspoken schoolgirls appeared in the media during the *enjo kōsai* phenomenon and openly talked about their sexual activities. Audiences immediately received an impression from them as being promiscuous and incautious instead of grounded and independent individuals like adults. In the Sakakibara Incident and the Hikari City Incident, on the other hand, the offenders were depicted as being sly, calculating, mature, and cruel individuals in the news. These representational impacts on the general public, including audiences, contributed to blurring the boundary between children and adults, as Postman suggested.

It is apparent that Japan experienced moral panics during the 1990s that were coincident with the two violent juvenile crimes and the *enjo kōsai* phenomenon introduced earlier. However, compared to other moral panics occurring in the West, the two violent crimes and the *enjo kōsai* phenomenon used for my dissertation played a critical and powerful role in changing the judiciary. This difference can be potentially attributed to the fact that the media or the general public has more influence on the judiciary or the government than vice versa. There is little difference between Japan and the West in terms of crime as a new value and the problems of over-reporting or disinformation in the media, yet it is also important to note that the juvenile justice system in Japan has been moving toward a more penal stance in response to public opinion, formed by a misunderstanding of the data or by retributivism, and accordingly, the concept of childhood becomes neglected and reduced in relation to adulthood. In this sense, it can be said that what we have been going through in Japan is the same as the "Disappearance of Childhood" described by Postman ([1982]1994).

118

The values of education, welfare, and support for children will suffer through this disappearance of childhood, and children will be forced to attain a sense of self-responsibility and independence at too early an age. This tendency will eventually bring the corruption of social support and education systems as well as increase a sense of exclusiveness in society.

CHAPTER V

CONCLUSION

Sustainable Development Goals (SDGs) were set for the 2030 Agenda for Sustainable Development and were adopted by the United Nations in 2015 (United Nations N.d.). It has gathered attention and the name and logo are often seen or heard in Japan. The slogan, "Leave no one behind (LNOB)," is the principal commitment for the SDGs and is based on the dignity of the individual. SDGs target all nations and people as well as all segments of society. This is the declaration from the United Nations to the world that all people, including the underrepresented and underprivileged, are protected from inequality, social injustice, discrimination, and environmental damage. Although the current global trend of neoliberalism and nationalism suggests the opposite direction, the United Nation's agenda proposes challenges to these political and economic spheres in the world through an invitation to embrace global diversity and inclusiveness.

The conflict between inclusiveness and exclusiveness is also observed in many areas within the nation. Sociologist Jock Young (2007:6) said, "The transition from modernity to late modernity can be seen as a movement from an *inclusive* to an *exclusive* society" and an inclusive society represents assimilation and incorporation while exclusive society leads to separation and discrimination. Is Japan encountering a transition to an exclusive society? When looking at the changes in the juvenile law and the public perception of juvenile delinquency, some aspects indicate an answer to the question. In my research, I have discussed the concept of childhood within the framework of juvenile delinquents, the discourse of three legal media events, the role of the media, and the relation between public opinion, the media, and legal system in Japan. The media's news selection and over-reporting

caused misunderstandings by the general public regarding juvenile delinquency and crime, and, in turn, public opinion greatly influenced the judiciary in amending the law. By amending the juvenile-related law, the concept of childhood has been changing since the 1990s, and we are encountering the moment of the disappearance of childhood in Japan. A social focus on self-responsibility and autonomy has been pressed on individuals, including children, and this tendency has spread into the area of juvenile delinquency. To put it differently, society has taken a neoliberal stance that requires people to practice self-responsibility and autonomy, and this tendency has intensified since 2000.

Compared to children's rights, which outline the minimum security necessary for existence, juvenile law has traditionally played a more positive role in providing leniency to children under the age of 20 and waiving many of the legal and social responsibilities that adults have. During the 1990s, there were several incidents that occurred in relation to juveniles and their actions. This juvenile activity eventually raised questions about the function of juvenile law. The two social phenomena, *enjo kōsai,* and a few highly publicized juvenile criminal offences were the most striking occurrences that garnered public attention during this period. Because of the heinous nature of some juvenile crimes, such as the Sakakibara Incident and the Hikari City Incident, the role of juvenile law in terms of its function for rehabilitation came into question. As a result, juvenile law has been amended often with a functional reorientation toward a more punitive stance since 2000. These new forms of juvenile behaviors, including the two heinous mass-media-disseminated crimes, unsettled the socially-held notion of the child or juvenile. Conceptually, the notion differentiated into two positions. The first position views the child as an object in need of protection and guidance, and the second position views the child as an independent being that is naturally endowed with an innate ability for self-determination.

The discussion of the role of juvenile law is still an ongoing matter in Japanese society. Inclusion of capital punishment into juvenile law is the most controversial topic, and several scholars and professionals have taken different positions in this discussion. One of the most well-known law professors in the area of juvenile law and delinquency in Japan, Hiroko Goto (2005:18), argues that capital punishment should not be applied to juvenile offenders and that rehabilitation of juvenile offenders is possible because most of the offences perpetrated by juveniles can be attributed to their family background or their social environment. Goto, therefore, believes that heinous acts committed by juveniles cannot be attributed to innate characteristics belonging to juvenile offenders. Another law scholar, Tetsuya Fujimoto (2015), on the other hand, is more sympathetic to public opinion that leans toward a more punitive stance in juvenile law. The opinions on amending the juvenile law toward a more punitive stance are divided among law scholars. By referring to the juvenile laws in other countries, such as the United States and European countries, Fujimoto justified lowering the maximum age of juvenile law as following the global standard. Japan's concept of a juvenile as a legal object originated from the United States after World War II, and it was geared towards saving and protecting war orphans as well as juvenile delinquents in the legal system. Therefore, amending one of the juvenile-related laws, the Juvenile Act, will imply a critical transition in altering this fundamental concept of childhood in the legal system and will lead to removing or reducing the functionality of rehabilitation and education in the juvenile justice system.

The reasons why this transition is considered to be a problem are because it brings us back to the time of the Taishō era and will take childhood away from individuals in their late teens. In this research, I discussed how the concept of childhood has been historically developed and changed within the framework of juvenile delinquency in Japan since the Meiji era and whether the government and judiciary have supported the concept or not.

Observing the history of juvenile delinquency, it is clear that childhood is not a fixed or stable object but a vulnerable concept in society, and it has been experiencing sway between protection for and the rights of liberty and self-determination for children. Debate about a child as an object in need of protection and guidance or as an independent being that is naturally endowed with an innate ability for self-determination has been an aporia for us over the centuries, as has been the dividing line between adult and child. This struggle has been reflected in the civil code and juvenile law in defining the age of adulthood.

The legal ambiguity and an explanation for the function of law can be found in Foucault's perspective toward the law. Foucault (1978) seemed to be neutral about the role of the law, although he did not discuss the role of law to any great extent in his works. One of his significant works, *Discipline and Punish,* indicates that out of the many separate fields of law, Foucault may have focused primarily on criminal law. From his perspective, the law does not play a role in drawing a clear-cut line to separate two individuals or parties, nor is it aimed at an active prevention of certain activities; yet it is a measure of and more likely to function as a norm. Law, for Foucault, presents a model for people to know how to behave in society. As such, the law creates, supports, and maintains norms and influences regulatory power allocations around a norm (Foucault 1978:144). Foucault, along with some law scholars in Japan, including Hiroko Goto, share this notion, that law should not play the role of an external threat but should primarily serve as a rational model of social ethics. Therefore, these scholars oppose the primary notion of law in society as being punitive but rather of having crime prevention and deterrent functions.

In the book *The History of Sexuality, volume 1*, Foucault (1990) also presumed "power" to be a mechanism of control but not necessarily to be linked with connotations of oppression, domination, or forcible power. Power is circulative and fluid, could play specific roles depending on the situations, and is not equal to law itself. Unlike the idea of law as

123

external forcible power in relation to the individual, Foucault considers the law as the signification or codes of social ethics to be internalized by the individual, which would overcome potential individual alienation within the social system. It implies that citizens ideally internalize the laws of society into their being and thus unify themselves with the law. In this sense, individuals can be the ones who practice power through the normative consensus stemming from the law. As for the concept of childhood, law is left to function in a way that leaves enough ambiguity for people to assume what the purpose of juvenile-related laws is.

However, as observed in the case of *In re Gault*, 387 U.S. in 1967, a conflict between the rights and the protection for juveniles in the legal system brought a question to society, and Japan has been also dealing with the same question when establishing and amending juvenile-related laws. Social work professor Masatsugu Hori (2001), who specializes in rights for minorities, including children and people with disabilities, quoted Karl Marx's concept that rights to liberty formed the basis of a private person's rights, and it was also based on the separation of human beings, not on their unity. Therefore, according to Marx, liberty was limited to each individual's rights or self-interest (Hori et al. 2001:232). Hori pointed out that these sorts of egoistic and individualistic "human rights" were premised on the alienation of individuals from community. He added that if we focused only on securing "human rights" thoroughly, it would not conquer the present critical situation of disconnection between human relations but would accelerate isolation and alienation of human beings. Hori's concern regarding human rights entailing individualistic traits was associated with the abuse of rights and the losses of community and of unity with others. Hori continued that it is necessary to incorporate a human relational perspective into the concept of human rights and to reconstruct it as beneficial to community, as it strengthens human ties. In such community, people support and cooperate with each other while they attain their self-

124

reliance. Hori then suggested that the present protection system for children's rights needs to reject the contemporary individualistic ideas and to function as supporting the community and helping people when encountering and solving problems. This confirms that rights and protection do not conflict with each other as long as we are conscious enough to realize the egoistic and individualistic characteristics within "human rights" and to separate it from the concept of human rights.

In terms of the self and the rights of freedom, Foucault also clarified the concept of ethics to the practice of freedom and to the freedom of "self" that is accompanied with self-discernment, self-formation, self-choice, and self-governing. Foucault (1996:433) said in "The Ethics of the Concern for Self as a Practice of Freedom" that it is more important to consider "the practices of freedom over processes of liberation" because liberation from repressive forces and the practices of freedom are a completely different matter. Liberation always brings with its other forms of power relationships, and they must be controlled by the practices of freedom (Foucault 1996:434). For example, Foucault cited Reich's idea that there is a problem with "desire, drive, prohibition, repression, internalization," and in order to liberate oneself from these prohibitions and such, these should be removed from oneself. However, Foucault (1996:434) opposed Reich, bringing up the question of the ethical problem concerning the practice of freedom. The practices of freedom were such a critical topic for Foucault because (1) people in systems of power relations obtain freedom, and (2) people who are liberated from the repression in states of domination still need to learn how to practice their own freedom, or to care for themselves. According to Foucault (1996:448), there are three levels of power: "strategic relations, techniques of government, and states of domination." The strategic relations imply power relations between more than two parties, which acquire liberties, and the states of domination do not allow others to attain freedom. The techniques of government come in between these two levels, and it implies not only for

institutions but also for individuals, the governing of oneself and one's surroundings. The techniques of government are important for one to know and conduct himself or herself as well as to attain and practice freedom. By using the example of the Greco-Roman world, Foucault (1996:437) indicated that the one who learns and practices the techniques of government is "a free man" who takes "proper care of himself," but also manages himself "properly in relation to others and for others," and this is the ethical relationship and core of the social; therefore, he does not abuse others, does not let his desires gain control over himself, nor manipulate himself into the position of an isolated ego. The care of the self, discussed by Foucault, is a very ethical matter and is not identical with self-love, selfishness, or self-interest. It rather implies mastering oneself through knowing oneself, including one's thoughts, desires, and drives, and to conduct oneself properly and rightfully in society and in one's relationships with others, and to care for the well-being of others. Once one achieves the care of the self, freedom is granted to the person.

In this philosophical idea of the rights of freedom proposed by Foucault, selfishness and self-interest are separated from the practice of freedom, and "the care of the self" ultimately leads to a fundamental concept of altruism. This also indicates that human rights do not conflict with the protection of others, but rather they secure protection based on human dignity and respect for others. In addition, mastering oneself is attained through understanding oneself; this resembles maturing as they both need a certain period of time for one to complete the process. It confirms that we are not necessarily born with a conscience or altruistic traits, and we learn and practice them in the process of growing up. One would see the process from immaturity to learning the practice of freedom as childhood. The juvenile-related laws are to protect and support this period of childhood.

Another perspective toward the law suggests the idea that the law should reflect what citizens expect from social justice, and it directly connects with the social tendency for the

acceptance of the punitive stance that juvenile law takes in Japan. Looking through the three juvenile-related cases I discussed in this research, the imagined general public seems to believe that the law needs to be amended when a majority consensus of the citizens reaches the common realization that the existing law does not maintain social ethics, and accordingly, does not function properly. Although changing law takes the legislative process to be proposed and approved in the National Diet, public reactions were greatly taken into account in the process of amending or establishing the laws regarding those three cases. Those cases are identified as the legal media events that shook the concept of childhood in Japan during the 1990s, with the media functioned as forming, disseminating, and amplifying a specific discourse and a prototype of the persons involved in each event. This research aimed to elucidate how these events and the persons involved were narrated in the media, what their media discourses led to, and how public opinion relate to the judiciary in changing the laws.

Concerning the formation of a prototype, from a psychological perspective, it is said that an individual who fits into a prototype is influenced by its qualities to some extent:

> There is an assimilation of the self to the group prototype. The norms, stereotypes, attitudes, and other properties that are commonly ascribed to the social group become internalized; they become subjectively interchangeable with personal norms, stereotypes, and attitudes, influencing thought and guiding action. (Smith and Hogg, 2008:351)

In this sense, the prototype is created not from within the group but by the external forces or from other groups, such as the media. These forces influence and guide the members of the group in terms of their behaviors and attitudes, and accordingly, the prototype establishes a rigid implication and is reinforced by the members consciously or unconsciously.

This identification with the created prototype is closely linked with the formation of one's identity. Goffman (1986) distinguished two forms of identity: social identity and personal identity and claimed that identity can be changeable or fixable in the later years through interaction with others. He suggested what makes an individual unique and

127

significant from anyone else is "the core of his being, a general and central aspect of him, making him different through and through, not merely identifiably different, from those who are most like him" (Goffman 1986:56). The core of one's being is the pure basics of the self without any ornament and it does not exactly represent everything about oneself in social and personal identities. He pointed out that the social identity is constructed based on the social characteristics that are imputed to the individual, while the personal identity is developed by oneself through the interaction or communication in social groups or community he or she belongs to. Therefore, the meaning of social characteristics, in which the individual is categorized, may be slightly altered in the process of constructing the social identity (Goffman 1986:65). Stigma is a negative label attached to certain social characteristics, and the value system of the society produces and gives the meanings to it. Goffman (1986:65) observed the relation between stigma and personal identity: "The stigma and the effort to conceal it or remedy it become 'fixed' as part of personal identity." A part of personal identity is influenced and modified through the stigma attached to oneself as well as the struggle caused from it.

In Chapter III, I discussed the various discourses from the major to the minor in three media-related events and depicted stigma and social identity shaped by the dominant media representations within the field of juvenile delinquency. It is clear that the major media discourses produced and widely disseminated the prototypes of juvenile offenders and schoolgirls who were described as being nefarious and cunning, but also superficial and shallow. Countering discourses appeared from the experts, including the lawyers and the scholars, who criticized the media's excessive coverage and misleading information on the events and the individuals. They attempted to introduce different narratives, such as voices from the persons involved, to overturn or modify the prototypes; yet, their voices were not reflected in the dominant media discourse. It is also assumed that the juvenile offenders

128

learned discrimination or hatred toward them through the prototypes shaped by the dominant media discourse, and that their social and personal identities were affected and reconstructed by them. Such prototypes have been functioning as inciting the public sentiments of fear, anger, and contempt on juvenile delinquency and crime since the late 1990s, and it is not easy to make an intervention and change the relation among the media reports, the circulation of the prototypes, and the formation of public opinion.

However, as pointed out in Chapter IV, it is important to note that the juvenile crime rate has drastically changed and decreased in number for the past 20 years, though its public image has been fixed or even intensified as crueler or rising, mainly via social media, since the 1990s. This contradictory relation suggests two possible assumptions: that there is a type of powerful and influential images accepted and penetrated in society, and that correct information is not properly transmitted and disseminated in the media. The terms "correct" and "properly" hold the key to this relation, since it is a matter of which information is selected and how it is conveyed to the public. One incident is chosen over the others and repeatedly and excessively reported by the media for years if it is considered to be newsworthy and important to be remembered. Through this process, one incident stands out among other cases and becomes a symbol to dominate the media discourse within the field of criminal justice. This applies to the Sakakibara Incident and the Hikari City Incident, and it is very problematic for the media to single out only a few incidents and to let them represent all juvenile crimes since they were extraordinary cases and needed more careful and thorough inquiries to find out the cause and prevention. Therefore, even if the media transmits a fact or correct information to the public, there will be misunderstandings caused by the media report unless the transmission is conducted "properly." There is no doubt that, being led by the media discourse, misunderstandings toward juvenile crime penetrate into the general public.

Public misunderstandings correlate with problems with information transmission and dissemination through the media, yet this seems not a serious matter to be taken into account for the judiciary or the central government, or they might not be aware of this issue in the first place. Since the late 1990s, the Juvenile Act has been amended three times to respond to public opinion, and this fact indicates that public misunderstandings possibly caused or influenced the changes to the juvenile justice system. As Foucault implied, the function of the law is a normative guideline; the Juvenile Act is one of the measures to display a boundary between adults and children. Hence, the public misunderstandings and the amendments of the law ultimately led to changes of the concepts of childhood and of rights and responsibilities, and children came to be considered as more responsible, autonomous, and independent individuals in Japan. This specific adultification did not voluntarily arise from children themselves, but was intentionally or unintentionally conducted by external forces, such as the media and the central government. Children are forced to become adults rather than educated and supported by society, and they are pushed to hold responsibility for all their actions. They are expected to behave well and control their emotions, and the words, "being immature," are not necessarily for them, even though they are often used to describe one of the personal characters or the antithesis of well-trained individuals.

In the discussion of lowering the voting age, there was an assumption that children over 18 may gain more respect by having equal rights with adults. There is a widely held notion of human rights as essential for all human beings, including children, to be equally treated with dignity and respect by others. Blurring or moving the boundary between children and adults implies entitlement for children; yet what is occurring around juvenile delinquency in Japan does not result from this notion but from societal neglect, marginalization, and exclusion. It is said that most juvenile delinquents are traumatized by their childhood experiences, including poverty, domestic violence, or bullying, and they did not receive the

proper support or help from the social system at the time of the event (Goto 1999:87-88, 125-127, 212).   If a child suffers serious violence and poverty in a severe family environment, it is essential to save him or her by providing proper support and securing a safe living environment at an early age, and this is a role of the society. However, this social responsibility was defective in most cases of juvenile delinquents; they barely survived in their severe family environment without a safety net and easily fell into a criminogenic situation. Children are not able to independently grow up nor ask others for help on their own. If they are left alone in society, it means social responsibility is abandoned. If juvenile delinquents in the abandonment of social responsibility are blamed for their crimes and given the same punishment as for adult's case, it means the society is dysfunctional and exclusive.

The comments like, "it's their fault" or "they deserve a severe punishment," are often heard or read in regard to people who commit crimes, including juvenile delinquents, and they emphasize the importance of the concept of self-responsibility in society. Hall et al. ([1978] 2013:xiv) pointed out that labeling such people as "different" or "other" from their own group is used to blame them for their problems, and it deepens stereotyping and discrimination against them. As explained earlier, this is the characteristic of neoliberalism, which personalizes social matters and accordingly neglects the aspect of social welfare systems. This major discourse of self-responsibility leads to the public belief that juvenile offenders are the ones who own full responsibility for all of their acts, that the crimes are attributed to their familial or personal matters, and that the imprisonment or exclusion of offenders is the only solution to protect social security and safety. Even if this public belief seems convincing for social control, another option is also available for the solution, and that is to extend and strengthen the support systems for former and potential juvenile delinquents. It is absolutely essential to conduct a careful inquiry to ascertain why the crime occurred, how it could be prevented from happening, and what social initiatives we need for prevention.

This is not only to confirm which approach, marginalization or inclusion, is more appropriate to take for social control, crime deterrence and prevention, and future society, but also identify whether Japanese society moves toward being more exclusive or inclusive, divisive or cooperative, and intolerant or tolerant. The logic of self-responsibility and neoliberalism challenges the fundamental concept of human dignity.

If applying Foucault's concept of "the care of the self" to the nation, for each of us mastering our society means learning our society, including the facts, the social issues, and various voices and initiatives, to conduct the society in a proper and rightful way through the representatives voted into office by us, and to care for the well-being of others inside and outside the country. This is how societal maturity is developed and how we attain freedom by achieving "the care of the self," according to Foucault. The idea of "the care of the self" overlaps with the process of reaching maturity for individuals from child to adult, and it is key for them to learn altruism through the process. If this process is ignored, taking childhood away, and pushing the adultification of children, this will suggest social neglect toward the children, allow individuals to halt maturing, and blur the boundary between adults and children. One of the concerns I express here is that we no longer discuss the definition of being a child or being an adult in terms of mental maturity for the purposes of determining legal treatment. The media contributed to the shape of the public belief that juvenile offenders are a threat to society and must be excluded by force of law; and in this discourse, the statutory power over juvenile offenders is the main focus, not discussing the characteristics of mental growth and development in childhood. If age is just a number without concern for a perspective of mental growth, what will being a child and the concept of childhood represent or indicate in society? While the concept of self-responsibility invaded the sphere of childhood in neoliberalism, children are expected to be (and represented as) innocent and vulnerable, but also sensible and good-natured, and not to threaten society.

Juvenile delinquents do not meet this expectation, but rather they are depicted as inhumane, brutal, evil, and a threat to society in the media discourse. With these depictions, it is natural that they are marginalized and excluded as others and that they lose their place in society. Yet, we need to slip through the deception of this media discourse and to be reminded of a critical but easily forgotten fact: that children, including juvenile delinquents, are members of society, and they are the ones who will build a future society. How they are treated in society will reflect the next generation to some extent. If categorization and division within the members of society are more encouraged, it will result in exclusion, marginalization, conflict, and possibly more crimes in the future. If inclusion and diversity of society are prioritized in order to prevent more rifts and violence, it will lead the members to halt the binary oppositional discussion and to make concessions, understand, and support each other through dialogue. What kind of future we will have depends on children, and what we need to do is not to impose self-responsibility on individuals, but to carefully observe which direction, exclusive or inclusive, our society is going and to think through together about what consequences we will have in the process. Also, it is important to question, what could have happened if the media had played a different role or functioned in other ways. We are in an era where everyone is able to perform the function of the media, to convey information or messages to others. Besides the problem with accuracy of information, it is necessary for us, as information receivers and senders, to proactively reconsider and reconstruct the role of the media to create the future society. Concerning media literacy, as pointed out in Chapter IV, since the social network services became popular and the main communication tools in our life, we have adapted to making quick judgments through media communication, though this quickness has caused poor judgments of individuals and accordingly, serious social problems, including online harassment and dissemination of fake news. It will also be a critical point for future society as to whether we improve or conquer our speed in making judgments, whether

we practice more conscience and literacy to observe the events from various angles, and overall, to master ourselves. This will not happen in one night, yet it is the role of academics to keep reminding the public of the importance of care for us and care for our future society, and to attempt to lessen or solve conflicts.

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