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Japanese Juvenile Justice: An Exploratory Look

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This Honor's thesis entitled

"Japanese Juvenile Justice:
An Exploratory Look"

written by

Kym Rutherford

and submitted in partial fulfillment of the
requirements for completion of the
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meets the criteria for acceptance
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Thesis Director

Second Reader

Third Reader

Director of the Carl Goodson Honors Program

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**JAPANESE JUVENILE JUSTICE:
AN EXPLORATORY LOOK**

A Research Thesis
Presented to
The Carl Goodson Honors Program
of
Ouachita Baptist University

In Partial Fulfillment
of the Requirements
for the
Bachelor of Arts Degree
(Graduating with Honors)

by
Kym Rutherford
May 1993

"Among industrialized nations, Japan has the lowest crime rate and is considered to have one of the best criminal justice systems in the world" (Thorton, 1992, p. 471). If this statement is true, what can the United States learn from Japan about crime reduction?

Discussion shall focus on the chosen topic of juvenile justice. Two key questions arise when dealing with the overriding question of what the United States can learn from the Japanese justice system. First, what are the cultural factors that influence juvenile crime behavior in Japan? Second, how do the Japanese respond to their juvenile delinquents?

What are the cultural factors that affect juvenile crime behavior? This fascinating question can be approached from several directions. The first, and most directly is to examine the psychology of Japanese society as a whole. The second, is to pursue the effect that the all-encompassing ethos of shame and groupthink plays upon the youth culture.

The Japanese are considered one of the most

"civilized" industrial nations in the world today.

Judiciously speaking:

According to INTERPOL statistics, Japan has the lowest crime rate in the world (1,139 per 100,000 people, compared to 3,000 in the U.S. and 4,000 in England). During the five year period between 1960 and 1965, crime increased by 55 percent in Great Britain and by 40 percent in the U.S., but it decreased by 2 percent in Japan. (Seward, The Japanese, 1971)

The Japanese are a very unique people within the contemporary global community in which they dwell. The Japanese have managed to progress from antiquated imperial society bound by ancient custom and tradition to a modern, economically powerful society bound by ancient custom and tradition. The keys to organizing society which seem to have remained constant over the centuries in Japanese history is the importance of shame, groupthink, and unquestioned submission to authority.

The Japanese have long been a people who, as a whole, hold the importance of "saving face" above all else. Upon this tenet, all other virtues seem to rest. Honor is based on doing that thing which does not bring shame to oneself and even more importantly to ones family. Until recent times, it was not uncommon for an individual to commit hara kiri (suicide by slitting the

abdomen) to avoid bringing shame to the group. Even though hara kiri is less common, suicide or resignation of one's post to save face remains relatively commonplace.

Shame could be brought about in numerous ways. Primarily, an individual could bring shame upon self and others by falling outside of the accepted norm in some area. For example, if an individual did not perform up to par in school or at work, the entire family would be shamed. The need to remain within established norms promotes the idea of groupthink which is prevalent in Japan. Groupthink is the tendency for individuals to ignore or lose their ability to discern personal opinions or desires.

Submission is also a result of the desire to avoid shame. Submission to authority is viewed as a supposed natural response. Much of the reasoning behind this can be seen in examining the substance of a traditional Japanese saying, Hi-ri-ho-ken-ten.

The five characters of the phrase were used by Kusunoke Masahige as a flag insignia. During the war, the phrase was frequently shouted by commanders of suicide units and was used as a flag insignia for such units. 'Hi' signifies injustice, 'ri' means justice, 'ho' stands for law, 'ken' means authority, and 'ten' denotes the 'Way to Heaven'. The whole

phrase implies that injustice is subject to justice, justice to law, law to authority, and authority is subject only to the Way of Heaven. An admonishment to the warriors of the Tokugawa period says that these five concepts should always be kept in mind, otherwise "one would make mistakes on how things accord with reason."

The idea that although authority and power never transcend the Way of Heaven, they are more powerful than law and justice in human society and it is therefore unwise to oppose them, has been deeply instilled in the minds of the Japanese since the Tokugawa period. The lesson of submission was the first policy of the ruled; they learned to hide themselves by submitting, letting authority wrap and swallow them. (Minami, 1971, p. 3)

The type of submission to authority that is unfettered by reason discussed above can best be illustrated by an incident which occurred on December 10, 1968.

Four bank employees were carrying three hundred million yen the equivalent of 833,333 dollars to the Toshiba company to pay end of the year bonuses to the workers. All of this amount was in cash because Japan is a cash society. When the group passed the Fuchu Prison a police officer on a motorcycle waved them over to the side of the road. The officer said that the bank had just called to say there was a bomb in the car. The bank employees immediately ran to the ditch for safety from the blast without even a second thought about the safety of the large sum of money. At that time the officer

simply got in the car and drove off with the largest bank heist in Japan's history (Seward, 1971, p. 2). It had never even occurred to the bank employees to question the "police officer." This being in large part because the Japanese are taught to simply obey authority without question.

The aforementioned factors of shame, groupthink and unquestioned submission to authority would seem to be the ingredients desired to create a law and order utopia. But as Minami wrote, "a submissive spirit is created by imbuing the minds of the people with a terror of vested authority by using words and violence rather than by teaching virtues" (1971, p. 4). The problem lies in the balance of fear and virtue. As long as fear of shame remains an all encompassing factor in the minds of individuals, law and order remain. For whatever reason, when fear of shame loses its grip on an individual there is nothing holding him or her back from doing whatever he or she pleases because he or she has not been taught why certain things are not permissible.

Michael Shapiro, an American journalist who lived in Japan had this to say about the Japanese method of maintaining order:

Japan was a reactive society: people were reactive not to faith or doctrine but to one another. To react differently was to be suspect. To be suspect suggested selfishness, willfulness, and a general unwillingness to be a good and productive member of society. It was possible to be different-as long as you could be different together. By being different together, you were still reacting the way the others around you were reacting, and were thereby spared the pain of being not only different but also alone.

Indoctrination in the virtue of conformity--and the threat of separation from the group--began at a tender age: I remember watching a Japanese child throw a tantrum at a party. The child lay on the floor, screaming, crying, and kicking at his mother, who stood above him. She did not pick him up, or in any way try to restrain him. She simply said, "Everyone is going to laugh at you."

And that was all she had to say (Shapiro, 1989, p. 54). Parents are motivated not only culturally but also legally to teach their children to stay within the law. While the Japanese believe that one person cannot be held responsible for another's actions, they do believe a parent who raises a child who commits a crime has failed as a parent. Japanese courts sometimes fine parents for crimes committed by their children (Reynolds, 1984, pp. 19-20). While this practice generally would be unacceptable to Americans (because they hold individuals responsible for another's actions), it is permissible to the Japanese. Parents have certain roles they are expected to perform, one of which is raising an obedient

child. If that child is not obedient, the fault lies in part with the parenting. For this reason, Japanese parents are held responsible for the actions of their children.

Up to this point, only those cultural considerations which promote the order and obedience of the Japanese people, and Japanese juveniles in particular, have been discussed. Just as there is no utopian society, there is also no perfect set of cultural conditions which work solely to establish peace and harmony. Some of the very things which promote submission to authority in some have the opposite effect in others.

One such theory is discussed by Seward in his book, More About the Japanese (1971). This theory is known as "the Japanese curve of freedom." In America, children begin life with many restrictions placed on them. As they grow older they are slowly given more freedom as they begin to make their own decision and take responsibility for their actions. This freedom peaks in the adult years when individuals are allowed run their lives how they see fit. The freedom remains high until the end of their lives unless physical or mental incapacibilities cause dependence on others in the later

years.

In Japan, however, the curve of freedom is directly opposite of that in the United States. As pre-school children, the Japanese have very few restrictions put on them. Until Japanese children enter school basically they are allowed to do as they please. At about the age of ten, the pressure begins. The fierce competition in Japanese schools forces youngsters who have previously been undisciplined to become single-minded in their pursuit of education.

For the Japanese, the pressure of getting a good education begins early. Each child must work to be the best in his or her primary school in order to get into a quality intermediate school. The child must then work even harder in intermediate school to ensure placement in a good high school. Finally, the child must excel in high school to be admitted to a prestigious university.

The entire schooling process up to and through high school is one of the most stressful times for the Japanese because the rest of their lives is profoundly shaped at this time. In Japan, getting into the right college is very important because companies tend to choose their employees on the qualifications of the

university rather than the qualifications of the student. Japanese employees tend to stay with the same company their loyalty. In general, Japanese companies consider success more of an honor for the entire division or company than for a single individual.

Unlike American schools, the greatest degree of learning in Japan takes place before entering college. Japanese students who are about to enter a university, or currently are attending a university, have a chance to let down their guard a little. The only respite of freedom between childhood and old age comes at this time. Many see college as the only chance they have to be their own master. During the college years, societal pressures toward conformity are diminished. This is one explanation for the rather large numbers of occurrences of student protest in a country that sees compliance and submissions as two cardinal virtues (Seward, More, 1971, p. 125).

In recent years there has been a slight increase in juvenile crime in Japan. The increase is:

. . . largely due to an increase in the amount of property crime committed by juveniles. An examination reveals that in 1988, 76 percent of juvenile offenders were arrested for larceny. Violent crimes such as rape, assault, robbery, and

homicide are relatively rare. An exception to this finding has been reports of assaults against other students and teachers in junior and senior high schools. There are also reports of violent attacks by children on their parents, something incomprehensible in traditional Japan. These offenses are attributed in part to the pressure-cooker stress of Japanese educational requirements and the emphasis on doing well. Parents, teachers, and other students are often targets of students who do poorly. (Thorton, 1992, p. 474)

Much cultural baggage brought into one's occupation. Police officers see their jobs in the context of what society considers a peaceable and ordered society, and their own personal conceptions of what their own society is like. This cloud of preconception that envelops each individual works to shape responses to things which occur.

One example of this can be seen in the reaction this author received to a question in an interview with several of the top officials in the Juvenile Crime Division of the Fukuoka Prefecture police headquarters. These men, who dealt with juvenile delinquents every day, obviously were products of the Japanese cultural patterns of groupthink and the supremacy of the group over the individual. First, picture me, an American college student in a foreign country, who does not speak a word of the native language, trying learn something--anything

that I can--about Japanese juvenile justice. An American missionary living in Japan, and a Japanese national who spoke English befriended me and agreed to join me in order to translate. In a small back office of the headquarters building, three juvenile officials of the prefectural police (in Japan, a prefecture is similar to an American state) drank their coffee and discussed the various aspects of crime control in Japan. I listened attentively trying to appear confident while all the time frantically scrambling in my mind to come up with questions that would turn the conversation from a repetition of the things I already knew to a direction which would bring insight into my exploration.

I then asked a question which, to my American mind, was very routine, "Well then, what would you say is the percentage of faceless crime in Fukuoka?" The missionary translated and the men began to discuss their answer in Japanese. The discussion continued fervently for two or three minutes until the official, through the translator, referred the question back to me asking what I meant by "faceless crime."

Assuming the term "faceless crime" was difficult to translate I explained my question in other words. I

asked what percentage of crimes involved people attacking strangers to harm them or steal from them. Again, there was another period of discussion when finally the ranking official turned to me and explained they really did not know. He wanted to know why people would attack someone they did not know. He said that violent juvenile crime typically involved gangs or individuals seeking retribution for real or perceived wrongs committed against themselves by other gangs or individuals.

Americans may find it difficult to comprehend a place where even policemen have a problem with the concept of faceless crime. In the American judicial system, faceless crime is rampant. On the nightly news, the nation can hear of horrible crimes committed against unsuspecting victims daily. Many people who commit these crimes are juveniles. Law enforcement and judicial officials in Japan also have these problems with which to deal. How do the Japanese, coming from a different cultural mind set than Americans, deal with their problems of juvenile crime?

At the outset, it is necessary to clarify terms. A juvenile, in Japan, is any youth between the ages of fourteen and twenty. Youths under the age of fourteen

are categorized either as "lawbreaking children" or "pre-offense juveniles." A lawbreaking child is one under the age of fourteen who commits capital crimes. A pre-offense juvenile is one who commits status offenses, such as running away from home, violating curfew, or being truant (Champion, 1992, p. 475). Juvenile justice presents similarities and differences:

Youths present special problems for the police in Japan, as they do in most countries. Young people in general tend to be antagonistic toward police authority but the challenges for the police arise from more than this. Crimes and delinquent acts committed by youths are of particular concern because of the future consequences to society if the young offenders grow to be hardened adult criminals. Special efforts are thus made to rehabilitate youngsters who commit crimes or acts approaching crimes so that they can become productive members of society when they reach adulthood. The police place great emphasis on the prevention of juvenile crime and delinquency, and they employ a variety of techniques, ranging from counseling of youths by police officers to encouraging the extensive involvement of families, schools, companies, and neighborhoods in preventative efforts. These approaches meet varying degrees of success. (Ames, 1981, p. 77)

The highest court in Japan is the Supreme Court of Japan. Eight High Courts have jurisdiction under the Supreme Court. There are fifty District Courts below the High Courts. Finally there are Summary Courts and Family Courts. The Summary Courts deal with minor crimes and

the Family Courts deal with juvenile and family matters (Champions, 1992).

However, before a juvenile offender reaches the court system other options can be chosen:

Police also exercised wide discretion in matters concerning juveniles. Police were instructed by law to identify and counsel minors who appeared likely to commit crimes, and they could refer juvenile offenders and of nonoffenders alike to child guidance centers to be treated on an outpatients basis. Police could also assign juveniles to special family courts. These courts were established in 1949 in the belief that the adjustment of a family's situation was sometimes required to protect children and prevent juvenile delinquency. Family courts were run in closed sessions, tried juvenile offenders under special laws, and operated extensive probationary guidance programs. Young people between the ages of fourteen and twenty could, at the judgment of police, be sent to the public prosecutor for possible trial before a judge under the general criminal law. (Seekins, 1992, p. 471)

Those who are reprimanded to the courts, therefore, are dealt with in a parental way. Judges in the juvenile courts have a wide berth of discretion in dealing with their cases. Generally, they seek what is in the best interest of the child rather than pushing solely for punishment (Champion, 1992). Judicial officials--knowing full well the importance of every aspect of juvenile's experience in the penal system to the youth's future

development, as an asset or liability to society--are keenly aware that the overriding goals of rehabilitation and restoration of the delinquent.

There are several options open for judges in dealing with juvenile delinquents. The judge can issue verbal warnings, community service, or put the juvenile on probation. In many cases, the juvenile and/or the juvenile's parents can be ordered to seek counseling at a Child Guidance Center. The judge can also place the juvenile in a Child Education and Training Home which would be somewhat equivalent to a group home in the United States. Another more severe option is for the judge to place the juvenile in a Juvenile Training School. A Juvenile Training School is a secure detention facility divided according to age groups. Here a juvenile receives vocational and educational training. Finally, most severe of possible punishments a juvenile could receive is placement into a Juvenile Prison. Detention in a Juvenile Prison is usually short term, typically less than six months (Champion, 1992, p. 477).

The nature of the Japanese juvenile justice system provides an atmosphere of jurisprudence that allows very few juvenile offenders to slip through the cracks of the

system. For instance, the average clearance rate (the rate of individuals arrested or successfully summoned for investigation) for all penal offenses in 1988 was about seventy percent, which is significantly higher than the average American clearance rate of nineteen percent. Moreover, ninety-nine percent of the cases brought before the court are prosecuted. Prison recidivism rates are also substantially lower than those in the United States. However:

crimes committed by juveniles under 20 years of age have also fluctuated, increased during more recent years. . . . The number of juvenile (and adult) nontraffic penal offenses cleared by the police in Japan and the rate per 1,000 since 1966. The percentage of juveniles among the total offenders did not increase significantly until the beginning of the 1980s. Currently, 53 percent of total cleared penal offenses involve juvenile offenders under the age of 20. (Thorton, 1992, p. 471)

In twenty-eight salient characteristics of juvenile characteristics the United States and Japan were compared. Differences occurred in only six of the twenty-eight categories. The age of accountability of juveniles for Japan is twenty while it varies in the United States from eighteen to twenty-one. In Japan, the juvenile adjudicatory proceedings are always closed to the public while it is optional in the United States. In

the United States, electronic monitoring of juvenile offenders and home confinement are used as rehabilitative and/or punitive measures. These methods are not employed in Japan. Jury trials are optional for juveniles in the United States. Jury trials are allowed for juveniles in Japan. Juvenile justice officials in the United States are permitted to plea bargain cases while those in Japan are not. Predisposition reports must be filed in Japan. They are optional in the United States (Champion, 1992, p. 488).

The aforementioned differences are minimal when compared with the similarities delineated by Champion (1992). Both the United States and Japan have the following things in common in their respective juvenile justice systems: use the death penalty, have a separate juvenile court system, employ the use of suspended sentences, use fines as punitive measure, sentence some juveniles to community service, have classification schemes for juvenile offenders, and use nominal sanctions in some cases. They both also: have defense counsel available for juveniles, place the burden of proof of guilt upon the government, have intermediate punishment options, permit appeals to higher courts, use pretrial

detention, and separate juveniles from adult offenders in pretrial detention. Finally, the United States and Japan: make provisions for bail, allow the use of discretionary police cautioning, uphold a right to notice of charges, uphold a right against self-incrimination, employ the use of waivers to criminal courts, use probation as a rehabilitative or a punitive measure, and put juveniles on probation after they are released from various detention facilities.

In this precursory look at the Japanese juvenile justice system, there are no glaring differences in the way Japanese deal with their juvenile delinquents and the way Americans deal with their juvenile delinquents. Yet it is still clear that juvenile crime is much higher in the United States than in Japan.

Japan is perhaps the least punitive in its sanctioning options against its juvenile offenders. However, Japan also has one of the lowest rates of juvenile offending compared with these other countries [Great Britain, United States, and the Soviet Union]. (Champion, 1992, p. 489).

The fact that juvenile crime is lower in Japan than the other industrialized society brings into question mainline theoretical assumptions about the "relationship between such independent variables as industrialization,

modernization, and population growth and the dependent variable, delinquency (Thorton, 1992, p. 476). Charles Fenwick addresses this issue:

Japan is modernized, affluent, congested and highly urbanized with a standard of living that is similar, to a degree, to some Western societies. Moreover, comparisons are not minimized by differences in the number of social structural characteristics, i.e., levels of complex technology, rates of literacy or dominant modes of capitalistic production. In fact, after reviewing the Japanese experience, one should really start to question a number of specific independent variables that have been hypothesized in the explanation of increasing rates of interaction, modernization, industrialization, violent past national history and high levels of television violence. All of these factors have been present in Japan and their levels have been somewhat equivalent. (Thorton, 1992, p. 477)

The question still remains, "What can the United States learn from Japan in the area of juvenile justice?" Perhaps nothing that has implication for practice in the United States can be learned from Japan. The overriding factors which determines the relatively low amount of juvenile crime in Japan are the cultural influences of shame and finding worth only in the group. America will want no part of this solution to its crime problems, because its primary values are pride and individualism.

At the very heart of America is the freedom of

thought and action. For those who founded America and those who are born and raised here today, the freedom that America provides is cherished. The pride and individualism so treasured by Americans can even make a big impact on visiting people from other countries.

Mayumi, a native Japanese student from Senin Gaukin University in Fukuoka Japan, visited Ouachita Baptist University as part of an exchange program for nine months. She was so infected with the American culture that when she returned she found it very difficult to readjust to her own culture. Several days after she returned to Japan, Mayumi commented that she had almost forgotten how to be respectful (respect being a cornerstone of the Japanese culture). American pride is catching and very difficult to get rid of.

This preliminary study attempts to establish the similarities and differences of the Japanese and American juvenile justice systems. It has been shown that great similarities exist in the respective juvenile justice systems while great differences exist in the two cultural backgrounds. With these parameters establish, one can better understand which direction to next examine.

A suggested area for further study on this topic

would be to choose a specific area of juvenile justice, perhaps counseling centers, and gather in-depth information about those used in Japan and the United States. Time accrued in the adjudication process in which they counselors are employed, and the methods used for counseling and rehabilitation could be compared. This specific process could be repeated for many areas of juvenile justice. Perhaps in this manner, key differences could be found between the American and Japanese juvenile justice systems--differences not obvious from a cursory comparison of overall structure and goals.

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