

Crime and Punishment in Japan: From Re-integrative Shaming to Popular Punitivism

Tom Ellis, K. HAMAI

Crime and Punishment in Japan: From Re-integrative Shaming to Popular Punitivism

By Thomas Ellis & Koichi HAMAI

In the late 1990s, press coverage of police scandals in Japan provoked policy reactions so that more 'trivial' offences were reported, and overall crime figures rocketed. The resulting 'myth of the collapse of secure society' appears, in turn, to have contributed to increasingly punitive public views about offenders and sentencing in Japan.

Since the Second World War, Japan has avoided the correlation between rising crime and increased affluence that has afflicted other comparable advanced democratic economies. This has prompted other countries to investigate to famous *koban* 'community policing' principle and to look at notions of re-integrative shaming, which were seen as prevalent in dealing with Japanese offenders. However, since the late 1990s, the Japanese press and public have lost confidence in their public safety and the effectiveness of the criminal justice system. Public opinion surveys show that fear of crime among the Japanese has risen. This perceived rise in crime, which is reflected in a 44% increase in recorded crime between 1995 and 2004, is generally associated in the Japanese press with the economic slump during this period, and a subsequent collapse of traditional community-based society. A major watershed was the way in which police investigative competence was questioned by the press at the end of the 1990s, and the early

2000s, also saw a heavy press focus on a rising tide of youth violence and mass killing sprees.

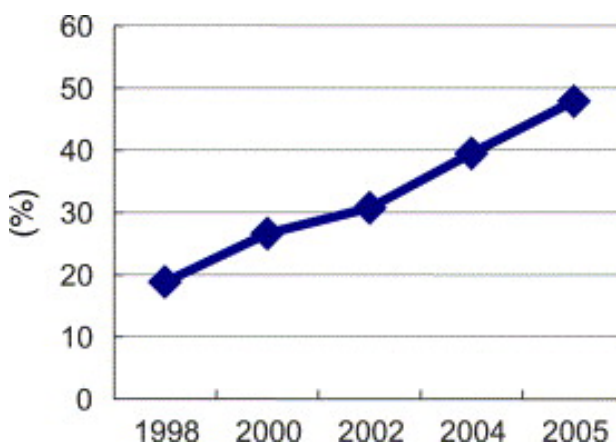


Figure 1. Public Opinion: 'the crime situation is worsening.' Source: Cabinet Office, 2004.

In 2001 the then Japanese Prime Minister, Koizumi Junichiro, was moved to state, [1]

'...in order to regain the trust of the people that 'Japan is the safest nation on the planet', the government is enhancing its measures to prevent violent crimes.'

And in his General Policy Speech to the 161st Session of the Diet on October 12, 2004, Koizumi said;

'we must revive "Japan, the safest county in the world" through enhancing anti-crime measures.....We will review the Penal Code to strengthen sentences for malicious crimes such as murder and criminal assault.'

A key question now for both academics and for Japanese politicians is whether Japan's status as

a low crime country is a myth or whether Japan has simply taken longer to conform to the almost law-like link between increasing development and increasing crime as observed in most other developed countries.



A man wielding a knife killed at least eight pupils in a rampage at their school in western Japan, June 2001.

The evidence we have compiled indicates that the Japanese press, like the press in most comparable countries, is presenting a partial and inaccurate picture of current crime trends, but that the moral panic created by such coverage has had a very real effect not only on public perceptions but also on criminal justice policy and practice. Moral panics occur when societal change is rapid and existing social and economic structures appear threatened, as in Japan throughout the 1990s.

While direct causality is difficult to 'prove' on such a broad scale, we present evidence and analysis to suggest the following train of events, as represented in the figure below.

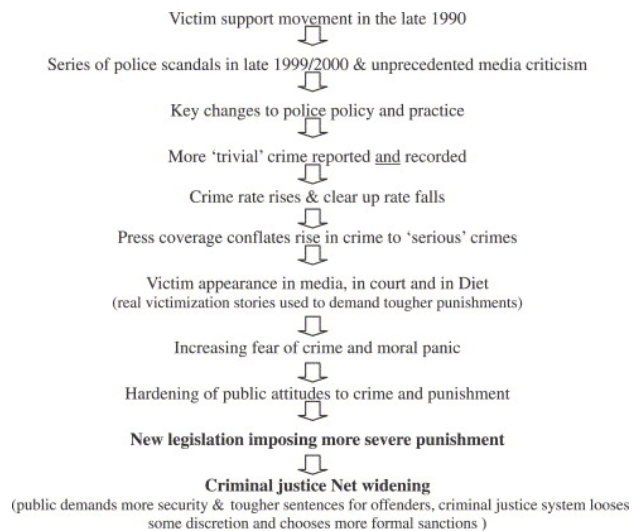


Figure 2. Deviancy amplification/signification spiral in Japan

The current 'panic' has been created by the same processes documented in other countries, in that taken-for-granted existing practices are exposed as a result of sudden and unusual degrees of scrutiny, rather than changes in the practices themselves. In Japan, the impact of the press focus on police competency scandals, and ultimately about effectiveness of the criminal justice system, started a train of events that has led to a severe mismatch between perceptions and actual levels of risk of victimization. At under 2 million offences for a population of over 120 million, Japan still has a comparatively low crime rate, and victim surveys, which also capture unreported and unrecorded crimes, tell the same story.

The key police scandals that started the train of events discussed here were the Okegawa stalker murder in 1999 and the Tochigi lynch murder in 2000. In both cases, victims were killed mainly because of police inaction, evidencing the downside of *kaiketsu* or 'informal resolution', so favoured in western accounts of re-integrative justice. In reaction to sustained media coverage and criticism, the National Police Agency (NPA) showed a new willingness to accept their responsibility and even lack of

competence. The NPA developed a new policy and issued instructions to prevent similar future events by requiring officers to accept and investigate all public reports of offences. This resulted in a dramatic rise in the number of ‘incidents’ recorded at police consultation desks, as Figure 2. demonstrates.

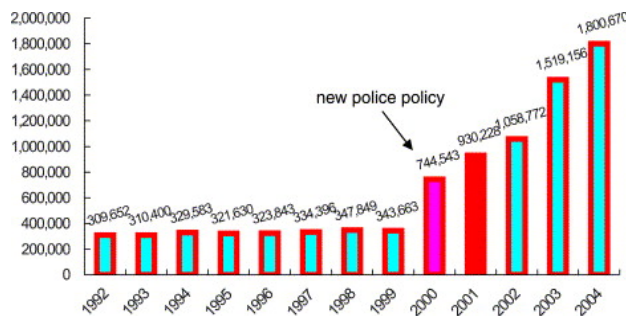


Figure 3. Number of Incidents Reported to and Recorded by the Police, 1992-2003. Source: The White Paper on Police, 2004.

However, rather than the rise in relatively trivial crimes, the press focused on homicide and violent crime, which are the types of stories with high ‘news value in Japan and elsewhere. The general rise in recorded crime was therefore linked to a higher likelihood of becoming a victim of specific serious crimes, and a lower chance of the crime being investigated and solved. The 2002 White Paper does indeed show the number of all reported violent crimes rose by just under 80% between 1991 and 2001. However, a key factor here is that 90% of these resulted in only minor injuries. For instance, most of the increase in reported violent crime was due to the enormous increase in the reporting of less serious violent crimes, encouraged by the NPA’s new policy, the impact of which Figure 3 demonstrates.

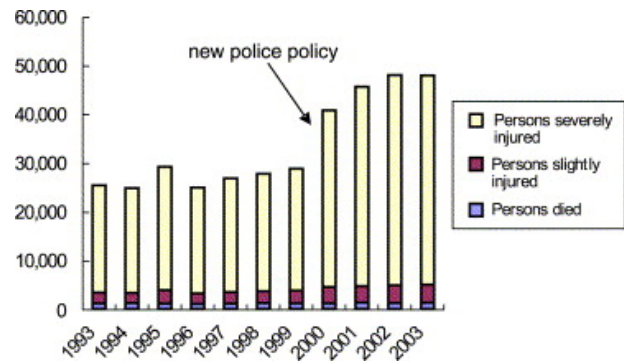


Figure 4. Trends in series and minor injuries as a result of crime in Japan, 1991-2002. Source: White Paper on Crime, 2003.

The NPA policy shift since 2000, toward encouraging greater reporting of minor offences has produced a large increase in overall recorded violent crimes that are virtually unsolvable and this has devastated the police clear up rate. In reality, International Crime Victims Surveys show that the risk of becoming a victim (including of violent crime) between 2000 and 2004 was generally reduced, but the proportion reported to and recorded by the police increased. These surveys also show that Japan has the lowest victimization rates for robbery, sexual assault and assault with force. Further, the homicide rate, which is one of the most reliable crime statistics, shows a downward trend since the 1980s, and the clear up rate has remained consistently above 90%. However, like the public elsewhere, the Japanese public rely more on media sources for opinions on crime than they do on objective sources. As Figure 4. shows, there is no clear relationship between the trends in homicide rates and the number of press articles relating to them, again supporting a notion of moral panic.

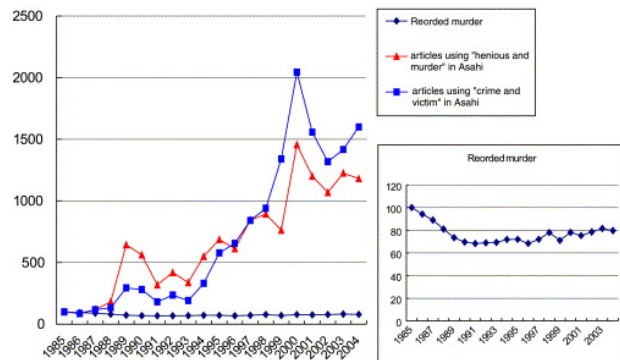


Figure 5 Trends of recorded murders and articles on "heinous crimes and murders" and crime victims. Source: IDNA Data Base White Paper on Crime. Note: All figures are re-calculated as (the number of each year/the number of 1985)x100.

As with most comparable nations, the Japanese public's fear of crime is not in proportion to the likelihood of being victimized. What is different is the scale of this mismatch. While Japan has one of the lowest victimization rates, the International Crime Victim Surveys (ICVS) indicate that it has among the highest levels of fear of crime. The Japanese moral panic about crime has been extremely durable in the new millennium. Some now claim that the panic perspective has become institutionalized in Japan and that there has been collapse of the pre-existing psychological boundary dividing experience of the ordinary personal world where crime is rare, and another hyper-real world where crime is common.

To understand the public perception, in addition to press coverage and representations of crime, it is also important to understand the contribution of the victim support movement in Japan. As was the case in most other developed countries, victims of crime were relatively neglected in the Japanese criminal justice system until relatively recently, but in 1996, the National Police Agency issued guidelines on how to deal with victims properly and to avoid secondary victimization by police inaction. Since then, the victim support movement, in both

private and public sectors has grown very rapidly and the press is now far more interested in representing the victim perspective in print. As a result, victims and/or bereaved family members are far more visible to the public.

The combined press and victims movement, rather than objective evidence, has had a direct impact on government. Two pieces of legislation were enacted on 1 December 2004, one to enhance treatment of victims of crime and the other to toughen punishment for offenders. The former 'recognizes' that the risk of becoming a victim is now greater for ordinary Japanese citizens, while the latter increased sentence length for violent crimes, and is explicit both in its belief that this will provide greater deterrence and in recognising the demands of victims. The 'Iron Quadrangle' between: the media; victims and advocates; National Police Agency and politicians; and experts (lawyers and psychiatrists), has institutionalized the enduring concern about crime and the idea that Japanese society is now in constant danger. It is certainly clear, from the ICVSs, that the Japanese public believe that crime is increasing rapidly, and that this has had led to more punitive attitudes to sentencing. Far from having a re-integrative perspective, they were the most likely choose custody as a way of reducing youth crime and second only to the USA in asking for custodial sentences for burglars.

In sum, the evidence shows that Japan still has a low crime rate, and an especially low rate for violent crime. However, the Japanese public has low confidence in its safety, a high level of fear of crime, and a very punitive attitude toward offenders. The high level of media focus on rising recorded crime and a campaign for victims' rights have contributed to this rise in public punitiveness.

New legislation has not only imposed more severe punishment on offenders, but also widened the criminal justice net. A greater

proportion of people who used to be diverted from the formal criminal justice process, are now included in the formal process, and a greater proportion of offenders who used to be tried in summary courts and sentenced to fines, are now dealt with by formal trial and sentenced to prison. Criminal justice agencies, especially the police and the public prosecutor's office have gradually lost their discretion in using informal procedures due to the demands from victims.

Western scholars have generally focused on the role of apology and forgiveness in everyday life and in criminal justice in Japan. However, the questions posed above beg further research into whether Japan has started to resemble other developed countries, such as the US and UK, in moving towards popular punitivism, or whether, at least to some extent, the Japanese public were always more punitive than they were perceived to be.

Thomas Ellis is a Principal Lecturer in the Institute of Criminal Justice Studies, University

of Portsmouth.. Ellis's email address is tom.ellis@port.ac.uk

Koichi Hamai is a professor in the Corrections and Rehabilitation Research Center, Ryukoku University. Hamai's email address is khamai@law.ryukoku.ac.jp

The full version of this article was published in International Journal of the Sociology of Law (2006, Vol. 34 (3) pp.157-178.) Posted on Japan Focus on January 29, 2007.

The third Anglo-Japanese symposium on Criminal Justice and Corrections will take place on 3 & 4 March, 2007, Kyoto, Japan. The Topic for the symposium is: Policing, Prosecutions and Sentencing.

If you wish to attend the symposium, please inform Koichi Hamai as soon as possible at khamai@law.ryukoku.ac.uk

Note:

1. Addressing the 6th crime Victim Support forum, 19th November 2001.