

THE BASIC PRINCIPLE AND REVISION OF THE JUVENILE ACT

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I. THE BASIC PRINCIPLE OF THE JUVENILE ACT

A. Trends in the Juvenile Act

Because juveniles are generally less mature than adults, but more plastic, in other words, they have more promise, it is regarded as necessary and reasonable to treat juvenile offenders differently from adult offenders. This view has been widely accepted, whether ancient or modern, eastern or western. Based on this view, juvenile delinquents have been specially treated by special proceedings.

Each country has enacted a juvenile law or a juvenile court law as the basic law for the treatment of juvenile delinquents. Roughly, there are two trends in juvenile law. One of them is based on the theory of criminal justice developed with the progress of criminology. It is based on the view that the purpose of crime prevention can be achieved better by imposing an appropriate punishment through not only judging the objective aspects of a crime from a legal perspective but also paying attention to the individual criminal. From this point of view, because juveniles are highly plastic and can be improved by education, the treatment of each juvenile delinquent by the use of an educational method is effective for making the juvenile a healthy member of society, which also meets the purpose of social defense. According to this view, a juvenile law is a special criminal law that covers juveniles who have committed a criminal act.

The other trend in juvenile law is based on the tutelary and welfare view that originated from the idea of equity. According to this view, if a child has not received appropriate protection from his/her parents or sufficient welfare, the State is responsible for giving him/her the care and education and promoting the child's social adaptation and independence in place of his parent or guardian by exercising judicial power. This view is based on the idea of *parens patriae*. That is to say, if a child commits a crime, the child will be treated like a child who commits delinquency or has been abused or neglected by the parents. This idea on juvenile protection was born as a result of the child-saving movement in the US in the 19th century. The idea was embodied when the first juvenile court was established in Cook County, the State of Illinois in 1899. After that, juvenile courts were established all over the US. In 1943, a revised Standard Juvenile Court Act was published by the National Probation and Parole Association. It has been regarded as a culmination of such movements.

B. Principle of Delinquency Control

The difference between these two trends arises from what grounds a State has to intervene in a juvenile delinquent's rehabilitation, even against his will. The former trend is based on the view that the State's grounds for intervention lie in the juvenile's infringement of another person's interest through delinquency (the "principle of harm"). The prevention of repeat delinquency through reformatory education of juveniles is deemed to be the same as special prevention as a purpose of criminal punishment, and the purpose of the juvenile law is to ensure the safety of society by preventing the juvenile from committing a delinquency again. According to this, the juvenile law is clearly a part of the criminal justice system. This view has been adopted by continental-law countries. In Germany, for example, the Juvenile Court Law, which is based on "educational ideology" and only covers criminal juveniles, is regarded as a special law for the criminal code, the code of criminal procedure, and the code of Prison Administration, and this field of law is called "juvenile criminal law."

According to this view, a special disposition (protective measures) to which a juvenile delinquent is

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sentenced under the juvenile law is imposed as a sanction against the juvenile's delinquency based on the juvenile's blameworthiness. In this sense, the disposition is a form of criminal punishment and is regarded as a special criminal punishment imposed with consideration for juveniles' lower criminal responsibility than adults, and juveniles' high plasticity.

On the other hand, the latter trend is based on the view that any measures under the juvenile law is allowed only for the benefit of a juvenile who has committed a delinquency. Because the juvenile does not have sufficient judgment due to immaturity, if he is left as he is, he may repeat delinquencies and become unable to live a decent or normal life. Therefore, the State intervenes to prevent this from occurring, for the benefit of the juvenile himself. In this view, the State's intervention in juvenile delinquents can be explained by the principle of protection (paternalism). This idea typically appears in the above-mentioned idea of *parens patriae*.

According to this view, protective measures are taken not for the purpose of blame for juveniles' delinquency but on behalf of juveniles. In this sense, they are not sanctions. Therefore, protective measures are completely different from criminal punishment, and the juvenile law will be regarded as a law for the welfare of children like other social welfare laws.

II. CHARACTERISTICS OF THE JAPANESE JUVENILE ACT

A. Purpose of the Juvenile Act

In Japan, the first Juvenile Act was enacted in 1922. It was revised after World War II and the present Juvenile Act came into force in 1948. Article 1 of the existing Juvenile Act provides that the purpose of this Act is to subject delinquent juveniles to protective measures to correct their personality traits and modify their environment, and to implement special measures for juvenile criminal cases, for the purpose of juveniles' sound development. Based on this provision, the basic idea of the Juvenile Act is the sound development of juveniles. This means that the purpose of the Juvenile Act is not to punish juveniles for crime or delinquency they committed but to educate juveniles to prevent them from repeating a crime or delinquency. Because of this, the proceedings based on the Juvenile Act are called juvenile protection proceedings.

B. Outline of Proceedings under the Juvenile Act

1. Target of Proceedings

The target of the proceedings under the Juvenile Act is juveniles (defined as a person under the age of 20) who have committed a delinquency. They include three types of juveniles: juvenile offenders, juveniles engaged in illegal behavior, and pre-delinquent juveniles. Juvenile offenders are juveniles who have committed a crime. Juveniles engaged in illegal behavior are juveniles under 14 years of age who have violated any criminal law or regulation. Because the Penal Code provides that any juvenile under 14 years of age has no criminal responsibility, an act by such a juvenile that violates a criminal law or regulation is not a criminal act. Therefore, no punishment is imposed on the juvenile under the Penal Code. However, the Juvenile Act deals with such acts too. Pre-delinquent juveniles are juveniles who meet any of the four criteria specified in Article 3 (1) (iii) of the Juvenile Act (the "cause of pre-delinquency") and, in light of their characteristics or environment, have the possibility to commit a crime or a violation of a criminal law or regulation. The four criteria for pre-delinquency are: (a) having a propensity not to submit to legitimate supervision by the custodian; (b) staying away from home without a justifiable cause; (c) associating with persons with a criminal nature or immoral persons, or frequenting places of ill repute; and (d) having a propensity to engage in harming the morals of the juvenile or those of others. None of these violates a criminal law or regulation.

In this way, the Juvenile Act also covers the violations that are not regarded as crimes under the Penal Code because the offenders have not reached the age of criminal responsibility; and it also covers juveniles who have committed pre-delinquent acts that do not fall under *corpus delicti* (crime).

2. Flow of Proceedings

The proceedings for juvenile delinquents under the Juvenile Act are greatly different from the criminal proceedings for adults. I would like to show the characteristics of juvenile protection proceedings as compared with criminal proceedings.

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Firstly, the court of the first instance for an adult criminal case is a district or summary court in principle, while a juvenile case is under the exclusive jurisdiction of a family court. Because of this, a juvenile case is referred from a police officer or a public prosecutor to a family court. Each family court has not only judges but also family court investigating officers. Both a judge and a family court investigating officer jointly deal with each case. Most family court investigating officers are specialists in psychology, pedagogy, sociology, etc. and are expected to investigate each juvenile's problems and play a part in determining the most suitable disposition for the juvenile's improvement and rehabilitation.

Secondly, the principle of discretionary prosecution is adopted for adult criminal cases, under which public prosecutors have the power to suspend prosecution. On the other hand, in juvenile cases, the investigating authority refers all cases to family courts, in principle, as long as there is any suspicion. This is based on the following view: even if a juvenile case seems trivial from its objective aspects, it may indicate the juvenile's deep criminality; therefore, it is necessary to examine it well and carry out the most appropriate measures for the juvenile; and the agency appropriate for such examination and judgment is not the investigating authority but a family court that has sufficient staff.

Moreover, if a juvenile who violates criminal law is under the age of 14 or a pre-delinquent juvenile is under the age of 14, the case will be referred to a child consultation center, which is a welfare institute for children. Only if the center decides that, instead of taking measures itself, it is better for a family court to decide how to deal with the juvenile, and sends the case to a family court, the family court will deal with the case. This is called the principle of prior deliberation by a child welfare institution. This is based on the view that it is better for juveniles under the age of 14 to be treated under the Child Welfare Act, which has the main purpose to promote the welfare of children, instead of being treated under the Juvenile Act which is a part of the criminal justice system.

Thirdly, in the criminal proceedings, if an indictment is brought and the court accepts the case, a public trial will begin after some preparatory proceedings are carried out. On the other hand, in a juvenile case, after the case is accepted by a family court, a family court investigating officer carries out the investigation as to what problems the juvenile has concerning his characteristics and family environment and what measures will be necessary for improving the problems. Moreover, the juvenile may receive assessment, or mental and physical diagnosis carried out by the expert in the Juvenile Classification Home. Because the criminal proceedings in Japan have no pre-sentence investigation system, this point is one of the great differences between the juvenile protection proceedings and the criminal proceedings. In addition, during the investigation, the family court investigating officer not only carries out the investigation but also actively encourages the juvenile to receive reformatory education. In this way, the juvenile is given treatment through the process of the proceeding. It is another difference from the criminal proceedings that this practice has been squarely approved.

Fourthly, in a criminal case, it is examined during the trial whether the defendant committed the charged offence. In a juvenile hearing, however, examination is carried out as to not only whether the juvenile committed the delinquency, but also whether the juvenile is likely to commit a delinquency again. This factor is called the "need of protection". Because of this, even if it is found that the juvenile committed the delinquency, no family court hearing will be held and the proceedings will end if it is found as a result of the investigation that the juvenile has no need of protection. In addition, if need of protection disappears as a result of a judge's encouragement or the like after the beginning of the hearing, no disposition will be rendered and the hearing will end.

Fifthly, the judge, the juvenile, and the juvenile's guardian attend the hearing without fail. If an attendant (i.e., a defense lawyer in the criminal procedure) is appointed, the attendant has the right to attend the hearing. On the other hand, the public prosecutor is allowed to attend the hearing with the permission of the court only if the case is serious and the prosecutor's attendance is necessary for finding the facts of the delinquency.

Sixthly, a juvenile hearing is held in camera. The hearing itself is not open to the public and the results are not published. The principle of confidentiality is applied not only to the hearing but also to the investigation at the family court and the investigation by police or prosecutor.

Seventhly, while the adversary system is applied to the trial in a criminal case, the inquisitional system is applied to the juvenile hearing. Because the purpose of the hearing is not to examine the juvenile's criminal responsibility but to clarify the problems of the juvenile himself and his environment, and determine the most appropriate measure for the juvenile's improvement and rehabilitation, it is more appropriate to apply proceedings whereby every person concerned, including judge, attendant and prosecutor, cooperate with each other, than to apply proceedings whereby the parties are opposed to each other. In addition, to use a hearing as an opportunity for reformatory education and counseling, it is desirable for the judge to advance the proceedings, talking directly to the juvenile.

In this way, to respond flexibly to each juvenile's problems by a method similar to case work, it is desirable to apply proceedings suitable for each case at the court's discretion rather than establishing a strict form of proceedings beforehand. For this reason, the Juvenile Act has very few provisions concerning examination of evidence and rules of evidence at a hearing.

However, because the protective measures also restrain the freedom of juveniles against their will, it is required to guarantee due process even in the case of a family court hearing. It especially applies to the cases in which the juvenile denies the alleged delinquency. Therefore, at present, some provisions for guaranteeing the juvenile's procedural rights are placed in the rules of juvenile proceedings: concretely speaking, notifying the juvenile of the facts constituting the alleged delinquency and giving him opportunities to present his defense; notifying him of the right to remain silent and the right to appoint an attendant. In addition, in the practical affairs of a juvenile hearing, when the juvenile denies the alleged delinquency, the court is supposed to guarantee the opportunity to cross examine important witnesses. Furthermore, in order to secure a juvenile's procedural rights effectually, it is very important to receive the assistance of an attorney. From this viewpoint, when the juvenile and his or her guardian cannot employ an attorney themselves due to poverty etc., the court can appoint an attendant who is an attorney for the juvenile. This system was introduced in 2007, and the range has been extended to cases where the juvenile is detained for an offence that is punishable by the death penalty, life imprisonment, or imprisonment for more than three years. It covers a fairly large range. For example, this system also applies to cases involving theft.

Eighthly, if, in a family court hearing, the facts of the delinquency are proven, and it is found that the juvenile is in need of protection, the court renders a decision to impose protective measures. There are three types of protective measures: (1) probation; (2) referral to a children's self-reliance support facility or a foster home; and (3) referral to a juvenile training school. Which measure should be applied is determined according to the juvenile's need for protection in light of which measure is the most appropriate for giving reformatory education to the juvenile and preventing him from committing a delinquency again. The content of the delinquency is only indirectly taken into consideration as an important factor for the judgment about need for protection.

On the other hand, if a family court judge finds it more appropriate to impose criminal punishment on the juvenile rather than protective measures, the court will make a decision to refer the case to a public prosecutor. After the public prosecutor files the case, a criminal trial will be held under the Code of Criminal Procedure as in an adult criminal case. There is no special proceeding for juvenile defendants. However, there are special rules about punishment. For example, indefinite imprisonment can be imposed on juveniles, unlike adults.

C. Legal Characteristics of the Juvenile Act

What characteristics does the Juvenile Act of Japan have in light of the above-described trends and the principle of delinquency control? The enactment of the existing Juvenile Act in 1948 was greatly influenced by the General Headquarters (GHQ) based on the idea of *parens patriae*, which was predominant in the US at the time. It can be said that the framework of the present system is suitable for the principle of protection (paternalism), because the purpose of the system is to foster juveniles' sound development, public prosecutors are excluded from the hearing in principle, and family courts with expert staff impose protective measures according to each juvenile's need for protection.

However, the existing Juvenile Act only covers juvenile offenders, juveniles engaged in illegal behavior, and pre-delinquent juveniles; it does not cover a wide range of juveniles in need of protection like the juvenile courts in the US in the 1940's. In addition, the idea of *parens patriae* is based on the view that protective

measures for juveniles are completely different from criminal punishment. As opposed to this, the existing Juvenile Act includes provisions concerning criminal proceedings and punishment after cases are referred to public prosecutors and the juveniles are indicted. These provisions also reflect the juveniles' sound development specified in Article 1 of the Juvenile Act. In other words, in the existing Juvenile Act, protective measures and punishment for juveniles coexist within the framework of the criminal justice system. In this sense, the existing Juvenile Act is not a system based on the idea of *parens patriae* in a pure sense. This is reflected also in the fact that the Child Welfare Act was enacted in addition to the Juvenile Act in 1947 after World War II and, as a result, the treatment of juvenile delinquents was administered by two laws.

In this way, the Juvenile Act is not a welfare law in a pure sense but a law within the criminal justice system. Therefore, it is impossible to explain the intervention based on the Juvenile Act only by the principle of protection, and it seems hard to deny that the intervention is based on the principle of harm. In other words, under the Juvenile Act, the State's intervention is based on both the principle of harm and the principle of protection. The two principles are not mutually exclusive, but justify measures for preventing juveniles from committing a delinquency again through reformatory education. Although punishments and protective measures are common as long as they are based on the principle of harm, the two are different from each other in that protective measures aim for only special prevention, while punishment aims for retribution and general prevention.

III. BACKGROUND AND CONTENTS OF RECENT REVISIONS OF THE JUVENILE ACT

Although the Juvenile Act had not been revised for more than 50 years after it was enacted in 1948, it was extensively revised in 2000, 2007, 2008, and 2014. These four revisions vary in contents, but they are common in that all of them reduced special treatment for juveniles. Because the direction differs among the four revisions, it cannot be simply summarized as making punishment for juvenile crimes stricter as stated frequently by the opponents of the revisions. The following are explanations about the background to the revisions and the relations of the revisions to the basic principle of the Juvenile Act.

A. The Background of the Revisions

The revisions vary in content and background. The factors for the revisions can be roughly divided in the following four:

1. Clarification and Accurate Fact-finding of the Delinquency

The first factor is a request for the clarification and accurate fact-finding of the delinquency. Under the Juvenile Act, the family court intervenes on the ground of the juvenile's misconduct. Because the intervention is disadvantageous to the juvenile, whatever the final purpose, in that it is accompanied by the limitation of freedom against the juvenile's will, the existence of the delinquency, which serves as the ground for the intervention, must be proven. In addition, because the intervention is carried out by the family court as a judicial agency, it is natural for the court to have the intention to determine the facts accurately.

Even before the revision in 2000, the view that the facts of the delinquency should be regarded as more important factors in juvenile cases was firmly established for the family courts' practical affairs. This was based on the firm establishment of the view that the object investigated in a juvenile hearing is not only the need for protection but also the facts constituting the alleged delinquency. Based on this view, attention has been paid to the procedure for determining the facts of the delinquency. For example, this was reflected in the Supreme Court's decision that a family court's examination of evidence about the delinquency must be based on reasonable discretion and on the fact that the following view has become the main trend in the family courts' practical affairs: the view is that the family courts are obliged to examine evidence at their own discretion as long as the examination is necessary for discovering the truth, whether advantageous or disadvantageous to juveniles.

In this way, the interpretation and practical use of the Juvenile Act were accumulated in the direction of placing importance on the facts of the delinquency. Recently, however, the courts encountered problems that could not be solved in this practical way. As a result, some judges began to demand revision of the Act.

From the 1990s, there were a series of cases where finding the facts of the delinquency at family court

hearings was regarded as problematic. In such cases, the courts' judgment differed as to whether juveniles committed the delinquency. This revealed difficulties in finding facts at family court hearings if the juvenile denied the alleged delinquency. It was pointed out that the fact finding procedure at family court hearings under the then Juvenile Act had systematic problems if the juvenile fiercely disputed the alleged delinquency, because of the following: (1) even if a case was serious and difficult, the hearing was held by only one judge; and (2) since a public prosecutor could not attend the hearing, if the judge finds it necessary to clarify facts, the judge has to carry out acts disadvantageous to the juvenile, for example, impeach the witness who testified in favor of the juvenile. As a result, the judge and the juvenile might look as if they had been opposed to each other.

Responding to this criticism, the Juvenile Act was revised in 2000. In the revision, the collegiate court system was adopted, public prosecutors became able to participate in hearings to avoid any adversarial situation between the court and the juvenile and to obtain multiple viewpoints, and a system for the participation of a court-appointed attendant, who is an attorney, was introduced in the case of a prosecutor's participation.

Subsequently the Juvenile Act was revised in 2007, responding to several serious crimes committed by younger children. In this revision, some provisions were added to establish the police's power to investigate cases where juveniles under 14 years of age violated a criminal law or regulation. These provisions were added to solve the problem in the following situation: because the police could not investigate sufficiently and the child consultation centers did not have sufficient investigating ability to clarify the facts of the delinquency, sufficient evidence was not collected concerning the facts of the delinquency when family courts accepted cases, resulting in difficulties of fact finding in the hearing. In this sense, it can be said that this revision also aimed to find the facts of the delinquency accurately.

The latest revision in 2014 expanded the range of cases in which public prosecutors and court-appointed attendants can participate in the hearing. This revision also primarily aimed to improve the appropriateness of the procedure for finding the facts of the delinquency in the hearing.

Such improvement of the procedure for finding the facts of the delinquency was encouraged not only by the above-mentioned demand from within the family courts but also by the increased attention of the general public to issues of juvenile justice. The background to this trend included the following: demand for the transparency of the public agencies' activities was expanded to the juvenile protection proceedings; and social interest in victims sharply increased from the second half of the 1990s.

Specifically, one of the grounds for approval of public prosecutors' participation through the revision in 2000 was establishing the trust of victims and other members of the general public in family court hearings. In addition, in the revision in 2007, a provision was enacted to the effect that the directors of the child consultation centers must, in principle, send certain kinds of serious cases to family courts, while maintaining the principle of prior deliberation by child welfare institutions. This aimed to increase the transparency of the judicial proceedings for the general public and victims through the family courts' findings of fact of the delinquency and determination of disposition, instead of keeping juvenile cases at the child consultation centers.

2. Juveniles' Criminal Responsibility

The second factor for the revisions is that increasing attention was paid to the view that if a serious crime is committed by a juvenile, an appropriate punishment should be imposed on the juvenile. Generally, this is regarded as demand to impose stricter punishments for juvenile crimes.

This view itself was not necessarily new. Under the former Juvenile Act, a case should be referred to a public prosecutor if a criminal punishment is suitable for the crime. It involves the cases in which it seems impossible to reform the juvenile by protective measures and it is possible to do so, but it is inappropriate to treat the juvenile by protective measures due to the facts of the case or the social influence of the case. Many people supported this opinion, which was based on the following view. Because the juvenile justice system occupies a part of the criminal justice system, when the family court decides how to treat a juvenile who committed a delinquency, it is not allowable to ignore the viewpoint of social defense and general prevention. In addition, even the juvenile justice system cannot work well unless it has the support of the general public.

In practice, serious cases were referred to public prosecutors more frequently than less serious cases. On the other hand, because the principle of giving priority to protection was deeply rooted in the family courts, a cautious attitude was assumed toward the referral of cases to public prosecutors. However, since the second half of the 1990s, there was a trend across society towards the imposition of stricter punishment for crime. A series of atrocious crimes by juveniles occurred, and the above-mentioned trend applied to juvenile cases too. The case that had the greatest impact on society was a 14-year-old boy's murder of children in 1997. In this case, the boy, a third-year student in junior high school, hit an elementary school girl on the street with a hammer. The girl died from a brain contusion. About two months later, he strangled an elementary school boy, cut off his head, and left it in front of the main gate of a junior high school.

As a result of this situation, the Juvenile Act was revised in 2000 concerning the referral of juveniles to public prosecutors. Two points were revised. First, although previously juveniles under 16 years of age could not be referred to public prosecutors, it became possible to send juveniles aged 14 and 15 to public prosecutors and impose criminal punishment on them. The other point was that although judgment regarding whether to send juveniles to public prosecutors was previously made according to uniform standards, it was provided that if a juvenile aged 16 or older killed someone by a willful criminal act, the juvenile must be referred to a public prosecutor in principle.

According to the view that even juveniles should undergo reasonable punishment if they commit serious crimes, the punishments imposed after the referral of juveniles to public prosecutors should be proportional to their crimes with consideration for their ages. Responding to this opinion, the Juvenile Act was revised in 2014 to make it possible to impose punishment proportional to criminal responsibility. To this aim, the maximum term of indefinite imprisonment was raised from 5-10 years to 10-15 years.

3. Consideration for Crime Victims

The third factor for the revisions is the demand for considering crime victims and protecting their rights and interests. In Japan, victims originally had no special status even in criminal proceedings. That was especially true in juvenile protection proceedings, the basic principle of which is sound development of juveniles. For example, victims could neither observe the hearing nor receive notice of its result on the ground that the hearing is not open to the public.

However, in a series of cruel serious offences in the 1990s, when victims spoke out and the press covered their stories, social concern about crime victims increased rapidly. In response, policy measures considering the rights of victims were developed by the police, prosecutors and the courts. In 2000, the act was amended to protect victim's interests in both criminal and juvenile protection proceedings

In the revision in 2000, three systems were introduced. The first is to notify victims of the results of the hearing. The second is to enable victims to read and copy hearing records. The third enabled the family court to hear the opinions of victims.

The relevant provisions of the Juvenile Act are summarized as follows. For the first system, the notification to the victim, upon a request from the victim, the family court shall inform the victim of (i) the name and residence of the juvenile and the legal representative of the juvenile and (ii) the date of the ruling, the main text thereof and summary of the reasons. The second system, inspection and copying of records by the victim, authorizes the victim to inspect or copy records, excluding the so-called "social record". The third system, hearing of opinions by victims, requires the family court, upon a request from the victim, to hear by itself or order a family court investigating officer to hear from the victim.

These systems were introduced aiming at a victim's own interests, without bringing it into question whether it contributes to the juvenile's sound development or not. These systems ensure that the existence of a victim is clearly recognized by the Juvenile Act, and it was clarified that the victim has a special legal status in juvenile protection proceedings. However, all systems introduced by this revision are accepted on the condition that they do not hinder the sound development of the juvenile. For example, the hearing of opinions from victims is not always carried out in front of the juvenile at the hearing, unlike a victim's statement of opinion in a criminal trial. This is because there is a risk that the statement by the victim may obstruct the educational function of the family court hearing and the entirety of the proceedings in that case if the victim can always be heard during the hearing upon his request. For example, suppose what might happen if the

victim displays intense anger directed at the juvenile during the hearing.

After the revision in 2000, victims and victim support groups requested further revision, noting that the contents of the above-mentioned revision were insufficient. In addition, the Basic Act on Crime Victims was enacted in 2004, and in this act the expansion of victim participation in juvenile protection proceedings was called for. In response, the Juvenile Act was revised again in 2008. In this revision, two new systems for the victim were introduced. The first is to enable victims to observe hearings. The second is explaining the status of hearings to victims.

Among these, the first system permits, upon the request of the victims, observation of hearings by victims under limited circumstances. The family court may permit the victim to observe the hearing of a case of a juvenile who committed an intentional criminal act that caused the death or injury of the victim. However, observing the hearing is not permitted when a juvenile under 12 years old committed a criminal act. The second system allows, upon request from the victim, the family court to explain the status of the hearing to the victim. For example, the family court may explain the role of the juvenile's attendant, the procedure of the family court, and what the juvenile said during his or her statement in the hearing. There is no limitation based on the type of crime committed.

These two measures are permitted when the family court finds it unlikely to hinder the sound development of the juvenile. On this point, the fundamental view since revision in 2000 has been maintained.

On the other hand, in criminal proceedings, a victim participation system was introduced in 2007. In this system, the victim of certain serious offences can attend court on the trial date, examine witnesses within certain limitations, ask the accused questions and state an opinion on the findings of fact or the application of the law. In comparison, the involvement of victims in juvenile protection proceedings is limited in order to achieve the sound development of the juvenile, which is the purpose of the Juvenile Act.

4. Improvement of the Appropriateness and Effectiveness of the Juvenile Protective Proceedings

The fourth factor for the revisions is the demand for making the determination and execution of the protective measures more appropriate and effective in practice. For example, in the revision in 2007, the minimum age for referring juveniles to juvenile training schools was lowered from 14 to about 12, responding to the opinion of some practitioners that, from the viewpoint of rehabilitation, it is sometimes desirable to refer juveniles under 14 years of age to juvenile training schools rather than to children's self-reliance support facilities to give them reformatory education earlier. In addition, the Juvenile Act was also revised to make it possible to send juveniles on probation to juvenile training schools if they violate probationary conditions, responding to a remark that the effectiveness of probation could not be secured because there was no means to cope with cases where juveniles on probation violate their conditions of probation. Although some people criticized these revisions for promoting stricter punishment, such criticism is based on a misunderstanding, for the revisions make it possible to treat juveniles more appropriately according to each case and aim to strengthen the treatment of juveniles. The same is true for the revision in 2014 to expand the range of cases in which court-appointed attendants can participate, because the expansion contributes to the determination of appropriate treatment through environmental coordination with the participation of an attendant from the hearing stage, as in the case of improving the appropriateness of the procedure for finding facts of the delinquency.

B. Influence on the Basic Principle of the Juvenile Act

None of the four revisions made from these various factors touched Article 1 of the Juvenile Act, which specifies juveniles' sound development as the basic principle of the act. When the revision in 2008 was under discussion, there was the opinion that even the juvenile protective proceedings should place equal importance on both the sound development of juveniles and the protection of victims' rights and interests, for the Basic Act on Crime Victims covers juvenile cases. However, this opinion was not adopted.

Among the above-described four factors, the fourth factor aims to improve the system for contributing to juveniles' sound development, which clearly supports the basic principle of the act. The first factor, which aims to improve the procedure for finding the facts of the delinquency is also consistent with the basic principle of the act, because accurate fact-finding of the delinquency is essential for determining appropriate treatment of juveniles. However, depending on how to prepare the procedure, it may go against the basic

idea. The revision in 2000 took this into consideration and maintained the existing inquisitional system instead of adopting the opinion that the adversarial system should be introduced into juvenile hearings too. Responding to this basic thinking, a system unusual from the viewpoint of comparative law was adopted concerning the participation of the public prosecutor. Although public prosecutors were allowed to participate in hearings, they were neither a party to the proceedings nor a plaintiff demanding punishment, but a cooperator for the hearing who participates only in the stage of fact-finding of the delinquency to the extent necessary.

The third factor for the revisions – consideration for victims – brought into the Juvenile Act a heterogeneous element that does not directly contribute to juveniles' sound development. However, all systems introduced as a result of the revisions are limited to those approved as long as they do not hinder the sound development of the juvenile. Therefore, those systems have been designed not to contradict the basic principle of the Juvenile Act.

What is problematic is the second factor. If it aims only to make punishment for juvenile crimes stricter, it seems to contradict the basic principle of the Juvenile Act. What is the most problematic is the revision of the provision concerning the referral of the case to public prosecutors. During the process of legislation, the proposer of the revision explained that this revision aimed to promote juveniles' sound development by increasing their awareness of social responsibility and their normative consciousness. In that sense, this revision was also regarded as being within the framework of the juveniles' sound development, because it does not aim to impose severe punishment for serious crimes, but to prevent crimes by developing juveniles' responsibility and normative consciousness. I think it doubtful whether this explanation is persuasive, but this explanation somehow reflects the legislators' efforts to protect the basic principle of the Juvenile Act, despite efforts to reject the basic principle itself.

IV. RECENT TRENDS

In Japan, the suffrage age, the age of adulthood under the Civil Code, and the age of adulthood under the Juvenile Act have been uniformly set at 20. However, as a result of the revision of the Public Offices Election Act, the suffrage age was lowered to 18, and the new suffrage age came into force in June last year. Consequently, consideration is required for the treatment of the age of adulthood under the Civil Code and other laws and ordinances. With regard to the age of adulthood under the Civil Code, the Legislative Council of the Ministry of Justice has already submitted a report to the effect that the age of adulthood should be lowered to 18 if some conditions (useful for protection of young adults) are fulfilled. Following that, the discussion about lowering the age of adulthood under the Juvenile Act will begin in the Legislative Council of the Ministry of Justice soon. At present, this is the hottest topic concerning the Juvenile Act.

There is strong objection to lowering the age of adulthood under the Juvenile Act. Those who oppose lowering the age of adulthood insist that the Juvenile Act has so far effectively functioned to give reformatory education to juveniles who have committed crimes at the age of 18 and 19 and prevented them from committing crime again. Therefore, if the age of adulthood under the Juvenile Act is lowered, the repeat offenses by persons in this age group will likely increase because the application of the proceedings and protective measures under the Juvenile Act is denied. In addition, there is the opinion that the mental maturity of the person at the age of 18 and 19 is lower than before, and therefore they should not be treated as adults. Concerning the lowering of the age of adulthood in other areas of law, they insist that the age of adulthood should be determined according to the purpose of each law, and therefore it is unnecessary to unify the age of adulthood in different fields of law.

There is also the opinion that even if such a view (that it is unnecessary to unify the age of adulthood) is generally correct, it is necessary to coordinate ages if laws have common grounds for applying different treatment between adults and minors. On the ground that juveniles are immature and highly plastic, from the viewpoint of reformatory education, the Juvenile Act allows guardian-like intervention by the State, which is not allowed in the case of adults. Because minors are subject to their parents' supervision under the present Civil Code, there is no inconsistency in the treatment of minors under the two laws. However, if the age of adulthood is lowered to 18 under the Civil Code, it might not allow the State to make guardian-like interventions against the will of 18- and 19-year-old juveniles, who are not subject to their parents' supervision. For this reason, the age of adulthood under the Juvenile Act should be lowered in accordance

with the age of adulthood under the Civil Code. On the other hand, in order to eliminate the negative effects of the exclusion of 18- and 19-year-old juveniles from the target of the Juvenile Act as much as possible, it is necessary to establish a system for giving special treatment to 18- and 19-year olds and other young adult offenders through correction and rehabilitation.