The History and Present Situation of Punishment in Japan

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Chapter 1 The History of Punishment

I At present, according to Article 9 of Criminal Code, "punishment" means death penalty, imprisonment with labor, imprisonment without labor, fine, short imprisonment, small fine as primary punishments, and confiscation as additional punishment. Other penalties are not punishments, but administrative penalties. However, man can't distinguish fine for crimes against Road Traffic Act (RTA) from administrative penalty called "hansoku-kin". Such an exact concept of "the punishment" as the state institution began to be used quite recently. In the pre-war Japan, both judges and prosecutors belonged to the Department of Justice. The judicial power in the strict sense was established as the institution in the postwar period. Recent personnel exchange between judges and prosecutors as routine must throw doubt on whether explicit consciousness of the judiciary is rooted or not. We cannot expect the strict consciousness of the respective independence of three branches of the government in Meiji era. Not to mention about Tokugawa era.

In the following, we review the history of the punishment along three stages (the punishment under the ancien régime, the modernization of the punishment and the establishment of the present penal system). We will indicate the statistics concerned on Appendix.

II Tokugawa Era—the punishment under the ancien régime

1 In the history of Japan, it was certain that the punishment of the Civil War (Sengoku) era had been the most cruel, and there were many enforcement methods of death penalties including very cruel ones as distinct punishments. The punishment of this era had been maintained in the diminished form until the end of the first half-years of Tokugawa

(Edo) era, i. e. the enactment of the last volume of "Kujikataosadamegaki" (socalled "Osadamegaki-hyakkajoh") by the 8th Shogun Tokugawa Yoshimune in 1742.

2 The matter had changed in the last half-years of this era after the establishment of the penal system with "Osadamegaki". According to Ishii Ryosuke[1], the penal thought of the former half was a general prevention with threat, but in the last half, a special prevention became main thought. Five factors characteristic of the latter period were, said Ishii, the restriction of death penalies, abolition of death penalty for the infant, abolition of many body punishments, exemption from past crimes and generalization of pardon.

During the Tokugawa era, every clan had generally independent system of laws, although they followed gradually the Bakufu model. There were some exceptional institutions like progressive penal servitude in "Keihosohsyo" of Kumamoto clan in 1755, but generally speaking, the punishments of Bakufu were more lenient. In the following, I will state the Bakufu institution.

3 After the enactment of "Osadamegaki" through Tokugawa era, the penal institution had not basically changed. We must not think Tokugawa era was the Dark Ages of Japan according to images of popular historical plays. It was the era to treat criminal cases fairly well. The precedential principle had been established[2].

(1) Capital punishments:

There were four kinds of death penalties, death on the cross, burning at the stake, and two sorts of beheading. Each of them was regarded as distinct punishment. The exposure to the public, marching through the city and gibbeted head were additional punishments. Burning at the stake was the special punishment for arson. Death on the cross was the maximum punishment only for murder of one's master and parents (In this case, the cross has no religious meaning.). For example, the most serious crime, murder of one's master was punished with a series of punishments, firstly the exposure to the public, then marching through the city, then death on the cross, and lastly gibbetting the head. Both of them were executed in public. Regular capital punishment was beheading. They were divided into two sorts of execution. One was the simple beheading called "Geshunin" for crimes without selfish desires. The other was beheading with additional confiscation of houses and belong-

ings as well as tests of swords.

(2) Corporal punishments only for men were branding with tattoo and beating with a stick.

(3) There were important punishments like transportation to certain islands called "Ontoh", many sorts of banishment and house arrest. Ishii said these were imprisonments, but I can't agree him.

(4) As pecuniary punishments there were some sorts of fine and some sorts of additional confiscation.

(5) Imprisonment:

Jails in Tokugawa era called "Roh" or "Rohya" were basically places to confine the unconvicted prisoners; the suspects and the defendants. But exceptionally, the confinements were used as punishments. Two examples were known without explicit articles of "Osadamegaki". One was "Katairoh" used to confine the child under 15 years old or woman in stead of beating. The other was "Nagaroh" used to confine the voluntary prisoners who were punishable with death penalty or transportation.

Another imprisonment was "Ninsoku-yoseba". In 1790 "Rohjuh" (a member of Inner Cabinet of Bakufu administration) Matsudaira Sadanobu set up this institution in accedence to a proposal by commander of the special task force for arson and robbery, Hasegawa Heizoh. At first set up as a policy for arrested homeless people, but it became imprisonment in stead of beating or banishment. During the stay, prisoners worked and received monthly a little money. This institution spread through the country as a place for rehabilitation of the people.

4 The penal system of Tokugawa era was, from the more serious to the less, made up of the following punishments. Death penalties; transportation; serious banishment; middle banishment; minor banishment; banishment from 40 km. area of Edo; banishment from Edo (serious beating); banishment from dwelling neighborhood (serious beating); banishment from dwelling neighborhood (beating or fine or handcuffing for 100 days); handcuffing for 50 days; handcuffing for 30 days; severely scolding; scolding.

The punishments not applied frequently were omitted.

III Meiji Era–the time of the running at full speed

1 The penal system of the early years

(1) During the early years of Meiji era, the government engaged busily in civil war, so criminal law of Bakufu, "Osadamegaki" maintained its validity for a while. But, according to "Osadamegaki", a theft of 10 "ryoh" was punished with death, then punishments must be made more lenient. For example, a theft of 100 "ryoh" or under was made unpunishable with death. Because both death penalty and transportation must be consulted with the goverment, the government set up the Criminal Division, then the Department and enacted temporary criminal law called "Kari-keiritsu" in 1868. This law was made not public like "Osadamegaki". In 1870 "Shinritsukohryoh", in 1873 "Kaitei-ritsurei" were enacted. These criminal codes followed Chinese "Ritsuryo" model and were called "the early criminal codes of Meiji era". The penal system of "Shinritsukohryoh" was made up of a series of punishments from death penalty, transportation, penal servitude, beating and whipping. In 1870 transportation was exchanged for penal servitude for a while and Imprisonment (Penal Servitude) Act 1873 exchanged beating and whipping for imprisonment, although prefectures may use beating and whipping, if they cannot provide any places for imprisonment. But in the same year, penal servitude was renamed as imprisonment, and the actual execution of beating and whipping was prohibited.

(2) The first prison code of Japan was "Kangoku-soku" 1872. This code was enacted by the first Japanese scholar of prison discipline, Ohara Shigechika. He had been an officer of the jails in Tokugawa era and became a member of the House of Lords later. He enacted this code after researching the penal systems in English colonies Singapore and Hongkong, for the people in these colonies ate rice like Japanese. This code based on the progressive thoughts of those days, but officially by financial reason, it was decided that for the time being, the prison matters were dealt with the former manner in 1873. Minister of Justice, Ooki Takatoh regretting this decision, ordered that in prefectures suitable for the practice of imprisonment, it may be permitted to enforce this code. As the result, some prefectures really enforced it.

(3) In 1869 the Prison Division was set up at "Gyohbu-shoh", but in 1871, the newly set Department of Justice took over its responsibil-

ity, abolished this Division and transfered the authority to the governors of the prefectures. In 1878 the Department of the Interior completely secured the command of the convicted and unconvicted prisons. In 1880 the Department instituted the central prisons called "Shuh-chikan" in Kosuge village and Miyagi prefecture for the first time. After that, there were two series of prisons, central prisons and local prisons. At the same time, the prisons for the juveniles called "Chohchi-kan" were set up.

(4) The modernization of the penal system means the generalization of imprisonment: the prisons. In Japan, we think, imprisonment became primary in about 1872–3, but there were local differences in penal practices. In Tokyo and its neighboring districts the official policy of the central government was followed faithfully, and change for imprisonment moved on immediately. But, in country districts, many conflicts were repeated between governors who had plans of cultivation for unemployed "Samurai" and the central government who had the policy to send prisoners into many districts. In the end, the latter had won and carried out its policy.

(5) In Tokugawa era, penal practices of many clans had been severer than Bakufu's, therefore, changes for new institutions delayed more and more in far off districts. Moreover, caused by public disturbances (like civil wars and peasant riots in early years, Riot in Saga with the former Minister of Justice Etoh Shinpei in 1874, Riot in Hagi with the former chabinet member Maehara Issei in the same year, War in Seinan with the Great Saigoh in 1878–9), the number of executed capital punishments continued to be four figures until 1881. Especially so many executions in 1874–7 (see, Table 1). However, the number of imprisonments gradually increased.

2 The former half of Meiji era–the beginnings of the modernization (1881–1901)

(1) Japan started the modernization of the penal system by degrees under the early criminal codes and reached the real acceptance stage of Western laws in order to be established as a modern state. The first modern penal code called now "Kyuh-keiho" was enacted following French Code Pénal in 1881. This code based on Boissonade's draft, but this draft was amended with the early codes by Review Board of Itoh

Hirobumi (drafter of the first Constitution of Japan and later Prime Minister). This criminal code had the mixed character with pre-modern elements, but could be called "modern", though inadequately. It divided crimes into three categories. The punishments for felonies were death penalty (by hanging) (see, Table 1), transportation, penal servitude, imprisonment and confinement; these for misdemeanors were imprisonment without labor and fine; these for police offences were short confinement and small fine. Crimes were reduced and rearranged boldly.

(2) The first modern criminal procedure code of Japan called "Chizai-hoh" was enacted in 1871 and put into force with Criminal Code on 1st January, 1873. This code adopted principles of basically public prosecution, no trial without charge and free appreciation of judges. The monopoply of public prosecution was strengthened by new Criminal Procedure Code of 1881. Court Organization Law of the same year organized courts as the supreme court, appeal courts, district courts and division courts and attached each division of prosecutors to each court. Constitution of Japan 1880 had the chapter on the judiciary.

(3) In 1872, new Prison Code called "Kangoku-soku" was enacted. This code was the first real prison code and had 113 articles. In 1873, the modern trio of criminal/ penal field were all present for the first time. In 1880 and 1891 Prison Code was amended, but the system was maintained under the amended codes. The cost concerning prisons was paid by the National Treasury in 1891 and the authority for management of the prisons was transfered to the Department of Justice in 1894.

(4) For the juveniles, confinement on application was abolished with Prison Code 1880. Reformatory Law was enacted in 1891. With spared money, this law intended to set up reformatories for the juveniles who were under 16 years old, without parents or a guardian, and considered by the governor to be in need of protection. But, contrary to this expectation, only a few institutions were set up. Kawagoe Prison Division for juveniles was very famous.

(5) We cannot understand how important outside convict labor had been until 1888s, when free wage workers appeared on a large scale. According to the official statistics for the year 1873, there were 2,033 factories which employed 10 workers or more. 84 factories were equipped with the modern steam or water powers. Only factories under the direct control of Army/ Navy or the Department of Finance had

huge scale. Under these conditions, outside convict labor on a scale of several hundreds or thousands was exceptionally conspicuous. Most notorious (not famous) examples were outside convict labor for cultivations, mines and road constructions in Hokkaido, and the same for coal mine in Miike. Except Miike where convict labor had continued until 1931 in order to secure coal for Naval ports Kure and Saseho, outside convict labor stopped to play a role in 1888s.

(6) Already in 1888s when Constitution was enacted and National Assembly was established, the foundation of Japan as a modern state was settled. But, concerning the prisons, real developments begun in this period. Training School for prison officers was set up in 1881. Kurt von Seebach from Preußen in Germany, who was a disciple of the leading person on the prison discipline (Gefägniskunde) for that time, Karl Krohne, arrived in Japan. Ogawa Shigejiro who established the prison discipline in Japan, went around Japan in order to inspect prisons as the interpreter with Seebach. Without both persons, the modernization of the prison system of Japan could not be realized. Seebach died in a few years, but he had completed the process and form from reception to release of prisoners in a way. After his death, Ogawa succeeded to his unfinished enterprise and endeavored to modernize the prison system further. Ogawa's prison discipline could not go beyond the limits of Germany's. It remained to be a strict managerial prison discipline, notwithstanding his not receptive, but progressive policy on juveniles. However, this step must be taken necessarily[3].

3 The last half years of Meiji era—the establishment of the present penal policy (Kriminalpolitik) (1900—1912)

(1) Enactments of modern laws following Western models had been always a tug of war between Westernization and nationalism, in other words, between the universal principles and Japanese tradition. Typical one was "the controversy on Civil Code". "If Civil Code will be enacted, loyalty and filial piety shall die." The penal/ criminal law field was not exceptional. Immediately after, more over, during drafting and enacting process, refom movements were there. But, as mentioned above, although criminal procedure code and prison act had been amended several times, criminal code survived until in 1900s, when real reform enterprise begun, and in 1908 new Criminal Code (still existing) was

put into effect. Following the international penal movement centered around International Prison Congress and International Criminology Association, Western countries had established the frame of the present penal system until 1914; before the outbreak of the First World War. These systems based on the basic thoughts of "neo-classic" jurisprudence. Raymond Saleilles said the following; if responsibility and free will were subjective illusions, these fictions had their effects as subjective realities(4). Individuals are somehow free to develop their moral character through the acquisition of habits, discipline etc., but at a certain stage of maturity, the fundamental law of physical causality prevails. A normal healthy character can be free and responsible, but this freedom is contingent and fragile, which depends upon the delicate mechanisms of character formation and the vicissitudes of individual and social life. Therefore, there are numerous characters that are either unformed or else malformed. These characters are the objects of intervention(5).

Amended Criminal Code (adoption of suspended sentence in 1906 and enactment of new Criminal Code in 1907) was clearly the product of this international current.

(2) Ogawa turned his concern into juvenile problems in 1900s and begun to be active in the field of social work in Ohsaka. But, when we research the legislative process of Prison Act 1908, we understand that this law based on Ogawa's theory. Although on juvenile problems Ogawa was under the influences of British and American policies for juvenile delinquency, especially the practice of Elmira Reformatory in New York, on the theory and practice of imprisonment for adults he remained within the limits of German prison discipline of Krohne-Seebach who took responsibility for the enforcement of solitary confinement system at Moabit Prison in Preußen. "The human rights problems" were no matter of concern for Ogawa.

(3) Japan had run the process of penal reform for only 40 years, for which it took 150 years in Western countries since the publishment of John Howard's "the State of Prisons" in 1777; from the survival of ancien régime institutions in early criminal codes, through the modernization of the penal system in former Criminal Code, and lastly the establishment of the present frame of the penal system with the enactment of new Criminal Code/ Criminal Procedure Code/ Prison Act since

the Meiji Restoration. The anchor was Ogawa. However, the penal policy of Japan came to a stop in 1908 until now.

IV Pre-war period—stagnance and retrogression (Taishoh era and Shohwa 1—20 [1925—45])

1 Taishoh era

(1) Concerning criminal law, we must enumerate Public Order Maintainance Act of 1913 and Punishment of Violent Behavior Act of 1925. In the criminal procedure, enacted were Summary Criminal Justice Act of 1911, new Criminal Procedure Code of 1921 (the provision of opportunism for prosecution) and Jury Act of 1922 (put into force in 1928).

On the juvenile problems, National Reformatory Act in 1915, Juvenile Law in 1921 were enacted, and measures for protection by juvenile administrative courts were made available. Tama Refomatory in Tokyo and Naniwa Refomatory in Ohsaka were estabilshed. Judicial social work including juvenile cases was instituted.

(2) Prisons were renamed as penal institutions in 1921 and convict prisoners as convicted persons in 1923. Notwithstanding some progresses in classification and promotion system, this era was characterized as the period of stagnance, because many divisions and branches made in this era were turned into "Daiyoh-kangoku" (substitute prisons for unconvicted prisoners).

2 Pre-war Showa

(1) Concerning criminal law, important were the enactment of Prevention of Theft Act in 1930 and drafting new criminal code called "Keihoh-karian" on the basis of ideology of contemporary ultranationalism (the final draft in 1941). Jury Act of 1922 pushed by raised movement for democracy in Taisho era was put into effect in 1928, but in 1943 amidst the war came to a stop until now. Recently, a revival of jury trial is discussing.

(2) Prison Act and its Enforcement Ordinance remained untouched, but new developments begun according to several ordinances of the Department. Firstly, on the basis of Standards for Construction of Penal Institutions of 1928, the construction of concrete prisons started,

and this project could complete its plan quite recently. Secondly, judges and prosecutors or graduates of universities entered into this field as directors. Thirdly, enacted were "the trio of modern practices of the prisons", i. e., Ordinance for judgement of conditional release in 1931, Ordinance for correctional education of juveniles in 1933 and Ordinance for progressive system in prisons in 1934.

Masaki Akira, who encountered Weimar Constitution during his stay in Germany, constructed "a new prison discipline" on the basis of Ogawa's, but it centerd around the progressive system. Masaki had a great influence in the prison-correction Division of the Department, but even his authority could not change the domination by prosecutors from old times. Therefore, Freudenthal's "the legal status of prisoners" and a wage system which had established in Prison Code until 1908, could not be realized.

(3) In 1934 Juvenile Institution for Discipline Act was enacted, after that, reformatories were renamed as institution for discipline. Institution for Juvenile Judgement and juvenile probation officer were newly instituted, and these institutions were related with the present institutions. In 1936 Probation of Danderous Thought-Criminals was put into force.

3 Wartime period

(1) The characteristics of criminal/ penal laws in this period was the real development of laws and institutions for the maintenance of public order. Indeed, throughout Meiji and Taishoh era, many laws with the same function like Public Peace Police Act and Public Order Maintenance Act had been enacted, for Japan always had been "a emergent state prepared for war" since Meiji Restoration. But after the war against China begun, many laws for public order were enacted; strengthening Public Order Maintenance Act; the enactment of Military Secret Protection Act, National Mobilization Act, Military Resources Protection Act, Public Peace for Defence Act, and Temporary Regulation of Speech, Publication, Assembly and Association. People could not stir an inch.

The characteristics of wartime criminal procedure were summarization of procedures and prohibition of appeals.

(2) Wartime penal practices were firstly, mass mobilization of prisoners for military purposes, especially for ship construction and air-

port construction by "Sekihoh-tai (commando for loyalty) in Asia. These prisoners were killed massively by atomic bombings, air raids, endemic diseases and so on. Don't mention dying one after another by malnutrition. Secondly, thoughts control and Preventive Detention were established.

V Post-war period

1 The enactment of Constitution of Japan and amendment of criminal law, criminal procedure and prison act.

(1) In 1946 Constitution of Japan was promulgated and put into force in the next year. Following that, Criminal Code was partly amended. Crimes against the Imperial Family, crimes against public peace and order, parts of crimes against foreign danger, adultery (only for wife) and so on were eliminated. Public Order Maintenance Act and Public Peace Police Act were abolished. On the other hand, enacted were following laws; Small Crime Act, Public Security (local) Ordinances, Prevention of Destructive Action Act, Prevention of Pollution Crimes Act, Punishment of Hi-jacking the Airplanes Act, Punishment of Demand wih Hostages Act.

(2) Constitution, especially its articles on the criminal procedure, the punishment and the chapter of the judiciary compelled penal/ criminal laws to change fundamentally. In 1947 Temporary Measure Act, in 1948 new Criminal Procedure Code (CPC) were enacted. With this code, important were the amendment of summary trial proceeding, and the enactment of Court Act and Public Procurator's Office Act in 1947.

(3) Prison Act was not amended. Therefore, the Department of Justice had to cope with situations by their notifications. At this time, keyword was "humanization". Since 1950s the Department was compelled to amend several articles by the trials by the prisoners themselves. We cannot expect, however, that this strategy will realize great results, when we think the attitudes of courts.

The Department has insisted that they already coped with United Nation's minimun standards for the treatment of prisoners in 1955 and European minimun standards in 1973. But, according to the voices of prisoners themselves, we cannot admit this insistence. We cannot agree with the Draft of the Penal Institution Act (This draft is the amendment

of Prison Act.) and the Draft of the Detention Institution Act, for these drafts intend firstly to legalize the present practices of imprisonment including death prisoners and unconvicted prisoners as a whole, secondly to make the Substitute Prisons permanent and legalize the present problematic practices of the investigation by the police and the prosecutors. Concerning the practices of imprisonment, there are many problems under no consideration of human rights; worsening the treatment of death prisoners; unnecessary restrictions of the prisoners' behaviors, for example the prisoner must sit straight in his cell; undue restriction of communication with the people on the outside, for example only one letter and one visit per month for the first time; negation of individuality; exploitation of wages. Consequently, systems of direct constraint, discipline and petition will maintain the status quo far behind the international standards. Under these circumstances, it is certain that the prison matters must stagnate again for several decades.

(4) The penal system remained almost to be in the pre-war conditions, notwithstanding new provision of disappearance of penal effects and mitigation of necessary conditions for suspended sentences. But, new Juvenile Act and Reformatory Act in 1949 were epoch-making. Important points were the abolishment of Administrative Juvenile Court and the establishment of the Family Court which has the power to decide juvenile cases, the adoption of protectionalism in stead of the punishment and the upping the year for juvenile from 18 to 20. (Cf., chapter 2 II3.)

The field of rehabilitative protection is organized well with Preventive Rehabilitation of Criminals Act, Urgent Protection for Rehabilitation Act, Probation Volunteer Act, Probation of Receiver of Suspended Sentence Act and so on (concerning changes of penal policy, see Diagram 1; especially during Showa era, see Table 3–5 and Diagram 2–3).

Note:

(1) Ishii Ryohsuke, Edo no keibatsu (The Punishment in Edo), 1978.

(2) "Osadamegaki" was the secret paper and permitted to be seen by only Minamimachi-Bugyoh, Kitamachi-Bugyoh, Kanjoh-Bugyoh, Syoshidai and Ohsaka-Johdai. Therefore, other persons could do nothing but to follow precedents.

(3) Cf., Michel Foucault, Discipline and Punish: The Birth of the Prison, 1977. Michael Ignatieff," State, civil society and total institutions; A critique of recent social histories of punishment", in: S. Cohen/ A. Scull (ed.), Social Con-

trol and the State, 1983.
(4) "What a man thinks real is real for him" (W. I. Thomas).
(5) Paymond Saleilles, The Individualization of Punishment, 1913, cited in: David Garland, Punishment and Welfare; A History of Penal Strategies, 1985.

Chapter 2 The Present Situation of the Punishment

I Introduction

1 Shopliftings are theft crimes, but in big retail shops like big supermarket or department store, are dealt not as crime problems, but as economic problems; insurance for theft; sell with margin for damages of shopliftings; watch and settle with shop assistant as detective, guardman, TV camera or magnetic tape; no action in consideration of costs; if a policeman is called up, he returns with no action; so on. The meaning of theft as crime against private property changed.

2 For example, concerning traffic accidents, most of cases are reported to the police, for mandatory and voluntary automobile insurance money will not be paid without the official police report of the accident. Even on these cases in which the person concerned reports the accident to the police, usually the police doesn't treat the accidents with no death and/or injury as crime problem.

3 When the police recognizes some crime, they do it either by their active investigation like search by questioning neighbors, questioning suspects, interrogation or by passive activity like reports of the victims, notice by dial 110, complaint and accusation. The structures of recognition are different according to crimes. The police can decide whether a certain case shall be dealt as crime or not, and their discretion can work on these decisions following the crime-types. Anyway, when the police didn't recognize the case as crime, officially speaking, there was no crime. Therefore, the official statistics are rather, the indexes of the behaviors of the legal agency or agents like the police or policemen. Accordingly, dark figure crime isn't any "crime". In this chapter, we review "the processing of criminal cases" after the recognition stage of the police. For "the process is punishment"[1]. We must distinguish the juve-

nile cases from the adult cases.

II The dispositions by the police, the prosecutor's office and the courts[2]

1 The triviality disposition by the police

(1) The police has to investigate all recognized cases and send the identified cases to the prosecutor's office as a rule. But, in trivial cases, according to the informed standards of the prosecutor's office (§246 of CPC, 195 of Criminal Investigation Rule of the National Public Order Commission), the police has the power not to send the cases. This is the triviality disposition by the police. The police has no power of this disposition in the juvenile cases.

(2) Chief public procurator of each office notifies the standards of this disposition based on the notification of the Public Procurator General in 1950. But, its contents are much the same all over Japan. Trivial cases of theft, fraud, embezzlement, the fence and gamble are the objects of this disposition, excepting arrested, complained, accused or voluntarily delivered cases. We must note that this disposition excludes death and injury caused with negligence of necessary care in jobs (§211 of CC). The process of this disposition consists of three stages; initialy by a policeman on the outside duty, then the chief and lastly the section chief. There is a check system. On the occasion of a disposition, a admonition to the suspect, a written oach, cautions to parents and/ or employer and their written oaths, a payment the damages to victims and their paper of consent are taken and kept.

(3) If the prosecutor thinks the case does not deserve this disposition, he can proceed the ordinary criminal processing. But except that, this disposition is the final closure of the process. Theoretically thinking, it can be said that this disposition is based on the prosecutor's power to decide whether prosecute or not. But, practically, it is the disposition by the police.

(4) The statutory punishment for theft is the imprisonment of 10 years or under, which is thought severe. Therefore, among identified cases of over half million, actually prosecuted cases are 40,000–50,000 a year, and the remaining majority are dealt with this disposition and the waiver of prosecution. Including the most massive crime (§211 of

CC), the average rate of this disposition among all crimes against CC is on 10% mark, but except that crime, the rate is as high as 40%. Especially high for embezzlement of property out of possession, and high for theft and fence crime.

(5) Still more important is the traffic offences notification system. This is the bypass process of dealing administratively not serious offences against RTA without punishment. Legally speaking, all offences against RTA are still crimes, so that they can be dealt as crimes. But, if the charged money is paid, that case isn't dealt finally as crime after that. It is an example of administrative decriminalization. And this is also, one form of the triviality disposition. Among the offences against RTA, over 80% of the cases are dealt with this system. For a time, it reached over 11 million, but now a little under 10 million. Considering this system, the triviality disposition is the primary measure of processing criminal cases (see Table 6).

2 The disposition by the prosecutor

(1) After the cases are sent to the prosecutor's office, they usually do supplementary investigation. There are some cases in which prosecutors directly recognize crimes. After finishing the investigation, the prosecutor has to decide whether prosecute or not. They must decide not to prosecute in following cases; no crime; denial of the suspicion; without sufficient evidences; exemption from punishment; non-resposibility; not guilty; acquittal; dismissal of prosecution and so on. Even if the suspicion and evidences concerned are sufficient, the prosecutor can decide not to prosecute on the basis of opportunism, when they think that it is unnecessary to prosecute the case in consideration of the character, age and situations of the criminal, the seriousness and conditions of the crime and situations after the crime (article 248 of CPC). This is the waiver of prosecution (see Table 7).

(2) The disposition of the waiver with rehabilitative probation which started from Yokohama District Procurator's Office in 1961, is the disposition to submit property offenders and violent offenders of 25 years or under to guidances within 6 months in co-operation with Probation Office based on Urgent Protection for Rehabilitation Act. If there shall be fearful of a repetition of offences, the prosecutor can prosecute them.

(3) The rates of the waiver are different according to crime types. For example, concerning murder, the rate is as low as 5%, and the decisions of no prosecution on grounds of non-resposibility are as much as 400–500 cases a year. The rate for robbery also, is low. On the contrary, the rate for embezzlement is very high, and that for theft is the next. In these crimes, the seriousness of each crime may be decisive. In cases of offences against special criminal laws, the rates are generally low. Concerning offences against RTA, it may be the consequence of uniform massive processings. But in cases of offences against Regulation of Stimulant Drugs Act, it may be in consideration of the seriousness of acts.

(4) Concerning the dispositions by the prosecutors, their decisions to prosecute are also, important. Because the rate of the conviction is unthinkably high, before the court will decide the case, the key-point of the treatment for the defendants are roughly decided by the manner of the prosecutor's decisions. Especially problematic are decisions to prosecute summarily. On these cases in which the sentences are 200,000 yen or under, and the defendants have no objection to be proceeded summarily (they can raise the objection within 14 days.), the prosecutors require the decision of the court without no attendance of the defendant, under examination of written documents (article 461 of CPC). The majority of criminal cases is processed under this article. But, it does not accord with our image of "the trial" (see Table 2).

3 The process and disposition in juvenile cases

(1) Article 3 of Juvenile Law calls the persons under 20 years old "the juvenile", and divides the juvenile delinquents into three types; the criminal juvenile (who commits crimes), the juvenile in conflict with laws (who is under 14 years old, and in conflict with criminal laws) and the juvenile of status offences (who falls under the legal categories, and is fearful of committing crimes or being in conflict with criminal laws in future according to his (her) character and environment). The third concept is vague, so that its judgement must be done strictly. Moreover, it is necessary for the delinquents to be substantially responsible, for the protective dispositions are imposed on the juvenile in order to make aware of their responsibility.

(2) Most of the delinquents are detected by the police. After

finishing the investigation, the police directly sends the cases deserved the punishment of fine or under to the family courts, and the cases deserved the punishment of imprisonment without forced labor or over through the prosecutor's office to the family courts (articles 41−2 of JL). But from standpoints of the court's capacity and necessity/ the appropriateness for dispositions, "summary sending" (not actually sending, but collectively sending only a list of the juveniles, and then closing the cases with the decision of no opening of court) is carried out. The traffic offences notification system is also applied to the juvenile from 1970.

The second category of the delinquents is firstly, the object of Chilren's Welfare Act. The police usually deals with these cases. The police sends cases to parents or a guardian. If there are none of them or they are not deserved, the police sends cases to the governor or the director of Children's Counsel Office or Welfare Office. When the cases are sent by the governor or directors to the family court, the latter decides the cases. According to CWA, the forced dispositions can't be made. If necessary, the cases must be sent to the family court.

The third category who is under 14 years old, is dealt with much the same manner. Concerning the person who is from 14 years old to under 18 years old, the police can select either sending the case directly to the family court, or notifying the case to the director of Children' Counsel Office. The person who is 18 years old or over, is no object of CWA, so is sent to the family court. The persons of over 20 years old, may be notified to the family court in some cases.

Pre-delinquent "boys/ girls of bad behaviors" may be objects of the police-guidances. The power of the police for this activity is very mighty on the basis of criminal laws in general as well as Protection and Bringing-up of Youth (local) Ordinances.

In both of the procedure and dispositions, strict legal regulation of the police must be established.

(3) The juvenile cases are dealt not as criminal, but as protective. The family court must decide whether the criminal facts existed or not as well as the necessity for protection. The research is given the precedence. The family court researches into the received cases; in most of the arrested cases, the court sends these cases to Detention for Discernment Institution on the decision of custody for examination and protection.

This institution makes examination on mind and body, and reports the result to the court. The research officer of the court makes research on the family, school and neighborhood of the juvenile and submits the reports with their opinion about treatments to the judge. This research activity also has a case work function.

(4) The court in the research stage makes decisions of no opening of court, sending to the governor or director (with trial or not), sending to the prosecutor (with trial or not), transfer or transmittal. These decisions are final. Test disposition which entrusts the research officer or some private agents with the delinquent, can be made also in this stage. With trial the court makes final decisions of no disposition, probation, sending to Institution for Discipline or Protective Institution, or sending to Reformatories and sending to the prosecutor.

(5) The principles of "protectionalism" and "non-dispositionism" are carried out through the decisions of the family court. The rate of the disposition of sending the cases suitable for penal measures to the prosecutors (notice the requisites for article 20 of JL) is 0.4–0.5% except the traffic cases, and these rate for the traffic cases is 10% each for crimes against article 211 of CC and offences against RTA. After sending to the prosecutors, the cases are prosecuted as a rule. Most of the cases are dealt with the summary procedure, but 600 or so juveniles are processed by a series of "indictment-formal trial-conviction". The juveniles punished with actual imprisonment are 150–160, so that the inmates of the Youth Prisons are 100 or so.

Among the protective dispositions, also, traffic offences form the majority. The disposition of sending to the reformatories has increased after the introduction of the short treatment for traffic offences. Concerning probation, the short treatment becomes more important.

4 The Trial

(1) The most significant thing of Japanese trial system is no participation of the people in the trial like jury system or partipant judge system. There is only the system by the carrier judge (s). The next thing to be noticed is the monopoly of prosecution by the prosecutors in the adult cases (except the crimes of abusing official authority). If prosecuted, there are only the alternative decision of being guilty or not for the judge. In West Germany, the court can close the trial with their deci-

sion after the prosecution. No special measure in Japan. Until now, only two decisions of dismissal of prosecution by reason of abusing the power to prosecute. No institution of general exemption of the punishment and the waiver of the sentence.

(2) How the trial is processed is also, decided by the prosecutors. The summary procedures form a sweeping majority. Notwithstanding that in the main crimes against CC, the fine can't be available, among the crimes against CC also, three parts are summarily processed. One reason for that is the great number of traffic crimes (crime against article 211 of CC, in which the fine is available.). In the cases other than the crimes against CC, summary procedures are much more used.

The rate of confessed cases is more than 80%. These cases are dealt usually with "summary trial procedure" (except the serious cases).

(3) The most serious matter of concern for the defendants is without saying, whether guilty or not. The trials of Japan are under control of the prosecutors also, on this matter. The rate of acquittal sentences is extremely low. It is beyond our comprehension. Moreover, this rate has decreased year by year. The figure of the sentence of acquittal for the year 1988 was 87. The rate of the same year was 0.000064%!

(4) The fine formes a sweeping majotity. It formes 93% of all confirmed cases and more than 80% of all confirmed cases of crimes against CC. In 1988, imprisonments with forced labor were confirmed on 60,000 mark, imprisonments without forced labor, on 4,000 mark. Among them, actual prison pentences were on 29,000 mark and suspended sentences were on 38,000 mark in total. Among the latter, the sentences with probation were only 6,000. We may say about these situations that they cannot be called "community treatment", but disposition without any treatment. See Table 2,8 and Digram 2–3.

III The Penal System

We explain here the punishments by article 9 of CC and suspended sentence. These institutions were basically established in Meiji era, so that they became old-fasioned. Measures to be selected are very limited. Apart from the triviality disposition and the waiver of prosecution, if fine or small fine is available, there is the alternative of selecting this punishment or not. If not available, there is only the alternative of sus-

pending the sentence or not. In the latter caes like theft (article 235 of CC), the triviality disposition and/ or the waiver of prosecution are main methods for use.

1 Death penalty[3]

(1) Crimes punishable with death are 13 crimes against CC and 5 crimes against special criminal laws. 18 capital crimes are too many compared with other countries in which this punishment is maintained. The crime of causing military intervention by other country (§81 of CC) has the absolute death penalty (no case in which this crime has really done). This penalty is really applied mostly in cases of murders by the robber and then, in other murder cases.

(2) The death penalty is enforced secretly by hanging. Until that time, the condemned person is detained in unconvict prison. Although the custody is the essential consituent of imprisonment, the detention for death penalty is only a measure to ensure this punishment. Therefore, this detenion has the same meaning as that for the suspect and defendant, which is a measure to ensure the trial. Nevertheless, the treatment of the condemned person is much the same as that of imprisoned prisoner since 1960s. This treatment is against Prison Act and illegal. But, the Department of Justice intends to maintain this treatment by new draft of Penal Institution Act, in order to prevent struggles for rights.

(3) The trials of death penalty against Constitution by reason of cruelty, due process and so on are rejected by the Supreme Court. Concerning this penalty, only one decision of the Supreme Court recognized that death penalty for aggravated murder of parents (§200 of CC) was against Constitution (§14 of Constitution) by reason of unduly severity compared with other murder (§199 of CC). The number of this punishments has decreased from Meiji through Taishoh to Shohwa and it was on 2–4 mark since 1975. But in recent several years, it doubled or tripled. This is very problematic, for it witnesses the lack of the sense of human rights and internationality of the prosecutors and judges. In Japan, the movement for the abolition of this penalty has been carried out internationally and nationally, but the abolition wasn't placed on the agenda. See Table 1,3,8.

2 Imprisonments[4]

(1) Among three kinds of imprisonment, small confinement is the short imprisonment under 30 days and sentenced on 100 mark per year. We should think whether it is still necessary or not. It is also, problematic this imprisonment can't be suspended.

Both of imprisonment with forced labor and that without forced labor are the punishments by the custody in prison. In the latter, if the prisoners apply for labor, voluntary labors are imposed. And then, because the prisoners can't refuse to work without legitimate reasons. both of them are much the same in the penal practices. Therefore, the unification of imprisonments is claimed. For both of them, there are two kinds of imprisonment. One is that has limited terms of 15 years or under in usual cases, and 20 years or under in aggravated cases. The other is that for life. The life imprisonment with forced labor is sentenced in 30–60 cases a year. The trial of it against Constitution by reason of cruelty was rejected by the Supreme Court.

(2) Until 1950s, the harmful effects of the short term imprisonment had been insisted and several alternatives proposed. But, now, we can understand that the harmful effects discussed are the effects proper to imprisonments themselves. We can't agree revisionist' opinions on short term imprisonment by "three S" (short, sharp and shock). Well, holders of these opinions can not understand the maleficent of imprisonments for both society and individual prisoners on the basis of affirmative attitudes for the present situations of imprisonments.

Because the prisoners can't commit crime in the community during their stay in prisons, prisons have certainly an effect of "non-capacitation". But if sooner or later, the prisoners who may become worse than before, come back to society, it follows this effect should be cancelled or reversed. Accordingly, the remained problem is whether imprisonment has any rehabilitative effect or not. At present, theortically as well as practically, negative judgement prevails on this rehabilitative effect. Realization of rehabilitative effects of imprisonment may be very difficult; and it shall be impossible to make all prisons rehabilitative. Speaking of prisons in Japan, in spite of lip-service by the Department of Justice, they have no system operated for rehabilitation; for example, no adoption of wage system, the management by "order-submission" principle, which is never compatible with rehabilitation and reeducation etc.

The prison may be "a necessary evil" at most. It is a real problem how far this necessary evil can be constructed for both of the prisoners themselves and prison officers as at least not-so-bad institution, not to say good institution. It might be very difficult task to realize even such a controlled goal, if we face up to the reality of our prisons.

(3) Conditional release, except that from juvenile reformatory, is applied very passively. In recent years, the rate of this release is much the same as that of due release. The proportion of actually served term before release is high, and the protection after release is not enough. This operation tells us that conditional release is not based on considerations of penal policy, but it is a measure only for the management of prisons. It functions as control valve of prison population. There is every reason for the abolitionism (with remission for good time) in USA and Britain. See Table 4, 8 and Diagram 1–3.

3 Suspended sentence

(1) Suspended sentence for the first time can be available with fine of 5,000 yen or under, but is rarely used. These are usually used with imprisonments of 3 years or under. The same for the second time is available with imprisonments of 1 year or under. The term of suspension is from 1 to 5 years. When suspended terms are passed without problems, the sentences themselves lose their effects. Probation is imposed discretionally with the former, mandatorily with the latter. There are mandatory and discretionary withdrawal. Suspended sentence is independent criminal disposition, and attendant on the punishment, but not the punishment itself.

(2) Suspended sentence had been introduced as a measure for short term imprisonments for the first time, then became independent disposition with threat of actual imprisonment as the background. And recently, some conceptions of their location as community treatment are insisted. In Japan, however, the number of this sentences is small, that attended with probation is still smaller, so its function as community treatment is not important. Both of the defendants and the courts see this institution as one type of criminal dispositions without actual imprisonment. In this sense, both of them recognize its negative meaning, but not recognize its positive meaning of penal policy. The very realization of this facts is founded on the real situations of the penal practices.

Positive services, apart from the punishment and correction, must be constituted as welfare services to criminals as members of the people.

4 Fine (and small fine)

(1) Fine and small fine had become differentiated by reason of misconception in the enactment process of the former CC, which translated "amende correctionnelle" of Code Pénal into fine and "amende de simple police" into small fine as distinct punishments. Later, fine and severer punishments are connected with disqualifications for many jobs. Therefore, it is asserted that this distinction must be maintained. But we doubt it.

(2) A sweeping majority of fines and small fines is sentenced in summary procedures. At present, fine sentenced in court trials is on 1,000 mark. Therefore, most of them are 200,000 yen or under; more than 80% is 100,000 yen or under. We can't admit the seriousness of these punishments. We call these punishments as the type of "settling matter", which says that "anyway, we punished them properly in the formal proceedings".

(3) But, notwithstanding these practices, because fines form a sweeping majority, the conception of this punishment is determinant of that of "the" punishment. Our fine system is prescribed with certain amount of money, so they need to be raised in accordance with prises. Temporary Measure for Fine Act is not really temporary. The adoption of the day-fine system (Tagesbußen-oder sätzensystem) is asserting. This system as what makes fine efficient, had been enacted in Scandinavian countries of Finland, Sweden and Denmark for the first time, and then in post-war period it was enacted in new CC of Austria and West Germany. Now, in France, England (and USA) its adoption is on the agenda (or discussing). In Japan, we can't expect its adoption in near future[5]. See Table 5, 8 and Diagram 1–2.

5 Confiscation

The things which were used in crimes (e.g. knife used in murder cases), the products of crimes (e.g. forged checks), the rewards for crimes are confiscated from criminals. If not confiscated, proper amount of money for these things must be paid; in exceptional cases, the third person may be a target of this disposition. In the last cases, it has a

character of the security disposition.

Note:

(1) Malcom Feeley, The Process is Punishment, 1975.
(2) Yosioka Kazuo, Keijigaku (Criminology), 1978.
(3) Shikei no Genzai (The Present Situation of Death Penalty), Hohgaku Seminah Zohkan, 1990.
(4) Kangoku no Genzai (The Present Situation of Prisons), Hohgaku Seminah Zohkan, 1988.
(5) Onozaka Hiroshi, "Bakkinkei Seido no Saikentoh (Reexamination of the fine system)", Hogaku, vol. 29–30, 1971–2.

Appendix

Table 1 The number of the executed persons

year	number	year	number	year	number*
1873	961	1891	66	1909	18
1874	748	1892	51	1910	39
1875	452	1893	46	1911	40
1876	378	1894	52	1912	24
1877	135	1895	75	1913	60
1878	169	1896	72	1914	5
1879	154	1897	21	1915	94
1880	125	1898	48	1916	63
1881	96	1899	37	1917	53
1882	51	1900	33	1918	56
1883	61	1901	29	1919	41
1884	52	1902	28	1920	41
1885	130	1903	41	1921	26
1886	131	1904	45	1922	32
1887	97	1905	36	1923	32
1888	60	1906	19	1924	13
1889	49	1907	12	1925	19
1890	39	1908	51		

*White Paper on Crime, 1968.
**Data of the years from 1873–1925.

Table 2 The finally decided persons by trial courts

year	total	formal court		summary court	
		number	%	number	%
1926	153,073	37,463	24.5	115,610	75.5
1931	151,960	44,594	29.3	107,366	70.7
1936	188,930	61,995	32.8	126,935	67.2
1941	121,019	37,520	31.0	83,499	69.0
1951	567,811	145,128	25.6	422,683	74.4
1956	1,445,528	120,739	8.4	1,324,789	91.6
1961	2,548,425	97,421	3.8	2,451,004	96.2
1966	4,284,032	92,525	2.2	4,191,507	97.8
1971	1,878,234	76,045	4.0	1,802,189	96.0
1976	2,418,111	80,587	3.3	2,337,524	96.7
1981	2,198,489	79,745	3.6	2,118,744	96.4
1986	2,373,787	77,182	3.3	2,296,605	96.7
1987	1,704,088	75,277	4.4	1,628,811	95.6

*White Paper on Crime, 1989.
**Data of the years from 1926–1987.

Table 3 Persons convicted in trial courts with death

year	total	harms to royals	murder	murder by robber	arson
1926	25	2	8	15	–
1931	29	–	7	22	–
1936	19	–	5	14	–
1941	12	...	...	...	...
1946	...	...	...	...	...
1951	45	–	6	39	–
1956	24	–	2	22	–
1961	29	–	5	24	–
1966	14	–	6	8	–
1971	4	–	–	4	–
1976	4	–	3	1	–
1981	2	–	1	1	–
1986	5	–	2	3	–
1987	6	–	3	2	1

*White Paper on Crime, 1989.

Table 4 Persons convicted in trial courts with life imprisonment

year	total	murder	death or rape by robber	rape	sexual assualt	arson	kidnap-ping
1926	49	28	11	2	1	7	–
1931	54	21	28	3	–	2	–
1936	37	15	22	–	–	–	–
1941	32	...	...	...	...	...	...
1946	...	...	...	...	...	...	...
1951	108	29	76	2	1	1	–
1956	83	18	63	–	–	1	–
1961	69	17	51	1	–	–	–
1966	74	27	44	2	–	–	1
1971	38	11	26	–	–	1	–
1976	36	11	22	1	–	2	–
1981	34	8	25	–	–	1	–
1986	36	8	28	–	–	–	–
1987	65	17	46	–	–	2	–

*White Paper on Crime, 1989.

Table 5 Persons convicted in trial courts with pecuniary punishments

year	total (A) conviction	total p.p. (B)	fine (C)	C/A (%)	C/B (%)	small fine (D)	D/A (%)
1926	151,825	122,378	103,742	68.3	84.8	18,636	12.3
1931	151,248	115,911	95,202	62.9	82.1	20,709	13.7
1936	188,203	140,104	116,345	61.8	83.0	23,759	12.6
1941	196,254	162,420	154,513	78.7	95.1	7,907	4.0
1951	566,617	447,963	284,733	50.3	63.6	16,323	28.8
1956	1,441,705	1,339,213	724,513	50.3	54.1	61,470	42.6
1961	2,545,191	2,461,724	2,375,085	93.3	96.5	86,639	3.4
1966	4,281,922	4,202,762	4,197,963	98.0	99.9	4,799	0.1
1971	1,876,464	1,806,877	1,804,088	96.1	99.8	2,789	0.1
1976	2,457,332	2,281,702	2,357,125	95.9	99.0	24,577	1.0
1981	2,197,953	2,121,832	2,095,147	95.3	98.7	26,685	1.2
1986	2,373,533	2,298,514	2,272,034	95.7	98.8	26,480	1.1
1987	1,703,898	1,630,511	1,608,336	94.4	98.4	22,175	1.3

*White Pater on Crime, 1989.

Table 6 The number and rate of the triviality disposition (1985)

	identified persons (A)	triviality dis. (B)	rates (B/A)	identified adult p. (D)	rates (B/D)
total CCc	970,226	105,541	10.9	722,296	14.6
general CCc	432,250	105,541	24.4	238,133	44.3
theft	281,063	81,308	28.9	136,443	59.6
fraud	15,061	3,970	26.4	14,394	27.6
embezzle.	1,769	21	2.8	1,760	3.0
illegal po.	40,177	18,370	45.7	21,541	85.2
gamble	6,342	266	4.2	6,202	4.3
fence c.	2,159	257	11.9	455	56.5
assualt	15,739	1,310	8.3	10,331	12.7
injury	29,790	44	0.0	19,903	0.2

*CCc = crimes against CC;
general CCc = CCc except traffic crimes.
illegal po. = illegal possession of lost property.

Table 7(1) The rate of the waiver of the prosecution in each crime

year	theft	fraud	embezzle	murder	robberry	assualt
1931	79.2	86.9	92.9	17.2	11.9	61.0
1936	79.0	86.6	91.8	22.5	9.5	57.3
1941	77.0	80.5	88.2	17.2	10.6	67.0
1946	60.1	48.9	71.4	10.3	5.0	66.4
1951	62.2	68.8	74.2	16.9	10.4	55.6
1956	56.8	62.6	70.0	13.3	7.4	40.6
1961	54.0	57.0	64.1	11.4	8.0	36.1
1966	51.2	54.7	60.1	11.2	6.4	35.0
1971	54.5	52.3	64.8	9.7	8.1	39.6
1976	48.3	38.8	63.5	7.6	6.1	30.7
1981	46.4	32.4	71.8	6.4	8.1	31.1
1986	43.5	31.7	70.5	4.9	8.8	27.1
1988	46.2	30.3	75.5	6.1	7.7	35.7

*White Paper on Crime, 1989.

Table 7(2) The rate of the waiver of the prosecution

year	injury	blackmail	rape	sex. assu	arson	drug
1931	67.0	64.5	23.0	30.3	13.8	–
1936	66.0	65.0	20.8	44.0	10.5	–
1941	65.9	68.0	17.6	45.0	13.2	–
1946	56.9	41.7	10.9	23.8	7.5	–
1951	48.7	67.3	21.2	41.7	23.1	45.0
1956	33.0	52.3	18.5	25.8	20.6	23.1
1961	24.3	40.6	23.6	31.3	21.9	11.0
1966	20.5	38.3	18.4	32.9	21.6	18.3
1971	21.9	39.0	23.2	28.2	28.4	15.0
1976	16.8	27.9	21.1	17.5	14.9	14.2
1981	15.6	28.6	15.9	17.9	23.8	6.2
1986	14.1	26.1	13.9	12.4	15.5	5.2
1988	19.4	29.8	16.1	13.0	16.8	5.9

*sex. assu = sexual assault.

Table 8 The number of the confirmed persons

year	total	conviction							acq.
		d.	l.i.	i.w.l.	wo.l.	fine	s.i.	s.f.	
1984	2,485,964	3	43	73,941	4,947	2,374,394	41	29,138	121
1985	2,493,721	2	38	72,238	5,088	2,383,868	77	29,505	117
1986	2,365,079	–	41	69,803	5,197	2,260,791	122	27,004	115
1987	1,741,044	7	56	68,178	5,240	1,642,969	127	22,508	93
1988	1,355,535	12	40	63,290	4,927	1,267,512	123	18,458	87

*d. = death; l.i. = life imprisonment; i.w.l. = imprison. with labor;
wo.l. = imprison. without labor; s.i. = short imprison.;
s.f. = small fine; acq. = acquittal

**White Paper on Crime, 1989.

Diagram 1 Rates of the convicted persons in trial courts against CC in each punishment

• CC=Criminal Code.

Diagram 2 The convicted persons by trial courts in each punishment/ unit—10,000 persons

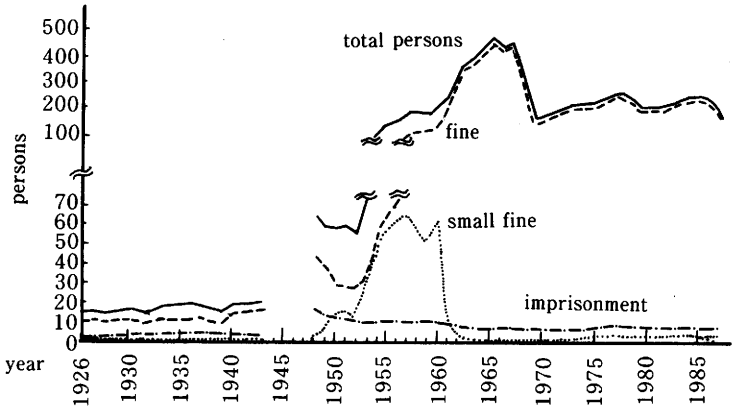

Diagram 3 The number of the new prisoners