

Issue Saliency and ‘Penal Populism’* – Juvenile Lawmaking Process in Japan –

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Abstract

The purpose of this paper is to explain the relation between issue saliency and ‘penal populism’ in Japanese juvenile lawmaking process. Why has punishment for juvenile offenders become harsher even in low saliency? The methods this research adopts are both quantitative and qualitative. Quantitative one is simple analysis of aggregate data of media coverage and records of the National Diet and content analysis of them by a software of quantitative text analysis for Japanese language. And the qualitative is a process tracing analysis of juvenile lawmaking in Japan by referencing newspapers and other descriptive records. The paper argues that harsher punishment in Japan is not only the result of penal populism in high saliency, but also the result of interactions within policy community in low saliency.

1 Introduction

This paper analyzes political mechanism of ‘penal populism’ in Japan. It is often referred in criminal sociology literature. It means that criminal policy is inclined to become punitive, reflecting emotions of general citizens and crime victims much more than specialized knowledge of criminal policy professionals such as judges, prosecutors, lawyers, and criminal law professors.

Though the ‘penal populism’ theory explains criminal policy making process in countries where elected officials play a central role of lawmaking or prosecutors and judges are elected, the political mechanisms of punitive criminal policy in Japan, where unelected bureaucrats play a central role of lawmaking and prosecutors and judges are unelected, is still unclear. It is partly because of a lack of political scientists’ attention to and interests in criminal policy. The research area of Japanese criminal policy seems to have been a territory of researchers of criminal law, criminology, and criminal sociology. The author attempts to explain the policy making process of Japanese criminal policy and to present useful findings for political scientists.

The paper pays attention to issue saliency and adopts both quantitative and qualitative methods in order to analyze the juvenile lawmaking process in Japan. Quantitative one is simple analysis of aggregate data of media coverage and records of the National Diet and content analysis of them by a software of quantitative text analysis for Japanese

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language. And the qualitative is a process tracing analysis of juvenile lawmaking in Japan by referencing newspapers, records of the National Diet and consultative committees, and papers written by experts on this issue and political actors.

The remainder of the paper is organized as follows: I review previous literature and present a research question in the section 2. Section 3 shows the issue salience of juvenile law in two ways. The qualitative analysis of lawmaking processes of the juvenile law legislations is conducted in section 4. Conclusion and implications of the paper are presented in section 5.

2 Issue Salience and ‘Penal Populism’

For the purpose of the paper, it is needed to review two lines of research. One is political science literature on issue salience and policy making process. The other is ‘penal populism’ literature in crime and justice context.

2.1 Issue Salience and Policymaking Process

Some important research show that politicians’ and voters’ attention to certain issue have an influence on policy making processes and policy outcomes. Kingdon (1984=2011) separates political stream, which is partly made by a national mood, from problem and policy stream, and shows that political stream promotes policy change if policy entrepreneur succeed in join the streams. The national mood can be stirred up by politicians’ strategic agenda control (Riker 1982), and voters may interpret the agenda as a symbol (Edelman 1985). Baumgartner and Jones (1993=2009) also argue the relationship between media attention and policy punctuations.

The national mood in political stream seems to be associated with issue salience because the national mood must not be made without voters’ attention to or interest in the issue. Issue (or political) salience is defined as importance of the issue to the average voter relative to other political issues (Culpepper 2011). In a high salience policymaking process, voters pay attention to the issue, so politicians have incentive to pay attention and be involved in it. Specialized knowledge of policy community is often ignored and political interest and national mood are prioritized in high salience.

In contrast, policy stream made by policy community matters in low salience political process. Gormley (1986) names politics of low salience and high complexity ‘board room politics’ where “conditions are ripe for policymaking by a power elite.” Culpepper (2011) argues that organized business has strong influence to rulemaking of corporate governance in low salience ‘quiet politics’. Kyo (2011) also argues that intellectual property law making process in Japan is characterized as low salience politics where strategic interactions among organized interest and bureaucrats matter.

2.2 ‘Penal Populism’ in Crime and Justice

‘Penal populism’ is defined as victims’ voice have been gaining an influence on criminal policy development while influence of criminal justice experts have declined (Pratt 2007). Harsher punishment is common to developed countries (Garland 2001), and it seems that the penal populism theory roughly explains the political mechanism of harsher punishment.

From a comparative perspective, U.S. is relatively vulnerable to penal populism because of State constitutions which provide prosecutors and judges be elected (Tonry

2008). In contrast, Japan is considered not so vulnerable to penal populism because of relatively strong influence of bureaucratic prosecutors and judges on criminal policy making. However, punishments in criminal laws seem to have become harsher, especially for juvenile offenders, for last two decades.

Why have they become harsher? Criminal sociologists argue in two ways. The first is to pay attention to actors: It is due to an ‘Iron triangle’ (Best 1999) among media, activist, politicians, and experts triggered by media coverage, especially Kobe murder in 1997 (Hamai 2004); Harsh punishment is the result of prosecutors’ strategic effort to get back power to prosecute juvenile offenders because they lost their power in the law reform after World War II (Hamai and Ellis 2008; Hamai 2011); It is by the leadership of LDP (Liberal Democratic Party) politicians who represent the interest of crime victims (Miyazawa 2008a).

The second is regarding political institutions and external environment surrounding actors: The electoral system reform in 1994 enlarged the scope of politicians’ interest from local to national issues and policies (Miyazawa 2008b; Leheny and Liu 2010); The issue salience of criminal policy has increased and distrust in governmental expertise has grown (Johnson 2007); A combination of unmet demands which are a generalized unmet societal demand for security and unmet demand of high profile charismatic victims of crime for justice has created the structural conditions necessary for the emergence of new political actors (Fenwick 2013).

2.3 Research Question and Argument

It seems that a hidden assumption of ‘penal populism’ theory is that criminal policy is (or become) a high salience issue. It is in high salience that voters’ sympathy with crime victims has a strong influence to criminal policy, because people do not have such an emotion and politicians do not react to the national mood without attention to criminal policy and crime victims. To summarize these two lines of literature in order to explain the juvenile lawmaking process in Japan, the reason why punishment for juvenile offenders has become harsher is that juvenile crime have been a high salience issue, so political stream has legislated harsher punishment laws. To be simplified more, high salience have an effect to ‘penal populism’ and it causes harsher punishment.

However, it seems that punishment for juvenile offenders has become harsher even if the issue salience of juvenile crime is relatively low in Japan. The research question of the paper is why it is. This paper pays attention to political mechanism in low salience and argues that harsher punishment laws are not only the result of ‘penal populism’ in high salience but also the result of interactions within policy community in low salience.

3 Issue Salience of Juvenile Law

3.1 The Number of Articles

As the public security condition is not correlated with the severity of punishment (Beckett and Sasson 2004; Lappi-Seppälä 2008), the legislations of juvenile law have little to do with the trend of juvenile crime in Japan. Figure 1 shows the trend of juvenile crime in Japan. The blue line indicates the total number of juvenile offenders. Most offenders are those who commit theft, indicated by the yellow line. The percentage of juvenile offenders

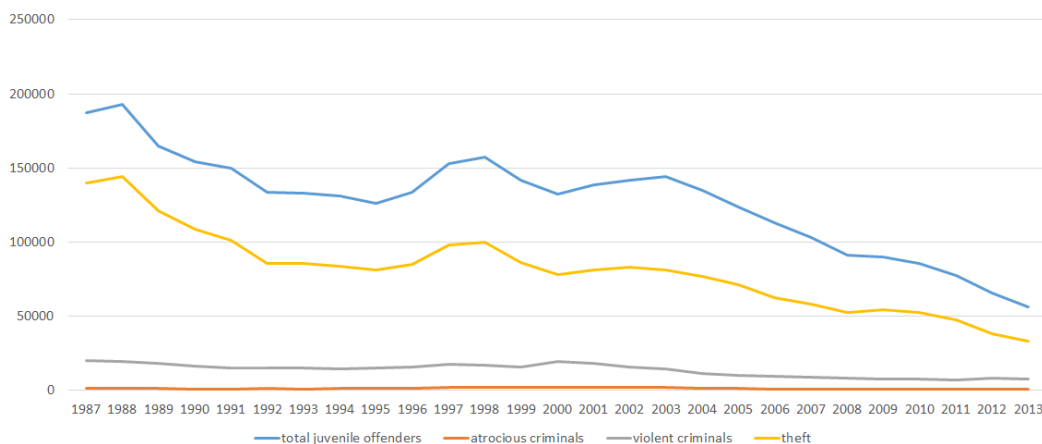


Figure 1: Juvenile Crime Trend
Source: National Police Agency statistics

who committed atrocious or violent crime¹⁾ keeps relatively low level (the orange and gray lines).²⁾ Even though the number of juvenile violent crimes as assault or injury decreases, there were legislations on juvenile law in 2000, 2007, 2008, and 2014. All of them are concerned with the serious crime.

Figure 2 shows the political salience of juvenile law and some other issues. The issue salience is measured by media coverage, the number of articles hit in databases of newspapers. The use of newspaper coverage as an indicator is a standard method adopted by Culpepper (2011) and some well-cited literature such as Epstein and Segal (2000). The blue line indicates the number of articles hit by the words ‘juvenile law (*shōnen hō*)’ or ‘juvenile crime (*shōnen hanzai* or *shōnen jiken*)’. The yellow line indicates ‘financial reconstruction (*zaisei saiken*)’ which seems to have been a high salience issue from the 1990s in Japan. The green line is the average of ‘financial reconstruction’ which is taken as a kind of a standard to distinguish high or low salience.³⁾ Under this standard, the issue salience of juvenile law is high in 1998 and 2000, can be taken as middle in 1997 and 2003 (below but near the line of average of ‘financial reconstruction’), and is low in the other years on the graph. The gray line indicates ‘pension system’ or ‘pension problem’ to which voters and politicians paid attention and was obviously a high salience issue in middle 2000s. The brown line indicates ‘copyright law (*chosakuken hō*)’ or ‘copyright violation (*chosakuken shingai*)’ which has been a typical low salience issue in Japan (Kyo 2011).

The graph suggests the relationship between high salience of juvenile law and the

¹⁾Atrocious crimes consist of murder, robbery, arson, and rape. Violent crimes consist of unlawful assembly with dangerous weapons, assault, injury, threat, and extortion.

²⁾Some researchers argue that juvenile crimes become more atrocious by indicating that the number of atrocious criminals increases from 1496 in 1996 to 2263 in 1997. This obviously reflects the increase of the number of robbery from 1068 in 1996 to 1675 in 1997. It is natural to take this rapid change not as the result of atrociousness of recent juvenile offenders but as the result of the changes of police actions (Doi 2003; Kawai 2004; Kubo 2006).

³⁾Culpepper (2011) takes the average of the lower of two high salience issues in each country as a standard of high salience and calls it ‘Mendoza line’ after a term of Major League Baseball which means the lowest batting average as a major leaguer.

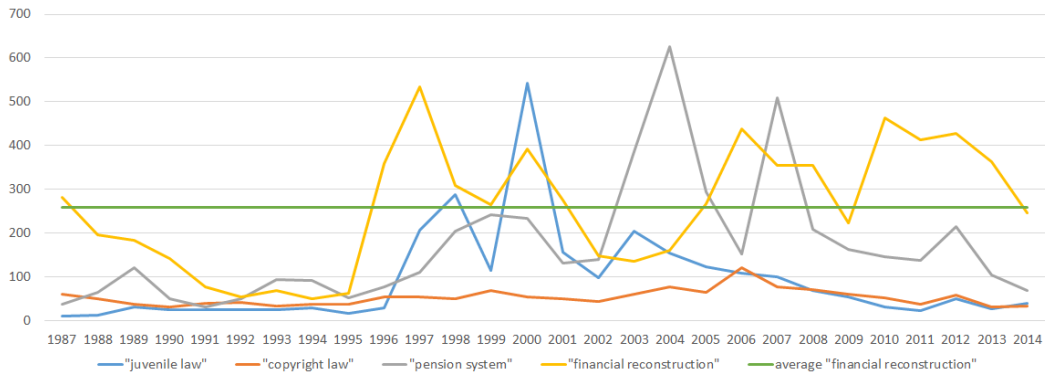


Figure 2: Issue Salience of Juvenile Law and Other Issues
 Source: made with *Asahi Shimbun* and *Yomiuri Shimbun* database

Juvenile Law Revision Acts of 2000 and 2007. The start of law making processes of these Acts, which were 1996 and 2003, almost coincide with the issue salience increase. But the lawmaking processes of the Acts of 2008 and 2014 are in low salience.

The increases of the issue salience in 1997, 2000 and 2003 are triggered by juvenile crime cases. The most impressive case for voters to pay attention to juvenile law was Kobe murder in 1997. An eleven-year-old boy had disappeared and three days later his severed head was found in front of a junior high school's main gate with a criminal declaration stuffed in his mouth. Some days later, the second declaration was sent to Kobe Shimbun, a regional newspaper. A fourteen-year-old boy was arrested one month after the head was found. Then, it was turned out that he had also killed a ten-year-old girl before the boy.

Other triggers are Nishitetsu bus hijacking in 2000 and Nagasaki kidnap and murder in 2003. In Nishitetsu case, a seventeen-year-old boy hijacked a highway bus and killed a woman after posting a notice on a bulletin-board on the Internet. He confessed that he had respected the offender boy of Kobe case. In Nagasaki case, a twelve-year-old boy kidnaped and killed a four-year-old boy after sexual abuse. After these incidents, media coverage increased and voters paid attention to juvenile law. Attention to juvenile law is maintained because of impressive Sasebo murder in 2004, which an eleven-year-old girl killed her classmate by a paper cutter at their elementary school. But it decreases from around 2006 in spite of little change of the number of juvenile crimes. Acts of 2008 and 2014 are legislated in obviously low salience.

3.2 The Content of Articles

As Culpepper (2011) not only measures the number of newspaper articles but also analyzes press framing of them, it is important to grasp the direction of media coverage and voters opinion in order to understand the issue salience. How did the media report these and other juvenile crime cases? The paper tries to answer in two ways. The first is type of articles regarding juvenile law in Figure 3. The author classified articles hit by the word 'juvenile law' or 'juvenile crime' into some categories.

Some researchers might think that the number of articles on certain issues just reflects the policy making process. This is because the number of articles will increase if there

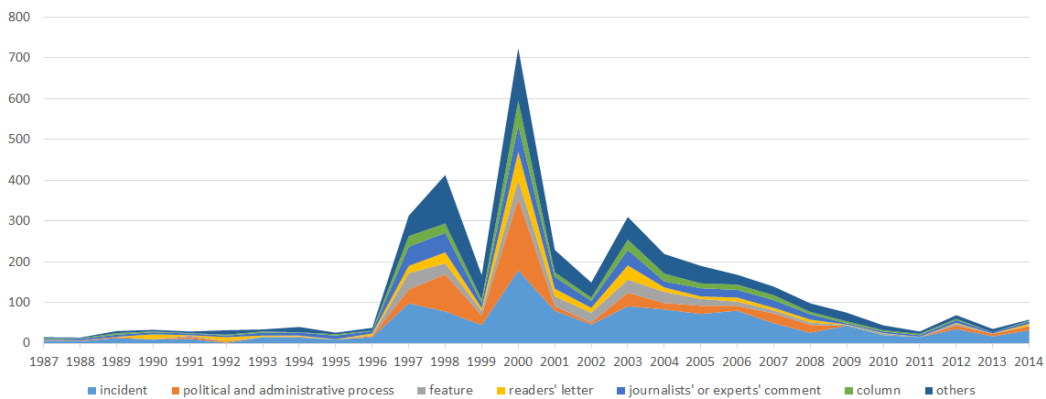


Figure 3: Classification of Articles on Juvenile Law
 Source: made with *Yomiuri Shimbun* database

is a political controversy on a certain issue in the government. Indeed the numbers of articles on political and administrative process increase in 1998 and 2000 when the issue salience of juvenile law is high in Figure 3, it turned out that the increases of the articles are after the triggering cases when we investigate the data classified by month. And we see that high media attention is due to not only reports on key incidents and political and administrative process but also other kinds of articles such as journalists' or experts' comments on more general issues and reviews on books and TV programs. Although the sum of the number of articles decreases gradually from 2004 to 2006 when the number of articles on juvenile crime cases is maintained, the issue salience decreases as the number of articles on juvenile crime cases decreases.

The second is a content analysis of newspaper coverage to grasp a trend of articles on juvenile crime. The author use a software 'KH Coder' which is made for a quantitative text analysis of Japanese language (Higuchi 2014). Table 1 shows a characteristic words of each years around 2000 extracted by the software. In 1997 and 1998, words on the top ranking are associated with Kobe murder: for example, the city and town name where the case occurred, and the victim's name. In 1999, words of victims' right, 'suit' for 'satisfaction', appear on the top. There are words of lawmaking process on the top in 2000, and words regarding the enforcement of the Act of 2000 in 2001. Many articles on juvenile crime had a relation to Kobe case or lawmaking process triggered by it from 1997 to 2001 and to Nagasaki case in 2003.

Table 2 shows the correlation between type of articles and tones and issues of articles. The author took words in certain context as the tone and issue of articles and ordered the software to detect them. The issues on deteriorating public security and juvenile crime were bases for harsher punishment legislation. They appeared the feature articles, editorials, and articles on statistical or survey data rather than the reports on certain cases of juvenile crime. Thirty percents of the articles on statistical or survey data hit by the words 'juvenile law' or 'juvenile crime' stress the trend of deteriorating juvenile crimes, and the feature articles and editorials often cite the argument and data. Voters may read these argument again and again and get to think juvenile crimes become atrocious, though there is little reason to interpret so according to criminal sociologists' reasonable

Table 1: Characteristic Words of the Each Years

-1996	1997	1998	1999	2000	2001	2002	2003
Showa	.162 Kobe	.270 knife	.140 satisfaction	.077 Bill	.181 Juvenile Law Re- vision Act	.124 homeless people	.112 Nagasaki
innocent	.142 Suma	.219 Kobe	.131 suit	.069 juvenile law	.175 April	.106 Higashimurayama	.115 protection (<i>hodō</i>)
judgement	.120 a series of murders of pupil	.200 issue	.123 damage	.067 National Diet	.169 enforcement	.090 meltdown	.108 boy
procEDURE	.112 Jun	.176 use	.120 the mur- derer boy	.061 juvenile crime	.167 take charge of... (<i>tantō</i>)	.077 April	.108 Shun
Tokyo High Court	.112 junior high school	.169 a series of murders of pupil	.116 bring (a charge) against... (<i>aitedaru</i>)	.057 issue	.164 last year	.073 lethal	.103 a case of kid- nap and murder of boy
sentence	.109 pupil	.166 child	.116 last year	.057 governing party	.164 recently	.071 revised juvenile law	.100 junior high school kidnap
criminal	.106 arrest	.154 Legislative Council of the Ministry of Justice student	.112 February	.056 party	.151 May	.069 darkness	.099
dismissal	.106 Hase	.145 juvenile crime	.054 juvenile crime	.069 Lower House see	.149 feeling	.070 boys	.095 April
claim	.104 murder case	.143 introduction	.111 appeal	.053 theme	.147 have	.069 injury	.095 prefectural police
murder case	.100 Kobe Family Court	.139 heart	.110 theme	.053 need	.138 juvenile crime	.066 January	.095 police

Source: made with *Yomiuri Shimbun* database
The number means Jaccard similarity coefficient.

Table 2: Types and Tones of Articles on Juvenile Law

	Public Security is Deteriorating	Juvenile Crimes Become Atrocious	Crime Victims	Age	N
Incident	3.8%	5.6%	24.4%	4.4%	1187
Political and Administrative Process	5.5%	14.2%	18.4%	23.3%	506
Feature	11.7%	23.8%	23.8%	8.4%	298
Readers' Letter	4.1%	28.0%	10.1%	9.7%	268
Journalists' Comment	9.2%	20.0%	20.8%	16.0%	250
Book or TV Program Review	0.5%	17.2%	5.4%	0.5%	221
Experts' Comment	7.5%	19.7%	17.3%	9.3%	173
Column	8.9%	23.4%	15.8%	4.4%	158
Editorial	16.8%	26.7%	22.8%	17.8%	101
Data	23.5%	36.8%	4.4%	7.4%	68
Foreign Incident	16.3%	22.5%	0.0%	10.2%	49
Police Activity	7.7%	33.3%	5.1%	0.0%	39
Victims Activity	0.0%	6.7%	76.7%	0.0%	30
Others	4.3%	22.6%	7.8%	3.5%	371
Sum	6.2%	16.3%	18.3%	8.8%	3719
Chi square	116.930**	202.945**	195.725**	232.259**	

Source: made with *Yomiuri Shimbun* database
 **p<0.01

interpretation of statistical data,⁴⁾ which is known as an aspect of 'penal populism'.

4 Juvenile Lawmaking Process

This section shows main points of the lawmaking processes of the Juvenile Law Revision Act of 2000, 2007, 2008, and 2014, associated with the issue salience of juvenile law and triggering incidents.

4.1 The Act of 2000 in High Salience

Though the lawmaking process of the Act of 2000 was stimulated by Kobe case, the policy community had discussed the procedure reform of juvenile law before the case. It was an agenda which the policy community, which consists of prosecutors, judges, and experts of criminal law, had left since the breakdown of the relationship between lawyers, prosecutors, and judges regarding the report of the Committee of Juvenile Law (*Shōnenhō Bukai*), Legislative Council (*Hōsei Shingikai*) of the Ministry of Justice in the late 1970s.

The act consists of two parts of law reform. One is the procedure reform, which the policy community discussed in the 1970s and 1990s. The main points are introduction of council system of judges and expansion of prosecutor's authority to participate in juvenile judgment. The background of the reform was some troubling cases in which

⁴⁾The results of some surveys in around 1997 shows that about 80% of voters think that juvenile crimes become atrocious. The majority of criminal sociologists argue that juvenile crimes do not become atrocious but immature (Doi 2003; Kawai 2004; Kubo 2006. See also note 2).

juvenile suspects admit their crimes at the police but deny them in the judgment.⁵⁾ The other is harsher punishment for juvenile offenders. It consists of lowering the lowest age imposed criminal punishment from sixteen to fourteen, introducing family courts' obligation to commit juvenile offenders of serious incident to prosecutors, and limiting the scope of special criminal procedure for juvenile offenders.

Who took the initiative of the Act? Each part of this Act was drafted by different actors. The part of the procedure reform was drafted by bureaucrats based on the report of the council *Hōsei Shingikai* in 1998-99. The procedure part includes technical aspects of criminal procedure, and the National Diet did not revise the part in the Bill at all. The drafting of the part of harsher punishment was led by LDP politicians in 2000 just after Nishitetsu bus hijacking case. The harsh punishment part was simpler and more understandable to voters than the procedure part. The part drafted by politicians also included codes of ethics which are interpreted to have no legal effect but are easy for voters to understand such as “juvenile judgment must make the offenders to regret their delinquency.”⁶⁾

4.2 After the Act of 2000

The lawmaking process of the Act of 2000 which includes harsher punishment can be taken as a typical case of ‘penal populism’ in high salience. But there were legislations for harsher punishment after the issue salience of juvenile law went down. How is it explained? Two explanations are possible. One is applying an explanation of American crime policy by Jones and Baumgartner (2005) to this case. They wrote “Interest groups do not disappear when media and public attention fade.” They seem to suggest the direct relationship between interest groups and politicians in the context of legislative process in the U.S.. Although interest groups matter in Japanese context, but the data below shows that the most of politicians’ attention to juvenile law also fade and they have rarely participated in lawmaking processes of the Acts of 2008 and 2014. Even if certain politicians who have strong tie with victims groups was involved in the processes, the processes are quite different with the process of 2000 in which many politicians paid attention to juvenile law.

The other is an influence of the change of policy community through the term of high salience. There was a change in members of the committee *Shōnenhō Bukai* of the council *Hōsei Shingikai*. A representative of a crime victims group has been appointed as a member of the committee since 2007, so the victims group got an access to a direct influence to the Bills which the bureaucrats of the Ministry of Justice draft based on the reports of the committee.

Figure 4 shows the trend of politicians’ attention to juvenile law. The source is the record of the National Diet. The blue line indicates the number of committees in which members mention ‘juvenile law’ or ‘juvenile crime’ in the Lower House per year.⁷⁾ It is counted when at least one of the members mention either word in one sitting of committees. The graph shows that politicians’ attention almost swing along with the media coverage. Politicians’ attention to juvenile law also have been relatively low recently. The orange line indicates the number of the Committee of Justice (*Hōmu Inukai*) where the Act is discussed, and the gray line is the other committees. It turns out that the trend reflects the attention of politicians in the other committees. It seems that

⁵⁾A typical case was Yamagata case in 1993.

⁶⁾Article 22, Juvenile Law.

⁷⁾The search words are same as the analysis of newspapers.

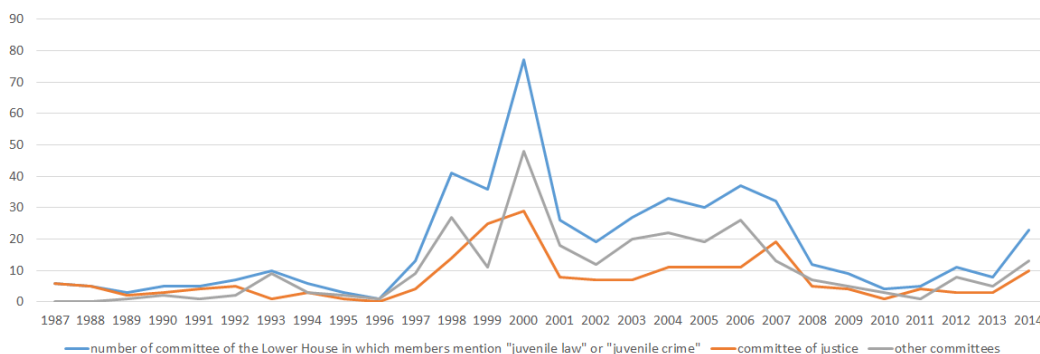


Figure 4: Trend of Politicians' Attention to Juvenile Law
 Source: made with the National Diet record database

politicians who have little interests in juvenile law pay attention to it as media coverage increases.

The difference between members of the Committee of Justice and the other committees is shown by the content of politicians' comments in committees. Table 3 shows the result of the content analysis of the National Diet record. The percentage of other committee members' comments on atrociousness of juvenile crime is high in 1997 and 2003-2005. This trend is earlier than that of members of Committee of Justice. This data indicates that politicians who have little interests in juvenile law pay attention to it as media coverage increases, too.

4.3 The Acts in Low Salience

Most of the periods of the lawmaking process of the Act of 2007, 2008, and 2014 were in low salience. The Act of 2007 was on the agenda in middle salience because of Nagasaki case but was legislated in low salience. The Act consists of three points. The first is lowering the lowest age to be committed to juvenile training school (*shōnen'in*). It was fourteen-year-old before the legislation but it became 'about twelve-year-old'. The first version of the Bill just deleted the lowest age in Juvenile Law, but the Committee of Justice in the Lower House changed it into 'about twelve-year-old' after the Bill had been left undiscussed for two years. Although it became milder than the first version, it was harsher than the status quo. The second is the legislation of police procedure for juvenile offenders under fourteen-year-old or juvenile who is predicted to commit a crime with high probability. The part of the Act also became milder in the Committee of Justice in the Lower House. The third is the legislation of authority of superintendent of juvenile training school and director of probation office to instruct juvenile offenders' parents to become conscious of their responsibility. These were written in reports of committees which were led by high government officials triggered by Nagasaki case.

Thus, harsher punishments for juvenile offenders were on the agenda and the Bill was drafted in middle salience. The Act became milder than the first version but still harsher than the status quo in low salience.

The lawmaking process of the Act of 2008 which was from 2006 to 2008 was thoroughly in low salience. The purpose of the Act is to introduce victims involvement system in juvenile judgment. At the stage of the discussion in the committee *Shōnenhō Bukai*, a

Table 3: Content Analysis of the National Diet Record

	Public Security is Deteriorating			Committee of Justice			Public Security is Deteriorating			Others		
	Juvenile Crimes Become Atrocious	Crime Victims	Age	Juvenile Crimes Become Atrocious	Crime Victims	Age	Juvenile Crimes Become Atrocious	Crime Victims	Age	Juvenile Crimes Become Atrocious	Crime Victims	Age
-1996	19.0%	20.7%	1.7%	5.2%	58	6.7%	4.4%	0.0%	45			
1997	28.6%	14.3%	0.0%	14.3%	7	13.0%	34.8%	8.7%	23			
1998	43.5%	34.8%	43.5%	39.1%	23	22.5%	44.9%	8.2%	49			
1999	15.0%	12.5%	5.0%	22.5%	40	22.2%	22.2%	16.7%	18			
2000	49.0%	40.8%	36.7%	71.4%	49	16.9%	40.5%	13.5%	89			
2001	23.5%	17.7%	5.9%	41.2%	17	18.9%	10.8%	10.8%	37			
2002	7.7%	7.7%	7.7%	30.8%	13	14.8%	25.9%	7.4%	27			
2003	26.3%	0.0%	10.5%	31.6%	19	31.4%	34.3%	20.0%	35			
2004	41.2%	23.5%	0.0%	17.7%	17	36.4%	36.4%	9.1%	33			
2005	23.5%	35.3%	0.0%	17.7%	17	34.4%	37.5%	6.3%	32			
2006	16.7%	5.6%	5.6%	33.3%	18	9.8%	22.0%	7.3%	41			
2007	45.7%	40.0%	25.7%	51.4%	35	9.4%	12.5%	3.1%	32			
2008	25.0%	33.3%	33.3%	83.3%	12	6.7%	13.3%	20.0%	15			
2009-	12.0%	10.0%	8.0%	24.0%	50	4.4%	8.9%	8.9%	45			
Sum	27.2%	22.4%	14.1%	33.6%	375	17.5%	26.5%	10.2%	521			
Chi square	37.160**	37.593**	65.559**	80.886**		34.194**	51.202**	11.069	37.104**			

Source: made with *Yomiuri Shimbun* database
**p<0.01

representative of a crime victims group took part in the lawmaking process as a member of the committee for the first time. At the committee stage in the Diet, LDP and Komeito, the coalition government, made a full compromise with the Democratic Party of Japan which was the largest opposition party in order to break the deadlock in the situation of the ‘Divided Diet’ (*Nejire Kokkai*). The Act was less strict for juvenile offenders under fourteen-year-old than the Bill. Though the situation was the ‘Divided Diet’, it seemed that the Bill was not so important for politicians in the governing parties that the Lower House where the coalition government had two thirds of the seats at that time overrides the rejection of the Upper House or they postpone the legislation.

The Act of 2014 was also legislated in low salience. It extends the term of punishment from fifteen to twenty years at a maximum. It is said that the idea of this legislation was based on comments by judges in some juvenile cases and requests of crime victims groups to the administration. Politicians paid little attention to the Act. Total discussion time of the Bill in the Diet was shortest among these Acts. It was about seven hours which was a quarter of that of the Act of 2000 in the Lower House.

The Acts for harsher punishment were legislated even in low salience. The Bills were drafted by policy community which partly includes a representative of crime victims group, and politicians had not so much interest in the Bills. There must be a different political mechanism from that ‘penal populism’ theory predicts.

5 Conclusion and Implications

To conclude, the research question and answer of the paper are presented again. The research question was why punishment for juvenile offenders has become harsher even in low salience. The answer is that harsher punishment laws are not only the result of ‘penal populism’ in high salience but also the result of interactions within policy community in low salience.

‘Penal populism’ theory predicts the activity of crime victims groups backed by public opinion in high salience. In contrast, this paper shows crime victims groups’ influence through policy community in low salience where voters and politicians have little interest in juvenile law. The recent lawmaking processes which the crime victims groups participate in are in low salience, though the crime victims groups’ access to policy community was given through high salience political process. Shifts of issue salience change political actors who participate in policymaking process. Political actors need to adapt their strategy to the changing issue salience in order to pursue their political interests on legislations. So, it is important for researchers on policy process to pay attention to issue salience of the policy they research.

One question I left open is to leave the interaction within policy community a black box. Next I would like to challenge this question by constructing a theoretical model, investigating the records of the committee more precisely, and conducting a comparative case study in other lawmaking process regarding crime and justice.

This research presents two implications. The first is regarding comparative study of low salience politics. This paper distinguishes the low and high salience politics in the criminal policy making process in Japan. Some research which pay attention to issue salience and policy making process indicate features of low salience politics (Gormley 1986; Culpepper 2011). The paper has just take the Japanese criminal policy making process as comparable with other low salience political processes. As Gormley (1986) shows, issue salience and complexity of policy are key points to classify policy making processes. Even if juvenile lawmaking process is in high salience, the matter of procedure

is so complex that politicians did not interfere the conclusion of policy community. So, we may test the effect of the complexity of policy on policy making process by distinguishing a complex part and simple part of the policy in a single case study.

The second is short term changes of issue salience. This research shows that issue salience shifts in the short run. It may lead to the limitation of politicians' incentive to be deeply involved in the policy making compared to other issue areas, especially always in high salience. The trend of issue salience change may have influence to policy outcomes through political actors' incentives.

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