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Table 37. Drug Crime : The foreign arrestee classified by laws and nationality in Japan (1995–1996)

The type of laws		Nationality															
		Local	Korea	North Korea	China	Taiwan	Iran	Thailand	Viet Nam	Philippines	Malaysia	England	Germany	U. S. A	Colombia	The others	
The sum total	1995	825	29	4	6	4	253	28	27	294	19	8	8	21	13	111	
	1996	784	48	2	6	2	294	36	18	234	6	5	4	24	18	87	
	up-down	▼ 41	△ 19	▼ 2		▼ 2	△ 41	△ 8	▼ 9	▼ 60	▼ 13	▼ 3	▼ 4	△ 3	△ 5	▼ 24	
Simulant Drug Control Law	1995	485	25	4	5	2	120	6	2	285	2			8	1	25	
	1996	558	44	2	6	2	218	10	5	230				7	4	30	
	up-down	△ 73	△ 19	▼ 2	△ 1		△ 98	△ 4	△ 3	▼ 55	▼ 2			▼ 1	△ 3	△ 5	
Cannabis Control Law	1995	178	4		1	1	69	8		9	3	7	5	12		59	
	1996	121	4				42	11		3	2	4	4	15	3	33	
	up-down	▼ 57			▼ 1	▼ 1	▼ 27	△ 3		▼ 6	▼ 1	▼ 3	▼ 1	△ 3	△ 3	▼ 26	
Narcotic and Psychotropic Substances Control Law	The sub total	1995	110				1	22	13	25		14	1	1		12	21
		1996	72					14	9	13	1	4		2	11	19	
		up-down	▼ 38				▼ 1	▼ 8	▼ 4	▼ 12	△ 1	▼ 10	▼ 1	▼ 1	△ 2	△ 1	▼ 2
	Cocain	1995	40					17	1							12	10
		1996	40			2		12	2	1		1			2	11	9
	up-down				△ 2		▼ 5	△ 1	△ 1		△ 1				▼ 1	▼ 1	
	Heroin	1995	51				1	3		25		14	1	1			6
		1996	17			1		1		12		2					1
	up-down	▼ 34			△ 1	▼ 1	▼ 3	△ 1	▼ 13		▼ 12	▼ 1	▼ 1			▼ 5	
	Psychotropic substances	1995	12						11								1
		1996	10						8								2
	up-down	▼ 2							▼ 3							△ 1	
The others	1995	7					2	1								4	
	1996	5					2	1			1					2	
up-down	▼ 2							△ 1		△ 1					▼ 2		
Opium Law	1995	52						42	1					2	1	6	
	1996	33						20	6				1	2		4	
	up-down	▼ 19						▼ 22	△ 5				△ 1		▼ 1	▼ 2	

## Notes

- (1) T. Atsumi, 1998 foreward p. ii points out that the unsuitability of the modern discipline of laws and economies which has been understood only from viewpoint of the confrontation between "Individual and State".
- (2) K. Hoshino, Principles of Criminal Sociology (1981), Tachibanashobo, pp. 400-449.
- (3) K. Yagi, Principles of Criminal Policy (1984), pp. 414, 421 ; A. Ishihara, A. Sumitani, I. Fujioka, M. Arakawa, Criminal Policy (1993), pp. 355, 376 ; T. Sawanobori, K. Tokoro, K. Hoshino, I. Maeno, New Criminal Policy (1993), pp. 412, 431 ; H. Otsuka, New Guide for Criminal Policy (1995), Seirinshoin, pp. 340, 347.
- (4) K. Hoshino, 1981, p. 451.
- (5) K. Hoshino, 1981, pp. 452-453.
- (6) K. Hoshino, 1981, pp. 452, 464, 481.
- (7) K. Hoshino, 1981, p. 452.
- (8) H. Iwai, 1963, p. 34.
- (9) H. Iwai, 1963, p. 41 ; K. Hoshino, 1981, p. 457.
- (10) K. Hoshino, 1981, p. 476.
- (11) K. Hoshino, 1981, pp. 484, 488.
- (12) K. Hoshino, 1981, p. 493.

Table 35. Offenses against laws for employment regarding foreign laborer in Japan (1993–1997)

Year	1993		1994		1995		1996		1997	
	Cases	Arrested	Cases	Arrested	Cases	Arrested	Cases	Arrested	Cases	Arrested
Total	806	907	631	778	384	476	404	506	518	650
Law concerning the Maintenance of proper Management of Business sending Employee and Others	49	56	38	53	16	26	30	40	21	11
Employment Security Law	65	74	44	31	15	16	14	13	7	10
Labor Standard Law	0	0	2	1	7	2	4	1	2	2
Immigration-Control and Refugee-Recognition Act	692	777	547	693	326	432	356	452	488	627

Table 36. Classified countries regarding offenses against laws for employment in Japan (1993–1997)

Year	1993		1994		1995		1996		1997	
	Total	Included women	Total	Included women	Total	Included women	Total	Included women	Total	Included women
All countries	3,062	1,401	2,408	1,056	1,334	588	1,440	603	1,787	982
Thailand	1,235	818	700	451	320	152	282	159	375	265
Korea	294	95	194	101	95	37	198	148	257	213
Philippines	206	126	235	196	268	204	210	100	313	234
Pakistan	17	0	25	0	21	0	16	1	24	1
Bangladesh	9	0	34	0	24	0	41	41	57	0
Myanmar	222	57	150	36	40	14	12	1	32	3
Taiwan	34	29	35	26	28	26	13	11	41	34
Iran	260	1	135	1	86	0	103	0	40	1
Sri Lanka	4	0	17	0	4	0	16	0	11	0
Brazil	129	55	313	105	66	23	71	4	33	23
China	87	30	103	19	90	20	89	57	320	93
Peru	254	66	258	58	146	35	140	26	40	8
The other countries	311	124	209	63	146	77	249	55	244	107

Table 33. Classified countries regarding arrested foreign brokers of entertainment and amusement business offenses in Japan (1994–1997)

Year	1994	1995	1996	1997
Total	28	11	12	14
Taiwan	1	2	0	0
Korea	3	1	5	4
China	4	0	0	2
Malaysia	1	0	0	0
Pakistan	2	0	0	2
Bangladesh	1	0	0	0
Peru	2	1	2	0
Philippines	2	0	1	0
Chile	3	0	0	0
Brazil	1	0	1	0
Myanmar	1	0	0	0
Thailand	7	7	1	4
Indonesia	0	0	1	1
Colombia	0	0	1	1

Table 34. Foreign ladies participating offenses against laws regarding the entertainment and amusement business in Japan (1993–1997)

Year	1993	1994	1995	1996	1997
Total	2,405	2,380	1,133	934	1,425
Korea	80	133	62	189	243
Taiwan	158	156	81	99	139
Philippines	98	337	166	89	225
Thailand	1,849	1,407	571	316	452
Colombia	109	198	190	155	224
The other countries	111	149	63	86	142

Table 32. Recognized Cases of mass smuggling and smuggling into Japan (1996)

Date	Place	Nationality	Cases of arrest	Assistants, etc
05-Feb	Kagoshima	China	74	5 assistants (Japanese)
07-Feb	Yamaguchi	Bangladesh, etc.	26	2 captains of a smuggler (Korean and Japanese), 16 Bangladeshis, 8 Pakistanis and 8 Indians
07-Feb	Okinawa	Pakistan, etc.	41	4 assistants (2 Chinese and 2 Japanese)
27-Mar	Fukuoka	China	11	9 Pakistanis and 2 Indian
21-Apr	Okinawa	China, etc.	55	11 assistants (10 Chinese and 1 Taiwanese), 2 drowned persons
07-May	Osaka	China	10	1 assistant (Korean)
08-May	Yamagata	China	17	
14-May	Aichi	Pakistan, etc.	5	Assistants (6 members of Boryokudan and 2 others )
12-Jul	Fukuoka	Pakistan	30	
24-Jul	Fukuoka	Viet Nam	10	1 assistant (Korean)
22-Aug	Nagasaki	China	14	
23-Aug	Fukuoka	China	45	8 assistants (6 Chinese and 2 Japanese)
26-Aug	Fukuoka	China	5	4 assistant (Chinese)
15-Sep	Nagasaki	China	7	1 assistant (naturalized Chinese)
19-Sep	Kanagawa	China	6	
14-Oc	Hyogo	China	6	
02-Nov	Shizuoka	China	14	
12-Nov	Nagasaki	China	12	2 assistants (Chinese)
21-Nov	Kumamoto	Philippine	7	3 assistants (Chinese)
29-Nov	Fukuoka	Pakistan	12	6 assistants (Philippine)
05-Dec	Fukuoka	China	24	Runaway seamen from the ship of burden on the purpose of smuggling
06-Dec	Hokkaido	China	7	
11-Dec	Aichi	China	99	5 assistants (Japanese)
12-Dec	Kagoshima	China	6	
19-Dec	Fukuoka	China	64	3 assistants (1 Chinese and 2 Japanese)
19-Dec	Tokyo	China	8	5 assistant seamen
22-Dec	Tokyo	China	39	Now investigating
24-Dec	Yamaguchi	China	18	Assistants (1 Chinese and 1 member of Boryokudan)
25-Dec	Okayama	China	7	1 captain of a smuggler and 1 assistant





Table 29. Foreign criminals transferred to public prosecutors due to violation of Immigration-Control and Refugee-Recognition Act in Japan (1991-1996)

Year	1991	1992	1993	1994	1995	1996
China	110	449	506	1,085	836	1,013
Korea	231	209	340	363	351	535
Thailand	391	652	1,036	878	572	579
Iran	141	242	504	732	604	685
The other countries	596	614	1,232	1,828	1,471	1,680

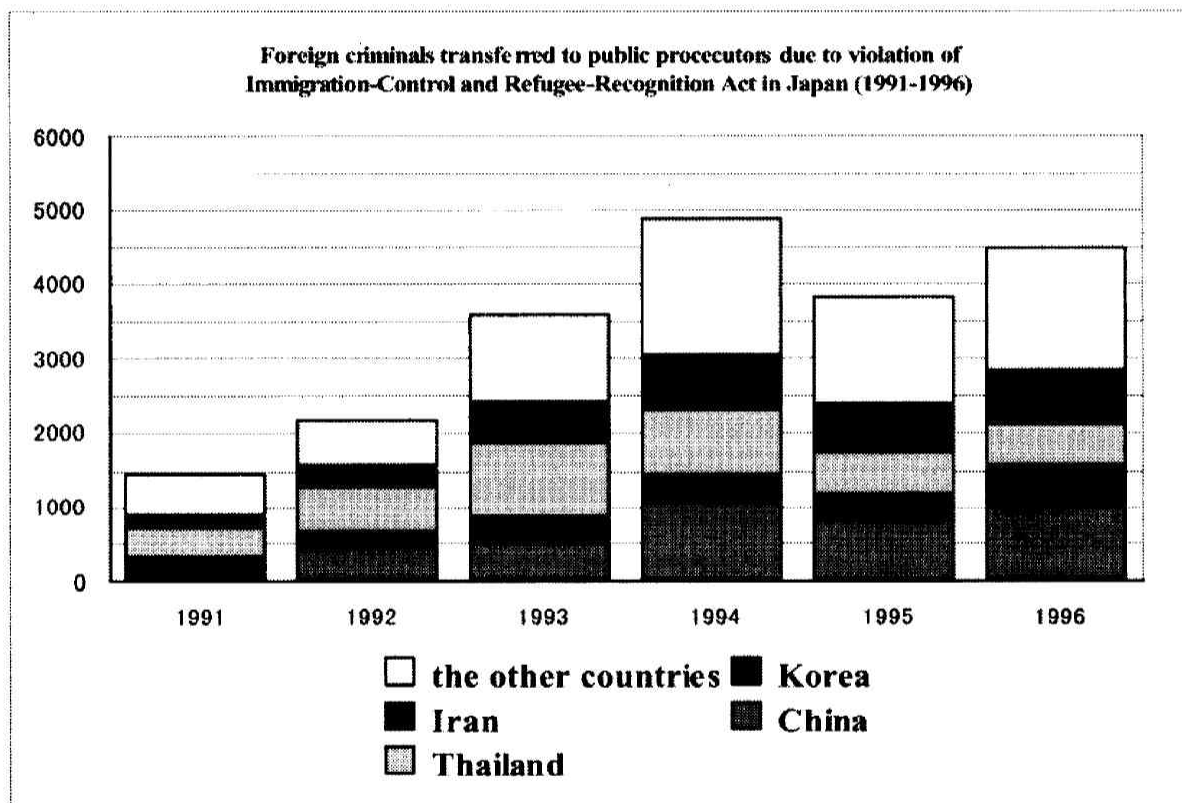


Table 28. Breaching Alien Registration Law in Japan (1991-1996)

Year	1991	1992	1993	1994	1995	1996
China	13	8	8	14	29	24
Korea	88	70	55	27	26	25
Thailand	22	24	24	48	26	40
Iran	5	12	11	19	13	18
The other countries	50	24	16	52	52	71

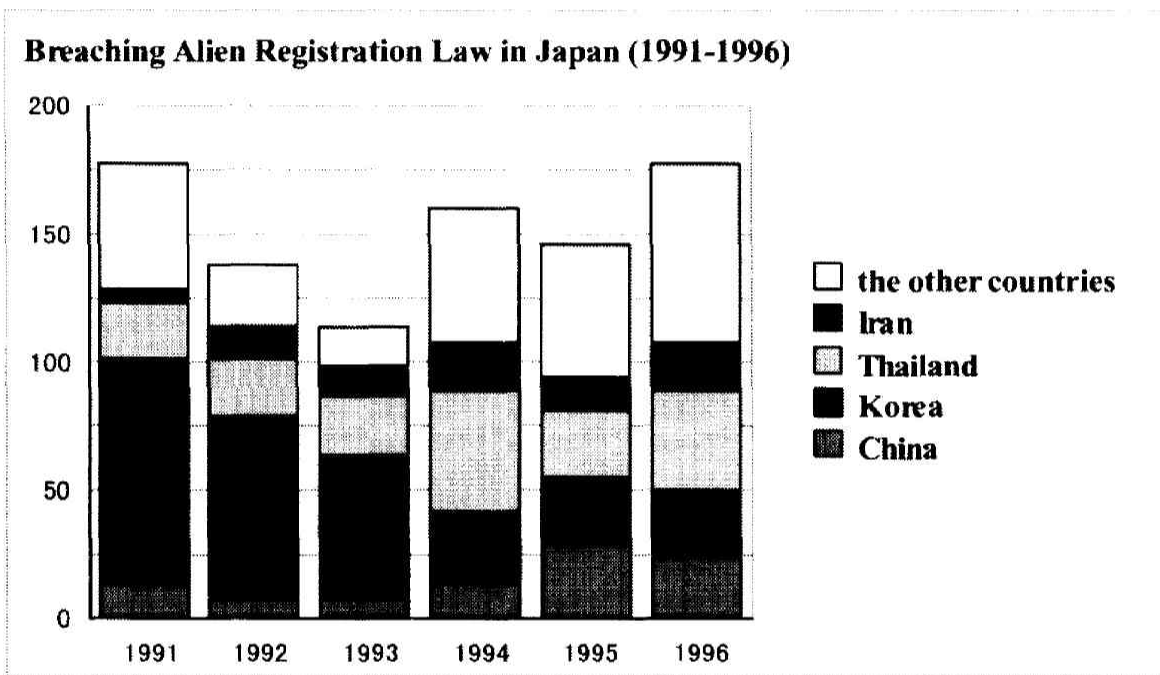


Table 25. Clear-up foreigners classified by types of crimes in Japan (1988–1997)

Year		1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Total	The number of cases	3,906	3,572	4,064	6,990	7,457	12,771	13,321	17,213	19,513	21,670
	The number of arrested persons	3,020	2,989	2,978	4,813	5,961	7,276	6,989	6,527	6,026	5,435
Offenses of serious nature	The number of cases	48	98	77	126	161	218	221	176	162	187
	The number of arrested persons	78	94	111	126	185	246	230	201	212	213
Offenses of violent nature	The number of cases	92	107	140	128	196	244	220	247	272	265
	The number of arrested persons	135	138	157	174	213	277	246	255	279	313
Offenses of theft	The number of cases	2,689	2,353	2,719	4,506	4,277	9,134	10,120	14,145	15,952	19,128
	The number of arrested persons	1,816	1,776	1,656	2,493	2,944	3,895	3,937	3,900	3,399	3,155
Offenses of intelligent nature	The number of cases	243	190	239	377	723	777	394	770	1,513	680
	The number of arrested persons	86	104	139	94	443	260	218	302	497	305
The others	The number of cases	834	824	889	1,853	2,100	2,398	2,366	1,875	1,614	1,410
	The number of arrested persons	905	877	915	1,926	2,176	2,498	2,358	1,869	1,639	1,449

Table 26. Clear-up cases of atrocious crimes by foreigner in Japan (1991–1996)

Year		1991	1992	1993	1994	1995	1996	up-down rate
Murder	Cases	25	35	58	48	36	53	△ 47.2%
	Arestee	33	39	72	53	41	73	△ 78.0%
Robbery	Cases	73	95	124	103	104	84	▼ 19.2%
	Arestee	69	118	142	139	135	114	▼ 15.6%
Arson	Cases	3	9	17	43	21	7	▼ 66.7%
	Arestee	2	5	10	11	10	7	▼ 30.0%
Rape	Cases	25	22	19	27	15	18	△ 20.0%
	the arestee	22	23	22	27	15	18	△ 20.0%
Total	Cases	126	161	218	221	176	162	▼ 8.0%
	Arestee	126	185	246	230	201	212	△ 5.5%

Table 27. The illegal stayers in Japan (1994–1998)

Year	1994	1995	1996	1997	1998
Total	288,092	284,744	284,500	282,986	276,810
Thailand	46,964	43,014	41,280	39,513	37,046
Korea	44,916	49,530	51,580	52,387	52,123
China	39,552	38,464	39,140	38,296	37,590
Philippines	38,325	41,122	41,997	42,547	42,608
Malaysia	17,240	13,460	11,525	10,390	10,141
Iran	18,009	14,638	13,241	11,303	9,186
Peru	14,312	14,693	13,836	12,942	11,606
Bangladesh	7,295	6,836	6,500	6,197	5,581
Taiwan	7,906	8,210	8,502	9,409	9,430
Pakistan	6,517	5,865	5,478	5,157	4,688
Myanmar	6,335	6,022	5,885	5,900	5,829
The other countries	40,721	42,890	45,536	48,945	50,982

Table 24. Clear-up cases of Penal Code Crimes classified by Nationalities (1995-1996)

Nationality	1995		1996			
	The arrestee	Component ratio	The arrestee	Component ratio	Up-down rate	
Asia	Korea	1,545	9.0%	1,940	9.9%	△ 25.6%
	North-Korea	29	0.2%	25	0.1%	▼ 13.8%
	China	6,843	39.8%	5,796	29.7%	▼ 15.3%
	Taiwan	885	5.1%	309	1.6%	▼ 65.1%
	Hong Kong	100	0.6%	81	0.4%	▼ 19.0%
	Philippines	633	3.7%	629	3.2%	▼ 0.6%
	Thailand	607	3.5%	276	1.4%	▼ 54.5%
	Viet Nam	693	4.0%	5,557	28.5%	△ 701.9%
	Malaysia	634	3.7%	280	1.4%	▼ 55.8%
	Pakistan	227	1.3%	97	0.5%	▼ 57.3%
	Bangladesh	57	0.3%	32	0.2%	▼ 43.9%
	Iran	380	2.2%	458	2.3%	△ 20.5%
	The others	548	3.2%	480	2.5%	▼ 12.4%
The sub total	13,181	76.6%	15,960	81.8%	△ 21.1%	
Europe	England	51	0.3%	50	0.3%	▼ 2.0%
	Russian	155	0.9%	123	0.6%	▼ 20.6%
	France	25	0.1%	36	0.2%	△ 44.0%
	The others	90	0.5%	98	0.5%	△ 8.9%
	The sub total	321	1.9%	307	1.6%	▼ 4.4%
America	U. S. A.	351	2.0%	496	2.5%	△ 41.3%
	Brazil	1,503	8.7%	979	5.0%	▼ 34.9%
	Peru	1,170	6.8%	1,098	5.6%	▼ 6.2%
	Colombia	291	1.7%	387	2.0%	△ 33.0%
	The others	236	1.4%	178	0.9%	▼ 24.6%
	The sub total	3,551	20.6%	3,138	16.1%	▼ 11.6%
Africa	100	0.6%	56	0.3%	▼ 44.0%	
Oceania	57	0.3%	51	0.3%	▼ 10.5%	
Stateless and unknown nationality person	3	0.0%	1	0.0%	▼ 66.7%	
The sum total	17,213	100.0%	19,513	100.0%	△ 13.4%	

Table 23. Foreign arrestee due to Penal Code Crimes classified by Nationalities in Japan (1995–1996)

Nationality		1995		1996		
		The arrestee	Component ratio	The arrestee	Component ratio	Up-down rate
Asia	Korea	731	11.2%	725	12.0%	▼ 0.8%
	North-Korea	21	0.3%	7	0.1%	▼ 66.7%
	China	2,725	41.7%	2,504	41.6%	▼ 8.1%
	Taiwan	153	2.3%	124	2.1%	▼ 19.0%
	Hong Kong	41	0.6%	33	0.5%	▼ 19.5%
	Philippines	301	4.6%	326	5.4%	△ 8.3%
	Thailand	213	3.3%	145	2.4%	▼ 31.9%
	Viet Nam	252	3.9%	274	4.5%	△ 8.7%
	Malaysia	169	2.6%	135	2.2%	▼ 20.1%
	Pakistan	59	0.9%	46	0.8%	▼ 22.0%
	Bangladesh	30	0.5%	31	0.5%	△ 3.3%
	Iran	167	2.6%	150	2.5%	▼ 10.2%
	The others	219	3.4%	263	4.4%	△ 20.1%
The sub total		5,081	77.8%	4,763	79.0%	▼ 6.3%
Europe	England	55	0.8%	34	0.6%	▼ 38.2%
	Russian	158	2.4%	121	2.0%	▼ 23.4%
	France	25	0.4%	17	0.3%	▼ 32.0%
	The others	83	1.3%	85	1.4%	△ 2.4%
	The sub total		321	4.9%	257	4.3%
America	U. S. A.	135	2.1%	131	2.2%	▼ 3.0%
	Brazil	318	4.9%	304	5.0%	▼ 4.4%
	Peru	386	5.9%	310	5.1%	▼ 19.7%
	Colombia	43	0.7%	56	0.9%	△ 32.0%
	The others	145	2.2%	105	1.7%	▼ 27.6%
	The sub total		1,027	15.7%	906	15.0%
Africa		36	0.6%	43	0.7%	△ 19.4%
Oceania		58	0.9%	57	0.9%	▼ 1.7%
Stateless and unknown nationality person		4	0.1%	0	0.0%	▼ 100.0%
The sum total		6,527	100.0%	6,026	100.0%	▼ 7.7%

Table 22. Entrants and arrested foreigners in Japan (1988–1997)

Year	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Entrance persons	2,414,000	2,986,000	3,504,000	3,856,000	3,926,000	3,747,000	3,831,000	3,732,000	4,245,000	4,670,000
Arrested cases	3,906	3,572	4,064	6,990	7,457	12,771	13,321	17,213	19,513	21,670
Arrested persons	3,020	2,989	2,978	4,813	5,961	7,276	6,989	6,527	6,026	5,435

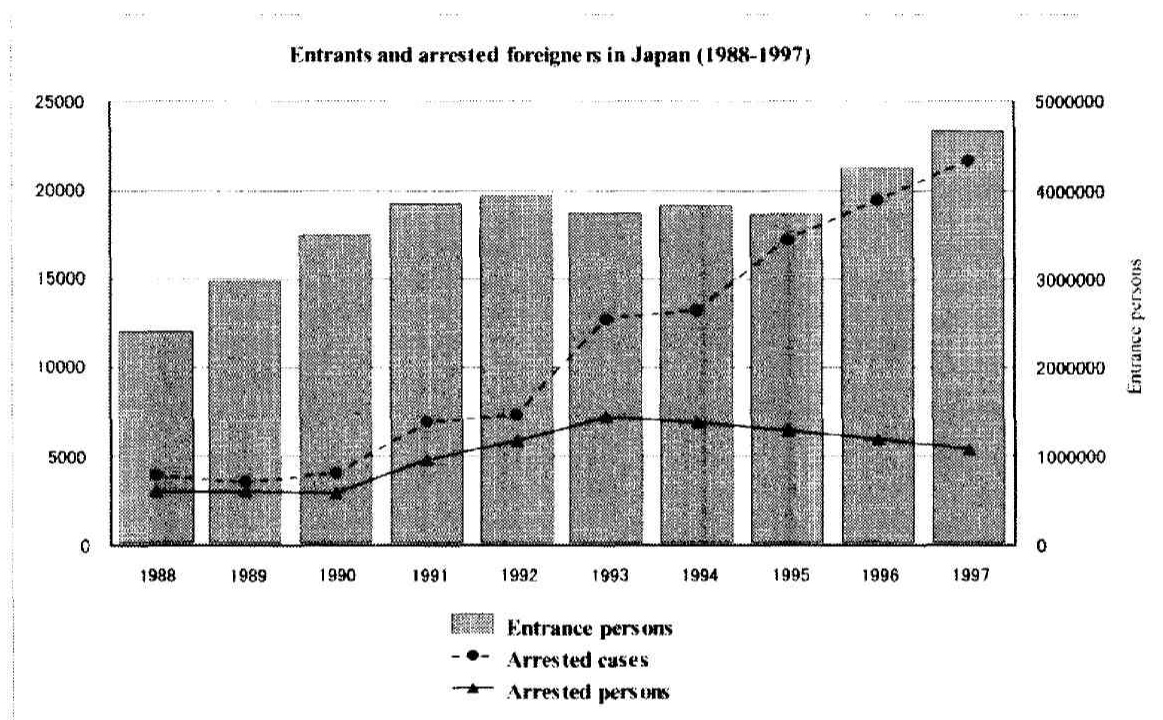


Table 21. Dissolution of Boryokudan-groups based on the Anti-Boryokudan Law in Japan (1991-1997)

Year	1991	1992	1993	1994	1995	1996	1997
The number of organizations	131	158	222	211	234	218	220
The number of the members	1,430	2,050	2,600	1,940	1,440	1,590	1,390

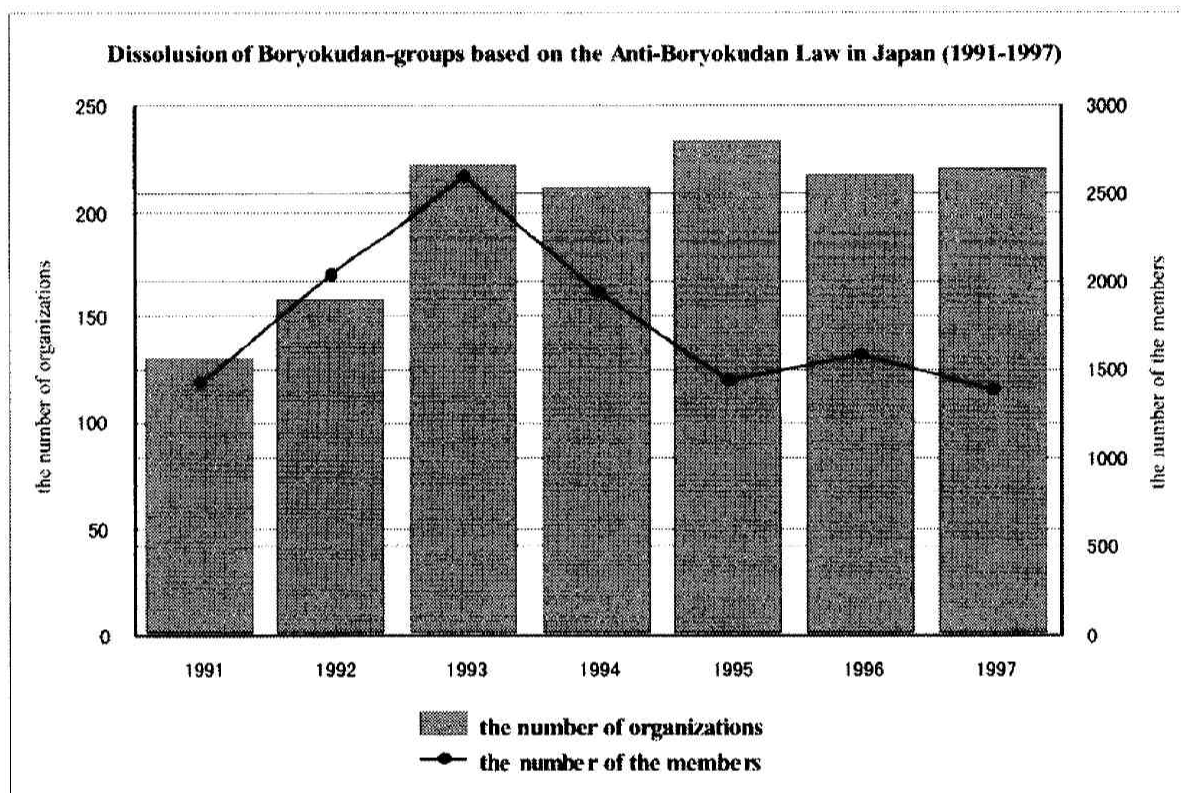


Table 20. Police Injunctions based on Anti-Boryokudan Law classified by groups in Japan (1994-1997)

Year	1994		1995		1996		1997	
	Order to stop	Order to prevent relapse	Order to stop	Order to prevent relapse	Order to stop	Order to prevent relapse	Order to stop	Order to prevent relapse
Total	1,057	37	1,321	33	1,456	43	1,737	60
Yamaguchi-gumi	469	15	536	13	577	17	740	19
Inagawa-kai	169	5	237	3	268	13	278	9
Samiyoshi-kai	149	7	189	5	244	5	291	10
Kudo-rengo Kusano-ikka	19		18	1	22		13	1
Aida-ikka	2		1		5		4	
Aizu-Kotetsu	34		29	2	25	2	26	
Kyosei-kai	10		5		5		4	
Kozakura-ikka	7		4		4		3	
Dojin-kai	24		12		17		18	
Kyokuryu-kai	7		2		1		7	
Okinawa-Kyokuryu-kai	7		8		4		6	
Asano-gumi	1	1	10		2		7	
Shinwa-kai	4		2		2		3	
Soai-kai	20	4	19	1	29	1	19	4
Yamano-kai	1		3		1		5	
(Ishikawa-ikka)	5		2		-		-	
Kyodo-kai	7	1	14	1	4		5	
Taisyu-kai	5		4		4		11	2
Sakaume-gumi	6		17	1	20	1	13	1
Kyokuto-Sakurai-Sokarengo-kai	4		12		19	1	3	2
Kyokuto-kai	27	2	64		53		55	
Azuma-gumi	11		6	3	9	1	10	
Matsuba-kai	22	1	50	3	50	1	76	7
(Dainihon-Heiwa-kai)	11		1		0		-	
Kokusui-kai	9		15		29	1	22	5



Table 19. Police Injunctions based on Anti-Boryokudan Law in Japan (1994-1997)

Year	1994		1995		1996		1997	
	Order to stop	Order to prevent relapse	Order to stop	Order to prevent relapse	Order to stop	Order to prevent relapse	Order to stop	Order to prevent relapse
Total	1,057	37	1,321	33	1,456	43	1,737	60
Demand for unreasonable donation	117		197	2	224		347	
Demand for unreasonable payment in compensation for permission of carrying on business	73	3	120	5	157	4	150	4
Demand for unreasonable payment for unnecessary guard or the like	175	25	256	22	267	36	290	40
Collection of credit at illegally high interest or the like	8		10		7		10	
Unfair collection of credit	-		-		-		2	
Demand for unfair exemption of an obligation	116		146		465		193	
Demand for unfair lending or the like	20		19		15		18	
Obstruction of auction or the like	2		1		1		1	
Unfair intervention in a private settlement	10		4				1	
Demand for money or other articles inventing a pretext for a quarrel	65		34		66		76	
The others	27	2	27		21		37	1
Asking Boryokudan to demand violently		2		2		2		2
Being present and helping at the scene of a violent demand	36		66		90		148	
Violent demand in regard to the business of Boryokudan	-		-		-			2
Force to join or disturb secession against juveniles	50	2	58		58		35	1
Force to join or disturb secession by menacing	296	2	302	2	344	1	366	5
Force to join or disturb secession toward the persons closely concerned, kinship	59		77		71		61	
Command to force to join or the like		1						
Force to cut fingers or the like	1		2				1	
Force to tattoo against juveniles or the like			1					
Performance of the forbidden act or the like	2		1				1	

Table 17. Clear-up Boryokudan's criminal cases regarding the financing and uncollectable credits in Japan (1994-1997)

Year	1994	1995	1996	1997
Total cases	8	18	55	79
in the process of financing	6	13	51	77
in the process of collect debtscredit	2	5	4	2

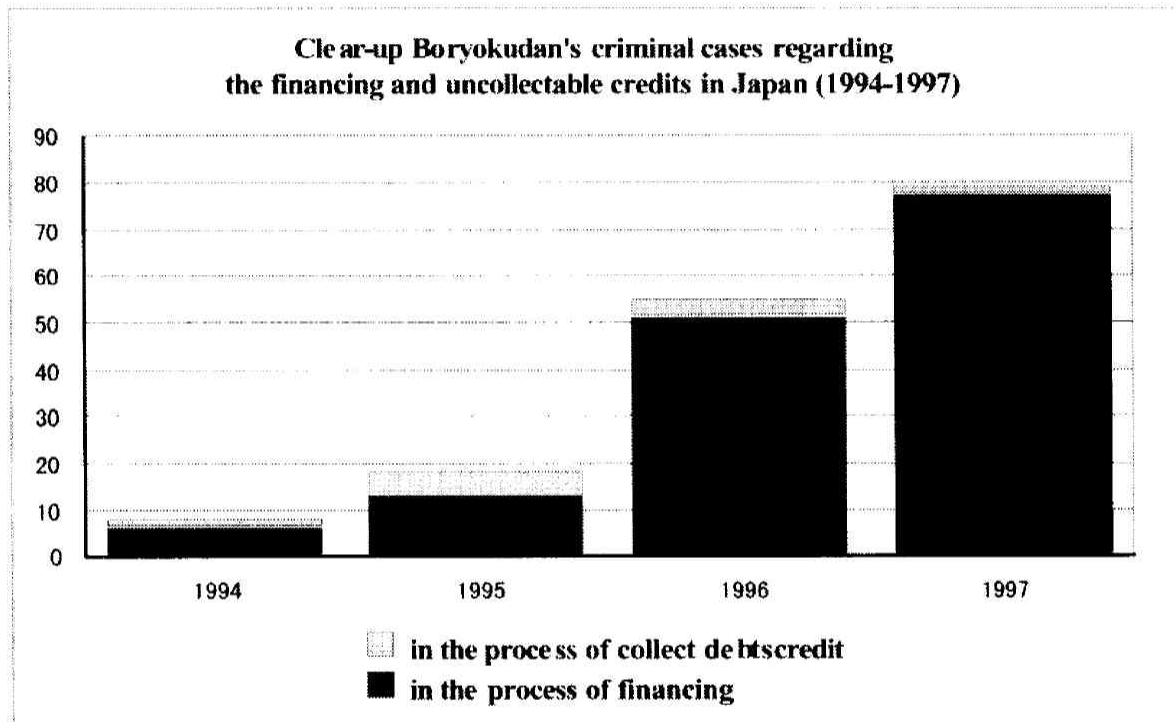


Table 18. Clear-up cases of Sokaiya and the groups disguising social movements by types of crimes in Japan (1994-1997)

Classification	Clear-up cases				Arrested persons			
	1994	1995	1996	1997	1994	1995	1996	1997
Total	597	479	509	562	862	719	719	758
Extortion	166	117	133	124	260	207	219	191
Assault	6	22	19	15	6	19	20	17
Bodily injury	72	53	60	50	109	67	83	61
Compulsion and intimidation	15	23	12	15	22	35	16	25
Forcible abstraction of business	5	5	8	7	12	16	14	12
Fraud	29	23	30	65	37	30	31	39
Embezzlement	4	11	3	5	4	5	4	6
Obstruction of the performance of official duties	9	10	9	5	10	10	12	5
Offenses against Law concerning Punishment of Physical Violence and Others	39	40	36	33	85	91	54	57
The other offenses against Penal Code	100	69	90	106	119	121	149	192
Commercial Code	0	0	0	24	1	0	0	21
Special criminal regulations	152	106	109	113	197	118	117	132

Table 16. Classified offenses of the arrested cases regarding Boryokudan-Front-Enterprise (1997)

	The sum total of cases			
		Yamaguchi-gumi	Inagawa-kai	Sumiyoshi-kai
The sum total of cases	213	139	19	21
Offenses against Penal Code	119	74	12	17
Extortion	25	12	4	5
Fraud	22	12	4	3
Obstruction of auctions	15	10	1	2
Gambling	5	4	0	1
Bodily injury	15	12	1	1
The offenses against Law concerning Punishment of Physical Violence and Others	8	6	1	0
Compulsion and intimidation	1	1	0	0
Assault	1	0	0	0
Fabrication of document	6	3	1	1
The other Penal Code	21	14	0	4
Offenses against special law	94	65	7	4
Wastes Disposal and Public Cleaning Law	10	8	0	0
Law concerning the Maintenance of proper Management of Business sending Employee and Others	21	15	1	1
Law on Control Possession, etc. of Fire-Arms and Sword	7	3	1	1
Law concerning the Regulation of the Moneylending Business and Others	12	8	2	1
The Construction Industry Law	11	9	0	0
Law on Control and Improvement of Amusement Business	6	5	0	0
The Health Insurance Law	4	2	1	0
Anti-Prostitution Law	2	2	0	0
Law concerning the Regulation of Receiving of Capital Subscription, Deposits and Interest on Deposit	7	4	0	0
Immigration-Control and Refugee-Recognition Act	0	0	0	0
The others of breaching special law	14	9	2	1

Table 13. Arrested persons for gambling and seized game-machines in Japan (1993-1997)

Year	1993	1994	1995	1996	1997
Cases of arrest	274	251	290	261	262
The number of the arrested	1,919	1,991	2,814	1,847	1,662
Shops	274	241	231	163	157
The number of seized machine	2,503	2,198	1,892	1,357	1,495
The amount of seized betting money (yen)	160,000,000	230,000,000	390,000,000	280,000,000	340,000,000

Table 14. Arrested persons for the illegal bucket shop operation in Japan (1993-1997)

Year	1993	1994	1995	1996	1997
Cases of the arrested	739	902	512	390	461
Participants of Boryokudan	602	683	404	364	425
The number of the arrestee	4,336	4,711	3,515	3,378	2,812
Constituent and associate members of Boryokudan	3,005	3,145	2,960	2,959	2,226

Table 15. Boryokudan-Front-Enterprises classified by types of the industry (1997)

	Total			
		Yamaguchi-gumi	Inagawa-kai	Sumiyoshi-kai
Total (number of enterprises)	234	153	19	23
Building industry	80	53	7	6
Estate agent	32	27	1	4
Eating house	13	9	0	1
Retail trade	10	5	2	1
The others	48	28	3	7
The entertainment and amusement trade	8	8	0	0
Financial business and insurer	29	16	4	4
Transport industry	3	1	2	0
Disposal of industrial waste trade	10	6	0	0
Manufacturing industry	1	0	0	0

Table 10. Clear-up cases of the crime regarding the stimulant drug in Japan (1988-1997)

Year	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Cases of the arrest	29,777	23,296	19,765	21,704	20,853	21,342	19,730	23,382	26,624	26,834
The number of the arrestee	20,399	16,613	15,038	16,093	15,062	15,252	14,655	17,101	19,420	19,722
The amount of the seized stimulant drug (kg)	214.1	217.6	275.8	121.0	163.7	96.2	313.3	85.1	650.8	171.9

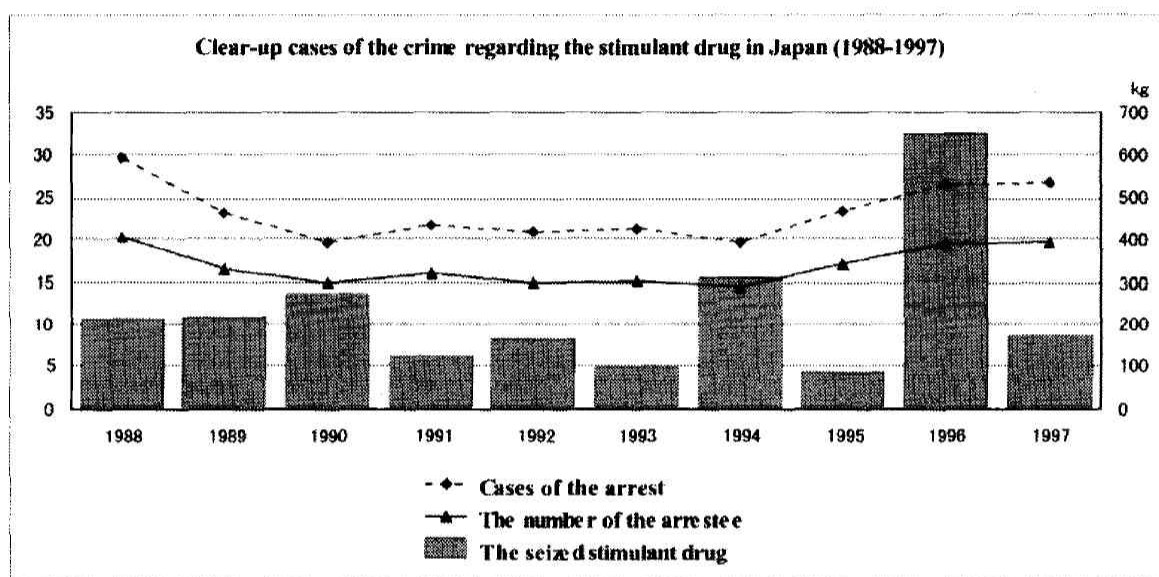


Table 11. Arrested constituent members of Boryokudan for stimulant drugs (1988-1997)

Year	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
The number of arrested constituent member of Boryokudan	9,221	7,470	6,581	6,886	6,627	6,401	6,329	7,377	7,912	7,817
Average	45.2%	45.0%	43.8%	42.8%	44.0%	42.0%	43.2%	43.1%	40.7%	39.6%

Table 12. Arrested persons for Special Anti-Narcotic Drugs Law in Japan (1992-1997)

Year	1992	1993	1994	1995	1996	1997
Businesslike, continual illegal importation or the like	1	3	2	4	23	24
Concealing illegal profits		1		2	2	
Accepting illegal profits			1			1

Table 8. Seized guns from Boryokudan-members in Japan (1988-1997)

Year	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Total number	1,255	1,003	918	954	1,072	1,196	1,242	1,396	1,035	761
Genuine	1,093	875	862	875	956	1,014	1,069	1,275	939	660
Average	87.1%	87.2%	93.9%	91.7%	89.2%	84.8%	86.1%	91.3%	90.7%	86.7%
Remodeled	162	128	56	79	116	182	173	121	96	101

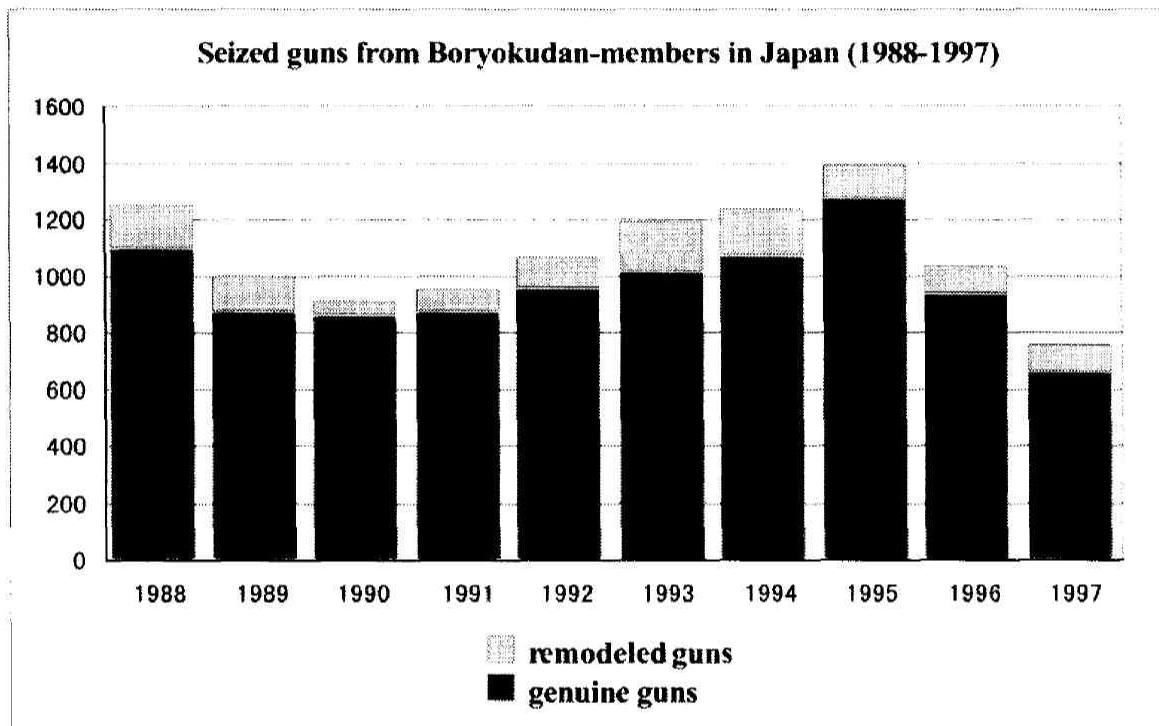


Table 9. Clear-up cases of smuggling guns offense in Japan (1993-1997)

Year	1993	1994	1995	1996 (bullet)	1997 (bullet)
Clear-up cases	9	6	9	4 (5)	9 (2)
The number of the arrested	11	6	19	7 (5)	14 (2)
The number of seized guns	60	64	9	14	38

Table 7. Seizure of guns from Boryokudan in Japan (1988–1997)

Year	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Total	1,264	1,019	963	1,032	1,450	1,672	1,747	1,880	1,549	1,225
Boryokudan	1,160	943	918	954	1,072	1,196	1,242	1,396	1,035	761
Average	91.8%	92.5%	95.3%	92.4%	73.9%	71.5%	71.1%	74.3%	66.8%	62.1%
Non-Boryokudan	104	76	45	78	378	476	505	484	514	464

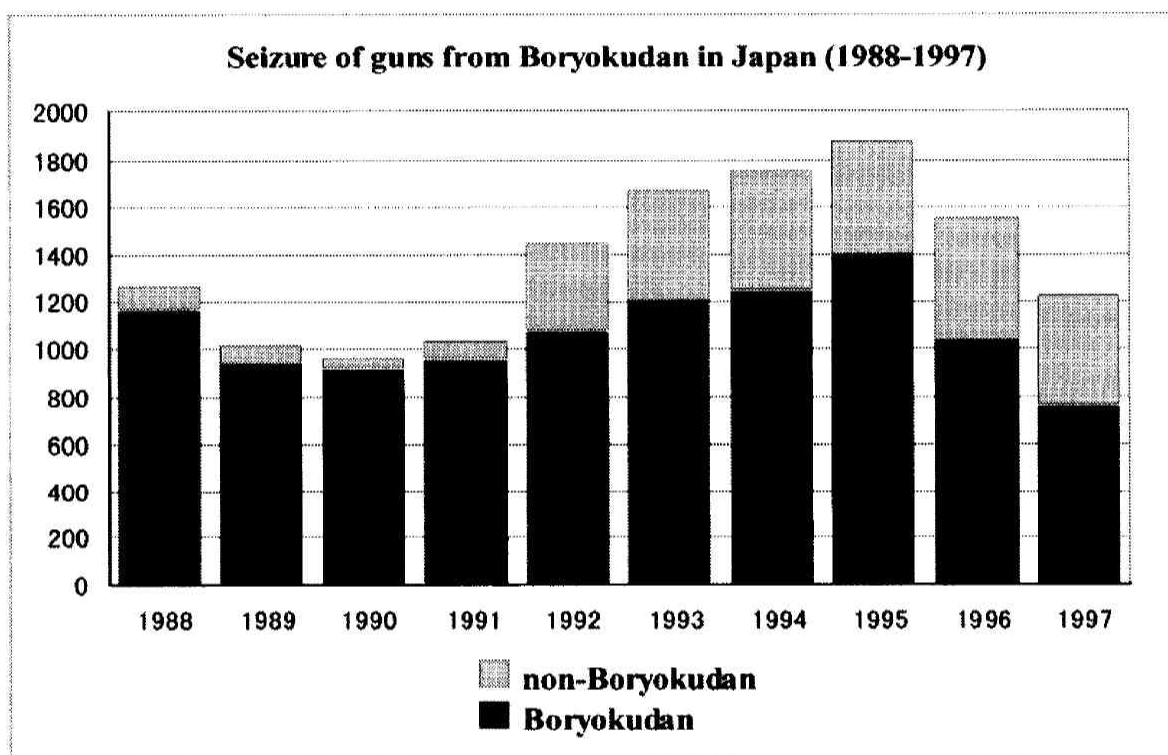


Table 6. Cases on antagonistic Boryokudan-struggles and seized guns in Japan (1988-1997)

Year	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Cases of antagonistic struggle	32	30	27	12	12	12	11	4	9	6
Occurrences of antagonistic struggle	128	156	146	47	39	77	44	28	29	53
use of guns cases	112	142	118	47	29	75	38	28	25	40
average	87.5%	91.0%	80.8%	100.0%	74.4%	97.4%	86.4%	100.0%	86.2%	75.5%
The dead	3	4	16	5	5	4	4	1	2	3
The wounded	12	40	29	10	9	11	10	1	8	20
Cases of fired guns	249	268	255	182	174	178	210	128	108	124
The dead	28	19	35	23	17	16	29	21	14	16
The wounded	60	75	65	45	32	34	24	21	27	21

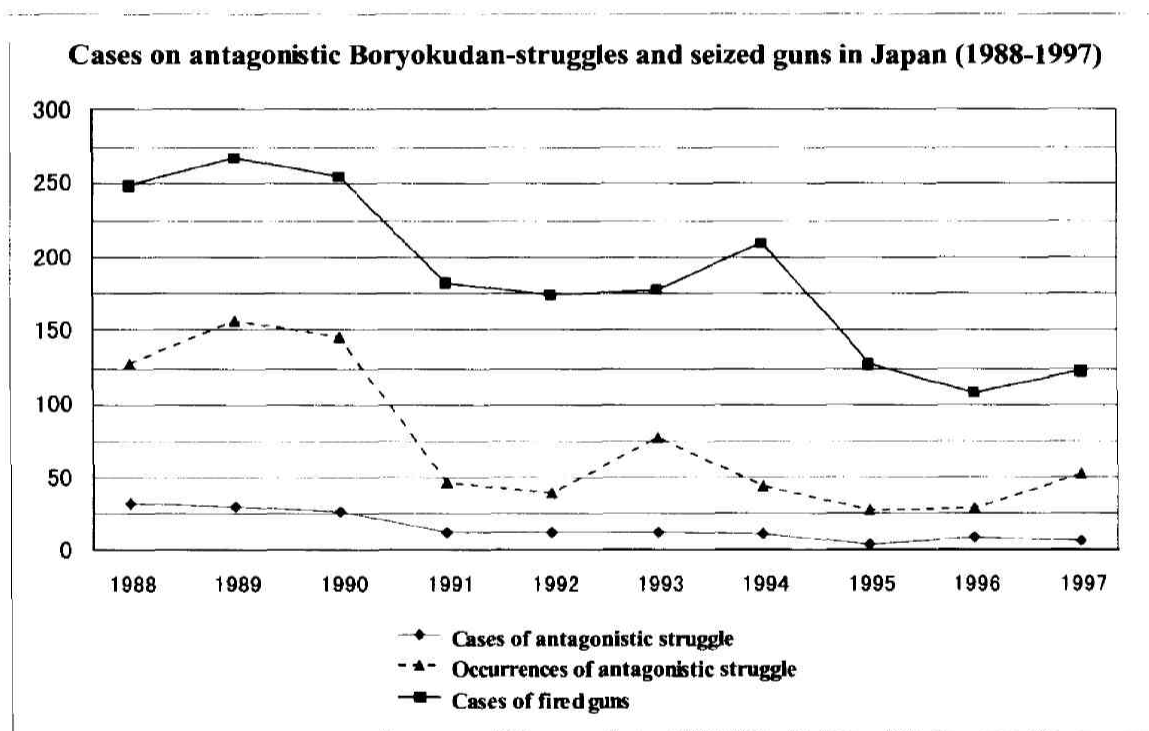




Table 4. Arrested constituent Boryokudan-members in Japan (1988-1997)

Year	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Total	22,113	18,627	17,028	16,188	16,306	14,648	12,922	11,699	11,808	10,746
Yamaguchi-gumi group	6,365	6,124	6,297	6,619	7,316	6,017	5,425	5,120	5,314	4,879
Inagawa-kai group	2,596	2,210	2,290	2,130	2,112	2,151	1,804	1,480	1,629	2,454
Sumiyoshi-kai group	2,804	2,553	2,208	2,106	2,219	2,143	1,984	1,707	1,754	1,588
Total of these three groups	11,765	10,887	10,795	10,855	11,647	10,311	9,213	8,307	8,697	8,921
Average	53.2%	58.4%	63.4%	67.1%	71.4%	70.4%	71.3%	71.0%	73.7%	83.0%

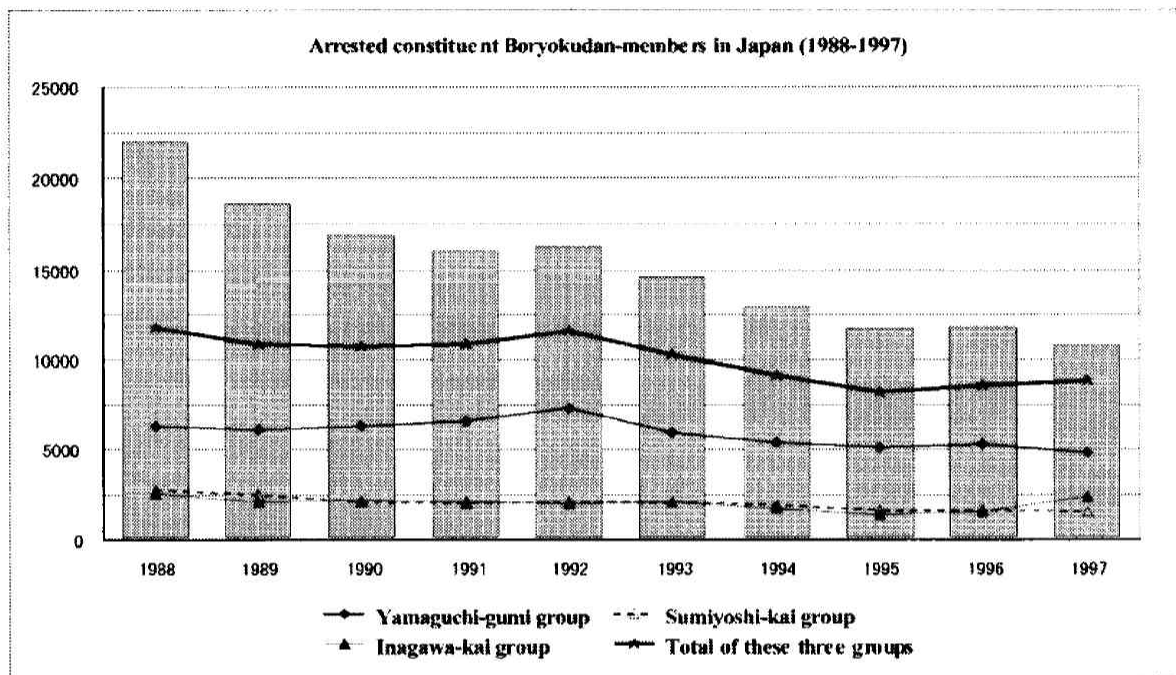


Table 5. Forfeit seized guns : the dead and the wounded by guns in Japan (1988-1997)

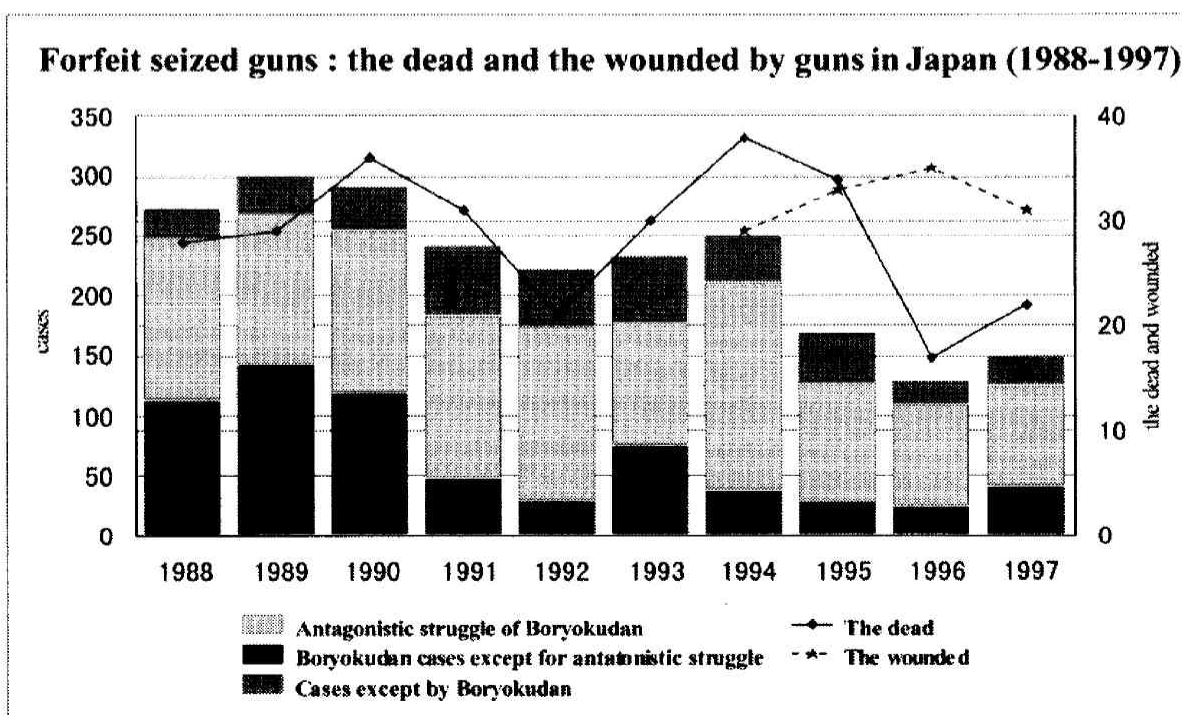


Table 3. Arrested constituent and associate Boryokudan-members in Japan (1988-1997)

Year	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Total	40,401	35,972	34,599	31,257	32,850	33,970	33,436	33,011	33,270	32,109
Yamaguchi-gumi group	11,396	11,200	11,926	12,484	15,021	13,207	14,046	14,274	14,512	14,715
Inagawa-kai group	5,724	5,192	5,601	4,729	4,917	5,668	5,140	4,570	4,787	4,559
Sumiyoshi-kai group	4,479	4,485	3,988	3,651	3,923	4,797	4,530	4,317	4,345	4,118
Total of these three groups	21,599	20,877	21,515	20,864	23,861	23,672	23,716	23,161	23,644	23,392
Average	53.5%	58.0%	62.2%	66.7%	72.6%	69.7%	70.9%	70.2%	71.1%	72.9%

Arrested constituent and associate Boryokudan-members in Japan (1988-1997)

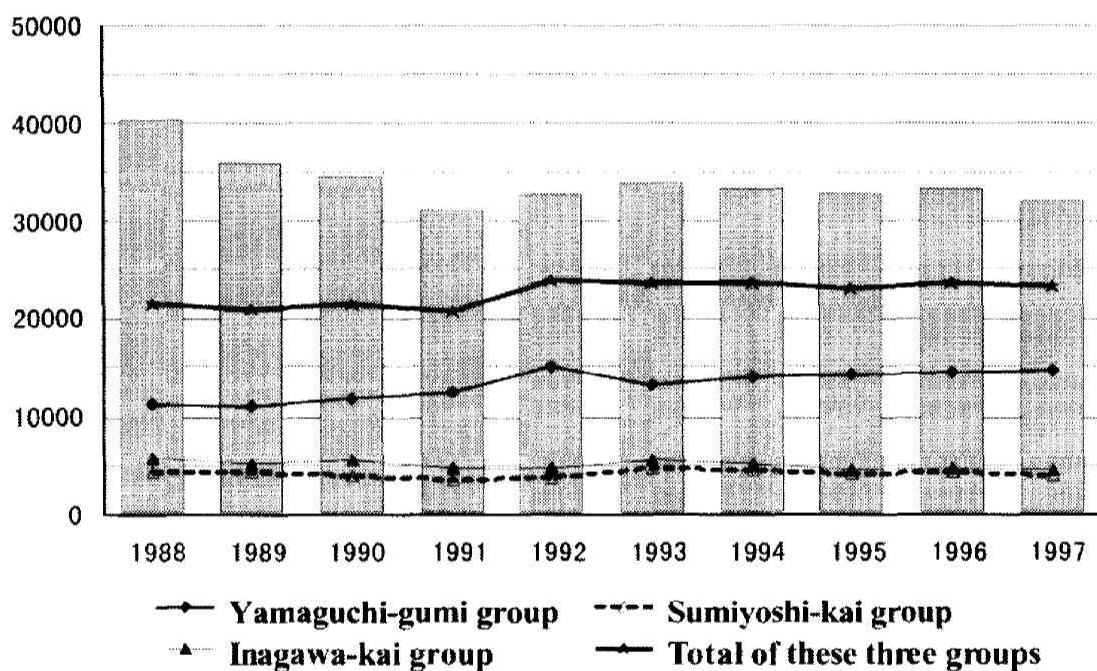


Table 2. The oligopolistic situation of three dominant Boryokudan-groups in Japan (1988–1996)

	1988	1989	1990	1991	1992	1993	1994	1995	1996
Yamaguchi-gumi	24.1%	25.6%	29.7%	39.0%	41.1%	51.4%	40.7%	41.6%	42.1%
Inagawa-kai	7.7%	8.5%	9.3%	10.7%	10.8%	10.4%	10.8%	11.0%	11.0%
Sumiyoshi-kai	8.1%	9.1%	9.3%	12.0%	12.6%	12.6%	13.1%	13.2%	13.5%
The other groups	60.1%	56.8%	51.7%	38.3%	35.5%	35.5%	35.4%	34.2%	33.4%

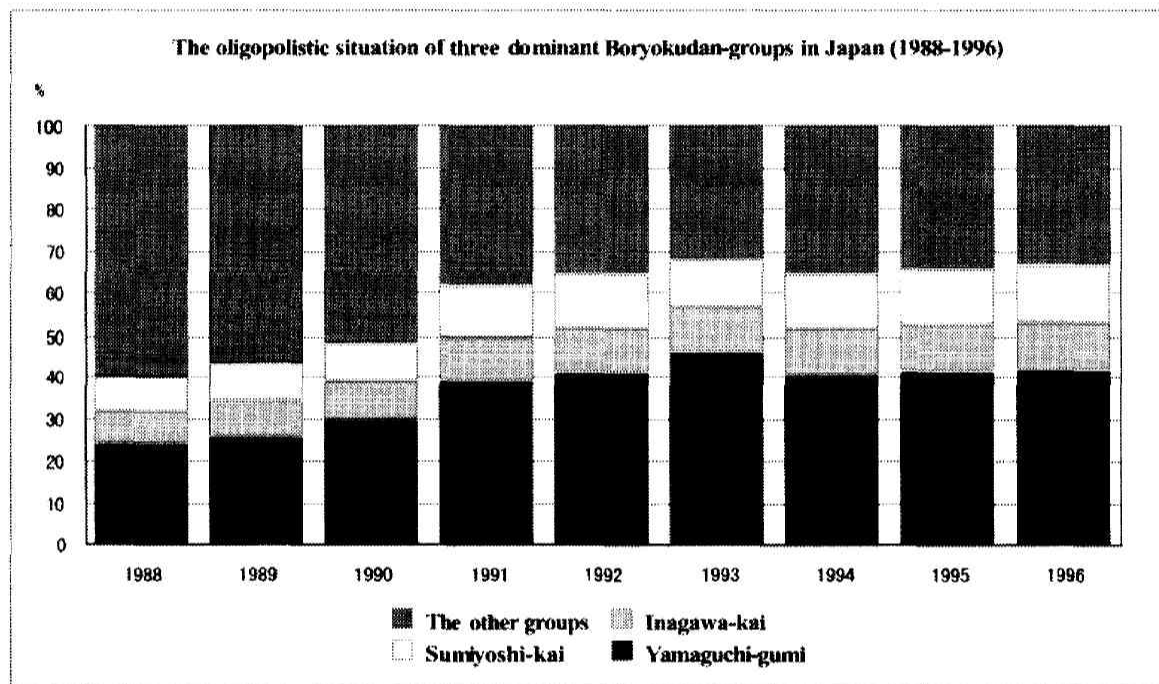
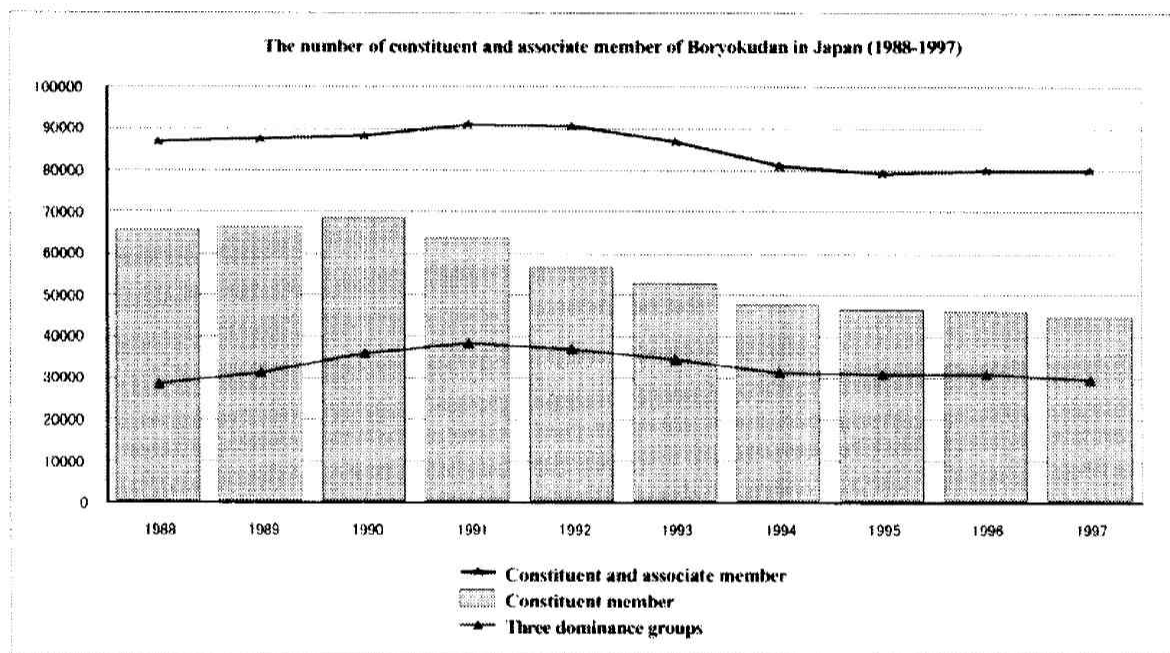


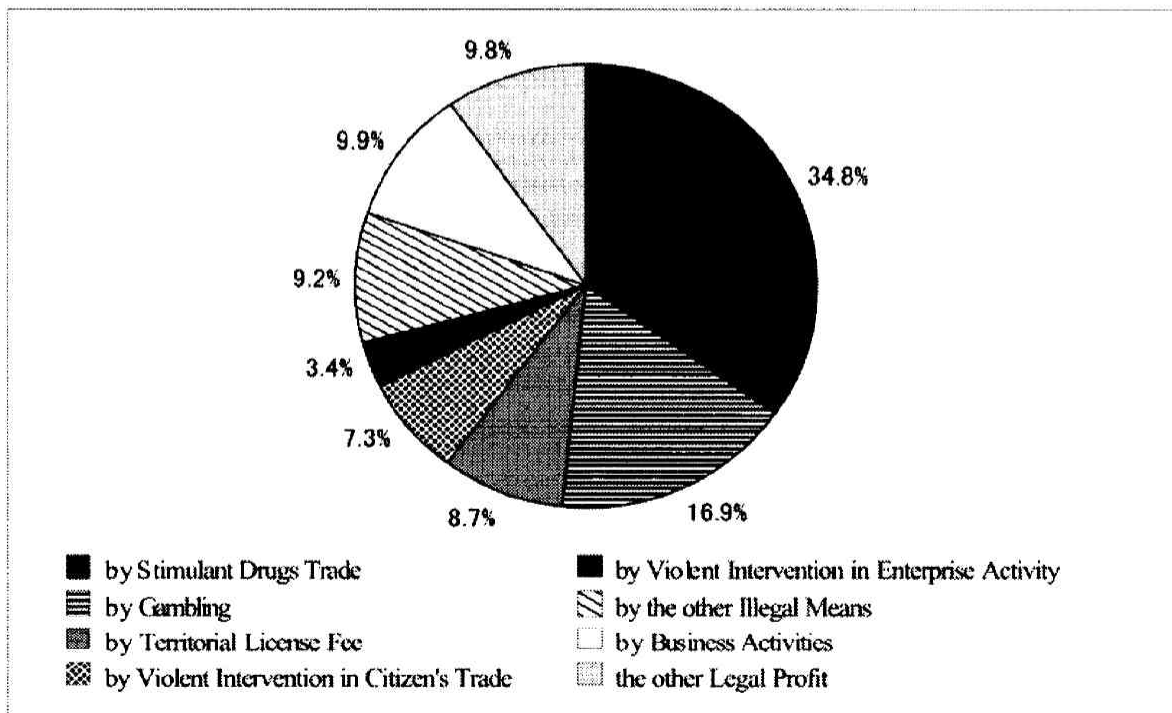
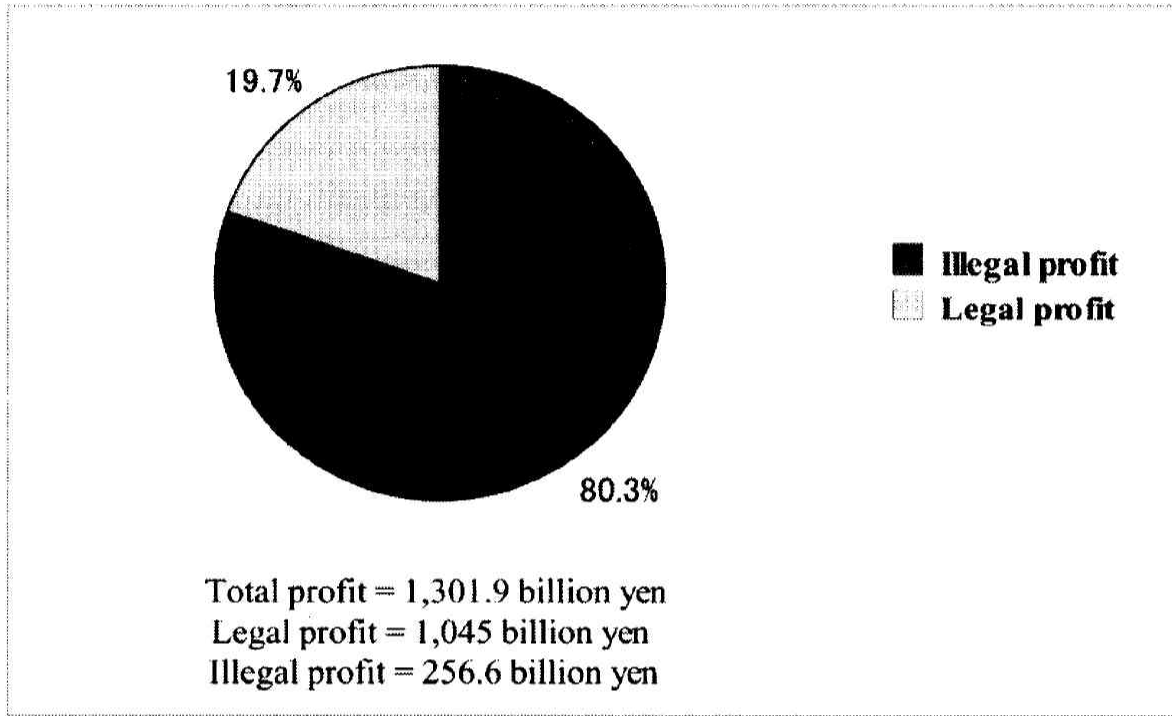
Table 1. The number of constituent and associate members of Boryokudan in Japan (1988–1997)

Year	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Constituent and associate member	86 600	87 300	88 300	91 000	90 600	86 700	81 000	79 300	79 900	80 100
Constituent member	65 800	66 700	68 800	63 800	56 600	52 900	48 000	46 600	46 000	44 700
Three dominance groups	28 400	31 400	35 700	38 500	37 100	34 600	31 100	31 000	30 900	29 500



Appendix II

Figure 1. The gross income of Boryokudan groups (1989)



- D. All intercepted communications allowed by the order must be kept as a record that must be presented to the Judge.
  - E. The recorded communications must be informed to the parties concerned.
  - F. The policeperson who commits the offense of privacy charge is punished with imprisonment under 3 years or fine less than 1 million yen.
2. The Draft of the Law for punishment of Organized Crime and prevention against illicit profits (See V. C. in this paper).

The person who intervenes in personnel matters of an enterprise by using illicit profits in order to dominate the management of the enterprise is punished with imprisonment under 5 years or fine less than 10 million yen.

The person who concealed illicit profits is punished with imprisonment under 5 years or fine less than 3 million yen.

Financial institution must report the suspected illegal profits to the related minister.

3. Draft for the Amendment of Criminal Procedural Law.

The Judge can restrict the examination to the witness about his (her) address and privacy for his (her) protection.

P.S. Since 10 August 1999, Japan has new legislation of Anti-Organized Crime, the Law for Punishment of Organized Crime and Prevention against Illicit Profits (§§1-74), the Law of Interceptive Communication for Criminal Investigation (§§1-32) and the Law for the Amendment of Criminal Procedural Code, which provides the Interceptive Communication (wiretapping with a warrant) without consent of correspondents (§222-2) and the protection of the witness (§§295 II, 299-2).

“International Symposium on Organized Crime” on 12–13 June, 1999 in Beijing held by Center for Criminal Law and Justice, China University of Political Science and Law. The general organizer was Professor He Bingsong. I am convinced that so many Chinese police executives, lawyers and professors also from USA and Russia could have presented essential information to fight against organized crime under the international cooperative relations.

## Appendix I

Three Drafts for the Criminal Law to Combat Organized Crime of 1999.

1. The Draft for the Law to Intercept Communications by Using Electronic Means provides the following conditions.
  - A. The public prosecutor or the policeperson whose status is over the police superintendent can make a demand of the judge’s order to allow the police interception to communications,
    - when the high leveled suspicion to the crime regarding drug offenses, illegal possession and smuggling of guns, illegal mass secret passage or organized homicide must exist, and
    - when there is no other appropriate means to detect the suspected case.
  - B. The judge of a district court can order the police to allow the interception to communications on the specific correspondent instrument under surveillance of the watchman who belongs to communicative enterprise or to a local self-governing body.
  - C. Communications regarding the felonies punished with death penalty, life imprisonment and imprisonment over one years at lower limit is also allowed to intercept, when the police interception is held due to the above order.

criminal groups. It is easy for them "hit and away".

Therefore Japan needs the international standard in Criminal Law and international advance of judicial detective cooperation also with China, Russia, USA and so on (See, White Paper of Crime in 1998, pp. 165-175, pp. 466-471).

## Conclusion

Powerful measures to combat Organized Crime bring inevitably the hard conflicts with the fundamental human rights, especially with the freedom of citizen. It is very difficult to make a good harmony between them. It is necessary to prevent abuse of power by the organization of police, prosecutors and judges, as well as by the criminal organization. It is also in a dilemma, because the both abuse of power are produced from the same origin of the culture and of the poor state of democracy. Therefore we need simultaneously the long-standing social policy and the quick-acting criminal policy. There is no alternative, because Criminal Organization and Organized Crime grow constantly. There are no quick cures for long-standing abuse. It costs so huge after the penetration of crimes into community. The sooner, the better. It is the most important for the criminal policy against Criminal Organization.

At the beginning of June 1999, the new legislation of Anti-Organized Crime has passed in the House of Representatives in Japan. On the 10th of August, the legislation has passed also at the committee of Justice in the House of Councillors. The legislation including criminal procedure of wiretapping and eavesdropping will present Japan the international minimum standard to combat against Organization Crime (See Appendix I).

## Afterword

This paper as the national report of Japan was presented to the



3. Murder by 5 Chinese to 2 Chinese (in Aichi)
4. Attempted Murder by 5 Chinese to 2 Chinese students (in Himeji City)
5. Attempted Murder by 3 Turks to a leader of Boryokudn (in Gifu)
6. Burglars by 32 Peruvians, Iranians and Japanese in 581 jewelry and liquor shop (the amount of damage : 10.6 billion yen, in Aichi, Mie Gifu, Miyagi, Saitama)
7. Robbery and injury by 4 Peruvians to a cash transporter (damage : 13.9 Million yen, in Shizuoka)
8. Confinement and rape by 3 Iranians (in Tochigi)
9. Motor vehicle thefts by 25 Vietnamese (in Gunma, Tochigi, Niigata, Saitama, Tokyo, Kanagawa)
10. Pickpocket and injury by 3 Koreans (in Tokyo)

Foreign criminal groups are covering illegal roles after the dissolution of Boryokudan-organization (See Table 21). There must be also cooperation with both groups.

Nowadays Japanese Safety is threatened by the new criminal trend, especially by foreign criminals. Above Mentioned data are related only to clear-up cases. They are just partial criminal phenomenon in Japan.

Japan is certainly one of the most tolerant nations to crimes and offences in the world. This convention has formed by the long influence of Chinese Thought "Confucianism". Japanese criminal courts impose always the lighter punishment in the penal Code. The safety of Japanese Society depends never on the criminal policy but on social policy of peoples economic equality. This fundamental political and legal policy in Japan is suitable only to Japanese people. The system does never function to foreign stayers of criminal intention. The Anti-Boryokudan Law has no legal base and no effective means against the foreign

#### D. Entry of Foreign Criminal Organizations into Boryokudan Market

In the last week of May 1999 happened the burglary-murder case at Kawasaki City in Kanagawa Prefecture. 5 Chinese were killed and injured hard by 7 Chinese burglars relating perhaps with the group "Jato".

On the last day of May, a young Chinese boy aged 17, a member of "Jato" was arrested for the suspicion of murder. He killed a Chinese victim by hammer blows and rolled him with a carpet. On the same day, 58 stealing Chinese passengers and 3 Japanese sailors were arrested at the sea of Saga Prefecture and 2 Chinese "Jato" member's trial of the smuggling was begun at the Yokohama District Court. They confessed their guilt and relationship to "Jato". 490 thousands of counterfeit Korean coins were already seized by police. These were used through vending machines as 500yen by Chinese and other foreigner groups. We can read almost same news every day.

The number of offences committed by foreigners in Japan has increased rapidly (See Table 22-Table 36). According to the new report of NPA (1999), Clear-up offences by foreigner in 1998 are 31,779 cases and 13,418 persons, compared with 19,513 cases and 6,026 persons in 1996. The feature of the criminal trend is the organization in theft cases of about 19,000. Organized thieves of over 10 members are 2.7 times increased compared with the number in 1997. Foreign criminal organizations, for example, Hong-Kong Mafia, Triad, "Jato" and pakistani group related with these offences.

#### Famous cases in 1996-1997

1. Burglars by 12 Chinese in 22 dress shops (the amount of damage : 3.8 billion yen, in Tokyo, Miyagi, Aomori, Gifu, Kumamoto, etc)
2. Robbery and injury by 6 Chinese in a night club (victims 30 persons, the amount of damage : 14.5 million yen, in Tokyo-Ginza)

during this period, because they intended to evade the police control and escaped to Borokudan-Frontenterprises (See, Table 15). It is also very difficult for them to get new job because of general increasing unemployment in Japan.

Antagostic struggles using pistols by Boryokudan-members have reduced but continued also during this period (See, Table 5-Table 8). On 1st June 1999, a member of "Kokusui-kai" Boryokudan-group was murdered by fired gun in Sinjuku-Tokyo metropolitan. 15 fired gun cases followed at Borokudan's offices in 6 prefectures of Kanto District. It is a hard struggle between "Kokusui-kai" and "Yanaguchi-gumi", as "Yamaguchi-gumi" has been invading into the metropolitan area where "Kokusui-kai" had occupied formerly. "Big Three" of Boryokudan-syndicates, Yamaguchi gumi-groups Inagawakai-groups and Sumiyosikai-groups have now shared 65% in whole groups of Japan. The biggest Yamaguchi-gumi has 33,600 members and shared 42% (See, Table 2-Table 4). Tokyo metropolitan area is now the capital target and a criminal's hideout for the Boryokudan to obtain illegal profit from huge population and industry.

The police power could exclude the weak and survive the strong. Over 5,000 Police Injunctions have ordered to Boryokudan-groups after the enforcement of the Anti-Boryokudan Law (See, Table 19-Table 21). Thus formed the Oligopolization in the Boryokudan-Syndicates. Therefore the police needs the stronger legal weapon to combat against the Boryokudan. The Anti-Boryokudan Law has revised to expand injunctive objects in 1997. This kind of revisions will be followed in the future. Today the oligopolization gives the police the good target to aim, but in the future the police preventive operations will be difficult because of the guerila tactics by Boryokudan after dissolution of the oligopolization.

Table 10, 11, 12).

As above mentioned, the Drug Control Exceptional Law of 1991 enabled “Controlled Delivery”, “Punishment of Money-Laundering”, “Expanded Forfeiture” and so on.

However the Law-enforcement against Money-Laundering was not effective, because banks had no efficient knowledge and experience to discover the fact and hesitated about reporting to the police. So the National Police Agency is preparing to make “Guideline to judge Money-Laundering” and new detective System of Financial Intelligence Unit like FinCen (USA) or AUSTRAC (Australia).

For example, Kanagawa Prefectural Police detected illegal trade of Stimulant Drug held by 5 members of “Inagawa-kai” group during March 1995–August 1996, whose illegal profit was 1.2 billion yen. The investigation by 30 detectives lasted day and night in two months. All these efforts ended only partial proof of the case. The principal offender was presumed to gain 95 million yen, which was unable to be seized by the Police. Perfect pursuit of illegal profit fails always.

The regulation of Money-Laundering and Expanded Forfeiture should be enlarged to another crimes as Gambling, Prostitution, Pornography, Fraud and etc as possible.

Boryokudan’s proceeding to camouflaged enterprise activities after enforcement of the Anti-Boryokudan Law should be prevented by new legislations.

### C. The Oligopolization in the Boryokudan

The number of Boryokudan-members have certainly reduced under the police control based on the Anti-Boryokudan Law of 1991 (See, Table 1–Table 4). Especially 17,800 constituent members have resigned from 1991 to 1996. On the other hand, 6,700 associate members increased

by the corporation, because only executive members of a association form a organization for crimes in general. The provisions of (2) can function to prevent effectively the infiltration of the Criminal Organization into legitimate enterprises. As a whole, Criminal Organizations must be proscribed in Japan.

## **VI. The newest Trend of Organized Crime after the Enforcement of the Anti-Boryokudan Law (1992–1999)**

### **A. Modalization and Urbanization in the Boryokudan**

There are many types of Crime Organization called “Yakuza” (Gambler), “Tekiya”, “Gurentai” and so on at the age of 1950’s. Each of these Organizations had his own unlawful subculture and local territory.

Yakuza–Organization had originally a traditional rule. They should attack only the rich and power. They call the rule “Chivalous Spirit” (Ninkyō-do). However they originally pursuit only money by illegal means. Today, we cannot find no difference between these organizations. They are called generally “Boryokudan” and losing now their territorial bond. They concentrate their activities in urban area and money paid to upper groups from lower groups. The tendency is strengthened after the enforcement of the Anti-Boryokudan Law (1992), because weak and small groups must have dissolved their organization gradually.

### **B. The Industrialization in the Boryokudan.**

How much do Boryokudan–groups earn? According to the Police White paper (1989), the income of the Boryokudan is presumed 13,000 billion yen per a year (See, Figure 1).

An average income of a member is 15 million yen, which is more double to compare with an average income of one family in Japan. The Boryokudan gets the largest proceeds from stimulant drug trade (See,

Anti-Boryokudan Law (1994) and the Drug Control Exceptional Law (1991). The summary of the draft is the following contents.

(1) Stiffened Penalty of (a) provided crimes to be committed by “the organization for the purpose of committing the crime as activities of the association (body)”, (b) crimes committed “with an intention to gain, to maintain and to expand the illicit predominant interest of the association”, (c) provided crimes of harboring a criminal etc. by preceding organization or with preceding intention and (d) provided crimes of preparation by preceding organization or with preceding intention, (2) New provision of crimes on dominated management of an enterprise by “the property gained from the provided crimes with an intention to gain illicit profits” or by “the illegal profits”, (3) Expanded provisions of forfeiture and additional collection of “the property gained from the provided crimes” and the property originated from the preceding property, in which “credit” is included, (4) New provision on the surveillance of communication according to the warrant, and (5) New provision on protection of a witness and etc.

This draft of criminal legislation presents powerful measures to combat Organized Crime. Two essential elements of Criminal Organization, “Aggressive and Illegal Measures” and “Illegal Profits” (abovementioned in IV, A) will almost be dissolved by these proposed provisions, when the effective criminal procedure for detection will be complemented in the future. The dissolution of the element of “Systematical Human Relationship” depends on the cooperative enforcement with the Anti-Boryokudan Law, because Criminal Organization itself is never illegal also in the proposed legislation. Anyway, the proposed provisions of (1) prohibit never formally but substantially the Criminal Organization and the proposed provision of (1), (a) differentiates “Organization” from “Association”. This difference is effective against the Organized Crime

the International Cooperation of 1991. This long named Law is based on the United Nations Convention Against Illicit Traffic in Drug and Psychotropic Substances of 1988, that provides the followings to supplement the past laws related to drug abuse (abovementioned in IV C, 3).

(1) Exceptional procedure of entry and customs (§§3, 4), Crimes related to acceptance, import, export, transfer and possession of a article “with its intention as a drug” (§11), that enables “Controlled Delivery”, (2) Report duty of bank and the other institutions at the case of suspicious “illegal profits” and “crime of §9” and etc. (§§5-7), disguise, concealment, attempted preceding acts (§11) and acceptance of “illegal profits” (§10), that means “Money Laundering” punishable, (3) Expanded forfeiture of “illegal profits”, “property organized illegal profits”, “property mixed illegal profits” and “assumption of illegal profits”. (§§14-18), (4) Strengthened Penalty to the crime on practical illegal import of drugs (life imprisonment, or imprisonment over 5 years and fine under 10 million yen, §8) and the expanded crime on public incitement and instigation of drug related crime (§12) and (5) International cooperative procedure on forfeiture and additional collection (§§56-70).

### C. The Draft for Criminal Law to Combat Organized Crime of 1997

The third step to comprehensive measures to combat Criminal Organization is this draft prepared by the Ministry of Justice aiming not only the Boryokudan organization but also the other criminal organization like “Oum-Shinri-Kyo” religious society (mass murders case by poisonous gas in 1995) and “Toyota-Shoji” corporation (consumer fraud case in 1985), which carries now to the adjustment by the political parties (February, 1998). This legislation authorizing the electronic surveillance, the expand forfeiture of illegal profits and the strengthened heavy penalty to Organized Crime will complement weak points of the

Public Safety Commission to designate a dangerous Boryokudan organization (§§3-8) and to order injunction to the organization (§§11-12-2, 12-4, 12-6). It shall be difficult for the designated Boryokudan to commit crimes provided in criminal laws, so that they have to infiltrate into legitimate enterprises by committing the violent demanded acts (§§9, 10, 12-3, 12-5), by which injunctions are ordered to the Boryokudan. On the other side, a member of the designated Boryokudan is prohibited to compel and induce joining to the organization and to obstruct retiring from the organization (§§16-17). Violations of the prohibitions bring also injunction (§§18, 19). Any violation of injunctions is punishable as crime (§47). The Objective of the law is now so apparent with the provision of supporting the Boryokudan member who intend to retire from the organization (§28). It is never the simple law to prevent violent intervention in civil disputes, as Japan Lawyers Association explains (Japan Lawyers Association, 1997, p. 5)

After enforcement of the Law, Boryokudan organizations are changing to be closed to the community. Miyazawa appreciates so much the Law as the result of National Police Agency and the members of National Research Institute of Police Science (Miyazawa, 1997, p257). It must be certainly a great step, but may be in a dilemma. The gradual and soft measure of the Law gives Boryokudan organizations enough time to infiltrate into legitimate enterprises and to conceal themselves in the underground society. Freedom of assembly and association (§21 Constitution) never include the freedom of Criminal Organization.

## B. The Drug Control Exceptional Law of 1991

The second step multiplied measures to combat Criminal Organization is the Exceptional Law of Narcotic and Psychotropic Control to Prevent the Supporting Illicit Acts Related to the Regulated Drugs under



of offenders belonged to the Boryokudan has temporally reduced but increased again gradually without effective results. (3) As the result of law enforcement, relative weak and smaller organizations have resolved and were absorbed into stronger and larger organizations and big syndicates of criminal organizations have formed. (4) Survived concentrated Criminal Organizations have already succeeded in infiltration into legitimate enterprises to gain profits.

Therefore it is obvious that we must devise new comprehensive multiple measure to combat not only "Organized Crime" but also "Criminal Organization". Traditional measures in Japan focussed generally on each offence that is punishable also as personal crime. New measures should aim specifically to resolve "Criminal Organization". Without Organization there develops no Organized Crime.

The first step is begun by the Law Concerning Prevention of Unjust Act by Boryokudan Members, so called The Anti-Bryokudan Law of 1991 (amended 1993, 1997), which intends finally substantial disbandment and dissolution of Boryokudan organizations. However, this Law is not a penal law proscribing Criminal Organization as crime, but a administrative law with criminal provisions aiming the gradual reduce and exclusion of Boryokudan organization. This law is the first legislation to define the "Boryokudan" (§2), but does not declare the illegality of the Boryokudan organization. The objective of the Law is just to regulate violent demanded acts, to protect the citizens from straggle by the Boryokudan and to promote civic associational movement for preventing damages from activities of the Boryokudan (§1). Criminal provisions of the Law (§§46–50) can not be applied to offences generally by the Boryokudan members, but only by the members of the "designated Boryokudan", merely when injunctions is ordered to them. Therefore, the main measures of the Law are the administrative disposal by the

The Commercial Code of 1899 provides the Crime of Profit Supply (§§494, 497, amended 1981, 1997), which aims the exclusion of “Sokaiya” (abovementioned in III C) for the purpose of the sound corporation management. There were so many cases on the crime ; Isetan Department-store case (1984), Sumitomo-Kaijo-Kasai Insurance co. case (1987), Noritake co. case (1987), Hokkaido-Shinko Bank case (1991), Nikko-Sanso co. case (1991), Kirin Beer Brewery co. case (1993), Itoyokado co. case (1993), Takashimaya Departmentstore case (1996), Nomura-Shoken Brokerage Firm case (1997) and so on. The reason why Japanese companies are so weak to Organized Crime is abovementioned (in II E).

As last we must describe on Corruption. There were so big corruption cases ; Showa-Denko co. case (1948), Zosen Shipping co. case (1954), Rockeed Aircraft co. case (1976), Recruit-Cosmos co. case (1988), Sagawa-Kyubin co. case (1993), General Constructor case (1993), and so on. All these cases were happened between a famous politicians, ministers, members of Diet and big companies, although Code Penal has provision on crimes, giving and receipt of bribe (§§197-98) and the Political Funds Control Law of 1948 (amended 1994). It means Japanese democracy is moved by the power of money, that is the corruption of democracy itself. Its reflection is also the Boryokudan.

## V. New Comprehensive Measures Including Proposed Legislation to Combat Organized Crime

### A. The Anti-Boryokudan Law of 1991

Traditional measure to combat Organized Crime has revealed their limits of ability. The reasons to face dead rocks are the followings.

- (1) Almost every legislative effort to expand types of crimes and to strengthen penalties of crimes has already tried as possible as it could.
- (2) Consequently the number of offences involved Organized Crime and

## 6. Economic Crime and the Other Crimes

The Law for Prevention of Limitless Chain Pyramiding of 1978 proscribes establishment, management, joining, inducement and support preceding acts of the Limitless Chain Pyramiding (§§1-7), which is the only prohibited Criminal Organization by itself as crime in Japan. Because the organization suffers inevitably the members a financial loss due to the limit of member's growth and the act is substantially a complex of fraud and gambling. The multilevel marketing system, which resembles the limitless chain pyramiding and the franchise chain system, is regulated by the Law of Call Selling of 1976 (§§11-17, 22-3, 24). The Law of Loan Enterprise of 1983 prohibits threats and embarrassments at demanding payment to debtor (§§21, 48). There are so many administrative legislation, which regulates foundation and activities of enterprises to prevent economic crime and protect consumers, in which a corporation is also punishable as a juridical person. There happened a numerous number of consumer fraud cases by enterprises in Japan. Most of them were planned and prepared Organized Crime, even if there are no relation with the Boryokudan<sup>(17)</sup>.

Southerland featured "White Collar Crime" as an unfair crime that used to be never cleared though its damage is so huge. We may call it Organized Crime, where there is a organization to plan and to prepare crimes continuously. It must be just labeling, if the word "Organized Crime" is used only to the Boryokudan, because violence is not always a essential element of Organized Crime. The Act Concerning Prohibition of Private Monopoly and Maintenance of Fair Trade of 1947 (the latest revision 1992), whose model is Sherman Act, Anti-trust Law of USA, proscribes cartel as crime of unfair trade restriction (§§3, 89), by which the petroleum cartel case (1971-1973) was declared not guilty due to lack of mens rea<sup>(18)</sup>. Nowadays many cases are cleared off by the Act.

the Criminal Organization, although scholars supporting the “Labeling Theory” and “Critical Criminology” insist on decriminalization of these acts. Without criminalization of these simple acts, however, it is difficult for Police to make effective detection of organized crime.

The Penal Code provides crime on simple and habitual gambling, gaining profit by opening gambling institution, selling and intermediating of lottery, giving and acceptance of lottery (§§185-187), distribution, selling, display, possession with intention to sale of obscene literature and thing (§175), kidnapping or abduction with intention to perform an obscene act (§225). The Law on Control and Improve of Amusement Business of 1948 (the latest revision 1998) prohibits the business as “Pachinko” parlors and bars without license by the Public Safety Commission. The Anti-Prostitution Law of 1956 proscribes the inducement, mediation, compulsion of prostitution, supply of a institution or a house for prostitution, control, management of prostitution, supply the money or institution for the management (§§5-13) and takes the women into Women’s Protective Custody House (§§17-33) or Women’s Consultation Office (§34).

There are double standards of legislation on gambling in Japan, because public gambling held by a local self-governing body is not illegal due to the Law of Horse Racing, Cycling Race, Boat Racing and etc. This policy is not easy to understand, but effective to attract consumers in public gambling instead in illegal gambling and to prevent the Criminal Organization from gaining illegal profits. For example, Public Prosecutors Office dealt with 6,776 persons of gambling involved crime, 12% of which are the members of the Boryokudan in 1992, and with 450 persons involved gambling and 38 persons involved prostitution in total 9,247 persons of Boryokudan’s members in 1996.

### Criminal Organization.

The cleared offenders due to abuse of Stimulant Drugs peaked at 55,664 persons in 1954, that reduced to under 1,000 persons by strengthened penalty (amended 1954, 1955) and hospitalized disposal by the Mental Health Law of 1950 (the latest revision 1998) after 1957, that increased again to over 20,000 until 1988 and then decreased. Recently, the number increased once again at 19,666 (80% members of Boryokudan) in 1996. These abused drugs were imported from China 62.4% and Taiwan 13.3% in recent 5 years.

The cleared offenders due to abuse of Narcotic peaked at 2,571 person in 1963, that reduced by amended heavier penal (1963) to 275 persons in 1996. The cleared offenders due to abuse of Heroin peaked at 1,148 persons in 1968 and decreased afterwards to low level. The cleared offenders due to Cannabis increased from 1962 and peaked at 2,103 persons in 1994 and decreased to 1,306 persons in 1996.

However, drug abuse is spread from foreigner coming as tourists to young generation especially also teen-agers. New detective methods to disclose the trafficking are needed. Entrapment by police officer can not be a dismissal of public action (indictment), but be punishable as instigation of the crime (Criminal Case of Supreme Court, 5 March 1953). Code of Criminal Procedure of 1948 has no provision to seize urine directly from the "body of the accused" due to the suspected intake of stimulant drug. Nevertheless Supreme Court permits the seizure on the warrant as case law, though many scholars are so critical to that.

### 5. Crime Related to Gambling and Sex Business

Gambling, lottery, prostitution, pornography and the other sex business also change the poor or little resistant adults, female and juvenile to "the captured workers or consumers" who are exploited by

There are also the Explosives Control Act of 1883 to prohibit explosion, production, import, possession and order of explosives (§§2, 3), the Explosives Control Law of 1950 to prohibit unlicensed production, trading, import and transportation of explosives (§§58-60), and the Weapon Production Law of 1953 to prohibit unlicensed production of firearms and other weapons (§§31, 31-2) as Crime.

#### 4. Crime Related to Drugs

Narcotics, stimulant and other drugs capture the people to cause addiction, mental disease and offences. The Criminal Organization can control him continuously just as a slave by feeding drugs and exploiting money. Great Britain led China on to ruin by Opium War (1842). That informed Japan the necessity of the provision on crime relating the “opium tobacco” in Penal Code of Japan (1907) ; importing, producing, selling, possession with an intention of selling (§136), preceding acts of the tools for the opium tobacco (§137), these acts by the customs officer (§138) ; smoking of the opium tobacco and gaining profits by presenting the institution for the smoking (§139); possession of the opium tobacco and tools (§140) ; and at tempted preceding acts (§141). The object of these acts is only a “opium tobacco”, so that the Opium Law of 1954 covers generally “opium” and “poppy cultivation”.

As to major anti-drugs legislation are there the Narcotic and Psychotropic Control Law of 1953 (the latest revision 1995), the Cannabis Control Law of 1948 (the latest revision 1991), the Awakening Drug Control Law of 1951 (the latest revision 1993) and the Law of Control of Poisonous and Powerful Agents of 1950 (the latest revision 1993) applied to toluene and acetone. The maximum penal against import, export and production of morphine with an intention to gain profits is imprisonment for life. The penalty is so severe as this crime is a typical offence by

organizations and brought depressive effects to communist-socialist parties, labor movements, and political civil activities. Therefore, this Act is evaluated as depression to freedom of brief, expression, assembly and association guaranteed by the Constitution of Japan (§§20, 21). As the result, it made difficult for us to prohibit Criminal Organizations by criminal legislation.

However we must rethink of the meaning "Freedom". On the last day of May 1999, Mr. Jinnai, the Minister of Justice announced that he would try to remend the Subversive Activities Prevention Act for deterrence to the activities of Oum-Shinri-Kyo religions society.

### 3. Crimes Related to Dangerous Weapons

The aggressive measure of violence with weapon is a important element of Organized Crime. The violent rule of Criminal Organization cannot be achieved without weapon. From 16 century until today, the governor of Japan has monopolized and proscribed firearms, swords, and dangerous weapons for the purpose of public security. This policy makes arms smuggling and trafficking not only illegal but also very good job to gain profits.

The Law Controlling Possession of Firearms and Sword of 1958 proscribes possession, import and transfer of firearms, and swords except of the Public Safety Commission's license. The prohibition extended to possession of moc guns (amended 1971, 1977), import of pistol's parts and bullets (amended 1990), borrowing and loaning of pistol (amended 1993), and discharging of pistols (amended 1995). The Grade of penal was also raised severer. The number and the percentage of seized pistols from the Boryokudan are 918; 95.3% (1990) and 1,242; 71.1% (1994), but the number of cleared smuggling case is very few for example 7 (1990) and 6 (1994).

that Crime Organization can be maintained forever in Japan.

### 3. Crime of Unlawful Assembly with Dangerous Weapon

This provision of Penal Code (§208-2) was in 1958 newly established to control the battle and the struggle between Boryokudan. But, it applied to cases of movement by union labors and students with long piece of woods for placards.

## C. Preventive Measure of Special Codes

### 1. The Law for Punishment of Violence Activities (1929)

The Law consisted of five articles was legislated in 1929 to suppress the mass violence, was applied from postwar to violent activities of the Boryokudan and revised in 1964. Assault, threat and things destruction with demonstrated power of the party or mass and preceded acts with demonstrated dangerous weapons are punishable.

### 2. The Subversive Activities Prevention Act of 1952

The Cabinet Order to Regulate Against Associations and Groups of 1949 aimed to proscribe antidemocratic, nationalistic and militaristic associations and their activities, which was abolished in 1952. As the substitute of the Order, the Subversive Activities Prevention Act of 1952 was legislated to depress associations which committed violent revolutionary destructive activities as a association, because armed struggles by Japan Communist Party were feared to be intensified from 1951. The Public Security Examining Committee is able to give order of dissolution to dangerous association (§5). Intimation and agitation to the crime of rebellion and foreign aggression inducement (§§77, 82 Penal Code) etc. are punishable (§§38-40).

This Act was the first legislation aiming to disorganize illegal



ture in Penal Code is also ineffective to Organized Crime.

## 2. Joint Principal and Secondary Participation

Organized Crime is neither a simple conspiracy or complicity nor assembled accomplices. It is a special kind of continuous conspiracy prepared by Organization that develops to complicity of offences, so that each offender of Organization is punishable by the accomplice provision of Japanese Penal Code (§§60–62). It is our essential measure to combat Organized Crime, because we have no criminal and penal provisions to proscribe Criminal Organization.

The provision of co-principal (§60) is very effective, if the chief and executives absent from the scene of actual offences are punishable due to the provision. Most scholars in Japan formerly denied the possibility as in England. “What is the position when the principal himself is not present at the moment of the completion of the Crime? If two or more persons conspire to employ an innocent agent both are liable as principals for the agent’s acts and it is immaterial that the agent was instructed by the one in the absent of the other. The innocent agent’s act are considered the acts of both conspirators. Where there is no innocent agent, the same considerations cannot apply”<sup>(15)</sup>.

However the Japanese Supreme Court considers that conspirators can be co-principals even where there is no innocent agent. Because all conspirators can be each other their agents, who do not depend on the presence at the completion of the crime, where there is a strong mutual relation of the Organization on the crime. This theory is called “Conspired Joint Principals” (“Kyobo-kyodoseihan” in Japanese) and accepted today also by scholars<sup>(16)</sup>. Nevertheless the theory is not always so effective because of the difficulty of the proof on conspiracy. Therefore, there is a tendency that only lower classed members are punished and

understand the true meaning of the human equality.

As to (3), Penal Code of Japan has no effective measures such as the provision of the strengthened forfeiture and money laundering. Anyway, it is now apparent that our traditional measures to prevent Organized Crime were insufficient.

## B. Preventive Measures of Penal Code

### 1. Fines and Forfeiture

Fines in the Penal Code of Japan (§15) is not a system of days in relation to fines, so that effects is too heavy to the poor and too weak to the rich. It is also ineffective to Criminal Organization as well as to enterprise.

“In western countries from the middle ages until the beginning of the modern era, the entire property of an offender was subject to forfeiture. In Japan also, forfeiture of all an offender’s property was in force until 1871. That should be viewed as indeed a cruel punishment because it deprived offenders of their means of livelihood. Under modern legal systems, such absolute forfeitures are not recognized ; only specific items of property are subject to forfeiture”<sup>(14)</sup>.

Forfeitures are a form of supplemental punishment (§9), that deprives the followings (§19). (1) Property constituting a criminal act, (2) Things used or intended to be used to commit a crime, (3) Things generated by means of a criminal act and things acquired through or constituting a benefit from a criminal act, and (4) Things exchanged for something forfeitable under the preceding (3).

Forfeiture is unallowable of the item belonged to someone other than the offender, so that it may be impossible when the offender change the name of the holder in order to exclude the forfeiture. Interests except things is not forfeitable. Consequently, the old system of forfei-

made them no chance to challenge again. This economical and educational Structure of Japan caused continuous development of Organized Crime. Therefore we should prevent Organized Crime in order to improve the old system to the new system for peaceful coexistence.

#### **IV. Traditional Measures to Combat Organized Crime**

##### **A. Social Policy and Criminal Policy to Prevent Organized Crime**

Criminal Organization consists of three main factors ;

- (1) Systematical Human Relationship ; syndicate, hierarchy, discipline, bonding, and motivation,
- (2) Aggressive and Illegal Measures ; weapon, drug, violence, corruption, counterfeit, compulsion, extortion, fraud, mobility, monopoly, etc, and
- (3) Illegal Profits ; it is the last goal and objective to gain money that motivates illegal methods that requires systematical man powers to exclude obstacles.

We can find and invent effective methods to prevent Organized Crime by dissolution and exclusion of these factors. As to (2), we have already prohibited and punished almost all sort of illegal measures as crime, so that we need now just criminal procedure for effective detection.

As to (1), the appropriate social policy is necessary for disorganization as well as criminal policy. Why there are so many persons who are willing to join the Boryokudan? Japanese monoculture and economic structure must be reformed, if most of members are drop-out from schools. Education and civil movement to prevent joinment to the organization can be more effective than the prescription by the penal law. First of all, school education should be reformed, because teachers do not always know the value of autonomie or the method to teach the value. They cannot always distinguish autonomie from hands-off and

manager of the entertainment and amusement trade, eating house, building industry, and financial business, but these management have close relationship with Boryokudan parties. 41.8 percent members intend to become a driver, a factory worker, other workman and to engage in lawful work. The former group is familiar to illegality. The latter group seeks chance to come back to the lawful community. 23.5 percent persons of 1726 members have retired from Boryokudan parties according to the 6 years survey in 1974. The reason for the leave from the organization are (1) disorganization or arrest of the boss and the executives (23.8%), (2) expulsion and opposition (16.6%), (3) poverty (15.2%) and (4) imprisonment or arrest by the police (13.2%)<sup>(12)</sup>. The police restraints are effective to promote their leaves from Boryokudan. These persons who left from Boryokudan are occupationally (1) workers (29.8%), (2) managers of entertainment trade, building industry, eating house and snack bar (12.2%) and (3) jobless or members of another Boryokudan party (16.4%). Their living standard after the leave is better (34.4%), the same (23.6%) or worse (9%)<sup>(13)</sup>. The average of the leave is higher at lower ranked members, because their illegal profit are not high and they are discontented. For example, in 1986 the boss of the Boryokudan party belonged to Inagawakai-syndicate blackmailed 6 millions yen of a constructor relating industrial waist. He divided only 100 thousands yen to the member who carried on the threat.

Therefore the keypoint to combat Boryokudan is how to establish the policy to promote the disorganization of Boryokudan parties. The disorganization depends on legal after care system to present members good employment and vocational aids.

In Japan, the lifetime employment and seniority system gave generally the employee stable economical life on the one side. On the same time, the system produced so many drop-outs from school and

their intention. They act often against the organizational regulations, because they are originally weak at rule.

Anyway, we must recognize that the best measures to combat organized is how to combat unemployment. The best criminal policy is the perfect social policy to reduce poverty, as Franz von Listzt, the German leader of the modern school on criminal policy maintained.

### C. Join and Withdraw from Criminal Organization

1. How long do the members stay in Boryokudan party? The average is 13.6 years of boss, 10.6 years of the executives, 5.4 years of ordinary members. 72.3 percent of members stay under 10 years as whole. The status of Boryokudan is not so stable compared with other status of job.
2. Why they became the member? We must inquire into the pre-history of the member. The age of becoming the member is until 19 years old, 43% ; 21 years old, 61% ; 25 years old, 81%. How is their family? There are 30 percent members who are lacking their parent (both or either). They have many brothers and sisters and belong to the lower class. They ran away from home (42.9%), withdrew from school (20.4%), have no job (51.9%) and have history of juvenile delinquency (62%). They are dropouts from home, school and community. Boryokudan party is the only appropriate and suitable place for them. However, their family and school excluded them in stead of supporting them. The community compeled them to join the underground community. The number of the organization stays stable, although 50 percent of the members retire in 5 years, 75 percent in 10 years according to the polices survey<sup>(11)</sup>. Therefore Japan reproduce constantly new dropouts for Boryokudan.
3. The members must have hoped to get mental stabilitiy by approval of their own identification in the organization. Are they contented with the new family? 30.7 percent of the members intend to become a

The organization of “Bakuto” has begun at farmlands under the direct management of the shogunate<sup>(9)</sup>. Feudal lords took care of peasants to bring new land cultivation. On the other side, local governor appointed by the shogun would not take care of peasants because they were interested only in their management duties, so that the farmlands went to ruin and the peasants ran away. These vagrants and homeless peasants gathered in cities to seek new job. The boss of organization for fireman, vigilance, private detective and gambler took care of them and gave them job. They armed themselves with short swords and grew occasionally stronger than a local governor. Shogunate magistrate’s office also must have established a new corrective training house named “Ninsoku Yoseba” for vagrants to feed and to train a trade.

2. Above mentioned origin of “Bakuto” shows us the reason why criminal organization has grown. These essential factors of criminal organization as bonding, continuity, discipline, hierarchy, infiltration, mobility, motivation, sophistication and violence come from the origin of the organization. The growth of criminal organization has caused by the mobility of unemployed persons under development of a monetary economy. There were such a condition after World War II in Japan, as Boryokudan parties developed.

For the unemployed homeless persons, the organization must be a new “family” to give them home and job. The boss must be a new “father” to take care of them. They are debt to him and must work for him, who recognized their personal identification, although they originally dislike to work. This personal identification is held on the conventional ceremony of taking pledge oath. The ceremony is nearly the same as the wedding oath of the Shinto way, in which the bond between the family is settled. The member obeys his superiors to commit a crime absolutely (34.6%) or with conditions (45.4%)<sup>(10)</sup>. However these percentage is just

criminal offenses, whose organization is even so constitutionally guaranteed by the Japanese People and Government (§21). About 20 percent of Murder, Robbery, Arson and Rape, 50 percent of Assault, Bodily Injury (14% in 1997), Compulsion and Intimidation, 50 percent of Illegal Gambling, 60 percent of Stimulant Drug Crimes (24% in 1997) are committed by members of Boryokudan. Their numbers occupy only 0.1 percent of Japanese total population in 1978<sup>(7)</sup> (See, new tendency of lower rate in 1988–1997, Table 5–10).

6. Boryokudan is a criminal organization, whose purpose is to gain illegal benefit through illegal activities. These activities to pursuit the maximum benefit are the same as organized activities of corporations under social demands. They always make money by utilitarian way of offenses which the police and prosecutors hardly recognized (See, Table 10–18). Their crowding around easy criminal targets causes antagonistic struggles between Boryokudan parties by fired guns (See, Table 6).

7. Boryokudan parties form criminal syndicates to exclude other antagonistic parties in their influenced territorial areas and to increase their territorial benefits (See below VII. A–C and Table 2).

## **B. Origin, Subculture and Structure of Boryokudan**

1. The origin of “Bakuto” gambler dates back to the 7 century<sup>(8)</sup>.

At that age the government has issued prohibition order of gambling several times, because gambling has thrived among the people. Gambling has been one of the most popular and common game for the Japanese people including female and children. The reason is presumed to be the culture of intensive rice growing which depends on rainfall. Japan island are constantly truck by Typhoon. Rice harvest depends on the weather so much that rice growing is nearly gambling to the farmers.

markets. It is difficult today to distinguish between three kind of these organizations, because they are modernized and unified each other and have lost their original convention. Therefore Japanese people call them totally "Yakuza" or "Boryokudan". "Yakuza" is originally "Bakuto", now just the former name of "Boryokudan".

2. Boryokudan party is a organization that consists constantly of criminal careered members. 90 percent of the members have their criminal history and the rest 10 percent of the members are new comers of careered juvenile delinquencies<sup>(4)</sup>.

3. The member of Boryokudan commits a crime continually. 50 percent of Boryokudan members commit a crime per a year, as long as recognized by police. The average arrested time of 30 years old and 40 years old members are 7 and 10<sup>(5)</sup>. Of course, it is not apparent how many offenses are concealed and unreported.

4. Boryokudan party has a hierarchical structure of different ranks. The member is promoted to higher status after his committing offenses for his organization, so that Boryokudan party is organized to promote illegal activities. However 56 percent of offenses are held by the members for their own interest or benefit<sup>(6)</sup>. Therefore Boryokudan party is quite different organization from the police or the military. The difference is not only illegality but also their aims. Members of Boryokudan are organized not to achieve the common purpose, whether is it legal or illegal, but to get only personal private benefit. Each of them exploits the atrocious threat of massive power in order to pursuit his own interest. The Boss and the executives order and compel young members to commit crimes in stead of their own commitment. They are always selfish in spite of their organization. It is always difficult for them to work for others.

5. Boryokudan party is the most major producer and stable supplier of



members of Boryokudan decreased from 1965.

However, in 1976, the number of offenders belong to Boryokudan recovered the same level of 1965 and the number of members belonged to big seven syndicates increased. It means that the hierarchy and the territory of seven syndicates were strengthened and advanced by penetration into legitimate corporate business and by collecting money from organizations under their umbrellas. While some organizations changed to rightist political organization in disguise, some others advanced into the field of racketeers to black-mail companies at general stockholders meeting, so called "Sokaiya".

Then in 1980's, they proceeded abroad with Japanese banks, trading companies and tourists. Each organization is now suffering from the shortage of new young members, but it is a general tendency of population in Japan.

### **III. The Nature and Origin of Boryokudan**

#### **A. Definition and Elements of Boryokudan**

There are 7 featured characteristics of Boryokudan.

1. "Boryokudan" is a general term of the Japanese criminal organization including wholly "Bakuto", "Tekiya" and "Gurentai". "Gurentai" is a young aged street gang group, whose origin newly comes after World War II. After the moterlization in 1970's, "Bosozoku" motorcycle gangstars grew. They (552 groups, 36,934 persons, 80 percent are teenagers) are preliminary resouces for Boryokudan. On the other hand, "Bakuto" and "Tekiya" have very old tradition and are originally different conventional culture and organization come from 17th Century. "Bakuto" means gambler, whose origin is mentioned later. "Tekiya" is also called "Yashi" or "Yakko" that means a peddler, a hawker or an intinerant entertainer. They are now territorial mobile retailer at seasonal festival

recognized. The following description introduce the history.

Postwar chaos and its controlled economy by the government was the best ground to establish a number of new lawless groups as “Bakuto” gamblers, “Tekiya” territorial mobile retailers at seasonal festival markets and “Gurentai” young street gang groups. They are called “Yakuza” as a whole, who proceed into various racket, gambling, robberies and battles for new territory in black markets. The number of offenders (1948 : 12,110 due to Penal Code) decreased due to the general recovery from chaos and frequent crackdowns by police.

After the economic recovery by Korean War (1950–1953), Yakuza groups began to target profits involved in public gambling, Pachinko slot-machines parlors, prostitution, sex-related business, stimulant drug trades and other rackets. Their targeting brought new territorial disputes and battles by arms. Thus archived seven great powered “Boryokudan” syndicates named “Yamaguchi-gumi, Honda-Kai (i.e. Dainihon Heiwa-kai), Sumiyoshi-kai, Inagawa-kai, Nihonkokusui-kai, Kyokuto Ai Rengo-kai and Matsuba-kai” by absorbing smaller organizations and groups. In 1956, the number of Boryokudan member’s offenders cleared by the police was peaked at 82,074 persons and in 1963, the number of members 184,091 persons. In 1964, the Law for Punishment of Violence Activities was amended to introduce an aggravated crime of bodily injury committed with firearms and swords, as well as to provide heavier penalties for habitual offenders involved in crime of violence.

The Police developed in 1964 and 1965 the intensive control over the illegal activities of organizational leaders and over crimes related to revenue sources of syndicate and their weapons. This was called “summit operations”, which cleared 115,391 persons, one-third of Boryokudan members. As the effect, the number of offenders and

that Organizational Crime can always change to Organized Crime. Anyway, we should make a difference between “Organized Crime” and “Criminal Organization”, because organized crime is committed also as personal crime even if as complicity, conspiracy and accessory. It is just the same crime, whenever it is committed as organized or personal. Therefore, essential element in Organized Crime is only “Criminal Organization”, that must be precisely defined. On the other hand, varieties of organized crime can be left free with no limitation of description, although a series of crimes featured “Organized Crime” as drug trade, gambling, prostitution, smuggling, trafficking and money laundering have close correlation to the profit of “Criminal Organization”. And some of them are heavily punished due to the relation.

“Criminal Organization” is not a simple complicity or conspiracy by offenders but systematically and continuously crime planned and prepared durable organization, that grows with gaining illegal profits and man powers. Its chief feature is the continuous infiltration into legitimate institutions and the growth of the organization inspiring, supporting criminals and promoting crimes. It excludes and corrupts constantly the rule of law, a free competitive market and common fundamental moral values of our society. It grows like cancer that needs prevention and treatment at an early stage.

### **C. Crime Trends by Boryokudan and the Police Operation**

In Japan, the general study and definition on Organized Crime has not developed, because Organized Crime means mostly only the Boryokudan, in which the research and the policy by criminal police have concentrated until the new legislation, the Anti-Boryokudan Law of 1991. After the beginning of Boryokudan’s penetration in enterprise, the necessity of general policy on Organized Crime is begun to be

subversion and violence as key words, that we can choose to define and describe Organized Crime.

These essential elements depend on why and how we should prevent and control Organized Crime. Of course, legislative provision needs a precise definition. However, we can use some precise definitions due to different characters of organized crime, because there are some differential aggressive degrees of criminal organization, which adjusts different grades of penalty. We can distinguish between (a) syndicate of criminal organization, (b) criminal organization accompanied hierarchy, (c) simple criminal group like street gang without hierarchy and (d) temporary accomplices. It is difficult to differ political party from criminal organization with political ideology, but we must distinct the terroristic organization from the latter.

## **B. Definition of Organized Crime and Criminal Organization**

The distinction between “Organized Violent Crime” and “Organize Economic Crime”, which is often used in Japanese textbook of Criminology<sup>(3)</sup>, does not seem considerable, because both factors of violence and economy are combined together tightly in Organized Crime. “Organized Violent Crime” means just Boryokudan’s crime, on the other hand “Organized Economic Crime” means “Corporate Crime” or “White Colour Crime”. Their views depend on only fenomenology and penology. The another distinction between “Organized Crime” and “Organizational Crime” has also a problem, if the latter means “crime by legally established organization like corporation”. But, it is not important whether the organization is established “legally” or not, and “legally established” organization do not have always “legal organization in substantial meanings”, which is often covered to the community. Criminal Organization penetrates into legally established corporation, so

Crime as criminal phenomenon, so that Organized Crime must never be a isolated criminal and penal problem, but be a comprehensively resolved social problem.

The Boryokudan and the other organizations are cultural products of Japan, although all of my description on the culture is only a emphasized aspect of multiple complex. Therefore, it is needed to utilize not only criminal legislation and enforcement, but also long ranged multiple and comprehensive methods of social policy. Because organized crime comes from cultural, political, economical, educational, traditional structure of Japan. The criminal-penal policy is the last weapon to combat also against Organized Crime, that is essential to cut the ring of corruptive influences.

## **II. The Nature and Extent of Organized Crime**

### **A. Definition and Elements of Organized Crime**

The term of Organized Crime is so multivocal. Devising effective strategies to combat Organized Crime needs a precise target upon whom and what we are seeking. However, we need not always only single definition of Organized Crime. Many varieties of the definition depend on their objectives of research or study and on their phenomena and their structure which come from various cultural, political and socio-economic conditions in different countries and regions. For example, the Boryokudan is only one sample of various typed Organized Crime in the world, whose organization has hierarchy and discipline but is not secret and open to community as abovementioned. Nevertheless, there must be some common and essential characterized factors in various definitions on Organized Crime. These may be bonding, continuity, corruption, discipline, diversity, exploitation, hierarchy, infiltration, insulation, mobility, monopoly, motivation, sophistication,

success in the seniority system. It decayed school education and increased juvenile crimes and delinquency after proceed of women's getting job. There are so many pupils who dislike their school and their teachers. Nearly all schools produce juvenile delinquents who are willing to be new members of the Boryokudan<sup>12)</sup>. The number of cleared juvenile delinquent cases raised to 50 percent of all criminal cases (except traffic relating cases) from 1981 to 1997 (See, Ministry of Justice, White Paper of Crime in 1998, pp. 181-195). On the other side, the possession of firearm and sword is inhibited to the citizen, the origin of which dates back to 16 century and which guarantees well the safety of citizens. As the result, whole Japanese social system for the familial prosperity is falling to ruin the original value of the family, personal autonomy and substantial welfare. Therefore fighting organized crime means the emancipation of modern slaves in Japan. We must be free from the selfish value of organization, regional totalitarianism.

#### F. Current Perspective to Organized Crime

This is the reason why Japanese citizen is so weak against violence and why social distinction between the Boryokudan and the other corporations in Japan is difficult without violent activities. However, violence or assault is not a single indicator that characterize the organized crime. This simple indicator means that the other corporate activities include various kind of racketeerings. The name of Boryokudan results from violent activities of a group or party. Of course, the Boryokudan proceeds now intensively in corporate activities and has the united relationship with entrepreneurs and politicians. There must be chronic corruption, only a few cases of that are revealed by police and prosecutive function. Today, it is difficult to distinguish between organizational crime, corporate crime, white collar crime, and Organized

The other enterprises, companies and corporations also pursue collectively and habitually only their own profit shared to their members like a closed intimate family. They work hard and honestly for the "family" (i. e. corporation), and obey their superiors. Only to inside members, they pay obeisance and are obedient, tolerant and very kind. The obedience and the tolerance often includes illegal activities instead of excluding them. They are not concerned with outsiders without special interest or sanction.

These features of Japanese culture have developed by the employment system in the post-world war II period based on three essential institutions : lifetime employment, seniority system, and enterprise house unionism. This system is a kind of enterprising commune including social guarantee and public welfare, so that the wage does not depend on personal ability and result, but on total enterprise profit shared among the member by one's age and one's history to stay in the corporation. The profit of an enterprise would not often delivered to investigators. The worker inclines to stay at office left his family at home till late. It brought economic prosperity, formal equality, and social safety (low criminal rate) to Japanese people. But, it brought also mental stress, poor spiritual life, lack of substantial equality and personal autonomy. Japanese workers can not realize that they are slaves of the corporation. They are so busy to get money by selling their own freedom and autonomy. Especially the basic function of home and family is deprived by the office and corporation, so that family members are isolated together. All schools are now competitive means and dull process of just finding employment at good corporation. Almost every public schools have no education of religion and morals. Children must work hard to memorize knowlege for admission examination. The failed children to get good marks should know that they have lost the ticket of

were legislated in 1880. After the legislation of Meiji constitution (1889), whose model was that of Prussia, comes the German styled Penal Code of 1907, that remains through revisions until today.

The new policy of Meiji for the national independence and interest led Japan to aggressive wars to Asia. Japanese war against United Kingdom, Holland, and Spain, excluded these nations from Asia and brought consequently Asian nations the independence. The imperial structure of aggression seems the same as the organization of Boryokudan. Organized Crime is a compacted variety of growing aggression upon outsiders in the community.

#### **E. The Contemporary Era and Organized Crime**

The world war II's defeat of Japan in 1945 brought the Allied Occupation, demilitarization, dismantling of the old industrial combines, agrarian reform (i. e. forced distribution of farmland from landlords to peasants), renunciation of divinity by the emperor, a new constitution, democratization, and a new educational system under the influence of USA. However Japan did not change its fundamental character and its traditional culture except for the penetration of communism into the educational world and the labor unions. All the power, the iron triangle of politicians, bureaucrats and entrepreneurs, has been concentrated on the rehabilitation and the development of economy instead of strengthening the military. The nations continued prosperity has been based on a security treaty with the United States and on the article 9 of the constitution, "forever renounced war as means of settling international disputes". Japan's GDP rose in 1990 to ¥434.2 (US\$3.0) trillion.

The prosperity is shared also by Boryokudan parties. The organization does not seem special and diverse except its violence to the citizen.



generally tolerated until the beginning of the 17 century. Toyotomi Hideyoshi (1537-1598) was the most successful feudal lord born originally as a poor peasant. He established political and military control over the country by seizure of swords and weapons from farmers, by which the social hierarchy by Samurai was fixed. He turned an anti-Christian and Tokugawa Shogunate (1603-1869) eventually proscribed the religion. It was occurred by political rather than purely Christian exclusivism with its unwillingness to tolerate other traditional religions. However the shogunate's failure to "expel the barbarians", the concession of unequal treaties and opening of trade ports after Perry's visit from USA in 1853 set in motion to overturn in the Meiji Restoration of 1868.

This structure dominated by Samurai gave the inside of country more than two centuries of peace and relative seclusion from the outside of world. It kept and fixed traditional culture on Japanese until today, so that the same culture and structure remain in that of Yakuza organization.

#### **D. Early Modern to the Aggressive Wars**

Meiji period (1868-1912) began with the threat of colonial domination by the West. Japanese new slogan of the leadership was "Get off Asia and into Europe" and "Enrich the country, Strengthen the Military", that was influenced by the shocked English conquer of China in the Opium War in 1842. The history of Drug Crime in China changed also the history of Japan. Japanese decided to depart from Chinese culture and to follow European civilization.

Meiji government must have abolished two new criminal codes, "Shinritsu-Koryo" (1870) and "Kaitei-Ritsurei" (1873) influenced from Chinese code. French styled criminal code and criminal procedure code

space, but they dare not read it in front of his family at home. This tendency comes from the historical formed culture of Japan.

Japanese traditional beliefs and practice hark back to prehistoric indigenous religion of “Shinto”, closely related to rice agriculture, focussed on seasonal celebrations and on venerating ancestral spirits giving thanks for fertility, which kept female status high. South west Japan was developing into a centralized kingdom headed by an imperial family from 500 BC. From about AD 500, the high culture of China, including Buddhism, written language and legal system “Ritsuryo” (i. e. criminal and administrative law), entered Japan and became a major influence upon the elite class. They did not reject Buddhism, because Shinto has not only one but many deities without sacred book. The Japanese tendency, “not either-or exclusivity, but rather both-and inclusivity”, has thus formed in adopting foreign cultural elements. The Japanese eventually incorporated Buddhism into the life of the family, linking its divinities to Shinto gods. Confession notions were also adopted to encourage loyalty to the emperor. These religions conformed to the “Wa” spirit.

The origin of common spiritual culture “Wa” is so old as abovementioned. It is developed from the thought of “familial value” controlled afterwards by father, which resembles to “Godfather of Mafia”. The blood relationship of family and the territorial bond in community are always fundamental cause of Criminal Organization not only in Japan but also in China and in Italy, whenever poor inhabitants have no suitable job.

### C. Christianity Exclusion by the Shogunate’s Hierarchy

Firearms were introduced into Japan by Portuguese in 1543 and in 1549 Christianity by Spanish, St. Francisco Xavier. The religion was

problem to be resolved by united effects and exchanged informations.

Cressey outlines a series of problems that any student of Organized Crime can expect to face. The most obvious hurdle is the secrecy of groups under study. This description may be appropriate generally, but not always suitable to Criminal Organization in Japan. The Japanese gang called the Yakuza or the Boryokudan is an organization which collectively and habitually engages or is prepared to engage in criminal activities accompanied by assault. However the organization itself is never illegal and is open to the community, so that it is comparatively easy to watch the organization and to control their activities as a whole. Most of the Boryokudan members wear peculiar black or white clothes with a gold crest of the party and drive American big saloon cars like "Cadillac" or "Mercedes-Benz". Each Boryokudan party has a big building and a fine office for the members that almost any habitant knows with fear and anxiety. It seems as if crime organization has the same freedom as the political party. However such phenomena are not settled necessarily by considerate criminal policy, but merely by loose habit from Japanese common spirit of "Wa", a appearance of consent and approval to avoid a struggle in the co-operative territory. So many Japanese scholars of Constitutional Law should support and protect the freedom of assembly and association during people, including Boryokudan members<sup>(1)</sup>. Nevertheless I doubt the reason why Boryokudan members have the freedom of assembly to commit all sorts of offences.

## **B. Rice-agriculture and Shinto**

Japanese would not differentiate "public" from "private", but "outside" from "inside" of his territory. Only inside area must be kept comfortable for him and his family. For example, you can see often the Japanese man reading a pornographic magazine in a train or a public

Compared Crime Statistics of Known Cases in 1995

	Major Offenses		Murder and Manslaughter		Theft and Burglary	
	A. Number (million)	B. Rate per Population 100 thousands	A.	B.	A. (million)	B.
U. S. A.	13.86	5278	21,597	8.20	12.06	4,593
U. K.	4.88	9465	1,379	2.70	3.63	7,071
Germany	6.66	8179	3,960	4.90	3.84	4,720
France	3.66	6317	2,563	4.40	2.28	3,945
Japan	1.78	1420	1,312	1.00	1.57	1,251

social economic equality policy after the World War II .

The level and the rate of Crime in Japan is so low compared to Western developed nations. Nowadays this trends of Japan is changing. The level of crime has increased radically in the past 23 years, from 1974 of about 1.67 millions cases to 1996 of over 2.46 millions and the worst in 1999. A myth of safety shall be lost with a myth of economic development in the near future of Japan. Therefore, Organized Crime suggest that Japan needs to develop new criminal and social policy of reformed infrastructure.

## I . Organized Crime as the Cultural Product

### A. World Perspective and Japanese Perspective

Today Organized Crime is one of the most serious topics in the international and transnational criminal law, procedure and enforcement. The study of Organized Crime needs cooperation with world police executives and organized research form the world perspective. It reflects diverse cultural, technological, socio-economic, political and legal conditions. After the fall of the Soviet Union, a new age began in the world of Organized Crime. It changed Organized Crime to a global

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研 究

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## Organized Crime as the Cultural Product in Japan

Madoka Nagai

Professor of Law, Kanagawa University

### Introduction

“Yakuza” or “Boryokudan” is the same cultural product as “Koban” (i. e. street police station), “Bonsai”, exported cars and electronic goods of Japan. They are well known also to the Western people. Before the general explanation on Organized Crime in Japan by the writer, the national profile of Japan is introduced at first for the understanding its cultural background, which relates closely above-mentioned both sides of Japan, the highly developed industrialized nation and its peculiar traditional culture.

Geographically Japan lies far off the east coast of the Asian continent and consists of four major islands. The total land area is 337,688 square kilometers, only slightly larger than that of Italy, the mother land of “Mafia”. The population is about 124.7 millions and the density per square kilometer is 333 persons comparable to 359 in the Netherlands. Its concentrated population is the highest in the world, because two-thirds of the land is occupied by mountainous terrain. This geographical environment influences the culture formed in Japan. The solid density makes generally continuous human conflicts to criminal activities. However, Japan is the most safe country from crime, because of a traditionally developed community of common spirit “Wa”, sympathized harmony and conciliatory in the human relationship, and of the