

DOI: 10.53116/pgafnr.2022.2.2

# The Changes of Japanese Attitude toward Law and Legal System: Comparing the Results of the Survey Conducted in 1976, 2005 and 2022<sup>1</sup>

Manako Kinoshita\*

\* Full Professor, Doshisha University, Faculty of Law. e-mail: [mkinoshi@mail.doshisha.ac.jp](mailto:mkinoshi@mail.doshisha.ac.jp)

**Abstract:** This paper compares and analyses the results of a social survey on legal attitudes conducted from January to February 2022 among Japanese citizens (aged 18 or older) nationwide (hereinafter referred to as the 2022 survey) as a follow-up to the 1976 survey and the 2005 survey, which were conducted in previous years.

The 2022 survey focused on three lower-level attitudes that constitute legal attitudes: 1. flexibility; 2. naïve moral sentiment (naïve morality); and 3. severe punishment orientation. First, we examined the attitude toward flexibility, especially the legal attitude toward flexibility in contracts. And we found that the majority of respondents in the 2022 survey, regardless of gender or generation, demanded strictness when concluding contracts, but flexibility when executing contracts. This result is almost the same as in the 1976 and 2005 surveys. Regarding the naïve moral sentiment, a change was observed in the 2022 survey, with a decrease among males aged 60 and over and an increase among females in their 20s. The proportion of each pattern accounted for by the combination of flexibility, naïve moral sentiment and severe punishment orientation in the 2022 survey did not differ significantly from the 1976 and 2005 surveys.

**Keywords:** Japanese legal attitudes, attitude changes over the years, naïve morality, flexibility of the laws, orientation to severe punishment

## 1. Purpose

The purpose of this paper is to determine the degree to which the Japanese are familiar with modern Western laws through the social surveys.

Since the transplantation of modern Western laws to Japan in the Meiji era (1868–1912), there has been academic interest in the extent to which Japanese people have

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<sup>1</sup> This article is a translation of the paper originally published in Japanese and submitted with the permission of the editors of *Public Governance, Administration and Finances Law Review*. Some additions, such as questionnaires and tables, and abbreviations have been made to ensure that readers of the English version will understand it. The original article is to be published in the *Japanese Law & Society Review* (Hou-to Shakai Kenkyu), 8, 2023, in print.

accepted the modern Western laws and what “laws” mean to them. This is the so-called problem of legal succession.

According to Dr. Kawashima,<sup>2</sup> who was one of the founder of Sociology of Law in Japan, wrote in his popular book (Kawashima, 1967, p. 139): “In traditional Japanese legal consciousness, rights and obligations are perceived as something that may or may not exist, and it is not preferred that they be clarified and made definitive.” In other words, the Japanese do not understand the relationship between rights and obligations and have a low level of legal consciousness. Furthermore, the Japanese attitude of avoidance of litigation is now used as a factor explaining the low rate of litigation in Japan.<sup>3</sup>

Kawashima’s point of view has generated a great deal of academic attention. For example, in 1971 and 1976, the Japan Culture Council (Nihon Bunka Kaigi in Japanese)<sup>4</sup> conducted social surveys to examine Japanese attitudes toward laws (Nihon Bunka Kaigi, 1973; Nihon Bunka Kaigi, 1982).

The social surveys, which were conducted by the Japan Culture Council in 1971 and 1976, were led by Dr. Hayashi,<sup>5</sup> Japanese Statistician. In particular, the 1976 survey focused on three aspects of Japanese people’s legal consciousness (Nihon Bunka Kaigi, 1982, p. 65): 1. whether they have a naïve moral sentiment as a value system behind the law (dimension of naïve moral sentiment); 2. whether they consider the law flexible (dimension of flexibility); and 3. what degree of punishment they consider appropriate for crimes (dimension of severe punishment orientation).

According to Hayashi’s analysis, there are three typical types of Japanese legal consciousness: 1. a type with a strong sense of naïve morality, and a strong preference for either or both flexibility and severe punishment; 2. a type with a weak sense of naïve morality and a preference for flexibility; and 3. a type with a weak sense of naïve morality, no preference for severe punishment and no preference for flexibility (Nihon Bunka Kaigi, 1982, pp. 65–66).

Hayashi (Nihon Bunka Kaigi, 1982, pp. 67–68) considered that the type with a strong sense of naïve morality, and a strong preference for either or both flexibility, and severe punishment orientation, which is mentioned above as 1, was “the old type of Japanese legal consciousness,”<sup>6</sup> since it was common among the elderly. And the type that

<sup>2</sup> Dr. Takeyoshi Kawashima (1909–1992) was a leading civil code scholar and legal sociologist in post-war Japan. Professor Emeritus of the University of Tokyo.

<sup>3</sup> In previous studies, there has been a debate among those who believe that the attitude of Japanese people (not liking litigation) is the cause of the low rate of litigation in Japan (cultural theory), or that institutional factors such as the high cost of litigation or the difficulty of using the system (institutional theory) are the causes. Our survey in 2022 also showed that litigation is not favoured in Japan; however, this paper does not take any one of these two theories. In other words, we see the influence of the system as the main factor affecting the volume of lawsuits, but also the influence of legal attitudes on people’s evaluation of the system and the intention to use it.

<sup>4</sup> The Japan Culture Council (Nihon Bunka Kaigi) is a private cultural organisation of conservative intellectuals formed in 1968 and dissolved in 1994.

<sup>5</sup> Dr. Chikio Hayashi (1918–2002) was a Director of the 7<sup>th</sup> generation of the Institute of Statistics and Mathematical Sciences in Japan.

<sup>6</sup> “The old type of Japanese legal consciousness” refers to the type with strong naïve moral sentiment, and a strong preference for either or both flexibility and severe punishment orientation, which has three types: a) a type with high naïve moral sentiment, high severe punishment orientation and high flexibility; b) a type with high naïve moral sentiment, low severe punishment orientation and high flexibility; and c) a type with high naïve moral sentiment, high severe punishment orientation and low flexibility.

favours flexibility with a weak naïve moral sentiment (2), was comparatively more common among the younger generation, males, and those with higher education, and was considered to be “the new type of Japanese legal consciousness”.<sup>7</sup>

Based on this analysis, it is natural to assume that after the 1976 survey, “the new type of Japanese legal consciousness” will increase and “the old type of Japanese legal consciousness” will decrease. We therefore conducted the 2005 and 2022 surveys as a follow-up to the 1976 survey to verify this prediction.

This paper examined how Japanese attitudes toward “laws” have changed and “What do ‘laws’ mean to the Japanese?” mainly focusing on Japanese legal attitude from three aspects: 1. Flexible application of laws; 2. Naïve morality; 3. Desire for severe punishment, which Hayashi (Nihon Bunka Kaigi, 1982, pp. 64–68) described.

The concept of “laws” which is used in this paper is a broader conception than the state laws. “Laws” includes not only the laws and regulations enacted by the state, but social norms and “living law” as Eugen Ehrlich (1913) mentioned. As a results, three aspects of Japanese legal attitude are considered to support laws, which are focused in order to understand the people’s sentiments toward the state laws, legal institute and social order.

In this paper, we will discuss the “legal attitude” from the perspective of psychology instead of “legal consciousness”. The concept of legal attitude used in this paper is based on Hovland’s classic definition (Rosenberg & Hovland, 1960, pp. 1–3), which we consider to be composed of cognition, emotion, and behavioural intention. Using this definition, it is possible to empirically clarify the structure of attitudes (Kinoshita, 2021).

## 2. The survey design

### 2.1. Design of the survey in 2022

The survey conducted in 2022 in Japan, is one of the projects of the Grant-in-Aid for Scientific Research (B) entitled *The Effects of Legal Socialisation on People’s Attitudes towards Contracts*. This work was supported by JSPS KAKENHI Grant Number JP19H01409.

The design of the social survey conducted in 2022 is outlined as follows. The survey population was adults aged 18 and over. The survey was conducted across the whole of Japan. The sampling method was two stage stratified random sampling. We allocated 1,200 subjects for the follow up survey. The number of valid responses was 691 and the valid response rate was 57.6%. The survey was carried out from 14 January to 6 February 2022.

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<sup>7</sup> “The new type of Japanese legal consciousness” refers to the type of weak naïve moral sentiment that favours flexibility and has two patterns: (i) a type with low naïve moral sentiment, high severe punishment orientation and high flexibility; and (ii) a type with low naïve moral sentiment, low severe punishment orientation and high flexibility.

## 2.2. Design of the survey in 1976

The design of the 1976 survey (hereinafter referred to as the 1976 survey) is described below for comparison with the results of the 2022 survey (Nihon Bunka Kaigi, 1982). The population is Japanese people older than 20 years, who live within 30 km area from Tokyo. The sampling method was two stage stratified random sampling. The sample size was 1,500 sample. The valid response was 1,080 and the valid response rate was 72%. The survey was carried out from 11 March to 29 March in 1976.

## 2.3. Design of the survey in 2005

Matsumura et al. (2007) conducted a social survey from February to March 2005 (hereinafter referred to as the 2005 survey), supported by Grant-in-Aid for Scientific Research in Priority Areas (B) *Dispute Resolution and Civil Justice in the Legalising Society* (Leader: Dr. Murayama, Masayuki) of the Ministry of Education, Culture, Sports, Science and Technology.

The population was Japanese aged between 20 and 70 years. The sampling method was two stage stratified random sampling, and the sample size was 2,274. The number of sampling points was 1,137, and the number of persons sampled per point was 22. The sampling period was from December 2004 to January 2005. The sampling period was from December 2004 to January 2005. The number of valid responses was 50.0% (1,138 samples).

# 3. Demographics of respondents

## 3.1. Demographics of respondents in the 2022 survey

Because the sample size for the 2022 survey is smaller than that of the 2005 survey, the question is whether the survey is representative. Therefore, we compare the valid responses from the collected sample (the “valid sample”) with the results assigned by sampling (the “design sample”).

First, in terms of gender, 47.9% of the valid response sample was male and 52.1% was female, while 47.3% of the design sample was male and 52.7% was female.

In terms of age structure, the number of respondents aged 18, 19 and 90 or older was small in both the valid sample and the design sample, and the percentage of respondents in other age groups ranged from 8% to 20%.

The proportions of the 21 largest cities in Japan and other cities and towns were almost the same in the valid response sample and the design sample.

In sum, the valid sample is well representative of the design sample in terms of gender, age and residence of the respondents. Although the sample size was small, we believe we were able to conduct an academically valid survey.

### **3.2. Sample of 30 kilometres in the Tokyo metropolitan area**

The 1976 survey covered people living within 30 kilometres of the Tokyo metropolitan area. On the other hand, the 2022 survey covered all residents in Japan, so the question arises whether it is appropriate to compare the two surveys.

The results of the 2022 survey, which covered only residents living within 30 kilometres of the Tokyo metropolitan area, showed no significant differences in the distribution of responses to each question. Therefore, we will compare the 1976 and 2022 surveys, assuming that there is no significant difference in the overall trend between the national sample of adults in Japan and the sample restricted to a 30-kilometre radius.

## **4. The results: Changes from 1976 to 2022**

### **4.1. Three dimensions of Japanese people's legal attitudes**

As mentioned above, mainly three dimensions are highlighted in this paper. The first dimension is the flexible application of laws (or flexibility of norms), which indicate the people's ideas regarding how strict and rigid norms, particularly contracts, should be. Second is naïve morality (or naïve moral sentiment). And the last one is regarding their orientation to severe punishment.

### **4.2. The orientation to flexible application of laws**

#### *4.2.1. Characteristics of attitudes toward contracts*

According to Kawashima (1967, p. 45), in Japanese society, a compromise is expected between the reality of morality and laws, and the reality of human spirit and social lives. Such a form of compromise with reality is highly valued as a "flexible" attitude.

First, let us look at changes in attitudes toward contracts over time (Table 1). When asked: (Q 12<sup>8</sup>) "What do you do when a contract you once signed is no longer suitable for your actual situation after a number of years? Which of the following two statements is closer to your opinion?", 61.7% of the respondents in the 1976 survey, 64.3% in the 2005 survey, and 72.8% in the 2022 survey answered: "When the contents of the contract has turned unsuitable for the current reality, we should discuss and correct it so that we do not have to observe the inappropriate contract". Although there was a slight increase, there was no change in the overall trend. The other option: "The contract which you have signed once must be observed even when it has turned unsuitable for the current reality", accounted for 16.7% in the 2022 survey, down from nearly half of the 1976 survey.

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<sup>8</sup> Question numbers are those used in the survey questionnaire in this article.

Table 1.  
*Responses to the Q 12 questions of the survey questionnaire in 1976, 2005, 2022*

Choices	1976	2005	2022
1 The contract which you have signed once must be observed even when it has turned unsuitable for the current reality.	31.7	23.0	16.7
2 When the contents of the contract has turned unsuitable for the current reality, we should discuss and correct it so that we do not have to observe the inappropriate contract.	61.7	64.3	72.8
3 Do not know.	6.6	12.8	10.5
Total (%)	100.0	100.0	100.0
(N)		(1,136)	(687)

*Source:* Compiled by the author.

On the other hand, nearly 90% of the respondents in the 1976, 2005 and 2022 surveys answered that “When making a contract, the contents should be as concrete and detailed as possible to avoid future disagreement over the interpretation”, while fewer than 10% of the respondents answered that “Contracts are only formalities. So when making a contract, the contents of the contract should be as simple as possible and the expressions should be as flexible as possible” (Table 2).

Table 2.  
*Responses to the Q13 question of the survey questionnaire in 1976, 2005, 2022*

Choices	1976	2005	2022
1 Contracts are only formalities. So when making a contract, the contents of the contract should be as simple as possible and the expressions should be as flexible as possible.	6.3	4.7	4.2
2 When making a contract, the contents should be as concrete and detailed as possible to avoid future disagreement over the interpretation.	89.1	87.6	89.3
3 Do not know.	4.7	7.7	6.4
Total (%)	100.0	100.0	100.0
(N)		(1,129)	(685)

*Source:* Compiled by the author.

This attitude toward contracts was “stable” (Hayashi, 1982, pp. 13–17) in the analysis of the 1976 survey, and it was predicted that “the distinction between formal and real intention, where formally it is a neat decision, but in reality, it is Japanese-style and flexible” would not change significantly in the future. The fact that the answers to the two questions regarding the time of execution and the time of making a contract are compatible is one of the characteristics of Japanese people’s thinking about contracts.

#### 4.2.2. *Changes in responses on flexibility*

According to Kawashima (1967, p. 45), in Japanese society, a compromise is expected between the reality of the human spirit and social life, and the reality of morality and laws. Such a form of compromise with reality is highly valued as a “flexible” attitude.

Let us see how this “flexible” attitude has changed in situations other than contracts.

Four questions were asked to measure what people think about the flexibility of norms. In the original 1976 questionnaire, six questions were asked, but two were deleted because they were not in accordance with contemporary human rights attitudes. As a result, four questions are compared.

The questions on the flexibility of the norms are as follows. The choices marked with an asterisk in each question are those that indicate a strict attitude.

**Q 5 National property.** There are miscellaneous trees which would suit your garden such as azaleas and wisterias in a national forest. But there is a sign saying: “Keep off the national property.” A and B have different opinions on this. Which opinion is closer to yours?

1 Closer to A: “We may take a few of them with us because those will be soon cut down as miscellaneous trees anyway.”

\*2 Closer to B: “We should not take any of them with us as long as there is a sign saying ‘Keep off the national property’, even if those will be soon cut down as miscellaneous trees.”

**Q 6 Vacant land.** There is a vacant land in your neighbourhood. This is A’s private property. Children in the neighbourhood come here and play baseball. A always tells them: “Don’t play here in my land.” But the children would not listen to him. A and B from this neighbourhood have different opinions on this problem. Which opinion is closer to yours?

1 Closer to A: “As this is an idle lot at the moment, it is OK that children play there.”

\*2 Closer to B: “Even if this is an idle lot at the moment, we should not use this private property without the permission of the landowner.”

**Q 10 Public employees.** There are two types of public employees. Which type do you prefer?

\*1 I prefer A who always applies the law strictly as it is written for whatever and whenever.

2 I prefer B who tries to apply the law flexibly considering what the law really means.

**Q 11 Legal application.** There are two different opinions on law. Which opinion is closer to yours?

\*1 Closer to A. A: “Law exists to be observed. So when someone violates it, he/she must be punished without exceptions.”

2 Closer to B. B: “Law should be interpreted every time according to the case. And it should not be interpreted word for word.”

The results of the 2022 survey (Table 3) show that among these four questions, a high percentage of the respondents prefer strictness. In case of the Q 5 question, 90% of the respondents in 2022 chose “Keep off the national property” (Choice 2). And in the Q 6 question, 80% of the respondents in 2022 chose “We should not use this private property without the permission of the landowner” (Choice 2). Particularly the percentage of respondents who think that “we should not use this private property without the permission of the landowner” increased in the 2022 survey compared to the 1976 survey.

On the other hand, with regard to the application of the law, choices which indicate strictness were not preferred. The percentage who chose “I prefer A who always applies the law strictly as it is written for whatever and whenever (Choice 1 at Q 10)” was 11% in the 2022 survey. And the percentage who chose “Law exists to be observed. So when someone violates it, he/she must be punished without exceptions (Choice 1 at Q 11)” was 26% in the 2022 survey. The tendency to dislike strictness when applying the law has been consistently strong since the 1976 survey and has not changed significantly.

Table 3.  
*People’s attitude towards property rights*

Percentage of the following choices in each question (%)		Male			Female			Total		
		1976	2005	2022	1976	2005	2022	1976	2005	2022
Q5 National property	2 Keep off the national property	83	81	88	87	86	92	85	84	90
Q6 Vacant land	2 We should not use this private property without a permission of the landowner	52	64	77	60	70	83	56	67	80
Q10 Public employees	1 Applies the law strictly	18	15	14	21	16	9	20	15	11
Q11 Legal application	1 Punished without exceptions	24	24	29	28	25	23	26	25	26

*Source:* Compiled by the author.

#### 4.2.3. Summary of the attitude toward flexibility

In summary, in the 2022 survey, there is no difference in the distribution of flexibility by gender and age. At least in the 1976, 2005 and 2022 surveys, respondents tended to view property rights such as entry to vacant lots strictly. On the other hand, the respondents tended to prefer “flexible” application of contracts and laws. In particular, with regard to contracts, there was a tendency to favour strict content at the time of conclusion, but flexible operation at the time of performance. It is not clear whether these attitudes toward flexibility change under the influence of social conditions, so it is necessary to continue to conduct surveys in the future.

### 4.3. The orientation to naïve morality

#### 4.3.1. *What is the orientation to naïve morality?*

Naïve morality (naïve moral sentiments) are considered to be the criteria by which Japanese people judge “rightness” in their daily lives (Nihon Bunka Kaigi 1982, pp. 45–46). They are the values that one expects to find at the root of a person’s mind, a naïve and simple sense of justice and causal justice. This concept is presumably related to Lerner’s (1980) *Just World Theory* in social psychology (Matsumura et al., 2007). From a modern perspective, these questions may seem too simple. This is based on the assumption that people’s judgement of “right” is based on naïve and emotional values. Naïve morality is also thought to be related to ancient Japanese customs and lifestyles, such as belief in Shinto and Buddha and ancestor worship. They are a type of social norm and are used as a criterion to judge whether everyday behaviour is correct.

#### 4.3.2. *Changes in responses on naïve morality*

The questions of naïve morality are composed with six questions, which are originally made by Dr. Hayashi and his co-researchers for the survey in 1976 (Nihon Bunka Kaigi, 1982). The questions on the naïve morality are as follows.

Q 22 (1) Do you think that we will have to suffer for our past evil deeds?

Q 22 (3) Do you think that the gods know whatever we do, when we do good and when we do bad?

Q 22 (4) Do you believe in human curses?

Q 22 (5) Do you think that you must lead a decent life so that you are not ashamed of yourself in front of your ancestors?

Q 22 (8) There is a conventional belief from old times that tells you if you do something evil, your descendants will have to get the punishment, if not you. Do you agree or disagree with this?

Q 22 (9) People often say “He that will lie will steal.” Do you think this is true or not?

Let us take a look at the tendency of how Japanese people have naïve morality.

First, question Q 22 (1) “Do you think that we will have to suffer for our past evil deeds?” Around 80% of the respondents answered “yes” to this question (Table 4), which has not changed from 2005. To question Q 22 (3) “Do you think that the gods know whatever we do, when we do good and when we do bad?” 61.0% of the people responded that they agree or somewhat agree to this question, which is almost the same as the result of the 2005 survey (Table 5).

Table 4.  
Responses to the Q 22 (1) question of the survey questionnaire in 1976, 2005, 2022

Choices	1976	2005	2022
1 Yes.	57.6	83.3	83.3
2 No.	40.5	16.7	16.7
Total (%)	100.0	100.0	100.0
(N)		(1,133)	(678)

Source: Compiled by the author.

Table 5.  
Responses to the Q 22 (3) question of the survey questionnaire in 1976, 2005, 2022

Choices	1976	2005	2022
1 Think so.	26.2	33.2	26.5
2 Think so a little.	16.8	30.1	34.5
3 Do not think so much.	19.7	20.7	21.0
4 Do not think so.	35.7	16.0	18.0
Total (%)	100.0	100.0	100.0
(N)		(1,132)	(690)

Source: Compiled by the author.

The scale was made using these six questions. Specifically, if the response is “yes” or “think so” to each question, one point is given and added to the total scores. Therefore, on the naïve morality scale, the lowest total score is zero points and the highest is six points. The higher the score, the stronger the sense of naïve morality is, so a person with a score of six is considered to have an “extremely naïve morality”.

Table 6.  
Changes in the naïve morality scale in 1976, 2005, 2022

Male															
Naïve Morality Scale	20s			30s			40s			50s			60s		
	1976	2005	2022	1976	2005	2022	1976	2005	2022	1976	2005	2022	1976	2005	2022
0	26.1	14.0	8.0	22.1	8.0	12.2	14.1	9.1	7.9	12.5	9.7	5.9	3.1	10.3	12.9
1	26.1	21.1	24.0	19.1	21.3	17.1	25.9	20.2	15.9	18.7	17.4	9.8	14.1	12.3	22.6
2	20.0	22.8	40.0	25.0	18.7	29.3	23.5	11.1	19.0	12.5	20.0	27.5	21.9	16.8	19.4
3	13.9	15.8	0.0	14.0	25.3	14.6	16.5	18.2	23.8	18.7	13.5	17.6	12.5	17.4	25.8
4	6.1	17.5	16.0	8.1	12.0	14.6	7.1	23.2	11.1	10.4	17.4	15.7	25.0	16.1	6.5
5	5.2	8.8	8.0	8.1	6.7	4.9	5.9	5.1	12.7	14.6	12.3	13.7	14.1	17.4	6.5
6	2.6	0.0	4.0	2.9	8.0	7.3	7.1	13.1	9.5	12.5	9.7	9.8	9.4	9.7	6.5
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

		Female														
Naïve Morality Scale	20s			30s			40s			50s			60s			
	1976	2005	2022	1976	2005	2022	1976	2005	2022	1976	2005	2022	1976	2005	2022	
0	13.7	1.9	2.9	12.7	3.1	2.5	14.6	8.3	7.4	3.3	11.3	7.1	6.9	4.7	8.1	
1	24.2	17.0	14.3	13.5	13.4	15.0	11.4	13.0	16.2	15.0	12.0	28.6	5.6	7.6	27.4	
2	24.2	24.5	22.9	18.3	21.6	37.5	22.0	15.7	29.4	20.0	14.8	14.3	18.1	11.1	17.7	
3	14.7	24.5	17.1	20.6	16.5	17.5	15.4	23.1	19.1	10.0	14.8	16.1	15.3	15.2	17.7	
4	16.8	11.3	25.7	18.3	22.7	12.5	15.4	10.2	10.3	20.0	20.4	12.5	13.9	21.1	12.9	
5	2.1	15.1	14.3	9.5	13.4	7.5	10.6	14.8	4.4	13.3	11.3	14.3	18.1	22.8	14.5	
6	4.2	5.7	2.9	7.1	9.3	7.5	10.6	14.8	13.2	18.3	15.5	7.1	22.2	17.5	1.6	
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	

Source: Compiled by the author.

Table 6 shows how naïve morality changed in 1976, 2005 and 2022, by gender and age, using the naïve morality scale. Compared to the 2005 survey, the 2022 survey shows that, in general, both men and women do not have strong naïve moral sentiments.

First, let us look at the distribution of the males scale in the 2022 survey. In their 20s, 8.0% scored 0, 24.0% scored 1 and 40.0% scored 2. In their 50s, the number of respondents scoring 4 or more increased by about 10 points, but in their 60s, the number scoring 4 or more decreased again.

Next, looking at females in the 2022 survey, a total of 42.9% of females in their 20s scored 4 or more points. For those in their 30s and older, that figure drops by around 10 percentage points. In particular, 29.0% of the respondents in their 60s gave a score of 4 or more.

Figure 1 visualises these changes in the scale by year of the survey. In this figure, the horizontal axis of the graph is age and the vertical axis is the percentage of the total number of respondents who added up the number of respondents who scored 4, 5 or 6 on the naïve morality scale.

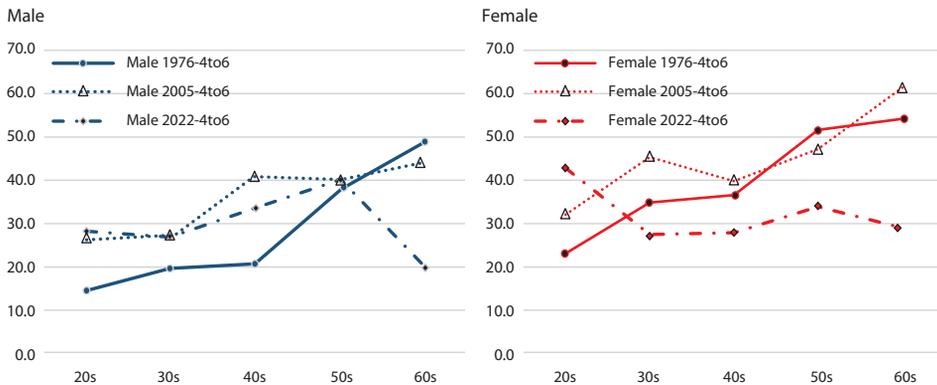


Figure 1. Changes of added score 4+5+6 of naïve morality, by gender and age in the 1976, 2005, 2022 surveys

First looking at males, in the 1976 and 2005 surveys, naïve morality increased with age, and was highest among males in their 60s. In the 2022 survey, it also increased among males in their 20s through 50s, but suddenly dropped to a low level among males in their 60s, indicating a different trend to other surveys.

Next, looking at female respondents, in the 1976 and 2005 surveys, naïve morality generally increased with age, and was highest among females in their 60s. On the other hand, the 2022 survey shows a high rate for female in their 20s, but a drop of about 10 points for those in their 30s and older, and no significant increase even for those in their 60s and older, although there is some increase or decrease in the rate.

We examined whether the change in naïve moral sentiment with age was generational or age-related. 17 years separated the 2005 and 2022 surveys, so the data cannot be simply compared at 10-year increments. However, comparing the 2005 and 2022 surveys, which assumed that most males in their 30s in 2005 would be in their 50s in 2022, 17 years later, we found that males in their 50s in 2022 showed higher naïve morality. On the other hand, the naïve morality of females in their 50s in 2022 was lower than that of females in their 30s in 2005. In the past, this was an increase with age, but this was not the case for the females in the 2022 survey. This suggests that the effect of aging on naïve morality was observed in males in the 2022 survey, but that factors other than aging had an effect on it in the females' data.

#### *4.3.3. Summary of the attitude toward naïve morality*

The 1976 and 2005 surveys showed that females in general had stronger naïve moral sentiment than males, but this was not necessarily the case in the 2022 survey, which showed a different trend from the previous surveys. In particular, the 2022 survey showed that males in their 60s had lower naïve moral sentiment and females in their 20s had higher naïve moral sentiment, which is interesting given the large difference between males and females in their 20s in the 2022 survey.

### **4.4. The orientation to severe punishment**

#### *4.4.1. What is the orientation to severe punishment?*

Finally, the scale of severe punishment orientation is examined. The orientation to severe punishment literally means the idea that punishment should be severely imposed. The survey included two types of questions: those that asked about the severity of punishment for minor offenses and those that asked about the severity of punishment for more serious offenses, including those punishable by the death penalty. The severe punishment orientation scale used in the analysis in this paper is the latter (the severity of punishment for more serious offenses).

To begin with, the 1976 survey (Nihon Bunka Kaigi, 1982, p. 17) stated that the Japanese society is characterised by “what might be called a paternalism towards the law”.

This is also shown in the data: 74.0% of the respondents in the 1976 survey thought that “punishment is not intended to punish, but to rehabilitate (Q 36, Choice 2)”. However, in the 2005 survey, 52.1% of the respondents thought so, and in the 2022 survey, 57.6% thought so, indicating a decrease in the number of those with a paternalistic view.

However, the 2005 and 2022 surveys do not indicate that people’s views have simply become more severely punitive.

For example, there has been no significant change in attitudes toward the death penalty, with 82.1% of the respondents in the 1976 survey, 86.2% in the 2005 survey and 82.5% in the 2022 survey indicating that “the death penalty is unavoidable in some cases (Table 7: Choice 2 in Q 30)”.

Table 7.  
Responses to the Q 30 question in 1976, 2005, 2022

Choices	1976	2005	2022
1 Abolish in any circumstances.	12.2	5.2	4.8
2 Unavoidable in some cases.	82.1	86.2	82.5
3 Do not know.	5.6	8.6	12.7
Total (%)	100.0	100.0	100.0
(N)		(1,129)	(687)

Source: Compiled by the author.

Looking at Q 31, which asked respondents about their thoughts pertaining to misjudgment: “Given a hundred people, ninety-nine of them actually committed a crime, but one did not commit a crime and is innocent” (Table 8). In the 2022 survey, 28.7% of the respondents chose the answer “save the innocent one from being punished”, while 42.4% said “it depends on the kind of crime”. On this question, 37.8% of the respondents in the 1976 survey, and 31.7% in the 2005 survey thought that one innocent person should be saved. It is interesting to note that the percentage of respondents who answered: “It depends on the type of crime”, has increased from 1976 to the present.

Table 8.  
Responses to the Q 30 question in 1976, 2005, 2022

Choices	1976	2005	2022
1 Save the innocent one from being punished.	37.8	31.7	28.7
2 Sacrificing just one is inevitable.	19.3	3.5	2.8
3 Depending on the kind of crime.	19.7	37.3	42.4
4 Do not know.	23.3	27.5	26.2
Total (%)	100.0	100.0	100.0
(N)		(1,130)	(687)

Source: Compiled by the author.

Further, in the question asking about the severity of the punishment, 31.5% of the respondents in the 1976 survey answered that the punishment was “just appropriate” (Choice 3 in Q 32), while the percentage dropped to 7.8% in the 2005 survey, but increased by about 10 points to 17.9% in the 2022 survey. The percentage of respondents who answered “too loose” (Choice 5 of Q 32) was 18.7% in the 1976 survey and increased by about 15 points to 33.4% in the 2005 survey, but decreased by about 15 points to 18.9% in the 2022 survey. In other words, the 2005 survey showed a stronger preference for harsher punishment than the other surveys.

#### 4.4.2. *Changes in responses on the orientation to severe punishment*

The orientation to severe punishment scale consists of the five questions listed below. Specifically, for each question, one point was given for each choice (marked with an asterisk in each question choice below) that was considered to have a strong severe punishment orientation, and the total score was used as the score. Thus, the scale took scores from zero to five, with higher scores meaning more severe punishment orientation, and a score of five meaning the most severe punishment orientation.

The questionnaires on the orientation to severe punishment are as follows.

Q 30 Do you think the death penalty should be abolished in any circumstances or it is unavoidable in some cases?

- 1 Abolish in any circumstances.
- \*2 Unavoidable in some cases.
- 3 Do not know.

Q 31 Suppose there are one hundred people. Ninety nine of them actually committed a crime, but one of them did not and he/she was innocent. There are two opinions on this.

A's opinion: “Penalising this innocent person by mistake is a more serious problem than overlooking the other 99 criminals. So in order to save the innocent one, it is inevitable that the 99 criminals go free.”

B's opinion: “I feel sorry for the innocent person, but if we let out the other 99 criminals, the social order cannot be maintained. So it is inevitable that all of the 100 people are penalised.”

- 1 Save the innocent one from being punished.
- \*2 Sacrificing just one is inevitable.
- 3 Depending on the kind of crime.
- 4 Do not know.

Q 32 Do you think penalties imposed on criminals in Japan are too heavy or too light?

- 1 Too severe.
- 2 Slightly too severe.
- 3 Appropriate.
- \*4 Slightly too lenient.
- \*5 Lenient.
- 6 Do not know.

Q 35 There are two opinions about how the people serving in prison are treated. In short, which opinion is closer to yours?

- \*1 Prisoners should be punished strictly for their crime. There is not much need to improve the conditions.
- 2 Prisoners should be treated in a humane and considerate way.
- 3 Do not know.

Q 36 Generally speaking, there are two opposed opinions on the purpose of imposing criminal punishment. Which opinion do you agree with?

- \*1 The punishment is imposed in order to chasten criminals for what they did.
- 2 The punishment is imposed in order to rehabilitate criminals and help them read-just to society.
- 3 Do not know.

Let us look at the overall trends in the scales created from these questions. Table 9 shows how the scales created from these questionnaires changed by sex and age in the 1976, 2005 and 2022 surveys.

Table 9.  
*Changes of desire for severe punishment in 1976, 2005 and 2022*

Male															
Naïve Morality Scale	20s			30s			40s			50s			60s		
	1976	2005	2022	1976	2005	2022	1976	2005	2022	1976	2005	2022	1976	2005	2022
0	15.7	8.8	16.0	11.8	4.0	7.3	4.7	12.2	12.7	2.1	5.7	3.9	6.3	3.8	6.5
1	34.8	12.3	4.0	27.9	16.0	22.0	22.4	7.1	11.1	35.4	15.1	21.6	25.0	14.1	25.8
2	26.1	31.6	44.0	27.9	20.0	22.0	37.6	20.4	31.7	22.9	25.2	23.5	31.3	35.9	30.6
3	14.8	29.8	24.0	21.3	38.7	26.8	20.0	24.5	25.4	27.1	27.7	21.6	29.7	28.8	24.2
4	8.7	15.8	12.0	10.3	21.3	22.0	12.9	33.7	19.0	10.4	23.9	27.5	7.8	16.7	12.9
5	0.0	1.8	0.0	0.7	0.0	0.0	2.4	2.0	0.0	2.1	2.5	2.0	0.0	0.6	0.0
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

		Female														
Naive Morality Scale	20s			30s			40s			50s			60s			
	1976	2005	2022	1976	2005	2022	1976	2005	2022	1976	2005	2022	1976	2005	2022	
0	17.9	3.6	8.6	7.9	7.1	5.0	8.1	7.4	10.3	11.7	8.4	12.5	8.3	7.0	9.7	
1	30.5	25.5	48.6	27.8	14.3	27.5	29.3	25.9	26.5	33.3	17.5	23.2	41.7	17.5	37.1	
2	30.5	29.1	14.3	37.3	25.5	30.0	31.7	27.8	26.5	26.7	31.5	21.4	26.4	28.7	24.2	
3	16.8	18.2	25.7	23.8	29.6	27.5	21.1	20.4	23.5	20.0	26.6	26.8	15.3	26.9	19.4	
4	3.2	21.8	0.0	3.2	22.4	7.5	8.9	18.5	13.2	5.0	15.4	14.3	8.3	19.9	9.7	
5	1.1	1.8	2.9	0.0	1.0	2.5	0.8	0.0	0.0	3.3	0.7	1.8	0.0	0.0	0.0	
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	

Source: Compiled by the author.

The following graph (Figure 2) visualises these changes in the 1976, 2005 and 2022 surveys by summing the percentages of those who obtained scores of 4 and 5 on the severe punishment orientation scale. The horizontal axis of the graph is age and the vertical axis is the percentage of people with a severe punishment orientation score of 4 and 5. The higher the score, the more severe the punishment orientation.

As can be seen from the graph, the peak for males was in their 50s in the 2022 survey. In the 2005 survey, the peak was in their 40s, and the number of males in their 60s or older decreased. On the other hand, for females, the 2022 survey shows a peak in the 50s and a decrease in the 60s, while the 2005 survey shows the lowest value in the 50s, followed by an increase. In the 1976 survey, the proportion of high scorers for severe punishment was very small for both males and females, and the change with age was smaller than in the other surveys.

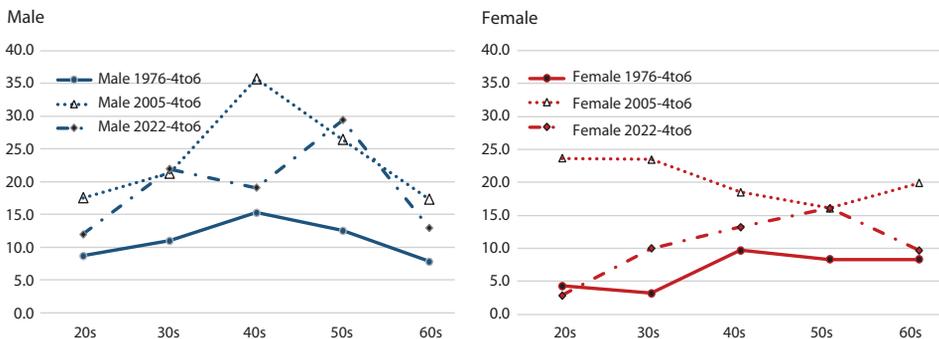


Figure 2.

Changes of added score 4+5 of severe punishment, by gender and age in the 1976, 2005, 2022 surveys

Thus the respondents of the survey in 2005 think punishments to the criminals should be more severe than those in 1976 and 2022 surveys. We have to be careful to interpret the data, as to whether the support of harsh treatment might be the very recent tendency within the last several years, or a more deeply rooted idea among Japanese.

#### *4.4.3. Summary of the attitude toward the orientation to severe punishment*

In sum, in the 1976, 2005 and 2022 surveys, males were generally more severely punished than females. Both males and females were more inclined toward severe punishment in the 2005 survey than in the 1976 and 2022 surveys. In all surveys, as a rule, both males and females in their 40s and 50s were more severely inclined toward punishment, but this tendency decreased when they were in their 60s. However, in the 2005 survey, females in their 20s were the most severely punishment-oriented. This suggests that aging may have a significant effect on the change in the intention to impose severe punishment, but it is also influenced by the changing times.

## **5. Conclusion**

Finally, let us examine whether the prediction made at the beginning of this paper, that the “new type of Japanese legal consciousness” would increase and the “old type of Japanese legal consciousness” would decrease, has proved to be correct. As mentioned above (footnotes 7 and 8), Hayashi (Nihon Bunka Kaigi, 1982, pp. 64–68) referred to the type with strong naïve moral sentiment, and a strong preference for either or both flexibility and severe punishment orientation as “the old type of Japanese legal consciousness”, while the type of weak naïve moral sentiment that favours flexibility was referred to as “the new type of Japanese legal consciousness”.

For reasons of space, the table has been omitted, but “the new type of Japanese legal consciousness” has decreased from 27% in the 1976 survey to 18% in the 2022 survey.<sup>9</sup> Further, “the old type of Japanese legal consciousness” accounted for 62% of the total in the 1976 survey, 70% in the 2005 survey and 63% in the 2022 survey,<sup>10</sup> with a slight increase in the 2005 survey, but little changes.<sup>11</sup> In other words, the type that Hayashi described in his analysis of the 1976 survey as “the old type of Japanese legal consciousness” still predominates in the 2022 survey, and our earlier prediction does not appear to have been correct.

<sup>9</sup> These percentage is the summation of (i) and (ii) mentioned in footnote 8.

<sup>10</sup> These percentage is the summation of a), b) and c), mentioned in footnote 7.

<sup>11</sup> The 2005 and 2022 surveys cannot produce exactly the same scale because the two questions that made up the flexibility scale in the 1976 survey were deleted. Hayashi (Nihon Bunka Kaigi, 1982, p. 55) treated only those with flexibility scales of 0 and 1 as inflexible, so we followed his lead and calculated only those with scales of 0 and 1 as inflexible in the 2005 and 2022 surveys.

There is no correlation among the three scales of naïve morality, flexibility and severe punishment orientation, and each of these three scales independently captures the Japanese people's evaluation of correctness and feeling of justice. Regardless, the scale Hayashi has created should prove useful for continuously measuring the Japanese people's legal attitudes.

As shown in this paper, a consistent trend has been observed since the 1976 survey with regard to flexibility, particularly with regard to flexibility in applying contracts. Whether this attitude also applies to the general public (non-lawyers) in other countries remains to be examined. Although only hypothetical, it may be that Japanese people avoid confrontation with others and prefer flexible solutions and flexible contract enforcement, preferably through discussion. People expect that a flexible solution will not have a disadvantageous outcome for them. And because people want social order to be maintained, but do not want to be hard on themselves, they will prefer flexible application of the law.

In this survey, we investigated attitudes toward contracts at an abstract level. In the future, it will be necessary to study whether people's legal attitudes differ with respect to specific conditions, such as labour, sales and so on. Furthermore, it is necessary to investigate whether changes in social conditions, such as the increase in online contracts instead of face-to-face contracts, affect people's attitudes toward contracts, and this will need to be investigated on an ongoing basis.

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