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THE UNIVERSITY OF CHICAGO

MODERNIZATION THROUGH COLONIAL MEDIATIONS:

THE ESTABLISHMENT OF THE POLICE AND PRISON SYSTEM IN MEIJI JAPAN

A DISSERTATION SUBMITTED TO

THE FACULTY OF THE DIVISION OF THE SOCIAL SCIENCES

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DOCTOR OF PHILOSOPHY

DEPARTMENT OF POLITICAL SCIENCE

BY

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In memory of Professor Yasunobu Fujiwara

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INTRODUCTION

1. Problem: “Excessive Discipline” in the Japanese Police and Prison System

One present-day Western observer described the daily practices of the Japanese police as follows:

The loudspeakers on cruising police cars and on the bigger police boxes recall a worrisome mother; something is always *abunai*, dangerous. The hint of aggrievedness in the tone emphasizes further the likeness to a Japanese mother; people walking the streets are made to feel like potentially naughty children.¹

Other foreign observers who visited a present-day Japanese prison described their impression as follows:

For an outside observer familiar with different prison systems throughout the world, perhaps the most striking feature of Japanese prisons is silence: both literal and the one caused by the seal of official secrecy surrounding them. This quiet is largely due to the fact that many prisoners live alone and for years on end have little or no opportunity for human contact, and also because conversations in many situations or the making of loud noises in all situations, is strictly prohibited and punishable.²

Japan is often said to be one of the safest societies in the world, and to some extent this can be proved by statistics. In comparison with other developed democracies, crime rates in Japan are remarkably low. For example, Japan’s homicide rate was 1.3 per 100,000 persons in 1987, compared to 8.3 in the United States, 4.1 in France, 4.3 in West Germany, and 5.5 in Britain. Moreover, the robbery rate in Japan was 1.5 per 100,000,

¹ Karel van Wolferen, *The Enigma of Japanese Power: People and Politics in a Stateless Nation* (New York: Vintage Books, 1990) 186.

² Human Rights Watch/Asia, *Prison Conditions in Japan* (New York, Washington, Los Angeles, London, Brussels: Human Rights Watch, 1995) vi.

whereas West Germany, Britain, and France had rates of 46.0, 65.4, and 46.0, respectively.³ The imprisonment rate also seems to substantiate the claim that Japanese people abide by law and order. From a total population of 120 million, only 46,458 Japanese people were behind bars in 1990, which translates to roughly 40 persons out of every 100,000, compared with 158 per 100,000 in the US and approximately 80 to 90 in Britain.⁴

Interestingly, researchers who specialize in cross-national comparisons of security measures have produced contradictory evaluations of the two institutions that are ostensibly responsible for the preservation of internal security in Japan, the police and the prison. On one hand, researchers who study Japanese police admire its efficiency, discipline and lower incidences of corruption, and believe that low Japanese crime rates are due to the excellent Japanese police force. Some experts even advise societies suffering from high crime rates, such as the United States, to learn from the Japanese system.⁵ On the other hand, observers who research prison conditions in Japan are shocked by the fact that detainees routinely face cruel, inhuman, and degrading treatment.⁶ They call on the Japanese government to conduct “a thorough review of prison rules and prison punishments with a view to repealing or amending those regulations which do not meet international human rights standards.”⁷ Critics of

³ David H. Bayley, *Forces of Order: Police Behavior in Japan and the United States*, 2 ed. (Berkeley, Los Angeles, Oxford: University of California Press, 1991) 7.

⁴ Yoshio Yasumaru, *Ikki, Kangoku, Cosmology: Shuen Sei No Rekishigaku* (Tokyo: Asahi Shinbunsha, 1999) 131. Wolferen, *The Enigma of Japanese Power: People and Politics in a Stateless Nation* 457.

⁵ Ezra F. Vogel, *Japan as Number One: Lessons for America* (Cambridge: Harvard University Press, 1979). Bayley, *Forces of Order: Police Behavior in Japan and the United States*.

⁶ Amnesty International, "Japan: Abusive Punishments in Japanese Prisons," (New York: Amnesty International USA Publications, 1998).

⁷ Ibid.

Japanese prisons state that prison conditions are scandalous and a shame to the Japanese government, which is professedly a modern liberal democratic regime.

These contradicting evaluations of Japan's security policies are partly due to the fact that researchers have analyzed Japanese police and prisons as two distinct institutions, paying little attention to the relationship between them. However, upon scrutiny, research on Japanese police and prisons reveals many commonalities in the practices of both institutions. I would like to sum up the nature of these commonalities as "excessive discipline." For example, David Bayley concludes that "the primary function of the Japanese police is not deterrence; it is crime prevention through enhancing the capacity of the society to discipline itself."⁸ Crime prevention is attained through "prodding, guiding, and alerting," and he explains their concrete manifestations as follows: "Despite the fact that Japan is the safest developed society in the world, the police continually prod the populace to report suspicious activity, buy security hardware, learn avoidance techniques, and join crime-prevention groups."⁹ Peter Katzenstein explains how the Japanese police have always emphasized their responsiveness to social needs and their commitment to frequent contact with the general public in seeking to increase informal surveillance. As an example of the reach Japanese police have into society, he describes the daily activities of the *koban*, the Japanese police box system, as follows: "General data about each individual are noted on cards that stay in the *koban*. The officer enters information such as names, places of origin, birthdays, and occupations of family members, as well as emergency contact names and phone numbers."¹⁰ He

⁸ Bayley, *Forces of Order: Police Behavior in Japan and the United States* 183.

⁹ *Ibid.*

¹⁰ Peter J. Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* (Ithaca and London: Cornell University Press, 1996) 64.

concludes, “Japan’s relatively centralized system of police administration is deeply embedded in society.”¹¹ On a slightly different tack, Ezra Vogel argues that the extreme professionalism of the Japanese police is an important source of its “remarkable success” in controlling crime. He points out that in Japan rules about police behavior are “overly strict by American standards.” “When a policeman is in uniform he cannot smoke or eat outside the police station.” He claims that Japanese police are also better disciplined than American police. “In 1993, of the 182,000 policemen in Japan, only 524 were dismissed for misbehavior, about half the number dismissed in New York City alone.” Based on these observations, Vogel concludes that Japanese policeman behaves “as a firm and confident professional who knows the proper way to deal with a particular problem,” like a teacher.¹²

On the other hand, observers from Human Rights Watch, a non-governmental organization that produces reports on prison conditions in many countries, emphasize the inhumane, draconian nature of Japanese prisons that makes Japan “fairly unique...among the countries in need of prison reform.”¹³

Even though most Japanese prisoners live in adequately clean cells, wear adequately clean clothes and do not starve, the extreme fastidiousness of the rules enforced by the draconian discipline, the lack of human contact for extended periods of time, and the very strict limits on contacts with the outside and among prisoners, make the living conditions quite intolerable.¹⁴

¹¹ Ibid. 63.

¹² Vogel, *Japan as Number One: Lessons for America* 207-09, 14.

¹³ Human Rights Watch/Asia, *Prison Conditions in Japan* xvii.

¹⁴ Ibid. xi.

Human Rights Watch made an itinerary of the types of discipline they considered “draconian”: rules dictating where and how to place each object in the cell; tight control of prisoners’ correspondence; fastidiousness over the pose in which the prisoner is to sit or stand during the daily cell inspection; the manner in which the prisoner is to sit, to sleep, to march; and when not to talk.¹⁵ Human Rights Watch compares these rules with those of some authoritarian regimes:

The extremely strict control over any form of communication between a prisoner and the outside, the almost total lack of visits involving physical contact are reminiscent of the situation that Human Rights Watch encountered in its earlier prison investigations, notably those in communist Poland, in the Soviet Union and in Romania, as well as of some prison-related policies of the apartheid-era South Africa.¹⁶

Human Rights Watch observers conclude their observations by suggesting that such systematic rules have “no apparent rehabilitative purpose” and should be abolished immediately.¹⁷ If their observations are correct, the “success” of the police and the “scandal” of the prisons are actually two sides of the same coin: “excessive discipline.” If so, how are we to evaluate the “safeness” of Japanese society?

2. Existing Explanations

Although the Japanese police and prison have been objects of study for a long time, there is little agreement about when, how, and why the “excessive discipline” became a characteristic of these institutions. Explanations on the excessive disciplinary practices of Japanese police and prisons fall into four major camps. The first is a cultural

¹⁵ Ibid. 20-22.

¹⁶ See, Ibid. 17.

¹⁷ Ibid. xi.

explanation, which stresses that the “excessive discipline” of the Japanese police and prison system is a manifestation of Japanese “culture” in general. For example, Bayley concludes that Japan is “heaven for a cop” because Japanese society polices itself.¹⁸

Another variation of the cultural argument is to explain the Japanese police as “unique” characteristics of a homogeneous and group-oriented society.¹⁹ Human Rights Watch also notes that the many “draconian rules” that regulate prison life in Japan are actually “characteristic of many aspects of Japanese life, including the educational system.”²⁰

However, these “cultural” explanations are, of course, insufficient. Simple statistics amply rebut any presupposition that Japan is an innately disciplined society. Since 1868, when the project of modern nation building begun, the crime rate in Japan has fluctuated greatly. For example, the Japanese prison population was 78,687 in 1885, which conservatively amounts to a rate of about 200 persons per 100,000.²¹ This rate is not only much higher than that of present-day Japan but also higher than the rate of imprisonment in the United States and other Western societies. The number of escapes from Japanese prisons was also quite high in the pioneering years of the modern Japanese prison system. In the period from 1877 to 1885, more than 1,000 prisoners escaped from Japanese prisons each year.²² These statistics indicate that the realization of a safe society in Japan is a historical achievement rather than an organic feature. We cannot assume that the Japanese police and prison system represent an unchanging “essence” of

¹⁸ Wolferen, *The Enigma of Japanese Power: People and Politics in a Stateless Nation* 183.

¹⁹ Vogel, *Japan as Number One: Lessons for America* 217-18, 12. Bayley, *Forces of Order: Police Behavior in Japan and the United States* 175-82.

²⁰ Human Rights Watch/Asia, *Prison Conditions in Japan* 19.

²¹ Yasumaru, *Ikki, Kangoku, Cosmology: Shuen Sei No Rekishigaku* 130-31.

²² Keisuke Tsuji, *Nihon Kinsei Gyokeishi Ko*, vol. 2 (Tokyo: Kyosei kyokai, 1974) 575,617. The number of escapes in the period from 1983 through 1992 were twenty-two. See Human Rights Watch/Asia, *Prison Conditions in Japan* vii.

Japanese culture. Rather, we should interpret the police and prison system as important agents that frame “unique” characteristics of present-day Japanese society.

The second dominant explanation of “excessive discipline” is a Marxist interpretation, which can be divided into two subcategories. Japanese Marxist scholarship has evaluated the nature of the Meiji state as either a bourgeois state or an absolutist state. In the 1930s, the *Ronoha* School applied Marxist theory to interpret the Meiji Restoration as an incomplete bourgeois revolution. According to the theoretical framework of the *Ronoha*, the specificity of the Meiji state was explained as a set of deviations from contemporary European states, due to the weakness of the Japanese bourgeois class to develop because of “feudal remnants” that held social progress stagnant. In short, the *Ronoha* theorists ascribe these deviations to the “backwardness” of Japanese society. An example is the work of Herbert Norman who belongs to this theoretical tradition. For Norman, the culture and ideology of the Meiji state exemplify “a time-lag between the adoption of a new mode of life and the full maturing of its cultural and psychological expression.” Norman interpreted the Meiji Restoration as a “conservative revolution from above” which was intended to curb “any insurrectionary attempts by the people, particularly the peasantry and city poor, to extend the anti-feudal movement by action from below.”²³ He claimed that “the very proximity to the feudal past and more especially the far-reaching compromise of feudal and merchant classes...have left deep marks of the old regime, especially in the spiritual realm.”²⁴ For Norman and other *Ronoha* Marxist scholars, the seemingly non-Western function of the Japanese police and prison system were understood as an indicator of the “feudal spirit,”

²³ E. Herbert Norman, *Japan's Emergence as a Modern State* (Vancouver and Toronto: UBC Press, 2000) 8.

²⁴ *Ibid.*

exempt from further historical examination. However, this answer is unsatisfactory because “feudal remnants” are nothing other than an essentialized, ahistorical entity: Japanese culture.

On the other hand, the *Kozaha* school of Marxist scholars characterized the Meiji Restoration as an absolutist revolution. Here, absolutism referred to the absolute monarchies of seventeenth- and eighteenth-century Europe as well as the Meiji state that “tried, with varying degrees of success, to impose protobureaucratic administrative controls and coercive monopolies over large populations and territories.”²⁵ Accordingly, the *Kozaha* defined the Meiji Restoration as a “total and radical social revolution, intended to put capitalists and capitalists landlords into power.”²⁶ However, such a policy required a powerful, centralized state-machine with a considerable police or military force at its disposal. In this scenario, the Meiji state established a modern police force as a “bulwark of absolutism in its struggle against liberalism.”²⁷ Although the *Kozaha* framework illuminated the unique nature of the Meiji state, it had difficulty explaining capitalist development that occurred under the absolutist regime. To explain this historical fact, they have developed the concept of “advantages of backwardness,” which emphasized the creative uses of feudal remnants for modernization projects by the Meiji state, especially industrialization.²⁸ For example, the Meiji state utilized prison laborers in “strategic industries” such as mining and road building, which contributed a substantial portion of the “primitive accumulation” necessary for the emergence of

²⁵ Theda Skocpol, *Social Revolutions in the Modern World* (Cambridge: Cambridge University Press, 1994) 63.

²⁶ Eitaro Noro, *Nihon Shihonshugi Hattatsushi*, 2 vols., vol. 1 (Tokyo: Iwanami Shoten, 1983) 74.

²⁷ Norman, *Japan's Emergence as a Modern State* 118, Moritaro Yamada, *Yamada Moritaro Chosaku Shu*, 5 vols., vol. 2 (Tokyo: Iwanami Shoten, 1984) 65.

²⁸ Noro, *Nihon Shihonshugi Hattatsushi* 103-04.

Japanese capitalism.²⁹ The *Kozaha* theorists had argued that the Meiji elite, in representing the interest of capitalist society, are responsible for “excessive discipline.”

Bernard Silberman, however, has argued that the “advantages of backwardness” is an inappropriate explanation for the emergence of particular institutional forms because it presupposed that the “political and economic elite are prescient about the administrative forms necessary to carry out industrialization within their societies and have the capacity to enforce those functional changes.” “While this is not an impossible scenario for the twentieth century,” argued Silberman, it was improbable one for the nineteenth century when “the Japanese faced the quandary of choosing between the relatively successful form of bureaucratic rationalization in Great Britain, a considerably less successful one in France, and one in Prussia which had won wars but had not yet reached the high levels of industrialization.”³⁰ The logic of the *Kozaha* critique leads to its proponents placing “more and more emphasis on the independence of capitalist state structures from direct bourgeois leadership.”³¹ He argues, “Bureaucratic rationalization was, in the immediate sense, primarily a response to persisting political, rather than economic or social, crises or problems.”³²

Silberman’s critique of the *Kozaha* School offers a third type of explanation based on political-conflict approach. Although Silberman’s explanation was originally intended to provide a general explanation for the emergence of two developments in state bureaucratic rationalization—“professionally oriented rationalization” represented by

²⁹ Yamada, *Yamada Moritaro Chosaku Shu* 134.

³⁰ Bernard S. Silberman, *Cages of Reason: The Rise of the Rational State in France, Japan, the United States, and Great Britain* (Chicago and London: The University of Chicago Press, 1993) 38.

³¹ Skocpol, *Social Revolutions in the Modern World* 37.

³² Silberman, *Cages of Reason: The Rise of the Rational State in France, Japan, the United States, and Great Britain* xi.

Britain and the United States and “organizationally oriented rationalization” exemplified by France and Japan—, it affords an excellent insight into my question. In *Cage of Reasons*, Silberman attempts to explain why rational bureaucratic organization developed in these two modes across quite different polities at different states in their social and economic development. He selects “political uncertainty” and “leadership succession” as the most important variables to explain specific modes of administration, including those of the Meiji state.³³ For some societies, as in the cases of Japanese and France, uncertainty was occasioned by transformations of leadership and the rules for leadership selection, which he calls “high uncertainty”. For others, like the United States and Great Britain, uncertainty for political leaders was occasioned by the changed rules and expansion of franchise, which he identifies with “low uncertainty.” Silberman attended to the fact that “organizationally oriented bureaucracies emerged from “high uncertainty” like France after 1789 and Japan after 1868, and explained its mechanisms as follows:

Where the uncertainty is high and is combined with the absence of formal leadership role organization or definition, the strategies are carried out by individuals held together by social networks. Such groups attempt to remove similarly organized groups by pursuing a strategy of establishing a set of formal rules governing leadership roles and succession over which they alone have domination. Autonomy and insulation of the leaders is the central goal, and this produces a set of choices leading to the organizationally oriented administrative role that dominates all forms of political leadership. By monopolizing both the criteria for leadership and the organizational structure of succession, political leaders transform the privateness of social network into the publicness of administrative bureaucratic organization.³⁴

³³ Ibid. 34-47, 159-90.

³⁴ Ibid. 79.

If the practices of the police and prison system are parts of the strategies adopted by political leaders who “proceed to perpetuate themselves organizationally,” “excessive discipline” can be interpreted as a function of the “revolutionary condition” in which the police and prison system were institutionalized. As Silberman suggests, the men who led and administered the new government after 1868 in Japan “had emerged as claimants to positions of power on the basis of self-selection... Their claims to leadership thus had no institutional foundation.”³⁵ It seems reasonable to assume that political uncertainty led the Meiji leaders to establish intense and extensive security institutions and practices in order to consolidate their authority. From this theoretical framework, I deduce the following hypothesis: the Meiji elite who attempted to secure their own status, responding to internal political crises, were responsible for “excessive discipline.”

Although Silberman’s political-conflict approach reveals why the Meiji leaders required intense and extensive security institutions and practices, it does not explain the emergence and development of the disciplinary practices which were eventually utilized by them. Silberman’s insight needs to be supplemented by considerations on the development of disciplinary practices in Japan. For this, I turn to Michel Foucault’s theory of discipline.

Foucault identifies the police and prison as important mechanisms through which new forms of power were invented and developed, and names this power “disciplinary.” In *Discipline and Punish*, Foucault summarizes the characteristics of “discipline” as follows:

³⁵ Ibid. 159-60.

To sum up, it might be said that discipline creates out of the bodies it controls four types of individuality, or rather an individuality that is endowed with four characteristics: it is cellular (by the play of spatial distribution), it is organic (by the coding of activities), it is genetic (by the accumulation of time), it is combinatory (by the composition of forces). And, in doing so, it operates four great techniques: it draws up tables; it prescribes movements; it imposes exercises; lastly, in order to obtain the combination of forces, it arranges 'tactics'.³⁶

As we have already seen, many observers agree that "discipline" is one of the most conspicuous characteristics of modern Japanese society. However, Japanese historians have been reluctant to apply the concept of discipline to their own field. This is, I believe, partly due to the limitations that Foucault imposed on his own analysis.

In *Discipline and Punish*, Foucault intentionally limits the applicability of his own theory to the analysis of French society.³⁷ Moreover, he tends to emphasize culturally specific elements such as "Christianity" or "state reason" as important components of discipline and governmentality.³⁸ But, if "discipline" is culturally specific, as Foucault suggests, how can we assert that it permeates and develops in a society outside the Western world, like Japan? Moreover, Foucault repeatedly emphasizes that power is not localized in any particular institution or state apparatus. If such technologies are neither localized nor univocal as Foucault suggests, how could the ruling elite of the Meiji state appropriate them from Western societies in a period of time much shorter than that of the societies in which they originated? How does discipline travel? This is the question to

³⁶ Michel Foucault, *Discipline and Punish* (New York: Vintage Books, 1979) 167.

³⁷ Ibid. 309.

³⁸ Michel Foucault, "'Omnes Et Singulatim': Toward a Critique of Political Reason," in *Power*, ed. James D. Faubion, *Essential Works of Foucault 1954-1984* (New York: The New Press, 1994), 305. Michel Foucault, "The Subject and Power," in *Power*, ed. James D. Faubion, *Essential Works of Foucault 1954-1984* (New York: The New Press, 1994), 332.

which Foucault is silent and that I wish to address in this dissertation. In order to pursue these questions, we are obliged to historicize “discipline” in modern Japanese history.

3. Colonial Factors

All existing theories relevant for the explanation of “excessive discipline” in Japan ignore “colonial” factors in the establishment of modern security institutions. Here, colonial factors include information, knowledge, and experiences acquired from former Western colonies. Colonial factors seem to be particularly important for the establishment of a modern internal security system in Japan, because the formation of both the police and prison system was heavily reliant upon information from British colonial holdings in China and Southeast Asia. Though many scholars believe that the Japanese police and prison system was modeled after the examples of European countries, this assessment ignores important facts. For example, Ishida Eikichi (1839-1901), the Superintendent of the Police of Kanagawa Prefecture, visited Shanghai and Hong Kong to conduct research on their police systems and submitted a memorial and detailed report to the Meiji government in 1872. It was not until 1873 that Kawaji Toshiyoshi (1839-1879), the Vice Inspector of the Police Bureau, conducted research on the French police system and submitted the comprehensive reform plan that many scholars believe was the most important document for the establishment of the modern police system in Japan. In 1872, the Meiji government also sent Ohara Shigechika (1834-1902) to Hong Kong and Singapore to study the British colonial prison system there.³⁹ Based upon his experiences

³⁹ Ohara, a former samurai who had experienced imprisonment just before the Meiji Restoration, was one of the officials most responsible for the establishment of modern prison system in Japan. As for Ohara’s biographical information, see Kazuyoshi Shigamatsu, *Mei Tengoku Den* (Tokyo: Nihon gyokei shi kenkyu kai, 1984) 3-10.

in Hong Kong and Singapore, Ohara drafted a bill in 1872 called “Prison Rules” (*Kangokusoku*), the first prison legislation in Japanese history.

My hypothesis is that the establishment of the police and prison in Japan was an emulation of the British colonial security institutions. The purpose of my dissertation is to reinterpret the establishment of the Japanese police and prison system by focusing on *their relationship with colonialism*. Two motives have combined to encourage me to pursue this project. First, by revealing the collusive relationships between the security measures of the British colonial state and those of the Meiji state, I want to disrupt the binary opposition between Japan and the West that has functioned as a master narrative in modern Japanese historiography.

Conventional scholarship has constructed modern Japanese history as a narrative of how Japan overcame the crisis brought by the “Western impact” and eventually “caught up” with Western countries. As one of the most recent and influential examples of these narratives, I introduce Benedict Anderson’s argument on Japanese nationalism. He describes Japanese nationalism as a variation of “official nationalisms”—the “naturalizations” of Europe’s dynasties—that “were picked up and imitated by indigenous ruling groups in those few zones which escaped direct subjection.”⁴⁰ Anderson lists three factors that conditioned the Meiji elite to imitate official nationalisms: “First was the relatively high degree of Japanese ethnocultural homogeneity resulting from two and half centuries of isolation and internal pacification by the *bakufu*”; “Second, the unique antiquity of the imperial house, and its emblematic Japanese-ness, made the exploitation of the Emperor for official-nationalist purposes rather simple”; and “Third, the penetration of the barbarians was abrupt, massive, and

⁴⁰ Benedict Anderson, *Imagined Communities* (London and New York: Verso, 1991) 86, 110.

menacing enough for most elements of the politically aware population to rally behind a programme of self-defense conceived in the new national terms.”⁴¹ Anderson presents the history of Japan as a narrative in which Japan, as a unified subject, met Western powers and responded to their challenges. In this way, Japan is always the protagonist of Japanese history.

This narrative is historically misleading as well as politically incorrect. As long as Japan’s modern experiences are plotted as a revolt against Western imperialism, it is quite difficult for historians to simultaneously criticize Japan’s own colonial expansion and Western imperialism. The binary opposition of Japan and the West always forces readers to face an unacceptable alternative: if you want to criticize Western imperialism, you have to accept Japanese nationalism and vice versa.⁴²

Hani Goro’s classic study of the Meiji Restoration (1933) can still amply rebuke the fallacy of this binary opposition. Hani, through the analysis of the writings of Sir Rutherford Alcock, the first British consul-general in Japan (1858-1864), reveals a political and economic conjuncture that made the collaboration between the Meiji elite and British colonialism possible. According to Hani, what the British desired at the end of the Tokugawa period was not the conquest of Japan, but the emergence of a strong state that could guarantee Britain stable trade relation. Alcock explains:

⁴¹ Ibid. 96.

⁴² This observation does not necessarily contradict the enormous effort of generations of historians to de-centralize Japanese history. Against positivistic political history, or orthodox Marxist economic history, many historians have attempted to write alternative histories: the history of women, minority groups, peasants, etc. However, it is quite rare for such alternative histories to deconstruct “Japan” as Subject because historians still write about “Japanese” women, “Japanese” minority groups, “Japanese” peasants, etc. Rather, I attempt to show how even important state apparatuses such as the police and prison system were constructed to substantial degree by non-Japanese: Western professionals, colonial governors, and colonial subjects.

Our commerce feeds a vital want—we seek trade, therefore, everywhere, although it is not without its risks and expenses. We seek new and ever-expanding markets, to meet our ever increasing wants and powers of production, and these seem to lie principally in the far East, and there we naturally, if not inevitably, go. Our first step is to obtain access by treaties to the markets they present.⁴³

Alcock recognizes “the difficulties of fusing into a harmonious coexistence the progressive development of an inferior people, and the immediate interests of a superior, where an obviously higher and lower phase of civilization intersect each other.”⁴⁴ Then he continues:

If we fall into active antagonism, of which there has been a constant danger, despite the best efforts of European Diplomacy to avert it as a great national calamity, there can be just as little doubt that the Japanese would be over-matched and vanquished. But yet, under the simple relation of conquered and conquerors, looking to the difference of race and character, and the striking contrast in purpose, mental constitution, and appreciation of each other—the struggle once over they could be no possible *fusion*... We cannot hope or desire to absorb their civilization as the Spaniards did that of the Mexicans.⁴⁵

However, as Hani emphasizes, this British non-interventionist policy toward Japan resulted from the failure of previous interventionist policies in China, Mexico, and India, which caused huge insurrections among native populations: “We have already had painful expericnce in China of the rule attending all concession to the supposed difficulties of the Government of the country, and their alleged inability to give execution to treaty stipulations”;⁴⁶ “True, we have borne all this and more, this thirty years past,

⁴³ Rutherford Alcock, *The Capital of the Tycoon: A Narrative of a Three Years' Residence in Japan*, 2 vols., vol. 2 (London: Longman, 1863) 373.

⁴⁴ Rutherford Alcock, *The Capital of the Tycoon: A Narrative of a Three Years' Residence in Japan*, 2 vols., vol. 1 (London: Longman, 1863) xviii.

⁴⁵ *Ibid.* xix.

⁴⁶ Alcock, *The Capital of the Tycoon: A Narrative of a Three Years' Residence in Japan* 226.

from Mexico, with all its elements of disorder and misrule rampant and hydra-headed.”⁴⁷ This explains why the British government offered so much help to Japanese police and prison research in Hong Kong. In this regard, British capitalism was an integral part of the Meiji state at its formation, far from being a competitor as Theda Skocpol suggests.⁴⁸ Japan partially owed its national independence to anti-imperialist insurrections in China, Mexico, and India.

Second, I want to explore an appropriate theoretical framework for the analysis of colonial influences within the Meiji state. Early-Meiji research on colonial police and prison systems has been treated by historians as a quaintly interesting but historically unimportant episode. No studies have ever tried to examine in detail early-Meiji research of police and prison systems in colonial Asia. Ishida’s reports on the Hong Kong police were compiled in the collection of Japanese official documents (*Horei Zensho*) and circulated widely even in the prewar period. Ohara’s prison research in Hong Kong is also frequently mentioned as an important starting point of Japanese modern penal history. The problem is not the availability of the material, but rather the limits of Japanese historiography valorizing the boundaries of nation states.

From this perspective, I find it problematic that Foucault excludes experiences in the colony almost entirely from his own consideration. In various texts, Foucault characterizes the late eighteenth and early nineteenth century as the critical period for the emergence of a new kind of power; this period was also the era of rapid expansion of Western colonialism. It is unreasonable to assume that the emergence and development of the new form of power that Foucault discovered in West European countries is not

⁴⁷ Ibid. 230.

⁴⁸ Skocpol, *Social Revolutions in the Modern World*.

associated with the development of colonialism and imperialism. By limiting his own research field to West European experiences, Foucault bars the door to a fruitful approach to analyzing modern power in its overlapped and intertwined relationship between the colony and the metropole.

Although the Euro-centric bias of Foucault's analysis of power has been criticized by many historians, the critique is sometimes overstated. Partha Chatterjee is one of many historians who argue that Foucault's theory of governmentality is not applicable to colonial experiences. According to him, Foucault suggests that "the principal justification for the modern regime of power is that by making social regulations an aspect of the self-disciplining of normalized individuals, power is made more productive, effective, and humane."⁴⁹ However, Chatterjee argues that in colonies there was "a modern regime of power destined never to fulfill its normalizing mission because the premise of its power was the preservation of the alienness of the ruling group."⁵⁰ Chatterjee calls practices intended to produce difference between colonizers and colonized as "the rule of colonial difference."⁵¹ The difference between ruler and ruled could be marked by many signs, varying with the context. "But of all these signs, race was perhaps the most obvious mark of colonial difference."⁵² While the governmentality in the metropole is characterized by the process of normalization, Chatterjee argues, the governmentality in the colony has been dominated by the rule of difference.

⁴⁹ Partha Chatterjee, *The Nation and Its Fragments: Colonial and Postcolonial Histories* (Princeton: Princeton University Press, 1993) 17.

⁵⁰ Ibid. 18.

⁵¹ Ibid. 16.

⁵² Ibid. 20.

Although Chatterjee is correct in illuminating the differences of the form of power between the colony and the metropole, his theoretical framework fails to capture the dynamic interaction between the two. According to Chatterjee, criticism of colonialism tends to argue “that the colonial institutions of power were not modern enough, that the conditions of colonial rule necessarily limited and corrupted the application of the true principles of a modern administration.”⁵³ This formulation is obviously inappropriate because it produces a binary opposition between the colony and the metropole in terms of the operation of governmental practices. By assuming the metropole as the model of modernity, Chatterjee unintentionally strengthens the Euro-centric bias that he attempts to criticize.

In contrast, Bernard Cohn proposes a perspective suggesting that colonialism is an integral part of modern administration. Based on his own research on the British conquest of India, he argues that “the process of state building in Great Britain, seen as a cultural project, was closely linked with its emergence as an imperial power.” According to him, “the projects of state building” in India and Great Britain “often reflected theories, experiences, and practices worked out originally in the colony and then applied in the metropole, as well as vice versa.” Then, he concludes, the “metropole and colony have to be seen in a unitary field of analysis” in the eighteenth and nineteenth centuries.⁵⁴ I attempt to substantiate Cohn’s theoretical insight by reviewing Japan’s endeavor to establish their police and prison system. I am not claiming that Japan is “unique” or “exceptional” because its techniques of control are deeply influenced by colonialism.

⁵³ Ibid. 15.

⁵⁴ Bernard S. Cohn, *Colonialism and Its Forms of Knowledge* (Princeton: Princeton University Press, 1996) 3-4.

Rather, I share with Cohn the assumption that any form of modern power is always already “colonial governmentality.”

4. My Argument in Brief

In order to clarify the colonial factors within the Meiji state, I supplement Foucault’s analysis of power with William Sewell’s theory of structure. As a definition of government, Foucault quotes Guillaume de La Perriere: “Government is the right disposition of things, arranged so as to lead to a convenient end.”⁵⁵ This definition suggests that Foucault attempted to conceptualize power in a dialectic relationship between semiotic schemas and material resources. While “a convenient end” refers to the “schema” of government, the “things” to be arranged represent the “resources” available for the realization of the schema. Sewell offers a theoretical model to conceptualize the relationship between the two. In this theoretical framework, “schemas” mean “generalizable procedures applied in the enactment/reproduction of social life.” In contrast, “resources” indicate “anything that can serve as a source of power in social interactions.”⁵⁶ In other words, “schemas” imply formally stated prescriptions such as “statutes, proverbs, liturgies, constitutions, or contracts” as well as “the informal and not always conscious schemas, metaphors, or assumptions presupposed by such formal statements.” On the other hand, “resources” are the whole ensemble of human as well as nonhuman entities. In short, schemas represent the semiotic aspect of structure while resources indicate the materiality of structure. This theoretical framework translates into the following three questions: What kinds of resources were available when Japanese

⁵⁵ Michel Foucault, “Governmentality,” in *The Foucault Effect: Studies in Governmentality*, ed. Graham Burchell, Colin Gordon, and Peter Miller (Chicago: The University of Chicago Press, 1991), 93.

⁵⁶ William H. Sewell, “A Theory of Structure: Duality, Agency, and Transformation,” *American Journal of Sociology* 98, no. 1 (1992).

people attempted to establish modern security institutions? How were their resources similar to or different from ones available in European countries as well as in colonial Asia? How did “schemas” (or ideology, in my words) function to organize those available resources into a series of governmental practices that we can see in Japan today?

This dissertation is organized into three sections. Although the police and the prison are closely related each other, each institution has a distinct genealogy. Accordingly, I discuss the police and the prison in Parts One and Two respectively. Although this methodological disjuncture may blur the unified nature of the two institutions, it makes possible for me to approach the subject from two different perspectives. Part One and Part Two are not chronologically ordered. The two Parts should be read as somehow autonomous, but mutually supplementing considerations.

In Part One, I review the formation of the modern Japanese police system by focusing on two early-Meiji police research conducted in the colony and the metropole. Immediately after the Meiji Restoration (1868), the Meiji government undertook the project of establishing a modern police system. The establishment of the Metropolitan Police Office in Tokyo (1876) was the first and most important achievement of this project. The Meiji government sent officials not only to European countries, but also to British colonial East Asia to research their police systems. Thus far, researchers have identified the Paris police as the model for the Metropolitan Police Office. Kawaji Toshiyoshi, the Vice Inspector of the Police Bureau, conducted research into the French police system and submitted a comprehensive reform plan to the government in 1873. Many scholars believe that this was the most important document for the establishment of the modern police system in Japan. However, they have ignored the equally important fact that Ishida Eikichi, the Superintendent of the Police of Kanagawa Prefecture, visited

Shanghai and Hong Kong to conduct research on their police systems and submitted a memorial and a detailed report to the government in 1872. By comparing the research from Europe with that from colonial Asia, I show that the institutions and practices of the Metropolitan Police Office were influenced by the administrative practices of the British colonial police in several important aspects.

For the Meiji elite, the difficulty was not that they did not understand how policing worked in contemporary European countries but that they did not know how to put that understanding to work practice. Schemas can be put into practice only by mobilizing resources, and the resources of the Meiji elite were quite different from those available to contemporary European societies. Rather, in this regard, Japan shared many resources with British colonial Asia. This is the reason why the practices of the British colonial state had a special appeal to the Meiji elite at that time. My argument is that disciplinary practices could travel from the West to Japan only through the mediation of the colony.

In Part Two, I will shift my focus from the police to the prison, another locus of disciplinary technologies within modern Japan. In Part One, I concentrate on the phenomenological similarities between the Meiji police and the British colonial police. I will attempt to historicize the prison reform discourse from the late eighteenth century through the early Meiji period by focusing on tensions between the schemas of Japanese, Western, colonial prisons. The establishment of the modern prison system in Japan was associated with colonialism in the following two ways. First, the *Shinritsu Koryo* (The Essence of the New Code, 1871), the first penal code in Meiji Japan, was modeled after Chinese penal codes, which were also used by British colonial government in Hong

Kong.⁵⁷ Second, the *Kangokusoku* (Prison Rules, 1871), the first prison regulation issued by the Meiji state, was deeply influenced by the British colonial prison system.⁵⁸ At the beginning of 1871, the Meiji government sent Ohara Shigechika, the head of the Office for Gaols (*Shugokushi*), to Hong Kong and Singapore in order to research their prison systems. After six months of research on the Victoria Jail in Hong Kong and the Changi Prison in Singapore, he returned to Japan and drafted *Prison Rules*. By reviewing the prison reform discourse in the period immediately after the Meiji Restoration, I show that colonial factors powerfully intervened in the process of establishing the modern prison system.

However, this consideration does not necessarily mean that the Meiji leaders imported colonial techniques of control without reservation. The most obvious difference is that the nation state enjoys sovereignty over itself while the colonial state is subject both politically and economically to a metropole. The rule of racial difference, the dominant form of government in the colony, is also inappropriate for a nation state. Attending to these simple facts reveals that Japanese institutions of control were the result of conscious and unconscious appropriations of, and reactions to, contemporary governmental institutional practices in the colony and the metropole. This process of appropriation and reaction is largely mediated through dominant semiotic schemas: in the

⁵⁷ Shiro Ishii and Akira Mizubayashi, eds., *Ho to Chitsujo*, 23 vols., vol. 7, *Nihon Kindai Shiso Taikei* (Tokyo: Iwanami Shoten, 1992), Paul Heng-Chao Ch'en, *The Formation of the Early Meiji Legal Order: The Japanese Code of 1871 and Its Chinese Foundation* (New York: Oxford University Press, 1981).

⁵⁸ Masajiro Takigawa, *Nihon Gyokei Shi* (Tokyo: Seiabo, 1964) 186-98., Kingo Kobayakawa, *Meiji Hosei Shi, Koho No Bu*, 2 vols., vol. 2 (Tokyo: Gansyodo) 1170-72., Taro Ogawa, "Obara Shigechika," *Keisei* 81, no. 1 (1970), Ai Maeda, *Toshi Kukan No Nakano Bungaku* (Tokyo: Chikuma shobo, 1989), Daniel E. Botsman, "Crime, Punishment and the Making of Modern Japan, 1790-1895" (Ph.D dissertation, Princeton University, 1999) 282-96., Naoyuki Umemori, "Spatial Configuration and Subject Formation: The Establishment of the Modern Penitentiary System in Meiji Japan," in *New Directions in the Study of Meiji Japan*, ed. Helen Hardacre (Leiden: Brill, 1997).

case of the late Tokugawa and early Meiji period, the philosophy and vocabulary of Confucianism. I focus on the positive role of Confucian ideology in the emergence of modern disciplinary power in Japan. Although some economic historians (mistakenly, I believe) believe that Confucian ideology facilitated the development of Japanese capitalism, political scientists are largely skeptical that Confucian ideology could have played that role.⁵⁹ They have claimed that Japan succeeded in modernization in spite of, or in difference to, Confucian ideology. In contrast, I claim that modern disciplinary power emerged in Japan precisely because of Confucian ideology. This does not necessarily imply an ideological similarity between Confucian ideology and Western governmentality. Rather, the difference between the two schemas was so large that late Tokugawa and early Meiji intellectuals could only make sense of disciplinary practices through the mediation of a familiar concept: “benevolent rule.” They yearned for institutionalized disciplinary practices not because they believed these practices to be “efficient,” but because they believed them to be “benevolent.” What I am proposing is: late Tokugawa and early Meiji intellectuals misrecognized the implications of discipline; and precisely because of this misrecognition, discipline traveled from the West through the colony to Japan.

⁵⁹ As one of the few exceptions of this trend, Hiroshi Watanabe, *Higashi Asia No Oken to Shiso* (Tokyo: Tokyo Daigaku Shuppankai, 1997).

In the third part I will offer some theoretical generalizations based on my empirical research in Parts One and Two and preliminary overviews on the succeeding transformations of Japanese police and prison systems in the late Meiji period.

**PART ONE: TOWARD A THEORY OF COLONIAL
GOVERNMENTALITY**

Chapter 1: Confusions in the Formation of the Police System

1. The Emergence of the Metropolitan Police Office

The establishment of the *Keishicho*, or the Metropolitan Police Office (1874), was epoch-making for the development of a modern security system in Japan. The Metropolitan Police Office functioned as one of the most important components of the modern bureaucracy established in early Meiji Japan. The burden of financial support for the Metropolitan Police Office was assumed by the central government, and the head of the Metropolitan Police Office was directly responsible to the Minister of the Interior. The Metropolitan Police Office started with 6,000 newly recruited patrolmen. If we remember that the *agents de police*, its putative model in Paris, stood at 6,800 at that time,¹ the Metropolitan Police Office was truly a world-scale agency. The Metropolitan Police Office was stipulated to perform a broad range of functions, including the enforcement of public health regulations; the licensing and regulation of prostitution; the supervision of a wide range of commercial activities such as pawnshops, second-hand shops, theaters, inns: the sale of “dangerous materials” such as gunpowder, swords, and firearms; the conducting of regular population counts; the surveillance of “dangerous individuals”; the supervision of the press; the supervision of public morals; and the administration of fines and limited terms of imprisonment to violators of a large number of police regulations.² By performing these duties, the Metropolitan Police Office had a substantial impact on the daily life of the Japanese people. No other security institution had ever possessed such a large number of professional personnel, a broad range of duties,

¹ D. Eleanor Westney, “The Emulation of Western Organizations in Meiji Japan: The Case of the Paris Prefecture of Police and the Keishi-Choo,” *Journal of Japanese Studies*, no. Summer (1982).

² *Ibid.*

or an organized bureaucratic structure. Technically, the Metropolitan Police Office was responsible for security maintenance only in Tokyo. However, the Meiji elite made special efforts to establish this institution because of the political and economic centrality of Tokyo for the entire nation. They conceived of the establishment of the Metropolitan Police Office as a pioneering national project. This then became the basic model for police systems throughout the other prefectures.

It is important to note that the so-called “unique” practices of the Japanese police had already emerged during the establishment of the Metropolitan Police Office. Thus far, researchers interested in the Japanese police system have found its unique character not in its formal structure but in its concrete methods of policing.³ From various researches related to Japan, I have abstracted the following elements as the characteristics of the Japanese police system. The first characteristic is its paternalistic essence. For example, as Karel van Wolferen says: “Those who today may apply naked power in the name of the state, the police and public prosecutors...have turned the habit of leniency into a kind of second nature.”⁴ The second characteristic is its emphasis on preventive methods. Walter L. Ames, who conducted a comparative analysis of the Japanese police, concludes: “the police actually seem to play the role of a social worker or a clergyman in their approach. They investigate the suspect’s personal background and try to determine why he went wrong.”⁵ The third characteristic is their aggressive intervention into society. For example, every neighborhood in Japan has its *koban*, or police box. All

³ For example, William Clifford argues that the secret to Japan’s approach to crime control lies “less in the structure than in the way in which the structure operates in practice.” “It is not,” he continues, “in the form but in its interpretation, less the shape than the style and the meaning for people.” William Clifford, *Crime Control in Japan* (Lexington Books, 1976) 6.

⁴ Wolferen, *The Enigma of Japanese Power: People and Politics in a Stateless Nation* 183.

⁵ Walter L. Ames, *Police and Community in Japan* (University of California Press, 1981) 135.

people receive twice-yearly home visits from the *koban*-based police, who use these opportunities to collect gossip about the neighborhood and inquire after any unusual behavior. According to Wolferen, “The *koban* is a source of information on many matters, from unfindable addresses to treatment for a sick pet.”⁶ The fourth characteristic is a police’s strong emphasis on professionalism. Ezra Vogel discusses the training of prefectural police offered by the National Police Agency: “Whereas policemen in the United States typically receive about eight weeks’ training, in Japan the training program is for one year.”⁷ According to him, the strong professionalism of Japanese policemen cultivated through such training programs is an important component of its “remarkable success” in controlling crime.

Researchers have argued that the following periods are the most important moments of formation and transformation of the practices of the Japanese police: the decade after 1868, the early twentieth century, and the period after 1945. These periods correspond respectively to the beginning of Japan’s modern state, the development of industrialization and urbanization of Japanese society, and the defeat in the Pacific War. For example, Sheldon Garon, who problematizes the second phase, uses the term “social management” characterizing the emergence of the “new ‘technologies’ in organizing society that first appeared” in the early twentieth century.⁸ As for the third phase, Katzenstein argues that “the absence of state violence since 1945 is in striking contrast to Japan’s history between the 1880s and 1945.” According to Katzenstein, such

⁶ Wolferen, *The Enigma of Japanese Power: People and Politics in a Stateless Nation* 184.

⁷ Vogel, *Japan as Number One: Lessons for America* 207-09, 14.

⁸ Sheldon Garon, *Molding Japanese Minds* (Princeton: Princeton University Press, 1997) 6, 8.

transformations were brought about by a radical break of the “institutionalized norms” operating in Japan.⁹

Although I agree with Garon and Katzenstein that the practices of the Japanese police were substantially transformed during those periods, I also emphasize that all the elements that I have abstracted as the characteristics of the Japanese police—a paternalistic attitude, a heavy emphasis on preventive policing, the pervasive discipline and all-encompassing definition of the policemen’s role, and tight controls on individual role performance—are more or less already salient by the decade after 1868. For example, since the establishment of the *rasotsu* system in 1871, policemen were obliged to live in barracks in Tokyo. *Ishiki Kaii Jorei* (Regulations on Minor Offenses, 1872) empowered the police to examine, evaluate, sanction or punish ordinary people’s various customs and habits. In 1874, the Metropolitan Police Office mandated a uniform for policemen, obliging every policeman in Tokyo to wear “Western clothes” not only on duty but also off duty whenever they left their barracks.¹⁰ Additionally, policemen were forbidden to consume alcohol on or off duty, except on the five major festival days of the year.¹¹ Policemen were also prohibited from borrowing money without permission of their supervisors.¹² They were even required to submit their fiancée’s resume to their superior officer for permission to marry.¹³ In *Keisatsu Shugan*, the widely read textbook for policemen published in 1876, Kawaji Toshiyoshi said: “A nation is a family. The

⁹ Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* 47.

¹⁰ Masaomi Yui and Sumio Obinata, eds., *Kanryosei, Keisatsu*, 23 vols., vol. 3, *Nihon Kindai Shiso Taikei* (Tokyo: Iwanami Shoten, 1990) 255, 96.

¹¹ Keishichoshi Hensan Iinkai, *Keishichoshi: Meiji Hen* (Tokyo: Keishichoshi Hensan Iinkai, 1958) 29, Westney, “The Emulation of Western Organizations in Meiji Japan: The Case of the Paris Prefecture of Police and the Keishi-Choo.”

¹² Keishichoshi Hensan Iinkai, *Keishichoshi: Meiji Hen* 87.

¹³ Yui and Obinata, eds., *Kanryosei, Keisatsu* 255, 94.

government is the parents. Its people are children. The police are their dry nurse.”¹⁴ In 1876, “the household survey was instituted.” Around that time, “patrol police and police boxes began to compile information on residents in their areas.”¹⁵ Finally, in 1880 that *Junsa Kyoshujo* (Patrolmen’s Training Institute) was established in Tokyo to provide training in law and police procedures for both new recruits and those already in the force but suspended from work.¹⁶ As Eleanor Westney pointed out, “this was three years before the first such facility was established in Paris, and Paris was the leader in the West.”¹⁷ These considerations suggest that it is necessary to look to the very moment of the formation of Japan’s police, the decade after 1868, in order to analyze the emergence of the specific natures in the practices of the Japanese police.

It was only six years after the Meiji Restoration (1868) that this vast security institution came to exist. Therefore, many scholars believe that the establishment of the Metropolitan Police Office represents the nature of Japanese modernization: a “smooth” and “rapid” transition from “feudal” to “modern” society through the emulation of European models. However, if we examine the process of the establishment of the Metropolitan Police Office more carefully, we immediately notice that it led to various controversies among the Meiji leaders. Such controversies point to the existence of tensions and conflicts involved in introducing a “Western” police system in Japan. In reality, the Meiji leaders were well aware of the tension between the “model” of the Western police system and the “reality” of Japanese society. This awareness motivated

¹⁴ Ibid. 245.

¹⁵ Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* 51.

¹⁶ Yui and Obinata, eds., *Kanryosei, Keisatsu* 295-96.

¹⁷ Westney, “The Emulation of Western Organizations in Meiji Japan: The Case of the Paris Prefecture of Police and the Keishi-Choo.”

them to search for more legitimate or effective security practices than what “Western” models offered. As part of this process, the Meiji leaders gathered information on the British colonial police. In this way, the Meiji leaders’ awareness of the tension between the Western police system and early Meiji Japanese society became a necessary condition for the introduction of colonial security practices in Japan.

These tensions and conflicts were represented by the intense alteration and abolition of various security institutions in the period prior to the establishment of the Metropolitan Police Office. No sooner than the Meiji leaders conquered Edo (April 1868) then they started renovating the existing security system. In May 1868, the new government abolished the city magistrate (*Machi Bugyo*), the most important security institution that had been responsible for peacekeeping in Edo. In its place, the new government established a city court (*Shisei Saibansho*) equipped with its own soldiers. They also established a garrison in Edo for additional security purpose (*Edo Chindai*). Additionally, in August 1868, they also organized the city patrol troops (*Shichu Torishimari Tai*). In the next year (1869), soldiers chosen from certain domains (*han*) were organized into a brigade of *Fuhe*, or “city guards,” under the control of the Governor of Tokyo prefecture. In 1871, three thousand *Rasotsu* (policemen) were enlisted for the protection of the citizens, the city guards being disbanded at the same time: thus, a body of police was systematically formed for the first time in Japan. In 1872, the *Keihoryo* (Police Bureau) was established as a division of the Department of Justice to superintend all the police affairs of the empire. In 1874, this bureau was transferred to the Ministry of the Interior, and since then the police have been an important administrative component of that Ministry, separated from other executive offices just as in Europe and America. In Tokyo the duties of the police were exceedingly numerous and complicated, and far more important than in the minor cities

and towns. Therefore, in 1874, after examining the police systems of the capital cities of foreign countries, the *Keishicho*, or “Metropolitan Police Office” was established, with a *Daikeshi* (Chief Inspector) at its head.¹⁸

During this preparatory interval, the discussions of the Meiji leaders on policing fall into three categories. The first category is how to reconcile Western ideas and practices of policing with the existing system of security maintenance. That the old security system was rapidly and completely dismantled in the early Meiji period does not necessarily mean that the security measures under the Tokugawa government were underdeveloped. On the contrary, the Tokugawa government had developed its own principles and practices for security maintenance through the experience of controlling large urban centers such as Edo, whose population had already exceeded one million in the eighteenth century. When the Meiji leaders attempted to import the principles and practices of a police system based on western models, the security principles and practices accumulated under the policing and legal systems of the Tokugawa government provided them with the referential framework by which to evaluate it.

The second category of discussions by the Meiji leaders is associated with the objective of policing. As David Bayley reveals, there is an intimate relation between social development and the nature of police work. According to Bayley, “as societies become more industrial and urban and less agrarian and rural, police will come to carry out more service and fewer crime-related duties.”¹⁹ This theory indicates a gap between the contemporary European police system and the nature of the police work that was actually required in early Meiji Japan. In terms of industrialization as well as

¹⁸ Marcus B. Huish, ed., *Fifty Years of New Japan*, 2 ed. (London: Smith, Elder, & Co., 1910) 282.

¹⁹ David H. Bayley, *Patterns of Policing: A Comparative International Analysis* (New Brunswick: Rutgers University Press, 1985) 131.

urbanization, there was a remarkable difference between Tokyo and Paris in the 1870s.²⁰ As we discuss later, the establishment of the Metropolitan Police Office was not a reaction to the industrialization and urbanization of Japanese society, but rather a result of internal as well as external political conjunctures in mid-nineteenth century Japan and the world. In other words, the Japanese police had to create their own objectives of policing without appealing to Western examples.

The third category of discussions is concerned with the composition of the agency of policing. The early Meiji police system was characterized by its distinctive recruitment pattern. In the course of establishing the Metropolitan Police Office, the Meiji leaders decided to recruit as its personnel ex-samurai from the region of Satsuma, since many Meiji leaders themselves came from this area. In this way, the personnel of the Metropolitan Police Office were substantially alienated from the townsfolk in Tokyo, and strongly connected with the Meiji government not only through social status but also by regional connections. Far from representing the unity of the nation, the Metropolitan Police Office actually symbolized the regional as well as “absolutist” character of the Meiji state. In this regard, the Metropolitan Police Office was quite distinctive not only in comparison with contemporary European police but also in terms of any other institutions in Japan, such as the military and the schools. The question of who should serve on the police force was the most significant practical concern that determined the nature of the Metropolitan Police Office.

²⁰ Herbert Norman even rejects a comparison between of the French Revolution and the Meiji Restoration. He said, “This comparison, however, distorts history since the strength of the French merchants with their monopolies, their overseas and colonial trade was far in advance of that of the Japanese in 1868, both materially and in their political ascendancy over the feudal aristocracy. Thus the Japanese moneyed class had to occupy a more modest place in government’s councils than their French counterpart of pre-Jacobin days.” Norman, *Japan’s Emergence as a Modern State* 7-8.

In spite of their disagreements on these fundamental questions, all Meiji leaders agreed with the introduction of the Western police system. For them, the revision of the unequal treaties concluded between the Tokugawa government and the Western powers (America, France, England, Russia, Germany, and Holland) in 1858 was one of the most urgent political tasks at that time. Under these treaties, Japan was obliged not only to surrender tariff autonomy but also to grant extra-territoriality to the Western powers. For them, the unequal treaties were a symbolic manifestation of the semi-colonial status of Japan in the world. The Meiji leaders regarded the establishment of the police system as a necessary condition for the revision of the unequal treaties.

2. Policing by “Wicket-gates”: Tokugawa Security Practices

Two of the most striking features of Edo governance were the physical separation of the various status groups and the apparently high degree of autonomy that these groups were permitted to exercise.²¹ The Tokugawa government attempted to develop a society organized around a system of formally constituted status groups. The society was not only divided by the standard formula of “warriors, peasants, artisans, and merchants,” but also it was compartmentalized further into various formal “status groups” that served as social units.²² Security measures under the Tokugawa government were practiced along and within the boundaries of these various status groups. Theoretically speaking, Edo was defined as the territory under the jurisdiction of the city magistrates (*machi bugyo*), officials appointed by the shogunate to administer the merchant and artisan residential quarters. However, patterns of land use in Edo as well as shogunal institutions for urban

²¹ Takashi Kato, "Governing Edo," in *Edo and Paris: Urban Life and the States in the Early Modern Era*, ed. J. McClain, J. Merriman, and Kaoru Ugata (Ithaca: Cornell University Press, 1994), 42-50.

²² John Hall expressed the characteristics and function of each status group as a “container” of society. See, John W. Hall, "Rule by Status in Tokugawa Japan," *Journal of Japanese Studies* 1, no. 1 (1974).

control were partitioned: the *daimyo* estates were separated from the rest of the city by high fences and elaborate gates within which the laws of individual domains prevailed; the residential plots provided to bannermen and housemen were also demarcated by gateways as a special realm where these direct retainers supervised personally the lives of their family members and servant personnel; shrines and temples formed another urban zone where the religious institutions in large part could administer themselves and the people in the surrounding residential neighborhoods; finally, the residential quarters of artisans and merchants were defined by wooden gates that could be closed at night.²³ The residential blocks in which those commoners lived measured roughly 120 meters by 120 meters.²⁴ The blocks were separated by streets that were typically some three to eighteen meters wide. The city magistrates were concerned exclusively with the affairs of the merchants and artisans within the city, maintaining law and order in the commoner sections of Edo and hearing lawsuits and petitions brought by members of those status groups.

The shogunate delegated policing responsibilities for merchant and artisan neighborhoods to the city magistrates, who employed for this purpose about fifty constables (*yoriki*) and 280 patrolmen (*doshin*).²⁵ The constabulary patrolled the city daily, and constable's assistants reported on the "mood" of the city and promoted public morality.²⁶ Below the detective level, urban police operatives were enlisted from among

²³ Kato, "Governing Edo," 47.

²⁴ *Ibid.*, 49.

²⁵ Sumio Obinata, *Nihon Kindai Kokka No Seiritsu to Keisatsu* (Tokyo: Azekura shobo, 1992) 27.

²⁶ Kato, "Governing Edo," 51.

the commoners or outcast groups.²⁷ The Edo detectives recruited part-time auxiliaries called *meakashi* (spies). Since their jobs and residences were among the people, the auxiliaries had access to rumors, gossip, and community knowledge.

Each merchant and artisan residential quarter was also ordered to establish a guardhouse (*jishin ban'ya*) and a gatehouse (*kido ban'ya*).²⁸ Their primary purpose was to intimidate thieves by presenting vigilantes in full view of potential lawbreakers; they were funded by the individual residential quarters and staffed by local residents. The guardhouses in large residential quarters were usually manned by five persons, those in smaller neighborhoods by three. Gatehouses were constructed next to the wooden gates that separated one neighborhood from the next and, like the guardhouses, were manned by household heads from the neighborhood.²⁹ If thieves were encountered, *bannin* (the watchmen) were expected to sound an alarm for help and then attempt to apprehend the criminals. Samurai officials instructed rural communities to establish gatehouses in areas where there had been frequent trouble.³⁰

The city magistrates delegated many important functions to the merchants and artisans themselves, and a rather elaborate set of supporting offices came into existence in Edo's commoner neighborhoods.³¹ The most important of these functionaries were the city elders (*machidoshiyori*), the highest ranking nonsamurai involved in urban administration.³² Under the immediate supervision of the city elders were the

²⁷ James B. Leavell, "The Policing of Society: Thought and Action in the Meiji Era, 1868-1912," in *Japan in Transition*, ed. Hilary Conroy, Sandra T. W. Davis, and Wayne Patterson (London and Toronto: Associated University Press, 1984), 25.

²⁸ Kato, "Governing Edo," 51.

²⁹ Ibid.

³⁰ Leavell, "The Policing of Society: Thought and Action in the Meiji Era, 1868-1912," 24.

³¹ Kato, "Governing Edo," 52.

³² As for city elders duties, see Ibid., 54.

neighborhood chiefs (*nanushi*), who worked at the level that was closest to ordinary merchant and artisan families.³³ The actual day-to-day management of many activities within any one residential quarter was performed by members of the quarter themselves, organized into communal associations known as five-family groups, or *goningumi*, which were held accountable to the neighborhood chief. The magistrates expected representatives of each five-family group (*gachigyoji*) “to countersign, by affixing their own seals, all petitions originating from families within their group; to be present at all official investigations; to supervise firefighting squads under the direction of the neighborhood chiefs; to participate in the mediation of neighborhood quarrels; to care for abandoned children and travelers who fell ill; to maintain the streets of the neighborhood; to keep the gatehouses in good repair; and to circulate throughout the neighborhood nightly during the winter months, warning residents to observe care with their cooking and heating fires.”³⁴

With specific regard to crime prevention and detection, the key feature of the five-family group was mutual responsibility. Severe penalties were decreed for the entire group if a criminal act by any one of its members came to the attention of the authorities. For the purpose of crime prevention, Tokugawa feudal authorities also sought to limit the movement of individuals as a means of preserving the integrity of group surveillance.³⁵ If a village member desired to visit another place, he was required to provide the leader of his five-man group the details of his expected departure and return. If he planned to stay in another place for a while, he was required to inform his village headman.

³³ As for chiefs' duties, see *Ibid.*, 55-56.

³⁴ *Ibid.*, 56.

³⁵ Leavell, "The Policing of Society: Thought and Action in the Meiji Era, 1868-1912," 24, 44.

Permanent moves to other areas necessitated obtaining the permission of samurai officials. Former village members who desired to return for a visit of more than a few days were required to join a five-man group temporarily, while anyone returning to the village permanently had to have a certificate from his former employer vouching for his good conduct as a prerequisite to his readmittance.

The structure of authority and accountability that ran from city magistrates through the elders to the neighborhood chiefs and then to the monthly representatives of the five-family groups imparted a dual nature to the governance of the merchant and artisan quarters of Edo.³⁶ On the one hand, the system provided a mechanism for the shogun's government to make its will known on the neighborhood and even the family level. On the other hand, it also allowed the people of the quarters broad latitude in managing many significant aspects of urban life. One important responsibility (and potential source of autonomy as well) for each unit was to regulate and monitor the activities of its members. In this way, the warrior authorities governed their population indirectly, through the agency of self-regulating container units.³⁷

Historians who specialize in the Japanese early modern period agree that the Tokugawa regime developed a quite complex system of social control. For example, Fukuda Tokuzo uses the term "absolutist police state" in order to characterize the rule of the Tokugawa government.³⁸ Marion J. Levy, Jr., in his study of the problems of modernization, also argues that Japan's success was due to the fact that "the structures of control in Tokugawa Japanese society were convertible to modernized forms with little

³⁶ Kato, "Governing Edo," 57.

³⁷ Botsman, "Crime, Punishment and the Making of Modern Japan, 1790-1895" 94.

³⁸ Noro, *Nihon Shihonshugi Hattatsushi* 52.

loss of effectiveness.”³⁹ However, the existence of the system of social control does not necessarily mean that it functioned well. On the contrary, many historical documents tell us that the Tokugawa government increasingly suffered from the deterioration of security conditions in Edo. *Seidan* (Political Discourse), written by Ogyu Sorai (1666-1728), one of the most influential Confucian scholars in his day, represents the crisis of Tokugawa security practices in an ironic way.

In the early eighteenth century, Sorai wrote *Seidan* and dedicated it to the Tokugawa Shogun. In this text, Sorai discussed the various problems that the Tokugawa government was facing, and proposed several concrete policies to solve them. Here, he took up the deterioration of public security in Edo as one of the most urgent problems of his day and proposed the following solution.

Wicket-gates attended by watchmen should be set up at the end of each street (*cho*) in the quarter occupied by the military class in a manner similar to that already in force in the townsfolk quarter. The necessary expense was to be met by the residents. An officer in charge (*kimoiri*) was to be appointed in each of these streets. Wicket-gates were also to be set up at all the approaches to the city and a curfew was to be enforced.⁴⁰

According to Sorai, the most important principle of government is how to fix people to an appropriate space. In *Seidan*, he expressed this principle by using the metaphor of *goban*, a “chessboard.” He writes, “Governing a country is just like creating a chessboard.” “By drawing vertical and horizontal lines,” he claims, “things can be controlled according to a systematic plan.” His proposal concerning security maintenance in Edo was directly deduced from this principle. He said, “The whole city of Edo must become a big

³⁹ Marion J. Levy, Jr., *Modernization and the Structure of Societies: A Setting for International Affairs* (Princeton: Princeton University Press, 1969) 765.

⁴⁰ J. R. McEwan, *The Political Writings of Ogyu Sorai* (Cambridge: Cambridge University Press, 1969) 128.

chessboard.”⁴¹ According to Sorai, “people living in the same town or village come to know each other very well and can watch and advise each other about their own misconduct,” therefore, it is key for security maintenance to restrict them to particular communities.⁴² In this regard, “wicket-gates” represent the nature of the power envisioned by Sorai under the rule of the Tokugawa shogun very well.

These concrete suggestions are nothing other than a concise summary of the Tokugawa security practices described by many present-day historians. However, the fact that Sorai had to emphasize these fundamental principles indicates that the Tokugawa security practices through autonomous status were groups already dysfunctional in the early eighteenth century. As Maruyama Masao argues, Sorai believed that the most fundamental problem of his day was the liquidation of social boundaries caused by the development of the money economy.⁴³ Sorai identified the specific threat to the Tokugawa regime as “poverty” or “economic hardship.” He then located the cause of such poverty in the particular mode of living of the military class under the Tokugawa government: “living as in an inn,” resulting from the practice in the house of Tokugawa of collecting the daimyo together in the city of Edo as a means of preventing the outbreak of civil war. He said:

⁴¹ Masahide Bito, ed., *Ogyu Sorai*, vol. 16, *Nihon No Meicho* (Tokyo: Chuo Koron Sha, 1974) 366, 76, 79.

⁴² *Ibid.* 379.

⁴³ Masao Maruyama, *Studies in the Intellectual History of Tokugawa Japan*, trans. Mikiso Hane (Princeton: Princeton University Press, 1974) 221.

For the period of each alternate year during which the daimyo live in Edo they live as in an inn. Their wives, who remain in Edo all the time, live permanently as in an inn. So do the hatamoto who live permanently in Edo. This is also true of the majority of the household retainers of the daimyo who do not live on their lands but live in the castle-town of their lord. What is more, the number of retainers living in Edo has increased in recent years. The result of all these circumstances is that there is now not one member of the military class who does not live 'as in an inn,' while the number of common people from the fiefs who pursue the occupations of artisan or merchant, together with peddlers, day-laborers, and other idlers, who have been leaving their homes in the country to come to Edo has been increasing from year to year. If the inhabitants of Edo realized that they were 'living in an inn' their expenses might be less, but since they have not the slightest awareness of the fact and regard their 'inn life' as the normal state of affairs and the income from their lands is being completely absorbed by the merchants of Edo... They are now reduced to the pitiable condition in which they cannot afford to keep a horse or to maintain the services of retainers, but must meet their needs by pawning their property in the period between the receipt of their winter and spring certificates, or must give away their substance by asking merchants to arrange credit for them.... All this has come about because everything down to the last chopstick has to be provided by means of money purchases.⁴⁴

Sorai was quite aware that the Tokugawa regime was already permeated by the market economy. We cannot interpret Sorai's urban planning as a representation of Tokugawa security practices. Rather, it was a "feudal" utopia conceived by a Confucian scholar in order to combat the invasion of the market economy. As Tetsuo Najita emphasizes, Sorai's proposal forced the Tokugawa rulers to "scuttle the hereditary aristocracy; renounce the norms of military rule as being no longer appropriate; and accept as their primary function the nourishment and selection of talent from among commoners."⁴⁵ Maruyama Masao characterized Sorai's proposal as a project to cope

⁴⁴ McEwan, *The Political Writings of Ogyu Sorai* 36-37.

⁴⁵ Tetsuo Najita, ed., *Tokugawa Political Writings* (Cambridge: Cambridge University Press, 1998) xiv.

with the intrusion of *Gesellschaft* consciousness by producing *Gemeinschaft* through political intervention.⁴⁶

Even in the eighteenth century, Sorai's proposal to police by "wicket-gate" was already unrealistic because of the development of the market economy and enhanced social mobility. Moreover, the Meiji government officially abolished the status system in which the Tokugawa security practices were deeply embedded. In April 1868, the new government issued the Charter Oath, which outlined their political principles. It stipulated, "All classes, high and low, shall unite in vigorously carrying out the administration of affairs of state," and "Evil customs of the past shall be broken off and everything based upon the just laws of Nature."⁴⁷ The Meiji leaders were aware that the status system, the basic premise of security measures under the Tokugawa government, was incompatible with the requisites of capitalism and the nation state. As long as they believed that capitalism and the nation state was the only way to lead a "strong and wealthy nation," there could be no return to Tokugawa security practices even if they seemed tempting at times. According to Kato Takashi, in Edo under the Tokugawa government, "the veneer of administration over the commoner residential areas was thin."⁴⁸ According to James B. Leavell, "Tokugawa Japan was a unpoliced society."⁴⁹ What the Meiji leaders attempted was to transform this "veneer" into the "bulwark of the absolutist state" and the "unpoliced society" into "heaven for a cop." Sorai rightly anticipated that the commodification of society obliged the Tokugawa government to

⁴⁶ Maruyama, *Studies in the Intellectual History of Tokugawa Japan* 221.

⁴⁷ Ryusaku Tsunoda, Wm. Theodore de Bary, and Donald Keene, eds., *Sources of Japanese Tradition*, vol. II (New York: Columbia University Press, 1958) 137.

⁴⁸ Kato, "Governing Edo," 52.

⁴⁹ Leavell, "The Policing of Society: Thought and Action in the Meiji Era, 1868-1912," 44.

establish a new security system. However, the system that actually emerged after the Meiji Restoration was quite different from the one he desired.

3. Policing as Traffic Regulation: Early Meiji Introduction of Policing

When the Meiji leaders recognized the necessity of introducing a police system in the early Meiji period, they realized that no one had enough information on what the “police” was. The following materials written by a Japanese intellectual reveal the atmosphere at the dawn of the police system in Meiji Japan quite vividly. The author is Fukuzawa Yukichi (1835-1901), one of the most influential intellectuals of modern Japan. It is an interesting irony that Fukuzawa, a journalist who never tired of criticizing the authoritative character of the Meiji government, was involved in the project to establish its most important security apparatus. In his autobiography, Fukuzawa explained how he came to take part in the project as follows.

The city of Tokyo was still using a system of military patrol and soldiers of various clans marched along the streets with guns on their shoulders. The practice was very unsightly—it made Tokyo seem to be continually in a battle area. The government was planning to adopt a Western police system, but being unable to secure exact information on its organization, one of the officials called on me one day to ask me privately to make a study... I collected several English books on civic government and translated the portions dealing with police systems, making a book out of it which I presented to the prefectural office.⁵⁰

In October 1870, Fukuzawa submitted a document on the Western police system to Tokyo prefecture. It was titled “*Torishimari no ho*” (The Rules of Policing),⁵¹ and is

⁵⁰ Yukichi Fukuzawa, *The Autobiography of Fukuzawa Yukichi*, trans. Eiichi Kiyooka (Lanham: Madison Books, 1992) 218.

⁵¹ In latter days, the term “*keisatsu*” came to be used as a standard translation of “police”. Ibid.

known as one of the earliest efforts by a Meiji intellectual to introduce the concept of the police based on Western materials. *Torishimari no ho* was basically an abridged translation of the article on police in *The New American Cyclopedia*, a sixteen-volume encyclopedia published in New York in 1866-67.⁵² *The New American Cyclopedia* defined the police as “a judicial and executive system and an organized civil force for the preservation of order and the enforcement of the laws.”⁵³ Fukuzawa called the readers’ attention to the implication of the term “civil force” in this definition. After translating the definition word-for-word, Fukuzawa added the following note. “A civil force means a force that is not military—*jomu no kenryoku ha heiryoku ni arazaru wo iu*—.”⁵⁴ By locating the essence of the police power in its “civil” character, Fukuzawa emphasized that it should be understood as a new form of power, not to be confused with a traditional military force.

In Fukuzawa’s document, a “civil force” was explored with the following implications. First of all, by this terminology, Fukuzawa showed that police power intervenes into ordinary citizens’ daily lives much more aggressively than any previously existing form of power. In this document, Fukuzawa located the unconventional character of the police force in its “surprisingly many” duties. He enumerated the duties performed by the police in contemporary Western countries as follows.

⁵² Rinichiro Ota, “‘New American Cyclopedia’ Wo Megutte,” *Fukuzawa Techo*, no. 7 (1975).

⁵³ George Ripley and Charles A. Dana, eds., *The New American Cyclopedia*, vol. XIII (New York: D. Appleton and Company, 1872) 442.

⁵⁴ Yukichi Fukuzawa, “Torishimari No Ho,” in *Fukuzawa Yukichi Zenshu*, ed. Keio Gijuku (Tokyo: Iwanami Shoten, 1963), 54.

These duties comprised almost every department of administrative government, including, the securing of the safety of traffic; the repair of dangerous structures; the superintendence of the cleansing and lighting of the city; the removal of public nuisances; the repression and punishment of all offences against the public peace; the maintenance of good order in and supervision of public amusement and resort; the inspection of weights, measures, and food; precautions against accidents, casualties, and epidemics, and measures in mitigation of them if they occurred; the delivery of passports, residence, licenses, and the repression of beggary and vagrancy; the supervision of drinking and gaming houses, and of prostitutes; the dispersion of crowds; the police of religious worship and of printing and bookselling; the oversight of theatres, powder mills, saltpetre works, and storehouses of arms; the pursuit of the highways, of the public health, and of fires, inundations, and accidents; the superintendence of the exchanges of commerce, of the taxes, of the provision markets, and of prohibited wares; and the protection of public monuments. To these multifarious duties were soon after added the regulation of the fees of health officers and veterinary surgeons, the removal of sick persons and corpses, the recovery of drowned persons, and the care of the public pounds.⁵⁵

By introducing each of these minute duties exactly as they appeared in the original source, Fukuzawa tried to show the categorical difference between the Western police system and Tokugawa security practices. Under the Tokugawa regime, the warrior authorities governed their population indirectly through the agency of self-regulating units. However, his translation illustrates that the power exercised by the Western police intervenes much more aggressively into the minute aspects of everyday life for individual citizens. The centralization of social management in a particular state apparatus was the first implication Fukuzawa intended to elucidate when he characterized the police as a “civil force.”

⁵⁵ Ripley and Dana, eds., *The New American Cyclopaedia* 443.. See also Fukuzawa, "Torishimari No Ho," 56.

Second, by enumerating the concrete duties of the police as a “civil force,” Fukuzawa’s text depicted the intimate relationship between police power and the development of “civil society.” Following Michael Mann, I use the term civil society as “decentered economic markets resting on private property,” and “forms of civil association...religious organizations, municipal associations and independent households.”⁵⁶ The development of civil society, in a sense, requires the intensification of various types of communication. Here, it is important to note that “the securing of the safety of traffic” was mentioned first in the list of the numerous police duties. It is quite instructive to remember that Ogyu Sorai used the “wicket-gate” as a representation of social control under the Tokugawa government. The main purpose of the “wicket-gate” is to restrict the movement of persons and things, and contain them in a restricted space. However, Fukuzawa’s “traffic regulation” already presupposes the existence of constant movement. Its purpose is not to hinder the circulation of persons and things, but to facilitate and accelerate it. Here, the representation of power between these two prominent thinkers was transformed from the “wicket-gate” to “traffic regulation”.

David Bayley’s empirical analysis explains the historical transformations of police duties. Through comparative and historical analyses of the police system, Bayley discovered the intimate relationship between social development and the nature of police work. According to him, as “societies become more industrial and urban and less agrarian and rural, police will deal with more service and fewer crime-related requests.”⁵⁷ This explanation accounts quite well for the order of the police duties that appeared in Fukuzawa’s list. In it, “traffic regulation” was placed first, while such a traditional police

⁵⁶ Michael Mann, *The Sources of Social Power: The Rise of Classes and Nation-States, 1790-1914*, vol. 2 (Cambridge: Cambridge University Press, 1993) 23.

⁵⁷ Bayley, *Patterns of Policing: A Comparative International Analysis* 131.

duty as “the repression and punishment of all offences against the public peace” was mentioned only fifth. In this regard, Fukuzawa’s list represents the nature of police power in Western societies that had already become “more industrial and urban and less agrarian and rural” in the late nineteenth century.

Torishimari no ho proved to be a fairly accurate summary of the theory and practices of the contemporary police in Europe and the United States. However, precisely because of its accuracy, this article also revealed the gaps between the concept of the police and the contemporary social conditions in early Meiji Japan. In this regard, it is quite symbolic that Fukuzawa was the author of *Bunmeiron no Gairyaku* (An Outline of A Theory of Civilization), one of the most important cultural criticisms in the Meiji period. In this widely circulated text, he persistently problematized the lack of civil society in Japanese history. The main purpose of this book was to analyze the nature of Western civilization in comparison with Japan’s, and offer a prescription for the Japanese to cope with the Western powers. In this text, he defined “civilization” as “the sentiments and customs of a people.”⁵⁸ Then, he located the distinctive nature of Western civilization in its “constant social intercourse among men.”⁵⁹ “The point of difference between Western and other civilization,” he explains, “is that Western society does not have a uniformity of opinions; various opinions exist side by side without fusing into one.” Because of this character, Western society was able to “intensify and multiply human enterprises and needs, to find more and more outlets, regardless of their relative priorities, and to stimulate the activities of the human spirit.”⁶⁰

⁵⁸ Yukichi Fukuzawa, *An Outline of a Theory of Civilization*, trans. David A. Dillworth and G. Cameron Hurst (Tokyo: Sophia University, 1970) 17.

⁵⁹ *Ibid.* 9.

⁶⁰ *Ibid.* 20.

On the contrary, Japanese society is characterized by an “imbalance of power.” Here, “imbalance of power” means a social condition in which people do not have enough freedom, independence, and social mobility. According to him, the “imbalance of power” was most clearly exemplified by the domination of the Tokugawa government. He said:

Let us look at Tokugawa rule to see how the people who lived under this state of imbalance of power viewed the affairs of society, and how they conducted themselves. The millions of Japanese at that time were closed up inside millions of individual boxes. They were separated from one another by walls with little room to move around... In general, we Japanese seem to lack the kind of motivation that ought to be standard equipment in human nature. We have sunk to the depths of stagnation.⁶¹

Fukuzawa’s characterization of a power functioning under the Tokugawa regime as “millions of individual boxes” neatly overlaps with Sorai’s representation of power as “wicket-gates.” This form of power attempted to organize a society around a system of formally constituted status groups. In contrast, the power of the police represented by “traffic regulation” presupposes the “constant social intercourse among men,” which Fukuzawa believed to be the most distinct characteristic of “Western civilization.” However, “constant social intercourse among men” is exactly the thing that he would not have found in Meiji Japanese society, still dominated by the “imbalance of power.”

If Fukuzawa is right in his analysis in *Bunmeiron no Gairyaku* that points to the lack of civil society in Japan, his *Torishimari no ho* indicates that it was neither possible nor appropriate for the Meiji government to import a police system that presupposed intense communication. Fukuzawa’s texts reveal the paradox that emerged from the introduction of the police in early Meiji Japan. The more Fukuzawa emphasized the

⁶¹ Ibid. 160.

nature of the police as a “civil force,” the more he indicated the impossibility for the Meiji government to emulate it as it was. Fukuzawa’s texts reveal that the establishment of the police in early Meiji Japan was nothing other than a project to import a “civil force” without having civil society.

4. Who should be Policemen?

In December 1870, the Tokyo prefectural government submitted a plan to the central government for establishing the police based on the report prepared by Fukuzawa. According to this plan, the police force would stand at 4,480 policemen who be recruited from the population of ex-samurai retainers living in Tokyo.⁶² Some leaders supported this idea because they believed that policemen should be familiar with the geography of the area in which they were supposed to work.⁶³ However, the Meiji government rejected this seemingly reasonable proposal. Instead, they decided to recruit most personnel from a particular domain, Satsuma, which was located at the southern edge of Kyushu Island. When the *Rasotsu* system started with three thousand newly recruited policemen in October 1871, two thousand were recruited from Satsuma ex-samurai, joined by one thousand other policemen composed of ex-samurai from other prefectures.⁶⁴ This particular recruitment pattern continued even after the Metropolitan Police Office replaced the *Rasotsu* system in 1874.

This recruitment pattern represents the “foreign” character of the Meiji government in the city of Tokyo. As is well known, Meiji leaders who assumed power in 1868 were composed of samurai who came from certain domains, notably Satsuma and

⁶² Obinata, *Nihon Kindai Kokka No Seiritsu to Keisatsu* 32.

⁶³ Yui and Obinata, eds., *Kanryosei, Keisatsu* 223.

⁶⁴ Obinata, *Nihon Kindai Kokka No Seiritsu to Keisatsu* 33.

Choshu, both of which were located in the southwestern corner of Japan. Although conventional scholarship characterizes the Meiji state by focusing on its leaders' social background as lower ranking ex-samurai, the regional background of the Meiji leaders is also important for the consideration of the nature of the Meiji state. In a sense, the Meiji Restoration was a series of military battles in which the southwestern domains united to conquer the northeastern part of Japan, where the Tokugawa Shogun still maintained substantial influence. During the social turbulence of 1868-1869, the most severe conflict emerged along the geographical boundary between the West and the East, not along the lines of class or status distinction.

In April 1868, the league of the southwestern domains entered Edo and established their rule there. In July 1868, they changed the name of the city from Edo to Tokyo. From the perspective of the residents of Edo, the Meiji government was little more than a "foreign" administration. From the Meiji leaders' perspective, Tokyo was the former political center of the Tokugawa Shogun. In this historical context, the particular recruitment pattern adopted by the Meiji government was understandable because the population of ex-samurai in Tokyo, for them, still seemed too "hostile" to be enlisted as their security force. Instead, the Meiji leaders decided to recruit policemen from their own home domain. In this way, the human composition of the first systematically organized police organization, the *Rasotsu* system, represented the regional character of the Meiji government as a conquest administration, not the ideal of the nation-state.

Because we are so accustomed to the perspective that characterizes the Meiji Restoration as a "successful" or "smooth" social transformation, we sometimes fail to remember that the Meiji Restoration was also a civil war between two regional powers. However, some foreign materials capture the regional nature of this historical event quite

vividly. For example, in September 1868, an American newspaper reported on the ongoing political turbulence as follows.

The balance seems to hand just now very uncertainly between the two parties. A short while ago, the Southerners were decidedly in the ascendant; and the Northern cause seemed nearly extinct. The star of their fortunes has, however, again risen; while that of the South has seemed gradually to wane.⁶⁵

This was a report on the historical event, which came to be known as “Boshin War” by later generations. The “Boshin War” has been interpreted as an integral part of the social revolution, which was termed the Meiji Restoration. Interestingly enough, this report defined the event neither as “revolution” nor “coup d’etat” as conventional scholarship does. Rather, the report characterized it as “civil war” between the two different regions. Here, “the Southerners” refers to the league of the southwest domains such as Choshu, Satsuma, and Tosa, which established the new government under the slogan of “The Restoration of Imperial Rule” in December 1867. On the other hand, “the Northern cause” indicates the federation of the northeast domains like Aizu, Nagaoka, Sendai, etc., which supported the former shogun, Tokugawa Yoshinobu. By October 1867, Yoshinobu had already yielded his right to govern the country to the Imperial court and resigned from the post of shogun. However, he did not surrender his ambition to stay on as the most influential leader in the new regime.⁶⁶ The “Southerners” who feared Yoshinobu’s overwhelming influence had the emperor issue a declaration of “Restoration” and tried to purge Yoshinobu from the new regime.⁶⁷ Yoshinobu was furious and ordered his soldiers to advance to Kyoto, the center of the new government at

⁶⁵ "Japan," *The North-China Herald*, September 19 1868.

⁶⁶ Takashi Ishii, *Boshin Senso Ron* (Tokyo: Yoshikawa Kobun Kan, 1984) 72-81.

⁶⁷ *Ibid.* 81-90.

that time. Warfare erupted between the two regional parties and continued for more than one year. Both parties to the affair recognized this event as a civil war of regional character. On December 16, 1867, Yoshinobu held an interview with the ministers of France, Britain America, Russia, Prussia, Italy, and Netherlands and appealed to them the illegitimate character of the new government.⁶⁸ In one document, Yoshinobu insisted that “it has hitherto been Satsuma who has been the leading spirit in the councils of the five Daimios [constituting the new government].”⁶⁹ About one month later, the new government, in turn, requested the six foreign governments by letter to adopt “a strict neutrality” between the two parties and not to give any assistance to Yoshinobu’s camp.⁷⁰ In response to this request, all the foreign ministers in residence recognized the two governments and declared “a strict neutrality” between “his Majesty the Mikado and the Tycoon” on January 25, 1869.⁷¹ For example, the American statement of “strict neutrality” read as follows.

Having been officially informed that war exists in Japan between his Majesty the Mikado and the Tycoon, and being desirous of taking measures to secure the observance of a strict neutrality on the part of citizens of the United States of America, I give notice to such citizens that active participation in this war, by entering into service, the sale or charter of vessels of war or transport ships for the transportation of troops, military persons, military dispatches, arms, ammunition, or articles contraband of war, to or for either of the of the contending parties, and similar acts, constitute, according to international law, a breach of neutrality, and may therefore be treated as hostile acts.⁷²

⁶⁸ Ibid. 93-94.

⁶⁹ Gaimusho, ed., *Nihon Gaiko Bunsho*, vol. 1-1 (Tokyo: Gaimusho, 1954) 163.

⁷⁰ Ishii, *Boshin Senso Ron* 115. The letter stipulates the following activities as the violation of neutrality: transportation of Tokugawa’s soldiers; importing weapons or military ships for Tokugawas; and lending foreign commanders and soldiers to Tokugawas. Gaimusho, ed., *Nihon Gaiko Bunsho* 277.

⁷¹ Ishii, *Boshin Senso Ron* 113-19.

⁷² Gaimusho, ed., *Nihon Gaiko Bunsho* 324-25.

Several months later, some members of the “Northern” federation sent a letter to the American Minister Residence asking for their help. In this letter, they claimed their legitimacy by identifying their position with the North in American Civil War as follows:

Whatever the South does is inhumane and unjust. Everyone knows that they deceive people by claiming the Imperial order. On the contrary, what we, the North, do is benevolent and righteous. There is no deception in us. One thing we should regret is that there is not a Lincoln, who has strong courage as well as deep benevolence in our camp.⁷³

I emphasize the regional nature of the Meiji state because it was closely associated with the particular recruitment pattern through which the officers of the Metropolitan Police Office were alienated from the ordinary townfolk in Tokyo, not only socially but also spatially. They were members of the ex-hereditary ruling class as well as ex-residents of a domain far from Tokyo. The dual alienation of the Metropolitan Police Office was a remnant of the warfare between the two regional powers and framed Japanese policing substantively. In this aspect, the Metropolitan Police Office was quite distinctive not only in comparison with contemporary European police systems but also with any other bureaucratic institutions established at the same time in Japan. No police system in contemporary Western countries had such strong social and regional affiliations as the Metropolitan Police Office. No other Meiji institutions, such as the military or the schools, showed such a distinctive recruitment pattern. Certainly, samurai from particular domains, notably Satsuma and Choshu, dominated national bureaucracies in the early Meiji period.⁷⁴ For example, in the cases of the Army and or the Navy, more

⁷³ Takashi Ishii, *Meiji Ishin No Kokusaiteki Kankyo*, zotei ban ed. (Tokyo: Yoshikawa kobun kan, 1966) 872.

⁷⁴ Bernard S. Silberman, *Ministers of Modernization: Elite Mobility in the Meiji Restoration, 1868-1873* (Tucson: University of Arizona Press, 1964) 73-97.

than 90% of upper rank personnel were ex-samurai in the early Meiji period.⁷⁵ However, in these institutions, the majority of soldiers were composed of commoners who were recruited from all over Japan through national conscription. In contrast, samurai from Satsuma dominated not only the upper rank but also the lower ranks of personnel in the Metropolitan Police Office. Although the establishment of the police system was an important component of the Meiji Restoration that eventually led to the replacement of the decentralized federal Tokugawa regime by the more centralized nation state, the Metropolitan Police Office was more “particularistic,” “ascriptive,” “affective” and “specific to a particular relationship” than any other institution, in Parsonian terminology.⁷⁶

Who should be policemen? The Meiji leaders answered the question in a quite different way than as the police systems in contemporary Western countries or the other newly created Meiji bureaucratic institutions suggested. An immense gap between the nature of the Metropolitan Police Office and its putative European models resulted from this internal conjuncture. It was exactly in this gap that the Meiji leaders tested the practices of policing that they imported not only from European countries but also from colonial Asia.

5. The Origin of the Police System in the Semi-Colonial Context

On November 27, 1870, a Japanese politician recorded this opinion in his diary:

⁷⁵ The rate of the samurai in the ranks above junior officials. Obinata, *Nihon Kindai Kokka No Seiritsu to Keisatsu* 98.

⁷⁶ Talcott Parsons, *Structure and Process in Modern Societies* (New York: Free Press, 1960).

In recent days an intensive search for the men who made the assassination attempt on the Englishmen has been conducted; and there has been talk that we should organize a police system in accordance with the laws of the European countries. In response, I said that if the government and the people are in perfect harmony, every single person in Tokyo will serve it as an informer. If the two are not in harmony, even though we raise a police force numbering in the thousands, we cannot check such violent actions. Why, I wonder, does the government become seriously concerned about protecting human life only when a European meets disaster? It is essential that it also conduct an exhaustive investigation when one of our countrymen dies by violence. But, whereas the investigation is painstaking out of a sense of responsibility when a European meets with a mishap because his country's minister applies pressure, when one of our people falls victim, the inquiry is neglected. I deplore such favoritism; and, consequently, I presented my argument at length along these lines to the government. I stand alone with my differing opinion these days.⁷⁷

The author of this passage was Kido Takayoshi (1833-1877), one of the most influential leaders of the early Meiji government. This material is the earliest known indication of a strong interest among the Meiji leaders in establishing the police system. This material is quite interesting in the following two regards. First, it suggests that pressure from foreign countries provided the Meiji elite with an important motivation to adopt a police system. As Kido mentioned, two British teachers of English were attacked in the downtown of Tokyo on November 23, 1870 and suffered thirteen sword wounds. The search for the offenders proceeded with difficulty and it was not until March of the next year that the two offenders were finally arrested. In the early Meiji period, such terrorist attacks were not exceptional. Foreign countries strongly pressured the Meiji government to improve the security situation. After this incident occurred, Harry Parkes (1828-1885), the British Minister, and Ernest Satow (1843-1929), the chancellor of the British Embassy, visited

⁷⁷ Takayoshi Kido, *The Diary of Kido Takayoshi*, trans. Sidney Devere Brown and Akiko Hirota, 3 vols., vol. 1 (Tokyo: University of Tokyo Press, 1983) 440-41.

the Meiji leaders and harshly criticized their insufficient security measures. Satow was said to accuse the lack of samurai spirit of the offenders who attacked the British men from behind on the street in the dark night. A member of the government recorded their attitude at that time: “The atmosphere of the interview with British Minister the other day was blood-boiling and deplorable. This was extremely shameful for our Empire.”⁷⁸ Another official also deplored the event; “all of us were simply baffled and could not offer any words of excuse.”⁷⁹ Soon after this interview was held, the government promised to the British ministry “to strengthen security regulations by studying the police systems of Western countries.”⁸⁰ As these examples suggest, the initial desire to look for a new policing system was motivated by the political concerns for the protection of foreigners, rather than an actual demand from society.

The Meiji leaders had sufficient reason to worry about protests from foreign countries. For them, the revision of the unequal treaties concluded between the Tokugawa government and the Western powers (America, France, England, Russia, Germany and Holland) in 1858 was one of the most urgent political tasks at that time. Under these treaties, Japan was obliged not only to surrender tariff autonomy but also to grant extra-territoriality to the Western powers. The Tokugawa government had also allowed France and Britain to station their troops in Yokohama. For the Meiji leaders, these treaties were problematic not only economically but also politically. They sometimes expressed the relationship represented by these unequal treaties as “half-sovereign.” For them, the unequal treaties were a symbol of the semi-colonial status of

⁷⁸ Yui and Obinata, eds., *Kanryosei, Keisatsu* 222.

⁷⁹ *Ibid.* 221-22.

⁸⁰ *Ibid.* 221.

Japan in the world at that time. The recurrent terrorism against foreigners was a thorn in their side, because it could potentially impede their project to revise the unequal treaties, and in the worst case incur military intervention by the Western countries.

Another important Meiji official who was involved in the introduction of the police system in Japan, Hirosawa Saneomi (1833-1871), recorded his anxieties in the memorial that he submitted to the government in the same year:

The recent assassination attempt on the foreigners is quite troublesome and we have not arrested the offenders yet... It was quite inconvenient that this incident occurred when we were discussing the withdrawal of British and French troops and battleships from Japan.⁸¹

Although the withdrawal of foreign military troops finally occurred in 1875,⁸² Hirosawa did not live to see the day; he was assassinated in 1871. The offenders in this incident have still not been identified. In any case, it is clear that the discussion on the introduction of the police system actually commenced as a response to foreign pressure in a context characterized as “semi-colonial” by the Meiji leaders.

Second, Kido’s diary also reveals that there was substantial resistance to the introduction of a police system even among the Meiji leaders. As this material suggests, Kido himself was one of the dissenters. Here, it is important to note that Kido characterized the police system as a centralized security institution in comparison with the more diffused Tokugawa security practices. In this text, Kido understood the police as a system in which the central government assumes all the responsibilities for security matters. Against this centralized model, he proposed a security system in which “the government and the people are in perfect harmony” with “every single

⁸¹ Obinata, *Nihon Kindai Kokka No Seiritsu to Keisatsu* 30.

⁸² Yui and Obinata, eds., *Kanryosei, Keisatsu* 241.

person...serving...as an informer.” Kido’s resistance obviously echoed the security principles and practices developed under the Tokugawa government. His encounter with foreign concept of policing aroused a strong nostalgia for “traditional” principles of security maintenance. Thus, a discourse that dichotomized the security principles and practices between the “Western” and the “Japanese,” or the “modern” and the “traditional,” began to emerge. Since this period, “Japanese” or “traditional” security principles and practices have been used as the referential framework by which the “Western” or “modern” police system is evaluated. However, the evocation of the Tokugawa security practices also served, as Kido’s case suggests, to articulate a sense of discomfort toward the European police system.

Chapter 2: Policing: Colony and Metropole

1. Two Journeys

In October 1872, Ishida Eikichi, the Superintendent of Police for Kanagawa prefecture, submitted to the government a memorial for the establishment of a police system. In this year, Ishida was sent to Hong Kong by Kanagawa prefecture for police system research. He departed from Yokohama in May 1872 and returned to Japan in September of the same year. During this period, he investigated police systems in Hong Kong as well as in Shanghai and Macao.¹ Upon his return, he submitted the memorial to Kanagawa prefecture with several detailed research reports. In this memorial, Ishida explained that his proposals were based on both his own one-year of experience as managing the Yokohama police and the half-year of research in Hong Kong, Shanghai,

¹ Yokohamashi, ed., *Yokohama Shishi*, 3 vols., vol. 3 jo (Yokohama: Yurindo, 1961) 37., Naikaku kiroku kyoku, *Hoki Bunrui Taizen*, vol. 27 (Tokyo: Hara shobo, 1981) 225.

and Macao. He claimed, “Although I have not observed [the police system] in European countries yet,” he declares, “[the police in Europe] is believed to be much the same [as the police in Hong Kong, Shanghai, and Macao]. “Therefore,” he continues, “I am making several proposals without reflecting on my want of ability.”²

One year later, Kawaji Toshiyoshi, the *Keihojo* (Vice Inspector of the Police Bureau) also submitted a memorial to the government for the establishment of a police system. In September 1872, the Meiji government sent Kawaji to Europe with eight other bureaucrats to research police systems. After extensive research, they returned to Japan in September 1873. After Kawaji returned to Japan, he immediately submitted his memorial for the reform of the Japanese police system.

Many historians have argued that this memorial played a decisive role for the establishment of the police system in Japan. The Metropolitan Police Office was actually structured according to the institutional design in this memorial. Kawaji himself was appointed as the supervisor of this institution and served until his death in 1879. Kawaji conducted most of his research in France. His memorial was largely based on the French police system, especially the Paris police. Accordingly, historians have suggested that the Metropolitan Police Office was modeled after the Paris police.

By the beginning of the 1870s, the Meiji government had already developed relations with both Hong Kong and France for the purpose of security maintenance. Kanagawa prefecture had developed a practical relation with the British colonial police to maintain security in the Yokohama settlement. When the Tokugawa government opened five ports for foreign countries according to the commercial treaties of *Ansei* in 1859, these nations were also allowed to build settlements in the open ports. Since then,

² Yui and Obinata, eds., *Kanryosei, Keisatsu* 226.

Yokohama, a small fishing-village adjacent to Edo, had developed as a center of foreign settlements in Japan. In 1863, the Tokugawa government allowed Britain and France to station troops in their Yokohama settlements. These troops remained until March 1875, eight years after the Meiji Restoration.³ The new government was established in Tokyo and the Western powers continued to maintain own security within their settlements. During the state of confusion and warfare surrounding the Meiji Restoration, the peacekeeping of the Yokohama settlement was conducted in cooperation between Japanese and foreign personnel. For example, it was recorded that six Chinese, along with thirty-three Japanese, were working as patrolmen there in February 1870. In the same month, the British minister, together with the French and Spanish ministers, proposed to establish the Yokohama Police with 20 Westerners, 60 Chinese, and 60 Japanese.⁴ When Kanagawa prefecture organized the *Rasotsu* (policemen) system in September 1871, the foreign ministers insisted that their representatives be permitted to participate in the administrative board of the newly established security institution. During the process of the establishment and development of the settlement police, the British Ministry played a major role. The British Ministry in Japan remained in close communication with the colonial government in Hong Kong. Because the British had already accumulated information and experience on security maintenance in Hong Kong and Shanghai, the British Ministry in Japan could easily refer to the colonial government when they attempted to organize a police force in Japan.

The French police system also appealed to the Meiji elite for various reasons. Many historians have argued that the French police, especially the Paris force formed

³ Naikaku kiroku kyoku, *Hoki Bunrui Taizen* 241.

⁴ Obinata, *Nihon Kindai Kokka No Seiritsu to Keisatsu* 39.

under the regime of Napoleon III, acquired a high reputation internationally because of its efficacy.⁵ For example, Phillip John Stead explains: “The Paris police in the nineteenth century were generally regarded as having the world’s best detective organization... It was quite natural for Edgar Allan Poe, writing in the 1840s, to make the first of fiction’s great detectives, Dupin (a prototype of Sherlock Holmes), a Frenchman living in Paris.”⁶ Although the Meiji leaders appear not to have been fans of detective stories, they were quite aware of the reputation of the French police through the publication of a travel journal written in 1868, *Gyoso Tsuiroku*, “Retrospection at the Window awaiting Daybreak.” The author of this journal, Kurimoto Joun (1822-1897), stayed in Paris from May 1867 to March 1868 as a mission of the Foreign Office under the Tokugawa government and published a record of his experiences in Europe immediately after he returned to Japan. In this text, Kurimoto described his contact with the Paris police and praised highly both their usefulness and their public image. According to him, the Paris police filled the streets, standing still or patrolling even in a storm, and wearing a “mountain-shaped” hat, a “cicada’s wing-like” coat and a sword. He told an impressive episode on a policeman who took the trouble to take his colleague who had lost his way to their hotel, and refused all compensation from him. Kurimoto evaluated this as a “benevolent” behavior.⁷ Throughout this journal, the efficient and virtuous image of the Paris police was widely circulated among the Meiji leaders.

⁵ Westney, “The Emulation of Western Organizations in Meiji Japan: The Case of the Paris Prefecture of Police and the Keishi-Choo.”

⁶ Philip John Stead, *The Police of France* (New York: Macmillan Publishing Company, 1983) 60.

⁷ Joun Kurimoto, “Gyoso Tsuiroku,” in *Narushima Ryuhoku, Hattori Busho, Kurimoto Joun Shu*, ed. Shiota Ryohei, *Meiji Bungaku Zenshu* (Tokyo: Chikuma Shobo, 1969), 301-02.

By the beginning of the 1870s, the Meiji leaders had already selected France as a model for other institutions such as the army, the primary school system, and the courts and the legal system. Because the Tokugawa government had already established a special connection with France as the advisor in its political reform efforts, it was not difficult for the Meiji leaders to open systematic channels of communication with other French institutions. Police jurisdiction rested with the Ministry of Justice in Japan. A French adviser hired by the Meiji government, DuBousquet (1846-1937), was consulted in the early attempts to draft a set of legal codes and gave a series of lectures in the Ministry of Justice on French judicial- and administrative- police systems. Eleanor Westney, who has examined the selection of institutional models under the Meiji government, emphasizes the tendency of various different institutions to converge upon a single institutional model. She calls it the “contagion effect.”⁸ In any case, when the Meiji government decided to send their officials to research police systems, they had sufficient reason to select France as their destination.

Thus far, historians have interpreted these two journeys and memorials as a contest between the “British” and the “Continental” models of the police system. According to this interpretation, while Ishida’s memorial represents the “British” police system, Kawaji’s memorial advocates the “Continental” police system. The establishment of the Metropolitan Police Office indicates the victory of the “Continental” model over the “British” model for the structure of Japanese police system. However, this seemingly appropriate interpretation ignores a very important fact: the place Ishida visited was not London but British colonial Hong Kong. In other words, this

⁸ Westney, "The Emulation of Western Organizations in Meiji Japan: The Case of the Paris Prefecture of Police and the Keishi-Choo."

interpretation is based on the assumption that the British colonial police was basically the same as the British metropolitan police.

In the following discussion, I show that the two journeys and memorials do not represent competition between the “British” police system and the “Continental” police system, but a contradiction between policing in the colony and metropole. Certainly, the Metropolitan Police Office was deeply influenced by the institution of European metropolises, especially the Paris police. However, in terms of actual practices, the Meiji police had many more similarities with the colonial police in Hong Kong than its putative European model. Both Ishida and Kawaji left a substantial amount of field notes that were not incorporated into their official memorials. These field notes are filled with concrete observation on how the police conducted various security practices in the colony and metropole, suggesting that there were substantial differences between the colonial police and the metropolitan police, and that the Meiji police was deeply influenced by the practices of the colonial police.

2. Controversies between the British and the Continental model

Both Ishida and Kawaji agreed upon the need to establish a police system in Japan. They also shared a deep sense of crisis regarding the existing security institutions in Japan. Ishida, in his memorial, defined a police force as “the most important instrument for governing a country.” At the same time, he severely criticized the unsatisfactory performance of the existing security institutions in Japan. According to him, the main reason for their poor performance was the lack of a unified, centralized police apparatus. He explained the current situation as “each prefectural government adopting different police systems as they like” and “there being no unity among them.” Thus, he proposed

that the government should establish guidelines for the structure of the police system for all prefectures in Japan. “If the government sets a fixed standard for the police and orders local authorities to observe it,” he concluded, “the police become a useful and important instrument for governing the country.”⁹

Kawaji, in his memorial, defined the police as “an everyday therapeutic” to preserve “the health of the nation”. According to him, “the purpose of the police is to protect honest citizens and cultivate the national spirit.” Just as in Ishida’s, Kawaji’s memorial also condemned the deplorable condition of existing security institutions. He explained the reason for their poor performance was the lack of appropriate information. He said, “Although we have established in October 1871 the *Rasotsu* system by emulating the European police, we did not have proper information on the practical business of policing at that time.” “So,” he continued, “we are still experiencing a lot of problems.” “In order to establish a strong and wealthy nation and compete with foreign countries,” he concluded, “we must reform the police system based on my own research in Europe.”¹⁰

Although both memorials shared beliefs about the necessity of police reform and a sense of crisis over contemporary security conditions, there were remarkable differences in their visions of the nature of the police system to be realized. The first difference is related to the agency controlling the police force. Ishida demanded the government set a concrete standard for local communities’ financing of their own police forces.¹¹ Here, he anticipated that each community should take on the financial burden of

⁹ Yui and Obinata, eds., *Kanryosei, Keisatsu* 226-27.

¹⁰ Ibid. 229.

¹¹ Ibid. 227.

maintaining its own police force. By contrast, Kawaji proposed to establish the Ministry of the Interior and entrust it with the administration of the police force all over the country. According to him, the central government should assume the financial burden for the Metropolitan Police Office because “the policing of the national capitol is a matter of national security.” “Therefore,” he continues, “it should not be entrusted to the vagaries of short-sighted penny-pinching local officials.” In his memorial, Kawaji compared the centralized police organization of Russia, Prussia, and France with the locally financed police systems of Britain, Holland, and Belgium, and argued that Japan should adopt the former model. He also proposed that the Metropolitan Police Office, following the example of all major European capitals, should be placed under the jurisdiction of the central government. Quoting the example of the Paris police, he added that the head of the Metropolitan Police Office should be directly responsible to the Minister of the Interior, not to the governor of Tokyo prefecture.¹²

The second difference between Ishida’s police and Kawaji’s police is associated with the recruitment of policemen. While Ishida’s memorial was silent on this topic, Kawaji enthusiastically recommended that Japan should recruit ex-samurai as policemen. Kawaji advocated his claim by appealing to the fact that “European countries commonly recruit soldiers as policemen.” “Because all policemen are ex-soldiers,” he added, “they are all strong and stand more than five feet.” He argued that in Europe, there is no distinction between samurai and commoners, therefore soldiers were also used as policemen. “However”, he claimed, “Our country still has samurai”. “If we do not use samurai as policemen, it would the ultimate maladministration.”¹³

¹² Ibid.

¹³ Ibid. 232.

However, this reasoning obviously ignored two important facts. First, Kawaji did not mention the British example at all. The policemen were taken directly from the army in most contemporary European countries, except in Britain. English constables, chosen from the ranks of private citizens, came for the most part from country districts, and have only in rare instances served in the army.¹⁴ As Raymond Fosdeck indicates, “Miners, chauffeurs, plumbers, and clerks are taken, but farmers are preferred” in England.¹⁵ Interestingly, Kawaji was totally silent on the British example in his memorial. Second, although Kawaji identified samurai with the European military class, there was a substantial difference between these two categories. While a samurai was a hereditary status, the military was a functional organization composed of soldiers recruited through national conscription.

The third difference between Ishida’s police and Kawaji’s concerns the methods used to prevent the abuse of police power. While Kawaji’s memorial completely ignored this subject, Ishida’s memorial took up this issue in detail. In his memorial, Ishida requested the government to define the “rights and duties of commoners and policemen.” He also proposed to establish a “police court” that would arbitrate cases of minor offense. He believed that this court would contribute to preventing the police from sacrificing “the convenience of ordinary people.”¹⁶ In his memorial, Ishida frequently used such terminology as “the protection of the common people” or “the convenience of commoners.” In Kawaji’s memorial, we cannot find similar concerns. While Kawaji’s proposals were exclusively prepared from the perspective of those who police, Ishida’s memorial paid much attention to the perspective of those who were policed.

¹⁴ Raymond B. Fosdick, *European Police Systems* (New York: The Century Co., 1915) 200.

¹⁵ *Ibid.* 201.

¹⁶ Yui and Obinata, eds., *Kanryosei, Keisatsu* 226-27.

These differences correspond to some degree to two different models of policing practiced in contemporary European countries. Many historians have pointed out that nineteenth century European countries developed two quite contrasting models of the police system: the British model and the Continental model. Raymond Fosdick contrasted these two models in the following way:

In Great Britain the police are the servants of the community...they are civil employees, whose primary duty is the preservation of public security. In the execution of this duty they have no powers not possessed by any other citizens... A policeman has no right superior to that of a private person in making arrests or asking questions or compelling the attendance of witnesses... In sharp contrast is the Continental theory, which, evolved from the necessities of autocratic governments, makes of the police force the strong arm of the ruling classes. The Continental policeman is the servant of the Crown or the higher authorities; the people have no share in his duties, nor, indeed, and connection with them. He possesses powers greatly exceeding those of the citizen.¹⁷

If we read Fosdick's description with both Ishida's memorial and Kawaji's memorial in mind, we immediately notice that the police system proposed by Ishida was British while Kawaji's idea of the police was quite Continental. This difference was obviously associated with the place in which each author researched. While Ishida encountered British security institutions in Hong Kong and Shanghai, Kawaji spent much time on the study of the Paris police in Continental Europe. In this regard, both authors seemed to advocate two different models according to the places in which they researched police systems.

It is obvious that Kawaji's memorial had a decisive impact on the establishment of the Metropolitan Police Office. Accordingly, conventional scholarship views the

¹⁷ Fosdick, *European Police Systems* 15-16.

establishment of the Metropolitan Police Office as the victory of the Continental model over the British model. However, it is also important to note that the European influence on the Metropolitan Police Office was largely limited to its institutional sphere. Westney argued, “the most detailed information [of Kawaji’s memorial] centered on two features of the police: financing and the control structure.”¹⁸ However, the totality of the structures and practices of the police goes well beyond these issues. The nature of the Japanese police system should be evaluated not only by its institutions but also by the concrete practices of policing.

As Fukuzawa anticipated, in the mid-nineteenth century there was a substantial difference between Japan and Europe in terms of the nature and structure of their societies. Faced with the immense societal differences between Japan and Europe, Kawaji and other police bureaucrats were obliged to invent concrete technologies and practices of policing that were suitable for contemporary Japanese society. In terms of concrete practices, the information from Europe was not useful. On the contrary, the concrete practices of the British colonial police greatly appealed to the Meiji leaders, who discovered many affinities between Meiji Japan and contemporary colonial Asia. Consequently, in terms of concrete practices of policing, the Metropolitan Police Office had more similarities with the British colonial police than its putative model, the European police. To identify the Metropolitan Police Office as “Continental” is to overlook the legacy of colonialism inscribed in the Japanese police system.

¹⁸ Westney, "The Emulation of Western Organizations in Meiji Japan: The Case of the Paris Prefecture of Police and the Keishi-Choo."

3. The Police Force as a Tool of Racial Domination

In addition to his official memorial, Ishida also submitted a series of field notes to Kanagawa prefecture. The Meiji government immediately ordered Kanagawa prefecture to submit these materials to them. In this way, Ishida's field notes became an important source for information utilized in the establishment of the Metropolitan Police Office.¹⁹

Ishida's field notes consist of six different components; *Shanghai Rasotsu Kisoku* (The Regulations of the Shanghai Police), *Hong Kong Rasotsu Kenbun Hikki* (Observational Writings on the Regulation of the Hong Kong Police), *Hong Kong Torishimari Kisoku* (The Regulations of the Hong Kong Police), *Hong Kong Gokucho no Shotei* (The Regulations of Prisons in the Hong Kong), *Hong Kong Kaiko Kisoku* (The Regulations of Ports in Hong Kong), and *Hong Kong Miyage Kenbunki* (A Record of Personal Experience in Hong Kong).²⁰ Among these sections, *Hong Kong Miyage Kenbunki* is most interesting because it takes the form of a dialogue between Ishida and unknown British security officials working in Hong Kong at that time. The other five sections are translations and descriptions of various police-related regulations practiced in Shanghai and Hong Kong.

Ishida's field notes are filled with concrete descriptions indicating the immense differences between the European police system and the colonial police system. For example, the following dialogue between Ishida and a British colonial official recorded in *Hong Kong Miyage Kenbun Ki* is such an example. Ishida asked the British official, "How powerful is the police in Europe?"²¹ To this question, the unknown British official answered in the following way:

¹⁹ Naikaku kiroku kyoku, *Hoki Bunrui Taizen* 66.

²⁰ *Ibid.* 66-200.

²¹ *Ibid.* 179.

Once, in the city of Paris in France, an aristocrat unintentionally touched a policeman by the end of his whip while passing through on his carriage. The policeman immediately arrested him. He was sentenced to 10 days imprisonment. He was too rich to be punished by sentence of a fine; therefore he was sentenced to imprisonment. This [episode] simply shows how people [in Europe] respect the law, not the person. The authority of the police was much strengthened [by this event]. In London, whenever policemen raise their truncheons, the hundreds of carriages immediately stop however crowded the streets may be. Even Princes must obey the commands of the police. This is why but a single policeman is enough to protect thousands of people on the street.²²

These anecdotes represent the principles of the contemporary European police system. On one hand, the episode related to the Paris police indicates that the authority of the police should be based on the Rule of Law, which stipulates that all men are equal in the eyes of the law. On the other hand, the episode of the London police suggests that the police should also protect and promote the societal interest. In order to attain this purpose, police power should manifest itself in the performance of various service duties such as traffic regulation. In this way, both episodes conveyed very well the image of the police as the powerful guardian of civil society.

However, we should also pay particular attention to the fact that these episodes are told in contrast to the reality of the colonial police in Hong Kong. The spectacle of the colonial police presented to the eyes of both Ishida and the British officials was quite different from the principle of the European police represented in those episodes. Ishida's question itself already anticipates the difference: if he had really believed that there was no difference between the colonial police and the metropolitan police as he suggested in his memorial, he would not have asked such a question. The utopian coloration added by the British colonial officer also suggests an immense gap that he felt

²² Ibid.

between the metropolitan police and the reality of the colonial police. Here, the British official narrated those episodes as if they had happened in a very distant, almost fantastically different place. In this way, the dialogue between Ishida and the British colonial officer indicates deep cleavages between the colonial police and the police in the metropole.

Various historical documents support this interpretation. When Ishida visited Hong Kong, Sir Arthur Kennedy was just inaugurated as the new Governor. However, in order to understand the character of the Hong Kong police in the early 1870s, the policies conducted under Governor Sir Richard MacDonnell, Kennedy's predecessor, are important to note.²³ During his tenure since 1866 to 1872, MacDonnell was enthusiastically engaged in the project of promoting secure order and colonial control in Hong Kong. He himself called it "a social revolution."²⁴ When MacDonnell replaced his predecessor in 1866, he immediately declared a "war against crime." At this moment, he denounced the Hong Kong police as the most ineffective security institution he had "ever come in contact with."²⁵ He subsequently implemented substantial reforms.

To begin with, MacDonnell increased the number of policemen. He recruited two hundred Sikhs and added twenty Scottish police to the British component of the Hong Kong police.²⁶ A force of semi-official Chinese detectives was also strengthened.

²³ MacDonnell left Hong Kong on retirement in April 1872, two month before Ishida came to Hong Kong. G. B. Endacott, *A History of Hong Kong* (London: Oxford University Press, 1972) 159-60.

²⁴ Christopher Munn, "The Criminal Trial under Early Colonial Rule," in *Hong Kong's History: State and Society under Colonial Rule*, ed. Tak-Wing Ngo (London: Routledge, 1999), 63.

²⁵ G. B. Endacott and A. Hinton, *Fragrant Harbour: A Short History of Hong Kong* (Hong Kong: Oxford University Press, 1962) 104.

²⁶ *Ibid.*

As a result, the ratio of police to population in Hong Kong became one of the highest in the British Empire.²⁷

Additionally, MacDonnell initiated or revitalized various security measures targeting exclusively the Chinese population. As Christopher Munn suggests, MacDonnell's police reform was promoted by assuming the entire Chinese population were all potential, if not actual, criminals. For example, MacDonnell plainly declared his security concerns against the Chinese population:

The criminal population does not consist of our own countrymen with all the claims which the latter have on our sympathy and patience, nor even in nine cases out of ten does it consist of residents under the British flag, but simply of the refuse population of the opposite provinces, and piratical bandits, who hang about the town and harbor, kidnapping and robbing when a chance presents itself.²⁸

Peter Wesley-Smith classified the anti-Chinese policies practiced under MacDonnell into the following three categories. The first concerns punishment.²⁹ Wesley-Smith argues that punishment based on racial discrimination came to be used more frequently in the mid-1860s as a method of crime prevention. For example, public flogging debuted as a punishment in the Supreme Court for the first time in this period. Theoretically speaking, public flogging could be applied to anybody under the jurisdiction of the Hong Kong Supreme Court. However, in reality, the Supreme Court

²⁷ Munn, "The Criminal Trial under Early Colonial Rule," 63.

²⁸ *Ibid.*

²⁹ This type of discrimination was somehow legitimized by Ordinance no.10 in 1844, authorizing Magistrates in Hong Kong "to sentence any offender, being a native of China, or native of Hong Kong of Chinese origin, to undergo such punishment, in conformity with the usage of China, as has hitherto been usually inflicted on natives China, committing offences in this Colony. This included caning, wearing the cangue, and cutting the queue. See, Peter Wesley-Smith, "Anti-Chinese Legislation in Hong Kong," in *Precarious Balance: Hong Kong between China and Britain, 1842-1992*, ed. Ming K. Chain (New York: M. E. Sharpe, 1994), 96.

awarded only one sentence of flogging to a European, even though it continued to order numerous floggings of Chinese.³⁰ MacDonnell's branding and deportation scheme was similarly constituted. Under the scheme, convicted felons in the jail could petition the Governor to be tattooed or branded with an arrow on the left ear lobe and deported to China on the condition that if they returned they would be publicly flogged and sent back to complete their gaol terms. It was applied extralegally between 1866 and 1870, and eventually incorporated into legislation in 1872.³¹

The second group of anti-Chinese legislation involves the registration of Chinese people. On August 22, 1844, the Legislature passed Ordinance No. 16 "for establishing a Registry of the Inhabitants of the Island of Hongkong and its Dependencies." It specified that every merchant, and others duly specified, should obtain registration tickets, for which a fee of five dollars was payable.³² Because this Ordinance included all European residents, it aroused intense indignation among them. A local publication of the time criticized it in the following way:

A white face should certainly be sufficient passport in any British Colony, and in point of fact, with the exception of Hongkong, we know of no British Colony where a passport is necessary, but we must bear in remembrance that Hongkong is an anomaly in colonial history, and that we must not seek elsewhere for precedents for measures which here are unavoidable... but we must assert that it will be with feelings of humiliation, we will pay our five dollars to the Registrar-General for a bit of paper descriptive of our appearance, etc.³³

³⁰ Munn, "The Criminal Trial under Early Colonial Rule," 63-64.

³¹ *Ibid.*, 64.

³² James William Norton-Kyshe, *The History of the Law and Courts of Hongkong*, 2 vols., vol. 1 (Hong Kong: Vetch & Lee, 1971) 66.

³³ *Ibid.*

Because the Registration Ordinance was reported to be a failure,³⁴ the new Registration Ordinance entitled “An Ordinance... to establish a more effectual registry of the Chinese inhabitants, and a census of the population of Hongkong,” was promulgated in 1847.³⁵ The new Ordinance authorized the registrar general to enter any house wholly or partly inhabited by Chinese. It also stipulated that: all such houses had to be numbered; every Chinese householder was given a registration ticket and had to issue tickets to all residents of his house; and Chinese servants in European employ had to be registered.³⁶ Although this system was temporarily abandoned in the late 1850s, MacDonnell reintroduced it in the 1860s with new provisions that stipulated the collective responsibility of the householders for certain offences.³⁷ By the Ordinance No.7 of 1866,³⁸ the city of Victoria was divided into districts, and householders were required to furnish particulars to the register general and to register; servants (those employed as a houseboy, cook, cook’s mate, amah, coolie, watchman, gardener, coachman, horse boy, or boatman) were also required to register.³⁹ However, according to a supplemental article of this ordinance, “servant” meant any Chinese person regularly employed in the capacities mentioned above, and “householder” indicated a tenant or occupant but “shall not include or extend to any Person, other than a Chinese, unless a

³⁴ Ibid. 93.

³⁵ Ibid. 126.

³⁶ Wesley-Smith, "Anti-Chinese Legislation in Hong Kong," 96.

³⁷ Ordinance No.7 of 1866, which divided the city of Victoria into Districts and for the better registration of Householders and Chinese Servants. See, Munn, "The Criminal Trial under Early Colonial Rule," 63., Norton-Kyshe, *The History of the Law and Courts of Hongkong* 93.

³⁸ It was titled as “dividing the city of Victoria into Districts and for the better registration of Householders and Chinese Servants.” Norton-Kyshe, *The History of the Law and Courts of Hongkong* 93.

³⁹ Wesley-Smith, "Anti-Chinese Legislation in Hong Kong," 96.

portion of his House be rented by any Chinese.”⁴⁰ In this way, Wesley-Smith explains how this seemingly “nondiscriminatory” registration system was actually a manifestation of strong racism against the Chinese population.

The third group of discriminatory policing is associated with the laws requiring the Chinese to carry night passes. In accordance with Ordinance No.2 of 1857 “for better securing the Peace of the Colony,” providing for night passes and giving general powers of arrest and deportation, the superintendent of police was to issue passes certifying that the bearer was authorized to pass and return during the “night season” from and to his employer’s house.⁴¹ Section 5 read: “Any Chinaman found at large elsewhere than in his own Habitation between the hours of Eight in the Evening and Sunrise and not having a pass duly issued shall be summarily punished” by fine, imprisonment, public whipping, or exposure in the stocks.⁴² Section 11 provided that “every Person lawfully acting as a Sentry or Patrol at any time between the hour of Eight in the Evening and Sunrise is hereby authorized whilst so acting, to fire upon, with intent or effect to kill, any Chinaman whom he shall meet with or discover abroad and whom he shall have reasonable ground to suspect of being so abroad for an improper purpose, and who being challenged by him shall neglect or refuse to make proper answer to his challenge.” In a consolidating Ordinance in 1870, the “night season” was reduced by one hour and the governor also directed that all the Chinese in Victoria must carry a lighted lantern after dark.⁴³

⁴⁰ Ibid.

⁴¹ Norton-Kyshe, *The History of the Law and Courts of Hongkong* 412.

⁴² Wesley-Smith, “Anti-Chinese Legislation in Hong Kong,” 96-97.

⁴³ Ibid., 97.

Ishida's report faithfully recorded these racist policing methods in his field notes: public flogging as a punishment against the Chinese,⁴⁴ registration of Chinese households,⁴⁵ and issuance of night passes to the Chinese.⁴⁶ In addition, Ishida's field notes also revealed that the salaries of policemen in Hong Kong were differentiated according to ethnicity: the Europeans were ranked at the top, the Indians were the next, and the Chinese were the last.⁴⁷ Racial discrimination conditioned not only the methods of policing but also the structure of the police force as the agent of policing.

Faced with the racial discrimination that characterized the principles and practices of the colonial police, Ishida understandably asked the following question to the British official: "Why do not you abolish the Chinese and Indian policemen, and simply have the Europeans take care of everything?" To this question, the British official answered in the following way:

The police have three tasks: the first is to prevent people from committing crimes; the second is to arrest the people who committed a crime; and the third is to search and catch a fugitive from justice. It is difficult for Europeans to fulfill these police duties because the population of Hong Kong is mostly the Chinese whose language they cannot understand. Therefore, we use the Chinese as policemen."⁴⁸

This answer clearly revealed the difference between the colonial police in Hong Kong and the police in the metropole. As we have already seen, the British official, by introducing the episodes in Paris and London, indicated that the foremost function of the European police was to protect and promote the interest of civil society by engaging in

⁴⁴ Naikaku kiroku kyoku, *Hoki Bunrui Taizen* 160, 84.

⁴⁵ Ibid. 185.

⁴⁶ Ibid. 90.

⁴⁷ Ibid. 176.

⁴⁸ Ibid. 186.

various service duties such as traffic regulation. However, the same British official explained the purposes of the Hong Kong police exclusively in terms of crime prevention and the capture of criminals. Metaphorically speaking, while metropole police power might be described in the exercise of traffic regulation, the essential nature and function of the Hong Kong police is characterized by night passes and the registration of household.

Although conventional scholarship emphasizes the special character of Hong Kong as a “little miniature representative of Great Britain,”⁴⁹ law and order in Hong Kong was, as Christopher Munn argues, no less racist than that in other colonies. Munn argues that “the imperative of protecting European lives and property distorted the colony’s criminal justice system into one that gave little consideration to the liberties of the ordinary Chinese people,” although the notion of the rule of law supplanting the arbitrary justice of indigenous regimes had long been a staple of British colonial rhetoric.⁵⁰ In any case, Ishida’s reports on the British colonial police in Hong Kong and Shanghai captures the essence of colonial policing: the difference between the colonizers and the colonized.

4. The Police as an Agent of Civilization

Although the police in the colony was not actively protecting and promoting civil society among the natives, it was actively involved in another mission, which was not salient in European countries: “civilizing” the native population. As David Abernethy argues, “Civilizing the uncivilized” was always “a major justification for colonial rule.”⁵¹

⁴⁹ Wesley-Smith, “Anti-Chinese Legislation in Hong Kong,” 101.

⁵⁰ Munn, “The Criminal Trial under Early Colonial Rule,” 46, 68.

⁵¹ David B. Abernethy, *The Dynamics of Global Dominance: European Overseas Empires, 1415-1980* (New Haven and London: Yale University Press, 2000) 287.

The mission was clearly elucidated by a British lawyer working in Hong Kong in the late nineteenth century. He said, “Placed on the borders of an Empire so full of contradictions as China, with its uncontrolled millions, conservative and prejudiced to the backbone, a people totally ignorant and indifferent to Western ideas or modes of Government, it seems as if Hongkong by its position had been destined to become the starting point from whence a civilizing power by its beneficent rule and humane laws was to endeavour to effect those reforms which an uncivilized power like China was ever in need of.”⁵² However, the civilizing mission, of course, cannot function without a material agent to teach and discipline “uncivilized” natives. The police was one of the most important agents of the “civilizing mission” in mid-nineteenth century colonial Asia.

Ishida’s field notes contain many concrete examples of such civilizing missions. They revealed that the British colonial government defined natives’ various behaviors as “uncivilized” somehow arbitrarily and targeted them as the object of correction and punishment. In the following section, I summarize those activities labeled as “uncivilized” in three categories. The first category of “uncivilized” behaviors is related to the manners or etiquette of the Chinese. The colonial government attempted to show the proper manners of a “civilized” citizen to the natives through various regulations practiced by the police. Those regulations describe “uncivilized” natives’ behaviors in fine detail. For example, “The Regulations of the Shanghai Police” reported that policemen were ordered to arrest people in Shanghai “who incorrectly urinate on the street, who come out from the lavatory without adjusting their dress, or who relieve themselves freely without considering the circumstances.” “The Regulations of the Hong Kong Police” also prescribed that policemen arrest “persons who discharge urine on the

⁵²Norton-Kyshe, *The History of the Law and Courts of Hongkong* vii.

street or near the waterway” in Hong Kong. The second category of “uncivilized” behaviors is associated with sexuality. The British colonial government attempted to instruct proper sexual morality to the natives. For example, “The Regulations of the Shanghai Police” ordered the police to arrest anyone who “performs obscenely in public with a man or a woman, who publicly shows or sells pornography, or who sings a dirty song or uses obscene words”.⁵³ The third category of “uncivilized” behaviors is concerned with the customs and habits of the native population. The colonial government attempted to impose their own lifestyle on the native population by forbidding and punishing certain aspects of their customs. For example, “The Regulations of the Hong Kong Police” described that “those who strip out of their clothes or act vulgarly,” “persons who bathe in public waterways,” or “those who carry night-soil buckets in the downtown during the daytime and/or with illegal containers” were to be arrested.⁵⁴

These behaviors do not constitute serious threats to society. Rather, these regulations are manifestations of parochial values, targeted against the daily lives and customs of the native population. Certainly, some regulations might be related to the protection and promotion of colonial society. Policing “filthy” or “obscene” conduct could be construed as contributing to the improvement of public hygiene, preventing contagious disease, or eliminating possible causes of various crimes in advance. However, some regulations clearly indicate that the British colonial police attempted to regulate even seemingly natural or reasonable native customs. For example, “being half-naked or bathing in waterways” seems to be quite natural habits for people who live in a

⁵³ Naikaku kiroku kyoku, *Hoki Bunrui Taizen* 80-81.

⁵⁴ *Ibid.* 100-01.

hot and humid climate such as in Hong Kong. “Carrying night-soil buckets,” in which farmers collected from townsfolk human waste to be used as fertilizer, was also an integral part of the type of farming that was commonly practiced in that area. The British colonial government labeled even such seemingly natural and reasonable habits as “uncivilized” and attempted to punish them. These regulations authorized the colonial police to impose a particular lifestyle on the Chinese population under the banner of civilization. Through the optic of those regulations, a stereotypical image of “filthy” and “obscene” natives emerged, buffering the legitimacy of British domination over the Chinese.

However, the target of this civilizing mission was not limited to the Chinese civilian population. Chinese policemen, the putative agents of policing, were also important targets of the civilizing missions conducted by the British colonial government. Ishida’s report describes how the British colonial government attempted to extract policemen out of a potentially dangerous native population. For example, “The Regulations of the Shanghai Police” reported that policemen in Shanghai were stipulated to go to school after recruitment if they were illiterate.⁵⁵ In the case of the Hong Kong police, language teachers were invited to police stations for the education of policemen.⁵⁶ Through these educational practices, Chinese policemen were expected to master English language skills. In addition, Ishida’s field notes also revealed that numerous, intrusive regulations were applied to colonial policemen: “Be polite and diligent, and study hard and aim at advancement in life”; “Do not go to restaurants or bars without a special reason”; “Do not walk idly”; “Do not smoke on duty”⁵⁷; “Salute superiors by touching

⁵⁵ Ibid. 69.

⁵⁶ Ibid. 178.

⁵⁷ Ibid. 74-76.

your cap”; “Do not chat on duty”; “Polish your arms,”⁵⁸ were some of the prescriptions for conduct. Ishida also records that Chinese policemen were even recommended to “go to church on Sunday.”⁵⁹

These regulations were part of a project to make a faithful agent of “Her Majesty’s Government” out of the potentially dangerous native population. According to Ishida’s field notes, newly recruited Chinese policemen were required to declare on oath “to serve as a constable of Hong Kong... respecting the orders from the government of Her Majesty the Queen, the Consular General, and the Court officials.”⁶⁰ As agents of British rule, the Chinese policemen were required to be more civilized than the rest of the native population. In this way, the British colonial government attempted to fix, strengthen, and reproduce the power relation between the colonizer and the colonized.

5. A Civil Force without Civil Society

Conventional scholarship offers the interpretation that the adoption of the Continental model was natural and reasonable because the French state under Napoleon III had many similarities with the Meiji absolutist state.⁶¹ However, this interpretation is unsatisfactory because it ignores substantial differences between Tokyo and Paris in terms of social conditions at that time. Although Kawaji strongly insisted on adopting the Continental police system, he was not able to emulate the concrete police duties of the European model. Ironically enough, many of his proposals relating to concrete practices

⁵⁸ Ibid. 98-99.

⁵⁹ Ibid.

⁶⁰ Ibid. 88.

⁶¹ Obinata, *Nihon Kindai Kokka No Seiritsu to Keisatsu* 63.

of policing much more resembled the practices of the British colonial police than the ones of his putative model, the Paris police.

Just like Ishida in Hong Kong and Shanghai, Kawaji also compiled significant field notes during his research in Europe that extended his official memorial.⁶² They were titled *Taisei Kenbun Roku* (A Record of Personal Experiences in Europe) and were preserved in his archive. It was only in 1976 that a Japanese legal historian discovered this text in the archive of Kawaji's subordinate. This text is quite interesting because Kawaji recorded not only objective information but also his own subjective impressions of the European police system. In contrast to his official memorial that earnestly advocates the Continental police system, the field notes record the tensions and conflicts that Kawaji felt between the European police system and the contemporary social conditions in Japan. Kawaji's field notes reveal that the French police was not able to offer useful examples for the Metropolitan Police Office in terms of actual policing methods.

European experiences sometimes contributed negatively to the formation of particular practices of the Meiji police. Kawaji's field notes reveal the inverse relation between European ways of policing and Japanese style policing quite vividly. In his *Taisei Kenbun Roku*, Kawaji recorded an interesting episode. One day during his stay in Europe, Kawaji heard a lecture about the structure of the Paris police from a French official: Paris was divided into twenty districts, called *arrondissements*; each *arrondissement* was divided into four quarters (*quartiers*). In the case of the first *arrondissement* in Paris, each *quartiers* was divided further into thirteen blocks called *ilots*. Then, the official explained that three patrolmen were always making the rounds in

⁶² Yuzai Takahashi, *Meiji Nendai No Keisatsu Bucho* (Tokyo: Ryosho fukyu kai, 1976).

turn in each *ilot*. An interesting exchange occurred at this point in the lecture. Kawaji asked the following question of the French official: "Among the three patrolmen who are in charge of a *ilot*, who carries the list of residents?" To this question, the official answered in the following way. "We never do that. Too much intervention is sometimes against the peoples' interest even if it is intended to protect residents' interests. This is why we do not [make and carry lists of residents]." ⁶³

This conversation reveals the tension between effective policing and the principles and practices of civil society such as the respect for citizens' privacy. Karl Marx characterized "the executive power" under the regime of Napoleon Bonaparte as the "parasitic body" that "enmeshed the body of French society like a net and chokes all its pores." ⁶⁴ Howard Payne also characterized the nature of the Second Empire as follows: "If the relative term 'police state' connotes a preponderant executive in command of a centralized bureaucracy whose edicts supersede the voice of local government and which systematically uses decisive police controls over the expressions and organization of public opinion, then the Second Empire was a police state." ⁶⁵ However, what attracted Kawaji's attention most was the fact that the French police actually failed to permeate the body of French society deeply enough because of resistance from individual citizens.

Kawaji's question, rejected by the French officer, was part of the reality of British colonial rule in Hong Kong. As we have already seen, the British colonial government had already established a registration system in Hong Kong at that time. Through his

⁶³ Ibid. 245. See also Fosdick, *European Police Systems* 131.

⁶⁴ Karl Marx, *The Eighteenth Brumaire of Louis Bonaparte* (New York: International Publisher, 1998) 121.

⁶⁵ Howard Payne, *The Police State of Louis Napoleon Bonaparte, 1851-1860* (Seattle: University of Washington Press, 1966) 280.

conversation with the French official, Kawaji must have learned how much the Paris police were obliged to accord respect to basic human rights. However, this respect did not impress him at all. After he returned to Japan, he introduced the registration system as one of the key practices of the Metropolitan Police Office.

Recognizing the limited utility of the European model, the Meiji leaders began to formulate a “Japanese” style of policing. In the formulation of Japanese-style policing, the Meiji leaders sometimes evaluated the practices of the European police negatively because the Meiji leaders believed that the European police were too much restricted by various pressures from civil society. The Meiji leaders developed Japanese-style policing by both emulating and criticizing the actual practices of the European police. The registration and census research system is interpreted as the most characteristic aspect of Japanese police system to this day.

Chapter 3: The Security Practices of the Metropolitan Police Office

1. The Structure of the Metropolitan Police Office

The Meiji government attempted to emulate the institutional structure of the Paris police as faithfully as possible when they designed the Metropolitan Police Office. According to Westney, this approach was particularly salient in regard to the size of the Metropolitan Police Office and the way police duties were organized. However, there were substantial differences between Tokyo and Paris in terms of population, industrialization, urbanization, and the customs or habits of residents in the 1870s. Because of such differences, the Meiji leaders' effort to follow the Paris model resulted in remarkable differences between the policing methods of the Meiji police and the Paris police.

In the 1870s, the size of the Metropolitan Police Office was quite similar to the size of the Paris police. When Kawaji Toshiyoshi stayed in Paris to research the police system, the number of *agents de police* stood at 6,800. After returning to Japan, he proposed that the Metropolitan Police Office should consist of 6,000 patrolmen.¹ Westney has inferred that Kawaji suggested this number based on the size of the Paris police. Kawaji's proposal was approved, and the Metropolitan Police Office employed 6,000 patrolmen soon after its establishment. However, it is important to remember that Tokyo had a population of only about 900,000 at the time, compared with Paris's nearly two million persons. "In consequence," Westney remarks, "Tokyo was considerably more heavily policed: there were 6.67 policemen per 1,000 people in Tokyo in 1876,

¹ Obinata, *Nihon Kindai Kokka No Seiritsu to Keisatsu* 96.

compared with 3.04 per 1,000 in Paris.”² The Metropolitan Police Office was obviously oversized by contemporary European standards.

David Bayley suggests that the nature of police work is a function of social development; therefore, a given police force will increase in size as it begins to deal with more service requests resulting from the industrialization and urbanization of society. However, the size of the Metropolitan Police Office obviously deviated from this rule at the time of its establishment. Factors other than societal demands must have intervened in the Meiji leaders’ decision regarding the extensiveness of the police system. The following passages from Kawaji’s memorial reveal one reason why the Meiji elite wanted to establish such a large security institution despite its strained finances:

Although our intercourse with foreign countries seems to be autonomous and independent, they treat us as a semi-sovereign state. In reality, our status is nothing other than that of one of their subordinate countries. For example: foreign countries hoist their national flags and station their troops in Yokohama; we do not have the right to punish according to our own national law even if they domineer over us and commit illegal actions in Tokyo. Moreover, foreigners arrest Japanese City Guards (*bannin*) in some extreme cases. Judging from these examples, it is impossible for Japan to be an independent state in the true sense. This is a quite deplorable situation. In order to wash away this national disgrace, we must establish a strict police system, dispense policemen and promulgate a law for the organization of courts of justice so that we are not despised by foreigners. It is a most urgent task for us although its realization will be quite costly and difficult.³

Here, the establishment of police system was understood by Kawaji to be a necessary condition for the revision of the unequal treaties, especially the abolition of extraterritoriality. Kawaji was driven by his desire to free Japan from its “semi-

² Westney, "The Emulation of Western Organizations in Meiji Japan: The Case of the Paris Prefecture of Police and the Keishi-Choo."

³ Yui and Obinata, eds., *Kamryosei, Keisatsu* 233.

sovereign” status when he was designing the Metropolitan Police Office. Kawaji’s personal experiences of racism in Europe might have strengthened this desire; in his research notes, he recorded with strong resentment that he was treated like a “dog or cat” by German officials at a zoo in Prussia.⁴ At any rate, through Kawaji’s writings it is clear that the Metropolitan Police Office was not simply designed as a response to social development. Political concerns for contemporary international relations combined with fears of internal insurrections determined the size of the institution. The Meiji leaders’ concern for internal unrest was, as we have already seen, closely related to their status as a “conquering regime,” which obliged them to establish an oversized security institution composed of “their own people.” Also, their recognition of Japan’s semi-colonized status made them desire a security institution that was in no way inferior to Western ones. In a sense, the Metropolitan Police Office was a showcase to convince Western countries that Japan was secure enough to permit judicial sovereignty. In the eyes of Kawaji and other leaders, the Metropolitan Police Office would have to be more powerful, more organized, and more “modern” than its putative European model.

The Meiji government also attempted to structure various police duties by following the administrative police system of France. In the French system first implemented in the eighteenth century, the functions of police are differentiated into two main categories: the administrative police and the judicial police. While the administrative police carry out the general surveillance of society and the maintenance of public order and security, the judiciary police deal with the investigation of offenses and the prosecution of offenders before the proper courts, in the name of the executive

⁴ Takahashi, *Meiji Nendai No Keisatsu Bucho* 266.

power.⁵ The French system attributes the control of the police to two different ministers corresponding to these two functions. While the Minister of the Interior has administrative control of the power of the civil police, the Minister of Justice represents the judicial control of the police in the investigation and proof of crime.⁶ As Howard Payne argues, this distinction between the administrative police and the judicial police is one of the longest-standing characteristics of the French police system.⁷

Kawaji and other Meiji leaders attempted to follow the complex and intricate French system as closely as possible. In the memorial discussed above, Kawaji proposed that the administrative and judicial police be differentiated by establishing the Ministry of the Interior for the management of the administrative police and leaving the judicial police to the Ministry of Justice.⁸ When he prepared the memorial, the Ministry of the Interior did not yet exist in Japan. In accordance with his memorial, the Meiji government established the Ministry of the Interior in 1874 and empowered it to control the administrative police throughout Japan. *Tokyo Keishicho Shokusei Shotai* (Official Regulations of the Metropolitan Police Office) was promulgated in February 1874 at the same time the Metropolitan Police Office was established. This text also clearly stipulated that the administrative police and the judicial police would be separate entities: the purpose of the administrative police was “to prevent evils from afflicting people and to preserve the public peace,” while the task of judicial police was “to search and arrest criminals if the administrative police fails to prevent crime from happening.”⁹ In actual

⁵ Payne, *The Police State of Louis Napoleon Bonaparte, 1851-1860* 5.

⁶ Other than those ministers, the Minister of Defense had similar control of the Gendarmerie, a police force composed of the military personnel. Stead, *The Police of France*.

⁷ Payne, *The Police State of Louis Napoleon Bonaparte, 1851-1860* 4.

⁸ Yui and Obinata, eds., *Kanryosei, Keisatsu* 230.

⁹ Naikaku Kanpo Kyoku, *Horei Zensho*, vol. 7-1 (Tokyo: Hara Shobo, 1975) 391.

practice, the two duties necessarily overlapped because both were performed by the same personnel. Still, Kawaji attempted to differentiate these two aspects of policing duties as clearly as possible in line with the practices of the contemporary French legal system.

However, the French distinction between the administrative police and the judicial police had different implications for Meiji Japan. In the European context, the principles and practices of the administrative police were closely associated with the development of civil society. Raymond Fosdick's characterization of the French police explains the historical context from which the administrative police emerged. According to him, the organization of the police force of Paris (and Berlin's as well) was quite "involved and complicated" because it embraced "many functions which in England and Austria are handled by municipal and state governments." In addition, "Matters relating to public health and hygiene, to streets and railroads, to dangerous substances, to the prevention of fire, to pure food and to a hundred other subjects are all part of the police function" in the scheme of the French police.¹⁰ These service requests formed the main body of the duties handled by the administrative police in France (and Prussia).

However, in the Japanese context, the administrative police was introduced without a strong demand from society. In 1873, the Ministry of Justice prepared *Keisatsu Kisoku An* (A Plan for Police Regulations), the first systematic internal regulation for the police system. A French legalist hired by the Ministry of Justice, Georges Hilaire Bousquet, was believed to be heavily involved in the preparation of this text. *Keisatsu Kisoku An* is a direct translation of the police duties practiced in contemporary French society. However, precisely because it is a direct translation, this text illuminates the

¹⁰ Fosdick, *European Police Systems* 127.

conflicts between the French policing ideas and Japan's social conditions. This text stipulated that the police in Japan should perform twenty-one tasks:

1. Regulation of the transportation of horses and vehicles on the street; 2. Sanitation of buildings and conduits; 3. Cleaning of sewage; 4. Policing festivals, theatres, and exhibitions; 5. Observing railroads, telegraph instruments and potentially dangerous factories; 6. Controlling prisons and food and drink for prisoners; 7. Inspection of travelers; 8. Reforming lax morals; 9. Regulation of hospitals, pharmacies, and medicines; 10. Regulation of publications of books and newspapers injurious to public morals and government; 11. Stock-farming, farming and fruit-growing; 12. Supplying food in famine; 13. Controlling banking; 14. Inspection of street peddlers; 15. Inspection of butchery; 16. Inspection of weights and measures; 17. Urban planning and inspection of houses for the purpose of public health; 18. Inspection of food and drink; 19. Inspection of prostitutes; 20. Inspection of midwives; 21. Fighting fires and commanding firemen.¹¹

This list is full of useless, irrelevant duties for mid-nineteenth century Japanese society. For example, in 1873 Tokyo, there were no streets filled with horse carriages, making the first regulation useless. Similarly, the fifth regulation was not significant because such infrastructures as railroads and the telegraph were just beginning to be constructed at that time. Public institutions like hospitals or banks were still quite rare in Tokyo, so the ninth and the thirteenth regulations were somehow inappropriate. The eleventh regulation was absurd because neither stock farming nor commercial fruit growing was commonly practiced. Apparently the Meiji police were directed to regulate things that did not actually exist at that time. In actual police practice, it was impossible for the Metropolitan Police Office to emulate its putative model, the Paris police, directly. The Metropolitan Police Office came to produce its own set of duties independently. In

¹¹ Yui and Obinata, eds., *Kanryosei, Keisatsu* 314-15.

this context, civilizing people and spying on citizens emerged as important missions of the Japanese administrative police.

Tokyo Keishicho Shokusei Shotai divided the duties of the administrative police into the following categories. The first was “to protect human rights and encourage business”; the second, “to guard public health and protect peoples’ lives”; the third, “to prevent people from practicing dissipation and debauchery and enhance the public morals”; and the fourth was “to spy on political offenders.”¹² The societal difference between Tokyo and Paris in the 1870s indicates that the Metropolitan Police Office could concentrate its efforts on the latter two categories, without being troubled with the former two categories. In this way, civilizing subjects and watching over individuals’ conduct came to be dominant characteristics of the Meiji police.

2. The Production of Customs as the Object of Policing

Ishiki Kaito Jorei (Regulations on Minor Offences), promulgated in 1872, represents the nature of the civilizing mission practiced by the Japanese police in the early Meiji period. These regulations declared many habits and customs of ordinary people that had not been necessarily seen as “criminal” to be illegal, and targeted these as objects of punishment and correction. Through these regulations, the police were empowered to examine, evaluate, sanction, and punish ordinary people’s behavior. Under the name of “civilization,” it became possible for the state to extend its power more deeply into the daily lives of individual subjects than ever before.

Ishiki literally means “violation of rules.” According to this regulation, thirty-six behaviors were defined as criminal. Any person violating these behaviors would be

¹² Naikaku Kanpo Kyoku, *Horei Zensho* 391.

punished with a fine from seventy-five to one hundred fifty *sen*. It also designated that if an offender could not pay the fine, he or she was to be flogged from ten to twenty times. *Kaii* literally means “unintentional violation of rules.” In this regulation, another thirty-five behaviors were stipulated as the objects of punishment. It stipulated that violator, would be punished with a fine from six *sen*, two *rin*, and five *mo*, to twelve *sen* and five *rin*. If the offender could not pay the fine, he or she would be detained for one to two days. Although the regulations were detailed enough, both allowed individual policemen to employ a broad range of discretion. Taking circumstances into account, policemen were allowed to punish a person who violated *Ishiki* by *Kaii*, and vice versa. Policemen were even permitted to discharge an offender with only a warning if thought appropriate.

With a few exceptions, the articles of *Ishiki* fall into two categories: preventive items and disciplinary items. Here, “preventive” indicates measures to secure public safety by forbidding potentially dangerous behaviors. The preventive items can be further differentiated into several different categories. The first of these is related to transportation, composing nine articles. “Reckless horse-riding” (Art.13), “Driving a carriage without light in the night” (Art. 17), “Blocking the thoroughfare for horses and vehicles” (Art. 23), and “Horse-riding while intoxicated” (Art. 55) are examples. The second category includes items concerned with public hygiene; the six articles cover transaction with food and drink and preventive measures against contagious diseases. The third category includes four articles regulating architecture and buildings, banning potentially dangerous or obstructive things such as “Eaves,” “Street stands,” or “Heaps of wood, stone, and charcoal.” Finally, there was one article related to fire prevention.

Besides the preventive items, *Ishiki* also included various disciplinary measures. Here, “disciplinary” means regulations on people’s behaviors that are evaluated as inappropriate from the perspective of public morality, even though they may not

constitute an immediate threat to public security. *Ishiki* declared many behaviors, including the following, illegal:

Art. 9 Selling or buying pornography; Art. 11 Tattooing; Art. 12 Opening a promiscuous bathhouse; Art. 22 Being outside half-naked; Art. 25 Setting up *sumo* matches between men and women, or serpent charmers, etc; Art. 26 Riding a horse half-naked; Art. 62 Wearing a skirt [for men] or wearing male clothing [for women].¹³

The nature of the *Kaii* regulations was almost the same. Along with “preventive” items such as traffic rules and prohibitions of public nuisances, *Kaii* also targeted the following customs:

Art. 37 Public baths with open doors; Art. 38 Failure to clean up the street and ditch in front of one’s house; Art. 39 Bobbing hair without reason [women]; Art. 41 Carrying a night soil bucket without a cover; Art. 49 Urinating in places other than a toilet; Art. 50. Allowing children to defecate or urinate in the street; Art. 53 Organizing a dogfight; Art. 54 Flying large kites; Art. 56 Looking or laughing out of a window; Art. 57 Selling sweets with bedding.¹⁴

Statistics indicate that a surprisingly large number of people were punished by *Ishiki Kaii Jorei*, 10,960 in 1876 alone.¹⁵ The statistics also suggest that the disciplinary items were more frequently applied than the preventive items. For example, among the prohibitions of *Ishiki*, the most frequently cited was Art. 22: “Being outside half-naked.” 2,091 persons were punished for violating this regulation in 1876. Additionally, 44, 30, 8, and 8 persons were punished on the charges of “Tattooing” (Art. 11); “Opening a promiscuous bathhouse” (Art. 12); “Selling and buying pornography” (Art. 9); and

¹³ Shinzo Ogi, Isao Kumakura, and Chizuko Ueno, eds., *Fuzoku Sei*, 23 vols., vol. 3, *Nihon Kindai Shiso Taikei* (Tokyo: Iwanami Shoten, 1990) 3-26.

¹⁴ Ibid.

¹⁵ The number is based on the data in *Tokyo hu tokei* (Statistics of Tokyo Prefecture) in 1876. See Ibid. 468.

“Wearing a skirt or men’s clothing” (Art. 62) respectively. Although Art. 23 (Blocking the thoroughfare for horses and vehicles) had the second largest number of violations (206), the function of *Ishiki* was much more inclined toward enforcing disciplinary items, rather than preventive ones.

In the case of *Kaii*, the situation was almost the same. In 1876, 4,495 persons were punished for “Urinating in places other than a toilet” (Art. 49). 2,727 violated the regulation against “Quarrelling and disputing in the street”(Art. 44). In addition, 101, 39, and 14 persons were punished respectively for “Allowing children to defecate or urinate in the street” (Art. 50); “Carrying a night soil bucket without a cover” (Art. 41), and “Bobbing hair without reason” (Art.39). Although the traffic regulations were also applied frequently,¹⁶ the statistics suggest that *Kaii* disciplinary measures were more frequently applied than the preventive measures.

As we have already seen, the Shanghai Police and the Hong Kong Police showed a strong desire to “civilize the natives” by policing their customs. If we compare those “civilizing” regulations practiced in British colonial Asia with the articles of *Ishiki Kaii Jorei*, we immediately discover surprising similarities between two. For example, “being outside half-naked,” “urinating in places other than a toilet” and “carrying a night soil bucket without a cover” were crimes in both areas. As we have already seen, the regulations of British colonial Asia were recorded by Ishida Eikichi and transmitted to Meiji government officials. There is no direct evidence showing how much the Meiji elite actually consulted Ishida’s field notes while preparing *Ishiki Kaii Jorei*. However,

¹⁶ 506, 109, 94, 64, 39, and 28 persons were punished respectively for “Driving a carriage without light in the night” (Art. 30); “Rickshaw men’s badgering for a ride” (Art. 33); “Wagon causing trouble for pedestrians” (Art. 39); “Leaving a carriage, rickshaw, or wagon on the street” (Art. 35); and “Obstructing a horse carriage while intoxicated”.

the similarity of the contents eloquently indicates how much the Meiji elite actually shared a “civilizing mission” with the British colonial government.

3. The Genealogy of the Registration System

Policing the people’s customs represents a convergence between the Meiji police and the colonial police. By contrast, the adoption and implementation of the registration system in Japan resulted from a more complex set of interactions between the colony and the metropole. As we have already seen, the registration system was one of the main objects of Japanese police research in colonies and the metropole. While Ishida’s field notes record how the British colonial police were practicing this registration against the Chinese population, Kawaji explained why the Paris police were not able to implement this system in the same way as the colonial police. The registration system of the Meiji police reveals how various administrative practices came into contact and fused to produce a new technology. It is important to note that the British colonial government claimed the registration system in Hong Kong was an appropriation of traditional Chinese policies. However, there were important differences between the registration systems of China, Hong Kong, and Japan. In this regard, the genealogy of the Japanese registration system reveals not only convergence and collaboration, but also contradiction and conflict between a policing technology adopted in the metropole, the colony, and the Meiji state.

As many contemporary observers have pointed out, the registration and census research system is a key characteristic of the Japanese police system to this day.¹⁷ The origin of this policy is almost as old as Japan’s police system itself. *Gyosei Keisatsu*

¹⁷ Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* 64.

Kisoku (Regulations of the Administrative Police), promulgated in 1875, is the first document to institute concrete procedures of registration.¹⁸ This regulation ordered policemen to pay particular attention to the “sex, age, trade, and character” of residents in their district.¹⁹ In October 1876, the Metropolitan Police Office issued *Toguchi Torishirabe Tetsuzuki* (Manual for Census Taking), which required policemen to make lists of residents under their supervision by recording their address (whether the address was permanent or temporary, and whether the resident was a tenant or landowner), occupation, and age.²⁰

However, the Meiji leaders were not satisfied with simply collecting “objective” information about the Japanese people. They also ordered the police to research the “subjective” aspects of each resident. A document titled “Additional Instructions for Census Taking,” promulgated in 1879, clearly reveals Meiji leaders’ strong desire to control individual subjectivity.²¹ At the very beginning, the author of this text explained that the purpose of census taking is “to have policemen memorize the occupation, name, and character of each resident under their charge and to be prepared to report this information to authorities at a moment’s notice.” In addition, the author asked rhetorically, “Although it is easy to identify the number and occupations of residents under your charge, it is hard to identify each person’s character. How should we investigate this?” To answer this question, the text says:

¹⁸ Yui and Obinata, eds., *Kanryosei, Keisatsu* 319-23.

¹⁹ Ibid. 321.

²⁰ Ibid. 392.

²¹ Ibid.

A person who behaves properly, works hard, dutifully helps his or her parents, and fulfills social responsibilities should be defined as a good subject. A person who likes to resist the authorities and eats the bread of idleness without a job and property should be defined as a bad subject.²²

The Meiji state ordered the police to differentiate the entire Japanese population into two categories: “good subjects” and “bad subjects.” The text also stipulated that policemen should investigate “bad subjects” three times a month while “good subjects” should be visited only once a month.²³ The police were instructed to investigate the recent behavior, relationships, and reputations of “bad subjects.” This information was collected at their current residences but also at their previous addresses.²⁴

Kawaji himself explained the secret to hunting down “bad subjects” as “hearing voiceless voices and seeing formless forms” (*Koe naki ni kiki, Katachi naki ni miru*).²⁵ Policemen were expected to detect in advance events that had not yet occurred and prevent them from happening. The Japanese police to this day use Kawaji’s words as a catch phrase that represents their mission. In this way, “bad subjects” were produced and reproduced by the police through census taking. However, once “bad subjects” became an established category, their existence, in turn, legitimized the meticulous census taking of the Meiji police.

If the French officials who lectured to Kawaji about the operation of the Paris police could have observed the census taking practiced by the Meiji police, they would certainly have recognized the impossibility of such a system in their own country. However, as I discussed above, the contemporary British colonial police was already

²² Ibid. 393.

²³ Ibid. 392.

²⁴ Ibid. 393.

²⁵ Ibid. 258.

practicing a similar technology to control the Chinese population. The Meiji officials used the term *koseki* for the security policy applied against the Chinese by the British colonial government in Hong Kong as well as their own methods of spying on the Japanese people. The registration system practiced by the Meiji police is another example of the convergence between the British colonial police and the Japanese police in the early Meiji period.

However, there were, as I have said, significant differences between the registration systems in Hong Kong and Japan. In Hong Kong, registered Chinese residents were issued certificates and were required to carry these certificates with them whenever they left their homes. Any Chinese person found without a registration certificate was arrested and punished. In contrast, the Meiji police did not adopt the certificate system. Although Kawaji, the Commissioner of the Metropolitan Police, repeatedly proposed the certificate system, the Meiji government did not follow suit.

The registration system introduced by the British colonial government in Hong Kong in the mid-nineteenth century was characterized as a reprise of traditional Chinese security practices. As we have already seen, the origin of the Hong Kong registration system traces back to Ordinance No. 16 of 1844, "For establishing a Registry of the Inhabitants of the Island of Hongkong and its Dependencies." Registration was a response to the crisis of British control in Hong Kong. For a lack of faith in the police, it was common for merchants to employ armed guards during the 1840s.²⁶ However, the Hong Kong police authorities suspected that some of the watchmen were in league with robbers, and ordered that all those who employed watchmen should be investigated by a

²⁶ Colin Criswell and Mike Watson, *The Royal Hong Kong Police (1841-1945)* (Hong Kong: Macmillan Publishers, 1982) 14.

British official who was a fluent Cantonese speaker. Those whom the British considered to be of good character were given a certificate.²⁷ According to Norton-Kyshe, “this, no doubt, was meant as the precursor of a system of registration to be gradually introduced.”²⁸ According to the Registration Ordinance of 1844, “every merchant and others duly specified should take out a registration ticket for which a fee of five dollars was payable,”²⁹ inciting protests from both the Chinese and Europeans. The registration scheme gradually became entrenched in Hong Kong society although it had gone through successive modifications and transformations by the time Ishida visited.

The British colonial government argued that their registration system was closely associated with traditional Chinese security practices. Norton-Kyshe explains that the registration system was based upon the Chinese principle of mutual security.³⁰ He also argues, “It had been urged in favour of the law that the Chinese had a similar system in vogue in their own country.”³¹ Colin Criswell and Mike Watson also equate the registration system with the principle of collective responsibility. Thus they characterize the registration system under Governor Sir Richard MacDonnell:

The town was divided into nine districts and in each district Chinese householders were obliged to register with the Register-General. Householders were made responsible for all occupants of their houses with regard to certain crimes.³²

²⁷ Ibid. 15.

²⁸ Norton-Kyshe, *The History of the Law and Courts of Hongkong* 42.

²⁹ Ibid. 67.

³⁰ Ibid. 127.

³¹ Ibid. 255.

³² Criswell and Watson, *The Royal Hong Kong Police (1841-1945)* 52.

In short, the British colonial government interpreted collective responsibility assumed by householders as a “Chinese principle” of crime control.

When Norton-Kyshe wrote that “the Chinese had a similar system,” he probably had the *baojia* system in his mind. As many Chinese historians argue, *baojia* systems were key mechanisms of successive Chinese dynasties not only for the assessment of state taxes, levies and corvee, but also for the ordering, policing and detailing of hierarchical systems of power relations. These institutions functioned as an autonomous basis for the ordering of a community as well as the lowest-level sub-administrative structure of the empire.³³ For example, Michael Dutton summarized the *baojia* system practiced by the Min dynasty as follows:

In this Ming *baojia* system, ten families formed a *pai*, ten *pai* made up a *jia* and ten *jia* made up a *bao*. All these units had leaders, called *paitou*, *jianzhang* and *baozheng* respectively. All families were required to hang out a door sign. On this was recorded the name, age and original home town of the family head, the relatives and employees of the head who were regarded as part of the household, and also the details of any household member who was handicapped or who “had contributed to the nation.”³⁴

The mutual control specific to this system was achieved through the *silin* system, the four-neighbor method of surveillance. In this system, households to the front, the rear, the right, and the left constituted one’s *silin*. The *silin* was charged with monitoring the behavior of the household at its center. They were responsible for this household’s behavior and, if they discovered immoral or illegal activity, it was their duty to try to encourage reform or, failing that, to report such behaviour to the head of their *jia*.³⁵

³³ Michael Robert Dutton, *Policing and Punishment in China : From Patriarchy to the People* (Oakleigh, Vic., Australia ; New York, N.Y.: Oxford University Press, 1992) 24.

³⁴ Ibid. 69.

³⁵ Ibid. 73.

Certainly, the *baojia* system has a commonality with the registration system introduced by the British colonial government. Both systems attempted to control the population based on written records generated by family heads. Still, there were also important differences. The registration system in Hong Kong did not incorporate a mutual surveillance system. With consideration to the explosive growth of the Chinese population at that time in Hong Kong, it was quite understandable that the British colonial government could not appropriate this aspect of the *baojia* system. The population of Hong Kong increased from 24,000 in 1847 to 125,000 in 1865,³⁶ under these circumstances, it would be unreasonable to expect the emergence of communities stable enough to perform mutual surveillance to the same extent as that practiced under the *baojia* system. Accordingly, crime control in Hong Kong heavily relied on policing through registration cards, which functioned as identification for the Chinese in Hong Kong.

This identification system was exactly the institution that Kawaji attempted to import to Japan. In various memorials, he insistently proposed that the identification card system, which he himself called *ryoken*, the “passport” system, should be adopted. For example, in a memorial titled “A Proposal for the Issuance of Passports” (1875), Kawaji advised the Meiji government accordingly:

Article 1. Every man and woman over eight years of age must be issued a passport by the office of his or her district whenever leaving the district of domicile...

Article 2. On the passport should be recorded the status, name, age, occupation and features of its holder in the fullest detail possible...

³⁶ Criswell and Watson, *The Royal Hong Kong Police (1841-1945)* 52.

Article 5. Because the passport is issued in order to disclose the holder's identity, anyone may ask a person to show his or her passport as needed. If he or she declines, the police should be called to conduct an examination...

Article 11. A person who goes out of his or her district without a passport, who exchanges or lends a passport, who uses a found passport, or who produces a false passport, shall be punished.

Article 12. A person who hires, accommodates, bargains, or trades with a person who does not have a passport shall be punished...³⁷

Kawaji was proposing something similar to the registration system practiced in Hong Kong at the time. According to Kawaji, in addition to the registration system recently introduced by the Meiji government, "the passport system will be the only way to make the police trustworthy."³⁸ He repeatedly advocated this system whenever the opportunity arose.

Kawaji's idea of the passport system resembled not only the registration system practiced by the British colonial government, but also a proposal of an early eighteenth century samurai scholar offered during the Tokugawa period. The samurai was Ogyu Sorai, the author of *Seidan*, which I mentioned briefly in Chapter One. In *Seidan*, Sorai proposed a security system somewhat similar to Kawaji's idea. Sorai called his system *roin* and his explanation of this institution is as follows:

³⁷ Yui and Obinata, eds., *Kanryosei, Keisatsu* 236-37.

³⁸ *Ibid.* 240.

Roin is a general term for passes (*kitte*) for travelers. Although the institution of census registers which I have described above would determine the place of residence of everyone in the land, and would prevent anyone from moving from one locality to another in any part of Japan, there is some danger that people might be able to take refuge in the more distant parts of the country if there is no control of movement on the roads... *Roin* is an institution of the Ming dynasty. Under that dynasty barriers were established at the boundaries of each province, and travelers were allowed to go through them if they could produce a pass. This institution should be adopted, and wicket-gates set up on the boundary between the city of Edo and the surrounding countryside.³⁹

Thus far, I have not come across any material that indicates where Kawaji found the idea of the internal passport system. The contemporary practices by the British colonial police in Hong Kong, textbooks on the legislation of Chinese dynasties, or the reform plans proposed by Tokugawa scholars (possibly a combination of these) are likely sources. However, two things are clear about his proposal. First, the proposal directly opposed the principles and practices of civil society by attempting to control the population by restricting their movements. As Fukuzawa Yukichi has suggested, civil society must allow for freedom of movement as much as possible in order to facilitate the smooth circulation of commodities and people. Second, the Meiji government did not adopt the passport system, despite Kawaji's insistent recommendations. Although the Meiji leaders appropriated a surveillance technology through registration records, they rejected the aspect of the system that could restrict citizens' movements.

The registration system was a new technology of power that emerged from contact between British colonial rule and the security practices of Chinese society. When the Meiji leaders attempted to introduce this system, they divided it into two categories: surveillance of individual conduct, and restriction of peoples' movements. The Meiji

³⁹ McEwan, *The Political Writings of Ogyu Sorai* 65.

police immediately adopted the former aspect and developed sophisticated technologies to accomplish it. However, the Meiji leaders discarded policies related to the latter category, although some of them remained strongly attached to such policies.

4. Policemen as a Dry Nurse for The People

The education and discipline of policemen is another example of the convergence of and conflicts between the colonial police system and the Meiji police. Researchers have pointed out that the discipline applied to individual policemen by the Meiji state was extremely strong. The example of this tendency was *Junsa Kyoshujo* (Patrolmen's Training Institute), a school established in Tokyo in 1880 to provide training in law and police procedures for both new recruits and those already in the force but suspended from work.⁴⁰ As Eleanor Westney pointed out, "this was three years before the first such facility was established in Paris, and Paris was the leader in the West."⁴¹ According to David Bayley, "formal training and systematic supervision by superior officers" are important indicators of the professionalization of the police system. Having examined police systems in various countries, he concluded, "During the hundred years from 1815 to 1915, professionalization was confirmed among major countries in approximately the following order: Japan, France and Germany, Great Britain, India, the United States, and Russia."⁴²

The second example indicating tight control over the police force was the barrack system. Since the establishment of the *rasotsu* system in 1871, policemen were obliged

⁴⁰ Yui and Obinata, eds., *Kanryosei, Keisatsu* 295-96.

⁴¹ Westney, "The Emulation of Western Organizations in Meiji Japan: The Case of the Paris Prefecture of Police and the Keishi-Choo."

⁴² Bayley, *Patterns of Policing: A Comparative International Analysis* 47, 49.

to live in barracks in Tokyo. Because “Berlin, Paris and Hamburg are without police barracks and the policemen live in their own homes,” Westney characterized the barrack system of the Metropolitan Police Office as a clear departure from its putative European models. According to her, its relatively greater social insulation was one of the most distinct characteristics of the Metropolitan Police Office. Westney used the term “total institution” in order to highlight this aspect of the Metropolitan Police Office.⁴³

Because researchers cannot find similar precedents in European countries, they have interpreted these practices as “unique” characteristics of the Japanese police. However, if we take the British colonial police into consideration as a model for the Meiji police, the uniqueness question immediately disappears. In October 1869 the British colonial government established a police language school in Hong Kong, mainly for newly recruited non-Western policemen. The Hong Kong police also instituted the barrack system at its establishment of 1841. Ishida Eikichi recorded this information in his field notes submitted to the Meiji government. For the Meiji leaders, the school for policemen and the military barrack system were familiar concepts.

According to Criswell and Watson, the barrack system of the Hong Kong police was modeled after the Irish Constabulary.⁴⁴ They explained the history of the Irish Constabulary as follows. The Irish Peace Preservation Act was passed in 1814 to control civil disorder in Ireland. In each ‘disturbed’ area a chief constable was appointed to ensure that the orders of the magistrates were carried out and that peace was maintained. He was empowered to raise a police force who were quartered in barracks and who

⁴³ According to her, “the prototypes of the total institution are the jail and the army: organizations which insulate their members from the surrounding environment and in which organizational roles are all-encompassing and organizational identity shapes most aspects of social life. Westney, “The Emulation of Western Organizations in Meiji Japan: The Case of the Paris Prefecture of Police and the Keishi-Choo.”

⁴⁴ Criswell and Watson, *The Royal Hong Kong Police (1841-1945)* 8.

adopted a patrol system based on military practice. In 1836 the various Irish police forces were consolidated into the Irish Constabulary under a single Inspector General. According to one authority, “the Irish Constabulary was a semi-militarized force, a gendamerie, and always had in the forefront of its mind the maintenance of law and order amongst a population, large elements of which were often actively or passively opposed to the whole system of law which the forces sought to uphold.”⁴⁵ The Hong Kong force incorporated two important characteristics of the Irish Constabulary. “First, the Constabulary was commanded by an Inspector General with full executive power and, second, the Inspector General was directly responsible to the Lord Lieutenant and was bound to obey his orders.”⁴⁶ Criswell and Watson concluded, “The model for the Hong Kong force was not so much Peel’s Metropolitan Police [in London] as the Irish Constabulary.”

According to Criswell and Watson, the militaristic character of the Irish police and the Hong Kong police indicates a greater alienation of the ruler from the ruled. They argued that the English police system had its origins in communal self-protection. English policemen were essentially civilians in uniform and their powers were closely related to the common law powers of every citizen. They were local government functionaries acting as agents of the law and not as agents of the government. Criswell and Watson also argued that this concept of policemen as public servants was not affected by Peel’s Metropolitan Police Act of 1829, which created England’s first professional police force.⁴⁷ However, in Hong Kong as well as in Ireland, the police

⁴⁵ Ibid. 9.

⁴⁶ Ibid.

⁴⁷ Ibid. 8.

were obliged to impose an alien system of law on an indigenous population who regarded them as agents of the colonial government. Consequently, colonial forces immediately adopted certain militaristic characteristics alien to the English police system. For example, they habitually carried arms and were quartered in barracks.

The Metropolitan Police Office shared an important strategy to control the police personnel with the Hong Kong police: the barrack system. Although Westney pointed out the similarities between the Metropolitan Police Office and the military, she did not explain why the police force assumed such a militaristic character in Japan. Criswell and Watson's discussion suggests an interesting hypothesis: the Metropolitan Police Office adopted the barrack system because its rule was no less alien to the residents of Tokyo than the Hong Kong police or the Irish Constabulary were to the natives.

The sociological background of policemen indicates the alienated character of the Metropolitan Police Office. First, the personnel of the Metropolitan Police Office consisted almost exclusively of ex-samurai members. As Table 1 indicates, 90.7% of the total personnel were ex-samurai at the end of 1874. Another statistic shows that the Metropolitan Police Office had the highest rate of samurai in upper rank personnel (93.5%) among other bureaucratic institutions in 1874.⁴⁸ Second, the Metropolitan Police Office was dominated by individuals from Satsuma. As Table 2 indicates, nearly 30 percent of its upper rank personnel were from Kagoshima prefecture referred to as Satsuma under the Tokugawa regime. Certainly, samurai from particular domains, notably Satsuma and Choshu, dominated national bureaucracies in the early Meiji period. For example, in the cases of the Army and or the Navy, 91.3% and 90.1% of upper rank

⁴⁸The rate of the samurai in the ranks above junior officials. Obinata, *Nihon Kindai Kokka No Seiritsu to Keisatsu* 98.

personnel were ex-samurai respectively.⁴⁹ However, in these institutions, the majority of soldiers were composed of commoners who were recruited from all over Japan through national conscription. In contrast, samurai from Satsuma dominated not only the upper rank but also the lower rank of personnel in the Metropolitan Police Office. In this regard, the Metropolitan Police Office assumed the most “insular” character among the Meiji bureaucracies. Comparison with the Hong Kong police makes this claim even stronger because only 15 percent of its force were European officers at that time. A statistic indicates that there were 89 European, 377 Indian and 132 Chinese members of the force in 1867.⁵⁰ The “insular” character of the Metropolitan Police Office led this institution to adopt a “militaristic” structure that was similar to that of the British colonial police.

However, in the case of police education, there were clear differences between the British colonial police system and the Meiji police. While the education of the Hong Kong police was exclusively oriented to the development of language skills, Meiji police education emphasized ethical and moral improvement. According to Criswell and Watson, Walter Deane, the Captain Superintendent of Police, set up a police language school in October 1869 to remedy the situation that “the Indian and Chinese officers could not speak English and the British officers could not speak Cantonese.”⁵¹ However, attendance was voluntary and the response was not good as Deane had hoped. Edward Willcock, the first principal, described the Indians as eager students who were “greedy for instruction,” but the same could not be said of many Chinese students, who wished

⁴⁹ The rate of the samurai in the ranks above junior officials. Ibid.

⁵⁰ Criswell and Watson, *The Royal Hong Kong Police (1841-1945)* 49.

⁵¹ Ibid. 53.

only to learn “pidgin” English without reading and writing. When the more advanced Indian and Chinese students were put into the same class as the European officers, the latter objected to their presence, claiming that having to sit together would lower the Europeans’ status in the eyes of the Indian and Chinese officers. As Table 3 shows, the attitudes of the various nationalities are reflected in the attendance figures at the school’s opening and at the end of the year. In the colony, racial distinctions existed between the police and the policed as well as within the police. In this context, police education was introduced to mediate ethnic differences within the force. However, education was not expected to erase those differences, because racial superiority was the basic presumption of colonial rule. These observations suggest that although the colonial rule necessitated a minimum training for the police force, “the rule of difference” (Chatterjee) hindered the full development of police training.

In contrast, the education of the Meiji elite was focused on ideological elements. Various draconian rules were introduced to regulate each policeman’s physical behavior. For example, the Metropolitan Police Office mandated a uniform for policemen in February 1874, about one month after its establishment. Since then, every policeman in Tokyo, from the fourth-grade patrolman to the Commissioner of the Metropolitan Police, was obliged to wear the uniform appropriate to his rank. Interestingly, policemen were required to wear “Western clothes” not only on duty but also off duty whenever they left their barracks.⁵² While “a white face” authorized the domination of Hong Kong, “Western clothes” legitimized the rule of Meiji Japan. Additionally, policemen were forbidden to consume alcohol on or off duty except on the five major festival days of the

⁵² Yui and Obinata, eds., *Kanryosei, Keisatsu* 255, 96.

year.⁵³ Policemen were also prohibited to borrow money without permission of their supervisors.⁵⁴ They were even required to submit a resume of their fiancée to their superior officer for permission to marry.⁵⁵ For the new Meiji police, disciplining policemen was as important as policing people.

Also, the Meiji leaders attempted to regulate police officers' internal attitudes by cultivating particular work ethics. First, they were required to live up to extremely high expectations. For example, *Keisatsu Shugan*, the widely read textbook for policemen prepared by Kawaji Toshiyoshi in 1876, contained the following instructions: "Policemen should not sleep nor sit comfortably. Rather, they should tiptoe without rest day and night."⁵⁶ Hard work was a crucial element legitimizing their control over the population. *Keisatsu Shugan* explained this logic as follows.

Because policemen ought to be strong guardians for the people, they must command a great deal of respect. Their authority depends on how much they impress people. People are impressed only when the police perform dangerous and difficult tasks. Thus, [policemen's tasks are] to endure the unendurable and bear the unbearable, and accomplish the things that ordinary people cannot accomplish.⁵⁷

Keisatsu Shugan also attempted to differentiate policemen not only from ordinary citizens but also from other officials. "Patrolmen have to work six hours more every three days than the other officials," and "the intensity of their duties exceeds the duties of other officials."⁵⁸ In one section, *Keisatsu Shugan* attempted to explain the particular

⁵³ Keishichoshi Hensan Iinkai, *Keishichoshi: Meiji Hen* 29, Westney, "The Emulation of Western Organizations in Meiji Japan: The Case of the Paris Prefecture of Police and the Keishi-Choo."

⁵⁴ Keishichoshi Hensan Iinkai, *Keishichoshi: Meiji Hen* 87.

⁵⁵ Yui and Obinata, eds., *Kanryosei, Keisatsu* 255, 94.

⁵⁶ Ibid. 246.

⁵⁷ Ibid. 248.

⁵⁸ Ibid.

responsibilities of policemen by appealing to the utilitarian principle. It said, “An official is a commodity bought by the sweat of the public’s hard labor. He must possess a utility equal to his cost.”⁵⁹ However, utilitarianism was not the dominant logic differentiating policemen from other officials. Paternalism played a much more important role to construct the particular subjectivity of the policeman. “Dry nurse” was the most commonly used metaphor to represent the mission of the Meiji police. *Keisatsu Shugan* explains the nature of policing as follows.

A nation is a family. The government is the parents. Its people are children. The police are their dry nurse. Those who have not yet been civilized completely like ours must be regarded as mere infants. It is nothing other than the dry nurse’s obligation to nourish the infants. This is the reason why the police is the most urgent problem for our country today.⁶⁰

The concept of “dry nurse for the people” is clearly continuous with *jin* or benevolence, the most important governmental ethic of the Tokugawa regime. *Jin* was originally a Chinese term that evolved from the Confucian tradition, signifying the most important human virtue as well as the ultimate political principle of Neo-Confucianism. As a political principle, *jin* encourages samurai to consider commoners and peasants as Heaven’s gifts and to nourish them as carefully as possible. Without a doubt, the paternalism of the Meiji police was, in one sense, an extension of this feudal morality.

However, we cannot simply regard the metaphor of “dry nurse” as a feudal remnant, because contemporary Western imperial powers also appealed to similar paternalistic ideas in order to legitimize their domination over colonized people. The difference between Meiji paternalism and Tokugawa ethics such as benevolence should

⁵⁹ Ibid. 249.

⁶⁰ Ibid. 245.

be also noted. Benevolence required a clear distinction between the ruler and the ruled, arising from the hereditary status of samurai as the ruling class. However, the Meiji police could not rely on hereditary status, and so Kawaji was obliged to appeal to “civilization” in order to legitimize the domination of the police. This is the same logic that legitimized the Western imperial powers’ domination over their colonies. The Meiji police simply pursued the civilizing mission much more radically than the British colonial police, who employed racial discrimination between the ruler and the ruled. Kawaji believed that the sole source of the police’s legitimacy was that they were completely “civilized,” and that their continuing legitimacy required constant effort to improve themselves above the ordinary people.

In the colony, the relationship between the ruler and the ruled was self-evident because race functioned as a clear marker to differentiate the ruler and the ruled. In this regard, the Britishness of the colonizer was the ultimate source of police power in the colony. However, it was impossible for the Meiji police to legitimize its own power by appealing to racial discrimination. While the colonial police could legitimize its domination by appealing to “race” as well as “civilization,” the Meiji elite was only allowed to use the latter. In order to maintain the distinction between the ruler and the ruled, the Meiji police were obliged to discipline themselves much more strictly than any other Japanese. Although many historians have explained the education and discipline applied to the Meiji police as manifestations of Japanese culture or feudal morality, I claim that it was an effect of the “civilizing mission,” which the Meiji elite carried out much more faithfully than the British colonial government, its putative founder.

PART TWO THE ILINERARY OF BENEVOLENCE

Chapter 4: The Birth of Prison in the Colonial Context

1. Voyage to the Colony: A Samurai Bureaucrat and an Irish Colonizer

On July 25, 1871, Ohara Shigechika and two other officials left Yokohama on the P. and O. Mail Steamer to Hong Kong. Ohara was the head of the Office for Gaols (*shugokushi*), a newly created institution for the improvement of prison administration under the Meiji government. Their mission was to “visit Hong Kong and Singapore for the purpose of inquiring into the prison system and criminal jurisprudence in force at those places.”¹ An article that appeared in the Yokohama-based British newspaper, the *Japan Weekly Mail*, in late 1870 also explained:

We understand that the Japanese government intend sending an officer to Hongkong to inspect the jail. The Hongkong jail is very extensive, being capable of containing eight or nine hundred prisoners, and it seldom has less than four hundred is much eulogized by those who have studied the matter.²

Ohara himself explained why he visited the British colonies of Hong Kong and Singapore, not Europe or the United States as follows:

¹ Francis Ottiwell Adams, "Japanese Misson to Hongkong & Singapore: Appreciation of Mr Hall's Service," (London: Public Record Office, 1871).

² unknown, *Japan Weekly Mail*, September 1870, 421. Quoted from Botsman, "Crime, Punishment and the Making of Modern Japan, 1790-1895" 272.

If we build our nation's prison system on the basis of a system in which people, like ourselves, from countries in which life is sustained through the consumption of rice, are held together with people from meat eating countries, then, it will be most appropriate for our purposes. It will, in the future, enable us to reach a point where we can confine foreigners [in our prisons], and thus greatly help our national policy.³

In any case, this was the first overseas mission of the Meiji government intended to investigate aspects of "Western" criminal justice. The inquiry into the modern prison system, along with research on the modern police system, was commenced in British colonial Asia, not in Europe or the United States.

After his return to Japan, Ohara prepared *Kangokusoku, Prison Rules*, enacted in 1872 as the first prison legislation of the Meiji government. Ohara's *Prison Rules* is a strange amalgamation of modern disciplinary technologies and traditional ideas such as "benevolent rule." Regarding prison architecture, Ohara's text was surprisingly "modern." Modern ideas like the "panopticon" and the solitary cell are prominent in this text. He wrote:

A round room should be constructed as a watch house for prison guards at the center of the prison complex. From this room, everything may be observed within a single gaze (*ichimoku doshi*).... The prison building should be two or three stories high. Each story.... should consist of ten cells. In principle, only one person should reside in each cell.⁴

Ohara even included a detailed drawing of this panopticon (Figure 1 in Appendix B).

However, in terms of its ideas legitimating the prison regime, *Prison Rules* is an extension of the late-Tokugawa prison reform discourse. In the preface, Ohara explained

³ Shigechika Ohara, "Moto Gonroin Gikan Ohara Shigechika Kun Kowa," *Danohon kangoku kyokai zasshi*, no. 47 (1891). Quoted from Botsman's translation. Botsman, "Crime, Punishment and the Making of Modern Japan, 1790-1895" 271.

⁴ Naikaku Kanpo Kyoku, *Horei Zensho* 363.

the purpose of a prison in the following way:

What is prison? It is a means to hold criminals in custody in order to discipline them. The purpose of a prison is to show love and benevolence to people, not to do violence to them. Its purpose is to discipline people, not to cause them pain. Punishments are applied because there is no other choice. Their purpose is to expel evil in the interest of the nation.⁵

Ohara, a former samurai from Okayama domain, was actively involved in the radical loyalist movement in the years leading up to the Restoration.⁶ As we will see later, Ohara shared not only the concept of “benevolent rule” but also the personal experience of imprisonment with late Tokugawa prison reformers such as Yoshida Shoin (1830-1859) and Hashimoto Sanai (1828-1864). In 1864, he was arrested on suspicion that he assassinated a *bakufu* spy and displayed his severed head in the vicinity of Okayama castle. Having been imprisoned in the domainal gaol for over two years, he was then released, but soon arrested again for his involvement with loyalists in Kyoto. He was released following the collapse of the *bakufu*. During his imprisonment, he experienced firsthand the horrible conditions of Tokugawa gaols; he became strongly motivated to improve the prison conditions under the Meiji government. After the Restoration, he was appointed as a domainal representative and assigned to the office of criminal law. Having investigated various gaols, Ohara submitted a report to the Minister of Justice in order to raise the administrative consciousness of prisoners’ pains resulting from the “poor ventilation, darkness, and congestion” of the gaols in Tokyo and Kyoto. Then he proposed that a separate Office for Gaols (*shugokushi*) be created within the

⁵ Ibid. Quoted from Botsman’s translation. Botsman, "Crime, Punishment and the Making of Modern Japan, 1790-1895" 282.

⁶ Ogawa, "Obara Shigechika." Ohara himself briefly mentioned his experience of imprisonment in: Shigechika Ohara, "Tokubetsu Kaiin Genroin Gikan Obara Shigechika Kun No Enzetsu," *Danihon kangoku kyokai zasshi*, no. 27 (1890).

Ministry.⁷ This proposal was approved and he was appointed the first head of the *shugoku* office. He immediately implemented several policies to improve the hygiene of the gaols so that “the number of prisoners who die in prison was reduced to a tenth.”⁸ In late 1870, Ohara made a formal request to travel abroad to research on the Western prison system. After his return to Japan, Ohara prepared *Kangkusoku, Prison Rules*, enacted in 1872. Japan’s first prison legislation was drafted by a former samurai revolutionary who survived a horrible imprisonment at the end of the Tokugawa period.

Unfortunately, Ohara’s report on his prison research mission in Hong Kong and Singapore has not yet been discovered. However, a British consular official who served as Ohara’s interpreter, John C. Hall (1844-1921), sent a fairly detailed report to Francis Ottiwell Adams (1825-1889), the British vice-minister in Japan. Hall was an Irishman from Londonderry, who was “brought up as a Presbyterian and a moderate Irish nationalist.”⁹ He entered the Consular Service in Japan in 1868 and served as acting vice-consul at Edo from 1869 to 1870. After serving on Ohara’s mission, Hall maintained professional contact with the Japanese legal system. He served as Assistant Japanese Secretary to the Legation at Tokyo in 1882 and was promoted to Japanese Secretary in 1884-1886. Then, he served as Assistant Judge in the Shanghai-based Supreme Court for China and Japan in 1888 and 1889. From 1902 until his retirement in 1914, Hall was His Majesty’s Consul-General for Yokohama. He was also one of the founders of the China Society in London and the President of the Asiatic Society of Japan in Tokyo in 1913. Hall died in London on October 21, 1921.

⁷ Ohara, “Moto Gonroin Gikan Ohara Shigechika Kun Kowa.”

⁸ Tsuji, *Nihon Kinsei Gyokeishi Ko* 414-16.

⁹ As for Hall’s biographical information, see Gary Kenneth Peatling, *Hall, John Carey* (cited); available from http://members.lycos.fr/clotilde/disciple/britain/h_gb.htm.

Not only his career history but also several of his writings indicate Hall's strong interest in the Japanese legal system. After his mission in Hong Kong and Singapore, Hall compiled an account of British criminal procedure and a Japanese translation was published in 1872.¹⁰ Later, he also published his translation of Tokugawa legislation and other pre-modern Japanese legal codes in the *Transactions of the Asiatic Society of Japan*.¹¹ Judging from his strong legal background, Hall must have exercised a strong influence on framing Ohara's perceptions about the British (colonial) prison system, beyond his capacity as an interpreter. In this regard, Japan's first prison legislation was a product of collaboration between a former samurai revolutionary who survived the Tokugawa imprisonment and an Irish nationalist who functioned as a vanguard of British colonialism in East Asia.

Hall began his report by revealing that Ohara's mission was made possible by the assistance of the British Consul: "In fulfillment of a promise previously made to the Government by Sir H. Parkes, I accompanied them in the capacity of Interpreter." They left Yokohama on July 25 and arrived in Hong Kong on the evening of August 1. Hall's report reveals that Ohara's mission was made possible through the network of the British colonial officials extending in East and Southeast Asia.

¹⁰ John C. Hall, *Eikoku Saibansho Ryakusetsu* (Tokyo: Keibundo, 1872).

¹¹ John C. Hall, "Japanese Feudal Law III--the Tokugawa Legislation Part I," *Transactions of the Asiatic Society of Japan* 38 (1910), John C. Hall, "Japanese Feudal Laws III. The Tokugawa Legislation Part IV. The Edict of 100 Sections," *Transactions of the Asiatic Society of Japan* XLI (1913), John C. Hall, "Japanese Feudal Laws: II--the Ashikage Code," *Transactions of the Asiatic Society of Japan* 36 (1908), John C. Hall, "Japanese Feudal Laws: I--the Institutes of Judicature: Being a Translation of "Go Seibai Shikimoku"; the Magisterial Code of the Hojo Power-Holders (A.D. 1232)." *Transactions of the Asiatic Society of Japan*. 34 (1883).

On the following day we called upon the Acting Governor and delivered the letters of introduction with which you had furnished us. We also called upon the Colonial Secretary and upon Mr Russell, the Police Magistrate, who kindly accompanied us on our first visit to the gaol, and introduced us to Mr. Douglas, the Superintendent. We were in daily communication with Chief Justice Smale, and during our stay experienced at his hands a hospitable attention which was as gratifying to the Commissioners as the valuable suggestions we received from him were conducive to the completeness of our inquiry.¹²

They visited Canton from August 13 to 17, where they called at the British Consulate, and “by the aid of a pass from the interpreter we obtained on the following day a view of the Chinese prison.” They also received similar assistance in Singapore. On August 18, they embarked for Singapore, which they reached on August 26.

In the afternoon we called at Government House and presented our letters of introduction to Colonel Anson, who received us courteously, and promised to afford us every facility for the prosecution of our mission. Mr. Birch the Colonial Secretary, and McNair the Colonial Engineer were both absent at Penang, but we had the pleasure of meeting them some days afterwards, when the former kindly placed the government steam launch at our disposal for a trip round the island, and the latter gave us some useful information regarding the employment of convicts on public works. Mr William Boyd, the Acting Superintendent of Convicts, kindly rendered us similar assistance to that which we had received at Hong Kong from Mr Douglas, repeatedly conducting us through every department of the prison, and explaining to us the details of its management.¹³

In his report, Hall emphasized the supremacy of the Hong Kong prison and its profound impact on the commissioner’s perception as follows:

¹² John C. Hall, "Mr. Hall's Report," (London: Public Record Office, 1871).

¹³ Ibid.

The impression produced upon the Commissioners by this inspection of this prison was profound. The separate cells, the careful sanitary arrangements as to ventilation, sewerage et cetera, the classification of the prisoners, their orderly prosecution of their various tasks, the perfect discipline, the machine-like regularity with which every movement was carried out, and the scrupulous cleanliness that reigned everywhere struck them with a sense of admiration which they did not attempt to conceal. The difference they said, between this and the best of Japanese prisons was as that between a *Daimio*'s palace and a peasant's hovel.¹⁴

As for the Chinese prison in Canton, he said, "The filth and squalor of this place and of its inmates and the utter absence of anything like system or discipline were in striking contrast with the characteristics of that other prison with the workings of which we had just made ourselves familiar." He compared the prison systems of Hong Kong and Singapore as follows:

The difference between the prison system of Hong Kong and Singapore is very great. In the former...a single establishment suffices for all the purposes for which incarceration is required, being at once a back-up, a house of correction, a convict prison, and a debtors' prison, each department being kept distinct in its arrangements and working, the separate system is efficiently carried out; the wardens are lawful men; and the prisoners are treated with a rigour, which though far from excessive, must be quite irksome enough to make them wish for release. In Singapore, on the contrary, there are three, or rather four separate places of confinement, namely, the police lock-up, the sheriff's gaol for debtors and prisoners awaiting trial and execution of sentence, the local house of correction and the transmarine convicts' prison, the two latter being within the same enclosure, but in working kept apart as far as is practicable; the separate system is not even attempted; the wardens are promoted convicts; and the transmarine convicts are treated with an indulgence which, if extended to the local criminals, would amount to a premium upon crime. Recommitments for larceny at Singapore are very numerous, and have been increasing so fast that of late the punishment of flogging has been resorted to for this offence.¹⁵

¹⁴ Ibid.

¹⁵ Ibid.

“In nearly all essential features,” he concluded, “[the Singapore prison] was justly deemed by the Commissioners to be inferior to the Hong Kong prison as a model for Japan.”¹⁶

On their way back to Japan, they visited the prison in Hong Kong again and obtained from Mr. Douglas “a few specimens of chains, handcuffs et cetera, and also one of another utensil used by the convicts which had excited the lively admiration of the Commissioners as being to them an ingenious novelty, namely, a wheel-barrow.”¹⁷ During this brief visit, they also received from the Colonial Surveyor General “a complete set of architectural plans and drawings of the prison.” Ohara produced meticulous sketches of the prison architecture and various utensils used in the prison, and attached those as an appendix to the *Kangokusoku*.

“After an unusually long and disagreeable passage,” the members of the Ohara mission arrived in Yokohama on October 1. Hall concluded the report with an expression of admiration for the Japanese officials’ insatiable thirst for knowledge. “It would be simply impossible for me to speak in too high terms of the powers of observation, industry, and intelligence displayed throughout by the Commissioners in the fulfillment of their task; and I feel assured that if the Government turns to proper account the information and experience acquired by them during this short trip, they are competent to effect a vast and much needed change in the prison system of Japan.”¹⁸

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

2. Colonial Dreams: The Utopia of Ohara's *Kangokusoku*

However, if we compare Hall's report to with other documents by contemporary observers on the condition of the Hong Kong gaol, it is clear that Hall exaggerated the positive aspects of the Hong Kong prison system. Certainly, some documents seem to support Hall's observations. For example, one document described the structure of the Hong Kong gaol: "Each prisoner has usually, if not always, had a separate cell, which is clean, well lighted and ventilated; and each person is provided daily with a pound of beef and a loaf of bread."¹⁹ Another document tells us that the Hong Kong prison administration was reformed substantially in 1857, when a "Governor of the Gaol of Victoria" was appointed "to inquire into the "condition of the Gaol" and reform the "frequent delinquencies connected with prison discipline":

Referring to the Gaol it may here be said that great improvements had of late taken place since the appointment of Mr. Inglis as Governor of the Gaol—a marked contrast as compared with the past. Every prisoner had now his allotted task and no one was allowed to remain idle; until very recently the prisoners were in a measure left to the freedom of their own wills, and contractors had to be engaged for every trifling bit of work that had to be done or repairs to be made within the prison walls. With Mr. Inglis' advent not only were the rules of the Gaol rigidly enforced, and the prison become a model of order and cleanliness, but also (besides the convicts employed in our door labour) gangs of prisoners were organized consisting of bricklayers, blacksmiths, carpenters, and others, and every description of work done by the convicts themselves, under the personal supervision of the Governor of the Gaol.²⁰

Finally, we are informed that in 1863, the gaol expenses were increased to the extent of \$10,000 by the purchase of the ship *Royal Saxon*, and that the shifting of a

¹⁹ Norton-Kyshe, *The History of the Law and Courts of Hongkong* 30.

²⁰ *Ibid.* 453.

portion of the prisoners to this ship had increased the comfort of those remaining in the gaol, and that increased comfort led to a marked improvement in discipline.²¹ This brief history of the Hong Kong prison suggest that Hall's admiration of the Hong Kong prison was supported by empirical facts to a certain degree.

However, Hall's observation completely omitted a crucial fact: the "perfect discipline and machine-like regularity" of the Hong Kong prison was maintained through the incessant application of corporal punishment to Chinese convicts. Around that time, Hong Kong was reported to be a place in which "there was more flogging...than probably in any country in the world according to the population."²² Flogging was a punishment stipulated in the legal code of Ch'ing dynasty and used most frequently by British colonizers in Hong Kong against the Chinese population. Traditionally speaking, the punishments inflicted on the Chinese are flogging, hard labour, and confinement. However, in Hong Kong, all, or nearly all, were flogged, the number of blows varying from 20 to 100.²³

Flogging and other forms of corporal punishment were also used for the maintenance of the prison discipline. In 1874, Sir Edmund Hornby, the late Chief Judge of the Supreme Court for China and Japan, published an article in *The Spectator*

²¹ Ibid., vol. 2 53. Up until around that time, we have no lack of documents reporting that "the Prison had been the cause of endless trouble to all concerned." In 1855, Mr. Hiller, the Chief Magistrate, mentioned the "unnatural crimes" prevalent in the gaol, the robbery committed by fellow-prisoners, and the "unrestrained association" of the young in crime "with scores of hardened criminals" in his prison report. Mr. Lyall, a visiting Justice, wrote in 1857: "The prison is so overcrowded, that it is impossible to conduct its routine as it should be."²¹ In January 1858, Messrs. Anstey and Rickett, upon a visit to the gaol in their capacity of visiting Justices, said: "We repeat our former observations upon the imperfect means of classification which the faulty construction of these buildings affords. If there should be any funds available for the construction of new public works, we earnestly draw the attention of Government to the above points." Norton-Kyshe, *The History of the Law and Courts of Hongkong* 644.

²² Norton-Kyshe, *The History of the Law and Courts of Hongkong* 92.

²³ Ibid. 30.

insisting: “The offences against prison disciplines of which the perpetrators of these crimes are guilty during their confinement are such as, in my humble judgement, can only be punished or checked by severe corporal punishment; and although it ought not to be administered except with due precaution against excessive severity and danger to life, I am certain that it will be impossible to maintain the necessary amount of discipline without it.”²⁴ However, this policy caused a significant amount of human suffering. In 1858, a Chinese convict, Lye Mooey Chie, “died of dysentery” in the prison. According to an investigation record, “the deceased had several times complained of illness and inability to work. This was disbelieved, and he was flogged in consequence, besides being put on short rations and placed in solitary confinement.” Against this incident, the jury “desire[d] to express their indignation at the cruel abuse the deceased met with in being twice flogged, put on half rations, and placed in solitary confinement while sick and under medical treatment.”²⁵ In 1866, an autopsy was conducted on the body of a prisoner who had died in the gaol from the effects of flogging. He had been sentenced to three different floggings, and after the last he was taken to a hospital, where he died. The verdict reached by the jury that the wounds caused by flogging were “legally inflicted” and that no blame could be attached to any one.²⁶ In 1868, three wardens, “Giles, Farr, and Culliford,” were charged with manslaughter through “excessive flogging” of an Indian prisoner. A unanimous verdict of not guilty was returned.²⁷

It is impossible to believe that Ohara stayed in Hong Kong without noticing the violence applied by the British colonizer to the Chinese population under the name of

²⁴ Ibid., vol. 2 266.

²⁵ Ibid., vol. 1 644.

²⁶ Ibid., vol. 2 93.

²⁷ Ibid. 156.

justice and discipline, because flogging was a public spectacle in Hong Kong around that time. On June 14, 1871, about one and a half months before Ohara's arrival in Hong Kong, we are told: "Wednesday being flogging day, large numbers of persons congregated in the square opposite the Harbour Master's office (which had become the place for carrying out sentences of public whipping)...to witness the lash applied to several prisoners...Judging by the crowds of people of all nationalities who attended these scenes, it would appear as if they were looked upon as being by no means gruesome."²⁸ Although the inhumane nature of this punishment occasionally attracted attention from humanitarian reformers, the administrators of the Hong Kong government strongly supported flogging for its effectiveness. In their opinion, flogging was "peculiarly distasteful to the Chinese, who are, as a rule, great cowards, and who, although traditionally careless of their lives, have a great terror of corporal punishment."²⁹ They argued that: "as regards the Chinese prisoners, their confinement was made rather too comfortable, and that the prison was likely to become a place of rather too favorite resort; in other words, the prisoners were so well treated that their confinement almost ceased to be a punishment,"³⁰ and emphasized that "it seems to have been the universal opinion that crimes of violence...have decreased in number" because of the heavy application of this punishment.³¹ According to Norton-Kyshe, "the necessity doubtless demand[s flogging]."³²

²⁸ Ibid. 187.

²⁹ Ibid. 90.

³⁰ Ibid. 266.

³¹ Ibid. 265.

³² Ibid., vol. 1 103.

After his return to Japan in October 1871, Ohara threw himself into compiling prison regulations, which were adopted in November 1872. Toward the end of 1871, a proposal was submitted that called for the abolition of flogging. According to Daniel Botsman, "Although it is not certain that Ohara was responsible for drafting this proposal, it clearly bears the mark of someone familiar with Western penal practices."³³ What Botsman alludes to here is that Ohara (or someone closely associated with him) drafted this proposal, and I think this inference is quite reasonable. If so, Ohara proposed the abolition of flogging immediately after his return from Hong Kong, revealing what were the most unforgettable experiences for Ohara during his research in Hong Kong.

For Ohara, the impact of incessant applications of corporal punishment must have been as profound as his impression of the "perfect discipline and machine-like regularity" of the Hong Kong prison. This consideration leads us to a new interpretation of Ohara's strong emphasis of "benevolent rule" in the *Kangokusoku*. Thus far, researchers have interpreted this as a manifestation of "feudal" morality or, more favorably, a critique against the traditional Tokugawa gaol system. I suggest that in Ohara's text "benevolent rule" should also be interpreted as a subtle but strong criticism against contemporary British colonial rule.

As we have already seen, Ohara incorporated "modern technologies" such as the panopticon and the solitary cell in his *Prison Rules*. However, Ohara situated these modern facilities in the following utopian environment:

³³ Botsman, "Crime, Punishment and the Making of Modern Japan, 1790-1895" 275.

A prison should be located at a spacious, high and dry area, which is distant from the downtown. The site must be quite large... The site of the prison should be divided into sections by the streets and avenues, paved by sand and stone. Along the streets and avenues, herbs, flowers, or fruit trees should be planted to produce a refreshing atmosphere and relax the minds of the prisoners... The prison should be built of stone regardless of its location and size... Both the inside and the outside of the prison should be kept clean. The site should be designed carefully and equipped with sewers to carry the sewage away from the site. Even outside the walls of the prison, there must not be any pools of filthy water... The prison building should be two or three stories high... In the prison, there must be a library, with numerous great books available to prisoners.³⁴

As far as I know, this is the only piece of prison legislation mandating a flower garden, in Japan or anywhere else in the world. Although the concept and a minute drawing of a panopticon was presented in the text, it is difficult to find other traces of Foucaultian power in Ohara's *Prison Rules*. This is because his text was written from the point of view of a prisoner, not of an administrator. For Ohara, prison structure in his text was nothing other than a manifestation of a prisoner's utopia. In Ohara's understanding, the panopticon and the solitary cell were not intended to produce discipline or regularity, but designed for the care of individual prisoners. Ohara, as well as Bentham, emphasized the importance of sunlight in the prison. In Bentham's prison, sunlight is an important means by which prisoners' silhouettes are made visible to the eyes of the prison guard. However, in Ohara's utopian prison, sunlight would be enjoyed by the prisoners themselves.

Ohara's utopian prison architecture was too costly for the young Meiji state. In April 1873, the government issued an order postponing the implementation of *Prison Rules* for financial reasons.³⁵

³⁴Naikaku Kanpo Kyoku, *Horei Zensho* 363.

³⁵ Kazuyoshi Shigematsu, *Zusetsu Nihon No Kangokushi* (Tokyo: Yuzankaku, 1985) 11.

3. Chinese Penal Codes in the Era of Enlightenment

While Ohara was drafting *Prison Rules*, the Japanese criminal code sanctioned flogging as a form of punishment. On February 16, 1871, the Meiji government issued the *Shinritsu Koryo*, “The Essence of the New Code,” the first penal code of the Meiji reign. Although *Shinritsu Koryo* had its precedent, *Karikeiritsu* (The Provisional Criminal Code, 1868), the latter was, as its name suggests, only intended to serve as a temporary code to provide guidance in judicial matters. The *Shinritsu Koryo* had strong similarities with traditional Chinese codes such as the Ming Code and the Ch’ing Code. In 1873, *Kaitei Ritsurei* [The Statutes and Substatutes as Amended], another Chinese-style penal code, amended and complemented the provisions of *Shinritsu Koryo*. These Chinese-style penal codes regulated the Japanese people until 1882, when the *Keiho*, the first Western-style criminal code, finally replaced them.

The *Shinritsu Koryo* poses an intriguing question to Japanese historians. Why did the Meiji leaders initially emulate Chinese statutes, not Western ones? How did this code affect Japanese legal history? Researchers have failed to answer these questions because they regard the *Shinritsu Koryo* as a Chinese-style penal code of a different nature from Western or modern systems. According to them, the *Shinritsu Koryo* exemplifies the backwardness of the Meiji government. For example, Paul Heng-Chao Ch’en describes the preparation of the *Shinritsu Koryo* as follows: “Since Western legal principles had not yet been introduced to Japan at this very early stage and since, in fact, very few Japanese scholars were in a position to understand Western legal systems in the beginning of the Meiji era, the government had naturally to resort to traditional Japanese codes and their

original Chinese models for reference to general legal principles.”³⁶ When researchers emphasize the backwardness of the *Shinritsu Koryo*, it is more difficult for them to clarify its connection with the subsequent “modernization” or “Westernization” of Japan’s penal system.

However, if we recall that the British colonial government in Hong Kong also used the Ch’ing Code in order to govern the Chinese population, the modern or Western aspect of the *Shinritsu Koryo* becomes much clearer. As we have already seen, the Meiji police were deeply influenced by the institutions and practices of the Hong Kong police system. It is natural and understandable that the Meiji leaders also would adopt a legal code similar to the one by which the Hong Kong police controlled the Chinese population. If we characterize the establishment of the Meiji police as a manifestation of Japanese modernization or Westernization, we should also problematize the *Shinritsu Koryo* from the same perspective. The *Shinritsu Koryo* is another example indicating how deeply the Meiji state was influenced by the British colonial practices.

Researchers have characterized the *Shinritsu Koryo* as “backward” in the following two senses. First, the *Shinritsu Koryo* was organized similarly to traditional Chinese legal codes. The *Shinritsu Koryo* was composed of 192 articles that were not numbered but were divided into several sections: ‘Terms and General Principles, Part One,’ ‘Terms and General Principles, Part Two,’ ‘Offices and Regulations,’ ‘Families and Marriages,’ ‘Thefts and Violence,’ ‘Homicide, Part One,’ ‘Homicide, Part Two,’ ‘Conflict and Battery,’ ‘Abusive Language,’ ‘Accusations and Suits,’ ‘Bribery and Squeeze,’ ‘Deception and Fraud,’ ‘Sexual Offences,’ ‘Miscellaneous Offences,’ ‘Arrests

³⁶ Ch’en, *The Formation of the Early Meiji Legal Order: The Japanese Code of 1871 and Its Chinese Foundation* 16.

and Escapes,’ and ‘Trial and Offences.’³⁷ In comparison, the 1397 version of the *Ming Code* was also divided into seven parts, namely, ‘Terms and General Principles,’ ‘Laws of the Board of Civil Office,’ ‘Laws of the Board of Revenue and Population,’ ‘Laws of the Board of Rites,’ ‘Laws of the Board of War,’ ‘Laws of the Board of Punishments’ and ‘Laws of the Board of Public Works.’ The sixth part was further divided into eleven sections: ‘Thefts and Violence,’ ‘Homicide,’ ‘Conflict and Battery,’ ‘Abusive Language,’ ‘Accusations and Suits,’ ‘Bribery and Squeeze,’ ‘Deception and Fraud,’ ‘Sexual Offences,’ ‘Miscellaneous Offences.’³⁸ Not only the formal structure but also the terminology of the *Shinritsu Koryo* was borrowed from the Chinese code.

Second, the *Shinritsu Koryo* retained banishment and flogging as forms of punishment. Chinese penal codes such as the Ming Code and the Ch’ing Code provided for five standard punishments: (1) death by strangulation or decapitation; (2) life exile, including three degrees of distance, 2,000, 2,500 and 3,000 *li*; (3) penal servitude, including five degrees from 1 to 3 years; (4) beating with a heavy stick, including five degrees from 60 to 100 blows; and finally (5) beating with a light stick. The *Shinritsu Koryo* adopted the traditional “five punishments” with some modifications.

1. five degrees of beating with a small stick: 10 blows, 20 blows, 30 blows, 40 blows, and 50 blows...

2. five degrees of beating with a heavy stick: 60 blows, 70 blows, 80 blows, 90 blows, and 100 blows...

3. five degrees of penal servitude: one year, one and a half years, two years, two and a half years, and three years...

³⁷ Ibid. 9.

³⁸ Ibid. 10.

4. three degrees of punishment by exile: first degree (one year's penal servitude in exile), second degree (one and a half years' penal servitude in exile), and third degree (two years' penal servitude in exile).

5. two degrees of death penalty: strangulation and decapitation...³⁹

However, banishment and flogging did not survive long as forms of punishment in Japan. The *Shinritsu Koryo* stipulated that persons sentenced to exile were to be deported to Hokkaido, where they would serve out their terms. When the requisite time had elapsed, the offenders would be released but at the same time ordered to establish their own household registrations in Hokkaido and settle there to make a living.⁴⁰ However, the three degrees of exile were replaced with three degrees of penal servitude for terms of five, seven or ten years in November 1870.⁴¹ Exile was later abolished by a proclamation dated January 11, 1871. On the other hand, the new regulations of penal servitude, stipulating that the penalty of beating with a light stick or heavy stick would be commuted to a specific number of days of penal servitude, was established in 1872. According to these regulations, the penalty of 10 blows of beating with a light stick was converted to 10 days of penal servitude. With every unit of 10 blows, the length of penal servitude would increase proportionally by units of 10 days. This meant that the laws of the Meiji government now made provisions for sentences of penal servitude stretching from ten days to life. The traditional five punishments were thus narrowed to variations on the two basic alternatives, penal servitude and death.

The 1871 proposal to abolish flogging, in which we assume Ohara was involved, explained:

³⁹ Ibid. 83-84.

⁴⁰ Ibid. 84.

⁴¹ Botsman, "Crime, Punishment and the Making of Modern Japan, 1790-1895" 276.

Ten or twenty stripes with the light stick is only enough to bring temporary embarrassment [for the criminal] and insufficient to make him change his ways...Ninety or one hundred stripes with the heavy stick causes enough pain to teach [the criminal] a lesson, but in the case of weak or sickly persons it can give rise to serious illness. For these reasons, in the Western nations it has, for the most part, been replaced with hard labor.⁴²

The proposal went on to argue that “in keeping with this government’s policies of daily progress and enlightenment, it should follow the example of the West and replace flogging with the punishment of imprisonment with hard labor.”⁴³ However, as we have already seen in Hong Kong cases, the “West” did not live up to this standard of “progress and enlightenment.”⁴⁴

⁴² Quoted from *Ibid.*

⁴³ *Ibid.* 275-76.

⁴⁴ The same critique was repeated in 1904 by Ohara’s successor, Ogawa Shigejiro (1863-1924), who dedicated himself as a bureaucrat and criminologist to the modernization of the Japanese prison system from 1886 forward. The particular discussion I am referring to was made in opposition to the implementation of the Taiwan Flogging Ordinance in 1904. In 1895, Japan took possession of Taiwan as its first major colony as a result of the victory of Sino-Japanese War. Flogging was being practiced under the codes of the Ch’ing Empire in Taiwan at that time, but the Japanese authorities abolished it immediately and introduced a “modern” penal system in keeping with their “civilizing” mission. However, the Japanese authorities, troubled with the rapid increase of criminals, decided to reintroduce flogging as a form of punishment in 1904. They attempted to legitimize the use of flogging by appealing to the low “level of civilization” of their Taiwanese subjects. One contemporary journalist expressed this notion in the following way. “Unlike the Japanese, the Chinese and Taiwanese have such low ideas of living, and so little sense of shame that they do not mind in the least being sent to prison for a time, some of them indeed, feeling more comfortable there than at home”. Ogawa, who was outraged by both their decision and the claims they made to justify it, immediately started a campaign against the Taiwan Flogging Ordinance by publishing several articles and pamphlets on this issue. As Daniel Botsman points out, the most interesting part of Ogawa’s criticism of the Flogging Ordinance is his explanation of the source of its practice. Interestingly enough, Ogawa was not persuaded by the argument that flogging may have had its roots in the practices of Japan’s own recent past under Tokugawa or under the rule of Chi’ing dynasty in Taiwan. Instead, he pointed to the example of the Western powers, who had promoted the notion that people of other “lesser races” should be punished differently from Western citizens. As concrete examples of such practices, Ogawa emphasized the fact that flogging was one of the most widespread forms of colonial brutality under the Western powers. For example, he pointed out that in French and Dutch colonies, it was generally employed as an “extra-legal” disciplinary measure, but there were also examples of it being given official sanction in colonial penal codes. The British courts in Singapore and Hong Kong, for example, were known to sentence colonial subjects to floggings on a regular basis, and the Germans, in their colonial penal codes, especially authorized flogging as a punishment for people of “lesser races.” It was to those precedents that the colonial officials in Taiwan looked in drafting their Flogging Ordinance, and in so doing, Ogawa argued, they provided an example of a mindless Japanese “worshipping of the West”. As a result, they not only

Accordingly, it is not surprising that the Meiji leaders who were acquainted with the realities of British colonial rule in Hong Kong believed the *Shinritsu Koryo* to be a “modern” criminal code, in spite of its strong Chinese coloration. Therefore, the Ministry of Foreign Affairs distributed copies of the *Shinritsu Koryo* to Western governments, believing that this legal code would convince them that genuine reforms of criminal law and penal practices had been undertaken, and that the extraterritoriality clauses in the existing treaties were thus no longer necessary. In 1871, the powerful court noble Iwakura Tomomi (1825-1883) and many of the prominent members of the Meiji leadership departed to Europe and the United States, partly to observe and study conditions in the West, but primarily to convince the powers that they should now consider revising treaties unfavorable to Japan. However, to their surprise, the *Shinritsu Koryo* would not have impressed the Western representatives who read it. It was rejected because “not only was its structure and formulation based entirely on that of Chinese codes, which were hardly an acceptable model in Western eyes, it also openly incorporated various objectionable aspects of Tokugawa practice, such as judicial torture and differential punishment according to status.”⁴⁵

succeeded in reviving a single, barbaric punishment, but also allowed the principles of Western racism to infiltrate the Japanese legal system by simply copying Western colonial policy. As for the debate on the Taiwan Flogging Ordinance, I obtained much information and theoretical inspiration from Daniel Botsman’s presentation at the annual conference of Association for Asian Studies in 2001, “Rediscovering the lash: Japanese debates about flogging in Colonial Taiwan, c.1904.” As for Ogawa’s biography, Shuzo Ono, “Wakaki Hi No Ogawa Shigejiro,” *Keio Daigaku Hiyoshi Kiyo Shakai Kagaku*, no. 10 (2000). As for the Japanese rule over Taiwan, Yosaburo Takekoshi, *Japanese Rule in Formosa* (London: Longmans, Green and Co., 1907) 194. Ogawa’s critique against the introduction of flogging into Japanese rule of Taiwan, Shigejiro Ogawa, “Taiwan Keiritsu No Ue Ni Chijo Kei Saiyo No Gi Aru O Kiite Shoken O Nobu,” *Kangoku kyokai zasshi* 17, no. 1 (1904)., Shigejiro Ogawa, “Chikeiron,” (?).

⁴⁵ Botsman, “Crime, Punishment and the Making of Modern Japan, 1790-1895” 267.

4. The Age of Colonial Legislation

In 1880, the new penal code, having been drafted by a French lawyer hired by the Meiji government, Gustave Emile Boissonade (1825-1910), was issued. While preparing this draft, Boissonade referred to various European penal codes, especially that of France. Several modern ideas which did not exist in the early Meiji penal codes were incorporated in this text, including the abolishment of discrimination in terms of social rank, a clear recognition of the idea of *principe de la legalite des delits et des peines*, and an emphasis on the protection of private property. Although there still existed several elements which could not be squared with the spirit of modern European penal thought, the 1880 penal code was the first Western-style penal code in Japanese history.⁴⁶ Shortly thereafter, *Prison Rules* were also revised in 1881. This text was the first prison legislation written in the format of Western prison law.

Incidentally, the 1880 Western-style penal code was understood as an epistemological break with Chinese legal thought. For example, a member of the governmental legal committee, Murata Tamotsu, explained the deficiency of the existing penal codes (the *Shinritsu Koryo* and the *Kaitei Ritsurei*) and accordingly the necessity of the new penal code: “Because the current penal codes were exclusively based on the spirit of Chinese penal codes, they treat the criminals only superficially (*gaimen*) and do not touch their minds (*honshin*)... Current penal codes contradict the principle (*gensoku*) of Western penal codes.”⁴⁷ As concrete examples of the “superficiality” of the old penal codes, Murata mentioned: “first, theft was punished according to the amount of money they stole; second, punishment was decided exclusively by the predefined description of

⁴⁶ Masahide Maeda, *Keiho Soron Kogi*, 2 ed. (Tokyo: Tokyo Daigaku Shuppan Kai, 1994) 37.

⁴⁷ Koichiro Yokoyama, “Keibatsu, Chiankiko No Seibi,” in *Nihon Kindai Hotaisei No Keisei*, ed. Masao Fukushima (Tokyo: Nihon hyoron sha, 1981), 331.

the crime; third, even if there was no written article in the text, judges or prosecutors could frame up the crime and accuse people.”⁴⁸

Murata’s explanation clarifies differences between the “spirit of Chinese penal codes” and the “principle of Western penal codes.” The Japanese legal historian Mizubayashi Takeshi found one of the most conspicuous epistemological characteristics of the early Meiji penal codes to be a strange mixture of “subjectivism” and “objectivism.”⁴⁹ According to modern penal thought, such “mental” elements as the intention or ability of an individual are called “subjective,” and elements other than the “subjective,” for example, the reality of the outside world, are called “objective.” In modern penal theory, emphasizing the criminal’s intention is called “subjectivism,” and highlighting the objective reality of the crime is called “objectivism.” In a certain respect, *Shinritsu Koryo* and *Kaitei Ritsurei* were extremely “objective” because they were filled with minute descriptions of the behaviors that should be punished. For example, while the modern Japanese penal code has only two categories to define bodily injuries—attempted bodily injuries and bodily injuries—the *Shinritsu Koryo* subdivided the inflicting of bodily injury in the following way:

⁴⁸ Ibid.

⁴⁹ Ishii and Mizubayashi, eds., *Ho to Chitsujo* 494.

In all ordinary cases of assault and battery, any person who strikes another with his hand or foot, but not so as to produce any assignable wound, shall be liable to suffer 20 blows of beating with a light stick. If the striking with hand or foot produces a wound; or if a blow is struck with a tile, brick, pestle, cudgel, or the like, but produces no assignable wound, the punishment in either case shall be 30 blows of beating with a light stick. If, in the latter case, any wound is caused by the blow, the punishment shall be increased to 40 blows of beating with a light stick. If a blow had been struck in such a manner that it causes blood to flow from the eyes or ears, or to be discharged from the stomach [in consequence of some internal injury], the punishment shall be 80 blows of beating with a heavy stick. Breaking a tooth or a finger; wounding an eye, without totally destroying its sight, materially injuring and disfiguring the ear[s] or nose; cracking any bone in the body; scalding with hot water; burning with fire, shall in each case subject the wrongdoer to a punishment of 100 blows of beating with a heavy stick. Breaking two teeth or more, or two fingers or more; or tearing away all the hair of the head, shall in each case subject the wrongdoer to one year's penal servitude.⁵⁰

However, this “objectivism” does not mean that the *Shinritsu Koryo* neglected the “subjective” conditions of criminals. Rather, Mizubayashi convincingly argues that *Shinritsu Koryo* also had a wide vocabulary and a systematic classification of criminals’ subjective conditions. The “subjectivism” of *Shinritsu Koryo* most clearly manifests itself in Article 26 of “Terms and General Principles” that stipulated: “Matters not precisely governed by statutes or sub-statutes, as well as cases to which not existing provisions are exactly applicable, may be determined by the analogous application of other existing statutes which provide for situations most similar to those being considered under trial.”⁵¹ Similarly, Article 10 of “Miscellaneous Offences” stipulated: “When a person is found guilty of improper conduct that can be regarded as a breach of the spirit of the law, or of common nature, even though not specifically punishable by any existing

⁵⁰ Ch'en, *The Formation of the Early Meiji Legal Order: The Japanese Code of 1871 and Its Chinese Foundation* 142-43.

⁵¹ *Ibid.* 106-07, Ishii and Mizubayashi, eds., *Ho to Chitsujo* 455.

statute or ordinance, he shall be liable to suffer 30 blows of beating with a light stick; and when the impropriety is of a more serious nature, with 70 blows of beating with a heavy stick.”⁵² These sentences clearly violate the modern principle of legal positivism. While the modern penal code is based on the view that crime is a particular behavior which is “objectively” decided to be punishable by law, the *Shinritsu Koryo* and the *Kaitei Ritsurei* assumed that all anti-social behaviors should be punished. All articles in the *Shinritsu Koryo* and *Kaitei Ritsurei* amounted to the enumeration of the possible patterns of unethical behaviors and crimes.⁵³

Like Murata, Mizubayashi explains these characteristics of *Kaitei Ritsurei* as manifestations of Chinese legal philosophy, the origin of which was in the era of Tang Dynasty (618-907).⁵⁴ However, I claim that their interpretations should be situated in the context of colonialism. As we have already seen, in the 1870s, the Chinese criminal code was used not only by the Ch’ing Dynasty and the Meiji government, but also the British colonial government in Hong Kong. For colonizers who did not have any intention of understanding the natives, the mechanical application of objectively enumerated punishments was obviously the most convenient method. In this context, the objectivism of the Chinese code represents a cultural disjuncture between the colonizer and the colonized. On the other hand, the room left for governors’ subjective judgement in the

⁵² Ch’en, *The Formation of the Early Meiji Legal Order: The Japanese Code of 1871 and Its Chinese Foundation* 174-78.

⁵³ Ishii and Mizubayashi, eds., *Ho to Chitsujo* 456. Mizubayashi’s analysis seems to allude to similarities between the epistemology of the *Shinritsu Koryo* and the *Kaitei Ritsurei*, and the *episteme* of the Classical age in the West (roughly from the mid-seventeenth century to the beginning of the nineteenth century) analyzed by Foucault in *Order of Things*. According to Foucault, “The centre of knowledge, in the seventeenth and eighteenth centuries, is the table.” It is not difficult to recognize the similarity between the epistemology of *Shinritsu Kyoryo* and the “tabulated space” over which the *episteme* of Western culture “wandered endlessly, from the calculable forms of order to the analysis of the most complex representations. Michel Foucault, *The Order of Things* (New York:: Vintage Books, 1971) 75.

⁵⁴ Ishii and Mizubayashi, eds., *Ho to Chitsujo* 539.

Chinese penal code was gladly appropriated by British colonizers who attempted to impose their own subjective values and lifestyles on the natives under the name of civilization. In this regard, the *Shinritsu Koryo* and *Kaitei Ritsurei* represent not only traditional Chinese legal thinking but also the realities of contemporary colonial domination.

Ohara's *Prison Rules* should be also examined in the context of colonialism. As we have already seen, one of the most conspicuous characteristics of these texts is that some sentences were written from the point of view of the prisoner. When contrasted to the revised version in 1881, this aspect of Ohara's *Prison Rules* becomes more salient. For example, the tenth article in "institutional structure" of old *Prison Rules* stipulated: "If prisoners under twenty years old serve out their sentence and still have not eradicated their vicious mind (*akushin*), the governor of the prison should admonish them and keep them in prison to learn an honest occupation."⁵⁵ While the first clause is written from the point of view of the prisoner, the second clause is written from the perspective of the governor. However, in the new texts, a similar content was stipulated: "The governor of the prison should make the prison guards record prisoners' behavior and take this record into consideration when he decides on praise and punishment for the prisoners."⁵⁶ While the subject position of the old *Prison Rules* oscillated between the ruler and the ruled, and, the observer and the observed, the sentences of the revised *Prison Rules* were clearly addressed to the governor as the "subject" of action. In the revised text, while the governor or prison guards became the agents of observation and judgment, the prisoners were diminished to the position of mere objects.

⁵⁵ Naikaku kiroku kyoku, ed., *Hoki Bunrui Taizen*, vol. 54 (Tokyo: Hara shobo, 1980) 65.

⁵⁶ Naikaku Kanpo Kyoku, ed., *Horei Zensho*, vol. 14 (Tokyo: Hara shobo, 1976) 307.

Researchers have interpreted the ambivalent subject position of *Prison Rules* as a manifestation of Ohara's sympathy with prisoners resulting from his personal experiences of imprisonment. However, I claim that this ambivalent subject position should be problematized in the colonial context. Theorists of colonial discourse have revealed the "epistemic violence" in a "heterogeneous project to constitute the colonial subject as Other."⁵⁷ Homi Bhabha argues that this violence results from a "doubleness in colonial enunciation that arises from conflicting demands for stable identity and historical reform," an inherent feature of the "civilizing mission."⁵⁸ As a classic of such ambivalence, Bhabha mentioned Charles Grant's "observations of the State of Society among the Asiatic Subjects of Great Britain" (1792). In this text, Grant, caught between the desire for religious reform that would provide colonial subjects with "a sense of personal identity as we know it," and the fear that the Indians might become turbulent for liberty, concluded that the "partial" diffusion of Christianity and the "partial" influence of moral improvements will construct a particular appropriate form of colonial subjectivity.⁵⁹ In this way, colonial authority produces ironic, split identifications: "almost the same, but not quite...Almost the same but not white." As Franz Fanon had already discussed in the 1950s, the "colonized as constructed by colonialist ideology is the very figure of the divided subject."⁶⁰

⁵⁷ Gayatri Chakravorty Spivak, "Can the Subaltern Speak?," in *Marxism and the Interpretation of Culture*, ed. C Nelson and L Grossberg (Basingstoke: Macmillan Education, 1988).

⁵⁸ Nicholas Thomas, *Colonialism's Culture: Anthropology, Travel and Government* (Princeton: Princeton University Press, 1994) 40.

⁵⁹ Homi K. Bhabha, *The Location of Culture* (London and New York: Routledge, 1994) 87.

⁶⁰ Benita Parry, "Problems in Current Theories of Colonial Discourse," *The Oxford Literary Review* 9, no. 1 (1987).

During his stay in Hong Kong, Ohara, as a Japanese man who attempted to “mimic” the technologies of the British colonial domination over the Chinese population, must have been exposed to this “epistemic” violence. Ohara could not identify his own subject position either with the ruler or with the ruled. Also, he could not identify himself with his own nation state, Japan, because this just-emerging entity was still weak and fragmented at that time. Ohara’s ambivalent positionality in *Prison Rules* exemplifies the “very figure of the divided subject” that is constructed by “colonialist ideology.”

Chapter 5: American Prison as a Reference to Benevolence

1. The Impact of *Kaikoku Zushi*

The stone walls, floor, and ceilings, solitary cells, an emphasis on the sunlight or the fresh air, a library with numerous great books—these images described in *Kangokusoku* indicate that Ohara relied on a particular book for constructing the image of his ideal prison system. This book is *Kaikoku Zushi* (*Hai-kuo t'u-chih* in Chinese, *Illustrated Treatise of the Sea Kingdoms*), exerting a dominant influence over the prison reform discourse in the late Tokugawa period. Toward the end of the Tokugawa period, prison reform became an important issue for revolutionary samurais who engaged in anti-*bakufu* efforts. During the final 30 years of the Tokugawa reign, a substantial number of scholars and activists were judged as anti-*bakufu*, imprisoned, and executed. For example, such important political figures as Watanabe Kazan (1793-1841), Takano Choei (1804-1850), Hashimoto Sanai, Sakuma Shozan (1811-1864) and Yoshida Shoin were imprisoned in the 1840s and 1850s and recorded their thoughts while in the gaolhouses.

Some even proposed prison reform plans based on these. In this way, the prison reform discourse at the end of the Tokugawa period was initiated by prisoners themselves. Their proposals later became important foundations for the establishment of the Meiji prison system.

Kaikoku Zushi was edited by a Chinese scholar, Wei Yuan (1794-1857), intended to introduce information about Western countries to Chinese readers. This work, first published in 1842, was revised and enlarged several times. The 1862 version was translated into Japanese, and for many years afterwards served as a major source of information about the West for many Japanese intellectuals. Detailed information about American political institutions, including its prison system, gave Japanese intellectuals who were suffering in Tokugawa gaolhouses an image of “benevolent rule.” In their prison critiques, they articulated fundamental doubts about the legitimacy of the Tokugawa authorities by relying on information from this text.

Yoshida Shoin’s prison notes indicate the close relationship between the prison reform discourse of the late Tokugawa period and this particular book.¹ Shoin, an educator and activist from Choshu, inspired many of the key leaders of the Restoration movement and the Meiji government. In 1853, he and his friend Kaneko Jusuke (1831-1855) attempted to stow themselves away on Commodore Perry’s flagship, but were eventually arrested by the shogunal authorities. Shoin and Jusuke were imprisoned in the Kodenmachi gaol and the Noyama gaol in Choshu; then, Shoin was sentenced to house arrest. However, he was arrested again and executed in Edo in 1859 following an attempted rebellion. During his years of confinement, he wrote essays criticizing the

¹ For Shoin’s and Sanai’s prison reform plans, see also Botsman, “Crime, Punishment and the Making of Modern Japan, 1790-1895” 232-37.

conditions of the gaol systems under Tokugawa and Choshu authority, and called for the establishment of a more “benevolent” system.

Shoin was the first person who discovered “everyday life” in the Tokugawa gaolhouse. During the imprisonment in the Kodenmacho gaol, he noticed that each gaolhouse had its own political structure that largely controlled the everyday life of the prisoners. He wrote: “the rules of the prison were quite strict and hierarchical. It was really interesting for me.”² As an example of the autonomous control, he described his experience of the “entrance ritual into the gaolhouse.” When Shoin was imprisoned in the Kodenmacho gaol, he was asked by the *nanushi*, the head of prisoners, how much money he brought. When he answered he did not have any money, the *nanushi* became angry. Shoin barely escaped brutal punishment by promising the *nanushi* to ask for money from the outside. Because of the money he eventually received from the outside, he was promoted to the *soeyaku*, the second highest position in the cell. In this capacity, he recorded many peculiar rules and customs organizing prisoners’ everyday lives as if he were an anthropologist engaging in participatory observation.

Shoin believed that the current dysfunction of the gaol system was a product of the autonomous government by prisoners. To begin with, autonomy had a malign influence on prisoners’ character. He wrote, “I have been in prison for a long time and observed the minds and attitudes of other prisoners. In the gaol, people only learn skills and techniques for evil activities. I have seen no one who has achieved a good attitude here.”³ Additionally, the autonomous government by prisoners sometimes resulted in horrible violence against their fellows. Shoin wrote: “In the gaol for the homeless, the

² Sannosuke Matsumoto, ed., *Yoshida Shoin*, 50 vols., vol. 31, *Nihon No Meicho* (Tokyo: Chuo Koronsha, 1973) 262.

³ Yamaguchi-ken kyoikukai, ed., *Yoshida Shoin Zenshu*, vol. 2 (Tokyo: Iwanami Shoten, 1934) 163.

population is much higher and the rules are more strict. Prisoners cannot survive there without money. Fifteen to eighteen people were packed on one mat.”⁴ Kaneko Jusuke, arrested with him, was imprisoned in the homeless gaol, then moved to the farmers’ gaol. As Shoin anticipated, Kaneko died in gaol within a year.

It is known that Shoin made a copy of *Kaikoku Zushi*, and read it while he was imprisoned in the Noyama gaol.⁵ The American prison system described in this text functioned as a referential framework through which Shoin could criticize the current prison conditions under the Tokugawa government. Kusaka Genzui (1840-1864), a disciple of Shoin, summarized the description of the American prison system in this book as follows:

Every state and every city has its own prison. The walls, floor, and ceilings of the cell are made of large stones. A few people or just one person are assigned to one cell. All cells are kept clean and, through the windows of the cell, fresh outside air flows into the cell. Outside of the cells, handrails are extended for walking the prisoners. Officials offer them clothes and food, education and trade. They allocate good people to larger cells and bad people to smaller cells. Bad people and good people should not be mixed together.⁶

Based on this information, Shoin evaluated the American prison system as follows:

⁴ Ibid. 299.

⁵ Shigematsu, *Zusetsu Nihon No Kangokushi* 3.

⁶ Masaki Hirota, ed., *Sabetsu No Shoso*, 23 vols., vol. 22, *Nihon Kindai Shiso Taikai* (Tokyo: Iwanami Shoten, 1991) 432.

Once I looked at the history of the American prison system, I learned that in the old days people became worse when they returned from prison to society. However, recently, because of education by the great books in prison, bad people are said to be reformed to good people during their imprisonment. These prisons in the United States are worth being named *fukudou* (a hall for bestowing blessings).⁷

Shoin, inspired by the American prison system described in Wei's text, designed his prison reform plan in a Tokugawa gaol house. In his proposals, Shoin specifically criticized the practice of leaving samurai to languish in the gaol with nothing to do, arguing that idleness drove them to despair and to encourage them to devise new ways to commit crime and create trouble after their release. He said: "Crime is found in their activities, not in the people themselves. How can a passing crime annihilate the whole worth of the person who committed the crime?"⁸ He also laid out a set of basic rules to govern the everyday operations of his proposed gaol, modeled after the American prison system. He argued that a learned and ethical inmate could be trusted to teach and care for the other inmates. Shoin even dreamed of becoming an administrator of this proposed gaol, dedicating his life to the reform of Japan's prisons.

Shoin was not the only person who developed prison reform plans based on information about the American prison system. Hashimoto Sanai, a scholar of Dutch Studies who was arrested and executed by the *bakufu* in 1859, also prepared a similar proposal. He explained the current conditions of the Tokugawa gaol as follows:

⁷ Yamaguchi-ken kyoikukai, ed., *Yoshida Shoin Zenshu* 163.

⁸ *Ibid.* 166.

For prisoners, all they can acquaint themselves with in gaol are murders and thieves, and all they can talk about in gaol is how to improve their own [stealing] techniques. When they are released from the gaol with no money, they naturally try to use the techniques that they have learned in the gaol. Thus, small thieves become big burglars. Alas! The gaol system is just like that.⁹

In order to reform this situation, Sanai proposed that prisoners should be engaged in some kind of productive activity; hardworking prisoners should be given large spaces whereas lazy ones should be confined to small spaces; scholars should be invited to lecture about books of the ancient sages; and when a prisoner is released from the gaol, the money he earned in the gaol should be paid to him. Sanai considered the shared cell system to be the main source of the prison problem. As long as prisoners shared a cell, it would be impossible to keep a prisoner from the negative influence of other prisoners. Here, solitary confinement was proposed by a prisoner as a manifestation of the “benevolent” gaol. The details of Sanai’s proposal are remarkably similar to the description of American prisons that appears in *Kaikoku Zushi*. Within the dark, filthy, and crowded gaol spaces of the late Tokugawa period, Shoin and Sanai dreamed of an American prison, constructed of large stone, filled with fresh air, and equipped with handrails and various educational facilities. They yearned for this institution not because it was “efficient,” but because it was “benevolent.”

2. Missionaries and Their Role in Colonizing China

What nineteenth-century Japanese intellectuals interpreted as a “hall for blessings” is now called as a “complete and austere institution” or even “moral terrorism”

⁹ Hirota, ed., *Sabetsu No Shoso* 431.

by Western historians.¹⁰ The American prison described in *Kaikoku Zushi* is the Auburn system, a great innovation in the prison reform movement of the 1820s. In the Auburn model, prisoners occupied individual cells during the night, had work and meals in common, and lived in absolute silence: the convicts were allowed to speak only to the wardens, with their permission and in a low voice. In contrast to Shoin's "hall for blessings," advocates of this system emphasized, in contrast with previous, more relaxed institutions, its "austerity" and the "dread and terror" that was expected to be impressed on outsiders as well as insiders by the Auburn system. This Calvinist institution was designed as an alternative to the Pennsylvania system, which was characterized by absolute isolation in solitary confinement, true to Quaker thinking.¹¹

The establishment of the Auburn system marks the beginning of the second phase of the American prison reform movement, extending from the 1820s to the Civil War. According to Larry E. Sullivan, the American prison reform movement started in 1787, when a group of Quakers and others founded the first prison reform group, the Philadelphia Society for Alleviating the Miseries of Public Prisons.¹² Its main purpose was to create a humanitarian penitentiary under the "obligations of benevolence." Their ideas were put into practice in Philadelphia's Walnut Street Jail, which was opened in 1790. Quaker officials at Walnut Street believed in humane treatment and labor as the road to reform. They established prison industries, provided health care and educational opportunities, and held religious services. The jail also instituted a rudimentary classification system for its prisoners. However, the humanitarian, religious, and

¹⁰ Foucault, *Discipline and Punish* 238, Larry E. Sullivan, *The Prison Reform Movement: Forlorn Hope* (Boston: Twayne Publishers, 1990) 10.

¹¹ Sullivan, *The Prison Reform Movement: Forlorn Hope* 9-16.

¹² *Ibid.* 4-9.

benevolent impulses of the earliest prison reformers resulted in failure and chaos. Social dysfunction after the War of 1812 fueled an urban crime wave. American cities grew rapidly in the years following the War of 1812, and these cities were faced with an increasing number of poor persons who lacked traditional agrarian family support systems and formed the majority of the prison population. The common “night rooms” of the Walnut Street Jail became obsolete as the prison population increased; more and more prisoners were placed in this room, where they spent most of their time. Criminal behavior begets criminal behavior, and in a very real sense the prison became a “school for crime.”¹³

After the failure of the earliest prison experiments, reformers experimented with new patters of prison discipline. Sterner, Calvinist types took over the moral-improvement societies founded earlier in the century. Sullivan explains the atmosphere of the era that produced the Auburn system as follows:

The period of reform from the 1820s to the Civil War can be characterized as an era of moral terrorism. The new penitentiary was intended to be not a place of fellowship and good living (as outsiders frequently, even today, view prisons) but ‘a place of dread and terror.’ Middle-class philanthropists responded with forceful measures to the burgeoning urban populations of vice-ridden poor. The poor and the criminals became the scapegoats for what the moralists saw as an increasingly disordered society. More and more theorists attempted to find explanations for the origins of deviant behavior. Most of the explanations centered on free will and the culpability of the criminal. Many of the solutions emphasized stern discipline; routine, hard labor; and maximum order in the reforming of the deviant.¹⁴

¹³ Ibid. 6.

¹⁴ Ibid. 9.

Foucault also explains the motivations underlying the Auburn model as follows:

“The prison must be the microcosm of a perfect society in which individuals are isolated in their moral existence, but in which they come together in a strict hierarchical framework, with no lateral relation, communication being possible only in a vertical directions.”¹⁵

These analyses of the Auburn system indicate that Japanese intellectuals misconceived its original implications, and were mistakenly drawn to the American prison system precisely because of this misconception. Nothing dramatizes this misconception better than the differences of perception between Japan and the West about the prison architecture of that time. For Japanese intellectuals, the American prison in which the “walls, floor, and ceilings of the cell are made of large stones” represents the rule of benevolence, a hospitable environment for the prisoners. In other words, they appreciated the glory of American prison architecture from a prisoner’s point of view. However, in its original context, prison architecture was expected to embody the “moral terrorism of punishment.” An English encyclopedia article at that time stated the function of prison architecture:

The style of architecture of a prison is a matter of no slight importance. It offers an effectual point of abhorrence. Persons, in general, refer their horror of a prison to an instinctive feeling rather than to any accurate knowledge of the privations or inflictions therein endured. And whoever remarks the forcible operation of such antipathies in the vulgar, will not neglect any means however minute, of directing them to a good purpose. The exterior of a prison should, therefore, be formed in the heavy sombre style, while most forcibly impresses the spectator with gloom and terror.¹⁶

¹⁵ Foucault, *Discipline and Punish* 238.

¹⁶ Sullivan, *The Prison Reform Movement : Forlorn Hope* 12.

However, it is important to note that Japanese misconceptions of the American prison system were also a product of the tension and collaboration between American missionaries and Chinese bureaucrats in the context of nineteenth century colonial politics in East Asia. The information on the American prison system in *Kaikoku Zushi* was brought by Elijah Coleman Bridgman (1801-1861), the first American missionary in China.¹⁷ From 1807, when Robert Morrison (1782-1834) arrived at Canton, Protestant missions in China slowly extended their influence. They started a more active campaign to open China to the gospel through secular missions after representatives of the American Board of Commissioners for Foreign Missions brought the United States into the China mission field in 1830.¹⁸ In the 1830s, as more and more Westerners appeared on the Chinese coast, the secular publications of the mission press had political, as well as evangelical, purposes.¹⁹ Bridgman was the first and most active American missionary in China during this turbulent period: the beginning of the colonization of China.

Bridgman shared a stern, Calvinist attitude with the prison reformers who implemented the Auburn system.²⁰ Born in Belchertown, Massachusetts, “the heart of evangelical America,” he had cultivated his intellectual abilities and his religious sensibility since his childhood. By the time Bridgman entered Andover Theological Seminary in 1826, the leading religious periodicals of New England were claiming that

¹⁷ Suzanne Wilson Barnett, "Suzanne Barnett on Wei Yuan's Sorces," *ching-shih wen-t'i* 2, no. 4 (1970).

¹⁸ Suzanne Wilson Barnett, "Protestant Expansion and Chinese Views of the West," *Modern Asian Studies* 6, no. 2 (1972).

¹⁹ Ibid.

²⁰ For Brigman's life and thought, Michael C. Lazich, *E.C. Bridgman (1801-1861), America's First Missionary to China* (Lewiston, Queeston, and Lampeter: The Edwin Mellen Press, 2000).

the time was riper than ever before for the launching of foreign missions.²¹ The American Board of Commissioners for Foreign Missions, established in 1810, had succeeded in establishing missionary stations in Ceylon (1815), the Sandwich Islands (1819), Western Turkey and Smyrna (1819), Palestine (1821), Malta (1822), Syria (1823), and Bombay. In each of these stations the missionaries opened schools and established presses in a concerted effort to both win foreign converts to Christianity and bring the benefits of American civilization to “heathen” cultures.²² During the time when Bridgman was immersed in his studies at Amherst and Andover, religious periodicals and missionary journals furnished New Englanders with current reports on the progress of the newly established American and European missions. Among these reports was an occasional account of the heroic sacrifices and honorable achievements of Robert Morrison of the London Missionary Society, who had been laboring alone at the port city of Canton in southern China since 1807.²³ Inspired by such strong appeals, Bridgman announced his willingness to serve as a foreign missionary shortly after his enrollment at Andover Theological Seminary.²⁴

In 1829, Bridgman was selected by the American Board to serve as a missionary in China, and he settled in Canton in the same year.²⁵ Until the opening of the treaty

²¹ Ibid. 37.

²² Ibid. 36.

²³ Ibid. 43-44.

²⁴ According to Michael C. Lazich, Bridgman was quite typical of those who found venturing overseas in service to the evangelical cause to be a noble and alluring enterprise. Missionary candidates came from the heart of evangelical America. The majority of them were natives of small towns and villages in central and western New England and upstate New York. This early frontier region engendered in them a powerful evangelical zeal, not only to carry religious institutions to the “moral wastes” of the West, but also to the heathen overseas. The prospect of missionary service, Phillips notes, was most appealing in those areas where Calvinist orthodoxy retained its hold more successfully. Ibid. 38.

²⁵ Ibid. 52.

ports in 1842, Protestant evangelists had been barred from preaching by Ch'ing law, and therefore looked to the printed word as a means of spreading the Christian message. The publication of the *Brief Account of the United States of America* by Bridgman was one of the most successful projects designed by Bridgman for this purpose. This is the first Chinese-language book about the United States. This work began as *Mei-li-ko Ho-sheng-kuo chih-lueh* (A Brief Geographical History of the United States of America), published at the American Board's press in Singapore in 1838, and was circulated widely among the Chinese communities of the coastal region. After the Opium War, Bridgman's book was reprinted in Hong Kong in 1844, and an updated and revised version was soon afterwards published in Canton in 1848. Finally, a fourth version was published in Shanghai in 1862.²⁶ In his text, Bridgman emphasized that among all the countries of the West, the United States could provide the most shining example of the religious and political principles underlying Christian civilization.²⁷ Accordingly, he took it as his mission to "destroy the conceit, and dissipate the ignorance of the rulers and scholars of China" by introducing American history and institutions to Chinese readers.²⁸ Bridgman's description on the American prison system was filled with utopian images, intended to legitimize Western domination over the East.

In his preface, Bridgman explained that the first volume of his work was intended to provide a general overview of the United States as a whole, while the second volume was devoted to more detailed descriptions of the individual states. In his account of the American Revolution, Bridgman explained how the colonies in America grew and

²⁶ Ibid. 154.

²⁷ Ibid. 144.

²⁸ Ibid. 143-44.

prospered, greatly expanded their trade and commerce, and eventually fought for their independence from England to establish the United States of America under the leadership of George Washington. In Bridgman's discussion of the laws and Constitution of the United States, he emphasized those ideas that he felt were most useful as models for the Chinese. Bridgman devoted several chapters to the criminal justice system in the United States. Using Massachusetts as an example, he cited the number and specific offenses of criminals punished or imprisoned during the first fifteen years of the Tao-kuang reign (1821-36). Unlike in China, Bridgman pointed out, there is no beheading, being sent to a remote place for penal duty, or beating and torture; instead, there are only three forms of punishment: hanging, imprisonment, and fines. In Bridgman's idealized portrait of America, most criminals were reformed by being provided with good books and being subjected to a strict regimen of hard work and daily worship.²⁹

Bridgman's introduction of American history was a part of larger project of dismantling the cultural barriers that prevented China from being brought "into an alliance with the civilized nations of the earth" through the diffusion of knowledge, which would serve as "intellectual artillery," a positive alternative to "destructive armament."³⁰

²⁹ Ibid. 150.

³⁰ Ibid. 120.

This whole nation is in a profound sleep, and while she is dreaming of greatness and glory, she is borne backward by a strong and rapid tide of influence...It is justly the glory of our age, that in many parts of the world the condition of the human family is improving, and with a rapidity such as man has never before witnessed. Numerous examples to illustrate the truth of this position may be found in Europe and in North America, in some small districts of Africa, and of southern and western Asia. The means of these improvements have been various; but of them all the increase of knowledge is by far the most important.³¹

In 1830's China, this mission targeted a particular foreign policy adopted by the Chinese government: the "Canton system." At that time, Canton was only the port in which the Westerners were allowed to engage in trade. The "Canton system" of trade was intended to limit all commercial intercourse to a single port, placing the management of coastal trade entirely in the hands of a guild of Chinese merchants called the Cohong.³² Foreigners doing business in Canton were restricted to a block of Western-style buildings outside of the southwest corner of the city walls. This arrangement evolved within the framework of traditional notions that had governed Chinese foreign relations since ancient times, known as the "tributary system." According to the worldview underlying this system, China was the "Middle Kingdom" from which learning and the arts of civilization radiated outwards for whomever wished to partake it. The only way that foreign states could formally secure a place in the Chinese world order was to send a tributary mission to the Chinese capital, through which they would acknowledge the supremacy of the Son of Heaven through the presentation of precious gifts from their native lands. In return for this expression of homage, the Emperor would present gifts of his own, usually far surpassing in value those he received. Trade on the frontiers, such as

³¹ Ibid. 112.

³² For the Canton system and its historical background, Ibid. 44-47.

that conducted by the Westerners in Canton, was not accorded the same importance as tribute but rather, as John K. Fairbank explains, was “officially regarded as a boon granted to the barbarian, the necessary means to his sharing in the bounty of China, and nothing more.”

Ronald Toby, who specializes in the diplomatic history of early modern East Asia, summarizes his view on this subject: “diplomatic protocol and diplomatic language are nothing if they are not a highly formalized, stylized set of symbols by which states attempt to represent the ‘order’ between and among themselves.”³³ Historians have become more conscious that “maritime prohibitions” practiced by the Ch’ing dynasty did not imply an absence of diplomacy. Rather, they were the expression of an East Asian world order that was shared by its participants: China, Japan, Korea, Vietnam, Ryukyu, Holland, etc. When Bridgman challenged the Chinese foreign policy of the 1830s, he believed that China only had a choice between the international community and no community. However, what China was confronted with at that time was a choice between two alternative systems of foreign relations, one newly and forcefully offered, the other developed by the actors of the seventeenth century East Asian world order. It was not that the Chinese spoke no “diplomatic” language, merely that they spoke a diplomatic language not understood by Bridgman and other Western missionaries.³⁴

David Abernethy finds “a striking feature of European overseas initiatives” in their “multisectoral character.”³⁵ According to him, “governments, profit-oriented

³³ Ronald P Toby, *State and Diplomacy in Early Modern Japan: Asia in the Development of the Tokugawa Bakufu* (Stanford: Stanford University Press, 1991) 168.

³⁴ Ibid. 240. Toby’s analysis is mainly focused on the Japanese experience in 1853 when Commodore Perry arrived. However, his analytical framework also illuminates quite nicely the nature of diplomatic conflicts between China and the West in 1830s.

³⁵ Abernethy, *The Dynamics of Global Dominance: European Overseas Empires, 1415-1980* 225.

companies, and missionary bodies” are the institutional basis for a “triple assault.” Each had their distinct reasons for reaching out and the capacity to do so on their own. However, a country’s sectoral institutions often found it convenient to “work in tandem.” “When agents of the state collaborated with private entrepreneurs and missionaries,” he argues, “the result was a formidable and unusually flexible type of power.” Bridgman’s activities in Canton nicely represent a coalition between merchants and missionaries. “Of several patterns available,” Abernethy explains, “one involved a coalition for merchants or missionaries or both to ensconce themselves in an area before the arrival of soldiers and administration.” “For example, merchants or missionaries working in an indigenous society could disrupt it in ways that facilitated takeover by soldiers and administrators at a later point.”³⁶ Bridgman’s publication project also served this purpose by intellectually discouraging the indigenous diplomatic language and the East Asian world order.

3. Appropriation and Resistance by Statecraft Scholars

Wei Yuan, a scholar and a close friend of Lin Tse-hsu (1785-1850)—a well-known scholar-official appointed as Imperial Commissioner of foreign relations during the period of the Opium War—edited the *Hai-kuo t’u-chih*, the best-known modern Chinese geographical work. In this text, Wei referred to Bridgman’s work as *Mei-lik-ko-kuo chi*, and used it as the basis for the sections on the United States.³⁷ Confrontations with the British during the years 1839 - 1842 jolted the Chinese into a more realistic perception of the wider world.³⁸ Before the Opium War, the Chinese took little notice of the world beyond the traditional Chinese realm; during the course of the war China’s

³⁶ Ibid. 225, 35.

³⁷ Barnett, "Suzanne Barnett on Wei Yuan's Sorces."

³⁸ Barnett, "Protestant Expansion and Chinese Views of the West."

inadequate knowledge of foreign countries proved to be a strategic disadvantage. In the 1840s, knowledge of the wider world was important to China's defense against Western intrusion, and a handful of Chinese scholar-officials who shared this view engaged in serious study of foreign nations. This small but influential group of Chinese set out to expand China's knowledge of the West, in the belief that this knowledge was essential to China's survival.

Wei's *Hai-kuo t'u-chih*, including information from Bridgman's *History of the United States*, is the product of scholarly inquiries into the practical problems of China's maritime defense. As such, it is representative of the 'statecraft' school of Ch'ing scholarship. Suzanne Wilson Barnett explains the Chinese interest in the United States at that time as a manifestation of these statecraft scholars' strategic concerns. Missionary texts about international history, such as Bridgman's *History of the United States*, called attention to power arrangements and indicated their function in international disputes. The United States was similar to England; in fact, it once was a part of England, but the Americans successfully rebelled against British domination and became an independent nation. The Chinese, confronted with a show of British force, might have considered using American barbarians, known to have opposed Great Britain in the past, to counter British barbarians.³⁹ Bridgman and other missionaries, thinking they could advance the cause of Christianity in China, addressed themselves to people like Lin Tse-hsu and Wei Yuan. However, the missionaries misjudged the ideological commitment of Confucian scholars, who used secular works issued by the mission press only to obtain practical knowledge. Lin, Wei, and other statecraft scholars never showed the slightest indication

³⁹ Ibid.

of submitting to the religious doctrine subtly incorporated into Protestant works on geography and history.⁴⁰

In this regard, *Hai-kuo t'u-chih* is a textual expression of the tension and collaboration between American missionaries and Chinese bureaucrats in Canton. In order to illuminate the specific nature of nineteenth century Canton, Mary Louise Pratt's concept of contact zones is particularly suggestive. According to her, "contact zones" are the "social spaces where disparate cultures meet, clash, and grapple with each other, often in highly asymmetrical relations of domination and subordination."⁴¹ In this way, the American prison system that fascinated so many Japanese intellectuals was nothing other than a colonial product.

⁴⁰ Ibid.

⁴¹ Mary Louise Pratt, *Imperial Eyes: Travel Writing and Transculturation* (London and New York: Routledge, 1992) 4.

Chapter 6: The Tradition of the Benevolent Prison

1. Benevolent Prisons under the Tokugawa Regime

The image of the American prison described in *Kaikoku Zushi* fascinated not only anti-*bakufu* prisoners, but also pro-*shogunal* intellectuals. Some of them even attempted to put the idea into practice. Yamada Hokoku (1805-1877), the head of the domain school of Matsuyama, a *fudai* domain, was one of these intellectual bureaucrats.¹ After having studied mainly Oyomei (Wang Yang-ming) philosophy in Kyoto and Edo, Hokoku, originally from a peasant family, rose to the position of directing the domain's administrative reforms. His efforts were largely successful; therefore, he won a reputation among reform-minded bureaucrats in other domains loyal to the *bakufu*. In 1864, Yamada wrote a proposal to reform all gaols along Western lines. He claimed, "as for prison administration, Japan and China cannot hold a candle to the West," and suggested that reform efforts should focus on five things: first, the guards in the gaols should be encouraged to maintain the highest moral standards; second, prisoners should be educated; third, the behavior of the internees should be regulated in work, sanitary arrangements, prayer, daily schedules, and conversations with each other; fourth, convicted prisoners should be separated from those who were waiting for trial in gaol; and fifth, all these principles should apply to the *tokeijo*, "place of servitude" that he had established in Matsuyama during his time as head of the domain administration.²

Kawai Tsugunosuke (1827-1868), a retainer of the Nagaoka domain, was inspired by Hokoku's prison reform plan.³ He spent a year studying at Hokoku's private

¹ For a concise summary of Hokoku's career and activities, Botsman, "Crime, Punishment and the Making of Modern Japan, 1790-1895" 237-42.

² Jun Yamada, ed., *Yamada Hokoku Zenshu*, 3 vols., vol. 2 (Okayama: Yamada Hokoku Zenshu Kankokai, 1951) 359-61. Yutaka Tezuka, *Meiji Keihoshi No Kenkyu*, 3 vols., vol. 2 (Tokyo: Keio Tsushin, 1980) 305.

³ Botsman, "Crime, Punishment and the Making of Modern Japan, 1790-1895" 243-44.

academy, then traveled to Nagasaki to gain more knowledge about the West. Kawai rose through the ranks of the domainal bureaucracy and was eventually entrusted with the task of leading a full-scale reform effort, including the introduction of the *tokeijo* system, which replaced banishment in 1867 in Nagaoka domain. In this institution, officially called the *yoseba*, prisoners were assigned tasks according to their “characters and skills.” Although it was stipulated that those who violated the rules of the *tokeijo* be executed, leniency was the most conspicuous characteristic of this institution.⁴ This institution permitted prisoners to go out and stay with their families or relatives from 10:00 p.m. to 7:00 a.m. There is no record of violence within, or escape from this institution. Townsfolk were said to welcome the cheap labor this institution brought. Although the *yoseba* in Nagaoka seemed to be quite successful, it did not survive long, because in 1869 the Nagaoka domain was destroyed for supporting the Tokugawa government against the Restoration army formed by Satsuma and Choshu. Kawai died leading the domainal forces in battle; Historians have discovered a copy of *Kaikoku Zushi* in his archive.⁵

The *yoseba* in Nagaoka domain represents an interesting conjuncture between indigenously developed security practices and Western based-prison reform plans. On one hand, as the *Kaikoku Zushi* in Kawai’s archive indicates, the *yoseba* in Nagaoka was an attempt to institutionalize a “Western” prison system, an image largely shared with anti-*bakufu* samurai revolutionaries. On the other hand, as its name suggests, this institution was influenced by and modeled after the workhouse established by Tokugawa regime, called *ninsokuyoseba*.

⁴ Takujiro Imaizumi, *Kawai Tsugunosuke Den* (Tokyo: Hakubunkan, 1909), Tezuka, *Meiji Keihoshi No Kenkyu*.

⁵ Imaizumi, *Kawai Tsugunosuke Den*.

Once, an institution, *yoseba*, was established. Since the *Kyoho* period (1716-1736), several proposals have been made to confine the homeless within a particular site because they have done various evils, but none of these have materialized. Although a poorhouse for the homeless was established in the Anei period (1772-1781), it did not work well. When I invited suggestions [on this problem] from various talented men, Hasegawa [Heizo, 1745-1795], who held the office of “Chief inquirer for arsonists and burglars” (*hitsuke-tozoku-aratame*), offered a response. There is an island, just next to Tsukudajima Island. This island, being equipped with facilities, interned the homeless (*mushuku*), who were forced to make ropes, or pound rice. Rice and money were annually delivered to *yoseba* from the public treasury. Owing to this institution, homelessness has become rare now... Uncountable homeless persons reformed themselves [there] and were able to have a house and family [after release].⁶

In his autobiography, Matsudaira Sadanobu (1758-1859), one of the most active samurai dignitaries of the mid-Tokugawa period, proudly looked back upon the establishment of this institution and its accomplishments. Sadanobu founded the institution in 1790 when he was in the position of *roju* (chief chancellor of the Tokugawa government), with the help and advice of his subordinate, Hasegawa Heizo (1745-1795).⁷ According to his memoir, this institution was highly successful. It both decreased the number of homeless persons in Edo, and succeeded in reforming many vagrants as well.

Mizuno Tadakuni (1794-1851), the Chief Councilor, issued in 1842 the *shokoku yoseba setchi rei* to require each country to construct its own *yoseba* using the example of the *ninsokuyoseba*. Based on this order, the *bakufu* established *yoseba* in Osaka, Kyoto, Akita, Hakodate, and Nagasaki.⁸ The *yoseba* of Nagaoka was, with the *zukeijo* of Mito

⁶ Sadanobu Matsudaira, *Ugeno Hitokoto/Shugyoroku* (Tokyo: Iwanami Shoten, 1942) 117-18..

⁷ For Heizo's biography, see Masajiro Takigawa, *Hasegawa Heizo: Sono Shogai to Ninsokuyoseba* (Tokyo: Chuokoronsha, 1994).

⁸ Taneo Morinaga, "Nagasaki Ninsokuyoseba," in *Ninsokuyosebashi*, ed. Ninsokuyoseba kenshokai (Tokyo: Sobunsha, 1974), Kazuyoshi Shigematsu, "Joshu Kamigo, Hakodate, Yokosuka Ninsokuyoseba," in *Ninsokuyosebashi*, ed. Ninsokuyosba kenshokai (Tokyo: Sobunsha, 1974).

domain (1838), the *tokeijo* of Matsuyama domain (1850), and the *tozaijo* of Fukuoka domain (around 1855), one of a few examples of the *daimyos*' endeavor to obey the *bakufu*'s order faithfully.⁹ The *yoseba* in Nagaoka was, in a sense, the culmination of the Tokugawa penal discourse.

According to Michel Foucault, the late eighteenth century was a time when “in Europe and in the United States, the entire economy of punishment was redistributed.” “It saw,” he continues, “a new theory of law and crime, a new moral or political justification of the right to punish: old laws were abolished, old customs died out.” Foucault enumerates the following examples: “‘Modern’ codes were planned or drawn up: Russia, 1796; Prussia, 1780; Pennsylvania and Tuscany, 1786; Austria, 1788; France, 1791, Year IV, 1808 and 1810.” Then he concludes, “It was a new age for penal justice.”¹⁰ I am tempted to suggest to this author that his list be lengthened to include one more example, “Japan, 1790, the establishment of the *ninsokuyoseba*.”

2. The Life in the Tokugawa Gaol

It is important to note that there was no prison in a modern sense under the Tokugawa regime because it did not sanction detention as a form of punishment. However, several gaols operated: Ishii Ryosuke, a Japanese legal historian, explains the function of the gaol under the Tokugawa regime in the following way:

⁹ Ryosuke Ishii, *Edo No Keibatsu* (Tokyo: Chuo Koron Sha, 1964) 198.

¹⁰ Foucault, *Discipline and Punish* 7.

Gaols in Edo were places for detention, not for punishment... In the Edo era, the implication of detention was quite different from modern one. According to the modern idea, a convicted prisoner should be treated as 'not guilty' until he/she receives judgement. However, in the Edo period, people seemed to think that a convicted prisoner must be guilty because he was arrested and examined.¹¹

Evaluations of the Tokugawa gaol system were ambivalent. On one hand, several observers positively evaluated this institution. For example, Vasilii Mikhailovich Golovnin (1776-1831), a lieutenant general of the Russian navy who experienced detention as a captive in a prison located at Hakodate on Hokkaido island, wrote: "in terms of detention of prisoners, the Japanese administration is much more humane than that of many European countries."¹² Yoshida Shoin, imprisoned several times during 1854-1859, also argued that the prison administration of the Tokugawa government was much more efficient and humane than the one of Choshu, his home domain.¹³ A Japanese historian who specializes in prison systems claims that the gaol system under the Tokugawa regime was much more improved than the previous age and well ordered in general except its turbulent terminal state.¹⁴

On the other hand, several documents tell us that the distant *bakufu* administration sometimes resulted in total negligence of prisoners' conditions. For example, a document issued by the *bakufu* in 1716 discussed this negligence:

¹¹ Ishii, *Edo No Keibatsu* 20.

¹² Vasilii Mikhailovich Golovnin, *Bakumatsu Nihon Kenbunroku*, trans. Hiroto Otsuka (Tokyo: dogakusha, 1943) 324.

¹³ Yamaguchi-ken kyoikukai, ed., *Yoshida Shoin Zenshu*.

¹⁴ Tsuji, *Nihon Kinsei Gyokeishi Ko* 1.

Thus far, unconvicted prisoners sent from magistrate's offices have languished in the gaol for five or ten years even though their cases were not difficult. As a result, they frequently die in prison or run away when there is a fire. From now on, if you cannot decide the case within one hundred days, you should send a detailed explanation.¹⁵

Arai Hakuseki (1657-1725), a Confucian scholar and an important political adviser of the *bakufu*, described the disorganization of the Tokugawa gaol administration:

The gaol building [in Edo] burned down and the prisoners ran away. Among them, some had stayed in prison for sixteen or seventeen years. We no longer remembered what they had done, and they have no relatives to whom we can inquire about them, so it is impossible to locate them now.¹⁶

The best-known of these gaols was located at Kodenmachi in Edo. The Kodenmachi gaol was built in 1613, within the downtown area of Edo.¹⁷ This prison had been used by the Meiji government until 1875, and was then destroyed. The Kodenmachi gaol house was a "microcosm" in which certain key features of the larger social formation to which it belonged are clearly visible. Daniel Botsman characterized the homologous character of the gaol and Tokugawa society in general through the "Gaolhouse as Mirror."¹⁸ The architecture of the gaol house was the primary element that exemplified its homologous relation to the outside world. Prisoners were housed in different spaces according to their social status: commoners, the homeless persons, and lower-class samurai were locked up in the *tairo* (great gaol) and the *nikenro* (lesser

¹⁵ Ibid. 439.

¹⁶ Ibid. 314-15.

¹⁷ The site of the Kodenmachi gaol occupied about 8,834 square meters, one side of which was less than 100 meters in length. The main building of the Kodenmachi gaol consisted of the east and west cell blocks, each of which had one and two *agariya* (high cells). Each cell was surrounded by a thick wooden latticed wall. Botsman, "Crime, Punishment and the Making of Modern Japan, 1790-1895" 99-101, Tsuji, *Nihon Kinsei Gyokeishi Ko* 131.

¹⁸ Botsman, "Crime, Punishment and the Making of Modern Japan, 1790-1895" 97, 114.

gaol).¹⁹ Middle-rank samurai, monks, physicians, and priests were interned in the *agariya* (upper rooms).²⁰ Four *agari-zashiki* (upper-chambers) were reserved for high ranking samurai or monks.²¹ In 1775, a special cell complex for farmers was built to keep “naive farmers” from the other prisoners who were “notorious scoundrels.”²²

The *bakufu* assigned the gaol administration to the *shugoku*. Although the office was filled by members of a samurai family, the *shugoku* administrator was despised as a “filthy official” by fellow samurais.²³ Although 76 *doshin* and 48 *genan* worked under the *shugoku*, most transactions with prisoners were entrusted to *hinin* laborers of outcast status.²⁴ *Doshin* were divided into the following categories: *kagiyaku* held keys and kept records of the movement of prisoners; *kogashira* guarded prisoners, *uchiyaku* conducted various corporal punishments; *kazuyaku* counted the number of beatings by a stick; *hiraban* kept watch from the *tobanjo*, *roban* carried out patrols, served food, medicine, tea and water, and shopped for prisoners.²⁵

The *bakufu* entrusted the rule of each gaol to the prisoners. Each gaol organized a governing hierarchy, which consisted of the following twelve roles: *nanushi* were the

¹⁹ The area of the east and west *tairo* were 9 by 5.4 meters, 30 mats large. Each *tairo* had a dirt floor (3.6 by 1.8 meters) and a bathroom (1.8 by 0.9 meter). The *nikenro* was 7.2 by 3.6 meters large. A dirt floor and a bathroom, whose size was same in both of the *nikenro* and the *tairo*, extended out from the rest of the cell. Ishii, *Edo No Keibatsu* 102-03, Tsuji, *Nihon Kinsei Gyokeishi Ko* 131.

²⁰ The front upper rooms (*kuchiagariya*) were 5.4 by 4.5 meters large, and the back high upper rooms (*okuagariya*) were 5.4 by 5.4 meter large. Each had a bathroom of 0.9 square meters. The west upper rooms were reserved for the women of any social rank. The east upper rooms were for those sentenced to exile, and who awaited departure of ship to any number of islands. Ishii, *Edo No Keibatsu* 102-03.

²¹ These four seven mat rooms had better floor mats and bathrooms than the other cells. Ibid. 104.

²² Ibid. 100.

²³ It was said that he could not find a wife from samurai families and thus frequently married the daughters of commoners. Ibid. 105.

²⁴ Tsuji, *Nihon Kinsei Gyokeishi Ko* 65.

²⁵ Ibid. 34-38.

chiefs of the gaol, *soeyaku* took care of sick prisoners, *sumiyaku* and *nibanyaku* guarded the exits, *sanbanyaku* received medicine for sick prisoners, *yonbanyaku* managed clothing, *gobanyaku* inspected food bowls, *honban* carried food, *honsukeban* washed food bowls, *gokiguchiban* served food, *tsumenoban* guarded toilets, *tsumenosukeban* guarded toilets and took care of sick prisoners.²⁶ *Nanushi*, *soeyaku*, *sumiyaku*, and *nibanyaku*, which together were called *tomaeyaku*, were chosen by the outside officials from minor offenders. The other gaol officials were recommended by *nanushi* and approved by *kagiyaku*.

Power within the gaol was largely exercised through the hierarchical system composed of these gaol officials.²⁷ This system seemed to produce enormous inequalities among prisoners. The prisoners who assumed “high offices” could enjoy more food and occupy more comfortable space within the gaol. The gaol officials were called *takamoriyakunin* (high rice officials) for this reason. Other prisoners were called *hirashujin* (ordinary prisoners). The spatial distribution within the gaol also highlighted the hierarchy of prisoners.²⁸ *Nanushi* occupied a position atop ten *tatami* mats (about 6 by 3 feet and 2 inches thick). The other *tomaeyaku* were assigned to *kamiza* (upper position). *Sanbanyaku*, *yonbanyaku*, and *gobanyaku* sat in *nakaza* (middle position). The place for *honban*, *honsukeban*, and *gokiguchiban* was called *shimoza* (lower position). The other “officials” and ordinary prisoners were in *koza* (small position). In *kamiza*, one *tatami* mat space was allocated to a person. In *nakaza*, two prisoners shared one mat space and in *shimoza*, three or four prisoners shared the same space. *Koza* was

²⁶ Ibid. 202-03.

²⁷ Ibid. 202.

²⁸ Ibid. 225-26.

further divided into *konpirashita*, *nakadori*, and *mukodori*. Within *Koza*, four or five people in *konpirashita*, five or six people in *nakadori* and seven or eight people in *mukodori* shared one mat space (Figure 2 in Appendix B).

Just as in life outside prison, prisoners' lives were largely determined by their social status and financial situation. For example, Watanabe Kazan (1793-1841) and Takano Choei (1804-1850) were arrested for the same suspected unlawful critique against *bakufu* policies. However, because of the differences between their status and economic conditions, their prison experiences were quite different. Watanabe, a former chief retainer of Tawara domain, was put into the *agariya*, the cell for samurai. Because he could also receive enough money from his friends, his life in prison seemed relatively mild. In the letter to his friend, he wrote: "the rules of the prison are generous. Nothing is short including food."²⁹ In another letter, he mentioned: "all other prisoners are on lower seats than mine, so I can behave selfishly here. Everybody already knows my name, and calls me, 'Mentor! Mentor!' (*sensei, sensei*). Even officials working for the prison come to see me and ask for my opinion on various things. I feel as if I were in a hot spring resort to recover my health."³⁰ In contrast, Takano experienced much harsher days as a commoner prisoner. Having received the sentence of life-time imprisonment in 1840, he had spent three and half years in the Kodenmacho prison before he could successfully escape. His first impression of the prison was as follows:

²⁹ Shosuke Sato, ed., *Watanabe Kazan, Takano Choei*, 50 vols., vol. 25, *Nihon No Meicho* (Tokyo: Chuo Koronsha, 1972) 159.

³⁰ *Ibid.* 164.

Because it was the middle of May, it was extremely hot (inside the cell). In the place where there was little sunlight and fresh air, dozens of people were packed just like scales of fish. Unendurable heat. The smell of sick prisoners and the odor of excrement. Incomparable smelli. I did not believe I could survive here. Some prisoners die suddenly because of disease. The voice of the execution notice was also heard very clearly.³¹

However, Takano actually survived in this environment, and was promoted to *nanushi* in one year. In the letter of 1841, he explained his present condition to one of his friends: “Because of the amnesty at the demise of Shogun Ienari, the old *nanushi* was released from the gaol. Now I have become the *nanushi*. From now on, I hope I can send money to you. So please take care of my mother.”³²

The self-governing system of prisoners led to unique rituals and customs, some of which even endangered prisoners’ lives.³³ For example, according to a contemporary observer, prisoners joined the gaol society through a procedure called “initiation into hell.”³⁴ When a new prisoner was put into the gaol, he was asked what kind of crime he committed, and subsequently he was beaten by gaol officials with a board otherwise used to transmit written messages, or a wooden toilet lid. The next day, he learned about the rules of the cell, including special instructions concerning the toilet. After having listened to all the detailed rules of the gaol, he offered individual salutations to all gaol officials from highest to lowest. All these interactions were highly ritualized and dramatized. At each turn, specific phrases were uttered by specific officials, and new prisoners had to reply in a specific way.

³¹ Ibid. 327-28.

³² Ibid. 350.

³³ Tsuji, *Nihon Kinsei Gyokeishi Ko* 209-14.

³⁴ Ibid. 210.

Among the gaol rituals, “the instructions about the toilet (*tsume no oshie*)” alluded to the subversive potential of prisoners’ consciousness. New prisoners were instructed about the toilet by senior prisoners:

Hey, you, Newcomer! What did you call this in the outside world? *Koka* (bathroom)? *Set'chin* (toilet)? Listen to me carefully. This place is called *koka* or *set'chin* in the outside world. However, it changes its name within the cell. It is called *tsume no kamisama* (God in the corner).³⁵

The twin rituals upon entering the gaol indicate the radical separation between the “inside” and the “outside” in prisoners’ collective (un)consciousness. On their very first day in the gaol, all the prisoners’ connections with the outside world were severed through the strokes applied to their bodies by senior prisoners. Next, they learned the basic rules of gaol society, which had even developed its own specific vocabulary.³⁶ Amino Yoshihiko’s concept, “*muen*,” illuminates the nature of such rituals of Tokugawa gaol society. According to Amino, in the Middle Ages and the early modern period, there existed various “places of separation”—*muenjo*—where entangled social and political relations had been “severed.”³⁷ These places were “sanctuaries” in which people could detach themselves from existing social relations. For Amino, the following places and people were sites of *muen*: temple sanctuaries for runaway wives, prisons, prostitutes, gambling houses, theaters, untouchables and vagabonds, and markets and

³⁵ Ibid. 211.

³⁶ In addition to the toilet, forbidden items were also renamed, including money (from *kin* to *tsuru*), food (from *meshi* to *yakkomi*), belt (from *obi* to *nagamono*), loincloth (from *hundoshi* to *hosomono*), knife (from *katana* to *saka*), scissors (from *hasami* to *kani*), and tweezers (from *kenuki* to *haka*). Ishii, *Edo No Keibatsu* 108, 69, Tsuji, *Nihon Kinsei Gyokeishi Ko* 211.

³⁷ Yoshihiko Amino, *Muen Kugai Raku* (Tokyo: Heibonsha, 1978). Foucault’s concept, “heterotopia,” seems to share analytical concerns with Amino’s “*muen*.” According to Foucault, a heterotopia is the place “in which the real sites, all of the other real sites that can be found within the culture, are simultaneously represented, contested, and inverted.” Michel Foucault, “Texts/Contexts of Other Spaces,” *Diacritics*, no. Spring (1986).

festival towns. In *muenjo*, people obeyed principles that were radically different from, or even opposite to those of the outside world.

Although the customs and rituals of the Kodenmacho gaol look bizarre and even subversive, we should also note that they were still representations of the Tokugawa regime that attempted to control society through various status units, which were hierarchically organized and enjoyed a considerable degree of autonomy (and obligations) over their own internal affairs. In this regard, *muen* was an integral part of the feudalistic social order.

3. The *Mushuku* as a National Problem

The Meiji Restoration and the events that followed explain the eventual triumph of a relatively centralized nation state over a more decentralized federal regime in Japan. However, it does not necessarily mean that the Tokugawa regime did not have any trace of centralization. Rather, the evidence for centralization is massive. Accordingly, historians have characterized the Tokugawa regime with contradictory terminology: “centralized feudalism.”³⁸ This contradiction is mainly concerned with the political sphere: while the Tokugawa shogun monopolized many sources of power, he left substantial governmental autonomy to the feudal lords as well as semi-autonomous social units. Although the shogunate controlled a large portion of the land, maintained a nationwide espionage system, and moved *daimyo* about at will, they did not establish a unified and universalized political power structure somehow compatible with the nation state. In ordinary circumstances, the *han* (feudal domain) was the primary political unit, governing its own jurisdiction through an elaborate centralized, hierarchically organized

³⁸ Reinhard Bendix, *Kings or People* (Berkeley, Los Angeles, and London: University of California Press, 1978) 432.

administration, largely patterned after the Tokugawa domain system. In 1697 the *bakufu* confirmed seigniorial jurisdiction by issuing an order, *jibun shioki rei*, stipulating that each lord could exercise jurisprudence over the incidents “within his domain” without consulting with the *bakufu* officials. Bernard Silberman characterizes this centrifugal character of the Tokugawa regime as “federalist.”³⁹

However, the Tokugawa regime produced through its own rule an important factor that contributed to the emergence of a unified political space: the *mushuku* (homeless) population. I claim that the discourse on the *mushuku* was one of the most important, but a largely neglected site in which the concept of nationhood was constructed and contested by the actors who lived under the late Tokugawa regime. In Tokugawa society, *mushuku* was an ambiguous category because it refers to an actual living condition as well as a legal status.⁴⁰ In everyday language, *mushuku* indicated people who were actually living a homeless life regardless of their legal status. Despite the Tokugawa regime’s interest in keeping farmers in the countryside, many people were in effect obliged to leave their village because of poverty, debt, etc. Many of those who left their villages and trades streamed into large cities such as Edo and survived by begging. Other than such de facto homeless persons, there were those persons identified as *mushuku* through legal procedures. In Tokugawa legal terminology, *mushuku* meant farmers or commoners whose names had been erased from the census register

³⁹ Silberman, *Cages of Reason: The Rise of the Rational State in France, Japan, the United States, and Great Britain* 161.

⁴⁰ Hiroshi Harafuji, *Chiho Shihai Kiko to Ho* (Tokyo: Sobunsha, 1987) 262.

(*ninbetsucho*).⁴¹ In large cities such as Edo, the *mushuku* problem was already salient in the mid-seventeenth century and it became quite serious in the mid-eighteenth century.⁴²

For *bakufu* officials, the homeless posed a quite intriguing political problem, because the regime relied on the identification of peoples' status and residence for the exercise of population control. However, the *mushuku* by definition did not have any social status or a fixed residence, therefore, the *bakufu* did not have an appropriate institution to deal with the homeless problem.⁴³ The *bakufu* divided its domains geographically, and appointed officials to oversee each district. The *machi bugyo* controlled the city of Edo, excluding samurai and temple properties, and the *kanjo bugyo* administered the *bakufu* domains outside of Edo. Under the direction of both classes of magistrates, town officials (*machi yakunin*) and village officials (*mura yakunin*) dealt with the practical affairs of their own town or village. Outside of the *bakufu* domains, feudal lords (*daimyo*) were allowed to govern their own domains based on an administrative system similar to that of the *bakufu*. However, this institutional arrangement was ineffective for the *mushuku* problem because they existed outside of the existing social hierarchy and cut across boundaries between the village and town as well as *bakufu* and *daimyo* domains.⁴⁴ To address the *mushuku* problem, the *bakufu* developed for "national" policies because the *mushuku*, just like money and texts, existed outside of the "federal" grid of social control established by the *bakufu*. Like money and

⁴¹ Ibid.

⁴² For an overview of the *mushuku* problem under the Tokugawa government, see, Ibid. 262-360., Yoshiro Hiramatsu, *Edo No Tsumi to Batsu* (Tokyo: Heibonsha, 1988).

⁴³ Harafuji, *Chiho Shihai Kiko to Ho* 296.

⁴⁴ Ibid. 301.

texts, the *mushuku* contributed to the emergence of a unified political space that extended beyond domainal political units.

However, it is important to note that the *mushuku* population was a product of official Tokugawa procedures, because exile was one of the most prevalent forms of punishment.⁴⁵ Since the *mushuku* population was produced through officially sanctioned social control, the response to the *mushuku* problem required fundamental changes in existing institutions, epistemologically as well as practically. There were three situations in which a person's name could be erased.⁴⁶ The first case is *kakeochi*, or "running away." In Tokugawa society, when a person disappeared from his place of residence, family members and relatives were obligated by law to seek him out. In such cases, after a six-month period of searching, they could request a magistrate of the *bakufu* (*bugyosho*) to erase the person's name from the census register so that they could be exempted from further responsibility to continue the search. The second case is *kando*, or "severance of connections." Immediate family or relatives could submit a request to have the name of a family member erased from the census register by obtaining the signature of the town or village official. Commoners took this procedure in order to reprimand a belligerent or criminally active family member. Since in Tokugawa society the family was held legally

⁴⁵ *Kujigata Osadamegaki* (1742), a collection of various regulations issued by the Tokugawa government, sanctioned the following forms of punishment: *nokobiki* (sawed to death); crucifixion; *gokumon* (the display of the severed head at a prison gate); burning at the stake; decapitation; *sarashi* (exposure); banishment to islands; heavy exile; middle exile; light exile; exile from Edo; exile from one's hometown; confiscation of land; enslavement; exile from temple or religious sect; *kaieki* (confiscation of household); *heimon*, *hissoku*, and *enryo* (house confinement); *tataki* (beating); bodily mutilation; *tejo* (handcuffs); fine; and entrustment to humble people. As this text shows, penal servitude was not a principal form of punishment under the Tokugawa government. As an English translation of Tokugawa legislation, see, Hall, "Japanese Feudal Laws III. The Tokugawa Legislation Part IV. The Edict of 100 Sections." As overviews of the Tokugawa legal system, see, Botsman, "Crime, Punishment and the Making of Modern Japan, 1790-1895" 12-90., Ishii, *Edo No Keibatsu.*, Hiramatsu, *Edo No Tsumi to Batsu.*, Hidemasa Maki and Akihisa Fujiwara, eds., *Nihon Hosei Shi* (Tokyo: Seirin shoin, 1993).

⁴⁶ Harafuji, *Chiho Shihai Kiko to Ho* 263.

responsible for the actions of its members, they also used this procedure in order to avoid the possible consequences of the actions of such a family member. The third case is *tsuiho*, or “enforcement of banishment.” Under the Tokugawa government, banishment was one of the most important and popular forms of punishment.⁴⁷

Commoners who were sentenced to banishment were forbidden from reentering the place they had lived or committed the crime, as well as the 10-mile area surrounding Edo. To the eyes of the *bakufu*, the growth of the *mushuku* was problematic because it brought about a decrease in the productive population in the countryside and an increase in urban social unrest. However, as these examples show, the growth of the *mushuku* population resulted from the security controls officially sanctioned by the *bakufu* itself.

Ironically, the very success of the Tokugawa regime was one of the most fundamental reasons for the growth of the *mushuku* population. The economic prosperity of Edo, made possible by the long-lasting peace under the Tokugawa government, created and enlarged the marginal space in which the *mushuku* population was able to survive.⁴⁸ Prior to the Tokugawa era, anyone who had left his home or trade was immediately exposed to the threat of death. Leaving one’s home or trade was almost synonymous with dying by the roadside. This was the basic condition under which “banishment” and “severance of connections” functioned as severe punishments in earlier Japanese societies.⁴⁹ However, the growth of large cities under the Tokugawa regime substantially changed this situation. The Japanese population more than doubled during

⁴⁷ Hiroyuki Miura, *Hoseishi No Kenkyu*, 2 vols., vol. 2 (Tokyo: Iwanami shoten, 1944) 297.

⁴⁸ Kazuo Minami, *Edo No Shakai Kozo* (Tokyo: Hanawa shobo, 1969) 64.

⁴⁹ In the Muromachi period (1333-1573), banishment was the heaviest sentence next to capital punishment. See, Miura, *Hoseishi No Kenkyu* 297.

1600-1721, from 10 million to 25 million.⁵⁰ Edo had a population of approximately one million, a vast economic sphere at the center of the feudalistic agrarian regime. The population density of eighteenth-century Edo was also remarkable. Andrew Fraser estimates that the wards where the townsfolk were concentrated had 67,317 persons per square kilometer, “the highest population densities ever recorded for regular habitation.”⁵¹ Substantial numbers of people voluntarily left or forced out of their trades, abandoned their hometowns, and went to live in Edo. Although the Tokugawa regime attempted to restrict the mobility of its people socially as well as geographically, the *mushuku* population grew within the *bakufu*'s own capital city as a social stratum outside its own control.

We have no definite information on the number of the *mushuku* population. We can only infer it through the records of the *bakufu*'s sporadic countermeasures against the homeless population. For example, in 1672, it is reported that 700 homeless persons emerged in Edo because of the inflationary price of rice.⁵² In 1742, the *bakufu*, troubled with recurrent cases of arson, attempted to arrest the entire homeless population, 1,664 homeless persons in all.⁵³ The growth of the *mushuku*, just like the development of the market economy and the circulation of the printed word, undermined the particularism of Tokugawa policies that aimed at the maintenance of the political status quo. However, while money and texts were inanimate entities, the *mushuku* had bodies and subjectivities. Accordingly, political control of the *mushuku* caused unique governmental

⁵⁰ Osamu Saito, *Proto Kogyoka No Jidai* (Tokyo: Nihon Hyoronsha, 1985) 184.

⁵¹ Andrew Fraser, "Town-Ward Administration in Eighteenth-Century Edo," *Papers in Far Eastern History*, no. 27 (1984).

⁵² Minami, *Edo No Shakai Kozo* 65.

⁵³ *Ibid.* 75.

problems. The *bakufu* occasionally declared all outstanding loans to be null and void, or devalued the currency in response to its chronic financial difficulties.⁵⁴ They also banned the publication of putatively harmful texts on several occasions.⁵⁵ However, the *bakufu* could not simply exterminate the *mushuku*, even if the *bakufu* considered them as dangers to the maintenance of the political status quo.

By the end of the eighteenth century, the *bakufu* had already attempted three strategies to cope with the *mushuku* problem. The first strategy was to reform the institutions that produced the homeless population.⁵⁶ From the early eighteenth century, the Tokugawa government attempted several times to restrict the sentence of banishment. For example, in 1722, the *bakufu* issued an order prohibiting banishment except in unavoidable circumstances. However, this order was not strictly observed by many *daimyo* for several reasons. To begin with, the *daimyo* were allowed jurisdiction over their own domains (*jibunshioki*) by the *bakufu*. This was partly due to the structure of the Tokugawa regime, which was composed of independent domains as military units. Regarding jurisprudence, the *daimyo* were permitted to judge criminals within their own domain by their own standards, although they were expected to follow a codebook compiled by the Tokugawa *bakufu*. Banishment was clearly the cheapest and most effective form of punishment, as long as each *daimyo* valued the preservation of order only in his own domain.⁵⁷ In light of this, it seems quite natural that the *daimyo* would not have supported the abolishment of banishment.

⁵⁴ Tetsuo Najita, *Visions of Virtue in Tokugawa Japan* (Chicago: University of Chicago Press, 1987).

⁵⁵ According to Hani Goro, almost all respectable Tokugawa writers experienced repression. Goro Hani, *Meiji Ishinshi Kenkyu* (Tokyo: Iwanami Shoten, 1978) 186.

⁵⁶ Minami, *Edo No Shakai Kozo* 64-76, Miura, *Hoseishi No Kenkyu* 302.

⁵⁷ Minami, *Edo No Shakai Kozo* 335.

The second strategy addressing the *mushuku* problem was to reintegrate those who had already become *mushuku* back into the existing social order.⁵⁸ In the beginning, the *bakufu* attempted to apprehend *mushuku* and send them back to their hometowns. *Osadamegaki Hyakkajo*, the official penal code of the *bakufu* (1742), stipulated that *mushuku* be delivered to their relatives or to the *daimyos* of the domain from which they came. However, this method was largely ineffective. To begin with, transporting the *mushuku* cost a lot of time and money. Additionally, many *daimyos* neglected the order on the basis of traditional seigniorial jurisdiction. Finally, the number of *mushuku* who had relatives that would receive them was very limited.

The third governmental strategy was to control the *mushuku* population by reassigning them to *hinin*, the outcast class.⁵⁹ In Tokugawa society, *hinin* indicated persons who lived by begging, or who performed various services related to execution. Their names were registered in a special census for *hinin* (*hinin ninbetsucho*) and a chief elected among them (*hinin gashira*) was invested with the authority to administer over them. A 1709 order indicates that the *bakufu* attempted to regain control of those who had strayed from the existing social order by placing them within the lowest stratum of its social hierarchy. However, the *hinin* class could not absorb many persons because *hinin* were strictly forbidden to engage in productive labor. Accordingly, the *mushuku* who were delivered to the chief of the *hinin* were simply interned within a camp (*tame*) designed for new *hinin*. However, because this camp was poorly equipped, many people died there.⁶⁰ By the end of the eighteenth century, these strategies had already become

⁵⁸ Ibid. 329-31.

⁵⁹ Ibid. 311-12.

⁶⁰ Matsudaira, *Ugeno Hitokoto/Shugyoroku* 118.

obsolete responses to escalating *mushuku* problems. The Tokugawa regime needed to introduce new innovations or technologies in order to cope with this newly emerging urban problem.

4. Commodification of the Criminal

The birth of the *ninsokuyoseba* coincided with the discovery of the economic value of the *mushuku* population. This implies that the *ninsokuyoseba* was a conjuncture of the economic and political organization developed under the Tokugawa regime: in this institution, the commodification of labor reached the bottom of society, whereas the regime used this economic logic as a method of political control systematically. It is quite instructive to note that some merchant scholars were associated with the establishment of the *ninsokuyoseba*. One merchant scholar, Nakai Riken (1732-1817) wrote a text, *Jukeibogi* (A Humble Opinion on Penal Policies), containing criticisms of the *bakufu*'s penal policies.⁶¹ In this text, Riken proposed that banishment should be replaced immediately by penitentiary servitude. This proposal was excerpted by his elder brother, Nakai Chikuzan (1730-1804)—the head of *Kaitokudo*, the merchant academy established in the late seventeenth century in a merchant city, Osaka—in his principal book, *Sobokigen* (Criticism from a Thatch House).⁶² Written in 1778, Chikuzan dedicated the book to Sadanobu, who had visited Chikuzan to ask for political advice. It is difficult to tell exactly how much impact Riken's ideas had on Sadanobu's decisions regarding the *yoseba* because Sadanobu did not mention Riken's name in his memoir. However, the

⁶¹ Riken Nakai, "Jukeibogi," in *Nihon Keizai Taiten*, ed. Seiichi Takimoto (Tokyo: Meiji bunken, 1969).

⁶² Chikuzan Nakai, "Sobo Kigen," in *Nihon Keizai Taiten*, ed. Seiichi Takimoto (Tokyo: Meiji Bunken, 1969).

customs and institutional norms that developed in the *ninsokuyoseba*, as we shall see later, shared many similarities with Riken's servitude proposal.

Riken viewed the criminals not just as a security dilemma but also as an economic resource. In the penal discourse of the time, this was the most revolutionary aspect of Riken's reform concept. In *Jukeibogi*, he criticized the current form of punishment as follows:

A statesman should not adopt exile as punishment. Exile is not appropriate to the government of Heaven. It is wasteful (*ito oshi*) for a statesman to kill bad people. Statesmen exile bad people in order to keep them out of their domains. They do not care about what bad people do outside of their domain. Those who are exiled sometimes commit crimes in the place where they were exiled. Then, they are killed in that place. Residents of that area then become critical of the government.⁶³

The statement—"it is wasteful"—captures Riken's economic thinking. Exile and capital punishment are ineffective because they waste man's potential productive power. Instead, he proposed the following penitentiary system which he named *eiro*, "eternal incarceration," to replace banishment:

⁶³ Nakai. "Jukeibogi," 707-08.

It might be a good idea to build a penitentiary called *eiro*, “eternal incarceration.” It is not to be a jail where criminals await their sentences, but a penitentiary where convicted criminals shall be detained. It is a pity to kill all criminals. However, if forgiven, they may commit a crime again. Thus, they should be interned for some amount of years, or lifelong in this particular site. For example, in the case of commoners who have gambled and been arrested, they should be sentenced from six months to three years. If they reform themselves, they shall be released at the end of this term. If they do not reform themselves, they shall be kept in prison until their death. Professional gamblers or the homeless (*mushuku*) shall be interned in this institution even if their crime is not serious. It is a good idea to intern any *mushuku* here. All criminals who were sentenced to exile should be gathered together in this institution.⁶⁴

Although Riken was not the first person who proposed the abolition of banishment and the introduction of servitude, his text contains several important innovations worth examining in relation to the *yoseba*. Most importantly, he proposed to intern not only criminals but the *mushuku* as well. Additionally, he introduced several concrete technologies, such as indefinite incarceration, in order to reform people’s behavior. He designed the institution of penal servitude in the following way:

⁶⁴ Ibid., 710.

The rules of the penitentiary should be more generous than those of ordinary jails. Although the gate should be watched rigorously, the site of the penitentiary should be large enough for prisoners to live comfortably without suffering from disease. Some types of inconveniences could be used to reform them. To take an example from food service, only two cups of rice porridge with a little salt should be served at breakfast, such that they can barely survive. They could barely survive with such humble food. In the morning, prisoners shall receive straw from outside merchants and produce straw boots, etc. In the evening, they may exchange the boots produced in the daytime for their food. Although delicious dishes, like pork or chicken, are not allowed to them, dried fish or seaweed are acceptable. Accordingly, hard working prisoners could receive more food, and lazy ones none, all depending on their own attitude.⁶⁵

Riken's text is important not because it proposed penal servitude but because it added new implications—the production of economic value and reclamation through labor—to this well-known punishment and redefined these policies as “benevolence.” Servitude itself was quite a familiar concept to most Tokugawa intellectuals.⁶⁶ For example, Ogyu Sorai (1666-1728) advocated the abolition of banishment and its replacement by penal servitude in his *Seidan*, “Political Discourse.”⁶⁷ According to traditional Chinese legal philosophy, severer punishments tend to be preferred because they are believed to be the most effective methods of maintaining social order. In this theoretical framework, the production of economic value was always considered to be a by-product of the infliction of corporal punishment on the criminals. According to Niida Noboku, a scholar of Chinese legal history, the penal servitude under Chinese dynasties

⁶⁵ Ibid., 711.

⁶⁶ In China, servitude had been already established as an important form of punishment in the Han dynasty (B.C.202-A.D.220) and this was followed by the succeeding dynasties. In Japan, the code of Taiho (701) and Yoro (757) were modeled after the codes of the Tang dynasty and stipulated the servitude as a form of punishment. See, Noboru Niida, *Chugoku Hoseishi (Zoteiban)* (Tokyo: Iwanami Shoten, 1963) Ch.4. As an overview of Tokugawa penal discourse, see, Kameichi Hosokawa, *Nihon Hoseishi Yoko* (Tokyo: Jichosha, 1941) 233-64.

⁶⁷ Sorai Ogyu, “Seidan,” in *Nihon No Meicho* (Tokyo: Chuokoronsha, 1974), 429.

was mainly developed in order to exploit criminals' "unlimited, free" labor, therefore, it was nothing other than corporal punishment in the form of enslavement.⁶⁸ However, Riken formulated his *eiro* plan from a completely different perspective. For him, the system of penal servitude should be constructed in order to maximize the productivity of internees, rather than maximizing their pain. For Riken, labor was not a type of punishment, but rather an important way to reform the criminal's disposition. According to his plan, the more the internees work, the more food they receive; Riken was the first to introduce the principle of the market economy into the Tokugawa penal discourse.⁶⁹

The revolutionary aspect of Riken's penal reform becomes clearer when contrasted to the opinions of more conservative scholars. For example, Dazai Shundai (1680-1747), one of Sorai's able disciples, repeatedly insisted on the importance and effectiveness of corporal punishment and capital punishment. In his *Keizairoku*, "Notes on the Political Economy," he justified the use of severe punishment through the ancient Chinese sages, as can be seen in the following passage:

⁶⁸ Niida, *Chugoku Hoseishi (Zoteiban)* 84.

⁶⁹ Riken was not the only person who discussed the commodification of labor. As the influence of market economy became salient, several intellectuals began to theorize a new social order that could facilitate its development. Kaiho Seiryō (1755-1817), a scholar of samurai background, was the most audacious example of such intellectuals. In his text, *Masuko Dan*, "Stories on Masuya Kouemon," he recorded various administrative methods practiced by Masuya Kouemon (1748-1821), the chief clerk of a big merchant house in Osaka. Seiryō concluded his book with the following provocative and sweeping words: everything is a "commodity" and has an exchange value. Tetsuo Najita, "Method and Analysis in the Conceptual Portrayal of Tokugawa Intellectual History," in *Japanese Thought in the Tokugawa Period*, ed. Tetsuo Najita and Irvin Scheiner (Chicago: The University of Chicago Press, 1978), 26.. Once the human body was recognized as a "commodity," the new method to effectively control this "commodity" also began to be problematized. According to Seiryō, Kouemon reframed work regulations that were reasonable and not designed to punish and intimidate so that everyone could work with ease and feel a sense of profit and well-being. Kouemon also introduced house-sponsored holidays in order to give incentives to clerks. Kouemon's practices exemplified concrete methods to cultivate incentives without coercion. Najita, "Method and Analysis in the Conceptual Portrayal of Tokugawa Intellectual History," 29. Here, it is secondary that Masuya Kouemon was a student of Riken at Kaitokudo school. More significant is the fact that the same management style emerged in two completely different spaces in the late eighteenth-century--the *yoseba* and the merchant house.

Corporal punishment is a method of stamping a mark (*shirushi*) on the body of the criminal. People may endure great pain for a short time. However, even bad men will suffer from the punishment of marking of the sign [as a criminal] eternally on his body. Nothing is wrong with using this law of ancient Sages in contemporary society. Corporal punishment was the law by which the Sages governed commoners. Why do we then hesitate to use this law in contemporary society?⁷⁰

According to Shundai, criminals should be given the sign of criminals (*shirushi*), just like all things should be given their proper names. These signs should not be erased until death, because the very nature of human beings cannot be changed. In its visibility and durability, corporal punishment was the best way to govern people. Marking criminals was part of Shundai's larger endeavor to unify things and their names, which many Tokugawa intellectuals believed was the basis of the proper social order. Based on this epistemological framework, Shundai insisted that punishment should be as severe as possible.

The best way of punishment is to decisively kill the person condemned to capital punishment. Even if there was a reason for him to commit the crime, he should not be forgiven. If the criminal does not deserve death, he should be exiled. If he does not deserve exile, let him stay and engage in his trade after cutting his nose, ear, foot or tattooing.⁷¹

Shundai failed to see that not only capital punishment but also such corporal punishments as "cutting the nose, ear, or foot" substantially reduce the productivity of the body. Compared with Shundai's penal reform plan, Riken's proposal had the potential to change the configuration of Tokugawa status society. While Shundai feared leaving criminals "unmarked," Riken seems to have believed that unmarked criminals could be transformed

⁷⁰ Shundai Dazai, "Keizairoku," in *Dazai Shundai Shu*, ed. Shiro Yokokawa (Tokyo: Seibundo shinkosha, 1935), 262.

⁷¹ *Ibid.*, 266.

into useful commodities. This suggests that Riken regarded criminals as capital whereas Shundai considered them as defective commodities. Society's status-based spatial configuration was obviously economically inefficient. Precisely because Riken's proposal reflected the development of market economy under the Tokugawa regime, it revealed vividly the limitations of the feudal system.

5. The Rule of Benevolence

The birth of the *ninsokuyoseba* also indicated that the official ideology of the Tokugawa regime, *jin*, was applied to the bottom of society, the *mushuku* population. The *ninsokuyoseba* was a conjuncture of the ideological and political power organization under the Tokugawa regime. The institution and practices of the *ninsokuyoseba* were legitimized by the idea of *jin-sei*, the rule of benevolence. *Jin*, or "loving people," signified the most important human virtue as well as the ultimate political principle in Neo-Confucian doctrine. As Confucianism circulated among Tokugawa intellectuals in the late seventeenth century, the concept of *jin* was frequently discussed. In a sense, *jin-sei* was a representation of an idealized relationship between the ruler and the ruled that both parties were equally expected to follow.⁷² From the perspective of the samurai, *jin* means to pay close attention to the living condition of peasants and commoners, and to guarantee them a stable life. Peasants and commoners were, in turn, expected to accept favors from above with gratitude and obediently devote themselves to their trades. However, by definition, the *mushuku* did not merit benevolent treatment. The

⁷² Katsumi Fukaya, *Hyakusho Naritachi* (Tokyo: Hanawa Shobo, 1993), Seiichi Miyazawa, "Bakuhansei Ideology No Seiritsu to Kozo: Shoki Hansei Kaikaku Tono Kanren Wo Chushin Ni," *1973 nendo rekisigaku kenkyukai taikai hokoku bessatsu tokushu* (1973).

ninsokuyoseba was the first systematic attempt to produce obedient and hardworking subjects from the seemingly “virtue-less” homeless.⁷³

Many Tokugawa intellectuals approached *jin* through reinterpretations of classical Confucian texts. However, this does not necessarily mean that the *jin-sei* ideology under the Tokugawa government was a direct application or extension of the Confucian doctrine. As many scholars have already pointed out, the Tokugawa regime was institutionally very different from the Chinese dynasties in which Neo-Confucianism developed.⁷⁴ Accordingly, the Tokugawa regime could not apply Neo-Confucian concepts to their own representational framework without making substantial changes. For example, Chinese dynasties developed a highly centralized bureaucracy in which bureaucrats who had been recruited through a standardized examination system governed people in the name of the emperor. In China, Neo-Confucianism developed as a bureaucratic philosophy of self-discipline. However, in Tokugawa Japan, hereditary soldiers were expected to govern people. Neither a centralized bureaucracy nor a standardized recruitment system developed in Tokugawa society. Accordingly, Neo-Confucian ideas were deconstructed and appropriated by the Tokugawa intellectuals so that they could legitimize the rule of the Tokugawa government.

“Benevolent rule” implied the obligation of the lord to protect, by means of judicious fiscal policies, the livings of his subordinates. Historians have paid particular attention to the “reciprocity” of this concept between tax-paying “honorable peasants” and governing “benevolent lords,” and argued that peasant protests and uprisings were

⁷³ Naoyuki Umemori, “Shingaku to Iu Tekunorogii,” *Waseda seiji keizai gaku zasshi*, no. 328 (1996).

⁷⁴ Keiichi Sawai, *Kigo to Shitano Jugaku* (Tokyo: Kobosha, 2000), Hiroshi Watanabe, *Kinsei Nihon Shakai to Sogaku* (Tokyo: Tokyo Daigaku Shuppankai, 1985).

crucial elements for the formation of “benevolent rule.”⁷⁵ According to them, signiorial benevolence was much more than a prescription for elite public morality, as in Chinese Confucianism. Rather, within the political economy of Tokugawa feudalism, the praxis that developed through confrontations and collaborations between the ruler and the ruled later became ideologized as “benevolent rule.” As is well known, E. P. Thomson detects “in almost every eighteenth-century crowd action” in England some legitimizing notion by which the men and women in the crowd could defend “traditional rights or customs.” This legitimizing notion was grounded upon “a consistent traditional view of social norms and obligations, of the proper economic functions of several parties within the community, which, taken together, can be said to constitute the moral economy of the poor.”⁷⁶ “Benevolent rule,” just like “moral economy,” is a concept introduced by Japanese historians to recuperate the common people as important historical agents.

Within the political economy of Tokugawa feudalism, signiorial exploitation contained specific contradictions with respect to small cultivators that in the short run could only be solved by regular administrative procedures to provide emergency aid and moderate tax extraction. According to Stephan Vlastos, there were two different types of crises that seventeenth-century Tokugawa villages faced: periodic dearth due to climate-related crop failure, and an endemic condition in which small cultivators were driven off the land because they could not produce enough rice to feed themselves and pay the lord’s tax on the land they cultivated. In both cases villages petitioned the lord of the domain to exercise “benevolence” so that they, the petitioners, could “continue as

⁷⁵ Fukaya, *Hyakusho Naritachi*, Miyazawa, “Bakuhansai Ideology No Seiritsu to Kozo: Shoki Hansai Kaikaku Tono Kanren Wo Chushin Ni.”, Stephen Vlastos, *Peasant Protests and Uprisings in Tokugawa Japan* (Berkeley, Los Angeles, and London: University of California Press, 1986).

⁷⁶ Edward P Thomson, *Customs in Common* (New York: The New Press, 1993) 185-89.

farmers.”⁷⁷ Under the Tokugawa government, samurais were concentrated in Edo or the regional castle towns and completely separated from the land from which their stipend came. Collecting taxes was not easy for them, because many did not administer the peasants as daily business. City life required greater expenditures, which finally led to an increased burden for the peasants. It was impossible for them to maintain their regime without the cooperation of farmers. This was the historical conjuncture in which the ideology of “benevolent rule” was demanded, produced, contested, and compromised into a more or less agreeable form of representation. In the seventeenth century, townsfolk also occasionally engaged in outright rebellion. They sometimes destroyed and burned the mansions of privileged merchants. Although the *bakufu* tried to prevent such insurrections through price controls, it was impossible for them to take significant action without the help of the money dealers and big merchants. In this way, the concept of benevolent rule also began to be shared among the urbanites. The birth of the *ninsokuyoseba* was an example indicating the permeation of this ideology into urban settings.

However, it is important to note that the genealogy of benevolence made the application of this ideology to urban problems quite difficult. “Benevolent rule” was largely a representation of an idealized relationship between lords and farmers, most of whom were small-scale cultivators. “Nourishing farmers” and “continuing as farmers” were the principal goals shared by both parties in this representational framework. As Fukaya Katsumi has demonstrated, the norms of benevolent rule and “continuing as farmers” corresponded to the objective needs of individual, small-scale cultivators in the

⁷⁷ Vlastos, *Peasant Protests and Uprisings in Tokugawa Japan* 15.

subsistence economy of the early Tokugawa period.⁷⁸ The birth of the *ninsokuyoseba* indicated the *bakufu*'s strategy to utilize the concept of benevolent rule in order to cope with aggravating *mushuku* problems. However, this strategy produced specific predicaments resulting from socio-cultural differences between the *mushuku* and “small-scale” cultivators—original participants in the construction of “benevolent rule.” For the *mushuku*, “continuing as farmers” could not be their goal because they had already lost their land to be cultivated. Additionally, they were alienated from any community through which they could express their requests. In this regard, the *ninsokuyoseba* was an experimental site that examined the validity of “benevolent rule” for the *mushuku* as a new type of subject.

The concept of benevolent rule manifested itself through the structures and practices of the *ninsokuyoseba*. First, the *bakufu* kept spending approximately 300 bags of rice and 300 *ryo* in cash per year for the maintenance of this institution.⁷⁹ They recognized the confinement of the *mushuku* into the *yoseba* as “granting emergency aid (*osukui*),” not as a method of punishment or exploitation. In this regard, the *ninsokuyoseba* was quite different from penal servitude in China, a form of enslavement, which was mainly intended to exploit criminals’ “unlimited, free” labor.⁸⁰ The Tokugawa regime also had an equivalent system: they sent some criminals and homeless persons to Sado island as gold mining laborers since 1778.⁸¹ However, the *bakufu* recognized the *ninsokuyoseba* as a policy opposed to this forced labor system. The

⁷⁸ Fukaya, *Hyakusho Naritachi* 27.

⁷⁹ Tsuji, *Nihon Kinsei Gyokeishi Ko* 858.

⁸⁰ Niida, *Chugoku Hoseishi (Zoteiban)* 82.

⁸¹ Tsuji, *Nihon Kinsei Gyokeishi Ko* 777-78.

philosophy legitimizing the *ninsokuyoseba* was manifested in the following statement, which was read out loud by the *yoseba* officials to the newly arrived internees.

You, a homeless, who should have been sent to Sado Island, are now sent as a laborer to this place, *yoseba*, and ordered to follow your own trade owing to [the *bakufu*'s] great benevolent rule [*atsuki gojinkei*]. If you should amend your ways, return to an honest life, and work hard, you will be able to save some funds here. If we are assured of your penitence, we will release you regardless of the length of the period you have spent here. If you suffice as a peasant, we will give you appropriate land. If you come from Edo, we will arrange a small shop for you so that you may pursue your own business. The *bakufu* will also provide necessary tools or capital. If you fail to understand the implications of our benevolence, act against our orders, or neglect your work, you will be sentenced to a heavy punishment.⁸²

Although various methods were introduced in order to reduce the expenditures of the *yoseba*, the *bakufu* basically recognized its maintenance as their obligation.⁸³

The concept of benevolent rule was also expressed through the lenient treatment of internees. The *bakufu* emphasized that the internees would be cared for in the name of *jin-sei*, "benevolent rule." Because the *yoseba* was defined as a place for social rehabilitation, the *bakufu* attempted to synchronize the calendar of the *yoseba* to that of the outside world. There were "holidays" in the *yoseba*: each month the first, the fifteenth, and the twenty-eighth were holidays, and holidays were also celebrated on December twenty-fifth to January third, the fifteenth and sixteenth of July. During the New Years' holiday, soup containing rice cakes and baked salmon was served. Noodles were served on the day of the Bon festival and dumpling soup was enjoyed on the day of moon viewing. The anniversary of the *yoseba* occurred on the nineteenth of February

⁸² Tokyo, ed., *Tokyo Shishiko Sangyohen*, vol. 33 (Tokyo: Tokyo, 1989) 706.

⁸³ Kaya Wani, "Tsuihokei Ni Miru Kogioshioki No Henshitsu to Kokusei: Tepoki No Tsuihokei Kaiseirongi Wo Tegakaritoshite," *Kokka Gakkai Zasshi* 112, no. 5.6 (1999).

and red beans rice, soup, and stew were served. Additionally, the *bakufu* also paid close attention to the health and hygiene of the internees. Prisoners could bathe every other day. Prisoners were given loquat leaf tea and loach soup once each summer to cure their heat exhaustion.⁸⁴

6. The Institution, Practices, and Ideology of the *Ninsokuyoseba*

The birth of the *ninsokuyoseba* implies that two important social trends developed under the Tokugawa regime—commodification of labor and benevolent rule—crystallized as a new set of political technologies. In order to reform the *mushuku*, those who lived outside the social hierarchy of the Tokugawa regime, the *ninsokuyoseba* adopted several innovative technologies: an indeterminate sentence, pay based on productivity, and indoctrination of the internees through *Shingaku* ideology. The benevolent power exercised in the *yoseba* was, like Foucault’s “pastorship,” directly oriented toward individuals.⁸⁵ This individualizing power produced a new type of subjectivity and temporality within the space of the *yoseba*.

In his memoir, Sadanobu named Hasegawa Heizo as the designer of the *ninsokuyoseba*. Heizo was a member of *hatamoto*, or “flagmen” (direct vessels of the Tokugawa family), who served as a “Chief Inquirer for Arsonists and Burglars” (*hitsuke-tozoku-aratame*)” in Edo from 1787 to 1795.⁸⁶ Heizo was a legendary figure who was famous for his ability to arrest burglars. He proposed the establishment of a workhouse as the solution to the *mushuku* problem, and Sadanobu subsequently ordered him to design and construct the institution. Heizo submitted detailed plans to Sadanobu at the

⁸⁴ Tsuji, *Nihon Kinsei Gyokeishi Ko* 912-13.

⁸⁵ Foucault, “‘Omnes Et Singulatim’: Toward a Critique of Political Reason,” 300.

⁸⁶ Takigawa. *Hasegawa Heizo: Sono Shogai to Ninsokuyoseba*.

end of 1789 and built the new institution in 1790. This institution, which Heizo originally called the *mushuku yoikusho*, “the poorhouse for the homeless,” was later officially designated “*ninsokuyoseba*,” and Heizo was in charge until 1792.

In his proposal titled *yoseba-kiritsu*, “the establishment of the *yoseba*,” Heizo began his argument by defining the character of *mushuku* persons as follows:

To establish an institution for nurturing the homeless looks very easy, but is actually quite difficult. I would like to explain the reason. To begin with, those who became scoundrels are inevitably miscreants who are not diligent in their trades by nature, who do not have a sense of honor in the least. They are fierce fellows who have erred from the path of duty. They are very different from ordinary people. It is impossible to reclaim all such fellows to virtue. Only an exceptional administrator might reform five of ten.⁸⁷

Based on this realistic observation, Heizo outlined concrete strategies to keep vagrants within the institution. According to him, preventing the homeless from escaping was the key to success. Any hope or desire in the internees to escape from the workhouse must be extinguished. In order to achieve this, Heizo proposed the following measures. First, the institution should be located on an “inexpugnable” site that is easily observable and difficult to escape. Second, the building that interns the *mushuku* at night should be designed like a jail. Third, the internees must wear earrings, handcuffs or a cangue. He also proposed that they have an eyebrow or side-lock shaved off, or have their face tattooed. By differentiating the internees with markings, he was not only trying to prevent escapes but was also making it easier to search out escapees.⁸⁸

⁸⁷ Tokyo, ed., *Tokyo Shishiko Sangyohen* 733.

⁸⁸ One reason Heizo placed such importance on the prevention of escape was due in part to the fact that a prior attempt to run a workhouse had failed because of excessive escape. In his proposal, Heizo mentioned the example of a workhouse that had been originated by a chief of the city magistrates in 1780. This institution was largely ineffective and survived only for seven years, as was previously observed by Sadanobu. Heizo attributed its failure to its inability to prevent inmates from escaping. He

Heizo was also quite conscious of the financial aspects of this institution. Because he was very much aware that the *bakufu*, already in a state of financial embarrassment, was unhappy about rising expenditures, he did his best to reduce the cost of the *yoseba*, through several concrete proposals. First, Heizo requested a site as large as possible for this institution because he planned to have a farm there.⁸⁹ Those who were too weak to farm were expected to make “straw sandals, straw boots, straw covers for horseshoes, etc.” within the *yoseba*. However, he did not expect significant sales from such products because their quality might be low and ordinary people had a prejudice against homeless persons. Instead, he proposed that the *bakufu* would buy all the products and would also use the internees for public works such as dredging canals, etc. He also proposed oil-pressing as a prospective business in the *yoseba* because it was already monopolized by the *bakufu*. Clearly the design of the *yoseba* incorporated highly sophisticated economic calculations.

Although Sadanobu credited Heizo as a founder of the *yoseba*, he did not implement all the proposals made by Heizo. Rather, he made substantial corrections to Heizo’s proposals. For example, although Heizo proposed to prevent the internees from escaping by making them wear “earrings,” Sadanobu rejected this policy because persons with holes in their ears would have difficulties in their life after the release” Sadanobu wrote to Heizo that the earring system was a “less benevolent” method.⁹⁰ Heizo accepted Sadanobu’s opinion and rewrote his proposal to make the internees wear a

took this precedent very seriously and prepared several practical technologies for the effective containment of the homeless. On this institution, see, Takigawa, *Hasegawa Heizo: Sono Shogai to Ninsokuyoseba* 121-23.

⁸⁹ According to his proposal, the expected area was about 20,000 *tsubo*, about 66,000 square meters.

⁹⁰ Tokyo, ed., *Tokyo Shishiko Sangyohen* 737.

cangue instead of earrings. Sadanobu did not approve Heizo's proposal that persons who could not reform themselves in a certain period of time be tattooed in their face. He even rejected Heizo's proposal to shave off the inmates' eyebrow or side-lock as "a harsh rule of bodily transformation," *itai no genpo*.⁹¹ Instead, the *bakufu* decided to clothe the internees in yellowish brown, polka-dot uniforms so that they could easily be differentiated from ordinary persons. Accordingly, people called the internees of the *yoseba* "polka-dot laborers."⁹² Sadanobu consistently rejected Heizo's harsher proposals in the name of *jin-sei*, or "benevolent rule". For Sadanobu, the *ninsokuyoseba* should bring to life the idea of "benevolent rule" and represent the legitimacy of the Tokugawa regime.

In this artificial space, the *bakufu* experimented with several technologies to reform a "virtue-less" population into productive laborers. The following practices exemplify the innovative character of the *yoseba* administration.⁹³ First, the internees did not have definite sentences in the *yoseba*. Rather, they were released whenever they satisfied certain conditions. Ordinary *mushuku* were required to earn a certain amount of money through labor in the *yoseba*, be recognized as diligent workers and subsequently rewarded by *yoseba* officials, have a special skill and behave properly, and have reputable sponsors. The harder the internees worked, the greater were their chances for release. On the contrary, if they neglected their work or attempted to escape, they were severely punished.

⁹¹ Tsuji, *Nihon Kinsei Gyokeishi Ko* 915..

⁹² Ibid. 823.

⁹³ Takigawa, *Hasegawa Heizo: Sono Shogai to Ninsokuyoseba* 222-32.

Second, the *yoseba* established a graded wage scale for the internees, and instituted trade education, another example of the *bakufu*'s benevolent, individualizing authority. The internees received wages according to their trade. For example, the internees engaged in oil pressing—the trade that later became the most important industry in the *yoseba*—received from 20 *mon* to 32 *mon* per day, based on their level of output. These wages were paid twice a month, and they received one fourth of this sum at the time of their release. In the case of other trades, the internees were paid every ten days, half or one third of which was deposited by the officials until their release. Although rice and *miso* soup were served in the morning and in the evening, other dishes were available for five *mon* a day. Additionally, food was rationed according to the internees' trades. For example, ten cups of rice were provided when engaged in heavy labor, seven cups for moderate labor, and five cups for light work.

In order to legitimize these new technologies, the *yoseba* also employed new ideology. The *bakufu* introduced a prison chaplain system in the *yoseba*. On holidays, a *shingaku* scholar was invited to deliver lectures to prisoners on various spiritual topics. Nakazawa Doni (1725-1803), a famous *shingaku* scholar, was the first officially appointed prison chaplain in the *yoseba*, and his successors continued to fill the chaplain post until around 1870.⁹⁴ *Shingaku* was one of the foremost moral influences on the common people in the Tokugawa period. *Shingaku* began when Ishida Baigan (1685-1744) gave his first public lecture in 1729. After Baigan's death the movement grew; by the early nineteenth century there were scores of *shingaku* lecture halls all over Japan. The preacher Doni contributed significantly to the expansion of the *Shingaku* movement.

⁹⁴ Seiichi Takenaka, "Ninsokuyoseba to Shingaku," ed. Ninsokuyoseba kenshokai (Ninsokuyosebashi: Sobunsha, 1974), 223.

He was sent to Edo by Tejima Toan (1718-1786), Baigan's successor, and in 1781 Nakazawa founded the *Sanzensha* there, the most famous and influential lecture hall in *shingaku* history.⁹⁵ Although most researchers believe that the *shingaku* chaplain in the *yoseba* was a mere manifestation of the broadly influential *shingaku* movement, I claim that the *yoseba shingaku* developed a unique ideological message.

The thought and practices of *shingaku* are well known to English readers through Robert Bellah's *Tokugawa Religion*, which characterizes the movement as "a functional analogue to the Protestant ethic in Japanese religion."⁹⁶ *Shingaku* mainly appealed to urbanites because Baigan made an impassioned defense of the merchant class. He claimed:

The samurai, farmers, artisans and merchants are of assistance in governing the empire. If the four classes were lacking, there would be no assistance. The governing of the four classes is the role of the ruler. Assisting the ruler is the role of the four classes. The samurai is the retainer (*shin*) who has rank from old. The farmer is the retainer of the countryside. The merchant and artisan are retainers of the town. To assist the ruler, as retainers, is the Way of the retainer. The trade of the merchants assists the empire.⁹⁷

In this statement, Baigan honored the status of commoners. As Bellah suggests, the statement is not a rejection of the samurai class or the samurai ethic, but an insistence that peasants, merchants and artisans model themselves on that ethic.⁹⁸

However, this statement also suggests the intrinsic tension between the orthodox doctrine of *shingaku* and the project of the *yoseba*. Knowing one's occupation and

⁹⁵ Robert N. Bellah, *Tokugawa Religion* (Glencoe: The Free Press, 1957) 133, 70.

⁹⁶ *Ibid.* 2-3.

⁹⁷ Quoted from *Ibid.* 158.

⁹⁸ *Ibid.* 158-59.

practicing it diligently was one of the themes about which Baigan was most insistent. He considered maintaining one's station, respecting superiors, governing one's family, being economical and avoiding luxury, and attending to the family trade as ways through which one can return heaven's blessings. *Shingaku* was obviously addressed to persons who had their own families and family businesses. According to Yasumaru Yoshio, many participants of this movement were motivated by fear of ruining of one's family.⁹⁹ However, the *mushuku* had lost their families as well as their occupations. Clearly, the *bakufu* could not simply order the internees to practice their occupations diligently. Rather, the *bakufu* had to provide appropriate occupations through which the internees could cultivate their own virtues. Accordingly, the content of *shingaku* lectures had to be adjusted for *yoseba* internees.

Wakisaka Gido's (? -1818) *Shingaku Kyoyu Roku* (Records of *Shingaku* Lectures) conveys the outline of the *shingaku* lecture practiced in the *yoseba*.¹⁰⁰ Gido succeeded Doni as *yoseba* chaplain in 1803 and remained in this position until 1818. According to the preface, *Shingaku Kyoyu Roku* is a summary of the lectures taught by Gido to *yoseba* internees. The lecture (*koshaku* or *dowa*) was an essential teaching method of *Shingaku*, drawn from classical texts as well as everyday life, and strongly ethical in tone.¹⁰¹ Gido's text shares this basic framework with other *shingaku* lecture notes. However, Gido's text also reveals that *shingaku* assumed unique characteristics in the *yoseba* in order to accomplish its mission to reform homeless persons.

⁹⁹ Yoshio Yasumaru, *Nihon Kindaika to Minshu Shiso* (Tokyo: Aoki Shoten, 1974).

¹⁰⁰ Takenaka, "Ninsokuyoseba to Shingaku," 210-13, Umemori, "Shingaku to Iu Tekunorogii."

¹⁰¹ The other important methods are: the question and answer meeting (*kaiho*), in which the more serious students aired their doubts and were questioned as to their understanding; and meditation (*seiza, kufu*), which consisted of moral self-examination and the attempt to attain enlightenment. Bellah, *Tokugawa Religion* 168-69.

First, Gido's lecture encouraged a new identity consciousness in the internees. Although Baigan emphasized the importance of respecting one's parents, the *mushuku* by definition did not have parents. Accordingly, Gido introduced the narrative that the *mushuku* were abandoned children, adopted and nourished by the government. Gido told each internee to respect *bakufu* officials as if they were his own parents. Under the Tokugawa regime, the relationship between individuals and the political authority was always mediated by family and occupation. In this epistemological framework, serving one's family and pursuing one's occupation was the best way to respect and comply with political authority. However, in Gido's text, individual internees were required to respect authority without any mediation. In the *yoseba*, power became generalized and was extended relatively freely of traditionalistic restrictions. The exercise of this power produced a new type of subjectivity by "interpellating" the individual internee as subject only to political authority irrespective of his previous occupation and social status.

Second, *shingaku* in the *yoseba* introduced a new sense of temporality. Baigan explained the equality of occupations by appealing to the Confucian concepts of principle, *ri*, and form, *kei*. He argued that in principle all were the same though they differ in form. Here, "form" means a concrete occupation; Baigan did not question the principle of inherited occupational classes.¹⁰² In this regard, homeless persons were "formless" because they did not have an occupation. In order to reform the "formless" homeless, Gido taught that life in the *yoseba* was a rehearsal for the future. He compared the *yoseba* to the "greenroom" and the outside world to the "real stage." Gido emphasized that internees should "rehearse" earnestly in the *yoseba* so that they could perform well on the "real stage," meaning the life after release in which they would be watched by

¹⁰² Ibid. 160-61.

many “spectators.” In the *yoseba*, occupation or form was not inherited. Rather, internees were expected to acquire form in the future through the practices in the present. In this regard, time spent in the *yoseba* was completely oriented to the possibilities of the future.

The *yoseba* was a social experiment through which the *bakufu* attempted to implement its ideal rule—“benevolent rule”—to the population who were once disqualified from receiving it. However, precisely because of the principles of benevolence, the *yoseba* assumed characteristics that undermined the basic political framework of the Tokugawa regime. To begin with, the direct relationship between the ruler (the *bakufu*) and the ruled (the internees) that emerged in the *yoseba* prefigured the “modernization” of political power. As Talcot Parsons argues, there is a process of political rationality quite comparable to that of economic rationality. Here, in the process of political rationality, power becomes generalized, extended relatively free of traditionalistic restrictions, and governed only by rational norms.¹⁰³ The rule of the Tokugawa regime, as we have already seen, allowed a considerable degree of autonomy to various “status groups” to regulate and monitor the activities of their members. In contrast to the “particularism” that generally characterized the rule of the Tokugawa regime, I claim that the power exercised in the *yoseba* was far more “rationalized.”

The new form of power implemented in the *yoseba* produced a new form of subjectivity. Because the Tokugawa regime “interpellated” the individual internees in the *yoseba* without the mediation of semi-autonomous status groups, the internees developed a new type of subjectivity identifying themselves as laborers directly subject to the

¹⁰³ Ibid. 5.

authority of the *bakufu*.¹⁰⁴ The following account vividly captured the birth of this type of subjectivity:

Lately, Hasegawa Heizo is troubled [about the administration of the internees] at *yoseba* island. The *mushuku* cannot easily be controlled, frustrating Heizo's initial expectations. This was to be expected. It is silly for Heizo to rely on persons such as the *mushuku*. When they are ordered to carry earth and sand out of the *yoseba*, they offend farmers by saying, "We are the laborers of the public authority (*kogi no oninsoku*)!"¹⁰⁵

Precisely because the *mushuku* were alienated from all other social groups, they could only be subjected to the public authority. If we search Japanese history for the emergence of "anti-feudal" subjectivity, that unremarked and unrecorded day, when *yoseba* laborers differentiated themselves from village farmers by shouting, "We are the laborers of the public authority," should be a candidate.

Additionally, the orientation toward the future manifested in various *yoseba* practices prefigured the "capitalist" experience of time. According to George Gurvitch, every social system incorporates a unique sense of time.¹⁰⁶ He characterized feudalism through the term "retarded time," in which "future becomes present so late as to be outmoded as soon as it is crystallized." In contrast, the inception of capitalism was characterized by "alternating time," where "past and future compete in the present." Bourdieu also made similar observations. According to him, "the functioning of any economic system is tied to the existence of a definite system of dispositions towards the

¹⁰⁴ Louis Althusser, *Lenin and Philosophy and Other Essays*, trans. Ben Brewster (New York: Monthly Review Press, 1971) 174.

¹⁰⁵ Tokyoto, ed., *Tokyo Shishiko Sangyohen* 724.

¹⁰⁶ Georges Gurvitch, *The Spectrum of Social Time*, trans. Myrtle Korenbaum (Dordrecht: D. Reidel Pub. Co, 1964).

world, and, more precisely, towards time.”¹⁰⁷ He contrasted the time disposition required by the pre-capitalist economy to that required by the monetary economy as follows: “Instead of presenting itself as one possibility among others, it is imposed as the *only possible* experience by an economy which is unable to provide the conditions in which it is possible to posit the notion of the possible...”¹⁰⁸ In other words, the “rationalization” of economic conduct implies that the whole of existence be organized in relation to an absent, imaginary vanishing point.” In the *yoseba*, all internees were required to work for their future because they were nobody in the present. In this way, the *bakufu* created a space in which unique subjectivity and temporality came to exist. However, these subjectivity and temporality contradicted the particularistic rule of the Tokugawa regime that desired to maintain the status quo. Ironically, the *yoseba*, a putative representation of the ideal rule conceived by the Tokugawa regime, contained the elements that would eventually undermine its rule.

7. The Transformation of the *Ninsokuyoseba*

Although the *ninsokuyoseba* was an innovative institution, the influence of the *ninsokuyoseba* over the modern prison system was limited. The *ninsokuyoseba* is quite interesting, not because it prepared for the modern prison system of the Meiji era, but because it actually failed to develop into a modern prison. I claim that this resulted from practical and ideological contradictions between the *ninsokuyoseba* and the power organization of the Tokugawa regime. The original arrangement of the *ninsokuyoseba* was too benevolent: the *bakufu* intended to offer individualized vocational training there,

¹⁰⁷ Pierre Bourdieu, *Algeria 1960*, trans. Richard Nice (Cambridge, London, New York and Melbourne: Cambridge University Press, 1979) 6.

¹⁰⁸ *Ibid.* 16.

and even promised to offer internees the funds and necessary equipment for opening their own shops when they were released from the *yoseba*. However, because this “benevolent” system was inefficient and difficult for the *bakufu* to monitor individual internees, the administrative practices of the *yoseba* were gradually transformed. Through these transformations, the *yoseba* substantially changed its nature: it became less of a workhouse and more of a penal institution. However, in order to establish penal institutions, the *bakufu* officials were required to review the entire system of Tokugawa legal practices. The highly compartmentalized spatial perception underlying the Tokugawa regime made it difficult for them to take a “national” perspective, a necessary condition for the comprehensive reform of Tokugawa security practices.

In order to understand the transformation of the *yoseba*, it is instructive to compare two *yoseba* maps that were drawn at different times. Figure 3 in Appendix B is a map of the *ninsokuyoseba*, representing its original configuration.¹⁰⁹ According to this map, the labor building was divided according to the various trades in which the internees were engaged: navy, hulling rice, plastering, carpentry, hair cutting, tobacco making, medicine, smithing, farming, rope making, sandal making, and hair dressing; those who wanted to learn a specific trade congregated in the appropriate area. There were also sites for the production of charcoal briquettes and clam shell powder, occupied by those who did not adopt any particular trade. Figure 4 in Appendix B is thought to have been drawn after 1841.¹¹⁰ In this map, the small units for various trades that characterized the original design have disappeared. Instead, this space was converted into buildings that maintained a clear division between large working spaces and internees’ lodgings.

¹⁰⁹ Ishii, *Edo No Keibatsu* 187.

¹¹⁰ *Ibid.* 188.

Internees were assigned to specific rooms of the house according to the nature of the crime they committed. At the bottom of the map, an “oil pressing room” appeared, located beyond the river. While the old map reminds us of the landscape of an old, small Japanese town, the new one resembles a factory.

Figure 3 is a spatial realization of Tokugawa “benevolent rule.” The most conspicuous characteristic of this map is the division of the internal space of the building according to the trades in which the laborers were engaged. This map teaches us what one’s occupation meant for those who lived under the Tokugawa regime. According to Robert Bellah, the Japanese word *shokubun*, which can be translated as “occupation,” has a “somewhat different meaning than the English term.” “It implies that the occupation is not merely an end in itself but a part of society,” therefore, “one’s occupation is the fulfillment of what one owes to society, it is the part one plays which justifies one’s receiving the benefits of society.”¹¹¹ As Bellah suggests, this is a “static view of occupation somewhat comparable to that of Thomas and other medieval Scholastics in the West,” because “it is the duty of individuals to perform their callings in the appropriate manner and be tranquil and contented with their lot, which is after all determined by heaven.”¹¹² However, in the *ninsokuyoseba*, not heaven but the *bakufu* determined internees’ occupations. Accordingly, the *bakufu* assumed the obligation to provide “the benefits of society” to internees who had been ostracized from society. The *bakufu* could expect internees’ allegiance only if they enabled individual internees to sustain their lives through an occupation. The *yoseba* officials instructed internees that the harder they worked, the more they could be rewarded. The *bakufu* even promised

¹¹¹ Bellah, *Tokugawa Religion* 115.

¹¹² Ibid.

internees that they would be given a small shop and the necessary equipment if they would wholly transform themselves through engagement in *yoseba* practices. The *bakufu* attempted to maintain the old, static occupational concept through a dynamic method, directly manipulating internees' subjectivity.

The "benevolent" system that materialized in this original construction was clearly too utopian, for the maintenance of this system required the *yoseba* officials to care for individual internees, which cost considerable money, time, and energy. Figure 4 indicates how this representation of Tokugawa benevolent rule was changed by actual administrative experiences. As several historians have pointed out, the *ninsokuyoseba* substantially transformed its nature during the late Tokugawa period, qualitatively as well as quantitatively. First, the nature of the internees substantially changed after the *bakufu* decided in 1820 to internee not only the "innocent homeless" but also criminals who received the sentence of banishment. This policy changed the character of the internees, which obliged the *yoseba* officials to search for an appropriate system of policing the prison population. In 1826, a *yoseba* official wrote, "Recently, the administration of the *yoseba* has become a particular source of anxiety because the number of internees who were sentenced to banishment increased."¹¹³ Additionally, the increase of *yoseba* internees necessitated a new administrative system. According to historians, the number of internees in the *yoseba* was approximately 150 from 1793 to 1808, then increased substantially to around 450-600 during the 1830s and after. Researchers have pointed out that a series of famines in 1830s was an important cause for this increase. Many starving rural persons were obliged to leave their homes and villages, and survived as homeless persons in Edo. The *bakufu* attempted to

¹¹³ Tadahisa Sakamoto, *Tempo Kaikaku No Ho to Seisaku* (Tokyo: Sobunsha, 1997) 196.

have the *ninsokuyoseba* absorb the homeless population in order to preserve the security of Edo.

Although the number of internees dramatically increased, the expenditures of the *bakufu* were basically stable,¹¹⁴ therefore, the financial deficit resulting from the increase of internees had to be balanced by income from various *yoseba* products. Among these products, rape oil, production of which began in the *yoseba* in 1841, was the most successful. Oil pressing was a new technology, introduced in order to cope with these qualitative and quantitative transformations of the *yoseba* internees. Because the *bakufu* held a monopoly on rape oil, the *yoseba* could earn a large income from its production. Additionally, because oil pressing was a cooperative, labor-intensive activity, *yoseba* officials could monitor individual internees and utilize their labor power much more effectively than before. Accordingly, it was possible for the *bakufu* to intern more people, not only the “innocent homeless” but also criminals sentenced to banishment.

Various documents indicate that the manufacture of rape oil saved the *yoseba* from financial crisis. Additionally, rape oil pressing was advantageous from a security standpoint. If the individually compartmentalized space in Figure 3 is a spatial expression of a handicraft economy, the highly organized labor space of Figure 4 represents the emergence of manufacturing. Because the oil pressing process was much more standardized than individual vocational training, the *yoseba* could utilize internees’ labor power much more efficiently than before. The standardization of the labor process also facilitated surveillance by *yoseba* officials. The work started at six o'clock in the morning and continued until the evening without rest. Prisoners were required to meet production quotas, at the risk of being scolded or sometimes beaten severely by officials.

¹¹⁴ Ibid. 200.

The introduction of oil pressing saved the *yoseba* from financial bankruptcy, and was the key to the “success” of this institution. According to Minami Kazuo, its production accounted for 39% of the total income of the *yoseba* by 1845.¹¹⁵

However, in terms of the concept of benevolent rule, the success of the *yoseba* was quite problematic. When the manufacture of rape oil made it possible for the *bakufu* to internee more people, including criminals, the spirit of benevolence escaped from the “cage.” On one hand, the qualitative transformation of *yoseba* internees affected the attitudes of the *yoseba* officials, who were no longer interested in reforming internees’ personalities. For example, the following description, which appeared in a document prepared by a magistrate of the *yoseba* in 1842, reveals the basic attitude of the *yoseba* officials towards internees at that time. He said:

On *yoseba* internees, many of them are jobless. Although some of them have experience with carpentry or other occupations, their skills never develop because of their vicious characters. Therefore, nobody could really earn his living through his own skill...Essentially, they are deserted by their parents and brothers. Even if they appear redeemed in the *yoseba*, only a few sustain their sincere attitudes when they are released and allowed to wander about freely in the downtown. Many of them repeat previous mistakes...and are interned in the *yoseba* even four times and more.¹¹⁶

On the other hand, the tedium of oil pressing induced internees to attempt desperate escapes. In 1844, seven internees who were engaged in this work attempted to escape from the *yoseba*. *Bakufu* officials who investigated this incident inferred the reason for their escape as follows:

¹¹⁵ Minami, *Edo No Shakai Kozo* 124.

¹¹⁶ Sakamoto, *Tenpo Kaikaku No Ho to Seisaku* 204.

The manufacture of rape oil was recently introduced into the *yoseba*. This is quite different from various individualized vocational occupations such as sandal making, which had been practiced since the establishment of the *ninsokuyoseba*. This is an extremely laborious task. They are forced to work from early morning to evening, therefore they could not stand it any more, and ran away.¹¹⁷

8. Historical Limitations of the *Ninsokuyoseba*

This transformation of the *ninsokuyoseba* into a prison-like institution raised issues contradicting the legislative practices of the Tokugawa regime, under which each lord enjoyed autonomous jurisdiction over his domain. The confinement of the *mushuku* into the *yoseba* was an insufficient solution to the homeless problem, because this policy could not restrict the growth of the *mushuku* population. Since banishment was the most politically visible cause of homelessness, the *bakufu* attempted a national restriction on banishment as a form of punishment. However, this policy aroused serious opposition, not only from lords who feared that their jurisdiction could be weakened, but also from some *bakufu* officials who argued that to restrict banishment and deprive lords of autonomous jurisdiction was against the intentions of the “ancestors” who established the Tokugawa legal system. A group of documents titled *Hokei Hyogi no Bu*, “The Discussion about Banishment,” in a Tokugawa archive, *Shichu Torisimari Ruishu*, “Documents Related to Urban Policing,” vividly captures *bakufu* officials’ ambivalence. *Hokei Hyogi no Bu* contains the minutes of the *hyojosho* (the *bakufu* supreme court composed of three magistrates: *jisha bugyo*, *kanjo bugyo* and *machi bugyo*), which was ordered to discuss the abolishment of banishment by Mizuno Tadakuni, a powerful *roju* (chief councilor) who attempted to solve the *mushuku* problem by implementing

¹¹⁷ Ibid. 206.

nationwide countermeasures. Through an interpretation of the *hyojosho*'s documents, I show how highly compartmentalized Tokugawa spatial perceptions could not be reconciled with Mizuno's national countermeasures.

In 1843, Mizuno issued an order that each country should construct a *yoseba* in its domain (*shokoku yoseba setchi rei*). Mizuno, who was troubled with the increase of the *mushuku* in Edo, had already ordered that all the homeless persons in Edo should be hunted and sent back to their home countries (*mushuku nohinin kyuuri kikyō rei*). Each country was expected to intern those who returned from Edo in their newly built *yoseba*. However, in this regulation, "each country" (*shokoku*) only referred to districts within the Tokugawa domain, and the domains of seigniorial lords were unaffected. However, the *bakufu* officials recognized that the *mushuku* population in Edo mainly came from seigniorial domains, not from districts under Tokugawa control. Accordingly, as a solution to the *mushuku* problem, it was obvious that the abolishment of banishment and the establishment of the *yoseba* should be implemented nationally. Mizuno, who clearly recognized this necessity, attempted these two policies in the *bakufu* domain first, then expected the other *daimyos* to follow the example. However, though the *bakufu* established *yosebas* in Hakodate, Osaka, Kyoto, and Nagasaki, the other *daimyos*, with a few exceptions, did not follow the *bakufu*'s example.

Wani Kaya, who analyzes the continuing dialogue between Mizuno and the *hyojosho*, reveals that Mizuno's ambitious policy was substantially retarded by the spatial perceptions that had been entertained under the Tokugawa government.¹¹⁸ Mizuno's policy contained elements that were directly opposed to the spatial perceptions

¹¹⁸ Wani, "Tsuihokei Ni Miru Kogiooshioki No Henshitsu to Kokusei: Tepoki No Tsuihokei Kaiseirongi Wo Tegakaritoshite."

underlying Tokugawa governmental practices, especially the recognition of each lord's jurisdiction over his domain. In 1697 the *bakufu* confirmed this seigniorial jurisdiction by issuing an order, *jibun shioki rei*, stipulating that each lord could exercise jurisprudence over the incidents "within his domain" without consulting with the *bakufu* officials. The application of banishment by individual domains was officially sanctioned as a part of the Tokugawa legal system. Mizuno's restriction of banishment directly contradicted spatially segmented Tokugawa legal practices. Because of the tension between this feudalistic spatial perception and the necessity of a national perspective, the *bakufu* officials who were entrusted by Mizuno to discuss this issue could not reach constructive agreement.

According to Wani, the exchanges between Mizuno and the *hyojosho* can be divided into three phases. In the first phase of these exchanges, Mizuno expressed strong doubts about the legitimacy of banishment, and ordered the *hyojosho* to examine this problem. According to Mizuno, banishment was an inappropriate form of punishment for two reasons. First, banishment arose under a regime in which each country maintained its own borders (*kakkoku bunkyo*): therefore, banishment was quite inappropriate for the current situation in which "a unified government" (*goitto no gotisei*) prevailed. Second, banishment could cause a decrease in the productive population, resulting in uncultivated land and the economic devastation of villages. However, in this issue, the *hyojosho* disagreed. According to them, the current problems resulted from abuses of banishment more than from the practice of banishment. Rather, they supported banishment as a "benevolent" form of punishment. According to them, banishment was more benevolent than other forms of punishment such as tattooing. While in the latter case punishment was permanent, in the former case criminals could be pardoned and eventually return to their original homes and trades. However, this position was unrealistic because

opportunities for remission were quite limited under the Tokugawa legal system. Remission was granted only at the grand ceremonies of the Tokugawa family, by formal request from criminals' relatives. Criminals who did not have families were not eligible for remission.

In the second phase of exchanges, Mizuno, frustrated with the answers of the *hyojosho*, ordered them to discuss banishment again, and propose a practical method for returning banished criminals to their homes. Each of the three magistrates submitted different responses. *Jisha bugyo*, the temple magistrate, proposed that criminals sentenced to banishment should be sent for a fixed term to uncultivated areas in the eastern part of Japan, to reform themselves. When their term was complete, they would be pardoned and returned to their homes. *Machi bugyo*, the city magistrate in charge of the *ninsokuyoseba*, argued that criminals sentenced to banishment should be interned in the *ninsokuyoseba*. However, he was reluctant to take on too many responsibilities and financial obligations; therefore, he proposed that only criminals from Edo should be interned in the *ninsokuyoseba*, and that criminals banished by other lords should be interned into newly built *yoseba*-like institutions in each domain. *Kanjo bugyo*, who had judicial and financial control of the estates belonging personally to the shogun, was still reluctant to adopt Mizuno's suggestions, because he believed that amendments of policies on banishment could not be reconciled with the structure of the Tokugawa legal system. As a temporary solution, he proposed that each district should construct a *yoseba*-like institution, and that banished criminals should be sent to these for a limited period.

In the third and final phase of the discussion concerning banishment, Mizuno implemented his own policies in 1842: the *mushuku nohinin kyuuri kikyō rei*, which ordered all the homeless in Edo to return to their home countries; and the *shokoku yoseba setchi rei*, which required each country to construct its own *yoseba* using the example of

the *ninsokuyoseba*. However, these policies caused logistical as well as theoretical problems. To begin with, returning the *mushuku* and banished criminals to their homelands was expensive; therefore, the question of who should assume this financial burden emerged as an important issue. According to custom, each domain or district should cover the transportation costs. However, small, financially weak domains and districts were unable to pay transportation costs, so the *hyojosho* argued that the *bakufu* should subsidize transportation expenses, at least partially. Additionally, sending banished criminals to their homes was an implicated denial of the traditional jurisdiction of a seignior over his own domain. Accordingly, the *hyojosho* were obliged to logically reconcile Mizuno's new policy with seigniorial autonomy. They argued that it was impossible to return banished criminals to their homes, and that only "innocent" persons should be returned. Accordingly, the *hyojosho* proposed to temporarily intern banished criminals into the *yoseba* of the *bakufu* and transform them into innocent persons. However, this plan demanded a substantial financial contribution from the *bakufu*. For these practical and theoretical reasons, the *hyojosho* failed to legitimize Mizuno's policies.

Chapter 7: Hokkaido as a Space for Exodus

1. Prison Notes by a Northeastern Farmer

Miura Meisuke's (1820-1864) *Prison Notes* are unique, significant writings documenting the prison experience of an ordinary farmer who lived under the late Tokugawa regime. Meisuke was one of the leaders of the 1853 peasant insurrection in Morioka domain, which is located in the northern part of Japan's main island. To escape persecution by the Morioka government after the insurrection, Meisuke ran away from his village and stayed illegally in different domains for several years. He was arrested by the authorities of the Morioka domain in 1856, when he attempted to return from Kyoto to his home village. Meisuke was imprisoned in the Morioka gaol without a trial and died of neglect in 1864. During his imprisonment, he secretly sent four notebooks to his family with instructions for the future. Although most of his writings discussed concrete matters concerning his family business, he also penned a strong critique against the Morioka government and expressed a desire to immigrate to Ezochi—Hokkaido in modern Japanese—which he believed to be a utopia governed by a benevolent public authority. In this regard, Meisuke's *Prison Notes* were manifestations of larger historical events, which eventually resulted in the “colonization” of Hokkaido. From Meisuke's notebooks, we can learn how an ordinary farmer from a northern domain cultivated a subjectivity that was critical of the existing regime, and how the colonization of Hokkaido contributed to the transformation of his subjectivity.

Researchers who have analyzed Meisuke's four prison notebooks argue that there is a clear disjuncture among these notebooks, in terms of style as well as content.¹ Most remarkably, the first three notebooks were written in *hiragana*, the cursive Japanese syllabary, whereas the last one was written in *katakana*, the square Japanese syllabary.

¹ Isao Kikuchi, *Bakuhau Taisei to Ezochi* (Tokyo: Yuzankaku, 1984) 226.

While the first three notebooks were completed around 1859, the *katakana* notebook was written around 1861. Kikuchi Isao inferred that Meisuke prepared the last notebook in order to deny the first three notebooks.² Meisuke himself also explained, “Because the *hiragana* notebooks were written awkwardly, they should be rewritten as early as possible. If you send these back to me, I will rewrite them and send them back to you.” Eventually he instructed his family “to understand everything according to this [*katakana*] notebook.”³

The contrast between the *hiragana* notebooks and the *katakana* notebook offers an important insight of how the experience of imprisonment transformed Meisuke’s attitude toward existing authorities. In the *hiragana* notebooks, he advised his family members to obey the orders of the Morioka lord. He wrote: “Both families [his own family and the head family to which his mother and sister belonged] should plant Japanese lacquer trees and offer them to the lord in order to find fortune”; “You should not obey anybody with whom your lord and parents are displeased”; “You should regard the lord and parents to be unreasonable by nature. Even if they make unreasonable demands of you, you should not think ill of them.”⁴ These phrases indicate that Meisuke still entertained a hope for his and his family’s future under the rule of the Morioka lord. However, in the *katakana* notebook, he began to openly criticize the lord: “Although gifts from benevolent Heaven are limitless, people are suffering from poverty because of the

² Ibid. 229.

³ Kichinosuke Shoji, Motoi Hayashi, and Yoshio Yasumaru, eds., *Minshu Undo No Shiso*, vol. 58, *Nihon Shiso Taikei* (Tokyo: Iwanami Shoten, 1970) 73. Kikuchi, *Bakuhan Taisei to Ezochi* 229.

⁴ Kikuchi, *Bakuhan Taisei to Ezochi* 230, Shoji, Hayashi, and Yasumaru, eds., *Minshu Undo No Shiso* 27, 29.

lord having no ‘benevolent virtue’ (*meguminaki kokushu*).”⁵ While Meisuke was confined in the Morioka gaol, he lost all respect for the Morioka government.

In his *Prison Notes*, Meisuke’s critique against existing authorities manifests itself as a desire to immigrate to Hokkaido. When Meisuke gave up any hope for the future under the rule of the Morioka lord, he also changed his instructions about his family business. In the *hiragana* notebooks, he presupposed that his family would stay in the Morioka domain. His notes were filled with careful directions on growing vegetables: what kind of vegetables should be planted, how these vegetables should be grown and sold, etc. Additionally, he recommended that his family produce the following goods—*koji* (rice-malt), *sake*, oil, soy-source, vinegar, *miso* (bean paste), corn, rice-cakes, dumplings, *senbei* [wafers] and *tofu*—and instructed how and where to sell these products.⁶ Meisuke also made specific recommendations on the kind of jobs that should be assigned to four *genin*, hereditary servants working for his family.⁷ Meisuke advised his family to immigrate to Edo and run a *tofu* shop there “only in the unlikely event that I am not able to come back.”⁸ However, in the *katakana* notebook, he recommended that his family immigrate to Hokkaido regardless if he lived or died.⁹ It was at this moment that Meisuke turned to Hokkaido as the only possible space where his family could survive.

Meisuke’s immigration plan is closely associated with his utopian perception of Hokkaido. In the *katakana* notebook, he identified Hokkaido with “the Palace of the

⁵ Kikuchi, *Bakuhan Taisei to Ezochi* 235, Shoji, Hayashi, and Yasumaru, eds., *Minshu Undo No Shiso* 73.

⁶ Kikuchi, *Bakuhan Taisei to Ezochi* 231, Shoji, Hayashi, and Yasumaru, eds., *Minshu Undo No Shiso* 23, 25, 26, 27, 55.

⁷ Kikuchi, *Bakuhan Taisei to Ezochi* 229, Shoji, Hayashi, and Yasumaru, eds., *Minshu Undo No Shiso* 44, 56.

⁸ Kikuchi, *Bakuhan Taisei to Ezochi* 229, Shoji, Hayashi, and Yasumaru, eds., *Minshu Undo No Shiso* 63.

⁹ Kikuchi, *Bakuhan Taisei to Ezochi* 229, Shoji, Hayashi, and Yasumaru, eds., *Minshu Undo No Shiso* 73.

Dragon King (*ryugu no onchi*),” or “[Buddhists’] paradise (*gokuraku sekai*).” This perception was associated with the political status of Hokkaido, which was located under the direct control of the Tokugawa shogun. He said: “in Japan, there is nothing above the *kogi*. Please leave my offspring in the place under the *kogi*... Give up desires and be the farmers of the public authority (*kogi no ohyakusho*)...In Japan, there is no more benign god than the Shogun...There is no better land than Hokkaido.”¹⁰ In orthodox Tokugawa terminology, *kogi* means “the shogunate government”, in contrast to *shiryō*, “private domains [of feudal lords]. However, this does not necessarily mean that Meisuke preferred through a rational comparison the existing Shogunate government to the Morioka government. Rather, we should pay particular attention to the fact that *kogi* began to acquire a new implication in Meisuke’s prison notebooks. Meisuke chose Hokkaido not simply because it was the Shogun’s land, but because it was imagined to be free from all political control. Terminology such as “the Palace of the Dragon King” or “[Buddhists’] paradise” indicates this. Through his experience of confinement, Meisuke acquired a new form of subjectivity that rejected all existing authorities. For such a person, there was only a place to go: Hokkaido, the island that existed outside of the Tokugawa governmental epistemology.

Meisuke’s utopian image of Hokkaido was also related to the economic conditions of Hokkaido. In the *katakana* notebook, Meisuke required his family members to give up “desires” as a necessary precondition to their immigration. He instructed: “Give up your desires [*yoku wo hanareru*] and immigrate to the Palace of the Dragon King [*ryugu no onchi*]. Once you give up your desires, you can enter into

¹⁰ Kikuchi, *Bakuhatsu Taisei to Ezochi* 237, Shoji, Hayashi, and Yasumaru, eds., *Minshu Undo No Shiso* 79.

[Buddhists'] paradise (*gokuraku sekai*).”¹¹ He emphasized that the following four desires should be discarded: “the desire to win over other people”; “the desire to accumulate everything”; “the desire not to be laughed at by anybody”; and “the desire to sacrifice your life [for fame].”¹² Instead, he recommended his family to learn “calculation and handicraft” (*soroban to teshigoto*).¹³ He said: “every night you should learn skills to make money and develop them. If you acquire the skills, it is the same as if you have 10 million *ryo* in your hands.”¹⁴ In short, he advised his family members to give up their previous means of livelihood that largely relied on farming. Instead, he recommended them to pursue a more business-oriented life in Hokkaido, where he believed it would be possible for them to make a fortune by commerce.

2. Colonizing the Ainu: Political and Economic Background

It is important to note that Meisuke’s particular imagination of Hokkaido was an integral part of larger historical events, which eventually resulted in the “colonization” of Hokkaido. In the Tokugawa period, Hokkaido was called Ezochi, “a place for Ezo.” In Tokugawa terminology, Ezo, the “people who are not subject” in original implication, designated the Ainu, who occupied the northern-most part of Honshu, Hokkaido, the Kuril Islands, and Sakhalin. They were mostly engaged in fishing and hunting, and maintained their own language and customs that differed from those of the Japanese. Until the end of the eighteenth century, the Tokugawa government regarded the *Ezo* as foreigners, and Ezochi (the land of the *Ezo*) as a foreign country.

¹¹ Kikuchi, *Bakuhau Taisei to Ezochi* 237, Shoji, Hayashi, and Yasumaru, eds., *Minshu Undo No Shiso* 73, 79.

¹² Kikuchi, *Bakuhau Taisei to Ezochi* 236, Shoji, Hayashi, and Yasumaru, eds., *Minshu Undo No Shiso* 80.

¹³ Shoji, Hayashi, and Yasumaru, eds., *Minshu Undo No Shiso* 80.

¹⁴ *Ibid.* 64.

At the beginning of the Tokugawa period, Ezochi was incorporated into the diplomatic structure of the Tokugawa regime. Historians had long characterized the nature of Tokugawa diplomacy as *sakoku*, “seclusion policy,” which suppressed Christianity and expelled Portuguese traders, confined Dutch traders to virtual imprisonment in Nagasaki, and prohibited Japanese from all travel abroad.¹⁵ However, in the 1970s, historians began to question the validity of the old paradigm, and proposed a more positive and constructive image of Tokugawa diplomacy that sought actively to reconstitute Japanese relations with the international environment in ways that advanced both international and domestic goals.¹⁶ According to Ronald Toby, these goals were to “enhance the *bakufu*’s legitimacy, assure Japan a sense of security in a East Asia..., and maintain Japanese access to a secure and expanding foreign trade.”¹⁷

The Tokugawa regime pursued these goals through two policies. The first was a set of “maritime prohibitions,” attempts to regulate “ingress and egress, both by Japanese and by foreigners.”¹⁸ On one hand, they forbade foreign travels for all Japanese people. On the other hand, they created an effective system for controlling trade. In the 1630s, the Tokugawa regime established two categories of foreign relations: diplomatic relations (*tsushin*) and trade relations without diplomatic relations (*tsusho*). “The former category comprised relations with Korea and the Ryukyu Kingdom, the latter, relations with Holland and China.”¹⁹ By granting the domain of Matsumae a monopoly over trade with

¹⁵ Toby, *State and Diplomacy in Early Modern Japan: Asia in the Development of the Tokugawa Bakufu* xiii.

¹⁶ *Ibid.* xvi.

¹⁷ *Ibid.* 233.

¹⁸ *Ibid.* xvii.

¹⁹ *Ibid.* 14-15.

the Ainu, the *bakufu* also situated Ezo in their system of foreign relation.²⁰ As Kato Eiichi explains, “through the ‘four gates’ of Tsushima (dealing with Korea), Nagasaki (dealing with China, Southeast Asia, and Europe), Matsumae (dealing with the northern regions) and Satsuma (dealing with Ryukyu viz. China) the *bakuhau*-system state’s functions for conducting foreign relations were allocated to the relevant daimyo or the *bakufu* administrators controlling these ‘gates’ as their specific ‘duty’ owed to the *bakufu* and that these functions were in turn placed under the overall control of the *bakufu* authorities and exercised as state powers.”²¹

The second policy for the *bakufu* to enhance their legitimacy was the invention and practices of Japanese-style civilized/barbarian ideology. Traditionally speaking, this ideology was entertained by successive Chinese dynasties. Ronald Toby summarizes the characteristics of this ideology as follows:

In the Chinese case, this ideology was founded on the assumption that the ethical norms of Confucianism constituted “civilization,” and that these were embodied in the Chinese state, and personified by the Chinese emperor, the Son of Heaven. It was his responsibility as possessor of the Mandate of Heaven to maintain order in the world by proper performance of ritual in his role as mediator between Heaven and Man. Non-Chinese monarchs were welcome to bring their states into participation in this “world order” by proclaiming themselves “subjects” of the Chinese emperor...by accepting the Chinese calendar, symbolic of acceptance of the emperor’s mediation in the cosmos, and by receiving in return ‘investiture’ or confirmation as monarchs of their countries.²²

²⁰ Tessa Morris-Suzuki, “The Frontiers of Japanese Identity,” in *Asian Forms of the Nation*, ed. Stein Tonnesson and Hans Antlov (Surrey: Curzon, 1996), 59.

²¹ Eiichi Kato, “Research Trends in the Study of the History of Japanese Foreign Relations at the Start of the Early Modern Period: On the Reexamination of “National Seclusion”--from the 1970’s to 1990’s,” *Acta Asiatica*, no. 67 (1994).

²² Toby, *State and Diplomacy in Early Modern Japan: Asia in the Development of the Tokugawa Bakufu* 170-71.

However, the steady decline of the power of China, and the eventual conquest of the Ming dynasty by the Ch'ing, former barbarians, encouraged neighboring countries including Japan to appropriate this ideology and develop ethnocentric worldviews in which their countries enjoyed a privileged status. In this context, the Tokugawa regime created a "Japanese-style civilized/barbarian consciousness" rooted in "military prestige." According to Asao Naohiro, "whereas the Chinese conception of a 'civilized/barbarian' order took China as a suzerain endowed with a culture familiar with the rites and laws of Confucianism, this Japanese-style civilized/barbarian consciousness is defined as an international order centered on Japan, a land of military prestige that strove to demonstrate its military prowess to the rest of East Asia."²³ Edo received "tribute missions" from Korea and Ryukyu Kingdom, and saw them as "submitting" to Edo. The Ainu, unlike the Ryukyu Kingdom and Korea, never sent diplomatic delegations to Edo. However, the Ainu were required to travel to Matsumae-controlled trading zones, exchange gifts according to specific Japanese-specified protocol, and submit to the Tokugawa political order. As Brett Walker argues, "the Japanese dictated the terms of the gift-giving relationship, reinvented through the lens of a Confucian-based hierarchical vision of diplomatic relations, which dramatized Tokugawa authority in Ezo."²⁴

As Tessa Morris-Suzuki argues, the cornerstone of the *ka-i* ideology was the logic of difference. The relationship with the Ainu was important "precisely because they represented the subordination of foreign people to Japanese dominion."²⁵ By the end of

²³ Kato, "Research Trends in the Study of the History of Japanese Foreign Relations at the Start of the Early Modern Period: On the Reexamination of "National Seclusion"--from the 1970's to 1990's."

²⁴ Brett L. Walker, "Reappraising the *Sakoku* Paradigm: The Eso Trade and the Extension of Tokugawa Political Space into Hokkaido," *Journal of Asian History* 30, no. 2 (1996).

²⁵ Morris-Suzuki, "The Frontiers of Japanese Identity," 51.

the eighteenth century, the mediating Matsumae government aimed at keeping a significant distance between the Ainu and the Japanese. According to a report, the Ainu were banned by the Matsumae government from adopting Japanese customs: speaking Japanese, wearing a straw raincoat and straw hat, or putting on traveling sandals and gaiters.²⁶ Mogami Tokunai (1755-1836) deplored the Ainu: “[They] will never be civilized as long as the Matsumae government strictly orders them not to take Japanese customs.”²⁷

However, Russian advances into this area radically changed the situation. In 1792, A. E. Laksman (1766-?), the envoy of the Russian emperor, visited a port in Hokkaido (Nemuro) and demanded that the *bakufu* begin trading with Russia. The contact with Russia posed an intriguing problem to the Tokugawa government, because the regime did not anticipate any diplomatic relations with Russia. Accordingly, *bakufu* officials were obliged to reconsider the validity of the existing diplomatic system. Through this process, they also redefined the status of Ezo Island. By 1792, the *bakufu* had already dispatched several expeditions, in order to gather information about the geography and population of the land of the Ezo. The arrival of Russia arose the fear in *bakufu* officials that the Ezo could be easily conquered by the Russians. In one of the detailed reports produced by these expeditions, *Ezo Zoshi*, Mogami Tokunai wrote:

²⁶ Ibid.

²⁷ Kikuchi, *Bakuhau Taisei to Ezochi* 155.

There are twenty-one islands east of the land of the Ezo. The Ezo who inhabited these islands have been subjected to the Matsumae and have belonged to Japanese race since ancient times; therefore, these islands doubtlessly belong to the realm of Japan. However, the red people (*sekijin*, the Russians) come there more and more year after year, appropriate these islands as their own land, and attract and instruct native islanders. They also receive presents from the natives and send these items to their home country as taxes over these islands.²⁸

Although Ryukyu and Korea were recognized as independent kingdoms, the Ezo were regarded as a people who did not have their own state. As Morris-Suzuki argues, “it was only in the north that the threat from Europe seemed close enough to warrant practical action, and even their efforts at assimilation were dropped as the Russian menace receded.”²⁹ In 1799, the *bakufu* declared that Hokkaido was under the rule of the Tokugawa shogun. In 1802, after nearly two centuries of regional oversight by the Matsumae domain, the shogunate established the Hakodate magistracy (*bugyo*), a colonial office of sorts; and the affairs of Ezochi were administered by the political center in Edo.³⁰ Simultaneously, the *bakufu* reversed the previous rule of difference, and promoted the assimilation of the Ainu. In the same year, the Hakodate magistracy spelled out its new priorities for Ezo, which included *buiku*, “benevolent rule.” Pointing to advances in the region made by the Russian empire, the magistracy warned that “some twenty islands” off the coast of “our country” were already under Russian sway and that the Russians were aiming at the very heart of Ezo itself.³¹ Realizing the logistical difficulties of extending Tokugawa military control over Ezo, the magistracy

²⁸ Kisaku Otomo, ed., *Hokumon Soshō*, 6 vols., vol. 1 (Tokyo: Kokusho Kangokai, 1972) 383.

²⁹ Morris-Suzuki, “The Frontiers of Japanese Identity,” 57.

³⁰ Brett L. Walker, *The Conquest of Ainu Lands: Ecology and Culture in Japanese Expansion 1590-1800* (Berkeley, Los Angeles, and London: University of California Press, 2001) 227.

³¹ *Ibid.* 231.

recommended that the shogunate should take the more Confucian approach of projecting its benevolent rule over the native inhabitants so that the “Ainu will be satisfied in their hearts with the [Japanese] state and not be tempted to flee Ezo for foreign lands.”³² In 1811, this notion of benevolent rule became specific administrative reality when the *bakufu* declared that “the Ainu should be farmers of the public authority (*kogi no ohyakusho*) from now on,” encouraged them to adopt Japanese customs such as eating cereals and shaving part of their head (in front of the topknot), and forbade them to conduct ethnic rituals such as tattooing.³³ The *bakufu*’s assimilation policy also included a transformation of the appellative term for the Ainu. In 1857, the *bakufu* ordered the appellative form *ijin*, “alien,” to be replaced by *dojin*, “natives.”³⁴ The *bakufu* used the term, *buiku*, “to care, tend to or show benevolence toward,” in order to legitimize its direct rule over the Ainu. When Hokkaido appeared as an important national frontier, the *bakufu* projected their own ideas of utopian rule in Hokkaido, the same ideas that tempted Meisuke.

Importantly, at this juncture, the administration of Ezo departed from its previous “early-modern” form, characterized by domainal administration and strictly feudal economic decision making, to a more “modern” form, with the central government participating in the “planning of economic policy” and overseeing the “deculturation and assimilation of the Ainu.”³⁵ Life under the modern form of rule was not necessarily better and not necessarily worse, but it was necessarily different. At least for the Ainu,

³² Ibid.

³³ Ibid.

³⁴ Kikuchi, *Bakuhau Taisei to Ezochi* 157-63.

³⁵ Walker, *The Conquest of Ainu Lands: Ecology and Culture in Japanese Expansion 1590-1800* 227.

these new policies simply integrated the Ainu into the bottom of the Japanese social hierarchy, without assuring them of treatment equaling that of the Japanese.

On the other hand, it is also important to note that nineteenth-century Hokkaido was one of the most important sites in which “capitalism as a mode of production” was originated and developed. Through the examination of the Hokkaido fishery, David Howell successfully claims that “critical changes in social and economic relations” occurred in ostensibly “backward” areas like Hokkaido, not in the geographical centers of Japan.³⁶ In order to clarify his point, Howell employs the concept of proto-industrialization. Proto-industrialization (rural manufacturing for long-distance trade) occupied a sort of middle ground between commercial agriculture and modern industry. On one hand, proto-industrialization is distinct from the expansion of commercial agriculture. Whereas the growth of commercial agriculture, still based on household labor, changes the way things are bought and sold but not the way they are produced, proto-industrialization facilitates the penetration of capital into the realm of production through the introduction of wage labor.³⁷ On the other hand, peasants working in manufacturing for long-distance trade, in or near their homes, still maintain a “strong identity as tillers of the soil.”³⁸

According to Howell, “The Hokkaido fishery stands out in the history of the Japanese economy because the fundamental transformation to capitalism was complete before the establishment of a regime dedicated to Western-style economic

³⁶ David L. Howell, *Capitalism from Within: Economy, Society, and the State in a Japanese Fishery* (Berkeley: University of California Press, 1995) xi-xii.

³⁷ *Ibid.* 12.

³⁸ *Ibid.* 13.

development.”³⁹ This was closely associated with the special nature of the Matsumae domain. In Hokkaido, rice cultivation was impossible for ecological reasons. This condition made the Matsumae domain dependent exclusively upon commerce for its prosperity and stability. In the seventeenth century the Matsumae family established trading posts along the shores of Ezochi for trading with the Ainu, and ships of the daimyo and their corps of retainers would come to trade with the Ainu at these commercial outposts.⁴⁰ Hokkaido’s commercial herring fishery originated in the early eighteenth century as merchants, based mostly in central Honshu, responded to a growing demand for herring meal (*nishin shimekasu*) for fertilizer and dried herring (*migaki nishin*) for food among cultivators in the Kinai plain and elsewhere.⁴¹

As Howell emphasizes, “the fishery was by no means the only, or even the best-known example of proto-industrial development in nineteenth-century Japan.”⁴² “The textile industry stands out in particular,” he continues, “but others included papermaking, sake and soy-sauce brewing, iron and other metalworking, and the processing of agricultural and marine products, such as tea, indigo, sugar, wax, vegetable oil, whale byproducts, and a variety of fertilizers.” It is important to note that Meisuke also mentioned many of these items in his *Prison Notes*. In this regard, Meisuke was nothing other than a proto-industrialist. This consideration highlights the economic motivation of Meisuke’s immigration plan. Meisuke, as an astute proto-industrialist, recognized that critical changes in social and economic relations had occurred in Hokkaido.

³⁹ Ibid. 11.

⁴⁰ Nobuyuki Kamiya, “Japanese Control of Ezochi and the Role of Northern Koryo,” *Acta Asiatica*, no. 67 (1994).

⁴¹ Howell, *Capitalism from Within: Economy, Society, and the State in a Japanese Fishery* 2.

⁴² Ibid. 11.

3. Power of the Map

The threat from the north and the intensification of economic and political transactions transformed Tokugawa intellectuals' spatial perception of Hokkaido and the northern territories. Until the mid-eighteenth century, Tokugawa intellectuals' geographical knowledge depended on a map, *Konyo Bankoku Zenzu*, published in China in 1602 in collaboration with Matteo Ricci (1552-1610), a Italian Jesuit missionary (Figure 5 in Appendix B). Ricci and Chinese cartographers produced this map by combining European maps, including Abraham Olterius's *Theatrum orbis terrarum* (1570); Gerardus Mercator's world map (1592); and Petrus, Plancius's *Orbis Terrarvm Typvs De Integro Multis in Locis Emendatus* (1592); with various Chinese geographical books.⁴³ Although this map contained new knowledge acquired by Europe during the era of Grand Navigation, it inadequately represented areas of northern Japan: the northern half of Hokkaido, the Kuril Islands, Sakhalin, and Kamchatka were not drawn at all. Some seventeenth-century maps, such as the detailed 1644 *Shono Nihon Sozu* (Shono map of greater Japan), do crudely outline a northern, amoebas-shaped land formation called Ezochi. However, compared to the rest of the map, the depiction of Ezo is "off-scale, off-center, and inaccurate."⁴⁴ In contrast, *Hokusa Bunryaku*, completed by Katsuragawa Hoshu (1751-1809) in 1794, contained a reproduction of a world map drawn in Russia, whose information about the northern areas was accurate and detailed. By the 1830s, cartographic portrayals of Ezo had changed considerably. Ezo had a recognizable shape in such maps as the 1830s *Ezochi Zenzu* (Complete Map of Ezochi), and there were detailed references to village names, coastal inlets and ports, rivers and

⁴³ Yuko Tanaka, *Edo No Sozoryoku* (Tokyo: Chikuma Shobo, 1986).

⁴⁴ Walker, *The Conquest of Ainu Lands: Ecology and Culture in Japanese Expansion 1590-1800* 1.

watersheds, prominent offshore islands, and even specific mountain ranges (Figure 6 in Appendix B).⁴⁵ In provincial maps from the 1830s, moreover, such as the *Tenpo Okuniezu* (1838 provincial map), Ezo was basically scaled to fit within the domestic space of the rest of Japan, suggesting that this once foreign place—a place that was once “off the map,” so to speak—had been absorbed within the fluid boundaries of Japan.

Since space is a fact of nature, the conquest and rational ordering of space became an integral part of the modernizing project. David Harvey emphasizes that the map-making of Enlightenment Europe was an integral part of the modernizing project: “The conquest and control of space, for example, first requires that it be conceived of as something usable, malleable, and therefore capable of domination through human action. Perspectivism and mathematical mapping did this by conceiving of space as abstract, homogeneous, and universal in its qualities, a framework of thought and action which was stable and knowable.”⁴⁶ Through a series of maps in the first quarter of the nineteenth century, Ezo, formerly a mysterious land of “aliens,” was now perceived as a specific place, located within the Japanese boundaries. Meisuke’s immigration plan became possible only after this cartographic shift transformed Ezo into a space usable, malleable, and capable of domination through human action. As Tessa Morris-Suzuki explains, “what was new about [this cartographic shift] was not the notion of a frontier itself...Rather...the idea of the frontier as a single, unequivocal line marking the boundary between one nation and another, instead of the idea of a series of frontiers marking gradually increasing degrees of difference.”⁴⁷

⁴⁵ Toshiyuki Akizuki, *Nihon Hokuhen No Tanken to Chizu No Rekishi* (Sapporo: Hokkaido Daigaku Shuppankai, 1999). Walker, *The Conquest of Ainu Lands: Ecology and Culture in Japanese Expansion 1590-1800*.

⁴⁶ David Harvey, *The Condition of Postmodernity* (Cambridge & Oxford: Blackwell, 1990) 254.

⁴⁷ Morris-Suzuki, “The Frontiers of Japanese Identity,” 54.

As Brett Walker claims, “viewed from the perspective of Ezo...the early-modern period in Japan, began to phase out around 1800.”⁴⁸ It is precisely this modern nature of Ezochi that conjured up Meisuke’s utopian imagination. It is important to note that the colonization of Hokkaido chronologically coincides with the establishment of the *ninsokuyoseba*. Both spaces, characterized by proto-industrial economic practices and the “benevolent rule” directly exercised by the *bakufu*, were heterotopic within the highly compartmentalized spatial practices of the Tokugawa regime. The colonization of Hokkaido offered an imaginative space in which a Tokugawa farmer suffering from various “feudal” burdens could project his own ideal polity.

⁴⁸ Walker, *The Conquest of Ainu Lands: Ecology and Culture in Japanese Expansion 1590-1800* 228.

CONCLUSION

1. Summary of Arguments

The establishment of the modern police system in Japan was, in the immediate sense, a response to political, rather than economic or social, crises caused by the Meiji Restoration as a political revolution. The success of the revolution immediately raised the problem of legitimacy because it was not clear “on what grounds or by whom decision [were] made” after 1868.¹ In revolutionary conditions, as Silberman argues, only two choices are left for claimants to leadership who wish to secure and maintain their positions: to maintain their power and positions by the use of force to eliminate challengers, or to seek a leadership structure that excludes solipsistic challenges on the one side and reliance on voting on the other side.² Organizational characteristics of the Metropolitan Police Office, such as particularistic recruitment pattern, excessive number of personnel, heavy reliance on spying, and military-like discipline, resulted from the preoccupation of the Meiji ruling elite to secure their own status by preventing and suppressing civil war effectively.

Through this dissertation, I attempted to clarify how various colonial factors contributed to frame the nature and practices of Japanese penal policies during the revolutionary phase from 1868 to around 1880. Part One showed how the Meiji leaders framed their own security policies by utilizing the theory and practices of contemporary colonial policing as important resources. These resources can be differentiated into two categories: the practical and the ideological. I pointed out that some important organizational characteristics of the Metropolitan Police Office, such as particularistic

¹ Silberman, *Cages of Reason: The Rise of the Rational State in France, Japan, the United States, and Great Britain* 48.

² *Ibid.* 53.

recruitment pattern, excessive number of personnel, heavy reliance on spying, and military-like discipline, were also features of contemporary colonial police systems. This suggests that the Metropolitan Police Office shared a common concern with colonial police forces in preventing and suppressing insurrections, rather than protecting and promoting civil society. For the Meiji leaders, British colonial Asia was a space from which to draw practical and ideological strategies to eliminate actual and potential challengers. In addition, contemporary colonial domination offered the Meiji leaders the logic of ideological legitimation for their security practices. Semi-sovereign status based on the unequal treaties and strong pressures from foreign countries were important pretexts for the Meiji elite to establish their own extensive security institutions. However, as protecting foreigners' lives and properties were insufficient reasons for the Meiji government to establish and maintain a large police force, some form of ideological legitimation was necessary. The Meiji leaders could not rely on the previous value systems because they had come to power by denying them. They had not yet succeeded in establishing their own ideology and institutions through which they could legitimize their security practices. In this vacuum of legitimacy, the Meiji rulers justified their rule as part of a higher civilizing project that would allow Japan equity with the West. The logic of this internal "civilizing mission" was inspired by the practices and ideology of British rule in colonial Asia.

However, if we interpret the establishment of the modern security institutions only as a result of the collaboration between the Meiji leaders and Great Britain, we ignore the rich and complex history of penal reform implemented under the Tokugawa regime. An ideology, "benevolent rule," originating in the Tokugawa regime remained central to early Meiji prison reformers. Information and experiences about penal reform accumulated in that period were used by Meiji reformers as an important source for

modern prison system. Through the analysis of Part Two, I claim that the political-conflict approach that emphasized the rapture of the Meiji Restoration as a revolutionary moment should be supplemented by consideration of how the penal discourse developed under the Tokugawa regime prepared for the “modern” discourse after 1868.

During the late Tokugawa period, the restriction of banishment became an important political concern among Tokugawa authorities. The banishment became problematic for the Tokugawa authorities because it produced the *mushuku*, a homeless population, which existed outside of the “feudal” grid of social control. As a solution to the homeless problem, Tokugawa authorities took the novel step of establishing a workhouse-like institution in the late eighteenth century, called *ninsokuyoseba*.

The *ninsokuyoseba* was a quite innovative institution economically, ideologically, and politically. The purpose of the *yoseba* was to produce productive labor out of a seemingly “useless” population. The actual practices of the *yoseba* were deeply penetrated by the logic of commodification in the following two regards. To begin with, vocational training in this institution was practiced in order to transform homeless persons into autonomous economic subjects. Additionally, seemingly profitable industries were developed in the *yoseba*. Because the *yoseba* was expected to be managed on a self-paying basis, the administrators of the *yoseba* had to worry about not only the future of the internees but also the current financial conditions of the institution. Various political technologies were tried out in order to transform the homeless to townfolk. The administrators were also aware that the success of the *yoseba* depended on how successfully they could confine the homeless persons in the *yoseba*. They paid particular attention to the architecture of the *yoseba* in order to confine a substantial number of undisciplined populations. They introduced ideological indoctrination: lecturers who mastered *shingaku*, “the learning of the heart,” one of the most influential

religious and moral movements in the late Tokugawa period, were invited to the *yoseba* and lectured to the internees once a month.³ More importantly, all of these procedures were planned by the *bakufu* officials. In the case of traditional gaols, the *hinin* (outcasts) were trusted with the surveillance and treatment of the internees. The direct *bakufu* control introduced into the *yoseba* indicated that the power of the Tokugawa regime had somehow finally extended to the bottom of the society.

However, it is important to note that the *ninsokuyoseba* was not developed into a modern prison. Material spatial practices surrounding the *mushuku* problem required a new type of spatial perception, a unified, homogenized “national” space. However, the highly compartmentalized representational space underlying the Tokugawa regime made it difficult for many individuals to imagine such a “national” space. The ideological function of *jin*, benevolent rule, is also ambivalent. On one hand, the concept of *jin* framed the institution and practices of the *ninsokuyoseba*. On the other hand, the principles of benevolence clashed with administrative and economic rationality, and hindered this institution from developing into a “complete and austere” modern prison.

Colonialism functioned as an important catalyst, precipitating the transformation from a feudal to a national spatial perspective. One particular text, *Kaikoku Zushi* (*Illustrated Treatise of the Sea Kingdoms*) edited by a Chinese scholar, Wei Yuan, exerted a dominant influence over the prison reform discourse in this period. This book contained detailed information about American prison system and gave Japanese intellectuals an alternative image of a “benevolent prison.” The information on the American prison system in *Kaikoku Zushi* was brought to China by an American

³ On this topic, see, Takenaka, “Ninsokuyoseba to Shingaku.” As overviews on the *shingaku* movement, see, Bellah, *Tokugawa Religion*, Ken Ishikawa, *Sekimon Shingakushi No Kenkyu* (Tokyo: Iwanami Shoten, 1935).

missionary, Elijah Coleman Bridgman. Bridgman's description of the American prison system was filled with utopian images, intended to legitimize Western domination over the East. In this context, the utopian prison described in *Kaikuzushi* and which fascinated Tokugawa prison reformers was nothing other than a colonial construct.

I claim that the 1871 *Kangokusoku (Prison Rules)*, the first prison regulation issued by the Meiji state, was a product of the contact between the prison reform discourse developed under the Tokugawa regime and the Western colonialism. At the beginning of 1871, the Meiji government sent Ohara Shigechika, to research prisons in Hong Kong and Singapore. After he returned to Japan, he drafted *Prison Rules*. Ohara attempted to materialize the concept of "benevolent rule" entertained by Tokugawa prison reformers through the promulgation of *Prison Rules*. This text also contained implicit criticism against the contemporary British colonial rule characterized by constant application of flogging. It is also important to note that the *Shinritsu Koryo (The Essence of the New Code, 1871)*, the first penal code in Japanese history to abolish banishment, stipulated that persons sentenced to exile were to be deported to Hokkaido.⁴ The replacement of banishment by penal servitude was effected by designating this area as a penal colony. I argue that the prison reform discourse that developed under the Tokugawa regime could be metamorphosed into a modern form only through the mediations of colonial factors.

Colonial Asia was an important space in which modern Japanese security institutions and practices were constructed and contested. So-called "unique" characteristics of Japanese security measures were in fact a product formed from the

⁴ Ishii and Mizubayashi, eds., *Ho to Chitsujo.*, Ch'en, *The Formation of the Early Meiji Legal Order: The Japanese Code of 1871 and Its Chinese Foundation.*

intense interactions between the colony, the metropole, and Japan, and not a manifestation of cultural essence or a simple emulation of European models. The boundaries of the nation state are too narrow to illuminate the specific nature of modern power.

2. The Beginning of an Era

In 1878, ten years after the Meiji Restoration, Kawaji Toshiyoshi, acting Chief Inspector of the Metropolitan Police Office, submitted a memorial to the Ministry of the Interior. In this document, he emphasized the importance of police power for maintaining social order, and asked the government to send him to Europe to study the police system there. Kawaji's request makes fascinating reading, not so much for its content as for the historical context that produced it. Kawaji, known as "the founder of the Japanese police system," had already conducted substantial research on the police system in France in 1873, and submitted a comprehensive reform plan for the Japanese police system the same year. The Metropolitan Police Office in Tokyo, the first large-scale modern police system in Japanese history, was established in 1874 through his tireless efforts. When Kawaji submitted the memorial, he had already worked four years as the head of 6,000 policemen. In the memorial, he explained his desire to go to Europe as follows: "Until today, the police have prepared only for civil war. Hereafter, true policing must be established."⁵ Kawaji's desire to study the European police system was motivated by his strong conviction that Japan as yet, was not being policed effectively.

In the 1870s, several insurrections were raised by former samurais who were frustrated by the policies of the new government. The Meiji government did not blink in

⁵ Yui and Obinata, eds., *Kanryosei, Keisatsu*.

mobilizing not only military force but also police force to crush these insurrections. Among these insurrections, the Seinan War in 1877 was the last and largest. This insurrection was particularly distressing for the officers of the Metropolitan Police as most of the insurrection army was comprised of former Satsuma samurais, as was the Metropolitan Police force. Kawaji, who himself commanded the Metropolitan Police force against the “rebel” army, must have felt the utmost emotional conflict as Saigo Takamori (1827-1877), the chief of the rebel army, was Kawaji’s greatest benefactor. Saigo, one of the “three greatest men in the Meiji Restoration,” distinguished himself as a supreme military commander in the civil war against the Tokugawa government. Kawaji, who was from a humble Satsuma samurai family, was a member of Saigo’s army, and was favored and promoted by Saigo after the Meiji Restoration.⁶ In 1873, Saigo came into conflict with other government officials over Korean relations, resigned from the government, and secluded himself in Kagoshima, the former capital of Satsuma domain. At that time, a substantial number of loyal officers resigned from the Metropolitan Police Office and returned to Satsuma with Saigo, but Kawaji remained in his office and successfully coped with the situation. In a sense, the Seinan War was a civil war fought between two Satsuma factions.

In February 1880, Kawaji, and his subordinates, Onoda Motohiro (1848-1919) and others, left for Europe to begin research on police and prison systems. Unfortunately, we cannot determine what he meant by “true policing” solely through his research, because he became seriously ill in Europe and died on October 13, 1881, five days after his return to Japan. Kawaji literally dedicated his life to the project of “true policing,” the implications of which we no longer know. One thing is clear: he was haunted by the idea

⁶ Keishichoshi Hensan Inkai, *Keishichoshi: Meiji Hen* 45-48.

that he might have produced a police system in Japan which was quite different from the “true policing” of Europe.

After the Seinan War ended, the nationalization of the Metropolitan Police Office was accelerated. Recruitment from areas other than Satsuma became standard, and proportion of officers from commoner backgrounds increased simultaneously. Although the gradual transformation of the early “colonial” Meiji police is an important topic, I must leave the details to another project. Instead, I will briefly introduce an episode that seems to capture the element of policing left unchanged by this transformation. A book on the history of the Metropolitan Police Office tells us about “the saying among patrolmen that in order to make it in the Metropolitan Police Office one had to speak Satsuma dialect.”⁷ This detail suggests the constancy of human practices: once a particular practice is established, it can survive far beyond the historical context from which it arose. Similarly, it is understandable that some of the policing practices characteristic of the early Meiji period and its British colonial influence remain a part of contemporary Japanese society.

Around the same time, the disciplinarization of the prison was systematically advanced. For example, Onoda Motohiro who attended Kawaji’s research trip in 1880 stated that the purpose of his visit was a search for the “spirit” of Western prison administration.⁸ Prison architecture, like the merits of the solitary cell system, was one of the focal points of Onoda’s research. For Onoda, prison structure was a manifestation of the “spirit” of Western prison administration. In his enlightening book about the Western

⁷ Tetsuo Tanaka, *Keishi-Chō Monogatari: Mitsuwa Hyakunen* (Tokyo: Kasumigaseki Shuppankai, 1974) 65, Westney, “The Emulation of Western Organizations in Meiji Japan: The Case of the Paris Prefecture of Police and the Keishi-Chō.”

⁸ As for Onoda Motohiro, see Yuzai Takahashi, *Meiji Keisatsushi Kenkyū*, 4 vols., vol. 4-1 (Tokyo: Reibunsha, 1972) 307-52.

prison system, he wrote:

Some readers may be surprised to see how effectively the European prison system can reform prisoners although prison labor is quite moderate there... However, some say that Western prisons are much more painful than the toil in Japanese prisons. Even though Western prisons are said to be based on the principles of educationism, many of them have turned to solitary confinement, silent confinement or both. The pain of solitary confinement is much greater than that of prison labor. It is said to be the most painful punishment.⁹

Here, Onoda evaluated Western prison architecture only in its effect on reforming prisoners in contrast to Ohara, who discussed prison architecture as a method of improving the protection and enjoyment of prisoners in the old *Prison Rules*.

The disciplinization of the prison reform discourse was prepared and promoted by intensified contacts between Japanese prison administrators and European prison reformers during the 1880s. The interaction between Japanese prison officials and European prison reformers was not one-way, but rather interactive. In 1878, E. C. Wines (1806-1879), the Chair of the International Prison Congress, asked the Meiji government to send a delegate to the second Congress in Stockholm. The first International Prison Congress was held in London in 1872.¹⁰ Because of the civil war, the Meiji government could not send a delegate. Instead, they submitted a quite extensive report on the Japanese penal history to Wines and include a series of questions about prison administration for European delegates to answer. This was the beginning of contact between Meiji bureaucrats and the International Prison Congress. Based on this information, Wines wrote an extensive chapter about Japanese prison history in his

⁹ Makoto Egi, ed., *Kangokushugiron* (Kinbainin, 1885) 16-17.

¹⁰ As for the history of the International Prison Congress, see Akira Masaki, "Kokusai Kangoku Kaigi," *Homushiryō*, no. 395 (1961).

masterpiece, *The State of Prisons and of Child-Saving Institutions in the Civilized World* (1880). In the beginning of this chapter, Wines contrasted the Japanese prison system with the Chinese one:

We have just glanced at a country where a torpor like that of death has possession of the general public and even of the Government as regards improvement in prisons and prison administration. We pass now to a country separated only by a narrow sea from that which we have left, where all is life and action and progress as regards this great social interest common to all civilized communities. Japan has already taken her place in the forefront of those nations which are reaching out after a prison organization and prison management better, wiser, more scientific, and more effective than any embraced in the old methods. From no government or nation in the world have I received an account of its prisons and prison administration so exhaustive as that furnished by the Empire of Japan.¹¹

Eventually, in 1890, the Meiji government could afford to send delegates to the Congress. At this Congress, the Meiji government not only collected information about prisons but also promoted the improvements of Japanese prison conditions to Western countries. The Meiji government rightly recognized that prison reform was a necessary condition for the revision of unequal treaties.

Many Western-style prison buildings were constructed after the Sino-Japanese war (1894), with the money acquired through Japan's first victory in a war of imperialism.¹² Panoptically-surveyed cells made of "stones" and prison libraries filled with "great books" were no longer merely something imagined by reformers, but became a part of social reality. These transformations brought significant changes to the prison

¹¹ Enoch Cobb Wines, *The State of Prisons and of Child-Saving Institutions in the Civilized World* (Cambridge, Mass: John Wilson & Son, 1880) 595.

¹² These included Sugamo prison (1895), Iwakuni prison (1900), Aomori prison and Hachinohe prison (1903), Tokyo prison (1904), Shimonoseki prison (1905), Odawara prison (1906), Chiba prison (1907), Kagoshima prison and Nara prison (1908).

reform discourse that we have traced since the late Tokugawa period. Around that time, the concept of “discipline” emerged as the hegemonic element in the prison reform discourse. The discursive space opened up by the social, cultural, and international transformations of the late Tokugawa period, which was characterized by the passionate quest for “benevolent rule,” was somehow closed in the late Meiji period.

However, the replacement of “benevolence” by “discipline” did not necessarily mean that the Meiji state succeeded in producing obedient subjects through the implementation of various disciplinary technologies. Rather, the introduction of the disciplinary prison model was a new source of confusion and contradictions for reformers as well as for prisoners. Although I must leave the details to another project, I will briefly mention four episodes that represent the nature of contradictions of the new prison age.

The first episode indicates the contradiction between the ideal of discipline and the financial condition of the Meiji state. Although the Meiji leaders recognized the importance of promoting prison reform projects, they kept using prisoners for coal mining and building infrastructure, cheap labor in the “primitive accumulation” of Japanese capitalism during the 1880s. In 1883, an official proposed that prisoners should be used for building of roads in Hokkaido:

Because prisoners are by nature violent and ugly men, even if they die because of the drudgery, it is still much less cruel than if an ordinary laborer leaves a wife and family behind him. Recently, as the number of prisoners is increasing, financial expenses for the prison are also growing. Under these circumstances, it is unavoidable to reduce their numbers by forcing them engage in public works to their death. On the other hand, if we compare prisoners' wages with that of ordinary laborers, the latter costs at least 40 *sen* per day in Hokkaido whereas the former can be obtained with only 18 *sen*. Therefore, by hiring prisoners instead of ordinary laborers, we can reduce the labor cost by more than half. This is a policy that kills two birds with one stone.¹³

Until around 1900, renovation of prison buildings, with a few exceptions, did not take place, despite reformers' insistence on the immediate adoption of Western prison structure, mainly because of the budget deficit. The most prominent figure who advocated the reform of prison architecture was a German lawyer, Dr. Curt von Seebach (1859-1891), who was hired by the Meiji government and came to Japan in 1889.¹⁴ In *Gokuseiron* (Discourse on Prison Administration, 1890), he defined the principal objective of prison: "The main purpose [of the prison system] is to reform and educate criminals and make them into useful members of society."¹⁵ However, the current situation of the Japanese prison was not sufficient: "In reference to various examples, it is obvious that the Japanese government...has urgently promoted the [prison reform] project in recent years. However, I do not hesitate to say that the current situation is still in a quite elementary and premature stage."¹⁶ Seebach insisted upon the immediate introduction of the solitary cell system. According to him, the current shared-cell system

¹³ Shigematsu, *Zusetsu Nihon No Kangokushi* 100.

¹⁴ As for Seebach's biographical information, see Kyosei Kyokai, ed., *Kindai Kangoku Seido No Shidosha: Curt Von Seebach* (Tokyo: Kyosei kyokai, 1985).

¹⁵ Curt von Seebach, *Gokuseiron* (Tokyo: Kazoku Kaikan, 1890) 2.

¹⁶ *Ibid.* 2-3.

could neither educate nor reform prisoners at all. In fact, it fostered crime.¹⁷ The solitary cell system was the only method to realize the purpose of the prison.

Accordingly, “if you want to reform the prison system, you have to renovate or rebuild prison houses.”¹⁸ “When the structure of the prison house is not complete, the prison administration is not complete either. The structure of the prison house has an enormous effect on prison administration.”¹⁹

In his text, Seebach also pointed out the deficiency of the current political system relating to prison administration. “It is regrettable that almost all prison expenditures are now paid by local taxes. As long as this system continues, it will be quite difficult for the central government to promote prison reform in a systemic way.” Therefore, “if we want to improve prison administration in a standardized and systematic way, we have to concentrate all authorities related to prison in the hand of the central government.”²⁰ The entrustment of prison administration to local governments produced enormous inequalities among prisons in the 1880s. A few Western-style model prisons were built in important cities, coexistent with Tokugawa-style gaolhouses. Meanwhile, in the wilderness of Hokkaido, prisoners were losing their lives from hard labor and cold weather.

The second episode reveals ideological confusion among prison administrators in the 1880s and 1890s. As disciplinary prison practices were introduced, Meiji officials searched for a new ideology that could legitimize these new practices. However, it was difficult for them to find an ideology as universally appealing as the “benevolence” of the

¹⁷ Ibid. 13.

¹⁸ Ibid. 21.

¹⁹ Ibid. 26.

²⁰ Ibid. 4.

preceding age. This difficulty manifested itself in prison education conferences around 1890. When Tokugawa reformers dreamed of a “prison library with numerous great books,” they meant classics of Confucianism. However, when Meiji officials finally established the modern prison library, they realized that they could not agree on which books should be stored in it.

In 1889 and 1892, two conferences concerning prison problems were held in Tokyo, attended by municipal prison educators and several government officials. In the late 1880s, Meiji officials attempted to develop a systematic program of prison education. Prison education had already been introduced in the revised *Prison Rules* (1881), which stipulated that teachers should be hired to teach practical skills such as reading and writing,²¹ and by the late 1880s the method and contents of prison education had become one of the most important issues for prison administrators. Although moral education was generally favored in this period, there was no clear consensus on the specificity: Which religion should be preached in the prison? What kind of persons should be hired as prison chaplains? Understandably, it was impossible to decide upon universal answers to these questions. Different ideas and ideologies were competing with each other in the prison reform discourse.

The record of the 1889 conference indicates vividly the confusion about the principle of prison education. The following remarks by one participant conveyed the atmosphere of this conference very well:

²¹ Dainihon Kangoku Kyokai, *Dainihon Kangoku Kyokai Yushi Gokuji Kyogikai Gijiroku* (Tokyo: Kinbain, 1889) 19.

The most urgent and necessary task [for the governors of prisons] is to decide the spirit or direction of prison administration. When we survey the current situation, we immediately notice that the purpose and principle of prison administration are so vague that we feel as if we are in a deep fog... Even if we have honorable texts and rules about the prison, we cannot do anything until the people working in prison get a clear concept of the principle of prison administration.²²

Through discussion, the questions about the “purpose” and “principle” of prison administration were reduced to the following agenda: “On which principle should prison education be based, religion or ethics (*dotokuho*)? If prison education should be based on religion, what kind of religion should be adopted, Buddhist or Christian?”²³ It was impossible for the delegates to reach a consensus on the religious question. One participant preferred Christianity; others argued for Buddhism. The members got into an imbroglio over this issue, discussing the differences between Protestant and Catholic or various Buddhist sects. According to one participant, “This turned out to be a contest between religious sects, and a conference about dogmatism.”²⁴ As they began to tire of the fruitless discussion, they eventually framed a religious question in terms of the personality of prison educators. One participant said: “as long as an educator can reform the prisoner's mind, any religion is acceptable.”²⁵ Another participant said: “If we cannot get good educators, we cannot do anything.”²⁶ As the conference ended, they unanimously adopted the following banal principle: “The prison should recruit good educators regardless of their religion.”²⁷

²² Ibid.

²³ Ibid. 64.

²⁴ Ibid. 72.

²⁵ Ibid. 73.

²⁶ Ibid. 68.

²⁷ Ibid. 73.

In the 1892 conference, administrators attempted to standardize prison education: What kind of language should be used in prison education, plain, vulgar, or authoritative?; Can jokes be used in prison lectures?; What kind of speaking style should be adopted: in form of address, lecture, or the sermon?; What kind of posture is appropriate for prison lecturers?; What kind of clothing should be worn?; Should lecturers look at the prisoners during moral education?²⁸ Of course it was impossible to dictate every minute aspect of prison education. Rather, the discussion began to center on the abilities of prison educators. Individual educators were expected to take all circumstances into consideration and decide upon the most appropriate method of education:

Educators must know the prisoners' characters and their personal histories. Moral education must be individualistic. It must be done at the appropriate time. Educators must discriminate between prisoners according to the type of crime, criminal record, age and length of imprisonment. Educators should observe prisoners during working hours, leisure time, and during the night.²⁹

The prison educator must be omnipresent and omnipotent in order to educate prisoners effectively. However, the delegates did not specify on which principle this subjectivity should be established. The discussion only produced a favorable, but completely unrealistic image of the prison educator. It should be noted that the so-called "Emperor system" ideology did not enter into these discussions. This is one of numerous examples indicating that the Emperor had not yet become a single hegemonic ideology by the 1890s. Rather, the Emperor as an "invented tradition" began to appear gradually

²⁸ Dainihon kangoku Kyokaishi Tsushinjo, *Kangoku Kyokaishi Kaido Giji Teiryō* (Tokyo: 1892).

²⁹ *Ibid.* 2.

in the public discourse in the 1880s and 1890s,³⁰ synchronic with prison administrators' quest for a new principle.

The third episode involves the resistance against disciplinary technologies. Okumiya Kenshi's *Gokuri no ware* (My Life in Prison) offers us a useful perspective on a prisoner's experience of the great transformations of the Japanese prison during the 1880s and 1890s. Okumiya, a Liberal Democratic Movement activist who participated in the Nagoya Incident, was arrested in 1885 and confined for more than twelve years in several different prisons. He was released in 1897, and published his prison experiences in serial form in *Tokyo Shinbun*. His text vividly records how a prisoner encountered the newly introduced disciplinary technologies and responded to them.

In 1885, while awaiting trial, Okumiya was incarcerated in the Nagoya prison. In this old-fashioned prison, Okumiya experienced several Tokugawa prison rituals that still survived, such as being beaten by cell officials with a board.³¹ He was soon moved to a solitary cell in the Nagoya prison, where he stayed for two years. In February 1887, he was transported to the Kosuge prison, in which more than a hundred prisoners shared one big cell. Okumiya wrote: "The noise and congestion of the cell was just like a festival in the country."³² In July 1887, he was relocated again to the Miyagi prison, which was famous for its advanced administration and facilities. The prison buildings were made of brick and stone, and only three to seven prisoners shared one room. The life in this prison was well organized: "All prisoners occupied themselves with reading books or

³⁰ Carol Gluck, *Japan's Modern Myths* (Princeton University Press, 1985), Eric Hobsbawm and Terence O. Ranger, eds., *The Invention of Tradition* (Cambridge: Cambridge University Press, 1983).

³¹ Tsunehisa Abe, ed., *Okumiya Kenshi Zenshu*, 2 vols., vol. 1 (Tokyo: Koryusha, 1988) 152.

³² *Ibid.*

practicing calligraphy after working hours.”³³ In 1889, he was transported to the Kabato prison in Hokkaido, where he labored at construction projects off the prison grounds. Hundreds of prisoners shared one dark wooden cell in barracks located in the middle of the wilderness. Prisoners were treated quite harshly. Captured fugitives were brutally executed, and prisoners who attempted to run away had their fingers cut off.

Okumiya’s writing reveals that tremendous heterogeneity existed among different prisons in the middle of the Meiji period: the old fashioned Nagoya prison in which traditional prison culture was still alive, the disciplinary, organized Miyagi prison intended to be a showcase of Japanese modernization, and the “servile labor” at the Kabato prison that built important infrastructure in Hokkaido. Interestingly enough, Okumiya preferred the cruel and arbitrary Kabato prison to the other more, structured prisons:

Confusion in the prison is, of course, not permissible from the point of view of the governor. However, from the point of view of the prisoner, an uncivilized cruel prison is better than a mechanically ordered prison. In the Kabato prison, [although the treatment of prisoners was quite harsh,] its regulations were so loose that prisoners could communicate with each other, and read books, even walk by themselves. Compared with the other [more organized] prisons located on the main island of Japan, I was more comfortable in the Kabato prison.³⁴

Okumiya’s “My Life in Prison” tells of an almost instinctive antipathy against the “disciplinary power” which was introduced by the Meiji elite into the administrative social practices of the prison.

The fourth episode concerns the export of disciplinary technologies from Japan to

³³ Ibid. 153.

³⁴ Ibid. 158.

neighboring Asian countries and colonies. In 1908 the Seebach's disciple, Ogawa Shigejiro (1863-1925), was invited by the Chinese government to participate in the prison reform project there.³⁵ As we have already seen, one of the important origins of modern prison reform plans is Wei-Yuan's *Kaikoku Zushi*, which was a product of Western colonialism and Chinese statecraft scholarship in Canton, one of the most important "contact zones" in early nineteenth-century East Asia. By 1908, a Meiji bureaucrat had started a prison reform project in Wei-Yuan's country. This episode indicates that Japan was not only an importer of disciplinary technologies but also already an exporter of them at the end of the Meiji period.

In 1908, *Kangokuho* (Prison Law) was promulgated. Because this legislation is still in force, the year 1908 can be thought of as an important marker in the history of the Japanese prison administration. However, this does not mean that "disciplinary power" had successfully produced obedient subjects in Japan and neighboring areas. As these episodes suggest, confusion, contradictions, and resistance to disciplinary power have persisted to this day.

³⁵ Frank Dikotter, *Crime, Punishment and the Prison in Modern China* (New York: Columbia University Press, 2002) 50-53.

APPENDIX A, TABLES

Table 1: Status Background of the Metropolitan Police Office (December 1874)

	Rank	Samurai	Commoner	Total	% of Samurai
Administrative staff	<i>Chokuni</i> ^a	1	0	1	100.0
	<i>Sonin</i> ^b	10	0	10	100.0
	<i>Hannin</i> ^c	261	19	280	93.2
	<i>Togai</i> ^d	2	36	38	5.3
Sum		274	55	329	83.3
Patrolmen	First-rate	589	14	603	97.7
	Second-rate	705	57	762	92.5
	Third-rate	1,438	147	1,585	90.7
	Fourth-rate	2,427	286	2,713	89.5
Sum		5,159	504	5,663	91.1
Total		5,433	559	5,992	90.7

SOURCE: Sumio Obinata, *Nihon Kindai Kokka No Seiritsu to Keisatsu* (Tokyo: Azekura shobo, 1992) 98.

^a An official appointed by the Emperor. The highest rank of national bureaucracy at that time.

^b A senior official.

^c A junior official.

^d Under the regular grades.

Table 2: Geographical Background of the Metropolitan Police Office (December 1876)

Superintendent			Inspector			Vice Inspector			Total		
Domicile	#	%	D	#	%	D	#	%	D	#	%
Kagoshima	7	29.2	Kagoshima	72	40.2	Tokyo	128	28.3	Kagoshima	173	26.4
Ishikawa	3	12.5	Ishikawa	18	10.1	Kagoshima	94	20.8	Tokyo	147	22.4
Kumamoto	3	12.5	Tokyo	18	10.1	Ishikawa	31	6.9	Ishikawa	52	7.9
Kochi	2	8.3	Yamaguchi	8	4.5	Kumamoto	20	4.4	Kumamoto	24	3.7
Yamaguchi	2	8.3	Fukuoka	8	4.5	Aomori	18	4.0	Fukushima	24	3.7
Total	24			179			452			655	

SOURCE: Sumio Obinata, *Nihon Kindai Kokka No Seiritsu to Keisatsu* (Tokyo: Azekura shobo, 1992) 98.

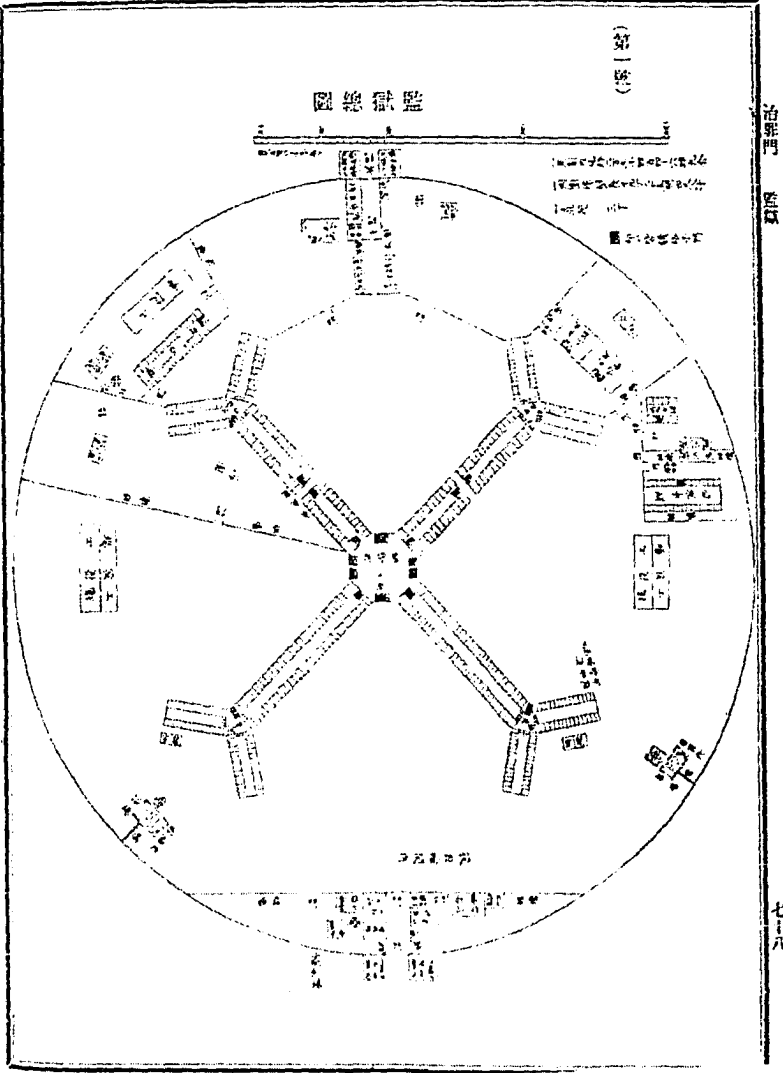
Table 3: Attendance Figures at the Police Language School in Hong Kong

	October 1869	December 1869
Europeans	8	4
Indians	21	42
Chinese	22	10
	51	52

SOURCE: Colin Criswell and Mike Watson, *The Royal Hong Kong Police (1841-1945)* (Hong Kong: Macmillan Publishers, 1982) 53.

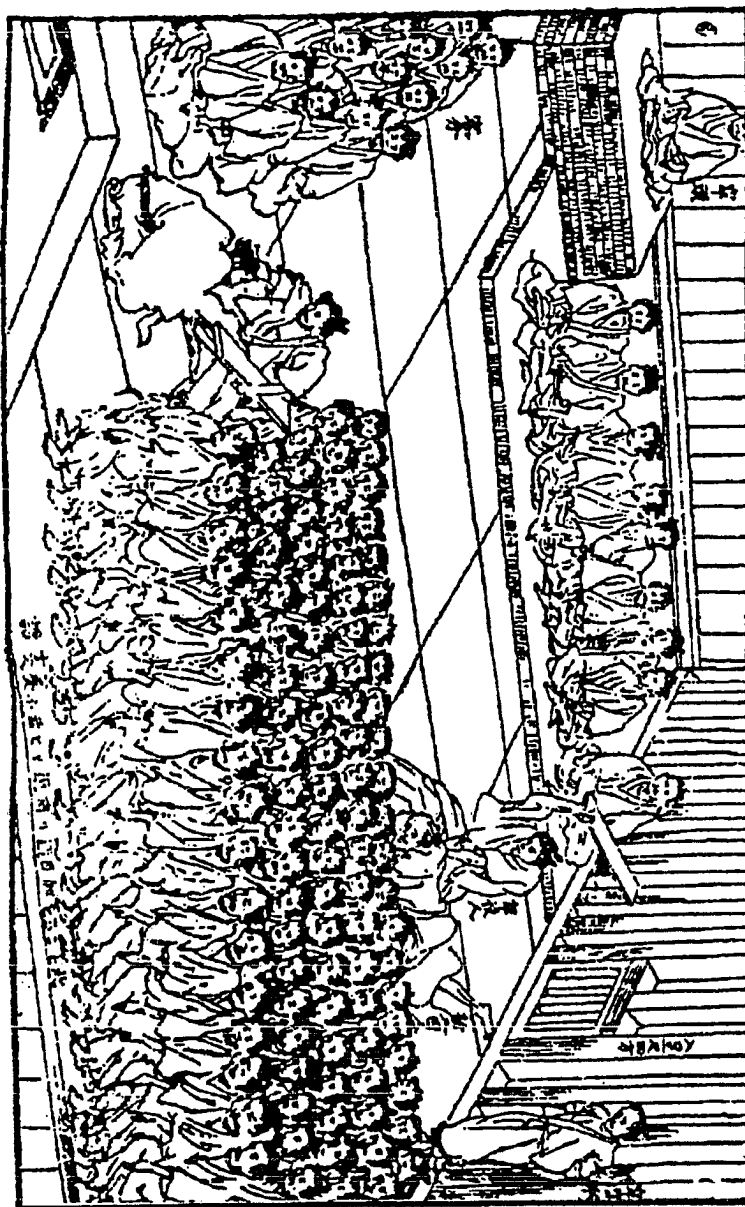
APPENDIX B, FIGURES

Figure 1: The Panopticon in Ohara's *Kangokusoku*



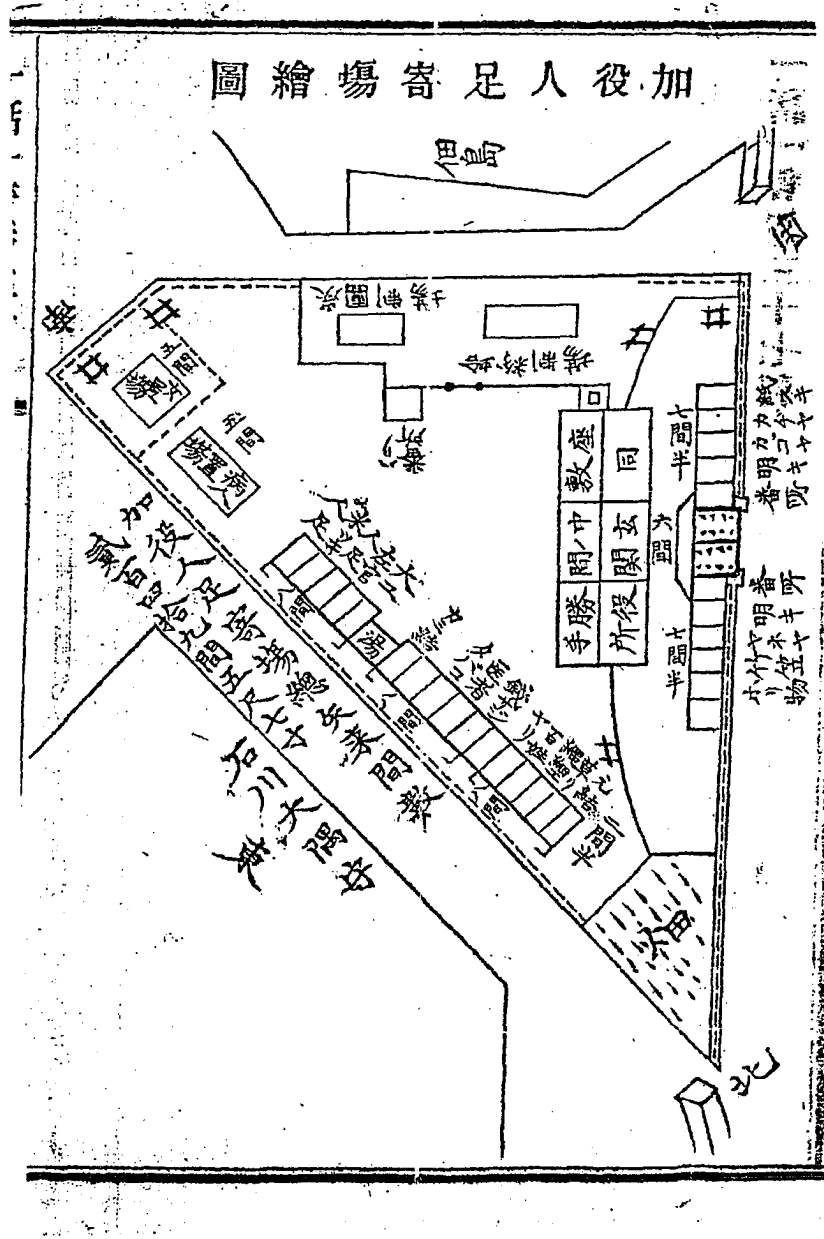
SOURCE: Naikaku Kanpo Kyoku, *Horei Zensho*, vol. 5-1 (Tokyo: Hara Shobo, 1974) 380-81.

Figure 2: The Spatial Distribution of the Kodenmacho Gaolhouse



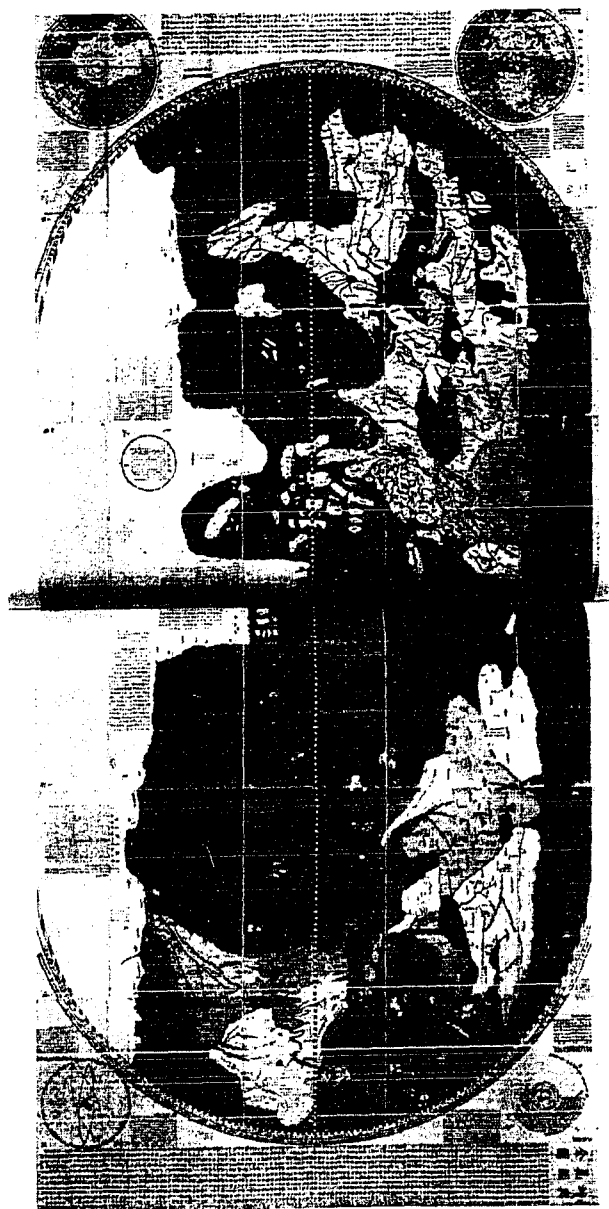
SOURCE: Keisuke Tsuji, *Nihon Kinsei Gyokeishi Ko*, vol. 1 (Tokyo: Kyosei kyokai, 1974) 226.

Figure 3: The Map of the Yoseba: Original Design



SOURCE: Keisuke Tsuji, *Nihon Kinsei Gyokeishi Ko*, vol. 1 (Tokyo: Kyosei kyokai, 1974) 872.

Figure 5: *Konyo Bankoku Zenzu*



SOURCE: Yuko Tanaka, *Edo no Sozoryoku* (Tokyo: Chikuma Shobo, 1986) 210-211.

Figure 6: *Ezochi Zenzu* (Complete Map of Ezochi)



SOURCE: Toshiyuki Akizuki, *Nihon Hokuhen no Tanken to Chizu no Rekishi* (Sapporo: Hokkaido Daigaku Shuppankai, 1999) 327.

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