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Chapter 1

Rethinking the *Maria Luz* Incident: Methodological cosmopolitanism and Meiji Japan

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1 Rethinking the *Maria Luz* Incident

Methodological cosmopolitanism and Meiji Japan

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This chapter is a response to a call for new approaches to Japanese Studies. The call posed a series of interesting challenges. Here I would like to focus on one of these challenges: What is the unit of analysis for Japanese Studies and how does this unit of analysis fit into the problems of the twenty-first century? Embedded in this challenge is a tacit assumption that requires revisiting. Can we assume in the current phase of globalisation that all societies exist on a plateau of equivalence and that by studying Japan we simultaneously map the forces of change that shape the modern world?

We take up this question by returning to recent scholarship in Japanese history on the *Maria Luz* Incident which some have heralded as the de-Westernising of world history. This scholarship has linked the freeing of Japanese licensed prostitutes to a ‘shared global culture of modernity’ as the idea of freedom moves from the West to Japan – ‘within the great “master narrative” of nineteenth-century liberalism’ – culminating with the Japanese drawing up constitutions that guarantee individual rights (Botsman 2011, p. 1347). In the process, the articulation of individual rights becomes the definition of modernisation.

Many see this type of scholarship as the future of Japanese Studies. I am sceptical of such claims.

The *Maria Luz* Incident (1872) was a colourful diplomatic episode that involved two civil suits brought in front of a hastily arranged court in the Kanagawa Prefectural Office. The court was created for the specific purpose of adjudicating the *Maria Luz* captain’s treatment of his Chinese ‘passengers’ while the ship was anchored for repairs in Yokohama Port (Kanagawa Kencho 1874, pp. 9–10; Foreign Department 1872, pp. 1–2). From the outset the court faced intense scrutiny from the local foreign community. The consensus among the foreign consuls was that the Japanese government did not have the authority to intervene (Gaimushō 1953, p. 443). Ships played a dual role in nineteenth century international law. The *Maria Luz* was a vector of Peruvian law traversing the ocean space, which made dealings onboard the *Maria Luz* outside Japanese jurisdiction (Benton 2005, p. 704). The Kanagawa court also faced other legitimacy constraints. The hearing had to follow international legal norms. Japanese authorities and their advisers were highly vigilant in ensuring

that the court paid obeisance to the principle of *nullum crimen sine lege*: a person should not face punishment for an act that was not prohibited by existing law.

The first civil action was by nine of the 230 Chinese indentured labourers, the ‘passengers’ of the Peruvian ship *Maria Luz*, against Captain Hereira. The suit claimed that Hereira subjected the men to beatings and chains; forced them to travel in overcrowded conditions with insufficient food; and that a significant number of men were kidnapped and forced to sign indentured contracts after the ship had sailed from Macao. The second lawsuit was by Hereira. He petitioned the ad hoc court to enforce the indenture contracts and order all bonded Chinese labourers to complete their journey to Peru. The Chinese labourers were no longer passengers but cargo that he had been commissioned to deliver from Macao to Peru.

Yuriko Yokoyama and Daniel Botsman have framed the *Maria Luz* Incident as the moment Japan embraced rights discourse and practice. This research, especially the scholarship by Botsman, has been well received and touted as the future direction of Japanese Studies. Both authors stress that the incident was a pivotal moment in the transition of Meiji Japan from a pre-modern status society to a modern political and economic order (Yokoyama 2016, pp. 161–198; Botsman 2011, pp. 1323–1347).² The shared inference is that the modern coalesces with the origins of liberalism. The modern constitutes a rupture in time when rigid kinship obligations, feudal duties and inflexible hierarchical structures dissipate, replaced by a secular state rooted in legalism that gives free play to individual interests and spontaneous horizontal associations. But there are also distinct analytical differences which need to be highlighted.

As an alternative to the epochal narrative posited by Yokoyama and Botsman, this chapter argues Japan was already integrated into a global labour regime in which contract and consent formed interrelated ideas and practices prior to the *Maria Luz* Incident. This will be done by redirecting focus to the compatibility of narrower ideas of freedom (the freedom to enter into contracts) with seemingly ‘traditional’ relationships of subordination, in this case of women engaged in licensed prostitution.

Convergence: Japan in the world

The recent historical revision of the *Maria Luz* Incident relies heavily on an area studies template that takes the Japanese nation as the unit of analysis, and historical time as unified, directed and meaningful. History plays a specific role in area studies; it signifies the fruit of linear progress and follows the model of growth called modernisation and convergence theory (Harootunian 2019, p. 27). Following area studies convention, Botsman confines the history of slavery to the boundaries of the Japanese nation-state. Trading in people (*jinshin baibai*) was banned in sixteenth century Japan but the practice of ‘hereditary servants’ continued to exist. The idea of slavery as a model of economic development, however, had not lost currency, coming to the fore again in proposals to the

deliberative assembly (*Kōgisho*) established by the Meiji government in 1869 (Botsman 2011, pp. 1325–1328).

According to Botsman, the abolition of slavery in the United States served as the outlet for the idea of freedom to spread across the globe. In the context of Japan, the *Maria Luz* Incident introduced the language of US abolition struggles to Japanese domestic politics (Botsman 2011, pp. 1325, 1344). The metaphor of slavery became attached to the domestic issue of licensed prostitution. During the *Maria Luz* hearings, the court's attention was drawn to the similarities between the Chinese labourers' indenture contracts and the terms of service of Japanese licensed prostitutes (*Japan Weekly Mail* 1872b, pp. 613–614). Both sets of contracts were for a duration of six to eight years, transferable to a third party, and gave the employer/brothel keeper the right to use various forms of coercion including corporeal punishment to enforce the performance of the contract (Yokoyama 2016, pp. 174–178; Hansard 1872).

The court ruled to free the bonded Chinese labourers from their contracts. For Botsman, the verdict held great significance. The judgment allowed the Meiji government to 'push ahead with reforms' that otherwise may have proceeded more slowly (Botsman 2011, p. 1341). On 2 October, the Council of State (*Dajōkan*) issued what has come to be known as the *Geishōgi kaihōrei*, which Botsman translates as the 'Emancipation Edict [my emphasis] for the Female Performers and Prostitutes'. For Botsman, the ratification of the edict was momentous. The 'emancipation' of prostitutes acted as a conduit for the introduction of the ideas of freedom and liberation to Japan that flowered into 'a powerful new opposition movement, the "Movement for Freedom and Popular Rights" (*jiyū minken undō*)', which successfully pressured the ruling oligarchy to 'promulgate a modern constitution that enshrined in law the principle of popular representation' (Botsman 2011, pp. 1324, 1343–1344).

For Botsman, the watershed moment in Japan's historic modernisation makeover was the instant the idea of emancipation travelled from the American civil war to Europe to Asia, culminating with the Japanese drawing up constitutions and legal frameworks guaranteeing the rights of individuals. His ability to insert Meiji Japan firmly in 'the "master narrative" of nineteenth-century liberalism' has understandably received much attention (Botsman 2011, p. 1346). But this kind of attitude presupposes a dogmatic view of history as the progress of human spirit. It anticipates the primacy of individual interest, rights and self-determination as the markers of Japan's modernisation makeover.

Yokoyama shares many of Botsman's assumptions. However, she is at variance with him around the issue of gender. Yokoyama does not see the *Geishōgi kaihōrei* as an emancipation moment. She believes the *Geishōgi kaihōrei* is better understood as an 'Edict for the Release [my emphasis] of Female Performers and Prostitutes' because it exonerated licensed prostitutes from their 'sexual-debt' contracts (Yokoyama 2016, p. 183). Yokoyama stresses that in pre-Meiji Japan the brothel owner and pleasure quarter (*yūkaku*) associations or guilds had the authority to enforce 'sexual-debt slavery' contracts (*miuri-bōkō*). This authority was a concession for ensuring the management and policing of

the sex industry inside and outside the designated pleasure quarters (Yokoyama 2016, pp. 178–182). For Yokoyama, the significance of the *Geishōgi kaihōrei* was that it dissolved the arbitrary powers the brothel owner possessed over the body of the licensed prostitute and gave them the mobility and freedom to choose where they worked. The edict along with the introduction of the ‘room rental’ (*kashizashiki*) licensing system made the selling of sex a matter of individual will. Women wanting to engage in licensed prostitution had the capacity to choose where they wanted to work.

While Yokoyama sees the edict as a ‘reaction by Japan to the dilemma and development of the 19th century’s new human-rights thinking with regard to slavery’ (2016, p. 193), she disagrees with Botsman over the origins of the new consciousness in human rights entering Japan. Yokoyama links the 1872 release of Japanese licensed prostitutes from service to the Contagious Disease Act repeal campaigns led by Josephine Butler in the United Kingdom, which highlighted how compulsory venereal examinations were a violation of a woman’s dignity and constituted what ‘we would now call human-rights abuse’ (2016, pp. 192–193).

The strengths of Yokoyama’s work are her exceptional archival research and empirical depth. Yokoyama’s methodological grid, however, is a reworking of the tradition-versus-modernity distinction that has defined Japanese Studies. Yokoyama too anticipates rights and self-determination as the markers of modernisation. Her research echoes the observations Maine made over 150 years ago: history was the movement from ‘premodern’ status societies to ‘modern’ contractual societies (1983, pp. 172–173).

The critique of Yokoyama and Botsman highlights the major challenge found even in the most accomplished research when it comes to studying Meiji Japan: namely, that more often than not, the default analytical setting is an evolutionary model of development which anticipates rights and self-determination as the markers of modernity. Alternative perspectives can refine both understandings of the *Maria Luz* Incident and analyses of the relation between Meiji Japan and global historical change.

Transnational Japan

Here I would like to write about the same series of events from a ‘methodological cosmopolitanism’ perspective advocated by Ogawa and Seaton in the introduction to this volume. A first step is to contextualise the *Maria Luz* Incident beyond the boundaries of the Japanese nation-state and approach the subject from a transnational labour perspective. The indentured Chinese labourers onboard the *Maria Luz* were part of an industrial-scale labour migration that began around the 1830s and continued until the 1920s. Asian, African and Pacific migrant labourers were recruited to work the tropical plantations and mines of the colonial new world. Despite a ban on overseas emigration by the Qing Empire, the trade in Chinese ‘coolie labour’ took-off in 1847 when 800 labourers were shipped to Cuba (Morse 1900, p. 165). The profit in the supply

and transport of Chinese labour saw the trade in ‘coolies’ grow rapidly, with a high number of Chinese workers shipped to Cuba and Peru. From 1849 to 1874 an estimated 100,000 Chinese labourers were transported to Peru with a further 125,000 shipped to Cuba (Young 2014, pp. 32–34).

The longevity of indentured labour migration lay in the way work relations were defined as a contractual arrangement. But the contract relationship bound the parties in very different ways. For the labourer, the contract specified the hours, the work to be performed and the terms of remuneration. For the employer, the contract granted legal rights to enforce the performance of service. The contractual relationship gave the employer the ‘freedom’ to discipline the labourer for refusing to work. The ‘freedoms’ accorded to the employer included corporeal punishment, fines, forfeiture of all wages and, in extreme instances, imprisonment (Jung 2005, pp. 681–682).

By the time of *Maria Luz* Incident, Japan was already integrated into a global labour regime in which contract and consent formed interrelated ideas and practices. When the Tokugawa shogunate lifted the ban on overseas travel in 1866, Japanese were journeying to China or Korea as itinerant merchants or menial labourers, often recruited by Western merchants and consuls (Yamamoto 2017, p. 1002). In 1868 Eugene van Reed, an American merchant based in Yokohama who also doubled as the Hawaiian consul, recruited 150 Japanese labourers to work on the sugar plantations of Hawai’i on indenture service contracts (Conroy 1978, pp. 15–31).

The way the court dealt with the Japanese government’s confiscation of the *Maria Luz* and release of the Chinese labourers onboard makes it difficult to see the incident as the ideological genesis for inalienable rights or human rights discourse in Japan. The hearings were based almost entirely on English legal principles, while the acting Kanagawa governor, Taku Ōe, who presided over the trial, relied heavily on the expertise of British consular judges, British legal commentaries and maritime Acts for his judgment (Roberts 2013, p. 154). The legal tenets for the court, too, were already well established. Since the 1830s, British efforts to police pirates and slave traders entailed instituting legal tenets for municipal courts to confiscate vessels and release captives. However, at the same time, British law did not give local courts the authority to pursue criminal action against the crews or owners because they were accountable to the authority of the flag the ships travelled under. Moreover, the tenets for adjudication were based on British prize law, meaning that the focus of the courts fell on property rights rather than the protection *cum* rights of the rescued slaves/labourers (Benton and Ford 2016, p. 125). The *Maria Luz* hearing in the Kanagawa Prefectural Office followed suit.

The arguments of the first trial, held from 17 to 24 August 1873, centred around the lack of international consensus regarding legal jurisdiction on the high seas. The trial focused on two core issues. For the English barrister John Davidson representing the Chinese labourers suing Hereira, the key issue was Japanese jurisdiction. Davidson argued that: (i) Japan had the jurisdiction to take action against Hereira, without the consent of the Peruvian government; (ii) Japanese

authorities have the right to visit vessels in times of peace, no matter the jurisdiction; and (iii) Hereira had flogged and shackled a score of Chinese labourers who attempted to escape to make an example of them, and had confined the rest of the labourers in the hold of the ship using iron gratings over the opening despite the searing summer heat (Dickins 1872). Davidson's argument focused on Hereira's use of excessive force and abuse of authority (Dickens 1872; Hornby 1872).

In contrast, Frederick Dickins, another British barrister and Hereira's counsel, focused on the illegality of seizure. The gist of his argument was summarised in a letter to the editor of the *Japan Weekly Mail* in late August, most likely written by Dickins himself. The letter claimed the Japanese court did not have the authority to seize the *Maria Luz* or take the Chinese labourers off the ship as it was tantamount to the 'total confiscation of the ship and cargo'. It is significant to note that Dickins' argument focused on rights of property ownership and not the rights of the individual. The Japanese authorities, moreover, lacked the authority to impound the *Maria Luz*. According to international law, Captain Hereira was 'entitled to freedom from officious intermeddling', and was within his rights to seek 'assistance in regaining possession of his vessel' (*Japan Weekly Mail* 1872a, pp. 527–528).

The trial concluded by the court finding the claims of 'mistreatment and acts of cruelty' against Hereira were substantiated. However, as the hearing was a civil suit, there were no clear remedies. Hereira was let off with a severe reprimand: the cost and delay caused by his enforced stay in Yokohama was considered apt punishment by the court. He was free to return to his ship and resume his journey with any of the Chinese labourers who wanted to continue their journey to Peru.

The second trial was held almost a month later, from 18 to 27 September. This time Hereira petitioned the Kanagawa Prefectural Court to enforce the indenture contracts and order the bonded Chinese labourers return to the ship so that he could complete his commission.

In this hearing, Dickins presented a multilayered argument to make Hereira's case. He contended the Kanagawa court lacked jurisdiction to adjudicate on the contracts of the Chinese labourers travelling to Peru. Japanese municipal (domestic) law did not apply to contracts signed by Chinese labourers in Macao. Moreover, the contracts were recognised under Macao law, and the Japanese court was thus obliged to enforce them (*Japan Weekly Mail* 1872b, p. 613). It was Dickins' second point, however, that posed the most significant challenge to the authority of the Japanese court. He argued that the indenture contracts of the Chinese labourers were enforceable according to Japanese law and custom. Dickins pointed to the fact that the Japanese government recognised and enforced assignable, indenture contracts for six-to-eight-year service between brothel owners and women employed as female performers (*geisha*) and licensed prostitutes (*shogi*) (pp. 613–614).

Despite Dickins' argument, the court ruled once more in favour of the Chinese labourers. The ruling, however, did not formally recognise the natural rights of the Chinese labourers or Japanese licensed prostitutes. Rather, judgment

centred on the nature of the contractual agreement. The court found the arrangements under which the Chinese labourers travelled abroad were invalid and unenforceable. The reason for this was twofold: (i) the contracts were based on deception – the labourers were unaware of the nature of the work they were to perform until after they signed the contract; and (ii) the contracts were rendered void by the captain's cruel treatment of the indentured men onboard the *Maria Luz*. The court was additionally reluctant to enforce the contracts because they were assignable and had 'features of personal servitude' that were open to abuse once the labourers left Japanese jurisdiction (Kanagawa Kencho 1874, p. 55; Gaimushō 1953, p. 506). The court, drawing on the precedents set by the Japanese government for the return of Japanese workers taken to Hawai'i in 1868 and the banning of Japanese children being sold by their parents to Chinese merchants (1870), ruled that 'it was [the] well settled policy' of the Japanese government to ensure labourers 'enjoying its protection' were not 'taken beyond its jurisdiction against their free and voluntary consent, nor without the express consent of the Government' (Kanagawa Kencho 1874, p. 54; Gaimushō, 1953, p. 505; Hornby 1872). In the wake of the trial, Hereira deserted ship. The Chinese labourers returned to China.

Japanese officials within the Foreign Ministry and Ministry of Justice were uneasy about the judgment handed down by the Kanagawa Prefectural Court, however. They feared the judgment would leave Japan open to the censure of the 'civilised world' and to claims of liability from the Peruvian government if contracts binding young women to serve in tea-houses and licensed brothels continued to be enforced (Hannen 1872). In response, the Council of State issued the 'Edict for the *Release* [my emphasis] of Female Performers and Prostitutes' (*Shōgi kaihōrei*) on 2 October 1872.

As we have seen, Botsman, like many others before him, sees the Council of State's proclamation as an 'emancipation' edict. This chapter argues that the *Geishōgi kaihōrei* edict is best understood in tandem with the ordinance issued on 9 October by the Ministry of Justice infamously known as the *Gyūba kirihodokirei* (Ordinance for the Release of Oxen and Horses). On the surface the rulings look contradictory: an edict releasing women from indenture contracts and an ordinance that compares licensed prostitutes to beasts of burden. Looks are deceiving, however. The *Geishōgi kaihōrei* prohibited all indentured contracts binding apprentices and agricultural labourers to work for a term of seven years or longer claiming such labour employment was 'a breach of human ethics'. The ordinance also stipulated that all licensed prostitutes bound to a fixed term of service were henceforth released, and that the courts would not entertain suits by brothel owners on their debts (Ichikawa 1978, p. 195).

The ruling to void licensed prostitution and long-term agricultural labour contracts was based on British legal opinion at the time that stressed the importance of consent in labour contracts as the means to curtail the employer's authority and protect the indentured labourer from abuse and the use of excessive force, and not on any notion of inherent individual rights. This point is clarified further in Article Two of the *Gyūba kirihodokirei*:

The aforementioned prostitutes and geisha are people deprived of their rights. [Indenture contracts] reduce them to horses and oxen. As one cannot demand that horses and oxen repay their debts, neither can one demand that prostitutes and geisha repay their acquired loans.

(Ichikawa 1978, p. 195)

The legal premise of the ordinance is highly instructive. The release of women in service as licensed prostitutes from any outstanding loans acknowledged that the existing service type contracts, commonly known as *naganenki bōkō*, treated the women as chattel. The brothel owner had unhindered control over the women's lives. They had the power to assign the terms of service and were free to transfer the service contract to another party (Kanagawa Kencho 1874, p. 55; Gaimushō 1953, p. 506). The analogy to beasts of burden is also highly significant in another legal register. It formally introduces the notion of consent into contractual agreements for service type contracts. One did not expect compensation from animals for not carrying out a service because they lacked the capacity to consent. Likewise, one could not expect licensed prostitutes to be liable for any outstanding debt without their acknowledged consent. Existing licensed prostitution contracts were said to be invalid because the contractual arrangements were not a consensual exchange of services.

The *Geishōgi kaihōrei* and *Gyūba kirihodokirei* were an attack by the Meiji authorities on the power of the brothel owner and household head. The target of the reforms was the existing custom amongst poor household heads of placing children in other families as indentured servants/labourers. This attempt to curtail the authority by the household head had begun a few years earlier. In 1870, two years before the *Maria Luz* Incident, the Meiji government issued decrees prohibiting children from travelling abroad to prevent trafficking and abuse. These decrees framed the children 'abducted' to China as existing in a state of slavery. The children's displacement abroad placed them in circumstances where they were deprived of a capacity to consent to the work they would do in the future (Ambaras 2018, pp. 29–30).

The hasty discharge of licensed prostitutes from designated 'pleasure quarters' opened a Pandora's box of practical problems for Japanese legislators. The most pressing was: How were the women released from indenture to earn their livelihood? Government bureaus offered competing solutions. The Minister of the Left (*Sadaijin*) interpreted the ordinance as heralding the closure of licensed prostitution as an occupation. Operating on the assumption that the women working in the licensed 'pleasure quarters' came from destitute families, the Minister of the Left advised the Council of State that the government was morally obliged to offer some form of poor relief to women for taking away their immediate livelihood. The Minister of the Left proposed the construction of orphanages (*ikushi-in*) for children and young women now left without means (Hayakawa 1998, p. 195; Obinata 1992, p. 282). In contrast, the Ministry of Justice determined that the ordinance placed prostitution beyond any kind of government intervention. The intention of the *Shōgi kaihōrei* gave female

performers and prostitutes the freedom to carry out their trade without any restrictions on their movement or place of abode.³

The Ministry of Finance (*Ōkurashō*) argued that the meaning of the ordinance was much more modest. The *Geishōgi kaihōrei* gave women the right to enter or leave prostitution at their own volition, nothing more. The Ministry of Finance proposed that women could work as licensed prostitutes if they lived within the boundaries of the designated ‘pleasure quarters’. Moreover, each woman making a living as a licensed prostitute was to pay a levy for the upkeep of roads and bridges, and for the cost of a local police force to ensure public order (Obinata 1992, pp. 286–289).

It was the Ministry of Finance’s utilitarian proposal that prevailed. By the early months of 1873, the Ministry of Finance had implemented a ‘room rental’ licensing system in Tokyo and other cities and towns in Japan. Under this system, the prostitute was a licensed ‘independent contractor’ who entered into a contract with a ‘room letting service’ (a.k.a. a licensed brothel) to work as a prostitute (Kim 1960, pp. 104–105; Takemura 1982, pp. 6–7). The advancement of a loan by a brothel owner was to be repaid by either the woman herself or her guarantor, which in most cases was her immediate family (Ramseyer 1991, pp. 97–100).

Highlighting the importance of consent in the terms of service, the ministry maintained that the women ‘chose’ to work as licensed prostitutes (Obinata 1992, pp. 286–289; Yokoyama 2016, pp. 186–187). The Ministry of Finance effectively transformed licensed prostitution into two different types of contractual arrangements based on a specific and narrow understanding of consent and choice: a service contract between a woman and a brothel owner which outlined the agreed upon services to be provided and the terms they were to be carried out, and the option for the woman to enter into a separate loan contract with the brothel owner, which would enable her to cover the initial costs required for her work (Ramseyer 1991, pp. 97–98). The contractual agreements were very similar to the employment contracts of indentured labourers displaced across the globe at an industrial scale. The contractual relationship was the instrument that defined the formal freedom for the women to enter the work place as a licensed prostitute via the notion of consent. Simultaneously, the contract was also the mechanism for determining the duress that could be brought against her if she could not fulfil the terms of her service. A woman was formally free to enter and nullify her service contract. If she was unable repay her debt, the brothel owner had recourse to the full power of the law to enforce the performance of her service contract.

Conclusion

As we have seen through the example of the *Maria Luz* Incident, situating Meiji Japan in world history is a tricky business. One approach is to mediate our understanding of Japanese history by following the dominant academic convention of area studies and anticipate human rights and freedom as the definition of modernisation. However, as we have seen, often this type of analysis misrecognises

normative ideals for lived labour practice. As an alternative, this chapter has proposed a methodological cosmopolitanism approach. This involves situating the incident within the broader transnational history of changing global labour regimes and practices driven by the reality of labour needs and shortages in European colonies and the ‘new world’.

We have seen that when we rely heavily on an area studies template the historically specific cultural creations of the West – the primacy of individual interest, rights and self-determination – tacitly re-emerge as the standard of progress and the watershed moment of transition from pre-modern to modern. In contrast, this chapter has argued that the *Maria Luz* incident was not a seminal moment when rights talk was introduced to Japan. Rather, the confiscation of the *Maria Luz* by Japanese authorities and consequent mechanisms of arbitration demonstrate the degree to which Japan was already legally integrated within a global labour regime in which contract was king. Scholarship that identifies the origins of Japanese rights discourse in the *Maria Luz* Incident confuses abstract human rights talk with a historical specific legal discourse concerning the importance of contractual status in the development of labour laws to regulate the harsh circumstances of indentured agricultural labourers when they were treated as a unit of labour rather than a person.

A strength of the methodological cosmopolitanism approach is that it provincialises the West and calls into question the process of modernity as the history of Europe and the transmission of European values throughout the world (Chakrabarty 2000). This chapter has argued that abstract concepts of human rights and individual freedom as an index of the trajectory of history are insensitive to the different risks, cultural investment and political desires that constitute the rich tapestry of the past. Within the field of Japanese Studies, this insensitivity is entrenched in the dominant academic convention where the modern coalesces with the origins of liberalism and makes ‘modernisation’ synonymous with the origins of individual rights while being blind to the dark and unseen underside which sustains liberalism – the mechanisms of control needed in the extraction of labour and profit. To side-step this conundrum, this chapter has tried to offer an alternative view by showing how Western models of freedom have their own historicity. Judgments of ‘freedom’ and ‘non-freedom’ are not based upon neutral and value-free criteria. The enjoyment of ‘free behaviour’ is not a sign of a mature society but conditional upon an institutional milieu necessary for the formation of people who have mastered appropriate ways of behaving as ‘autonomous’ agents.

Notes

- 1 I am indebted to Harry Harootunian, Stephen Vlastos and Lauren Benton for their close reading and feedback. Any mistakes are mine.
- 2 Other recent research on the *Maria Luz* Incident includes Douglas Howland (2014) and Tomiko Morita (2005).
- 3 Prior to the ruling, licensed prostitutes were confined to designated areas ‘strictly defined and separated by high fences and deep canals’. No licensed prostitute could live outside the designated ‘pleasure quarter’. They also needed a permit to travel beyond the walls of the quarter (Newton 1870, pp. 3–4).

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