

< *Special Issue* > * * * * *

Politics of Flogging: The Making of Japanese Colonial Governmentality

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In Japan, flogging had been sanctioned as a form of punishment until fairly recent times. It was only later, in 1882, that the Meiji government abolished flogging by promulgating the first western style criminal code. However, flogging reappeared as an important political issue at the beginning of the 20th century, when the Empire of Japan used this kind of punishment for the rule of Taiwan and Korea-- newly acquired colonial territories. This policy provoked considerable debate among Japanese intellectuals and bureaucrats. Through the debate, the implications of flogging were radically transformed. Flogging, originally representing the backwardness and the oriental character, came to be reinterpreted as a civilized and humane punishment, symbolizing more advanced and effective administration. This transformation produced significant results not only in Taiwan and Korea but also in Japan. Conventional scholarship presupposes that non-Western societies like Japan always modernize by emulating "Western" models. This case study suggests that colonial Asia was an important site in which modern Japanese institutions and practices were constructed and contested.

1. Problem Consciousness

This paper examines the debate around the punishment of prisoners by flogging,

which was held by Japanese intellectuals at the beginning of the twentieth century. So far, this debate has been largely ignored by political scientists and historians, many of who believe that this debate to have only minor importance. Only Daniel Botsman introduced this debate in detail in his recent informative book on Japan's penal history (Botsman 2005). Here, I do not aim to contribute any new information to his historical description concerning the debate. Rather, I would like to discuss it as an important case study that offers us some important hints concerning the emergence and development of political institutions. Here I would like to define political

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institution as a policy or set of policies practiced for governing a certain population¹. According to this definition, corporal punishment such as “flogging” can be analyzed as an example of a political institution. How did a particular institution such as flogging become prevalent in a particular society? How could we approach the emergence and transformations of particular institutions? These are the theoretical questions which I address here from the perspective of intellectual history.

This paper is also motivated by a concern for continuous use of corporal punishment in contemporary Japanese society. For example, a scandal broke out in the national champion team just after the national highschool tournament annually held in August 2005. It was revealed that the teacher overseeing the team has hit one of the players several times, and even dislocating the boy’s jaw on one occasion (“Baseball teacher of victorious high school team suspended for beating player” *Mainichi Daily News*, August 24, 2005). This scandal generated a widespread concern in public. Newspapers and magazines featured this incident. At first sight, this incident seems to be just a small scandal concerning a particular high school baseball team. However, it seems that this incident reveals an important characteristic of Japanese society, uncovering that corporal punishment is still allowed to use as a way of discipline in Japan (Iwai 2003). How can we understand and evaluate this phenomenon? I hope I can offer a hint to this old problem from a new perspective.

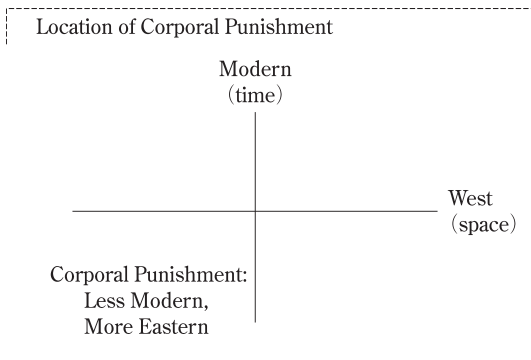
Before presenting my own point, I brief-

ly examine existing theories, which seem to be useful in understanding the nature of the problem. It seems to me that there are two dominant approaches for the analysis of political institutions². The first one is the linear developmental scheme largely shared by modernization theorists as well as Marxists. In this theoretical framework, a particular institution such as flogging tends to be interpreted as a sign of backwardness of the society in which it is practiced. According to this theory, the more a society is being modernized, the more lenient the form of punishment becomes. In modern societies, “cruel” punishments tend to be replaced by more “civilized” and “humane” ones such as imprisonment (Foucault 1979)³. According to this understanding, flogging is nothing but a remnant of old institutions that were prevalent in pre-modern societies.

The second approach is the emphasis on national characteristics commonly used by cultural explanation. In this theoretical framework, particular institutions tend to be interpreted as manifestations of distinct national (or ethnic) character. For example, some people believe that Bushido, the way of samurai, is the essence of Japanese national character (Nitobe 1905). According to this “theory,” Japanese culture is characterized by an intrinsic tendency toward militarism and discipline (Benedict 1946, Narusawa 1997). From this perspective, corporal punishment is easily associated with Japanese national character. In spite of powerful accusations made by Edward Said against what he defines as Orientalism (Said 1994), some pundits still argue that corporal punishment is a part of Japanese, or more broad-

ly, Asian culture, which is completely different from Western civilization.

I assume that these two theories somehow organize our common sensual understanding of corporal punishment. If I illustrate the point, flogging could be located in terms of time and space dimension as follows.



In the following discussion, I show how the actual historical process deviated from this common sensual understanding. Conventional scholarship presupposes that non-Western societies like Japan always modernize by emulating “Western” models. In contrast, I want to stress that colonial Asia was an important site in which modern Japanese institutions and practices were constructed and contested (Umemori 2004). I claim that we cannot understand the various Japanese political institutions properly, without analyzing the nature of the colonial government.

2. History of Flogging as an Official Punishment in the Empire of Japan

In Japan as well as in China, flogging had been sanctioned as a form of punishment until fairly recent times. For exam-

ple, the first penal code issued in the Meiji era in 1871 was still modeled after traditional Chinese codes and sanctioned flogging (Ishii and Mizubayashi 1992). It was only later, in 1882, that the Meiji government abolished flogging by promulgating the first western style criminal code (Tsuji 1974, p.1091). However, flogging reappeared as an important political issue at the beginning of the 20th century, when the Empire of Japan used this kind of punishment for the rule of Taiwan and Korea-- newly acquired colonial territories.

In 1895, Japan acquired Taiwan after the victory of Sino-Japanese War. The Meiji government established the government-general in that island, which was responsible for the maintenance of public order. However, it deeply suffered from the resistance of native population, which forced Japanese officials to take severe security measures (Oguma 1998, pp.70-78). Taiwan was put outside the jurisdiction of Japanese Constitution and several security ordinances applicable only in Taiwan were issued. Flogging ordinance of 1904 was an example of such policies (Mun 2004). According to this ordinance, a Taiwanese who committed minor crimes could be sentenced to flogging or fine instead of imprisonment, depending on circumstances. This policy was also adopted later in other territories under Japanese control, in the Kwantung Leased Territory in 1908 and in Korea in 1912 (Lee 1999).

The government-general in Taiwan explained the necessities of this policy as follows (Tsurumi 2004, pp.200-202, Tejima 1904 = 1986). First, they emphasized that the financial costs of flogging were

much lower than that of imprisonment. For the government-general suffering from financial deficit, it was an attractive idea to flog the criminals, instead of preparing expensive penitentiaries for them. As such, the economic considerations was one of the important factors for the introduction of flogging in Taiwan.

Second, the government-general insisted that Taiwanese people were so “uncivilized” that they need “special” treatment. In this discussion, the Taiwanese were portrayed as a people who lacked the sense of morality. In Taiwan, they argued, imprisonment could not function as an effective method of deterrence of crime because it simply meant to offer criminals free food and accommodation. In addition, they also emphasized that flogging had been largely used in Taiwan under the rule of Qing Dynasty. They claimed that it was natural for them to apply this punishment in Taiwan, respecting Chinese tradition. This logic, I would say, is an example of cultural approach to the question of political institution.

3. Critique of Flogging from Modernists’ Perspective

However, the promulgation of flogging ordinance in Taiwan roused a sensation among intellectuals in Japan. For example, Ogawa Shigejiro, a prison director, fiercely opposed this policy by arguing that flogging ordinance in Taiwan smeared the glory of Japanese penal administration (Ogawa 1904)⁴. The Meiji government, he argued, abolished flogging in 1882 because this punishment was cruel and

inhumane so that it was inappropriate in modern societies. Ogawa recognized the flogging ordinance as a serious threat to civilization and humanism, which should be the essence of the government of the Empire of Japan.

In addition, Ogawa refuted the economic reasoning by emphasizing that the Meiji government started political reforms in Japan with strained finances. Although the government-general in Taiwan emphasized the financial difficulty as a reason for the introduction of flogging, the Meiji government, he claimed, actually abolished flogging at the very early stage of state formation, when the financial situation was rather severe.

Lastly, he emphasized the similarities between Japan and Taiwan in terms of degree of civilization. Although the government-general deplored only the character of Taiwanese people, the life of the lower class people in Japan was also as uncivilized as in Taiwan, he claimed. He also mentioned that not only China but also Japan has sanctioned flogging as punishment until very recent. If so, flogging should be also recognized as a part of Japanese culture.

In order to criticize the argument that flogging was a part of Chinese or Japanese culture, he emphasized that this punishment was also widely practiced by Westerners against native populations in colonies all over world. According to him, flogging was a part of Western culture that was characterized by racism and violence. He insisted that flogging should be discredited because it symbolized the barbarism of Western colonial domination. In any case, he concluded that there was no reason to

reintroduce flogging in Taiwan in 1905, which was once abolished in Japan in 1882.

It is interesting to note that Ogawa transformed the original meaning of flogging by criticizing the argument made by the government-general. In his logic, flogging originally understood as an oriental and pre-modern punishment was redefined as a political institution peculiar to Western colonialism.

4. Flogging as a Civilized and Humane Punishment

Interestingly enough, the government-general began to emphasize the civilized and humane nature of flogging in replying to this criticism (Suzuki 1904 = 1986)⁵. According to them, the flogging practiced in Taiwan under the rule of Japan should be differentiated from traditional corporal punishments. For example, their flogging ordinance paid particular attention to the health of the convicts. The text of the ordinance stipulated that a physician was to witness the execution of punishment. In addition, the text also stipulated the procedure of flogging in detail. It said that flogging was to be practiced in secret in order not to humiliate convicts in public. It also contained meticulous regulations concerning the size and shape of instrument of flogging and how to use it. For example, a document stipulated the procedure of flogging as follows (*Chikei shiko kokoro* 1904 = 1986 pp.905-906).

Article 2: The executioner, holding the whip in his right hand, keeps the hand low and proceeds to the left side of convict (who is placed

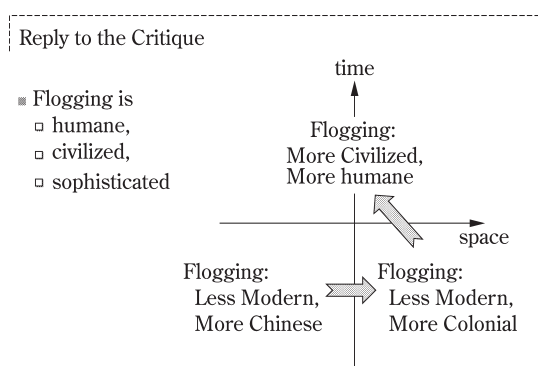
laying with his face down on the platform), and positions himself about three inches (*sun*) away from the convict, touching his right buttock by the tip of the whip with the stretched right arm. Simultaneously, he takes a step back with his left foot, the toes facing outward. The left elbow is lightly stretched, with the thumb directed backwards (If the executioner wears a sword, he holds the hilts of the sword in his left hand). Then, he shifts his weight to the right knee, assuming a slightly bended position.

Here, the executioner was expected to function just like an accurate machine. Based on those meticulous regulations, the government-general argued that it was possible to deliver the exact amount of pain to convicts, deserved by the crime they committed. Here, the meaning of flogging was transformed again. The government-general and their opponents originally shared a premise: flogging was a cruel and uncivilized punishment. However, in replying to the critique by opponents, the government-general began to emphasize the civilized and humanitarian nature of flogging.

They compared flogging with other forms of punishment, and even concluded that flogging was more humane and effective than other punishments (Suzuki 1904 = 1986). For example, they claimed that imprisonment was an inhumane punishment because it separated convicts from their families. While they were imprisoned, their wives and children would not be able to support themselves. On the contrary, in case of punishment by flogging, it was possible for convicts to return to their home immediately after the execution of punishment. Finally, they claimed that

flogging was more effective than imprisonment in term of crime suppression. In the case of imprisonment, prisoners were always exposed to bad effects from fellow criminals. On the contrary, flogging could isolate individual convict from any other effects from outside.

In any case, the implications of flogging were radically transformed through the debate. Flogging, originally representing the backwardness and oriental character, was reinterpreted as a civilized and humane punishment, symbolizing more advanced and effective administration.



5. Conclusion

I have introduced this debate not because I want to make an apology for the Empire of Japan by claiming that their colonial rule was actually “modern” and “humane.” My intention is rather opposite. The Japanese colonial rule was able to become cruel and barbarous exactly because it characterized corporal punishment as humane and civilized. As long as corporal punishment was characterized as barbarous, the idea of humanism or civilization could restrain its abuse, at least theoretically. However, once corporal pun-

ishment was characterized as humane and civilized, this important restraint has disappeared. People tend to use corporal punishment continuously even if their society becomes developed and modernized. This is an answer to the question I proposed at the begining: Why is corporal punishment still widely used in a modern society like Japan?

The Japanese government abolished flogging in Korea and Taiwan in the early 1920’s. However, it is important to note that it abolished this punishment mainly from egalitarian considerations, without denying the nature of punishment. They thought that flogging ordinance should be abolished because it became a symbol of unequal treatment between the Japanese and the Koreans or the Taiwanese in colonies (Tanino 1921 = 1986). However, this logic naturally incurred the following opposition. It argued that, if flogging was really humane and civilized, there are no reason for it not to be applied to the Japanese (Suzuki 1904 = 1986). As far as I know, no one could offer any effective reply to this intriguing proposal (Nagano 1920 = 1986).

Flogging disappeared as a form of punishment from the Empire of Japan in the early 1920 s. However, the particular idea that perceived flogging as “humane” and “civilized” helped corporal punishment to survive as a form of social custom. The particular idea, “humane” and “civilized” flogging, was a product formed by colonial experiences, and neither a remnant of feudal society, a manifestation of cultural essence, nor a simple emulation of European models. I argue that we cannot understand the emergence and transforma-

tions of institution such as corporal punishment without paying particular attention to colonial experiences. Although both the topic and the scope of this paper are quite limited, I hope that it can open the door to a wider consideration of how political institutions emerge and change in a society like Japan.

Notes

- 1 As for more comprehensive and insightful methods and perspectives for the analysis of political institution, see Kohno 2002.
- 2 As for more detailed analysis of characteristics and transformations of Japan studies, see Dower 1995.
- 3 As for the Japanese case, see also Ishii 1964.
- 4 As for more detailed information and analysis concerning Ogawa's refute, see Botsman 2004.
- 5 As for more detailed information and analysis concerning replies by colonial bureaucrats, see Lee 1999, Botsman 2004 and Umemori 2006.

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