The Evolving Meiji State : Its Dual Character as a Nation-State and Colonial Empire

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1. INTRODUCTION

It is not easy to pinpoint the exact moment of the Japanese nation-state's formation, or its completion. Our conclusions would differ depending on whether we consider the general state of affairs within Japan, its institutions, or ideals. For example, in assessing the general state of affairs it could be argued that Japan had almost become a single nation-state by the end of the Edo (Tokugawa) period (1600–1867). However, if we use as our criterion for the nation-state the establishment of institutions conforming to those of sovereign states within the West's so-called Westphalian system, it can be said that for Japan the implementation of the Meiji Constitution (1889), adoption of a parliamentary system, and revision of the unequal treaties with the Western powers around the turn of the twentieth century marked one distinct period. Then again, if in still considering institutions we determine that the nation-state was first realized with the establishment of popular sovereignty, we could say that it did not come into being until the postwar Constitution went into effect in 1947. Furthermore, if we assume that the nation-state exists when a homogeneous and completely egalitarian national citizenry is the political subject and political decisions directly reflect its will, arguments concerning the completion of the nation-state would amount to a theory of permanent revolution.

Yet, at least with respect to research on the Japanese nation-state, there has been virtually no debate about the standards of judging when a polity is a nation-state. Thus, although the nation-state has been discussed—or to be more accurate, precisely because discussion about the nation-state has been so widespread—its definition has not been problematized. Individual researchers have proposed a

variety of conceptions of the nation-state based on their vague understandings, and as a result all social phenomena in Japan have been regarded as its attributes. We might even conclude that the modern debate about Japan has taken place within the limits of the nation-state itself.

In employing the narrow lens of the history of legal thought to study the nation-state in modern Japan, I have felt it necessary to posit at minimum the following premises. First, it is necessary to consider the formation of the nation and the formation of the state as distinct phenomena. Second, in Japan the process of forming a nation-state lasted until 1945. Third, regarding the particularities of the formation of the Japanese nation-state, it is necessary to consider the intersections of the introduction of Western logic and institutions with prescriptions inherited from established social institutions in Japan, as well as intellectual links to the rest of East Asia.[1] Starting from such premises, it is possible to examine the Meiji state as a system and to consider the formation of the Japanese nation-state from the Meiji Restoration (1868) to 1945 within the spatial context of the West and East Asia.

At the same time, however, herein lies a perplexing problem. That is, how are we to also understand the fact that this same Meiji state possessed colonies for nearly a half century? This point is so self-evident that the reader may have some doubts about why I am raising this issue now. Yet in my view, studies of the Japanese nation-state up to the present, including my own, have completely avoided addressing the problem of the nation-state as a possessor of colonial territories. Certainly, it could be argued that since the nation-state as defined by Benedict Anderson is a kind of "imagined community," this was the proper manner in which research should have proceeded. The very term used to refer to the colonies—Gaichi, or literally "external territories"[2]—suggested spaces outside "our gemeinschaft."

Thus for the nation-state of Japan, colonies tended to be considered as impure elements or as external accretions, and it is not surprising that there was no resentment or objection to the Potsdam Declaration's stipulation that the territory of Japan was to be "limited to the islands of Honshu, Hokkaido, Kyushu, and Shikoku, and such minor islands as we determine." In fact, the removal of extraneous elements might even have provided a kind of sense of relief.

To be sure, since the acquisition of colonies was considered to be a product of Japanese militarism and imperialism, their loss was a necessary step in escaping

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1) Regarding these points, see Yamamuro [1985, 1992, 1996]

2) Gaichi refers to the new territories that were incorporated into Japan after the Meiji Constitution went into effect in 1889. The term came to be used conventionally after the establishment of the Ministry of Colonial Affairs (Takumushō) in 1929. Prior to that time, these territories were called "colonies" (*shokuminchi*), or were referred to by their geographical names. However, for convenience' sake I shall use the term Gaichi regardless of historical period.

from the nightmare of Japanese militarism and imperialism, as well as in rebuilding. Yet however much the Japanese might have forgotten memories of "empire" and forged a self-portrait upon that amnesia, the fact of having been an empire will not simply disappear. Instead, it is especially imperative today—as we stand at the threshold of the twenty-first century, when colonies have disappeared from Asia and past crimes of empire are once again being raised—to consider the significance of the Meiji state's duality: namely, that it held colonial possessions while in the process of becoming a nation-state, and that even while still in what might be called its infantile form, it became a colonial empire.

In this article I will proceed from such a perspective to consider how the experience of nation-state formation, which began with the unification of different ethnicities within Japan, expanded and adapted itself to the colonial situation, thereby producing what I call the "national empire." In keeping with the theme of "comparative studies of civilizations" adovocated by professor Umesao—namely, civilization as "apparatuses and institutions"—I will focus especially on systems of administration and unification.

2. THE NATION-STATE AND JAPANESE LEGAL ORGANIZATION

Today research on the formation of the Japanese nation-state is heavily weighted toward illuminating the process by which national consciousness came to be formed and then permeated society. Thus it has tended to focus on such topics as the construction of the national language or the invention of national history, the creation of national festivals and customs, and the fabrication of the national anthem and flag and their symbolism, as well as the visualization of national history through museums and monuments. In contrast, relatively little work has been done on the legal organization of the state, even though this has served as the foundation for such activity. Yet since a nation-state is also a state, its uniqueness is above all to be found in its establishment of rules by which individuals might form a collectivity within a fixed territorial base. It is thus impossible to assess the nation-state's place in world history without elucidating its legal organization—that is, its rules of governance and unification.

At the same time, since modern nation-states historically adopted a minimum basic standard of legal organization, a comparison of elaborations of these legal organizations can be expected to illuminate the particularity of each nation-state. This minimal standard was the "standard of civilized nations"; and as long as a particular state was not recognized as possessing a system of legal organization equal to those of Western civilized nations, it could not exist as a sovereign state. The only alternatives were either to become a protectorate or a colony, or to be forced into accepting unequal treaties.

For the non-Western world, the task of forming nation-states appeared impossible without accepting the "apparatuses and institutions" constituting Western civilization. The Iwakura Mission of 1871 was dispatched to the United

States and Europe in order to preserve an equal status with the civilized nations through reforming politics and customs [IWAKURA SHISETSUDAN 1871]. However, the mission soon discovered that compiling legal codes, and in so doing preparing a judicial system based on the notion of "Western laws or Western principles as paramount," was the condition for opening talks on treaty revision. Meeting this condition meant nothing other than integrating the Japanese legal system into the dual framework of the capitalist world economy and the system of Western nation-states.

Yet the legal system that regulates one society cannot simply be transferred in toto into another society. Adjustments to the established laws and customs of the receiving society must be made. In Meiji Japan the disparate systems came together in various ways, sometimes taking the form of direct importation from the Western legal system, in other cases more closely following the customs and laws unique to Japan. While keeping in mind the necessity of comparing this early form to that in the later national empire, here I wish to briefly examine the legal organization of two elements of the state that were thought to be of particular importance—namely, the land and the people.

We may begin by considering how the "state," within the concept of the "nation-state," was viewed by those involved in its construction and administration. This question was directly taken up by Itō Hirobumi's commentary on the Meiji Constitution, *Kenpō gikai* (Commentaries on the Constitution of the Empire of Japan). This text, whose actual author was Inoue Kowashi, crystallizes the opinions of those who wrote the Meiji Constitution, and it is possible to glean from it the official views of the time. The commentary on Article I states: "Territory and a people are the two elements out of which a State is constituted. A definite group of dominions constitute a definite State, and in it definite organic laws are found in operation" [ITŌ 1889: 5]. This makes it clear that securing land and people and ruling them through the common application of laws are necessary conditions for the establishment of the state.

Of course, the term "land" presupposes the essential preliminary step of fixing the nation's borders in order to establish sovereignty vis-à-vis the outside world. Urgent tasks for the Meiji state included, for instance, concluding a treaty to exchange Karafuto (Sakhalin) for the Kuril Islands (1875), establishing the Home Ministry's jurisdiction over the Ogasawara Islands (1876), and taking control over the Ryukyu Islands (1879). In doing so, the state established itself in a manner appropriate to a territorial state. With regard to securing sovereignty within its borders, the locus of political authority was made clear by the formal "restoration of government to the emperor" (*taisei hōkan*) and the subsequent "restoration of land and people to the emperor" (*hanseki hōkan*). The memorial "restoring the land and people to the emperor" explained that "the land where the emperor's retainers reside is the emperor's land, and those whom the emperor's retainers shepherd are the emperor's people, so why should they be privatized?" This reflects the traditional East Asian theory of monarchical land and monarchical

retainers. However, actual landownership was not legally restricted. Instead, in order for the state to continue to exist as a state, it became necessary to guarantee the legal right of individual landownership and to collect taxes from the landowners. This is why the ban on buying and selling land was repealed in 1872 and private landownership was recognized through the issuance of landownership certificates.

Yet it is important to note that since government bureaucrats understood Western property ownership only in terms of the absolute value placed on individual private landownership, customs of land usage such as village ownership and rotating land allotments, as well as common use of forests or uncultivated plains, were all rejected as antiquated practices. Since the system of landownership in place through the Edo period was thought to have stifled individuality and to have made people lazy through fostering their mutual dependence, the bureaucrats determined that they could introduce modern Western agriculture and increase productivity only by establishing the right to individual landownership. Thus for farmers, the legal systematization of private landownership based on Western legislative principles resulted in the destruction, through foreign legal concepts, of land usage customs that had been formed over hundreds of years. However, for government bureaucrats who equated communal practices with feudal ones, this change was precisely in keeping with the standards of civilized nations.

Conversely, a distinctive feature of the Meiji state's policy with respect to governing people was its rejection of the tendency toward individualization that Western principles promote. To be sure, the Meiji government dissolved the social estate system, and in declaring the equality of the four estates it sought to unify a nation of equals. The Ministry of Civil Affairs (Minbushō) also expressed this desire when it put the family registration (*koseki*) system in order (1871) so that all members of the Japanese nation would be incorporated into one uniform legal category. It stated, "by breaking up the pedigree of particular clans, the four estates will all be endowed with equal rights." This system differed from the temple registry system (*shūmon ninbetsu aratamechō*) employed by the earlier Tokugawa *bakufu* (shogunate) which had tracked only the non-samurai population. Following dissolution of the outcaste status in 1871, the new policy attempted to register all of the Japanese people; and insofar as it aimed to achieve legal uniformity, it was consistent with the principles of the nation-state.

However, the method of actually compiling the registries followed the legal traditions of East Asia in taking the family (*ko*) within a residence as the unit for governing the people of the nation. This differed in principle from the approach of Western countries, which sought to govern the people of the nation through the identification of individuals. Moreover, policy makers of the time clearly recognized that their method of governing through the family unit and family head differed from that found throughout the West, which took the individual as the unit. Also, illustrating the axiom that "the Family Register Act is the great principle of morality," adoption of the family registration system enabled the

government to make the family head responsible for protecting and overseeing his family. In short, the government intended to have the family head fulfill public security and welfare policy functions while attempting to secure the effectiveness of its various measures by designating him as the smallest unit of administration.

Inclusion in a family register became a necessary condition for being recognized as a Japanese national. As the preamble to the Family Register Act of 1871 put it, "anyone not included is not eligible for protection by the government and is ipso facto not a Japanese national." The Family Register Act was adopted as a law applicable to the entire nation, even to ethnic groups within Japan. Thus Koreans in Naeshirokawa of the former Shimazu domain, who had been excluded from the Edo period temple registry system on the grounds that they were ethnically different, were incorporated under the act. Likewise, the Ainu and people of Western descent inhabiting the Ogasawara Islands were given Japanese-style names and family registers. With the revision of the Family Register Act in 1886, family registers were also compiled for Okinawans. Tax administration, military conscription, education, and hygiene were all advanced through the family registration system; and as stated in the 1872 "Official Notice on Military Conscription," this was a way of "leveling differences between high and low and equalizing human rights." In other words, governing the people as national subjects through the family registration system represented, if only on a formal level, the equalization of rights and responsibilities. Hence until the passage of the Nationality Act in 1899, those persons included in family registers were regarded as Japanese nationals under the de facto principle that family registration was tantamount to national registration.

The political activist and theorist Ueki Emori (1857–1892) contrasted the nation-state constituted by the association of individuals with one made up of the association of families. He strongly argued that in order for Japan to "evolve" from the latter to the Western type, which was based on the association of individuals, it was necessary to establish civil law [UEKI 1889]. However, the household system (*ie seido*) enacted under the 1898 Meiji Civil Code simply gave legal form to the family (*ko*) that had come into existence through the family registers. It also served to normalize the *ie*, or household ideal, as a tradition in Japanese civilization, even though that ideal had earlier been confined to samurai families. The latter made up less than 10 percent of the population during the Edo period. Conversely, other inheritance systems, such as that of the eldest daughter or the youngest child succeeding as family head, were considered antiquated customs and eliminated.

Moreover, the household based on patrilineal succession became fused with the idea that the Imperial Household was the head family of the nation and all other families were its branches. This "view of the state as a family" (*kazoku kokkakan*) in turn became the basis for the theory of the *kokutai*, or the national political essence, which made claims about the uniqueness of the Japanese state. This also gave birth to arguments (similar to those of Robert Filmer) that imaged the emperor

as a racial father and provided the opportunity to shift the basis for the legitimacy of the state toward the unity of the nation as defined by shared blood. Hozumi Yatsuka (1860–1912), an ideologue for such a theory of the national polity, argued in his *Kokumin kyōiku aikokushin* that "we Japanese people have a distinct system based on blood groups....The imperial ancestress Amaterasu is the first ancestor of the nation and the imperial household is the founding house of the nation" [HOZUMI 1897: 1–5]. Hozumi developed a theory of the national polity theory that had as its pillars the idea of the homogeneity of the Japanese people as a blood lineage group and the assumption that all Japanese, monarch and people alike, shared the same ancestors.

However, by the time Hozumi's work was published, the Meiji state had already moved toward incorporating those who in Hozumi's view would absolutely not have been included within the common blood lineage group or who did not share the same ancestors with the people and the emperor. In response to Hozumi's regard for blood lineage and shared ancestry as the foundation for the national polity and national ethics, the philosopher Ōnishi Hajime (1864–1900) retorted that such ideas "make it difficult to include in the nation those who do not share the same ancestors." And he added, "I would like to ask how we should regard people of the new territories and how they should deal with those like Mr Hozumi, who talk about the blood lineage group" [ŌNISHI 1897: 46–47]. In short, the new problem of how legally and conceptually to incorporate the "newly registered people" of the new territories as "Japanese nationals" had emerged.

3. COLONIAL EMPIRE AND THE JAPANESE LEGAL SYSTEM

The Meiji Constitution did not have any provisions concerning either Japanese dominions or the possession of colonies. Itō Hirobumi ruled them out because he felt that they might lead to a later revision of the Constitution. Yet this does not at all mean that when the Constitution was being drafted, Itō foresaw the acquisition of colonial territories. Itō and almost all other Japanese certainly had the objective of maintaining national independence, but they did not realistically dream of colonial territories. Even after acquiring Taiwan, there was serious debate about selling it for one hundred million yen. Therefore, the drafters left absolutely no groundwork concerning the legal status of colonies, or how these should be managed if they should come to be possessed.

Thus the first issue to be debated was whether or not the Constitution applied to new territories. This problem was closely related to how one interpreted the Constitution's understanding of the space of the nation and its "people." Nogi Maresuke, the third governor-general of Taiwan, argued that the Constitution applied only to territories envisaged when the Constitution was promulgated and that therefore its subjects were defined as "the descendants of the imperial ancestors' loyal subjects" [NOGI 1897]. In his view the Constitution would have to be revised in order to include Taiwan. The government, believing that to revise the

Constitution only six or seven years after its promulgation carried the danger of damaging the prestige of the emperor and the government as well as the dignity of the Constitution, responded by taking the position that while the emperor's sovereign power extended to Taiwan, the rights of subjects—as well as the duties of military service and paying taxes—did not automatically apply to Taiwanese.

In this manner the application of the Constitution to the colonies continued in a direction that did not guarantee uniform laws for nationals from the metropole and from the colonies. However, from the outset there were politicians such as Hara Takashi who advocated a uniform legal system based on the idea that the colonies should be an extension of the metropole, or *Naichi enchōshugi*, and who sought a system of control from the home government.

But whichever policy was implemented, particular laws and regulations could not be adopted without considering the legal conditions—that is, the established customs and laws—of the relevant societies. Thus the Meiji state was forced to adopt an imperial system composed of a union of different legal zones. The legal theorist Minobe Tatsukichi saw the Meiji state as one state territory (*Staatsgebiet*) that was made up of five legal zones (*Rechtsgebiet*): the Japanese Mainland, Taiwan, Korea, Karafuto (Sakhalin), and Kantōshū [MINOBE 1912]. What kind of legal systems, then, were devised for these other legal zones? In considering this question I shall focus on an issue discussed earlier, the legal organization of land and people.

In 1898 Kodama Gentarō was appointed governor-general of Taiwan. At that time Gotō Shinpei, who became head of Civilian Administration, drafted his "Major Principles of Ruling Taiwan." Gotō maintained that in order to establish a long-term policy for ruling Taiwan, "long-term surveys should not be neglected. In other words, following this principle, it is necessary to survey land and human registries" [GOTŌ 1944a]. Gotō thus argued that maintenance of land and human registries was a primary condition for colonial rule. This emphasis on surveying followed Gotō's policy of applying "biological principles" to colonial rule, and depended on the idea of implementing a system that could accommodate individual differences and levels of development. He argued that however civilized one might consider the Japanese legal system to be, importing it to the colonies in toto would amount to a "tyranny of civilization." Thus he consistently affirmed the principle of differing legal zones while also stressing the necessity of "scientific surveys" for maintaining them.

In one sense Gotō's advice was hardly necessary, since the determination of land rights was a necessary condition for collecting land taxes—that is, for providing colonial management with a sound financial foundation. It was also indispensable for proceeding with industrial development. In July 1898, when the Civil Code went into effect in mainland Japan, it was determined that with regard to Taiwan, "for the time being land rights will be determined not by the second article of the Civil Code, but by established customs." Thus for practical purposes it became absolutely necessary to investigate the former laws and regulations of the

Qing period, as well as Taiwanese conventions. The governor-general established regulations for land registration and land surveys, as well as a temporary land survey bureau, so that proprietary rights could be settled, just as they had been on the Mainland in the early Meiji years. In 1901 Gotō set up a temporary Committee for the Investigation of Old Taiwanese Customs for the purpose of conducting "scientific investigations of old customs," and out of this emerged the majority of reports on old customs as well as other publications, including *Taiwan shihō* (Taiwanese Private Law) and *Shinkoku gyōseihō* (Qing Administrative Law). In 1919 the Committee for the Investigation of Primitive Peoples' Customs (Banzoku Kanshū Chōsakai) was established and later published such works as *Banzoku chōsa hōkokusho* (Report on the Investigation of Primitive Peoples) and *Banzoku kanshū chōsa hōkokusho* (Report on the Investigation of Primitive Peoples' Customs).

While it is difficult to determine the type of changes in landownership in Taiwan that this series of investigations brought about, the first article of the 1898 "Regulations on the Management of Government Forests and Fields" stated that "forests and uncultivated fields whose ownership cannot be determined by a land deed or other proof of ownership will be considered government owned." This suggests that in places where the concept of clarifying exclusive ownership did not exist and such a division between government and privately owned land was undertaken, the custom of communal possession would inevitably have been rejected, just as it had been in Japan. As long as the absolute right of individual landownership was presumed to be "civilized," other forms of landownership were necessarily regarded as "pernicious customs."

Such tendencies can be observed in the treatment of landownership involving the Taiyal people. At the outset, the colonial administrator Mochiji Rokusaburō and others acknowledged that indigenous Taiwanese actually occupied land; but they also argued that since there was no basis for this other than "the concepts of the natives themselves, these primitives (*seiban*) do not have any proprietary rights. All the lands of the primitives belong to the state" [Mochiji 1911: 293]. In short, he did not recognize the indigenous Taiwanese right of landownership. Yet his position was justified solely by applying the Western standard of property ownership; and through such works as the first volume of *Banzoku kanshū chōsa hōkokusho* (Report on the Investigations of Primitive Peoples' Customs), which was edited by Kojima Yoshimichi [Kojima 1915], and Koizumi Tetsu's *Taiwan dozokushi* (An Ethnography of Taiwan) [Koizumi 1933], it gradually became clear that the Taiyal people did have their own distinct concept of landownership. Nevertheless, the 1937 *Shinrin keikaku jigyō hōkokusho* (Report on the Forest Project) did not recognize their landownership rights, arguing that their culture and lifestyle were not sufficiently developed. Furthermore, it was determined that reservations should be established and that "the land must be administered by the government authorities until such time as the primitives uplift their culture to a level that will allow them to be independent" [Taiwan Sōtokufu Shokusankyoku

1937: 253]. Thus, not merely the land but everyday life itself was placed under governmental administration. Incidentally, this type of land policy was similar in some respects to the legal regulations applied to the Ainu. The Ainu also had no concept of private landownership, but instead recognized communal ownership based on territorial groups called *kotan*. Initially, the Meiji government encouraged private landownership in conjunction with the migration of settlers to Hokkaido, but the 1876 "Regulations on Issuance of Hokkaido Land Certificates" placed all Ainu lands under government ownership and in 1899 the "Hokkaido Former Aborigines Protection Act," while granting land to the Ainu without compensation to the government, did not recognize the right of landownership itself.[3)]

In this way, the land survey-based determination of proprietary rights in Taiwan, which categorized land as either government-owned or private, resulted in the de facto confiscation of land and gave rise to many disputes. Not only the Ainu but all Japanese faced a similar situation. Such practices produced an even graver and larger-scale problem in Korea. There, in 1908 the Legal Code Investigation Bureau, succeeding the Real Estate Survey Committee that had been established in 1906, published the "Kanshū chōsa hōkokusho" (Customs Surveys Report). Then, beginning in 1910, the land survey project continued for almost eight years. During this time, a system of filing for registration of ownership was employed: if ownership could not be verified and land was not registered, it reverted to the government-general and then ultimately passed into the hands of the Tōyō Takushoku and other Japanese real estate companies, and thus to Japanese landlords. Because nonindividually owned lands reverted to the government, out of 16 million *chōbu* (15.9 million hectares) of forests and fields, 13 million *chōbu* (12.9 million hectares) became state-owned. It is widely known that the surveys of fields and forests put severe economic pressure on tenant farmers, who made up 77 percent of all Korean farmers, forcing many to engage in slash-and-burn practices or itinerancy, and also causing a large exodus abroad [MIYAJIMA 1991]. Thereafter, land surveys and registration projects were conducted in the United Nations-mandated territory of the South Pacific Islands (Nan'yō), with Japan pursuing its domination under the belief that determining proprietary rights over all land under its rule should be its first priority.

Of course, the state is in essence an organ of real estate management. Since colonial domination was even more concerned with the control and management of land, it might appear natural that the determination of proprietary rights was treated with such urgency. However, at the same time the survey of old customs continued, and these customs were in principle accorded proper respect. But the absolute priority consistently given to exclusive private property rights undeniably had the practical effect of facilitating tax collection, the buying and selling of land,

3) Landownership issues in relation to Taiwan and the Ainu are described in much detail in an article by Yamaji Katsuhiko [1991], on which this section draws heavily.

and profit making from land use, while also conveying the idea that the system was one of rules based on civilized law.

In this way, despite the immense variety of forms and concepts of landownership in the various regions, the form of ownership found in the home country was uniformly imposed on all the different legal zones. The management of people provides a sharp contrast: although all were uniformly called "Japanese nationals," their treatment was far from identical, whether in legal terms or otherwise.

First, let us take the Nationality Act. With respect to Taiwan, Article Five of the Sino-Japanese Peace Treaty stipulated that after a two-year period that ended on May 8, 1897, during which other nationalities would be recognized, those who did not depart would be considered Japanese nationals. Then, after the 1899 Nationality Act went into effect on the Mainland, an imperial ordinance also made it effective in Taiwan. However, the same procedures were not applied to Korea; the Nationality Act was not enforced there during the entire period of Japanese rule. Moreover, since the Family Register Act did not in principle apply to those in the colonies, or Gaichi, the government's legal basis for having jurisdiction over those "nationals" who resided in the external legal zones differed by region. Relevant legal steps included for Taiwan the "Households and Inhabitants Regulations" (*kokō kisoku*), for Korea the "Civil Register Code" (*minsekihō*) and the family registration stipulations of the "Korean Civil Ordinances" (*Chōsen minjirei*), and for Karafuto the "Aboriginal Household and Inhabitants Regulations" (*dojin kokō kisoku*). No special laws or regulations applied to Kantōshū or Nan'yō. In Karafuto the 1924 Family Register Act was applied to those who had transferred their registries from the Mainland, and its application was extended to the Ainu in 1932.

Thus from the 1920s on, those within the territory of the Japanese empire who were recognized as Japanese subjects or nationals included those legally classified as Japanese, the Ainu or "former aborigines," Koreans, the Taiwanese majority (*hontōjin*) and the "primitives" (*banjin*) in Taiwan, and the indigenous or "aboriginal" (*dojin*) people of Karafuto. While "Chinese" in Kantōshū and "South Pacific Islanders" were subjects of Japanese rule, they were not included in regional population registries and in this sense were probably not considered Japanese nationals. However, there was said to be a seven-tiered system of social estates that encompassed all Japanese subjects: members of the imperial family (*kōzoku*), former Korean royal family (*ōzoku*), former Korean royalty (*kōzoku*), nobility (*kazoku*), Korean nobility (*Chōsen kizoku*), former samurai (*shizoku*), and commoners (*heimin*) [SATOMI 1939].

The form and application of laws and regulations also differed among the empire's legal zones, and each region had a distinct system of courts. To be sure, there were criticisms of the mixed character of the legal situation; in 1918, in an attempt to realize the ideal of one legal zone for the entire nation, a common law establishing rules for the uniform application of civil and criminal laws and

regulations throughout the different legal zones went into effect. In addition, in response to what was perceived as the problem of marriages between Taiwanese and Mainlanders that arose as a consequence of the increased flow of people between Taiwan and the Mainland, the so-called common marriage law was established. This permitted marriages between Mainlanders and majority Taiwanese (*hontōjin*), as well as adoptions, to be entered into family registries. Moreover, a cabinet resolution of December 1944, titled "On the Improvement of the Treatment of our Korean and Taiwanese Compatriots," suggested that it be made possible to transfer family registers from one legal zone to another, although this proposal was never realized.

At the same time, the advance of total war and the attempt to create the Greater East Asia Co-prosperity Sphere produced more legal zones that were extensions of the colonies (Gaichi). For administrative purposes it also became necessary to establish uniform standards of efficiency, and in July 1942, in the interests of "standardizing the administration of the Mainland and the colonies," the affairs pertaining to Korea, Taiwan, and Karafuto were placed under the jurisdiction of the Home Ministry (Naimushō). Furthermore, in April 1943 Karafuto was incorporated into the Mainland.

Paralleling these administrative measures, military conscription came to be enforced in Korea and Taiwan in 1943, thereby making military service a duty; and, as if in compensation, adjustments to broaden suffrage, albeit with limits, were made. While there were colonial appointments to the House of Peers, however, no one from Korea or Taiwan was to ever serve in the Lower House.

In short, the Meiji state was ultimately unable to shed a legal structure that was composed of a combination of separate legal zones. For those in the different legal zones who were coerced into becoming imperial subjects, their obligations seemed far out of proportion to their limited rights. Furthermore, this double standard returned to haunt them in the postwar period. In the aftermath of defeat, those convicted of class B and C war crimes were considered formerly Japanese and held accountable for their crimes; but those who sought various forms of postwar compensation from the Japanese government were considered ineligible because they were no longer Japanese.

4. THE MEIJI STATE AS A NATIONAL EMPIRE

In the above we have seen, albeit in just one area, how the Meiji state's experience of forming a nation-state affected its possession of colonies and also the changes that accompanied the Meiji state's becoming a colonial empire. As we have considered the level of uniformity of the people, it has become clear that following its acquisition of Taiwan, Japan was not simply a nation-state. Moreover, it was not simply formed as a composite of multiple ethnic groups that had already existed. Instead, the Meiji state resulted from the territorial growth that accompanied the policy of imperialist expansionism. Moreover, within this

empire peoples as well as the laws and regulations applied to them did not randomly intermingle: differential rights and obligations were consciously constructed, with the home country in the most privileged position. In this regard, the Japanese empire differed from the Ottoman and Chinese empires, which both countenanced hybridity and a type of hands-off policy; it is for this reason that I have employed the term "national empire" (*kokumin teikoku*) in referring to those empires that emerged from the late nineteenth century.

Rather than inventing the term de novo, I have slightly revised terms that were used during the relevant period. For example, in his *Nihon shokumin seisaku ippan* (An Outline of Japanese Colonial Policy) [Gotō 1944b], Gotō Shinpei describes the global political trends of the twentieth century as "nationalistic imperialism" (*kokuminteki teikokushugi*). In other words, in modern times "ethnic nationalism or nationalism" had replaced the medieval ideal of the "world state" in world politics, and in the nineteenth century nationalism had become the great force. Moreover, because this nationalism followed the iron law of the survival of the fittest, according to which the weaker were forced to assimilate, it gave birth to chauvinism. The result was intense competition, and "when this desire reached its height, the national territory finally began to seem restricted and it became necessary to increase population and to expand territory. With this, *for the first time, imperialism was added to this nationalism*" [Gotō 1944b, emphasis in original]. Thus Gotō believed, first, that the distinctiveness of twentieth-century imperialism stemmed from its inevitable development out of nationalism and, second, that Japan had entered this stage.

However, Gotō did not invent the term "nationalistic imperialism"; he clearly borrowed the concept from Paul S. Reinsch. Reinsch had a great impact on Japanese colonial policy studies and became widely known through such works as *Teikokushugiron* (On Imperialism) [Reinsch 1901]. In brief, Reinsch's theory of the stages of state formation, which also strongly influenced the political theories of the late Qing thinker Liang Qichao, emphasized the transition from the ethnic nationalism of the nineteenth century to the nationalistic imperialism of the twentieth century. It also stressed the significance of the political methods employed in forming nation-states to construct national empires.

While Reinsch's arguments are suggestive, I will employ the concept of national empire for the narrower purpose of clarifying the character of the Meiji state. To do so, I wish first to emphasize that the concept of the national empire has two dimensions, for it is meant to incorporate both the nation-state and the colonial empire. But my second point is that for precisely that reason, it contains tendencies that contradict the national empire itself.

Because the national empire was the product of an imperialism that emerged after the formation of the nation-state, it was fundamentally different from earlier empires, which had expanded as a result of the mercantilist desire of kings, aristocrats, and licensed merchants to amass wealth and power. Now the people of the nation themselves became agents in the competition for colonial possessions.

This means that the people—even while admitting that they were conscripted into the military and were manipulated to some extent—supported this policy and matter-of-factly came to demand a privileged position for themselves in the colonies. In 1911 the Council for the League of Japanese Residents in Korea urged the government-general to expand the privileges and guarantees accorded to Mainlanders while passing a resolution stating that "superior people require a superior system while the uncivilized require an uncivilized system" [quoted in KAJIMURA 1992: 214]. This attitude was not limited to Korea. In resorting to a discourse that opposed the civilized and the uncivilized, the most up-to-date standards and the low level of the people, the Japanese were demanding such a hierarchy of rights. One might then argue that the establishment of differential legal zones was itself an attribute of the national empire.

Nevertheless, since the national empire was in essence an expansion of the nation-state, we must also note that it continued to seek national uniformity even as it came to incorporate other ethnic groups. Such actions not only reflected the desires of the home country but also were a necessary response to the demands of the subject peoples for ethnic self-determination and nation-state formation. Thus, another attribute of the national empire was the dissolution of differential legal zones and the tendency of colonies, or Gaichi, to become increasingly like the Mainland.

In sum, "the principle of differential legal zones" (*ihōikishugi*) and "the principle of the colonies as extensions of the Mainland" (*naichi enchōshugi*), which are usually regarded as polar opposites in colonial policy, in fact reflect the dual character of the national empire. Moreover, this contradiction inevitably accompanied the Meiji state's nineteenth-century incorporation into the system of nation-states and its twentieth-century participation in imperialist rivalries.

BIBLIOGRAPHY

GOTŌ Shinpei (後藤新平)

1944a (1898) 「台湾統治の大綱」中村哲編『日本殖民政策一斑他』日本評論社, pp. 10–11. ("Taiwan tōchi no taikō." In Nakamura Akira ed., *Nihon shokumin seisaku ippan hoka*. Nihon Hyōronsha.)

1944b (1921) 「日本殖民政策一斑」中村哲編『日本殖民政策一斑他』日本評論社, p. 49. ("Nihon shokumin seisaku ippan." In Nakamura Akira ed., *Nihon shokumin seisaku ippan hoka*. Nihon Hyōronsha.)

HOZUMI Yatsuka (穂積八束)

1897 『国民教育愛国心』八尾書店. (*Kokumin kyōiku aikokushin*. Yao Shoten.)

ITŌ Hirobumi (伊藤博文)

1889 *Commentaries on the Constitution of the Empire of Japan*. Trans. Itō Miyoji. Igirisu Hōritsu Gakkō. (原著は『帝国憲法・皇室典範義解』, 通称『憲法義解』国家学会, 1889.)

IWAKURA SHISETSUDAN (岩倉使節団)

1871 「岩倉特命全権大使事由書」外務省編『日本外交文書』第4巻第1冊75号文書.

("Iwakura Tokumei zenken taishi jiyūsho." In Gaimushō ed., *Nihon gaikō bunsho*, vol. 4, no. 1.)

KAJIMURA HIDEKI CHOSAKUSHŪ KANKŌ IINKAI (ed.) (梶村秀樹著作集刊行委員会編)
1992 『梶村秀樹著作集』第1巻，明石書店. (*Kajimura Hideki chosakushū*, vol. 1. Akashi Shoten.)

KOIZUMI Tetsu (小泉鐵)
1933 『台湾土俗誌』建設社. (*Taiwan dozoku shi*, Kensetsusha.)

KOJIMA Yoshimichi (ed.) (小島由道編)
1915 『番族慣習調査報告書』第1巻，臨時台湾旧慣調査会. (*Banzoku kanshū chōsa hōkokusho*, vol. 1. Rinji Taiwan Kyūkan Chōsakai.)

MINOBE Tatsukichi (美濃部達吉)
1912 「日本殖民法に就て」『国家学会雑誌』26(1): 89–108. ("Nihon shokuminhō ni tsuite." *Kokkagakkai zasshi*.)

MIYAJIMA Hiroshi (宮嶋博史)
1991 『朝鮮土地調査事業史の研究』東京大学東洋文化研究所. (*Chōsen tochi chōsa jigyōshi no kenkyū*. Tokyō Daigaku Tōyō Bunka Kenkyūjo.)

MOCHIJI Rokusaburō (持地六三郎)
1911 『理蕃誌稿』台湾総督府民生部蕃務本署. (*Ribanshikō*. Taiwan Sōtokufu Minseibu Banmuhonsho.)

NOGI Maresuke (乃木希典)
1897 「建議書」国会図書館憲政資料室蔵・後藤新平文書 (R-23-7-3). ("Kengisho." Gotō Shinpei Papers, National Diet Archives.)

ŌNISHI Hajime (大西祝)
1897 「祖先教は能く世教の基礎たるべきか」『六合雑誌』201: 44–49. ("Sosenkyō wa yoku sekyō no kiso taru bekika." *Rokugō zasshi*.)

REINSCH, P.S. (ラインシュ，ポール・エス)
1901 『帝国主義論』高田早苗訳，東京専門学校出版部. (*Teikoku shugi ron*, Trans. Takada Sanae. Tokyo Senmon Gakkō Shuppanbu.) (Original title, "World Politics at the End of the Nineteenth Century as Influenced by the Oriental Situation.")

SATOMI Kishio (里見岸雄)
1939 『日本政治の国体的構造』日本評論社. (*Nihon seiji no kokutai teki kōzō*. Nihon Hyōronsha.)

TAIWAN SŌTOKUFU SHOKUSANKYOKU (台湾総督府殖産局)
1937 『森林計画事業報告書』台湾総督府殖産局. (*Shinrin keikaku jigyō hōkokusho*. Taiwan Sōtokufu Shokusankyoku.)

UEKI Emori (植木枝盛)
1889 「如何なる民法を制定す可き耶」『国民之友』60: 19–23. ("Ikanaru minpō o seitei subekiya." *Kokumin no tomo*.)

YAMAJI Katsuhiko (山路勝彦)
1991 「〈無主の野蛮人〉と人類学」『関西学院大学社会学部紀要』64: 47–71. ("'Mushu no yabanjin' to jinruigaku." *Kanseigakuin daigaku shakai gakubu kiyō*.)

YAMAMURO Shin'ichi (山室信一)
1985 「近代日本における国民国家の諸相」『近代日本の知と政治』木鐸社，pp. 147–167. ("Kindai Nihon ni okeru kokumin kokka no shosō." *Kindai Nihon no chi to seiji*. Bokutakusha.)
1992 「知の回廊」溝部英章編『近代日本の意味を問う』木鐸社, pp. 113–152. ("Chi

no kairō." In Mizobe Hideaki ed., *Kindai Nihon no imi o tou*. Bokutakusha.)
1996 「日本の国民国家形成とその思想連鎖」『日本史研究』403: 97–114. ("Nihon no kokumin kokka keisei to sono shisō rensa." *Nihonshi kenkyū*.)