



East Asian History

NUMBER 3 · JUNE 1992 THE CONTINUATION OF *Papers on Far Eastern History*

Institute of Advanced Studies
Australian National University

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This is the second issue of *East Asian History* in the series previously entitled *Papers on Far Eastern History*. The journal is published twice a year.

Contributions to	The Editor, <i>East Asian History</i> Division of Pacific and Asian History, Research School of Pacific Studies Australian National University, Canberra ACT 2600, Australia Phone +61-6-2493140 Fax +61-6-2571893
Subscription Enquiries	Subscription Manager, <i>East Asian History</i> , at the above address
Annual Subscription Rates	Australia A\$45 Overseas US\$45 (for two issues)

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- Cover calligraphy Yan Zhenqing 顏真卿, Tang calligrapher and statesman
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(Tokyo: Hanawa Shobō, 1980), p.242

PUNISHMENT AND POWER IN THE TOKUGAWA PERIOD

 Dani V. Botsman

On 16 December 1864, the British diplomat Ernest Satow witnessed the execution of two men in Edo, an event he described as follows:

There was a large concourse of spectators, both foreign and native. A little after three o'clock a whisper ran round that the condemned were being brought out. A door opened, and a man blindfolded was made to kneel down on a rough mat placed in front of a hole dug in the ground to receive his blood. The attendants drew his clothes downwards so as to lay the neck bare, and with the hand brushed his hair upwards, so as to give full play to the sword. The executioner secured a piece of cotton cloth around the handle of his weapon, and having carefully whetted the blade, took up a position to the left of his victim, then raising the sword high above his head with both hands, let it fall with a swoop that severed the neck completely. The head was held up for the inspection of the chief officer present, who simply remarked: "I have seen it," and it was thrown into the hole. The second man then being carried in, the attendants seemed to have a little trouble in getting him to kneel in the proper position, but at last the arrangements were completed to their satisfaction. The neck having been bared as before, a fresh executioner advanced, took his place at the prisoner's left side, and raising the sword with a flourish, let it descend with the same skill as his predecessor. It was a horrible sight to see the attendants holding the headless corpse down to the hole, and kneading it so as to make the blood flow readily into the hole ...¹

Within a decade of this execution described by Satow, revolutionary changes to Japanese penal practices had begun to be made. By 1874, the new Meiji government had officially abolished almost all of the wide array of Tokugawa-period punishments, and replaced them with the new punishment of imprisonment. In practice, many of the old punishments continued to be utilized for some time after this because of an initial lack of facilities

I would like to thank the following people for their comments and advice at various stages in the preparation of this article: R. H. P. Mason, John Caiger, Stewart Lone, Miwa Kimitada, William Steele, Paul Patton, Barry Hindess, Gavan McCormack, Tessa Morris-Suzuki and Michael Dutton.

¹ E. Satow, *A diplomat in Japan* (London: Seeley, Service & Co., 1921), p.137. In passing, it is worth noting that eyewitness accounts of Tokugawa-period executions and other punishments are frustratingly rare. This is especially true of the early Tokugawa period. Those with an interest in the subject, therefore, have good reason to look forward to the completion of Beatrice Bodart-Bailey's translation of Engelbert Kaempfer's *Geschichte und Beschreibung von Japan*, which contains a number of first-hand accounts of Tokugawa punishments from the late seventeenth century.

² As Richard Van Dülmen writes in the introduction to his study of premodern traditional penal systems in Europe in the late Middle Ages: "To penetrate this complex and now alien world, we must first rid ourselves of our concept of cruelty, which since the Enlightenment has been deemed a characteristic of the jurisdiction of previous times." *Theatre of horror* (Oxford: Basil Blackwell, 1990), p.1.

³ My argument here draws on Foucault's proposition that we must "free historical chronologies and successive orderings from all forms of progressivist perspective." Although he does not deny the possibility of human progress, Foucault argues that it is necessary to maintain an attitude of "scepticism regarding ourselves and what we are, our here and now, which prevents one from assuming that what we have is better than—or more than—in the past." He goes on to argue that it is a "bad method to pose the problem [of history] as: 'How is it that we have progressed?' The problem is: how do things happen?" Michel Foucault, *Power/knowledge* (Hassocks: Harvester Press, 1980), pp.49–50. See also Michel Foucault, *Discipline and punish: the birth of the prison* (London: Peregrine Books, 1977), p.16.

⁴ The severing of ears and noses continued to be used as a punishment in Mito *han* until the Meiji Restoration despite the fact that the eighth shogun, Yoshimune 徳川吉宗, had abolished them as bakufu punishments in the early eighteenth century.

⁵ Punishments in Kanazawa *han*, for instance, included things such as *bipparigiri*, which involved tying the legs of a condemned person to two cows and then making the cows run in opposite directions until the body was ripped apart. Ishii Ryōsuke, *Edo no keibatsu* [Punishment in Edo] (Tokyo: Chūkō Shinsho, 1988), p.7.

⁶ As in pre-modern Europe, the idea that persons were innocent until proven guilty did not exist in Tokugawa Japan. On the contrary, Ishii notes that persons who were arrested as suspects were considered to be guilty or very close to it. Ishii, *Edo no keibatsu*, p.20. Accordingly, the treatment of suspects was often very harsh and involved all kinds of abuse and torture.

for the enforcement of imprisonment. Japan's first modern prison was constructed in 1874 and similar institutions spread rapidly across the country, so that by the middle of the 1880s the older penal practices existed in memory alone.

By our standards today, Tokugawa-period punishments seem unthinkable cruel. For this reason, it would be easy to explain the change to a modern system of punishments simply as representing a positive step towards a better, more humane society. Yet, we should not allow squeamishness to prevent us from seeing beyond the brutality of the older punishments.² Nor should we be led by the doctrine of historical progress into dismissing this older 'regime' of punishment as pure barbarism, an unfortunate relic of a Hobbesian "state of Nature."³ Punishment in Tokugawa Japan may have been physical but it never took the form of unthinking violence. It was not without restraint, nor without internal logic. In fact, the wide array of pains and sufferings on which punishment was based formed a sophisticated system for maintaining stability and social order.

This article has three main objectives. The first is to provide a rough outline of the system of punishments which operated during the Tokugawa period. Particular attention will be paid to the role of certain prison-like institutions which existed in Edo. The second objective is to explore briefly the significance of this system for our understanding of Tokugawa society generally. Third, the article will examine some developments in thought and practice during the latter part of the Tokugawa period which helped to facilitate the rapid changeover to a modern system of punishments after the Meiji restoration.

During the Tokugawa period there was no one set of laws unifying the country. While the bakufu did issue basic guidelines and directives to the various *han* 藩, the internal operation of each domain remained under the control of largely independent local daimyo. Penal practices and laws varied considerably and there were punishments which continued in some *han* long after they had been abolished by the bakufu.⁴ Equally, there were punishments in many *han* which were never applied by the bakufu.⁵

Given this regional variation, I shall restrict myself to an investigation of punishment in areas under direct bakufu control, particularly in Edo, the Tokugawa capital. My primary concern is not with the legal system, but with the political significance of punishment and the meaning that it had for society generally. For this reason, I will not examine the methods of criminal investigation and trial used in this period, nor will I consider the various forms of torture used to extract confessions or obtain compliance with bakufu decisions.⁶ Finally, it should be made clear that the following discussion represents nothing more than a preliminary outline of punishment in the Tokugawa period.⁷

Punishment as Popular Theatre

One of the harshest punishments in the Tokugawa period was *nokogiribiki* 鋸挽 (Figure 1). It is representative of several important aspects of the Tokugawa system of punishment generally, and will therefore serve as a useful starting point. A wooden box, approximately ninety centimetres square and eighty centimetres deep, was first buried in the ground. The condemned was then placed inside the box and a wooden cover with a hole from which only the head and neck could protrude was put over his or her shoulders. Next, the neck was cut with a bamboo saw until blood covered the blade. The saw was then put on display next to the condemned and passers-by were invited to draw the blade across the victim's neck if they so pleased. This continued for two days. On the third day, the condemned was taken to an execution ground, bound to a wooden frame, skewered with spears and then left to die slowly.⁸

⁷ In this regard it should be noted that punishment did not remain unchanged over the more than 250-year Tokugawa period. A proper study of punishment in this period would need to pay more attention to historical changes than I have been able to do here.

⁸ Keimu Kyōkai, ed., *Nihon kinsei gyōkei shikō* [Historical documents regarding penal practices in early modern Japan], 2 vols (Tokyo: Gyōsei Kyōkai, 1943), 1: 739.

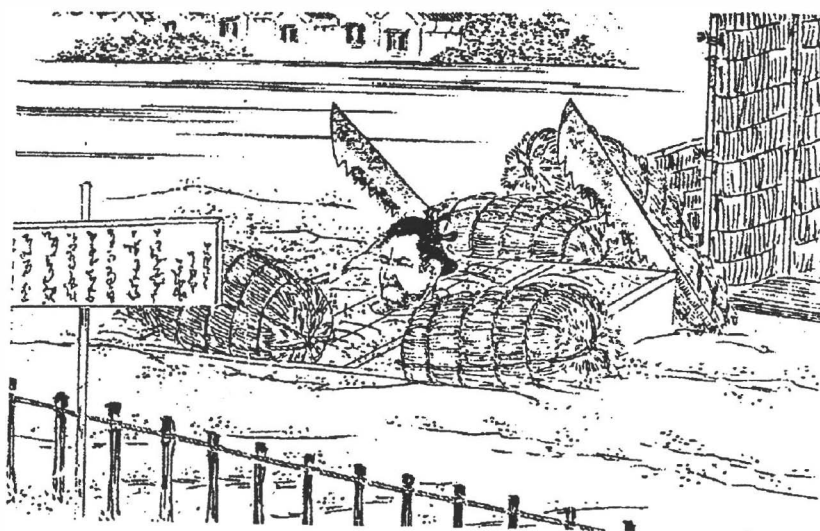


Figure 1

Nokogiribiki—
the condemned on display
(Sasama Yoshibiko, *Zusetsu Edo no shihō/keisatsu jiten* [An illustrated guide to the justice/police system of the Edo period] [Tokyo: Hanawa Shobō, 1980], p.243)

If this punishment and the execution described by Satow are not straightforward examples of barbarism, what, then, are they? What purpose did these kinds of punishment serve other than to inflict cruel suffering on an individual?

To begin with, punishment in Tokugawa Japan was a form of popular drama. In many ways, the creation of a horrifying spectacle was more important than the infliction of pain on an individual wrong-doer. Death, therefore, was no limit to punishment. After executions the bodies of criminals were displayed in prominent places, often with further mutilation. The punishment of *gokumon* 獄門 provides an example of this. It involved decapitation, followed by public display of the severed head with a sign

⁹ This was the case with Yui Shōsetsu 由井正雪, the leader of a group of disaffected *rōnin* 浪人 who plotted to overthrow the Tokugawa regime. Even though he committed suicide when he found out that he had been discovered, his head was later severed from his body and put on display in the middle of Edo. The same was also true for others who managed to escape official arrest and commit suicide. Keimu Kyōkai, *Kinsei gyōkei shikō*, vol.1, p.672.

¹⁰ Shigematsu Kazuyoshi, *Nihon keibatsu shiseki kō* [Reflections on places of importance in the history of punishment in Japan] (Tokyo: Seibundō, 1985), p.44.

explaining the nature of the crime (Figure 2). In some cases, even if a criminal died before punishment could be carried out, the corpse might still be mutilated and put on public display.⁹ This kind of punishment was not intended simply to inflict pain on the individual, but to impress upon others the dangers of invoking the wrath of the shogun or daimyo. As in pre-modern Europe, the mutilated bodies of wrong-doers served as awesome manifestations of the sovereign's power.

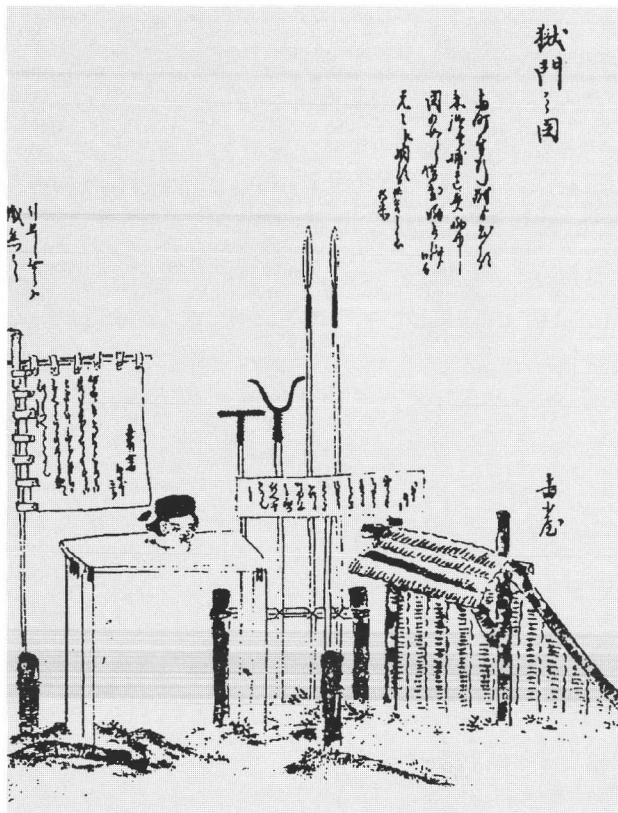
To create this effect, punishments had to be highly visible. People were encouraged to attend public executions and torture, and they responded, drawn perhaps by the 'fascination of the abomination'. Even those who did not attend executions could hardly have avoided the bodies of the condemned, which were displayed in market places, on major roads and other

places of heavy traffic both before and after punishment. The Suzugamori 鈴ヶ森 execution ground, the oldest and most important in Edo, faced directly onto the Tōkaidō way, the principal southern entrance to the city.¹⁰ Before executions the condemned were often displayed to the public eye for several days at Nihonbashi in the centre of the city and in other major market places. This practice was known as *sarasbi* 晒. Another such supplementary punishment was *bikimawashi* 引廻, which involved the condemned being paraded on horseback through the city streets for two or three days before execution (Figure 3).¹¹ Even relatively minor punishments involved things such as the tattooing of the arms or forehead, the shaving of hair from the head, or the severing of noses and ears. After such minor punishment persons were generally free, either to return home if they had one, or to roam the countryside. In either case the marked bodies of these people served as warning signs to all with whom they came in contact.

Punishments were not applied indiscriminately. Particular types of crime warranted particular types of punishment. These were chosen from a large and colourful array, including combinations of punishments to fit different crimes. *Haritsuke* 磔 was the severest of the bakufu's basic punishments. It entailed binding the condemned to a wooden frame with rope, stabbing his or her body with lances in a manner calculated to induce great pain without being immediately fatal and then leaving death to occur (Figures 4 and 10). The following fourteen categories of offender were punishable by *haritsuke*:

Figure 2

Gokumon— *the severed head on display*
(Keibatsu dai hiroku [The great secret record of punishment], undated primary document held in the Kokkai Toshokan Shibu Naikaku Bunkō [Kokuritsu Kōbunshokan], National Diet Library, Tokyo)



1. Persons who murder their master.
2. Persons who murder their parents.
3. Persons who pay money to adopt an unwanted child and then commit infanticide.
4. Persons who injure their former master.
5. Women who secretly arrange to have their husbands murdered.
6. Persons who are involved in serious plots [against the bakufu].
7. Persons who injure their master.
8. Persons who murder their former master.
9. Persons who break through check-points.
10. Persons who help another to break through a check-point.
11. Persons who produce counterfeit money.
12. Persons who murder a doctor.
13. Persons who injure or beat their parents.
14. Persons who falsely accuse their master or parents of a serious crime and seek to have a law suit brought against them.¹²

From the above it can be seen that the general structure of Tokugawa punishment was largely based upon a Confucian moral order. This becomes even clearer when we consider the supplementary punishments added to *haritsuke* for certain crimes. Murder of one's master was the most serious crime and this merited *nokogiribiki* followed by *haritsuke*. Punishments for offenders in categories 2, 3, 4, 5 and 6 above involved *bikimawashi*, while categories 7 and 8 involved *sarashi* for three days at Nihonbashi before execution.¹³ It is also interesting to note that if those convicted of an offence in categories 1, 2, 6 or 9 died before punishment, their bodies would be preserved in salt and then subjected to exactly the same style of execution they would have undergone if still alive.¹⁴ This is significant in that categories 1 and 2 constituted the crimes most offensive to Confucian morality, while 6 and 9 constituted direct challenges to the political order. Thus it was imperative that the mutilated bodies of offenders in these categories serve as an example to others.¹⁵

Figure 3

Hikimawashi— a condemned person being led through the streets of Edo (Keibatsu dai hiroku)

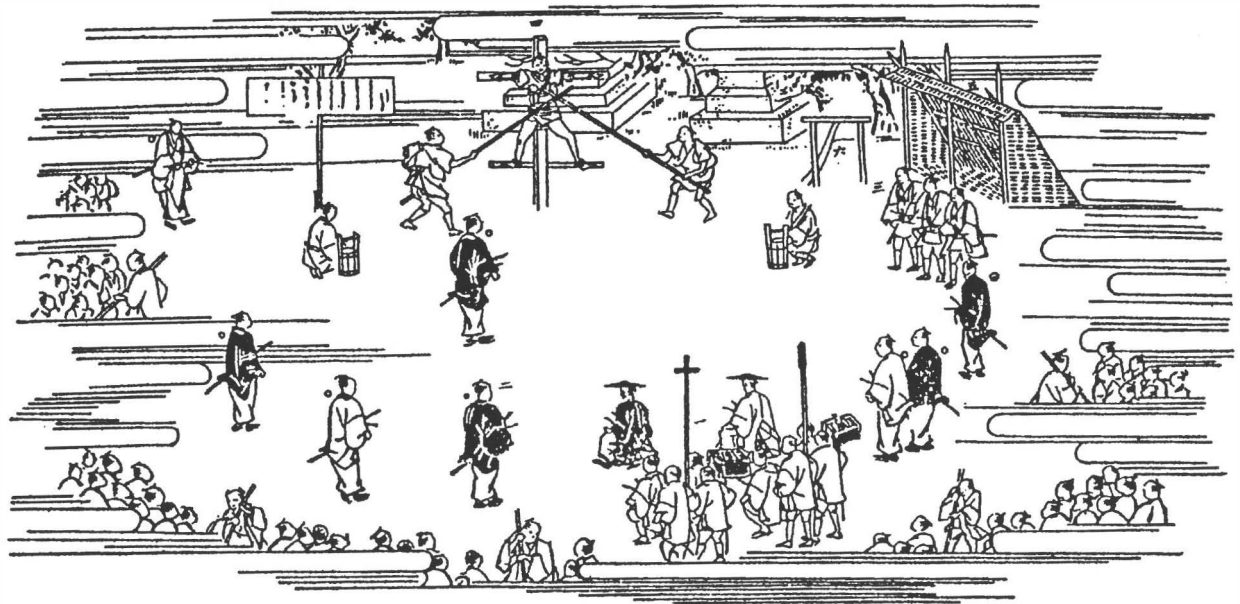


¹¹ For a description of the *bikimawashi* route through the streets of Edo see Keimu Kyōkai, *Kinsei gyōkeishikō*, vol.1, pp.678–9. It is sufficient here to note that the condemned passed through over forty different areas of the city.

¹² *Ibid.*, p.720.

Figure 4

Haritsuke— the punishment being applied at Suzugamori execution ground
(*Keimu Kyōkai*, ed., Kinsei gyōkei shikō, p. 722)



¹³ Ibid.

¹⁴ Takeo Ono, ed., *Keibatsu fuzoku saiken* (Tokyo: Tenbōsha, 1983), p. 113.

¹⁵ In this regard it is also worth noting the punishment of *kazai* 火罪 (burning at the stake – Figure 5), which was applied to people found guilty of arson. Arson was considered a particularly reprehensible crime in Tokugawa Japan because buildings were predominantly made of wood. At several times in its history large parts of Edo were destroyed by fire with great loss of life and property. Not surprisingly, *kazai* always involved *bikimawashi*. If the crime had taken place in a town or hamlet outside Edo, the condemned was sent back to that place and the punishment conducted there.

¹⁶ James Leavell, “The policing of society,” in *Japan in transition*, ed. Conroy, Davidson and Patterson (Rutherford: Fairleigh Dickinson University Press, 1984), p. 23.

¹⁷ Ishii, *Edo no keibatsu*, p. 11.

Another important aspect of Tokugawa society reflected in the system of punishment was the rigid differentiation of social classes. Under the Tokugawa regime there were special punishments (*junkei* 閨刑) applied to people according to their social position. There were appropriate *junkei* for *busbi* 武士, Buddhist priests, commoners and women: Members of the *binin* 非人 class were subject to an entirely different system of punishment again.

One of the corner-stones of social control, particularly in the first half of the Tokugawa period, was the principle of collective responsibility. At the village level this meant the organization of peasants into ‘five-man groups’ (*gonin gumi* 五人組). As James Leavell notes,

With specific regard to crime prevention and detection, the key feature of the five-man group was the burden of mutual responsibility imposed by higher authorities. Crimes committed by one member that were detected by the authorities before being reported by other group members threatened all members with the possibility of punishment.¹⁶

As well as the five-man groups, the family of a convicted person and, in some cases, members of his or her village or community, could be held responsible for the crime in question and punished accordingly. Punishment of the relatives of a convicted criminal was known as *enza* 縁座, while punishment of persons from the same community or five-man group was known as *renza* 連座.¹⁷ Ishii notes that both *enza* and *renza* became much

less common from the reign of the eighth shogun, Yoshimune (1716–45).

Michael Ignatieff, in his study of the origins of the English penitentiary, suggests that one of the major problems with the old forms of public execution was their tendency to provoke riots against the authorities:

Ritual punishments depended for their effectiveness as a ceremonial of deterrence on the crowd's tacit support of the authorities' sentence ... In theory, the processional march to the gallows and the execution itself were supposed to be a carefully stage-managed theater of guilt in which the offender and the parson acted out a drama of exhortation, confession, and repentance before an awed and approving crowd ... The trouble was that if the spectators did not approve of the execution, the parson would find his worthy sentiments drowned in the abuse welling up from the crowd.¹⁸

Moreover, if the condemned did not accept the punishment they might turn the ritual execution into a 'public disputation' of the justice system or the political *status quo*. Ignatieff suggests that this was one reason why the old system of punishment came to be questioned in England and why, from the eighteenth century on, the penitentiary came increasingly to be seen as an attractive alternative. In this respect it is worth noting that not all Tokugawa executions were conducted publicly. Punishments such as *geshunin* 下手人 and *shizai* 死罪 (Figure 6), which involved simple decapitation, were often conducted within the grounds of a *rōya* 牢屋 (gaol-house) and not before the public. The punishment of *gokumon* entailed decapitation within the *rōya* grounds followed by public display of the severed head.¹⁹ This avoided the possibility of a condemned criminal inciting a riot before execution. Generally it was only crimes of a particularly dangerous or morally abhorrent nature that were punished by public execution. In such cases it was unlikely that the crowd of onlookers would dispute the fairness of the sentence, and the ritual was therefore relatively safe.

¹⁸ Michael Ignatieff, *A just measure of pain: the penitentiary in the Industrial Revolution 1750–1858* (London: MacMillan, 1978), pp.21–2.

¹⁹ Keimu Kyōkai, ed., *Kinsei gyōkei shikō*, vol.1, p.686.



Figure 5

Kazai— a punishment for arson
(*Sasama*, *Zusetsu Edo no shihō/*
keisatsu jiten, p.242)

Figure 6

Shizai— *death by decapitation*
(Keibatsu dai hiroku)



²⁰ Ishii, *Edo no keibatsu*, p.19.

From the discussion thus far it will have been noticed that incarceration did not play an important part in the Tokugawa system of punishment. The most common punishments in Edo were death by decapitation (*shizai*, *geshunin*) and various forms of banishment (*tsuibō* 追放). Punishments such as tattooing and flogging were also common for minor crimes such as petty theft and gambling.²⁰ Yet, while incarceration was not an important feature of the overall system, there were punishments which involved confinement of one sort or another. The punishment of *ontō* 遠島 (exile to an island) represented one type of confinement: The varieties of house arrest

arrest applied to members of the *bushi* class, and *heiko* 閉戸, house arrest for merchants, were punishments which involved confinement understood in a stricter sense.²¹ Unlike modern imprisonment, however, none of these punishments involved incarceration in a special institution for criminals. Persons were merely prohibited from leaving their homes, either as a simple penalty or as a means to inhibit certain individuals from political trouble-making.

In a strict sense, therefore, there were no prisons in Tokugawa Japan. On the other hand, however, there were some prison-like institutions and it is to these that I wish now to turn my attention.

The Kodenmachō Rōya

At least a decade before he founded the Edo bakufu in 1603, Tokugawa Ieyasu 徳川家康 had established a prison-like institution known as a *rōya*. Sometime between the years 1596 and 1615 the *rōya* was moved to Kodenmachō 小伝馬町 near Nihonbashi in central Edo, where it continued to operate until the early years of the Meiji period (1868–1912).²² During this time the *rōya* “was destroyed by fire about sixteen times but each time was rebuilt on the same site.” Given this fact it is likely that the precise size of the *rōya* grounds changed over time. After 1775 (An’ei 4), however, the total area of the *rōya* was approximately 172m by 165m (52 *ken* by 50 *ken*).²³ The grounds were enclosed by a high fence with sharp barbs on top. Within this area there were several gaol-houses, a residence for the ‘warden’, an office, and an execution ground (Figure 7). In the latter half of the Tokugawa period the average number of inmates at any one time was between three and four hundred with a peak of nine hundred.²⁴

The functions of the Tokugawa *rōya* can be described as follows.²⁵ First, the *rōya* was a place of detention for suspected criminals. When a person was arrested in connection with a crime, there would be a simple investigation. If it seemed likely that the suspect was guilty then he or she would be placed in the *rōya* while a more thorough investigation was conducted.²⁶ Hiramatsu adds that “Sometimes a party to a civil suit was placed in [the *rōya*] when there was a reason to suspect that a crime had been committed in order to force evidence out of him, or to force his agreement to a private settlement.”²⁷ Second, the *rōya* was used as a place to hold those pronounced guilty of a crime and awaiting punishment. Third, the *rōya* provided facilities for the application of various punishments. As noted above, there was an execution ground inside the *rōya* where punishments such as *shizai* and *geshunin* could be carried out; punishments such as tattooing (*irezumi* 入墨) were conducted within the grounds of the *rōya*; and floggings (*tataki* 敲) were conducted in front of the main gate.²⁸ Finally, the penalties of *nagarō* 永牢, life imprisonment, and *katairō* 過怠牢, imprisonment for a short period of thirty days, were to be served at the *rōya*.

²¹ Some form of house arrest may also have been used to punish commoners, but the *Osadamegaki* 御定書 (see n.30 below) lists house arrest (in various forms) as a punishment for *bushi* and merchants alone.

²² Hiramatsu Yoshirō, “History of penal institutions: Japan,” *Law in Japan* 6 (1973), pp.1–2.

²³ Ibid, p.2.

²⁴ Ishii, *Edo no keibatsu*, p.119; Hiramatsu, “Penal institutions,” p.2.

²⁵ See also *ibid.*, pp.3–4.

²⁶ Ishii, *Edo no keibatsu.*, p.20. It should also be noted that not all suspects were placed in the *rōya*. Ishii points out that if the crime in question was a minor one then the suspect would be put in the custody of local officials or held in a special inn for suspected criminals. It was only in cases of relatively serious crimes that suspects were put in the *rōya*.

²⁷ Hiramatsu, “Penal institutions,” p.3.

²⁸ Keimu Kyōkai, *Kinsei gyōkei shikō*, vol.1, pp.586, 605.

²⁹ Ibid, p.648.

³⁰ The *Kujikata Osadamegaki* 公事方御定書 was compiled during the reign of the eighth shogun, Yoshimune, and was adopted as the basic reference for all legal matters. It consisted of two large volumes. The second of these volumes included descriptions of what kind of acts constituted crimes, and what kind of punishments should be applied to different crimes. The fact that *nagarō* did not appear in the lists of punishments in the *Osadamegaki* suggests that, at least in the second half of the Tokugawa period, it was only applied in exceptional circumstances.

It is also interesting to note that the 'warden' of the *rōya* made numerous calls for the total abolition of *nagarō* arguing that it was expensive and that long-term inmates tended to disrupt the normal operations of the institution. The last such call came as late as 1862.

³¹ Keimu Kyōkai, *Kinsei gyōkei shikō*, vol.1, p.646.

³² See Ignatieff, *Penitentiary*, p.11. In regard to the similarities between the Tokugawa *rōya* and medieval European gaols it is interesting to note E. H. Norman's argument that while "Analogies between Japanese and European feudal society are dangerous and distorting if applied rigidly ... sometimes an attempt at comparing, even if roughly, some obscure Japanese feudal institution or practice with a European parallel or equivalent may help to throw a ray of light on the lesser known Japanese counterpart." E. H. Norman, *Soldier and peasant in Japan: the origins of conscription*, 2nd ed. (Vancouver: University of British Columbia, 1965), p.62.

³³ Hiramatsu, "Penal institutions," p.3.

Nagarō was applied to persons who committed a crime which would usually be punishable by death or *ontō*, but who had turned themselves in to the authorities or who were deemed worthy of special consideration for some other reason. It was very rarely imposed, mainly because of the cost it involved and the disciplinary problems it created within the *rōya*.²⁹ Probably for this reason *nagarō* is not even mentioned in the *Osadamegaki*, the most important bakufu code of laws in the second half of the period.³⁰ Like similar penalties in pre-modern Europe, *katairō* was used only as a substitute for other punishments. In particular, it replaced flogging for women and children under fifteen years of age.³¹ From the above it can be seen that the functions of the Tokugawa *rōya* were roughly equivalent to those of medieval gaols in Europe, which were also primarily for the "confinement of prisoners awaiting trial" with only very limited use "made of imprisonment as a punishment."³²

As well as these differences in function, the internal organization of the Kodenmachō *rōya* was also markedly different from that of a modern prison.

Within the *rōya*, inmates of the *bushi* class were kept separate from commoners. *Bushi* inmates were held in special rooms known as the *agarizashiki* 揚座敷 and *agariya* 揚屋 while commoners were held in the main gaol-rooms or *tairō* 大牢. The *tairō* were large rooms in which all inmates of the commoner class were thrown together. In keeping with the Confucian principle of segregation of the sexes, male and female inmates were kept apart, women being held in the western *agariya* irrespective of social class. There was no division of inmates on the basis of age; both young and old were held together in the same rooms.

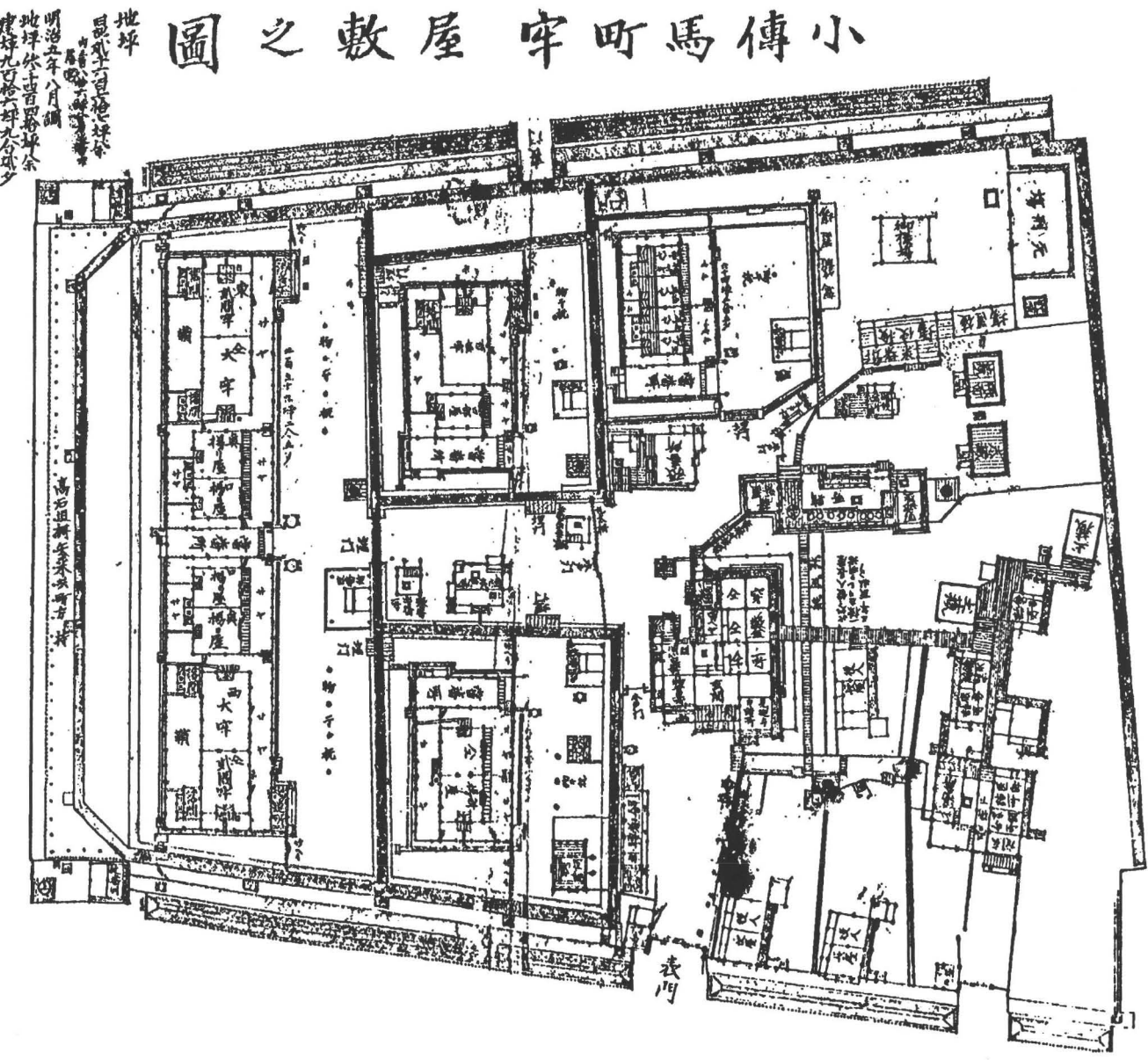
In many ways the *rōya* functioned as a semi-independent community similar in internal organization to the Tokugawa village. The position of 'warden' was hereditary, being filled over generations by a member of the Ishide family, and with the incumbent 'warden' always taking the name Tatewaki. As "the ruler of a closed society," Ishide Tatewaki 石出帯刀 "was not required to pay homage to the shogun at his castle" and he was not of sufficient rank to associate directly with the shogun's retainers.³³ His duties within the *rōya*



were limited to general supervision and being in attendance when a *yoriki* 与力 (a kind of bakufu police official) made an inspection. At times when fire threatened the *rōya* buildings Ishide Tatewaki also had special authority to release inmates. This was known as *kiribanashi* 切放. In the latter half of the Tokugawa period there were fifty to seventy functionaries or *dōshin* 同心 serving under Ishide Tatewaki. These positions were also hereditary and staff vacancies were filled by *dōshin* relatives. Apart from the

Figure 7

Kodenmachō Rōya—
an 1872 plan of the rōya building
(Shigematsu, *Nihon keibatsu shiseki*
kō, p.32)



³⁴ Ishii notes that although there was no officially recognized *rōnai yakunin* system in the women's section of the *rōya*, one did in fact exist. There was no *rōnai yakunin* system in the *agariya* or *agarizashiki*. Ishii, *Edo no keibatsu*, p.121.

dōshin, there were also a number of *genan* 下男 (man-servants) employed to provide general assistance around the *rōya* grounds. *Hinin* were also used to assist in torture and executions, and to escort inmates around the *rōya* grounds. There were no female *dōshin*. Instead, women from the *hinin* class were assigned to the women's section to act as guard-servants or *tsukebito* 付人.

Given that up to a hundred people could be crowded into any one of the gaol-rooms, it would have been impossible for the *dōshin* to ensure order from the outside. For this reason, there were a number of officially recognized 'inmate officials' (*rōnai yakunin* 牢内役人 or *yakunin shūjin* 役人囚人) within each of the gaol-rooms. These *rōnai yakunin* were in charge of maintaining some kind of order within the gaol-rooms.³⁴ Although there is little information about the origins and early workings of the *rōnai yakunin* system, the following positions were officially recognized by the bakufu from at least the beginning of the nineteenth century:

<i>rōnanushi</i> 牢名主	In charge of the general control and supervision of all inmates. Head of the <i>rōnai yakunin</i> .
<i>soeyaku</i> 添役	Deputy to the <i>rōnanushi</i> . In charge of dealing with sick prisoners, etc.
<i>sumiyaku</i> 角役	In charge of counting the inmate numbers and general surveillance.
<i>ichiban yaku</i> 一番役	In charge of general supervision of meals.
<i>niban yaku</i> 二番役	Took care of errands and business at the entrance to the gaol-room. This involved acting as a link between the outside and inside of the gaol-room. Also in charge of disciplining new inmates and punishing those who broke internal rules.
<i>sanban yaku</i> 三番役	In charge of checking the condition of sick inmates and administering medicine to them.
<i>yonban yaku</i> 四番役	In charge of inmates' clothing and footwear and also assisted in the direction of new inmates.
<i>goban yaku</i> 五番役	In charge of distributing parcels sent to inmates, supervising the amount of food served to inmates by the <i>gokiguchi ban</i> (see below). Also in charge of directing times for sleeping and waking.
<i>honban</i> 本番	In charge of new inmates and the distribution of food.
<i>bonsukeban</i> 本助番	Provided general assistance to the <i>honban</i> . Also in charge of washing eating utensils (<i>mentsū</i> 面桶).
<i>gokiguchiban</i> 五器口番	Under the direction of the <i>goban yaku</i> with regard to money and valuables. In charge of

eating utensils and, together with the *bonban* and *bonsukeban*, supervised meals.

tsume no bonban 詰之本番 In charge of cleaning one of the two latrines in the gaol-room (presumably the one reserved for *rōnai yakunin*)

tsume no sukeban 詰之助番 In charge of cleaning the second latrine and the moving of seriously ill inmates to a special sunken area reserved for them.³⁵

Apart from the officially recognized *rōnai yakunin*, there was also a system of 'hidden officials' or *urayaku* 裏役. According to Shigematsu the main *urayaku* positions were as follows:

ana no inkyo 穴之隠居 This position was given to friends of one of the *rōnai yakunin* or to someone who had extensive connections. The area directly behind the pile of *tatami* mats on which the *rōnanusbi* sat was known as the *ana* 穴 (hole). Prohibited items and other important things were kept in this area which was attended by the *ana no inkyo*.

oinkyō 御隠居 This position was for inmates who had previously been high ranking *rōnai yakunin*.

sumi no inkyō 隅之隠居 This position was filled by persons of ability who knew the *rōnanusbi* before entering the *rōya*. Served as a consultant and advisor to the *rōnanusbi*.

wakainkyō 若隠居 This position was for inmates who had previously been *rōnai yakunin* of *nakaza* 中座 rank (see below) who had retired.

inkyōnarabi 隠居並 This position was for inmates who had previously been *rōnai yakunin* of *shimoza* 下座 rank.

tsume no inkyō 詰之隠居 In charge of keeping check on inmates entering and leaving the latrines and was seated in the area between the latrines and the rest of the inmates.³⁶

From the above it can be seen just how elaborate the *rōnai yakunin* system was. The *rōnanusbi* and other *yakunin* formed a kind of inmate government. The way in which they governed, of course, was not always benevolent. Indeed, mistreatment and abuse seem to have been endemic. On the other hand, the 'rule' of the *rōnanusbi* was not totally arbitrary. Each of the gaol-rooms was run in accordance with an unwritten, but nevertheless strictly maintained, set of rules.³⁷ Times for sleeping and waking, morning and evening 'greetings' (*aisatsu* 挨拶) and regular checks on the number of inmates were all supervised and enforced by the *rōnai yakunin*. The

³⁵ Shigematsu, *Nihon keibatsu shiseki kō*, pp.36-7; Ishii, *Edo no keibatsu*, pp.120-2. Koizumi Yasunao, who worked as an official at the Kodenmachō *rōya* in the last decade of Tokugawa rule and into the early Meiji period, gives a detailed description of the *rōnai yakunin* system in a speech given to the Dai Nippon Kangoku Kyōkai in 1891. The speech was published in issues 41 (pp.23-9) and 42 (pp.24-9) of the *Dai Nippon Kangoku Kyōkai Zasshi* (October and November 1891). The *rōnai yakunin* system as described by Koizumi varies slightly from that which is said to have operated earlier in the Tokugawa period. For instance, Koizumi does not make mention of a *soeyaku* and refers to a similar inmate official who he suggests was known as the *kashira* 頭. This suggests that there may have been some changes over time in the way in which the *rōnai yakunin* system operated, although its main characteristics seem to have remained the same for at least the last one hundred years of Tokugawa rule.

³⁶ Shigematsu, *Nihon keibatsu shiseki kō*, p.38.

³⁷ Ibid.

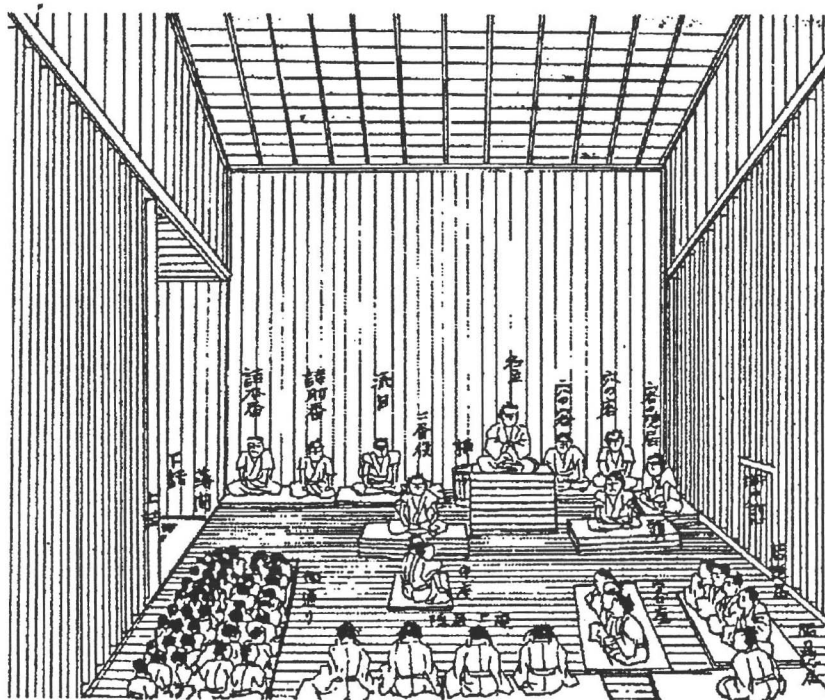
³⁸ Ishii, *Edo no ketbatsu*, pp.123–4.

rōnanushi was also responsible for ensuring that no inmates committed suicide or attempted to break out through the gaol-room door when it was opened. Needless to say, the *yakunin* were also in charge of punishing those who broke rules or threatened order.

The *rōnai yakunin* system was important not only in terms of the tasks assigned to the various 'inmate officials', but also in terms of the allocation of space to inmates in the gaol-rooms. Indeed, the hierarchical power structure amongst inmates was manifested in the physical organization of each gaol-room. Firstly, the *rōnanushi* was seated high up on a pile of ten *tatami* mats. The remaining inmates were divided into four levels; *kamiza* 上座 (upper seat), *nakaza* (middle seat), *shimoza* (lower seat), and *koza* 小座 (small seat). The first ten *rōnai yakunin* were ranked as either *kamiza*, *nakaza* or *shimoza*. The remaining *rōnai yakunin* and the ordinary inmates (*hirashūjin* 平囚人) were *koza*. The *koza* were further divided up into three groups; *konpirashita* 金比羅下, *nakadōri* 中通り and *mukaidōri* 向通り. The *konpirashita* group shared one mat between four or five people while the *nakadōri* group shared one mat between five or six. Those in the *mukaidōri* were generally forced to share one mat between seven or eight people, although at times as many as eighteen inmates were squeezed onto one *tatami* mat.³⁸ Those new inmates who were able to bring money or goods sufficient to satisfy the *rōnai yakunin* were given relatively good positions within this hierarchy and were known as *kyaku* 客

Figure 8

'The inmate government' at the
Kodenmachō Rōya – 1
(Sasama, *Zusetsu Edo no*
shihō/keisatsu jiten, p.171)



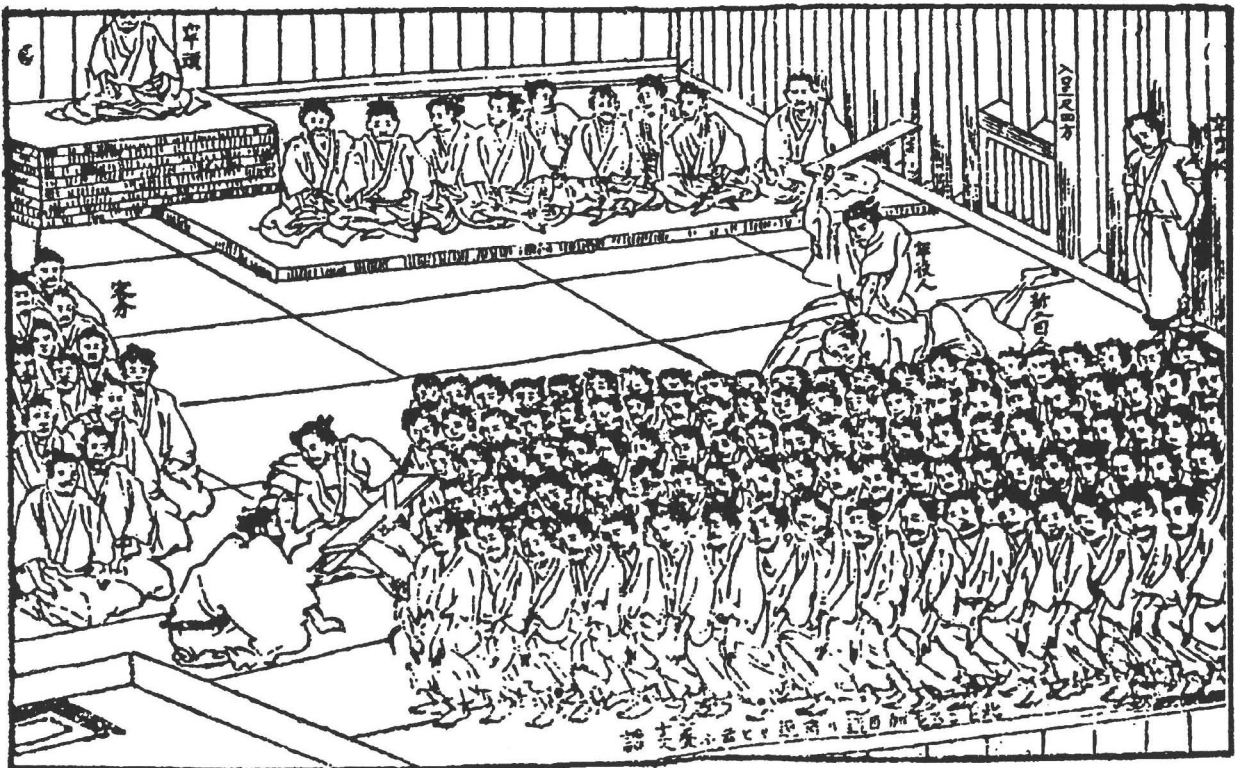
(guests). To enter the *rōya* empty-handed, however, meant severe punishment. Those who survived these initial punishments were then assigned to the lowest positions in the gaol-room hierarchy.

The *rōya* was thus a 'closed society', with important tasks such as surveillance, internal discipline, sanitation, clothing repair and the maintenance of medical supplies, all being the responsibility of the inmates themselves. In some ways, the organization of *rōya* inmates was a microcosm of the overall structure of Tokugawa society. The *rōnanushi*, for instance, can be understood as having been a shogun-like figure supported by a pyramid of 'retainers'. In this context, it is interesting to compare the physical layout of Tokugawa-period castle towns with that of the gaol-rooms under the control of the *rōnai yakunin*. Like the *rōnanushi* in the *rōya*, the shogun's castle dominated the Edo skyline and served as an awesome reminder to the people of the immanence of their lord and his power. The residences of the shogun's closest political allies were also strategically located about the city to maximize security and stability. Similarly, the *rōnai yakunin* were positioned in such a way as to maintain control and order within the gaol-room.³⁹ It would, of course, be foolish to try and explain the *rōnai yakunin* system simply in terms of the power structures of the bakufu (or vice versa). Nevertheless, strong parallels can be drawn between the two.

³⁹ The *rōnanushi* and the *kamiza yakunin*, for example, were seated adjacent to the gaol-room door so that they could stop any inmate who tried to escape when it was opened. For this reason the most important *rōnai yakunin* were also known as *tomae yakunin* 戸前役人 or 'officials in front of the door'. Shigematsu, *Nihon ketbatsu shi seki kō*, p.38.

Figure 9

'The inmate government' at the Kodenmachō Rōya – 2
(*Keimu Kyōkai*, ed., *Kinsei gyōkei shikō*, vol. 1, p.226)



⁴⁰ Hiramatsu, "Penal institutions," p.7.

⁴¹ Leavell, "Policing of society," p.23.

⁴² Some aspects of the *rōya* can, of course, be compared to the modern prison. The role of the Tokugawa *rōnamushi* could, for instance, be compared to that of the informal prison bosses who are so important in many prison systems (both modern and pre-modern). This, however, does not alter the fact that the *rōya*, like the gaols of medieval Europe, was an institution whose internal organization and functions were fundamentally different to those of the modern prison.

There is another way in which the internal organization of the *rōya* reflected the overall organization of Tokugawa society. As Hiramatsu has noted, much has been written about *rōnamushi* abuse of inmates.⁴⁰ Even today the image of the tyrannical *rōnamushi* remains a part of Japanese folklore. Yet the harshness of the *rōnamushi* probably resulted from the fact that it was the *rōnai yakunin* who were held responsible for any problems arising within the *rōya*. In this sense the position of the *rōnamushi* was similar to that of the Tokugawa village headman (also known as *namushi*), who had authority over the local farming community but who was also responsible for any problems which arose within that community. Thus Leavell notes that

Because peasants were responsible for the capture of thieves in their villages, the samurai authorities would blame the village headman ... if the fact that burglary was a problem in a particular community came to the attention of the domain's samurai officials.⁴¹

Similarly, if problems arose within the *rōya* the *rōnamushi* and the other *rōnai yakunin* were held culpable. Thus, in the sense that social control in Tokugawa society was based on a vast network of self-policing communities, the internal organization of the *rōya* can be said to reflect an important aspect of society as a whole.

From the above it can be seen that the Tokugawa *rōya* was an institution quite alien to the modern prison in terms of both its functions and its internal organization.⁴² How was it, then, that the Meiji government was successfully able to abolish the old system of punishments and establish modern prisons throughout the country so quickly after coming to power? Even if the individual members of the Meiji élite were able to gain an understanding of the theoretical principles and practical concerns of modern Western penal practices, it seems highly unlikely that society in general would have been able to cope with such a revolutionary change if there had been no indigenous basis from which to make sense of the new system. Thus the next question to be asked is what precedents for the modern prison existed in Tokugawa Japan?

Social Change and the Ninsoku Yoseba

Soon after the beginning of the Tokugawa period, the bakufu had been faced with the problem of "masterless *samurai* " or *rōnin* wandering the countryside and causing unrest. The main cause of the *rōnin* problem was the confiscation and transferral of daimyo lands, a tactic employed by the bakufu in order to stabilize its political control over the country. Daimyo who conducted themselves improperly, posed a threat to the political order, or refused to obey the bakufu were forced to surrender their domains or were transferred to smaller domains elsewhere. In the case of transferral to a smaller domain the daimyo was forced to release some retainers from his

service. A daimyo who was stripped of all of his lands also lost the capacity to support even the smallest of feudal retinues and, in such cases, his retainers were set 'free' of all feudal ties to their master. Some *rōnin* were able to find new lords, while others simply wandered the countryside or drifted into the cities, often becoming threats to general peace and security. The danger posed by the *rōnin* manifested itself in an incident in 1651 when a group of disaffected *rōnin* led by Yui Shōsetsu were caught plotting to overthrow the bakufu. The practice of confiscating daimyo lands was eased before any large groups of politically organized *rōnin* were able to emerge. Nevertheless, the disbanding of feudal retinues did continue to some extent and small numbers of *rōnin* continued to emerge.

More importantly, from the late seventeenth century increasingly large numbers of peasants and townspeople found themselves being displaced by structural changes that were taking place in the economy. Many became *mushuku* 無宿, or 'homeless' persons, and from the early eighteenth century they came to represent a threat to the stability of the Tokugawa social order. As this threat grew more serious, the bakufu was increasingly unable to rely on established methods of social control and was forced to develop new methods for dealing with changed social conditions. The process culminated in 1790 with the establishment of the *ninsoku yoseba* 人足寄場, or 'stockade for labourers', an institution which in many ways represented the first step towards a new regime of punishment and social control.

The Tame of Asakusa and Shinagawa

The first institutions established by the bakufu to deal with the *mushuku* were the *tame* 溜, or 'detention houses', of Asakusa and Shinagawa. The origins of the *tame* can be traced back to 1687 when the bakufu first put two *binin* headmen (*binin gashira* 非人頭), Kuruma-Zenshichi 車善七 and Matsuemon 松右衛門, in charge of a number of homeless wanderers and travellers who had fallen ill.⁴³ Later, however, homeless persons who were under investigation for crimes were also put in the custody of the *binin*. The number of persons being held by the *binin* steadily increased and in 1689 the bakufu granted Kuruma-Zenshichi a plot of land in Shinagawa on which he was instructed to build a small 'detention house'. In 1700, the bakufu granted Matsuemon a somewhat smaller plot of land in Asakusa for the same purpose. Although they were later remodelled and expanded by the bakufu the two institutions continued to be run by the *binin* and were thus also known as *binin tame*.

As already noted the *tame* began as places where sick travellers, homeless wanderers and homeless people under investigation for crimes were to be held. According to Hiramatsu, such people were generally indistinguishable from ordinary members of the *binin* class and it was for this reason that the *binin* headmen were originally made to take responsibility for them.⁴⁴ In 1713, however, under the direction of the eighth shogun,

⁴³ Ishii, *Edo no keibatsu*, p.177.

⁴⁴ Hiramatsu Yoshirō, *Edo no tsumi to batsu* [Crime and punishment in Edo] (Tokyo: Heibonsha Sensho, 1988), p.177.

⁴⁵ Ibid, p.185.

⁴⁶ Ishii, *Edo no keibatsu*, p.176; Keimu Kyōkai, *Kinsei gyōkei shikō*, vol.1, p.491.

⁴⁷ Hiramatsu, *Tsumi to batsu*, p.177.

⁴⁸ Hiramatsu, "Penal institutions," p.6.

Yoshimune, the *tame* were changed into places primarily for inmates from the Kodenmachō *rōya* who fell seriously ill and only secondarily for sick travellers. Hiramatsu describes the *tame* after this time as taking on the role of a gaol hospital or sick-ward. He notes that *rōya* inmates who had registered abodes (*yūshuku* 有宿) and who fell sick were usually put in the custody of relatives or in a special inn. Sick persons who remained in the *rōya* were thus almost always *mushuku* and the *tame* was now made to accommodate them. The role of the *tame* with regard to the sick should not, however, be misunderstood. The *tame* were filthy and insanitary and although 'doctors' did make regular rounds, their job was simply to check whether inmates were dead or alive. It is not surprising then, that over one thousand people are said to have died in the *tame* each year.⁴⁵ As an institution for confinement of the sick the main purpose of the *tame* seems to have been simply to prevent the spread of disease within the *rōya*. Apart from this, the *tame* also served as places for the detention of 'minors' under the age of fifteen who had been sentenced to *ontō*.⁴⁶ Generally, 'minors' in this category were put in the custody of a relative or other suitable guardian until they turned fifteen, the age deemed suitable for them to undergo their punishment. If they were *mushuku*, however, they were sent to one of the *tame* instead.⁴⁷ Women were also admitted to the *tame* and were held in special rooms reserved for them. In 1858 there was a total of 374 people held in the Asakusa *tame*, 26 of whom were women. At the same time there was a total of 200 people held in the Shinagawa *tame*.⁴⁸

The Growth of the Homelessness Problem

⁴⁹ T.C. Smith, *The agrarian origins of modern Japan* (Stanford: Stanford University Press, 1959), p.108.

From the first decades of the eighteenth century changes in the rural economy began to generate far greater numbers of *mushuku*. As T.C. Smith has shown, the growth of a market economy in rural areas from about this time changed the way in which agricultural labour was organized. Originally all those who laboured on the land were considered to be part of an extended family unit. Labourers and those who employed them were tied to each other socially as well as economically. In the latter part of the Tokugawa period, however, this changed:

The family remained the unit of farming, but the market tended to separate labour from group membership and social obligations; labour lost much of its social significance and was treated increasingly as an economic entity.⁴⁹

This meant that in times of economic hardship, labourers who were not part of the family group were easily dismissed or simply not employed. While they may have had their own small plots of land, these people were usually dependent on the labour they provided for others as the main source of their income. Increasingly the rural economy came to be dominated by rich peasants, with smaller peasants struggling to maintain basic levels of subsistence. The problem was further compounded by the fact that more and

more peasants did not actually produce their own food, but instead bought food with cash earned by selling specialized products on the market. The following extract from a report issued by the bakufu in 1787 indicates the extent to which market forces had encroached upon the agrarian economy by the late eighteenth century:

The farmers have recently abandoned their fundamental occupation and have been searching for luxuries. Many of them have entrusted the cultivation of their crops to boys and girls, themselves enjoying amusements and wearing beautiful clothes. Even the small farmers neglect their farms and come to Edo to earn wages.⁵⁰

One of the consequences of this kind of change was that

When successive years of crop failure, speculation by merchants, and widespread hoarding by rich peasants caused astronomical increases in rice prices, the poor went hungry.⁵¹

All of these factors combined to drive peasants off the land. Like the *rōnin* they tended to wander around the countryside or into the urban centres in the hope of finding some way to support themselves. In short, they became *mushoku*.

In the latter part of the Tokugawa period, the problem of 'homelessness' may have been exacerbated by the phenomenon of castle-town decline.⁵² In Europe, industrialization in nations such as England and the Netherlands was preceded by considerable 'pre-modern economic growth'. Smith points out that Japan too experienced significant economic growth in the latter part of the Tokugawa period, but unlike the leading economic nations of Europe it was not accompanied by "marked urban growth." In fact, "during the eighteenth century and the first half of the nineteenth towns [in Japan] generally stagnated or lost population."⁵³ Smith explains this apparent anomaly by showing that economic growth in Japan at this time was in fact largely rural-based. For a variety of reasons, the old-established urban centres found themselves struggling to compete with large numbers of newly emerging rural centres (or 'country places' as Smith terms them).⁵⁴ Smith cites the following statute compiled in Okayama in the late eighteenth century as indicative of the plight of many of the castle towns:

Commerce in this city has steadily declined and many small merchants find themselves in great difficulty. On the other hand, ships from other provinces stopping at places such as Shimoshii village and Saidaiji village have steadily increased, bringing trade in the country (*zaikata* 在方) into a flourishing condition. People used to come into the castle-town from the surrounding area to shop or to take goods on consignment in order to sell them in the country. But now people from the castle-town go into the country to arrange to receive goods on consignment. Thus the distinction between front and back, town and country, has been lost; farmer and tradesmen have exchanged positions. Naturally this has resulted in the impoverishing of many people in the town.⁵⁵

It was not only merchants who suffered as a result of these changes, and Smith gives the example of brewers in Okayama who, in 1802, alleged that

⁵⁰ Quoted in Hugh Borton, *Peasant uprisings in Japan of the Tokugawa period*, 2nd ed. (London: Paragon Book Reprint Corp., 1968), p.135.

⁵¹ Steven Vlastos, *Peasant protest and uprisings in Tokugawa Japan* (Berkeley: University of California Press, 1986), p.157.

⁵² I am indebted to Tessa Morris-Suzuki for pointing out this phenomenon to me, and for bringing to my attention the article by Smith cited below.

⁵³ T.C. Smith, "Pre-modern economic growth in Japan and the West," *Past and Present* 60 (1973): 129. The term 'pre-modern economic growth' in the preceding sentence is Smith's.

⁵⁴ It is worth noting that not all rural areas flourished during this period. In particular, it was rural localities in the most economically advanced areas of Japan (especially the Kinki and Inland Sea regions) which seemed to prosper most. It also seems that the rural areas which experienced the strongest economic growth tended to be located inland, and often close to the castle-towns. Many other rural areas continued to experience decreases in population (*ibid*, pp.136-7). Also, more and more people in rural areas were becoming involved in non-agricultural pursuits. "The Shogunate and the baronial governments (*han*) were both alarmed by the labour shortage in agriculture, which proved one of the most acute and intractable problems of the latter half of the Tokugawa period." (Smith, *Agrarian origins*, p.111.) The key conclusion to be drawn here is that rurally based economic growth did not mean that impoverished peasants were no longer being driven off the land. Instead, it seems simply to suggest that when peasants did move off the land they tended to be drawn towards rural centres rather than the towns and cities.

⁵⁵ Quoted in Smith, "Pre-modern economic growth," p.140.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Hiramatsu, *Edo no tsumi to batsu*, p.177. Smith also notes that "As trade and industry spread to the countryside there was an increase in rural disorder, and threats of violence, even occasional acts of violence, against the rural rich, and chilling millenarian slogans about 'remaking the world' (*yo naoshi* 世直し)." Smith, "Pre-modern economic growth," p.153.

⁵⁹ Ibid., p.180.

⁶⁰ Karl Marx, *Das Capital*, trans. B. Fowkes as *Capital*, 3 vols (London: Penguin Classics, 1976), 1: 678.

⁶¹ Ibid.

country competition meant that "their number had been reduced from sixty-seven to forty-four by business failures in the past thirty years."⁵⁶ Smith also states that "Complaints of this kind came from nearly all castle-towns."⁵⁷

While some of those who were adversely effected by castle-town decline may have been able to adjust successfully to changing circumstances, it seems safe to assume that at least some had not. Whether their failures were due to bad management, bad luck, or a combination of both, many 'unsuccessful' townsfolk would have had no choice but to join the ranks of the 'homeless' and wander the streets in search of some way to survive.

The growing numbers of 'homeless' people represented an important problem for Tokugawa society. As a group of people the *mushuku* had drifted outside the traditional mechanisms of Tokugawa social control and security. Just as the *rōnin* were no longer tied to their lords, the displaced peasants and townspeople were no longer part of any village structure or 'five man group'. Instead, they wandered the countryside, loitering on the streets, becoming vagrants or beggars, living as day labourers, or joining gangs of gamblers.⁵⁸ This, of course, was a direct affront to a social order which was based on the idea that everyone had a place within a stable, self-regulating community. It also created security problems for the bakufu. By 1778 the bakufu had begun to issue official statements such as the following:

In recent years, as a result of the large numbers of homeless persons loitering in the shogun's lands and surrounding areas, arson and theft is common and [the peace] is disturbed. This is a serious problem for the entire community.⁵⁹

It is interesting to compare the effects of this process of economic change in Tokugawa Japan with Marx's description of how, following the breakdown of feudal retinues, the 'enclosures' of common lands and the confiscation of ecclesiastical property, large numbers of people from rural areas flowed into the cities of England and "were turned *en masse* into beggars, robbers, vagabonds, partly from inclination, in most cases from stress of circumstances."⁶⁰ Of even greater interest is the way in which the bakufu response to the problem paralleled that of the earlier policies of the European monarchies. Marx notes that from the end of the fifteenth century and throughout the sixteenth, a whole array of "bloody legislation against vagabondage" was developed in Western Europe and that "The fathers of the present working class were chastised for their enforced transformation into vagabonds and paupers."⁶¹

The Bakufu Response

Apart from the establishment of the *tame*, the bakufu first began to introduce special measures to deal with the *mushuku* problem in the Hōei period (1704–11). Homeless persons who were suspected of committing crimes could be put in the *rōya*. This still left many who could be found guilty

of nothing more than being homeless and poor. These people were known as *muzai no mushuku* 無罪の無宿 or 'innocent homeless'. To begin with some of these people may have been accommodated in the *tame*. These were relatively small institutions, however, and after the economic upheavals of the Genroku period (1688–1703) the number of homeless increased greatly. Also, as noted above, the *tame* were not well run and the likelihood of death after admission was very high. Thus, during the Hōei period it was decided that the innocent homeless should either be sent back to their place of origin or, in cases where this was not possible, they would be reduced to *binin* status (*binin teka* 非人手下) and put in the charge of a *binin* headman.⁶² Both of these measures represented attempts to fit the homeless back into existing systems of social control. Like other groups in Tokugawa society, the *binin* were a self-regulating and self-policing community. Their names were noted on a special register and they were governed by a headman.⁶³ Just as the village headman could be held responsible for problems which arose in his community, the *binin* headman was also expected to ensure that those under his control did not create problems.

⁶² Hiramatsu, *Edo no tsumi to batsu*, pp.177–8.

⁶³ Takayanagi Shinzō, *Edo jidai no tsumi to keibatsu sbōsetsu* (Tokyo: Yūhikaku, 1988), p.416.

⁶⁴ Hiramatsu, *Edo no tsumi to batsu*, p.179.

⁶⁵ Hiramatsu, "Penal institutions," p.7.

Neither of these measures proved satisfactory, and the numbers of *mushuku* on bakufu lands in and around Edo continued to increase. In the Kyōhō period (1716–36), a number of new approaches to the problem emerged. Firstly, it was decided to restrict use of the punishment of banishment, since it was believed that the extensive use of banishment had contributed to the problem of homelessness. While there may have been something in this, its importance as a cause should not be over-emphasized. Banishment had been widely used from the beginning of the Tokugawa period without creating social difficulties. Far more disruptive were the structural changes noted above. Not surprisingly, then, the restriction of banishment did little to curb the growth of the *mushuku* numbers. As a result, the bakufu, now under the eighth shogun, Yoshimune, began to develop other ideas for dealing with homelessness. One plan was forcibly to relocate homeless persons to places of low rural population such as Satsuma *han* in southern Kyūshū.⁶⁴ Those to be relocated would be put in the charge of the relevant daimyo, who would then be free to make use of them as he pleased. Of more long-term significance, however, were plans forwarded in 1721 and 1723 to build a new type of *tame*. These new *tame* were to

be installed to accommodate the homeless, who would be put to work using their particular skills . . . [They would] be made to work with straw or be drafted for public works. Compensation would be given for goods produced and labour performed. [The new *tame*] were to be a kind of government financed rehabilitation centre where inmates would be trained in work skills so that they could make a living.⁶⁵

Like the plan for relocation of the homeless, the new type of *tame* was not realized at this time. It was not long, however, before the idea was revived.

⁶⁶ Ishii, *Edo no tsumi to batsu*, p.120.

⁶⁷ Hiramatsu, "Penal institutions," pp.2–3.

⁶⁸ Hiramatsu, *Edo no tsumi to batsu*, p.181.

⁶⁹ Ibid., p.183.

In 1755 the *mushuku* problem led to changes in the internal structure of the Kodenmachō *rōya*. As in contemporary Europe, homeless vagrants were often driven into criminal activities by force of circumstance. As a result, the Kodenmachō *rōya* began to take in increasingly large numbers of *mushuku* inmates. As noted in the previous chapter, after minor punishments such as tattooing and flogging, inmates were immediately released from the *rōya* and allowed to return to their former modes of existence. With the increase in the number of *mushuku* inmates, however, it was feared that peasants and artisans would fall under their influence while in the *rōya* and that they too would become *mushuku* after release rather than returning to their farms or trades. Thus, inmates of commoner status were divided into the two categories of *yūshuku* and *mushuku*. *Yūshuku* inmates were housed in the western wing of the *rōya* while the *mushuku* were kept in the eastern wing.⁶⁶

The next major development in bakufu policy towards the problem of homelessness came in the An'ei period (1772–81) when the Senior Councilor (*rōjū* 老中) Tanuma Okitsugu 田沼意次 (1719–88) dominated the Tokugawa government. In 1775, the internal structure of the Kodenmachō *rōya* was again altered with the establishment of a special gaol-room known as the *hyakushōrō* 百姓牢 which was exclusively for farmers. According to Hiramatsu it was established "to prevent further erosion of the productive population caused by farmers becoming wandering drifters following the bad example of the homeless" in the *rōya*.⁶⁷ Under Tanuma the bakufu also began to develop new measures for dealing with the 'innocent homeless'. In 1778 Tanuma ordered that all homeless people found in areas around Edo be arrested and sent to the island of Sado 佐渡, where they would be put to work bailing water out of the silver mines. This approach may have grown out of the Kyōhō-period proposals for the resettlement of homeless people in sparsely populated areas of the country. At first only sixty people were sent to Sado. Over the years, however, this number steadily increased. The work in the mines was hard, conditions were bad and, not surprisingly, fatality rates were high. The 'prisoners' on Sado were housed in a kind of detention centre in which a *rōnai yakunin* system operated. Although the bakufu was primarily concerned with ridding its lands of 'innocent homeless', it did make provision for persons to return from Sado if they showed signs of having 'reformed'.⁶⁸ This is significant in that it suggests that the idea of forced labour leading to the 'reform' of social deviants had begun to be applied. Nevertheless, the main attraction of sending the homeless to Sado was, no doubt, the hope that news of the terrible conditions there would deter people from becoming vagrants.

The other major development which took place during the Tanuma years was the establishment of an experimental 'rehabilitation centre' (*yōikusho* 養育所) for the 'innocent homeless'. The *yōikusho* was set up in 1780 under the control of the *Minamimachi bugyo* 南町奉行, Makino Seiken 牧野成賢.⁶⁹ The aims of the institution were to put the homeless to work, rehabilitate them and then return them to the province from which they had

originally come. In this respect, the *yōikusbo* was clearly related to the Kyōhō-period plans for a new type of *tame*. Makino was given special authority to decide which of the homeless should be taken in at the new institution. Those whom Makino deemed it impossible to reform were simply sent to Sado as before. According to contemporary reports there were many problems with the *yōikusbo* including a very high incidence of escape. In 1786, only seven years after its establishment, the *yōikusbo* was abolished. It is important, however, because it represents the first attempt to establish a special institution for the purpose of reforming vagrants through work and training.

The Establishment of the Ninsoku Yoseba

The problem of homelessness in the Edo period reached its peak in 1786 and 1787, the time of the Tenmei famine 天明の飢饉.⁷⁰ This was precisely the same time that Matsudaira Sadanobu 松平定信 was establishing himself as the dominant political force in the bakufu.⁷¹ His first response to the problem was to increase significantly the numbers of people being sent to Sado. Previously only 'innocent homeless' had been sent there, but under Sadanobu the bakufu began to send homeless persons convicted of crimes. In ordinary times, these people would have been released from the *rōya* after they had been appropriately punished. By Sadanobu's time, however, it had been recognized that there was a strong tendency for homeless persons to commit further crimes after their release. By sending them to Sado it was possible to maintain control over such people and prevent recidivism. Yet, while this measure may have been crudely effective, it did not fit well with the ideals of benevolent government Sadanobu was so keen to promote.⁷²

Not surprisingly, then, Sadanobu began to develop alternative plans for a kind of work-house for the 'innocent homeless'. Hasegawa Heizō 長谷川平蔵, a bakufu official in charge of dealing with incidents of arson and theft, was given the task of drawing up detailed plans. In 1790, after considerable consultation with Heizō, Sadanobu ordered the establishment of a *ninsoku yoseba* on the island of Ishikawajima 石川島 at the mouth of the Sumida river 隅田川. The total area of the *yoseba* in 1820 was 10,603 *tsubo* 坪, or about 34,990 square metres. Most of this was swamp-land, however, and the area actually used by the *yoseba* was only about 11,880 square metres and was surrounded by a log fence. There was also a large vegetable patch adjacent to the main grounds of the *yoseba* which was used to grow food for the inmates. Within the *yoseba* grounds there was one long building which housed seven gaol-rooms, a sick room and an office. There were also a number of other structures which served as workshops.

As with the new type of *tame* planned in the Kyōhō period and the *yōikusbo* of the An'ei period, the *ninsoku yoseba* was intended to serve not as a place for the punishment of criminals but rather as a security measure

⁷⁰ Ibid., p.185.

⁷¹ In passing it can be noted that Matsudaira was from the Tōhoku region, which was hardest hit by the Tenmei famines. Importantly, however, it was said that because of his relief policies not a single person in his domain died of starvation during the famines.

⁷² In this regard it is interesting to note that Sadanobu is said to have taken "particular pride" in the *ninsoku yoseba* as an "expression of 'benevolent government'." Herbert Ooms, *Charismatic bureaucrat: a political biography of Matsudaira Sadanobu* (Chicago: University of Chicago Press, 1975), p.87.

⁷³ Hiramatsu, *Edo no tsumito batsu*, pp.191–2.

⁷⁴ Ignatieff, *Penitentiary*, p.11.

⁷⁵ *Ibid.*, pp.11–12.

by which the ‘innocent homeless’, people who had drifted out of the networks of Tokugawa social control, might be returned to mainstream society. The basic aim was to rid Edo and its surrounding areas of all homeless drifters, and to train them so they could be resettled in an area where the skills learnt in the *yoseba* could be used productively. In keeping with this aim, the new post of “Kantō Region Inspector” (*kantō torishimari shutsuyaku* 関東取締出役, or *hasshū mauari* 八州廻り) was established, with the duty of touring the eight Kantō provinces around Edo and taking any homeless persons into custody.

The following proclamation, which was read to all new inmates upon admission, suggests how the *yoseba* was ideally supposed to operate:

You are no longer listed on your family register, and as an innocent homeless you were to be sent to the island of Sado. However, by an act of great benevolence, you are now made workers and are allowed to pursue such skills as you may have learned. You are enjoined to change heart, to come to your senses and by hard work to earn enough capital to start a new life on your own. If you show signs of repentance and reform, you will be released irrespective of the length of your sentence. In such an event, this *yoseba* will provide you with an adequate plot of land if you are a farmer. You will be given a shop at the place of your birth if you come from Edo. Otherwise, you will be provided with tools of a trade or guaranteed appropriate allowances from the Shogunate.⁷³

Thus, in its ideal form the *yoseba* was to be a place where homeless vagrants were transformed into productive workers. In this sense, the original aims of the *ninsoku yoseba* were remarkably similar to those of the bridewells, work-houses and *rasp huis* which were established in England and Holland from the middle of the sixteenth century. Ignatieff notes that it was in these “houses of correction” that people were first “confined and set to labour in order to learn the ‘habits of industry’.”⁷⁴ Moreover, just as in Tokugawa Japan, it was not criminals but the unfortunate victims of social change who were sent to be reformed:

In England, the bridewells were established for the confinement and deterrence of the host of “masterless” men thrown onto the highways by the dissolution of Catholic monastic charity, the breakup of feudal retainers, enclosure and eviction of cottagers and the steady pressure of population growth on a small and over stocked free labour market.⁷⁵

As the *bushi* class were increasingly concerned about the declining numbers of peasants involved in agrarian labour, the creation of an institution to teach idle vagrants the ‘habits of industry’ through forced labour is not surprising. In the late eighteenth century, Honda Toshiaki 本多利明 (1743–1820), a scholar of political economy in Edo, criticized the Tokugawa system of punishment, arguing that:

In years when the harvest is bad and people die of starvation, farmers perish in greater numbers than any other class. Fields are abandoned and food production is still further reduced. As a result there is insufficient food for the nation and much suffering. Then the people will grow restive and numerous

criminals will have to be punished. In this way citizens will be lost to the state. Since its citizens are a country's most important possession, it cannot afford to lose even one, and it is therefore most unfortunate that any should be sentenced to death. It is entirely the fault of the ruler if the life of even a single subject is thereby lost.⁷⁶

In other words, to execute criminals who could otherwise be usefully employed is to waste a precious labour resource. In their pioneering work *Punishment and Social Structure*, Rusche and Kirchheimer argue that a link can be drawn between the spread of forced labour as a punishment for criminals and vagrants in Europe and overall shortages on the 'free' labour market.⁷⁷ Honda's writings suggest that in Japan too this kind of problem may have provided a powerful rationale for the establishment of an institution like the *ninsoku yoseba* which attempted to harness the labour-power of vagrants and make them 'productive'. As in mercantilist England and Holland:

Every effort was made to draw upon all the available labour reserves, not only to absorb them into economic activity but, further, to "resocialize" them in such a way that in the future they would enter the labour market freely.⁷⁸

In the same way, inmates in the Tokugawa *yoseba* were given proper training in various skills and paid wages for work performed. Special bonuses were also awarded to those who carried out their tasks especially well and tobacco money was granted as a kind of work incentive. Moreover, inmates who proved their reliability were sent on errands and allowed to work on public works projects outside the *yoseba* grounds. On the other hand, bad behaviour and laziness were punished in various ways including reprimands (*sekkai* 切諫), tying of hands with rope, reduction of food, and the extension of work hours. The most dreaded punishment, however, was exile to Sado which constituted a virtual death sentence.

From the outset considerable emphasis was also put on 'moral education' as a means for 'reforming' and 'resocializing' the *mushoku*. Nakazawa Dōni 中沢道二, a well-respected scholar of *shingaku* 心学, or practical ethics, was appointed to give three day-long lectures a month to the *yoseba* inmates. The fact that *shingaku* was taught at the *yoseba* is particularly interesting in the light of Robert Bellah's argument that it had a role in preparing Japan for capitalism similar to that which Max Weber suggested the Protestant work ethic had in Europe.⁷⁹ *Shingaku* taught the importance of honesty (*shōjiki* 正直) and thrift (*ken'yaku* 儉約). It also taught "docility and obedience," while at the same time constituting every individual as "a center of dignity, meaning and initiative."⁸⁰ Bellah rightly argues these things were crucial to the success of capitalism in Japan, and the fact that *shingaku* was taught at the *yoseba* is evidence that as an institution it represented an important step towards the generation of new forms of subjectivity.⁸¹ Significantly, other scholars of *shingaku* were appointed to replace Nakazawa after his death and it continued to be taught at the *yoseba* until as late as 1870.

⁷⁶ Tsunoda, et al., *Sources of Japanese tradition*, 2 vols (New York: Columbia University Press, 1964), 2: 51.

⁷⁷ See Rusche and Kirchheimer, *Punishment and social structure* (New York: Columbia University Press, 1939), ch.2. The Italian scholars Dario Melossi and Massimo Pavarini also explore the links between the modern prison and capitalism in their penetrating study *Carcere e fabbrica*, which has been translated by G. Cousin as *The prison and the factory: origins of the penitentiary system* (New Jersey: Barnes & Noble Press, 1981). Like Rusche and Kirchheimer (who were members of the Frankfurt School), Melossi and Pavarini work from a Marxist perspective but are more wary of crude 'economism'.

⁷⁸ Ibid, p.42.

⁷⁹ I am again indebted to Tessa Morris-Suzuki for reminding me of Bellah's argument and pointing out the article cited below.

⁸⁰ R. Bellah, "Baigan and Sorai: continuities and discontinuities in eighteenth century Japanese thought," in *Japanese thought in the Tokugawa period 1600-1868*, ed. T. Najita and I. Scheiner (Chicago: University of Chicago Press, 1978), p.149. Bellah's argument was originally presented in his book *Tokugawa religion: the values of pre-industrial Japan* (Glencoe: The Free Press, 1957).

⁸¹ In this regard it is particularly interesting to reflect upon Melossi and Pavarini's argument that in the early stages of capitalist growth in Europe the penitentiary served to create 'model proletarians'. Perhaps this was also the case with the *yoseba* in Japan?

The *rōnai yakunin* system, although it did operate to some extent, was very weak. Instead, inmates who showed good behaviour were appointed as *sewayaku* 世話役, or 'helpers'. These people also served as foremen in the various workshops within the *yoseba* grounds. Daily activities such as rising and sleeping, work and meals, were supervised by an official known as the *ninsoku sabainin* 人足差配人. In place of the *rōnanushi*, it was the *ninsoku sabainin* who was in charge of maintaining internal discipline and who dealt out punishments to inmates.

As noted in the proclamation made to inmates upon admission, the length of detention at the *yoseba* was supposed to depend on the behaviour of the individual inmate. In practice, however, inmates were generally held for between three and seven years. Noting the high incidence of escape at the earlier *yōikusbo*, Sadanobu and Heizō decided that anyone who attempted to escape from the *yoseba* would be punished by decapitation.

The establishment of the *ninsoku yoseba* represented a new method of dealing with the problem of homelessness. The similarities with institutions developed almost contemporaneously in Europe are remarkable. Both were based on the notion that particular deviant categories of people could be transformed and slotted back into mainstream society. Moreover, both placed emphasis on work and education as the means by which reform could be achieved. In this way the *ninsoku yoseba* can be said to have been a forerunner of the new ways of dealing with deviancy and maintaining control which would later come to form one of the bases on which modern Japanese society was constructed.

The Philosophical Underpinnings of the Ninsoku Yoseba

⁸² Hiramatsu, *Edo no tsumi to batsu*, p.180.

The *ninsoku yoseba* was, in the first instance, a response to the practical problem caused by rampant homelessness. The changes at the level of social practice realized by the establishment of the *yoseba* did not, however, take place independently of changes at the level of social thought. Indeed, the significance of the establishment of the *yoseba* can only be fully appreciated if it is situated within the context of developments in Tokugawa thought about society and human existence. We need to ask how it was that, when faced with the practical problem of the *mushuku*, the bakufu authorities were able to produce a solution based on the theoretical notion of work and education leading to the reform of an individual subject.

As noted above, the origins of the *ninsoku yoseba* can be traced to Kyōhō-period plans to establish a new kind of *tame*. At this time, the influential Confucian scholar Ogyū Sorai 荻生徂徠 (1666–1728) openly criticized the practice of reducing the *mushuku* to *binin* status. He also argued that the bakufu should follow the example of Han China and implement forced labour as a punishment for certain crimes. Hiramatsu speculates that Sorai's views may have influenced bakufu plans for an institution where the *mushuku* would not only be confined but also be put to work.⁸² The Chinese

system of forced labour, however, incorporated no notion of reform and was simply based on the idea that using criminals as slaves served both to punish offenders and generate economic benefits. In contrast, the new *tame* was not to be a place for punishing criminals but rather a kind of training centre for the homeless. In this sense, Sorai's view on the value of the Han Chinese system of punishment may not have been directly relevant to the bakufu plans. Certainly the idea that the basic nature of any commoner could be reformed through education and training was alien to Sorai, who maintained that individuals did not have "the internal potential to transform themselves" and were limited to the personal talents and station in life with which heaven had endowed them.⁸³ Another aspect of his work, however, may have influenced the long-term development of the *ninsoku yoseba*. Sorai's promotion of the 'little virtues' of any life had the effect of valorising work itself as an essential part of human existence. This emphasis on productive labour was inherited by one of the most important schools of late Tokugawa-period thought, *kokugaku* 国学 or nativism. Harootunian notes that:

Echoing Ogyū Sorai's defense of the "little virtues," nativists believed that whatever a person did was important, since everyone was obliged to perform according to the endowment and disposition bestowed by the heavenly deities. This theory did more than enjoin the ruled to fall into line and work hard. Its real significance was to transform the ordinary folk into knowing subjects capable of occupying a position of autonomy by ethicizing their quotidian life and the productivity of their daily labour. It drew attention to the centrality of such activities as work and productivity, which had formerly been consigned to the margins of Confucian discourse ...⁸⁴

The emphasis that *kokugakusha* (nativists) such as Motoori Norinaga 本居宣長 (1730–1801) placed on work was obviously important to the development of a theoretical context in which the idea of the *ninsoku yoseba* could be constructed. Equally important, however, was the notion that the 'ordinary folk' were 'knowing subjects' capable of autonomous action.⁸⁵ This conception of the peasant or commoner as a knowing individual capable of making choices was crucial to the *ninsoku yoseba*. Without it, the construction of an institution for the reform of ordinary people through training and education would have made little sense.

As Najita Tetsuo has recently shown, the idea that commoners were capable of achieving virtue through education was one of the key principles developed at the Kaitokudō 懷徳堂, an academy established in the early eighteenth century by a group of Osaka merchants. The first intellectual leader of the Academy, Miyake Sekian 三宅石庵 (1665–1730), used neo-Confucianism to emphasize "the philosophy of the natural and innate goodness of human beings so that merchants identifying with this sagely goodness could progress to become men of virtue."⁸⁶ The means for achieving this objective were "studying and learning." Thus, the idea that with proper training anyone, even the lowliest commoner, could be transformed into a 'man of virtue' had begun to develop.

⁸³ Najita Tetsuo, *Visions of virtue in Tokugawa Japan: the Kaitokudō merchant academy of Osaka* (Chicago: Chicago University Press, 1987), pp.161–2. See also Bellah, "Baigan and Sorai," p.145.

It is interesting to compare the difference between Sorai's and Chikuzan's views of humanity with the contrast that Foucault makes between the seventeenth-century and eighteenth-century understanding of the soldier in Europe. Foucault argues that in the early seventeenth century a soldier had to be naturally endowed with certain physical qualities. In contrast, "By the late 18th century, the soldier has become something that can be made; out of a formless clay, an inapt body, the machine required can be constructed; posture is gradually corrected; a calculated constraint runs slowly through each part of the body, mastering it, making it pliable, ready at all times, turning silently into the automatism of habit; in short, one has 'got rid of the peasant' and given him 'the air of a soldier' (ordinance of 20 March 1764)." Foucault, *Discipline and punish*, p.135.

⁸⁴ H.D. Harootunian, *Things seen and unseen: discourse and ideology in Tokugawa nativism* (Chicago: Chicago University Press, 1988), p.31.

⁸⁵ Ishida Baigan (1685–1744), the founder of *shingaku*, was another thinker who portrayed the ordinary folk in this way. He saw every person—"peasant and townsman as well as feudal lord and samurai"—as "a small heaven and earth, a center of dignity, meaning and initiative." Bellah, "Baigan and Sorai," p.149. See Bellah's *Tokugawa religion* for a full discussion of Ishida's life and thought.

⁸⁶ Najita, *Visions of virtue*, p.194.

⁸⁷ It is interesting to compare Chikuzan's arguments with thinkers such as John Locke who argued for democratic participation in government coupled with a system of education and training to develop "virtuous" habits in individuals. Locke argued that habituation was the best method to ensure the "virtuous" behaviour of a populace. As with "bread and tobacco" so with "virtue too," Locke wrote, "habits have powerful charms, and put so strong attractions of easiness and pleasure into what we accustom ourselves to, that we cannot forebear to do, or at least be easy in the omission of actions, which habitual practice has suited and thereby recommends to us." (Quoted by James Tully, "Governing Conduct," in *Conscience and casuistry in early modern europe*, ed. E. Leites [Cambridge: Cambridge University Press, 1988], p.54.) Significantly, apart from his long essay on education Locke also wrote an influential report on the reform of the English workhouses. See Tully's article for an interesting discussion of these aspects of Locke's thought.

⁸⁸ Najita, *Visions of virtue*, p.180.

⁸⁹ Ibid.

⁹⁰ Ibid., pp.199–200.

The Kaitokudō developed into a respected institute of learning not only amongst commoners but also the ruling *bushi* class. In this way, ideas that were developed by merchant-scholars at the Academy began to 'spill over' the 'stylized barriers' of social class. The one scholar who did most to promote this spillage of ideas was Nakai Chikuzan 中井竹山 (1730–1804), the third head of the Academy. Under Chikuzan, the reputation of the Kaitokudō developed to the extent of attracting a visit from Matsudaira Sadanobu in 1788, only a few months before his rise to the leadership of the bakufu. Chikuzan spent an entire day lecturing to Sadanobu and explaining his views on the present state of the country. The lectures given that day later formed the basis of Chikuzan's *Sōbō Kigen* 草茅危言, which was dedicated to Sadanobu. Chikuzan called for radical changes to the Tokugawa political order. These included the abolition of the *sankin kōtai* 参勤交代 system and the promotion of talented persons to positions of responsibility regardless of social class. He also advocated a national school system for the education of all commoners, arguing that through education all commoners could be made into 'men of virtue'. This in turn would qualify them to consider and criticize government decision-making.⁸⁷ Given the emphasis that Chikuzan placed on the possibility of all men acquiring virtue, it is not surprising that his *Sōbō Kigen* also called for reform of the Tokugawa system of punishment. Chikuzan suggested that a system of forced labour be adopted for criminals. Unlike Sorai, however, he argued that payment should be made for all inmate labour.

Scholars in other parts of the country had also begun to develop plans for the reform of society along similar lines to Chikuzan. Honda Toshiaki, noted above for his criticisms of the Tokugawa system of punishment, also called for the establishment of schools across the country "to train the nation's talent in the arts of modern technology."⁸⁸ The Nagasaki merchant, Shōji Kōki 正司考棋 (1793–1857), also "wrote at length on the importance of universal education particularly for the lower classes."⁸⁹ All of this suggests that the idea of education and training as means for shaping the behaviour of the 'ordinary folk' was spreading widely.

Nakai Riken 中井履軒 (1732–1817), Chikuzan's younger brother, was another who called for radical changes to Tokugawa society, including reform of the system of punishment. Riken perceived individual human beings to be "active and knowing moral agents" and emphasized "the human capacity to acquire moral knowledge through the exercise of 'choice'."⁹⁰ With regard to the Tokugawa system of punishments he argued that

to maintain order, rulers had failed to use humane means to improve the actual conditions in the country but had relied instead on harsh punitive laws in which punishment was rarely in accord with the crime, being thus arbitrary rather than righteous and on the mark. Most of the penal codes that rulers continued to rely on were formulated under conditions of general warfare when the Tokugawa House rose to power and were largely inappropriate in times of 'peace and tranquility'. Unduly harsh and inhumane means of punishment such as cruci-

fixion and boiling ought to be abolished, and prison (*rōya*) conditions should be improved by increasing the internal spaces and separating convicted criminals from those awaiting trial.⁹¹

⁹¹ Ibid., p.214.

⁹² Hiramatsu, *Edo no tsumi to batsu*, p.189.

⁹³ Ibid.

⁹⁴ Takenaka Seiichi, "Ninsoku yoseba to shingaku" [The *ninsoku yoseba* and *shingaku*], in *Ninsoku yoseba shi* [A history of the *ninsoku yoseba*], ed. Ninsoku Yoseba Kenshōkai (Tokyo: Ninsoku Yoseba Ken-shōkai, 1974), p.203.

⁹⁵ Ibid., p.200.

⁹⁶ Najita, *Visions of virtue*, p.219.

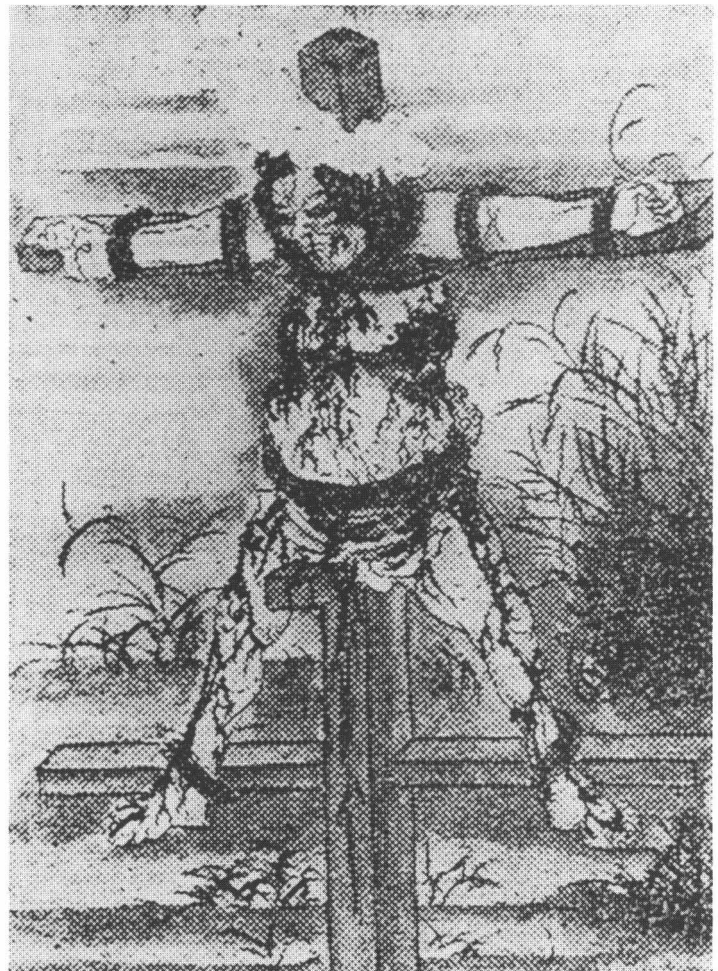
Consistent with his belief in a universal human capacity to acquire virtue, he also argued that after initial punishment, likely recidivists should be put to work for fixed periods and released only after showing signs of having become virtuous. Those who did not change their ways would be held for life.⁹²

It is possible that the Nakai brothers' views may have directly influenced Sadanobu's plans for the establishment of the *ninsoku yoseba*.⁹³ There seems little doubt that Sadanobu was influenced by the kind of ideas that were being developed at the Kaitokudō. This can be seen in his promotion of *shingaku*, which sought to teach all people, commoners and *busshi* alike, the importance of morally upright behaviour.⁹⁴ It is also reflected in Sadanobu's own writings. Thus, in his *Kokuhonron* 国本論 of 1781, Sadanobu wrote, for example, that "Just as the daimyo who eat for pleasure [and not for survival] are people, [so too] the farmers who cut grass in the fields under a scorching sun are people."⁹⁵

More important than the direct influence of scholars such as Chikuzan and Riken on a single individual, however, was their contribution to the intellectual milieu of the late Tokugawa period. The ideas being developed at this time regarding social transformation would later be incorporated into the new assemblages of knowledge and power that lay behind the Meiji Restoration. By the time of Riken's death in 1818 the reputation of the Nakai brothers had spread widely and "Chikuzan's *Sōbō Kigen* had become a work read by all serious students of political economy."⁹⁶ In this respect it is worth emphasizing that both Chikuzan and Riken considered the existing system of punishment to be incongruous with their plans for a society in which education and training would facilitate the promotion of virtue in all people and allow commoners to participate in government.

Figure 10

Haritsuke— the fearful spectacle
(*Isbii Ryōsuke*, *Edo no keibatsu*, p.53)



⁹⁷ Hiramatsu, "Penal institutions," p.12.

⁹⁸ Ibid., p.13.

⁹⁹ The establishment of a *yoseba*-like institution in Shinjo *ban* in 1848–9 may also have been indirectly influenced by Mizuno's decree.

Changes to the Ninsoku Yoseba

In the 1820s the rules of the *yoseba* were changed to allow for the admission of criminals sentenced to banishment, and it thus ceased to be an institution exclusively for the 'innocent homeless'. Technically, of course, the punishment of banishment was supposed to entail being prohibited from entering the city-limits of Edo. The *yoseba*, however, was well inside the city. In order to get around this difficulty those who had been sentenced to banishment were kept separate from the other inmates. They were not allowed to work outside the *yoseba* grounds and, whereas others could be considered for release when they showed signs of reform, they were held for a minimum of five years.⁹⁷ From about the same time the *yoseba* also began to serve as a kind of 'half-way house' for criminals who had completed sentences of tattooing, flogging, etc., but who were judged likely to commit further crimes. In the sense that it had now become a place for the incarceration of convicted criminals, the *yoseba* seems to have taken a step closer to the modern prison. On the other hand, Hiramatsu argues that the sudden influx of "criminal elements" had a negative impact on all programmes for the "rehabilitation" of inmates.

The great Tenpō 天保 famine of 1834–7 also had an important effect on the *ninsoku yoseba*. Originally the *yoseba* had accommodated around 150 persons. By 1836, however, the average number of inmates on any one day had risen to about 400 and, at times, as many as 600 persons were held in the *yoseba*'s seven gaol-rooms. This created difficulties in finding work for all inmates, and even greater difficulties in supervision so as to reward or punish behaviour. By the late 1830s, inmates were often left idling in their rooms. Moreover,

with the increase of sick and dead, many [vagrants] had to be released before they had learned any useful trade or skill, with the result that a growing number of them returned.⁹⁸

In 1838, probably in an attempt to reduce the numbers of persons held at the *yoseba* in the aftermath of the Tenpō famine, the practice of sending to the *yoseba* those sentenced to banishment was abolished. In 1841, however, the rules were again changed to allow persons sentenced to banishment to be sent to Ishikawajima.

As part of the Tenpō reforms of 1841–3, the Senior Councillor Mizuno Tadakuni 水野忠邦 (1794–1851) ordered that where possible the 'innocent homeless' should be transported back to their places of origin and not to Ishikawajima. In 1842, he also issued a decree encouraging the establishment of *yoseba*-like institutions throughout the country to take care of vagrants in each local area. Probably as a result of Mizuno's early political demise, his calls for the establishment of *yoseba*-like institutions do not seem to have led to any further construction, except at Nagasaki where a new *yoseba* was set up.⁹⁹ Despite this, his decree did establish the

idea of *yoseba*-type establishments “in all government agencies on the eve of the Meiji Restoration.”¹⁰⁰

In another major reform of the internal operations of the *yoseba*, Mizuno also introduced as the standard work for inmates the extraction of oil from rape seeds. Physically demanding and excruciatingly dull, it required no expertise and taught inmates no special skill that they could use to make a living after release. Instead, the work was intended to make inmates repent their misdeeds and to serve as a ‘punitive example’. It also increased the income of the *yoseba* considerably. Hiramatsu has argued that with this change the *yoseba* “ceased to develop” as an institution.¹⁰¹ In fact, however, the introduction of this kind of tedious, repetitious work in 1841 was perfectly in keeping with the development of the *yoseba* into a modern prison-like institution. Mizuno was a student of *kokugaku* and may well have been influenced by ideas which emphasized the importance of work in everyday life. Certainly in contemporary Europe Mizuno’s policies would have earned much praise from prison reformers. In 1854 one English reformer wrote:

We would banish all the looms of Preston jail and substitute nothing but the treadmill or the capstan, or some species of labour where the labourer could not see the results of his toil, where it was as monotonous, irksome and dull as possible ...¹⁰²

While perhaps not as ingenious as some of the tedious and back-breaking activities devised by the European reformers, the oil-extraction introduced by Mizuno clearly belonged to the same “species of labour” as the treadmill or the capstan. Moreover, just as in Europe, the adoption of this kind of hard but meaningless labour was accompanied by a new emphasis on disciplining inmates with ‘work for work’s sake’. While in this respect the *yoseba* did seem to be developing along the same lines as European prisons and workhouses, however, there were still a number of major differences.

Although the ideal of discipline and training to produce moral reform was clearly important in the establishment of the *ninsoku yoseba*, many of the basic techniques of control and organization which were essential to the growth in the West of institutions such as the prison, school, hospital and barracks, had yet to emerge in Tokugawa Japan. For example, the practice of organizing physical space to allow for the constant, uninterrupted surveillance of each individual subject did not figure at all in the design of Tokugawa institutions. Thus, whereas in European prisons and workhouses inmates began to be divided up and placed into increasingly smaller cells, in the *ninsoku yoseba* each of the seven ‘gaol-rooms’ was designed to house over forty inmates and, in fact, often accommodated many more. There was also the question of the organization of ‘time’. In this regard it is interesting to note that Nakai Riken pointed to the Tokugawa calendar as one of the obstacles to the establishment of the Utopian world of his imagination. Thus:

Riken began to construct a new “scientific” calendar for his secluded kingdom, a new conception of “time” based on the heliocentric conception of the

¹⁰⁰ Hiramatsu, “Penal institutions,” p.14.

¹⁰¹ Ibid.

¹⁰² Quoted in Ignatieff, *Penitentiary*, p.177.

¹⁰³ Najita, *Visions of virtue*, p.218.

¹⁰⁴ The emergence of the factory and the increasing mechanization of society were undoubtedly important reasons why standardized ‘scientific’ measures of time emerged in the West. Thus the lack of mechanization in Tokugawa society is, no doubt, one of the main reasons why such a system did not develop in Japan.

¹⁰⁵ T.C. Smith has argued that “the growth of the modern textile industry [in Japan] was made possible by the specific skills, attitudes, roles, capital accumulations and commercial practices brought into being mainly during the period of ‘pre-modern growth’” (i.e. the latter part of the Tokugawa period). He suggests that “pre-modern growth” led to the spread of skills and values in society which were particularly suited to the construction of a “disciplined and reliable work force,” crucial to the labour-intensive “light industries” (textiles in particular) that led Japan’s industrialization. Importantly, however, Smith also notes that “the carry-over of skills and values ... was more difficult in heavy industry.” (Smith, “Pre-modern economic growth,” pp.158–9). In other words, while pre-modern values were easily /OVER

/adapted to labour-intensive industries like textiles, they did not fit in so well with capital-intensive industries. Japanese workers were well prepared for long hours, hard labour and work in groups, but they were not so well prepared for the rhythms and disciplines of working with heavy machinery. While it would be incorrect, therefore, to describe Tokugawa-period workers as 'undisciplined', it is also true that the onslaught of Western technology ushered in new modes of discipline (the discipline of the military parade, of the classroom, of heavy industry, etc). Over time, these new modes of discipline would play a key role in the transformation of Japan into a modern society. That the *ninsoku yoseba* may have been an embryonic 'disciplinary institution' (like the modern prison, school, hospital or factory) would seem to be supported by the fact that when the bakufu established a ship works in Yokosuka in the last years of Tokugawa rule, 200 labourers from the *yoseba* were sent to man it. See Yamada Seitarō, *Nibon sbibonshugi bunseki—Nibon sbibonshugi ni okeru saiseisan katei baaku* (Tokyo: Yuseidō, 1934), p.83

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universe. Science was being marshalled to serve the needs, he felt, of having to "order" in more "accurate" manner his world of "dreams."¹⁰³

The absence of a "scientific" system with which to order the world more "accurately" also impeded the development of routines and timetables which were key mechanisms for institutions such as modern schools and prisons, in which individuals were taught temporal discipline and docility.¹⁰⁴

Moreover, whereas in Europe the ideas and techniques of carefully supervised discipline leading to the creation of particular types of human subject gradually spread throughout the entire society, this was not the case in Tokugawa Japan.¹⁰⁵ The *ninsoku yoseba* was simply used as a device to support the traditional structures of social control. While the notion of transforming homeless vagrants into productive workers did form the basic objective of the *yoseba*, once an inmate was released he did not enter factories or conscript armies where methods of training and discipline would continue to shape him. Instead, former inmates had to be put back into one of the self-policing communities on which Tokugawa social control was based. Thus, release from the *yoseba* was only allowed if an inmate had a sponsor prepared to take responsibility for him in mainstream society. If an inmate could not find such a sponsor himself, then it was the task of the *ninsoku sabainin* to find a community that would accept him. Thus, while the *ninsoku yoseba* marked a first step towards the kind of ideas and practices that formed the basis of the modern prison it was, in a sense, out of place in the Tokugawa social order. It would not be long, however, before many of the basic ideas and hopes on which the *ninsoku yoseba* was based would be reformulated and strengthened by the onslaught of Western scientific knowledge and military power.

EAST ASIAN HISTORY 3 (1992)