

Japan's Double Bind: 'Civilised' Punishment in Colonial Taiwan

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RESÜMEE

Der Beitrag geht davon aus, dass eine sowohl gegen innen (die japanische Gesellschaft) als auch gegen außen (die Kolonie Taiwan) gerichtete Zivilisierungsmission die Strafrechtsreformen in Meiji-Japan und die Bestrafungen in der Kolonie Taiwan prägte. Als Teil von Selbstzivilisierungsbestrebungen erneuerte Japan sein Strafrecht erst nach chinesischem und dann nach europäischem Vorbild, um den ‚Westen‘ von der eigenen ‚Zivilisiertheit‘ zu überzeugen. Nach der Annektierung Taiwans standen die japanischen Politiker vor dem Dilemma, ein nicht-westliches und benevolenteres asiatisches Imperium schaffen zu wollen, sich aber trotzdem auf europäische Modelle zu beziehen. Die Untersuchung der Prügelstrafe in Taiwan zeigt, wie sich im Diskurs um die ‚Zivilisierung‘ der Taiwaner die Konnotationen der chinesischen Rechtspraktiken von ‚zivilisiert‘ zu ‚barbarisch‘ verkehrten und welche Konsequenzen dies für die koloniale Herrschaftspraxis hatte.

After the coerced opening of Japan through American gunboats in 1853,¹ several unequal treaties between the Tokugawa Regime, the United States, and some European powers, respectively, were negotiated in the 1850s.² In order to revise these treaties some years later, after the Meiji Revolution in 1868 and in the course of efforts to establish a nation state after a ‘Western’ model, the Japanese government enforced so-called “civilisation

1 For a detailed description on the coerced opening by Commodore Perry, see for example: G. Feifer, *Breaking Open Japan: Commodore Perry, Lord Abe, and American Imperialism in 1853*, New York 2006.

2 M. R. Auslin, *Negotiating with Imperialism: The Unequal Treaties and the Culture of Japanese Diplomacy*, Cambridge (Mass.) 2006.

and enlightenment”³ policies. They were pushed by the elites, who feared becoming colonised by ‘Western’ powers. The term *bunmei kaika* (civilisation and enlightenment), a key phrase of Early Meiji Japan and the slogan of the implemented modernisation programs, was a translation of ‘Western’ concepts like ‘civilisation’ and ‘enlightenment’ and was created in the years of the Meiji Revolution. It also included connotations of “subduing land” and “to become like the West”.⁴ The translation and adaption of these concepts were assigned with the goal of reaching ‘Western civilisation’.⁵ In this sense, Nishi Amane, a member of the famous Meiji-Six-Society, a group of intellectuals regularly discussing issues of ‘modernisation’, had already announced in 1874 the need to “civilise common people” and uplift them to the level of the civilisation of ‘Western’ nations.⁶ With the transfer of the idea of enlightenment, its ambiguity was also taken over,⁷ a matter which will be discussed later in detail. The term *mission civilisatrice*, used by the French especially in the second half of the 19th century as a doctrine in their colonies, as well as the adapted English phrase, civilising mission,⁸ were later also used by Japanese colonial politicians.⁹

Part of the modernisation policies was the objective of the Japanese government to become an empire just like the ‘Western’ ones. This goal was first achieved in 1895 with the annexation of Taiwan after the Sino-Japanese war. Thereby, the Japanese politicians saw themselves faced with the dilemma that they wished to create an Asiatic form of colonial rule better than the ‘despotic’ ‘Western’ one, but at the same time, could not help implementing a colonial rule that was based upon ‘Western’ models. Japanese politicians were caught in the dilemma between the model of Western colonialism and the counter model of a benevolent Asian colonialism, one which had still to be invented. In this paradoxical situation not only were notions of the ‘West’ ambivalent, but also within this dilemma, intertwinement with China gained importance. China had been the epitome of ‘civilisation’ for Japan for centuries, but the colonial enterprises of Japan were accompanied by a completely new connotation of a ‘backward’ and ‘barbarous’ China. These notions, however, stood in contrast to the idea of creating an Asian counter model to ‘Western’ colonialism. Moreover, it was always connected with the implementation of

3 *Bunmei kaika*.

4 Y. Hida/M. Sōgō, *Meiji no kotoba jiten* [Dictionary of Meiji semiotics], Tokyo 1998, p. 520.

5 T. Yokota-Murakami, *Translating Literature, Love, and Sexuality: Negotiation of the Ideologies in Early Modern Japan*, in: T. Hyun / J. Lambert (eds.), *Translation and Modernization*, Tokyo 1995, pp. 71-80, and H. H. Hahn, *Historische Stereotypenforschung. Methodische Überlegungen und empirische Befunde*, Oldenburg 1995, pp. 11-12, and S. Shimada, *Identitätskonstruktion und Übersetzung*, in: A. Assmann/H. Friese (eds.), *Identitäten*, Frankfurt am Main 1998, pp. 138-165, here pp. 138-140.

6 A. Nishi, *Yōji wo motte kokugo wo sho suru no ron* [Argument for writing Japanese in western script], in: *Meiro-kuzasshi*, 1 (1874) 1, p. 1. (All translations from Japanese are mine.)

7 For an analysis of the ambivalences of enlightenment for the European context, see: T. W. Adorno/M. Horkheimer, *Dialektik der Aufklärung. Philosophische Fragmente*, Frankfurt am Main 2001.

8 H. Fischer-Tiné/M. Mann (eds.), *Colonialism as Civilizing Mission: Cultural Ideology in British India*, London 2004, p. 4.

9 In Japanese: *Bunmei no shimei*. See for example: S. Gotō, *Nihon shokumin seisaku ippan* [The colonial policy of Japan], Tokyo 1914, p. 47.

'civilisation' in Japan itself. This situation can be seen as a double bind¹⁰ situation because of its insurmountable dilemma and intertwinement on several levels. It is reflected in a kind of double civilising mission: a 'self civilisation' in Japan and a *mission civilisatrice* in Taiwan.

Using the term double bind as an analytic framework, I will investigate some new aspects of this historical constellation, paying special attention to the penal reforms in Japan and Taiwan within the two civilising missions. Doing so, I will focus on three neglected aspects in historiography. First, I am concerned with the consequences that Japan's encounter with the 'West' had on the history of the country after its opening in the 1850s, but not in the sense of a binary opposition between Japan and the 'West' as it is still often described. Conventional scholarship in the field of colonial historiography tends to construct the narrative of a modern Japanese nation state overcoming the moment of crisis brought by 'Western' impact and finally 'caught up' with these 'Western' countries.¹¹ But the ongoing process of transferring knowledge as well as actors is still neglected. Second, I address the claim of postcolonial studies to overcome the dichotomy of metropole against colony,¹² a dichotomy which has been considered in recent colonial historiography on Japan around the turn of the 20th century.¹³ The entanglement of the reforms in the centre and the periphery of Japan's civilising missions will be part of my article, but I will argue that the relation between metropole and colony has sometimes been overemphasised by recent postcolonial studies. Especially in the case of Japanese colonisation, it is crucial to place this relation within a wider global interplay of power relations which can by no means be reduced to only the interaction between metropole and colony or to simply the connection to the 'West'. This leads to the third aspect: it is not enough to write an entangled history of modern Japan or Japanese colonialism describing the historical situation as a tripartite constellation of Japan, its colonies and the 'West'. In doing so another important point of reference, China, is neglected. Specifically the idea

10 I borrowed the term from anthropology, but am only using it as a heuristic instrument and not in the originally intended meaning. See: G. Bateson, et al., *Toward a Theory of Schizophrenia*, in: *Behavioral Science*, 1 (1956), pp. 251-264, esp. pp. 251-253.

11 For a problematisation of these tendencies, see: A. Schmid, *Colonialism and the 'Korea Problem' in the Historiography of Modern Japan: A Review Article*, in: *Journal of Asian Studies*, 59 (2000), pp. 951-976. For a recent critique on Benedict Anderson's "Imagined communities" as one of the most prominent and influential examples of such scholarship, see: N. Umemori, *Modernization through Colonial Mediations: The Establishment of the Police and Prison System in Meiji Japan*, Ph.D. dissertation, University of Chicago 2002, pp. 14-15.

12 A. L. Stoler / F. Cooper, *Between Metropole and Colony: Rethinking a Research Agenda*, in: id. (eds.), *Tensions of Empire: Colonial Cultures in a Bourgeois World*, Berkeley 1997, pp. 1-57.

13 For an overview of recent tendencies, see: T. Komagome, "Teikokushi" kenkyū no shatei [The range of research on imperialism], in: *Nihonshi kenkyū*, 452 (2000), pp. 224-231; or R. Narita, *Teikoku shugi, Shokuminchi shugi, Nashonarizumu* [Imperialism, colonialism, nationalism], in: *Sekai*, 640 (1997), pp. 98-102, or H. Takaoka, "Jūgonen sensō", "sōryōkusen", "teikoku" Nihon ["Fifteen Years War", "Total war", "Imperial" Japan], in: *Rekishigaku kenkyūkai* (ed.), *Rekishigaku ni okeru hōhōteki tenkai. Gendai rekishigaku no seika to kadai I* [Methodological turns in historical thinking. Historical studies in Japan from 1980 to 2000: Trends and perspectives I], Tokyo 2002, pp. 37-55. Representative for case studies is the following 8 volume series: A. Kurasawa, et al., *Iwanami kōza: Ajia – Taiheiyōsensō* [Iwanami lecture: Asia – Pacific war], Tokyo 2006, or E. Oguma, *Nihonjin no kyōkai* [The boundaries of the Japanese], Tokyo 1998, and also the 8 volume series: T. Yamamoto / T. Sakai, et al. (eds.), *Iwanami kōza: Teikoku nihon no gakuchi* [Iwanami lecture: The knowledge of "Imperial" Japan], Tokyo 2006.

of an Asian counter model cannot be explained as the backflow from Asian colonies to the Japanese metropole coming up against 'Western' influence, but only within the context of the alternative of a Chinese notion of civilisation. Therefore, schematised, it could be said that in the historical constellation four points are important and in constant, dynamic interaction. One is the mainland of Japan, another is Taiwan (or more generally the Japanese colonies), a third the 'Western' imperial powers and the last, China. Japan forms my point of view within the constellation – a double bind situation, which results in a triple bind connection to the three other points. The interactions within the network are not equilateral or balanced, but constantly moving and under incessant tension and pressure. Knowledge and practices were transferred between the Japanese metropole, Japanese colonies, the 'West', and also China. As the shape of the intertwining within these points and their complex asymmetric power relation changed, the characteristics of the self civilisation in Japan and civilising mission in Taiwan changed with them. I would argue that it is also a question of position: Changing the viewpoint from Japan to the 'West', for example, would give us a very different perspective. In this article however the main point of view will be from Japan, focusing especially on the interactions between Japan and its colony, Taiwan.

First, I will focus on the reforms of the penal system in Early Meiji Japan within the framework of the modernisation policies that were used for self civilisation. I will shed light on the phenomenon that even if the reform of legal codes and also the practical execution of punishments were based on Chinese ones, in the context of self civilisation, simultaneous efforts to civilise 'the other' in Taiwan had already emerged in the Early Meiji period (1868–1880). Second, I will discuss the reintroduction of flogging in Taiwan in 1904, which was seen as a 'civilising punishment' for Taiwanese and Chinese by the Japanese Colonial Government. I will describe, on the one hand, the contradictions in the disputes and discourse on the implementation of this form of punishment with its ideal of a civilising mission; and on the other hand, I will examine the often even more outstanding ambiguity emerging between practices and rhetorics. The last chapter analyses the role of the newly built 'modern' prison in Taipei (Taihoku) and its function as signifier of the double bind structure, in which Japan's civilising mission was imbedded.

1. Reforms of the Penal System in Meiji-Japan: Self Civilisation after Chinese and British Colonial Models

The unequal treaties between the Tokugawa Regime and the United States, and some European powers, respectively, allowed permanent enclaves of foreign people, especially in Yokohama close to Tokyo. 'Western' diplomatic representatives were convinced that the Japanese penal system was too cruel to subject their citizens to it. Therefore 'Westerners' in Japan had the right of extraterritoriality.¹⁴ The Japanese intellectual and political

14 M. R. Auslin, *Negotiating with Imperialism* (footnote 2), pp. 40-41 and p. 173.

elite realized quite soon after the opening that the penal practice of a country was one of the markers of the boundaries between, on the one hand, the 'civilised West', and on the other hand, the colonial space, which was associated with 'backwardness' and 'barbarism' in the eyes of most of the American or European politicians and intellectuals.¹⁵ Therefore, the new Meiji government pushed forward with its 'modernizing' programs,¹⁶ especially those which concerned legal codes: Within a month after the "Restoration of Imperial Rule" in 1868 the new rulers had already compiled provisional penal regulations, the so-called *kari keiritsu*.¹⁷ They announced the strict limitation of crucifixion and the complete abolishment of burning alive within the next year.¹⁸ Over the last century there had already been domestic debate and criticism of the old penal system as well as studies of Chinese legal codes as alternatives to the traditional legislation in each domain. Therefore, scholars trained in Chinese law, most of them coming originally from southern domains where adapted Chinese codes had already been used, were integrated into the first Office of Criminal Law under the Ministry of Punishments (*gyōbusho*). Their main task was to compile the first provisional code. Soon after these measures, the Meiji government's first national criminal code was completed in early 1871.¹⁹ Usually it is argued in historiography that the Meiji government revised its legal codes with respect to the Chinese ones, because they did not yet know 'Western' law.²⁰ Even if 'Western' legal codes had not been well known in the 1860s, it has to be taken into account that the Early Meiji leaders were deeply influenced by British colonial legal practices – as we will see later – in the revision of the prison system which occurred in 1871.²¹ For the revision of these unequal treaties, a group which was to travel to the United States and Europe was formed. The so-called Iwakura Mission included the most powerful leaders of the new regime, and one of its main objectives was to convince the 'Western' powers to open treaty negotiations.²² In conjunction with this goal the Ministry of Foreign Affairs distributed copies of the "Outline of the New Code" to representatives of the treaty powers in early 1871. The leaders hoped that providing proof that significant legal reforms had already been established would convince the foreign nations to give up their claims to extraterritoriality. But the members of the Iwakura Mission learned

15 D. Botsman, *Punishment and Power in the Making of Modern Japan*, Princeton 2005, p. 5.

16 L. G. Perez, *Revision of the Unequal Treaties and Abolition of Extraterritoriality*, in: H. Hardacre / A. L. Kern (eds.), *New Directions in the Study of Meiji Japan*, Leiden 1997, pp. 320-335.

17 Y. Tezuka, *Meiji keihōshi no kenkyū* [Studies of the history of Meiji criminal law], 3 vol., Tokyo 1986, here v. 1, pp. 3-31.

18 Y. Kobayashi, *Meiji ishin to keihō no sentei* [Meiji Restoration and the selection of criminal law], in: *Hōgaku ronsō*, 48 (1943) 5, pp. 810-848, here pp. 820-821.

19 P. H.-C. Chen, *The Formation of the Early Meiji Legal Order: The Japanese Code of 1871 and Its Chinese Foundation*, Oxford 1981, p. 8 and pp. 40-48.

20 *Ibid.*, p. x, and also: T.-S. Wang, *Legal Reform in Taiwan under Japanese Colonial Rule: 1895-1945: The Reception of Western Law*, Seattle 2000, pp. 27-28.

21 N. Umemori, *Modernization through Colonial Mediations* (footnote 11), p. 130.

22 For a discussion of literature on the Iwakura Mission, see for example: A. Tanaka, *Meiji ishin to seiyō bunmei. Iwakura shisetsudan wa nani wo mita ka* [Meiji Restoration and Western civilisation. What has the Iwakura Mission seen?], Tokyo 2003, pp. 13-19.

on their journey that the treaty powers judged the Chinese penal code, on which Japan's provisional code was based, as the epitome of 'Oriental despotism'. Ironically the right of extraterritoriality had been introduced to Asia in order to protect British citizens from Chinese laws. Based on racial arguments the 'West' judged the Chinese laws, which were used in the new code, as uncivilised.²³ This judgement gave the Japanese reforms another dimension. The Meiji Regime realized that in order to revise the treaties they would have to make additional efforts to reform the penal codes beyond basing them on Chinese laws. The reform also had to be positioned within a totally new framework of human categorization in the enlightenment and civilisation movement. And it was exactly this pattern of categorization which remained an insolvable problem for the early generation of intellectuals, enthusiastic maintainers of the modernisation and westernisation programmes. How these racial categories were directly linked to the penal reforms in order to elude the semicolonialized status of the country is shown in an essay by Tsuda Mamichi in the *Meirokeuzasshi*, named after the already mentioned Meiji-Six-Society. Tsuda demanded a reform of the criminal justice and penal systems. He had been studying Dutch legal codes even before the Restoration and had been in Holland to study during the Tokugawa Regime. He was also a member of the new Office of Criminal Law.²⁴ Already in 1874 he had called for the abolishment of torture. After arguing that there was nothing more evil in the world than torture, he explained the different human races, grouping them along the Himalayan mountains. This rock mass symbolized the border between the 'civilised' and 'barbarian' races. He wrote:

*There is now no torture in countries of German race, but Mongolian races have not yet escaped torture in general. What a wonderful dividing barrier the Himalayas are! If you imagine that there are such happy people as the Germans and such unhappy people as the Mongolians among the world's men!*²⁵

In another article he suggested the abolishment of torture as a means to revise the unequal treaties.²⁶ The direct connection to the treaties most likely had a significant impact on the policies of the Meiji government. Soon afterwards torture was limited.²⁷ A new criminal code was not implemented though until 1882 under the French legal expert

23 I. Neary, *The State and Politics in Japan*, Cambridge 2002, p. 14. See also: M. R. Auslin, *Negotiating with Imperialism* (footnote 2), pp. 192-194, or: D. Botsman, *Punishment and Power* (footnote 15), pp. 144-145. For a discussion of the reception and discussion of the idea of 'race', see: A. Tanaka, *Meiji ishin to seiyo bunmei* (footnote 22), pp. 112-119.

24 D. Botsman, *Punishment and Power* (footnote 15), p. 167.

25 M. Tsuda, *Gōmonron, sono ichi* [On torture, part I], in: *Meirokeuzasshi*, 7 (5 May 1874), Essay 5, reprinted in: S. Yamamuro, et. al. (eds.), *Iwanamibunko gendaiyaku Meiroku zasshi* [Iwanami collection: Meiroku zasshi in modern Japanese], Tokyo 1999, p. 262.

26 This article is also mentioned and cited in: D. Botsman, *Punishment and Power* (footnote 15), p. 167.

27 Y. Tezuka, *Meiji shonen no gōmon seido* [The torture system of Early Meiji], v. 3, pp. 17-18, in: id., *Meiji keihōshi no kenkyū* (footnote 17).

Gustave Emile Boissonade de Fontarabie, and in fact, the validity of the codes of *shinritsu kōryō*, influenced extensively by Chinese legal tradition, continued to stay in force.²⁸

Another example of the extent to which the dichotomies of 'civilised' and 'barbarous' in conjunction with the framework of 'race' were internalized by the Japanese officials is the study trip led by Ohara Shigeya (also a member of the Office of Criminal Law) to the British colonial prisons in Hong Kong and Singapore in 1871.²⁹ Seeing themselves as not on the side of the "happy races", to cite Tsuda again, the Japanese officials felt – consciously or not – that it would be appropriate to use the British colonial prisons as a model for the punishment of the Japanese, a measure in which they were actually 'colonising themselves'. The idea that a colonial unconsciousness underlay Japanese modernity was formulated by Komori Yichi in his studies on Japanese modern history. He has described the phenomenon as 'self colonisation', in the sense that the elite forced a civilisation program on the Japanese subjects.³⁰ Ohara, who had been imprisoned for political reasons during the Tokugawa Regime, advocated the abolition of flogging and envisioned 'benevolent rule' in Japan's new prisons. Researchers have interpreted his position as a manifestation of his sympathy with the prisoners resulting from his own experience. However, according to Umemori Naoyuki's study on prison reforms in Meiji Japan, Ohara's position should be problematised in the colonial context. He claims that Ohara could identify himself neither with the ruler nor the ruled and therefore exemplifies the "very figure of the divided subject". Referring to Homi Bhabha, Umemori describes this phenomenon as "epistemic violence" resulting from a doubleness in colonial enunciation which arises from the conflicting demands for stable identity and historical reform, both inherent features of the civilising mission.³¹

This uncertain position of the leading Japanese politicians during this process of 'self colonisation' can also be connected to Japan's efforts to colonise other parts of Asia as early as the first decade after the Meiji Revolution. The official explanation for an 1874 'expedition' to Taiwan was the punishment of the 'barbarous' murder of a group of fishermen from the Ryūkyū Island, today's Okinawa. The story told in the Japanese newspapers was that 'civilised' Japanese soldiers had come to Taiwan to bring civilization to 'barbarians': "This expedition to punish the barbarians is the first step to diffuse civilisation on this island".³² These explicit words are accompanied by a woodcut print showing a Japanese

28 M. R. Auslin, *Negotiating with Imperialism* (footnote 2), p. 198, and for the validity of the *shinritsu kōryō* [outline of a new legal code], see: P. H.-C. Chen, *The Formation of the Early Meiji Legal Order* (footnote 19), p. 30.

29 In scholarship and in the archives, there seems to be confusion on the name of Ohara, with Daniel Botsman writing Shigechika (*Punishment and Power*, footnote 15), and Umemori naming him in one study Shigeya (*Spatial Configuration*, footnote 90) and in another study Shigechika (*Modernization through Colonial Mediations*, footnote 11). In references to him in works at the National Diet Library in Tokyo he is found under these different versions, and also as Obara Shigechika. The Kyōsei Library even contains sources naming him Ohara Jūsai or Obara Jūsai. Since the majority of works lists him as "Shigeya" I will follow this and use "Shigeya".

30 See: Y. Komori, *Posuto koroniaru* [Post colonial], Tokyo 2001; and also: id., *Nihon no shokuminchishugi, teikokushugi no kōzōteki hihan* [Criticism of Japanese colonialism and imperialism], in: S.-J. Kang (ed.), *Posuto koroniarizumu* [Post colonialism], Tokyo 2001, pp. 56-61.

31 N. Umemori, *Modernization through Colonial Mediations* (footnote 11), pp. 140-141.

32 *Tokyo nichichi shinbun*, no. 753, October 1874, picture by Ochiai Yoshiiku. Also mentioned in: R. Eskildsen,

man with white skin and a short haircut. Just two years ago there had been a prohibition of long hair in Japan, part of the modernising efforts.³³ Two ‘barbarians’ signified by dark brown skin and long hair are kneeling in front of the soldier. The adoption of this European scientific concept combined physical differences and race categorizations with the inner character of human beings and attributes like ‘civilised’ or ‘barbarous’. It was not only internalised after the Meiji revolution and implemented in Japan, but it was also applied to others. The inner ‘mission’ for civilisation was intertwined with Japan’s external ‘mission’ towards their neighbours as early as in 1874, an entanglement beginning even before the Sino-Japanese or Russo-Japanese war. These colonising efforts in Taiwan show the conjunction of modernizing efforts and imperial expansion already in Early Meiji Japan. These attempts to colonise Taiwan initially failed because of major pressure from the ‘Western’ imperial powers, but the goal was reached in 1895 after a victory in the Sino-Japanese war.

Simultaneous efforts to civilise ‘the other’ in Taiwan – at that time a part of China – were promoted as a part of self civilisation in Early Meiji, despite using Chinese law as a model for both the reform of legal codes and the practical execution of. This phenomenon alludes to shifting notions of civilisation within Japanese politics and their dilemma in conceptualising either the ‘East’ or the ‘West’ as the embodiment of civilisation.

2. Reintroducing Flogging in Taiwan: Struggling between ‘Civilised’ and ‘Barbarous’ Punishment

Soon after the annexation of the island in 1895 the Japanese General Government abolished the practice of flogging, part of the law under the Qing Empire, for its ‘barbarous’ nature. But the practice was reintroduced after just a few years: In January 1904 the Japanese General Governor Kodama Gentarō proclaimed the so-called “Fines and Flogging Ordinance”, to which only “Chinese” and “Insulars” were subjected. To justify the measure, he stated the overcrowded prisons in Taiwan and the General Government’s shortage of funding for implementing a system of punishment for the Taiwanese people.³⁴ Chief Procurator of the Taiwan Supreme Court Odate Koretaka, already having a draft law of the ordinance on hand in March 1903,³⁵ criticised this in an internal memorandum. In

Of Civilization and Savages: The Mimetic Imperialism of Japan’s 1874 Expedition to Taiwan, in: *The American Historical Review*, 107 (2002) 2, pp. 388–418, here p. 411.

33 Y. Komori, *Sōsetsu: Sabetsu no kansei* [Introduction: Sensitivity of discrimination], in: id. (ed.), *Iwanami kōza: Kindai nihon no bunka shi: kansei no kindai: 1870–1910 nendai* [Iwanami lecture: Cultural history of modern Japan: Modernity of sentimentalism. 1870–1910’s], v. 2, Tokyo 2002, pp. 1–46, here p. 5.

34 A. Washizu, *Taiwan keisatsu yonjū nen shiwa* [Forty years history of Taiwan police], in: id., *Washizu Atsuya chosakushū* [Washizu Atsuya. Collected works], v. 2, Tokyo 2000 [1938], pp. 269–273, pp. 822–823, or also: H. Tejima, *Taiwan no bakkin oyobi chikei shobun rei happu ni tsuite* [About the proclamation of the Fine and Flogging Ordinance in Taiwan], in: *Taiwan jihō*, 20 February 1904, pp. 337–342, here p. 340.

35 See: *Bakkin oyobi chikei shobun rei sei tei no ken* (Fukushin hōin chō) [About the enactment of the Fine and Flogging Ordinance (President of the Court of second instance)], March 1903, 2504/23, unpaginated, in: *Taiwan*

response to the argument of overcrowded prisons he stated that the number of prisoners had, on the contrary, drastically declined after the 1901 policy of "eradicating the bandits".³⁶ He explained that the Japanese government had abolished flogging because of its 'barbaric' nature just a few years ago, and that reintroducing it would, against the Emperor's will, treat Taiwan as a "colony", thus contradicting the policy of Taiwan as the "extension of the inner country". With this statement he placed himself in the long lasting debate over if Taiwan should be treated as an "extension of the inner country", an "outer country" or even a "colony", and he confronted the current rule of difference promoted by the General Government with the ideas of assimilation politics.³⁷

Even though Odate's memorandum could not prevent the proclamation of the ordinance, he did not remain the only critic. Only a day after its proclamation an article in the high-circulation newspaper, *Yomiuri shinbun*, in Japan entitled "The Degeneration of the Criminal Law: Taiwan's Flogging Ordinance"³⁸ argued against the promulgation, an argument remarkably similar to the ones of Odate. But there was another point made in the article: the term 'degeneration' not only means the fear of a degeneration of the Japanese criminal law, but was also concerned with the degeneration of the 'barbarous' Chinese and Taiwanese, because they would degenerate even more by being punished in a 'barbarous' way, and would therefore never manage to become a 'civilised race'. One of Japan's leading penologists, Ogawa Shigejirō, interpreted the attack on the "Flogging Ordinance" as making this same argument.³⁹ Although they represent completely different opinions, both sides adhered to social Darwinist gradualist ideas. In Taiwan, Civil Governor Gotō Shinpei had promoted a continuous and persistent state of difference between the populations in Japan and Taiwan, but also within the Taiwanese population since his assumption in 1898: this occurred due to the connection of physical and psychological attributes with so-called racial characteristics, which at the same time were linked with ascriptions such as 'barbarous' or 'civilised'. Thereby, having a timely and straightforward axis along which to civilise individual races was central. The temporal backshift and positioning of different countries and cultures in a continuously progressing line of development did not only shape the colonial policies in Taiwan, but was also a widespread phenomenon in the process of constituting 'the other' as part of the produc-

sōtokufu kōbun ruisan [Collection of the Archives of the Japanese General Government in Taiwan], in: Guoshi taiwan wen xian guan [Taiwan Historical], Nantou, Taiwan. (The archives are hereafter cited as TSKR.)

36 Memorandum by Odate Koretaka, see: K. Odate, Chijōkei fukkō sono ta ni kan suru iken [Opinion on the revival of flogging and other forms of punishment], 31 July 1903, in: S. Goto, Gotō Shinpei bunsho [Documents by Gotō Shinpei] R 25. 7-81, cited in: D. Botsman, Punishment and Power (footnote 15), pp. 212-213, and p. 277, footnote 40.

37 For a legal perspective, see: E. Chen, The Attempt to Integrate the Empire: Legal Perspectives, in: R. H. Myers (ed.), The Japanese Colonial Empire, 1895-1945, Princeton 1984, pp. 240-274, here pp. 242-247. For a cultural historical point of view, see: T. Komagome, Shokuminchi teikoku nihon no bunka tōgō [The cultural unification in the Japanese colonial empire], Tokyo 1996, pp. 33-34.

38 Kōdō, *Keihō no taika: Taiwan no chikei* [The degeneration of the criminal code: Flogging in Taiwan], in: *Yomiuri shinbun*, 26 January 1904.

39 S. Ogawa, Chikei ron [On flogging], in: *Hōgaku kyōkai zasshi*, 22 April 1904, pp. 511-532, and 22 May 1904, pp. 697-719.

tion of colonial knowledge.⁴⁰ Gotō had the vision of a “Hundred-Year-Plan”⁴¹ within the “civilising mission”, a plan that would improve the Taiwanese population through a gradual evolution.⁴² This point matches the plea for the ‘civilisation’ of the ‘barbarous’ Taiwanese in “Degeneration of the Criminal Law”, which criticises his flogging politics. ‘Civilised’ and ‘barbarous’ remained pivotal in the controversy on the “Fines and Flogging Ordinance”.⁴³ Suzuki Sōgen, the Chief Procurator of the Supreme Court of Taiwan, as well as Tejima Heijirō, the head of the law department of the colonial General Government, were in charge of the General Government and attacked the voices criticizing the implementation of the “Fines and Flogging Ordinance” Responding to Ogawa’s argument that barbarous punishment would provoke “barbarous behaviour”, Suzuki objected that the punishment would be very “modern” and “civilised” in the newly adapted form and pointed out the disciplining and educative function of it.⁴⁴ As a proof of its civilising effects Suzuki also proposed that ‘Western’ powers might consider reintroducing flogging, not only in the colonies, but also in their metropolises and in doing so realise its benefits. Benefits, he went on to say, the Japanese had always known in their tradition.⁴⁵

Even if Suzuki is arguing with “tradition”, he is doing it within the framework of modern concepts of punishment and civilisation: The idea of disciplining was not a genuine Japanese idea, but was rather, I argue, a modern one.⁴⁶ His attempt to undermine the stable notion of the ‘civilised West’ against the ‘backwards East’ is at the same time a response to modernity, described by Harry Harootunian as the “consciousness that oscillated furiously between recognizing the peril of being overcome by modernity and the impossible imperative of overcoming it”.⁴⁷ This phenomenon, which Harootunian points out in the Taishō (1912–1926) and Shōwa (1926–1989) eras, can already be seen here. The concept of disciplining matched, on one hand, the idea of the “civilising mission” of the General Government, but on the other hand, aimed at the control of each individual.

40 J. Fabian, *Time and the Other: How Anthropology Makes its Object*, New York 1983, here esp. pp. 13–21.

41 On the “Hundred-Year-Plan”, see: P. E. Tsurumi, *Japanese Colonial Education in Taiwan, 1895–1945*, Cambridge (Mass.) 1977, p. 51, or: M. R. Peattie, *Japanese Attitudes Toward Colonialism, 1895–1945*, in: R. H. Myers (ed.), *The Japanese Colonial Empire* (footnote 37), p. 95.

42 See: S. Gotō, *Nihon shokumin seisaku ippan* (footnote 9), p. 47.

43 The debate on flogging especially the dispute between Suzuki and Ohara, to be mentioned later, is analyzed also in: D. Botsman, *Punishment and Power* (footnote 15), pp. 211–220, and: N. Umemori, *Hensō suru tōchi (gawāmento) nijū seiki shotō ni okeru Taiwan to Kankoku no keibatsu – chianikikō* [Varying governance – Punishment in Taiwan and Korea at the beginning of the 20th century – a machinery for public safety], in: T. Sakai (ed.), *Iwanami kōza: Teikoku nihon no gakuchi*, v. 2: *Teikoku hensei no keifu* [Iwanami lecture: The knowledge of “Imperial” Japan, v. 2: The genealogy of organizing the “Empire”] (footnote 13), pp. 43–82, pp. 52–57. Both of these studies have an emphasis on the discourse on flogging measurements in Taiwan, not the practices.

44 S. Suzuki, *Ogawa shi no chikei ron wo hyō suru*, 3 [Commenting on Mr Ogawa’s view on flogging, 3], in: *Taiwan nichinichi shinpō*, 25 March 1904.

45 Id., *Ogawa shi no chikei ron wo yomu* [Reading Mr Ogawa’s view on flogging], in: *Kangokukyōkai zasshi*, 17 (August 1904) 8, pp. 31–34.

46 For the idea of discipline as a phenomenon of modern times, see: M. Foucault, *Surveiller et punir. La naissance de la prison*, Paris 1975.

47 H. Harootunian, *Overcome by Modernity: History, Culture, and Community in Interwar Japan*, Princeton 2000, p. x.

The situation of militant violence in the first years of colonial rule had changed Taiwan to a disciplinary society, and if we draw on Michel Foucault,⁴⁸ a society in which 'Western' science established itself more and more as a frame of reference. A striking example is Tejima Heijirō, who entitled one chapter of a pro-flogging article, "scientific evaluation". To give his arguments more weight, he refers to European criminal law experts,⁴⁹ just as Suzuki does.⁵⁰ Tejima also describes parallels between the British colonial criminal codes and some of the articles of the "Fines and Flogging Ordinance".⁵¹

This raises the question of whether the Japanese Colonial Government followed a British colonial model. Daniel Botsman argues in favour of the argument that they did, and draws upon the wording of a paragraph of the ordinance, reasoning that the Japanese did not beat on the back, as one was traditionally beaten in Japan or China, but on the buttocks.⁵² He assumes that beating on the buttocks was the usual practice in Britain's colonies.⁵³ The writings of Gotō Shinpei's son-in-law and friend, Tsurumi Yūsuke, also support this thesis, emphasising that the inspiration for the implementation of flogging was Lord Cromer, the first British General Consul of Egypt.⁵⁴ But contrary to this, the "History of the Japanese Colonial Police", compiled between 1933 and 1944, states that reliable sources for the reconstruction of the reasons for the Flogging Ordinance are lacking.⁵⁵ Umemori Naoyuki, who consulted additional sources in his research, also concludes that the connection to Cromer and to the motives for the introduction of flogging are only partly reconstructable.⁵⁶

Contrary to the common interpretation in historiography, I will show that the introduction of flogging in Taiwan did not rely on a direct transfer of knowledge or practices from the British colony in Egypt. In this regard, consulting sources of the "Commission for the Investigation of Laws and Customs" will bring new results. As we will see, within these investigations the idea of a civilising mission was crucial as well.

The aim of this commission, established in 1901, was namely one of a political nature.⁵⁷ Okamatsu Santarō, jurist and chief of the organisation, wrote in the introduction of the first scientific report: "The object of this work, which has been undertaken by or-

48 M. Foucault, *Surveiller et punir* (footnote 46), here for example p. 196, or pp. 226-267.

49 H. Tejima, *Taiwan no bakkin oyobi chikei shobun* (footnote 34), p. 337.

50 S. Suzuki, *Ogawa shi no chikei ron wo hyō suru* (footnote 44).

51 H. Tejima, *Taiwan no bakkin oyobi chikei shobun* (footnote 34), pp. 338-339, and for the articles of the ordinance, see: *Bakkin oyobi chikei shobunrei* (Meiji 37 nen ritsuryō dai 1 gō) [Fine and Flogging Ordinance (Meiji year 37, criminal and administrative law no. 1)], promulgation on 25 January 1904, implementation on 1 May 1904, see the archive of Nakano bunko: <http://www.geocities.jp/nakanolib/etc/colony/rrm37-1.htm> (accessed 21 January 2009).

52 Ibid.

53 D. Botsman, *Punishment and Power* (footnote 15), p. 212.

54 Y. Tsurumi, *Seiden Gotō Shinpei, 3: Taiwan jidai 1898-1906* [Authentic biography of Gotō Shinpei, v. 3: Taiwan period 1898-1906], Tokyo 2004, pp. 200-202. For Lord Cromer, see also Frank Schumacher's article in this volume.

55 *Taiwansōtokufu* (ed.), *Taiwan sōtokufu keisatsu enkaku shi* [Journal on the history of the governmental police in Taiwan], 5 vol., Tokyo 1986 [1933-1944], v. 4, p. 901.

56 N. Umemori, *Hensō suru tōchi* (footnote 43), pp. 49-50.

57 For general information on this institution, see for example: T. Y. Tsu, *Japanese Colonialism and the Investigation of Taiwanese 'Old Customs'*, in: J. v. Bremen (ed.), *Anthropology and Colonialism in Asia and Oceania*, Richmond

der of the Governor General of Formosa, is to set forth the general aspect of old laws and customs of Formosa, in the hope that something may thereby be done to improve the administration of the island”.⁵⁸ Soon after the promulgation of the ordinance, the scientist Kobayashi Rihei, who was working for the commission, published a detailed investigation of flogging practices in China in a journal entitled “Reports on Old Customs of Taiwan”.⁵⁹ He finally submitted a proposal to Gotō Shinpei with “instruments for flogging”.⁶⁰ These “instruments” were described by Kobayashi in an article, published shortly after the handing in of the proposal, as an adaption of the methods of the Qing for the situation in Taiwan, nowadays.⁶¹ Such investigations and resulting instructions of practice arose from the immediate need to have directions for the execution of flogging or to have precise rules before the enactment of the ordinance at the beginning of May.⁶²

One of the two instruments the scientists presented to the General Governor was a sort of whip, which they had, to use the words of the scientists, “modernised” and “scientified” from three models of the Qing dynasty.⁶³ In doing so, they defined contemporary Chinese forms of punishment as backward – here you can again observe the phenomenon of displacing ‘the other’ into the past.⁶⁴ The second instrument was a cruciform wooden construction upon which the victim was strapped during the execution of flogging. It is accurately sketched how the body is to be placed on the wood, and in the sketch, the long hair of the victim is prominent, a signifier for ‘barbarism per se’. Exactly for that reason Meiji politicians had already prohibited long hair for men in 1872 in Japan, as mentioned above.⁶⁵ It was also prohibited in Taiwan shortly after the annexation.⁶⁶ Remarkably, the construction of this “punishment plate”⁶⁷ had already been implemented following Chinese models for the *shinritsu kōryō* in 1871 in Japan itself after intense investigations by a team of scientists who were appointed for that purpose.⁶⁸

The implementation of flogging did not only precede a knowledge transfer, in a transnational or transcontinental sense, of the diffusion of concepts from the ‘West’ towards

1999, pp. 197-217, or G. Dai, *Nihonjin ni yoru taiwan kenkyū: Taiwan kyūkan chōsa ni tsuite* [Research on Taiwan by the Japanese: About the research on old customs in Taiwan], in: *Kikan tōa*, 4 (1968), pp. 67-80.

58 S. Okamatsu, Provisional Report on Investigations of Laws and Customs in the Island of Formosa, compiled by order of the Governor-General of Formosa by Santaro Okamatsu, Kobe 1902, p. 1. For the Japanese version, slightly differing from the English one, see: *Taiwansōtokufu, Rinji Taiwan tōchi chōsa kyoku: Taiwan kyūkan seido chōsa ippan*, Taipei 1901.

59 R. Kobayashi, *Shina reiritsu ni okeru chikei shi* [History of flogging in Chinese law], in: *Taiwankanshūki*, 4 (23 March 1904) 3, pp. 10-26.

60 *Chikei shikō kigu kettei no ken* [About instruments for the execution of flogging], 25 February 1904, 998/18, unpaginated, in: TSKR.

61 R. Kobayashi, *Shina reiritsu ni okeru chijōkeishi* (footnote 59), pp. 23-26.

62 *Bakkin oyobi Chikei shobunrei* (footnote 51).

63 R. Kobayashi, *Shina reiritsu ni okeru chijōkeishi* (footnote 59), p. 24.

64 *Chikei shikō kigu kettei no ken* (footnote 60).

65 Y. Komori, *Sōsetsu: Sabetsu no kansei* (footnote 33), p. 5.

66 This Japanese law was also implemented in Taiwan.

67 Japanese term: *keiban*.

68 Anonymous, *Chikei zakki* [Flogging chronicles], in: *Taiwankanshūki*, 4 (23 April 1904) 4, pp. 43-56, here p. 46.

the 'East', as is often conventionally described in historiography. The Japanese Colonial Government did not simply take over the flogging model from the British colonies in Egypt or India, nor did they modify British knowledge on flogging. Rather, the General Government undertook the strategy of the British of legitimizing certain punishment modes through the adaption and 'civilisation' of "native punishment practices". But in the practical implementation, the executors in Taiwan obviously often went back to the practice of "beat on the back",⁶⁹ which was mostly in use in Japan around the Meiji Revolution (1868), even though the ordinance had explicitly specified it to be carried out differently. The adaption of 'Chinese' knowledge into 'Japanese' concerning the "punishment plate" leads back to the compilation of the *shinritsu kōryō* in 1871 in Japan itself. Some years later it again came back to Taiwan in a modified version. From their studies of whips in the Qing Empire, models most likely used on the Chinese mainland and not in Taiwan, Japanese scientists created a new "scientific" whip. In doing this, however, they consulted "Western science", which for them was the epitome of 'civilisation', and thus on the subject of flogging, a merging of different layers of knowledge took place.

If we take a closer look into how the "punishment instruments" were implemented, it becomes even clearer that practices were probably similarly executed in Japan before the abolition of flogging. Therefore, they can be seen as an insurmountable antagonism between the discourse of self civilising within Japan, on one hand, and on the other, the discourse of the civilising mission towards the Taiwanese. The General Government looked for suitable training personnel who could teach the correct practice of flogging to the supervisors of prisons and to police officers. They found Japanese experts who provided instruction in several prisons and police stations for groups of around 250 persons.⁷⁰

An old man from the time of the Tokugawa government received an appointment in the prison in Taipei and was assigned with the production and construction of the "instruments". Likewise his duties included the instruction of the personnel in the execution of flogging.⁷¹ But two thirds of the flogging did not even take place in the prisons, but rather was executed through the police forces adapted by the Colonial Government from police structures dating back to the former Qing Regime.⁷² Many offences which fell under the "Fines and Flogging Ordinance" were immediately regulated by the police instead of the justice department.⁷³ So-called auxiliary policemen, mainly recruited from the male, indigenous population with the attribute 'Chinese', received this 'scope of action' in attending instruction by Japanese specialists on an adequate execution of flogging.⁷⁴ This 'scope of action' was not really a contradiction to the rule of difference pushed by the General Government, but neither did it introduce much hybridity into

69 Taiwansōtokufu, Taiwan sōtokufu keisatsu enkaku shi (footnote 55), v. 4, p. 933.

70 Ibid., p. 907.

71 Anonymous, Chikei zakki (footnote 68), p. 49.

72 T.-S. Wang, Legal Reform in Taiwan (footnote 20), pp. 120-121.

73 Taiwansōtokufu, Taiwan sōtokufu keisatsu enkaku shi (footnote 55), v. 2, pp. 359-360.

74 Taiwansōtokufu, Taiwan sōtokufu keisatsu enkaku shi (footnote 55), v. 4, p. 907.

the power structure. As Trutz von Trotha pointed out in his study on flogging practices in the German colonies,⁷⁵ it was probably the fear of “degeneration” as a consequence of personally executing the flogging as the coloniser rather than a delegation of power. In the newspaper published by the General Government, a description of the first executed flogging in Taiwan complains that the auxiliary policemen had not beat hard enough and the punished had not even felt pain. The article also points out that the beating is executed under the surveillance of the Japanese supervisor.⁷⁶ To avoid such problems of power relations and an infiltration of hegemony, a Japanese scientist even suggested constructing machines which would take over the execution of flogging and make it even more ‘modern’.⁷⁷

In order to maintain power, anguish was a key issue for the Colonial Government. They ordered a special investigation to analyse the fear of the victims of corporal punishment. Their findings especially stress the anxiety of the victims in the moment of being strapped on the “punishment plate”.⁷⁸ But the feeling of fear did not only occur on the side of the punished; the Colonial Government also felt menaced, a striking antagonism to the claim of civilising.⁷⁹ Several colonial officers or scientists wrote about the same anecdote in which Taiwanese were ridiculing the punishment measures of the Government. In the anecdote Taiwanese people prefer to go to prisons rather than live a reputable life, because the prison is like a “palace” and once inside, they do not have to work hard and can now eat better food than ever before.⁸⁰ The acting of the “islander” in this anecdote is explained by the evil character of the “Chinese race” and the necessity of not only punishing their bodies, but also their souls in order to civilise them. For this purpose the practice of flogging was estimated to be the best.⁸¹ Within his discourse on flogging, Suzuki, for example, used a criminological vocabulary in alluding to Cesare Lombroso,⁸² the founder of criminology in Europe.⁸³

Besides the emotional implications of flogging, the physical ones certainly remained virulent. Gotō issued rules to protect the health of the criminals. Physicians had to ex-

75 T. v. Trotha, “One for Kaiser” – Beobachtungen zur politischen Soziologie der Prügelstrafe am Beispiel des Schutzgebietes Togos, in: P. Heine/U. v. d. Heyden (eds.), *Studien zur Geschichte des deutschen Kolonialismus in Afrika. Festschrift zum 60. Geburtstag von Peter Sebald*, Pfaffenweiler 1995, pp. 521–551, here p. 531.

76 Taiwan nichichi shinbun, 17 May 1904.

77 Taiwansōtokufu, Taiwan sōtokufu keisatsu enkaku shi (footnote 55), v. 4, p. 938.

78 Ibid., p. 907.

79 Michael Mann showed for British India, to which extent an acute threat scenario led to drastic violence measures: M. Mann, *Das Gewaltdispositiv des modernen Kolonialismus*, in: M. Dabag/H. Gründer/U.-K. Ketelsen (eds.), *Kolonialismus. Kolonialdiskurs und Genozid*, München 2004, pp. 111–135, esp. p. 134.

80 H. Tejima, Taiwan no bakkin oyobi chikei shobun (footnote 34), p. 340.

81 Ibid.

82 For the theory of Lombroso, see: S. J. Gould, *Der falsch vermessene Mensch*, Basel/Boston/Stuttgart 1983, pp. 129–142, or G. D. Horn, *This Norm Which Is Not One: Reading the Female Body in Lombroso's Anthropology*, in: J. Terry/J. Urla (eds.), *Deviant Bodies: Critical Perspectives on Difference in Science and Popular Culture*, Bloomington 1995, pp. 109–114.

83 S. Suzuki, Bakkin oyobi chikei shobun rei ni tsuite [On the Fine and Flogging Ordinance], in: *Taiwankanshūkiji*, 4 (23 April 1904), 4, pp. 1–17, esp. p. 8.

amine the victims and decide the number of strokes.⁸⁴ Though in theory it claimed not to be dangerous to health, it turned out to be different in practice: often the death of the punished occurred during or after the execution of the sentences.⁸⁵

This gap between practice and theory also existed in Japan, at least until 1882. Even though flogging had been prohibited by Ohara in 1871, and torture abolished in 1879, there were still several cases of flogging. In reality, it was not abolished until 1882, because the *shinritsu kōryō* was still widely in use until then. For example, in 1880 an incidence of a flogging of a Japanese criminal who escaped from a prison was reported in an article without any discussion of the proceeding as 'barbarous' punishment.⁸⁶

3. Taihoku's New Prison: Representation of Modernity and Symbol of the Double Bind Civilising Mission

Another crucial aspect of the modernisation of criminal law in Japan as well as in Taiwan were the prison reforms. I will first take another look at the metropole and will go into some detail about the jail modernisations in Japan. Although the reforms of the "surveillance jails" had been made by Ohara in the early 1870s, his prison, finally built in 1872, because of financial restraints, could only be constructed out of wood and not in stone as suggested in his "Prison Rules".⁸⁷ Daily newspaper articles from the early 1880s show that in general the surveillance principles did not work well. The daily newspaper *Yomiuri shinbun* regularly reported that prisoners had escaped from the new jails. In addition to the issue of the precarious security of the prisons, the issue of hygiene in the jails was widely and controversially discussed. One article from October 1877 proudly states that there was not a single case of cholera in the Tsukujima prison.⁸⁸ But five years later there were several articles complaining about the widespread transmission of cholera within prisons, in the Tsukujima jail among others.⁸⁹ Contemporaries in the 1880s also complained that the current penal codes were based exclusively on the spirit of Chinese penal codes, and that therefore, the treatment of the criminal was only superficial and did not touch his mind.⁹⁰ Finally in 1894, the Japanese Government decided to build a new "modern" "international prison", the Sugamo prison. An American trained architect, Tsumaki Yorinaka, designed the prison which took four years to build. After its completion it was one of the three largest buildings in the country, competing only with

84 Taiwansōtokufu, *Taiwan sōtokufu keisatsu enkaku shi* (footnote 55), v. 4, pp. 906-907.

85 Ibid., p. 935.

86 *Yomiuri shinbun*, 1 August 1880.

87 D. Botsman, *Punishment and Power* (footnote 15), p. 162.

88 *Tsukujima gankoku ni wa Byōjin zero* [No invalids in the prison of Tsukujima], in: *Yomiuri shinbun*, 9 October 1877.

89 *Yomiuri shinbun*, for example: 23 June 1882, 26 July 1882, 20 August 1882, 28 September 1882, 21 October 1882, 22 November 1882, or 25 November 1882.

90 N. Umemori, *Spatial Configuration and Subject Formation: The Establishment of the Modern Penitentiary System in Meiji Japan*, in: H. Hardacre / A. L. Kern (eds.), *New Directions* (footnote 16), pp. 724-767, here p. 747.

the Bank of Japan and the National Armory. The perimeter of the prison was over 1.6 kilometres long and bound by a massive five meter high brick wall.⁹¹

The General Government built three modern surveillance jails (*kangoku*) in Taiwan soon after the takeover in order to meet the immediate need for prisons to incarcerate the so-called “bandits”, leaders of uprisings, and criminals. One of these surveillance jails, the one in Taihoku (Taipei), was the above-mentioned palace, and was often described as such by contemporaries. The politician and writer Takekoshi Yosaburō described the prison in the English language edition of the 1905 survey on Japanese rule in Formosa with the following words:

*Many people, even in Tokyo, must be surprised that the Sugamo Prison or the other prisons in Tokyo are such fine, lofty, brick buildings. But in Taihoku the prison is built of stone, which is superior even to brick.*⁹²

The point of comparison in the passage was of course the Sugamo prison in Tokyo, as one of the three largest new buildings and one of the symbols of Japan’s modernity. But as Takekoshi highlights in his statement, the prison in Taipei was made from stone, an even more modern material than the Sugamo prison, which was ‘only’ made from brick. Tejima proudly presented photographs of the Taihoku prison in a lecture to other penologists on his visit to Tokyo in 1905. His fascination with stone as a material was also demonstrated when he told the audience that even the canalisation was made from stone. He concluded enthusiastically: “I am not overdrawing, if I tell you that the architecture is so felicitous, that it is the most beautiful building in all of Taipei now”.⁹³ Stone buildings were an important representation of modernity in Japan, where before the Meiji-Revolution almost everything had been built in wood. The prison’s stone structure and its eternal character both served as a representation of Japan’s modernity already established in Taiwan after some years of colonial rule. The objective was not only to civilise ‘barbarous’ Taiwanese within these stone walls, but also to spread outwards as a symbol of the high level of civilisation in the colonies, and therefore, as Tejima’s speech illustrates, also on the mainland to the Japanese population. These inner and outer efforts to civilise were coeval and intertwined with the encounters of other imperial powers, as is demonstrated in the English statement written by Takekoshi clearly meant for a ‘Western’ audience. This simultaneous dispersion of certain notions of civilisation and modernity to the centre as well as the periphery, and also to the ‘West’, perfectly illustrates the double bind situation in which the civilising missions were embedded. Being constrained by the idea

91 D. Botsman, Punishment and Power (footnote 15), pp. 197-198.

92 Y. Takekoshi, Japanese Rule in Formosa, London 1907, p. 194, see in the Japanese edition: id., Taiwan tōchi shi, Tokyo 1905, p. 319.

93 H. Tejima, Taiwan kangoku dan 1 [Stories from prisons in Taiwan 1], in: Kangokukyōkai zasshi, 18 (1905), 4, pp. 23-30, here p. 28.

of the 'West' as the epitome of civilisation, Chinese legal codes, in this context, were degraded as only superficial and not affecting the criminal's mind.⁹⁴

4. Conclusion

After the coerced opening of the country, the Japanese struggled against colonisation under the constant pressure to become 'civilised' and 'modern'. This situation led to the phenomenon of 'self civilisation'. As one part of this 'self civilisation', 'Western' categories such as 'race' were adapted. To what extent the dichotomies of 'civilised' and 'barbarous' in conjunction with the framework of 'race' were internalised is shown by Ohara Shigeya in his excursion to the English colonial prisons and in his observation of a "colonial unconsciousness" underlying Japanese modernity.

But the inner mission for civilisation was also entangled with Japan's external mission towards their neighbours. This was already apparent in their effort to colonise Taiwan in 1874, an effort which also sheds light on the ambiguities within the civilising efforts. Domestically, the reform of legal codes and also the practical execution of punishments were based on Chinese practices, while simultaneously there was an effort to civilise 'the other' in Taiwan – a former part of China. This phenomenon alludes to shifting notions of civilisation within Japanese politics and their dilemma in establishing either the 'East' or the 'West' as the embodiment of civilisation, and therefore characterizes the double bind situation resulting in Japan's civilising missions.

The dispute on flogging measures in Taiwan illustrates that there was no escape from the concept of modernity itself. I argued that the recognition of the peril of being overcome by discourse on modernity and the impossible imperative of overcoming it, as Harootunian has described it for the decades after 1912, can already be seen in the controversy on flogging regulations in Taiwan. And it was this dilemma which led to the ruptures and ambiguities of civilising missions, both on the level of discourse as well as on the level of practice within the implementation of flogging in Taiwan.

The new Taihoku prison as a symbol of modernity demonstrates another dimension of the entangled aspect of the civilising missions. It exemplifies how certain notions of civilisation and modernity had been coevally dispersed to the metropole and the colony, and how this phenomenon was intertwined with the similarly ongoing self-assertion discourse towards 'Western' powers. Therefore it functions as a signifier of the double bind structure in which the civilising missions were imbedded.

Using an analytical framework of the concept double bind combined with the idea of a quadripartite constellation enabled me to bring to light the intertwined character of the two civilising missions and to shed light on specific tensions, as well as mechanisms of knowledge transfer, on which the penal reforms in the Japanese Empire were based.