

## Chapter Six

### Comparisons and Conclusions

#### Introduction

Apart from the supervising office of Ilan branch prison, the only other surviving Japanese era prison is Chiayi Old Prison. This solitary architectural reminder of Japanese colonial penal policy stands as living testament to the development of long-term Taiwanese prison policy. It is not representative of the typical penal architectural style during the Japanese era, but is also a concrete demonstration of colonial power. And its current dilapidated state reminds us of the current neglect of prison history in Taiwan academia at present. Chiayi old Prison was built between 1919 and 1922, in the city's northeast Xhanxiding area (山下町) and was one of the six major prisons built by the 1920s to form a national network of modern penal institutions on Taiwan.

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Figure 5.6 Chiayi Old Prison, Perimeter Fence with guard tower. Author's photo, May 2006

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<sup>1</sup>蘇明修, <<嘉義舊監獄修護調查及再利用規劃研究>>, 頁 333

Although the scale of Chiayi prison was smaller than the three main prisons, it followed the radial design with three wings of cellblocks extending out from a central surveillance area. This radial design provided effective control and surveillance of prisoners by a small number of guards seated at a central control desk, and was the culmination of early prison practice and philosophy. Its architectural form and vocabulary shows a mixture of penal philosophy, with single and group incarceration of prisoners and congregate work system. The adaptation to local conditions can also be seen in features such as the elevated platforms and ventilation holes placed low in cell walls to guard against damp. While improving damp conditions also improved the health of prisoners, the ventilation holes were also hazardous to prisoners' health as they provided entrance to snakes. Along with other adaptations, such as strengthening buildings against earthquake, use of Alishan cypress to guard against insect infestation and the design of high windows to increase ventilation in Taiwan's hot and humid climate, showed that the specificities of local conditions came to be acknowledged and provided for in local prison design by colonial authorities. Chiayi Old Prison by showing us how Japanese colonial authorities adapted prison design to local conditions, provides a small illustration of the evolution of the prison system in Japanese colonial Taiwan.

In order to look at how prisons function in a particular society, it is necessary to examine how the 'specific responses' of a society are affected by that society's 'particular constellation of means and goals.'<sup>2</sup> In colonial Taiwan, the prison functioned as a colonial institution charged with creating disciplined colonial subjects who had respect for Japanese law. Japanese colonial rulers introduced a modern penal system into Taiwan, in place of traditional Qing systems of punishments, but based on

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<sup>2</sup> McKnight, *Law and Order in Sung China*, p.3

Meiji penal reforms heavily influenced by the West. When Qing punishments were replaced for the first time with imprisonment as a legally mandated sanction, a fundamental change occurred from a system of punishment based on public displays and designed to “promote [d] the regeneration of society’s moral and collective values” with a system of punishment governed by colonial penal law, designed to maintain law and order by imposing punishment according to the seriousness of the crime.<sup>3</sup>

This authoritarian system was designed not only to ensure that a stable social order in the colony, but also to demonstrate Japan’s equality with the West and their ability to project civilizing values outward. This duality of purpose might have resulted in a dichotomy in penal practice, however, in fact, these forces acted in synchronicity. Western visitors admired the authoritarian and highly disciplined colonial penal system as necessary for instilling the virtues of discipline and order in the Taiwanese population. These concerns were evident in different aspects of the colonial penal system, from the architectural forms employed, to the penal regulations governing life within the prison to the use of prison labour.

Through our examination of prison architecture, we become aware that society’s changing attitudes towards crime and punishment are reflected in prison design, thus prison buildings are more than the design of facilities for incarceration. Each specific place and time develops its own architectural vocabulary, by incorporating local needs and adjusting to new political rationalities. Thus, when the Japanese imported Western architectural concepts into Meiji Japan, they also transformed them and adapted them to their own specific circumstances. Similarly, the modern prisons constructed in Taiwan, were heavily influenced by European and American penal

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<sup>3</sup> Hsu, *Penality in the West*, p. 69

architectural concepts, but they were also transformed by the realities of colonial rule. We can see the adaptation of Western architectural concepts to local conditions, such as the use of outside cells, and modification of the use of single cell incarceration. While this has been a central Western penal concept, designed to not just keep prisoners apart, but also forcing them to repent, as well as enforcing discipline and security, in colonial Taiwan, single-cell incarceration has not achieved such a prominent position in penal thinking and prisons were designed with a majority of group cells.

Similarly with penal systems, the Japanese chose not to strictly implement either the Pennsylvania system or the Auburn system, but produced their own adaptation to suit local conditions. Congregate work obviously fitted better with the concerns of the prison administration to produce obedient colonial workers and for more efficient production. However, the silent system, as used in the Auburn system, ensured that prisoners were isolated from one another and discipline was easier to maintain. While work was performed in groups, the principle of single cell confinement at night was not strictly adhered to either and group incarceration continued to be used. While this may be a result of traditions of group incarceration in the former jail system, it may have also been in response to financial limitations, as construction of prisons with group cells would have been cheaper than those of only single cells.

Financially the introduction of a modern penal system in Taiwan was a huge burden on the Japanese colonial government. In addition to the massive cost of prison construction, there were on-going management and upkeep costs, and especially in the early years, the need to provide for the huge numbers of prisoners passing through the prison system. That the Japanese colonial government allocated such huge sums to

the prison system, demonstrates the importance occupied by penal institutions in the hierarchy of colonial institutions in Taiwan. The spectacular modern prison facilities constructed in colonial Taiwan, more impressive even than Japanese penal institutions, were a highly visible symbol of colonial power and disciplinary power, integral to the creation of a showcase colony.

The change from an arbitrary imperial system based on corporal punishment, to a rational system of punishment based on imprisonment directed by a colonial state was not a smooth transition. Early prisons established in Taiwan by colonial authorities were characterized by dangerous, unhealthy and sometimes chaotic environments, places where prisoners rioted, attacked guards, attempted escapes and died of disease. However, increased political stability and continued efforts by the prison administration led to a dramatic improvement over the years. In particular, the construction of the major prisons enabled the penal system to efficiently implement modern penal concepts and technologies. The Taiwan prison system was not, therefore static, but evolved through several stages. The ‘changing political rationality’ of colonial rule naturally ‘reshaped the colonial apparatus’.<sup>4</sup> The period prior to 1900 was an experimental time as colonial rulers sought to deal with the incarceration of large numbers of prisoners in makeshift facilities. As detailed, lack of purpose built facilities and constant overcrowding caused many problems of security and discipline, by 1908, changes had been effected and the prison system was characterized by greater stability and was based on Japanese penal regulations. The prison system was still based on retribution rather than rehabilitation however, continued reforms had made the prisons safer and more orderly for both prisoners and

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<sup>4</sup> Brown, “*That Heavy Machine*”, p. 44

guards. Improvements in hygiene led to healthier prisoners, and better organization meant productive prisoners laboring in prison industries according to strict timetables.

However, despite the impressive rhetoric and grandeur of penal construction, the reality of the prison system did not always live up to its ideals and it has been suggested by Daniel Botsman that the colonial penal system in Taiwan was characterized by backwardness and difference. While we know that equality of punishment was not present in colonial Taiwan, can we say that inequality was a primary component in the prison system in colonial Taiwan? Inequality in punishment in Taiwanese colonial society is easy to identify thanks to the existence of such legislation as the Flogging Ordinance and the Bandit Ordinance. This kind of legislation proscribing punishment for Taiwanese and not Japanese served to enforce racial difference. However, the situation within the prison was less clear, and Botsman's statement requires careful examination.

He states that "prison was not just a place to discipline and punish; it was also a site for the production of knowledge and, in the colonial context, served specifically to produce knowledge of *difference* and, more specifically, *backwardness*."<sup>5</sup> Thus, he states that the prisoner's hairstyle of the queue was seen as representative of "Chinese filth".<sup>6</sup> This did not apply to prisoners alone, as the Japanese regarded the traditional queue hairstyle as backward and unclean and sought to eradicate this symbol of the Qing regime throughout the island. Thus within the prisons, authorities encouraged prisoners to cut their hair and in February 1900, newspapers reported that fifteen or sixteen prisoners in Taipei Prison voluntarily consented to have haircuts, for reasons

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<sup>5</sup> Botsman, *Power and Punishment in the Making of Modern Japan*, p. 211

<sup>6</sup> Botsman, *Power and Punishment in the Making of Modern Japan* p. 211

of hygiene and convenience.<sup>7</sup> That this was deemed newsworthy demonstrates the importance of this hair-cutting to the authorities. The reasons given for prisoners cutting their hair also show how colonial rulers regarded traditional hairstyles as not only unclean, but also old-fashioned, an antithesis to the modern ideals they sought to introduce to Taiwan.

Next, Botsman examines the introduction of flogging in Taiwan and this becomes the main thrust of his argument in support of prisons as a site for the production of backwardness and difference. He states that as prisoner numbers had already started to fall by the time flogging was revived in Taiwan under the Japanese in 1904, it was not introduced as a way to clear out prisons, but rather to “cheaply increase the total number of men who could be subjected to some form of punishment by the colonial regime.”<sup>8</sup>

In doing this, the Japanese authorities acknowledged the problems that they faced in the first decade of the penal system in Taiwan; the inadequacy of prisons as a form of punishment for colonial subjects. They had created a new prison system, a ‘laboratory of modernity’ in their showcase colony, which was more advanced than the level of civilization of the colonized population. Thus, for the average Taiwanese, to be incarcerated in such a luxurious modern facility, with food provided, would not be an effective punishment, indeed it would be an experience that they wouldn’t regard as punishment at all. Thus Takekoshi’s comment that when he saw Taipei prison he understood why flogging had been introduced.<sup>9</sup> The Japanese justified their regime by saying that “eventually [they] had every intention of treating their colonial subjects as

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<sup>7</sup> <囚徒斷髮>, <<日日新報>>, 1900年2月18日

<sup>8</sup> Botsman, *Power and Punishment in the Making of Modern Japan* p. 212

<sup>9</sup> Takekoshi, quoted in Botsman, *Power and Punishment in the Making of Modern Japan* p. 220

equals, but as yet they were simply not ready. Their histories had not yet lifted them to a sufficiently high level.”<sup>10</sup>

Thus the Japanese used the backwardness of the colonial population to justify the technologies of surveillance and repression. But rather than use race to signify this difference, colonial authorities used ‘virtue’ to show how the Taiwanese lagged behind the Japanese and stressed the need of the subject people to improve themselves before they could be considered worthy of equal treatment and inclusion. They therefore implied that the colonized population could ‘improve’ themselves over the course of time as they learnt the qualities of virtue from their colonial masters. In the Taiwanese case, this meant transforming themselves in an ‘improving direction’ into highly disciplined subjects. And this would be achieved by, as stated by Brown, “putting in place new and different conditions ...to produce governing-effects on conduct.”<sup>11</sup>

However, while there is evidence to suggest the existence of ‘backwardness and difference’ in the penal system, this is not the whole picture. Considerable numbers of Japanese citizens who committed crimes in Taiwan were sentenced to incarceration in the very same prisons as Taiwanese subjects, and thus were subject to the same rules and disciplinary technologies as local prisoners. Wang finds that that the gradual implementation of criminal law without differentiation by race meant that there was equality of punishment for Japanese and Taiwanese.<sup>12</sup> The fact that racial segregation did not occur demonstrates that prisons must have been to some extent capable of providing the same incarceration experience for both sets of prisoners. With Taiwanese prison regulations being increasingly based on Japanese penal legislation,

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<sup>10</sup> Botsman, *Power and Punishment in the Making of Modern Japan* p. 219

<sup>11</sup> Scott, p. 34, quoted in Brown, “*That Heavy Machine*”, p. 45

<sup>12</sup> Wang, *Legal Reform in Taiwan*, p. 308

and the abolishing of flogging in 1921, the penal system was set to be a site for discipline through reformation than the production of difference and backwardness.

This author believes that the issue seems to be more nuanced than first suggested. We can say that the practice of flogging was intended to create difference as it only applied to the Taiwanese population. However, the lack of evidence suggesting that Japanese and Taiwanese prisoners were treated differently within the prison itself does not support this argument. In fact, many of the characteristics of the Japanese colonial penal system show great similarity to the penal system of Meiji Japan. Both were based on modern Western penal principles, utilized Western penal architectural concepts and strove to provide a highly disciplined environment for the prisoner regardless of what race they were. In fact, Meiji prisons strove to provide the exact same carceral experience for all inmates in order to prove to Western nations that their prisons were capable of holding Western prisoners in decent conditions. This was also the case in Taiwanese prisons as Taiwanese and Japanese prisoners were subject to the same regime. Surely if the prison system was based on difference, Japanese prisoners would have been subject to different conditions than the local population. Thus rather than focusing on the idea of colonial 'difference' it seems to make more sense to consider the idea of penal 'difference'. Or to put it another way, the convict, no matter what nation or time period he/she belongs to, is always seen as 'other' or 'different' simply because they are prisoners. They are viewed by society and the authorities as deviant, and in some way lacking values held by the rest of society. Thus, they must be treated as different and subject to special regimes and technologies of discipline. The Japanese colonial justice system may have operated according to the concept of difference, however, once within the prison system itself, the prisoner was subject to distinct penal technologies that applied to all prisoners in their roles as

deviants, not according to nationality. Since large numbers of Japanese were also incarcerated in the Taiwanese colonial prison system we must also take their experience into account when we attempt to evaluate the measure of “difference” created.

### **6.1 Comparison. Qing and Tokugawa Penal Systems**

The means and goals of Japanese colonial rulers were very different from those of the rulers of Meiji Japan or Qing dynasty China (and Taiwan). Here I would like to compare and contrast the means and goals of these different regimes in order to throw into focus the specific conditions operating in Japanese colonial Taiwan and increase our understanding of the evolution and historical development of Taiwan’s colonial prisons.

As stated, Tokugawa penal systems were corporal, brutal and public. This system of punishment was the means by which the warrior state demonstrated its power through punishments directed at the body. This display of state power in the warrior state was intended to maintain order, yet by periodic acts of benevolence, the regime could also demonstrate its compassion. The imperial Chinese system of punishment also featured corporal punishments carried out in public, with imprisonment only intended to be for those offenders awaiting trial or sentencing. These punishments, while not usually as brutal as the Tokugawa punishments, were nevertheless carried out with a similar aim of demonstrating the power of the state over the individual.

Similarly in both cases, despite imprisonment not being a legally mandated punishment, prisoners frequently spent long periods in jails. These jails could be either under central or local jurisdiction and were not intended for long periods of incarceration but operated more as places for temporary detention. Both jail systems

can be described as chaotic, dangerous and unsanitary. Poor hygiene and food affected the health of prisoners, and death in jail was a constant concern. The prisoner was also at the mercy of jail officials and subject to abuse and mistreatment. Also, the jails themselves were frequently in poor condition and escapes were common.

However, despite jails in Meiji Japan and imperial China/Taiwan having similar functions and conditions, there were important differences in operation. The jail in Meiji Japan, as stated by both Botsman and Umemori, was a mirror of Tokugawa society both architecturally and socially. Thus, the architecture of the gaol house was the “primary element that exemplified its homologous relation to the outside world.”<sup>13</sup> Different areas of the jail were allocated to prisoners according to their status, with higher-ranking prisoners being confined in better accommodations than lower-ranking ones. In addition, this concern with social status was reflected in the hierarchy of prisoners, who acted as jail officials, and in the space within the cells that they were allowed to occupy. Prisoners occupying a higher position in the governing hierarchy had more space in the cell than those lower down. The preoccupation with social hierarchy was thus an essential component in the ordering of the Tokugawa jail.

Social status was also important in Qing China and Taiwan jails, with officials and wealthy prisoners receiving better accommodation and food, according to how much they were willing to pay. However, the internal system within the jails was different from that of Tokugawa Japan. Whereas Tokugawa jails featured large-scale cells (with up to 100 prisoners) with the internal management of the cells being performed by prisoners in their self-assigned roles as jail officials, in China and Taiwan, the cells were smaller and not run by the prisoners. Jail officials were usually yamen runners and the prisoners had no autonomous power within the jail.

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<sup>13</sup> Umemori, *Modernization Through Colonial Mediations*, p. 165

Thus jails in Tokugawa Japan and Qing China and Taiwan both achieved similar ends. They served to detain suspects awaiting trial or sentencing in an era prior to the introduction of imprisonment as a legally mandated punishment. As such, incarceration was intended to be only a short-term experience for the prisoner, until such time as their case was either dismissed or if found guilty, and some other form of punishment assigned. In addition, in Qing China and Taiwan, witnesses to crimes were also placed under detention, demonstrating that this detention was not considered to be punishment in and of itself. However, despite all efforts to the contrary, the frequent accounts of prisoners kept in jails for extended periods, points to the fact that incarceration was often a de-facto punishment endured by unfortunate offenders.

## **6.2 Meiji Japan and Colonial Taiwan Penal Systems**

The introduction of modern penal systems in Meiji Japan and colonial Taiwan were brought about by different factors in both places and this affected the type of penal institutions established. The different political rationalities inherent in these two states meant that the relative positions of the ruler and the ruled were different. The rights and obligations of the colonial subject are different to the citizen of the non-colonial state and therefore the technologies of power in the colonial state are different. “What marks off a colonial form of power from other examples of modernizing governance is the particular relationship between subject and state established there, and thus the structure of expectations within which relations between subject and state take place.”<sup>14</sup>

The reason for the establishment of a modern penal system in Japan was primarily the need to repeal the unequal treaties and extraterritoriality. A new prison system based

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<sup>14</sup> Brown, “*That Heavy Machine*”, p. 45

on the prison as a symbol of civilization would demonstrate to Western powers that Japan was capable of taking her place as a modern nation. (This would also prove to be the driving force for China to undertake penal reform, but not until a later date.) Thus prison reform came about in response to a new political order, with Meiji Japan having different needs from the Tokugawa regime. The need for Meiji Japan to prove its credentials as a modern, civilized state meant that it sought to create a penal system where foreigners as well as locals could be incarcerated together, and all subject to modern disciplinary power and techniques. Thus the need for extensive legal and penal reform, abolishing Tokugawa practices, based on the body, with rational and humanistic practices, in line with Western penal concepts.

In contrast, the establishment of a modern penal system in Taiwan was brought about under the aegis of a colonial government, responding to a different set of stimulus. As stated, the Japanese colonial government was concerned with establishing control over an unwilling colonial population in a short period of time. Imprisonment as a legal punishment in Taiwan was first introduced under Japanese colonial rule, which meant that the building of prisons and establishment of penal regulations was imperative. Japanese authorities had faced a similar situation in reforming the Tokugawa system of punishment, that is, changing a system of punishment based on concepts of demonstrating state power through corporal punishment, to a Western influenced penal system based on custodial penalties. However, the challenges of attempting the introduction of a modern penal system in a rebellious colony were to prove quite different.

In addition to pacifying and controlling a new colony, they were also concerned with proving their colonial credentials. Thus, the Japanese colonial government viewed as

essential the establishment of an effective modern penal system, which would enable them to demonstrate their ability to bring civilization and development to other Asian nations, namely Taiwan. As they had modernized their own penal system to overcome their image in the West as backward, the Japanese in Taiwan sought to bring these new concepts to their colony to demonstrate their ability to project these values. Thus it was important to construct modern prisons demonstrating the newest of penal architectural concepts, which in addition to demonstrating their level of parity with the West (as in Meiji Japan) also demonstrated their power over a subordinate colonial population.

The penal discourse in Meiji Japan was necessarily different from colonial Taiwan, being initially characterized by control and transforming in subsequent years to a reform discourse. As the harshness of penal regime of the 1880s abated, penal thinking became more concerned with regimes concerned with reforming the prisoner. Thus the prisoner, who was once used as a source of expendable labor under the harsh labor regime in Hokkaido prisons, was later employed in vocational training. And as penal discourse in Meiji Japan changed, on-going reforms in the penal system allowed for more efficient incarceration, surveillance and control.

In contrast, the colonial regime's strategy of colonial governance affected the development of penal thought and techniques in Taiwan in the creation of a penal system based on retribution. While similar to the penal regime established in Meiji Japan in terms of the creation of modern penal institutions, the focus was on the penal system as a method of control of a colonial population. Thus, within the prison, the prisoners were seen as objects that needed civilizing, in order to appreciate the benefits of the modern state. When released, they would be docile, disciplined and

able to participate in the colonial labor market. Not only would they learn new trades in the prison, but they would also, according to Botsman, become accustomed to follow orders in Japanese, which would enable the colonial prison to become “a machine for transforming ‘wild animals’ into obedient, productive workers”.<sup>15</sup> Thus in an interesting contrast with the stated aims of Jeremy Betham’s panopticon, as a ‘machine for grinding rogues honest’, the aims of the colonial prison was more concerned with producing workers for the needs of the state than reforming the offender. And as such the coercive technologies of the colonial state were used to repress the colonized population and the colonial institutions created were intended to reinforce this relationship.

The creation of a modern prison system in Taiwan was forged in the crucible of early colonial Taiwan. By 1908, the colonial prison system had gone through the painful period of establishment and finally achieved the form and shape that it was to hold for the next 37 years of Japanese rule. The changes effected during this time allowed Japanese rulers to bring about a fundamental change in approaches to crime and punishment in Taiwan from a system based on traditional Chinese punishments to one based on the custodial sentence and steeped in Western penal concepts. The needs of colonial governance in the early years of Japanese rule shaped the development of penal techniques and vocabulary in Japanese colonial Taiwan.

When Japanese colonial rulers sought to establish a modern penal system in Taiwan in 1895, they brought with them their experience of penal reform recently undertaken in Meiji Japan in response to treaty revision. However, the specific challenges they faced in Taiwan led to the type of authoritarian, retributive penal system they established, which in time, transformed into a milder system based on reformation as

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<sup>15</sup> Botsman, *Power and Punishment in the Making of Modern Japan*, p. 210

they consolidated and stabilized their rule. The transformation of the colonial penal system between 1908-1945 is beyond the scope of this paper, however this period demonstrates a vital change in penal thinking and could form an interesting topic for further research.