

Postwar Japan as State of Exception: Law, Territory, and National Integrity

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INTRODUCTION: JAPAN AS A NORMAL COUNTRY?

Former Prime Minister of Japan Abe Shinzō's efforts to reform the postwar Japanese constitution renewed a wide-ranging discussion among Japanese and overseas pundits, analysts, historians, and legal scholars over whether Japan should become a "normal country".¹ In December of 2013, for example, a year after Abe acceded to the prime minister position for the second time, Lionel Pierre Fatton—reflecting on the first military budget increase in eleven years for FY 2014, the passage of a "state secrecy bill" in November of 2013, and the standing-up of the National Security Council that same month—asked in *The Diplomat* whether Japan could now be considered a "normal country."² In an August 28, 2020 editorial, the *Wall Street Journal* averred of the departing prime minister that "Japan's longest-serving leader tried to make his country more normal."³ *The New York Times* and the *Bangkok Post*, among other outlets, also pondered the meaning of Abe's prime minister-ship in the context of his quest for normalcy as a state.⁴ The drive, under Abe's watch, to make Japan "normal" has become, for many, the key feature of the former prime minister's legacy.

However, the dream of rendering Japan a "normal country" did not begin with Abe Shinzō. The "normal Japan" discourse reached another high-water mark some three decades ago with the publication of opposition politician Ozawa Ichirō's 1993 book, *Nihon kaizō keikaku*, translated into English in 1994 as *Blueprint for a New Japan: The Rethinking of a Nation*.⁵ Troubled by the embarrassing political consequences of Japan's constitutionally-mandated sideline role in the First Gulf War (1991), Ozawa proposed a new, forward-leaning Japan joining the emerging

¹ Shigenori Matsui, "Fundamental Human Rights and 'Traditional Japanese Values': Constitutional Amendment and Vision of the Japanese Society," *Asian Journal of Comparative Law*, vol. 13 (2018), pp. 59-86.

² Lionel Pierre Fatton, "Is Japan Now Finally a Normal Country?" *The Diplomat*, Dec. 27, 2013, and Sebastian Maslow, "Japan's Evolving Security Architecture," *The Diplomat*, Dec. 3, 2013

³ The Editorial Board, *The Wall Street Journal*, Aug. 28, 2020

⁴ Thitinan Pongsudhirak, "Abe Legacy is Japan as 'Normal' Nation," *Bangkok Post*, Sept. 4, 2020, and "What's at Stake for Shinzo Abe's Successor," *The New York Times*, Sept. 2, 2020. See also Doug Bandow, "A New 'Normal': Time for Japan to Defend Japan," *The National Interest*, Aug. 6, 2014.

⁵ Ichiro Ozawa, tr. Louisa Rubinflen, *Blueprint for a New Japan: The Rethinking of a Nation* (Tokyo: Kodansha International, 1994), originally published as Ozawa Ichirō, *Nippon kaizō keikaku* (Tokyo: Kodansha, 1993).

globalist international order. His view was widely recommended by other globalists and internationalists and was a major impetus to serious debate about the role of Japan's postwar constitution. Ozawa even proposed revising Article Nine to allow Japan to take part in international peacekeeping operations, which had been the subject of a bitter disappointment during the First Gulf War.

Questions about Japan's constitution, sharpened by Ozawa's critique, never really disappeared after his salient.⁶ The terrorist attacks on the United States in September of 2001 renewed and amplified debates about the military impotency of America's staunch ally, Japan.⁷ In 2011, the year before Abe began his second term, Yoshihide Soeya, Masayuki Tadokoro, and David A. Welch edited *Japan as a 'Normal Country'? A Nation in Search of Its Place in the World*, a collection of essays by scholars in Singapore, Canada, South Korea, the People's Republic of China, Japan, and the United Kingdom on the prospects of Japan's regaining "normalcy" as a country with the same unfettered defense capabilities that other countries enjoy.⁸ Thus it was that the debate about Japan's becoming a "normal country" fully possessed of all the prerogatives of sovereignty like any other nation predated even the first term of Abe Shinzō as prime minister.⁹

While debates about Japan's "normalization" are certainly welcome, these debates are often narrowly framed as questions over the deployment of military force.¹⁰ This narrow framing obscures the much deeper and more far-reaching consequences of Japan's loss of "normalcy" in the postwar.¹¹ It is not only that Japan was stripped, in the constitution which the victorious Allies imposed upon their new client state, of her sovereign right of war in the ninth article of the 1946 constitution.¹² The scope of Japan's debilitation by the Allies goes far beyond Article

⁶ "Japan's Constitution: The Call to Arms," *The Economist*, vol. 350, iss. 8108 (Feb. 27, 1999), pp. 23-25.

⁷ See, e.g., Michael Heazle, "Japan Post-9/11: Security Policy, Executive Power and Political Change in an 'Un-Normal' Country," *Australian Journal of International Affairs*, vol. 63, iss. 4 (Dec., 2009).

⁸ Yoshihide Soeya, Masayuki Tadokoro, and David A. Welch, eds., *Japan as a 'Normal Country'? A Nation in Search of Its Place in the World* (Toronto: University of Toronto Press, 2011). See also Alexei Senatorov, "Japan: From 'Single-Country Pacifism' to a 'Normal Country'?" *Far Eastern Affairs*, vol. 32, iss. 1 (Jan.-Mar., 2004), 55-75, and Soeya Yoshihide, *Anzen hoshō wo toinaosu: 'kyūjō, anpo taisei' wo koete* (Tokyo: NHK Books, 2016).

⁹ See Bhubhindar Singh, "Japan's Post-Cold War Security Policy: Bringing Back the Normal State," *Contemporary Southeast Asia*, vol. 24, no. 1 (Apr., 2002), pp. 82-105.

¹⁰ See, e.g., Yanagisawa Kyōji and Ushio Masato, "Gekitotsu taidan 2: Goken ka kaiken ka," *Seiron*, no. 547 (Jun., 2017), pp. 72-81.

¹¹ See "Datsu 'sengo reji-mu' wo," special series, in *Seiron*, no. 591 (Dec., 2020), esp. Sakurai Yoshiko, "Genkō kenpō namini yūgai mukai," pp. 27-35.

¹² The constitution was promulgated in November of 1946, and went into effect in May of 1947.

Nine, forbidding belligerency and hamstringing Japan into reliance upon the United States for security guarantees. Taking as touchstone the “state of exception” theories of Italian philosopher Giorgio Agamben and other political thinkers, I understand all of postwar Japan as living under a prolonged “state of exception,” an age in which the normal business of the state and the nation has been suspended.¹³

Agamben and others understood the “state of exception” as the mysterious, disjointed origin of the political out of what Agamben called “bare life”. The sovereign, for Agamben and others, stands outside the law and gives shape to the polity from a position not limned by the constitution. On this reading, the United States is the Agambenian “sovereign,” the omnipotent leader imposing his will onto a polity, in this case in the form of Japan’s postwar constitution. But Japan’s state of exception manifests in a different sense, too. This second “state of exception” is an indelible reminder that Japan lost sovereignty in 1945 and is incapable of returning to being a “normal country” until this state of exception is brought to an end.

Japan’s state of exception is therefore unique in two ways. First, the ultimate sovereignty in Japan’s case—the power of military command—is held by a foreign power which claims *not* to be the sovereign. Second, Japan’s state of exception has created civilization-wide aporia.¹⁴ The entire Japanese postwar is a lacuna, a departure from the past, a long present without a political future. Japan is not a “normal country”. It is an occupied country, militarily as well as psychologically, and without taking this into full account nothing of Japan’s postwar, ahistorical history will make sense.

In this paper, I examine the twofold “state of exception” of postwar Japan in three broad areas, providing specific examples illustrating how Japan is not only not a “normal” country militarily, but in many other ways as well. First, I investigate the state of exception in the field of law. This first section will feature a prominent discussion of Japan’s postwar constitution, but will also include other aspects of the postwar legal regime. Second, I will show how the enforced abnormality of postwar Japan results in an unwillingness to mount a defense of even its own territory. Third, and perhaps most important, I will illustrate Japan’s postwar state of exception through examples of how this nearly eight-decade drought of normalcy has affected Japan’s citizens. Japan as an abnormal country is very often understood from the perspective of outside observers, particularly those with a vested interest in maintaining Japan’s weakness. This

¹³ Giorgio Agamben, “The State of Exception as a Paradigm of Government,” in Giorgio Agamben, tr. Kevin Attell, *State of Exception*, collated in Giorgio Agamben, *The Omnibus Homo Sacer* (Stanford, CA: Stanford University Press, 2017), pp. 167-192.

¹⁴ On the state of exception, see, for example, Carl Schmitt, tr. Michael Hoelzl and Graham Ward, *Political Theology II: The Myth of the Closure of any Political Theology* (Cambridge, UK: Polity, 2008).

outside-in, top-down view erases the people of Japan, who have been, by far, the most adversely affected by their country's exile in abnormalcy during the postwar.

ONE: LAW

THE 1946 CONSTITUTION

The most immediately apparent distortion caused by Japan's state of exception is Japan's postwar constitution.¹⁵ Sometimes hailed as the "peace constitution," the postwar Japanese constitution is in fact a permanent surrender document imposed upon an erstwhile enemy to secure American dominance of the Asia-Pacific.¹⁶ While many scholars downplay the fact, there are none who deny that the "Japanese" constitution was imposed on a defeated country by a victorious one. There are few works in any language other than Japanese which even begin to reckon with the cataclysm and civilizational trauma brought about by the fall of the Japanese Empire in 1945 and the top-down re-formation of the entire Japanese polity by a foreign power, namely the American Empire. The plain historical truth is that the prewar Japanese constitution, promulgated in 1889, was overhauled by the American occupiers to the point of being discarded, and an entirely new constitution written and adopted in its place, due to what might best be described as a species of *force majeure* in the form of the postwar Occupation of Japan.¹⁷ The postwar constitution remains as a kind of mark or brand on the nation of Japan, a declaration of inverted sovereignty and the condition of being beholden to a conqueror.

To be sure, the fact of the American Occupation's having imposed the current Japanese constitution on its ersatz client state does not mean that this imposition was uncomplicated. The postwar Japanese constitution is not Japanese, but this does not mean that it was a one-off swap-out for the 1889 Meiji Constitution. The postwar constitution is partly the product of far-left American political activists, New Deal radicals, and other white liberals eager to maintain communist and Anglo-Saxon control of the Far East. But it is also indicative of a deep divide within the American government—reflected to an arguably greater degree within the Occupation than anywhere else—between indifference or even affinity toward communism and socialism as ideologies, on the one hand, and rejection of those ideologies on the other. In other words, if the

¹⁵ On the Japanese constitution in general, see Hasegawa Masayasu, *Nihon no kenpō*, 3e (Tokyo: Iwanami Shoten, 1994), esp. "Kenpō towa nanika," pp. 2-9, and "Sengo kenpō no rinen to genjitsu," pp. 17-24, and Satō Tsukasa, ed., *Gendai kenpōron* (Tokyo: Yachiyo Shuppan, 1986), esp. "Kenpō no seitei to hendō," pp. 7-8, and "Kenpō hendō no sho ruiki," pp. 9-10.

¹⁶ Takahashi Shirō, *Nihon ga nidoto tachiagarenai yō ni Amerika ga senryōki ni okonatta koto* (Tokyo: Chichi, 2014)

¹⁷ On "force majeure" and the American occupation of foreign countries, see Douglas Porch and George Cornwall Lewis, "Occupational Hazards: Myths of 1945 and U.S. Iraq Policy," *The National Interest*, iss. 72 (Summer, 2003), pp. 35-47.

postwar Japanese constitution is schizophrenic, seeming to institute a state while undermining its sovereignty, it is largely because the American Empire was, and remains, the product of deep divisions within the American polity. At the time of World War II and shortly thereafter, the internationalist-socialist wing of the United States—the imperialists, by no coincidence, and those also, by no coincidence, deeply enamored of communism—was represented by President Franklin Delano Roosevelt and the Soviet operatives and fellow travelers surrounding him, such as Alger Hiss, Harry Hopkins, Henry Morgenthau, and Harry Dexter White. Hostility to these forces, meanwhile, and yet inability to resist the imperialist juggernaut pushing the American experiment out to the Pacific and beyond, was represented by Gen. Douglas MacArthur.¹⁸ The Japanese postwar constitution is not just a contradictory document for Japan. It also reveals the internal contradictions proprietary to the United States.¹⁹

What is dispositive in the historical record is that without the surrender of Japan, and in particular her apparent acceptance of the terms of the Potsdam Declaration of July, 1945, there would never have been a new Japanese constitution.²⁰ It was sheer force of arms which enabled the imposition of American will on Japan, ideology notwithstanding. As Shioda Jun details in *The Birth of the Japanese Constitution: The Unknown Backstage*, it was the GHQ authorities, especially the forceful personality of MacArthur, who leveraged this force to pressure Shidehara Kijūrō to go far beyond the scope of constitutional revision which many within the Japanese government had originally been considering.²¹ The Potsdam Declaration was a watershed moment for both Japan and for the United States. With it, the door to pre-war anti-imperialism in the United States was closed. America was committed to total dominance of Japan. As with the opening gambit of the Pacific War, the Japanese side found itself mired in a political standoff emanating from within the United States. This standoff, in turn, made it more expedient for the Americans to exercise sovereignty over Japan than to tend to the constitutional crisis within the

¹⁸ See John Dietrich, *The Morgenthau Plau: Soviet Influence on American Postwar Policy* (New York, NY: Algora Publishing, 2002), Watanabe Sōki, *Dai ni ji sekai taisen Amerika no haiboku: Beikoku wo ayatsutta Sobietto supai* (Tokyo: Bunshun Shinsho, 2018), Nishio Kanji, *GHQ funsho tosho kaifū*, vol. 9: *Amerika kara no 'sensen fukoku'* (Tokyo: Tokuma Shoten, 2014), Watanabe Sōki, *Sensō wo hajimeru no wa dareka: rekishi shūsei shugi no shinjitsu* (Tokyo: Bunshun Shinsho, 2017), James J. Martin, “Pearl Harbor: Antecedents, Background and Consequences,” in *The Saga of Hog Island: And Other Essays in Inconvenient History* (Colorado Springs, CO: Ralph Myles, 1977), pp. 114-131, and Mitamura Takeo, *Dai TōA sensō to Suta-rin no bōryaku: sensō to kyōsanshugi* (Tokyo: Jiyu-sha, 1987).

¹⁹ Patrick A. Swan, ed., *Alger Hiss, Whittaker Chambers, and the Schism in the American Soul* (Wilmington, DE: ISI Books, 2003)

²⁰ See Satō Tsukasa, ed., *Gendai kenpō ron*, op. cit., pp. 37-42.

²¹ Shioda Jun, *Nippon koku kenpō tanjō: shirarezaru butai ura* (Tokyo: Nippon Hōsō Shuppan Kyōkai, 2008), esp. pp. 12-23.

United States. Potsdam was, in this sense, perhaps even more significant for Washington, D.C., than for Tokyo. But the pertinent fact for Japan is that it was with Potsdam that the Americans gathered the full power of their military juggernaut and directed it squarely at Japan, a move which would have made possible the wholesale refabrication of Japan in the postwar.

And yet, here we must remark a feature of the Japanese constitution which at first seems to contradict its having been imposed by a foreign conqueror. As Marxist scholar Karatani Kōjin explicates in his 2016 book on “constitutional unconsciousness,” the postwar Japanese constitution was not only imposed by the American Occupation forces, but also accepted by the politicians and people of Japan. Karatani relies heavily on a Freudian analysis which need not detain us here. What is compelling for our purposes is that Karatani links the infamous ninth article of the Japanese constitution, the article renouncing “the right of belligerency of the state,” with the lesser-known Article One, dealing with the position of the Japanese Emperor.²² For Karatani, these two articles, One and Nine, are linked, because they reflect a deal struck between MacArthur and Shidehara according to which the Shōwa Emperor would be spared prosecution in exchange for Japan’s renouncing wartime capabilities.²³ The often overlooked link between Articles One and Nine is, for Karatani, part of the “unconscious” acceptance by at least some Japanese people of the constitution imposed upon them by those who had only recently been incinerating helpless civilians in bombing raids.

Karatani helps us to see the controversy surrounding Article Nine as derivative of the heart of the constitutional debate, the Emperor. The Japanese Emperor, and the sovereignty which he rightfully wields, is the nub of the constitutional question in Japan. It was, in many different ways, the loss of imperial sovereignty in 1945, later ratified in the constitution itself, which uprooted Japanese society and alienated it against itself.²⁴ Karatani’s “unconscious” is, in my view, therefore best interpreted as a disorientation caused by acute civilizational dissociation. As Jesuit Peter J. Herzog observed in the early 1950s:

Implicitly [sic], the new constitution [i.e., of 1946] repudiates the former Japanese doctrine of the Emperor as the bearer of national sovereignty (統治權の總攬者 [*tōjiken no sōhakusha*]), who, in the theory of the Meiji constitution, grants the constitution out of the

²² On Article Nine, see, e.g., Kobayashi Naoki, *Kenpō dai kyū jō* (Tokyo: Iwanami Shoten, 1982). On Article One, see Mieda Shigetomo, *Shin kenpō dai ichi jō wo meguru kyōkō to shinjitsu (sono ichi)* (Tokyo: Kenpō Gakkai, 1965), and Itō Akira, “‘Nihonkoku kenpō’ dai ichi jō no shisōshi (tokushū: shōchō tennōsei hihan no shiza),” *Impaction*, vol. 196 (2014), pp. 62-72.

²³ Karatani Kōjin, *Kenpō no muishiki* (Tokyo: Iwanami Shoten, 2016), pp. 20-28, 36 ff.

²⁴ On the blended nature of Japan’s constitutional position, see Norikazu Kawagishi, “The Birth of Judicial Review in Japan,” *International Journal of Constitutional Law*, vol. 5, iss. 2 (Apr., 2007), pp. 308-331.

fulness of his power and pledges himself to use his authority only in the way laid down in it.²⁵

The total cancellation of imperial sovereignty rendered prostrate Japan a virtual terra nullius for psychological reconfiguration. This psychological disfiguring, even dismantling, is one of the keys to understanding the “state of exception” in, and *as*, postwar Japan. As Herzog further explains:

The defeat [of Japan in 1945] was not only a military debacle, but also implied the evacuation of the traditional political and social order. It left the nation without a spiritual foundation for its political fabric, so that reorientation towards Western democracy became not only an obligation assumed by the surrender, but also a pressing exigency for the sake of political survival.²⁶

The civilizational breakdown which Herzog describes was not a byproduct of the American onslaught, but the carefully planned consequence of it. Ultimately, Washington waged war against Japan for no other purpose but this: to psychologically destroy every single person in Japan. As the Americans themselves put it in a 1945 newsreel:

What does a conquering army do with 70 million people? [...] Our problem’s in the brain inside of the Japanese head. There are 70 million of these in Japan, physically no different than any other brains in the world. Actually all made of the same stuff as ours. These brains, like our brains, can do good things. Or, bad things—all depending on the kind of ideas that are put inside.²⁷

Pundits who see in former Prime Minister Abe’s attempted constitution reform a return of the Meiji Constitution are therefore not entirely off-base.²⁸ Indeed, if anything, these admonitions are much more prescient than their advocates realize.

The current constitution of Japan, although adopted on procedural grounds provided for in the Meiji Constitution of 1889, is nothing short of an inversion of the sovereign prewar Japanese

²⁵ Peter J. Herzog, S.J., “Political Theories in the Japanese Constitution,” *Monumenta Nipponica*, vol. 7, nos. 1 and 2 (1951), p. 19

²⁶ Peter J. Herzog, S.J., “Political Theories,” *op. cit.*, p. 2.

²⁷ “Our Job in Japan” (1945 U.S. newsreel), quoted in Sharalyn Orbaugh, “How the Pendulum Swings: *Kamishibai* and Censorship under the Allied Occupation,” in Tomi Suzuki, Hirokazu Toeda, Hikari Hori, and Kazushige Munakata, eds., *Censorship, Media, and Literary Culture in Japan: From Edo to Postwar* (Tokyo: Shin-yo-sha, 2012), p. 161.

²⁸ See Carl F. Goodman, “Contemplated Amendments to Japan’s 1947 Constitution: A Return to Iye, Kokutai and the Meiji State,” *Washington International Law Journal*, vol. 26, iss. 1 (Jan., 2017), pp. 17-74.

state which the Meiji Constitution ratified. The heart of this inversion, the central victim of the Americans' psychological campaign, was and remains the Imperial Household. It was the Meiji Emperor who granted the Meiji Constitution to his subjects. True to Agamben's theory, the prewar Emperor stood outside the state and formed a system of government out of his sovereign authority.²⁹ The 1946 constitution used this system of government, rooted in imperial sovereignty, to deny both the government and the sovereignty undergirding it. As legal historian Adam Sterling writes, "Broadly speaking, the 1946 Constitution overwrote the Meiji Constitution in its entirety—including its primary structural pillar of placing the Emperor as the sovereign—while nominally following the procedures in Article 73 [for constitutional amendment]."³⁰ This "overwr[i]te" is not a reform of the 1889 Constitution, but a millstone designed to keep Japan in thrall to the United States and permanently alienated from its national essence. The 1946 Japanese constitution is an anti-constitution, one which does not set up a sovereign state but which contains an article—Article Nine—guaranteeing Japan's dependency on a foreign power, and another article—Article One—evacuating the font of Japan's sovereignty, the Emperor. It is a truism of American jurisprudence and political discourse that "the Constitution is not a suicide pact".³¹ The Japanese constitution, by contrast, is a suicide note. It marks the death of a polity and provides nothing but a reminder of what once existed in its place.

In the 1946 constitution, the Emperor was forced to renounce claims to divinity and was reduced to a "symbol" of state. This achievement of the long-held desire by Minobe Tatsukichi to reduce the Emperor to an "organ of state"—Minobe was part of the 1946 deliberations—was achieved only by using the residual imperial sovereignty in the Meiji Constitution to delegitimize the sovereign himself. This auto-immolation of a sovereign's sovereignty was the supreme act of a "state of exception". It is the key to understanding postwar Japan. It is not the emperor who is the symbol, but the constitution which becomes a lasting symbol of forced imperial abdication. The 1946 constitution of Japan attempts to establish a state of exception as constitutional bedrock by first destroying the Japanese polity and then proclaiming its rebirth. The destruction is real, but the rebirth is impossible so long as the Imperial Household remains in a neutered state. The "unconscious" acceptance of Article Nine which Karatani notes is not a Freudian oddity, but a realization by the Japanese people that Japan today exists in a slipstream of anti-

²⁹ See Ogawa Eitarō, "Kunigara wo mamoru kutō no nisen nen," *Rekishitsū* (Nov., 2019), pp. 132-145.

³⁰ Adam Sterling, "Implicit Limits on Amending the Japanese Constitution," *Washington International Law Journal*, vol. 28, no. 1 (Jan., 2019), p. 258. I depart from Sterling's conclusions here, as he argues that other factors necessitated the wholesale redoing of the Meiji Constitution.

³¹ The meaning of this phrase within American jurisprudential fora has shifted greatly over time. See George P. Fletcher, "The Cliché that 'The Constitution Is not a Suicide Pact': Why It Is Actually Pro-, not Anti-, Civil Liberties," *FindLaw Legal Commentary*, Jan. 7, 2003.

constitutionalism, apparently guaranteed and bonded by the Japanese constitution itself. Stripped of their national identity, the people of Japan are left, psychologically, with no choice but to cry out to Americans for protection. This is precisely as the American occupiers planned.

No constitution is a suicide pact. Even more so, no constitution can be a mere symbol. Either a sovereign state is established by the constitutional act, or it is not. Because of Japan's unique small-c constitution of harmonious intercourse between the Imperial Household and the Japanese people—the gestalt of Japan's civilization which prewar thinkers had tried to express with the term “kokutai”—the 1946 Japanese constitution, by reducing imperial sovereignty to a vestigial legal fiction, establishes no state at all, only the trace of the legitimate state which preceded it.³² It is in the aporia, or vacancy of doubt, opened up by this state of exception that the United States has operated in Japan since the Occupation. It is also in this aporia that the Japanese state has persisted in a postwar limbo. The negative sovereignty which the 1946 constitution engenders is always-already at the mercy of the sovereign state which imposes it.

INTELLIGENCE AND DEFENSE AGAINST INTERNAL THREATS

The postwar state of exception—the broadly-conceived abnormality of postwar Japan—extends far beyond the most-often-cited example of Japan's loss of sovereignty, namely Article Nine and the 1946 Japanese constitution overall. Japan's loss of sovereignty—or, to put it precisely, Japan's impossible attempt to discard sovereignty by sovereign imperial decree—has had disastrous consequences for the legal and governmental make-up of Japan far beyond the 1946 constitution. The National Security Council and anti-espionage law cited in the introduction above are good examples. The 1946 constitution rendered Japan psychologically unable to engage in even basic national self-defense, not just militarily but also by exercising the legitimate police power against domestic enemies and invaders.

As Richard Samuels details in *Special Duty: A History of the Japanese Intelligence Community*, it was not until “the late 2010s” that “the Japanese intelligence community was finally the object of comprehensive institutional reform”.³³ Much of the postwar was taken up, Samuels avers, in “accommodating defeat,” and it wasn't really until the reform efforts of former prime minister Nakasone Yasuhiro's Chief Cabinet Secretary Gotōda Masaharu in the mid 1980s that Japan began to shore up its intelligence defenses.³⁴ The protection of citizens and government from

³² For an analogous view, see Yi Tae-Jin, “Treaties Leading to Japan's Annexation of Korea: What Are the Problems?” *Korea Journal*, vol. 56, no. 4 (Winter, 2016), pp. 5-32.

³³ Richard J. Samuels, *Special Duty: A History of the Japanese Intelligence Community* (Ithaca, NY: Cornell University Press, 2019), p. 238

³⁴ The contrast with Japan's prewar and wartime intelligence capabilities is striking. See, e.g., Kinoshita Kenzō, *Nihon no bōryaku kikan: rikugun Noborito kenkyūjo* (Tokyo: Bungeisha, 2016).

foreign attack is the most basic duty of a state, and yet Gotōda found that Japan's intelligence community was “‘reckless’ (*nonki*), ‘insubstantial’ (*hinjyaku*), and ‘incompetent’ (*muryoku*).”³⁵ For a country neighboring the communist dictatorships of North Korea, the Soviet Union, and the People's Republic of China, and ringed by thousands of miles of undefended coastline, it is inconceivable that postwar Japan should have had nothing but “‘the world's worst intelligence unit’ (*sekai saitei no jōhō kikan*) [sic: *kikan*],” which observers found to be “‘a laughingstock’ (*waraigusa*)”.³⁶

This apparent inability to understand what a state is for extends even to the use of the so-called Self-Defense Forces to defend the people of Japan from internal attack. Not only spies slip easily through the postwar psychological fog—criminals do, too. As scholar of Japan's postwar defense and legal system Sheila A. Smith points out in *Japan Rearmed: The Politics of Military Power*, when terrorists from the Aum Shinrikyō cult unleashed mass sarin gas poisonings and carried out other chemical weapons attacks in Japan in 1994 and 1995, “the National Police Agency began an investigation of the Aum group at all of its facilities.”³⁷ As part of the response to this domestic terrorism, “chemical units from the Ground Self-Defense Forces (GSDF) were put on alert across Japan.”³⁸ However, even though sarin gas had been “outlawed under the Chemical Weapons Convention of 1993,” the law of Japan prevented cooperation between the Self-Defense Forces and the police.³⁹ Japan was under attack by a violent criminal organization, but the Self-Defense Forces idled uselessly while local authorities struggled to respond to the terrorists' plots. “The constitution is not a suicide pact” may not be as axiomatic as American scholars tend to assume.

So great is the aversion among Japanese politicians to making use of military forces to protect Japanese people and property that when a devastating earthquake struck the Kobe area in January of 1995 (the Awaji-Hanshin Earthquake), “the mayors of Kōbe and Ōsaka cities never requested the assistance of the SDF, and under the SDF Law, the Japanese military could not provide

³⁵ Richard J. Samuels, *Special Duty*, op. cit., p. 94, citing Gotōda Masaharu, *Jō to ri: Gotōda Masaharu kaikoroku*, vol. 1 (Tokyo: Kenkyūsha, 1998), p. 237.

³⁶ Richard J. Samuels, *Special Duty*, op. cit., p. 94, citing “‘Naikaku jōhō chōsashitsu’ kaitai no susume,” *Sentaku*, Dec., 2011. Samuels quotes the title, but the actual citation reads “‘Seiken ga chokkatsu suru jōhō kikan to shite wa sekai saitei’”. On the danger of a postwar revolution in Japan, see Ezaki Michio, *Nihon senryō to ‘haisen kakumei’ no kiki* (Tokyo: PHP Shinsho, 2018), and Hayashi Chikatsu, *Konoe Fumimaro, yabō to zasetsu* (Tokyo: WAC, 2017), esp. “Haisen kakumei,” pp. 247-251.

³⁷ Sheila A. Smith, *Japan Rearmed: The Politics of Military Power* (Cambridge, MA: Harvard University Press, 2019), p. 94

³⁸ *Ibid.*

³⁹ *Ibid.*

assistance to municipalities without a mayor's request for their help."⁴⁰ Even though governor Kaihara Toshitami of Hyōgō Prefecture, where the city of Kobe is located, "formally requested SDF assistance at 10:00 AM, four hours after the quake had struck," the response was tepid. "The SDF hesitate to assert authority where no explicit permission had been given and thus sent forces only to locations that it knew had been approved."⁴¹ The 1995 Awaji-Hanshin Earthquake which leveled parts of major cities was, perhaps, one of the first national stirrings of the realization within Japan that the postwar constitution was not issued for the sake of the Japanese people.

Nonetheless, while the law was later amended to allow for greater flexibility in allowing the Self-Defense Forces of Japan to act in Japan's defense, such as in times of emergency, the reflexive paralysis in the face of crises clearly calling for military assistance on the ground would be unthinkable in a "normal" country. To be sure, the Posse Comitatus Act prevents the military from intervening in police activities within the United States. However, because there is a National Guard in America at the disposal of state governors for emergencies, but not such an entity in Japan, the Posse Comitatus restrictions would not apply in the latter country.⁴² And there are also "states of emergency," in effect "states of exception," which authorities may declare in order to bypass the usual procedural hurdles blocking direct government action in democratic polities. But because Japan is in a limbo of "exception," it is unable to exercise the sovereign prerogative of declaring exceptions. The state of exception was declared once, in the immediate postwar, and has frozen Japan in place ever since. The 1946 constitution is thus "utopian" in the sense that it produces a no-country which is possible "nowhere" else.

TREATIES AND SPECIOUS LEGAL CLAIMS

The legal nowhere precipitated by the 1946 constitution has left Japan helpless to defend even what are clear and nearly-universally accepted (with apparently the sole exception of the Republic of Korea) doctrines of international law. For example, in February of 2021, a South Korean appellate court issued a ruling against Mitsubishi Heavy Industries in a case arising from "forced labor" claims by Koreans.⁴³ This is despite the fact that the Republic of Korea did not exist at the time that the alleged incidents occurred, and also despite the fact that the Korean Peninsula, where said incidents are alleged to have taken place, was under the jurisdiction of the Empire of Japan. The courts of the Republic of Korea therefore, doubly, have no jurisdiction in

⁴⁰ Ibid.

⁴¹ Sheila A. Smith, *Japan Rearmed*, op. cit., pp. 94-95

⁴² See Mark R. Mullins, "The Political and Legal Response to Aum-Related Violence in Japan: A Review Article," *The Japan Christian Review*, vol. 63 (1997), pp. 37-46.

⁴³ "Korea's Appellate Court Rejects Mitsubishi Heavy's Appeals Against Asset Seizure Order," *The Korea Times*, Feb. 16, 2021

this matter. In addition, the principle of sovereign immunity, a bedrock of international law, holds that no state may be brought to trial in another state's legal system.⁴⁴ Furthermore, the 1965 treaty normalizing diplomatic relations between Japan and the Republic of Korea (South Korea) settled "completely and finally" all outstanding claims arising against either Japan or the Republic of Korea by either side.⁴⁵ By any measure, the South Korean side is raising specious, even fraudulent and scurrilous, legal issues intended to harass and embarrass Japan. The government of Japan is today faced with a phantom set of rulings grounded in neither international nor national law, nor in precedent, nor in historical fact, nor in treaty stipulation, nor in common sense.⁴⁶ It is only because Japan is not a "normal country" and exists in an unsovereign state of exception that it must countenance jurisprudential phantasms such as these. Any other state would rightly ignore such frivolities, and would eventually take aggressive steps to retaliate against the state which persisted in bringing them.

The 1965 Treaty also prevents all claims from the Republic of Korea side regarding the comfort women, contracted and licensed prostitutes who worked at "comfort stations" for military clients during the Greater East Asia War.⁴⁷ Despite repeated attempts to rectify the situation, such as by apologizing to South Korea on numerous occasions and paying out large sums of money for those claiming to have been comfort women (even though said women were contract employees and worked at a legal profession largely by choice), the South Korea side continued to press its specious claims—often accompanied by demands for additional remuneration.⁴⁸ The harassment by the Korean side reached such a degree that it was deemed prudent by the government of Japan to enter into yet another bilateral agreement with the Republic of Korea, in December of 2015, in

⁴⁴ For a nuanced view, see Anthony J. Colangelo, "Jurisdiction, Immunity, Legality, and Jus Cogens," *Chicago Journal of International Law*, vol. 14, iss. 1 (Summer, 2013), pp. 53-91.

⁴⁵ "No. 8473: Japan and Republic of Korea, Agreement on the Settlement of Problems Concerning Property and Claims and on Economic Co-operation (with Protocols, Exchanges of Notes and Agreed Minutes), Signed at Tokyo, on 22 June 1965".

⁴⁶ For the ideological interpretation, see, e.g., Seokwoo Lee and Seryon Lee, "Yeo Woon Taek v. New Nippon Steel Corporation, 2013 Da 61381," *The American Journal of International Law*, vol. 113, no. 3 (2019), pp. 592-599.

⁴⁷ For a complicating view see Tom Phuong Le, "Negotiating in Good Faith: Overcoming Legitimacy Problems in the Japan-South Korea Reconciliation Process," *The Journal of Asian Studies*, vol. 78, no. 3 (Aug., 2019), pp. 621-644.

⁴⁸ For more on the relationship between politics, historical debates, and money in South Korea, see Joseph Yi, Joe Phillips, and Wondong Lee, "Manufacturing Contempt: State-Linked Populism in South Korea," *Society*, vol. 56 (2019), pp. 494-501. A brilliant overview of the comfort women system is at J. Mark Ramseyer, "Contracting for Sex in the Pacific War," *International Review of Law and Economics*, vol. 65 (2021).

order to allow for a return to diplomatic normalcy.⁴⁹ Such normalcy, however, is impossible, as Japan is in a state of exception and is not a normal country. In any event, South Korea's government-level harassment of Japan, in open violation of treaty and diplomatic accord, continues.

The 2015 agreement reached between Japan and South Korea, like the 1965 Treaty before it, cannot “completely and finally” resolve the question of the comfort women, because Japan's sovereignty was usurped in 1946 and Japan therefore lies vulnerable to just such strategies as the South Korean side now pursues to great international fanfare, including acclamations from within the United States by the same group—Anglo-Saxon liberals and socialists-communists—who imposed the 1946 constitution in the first place. It is no wonder that the very same people working from within the American academy on behalf of North Korean agents write glowing essays supporting the nomination of Article Nine for a Nobel Peace Prize. Japan's endless aporia is apparent in the enemies which occupy the “state of exception” in order to continue the civilizational, race war against Japan. The 1946 constitution and the treaties entered into on the basis of surrendered sovereignty have left Japan open to legal attacks, many of them due to Japan having been infiltrated by a false representation of history and her government and legal structure co-opted by a regime of animosity.⁵⁰

TWO: TERRITORY

OKINAWA

The constitution and law are not the only fields wherein “state of exception” postwar Japan fails to behave as a “normal country” would. I mentioned above that protecting citizens is one of the most basic functions of any nation-state. Concomitant with that is protecting a delineated territory, a geographical area where the sovereignty of the state holds sway.⁵¹

The most salient example of Japan's loss of territorial sovereignty in the postwar is Okinawa. In the spring of 1945, the American military gained control of Okinawa, partly in anticipation of a much more extensive military operation entailing the invasion of Kyushu. The American side retained control over Okinawa until 1972, when the territory was ceded back to Japan. While Japan was clearly in no position to defend its territorial integrity in the immediate aftermath of the Second World War or throughout the American Occupation which followed, the 1951 San

⁴⁹ See also Sakurai Yoshiko et al., “Nikkan gōi tekkai no oroka, Moon Jae-in Seiken no ayauasa,” *Voice*, no. 475 (Jul., 2017), pp. 46 ff.

⁵⁰ See Yamazaki Masahiro, *Rekishisen to shisōsen: rekishi mondai no yomitokikata* (Tokyo: Shūeisha Shinsho, 2019).

⁵¹ See Mary L. Dudziak and Leti Volpp, “Introduction: Legal Borderlands: Law and the Construction of American Borders,” *American Quarterly*, vol. 57, no. 3 (Sept., 2005), pp. 593-610.

Francisco Peace Treaty concluded between Japan and the United States was supposed to have returned Japanese sovereignty to Tokyo.⁵² Without this, Japan was unable to assert even basic territorial control, long after sovereignty was said to have been returned to Japan.

However, the United States continues to occupy certain areas of Okinawa in the form of military bases. While there are American military bases elsewhere in the world, the forward deployment of American troops and equipment in Okinawa is rivaled only by that in the Republic of Korea, which, in historical context, should be considered a part of the Empire of Japan which the Allied Powers, under the leadership of the United States, conquered in 1945. After this conquest, the United States and the other Allies carved up the former Japanese Empire, allotting certain portions to the Union of Soviet Socialist Republics (USSR). Japan, too, was nearly broken up into various zones, akin to what eventually became West and East Germany. In this sense, the American bases in South Korea and in Okinawa (and the rest of Japan) are part of a much larger realignment from Japanese to American control of territory in the immediate postwar, with this control being cemented by American involvement in ongoing wars in Asia. American bases in Okinawa are an artifact of 1945, and also of 1946. A fully sovereign Japan would obviate the need for Americans in Okinawa.

THE NORTHERN TERRITORIES

Apart from Okinawa, the most nettlesome instance of sustained territorial encroachment by a foreign power against Japan is at the opposite end of the Japanese archipelago, the Northern Territories stretching out to sea north from the large island of Hokkaido. The four island groupings comprise, from the Russian perspective, the southern reach of the Kuril Islands: Shikotan, Kunashiri, Etorofu, and the Habomai islands. However, Japan disputes whether the islands in question should be included under the “Kurils” rubric, which has led to discrepancies between Japan and the Soviet Union, and now Japan and Russia, over the islands’ treaty-designated ownership.⁵³ Japan is trapped in a catch-22. Without obtaining the return of its sovereign territory, Japan is unable to conclude a peace treaty with Russia, the stand-in for the former Soviet Union. But without a peace treaty, Japan is unable to negotiate the return of the Northern Territories as a sovereign power.⁵⁴

⁵² On the treaty, see Kurayama Mitsuru, *Baka yosaraba puropaganda de yomitoku Nihon no shinjitsu* (Tokyo: Wani Books, 2019), pp. 137-141.

⁵³ See, e.g., Sankei Shimbun Editorial Board, “Editorial: Putin’s Press Secretary Lashes Out at Sankei Shimbun over Stolen Territories Article,” *JAPAN Forward*, Mar. 16, 2021.

⁵⁴ The 1956 Soviet-Japanese Joint Declaration was more of an armistice with a provision for the exchange of diplomats. See Matthew J. Ouimet, “The Stalemate North of Hokkaido,” *The SAIS Review of International Affairs*, vol. 26, no. 1 (Winter, 2006), pp. 93-108, and Olga Puzanova, “Whose Kurils?” *The National Interest*, iss. 168 (Jul.-Aug., 2020), pp. 66-75.

Despite these seemingly intractable obstacles, a diplomatic solution to the ownership of the Northern Territories has been attempted in earnest in the postwar on at least four occasions. First, in 1956, a Soviet delegation suggested that of the four island groupings, Habomai and Shikotan should be returned to Japan. Second, during the late Soviet era, foreign minister Eduard A. Shevardnadze and Uno Sosuke, working under then-prime minister Takeshita Noboru, also discussed the issue.⁵⁵ Third, as scholar of Russia and the Soviet Union Prof. Takizawa Ichirō argues, in 1997, during the tumultuous administration of Boris Yeltsin during the early days of the Russian Federation, the Japanese government under Prime Minister Hashimoto Ryūtarō came very close to obtaining a commitment from Yeltsin on a specific deal on the islands.⁵⁶ Fourth, Russian President Vladimir Putin has discussed the Northern Territories question at length during his time in office, including during the interregnum when Putin's deputy Dmitry Medvedev was serving as what many saw to be Putin's stand-in as president. As in 1956, the Russian side under Putin again proposed returning two of the four islands to Japan. However, as Prof. Takizawa points out, by the time Prime Minister Abe had returned to office, the situation had been stalemated for so long that Abe was anxious to end the standoff, finalize control over the Northern Territories, and clear the way for a peace treaty with Russia some seven decades after the end of World War II. Takizawa attributes the failure of the Putin-Abe round to Abe's having committed the error of revealing to the press his hoped-for timeline for a resolution to the Northern Territories dispute, thus providing the Russian side with a chronometer they could use for drawing out negotiations, extracting concessions and aid, and running out the clock without having provided Japan with anything in return.⁵⁷

Considered in light of the “state of exception” typifying postwar Japan, the lack of a peace treaty between Japan and Russia (and, before that, between Japan and the Soviet Union), noted above, is the overarching obstacle to resolving the Northern Territories issue, and not the other way around. There are territorial disputes among other countries, of course. These territorial disputes can be serious, sometimes precipitating war. In June of 2020, for instance, Indian and Chinese forces engaged in deadly clashes along the Ladakh borderline in the Himalayas, with possibly

⁵⁵ See “Japanese and Soviet Officials Discuss a Territorial Dispute,” *New York Times* (Late Edition), Dec. 20, 1988, p. A-10.

⁵⁶ See Ichirō Takizawa, “Behind the Curtains: How Soviet Intelligence Masters and Japanese Journalists Brought About Soviet-Japan Diplomatic Normalization—Without the Return of the Northern Territories,” in Jason Morgan, ed., *Information Regimes during the Cold War in East Asia* (Oxon, UK: Routledge, 2020), pp. 13-29.

⁵⁷ Takizawa Ichirō, “Kesshite isoguna! Tai-Ro ryōdo kōshō,” *Gekkanshi Hanada*, Aug. 2016, 236-245.

dozens of soldiers having died in the fighting.⁵⁸ Territorial disputes are emphatically not unique to postwar Japan. But in the case of postwar Japan, it is the initial loss of sovereignty to the United States in 1945, exacerbated by the “sovereign renunciation of sovereignty” and the inversion of the small-c constitution (*kokutai*) of Japan with the replacement of the 1889 Meiji Constitution with the 1946 American constitution, which is the true obstacle to the resolution of the Northern Territories dispute. Japan and Russia are negotiating at multiple removes from the real issue, and Japan is furthermore operating from a false position—one of unsovereign sovereignty which is the end product of the constitution imposed upon it by a foreign aggressor.

The fundamental problem is that Japan is not the same country which engaged with the Russian Empire, and then the Soviet Union, in the prewar and wartime periods. The agreements which Japan and her Russian counterparts entered into prior to World War Two could conceivably guide the negotiations between Japan and Russia today. However, the situation has been hopelessly muddled by the intervention of the United States, especially by the San Francisco Peace Treaty of 1951. The San Francisco Peace Treaty is in turn tangled up with the Yalta, Cairo, and Potsdam conferences, where apparently conflicting and even contradictory pronouncements were made about Japan’s territorial status vis-à-vis the Soviet Union in anticipation of Japan’s increasingly likely military defeat. Japan was a pawn of the emerging Cold War powers even before the Cold War began. Because of this jockeying for position in anticipation of Japan’s defeat in World War II, it is not clear what islands Japan by moral and legal right ought to possess. Because the position of Japan as a nation-state is in limbo—because Japan, in other words, is not a “normal country” but lingers in a “state of exception”—it is impossible to untangle the threads of past pronouncements and treaties and rectify the disagreements between Japan and her Russian neighbor. There is always a hidden element, like a field of dark matter, which throws the normal course of negotiations and diplomacy off track and upsets the machinery of interactions between nominally sovereign states.

TAKESHIMA

The problem of hidden forces at work in diplomatic affairs is compounded when one considers the territorial dispute between Japan and the Republic of Korea over Takeshima, known in English as the Liancourt Rocks. Takeshima comprises two very small islets and some three dozen tiny rocks jutting out of the Sea of Japan. As Prof. Lee Young-hoon and his research team conclusively proved in *Han-Nichi Shuzokushugi* (Anti-Japan tribalism), Takeshima is not and

⁵⁸ Paul D. Shinkman, “Deadly Skirmish Was Part of a Larger Plan by China, India Believes,” *U.S. News and World Report*, Jul. 17, 2020. See also Jagannath P. Panda, “Infrastructure Build-Up at the Core and India-China Border Tensions,” *Japan Forum for Strategic Studies Kihō*, vol. 86 (Oct., 2020), pp. 76-81.

has never been part of any polity on the Korean peninsula. Takeshima is a part of Japan.⁵⁹ Old maps from both Korea and Japan attest to the ownership of Takeshima by Japan. The only “dispute” over Takeshima is one that has been willfully conjured up by South Korean politicians and activists.⁶⁰

However, since the 1950s South Koreans have illegally occupied Takeshima. In 2012, South Korean President Lee Myung-bak visited Takeshima in a bid to shore up support at home, and in 2016 then-candidate for the presidency of South Korea, the North Korea sympathizer Moon Jae-in, visited Takeshima in a theatrical display of get-tough-ness against Japan. In Lee’s and Moon’s political performances we can see limned the real issue of Takeshima. South Korea was once a part of the Japanese Empire, and in the postwar South Korea has come to define itself largely negatively, in opposition to Japan. South Korea is, in many ways, a state of exception dependent upon the state of exception of its former Japanese co-nationals. As outlined in *Han-Nichi Shuzokushugi*, this understanding of South Korea as the photographic negative of Japan sways the politics and cultural identity of South Korea to an alarming degree.⁶¹ Politicians who do not commit to living out this double state of exception can expect no future among the South Korea electorate. The irony of the situation is that both Japan and South Korea are unable to solve the Takeshima dilemma which South Korean politicians use to win votes because of the same, deeper dilemma outlined above: namely, that Japan is not a “normal country,” having effectively renounced sovereignty in the postwar. Compounding the difficulty is that South Korea is not a normal country either, but a shadow of the non-sovereign “state of exception” which is postwar Japan.

As many within South Korea and in the United States and elsewhere have argued, South Korea is in many ways an appendage of American empire, a holdover from the 1945 haphazard dissolution of the Japanese Empire, and a creature of the Cold War conflict between the United States and the Soviet Union.⁶² South Korea and Japan are thus locked in an intractable standoff over Takeshima, with South Korea tacitly affirming the impossibility of resolution by illegally occupying, but not daring further to develop, the outcroppings. Takeshima is useful for South Korea only insofar as it allows South Korean politicians to stage displays of defiance against

⁵⁹ Watanabe Toshio, Nishioka Tsutomu, Katsuoka Kanji, Shimokawa Masaharu, Shimojo Masao, and Kimura Mitsuhiko in “Complete Analysis of *Anti-Japan Tribalism*,” *Historical Awareness Research*, no. 6 (Spring and Summer, 2020), pp. 9-54.

⁶⁰ Lee Young-hoon, et al., *Han-Nichi shuzokushugi: Nikkan kiki no gensen* (Tokyo: Bungei Shunju, 2019), pp. 140-160. See also Lee Young-hoon, et al., *Han-Nichi shuzokushugi to no tōsen* (Tokyo: Bungei Shunju, 2020).

⁶¹ See also Matsumoto Kōji, *Kankoku ‘han Nichi shugi’ no kigen* (Tokyo: Sōshisha, 2019).

⁶² See, e.g., Bruce Cumings, “Dominion from Sea to Sea: America’s Pacific Ascendancy,” *The Asia-Pacific Journal: Japan Focus*, vol. 10, iss. 7, no. 1 (Feb. 11, 2012), pp. 1-11.

Japan, which ironically only reinforces the contingent, negative nature of South Korea as a country defined solely in contrast to its purported existential rival. In these performances we see the double nature of the tragedy of South Korea, which is not a normal country precisely because its nemesis, Japan, was not a normal country first.

THE SENKAKUS AND OTHER OUTLYING ISLANDS

Nowhere is the territorial porosity of un-sovereign Japan more apparent than in her increasing battle—it is the right word—with the People’s Republic of China over the Senkaku Islands.⁶³ The Senkakus, part of Ishigaki City in Okinawa Prefecture, were brought under Japanese control in 1895. The name that the Chinese side uses for the Senkakus makes clear that the Senkakus were seen by passing Chinese fishermen as shoals where they could increase their catch. No attempt was ever made by the Chinese to occupy, develop, or administer the Senkakus.⁶⁴ The Japanese duly annexed the Senkakus, having first mapped the area, and the Senkakus were included in the documents rendering sovereignty over Okinawa to the United States in 1945 and then again in the documents returning sovereignty over Okinawa to Japan in 1972, although without confirming or denying Japan’s sovereignty over the Senkakus.⁶⁵ Taken in particulars or in the sweep of modern history, however, there can be no doubt that the Senkakus belong to Japan.

But in 1947 the Republic of China (ROC) produced a map bearing a line, comprising eleven undulating dashes, which was issued without explanation but which is now cited by the People’s Republic of China (PRC), the Republic of China’s mortal enemy, as indicating possession of all territory falling within this arbitrary line.⁶⁶ While the Senkaku Islands do not fall within the Nine-Dash Line, the PRC nevertheless has used the Nine-Dash Line as a *carte blanche* for pushing out ever-farther into the western Pacific, without regard for the sovereignty of other

⁶³ See Yayama Tarō, *Shū Kinpei no ‘sansen’ wo abaku!! Senkaku shotō wa kōshite nusumarareru* (Tokyo: Kairyusha, 2017), pp. 63-66, and Kerry Gershaneck, *Political Warfare: Strategies for Combating China’s Plan to “Win without Fighting”* (Quantico, VA: Marine Corps University Press, 2020).

⁶⁴ On the Senkakus and Japan, see, e.g., Takashi Inoguchi and Ankit Panda, “Japan’s Grand Strategy in the South China Sea: Principled Pragmatism,” in Anders Corr, ed., *Great Powers, Grand Strategies: The New Game in the South China Sea* (Annapolis, MD: Naval Institute Press, 2018), pp. 199-223.

⁶⁵ See Robert C. Watts, IV, “Origins of a ‘Ragged Edge’: U.S. Ambiguity on the Senkakus’ Sovereignty,” *Naval War College Review*, vol. 72, no. 3 (2019), pp. 101-138. See also Robert D. Eldridge, “It’s Time for the U.S. to Re-recognize Japan’s Sovereignty over the Senkaku Islands,” *JAPAN Forward*, Jul. 23, 2020, and *The Origins of U.S. Policy in the East China Sea Islands Dispute: Okinawa’s Reversion and the Senkaku Islands* (New York: Routledge, 2014).

⁶⁶ See Zhiguo Gao and Bing Bing Jia, “The Nine-Dash Line in the South China Sea: History, Status, and Implications,” *American Journal of International Law*, vol. 107, iss. 1 (Jan., 2013), pp. 98-123.

states. In effect, the PRC unwarrantedly co-opted an arbitrary cartographic exercise and used it as one of the bases for claims against the original and only owner of the Senkakus, Japan. The map, and the now-infamous string of dashes, now contains nine dashes instead of eleven—hence the “nine-dash line” problem often referenced in the literature on the territorial disputes between Japan and the PRC.

Based partly on the fictitious cartography of the “nine-dash line map,” the PRC has been steadily escalating its attacks on the Senkakus. These attacks are now nothing short of belligerent, acts of open aggression in Japanese territory. In 2010 a Chinese “fishing trawler” rammed a Japanese Coast Guard vessel in the waters off the Ishigaki island group. The Chinese side escalated its aggression from there. In 2020, the People’s Republic of China issued a draft version of new guidelines for its coast guard, authorizing the use of force against “foreigners found infringing Chinese ‘sovereignty, sovereign rights and jurisdictional rights’” in what China falsely claims are its territorial waters around the Senkakus.⁶⁷ This encoding into law of the arming of Chinese coast guard vessels shocked international and maritime law experts around the world, and many argue that it represents a test-run for what could be a war over the Senkakus and the wider East and even South China Seas in the near future.⁶⁸ In reality, however, the change to the coast guard regulations was predated by persistent flouting of both international and maritime law and the state laws of the PRC. Oftentimes, the “coast guard” vessels which the People’s Republic of China dispatches to harass Japanese vessels around the Senkakus are actually People’s Liberation Army Navy (PLAN) vessels painted coast guard white. The ruse of legal proceduralism on the Chinese side did not fool anyone and was not meant to. In the very act of pretending to adhere to the laws and norms of the seas, China was indicating that it did not intend to play by the rules on the Senkakus.⁶⁹

Consider an analogy to help understand what is at stake in the Senkakus dispute and the nature of China’s conduct in that dispute. Off the coast of southern California lies Santa Catalina Island, some eight miles across and twenty-two miles long and known for its beautiful scenery. With the exception of a minor insurrection in 1972 related to the 1848 Treaty of Guadalupe-Hidalgo, there have never been any armed conflicts in modern history over or around Catalina Island. If there

⁶⁷ Ryan D. Martinson, “The Real Risks of China’s New Coastguard Law,” *The National Interest*, Mar. 3, 2021. See also “Japan Expects Deterrence to Keep China in Check over Senkakus,” *Mainichi Japan*, Mar. 17, 2021.

⁶⁸ See Ralph Jennings, “China’s Tough New Coast Guard Law Takes Aim at U.S.-Backed Southeast Asian States,” *Voice of America News*, Feb. 18, 2021, and Saibal Dasgupta, “China’s Move to Empower Coast Guard Stirs Tensions,” *Voice of America News*, Feb. 11, 2021.

⁶⁹ See Monika Chansoria, *China, Japan, and Senkaku Islands: Conflict in the East China Sea amid an American Shadow* (Oxon, UK: Routledge, 2018) and *Senkaku zettai zetsumei, Bessatsu Seiron* 36 (Mar., 2021).

were ever, for example, an attempt by the Mexican coast guard or navy to harass American vessels in American waters around an American island, even on the basis of the 1848 treaty entered into between Mexico and the United States, the offending vessels would be issued one warning and then would be sent to the bottom of the sea.⁷⁰ No American politician who suggested that Santa Catalina Island be ceded to Mexico in order to appease the aggressor would be taken seriously. If the governments of Washington, D.C., and the State of California refused to protect Santa Catalina, armed militias and civilian flotillas would swarm the small island and confront even the Mexican navy in the island's defense. Islands are not disposable assets, but integral parts of any sovereign nation which possesses them.

A look at recent history confirms this fact. For example, the British navy undertook a perilous and highly risky voyage to the Falkland Islands in 1982 in defense of an outpost of the largely defunct British Empire.⁷¹ United Nations and other troops engaged in a conflict over the small island polity of East Timor in 1997. In the 1950s, the sovereign nations of the Republic of China and the People's Republic of China squared off in bloody combat over control of tiny islands such as Quemoy and Matsu, risking the outbreak of World War III to decide which state would control the territory.⁷² It is unknown to me that there is any other sovereign nation which would suffer, without retaliation, encroachment on its territory even once. In the case of Japan, this has been happening on virtually a daily basis.⁷³ Incredibly, it happens despite the law's being entirely on the Japanese side. And not just in the case of the Senkakus, but more broadly as China's island aggression campaign has metastasized to the rest of the East and South China Seas.⁷⁴

But in the very pattern of Chinese aggression and the legal challenges mounted against it we can see the lynchpin of Japan's loss of sovereignty and the reason for its strange paralysis in the face of invasion. For instance, the People's Republic of China lost a 2016 United Nations Convention on the Law of the Sea (UNCLOS) case over island disputes with the Philippines, which is

⁷⁰ Lalo Lopez, "Legacy of a Land Grab," *Hispanic*, vol. 10, iss. 9 (Sept., 1997), pp. 22-28.

⁷¹ See Cesar N. Caviedes, "Conflict over the Falkland Islands," *Latin American Research Review*, vol. 29, iss. 2 (1994), pp. 172 ff.

⁷² See Xiao Ruping and Hsiao-Ting Ling, "Inside the Asian Cold War Intrigues: Revisiting the Taiwan Strait Crises," *Modern Asian Studies*, vol. 52, no. 6 (2018), pp. 2109-2136.

⁷³ See Isobe Kōichi, "Tatakai wa sudeni hajimatteiru," in "Tokushū: Kokka, kokudo wo mamore," *Seiron*, no. 592 (Jan., 2021), pp. 42-49.

⁷⁴ Sheila A. Smith, "A Sino-Japanese Clash in the East China Sea," Council on Foreign Relations, Contingency Planning Memorandum no. 18 (Apr., 2013), pp. 1-8

indicative of the shadow of the United States in this dispute.⁷⁵ The Philippines, like Japan, is a traditional ally of the United States, and so any dispute over Philippines territory could implicate the United States Navy or other armed forces into a much bigger war with the PRC. The presence of the United States, even in the background, ups the ante of any potential conflict. Sometimes alliances are the most potent enemies of all. Japan's "state of exception" shows through in the fact that the United States is a party to the conflicts with China and her neighbors in the maritime zone around Southeast and East Asia.⁷⁶

However, Japan has no objective need of American protection. The highly capable and well-equipped Japanese Maritime Self-Defense Force could have fended off encroachments by the PRC when they first began.⁷⁷ Instead, Japan has tolerated the encroachments, emboldening the PRC while allowing China time to upgrade its military capabilities. With the full commissioning of the Liaoning aircraft carrier in 2012 and China's having obtained anti-ship missile systems, including anti-carrier missiles, Japan's position in the East China Sea has rapidly deteriorated to one of parity, if not disadvantage.⁷⁸ After decades of laboring in the shadow of the Seventh Fleet, Japanese forces find it difficult to stir from the torpor of dependency which the 1946 constitution was specifically written to produce.

Japan's "state of exception" foggy over its own territorial sovereignty extends beyond the surface of the land and sea, to the seabed. Even under the waves, Japan is subject to encroachment by hostile powers. For example, East Asia security expert Dr. Monika Chansoria reported in 2018 that a rich trove of rare-earth elements was discovered around Minami-Torishima, part of the Ogasawara Islands situated in the Pacific Ocean nearly 2,000 kilometers from the main island of Honshu.⁷⁹ In February of 2021, Julian Ryall wrote that "the Japan Coast

⁷⁵ "United States Continues to Challenge Chinese Claims in South China Sea; Law of the Sea Tribunal Issues Award against China in *Philippines-China Arbitration*," *The American Journal of International Law*, vol. 110, no. 4 (Oct., 2016), pp. 795-802

⁷⁶ June Teufel Dreyer, "China's Two Sessions—and What they Mean for the United States," *Foreign Policy Research Institute*, Mar. 12, 2021.

⁷⁷ See Sakurai Yoshiko, "Isoge Jieitai no daikibo kaikaku," in "Utsukushiki tsuyoki kuni e" series, *Sankei Shimbun*, Sept. 5, 2016.

⁷⁸ For a detailed overview of Chinese naval buildup, see Vice Admiral Yoji Koda, "China's Bluewater Navy Series: China's Blue Water Navy Strategy and its Implications," *Center for a New American Security* (Mar., 2017). See also Andrew Scobell, Michael McMahon, and Cortez A. Cooper, III, "China's Aircraft Carrier Program: Drivers, Developments, Implications," *Naval War College Review*, vol. 68, iss. 4 (Autumn, 2015), pp. 65-79.

⁷⁹ Monika Chansoria, "Newly-Discovered 16 Million MTs of Rare Earth Minerals Can Make Japan Independent of China," *JAPAN Forward*, Jun. 1, 2018.

Guard announced it would deploy the 180-ton patrol vessel *Mikazuki* to the Ogasawara Islands in the coming months and will also increase the number of officers stationed there.”⁸⁰ The reason for the increased presence of the Japan Coast Guard is believed to be connected to the People’s Republic of China’s encroachments on Japanese rare-earth deposits around another island, Okinotorishima farther south in the Pacific than the Ogasawaras. Not only rare-earth elements, but also coral: in 2014 alone, Ryall reports, more than 1,000 Chinese vessels were identified around Okinotorishima, stealing valuable and environmentally precious coral from Japanese waters. China has also been carrying out illegal surveys in Japanese waters, no doubt scouting for other mineral deposits that it can poach.⁸¹ China is making it clear that it has no respect for Japan’s territorial waters, and Japan is struggling to come up with a viable response to this invasion.

THREE: PEOPLE

THE TOKYO WAR CRIMES TRIAL, THE WAR GUILT INFORMATION PROGRAM (WGIP), AND OTHER METHODS OF MASS PSYCHOLOGICAL DISMEMBERMENT

The surrender by Japan to Allied forces in September of 1945 was a military surrender. At least, this is what the Japan side at first understood it to be. The Greater East Asia War, of which the Pacific War was just a part, had been a military conflict, and when Japan surrendered it did so in accordance with the laws of war. The Potsdam Declaration and other pronouncements by the American and Allied forces and governments prior to the surrender by Japan indicated that the surrender would include restructuring the Japanese government and political system to a great extent. But while this much was clear even without the Potsdam Declaration and other such documents—while it was obvious that, given the ferocity of the fighting and the “total war” character of the fight, Japan would be doing more than simply laying down its arms when the surrender was effected—what few if any in Japan expected was that the Allies, and in particular the Americans, had in mind the dismantling of Japan as a civilization.

Blindsiding notwithstanding, the destruction of Japanese culture and the reprogramming of the Japanese people had become, by war’s end, the main objective of fighting for the American elites. As Gen. Douglas MacArthur put it, the war between Japan and the United States had been

⁸⁰ Julian Ryall, “Japan to Station Coastguard Vessel at Ogasawara Islands to Counter Chinese Ships,” *South China Morning Post*, Feb. 8, 2021

⁸¹ Ryan D. Martinson and Peter A. Dutton, “China’s Distant-Ocean Survey Activities: Implications for U.S. National Security,” China Maritime Studies Institute, Center for Naval Warfare Studies, U.S. Naval War College, *China Maritime Report*, no. 3 (Nov., 2018). See also June Teufel Dreyer, “China’s Monopoly on Rare Earth Elements and Why We Should Care,” *Foreign Policy Research Institute*, Oct. 9, 2020.

“basically theological”.⁸² It was not battleship versus battleship, tank versus tank, man versus man—it was the post-Enlightenment Christian God versus the premodern Shintō deities, the entire force of modern, Protestant capitalism and liberal democracy arrayed against the Japanese race and history. The leveling of Japanese cities by fire and atom bomb was merely a precursor to the equal leveling of the Japanese psyche by American propaganda in the postwar.⁸³ It does not matter, as Jolyon Baraka Thomas points out in *Faking Liberties*, that the Americans had to invent the grounds for their holy war against Japan after arriving victorious in Tokyo. Before the war had been brought to a fiery end the American side had decided that Japan’s civilization would not survive Japan’s eventual surrender. The physical war of planes and napalm was merely the means to the real end: the psychological, cultural-level surrender of the Japanese people to American absolutism under cover of “freedom” and “democracy”.⁸⁴

This surrender would have devastating consequences. Fundamentally, one can point to the War Guilt Information Program (WGIP) as the vehicle by which the Occupation authorities inculcated Japan into becoming a permanent vassal state of the American Empire. As historian Takahashi Shirō has detailed, the WGIP was a massive psychological-operations campaign carried out in order to instill a sense of historical masochism (*jigyaku shikan*) in the Japanese people.⁸⁵ The Tokyo War Crimes Trial, often seen in the United States as counterparts to the Nuremberg Trials against the defeated National Socialists of the Third Reich, is best understood as an extension of the WGIP, a didactic tool for searing into the Japanese psyche the sting of defeat and invented shame for having fought against “rightful” American hegemony in Asia and the Pacific.⁸⁶ The logic behind the Trial was, as Indian justice Radhabinod Pal pointed out, irreparably flawed, and the procedures followed were transparently pre-arranged. Some European and American scholars at least partly concur. Referring to the hanging of Gen. Yamashita Tomoyuki, American scholar Noam Chomsky writes that “the Tokyo tribunal was

⁸² Jolyon Baraka Thomas, *Faking Liberties: Religious Freedom in American-Occupied Japan* (Chicago: University of Chicago Press, 2019), p. 150. See also James Cogwell, letter in *The Christian Century*, vol. 128, iss. 17 (Aug. 23, 2011), p. 6.

⁸³ A minority view contesting MacArthur’s pieties is Helen Mears, *Mirror for Americans: Japan* (New York, NY: Houghton Mifflin, 1948). GHQ censored Mears, too.

⁸⁴ “Napalm killed more Japanese in World War II than did the two atomic bomb blasts.” “Napalm in World War II: Invention, Test, the Bat-Bomb, and Incinerating Japan,” University of California-Berkeley, Center for Science, Technology, Medicine, and Technology. <https://cstms.berkeley.edu/current-events/napalm-in-world-war-ii-invention-test-the-bat-bomb-and-incinerating-japan/>

⁸⁵ See, e.g., Nakanishi Terumasa, *Nihonjin toshite koredake wa shitte okitai koto* (Tokyo: PHP Shinsho, 2006), and Sakurai Yoshiko, *GHQ sakusei no jōhō sōsasho ‘shinsōbako’ no jubaku wo toku* (Tokyo: Shogakukan, 2002).

⁸⁶ See Ezaki Michio, *Amerikagawa kara mita Tōkyō saiban shikan no kyomō* (Tokyo: Shōdensha, 2016).

simply a farce.”⁸⁷ And yet, the farce continued, because the point of the Trial was not justice, but psychological domination.

It was in this atmosphere of psychological warfare following the cessation of military hostilities that the Japanese constitution was crafted. As Karatani Kōjin reminds us, Etō Jun’s work on the “closed discursive space” of occupied Japan helps to contextualize the work of the postwar constitutional remodeling of Japan. As a programmatic Marxist, Karatani disputes Etō’s overall assessment and arrives at conclusions different from Etō’s. But Karatani does not dispute the facts Etō cites. During the American Occupation of Japan there was massive censorship of materials and rewriting—overwriting—of the Japanese recent and more distant past.⁸⁸ This was not an adjunct to the Occupation but the very point of it. Total civilizational disorientation was the goal of the American presence in Japan.⁸⁹ Etō compares the Japanese postwar, and especially the American manipulation of information to instill a false sense of self and of history in Japan, to a “hall of mirrors,” which Karatani explicates as a metaphor for the invisibility of the censorship, in sharp contrast to the prewar censorship regime.⁹⁰ It was not just that the Japanese were being censored, but also that they did not realize it. Their entire world was being transformed, and yet it was done in large part furtively, stealthily, thus adding the additional psychological trauma of the *unheimlich* to the postwar assault of Japanese civilization.

This cultural and civilizational lobotomization of Japan left the nation and her people in what can only be described as a state of postwar paralysis.⁹¹ The normal police powers of a state were largely abandoned in this haze which many in Japan refer to as “*heiwa boke*,” or the mental disengagement from one’s surroundings which occurs when pacifism is taken as excuse to withdraw into athymotic isolation and reliance on foreign powers to protect one’s own nation.⁹²

⁸⁷ David Barsamian and Noam Chomsky, *Imperial Ambitions: Conversations with Noam Chomsky on the Post-9/11 World* (London, UK: Hamish Hamilton, 2005), p. 67.

⁸⁸ See, e.g., Kawakubo Tsuyoshi, “Sengo no seiji to bungaku: gendai hoshu no genten toshite no Etō Jun,” in *Handobukku: Kindai Nihon seiji shisōshi: bakumatsu kara Shōwa made* (Kyoto: Minerva Shobo, 2021), pp. 282-287. See also Etō Jun, *1946nen kenpō: sono sokubaku* (Tokyo: Bunshun Gakugei Library, 2015), and *Tozasareta gengo kūkan: senryōgun no ken’etsu to sengo Nihon* (Tokyo: Bunshun Bunkō, 1994).

⁸⁹ Aoyagi Takehiko, *Nihonjin wo seishinteki busō kaijo suru tameni Amerika ga nejimageta Nihon no rekishi* (Tokyo: Heart Shuppan, 2017)

⁹⁰ “Kagamibari no heya ni tojikomerareta yō,” in Karatani Kōjin, *Kenpō no muishiki*, op. cit., p. 6, citing Etō Jun, *1946nen kenpō: sono sokubaku*, op. cit., pp. 19-20.

⁹¹ See Fukuchi Atsushi, “Haisenkokoku taisei no honshitsu wo kangaeru,” *jō, ge*, *Japan Forum for Strategic Studies Kihō*, vol. 76 (Apr., 2018), pp. 113-119, and vol. 78 (Oct., 2018), pp. 118-124.

⁹² See Izawa Motohiko, “Shinpū shinwa to heiwa kenpō kara dakkyaku wo: naze ima, Kamakura bushi na no ka,” *Seiron*, no. 571 (May, 2019), pp. 108-113.

It is also taken as an excuse to dismiss those who died protecting Japan as “war criminals” and to neglect remembering them, as can be seen in the next section.

YASUKUNI SHRINE

Western history is replete with examples of what appears to be an axiom of warfare in the West: when one polity wishes to destroy another, the first polity must uproot and humiliate the other polity’s gods. So it was in 1945 and after in Japan. Separation of church and state has an even more virulent anti-religious valence in Japan than in the U.S.A., indicative of the religious violence which Anglo-Saxon American liberals visited upon a prostrate Japan. The most salient example of this religious insistence on the complete divorce between metaphysics and the secular state—a distortion of human nature found nowhere in Japanese history prior to 1945—is probably Yasukuni Shrine, where are enshrined the souls of those who gave their lives in service to Japan. Among the enshrined are Taiwanese, Koreans, and non-military personnel such as nurses. Also remembered are the souls of animals who helped the men in their most difficult hour, from horses and dogs to the passenger pigeons which carried messages in dangerous warzones. However, this place where the souls are gathered—this resting shrine of souls which is itself, in many ways, the soul of Japan—has been subjected to a prejudicial and historically unfounded attack. It was, ultimately, to desecrate Yasukuni that the American liberals committed mass murder in Tokyo, Hiroshima, Nagasaki, and many other cities besides.

Since 1945, Yasukuni has been ground zero for the hypocrisy of “American exceptionalism”. Critics of Yasukuni Shrine say that it is an accessory to Japanese “militarism”. Those critics do not make the same charges about places of rest for those in other countries. For example, Curtis LeMay, responsible for the firebombing campaign of Tokyo and other Japanese cities in the spring of 1945, is buried in the United States Air Force Academy Cemetery. Dropping incendiary devices on a defenseless civilian population could serve as the very definition of a war crime, but one hears little if any objection when American war criminals are interred with military honors. President Truman, who decided to drop the atomic bombs on Hiroshima and Nagasaki, lies in honored rest at his eponymous library and museum in Missouri. And yet even today, Yasukuni continues to be viewed by many Americans as a place of reactionary militarism, a dangerous powder-keg of nascent extremism which might at any time spark the overthrow of Japan’s democratically-elected government. It is difficult to determine which is more striking in such accusations, their anti-religious bias or their nationalistic chauvinism.

Nowhere is the jealousy of the American liberals’ idols and the anti-religious thrust of the American Enlightenment more apparent than at Yasukuni. Fr. Bruno Bitter, a Catholic priest in

Japan, encouraged Catholics to visit Yasukuni and pray for the war dead enshrined there.⁹³ It was only the Evangelical Liberals who demanded that Yasukuni be shut down, with some going so far as to insist that it be made a mockery of by being turned into a dog-racing park. As with the Tokyo War Crimes Trial, which was an attempt to convince Japan that its political and military endeavors prior to the arrival of the conquistadors in khaki had all been irrevocably evil, the attack on Yasukuni, in the new “constitution” and in the general turning of Japanese against their native religion, was the imposition of Evangelical Liberalism to eradicate Shintō deities.

CHŌSEN GAKKŌ

Thoroughly demoralized, the people of Japan lost their ability to make the primary Schmittian distinction between friend and enemy. Without even a religious character left to succor and guide them, the people of Japan lay open to ideological enslavement by even the worst and most hostile invaders. Japan is home to some six dozen Chōsen Gakkō, which are schools run by partisans of the Democratic People’s Republic of Korea. (There are also pro-South Korean schools, which are run by a separate entity.)⁹⁴ At the Chōsen Gakkō the North Korean dictatorship is presented as a paradise on earth, and the dictator dynasty of the Kim family is lauded as a kind of peninsular tribal pantheon.⁹⁵ Students are taught distorted and hateful untruths about history, and a contempt for Japan and other free countries is carefully instilled in them from the earliest age. Students bow to portraits of the Kim dictators and sing songs about the motherland of North Korea. As Geoffrey Cain writes:

Some 10,000 children at schools all over Japan have been known to goose-step in the presence of portraits of the former dictators Kim Jong Il and Kim Il Sung, marching patriotically to revolutionary music. School field trips typically include excursions to Pyongyang to learn about North Korean history and ideology. Alongside a regular curriculum of math, literature and science, these ‘Chongryon schools,’ as they’re called, teach North Korean ideologies of nationalism and socialism.⁹⁶

“Chongryon” refers to the General Association of Korean Residents in Japan, one of the two main groups for residents of Japan who identify as Korean (despite Japanese citizenship being freely available to them). Incredibly, these schools are not only tolerated in Japan, but local and

⁹³ See John Breen, “Popes, Bishops and War Criminals: Reflections on Catholics and Yasukuni in Post-War Japan,” *The Asia-Pacific Journal: Japan Focus*, vol. 8, iss. 9, no. 3 (Mar., 2010), pp. 1-15.

⁹⁴ See Chung Dae-kyun, “Japan’s Korean Community in Transition,” *Japan Echo*, vol. 30, iss. 2 (Apr., 2003), pp. 30-33.

⁹⁵ See Esteban Flores, “Indoctrination or Education? Inside North Korean Schools in Japan,” *Harvard International Review*, vol. 39, no. 1 (Winter, 2018), pp. 9-12.

⁹⁶ Geoffrey Cain, “Although they live freely in Japan, these Koreans still support Kim Jong Un,” *The World*, Jul. 10, 2014

prefectural governments provide funding for these factories of hate. While the present-day anti-American American educational system presents many outrages comparable to this, and while American students are also taught to attempt violent revolution against their government, it is difficult to imagine that a school with open ties to a terrorist network—imagine a Taliban University or an ISIS kindergarten—would be able to operate in the United States, much less receive monies from the public fisc.⁹⁷

Warping minds through education is only part of the mission of the Chōsen Gakkō. These schools also helped facilitate a massive human trafficking operation from within Japan on behalf of the communist North.⁹⁸ Beginning in 1959, the Chōsen Gakkō and the pro-North Korean organizations in Japan which supported them—in particular the Chongryon—oversaw the repatriation of Koreans (some of whom had been born in Japan and never been to Korea before) via specially commissioned ships. The most notorious of these was called the *Man Gyong Bong* 92, which entered operation as a North Korea-Japan ferry vessel in the fall of 1971. Before departing for North Korea, Korean residents of Japan were often required to hand over most of their assets to the Chongryon. (Many who stayed in Japan also either voluntarily gave money and other valuables to the Chongryon, or had them taken by force.)⁹⁹ The Chongryon became wealthy on the confiscated belongings and cash of those essentially being sold into slavery on the peninsula.¹⁰⁰ The *Man Gyong Bong* was, in fact, a smuggling and kidnapping vessel which the North Korean government was using to take Koreans away from Japan in order to populate the North with slaves for the socialist economy and replace the people lost to brutal treatment by the Kim dictatorship and famines caused by communist ideology.¹⁰¹ The *Man Gyong Bong* was also smuggling drugs into Japan for cash and dropping off spies to roam Japan gathering information and probing the Japanese state for weaknesses. As Niigata Chongryon head office vice committee chairman Jang Myong-su (張明秀) said, “At first the objective [of running the ferrying program] was to support the repatriation of Korean residents of Japan, but in the 1960s

⁹⁷ To be sure, there is definitely resistance in Japan against the Chōsen Gakkō. See, e.g., “North Korea Losing Support in an Angry Japan,” *New York Times* (Online), Sep. 8, 2003, and Matthew Carney, et al., “Japan’s Government Cuts Funding for Ethnic Korean Schools, Claiming They Teach North Korean Propaganda,” *ABC News* (Australia), Jun. 30, 2014.

⁹⁸ This was hardly the first instance of communists cooperating between Japan and North Korea. See Hyōmoto Tatsukira, “Busō hōki no jidai (ichi),” *Seiron*, no. 370 (May 1, 2003), pp. 236-245.

⁹⁹ Hiroshi Matsubara, John Feffer, and Mayuko Tokita, “Japan’s Korean Residents Caught in the Japan-North Korea Crossfire,” *The Asia-Pacific Journal: Japan Focus*, vol. 5, iss. 1 (Jan. 2, 2007), pp. 1-11.

¹⁰⁰ Kano Tadao, “Tai Kita Chōsen seisaku: ‘supai sen’ Man Kei Hō gō ni kibishii me wo,” *Kankai*, May, 2003, pp. 129-130

¹⁰¹ Yokota Sakie, et al., “‘Rachi wa tero da’ 5gatsu 7nichi dai5kai kokumin daishūkai kiroku (ge),” *Gendai Korea*, June, 2003, pp. 42-52

the directive came from North Korea: ‘Round up repatriates so that the ship can keep shuttling back and forth.’ Along the way, [the program] changed into espionage.”¹⁰² Chongryon, a clearinghouse for North Korean espionage inside of Japan, nevertheless continues to contribute to the operation of Chōsen Gakkō, which in turn feed the “anti-Japan tribalism” which is a staple of “education” in both North and South Korea.

In 2018, five people sued the North Korean government over the human trafficking campaign which North Korea carried out with the help of pro-Korea organizations in Japan. A Human Rights Watch report summarizes the allegations:

Between 1959 and 1984, approximately 93,000 ethnic Koreans (*Zainichi*) and Japanese migrated from Japan to North Korea under the program’s auspices. The North Korean government, mostly through the General Association of Korean Residents in Japan (Chongryon), a pro-Pyongyang organization, propagandized that North Korea was a ‘Paradise on Earth,’ and ‘anything needed for life including housing, food, clothes are fully guaranteed.’ The governments of both North Korea and Japan (through a cabinet resolution) endorsed the program at the highest levels. But given the absence of diplomatic relations between the two, it was largely carried out by Chongryon, with support from the Japanese and North Korean Red Cross Societies and facilitation by the International Committee of the Red Cross (ICRC). In the lawsuit, the plaintiffs demand damages from the North Korean government for luring ethnic Koreans in Japan on false premises. The plaintiffs maintain that North Korea intended to attract ethnic Koreans, especially skilled workers and technicians, to meet its labor shortage. While victims quickly realized that North Korean promises were false, often even when they first arrived at the port of entry, the authorities never allowed them to return to Japan.¹⁰³

The North Korean state took full advantage of the “state of exception” and loss of sovereignty in postwar Japan to prey upon even ethnic Koreans living in Japan.

ABDUCTIONS OF JAPANESE CITIZENS

¹⁰² “Man Kei Hō gō ‘nyūkō tomeru beki’, rachi higaisha kazoku renrakukai,” *Yomiuri Shimbun*, Jan. 29, 2003, Tokyo Morning Edition, p. 35

¹⁰³ “Japan: Protect Victims Enticed to North Korea: Historical ‘Paradise on Earth’ Campaign a Rights Disaster,” *Human Rights Watch*, Aug. 21, 2018. See also Satō Katsumi and Kojima Harunori, “Kokuhatsu taidan: tōjisha ga kaikon komete shidan suru ‘shitsurakuen’ Kita Chōsen kikoku jigyo no suisensha tachi,” *Seiron*, no. 370 (May 1, 2003), pp. 50-67.

In the 1970s, not only Korean residents of Japan but also Japanese citizens began disappearing from Japan.¹⁰⁴ Such was the state of cultural anomie which followed in the train of Japan's psychological dismantling that for years the Japanese police did not even realize that Japan's citizens were systematically disappearing, largely from a stretch of coastline on the Sea of Japan across which lay the communist dictatorship of North Korea.¹⁰⁵ When one young girl, Yokota Megumi, was abducted from Niigata in November of 1977, her parents frantically searched for her and then kept up the search for twenty years before being finally informed by the Japanese government that she had likely been taken by agents from North Korea. The Yokotas' determination to bring their daughter and sister back home safely provided the impetus to make the conceptual leap between the hundreds of disappearances since the 1970s being all unrelated, to the sickening realization that North Korea had possibly been carrying out a massive human trafficking ring right under the noses of the Japanese authorities.¹⁰⁶

It was not just Japan. The horrors of the North Korean kidnapping program have affected the victims and their families in Lebanon, France, Hong Kong, Malaysia, the United States, South Korea, and elsewhere.¹⁰⁷ But parallel to this, and to the nightmares faced by those who also had loved ones abducted from Japan, is the damning statement this large-scale crime makes about the Japanese postwar state. It is inconceivable that any other country could suffer such outrages against its population and not have the civilizational awareness to piece together the facts to see the alarming whole picture. It is one thing not to have the wherewithal to effect the return of abductees, but another entirely not to notice the pattern of abduction in the first place, especially when the obvious suspect presents itself in the form of one of the most sinister regimes on earth right next door. And yet, this is what happened in Japan.¹⁰⁸ When just one American—David Sneddon—disappeared from rural Yunnan Province in the People's Republic of China in 2004, his family, like the Yokotas, tracked down the last known movements of their missing loved one

¹⁰⁴ See "Bookmark: Megumi Yokota Film Premiere A Push for the Return of North Korean Abduction Victims," *JAPAN Forward*, Sep. 19, 2020.

¹⁰⁵ Anthony DiFilippo, "Still at Odds: The Japanese Abduction Issue and North Korea's Circumvention," *UNISCI Discussion Papers*, no. 32 (May, 2013), pp. 137-170.

¹⁰⁶ Hideko Takayama and Evan Thomas, "Lost, without a Trace; Talks on Normalizing Relations with Japan Are Spotting Just How Vast Pyongyang's Kidnapping Scheme Was," *Newsweek* (International Edition), Feb. 20, 2006

¹⁰⁷ See Brad Williams and Erik Moberg, "Explaining Divergent Responses to the North Korean Abductions Issue in Japan and South Korea," *The Journal of Asian Studies*, vol. 69, no. 2 (May, 2010), pp. 507-536, and Richard J. Samuels, "Kidnapping Politics in East Asia," *Journal of East Asian Studies*, vol. 10 (Sep.-Dec., 2010), pp. 363-395.

¹⁰⁸ Araki Kazuhiro, "Imakoso hangyaku seyo, 'Chōsen Sōren' shokun!" *Seiron*, no. 370 (May 1, 2003), pp. 76-87

and arrived at the probable conclusion that David had been kidnapped by North Koreans and taken to North Korea.¹⁰⁹ It took hundreds of such disappearances before Japan under the spell of *heiwa-boke* was able to make the connection between human misery and the human capacity to commit evil.¹¹⁰ It is difficult to escape the conclusion that the postwar “constitution” has reprogrammed the people of Japan to live in a fantasy world where denying the existence of evil by an act of constitutional will is sufficient to eradicate evil from the cosmos. The tragic case of Yokota Megumi and the many other abduction victims proves the fallacy of Article Nine, and of the entire postwar constitutional system.

CONCLUSION: ESCAPING THE “ARTICLE NINE TRAP”

In 2017, Harvard Kennedy School professor Graham Allison published a book titled *Destined for War* in which he outlined what has come to be known as the “Thucydides Trap”.¹¹¹ The premise of the Thucydides Trap heuristic is that rising states tend to start wars with established states. The obvious real-world corollary to this paradigm today is the People’s Republic of China, which in its reckless expansionism is daily edging closer to a global war. However, there is another kind of trap, namely the trap into which fall states which have been *defeated* by Colossuses. Let us call this kind of snare the Article Nine Trap. The Article Nine Trap is the trap of *heiwa-boke*, of complacency, of buying in to the propaganda by which a conqueror demoralizes a population and coming to agree—even to insist, as though the propaganda were a religious article of faith—that one’s country is uniquely bad and that one’s leaders cannot be trusted with the police power accruing to all governments by dint of the nature of the state.

The Article Nine Trap is the inverse of the Thucydides Trap. Under the Article Nine Trap, a defeated state becomes unable to break out of its enslavement to its conqueror. It adopts a new kind of constitution, one of passivity and pathological political masochism. The Article Nine Trap is the trap of those who prefer to act as permanent collaborators and who tell themselves and others that a given civilization need have no organic connection to a form of government. The historical masochism and indifference to culture and tradition which are the necessary conditions for an Article Nine Trap are, in the final analysis, a betrayal of one’s country. A nation stuck in an Article Nine Trap—and of this writing there is no other nation in such a trap but Japan—is a political phantasm, a projection through a distorting prism of the endless postwar present into a kind of hologram of pure politics governing depoliticized and brainwashed

¹⁰⁹ See “Tokyo Symposium Pushes for Resolution of North Korean Abductions, Human Rights Violations,” *JAPAN Forward*, Dec. 27, 2018

¹¹⁰ See Nishioka Tsutomu, “Keizai seisai de Kim Jong Il tero seiken wo datō seyo,” *Gendai Korea*, June, 2003, pp. 29-37.

¹¹¹ Graham Allison, *Destined for War: Can America and China Escape Thucydides’s Trap?* (New York, NY: Houghton Mifflin, 2017)

citizens. The Article Nine Trap is the root of the anomie of the conquered, the permanent state of defeat which festers in the heart long after the flags have gone back up and the various organs of government have been put back into working order.¹¹²

The author of the Article Nine Trap is none other than America, which imposed Article Nine on a defeated Japan and continues to operate on the tacit assumption that Anglo-Saxon liberals, and not Japanese patriots, are the rightful rulers of the western Pacific. The roots of this chauvinism and resulting Japanese psychological dismemberment are deep. The United States of America has long claimed to be exceptional. American exceptionalism is the very color palette of the Cold War and surrounding postwar, and is the premise upon which the ongoing American presence in Japan is rooted. The shadow of this exceptionalism has been, indeed, Japan's "state of exception," the odd inversion of American supremacy in which Japan has languished as an adjunct to the Washington juggernaut. The vehicle for this "state of exception" is the 1946 Japanese constitution, the surrender document which also documented the intentional psychological dismemberment of the Japanese people, as well as the polity which their forebears had built up over a history of thousands of years.

Japan languishes in the Article Nine Trap still. It is not, by any measure, a normal country.¹¹³ Japan has been deracinated from without and also from within, and the proximate instrument of Japan's perennial surrender is the document which purports to have created the Japanese state anew from the ashes of the Second World War: the 1946 constitution. The Japanese postwar "constitution" is a negative image of all other constitutions, the undoing of the very meaning of the verb "to constitute". Japan's constitution does not constitute a polity, it records the death of one. Article Nine, and the Japanese "constitution" as a whole, do not set up a state, as constitutions in normal countries do, but rather a continuously perpetuating state of exception, an anti-constitution on the reading of Giorgio Agamben, Carl Schmitt, and other scholars of constitutional law. Even Karatani Kōjin, if read in a certain light, seems to agree in principle that the Japanese constitution, and in particular the oddly-twinning Articles One and Nine, is not a normal document, not a normal utterance. Karatani assigns an almost mystical power to Article Nine which helps show why the reform of the 1946 constitution—the only modern constitution never to have been revised—remains inconceivable for so many in Japan. The Article Nine Trap is, indeed, deep and confounding, resting largely in the "unconscious," just as Karatani says.

¹¹² A scholar who understands the postwar constitution and its surrounding cultural and historical context perfectly is Momochi Akira. See, e.g., Momochi Akira, *Kenpō to Nihon no saisei* (Tokyo: Seibundo, 2009), and *Kenpō no jōshiki, jōshiki no kenpō* (Tokyo: Bungei Shunju, 2005).

¹¹³ See, e.g., Linus Hagström, "Normalizing Japan: Supporter, Nuisance, or Wielder of Power in the North Korea Nuclear Talks?" *Asian Survey*, vol. 49, iss. 5 (2009), pp. 831-851.

However, there are tailwinds which may help move Japan in the direction of sovereign recovery. One of the biggest changes to occur these past few years, accentuated especially by the tenures of realist political leaders such as Abe Shinzō and Donald Trump, is a turn away from ideological globalism and toward the strong national state. Yoram Hazony's landmark 2018 book *The Virtue of Nationalism* picked up the various threads of the return to the country as the basic unit of government, and set the tone for rethinking patriotism, not as a disorder, as so many supporters of the Japanese "constitution" seem to believe, but as a strength. The nation-state, and even more so for Japan, a country with an extraordinarily rich and long history, is the past and future of political ordering.¹¹⁴ To become a leader in Asia and also to protect and unify the Japanese people—homeless since 1945, a proud national grouping without a government to call their own or a nation to correspond to the need for political belonging felt by all human beings—the way forward for Japan lies in nationalism.

But to recover national consciousness and assume its natural position as leader of Asia, Japan will first have to recover the true history of the postwar.¹¹⁵ The postwar "history" of Japan which has been taught in schools and imbibed as a cultural given is a lie.¹¹⁶ The truth is that Japan sacrificed its own sovereignty in the middle of the twentieth century in order to help other states break free of colonial domination by Europeans and Americans.¹¹⁷ Japan is not the aggressor of World War II, but the liberating hero. Once the history of Japan is recovered, the project of recovering national sovereignty can commence.¹¹⁸ The road ahead, however, will be long and filled with psychological shocks at just how badly the Americans, and their communist Japanese collaborators, have deceived generations of Japanese people.

While the 1946 constitution claims the sovereignty of the people and purports to have been issued in their name, it is manifestly founded on the psychological manipulation of those very same people and, as a matter of historical fact, was written not by the people of Japan, nor even under their advisement, but by a foreign conqueror. The *shutaisei* (autonomy) vaunted by postwar liberals such as Maruyama Masao is, ironically, the facilitator of Japan's ongoing

¹¹⁴ See Yoram Hazony, *The Virtue of Nationalism* (New York, NY: Basic Books, 2018). Unfortunately, Hazony has little understanding of Japanese history. See, e.g., p. 120.

¹¹⁵ See Ono Kōsuke, "Kijiku no nai sengo Nihon," *Kokutai Bunka*, no. 1162 (Mar., 2021), pp. 18-21.

¹¹⁶ Arai Mitsuo, *Sengo Nihon no kyōgi, kyōkō wo tadasu* (Tokyo: Bungeisha, 2021)

¹¹⁷ A flawed but serviceable overview of independence movements and their relation to Japan is at Rōyama Yoshirō, "Shokuminchi dokuritsu no jidai to Nihon," in *Iwanami kōza gendai 4: shokuminchi no dokuritsu* (Tokyo: Iwanami Shoten, 1963), pp. 303-369.

¹¹⁸ See also Mizoguchi Ikuo, "Biruma dokuritsu sensō to Nihongun no taigi," in Nishio Kanji, *GHQ funsho tosho kaifū*, vol. 10: *chikyū shinryaku no shuyaku, Igirisu* (Tokyo: Tokuma Shoten, 2014), pp. 377-399, and Anno Yutaka, *Dai TōA sensō no kaisen mokuteki wa shokuminchi kaihō datta* (Tokyo: Tendensha, 2017).

dependency on its conqueror. The Article Nine Trap does not spring if the Japanese people no longer believe the propaganda that they are weak and uniquely bad among the nations. The real *shutaisei* for the Japanese people lies in a re-appreciation of their ancestors' heroism and sacrifice.

And that heroism and sacrifice was possible only because of the Emperor. The heart of Japan is the heart of her sovereign, who is a man, not a piece of paper. The Emperor's sovereignty cannot be erased by any document.¹¹⁹ It is a pre-political, civilizational fact. And the Imperial Household will surely emerge as the final victor of World War II, having survived all attempts by Americans and their anti-Japanese allies to destroy it, and having thereby kept alive the flame of hope for a new Japan, with the "state of exception" of the long postwar finally behind it.

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¹¹⁹ On the concept of popular sovereignty in the 1946 constitution, see, e.g., Sugihara Yasuo, "Kokumin shuken to kokumin daihyōsei," in *Kenpō* (Tokyo: Iwanami Shoten, 1990), pp. 87-102, and Watanabe Sōtarō, "Dai ni shō: Nihon koku kenpō no tokuchō: dai isseisu: shuken zaimin," in *Nihon koku kenpō* (Tokyo: Yuhikaku, 1948), pp. 65-71.

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