

Traditional Asian Approaches: A Japanese View

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Introduction

Many books and articles have been published concerning Japanese inhuman practices on Allied war victims during the Second World War.¹ Last summer, some Asian Governments again criticised Japanese attitudes in connection with the revision of Japanese high school textbooks.

In spite of the fact that the law of war has been progressing rapidly on the side of international humanitarian law, it is still a melancholy fact of the modern age that man has precipitated many sad events through more than four hundred armed conflicts since the Second World War. It is truly right that we, and each succeeding generation, should question anew the efforts which men exercise in carrying out their important responsibilities under international humanitarian law.

Now Japan has attained a high level of development in technological and economic capabilities, but people still retain the traditional moral spirit. You may recall that European countries gradually developed humanitarian practices for war victims from the latter half of the eighteenth century and, on the other hand, some Asian peoples have developed humanitarian ethics since ancient times such as revealed in the Art of War by Sun Tsu² and the Code of Manu of India.³ The Japanese people have consolidated India- and China-oriented religions, cultures and philosophies into their own folklore during the past thousand years. Therefore, first of all, I will tell you briefly of the origin of the humanitarian ideal in Japan.

Origin of the humanitarian ideal

Three kinds of religion have greatly influenced the development of humanitarian

FOOTNOTES

1. Adachi, S, *Unprepared Regrettable Events*, 257-8.
2. The most classic Chinese literature on strategy, written about 500 BC. Some important implications about humanity during combat are understood as follows: a commander must provide characteristics of intelligence, sincerity, humanity, courage and dignity; commanders should avoid utilising captured enemy equipment together with enemy personnel, thus affording due regard to prisoners of war; commanders should endeavour to win victory without harming the enemy and should avoid reckless violence; commanders should not contribute to useless war by avoiding the total annihilation of the enemy.
3. This had been developed between 200 BC and 200 AD. It is the fundamental law, moral and custom of the people of India. In its Chapter 7, there are many detailed regulations which in part read as follows: a king must protect his people when an enemy challenges with war; on the battlefield, soldiers must not kill an enemy by using a hidden weapon, hook-shaped weapon, poisonous weapon or fire; a soldier must not attack an enemy who has surrendered; he must not attack an enemy who is not ready to engage combat, is severely wounded, has given up fighting, or is fleeing; always remember the duty of the reasonable man.

ideas. In this context, they were recognised as good contributions to folklore rather than religions in the western sense. The sense of folklore takes precedence over the concept of right and duty in a legal sense.

Firstly, the inherent religion is Shinto. For 2,700 years, it has urged that the mind of man is innately good and the virtues of humanity and tolerance shall accompany man as a matter of course. This produces characteristics such as ancestor worship, tolerance, mercy, purity and cleanliness.

The second was Confucianism⁴ which developed logical consideration among the Japanese people. In the middle ages, it was adopted as the basis of education. Confucian terminology for the qualities of loyalty, filial piety, benevolence, righteousness, propriety, wisdom and sincerity clarified traditional Japanese moral concepts.

The third was Buddhism⁵ which had a great impact on people's minds. Its original concept harmonised with the traditional Japanese ancestor cult and loyalty. Moreover, the actual practice of Buddhism relative to virtues of mercy, patience, ascetism and courage greatly contributed to the development and refinement of the Japanese heritage concerning humanity, dedication, self-sacrifice and tranquility.

The above mentioned thoughts had a profound influence especially on the mind and philosophy of the Japanese people. Among others, their influence could be explained in describing the spirit of Bushido.

Bushido as a code of morals

From the early stages of the 12th century, *bushi* (*samurai* warriors) assumed a special class with greater honour and privilege. *Bushido*, the spirit of *bushi*, was the unwritten law of moral fundamentals as an organic product of the way of life of *bushi* for several hundred years, and had much broader implications than western chivalry.

Bushido comprises seven essential doctrines. The first is righteousness which comprises the concepts of justice and duty. The second is courage which emphasises moral courage rather than physical courage, and is deeply rooted in honour. The third is humanity which is specially attributed to the ruling class. Therefore, on the battlefield the spirit of humanity with regard to the inferior, the weak and the defeated was highly valued as the most suitable moral of *bushi*.⁶ The fourth is propriety which means paying due regard to human position and spiritual discipline. The fifth is sincerity, and had been cultivated within the spiritual environment rather than economic and political ones. The sixth is honour which includes sensitive awareness of true value. In order to get a true

4. This was first introduced into Japan about 285 AD. Its ideal was so realistic, common-sensical and social that it was soon incorporated into the Japanese heritage.

5. This was first introduced about 560 AD and in its early stages had brought bitter disputes in society. As the original doctrine of Buddhism had the ultimate objective of release from bondage to the material world, it did not necessarily conflict with the traditional belief of Shinto, and by the end of the sixth century it had been gradually incorporated into the traditional ethos of the Japanese.

6. With this sense of humanity, the Japanese people could easily accept the western notion of the Red Cross in a later age. People already knew the well-established custom of giving medical aid to a wounded enemy through the famous novel by Bakin Takizawa written 60 years before the time when Henry Dunant wrote his famous article "A Memory of Solferino". In this context, music and literature had played an important role in stirring up the sense of *inter arma caritas*.

sense of honour, *bushi* had actively stood against harsh trials causing both physical and spiritual suffering. The seventh is loyalty which means obedience to one's superior.

However, it never claimed that individual conscience would become a slave of a superior. If one sacrifices one's conscience for the simple reason of a superior's caprice, one is rewarded with very low regard.

Bushido was developed through strict and hard education and training with the aim of cultivating character, rather than simply of obtaining intelligence, by means of lectures, literature and realistic discussions. It was not only the backbone of the *bushi* class but also the ideal of all the population. In fact, *bushido* supplied a moral standard for the population and became the propulsive power of the Japanese spirit.

Military doctrine

Even in ancient times, we can easily find examples of the humanitarian idea on the battlefield. When the Emperor Jinmu, founder of the nation, engaged in his expedition to repress rebels, he afforded favourable treatment to those who surrendered. In 200 AD, when Empress Jingu engaged in the war against Silla (Korean Peninsula), she issued a military order stating that excessive violence should never be tolerated and captives should not be slain. These trends had been much improved towards the medieval age. Prisoners of war were generally released soon after hostilities and were allotted settlements; their cost of living was furnished by national expenditures; calling them prisoners was prohibited; graves and temples for war victims were erected; priests were despatched in order to collect the wounded, to bury the dead and pray for them, whether friend or enemy.⁷

Bushido had a profound influence on the course of development of military science and strategy. From about the 16th century, military science and strategy made rapid progress. Soko Yamaga (1622–1685), the founder of modern strategy in Japan, urged that the basic object of strategy was the attainment of justice and humanity, avoiding unnecessary killing. Sorai Ogyu (1666–1728) stated that humanity was the key to military operations. He stressed more precisely the treatment of prisoners of war as an essential rule of engagement.⁸ Another strategist, Nobuyuki Sato (1769–1850), also stated that killing prisoners of war was inhuman, and developed detailed rules of treatment for war victims.

7. For instance, Emperor Godaigo, when dispatching his army to suppress a rebellion in 1339, instructed his commander-in-chief that innocent people should be afforded merciful protection and should be free from looting, that lower ranks should be promptly released when captured and higher ranks detained, subject to the later instructions for punishment in each case. He prohibited the killing of innocent people, who should always be free from requisition or pillage. He also gave instructions about the rules of engagement where he stated that to set fire outside the enemy's castle, shrines and temples was strictly banned, and that when billeting by the army was needed, compensation should be duly paid to those who supplied it.

8. His masterpiece *Kenroku* read, in part, as follows: "Every soldier must report to the commander about prisoners of war and must not privately interrogate them to get information concerning enemy situations. He shall be guilty of manslaughter if he kills them with his own hand. Prisoners of war shall not be executed wantonly, regardless of whether they laid down their arms or they fought to the last arrow. Protecting the innocent is the basic military law. Unjust violence in the enemy's land, harming the aged and infants, desecrating tombs, burning houses and warehouses, denuding forests, destroying dykes, poisoning wells and kitchens are strictly forbidden".

He pointed out that all these rules were the law which had been handed down from antiquity to the present generation.

The literature on military science and strategy was publicised through well-established education and training systems: instructors were carefully selected; licence systems were introduced to graduates according to their qualifications; age limits and educational degrees according to ability were established.

These methods contributed to the correct dissemination of strategy and discipline among people. Thus the sense of humanism, with due regard to man's honour, rapidly infiltrated the minds of the population.

Modern practices

At the beginning of the Meiji Era (1868), Japan terminated its national isolation policy which had lasted almost three hundred years, and rapidly developed an internationalisation policy. At the time of the Civil War of 1877, two senators proposed to establish the Society of Humanity, modelled upon the European Red Cross. This proposal was approved, and in 1886 the Society was renamed the Red Cross Society of Japan. At the time of ratification of the Red Cross Convention of 1864, the Army Minister ordered the wide dissemination of the Convention among active and reserve military personnel.

During the Sino-Japanese war of 1894–1895, there were no written laws of war, except for the Red Cross Convention of 1864. Japan acknowledged the first principle of war that inflicting injury on the enemy, other than necessary to attain the object of war, was strictly prohibited as a right of war. Japan abandoned the condition of reciprocity, and even accepted a unilateral obligation. This notion was especially applied to the treatment of enemy combatants *hors de combat*, the sick and the wounded, prisoners of war and civilians in the field. Thus Japan engaged in operations according to inherent well-established practices of combat and the treatment of war victims.⁹

In the Russo-Japanese War of 1904–1905, full consideration was given to carrying out the provisions of the Red Cross Convention and the Hague Convention relative to the Laws and Customs of War on Land. Emperor Meiji issued an Imperial Proclamation in which he stated that Japan had a duty to respect international law. The Government and the Supreme Commander, Marshal Oyama, had been anxious to attain humanitarian standards in carrying out their campaign. The commanding generals of the Expeditionary Armies issued detailed instructions to their subordinate officers to abide by international law. Above all, every possible arrangement was made for the treatment of war victims, in the sense that the war was the first opportunity to apply the Hague Convention in the world, and that Russia was under the reign of Emperor

9. For example, at the Siege of Yent'ai (Yellow Sea) of 1895, the Japanese Fleet commanded by Admiral Ito defeated the Chinese Northern Fleet commanded by Admiral Ting who surrendered and soon after committed suicide. Admiral Ito had admired Admiral Ting as a prominent naval officer in the Orient, and expressed deep regret concerning his death. Admiral Ito returned his remains to his country, with utmost military honour, on board a large Chinese vessel which had been released for the purpose of that repatriation. For an overview of practice, see Nagao Ariga, *The International Law of the Sino-Japanese War* (in Japanese and French, Military Academy, Tokyo, 1896).

Alexander II who had served as a sponsor of the Convention. Japan intensified the reaffirmation of international law and even developed it in many respects.¹⁰

Turning to degradation

After the First World War, strict consciousness of humanity had been gradually cooling down before the tremendous evolution of war, as well as the unique notion of the “No Surrender” doctrine. The crushing power of weapons, military science and technology destroyed something spiritual and humanely important.

Military strategy forgot the “nucleus element” of people’s survival and tended to concentrate on the power to annihilate the opponent.

Among others, the Japanese Army and Navy utilised the military doctrine of “No Surrender” to attain rapid modernisation. Thus, for instance, militant groups promoted a version of the said doctrine, quoting a certain phrase of the *Hagakure*¹¹ stating as follows: the significant meaning of *bushido* lies in death. Originally this phrase meant that man should do his job desperately and did not mean ruthless death.

In the Sino-Japanese War of 1937–1941, some portions of the Japanese Expedition Forces committed war crimes against Chinese forces and civilians. These trends brought some moral laxity and degeneration of military discipline among the Japanese forces. That war resulted in 185,000 killed in action and 325,000 sick and wounded for Japan. The Army analysed and reconsidered the misconduct in China and resolved to improve the moral standards among soldiers. As a result, the Army Ministry issued the Code of Military Conduct (*Senjinkun*) at the outbreak of the Second World War. In a word, the *Senjinkun* was an appeal. However, the Japanese forces acknowledged it as a moral code which in effect had legally binding force.

Among others, Part 1, Section 2, stipulates that a strict, firm stand against the enemy is necessary, but on the other hand instructs not to fire against those who surrender, and to treat them with a humanitarian mind. Part II, Section 8, stipulates that falling into the hands of the enemy is a disgrace to both the nation

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10. For an overview of practice, see Nagao Ariga, *The Russo-Japanese War from a Viewpoint of International Law* (in Japanese and French, 1911). The Japanese Expeditionary Armies established POW Committees within their headquarters and enacted field regulations in order to ensure the fair treatment of war victims. For maritime warfare, there was no international law for war victims. The Imperial Navy applied the Geneva Convention on Land Warfare *mutatis mutandis*. Japan also reviewed the western statistics concerning the wounded and their death ratio, and improved the death ratio by almost 800% compared with the European experience in the past 200 years. As for the dead on the battlefield, there was no written international law. Japan spontaneously established detailed regulations concerning the treatment of the dead, such as collection, burial, identification of personal articles left behind, prohibition of looting and of destruction of graves. Thus Japan had tried to assimilate fully the western methods and practices prescribed in the Conventions, but retaining the fundamental spirit and philosophy of its inherent well-developed thought, which in turn proved rather useful to supplement and correct the deficiencies and uncertainties of international law.
11. This was written in 1710 as a moral code of the ruling class of the Saga Clan (Northern Kyushu). It aimed at the reaffirmation of *bushido* in radical expression. As for the meaning of “death”, Japanese people had an unique notion which meant withdrawal from this life and which never meant simply to die or disappear. Contrary to the true intention of the author of the *Hagakure*, the radicals and militant groups applied the “death clause” to the development of the “No Surrender” doctrine among the Japanese soldiers.

and one's family, and is a dishonour which rates as a crime. Part III, Section 2, stipulates that international courtesy must not be neglected.

The above provisions lacked practical meaning concerning the treatment of enemy personnel *hors de combat*. An over-stressed sense of nationalism, the "No Surrender" doctrine and technological development had dominated the modern sense of treatment of war victims by the average Japanese soldier. Even the true meaning of the traditional spirit of *bushido* had been forgotten. The Hague Convention of Land Warfare of 1907 prescribed a national duty to issue instructions to the armed forces. The Imperial Navy had a manual, but the Army had none, except for Army Regulations.

Although Japan applied the POW Convention of 1929 *mutatis mutandis* on a reciprocal basis, the reasons for non-ratification were unclear. But, it seems, there were two kinds of reasons, ideological and technical. The former went like this: Japanese soldiers had been instructed not to fall into enemy hands, to prepare for death rather than to be prisoners of war; therefore, application of the Convention would bring a unilateral obligation for Japan. Japanese legislation prescribed far more severe punishment than the provisions of the Convention; this would preclude strict maintenance of military discipline. The latter went like this: Article 86 of the Convention assured that prisoners might hold conversations with a third party without witnesses, this might endanger the safety of military intelligence. Many provisions of the Convention utilized a national standard for the feeding, clothing and housing of prisoners of war; Japan had adopted instead an absolute standard for the treatment of prisoners of war.

The concept of the absolute "No Surrender" doctrine for Japanese soldiers had inevitably caused misunderstanding, scorn and ill-treatment of enemy prisoners of war. In addition, revolutionary aspects of war such as vast operational theatres, innovatory air and naval war, and the presence of mass prisoners of war embarrassed military authorities in the due application of international law.¹²

Conclusion

Inhuman practices during the Second World War left a profound scar in the Japanese mind. Thus the Japanese people acknowledge the significance of international humanitarian law.

One of the most important lessons is that inhuman conduct in war not only causes disruption of the common effort in defending the country, but also introduces moral and disciplinary degeneracy among the armed forces. The breach of war rules would lead to the loss of an objective or of the armed conflict *per se*. More than that, it impedes the re-establishment of good international relationships in the future.

Legal obligation is the minimum requirement of a human being. Modern armed conflicts tend to increase the psychological factor. With these complicated and antagonistic factors in mind, at least the process and procedures of

12. Although Japan introduced many laws and regulations relative to the treatment of war victims, some important provisions were impromptu and lacked full consolidation with the provisions of the Conventions. As for lists of regulations, see Adachi, S, *Unprepared Regrettable Events*, 262-5.

humanitarian law are indispensable to national education. Particularly in the armed forces, a sense of humanism should be developed into a well-established habit of the combatant, however great the destructive power and complicated the combat environment might be.

In fact, humanitarian treatment of war victims may be a difficult problem. Living standards, financial capability, amounts of resources are different in each country. Therefore, regional or world-wide scrutiny and cooperation among States in the political, social, legal and economic fields, is necessary to save the lives of war victims. National sovereignty should give way to humanity.