

Agnes Schick-Chen  
University of Vienna

## **Memories of injustice and politico-legal culture: China and Taiwan**

The paper addresses the question of how the memory of politically motivated verdicts, their dire consequences and their reversal during and at the end of the Mao era have had an impact on the development of Chinese legal and political culture in the period of reform and opening. It claims that it is not only the traumata caused by political purges and suppression that have formed the idea of injustice in the PRC, but that the way in which former perpetration and victimization were dealt with later on has been exerting a considerable influence on the image of justice, both on the ethical and institutional level, in the politico-legal context of the PRC after 1979. It departs from the perception of the so called 'unjust cases' and their being redressed in the immediate aftermath of the Cultural Revolution as mirrored in Chinese film of the early nineteen eighties. In a second step it looks at documentaries reiterating individual stories of persecution and rehabilitation in order to represent the collective experience of those times from the distance of two or more decades. Comparing intellectual and emotional approaches displayed in the early movies to those of recent documentaries, the paper intends to prove that the memory of questions and quests never answered is still posing a handicap to socio-political and socio-legal development processes, while at the same time, the way in which these open wounds are remembered by parts of Chinese society has been modified by new legal and political approaches towards justice and injustice introduced over the last three decades. In this sense, the paper addresses both the aspects of behavioral and discursive practice by integrating the question of memory into a model of legal and political culture based on the assumption of their manifestations at the points of intersection between the politico-legal and the socio-legal (politico-legal and socio-political) lines of interaction. The comparability of this model is briefly tested by further introducing the case of Taiwan after 1987 and the question of how to relate politics of memory and transitional justice to the changes and continuities in Taiwanese legal and political culture. Finally, the author hopes to encourage a discussion on similar linkages between the issues of memory, (in-)justice and politico-legal culture in countries like South Korea or Japan.

Aurélien Pasquier  
University Lyon 3 – IETT (aurelienpasquier85@gmail.com)

## **The heroic soldiers of the Japanese Imperial Army, from textbooks to screens. Analysis of the evolution of the representation of the Second World War in Japanese cinema after 1997.**

The end of the Cold War changed not only the order of the world, but also the relationships between the different countries of the East Asia. One consequence of this “geopolitical vertigo” as appointed by Kan Sanjū led to a resurgence of the question of national identity. This question had been until then set aside because of the clash between the United States and the USSR in Japan.

In the current societies where the mass media have taken a unavoidable importance, film’s cultural industry is certainly one of the best ways in order to understand the views, of course of investors, but also of the governments. Indeed, Japan, like a lot of other countries, participates through its cultural policies to finance films and other means such as the loan of military equipment through the Ministry of Defence (formerly Defence Agency until 2007).

In this resurgence of memories an important turning point occurred in Japanese cinema. The vast majority of the films of Japanese cinema since 1945 had focused on the victimization of the Japanese people following the bombing of Hiroshima and Nagasaki. While the victimization of the Japanese people is always present in films, the main change in the new films production are the appearance of the military and their representation. While old movies were a reflection about the Second World War, in this new representation Japanese military are represented as heroes.

This new representation of the Japanese military uses the discourse of the Japanese extreme right, namely the worship of the soldiers who have sacrificed their lives for their country. The first film to show the soldiers of the Japanese Imperial Army as heroes is “Pride” in 1997. However, after this film, which remained in the microcosm of the extreme right wing, the same phenomenon that happened in various magazines between the 1970s and the 1990s occurred in cinema too after 1997 with the expansion of the conservative ideology.

While “Pride” has met few spectators, the following movies have met an audience growing each time, exceeding the few millions spectators at each new release. The biggest difference with “Pride” and those films is the mode of production and distribution. “Pride” had a small budget and was distributed by a small distribution company, however these new films are distributed by the largest distribution Japanese companies such as TOEI or TŌHŌ and have budgets of several million dollars or tens of millions of dollars. The mode of production and distribution have allowed these films to gain much wider audience than had been able to do “Pride”.

The goal is to understand the evolution of the representation of the Second World War in Japanese popular cinema with the break that the end of the Cold War was and its influence on the representation of the Japanese Imperial military in the Japanese cinema.

Béatrice Jaluzot

Institut d'Asie Orientale – Lyon's Institute of East-Asian Studies, Associate Professor at Sciences-Po Lyon

## **The influence of Meiji era politics on contemporary Japanese civil law: The “Code Boissonade”**

In the 19th century, the Japanese government decided to seek knowledge in western countries. According to the Five Articles Oath, “Knowledge shall be sought throughout the world so as to strengthen the foundation of imperial rule”. This theory was adopted after Yokoi Shonan's theory and it has been widely implemented and unfolded in two different ways. As a first step the Japanese government invited scholars from Western countries to come to Japan in order to introduce their expertise, and as a second step the government sent students to foreign countries to learn technics and sciences. This double strategy appears very clearly in the development of legal sciences, especially in the field of private law.

As soon as the Meiji era began, French law hold attention. The Japanese ministry of justice went in search of a Professor of law from the faculty of Paris who might accept coming to Japan to become the legal adviser of the government, taking the building up of the new legislation fundament in charge while educating Japanese student as lawyers. Boissonade accepted. During the 20 years he spent in Japan, from 1872 to 1892, he launched legal education and became the author of a penal code and a civil code.

The Civil code has been promulgated in 1890 but it has been repealed in 1892. The presentation will discuss this rejection of Boissonade's work which has raised a very famous dispute among legal scholars. It will then be argued that, although the Boissonade Code has never been implemented, it still deeply pervades civil law in Japan. French legal influence on the Japanese legal system is owed to this code which is nowadays known as the “old civil code”.

Laura De Giorgi

Department of Asian and North African Studies, Ca'Foscari University of Venice (degiorgi@unive.it)

### **Whose memories? The use and misuse of Westerners' memories of Socialist China in contemporary People's Republic.**

In the last few years, a new attention towards foreigners' and mainly Westerners' experiences in Maoist China could be observed in the global media sphere. Television or film documentaries have been specifically dedicated to this topic, while recollection of memories or travelogues have been published or in some case reprinted. This trend is evident both in China and in the West, but in the People's Republic it seems more strictly connected to a new propaganda effort aimed especially at strengthening foreign audience's positive view of China. While conflictual or contradictory memories of Westerners in Maoist China are erased or obscured, a specific attention to emphasize emotional attachment and feelings is evident in the visual and textual language used by Chinese media, resulting in an appropriation and manipulation of personal and collective memories of the past. This paper aims at investigating this cultural phenomenon, considering the political sensitivity of Westerners' position in Maoist and contemporary China and the ambiguous attitude of some parts of Chinese public opinion towards foreigners living in China emerged in recent years.

Alison Lamont

PhD fellow IN-EAST, University of Duisburg-Essen (alison.lamont@stud.uni-due.de)

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## **The impact of memories of the 2008 Wenchuan Earthquake in the response to the 2013 Lushan Earthquake**

### I: Introduction

Through the lens of the media, this paper will examine how the memory of the 2008 Wenchuan earthquake shaped the understanding of the 2013 Lushan earthquake, despite the inherent differences between the two events. Although both earthquakes occurred in the western province of Sichuan at an almost-precisely five year interval, they affected different geographical regions and populations and varied greatly in terms of the casualties and economic losses they caused. This paper offers an exploration of regional newspaper articles and online news sources published after the 2013 earthquake, revealing three prominent themes which show how the Lushan response was constructed through the memory of the Wenchuan earthquake. Further investigation shows that the links constructed through rhetoric devices in the official media can be seen to have spurred on unwanted behaviour, which was in turn reported and debated on commercial media sites online. These reports discuss the donation and volunteering patterns of the public, which are shown to be skewed by the memory of the 2008 earthquake. This case reflects the dynamics of the interaction and dialogue present between the media and the public on a collective and individual level.

### II: Background

On Monday 12th May 2008, a magnitude 7.9 earthquake (USGS [a]) struck Wenchuan county of the Ngawa Tibetan and Qiang Autonomous Prefecture in Sichuan province at 2:28 pm Beijing time. According to official data 69,226 people were killed and a further 17,923 reported missing. The direct economic loss caused by the Wenchuan earthquake was calculated at 845.2 billion RMB (Yong and Booth 2011: 18). The capital demand for the restoration and reconstruction after the earthquake was estimated at approximately 1,000 billion RMB (Yong and Booth 2011: 227).

On Saturday 20th April 2013, a magnitude 6.6 earthquake (USGS [b]) struck Lushan county of Ya'an city in Sichuan province, at 8:02 am Beijing time. 196 people were killed, 11,470 injured and a further 21 reported missing. The earthquake caused direct economic losses of 851.71 hundred million RMB in Sichuan province (Yang et al 2014). On 15th July 2013 the State Council issued the "Lushan disaster area recovery and reconstruction plan," (《芦山地震灾后恢复重建总体规划》) dedicating 86 billion RMB towards reconstruction and mitigation efforts in the affected regions, and stating that the rebuilding of homes will be completed within three years (Sichuan Provincial People's Government Website).

Figure 1: Map showing epicentres of the Lushan and Wenchuan earthquakes

Source: TheGuardian.com, 20th April 2013, [www.theguardian.com/world/2013/apr/20/earthquake-china-yaan-sichuan](http://www.theguardian.com/world/2013/apr/20/earthquake-china-yaan-sichuan)

The 2008 Wenchuan earthquake (also called the 'Great Sichuan earthquake', the '2008 earthquake' or the '5.12 earthquake') ranks as one of the largest earthquakes in Chinese history, and the largest natural disaster since the founding of the People's Republic of China in 1949. In

contrast, the 2013 Lushan earthquake (also referred to as the 'Ya'an earthquake', or the '4.20 earthquake'), whilst devastating, inflicted markedly fewer deaths, injuries and far less direct economic damage. It struck hardest in predominantly rural communities whereas the 2008 earthquake also destroyed built up urban centres. Yet, despite these important differences, the 2008 Wenchuan earthquake was continually invoked and echoed in people's donation and volunteering behaviour and in the news reportage of the 2013 Lushan earthquake. This parallel is invited by the proximity in time and place between the two events; both occurred in Sichuan province, one of the largest provinces in China and the richest province in western China, and the Lushan earthquake happened just 22 days before the five year anniversary of Wenchuan.

### III: Method

In order to investigate the link between the Wenchuan earthquake and the reporting of the 2013 Lushan earthquake, a review of newspaper articles published online was conducted. This search was conducted through the government-affiliated "www.chengdu.cn" portal in order to focus on regional news. The search engine for this website draws on official media sources including the popular Chengdu Daily and the Chengdu Evening News. As the capital of Sichuan province, the focus on regional news through a Chengdu portal intends to focus the search on those news providers who have local interest and greater public duty to report on regional disasters with closer and potentially longer-lasting interest than the national papers. Additionally, Chengdu positioned itself as Ya'an's "neighbouring brother-city" in 2013, citing proximity and Chengdu's role as Sichuan's "first city" as incentive to shoulder prime responsibility for disaster relief (Lü 2013). Further analysis includes news sources from less regionally focussed and more commercial online news portals such as the popular sina.com and 163.com. This expanded outlook benefits by including active forums and comments made by the online community (netizens) and to take look beyond the closely edited content of print media to the popular news published online.

A search for all articles published across the Chengdu.cn news items that referred to 'Lushan earthquake' (芦山地震) resulted in 13,916 hits. Of those, 4,600 items also contained the word 'Wenchuan' (汶川), indicating that one third of all articles about Lushan published regionally referred directly to the Wenchuan earthquake by name. This basic search did not look for any other, less explicit references to Wenchuan (e.g., by searching the earthquake's common abbreviation '5.12', 'five years ago' or '2008') so there may be more references in other Lushan-focussed articles that this search overlooked. As the big regional papers referred to the 2013 earthquake most consistently as the 'Lushan earthquake' rather than the 'Ya'an earthquake' (雅安地震) and ran special earthquake features under the title of, for example, '4.20 Lushan Earthquake Special Report' (4.20芦山地震特别报道 – see the Chengdu Daily), 'Lushan earthquake' was favoured as a search term over 'Ya'an earthquake.' It is therefore possible that some relevant news articles were missed by not searching for this alternative search term. The search took in all news articles published online from April 2013 through to March 2014. The following analysis is based on a purely text-based examination of the news articles as sourced through Chengdu.cn search engine, largely overlooking images and the location of the articles on pages in physical newspapers, focussing instead on the content and type of the pieces. Despite these limitations, the finding that a third of all Lushan-focussed stories featured a direct reference to Wenchuan strongly substantiates the argument that reporting of Lushan was shaped by the memory of the Wenchuan earthquake.

Findings from the analysis of newspaper articles have been corroborated by findings from personal interviews.<sup>1</sup> All quotations taken from news articles have been translated by the author.

#### IV: Findings

The articles featuring the Lushan earthquake that also referred to the Wenchuan earthquake can be grouped into three categories: news, analysis and opinion pieces.

News stories tended to feature prominently on the front pages and can be considered as 'chronicle' type stories, documenting events as they happened. Examples of news stories include, the arrival of the army in a disaster-hit region, the clearing of blocked roads, visits by prominent party members from Beijing, or emotive 'human interest' stories about individuals' experience of the earthquake. These pieces refer to Wenchuan mostly by tracing the links between individuals who, for example, volunteered in Wenchuan who were again volunteering in Lushan (for example, Li Ziqiang 2013). Similarly, news stories recording donations made by prominent entrepreneurs, foundations and business were also frequently written, often noting when companies had also donated in Wenchuan (for example, Yu 2013). News reporting that incorporates parallels with Wenchuan often include a direct framing of the experiences of Wenchuan as critical 'experience' that improved the Lushan response.

Analysis articles feature examine the factual news more critically but maintain an authoritative position and are written from an ostensibly objective point of view. For example, question and answer series with academics, party workers and professionals about the earthquake addressed questions such as 'is the Lushan earthquake an aftershock from Wenchuan,' seeking to establish whether or not an explicit and scientific link between the two separate disasters exists (for example, Chang and Dong, 2013). Other analysis pieces drew on the emotional content of the news to construct strongly emotional narratives from the facts, drawing on individual stories and broad sweeping overviews about China's development, strength and international status as highlighted by successful disaster response work (for example, see: Li Enen 2013). These pieces tended to emphasise the unity of the nation in the face of disaster, drawing on the narrative of Wenchuan to highlight how strong China is when working together.

However, the majority of articles that directly discussed Wenchuan within the context of Lushan rather than mentioning Wenchuan 'in passing' are opinion pieces. Opinion pieces move beyond analysis pieces by addressing the reader more directly and sourcing their material on public sentiment, personal accounts and individual interpretations of events. Features such as the 'Seven Day Lushan Diary' (Chengdu Daily 2013) explore the emotional journey of people affected by the earthquake, discuss the public's response and the progress of the emergency response, parcelling these experiences into an emotionally charged, strongly patriotic narrative. These opinion pieces construct the Wenchuan as a form of baptism on an individual and society level, highlighting that having survived the 2008 earthquake, society can again triumph again in 2013.

It should also be noted that, according to the international Chinese press observer, the China Digital Times, a censorship order was put in place on the 26th April (six days after the Lushan earthquake) by the Central Propaganda Department, forbidding negative reporting on the rescue efforts. This censorship order was addressed to all types of article and all forms of media, including online media (Henochowicz 2013 [a]).

Therefore news reports particularly after 26th April must be expected to take a non-critical stance and cannot be viewed as neutral sources.

Within the articles that were published several themes emerged. The themes that drew on the Wenchuan earthquake will be elaborated on in this paper, and are as follows: 1. "The country is united"; 2. "Wenchuan as a baptism" and 3. "We have come a long way since Wenchuan." A brief analysis of three of the identified themes is presented below.

#### V: Analysis – Themes in the media

All the themes uniting the Lushan experience with the Wenchuan experience are interlinked but act on different levels. This section examines the official media news reports, taking into account the intent of official media to guide public opinion and its role of reporting events as they happen.

##### 1. The country is united

Particularly in pieces written in the two days immediately after the 2013 earthquake (21–22 April), opinion and analysis pieces used powerfully emotive language and linguistic tools to create a strong feeling of solidarity and regional and national unity (for example, see: Zheng 2013; Liu et al. 2013; Chengdu Daily [c] 2013). Opening sentences invoked unity and sentiment with claims such as the earthquake "touched the heart of the entire nation" (Jiang 2013) or that "the masses are family" (Chengdu Daily 2013). Part of this involved invoking the spirit of the Wenchuan earthquake where similar rhetoric tools were employed to encourage support for the rescue effort and to bring hope to those in the disaster areas. Such links can be seen in the People.com.cn online portal to Lushan earthquake news which is titled "No man is an island" after John Donne's poem of the same name. The introduction states that, "Five years ago in the face of the earthquake we said, 'we are all Wenchuan people.' Now we say, 'we are all Lushan people.' The voices have changed but the conviction contained within has not changed: 1.3 billion people share one fate in common, and so long as we are in the same boat then we can definitely overcome this disaster" (People.com.cn 2013). Quotations from people affected in the disaster areas such as "as long as we work together, we can weather the storm," underline the need necessity of unity to succeed (Li Yang 2013). Other linguistic techniques, such as the continual use of plural pronouns, compliment the use of parallels to the Wenchuan earthquake.

Moving stories of people engaging with disaster relief across social strata, from homeless people donating the profits of their begging (Jun 2013) to the words and actions of famous entrepreneurs and celebrities (Teng 2013) demonstrated the levelling effect of the strong feelings the earthquake created; everyone can join in to save Lushan together. Other stories showed how survivors of the 2008 earthquake were offering aid; for example, one woman disabled in the Wenchuan earthquake was selling her embroidery to donate the proceeds to people affected by the Lushan (Wu 2013); another report details the actions of a photographer who was survived Wenchuan and was now taking photographs of the army's rescue mission in Lushan (An and Yang 2013). The Wenchuan earthquake is a powerful rhetoric tool because the overwhelming sense of solidarity and unity that was experienced during that time performs as a resource that can be drawn out in experiences that parallel it. Wenchuan is commonly understood in China as a successful display of national strength and by appealing to that memory, the reading public can be encouraged to repeat the same charitable actions and support of government policy in the rescue and disaster relief effort.

This 'unifying' theme was in part mandated by government order (Henochowicz 2013 [b]). It is an example of the media actively linking individual experiences to the wider collective, and making a comment about society as a whole by doing so. In highlighting the sense of 'being in it together' it draws attention to the achievements that can be made by China's huge population all pulling in the same direction, citing the recovery from Wenchuan as evidence.

## 2. Wenchuan as a baptism

Across a range of official newspapers, the 2008 experience of the Wenchuan earthquake was explicitly referred to as a 'baptism' (洗礼) (Chengdu Daily 2013 [b], Lu 2013). Further pieces use less colourful language to paint the same picture of Wenchuan. For example, articles use the metaphor of 'tempering' (砥砺) – society has been tempered by disaster, as iron is tempered with fire, creating improvement through hardship (for example, Liu et al. 2013). Instead of being a devastating earthquake that destroyed livelihoods and families, it is in this way reframed as a initiatory rite of passage, rewarding those who undergo it with strength and maturity in exchange for suffering.

This theme also emerged obliquely through the discussions of experienced emergency response workers. For example, one article described a volunteer as "an advanced individual" due to his experiences in Wenchuan (Li Ziqiang 2013). In the same vein, one opinion piece explicitly states that "suffering is the teacher of humanity" creating an analogue between the earthquake and the improving qualities of education (Lu 2013).

The theme of baptism indicates not only the strengthening of the nation but more particularly the strengthening of individuals through hardship. It links directly with the first theme of unity as, where the first theme emphasises strength in numbers, this theme emphasises the strength of strong individuals within those numbers. The result is show the strength of New China both on a collective and an individual level. In this way the Wenchuan earthquake was framed as a baptism for the hundreds of thousands of individuals caught up in the earthquake, constructing them as experienced and useful members of society, as proved by their capability in the Lushan earthquake.

## 3. We have come a long way since Wenchuan

Linked to the idea of Wenchuan as a baptism, the Lushan earthquake was also consistently treated as a marker of 'how far we've come since 2008' in news articles and opinion pieces. Lushan was used as an opportunity of a retrospective look at the 'distance travelled' between Wenchuan and the present: in this sense, the role that Lushan plays as is similar to an 'anniversary' event proved put on to recall and memorialise Wenchuan. This was highlighted literally in one opinion piece which asked: "How far is it from Wenchuan to Lushan? 85 miles, 1804 days" (Lu 2013). Lushan plays the role of 'marker' powerfully, particularly in comparison to the news reports published for the five year anniversary of Wenchuan 22 days later. Where the memorial articles on the anniversary of Wenchuan were able to report relatively unexciting facts about the progress of reconstruction and the improvement in the lives of people affected in 2008, Lushan allowed for a dynamic demonstration of China's advancement in real terms. It highlighted and allowed for direct comparisons between the government and individual ability to respond, including reports of hospitals rebuilt after 2008 that withstood the 2013 earthquake (Peng 2013), the development of online support networks (Feng 2013) and the better-equipped rescue services (Chengdu Daily [c]). It demonstrated, rather than showcased, the policies that had been put in place after Wenchuan, unquestionably underlining their effectiveness and correctness.

In this theme we see the combination of themes one and two – the unity of the nation creates strength, especially when it is composed of individuals who have been ‘baptised’ by hardship, resulting in a China that can advance so far in five years that the load of the Lushan earthquake is far lighter than it would have been without the Wenchuan experience. For example, a Wenchuan-hardened helicopter pilot reported that the response to the Lushan earthquake was far more organised than five years before (Zhang, Chenxi 2013). By raising these themes in the context of the Lushan earthquake, Lushan acts a celebration of the strength of New China, demonstrating the power of the collective and the strength of individuals, showcasing them as the engine that drives the country forward into a stronger, brighter, safer future.

## VI: Analysis – Behaviour beyond the mainstream media

This section takes a look beyond the news reports found in the Chengdu.com.cn search engine to briefly examine alternative Internet news sources and features from popular Chinese news sites such as sina.com and 163.com. Where the news articles discussed above reflect the traditional role of the Chinese media by reporting events and guiding public opinion, the dynamic nature of online media allows for a view of the response the masses have to those events and guidance. A short survey of articles identified reports on the seemingly irrational inappropriate behaviour of individuals in response to the 2013 earthquake. The benefit of looking at articles published on such sites is the active debates that develop between online readers (netizens) in the comments below contentious or interesting articles. Whilst not fully representative of every reader, comments made show some of the individual response to the news. Articles and their comment sections include responses such as the apathy and indifference of some netizens to the earthquake, frustration about the lack of forecasting ability, unfavourable comparisons to Japanese earthquake response, accusations of corruption of officials (for example of all of the above, see the 1,477 comments made here: Yang Jiang 2013). Two widely discussed issues of particular interest have been identified: the behaviour of volunteers and donators to the Lushan rescue effort. In the first case, reports were made that too many volunteers rushed to the disaster site allegedly causing problems for the rescue effort, and in the second, many netizens reported that they would not donate to the Chinese Red Cross. These seemingly irrational behaviours are born of the direct link drawn between the Lushan and Wenchuan experience as mediated by the press.

### 1. Volunteers

While some suggestion of inappropriate volunteering behaviour was reported in the official media, it was couched in language and rhetoric that applauded the enthusiasm of volunteers whilst pointing out that the expression of their feelings is misplaced by rushing to the disaster area and causing congestion (e.g., Jiang 2013). On alternative news platforms however, the condemnation of ill-prepared volunteers was more damning. Volunteers were criticised for being inappropriately dressed, failing to bring useful skills or equipment, and for causing traffic jams on the narrow, easily blocked mountain roads leading into the disaster areas. Inexperienced volunteers were allegedly in need of rescue themselves after failing to bring sufficient equipment, and were accused of taking up resources such as food and water intended for residents of the disaster area (for a round up of such reports, see: Wade 2013). This theme also emerged in interviews held in Ya’an city in April 2013 where some interviewees held the view that some students wanted to volunteer in the disaster area because of the prestige that being a volunteer commanded (Private Interview B 2013), though having not been at the disaster site themselves they were unable to verify their claims.

## 2. Donations and the Red Cross

In 2011, a corruption scandal hit the Red Cross Society of China that shook its public reputation. A young woman named Guo Meimei (郭美美), claiming affiliation with the Red Cross, posted pictures on Weibo (a popular microblogging site) posing with expensive handbags and cars, sparking a public backlash, an investigation into affiliates to the Chinese Red Cross, and widespread speculation as to the source of her wealth. The scandal shook the faith of those who donated to the 2008 earthquake and has been associated with the corruption of donations made to the Wenchuan earthquake fund (China Foundation Center 2011). Despite public efforts to reform, an investigation into the case, efforts to increase transparency and the removal of key figures associated with the Guo Meimei scandal, the perceived untrustworthiness of the Red Cross motivated many netizens to declare that they would not donate to disaster relief at all (for a full introduction to the scandal, see Liu and Yang 2013). Furthermore, the 'constant suspicion and questioning' of the Red Cross by the public finally prompted a full and public investigation into the affair, two years after it broke (Wei 2013). The perceived misuse of charitable donations to the Wenchuan earthquake as characterised by the Guo Meimei scandal therefore directly shaped the discourse around donations made to the Lushan earthquake.

These two instances suggest that not only the official media, but also netizens and online media formed their responses to the 2013 Lushan earthquake on their experiences of the 2008 Wenchuan earthquake. In 2008, volunteers were widely lauded for their generosity of spirit and those in the disaster area were deeply touched by the willingness of individuals to travel across the country to help them (Private Interview A 2012). The much-criticised 'post-80s' generation, who are generally perceived as being materialistic and self-centred, were positively reassessed as they donated blood, time, money and materials to help the relief efforts (Private Interview B 2013; Buckley 2008). The importance and gratitude granted to volunteers left an imprint on the generation who were eager to volunteer once again in 2013, despite the different conditions of the Lushan earthquake that meant that large numbers of untrained volunteers was framed as a problem rather than a help. The unreflexive response of volunteers who, despite appeals made through the media not to travel there without coordinating with the relief effort (Global Times 2013), suggests that they were not responding to the Lushan earthquake at all, but instead reliving the disaster response of 2008. A second-year university student volunteering in Lushan articulated this sensation, telling the South China Morning Post that "I felt bad that I did not volunteer five years ago when the May 12 earthquake struck" (Zhang Pinghui 2013). This sense of being able to relive the past was enforced by the way that the 2013 earthquake was reported, which employed many of the same symbols used in the 2008 relief efforts: a single lit candle, the issuing of newspapers in black and white with adverts absented for the day after the earthquake, the cancelling of entertainment programmes, the rolling news coverage of the disaster area – all of these responses were made in 2008 and again echoed in 2013. The identical representation, the active media framing of the events as 'linked' and the memory of the huge devastation of the 2008 Wenchuan earthquake acted as a prompt for individuals to travel to the disaster sites, as they had (or as they had heard or seen others do) in 2008.

The impact of the 2008 Red Cross scandal also had a potentially negative impact on the Lushan earthquake rescue efforts. Whether those who claimed that they would not donate to the relief efforts due to the 2008 scandal did or did not donate, or if they would have donated or not under other circumstances, is unknowable. However, individuals persistently chose to frame their

decision not to donate to the disaster as being directly caused by the presumed fate of donations made to the 2008 earthquake. This framing can be understood as the retrospective action of individuals acting out the desire not to have contributed donations that were destined to be wrongfully diverted in 2008. Refusing to donate in 2013 was thereby directly justified by memories of 2008. This rhetoric prompted counter-articles that were motivated to show the actions and importance of the Chinese Red Cross in the disaster area (for example, Li Nannan 2013).

The above analysis has sought to demonstrate the interactive link between the media and the masses that has produced unexpected responses to the Lushan earthquake in 2013 such as an unwillingness to donate and an over-willingness to volunteer. These responses only make sense when viewed within the context of the memory of Wenchuan and its attendant donation corruption scandal and massive need for volunteers. This illustration of the dynamics between the media and the masses and the present and the past illustrate the complex way the media effects and is affected by memory.

## VII: Conclusion

2008 was a landmark year in many ways for China, and has been described as the “Year of the Volunteer” in part because of the huge public response to the Wenchuan earthquake (Shieh and Deng 2011). The memory of the internationally acclaimed success of the nation’s actions in the immediate and long-term aftermath of the earthquake is a source of national pride, a marker of Chinese strength in modernity and respectability on both a national and individual level. The media reporting for the Lushan earthquake tapped into these strong positive associations to build themes of unity, baptism and advancement in their disaster reporting. The power of the Wenchuan rhetoric can be used to understand the flood of volunteers to the Lushan disaster area as individuals sought to relive, or live for the first time, the memory of heroism and the spirit of unity that was so highly lauded in the aftermath of the Wenchuan earthquake.

Public memory of past events is largely stored in and shaped by the media, a role which the party-state media organisations are clearly conscious of. Alex Chan describes the strategy of the official media since the 1990s as being one determined by an interest in guiding what the public think about, rather than what the public think (Chan 2007: 548). In this media model, public opinion cannot be strictly imposed from the top-down, as it had been in the Cultural Revolution, but by agenda-setting and controlling what can be reported on, the state can still determine the social agenda. This type of agenda-setting can be seen in the official media reports of the Lushan earthquake which played down criticism of the volunteers and overrode online debates of whether or not to donate to the Red Cross with reports of the Red Cross’s successes in aid provision. Instead of discussing the negative impact of the memory of the Wenchuan earthquake on the Lushan relief effort, official media instead emphasised Wenchuan’s role of providing experience, creating reliable, capable individuals and establishing a strong society that could build on its experience to respond to this new crisis. In his investigation of official documents discussing media development in China, Chan found that the state guidance of public opinion should promote “unity, stability and morale” (2007: 556). The emphasis state media placed on unity and morale is clearly in evidence within this case study, drawing on the successful experience of the Wenchuan earthquake to bolster rhetoric promoting the unity of national feeling and the morale of those stuck in the disaster areas. The successful deployment of these techniques results in a newspaper history in the official media that provides the future with a largely positive telling of the 2013 Lushan earthquake.

Drawing on the resource provided by Wenchuan gave reporters in 2013 a key frame through which to interpret and understand the current events. Jilly Edy identified three basic forms in which the media employed the past in reporting the present: commemoration, historical analogy and historical context (1999: 74). The reporting of Lushan invoked the Wenchuan earthquake in all three forms, demonstrating the importance of Wenchuan for interpreting Lushan. As the Lushan earthquake happened just before the fifth anniversary of the Wenchuan earthquake it acted as a form of unintended 'event-orientated commemoration' with the earthquake physically re-enacted in almost the same area of Sichuan at almost the same time of year. This in itself creates a narrative hook that journalists could use to provoke reader interest. Historical analogies were drawn between the two earthquakes through the action and experiences of the volunteers, the comparisons that judged the Lushan earthquake response as better organised and equipped than in 2008 and the noting of the atmosphere of solidarity that had distinguished Wenchuan as being present again in 2013. These links with Wenchuan provide a grounding in the past, placing the hardships of Lushan in the historical narrative of human improvement and the continual fight against nature. Finally, the Wenchuan earthquake was used to provide a sense of historical context for the Lushan earthquake; firstly in a scientific sense, seeking geological links between the two earthquakes and reports often noting Sichuan's propensity for earthquakes, and secondly in shaping the success of Lushan in the memory of Wenchuan. By highlighting how far the country advanced in disaster mitigation and relief between 2008 and 2013, the tremendous loss and destruction caused by the Wenchuan earthquake was characterised as a baptism or the tempering of the nation, implying that the losses from 2008 were not in vain and thereby reinterpreting the past in light of the present. Though experience did not mean that the Lushan earthquake could be prevented, it did result in a faster response time, stronger organisation and more lives saved because of the memory and experience of the Wenchuan earthquake five years before.

#### Note

1 Interviews were held in Ya'an city and Chengdu in 2012 and 2013 with people affected by one or both of the earthquakes. Interviewees will remain anonymous in accordance to their wishes. Interview A: Students in Sichuan University, Chengdu, 26th November 2012; Interview B: Sichuan Agricultural University teacher, Ya'an City, 15th May 2013.

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Glenn D. Hook

National Institute of Japanese Studies and School of East Asian Studies, University of Sheffield

## **The American Eagle and Governance in Okinawa: Narrating Risk, Remembering Harm from Military Accidents**

The Japanese government narrates the deployment of US military personnel, weaponry and the infrastructure to support their use as essential for the security of the national population. But such a security policy creates a risky environment for the local population in Okinawa: 74 per cent of America's military presence in Japan is concentrated in the prefecture, despite it being no more than 0.6 per cent of the national land area. How has the local population in Okinawa responded to such an unequal distribution of the eagle's might? What are the implications of the government's security policy for local governance in Okinawa? The purpose of this paper is to answer these two questions by taking up the case of US military accidents. Its aim is to illuminate the risk, potential harm and harm to the local population from US military activity. It does so by using the concepts of risk and memory to explore particular accidents and the overall implications of a security policy premised on the unequal distribution of US forces for governance in Okinawa. More specifically, the paper examines how the risk of new military accidents has been linked to the memory of other accidents in the past. It starts by providing an historical overview of the range and type of military accidents from the years of the American Occupation and the changes taking place after the reversion of Okinawa to Japan in 1972. It demonstrates how living side-by-side with American forces for nearly seventy years has gone hand in hand with risk and harm for the local population. It then takes up the case of the 1959 crash of a US aircraft into a local school and shows how commemoration of the tragedy has been carried out and embedded in local memory. It next goes on to examine the case of the 2004 crash of a helicopter in the grounds of Okinawa International University in Naha. The third section considers the case of the August 2013 crash of an Air Force HH-60 rescue helicopter inside the Marine's Camp Hansen near Ginoza village. The final case is the risk of a potential accident from the 2012 and 2013 deployment of the Osprey vertical take off plane at Marine Air Station, Futenma. In each of these three cases, the focus is on how subnational political authorities and the local population in Okinawa have responded in terms of narrative and praxis. It demonstrates how the memory of past military accidents has helped to shape the local population's response to the risk posed by the present-day military activities of the United States. The Conclusion summarizes the discussion and draws out the implications of military accidents for our understanding of governance in Okinawa.

Gregory Lee  
IETT, University of Lyon

### **Chinese Stories: Using documentary drama and documentary fiction**

The role of memory in recounting the modern history of China and its Diaspora will be the concern of this presentation. The utility and “faithfulness” of memories and anecdotes will be discussed.

Documentary fiction and documentary drama as vehicles for reinventing and communicating the past of China and its diaspora will constitute the major focus.

Jens Sejrup

Postdoctoral Research Fellow, Centre for East and South-East Asian Studies, Lund University

## **Reliving the Past: The Narrative Themes of Repetition and Continuity in Japan-Taiwan News Coverage**

This paper examines mass media coverage of Taiwanese high-level political visits to Japan and critically analyzes the phenomenon of nostalgic repetition as a narrative formula in such sources. Stressing its elements of pathos, nostalgia, and sentimental reassurance, I argue that the repetition formula presents an avenue of immense strategic advantage for visiting pro-independence politicians vis-à-vis their Guomintang counterparts. The main attraction to the news media of this narrative motif is that it allows the Taiwanese visitor to be presented as sensitive to a core of “eternal” tradition and cultural stability in Japan and therefore negate any suspicions of fundamental breaks in the recent history of Japan-Taiwan relations and between “old” and contemporary Japan. Demonstrating on the one hand how this narrative motif requires the visitor’s emotional involvement to appear credible and genuine, I note on the other that over-indulging the Japanese poses a threat for any Taiwanese politician to alienate large domestic voter segments sensitive to “neo-colonial” attitudes. Due to the historical and postcolonial nature of Japan-Taiwan relations, failure to engage in the pathos of positive Japanese continuity and “eternal” ways seriously impedes visiting Taiwanese politicians from attaining their PR objectives and tends to confirm labels as “anti-Japanese” despite any intention on their part to visit Japan precisely in order to shed such labels.

Kerstin Lukner  
University of Duisburg-Essen  
Sheffield 2014 EAN Conference

## **From Tokyo to The Hague: War Crime Tribunals and (Shifting?) Memory Politics in Japan**

*DRAFT PAPER, PLEASE DO NOT QUOTE*

### 1. Introduction

Historical issues loom large on Japan's foreign relations with its Asian neighbours and are also contested in Japan's domestic political arena. Is it appropriate if key politicians, even if only in their private capacity, visit Yasukuni Shrine to commemorate Japan's numerous war dead, among them fourteen whom the Tokyo War Crimes Tribunal convicted as war criminals after the Second World War (WWII)? Is it adequate if the depiction of Japan's conduct during WWII in particular school textbooks remains largely silent on the crimes committed by the imperial army as some facts and figures are disputed to this day? Should former sex slaves, euphemistically called comfort women, be officially compensated by the Japanese state, even if the issue of war reparations was formally settled with the San Francisco Peace Treaty of 1952; or should the coercive character of their 'work' be rather called into question as evidence on its compulsory nature may lack in some cases? Japanese politicians are frequently at odds with each other about how to reflect and act upon the past (Kristof 1995) – a situation that emphasizes that memory politics is still a highly contested terrain in Japan. With that said Japan's accession to the International Criminal Court (ICC), which is often portrayed as the successor of the Nuremberg and Tokyo War Crimes Tribunals due to its prosecution of core international crimes, i.e. war crimes, genocide, crimes against humanity and the crime of aggression, is striking in three ways. First, while discussions in Japan reveal a very negative stance towards the Tokyo Tribunal and the 'victor's justice' it established, the government has overall been supportive of the creation of the ICC in 2002 and Japan eventually became one of its first Asian members in 2007. Second, the lower and upper house of Japan's national diet were not at all divided on the question of membership, but unanimously voted in favour of Japan's accession to the ICC. Third, Japan's history-sensitive neighbours, especially China and South Korea, have largely ignored Japan's decision to join the Court so far, as have the scholars of historical memory.

Against this backdrop, the paper shines a light on Tokyo's ICC membership in the context of Japan's memory politics. More particularly, it explores whether Japan's accession to the ICC hints at a partial shift in the state's assessment of the historical legacy of the Tokyo Tribunal. This question has been left largely unaddressed by the legal scholars who have produced most of the literature on Japan's ICC membership thus far. Based on the analysis of various written sources, including the scripts of key diet debates, and insights gained from interviews with policy-makers, bureaucrats and human rights advocates, this paper argues that Tokyo's decision to accede to the ICC does not indicate change but continuity in Japan's facing of its past. First of all, this is because in the Japanese debate about the International Military Tribunal for the Far East (IMTFE), the 1946 to 1948 major war crimes tribunal conducted in Tokyo, and the formation of the ICC are portrayed as being disconnected. Many legal scholars as well as German observers see the development of international criminal law and its courts as an evolutionary process that started with the creation of

the post-WWII Nuremberg and Tokyo Trials, moved on to the establishment of two further ad-hoc tribunals (for the Former Yugoslavia and for Rwanda in the 1990s), and finally culminated in the founding of the ICC in 2002. However, discussions in Japan do not indicate the recognition of a positive lineage between IMTFE and the ICC. In the Japanese view, there is no 'IMTFE legacy' to be found in the first permanent international criminal court in history. If any connection had to be established between the two, it would lay in the simple fact that the founders of the ICC (rightly) avoided the many flaws that had plagued its Japanese 'predecessor'. Second, the legal changes in Japan's penal code which lawmakers deemed necessary in the context of Japan's ICC membership – in order to enable Japan to conduct criminal proceedings with regards to war crimes, genocide, crimes against humanity and the crime of aggression on its own – were kept at a minimum and seem not to point to an acknowledgement of the severity that the term 'core international crimes' comprises. This hints at a lack of reflection on the very substance of the ICC's four core crime categories which may be interpreted as the result of Japan's own lack of facing up to its troubling past.

The paper opens with a section that defines political memory and lays out the way IMTFE is remembered in mainstream Japanese politics up to this day. It then illustrates how Japanese politicians evaluate the ICC in the context of their rather negative remembrance of IMTFE. Subsequently, it examines what the legal adjustment process that was deemed necessary in the context of Japan's becoming an ICC member state can tell us about changes and continuities in Japan's historical memory of IMTFE. The paper ends with a preliminary conclusion.

## 2. IMTFE and the Politics of Memory in Japan

In general terms, 'memory refers to the process or faculty whereby events or impressions from the past are recollected and preserved' (Bell 2006: 2). The term 'memory politics' adds political actors as agents to this process and describes 'efforts by political elites, their supporters, and their opponents to construct meaning of the past and propagate them more widely or impose them on other members of society' (Lebow 2006: 13).<sup>1</sup> While such moves may still produce competing images of the past within the political arena, a state can make use of several means to shape the official historical narrative, among them rhetoric, commemoration, education, compensation as well as criminal justice and punishment (Berger 2012: 12). Needless to say, the official version of history that is thus created has an important impact on the shaping of the collective memory of a nation, i.e. 'widely shared perceptions of the past' (Bell 2006: 2) at the societal level. Likewise, the official historical narrative has far-reaching political implications as a nation's way of remembering the past is part of the many boundaries that enable or constrain political action and sets limits to the imagination of political possibilities (Bell 2006: 14–15 / Cruz). This paper only addresses Japan's memory politics in the realm of criminal justice and punishment. As has been laid out before, it asks if Japan's ICC membership points to a change in the way the state avows to its own war crimes tribunal, i.e. IMTFE. Before scrutinizing the nature of the connection made between the two in current Japanese politics, the next section outlines Japan's politics of memory<sup>2</sup> on IMTFE, focusing on the official historical narrative. It first briefly sketches the criticism aimed at the Trial and then shows how the Japanese government has dealt with IMTFE's historical legacy.

From the perspective of the United States that took the lead in organizing and conducting IMTFE the main purpose of the Tribunal was the promotion of Japan's post-war demilitarization and democratization processes. Not only were major Japanese war criminals to be brought to justice, but also their wrongdoings needed to be acknowledged by the Japanese people (Futamura 2008:

56). In addition, IMTFE was meant to draw and authorise a specific account of the war as well as war responsibility and thus to lay the basis for a specific account of the historical narrative in Japan. The Tribunal's jurisdiction covered three categories of crimes, namely crimes against peace (class A), conventional war crimes (class B) and crimes against humanity (class C). At the end of the proceedings, all 25 Japanese wartime leaders on trial in Tokyo were found guilty<sup>3</sup> with seven facing a death sentence.

However, various aspects of the Trial drew extensive criticism both in Japan and abroad. First, the prosecution's most serious charge according to which the leaders of imperial Japan had engaged in a war of aggression and were thus punishable for having committed crimes against peace was called into question. In international law, such a crime category had not existed at the time of the war,<sup>4</sup> meaning that the major Japanese defendants (who were later on convicted as class A war criminals) were charged on an ex-post facto law basis. Second, the emperor, who – quite obviously – was the head of state during the war, was not indicted but granted immunity due to political considerations of the US occupation authorities. Third, the trial itself was plagued by numerous procedural flaws and conducted in an 'unusually sloppy' manner (Berger 2009: 23). For example, the chief prosecutor mishandled evidence and the defence team was restricted in its access to resources. Moreover, the whole trial rested upon the Anglo-American legal system unfamiliar to the Japanese. Fourth, under its Western (or rather US) leadership IMTFE largely blanked out the enormous suffering and harm Japan had imposed on its Asian neighbours during the war; e.g. the hardship of sex slaves was not picked up during the proceedings at all. Fifth (and partly following from these flaws), there was no unanimous judgement when the final verdict was proclaimed, with several of the eleven judges dissenting.<sup>5</sup> Indian Justice Pal's extensive disagreement became the most well known, holding that IMTFE was based on ex-post facto legislation and that the defendants' conspiracy to wage a war of aggression was not at all proven. While many Japanese perceived IMTFE's verdict as 'victor's justice' in the end, the Japanese government officially accepted it by signing the San Francisco Peace Treaty in 1951 (Futamura 2008: 55) – for a lack of alternatives, it seems.

However, even before the occupation ended, many Japanese were in favour of pardoning their imprisoned fellow countrymen and this request was somewhat met by the US occupation authorities, partly because its strategic calculations concerning Japan shifted with the starting of the Cold War (Berger 2009: 15; Berger 2012: 146). After Japan regained its sovereignty, further trials relating to class B and C criminals were stopped and ultimately all IMTFE verdicts were 'reversed entirely' (Berger 2012: 146). What is more, even those politicians who had been deeply enmeshed in pre-war politics were able to successfully re-enter the political arena in the 1950s. Most well known in this regard is Kishi Nobusuke, a high-ranking official in Manchuria in the 1930s and munitions minister in the early 1940s, who was arrested as a class A war criminal but never put on trial after the war. He became Japan's prime minister in 1957 (Berger 2012: 146). It goes without saying that conservative politicians like Kishi did not promote a self-critical historical narrative (Berger 2009: 24) – nor did they develop any appreciation for IMTFE which, after all, aimed at assigning accountability to those deemed responsible for Japan's conduct during the war. On the contrary, they invited Radhabinod Pal, the Indian IMTFE justice who strongly disagreed with the final verdict, to Japan several times to grant him honours. Likewise, when Kishi's grandson, current Prime Minister Abe Shinzō, visited India during his first term in office (2006-2007) he paid homage to Pal in a speech delivered to the Indian parliament (Onishi 2007) in his capacity as most important government representative. This reveals how the verdict of the Tokyo Tribunal remains

highly contested in Japanese political memory, even almost sixty years after the passing of the judgment. In his speech, Prime Minister Abe, who is well known for his nationalist thinking, strongly indicated disapproval of the IMTFE verdict, yet stopping short of officially calling it into question.

In short, while formally respecting the IMTFE judgement, in Japan political and collective memory on post-WWII criminal justice and punishment heavily concentrates on the many weaknesses of the Tokyo Tribunal ('victor's justice'), which can be rightly pointed out and criticized. Yet, such a narrow focus prevents the Japanese from acknowledging that IMTFE intended to establish criminal accountability for war crimes and other mass atrocities for one of the first times in history and was meant to support the democratic transformation of Japanese society – even if the orchestration of the Trial had not been particularly well thought out (Osiel 2000).

### 3. From Tokyo to The Hague

Against this backdrop, it does not appear surprising that NGO (non-governmental organization) observers were at first sceptical about Japan's commitment to the idea of setting up an international criminal court when negotiations on the creation of such an institution started at the UN level in the early 1990s (Pace 2006: 1). Whereas Japan eventually voted in favour of the treaty relating to the establishment of the ICC in 1998,<sup>6</sup> it did not sign the so-called Rome Statute (RS) afterwards. Still, the sixty signatures that were necessary for the treaty to enter into force were accumulated by 2002, kicking off the operation of the ICC in the same year. This historical event put Japan under pressure to more clearly indicate its stance on the prospects of its ICC membership, but the government merely kept reiterating the following basic position: While Tokyo was generally supportive of the ICC, it first needed to examine the legal requirements that would follow from Japan's ICC membership and second<sup>6</sup> Japan thus deviated from the position of its long-time ally (and IMTFE-initiator), the US deal with domestic law adjustments that might become necessary.<sup>7</sup> However, up until 2006, such a legal review and adjustment process had not started at all,<sup>8</sup> and thus Japan could not avert giving the impression of being reluctant to join the ICC for other than legal reasons, the following of which were apparently connected to its own War Crimes Tribunal, IMTFE. Firstly, some domestic observers like those of the Japanese Right seemed to have feared that an ICC membership could result in a renewed indictment of Japanese war crimes (Goold 2002), but – in fact – the Court is not allowed to deal with crimes that happened before its creation in 2002. Secondly, observers from abroad speculated whether the government initially backed off from joining the Court in order not to instigate a late domestic debate on the war crimes and atrocities committed by imperial Japan (Lukner 2007: 96), as many of them had just become core crimes under international criminal law. Thirdly, representatives of the Ministry of Justice seemed concerned that Japan's active support for the ICC could be equated with its ex-post approval of IMTFE (Osten 2003: 182), and this was an impression Japan would rather have wanted to avoid. Quite to the contrary, following Japan's decision to finally accede to the ICC in 2006/2007, government representatives stressed time and again that their ICC backing was due to their viewing the law represented by the ICC as clearly enhanced when compared to that represented by IMTFE. For example, former Justice Minister Moriyama Mayumi (2001–2003), who happened to work at IMTFE as a student translator and had thus been able to gain first-hand insights into its proceedings, underlined just how important this improvement was from the Japanese perspective.<sup>9</sup> In the context of Japan's decision pro ICC membership, former Foreign Minister Asō Tarō likewise argued, 'although [...] Japan is not in a position to object the judgement of the International Military Tribunal for the Far East, I recognize that with the regard to the

judgment, [...] there have been various discussions on legal issues such as that of punishment on the basis of ex-post facto law. Thus, I think that [the ICC] serves the improvement of the rule of law in the international community.<sup>10</sup>

Moreover, national newspapers such as the *Nihon Keizai Shinbun* (1 July 2007) suggested that Japan, as a country that experienced an ex-post facto war crimes tribunal, should critically check the ICC in order to make sure its verdicts are fair and free from any notions of revenge. If we compare both courts, i.e. IMTFE and the ICC, it becomes clear that the latter actually operates on a very different legal basis. For example, it can only initiate criminal proceedings on its own after a stringent evaluation of a pre-trial chamber, consisting of several judges; it can only investigate crimes that were committed after the Rome Statute came into effect; and it can solely prosecute crimes that were either committed by nationals of ICC member states or committed on their territory. These and other specifications in the Rome Statute are meant to ensure a due process of law.<sup>11</sup>

In sum, Japan's eventual commitment to ICC does not reveal a departure from its critical stance towards the Tokyo Tribunal. Rather, leading politicians made it quite clear that Japan's support for the ICC was based on the Court's very different legal nature and its much higher levels of fairness and universality when compared to IMTFE. Their arguments strongly suggested that they did not see any IMTFE legacy embodied in the ICC and no positive connection between the two. Instead, any link would be restricted to the simple fact that the founders of the ICC did right in avoiding the many flaws that had plagued the Tokyo Tribunal. Also (and as opposed to their German counterparts), Japanese politicians hardly indicated that they felt 'any distinct morally driven, or historical responsibility for supporting the Court' (Lukner 2012: 98). Consequently, it is difficult to detect a change in Japan's memory politics relating to IMTFE. This also explains how the first Abe government in 2007 could do both, honour Justice Pal on the one hand and carry out Japan's accession to the ICC on the other.

#### 4. Adjustments to the Japanese Penal Code

Japan's ICC membership was preceded by enacting a law on the cooperation with the Court and by adjustments to its penal code, of which just the latter is of concern here. The ICC operates on the basis of complementarity, meaning that the Court only takes charge of criminal proceedings if member states are unable or unwilling to do so themselves (with regards to core international crimes committed by their nationals or on their soil).<sup>12</sup> Since criminal jurisdiction is commonly regarded as one of the key attributes of state sovereignty, which most states do not wish to have infringed upon, the bulk of ICC members have adjusted their domestic penal codes in order to be able to punish the perpetrators of core international crimes on their own, i.e. to avoid the interference of the ICC with regards to offenses that involve their nationals. In the Japanese case, this law adjustment process took place prior to its accession to the Court and thus in accordance with Japanese standard legal procedure.<sup>13</sup> Initially, the idea of adjusting the criminal code was met with little enthusiasm though. As Japan's criminal law system is 'finely calibrated, and treated as such' (Meierheinrich and Ko 2009: 12), the introduction of new principles and crimes to the penal code was highly contested. Yet, the bureaucracy came up with a solution to this problem, arguing that most ICC crimes could be punished under Japan's domestic criminal code already (Meierheinrich and Ko 2009: 13), and only a few minor changes needed to be implemented. Some observers appreciated this 'minimalist approach' as pragmatic, asserting that it avoided an even longer delay in Japan's accession to the ICC (Niikura 2007: 28). However, by applying this

'minimalist approach', the complexity of ICC core crimes and the relating elements of these crimes were not transferred to and is now nowhere reflected in the Japanese penal code. Consequently, more sceptical observers questioned whether large-scale atrocities could be *adequately* dealt with under Japan's existing criminal code; e.g. could and should 'extermination' as a crime against humanity or as genocide be equated with 'multiple homicide' resulting in a large number of fatalities, as it is now stipulated under Japanese law (Meierheinrich and Ko 2009: 13–14, 24)? They went on to argue that the degree of injustice as embodied in the four core international crimes, i.e. genocide, crimes against humanity, war crimes and the crime of aggression, was not sufficiently covered by Japan's domestic criminal code and that its application simply appeared inappropriate for such grave offenses.<sup>14</sup> In this context, critics regularly refer to Germany who also experienced its own war crimes tribunal in the aftermath of WWII, as Berlin chose a very different path than Tokyo. It applied a 'maximalist position', enacting a whole new 'Code of Crimes against International Law', that extensively defines all four core international crime categories and attempts to ensure their proper punishment.<sup>15</sup>

In short, Japan's decision to apply a 'minimalist approach', when adjusting its criminal code in accordance with the requirements of the Rome Statute, was certainly based on important legal reasons, including constitutional and legislative concerns. Yet, in the context of Japan's critical to dismissive stance vis-à-vis IMTFE, we might speculate whether this approach was also chosen as way of sidestepping important questions about its own past. Had the Japanese created new substantive laws and specified all four core international crimes at length in its 9 penal code, lawmakers would have needed to reflect more profoundly about the nature of such crimes. Furthermore, particular episodes of Japan's own conduct during the WWII might have met their definitions in retrospect, prompting (again) questions about Japan's war guilt. Moreover, adopting a 'maximalist approach' could have also further exposed the fact that there is in fact an IMTFE legacy to be found in the ICC – as many legal observers have been arguing in the context of establishing the latter.

## 5. Conclusion

This paper argues that Japan's accession to the ICC in 2007 does not indicate any change relating to its official historical narrative or its memory politics relating to IMTFE for two reasons. Firstly, Japanese politicians see no IMTFE legacy in the genesis of the ICC, but tend to view both courts as being disconnected. While the 'standard understanding' on IMTFE up to this day particularly concentrates on its being mere 'victor's justice' (Totani 2009: 2), Japanese politicians evaluate the ICC positively because it seems free from the many flaws that plagued the Tokyo War Crimes Tribunal. If any connection between both Courts is established in Japanese debates, it is usually narrowed down to this important distinction. Secondly, the adjustment of Japanese criminal law that became necessary in the context of Tokyo's decision to join the ICC turned out to be minimal, as bureaucrats claimed that core international crimes could be punished under the Japanese penal code already. By adopting such a position, a substantive debate on the very nature of those crimes did not evolve among Japanese lawmakers and an impetus to critically reflect on Japanese wrongdoings during WWII and the question whether they would – in retrospect – qualify as core international crimes was also not given. Despite Japan's ICC membership, memory politics relating to criminal justice and punishment in the wake of WWII has apparently not changed at all in Japan.

## Notes

- 1 It is important to note that Lebow uses the term 'institutional memory' instead of 'politics of memory'.
- 2 In this paper, the terms 'politics of memory' and 'memory politics' are used interchangeably.
- 3 Of the 25 defendants, two had already died while on custody and one had been discharged due to mental illness (Futamura 2008: 54).
- 4 The notion of such a crime was first introduced at the Nuremberg Trials and was based on natural law thinking.
- 5 The judges came from the Australia, Canada, China, France, Great Britain, India, the Netherland, New Zealand, the Philippines, the Soviet Union and the United States.
- 6 Japan thus deviated from the position of its long-time ally (and IMTFE-initiator).
- 7 These legal requirements are dealt with later in the text.
- 8 Interview with a bureaucrat from Japan's Ministry of Foreign Affairs who was involved in the accession process (Tokyo, 8 September 2008).
- 9 Interview with former Justice Minister Moriyama Mayumi (Tokyo, 3. September 2008).
- 10 Speech of Foreign Minister Tarō Asō, HoC (166th diet session), 13. April 2007.
- 11 For details see Rome Statute of the International Criminal Court, <http://legal.un.org/icc/statute/romefra.htm>.
- 12 Rome Statute, Art. 17.
- 13 Usually, the Japanese government first carries out adjustments to Japan's domestic laws or enacts new laws/regulations before entering into the international treaty that it deems to require such legal changes (Iwasawa 1998: 27).
- 14 Interview with IMTFE-expert and Keio-law professor Philipp Osten (5 September 2008, Tokyo).
- 15 For the text of the 'Code of Crimes against International Law' see <http://www.dw.de/popups/pdf/1109851/code-of-crimes-against-international-lawpdf.pdf> (accessed 25 March 2010).

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Luli van der Does-Ishikawa  
School of East Asian Studies, University of Sheffield

## **Japanese Children's Official Songbooks – Compassion in the Crucible**

The catastrophic impact that Japan's 'fifteen-year war' from 1931 to 1945 had on countless lives both internationally and domestically is an undisputed fact, but recollections of it differ according to the time, place and who is doing the remembering. Seventy-years on veterans of the nationwide student mobilization often recall the war with a heart-wrenching sense of moral debt and vivid memories of the 'passion of public sentiment' which swept through the nation and propelled them to war with cheers and music on one hand, and a tacit resignation to their fate on the other (Asahi 13 Oct. 2013). This passion vanished swiftly with the arrival of the occupation forces, however, the new emergence of a passion for self-defence and national pride has been increasingly witnessed in recent Japanese media productions with the recurrent use of texts and music from wartime children's songbooks. Studies have evidenced that the wartime public's collective enthusiasm in the mobilization was the product of a nation-wide propaganda mobilization of both public and private endeavour through a variety of education and entertainment mediums. Moreover, archived records demonstrate that the GHQ considered the children's songbooks to be a source of potential threat to stability and democracy and, indeed, even today some of these songs, in particular *Kimi ga yo*, continue to cause controversy in domestic education policies and international relations. Yet, the actual texts of these songbooks mainly present innocent depictions of respect, love, and compassion towards the land and people in children's daily lives. The missing link is *how* these songs mobilized the children-students. Further, are we seeing the resurgence of the mobilization mechanism at work in current Japan?

This paper is a cross-disciplinary investigation into the nature and educational roles of official children's songbooks designed, published, and taught under the censorship and guidelines of the Ministry of Education, called *Monbushō-shōka-shū* (MS-S). MS-S were taught at elementary-level schools nationwide between 1881 and 1945, but the current paper focuses specifically on the period 1931–45, and investigates the discourse contents of these songbooks, exploring their psychological effects on the social consciousness of those who were exposed to them as part of Japanese wartime education. Drawing on theoretical, methodological and empirical insights from Japanese history, sociology, applied linguistics, and education, this paper attempts to explain the discursive processes of ideological education through the MS-S using the Critical Discourse Analysis framework. In particular, this empirical study aims to demonstrate how language was used to create associations between ideological concepts and children's everyday lives, nurturing militarism and nationalism based on imperial ideology and how this education was reinforced by the social context of propaganda mobilization. In the course of explicating the mechanism in which the innocence and positivity in children's songs morphed into the heated emotions and war efforts, the study proposes an Assimilation-Association Model of ideological transfer processes feeding into the construction of collective consciousness and memories.

Marjorie Dryburgh  
(M.E.Dryburgh@sheffield.ac.uk)

## **Regimes of memory and personal history in post-war China**

Personal histories in the People's Republic of China (1949–) were once commissioned and deployed in service of official histories. Personal memory was invoked in support of wider narratives of the past, and was elicited variously as oral testimony of pre-revolutionary victimhood (as *suku* 'speaking bitter'), or as quasi-confessional narratives of public engagement; yet these personal histories were recognised as 'usable' only where rememberers complied with hegemonic narratives of revolution and thereby affirmed the powers of the Party-state as sole arbiter of historical meaning. The effect of these constraints was to filter both the repertoire of publicly rememberable events or developments and the allowable interpretations of these.

During the reform era (1978–), however, the power relations within which personal memory could be articulated and personal histories produced have become more complex, and the officially-constructed status of (many) rememberers as eyewitnesses to history has authorised variant and unorthodox rememberings, though these often co-exist with public narratives and academic interpretations that remain strikingly univocal.

This paper will explore personal, local histories of north-east China during the decades immediately before and after the establishment of the People's Republic, focusing on ambiguous experiences that are, by their nature, open to variant rememberings. I will propose that, while earlier generations of oral histories were shaped above all by the priorities of the Party-state, more recent works bear traces, not only of the context in which a history was created and recorded, but also of other (possibly unrecorded) rememberings and retellings. Shifts in power over memory have therefore not produced unvarnished narratives of past experience, but have instead allowed new layers of remembering to be incorporated into oral histories. I will consider some of the implications of these shifts for a reading of personal histories produced in reform-era/post-authoritarian China, and argue that, as these bear the traces of shifting strategies of inclusion, exclusion and interpretation, they offer both a more complex understanding of historical experience than either state-sponsored public histories or academic, archivally-rooted works, and more nuanced insights into the local politics of memory.

Mark Pendleton  
The University of Sheffield

## **Hashima: History, Memory, Heritage**

In September 2013, the Japanese government announced plans to nominate the Modern Industrial Heritage Sites of Kyushu and Yamaguchi for UNESCO World Heritage status in 2015. One of the key locations in this grouping of proposed heritage sites is an island called Hashima (also known as Gunkanjima, or Battleship Island), off the coast of Nagasaki. Now a prominent haikyo (ruin) destination and most famous internationally as the setting for the villain's lair in 2012's Bond film *Skyfall*, Hashima was populated between the 1880s and 1970s as the entrance to an undersea coal mine. The island also housed a large number of forced labourers of Korean and Chinese descent in the 1930s and 1940s.

In this paper, which emerges from an Arts and Humanities Research Council Care for the Future exploratory grant which funded a period of archival and fieldwork in Nagasaki in 2013, I explore Hashima's place in contemporary contestations over heritage, history and memory in Japan. I will focus specifically on the different understandings of Hashima's importance as an historical/heritage site, between those who see it as emblematic of the emergence of a modern, industrial Japan and those who see it as complicit in a specifically imperial modernity.

One of the key ways in which this distinction is made is through competing memories of those who lived on the island during the pre-war period of forced labour, particularly Korean forced labourers, and those who lived on it in the postwar, primarily the children of miners. These competing memories have appeared in a range of textual forms – multiple autobiographies, photography books, documentaries, guided tours and published collections. In this paper, I will examine the ways in which contemporary relations to Japan's imperial and industrial past are constructed and contested through these competing memory texts.

Mark Pendleton is a cultural and social historian and Lecturer in Japanese Studies at the University of Sheffield. He was awarded the EastAsiaNet Award for Best Academic Paper in 2012. He is also an editor of *History Workshop Journal*.

Toshio Miyake

Department of Asian and North African Studies, Ca'Foscari University of Venice  
(tshmiyake@gmail.com)

## **History as sexualised parody: from historical revisionism to nation anthropomorphism in Japanese youth subcultures**

The increasing intermingling in contemporary Japan between nation branding of Cool Japan, historical revisionism, and youth subcultures have contributed to raise popular cultures as a strategic site in the hegemonic re-definition of the past, present, and future of the nation.

This paper addresses the ongoing transformation among younger generations towards a post-ideological and post-modern experience of their national 'imagined community', described as "pop nationalism" (Sakamoto 2008) or "cynical community" (Kitada 2005).

A fieldwork on the multiple media platform originated by the historical webmanga Axis Powers Hetalia (2006–present) and on its globalised success among female fandom, will provide further insights on the biopolitical mobilisation of moe ("burning passion"), as a combination of polymorphous pleasure and sexualised parody, shaping emergent memories of national history and identity.

Alain-Marc Rieu

Professor, Department of philosophy, University of Lyon – Jean Moulin

Senior Research Fellow, Institute of East-Asian Study (CNRS), ENS Lyon

Proposal

## **Memory, narrative and repetition. 1942: the Tokyo colloquium "Overcoming modernity"**

The infamous colloquium took place in Tokyo in 1942, one year after the beginning of the Pacific War, but 6 years into the Great East Asian War. This colloquium associated the best minds of Japan's intelligentsia, coming from all disciplines, from physics to literature and music. These famous intellectuals had in common to be specialists of European culture, from the arts, Humanities to the sciences.

These public intellectuals had for goal to debate Japan's evolution since the mid-19th century, its modernization and its present state, a state of total war. But their discussions did not address Japan's situation directly. They debated the cause and effect of Europe's modernization and its present state, also a state of total war. But Europe is more than a metaphor of Japan's situation.

These intellectuals were building together a narrative explaining to themselves and to Japanese society why Japan's political and economic system found itself in this situation. According to this narrative, the cause and culprit was to be found in Europe and in European history in the Copernican revolution. European nations have lost their spiritual (religious) ground and have developed a modern (materialistic) civilization, which led to science, capitalism and imperialism, finally to total war.

Finally, this colloquium is not a strange and typical Japanese event, concerning Japan's unique and extreme brand of ultra-nationalism. First this narrative survived the "catastrophe". It was repeated in Japan after the war as an explanation of the defeat. It remains a question for the future. Secondly this narrative has many different variations throughout the world: the assertion of a national essence or distinctive identity, the root in a common culture, language, unbroken history, race or religion, the endless search for recognition, etc. This narrative and its variations have for goal to "overcome modernity", to repress what modernity stands for.

Roger Greatrex  
Lund University

## **Statutory Memory Laws, 'Unwritten' Memory Laws.**

The paper takes its point of departure in European memory laws criminalizing the denial of historical acts of violence against humanity, including the ongoing French attempt to pass a memory law regarding the Armenian genocide committed by Turkey. Milan Kundera writes in his *The Book of Laughter and Forgetting*, “The struggle of man against power is the struggle of memory against forgetting”. The statutory laws that have been enacted in many democratic European Union countries criminalizing Holocaust denial and the denial of war crimes take a clear stance against skewed 'forgetting' and the deliberate distortion of the historicity of events. Fines and prison sentences have been handed down in courts in France, Germany and Austria, among other countries, for violation of these memory laws. In China, in July 2012 an editorial in the *Global Times*, or *Hanqiu shibao*, was published with the heading 'Deniers of war crimes should face legal consequences', which decried the fact that China today lacks powerful means to deter public denial of historical facts. The editorial proposes that China needs legislation “to ensure certain bottom lines are never crossed in the public expression of historical perspectives.” This paper examines the social and coercive consequences of accusations of denying and distorting history in China and Japan this century, and the extent of historical revisionism currently at large.

Sascha Klotzbücher  
Department of East Asian Studies, University of Vienna

## **“To eat bitterness” as a resource. Strategies of Maoist self-manipulation during the Cultural Revolution and their remembrance in parent-child relations of contemporary Chinese families**

This talk explores how the memory of the Cultural Revolution is passed on through families and how families are “archives” of Maoist identity.

Analysing diaries written by two rusticated youths with an ethno-psychoanalytical approach by Paul Parin, I discuss the constructed feeling of “bitterness” (ku 苦) of the sent-down youth in the Chinese countryside beginning in 1968. I will show how the political demand of “eating bitterness” or “to swallow the anger” (chi ku 吃苦) confronted them with impossible task of subordination to the farmers and self-transformation into loyal followers of the Maoist ideology. The urban youth’s alienation and ambivalence towards the authorities have driven them to actors of ideologically promoted role: They perceived themselves as somebody not able to eat bitterness for their new Communist identity and for the national construction project. Identifying with this role of somebody who controls the own body and discovers his own deficiencies successfully in an enormous rigidity, they have internalized the Maoist ideology. Overseeing that they were propelled into the rural remoteness and political insignificance, this intrapersonal and never-ending control and punishment of their body helps them to nourish a feeling of superiority that Mao had proclaimed for their generation some years ago.

Using in-depth conversations with the former sent-down youth and their children in Wuhan, the second part of the paper discusses if this “Maoist self” is really only “held in their stomachs” in the post-Mao era. I argue that it did not disappear. Instead, perception of oneself and the other is still framed by “eating bitterness”: It is transformed into a resource to swallow anger and tolerate hardship (neng chiku 能吃苦) in the parent-child relationship.

The parents refuse to accept the fact that their generation failed to adapt themselves to the primitive rural environment during the 1970s. Instead, they remember it as the times when they learnt to eat bitterness. Deprived of their former political objects and goals that they admired, their own introspection by ideology is split into the members of a family. In these days, they realize and communicate this disappointment about *their* own failure in their own children: When the parents constantly express their dissatisfaction with their children’s lack of bearing hardship performance in spite of their “inherited potentials”, they unconsciously project these feelings about the lost time upon their own children: They relocate and revive the stigma of being unable to eat bitterness from the *intrapersonal* control and punishment in today’s *interpersonal* parent-child relationship where parents control and where the children are punished. Thus, this highly ideologically overloaded “Maoist self” is remembered by transferring and realizing it in non-political settings and intergenerational settings.

Trying to leave behind the asymmetrical relationship between the researcher and the interviewee in this project, this paper’s conclusion explores also new roles of the researcher in conducting research and writing culture and history.

Seán Golden  
Universitat Autònoma de Barcelona (sean.golden@uab.es)

## **Memory in East Asia: Ruptured Pasts, Contested Presents, Uncertain Futures**

### **后折腾时代 houzhēteng shidai. From the Cultural Revolution to the Chongqing Model and Beyond. What Have the Children of Yan'an in Mind for the Future?**

How do the Chinese people – and more specifically, their current leaders – understand their contemporary experiences in relation to the Maoist period (1956–1976) of the Chinese socialist revolution? How are social institutions, power relations and communications media –including the new ICTs and social networks – involved in the construction of the corresponding discourses, and what are the implications of memories of Maoism for economic and political, as well as social and cultural relations and institutions, in East Asia and for the 21st century world order? The “Chongqing Model” associated with the now disgraced leader 薄熙來 Bo Xilai, contemporary debate about the famine that followed the “Great Leap Forward”, the recent fleeting appearance in the Chinese media of the image of the “tank man” from 1989 and the novel 盛世：中國、2013年》 by 陳冠中 Chan Koon-chung [“In an Age of Prosperity: China 2013”, published in 2008; published in English as *The Fat Years* in 2011] will serve as case studies to explore how the past, present and future are mediated, negotiated and embedded in public discourses through discursive practices in contemporary China. Chan Koon-chang portrays a fictitious – but ominously realistic – collective amnesia. The Famine seemed to have disappeared from collective memory and the events of 1989 are taboo in public, yet efforts are being made to restore those memories. People marginalised by the processes of 改革開放 gǎigékāifàng recur to Maoist terminology and analyses to defend their rights. The Party condemns Bo Xilai for his policy of “唱紅” chàng hóng singing red songs but 习近平 Xi Jinping uses 毛文體 [毛文体] Mào wéntǐ “MaoSpeak” to structure his own discourse on the 中國夢 Zhōngguó mèng “Chinese Dream”. What do the 延安儿女 Yán'ān ér-nǚ “Children of Yan'an” think about the past? And what have they in mind for the future?