

日本における不敬事件

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The History of Lese-majesty in Japan

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This essay is comprised of the following sections. Preface 1) The course of the centralization of administrative power 2) The preparatory stage of the Imperial Constitution 3) The Emperor Meiji and his politics 4) Compilation of the new government Penal Code. Lese-majesty (不敬罪) text as prepared by Boissonade. 5) Two Tokyo University professors discharged due to disrespectful nature 6) The Annals of Lese-majesty in Japan from the Meiji period until the Heisei era 7) The origins of affair, the number of cases and persons indicted for Lese-majesty over/during a 150 year period 8) The beginning and the repeal of the bad law. Postface

The Imperial Family was the head house (宗家) in Japan whose central person, the Emperor, was a living god who governed the Empire for thousands of years. The revised Criminal Code prescribed in 1940 ordained offenses against the Imperial Family as follows:

- Article 154 One who inflicts an injury on the Emperor or attempts to do harm him deserves the death penalty (死刑).
- “ 155 One who is disrespectful to the Emperor deserves more than 2 years of penal servitude.
- “ 156 One who defiles *Dai-jingū* (i.e. The Grand Shrine in Ise) deserves more than 2 years of penal servitude.
- “ 157 One who defiles the Imperial tomb (御陵) deserves one year of penal servitude.
- “ 158 One who inflicts an injury on the Prince Regent (摂政) or attempts to harm him deserves the death penalty.
- “ 159 This law also applies to the Empress Dowager, the Empress, the Prince Imperial, the Crown Princess and the eldest grandson of an Emperor.
- “ 160 One who inflicts an injury on the Royal Family or attempts to harm them deserves, the death penalty or imprisonment for life.
- “ 161 One who is disrespectful to the Royal Family will be condemned to more than 6 months imprisonment with hard labour or penal servitude not exceeding 10 years.
- “ 162 One who defiles the Imperial tomb will be sentenced to more than 6 months' imprisonment with hard labour or penal servitude not exceeding 10 years.

Also one who is disrespectful for the tombs of the Royal Family deserves imprisonment with hard labour not exceeding 10 years.

“ 164 One who breaks into the Imperial Palace, the Imperial Garden (禁苑),
(sic) the Imperial Villa (離宮) or the Emperor's Temporary Quarters (行在所) will be condemned to more than 6 months' imprisonment with hard labour or penal servitude not exceeding 7 years.

What is Lese-majesty? Nowadays this word seems to be an obsolete one. Very rarely do we see or hear the word. But in pre-war days this was a repressive law in company with the Maintenance of the Public Order Act (治安維持法) to support the Tenno System (i.e. the Emperor System of Japan). The Meiji government thought much of enacting a penal code to maintain the public peace and order.

Gustave Emile Boissonade (1825~1910), a legal professor of Sorbonne, Paris, was invited to Japan to codify laws among which the Criminal Procedure Act, the Civil Law and the Penal Code were included. It was Boissonade who first mapped out Lese-majesty for the Empire of Japan, however, his original drafts were thoroughly revised to adapt themselves to Japan's state of affairs. Lese-majesty was finally codified after undergoing much revision in the 15th year of the Meiji (i.e. 1882). The law lasted for 67 years until it was abolished by the order of Douglas MacArthur (1880~1964), the Supreme Commander for the Allied Powers in 1947.

The masses in Japan long felt oppressed by the Tenno System living under the heavy pressure of it until the end of the Pacific War. There was no way to appeal to a higher court once charged with Lese-majesty. People sometimes exploded with rage which had built up for many years against the Emperor. The Emperor and the Royal Family were living human beings on the earth just like the multitudes. They are not of a different race. However they live in ease and comfort by the taxes we pay and being protected by the government, whereas the mass of people live in poverty. The difference between commoners and those of noble origin influence on wealth and rank. But the common people know how to resign themselves to their lot accepting the situation.

Lese-majesty had a 150 year history. In modern times it started in the 15th year of Meiji (i.e. 1882) and ended in the 22nd year of Showa (i.e. 1947), however, the exact number of the cases is unknown. Roughly speaking the number amounts to 500. Social problems and conditions engender discontent, rebellion and blasphemous words and actions against the Emperor. It had highly sentimental motives, according to the police authorities.

The Emperor became an object of resentment during the Pacific War. Lese-majesty then took the form of scribbles on the walls of toilets, anonymous letters to the Authorities, damaging Imperial's, Portraits, trees that were planted by the Emperor, the gates of the Ise Shrine and slander against the Emperor. If the criminal acts were found by the special or military police, the offender would receive more than 2 months' imprisonment or penal servitude not exceeding 4 years, to say the least.

Looking back upon the history of Lese-majesty, some cases are worthy of note. Gaikotsu Miyatake (1867~1955, 宮武外骨) was arrested for violating Lese-majesty by inserting a cartoon showing the Emperor disguised as a skeleton giving a scroll to his retainer on the day of the promulgation of the Constitution in 1888, in his magazine titled, "Tonchi Kyokai Zasshi" (n. 28). The accused was sentenced to 3 years' imprisonment with hard labour and was fined 100 yen.

Uchimura Kanzo (1861~1939, 内村鑑三), a leader of Christianity in the Meiji and Taisho periods, incurred a censure without bowing low to the Imperial Rescript on Education (教育勅語) on 9 Jan. 1891, resigning his post at the First High School (nowadays Tokyo Univ.). Some Japanese socialists in Berkeley, Calif., hung a poster on the entrance of the Consul General of Japan, in San Francisco, on 3 January 1907, advocating the killing of the Emperor.

A group of socialist and anarchist planned to assassinate the Emperor and were arrested for Lese-majesty, sending 11 men and a woman, out of 26 convicts, to the gallows in Jan. 1911. This was called "The Taigyaku Incident (大逆事件)". Having an urge to take revenge on the Emperor for the execution and witnessing social miseries in Tokyo, led Daisuke Nanba (1899~1924, 難波大助), a student of the First Gakuin of Waseda Univ. to use a cane gun to shoot the Prince Regent in Dec. 1923, with ill success, and was hanged in the following year.

Jisopu Kim (金址燮), a fighter for Korea's independence, threw a hand grenade at the Nijubashi Royal Palace Imperial Guards and policemen when he was checked up on in Jan. 1924. Hōsho Li (季奉昌), a construction laborer, threw a hand grenade at the Emperor's carriage but was unsuccessful in Jan. 1932. Both Koreans were hanged after being convicted of high treason.

During the Pacific War Lese-majesty reached its climax at home. Some people hurled abuse at the Emperor without hesitation but most people suppressed their discontent or anger avoiding to

be called a traitor and being arrested. The Pacific War ended in our defeat by the two atomic bombs of America. What awaited us all was the want of food. The food shortage in Tokyo was especially severe. People in rags hung about the black markets where they paid 10 yen to eat the leftover meals of U. S. soldiers. The only item on the menu at the Tokyo University student refectory was wheat flour dumpling balls in a soup. The men were so hungry that they were not strong enough to keep standing on the platform when waiting for the train.

A crowd from Setagaya ward, consisting of just over 100 starving men, women, and children thronged to the Imperial Household Agency in a regular manner with Red flags, to ask for the concealed rice. They were amazed to find tuna, flatfish, plaice, sea bass and salmon in the icebox in the kitchen. The cooks in the Household served good dishes for the Emperor and the Royal Family as well. One week after this incident (i.e. 13, May, 1946), Matsutaro Matsushima (松島松太郎), a communist, and his comrades demonstrated with signs asking for rice. Matsushima's placard said, "The party is protected ! I, myself eat well. You, the nationals, die of hunger ! Signed Hirohito". He deserved Lese-majesty based on the old law, however, the authorities sued him for libel. He appealed to the Supreme Court but his appeal was dismissed the following May.

A jobless youngman of 19, was arrested for violence, on 10 April 1959, for throwing a stone at the carriage of the Crown Prince and his consort in the Palace Plaza. Kenzo Okuzaki (奥崎謙三), a former sapper of the Japanese army catapulted 3 times at the Emperor on the Congratulatory Day of the New Year in 1968 calling out his fellow soldier's name.

When the Crown Prince and his consort visited Okinawa, two young radicals who were against the visit, cast petrol bombs at them at the front of the mouth of the "Himeyuri" cave on 17 July 1975. Hitoshi Motojima (1922～, 本島 等), the Mayor of Nagasaki, who mentioned the Emperor's responsibility for war, was shot in front of the Government building by a leader of a right-wing organization. He said in the regular conference that if the Emperor were quick in decision to end the war, the tragedy of war in Okinawa and the dropping of atomic bombs on Hiroshima and Nagasaki could have been averted. The Japanese Government dillied away its opportunity to stop hostilities in order to maintain the Tenno System. His repeated utterance of the Emperor's war guilt brought the right wing's wrath upon himself.

Nowadays, we Japanese are equal under the present Constitution. The provisions of high treason or Lese-majesty have been abolished in the code of laws. The crimes against the Imperial Family

applies to the general public. To sum up, Lese-majesty was an active manifestation of the masses, their outburst of anger against the Court nobles. The government holds a series of state ceremonies, spending a large sum of money. The Emperor is the symbol of the State. The present *Tenno System*, if stated reversely, is a divine system of theocracy.