

# The Ethico-politics of Tokugawa Tsunayoshi: Animal Liberationism and the Forty Seven Ronin

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Tokugawa Tsunayoshi was not only the fifth Shogun, but a learned scholar of Neo-Confucianism. He often gave lectures to his retainers on *The I Ching* and the Confucian classics. Tsunayoshi was a contemporary of the philosopher Ogyu Sorai, who developed Japanese Neo-Confucianism and part of shogun's advisory stuff. In this paper, I will closely examine Tsunayoshi's concept of 'compassion for living beings' to show that his philosophy cannot be criticized from the perspective contemporary animal liberationism. The moral conflict between compassion for living beings and respect for humans addressed by Edo society, but their solution is not yet known in contemporary environmental ethics. Loyalty to one's own lord was considered a categorical imperative in the Chu Hsian fashion of the age. The forty seven ronin's act of revenge excited people and widely praised, yet it was illegal from the viewpoint of a social order that forbade private vendettas. Their action showed, accordingly, a sort of moral conflict between loyalty and social order. Tsunayoshi's solution was backed by Soraian ethico-politics that divides, as Hare did, moral thinking into two levels of intuitive and critical.

**Key Words:** forty seven ronin, living beings, sentient beings, animal liberation, human relation ethics, loyalty and filial piety.

## I The Precepts on Compassion for Living Beings

Tokugawa Tsunayoshi (徳川綱吉, 1646 -1709, the fifth Shogun, the political and military head of feudalistic Edo-era Japan), was nicknamed the 'dog-shogun' (犬将軍) because of his edicts which stipulated the protection of dogs. Contemporary animal liberationism, as propagated by Prof. Singer and others, reminds one of Tsunayoshi's strange policies. His policies, in which people apparently suffered at the expense of dogs, are so infamous in Japanese history that opponents of animal liberationism can use them to discredit the movement. Although Japanese people's traditional attitudes towards the preservation of animals and the natural environment were sound, present-day animal liberation and vegetarian movements, compared with other advanced countries, have not been very active in Japan. While Buddhism is an accepted religion, its original form has been drastically modified. (cf.Yamauchi, 1996.) However, it was Confucian morality and politics (backed by respect for heaven), rather than Buddhism, that was been influential in enriching nature. In this paper, I use Tsunayoshi as a case study to explain how Confucianism, rather than Buddhism, underlied politics of the time.

In a chapter entitled, 'How the Japanese Live', Singer is probably the first Western Philosopher to present the Japanese moral attitude. Arguing in his book about the relationship between self-interest and public interest, he discusses Japanese people's moral attitudes (Singer, *HWL*, Chap.6.). Compared with Americans, who tend to show remarkable individualistic and competitive tendencies, the less individualistic Japanese people appear to Singer more successful in reconciling individual self-interest with the interest of the group. For Japanese business-people, for example, the corporation is like an ethical community where people are happy to sacrifice their own interests for that of the whole community. Usually this attitude does not, however, reach beyond the boundary of the circle to which they belong. Singer postulates that such attitudes originated from the feudalistic system from which Japanese society, unlike that of the West, rid itself only recently and in a short span of time.

In his argument about Japanese people's loyalty, he presents Japan's most popular story, The Tale of the Forty-seven Ronin. It is an insightful fascinating chapter, one that enables us to see a continuity between the loyalty of today's Japanese people for the community-like group to which one is attached, and the self-sacrificing attitudes of traditional loyal samurai. Singer's argument helps us to understand the Confucian background to the loyalty of the Japanese, as well as their minimal interest in animal liberationism. The events concerning the forty-seven 'ronin' (in Jp. rather 'rohsi' is used, meaning the master-less, but still loyal samurai, 'ronin' meaning just unemployed samurai) took place in the age of Tsunayoshi, who was then in the Shogunate and most responsible for the process and outcome of the whole story, including the trials of the concerned samurai.

Tsunayoshi's inheritance of the shogunate was thought to be not fully authorised, and the drastic changes in society encouraged him to try to become the type of ruler who actually enacts the part of leader, rather than the traditional, honorary type of shogun who, well-backed by advisory boards, does not need to display political leadership. He was a shogun who adhered to his own principles and was of distinct and unusual personal character, something unusual among shoguns who tended to lack charisma.

During Tsunayoshi's rule (1680-1709), following the transformation of the alluvial plains into farm land, the acreage under cultivation was three times that enjoyed in the later stage of the civil war era. (Cf. Oishi, 1995, p.37f.) Accordingly, the population in Edo the city increased threefold to around one million, with the population of the whole country ten times as large. (Cf. *ibid.*, p.113f.) Agricultural and commercial changes in society in turn resulted in the innovation of social systems. The samurai, who were originally warriors, became at the same time officers of various ranks, more or less bureaucratic. It was a time when military politics changed into civil or literary politics. Urbanization had begun and a new polity, backed by spiritual power, was in demand.

In Japanese history Tsunayoshi has been portrayed as an incapable, sometimes even abnormal, shogun whose policies were capricious. This bad reputation is mainly due to his 'Precepts of Compassion on Living Beings', which were thought a very strange, even wrong politics characteristic of his eccentric personality: in a word, a misgovernment.

According to accepted opinion, Tsunayoshi became despondent after the death of his son. Then, a Buddhist monk called Ryuko told him that the reason the shogun could not have a son stemmed from retribution for the sin of killing living beings in previous incarnations. Consequently, in order to have a son, he must demonstrate compassion and refrain from killing sentient beings. Accepting this advice, Tsunayoshi started to promulgate laws for the protection of dogs which were then registered and carefully protected. When dogs died, their keepers had to report the deaths to the ward offices. People could not fight off dogs even when they were attacked by them and those who killed either hens or dogs were severely punished. Wagons and other traffic took great care not to injure dogs. People threw water on dogs that were fighting in order to stop them, for if they let dogs fight until death they would be held responsible and punished. People were too scared to become

involved with dogs and wild dogs began to wander the streets and roads (like dogs in the state of Plato's democracy, becoming so arrogant that they didn't give people access to the road. Cf. *Rep.* 563c.)

Tsunayoshi prohibited the common people from buying and selling living birds, shells, and shrimps, and those who lived in Edo-castle were prohibited from cooking these animals. Eleven low class samurai were charged with shooting and selling game, and punished by death. People had been terrified by Tsunayoshi's rule and, after his death, their resentment towards him led to the abolishment of his precepts. Such were the accepted stories about him.

## II An Arbitrary Despot or an Enlightened Ruler?

Historical views on the Edo-era have been much prejudiced by the Western concept of modernization, historical progressivism, or Marxist dialectics. Recent research, however, has enabled us to see the Edo-era in a different light from those of the above-mentioned doctrines. The revaluation of the Edo-era has become one of the recent trends among historians, some of whom have shown the positive aspects of Tsunayoshi's precepts on animals, aspects quite different from former prosaic views. Below I discuss some historical facts seen from these new perspectives. (Cf. Bodart- Bailey, 1994, Oishi, 1995, Tsukamoto, 1983, 1998, Yamamuro, 1998)

There was no single Tsunayoshian law on animals, but in twenty-five years, 135 precepts were proclaimed. (Cf. Yamamuro, p.153f.) These precepts of compassion on living beings could be divided into two categories: compassion for living beings in general, including human beings, horses and cows, birds, fish, and other animals; and compassion for special sentient being such as dogs and cats'. These categories are expanded upon below.

The first precept in 1678 was the legal prohibition of deserting sentient beings and the punishment of those who deserted sick children and the aged as well as sick horses and cows. (Cf. Tsukamoto, 1998, p.124 ff.). These kinds of precepts were issued not only in Edo, which was under Tsunayoshi's direct control, but also in all other domains. At that time, the social order was unstable and the welfare of the state was not enough; the growth of agricultural and other products and wider economic activity drew people from the countryside and increased the urban population as well as the numbers of the lower classes everywhere. Most of these were single males from outside the city who were employed temporarily in the families of merchants or samurai,

At this time, it was still quite common to desert the sick or aged poor, who were left to die in the mountainside or in the wilderness, as were horses and cows when they became useless. Newborn babies were sometimes deserted and, along with the sick, became fodder for dogs and other animals. Masters could punish or dismiss their servants with impunity. In this social climate Tsunayoshi's policy of compassion on living beings was motivated by the spirit of *jen* (仁), Confucian impartial benevolence, --the spirit that is similar to contemporary animal liberationism in Western societies. Tsunayoshi tried to protect beggars and roaming people, and also improved the condition of prisons. If Bentham, who argued for animal liberation for utilitarian reasons, had known of Tsunayoshi, he would certainly have very much praised him.

Laws for gun regulation were also implemented throughout the whole country. Professional hunters were exempt as were farmers who were allowed to use registered guns for the purpose of defending their farms from wild birds and other animals like wild pigs, deer, or wolves. The government too sometimes ordered these to be killed under restricted conditions. In a sense, these gun regulations seem to have been part of an extended policy of depriving farmers of their swords in the last stages of a period of civil-war.

The abolition of falconry was more difficult, even for Tsunayoshi, for falconry had played an important role in the ruling classes, not only as a recreation or sport but also as a traditional ceremonial event by which high ranking samurai could show their power and prestige. Falcons were, however, fed on small living birds and dog meat, and hunting by falconry was itself an act of killing sentient beings. Tsunayoshi at first reduced the system of falconry and finally abolished it, but it was revived soon after his death.

Among other mandates for liberating animals was the prohibition of fishing, except by professional fishermen, and also the feeding of birds, fish, tortoises, and shellfish in order to sell them as food. This law, however, did not inflict much suffering because people were semi-vegetarians and they could buy fresh fish caught by fishermen. To feed birds and keep them as pets was also proscribed, with the exception of ducks, geese, and those birds that were of foreign origin like peacocks - for it was considered that these birds would starve if left in the wilderness. Gold-fish were allowed to be registered and kept as pets. Black kites and crows were less popular and gently removed from the suburban districts of Edo to an island.

In contrast to these precepts on living beings in general, Tsunayoshi's edicts of compassion for particular beings, particularly his policy on dogs, has tended to receive the most attention. With drastic urbanization and increased food consumption, the number of dogs in the city increased. Since contraception was unknown, unwanted puppies were often deserted - a custom seen until recently, because people didn't like to kill them with their own hands. Unlike horses and cows, which were domesticated and mainly used for agriculture or for riding, and were usually owned by farmers or samurai, dogs were half domesticated, half wild. They were kept untied and could stroll freely.

As the numbers of ownerless dogs increased, some killed and ate them. The first stage of the precepts, practised only in Edo, was the system of registering dogs according to skin colour so that strays could be traced and protected. (In contrast, it was only in 1894, more than two centuries later, that the registration of dogs was legally enforced in New York.) When people became reluctant to feed stray dogs, on the grounds that they would be mistaken for their owners, a new order to feed stray dogs was put into effect. In the next stage, the government erected safe houses for dogs, and in 1695 a huge doghouse was built at Nakano, where nearly forty thousand dogs were received; later this number doubled. This became a financial burden to the daimyo, who were ordered to pay the costs, and also to the farmers of neighbouring villages who were ordered to feed the dogs. Finally, the law stipulated that those who killed or wounded dogs would be sentenced to death. Information about offenders was encouraged and the informants were amply financially rewarded.

Tsunayoshi did more to enhance the status of Confucian studies than any other shogun. He earnestly promoted Confucianism by employing Confucian scholars as high ranking officers and advisers and also built a shrine to Confucius. (Cf. Tucker p.24.) He was an amateur scholar and very often gave lectures on the Confucian classics such as *The Great Learning*. In 1693 when he held a seminar on *The Doctrine of the Mean*, as many as one hundred and fifteen scholars and high ranking lords attended. His lecture on *The I Ching* had been given as often as two hundred and forty times, between 1693 to 1699. Although it was thought an honour to attend his lectures, some of those in the audience must have suffered, rather than enjoyed, his seminars, because they could not, unlike today's happy university students, escape from the lecture. If any of those students became historians after Tsunayoshi's death, one can guess at their unfavourable and undeserved critique of Tsunayoshi as a monomaniac.

Tsunayoshi's enthusiastic encouragement of, and educating people towards, Confucianism enables one to surmise that his policies concerning animals were a part of his Confucian ideals of jen-politics. Actually he often referred, in his set of precepts, to the mind of *jen*, emphasizing the motivation behind, rather than simply blind obedience to, the precepts. In the large placards which were placed by his order all over the country in 1682 (a few years before his precepts on animals), we find the following moral codes: 'Encourage loyalty and filial piety'; 'Make sure that harmony is kept among spouses, brethren, and relatives' ; 'Have compassion on the servants'; 'Do not make yourselves grave offenders, being disloyal and wanting in filial piety'. The references to 'loyalty and filial piety' (忠孝礼) show that his thinking was quite different from that of Buddhism. Buddhist monks are called in Japanese 'shukke', which means persons who have deserted their own families. In other words, in Buddhism, relationship ethics was not central to its teaching. It is true that Tsunayoshi

was influenced by some Buddhist teachings in defining his precepts on not killing sentient beings and in validating his strict vegetarianism. In his short writings in the Japanized classical Chinese script, he wrote that Confucianism and Buddhism are, like the wheels of a vehicle, closely connected with one another. Buddha preached solely on compassion (*maitra*) and Confucius made benevolence (*jen*) the main point: both exhorted goodness and punished evil. He opposed the sacrificing of animals in ceremonies and was against carnivorousism in Confucianism. (Cf. Tsukamoto, 1998, p.157,182.) Yet there is no evidence of his belief in Buddhist reincarnation.

The story that he started his policy of compassion on living beings following the advice of a Buddhist monk, has no historical evidence and is probably only a legend. The precept, 'Have compassion on living beings' (「生類憐みの令」) does not seem to be very Buddhist. 'Shorui' (生類) 'means literally living species, and the equivalent Buddhist term for it is 'sentient beings' (*ujou*, 有情).

In Buddhism, there is a clear-cut division between sentient and non-sentient beings; and while sentient beings will be reincarnated, there are no moral considerations on plants. If one is a Buddhist one cannot, without believing in reincarnation, put oneself in the shoes of another sentient being. Japanized Buddhism doesn't, however, believe in reincarnation; rather it emphasizes a sort of holist teaching that all things, that is, 'mountains, rivers, grasses, and trees --- everything will attain Buddhahood.' (草木国土悉皆成仏.) If this version of Buddhism is right, people are already Buddha, the enlightened one, without any effort. This version of Buddhism was, I surmise, helpful in saving the environment, since nature itself was considered valuable.

The question is why Tsunayoshi was so widely denounced as the 'dog-shogun' ? The main reason might be that people of later periods thought that he cherished dogs and other animals to the extent that he let the lives of lesser sentient beings override the lives of human beings. Judging from his belief in Confucianism, however, this was not the case. Tsunayoshi went to extremes in his severe punishment. He was too paternalistic and anxious to convert people into advocates of *jen*, not only in a descriptive way, but also in spirit, that is, in a prescriptive way. (His political ideal strongly tended towards putting the minds of people under the control of a Confucian ruler. Cf. Bodart Bayley, 1994, Tsukamoto, 1998, p.162.) Yet he seemed to believe in Neo-Confucianism of Chu His, that requires the strict obedience to the Confucian relationship ethics, of which loyalty to one's lord and filial piety to one's father were the representative virtues. This probably led him to his severe punishment of those who digressed from his ideals.

In Tsunayoshi's age, people were easily punished by death for adultery, fraud, and stealing certain amounts of money. It was recently found that thirteen people were put to death for opposing his precepts. (Cf. Yamamuro, p.179.) Contrary to popular belief, it seems that Tsunayoshi did not let the lives of animals override the lives of human beings at whim. Assuming he was truly sincere in pursuing his ideal of the ancient Confucian sage kings, he might be forgiven for his over-demanding attitude and his infliction of cruel punishment. It was paternalism and filial piety that characterized *jen*-politics of the age, and Tsunayoshi would have wished to be a ruler who is like a father, thinking of the state as an enlarged family.

There may be other reasons for Tsunayoshi's bad reputation. Conservative samurai might have felt that they were being deprived of their traditional privileges, and some felt humiliated by Tsunayoshi's policies. Samurai had the privilege of their swords to strike down those common people who exhibited rude behaviour towards them, and they were sometimes reckless and inhuman enough to cut down, merely to test their swords, vagabonds or beggars who just happened to cross their path. In view of this fact, it must have been surprising when they were prohibited from using their swords even against dogs who, in the eyes of the law that protected animals, had acquired equal status with the common people. It must also have been difficult to make common people obey the law and even more difficult to make them understand the spirit of *jen*, which was the basis of the precepts protecting animals. (What is much more urgent today, is to make people understand how cruel it is to factory-feed cows only in order to eat them).

Although the common people were educated, still they probably could not understand Tsunayoshi's ideals;



some courageous people might have resisted, and some sophisticated or reckless people might well have mocked and ridiculed his policies, their resistance and criticism possibly irritating the ruler to introduce stricter rules. Tsunayoshi might have desperately tried to inculcate in people the sincerity to obey moral law, the action-guiding force of morality, or, as Hare would say, the prescriptivity of moral judgements. Today, nearly all Buddhist monks are carnivorous, despite the precepts on placards in front of temple gates that one must not kill sentient beings, and that one must not bring alcohol (sake) into the temple. This indicates that the Buddhist precepts have become only customary (or descriptive) and lack prescriptive force. If only Tsunayoshi had been able to recognize this, he would certainly, taking animal rights seriously, have become busier punishing these Buddhist monks. His political opponents, and successors in the government, also criticised and attacked him. The materials to which later historians referred were mostly documents of later ages. These historians were so thoroughly indoctrinated by, and connected to, Western anthropocentrism, that for them feudalism was simply a backward stage in the progress of history.

'Enlightened' Japanese people often dismiss Confucianism as the mere remains of a feudalistic 'ancient regime'. They have forgotten traditional vegetarianism; 'sukiyaki' and carnivorism have become a symbol of modernization in the age of enlightenment. Because modernized Japanese people almost wholly accept the anthro-po-centred view, Tsunayoshi's policy, might seem to be superstitious at best, 'eco-fascist' at worst. To the ecologically literate, however, it may be regarded as progressive. . The Australian historian B.M. Bodart-Bailey was the first to describe Tsunayoshi as a distinguished ruler, drawing on the work of E. Kaempfer (1651-1716), a German natural historian who had visited Japan and actually met Tsunayoshi. Japanese people, historians included, know little about the animal rights/liberation movement popular in advanced countries, The Animal Refuge Kansai (ARK), founded in Osaka by Elizabeth Oliver, where a huge number of deserted dogs and cats are protected is little known amongst the general public.

As the number of dogs increased, Tsunayoshi's policy seemed to have failed. If dogs could have been left in the wilderness, where deer and wild pigs lived, then the numbers would have been limited appropriately and the natural food chain would have been kept. Or if, like cows and horses, dogs had been domestic animals, their numbers would not have increased so much. Urbanization made dogs half-domestic, half-wild and Tsunayoshi had to solve this problem within the following parameters: that one should never kill dogs, even puppies; that there was no means of contraception; that people wished to have a comfortable city-life, and furthermore, didn't like to pay the price. If one considers the intractability of the situation, one might begin to feel compassion for Tsunayoshi, rather than the dogs.

There are currently 1.28 billion cattle populating the earth, one fifth of the human population, existing only to be eaten by people in rich advanced countries. (Cf. Rifkin, 1993. p.1.) The population explosion in some areas is said to have originated from the Catholic supreme principle 'Never kill humans'. These days it is becoming increasingly difficult to manage this ecologically catastrophic situation. Given this, it seems unfair to laugh at Tsunayoshi for trying to make society more ecology-oriented and more civilized, taking, as he did, a position somewhere between bloody samurai rule and the urbanization of Edo. He could not, although he was successful in educating samurai toward the Confucian spirit of *jen*, stand against the age, against increasing urbanization. Despite his excessive overprotection of non-human animals, in Confucianism, human beings had a special position among animals as 'the spiritual lord of all beings' (万物の霊長) . This is a Confucian version of the anthro-po-centred view; that is, human beings could be moral agents, while animals are moral patients of human consideration. However, in the Confucian tradition, the holistic tendency is so prevalent that there is no clear-cut line, as in the main Western traditions, between human beings and other animals; nor is there, as in Buddhism, any clear-cut division between sentient and non-sentient beings. Following the acceptance of dualistic modernism backed by western anthropocentrism, compassion for non-human living beings has been lost from view and has suffered a loss of meaning. Tsunayoshi, as a distinguished Confucian ruler sincerely pursued the ideal of the ancient Chinese sage kings in China (cf. Bodart-Bailey, 1994, p.143),

then he may well be called a 'Confucian philosopher king' and 'the father of animal liberation' at the same time. Yet, people who believed in the Confucian human-centred view that human is 'the spiritual lord of all beings' did not, like today's most Japanese people, understand, nor had sympathy on, the animal liberation movement. And Tsunayoshi didn't know the problem of moral conflict between the respect for human lives and care for the sentient beings.

### III Forty-seven Loyal Samurai

According to the Confucian ideal of jen-ethico-politics, the shogun's role as ordered by Heaven is to foster peace and contentment. The whole country (Japan) was called 'world under heaven' (ten-ka, 天下) and people were considered to be in charge of the rulers. The lords (the major lords being 'daimyo', 大名) of the han (clan, 藩) and the samurai were engaged in military service under the shogun's control, who also required that the lords live in Edo in alternate years. The shogun (or military general) was himself formerly appointed by the tenno (later Emperor, 天皇), who was called the son of heaven (ten-shi, 天子) and who lived in the imperial court of Kyoto. Heaven's mandate is for the shogun to make people happy and maintain peace (an-min, an-tenka, 安民・安天下). The precepts issued by the shogunate restricted the daimyo's administration; however, whilst the shogunate did not directly rule other daimyo its duty was to restrict the daimyo's administration and observe whether the daimyo were providing for the people. The shogun was therefore indirectly responsible for the welfare of the people and could, accordingly, punish daimyo who abused their power or misruled. Daimyo could be transferred to another han or have their fiefs confiscated if they were engaged without restraint in the pursuit of pleasure or were unable to manage issues such as the riots of farmers. The shogun's orders and laws were to be impartial among the concerned parties, including the common people.

If Heaven is interpreted as being impartial and if one considers that peace and contentment are its desired happiness, then Confucian politics can be regarded as closely corresponding with the utilitarian idea of 'the greatest happiness of the greatest numbers', counting everybody for one and nobody for more than one. Such is, in a sense, the embodiment of jen-ethico-politics, which is expressed in the motto: 'Respect Heaven, Love People' (敬天愛人). Confucian Heaven was believed to be impartial to all people, to all living beings, and even to all things. That may be one of the reasons why people believed that the ruler was responsible not only for disasters such as fires or crop failure, but even for natural calamities such as earthquakes, tsunami, volcanic eruptions, cold weather, storms, heavy rains or floods. People thought that events such as earthquakes, which often struck the land during Tsunayoshi's time, were ill omens, and it was Tsunayoshi, or the shogun, who was considered responsible for these calamities; they were thought to be Heaven's punishment for misrule, or warnings of dire disasters to come. Tsunayoshi must have suffered like king Oedipus when an oracle held him responsible for the plague.

During the whole of the Edo-era, the country was divided into more than two hundred 'hans' that were called families ('o-ie', お家.) The Tokugawa family ruled the largest, and all hans were thought to be a sort of closed community and their land regarded as autochthonous, or inherited from the ancestors. The feudalistic hans were fairly independent and regarded as equals.

A daimyo's subjects considered their country (国) to be, not Japan, but the han. The country was thought of as a patrimonial domain with people under the charge of the Daimyo, who received from his ancestors the right to rule the han, a right which would pass to his descendants. If han and the right to rule are native and autochthonous, the daimyos could revive and restore their power, even after the temporary decay of their domains. It is natural that the subjects of daimyo felt their han to be like the land of their own family, their own independent community, the whole that is of supreme value with their lord as the highest existence. While the relationship with the shogun was, by contrast, rather indirect and secondary, the relationship between the paternalistic ruler and his loyal subjects was backed by the Confucian relationship ethic: 'between lord and

subject there must be righteousness'. Loyalty was considered more important than the benevolence of the lord. Consequently, it is no surprise that the virtue of loyalty sometimes conflicted with jen-politics, impartial benevolence coming second behind the supreme duty of loyalty.

The story of the forty-seven *rohshi* originated in 1701~2 under Tsunayoshi's rule. It became so famous that it is, even today, one of the most popular themes in novels, films, and TV programmes. In trying to explain the ethical background of the story, I hope to shed some light on problems characteristic of Confucian social morality, the influence of which one can observe in various aspects of Japanese society. (Cf. Singer, 1993, p.110.)

The *roshi* were samurai in the service of Asano, the daimyo of Akō han near Kobe. Asano was in the castle of the shogun in Edo, preparing the ceremony for invited messengers from the imperial court of Kyoto. Kira, another daimyo, who was an expert in traditional decorum, led the ceremony. According to popular literature, Kira had earlier attempted to bribe Asano who refused. Thereafter, Kira took every opportunity to humiliate Asano. Whatever the true reason, Asano had a grudge against Kira, and, during the preparations, struck and slightly wounded him. The private fight in the shogun's castle was quite illegal and Asano, therefore, was ordered to commit ritual suicide ('*hara-kiri*' or '*seppuku*', an honourable death for samurai) and was stripped of his feudal domain. The news of the death of their lord and their consequent unemployment reached his retainers after the hasty punishment meted out by the government on Tsunayoshi's decision. The confiscation of the feudal domain and Kira's acquittal was for them an extremely severe blow. Among the 308 samurai in Ako han (the former domain belonging to Asano) opinion was divided and they were forced to confront the following alternatives: to search for new lords or new jobs; to protest the wrong decision either by fighting against the government in defence of their castle, or by committing *hara-kiri*; to entreat the government for the revival of their feudal domain; or to avenge their lord according to a samurai's duty.

The leader of the forty-seven samurai (in fact, forty-six), Oishi, the hero of the story, was in favour of this last option. However, he concealed this at the decision-making meeting, and instead argued for another option in front of the others, but his proposal was not accepted. After they yielded their castle in obedience to an order of the government and after failing to recover their feudal domain, Oishi was determined to avenge their lord by killing Kira. Although revenge was sometimes a samurai's duty admitted by authorities, it was quite a serious crime to fight in faction against others and could even lead to rioting. Oishi had to demonstrate to the public that he had no intention to avenge and had to conceal this even from his supporters in order to disarm Kira's naturally held suspicion about revenge. As a result he was held in contempt as a disloyal retainer. He had divorced his wife in order to avoid implicating his family but included his eldest fifteen year old son in the party. On his way to Edo, Oishi spent time lying low in the red-light district in Kyoto. While he was thus engrossed in the performances of courtesans and enchanted by the beauty of Kyoto's traditional culture, his followers in Edo went underground, spying on Kira's mansion and his whereabouts and possibly also setting him up as a habitual recipient of bribes.

On a winter day in 1702, one year and eight months after Asano's death, Oishi and his followers gathered secretly. They all knew their destiny, and were prepared to die, regardless of the outcome. At a snowy midnight they assailed Kira's mansion, a fortress that was under strict surveillance by samurai and their servants (one hundred and fifty in all). After two hours' battle, eighteen of Kira's subjects had been killed and twenty wounded. There were no casualties on Oishi's side and finally they killed Kira and dedicated his head to their lord Asano, in front of his grave. Forty days later, they all committed ritual suicide, in accordance with the final judgement by the government which, in this complex case, took great pains to decide the penalty, with Tsunayoshi having the final word. This time Kira's faction was also punished with confiscation of his feudal domain, to the satisfaction of Oishi's side. Following samurai ritual tradition, each *rohshi* wrote a death poem:

There is no cloud covering the moon of this weary world;



So happy am I, my heart being serene and clear, now that I have carried out my long-cherished desire,  
 Deserting my own self (Oishi).  
 The heart's desire to avenge my lord,  
 Accumulated like white snow, is now wiped away by the wind  
 That breezes through mountain pine trees (Yoshida).  
 I hasten the mountain way to death  
 More hurriedly than other people,  
 To bring the news to my late lord and my dear mother (Hara).  
 Having originated from earth, water, fire, wind, and air,  
 I struggle along on my homeward way  
 To my original abode of the elements (Hayami).

The news of this tale spread very soon to the whole country and caused much excitement. Their noble example was praised as the epitome of samurai comportment. Later, a drama entitled, 'The stock of loyal subjects', and dramatized from the viewpoint of Oishi's party, had great success and the performances became national events. So influential was it that the roshi on the stage were thought to be loyalty personified. To this day the tale has been repeatedly told in countless forms and has been used as a lesson in unconditional loyalty to one's superior. Oishi and his followers were called 'gishi', meaning righteous samurai.

The reason for Asano's initial one-sided attack on Kira remains unknown. The law punished both sides for fighting. If Asano was temporarily insane, the punishment for his misconduct was too severe. But the main target of Oishi and others was not the shogun's justice. The act of vengeance was a combination of the mentality of the time and of a sense of duty originating from Confucian relationship ethics. A further one hundred and seven similar cases were reported as officially approved acts throughout the Edo-era. The arguments for and against their deeds and the government's judgement have raised one of the biggest controversies in ethics and politics in the history of Japanese thought. Some Confucian philosophers of the age who took part in politics were asked their opinions. The moral dilemma Oishi confronted reminds us of the clash between family duty and state law in the tragedy of *Antigone* by Sophocles; Antigone dared to bury illegally her own brother who had revolted against the state; in this case the duty originating from family relationship clashed with the duty of wider application backed by the law of state.

#### IV Aftermath

Some philosophers were critical of the revenge of the forty-seven roshi; among them was the celebrated Ogyu Sorai (1666-1728). Tsunayoshi accepted, it is said, Sorai's advice indirectly. Sorai divided the 'ten-ka' (world under heaven) into the public domain ruled by the shogun, and the private, which is the domain of the daimyo. In his short essay on the treatment of the forty-seven roshi, he wrote:

"People in the world call the forty-seven roshi the righteous samurai (gishi), because they were loyal to their late lord. Yet it was Asano who first tried to kill Kira, who therefore could not be regarded as the object of their revenge. Asano's attempt to kill Kira was also to blame for the Asano-family's ruin. From this point of view, too, they could not charge Kira as the enemy of their lord. Asano lost his temper in the anger of the moment, forgot his own family and tried to kill Kira with his sword - an attempt which failed; this act of his is nothing but an injustice. The forty seven samurai succeeded in this evil will of their lord and achieved it. How could anyone call them righteous?"

The principle of obeying the duty of loyalty cannot be considered universally applicable. There must be two kinds of loyalties: one which can be universalised and another which can not. Perhaps the tragedy of the forty-seven roshi was that of clinging too much to the intuitive principle that they were attached to, and letting it

override other more important principles. Those of Asano's subjects who did not join the act of vengeance may have been right, if their reason was based on a judgement that the act of avenging is against universality in the sense that it is wrong to violate the state law (the irrationality and illegality of the one-sided attack by their former lord against an innocent person). They might not have considered it necessary to behave as good subjects, when their lord did not behave in a manner befitting a decent lord.

If such was their logic, they could not be called, as they were, disloyal samurai. Whilst in their view loyalty was an important general principle for a samurai, they acknowledged many sorts of loyalties, good and bad, and believed that loyalty to the state must override, in normal cases, other kinds of loyalties. We have a strong tendency to think of morality as obedience to simple general principles, for we are accustomed, not to critical moral thinking, but to an intuitive style of thinking backed by general principles. Even present day medical doctors tend to think that euthanasia is wrong and avoid revealing their involvement or practice of euthanasia, because they believe that the general principle 'Never kill human beings' must be an absolute moral. Contemporary moral philosophers, however, don't fall behind these doctors, when they behave as if a single and general principle of morality overrides all other principles.

Tsunayoshi's government considered state laws to be supreme. For samurai, however, loyalty was also important and useful for governance. The official solution to the conflict between obedience to state laws and loyalty to one's lord was a compromise: the death penalty according to the criminal law and ritual suicide according to the code of honour. One can say that the overwhelming popularity of the forty-seven roshi reflected popular criticism of Tsunayoshi's misrule. Oishi and his followers were enthusiastically accepted by the public and generated much admiration. Their story was instrumental in encouraging those who sought to emulate them. Indeed, it might not be far-fetched to say that it changed Japanese history by enforcing loyalty to superiors. The consequences can be found not only in subsequent shogunate governments who took advantage of the drama of the forty-seven roshi (by emphasizing the virtue of loyalty) and using it to strengthen their rule. It can also be found later in the modern military government, who similarly misused the drama in order to enforce the loyalty of soldiers to their superiors. Soldiers in the army, businessmen in corporations, and contemporary bureaucrats, are all encouraged to be loyal to the group to which they belong, a group which is often portrayed as a quasi-family or a community like the han of the Edo-era.

In early modern Japan, the military's purpose was to pursue the cause of the state, namely to obtain independence from the Western powers. During this period, soldiers were, like the earlier samurai, servants of the whole state. Later, however, as the military machine grew in scale, soldiers' loyalty were enforced in order to maintain the system. Having lost civilian control, the Japanese army rushed headlong into reckless wars in which too many lives, of enemies and soldiers, were sacrificed in vain. Most loyal soldiers were killed in the interest of the bureaucratic community or 'military family' which was mistakenly considered to be the interests of society as a whole. After Japan lost the Second World War, the Japanese people started to work for the reconstruction of their country, fighting poverty and starvation. It was sometimes pointed out that the economic success of the East Asian countries is related to Confucianism. In the case of Japan, success was, I think, related to the diligence and loyalty that people felt for the 'company' they belonged to. Singer vividly describes in his book this notion of the corporation as a community. (Cf. Singer, *HWL*, Chap. 6.)

In recent history, Japan has often served up big tales of corruption and bribery in political and economic circles. Although originally in the service of the country and people, its bureaucratic system has become an end-in-itself, a closed community serving to protect self-interest and honour, features it shares with military machine of the past. Typically, these workers are perfectly considerate and wonderfully kind-hearted towards their fellows (insiders, *uchi-wa* or *mi-uchi*, 身内), while being indifferent or callous towards people outside their community (outsiders, *yoso-mono* or *ta-nin*, 他人.) . (Cf. Kishida, 1997, p.33f., Singer, p.126.) All these anti-democratic, anti-individualistic tendencies are justified by appeals to the loyalty of the clique or han as community. Some ministries, having nearly lost civilian control, are spending huge amounts of the national

budget, not always for the benefit of the country. Brave Prime Ministers have pledged administrative reforms in vain; they could not rival a leader like Tsunayoshi in their action-guiding decisions. The moral clash between loyalty to the han and to the whole state has analogy in the moral clash felt today between loyalty towards one's own sovereign state and the global ecological community. If one views Tsunayoshi's dilemma in the light of current world politics, one might be more sympathetic to him.

I don't think that Tsunayoshi, who promoted loyalty, nor Oishi's noble acts are directly responsible for contemporary circumstances. But the noble duty of loyalty originating from Chu Hsi's ethics of righteousness among rulers and subjects has come to be considered the supreme duty among the five human relationship ethics. Remember that for Chu Hsi, li (principle, 理) was, like the Platonic Forms, at the same time the law of nature and the law of morality - both natural and normative. Li is the eternal Way which humans are obliged to follow; both an objective way and a prescriptive norm. Once loyalty is considered as the supreme Way (imposed by heaven as a moral law), one cannot help but follow the law, as do all natural things that are under the law of nature. In this sense, people are still enchanted by and unable to rid themselves of the spell of Chu Hsi's philosophy.

Here, two problems are brought to light. The first is how to solve the moral conflict between the loyalty of samurai ethics and 'impartial benevolence', --- between relationship ethics and the ethico-politics of *jen*. The second is how to set limits on Chu Hsi's kind of universalistic ethics. These problems had not been resolved when Ogyu Sorai, the brilliant samurai philosopher who served as the brains behind Tsunayoshi, appeared on the scene. Sorai proposed that the institutions and moral teachings were secondary and derivative moral principles created by ancient sage kings for the purpose of general happiness of people (安民・安天下), being not heaven-given moral precepts originated from Chu Hsian *heaven li* (principle, 理). This reminds us of two-level utilitarianism of Hare and Singer. According to this Soraian two-level social happiness ethics, loyalty to one's lord and obedience of the social law would be located on the intuitive level of moral thinking (in Hare's terminology), and accordingly the moral conflict between two intuitive moral principles could be solved using the criterion of social happiness on the critical moral thinking. (Cf. Yamauchi.)

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## 徳川綱吉の倫理・政治 —動物解放と四十七士—

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名誉教授

永い戦国時代を経て、秀吉が達成した天下統一を家康が引き継いで、徳川政権が成立して、いわゆる「徳川の平和」が達成された。五代将軍、綱吉の時代には、ようやく政権も安定して、武断政治から文治政治へと転換期を迎えていた。朱子学が幕府のイデオロギーとして採用されて、幕府を支える思想的な背景となった。儒教は次第に土着化して独自の日本儒教が発展して徂徠学が成立した。本稿では、綱吉の「生類憐みの令」に対する悪評がいわれのないものであることを検討する。綱吉は儒学の講義をした儒学者であったが、彼の「生類憐みの令」の思想的な背景は、特に仏教であるよりは、儒教の色彩の強いものであった。彼の政策に対する批判は、一つには彼の死後彼の政敵の意見が反映したものであり、他の一つは、西洋近代の人間中心主義に染まった後世の人たちによるものであった。西洋近代の人間中心主義批判に始まった動物解放は日本ではまだ十分に紹介されていないが、この方面から綱吉の見直しがなされて、現代では彼の名誉は相当挽回されている。しかし、人間を「万物の霊長」と見做す儒教的な人間尊重と、仏教的な有情に対する慈悲との対立・衝突をどう解決するかというモラルの葛藤の問題は、江戸時代の日本人は実際問題としては解決していたが、現代の環境倫理でも未だ十分に理論的には解決されていない。

他方、四十七士の問題は、主君に対する朱子学的な忠義のモラルと、徒党を組んだ武力闘争を禁ずる——安民安天下（社会幸福）のための——法秩序とが対立・衝突するモラルの葛藤と見ることができる。徂徠は「道」を、朱子学的な理によって決定される絶対的な道德規範ではなく、安民・安天下のために、聖人が作った刑政礼楽（制度や教え）であるとした。綱吉は四十七士の問題に対して徂徠の意見を聞いて対処したが、忠孝のモラルを絶対のものと見ずに、社会幸福のために作られた二次的派生的なものとして、社会幸福のための秩序を優先して、四十七士を処分した。綱吉は荻生徂徠の意見を取り入れたと言われているが、徂徠は「道」を天理自然のものではなく、制度や教え（刑政礼楽）として聖人である先王が人為的に作ったものであるとする。これはヘアの二層公利主義を先取る倫理学説であるが、綱吉のモラルの葛藤に対する解決法には、徂徠の理論が反映している。

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