

The Consolidation of Place and Punishment in Seventeenth-Century Japan: Kanazawa Prisons and Criminal Justice

DAVID NELSON

Austin Peay State University

In this scholarly note, based on archival research carried out for his doctoral dissertation, David Nelson examines the use—and eventual discontinuance—of several methods of capital punishment in seventeenth-century Kanazawa, Japan.

The Consolidation & Centralization of Criminal Punishment

This essay examines criminal punishment in seventeenth-century Kanazawa 金沢, capital of Kaga 加賀 domain, in order to show early modern Japan's process of consolidation and centralization of authority as a local institution. Although Kanazawa's seventeenth-century penal practices were founded on medieval expressions of power, the violent, retributive nature of such punishment was reduced over the course of the century and enveloped by a domain policy of benevolent government. This policy is apparent in the abolition of the most violent forms of capital punishment inherited from the *sengoku* 戦国 (warring states) period, which lasted from the mid-fifteenth century to the early seventeenth century. Bureaucratic institutions, such as the office of town magistrate, reshaped the personal nature of feudal justice. As judicial authority came to rest in the hands of salaried officials, penal practices coincided more with a peaceful, prosperous society no longer characterized by the instability and brutality of constant warfare that had shaped *sengoku*-period forms of punishment.

The consolidation and centralization of criminal punishment in Kanazawa as an issue of authority is apparent in the physical location of police and judicial organs of state. Over the course of the seventeenth century, authority over criminal justice was transferred to the office of town magistrate. At first, Kanazawa had no unitary system of judicial administration and oversight. In fact, the town magistrate's office lacked a permanent headquarters until 1636. Without a permanent base of operation, the town

magistrate's office had no prison. Punishment grounds also lacked cohesive central organization, being located along the fringes of Kanazawa city proper. After 1636, however, the situation changed, as the office of town magistrate, prisons, and punishment grounds were consolidated into one location under the jurisdiction of the town magistrate.

Creation of an Integrated Prison System

The first prison in Kanazawa, originally for holding prisoners of war, was located within the castle walls (Morita and Heki 1934, 1: 287–88). The castle prison's original function became obsolete by 1590, after Toyotomi Hideyoshi 豊臣秀吉 (1536/37–98) established hegemony over Japan (McClain 1982, 21–25; Kazamaki 2001). In a pragmatic decision to utilize existing facilities, this prison, under control of the judicial magistrate, also held detainees of the town magistrate (Morita and Heki 1934, 1: 287–88, 466–69, 471–72).

The castle prison finally closed in 1637 after the completion of the judicial magistrate's office, with its own internal holding facilities. One year earlier, the town magistrate moved into a confiscated residence and was also outfitted with a prison (Morita and Heki 1934, 1: 287–88, 466–69, 471–72).¹ From 1637 on, the town magistrate's office began to accrue more responsibilities over not only incarceration but also criminal punishment, regardless of jurisdictional authority. Although the office of the judicial magistrate had its own prison (its prisoners were samurai, warranting different treatment from that of commoners),² staffing of the judicial magistrate's prison came to rest with the town magistrate. By the nineteenth century, a subordinate of the town magistrate held the keys for both magistrates' prisons (Inoue and Iwata 2000). Furthermore, after 1650, the domain ordered rural magistrates to send their delinquents to the town magistrate's prison to await punishment (Morita and Heki 1934, 1: 287–88, 466–69, 471–72).

As the primary holding facility in Kanazawa, the town magistrate's prison served an important criminal investigative function, outfitted as it was with an interrogation room for use in ongoing investigations (Tanaka 1966, 233). Suspects who were reticent to speak, however, could be subjected to harsh methods of coercion. In such cases, the prison interrogation room served as a torture chamber to extract the confession necessary to resolve crimes during the Edo 江戸 period (1603–1868) (Ishii 1963, 81–84; Botsman 2005, 38).³ The town magistrate's prison, in its role as an interrogation facility, was an invaluable asset in the judicial process that formed one aspect of the centralized responsibilities of the town magistrate's office.

Other Punishment Grounds in Kanazawa

The town magistrate's prison also became the central location for punishment by the mid-seventeenth century. Until this time, the most prominent punishment grounds were located near three major entries into the city proper: Saigawa Bridge, Asanogawa Bridge, and the Miyanokoshi Gate. By the late seventeenth century, the Miyanokoshi Gate punishment ground, located along the thoroughfare that connected Kanazawa and its coastal port of Miyanokoshi, disappeared in the expansion of the city's commercial center of Yasue and Ōmi wards. Other less prominent sites suffered the same fate in the face of Kanazawa's rapid growth (Morita and Heki 1934, 3: 205–6; Wada 1920, 4: 1096–99, 1209–10, 1226–27).

The punishment grounds near the Saigawa and the Asanogawa Bridges, in use prior to Maeda 前田 rule (1583–1868), remained in the same location, even when the city pushed beyond its natural defenses—the Saigawa and Asanogawa Rivers—and continued in use until the Meiji 明治 period (1868–1912). However, the role these grounds played in the penal process changed. The town magistrate's prison came to serve as the city's primary punishment ground in the 1660s. From this time on, the actual execution of domain justice was performed behind closed doors. Nevertheless, the Saigawa and Asanogawa punishment grounds retained their function in the display of domain power; the severed heads of the executed were displayed with signboards prominently placed to announce to passersby the victims' crimes and their resulting punishments (Morita and Heki 1934, 2: 353–54; 3: 424; Wada 1920, 4: 1098–99, 1190).

As these events demonstrate, the town magistrate's prison became the focal point of all aspects of the investigative and judicial processes in Kanazawa. All criminals held in this prison, even those under the jurisdiction of other magistrates, received punishment there. The town magistrate's prison became a centralized institution for the administration of domain justice in the city of Kanazawa at the same time that the office and its subordinates were converted into a bureaucracy of public officials in the service of the domain (Nelson 2007).

Punishment as an Expression of Domain Power

Just as the disparate parts of Kanazawa's judiciary were consolidated over the seventeenth century into a centralized early modern penal system, the expression of domain power in the form of punishment also changed. This shift was partially due to the peaceful climate Japan experienced in the seventeenth century. With the end of civil war, Kaga authorities sought to restrict the private use of violence by asserting that violence was the prerogative of public authority. However, even the domain's use of violence, such

as punishment, decreased in intensity. The abandonment of many cruel aspects of inherited *sengoku*-period punishment methods reflected the new era of peace enjoyed by Japanese society.

Punishment was a visual expression of a warlord's power: It reinforced the warlord's public authority, and the exaction of pain and the extravagant nature of punishment gave convincing, emotive evidence of the absolute nature of the ruler's justice (Foucault 1995, 55–57). Public forms of punishment also informed subjects of the seriousness of the crimes as well as the social standing of the condemned. To quote Foucault (1995, 34), punishment “correlates . . . the quality, intensity, and duration of pain with the gravity of the crime, the person of the criminal, the rank of his victims. There is a legal code of pain. . . . Punishment does not fall upon the body indiscriminately or equally.”

Forms of Capital Punishment in Seventeenth-Century Kanazawa

In seventeenth-century Kanazawa, the most prominent forms of *sengoku*-period capital punishment still practiced were saw-pulling, ox-pulling, boiling alive, drawing and quartering, burning at the stake, crucifixion, and beheading (Tomizu n.d., ca. 1890). These punishments can be ranked in that order according to the spectacle and amount of pain inflicted. The most notorious crimes, from the perspective of a warlord, were those that threatened the social hierarchy upon which his power was constructed. The most offensive crime, then, was the murder of one's samurai master, a crime punishable by *nokogiribiki* 鋸引き (saw-pulling). In its original medieval form, the murderer was locked in a small box that was buried in the ground, with only his head and neck protruding. Two saws were placed on either side of his head, with a sign attesting to his crime and permission for anyone to use the saw on the helpless man's neck. In this manner, the general public was invited to participate in the ritual of condemnation, humiliation, and punishment.⁴

With the passage of time, however, the public expression of helplessness of the offender and the powerful, vindictive will of the warlord were lessened, even for those guilty of socially despicable crimes. Real saws were replaced by symbolic bamboo saws, and passersby were no longer allowed to participate (Ishii 1964, 58–59). Instead of dying by saw, the prisoner was removed from the box after two days on public display and crucified (Tomizu n.d., ca. 1890; Ishii 1964, 58–59). After 1647, this *sengoku* punishment was retired in Kaga domain and was never revived.

Those guilty of attempted murder of their masters faced *ushizaki* 牛裂き (ox-pulling). This punishment involved tying the culprit's arms to one ox and legs to another ox (or each limb to four separate oxen); then the animals were driven in opposite directions until the body was torn apart (To-

mizu n.d., ca. 1890).⁵ As with saw-pulling, this punishment was discontinued; it was last sentenced and enacted in 1667 (Morita and Heki 1934, 2: 396–99; Tomizu n.d., ca. 1890).⁶

Kamairi 釜入り (boiling alive) was applied to serial arsonists or for crimes such as the murder of the head of a merchant household. Just as saw-pulling and ox-pulling were removed from the repertoire of Kanazawa capital punishment, *kamiari*, too, faded into oblivion after 1666 (Tomizu n.d., ca. 1890).

Typically, arsonists faced the flames themselves as a sort of poetic justice, a re-creation of the crime that they had committed (Foucault 1995, 44–45).⁷ Burning at the stake, however, was reserved not only for arsonists but also for those involved with murderous conspiracies or even those who lied to domain officials (Morita and Heki 1934, 2: 396–99; Yamada 1931, 190–92). It was not regularly employed, although it was used almost as much as the three previous punishments combined. Kanazawa witnessed the final use of burning at the stake in 1690 (Tomizu n.d., ca. 1890).

By far, the most common form of execution in seventeenth-century Kanazawa was *haritsuke* 磔 (crucifixion).⁸ Unlike the previous capital punishments, this form of punishment continued to be used until the end of the Edo period. The Japanese form of crucifixion was an agonizing death in which the criminal was tied, spread-eagle fashion, to a stake with horizontal beams attached for the arms and legs. Two spearmen then stabbed the body repeatedly, until sufficient pain had been afflicted. The spearmen then gave the victim the coup de grâce by simultaneously stabbing the criminal in either side or the neck, twisting their spears to ensure death (Ishii 1964, 53–56).

The Concealment of Punishment in the Town Magistrate's Prison

The most important aspect of these punishments was the visual impact through pain-filled imagery publicly displayed at the punishment grounds. However, as the implementation of punishment was relocated to the town magistrate's prison, much of the visual, public nature of these *sengoku* punishments was nullified. For this reason, most of these elaborate, showy executions were abandoned. Saw-pulling engaged the public, calling for their participation (although actual involvement was rare). The spectacle of boiling a criminal alive, burning him at the stake, or having oxen rip apart a living body lost purpose without an audience to appreciate the visual, horrific value. If the only spectators were the officials commissioned to conduct and witness the triumph of the will of the state, what was the point of spending so much time and exerting so much effort?

For an early modern bureaucracy of limited numbers, the efficient execution of justice was the only practical method of operation. Crucifixion

required only two spearmen, a stake, and crossbeams, all of which were reusable. Beheading and dismemberment, universally known forms of punishment, likewise required little preparation and supplies beyond a skilled swordsman. By abandoning other *sengoku* punishments, oxen, a large pot, firewood, and other materials need not be wasted.

At the same time, the removal of violence from public view, even when conducted under the authority of the domain, can be seen as a further attempt to reduce the level of violence in society. After decades of peaceful rule under the Tokugawa political system (1603–1868), the heavy-handedness of many forms of *sengoku* punishment was no longer necessary to motivate domain subjects to obedience. The elimination of these elaborate punishments indicates a diminished drive to use violence among the new generation of ruling elite who had never known the vicissitudes of war and hardship. Both samurai administrators and domain subjects, in general, seem to have come to rely more on rules and regulations than on the fear of violence and retribution as a means to maintain law and order. However, those who flaunted the law and social hierarchy were still subject to formal discipline, and capital punishment still remained an acceptable punishment for a wide variety of crimes.

The spread of Neo-Confucian philosophy among the samurai elites during the seventeenth century undoubtedly contributed to the decreased severity of punishment. The Confucian principle of benevolent government, championed by Maeda Daimyō Tsunanori 綱紀 (r. 1645–1724), further justified this decades-long decrease in the domain's use of violence. The abolition of the above-mentioned punishments occurred under Tsunanori's reign. Such changes represent the culmination of Kanazawa's kinder, gentler exercise of authority.

The use of violence in the form of punishment, however, remained a necessary tool for effective government, a fact recognized even by Tsunanori. The centralization of criminal punishment in the town prison served to reduce commoners' exposure to public displays of violence. The concealment of punishment and the abandonment of elaborate forms of execution were domain officials' attempts to find a balance between the desire to create a dual image of benevolent government and one of unassailable authority. Violence inflicted upon lawbreakers became an abstract concept. Instead, violence was imbedded in the remains of punishment displayed at the former punishment grounds. These gory remnants were merely stark reminders of domain retribution that awaited those who challenged its authority. The majority of townspeople in the late seventeenth century undoubtedly sought peaceful, prosperous lives; they needed no vivid demonstrations of violence to remind them of the requirements of conformity to societal norms determined by domain elites. Doubtless, domain officials—themselves the products of affluence, without knowledge of civil war—

likewise found it easier to abandon the brutal practices of the past. Instead, they could attend to their duties, not as bloodied warriors but as public servants of an emerging early modern society in one of the most prosperous domains of Tokugawa Japan.

Notes

¹Regarding the establishment of the office of town magistrate, see Morita and Heki (1934, 1: 44–45).

²In Edo, all prisoners were housed in the same complex but were segregated by status. See Ishii (1963, 94–119); Katō (1994, 58–61).

³No detailed records exist regarding the use of torture in Kanazawa, but methods were probably similar to practices in Edo. See Ishii (1963, 86–95); Botsman (2005, 36–38).

⁴For a brief analysis of public participation in punishment, see Foucault (1995, 58–59).

⁵See also *Kojien* 広辞苑, 5th ed., s.v. “牛裂き [Ushizaki].”

⁶See also *Kaga han keiji kiroku sakuin* 加賀藩刑事記録索引, 1583–1868.

⁷The re-creation of the crime in the form of punishment allowed onlookers to “see” the crime and make a clear, causal connection with the punishment. This practice reinforced the “righteous” exercise of the lord’s authority.

⁸At least forty-five crucifixions were recorded between 1656 and 1690. See *Kaga han keiji kiroku sakuin*.

References

- Botsman, Daniel. 2005. *Punishment and power in the making of modern Japan*. Princeton, NJ: Princeton Univ. Press.
- Foucault, Michel. 1995. *Discipline and punish: The birth of the prison*. Trans. Alan Sheridan. New York: Vintage.
- Inoue Inosuke 井上井之助 and Iwata Denzaemon 岩田伝左衛門. 2000. Machibugyō tsu-tomekatachō 町奉行務方帳 [Town magistrate duty roster]. In *Kanazawa shishi shiryōhen* 金沢市史資料編 [Kanazawa history document collection], vol. 6., ed. Kanazawa Shishi Hensan Iinkai 金沢市史編さん委員会, 133–56. Kanazawa: Kanazawa shi.
- Ishii Ryōsuke 石井良助. 1963. *Edo no machibugyō* 江戸の町奉行 [Edo town magistrates]. Vol. 1 of *Edo jidai manpitsu* 江戸時代漫筆 [Miscellany on the Edo period]. Tokyo: Jichinippōsha.
- . 1964. *Edo no keibatsu* 江戸の刑罰 [Edo punishment]. Tokyo: Chūō kōronsha.
- Kaga han keiji kiroku sakuin* 加賀藩刑事記録索引 [Kaga domain criminal record index], 1583–1868. 加越能文庫 Kaetsuno Bunko Collection, Kanazawa Municipal Library, Kanazawa, Japan.
- Katō Takashi. 1994. Governing Edo. In *Edo and Paris: Urban life and the state in the early modern era*, ed. James McClain, John M. Merriman, and Ugawa Kaoru, 41–67. Ithaca, NY: Cornell Univ. Press.
- Kazamaki Gen’ichi 風巻弦一. 2001. Shukumei no raibaru Sassa Narimasa 宿命のライバル 佐々成政 [The fate of rival Sassa Narimasa]. In *Maeda Toshiie: Fūsetsu hyakuman-goku e no michi* 前田利家：風雪百万石への道 [Maeda Toshiie: His path in acquiring a wintry one-million-*koku* domain], ed. Yamamoto Hikaru 山本光, 33–40. Tokyo: Shinjinbutsu ōraisha.

- McClain, James. 1982. *Kanazawa: A seventeenth-century Japanese castle town*. New Haven, CT: Yale Univ. Press.
- Morita Heji 森田平次 and Heki Ken 日置謙, eds. 1934. *Kanazawa kosekishi* 金沢古蹟志 [Old places in Kanazawa]. 3 vols. Kanazawa: Kanazawa bunka kyōkai.
- Nelson, David. 2007. Law and order in the making of modern Japan: Seventeenth-century Kanazawa castle town administration. PhD diss., Indiana Univ.
- Tanaka Yoshio 田中喜男. 1966. *Jōkamachi Kanazawa* 城下町金沢 [The castle town of Kanazawa]. Tokyo: Nihon shoin.
- Tomizu Nobuyoshi 戸水信義. N.d., ca. 1890. *Keihō enkaku shikō* 刑法沿革志稿 [Manuscript history of penal codes]. 加越能文庫 Kaetsuno Bunko Collection, Kanazawa Municipal Library, Kanazawa, Japan.
- Wada Bunjirō 和田文次郎, ed. 1916–24. *Kōhon Kanazawa shishi* 稿本金澤市史 [A manuscript history of Kanazawa]. 4 vols. Kanazawa: Kanazawa shiyakusho.
- Yamada Shirōemon 山田四郎衛門. 1931. Kanazawa yūjo narabi ni shibai sata no koto 金澤遊女芝居沙汰の事 [Miscellany on Kanazawa's prostitutes and theatres]. In *Mitsubo kigigaki* 三壺開書 [The jottings of Mitsubo], 190–92. Kanazawa: Ishikawa ken toshokan kyōkai.