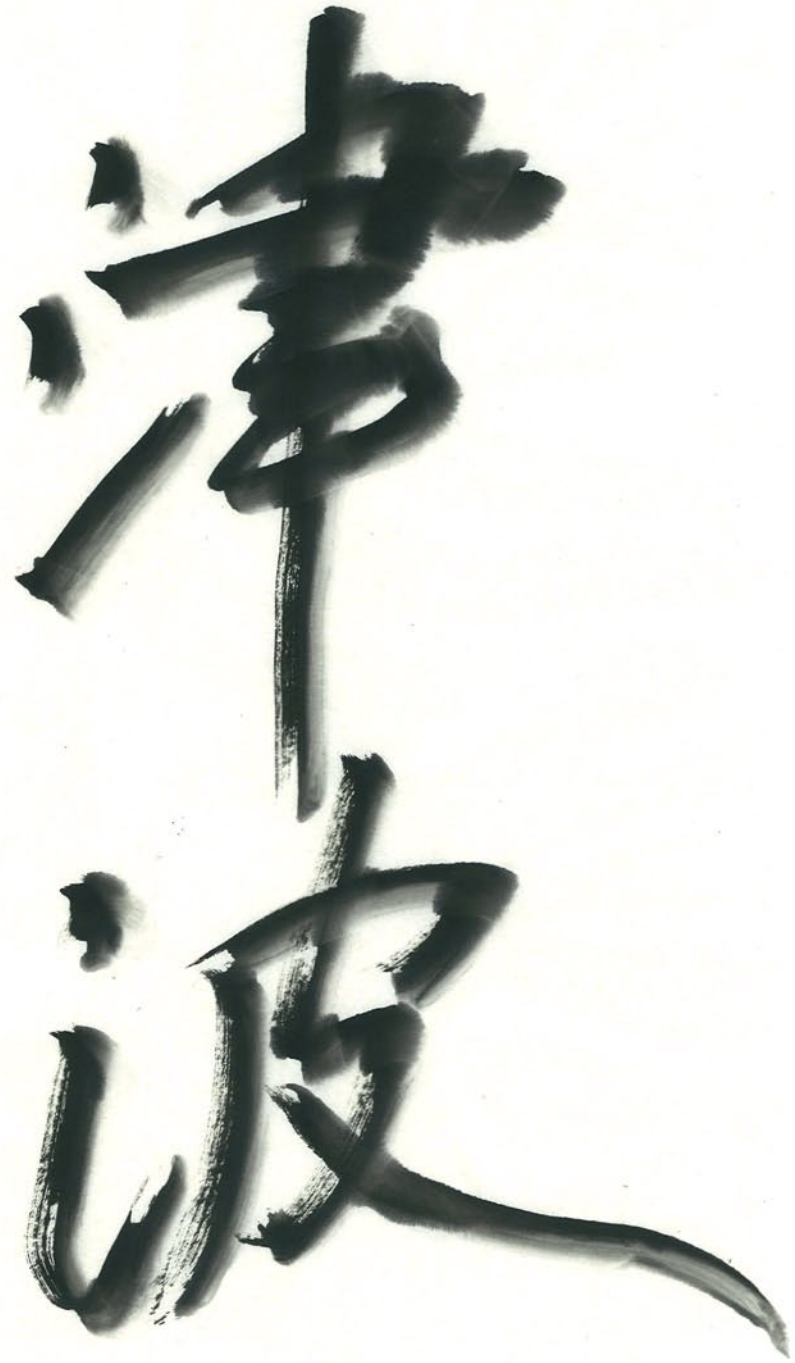


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For an explanation of the calligraphy on the frontpage, see Calligraphy by Arthur Witteveen, page 74.

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Preface

The editors of this journal want to express their heartfelt condolences and deepest sympathy with all those afflicted by the disaster that hit Japan on March 11. Those who died can only be remembered, and one may pray for the peace of their souls. Those who survived still suffer daily from the loss of family members and friends, from the loss of their homes and shops, and from the physical disabilities and the psychological trauma that they may have sustained. They have to pick up their life again, in a world where all familiar points or orientation have in a single instant been destroyed. In comparison, the disruption of all the things that people take for granted in modern life such as electricity and the provisioning of shops pales into insignificance, but nevertheless it adds to the burden of those who survived. One would like to help, and would not know where to begin.

The sequence of the events was of a shocking cruelty. Hardly had one rejoiced that the earthquake, though of an unprecedented magnitude, had scarcely made any victims at all and had caused minimal material damage, or one heard of the *tsunami* that hit the Pacific coast and carried off and drowned one thousand? fifteen hundred? no, some thirty thousand persons in all. As one watched the news, one saw whole villages that had been swamped by the waves and reduced to rubble. Then, as a second afterthought of a malignant destiny, news began to seep through of the nuclear power plant at Fukushima. Again, thousands were driven from their homes and forced to live in a refugee shelter without knowing when - no, without knowing whether they will ever be able to return home and pick up their lives.

Looking for culprits makes little sense, and the 'lessons to be learned' are only too painfully obvious. One wishes the current and future Japanese governments much luck and wisdom in dealing with the present crisis and with its aftermath in the years to come. For those drowned or buried under the debris, nothing more can be done, but the survivors must be helped, and the country should be returned to normalcy as quickly as possible. It would have been a formidable task in the best of circumstances, and the circumstances were not the best to begin with. Though unlooked for and unwanted, it is an occasion that calls for responsible, vigorous, and visionary political leadership.

The editorial board of The Netherlands-Japan Review

W.J. Boot
Peter de Hoog
Willem van Gulik
Hans Kuijpers
Kris Schiermeier

About the Present Issue

The events in Japan have left their traces in the present issue of our journal. Mr. Witteveen's two calligraphies are both reflections of the disaster, and in different ways show our distress. Our columnist Prof. Stegewerns reflects upon a few of the possible political consequences of the disaster. He discusses the political situation in the aftermath of the catastrophe and analyses how it hampers the search for a solution to the immediate problems.

Mr. Verwayen has contributed the translation of a poem by Ginjō Kamome, an unknown poet writing under pseudonym. The poem contains the, under the circumstances, haunting lines: *yume kara samereba / koko wa kitto umi no soko nan da* ('als ik uit de droom ontwaak / is het hier beslist de bodem van de zee'). The poet refuses to be concerned, drinks his coffee, and looks at the *sakura*.

This issue contains two contributions by Japanese scholars. The first is an article by the President of the International Court of Justice, H.E. judge Owada Hisashi. He looks back on his own involvement as a junior and senior diplomat in the formulation of Japan's policy towards the European Union and on the impact that the strengthening of Japanese-European relations could have on the countries outside the trilateral arrangement of the US, Japan, and Europe. In these days, when all eyes and expectations are directed towards China, it may not seem the most urgent of topics, but the insight the article affords into Japan's priorities and into the long-term aspirations and inner workings of Japanese diplomacy is important.

The other contribution is by professor Ōkubo Takeharu. He writes about two young Japanese scholars, Tsuda Mamichi and Nishi Amane, who from 1863 till 1866 studied law in Leiden. After their return to Japan, they became advisors to the *bakufu* and, after the Restoration, important bureaucrats. Professor Ōkubo describes the things they learned in the Netherlands, and analyses the impact their knowledge had in Japanese political and intellectual circles during the last stages of the *Bakumatsu* and the Meiji Periods.

A final note: Unfortunately, Mrs. Van der Eb has not been able to complete the second installment of her article about the Japanese garden of Clingendael. It will appear in a later issue.

On behalf of the Editorial Board

W.J. Boot

Heroes and Villains, Victims and Leaders

Dick Stegewerns

What is there left to say? Although the camera teams of the Western media have deserted the scene of the natural and nuclear disaster in the Tōhoku region long ago, the local news programs are still completely dominated by news from the devastated area and the Fukushima 1 nuclear plant, and all foreign specialists on Japan continue to give their analysis of what went wrong and their opinion on how the country should take things from here.

These are difficult and emotional times. In our media-inundated twenty-first century we have most likely become as immune to the tragedy of masses being killed by famine, epidemics, internal warfare and floods as our forbears in the centuries when they still had to do without moving images. All the more so if the scene of the human or natural disasters is far from our homes, or far from those parts of the Western world that loom largest in our daily perception. And maybe factors other than distance are nowadays even more important, judging by the fact that some Dutch citizens who happened to witness a recent killing spree in their local Dutch shopping mall noted it was ‘just like a computer game’. Be that as it may, I do not doubt that most of you reading this journal have a special bond with Japan and accordingly will have been shocked by the images of the tsunami and extraordinarily upset by the plight of the people on the Pacific Coast of Northern Japan.

At first the tragedy was too enormous to fathom. The television screens were flooded twenty-four hours per day by monotonous images of the tsunami, the devastation, the relief centres, graphs of nuclear reactors, and press interviews. Moreover, if you went outside for a few moments the gap with daily life in a Kyoto neighbourhood continuing as usual was disorientating. It was only when the yellow press weeklies came with uncensored pictures that ‘the news’ really sank in. The tsunami brought down to a portion one could handle, in the form of photos – some even strangely beautiful – of individual corpses, with an individual face and an individual story. Ever since many media have treated us to the stories of individual victims and survivors, some heroic, some miraculous, but most are heartbreaking and terribly tragic. Too many generations and false alarms had passed since the last big tsunami hit this region and for many people it was merely a line in their history books or the reason why they had to participate in those tedious safety drills. When the huge earthquake was over, with remarkably limited damage, many locals did not immediately run for their lives but rather followed their instincts and went towards the direction of the oncoming wave in order to look after their kids, parents, or workplace. And died like true Japanese heroes, loyal to the ties of family and work that bind them.

All family graves in the graveyard of the peaceful mountain village where I live mention the death of two or more of their young male members during the war years. Albeit under quite different circumstances, most families living in the many small towns and fishing villages on the devastated east coast of Tōhoku have at least one family member to mourn. Apart from

often being victims themselves, having lost their houses, their possessions, their jobs, they are also victims' families. It is not my intention to be disrespectful and I definitely do not want to diminish their terrible plight, but I cannot help noticing how these 'double victims' in this short period of time have turned into a political force, albeit almost unconsciously and without any clear form of political representation as yet.

In recent times we have of course the precedent of the families of the Japanese citizens abducted by the North Korean regime, organised in the Kazokukai. Although they consist of only a very limited number, the victimhood of the children of these victims' families has given them an almost inviolable status of embodying 'good', thus inevitably turning those who disagree with their views into 'evil'. This has led to a situation in which open discussion of Japanese policy towards North Korea is taboo and relations between the two countries have completely stagnated. Any politician who would nobly try to solve this crisis and the related international isolation of Japan on the North Korean issue is committing political suicide. Merely giving the North Korean government the advantage of the doubt and assuming that their claim that they are not keeping any more Japanese abductees is right – and thus assuming the claim of the Kazokukai is wrong – will lead to a public outcry and ostracism. Japanese foreign policy is seriously hampered by this emotional support for the victims' families.

In the present situation the villains casted against the 'victim heroes' are new. TEPCO has replaced North Korea, with director Shimizu Masataka as a remorseful and bowing Kim Jong-Il. However, the 'internal political accomplices' of the villains are strangely familiar. Once again these are 'leftist' politicians, this time gathered in the governing Democratic Party.

It is a sad coincidence that the tsunami hit Japan at a time of deep political crisis and instability. Most evaluations of Prime Minister Kan Naoto's ability to manage the crisis are negative. And in this time of national crisis the calls for a strong leader are omnipresent. Some would like former prime ministers Koizumi Junichirō or even Nakasone Yasuhiro to return to office, others invoke the spirits of Tanaka Kakuei and Gotō Shinpei (the mayor of Tokyo in charge of the complete restructuring and rebuilding of the capital after the 1923 earthquake) from their graves, without considering the black pages in their careers. It is also in this situation that a charismatic leader such as the present mayor of Tokyo Ishihara Shintarō can be re-elected, despite his bewildering statement that the disaster was 'a divine punishment' (*tenbatsu*) for 'the selfishness' (*gayoku*) of the Japanese.

Notwithstanding Kan Naoto's lack of charisma, one may wonder if the present prime minister could have been much more successful than he is now, considering his narrow basis of support and the constant endeavours to make him resign, both within his own Democratic Party and by the opposition parties. Although the popularity of the Kan administration has not significantly decreased since the disaster, it only enjoys a support percentage of not much more than 20%. In the recent local elections the democrats have done very poorly. Although this does not directly influence their majority in the Lower House, the stalemate within the Upper House, which is dominated by the opposition party, continues and the electoral defeats of course undermine their credentials to govern. On top of this, Kan's rival Ozawa Ichirō, former Prime Minister Hatoyama Yukio and the group of fifteen 'internal renegades' in the Democratic Party do not refrain from publicly sticking a knife in their party leader's back, even in these times of extreme crisis.

The irony of the whole thing is that the disaster has given Kan another lease of life. Despite his low level of support, many agree that this is not the right time to have a government change and the opposition parties also are aware that serious attempts to topple the government will have the contrary effect on their own position. Nevertheless, they turn down all invitations by Kan to form a cabinet of national unity out of fear of being tainted by the unpopular prime

minister and his party. In the same way there is the problematic situation that everyone agrees on the necessity of a huge special ‘crisis’ budget, but as yet there is no consensus whatsoever between the parties how the money needed will have to be raised.

However, the enormous task of the reconstruction of the devastated region and the alleviation of the plight of the victims of the tsunami is not merely hampered seriously by the difficult political situation that preceded the disaster. We also have the new political force field of the victims. Although they as yet do not have one distinct unified voice – maybe the one closest to fulfilling the function of provisory representative is Satō Yūhei, the Prefectural Governor of Fukushima who is outspokenly critical of, and defiant towards the central government – their ‘holy and inviolable’ will is already invoked by various political actors. Raising the consumption tax for a limited period of time, as proposed by Prime Minister Kan, is most likely the most efficient way of raising a large amount of money in a relatively short period. Of course there are serious disadvantages, such as its effect on the already dwindling Japanese economy and the risk that the limited raise may be turned into a constant raise, albeit with a different label. However, one of the main reasons why the proposal at the moment seems destined to fail is the fact that it is characterised as ‘also affecting the victims’. Another proposal to raise some extra money by doing away with government measures to suppress the price of gasoline has been criticised on the same grounds of ‘going against the will of the victims’.

One may wonder if the victims would really oppose paying five percent extra consumption tax with the knowledge that the accumulated sum of the extra consumption tax paid by all taxpayers in Japan would flow to the devastated area. And, in case they did, one may wonder if one cannot conceive of ways of exempting the victims from the tax raise or alleviating it. However, sometimes it seems as we have already reached a situation where merely asking such questions has become a taboo and people, especially politicians, instinctively seem to avoid entering a minefield that some have labelled ‘the will of the victims’. Aerial views of ‘cleaned’ parts of the disaster area, with only a few tall modern concrete buildings remaining in a desert of dust structured by lines that formerly were roads, cannot but remind one of pictures of Japanese cities at the end of the war, bombed away, whether by conventional or by nuclear means. In the pre-war period Japanese democracy was severely limited by many obstacles. Combined with other obstacles, taboos concerning the position of the emperor and the holy and imperial nature of Japan’s expansion on the Asian continent ultimately led to the bombardment of most Japanese urban centres. In more contemporary history we have seen taboos concerning the emperor, war victims and abducted citizens limit the free debate on such crucial issues as war responsibility and foreign policy. At the moment there are signs that the recent natural disaster may trigger once more a situation where democracy is counteracted by invoking the (projected) will of some holy and inviolable entity or group, this time in the form of the disaster victims and the victims’ families. One can only hope that the Japanese will not again create and tolerate a situation that will restrict free debate but instead, on the basis of the many heart-warming and spontaneous forms of citizen-based relief aid, will bring about a more active and participatory democracy.

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The Japan-E.C. Joint Declaration and its Significance for the Future

Owada Hisashi

Introduction - Japan and Europe in the Historical Context



Owada Hisashi in his robe of President of the International Court of Justice.

In the context of history, Europe and Asia have shared a tumultuous past. The Roman Empire was threatened as early as the fourth century by the Huns, who originated from the western borders of China and went on to conquer much of Europe. Marco Polo - and presumably a number of his contemporaries - travelled east from Europe to Asia, reaching China, from where he took back to Europe many items of new technology, born in a different civilization. Later, in the thirteenth century, the Mongol Empire expanded its realm and placed much of Central and Eastern Europe under its domination.

However, the greatest historical evolution, which changed the fate of a large part of East Asia, started in the sixteenth century in the form of colonial domination, to which many of the East Asian nations fell victim, and which has had a lasting imprint upon the relationship between Europe and that region. The Philippines thus became a colony of the Spaniards; Indonesia succumbed to the domination of the Dutch; Malaya and Burma came under British rule; and Indochina under French domination. China also became a target for colonial encroachments. Nor was Japan immune from this aggressive advance of the European powers. When Commodore Perry reached the shores of Japan in 1853 and coerced Japan into opening the country, many of the European powers (which had already secured footholds in the region) followed suit - some even with sinister motives.

Japan's experience was, nevertheless, very different from that of many fellow Asian nations. The first encounter between Japan and Europe had already taken place in the sixteenth century, when in 1543 a group of Jesuit Portuguese arrived in the southern part of Japan. However, this encounter did not develop into the kind of full-fledged relationship between the two civilizations that could have proved fruitful to both, since the Government of Japan of that period, fearful of the impact of Christianity and suspicious of ulterior motives of some of the powers that followed the Portuguese, decided in 1639 to enforce the policy of *sakoku* - the closure of the country to outsiders. This policy, instituted by the Tokugawa Shogunate, which had come into power to govern Japan in 1603, effectively cut Japan off from Europe. It isolated Japan from a potentially fruitful interaction with European civilization, which had just entered into a period of ascendancy through the advancement of political power as a result of the consolidation of the nation states as well as through the accumulation of economic power as a

result of the progress of the Industrial Revolution. Regrettably, during this crucial period, direct contacts between Japan and Europe were virtually lost. Japan disappeared from the European view of the world.

It was only two hundred years later, in the latter half of the nineteenth century, that the real impetus for closer Japanese-European relations came with the re-opening of Japan to the rest of the world, bringing about a tide of modernization in Japan. This was a period when highly ambitious and systematic efforts were exerted by Japan for learning and digesting things European, covering such wide-ranging fields as the system of government, economy, law, military affairs, and science and technology, and further extending to the fields of arts, literature, food, clothing, and housing. In those days in Japan, the term ‘modernization’ was synonymous with ‘westernization’. The mark left on this country by European influence during this period was indeed immeasurable.

It may well be that even during this period the European countries took Japan to be just an insignificant island nation in the remote Far East. It was a country that, for many, was no more than an object of exotic interest in such limited areas as culture and art. The relationship thus established at that time between Japan and Europe may have been far removed from the kind of relationship that should normally exist between mutually respectful, equal partners and that would be conducive to genuinely fruitful cooperation. With all these limitations, nevertheless, one can still say that - as seen from a Japanese viewpoint - pre-war Europe with its various ties with Japan, including those in the military and political fields, had been much closer to Japan than was Western Europe in the immediate post-war period.

The most significant, and at the same time most regrettable, chapter in history then intervened in the form of the Second World War. Fought against many of the European nations that had had the closest links with Japan, as well as against the United States, the war effectively nipped even this fragile relationship in the bud, preventing it from growing into a full-fledged relationship between Japan and Europe.

What emerged instead in the wake of Japan’s defeat in the Second World War was the predominant influence of the United States over Japan. Not only was the United States in effect the sole occupying power of Japan - thus introducing radical reforms on all fronts in the political, economic, and social systems of Japan in the image of the United States - but they also emerged as the representative of the ‘West’, thus replacing the role that Europe had played in the context of the ‘Westernization’ of the pre-war period. Under these circumstances, Europe came to be eclipsed by the United States in the minds of many Japanese. In effect, Japan and Europe in the post-war world became unhappily estranged from each other. The fault cannot be said to lie entirely either with Japan or with Europe exclusively. A major cause may also be found in the changes in post-war international conditions. It may also be true that after the war Japan and Europe were both so preoccupied with putting their own houses in order that they could not afford to pay attention to each other. Be that as it may, it must be frankly admitted that through the post-war years no serious attempt was made on either side to deal squarely with the problem of how to develop Japanese-European relations.

Compared with Japan’s relations with Europe, Japan-U.S. relations have had a much shorter history. Moreover, in recent history, Japan and the United States fought a particularly bitter war against each other. Nevertheless in the post-war period, thanks to the assiduous efforts undertaken by both sides over the years, a very broad and deep relationship of mutual understanding and cooperation has come to develop between Japan and the United States. Among the reasons for this must be cited the bond of our security arrangements, as exemplified by the Japan-U.S. Mutual Security Treaty concluded virtually as an integral part the San Francisco Peace Treaty of 1951. Also to be mentioned here is the close and most productive

economic relationship that we have forged with each other.

I submit, however, that these are not all the reasons why Japan-U.S. relations have reached the level of trust that they enjoy today, as compared with the level that Japanese-European relations have achieved. It is my belief that the two nations, Japan and the United States, have come to identify a common sense of values and have been consciously pursuing common objectives in a much more integrative way than we have done between Japan and Europe. In comparison the Japanese-European relationship has, as a result, inevitably waned under those circumstances.



Prime Minister Fukuda's 1978 Initiative and Its Aftermath

Prime Minister Fukuda Takeo.

Against the background of such an unhappy state of relations between Japan and Europe, Japan's Prime Minister, Fukuda Takeo, decided in 1978 to visit Brussels - the symbol of the European unity, where the Council of the European Community, together with its Commission, was located.¹ Mr. Fukuda's aim in visiting Brussels (the first visit ever by the Prime Minister of Japan to the Headquarters of the European Community) was articulated in no uncertain terms by the Prime Minister himself in the major policy speech he gave on 19 July 1978. It is significant in this context that he started off his speech with the following introduction:

The relations between Japan and Europe since the Second World War may sometimes give the superficial impression of having revolved around economic problems, and particularly trade problems. However, to seek to understand Japanese-European relations solely in their economic context would be a somewhat lopsided and superficial approach. We must address ourselves to the more fundamental problems lying beneath what surfaces in our relationship today, on the basis of a long history of interchanges between Japan and Europe over the past several centuries. I believe that the proper understanding of these basic problems would be essential to the building of an enduring and creative relationship between Japan and Europe in the years to come.

After recalling the history of contacts between Japan and Europe in the pre-war days since the Meiji Period, Prime Minister Fukuda regretted the fact that Japan's post-war contacts with Europe had waned under the impact of the post-war international environment. In effect, Japan had come to be placed under the dominant influence of the United States in the aftermath of the Second World War, and as a result, Japan's post-war contacts with Europe had come to be carried out mainly through the intermediary of the United States. Prime Minister Fukuda made the point that the relationship with the United States claimed Japan's primary consideration, while only secondary attention was given to the relationship with Europe. According to him, Europe had for its part not quite treated Japan as a true friend or a real partner, but rather as something alien to it.

It was clear, however, that the days were past when Japan and Europe could be content with an indirect relationship through the United States as an intermediary. It was high time, the Prime Minister asserted, that Japan and Europe sought to develop a relationship of true

¹ This writer was at that time the diplomatic aide to the Prime Minister, and was responsible for the visit itself and for drafting the speech the Prime Minister delivered.

solidarity and cooperation by aiming at common goals, based upon the shared recognition of common interests and a sense of common values. On this score Mr. Fukuda, an long-time Europhile of pre-war vintage who had spent several years of his youth in Great Britain and France as a financial attaché at the Japanese Embassies in London and Paris in the 1930s, suggested in his speech three major areas in which Japan and Europe could now devote their concerted efforts in order to pursue common goals and to share common concerns.

The first area he pointed to as an area of common interest concerned peace and prosperity. He said:

There exists between us the community of interest in ensuring peace and prosperity. There are no security arrangements between Japan and Europe comparable to the Japan-U.S. Mutual Security Treaty or to the NATO. Yet, despite the absence of such a treaty, nobody can deny that the interests of Europe and Japan converge over a wide area in respect to the maintenance of peace and prosperity. In the world of today peace and prosperity are integral and indivisible, and can no longer be looked upon in terms of one nation alone. The solidarity among the NATO nations does contribute to the maintenance of peace and security throughout the world. By the same token, I should like to draw your attention to the fact that Japan, as the sole industrialized democracy in Asia, is a stabilizing political factor in that fluid and complex region, and thereby contributes to Asian peace and prosperity.

The second area that Mr. Fukuda thought important for Japanese-European cooperation was the management of world economy, as distinct from the bilateral trade relations between Japan and Europe. On this score he had this to say:

Cooperation between Japan and Europe is essential to solve the world's economic problems. For a long time since the war, we seem to have been seeing each other too much as economic rivals. However, in the face of the pressing global problems that today call for solution by us all - Japan, Europe and the United States included - we feel that Europe and Japan cannot afford to engage in sibling quarrels.

The most immediate and urgent task is to extricate ourselves from the global recession. At a more fundamental level, maintenance and development of an open international economic system, promotion of economic cooperation with developing countries and securing of stable of raw materials and energy resources are the tasks which we must jointly undertake for the benefit of the entire world.

In particular, Mr. Fukuda warned against the danger that the trilateral regions of Japan, Europe and the United States might fall into the trap of heading in a protectionist direction. Based on his personal experience of the Great Depression of the 1930s, he emphasized as follows:

To understand just how dangerous protectionism is for the world prosperity, it is sufficient to recall the tragic development of the world situation in the 1930s. For most of you here today that may not be a personal experience, but only a piece of history. But I was then a young man in London and my memories of that time are unforgettably vivid in my mind. Under the dark cloud of recession which hung over the whole world, the major countries sought escape from their own difficulties by abandoning, one after the other, the open economic system of free trade, in favour of the closed system of protectionism.

As a result, the world economic situation worsened rapidly. Between 1929 and 1933, world trade slumped by no less than 40%, while the aggregate industrial production of the major industrialized countries fell by 30%. The economic disturbance was an invitation to social unrest and extreme nationalism, which in turn provided the background for the Second World War. We must learn from the lesson of this recent history. It is of the utmost importance

today that we pledge ourselves never again to resort to protectionism, which would eventually destroy us.

Finally, as his third point, Mr. Fukuda raised the importance of enhancing mutual Japanese-European understanding through, in particular, sustained and unstinting efforts to strengthen channels of communication between Japan and Europe. More specifically, he suggested some concrete ways to move into that direction, so that the level of understanding between Japan and Europe could be raised to the level that already existed between Europe and the United States. He said:

I suggest that the first steps to promote our mutual understanding in fact lie close at hand. I believe it is very important, for example, that we try to implement, with the help of all the parties concerned, the promotion of area studies of each other in Japan and Europe and encourage the cross-flow of people from various sectors and levels of European and Japanese society, in particular, exchanges of young people, who will be the leaders of the next generation, and of those engaged in education.

By going through these specific areas for more enhanced cooperation between Japan and Europe, Prime Minister Fukuda wanted to deliver to his European audience - and through them to the wider European Community - the message that 'Japan and Europe are both in the same boat' and that 'Japan needs a strong and prosperous Europe, and a stable and healthy Japan should be no less necessary to Europe'. The message was in effect that the people of Japan and the people of Europe share such principles as a democratic system of government, the right to individual freedom, as well as market economic principles, and should together pledge to defend them. Genuine cooperation and solidarity between Japan and Europe should be possible on this basis, overriding their separation by geographical distance and by differences in race, culture and tradition, as well as the concrete trade frictions that poisoned the relationship at the time.

It was paradoxical, though symbolic of the period, that despite Prime Minister Fukuda delivering this high-sounding speech, in which he spoke so candidly from his personal commitments that reflected his own experience of the tragedies of the past that had resulted in Japan and Europe being separated both politically and economically, all the questions from the audience that followed, without a single exception, centred on the issues of trade frictions which were currently afflicting the relations between Japan and Europe. This occasion in effect demonstrated in a highly symbolic way the degree to which Japan and Europe, not unlike an estranged couple, had drifted into a relationship of mistrust and even of animosity with each other in the course of the years that had elapsed since the Second World War. The scene clearly became an occasion to reveal the mistrust prevailing in Europe at a time when Japan was engaged in focusing on Europe as part of Japan's new post-war diplomacy symbolized by the catchwords 'economic diplomacy'. In fact, post-war Japan's whole new foreign policy orientation was looked on by some in Europe as a manifestation of Japan's 'mercantilist' approach to the world. This situation is summed up by the famous comment made by France's President de Gaulle, when referring to the visit of Japan's Prime Minister Ikeda, to the effect that the Prime Minister was no more than a 'transistor salesman'.

Inevitably, such a European attitude towards Japan could not fail to arouse a counter-reaction on the part of the Japanese. The reaction could be described as one of resentment verging on outright hostility. In fact, the tension thus created between Japan and Europe came to a new high when, in the 1979 annual report of the Commission on the state of relations between Japan and the European Community (the year following Prime Minister Fukuda's historic speech in Brussels), one of the topmost officials of the European Commission - presumably driven out

of his senses by frustration - engaged in an abusive attack against Japan. In the context of a highly critical assessment of the trade practices of Japan *vis-à-vis* the countries of the European Community, this official opined that the Japanese were 'a bunch of workaholics living in rabbit hutches', as if to suggest that the Japanese as a nation were incorrigibly untrustworthy as a trade partner. This particular opinion, with its clearly derogatory insinuations about the behaviour of Japan in the field of international trade, naturally raised eyebrows in Japan. The Government of Japan reportedly had to issue a stern warning to the European Commission.

It may be true that all these examples are no more than episodic. Nevertheless, they clearly demonstrate the sense of frustration that prevailed in those days on both sides of the Eurasian continent.

The Significance of the Japan -E.C. Joint Declaration

It is in the context of this historical development since the end of the Second World War in Japanese-European relations that the significance of the 1991 Japan-E.C. Joint Declaration is to be appreciated.

In fact, the initiative for creating a new framework for a more constructive relationship of cooperation between Japan and Europe was taken by the Japanese side at the end of the 1980s. What triggered the initiative was the visit by Prime Minister Kaifu Toshiki to Brussels in early 1990. It is true that in the intervening years twelve years - since Prime Minister Fukuda Takeo's ill-fated visit of 1978 - trade between Japan and the countries of the European Community had shown a significant increase. Nevertheless, Prime Minister Kaifu's visit made it abundantly clear that during these twelve years, a fundamental lacuna in this relationship had remained unfilled - the absence of a comprehensive framework of relationship



Prime Minister Kaifu Toshiki.

built on the spirit of partnership. It was with this renewed awareness that Japan embarked upon a bold initiative to change the whole paradigm of the relationship.² The idea was to transform the shape of the relationship from one built almost exclusively on the trade in goods to one built on the totality of relations, comprising, in the economic area, a much broader agenda such as investment and industrial cooperation, but further extending to agendas in the political and social areas such as cooperation in the fields of environment, social welfare, and security.

This Japanese initiative was motivated by the desire on the part of Japan to strengthen the weak link in the trilateral chain of relationship among three regions of the world - East Asia, Europe, and North America - especially focusing on the relationship between Japan and Europe at the present juncture, as enunciated by Prime Minister Fukuda Takeo twelve years earlier.

There were two major factors that made the consolidation of the trilateral partnership through cooperation indispensable, difficult though it was. One stemmed from the evolution

² It was this writer who took it upon himself to start this initiative for creating a new framework for cooperation between Japan and the European Community. For this reason, the initiative came to be called the 'Owada Initiative'.

in the international environment that was taking place in the world surrounding the problem of security. There is nothing strange about a policy that makes a defence alliance the linchpin of a nation's security, but nowadays security is not seen as exclusively, or even primarily, confined to military or defence policies. What threatens the security of a nation is much broader and multidimensional - in the sense that there are a host of issues that can threaten and destroy what a nation values most as a society. These range from the issue of international terrorist activities to the issues of organized crime, of drug trafficking and AIDS/HIV, and of the global environment and climate change, which can threaten our own survival as human beings, as well as a host of other issues. It was dawning upon us that the problem of how to consolidate the common strategic interests of the trilateral regions to cover a wide spectrum of issues such as these was an extremely important challenge faced by the trilateral countries at this moment.

The other factor that was very much on the mind of the Japanese side was the impact of the integration of the world economy as a result of globalization in the economic field. The international economic system has undergone such a transformation in the post-war world that no one country can be strong enough to control it. The problem is not so much that *no single* country can exercise economic and political suzerainty, as it is that *any one* of the powers can affect the situation adversely, simply by being uncooperative or irresponsible. Even assuming that no responsible power - at any rate, within the trilateral regions - would consciously sabotage the cooperative process, it is increasingly likely that a country caught in a dilemma between the exigencies of the international environment and the internal political pressures against them cannot be counted upon to fight a lonely battle to uphold the integrity of the international system. A central problem then is whether the trilateral countries are able and willing to hang together in overcoming these domestic constraints, and to engage in the process of adjustment and coordination necessary to overcome the common difficulties and to maintain the stability of the system.

It was from this realization that Japan proposed a framework for Japanese-European cooperation based upon a new paradigm. The keyword for this new framework was 'the total partnership'. The general principles guiding the relationship between the two partners, which are clearly stated in the 'Joint Declaration on Relations between The European Community and its Member States and Japan', as the final document came to be called, are specified as follows³:

The European Community and its member States and Japan will firmly endeavour to inform and consult each other on major international issues, which are of common interest to both Parties, be they political, economic, scientific, cultural or other. They will strive, whenever appropriate, to co-ordinate their positions. They will strengthen their cooperation and exchange of information both between the two Parties and within international organizations.

This new initiative was warmly welcomed by the European Community. The European side not only agreed that the initiative was timely in the light of the evolution of the international situation, coming as it did just at the moment when the Cold War confrontation was fast disappearing, but also, more importantly, appreciated that Japan had taken the initiative.

The concrete areas of cooperation are enumerated in the Joint Declaration in its Part (3), entitled 'Objectives of Dialogue and Cooperation'. This part covers wide-ranging fields of cooperation in twelve areas, ranging from political to economic, social, developmental, cultural, and academic. Without enumerating here all of these areas of cooperation, which in

³ See Joint Declaration, Part (2), entitled 'General Principles of Dialogue and of Cooperation'.

any case are listed in the Joint Declaration, I wish to point out that these areas of cooperation can be classified into three broad categories.

The first to come is the need for strengthening policy coordination and cooperation including, where appropriate, common diplomatic action on important political issues. One obvious example that falls into this category is the problem of policy coordination in a common perspective and approach with regard to the newly transformed Russia. Russia is a major Eurasian power, whose fate can have a decisive impact upon the future of both Europe and Asia, and ultimately of the world. Nevertheless, the problem of assistance to Russia has always been a controversial issue among the industrial democracies. This is not due to the fact that the trilateral group has different perceptions of the newly transformed Russia, nor to the fact that, bilaterally, each country of this trilateral group has different issues to deal with *vis-à-vis* Russia.

It is due, in my view, to the fact that the industrial democracies have not succeeded in formulating a well-coordinated common position on how to assist Russia in her reform effort, based on a long-term strategy. With the arrival of President Boris Yeltsin - and now with his successor, President c.q. Prime Minister Vladimir Putin - a much greater convergence of views on this point among the trilateral partners and especially between Japan and Europe has become possible. The goal should be to try to reform Russia, in a fundamental sense, into a pluralistic democracy sharing the same basic values such as freedom, human rights, and free market principles, and through this reform to engage Russia to integrate itself into the global system of governance as a responsible partner that can actively cooperate with other nations in promoting the international norms which form the basis for such a global system of governance.

Another example in the same context of political cooperation is the need for active involvement and cooperation by Japan and Europe in the affairs of East Asia and the Pacific Rim countries. East Asia naturally includes China. It is of the utmost importance for the trilateral countries, and especially for Japan and Europe, to have a common vision and a common perspective with regard to China and to work together hand-in-hand so that, in the future, China may proceed on a course of cooperation with the trilateral nations by the implementation of a new orientation. The crucial point here is that the trilateral countries must strive to work together so that China may become a stabilizing factor, rather than a destabilizing factor, in this part of the world. How concrete joint efforts in this direction should be put into practice is a major item for close consultation. Realization of China's participation in the World Trade Organization (WTO) is clearly one prominent example of such efforts.

The second category of cardinal importance for cooperation is the area of development. Throughout the Cold-War era the issue of development came to be characterized as the 'North-South' problem, with the result that it was juxtaposed to 'East-West' confrontation. This juxtaposition had the unfortunate result of creating an artificial framework for confrontation between the North and the South, in which the issue of development was politically exploited in the context of the Cold War. The existence of extreme poverty in many former colonies offered a fertile ground for political exploitation by the countries of the socialist bloc in their Cold-War confrontation with the free world. The logic was simple but persuasive. The extreme poverty prevailing in the southern countries was the result of colonial exploitation. Colonialism is the child of imperialism. Imperialism is the highest state of capitalism. Thus the Northern countries, which coincide with the West, are accountable for the dire poverty prevailing in the South. Under these circumstances, a political alliance between the East, which is fighting against the West, and the South, which is fighting against the North, is only natural in pursuing the struggle for development.

Unfortunately, subsequent history has shown that this ideological alliance - whatever validity it may claim in an historical context - offered no constructive solution to the gigantic task

of development faced by the newly born countries in the South. It only created an environment of futile confrontation between the North and the South, while cooperation based on partnership would have been more in order. Furthermore, the Soviet model of development, pursued under the system of state-planned economy carried by a dictatorship, offered an attractive model to the leaders of many of the newly-born countries of the South, where the introduction of the Soviet economic model under political dictatorship offered a hotbed for political corruption in many countries of the developing world, with little benefit to the people of these countries. Thirty precious years for development have been lost as a result. The changed environment after the demise of the Cold War now offers an opportunity to re-examine the whole strategy for development in a completely new light. Opportunity for a new endeavour is being offered in which the trilateral community can engage in a 'plus-sum' game of a new development strategy in place of the 'zero-sum' game of the old North-South confrontation juxtaposed to East-West rivalry.

If this endeavour succeeds, the implications for world order will be enormous. It will not simply mean the full-fledged integration of the economies of the developing countries into the world economic order, thus benefiting all the members of the world economic system with enlarged opportunities, but, more importantly, it will signify that those countries of the South which have been suffering from the lack of social cohesion born out of extreme poverty can create a new momentum for such social cohesion as the basis for nation-building. It will also eliminate one of the most dangerous sources of future conflicts in the world - the resentment and enmity between the 'haves' and the 'have-nots'. It will open up in those countries a new perspective for a more prosperous society that will lead to the consolidation of political democracy through the creation of a solid middle class, affluent enough to care about individual freedom and civil liberty - the most important and most fertile ground for embracing universalist common values in human terms. This indeed should be the basis on which trilateralism can hope to consolidate and promote the minimum public order built on shared values on a worldwide scale.

The third category of areas on which the Joint Declaration lays emphasis are those areas where the process of globalization is presenting a challenge to our system of governance on a global scale. One obvious example of this is the issue of the environment in a global context. Indeed many of the problems that we face in this area, be it the effect of earth warming affecting the global climate or the ecological problem threatening the bio-diversity of the world, are things on which active cooperation is very much needed, especially between the major industrialized countries of the world, and more specifically between Japan and Europe. This cooperation would involve not just efforts to conserve energy and to preserve the ecological environment in order to maintain the *status quo*, but, more proactively, to cooperate in the field of science and technology to overcome these problems by dint of human intellect in such a manner that we may successfully proceed along the path to sustainable development in a way compatible with the objectives pursued in environmental areas. It is for this reason that the point on 'joining [our] efforts in meeting transnational challenges, such as the issue of the environment, the conservation of resources and energy',⁴ is listed so prominently in the Declaration, as well as the point on 'strengthening [the] dialogue and cooperation on various aspects of multifaceted relations between both Parties in such areas as trade, investment, industrial cooperation, advanced technology, [and] energy'.⁵

Another area for cooperation in this third category is the problem of coping with the process of globalization in the socio-economic context. The tremendous advance of science

4 See Joint Declaration, Part (3), Item 8.

5 See Joint Declaration, Part (3), Item 6.

and technology in recent years, and especially the completely novel situation brought about by the information technology (IT) revolution, is now drastically changing the whole structure of economic and industrial management throughout the industrialized world.

The process of globalization, like the process of industrialization in England in the eighteenth and nineteenth centuries, is in a civilizational sense a process of social revolution. Just as the Industrial Revolution brought about a completely new system of production by replacing manual labour with machines, so the IT Revolution, by replacing human brain-power with cyber technology, is going to eliminate the constraints of the difference in time and space that exist on the globe. This in turn will bring about a situation in which a completely new system of intellectual governance is going to be needed that will globalize the whole world into a unit that is integrated in a temporal and spatial sense.

It should be easy to see that this new situation, however felicitous it may be from the viewpoint of the technological progress that may be enjoyed as a result, would create an extremely complicated situation from the viewpoint of global governance. Today's international system operates essentially within the framework of the 'Westphalian legal order,' i.e., the order based essentially on the autonomy and voluntary cooperation of sovereign states. Each one of these sovereign states exercises compartmentalized national competence with regard to the economic and social activities that take place within its own national borders. As the process of globalization permeates into various economic and social areas of human activities, a dichotomy would thus result between, on the one hand, the social reality that these activities are carried out at the global level irrespective of the national borders and, on the other, the legal framework in which those activities are regulated only at the national level within the respective national borders of sovereign states. This problem is going to affect in a serious manner our approach in such areas as competition policy, policy on safety standards for foods and drugs, and policy on ethical standards in the medical field such as the cloning of human beings. Here again, the need for much closer cooperation between Japan and Europe within the framework of a trilateral partnership would seem to be highly desirable and, from a long-term perspective, even essential. The Joint Declaration, though in a somewhat embryonic way, tries to draw the Parties' attention to this aspect of globalization and sets out the framework for cooperation between Japan and Europe in this area.

Finally, what is significant about this new holistic approach to building a full-fledged relationship between Japan and Europe, covering the relations in their totality rather than on a piecemeal basis, lies not just in its coverage of the areas of cooperation described so far. Most important is perhaps the fact that a new concrete framework for dialogue and consultation has been created by this Declaration.

For this purpose, a multilayered approach has been introduced.⁶ High-level annual consultations are to be held alternately in Europe and in Japan between the President of the European Council, together with the President of the Commission, and the Japanese Prime Minister. This is in addition to the existing framework of cooperation at the bureaucratic level and at the ministerial level. In particular, six-monthly consultations will continue to be held between the Foreign Ministers of the troika (i.e., the Foreign Ministers of the Incumbent E.C. Presidency and of the Outgoing and Incoming Presidency countries) together with the member of the Commission responsible for external relations on the European side and the Japanese Foreign Minister on the Japanese side.

What is even more important, though this point is not spelled out in the Declaration in specific terms, is the fact that in order to give substance to the Declaration a continuous process

⁶ See Joint Declaration, Part (4), entitled 'Framework for Dialogue and Consultations'.

of dialogue and consultations leading to concrete policy coordination is underway in all areas covered by the Joint Declaration. To this end both parties, in addition to the full utilization of all existing regular consultation mechanisms, have decided that new mechanisms for consultation and substantial cooperation on wide-ranging issues of global and bilateral interests at different levels of the governmental machinery be strengthened. Such constant contacts, dialogues and consultations are enormously helpful in preventing the rise of misunderstandings, in clearing up misunderstandings if they should arise, and in fortifying a common strategy to deal with difficult issues that could mar the relationship.

Conclusion - A New Vista for the Future

As practically everyone will agree, the 1991 Joint Declaration has happily brought about a sea change in Japanese-European relations. A major transformation in the quality of the relationship between Japan and Europe has come about. It goes without saying that this new trend has to be consolidated and promoted further. However, a question arises in my mind: Is that enough? Obviously, as I was appointed judge of the International Court of Justice in the year 2003, I was no longer personally involved in the further development of these policies. In the year I left the Ministry, however, we had the feeling that we had reached a new turning point, where we should pause to reflect upon our future relations in a further productive way. That was not because the progress we had achieved had been less than satisfactory. Both Japan and Europe had come a long way towards achieving the objectives set out in the Joint Declaration. Of course, there is much more to be done in terms of further intensifying our efforts to realize these objectives. Those efforts can continue. What I wish to raise is the new question of whether the scope of our ambition should not be further expanded in order to promote the philosophy under which both Japan and Europe set out to form a genuine partnership to the broader region of East Asia.

There are in my view three new factors that have come to affect the situation in considering the context of this new process of transformation that I envisage.

The first to be mentioned as the most immediate factor in this new development is the widening vista of the world resulting from the demise of the Cold War. In East Asia, most of the nations of the region were born into the environment of the East-West Cold War confrontation as a direct offspring of the end of colonialism in the aftermath of the Second World War. Under these circumstances, many of them chose to pursue the policy of non-alignment in this environment of East-West confrontation, partly as a reaction to the historical legacy that they were burdened with, and partly due to their priorities as developing countries in the context of North-South confrontation juxtaposed to East-West confrontation. In this picture, the position of China was perhaps *sui generis* as the People's Republic of China, born out of her struggle in the socialist revolution in China, took sides with the countries of the East as against the West that basically consisted of Western Europe and the United States. This picture is again changing.

Thus, the demise of the Cold War, and with it the disappearance of the East-West confrontation means that this whole framework of reference, which used to prevail in the relationship between East Asia and Europe, is destined to be on the way out. An opportunity for a new framework of reference is now being born.

The second factor which has contributed much, and in many cases in a decisive way, to forging this new framework of relationship is the attainment of affluence in East Asia and, together with it, the realization of a new code of governance representing a new society born

out of this new affluence. Of particular importance is the birth of the middle class in these countries. Economic dynamism, which has come to take root in the region of East Asia in the 1980s and 1990s, despite some major setbacks that the region as a whole suffered in the Asian financial crisis of the late 1990s, is here to stay and to grow further. Economic interaction with the outer world in terms of trade, investment, and financial transactions has been growing fast. Furthermore, with the arrival of the IT revolution, what is termed 'new economics' is also becoming a new field where an active interaction is already in sight.

What is even more important than these tangible factors of interaction is the impact of the attainment of affluence by East Asia upon the social system of the countries in the East Asian region. Confucius is quoted as opining in his *Analects* that 'with abundance in what one eats and in what one wears comes the consciousness of value and virtue'. The degree of affluence that has come to many of the East Asian societies has given birth to a critical mass in these societies that cares about people, regards human dignity as the central core of their very existence, and insists on human values. What is taking place now in East Asia is the reaffirmation of human values as the core element of the social fabric in society. A confluence of different value systems, rather than the domination of one particular value system over another, will result.

The third factor, which serves the purpose of filling this new framework with substance, is the tremendous growth in globalization. Progress in globalization, resulting from the fast



Judge Owada at the International Law Forum, 30-12-2010, at the Northwestern University of Politics & Law (Xibeizhengfa Daxue) in Xian (China).

growing reality of the interdependence among nations and from the IT revolution, is rapidly changing the way we deal with the world and do business in the world, not only in the economic area but also in the political and social areas. In this age of globalization, the more active we are in the political, economic and social fields, the greater the need will be for us to intensify our interaction with other parts of the world, with other economic entities, with other political institutions, and with other societies holding their own distinct values.

In this situation, it is imperative that East Asia and Europe come together to create a new framework for partnership to cope with this process of globalization and to fill this framework with concrete contents. East Asia and Europe are in a position to engage in a new partnership as two centres of political power which are capable of influencing issues of international peace and security wherever they may take place, as two entities that can determine the course of

events in economic areas at a global level, and as two regions that represent one-third of the population of the globe, whose social behaviour can affect in a decisive way the fate of the world in relation to many social issues that the world is coping with, such as the issues of global environment, of human conditions including human rights, health and education, and of social development in general.

The Joint Declaration between Japan and the European Community was conceived at a time when many of the East Asian partners of Japan were still struggling with their respective nation-building and when, therefore, the idea of cooperation between East Asia as a whole and Europe was not yet on the politico-economic agenda of the two regions. Nonetheless, the philosophical basis on which the Joint Declaration was designed should be applicable to today's relationship between East Asia and Europe. The Joint Declaration can be developed as the bilateral basis for cooperation between Japan and the European Union for the expansion of our aspiration in this direction, so that the same framework of cooperation can be created on an interregional basis between East Asia and Europe. In fact, this process is already starting, though still in an extremely rudimentary form, in the formation of ASEM.

Japan, with all her historical legacies and geographical ties, is uniquely placed among the trilateral countries to play a more useful and distinct role in this exercise for broadening the vista of trilateralism beyond the narrow confines of its traditional membership. How to build a constructive relationship with new countries of the third world is one of the most important tasks that the trilateral countries will face in the long term. And here is an area in which Japan, as an important member of the trilateral group, can and indeed should make a truly constructive contribution. The doctrine enunciated in Manila in August 1977 by the Japanese Prime Minister in the form of the 'Fukuda Doctrine' points to one possible direction of such efforts. Focusing specifically on Japan's relationship with the ASEAN countries, the doctrine is oriented toward the formation of a framework for open regional cooperation, while rejecting the idea of the creation of a regional bloc of an exclusionary nature. The doctrine is a serious attempt to define the future role of Japan with respect to this part of the world, and by extension, to a wider world, not in terms of abstract philosophy, but in terms of a specific policy direction for Japan to follow.

Its implementation will require far more effort on Japan's part than she has made heretofore. The performance has not yet matched the will in the construction of a better regional environment for cooperation. If a Japanese-European partnership based on the Japan-E.C. Joint Declaration can expand its activities in the direction of offering an institutional framework in which Japan, in cooperation with the other members of the group, can help foster a more stable and prosperous regional environment of East Asia, the Japan-E.C. Joint Declaration can make a most effective contribution to the emergence of a new sense of community in this as yet confused part of the world.

It would seem to me that after the lapse of more than thirty years, what is enunciated in the Fukuda Doctrine points, almost word for word, to the future framework for cooperation between East Asia and Europe, and the role of Japan in it. In order to achieve this goal, we in Japan and Europe should continue the process of further identifying the areas for our joint efforts to fully implement the Joint Declaration, with a view to expanding the scope of cooperation to the wider region of East Asia.

This article was originally written in 2000, when Owada Hisashi was President of the Japan Institute of International Affairs and Professor of Waseda University Graduate School. It is published basically in its original format (see 'The ASEM Process and the Role of Japan', Asian Affairs 13 (Autumn 2000), although some minor editorial changes have been made to its content.

TSUNAMI

Arthur Witteveen

The cover calligraphy ‘tsunami’ and the characters for ‘tsui-tō’ on the opposite page were written in commemoration of the disaster hitting Japan on 11 March 2011. They should express the depth of the sympathy and commiseration felt by the Board of Editors of the Netherlands-Japan Review, as well as by myself, with the victims and their families in particular, and with the Japanese people in general.

The word ‘tsunami’ for a tidal wave, nowadays in worldwide use, is originally Japanese. Trying to show the overriding power and influence of water in the catastrophe called tsunami, I have written the cover calligraphy using two brushes, a thick one loaded with water and a thin one with ink. While these moved together over the paper, the ink of the thin upper brush was diluted by the water from the lower brush, changing the appearance of the strokes in unforeseen ways. Also, when I lifted the brushes in the finishing stroke of the second character, the water left in the lower brush made the paper cling to the brush, causing the stroke to run over the border of the paper. These qualities should reflect, even if only weakly, the loss of control suffered by the Japanese because of the power of the tsunami waters.

In the long history of their culture the Japanese have, however, built up an admirable resilience that without doubt will help them regain control over their environment. As a token of respect for that culture, I have tried to write ‘tsui-tō’, ‘in commemoration of’ [the victims] in a very controlled ornamental style, called *Zattaisho*. The ninth-century monk Kūkai, known posthumously as Kōbō-Daishi (774–835), was not only a man of great resources, the founder of the Shingon school of Buddhism and reputedly the creator of the *kana* script, but also a master in the different forms of *Zattaisho*. It was his writing that inspired me, in the conviction that the same inventiveness and drive shown in his exploits will help the Japanese people to overcome their distress and build a new future.

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Encounters with Dutch Jurisprudence at the Dawn of Modern Japan

Ōkubo Takeharu

Introduction

After the Meiji Restoration 明治維新 (1868) Japan adopted western jurisprudence, economics, and political science from Great Britain, France, Germany, and America. This immense body of knowledge was known as *Yōgaku* 洋学 ('Western Studies'). In fact, the Meiji government based its constitution on the German model. Since the seventeenth century, however, Japan had obtained knowledge of European science through the medium of the Dutch Language. This branch of learning was known as *Rangaku* 蘭学 ('Dutch Studies'). As this tradition of *Rangaku* existed, it stands to reason that knowledge that was introduced from the Netherlands exerted some measure of influence during the early stages of Japan's modernization. I found, however, that a thorough investigation of the things the Japanese learned from the Netherlands at the turning point from *Rangaku* to *Yōgaku* is lacking.¹

With the arrival of U.S. Commodore Matthew Perry, Japan was forced to establish diplomatic relations with the western nations. The Tokugawa *bakufu* realized that it would be necessary to study the ideas behind western law and political systems. Consequently, in 1857 it founded an institute for western learning, the *Banshoshirabesho* 蕃書調所 ('Office for the Examination of Foreign Books'). As a part of the same effort, the *bakufu* also decided to send some persons to study in the Netherlands. The group included the assistant professors of the *Banshoshirabesho* Nishi Amane (1829-1897) and Tsuda Mamichi (1829-1903), who from 1863 till 1865 studied under Simon Vissering (1818-1888), professor at the Faculty of Law of Leiden University. They were the first Japanese scholars to go to Europe to study social sciences.

In Leiden Nishi and Tsuda were privately tutored by Vissering, who made a special curriculum for them, which consisted of five courses: *Natuurregt*, *Volkenregt*, *Staatsregt*, *Staathuishoudkunde*, and *Statistiek*. Moreover, Nishi and Tsuda obtained sundry knowledge

This article is based on the paper I read at the Workshop 'Rangaku and Nichi-Ran kōryūshi', which was held at Leiden University on April 26th 2011. I have been greatly supported by Prof. W. J. Boot. I would like to thank all of the participants who gave me valuable advice in the workshop.

1 For a general view on the influence of Dutch jurisprudence in the latter half of the nineteenth century Japan, see R. Feenstra, 'Contacten op juridisch gebied tussen Nederland en Japan in 2e helft van de 19e Eeuw', in: *Gratia Commercii, opstellen aangeboden aan Prof. mr. A. van Oven ter gelegenheid van zijn afscheid als hoogleraar aan de Rijksuniversiteit te Leiden*, Zwolle, 1981. For thorough research on Mitsukuri Genpo and his manuscript 'Oranda ritsusho' 和蘭律書 ('A Dutch law book'), see F. B. Verwajen, *Early Reception of Western Legal Thought in Japan, 1841-1868*, proefschrift Leiden, 1996.



The Japanese students in the Netherlands; photograph of 1865. *From right to left, sitting:* Nishi Amane, Akamatsu Noriyoshi, Hida Hamagorō, Sawa Tarōzaemon; *standing:* Tsuda Mamichi, Fuse Kenkichirō (?), Enomoto Takeaki, Hayashi Kenkai, Itō Genpaku.

of nineteenth-century Europe through books written by such intellectuals as Jhr Mr Jeronimo de Bosch Kemper² (1808-1876) and Cornelis Willem Opzoomer (1821-1892). After returning to Japan in 1866, they translated their handwritten notes of Vissering's lectures, which were then published by the *bakufu*.³ Following the Meiji Restoration, they participated in an intellectual society called *Meirokeisha* 明六社, and played active roles both as intellectuals and as government officials. Along with Fukuzawa Yukichi (1834-1901), they are regarded as the founders of modern Japan.

Nishi's and Tsuda's study in Leiden was not just one of the last phases of the Rangaku of the Edo Period, but also the starting point of the adoption of the western social sciences

2 Tsuda Mamichi undertook the translation of Jhr. Jeronimo de Bosch Kemper's *Handleiding tot de kennis van het Nederlandsche staatsregt en staatsbestuur*, verkorte uitgave (Amsterdam, 1865), but it remained unfinished and was never published. See Ōkubo Takeharu, 'Shohyō ronbun: Tsuda Mamichi zenshū, Vol. 1-2, Ōkubo Toshiaki, Kuwahara Shinsuke, Kawasaki Masaru, eds, Misuzu Shobō, 2001', *Nanzan Keizai Kenkyū* 17, 1 (2002).

3 Vissering's lectures on *Staatsregt* were translated in 1868 by Tsuda Mamichi as *Taisei kokuhō ron* 泰西国法論. In the same year, Nishi Amane translated the lectures on *Volkenregt* as *Bankoku kōhō* 万国公法. The lectures on *Natuurregt* (*Seihō-setsu yaku* 性法説約) followed in 1879, and the lectures on *Statistiek*, translated by Tsuda Mamichi as *Hyōki teikō* 表紀提綱, in 1874. The lectures on *Natuurregt* were also translated by Kanda Takahira as *Seihō ryaku* 性法略 in 1871.

and humanities in modern Japan. The account that previous studies give of these events leaves much to be desired. They fail to shed light on the structure of Vissering's lectures and on Nishi's and Tsuda's experiences in Leiden. It is this lacuna that I have tried to fill with my dissertation, which has since been published as a book under the title *Kindai Nihon no seiji kōsō to Oranda* ('The Quest for Civilization: Encounters with Dutch Jurisprudence, Economics, and Statistics at the Dawn of Modern Japan') in 2010.⁴ My aim was to trace the intellectual history from the end of Edo Period to the coming into effect of the Meiji Constitution in 1890 by elucidating the influence Dutch Studies had on the origin of modern political thought in Japan. In the first three chapters of the book, focusing on the activities of Nishi Amane and Tsuda Mamichi, I examine various characteristics of the lectures on *Natuurregt*, *Volkenregt*, *Staatsregt*, *Staathuishoudkunde*, and *Statistiek* that Vissering gave to them, and I consider the question, how the knowledge they obtained contributed to state building in modern Japan. In Chapters 4 and 5 I focus on the translation of Goudsmit's *Pandecten-systeem* by Ono Azusa and consider how he struggled with the same problems as Nishi and Tsuda had faced. I analyze not only Vissering's published books⁵ and the many articles he contributed to *De Gids*, but also the handwritten manuscripts ('collegedictaten'), kept in the Special Collections Department at the library of Leiden University, of the lectures on *Staathuishoudkunde*, *Statistiek* and *Diplomatische Geschiedenis* that he taught at the university⁶ in order to compare the contents of the private tuition he gave to Nishi and Tsuda with his normal university lectures. Moreover, in order to get an idea of the intellectual influences they were confronted with in the Netherlands, I investigated some of the books they read, such as the ones I mentioned by De Bosch Kemper and Opzoomer.

The present article condenses part of my research, mainly of Chapter 1. Its aim is to examine the various kinds of Dutch jurisprudence that Nishi and Tsuda studied in Leiden and to consider the question how they tried to make use of it for Japan's modernization.

Vissering Lectures on Natuurregt and Staatsregt

Vissering was born in 1818 in Amsterdam. He graduated from Leiden University and became professor in 1850. He lectured on *Staathuishoudkunde* (political economy), *Statistiek* (statistics) and *Diplomatische Geschiedenis* (diplomatic history) and was appointed as Minister of Finance in the cabinet of Lynden van Sandenburg in 1879.⁷ Vissering had studied under Johan Rudolph Thorbecke (1798-1872) and was influenced by his thought. As is well known, Thorbecke, the leader of the liberals, was the most important Dutch jurist and politician in the nineteenth century. In the 1820's Thorbecke studied in Germany, where he acquainted himself with the historical jurisprudence that was taught by Friedrich Carl von Savigny (1779-1861). This experience made him critical of the approach that considered legal values as purely abstract concepts, and it turned his attention to positive law.⁸ After becoming professor at

4 Ōkubo Takeharu, *Kindai Nihon no seiji kōsō to Oranda*, Tokyo University Press, 2010.

5 E.g. *Herinneringen*, Vols 1-3, Amsterdam, 1863-1872; *Verzamelde geschriften van Mr. S. Vissering*, Vols 1-2, Leiden, 1889.

6 UB Leiden: BPL 1403, 1516, 1517, 1518, 3098, GREVEN 1326.

7 See H. F. Wijman 'Simon Vissering', in: *Nieuw Nederlandsch biografisch woordenboek*, Vol. 10, Amsterdam, 1974, and Watanabe Yōgorō, *Simon Vissering kenkyū*, Bunkashobō Hakubunsha, 1985.

8 On the political and legal thought of Thorbecke, see (amongst many others) E. Poortinga, *De Scheiding tussen Publiek- en Privaatrecht bij Johan Rudolph Thorbecke (1798-1872); Theorie en toepassing*, Nijmegen, 1987, Jan Derntje, *Thorbecke: een filosoof in de politiek*, Amsterdam, 2004. For the movement of liberalism and the revision of the Constitution in 1848, see E. H. Kossman, *The Low Countries 1780-1940*, Oxford, 1978, H. van Riel, *Geschiedenis van het Nederlandse Liberalisme in de 19e eeuw*, Assen, 1982.

Leiden University, he published *Aanteekeningen op de Grondwet* (1839). Then, together with eight other politicians, he proposed to change the Dutch constitution. This was in 1848, when King Willem II, faced with the threat of revolution, accepted a constitutional revision. The new constitution, drafted by a committee headed by Thorbecke, was proclaimed on November 3, 1848. Since Thorbecke was appointed Minister of Home Affairs in the new cabinet, Vissering became his successor at Leiden University. Vissering, too, was known as one of the typical liberal intellectuals of his time.⁹

We see the influence of Thorbecke's jurisprudence in Vissering's lectures to Nishi and Tsuda. The first of the five courses he taught was a course on *Natuurregt*. In that course Vissering taught that natural law was based on the nature of man as a social being ('De mensch is bestemd om met andere menschen op aarde te zamen te leven').

'Het natuurregt heeft zijnen grond in de natuur van den mensch'.¹⁰ All men have the same right to pursue happiness in their own way, unless they infringe on the rights of others ('De eerste en hoogste regel van het natuurregt is: elk mensch is vrij in zijne daden, maar mag door geene daad de vrijheid van een ander mensch verkorten.').¹¹ Then he clearly separated the law based on 'regt en ongeregt', which is closely related with the social behaviour, from the morally based 'goed en kwaad'.¹² He also explained about 'aangeborene regten' and 'verkrege regten'.

At first sight, these formulas are similar to the arguments made in the first half of the nineteenth century by such theorists of Natural Law as the Leiden professor Hendrik Cock (1794-1866).¹³ Vissering was not, however, committed deeply and philosophically to the theory of natural law. While Cock, in his theory of the state, emphasized that the social contract is based on natural right, Vissering tended to be rather critical of the social contract



Prof. Dr. S. Vissering.
(Leiden University collection)

9 H. W. Wijman called Vissering 'de propagandist van Thorbecke's staatkunde' (*Nieuw Nederlandsch biografisch woordenboek*, Vol. 10, p. 1119). Vissering himself emphasized in his inaugural address as Professor of Staathuishoudkunde that 'De wetenschap van het maatschappelijke leven of (om den korteren en meer gebruikelijken naam te bezigen) de staathuishoudkunde leert, dat waarachtige vrijheid de eenige voorwaarde is van het welzijn van elken burger en van het bestaan der maatschappij. Met andere woorden: Ik wensch te spreken over VRIJHEID, HET GRONDBEGINSEL DER STAATHUISHOUDKUNDE'. (S. Vissering, *Redevoering over vrijheid, het grondbeginsel der staathuishoudkunde*, Leiden, 1850, p. 6.)

10 S. Vissering, *Natuurregt*, as quoted in *Bakumatsu Oranda ryūgaku kankei shiryō shūsei* (Nichiran Gakkai ed., Yūshōdō, 1982), p. 4; Nishi Amane, trans., *Seihō-setsu yaku*, p. 1.

11 S. Vissering, *Natuurregt*, p. 5; Nishi Amane, trans., *Seihō-setsu yaku*, p. 3.

12 S. Vissering, *Natuurregt*, p. 4-5; Nishi Amane, trans., *Seihō-setsu yaku*, pp. 2-3. Vissering explained: 'Elk mensch heeft van nature een begrip van het onderscheid tusschen goed en kwaad, tusschen regt en onregt'. 'Dit onderscheid tusschen goed en kwaad wordt in de eerste plaats voor al onze daden bepaald door de zedeleer (moraal)'. 'Dit onderscheid wordt in de tweede plaats voor onze daden tegenover andere menschen bepaald door de voorschriften van het natuurregt'.

13 H. Cock, *Natuur- Staats- en Volkenregt, als handboek voor hunne Koninklijke Hoogheden Willem Alexander Paul Frederik Lodewijk, Erfprins van Oranje, en Willem Alexander Frederik Constantijn Nicolaas Michaël, Prins der Nederlanden*, (Leyden, 1837), pp. 5-8, 13-96. On the history and transformation of the study of natural law in the Netherland, see W. J. A. J. Duynstee, 'Geschiedenis van het natuurrecht en de wijsbegeerte van het recht in Nederland', in: *Geschiedenis der Nederlandsche rechtswetenschap*, Vol. 2, Amsterdam, 1940.

theory, which he qualified as a fantasy in his lectures on Staatsregt.¹⁴ According to him, the forms of states are diverse, and they depend on its history, tradition, culture, and the phase of civilization.¹⁵ Constitutional government in modern Europe had gradually developed after the French revolution.¹⁶ From this point of view, he lectured to Nishi and Tsuda on the system of constitutional monarchy modelled on *de Grondwet van 1848*, in the drafting of which his teacher Thorbecke had played such an important role.¹⁷

Vissering's course on Staatsregt was closely related to his own article, *De Grondtrekken van het Nederlandsche staatsbestuur* (1863),¹⁸ in which he described the essence and structures of *de Grondwet*. He explained to Nishi and Tsuda the division of powers (legislative, executive and judicial) based on Montesquieu's theory.¹⁹ He urged the necessity of establishing a balance of power between the monarch and the parliament, and of establishing the system of ministerial responsibility,²⁰ but he also discussed the various forms and voting systems parliaments took in different countries according to their level of civilization.²¹

Vissering gave the following advice to Nishi and Tsuda: 'The constitutional government I told you about is the most suitable system for our present-day political life in Europe. But you should not immediately import the same system into your country. You have to devise what kind of institution is the most appropriate to the political situation in your country'.²² Later, Tsuda told that he had been confused when he heard this advice. One of the serious issues that they had to face had emerged.

*Reconsidering the cultural tradition of East Asia, and
the design of new political institutions*

After returning to Japan, Tsuda translated his handwritten notes of Vissering's lectures on Staatsregt as *Taisei kokuhō ron* 泰西国法論 ('European Theory of National Law') under the supervision of the *bakufu*. Furthermore, Nishi and Tsuda tried to explain in their own words the essence of constitutionalism in order to spread it among their Japanese compatriots. For instance, Nishi wrote an article 'Hyakuichi shinron' 百一新論, in which he stated that for the foundation of civilized rule it was necessary to establish legal rights and duties on the basis of human nature,²³ and pointed out that the notion of legal right was still immature in Japan and the other countries in East Asia.²⁴ Nishi compared governments like those of East Asia, in which the ruling classes seize and abuse their absolute power, with the governments of modern Europe, in which both the monarch and his people have access to legislative processes and the monarch's power is restricted by laws. 'Which is fairer?', he asked.²⁵

His argument, however, was not just critical. In the same article Nishi re-examined the history of Confucianism and cited the doctrine of the Confucian scholar Ogyū Sorai (1666-1728).

14 Tsuda Mamichi, 'Taisei kokuhō ron', *Tsuda Mamichi zenshū*, Vol. 1, p. 119.

15 Ibid., p. 119, 121-122.

16 Ibid., p. 163.

17 Ibid., p. 158.

18 S. Vissering, *De Grondtrekken van het Nederlandsche staatsbestuur*, Haarlem, 1863.

19 Tsuda Mamichi, *op. cit.*, pp. 165-166, 122-123.

20 Ibid., pp. 166-171. Vissering, *De Grondtrekken*, pp. 14-20.

21 Ibid., p. 146.

22 Tsuda Mamichi, 'Tenka kokka', *Tsuda Mamichi zenshū*, Vol. 2, pp. 410-411.

23 Nishi Amane, 'Hyakuichi shinron', *Nishi Amane zenshū*, Vol. 1 (Ōkubo Toshiaki, ed., Munetaka Shobō, 1960), p. 263, 273.

24 Ibid., pp. 260-261.

25 Ibid., p. 257.



Nishi Amane.

According to Nishi, Confucius, the patriarch of Confucianism, had been ‘a prominent scholar of politics’ who was proficient in law and regulations.²⁶ From the thirteenth century onward, however, the Neo-Confucians proclaimed their incorrect interpretation of his teachings. They confused the sphere of law with that of morality and concentrated their studies on the latter.²⁷ This was the main reason why the notion of legal rights had hardly been formed in Far East. Therefore, Nishi said, ‘The person who really wants to study Confucius’ teachings nowadays must analyze the political institutions of the western countries as well as those of China and Japan, and investigate what system would be the most fruitful in the present conditions’.²⁸ Nishi Amane himself was certainly not bound by the worldview based on Confucianism. In this respect he was completely different from Confucians of the previous generation like Yokoi Shōnan 横井小楠 (1809-1869). The point is that, as a non-western intellectual, he had to try to make sense of key concepts of European thought and of notions such as liberty, rights, society, and constitution through the medium of traditional terminology that had sprung from different social structures and from a different historical and cultural background. In other words, it was his extensive knowledge of Confucianism that allowed him to understand western jurisprudence and philosophy.

Nishi’s interpretation of Confucianism may be controversial. We can appreciate, however, how his encounter with Dutch jurisprudence brought him to re-consider his own East-Asian cultural tradition, and urged him to see what kind of potential it still might have. It was from this standpoint that he got involved in the drafting of a new constitution at the very end of Edo Period.

In those days, after opening Japan, the opposition to the Tokugawa *bakufu* came from the domains of Satsuma 薩摩 and Chōshū 長州. Many feudal lords or *daimyō* 大名 called for the establishment of a council that would allow them to occupy important positions in national politics - a discourse known as *Kōgi seitai ron* 公議政体論 or ‘the proposal to establish a system of parliamentary government’. In 1867 the domain Tosa 土佐 proposed to Tokugawa Yoshinobu 徳川慶喜 (1837-1913), the fifteenth and last Shogun, to put his prerogatives at the Emperor’s disposal and to establish a parliament that would consist of feudal lords and representatives from the whole country. Yoshinobu accepted the proposal and returned his investiture to the emperor (November 1867: *Taisei hōkan* 大政奉還), although the *bakufu* still had considerable power. It was at that time that Yoshinobu summoned Nishi and asked him about western parliamentary government and the separation of the three powers.²⁹ One month later Nishi presented to the *bakufu* his draft for the political reform, entitled ‘*Gidai sōan*’ 議題草案, which was based on Vissering’s lectures. This work is regarded as the first draft of a modern Japanese constitution.

In this draft, Nishi began by rejecting the movement to restore direct imperial rule as impractical, and insisted that the authority of the Emperor should be restricted to a non-political role such as awarding honours and performing ceremonial functions.³⁰ Moreover, he warned that it was dangerous to follow Tosa’s proposal and be overhasty in importing western parliamentary government under the pretext of ‘public opinion’ 輿論, because Japan had no

26 Ibid., pp. 241-243.

27 Ibid., pp. 236-238.

28 Ibid., p. 242.

29 Nishi Amane, ‘Nishi-ke furyaku’, *Nishi Amane zenshū*, Vol. 3, p. 762.

30 Nishi Amane, ‘*Gidai sōan*’, *Nishi Amane zenshū*, Vol. 2, pp. 169-170, 175-177.

experience with it.³¹ In order to arrive at a practical form of parliamentary government, it was necessary to implement reforms gradually. Nishi argued that the quintessence of the western political system was not parliamentary government, but the division of powers.³² For this reason, Nishi opposed *Kōgi seitai ron*, because, just like Tosa's proposal, it did not mention the administration, but emphasized the importance of parliament.³³ According to Nishi, this could lead to the tyranny of influential feudal lords who in the parliament might arrogate the powers of legislation and of administration for themselves.³⁴ Therefore, Nishi said, the most important thing was to create the separation of powers and a balance between legislation and administration.³⁵ He incorporated the system of a bicameral legislature, ministerial responsibility, as well as parliamentary government into his draft. In his description of the parliament, i.e. the legislature, Nishi proposed that the Upper House would consist of feudal lords and the Lower House would consist of representatives from all domains in each part of the country.³⁶ In his view, it was not necessary to reform the existing judicial system immediately; each feudal lord should maintain and exercise jurisdiction in his own domain for the present. The administration could be run by the existing government, the Tokugawa *bakufu*, and the leader of the administration, *kubō-sama* 公方様, i.e. the Shogun, should have the right to dissolve the Lower House as *taikun* 大君 ('Great Lord'). The government would be the administrative bureaucracy and consist of five ministries (Home Affairs, Finance, Foreign Affairs etc.).³⁷ Each minister should act in accordance with the regulations and rules provided by the parliament, under the principle of ministerial responsibility.³⁸

This draft shows that Nishi had the intention to maintain the Tokugawa *bakufu* in power. Nevertheless its most important aspect is the gradual establishment of a constitutional monarchy as a civilized political institution. This was based on Vissering's lectures. With his deep knowledge of western jurisprudence, Nishi attempted to coordinate the positions of the *bakufu* and the feudal lords by adopting a fair system based on the separation of powers, which would prevent both a disorderly parliament and arbitrary policies of the *taikun*. This is an important point of Nishi's draft, which distinguishes it from other contemporary proposals.³⁹

After the Meiji Restoration: a brief sketch

At the end of the Edo Period, Vissering's lectures had been translated by Tsuda and their essence was embodied in Nishi's '*Gidai sōan*', although Nishi's design of a new political institution was not carried out, because the Tokugawa *bakufu* was overthrown by the radical loyalist forces commanded by the domains of Satsuma and Chōshū. After the Meiji Restoration, however,

31 Ibid., pp. 171-172.

32 Ibid., p. 174.

33 'Yamauchi Toyoshige jōsho', *Ishin-shi*, Vol. 4 (Ishin Shiryō Hensankai, ed., Yoshikawa Kōbunkan, 1941), p. 734.

34 Nishi Amane, '*Gidai sōan*', p. 174.

35 Ibid., p. 174.

36 Ibid., pp. 180-182.

37 Ibid., pp. 177-180.

38 Ibid., p. 180.

39 In those days other officials of Tokugawa *bakufu*, e.g. Oguri Tadamasu 小栗忠順 (1827-1868) and Kurimoto Joun 栗本鋤雲 (1822-1897), had also undertaken to reform the political system. They had the express purpose of diminishing the power of the feudal lords and of promoting the centralization of the government, and were assisted by the French representative Léon Roches (1809-1900). Their reform plans must be distinguished from Nishi's draft.

Nishi and Tsuda became very influential as intellectuals and as government officials.

During the Meiji Era they kept emphasizing that it was indispensable to set up a constitutional monarchy, to develop the notion of legal rights, and to reject ‘Oriental despotism’ in order to construct a modern state.⁴⁰ On the other hand, Nishi and Tsuda broadened their perspectives and engaged in building a civil society, following the Vissering lectures on *Staathuishoudkunde*.⁴¹ In that course, Vissering had made use of his most important work, *Handboek van praktische staathuishoudkunde*.⁴² He had told them that *Staathuishoudkunde* and *Statistiek* were sciences of ‘het maatschappelijke leven’. His economic theory was connected with the movement of liberalism in the Netherlands. Thus he criticized the formation of monopolies and insisted that self-interested competition in a free market would promote the welfare of society as a whole. In this, he was influenced by Adam Smith (1723-1790), Jean-Baptiste Say (1767-1832), Frederic Bastiat (1801-1850), John Stuart Mill (1806-1873) and many others. Nishi and Tsuda understood the key concept ‘het maatschappelijke leven’, which they translated with the traditional Confucian concept of ‘*aiseiyō no michi*’ 相生養の道 (‘the way of mutual nurturing and giving life’), and they attached great importance to the protection of personal property, to free trade, and to the division of labour as the principles of civilization. In addition, based on their knowledge of the *Volkenregt*, which Vissering had imparted to them, they adhered to the open door policy and had a controversy with Fukuzawa Yukichi.⁴³



Tsuda Mamichi.

The lectures on *Statistiek* were translated by Tsuda. In this course Vissering had taught them an empirical method that was influenced by the theory of Lambert Adolphe Jacques Quételet (1796-1874).⁴⁴ As W. Otterspeer and E. H. Kossmann have pointed out, the appearance of Thorbecke’s jurisprudence caused a growing tendency among his followers toward empirical research; examples are Vissering’s economics and statistics, and Opzoomer’s philosophy.⁴⁵ Nishi decided to study the positivism of Auguste Comte (1798-1857) and J. S. Mill’s logic and Utilitarianism after his encounter with Opzoomer’s *De weg der wetenschap*.⁴⁶ On the basis of the notes of Vissering’s lectures, their friend Sugi Kōji 杉亨二 (1828-1917) attempted to establish a central office of statistics in the government.⁴⁷

40 Relevant essays are Nishi Amane, ‘Kyū shōkō no gi wo baku-suru ichidai’ and ‘Kenpō sōan’ (*Nishi Amane zenshū*, Vol. 2); ‘Kokumin kifū ron’ and ‘Renga sekizō no setsu’ (*Nishi Amane zenshū*, Vol. 3); Tsuda Mamichi, ‘Seiron’ (*Tsuda Mamichi zenshū*, Vol. 1).

41 See I. H. Butter, *Academic Economics in Holland 1800-1870*, The Hague, 1969, and Ōkubo Takeharu, *Kindai Nihon no seiji kōsō*, Ch. 2, sect. 4, pp. 98-124.

42 S. Vissering, *Handboek van praktische staathuishoudkunde*, Vols 1-2, Amsterdam, 1860-1861, 1862-1865.

43 On the influence from the Netherlands in late nineteenth-century Japan in the field of international law, see Ōkubo, *Kindai Nihon no seiji kōsō*, Ch. 3, pp. 157-236.

44 S. Vissering, *Dictaat over statistiek, 1859-60 (De statistiek des vaderlands)*, pp. 5-6, *Theorie der statistiek*, pp. 10-13. ‘De Statistiek aan de Hoogeschool’, *Verzamelde geschriften van Mr. S. Vissering*, Vol. 2, pp. 108-115.

45 W. Otterspeer, *De wiekslag van hun geest, De Leidse Universiteit in de negentiende eeuw*, (Den Haag, 1992), pp. 227-232; E. H. Kossmann, *The Low Countries 1780-1940*, pp. 259-263.

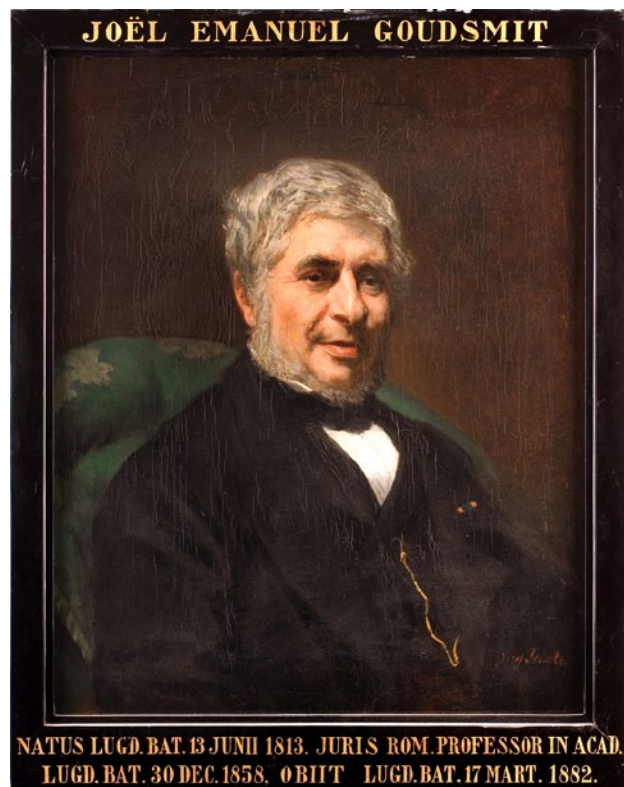
46 C. W. Opzoomer, *De weg der wetenschap: een handboek der logica*, Leiden en Amsterdam, 1851. Nishi mentions his encounter with Opzoomer’s philosophy during his stay at Leiden in his article ‘Jinsei sanpō setsu’ (*Nishi Amane zenshū*, Vol. 1, p. 514). See Ōkubo, *Kindai Nihon no seiji kōsō*, Ch. 2, sect. 5, pp. 124-143.

47 On the rise of statistical thought in Meiji Period, see Ōkubo, *Kindai Nihon no seiji kōsō*, Ch. 2, pp. 69-156.

Their studies were continued by younger men like Ueki Emori 植木枝盛 (1857-1892) and Ono Azusa 小野粹 (1852-1886), who became famous as ideologues of the Movement for Freedom and Civil Rights (*Jiyū Minken Undō*). In 1875, Ono translated *Pandecten-systeem*, a study written by the professor of Roman law at Leiden University and Vissering's colleague, Joël Emanuel Goudsmit (1813-1882).⁴⁸ Throughout his translation Ono struggled with the same problems as Nishi and Tsuda had faced, but the experience deepened his insight in the cultural tradition of European jurisprudence. He next shifted his attention to Japanese history and re-examined the *Nihon shoki* 日本書紀 ('The Chronicles of Japan') and medieval law systems. In this process, Ono attempted to find out the indigenous sources of democracy in Japanese history and to design a new constitution on that basis.

One of the conclusions that I have reached is that by investigating the influence of Dutch Studies we can trace the line that connects the Edo with the Meiji Period as 'another story of modern Japan'. My research demonstrates how, notwithstanding their different historical and cultural background, Japanese scholars were able to understand legal and political concepts of European origin. I hope at the same time to have succeeded in shedding some light upon one aspect of Dutch intellectual history, and on a number of intellectuals whose names are now almost forgotten in the Netherlands themselves, through the eyes of aliens from a small country in the Far East, such as Nishi and Tsuda.

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Prof. Dr. J.E. Goudsmit (Leiden University collection).

⁴⁸ Ono Azusa, *Roma-ritsu yō* 羅馬律要 ('Essentials of Roman law'; 1875) is a translation of J. E. Goudsmit, *Pandecten-systeem*, Vol. 1, Leiden, 1866. See Ōkubo, *Kindai Nihon no seiji kōsō*, Ch. 4 and 5, pp. 237-348.

Je gaat nergens heen

De nacht dat ik hardnekkig aan jouw borsten zat
dat was een nacht waarin steeds maar veel sterren vielen
dat is jouw melk die daar vloeit zei ik voor de grap
maar hield daarbij niet op jouw borsten te beroeren
jij bleef intussen aldoor zwijgen
toen jouw rechter- en linkertepel allebei hard waren
één woord 'vaarwel'
herinnerde ik mij hoe jij dat desolaat gezegd had
toen nam ik jou – je kon je voeten niet gebruiken– op mijn rug
en droeg je zo de afgesproken heuvel op
toen het zover was vielen al niet meer de sterren
in plaats daarvan viel er een fijne regen
boven liet ik je achter op een bank en toen
rende ik huilende aan een stuk door de heuvel af
toen weer aan een stuk door de heuvel op toen sloeg ik jou
dat was voor ons
wat het werkwoord 'leven' betekende
jij bent nu keurig opgevouwen
en opgeborgen in mijn kamer in de kast
en zo blijf je nacht in, nacht uit mompelen
je gaat nergens heen
je gaat nergens heen
en zo praat je
ik wil zo, zo slapend blijven hoor
als ik uit de droom ontwaak
is het hier beslist de bodem van de zee
omdat het de zeebodem is
sluit ik de kast
breng het koffiekopje naar mijn mond
kijk uit het raam
de kersenbloesem bloeit

Ginjō Kamome

ぎんじょうかもめ

どこにもいかないで

きみのおっぱいにしつこく触った夜
それはたくさんの星がふりつづいた夜
ぼくはきみの乳液がながれているんだと
冗談を話しながら きみのおっぱいに触れることをやめず
きみはその間ずっと黙っていた
きみの右と左の乳首がそろって勃起したとき
ひとこと「さよなら」
きみがさびしくそう言ったことを思い出す
それから足の使えないきみを背負うと
約束の丘の上まで上った
そのときになるともう星はふっておらず
代わりに細かな雨がふっていた
頂上にあるベンチにきみを置き去りにすると
ぼくは涙をながしながら一気に丘を下った
そしてまた一気に丘を駆け上るときみを殴った
それが僕らの
「生きる」という動詞の意味だった
きみは今きれいに折り畳まれて
僕の部屋のクローゼットへ収まっている
そして夜な夜なつぶやいている
どこにもいかないで
どこにもいかないで
そして話す
わたしこのまま眠ったままでいたいよ
夢から覚めれば
ここはきっと海の底なんだ
海の底なんだから
僕はクローゼットを閉める
コーヒーカップを口に運ぶ
窓の外を見る
サクラが咲いている

Het bovenstaande gedicht is, evenals het voor het vorige nummer vertaalde, afkomstig uit het internettijdschrift *Bungaku Gokudō* ('Litteraire Gangsters'; <http://bungoku.jp/>) en wel uit het nummer van april 2010. Ook dit gedicht werd door de redactie geplaatst in de rubriek *excellente gedichten*. De oorspronkelijke tekst ervan is te vinden op: <http://bungoku.jp/monthly/?date=201004>

Ook over deze dichter, wiens (of wier) naam, Ginjō Kamome, mij overigens een pseudoniem lijkt, heb ik helaas geen verdere gegevens kunnen vinden. Het zoeken daarnaar werd extra bemoeilijkt doordat de naam van de dichter in het Japans geheel in *hiragana* geschreven wordt.

Frans B. Verwayen

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