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論文

The Rise of American Hegemony in Northeast Asia: An International History of Military Occupations and Alliances, 1945–1954¹

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Seven decades after the end of the Pacific War, the presence of approximately 78,000 American troops in Japan and South Korea continues to symbolize and project US power in Northeast Asia today. These troops are stationed in thirty-eight US military bases, where they are granted legal immunity from local jurisdiction, based on status of forces agreement (SOFA) s with the host nations. This enduring American military presence in the region is perhaps the most visible, combined legacy of the postwar occupations and the bilateral military alliances formed with these two countries. American diplomats negotiated virtually unlimited freedom for the US military to move its servicemen and women, munitions, and other materials across the borders of nations that hosted American bases, even after the occupations formally ended. By setting up permanent military bases in Japan, South Korea, and Okinawa, the US military continues to occupy foreign territory, projecting its power throughout the region and beyond. Beginning with the deployment of occupation forces in 1945 to the consolidation of the US-led regional security alliance network in 1954, this article examines the rise of American hegemony in Northeast Asia during this early phase of the Cold War.²

Historians have examined separately the Ameri-

can occupations of postwar Japan, South Korea, and Okinawa, but have not attempted an integrated, regional history of the American interlude in Northeast Asia. For example, in his Pulitzer Prize-winning study of the US occupation of Japan, John Dower writes that after 1945 the once aggressively imperial Japan withdrew from the world into “an almost sensual embrace with its American conquerors.” As insightful as this binational metaphor may be, it cannot be applied to either occupied Korea or Okinawa, where direct US military rule led to resistance, not an embrace. Diplomatic historians and political scientists have been more adept at placing occupied Japan in the context of America’s overall East Asian policy. In what he calls Japan’s “empire in eclipse,” John Welfield demonstrates how the Allied occupation was replaced by an American-led regional security alliance system. However, his study focuses on the interaction between Japan’s foreign policy and domestic politics, and pays scarce attention to other American alliances in the region.

Recent methodological approaches to international history frame this article’s study on the rise of American hegemony in postwar Northeast Asia. Historian Michael Cullen Green’s work on race in the making of what he calls an “American military empire” after

¹ I would like to express my sincere gratitude to the Japan Society for the Promotion of Science (JSPS) for providing two years of funding during the fiscal years 2013 – 2014, as a part of the Grant-in-Aid for Young Scientists (Type B), which supported my research and writing of this article. I would also like to thank my colleague at Kyushu University, Takeshi Onimaru, for his insightful comments which I have incorporated into this article.

² I have adopted Robert Keohane and Joseph Nye’s definition of hegemony, whereby “one state is powerful enough to maintain the essential rules governing interstate relations.” Robert Keohane and Joseph Nye, *Power and Interdependence* (Boston: Little, Brown and Company, 1977), p. 44. I employ this term in this article to describe the process by which the United States laid down these rules governing external relations with its allies in Northeast Asia and elsewhere after World War II.

World War II is one model of this kind of work.³ Green weaves conventional narratives of political and social history with an examination of African American engagement with military service in occupied Japan, war-torn South Korea, and an emerging empire of bases anchored throughout the Asia-Pacific region. In addition, Turan Kayaoglu's comparative study of extraterritoriality in Japan, China and the Ottoman Empire serves as another model for this article.⁴ Kayaoglu's comparative study employs not only a spatial but also a temporal framework, comparing nineteenth-century British extraterritoriality with American adaptations of extraterritoriality after World War II. Combining the comparative and international approaches of these studies, this article will examine the process by which American hegemony was established in Northeast Asia, focusing on the regional history of US military occupations and alliances.

American Occupations through World War II

Examining the rise of American hegemony in Northeast Asia must begin by addressing a fundamental question; how did US military occupations after World War II differ from colonial administrations in the age of empire? Comparing colonial rule with military rule can help to reveal some constructive answers to this challenging question. Colonialism and military occupation both refer to the unequal state of relationship resulting from a ruling power establishing direct control over territory beyond its borders. While the political, economic, and social inequality between colonizers and the colonized is similar to that between occupiers and the occupied, the design and duration of the latter relationship are usually intended to be limited. According to international law, the occupier is constrained from imposing indefinite control over the sovereignty of the occupied, distinguishing occupation from colonialism. Furthermore, the occupying power is "precluded from annexing the occupied territory or otherwise changing its political status and is bound to respect and

maintain [the] political and other institutions that exist in that territory."⁵ This would suggest that an occupation administration can not tamper with preexisting local laws. However, the majority of military occupations after World War II have not honored the law of occupations, as the postwar record of the United States best exemplifies. In fact, American policies implemented in occupied Northeast Asia reflected prior practices employed in the history of US military occupations.

Before the outbreak of World War II, the armed forces of the United States had acquired experience in the military occupation of foreign territory over the course of a century. During the Mexican-American War from 1846 to 1848, the US Army occupied New Mexico and Alta California as well as northern and central Mexico, but the military had no legal precedent to follow in the administration of occupied territory. The authors of the US government's Articles of War drafted in 1806 perhaps never imagined that the new nation would wage war in foreign territory, and thus failed to lay plans for extending its jurisdiction beyond American borders. In February 1847, General Winfield Scott issued a martial law order – General Order No. 20 – which applied not only to Mexican nationals but also to US soldiers and American civilians residing in Mexico.⁶ This order established the US Army military government's jurisprudence, superimposing the law of the occupier over the occupied. Scott's martial law order is said to have influenced subsequent laws of war and occupation, including the War Department's General Order No. 100 – the so-called Lieber Code – issued during the American Civil War. The Lieber Code, in turn, provided the basic framework of the first Geneva Convention of 1864 as well as the Hague Conventions of 1899 and 1907.⁷ US laws of military justice, as well as the international law of military occupations, thus followed the wartime American flag.

Most historians who see the United States as an empire, or having been an empire – however diverse the definition of that term may be – recognize the

³ Michael Cullen Green, *Black Yanks in the Pacific: Race in the Making of American Military Empire after World War II* (Ithaca: Cornell University Press, 2010).

⁴ Turan Kayaoglu, *Legal Imperialism: Sovereignty and Extraterritoriality in Japan, the Ottoman Empire, and China* (Cambridge: Cambridge University Press, 2010).

⁵ Eyal Benvenisti, *The International Law of Occupation* (Princeton, NJ: Princeton University Press, 2004), p. 1.

⁶ Stephen A. Carney, *The Occupation of Mexico, May 1946 – July 1948* (Washington, DC: The US Army Center of Military History, 2006), p. 28.

⁷ *Ibid.*, p. 45.

Spanish-American War of 1898 as the advent of US imperialism. And yet, surprisingly few studies have examined the postwar American occupations that followed in Cuba, Puerto Rico, Guam, and the Philippines. US military governments administered these occupied territories in the Caribbean and the Pacific regions when the first Hague Convention convened in 1899. Although the main objective of the Convention was to rewrite the international law of warfare, its postwar corollary – military occupations – were also subject to codification. When the second Hague Convention adjourned in 1907, signatory nations including the United States agreed that occupying powers were obliged to ensure public order and security, while respecting the laws in force in the occupied country. By this time, however, the US had replaced military governments with civil governments that maintained American spheres of influence in the Eastern and Western Hemispheres through the mid-twentieth century.

The international law of occupation, as defined by the Hague Convention, and American military law maintained their ambiguous relationship in the wake of World War I. Throughout the Allied Occupation of the German Rhineland, American administrators adhered to the limited role granted to them by international law. In reality, American officers merely supervised the local administration of the German government, while France, Belgium, and Britain followed different policies in their respective zones of occupation. Without any preparations made by the US Army prior to the armistice and without clear policy instructions from the US government, American occupiers could not do much more.⁸ In the mean time, the US Congress revised the Articles of War in 1920 to govern the conduct of American military forces. The detailed provisions of the 121 Articles of War served as military law for US occupation forces in the Rhineland, not the general principles outlined in the fourteen articles of the Hague Regulations. When disagreements among the Allies led to the disintegration of the joint occupation and the resumption of war in Europe as well as in Asia, the US government prepared not only for total war but

also for what might be called “total occupation”; the fundamental transformation of occupied territory in a systematic process of nation-building.

To understand the rise of American hegemony after World War II requires recognizing historical continuities from total war to total occupation during the 1940s and beyond. World War II convinced US military leaders and policymakers that military government operations had to assume a newly expanded role under conditions of total war, not just for winning battles but also for winning peace. Such an expanded role placed the military government in a central position for executing US foreign policy, including nonmilitary – or civilian – activities involved in governing occupied territory. Military leaders called for a special personnel procurement and training program, commissioning US citizens with experience in public service and technical skills necessary for handling civil affairs in occupied territory.⁹ As a result, the War Department established training programs for civil affairs officers early in the war, starting with the Army’s School of Military Government at the University of Virginia and the Navy’s School of Military Government at Columbia University. The hundreds of thousands of civil affairs officers who graduated from these programs were dispatched to embattled areas around the world, aided by a much larger number of regular military servicemen, contributing to the total occupation that followed total war.

The process of planning for total occupation in Europe and in Asia was based on the concept of unconditional surrender, a radically new concept that President Franklin Roosevelt and Prime Minister Winston Churchill adopted early in the war. Unconditional surrender emerged as the central doctrine of the Allies, maintaining that they would be exempt from the legal constraints of the Hague Regulations from the moment the Axis accepted total defeat. The Allies then claimed the “supreme authority” to eradicate existing national institutions in Germany and Japan and replace them with democratic ones, which became the main goals of the war as well as the postwar occupations in those countries.¹⁰ The US government also found the doc-

⁸ Hajo Holborn, “Early Preparations for Civil Affairs Operations,” *American Military Government: Its Organization and Policies* (Washington, DC: Infantry Journal Press, 1947): pp. 2-3.

⁹ *Ibid.*, p. 3.

¹⁰ Benvenisti, *The International Law of Occupation*, pp. 159-160.

trine of unconditional surrender useful for freeing its armed forces from the Hague Regulations that limited the administrative authority of military governments. While claiming to abide by the spirit of the Hague Convention, the War Department in December 1943 published a Field Manual (*FM 27-5*) that established the US military's own legal framework for military occupation.¹¹ *FM 27-5* was an important statement of the newly defined principles of military government and civil affairs, and laid the policy foundations for America's total occupations after World War II.

Wartime planning for occupations in designated territories, shaped in part by military contingencies, set them on significantly divergent courses before American civilian and military officers set foot in their respective zones of occupation. Such differing, uneven plans and objectives were especially prominent in American occupation policies towards Asia. The centerpiece of US foreign policy in Northeast Asia focused on the occupation of Japan, where demilitarizing and democratizing the former empire were the main objectives. The stated purpose of the US occupation of Korea was to enforce the terms of Japan's surrender and ensure an orderly administration and rehabilitation of the liberated colony. In reality, the division of the peninsula and the Soviet occupation in northern Korea convinced US officials of the need to transform southern Korea into a staging ground for their containment policy. Unlike the postwar occupations of Japan and Korea, American rule in the Ryūkyū Islands began as a wartime occupation and continued to function primarily as a US military base in which plans for democratization and nation building had no place.

The Expansion of US Military Authority

How did the administration of US military oc-

cupations serve to lay the foundations for expanding American hegemony in Northeast Asia after World War II? One way to answer this question is to measure the extent of American authority in the region by examining occupation policies and their outcomes in Japan, Korea, and the Ryūkyūs. When the imperial Japanese government surrendered, unconditionally, the Supreme Commander for the Allied Powers (SCAP) acquired the right to redevelop the entire political, economic, and social fabric of occupied Japan. Unconditional surrender therefore amounted to a temporary transfer of sovereignty rights, which SCAP used extensively, going so far as to rewrite the Japanese constitution.¹² As the initial policy of demilitarization and democratization gave way to a Cold War policy after mid-1947, American authorities began exerting heavy pressure on their Japanese counterparts to play an active role in their anticommunist strategy. This strategic vision of refashioning Japan as a forward-deployed American base in the Asia-Pacific region was ultimately fulfilled with the signing of the US-Japan Security Treaty on September 8, 1951. Although the Japanese government regained sovereignty six months after the signing of the Peace Treaty on the same day, Japan continued to operate within US-defined strategic parameters throughout the Cold War period and beyond.¹³ The continuing US military presence in Japan is one of the key legacies of the occupation that has helped maintain American hegemony in the region.

While unconditional surrender enabled a radical transformation of Japan, the exercise of American authority in Korea encountered complications from the outset. According to Ernest Fraenkel, an adviser to the US Army Military Government in Korea (USAMGIK), the American and Russian armies had taken over a country that was a "no-man's land" from the point of view of international law.¹⁴ In other words, the Hague Regulations

¹¹ The Field Manual, *United States Army and Navy Manual of Military Government and Civil Affairs (FM 27-5)* was a revised edition of an original version published in June 1940. For further details on the original and revised versions of *FM 27-5*, see Merle Fainsod, "The Development of American Military Government Policy During World War II," Carl J. Friedrich (ed.), *American Experiences in Military Government in World War II* (New York: Rinehart & Company, 1948), pp. 24-35.

¹² Dale M. Hellegers, *We the Japanese People: World War II and the Origins of the Japanese Constitution* (Stanford, CA: Stanford University Press, 2002), pp. x-xi.

¹³ See John W. Dower, "Peace and Democracy in Two Systems: External Policy and Internal Conflict," in Andrew Gordon (ed.), *Postwar Japan as History* (Berkeley, CA: University of California Press, 1993), pp. 3-33.

¹⁴ Ernest Fraenkel's manuscript, "The Structure of United States Army Military Government" was never published on its own, but can be found in the appendix of C. L. Hoag, *American Military Government in Korea: War Policy and the First Year of Occupation, 1941-1946* (Washington, DC: Office of the Chief of Military History at Department of Army, 1970), p. 486.

contained no stipulations for establishing a military occupation over a colonial territory, calling into question the legitimacy of American authority in Korea. Furthermore, the fact that the Korean people were denied their long-awaited liberation made it difficult for them to accept Allied claims of sovereignty rights over the peninsula, as exemplified by their overwhelming rejection of multilateral trusteeship. When trusteeship plans subsequently fell apart, USAMGIK attempted to build a separate regime in southern Korea, suppressing widespread opposition including the tens of thousands of Koreans who perished in the wake of the "Cheju incident" in April 1948.¹⁵ US occupation authorities may have succeeded in establishing a pro-American regime, but they ultimately failed to contain the revolutionary turmoil that led to the outbreak of the Korean War less than two years later.

US occupation policy towards the Ryūkyūs was initially characterized by its absence, as American authorities repeatedly postponed making any decisions regarding the future political disposition of the islands. While the US Military Government spoke of political and economic rehabilitation, in reality the first three years of apathy and neglect earned US-occupied Okinawa the nickname, the "forgotten island."¹⁶ Popular resistance against the Military Government's empty promises of democratization, coupled with poor economic conditions, led to Okinawa's first protest movement sparked by labor strikes carried out between 1948 and 1949. At about the same time, US policy towards the Ryūkyūs was finally overhauled when the National Security Council (NSC) decided to develop the archipelago as a strategic base for containing the spread of communism in the Asia-Pacific region. This fateful decision meant that Okinawa, in particular, was transformed into a huge military base complex that the Department of Defense would soon label the "keystone of the Pacific." Japanese officials also recognized the geostrategic importance of Okinawa, as they engaged their American counterparts in peace treaty negotiations that included an agreement on the political disposition of the Ryūkyūs. However, Article 3 of the ensuing Peace Treaty postponed any meaningful resolution, since it merely extended and legitimated US military rule in the Ryūkyūs while promis-

ing "residual sovereignty" to Japan.

Another key to measuring the rise of American hegemony in Northeast Asia is to examine the extra-legal authority of US occupation forces, who were totally immune from existing local laws. This legal immunity entered force at the very moment American occupiers crossed into occupied territory, as they were exempt from standard immigration and customs regulations. Instead, an official deployment order or transfer order from the appropriate military authorities governed the entry and exit of US occupation forces, whose military identification served in lieu of passports. Such minimal requirements guaranteed maximum freedom and flexibility, not to mention speed, in moving military personnel throughout the region. On the other hand, US occupation officials set up detailed regulations on the movement of people and goods in Japan, Korea, and the Ryūkyūs, demonstrating that their authority extended to the very borders of occupied territory. The authority to enforce these regulations was gradually transferred to local officials, though none could ever inspect the personal belongings of occupation forces, much less deny their entry and exit, regardless of any violations.

Another illuminating and perhaps more controversial example of the occupier's absolute immunity was their exemption from criminal jurisdiction in occupied territory. American servicemen who committed crimes ranging from petty theft, reckless driving, and black marketeering to assault, rape, and murder could not be punished by local jurisdiction. As a result, American soldiers and sailors in Japan, Korea, and the Ryūkyūs broke the law with impunity, and sexual violence against local women, in particular, was a prevalent problem. Military Police were authorized to arrest American servicemen found to have committed such criminal acts, which were punishable by military courts as stipulated in the Articles of War. In reality, however, military police arrested relatively few servicemen for these offenses and the military courts convicted even fewer. Furthermore, news of criminal activity by occupation forces was totally suppressed, as censorship orders outlawed the publication of articles and reports considered "inimical to the objectives of the Occupation."¹⁷ Such a concealed

¹⁵ See John Merrill, "The Cheju-do Rebellion," *Journal of Korean Studies* 2 (1980), pp. 139-197.

¹⁶ Frank Gibney, "Forgotten Island," *Time*, November 28, 1949.

¹⁷ Takemae Eiji, *Inside GHQ: The Allied Occupation of Japan and Its Legacy* (London: Continuum, 2002), p. 67.

and lenient application of extra-legal military jurisdiction would emerge as a major source of conflict when US officials demanded perpetuation of the practice beyond the occupation period.

A final, related measure of American hegemony after World War II can be gleaned by tracing the legal expansion of US military authority outside of the framework of military occupations. What would eventually become referred to as status of forces agreement (SOFA)s originate from wartime international agreements that established absolute immunity for American armed forces. The expressed purpose of these agreements was to stipulate jurisdictional regulations for foreign armed forces stationed in Allied territory, including their scope of immunity from the territorial jurisdiction of the host nation.¹⁸ For example, the United Kingdom hosted Allied forces but did not provide for their immunity from the exercise of criminal jurisdiction by British courts, with the single exception of American armed forces. The Exchange of Notes between the UK and US governments in July 1942 conferred absolute immunity to American forces, noting that this constituted a “very considerable departure ... from the traditional system and practice of the United Kingdom.”¹⁹ While the UK government thus viewed these as exceptional and temporary wartime arrangements, the US government would later insist on preserving jurisdictional immunity for their armed forces even after the termination of warfare.

The agreement with the UK government served as a direct model for similar agreements that the US government reached with other Allies, including China, albeit under strikingly different circumstances. When American forces entered China to lend their assistance in the war against Japan, the agreement to grant them jurisdictional immunity served as an extension of extra-territorial rights already established a century ago by the so-called “unequal treaties.” In fact, the US government relinquished its extraterritorial rights in China on

May 20, 1943, only to secure an agreement the very next day that granted legal immunity to American forces. In recognition of Chinese sensitivity to extra-territoriality, the agreement was drafted in reciprocal form, providing that Chinese forces stationed in the United States would be extended a legal position corresponding to American forces in China.²⁰ This amounted to an empty gesture, however, since US officials never envisioned hosting Chinese forces, especially at a time when they were defending their homeland from Japanese aggression. American forces remained in China after the war to provide military assistance and advice, steadfastly holding on to their legal immunity.

US armed forces remained in other parts of postwar East Asia, if not as occupiers, then as military advisors for local armed forces, contributing to the expansion of American hegemony in the region. These American military advisors specialized in counter-insurgency operations aimed at suppressing communist-inspired movements, thus playing a critical role in the US government’s nascent Cold War foreign policy. The establishment of the US Military Advisory Group in the Philippines was the first to serve this purpose, following the Military Assistance Agreement reached between the two nations in March 1947. Later renamed the Joint US Military Advisory Group to the Philippines (JUSMAGPHIL), American advisors trained and equipped the Filipino armed forces in countering the Hukbalahap Rebellion that threatened the newly independent Philippines Republic.²¹ During the following year, bilateral agreements with the Chinese and Korean Republics paved the way for the creation of US military advisory groups in those countries, each training local armed forces to fight against communist insurgencies.

The legal status of American military advisors in East Asia was a critical issue that needed to be addressed, serving as an early test for Asian officials in the postcolonial era to insist on the unequivocal appli-

¹⁸ G. P. Barton, “Foreign Armed Forces: Immunity from Criminal Jurisdiction,” *The British Year Book of International Law* (1950), p. 197.

¹⁹ Schedule to the United States of America (Visiting Forces) Act, 1942, cited by Barton, “Foreign Armed Forces,” p. 199.

²⁰ “Jurisdiction Over Armed Forces by the United States and China,” in Leland Matthew Goodrich (ed.), *Documents on American Foreign Relations, Vol. 5* (World Peace Foundation, 1944), pp. 484-5. Cited in Hungdah Chiu, “The United States Status of Forces Agreement With the Republic of China: Some Criminal Case Studies,” *Boston College International and Comparative Law Review*, Vol. 3, No. 1 (December 1979), pp. 67-68.

²¹ *Foreign Relations of the United States (FRUS), 1947, Vol. VI: The Far East* (Washington: United States Government Printing Office, 1972), p. 1103-1105; 1108-1109; 1112-1113; 1116-1120.

cation of territorial sovereignty. Any such attempts at preventing the return of extraterritoriality were quickly disillusioned, however, when US officials demanded legal immunity in exchange for military advice and training. For example, some Korean officials expressed their opinion that the US Military Advisory Group in Korea (KMAG) and its personnel should be subject to ROK laws. US officials countered that KMAG was included as a part of the American Mission in Korea, and therefore its staff and their dependents should be granted the same immunity accorded to diplomatic personnel.²² The Syngman Rhee administration ultimately agreed to grant diplomatic immunity to KMAG personnel, since it eagerly sought American support in building up the ROK armed services. Similar logic motivated the Chiang Kai-Shek regime, which also granted diplomatic immunity to US military advisors in Taiwan.

US Military Bases and Extraterritoriality

The diplomatic immunity of US military advisors was extended to increasing numbers of American servicemen, a legal expansion formalized as part of a series of bilateral security treaties the US government signed with its Cold War allies in the 1950s. These security treaties agreed to lease territory as US military bases, while accompanying SOFAs granted extralegal immunity, in a set package that helped to secure American hegemony throughout the Cold War era and beyond. US military bases therefore became exclusive zones of “occupation” within a nation, whereby the host state held *de jure* sovereignty while the US exercised *de facto* sovereignty over the leased territory. Such arrangements amounted to the establishment of a new form of extraterritoriality, based on unequal security treaties, that East Asian states reluctantly accepted in exchange for American military assistance in containing communism.

Years before the new unequal security treaties consolidated postwar American hegemony in East Asia, a crucial precedent was set in the Philippines shortly after the island nation gained independence from the United States. This was the Military Bases

Agreement signed in March 1947, which enabled the US to continue exercising virtually uninhibited military rights to army, naval, and air bases in its former colony. The terms of the Agreement not only granted extraordinary rights and authority within the military bases, but also extraterritorial exemptions for US military personnel from local laws including immigration, taxation, and criminal jurisdiction. For example, Article XIII unequivocally established extraterritoriality, stating “[t]he Philippines consents that the United States shall have the right to exercise jurisdiction” over criminal offenses committed by US armed forces.²³ Viewed in historical terms, the Military Bases Agreement with the Philippines was not unlike the Cuban-American Agreement of 1903, which stipulated the US shall “exercise complete jurisdiction and control” over military bases, including the Guantanamo naval base. In other words, the US military had maintained a powerful, extraterritorial hold over formerly occupied and colonized territories for a half-century before the establishment of a new set of security treaties in the 1950s.

The outbreak of the Korean War in June 1950 was immediately countered by a muscular US foreign policy long advocated by the Pentagon, rapidly spreading American military authority throughout East Asia. Not only did President Truman order US military intervention in Korea but he also sent the Seventh Fleet into the Taiwan Straits and promised military and economic aid to the Philippines and the French regime in Indochina. The US commitment to actively combat communism in Northeast and Southeast Asia also repositioned the Japanese archipelago into becoming the central, strategic forward base of American operations in the region. Truman subsequently dispatched John Foster Dulles to negotiate not just a Japanese peace treaty but also a collective security organization modeled after NATO, incorporating Japan into an American security sphere of offshore island chains in the Asia-Pacific region. While Dulles found Japanese officials extremely interested in the idea of a Pacific pact, resistance from American allies in the region reminded Dulles that unresolved issues from the war had to be addressed first. The Australian and New Zealand governments maintained that popular

²² Robert K. Sawyer, *Military Advisors in Korea: KMAG in Peace and War* (Honolulu, HI: University Press of the Pacific, 1988), p. 48.

²³ For details of this Article as well as others delineated in the Military Bases Agreement, see United States Department of State, *Treaties and International Agreements of the United States of America, 1776-1949*, Vol. 11 (1974), p. 55.

anti-Japanese sentiment precluded any military alliance with their former enemy, while the Filipino government stressed the need for war reparations from Japan. Rather than insisting on incorporating Japan into a regional alliance structure, Dulles negotiated a trilateral security treaty amongst the United States, Australia, and New Zealand (ANZUS) and a bilateral US-Philippine security treaty.²⁴ These two security treaties were signed within days of each other, followed a week later by the signing of the US-Japan security treaty on September 8, 1951.

If the US plan for involving Japan in collective security was a delicate diplomatic issue, stipulating extra-legal rights for US military personnel was even more controversial. The Japanese Foreign Ministry's Treaty Bureau Chief Kumao Nishimura strongly protested the idea of guaranteeing US military rights, warning that an enumeration of jurisdictional exemptions would suggest "American extraterritoriality" in post-occupation Japan.²⁵ Nishimura and his colleagues were acutely sensitive to American demands for reinstating extraterritorial rights, haunted by the memory of national humiliation lasting over four decades before extraterritoriality was abrogated in the 1890s. They feared that enumerating the details of US military rights would have adverse political consequences, as the Japanese public and statesmen alike would oppose the continuing presence of occupation forces with special rights and privileges. In response, John Allison offered to relegate these controversial rights to a secret executive agreement, separate from the peace treaty. This way, while the Diet would have to approve the security treaty, the administrative agreement would only require the Cabinet's approval and would not be made public until after the peace and security treaties were approved.²⁶ The Americans quickly prepared a rough draft of the top-secret administrative agreement, which gained Japanese approval, despite further objections.

The criticism that the administrative agreement amounted to granting extraterritoriality was recog-

nized as a critical problem, not only by Japanese but also American officials, even before negotiations between the two sides commenced. A major intra-agency dispute erupted when the Joint Chiefs of Staff drafted its own version of an administrative agreement in August 1951, detailing minute provisions that would guarantee the continuation of unilateral control it exercised over bases and personnel.²⁷ The State Department immediately flagged many of the controversial provisions, especially those demanding the application of US military laws and regulations in Japan. John Allison pointed out, correctly, that waving Japanese criminal jurisdiction over US military personnel was tantamount to the nineteenth-century unequal treaty system that the Japanese despised so much. John Foster Dulles also maintained that seeking "elaborate extra-territorial privileges" would be self-defeating, since it might encourage many American soldiers to continue to treat the Japanese as "inferiors," thus deepening Japanese resentment.²⁸ Although State Department officials subsequently reached a set of compromises on the Pentagon's draft administrative agreement, they failed to eliminate the extraterritorial provisions, putting them in a difficult position as they turned their attention to negotiating with Japanese officials.

In the mean time, the signing of the NATO SOFA in June 1951 presented a new framework defining the jurisdictional boundaries of the US military in foreign territory. Before World War II, the United States took for granted a principle referred to as the "law of the flag," which stipulated that a nation permitting foreign troops to be stationed in its territory during peacetime implicitly waived the exercise of its jurisdiction over them. However, the need for Allied cooperation in the joint military occupations of Germany and Austria after the war led to the signing of the Treaty of Brussels in March 1948, which recognized the principle of territorial sovereignty for nations hosting foreign troops.²⁹ As a signatory state to the Treaty,

²⁴ Howard B. Schonberger, *Aftermath of War: Americans and the Remaking of Japan, 1945-1952* (Kent, OH: The Kent State University Press, 1989), pp. 261-3.

²⁵ This and following citations by Kumao Nishimura are largely based on personal interviews conducted by Michael Yoshitsu in 1977. Michael M. Yoshitsu, *Japan and the San Francisco Peace Settlement* (New York: Columbia University Press, 1983), p. 83.

²⁶ *FRUS, 1951, Vol. VI: Asia and the Pacific* (Washington: United States Government Printing Office, 1977), p. 863.

²⁷ *Ibid.*, pp. 1282-84.

²⁸ Schonberger, *Aftermath of War*, p. 265-6.

²⁹ Daniel L. Pagano, "Criminal Jurisdiction of United States Forces in Europe," *Pace International Law Review*, Vol. 4, Issue 1 (January 1992), pp. 190-198.

the US government then negotiated terms for partially sharing jurisdiction over American troops with host nations in Europe, culminating in the NATO SOFA. Article 7 of the SOFA allocated the right to exercise jurisdiction on a reciprocal basis, marking the first time the US military relinquished, in part, jurisdiction over its troops to foreign states.³⁰

The birth of the SOFA immediately raised pointed questions about how this new Western European framework compared to similar military agreements in East Asia. Did the SOFA effectively establish equality in the security relationship between the host nation and the United States by sharing jurisdictional control over American military personnel? If so, was this essential equality not applicable to bilateral security relationships? Japanese officials certainly thought so, convinced that Japan was at least entitled to a reciprocal SOFA if it was to host American personnel after the occupation, just as Western European nations had agreed to do so. Kumao Nishimura and Foreign Minister Katsuo Okazaki believed their goal was to establish administrative control over US forces in Japan, in an attempt to gain political equality with the United States, as they entered final negotiations on the administrative agreement.³¹

Japanese expectations for a NATO-like SOFA were crushed by the American delegation, led by Dean Rusk, who persistently defended the Pentagon's demands for retaining unilateral control over US military personnel in Japan. The American draft administrative agreement presented to Japanese officials in January 1952 clearly differed from the NATO SOFA, since it gave American authorities exclusive jurisdiction over US personnel, including crimes committed outside military bases. Okazaki immediately objected to the American demand for exclusive jurisdiction, since it violated the principle of equality that was established in the European SOFA, and which should also be incorporated into a bilateral SOFA.³² Rusk shot back, arguing that

SOFA was not applicable to Japan for three reasons: 1) Unlike member states of NATO, Japan was not part of a collective security organization; 2) collective defense was not an option as long as Japan remained unarmed; and 3) ongoing debates in the US Congress was holding up the ratification of the SOFA.³³ In other words, Rusk relied on technical arguments to deny the equal security partnership and joint administration over the US military that Okazaki had hoped for.

If NATO was not deemed an appropriate model, then the Japanese negotiators turned to other existing bilateral security arrangements as plausible precedents in a last effort to gain at least limited jurisdiction over US military personnel. Okazaki drew attention to the US-Philippine Military Base Agreement from 1947 that permitted limited host state jurisdiction over US forces, demanding to know why the Japanese administrative agreement should be inferior to the terms agreed upon with the Philippines. Rusk had no immediate answer to this question. During a subsequent meeting between technical staff, Japanese representatives again mentioned the Philippine Agreement and pointed out Japan's comparative disadvantage, warning of domestic protests against US legal immunities in post-occupation Japan.³⁴ This time the US representatives responded by defending the Philippine Agreement, arguing passionately that it was based not only on prewar and wartime agreements but also on the trust and friendship between the two nations. This last point revealed the underlying reasons why the American delegation was opposed to Japanese – while acquiescing to Filipino – jurisdiction over US military personnel. According to Rusk, American officials feared that post-occupation Japan “could become imbued with a spirit of retribution toward her occupiers.” Under such circumstances, Rusk maintained that Japanese prosecutors could then apply the law arbitrarily “in order to make U.S. soldiers the symbols against whom national ill will could be vented.” Furthermore, the American delegation's

³⁰ Richard J. Erickson, “Status of Forces Agreements: A Sharing of Sovereign Prerogative,” *Air Force Law Review*, Vol. 37 (1994), pp. 137-141.

³¹ Nishimura Kumao, *Shirizui sengoshi no shōgen, Senryō to kōwa 7: San Furanshisuko heiwa jōyaku-Nichibei anpo jōyaku* (Tokyo: Chūō Kōron Shinsha, 1999), pp. 98-100. See also Yoshitsu, *Japan and the San Francisco Peace Settlement*, pp. 84-5.

³² Nishimura Kumao, *Nihon Gaikōshi*, vol. 27: *San Furanshisuko heiwa jōyaku* (Tokyo: Kajima Kenkyūjo Shuppankai, 1970), pp. 349-50.

³³ Yoshitsu, *Japan and the San Francisco Peace Settlement*, p. 95. See also Nishimura, *Shirizui sengoshi no shōgen*, p. 103.

³⁴ *FRUS, 1952-1954, Vol. XIV: China and Japan* (Washington, DC: United States Government Printing Office, 1985), pp. 1125, 1198. See also Nishimura, *Nihon Gaikōshi*, pp. 352-55.

unfamiliarity with of Japanese culture, tradition, and legal system “increased their anxiety about subjecting American soldiers to Japanese justice.”³⁵

As soon as the entire contents of the Administrative Agreement was made public on February 28, 1952, the same day it was signed, strong criticism against its blatantly unequal terms were expressed from a wide sector of Japanese society. Earlier press leaks of the secret negotiations led a broad coalition of representatives from the major political parties in the Japanese Diet to urge Prime Minister Yoshida to make a public declaration against the reinstitution of extraterritoriality in Japan. Disillusioned by the resulting Agreement, opposition parties called for a protest rally while issuing a joint statement that condemned the Yoshida administration’s failure to protect Japanese sovereignty and basic human rights.³⁶ The Japanese press was, in general, just as critical of Japan’s new unequal treaty, arguing that the promise of long-awaited independence after occupation had been compromised.³⁷ Public condemnation of the Agreement remained widespread and sustained over time, as neither Japanese nor American officials could deny the fact that the US military was granted extraterritorial rights in post-occupation Japan. In fact, the Administrative Agreement and the larger Security Treaty remained the most consistent source of friction in US-Japan relations throughout the 1950s, culminating in the contentious Diet debates and violent riots in 1960 over revision of these agreements.³⁸

If the US-Japan Security Treaty and accompanying Administrative Agreement represented an unequal alliance, then the relationship between the United States and the Republic of Korea was even more unequal. The Korean War was still dragging on when Japanese officials signed the controversial Administrative Agreement. South Korean officials had welcomed back

American forces to counter the North Korean invasion, reaching an agreement in Taejon on July 12, 1950 that gave the United States exclusive jurisdiction over US military personnel in Korea. The Taejon Agreement therefore led to the revival of extraterritoriality in Korea, since US military servicemen were granted total immunity from Korean laws in criminal jurisdiction. Shortly after the US-Japan Administrative Agreement was made public, Korean officials pressed the US for a similar, comprehensive accord. Subsequent negotiations culminated in an agreement reached on May 24, 1952, signed by Clarence Meyer on behalf of the UN Command. While the Meyer Agreement focused on stipulating terms of economic coordination between the UNC and ROK, it also extended a broad range of extraterritorial rights to foreign servicemen, noting that “[t]he Republic of Korea undertakes to grant to individuals and agencies of the Unified Command, except Korean nationals, such privileges, immunities, and facilities as are necessary for the fulfillment of their functions ...” Whereas the Administrative Agreement recognized the right of the Japanese government to exercise at least some measure of jurisdiction over US troops, the ROK surrendered all such rights in exchange for the UNC’s support in the Korean War.

The US military and government were both clearly reluctant to give up the extraterritorial rights they had gained in Korea during the war, even after the Armistice Agreement in July 1953 resulted in the cessation of hostilities. The US-ROK Mutual Defense Treaty signed three months later, unlike the US-Japan Security Treaty, did not even provide for an administrative agreement that would determine the disposition of US military servicemen in Korea. As a result, the US State Department stalled on engaging in diplomatic negotiations towards reaching such an agreement, despite multiple requests from the ROK Foreign Ministry. The

³⁵ Quotations are based on Michael Yoshitsu’s personal interview with Dean Rusk on February 26, 1978. Yoshitsu, *Japan and the San Francisco Peace Settlement*, pp. 97-98.

³⁶ *FRUS, 1952, Vol. XIV*, p. 1208.

³⁷ For a sample of Japanese public opinion towards the Administrative Agreement, as reflected in the leading newspapers of the time, see the Japanese Foreign Ministry report, Gaimushō Jōhō Bunkakyoku, “Gyōsei kyōtei wo meguru yoron,” dated March 12, 1952. A copy of this report can be found in the Diplomatic Archives, Ministry of Foreign Affairs of Japan, *Gaikō kiroku: Nikokukan jōyaku, kyōtei (seiji)*, “Nichibei anzen hoshō jōyaku kankei ikken, dai sanjō ni motozuku gyōsei kyōtei kankei,” vol. 4, pp. 162-171.

³⁸ During congressional hearings on the revised treaty in 1960, Secretary of State Christian Herter acknowledged that a number of provisions in the original treaty were “pretty extreme from the point of view of an agreement between two sovereign nations.” Schonberger, *Aftermath of War*, p. 237.

official US position was that Korea was technically still in a state of war in the absence of a formal peace treaty, therefore implying that American servicemen should continue to be protected by their wartime immunity from Korean laws.³⁹ In reality, the State Department was unwilling to accept legal restrictions placed upon its military authority without gaining a favorable strategic concession from the ROK in return. Over a decade later, that concession came in the form of the ROK's commitment to send military troops to aid in another East Asian war that the US military was engaged in; the Vietnam War. With this commitment, the US finally agreed in July 1966 to enter into a Status of Forces Agreement with the ROK, thus restricting the extraterritorial rights of US military forces in Korea.

The US-Republic of China (ROC) Mutual Defense Treaty signed in December 1954, the last spoke of the American network of bilateral security alliances in East Asia, amounted to yet another unequal treaty. Using language adopted from the preceding treaties with Japan and the ROK, Article VII of the ROC Treaty granted the US government the "right to dispose such United States land, air, and sea forces in and about Taiwan and the Pescadores as may be required for their defense, as determined by mutual agreement."⁴⁰ Without an explicit provision for an administrative agreement, however, US military forces in Taiwan, much like in the ROK, enjoyed complete immunity from Chinese jurisdiction. Frustrated by the fact that the Chinese courts could not exercise jurisdiction over US military servicemen, even when they committed egregious crimes resulting in anti-American riots, the Chinese public repeatedly called for an end to American extraterritoriality.⁴¹ Chinese sensitivity to such an abuse of power was understandable, particularly since the United States Congress had finally ended American extraterritoriality in China during

World War II, only to reinstate it for US military servicemen after the war. Haunted by the legacy of extra-territoriality, unequal treaties, and Western colonialism that plagued China for more than a century, the ROC – like the ROK – had to wait until 1966 before a Status of Forces Agreement was implemented, governing the legal status of US military forces in Taiwan.

Conclusion

The American military presence in Northeast Asia was spawned by the Japanese attack on Pearl Harbor, expanded during the Pacific War and postwar occupations, and became entrenched after the outbreak of the Korean War. Over the course of this tumultuous decade, US military forces arrived in the region as enemy combatants, occupation personnel, military advisors, and security forces, while the conflict shifted from defeating imperial Japan to containing communism. Although their respective roles and objectives may have changed over time, US military leadership consistently sought autonomous and permanent bases of operation, which were finally guaranteed through the establishment of security treaties in the 1950s. The combination of US military strength and authority, the tradition of American exceptionalism, and the Cold War containment policy provided a powerful justification for this presence in the region and beyond. The military bases and personnel deployed in Northeast Asia were linked to a vast, global network of US military presence around the world. Two decades after the end of the Cold War, the US current maintains 576 officially acknowledged overseas military installations, and over 100 SOFAs that provide legal immunity for American military servicemen around the world.⁴²

Historians and political scientists have begun to focus on this global US military presence, some la-

³⁹ Soon Sung Chung, "Status of Forces Agreement Between the Republic of Korea and the United States: Problems of Due Process and Fair Trial of U.S. Military Personnel," *Occasional Papers/Reprints Series in Contemporary Asian Studies*, No. 7 (School of Law, University of Maryland, 1979), pp. 50-51.

⁴⁰ Mutual Defense Treaty between the United States and the Republic of China, Dec. 2, 1954. 6 U.S.T. 433, T.I.A.S. No. 3178.

⁴¹ Hungdah Chiu, "The United States Status of Forces Agreement With the Republic of China," p. 70.

⁴² The latest figure of overseas US military installations is from the Base Structure Report published by the Office of the Deputy Under Secretary of Defense (Installations and Environment): <http://www.acq.osd.mil/ie/download/bsr/Base%20Structure%20Report%20FY14.pdf> [Accessed on June 5, 2015] For an official report on the current state of American SOFAs around the world, see R. Chuck Mason, "Status of Forces Agreement (SOFA): What Is It, and How Has It Been Utilized?" *Congressional Research Service (CRS) Report for Congress* (March 15, 2012): <http://fas.org/sgp/crs/natsec/RL34531.pdf> [Accessed on June 5, 2015]

being it an empire of bases, a new type of informal empire that has replaced colonial possessions with military bases.⁴³ While contentious debates over the new American empire are ongoing, the vast network of US military bases located in foreign territory more plainly reflects a global dominance, or hegemony; a term consistent with its original Greek meaning as described by Thucydides.⁴⁴ These military bases are the clearest territorial markers of postwar American hegemony, which are maintained to defend allies while also limiting their sovereignty, making them US dependencies. As Bruce Cumings has noted, this hegemonic penetration was unmistakable in nation-states that were on the frontline of the Cold War. East Asian allies of the United States thus became semi-sovereign states, “deeply penetrated by American military structures . . . incapable of anything resembling independent foreign policy of defense initiatives.”⁴⁵ In other words, they became American client states by accepting a permanent US military presence in their territory.

The expansion of US military presence was accompanied by a legal expansion in the form of SOFAs, which instituted a new form of extraterritoriality, further enhancing the global extent of American hegemony. In this postwar version, extraterritoriality meant exerting heavy American pressure on its allies to alter their systems of criminal justice to conform with procedures that exist in the US.⁴⁶ This practice of expanding America’s legal reach into the territory of sovereign nation-states was not only maintained throughout the Cold War, but has also been adapted to its “war on terror.” In June 2003, for example, US authorities granted civil and criminal immunity to private American contractors employed by the State Department and the Central Intelligence Agency, in addition to US armed

forces deployed in the Middle East. The extraterritorial immunity of the contractors prevented the application of Afghan and Iraqi jurisdiction over these American civilians, who were legally authorized to use force. Such a legalization of US exclusion from international law, as noted by one scholar, has become a controversial issue with long historical roots.⁴⁷ Ever since the nineteenth century and especially after World War II, US governments have pursued a policy of expanding military bases and extraterritorial jurisdiction, a powerful package that has helped maintain American hegemony.

⁴³ See, for example, Chalmers Johnson, *Sorrows of Empire: Militarism, Secrecy, and the End of the Republic* (New York: Metropolitan Books, 2004) ; Lloyd C. Gardner and Marilyn Young (eds.), *The New American Empire: A 21st Century Teach-In on U.S. Foreign Policy* (New York: The New Press, 2005) ; Charles S. Maier, *Among Empires: American Ascendancy and Its Predecessors* (Cambridge: Harvard University Press, 2006) ; Bernard Porter, *Empire and Superempire: Britain, America, and the World* (New Haven: Yale University Press, 2006) ; and Craig Calhoun, Frederick Cooper, and Kevin W. Moore (eds.), *Lessons of Empire: Imperial Histories and American Power* (New York: The New Press, 2006) .

⁴⁴ Peter J. Katzenstein, *A World of Regions: Asia and Europe in the American Imperium* (Ithaca: Cornell University Press, 2005) , p. 2

⁴⁵ Bruce Cumings, *Dominion from Sea to Sea: Pacific Ascendancy and American Power* (New Haven: Yale University Press, 2009) , pp. 399-400.

⁴⁶ Chalmers Johnson, “Three Rapes: The Status of Forces Agreement and Okinawa,” *Japan Policy Research Institute (JPRI) Working Paper*, No. 97 (January 2004) . <http://www.jpri.org/publications/workingpapers/wp97.html> [Accessed on June 5, 2015]

⁴⁷ Kayaoglu, *Legal Imperialism*, pp. 202-203.

The Rise of American Hegemony in Northeast Asia: An International History of Military Occupations and Alliances, 1945–1954¹

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Abstract

The presence of approximately 78,000 American troops and thirty-eight military bases in Japan and South Korea continues to symbolize and project US power in Northeast Asia today. This enduring American military presence in the region is perhaps the most visible, combined legacy of the postwar US occupations and the bilateral military alliances with these two countries. Based on multi-archival sources, this article examines the process by which American hegemony was established in Northeast Asia, focusing on the regional history of US military occupations and alliances during the early phase of the Cold War. During this period, the US military leadership consistently sought autonomous and permanent bases of operation in the region, which were finally guaranteed through the establishment of military treaties in the early 1950s. Historians and social scientists have begun to focus on this regional and global US military presence, some labeling it an empire of bases; a new type of informal empire that has replaced colonial possessions with military bases. This article contributes to the ongoing debate by comparing colonial empires with military occupations, examining the history of American occupations, and by measuring the extent of US military authority in allied nations that host American bases.