Reading Bare Life in Ha Jin:
A Study of Nanjing Requiem and War Trash

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摘要

本論文研究華裔美國作家哈金的兩本戰爭小說《南京安魂曲》和《戰廢品》裡的難民和戰俘，從戰爭受害者的角度，檢視對歷史事件的另類敘述。透過生命政治的觀點，探討人權和轉型正義，期待跳脫國家、民族和法律的框架，對於他者有更加積極的關懷。

本文分為三章，第一章介紹在戰爭中所建立的戰俘營和難民營等場景如何成為阿岡本生命政治理論中的「例外狀態」，以及身處其中的中國戰俘和平民如何成為「裸命」。從受害者的角度來分析，讓他們成了裸命狀態的國家主權不只是美國和日本軍隊，國共兩黨的主權力量影響更加深遠。本章分析哈金如何藉由中國角色的裸命狀態來反思國家和人民之間的忠誠關係。第二章將這些裸命人物與無國籍的難民相比，從中探討其人權危機，以及進行人道協助的外籍人士如何面臨在戰場上保持中立和拯救生命的兩難抉擇。本章嘗試延伸阿岡本所論的「潛力」，以翻轉無國籍的概念，形成立「來臨共同體」的政治想像。第三章探討裸命角色在戰後所面臨的轉型正義問題。由司法審判所追求的轉型正義往往因為政治因素的影響，而淪為另一形式的法律暴力。因此本章會從法律之外，以見證歷史的觀點出發，探討生還者以證言為受害者發聲的倫理議題。論文最後指出哈金如何因「作家的責任」，讓文學在批判社會問題、保存歷史記憶和推動轉型正義上成為一種對他者倫理的實踐。

關鍵字：生命政治、例外狀態、裸命、倫理、他者、證言、哈金
Abstract

This thesis centers on the POWs and refugees in Ha Jin’s *Nanjing Requiem* and *War Trash*. Narrated by war victims, the two novels provide alternative perspectives on historic wars. With the viewpoints of biopolitics, this thesis aims to expound the issue of human rights and transitional justice and expects to deliver a more active concern to the Other beyond the framework of nations, ethics and laws.

This thesis consists of three chapters. Chapter One analyzes how the POW camps and the refugee camp are turned into “the state of exception” in Agamben’s biopolitical term, and how the characters within are in the existence of “bare life.” From the perspectives of war victims, the sovereign powers which cause the state of exception and bare life are not only the Japanese and American troops but the Nationalist and the Communist which bring about more profound and influential impacts. Ha Jin uses the Chinese characters of bare life to satirize the blind patriotism and contemplate on loyalty between nations and their citizens. Chapter Two regards these characters of bare life as the stateless refugees, investigating their human rights crisis during the war, and the non-Chinese characters’ dilemma of humanitarian aids between remaining neutrality in the battlefield and rescuing the lives in immediate threats. This chapter extends to the renewal of the traditional idea of the stateless through Agamben’s “potentionalty” into a new political vision: “the coming community.” Chapter Three elucidates the post-war transitional justice for war victims. War tribunals to convict war criminals are easily influenced by political causes and turn into another form of legal violence. Therefore, beyond the framework of legal systems, the thesis investigates the ethical issue of the survivors who voice for the victims through testimony, providing the witness of history. Eventually, Ha Jin
promotes his “responsibility of the author,” which proposes that literature is a practice of the ethics of the Other in criticizing social injustice, preserving history and memory and promoting transitional justice.

Keywords: biopolitics, the state of exception, bare life, ethics, the Other, testimony, Ha Jin
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Introduction

A thousand years from this tonight,
When Orion climbs the sky
The same swift snow will still the roofs
The same mad stars run by.
And who will know of China's war
Or poison gas in Spain
The dead...they'll be forgotten, lost,
Whether they lose or gain.
But only beauty, only truth
Will last a thousand years.

—Ted Malone, “Survival”¹

As a Chinese American writer, Ha Jin is famous for portraying the impediments of trivial characters in harsh environments, such as oppression of the proletariats under the reign of Communist China, Chinese immigrants’ maladjustment in American society, and the miseries of war victims. Ha Jin composes stories to criticize the society, to show sympathy for miserable people and to reflect on issues such as immigrant identity, nationalist loyalty, and social justice. Ha Jin often writes stories about war, and about people’s struggle under persecution and their resistance against injustice. Therefore, this thesis aims to choose Ha Jin’s two war novels, War

¹ According to Hualing Hu, Minnie Vautrin sent this poem to her friend, Rebecca Griest, before her death (146-47). No evidence can prove that Ted Malone wrote this poem to deliver his condolences to Nanking Massacre. In my interpretation, Minnie Vautrin states that although the war victims will be forgotten someday, literature and other forms of documentation can preserve this history and pass it down to the following generations.
Trash (2004, with a setting in the Korean War) and Nanjing Requiem (2011, with a setting in World War Two), in the discussion about Ha Jin’s narrative and reflection on the life in war. Even though War Trash was published before Nanjing Requiem, since Korean War happened after World War Two, Nanjing Requiem is discussed before War Trash in this thesis. In Nanjing Requiem, thousands of Chinese civilians shelter themselves hopelessly in the dangerous Safety Zone during Nanking Massacre, facing the immediate threat of unpredictable death and torture. Under overwhelming pressure, several non-Chinese missionaries, businessmen and scholars voluntarily provide sanctuary to these Nanjing citizens and accompany them during the difficult time. In War Trash, two million soldiers of People’s Volunteer Army who fight in Korean War against American imperialism suffer severe casualty. Imprisoned in POW camps, these soldiers are trapped in a political struggle between the forces of Communist China and the Nationalists of Chiang Kai-shek, and afflicted with ill-treatment and even assassination. After an exhausting wait for screening, when these prisoners could finally leave the camp, those who choose to be repatriated to China are criminalized as treason, while those who choose to leave for Free China (Taiwan) have to abandon their family and homeland.

Ha Jin states that “I wanted to describe my characters as individuals, mostly ordinary people, and place them in some historical events and see how they act in the situation” (“In the Ocean of Words” 145). This thesis centers on the trivial characters’ life in War Trash and Nanjing Requiem, and it starts from the following research questions: What kind of circumstance during the war can cause the vulnerability in life? What kinds of impediments and dilemma these civilians and soldiers have to cope with during the war? Is there any possibility for those characters to be saved during wartime? Even after the wars end, it is still difficult for them to gain justice.
How is the idea of bare life pertinent in Ha Jin’s literary works? Traumatized by the atrocities during the war, these characters are not compensated by appropriate redress for their loss; instead, these war victims have to bear suspicion of treason, political liquidation, and various kinds of accusation against them. In this research, this thesis not only analyzes the difficult situation that these war victims have been through, but also explores the justice that Ha Jin proposes for war victims.

I. Literature Review

In narrating experiences in war camps, *Nanjing Requiem* and *War Trash* are unprecedented in Chinese American literature, because Ha Jin is the first writer who composes the novels about refugee camps during Nanking Massacre and POW camps in Korean War. About the camps in China during WWII, many Chinese were imprisoned and suffered from the misery in camps. Most of the camps set in China during WWII were POW camps by Imperial Japanese troops. Many large camps were set in Manchuria, North China and Shanghai to imprison Chinese civilians and the soldiers of enemy nationals. Nanking Safety Zone was different from these camps in China as it was a refugee camp established by non-Chinese volunteers for protecting Chinese noncombatants. Civilians’ miseries in war camps during World War Two have been a regular topic in literature, such as Anne Frank’s *The Diary of A Young Girl* (1947), Eile Wiesel’s *Night* (1960), Thomas Keneally’s *Schindler’s Ark* (1982) and John Boyne’s *The Boy in the Striped Pyjamas* (2006). However, few texts have been published about the refugee camps and POW camps in China. The reason for this lack in literature is again political. Iris Chang states that “the curtain of silence” which oppressed the truth of Nanking Massacre was “politics;” all the related countries, including China, Japan and the U.S. “contributed to the historical neglect of
this event for reasons deeply rooted in the cold war” (11). In WWII, Japan was the primary enemy of China, but the damage caused by Japanese troops was downplayed during Cold War when the U.S. allied Japan with anti-Communist group. Therefore, many serious war crimes, such as Nanking Massacre and Unit 731, were intentionally neglected. Iris Chang states that Nanking Massacre is “one of the worst instances of mass extermination” (5) in WWII, and “the massacre remains neglected in most of the historical literature published in the United States” (6). Moreover, in the beginning of Cold War, People’s Republic of China (PRC) was denied participation in the international society. Therefore, it is hard for the West to collect data in China to know and write about Nanking Massacre. During the time when both Republic of China (ROC) and PRC were desiring for diplomatic recognition from Japan, they shut eyes to Japanese troops’ atrocities during the war and did not demand the reparation from Japan (Chang, Rape 11).

For the Chinese soldiers in Korean War, with their miseries downplayed by the Chinese government, the life of Chinese POWs in the prisoner camps during Korean War has been little known to the public; not only because PRC was isolated by the West during the Cold War, but also because the repatriated soldiers were stigmatized as traitors of China and the subject of their camp life seems unpresentable. Sympathizing with these soldiers who had suffered mistreatments in POW camps, Ha Jin composes War Trash to commemorate their stories, and this novel is the first one which describes the camp life of Chinese POWs from the perspective of Chinese soldiers.

The stories of both Nanking Massacre and of Chinese POWs in camps have been

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2 Unit 731 was a troop of Imperial Japanese army which conducted biochemical human experiments with Chinese civilians in Manchuria during World War Two. Like Nanking Massacre, Unit 731 has been considered as one of the most notorious war crime undertaken by Imperial Japanese troops during World War Two.
neglected by the public for decades. In the prologue of *Nanjing Anhunqu* (Traditional Chinese Character version of *Nanjing Requiem*), Ha Jin is inspired by Iris Chang’s *The Rape of Nanking* and composes *Nanjing Requiem* based on Iris Chang’s research. *The Rape of Nanking* is the first published historical research which reveals the courageous deeds of an American principal, Minne Vautrin in Jinling College, a German businessman, John Rabe, and other non-Chinese figures who established Nanking Safety Zone to provide sanctuary for approximate 250,000 Chinese refugees, and Ha Jin’s *Nanjing Requiem* is the first novel which focuses on the events in Nanking Safety Zone. While the description about Nanking Safety Zone is only one chapter out of the total of ten in *The Rape of Nanking*, it is the major story in *Nanjing Requiem*, presenting a strong contrast of the volunteers’ humanitarian devotion for miserable refugees and the brutality of war. With the availability of historical documents about Nanking Massacre at present time, many novels about Nanking Massacre have been published in Chinese, but few in English, so Ha Jin’s *Nanjing Requiem* is precedent. In “Sublimating History into Literature: Reading Ha Jin’s *Nanjing Requiem*,” Te-shing Shan writes that “a number of historical documents are collected, translated and printed in Chinese,” but there are no works “comparable to the Japanese literature on the suffering caused by the atomic bombs, not to mention the voluminous literature about the Jewish people and Holocaust” (30). Ha Jin’s contribution is his commemoration of these nearly forgotten people and preservation of their stories. As a Chinese immigrant writer in America, Ha Jin has the advantage of acquainting himself with two languages and two cultures. Ha Jin tells the stories of

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3 A few examples include Geling Yen’s *Jinling Shisan Chai* (*The Flowers of War*, 盧歌苓《金陵十三釵》, 2010), Zhigeng Xu’s *Nanjing Da Tusha* (*Nanjing Massacre*, 徐志耕《南京大屠殺》, 2014), and Jianming He’s *Nanjing Da Tusha Quan Jishi* (*The Whole Record of Nanjing Massacre*, 何健明《南京大屠殺全紀實》, 2014).
Chinese people and introduces Chinese history and culture to English readers, while for Chinese readers, Ha Jin provides them alternative perspectives on these stories.

Te-hsing Shan argues that Ha Jin’s purpose of composing *Nanjing Requiem* is “to fight against amnesia and injustice” through “producing a literary representation of that neglected tragedy from a creative writer’s perspective that is, in some sense, the return of the repress” (27). Moreover, Shan’s research investigates the multiple meanings of “requiem” as “whose requiem is represented in this novel” is the major question. In Shan’s analysis, Ha Jin offers his requiem to the “silenced victims,” for example, Minnie Vautrin who deserves the honor as a “heroic Christian missionary and educator” (30). From Shan’s perspective, writing *Nanjing Requiem* is also a requiem for Ha Jin himself. Knowing Vautrin’s story from Iris Chang’s *The Rape of Nanking*, Ha Jin decides “to write about the catastrophe to do justice to Vautrin” (31). Undergoing many difficulties, unbearable sorrow and uncountable revisions of the novel, Ha Jin spends three years to compete this novel. Shan states that “completing a work as best as one can is a requiem for the author” (31). Eventually, this is a “public requiem” for “those who are ready to recognize and represent the suffering of others, which, in the present case, refers to the suffering of the victims of Nanjing Massacre” (31). In “Refusing the False Consolations of History: On Ha Jin’s Nanjing Requiem,” Anis Shivani comments that Ha Jin “refuses the temptation of conceptualizing Japanese as beasts, Chinese as passive victims, and Westerners as saviors” (140), and Jin “saves this novel from collapsing into facile notions of good and evil” (141). Furthermore, *Nanjing Requiem* inspires readers “to explore the legal, conceptual, philosophical, and practical meanings of genocide” (139).

In the research about *War Trash*, Daniel Y. Kim, in “Korean War Fiction,” proposes that *War Trash* “issues an indirect condemnation of the role of the US
military in Asian civil wars not by highlighting atrocities it directly committed, but by suggesting how the American presence worked to intensify the violence,” and this novel is “critical of the US role in a period of Asian history that was shaped, from one historical vantage point, by the geopolitical imperatives of the Cold War” (296). The prison camps are “a product of its enclosure by US military forces and the US policy of containment that so greatly intensified the carnage of the civil wars of decolonization that raged during the Cold war period in Korea” (296). In “Literary Afterlife of the Koran War,” Joseph Darda states that “framed by the present-day homeland security state, Jin foregrounds the biopolitical logic of postwar warfare in which all are, through differentially, constituted in relation to a normative and politicized global population,” and War Trash “unsettles American history’s account of the war and reveals a lasting biopolitical turn in global warfare” (88). In Darda’s opinion, the manifestation of biopolitical state power is Yu Yuan’s “FUCK US” tattoo, which is “a discernable sign of the political instrumentation of his body during the war” (89). Every time when Yu Yuan goes to the camps of the Nationalists or the Communists and even to the U.S. after half a century, he has to “worry about the political content of his body, as a thing to be concealed, regulated, monitored and refused entry” (89). Yu Yuan’s status is what Agamben calls “bare life,” and his tattoo is the “indicator of this abandoned state,” which makes him “situated within a global biological community that is constructed and modified by a network of sovereign authorities” (90). Joseph Darda analyzes Yu Yuan’s existence of bare life from biopolitical perspective, but he centers on the political meaning of his tattoo, without regarding the structural contexts which cause the situation of bare life. My thesis attempts to begin from analyzing the camps in Nanjing Requiem and War Trash to clarify the cause of “bare life.”
II. Theoretical Framework

1. State of Exception and Bare Life in Camps

Both *Nanjing Requiem* and *War Trash* depict the fragility and perseverance of lives in camps during merciless wars, presenting powerless living beings exploited in the institutions featuring of controlling and disciplinary forces. The thesis aims to examine these figures by Michel Foucault’s biopolitics which proposes that human lives are under the control of the disciplinary power of the state. Therefore, biopolitics is an appropriate starting point of the theoretical framework in the discussion of *Nanjing Requiem* and *War Trash*.

Biopolitics is first raised by Foucault in his lecture in Collège de France in 1976 and later addressed in *The History of Sexuality* (1980): “the old power of death that symbolizes sovereign power was now carefully supplement by the administration of bodies and the calculated management of life” (139-40). In the last lecture of *Society Must Be Defended* (2003), Foucault examines diverse disciplinary mechanisms, such as birth rate mortality rate and related statistic measurements, exercised by state power in dominating human life. The state institutionalizes these mechanics into public health policies, medical care systems, conscription and national security measures, and it “controls over relations of human beings insofar as they are species, insofar as they are living beings, and their environment” (245). Foucault draws the process of the transition of the sovereign power from the era of federal monarchs, like the emperors or the kings who demonstrate their power through determining the life and death of their people, to the age of modern nation states which govern all aspects of their citizens’ life through establishing diverse “disciplines (legal regulations)” and “mechanisms (state institutions).” As living beings, humans are subjects to the regime of politics, and politics is enforced through comprehensive legal institutions and
regulations. This circular relation between life and politics is biopolitics. Biopolitics indicates the seamless control of every aspect of life under ordinary laws, enforced by multiple disciplines. Foucault explains that the “discipline allows nothing to escape. Not only does it not allow things to run their course, its principle is that things, the smallest things, must not be abandoned to themselves” (Security 45). From Foucault’s perspective, the power of the state to govern its people does not come from a specific source, but a well-developed mechanism. Foucault draws a solidly-structured and self-effective model of interwound state institutions to secure a well-functioning state.

In contrast, Carl Schmitt argues that the ordinary legal regulations and institutions are not effective enough to cover all kinds of situations, so a central entity is required to determine the application of laws (see Lars Vinx). In Carl Schmitt’s view, no legal regulations can govern “an extreme case of emergency or an absolute state of exception,” so “a polity must be entitled to decide whether to suspend the application of its law on the ground that the situation is abnormal” (see Lars Vinx). Schmitt defines the state of exception to be a situation which is “not confined in the existing legal order, can at best be characterized as a case of extreme peril, a danger to the existence of state” (6). Therefore, as Schmitt emphasizes, a person who can “decide in a situation of conflict what constitutes the public interest of the state, public safety and order” is needed (6). The sovereign can “decide whether there is an extreme emergency as well as what must be done to eliminate it” (Schmitt 7). Besides Foucault’s disciplinary power over life, Agamben is inspired by Schmitt’s idea about “the sovereign,” the one who can “decide the exception” (Schmitt 5). In fact, the sovereign can be either a person or an institution “bringing about a total suspension of the law and then to use extra-legal force to normalize this situation” (see Lars Vinx). Agamben explicates that the sovereign is “the one whom the juridical order grants the
power of proclaiming a state of exception and, therefore, of suspending the order’s own validity" (Homo 15). The power of the sovereign is sovereignty, defined by Jean Bodin as “the absolute and perpetual power of the republic” (Bodin 1), and “the authority to suspend valid law is the actual mark of sovereignty” (Schmitt 9). The sovereign seems a powerful entity that “stands outside the juridical order and, nevertheless, belongs to it, since it’s up to him to decide if the constitution is to be suspended in toto” (Schmitt 15). The consequence is a paradox as the sovereign subtly stands “outside the law,” and “declares that there is nothing outside the law” (Schmitt 15). Schmitt states that the sovereign “stands outside the normally valid legal system,” but he (either the person or the institution) “nevertheless belongs to it, for it is he who must decide whether the constitution needs to be suspended in its eternity” (7). In the constitution, the sovereign frees himself/itself from legal confinement, but meanwhile he/it is not completely separated from the law, because he/it possesses the power to determine the application or suspension of the law.

Besides the state of exception determined by the sovereign, in State of Exception (2005), Agamben thus defines the relation of the state of exception and human lives: the state of exception is “the suspension of law itself,” and it “binds and abandons the living being to law” (1). “Bind” denotes the way of including, while “abandon” refers to exclusion. “To bind and to abandon” seems a paradoxical proposition; however, they are not antithetic in Agamben’s explication: “the exception is a kind of exclusion” (Homo 17). However, “what is excluded in it is not, on account of being excluded, absolutely without relation to the rule,” but “what is excluded in the exception manifests itself in relation to the rule in the form of the rule’s suspension.

The rule applies to the exception in no longer applying, in withdrawing from it” (Homo 17, emphasis in original). The exception is “an inclusive exclusion (which thus
serves to include what is excluded)” of living beings in laws (*Homo* 21). To be more precise, the living being is not abandoned by the law, but put outside by the law.

According to Agamben, the life in the state of exception is called “bare life” (*Homo* 4), a term originating from a legal term, *homo sacre*, in ancient Rome. In *Homo Sacre: Sovereign Power and Bare Life* (1998), Agamben explains *homo sacre* as “the one whom the people have judged on account of crime. It’s not permitted to sacrifice this man, yet he who kills him will not be condemned for homicide” (41).

*Homo sacre* is excluded from the application of divine law (*ius divinum*) and human law (*ius humanum*), and he is killable because all the laws and rights (*ius divinum* and *ius humanum*) which can protect him have been suspended. According to Agamben, a human being in the existence of bare life excluded by state power is only “a biological body of humanity” (*Homo* 13). The situation of laws suspended is the state of exception and it leads to the fragility of life within.

In ancient Rome, divine law and human law might be suspended in the state of exception. Hannah Arendt, in *The Origin of Totalitarianism* (1996), analyzes the modern state of exception and concludes that it consists of the suspension of two laws related to state power and human life: firstly, a citizen’s “civil rights” guaranteed by state power, and secondly the “human rights” which is the “norms that help to protect all people everywhere from severe political, legal and social abuse” (see James Nickel). Arendt argues that although human rights should have been internationally recognized as inviolable and respectable rights, anyone deprived of civil rights may also lose the protection from human rights (291-92). Without secured citizenship, people would lose the right to be acknowledged as human beings.

Though *homo sacre* is the concept originated in ancient Rome, it still exists nowadays and is a particular legal existence of some individuals in a specific space:
bare life. According to Agamben, the camp related to military activities, such as Nazi’s concentration camp, is a distinctive space under the state of exception rather than under the dominance of ordinary laws, and all the lives in the camp are in the status of bare life.

The evolution of the state of exception from an ontological state of existence to the camp is a process of “localization,” which creates a real place and “traces a threshold between the two, on the basis of which outside and inside, the normal situation and chaos, entering into those complex topological relations that make the validity of the juridical order possible” (Homo 19). A space can be established outside the ordinary laws, so another juridical system can be legalized in the space. Here comes a question how the state of exception can be realized. Agamben exemplifies that “the camp is the space that is opened when the state of exception begins to become the rule” (Homo 169), and the camp is thus “the structure in which the state of exception…is realized normally” (Homo 170). Normal realization implies that the state of exception is enforced through regulations and institutions, and the camp “constitutes a space of exception in the sense we have examined —in which not only is laws completely suspended but fact and law are completely confused— is everything in the camps truly possible” (Homo 170). In the place where the laws are “confused” and “indistinct,” no violation of the law can be judged and punished, and no protection from the law can be offered to resist the actions violating the law, either. This is a “zone of indistinction” where “every subjective right and juridical protection no longer made any sense” (Homo 170). The living beings are “stripped of every political status and wholly reduced to bare life, and the camp is also the most absolute biopolitical space ever to have been realized, in which power confronts nothing but pure life” (Homo 171). Overall, in Agamben’s explanation, the camp is the realization
of the state of exception, a place of ordinary laws remaining invalid. The sovereign includes what is excluded in the place, and he/it becomes a completely domative force over these living beings. The living beings deprived of political status become the figures of bare life, fragile and powerless human beings but not politically recognized as humans.

Agamben gives other examples of POWs in the state of exception; for example, during the war in Afghanistan, President George W. Bush commands an order to “erase any legal status of POWs defined by the Geneva Convention” (State 3). In Agamben’s observation, these prisoners are “not persons accused,” but simply “detainees, the object of a pure de facto rule” (State 3). The stories of Nanjing Requiem and War Trash happen in similar distinctive spaces. My research aims to argue that the Chinese civilians sheltered in the refugee camp in Nanking Safety Zone in Nanjing Requiem and the Communist soldiers imprisoned in POW camps in War Trash are the figures of bare life, and to examine how they are controlled and exploited in camps. In Nanjing Requiem, the state of exception is not initiated by the camp from within, but by an outward force when the sovereignty of China could not protect its citizens after the fall of Nanjing. When Nanjing is taken over by Japanese troops, Chinese civilians fall into the dominance of Imperial Japan’s sovereignty. Undisciplined Japanese imperial soldiers are allowed by their officers to kill, plunder and rape Chinese civilians in Nanjing at their will as the reward and an emotional outlet of their dissatisfaction of the exhausting war. In the beginning of the story, the boy Ben cries out, “human lives suddenly became worthless” (6), implying that all Chinese are killable during the Japanese occupation, and they have become figures of bare life who may lose their lives at any time. In the POW camps in War Trash, the Americans in principle obey the Geneva Conventions and treat POWs in humanitarian
ways, but at the same time they permit pro-Nationalist officers to govern con-Nationalist soldiers in inhumane manners. The sovereign (the Americans) stands outside the law (the regulations of the camps) to suspend the application of the laws (the guidance of the Geneva Conventions). Therefore, a bizarre stratification occurs in the POW camp in *War Trash*: the Americans are the sovereign in the camp, but they authorize some pro-Nationalist officers to exercise their sovereignty on behalf of them. As a result, it becomes a camp within a camp, putting the most stratified under the state of exception. In Agamben’s research, most cases about the state of exception happen in Nazi’s concentration camps. The refugee camp (Nanking Safety Zone) and the POW camps in the two novels highly coincide with Giorgio Agamben’s ideas of state of exception, and bare life. Agamben’s theory is appropriate to examine the occupied Nanjing in *Nanjing Requiem* and the situation of POW camps in *War Trash*, and to analyze how the human rights of prisoners and refugees are controlled and exploited during wars.

In Chapter One, the reason of applying Agamben’s concept of bare life to inspect the miserable situation of the characters in *Nanjing Requiem* and *War Trash* is not only because Ha Jin and Agamben have similar descriptions of military camps in their works, but also because Ha Jin has explored the interrelation between human lives and national legal system in his works. Ha Jin shows his ethical concern to those people who have been neglected and vanished in the history. The narrative of the two novels, Ha Jin’s questions and concerns presented in *Nanjing Requiem* and *War Trash*, concisely resonate with Agamben’s key concepts, such bare life, the *Muselmann*, potentialities and testimony, which is the fundamental reason of applying Agamben’s theory to analyze Ha Jin’s work in multiple stratification.
2. The Plights of Human Rights

Besides Chinese civilians and soldiers, non-Chinese characters are significant in
the two novels, such as Minnie Vautrin and John Rabe in *Nanjing Requiem* and Dr.
Greene and Father Woodworth in *War Trash*. Most of them appear as altruistic
helpers, such as a doctor, a priest or a teacher. Some others have special identities; for
example, Rabe is a businessman and a member of German Nazi, and Dr. Green and
Father Woodworth are affiliated to the military faculty in American troops. In the
eyear 20th century, non-Chinese figures are treated as the national and cultural Other in
rather conservative Chinese society and easily blackened as accomplices of Western
imperialism. However, in the two novels, non-Chinese characters save countless
Chinese ones of bare life, and their humanitarian deeds transcend the prejudice
against them. Zhang Guoling proposes that these non-Chinese characters reveal Ha
Jin’s ideal value in humanity, and they stand on the opposite to the cruelty of war and
collapsed morality (153). However, in *Nanjing Requiem*, these non-Chinese
characters encounter different plights and obstacles in their rescue missions, and their
humanitarian aids to Chinese refugees does not very smoothly. In *War Trash*, the
humanitarian treatments that these POWs deserve seem full of political concerns and
calculation from different sovereigns, which does not obviously improve the situation
of the POWs. Chapter Two examines the humanitarian plights in *Nanjing Requiem*
and *War Trash*.

In the thesis, the humanitarian issues in *War Trash* and *Nanjing Requiem* are
initiated by the discussion on human rights. John Lechte and Saul Newman concisely
clarify that the way of human rights, in practice, has largely been reduced to
humanitarianism (5). In other words, human rights are the theoretical guideline to
humanitarian practices, so examining the fundamental elements of human rights is
necessary to the following discussion of humanitarian practices. Moreover, in Lechte and Newman’s opinion, “human rights, which in theory seek to call sovereignty to account, to make it answer to universal principle of justice, therefore invoking an alternative ontology of the human” (vii). Human rights, which appeals to universal value of humanity, should be worldwide respected and transcend the cultural and political boarders established by national sovereigns.

For Arendt, human rights are indistinguishable from the civil rights of political communities. Arendt states that:

Rights of Man…had been defined as “inalienable” because they were supposed to be independent of all governments; but it turned out that the moment human beings lacked their own government and had to fall back upon their minimum right, no authority was left to protect them… (171-2)

In Arendt’s opinion, human rights should be a widely recognizable and universal value, but after all, they still need political entities to enforce. Only through being included into political entities could a human really have human rights. Therefore, Arendt concludes that the “stateless” people who lose the citizenship of their countries (perhaps they are denationalized or their countries annex) naturally lose “a right to have rights,” and become “the rightless” (296). The tragedy of the rightless is “not that they are deprived of life, liberty and the pursuit of happiness, or of equality before the law and freedom of opinion,” but that “they no longer belong to any political community” (295). It is “not the loss of specific right, then, but a loss of a community willing and able to guarantee any rights” (297). Furthermore, Arendt highlights a tricky point that a human can “lose all so-called Rights of Man without losing his essential quality as man, his human dignity. Only the loss of a polity itself expels him from humanity” (297). This statement reveals a discrepancy between legal
humanity and natural humanity: whether one’s political rights guaranteed by the political community can be equivalent to his essence of humanity. Lechte and Newman suggest that the solution be “not simply to argue for their integration into the national state order and established identities of citizenship,” but instead “to break down this very ontological distinction between political community and its other, between political life and bare life” (viii-ix). This statement indicates that when the indistinguishable relation between the human being and the sovereign deconstructs, the human being can be essentially liberated to be independent individuals and gain the universal human rights.

Agamben’s critique of human rights is slightly different from that of Arendt: the deprivation of human rights is not from the exclusion of political entities, but from the inclusion in the form of exclusion (Lechte and Newman ix). Thus, from Agamben’s perspective, “human rights cannot be detached from the nexus of biopolitical sovereignty, from that infernal machine of modern and ancient power which holds life itself within the clasp” (Lechte and Newman ix). Moreover, Lechte and Newman point out the weakness of human rights developed under the national sovereignty: it is precisely the fact of the human as essentially biological bodies…that qualifies it to be included in the civil sphere. Yet paradoxically, while it is through rights that we are included in the civil sphere as citizens, this inclusion coincides with the growing weakness of rights and the readiness on the part of the state to sacrifice them in the name of security. (7) This proposition means that even human rights are a kind of discourse produced by national sovereigns which can have reasons to retreat human rights if necessary, which resonates with Agamben’s idea of the state of exception: the sovereign is qualified to announce the state of exception to normalize emergent situation with the
name of security. Lechte and Newman briefly conclude that “at worse, we could say that the discourse of rights is used, or misused by the sovereign power in an ideological way to legitimate itself, even as it goes about suspending and curtailing those very rights” (8). In Agamben’s critique, only the sovereigns have power to determine the application of human rights, but in reality, NGOs and humanitarian institutions worldwide urge nation states to account for implementing policies to improve human rights, such as improving the treatments to prisoners in jails, transitional justice for victims in wartime, and accepting refugees from other countries. These efforts of humanitarian institutions sometimes touch off tension between human rights and national security. Therefore, the national sovereign does not completely dominate the power of discourses of human right, but it has to compromise with these humanitarian institutions and implements human right policies.

Agamben exemplifies the situation of refugees and the stateless people to further examine the tension between human rights and national security. Agamben foresees that the refugee is “perhaps the only thinkable figure for the people of our time and the only category in which one may see today” when “now unstoppable decline of the nation-state and the general corrosion of traditional political-juridical categories” (“Beyond” 90). The refugee has gradually become the “exception” for national and political systems, existing in the marginal place of their dominance. In Agamben’s analysis, the refugee and the stateless people have drastically appeared since World War One. The refugees, “who were not technically stateless, preferred to become such rather than return to their country” while the stateless is the refugees who were “denationalized” by their own nations (“Beyond” 91). For Agamben, the status of refugees “has always been considered a temporary condition that ought to lead either
to naturalization or repatriation” (“Beyond” 92). Agamben states that the current situation of refugees is unstable and hardly recognizable, so most of them have been included into the system of the sovereign of their origin (repatriation) or of their host country (naturalization, becoming the citizens in the host countries) in the end. However, neither repatriation nor naturalization can change the crisis of human rights within national sovereignty. Agamben suggests a new route for refugees: “the concept of refugee must be resolutely separated from the concept of the “human rights,”” (93) and

the refugee should be considered for what it is, namely, nothing less than a limit-concept that at once brings a radical crisis to the principles of the nation-state and clears the way for a renewal of categories that can no longer be delayed. (94)

Based on Agamben’s point, it assumes that the refugee has been identified as a potential threat to national security and the unrecognizable Other to the existing composition of racial and cultural communities. The solution to the impediment of the refugee is to focus on the essential part of the refugee instead of its political status inscribed by the sovereign. Therefore, perhaps the concept of “refugee” also needs to be redefine because it conveys specific political ideology which worsens misunderstanding toward them.

Agamben observes that many developed countries in the European Union today face “a permanently resident mass of noncitizens that do not want to be and cannot be either naturalized or repatriated,” and “these noncitizens often have nationalities of origin, but, inasmuch as they prefer not to benefit from their own states’ protection, they find themselves, as refugees, in a condition of de facto statelessness” (2008: 94). Agamben does not explain what has caused the complicated impediment of this case.
of refugees, but their appearance somehow reflects the complex international situation and the national systems which make them the unrecognizable and non categorizable Other. Agamben adopts Thomas Hammar’s neologism of “denizens” to describe these noncitizen permanent residents, because “the concept of “citizen” is no longer adequate for describing the social-political reality of modern states” (2008: 94). The concepts of “refugees,” “nation,” “citizens,” and “denizens” resonate Agamben’s idea of “the coming community,” foreseeing a new form of politics to those people without firm identities of nation, race and culture.

Generally, both Arendt and Agamben mention the crisis of human rights under the national sovereigns, and the tension between improving human rights and maintaining national security. In practice, improving and securing human rights for the stateless has often been carried out in the form of international humanitarian laws, such as the Geneva Conventions, and humanitarian aids launched by international NGOs, such as International Committee of Red Cross (ICRC), Doctors without Borders (MSF), and UN’s Office of the High Commissioner for Refugees (UNHCR). Not only humanitarian organizations but also national sovereigns should follow the guidelines of the Geneva Conventions to protect the people in danger. J. Patrnogic states that

The Geneva Conventions should be considered as a specific kind of protest against war. The Conventions regulate the protection of some basic human rights. War is a negation of the rights of human beings, so fixing of obligation contained in the Conventions, the detailed regulation of the protection of elementary human rights for such large categories of people, as it is done in the Conventions, representing something that stands against the conception of the annihilation of humans. (285)
The Geneva Conventions urge the protection of human rights during wartime. In *War Trash*, Chinese POWs use the Geneva Conventions to demand appropriate treatments, defending themselves from the prejudice and discrimination due to their national identities and political stance. However, the limited application of the Geneva Conventions for national security and political concerns causes the plight of humanitarianism.

Launching humanitarian aids for the refugees is to rescue them out of severe environments, such as fierce battlefields and serious famines. However, humanitarian aids often encounter tensions with national security as well, and face moral dilemma between their responsibility for their missions and the moral principle of saving the people in emergency. Because the committee of Nanking Safety Zone, which is established as a neutral organization in the battlefield, performs its humanitarian aids in the name of Red Cross, this thesis exemplifies the case of ICRC to examine the plight of non-Chinese characters’ humanitarian aids in emergent battlefields. Ritu Mathur states that ICRC has been “severely critiqued for its silence in public with regard to the violence of the holocaust” (1), which indicates their silence to Nazi’s atrocities to the Jews in concentration camps during World War Two. Jean Claude Favez criticizes ICRC’s silence to atrocities as “a moral failure” as “it did not take the supreme risk of throwing the full weight of its moral authority into the scale on behalf of these particular victims….We have no choice but to recognize that it should have spoken out” (282). Ritu states that ICRC is now “faced with a recurrent moral dilemma of speaking out or remaining silent in situations of armed conflicts,” and the question is “how we understand the ethics behind the ICRC’s decision to remain silent” in the face of atrocities (1). According to its own principles of impartiality and neutrality, ICRC should not speak or act for particular groups, especially in armed
conflicts which would possibly jeopardize their own humanitarian missions. Therefore, ICRC insists that “it act in accordance with its legal mandate,” and its actions are “governed by international humanitarian laws” (Ritu 4). Another dilemma of ICRC is that it cannot accept “individual responsibility as an international actor which is more significant than the collective responsibility of all international actors” (7). Their strictly impartial and neutral attitude inevitable has been condemned for indifference to injustice. Chapter Two intends to read the characters of bare life in *Nanjing Requiem* and *War Trash* as the stateless, explores the non-Chinese characters’ plight of humanitarian treatments and aids for the stateless people, and it further meditates on the possible new route for the stateless beyond the borders of national sovereigns.

3. **Witness, Justice and Ethics**

Justice is a crucial issue for the war victims. Both the stories in *Nanjing Requiem* and *War Trash* deal with post-war justice, *jus post bellum* i.e., “the practice after war ends” defined by Hugo Grotius (see May 1). After the abolishment of the state of exception, the figures of bare life can restore their human rights and political statuses, but it remains a question whether they can claim their justice afterward. Chapter Three aims to illuminate the justice issue for the victims after the war. In *Nanjing Requiem*, after Imperial Japan is defeated, International Military Tribunal for the Far East (Tokyo Trials) is established to convict war criminals, which can be seen as “transitional justice” for war victims. Defined by the United Nations, transitional justice is the full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order
to ensure accountability, serve justice and achieve reconciliation.

Transitional justice processes and mechanisms are a critical component of the United Nations framework for strengthening the rule of law (See United Nations).

In Larry May’s *After War Ends: A Philosophical Perspective* (2012), transitional justice concerns “the way to move from an authoritarian regime that did not respect the rights of the people to a democratic regime that does respect the rights,” and aims for “reconciliation with a violent past” (6). Larry May proposes that both *just post bellum* and transitional justice appeal for “moderation” between previously conflicting groups to achieve lasting peace (6). The state has to guarantee that the atrocities against humanity, such as holocaust, will never happen again. The government has to reform its juridical system to prevent abusing of justice, and “to establish a just and lasting peace” (1).

Theoretically, transitional justice can rehabilitate the reputation of victims, and abusers should deserve juridical judgments. In *War Crimes Tribunals and Transitional Justice: The Tokyo Trial and the Nuremburg Legacy* (2008), Madoka Futamura proposes that the positive impacts of International Criminal Tribunal (ICT), such as Nuremberg Trials and Tokyo Trials, establish “a culture of law and order,” promote “the transformation of post-conflict society,” and contribute to “international peace and security” (49). The tribunal is expected to be a “warning” to the leader of the country and to the group who may commit the war crime again (49). However, in *Nanjing Requiem*, the justice enforced by laws faces its limitation and obstacles in application. Because of insufficient evidence to prove their crimes, not all criminals can be convicted and punished. Moreover, like the humanitarian aids affiliated to national system, the juridical judgment is easily manipulated by political causes,
because juridical systems are affiliated to the state system as well.

On some occasions, even the juridical judgement after the war does not provide justice; instead, it punishes the war victims because of political reasons. In War Trash, those repatriated Chinese soldiers are war victims. Without concerning their will, Chinese government drafts them to engage in the war. While imprisoned in the POW camps, more than one hundred soldiers sacrifice their lives to show loyalty to their nation, but all of them are treated as traitors after they return to China due to their captivity in the enemy’s camp.

The purpose of transitional justice provided by war trials can be explained by Walter Benjamin’s critique of “law-preserving violence,” a kind of long-lasting “threatening violence” (285). Law-preserving violence is not designed to punish the violators of laws but “to establish a new law,” which can exercise violence “over life and death more than in any legal acts” (286). Although the criminal trials after the war really convict several primary war criminals, its effect of law-preserving violence is more profound and influential to the future era. For example, besides convicting some major war criminals, Tokyo Trials have established a new order for future peace and the international regulations of war violence exercised by the state power, but some suspects who should have taken the responsibility for war crimes were intentionally spared because of the legal system’s essential limitation and the American’s political concerns. One primary cause is that, in some occasions, “criminal trials do not instill respect for the rule of law, and actually increase the likelihood of violence” (May 110). Criminal trials often bias toward particular sides or participants. May indicates that trials criminalize “just the person who is in the dock, not those who may have aided the alleged perpetrator or those who could have prevented him from acting as he did” (111). This is the limitation and the challenge against the war trials which cannot
judge the suspects without sufficient proof. Therefore, not all transitional justice can be achieved by trials, so May proposes that “truth commission,” could be an alternative and non-legal way “to promote healing within communities that have been ravaged by war or mass violence” (98).\(^4\) Truth commission is regarded as “a reconciliation that will lead to the return of a just and lasting peace,” to promote the recognition of “the truth of what happened” for the war victims and communities since the recognition of truth can be regarded as “the process of healing” (98). As Te-hsing Shan comments on the significance of recording true history, “if crimes and trauma are not sufficiently recognized and addressed, there will be no possibility of putting the past to past, nor of moving into a more hopeful future” (26). Therefore, truth commission indicates that transitional justice should not be limited to juridical judgment, but can be any practice of commemoration, such as investigating unrevealed history, establishing memorial museums, or composing memoirs.

As a way to attain transitional justice, truth commission requires various kinds of materials, such as evidence, documents, testimony of the witnesses to investigate and present the historical truth. However, how much truth can be revealed with these materials still remains questionable. Chapter Three intends to use Agamben’s “lacuna in testimony” to explain the limitation of truth commission as a way for transitional justice. Because testimony is provided by “the survivors” who had been involved in the incident, compared to other kinds of material evidence, testimony plays a more significant role in representing the truth.\(^5\) Agamben composes *Remnants of Auschwitz* (1999) as his investigation and commentary on the testimony of the survivors in

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\(^4\) In Madoka Futamura’s research, the truth commission has been a popular forum which thrived during the transitional period of Latin America and South Africa, and provides “both victims and victimizer opportunities to tell their story and reveal the truth” (49).

\(^5\) Agamben explains the idea of the survivor: “a person who has lived through something, who has experienced an event from beginning to the end and can therefore bear witness to it” (*Remnant* 17).
Auschwitz, and proposes that “testimony contained at its core as essential lacuna; in other words, the survivors bore witness to something it’s impossible to bear witness to” (13). In Agamben’s explanation, the survivors in Auschwitz are not qualified enough to present complete historical truth with their testimony.

About the war trials, Agamben disagrees that the trial can prove the truth, stating that “the ultimate end of the juridical regulation is to produce judgement; but judgement aims neither to punish nor to extol, neither to establish justice nor to prove the truth” (19). The ultimate goal of the law is “the production of a res judicata, in which the sentence becomes the substitute for the true and the just, being held as true despite its falsity and injustice” (18). In Agamben’s critique, it remains a question whether legal trials can prove the truth and claim transitional justice for war victims. His statement implies the juridical “truth” leaves a discrepancy with the real truth.

Besides the juridical court, truth commission also promotes transitional justice through collecting the testimony of the survivors to present historical truth. Agamben points out the essential cause of testimony as “a lacuna,” which questions the “identity and reliability of the witness (Remnants 33). The same question challenges the qualification of the survivors, who have been through the misery in the camp. Primo Levi, a survivor in Auschwitz whose testimony is cited by Agamben in Remnant, agrees that “there is another lacuna in every testimony” because “the complete witnesses,” “Muslims,” “the submerged,” who can provide testimony have “not returned to tell about it or have returned mute” (83-84). The complete witnesses had already “lost the ability to observe, to remember, to compare and express themselves,” so the survivors “speak in their stand, by proxy” (84). Because the complete witnesses who had been through the severest misery lost their ability to provide testimony, the survivor, who had undergone the peripheral part, served as a proxy to speak for them.
The proxy of the survivor here is a legal role, and he/she can provide testimony in the
court on behalf of these complete witnesses. However, when speaking about “the
truth,” the qualification of the survivor’s role as a proxy remains questionable,
suggesting that the truth commission pursued by the survivors’ testimony still cannot
reconstruct truth.

Therefore, Agamben enhances his contemplation from the legal function to the
ethical role of testimony, attempting to untangle the limitation of using testimony to
pursue transitional justice. Agamben analyzes the impossibility of formulating “a
complete subject of testimony:” “testimony takes place where the speechless one
makes the speaking one and where the one who speaks bears the impossibility of
speaking his own speech, such that the silent and the speaking…enter into a zone of
indistinction” where “it is impossible to establish a position of the subject, to
identify…the “I” and, along with it, the true witness” (Remnant 120). Emile
Benveniste writes that “it is in the instance of discourse in which I designates the
speaker that the speaker proclaims himself as the “subject,”” and “it is literally true
that the basis of subjectivity is in the exercise of language” (226). Since “I” am
speaking, a speaking subject “I” is formulated. As Agamben states, “to speak, to bear
witness, is thus to enter into a vertiginous movement in which something sinks into
the bottom, wholly desubjectified and silenced, and something subjectified speaks
without truly having anything to say of its own,” and briefly concludes that “the
subject of testimony is the one who bears witness to a desubjectification” (120-
21). When “I” am speaking for someone, the speaking subject “I” surrenders part of its
subjectivity to speak for someone unable to speak. This is a process of
desubjectification, initiating an I-other relation, to be more precise, the ethics to the
Other, to those Muselmanns losing their capability of speaking for themselves. Based
on Agamben’s perspective, it seems hard for, truth commission as a way of pursuing transitional justice through testimony, to reveal the truth, but it directs a new route of the ethics to the Other. In *Nanjing Requiem* and *War Trash*, the two narrators, Yu Yuan and Anling, are the survivors who can provide testimony on behalf of the war victims who cannot speak for themselves. Ha Jin designates Yu Yuan and Anling to elucidate his ethics of the Other. Furthermore, Ha Jin attempts to pursue transitional justice through truth commission not in the form of presenting historical truth but raising a signpost for the ethics of the Other.

As a novelist, Ha Jin commits himself to write *War Trash* and *Nanjing Requiem* not to present historical truth but to express a strong sense of concern for the Other through literature. Besides the two novel, Ha Jin, in *The Writer as Migrant* (2008), his essays of literary criticism, elaborates the social role and responsibility as a writer, the migrant author’s impediment of language usage and the identity issue of the diaspora. Chapter Three uses Ha Jin’s philosophy about the writer’s social role and responsibility in *The Writer as Migrant* to elaborate Ha Jin’s ethics and justice of the Other.

Agamben also proposes his idea of justice, but it is not appropriate to explain the justice in *War Trash* and *Nanjing Requiem*. Agamben develops his theory of justice from Benjamin’s Messianism, writing that “the Messiah’s arrival signifies the fulfillment and the complete consummation of the Law” (*Homo* 56). The Messiah is “the figure through which religion confronts the problem of the Law, decisively reckoning with it” (*Potentialities* 163). The Messiah attains the salvation of life through the fulfillment and consummation of the Law, deconstructing the indistinguishable relation of the Law and life. All the laws in the past are completely suspended to attend a complete liberation of the life, which finally restores the life’s
potentialities/impotentiality. The Law is no longer applicable but only remains a wreckage for study in the future. The justice is about what Messiah restores to the life, finally falling into the “potential not to act” (181). However, Ha Jin’s idea of justice is an active consideration and participation in acting and voicing for the miserable people. Seeing a discrepancy exists between the considerations of justice by Agamben and Ha Jin, Chapter Three centers on examination of Ha Jin’s justice revealed in War Trash and Nanjing Requiem.

III. Outline of Thesis Chapters

In addition to introduction and conclusion, this thesis is composed of three chapters. Chapter One applies Giorgio Agamben’s ideas of “the state of exception” and “bare life” to examine how the characters of bare life in Nanjing Requiem and War Trash are governed and exploited in the state of exception. This chapter begins by discussing how Nanjing and the POW camps in the two novels fall into the state of exception during the wartime. Then following analysis is the structure of the space in the state of exception where multiple dominate sovereigns, including the Japanese troops, the Nationalist Party, the Communist Party and the Americans, utilize various tactics, including nationality, political stands and values. Moreover, it examines the boundary of loyalty and betrayal, to have the Others (such as Chinese civilians, the enemy POWs and the possible traitors) suffer from the deprivation of the legal and human right, and finally fall into the existence of bare life. In the two novels, the different tensions of the sovereign to discriminate the Other produce different kinds of figures of bare life. Finally, Chapter One concludes that different sovereigns can coexist and exercise their power over the characters of bare life without directly colliding with each other, but the tension and conflicts between sovereigns are
represented through the miserable situation of bare life. Furthermore, most Ha Jin’s characters of bare life are mercilessly betrayed by their own nation, so this chapter concludes by discussing Ha Jin portrays the figures of bare life to satirize national loyalty.

In *Nanjing Requiem* and *War Trash*, the Chinese characters are deprived of their human rights after losing the protection of their nations. In Chapter Two, these Chinese characters are seen as the stateless people in Agamben’s definition, and the human rights of the stateless people are in crisis in the Safety Zone and the POW camp. Moreover, many non-Chinese characters attempt to stand neutral on the battlefield to offer the Chinese refugees and POWs humanitarian aids, including shelters, medical treatments and psychological comfort. However, these non-Chinese characters face different kinds of plights which obstruct their services for the civilians. This chapter further analyzes the cause of the plights of humanitarian service from a biopolitical perspective so as to excavate a way to deconstruct the indistinguishable relation between the sovereign and its dominance over its citizens. Finally, several characters express their desire to rid of the confinements of the nation, party and home to be “independent persons without a homeland.” Their desire resonates with Agamben’s concept of potentiality/impotentiality which provides a novel perspective of the independence of human beings, and renews “the stateless” with a positive meaning.

Both *Nanjing Requiem* and *War Trash* deal with the pursuit of justice after the wars: transitional justice for the war victims. After World War Two, Tokyo Trials are executed to convict the primary war criminals. However, in the two novels, the war trials seem to have failed in claiming transitional justice. Therefore, Chapter Three examines the limitation of juridical system in attaining transitional justice, and
analyze the difficulties of convicting war criminals through war trials. Moreover, from Agamben’s perspective, Anling and Yu Yuan, the narrators of the two novels, are “the survivors” who can provide testimony to pursue transitional justice for the war victims; however, it is impossible for the survivors to present a whole scale of historical truth because of “the lacuna” in testimony. Although the survivors are unable to serve as the subject speaking for the Other and tell the complete historical truth, the survivors’ speaking can formulate an ethical relation between the survivors and the Other (the *Muselmann*, who cannot speak for themselves). Therefore, Ha Jin can be seen as a subject speaking for the Other, because he attempts to pursue transitional justice through his novel to commemorate these war victims, preserve their memories and redress injustice against them.

In sum, this thesis expects three objectives. First, it aims to examine how the mechanisms of national sovereigns dominate human lives so as to find a way to prevent it from excessive power which might cause serious violation of human rights. The second objective is to contemplate on the appropriate relation between nations and citizens, who could be liberated from the submissive situation under the dominance of the national sovereign. Finally, it inspects legal and non-legal aspects of transitional justice to offer more possible ways to pursue transitional justice. The three issues mentioned above are not only a significant retrospect of the historic incidents, but also pertinent for us to evaluate the present and to caution for the future.
Chapter One

Bare Life in *Nanjing Requiem* and *War Trash*

Thousands tethered like cattle, herded like sheep
into the mountains, the suburbs, the city squares,
into the gullies and waterfront,
to be skewered like pigs, mounted from behind like goats,
castrated, pummeled senseless, clubbed to death,

—Wing Tek Lum, “Nanjing, December, 1937”

I. The Camp and Bare Life

Based on Giorgio Agamben’s concepts of “the state of exception” and “bare life,” Nanjing City in *Nanjing Requiem* and POW camps in *War Trash* can be viewed as the state of exception which turns the refugees and POWs to bare life. This chapter explores how these characters of bare life are governed and exploited in the state of exception.

In *Nanjing Requiem*, although most stories take place in Nanking Safety Zone, which is like a refugee camp protecting powerless Chinese civilians from the atrocities of Japanese troops, the state of exception actually happens in the whole Nanjing City. After Chiang Kai-shek’s armies retreat, Japanese troops occupy the whole Nanjing City and turn the city into a void of laws where Chinese citizens lose protection from Chinese government and are deprived of human rights. Japanese troops are allowed by their officers to rob, rape and kill the Chinese at will, holding

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the sovereignty over this state of exception. The unprotected Chinese civilians and 
disarmed soldiers thus fall into the existence of bare life. The narrator of this novel, 
Anling Gao, mourns, “our ancient city, noted for its beauty and cultural splendor, had 
become hell overnight, as if forsaken by God…. No one could brutalize others like 
this with impunity in the long run” (55). George Fitch, an American missionary, 
describes the situation, “the Japanese arrest practically all the young men. There was 
no way to reason with them. Oh, Minnie, this is horrible, as if we still live in the Dark 
Ages” (54). As Nanjing is in a state of exception, without the protection of Chinese 
civil rights and human rights, Chinese civilians are not treated as humans but as 
killable living beings. Japanese troops can determine the life and death of any Chinese 
noncombatants in Nanjing during their occupation. Dr. Chu, a Chinese doctor who 
works for Autonomous City Government, says that “in war, victory justifies all sorts 
of violence. A complete victory means to have finished off the enemy. In fact, I 
believe that Japanese committed all the atrocities as a celebration of their victory, as a 
kind of reward and gratification” (190). In the state of exception, morality and 
humanity seem suspended as Japan’s victory has justified their brutality. However, 
non-Chinese missionaries, teachers and journalists are free from the Japanese atrocity 
as “a white face could serve as a pass and a guarantee of personal safety here” (158). 
When Anling claims that she works in the American embassy, the Japanese troops 
dare not arrest her. In Nanjing Requiem, Chinese civilians are excluded from the 
protection of laws due to their nationality, but they are included in Japan’s cruel 
governance. Thus, their paradoxical status can be regarded as bare life.

In Nanjing Requiem, the Chinese who cooperate with Japanese troops is another 
kind of bare life. Many Chinese choose to collaborate with their enemies to protect 
themselves and family. Anling’s husband, Yaoping is invited by his friend to
“cooperate with the Japanese so that we could at least prevent some part of China from being totally destroyed and annexed” (195). Cooperating with the enemy is a persuasive proposition for decreasing the damage and casualty of civilians in the captured area, but it inevitably becomes an issue of possibly betraying one’s own country. As the Nationalists in this novel give “a clear, indisputable definition of treason: insofar as the enemy’s army occupies the land of China, whoever works for them is a traitor” (218). With this announcement by Chinese government, all national traitors become killable. If Yaoping “serves in the prospective puppet government, he might be killed by the underground partisans” and “become a public enemy” who jeopardizes the fate of his family (195). In this case, the sovereign should be either the Nationalists or Communists in China, and this existence of bare life happens to Anling’s son, Haowen, a medical student studying in Japan. In order to protect his Japanese wife and in-laws, he is forced to join Japanese troops. Anling is devastated because she hates those Chinese who serve in Japanese army, but she is totally unprepared that her son would also become “a running dog,” “a half Eastern devil” (148). Anling not only worries that Haowen’s treason “had disgraced us and put us in potential danger,” but also mourns that her son is “ruined” and “might never become a normal man again” (148). Serving in Japanese army, Haowen is still discriminated by his comrades and grieves that “the japs treat me as a Chink, they don’t trust me. I’m cursed, cursed! I’m a pariah no matter where I go” (175). As an alien in Japanese troops, Haowen is judged as a traitor by the Chinese. His life could be easily taken by whoever regards him as a traitor, so he falls into the existence of bare life. Finally, Haowen is stabbed to death by a Chinese partisan after he fails to rescue a seriously wounded Chinese POW, and the local newspaper announces that he is a “traitor killed by partisans” (243). In Nanjing Requiem, after Nanjing is occupied by Japanese troops
and falls into the state of exception, Chinese civilians are turned into the existence of bare life as all laws and rights which can protect them are suspended. They are living beings whose life can be deprived anytime.

This case of bare life is a paradoxical situation of those Chinese who cooperate willingly or reluctantly with their enemies. They are denounced by both the Japanese and the Chinese, which turns them into the figures of bare life. Haowen’s dilemma is not just a struggle between the safety of his Japanese family and loyalty to China, but an impediment of cross-national identity under a binary and arbitrary loyalty/betrayal issue. As a Chinese, Haowen’s destiny has been inseparable from Japan since he marries a Japanese wife. His identity keeps oscillating between the two nations.

Anling assumes that if Haowen had determined to fight for China, he could have “abandoned his wife by deserting the Imperial Army,” and “joined the resistance force and survived,” so Chinese people would have praised him for “devoting himself to fight the national enemy” (246). However, Haowen does not determine to stand for either China or Japan but remains in the in-between situation, which eventually leads to his death. Haowen’s death is actually attributed to his kindness and responsibility to the two nations, so Anling concludes that Haowen is “doomed by his nature as a good, faithful, average man” (246). Because of his cross-national identity, Haowen becomes indecisive about which side to take and ends up belonging to neither side but under the threat of both sides.

In Nanjing Requiem, Nanjing Safety Zone is a unique space in Nanjing, in the state of exception under the sovereignty of Japanese troops. Fifteen non-Chinese voluntarily provide sanctuary for Chinese noncombatants and use their non-Chinese identity to protect the Chinese refugees. Although their protection is not completely effective because the Japanese authority does not acknowledge the neutrality of Safety
Zone, this region is comparably safer for civilians than the other places in Nanjing. In Safety Zone, Principal Vinnie Vautrin provides the refugees with medical treatments, handcraft training and spiritual comfort. Nanjing City is in the state of exception, but the Safety Zone is ‘an exception’ within. The Safety Zone is the safer space for its inhabitants, so the civilians sheltered in the Safety Zone do not really suffer from bare life.

In *War Trash*, the state of exception occurs in the American POWs camps in South Korea which imprison the soldiers from Communist China and North Korea. The American army does not have sufficient faculty to govern all POWs, so they authorize the pro-Nationalist POW officers to govern the whole camp on behalf of the Americans. The pro-Nationalist officers cooperate with the American soldiers and the force of Chiang Kai-shek in Free China (Taiwan) to encourage soldiers to choose repatriation to Taiwan. The pro-Nationalist officers launch a reign of terror in the camp. According to the Geneva Conventions, the POWs must be treated in humanitarian ways. On most occasions, the American soldiers treat the Chinese soldiers well, providing them with medical treatments and sanitary environment. However, since the American army allows pro-Nationalist officers to govern Communist soldiers, the application of the Geneva Conventions has been suspended. This situation formulates a special structure in the camp: with a camp within the camp, and the prisoners ruled by the pro-Nationalist officers governed by the American force are in the state of exception. The imprisoned Communist soldiers are

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7 See the treatment of prisoners of war in Geneva Convention (III) finalized on 12 August, 1949, Art 13: “Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest.”

<https://www.icrc.org/ihl.nsf/7c4d08d9b287a42141256739003e63bb/6fef854a3517b75ac125641e004a9e68>
deprived by the American force of protection from the Chinese government, and their human right are exploited by the pre-Nationalist officers (the sovereign). The key point to distinguish the inside from the outside is the loyalty to the Nationalist or to the Communist. In the pro-Nationalist dominated camp, the Communist soldiers who show their intention to return to China would fall into bare life.

Choosing to go to the Communist China or Free China is difficult for the Communist soldiers because both sides use violent means to threaten these Communist soldiers. Before they go through the screening, choosing to be repatriated to China or to join Free China (Taiwan), the pro-Nationalist officers persuade, entice and even threaten the Communist soldiers to choose Free China, while the Communist officers also urge them not to betray the motherland and the Communist party, or their family will suffer from oppression on their accounts. In order to urge them to opt for Free China, a pro-Nationalist officer Wang “hands a number of men taken to company headquarters and forced them to sign an anti-Communist vow,” and posts them in public, as a way to “cut off those men’s route to return to China” (77). Moreover, Wang promotes a “tattoo movement among the pro-Nationalist prisoners, who volunteered to have words and drawings (tattooed) on their arms, chests, bellies and even forehead” (77). The narrator, Yu Yuan is also forced to tattoo “FUCK COMMUNISM” on his belly, so it is hard for him to claim his loyalty to Communist China. Signing vows and tattooing are the ways to distinguish the Self from the Other, the inside from the outside. According to Stephen Pitchard, the “tattoo is often taken as a key to insights of identification and socialization. It marks the body, it inscribes, constructs and invests it within a variety of psychical, cultural and political field” (331), and “the tattoo reveals something about the site of production, not merely a process whereby individuals are ‘individualized’ or subjects ‘subjected,’ but
simultaneously the constitution of the subject in terms of culture” (332). As a sign of specific identification, the human bodies inscribed with tattoos are easily distinguished, characterized and excluded by the sovereign. The tattoos which carry distinctive information of loyalty enable the sovereign to effectively distinguish the inside from the outside. When Yu Yuan’s belly is tattooed with anti-communist slogans, his body is objectified and politicalized by the tattoo, which will block his return to Communist China. Regardless of Yu Yuan’s will, his tattoo decides which side he stands for. However, when he alters the tattoo into “FUCK US,” this sign helps him to be accepted by the Communist, and even protects him from the accusation of treason during Cultural Revolution. The tattoos in War Trash are the signifiers of political correctness, deciding the inclusion or exclusion of the politicalized human bodies. Tattooing the body is a biopolitical strategy, enabling the body to be affiliated with or expelled by political or cultural institutions. Different from the Chinese characters of bare life in Nanjing Requiem who are doomed to suffer the atrocities from the enemies, those in War Trash have more chances to decide their identities and stances, and more possibility to protect themselves. The chance and ability of these characters to decide which side they stand for determines their situation of bare life.

In War Trash, the extreme case of the sovereign power is pro-Nationalist officer Liu Tai-an, who “rules the regiment like a police state,” and even some American soldiers call him “Little Caesar” (69). Liu even kills Lin Wushen, a disobedient prisoner and pulls out his lungs and heart in front of other prisoners to terrify them. In this situation, these Communist POWs’ lives are under the total dominance by the pro-Nationalists who can always put them into death without taking any responsibility. Yu Yuan feels desperate because they have become “meats for the pre-
Nationalists to hack at will” (110). However, the prisoners tattooed with anti-Communist slogans are divided in two groups: those who are “valuable to them” and those who are their “deadly enemies” (111). Liu tortures his dead enemies to threaten the valuable prisoners. Yu Yuan is the valuable one proficient in English because he can negotiate with the American authority and secretly collect intelligence. Both the Nationalist and the Communist desire to draw him to their sides, so his special value also endangers his situation. With a history of studying in Huangpu Military Academy, Yu Yuan is not fully trusted by his Communist comrades and watched as a possible traitor. However, even though he could choose to go to Taiwan, his experience in the Communist POW camp brings him the same suspicion. Yu Yuan has served in both the Nationalist and the Communist armies, and both parties intend to draw him to their sides. Yu Yuan wonders whether he can choose to leave for a third country or to be a person without a motherland. However, both the Communists and the Nationalists have a clear-cut boundary to distinguish the Self from the Other, especially for the Communists: “either you become their friend or their enemy. The Communists don’t believe anyone who can remain neutral” (43). Being excluded by the sovereigns of the Nationalist and the Communist, Yu Yuan’s dilemma is similar to that of Haowen in Nanjing Requiem, but he is not identified as a killable man in the POW camp. Although his value endangers his life, Yu Yuan does not fall into the similar existence of bare life like Haowen.

II. The Muselmann

In War Trash, many POWs suffer from physical mistreatment and spiritual deprivation and finally fall into mental disorder and show abnormal behaviors. From Agamben’s perspective, this existence of humans is called “the Muselmann,” an
Arabic word *muslin* which refers to someone “who submits unconditionally to the will of God” (*Remnant* 45). Another meaning of *Muselmann* is proposed by Jean Améry: “the so-called *Muselmann*, as a camp language termed the prisoner who was giving up and was given up by his comrades…. was a staggering corpse, a bundle of physical functions in its last convulsions” (9). This term is used to describe the extreme misery of the prisoner in the camp. In Eugen Kogon’s research about Auschwitz concentration camp, the Jews prisoners were overwhelmed by terror, tortures and unsanitary environment, and “relatively large group of men who had long since lost any real will to survive” and become “Moslems”—“men of unconditional fatalism” (284). These living beings who are described as “walking corpses,” “living dead” and “mummy-men,” are therefore called the *Muselmann* (*Remnants* 54-55). However, the concept of *Muselmann* does not only apply to the miserable prisoners in the camp. Brano Bettelheim finds a commander of Auschwitz as kind of “well fed and well clothed” *Muselmann*: this commander became “a living corpse from the time he assumed command of Auschwitz” (238). He hadn’t become a “moselm” because he had been “well fed and well clothed,” but he was “little more than a machine functioning only as his superior flicked the buttons of command” (238). According to Kogon and Bettelheim’s observations, not only the prisoners captured in the camp could be turned into the *Muselmann*, but also those well-disciplined soldiers and officers in charge of the prisoners could lose their humanity. Therefore, the prisoners and the faculty (soldiers and officers) in the camp could be dehumanized and turned into the *Muselmann*. This observation implies that the sovereign could dehumanize people and get dehumanized by themselves. Different from the imprisoned *Muselmann* who are in the existence of bare life, the faculty of the camp might be too disciplined and dogmatized to have their self-consciousness and end up becoming the
Muselmann. In Agamben’s explanation, Bruno Bettelheim’s idea of Muselmann is “an improbable and monstrous biological machine, lacking not only moral conscience, but even sensibility and nervous stimuli,” and he has “abdicated his inalienable freedom and has consequently lost all the traces of affective life and humanity” (Remnants 57). Agamben explains this term in biopolitical sense, and concludes that the Muselmann marks not only “a limit between life and death; rather, he marks the threshold between human and inhuman” (Remnants 55). The Muselmann represents the extreme case of bare life, becoming the living beings who are completely subject to and dehumanized by the sovereign. Ha Jin’s characters who suffer from mental disorder and spiritual deprivation due to the state of exception can be seen as the Muselmann. In Nanjing Requiem, Yulan and several girls who were raped and tortured by Japanese troops fall into mental disorders. However, the most exceptional case of the Muselmann is Vinnie Vautrin, but she is not a figure of bare life like other Chinese civilians. Minnie has been harassed by Japanese troops because she is one of the central figures responsible for Nanking Safety Zone, but she is not a killable target for Japanese troops. She still maintains her political significance during the occupation, even though she is not respected by Japanese troops. What has caused her breakdown is “stress, fatigue, and malnutrition” (284). Minnie feels extremely guilty for all the misery that these refugees, especially women and girls, have gone through. Moreover, she is blackened by the Communist propaganda which accuses her of an accomplice of Japanese troops, and even her supervisor, Mrs. Dennison disbelieves her. Before leaving for the U.S. for treatment, Minnie “simply smiled

8 In Nanjing Requiem, the Muselmann in charge of the prisoners in the camp is like the Japanese soldiers who commit atrocities to Chinese noncombatants during the war. However, this novel neither narrates the story from Japanese perspective nor investigates the fundamental cause of Japanese soldiers’ brutality. Therefore, the discussion of the Muselmann in this thesis centers on the Chinese civilians and non-Chinese figures instead of Japanese soldiers.
vaguely, as though all emotion had speeded out of her” (285). The cause of Minnie’s suicide can be referred to her overwhelming pressure, negative emotion and trauma from Nanking Massacre. Minnie is not the figure of bare life in Agamben’s definition, but her situation brings about the similar consequence. Besides overwhelmed by extreme sense of guilt and stress, Minnie has been deprived of her educational career and her reputation for saving Chinese civilians, and isolated in psychopathic hospital, which can be the fundamental cause which turns her into a Muselmann. During the war, Minnie loses all meanings of her life and becomes a walking corpse, the Muselmann.

In War Trash, the harsh and confined environment change the psychological condition of these soldiers. Yu Yuan describes that their comrades “behave like brutes” (69). When they were in the Communist army, they had been “good soldiers and seemed high-minded and their lives had possessed a purpose,” but in the POW camp, “they were on the verge of becoming animals” (69). From Agamben’s perspective, turning humans to bare life is a process of dehumanization. The Muselmann is the final product of dehumanizing bare life, representing the last stage of the sovereign’s governance on human subjects in the state of exception. The Muselmann is not recognized as a human in political sense but just a human species.

III. Loyalty and Betrayal

The American POW camp is where those Communist soldiers fall into bare life. However, in the POW camp, these prisoners are still “valuable” for the Nationalists in Taiwan, the Communist in China and the American troops. For the Nationalists, these prisoners should be recruited as “Anti-Communist Martyrs.” As for the Communists, they care less about the life or death of these captured soldiers, but about the number
of soldiers who choose to go to Taiwan and therefore about their “face.” For the American army, these Chinese POWs are the bargaining chips to negotiate with the Communists in exchange for the American POWs in China. However, even though the U.S. allied with the Nationalists, the Americans “didn’t want to embarrass China and North Korea with a huge number of nonrepatriates, which could complicate a POW exchange and getting their own men back” (102), and “the United States could hand them back to China at any time if there was enough to gain from their repatriation” (310-11). When these POWs become politically valuable to all these sides, they would not be treated too harshly. However, after being repatriated to China, Yu Yuan and most POWs are worthless to the Communists, and they fall into another miserable situation. Yu Yuan says that “we were back and couldn’t possibly join the Nationalists anymore, we were no longer a concern to the Party, which finally handled us in any way it liked” (345). It is also a case of the state of exception, because their rights are completely deprived by the Party, and the Party plays the role of the powerful sovereign. In the camp, Han Shu, the chief of the regiment warns these POWs that “if you mean to repatriate, you must prepare to go through denunciations, corporal punishment, prison terms and execution once you’re back in our homeland,” and “even if the Communists let you remain alive, I can assure you that you will be the dregs of their society for the rest of your lives” (103).

Regardless of the rank of POWs, all of them are stigmatized as “collaborators,” “betraying state secrets,” and “succumbing to the enemy” (342). Almost all of these POWs are “discharged dishonorably,” which means that they become “the dregs of society” and all party members “lost their membership” because their captivity is viewed as “a breach of their pledge” (345). Moreover, “hundreds of men were imprisoned again, labeled as traitors or spies,” and they are “all placed under the
special control for the rest of lives,” and even the highest ranked Communist officer, Commissar Pei, is not different from the other soldiers, eventually becoming the “war trash” (345). The book title “War Trash” concisely describes the situation of bare life: they are worthless and disposable in the eyes of the sovereign. Although they are severely mistreated in the American camp, they are still politically valuable for different sides. However, after leaving the camp and returning to their homeland, they are judged as “worthless war trash.” Although they are still regarded as humans, these repatriated POWs and their family are deprived of not only the opportunities of working and studying, but also of their social statuses and reputations. Eventually, the rest of their lives are not much better than that during the imprisonment. Before their final rehabilitation in 1980 when they can restore their reputation, the situation of those POWs is similar to the existence of bare life for nearly 30 years.

This chapter describes how the figures of bare life are controlled and exploited in the state of exception in Nanjing Requiem and War Trash. Although the state of exception in the two novels both takes place during the war, their structures and functions are not entirely the same with those in Agamben’s state of exception because Agamben’s is a pure void of the law, and the human beings within are oscillating between the human and the inhuman conditions. Unlike Agamben’s camp where a dominant sovereign controls the state of exception, it is obvious that the camps in the two novels are heterogeneous spaces, where different states of exception and bare life of different natures are engaged, and all figures of bare life are dehumanized. In Nanjing Requiem, Nanjing Safety Zone is a specific space established for providing humanitarian aids to the refugees and resisting the state of exception of Nanjing, while in War Trash, a camp governed by the pro-Nationalist officers is the state of exception existing within the American camp where the
prisoners should get humanitarian treatments. Briefly, in *Nanjing Requiem*, an exceptional space for resisting the exploitation from the sovereign is created—the security zone, while in *War Trash*, a state of exception is informally formed in a space which does not aim to exploit the lives within. The cause of the heterogeneous spaces in the state of exception is the convergence of different sovereigns and their different purposes and strategies of excluding the Self from the Other, which results in different situations of bare life. In *Nanjing Requiem*, the primary sovereign is the Japanese troops who plan to demolish the resistant forces of China, but the Nationalists and the Communists underground force still secretly remain. The Nationalists and the Communists are the sovereigns which distinguish and exclude the traitors of China as the Other. Moreover, Nanjing Safety Zone can be seen as an exceptional space in the state of exception, but those non-Chinese characters not represent the sovereign because they neither exclude the refugees nor turn them to bare life. Therefore, the Safety Zone in *Nanjing Requiem* becomes as “an exception” of the state of exception.

In *War Trash*, the Communist force in the camp is the underground sovereign which turns its own soldiers to bare life. Commissar Pei sacrifices hundreds of soldiers to launch insignificant riots and justifies that “to make revolution means to sacrifice” (195). His soldiers become the figures of bare life and can be sacrificed at his will. Even after they have already left the POW camp, they are still in the existence of bare life under the sovereignty of the Communist Party. In the two novels, different sovereigns can coexist in a space without directly colliding with each other in the state of exception, but the conflicts between them are represented through the severe situations and dilemma of the figures of bare life.

In the two novels, the existence of bare life may remain beyond the space where the state of exception occurs. Ha Jin’s characters of bare life are not only excluded by
the sovereign of enemies, but also by their own nation. The repatriated Communist soldiers show their patriotic spirit to their government, but finally are degenerated into the status of bare life. Ironically, in *War Trash*, it is the Communist sovereign that exploits the Communist characters of bare life more mercilessly and profoundly than the Americans and the Nationalist sovereigns. Nanjing civilians expect the final victory of China, but eventually, many of them are persecuted in the name of potential treason. The Chinese characters of bare life who remain faithful and patriotic to their nation are often betrayed by the sovereign of China. In *Nanjing Requiem* and *War Trash*, Ha Jin satirizes blind patriotism through the miserable characters of bare life.
a long scarf and woolen cap
squeezing him through the grating
into the surprised arms of strangers
those already crowded around the camps inside
fortunate enough to have arrived earlier
inside the sanctuary walls
these walls shielding them from plunder and rape
the slaughter outside
even of infants bayoneted
or their heads dashed to the ground
in front of parents

—Wing Tek Lum, “The Nanking Safety Zone”

I. The Stateless: The Politics of Human Rights

In Nanjing Requiem and War Trash, the Chinese characters of bare life are
deprived of their human rights after losing their own countries in Nanjing Requiem
and War Trash. Therefore, this chapter would read these characters as “the stateless”
in Agamben’s term and explore how human rights in Nanjing Requiem and War Trash
are in crisis. Moreover, many non-Chinese characters come to offer humanitarian aids
but encounter different obstacles due to political reasons, military threats from the

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9 This poem describes that some Chinese civilians are fortunate enough to find shelter in Nanking Safety Zone. However, many more could not get in and suffer from the atrocity of Japanese troops. In my interpretation, this poem implies that these benevolent non-Chinese volunteers could only offer limited help for these citizens and they also anguish for those Chinese who cannot be rescued.
enemy or their own national stance. This chapter aims to elucidate the plights of human rights during the war. Finally, based on Agamben’s theory, this chapter investigates the idea of the stateless beyond the framework of nations and politics and attempt to find new strategies for constructing these Chinese Characters’ identities.

As Chapter One has explicated, bare life is the ontological existence of human beings who are deprived of first their “civil rights” and then their “human rights.” In other words, without these two kinds of rights, these human beings are only living figures, falling into an existence between the human and the non-human. This chapter closely examines these two kinds of rights and their influences on the stateless figures in these two novels. According to Agamben, refugees are not stateless people because they still keep their nationalities. They become refugees because they are unable or reluctant to return to their countries; otherwise their life will be in danger due to war or political persecution. Moreover, refugees might be repatriated, or naturalized as the citizens of their host countries. However, people become the stateless when they are denationalized by their states, when their states cease to exist, or when their nationalities cannot be confirmed (e.g., if they lose their IDs and certificates). The stateless people’s situation represents a temporary void in biopolitical regime because stateless people are the Other not recognized by national sovereigns. The refugee’s situation is usually temporary because national sovereigns tend to include (naturalize) or expel (repatriate) them (“Beyond” 92), but this situation of the stateless is in “the exclusive inclusion” situation under the dominance of national sovereigns. It can be presumed that the situation of the stateless is close to bare life in biopolitical sense, but the stateless may have more risk losing their lives in wars than the refugee. The Chinese civilians sheltered in Safety Zone in Nanjing Requiem, and the Chinese POWs in War Trash are not strictly the stateless in Agamben’s definition, because
they are not formally denationalized by Chinese governments. However, their real situation is similar to the stateless because Chinese governments have no plans to protect them, or to be more precise, they are “abandoned” by Chinese governments.\(^{10}\) In *Nanjing Requiem*, when Chiang Kai-shek orders his army to retreat from Nanjing without evacuating noncombatants, many Nationalist soldiers and most civilians fall into stateless situation; in *War Trash*, the Communist Party orders the soldiers who will fight in Korean War to “leave behind insignias and IDs” and call themselves “the Chinese People’s Volunteers,” so as “to differentiate them from the army back home” (12). The Volunteer Army is not recognized as the regular army of the Communist China, so sending this troop to the battlefield is not equal to declaring the war against the U.S. Besides, the Chinese government can abandon their soldiers if the war goes beyond their control. Therefore, these civilians and POWs in the two novels become the stateless.

From Arendt’s perspective, the people who lose their civil rights will lose the human rights as well, while for Agamben, the sovereign can suspend the application of human rights if necessary. Both theorists raise the issue of human rights crisis related to national systems. Lechte and Newman propose a question: “why the prominence of human rights discourses seems to coincide their apparent impotence” (vi). They suggest two major factors: one is “inadequate means of human rights enforcement,” and the other is “the hypocrisy of governments who use human rights norms as a plaything of foreign policy, even to legitimate wars, piously invoking them when it suits their interests to do so and ignoring them when it does not” (vi). The first one resonates with the impediment of the people who lose civil rights in Arendt’s

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\(^{10}\) Chinese governments here mean the Chinese national sovereigns in the two novels, including the Nationalist government in *Nanjing Requiem* and the Communist China government in *War Trash*. In this section these different Chinese governments are discussed together.
definition, and the other draws the issue of the politics of human right, which coincides with Agamben’s human rights as discourses produced by the sovereigns. Sovereigns tend to limit human rights of the suspects who may threaten national security, and they selectively and conditionally enforce human rights policy to complement their political interests.

In War Trash, the politics of human rights is problematic as different sovereigns would use the name of human rights to attain their political purposes. In the negotiation of repatriating and exchanging POWs, the United Nations has proposed that POWs should have their rights of choosing to be repatriated or going to other countries. Therefore, the U.N. holds the screening, offering these POWs a chance to decide their destinations. The American government in principle respects POWs’ rights to choose, but selectively enforces the screening. The Americans’ political concern is that if too many Communist soldiers refuse the repatriation, the American authority will have trouble in bringing their own men back. In the POW camps, the American authority announces “the United Nations’ position on the screening” and this voice “represented the prison authorities and also urged them to repatriate” (101). They declare that

The U.N. Command can offer no guarantee whatsoever on the ultimate fate of those of you who refuse to return to your own people. Therefore, before any of you decide irrevocably to resist repatriation, you must consider the consequence of your decision for your family. If you fail to go back, your government may hold your family accountable. On the top of that, you may never see them again… (101-02)

With respect to the U.N.’s mission of repatriation, the Americans should have been neutral while dealing with repatriation, but, on the contrary, they threaten the
Communist soldiers not to betray, or their family will suffer for them, as if speaking on behalf of the Communist Party. Moreover, they keep announcing, “if you refuse to go home, you will be held in custody here for at least several months longer. The United Nations cannot feed you forever, will make no promise about your future, and will not guarantee to send you to any safe place” (102). The American army has sent bluffing message to terrify these Communist POWs, which not only violates the human rights of the POWs but also ruins the Nationalist’s plan of recruiting the con-Communist soldiers. The American army’s political concern is to have more bargain chips to exchange their own fellow soldiers, so the human rights of these POWs are sacrificed for fulfilling the American’s political plan.

Not only the Americans but also the Communist Party manipulates human rights for their own political interests. The Communist officers intend to expose the scandal of the American Army’s violation of human right so as to negotiate. The Chinese and North Korean POWs in the camp conspire to abduct General Bell, the highest American commander in the POW camp, to shock the world. Mr. Pak, a North Korean chief commander, explains that “Marshal Kim Il Sung had ordered them to open “a second front” in the prison camp and that we must embarrass our captors and expose their lie that we were all treated humanely;” moreover, “the success of this operation would help our negotiation at Panmunjom as well” (151). The kidnapping later becomes a victory on the Communist government’s side. Yu Yuan learns: “Pyongyang and Beijing had widely publicized our victory, which had provided ammunition for propaganda and some leverage for our negotiation at Panmunjom” (186). However, the POWs also pay their price. Since then, they are harassed by the Americans’ attack every day, and their living conditions deteriorate. Yu Yuan starts

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8 Abducting General Bell is recognized as another battle against the U.S, considering the camp as their battlefield.
questioning the value of the victory as it only gives credits for the Communist leaders but not to the soldiers who sacrifice themselves to launch the riot. Eventually, even though the POWs have helped their government in negotiation, they are still on the losing side, and the crisis of their human rights becomes even more serious.

In *War Trash*, the Communist soldiers know how to negotiate with the American authorities by appealing to the importance of human rights. The Communist soldiers demand the Americans to respect their human rights and improve their living conditions, successfully persuading General Bell to come and talk with them in person. When General Bell agrees to meet the Chinese POWs in person for discussing how to improve the inhumane treatments in the camp, some Chinese soldiers think he is “a jackass” and too “naïve” to “see through their ruse” (160). In the opinion of the Chinese POWs, human rights are merely a pretext to negotiate with the Americans, but for the Americans, human rights are the value they must respect. Actually, the Chinese POWs have better living conditions in the camps than they do in the Communist troops. The Communist POWs are clever at taking advantage of the Americans’ value of human, so as to have the Americans act in accordance with their plan. In *War Trash*, manipulating human rights is the Communist soldiers’ strategy to attain their political goals.

However, after returning to China, the POWs never consider about improving the human right conditions in China, because maintaining human rights is not the value that they insist keeping. For the Communists, the utmost values are the belief in the Party, socialism and Marxism. After imprisoned in the camp, Yu Yuan soon joins the underground association to unify the Communist POWs, because he “believes in socialism” and believes it is “the only way to save China” (122). When Yu Yuan starts reading the Bible, Commissar Pei tells him that “genuine help comes from your
comrades and the Party, not from God” (125), and it is “the Communist ideal that multiplies our strength and courage” (126). Yu Yuan is amazed that Pei thinks of “Marxism not as a social theory but a kind of religion,” which can explain that many Chinese are “so fantastic and so dedicated to their cause,” i.e. their wholehearted dedication to the order of the Party, even at the cost of their life (126). The faith in Communism demands unconditional devotion and unquestionable obedience to the Party, assuring a promising future for the Chinese people. Commitment to human rights is never what the Communist Party promotes. The sovereign of the Communist Party does not consider human rights as a significant and universal issue, but that of the American in the novel at least has conditional respect to human rights. In War Trash, the crisis of human rights is caused by the sovereigns’ violation of the POWs’ human rights due to political interests and the binary loyalty/betrayal ideology, and it happens in the following two situations. The first one takes place in the POW camps: when these Communist soldiers are imprisoned in American POW camp, their human rights are deprived by the political manipulation of the Americans, who treat the Chinese POWs as their chips to exchange for their own POWs. The other situation occurs after the repatriation: when these soldiers are under the dominance of the Communist Party, they cannot claim their human rights as they do in the American camps because the Communist Party does not respect human rights at all. However, these Communist soldiers are not always submissive to the Americans’ violation of their human rights. In the abduction of General Bell, these soldiers realize how to use human rights to create their advantage of negotiating with the American authority.

II. Neutrality: The Plights of Humanitarian Aids

In Nanjing Requiem and War Trash, many non-Chinese characters provide
humanitarian aids to the miserable Chinese characters. However, their humanitarian aids encounter different obstacles from military activities, and these non-Chinese characters face the moral dilemma of standing complete neutrality or rescuing the people in immediate danger. In *Nanjing Requiem*, Vinnie Vautrin and John Rabe establish Nanking Safety Zone to provide Chinese civilians with humanitarian aids. Founded in the name of “Nanjing International Red Cross Committee” (10; hereafter abbreviated as IRCC), the Safety Zone should be “a neutral distinct meant to provide sanctuary for noncombatants” (9), and its committee promises the Japanese authorities that it would be “kept from the presence of armed men and from the passage of soldiers in any capacity” (58). Like IRCC, Nanking Safety Zone should stand neutral to offer aids for the refugees and to prevent any conflict with Japanese troops. Initially, the Safety Zone Committee expects that the Japanese troop in Nanjing would respect the neutrality of the Safety Zone and avoid any military activity here. However, the Japanese authorities “did not respond directly to the proposal concerning the neutral zone but stated that Imperial Army would try to respect the district as far as consistent with military necessity” (9-10). The Japanese army’s disrespect for the human rights of noncombatants is the starting point of the non-Chinese characters’ plight of humanitarian aids.

Although the committee of Safety Zone claims to stand neutral and admits only women and children, it is hard for them to deny the request from thousands of disarmed Chinese soldiers who come and implore for entering the zone. These non-Chinese characters think the Japanese troop would have followed the rules of treating humanely the disarmed soldiers. However, Japanese troops break into the Safety Zone to arrest civilians in the name of weeding out all soldiers hidden inside. In this case, Minnie Vautrin and other committee members’ humanitarian aids face a dilemma: to
insist on remaining neutral or to admit people under immediate threat. Obviously, they choose the latter. Minnie rushes to the Japanese embassy to protest against Japanese troops’ atrocities and even goes for several times to Japanese headquarters to rescue the arrested young Chinese civilians. However, since then, due to her aids to Chinese civilians, Minnie is targeted by Japanese troops and suffers from frequent harassments.

Facing the threat of Japanese troops, another dilemma of Minnie is whether she should turn in some refugees for more. For example, one time a Japanese colonel comes to demand some “women for the entertainment business” (comfort women), claiming that in this way it can prevent more Chinese women from random rapes by Japanese soldiers. The Japanese colonel promises that they would only take away street workers who are willing to work for them and guarantees that it is “an effective way to protect good and honest women” (85). Minnie feels extremely guilty that she turns in some of the women she should have protected, and she has been tortured by her sense of guilt. Anling sees that “the more Minnie ruminated on this, the more remorseful and distressed she became” (100). It is Minnie’s toughest dilemma because facing the Japanese’s threat, she has no other choice. Although knowing that they are unable to stop the Japanese troops from abducting these women, Anling still worries that “those young lives had been ruined. No matter how we tried to reason away our responsibility, we were somewhat implicated, since by now everyone knew that Minnie had granted the Japanese permission” (100). It is hard for Minnie to forgive herself and release her sense of guilt. She confesses: “if it’s a mistake on my part, I’ll bear the guilt alone and do more good deed to atone for it” (100).

Another difficult decision that the Safety Zone Committee has to make is whether to cooperate with the new municipality which requests all refugees be
registered as “good citizens.” In order to protect the refugees, the Safety Zone Committee assists the refugees to finish registration, so they can prevent the Chinese from being arrested by Japanese soldiers. Although their assistance is humanitarian aids, the Safety Zone Committee risks the accusation of treachery against China due to their cooperation with the municipality. Professor Searle Bates, a committee member of the Safety Zone, says that “to be fair, some of the officials in the puppet municipality are not necessary bad. They may have been disillusioned by the Nationalist regime” (162). However, Professor Bates still suggests Minnie “to take precautions and avoid mixing too much with the puppet officials lest the Japanese attack them through the hands of their Chinese stooges and then blame it on the Communists,” and again “as Americans, they needed to appear neutral” (162). The Committee’s protest against the Japanese and the cooperation with the puppet municipality are for humanitarian purpose, but their actions have jeopardized their neutrality and safety. Although they are not seriously harmed by the Japanese, Minnie and other non-Chinese figures are blackened as “major collaborators” with the Japanese by some Chinese people (160). For example, a newspaper article, perhaps posted by the Communist or puppet municipality, attacks the committee members, “claiming that they had conspired with the Japanese to oppress and persecute the Chinese, so the neutral zone had never been neutral” (158). Moreover, this article posts several untruthful accusations against “the Western collaboration with the invaders,” such as “disarming the Chinese soldiers and then handing them over to the Imperial Army, attending its celebratory ceremonies and concerts,” “teaching Japanese in Christian schools” and even “making evil plans against China” (158). This article indicates that the committee’s neutral stance may be dubious in the eye of the Chinese, and their humanitarian aids are therefore negatively politicized not only
by the Japanese authorities but also by some Chinese people. This misunderstanding may damage their humanitarian aids and lead to mistrust from the Chinese and Jinling College’s supervisors in the U.S. In general, three kinds of plights in the humanitarian aids of the non-Christian figures in Nanjing Requiem is presented: the dilemma between their legal responsibility of remaining neutral and moral conscience of rescuing the miserable people, the difficult decision to turn in some refugees for more others, and the reluctant cooperation with the municipality which brings them suspicion of treachery.

In War Trash, some non-Chinese figures, such as Father Woodworth and Dr. Greene, offer the Chinese POWs humanitarian aids and encounter frustration while facing the POWs of the enemy side. As a military chaplain, Father Woodworth is considered as a noncombatant according to the Geneva Conventions. Compared to the American soldiers, Woodworth plays a more neutral role in the American army. Yu Yuan is attracted by Father Woodworth’s hymn which is “the only beautiful thing in this hellish place” (78). Father Woodworth asks Yu Yuan to help the translating the English hymn into Chinese, so more Chinese POWs can understand and sing. In War Trash, the humanitarian aid that Father Woodworth offers for Yu Yuan is spiritual comfort, and Yu Yuan wholeheartedly takes him as a humane and altruistic religious figure. However, when inquiring Father Woodworth about the inhumane and unjust treatments against the Communist POWs, Yu Yuan assumes Father Woodworth “might help because we’re all fellow sufferers” (81). Beyond Yu Yuan’s expectation, Father Woodworth’s answer and actions reveal his plight of humanitarianism. Yu Yuan reveals his confusion to Father Woodworth: “according to the teaching of the Bible, all the prisoners here are sinners, so we should be equal. Why are some inmates more privileges than others?” and “people are not treated equally here. The men living at
the back (the Communist soldiers) are not even given their share of food” (80). However, Father Woodworth’s reply disappoints him: “this is the way things should be done” (80), because “most of you are Communists. To me and to my God, Communism is evil” (81). Father Woodworth justifies himself that “I’m not just a clergyman but also a soldier. I came with both the book and the sword” (81). Their conversation upsets Yu Yuan and “shatter his illusion that there might be shelter in God’s bosom for every person” (81). Father Woodworth’s words reveal that how a person should be treated is determined by his national identity and political stance, not by his belief and actions. Obviously, his political ideology surpasses his religious faith as he compares the Communist to the enemy of God. His bringing “both the book and the sword” implies his partial attitude in treating the Nationalist and the Communist POWs differently. When Dajian, Yu Yuan’s close friend as well as a Communist POW, tells him that Father Woodworth was indifferent to a tortured Communist soldier crying for help, Yu Yuan is completely disappointed. However, although Father Woodworth is anti-Communism, it is hard to clearly know whether he is indifferent to the inhumane treatment, or he has no rights to intervene these soldiers’ brutality due to his identity as a chaplain. Nevertheless, Father Woodworth faces the plight in humanitarian aids to POWs because he serves in the American troop and his political stance is his prior consideration.

In War Trash, Dr. Greene is an exceptional non-Chinese figure who treats the Communist POWs humanely and impartially. Facing the wounded enemy soldiers, Dr. Greene treats Yu Yuan with patience and benevolence, and he “feels calm in her presence, as if she had been sent over to save me” (50). When she shows her happiness on seeing his recovery, Yu Yuan thinks “if she had not been in uniform, nobody would have taken her for a soldier, let alone one on the enemy’s side” (53). Yu
Yuan is curious whether she hates China because it fights against the U.S., but Dr. Greene replies that “I still can’t hate China, to be honest. I was raised in China, which is my second country” (54). Dr. Greene is not completely controlled by her political ideology, but her life experience and her moral values are influential in her way of dealing with the POWs. Before being transferred to another camp, Yu Yuan wholeheartedly appreciates Dr. Greene’s help, and she just replies that it’s “a doctor’s job” (60). After a half century when Yu Yuan is in his old age, he still believes that “medicine is a noble, humane profession. If I were born again, I would study medical science devotedly,” and praises that “doctors and nurses follow a different set of ethics, which enables them to transcend political nonsense and man-made enmity and to act with compassion and human decency” (5). In War Trash, Dr. Greene can be considered as the only non-Chinese who keeps a neutral stance during the wartime.

About the politics of human rights in biopolitical sense, Agamben states that human rights are the discourse produced by national sovereigns. Therefore, human rights are easily manipulated by state sovereigns, and so are humanitarian aids. Lechte and Newman indicate: “today, the conduct of military campaign is often indistinguishable from humanitarian operations or vice versa…and humanitarian aid workers accompany soldiers into war zones” (5-6), which implies the impossibility of neutrality of humanitarian workers. It is hard for any individual and institution to stand neutral when their services are affiliated to military activities. This situation is similar to Father Woodworth’s “taking both the book and the sword.” Serving in the American army, it is hard for Father Woodworth to stand neutral when he has to conduct his religious duties in accordance with his nation’s interests. Minnie Vautrin and the other committee members in the Safety Zone are another example. The Safety Zone Committee serves for neither a specific country nor a military group, so they
should have been able to obey the principle of neutrality in their services. However, out of their value of preventing injustice, they choose to break their neutral principle to rescue Chinese civilians. In sum, the plight of humanitarian aids in Nanjing Requiem and War Trash are primarily caused by the non-Chinese characters’ impotence of remaining neutral during the war. In Nanjing Requiem, Minnie and other non-Chinese figures’ plight of neutrality comes from their commitment to rescuing people in emergency, which makes them choose to break their own principle of neutrality; while in War Trash, the difficulty of Father Woodworth to stay neutral comes from the conflict between his identity as a military chaplain and his anti-Communist political stance.

III. Potentialities: A New Route for the Stateless

In order to conquer the impediment of human right crisis, Agamben attempts to search for a route to solve the ontological problem of human rights. He believes that “dissolution of the nation state” has been accelerating, so he expects the appearance of “a coming community” to accommodate those stateless people who are not affiliated to any national sovereigns. “The coming community” can be seen as Agamben’s innovative idea for the human rights of the stateless. Agamben asserts that only by deconstructing the relation between human life and sovereignty can people liberate the oppressed subjectivity of human beings by the sovereign (“Beyond” 90), and retrieve autonomy for human beings. In this manner, the liberated human subjectivity are not limited and controlled by the sovereigns, and the human beings can rid of the confinement in legal and political identities. Thus, in Agamben’s explanation, it is not necessary for human beings to be politicized as the citizen to their nations. “The coming community” is Agamben’s contemplation of an ideal and incoming
formulation of politics, centering on its fundamental concept: “the potentiality.” In *Potentialities: Collected Essays in Philosophy* (1999), Agamben reinterprets Aristotle’s concepts of “potentiality” and “actuality” (the realization of potentiality). Aristotle states that the essential of potentiality is “not simply non-Being, simple privation, but rather the existence of non-Being, the presence of an absence; this is what we call “faculty” or “power”” (179). In other words, it is unnecessary for potentiality to be realized into actuality; instead, potentiality can exist either through actuality or non-actuality. The central idea of the existence of potentiality is ‘not to be,’ which implies a “capability” of choosing “to be” or “not to be” (impotentiality). In Agamben’s interpretation, Aristotle’s “impotentiality is a privation contrast to potentiality,” and “all potentiality is impotentiality of the same and with respect to the same” (181-82). Agamben assures that Aristotle offers “the most explicit consideration of the originary figure of potentiality, which we may now define with his own word as the potential not to be” (182). This potentiality/impotentiality can exist inside a human being and it does not need a national or political entity to activate. Therefore, potentiality/impotentiality implies the freedom, an ability to choose, and the autonomy of the human. Potentiality/impotentiality is a fundamental element of Agamben’s starting point of the coming community.

About the human right issue, Agamben’s “potentiality/impotentiality” sheds a light on a new interpretation of the essence of the human beings and human rights, which emphasizes on the autonomy of the human beings beyond national and cultural dominance. In *Nanjing Requiem* and *War Trash*, the bare life and the stateless reflect the nation’s merciless oppression on its citizens, so some major characters express their desire to be the people without a motherland. Their desire implies these characters’ potentialities/impotentialities “to be” or “not to be” a citizen of their
countries, foreseeing a picture of the coming community, which in total bespeaks Ha Jin’s ideal of humanity, including autonomy of human beings and the exercise of a free will to go beyond the confinement of nations and politics. In *Nanjing Requiem*, Holly Thornton, an American widow naturalized as a Chinese citizen, voluntarily joins the Safety Zone Committee. She cares less about her home and nation but about her devotion to her faith in God and her humanitarian careers to serve and rescue whoever needs her. Before leaving Nanking, Holly tells Anling that “for me home can be any place and I don’t need a hometown,” (143-44) and “I realized that my life was entwined with the Chinese, whether I like it or not. This is my adopted country and I’ll serve where I’m needed most” (144). When Anling visits the refugee relief center where Holly works, Holly feels relieved that “without my old home anymore, I can go anywhere I want to and live a different life” (239). While Anling mentions Holly’s neutralized Chinese citizenship, Holly firmly asserts that “citizenship is just a piece of paper. I belong neither to China nor to America. Like I said, I’m on my own” (240). Since she is capable of choosing to be or not to be any country’s citizen, Holly does not need to submit herself to any country, and she can gain more independence in her life. She does not need to accommodate her choices and actions of life to the responsibility for her country; instead, she chooses to commit herself to her belief in God and humanitarian services for miserable people.

In *War Trash*, it is difficult for Yu Yuan to decide whether to be repatriated to China or to leave for Taiwan. Informed that he can apply for going to a third country if he is really reluctant to go either mainland China or Taiwan, Yu Yuan deliberates that “I was driven by the instinct for self-preservation and felt that a third country would be a better destination for a man like me, who had often been an outsider and couldn’t fit in any political group among my compatriots” (326). For Yu Yuan, there is
no place called home, so everywhere can be his home. He concludes that “I would have to prepare to be a solitary man without a country, condemned to speak a language in which I could never feel at home” (327).

For Holly and Yu Yuan, only when their vision of “home” (likewise, their visions of party, nation, and motherland) vanishes can they gain the potentialities/impotentialities to choose to be or not to be the citizens of their countries. This potentialities/impotentialities implies a new meaning of the stateless, which is no longer a miserable and temporary status for denationalized refugees, but an existence they can attain according to their free will and capability. For Holly and Yu Yuan, the stateless people are not necessarily the people denationalized or abandoning their citizenship, but it can be an attitude, a way of life and a mental state to rid of the burden as a citizen. Holly can actualize her potentialities by being no country’s citizen and devoting her services to everyone in need. She does not abandon her Chinese citizenship but will for being stateless. However, in War Trash, Yu Yuan can choose to go to the third country, but finally he reluctantly chooses repatriation because he worries about his ‘home,’ which pulls him back to the dominance of the Communist sovereignty.

In Nanjing Requiem and War Trash, the politics of human rights is manipulated by national sovereigns to determine whether people deserve their human rights. National sovereigns tend to limit, even violate human rights and justify their violation in the name of national security and loyalty. Moreover, even though the humanitarian service should be conducted neutrally, impartial to any specific group, the humanitarian institutions are often affiliated to political groups or military missions and inevitably become selective and partial in accordance to certain national stance and interests. Sometimes humanitarian institutions even face the threat from military
groups and end up with no choice but to compromise. In dealing with this quandary, Agamben’s concept of potentialities/impotentialities provides a novel perspective of the essence of the humans and human rights for the characters in Ha Jin’s works and renew “the stateless” with a positive meaning.
Chapter Three
Witness, Ethics and Justice

Too often history is written by those who survive, those who won (the pen then works in service to the sword). The victims of war, especially those who did not survive, seldom have their experience told…. It is up to creative writers to imagine the stories for those who have been forgotten, whose existence may have been erased…. In doing so, bearing witness also provides some small measure of revenge against their victors (in this case the pen is taken up in opponent to the sword).

—Wing Tek Lum, The Nanking Massacre: Poems, “Notes”

I. Limitation of the Tribunal

Both Nanjing Requiem and War Trash deal with post-war transitional justice as the war victims demand redress and conviction for the atrocities during wartime. After World War Two, Tokyo Trials are established to convict the war criminals, using the law court to pursue transitional justice for war victims. However, in Nanjing Requiem, pursuing transitional justice through war trials encounter two kinds of obstacles. First, only the victorious countries have the rights to claim justice and sentence the criminals; the victorious countries cannot be convicted for their atrocities if these is any. Secondly, because of the international politics in Cold War, some war criminals who played crucial roles in the war have been intentionally spared, but some volunteers who offered assistance and rescued the civilians are punished. For

12 Wing Tek Lum’s motivation to compose this poetry collection is similar to that of Ha Jin. As writers, they both appeal to literature to commemorate and claim justice for the victims in Nanking Massacre. Although they did not undergo Nanking Massacre, they regard their works a kind of witness of the victims’ suffering.
example, the good deeds of the non-Chinese volunteers in *Nanking Requiem* and *War Trash* have been forgotten and the miserable stories of the war victims have been overlooked for several decades.

In *Nanjing Requiem*, when seeing Japanese bombers attacking the residential areas of Chinese civilians, Prof. Searle Bates says that “if Japan loses this war, some of them will be brought to trial” (14), which means that the possibility of pursuing justice depends on the outcome of the war, and only the lost side will be convicted. Anling does not reply, because she has no confidence that China would finally win the war. When Yaoping, Anling’s husband, is offered a position in the puppet municipality, he refuses because he worries that it would be considered a “treason and no one would forgive me for that. Imagine what would happen to me if China wins this war” (195). Although Yaoping is told that cooperating with Japan could prevent more damage and casualty, which is a strategy of “saving our country by taking a roundabout path,” the Chinese government does not accept this reason and condemn it as a pretext (195). Yaoping’s analysis reveals his dilemma between preventing more casualty through cooperating with Japanese troops or remaining loyal to China. To prevent his family from getting involved in the war, Yaoping chooses to leave China until the war ends. If the national sovereign proclaims that any cooperation with the enemy is treason, even for a good purpose such as rescuing people’s lives, it is still unforgivable in the eyes of the national sovereign. In *War Trash*, although many repatriated Communist soldiers remain firmly loyal to the Communist Party, they are all convicted of treason in the end just because they are once the captives in the enemy’s camp. In the two novels, national sovereigns have the absolute power to define loyalty and treason, and often overlook the cause and effect of the whole incidents, and oversimplify the complexity of moral choice and these people involved.
For a long time, these war victims under the oppression of national sovereigns lose any possibility to speak for themselves, and their stories are therefore gradually forgotten in the history.

In the two novels, the dominant sovereigns, such as the Chinese government after the war and the Communist Party, have the power to convict the military officers of the defeated country and the powerless repatriated soldiers. However, the crime and mistakes of the dominant would not be judged. In Nanjing Requiem, the Chinese authorities might have responsibility for or could be punished for the civilians’ casualty due to their wrong politics or orders. For example, Chiang Kai-shek left thousands of soldiers and civilians to perish in Nanjing. If he had evacuated the city before the arrival of the Japanese troops, the serious casualty could have been prevented. Minnie huffs “Chiang Kai-shek should be held accountable for this catastrophe,” and Eduard Sperling, a German who negotiates with Japanese troops for a cease-fire on behalf of the Chinese army, agrees that Chiang Kai-shek “should be court-martialed” (40). However, Rabe adds in an ironic tone, “the problem is that he’s the judge in his own court” (40). How can this case be evaluated in biopolitical sense? The judge here is similar to Schmitt’s sovereign, who can claim “the state of exception” in an urgent situation to suspend the application of the law in the name of security. Therefore, the sovereign can manipulate the law to justify himself, preventing himself from taking legal responsibility. In the state of exception, a void of law, no accusation against him could be made. Therefore, from biopolitical

13 In The Rape of Nanking, Iris Chang states that Chiang Kai-shek only planned a temporary resistance against Japanese troops in Nanjing so as to retreat the central government officers (69). The non-Chinese figures of Nanking Safety Zone attempt to negotiate a three-day-cease-fire for the Chinese troops to evacuate from Nanjing. However, Chiang Kai-shek “promptly rejected it” (73). When the Chinese troops fought against the Japanese in Nanjing, Chiang Kai-shek delivered a rush order to retreat the remaining troops. However, at that time, it was too late for the troops to retreat orderly, but the evacuation became “a rout” (74). Iris Chang comments that Chiang’s order “resulted in one of the most disasters of Chinese military history” (74).
perspective, Rabe’s words imply the impossibility for Chiang Kai-shek to “be the court-martialed,” because he can make himself unchallengeable within the legal system.

The similar case also happens in War Trash. However, this time it is not the inequivalent power relation between the victorious and defeated countries, but the relation between the Communist Party and their repatriated Communist POWs. The Communist soldiers are accused of treachery as they did not sacrifice themselves in the battlefield but get captured by their enemy. The Communist Party has the utmost power to criminalize and punish its soldiers for their failure, but it does not allow its soldiers to question its own mistakes. Actually, these Communist soldiers are captured partly because of the Communist’s inappropriate military tactics and orders, which implies that the Communist authorities should be responsible for the soldiers’ military failure as well as their misery in the POW camps. However, the Communist sovereign uses an arbitrary ideology to stigmatize all the repatriated soldiers as traitors and does not accept any reason for their captivity. The Communist Party announces to these repatriated soldiers: “you must blame yourself for your captivity and must not attribute it to any external cause” (342). Even though these soldiers launched “some resistance activities in the prisons, they (resistant activities) mainly originated from your need for survival” (341). Chang Ming, a repatriated soldier, in order to defend for Yu Yuan, lists all Yu Yuan’s contribution to the Party and questions the Communist officers: “what else do you need to prove a comrade’s loyalty to the Party? The Party told him to die, and he went to die” (343). However, no matter how much he tries to reason with the officers, Chang Ming cannot convince them and ends up being labeled ‘a counterrevolutionary.’ Within the legal system, the sovereign has the paramount power to justify all his order, and silence all the excluded Other.
Furthermore, the realization of transitional justice after the war is easily influenced by the post-war political situation. In Tokyo Trials, the punishment of many Japanese primary war criminals are intentionally lessened, because “the U.S. government meant to downplay the trial and avoid antagonizing the Japanese populace so that Japan would become a staunch anticommunist country” (299). Here the political interests of a nation come before the pursuit of transitional justice. After the Communists take over China, the Chinese characters who had cooperated with the members of the Safety Zone Committee are persecuted in the name of the collaborators with American imperialism because after the war China and America turn into enemies during the Cold War. These Chinese become the victims due to changeable international politics. When these Chinese are accused of betraying China, they cannot even justify for themselves that what they did was for protecting the civilians’ lives from the enemy’s atrocities.

Moreover, although Anling and some members of the Safety Zone Committee come to Japan to attend the war crimes trials, “the Chinese side had little material evidence to support our charge because during the war nobody had expected to face these criminal at such trial” (299). Thanks to the non-Chinese volunteers in the Safety Zone who preserve paperwork, photographs, medical records, the German’s secret report and footage, “the court could make a fair assessment of the crimes perpetrated by the Imperial Army” (299). Otherwise, it would be impossible to pursue transitional justice through war trials.

From Benjamin’s perspective, the war trials are the application of law-preserving violence to establish an order to prevent the same catastrophe in the future, but the way it functions is in fact another kind of violence. Perhaps Tokyo Trials can prevent similar tragedies in the future, but whether it can claim transitional justice for war
victims is controversial. In Agamben’s opinion, the legal system, including war trials, is one of the mechanisms for the sovereign to govern the life, so the legal system is exercised to attain the sovereign’s political interests, rather than the transitional justice for war victims.

In sum, in Nanjing Requiem and War Trash, two difficulties would impede the pursuit of transitional justice through war trials. One is that only the victorious countries can trial the war criminals but they will not be convicted for their own war crimes. The other is that the criteria of conviction change according to the political interests of the international environment at that time and human rights and transitional justice might be sacrificed for securing certain national benefits.

II. Truth Commission and Testimony

Since it is hard to attain transitional justice through legal means, truth commission—“the reconciliation that will lead to return of just and lasting peace” through promoting historical truth for the war victims as “the process of hearing”—has been proposed by Larry May as a non-legal alternative for promoting transitional justice (98). Truth commission emphasizes that the true history should be recorded so as not to be concealed or manipulated for political purposes. In Nanjing Requiem, when seeing many corpses floating in the pond, Minnie suggests that a monument be set up to commemorate these people killed by the Japanese, because “history should be recorded as it happened so it can be remembered with little room for doubt and controversy” (97). In War Trash, the last words said by Commissar Pei are “Please write our story!” (349). Yu Yuan has born Pei’s words in his mind for half a century, and finally decides to write his memoir and to get it published in the U.S., stating that “I’m going to do it in English, a language I started learning at the age of fourteen, and
I’m going to tell my story in a documentary manner so as to preserve historical accuracy” (5). Both Minnie and Yu Yuan emphasize on the importance of preserving history.

About presenting the historical truth, the survivors provide testimony which consists of vivid details for the cause and effect of the incidents than other historical materials like archives and photographs. Both Nanjing Requiem and War Trash are narrated from the perspective of the war survivors. From Agamben’s perspective of testimony it is impossible to present the historical truth because testimony remains lacuna. However, about history, this chapter aims neither to present the historical truth nor to debate whether historical truth can really be presented or not, but to explicate the significance of bearing witness of testimony and its relation to transitional justice in Ha Jin’s literary works.

III. Ethics of the Other and Transitional Justice in Literature

As Agamben elucidates, the survivor who speaks for the Muselmann is a speaking subject undergoing the process of desubjectification. Speaking for the Other (the Muselmann) means “surrendering a part of the survivor’s own subjectivity” (desubjectification) to tell the historical truth on behalf of the Other. In my opinion, this process of desubjectification would develop an ethical relation toward the Other. About the ethics of the Muselmann, Agamben proclaims that “Auschwitz marks the end and the ruin of every ethics of dignity and conformity to a norm.... The Muselmann... is the guard on the threshold of a new ethics, an ethics of a form of life that begins where dignity ends” (Remnant 69). Agamben indicates that the
Muselmann is the end of traditional ethics because it is regarded as the complete negation of humanity, but Agamben also writes that the Muselmann is a starting point of “a new ethics.” Because the survivor is the subject which speaks for the Muselmann, who cannot speak or act for himself anymore, it is the survivor that would initiate the new ethics, and the survivor thus becomes the ethical subject. As the narrators of Nanjing Requiem and War Trash, Anling and Yu Yuan are significant survivors and ethical subjects speaking for the other POWs and the victims of Nanking Massacre. However, being ethical subjects encounters an inevitable conflict between the ethical subject’s independence of action and choice and their responsibility for the Other. In Nanjing Requiem, as a representative of “all the Nanjing women brutalized by the Japanese army,” Anling attends the hearing of Tokyo Trials, to speak for those Chinese victims who cannot speak for themselves. However, as an ethical subject speaking for the Muselmann, Anling cannot meet Haowen’s Japanese wife and son, or it “would have amounted to inviting disaster” (298). When Anling poses herself as an ethical subject for Chinese war victims, she also chooses a stance against the Japanese, including her daughter-in-law and grandson. When the speaking subject turns into an ethical subject, it would undergo a process of desubjectification, which would restrict the subject’s independence of action and choice so as to demand the ethical subject to fulfill its responsibility for the Other.

Speaking historical truth for the Other is about the ethics of the Other, and a realization of truth commission. In other words, truth commission can be fulfilled in the ethical relation between the survivor and the Muselmann. Based on Agamben’s concept, the discussion here about truth commission is for presenting true history, but how about the truth commission in literature? Can Nanjing Requiem and War Trash be
a kind of truth commission in the form of historical fictions? Moreover, what is Ha Jin’s role in this ethical relation? Is Ha Jin also an ethical subject?

Besides the narrators in the two novels, Ha Jin is also an ethical subject who speaks for the Other. Ha Jin writes the two novels to expose injustice and commemorate the miserable story of war victims, but he is not a survivor like Anling and Yu Yuan, who had been through Nanking Massacre and Korean War each. Therefore, from Agamben’s perspective, Ha Jin is not the survivor who can provide his testimony for presenting the historical truth on behalf of the Muselmanns so as to promote transitional justice. However, as a writer of literature, Ha Jin’s primary concern in composing literature might not be presenting historical truth. The crucial part of truth commission and transitional justice in Ha Jin’s literary works is not presenting the historical truth through literature, but arousing the readers’ attention and concern for the Other, i.e., those who have been neglected by the public and perished into the hidden part of history. In Terry Hong’s interview, Ha Jin explicates that

History is not my major concern. My objective is to make a story more believable, more interesting, more nuanced. A story needs to be grounded, which is why I look for historical moments. But I only use history as context. The final purpose is to go beyond history to literature. (See Terry Hong)

Ha Jin’s goal “to make a story more believable, more interesting” can arouse the readers’ attention and interest in understanding these war victims’ story, which could be Ha Jin’s ethical concern applied into his rewriting history into literature.

In “The Spokesman and the Tribe” in The Writer as Migrant (2008), Ha Jin proclaims that the social role of a writer is to “take a moral stand and speak against
oppression, prejudice, and injustice,” and a writer should “be aware of the limits of his art as social struggle” (29). He observes that in contemporary history, there are many “blank spaces unmarked by literature: genocide, wars, political upheavals, and manmade catastrophes” (29). For example, during the Anti-Rightest Movement in China in the late 1950s, “millions of people suffered persecution, tens of thousands of intellectuals were sent to the hinterland and perished there, yet not a single piece of literature with lasting value emerged from historical calamity” (29-30). Ha Jin worries that in the political movements, “the victims were the best educated in Chinese society, and some of them are still alive but too old to produce any significant work,” and “without a lasting literary work, their sufferings and losses will fade considerably in the collective memory” (30). The statement shows Ha Jin’s determination to be the “proxy” of those who cannot voice for themselves. However, knowing the limit of his career as a writer of literature, Ha Jin does not commit himself to excavating and presenting historical truth, but to “create a genuine piece of literature that preserved the oppressed memory” based on “immediate social needs” (30). For Ha Jin, “to preserve is the key function of literature to combat historical amnesia,” which must “be predicated on the autonomy and integrity of literary works inviolable by time” (30). Therefore, Ha Jin is an ethical subject who speaks for those who cannot speak, and preserves their memory through composing literature; moreover, he also figures out the significance of the stories to the contemporary readers, which is written on the prefaces of the two novels. In the preface of Nanjing Anhunqu, Ha Jin thinks that the Chinese are forgetful, so many significant historic events have been neglected and unknown by the public (2). The good deeds of Vinnie Vautrin and other non-Chinese figures are hardly understood by the Chinese. Therefore, Ha Jin attempts to write Nanjing Requiem to promote the benevolence of those non-Chinese volunteers during
the miserable wartime. In the preface of *Zhanfeipin*, Ha Jin mentions that in his childhood, he saw the repatriated soldiers stigmatized as the dreg of the society (7). They were sent to work in remote farms and their children also suffered on their accounts (7). However, in the U.S., Ha Jin was confused that the returning captives from the battlefield receive the honor as war heroes, a very different treatment from that of the Chinese captives (7). The contrast between the attitudes to repatriated soldiers in China and in the U.S. stimulates Ha Jin to rewrite the story of Korean War from the perspective of the Chinese captives, which provides a counter-narrative to the official ones. *Nanjing Requiem* and *War Trash* represent Ha Jin’s offering of transitional justice for these non-Chinese figures and the Communist POWs because Ha Jin not only preserve and present their story to the public but also restore their reputation in the history.

Although the truth commission in Ha Jin’s works is not presenting the historical truth, Ha Jin doesn’t deny or omit the significance of historical truth in his works; instead, he regards it as the foundation of writing a good story. Before writing *Nanjing Requiem*, Ha Jin had consulted different kinds of historical documents, including the dairies of Vinnie Vautrin and John Rabe, because he insisted on basing his story on the basis of historical truth (“Literature in War” 17). Ha Jin’s another writing strategy is characterization of Anling as a fictional narrator in *Nanjing Requiem*, because he thinks that this story should be told by a Chinese war victim (“Literature in War”19). Ha Jin believes that he has a responsible attitude (“fuzeren de taidu”) in presenting this story (“Literature in War”19). Ha Jin indicates that many disasters in the Chinese history have not been fully recorded and expressed because of political causes, and that makes the history unclear (“Literature in War” 20). When Ha Jin was inquired about the motivation of writing *Nanjing Requiem*, his reply was very simple: to tell
the story clearly (“Literature in War” 20). Ha Jin’s purpose of composing the stories based on historical truth is to make the story more convincing to the readers, and his designating the survivors as the narrators is to show his ethical concern for those silent war victims.

Determining to speak for the people unable to speak, Ha Jin has to make great efforts in his writing and endure frustration to complete his works. As Agamben explicates, the subject who speaks for the Other undergoes a process of desubjectification, surrendering a part of its subjectivity to speak on behalf of the Other. Ha Jin had also undergone this process of desubjectification before finishing _Nanjing Requiem_. In the preface of _Nanjing Anhunqu_, Ha Jin mentions that he had been frustrated for many times by the tough challenge of rewriting history into literature (2). Writing _Nanjing Requiem_ became his obsession (“xinbing”) to speak for these war victims, and one night he even dreamed that his wife gave birth to a baby girl who had the same face of Minnie Vautrin (2-3). Ha Jin regards this dream as a revelation (“qishi”) for him to finish the novel, and thus writing this novel becomes Ha Jin’s commitment to commemorate the story of these war victims (3). Therefore, writing _Nanjing Requiem_ is Ha Jin’s pursuit of the ethics of the Other.

Ha Jin emphasizes that a writer should endure any negative emotion, such as fear and sorrow, which may impede the writing (“Literature in War” 21). He quotes a sentence from W. B. Yeats’s poem, “Lapis Lazuli”: “Do not break up their line to weep” to elucidate his attitude toward writers’ responsibility for the society (“Literature in War” 21). This sentence describes the actors’ challenge of performing a sorrowful play on the stage: even though bearing overwhelming grief in the heart, a competent and responsible actor should continue his/her role playing, preventing messing up the play due to his/her emotion (“Literature in War” 21). Similarly, in Ha
Jin’s opinion, while writing such a novel of sorrowful stories, a responsible writer should endure overwhelming pain and grief to finish his/her writing (“Literature in War” 21). This “enduring overwhelming pain and sorrow” is the process of desubjectification that a writer undergoes, which forms the writer’s ethical relation to the Other. Ha Jin’s obsession and revelation are the syndromes of his desubjectification, which severely frustrates him, but eventually propells him to fulfill his commitment to finishing his novels.
Conclusion

It is the voices and reports of the survivors that allow us all, even younger generations, to answer the question of why it is so necessary and important to remember the horrors of National Socialism both now and in the future – and why this must not end in commemorative speeches, but continue on into the future.

—Angela Merkel

Ha Jin composes his two historical novels, *Nanjing Requiem* and *War Trash*, to excavate the story in hidden history of Nanking Massacre and Korean War and to redress the injustice against the war victims. In traditional historical narratives, Nanking Massacre was an incident in which about 300,000 Chinese civilians were killed by the Japanese troops, and in Korean War, over a million Chinese soldiers were sent to fight against American imperialism, but many of them were captured by the American troops. Contrast to the traditional historical aspect, Ha Jin’s narratives offer alternative perspectives for readers to inspect and understand these historic incidents. Moreover, Foucault, Schmitt and Agamben’s ideas about biopolitics shed a light on the theoretical perspectives to contemplate on the interrelation between the law and the life, the country and its citizen, and the Self and the Other in reading *Nanjing Requiem* and *War Trash*.

Agamben’s concept of bare life explicates how the sovereign deprives the people of their civil rights and human rights, turning them into an existence between human and inhuman. In *Nanjing Requiem*, the most miserable figures of bare life are not

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those who suffer from the atrocities by Japanese troops, but those persecuted by the Nationalist and Communist Chinese governments which apply an arbitrary ideology of loyalty and betrayal to persecute the Chinese who attempt to cooperate with their enemy to rescue more lives, and to blacken these non-Chinese who provide support and help for protecting Chinese civilians. In *War Trash*, the most severe harm against the Communist soldiers is caused by neither the brutalities from pro-Nationalist officers nor the American authorities, but by the Communist government which demands loyalty by sacrificing their lives. Ha Jin designates these characters of bare life exploited in the miserable situation to satirize the blind patriotic loyalty, to beckon readers to further deliberate about the appropriate obligations between nations and their citizens, and to question the ambiguous boundary between loyalty and betrayal.

In the two novels, the human rights of the Chinese civilians and POWs are severely violated, and the humanitarian aids from the non-Chinese encounter different plights during the war. In the two novels, the Chinese characters abandoned by Chinese governments are the stateless, who, in the exclusive inclusion of the sovereign’s dominance, are at the risk of losing their human rights. From Agamben’s perspective, human rights are not the universally recognized value of humanity, but the discourses produced and by national sovereigns. National sovereigns can manipulate the discourse of human rights to attain their political interests, which can explain why, in *War Trash*, these Chinese POWs’ human rights can be easily deprived, and why the American authorities are able to make the Communist soldiers as their bargain chips. However, the Communist soldiers are not always submissive in the politics of human rights, and they can take the advantage of the issue about human rights to negotiate with the American authorities.

The plights of humanitarian services offered by the non-Chinese characters in the
novels primarily come from their incapability or refusal of remaining neutrality during the war. In *Nanjing Requiem*, the plights of humanitarian aids of non-Chinese characters happen in the three dilemmas: the dilemma between keeping their legal responsibility for remaining neutral and keeping their commitment to rescuing the people in an immediate threat, the dilemma between giving up some refugees for protecting more, and the dilemma between cooperating with municipality to prevent the civilians from the enemy’s atrocities and remaining loyal to China. The human right crisis and the plights of humanitarian aids in the two novels reflect the powerlessness of human beings and the limitation of moral choice under the military threat, legal system and arbitrary political ideologies of national sovereigns. Therefore, Agamben applies the idea of potentiality/impotentiality to deconstruct the indistinguishable relation between the sovereign and the human beings, and further to uphold human beings’ autonomy, the ability to act and choose according to their ability and free will. Agamben uses his innovative idea of “the coming community” to accommodate these human beings who leave the confinement of the legal system, and to renew a rather positive meaning of the stateless. “The coming community” resonates with Ha Jin’s concerns about the independence of individuals and his critic to blind patriotic national loyalty and compulsive responsibility for the party, nation and home.

From Agamben’s perspective, the *Muselmann* is the final stage of the sovereign’s exploitation against bare life, and it symbolizes the nation’s negation of humanity. The *Muselmanns* are walking corpses, mummy men who can neither speak nor act for themselves. In *Nanjing Requiem*, the *Muselmanns* are not only the Chinese civilians who have been tortured and fallen into mental disorder, but also the well-trained military faculty who gradually lose their morality and humanity, and finally
committing horrible war crimes. The situation of the *Muselmann* reflects that in the state of exception, not only the dominated figures of bare life but also the faculty who represent the utmost power of the sovereign could suffer from dehumanization. The sovereign power is a double-edged sword which harms both sides. Because the *Muselmann* symbolizes complete negation of humanity, Agamben regards it as the end of traditional ethics as well as the starting point of a new ethics. The new ethics is initiated by the survivors when they turn into ethical subjects through speaking for the *Muselmann*. The *Muselmann* represents the most horrible side of the sovereign power against human lives, which foresees the necessity of limiting the sovereign power and preventing it from becoming uncontrollable. The role of the survivors sheds a light on the significance of transitional justice to redress the injustice against the silent war victims, and excavate the concealed historical truth to the public.

Transitional justice has been a crucial issue in recent decades, because it is believed to guarantee the future peace through redressing the injustice against innocent war victims. Pursuing transitional justice cannot be completely and fairly attained through war criminal trials and the survivors’ testimony, because the way that many countries and institutions pursue transitional justice are still controversial. As an institution affiliated with the national sovereign, juridical system, easily influenced by national interests and political concerns, is incapable of neutral conviction of the criminals. Moreover, from Agamben’s perspective, because of the lacuna remaining in the survivors’ testimony, the qualification of the survivors to present historical truth on behalf of the *Muselmann* is challenged. However, the survivors are unable to provide testimony to reconstruct the whole picture of historical truth as a way to attain transitional justice, but they can initiate a new ethical concern for the Other (the *Muselmann*). In Agamben’s concepts, Ha Jin can be seen as an ethical agent who
speaks for the silent war victims, and his composing *Nanjing Requiem* and *War Trash* is his way of delivering ethical concerns, and pursuing transitional justice for the Other.

Although Ha Jin’s *Nanjing Requiem* and *War Trash* are the two novels about the misery in historic wars, the descriptions of the war victims’ suffering, violation of human rights and the issue of transitional justice in the two novels are very real and pertinent to our life. We can still see the violation of human rights happening in almost every place around the world. In North Korea, it is estimated that about 200,000 prisoners have suffered from inhumane exploitation in over 10 large concentration camps. Since the civil war in Syria began in 2011, the massive immigration of refugees from Syria has provoked the tension between the value of human rights and the problem of national security among the European Union. In Taiwan, the pursuit of transitional justice to redress the injustice caused by the Nationalist government, such as public massacre, framed-up sentences since the 228 Incident and the following White Terror lasting for 38 years, has never ceased. Ha Jin and Agamben’s works are not only about the story of the past, but also the story of the present, reminding us to review history so as to evaluate the present and to caution for the future.
Works Cited


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