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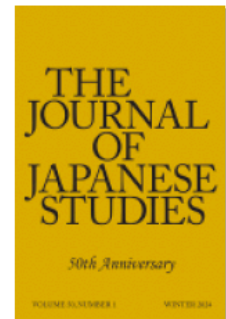
*Japan's Prisoners of Conscience: Protest and Law During the
Iraq War* by Lawrence Repeta (review)

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Pacific ballistic missile system, which deeply influenced regional security dynamics. In addition, regular, country-wide broadcasts of alarm messages to mobile phones and widely publicized drills requiring school children to seek shelter under their desks have had decisive political repercussions.⁴ It would therefore be interesting to know how instances of debris falling into the EEZ and North Korean missiles passing Japan above the Karman line, that is, in outer space, are interpreted according to international law and the Japanese application of it.

Overall, *Japanese Maritime Security and Law of the Sea* provides a wealth of historically informed information on the politics of Japan's national security legislation. Although primarily written for lawyers, it is easily accessible to political scientists, and its detailed account of the legal background of the most contentious issues makes it a must read for students of Japan's security policymaking and of East Asian, or "Indo-Pacific," international politics.

Japan's Prisoners of Conscience: Protest and Law During the Iraq War.

By Lawrence Repeta. Routledge, 2023. xvi, 222 pages. \$160.00, cloth; \$44.95, paper; \$44.95, E-book.

Reviewed by

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I scarcely expected to find myself describing a serious work on Japanese law as a page-turner. That was before I read Lawrence Repeta's *Japan's Prisoners of Conscience*. It truly is a page-turner; I constantly found myself wanting to read on, to find out what happened next. At the same time, at various points I found myself wanting to pause, so that I could ponder the implications of the rich narrative it contains.

As Repeta explains in the introduction, the title is based on the designation "prisoners of conscience" utilized by Amnesty International. That term, which predated the establishment of Amnesty International and, indeed, helped spur establishment of that organization, was defined as, "Any person who is physically restrained (by imprisonment or otherwise) from expressing (in any form of words or symbols) an opinion which he [or she]

honestly holds and which does not advocate or condone personal violence” (p. xiii). This book is centered on the story of two men and a woman who were the first Japanese to be designated as prisoners of conscience by Amnesty International.

The three were members of the so-called Tent Village—the Tachikawa Self-Defense Force Monitoring Tent Village. The Tent Village was an offshoot from protests in the 1950s and 1960s against the U.S. military’s air base in Tachikawa. After the U.S. military gave up on plans for expansion and instead agreed to return the land to Japan in 1969, the Japanese government decided to convert the site into a base for the Ground Self-Defense Force. When that decision was announced, some of the antiwar activists elected to renew their protests, with the focus shifted to the SDF (Self-Defense Force). They initially conducted their protests from a cluster of tents on land abutting the base, hence giving rise to the name Tent Village.

By 2003, when Prime Minister Koizumi Jun’ichirō was considering deployment of the SDF to the Middle East, the number of Tent Village activists had dwindled; and, instead of tents, they operated out of a small apartment overlooking the base. After considering what they could do to help resist the deployment, the members decided to distribute flyers to mail slots in the apartment buildings for SDF members at the base, criticizing the war in Iraq and calling on SDF members to refuse orders to deploy to Iraq. From October 2003 through February 2004, they carried out five flyer deliveries.

Then, on February 27, 2004, a large contingent of police, armed with search and arrest warrants, descended on the Tent Village office and the residences of five members. They conducted thorough searches and gathered files, documents, computers, and other material. Upon completing the searches, they also arrested the three members who had distributed flyers on January 17, on suspicion of criminal trespass.

This book is primarily the story of those three “prisoners of conscience,” from their initial activities distributing flyers through the final decision in their case by the Supreme Court in 2008. As detailed in “A Note on Sources” (pp. 178–79), Repeta conducted interviews with many of those involved and assembled a huge trove of information, including records of their own experiences by Tent Village members and supporters, a real-time blog by a leading supporter reporting on events from the time of arrest through the District Court judgment and beyond, and a website maintained by the Tent Village containing detailed reports from each trial hearing, as well as extensive contemporaneous media coverage, two books in Japanese, and some official court documents—although, as Repeta notes in one of countless valuable asides, public access to court records in criminal cases is generally prohibited in Japan (p. 178).

From this rich store of information Repeta has constructed a masterful account that takes readers through key stages in the case, often making

readers feel as though they were there to observe the events in person. Along the way, the book addresses many key issues and important themes relating to the Japanese legal system and Japanese society. To offer just a partial list of the stages and themes addressed: the investigation process, from the initial search and arrest through interrogation, indictment, and pretrial detention, as seen through the eyes of suspects/defendants and their supporters; the process of recruiting and coordinating the defense team; preparation for trial, including efforts to assemble information and decisions over strategy; the myriad roles played by support groups; the involvement of prominent academics; differing interpretations of “the common sense of society” (*shakai tsūnen*) by the courts; and detailed accounts of the trial process at the District Court level and the appeals to the High Court and Supreme Court. One other important theme highlighted by Repeta is the mixed role of the mass media. The police evidently sought to achieve public support for the arrests by alerting major television networks in advance to ensure camera crews were on hand to record the initial searches and arrests on February 27 (pp. 13–14). Just over a week later, though, the *Asahi* newspaper drew public attention to the Tent Village case and helped galvanize support for the activists, through a March 5 editorial highly critical of the police and the chilling effect of their actions on freedom of speech and assembly (pp. 33–35). Thereafter, the mass media constituted an important focus of the activities of the defense team and Tent Village supporters.

In addition to his detailed examination of the Tent Village case, Repeta has integrated thorough accounts of the cases of two other men who were arrested and indicted after distributing political material, Horikoshi Akio and Arakawa Yōsei, along with a shorter account of a third, Ujihashi Shin’ichi. While these cases bear parallels to the Tent Village situation, they differ in several significant ways and further enrich the book by providing valuable contrasts.

It is scarcely a coincidence that in all three cases the political material was either from or had been largely produced by the Japan Communist Party. For Horikoshi and Ujihashi, one important difference from the Tent Village defendants lay in their employment status. Both were national public servants. Instead of criminal trespass, they were arrested and indicted under a provision of the National Public Employees Law which states that, “apart from exercising their right to vote,” government employees “must not engage in political acts as prescribed by the National Personnel Agency,” and the prescribed list of prohibited activities includes “publishing, editing, or distributing” newspapers or other publications for political organizations (pp. 29–30). Their prosecutions provided Horikoshi and Ujihashi the opportunity to challenge the constitutionality of that prohibition and seek to force the Supreme Court to revisit a 1974 judgment upholding the ban. The cases also provide Repeta the opportunity to discuss this important issue.

Another significant difference for Horikoshi was his attitude toward interrogation. Whereas the Tent Village suspects asserted the right to silence and maintained silence throughout the interrogation process, Horikoshi firmly believed his activities were protected by the constitution; he waived the right to silence and provided a full and detailed confession. As Repeta explains, that willingness to confess led to vastly different consequences with respect to pretrial detention.

Thanks in part to a 2004 change in the Code of Criminal Procedure directing courts to order prosecutors to disclose evidence in appropriate cases, and in part to the District Court presiding judge's willingness to issue an order for substantial disclosure over the strong objections of the prosecutors (pp. 73–74), the Horikoshi case took on even greater significance. Reports and videos disclosed pursuant to that order revealed that the police had placed Horikoshi under extensive surveillance over an extended period of time; a police team waited outside his apartment in the morning and began video recording as soon as he came out, then passed off to other teams to follow him as he went on his delivery rounds and undertook other activities. The disclosed materials included a report by an officer who tailed Horikoshi one day from the time he left his apartment at 12:08 pm up until 10:30 pm, tracking his movements throughout what appears to have been a date with “an unidentified woman (height 150 cm., age about 35),” with whom Horikoshi “held hands” at one point (pp. 134–35). These revelations gave rise to serious concerns over police surveillance and intrusions on personal privacy.

The charge in the Arakawa case was the same as for the Tent Village case: criminal trespass. The defendant, however, was no activist; he was a Buddhist monk who had been delivering reports on local issues of concern to neighborhood residents for many years. It seems it may have been his misfortune that one apartment resident reported him to the police just when they were on high alert over the Tent Village case and other protest activity. His case provides an additional reference point; and the contrasts among the cases provide a reminder that the identity of the judges—as well as the activities of prosecutors and defense counsel—may affect how cases are handled and perhaps even the ultimate outcome.

That does tie to one quibble. The book provides rich detail about the defendants, defense teams, and supporters, but little on the judges. At various points I found myself wishing for more information about the prosecutors and judges who were in charge of the cases—their backgrounds and personalities, for example. While it is very likely a longshot, by now many of the judges are likely to have retired, and some may be willing to share their reflections.

Needless to say, a work of this sort requires understanding of many aspects of the Japanese legal system, from matters as basic as the structure

of the judicial system and composition of the legal profession to police and prosecutor practices, access to information, and numerous other matters. It also requires readers to understand a wide range of legal standards and doctrines, including provisions of constitutional law, criminal procedure, and criminal law, and how those provisions have been interpreted and applied. One of the great strengths of this book is the way in which Repeta has seamlessly integrated explanations of the legal system and relevant standards and doctrines in everyday language, almost entirely free of legal jargon.

From the title, it might seem as though this work would mainly be of interest to those concerned with issues of civil liberties. With its careful attention to freedom of speech and assembly, suppression of protest, police surveillance, personal privacy, and related matters, by its very nature the book is of great importance for those issues. Yet it would be a grave mistake to regard it as simply a work on a relatively unusual set of events involving issues of civil liberties. As I hope my comments above reflect, this is a powerful book with important implications for a host of constitutional and policy issues; understanding of courts, trials, and many other concrete aspects of the Japanese legal system; social movements and their use of the legal system; and, of course, threats to and possible protections for civil liberties. It is also a pleasure to read.

A Path into the Mountains: Shugendō and Mount Togakushi. By Caleb Swift Carter. University of Hawai'i Press, 2022. \$68.00, cloth; \$28.00, paper.

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Over the last 40 years, scholars responding to Kuroda Toshio's influential 1981 article "Shinto in the History of Japanese Religion" have been re-examining every operative term appearing in his title: What counts as "Shintō," "history," "Japanese," or "religion?"¹ Thanks to Kuroda, even those who posit continuity in *kami* worship traditions since the codification of the *Kojiki* (712) and *Nihon shoki* (720) usually admit that much of what we now call Shintō: (1) is of continental or peninsular origin; (2) existed as part of an encompassing Buddhist cosmological framework for most of Japan's history; (3) only emerged as a discrete, autonomous tradition separate

1. Kuroda Toshio, "Shinto in the History of Japanese Religion," translated by James C. Dobbins and Suzanne Gay, *Journal of Japanese Studies*, Vol. 7, No. 1 (1981), pp. 1–22.