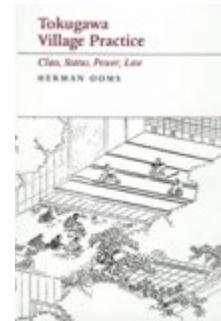


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Herman Ooms. *Tokugawa Village Practice: Class, Status, Power, Law*. Berkeley: University of California Press, 1996. xviii + 425 pp. \$45.00 (cloth), ISBN 978-0-520-20209-2.

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## The Tokugawa Juridical Field

*Tokugawa Village Practice* maps the contours of Tokugawa Japan's juridical field by examining relations of power from the standpoint of social and institutional practice at the village level. A significant addition to the literature on Tokugawa Japan, Herman Ooms' study takes old issues, such as the degree to which Tokugawa villages were autonomous, and subjects them to a thorough re-examination that is theoretically sophisticated, well grounded in empirical data, and well written. The result is a book likely to modify many a reader's view of the Tokugawa period.

The English-language literature on Tokugawa rural villages provides good coverage of peasant protest and resistance in the face of extra-village threats, but it does not deal adequately with the topic of intra-village politics. In Japanese, however, there is extensive published research on village political practice, which forms the basis for Ooms' examination of "what peasants did and could do in their villages" (p. 2). *Tokugawa Village Practice* complements, adds to, and sometimes revises the work of scholars such as Smith, Bix, Kelley, Vlastos, and Walthall.[1] Ooms uses data on what peasants actually did to contextualize and re-examine aspects of the legal history of Tokugawa Japan, including the work of scholars such as Haley, Henderson, and Steenstrup.[2] By examining intra-village political practice and Tokugawa law in light of each other, Ooms is able to construct what he calls the "Tokugawa juridical field." This field was not autonomous; it existed as a dimension of the complex network of partially overlapping socio-political orders (subfields) constituting Tokugawa society. Ooms'

study, therefore, also functions as a partial topographic map of the contours of power in Tokugawa Japan. A major contribution of this book is a superb analysis of outcast groups within this analytical framework.

For those familiar with Ooms' past work on early Tokugawa ideology and intellectual history[3], the present book features some similar theoretical orientations (especially the influence of Pierre Bourdieu) but otherwise covers new ground. My perspective in reading *Tokugawa Village Practice* is that of an intellectual historian of Tokugawa Japan and a specialist in the history of the Ryukyu Kingdom. I am not an expert in Tokugawa village politics or Tokugawa law and am therefore unable to evaluate the empirical data from which Ooms fashions his arguments. In this review, I seek to summarize the main arguments and important points of each chapter and briefly to assess the significance of the book with respect to recent scholarship on Tokugawa Japan.

The first chapter examines one peasant woman's struggle against Tokugawa authority at several levels. The second and third examine class and status, respectively, and the fourth takes up the issue of village autonomy. The fifth chapter discusses outcast groups and state racism, followed by a summary chapter describing the Tokugawa juridical field. This organization works well and provides a cumulative reinforcing of key points that does not become tedious or repetitive. On the other hand, each chapter can stand on its own as an individual essay. Five appendices of relevant village regulations complement the main text, as does a useful glossary and charac-

ter list.

Chapter One, “‘Mountains of Resentment’: One Woman’s Struggle Against Tokugawa Authority,” describes the lifelong struggle for justice of a poor peasant woman named Ken (1719-1795). A native of Makibuse, a village in the shogun’s domain located in today’s Nagano Prefecture, Ken lived in several other villages at different points in her life and experienced two failed marriages. In 1757, she orally petitioned the village authorities of Makibuse for a memorial service for her dead brother Shinzou, an alleged troublemaker killed by other villagers a few months after they had disinherited him. Because shogunal edicts clearly prohibited villagers from killing suspects or malefactors of any kind, Ken’s petition amounted to an accusation that Shinzou had been murdered. Ken was illiterate, but shortly after her oral petition, she submitted a formal written petition to the same effect. It is significant that her lack of education, wealth, and allies did not prevent her from obtaining the services of a petition writer and thus access to the power of the written word. Makibuse village authorities (headman and *kumi* heads) would have preferred to keep the matter of Shinzou’s death quiet, but such a serious accusation as Ken’s could not be hidden from the shogunal intendant.

Justice did not prevail, however, at least from Ken’s point of view. Village authorities colluded with shogunal authorities to derail Ken’s charges. The system through which Ken sought *justice* placed much higher value on *harmony*, just or otherwise. It was Ken, as disrupter of the village’s harmony (perhaps more superficial than real), who bore the brunt of criticism by the shogun’s officials. Although she got nowhere with the petition concerning her brother, Ken refused to submit to authority in various ways. She petitioned to leave Makibuse, and when her request was rejected, she refused to sign the population register. She lived alone on a small plot of land, a virtual outcast in her village, refusing orders to remarry (her second husband had left her in 1761). The details of her life and struggles reveal important dimensions of Tokugawa village life analyzed more systematically in subsequent chapters.

Externally imposed edicts, formal petitions, written promises (e.g., for Ken’s second husband to abstain from liquor), and population and tax records were some of the varieties of written documents that regulated village life. Contrary to the image of Tokugawa rural villages as autonomous, harmonious enclaves, this and subsequent chapters make the case that they were sites of contesta-

tion in a highly legalistic society. Bakufu-imposed *kumi* (mutual responsibility groups of families) in many villages, for example, tended (contrary to bakufu intent) to correspond with older lineage groups, and interlineage conflict was a major source of intra-village conflict. Manipulation of power at the village level could take several forms. First, following Bourdieu, Ooms points out that different types of capital—material, cultural, social, and symbolic—could be converted into each other. Ken, for example, used symbolic capital associated with Buddhism as a vehicle to make her accusation of murder. Second, the intersection of intra- and extra-village authority provided possibilities for the manipulation of each in intra-village power struggles. A final point in this chapter is that Tokugawa villages were not geographically isolated from one another. Villagers moved in and out of their home villages, and inter-village networks were important to the economic lives of many peasants.

Chapter Two, “Class Politics,” examines intra-village power from the standpoint of class. Because class and status were inextricably related, however, Ooms argues that it is impossible to discuss one to the exclusion of the other. The chapter begins by criticizing the common held view of Tokugawa villages as having been “already there” since the start of the Tokugawa period, available for co-optation by the new rulers (similar to the way many intellectual historians once regarded Cheng-Zhu Neo-Confucianism as having been waiting in the wings for shogunal appropriation, a notion Ooms rejects in his earlier work). Tokugawa villages were not stable, cooperative, “natural communities” (*kyoudoutai*) with a constant character. Instead, they were unstable, ever-evolving sets of social and economic practices, subject to both internal and external influences. Many villages were artificially created territorial units, products of the ruler’s cadastral surveys. Social change within villages was ongoing throughout the Tokugawa period, making problematic the extrapolation backward or forward in time from a set of village practices.

The early Tokugawa bakufu established village heads, selected from among the elite stratum of village residents, to secure timely payment of tribute tax. Other members of the village elite tended to resent the exclusive power of the village head. Their petitions and complaints started to pay off in the 1640s, when the bakufu began restoring power and authority to traditional village elites, who became heads of the newly created *kumi*. The headman and *kumi* heads, as the ruling stratum of the villages, were “titled peasants” (*honbyakushou* and other terms). Bakufu or domain authority recognized titled peasants

as responsible for submission of the village's tax allotment and empowered them to govern the village within the parameters established by external authority. Status as a titled peasant corresponded with wealth (land holding) early in the seventeenth century, but by the 1670s, many non-titled peasants had amassed large land holdings (*taka*), while the holdings of many titled peasants began to shrink. In many villages, the distinction between titled and non-titled peasants in terms of land holding all but vanished during the eighteenth century.

This widening gap between formal socio-political status and economic power helped generate intra-village conflict. Relatively wealthy non-titled peasants began to demand a greater role in village governance. Titled peasants opposed such demands and attempted to use their formal status to retain political power. This pressure on titled peasants enabled them to function as an objective class because they sought to monopolize their power and privileges. The bakufu continued to recognize the primacy of the titled peasants in village governance, but above all, it wanted to avoid trouble. Therefore, when non-titled peasant demands for representation became strong enough, the bakufu and domains began to modify the structure of village governance accordingly. The "peasant representative" (*hyakushoudai*), for example, became a check on the power of titled peasants once his seal became required on formal documents. Wealthy non-titled peasants were not the only ones to demand a greater voice in village decision making. Small and even landless peasants eventually managed to gain some say in village affairs. In the course of discussing these matters, Ooms criticizes Herbert Bix's documentation of rising class consciousness among peasants for paying "insufficient attention to economic and class divisions within the villages" (p. 88). One of Ooms' major contributions to our understanding of Tokugawa Japan is to highlight the importance and frequency of intra-village and intra-peasant political conflict as well as to point out the gap between the official bakufu view of society and actual village practice.

The following passage states what is arguably Ooms' most important insight into the nature Tokugawa society: "The dynamic relationship between Tokugawa villages and lordly power can be properly grasped only if one understands the specific nature of the political order established by the shogun and the daimyo. This new order was a regime of conquest like a colonial regime" (p. 89). Regarding the bakuhan state as a colonial regime goes far to explain power relationships, both within Tokugawa villages and between the villages and higher

authority. The goal of the bakuhan state was relatively simple: extract wealth from the land and people under its control. Governing in the modern-day sense of the term was a means to that end, not an end in itself. The bakuhan state was sensitive to any threat to its authority, but it was quite content to delegate much of its power to commoner officials. It sought the least degree of direct involvement in the details of peasant life required to extract tribute, maintain order, and preserve its authority. Village officials, therefore, were akin to native collaborators with a colonial power. They received power and benefits from the overlord in return for maintaining a compliant, taxpaying village population. Forms of social control like the *goningumi* are best thought of as the imposition of military organization on the civilian population.

Chapter Three, "Status Power," continues the examination of status and class and their relationship to political power. As in the previous chapter, Ooms argues that status and class, while not identical, are closely interrelated. He takes scholars such as Bix, Nakane Chie, and Stephen Vlastos to task for "implying that legislation was the only source of status division (which effected class solidarity) and that no further status divisions existed in the village, because of the absence of legislation at that level, assuming, in addition, that villages did not generate status differentials on their own" (p. 128). In this chapter, Ooms examines in detail the complex world of intra-village status distinctions.

Tokugawa overlords "did not want to deal with the complex effects of time and change. Consequently, villagers were left to deal with this reality on their own" (p. 135). The bakufu and domains held a certain subset of the peasantry (titled peasants) responsible for producing a set quota of tribute tax. But land holdings, household sizes, weather, and other key conditions of production constantly fluctuated, soon making official land and population records inaccurate. One result was a tendency for villages to produce one set of records for external eyes and another, which more accurately reflected actual conditions and practice, for internal use. The general tendency as the generations passed was an overall downward economic leveling owing to the partitioning of family holdings among its members and associates. Gradually, the heads of households lost direct control over the means of production. To maintain political power, they came to rely increasingly on the symbolic power that derived from their formal status (typically, as titled peasants). Non-titled peasants or those listed as dependents of others sought to translate economic power into sta-

tus power, which often resulted in the generation of ever finer gradations of intra-village status. In general, the demands for political change engendered by changing economic conditions were not aimed at effecting changes in the rules governing status. Instead, the goal was to change one's position within the status hierarchy. One effect was to ensure the longevity of intra-village status systems.

Chapter Four, "Village Autonomy," examines village laws, village codes, customary practices for settling disputes (e.g., ordeals, ostracism, crime voting) in the context of the interrelationship of intra- and extra-village authority. Villages usually produced their own codes to supplement law imposed by lordly authority. Often, villages produced these codes on their own initiative, "local officials adopting a submissive posture, wanting to ingratiate themselves with the authorities by delivering voluntary proof that they were 'within the law'" (p. 195). Many village codes also covered areas outside the concern of bakufu or dominal law. While the bakufu positioned itself as the sole source of "public" authority, in practice, it quietly acknowledged village codes and their intra-village enforcement "as a secondary and separate form of justice" (p. 196). On the other hand, local bakufu administrators were empowered to deal with village disputes in any way they saw fit. The authority and potential power of bakufu officials to overrule village officials, combined with tacit bakufu acknowledgment of village justice, produced a desire on both sides to keep disputes within the village whenever possible.

Village codes (generated from within) and laws (generated from without) were an important mechanism for local elites to maintain their power. Both forms of regulations, therefore, typically addressed distinctions of status in great detail, because "status was used to hold off competitors for political power who were agitating on the basis of their economic achievements" (p. 200). Here is a typical example of concern for status in a 1767 village law: "Only taka-holding peasants entered on the land surveys can build structures with gates, walled fences, and eaves; branch houses of kin that have such features may keep them, but from now on this will not be allowed" (p. 201). Status regulations of this type were also found in village codes.

Perhaps the most interesting section in this chapter is Ooms' discussion of crime fighting by popular vote. The common practice of "electing" criminals, often strictly supervised by village guards to prevent collusion, casts doubt on the still popular notion that Tokugawa villages

were ruled by consensus, not majority vote. Although villages were not empowered to punish serious crimes like arson or theft, they were expected to apprehend perpetrators. When the identity of the criminal(s) was not obvious to village authorities, the matter might be decided by the ballot, with a wide variety of methods possible. Despite externally imposed prohibitions against villages meting out penalties, in practice, villages sometimes did so. Here, too, the ballot might play a role: "In descending order, those who received the highest number of votes might be fined five kanmon plus ambulatory exposure, and those who received the second and third highest number might be fined three and one kanmon, respectively" (p. 226). Crime voting also functioned as an effective means of social control by "putting on notice those community members whom 'public opinion' judged to be of somewhat questionable character" (p. 226).

It is possible to regard extravillage law as *tatemaie*. The shogun and daimyo claimed a monopoly on coercive force and juridical matters, but their main concern was maintaining their authority. In this context, private justice was acceptable as long as it was discreet and posed no challenge to public authority, and intravillage authorities often "borrowed" lordly authority to enhance their power. In certain respects, Tokugawa villages might also be regarded as lawless, owing to the tendency of both intra- and extravillage authorities to keep matters within the village. This tendency had two results: 1) maintaining a semblance (*tatemaie*) of internal harmony, and 2) leaving the actual exercise of power unchecked. In summary: "From this perspective, villages no longer resemble autonomous, harmonious, egalitarian communities. Rather, like social formations anywhere, they constitute spaces where groups of people, households, or lineages vie for positions hierarchized by class, status, and law using the weapons of class, status, and law" (p. 242).

Chapter Five, "Status and State Racism: From *Kawata* to *Eta*," examines the hereditary outcasts, often called *eta* ("highly polluted," "much filth"). As the default name for this group, however, *eta* is problematic because its members did not refer to themselves by this pejorative term. Therefore, Ooms favors their own term, *kawata* ("leather workers"). Known today as *burakumin*, present-day descendants of the *kawata* continue to suffer discrimination owing to their ancestors' status during the Tokugawa period. Ooms refers to the *kawata* as a "race," and although his usage may seem odd at first glance, it is appropriate. Indeed, Ooms' analysis serves as a specific case study of the broader phenomenon of "race" as a social construct.

Simply stated, the *social* fact of *kawata* status engendered theories of the alleged inferior *biological* makeup and foreign *genealogical* origins of this group.

It is well known that *kawata* disposed of dead animals, worked hides into leather goods, and executed certain criminals. But they were also assigned such functions as patrolling villages and policing festivals and markets. Under rare circumstances, these duties could result in *kawata* functioning like officials, as in 1743 while managing a three-day public exposure of the head of an executed criminal in Kami-Hosoya village (in present-day Saitama prefecture). Here, *kawata* functioned “with pride and authority at an extraordinary event as full-fledged officials. Four of the higher-ranked *kawata* wore long swords, the eight others short ones” (p. 250). *Kawata* were also mobilized to apprehend criminals, and, occasionally, to help samurai quell peasant unrest. In some cases, however, *kawata* joined with peasants in rebellions. On rare occasions when *kawata* rioted, the overlords mobilized peasants, not samurai, to quell them. “The authorities deployed commoners against commoners to keep the peace, playing off the emotionally loaded status antagonisms between them” (p. 254). In general, *kawata* suffered more severe penalties compared with ordinary peasants for the same violations of law.

Ordinary peasants could butcher animals and consume their meat, or even work as hunters with little or no stigma of pollution. There were no outcast communities at all in northeastern Japan, yet butchering and leather work went on there as elsewhere. There was, in other words, no uniform linkage of *kawata* with certain occupations (several provinces had *kawata* fishermen), nor was there a direct link with Buddhist or Shinto notions of pollution. Pollution was indeed the idiom of discrimination against *kawata*, but it was flexible: “Activated and propelled by social, economic, or political forces, it was appropriated and applied in some situations but not others” (p. 275). *Kawata* status was primarily the result of legislation.

Discrimination against *kawata* was relatively mild at the start of the Tokugawa period and tended to increase in severity over time. By the end of the seventeenth century, Buddhist temples began keeping separate lists of the deceased, one for ordinary commoners and one for *kawata*, and bestowing posthumous names on *kawata* containing the word “leather” (*kaku/kawa*). The practice of chiseling discriminatory posthumous names on tombstones continued into the mid-twentieth century, and one researcher found an instance of the practice in

1980. Interestingly, some Buddhist monks in Tokugawa Japan made conscious links between *kawata* and India’s “untouchables.”

Official discrimination made itself manifest in a variety of ways. Official maps left out figures for road sections passing through *kawata* villages, and *kawata* were removed from the road to Nikko when Korean embassies passed through. “The image of Japan that was visible on maps (as seen through the eyes of officials) and from sedan chairs (through the eyes of foreign dignitaries) did not include *kawata* or *hinin*” (p. 287). Bakufu and local legislation became obsessed with marking *kawata* as “other.” In the domain of Matsushiro, for example, *kawata* were required to carry lanterns to be identified at night. In some places, they were required to wear pelts or pieces of animal fur. Tokugawa-period Confucians and other scholars typically abandoned notions of universal human nature when it came to the *kawata*, instead devising theories to justify their low status in the “natural” order of things. By the end of the Tokugawa period, the notion that *kawata* were physically deformed in ways that marked them as more akin to animals than humans and genealogically foreign to Japan had become widespread.

Ooms ends Chapter Five with a superb example of “a lie that establishes official truth” in the form of an inscription on a memorial plaque near Shimoda that reads: “This monument, erected in 1931 by the butchers of Tokyo, marks the spot where the first cow in Japan was slaughtered for human consumption (eaten by Harris and Heusken)” (p. 311). Presumably, the many cows slaughtered throughout the Tokugawa period were not for “human” consumption.

The final chapter, “The Tokugawa Juridical Field,” reiterates many of the key points raised previously and brings them to bear in reconfiguring some of the classical issues in studies of Tokugawa Japan such as the degree to which the society was feudal versus absolutist. Ooms argues that the Tokugawa system should be regarded as a regime of conquest more than as a feudal order. The high degree of control characteristic of times of warfare remained a permanent feature of Tokugawa society. There was no autonomous juridical field apart from the socio-political order, but this order was imperfectly unified, consisting of partially overlapping subfields. Because everyone, even *kawata*, had “public” duties within the socio-political order, litigation tended to increase at all levels of society, and the warrior-conquerors gradually had to expand their role as adjudicators. Although

the bakuhan state had to delegate or “subcontract” the exercise of its authority to commoners, few ever questioned its claim to be the sole source of coercive authority. The symbolic power of Tokugawa law (a concept derived from Bourdieu), therefore, contributed much to the expansion of the Tokugawa juridical field despite the decline in the sheer power of the bakufu and domains.

Since the mid-1980s, our view of the Tokugawa period has undergone major revision. For example, gone (at least among specialists) is the view of Tokugawa Japan as a closed country without foreign relations, owing in large part to the work of Ronald Toby.[4] Tokugawa foreign relations is now a flourishing subfield of intellectual inquiry. Similarly, our understanding of early Tokugawa ideology has moved away from a simplistic notion of Ieyasu’s adoption of Cheng-Zhu Neo-Confucianism.[5] *Tokugawa Village Practice* questions and re-configures widely held notions concerning village autonomy, class and status, law, power, authority, and the nature of the bakufu itself. Assuming the book holds up well to criticism of its empirical base (which I cannot provide), it will likely become a milestone in the ongoing evolution of our understanding of Tokugawa Japan.[6]

#### NOTES

[1]. Thomas C. Smith, *The Agrarian Origins of Modern Japan* (Stanford, Calif.: Stanford University Press, 1959) and *Nakahara: Family Farming and Population in a Japanese Village, 1717-1830* (Stanford, Calif.: Stanford University Press, 1977); Herbert Bix, *Peasant Protest in Japan, 1590-1884* (New Haven, Conn.: Yale University Press, 1986); William Kelley, *Deference and Defiance in Nineteenth-Century Japan* (Princeton, N.J.: Princeton University Press, 1985); Stephen Vlastos, *Peasant Protests and Uprisings in Tokugawa Japan* (Berkeley: University of California Press, 1986); Anne Walthall, *Social Protest and Popular Culture in Eighteenth-Century Japan* (Tuc-

son: University of Arizona Press, 1986).

[2]. John O. Haley, *Authority without Power: Law and the Japanese Paradox* (New York: Oxford University Press, 1991); Dan Fenno Henderson, *Conciliation and Japanese Law, Tokugawa and Modern* (Seattle: University of Washington Press, 1965) and *Village “Contracts” in Tokugawa Japan* (Seattle: University of Washington Press, 1975); Carl Steenstrup, *A History of Law in Japan until 1868* (Leiden: E. J. Brill, 1991).

[3]. For example, *Tokugawa Ideology: Early Constructs, 1570-1680* (Princeton, N.J.: Princeton University Press, 1984).

[4]. Ronald P. Toby, *State and Diplomacy in Early Modern Japan: Asia in the Development of the Tokugawa Bakufu* (Princeton, N.J.: Princeton University Press, 1984; reissued by Stanford University Press, 1991).

[5]. The major work in English is Ooms’ *Tokugawa Ideology*. One of several important works in Japanese is Watanabe Hiroshi, *Kinsei Nihon shakai to sougaku* (Early-modern Japanese society and Song learning) (Toukyou daigaku shuppankai, 1985).

[6]. An important recent work that addresses issues of bakufu power and authority is Constantine Nomikos Vaporis, *Breaking Barriers: Travel and the State in Early Modern Japan* (Cambridge, Mass.: Council on East Asian Studies, Harvard University; distributed by Harvard University Press, 1995). While the scope of Vaporis’ inquiry is more narrow than that of Ooms, both are grounded in a wealth of empirical data and address the gap between formal overlord law and actual practice.

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