

FREEDOM OF EXPRESSION IN JAPAN: A STUDY IN COMPARATIVE LAW, POLITICS, AND SOCIETY. By LAWRENCE WARD BEER. [Tokyo, New York and San Francisco: Kodansha International Ltd. 1984. 415 pp. Hardcover: US\$50.00].

JAPAN, since 1945, has undergone a revolution in the incorporation of largely Western ideas of constitutionalism and freedom. Although this process began during the mid-nineteenth century during the Meiji period, it was not until Japan's defeat and rehabilitation following the second World War that basic freedoms valued in Western democracies became truly viable concepts in Japanese life. What Prof. Beer's excellent book outlines is the development of what some would term the "core" freedoms, *i.e.* of expression, assembly, association, thought and belief in the context of Japanese history, society, and culture.

Two points, of many, stand out in striking clarity. The first is the continuing deep-rooted tension in Japan between a Western, democratic ideal of freedom and legality as represented by the Japanese Constitution and "Japanism". This latter is described by the author

as "a deep religious devotion to the places of Japan and to a system of complex particularistic rules governing relations to other individuals, to the immediate group, and ultimately to Japan as the sacred collectivity" (p. 249). This powerful sense of ethnic uniqueness conflicts with the more open values of constitutionalism and has led Japan at all periods of its history (although less so perhaps today than formerly) to a real sense of isolation from the rest of the world. As for the second point, although the author rarely confronts it directly, Japan appears to be more sharply divided from its immediate Asian neighbours than it is from Europe and America. Why this is so is not directly discussed in this thought-provoking book, but it is interesting to note that, at least in the modern era, as Japan gradually opened up, it was Western ideas and institutions which have been emphasized rather than Asian. The "Westernized" Japan with continuing, if ambivalent, feelings of strong nationalism (or "ethnicism") is explored and illuminated through the focus of the constitutional protection of expression and its related freedoms. The result is a complex and fascinating picture of a country with immense influence in both Asia and the world.

At the heart of this book, and at the heart of the inherent conflict which emerges from this study of Japan, is the Textbook Dispute. This Dispute is described as occurring in two phases; a purely internal debate over the regulation of school textbooks, in this case a high school history text widely used in Japan, and the international concern over the teaching of history in Japanese schools. In the first, constitutional dispute, Professor Ienaga Saburo's senior high school text, *A New History of Japan* which has been used since its first publication in 1953, was revised in 1963. These revisions were not approved, objection being taken to the author's treatment of myth, particularly as it related to the Emperor, and to his emphasis on the importance of workers and farmers in the making of Japanese history. The corrections insisted on by the Certification Council (a full description of the process of textbook approval is given) were felt by the author "to ignore the role of the people in history... and to restore the kind of history which focuses on rulers, as before the war." (as quoted, p. 266). The result was a series of litigation which is still ongoing. The issues involve the right of the State to approve textbooks, what limits there are on the State's ability to restrict or control textbooks, and whether the State's right to regulate in this matter extends to the contents of books, or whether it is limited to general curricular outlines. No definitive answer to any of these questions is given, but the debate is described as exciting strong interest and in focussing attention on issues of freedom of expression. At least two of the court decisions are described as strongly favouring the right of textbook authors to decide the content of school books and strictly limiting the State's power of regulation. Even those judgments more favourably inclined toward greater State control recognize the importance of maintaining freedom of expression as a paramount national value.

The dispute highlights the importance of constitutional questions in Japan. Perhaps more importantly, it also illustrates the conflict between a liberal, open and egalitarian attitude towards Japanese history and culture which is consciously opposed to a continuing strong

conservative bias (in this case on the part of a State agency) towards Imperial mythologizing and pre-war "Statism". The irresolution of this dispute, in particular the failure of the Supreme Court in its one pronouncement (so far) in these cases to directly address the issues involved, indicates both a powerful ambivalence in Japan towards its own identity and the continuing importance of the debate.

The internationalization of the Textbook Dispute broadened the issue to include Japan's attitude towards its wartime excesses, nuclear weapons, environmental problems and the pacifist elements in the Constitution. In 1981, the Minister of Education requested that high school textbook writers "soften" their approach to all these questions. The debate engendered both within and outside Japan surprised government officials by its intensity. China, both Koreas and other countries, including countries in Southeast Asia, objected strongly to the possibility that Japanese school children would be given a sanitized and inaccurate account of Japan's wartime activities against its Asian neighbours. Japan reacted by promising to make "necessary amendments" (as quoted, p. 273). But as the author points out, the word changes recommended in order to soften passages describing Japanese activities during the War existed in previous editions of textbooks and still exist.

This book covers a vast range of material in which legal questions relating to freedoms of assembly, association, workers' rights, education, religion, the mass media, privacy, obscenity, and other areas are treated in exhaustive detail. Much more is, however, achieved than an analysis of the Japanese Constitution. The author always relates legal detail to the much broader questions of transcultural perspectives, history, social patterns, human relationships and respect for the basic values of truth and human dignity. The conclusion of the author is that human freedoms are well respected in modern Japan. The conclusion of the reader is that there can be very few books which relate in such complexity and sophistication the ecology of freedom in any society