

government, as well as the post-colonial state government, controls religions by creating regulation and state institution. In many cases, the government's attitude to religious problems is repeating the colonial practices. To provide an example, in Chapters 2 and 3, Shah described that the creation of the Ministry of Religious Affairs in Indonesia was a political concession between nationalists and Islamists during the state formation of Indonesia in 1945. This is true, but it is important to note that government intervention to control religious activities was started by the Dutch colonial administration through *Het Kantoor voor Inlandsche Zaken* (the Office for Native Affairs).

Finally, the author identifies religious freedom and the relationship between state and religion in this book as a country domestic problem. In the concluding chapter, she raises readers' awareness of religious nationalism. However, many religious organizations, especially Islamic fundamentalist groups, move away from the nationalistic frameworks by affiliating with transnational networks such as ISIS, which is behind many terrorist attacks around the world, including the recent deadly bomb terror in Sri Lanka that occurred in April 2019. Another threat includes the widespread prevalence of transnational Islamist movements in Indonesia in the last two decades. The demand for this kind of radical Islamic organization goes beyond the need for creating an Islamic state and bringing religious nationalism into political spheres. They attempt to destruct modern democracy and the rule of law as preconditions to establishing their narrow idea of caliphate Islamiyah and vernacularizing religious values in societal lives.

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### **Japan's System of Law and Government**

Colin P. A. Jones and Frank S. Ravitch, *The Japanese Legal System* (St Paul, MN: West Academic, 2018) pp 451. Hardcover: \$114.00.  
doi:[10.1017/als.2019.15](https://doi.org/10.1017/als.2019.15)

I was delighted to learn of the publication of a new hornbook on Japanese law by West Academic, a leading American academic publisher. This seemed to run counter to the general trend of a decline in interest in (and publications about) the field of Japanese law in the US. Although a number of textbooks on Japanese law have been produced in the US and remain in print, it has seemingly been difficult to keep them up-to-date. Ironically, this trend has occurred precisely at a time over the last several years when Japan's gradual pace of reform has accelerated and the value of current comparative research on Japan should be high.

This book's publishing success is explained in large part by the identity of the book's co-authors: Colin Jones, a long-time professor of law at Doshisha University in Kyoto who has a broad background in Japanese law and administration (and has often shed light on underappreciated aspects of Japanese law in his columns in *The Japan Times*); and Frank Ravitch, a professor of law at Michigan State University who has focused on constitutional law and religion with an emphasis on comparisons with Japan (and who has run a

summer programme on Japanese law in Kyoto for a number of years) who presumably took the lead in arranging for the book's publication in the US.

To cover a broad field such as Japanese law in a single volume requires tradeoffs and compromises. I would characterize the authors' approach as aiming at a broad audience with the goal of providing a non-specialist reader with a thorough grounding in Japanese law and administration in a single volume. To achieve this goal, the authors generally forego footnotes so that, even though this volume is published as part of West Academic's hornbook series, it is presumably not intended to provide Japanese-law scholars and students with a starting point to pursue research interests (as might be the case with Hiroshi Oda's well-known single volume on the subject)<sup>1</sup>. The authors are also disciplined and, although their respective areas of expertise—family law (Jones) and religion and the Constitution (Ravitch)—are incorporated into the book, they refrain from heavily emphasizing these areas of interest.<sup>2</sup>

The result is a comprehensive, but efficient, volume of reasonable length that does an excellent job of providing a broad overview of Japanese law and administration. The authors concentrate on the administration of government and the law, in addition to the substance of Japanese law. The first half of the book (Chapters 1–7) focuses primarily on the structure and organization of Japanese law and administration, while the second half (Chapters 8–11) focuses on substantive discussions of the major areas of Japanese law, such as criminal law, civil law, dispute resolution, and business law.

Chapter 1 (“Introduction”) summarizes the always present problems in the study of Japanese law—tendencies to focus too much on broad, cultural stereotypes and on formal laws and the court system—and outlines the book's methods of countering them, namely avoiding cultural explanations, emphasizing the practical uses of law as a tool, and looking at governmental institutions as part of the overall legal system. Chapter 2 (“The Historical Context”) traces the development of Japanese law, primarily through the Edo (1603–1868) and Meiji periods (1868–1912), noting its relatively recent origin in the Meiji period and continuing efforts to adapt Western law to fit Japanese circumstances. Chapter 3 (“The Structure of the Japanese Government”), which is the longest chapter in the book's first half, contains an extensive overview of the administrative structure of the Japanese government, with particular reference to those institutions that are related to the legal system. Chapter 4 (“The Judiciary”) examines Japan's court system, noting its continuity and change with respect to Japan's pre-war system, and particularly emphasizing the judiciary's strong administrative function (in addition to its judicial function) and the resulting effect on the career paths of professional judges.

Chapter 5 (“Japanese Law: What It Is and Where It Comes From”) delves into the various categories of law and (particularly) regulation in Japan, the law-making process, and the use of judicial (primarily Supreme Court) cases as precedent. Chapter 6 (“Constitutional Law”) discusses continuity and change between the postwar Constitution and its Meiji predecessor, and traces the European, American, and Japanese influences on the postwar Constitution that was supposedly “imposed” by the American-led occupation following World War II (but which

1. Oda (2009).

2. Other textbooks more clearly reflect the authors' area of expertise. For example, Port et al. (2015) emphasizes Japan's intellectual property law (Professor Port's specialty) with an 83-page chapter but does not cover corporate law or any business law subject outside of contracts. By contrast, in Milhaupt et al. (2012), the subject of corporate law and governance—the area of expertise of all three authors—is the longest chapter in the book.

has never been amended and the implementation and interpretation of which are characterized in the book as being distinctly Japanese). Chapter 7 (“The Legal Professions”) covers Japan’s heterogeneous legal services market by avoiding the tempting, but inaccurate, comparison of the number of lawyers (*bengoshi*) in Japan compared to other industrialized nations and instead focusing in the first half of the chapter on “other” legal professions and only in the second half turning to the more familiar topic of *bengoshi*.

Chapter 8 (“The Criminal Justice System”) describes law-enforcement actors and institutions, and provides overviews of both the process and substance of criminal law (and reminds us, for example, that there was domestic criticism in Japan of “hostage justice” resulting from long-term pre-trial detention well before the arrest of Carlos Ghosn). Chapter 9 (“The Civil Code, Family, Identity and the Civil Law Infrastructure”) provides an overview of private law in Japan, centring on the important Civil Code and including discussions of practical issues such as the significant role of Japan’s household registry (*koseki*) system. Chapter 10 (“The Civil and Administrative Justice Systems”) covers civil dispute resolution, not (as in some other textbooks) by discussing possible cultural explanations for Japan’s supposedly low rate of litigation, but rather by providing an overview of the substance of Japan’s civil procedure law and also the reality of dispute resolution in a variety of contexts, including civil law generally, family law, administrative law, and bankruptcy law. Finally, Chapter 11 (“The Legal Framework of the Business Environment”) seeks to provide a sense of the framework of business regulation by focusing on a number of core areas (and the regulator for each area), including contract law, company law, securities law, banking law, employment law, and intellectual property law.

By characterizing the book as an introductory volume for general readers, I do not mean to imply that it is not of interest to Japanese-law specialists and students. I would point in particular to Chapter 3 and Chapter 5, which are very useful chapters that are not found in other textbooks or casebooks on Japanese law. The book also provides frequent reminders to Japanese-law specialists of areas that are often overlooked or insufficiently emphasized. One example of an underappreciated aspect of Japanese administration is the section (in Chapter 3) on Japan’s Board of Audit, which I do not recall having ever previously encountered in English (with the exception of Professor Jones’s *Japan Times* column on the subject). Or, for example, if one wished to recall the exact distinction between a Cabinet order and a ministerial order issued by the Cabinet (which recently happened to me), it appears in Chapter 7 (pp. 129–31).

I have two caveats. The major one is the aforementioned lack of footnotes, which does not permit the use of this book as a starting point for further research. This may give pause to utilizing this book as the primary source of information on Japanese law, both in the classroom and outside it. The book could also have benefited from another round of editing/proofreading, as there is a distracting pattern of grammatical mistakes, repeated words, and the like (the most conspicuous example of which occurs on p. 419, where a four-line discussion of the practice of *tanshin funin*, i.e. an employee living apart from his family, is repeated nearly verbatim in two consecutive paragraphs).

The stated aim of the book is to “teach you the structure of the Japanese government, the legal institutions that constitute a part of the government, and the foundation of law and practice that underpin them.” It does an admirable job of achieving that goal and goes well beyond it to convey successfully a sense of the “living” law in Japan, including practical

considerations and applications of Japanese law, and the operation of its legal system. The book is a welcome addition to our literature on Japanese law and the Japanese legal system.

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## Buddhist Law

Christian D. Lammerts, *Buddhist Law in Burma: A History Dhammasattha Texts and Jurisprudence, 1250–1850* (Honolulu: University of Hawai'i Press, 2018) pp 304. Hardcover: \$65.00.  
doi:[10.1017/als.2019.14](https://doi.org/10.1017/als.2019.14)

*Dhammasattha* is a genre of legal literature that was popular in Southeast Asia during much of the second millennium. Somewhat varied in style and contents, most *dhammasattha* texts appear to have been written as instructional manuals for those who were charged with managing disputes in the pre- and early-modern periods: village heads, magistrates, judges, royal officers, and other “good persons.” These manuals instruct would-be users on a variety of topics related to arbitration. These include procedural matters such as the major types of litigation, the ideal qualities of judges, classifications of people and offences, and lists of rules and remedies. They also include (what we moderns might want to call) religious matters relating to cosmology and Buddhist soteriology. Thus, alongside discussions of evidence and oaths, one also finds information about law’s cosmic origins as well as explanations of how and why the proper adjudication of disputes helps one attain a better rebirth. *Dhammasattha* texts have been important in the territories of modern-day Thailand, Cambodia, and Laos. Yet they have played an especially major role in the legal history of Burma.

*Buddhist Law in Burma* is a special book. Although the *dhammasattha* genre has been studied by several other scholars,<sup>1</sup> Lammerts’s book engages directly, critically, and comprehensively with Burma’s large and important *dhammasattha* manuscript archive on a new scale. Not only has Lammerts located, translated, and analyzed an incredible amount of to-date unexamined sources; he does so in a manner that is accessible and inviting to

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1. Important recent studies include Ishii (1986); Okudaira (1986); Baker and Phongpaichit (2016); and a very important edited volume by Huxley (1996).