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States of Arrest:
An Ethnographic Study of the
Japanese Unconvicted Detention System

by

Connor Ross

A dissertation submitted in partial satisfaction of the
requirements for the degree of
Doctor of Philosophy
in
Anthropology
in the
Graduate Division
of the
University of California, Berkeley

Committee in charge:

Professor Karen Nakamura, Co-Chair
Professor Lawrence Cohen, Co-Chair
Professor Miryam Sas

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Connor Ross

Abstract

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Professor Lawrence Cohen, Co-Chair

The Japanese unconvicted (pre-judicial) detention system has recently become an object of scrutiny of international news media coverage, political activism, and social science scholarship alike, primarily due to its imposition of conditions and utilization of techniques deemed inhumane by these sources. Although Japanese criminal law explicitly secures a range of rights and protections on behalf of arrestees, criminal suspects in Japan are habitually detained in police custody and subjected to sensory deprivation, social isolation, restriction of access to legal counsel, and coercive interrogation tactics throughout the period between arrest and indictment. According to recent studies, it is precisely within this gap between policy and practice that utter suspension of constitutional rights and virtually indefinite extension of the pre-conviction detention period is rendered possible in the circumstance of suspicion of criminal infraction, reinforcing Michel Foucault's claim that "an inner tendency of the whole system [emerges] in the ambiguity between the form of the law and the actual application of the law." Despite the critical tenor characteristic of more recent scholarship on the topic, the Japanese criminal justice system has been lauded as a global exemplar of security, efficiency, and impartiality in prior studies. Such favorable appraisal of the Japanese justice system is reflected also in public opinion; despite widespread knowledge of existing pre-conviction detention practices and their recent global exposure, there remains among the Japanese populace a strikingly high approval rate of police and prosecutorial action. These three tensions—between criminal law and its material application, between the polarized conclusions reached in late 20th and early 21st-century studies, and between international censure and domestic support—constitute the core of the ethnographic conundrum explored in this project, an ethnographic exploration of the unconvicted detention (*miketsu shobun*) system in contemporary Japan.

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Introduction

Since the turn of the 21st century, The Japanese pre-conviction detention (*miketsu shobun*) system has become an object of scrutiny of international news media coverage, political activism, and social science scholarship alike, primarily due to its imposition of conditions and utilization of techniques deemed inhumane by these sources (Johnson 2002: pp. 6-8, 16-17, 30-31; Miyazawa 1992: pp. 2-4; Steinhoff 2014: pp. 1-13). Although the nation's Constitution explicitly secures a wide range of rights and protections on behalf of arrestees, suspects are habitually detained in police custody and subjected to various austerities—including sensory deprivation, dietary malnourishment, extreme social isolation, and interrogative coercion—throughout the period between arrest and indictment and, not uncommonly, until the time of conviction (Johnson 2002: pp. 38-39, 48-50; Steinhoff 2014: pp. 1-3, 21-22, 24-26). According to several studies on this topic dating from the last few decades (Johnson 2002; Miyazawa 1992; Steinhoff 2014), it is precisely within this gap between policy and practice that utter suspension of constitutional rights and virtually indefinite extension of the pre-conviction detention period is rendered possible in the circumstance of suspected criminal activity, reinforcing Michel Foucault's claim that "an inner tendency of the whole system [emerges] in the ambiguity between the form of the law and the actual application of the law" (Foucault 2008: p. 249). Despite the critical tenor characteristic of more recent scholarship on the topic, however, prior studies consistently lauded the Japanese justice system as a paragon of efficiency, effectiveness, and impartiality. Such favorable appraisal of the nation's approach to law enforcement appears to be reflected also in public opinion; even in the face of increasing global skepticism, domestic civilian polls continue to suggest a strikingly high approval rate of police and prosecutorial action (Johnson 2002: pp. 31, 46). These three tensions—between criminal law and procedure and their material application, between the polarized conclusions reached in late-20th-century and early-21st-century studies, respectively, and between international censure and domestic support—constitute the core of the ethnographic conundrum I seek to explore through my research on the unconvicted detention (*miketsu shobun*) system in contemporary Japan.

While diverging on a number of key points, academic sources are unanimous in observing that Japan has housed one of the world's lowest national incidences of crime per capita for decades, with instances of physical assault and homicide account for an overwhelmingly small fraction of this figure (Ivy 1996: p. 12-13; Johnson 2002: pp. 22-23; Yoda and Harootunian, eds., 2011: p. 20). Anthropologist Marilyn Ivy attributes the rarity of crime in the everyday lives of Japanese citizens to a synergistic combination of several structural factors. These include, most notably, a system of stringent gun control laws that severely constrain rates of firearm ownership among the civilian population; a diffuse distribution of networked "police boxes" (*kōban*) throughout public space, particularly within residential areas; and a longstanding tradition of neighborhood-based citizen surveillance and reporting that functions as a mechanism of informal behavioral control through the profusion of various social incentives and sanctions (Ivy 1996: p. 11-14). Law professor Setsuo Miyazawa extends this list to include, additionally, a markedly conservative cultural ethos that fosters collective trust in authority and compels widespread compliance with social convention and legal protocol; and, relatedly, a large and well-funded police force that has boasted record-breaking high (near-100-percent) national arrest clearance and conviction rates¹ for decades.

¹ "Arrest clearance rate" refers to the percentage of reported crimes for which an identified culprit has been arrested. "Conviction rate," in turn, indicates the percentage of total prosecuted criminal cases that have concluded with a "guilty" verdict (Miyazawa 1992: pp. xi, 13-14).

According to Miyazawa, these statistical trends are bolstered by a legal infrastructure that affords investigators and prosecutors far greater influence over the flow and outcome of criminal procedure than can be exercised by the accused and their defense representation (Johnson 2002: pp. 3-16; Miyazawa 1992: pp. 11-18; Steinhoff 2014: pp. 2-7).

This power asymmetry enables many of the more exploitive and coercive practices that constitute routine procedure within the Japanese pre-judicial detention system, described by scholar Patricia Steinhoff as “...unimaginable in most other industrialized democracies” and as bearing “...an uncomfortable resemblance to the conditions of prisoners being held by the United States at Guantanamo Naval Base” (Steinhoff 2014: p. 25). According to Steinhoff and other key figures associated with the critical turn in Japanese legal studies dating from the last few decades (Johnson 2002; Miyazawa 1992), such manner of treatment is facilitated largely by a pronounced discrepancy between measures delineated in codified legal infrastructure and the practical exercise of penal authority in Japan (Johnson 2002: pp. 12-13; Steinhoff 2014: pp. 2, 6-7). For example, while the Japanese Code of Criminal Procedure overtly limits the duration of unconvicted detention to the 23-day initial investigation period, suspects are regularly charged with additional offenses in order to extend custody at least until formal charges have been filed and often until sentencing has concluded—which can be months, years, or even, in some cases, decades (Steinhoff 2014: pp. 6, 24). Similarly, the rights to remain silent and retain attorney from the outset of arrest are seldom exercised due to the habitual provision of misleading information coupled with denial of access to state-appointed defense representation until after indictment; the vast majority of those detained in the country thus complete the most crucial phase of the criminal investigation process entirely without legal counsel (Johnson 2002: p. 14; Miyazawa 1992: pp. 18-19; Steinhoff 2014: pp. 6-7). In a final example of the rift between law-as-text and law-as-practice in Japan, although the nation’s constitution specifies that confessions issued under circumstances of “compulsion, torture, or threat” are impermissible as proof of wrongdoing (Japanese Constitution: Article 38; Miyazawa 1992: p. 23), courts often accept as incriminating evidence even admissions of guilt explicitly identified by the defendant as the product of police coercion (Steinhoff 2014: pp. 6-7).

Internal contradiction is evident not only within the system itself but also across the discourses that surround it, which offer starkly contrasting assessments of the nation’s approach to crime and punishment. As previously mentioned, scholarly and journalistic accounts published throughout the last few decades tend to assess Japanese criminal procedure quite unfavorably, presenting the practices and conditions that comprise it as in flagrant violation of international human rights standards (Johnson 2002; Miyazawa 1992; Steinhoff 2014). The skeptical tone characteristic of more recent social science studies and news articles is particularly striking when considered alongside research conducted in the economic boom era of the 1970s and 80s (Yoda and Harootunian, eds., 2011: p. 20), which not only refrained from critique but also frequently elevated the Japanese judicial system to the status of global exemplar of ethical justice. Texts emblematic of this discursive trend (Ames 1981; Bayley 1976, 1991; Haley 1992; Parker 1984) often leverage as the basis for their praise the country’s extraordinarily low incidences of crime and recidivism alongside consistently high national arrest clearance and conviction rates, data situated within these works as statistical proxy for the exceptional effectiveness of the Japanese justice system.

Conflicting opinion regarding Japanese criminal procedure and the treatment of detainees therein is apparent also among the country’s civilian population. National polls have indicated inordinately high rates of approval of police and prosecutorial action among the citizenry for decades, a trend that has continued in the face of increasing scrutiny of the system both within

Japan and abroad (Johnson 2002: pp. 30-31). Seeming to undermine the validity of these formal measures of public satisfaction, however, is the persistent formation and visible activity of trial support groups (*Kyūenkai/Shienkai*), coalitions of lawyers, social workers, and ordinary citizens that provide volunteer assistance to and publicly advocate on behalf of criminal detainees (Steinhoff 2014: pp. 17-22). Finally, much friction has emerged in the domain of global political debate concerning the Japanese pre-conviction detention system. In the face of criticism from both domestic organizations and foreign governments throughout the last three decades, however, Japanese state officials have consistently defended the nation's carceral status quo (Miyazawa 1992: pp. 17-18). In a particularly revealing example of such governmental obstinacy, when confronted with the accusation of international human rights law violation in a 1999 lawsuit concerning the allegedly oppressive policies and austere living conditions maintained within domestic detention facilities,² the Japanese Supreme Court flatly dismissed the claim by refuting the applicability of such standards to criminal detainees (Steinhoff 2014: pp. 38-39), tacitly posing the question of what, precisely, the legal, social, and ontological status of the criminally accused and convicted in Japan *is*.

As suggested by these scenarios, both criminal procedure in Japan and public conversations concerning its ethical integrity appear saturated with gaps, paradoxes, and ambiguities. My understanding of the Japanese unconvicted detention system as such was at once reinforced and complicated over the course of the ethnographic fieldwork conducted for this project between 2017 and 2023. Across correctional facility site visits, interviews with former arrestees and their supporters, and carceral system reform activist meeting observation sessions, I was confronted with such figurations of liminality at every turn. The most immediately apparent of these manifested within the administrative structure itself—namely, in the discrepancy between policy and practice that commonly arises in processes of investigation and conviction, and in the stark contrast between the respective degrees of power afforded to prosecutorial and defense parties therein. Encounters with internal contradiction and categorical blurring would only multiply, however, the more deeply embedded in the research process I became, ultimately presenting in an unexpectedly expansive range of domains: in the polarization of academic opinion on the Japanese justice system across eras and regions of publication; in the gap between global censure and domestic support of endemic approaches to law enforcement, particularly as indicated by the persistence of foreign critique in the face of consistently high national public approval ratings; in the ambivalent rift between on-the-record agreement with of and on-the-ground resistance against existing law enforcement practices exhibited by the Japanese citizenry; in the divide between globally pervasive (yet patently Euroamerican) notions of “human rights” and culturally specific understandings of subjectivity and belonging that shape both discourses and actualities of crime and punishment in Japan; in the disjuncture between traumatic event and conscious memory frequently described by formerly incarcerated interlocutors; and in the muddling of distinction between ethnographic research and lived experience that suffused my exploration of this widely discussed yet inadequately understood topic. While this project takes as its manifest object of study the contemporary Japanese pre-conviction detention (*miketsu shōbun*) system, it is this interstitial zone—and the potentialities embedded within it—that serves as the driving force behind the line of inquiry pursued in the following chapters.

² This case is explained in further detail in Chapter 4 of this text, which describes and analyzes the living conditions and daily routines that comprise the Japanese unconvicted detention system.

I. Research Questions

In comparing the American and Japanese judicial systems, experts have identified as the most mutable and thus crucial phase of criminal procedure in Japan not trial but, rather, investigation; as indicated by national conviction rates, which have verged on 100% for decades (Johnson 2002: p. 215; Steinhoff 2014: pp. 5-6), after interrogation has concluded and charges have been filed, there is very little a given suspect or their legal representation can do to divert prosecution or even mitigate possible sentencing outcomes (Hirano 1989; Johnson 2002; Miyazawa 1992; Steinhoff 2014). In observation of this institutional reality, and also in response to anthropologist Didier Fassin's call for carceral system scholars to dilate the scope of their research to encompass not only the prison itself but also adjacent domains in the "penal chain" (Fassin 2017: p. 26), I decided to focus this study specifically on the Japanese *pre-conviction* detention system. As previously stated, those arrested in Japan are typically held in police custody at least until the time of indictment and often until that of sentencing; this project is concerned principally with the constellation of practices, processes, events, relations, and conditions that emerge within the daily lives of criminal detainees across the progression of the apprehension-investigation-conviction trajectory (i.e., between the moment of arrest and the time of sentencing).

Relatedly, although research methodologies implemented for this project entailed some engagement with system professionals, its locus of study was—and remains—fixed most intently on the lived experiences of arrestees. This decision was reached early in the development of this project, largely in response to what I identified as a fundamental deficit in the existing body of relevant scholarship: that previous studies relied nearly exclusively on insights offered by legal and penal officials, often entirely overlooking the viewpoints of detainees and their supporters in drawing conclusions regarding criminal procedure and incarceration in Japan. The overrepresentation of judicial authority perspectives within the social science archive is due largely to issues of access—as Miyazawa notes, scholars have rarely been granted governmental clearance to conduct research within Japanese carceral spaces, and even in cases of success in such matters, direct contact between researchers and the criminally accused or convicted is tightly constrained and closely monitored (Miyazawa 1992: pp. 1-2). Even further complicating the process and ultimately reducing the feasibility of collating firsthand accounts of incarceration in Japan, pressures of conformity and the stigmatization of social deviance are particularly pronounced and pervasive within Japanese culture, generating among both current and former detainees widespread reluctance to publicize or even privately discuss personal experiences of criminal detention (Johnson 2002: pp. 30-31, 47-48; Miyazawa 1992: pp. 15-17; Steinhoff 2014: pp. 6-10).

Having been formulated to alternatively fill this gap in the relevant body of scholarship and to render-present various voids implicit within the system itself, questions that drove the development of my research focus on the experiences of detainees and their supporters, reflecting concerns of both epistemological and ontological significance. The question motivating my initiation of the ethnographic pursuits described here, which remains fundamental to this project, is the following: how is the stark discrepancy between nominal procedure and social reality that constitutes the Japanese unconvicted detention system experienced and interpreted by criminal suspects? Upon conducting secondary source review and learning that Japanese public opinion polls indicate widespread approval of state approaches to crime and punishment, I began contemplating a secondary query that continues to animate this project: how do the encounters and observations of those directly imbricated in the system correspond to and diverge from perceptions of domestic criminal justice issues among the general public in Japan?

Relatedly, this project seeks to explore in further detail the tension between sentiments expressed in polls and other formally documented records and those conveyed both in private interactions and in the activities and rhetorics of trial support groups and system reform activist organizations. How and why might civilian attitudes concerning criminal procedure and pre-judicial detention in Japan differ according to the context in which they are articulated or enacted? In pursuing these lines of inquiry, I intend to explore the ways in which endemic notions of subjectivity, agency, and the relation of the self to the state are expressed and produced through categories and practices of law in Japan and, relatedly, the role of human rights-centered paradigms of social justice in shaping both local and global impressions of the Japanese judicial system; here, I conceive of the concept of “human rights” in accordance with its popular use in ethnographic scholarship dating from the last thirty years, described by anthropologist Mark Goodale as an amorphous discursive construction that emerged within activist movements of the late 20th century, coming to be interpreted and mobilized quite differently across national and cultural boundaries while also retaining its general character as “a new form of transnational politics and expression of cosmopolitan identity...[that] became a tool to both unify and divide” (Goodale 2017: p. 25). How have human rights ideologies developed over the last three decades been applied and adapted to the sociocultural specificities of criminality, politics, and ethics in Japan? What emergent modes of conceptualizing law, individual and state sovereignty, and communal belonging might endemic translations of these discourses facilitate and foreclose? In exploring these questions through description and analysis of the ethnographic research I conducted between 2017 and 2022, this project aims to illuminate the topic of unconvicted detention in Japan from the perspectives of those most viscerally impacted by the system, yet whose voices have been largely excluded from academic debates on the topic: detainees themselves.

Many of the questions motivating this project were informed by the 2005 ethnography *Politics of Piety*, in which anthropologist Saba Mahmood identifies within contemporary Western social science scholarship a problematic tendency to implicitly consider “freedom” an axiomatic sociopolitical ideal; this term refers specifically, here, to the capacity of the individual subject to pursue their own interests above and beyond the constraints of tradition, convention, and coercion, particularly within the presumed context of a timeless and universal Manichaeic struggle between the willful subject and the oppressive state (Mahmood 2005: pp. 1-39). As a corrective, Mahmood proposes that anthropologists attend not only to instances of consolidation or subversion of social norms and legal regulations, but also to the various ways in which such protocols are “performed, inhabited, and experienced” by interlocutors themselves (Mahmood 2005: pp. 1-39). While conducting ethnographic research for this project, I frequently reminded myself of this injunction so as to resist reliance upon Eurocentric understandings of subjectivity that might have compelled me to moralize the perspectives of informants or disproportionately foreground sentiments and acts of resistance and rebellion.

This point leads to a final but significant clarification: I am by no means arguing in this text that Japanese criminal procedure and its constitutive set of practices and conditions are any less “humane” or “just” than those of other nations, including that of my home country of the United States. Indeed, on the basis of learnings derived from both previous research endeavors and personal experience, I have long understood the American criminal justice system (among myriad others) as a fundamentally racist, classist, ableist, sexist, and heteronormative institution that routinely commits grievous acts of physical and intrapsychic violence against vulnerable persons and marginalized populations. This being acknowledged, I must emphasize that the aim of this study is not comparative in nature; to the contrary, I made considerable efforts while developing

this project to not only avoid assessing my field site on the basis of ethical standards native to my country of origin, but also to critique public discourses concerning the Japanese penal system that attempt rhetorical comparison or employ universalizing logics in their analyses. One of the foremost challenges of creating truthful and effective ethnography lies in rigorously interrogating the intersecting historical, political, and ideological complexities that shape a given field site without lapsing into wholesale superimposition of one's own cultural and personal values onto it. It is my hope that in responding to the research questions presented here, I am able to simultaneously elucidate the field of sociocultural specificities in which the Japanese pre-conviction detention system is embedded, identify the broader applications and implications of this discussion, and, most importantly, allow my interlocutors to recount their experiences and express their perspectives on their own terms.

II. Research Methodologies

Findings presented in this study are based primarily on ethnographic research implemented in the Tokyo area from the summer of 2017 through the fall of 2022; this included one year of in-person fieldwork conducted in several-month increments between 2017 and 2020 and again in 2022 and, throughout the intervening two years, regular attendance of online videocall meetings hosted by two Tokyo-based non-profit organizations with whom I had worked in-person previously. In alignment with disciplinary convention, methodologies most central to my research design were participant observation of and semi-structured interview with core actors in the Japanese pre-conviction detention system. Although these activities remained focused most intensively on former detainees throughout, ethnographic research also entailed some interaction with police officials, legal professionals, and *hogosha*, persons contracted by criminal courts to supervise and counsel recently released convicts, serving a function approximating that of the American probation officer. Participant observation was initially utilized both as a means of cultivating a holistic understanding of Japanese pre-conviction criminal procedure *in practice* and as a channel for meeting and recruiting potential interview subjects. Guided by these aims, I began the formal ethnographic research process in the summer of 2017 by visiting social spaces both constitutive of and adjacent to the pre-conviction detention system, including courthouses, where I attended public criminal prosecution hearings; meeting sites for penal system research groups and prison reform activist non-profit organizations, two of which I would continue to observe remotely (via the Zoom videoconferencing app) across the first two years of the COVID pandemic; and places of gathering for trial support groups (*Shienkai* or *Kyūenkai*), coalitions of attorneys, social workers, and ordinary civilians who publicly advocate on behalf of and provide volunteer legal and financial assistance to criminal arrestees (Steinhoff 2014: pp. 17-19).

Integration into my field site as such across my first two summers of ethnographic research was essential in identifying and establishing contact with potential interviewees, particularly due to the very reasonable inclination of formerly incarcerated persons to obscure criminal conviction histories from public view. This initial barrier to access was further defrayed via my introduction to two local sociologists at the end of my second term of field research in 2018; these experts on penal institutional life in Japan, themselves long established within and trusted by relevant communities, invited me to participate in the domestic justice system research and activist organizations with whom I would continue to work for the following several years. It was also through my relationships with these scholars that I became acquainted with a number of formerly incarcerated Tokyo residents whose perspectives would become integral to this project.

In a final but immeasurable contribution to this project, these scholars arranged institutional entry permission on my behalf, leading to a major breakthrough in my research process by allowing me to visit four detention facilities in the Kanto region in the summer of 2019. Because this project was from the outset concerned most centrally with the viewpoints of unconvicted detainees, I had long expected these site visits to serve as an indispensable data collection tool and methodological centerpiece of this text. Ultimately, however, participant observation conducted within carceral facilities came to inform my research most substantively in catalyzing reflection on the interpersonal obligations entailed by experiential modes of learning, particularly within jails, prisons, and other social spaces characterized by inaccessibility and formalized power disparity. In short, as my observational research within these facilities progressed, the various risks of harm to interlocutors posed by this manner of activity became increasingly evident, ultimately diverting my initial plan of direct engagement with current detainees. My principal concern with this methodology emerged as a byproduct of my increasing awareness of the discrepancy between my own self-image and inmates' perceptions of me. Although my income as a doctoral candidate at a severely underfunded public university barely cleared the lower threshold of minimum wage ranges in my native country in even the most prosperous of times, I recognized that detainees likely viewed me as a person of considerable privilege and some degree of authority due to my positionality as an academic researcher. Even were this not the case, my mere status as a “free” person generated a stark power differential that foreclosed the possibility of agential consent on the part of the incarcerated, inevitably providing fertile ground for coercion, exploitation, re-traumatization, and other forms of intersubjective violence. On this basis I drastically narrowed my original interview parameters, restricting conversation with alleged offenders to only the *formerly* detained and hosting these exchanges exclusively on “the outside”.

I would be remiss not to acknowledge, here, the impact of the COVID-19 pandemic on research methodologies implemented for—and writing approaches employed in—this project. Governmental travel restrictions initiated in the immediate aftermath of this global crisis were particularly rigorous and long-lasting in Japan, entirely barring “foreigners” from entry into the country from March 2020 until April 2022 (with a couple of very short-lived exceptions) and ultimately delaying my resumption of in-country research by nearly two years. In addition to demanding wholesale recalibration of my research timeline, Japanese COVID response policy that forestalled my re-entry into the country prompted me to begin observing bimonthly videocall (Zoom-mediated) meetings for each of the two organizations with whom I had worked in-person previously; virtual ethnographic activities of this kind began in the summer of 2020, soon after it became clear to me that the immobilizing and isolating effects of the COVID crisis were unlikely to abate in the foreseeable future, and would continue for the following two years.

The proliferation of obstacles to both geographic mobility and embodied interaction that characterized earlier stages of the pandemic impacted not only matters of ethnographic methodology, but also more theoretical dimensions of this project. Although I initially intended online research activities to serve solely as a means of maintaining contact with project participants until I was able to return to Japan in person, virtual interactions (particularly as considered within the context of the set of broader social upheavals occurring contemporaneously) profoundly altered my understanding of my field site and ultimately came to inform the analysis presented in this text quite significantly. In short, the two years of online research I conducted for this project spurred me to consider the modes of power and resulting subjective and political shifts addressed in this project (*invisibilization*, *ambiguation*, *alienation*, and *a/objectification*, respectively), typically associated with spaces of disciplinary confinement (prisons, mental hospitals, military barracks,

etc.) and the institutionalized populations they manage, as psychosocial conditions that, while indeed unevenly distributed and differentially concentrated, are pervasively experienced (Butler 2004: pp. 42-43). It was this revelation that inspired my conceptualization of pre-judicial detention infrastructures (both in Japan and in other industrialized democratic nations) as: 1) paradigmatic spaces of 21st-century regimes of governance; and 2) ideal arenas in which to critically examine states of containment, isolation, surveillance, and suspension that are deployed on “the outside” far more ubiquitously than might initially appear.

A secondary effect of the COVID-19 pandemic on the development of this project was my eventual decision to overtly integrate learnings derived from personal encounters with the Japanese criminal justice system into both the fieldwork process and the narrative presented in this text, a shift in approach that emerged within the context of prolonged quarantine isolation, seemingly endless professional obstacles and financial crises, and the mindset of radical openness to alternative ways of thinking and being that such impasses induced. As will be further explained in subsequent chapters, I moved to Japan at the age of 24 and worked as a music teacher and English language instructor there for the subsequent four consecutive years, residing in Ibaraki prefecture from 2009 to 2010 and in Tokyo from 2010 to 2013. Shortly after my initial arrival in the country, I was arrested for a minor road traffic offense and held in solitary confinement in a police station jail for the next three months. While awaiting the issuance of my sentence—a potential prison term of up to several years—I suffered severe illness, dramatic weight loss, and marked deterioration in mental health that would culminate in a Post-Traumatic Stress Disorder (PTSD) diagnosis shortly following my return to the United States a few years later. Anticipating an especially harsh sentence due to the lengthy duration of my pre-judicial detention period and the severity of living conditions I experienced therein, I was utterly shocked when, at my final court hearing, I was assigned a mere *suspended* nine-month term of imprisonment and was even permitted to remain in Japan (albeit on a three-year probationary period) upon discharge. The public defender who represented me in this case would later attribute the exceptional leniency with which I was ultimately treated to the tireless interventions of Japanese friends, colleagues, and community orchestra peers, who had visited me in jail regularly, raised money for legal fees on my behalf, corresponded closely with my family in the United States, and sent countless character reference letters and sentence reduction pleas to the responsible court throughout the months following my arrest.

My term of unconvicted detention from the winter of 2009 through the spring of 2010 would prove life-altering in multiple ways: medically, in providing the conditions of possibility for the emergence of a psychiatric disability that has only intensified in the interim 15 years; affectively, due to the renewed faith in humanity that friends’ and coworkers’ countless acts of kindness inspired within me; and intellectually, for calling to my attention the co-existence of intensely polarized opinion on crime and punishment in Japan, where those suspected of even minor crimes are routinely held in police custody under conditions of extreme austerity for months, years, or even decades prior to conviction (Miyazawa 1992: pp. 2-3) yet where scores of ordinary civilians commonly mobilize to lend legal, financial, and emotional support to even the clearly guilty (Steinhoff 2014: pp. 17-19). The latter point proved particularly surprising, as the altruistic sentiments demonstrated and acts of political resistance performed by Japanese friends and colleagues throughout this period, and as illustrated on a much larger scale by the domestic ubiquity of trial support group formation and activity, appears so contrary to the nation’s global reputation for housing a highly conformist and brutally punishing monoculture. The tension between public ideology and personal conviction suggested by this scenario, and by many other

ruptures I encountered over the course of my fieldwork, constitutes a central concern of this project that will be further explored across the following chapters.

Shortly after the conclusion of my case in the summer of 2010 I moved to Tokyo, where I would live and work for the following three years. This period was clouded by chronic anxiety regarding the conditional possibility of my suspended sentence transmuting into an extended prison term should I be convicted of another crime within its three-year stay of execution. Further compounding the sense of dread plaguing my daily life at this time was my reluctance to speak with others of my criminal record, a state of pragmatic secretiveness motivated largely by fear of social stigma and professional consequence. Midway through my process of conducting fieldwork for this project nearly a decade later, however, I resolved to maintain transparency concerning this aspect of my personal history in my interactions with interlocutors. This decision constituted both a response to the COVID crisis and a consolidation of my enduring ambivalence toward the field of anthropology—principally, with regard to more empiricist strands of the discipline that deny the deeply humanistic and interpretive foundations of the ethnographic process, promote the maintenance of a kind of cognitive and affective split between researcher and participant, and enshrine the elitist delusion of the anthropologist as unbiased instrument for the photorealistic depiction and intellectual mastery of the cultural lives of others.

I reject disciplinary impulses of this kind on material, logical, political, and ethical bases alike. My first point of contention with such an approach is perhaps the most obvious: the anthropologist's ability to situate themselves as an "objective observer" of (or "fly-on-the-wall" relative to) a particular social milieu requires that they avoid dependence on or enmeshment with members of the culture of study, a privilege unavailable to all but the exceptionally wealthy. Secondly, the maintenance of such "critical distance" across the fieldwork process, as frequently reinforced by the cloaking of reporting rhetorics in vocabularies derived from the natural sciences, is simply an unattainable aspiration that functions to validate the very fantasy that serves as its prerogative: that of the anthropologist as documentarian of absolute truth. In response to this circular pretense of ethnographic positivism, I reiterate that no amount of academic training or degree of emotional detachment can untether the anthropologist from the perspectival strictures of their own personal history and cultural background; similarly, it is absurd to presume that the [foreign] ethnographer may ever assimilate so seamlessly into their field site that their presence ceases to affect, let alone remain unnoticed by, those with whom they work. This antiquated ideal, founded in eugenicist cultural mythologies that ascribe to bourgeois whiteness a fundamentally "unmarked" character, is not only logically fallacious but also entrenched in histories of economic exploitation, political inequity, and colonial violence that will only be perpetuated if not critically interrogated and actively resisted. This leads to my fourth and final point of justification for disclosing my experiential connection to the topic of research throughout the fieldwork process: a sense of ethical responsibility toward interlocutors. It appeared to me both deceitful and exploitive to benefit from such courageous acts of self-revelation on the parts of participants while denying them access to my own arrest history; a first step in both reciprocating their contributions and destigmatizing their experiences of incarceration, I concluded, was to "come out" about my own.

III. Writing Approaches

I ultimately decided to extend this logic beyond the boundaries of the fieldwork process by overtly addressing personal experiences of unconvicted detention in Japan also in the writing of this text. Prompting this decision was an internal observation that even self-identified *hermeneutic* segments of the field, which rebuke the positivist methodological approach described above, can

be complicit in supporting the ethnographic hierarchies it promotes in the process of *reporting project findings*. Although works emblematic of this interpretivist disciplinary subset indeed insert the author into the accounts they present, thereby commendably acknowledging the inherent positionality of the anthropologist within their field site, they typically represent the narrating subject only within extremely narrow parameters—namely, those set by various cultural politics of respectability and professionalism. Any information regarding the ethnographic “self” that challenges such institutional convention, particularly by discomfiting the reader or reflecting negatively on the researcher, is typically omitted from texts intended for public distribution. In so showcasing the deepest traumas and rawest vulnerabilities of interlocutors while refusing to acknowledge one’s own, even the *interpretivist* anthropologist risks reinforcing the elitist dynamics of power and knowledge they claim to disavow—and that, regrettably, lie at the heart of all academic enterprise.

Also relevant to this consideration, and to my underlying process of reflection on the asymmetrical power dynamics that have haunted the field of anthropology from its very inception, is Michael Taussig’s *What Color is the Sacred?* In recounting the historical development of the discipline and the research methodologies and writing conventions through which its texts were—and often still *are*—produced, Taussig emphasizes the common bifurcation of ethnographic note-taking practices into two primary genres: *field notes*, comprised primarily of textual descriptions of the activities of the groups and persons of focus, on the explicit basis of which the ethnographic monograph itself is composed; and *the diary*, a written log of the personal experiences and private thoughts of the anthropologist across the fieldwork process, which is almost always excluded from formal record. Taussig laments the common erasure of diaristic content from public accounts of ethnographic process, arguing that this convention preserves the mythos of the anthropologist as neutral instrument of observation by maintaining an illusory separation between “expert” and layperson (as manifested in both the anthropologist/informant and author/audience binaries). Of course, such a split is founded in academic culture more broadly conceived, functioning to 1) constrain access to means of “legitimate” knowledge production, thereby concentrating power over the creation and circulation of authoritative information in the hands of the educated elite, and 2) pre-emptively discredit counter-narratives that might undermine the perceived validity of more institutionally routinized ways of knowing. The strategic obfuscation of anthropologists’ own personal histories from informants and readers alike thus constitutes at best a glaringly deceptive omission, Taussig argues, and at worst a mechanism for stoking dynamics of colonial domination and other iterations of systemic oppression through the implicit casting of the [Western cultural] Self as objective, impenetrable, and omniscient, particularly in opposition to the presumably irrational, permeable, and subjectively entrenched Other (Taussig 2010: pp. 79-88; 119-129).

Particularly germane to the “classical” ethnographic approach critiqued by Taussig is Jeremy Bentham’s model of the panopticon, an ideally optimized carceral architecture composed of a central watchtower surrounded by stacked rings of barred-doored confinement cells. Designed to facilitate the simultaneous oversight of a multitude of inmates by a single guard who is himself obscured from view, this model presumes that sociopolitical power is most effectively accumulated, circulated, administered, and protected through the mechanism of the unidirectional gaze and the various epistemological, intersubjective, and intrapsychic dynamics it generates (Bentham 1791: pp. 40-55). By occupying a structure or position that enables simultaneous surveillance of the environment and concealment of the self, the hegemonic viewing subject is empowered to accrue endless knowledge of the observed Other while remaining wholly inscrutable themselves (Foucault 1977: pp. 213-218). Invoking Bentham’s conceptual blueprint alongside Foucault’s analytical

elaboration of the knowledge-power circuit it was designed to stimulate, I conceive of “traditional” anthropological research and writing convention (that which enacts a stark ontological and epistemological division between anthropologist and layperson) as itself a kind of panoptic apparatus; in exposing often highly vulnerable populations and the traumas they have endured to intense public scrutiny while blocking the anthropologist and their culture(s) of origin from similar academic representation and intellectual capture, this mode of ethnographic engagement forecloses the possibility of ethical reciprocity in the anthropologist-interlocutor relationship, ultimately reifying established knowledge hierarchies and structures of political inequity in the process.

This project seeks to destabilize such problematic methodological convention by throwing *the diary*—alongside other typically obscured elements of the ethnographic research and writing process—into explicit relief. I maintained detailed journals throughout my several-month period of detention; personal experiences of pre-judicial incarceration described in this text were reconstructed largely on the basis of these documents. In order to further contextualize the autobiographical scenarios presented here, I supplement diaristic accounts with content extrapolated from legal documents, informational packets, and written correspondences that I received while in detention. As in the case of most works of ethnography, the accounts presented here are based on the lived experiences of both myself and those who contributed to this project; however, the narratives to follow do not always correspond precisely and comprehensively to the life histories of their human referents. In other words, while the scenarios I describe in the subsequent pages are by no means fabricated, they are occasionally re-combined or re-attributed (i.e., assigned to a different subject). Similarly, minor details (e.g., names, dates, locations, etc.) have been modified to protect the privacy of project participants. The pastiche approach I employ as such, most closely aligned with the style of “semifictionalized ethnography” proposed by Humphreys and Watson (2009) and popularized by De Leon (2015), nonetheless operates with the overarching goal of reflecting the emotional truths and structural realities conveyed by those who informed and inspired the work as a whole.

Utilizing my own history of embodiment as a primary resource in the writing of this text serves several functions: firstly, to reciprocate the generous acts of self-disclosure offered by previously incarcerated study participants throughout my period of research; secondly, to enrich the ethnographic narrative presented here by providing a detailed case study on pre-judicial detention in Japan that is grounded in lived experience; thirdly, to subvert the ethnographic convention of maintaining a rigid distinction between the experiences and subjectivities of the anthropologist from those of their informants and, in so doing, to counter the cultural marginalization of criminality and incarceration; and, finally, to illuminate insufficiently publicized aspects of the anthropological fieldwork process including disability, interdependency, and the circuit of affective and intellectual exchange that constitutes the anthropologist-participant relationship.

IV. Chapter Summary

This project employs the ethnographic research methodologies and writing approaches described above to examine the various voids, tensions, and ambiguities embedded within the Japanese unconvicted detention system, hopefully illuminating otherwise invisible, opaque, or illegible experiences of and perspectives on it in the process. In Chapter 1, I utilize a scenario dating from my first few months of residence in the country in 2009, the sudden disappearance of a teaching colleague after his arrest for a serious sex crime, as a means of introducing to the reader the sociocultural background against which crime and punishment in Japan unfold. As explained

therein, the country exhibits a number of unique statistical patterns in these domains of public life, including high arrest clearance and conviction rates³ alongside widespread approval of police and prosecutorial action among the general population.⁴ While this chapter addresses each of these unique features of late 20th and early 21st-century Japanese society, it is principally concerned with the trend most visible to casual travelers to the country: extremely low incidence of crime broadly and violent crime specifically. What structural factors underlie this striking facet of national life, and how do they function in daily life? I respond to this question, here, by examining several contributors: strict regulation constraining the possession and use of firearms among both the civilian population and police entities; the nationwide *kōban* (“police box”) system, which maximizes the visibility of law enforcement officials in daily life; an informal and deeply-rooted cultural tradition of civilian surveillance and reporting, producing a social environment in which mechanisms of crime monitoring are deployed laterally as well as vertically; low average per-capita police caseloads, enabling officers to devote far more resources to any given offense than is the case in most other industrialized democratic societies; and, finally, the close and mutually intertwined relationship between law enforcement entities and news media outlets in the country, lending the former almost total control over the public narrativization of criminal event and therein serving as a secondary means of both penalizing individual arrestees and discouraging illicit activity among the populace (Allison 2013: pp. 26-28; Ames 1981: pp. 35-55, 72-76, 140-141; Ivy 1996: 13-15; pp. XX; Miyazawa 1992: pp. 2-3, 12-17, 227-231; Steinhoff 2014: pp. 5-19; West pp. 36-37).

Chapter 2 applies a similarly structural orientation to a slightly narrower segment of the Japanese justice system: criminal procedure, or the set of events through which criminal suspects progress—and the system of rules that govern their treatment by the state therein—between the moment of arrest and the time of final sentencing. I begin this chapter by briefly summarizing the trajectory of my own three-month period of detention, thereafter posing the question of why those apprehended in the country are so commonly held in ostensibly *temporary* (and therefore relatively unregulated) police station confinement facilities long beyond the 23-day initial investigation period. In the process of addressing this matter, I devote particular attention to situations of tension between the text and practice of justice in Japan, within which routine criminal investigation and detention protocols appear to contradict the mandates and protections articulated in relevant codified law. I establish a foundation for approaching the questions motivating this chapter by synopsisizing the typical flow of events occurring across the pre-judicial phase of a given case. Subsequently, I contextualize this process by recounting its development from the Meiji era (1868-1912), during which the nation embarked on a project of accelerated modernization, to the current historical moment (the decade of the 2020s). The final section of this chapter, in turn, places in conversation various scholarly assessments of Japanese criminal in order to illuminate and explain the stark polarities of opinion, particularly across linguistic and national boundaries, that saturate the academic record.

Chapter 3 of this project elaborates the historical trajectory described in Chapter 2 by examining in more granular detail a particularly impactful event in this timeline, the 1995 Tokyo subway sarin “gas attack,” particularly within the context of the intensively mediated executions

³ “Arrest clearance rate” refers to the percentage of reported crimes for which an identified culprit has been arrested. “Conviction rate,” in turn, indicates the percentage of prosecuted criminal cases that have concluded with a “guilty” verdict (Miyazawa 1992: pp. xi, 13-14)

⁴ Favorable perception of police activity is apparently indicated by public opinion polls, which have hovered around 75% for decades (Johnson 2002: pp. 31, 46).

of its perpetrators during my second year of fieldwork in 2018. Here, I conceptualize the case itself (defined as an act of “domestic terrorism” within judicial and media discourses) as a historical catalyst in shifting the locus of criminal threat within the Japanese popular imaginary from beyond to *within* the national body, fraying the pervasive sense of safety and security that characterized postwar Japanese social life and providing affective validation for the punitive turn in national crime response policy that would mark the turn of the 21st century (Steinhoff 2014: pp. 21-22). Simultaneously, this section explores ways in which reports and other ruminations on the protracted trials and state-sanctioned hangings of assailants, which virtually monopolized news and other media channels across the preceding two months, resurfaced and exacerbated the collective trauma caused by the inciting incident and stimulated re-circulation of the right-wing discourses and retributive sentiments regarding crime and punishment that first congealed in the wake of the crime 23 years prior. This chapter aims to historically contextualize my discussion of practices of indefinite detention in contemporary Japan while also interrogating some of the broader questions that animate this project, particularly concerning issues of biopolitical administration, presentism (and other anomalies in temporal perception frequently induced by pre-judicial incarceration), and liminal space.

In the final chapter of this text (Chapter 4), I reference personal journals, legal documents, and other written records dating from my term of detention in 2009 and 2010 to reconstruct the bureaucratic and affective trajectory of this experience; also informing the contents of this chapter are interviews conducted with several contacts who became pivotal to the development and resolution of my case.⁵ Whereas Chapters 1 and 2 examine the topic of criminal justice in Japan from a decidedly macro-level (historical, legal, and sociocultural) perspective, this one seeks to humanize and particularize my observations regarding the system by offering a first-person account of unconvicted detention in the country.⁶ My utilization of such an approach in this chapter performs one of the overarching theses of this project: that the criminal case is less an isolated event than the processual byproduct of a *hybrid collectif*, or network of human and non-human actants whose complex interactions produce emergent situations and subjectivities; lying at the intersection of political history and individual biography, the case is initially constituted and subsequently narrativized via the interaction of the various material conditions (capital, property, commodity, etc.), sociocultural forces (law and policy, media discourse, judicial procedure, public ideology, etc.), and personal factors (socioeconomic status, ethnic/racial background, linguistic expertise, medical history, etc.) that coalesce in the body of the perpetrator at the scene and moment of the alleged criminal incident (Bennett 2010 pp. 8-10; De Leon 2015: pp. 39-42). It is my hope that in remediating this biographical scenario in the form of a case study, I might palpably illustrate the set of living conditions and daily routines into which suspects are assimilated across their processes of criminal investigation, defense consultation, and awaiting trial.

⁵ These contacts included work colleagues who supported me throughout my period of jailing and house arrest, the public defender who provided me with legal counsel and representation beginning shortly after the conclusion of my interrogation, and two prefectural government officials who advocated on my behalf in sentence negotiation matters.

⁶ While I wish to avoid extrapolating generalizations about the whole of the Japanese justice system on the exclusive basis of this singular case, secondary source review and interview with other formerly incarcerated persons (of both native and non-Japanese linguistic, cultural, and ethnic backgrounds) suggests that the treatment I received was far more exemplary than it was exceptional.

V. Theoretical Frameworks and Final Notes

The dual concepts of *political technique* and *technology of the self* constitute a central concern of the research I present here, serving to bind the following chapters both to each other and to the whole of this project. As explained in Agamben's *Homo Sacer* (1998), and as further elaborated in Butler's *The Psychic Life of Power* (1997), prior to the paradigm-shifting interventions of Foucault, scholarly analyses of power and governance focused almost exclusively on manifestations of the former category (the *political technique*), which describes the set of formal means by which individual subjects are assimilated into the hegemonic political order (e.g., judicial processes, policing practices, election protocols, political activism, organizational affiliation, etc.). In holding these categories apart as such, and by fixating so singularly on macro-level social phenomena, this "juridico-institutional" approach problematically neglected a second but equally important medium of power: that of the personal, affective, and intrapsychic, particularly as constituted by the individual adoption of *technologies of the self* in internal processes of subject formation. Foucault asserted the equal exigency of "private" matters of self-making and urged social scientists and political theorists to attend to both registers—the structural *and* the subjective—simultaneously. Power is not exercised solely by authorities of the state, he argued, nor is it articulated only in expressly institutional environments and overtly political relations; rather, it radiates throughout the entire spectrum of human [social] life, from bureaucratic administration, civic engagement, and disciplinary normalization to self-perception, identity construction, informal interpersonal exchange, and other phenomena conventionally conceived as irrelevant to the domain of the political (Agamben 1998: pp. 1-12). Likewise, implicit within the later works of Foucault is the notion that individual subjectivity emerges in and through the internalization of regulatory (i.e., normative) power; the "private" self is therefore constructed not in opposition to the disciplinary forces of social norm, but in the very process of political subordination (Butler 1997: pp. 1-30). It on this basis that Foucault—and many of his intellectual successors—encouraged scholars who engage with matters of state governance to "...abandon the traditional approach to the problem of power...in favor of an unprejudiced analysis of the concrete ways in which power penetrates subjects' very bodies and forms of life" (Agamben 1998: p. 5).

This project presumes the commensurate pertinence of *political techniques* and *technologies of the self* to the topic of the Japanese pre-judicial detention system, attending to both in exploring various facets of the Japanese pre-judicial detention system. In this spirit, each of the following chapters examines a particular processual effect of these mutually intertwined mechanisms of political power and individual subjectivity on the social standing and/or self-conception of the unconvicted detainee: Chapter 1 explores processes of *invisibilization* by attending to various operations of concealment and revelation deployed within endemic ecologies of crime, policing, and prosecution in contemporary Japan; Chapter 2 applies the concept of *ambiguation* to its analysis of the structure and history of late 20th and early 21st-century criminal procedure, examining ways in which various forms of indeterminacy internal to the system are strategically leveraged to disenfranchise the suspect while expanding the reach and bolstering the authority of the state; Chapter 3, which describes and analyzes the 1995 Tokyo subway "gas attack" and its historical reverberations, considers public experiences and private affects of *alienation* as both cultural reaction and structural contributor to individual instances of criminality and their prosecution; and Chapter 4 elucidates mechanisms and processes of *a/objectification*,⁷ wherein the social and subjective selfhood of the detained suspect is systematically denied to justify the state's

⁷ This term was formulated as a portmanteau of "abjection" and "objectification."

severe and at times dehumanizing treatment of the transgressor, in providing an account of my own experience of pre-judicial detention in early 21st-century Japan.

I must make a final note, here, that I conceive of each of the psychosocial processes examined in the following pages as manifestations of *liminality* and *negation* commonly projected upon criminalized bodies and psyches in both institutional and informal social contexts. The former term, of course, refers to a fundamental ambiguity in or instability of fixed meaning. The concept of liminality possesses a rich history within in the discipline of sociocultural anthropology, first appearing in the early 20th-century works of Belgian folklorist Arnold van Gennep (1909) and being subsequently elaborated by anthropologist Victor Turner (1970; 1979). As Turner explains, van Gennep initially employed this label in schematizing the structure of the *rite of passage*, a genre of ritual activity intended to reconcile moments of crisis by formally marking the transition from one social role, status, or stage of life to another; examples of such include puberty rites, wedding ceremonies, initiation proceedings, and funerary rituals. Ceremonial practices of this variety, typically led by figures of political or religious authority, are composed of three distinct phases: *preliminal rites*, in which participants are severed from their current social position via symbolic arrest of the rules that govern it; *liminal rites*, the prescribed set of words, gestures, and other actions by means of which attendees figuratively cross the threshold distinguishing their former status from that into which they are to assimilate; and *postliminal rites*, acts performed to facilitate initiates' return to the world of the social mundane in with the new status acquired via completion of the ceremony in its entirety (Turner 1979: pp. 465-466; van Gennep 1909).

The concept of *liminality* figures in the ritual process examined by van Gennep and Turner in multiple capacities. Firstly, when applied to the tripartite structure of the ceremony itself, the term indicates the intermediate (second) phase of the three constitutive steps performed therein (*liminal rites*), regarded as particularly saturated with risk due the loss of social status experienced by participants across its duration. The label may also be used to describe the subjective and perceptual distortions induced by rites of passage, whose ritual activities often produce within the psyches and sensoria of participants a collapse of distinction between self, other, and environment. Finally, the rite of passage broadly conceived constitutes a social response to liminality insofar as it aestheticizes and ultimately reconciles states of social (and presumably ontological) indeterminacy. According to Turner, each of these applications suggests "...a state or process which is betwixt-and-between the normal" (Turner 1979: p. 465); necessarily accompanying this ostensibly temporary condition of semiotic ambiguity is a suspension of the rules, roles, and categories that govern ordinary existence, producing a profusion of vulnerability, danger, and, Turner argues, potential alike (Turner 1979: pp. 465-497). In ways that I will further elucidate in subsequent chapters, the sociopolitical and subjective shifts addressed in each chapter of this text are unified by their distinctive association with liminality—with various intermediary states, statuses, and processes that continually evade the captures of certainty and coherence while also, I argue, providing a space of possibility for imagining more ethical and just sociopolitical alternatives.

The relevance of the notion of liminality to the Japanese pre-judicial detention system is perhaps at least partially self-evident, as persons are arrested and held in police custody (in Japan, typically in "temporary" informal detention facilities⁸) precisely on the basis of suspected

⁸ The endemic convention of holding unconvicted arrestees in "short-term" detention facilities for extended periods is further explored in Chapter 2 of this text. As I explain there, investigators often continually defer the transference of unconvicted arrestees into formal long-term detention facilities (like pre-trial detention wings of prisons). This provides two main benefits to police and prosecutorial investigators: 1) the continued holding of suspects under the

participation in activities that contradict, elude, or exceed the dictates and categories of the hegemonic politico-judicial order. The social status of the unconvicted detainee is doubly liminal, however, insofar as even the subject's degree of criminal culpability is yet unconfirmed. This state of compounded indeterminacy is reflected also in pre-judicial detention facilities themselves, which occupy similarly interstitial positions within the contexts of both broader society and the carceral economy embedded within it and thus function as something of a liminal space *par excellence*. Due to its status as such, the unconvicted detention facility might also be identified as a "third place" or "nonplace," designated sites for the externalization of state violence which, despite being essential to the establishment and preservation of modern democracy, cannot be expressed in hegemonic domains of the social order due to their inherent unlawfulness (Mbembe 2019: pp. 20-27).

The concept of *the liminal* applies not only to persons and spaces associated with the Japanese unconvicted detention system, but also to the post-arrest/pre-trial phase of criminal procedure it manages. If one applies Turner's model of the rite of passage to the process of criminal prosecution in Japan, with arrest and intake corresponding to the *preliminal rite* (wherein the rules that govern the social ordinary are suspended) and conviction and sentencing at the final court hearing fulfilling the function of the *postliminal rite* (in serving as precedent for either the convict's transference to the prison or the innocent's return to the civilian world), pre-judicial investigation and detention protocols collectively constitute the *liminal rite* (the intermediary set of practices by means of which the initiate crosses the boundary between their previous and subsequent social roles). It is essential to note once again, however, that whereas Turner's *liminal rite* is explicitly short-term in nature, the pre-judicial detention stage of criminal prosecution in Japan frequently persists for periods of months, years, or even decades. The routine forestalling of either release on bail or transference to a long-term detention facility has the ultimate effect of suspending the suspect not only between the moment of apprehension and the resumption of "normal" life, but also between the scene of the alleged crime and the [over-]determined microcosm of the prison. Thus, while the logics of Japanese criminal procedure in textual (codified) form indeed conform to Turner's characterization of the rite of passage in disrupting social order *temporarily*, shortly thereafter either returning the arrestee to the world of civilian normalcy or delivering them to the alternative but nonetheless intensively routinized sphere of the prison, the execution of the final step of the ritual's tripartite structure (re-integration of the participant into the/a political order) *in practice* is often endlessly deferred. The unconvicted detainee is thereby left to flounder in an interim world entirely unregulated by the rules, roles, rights, and protections that govern the respective domains of the prison and the "outside," virtually guaranteeing their exposure to various forms of exploitation, neglect, and abuse across the process of awaiting trial.

The arrestee's treatment as such is largely enabled by the ambiguation of legal status they undergo after apprehension, perhaps nowhere more cogently expressed than in the Japanese government's public insistence on the inapplicability of human rights law to those housed in domestic detention facilities (Steinhoff 2014: pp. 38-39).⁹ The loss of humanity suggested by this statement is but one of countless *negations* effected within the nation's pre-judicial detention apparatus. This project's focus on the fundamentally negative character of the system is grounded

direct supervision of their case investigators; and 2) evasion of the various regulations that govern prisons and other long-term facilities.

⁹ This scenario, derived from a 1999 lawsuit, is mentioned in the opening pages of this Introduction and examined in further detail in Chapter 4 of this text (which describes and analyzes the constellation of living conditions and mundane routines that comprise daily life in pre-judicial detention facilities).

in my understanding of carceral infrastructure (Berlant 2016: pp. 394-419; Larkin 2013: pp. 327-343) as itself at once reflective, performative, and generative of logics of absence. Such negation presented within my field site in multiple registers: spatially, as in the case of the architectural designs and geographic locations of jails and prisons, engineered to quite literally disappear allegedly non-compliant subjects from civilian life; temporally, as reflected in the surreal sense of suspension of time and arrest of personal history induced within the psyche of the detained subject; ontologically, as apparent in the informal stigmas applied to arrestees, which visit a kind of social [slow] death (Berlant 2011: pp. 95-121) upon the criminally accused; and corporeally, as evident in the system's imposition of various austerities upon the soma of the suspect, depriving them opportunity for fulfillment of even basic biological needs.

My sensitivity to the problematics of negativity immanent within my research site was further honed *in situ*, via a particularly resonant early-fieldwork realization that the Japanese pre-judicial detention system is perhaps best understood not in terms of the characteristics it exhibits, but rather with an eye attuned to the rights and privileges it denies. I was struck with this flash of insight during a preliminary research trip, while passing through a detention facility security checkpoint and having several items (a water bottle, a keychain, a lighter) confiscated in the process. *What other taken-for-granted certainties of daily life cannot survive the journey from the mundane world into the carceral one?* It was through sustained consideration of this question that I began shifting my attention from presence to absence—from the positive conditions implicit within my field site to those that existed on “the outside” but that failed to transfer across the thresholds of police station fences and jail cell walls. This re-orienting impulse was ultimately vindicated by subsequent ethnographic experience; after my first few months of participation in a Tokyo-based justice system research group, I came to recognize a striking pattern in meeting discussion transcripts: constant recurrence of the term *fukashika*. This compound word, conventionally translated as “invisibility” (a stable state) but whose literal meaning might be something more akin to “invisibilization” (an ongoing process), was most often invoked by former arrestees in referencing the profound impacts of their criminal detention histories on their current day-to-day existences, grieving the loss of personal agency within quotidian social life and lamenting the erasure of the perspectives of formerly incarcerated persons from popular discourses on the national justice system. Public records and collective memories of their perceived transgressions, many emphasized, rendered them no longer “seen” by—and thus no longer in circulation within or even merely a part of—the social worlds into which they were, upon release, tasked with “reintegrating”; one interlocutor poignantly likened the sensation induced by such an experience to that of being stirred from a nightmare only to discover that one was no longer visible to the waking world.

Through the ethnographic research process, I arrived at the conclusion that this “invisibilization,” and the various other iterations of liminality and negation addressed in this project, are not unanticipated byproducts of domestic judicial and penal administration. Rather, the nation's unconvicted detention system induces, intensifies, and exploits such states of exception—of deliberately imposed suspension of the categories, norms, and rules that organize everyday life—both routinely and by design. As will be further elucidated in the following pages, the zones of indistinction (Agamben 1998; 2005) opened within Japan's unconvicted detention facilities, by means of which the unthinkable is rendered possible, operate precisely as intended: as a means of punishing and making public examples of social deviance by disappearing, corroding, and, in more extreme cases, obliterating the bodies and psyches of those identified as threats to or excesses beyond the grip of its hegemony. It is thus that the state attempts to enforce the social

order by transcending the very standards that govern it; in the normalized exceptions induced by criminal procedure in the aftermath of the crisis of transgression, law is reinstated through its own shattering. Let the punishment fit the crime, indeed!

Chapter 1 (*[In]visibilization*)

The Optics of Power: Crime, Policing, and Prosecution in Contemporary Japan

When I first arrived in Japan in 2009, I was awestruck by the apparent absence of crime in everyday life. I had moved to the Tokyo area from my home town of Anchorage, Alaska, a small city on the periphery of the United States that boasted midnight sun, breathtaking surrounding landscapes, and one of highest per-capita rates of violent crime in the country. Although my early life would have likely appeared bucolic by most accounts, the sense of innocent abandon that animated the endless high-noon forest hikes and cozy twilight sledding trips of my childhood would be all but obliterated by adolescence. My memory marks as the turning point in this internal shift my first day of ninth grade when, while walking into school, I became unwitting audience to a parking lot brawl of such ferocity that its apparent loser was bludgeoned to death with a motorcycle helmet and its victor, tazed and cuffed. Like many graduates of the American public education system, I recall my subsequent process of completing high school in the post-9/11 era as something of a survival course in navigating daily conditions of chronic surveillance, armed conflict, and casual police aggression. By the time I reached adulthood, I had thereby come to understand urban spaces and lifestyles as not only conducive of but practically *constituted by* crime, so to encounter not even a fleeting suggestion of minor delinquency in a city as intimidatingly massive and intensively industrialized as Tokyo was nothing short of core-shaking.

My initial sense of admiring wonder would only further deepen when, a few days after landing, I managed to recover a wallet that I had dropped on one of the city's busiest train lines the previous morning. Although I had presumed the item stolen as soon as I realized it missing, a Japanese friend to whom I had lamented the loss in passing insisted that we report it to a station attendant, who explained that it had been located by another passenger and delivered anonymously to a railway office several stops away. As a smiling employee there handed me my miraculously recovered wallet, I was shocked to find not a single credit card or yen note missing from the folds of its still-unblemished leather. I later learned that this incident was far from exceptional—over the remainder of my consecutive four-year period of residence in Japan, including in the wake of the 2011 Great Northeast Japan Earthquake and its literal nuclear fallout (Allison 2013: pp. 180-206; Gill, Steger, & Slater, eds., 2015: pp. 3-25; Weston 2017: pp. 71-101), every item I dropped on the street, left at a restaurant, or forgot on the subway was promptly returned, often at substantial inconvenience to the finder. Before returning to the U.S. in 2013, I had thusly accumulated a host of items that still glow, in my mind, with the radiance of human kindness: a garment bag filled with formal wear, a national health insurance identification card, a brand-new electronic reading device, a cheap but treasured canvas-bound journal¹⁰...*How was it that in one of the most densely*

¹⁰ In *Law in Everyday Japan*, law scholar Mark D. West explores the topic of the recovery of lost items in contemporary Japan by conducting a comparative experiment in which the author dropped two kinds of items (mobile phones and wallets containing cash) on the streets of New York and Tokyo; predictably, he encountered much higher rates of return of lost items in Tokyo. The factors that came to bear on these results are multiple and complex; however, West attributes the altruistic behavior he witnessed in the Tokyo case (and in Japan broadly) to a combination of law (which rewards the return of lost items and punishes the appropriation of lost items by finders, policies of which most citizens are thoroughly informed from a very young age), ubiquitous police presence in daily life (primarily via the *kōban* or “police box” system), and a network of behavioral norms that are socialized from early childhood (West 2005: pp. 9-55).

populated cities in the world, civic altruism appeared so pervasive and crime, practically non-existent?

I would gain cursory insight into this matter the following month. The high school at which I had secured a year-long English language teaching assistant contract had just begun its fall term, and the muggy August air was thick with the tremolo of a thousand screeching cicadas. I had been assigned to work in pairs with several natively Japanese-speaking classroom instructors, but found myself leading one of my biweekly classes solo due to the unexplained absence of its primary teacher at the semester's start. Mr. Sakai's sudden disappearance was particularly vexing given that two weeks prior he had facilitated my move nearly singlehandedly, driving me to home goods stores, helping me open bank and mobile phone accounts, and guiding me in obtaining and registering a *hanko* (a surname stamp used to confirm identity, authenticate paperwork, and provide formal consent to legal agreements in Japan, serving a function similar to that of the personal signature in the United States). Recalling these experiences, I once again marveled at the empathy and generosity displayed by citizens here, whose keen ethical sensibilities seemed to extend even to relative strangers. *Maybe Mr. Sakai had just been waylaid by another foreigner in need, I thought, or perhaps he had come down with a particularly bad case of the recent flu variant, H1N1v¹¹...*

I wouldn't be left to ponder for much longer—at the end of the second week of the term, an emergency assembly was called by the school administration, and a mass of students and their parents poured into the stiflingly unventilated multi-purpose room the following morning. Although I understood little of the speech delivered by the principal over the coming half-hour, I detected in his voice an air of dense seriousness, a suspicion confirmed by the aghast expressions spreading in waves across the faces of the crowd. Strikingly, the audience also refrained from applause at the close of the address, punctuating its end only by filing out of the hall in vacuous silence. While I waited in the back of the line, puzzled, Principal Uchikawa approached me and requested that I join him in his office. As an administrative assistant served us chilled barley tea and rice crackers, he asked me in English how my language study was progressing—he must have known that the contents of his monologue were largely incomprehensible to me, particularly since I spoke so little Japanese at my time of arrival that I required assistance in even the most rudimentary of relocation tasks. After a few minutes of stiltedly casual small-talk he returned to the matter of the assembly, summarizing the information conveyed therein: Mr. Sakai, the teacher who had escorted me on endless errand-runs a mere two weeks prior, was currently being interrogated as the primary suspect in an illicit pornography production ring that, having predominantly targeted local male middle school students, had allegedly violated national law setting the age of sexual consent at an already low 13 years¹². It was thus extremely unlikely, the principal informed me, that he would ever return to campus or even be seen in the community again. Although the police had begun corresponding with the school administration for

¹¹ Referred to vernacularly (and misleadingly) as “swine flu,” H1N1v was a highly contagious variant of the influenza virus whose rapid worldwide spread beginning in June 2009 prompted the World Health Organization and the U.S. Center for Disease Control to declare it the first global influenza pandemic of the 21st century (<https://www.cdc.gov/flu/swineflu/keyfacts-variant.htm>).

¹² The age of consent specified in the Japanese 1907 Penal (or Criminal) Code, at 13 years, remained unchanged until 2023. In July of that year, parliament substantially revised legislation pertaining to sexual assault; amendments instituted included raising the age of consent to 16, extending the statute of limitations on the reporting of relevant cases from 10 to 15 years, and expanding the definition of “sexual assault” to include persons of all genders and to encompass scenarios that do not involve the use of physical force (<https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/japan/>).

investigation purposes almost immediately, Principal Uchikawa was initially reluctant to publicize details of the arrest due to fear of inciting distress among parents; it was only after being contacted for comment by the prefectural press the day before that, hoping to pre-empt the incident's impending appearance in the daily newspaper, the administration decided to announce the cause of the teacher's unanticipated leave of absence.

Not pausing to gauge my reaction, Principal Uchikawa proceeded to elaborate on what he considered the underlying impetus of the crime: the suspect's queer (same sex-desiring) sexual orientation, rumors of which had evidently been circulating within the community for years. In fact, Sakai was widely believed to have attempted sexual contact with male students and colleagues alike on several prior occasions, but was merely transferred to different schools in each of these circumstances due to fear of tarnishing the reputations of his employers should his history of same-sex erotic interest or pedophilic predation enter the canon of public knowledge. The behavior that led to the arrest, Principal Uchikawa insisted, should be viewed not as a reflection of Japanese culture but, rather, as a byproduct of the accused's deviation from its heteronormative prescriptions; if one presumes a direct link between queerness and the sexual exploitation of minors, the inciting incident was simply the culmination of an innate [homosexual] perversion that finally found expression in explicitly criminal—and thus legally punishable—activity. In accordance with the conventions of national criminal procedure, Mr. Sakai would likely be detained in the town police station jail until conviction, after which he would be transferred to the Tokyo-area Fuchu Prison to serve an extended carceral sentence. In the extremely improbable event that he managed to evade prosecution or was released from prison before reaching the legal age of compulsory retirement (65 years at the time), the principal assured me, the looming onslaught of case reportage would necessitate termination from his current position and likely render him both unemployable and socially untouchable for the remainder of his years. Now that Sakai had finally been arrested, the streets and schools were permanently safe from his aberrant compulsions.

Embedded in Principal Uchikawa's interpretation of this incident are a number of significant insights into the culture and politics of crime and punishment in Japan that will be examined in this chapter. Firstly, his framing of Sakai's prosecution and eventual imprisonment as a foregone conclusion was likely grounded in common knowledge of the nation's inordinately high rates of conviction of arrestees, which have plateaued at over 99% for the last several decades (Miyazawa 1992: p. xi; Johnson 2002: p. 215; Steinhoff 2014: pp. 5-6). In light of the generation-spanning persistence of this figure, the "guilty" verdict projected by the principal was indeed a highly plausible case outcome. Secondly, his presentation of the police's suspicions as self-evident truth reflects the nationally pervasive supposition that even the act of arrest alone constitutes clear evidence of guilt. One would not be apprehended, the assumption dictates, were they not largely culpable; unconvicted detainees are thus branded criminal by mere dint of being taken into police custody. Sociologist Patricia Steinhoff contends that this mentality is *negatively* reflected in codified law, as although the democratic (and admittedly Eurocentric) ideal of "presumption of innocence [until proven guilty beyond a reasonable doubt]" appears in Japanese law school textbooks, it is strikingly absent from such foundational legal documents as the nation's Constitution and Code of Criminal Procedure (Steinhoff 2014: pp. 5-6).

This leads to a final point of observation revealed within this exchange, concerning Principal Uchikawa's bleak outlook on the future prospects of our former colleague. He speculated that Mr. Sakai would face insurmountable barriers to social and professional mobility even if he were found not guilty of the suspected crime, primarily due to the irreversible reputational damage

inflicted by the real-time journalistic mediation of his case that would likely begin even before indictment. This prediction tacitly references the closely intertwined relationship between law enforcement and news media entities and interests in Japan, where prefectural and metropolitan police headquarters commonly house “press clubs” (*kisha kurabu*) through which information concerning [pending] criminal cases is fed directly to interested reporters. Pioneering legal scholar Setsuo Miyazawa characterizes this practice as particularly problematic given that content furnished by law enforcement officials within such contexts is seldom subjected to fact-check investigation and is often published in prominent newspapers with little to no revision (Miyazawa 1992: pp. 229-230). The domestic police force’s monopolistic hold over the public narrativization of even merely *suspected* legal transgression, in conjunction with widespread presumption of guilt harbored by the civilian population, produce a sociocultural ecology in which the stigma of criminality begins to corrode the social standing of the suspect from the very outset of arrest, often before allegations have even been filed.

This chapter employs the scenario of Mr. Sakai’s disappearance, curated from among my earliest experiences in and of Japan, as a springboard in establishing and elaborating the broader cultural context in which the national pre-judicial detention system is situated. My decision to introduce this relatively narrow and obscure sphere of social activity by exploring its connection to more universally encountered facets of everyday life in the country was informed in part by anthropologist Didier Fassin’s *Prison Worlds* (2017). In this exhaustive study on short-stay correctional facilities in contemporary France, Fassin challenges the long-dominant notion of the jail or prison as a “total institution,” or impenetrable microcosm entirely separate from the “outside” (Goffman 1961: pp. 3-124), by contending that the carceral and more general civilian domains in fact exist in a relationship of reciprocal influence. Just as the jail or prison constitutes a crystallization of multiple forces directly or indirectly oriented toward crime and punishment (including legislative decision, media discourse, and mentalities pervasive among the general population), Fassin argues, ideologies, practices, and subjectivities cultivated within the porous confines of the penal facility inevitably come to bear on external phenomena (Fassin 2017: pp. 11-13). In alignment with this notion, this chapter seeks to examine the Japanese pre-judicial detention system not in isolation from but, rather, *in relation to* the cultural and political structures that undergird “mainstream” social life.

The opening section of this chapter describes the general ecology of crime and punishment in everyday life in Japan, devoting particular attention to relevant statistical patterns emerging across the last four decades; while these include high arrest clearance and conviction rates¹³ in addition to the consistently elevated police approval ratings indicated by public opinion polls, I focus most centrally, here, on the inordinately low incidence of crime sustained in the country across the majority of the last century. Subsequently, I explore several distinctive features of Japanese society that scholars have considered key elements in the reproduction of the nation’s low crime rates and other ostensibly desirable statistical outputs: stringent gun control law, the nationwide *kōban* (“police box”) system, a longstanding tradition of citizen surveillance bolstered by a broad cultural valuing of conformity, low per-officer caseload averages, and, finally, the mutually enmeshed relationship between domestic police and news media entities. It is one of the central theses of this project that the consequences of arrest in Japan are not confined to the times and spaces of incarceration but, rather, radiate outwards in vast waves from the moment and scene

¹³ “Arrest clearance rate” refers to the percentage of reported crimes for which an identified culprit has been arrested. “Conviction rate,” in turn, indicates the percentage of prosecuted criminal cases that have concluded with a “guilty” verdict (Miyazawa 1992: pp. xi, 13-14)

of the alleged crime; criminal apprehension thus serves as mere catalyst in triggering a cycle of trauma, stigma, disability, and poverty that thereafter orbits the body and identity of the suspect, unceasingly, until [premature] death (Gilmore 2007: p. 28). In providing a holistic overview of crime and punishment in 21st-century Japan, I seek to facilitate the reader's understanding of not only the immediate aftermath of criminal arrest, but also the precursors to and long-term impacts of it within the lives of the accused, those in their social proximity, and the general public alike.

As stated in the Introduction, of paramount importance to the theoretical scaffolding of this project are the Foucauldian concepts of *political technique* and *technology of the self*, mechanisms of state power by means of which individual constituents are simultaneously enfolded into the dominant social order and produced as separate *from* it; these twin concepts are premised upon the notion that the formal discipline of subjects (via law, policing, political activism, civic engagement, etc.) and the informal cultivation of psychic interiority (via identity construction, self-perception, affective response, interpersonal exchange, etc.) are inextricably intertwined processes that exist in a relationship of constant mutual influence (Agamben 1998: pp. 1-12; Butler 1997: pp. 1-30). Drawing upon this framework, each chapter of this text examines a particular psychosocial shift undergone by the arrestee in reaction to the various *political techniques* and *technologies of the self* deployed within the Japanese pre-judicial detention apparatus. In exploring the general landscape of crime and punishment in contemporary Japan, the thematic scope of this chapter remains fixed most intently on manifestations of *[in]visibilization*, or ways in which persons suspected of criminal activity are alternatively displayed before and concealed *from* the general public. This thematic concern first emerged through reflection upon the vanishing of Mr. Sakai following his arrest in the fall of 2009. Upon closer consideration, however, I arrived at the realization that mechanisms of revelation and disappearance are instrumentalized everywhere in the domestic penal ecology: in the omnipresence of police in daily life; in the regime of informal surveillance to which all residents of Japan are subjected; in the conversion of arrestee bodies and identities into public spectacle, scapegoat, and cautionary tale via the 24-hour news cycle; in the inevitable spiriting away of those under criminal investigation; and, of course, in the everyday voids left by their absence.

I. Crime in Japan: A Historico-Statistical Overview

Many first-time travelers to Japan note that while visible indicators of police presence are seemingly omnipresent in public spaces, crime appears so rare as to be virtually non-existent. The scarcity of observable criminal activity within the mundane rhythms of daily life is underscored by the nation's exceptionally low crime rates, particularly with regard to *violent* crime, which are especially remarkable given Japan's status as one of the most intensely industrialized and densely populated countries in the world (Harootunian & Yoda, eds., 1999: p. 20; Ivy 1996: p. 14). These ostensibly desirable statistics are not a recent development, rather constituting the continuation of a low-crime trend that has persisted in the country for decades, having followed a generally down-sloping trajectory since 1955 (Ames 1981: p. 1, 57). In a landmark study on policing in Japan, Setsuo Miyazawa examines quantitative data related to crime and punishment in Japan to find that in 1985, the nation's total number of reported penal code offenses per 100,000 persons (at 1,328, or 0.013%) was roughly one-quarter of that of the United States (at 5,207, or 0.052%) and one-sixth that of West Germany (at 6,909, or 0.069%); the latter two countries were selected as relevant points of comparison insofar as, according to Miyazawa, contemporary Japanese criminal law and procedure combines elements of the American and German legal and penal systems (Miyazawa 1992: p. 13).

The 2022 *Keisatsu Hakucho* (“White Paper on Police,” furnished by the National Police Agency of the Central Government of Japan) reports marginal increases in incidence of crime each year between 1985 and 2002. These figures began consistently *decreasing* on an annual basis immediately thereafter, however, reaching a postwar record low of .0045% (or 452 cases of reported criminal incidents per 100,000 persons) in 2021.¹⁴ It is essential to note that contemporaneous to the steady decline in crime beginning in 2002 was not only significant growth in the national jail and prison inmate population (which indexes higher arrest rates), but also a dramatic shift in the general ethos of the Japanese justice system, which began implementing ever-more austere policies and practices in its treatment of criminal suspects, defendants, and convicts alike in the late 1990s (Steinhoff 2014: pp. 21-22).¹⁵ This punitive turn in Japanese criminal procedure and the pre-judicial detention conditions that accompany it, a pattern that has continued into the present historical moment, is particularly striking given the nation’s prior global reputation for being uniquely “benevolent” in its central commitment to the psychological rehabilitation and social re-assimilation of offenders (Johnson 2002: p. 4). Steinhoff contends that this marked turnabout in the Japanese state’s approach to crime and punishment constituted the culmination of a feedback loop between grassroots demand for progressive reform and conservative governmental retaliation that began in the 1960s but whose effects continue to reverberate today (Steinhoff 2014: pp. 21-22). This historico-political process, a scenario that attests to the mutual influence of penal and “outside” social worlds as observed by Fassin (2017), will be recounted and more deeply examined in Chapter 2 of this text; similarly, Chapter 4 elaborates Steinhoff’s explanation of the late-90s punitive shift by identifying a discrete catalyst *for* it: the 1995 “Tokyo Subway Gas Attack,” a public act of mass murder that, having been perpetrated by a natively Japanese religious group, unsettled popular perceptions of crime by shifting its presumed locus of origin from abroad (foreign) to internal (domestic).

In any case, although the causal directionality of these co-occurrent structural changes (judicial/carceral punitiveness and crime rate decrease) remains unclear, it could be speculated that the Japanese state’s growing notoriety for severely penalizing even those merely *suspected* of legal violation has served as a powerful disincentive to those otherwise inclined to commit illicit acts, ultimately pre-emptively deterring criminal activity among the populace in the process. In fact, the Japanese National Police Agency itself repeatedly invoked this rationale in efforts of soliciting governmental funding and staffing resource hikes in the 1960s and 70s, the overwhelming success of which¹⁶ demonstrates the widespread appeal of such an argument (Ames 1981: pp. 58-62; Miyazawa 1992: pp. 14-15). The seemingly intuitive presumption that bolstering the authority and scope of influence of a given police force will yield reduced rates of crime in their corresponding jurisdiction(s) is questionable for multiple reasons, however. Most importantly, this line of reasoning has often served as convenient justification for the escalation of state violence, ostensibly in service of improving civilian quality of life, without taking into account the multiple

¹⁴ (<https://www.statista.com/statistics/1265108/japan-crime-rate/>)

¹⁵ This holistic shift in general approach to law enforcement and crime response, marked by increasingly severe treatment of criminal suspects, defendants, and convicts, was paralleled by steady and statistically significant growth in the national prison population across the same span. Inmate headcount in Japan increased from 47,398 in 1995 to 61,242 in 2000, thereafter increasing on an annual basis to ultimately peak at 81,255 in 2006; it was not until 2020 that these figures began dropping below the 1995 baseline (<https://www.prisonstudies.org/country/japan>).

¹⁶ The National Police Agency funding and staffing increases referenced here are indicated by growth in number of affiliated employees from 138,000 in 1963 to 197,000 in 1975. During this period (1963 to 1975), police staff totals increased at an annual rate of 3%; growth would continue to persist thereafter, but at declining rates due to budget cuts and the waning of “radical” leftist political activism (Miyazawa 1992: pp. 14-15).

and often egregious *costs* of deploying such tactics; these costs in the case of the Japanese justice system, often incurred even before indictment, include loss of autonomy, bodily harm, social stigma, wrongful conviction, and severe psychological attrition that not uncommonly induces symptoms of “detention disease” (*kōkin-byō*) (Steinhoff 2014: pp. 1-43; Miyazawa pp. 2-9, 63-89).

Secondly, while the popular association of increased police power with decreased crime rates is often couched in [pseudo-]scientific language, there exists much empirical evidence to the contrary; for example, results derived from a series of rigorous experimental studies conducted in the United States posed considerable challenge to the existence of an inverse relationship between the severity of state crime response strategy and the national incidence of penal offense (Miyazawa 1992: pp. 14-15; Skolnick & Bayley 1986: pp. 1-6). Anthropologist Jason De Leon reached a similar conclusion in examining the effects of the American “Prevention Through Deterrence” program, an assemblage of policies, practices, actants, and architectures that relieves the state of the need to engage in direct intervention by essentially funneling undocumented migrants attempting to cross the U.S.-Mexico border through a gauntlet of highly dangerous and often lethal environmental obstacles (De Leon 2015: pp. 4-5). Not only has this social engineering project imposed unimaginable suffering and an immeasurable death toll upon an already vulnerable population but, failing to curb the migration activities it was designed to “prevent”, has proven governmental intimidation tactics an entirely ineffective means of shaping human behavior in the manner intended (De Leon 2015: pp. 156-158).

Finally, a statistical development emerging in Japan in 2022 would itself challenge the commonly presumed association of forceful policing activity and judicial stringency with lower crime rates. In the spring of that year, a slight rise in the incidence of penal offense was reported, disrupting the downward trend maintained in the country throughout the preceding two decades (from 2003 to 2021). Although this escalation in crime rate was admittedly quite minimal, calculated at a relatively low 5.9% of the previous year’s total and still not exceeding the 2020 estimate, it constituted the first year-to-year increase in two decades (since 2002) and thus attracted the attention of both the National Police Agency and the Japanese media. Some domestic news outlets attributed this unwanted development to the easing of governmentally mandated COVID-19 restriction in the spring of that year,¹⁷ which resulted in the re-opening of shuttered businesses, the loosening of public gathering prohibitions, and the recommencement of foreign immigration in limited capacity.¹⁸

¹⁷ (<https://www.nippon.com/en/japan-data/h01924/#:~:text=A%20total%20of%2012%2C372%20major,to%20912%20and%201%2C361%2C%20respectively>).

¹⁸ As suggested by the National Police Agency’s attribution of the 2023 crime rate increase to “the more active flow of people” following the re-opening of national borders that year, there was some domestic speculation that immigration could have played a role in the matter, particularly since the country had been closed to foreign travelers from the emergence of the COVID-19 pandemic in early 2020 until mid-2022 (<https://www.nippon.com/en/japan-data/h01924/#:~:text=A%20total%20of%2012%2C372%20major,to%20912%20and%201%2C361%2C%20respectively>). As will be discussed in subsequent chapters, “foreigners” or *gaijin* (non-Japanese persons) constitute 7% of the overall inmate population in Japan as of 2023 (<https://www.prisonstudies.org/country/japan>). Fear of foreignness in Japan has been examined quite thoroughly in English-language scholarship; for example, Allison contends that the relatively high national poverty levels of the early 21st century are frequently blamed on migrant populations (Allison 2014: p. 33), and has also written much on the xenophobic histories and logics of domestic media censorship law (Allison 2000: pp. 163-168).

I speculate that the connection of the rise in crime rate to the reversal of policy designed to monitor and contain the spread of the virus is indeed suggested by the concurrence of relatively significant (14.4%) escalation in the incidence of “street crime” (street robbery, bicycle theft, public assault, etc.) with a slight (1.9%) *decrease* in the rate of penal code violation categories commonly associated with domestic space (home invasion, burglary, intimate partner violence, etc.).¹⁹ It seems fairly reasonable to propose on the basis of this data that the abrupt change in lifestyle stimulated by 2022 COVID policy revision, which ushered in a period of dramatic influx in the occupation of and movement through public space, produced far more opportunity for the perpetration of street crime (and crime in general) than had been the case under quarantine conditions and thereby generated measurable growth in related statistical figures. The post-COVID resuscitation of public life as such also provided the conditions of possibility for what remains to this date the most high-profile criminal case (and among the most culturally impactful collective traumas) in 21st-century Japanese history: the assassination of former Prime Minister Shinzo Abe, which will be attended to in greater length shortly.

Crime rate increase following the reversal of COVID-related restriction would shift from isolated event to longitudinal pattern the following year, when criminal violation estimates rose yet again—this time constituting a far more sizable (29.8%) increase over the previous year’s total but still falling just short of (6% below) the immediate pre-pandemic (2019) figure. Alarming, the category of offense exhibiting the highest rate of growth in Japan in 2023 was sexual assault; however, National Police Agency authorities were careful to stipulate that the technical definition of “nonconsensual intercourse” within the Japanese Penal Code was broadened substantially the same year and thus likely elicited a rise in the number of reported cases *classified* as such even if their frequency in practice remained stable.²⁰ This circumstance attests to the fundamentally vague and slippery nature of statistical data, which can be instructive in conveying a broad sense of the social phenomena they describe but that frequently fail to illuminate the more nuanced reasons behind and causal relations between them. Due precisely to their fundamentally nebulous character, statistics can be easily manipulated by those in power (particularly for public impression management purposes), and evidence indeed suggests that the Japanese police, procuracy, and other governmental entities have resorted to such machinations at various points in recent history (Miyazawa 1992: pp. 13-16). Herein lies the value of ethnographic research methodologies, particularly as applied within jails, prisons, and other intensively institutionalized social settings that produce vast amounts of quantitative information while remaining physically inaccessible to the general public.

In summary, while undergoing relatively minor fluctuations from one year to the next (with overarching trends of crime rate increase between 1985 and 2002, *decline* from 2002 to 2021, and increase once more from 2022 to 2023), Japan’s incidence of crime has remained among the lowest of all major capitalist countries for decades (Ames 1981: p. 225; Miyazawa 1992: p. 15). This pattern is even more pronounced in the case of *violent* crime (assault, robbery, homicide, etc.), whose frequency has been particularly minimal in Japan even during periods of escalation in overall crime rate. For further context, a 1992 World Health Organization study compared the

¹⁹ (<https://www.nippon.com/en/japan-data/h01582/#:~:text=A%20provisional%20National%20Police%20Agency,year%20rise%20for%20two%20decades>)

²⁰ (<https://www.nippon.com/en/japan-data/h01924/#:~:text=A%20total%20of%2012%2C372%20major,to%20912%20and%201%2C361%2C%20respectively>)

statistics of 20 industrialized democratic nations to find that per-capita homicide rates in Japan were by far the lowest of all countries considered, consistently totaling less than one-fifteenth those of the United States. Because incidence of homicide is widely considered a highly accurate index of the prevalence of physical violence in the day-to-day life of a given region, Japan's superlatively low frequency of such across the last several decades is commonly interpreted as empirical evidence of the remarkable sense of safety enjoyed by average residents of the country (Ivy 1996: pp. 13-14; Miyazawa 1992: pp. 12-14). The set of sociocultural conditions underpinning and perpetuating such a reliably secure and generally placid quality of life will be delineated and elaborated in the following section.

II. Crime, Policing, and Prosecution in Contemporary Japan: Structural Contributors

Social scientists have attributed the scarcity of crime in Japan to several interrelated systemic and sociocultural factors (Ivy 1996: pp. 13-14; Miyazawa 1992: pp. 11-12). These include the following, each of which will be examined in detail in this section:

- a) A strict set of laws concerning the possession and use of firearms, larger bladed implements, and other offensive weapons;
- b) The broad and regular dispersal of *kōban* ("police boxes") throughout public space;
- c) A historically-rooted system of informal (neighborhood-based) citizen surveillance and reporting, particularly as reinforced by Japan's broader culture of control and conformity;
- d) Low average police officer caseloads; and
- e) A close collaborative relationship between law enforcement and mass media entities.

II(a) *Gun Control Law*

Perhaps the most obvious and directly impactful of these particularities on the landscape of crime and punishment in Japan is the **exceptional stringency of Japanese gun control law**, which limits legally permissible firearm types to larger stocked varieties (those with two-handed firing mechanics, including rifles, air rifles, shotguns, etc.) and severely curtails rates of possession and use of them within the general population. Governmental oversight in matters of firearm distribution and monitoring is accomplished primarily via a compulsory permit system administered by prefectural safety commissions. The licensing protocols contained therein require all persons pursuing legal gun ownership to clarify and furnish evidence of the intended purpose of the firearm (in Japan, this is almost always sport hunting); submit to an extensive background check, with disqualification occurring in cases of prior criminal offense, documented history of suicidality, and even record of bankruptcy; complete police-led gun safety courses; and present the weapon to authorities for official inspection and other requisite permit renewal processes every five years. Even more importantly, national law entirely prohibits civilian use of *handguns*, a measure that effectively limits access to easily transportable and concealable weapons and thus greatly complicates the logistics of committing acts of violence—as executing such in light of such restrictive legislation requires meticulous planning and dogged perseverance, crimes of passion are relatively uncommon in Japan. Relatedly, because those attempting murder in the country must usually rely upon cutting and stabbing implements (which have a far lower mortality rate than firearms) to carry out such acts, victims are much more likely to survive assault than would be the case in instances of gun violence (Ames 1981: pp. 140-142).

In very rare circumstances of unauthorized civilian gun possession, firearms are typically either imported illegally or home-crafted (Ames 1981: p. 141). One particularly notable incidence of the latter scenario dates from July 2022, a few months after the aforementioned reversal of COVID policy, when former Prime Minister Shinzo Abe was shot and killed at a public political speaking engagement in the city of Nara. The suspect charged with responsibility for the murder, 41-year-old Tetsuya Yamagami, is still awaiting trial in a detention facility but confessed to having committed the act using a makeshift pistol that he assembled on the basis of YouTube instructional video content.²¹ One final method of unlawful firearm acquisition in Japan is theft, typically targeting the one class of citizen known to have consistent access to such weapons: police officers. Although Japanese law enforcement officials are usually armed with low-powered handguns, however, they very seldom use or even draw them (Ames 1981: pp. 140-141). This is because policy-level constraints on gun use in Japan extend even to police personnel, who are rigorously trained in nonviolent de-escalation strategy and required to prioritize peaceful negotiation over the application of force in all scenarios. In the extremely uncommon event of firearm discharge, officers are subjected to intensive regulatory audit and extremely harsh sanction, incentivizing avoidance of force until all other methods of conflict resolution have been exhausted (Ivy 1996: pp. 13-14; Miyazawa 1992: pp. 12-14). Finally, even in circumstances that warrant police gun use, excessive firing is limited by the very design of the Japanese police-issue revolver (Ames 1981: p. 141), which has lower round capacity and far less efficient shooting mechanics than is the case for the semi-automatic pistol model carried by the average U.S. law enforcement official.

Serving as the foundation of contemporary Japanese gun control legislation is the 1958 Firearm and Sword Control Law; interestingly, due to the cultural significance of *katana* and other bladed weapons across national history, protocols contained in this document strictly regulate the distribution and possession of not only guns but also slashing and stabbing implements. From the time of this article's inception in 1958, the possession of blades exceeding 15 centimeters in length has been expressly forbidden in Japan, acting as an additional barrier to the perpetration of homicide in the country. These parameters were further narrowed in 2008, specifically in response to an incident of mass murder in which a 25-year-old man used a rented moving truck to plow into a street full of pedestrians in the Akihabara district of Tokyo, eventually exiting the vehicle and indiscriminately stabbing passersby with a dagger; when questioned about his motivations, the culprit explained that he had descended into a state of uncontrollable rage triggered by intense anxiety regarding potential job layoff and financial insecurity. Although the outlandish assault yielded seven deaths and ten injuries, the knife wielded by the attacker was legally purchased and, with a blade measuring 13 centimeters, conformed to relevant size specifications included in the Firearm and Sword Control Law. The National Police Agency ultimately reacted to the massacre by decreasing the legal blade length maximum from 15 to 5.5 centimeters in the case of double-edged knives (those designed for stabbing purposes, as had been used by the assailant of this incident), placing even more rigorous constraints on the range of weapons permissible for ownership by average citizens (Allison 2013: pp. 62-64; Ames 1981: pp. 140-143; Sand 2013: pp. 49-53).

This solution, while certainly sensible, might be seen as somewhat myopic in its neglect of the structural factors that crystallized in the attack—the sentiments of professional hopelessness and social isolation articulated by the perpetrator were by no means anomalous, as the nation has been in a state of protracted economic recession since the early 1990s, generating consistently high levels of poverty and un[der]-employment that have induced among the general population a

²¹ (<https://www.asahi.com/ajw/articles/14951887>)

pervasive sense of instability, alienation, and malaise (Allison 2013: pp. 4-5, 82-85, 124-125; Harootunian & Yoda, eds., 2006: pp. 6-8, 16-21). In fact, those charged with homicide and other violent offenses in the country (including the alleged culprit of the 2022 assassination) commonly cite financial precarity and associated affective experiences as the primary impetus for the activity leading to arrest. The national government's response to the "Akihabara Massacre" is thus perhaps emblematic of a broader cultural pattern in Japan, as in many other countries, in which state authorities respond to incidents that attract large-scale public attention by fixating on legislative intricacies rather than addressing the systemic issues that contributed to its occurrence (e.g., labor conditions, financial and job security, mental health, etc.). Regardless of how one might evaluate this particular iteration of crime response in Japan, considering gun and knife/sword control law holistically, it is clear that the government's strict policies concerning the possession and use of firearms and other offensive weapons have been very effective in sustaining the nation's minimal rates of [violent] crime across the last several decades.

II(b) *Kōban* ("Police Box") System

The second structural contributor to the scarcity of crime in Japan to be addressed here is the **systematic distribution of *kōban* ("police boxes") throughout public space**; these structures appear ubiquitously in residential, commercial, urban, and rural areas alike (Ivy 1996: p. 13). As satellite police stations designed to support the activities of central headquarters, facilitate community patrolling, and increase police visibility within daily life, *kōban* are by definition quite small, usually containing only two rooms capable of housing up to two officers at a time. The size and other material features of these structures are, of course, reflective of the practices they are intended to facilitate. For example, while patrolling routine in the United States is typically motorized (i.e., reliant on the use of automobiles), community policing in Japan is most often conducted on foot; for this reason, *kōban* are not burdened by the need to include vehicular storage space and can thus be far more contained than their counterparts in other countries. This enables law enforcement entities to produce a larger quantity of, and therefore to more regularly disburse throughout public space, "police box" architectures (Ames 1981: pp. 35-55). The domestic pervasiveness of these structures serves as material expression of one of the key differences between American and Japanese policing philosophy, at least as publicly articulated: according to Miyazawa, the National Police Agency maintains that "most people are potential criminals and therefore targets of daily surveillance or investigation" (Miyazawa 1992: p. 14), justifying on behalf of law enforcement officials and organizations a degree of immersion in daily life that might be judged as invasive or even tyrannical by the standards of other contemporary democratic nations. In their omnipresence and 24-hour-a-day staffing, *kōban* function to not only maximize opportunity for such everyday surveillance, but also to deter criminal activity, enable efficient response to crime, and facilitate ease of civilian reporting (Ames 1981: pp. 35-55).

The *kōban* system itself highlights a key distinction between the paradigmatic social function of the police in Japan versus that of many other countries: in the former, officers tend to be far more integrated into the communities in which they are situated, serving a public service role far exceeding mere law enforcement. One of the primary duties assigned to officials manning these structures is to visit each of the homes of their jurisdictions regularly, with formal requirement setting the resident contact minimum at twice per year. Visits with individual community members (referred to as *junkai renraku*, or "patrol contact") serve, firstly, as a means of accumulating knowledge of neighborhood gossip, information that can be of significant benefit in processes of identifying suspects, determining motives, and solving crimes. Additionally, this

practice assists law enforcement in updating the exhaustive neighborhood records they are required to maintain, which include such standard data as name, birthdate, place of origin, and employer alongside more specialized information like criminal record, gang affiliation, and even mental health status. It is worthy of note, here, that while the police cannot mandate compliance with their requests for such information, community members typically do so of their own accord, likely due to the attitude of trust in authority and sense of civic duty pervasive among the Japanese populace (Ames 1981: pp. 34-40; Miyazawa 1992: pp. 16-17; West 2005: pp. 36-37).

Since Japanese policing and criminal investigation endeavors rely heavily on civilian cooperation, *kōban* also function as points of contact with both individual neighborhood residents and police-support volunteer groups whose membership typically overlaps with that of more general neighborhood associations. Participants in these groups, often elderly men, fulfill multiple categories of task, from informal street patrolling to traffic safety advocacy; many also assume as a primary responsibility alerting the police to any recent additions to the neighborhood who might hail from ostensibly “undesirable” backgrounds (including migrants, convicted criminals, persons with psychiatric disabilities, and *burakumin*,²² those commonly marginalized for working in industries associated with death and decay) (Ames 1981: pp. 41-45; Hankins 2014: pp. 2-3). Finally, police boxes often serve as spaces of gathering and social interaction, as residents are encouraged to stop by to converse with officers and other members of the neighborhood who have congregated there (Ames 1981: pp. 36-37). This last function of the *kōban* system relates to another unique feature of Japanese policing convention that might surprise those from other countries: law enforcement officials in Japan, like Buddhist priests and classroom instructors, occasionally serve as counselors and mediators to civilians seeking guidance in matters as diverse as marital discord, financial struggle, and rental dispute. (Ames 1981: pp. 73-74). Evident in the multiplicity of social functions served by these structures is the fact that the interests and activities of *kōban* are deeply enmeshed with those of the communities they serve. Whether the everyday ubiquity of “police boxes” in Japan is emblematic of healthy and wholesome civil society, fascist government overreach, or some combination thereof is largely a matter of perspective; this debate will be explored in detail in the next chapter.

²² In the essay “Courting Justice, Contesting ‘Bureaucratic Informality’” (Steinhoff, ed., 2014: pp. 73-100), Davis examines a high-profile 1963 murder case widely believed to have culminated in the false accusation (referred to as *enzai* in Japanese) and wrongful conviction of a *buraku* man on primary the basis of [subaltern] caste (pp. 76-77, 81-83). In their attempt to locate a culprit, prefectural police focused almost exclusively on residents of *buraku* neighborhoods situated near the scene of the crime with little to no evidentiary justification, using a tactic that Davis refers to as “residential profiling” (a counterpart to “racial profiling” wherein residents of a particular *spatially demarcated* community are targeted for investigation with little rationale other than the marginalized social status of the group in question). The man convicted of the crime in 1964, 24-year-old Kazuo Ishikawa, denied any connection to the murder throughout his first month of detention and questioning, as he would throughout trial; however, after being re-arrested on additional charges at the close of the initial 23-day interrogation period, and subjected to various manipulations and deceptions by police detectives throughout his extended term of detention and questioning, he ultimately confessed to the crime (falsely, according to both him and his supporters). With assistance from the United Nations Human Rights Committee, domestic activist organization Buraku Liberation League began a long process of appealing the verdict; their argument in this process centered on the disparity between the sophisticated phrasing and *kanji* (Chinese characters) utilized in a handwritten ransom note delivered to the home of the victim’s family shortly after her disappearance and the relatively limited education of the alleged perpetrator (who, it was demonstrated in court, wrote at an early elementary school level) (Steinhoff, ed., 2014: pp. 73-79, 81-84).

II(c) *Citizen Surveillance and Reporting*

This leads to a third critical factor in perpetuating the nation's extraordinarily low crime rates: **Japan's long-running cultural history of promoting citizen surveillance on the level of the neighborhood or other small-scale community**, typically carried out via mass media announcements encouraging civilians to monitor their areas of residence for any signs of behavioral oddity and to promptly report such disturbances to officers stationed at their local *kōban*. As discussed above, police agencies in Japan have made extensive efforts to maintain close relations with the communities they serve throughout the latter portion of the 20th century and the opening of the 21st. Anthropologist Walter Ames notes that such "community relations" activities, initially adopted from the American model of criminal justice, have pursued two primary goals: firstly, preserving a favorable public image on the part of the police, and secondly, facilitating open dialogue between law enforcement officials and members of the neighborhoods in which they operate, chiefly in order to dissuade illicit activity and solicit the assistance of civilians in processes of pending criminal case investigation. As might be expected, media technologies have played a crucial role in the accomplishment of both aims, with one-way communication platforms (e.g., television, radio, etc.) being utilized in service of the former and bidirectional exchange channels (e.g., telephone and, more recently, online media) for the latter (Ames 1981: pp. 72-76).

News journalists, who have historically acted in support of the state for reasons that will be elucidated shortly, have served as a particularly potent tool for the police in engaging the interests of the public and enlisting the assistance of civilians in national and prefectural crime response endeavors. At the request of the police, Japanese news outlets regularly publish traffic and public safety campaigns, broadcast photographs and names of criminal suspects, and encourage community members to report to their local *kōban* in the event of encountering presumably suspicious persons or behaviors. The resources invested by law enforcement entities in such community relations initiatives have been incredibly effective in both deterring and responding to criminal activity on the level of the neighborhood (Ames 1981: pp. 72-76). For better or worse, the readiness of citizens to actively cooperate with state authorities functions in tandem with the *kōban* system to preserve the atmosphere of safety and security that has become internationally synonymous with Japanese public life (Miyazawa 1992: pp. 2-3; 14-15; Steinhoff 1996: pp. 12-14).

Although actions taken and directives issued by law enforcement entities (often via news media) are instrumental in producing on an ongoing basis Japan's idiosyncratically secure and placid quality of life, less formal aspects of the sociocultural ecology also play a critical role in this process. Related to this observation is Althusser's proposition that political power shapes the behavior of its subjects through two primary mechanisms: the "repressive state apparatus," constituted by explicitly political and administrative entities that compel compliance through threat of force (e.g., criminal courts, the police, the military, etc.), and the "ideological state apparatus," comprised of educational, religious, and other cultural systems that indirectly regulate individual conduct by cultivating particular values, attitudes, and ethical orientations among its constituents (Althusser 1971: pp. 111-123). While the former category is clearly of more direct relevance to the central concerns of this project, the second must also be considered, as social and behavioral patterns are inculcated as frequently and effectively by persuasive means as by coercive ones (Foucault 2008).

In alignment with this concept, practices and processes of civilian-to-civilian surveillance and *kōban* report-filing promoted by governmental leadership are further bolstered by the **broader culture of disciplinary normalization** in which they are situated. I must preface the following

discussion by clarifying that the cliché of Japan as harboring an entirely homogenous monoculture is intrinsically reductive, failing to account for the abundance of diverse sub-populations (migrant communities, *burakumin*, the Ainu and other native indigenous groups, etc.) and minoritarian political movements and entities (LGBTQ interest coalitions, the “New Left” student protest organizations of the 1960s and 70s, disability rights activist groups, etc.) that have existed in the country for centuries and whose public visibility has only grown in recent years (Hankins 2014: pp. 1-28; Lunsing 2006: pp. 143-148; McLelland 2009: pp. 193-207; Sand 2013: pp. 1-25; Sasaki-Uemura 2002: pp. 79-110; Steinhoff 2014: pp. 17-45). This being acknowledged, however, it cannot be denied that social conformity and trust of authority are invested with immense value in Japan, as suggested at least in part by the nation’s minimal crime rates and the attendant “high degree of law-abidingness of the people” observed by Miyazawa (Miyazawa 1992: p. 15-17). Much scholarship on the topic of identity and belonging in Japan has been produced since the postwar period; such studies often conclude that because endemic constructions of subjectivity rely heavily on group affiliation and collective consensus, residents of Japan are chronically exposed to powerful (even if subtle) pressures of social assimilation in everyday life (Allison 2013: pp. 26-29).

The hegemonic emphasis placed on social harmony and obeisance to established social convention in Japan generates widespread aversion to conflict and strongly dissuades engagement in contrarian or self-interested behavior within social settings. The relational model of the self so dominant within Japanese cultural contexts is particularly effective in discouraging deviation from prescribed norms due to its subtextual linkage of a given actor’s conduct to the reputations of the organizations with which they are affiliated and the social networks in which they are embedded. In adherence to this logic, one must constantly consider the implications of their actions on the social standings of not only themselves but also their relatives, colleagues, and other associates. Inversely, such a conceptualization of the self incentivizes organizations to discourage deviance among their membership even if motivated solely by concern for preserving their own public image. In this way, Japanese notions of selfhood produce a sociocultural environment in which demands for compliance and conformity are applied laterally (i.e., between and among individuals of similar status) as well as vertically (i.e., issued in a top-down manner from authoritative figures and entities) (Allison 2013: pp. 26-28). The mutually enmeshed nature of individual and collective social identities in Japan is expressed in the domains of law and criminality not only through the *kōban* system and the mechanisms of informal surveillance that undergird it, but also in the widespread adherence to mainstream social norms and legal policies and ultimately in the scarcity of crime in everyday life.

The discursive connection of the self to the collective (and vice-versa) is reflected also in cultural reactions *to* crime, particularly in the fact that when one is arrested in Japan, the police often utilize contact with the suspect’s professional or educational organization of affiliation as a first step in crime response. I might remind the reader, here, that the police shortly followed Mr. Sakai’s arrest by placing phone calls to his employers, the high school administration and the prefectural Board of Education. Similarly, a few months into my first year of residence in Japan, a police officer appeared at the primary school at which I taught to speak with the homeroom teacher of a 17-year-old student who had just been arrested for shoplifting from a nearby convenience store; the teacher explained to me later that afternoon that in lieu of detaining and litigating the student, the officer responsible for the arrest requested that he be counseled by his classroom instructor in matters pertaining to interpersonal ethics and civic duty over the course of the coming year. I was initially quite surprised that the school of the young man would be contacted directly

by law enforcement, and *shocked* that parties entirely uninvolved in the crime—who were neither biologically related to nor legally responsible for the student—would be so deeply integrated into its identified solution. As the teacher clarified, however, it was standard practice in Japan for the police to pursue courses of action that exceeded the judicial and penal realms. These ethnographic anecdotes illustrate the profound influence of national culture on even seemingly “objective” matters of legal regulation and criminal procedure, as has been noted by many prominent scholars of Japanese law (Johnson 2002: pp. 4-6; Miyazawa 1992: pp. 15-17; Steinhoff 2014: pp. 18-19).

II(d) Low Police Officer Workloads

While “police boxes” and the more general culture of assimilation in which they are embedded play a critical role in constraining the occurrence of crime by both pre-emptively discouraging *possible* penal code violation (through rendering law enforcement agents and organizations highly visible in daily life, thereby constantly confronting potential criminals with the specter of legal consequence) and enabling swift response to *actual* offense, **favorably low average police officer caseloads** also constitute a decisive factor in this process. Miyazawa reported in 1992 that the annual mean number of criminal cases assigned to each police officer in Japan (at 7.4) was less than half that of the United States (at 18.7) and under one-third that of Germany (at 22.0) (Miyazawa 1992: p. 15). It must be acknowledged, here, that the causal directionality of per-officer caseload, on the one hand, and crime rate, on the other, remains somewhat ambiguous; the former can be seen, alternatively, as byproduct of *or* contributor to the latter. In reality, it is likely that both descriptions of workload relative to crime rate are accurate, and that the relationship between these two statistical variables is more circular than linear. Regardless, Japan’s strikingly low per-officer caseload affords law enforcement entities with the temporal, financial, and staffing resources to pursue conviction in nearly all cases of arrest and to an extent not possible in most other industrialized democratic societies (Miyazawa 1992: pp. 12, 14). It is largely for this reason that Japan has managed to sustain their extremely high rates of conviction of indicted criminals, which have towered over those of the United States and most other structurally commensurate countries at a remarkable 99% for decades. Light officer caseloads also reinforce the state’s capacity to continually produce inordinately high national arrest clearance rates (the percentage of reported crimes for which an identified culprit has been arrested) which, historically, have typically totaled two to three times those of the United States (Miyazawa 1992: pp. xi, 13-14; Johnson 2002: pp. 4-5, 10-11).

The relatively minimal workload assigned to any given Japanese law enforcement official contributes to a stark imbalance of power within the system that places detainees at a distinct disadvantage relative to the state; once arrested, there is little one can do, even with highly skilled, reputable, and expensive defense representation, to avoid conviction or even mitigate sentencing outcome. Although criminal justice systems *globally* indeed tend to favor the interests and bolster the powers of the police and the procuracy at the expense of protecting defendant rights, many academic publications released over the past few decades emphasize that this pattern is especially pronounced in contemporary Japan (Johnson 2002; Miyazawa 1992; Steinhoff 2014). Such sources contend that the disproportionate distribution of judicial agency in the country, partially a result of the nation’s uniquely low per-officer workload, places arrestees at the mercy of state officials who possess the means of investigating and prosecuting virtually every case of legal infraction they encounter with a degree of rigor unparalleled in most structurally commensurate countries. This tendency is further supported by domestic legal infrastructure itself, which rather explicitly affords investigators and prosecutors far greater power over the flow and outcome of

criminal procedure than can be exercised by the accused and their legal representation (Johnson 2002: pp. 3-16; Miyazawa 1992: pp. 11-18; Steinhoff 2014: pp. 2-7). While this systemic asymmetry likely assists in preserving the safe and secure quality of life experienced by residents of even the nation's most populated cities and impoverished neighborhoods, the relatively outsized influence over legal proceedings granted to law enforcement officials also provides fertile ground for police corruption and enables the extremely punitive (and at times extralegal) treatment of those placed in pre-judicial detention facilities, particularly throughout interrogation and other early phases of criminal processing (Johnson 2002: pp. 4-7; Miyazawa 1992: pp. xi-xii; Steinhoff 2014: pp. 6-7).

II(e) *Mass Media*

The scarcity of crime in Japan enables not only law enforcement agencies but also news media platforms to allocate comparatively more resources to any one criminal case, thereby once again maximizing the quantity of labor and intensity of attention applied to each. Of course, the “culture industry” (Adorno 2001: pp. 53-85) of news media *globally* profits by broadcasting content likely to provoke strong emotional reaction among audiences, and few genres of event lend more readily to easy sensationalism than crime. Such incidents are rendered all the more exceptional and all the more potent, however, within the low-crime social environment of Japan; it should thus come as no surprise that criminal case-related information has, historically, featured prominently in national current events reportage (Ivy 1996: pp. 13-14). Further distinguishing Japan from other contemporary democratic nations in this matter is the fact that, as in the case of policing practice, a disproportionate distribution of power favoring the interests of the state appears intrinsic to the very foundations of the nation's news media ecology. **The mass mediation of crime, particularly as supported by the enmeshed relationship between police and journalistic entities and interests in Japan**, ultimately plays a crucial role in minimizing crime in Japan by placing the accused and their transgressions on public display, thereby both informally penalizing legal infraction and inducing among the general population a baseline mentality of aversion to norm violation and submission to authority (Ivy 1996: pp. 12-13). In having such lasting impact on the domain of crime control, the subsumption of the alleged criminal into the 24-hour news cycle—and their flattening into a spectacle of shame and consequence as a result—thus fulfills a social function that far exceeds mere entertainment or even education (Debord 2006: pp. 11-34).

Cultural anthropologist and Japan Studies scholar Marilyn Ivy likens the relationship between crime and civil society to that between market risk and the capitalist economy; just as financial competition ostensibly combats economic stagnation, [mass-mediated] criminal incident forestalls bourgeois complacency and revitalizes interest in public life (Ivy 1996: pp. 13-14). This is largely due to the fact that few social phenomena reinforce ethnic and national solidarity as potently as awareness of and mobilization against a perceived common threat (Comaroff 1987: pp. 302-304). By rhetorically framing individual instances of criminal behavior as anathema to the hegemonic social order, and eventually declaring such order restored through the noble interventions of police and prosecutorial officials (and, on occasion, ordinary citizens), crime reporting stimulates affective and discursive engagement among audience members and ultimately reinforces a sense of connection between spectator and nation in the process. Even if one is entirely uninvolved in law enforcement endeavors, such reportage seems to imply, they are bettering the health of the national body simply by fulfilling their professional and familial responsibilities in law-abiding fashion. It is thus through the production and mass dissemination of the criminal case that the professional and domestic repetitions of daily life, otherwise taken for granted as

monotonous inevitabilities, are repackaged and re-presented as civic duty, honorable sacrifice, and aspirational accomplishment.

In Japan, the conversion of banal *occurrence* into sensational *event* as such is facilitated by “writers’ clubs” (*kisha kurabu*), coalitions of journalists housed within prefectural and metropolitan police headquarters through which officers furnish reporters with information concerning criminal incidents and their prosecution. Such modes of interaction take place both through one-on-one conversation between journalists and officers and via press conferences, which are hosted by the assistant chief of the station in question on a daily basis. Although some scholars active in the late 20th century presented this convention as a means of ensuring that the police remain accountable to the civilian populations they ostensibly serve (Bayley 1976: pp. 68-69), many publications dating from the last few decades argue that *kisha kurabu* more commonly function as a tool utilized by law enforcement to manipulate public perception in their own favor (Ames 1981: pp. 72-76; Miyazawa 1992: pp. 227-231). Justifications offered for the latter perspective typically emphasize the many ways in which these “writers’ clubs” foster among journalists a sense of professional dependence upon the police; compelled by the ever-looming threat of journalistic access privilege revocation, reporters virtually never present police and prosecutorial conduct in an unflattering light. Rendering this practice even further problematic is the reality that journalists affiliated with even the most widely circulated newspapers seldom conduct independent fact-check research prior to publication, typically presenting case-related content provided by law enforcement representatives precisely as instructed. In this way, via the institution of the *kisha kurabu*, the police exercise something of a monopoly over crime-related information that is—and isn’t—released to the public (Ames 1981: pp. 72-73; Miyazawa 1992: p. 229-231). Law enforcement organizations’ powerful influence over the contents and tonal nuances of crime reportage is likely a major factor in maintaining among the general population incredibly high rates of approval of police and prosecutorial action, which, historically, have often exceeded 75% (Johnson 2002: pp. 31, 46). The hypervisibility of criminal incident in Japanese media is thus not only financially lucrative for production entities, but also strategically beneficial to the state.

By shaping public perception and popular opinion, news reporting harbors the additional capacity to damage the social standings of arrestees, thereby serving as a form of punishment for alleged or even *suspected* participation in criminal activity in and of itself. Of course, control over the circulation of information concerning criminal cases and judicial proceedings has proven a pivotal mechanism in the deployment of state power globally (Sedgwick 2003: p. 140); however, Japan offers a particularly exaggerated case of such. This is largely due to the fact that criminal arrestees in the country are almost always detained in police custody until sentencing has concluded, making the suspect appear guilty by default (Steinhoff 2014: pp. 23-25). In the interim, news outlets can and typically *do* exercise the constitutionally-protected press freedoms allowing them to report on unresolved cases on a synchronous long-term basis. It is for this reason that victims of false accusation in Japan have frequently blamed the media as much for their ensuing hardships as they have the police, emphasizing that news coverage of their cases greatly complicated their processes of both legal exoneration and social vindication by publicly and irreversibly identifying them as “criminals” from the very outset of arrest (Miyazawa 1992: pp. 229-231). This claim is reflective of the tendency of the entire assemblage of entities involved in the production of crime in Japan (namely the police, the procuracy, and the press) to presume guilt on the parts of arrestees prior to sentencing—and even indictment—while evading public criticism themselves (Johnson 2002: p. 30; Steinhoff 2014: pp. 5-6).

The stigma that adheres to the bodies and social identities of unconvicted arrestees in the aftermath of arrest, particularly as amplified by broadly circulated news journalism, not only exacerbates the informal consequences faced by suspects (namely, social isolation, professional stagnation, and socioeconomic immobilization), but also serves as a public warning to others. Reflecting upon this phenomenon, anthropologist Walter Ames observes:

The media can be a particularly powerful tool in the hands of the police because *one of the strongest factors in social control in Japan is the fear that if one is arrested one's name will appear in the newspaper...* The police have used the press to create social pressure to eliminate certain offenses (Ames 1981: p. 73).

A particularly striking example of the effectiveness of Japanese news media in discouraging criminal activity through the exertion of intense social pressure dates from the 1974 in Kochi prefecture. Noticing a spike in drunk driving incidents, the police instructed the prefectural press to begin publishing the names, photographs, and places of employment of all apprehended for such crimes in the daily newspaper; a sharp decline in local DUI rates shortly followed (Ames 1981: pp. 72-74). While this scenario certainly raises concerns about personal privacy, it offers strong evidence of the historical power of news journalism in matters of crime control in Japan. By making public examples of the accused, thereby intimidating others into submission for fear of facing similar consequence should they themselves be arrested, Japanese news media entities serve a critical role in inculcating a mindset of docile compliance among the general population.

The mass mediation of crime in Japan can thus be seen as fulfilling three primary functions: *catharsis*, constituted by the dialectical reinforcement of the existing legal (and cultural) order through public narrativization of social crisis and its resolution (Comaroff 1987: pp. 302-310); *penalty*, via the exposure of the alleged culprit to intense and widespread scrutiny, which often results in the foreclosure of social, professional, and financial opportunity; and lastly, *deterrence*, or the pre-emptive prevention of potential future criminal activity via concrete illustration of its deleterious effects within the lives of victims and perpetrators alike. Japanese news media entities thereby exercise immense influence over the ecology and economy of crime and punishment in the country, not only by shaping popular perception of crime and promoting the interests and agendas of the state, but ultimately in extending the reach of penal consequence far beyond the times and spaces of literal incarceration. Considering the various social impacts of Japanese crime reporting, particularly alongside codified criminal procedure and the broader cultural atmosphere in which it is embedded, it is undeniable that mass media has played a crucial role in limiting annual crime totals.

III. Conclusion

This chapter has explored the general landscape of crime and punishment in Japan in recent history, identifying and elaborating upon several distinctive structural conditions that have collectively contributed to the historical maintenance of Japan's exceptionally low crime rates: a network of legal restrictions that severely constrain rates of possession and use of firearms by civilians and law enforcement officials alike; the ubiquitous distribution of *kōban* throughout public space, facilitating close relations between officers and community residents and thereby drastically expanding the scope of police monitoring in everyday life; state promotion of citizen surveillance and reporting, particularly as reinforced by a set of cultural ideologies that compel adherence to established cultural norms and legal regulations by tethering the social identities of

individual subjects to those of the groups with which they are affiliated; extraordinarily low average per-officer workloads, which maximize the degree of attention and amount of resources devoted to each individual criminal case, placing detainees at a pronounced disadvantage relative to the governmental personnel investigating and prosecuting their suspected offenses; and a system of press freedoms and journalistic conventions that collectively enable broad and early reporting on cases under investigation, multiplying the informal consequences of criminal involvement and deterring others from participation in such activity by transforming suspects into public spectacles of corporeal suffering and social disgrace.

In the process of examining the structural background against which crime and punishment in Japan unfolds, a clear trend emerges: dynamics of exposure and obfuscation play a central role in curtailing the incidence of crime in the nation. Such tactics of *[in]visibilization*, deployed both vertically (by endemic law enforcement entities) and horizontally (among the general population), assume multiple forms and perform multiple functions. Firstly, the hyper-visibility of police entities in everyday life as a result of national *kōban* infrastructure renders the reporting process convenient and efficient, thereby encouraging civilians to carefully and constantly observe the behaviors of those in their spatial proximity and take immediate action in the case of encountering any activity they deem suspicious. Closely related to this mechanism of *visibilization* is that of informal citizen surveillance; the cultural encouragement of neighborhood-based crime monitoring practices produces the mundane social world as a space of both lateral scrutiny and chronic exposure, ultimately deterring potential future crime by inculcating fear of apprehension and promoting widespread self-regulation among the general population. Thirdly, the close relationship between crime response entities and news media outlets empowers the police to depict criminal events in precise accordance with their own agendas. The public exhibition of the alleged perpetrator as such not only serves as a means of penalizing the suspect by multiplying and intensifying the shame and stigma they experience in the aftermath of arrest—a process that often begins even before indictment has taken place—but also acts to pre-emptively discourage spectators from engagement in illicit activity themselves via making a public example of the accused. Finally, concurrent to the mass dissemination of information regarding the alleged perpetrator is their disappearance from social life in any other capacity, a byproduct of the endemic practice of detaining presumptive criminals until the resolution of their case (most commonly, statistical data demonstrates, through conviction and sentencing). The ultimate outcome of this convention is the reduction of the detained subject to the figure of the “delinquent,” an embodiment of deviance whose entire biography and psychology are recast in terms of the criminal event, its past precedents, and its potential implications (Foucault 1995: pp. 251-256).

As these various iterations of *[in]visibilization* suggest, undergirding daily life in Japan is a vast and densely-layered network of surveillance that utilizes openings, magnifications, and blockages in police and public lines of sight to simultaneously produce, detect, and punish criminal acts and subjects. Such techniques and technologies of revelation and concealment operate in tandem to amplify the judicial and penal authority wielded by the police and procuracy, ultimately reproducing and reinforcing the stark inequity that lies at the heart of the Japanese approach to criminal prosecution and punishment. While this differential in power indeed facilitates the maintenance of desirable statistical patterns from the perspective of the state (including minimal incidence of crime, high arrest clearance and conviction rates, and favorable police approval ratings), it also enables the extended confinement periods, coercive interrogation tactics, and austere living conditions often experienced by arrestees in Japan and constitutes a decisive factor in the occurrence of such extreme yet not uncommon scenarios as false confession and wrongful

conviction (Miyazawa 1992: pp. 2-3; Steinhoff 2014: pp. 1, 6-7). The following chapter seeks to further illuminate these phenomena by exploring the history and structure of late 20th and early 21st-century Japanese criminal procedure.

Chapter 2 (*Ambiguation*)

Waiting for Justice: Structures, Histories, and Discourses of Japanese Criminal Procedure

“*Kyūshitsu, ohayō gozaimasu!*”²³

The morning greeting was delivered by an unfamiliar voice that, unbeknownst to me then, would come to wake me daily for the next three months. Disoriented, I scanned my surroundings. The walls to my right and left were bleached to an uncanny glow by the caged fluorescent light fixtures bolted to the ceiling, and the concrete floor beneath me was coated with a thin layer of pea-green rubber that had done little to cushion the weight of my body overnight. While failing in its presumable practical function, the matting was clearly designed with careful attention to aesthetic detail—as I stood up, I noticed that its surface was imprinted with the hatched grain of the *tatami* (woven straw) flooring I had come to associate with Buddhist temples, rural inns, and other “historic” edifices since moving to Japan a few months prior. The nostalgic sensibility indexed by the ornamental texture appeared at striking odds with the institutional sterility of the scant few other architectural features contained within the roughly 70-square-foot room: a metal toilet skirted by waist-high cinderblock partitions in the back left corner and, against the far-right wall, a sink of the same material that I would undoubtedly have to hunch over to use. Hovering above the latter installation, I noted internally, was a small grated window beset with a horizontal slot and—

A metallic creak rang out behind me. I turned around to see that the source of the voice, a bespectacled man dressed in a midnight-blue officer’s uniform and gilded wool cap, was swinging open the door to the cell. The entire wall framing the entryway was barred with steel and latticed with wire, both painted a shade of forest green too similar to that of the floor to be unintentional but too different to not immediately discomfit the viewer. The officer pressed the palms of his hands together in instructional gesture and, as I followed his directive, ratcheted handcuffs around my wrists. As he led me to the door at the end of the hallway, I glanced, side-eyed, into the roughly ten other cells in my wing, managing to steal momentary glimpses of a few of my neighbors: a pepper-haired retiree wearing a rust-stained grey sweatshirt, conspicuously pants-less; a barrel-chested white man pacing across the width of his cell while muttering to himself in a language that I tentatively identified as hailing from Eastern Europe; a lightly-bearded guy, presumably Japanese and around ten years my senior, who sported a shaved head and an inexplicable smirk that barely exposed a gold tooth...

The officer turned right as we exited the wing, proceeding through two more corridors before arriving at our destination. The door before us opened into the police station visitation room, yet another white concrete cell that was slightly smaller than mine and bisected by a transparent plexiglass divider sandwiched between one small table and two folding chairs on either of its sides. The meticulously groomed young man sitting opposite me as I entered was frantically annotating the printed document spread out before him, not pausing to acknowledge my presence. Noting his sleek suiting and silver tie clip, I suddenly became hyper-aware of my own appearance—I was still wearing the office attire that I had put on the previous morning in preparation for the 10-hour gauntlet of prefectural Board of Education meetings and *bōnenkai* (year-end party) event to

²³ “Good morning, Cell Number 9!”

follow,²⁴ and my black slacks and half-unbuttoned dress shirt were pressed with creases from my previous few hours of restless sleep. After the officer removed my handcuffs and left the room, I took a seat and picked up the phone receiver secured to the wall by a metal cord.

“I’m visiting as a representative of the consular section of the United States Embassy in Tokyo,” he began. “We received a call from this police station late last night explaining that you were arrested on DUI charges after an automobile collision occurred near your residence—reports state that the breathalyzer test administered before your arrest indicated that you were just above the legal limit of 0.03. As you might know, Japan has a zero-tolerance policy for drunk driving-related offenses,²⁵ with BAC thresholds much lower than America’s.²⁶ This guarantees that virtually any and all drivers found with even minimal traces of alcohol in their bloodstream will be prosecuted to the fullest extent of the law, with maximum penalties of...”

The visitor continued his monologue uninterrupted, referring in passing to various legal acronyms, fine totals, and statute numbers whose sheer volume rendered their referents all but meaningless; his rote delivery suggested that he had appeared at the station solely to fulfill a bureaucratic requirement on behalf of his employer. Upon reaching a pause in the stream of auditory fine print pouring through the receiver, I asked for clarification on a matter that remained glaringly absent from the otherwise exhaustive speech:

“How long will I be in here?”

“Well, that depends. The crime you’ll be charged with carries a maximum sentence of five years’ imprisonment, and although you’ll almost certainly be convicted—again, very few of those arrested in Japan manage to avoid conviction, and virtually none of them are foreigners—deportation is more likely than serious prison time.”

“Five years?! How long will I be in jail before trial?”

“It’s impossible to know at this point, but the police can detain arrestees prior to conviction for up to 23 days, depending on how long it takes them to finish interrogation. Your crime is pretty straightforward, though, so I can’t imagine you being in here for more than a week as long as the investigation goes smoothly.”

I was baffled—admittedly, I had never faced DUI charges in the United States myself, but among those I knew who *had*, none were held in police custody for longer than a single evening. *23 days?! I hadn’t even been indicted yet. Was someone seriously injured or—?*²⁷ The terror incited

²⁴ Literally translated “forget-the-year party,” *bōnenkai* are boisterous gatherings typically hosted at *izakaya* (Japanese-style pubs) by one’s company or other employing organization in the month of December. These events tend to center on heavy alcohol consumption and are often approached as opportunities to flout the rules, restrictions, and repressions that govern everyday life in the workplace. Due to their association with binge drinking, *bōnenkai* have become notorious for precipitating car crashes, train accidents (such as passengers falling from platforms onto tracks), and other social problems deriving from alcohol intoxication. (<https://www.asahi.com/ajw/articles/14491360>). At my time of arrest, I had just returned to my town of residence after attending a work-sponsored *bōnenkai*.

²⁵ Particularly since the turn of the 21st century, Japan has maintained among the harshest DUI laws in the world. My public defense lawyer explained to me during our first meeting (five weeks after my date of arrest, just after the conclusion of interrogation) that relevant law was tightened significantly in 2002 in reaction to a series of drunk driving-related fatalities that had occurred across the few previous years. This shift might be seen as one expression of the punitive turn in prosecutorial and carceral policy that began in Japan in the late 1990s (Steinhoff 2014: p. 22).

²⁶ American law, in contrast, sets the BAC limit at 0.08.

²⁷ I remained (and remain) unable to recall most of the day leading to my arrest, a condition that has since been diagnosed as a symptom of Post-Traumatic Stress Disorder. Until I was given more information about the circumstances of the collision (primarily from the second of two U.S. Consular officials who visited me, during a conversation that took place at the beginning of my third month in jail), I was fearful on the basis of the length of my term of detention and the rigor of the interrogation process that someone might have been killed in the accident.

by this thought must have registered on my face, as the consular official responded by attempting a final word of comfort:

“Last year, I was stationed in Jamaica. Just thank God you’re not *there*.”²⁸

With that, he slid a manilla envelope through the slot at the base of the lucite partition, hung up the receiver, and exited the room. As I extended my hand to pick up the document, the contents of the label affixed to its front screamed out at me: “ARREST PACKET.” *Just get through the next week*, I assured myself, referencing my visitor’s estimate, *and then you can catch a one-way flight home*. Deportation was certainly not the ideal conclusion of my recent move to Japan, but it seemed the best outcome I could hope for under the circumstances, particularly in light of the looming prospect of long-term imprisonment.

Unfortunately, the timeline projected by the embassy official would prove wildly optimistic, as I would not only remain in the facility for the maximum 23-day initial investigation period, but would continue to be denied release for over two months beyond its deadline. Each time the discharge date promised by my investigators arrived, it was inevitably deferred for one reason or another: the first delay was a byproduct of my contraction of H1N1v (“Swine Flu”)²⁹ midway through my second week in the facility, which stalled interrogation by necessitating a six-day term of quarantine; the second postponement, I was told, proceeded from a fluke drivers’ insurance complication that effected yet another hiatus in the investigation process; the third was the outcome of being charged with an additional offense, as I’ve since learned is a common means of extending durations of custody for those arrested in Japan (Miyazawa 1992: pp. 20-21; Steinhoff 2014: pp. 6-7); the fourth was assigned as punishment for talking with another inmate; and the fifth arose from my own inability to gather the \$30,000 required to post bail. All told, my term of pre-judicial detention totaled just over 90 days, with interrogation persisting at a rate of between three and ten hours daily for four weeks³⁰ collectively and my final court hearing taking place five months after my date of arrest. It is essential to note, here, that I was treated especially leniently in eventually being granted release on bail, a concession denied most criminal defendants—particularly foreigners—that I was extremely fortunate to have received.³¹

Ultimately, however, I learned that no injuries were incurred, and that little damage had been done to either car, largely a result of the fact that I was driving at a speed of just under 10 miles per hour at the time of impact.

²⁸ The consular representative was referring, here, to the set of practices and daily living conditions that constitute spaces of pre-judicial detention in each respective country, implying that Japan’s are comparatively quite safe and hygienic. I am by no means debating this claim; the conditions in which arrestees are held in Japan are indeed generally absent of direct physical violence (e.g., bodily torture, inmate-on-inmate physical and sexual assault, etc.). While the set of physical conditions that comprise the Japanese pre-judicial detention system are perhaps preferable to those deployed in many other regions, however, the *psychological* austerities commonly imposed upon detainees therein are in fact quite severe. Similarly, as will be further explained in this and subsequent chapters, the bodily harms sometimes experienced within the Japanese system are typically effected indirectly, as secondary byproducts of conditions that, on the surface, appear quite mild relative to those of other nations.

²⁹ Referred to vernacularly (and misleadingly) as “swine flu,” H1N1v was a highly contagious variant of the influenza virus whose rapid spread beginning in June 2009 prompted the World Health Organization and the U.S. Center for Disease Control to declare it the first global influenza pandemic of the 21st century (<https://www.cdc.gov/flu/swineflu/keyfacts-variant.htm>).

³⁰ Many scholars of the Japanese justice system have noted the exhaustive (and exhausting) nature of interrogation activities in Japan; Steinhoff reports that interrogation of the suspect can proceed for up to 14 hours a day even in cases of minor offense (Steinhoff 2014: p. 6).

³¹ Text appearing in the “Arrest Packet” provided by the American consular official states that “Bail is the exception rather than the rule in Japan and is virtually unheard of for foreigners.” This observation is reinforced by quantitative data; for example, in 1988, only 22% of all persons in pre-judicial detention were allowed release on bail (Steinhoff 2014: pp. 23-24; Johnson 2002: pp. 61-63). The public defender I would be assigned upon completion of the

In alignment with institutional policy, I was largely confined to my single-occupant confinement cell during my period of detention, being prohibited from placing phone calls, going outside, interacting with fellow inmates,³² and accessing reading materials written in languages other than Japanese throughout. Malnutrition only further compounded the stress entailed by such a sedentary and solitary lifestyle—although the meals provided were admittedly of much higher quality than one might expect, their portion sizes were simply too meager to sustain my body mass, culminating in a loss of nearly 40 pounds (25% of my starting weight of 160) by my time of discharge. While I initially managed to stave off despair by fixating on the presumable immanence of my release, a delusion fueled by detectives’ insistence that my “cooperation” would be rewarded with discharge, I eventually resigned myself to the grim likelihood of freedom remaining perpetually on the horizon. After all, if even an embassy official from my home country could prove so unreliable in forecasting the length of my detention period, who *could* be trusted to provide conclusive answers on the matter? Similarly, considering that I was held in police custody far beyond the 23-day limit specified in codified criminal procedure, what was to say that I *wouldn’t* be penalized with the maximum five-year prison sentence—or worse—at the close of my case? The carceral technique that proved most incapacitating was therefore not the absence of physical activity or mental stimulation or even adequate food but, rather, of certainty, the fate awaiting me at each juncture of my case becoming so intractably unknowable—and so divorced from any semblance of causal order—that my only recourse was to yield to the mercy of the state. Plagued by such overwhelming anomie and maddening doubt, I began lapsing into states of dissociative amnesia that American doctors eventually diagnosed as traumatic stress-induced psychosis. I would learn in the process of conducting research for this project a decade later that the cluster of symptoms I experienced therein is so commonly exhibited by those jailed in Japan that the domestic medical establishment has labeled it *kōkin-byō* (“detention disease”), a culture-specific syndrome whose national pervasiveness suggests that the treatment I received was far from exceptional (Steinhoff 2014: pp. 24-25).

In the intervening 15 years, the formerly shapeless mass of this originary “trauma” has gradually congealed into an intelligible pattern: within the Japanese pre-conviction detention system, power is exercised most comprehensively and impactfully not through the direct infliction of bodily harm but, rather, via the cyclical promise and deferral of even the most basic of satisfactions and minimal of resolute events. Here, the state manifests not as monster but as specter, leveraging gaps—between promise and action, expectation and actuality, and policy and practice—to corrode the soma and psyche of the suspect as a secondary but nonetheless deliberate effect of its intervention. The negative character of this institutional strategy derives largely from its central motive, which is not to punish *per se* but, rather, to induce among suspects a default mentality of desperate submission in service of the police’s primary task of securing confession

interrogation process attributed the issuance of release on bail in my case to the frequency with which I was visited by local colleagues, and also to character reference letters they had submitted on my behalf to the office of the responsible prosecutor. Between the time of my release from the detention facility and that of final sentencing two months later, I was held under house arrest at my nearby apartment.

³² Contact with other detainees was limited to the 15-minute smoking and shaving sessions held three mornings per week. At these times, residents of my 12-cell detention wing were escorted into another small cell where we were allowed to smoke up to two cigarettes per person while circulating among ourselves two shared electric razors provided by the facility for shaving purposes. All activities taking place therein were closely monitored by police attendants, who rigorously enforced existing policy forbidding inmates from touching one another or engaging in sustained conversation (i.e., exchanging more than a few words at a time).

(Steinhoff 2014: pp. 6-7; Miyazawa 1992: pp. 20-25).³³ Among the intrapsychic necessities withheld in this process of attrition are those of interpersonal contact, mental stimulation, and, of course, hope; meanwhile, the restriction of *corporeal* sustenance (food, sleep, physical activity, etc.) is calibrated precisely to maintain the body just above the threshold of expiration. The unconvicted detainee is thereby suspended in a state of chronic frustration and protracted mental and physical degradation, endlessly edging toward while narrowly avoiding wholesale surrender to the limits of delirium and death.

This chapter explores the policies, processes, capacities, and histories that collectively enable and at times *encourage* the nation's treatment of criminal suspects and defendants as such, paying particular attention to situations of tension between the text and practice of justice in Japan (Johnson 2002: p.13). Here, I seek to elucidate the matter of how and why Japanese police and prosecutorial staff are invested with such seemingly unconstrained and uncontested³⁴ authority over arrestees—and, as illustrated by the habitual extension of the 23-day pre-judicial detention maximum, over criminal procedure itself. Why are unconvicted arrestees held in police custody for such extended and unpredictable durations in Japan? What underlying precedents, infrastructures, and ideologies come to bear on this convention, and what might explain the commonplace incidence of contradiction between “law on the books” and “law on the ground” within the Japanese justice system? Why investigate, prosecute, and penalize even *minor* crimes so rigorously and relentlessly, particularly given the immense public resource investment demanded by such an undertaking? The first section (Section I) of this chapter lays the groundwork for responding to these questions by providing a general overview of contemporary Japanese criminal procedure and thereafter summarizing the typical flow of events taking place between the respective times of arrest and sentencing. In the subsequent section (Section II), I place domestic criminal law and judicial process in historical context by recounting their development from the Meiji era to the present; my primary intention, here, is to uncover the various cultural influences, political events, and power dynamics that have shaped the system as it stands today. The final section of this chapter (Section III) attends to scholarly *discourses* on the text and practice of justice in Japan that have emerged both domestically and abroad across the last four decades. Here, I examine two contrasting lines of thought regarding the nation's approach to crime and punishment, in the process uncovering several explanations for the striking differences of opinion on the topic that suffice the academic record.

While the last chapter considered *[in]visibilization* as a mode of state power³⁵ strategically deployed within the Japanese criminal justice system, this chapter takes as its primary focus that

³³ The statement of confession constitutes the pinnacle and, indeed, *cornerstone* of criminal evidence within Japanese courts. The “confession” is authored by police and merely signed by suspects in Japan; interrogation activities, which prohibit defense lawyer intervention, typically center on persuading suspects to sign this document (Steinhoff 2014: pp. 6-7; Miyazawa 1992: pp. 20-25). The centrality of confession to Japanese criminal procedure will be further explored throughout this chapter.

³⁴ Historically, rates of public approval of police and prosecutorial action in Japan have often exceeded 75% (Johnson 2002: pp. 31, 46). Miyazawa explains that the police are especially aware of and sensitive to popular opinion, particularly as represented in mass media, and believe that the public conflate law enforcement success with aggressive investigation and prosecution of all criminal cases. The police's concern with public perception likely contributes to their focus on maintaining statistical trends that reflect favorably on their actions (e.g., low crime rate, high arrest clearance and conviction rates, etc.) (Miyazawa 1992: pp. 227-228).

³⁵ As explained previously, this project conceptualizes “state power” as a combination of the dual forces of *political techniques* and *technologies of the self*, which operate in tandem to simultaneously assimilate the subject into the dominant social order and distinguish them as separate from it (primarily through shaping their psychic interiority and self-perception).

of *ambiguation*. Central to the definition of this concept is the co-existence of—and, often, collapse of boundaries between—two seemingly disparate forces, meanings, or intentions; as will be elaborated subsequently, the histories, structures, and discourses of endemic criminal procedure are replete with such internal tensions and indeterminacies, many of which are leveraged to disenfranchise the suspect while expanding the reach and bolstering the authority of the state. Perhaps the most apparent of these, which constitutes a primary concern of Section I, lies in the discrepancy between the individual rights and protections delineated in the nation’s postwar Constitution and the far more authoritarian impulses reflected in codified law. Similar contradiction is evident also in the gap between the text and practice of criminal justice in Japan, whereby the set of detention conditions and interrogative tactics conventionally utilized by police investigators appear at striking odds with the protocols specified in codified criminal procedure. This disparity serves as an essential condition of possibility for the emergence of the iteration of *ambiguation* that constitutes the central (but not exclusive) focus of this chapter: the ongoing extension of the 23-day initial investigation detention period, whereby the arrestee’s date of release is deferred so repeatedly that it altogether ceases to carry meaning. As will be demonstrated in the following pages, these and various other mechanisms and operations of *ambiguation* instrumentalized within and in proximity to the Japanese unconvicted detention system collectively effect within the life of the arrestee an utter suspension of rights, law, and time, opening a “zone of indistinction” (Agamben 1998; 2005) within which the unthinkable is rendered possible.

I. Contemporary Japanese Criminal Procedure: A Structural Overview

The sociocultural environment in which the Japanese pre-judicial detention system is situated is particularly unique for a number of reasons, the most immediately apparent of which is the nation’s exceptionally low crime rates.³⁶ A closely related statistical idiosyncrasy that is perhaps even more germane to the concerns of this research project is Japan’s remarkably *high* rates of conviction of indicted criminals,³⁷ which have exceeded 99% on an annual basis across the last several decades (Miyazawa 1992: p. xi; Johnson 2002: pp. 4-5; 10-11). As explained in Chapter 1, Japanese law scholar Setsuo Miyazawa attributes this pattern, firstly, to the rarity of crime in everyday life, which allows the state to allocate more temporal, financial, and staffing resources to the investigation and prosecution efforts entailed by any one case than would be possible otherwise (and as is typical in most structurally commensurate nations). The lesser average *severity* of penal code offenses committed in Japan, reflected in part by the scarcity of violent crime (e.g., physical and sexual assault, armed robbery, homicide, etc.) in the country, also

³⁶ As discussed in Chapter 1, a number of structural factors come to bear on the scarcity of crime in Japan: a network of extremely strict gun control laws, the omnipresence of police in public space via the *kōban* system, widespread trust in [governmental] authority figures and a related tendency among civilians to report observed criminal activity, low per-officer caseloads, and the existence of close ties between law enforcement and mass media entities (Ivy 1996: pp. 12-13; Johnson 2002: pp. 22-23; Yoda & Harutoonian, eds., 2011: p. 20).

³⁷ As in the case of mean officer caseload and crime rate, the causal relationship between [high] conviction and [low] crime rates is not entirely clear. The most apparent interpretation of this relationship is that the minimal incidence of crime in Japan contributes to high conviction rates by allowing the police to devote relatively more resources to the prosecution of any one instance of crime (Miyazawa 1992: p. 15). Some have argued, however, that the nation’s high conviction rates, which have become common knowledge among the general population, in turn play a role in minimizing crime by acting as a pre-emptive deterrent to those contemplating or otherwise inclined toward crime (Ames 1981: pp. 72-74).

constitutes a decisive factor in the maintenance of this trend (Miyazawa 1992: pp. 15-16; Ivy 1996: p. 13).

A third impetus involved in the ongoing reproduction of extremely high national conviction rates, which constitutes the primary concern of this section, pertains to the structure of Japanese criminal procedure itself—namely, to a sizable **disparity in the degree of administrative and judicial authority afforded to police and prosecutorial staff**, on the one hand, **and suspected offenders and their defense lawyers** on the other. This inequity, indicative of the system's fundamentally *inquisitorial* (authoritarian) character even in the face of superficially *adversarial* (democratic) constitutional and other legal rhetorics,³⁸ lies at the very heart of the practice of justice in Japan and thereby comes to bear on almost every step in the criminal investigation and conviction process (Johnson 2002: pp. 14-15; Miyazawa 1992: pp. 11-16; Steinhoff 2014: pp. 2-6). This section examines the anatomy of 21st-century Japanese criminal procedure in both broad and more granular terms in order to better understand this systemic differential in power, the circumstances that enable it, and the various implications of it within the lives of detained criminal suspects.

I(a) General Description (Japanese Criminal Procedure)

Before proceeding, the distinction between *adversarial* and *inquisitorial* legal models must be described at greater length. Within courts of the former variety (*adversarial*), criminal conviction and sentencing decisions are typically issued by panels of civilian jurors on the basis of observed competition between prosecution and defense parties that are granted roughly commensurate degrees of influence over judicial process; as such, it is commonly associated with democratic conceptions of the state and its subjects. Conversely, the latter systemic category (*inquisitorial*) is characterized by the absence of juries and the investment of judges and prosecutors with legal decision-making powers that far exceed those wielded by defendants and their legal representation, thereby reflecting political logics of a more authoritarian character. In short, whereas adversarial systems tend to prioritize the protection of individual rights by positioning the accused on ostensibly equal footing with the accuser, inquisitorial ones enshrine the interests of the state, championing the defense of national sovereignty above most else (Steinhoff 2014: pp. 1-2; 176-177).

Contemporary Japanese criminal procedure combines elements of both models, taking its primary influences from the inquisitorial judicial protocols of Western Europe, on the one hand, and the adversarial political and ethical principles of the United States on the other; the system's containment of two seemingly opposed ideologies as such reflects the nation's alternative (and, at times, simultaneous) status as competitor with and [semi-]colony of major Western powers across the last century and a half (Allison 2000: pp. 160-164; Sakai 2006: pp. 167-173). While the complex historical processes leading to this synthesis will be further examined in the subsequent section, it is sufficient, here, to describe the nation's justice system as comprised of a network of criminal and penal codes derived from those of France and Germany during the Meiji era (1868-

³⁸ As will be explained shortly, inquisitorial judicial systems tend to favor the interests of the state, being thereby associated with authoritarian and monarchical political structures; meanwhile, adversarial ones, more often aligned with the ideals of democracy, are characterized by competition between prosecutorial and defense parties that are granted roughly equivalent degrees of influence over the legal process. These classifications will be explained in further detail shortly.

1912)³⁹ (Miyazawa 1992: p. 13; Steinhoff 2014: p. 1-2, 176-177; West 2005: pp. 24-25) overlain with constitutional law adopted from the United States in the early postwar period (1945-1952) (Steinhoff 2014: p. 1). Although the current Japanese Constitution guarantees roughly the same individual rights and protections afforded by that of the U.S., however, many have observed that the principles articulated therein exist in something of an ideological vacuum, being commonly overlooked by authorities of the state (namely, the police, prosecutors, and judges) in their processes of investigating and prosecuting crime.

A pattern of contradiction between legal text and judicial practice is apparent also *within* the domain of codified penal and criminal law, with minor adversarial revisions attempted throughout the latter half of the 1900s, particularly during the postwar period, ultimately remaining unobserved in the real-world *practice* of justice (Steinhoff 2014: pp. 1-2). Tension between adversarial and inquisitorial juridical approaches thus manifests within the Japanese criminal justice system in two ways: firstly, in the disjuncture between the adversarial impulses conveyed the Japanese Constitution and the more inquisitorial bent of codified criminal and penal law; and, secondly, in the failure of the handful of changes to criminal procedure enacted throughout the mid- to late-20th century to shape the actual application *of* it in accordance with its adversarial aims (Gordon 2003: pp. 77-93; Miyazawa 1992: pp. ; Steinhoff 2014: pp. 1-8). The outcome of this dynamic is that despite rhetorical content to the contrary, crime is investigated, prosecuted, and punished in Japan today in much the same way as it was when the relevant codes and statutes were established on the basis of the French and German models around the turn of the 20th century.⁴⁰ The inquisitorial character of the Japanese approach to justice (even while paying lip service to the democratic ideals of the United States) serves as a fundamental condition of possibility for the routine extension of the 23-day detention period specified in codified criminal procedure and the various other misalignments between the text and practice of law that saturate the nation's criminal justice system (Steinhoff 2014: pp. 1-2, 5-7, 176-177).

It is on the primary basis of its *inquisitorial* elements that Japanese criminal procedure has come under intense public scrutiny in recent years. Points of critique most central to these discussions hinge on the strong presumption of guilt that undergirds the practice of criminal justice in Japan; while national criminal and penal law does not explicitly articulate this sentiment, the lack of language to the contrary has been identified as a glaring (yet highly strategic) oversight that enables various “abuses of power” and “human rights violations” on the part of the state (Miyazawa 1992: pp. 2-3; Steinhoff 2014: pp. 5-7). The nationally pervasive supposition that arrest itself is suggestive of engagement in illicit activity thus functions as the general premise from which the whole of Japanese criminal procedure unfolds. To illustrate this assertion, I will now summarize the trajectory of the average criminal case in Japan from the time of arrest to that of final sentencing.

³⁹ The two codified legal protocols that most directly influence matters of crime response in Japan are, respectively, the Penal Code and the Code of Criminal Procedure. The Japanese Penal Code defines punishable activities and their corresponding punishments, while the Code of Criminal Procedure outlines the processes through which suspects must progress following arrest and their treatment by the state therein (Steinhoff 2014: pp. 5-6).

⁴⁰ The 1922 Code of Criminal Procedure remains the basis of criminal procedure in Japan, although revision to the text of this document was enacted in 1948 in accordance with the rights and protections outlined in the nation's postwar (1946) Constitution. Similarly, the 1907 Penal Code continues to dictate the terms and conditions of punishment of convicted criminals in the country (Steinhoff 2014: pp. 1-2).

I(b) Step-by-Step Summary (Japanese Criminal Procedure)

Criminal procedure in Japan contains three broad phases: the pre-indictment phase, during which the suspect is usually detained in police custody while being interrogated; the post-charge phase, when the newly-indicted defendant awaits sentencing (typically in the police station to which they were delivered following arrest) while investigation continues; and the prosecution phase, constituted by a court hearing or series of court hearings in which prosecutors and defenders present evidence on the basis of which a judge or panel of three judges issue a case verdict and assign a final sentence (Johnson 2002: pp. 12-15; Steinhoff 4-8).

Phase 1 (Pre-Indictment)

As previously stated, the initial investigation period is defined within the Japanese Code of Criminal Procedure as persisting for a maximum of 23 days following apprehension, by the close of which formal charges must be filed (Johnson 2002: pp. 12-15). While the police are not required to hold the suspect in custody throughout the entirety of this duration, they do so in most cases of arrest due to the various benefits the practice confers—namely, those of expediting the investigation process by eliminating the police’s need to travel to or transport the suspect for interview, and rendering the detainee particularly vulnerable to interrogative pressures by exposing them to chronically stressful living conditions when they are not being questioned (Miyazawa 1992: pp. 18-20). The 23-day pre-indictment period is broken into three constituent parts, each of which corresponds to particular activities and aims: the first 72 hours after arrest, by the end of which the suspect must be taken to appear before a judge; the following ten days, characterized by intensive interrogation conducted with the goal of accumulating evidence sufficient to convict; and the ten days after that, at the conclusion of which the suspect must be formally charged (Johnson 2002: pp. 13-15; Steinhoff 2014: pp. 5-7).

The first of these phases, taking place across the first 72 hours following arrest, proceeds as follows. After a suspect is apprehended, the police may detain them (most often in a detention cell at the police station at which they work) without formal approval or external oversight for up to 48 hours (Miyazawa 1992: pp. 8-9; 20-21). If officers wish to indict the suspect, as in most instances of arrest in the country, they are required to transfer the case to the prosecutorial office of the relevant jurisdiction within this timeframe. The assigned prosecutor thereafter determines whether further detention is justified, ostensibly on the basis of the nature of the crime and the anticipated demands of the corresponding investigation. If the prosecutor decides that the suspect *should* continue to be held in police custody, as is the norm,⁴¹ they must submit a release deferral application to the responsible judge within 24 hours of receiving the case (i.e., within up to 72 hours from the moment of arrest).

Detention extensions are issued in 10-day increments up to two times within the 23-day initial investigation period; however, as judges very seldom deny such requests,⁴² the initial term of detention typically continues for the maximum 23 days from the date of arrest as articulated in the Japanese Code of Criminal Procedure.⁴³ The roughly three-week period of detention that

⁴¹ In Japan, criminal suspects are detained in the overwhelming majority of arrest cases. For example, in 1992, prosecutors requested long-term detention for 88.6% of all apprehended persons (Johnson 2002: p. 62).

⁴² Miyazawa reports that statistically, the overwhelming majority of arrested suspects are detained—typically within police station detention cells, a convention that offers strategic benefit to police and prosecutors—throughout this period. For this reason, formal judge approval functions as little more than a bureaucratic formality (Miyazawa 1992: pp. 20-21).

⁴³ It is worthy of note, here, that the police must apply for the legal extension of custody (provided by the local prosecutorial office) twice during the initial 23-day detention period: within 48 hours from the time of arrest, and

thereby follows most cases of criminal apprehension in Japan is ostensibly allocated to provide the police and prosecutors enough time to gather evidence without facing the risks of flight, witness intimidation, destruction of evidence, and other forms of obstruction of justice on the part of the suspect. As such, the pre-charge stage of criminal procedure is marked by two parallel activities: interrogation of the arrestee for up to 14 hours daily, implemented by both prosecutors and police detectives in pursuit of establishing proof of guilt; and the conveyance of case information derived from interrogation and other initial investigation methodologies to the responsible prosecutor. The prosecutor ultimately decides on the basis of the latter whether to charge the suspect, with law requiring that indictment occur before the expiration of the 23-day initial investigation period (Johnson 2002: pp. 13-15; Miyazawa 1992: pp. 8-9, 20-21; Steinhoff 2014: pp. 5-7).

Several peculiarities of the Japanese judicial system come to bear on this opening phase of criminal procedure. Firstly, state-appointed defenders are provided only upon completion of the initial investigation, and private attorneys are especially scarce and expensive in Japan. For this reason, most of those apprehended in the country are unable to exercise the right to retain counsel until after this most crucial stage of criminal procedure has concluded, ultimately completing interrogation without the guidance or advocacy of a legal specialist (Miyazawa 2014: pp. 18-19; Steinhoff 2014: p. 6).⁴⁴ A second feature of the system relevant to the pre-charge period is that prosecution in Japan is heavily oriented toward confession. Because written admission of guilt serves as the pinnacle and virtually requisite form of evidence in Japanese courts, investigators tend to prioritize the extraction of confession above most else, and the strategies they employ therein are so effective that most arrestees confess within three days of apprehension (Steinhoff 2014: pp. 5-7). To further complicate matters, law dictates that the statement of confession is to be composed entirely by investigating authorities (i.e., police and prosecutors) and merely *signed* by the defendant, allowing the state complete control over the formal narration of criminal event.⁴⁵ Finally, due to an institutional fixation on maintaining statistical trends that reflect positively on law enforcement entities—namely, the nation’s inordinately high arrest clearance and conviction rates⁴⁶—police and prosecutorial staff operate under constant pressure to convict all persons arrested (Johnson 2002: pp. 3-8, 13-17, 37; Miyazawa 1992: pp. 1-3, 11-18, 21-23, 89; Steinhoff 2014: pp. 6-7).

This systemic preoccupation with the continual production of quantitative metrics of success, in conjunction with Japanese courts’ almost singular reliance on confession in convicting alleged criminals, incentivize case investigators to utilize any and all means necessary to compel admission of guilt on the part of the suspect. Simultaneously, the considerable restrictions placed on the scope and influence of defense lawyers foreclose the possibility of external oversight of initial investigation activities, giving prosecutors and police officers free reign over the entire pre-

again within ten days of receiving the first extension authorization (Johnson 2002: pp. 13-14). This explains my own experience of detention, in which police custody was extended on a rolling basis.

⁴⁴ The power of defense lawyers (particularly relative to their prosecutorial counterparts) is further constrained by the fact that [private] attorney-client access is heavily restricted prior to indictment, and defenders are expressly forbidden from even mere observation of interrogation proceedings (Steinhoff 2014: pp. 6-7).

⁴⁵ The vast majority of criminal suspects confess within the first three days of arrest (Steinhoff 2014: p. 6).

⁴⁶ “Arrest clearance rate” is defined as the percentage of documented crimes for which a culprit has been arrested; “conviction rate,” meanwhile, refers to the ratio of indicted persons who are ultimately sentenced. As explained in Chapter 1 of this project, national arrest clearance rates in Japan have historically been among the highest in the world, totaling two to three times those of the United States at approximately 65%. Similarly, national conviction rates, also among the highest in the world, typically exceed 99% (Miyazawa 1992: pp. xi, 13-15; Johnson 2002: pp. 4-5, 10-11). The systemic emphasis placed on maintaining these figures is motivated in large part by concern with public opinion; as stated in Chapter 1, national approval rates of police and prosecutors often exceed 75%.

indictment phase of prosecution. For these reasons, ethically questionable and even procedurally unlawful practices on the parts of police and prosecutorial staff—including interrogative manipulation, forced confession to false charges, and the deployment of extremely harsh detention facility living conditions in efforts of rendering suspects susceptible to coercion—are common byproducts of the system (Johnson 2002: pp. 3-8, 13-17, 37; Miyazawa 1992: pp. 1-3, 11-18, 21-23, 89; Steinhoff 2014: pp. 6-7).

Phase 2 (Post-Charge/Pre-Trial):

Unfortunately, the structural subordination of arrestees as such is not isolated to the 23-day initial investigation stage of criminal procedure. While suspects are legally *permitted* to apply for bail following indictment, pre-conviction release is extremely rarely granted, and most of those charged with criminal offenses remain in custody of the state until sentencing (Steinhoff 2014: pp. 23-25). In yet another instance of discrepancy between policy and practice, however, although the Japanese Code of Criminal Procedure implies that detainees must be transferred into prisons or other official detention centers upon being formally charged, they are most often kept in the same police station to which they were delivered after arrest until final sentencing. In order to nullify the potential unlawfulness of this convention, the police routinely pursue the legally ambiguous loophole of re-arresting the defendant on suspicion of additional criminal counts,⁴⁷ effectively maintaining the “suspect” status that enables them to continue holding the detainee under their own direct supervision (Miyazawa 1992: pp. 19-21).⁴⁸ The conditions of possibility for this use of re-arrest (in service of deferring prison transfer) are established in the Japanese Penal Code, which contains a concession allowing for defendants to remain in *daiyo kangoku*, or “substitute prisons,” in lieu of actual prisons. Although this provision was initially designed to defray the national shortage of prisons at the time it was written (in the first decade of the 20th century), it is now habitually exploited as a means of placing suspects under the direct surveillance of their investigators for as long as possible. It is thus that a measure originally reserved for exceptional cases has become general to the system in its entirety; as a result, most arrestees are held in explicitly short-term facilities for long-term periods (Miyazawa 1992: pp. 8-9).

Retaining the newly charged defendant in the ostensibly “temporary” facility that houses their investigators is of strategic benefit to the state for multiple reasons. Firstly, because pre-indictment facilities are less intensively regulated than prisons due to their presumably temporary nature, confining the accused within the former facilitates their continued subjection to living conditions and interrogation methodologies that would otherwise be rendered impermissible following indictment. Secondly, forestalling prison relocation preserves the dominion of investigators over the circumstances in which detainees are held when not being questioned, a tactical advantage that would expire were the accused transferred elsewhere. Finally, as previously

⁴⁷ This practice, referred to as *bekken taiho* (“separate offense arrest”) in Japanese, has been found to be unlawful in *some* domestic courts (Miyazawa 1992: p. 19; Steinhoff 2014: p. 74); however, Johnson reports, because relevant law is very seldom enforced, it has become integrated into standard criminal investigation protocol as a means of extending terms of detention with the ultimate goals of obtaining confession and/or collecting alternative forms of evidence adequate to convict (Johnson 2002: p. 38).

⁴⁸ The Japanese legal system allows those under criminal investigation to maintain multiple legal statuses at once, meaning that arrestees can be classified as “suspect” and “defendant” simultaneously. The commonplace practice of re-arresting newly charged defendants on suspicion of additional criminal counts allows the police to defer their transference into a prison (as is required of those no longer classified as suspects). To convey the scale on which this strategy is deployed, Miyazawa explains that over half (53.4%) of those housed in Japanese police station detention cells in 1985 had already been indicted on a previous charge, therefore having dual status as defendant and suspect (Miyazawa 1992: pp. 20-21)

stated, this practice allows interrogation to proceed at investigators' own convenience (i.e., without requiring long-distance travel to and from external sites), thereby saving law enforcement resources and potentially expediting the suspect's admission of guilt (Miyazawa 1992: pp. 19-21; Steinhoff 2014: pp. 5-7). In short, by prolonging the duration over which arrestees are classified as suspects, their accusers are empowered to defer their transference into prisons, providing prosecutors and detectives maximal control over investigation processes while freeing them from compulsory observance of the various restrictions, responsibilities, rights, and protections that govern the more long-term (and thus more strictly regulated) space of the prison (Johnson 2002: pp. 10-15; Miyazawa 1992: pp. 19-21).

Phase 3 (Prosecution):

This leads into the final phase of Japanese criminal procedure: that of the judicial hearing. There are two types of prosecution in Japan: summary prosecution, utilized in over 90% of all criminal cases in the country, and formal prosecution, reserved primarily for more serious offenses (Johnson 2002: pp. 22-23). As previously stated, juries are not utilized in Japanese courts,⁴⁹ and final verdicts are issued by either a single judge (in the case of summary prosecution) or by a panel of three judges (in the case of formal prosecution) (Johnson 2002: p. 22; Steinhoff 2014: pp. 4-5). Although the postwar Constitution attempted to lend Japanese judicial process a more adversarial character by emphasizing witness testimony, oral pleading, and real-time debate, court proceedings *in practice* remain oriented primarily to previously prepared written documents. The most central of these, of course, is the confession, which is issued by an overwhelming majority (over 90%) of criminal defendants, typically within three days of arrest (Johnson 2002: pp. 14-15; Steinhoff 2014: p. 4-5). Because of the clarity and decisiveness of this preferred form of evidence, most summary prosecution cases are resolved by a single court hearing even despite the frequently sizable temporal lag between indictment and sentencing (Steinhoff 2014: pp. 7-8). Formal prosecution, in contrast, can take months, years, or even decades to complete. The protracted timelines of cases requiring formal prosecution are largely a result of the discontinuous nature of Japanese trials, constitutive sessions of which take place on a once-per-month basis, and the frequent occurrence of judge and prosecutor case transfer. Defendants usually remain in police custody until their trial has concluded, sometimes serving more time in unconvicted detention than the maximum prison sentence for the crime under investigation would allow (Steinhoff 2014: pp. 6, 23-25).

Considering the intricacies of Japanese criminal procedure holistically, a clear pattern emerges: police and prosecutors habitually prolong circumstances designed to be short-term in order to maximize their power and preserve their monopoly over the collective set of processes that lead to conviction. This trend is most apparent in the case of the ongoing extension of the 23-day initial investigation period, but is also expressed in routine practices of re-arrest on additional charges, intentional perpetuation of the detainee's "suspect" status, and deferral of their transfer from the police station into the prison. By leveraging liminal statuses (e.g., that of "suspect"), times (e.g., that of the pre-charge period), and spaces (e.g., that of the police station detention facility), investigators act in simultaneous service of evading external oversight, corroding the physical and mental health of the suspect (primarily in order to compel confession), and maintaining their own hegemony over detention conditions and pre-trial investigation activities alike. From the perspectives of law enforcement officials, the ethical concerns raised by practices of indefinite detention are largely defrayed by the default presumption of guilt that undergirds the whole of

⁴⁹ Interestingly, the last recorded jury trial in Japan dates from 1943, two years prior to the start of the postwar U.S. Occupation (Johnson 2002: p. 14).

Japanese criminal law; since arrestees must be guilty, the logic dictates, their long-term detention and subjection to both extreme living conditions and coercive interrogation tactics therein is a necessary means of upholding justice and preserving public safety. The seemingly endless extension of the pre-trial detention period also acts as a safeguard against the potential threat of conviction rate decline, since holding suspects in immediate custody of their investigators ensures that the latter gather evidence sufficient to convict. Now that the structure of Japanese criminal procedure has been established, I will elucidate the set of historical events, political relations, and cultural processes that intersect within it, paying particular attention to the discrepancy between adversarial and inquisitorial tendencies that characterizes the nation's current justice system.

II. History of Japanese Criminal Procedure (Meiji Era to Present)

As stated in the previous section, the contemporary Japanese criminal justice system is something of an amalgamation of various influences, incorporating elements of the judicial and penal protocols of several Euroamerican nation-states; however, it is perhaps most accurately described as comprised of a substructure of criminal and civil codes and statutes adopted from France and Germany in the late 19th century (Miyazawa 1992: p. 13; Steinhoff 2014: p. 1-2; West 2005: pp. 24-25) appended with constitutional law derived from that of the United States during the early years of the postwar period (Steinhoff 2014: p. 1).

II(a) *Meiji Restoration and Pacific War (ca. 1868-1945)*

The foundations of Japan's current justice system can be traced to the Meiji era (1868-1912), when Western political and economic pressures compelled the newly-unified nation to initiate the twin projects of industrialization and militarization; the rapid and sometimes volatile structural changes effected therein fueled Japan's ascent to the status of first nonwestern nation to achieve modernization (Allison 2000: pp. 160-164; Gordon 2003: pp. 91-114). One of the major legal developments of this period was the establishment of Japan's first constitution (the Meiji Constitution), drafted in secret under the leadership of Prime Minister Hirobumi Itō and Ministry of Justice representative Kowashi Inoue and presented to the public on behalf of the emperor in 1889. Taking inspiration from the German model of constitutional monarchy, this document effectively consolidated the power of the emperor by constraining civil rights and holding government and military officials directly responsible to this deified figure of supreme rule, eventually being mobilized to support the colonial expansionist efforts that would motivate much of the nation's geopolitical activity across the early 20th century (Gordon 2003: pp. 91-114). The Meiji Constitution would be entirely rewritten in the aftermath of World War II, but many argue that its authoritarian ethos persists to at least some degree for reasons that will be further examined subsequently.

It was also during the opening years of the Meiji era that aspects of the contemporaneous French and German courts were appropriated and synthesized to compile the set of criminal, civil, and procedural codes that comprise the Japanese justice system as it appears today. While the individual laws contained therein regulate a broad range of scenarios and relations, they are unified by a decidedly statist political orientation that concentrates adjudicative authority nearly exclusively in the hands of elite government officials (namely, prosecutors and judges). Likewise, in accordance with the conventions of the Continental (Romano-Germanic) legal tradition on which it was based, this network of codified laws assumes as its principal aim the enshrinement and defense of the state, bolstering the agency of governmentally-appointed judges and prosecutors

while placing defendants and their legal representation at a pronounced relative disadvantage. Within the Japanese and other such practically inquisitorial systems, the formal establishment of case fact hinges on rigorous pre-trial investigation and interrogation proceedings conducted by police officers and prosecutors, with conviction and sentencing decisions dictated by a judge or panel of judges; this arrangement stands in stark contrast to that promoted by adversarial systems, in which criminal case verdicts are commonly issued by civilian juries on the primary basis of observed debate between prosecutors and defenders of ostensibly equal power (Miyazawa 1992: pp. 13-25; Steinhoff 2014: pp. 1-13).

II(b) Postwar Era (ca. 1945-1952)

The paternalistic character of this foundation of the Japanese justice system appears at striking odds with the American-style constitutional law layered upon it during the early postwar era, reflecting the nation's bifurcated status as colonizer *and* colonized over the course of the 20th century (Allison 2000: pp. 8, 163; Sakai 2006: pp. 170, 177). In the wake of World War II, whose conclusion in 1945 was punctuated by Japan's unconditional surrender to the Allied forces, the country was abruptly placed under United States military occupation. The following seven years would be marked by massive sociopolitical upheaval driven largely by American efforts of "demilitarization and democratization," a program presented to the public as a means of aiding Japan's recovery from the ravages of the Pacific War while suppressing the autocratic impulses that fueled the nation's accelerated expansion across the previous half-century (Gordon, ed., 1993: p., 7; Gordon 2003: pp. 226-234).⁵⁰

Measures instated in conjunction with this program included the dissolution of the national army and navy, the disbandment of the Japanese Special Higher Police,⁵¹ the repatriation of Japanese forces from foreign territories, the removal of hundreds of government officials from the positions of political leadership they occupied during the war, and, finally, the enactment of comprehensive policy reform efforts designed to bolster individual rights while preventing the concentration of power in the hands of political and economic elites. In effect constituting the imposition of a distinctly American model of neoliberal democracy onto the landscape of postwar Japanese social life (particularly in light of Cold War-era anxieties regarding the potential spread of communism), this vast series of legal revisions ultimately culminated in the rewriting of the national constitution in 1946. The resulting document upended the emperor-centric rule established by its Meiji-era predecessor by explicitly establishing freedoms of speech, press, and assembly; expanding access to means of capital and property acquisition regardless of class; banning discrimination on the basis of sex, race, and religion; and generally extending the "fundamental human rights" protected under U.S. law to all citizens (Dower 1993: p. 7; Gordon 2003: pp. 226-234; Yoda and Harootunian, eds., 2006: pp. 179-183).

Although the decidedly democratic rhetorics of the postwar Constitution might *suggest* that Japanese citizens are afforded rights and protections commensurate to those guaranteed under American law, many have noted that this is not quite the case in practice (Miyazawa 1992: pp. 2-

⁵⁰ It is important to distinguish between public discourse and underlying political agenda here; scholarly consensus suggests that the activities associated with the American Occupation (1945-1952) were likely motivated more by the aim of military incapacitation than by that of facilitating economic recovery. This tactic is partially reflective of American perceptions of Japan as a strategic "bulwark against communism" (Gordon 2003: pp. 240) in light of Cold War-era cultural and political anxieties (Gordon 2003: pp. 242-243).

⁵¹ Under the designation *Tokubetsu Kōtō Keisatsu*, this entity was formed in 1911 with the primary purpose of stifling activities, ideologies, and organizations presumed subversive to wartime military and political pursuits (Gordon 2003: pp. 229-231).

3, 8-9; Steinhoff 2014: pp. 6-7, 38-39). The discrepancy between ideal rights and manifest reality evident in the contemporary Japanese justice system derives largely from the persistence of the set of criminal and penal codes established in the Meiji era far beyond the conclusion of the Pacific War. Steinhoff observes that formal modification of these protocols, aiming to restrict prosecutorial hegemony in alignment with the democratic principles of the American and other adversarial legal traditions, was in fact attempted at several points across the 20th century; however, efforts to counter the inquisitorial tendencies of the existing system had little lasting effect, as judicial practice inevitably reverted to the prior standard in each of these circumstances (Steinhoff 2014: pp. 1-2). Even constraints placed on the dominion of police and prosecutorial officials in the immediate postwar period would prove unsustainable, as soon following the conclusion of the U.S. Occupation in 1952, the Japanese government passed legislation to re-centralize state power and re-expand the scope and capacity of the national police force in accordance with Meiji- and Pacific War-era law and policy (Sasaki-Uemura 2002: pp. 82-84). Viewed comprehensively, these conservative shifts in the domains of policing, prosecutorial, and legal convention are expressive of a broader historical pattern whereby surviving elements of the old order were revived, and in some cases intensified, once national sovereignty was at least partially restored (Gordon 2003: pp. 239-241).

II(c) *New Left Movement/Anpo Protests (ca. 1960s to late 20th Century)*

The capacious power exercised by authorities of the Japanese state even in the face of seemingly conflicting [postwar] constitutional law would be particularly potently expressed—and publicly challenged—during the New Left protest movement of the late 1950s and 1960s. The mass demonstrations associated with this cause were initially motivated by fervent disapproval of the nation’s support of Cold War-era American military pursuits, a historical legacy of Japan’s submission to the will of the United States government in the aftermath of World War II. The conclusion of the Occupation period was premised upon the condition that Japan remain in a state of subordination to the United States in international relations and military affairs, an agreement that was formalized through the instatement of the 1951 U.S.-Japan Security Treaty (*Anpo Jōyaku*, hereafter abbreviated as *Anpo*); it was in accordance with this arrangement that Japan, as a semi-colonized constituent of the American imperium, was coerced into serving as a key resource in projects of U.S. military interventionism while being offered little in return.⁵² Citizens aligned with the political left, many of them university students and public intellectuals, thus took to the streets to collectively contest their nation’s simultaneous complicity with and subjugation to the United States and to advocate its formal withdrawal from the relationship by refusing to ratify *Anpo*. The government should be responsible to the people, the logic stood, rather than to an oppressive foreign power. As demonstrations expanded in scale, police retaliation escalated to a fever pitch that culminated in countless injuries and several deaths of civilian protesters in 1960 (Sands 2013: pp. 31-35; Sasaki-Uemura 2002: pp. 79-103).

It was within the context of such rampant social unrest and police brutality that those aligned with the causes and convictions of the New Left movement began openly contesting the perceived overreach of the state in *domestic* (alongside international) matters, thereby incorporating civil rights concerns into a movement formerly attuned primarily to geopolitical

⁵² In one example of this lopsided political relationship, the U.S.-Japan Security Treaty (*Anpo*) failed to guarantee that Japan would receive defense support even in the case of assault by a foreign nation; protesters found this particularly objectionable given that the nation’s alliance with the United States rendered it a particularly appealing target for attack by enemies of the United States (Gordon 2003: pp. 240-243).

issues. Clashes between impassioned protesters and reactionary law enforcement officials only intensified as the 1960s progressed, with American interference in the Vietnam War serving as particularly fertile ground for the galvanization of anti-militarist and anti-statist sentiment among the civilian population; a pattern of mutual amplification was thus evident not only in the seemingly endless cycle of global conflict and internal discord that characterized this period of Japanese cultural history, but also in the self-fueling economy of citizen outrage and state aggression that drove the *Anpo* controversy to the point of spectacular, and at times fatal, violence (Sasaki-Uemura 2002: pp. 79-103; Steinhoff 2014: pp. 17-23).

These circuits would inevitably converge when, in 1968, the national government ruled to criminalize formerly permitted protest activities, effectively routinizing the state's habitual violation of postwar constitutional law henceforth. Predictably, mass arrest and prosecution soon followed, leaving many demonstrators indicted on felony charges. Later that year, an even more draconic measure was incorporated into police protest response strategy: the holding of arrestees in police custody for periods of indeterminate length.⁵³ This simultaneous expansion of power and display of force on the part of the state ultimately motivated the arrests of 31,000 student protesters between 1968 and 1971, a figure that included both formal affiliates of the New Left movement and persons (primarily university students) merely acting in support of the anti-war and civil liberties causes they advocated. It is essential to note, here, that while the practice of indefinite detention that emerged at this time initially targeted New Left affiliates quite narrowly, it would gradually spread in prevalence over the subsequent few decades, ultimately becoming standard procedure on a system-wide scale by the turn of the 21st century (Sasaki-Uemura 2002: pp. 79-103; Steinhoff 2014: pp. 17-23).

In the wake of this crisis, activists, scholars, and legal professionals sympathizing with the plights of arrestees—now languishing in overcrowded jails in great numbers—formed a coalition to assist them. Designated *Kyūen Renraku Sentā* (literally translated, “Relief Contact Center”), this organization established and implemented protocols designed to counter such “state oppression” by providing detainees with legal, financial, and personal aid. From the outset, strategies utilized by *Kyūen* centered on frustrating police interrogators' attempts to coerce the suspect into signing the [police-authored] statement of confession; as this document has constituted the cornerstone of establishing guilt in Japanese courts for at least the last century, it is often sought single-mindedly and with little concern for the maintenance of ethical or even legal integrity. *Kyūen* supported detainees in resisting such manipulations both via straightforward means, like providing arrestees with *pro bono* legal counsel and encouraging them to exercise their constitutional rights (including the right to silence, of which most Japanese civilians are entirely unaware), and through less immediately apparent ones, including supplying suspects with clean clothing, supplemental food, and other basic necessities (whose default scarcity within the system is routinely weaponized by investigators in pursuit of confession), and sending them visitors to combat the sense of isolation commonly induced by the significant lag between arrest and conviction. Throughout its formative years, *Kyūen* maintained that while the practices of mass arrest and indefinite detention flagrantly violated the postwar Constitution, the counter-measures they implemented in response were wholly protected under Japanese law (Steinhoff 2014: pp. 17-22).

Although initially assembled in specific response to the *Anpo* protest fallout, *Kyūen Renraku Sentā*'s volunteer services would ultimately be extended to any person arrested in the country, becoming the basis for the “Trial Support Group” (*Kyūenkai* or *Shienkai*) system that

⁵³ The indefinite detention of those arrested in Japan beginning at this time is particularly striking given the prior one to two-day pre-conviction police custody standard (Steinhoff 2014: p. 20).

remains active in Japan to this day. Across the 60 years since its inception, this organization has assisted tens of thousands of arrestees in navigating the intricate, opaque, and exhausting process of criminal investigation and prosecution in Japan. Perhaps even more importantly, *Kyūen* has pursued and largely effected structural change in this process, spearheading a national movement for the public contestation of state power by openly challenging the harsh status quo of the pre-conviction detention system within the contexts of both civil lawsuit and broader discourse. The consciousness-raising and policy-changing impacts of the group's political activities have come with substantial cost, however. State authorities responded to *Kyūen*'s promotion of civilian resistance by implementing ever-more severe penal conditions and judicial policies; although these mechanisms of rendering support group intervention ineffective were initially applied solely to New Left defendants, they gradually spread in scope across the last three decades of the 20th century to now encompass virtually all persons detained in Japan (Steinhoff 2014: pp. 17-22). Due to *Kyūen*'s unintentional fueling of this feedback loop of civilian demand for progressive social change and conservative governmental backlash, Steinhoff observes, "...the Japanese criminal justice system has become steadily more punitive and no longer merits its image as benign and oriented to rehabilitation" (Steinhoff 2014: p. 22).

II(d) Late 20th/Early 21st Centuries

The punitive turn described by Steinhoff became especially apparent at the turn of the 21st century, when the national detainee population⁵⁴ increased both for the first time in two decades and on a scale that had not been realized since the first few years of the postwar era; data publicized by the Japanese Ministry of Justice reports that between 1995 and 2000, the total number of incarcerated persons nationally skyrocketed from 47,398 to 61,242, constituting an overall increase of 29.2%. Annual escalation in national detainee population would persist for over a decade thereafter, reaching a peak of 81,255 in 2006 and not returning to the [already relatively high] 1965 baseline of 63,233 until 2014 (<https://www.prisonstudies.org/country/japan>). I concur with Steinhoff's contention that this escalation in police and prosecutorial aggression constitutes the culmination of a decades-long cycle of civilian demand for systemic reform and governmental retaliation (Steinhoff 2014: p. 22), but would like to postulate an addendum to this theory here: while this punitive turn was enabled by the various changes instated in response to the New Left protest movement, it was *catalyzed*, in a more acute capacity, by collective anxieties regarding public safety that began fomenting in the aftermath of the 1995 Tokyo subway "[sarin] gas attack."

Although this landmark historical event will be more thoroughly examined in Chapter 4 of this text, it is adequately described, here, as an act of mass murder in which several adherents of a domestic millenarian religious organization (*Aum Shinrikyō*) released airborne nerve gas on three Tokyo Metro train lines simultaneously, killing 13 and injuring dozens. The assault shocked a population otherwise accustomed to exceptionally low crime rates, radically challenging the widespread conception of Japan as a "super stable society" (*chō antei shakai*) (Allison 2013: p. 10) for two primary reasons. Firstly, the failure of police to prevent the incident led both mass media outlets and the general population to begin questioning commonly held assumptions about the effectiveness of national law enforcement agencies and activities, particularly since the group responsible for the attack was retroactively found responsible for multiple previous counts of violent crime—including murder—in the country. Secondly, the perpetration of such an outwardly destructive act both within Japan and by Japanese citizens triggered intense re-evaluation of

⁵⁴ "National detainee population," here, refers to the total number of persons in either prison or pre-trial detention at a given time (<https://www.prisonstudies.org/country/japan>).

national culture as a whole, shifting the presumed locus of crime within the popular imaginary from outside to *within* the country and ultimately shaking collective faith in the formerly taken-for-granted safety and security of everyday life (Allison 2013: pp. 10-11, 30-31; Yoda & Harutoonian 2006: pp. 19-22, 199-201).

These sentiments would snowball into something of a moral panic that came to impinge most impactfully on two closely intertwined domains of Japanese public life: news media and law enforcement (Allison 2013: pp. 30-31; Yoda & Harutoonian, eds., 20006: pp. 19-22). Miyazawa observes that Japanese police and prosecutorial staff are highly aware of and sensitive to popular opinion, operating under the presumption that the public pays close attention to both media representations of police activity and statistical measures of institutionalized crime response efficacy. Officers he interviewed also commonly conveyed the belief that the public conflates law enforcement effectiveness with high arrest and conviction rates, expecting that police continually demonstrate their commitment to the task of preserving public safety by leaving no case unresolved (Miyazawa 1992: pp. 227-228). The flood of sensationalized crime reporting that followed the 1995 Tokyo subway “gas attack”—both reflecting on the incident itself and recounting subsequent violent crimes (Yoda & Harutoonian 2006: pp. 20-22)—likely prompted law enforcement to become particularly preoccupied with maintaining their record of aggressively investigating and prosecuting crime, producing something of an overcorrection in these spheres of activity. I speculate that this reaction acted as the acute impetus for the escalation of policing and prosecutorial stringency noted by Steinhoff (Steinhoff 2014: p. 22) and indicated by the significant increases in detainee population reported by the Japanese Ministry of Justice beginning in the late 1990s (<https://www.prisonstudies.org/country/japan>).

While the New Left *Anpo* protest movement of the 1960s clearly effected a profound shift in Japanese policing and criminal prosecution practices, it was not until this more recent punitive turn that foreign critique of the system began emerging on a large scale. As will be elaborated in the next section, public discourses condemning Japan’s treatment of arrestees since the turn of the 21st century hinge primarily on their divergence from international human rights law standards; this is not entirely surprising, as the very structure of the Japanese system is characterized by an internal tension between the monarchical statist emphasis of Continental (Germano-Romanic) law, which forms the foundation of the various Meiji-era criminal and penal codes that still come to bear on Japanese law enforcement protocols, and the Common law ideals of democracy and civilian rights that so strongly informed the postwar national Constitution. Having now established the foundational premises, overarching structure, and recent history of Japanese criminal procedure, academic evaluations of and debates on it will be addressed in further detail.

III. Scholarly Discourses on Contemporary Japanese Criminal Procedure

English-language scholarship on criminal procedure in Japan can be divided into two schools of thought, each of which corresponds to a particular era of publication: the monolithically laudatory body of literature released in the 1980s and 90s (Ames 1981; Bayley 1976, 1991; Haley 1989, 1992; Parker 1984), and the much more skeptical and at times explicitly critical series of studies conducted in the 2000s and 2010s (Johnson 2002; Steinhoff 2014). Because the fact-based descriptions offered in the works of these respective periods are extremely consistent, their primary points of divergence lie not in the empirical content they present but, rather, in the interpretive conclusions they reach. For example, whereas English-language texts dating from the late 20th century frame Japan’s low crime and high conviction rates as evidence of the country’s remarkable success in crime response matters, Western literatures published since the turn of the 21st century

recast the same statistical trends as the outcome of a tyrannical approach to law enforcement that penalizes arrestees without due process and maintains order through intimidation and terror. This section examines scholarly discourses on the Japanese justice system dating from the last several decades, first addressing English-language sources and thereafter analyzing literatures published natively in Japanese. In placing these texts in conversation, I seek to uncover the various historical and cultural factors at play in producing such striking tonal disjuncture.

III(a) *English-Language Literatures (Late 20th Century)*

English-language literatures of the 1980s and 90s (Ames 1981; Bayley 1976, 1991; Haley 1989, 1992; Parker 1984) not only praise the Japanese justice system, but often exalt the nation's penal system as a paragon of efficient administration and ethical justice to be emulated globally. One particularly enthusiastic proponent of this stance, law scholar John Haley, even goes so far as to describe the state's efficacy in minimizing criminal activity among its populace as "Japan's most spectacular postwar feat" (Johnson 2002: p. 4)—an especially bold claim given the nation's rapid recuperation from the political upheavals and infrastructural ravages of the Pacific War, which culminated in its rise to the status of global economic superpower beginning in the 1970s (Dower 1993: pp. 7-33). The works of Haley and his late 20th-century contemporaries attribute the ostensibly aspirational statistical patterns that emerged in Japan at the time of their research to the nation's individualized and rehabilitation-oriented response to legal transgression, which was particularly striking when contrasted with the more outwardly punitive character of Reagan-era American crime control strategy.

According to these sources, the effectiveness of the Japanese justice system was enabled precisely by the disproportionate degree of authority it granted the police and procuracy; detectives' and prosecutors' virtual monopoly over criminal investigation and trial procedure in the country, the logic dictated, afforded them the autonomy necessary to carefully consider the contextual specificities of each case and to avoid implementing one-size-fits-all responses across all acts of crime (Haley 1992: pp. 552-556; Mukherjee 1995: pp. 7-17). Conclusions reached within these works thus reinforced the Japanese government's articulated rationale for maintaining such structural inequity: protecting law enforcement officials' ability to tailor sentencing parameters to the biographies, capacities, and limitations of each offender in order to best facilitate post-release social re-integration, ultimately in service of reducing recidivism rates and preserving the ethos of safety and security that had become synonymous with Japanese public life in the Western collective imaginary.

III(b) *English-Language Literatures (Early 21st Century)*

Both national crime statistics and the set of asymmetrical power relations that lie at the heart of Japanese criminal investigation and conviction procedure would come to be understood in far less idealized terms within subsequent English-language academic studies (Johnson 2002; Steinhoff 2014)—which, while limited in quantity, are unified in valence. The tonal shift evident within relevant literatures of the last two decades is most comprehensively conveyed in the 2014 publication *Going to Court to Change Japan*, an edited volume of essays that address topics related to the postwar history and current state of the nation's judicial system. In the opening chapter of this text, sociologist Patricia Steinhoff recasts the low crime and high conviction rates enshrined by her scholarly predecessors as the outcome of draconian policy, police corruption, and bureaucratic fixation on fulfilling superficial performance metrics—often, she claims, at the

expense of maintaining humane quality-of-life standards, protecting individual rights, and even, in cases of wrongful conviction, elucidating empirical truth (Steinhoff 2014: pp. 1-13; 17-26). This and other texts emblematic of the early 21st-century critical turn in English-language research on crime and punishment in Japan consistently emphasize what they consider the ethically objectionable—and at times extralegal—treatment of those arrested in the country, particularly with reference to the inordinately lengthy average pre-conviction detention periods, interrogative manipulation, social isolation, and substandard living conditions to which they are commonly subjected. According to Steinhoff, the various deprivations imposed upon unconvicted arrestees in Japan are in some cases so extreme in duration and intensity that they induce symptoms of *kōkin-byō* (“detention disease”), a psychiatric syndrome caused by prolonged residence in Japanese correctional facilities (Steinhoff 2014: pp. 23-26).

Steinhoff attributes the pervasive utilization of such austere living conditions and manipulative interrogation practices largely to the centrality of written confession⁵⁵ to the Japanese criminal conviction process; although formal admission of criminal culpability indeed assumes a significant role in the prosecution procedures of many other countries, she explains, it constitutes the primary and nearly *exclusive* means of establishing guilt within Japanese courts. Further problematizing the idiosyncratic nature of confession in Japan, Steinhoff argues, is the fact that courts often accept as valid evidence even statements of guilt explicitly identified by the accused as having been issued under circumstances of coercion and/or intimidation. Other distinctive features of Japanese criminal procedure critiqued by Steinhoff and other contributors to the volume include its absence of a jury system, disallowance of plea bargaining, limited access to discovery on the parts of defense lawyers, and an extremely lengthy but discontinuous trial process that can take anywhere from months to decades (Steinhoff 2014: pp. 1-15; 17-43).⁵⁶

Western perspectives on criminal justice in Japan therefore appear starkly polarized along historical lines, with the generally fault-finding works of the early 2000s and 2010s constituting a significant departure from the overwhelmingly favorable appraisals offered in preceding English-language academic publications. Split opinion regarding Japan’s pre-conviction process and the treatment of detainees therein is evident not only across the works of individual scholars, however, but also, at moments, *within* them. A prime example of such ambivalence can be found in the 2002 study *The Japanese Way of Justice: Prosecuting Crime in Japan*, in which sociologist David T. Johnson qualifies the more critical arguments advanced in the text with a largely mitigating observation: that while Japanese criminal procedure can and sometimes *does* enable state encroachment on detainee rights—namely, in investing police and prosecutors with such outsized influence over their charges, and in constructing confession as the cornerstone of conviction—the system’s potential for harm is ultimately constrained by the deep sense of empathy, sensitivity, and moral righteousness demonstrated by most law enforcement personnel with whom he worked (Johnson 2002: pp. 3-17, 21-25).⁵⁷ Because the decisions reached and actions implemented by authorities of the state are almost always guided by an overarching sentiment of “benevolent

⁵⁵ As stated previously, the statement of confession is defined within endemic law as written entirely by detectives and prosecutors and merely *signed* by the suspect in question, thereby affording investigators complete control over the formal narration of criminal event (Steinhoff 2014: pp. 6-7).

⁵⁶ Perhaps unsurprisingly, these are all hallmarks of inquisitorial legal systems (recall that the Japanese Penal Code and Code of Criminal Procedure were both adopted from the inquisitorial French and German models in the opening decade of the 20th century).

⁵⁷ Another factor contributing to this outcome, by Johnson’s account, is the light average caseload enjoyed by Japanese police officers and prosecutors, which afford them the temporal and financial resources necessary to resist prioritizing expedience over ethics in investigating and prosecuting crime (Johnson 2002: pp. 21-25).

paternalism,” Johnson concludes, “The Japanese way of justice is uncommonly just” (Johnson 2002: p. 17).

III(c) *Japanese-Language Literatures (Late 20th Century to Present)*

It must be noted, here, that the bleak conclusions and harsh judgments presented in much early 2000s English-language research on Japanese criminal procedure are not without precedent; in fact, many of the key points of critique raised in more recent American and British texts on the topic were first articulated by scholars native to Japan in the 1980s and early 90s (Hirano 1989: pp. 129-142; Ishimatsu 1989: pp. 143-153; Koyama 1991: 1267-1269; Miyazawa 1992: pp. 1-25). Arguments presented in these sources, which appear to have drifted into Western academic discourses via their recapitulation and elaboration in early 21st-century English-language texts, also foreground the nation’s long-term maintenance of a near-100% conviction rate alongside the asymmetrical distribution of power implicit within Japanese criminal procedure. One such perspective, provided by former High Court judge Takeo Ishimatsu, asserts that the system’s wholesale privileging of police and prosecutorial interests over those of defense parties produces a fundamentally inquisitorial judicial ecology in which suspects are presumed guilty upon apprehension and possess virtually no chance of escaping conviction once arrested, frequently “...leading to the egregious trampling of human rights” on the part of the state (Ishimatsu 1989: pp. 143-153). Ishimatsu’s observation regarding the problematic inevitability of conviction following arrest in Japan is reiterated by Ryuichi Hamada, former Dean of Criminal Justice Studies at Tokyo University, who describes the nation’s criminal investigation and trial processes as mere superficial formality while identifying as their *practical* function shrouding the decisions and actions of judicial authorities in a veil of illusory impartiality (Hirano 1989: p. 129-142).

Extremely convincing evidence of these claims is provided in law professor Setsuo Miyazawa’s *Policing in Japan*, which remains the most thorough and methodologically rigorous examination of the Japanese criminal justice system to date. At the time of its release in 1992, only three observational studies⁵⁸ on this topic were in public circulation (Ames 1981; Bayley 1976; Parker 1984); crucially, each of these projects was helmed by an American scholar, two of whom relied heavily on the services of translators in conducting their research. Miyazawa explains that this was partially a result of security clearance issues, as historically, police and prosecutors in the country have far more readily granted institutional access to foreign researchers than they have Japanese nationals. Because persons less familiar with Japanese language and culture are more easily influenced by governmental authorities, Miyazawa speculates, the underrepresentation of native perspectives in the academic record could reflect some degree of strategic consideration on the part of the state (Miyazawa 1992: pp. 1-2, 11-13). The frequent discrepancy between the text and practice of criminal justice in Japan renders *observational* research all the more necessary in developing an accurate understanding of the system as a whole; in managing to complete long-term fieldwork within Japanese police stations, particularly in the simultaneous roles of legal expert and linguistic and cultural “native,” Miyazawa’s contributions to the existing body of scholarship on the topic cannot be overstated.

Like Hirano (1989) and Ishimatsu (1989) before him and Steinhoff (2014) and Johnson (2002) thereafter, Miyazawa portrays the Japanese criminal investigation process as founded upon a dynamic of relational asymmetry in which the authority of the police and procuracy is bolstered at the expense of the rights of detainees and the agency of their legal representation. In elaborating

⁵⁸ “Observational study” refers to those written on the basis of direct interface with the system and its actors.

this conclusion, he identifies myriad ways in which the gap between constitutional law and institutional practice is leveraged to manipulate suspects, particularly in pursuit of eliciting admission of criminal activity—or, at least, nominal approval of the police-authored statement of confession that serves as the centerpiece of criminal evidence within Japanese courts (Miyazawa 1992: pp. 1-9, 13-20). While similar points had indeed appeared in previous Japanese-language scholarship, particularly novel is Miyazawa’s contention that “questionable investigative activities” (Miyazawa 1992: p. 3) including police misconduct, procedural illegality, and forced confession to false charges are not aberrative byproducts of the system but, rather, somewhat commonplace outcomes of arrest in the country that occur even in circumstances of minor infraction (Miyazawa 1992: pp. 1-5, 8-9).⁵⁹ Miyazawa’s exposure of this harrowing institutional reality—of scenarios that might appear exceptional becoming general to the system as a whole—constituted a radical departure from the homogenous praise offered in contemporaneous English-language scholarship.

Miyazawa examines as the limit case of such structurally encouraged evacuations of justice instances of false confession. In the opening hours of interrogation, he explains, police officers routinely present arrestees with the ultimatum that access to defense counsel will be denied until admission of guilt has been issued, conveying the sentiment that “...confession is prerequisite to the exercise of constitutional right” (Miyazawa 1992: p. 22). In the exceedingly rare event that the suspect under interrogation resists this appeal,⁶⁰ investigators often successfully compel compliance by fallaciously stipulating that formal confession may be retracted at a later point;⁶¹ although the Japanese Constitution states that “...confession made under compulsion, torture, or threat, or after prolonged arrest or detention shall not be admitted as evidence,” (Japanese Constitution: Article 38), courts very rarely reject statements of confession on these grounds, rendering it nearly impossible to retroactively rescind self-incriminating statements.

According to Miyazawa, this deceptive interrogation methodology is utilized in most cases of arrest in Japan, serving as both the foundation of the country’s extraordinarily high conviction rates and the primary stimulus of false confession nationally (Miyazawa 1992: pp 8-9, 22-23). This point leads to perhaps the most startling thesis advanced in this text, offered as corrective to the claim of many late 20th-century English-language literatures (Ames 1981; Bayley 1976, 1991; Haley 1989) that while the Japanese justice system *in principle* enables the excessively harsh and occasionally extralegal treatment of arrestees, the incidence of such cases *in practice* is in fact quite low (Miyazawa 1992: pp. 24-25).⁶² In reflecting on this trend in Western scholarship, Miyazawa arrives at the following conclusion:

The fact is that there is no need for the Japanese police to engage in ‘rampant abuse’ of their power, simply because the formal legal system in Japan provides detectives with so

⁵⁹ The pervasiveness of “human rights violations” perpetrated within and through the Japanese pre-judicial detention system is confirmed, Miyazawa explains, by the frequent reporting of such scenarios in both court records and English-language news journalism (Miyazawa 1992: p. 3).

⁶⁰ Arrestee compliance is further encouraged by the cultural environment in which Japanese nationals have been socialized; Miyazawa explains that most voluntarily submit to the will of investigators due to the emphasis placed on conformity and respect for authority within Japanese culture (Miyazawa pp. 16-17). Similarly, Steinhoff reports that average citizens are entirely unaware of their constitutional rights in the face of arrest (namely, the rights to remain silent and retain legal counsel) (Steinhoff 2014: p. 10).

⁶¹ Historically, this strategy for eliciting cooperation has proven extremely effective, as most criminal suspects sign the statement of confession within three days of arrest (Steinhoff 2014: pp. 6-7).

⁶² This argument—that although the Japanese justice system itself might permit unethical treatment of criminal suspects, the prudence and care exercised by police and prosecutorial officials prevents the realization of such possibilities—was also one of the central theses of Johnson’s *The Japanese Way of Justice* (Johnson 2002: pp. 15-17).

many advantages that they rarely need to resort to obviously illegal tactics... The police in Japan do not need to work ‘doubly hard’ to extract confessions. The whole system is designed and implemented in such a way that the suspect will offer apparently ‘voluntary’ confessions to his captors (Miyazawa 1992: pp. 24-25).

Miyazawa suggests here that “abuses of power” occurring within the Japanese pre-judicial detention system were so frequently overlooked by his contemporaries not only because they were illegible as such when viewed through the lens of established legal categories, but because they were, in fact, the structural norm. In other words, the subjection of detainees to unsafe living conditions and interrogative coercion continually escaped the purview of civilians, scholars, and legal specialists alike precisely because the Japanese judicial system itself enabled and, indeed, *promoted* this practice as the default consequence of arrest. In articulating this thesis, Miyazawa re-orientes the scope of public debate surrounding contemporary Japanese criminal procedure from questions of existence and frequency (“Do instances of arrestee mistreatment occur within Japan’s unconvicted detention system, and how commonly?”) to those concerning visibility and obfuscation (“How, why, when, and from whom are such scenarios concealed [or revealed]?”).

This section has traced the historical development of scholarly discourses concerning Japanese pre-conviction criminal procedure, reconstructing and placing in conversation arguments advanced in late 20th- and early 21st-century academic texts published natively in English and Japanese, respectively. As indicated by the tonal bifurcation evident across these works—between the glowing praise characteristic of late-20th-century American and British publications (Ames 1981; Bayley 1976, 1991; Parker 1984) and the sharp sense of skepticism conveyed in both contemporaneous Japanese sources (Hirano 1989; Ishimatsu 1989; Miyazawa 1992) and the English-language works that immediately followed (Steinhoff 2014)—opinion on the topic appears starkly polarized, particularly across historical periods and national boundaries. While the conclusions reached in these texts diverge quite drastically, however, their empirical contents suggest widespread consensus concerning the fundamental characteristics of Japanese criminal investigation and conviction procedure; each work addressed in this section emphasizes the prosecution-defense party power disparity, the discrepancy between ideal criminal procedure and actual judicial and penal administration, the paramount importance of the police-authored “confession” to the process of proving criminal culpability within Japanese courts, and the deployment of exceptionally harsh living conditions and investigatory manipulation in eliciting suspect cooperation and hastening arrestees’ admission of criminal activity (Haley 1989; Johnson 2002; Miyazawa 1992; Steinhoff 2014).

IV: Conclusion

At the opening of this chapter, I described my first personal encounter with the Japanese criminal justice system, a term of detention in a Kanto-region police station solitary confinement cell that followed my arrest for a misdemeanor road traffic law violation in late 2009. While representatives of both the Japanese and American governments with whom I interacted early in this process repeatedly suggested that my period of pre-judicial incarceration would be limited to the 23-day initial investigation period, I was ultimately held in police custody on a rolling basis for over three months; across the course of this period I experienced severe illness, dangerously

rapid weight loss, and the emergence of a psychiatric disability⁶³ precipitated by prolonged sensory deprivation and extreme social isolation. The most distressing aspect of this set of circumstances, however, was the chronic uncertainty that suffused it, exacerbated by police investigators' insistence that my release would remain immanent so long as I continued to comply with the demands they presented. In the process of conducting research for this project a decade later, I discovered that the set of living conditions and interrogative tactics I experienced at this time were by no means exceptional, being habitually deployed by Japanese law enforcement authorities in efforts of rendering suspects suggestible during questioning and docile in daily life. In this chapter, I utilized this formative experience as a means of exploring the structure and history of Japanese criminal procedure, pursuing the primary question of what underlying rules, relations, and precedents have collectively enabled the routine practice of indefinite detention of unconvicted arrestees in contemporary Japan.

As I explain in this chapter, multiple iterations of *ambiguation* come to bear on this convention, opening a “zone of indistinction” (Agamben 1995; 2005) within which the unimaginable is rendered not only possible but probable in the lives of suspected criminal offenders in Japan. The first of these manifests in a glaring tension between the inquisitorial principles embedded in the Japanese Penal Code and Code of Criminal Procedure, adopted from the French and German models during the first decade of the 20th century, and the adversarial ideals reflected in the set of rights and protections outlined in the Japanese Constitution, drafted to resemble that of the United States following the end of World War II in 1946. While the latter document appears to function primarily as a rhetorical smokescreen, deflecting potential criticism from citizens and foreign governments alike by presenting to the world a veneer of conformity to international human rights law, the former serves as the primary basis for the actual *practice* of criminal justice in the nation even a century after its creation.

Perhaps the most consolidated expression of the inquisitorial impulse animating Japanese law is the default presumption of guilt upon arrest, the premise that drives the whole of criminal procedure in the country. The authoritarian sentiments expressed in this unique aspect of the system is further bolstered by a pronounced disparity in the degree of power granted by the Code of Criminal Procedure to police and prosecutors, on the one hand, and defendants and their legal representation on the other. It is precisely this gap, the second addressed in this chapter, that enables indefinite detention as a matter of routine within Japanese criminal procedure. This mechanism of *ambiguation* has also rendered possible the habitual holding of arrestees in “temporary” police station confinement cells on a nonetheless semi-permanent basis, a convention deployed to preserve case investigators' complete control over both interrogation proceedings and the living conditions to which suspects are subjected when not being questioned. This leads to the third gap examined in this chapter: that between expectation and reality. Prosecutors and police officers frequently leverage promises of access to defense counsel and release from custody as a means of extracting confession, insisting that neither will be realized until formal admission of guilt (usually in the form of formal approval of the police-authored statement of confession) has been issued. Once the suspect has fulfilled this “prerequisite to the exercise of constitutional rights,” (Miyazawa 1992: p. 22), however, very little can be done, even with the assistance of a highly skilled lawyer,

⁶³ While the cluster of physical and psychological symptoms that began presenting during this period were diagnosed as Post-Traumatic Stress Disorder by doctors in my home country of the United States, it bears striking resemblance to that of *kōkin-byō* (“detention disease”), a culture-specific syndrome attributed to prolonged unconvicted detention in Japan (Steinhoff 2014: pp. 25-26).

to evade conviction or mitigate sentence severity.⁶⁴ [Cruelly] optimistic affective dynamics (Berlant 2011: pp. 23-51) therefore serve as a key resource within the Japanese pre-judicial detention economy, in which intense desire for particular events—and even for event itself—is repeatedly stoked and frustrated to drive continued engagement (albeit in a decidedly submissive manner) on the part of the detainee.

If “the gap” constitutes the central configuration of power within Japanese pre-conviction detention facilities, it is the figure of *the feedback loop* that has most dramatically shaped the nation’s approach to crime and punishment throughout recent history. In recounting the development of Japanese criminal procedure across the 20th century, I tracked several cycles of reciprocal amplification (of two seemingly disparate domains or forces) that ultimately culminated in dramatic escalation in the stringency of domestic policing, investigation, and prosecutorial convention. The first of these occurred in the wake of the New Left protest movement of the 1960s, during which grassroots demand for progressive political reform was met with increasingly conservative retaliation on the part of the state. The clearest example of the latter was the marked expansion of police and prosecutorial power in an effort to suppress protest activity, which culminated in mass arrest, police violence, and, by the end of the decade, the default utilization of indefinite detention following arrest. The *Shienkai* or *Kyūenkai* (“Trial Support Group”) system that emerged in response to this civil crisis would remain publicly active for decades after, inadvertently stimulating intensification in the severity of state crime response protocols in the very act of advocating for the opposite; the structural changes that materialized in response to *Kyūenkai* activity would ultimately set the stage for the late 20th-/early 21st-century punitive turn in Japanese criminal procedure.

This systemic shift would ultimately crystallize via the second major discursive-structural feedback loop described in this chapter: that inaugurated by the Tokyo subway “gas attack,” a public act of mass murder perpetrated by a domestic millenarian religious organization (*Aum Shinrikyō*) in 1995.⁶⁵ Due to its exhaustive coverage in national news media, the tragedy became a lightning rod for popular discourse, radically altering common conceptions of crime and justice among the populace by shattering collective faith in the presumed safety and security of everyday life in Japan. I argue in this chapter that while governmental reaction to the New Left protest movement established the conditions of possibility for the late 20th-/early 21st-century punitive turn in the Japanese criminal justice system described by Steinhoff (Steinhoff 2014: pp. 21-22), it was ultimately this intensively mediated act of “domestic terrorism” that acutely *catalyzed* it; in other words, although the mass protest activities of the 1960s rendered possible the exercise of absolute power in “exceptional” circumstances (namely, within the context of ostensible “civil disobedience”), the sarin gas attack expanded the scope of this “state of exception” (Agamben 1998; 2005) to encompass virtually any and all arrested in the country.⁶⁶ It was thus that law enforcement tactics formulated in direct response to historical crisis became common to the system as a whole.

⁶⁴ This is partially because the Japanese judicial system does not allow plea-bargaining (Johnson 2002: pp. 12-16, 148-149; Steinhoff 2014: pp. 1-15).

⁶⁵ As will be further explored in Chapter 4, the religious group responsible for this act of “domestic terrorism” appropriated elements from various world religions, including Buddhism, Hinduism, and Christianity. Central to the doctrine of the religion was a belief in the immanence of the apocalypse; it is speculated that this conviction served a pivotal role in the perpetration of the “gas attack” incident.

⁶⁶ There are many parallels between the sociocultural fallout of the 1995 Tokyo Subway “Gas Attack” and that of the American “9/11” incident, primarily in the becoming-common of ostensibly “exceptional measures” with regard to the capacious exercise of state power and the retraction of individual rights and protections.

The structural fallout of the 1995 *Aum Shinrikyō* incident assumed the primary form of a large-scale crackdown in policing, prosecution, and penal stringency, demonstrated by a sizable (30%) increase in the total number of persons in prison or pre-judicial detention nationally between 1995 and 2000. Japan's incarcerated population would continue to experience growth on an annual basis across the first decade of the 21st century, with 2006 signaling a near-doubling of the 1995 count. While these figures would gradually decrease throughout the 2010s, totals would not return to the 1995 baseline until 2020.⁶⁷ Hikes in national incarcerated population throughout the turn of the 21st century were reflective of two simultaneous structural developments, each corresponding to a particular sector of law enforcement: in the domain of policing, higher rates of arrest; in that of criminal procedure, systemwide normalization of the practice of indefinite detention.

As explained in Section III of this chapter, English-language academic critique of the Japanese justice system began surfacing in the early 2000s, shortly after the inauguration of the late-90s punitive turn in Japanese policing, prosecutorial, and penal convention. Texts emblematic of this discursive shift (Johnson 2002; Steinhoff 2014) consistently emphasize the inquisitorial tendencies implicit within the Japanese system alongside its marked divergence from the ethical standards established in international human rights law.⁶⁸ While this wave of scholarly condemnation clearly constitutes a striking departure from the uniform praise offered in preceding English-language studies, however, I observe toward the end of this chapter that Japanese legal experts had begun vocalizing similar reservations long prior (Ishimatsu 1989; Koyama 1991; Miyazawa 1992). The abundance of *domestic* critique across the 1980s and 90s supports Steinhoff's contention that indefinite detention and other allegedly "inhumane" practices were first utilized, albeit on a much smaller scale, several decades *before* the turn of the 21st century.

This leads to the final major structural pattern emblematic of *ambiguation* examined in this chapter: that of "exception" becoming "rule." The phenomenon of systemwide generalization of ostensibly *exceptional* measures has manifested within the sphere of Japanese criminal procedure at a number of moments and in a number of ways. Firstly, law permitting the holding of unconvicted arrestees in *daiyo kangoku*, or "substitute prisons" (like police station detention cellblocks) was initially formulated as a solution to an early 20th-century prison shortage; however, this allowance is now commonly invoked to justify housing criminal defendants under the immediate supervision of their police investigators for extended periods *even when ample prison capacity exists*. It is by way of this law that "short-term" detention facilities can be used for purposes of long-term custody in Japan—a previously acute practice that has become standard procedure due to the strategic benefits it provides police and prosecutors. Secondly (and perhaps less bleakly), the *Kyūenkai* ("Trial Support Group") system first created to assist detained New Left protesters in the 1960s persisted long after the political movement subsided, now extending its services to any and all arrested in the country in its mission to "combat state oppression" and defend individual rights. The public prominence of this organization so long after its initial formation constitutes yet another iteration of emergency measure becoming sustained structural feature. Finally, and of most direct relevance to the questions motivating this chapter, is the practice of indefinite detention. While the Japanese police began employing this strategy as a means of

⁶⁷ Incarcerated population totals publicized by the Japanese Ministry of Justice are as follows: 1995: 47,398; 2000: 61,242; 2002: 69,502; 2004: 76,413; 2006: 81,255; 2008: 76,881; 2010: 72,975; 2012: 67,008; 2014: 60,486; 2016: 55,967; 2018: 50,578; 2020: 46,524 (<https://www.prisonstudies.org/country/japan>).

⁶⁸ Some scholars associated with this critical trend in Japanese legal studies have likened Japanese pre-judicial detention conditions to those of Guantanamo Bay, another institution whose constitutive policies and practices seem to contradict the legal standards of the broader system in which it is embedded (Steinhoff 2014: p. 25).

containing the civil disorder presumably threatened by mass anti-nationalist protest in the 1960s, it was ultimately integrated into domestic criminal procedure on a broad scale, now being utilized as a first-step response in most cases of arrest. Again, here, a suspension of established legal order ostensibly justified by the emergency circumstances in which it was instated has become endemic to the system as a whole, creating a situation of internal contradiction in which law itself appears to act unlawfully.

Chapter 3 (*Alienation*)

Toxic Love [is in the Air]: On the Aftermath of the Social in the Wake of the Tokyo Subway Gas Attack

On a sweltering summer morning in 2018, I was jolted awake by a nightmare whose quality of sharp reality more often accompanies fever-induced hallucinations; the ventilation unit in my cramped studio apartment in central Tokyo automatically shut off during the night as an energy conservation measure, allowing the air within to become as stagnant and oppressively heavy as that beyond the concrete walls and wire-laced windows of the residential building in which I would be staying for the summer. I wiped a layer of sticky moisture from my forehead and turned on the small plasma screen TV mounted on the wall opposite my twin-sized bed. Throughout the week that I had been in Japan, news segments broadcast by federally-funded television production company NHK focused largely on the record-breaking high atmospheric temperatures and resulting cases of potentially fatal heatstroke that had become common among train commuters while en route to and from their places of work. Today's morning announcement concerned a decidedly different manifestation of death and debility within the context of the urban railway system: seven of the thirteen perpetrators of the 1995 "Tokyo subway gas attack" awaiting the death penalty had just been executed by hanging. Among the deceased was Shōkō Asahara, founder of the syncretic (Buddhist/Hindu/Christian) religious sect Aum Shinrikyō and principal orchestrator of the attack, which entailed the simultaneous release of deadly nerve gas sarin on five subway train cars (and three distinct lines) by several adherents of the religion during the morning rush hour on Monday, March 20, 1995. The catastrophic event culminated in 13 passenger deaths and thousands of injuries, some of which would remain permanent or escalate in severity in the years following (BBC 6 July 2018: p. 2). Despite its status as the most extreme instance of domestic terrorism in Japanese history (BBC 6 July 2018: p. 1), the motive of the incident remains largely unidentified, as Asahara failed to provide an explanation for the crime over the course of his eight-year trial (Neuman 6 July 2018: p. 4).

While all of those placed on death row were convicted of involvement in multiple other violent crimes associated with the activities of Aum Shinrikyō, the Tokyo subway incident remained the most pervasively discussed of their charges (Murakami, Sakura 26 July 2018: p. 2). The social resonance of this event can be attributed in part to the scope of its violence; whereas previous acts of destruction committed by the group were directed toward individuals implicated in legal action intended to restrict the sect's institutional development and geographic mobility (Neuman 6 July 2018: p. 3), the target of the subway chemical assault was not any one specific person or faction, but rather the economically productive social body and its environment broadly conceived. This reorientation in the scale and scope of attack unsettled various conventional distinctions, including civilian and combatant, criminality and martyrdom, and violence and morality, and, in so doing, incited the collective anxieties of the national consciousness. I intend to explore the nuances of this case and the breakdowns in intelligibility it engendered by responding to the following questions: What modes of sociality are afforded and foreclosed by and within environments constituted by extreme disorder, irregularity, and uncertainty? What is the relationship of irrationality to the formation (and fraying) of social life? How do processes and technologies of mediation figure in the establishment and/or recuperation of post-disaster epistemological coherence? What are the roles of trauma and memory in both the immediate

experience and retrospective production of scenarios of crisis? In attending to these inquiries, I seek to illuminate and interrogate the nature of collective formations that emerge within scenes of apparent social dissolution. Within the context of the Tokyo gas attack, this phenomenon is expressed in three distinct social registers: among the crowd of commuters reacting to the chaos of the poisoned public transportation system on the morning of March 20, 1995; by assailants in their attraction to the sect's doctrines, activities, and leadership in response to the increasing scarcity of professional opportunities characteristic of the recessionary Japanese economy (1991-2000) during the years and months preceding the incident; and within the discursive echo chamber produced by the news media-consuming public upon the rhetorical resuscitation of the event by means of the announcement and analysis of the executions of its perpetrators 23 years later.

The primary texts to which I refer in reconstructing the event and its aftermath include news articles dating mostly from the period immediately following the executions in the summer of 2018. Perhaps more significant in informing my analysis is a collection of interviews with victims of the attack conducted and compiled by Japanese novelist Haruki Murakami shortly after the incident and first published with the title *Underground* in 1997. The latter work was particularly informative in providing largely uninterpreted perspectives of those directly affected by the event, a gesture Murakami describes as constituting a corrective to the emphasis placed on the viewpoints of the assailants at the cost of those of other significant actors by the Japanese mainstream media (Murakami 2001: p. 7).

I. Crowd of Commuters: Affect, Apathy, Altruism

It was 7:40 AM on Monday, March 20, 1995. After having worked a 24-hour monitor shift at Kasumigaseki Station, located in the heart of the Tokyo government bureaucratic district, middle-aged subway station attendant Toshiaki Toyoda received notice that an “explosion” had occurred at nearby Tsukiji Station. In response to the ominous report, Toyoda agreed to examine the train car implicated in the incident due to the identification of a “suspicious item” within its interior, its passengers being evacuated for the purpose of inspection. Upon his arrival at the corresponding platform, Toyoda immediately noticed several small puddles and wads of sodden newspaper spilling out from one of the train car doors; two other Subway Authority employees appeared to be casually readying themselves to clean up the residue with a mop and dustpan. Noting the faint chemical odor emanating from the pools of oily fluid, Toyoda speculated that placing the refuse in plastic bags was perhaps a necessary precaution, suggesting the strategy to fellow staff members tasked with cleanup. After having thus disposed of the newspaper and paraffin-like substance as thoroughly as possible, the three attendants placed the filled trash can liners in the office staffroom for later disposal. “Suspicious items” now removed, the train was placed in re-circulation and the men prepared to resume their duties according to schedule. Suddenly, however, as he attempted to record the time of the task in a notebook, Toyoda noticed his field of vision contracting and his nose running; within minutes, one of the other employees he assisted in the disposal effort had collapsed and was suffering from what appeared to be seizures while the other had lost his eyesight faculties entirely (Murakami 2001: pp. 30-37).

Meanwhile, 26-year-old Kiyoka Izumi, a passenger who had been evacuated from the train, lingered near the scene of inspection, witnessing the onset of the anomalous symptoms manifested among the train station employees. Despite suffering from respiratory difficulties and a high fever herself, she bolted from the station exit, emerging in front of the Ministry of Trade and Industry building where countless other sarin poisoning victims in varying states of physical compromise and psychological distress gathered in search of assistance. Unable to locate an ambulance, Izumi

approached a television news van and demanded that they transport the subway station attendants, now being carried through the exit, to a nearby hospital. While Toyoda's two colleagues died in transit, Toyoda ultimately recovered, later thanking Izumi for negotiating the intervention that likely saved his life (Murakami 2001: pp. 12-18). In recounting the nightmarish experience, Izumi emphasizes the radical separation that emerged between those impacted by the event, demarcated by the space of the subterranean network of tunnels and corridors that constitutes the Tokyo subway system, and the unaffected pedestrians above ground:

As I said, there were people foaming at the mouth where we were, in front of the Ministry of Trade and Industry. That half of the roadway was absolute hell. But on the other side, people were walking to work as usual. I'd be tending to someone and look up to see passersby glance my way with a 'what-on-earth's-happened-here?' expression, but not one came over. It was as if we were a world apart. Nobody stopped. They all thought, 'nothing to do with me.'" (Murakami 2000: p. 17).

Similarly, a clothing sales representative recounts the utter lack of consideration exhibited by passersby as he stumbled and wheezed while attempting to transfer from an affected train to a bus in the heavily-trafficked Shibuya neighborhood while en route to his place of work:

I got off the train at Shibuya and somehow managed to cross at the lights and reach the bus stop, where my legs just gave out...I sat on the sidewalk and leaned back against the handrail with my legs stuck out. Nobody looks that wasted in the morning, do they? Nobody except drunks, maybe. Which is why no one spoke to me. They saw me lying there and just assumed I'd been out on the town all night in Shibuya (Murakami 2000: p. 187).

This observation—of the indifference of strangers to the suffering of co-occupants of public space—is reiterated by countless other victims of the gas attack, who lament the murderous passivity exhibited by onlookers. In fact, the driver of the television news van that delivered the three sarin-afflicted subway employees to the hospital recalls that the first nurse to approach the vehicle refused intake on account of overcapacity; he attributes the death of one of the three victims to this delay in receiving medical attention (Murakami 2001: p. 28). Similarly, a middle-aged victim suffering from visual disturbances as a result of exposure to the gas explains that a hospital reception desk attendant, citing the excuse that "this isn't an eye clinic", initially turned him away; he was denied service until medical staff received notification of the event via television news broadcasts. (Murakami 2001: pp. 109-110). The perception of clinical staff as remiss in reacting to the public transportation crisis, particularly as attributed to lack of information regarding the event, is reiterated by Minoru Miyata, the television news vehicle driver responsible for delivering subway employee Toshiaki Toyoda to the hospital:

But you know, the hospital wouldn't let us in. Abandoned us there on the pavement... Then a little later a doctor comes out and they carry the two of them out on stretchers. The point is, they didn't have the least grasp of the situation. There'd been no word to the hospital about any injured people heading their way, so they were in the dark (Murakami 2000: p. 28).

Many interviewed by Murakami speculate that the number and severity of poisonings could have been greatly reduced or even altogether prevented had passengers outwardly reacted to the odor—the only sign of the presence of the gas—by communicating its oddity to fellow commuters and reporting the suspicious irregularity to train station personnel. As a young English teacher interviewed by Murakami notes:

No one said a thing, everyone was so quiet. No response, no communication. I lived in America for a year, and believe me, if the same thing had happened in America there would have been a real scene” (Murakami 2001: p. 114).

In *An Anthropology of the Machine*, Michael Fisch describes the informal protocols mandating silence among passengers on the Tokyo train system as an expression of *yoyuu*, or the creation of space where previously none existed (Fisch 2018: p. 40; 60); here, the space created is that which affords anonymity and emotional energy conservation by means of the avoidance of interpersonal recognition. While generally contributing to a safe and non-invasive commuting experience, this implicit valuing of silence can have ethically questionable implications, Fisch observes, as when train suicide is approached as little more than an inconvenience to passengers and an obstacle to efficient capitalist productivity (Fisch 2018: p. 177-178).

The phenomenon of widespread apathy as pervasive among and characteristic of the urban public was observed by many early theorists of industrialized Euroamerican society. Gabriel Tarde, a turn-of-the-century French sociologist, criminologist, and principal interlocutor of Emile Durkheim, proposes imitative behavior as the primary mechanism through which the blasé mentality is assumed within and dispersed among the social group broadly conceived; this inclination, he argues, was only bolstered by the technological innovations and psychological impacts of modernization. In the 1890 work *The Laws of Imitation* Tarde refutes the economic model of society favored by his contemporaries, according to which reciprocal provision of goods and services constituted the basis of social relations, to propose instead the establishment and elaboration of rights, obligations, and non-pragmatic interpersonal engagement as axiomatic to the formation of the human collective (Tarde 1903: pp. 59, 61, 64). While the former paradigm emphasizes the fulfillment of biological needs as the originary impetus of social formation, the latter, according to Tarde, locates the foundation of society in a collective desire for communication, mutual respect, and behavioral and ideological homogenization (pp. 64, 67). Essential to Tarde’s definition of society is the process of imitation, whereby the achievement of similarity across individuals functions as both motive and means of socialization. The early cultural innovations of language and the law act in the Tardean formulation of sociality as prototypical expressions of the innately human longing for assimilation and the primary channels through which internal social uniformity is realized, reinforced, and perpetuated (pp. 60, 62, 64, 67-68).

Despite foregrounding intersubjective engagement over mutual exploitation as the core of relationality, Tarde’s depiction of the social is far from optimistic, as evidenced by his discussion of the affective byproducts of social existence. Here, Tarde ardently disavows the dominant notion of the human as autonomous and agential, arguing that the industrialized urban subject is, contrary to popular belief, at least as docile, indifferent toward the plights of others, and prone to suggestion by external forces as their premodern forebears (Tarde 1903: p. 77). Within this framework, it is not sympathy that serves as the medium of the dissemination of sentiment within the crowd, but rather affective contagion that is transferred from body to proximate body into perpetuity (p. 79). Precisely due to the generally unconscious nature of this infinite regress of imitative influence,

Tarde describes the equilibrium state of the social entity as *somnambulistic* (pp. 84; 87). This propensity, Tarde states, becomes all the more pronounced under the conditions of urban existence, characterized principally by an accelerated pace of life and a surfeit of sensory stimuli:

Whenever a man lives in an animated environment, in a highly strung and diversified society which is continually supplying him with fresh sights...he gradually refrains from all intellectual effort; his mind, growing more and more stultified and, at the same time, more and more excited, becomes, as I have said, *somnambulistic*. Such a state of mind is characteristic of many city dwellers....Now, is not city life a concentrated and exaggerated type of social life? (Tarde 1903: p. 84)

Here, Tarde identifies a cognitive paradox that is central, he contends, to the genesis of urban subjective interiority: a quality of affective numbing that functions as a mental adaptation to the overwhelming of the sensorium by the excesses of the urban milieu (Tarde 1903: p. 85). In introducing the concepts of imitation and *somnambulism* as foundational elements of society, Tarde thus staged a radical intervention into contemporaneous social science debates regarding the origins of collective life; this departure from existing understandings of intersubjectivity hinged on a refutation of the assumed rationality of human behavior and, relatedly, a distinctive characterization of social existence as *neurosis* (pp. 77; 80). Despite the relegation of Tarde's works to the peripheries of canonical early social science theory, the profound impact of his academic contributions is evident in the elaboration of many concepts he coined by his currently more widely-circulated successors; for example, in postulating the preponderance of the "blasé attitude" among city dwellers in the seminal 1903 essay "The Metropolis and Mental Life," German sociologist Georg Simmel states that "...[metropolitan] life makes one blasé because it stimulates the nerves to their utmost reactivity until they finally can no longer produce any reaction at all," (Simmel 2013: p. 14) clearly evoking the Tardean attribution of the intensification of *somnambulistic* tendencies to the formation of the modern crowd.

In addition to strongly shaping subsequent scholarship, the theoretical approaches maintained in Tarde's analyses of emergent sociocultural phenomena remain relevant to historical events even a century after their inaugural articulation. Within the context of the Tokyo subway sarin incident the *somnambulistic* mentality characterized by Tarde as definitive of human relationality was evident in the immediate responses of not only inattentive pedestrians and non-communicative passengers, but also, according to many of Murakami's interlocutors, railway employees:

[Train operators] knew they had a crisis, they should have just stopped the train and taken off all the passengers. They could have reduced the injuries. It was a serious oversight. Complete communication breakdown. (Murakami 2001: p. 109-110)

As in the cases of passersby and fellow commuters, the negligence exhibited by subway operations personnel appears to have been motivated by a single-minded prioritization of efficiency and adherence to schedule in the service of maintaining productivity. The myopic attitude entailed by such responses evokes the Deleuzian distinction between "recognition" and "acknowledgment"; whereas the former concept refers to a superficial cognitive processing of the intersubjective encounter, the latter suggests an emergent unfolding of an affective relationship between self and

other that transcends mere identification and, in so doing, produces a sense of mutual ethical responsibility (Fisch 2018: p. 175).

Despite characterizing a large proportion of bystanders as problematically refraining from true acknowledgement of the sufferings of attack victims, many of Murakami's interviewees attribute their own survival to the altruistic actions of a few sympathetic actors, many afflicted with sarin poisoning themselves. Middle-aged railway employee Toshiaki Toyoda struggled through severe shaking, vomiting, field-of-vision constriction, and intermittent states of unconsciousness to seek assistance on behalf of his two unconscious coworkers (Murakami 2001: p. 36); his efforts culminated in locating Kiyoka Izumi, the young woman who ultimately saved his life by soliciting the driving services of television news van chauffeur Minoru Miyata (p. 16). Izumi recalls having been unaware that she was herself displaying signs of sarin toxicity while attending to Toyoda and others with more visibly extreme symptoms:

While I was looking after everyone, I completely forgot my own pain. It was only at the mention of oxygen that it occurred to me, 'Come to think of it, I'm breathing funny myself.' Yet at that very moment, I didn't make a connection between the gas attack and my condition. I was all right, so I had to look after the people who had really suffered (Murakami 2001: p. 16).

The sentiment of selflessness expressed by Izumi is palpable also in the guilt experienced by Toyoda in surviving the colleagues he attempted to save, described in the following statement:

'So it's only me who survived,' I realized. I still had no idea what on earth had happened, but here I'd been close to death and survived. The more people worried over me and came to see me, the stronger the realization grew that I'd been saved. I felt happy to have survived and ashamed for what had happened to the others (Murakami 2001: p. 37).

When questioned about Miyata's role in conveying Toyoda and his fellow train station attendants to the medical care facility, Izumi recounts her initial frustration in witnessing news media representatives filming the chaotic scene and approaching symptomatic passengers and subway staff to request interviews while refraining from extending aid. In the general absence of assistance from news media outlets and in light of the ineffectiveness of emergency service providers in responding to the crisis (Murakami 2001: pp. 252; 169), victims were forced to rely largely on the support of other sufferers for care in the immediate aftermath of the event. According to a 28-year-old IT worker who carried fellow victims above ground and hailed civilian cars in seeking hospital transportation on their behalf, this required the suspension of adherence to the norms of silence that govern dominant codes of public behavior in Japanese society:

I don't want to keep quiet about this thing; keeping quiet is a bad Japanese habit. By now, I know everyone's beginning to forget about this whole incident, but I absolutely do not want people to forget (Murakami 2001: p. 169).

Gustave Le Bon, a French social scientist who elaborated the theories of crowd formation postulated by Tarde, argued in an 1895 publication that the collective is predisposed to maintaining social convention due to the suggestible character of and resistance to exercising critical insight shared by its constituents; upon assimilation into the multitude, the individual's intellectual

faculties are suppressed in favor of instinctual action and mindless conformity to existing social protocols (Le Bon 2002: pp. 6; 26). While the congregation of [human] bodies within space typically results in this kind of ontological regression, Le Bon contends, it also contains the potential to induce an intrapsychic transcendence of ego so powerful as to facilitate grandiose displays of self-sacrifice in service of the preservation and flourishing of others (p. 26-28), as reflected in Izumi's failure to cognitively process her own physical pain while assisting fellow victims in enduring the harrowing experience (Murakami 2001: p. 16). According to Le Bon, group identification is not only likely to yield such "acts of lofty morality" (Le Bon 2002: p. 28) but constitutes the prime and even exclusive condition under which they may occur (p. 27). Le Bon attributes the capacity of the social unit for generating both extreme apathy toward and profound devotion to the wellbeing of fellow affiliates to the simultaneous mental degeneration and affective elevation produced by social belonging:

...the crowd is always intellectually inferior to the isolated individual, but...from the point of view of feelings and the acts these feelings provoke, the crowd may, according to circumstances, be better or worse than the individual. This is the point that has been completely misunderstood by writers who have only studied crowds from the criminal point of view. *Doubtless a crowd is often criminal, but it is also often heroic* (Le Bon 2002: p. 9; emphasis mine).

In the case of the crowd, the calculated self-interest held in classical European thought to undergird and motivate individual economic action can be overridden by altruistic sentiment given the emergence of a scenario which impels sympathetic relationality. It is thus that Le Bon expands the Tardean concept of society by arguing for the centrality of "irrationality" not only to group formation and functioning but, additionally, to morality itself (p. 29); the scene of mass suffering instigated by Aum Shinrikyō leader Shōkō Asahara and the 10 followers implicated in the attack illustrates this phenomenon.

II. Team of Assailants: Control Society, Atmospheric Collectivity, and the Violence of Belonging

"Murder Machine" Yasuo Hayashi, Aum Shinrikyō adherent responsible for achieving the highest death toll of the sarin gas attack perpetrators, was a 29-year-old unemployed scientist when he renounced civilian life and converted to the religion in 1988. Having graduated with a degree in artificial intelligence from Kogakuin University in the early 1980s, Hayashi recalls experiencing extreme frustration with his inability to secure steady employment despite possessing an elite and highly specialized educational background. After serving as a temporary worker for several companies in Japan, he traveled to India, where he attended yoga retreats and first encountered the teachings of Shōkō Asahara. During the years preceding the incident, Hayashi would rise to the upper echelon of Aum's leadership hierarchy, ultimately securing a position as the third-in-command constituent of the sect's science and technology division. On the morning of March 20, 1995, he followed Asahara's orders to wrap three packets of sarin fluid in newspaper which he would shortly thereafter drop onto the floor of a Hibiya Line train bound for Nakameguro station. Two stops into its route Hayashi covertly punctured the parcels with a sharpened umbrella tip before exiting the train at Akihabara station, where he was collected and transported via private vehicle to the Aum headquarters in Shibuya (Murakami 2001: pp. 143-145).

The other four assailants proceeded according to much the same methodology employed by Hayashi: each were given two plastic bags filled with liquid sarin, which they covered in newspaper in order to diffuse potential suspicion before placing the packets in the train designated by Asahara. After piercing the outer membranes of the bags with the far point of an umbrella, thereby facilitating the chemical's evaporation and release within the atmosphere of the train car, each perpetrator departed the site of the drop and was ushered to the religion's central office location by a designated getaway driver. The principal assailants were likely selected for service by Asahara due to their formal training in hard science disciplines at prestigious academic institutions including Tokyo and Waseda Universities; their ranks included three physicists and a medical doctor. According to analyses offered by Murakami as corroborated by newspaper articles, adherents cited economic hardship, career dissatisfaction, and disillusionment with mainstream society and popular culture as primary conversion motives (Murakami 2001: pp. 10, 143, 237, 259, 266; Gattig 22 September 2018: pp. 3-4; Murakami, Sakura 26 July 2018: p. 3).

Contributing to the sense of precarity and desperation shared by the perpetrators was the economic downturn faced by the nation at the time of the attack. While Japan experienced a period of unprecedented prosperity throughout the 1970s and 80s, a massive financial collapse occurred in 1991, inaugurating a period of protracted economic hardship which continues today. The structural repercussions of this event, including low employment rates, mass privatization of the social welfare system, a governmentally-disseminated ideological emphasis on personal responsibility in light of career and personal struggles, and a dissolution of the nuclear family model that served as the basis for much of social and economic life throughout the postwar period, disproportionately affected younger generations of Japanese society (Allison 2013: pp. 3, 25-30). Within this context, it is notable that four of the five suspects convicted of instigating the sarin assault were under the age of 40 at the time of the act. Their feelings of disenchantment with the deteriorating national social and economic infrastructures were hardly exceptional; Murakami describes the 1995 "twin catastrophes" of the Tokyo gas attack and the Kobe earthquake as catalysts in awakening the national consciousness to the dysfunctions and inequities of recessionary Japan, prompting widespread critical reflection on the role of the state in public life (Murakami 2001: p. 237).

It is unsurprising, then, that the conspirators in the sarin incident expressed having located a sense of security and purpose in the assuredness of Asahara's teachings and the mission of spiritual salvation he advocated; Aum Shinrikyō thus served in the cases of his followers as an antidote to the pervasive experience of anomie and hopelessness endemic to early 1990s Japan. The intrapsychic resonance of Asahara's religious philosophies is illustrated in the retrospective accounts of several assailants, who expressed belief in the incident's function as a test of moral integrity and a heuristic for the realization of enlightenment on both individual and collective scales (Murakami 2001: pp. 9, 60, 119, 144):

'This is just a yoga of the Mahamudra,' [48-year-old medical doctor Yasuo Hayashi] kept telling himself, Mahamudra being a crucial discipline for attaining the stage of the True Enlightened Master (Murakami 2001: p. 9)

But [30-year-old physicist] Kenichi Hirose gritted his teeth and overcame his doubts. 'This is nothing less than salvation,' he told himself. The act of doing it is what matters, and besides, it's not just him, all the others are doing the same thing too. He couldn't let the others down (Murakami 2001: p. 60)

Additionally, many described overcoming feelings of shock and horror at the murderous intent of Asahara's orders through conviction in the status of ethical intuition as delusion to be conquered by means of reflection upon the "spiritual truths" of Aum Shinrikyō doctrine (Murakami 2001: pp. 9, 60, 119, 144). Murakami depicts the respective mental processes undergone by 30-year-old Kenichi Hirose and 27-year-old Toru Toyoda, both former career physicists implicated as prime suspects in the event, as such:

'The teachings tell us that human feelings are the result of seeing things in the wrong way,' said Hirose. 'We must overcome our human feelings.' (Murakami 2001: p. 61)

To an ordinary person with normal human feelings, even entertaining the notion of such an outrageous act must seem inconceivable, but Toyoda could not criticize a command from his master...All Toyoda could do—and this is exactly what his colleague Hirose did as well—was adhere to the teachings ever more zealously, to crush all doubts, in short, to shut down his feelings (Murakami 2001: p. 119).

The testimonies of Hayashi, Hirose, and Toyoda attest to the moral influence exerted by Asahara upon his devotees, particularly as driven by historical circumstance to seek existential meaning through faith in an external figure. As previously discussed, the works of Gabriel Tarde identify the mechanism of imitation, as opposed to sympathy, as the origin and ongoing impetus of social organization (Tarde 1903: p. 79). In *The Laws of Imitation*, Tarde distinguishes two primary categories of human relationality: "reciprocal," characterized by a dynamic of mutual influence between two actors roughly equivalent in status; and "unilateral," designating asymmetrical social configurations in which a party invested with a disproportionate level of prestige exercises authority over a subject or contingent of subjects (pp. 78-79). According to Tarde, the latter form, which constitutes the primordial foundation and prototypical manifestation of imitative relations, is most strikingly typified by the dyad of the political and/or religious leader and their subordinates (p. 77). Despite his insistence on the intrinsic "somnambulistic" passivity of the follower position within this arrangement, Tarde asserts that rule is maintained primarily not through coercion, but rather via "prestige" (p. 78); in other words, the affective valence of the leader-follower pair is often *positive* in generating feelings of admiration and devotion toward the figure of authority among their supporters. Nonetheless, Tarde emphasizes, affection for the superior is typically tempered with a fear of the power they possess. According to Tarde, the blend of attraction and intimidation elicited by the charismatic personage constitutes, as in the case of social life broadly defined, a psychologically pathological relation of self to other:

Intimidation plays an immense part in society under the name of Respect...Respect is neither unmixed fear nor unmixed love, nor is it merely the combination of the two, although it is a fear which is beloved by him who entertains it. Respect is, primarily, the impression of an example by one person upon another who is polarized (Tarde 1903: pp. 86-87)

...All [the group members'] power of belief and desire is concentrated on a single point [that of the leader]. Is not this the exact effect of obedience and imitation through

fascination? Is not fascination a genuine *neurosis*, a kind of unconscious polarization of love and faith?

The affective bifurcation experienced by the subject in relation to the authoritative social entity is reflected in the statements of many Aum Shinrikyō adherents interviewed by Murakami, who marvel at Asahara's capacity to incite overwhelming feelings of awe within those he encountered even upon first introduction (Murakami 2001: pp. 258-259, 283, 307, 321). For example, a young man who served as an electronics technician for the the Aum division of science and technology at the time of the incident describes Asahara as alternately "kinder than anyone I've ever met" and "the scariest person in my life" (p. 258), while a fellow devotee notes the confounding discrepancy between the image of Asahara as a fanatical tyrant presented throughout the trial and his own impression of him, based on consistent personal contact over the course of several years, as a flexible and diplomatic negotiator (p. 283). It is significant that both informants remained self-identified members of the sect at the time of Murakami's research several years following the attack (pp. 250, 251, 277).

Perhaps the most striking and thoroughly elaborated account of Asahara's character was provided by a former high-ranking delegate of the Aum bureaucratic hierarchy, who recalls experiencing simultaneous trepidation and wonder upon meeting Asahara:

You felt something amazing, something awesome in his presence. People said, 'He's so gentle,' but when I first met him he scared me... The next time I saw Asahara... I thought, 'Wow, this is a man of a thousand faces.' Now he wasn't frightening at all, he was beaming, and just being near him, watching him, made me ecstatic (Murakami 2001: p. 321).

The coexistence of terror and attraction provoked by Asahara's presence is paralleled in the accounts of his followers by an intrapsychic dissolution of the boundaries between the normative categories of subject and object; this was ostensibly achieved through intensive reflection on the principal tenets of the religion in conjunction with participation in the physical austerities that Asahara mandated Aum practitioners endure, including sensory deprivation, starvation, and electroshock exposure (Murakami 2001: pp. 297-299, 340). In alignment with mainstream Buddhist doctrine, the eradication of consciousness of self as a means of attaining spiritual enlightenment is central to the religion's core teachings. Asahara leveraged the Buddhist principle of worldly impermanence to justify the acts of violence he initiated, as intentional destruction of people and property came to be ideologically framed as a mere manifestation of the universe's always already entropic tendencies (p. 254). The cultivation of this sense of "non-self" was thus, according to Aum Shinrikyō dogma, the first step in the enterprise of realizing spiritual liberation through ascetic training.

According to the testimonies of many Aum followers, accompanying the disavowal of individual subjectivity through the process of religious socialization was an investment of the charismatic leader with feelings of intense attachment and affection, reinforcing the Freudian emphasis on the inherently libidinal foundations of collective identification. In *Group Psychology and the Analysis of the Ego*, Freud uses the cases of the church and the army to argue for the centrality of affect to group cohesion. According to Freud, members of religious and military institutions are bound to communal structures through cathexis of the designated figure of authority, a singular personification of the group's membership and mission and a material condensation of its ideologies (Freud 1959: pp. 32-35). This "love" for the leader and the fellow associates they

represent, Freud asserts, inevitably yields internal suppression of individual behavioral and emotional inclinations, ultimately catalyzing a shift in the orientation of the psyche from a self-interested to a self-sacrificing character:

The libido attaches itself to the satisfaction of great vital needs, and chooses as its first objects the people who have a share in that process. And in the development of mankind as a whole, just as in individuals, *love alone acts as the civilizing factor in the sense that it brings a change from egoism to altruism* (Freud 1959: p. 44; emphasis mine).

It must be noted that this assumption of the altruistic position by the follower-subject does not foreclose the preservation of the originary narcissistic instinct, as it is facilitated by means of a replacement of the ego ideal with the emergent object of desire (that of the leader). As in the case of Aum adherents, this process of introjection, or the internalization of the other within the self, is productive not only for generating feelings of identification coextensive with love but also with the displacement of the locus of individual responsibility from the subject to the superior (Freud 1959: pp. 57-59; Murakami 2001: pp. 256, 260).

The relief from the burden of agential sovereignty registered as comforting by many Aum Shinrikyō adherents was frequently accompanied by a disregard for the potential legal, medical, and personal repercussions of individual action, the mental structural basis of the polarized capacities of the mass for both criminal and altruistic exploits as articulated by Freud and Le Bon (Le Bon 2002: p. 9). According to the latter, members of the crowd are "...[easily] induced to commit acts contrary to [their] most obvious interests" (p. 8), as in the paradigmatic case of "...run[ning] the risk of death to secure the triumph of a creed or an idea" (p. 9). The accounts offered in Murakami's work suggest that the perpetrators of the Tokyo sarin incident, in fact, experienced the crime as motivated precisely by moral impulses: those of devotion to Asahara and dedication to the cause of collective "liberation" he espoused as the ultimate goal of Aum religious practice (Murakami 2001: pp. 11, 60, 144). This underscores the interpenetration of dichotomous phenomena that functioned as the logical and sentimental scaffolding of the event within the psyches of the assailants. Notably, the reciprocal muddling of conventionally opposed binary concepts described by many of Murakami's interviewees as definitive of their experiences of the religion (pp. 298, 314) is an integral feature of Vajrayana Tantra, a brand of esoteric Buddhism founded upon a belief in the spiritual efficacy of participation in practices normatively considered counter to morally righteous conduct (p. 263).

In their 2004 publication *Multitude: War and Democracy in the Age of Empire*, Michael Hardt and Antonio Negri theorize the blurring of boundaries between normatively discrete dualistic phenomena as a dominant characteristic of the contemporary geopolitical world (Hardt and Negri 2004: p. 334-335). It is within this context that the multitude, a manifestation of the intermingling of qualities of singularity and plurality, emerged to revolutionize the role of the collective social body in the political sphere (pp. 103-105). This development, they argue, was a result of the displacement of industrial by immaterial labor as the hegemonic form of economic production in the late 20th century (p. 108). In contrast to industrial modes of labor, which culminate in the fabrication of the material good, immaterial economic activity realizes intangible products including cooperation, relationality, and, ultimately, social life itself (pp. 108-110). It is thus that the role of affect and communication in stimulating circuits of economic production and consumption shifts from a process facilitating physical manufacture to the primary unit of exchange (p. 114).

Hardt and Negri emphasize that this “informationalization” of the economy is not necessarily expressed quantitatively (in that the products created within many industries remain physical), but rather constitutes a *qualitative* reconfiguration of economic and political structures insofar as the logics of immaterial production have progressively permeated a vast array of social domains. It is precisely by means of this transformation, Hardt and Negri contend, that the collapse of previously rigid distinctions between economic, political, social, and cultural loci of activity becomes actualized (Hardt and Negri 2004: p. 109; p. 334). Because under such conditions of ontological ambiguity all of social life is generated through the economic behavior of the collective, the state must reign not through the conventional tactics of exclusion of select constituents but rather via the induction of consensual submission among the population. Through posing a direct threat to the maintenance of social relations, then, interference with economic production constitutes an act of radical subversion of the hegemonic political order (pp. 333-336). Viewed in light of Hardt and Negri’s theoretical apparatus, the temporal and spatial locations of the Aum Shinrikyō gas attack come to accumulate connotations not otherwise immediately apparent; the staging of Asahara’s vision during a Monday morning rush hour within the bustling spaces of the busiest train cars in Tokyo suggest its significance as a literal and metaphorical sabotage of the productive processes of the Japanese capital city and, thus, of the ongoing sociopolitical construction of the nation broadly conceived. The catalyzing sentiment of disenchantment with the financial and cultural atmospheres of late 20th century Japan harbored by the primary assailants is suggested in the following statement, articulated by Tokyo University professor of environmental studies Mayumi Fukunaga within the context of an interview with The Japan Times:

‘Aum was a place for dissatisfied young elites, who saw the bubble economy as superficial consumption,’ she explains. ‘Aum followers had seen the failure of leftist movements, but still wanted social reforms. At the same time, they knew they’d never enjoy the rewards of the bubble’ (Japan Times 1: p. 3).

It is clear from this statement, as corroborated by the accounts provided in Murakami’s *Underground*, that the impetus of the gas attack was not solely religious in character but also entailed a reaction to the economic climate of recessionary Japan through an assault on its labor force.

The situation of the event within the train car interior is notable not only for the structure’s association with capitalist productivity, but also for its status as a space that facilitates the simultaneous exposure and enclosure of the human multitude. In *Discipline and Punish*, Michel Foucault traces the historical development of penal systems and surveillance techniques within European and American sociopolitical formations, demonstrating that the exercise of state power over the bodies and psyches of citizens is at any given historical moment at once constrained and facilitated by underlying epistemological schemata. Namely, his analysis focuses on two successive eras, characterized respectively by “sovereign” and “disciplinary” approaches to legality and crime. The prior mode of governance, which reached its peak in the 17th and 18th centuries, was characterized by the concentration of power in the figure of the monarch, particularly as exhibited through ostentatious displays of physical force in the form of public torture and execution; the late 18th century signaled a shift to “disciplinary” styles of penalty in which power became dispersed throughout the social body as a network of relations. Within the disciplinary regime, the targets of power shifted from material to immaterial aspects of the citizen, and influence came to be exerted through the subtler means of containment and surveillance

(Foucault 1977: pp. 3-27). According to Foucault, the dual strategies employed in maintaining order within and among the governed population correspond to two respective architectural exemplars: the “blockade,” an impermeable structure designed to isolate individuals and facilitate the negative functions of temporal suspension and communicative arrest; and the reconnaissance tower, the prime mechanism of which is the constant monitoring of citizens in an effort to render the operations of power increasingly mobile, omnipresent, and invisible (p. 209). These spatial figurations of discipline were united in the panopticon, a hypothetical ideal prison composed of a watchtower surrounded by a concentric ring of cells, allowing the centrally-located commanding entity to observe all inmates simultaneously and ultimately to exert social force through cultivating among occupants the impression of perpetual surveillance (pp. 207-208).

In the enormously influential “Postscript on the Societies of Control,” Gilles Deleuze extends Foucault’s model of juridical power to argue that a further social transformation occurred approximately at the end of the 20th century. This systemic alteration was defined most notably by a crisis in relation to the environments of enclosure described by Foucault as paradigmatic of the disciplinary mode of governmentality. Accordingly, the quintessentially disciplinary institutions of the prison, the hospital, the factory, and the school gradually came to be replaced in their centrality to the operations of power by less bounded and internally-oriented apparatuses of sociopolitical management. This emergent formation, referred to by Deleuze as “control society,” functioned through pervasive and continuous mechanisms of behavioral regulation, particularly as embodied by the global corporation. Control society was thus characterized by a progressive permeation of business and marketing logics into everyday life (Deleuze 1992: pp. 3-6).

According to both Foucault and Deleuze, the cognitive bases for each distinctive mode of governance contributed to the production of particular forms of subjectivity (Foucault 1977: pp. 251-252; Deleuze 1992: p. 5). Whereas the exemplary disciplinary subject is crystallized in the figure of the “delinquent,” the habitual criminal whose potential future offenses must be anticipated through biographical reconstruction of the individual’s past and thereafter constrained through spatial enclosure (Foucault 1977: pp. 251-252), the archetypal subject of control society is the *dividual*, the model consumer whose perpetually fluctuating product preferences are manipulated by marketing strategies, the ultimate goal of which is the imposition and leveraging of debt (Deleuze 1992: pp. 5-7). Foucault identifies, additionally, a transformation in the *collective* subject as produced and administered by the state: while sovereignty conceives of citizens as a homogeneous mass, disciplinary power manages the population as a “multitude,” or multiplicity of unique entities, a trend that becomes increasingly exaggerated as the period progresses and wanes (Foucault 1977: p. 184). As emphasized by Jasbir Puar, the periodization frameworks postulated by Foucault and elaborated by Deleuze must not be interpreted as suggesting a wholesale replacement of one epochal epistemology by its historical successor; rather, each era retains remnants of those that preceded it and, in many cases, constitutes an exaggeration of its core rationale (Puar 2017: p. 123; Foucault 1977: p. 114). For this reason, the Tokyo railway network and the spaces of the station and train car it contains can be viewed as exhibiting qualities of both disciplinary and control modes of governmentality.

Michael Fisch characterizes the Japanese metropolitan train system as a prototypical site of the production of the multitude and the degradation of the separation between singularity and plurality it embodies. In its status as a “non-place,” or space that resists categorization according to classical ethnographic criteria, this transportation complex generates “fluid and indeterminate collectives of intensely networked yet highly atomized solitudes” (Fisch 2018: p. 126). The Tokyo subway network establishes and maintains its liminal position in part through the interpenetration

of production and consumption processes it facilitates; while conveying passengers to and from their places of work, in effect diffusing the limits of the office to include locations dispersed throughout the urban environment, the commuter train system encourages passengers to purchase goods from ubiquitous storefronts and vending machines using the Super Urban Intelligence Card (SUICA), a prepaid public transportation fare pass. In the process, the SUICA system tracks commuter movement and consumption patterns using a centralized digital database (pp. 112-115), thereby converting the subject into the ideal Deleuzian “dividual.”

The increasing decorporealization and segmentation of social life accompanying the shifts described by Foucault and Deleuze result in a transfiguration of the body into a virtual object of knowledge, an intervention depicted by Foucault as a hallmark of the transition from sovereign to disciplinary modes of governance (Foucault 1977: pp. 28-30). Similarly, in alignment with Hardt and Negri’s identification of informationalization processes as definitive of late 20th century sociopolitical development (Hardt & Negri 2004: p. 108), central to Deleuze’s conceptualization of control society is an intensification of the logics of dematerialization, particularly as evidenced by the supersession of the factory by the corporation as the chief domain of economic activity (Deleuze 1992: pp. 3-5). Deleuze describes the corporation, the emblematic institution of control society, as “gaseous” in its ubiquitous, adaptable, and diffuse character (p. 4). Whereas the disciplinary state imposes order upon its population through the mechanisms of seclusion and spatiotemporal fixation, control society manipulates its subjects through the facilitation of mobility and crowding (pp. 4-5). Within such a schema, the train, with its modular structure and congested interiors, may be conceived as having supplanted the prison of disciplinary society as the prototypical environment of crowd control through population corralling (Brighenti 2014: pp. 12-13).

Deleuze’s metaphorical employment of the image of vapor in discussing the fundamental features of control society resonates with the central argument of Sloterdijk’s *Terror from the Air*, according to which the “atmosphere,” or latent conditions of social and biological existence, came to be centered as the primary object of epistemological reflection and political action in the mid-20th century (Sloterdijk 2009: p. 92). This “age of explication” inaugurated a shift in the target of military strategy from the human body to its environment (p. 14). Accordingly, the directly causal orientation of “classical warfare,” which distinguished the enemy body as the target of attack, was displaced by indirect attrition of enemy troops through the staging of assault on their atmospheric milieu (p. 16); within such a strategy, the emergent logics of terrorism, design, and ecological awareness became linked through the weaponization of the enemy’s respiratory processes. This approach thus signaled a reconfiguration of the subject, primarily through the exploitation of its automatic functions and the conceptual situating of the human in relation to its surrounding ecology (pp. 22-23). Within the atmospheric regime, the “Other” came to be constituted in its innate vulnerability, as it was precisely its biological needs that led to its ultimate destruction (p. 99). Chemical warfare thus resulted in a multiplication the subject, now extended to encompass the body, its surrounding respiratory economy, and the relation between the two (p. 98). Within such a context, the target of assault simultaneously assumed the contradictory roles of victim and accomplice in its own annihilation, as through respiratory circulation it was “...forced to participate in the obliteration of [its] own life” (p. 23). The environment underwent a similar splintering of identity in serving as both the weapon, or instrument by means of which violence was enacted, and battlefield, the spatial site of combat. Similarly, the utilization of the atmosphere as the medium of attack troubled the distinctions between the ally-enemy and combatant-civilian

dyads, as all, regardless of national affinity and military status, were equally susceptible to airborne toxicity (pp. 78; 101).

The mutual susceptibility of all parties involved in and proximate to practices and processes of chemical warfare is evident in the affliction of several Tokyo subway gas attack perpetrators with symptoms of sarin poisoning following the implementation of Asahara's plan. Sarin's nebulous constellation of potent chemical properties contribute to its status as an ideal manifestation of gas, the exemplary substance of both Deleuzian control society and Sloterdijk's notion of the atmospheric epistemology. Despite posing significant challenges to human sensory detection due to its nearly absolute lack of odor and color coupled with its ability to rapidly convert from liquid to gas states, sarin is extremely toxic, potentially inducing immediate death when aspirated even in low concentrations.

The indeterminate nature of the chemical's material features and contamination mechanisms is manifested also in the presentation of sarin exposure symptoms, which range widely in severity, character, and corporeal region of expression. Due to the nerve gas's action on several distinct major body systems, signs of sarin contamination vary from mild coughing and pupil constriction to kidney damage and, ultimately, lung paralysis-induced fatality. Severe lifelong cognitive and physical disabilities can also occur, as in the case of 31-year-old Shizuko Akashi, one of Murakami's interlocutors who suffered permanent loss of long-term memory and speech capacity in addition to limb paralysis as a result of sarin exposure while en route to visit her sister (p. 98). This scenario is illustrative of Jasbir Puar's conceptual reconfiguration of disability as debility, according to which political authority and military force are wielded not through the traditional mechanism of genocide but rather by means of the counterintuitive maintenance of states of medically compromised existence (Puar 2017: pp. xiii-xv). Invoking Lauren Berlant's theorizations of temporality and neoliberal violence and the Foucauldian formulation of biopolitics, Puar discusses the state's infliction of debility upon its citizens and adversaries alike as a method of exercising authority through exacerbating ontological vulnerability and fostering financial dependence. In failing to respond to the Aum crisis in a timely and efficient manner, the Japanese medical-industrial complex extended the duration of the incident's biological wearing-down of the population in the quotidian process of reproducing the economic life of the nation, effectively blurring the categories of past and future, health and illness, structure and event, and life and death (pp. 12-14).

III. The Media-Consuming Public: Trauma, Memory, Mediation

On July 26, 2018, approximately three weeks after the deaths of Shōkō Asahara and six Aum devotees implicated in the 1995 Tokyo gas attack, news media outlets announced that the final six perpetrators awaiting capital punishment were hanged. The poetic symmetry of this event, occurring over two decades following the sarin incident, is undeniable: the death tolls of the attack and the executions total 13 in each case. Reports speculate that the timing of the executions reflects an attempt of the Japanese Justice Ministry to conclusively punctuate the crime that came to define the Heisei period in the national consciousness by the formal end of the era in the spring of 2020 (Murakami, Sakura 26 July 2018: p. 2). Considering that records of death penalty implementation were made accessible to civilians only in 1998 (p. 2), the ubiquity of public conversation regarding the symbolic closure of the event is striking. Why was the mediation of the episode and its aftermath so resonant in the collective imagination?

Relevant to this question are concepts introduced in the seminal article "Mourning and Melancholia," in which Freud analyzes at length the relation between productive and pathological

intrapsychic responses to scenarios of traumatic loss. According to Freud, the sudden absence of a cathected object is typically internally reconciled through the act of grief; it is only through engagement in processes and practices of mourning that the bereft is able to recognize and psychologically integrate the irretrievable status of the erotic entity while maintaining the integrity of the ego and preserving the capacity for affective investment in alternative objects of desire (Freud 1975: pp. 243-245). The eventual overcoming of the initial disturbance provoked by the loss in this manner is precluded, however, by the appearance of melancholia, a subject-object relation in which the psyche has become incapable of accepting the permanence of the absence. While scenarios of mourning and melancholia both entail the consumption of the psyche with mental fixation upon the missing entity, in the case of the latter the psychic subject and its libidinal object become mutually intertwined to the point of virtual indistinction; it is thus that "...object loss [is] transformed into ego loss" (p. 248). Because feelings of love are, according to Freudian psychoanalytic notions of the innate ambivalence of affective relationships, inevitably accompanied by those of resentment, the identification of the ego with the abandoned object generates an attitude of self-reproach manifested in both internal dialogue and outward articulation; in short, sadistic tendencies that necessarily emerge in conjunction with those of care become directed toward the self (pp. 250-251). Melancholia thus constitutes a regression from external object attachment to originary narcissism, the primal foundation of human psychic life (p. 249), as it is only through the wholesale internalization of erotic investment that the cherished attachment to the lost object can be preserved:

[Melancholia] consists in the threatened libidinal cathexis at length abandoning the object, only, however, to draw back to the place of ego from which it had proceeded. So by taking flight into the ego, love escapes extinction (Freud 1975: p. 257).

While processes of mourning ultimately function to facilitate the acknowledgment of loss required to retract affective ties to the object, thereby restoring the capacity of the individual for subsequent emotional attachment, implicated in the melancholic position is an inability to recognize and internally assimilate the traumatic disappearance of the cathected entity.

In this work, Freud stipulates that the potential object of mourning is not in every case a personified being but may also be an "abstraction...such as one's country, liberty, an ideal, and so on" (Freud 1975: p. 243). In the wake of the Tokyo gas attack, the entities grieved by the Japanese public included not only those lives claimed and compromised by sarin poisoning, but also the collective sense of safety and security threatened by the emergent awareness of the precarity of the public sphere and, by extension, Japanese national identity broadly. As previously discussed, the Aum Shinrikyō gas attack simultaneously signified and activated latent anxieties regarding ontological and financial stability in the economic and sociocultural ecologies of post-recessionary Japan, characterized by the fraying of infrastructures designed to facilitate job security, reliable social welfare programs, and the nuclear family system (Allison 2014: pp. 3, 25-30). Testimonies provided in Murakami's *Underground* suggest that the Aum gas attack came to accrue such magnitude of meaning due to the visceral challenge it posed to the then-dominant notion of Japan as a bastion of individual flourishing and public safety. Not only did many Aum followers identify economic alienation due to difficulties faced in securing stable and satisfying employment as a primary motive in religious conversion (Murakami 2001: pp. 10, 143-144, 252, 266, 278), but gas attack victims attribute experiences of severe shock in response to the incident to their pre-existing perceptions of daily life in Japan as exceptionally devoid of violent crime (pp. 49, 115, 131, 136,

140). Two victims of the attack compare the rates of “terrorist” activity in Japan to those of other countries in the following observations:

...while I was in South America I was invited out to karaoke by someone from the Japanese Embassy in Colombia, then almost went back the next day to the same place, but I said, ‘No, let’s try somewhere new.’ And that very day, the place got bombed. I remember thinking when I got back home, ‘At least Japan’s a safe place,’ and the next day I go to work and the gas attack happens. What a joke. But seriously, when I’m in South America or Southeast Asia, death is never far away. Accidents are commonplace to them, not like in Japan (Murakami 2001: p. 49).

To be honest, I didn’t believe it was really sarin. I thought it was probably some other toxin. I just couldn’t see anyone being able to produce chemical weapons in Japan...In Europe terrorism is more frequent, if not exactly common-place, but Japan up to now has had almost nothing like that. I studied overseas in France for a while and all the time I was there I remember thinking, ‘I’m so glad Japan’s a safe place.’ Everyone said so: ‘We envy you Japan’s safety record.’ And then to come home and straightaway this happens! Not only random terrorism, but with a chemical weapon like sarin—it was a double shock (Murakami 2001: pp. 130-131).

The Tokyo gas attack thus staged a shattering of the illusion of incomparable security at the heart of hegemonic constructions of national identity. “Everything I’d believed up until then just crumbled,” recounts a female Marunouchi line passenger, “From that moment on it was total chaos” (p. 115).

The mass mediation of the executions of Asahara and his followers via pervasive news outlet reporting of the event constituted a resuscitation of conscious contemplation of the Aum incident and an attempt at psychically metabolizing the unresolved trauma associated with the tragedy. The continued psychological and symbolic resonance of the assault among the news media-consuming public reflects sustained attachment to the human lives and aspects of Japanese society and culture that were threatened by the attack, suggesting the persistence of a melancholic stance toward the material and metaphoric losses resulting from the incident even over two decades following its initial occurrence. The “period of critical inquiry into the very roots of the Japanese state” (Murakami 2001: p. 237) asserted by Murakami as having been inaugurated by the gas attack thus signifies a narcissistic turn in the collective consciousness as the sole means of preserving affective investment in that which was destroyed by the event, in alignment with Freud’s claim that “...[only] by taking flight into the ego [does] love escape extinction” (Freud 1975: p. 257).

The abundant news coverage of the executions in the summer of 2018 additionally constitutes a rhetorical return to the scene of the original attack in an effort of establishing intellectual mastery over the trauma it occasioned. In “Beyond the Pleasure Principle,” Freud identifies in patients who suffer from recurring nightmares of disturbing life experiences an exception to the foundational psychoanalytic notion of dreams as mechanisms of wish-fulfillment; contrary to the Freudian principle of pleasure maximization as a fundamental drive of the human psyche, such scenarios function as a means of rendering intelligible otherwise incomprehensible situations through staging a revival of the trauma in question, thereby facilitating retrospective understanding and ownership of it (Freud 1961: pp. 36-39).

Expounding upon this observation, Cathy Caruth argues that the subject is inherently incapable of psychically processing a lived traumatic event in real time due to the overwhelming of the sensorium by the shock response it triggers. Because of its always already forgotten status, the episode can only be experienced by the victim belatedly, through the imagistic representations of the crisis provided by recurring dreams, hallucinations, and automatic thoughts (Caruth 1995: pp. 6-11). Within the schema of traumatic response postulated by Freud and elaborated by Caruth, the televisual recounting of the event and the executions of its assailants fulfills the functions of these coping mechanisms in enabling a return to the scene of disaster otherwise inaccessible to those who suffered its losses and ultimately facilitating psychological possession of the trauma through narrative reconstruction. In alignment with the concept of mediation and delay as necessary preconditions for the intrapsychic assimilation of trauma, many of those interviewed by Murakami recall having acquired the capacity to recognize the significance and implications of the incident only after consuming news accounts of it (Murakami 2001: pp. 43, 90, 115, 181).

Conversely, another sarin-afflicted train car passenger likens his perception of the attack, in its surreal quality and lack of a sense of immediacy, to the passive activity of viewing a television show:

Oddly enough I didn't feel any sense of crisis...I'd been right at the epicenter, but instead of shuddering at the death toll, I felt like I was watching a program on TV (Murakami 2001: p. 65).

The uncanny sensation of the convergence of experience and representation pervasive among the Japanese population as an outcome of the incident is expressed also in the testimony of Yoshiko Wada, a young woman grieving the death of her husband due to the actions initiated by Asahara:

Even after he died I'd think, 'Ah, he's off again on one of his trips.'...I'd wake up in the morning and think, 'He's away,' but then I'd see his picture on the altar. Some part of me still couldn't accept what happened. I seemed to be living a mixture of reality and fantasy (Murakami 2001: p. 199).

Subsequently, Wada describes the experience of viewing home video footage of her husband filmed during their honeymoon as simultaneously maintaining the illusion of his continued corporeal existence and reminding her of his permanent absence, poignantly illustrating Caruth's notion of the ontological uncertainty, temporal lag, and "crisis of truth" posed by the traumatic encounter (Caruth 1995: p. 6).

Within the purview of the Aum Shinrikyō incident such a crisis occurred, additionally, in the response of the state in sentencing the 13 primary assailants to death; during the 23 years leading to their executions, Asahara and his accomplices stood as public personifications of the suspension of binary logics in the interface between life and law. As discussed by Murakami, a variety of news articles and segments concerning the episode and its aftereffects suggest that the Japanese citizenry largely supported the death penalty in the cases of the Aum Shinrikyō assailants (Murakami 2001: pp. 18, 29, 83, 116, 126, 182, 201; Murakami, Sakura 26 July 2018: p. 3). Many of Murakami's interlocutors, most notably family members of victims of the attack, express rage at the unnecessary acts of violence committed by members of the religious organization and a longing for vengeance against the perpetrators, as reflected in the harrowing statement provided by Yoshiko Wada:

What possible reason was there to kill my husband? What am I supposed to do with this emptiness now that our future's been destroyed? I'd like to kill Asahara with my own two hands. If it were allowed, I'd like to kill him slowly and painfully (Murakami 2001: p. 201).

Even Murakami himself, an otherwise ardent opponent of capital punishment, articulated rhetorical defense of the state-exacted deaths in an editorial article published in the *Mainichi Shinbun* three days after the hangings of the final six culprits. Referring to the research he conducted in compiling the material for *Underground*, Murakami argues that while "...the death penalty, literally, can be described as an institution with fatal dangers...as someone who interviewed those who suffered or lost loved ones in the sarin gas attack on Tokyo's subway system...I cannot publicly state, as far as this case is concerned, 'I am opposed to the death penalty.'" (Murakami 29 July 2018: p. 1). As discussed in interviews with the influential novelist documented in other publications (Flood 26 June 2009: p. 2), the sentiment of apprehensive agreement with the sentence received by the religious leader and his conspirators demonstrated here was motivated principally by sympathy for and solidarity with the reactions of survivors and loved ones of those lost in the attack left reeling in its wake. Murakami contends that the feelings of the bereaved were critical, additionally, in informing the decisions of jurors and presiding judge Kiyoshi Kimura as to the ultimate treatment of the defendants (Murakami 29 July 2018: pp. 2-3); Murakami's account thus suggests that affect occupied a central position in influencing both public opinion and judicial outcomes in the aftermath of the event.

In elaborating his conceptualization of the unprecedented significance of the environment, or "atmosphere," in the functioning of contemporary society, Peter Sloterdijk attributes the transmission of affect in such a manner to the reverberations and amplifications of public sentiment facilitated by mass media messaging (Sloterdijk 2009: pp. 100-103). Emphasizing again the "somnolent" character of the crowd formation in alignment with theories of group psychology advanced by Tarde, Le Bon, and Freud, Sloterdijk suggests that the broad diffusion of particular viewpoints via technologies of mass communication beginning in the early 20th century, most notably those of radio broadcasting and the daily print periodical, produced a discursive feedback loop phenomenon characterized by the circular fabrication, reinforcement, and perpetuation of a singular hegemonic perspective among the population. The strategic use of media in shaping consensus to support the state's political agendas and ultimately realize material effects, described by Sloterdijk as the "informational analogue to chemical warfare" (p. 103), is reflective of the 20th and 21st-century trend of the breakdown of division between the domains of latent and manifest, normal and exceptional, and structure and event in social and cultural life. It is according to such logics of atmospheric sociality that entire populations are unified and mobilized by shared sentiment to act in opposition to a perceived common threat (p. 101), as illustrated in the case of the Japanese public's broad support of the executions of the Aum gas attack perpetrators. While the perspectives of the victims and survivors of the deceased must be sympathetically considered, critical engagement with the role of television and print news media in manipulating public opinion and perhaps influencing sentencing decisions is additionally necessary in light of the increasing interpenetration of social, cultural, and political spheres of thought and action throughout the last century.

IV. Coda

In *Multidirectional Memory*, Michael Rothberg analyzes the relationship between collective remembrance, cultural identity, and political violence in the retrospective production of historical acts of mass genocide, advocating for the conceptualization of memory as a process of discursive negotiation between subjects and spaces across time (Rothberg 2009: pp. 3-5). Vital to Rothberg's construction of memorial as conversational and collaborative in nature is the Freudian concept of "screen memory," according to which traumatic events are connected in a network of symbolic affinity. The consciously engaged phenomenon, Rothberg contends in accordance with Freud, commonly obscures a more distressing past experience; it thus functions to allow the grieving party to reconcile a related trauma otherwise too disturbing to confront explicitly for fear of the overwhelming of the ego by its intrapsychic gravity.

The application of this concept to the mass mediation of the occurrences associated with the Aum Shinrikyō incident opens the following inquiry: what phenomenon might the Tokyo gas attack and the executions of its assailants over two decades later have served to obfuscate in the domain of the collective unconscious? While only inconclusive speculation is possible in responding to this question, the relation of this constellation of events to the yet-unresolved Fukushima nuclear reactor cataclysm resulting from the 2011 Great Northeast Japan Earthquake would prove fruitful as a topic for future exploration. "This is a first in medical history, so that does leave uncertainties," explained one of Murakami's interviewees with regard to the sarin attack's potential medical and scientific implications; likewise, in comparing the 1995 Aum catastrophe to the massive earthquake in Kobe that occurred in the same year, Murakami observes that in both cases, the ensuing "...confusion was compounded by the fact that no one could pinpoint the sources of the violence. In this sense—having nowhere to direct their anger and hatred—the gas attack and the earthquake bear a striking formal resemblance" (Murakami 2001: p. 237).

The pending situation in Fukushima, in which a structurally compromised nuclear reactor has been leaking radioactive pollutants into the surrounding ecology for almost a decade, additionally bears implicit parallels to the sarin incident in the ambiguous nature of both the mechanism of transmission of and set of symptoms indicating its toxic effects. The nuclear disaster and the subway assault, then, might be imagined as adjacent nodes in an "associative chain" linked through their undetectable character and atmospheric modes of operation. As in the cases of love and loss, the crowd and the crisis, and trauma and terrorism, the Tokyo gas attack irreparably unsettled the boundaries between reality and fantasy, past and present, and life and death, challenging the very foundations of social and affective life in the wake of psychic disturbance.

Chapter 4 (A/Objectification)

Captive Bodies: A Diaristic Case Study of an Unconvicted Detainee

I was backed up against the far wall of a cramped room, encircled by an arc of unreciprocated stares. Although my own field of vision had been blotted out by the sudden flash of the tripod-docked camera in front of me, the piercing intensity of the officers' gazes continued boring into my skin. With the return of my sight came the realization that the six uniformed men had moved from their formerly static positions and were now orbiting around me, one scrawling on a clipboard while the others pointed to segments of my naked body, presumably directing the scribe's attention to any distinguishing markings to be recorded in my case file. The man with the clipboard, who was visibly older than the others, looked at me and said something whose meaning I was unable to decipher—I had taken two terms of elementary Japanese language coursework prior to my arrival in the country a few months prior, but could still barely follow even everyday small-talk. As I scrambled to cover my genitals, wincing at the dual shames of nudity and ignorance, I felt the graze of a finger on my upper back—the officer behind me, now addressing the other onlookers, must have been making note of the tattoo that resided there. Another then grasped my biceps, pulling my arms to my sides while pivoting my body to face the wall, and the flash of the camera exploded once again. Amidst the strobing light and the white noise of overlapping conversation, yet another pair of hands appeared from behind me, applying pressure to my hips to return my body to its original position. As I momentarily locked eyes with the officer now directly in front of me, he extended his hand and began prodding my crotch; a bi-syllabic exclamation blurted from among the audience in response prompted a chorus of laughter.

Having thusly completed the fingerprinting, strip search,⁶⁹ and mugshot processes, it seemed that I might finally be allowed to sleep. My suspicion was all but confirmed when the older man set down his writing implements and draped a beige wool blanket over my bare shoulders. Instead of leading me into the police station detention wing as I expected, however, he ushered me into an adjoining room and gestured for me to take a seat opposite him at the desk in its center. As he addressed me in still-incomprehensible but palpably stern Japanese, two younger officers, each holding a large plastic bin with latex-gloved hands, appeared in the doorway behind me. Both bowed deeply upon entering the office, I noted internally, speculating on the basis of their stiff comportment that the man sitting across from me must be of high rank. The junior officers then placed the bins on either side of the desk, one of them exiting the room as the other assumed a standing position to the right of the superior. The man looked across the desk at me and began speaking:

“My name is Takahashi, and I am the chief of this police station. As I understand, you were arrested around two hours ago. You will be detained in this station shortly, but we must first finish your intake by taking inventory of the personal belongings found in your vehicle.”

⁶⁹ I would be subjected to regular body searches throughout my period of detention. Miyazawa notes that rigorous strip and genital searches are common within the system regardless of the genders of the officers and inmates involved. For example, a female suspect in a fraud case who was ultimately released without indictment was “stripped naked, subjected twice to a genital search, and forced to urinate while male police officers watched” (Miyazawa 1992: pp. 2-3).

I was shocked speechless—the words were delivered in stilted but impeccable English. While tempted to ask him for further detail about the circumstances of my arrest and the procedure to follow, I curtailed my response:

“I need to speak to a lawyer.”

“The American Consulate in Tokyo has been informed of your arrest and will visit you tomorrow,” he proceeded. “You can ask them about a lawyer at that time. Now, we just need your cooperation in completing your admission paperwork.”

“I need to speak to a lawyer,” I repeated.

“Okay, let me just say this: we’re required to make a list of the belongings found on your body and in your car at the time of arrest, and this must be done in your presence. You will be asked to confirm the contents of the list once it has been completed.”

The younger officer, a thin man who appeared to be in his early 20s, proceeded to unload the contents of the basket to the right of Takahashi one by one, offering a brief description of each item before folding it neatly and placing it in a large plastic bag:

“One pair of black underwear...one pair of black slacks... one black leather belt...one white dress shirt...one black blazer...one grey wool coat...”

Although I surprisingly understood most of his words—articles of clothing were apparently among the limited vocabulary I had retained from my study of the language the previous year—Takahashi translated each aloud before writing it in Japanese on the gridded form in front of him. After emptying the first bin, the younger officer proceeded with the other, once again describing each item before placing it a second plastic bag:

“One A4 notebook...one pack of Marlboro Light cigarettes...one pack of Clorets-brand mint chewing gum...one binder of printed documents...one book with the title *Anna Karenina*...”

The police here were efficient, I thought—they had apparently already searched and emptied my car. Upon reaching the final item, a nylon laptop bag that was sitting on the floor of the front passenger seat, the younger officer began unloading and articulating its respective contents: my computer, another partially filled notebook, a presentation handout distributed during one of the work meetings I had attended earlier that day, a canvas pencil case, several pens, and...*two small prescription bottles*. Takahashi read aloud the labels in their original English before translating their contents into Japanese at the bottom of the form:

“Zyrtec 10 milligrams: For seasonal allergy prevention, take one tablet per day. Ativan 0.5 milligrams: Take one to four tablets as needed for acute anxiety.”

I momentarily panicked—I had heard horror stories of Americans being imprisoned upon entering the country for as little as packing over-the-counter cough syrup in their carry-on—but reminded myself that I had confirmed the legality of my medications with my local Japanese embassy several times before my departure. I exhaled with relief as the younger officer placed the bottles side-by-side in a smaller ziplock. He then opened and reached into the front pocket of my laptop bag, withdrawing the last item to be catalogued: a black lacquer case approximate in size to a tube of lipstick. He unlatched the clasp, revealing the red velvet-lined interior, and held up the bamboo dowel it contained. This was my *hanko*, a personal seal used to verify identity and authorize monetary transactions and contractual agreements in Japan, serving a function similar to that of the signature in the United States. Glancing at the object, I was struck by a flash of memory dating from my first day of work in the country, when a teaching colleague had helped me in obtaining and registering it. Upon opening the case to examine its contents in the store parking lot, Sakai-sensei and I both laughed out loud—due to a paperwork mishap, my *hanko* had been

imprinted with my first name rather than my surname, as convention dictated. Given that Sakai had been arrested and detained a few days later, I wondered if I might be seeing him shortly.

“One *hanko* and case,” Chief Takahashi said as he wrote the Japanese at the bottom of the list. “This concludes our inventory. You will be allowed to wear your underwear, socks, pants, and shirt until you can get clean clothing, and your medications will be set aside for administration by facility staff, but all other items will be held in a locker here at the station until your release. Now, we need you to confirm that you witnessed the creation of the list, verify that these are indeed your belongings, and formally consent to the confiscation of these items—excepting the articles of clothing and medications just mentioned—until further notice.”

The junior officer pointed to a postage stamp-sized empty square at the bottom of the document—the space reserved for impression of the signer’s personal seal—and presented me with an ink pad. Following his cues, I extended my hand to tacitly request my *hanko*; instead of passing me the case, however, he rotated my palm to face the surface of the desk.

“Like I said, your *hanko* has been confiscated and will be returned to you upon release,” Takahashi interjected.

“Can I have a pen, then?” I asked, breaking my silence in my state of puzzlement. I had indeed encountered situations in which signature was accepted as a substitute for *hanko* impression, a concession occasionally offered to foreigners who didn’t yet own a personal seal, but I wondered why an ink pad would have been provided if this was the case.

“Inside the facility, you will use your finger,” he said before addressing his subordinate in curt Japanese.

Responding to the apparent directive, the junior officer pressed my right index finger into the pad and onto the box below the inventory grid, leaving a black whorl inside its borders.

“Thank you for your cooperation,” Takahashi said conclusively, punctuating the final words he would ever speak to me by abruptly pulling the document from under my hand and depositing it in a dark green cardstock folder. As his subordinate led me back into the photography room, Takahashi’s eyes remained locked on his desk.

By the time I arrived in my cell, I was so exhausted from the several-hour intake process that my panic was eclipsed by sheer relief. One question lingered, however: *why had I been required to authorize the inventory form with my fingerprint instead of my hanko or signature?* Perhaps the substitution was motivated by safety concerns—after all, a pen could function as a shank with little to no modification, and I supposed that the wood, plastic, or ivory of a personal seal might be splintered or whittled into a point to serve a similar purpose. Alternatively, I speculated, maybe it was intended to maximize logistical efficiency by sparing officers the burden of retrieving an additional implement every time an inmate was asked to complete a form. Despite its initial impact, the peculiarity of the convention would recede further and further from view with each of the countless additional documents I “signed” in this manner, soon entirely fading into the mundane rhythms of daily routine. The significance of the practice has revealed itself retrospectively, however: the replacement of the *hanko* with the fingerprint upon arrest serves as consolidated expression of the various subjective transformations experienced by the suspect as they cross the threshold from civilian life into the marginal microcosm of the pre-judicial detention system. The practice thus functions as the first of many institutional practices and protocols (including living conditions, daily routines, and interpersonal interactions) through which the unconvicted detainee is effectively stripped of social personhood, being thereby rendered at once purely corporeal and densely symbolic.

As previously mentioned, the *hanko* is a personal seal inscribed with one's name—typically centering the surname—that is registered with the national government as proof of individual identity;⁷⁰ as such, impression of the seal is required to authorize monetary transactions, finalize rental agreements, and provide consent to the terms of most other legally binding contracts in Japan. Because the *hanko* constitutes both a primary familial inheritance (in highlighting the surname) and a prerequisite to participation in public life (in mediating economic and other interpersonal exchanges and relations), I contend, confiscation of the personal seal upon detention facility intake performs a violent evacuation of social identity—and thus humanity—from the body of the suspect. The shift in subjectivity initiated by this gesture is thereafter rendered complete through the novel use of the fingerprint as the sole means of verifying physical presence and confirming legal consent across one's period of detention; the substitution of the material body (i.e., the finger) for the tool (i.e., the *hanko*) as such indexes the detainee's reduction to “bare life,” a purely biological entity deprived of personhood through the collective denial of recognition as such (Agamben 1998: pp. 2-29). Simultaneously, however, in so emphatically setting the arrestee apart from the mainstream social order, the practice invests the body of the criminal suspect with immense sociocultural meaning—primarily in the roles of transgressor, pariah, and scapegoat,⁷¹ overlapping archetypes that at once embody abject deviance and [re-]constitute the hegemonic political structure through their very exclusion *from* it (Agamben 1998: pp. 15-29; Agamben 2005: pp. 1-17; Comaroff 1987: pp. 302-304; Kristeva 1982: pp. 1-21). It is thus through the ritual of the *hanko* confiscation that the criminal suspect is severed from their former status as a “self” and inducted into a position of embodied paradox, perpetually skirting the boundaries between subject and object, human and [non-human] animal, public and private, and life and death thereafter. This psychosocial operation, to which I refer subsequently as “a/objectification” (a portmanteau of “abjection” and “objectification”), serves as the central thematic concern of and mode of state power explored in this chapter.

In the following pages I utilize the *hanko* confiscation scenario, my earliest experience of interpellation (Althusser 1971) into the role of criminal suspect in Japan, as a springboard in examining the constellation of routines, conditions, and relations that constitute daily life within the national unconvicted detention system. What set of circumstances comprise the quotidian existences of detainees awaiting sentencing in Japan, and how might these correspond to and diverge from those on public record?⁷² In elaborating upon this question, I intend to interrogate the various sociopolitical implications of Japanese criminal investigation and prosecution protocols. What broader cultural ideologies are reflected in the conventional treatment of unconvicted detainees in the country, and what social function might such treatment serve? This question leads into a deeper discussion of *informal* attitudes toward transgression and delinquency

⁷⁰ Japan has an extensive history of census record-keeping, and *hanko* registration has served a pivotal role in such processes since the Meiji era (1868-1912). The *tokō chōsa* (“household survey”) system, instated in 1874, mandated that local police maintain databases of information relevant to the population of their jurisdiction; within this system, residents were required to release personal information including vaccination status, criminal record, and genealogical descent. It was at this time that compulsory registration and use of the *hanko*, previously the reserve of landowners and other persons of relatively high social status, was generalized to encompass all persons and manners of everyday activity (Ames 1981: pp. 38-41).

⁷¹ The emergent statuses assigned to the arrestee are publicly circulated via news reporting, word of mouth, and other discursive mediums (Ames 1981: pp. 72-76; Ivy 1996: pp. 12-13; Miyazawa 1992: pp. 227-231). For more information on the role of Japanese news media in both penalizing criminal activity and shaping public perceptions *of* it, see Chapters 1 and 4.

⁷² “Public record,” here, refers to both domestic and foreign academic and news media sources.

in Japan.⁷³ How does the general public perceive and behave toward persons suspected, accused, and/or convicted of criminal offense? Relatedly, in what ways might popular (civilian) notions of crime and punishment align with or depart from those expressed in institutionally routinized approaches to law enforcement? Finally, I intend to explore the *intrapsychic* impacts of long-term unconvicted incarceration in Japan. What are the effects of endemic pre-judicial detention practices on the psyche of the arrestee, and how might exposure to such conditions shape the self-understanding of the criminal suspect?

As the reader might recall, the first two chapters of this text approach the topic of the Japanese unconvicted detention system from a systems-level perspective, with Chapter 1 attending to the statistical patterns and sociocultural specificities that constitute the broader context in which it is situated and Chapter 2 elucidating the various political histories and legal frameworks that intersect within it. Having thusly addressed the more macro-level dimensions of endemic criminal procedure across recent national history, I aim, here, to explore the *lived experience* of pre-judicial detention in early 21st-century Japan by offering a first-person case study based on my own encounter with the system. The scope of this chapter relative to the project as a whole is thus decidedly intimate and subjective, utilizing ethnographic genre conventions and anthropological modes of analysis to describe the conditions in which detainees are held prior to sentencing and to examine the various psychosocial shifts catalyzed therein. I must reiterate, here, that I am by no means claiming my own experience to be universally applicable; in fact, until embarking on this project several years ago, I presumed that the treatment I received while awaiting prosecution in Japan was inordinately punitive, speculatively due to my status as a foreigner. Soon after beginning ethnographic and archival research on this topic, however, I discovered that the set of circumstances I experienced are far more typical in the country than they are exceptional.

Section I of this chapter provides an overview of the daily schedule into which detainees are assimilated upon intake, followed by a brief synopsis of the various facility policies to which they must conform throughout their period of confinement; this content was copied almost wholesale from personal notebooks maintained throughout my own period of incarceration. Foundational context having been established as such, Section II presents the primary substance of this chapter: an ethnographic account of my own experience of the Japanese pre-trial detention system. As maintaining a sense of visceral immediacy throughout the narrative to follow is a foremost priority of this section, I present its contents in diary (first-person present-tense) format. This stylistic decision was initially inspired by the primary source material I referenced in reconstructing my case here: several journal volumes dating from my three-month period of confinement in the men's wing of a Kanto-region police station from 2009 to 2010. Although access to writing materials was severely constrained within the facility,⁷⁴ being limited to one to two hours per day, I discovered fairly soon after apprehension that fingernail scratches left a barely-visible impression on the concrete walls of my cell; I thus began using this method to record any important notes to myself (e.g., legal developments, facility policies, emergent issues to address with my lawyer and other visitors, etc.) to be copied onto paper during the next designated writing period. The diaries I maintained in this manner are thus quite exhaustive in reporting on the trajectory of my case, describing the specificities of daily life within the facility, recounting

⁷⁴ Access to reading materials was also very limited; although Japanese-language content was permissible, inmates were effectively prohibited from accessing books and other textual media written in non-Japanese languages. In conjunction with the general lack of activity (e.g., labor, exercise, etc.) that defined the day-to-day lifestyle, my inability to read was likely the most psychologically trying aspect of the pre-trial detention experience.

conversations taking place during each visit I received, and reflecting on the mental and physical health vicissitudes I experienced across my term of detention.

Although the scenarios described in the coming pages are derived directly from these personal records, I have applied minor revisions to their contents for the sake of grammatical and narrative cogency. I also utilized several other primary sources dating from the same period in the process of researching and writing this chapter, principally for purposes of confirming, contextualizing, and elaborating journal accounts. Supplementary texts consulted in this manner included legal notifications, court records, informational packets,⁷⁵ and letters sent to me by friends and family in the United States,⁷⁶ all of which I was careful to preserve across the intervening 15 years. Finally, informal interviews with key actors in my case (including the public defender who represented me in court, two local coworkers who visited me regularly during my term of detention, the teaching colleague who volunteered as my *hogosha* or guarantor following release, and the prefectural Board of Education staff member responsible for managing the fallout of my arrest) served to clarify the cultural, legal, and linguistic intricacies that came to bear on my experience of unconvicted detention in Japan.

I. Facility Schedule and Policies

In *Discipline and Punish*, Foucault observes that disciplinary institutions (e.g., schools, hospitals, military barracks, and, of course, carceral facilities) normalize the bodies they house largely through imposition and enforcement of “the timetable,” a daily routine that “...establishes rhythms, imposes particular occupations, and regulates cycles of repetition...” (Foucault 1975: pp 149); in conforming to such temporally regulated patterns of activity, subjects are rendered docile and thus easier to manage by their overseers. The police station detention facility in which I was detained for three months was certainly no exception to this trend, adhering to a rigid schedule into which all inmates were required to assimilate upon intake. Upon purchasing a notebook and pen from the facility commissary four days after apprehension, I recorded the institutional timetable, which proceeded daily (with the exception of activity “Smoking/Shaving Time,” which did not take place on weekends or holidays) as follows:

⁷⁵ “Informational packets,” here, refers primarily to written materials regarding Japanese criminal procedure and detention facility conditions delivered to me by a representative of the Tokyo United States Consulate shortly after my intake. My visit with this official is recounted in Chapter 2 of this text (on the history and structure of contemporary Japanese criminal procedure).

⁷⁶ In accordance with system policy, I was allowed to receive letters from outsiders while I was in pre-conviction detention; however, all letters had to include Japanese translations. Fortunately, a Japanese teaching colleague who was proficient in English (who would also serve as my *hogosha* or legal guarantor after conviction) volunteered to do this on my behalf. Thus, friends and family from my home country (the United States) began emailing him with letters that he printed, translated, and sent or delivered to the facility. Significantly, unconvicted detainees in Japan are typically *not* allowed to send letters or place phone calls themselves; Trial Support Group strategy thus often hinges on combatting the sense of isolation created by such conditions (Steinhoff 2014: pp. 25-28, 37-40).

Time	Activity	Description
7:00 AM	Wake-up	Bell rings over loudspeaker to wake all inmates; any inmate not promptly standing and facing cell entrance are verbally reprimanded by guards and subject to further discipline. Within the next 10 minutes, inmate must fold sleeping accoutrements (<i>futon</i> /sleeping pad, blanket, and pillow) in accordance with facility guidelines.
7:10 AM	<i>Futon</i> /Blanket/Pillow Removal	Staff appear at cell door to collect <i>futon</i> (sleeping pad), blanket, and pillow; provide inmate with damp washcloth, with which inmate is to wipe down cell floor, sink, and toilet.
7:30 AM	Body Search/Cell Inspection	Three staff return to cell, open entrance, and enter cell. Two officers conduct body search on inmate (inmate is usually partially clothed, but can be required to fully strip) while third guard inspects cell for contraband.
7:45 AM	Breakfast	One staff inserts breakfast <i>bentō</i> (meal box) into cell food slot; inmate must eat breakfast within 15 minutes. Breakfast is typically composed of two slices of white bread with one packet of fruit-flavored jelly, sometimes including the addition of a single-serving carton of whole milk.
8:00 AM	Morning Grooming	Toothbrush, toothpaste, and soap are inserted into cell food slot; inmate must brush teeth and wash face using cell sink. After completing routine, inmate must place grooming tools in cell food slot (to be collected by staff).
8:30 AM	Smoking/Shaving Time* *Activity limited to Monday through Friday on non-holidays; smoking and shaving not permitted on weekends and holidays.	Staff open cell entrances one at a time; gather and lead inmates of 12-cell wing into separate cell designated for purposes of smoking and shaving. Inmates allowed to shave over one of two plastic buckets half-filled water using one of two shared electric men's shavers. Inmates also permitted to smoke up to two cigarettes per day if they have purchased such from commissary. Talking is technically prohibited, but some staff allow minimal conversation. By 9:00, inmates must be returned to cells.
12:00 PM	Lunch	Staff inserts lunch <i>bentō</i> into cell food slot; inmate must each lunch within 30 minutes. Lunch is typically composed of rice, one small serving of meat, two small servings of vegetables, and <i>tsukemono</i> (Japanese pickles) in addition to one small cup of hot tea.
3:00 PM	Writing Time/Snack Time*	Staff allows inmate access to one book* or one notebook and pen (if purchased from commissary or delivered by visitor). Additionally, inmate allowed one single-serving snack item (if purchased from

		<p>commissary or delivered by visitor). Access to these items allowed for one hour per day.</p> <p>*Snacks must be purchased from commissary or delivered by a visitor; each inmate allowed access to one single-serving package per day.</p> <p>*Books and other reading materials written in languages other than Japanese were expressly prohibited within the facility. Exceptions were made only in the case of books written in a format in which the non-Japanese language appeared on one page and its Japanese translation on the opposite page.</p>
5:00 PM	Dinner	Staff inserts dinner <i>bentō</i> into cell food slot; inmate must eat dinner within 30 minutes. Dinner is typically composed of rice, one small serving of meat, two small servings of vegetables, and <i>tsukemono</i> (Japanese pickles) in addition to one small cup of hot tea.
8:00 PM	Bedtime/Medication Administration	Staff appears at cell door, providing inmate with folded and stacked <i>futon</i> (sleeping pad), pillow, and blanket; inmate must place sleeping accoutrements in cell and get into bed. At this time, staff administer daily medications to inmates prescribed them by the part-time facility doctor. Medications are delivered to residents in small paper cups; staff are required to inspect inmates' mouths to ensure they have swallowed medications immediately after administration.
9:00 PM	Lights Out	<p>Most cell overhead lights turned out, but hallway lights kept on.* Throughout the night, staff proceed through hallway in pairs to conduct visual inspections of cells every 10 minutes.</p> <p>*The lack of darkness in the facility rendered sleeping very difficult, particularly for my first few weeks of detention; thereafter, I learned that tying a tube sock around my head to cover my eyes served as a</p>
8:00 AM-5:00 PM (at detectives' discretion)	Interrogation	In the cases of inmates still completing the initial investigation process, interrogation sessions were conducted at detectives' discretion; in my case, these proceeded at a rate of two to eight hours per day Monday through Friday. If the inmate missed a meal during this time, they would be given it as soon as they were returned to their cell following questioning.

As demonstrated by this schedule, activities taking place in the facility were tightly regulated and limited to particular times of day. There were two crucial elements of daily life in detention that the timetable might fail to convey, however: firstly, the amount of idle time encountered by inmates; and secondly, the scarcity of contact between inmates. In short, while the routine described above might *appear* to be adequate in occupying residents' time and attention due to the number of activities it encompasses, beyond the conclusion of the 23-day initial investigation phase,⁷⁷ after which regular interrogation typically ceases, inmates spend a vast

⁷⁷ As mentioned in previous chapters, my initial interrogation phase did not conclude until the end of my fifth week in detention; this was due to the fact that I contracted H1N1 ("swine flu," in English vernacular) midway through my second week and was thus placed in quarantine, delaying interrogation for the number of days I was required to fully isolate.

majority of their waking hours in solitary confinement. Fortunately, I was able to interact with a fellow inmate in very limited capacities and circumstances,⁷⁸ but I nonetheless found myself struggling to maintain my mental health in the face of such endless silence, isolation, and, for lack of a better term, boredom. This leads to one final clarification to be addressed before proceeding: the facility in which I was detained strictly prohibited inmates from going outside and did not provide time or space for exercise, a restriction that, in conjunction with a very meager diet, catalyzed a sharp decline in physical health. These dual idiosyncracies—social isolation and physical and mental inactivity—constitute the primary difference between formal/long-term and informal/short-term carceral facilities in Japan: whereas more regulated spaces like prisons provide [admittedly limited] opportunities for work, exercise, and social interaction, ostensibly “temporary” pre-judicial detention facilities in Japan generally forbid such activities.⁷⁹ Having established the daily routine and general lifestyle constitutive of the facility in which I resided from 2009 to 2010, the following section provides a narrative account of my term of unconvicted detention derived from journals maintained across its duration. While at times perhaps tedious in its level of detail, it is my hope that this “thick description” (Geertz 1973: pp. 3-33) of daily life in a semi-rural Japanese police station jail captures the ethos of the experience with a degree of richness and accuracy unmatched by timetables and other methods of conveyance.

II. Diary of an Unconvicted Detainee: A Case Study

Day 4

I don't even know where to begin. It's surreal to be writing now, doing such a mundane activity in the midst of such a crisis, but I'm relieved to be able to—I just managed to buy a notebook and pen from the commissary. I was arrested last Friday night while driving home from work meetings/*bōnenkai*⁸⁰ and rear-ended a car while driving home from the train station (I was actually about 10 seconds away from my apartment when it happened—I was just about to pull into the parking lot). The embassy official who visited me on my first morning in here said that I was driving around 15 kilometers/hour, which I think is like, 10 miles/hour, meaning that it ostensibly shouldn't have been that bad. But I've been in jail since that night, and despite being questioned about the incident for eight hours a day, everyone I speak to refuses to reveal any information regarding the condition of the other driver. It's all been very bewildering, and to make matters worse, it's impossible to communicate effectively due to the language barrier (they've been providing a translator during interrogation but I've already picked up on a few mistranslations even with my very limited Japanese, and I haven't met with anyone fluent in English other than

⁷⁸ Communication with this friend took place primarily during smoking/shaving time, when the assigned police monitors were permissive, and through brief exchanges of words shouted from our respective cells immediately after wake-up and just before lights-out.

⁷⁹ For more on the distinction between formal/long-term and informal/short-term detention facilities in Japan, see Chapter 2 of this text.

⁸⁰ Literally translated “forget-the-year party,” *bōnenkai* are boisterous gatherings typically hosted at *izakaya* (Japanese-style pubs) by one's company or other employing organization in the month of December. These events tend to center on heavy alcohol consumption and are often approached as opportunities to flout the rules, restrictions, and repressions that govern everyday life in the workplace. Due to their association with binge drinking, *bōnenkai* have become notorious for precipitating car crashes, train accidents (such as passengers falling from platforms onto tracks), and other social problems deriving from alcohol intoxication. (<https://www.asahi.com/ajw/articles/14491360>). At my time of arrest, I had just returned to my town of residence after attending a work *bōnenkai*.

the embassy guy). I keep wondering if I hit a pedestrian, which is a horrific thought (I'm pretty sure you can still do damage to a pedestrian even driving very slow). There must be *something* they're not telling me—why else would I be detained for so long and be questioned so exhaustively?

When I woke up on Saturday morning, something like eight hours after I'd been initially detained, a guard came to the door of my cell, opened the door, and said "Consulate." He then led me into the visitation room, and sitting on the other side of the plexiglass partition was a young guy (I presumed Japanese at first, but he spoke fluent English with an American accent). He said he was a representative of the American embassy before telling me I could be in here for anywhere from three to 23 days. We only spoke for a few minutes because he said he had other business to attend to, but he told me to try and remain calm for the next few weeks. That hasn't been successful, particularly since the situation seems to be getting more and more desperate by the day, and every person I speak to bearing worse and worse news.

Later that day (or was it the next day or the day after that? Time is bleeding into itself in here), I spoke to a detective in the interrogation room. He was super old—ancient, even—and escorted by an equally ancient translator. He started asking me about what happened, and I told him I was driving home from the train station after a *bōnenkai*. For some reason I don't really remember much of anything, but the cop told me that I needed to provide an answer for every question and started yelling at me when I said I didn't remember, so I did my best:

Detective: Again, what happened?

Me: I hit the other driver.

Translator (in Japanese, to the detective): He hates (*daikirai* in Japanese) the other driver.

Me (interjecting): No, I HIT the other driver.

Translator: I know, I know. [waves hands in air in gesture of dismissal; turns back to detective] He hates (*daikirai*) him.

Me (gesturing with hands): This is my car. This is the other car. I HIT the other car. "Hit," not "hate."

Detective: You might have to go to prison for this. It will be a good lesson, though.

[end of interrogation session]

This is just so frustrating—I need a lawyer. I'm trying to keep calm like the consular official advised, but it's very difficult considering the severity of the circumstances and how little information I've been able to gather about what to expect from the next 23 days. I guess at least I'll be out of here in a couple weeks, though...

Day 6

The cops cuffed me and shoved me into a van in the station garage after breakfast this morning, which was very confusing—where the hell were they taking me? We drove for a few minutes in the direction of my apartment, and then the van pulled over on the side of the road just in front of my building (where the collision/arrest occurred). There was a translator with us, thank GOD, and I really liked her—she was kind and gentle and seemed trustworthy. The cops who drove me took me out of the van and questioned me about various details pertaining to the accident—the one asking most of the questions was the squirrel-y dude with glasses. They asked me to tell them where I was when I realized the car was in front of me, why I hit him (again), how far from him I was when I braked, etc. I had a very difficult time recalling but, again, did my best to provide the information requested.

Later that afternoon, I was informed that I had a visitor, and it was two people from the prefectural Board of Education, including Akari-san.⁸¹ We're only allowed one 20-minute visitation per day, and anything said in languages other than Japanese have to be translated in real time for the guards on duty (there has to be at least one monitoring at all times). To complicate matters, in cases of languages other than Japanese, there have to be *two* visitors during any given visit: one speaking in the language of use (English, for me) and one translating the English into Japanese for the benefit of the guard. So effectively, we only have 10 minutes of conversation per visit. It's definitely a clunky format.

Anyways, Akari-san started crying midway through, which was rough. She asked me a list of questions ("How are you physically?" "How are you mentally?" "Do you need me to bring anything from your apartment?" etc.). It was relieving just to see someone familiar—I hadn't seen anyone but the cops and other inmates since the day of the incident. After she finished asking the questions, we had about 20 remaining seconds to talk. As we said goodbye, we both started bawling. "Everyone is thinking of you every minute of every day, and I hope you know that you're not alone in here. We're doing everything we can to figure this out and are going to get you out of here as soon as we can," she said through tears and hyperventilation. I just feel so guilty for involving her and so many others in this ordeal.

When I got back to my cell, a guard came to the door and asked me to "sign" another two documents (with my finger—such an odd practice and kind of annoying, since I keep getting the ink on my clothes afterward). One of the forms was some legal thing, and the other was a notice explaining that Hatano-sensei⁸² had brought clothes from my apartment to the station. I can't wait to get out of these work clothes!

After signing the forms, I was led into another room, a bathing room, where I got to shower for the first time since Friday morning, before heading out for work. While I was undressing, the guard said something in Japanese that I think suggests that we're allowed to bathe twice a week here. The bathing is all done independently (one inmate at a time), and we have 15 minutes to wash up after taking off our clothes. There was a large metal bathtub in the corner of the room, which was already filled with hot water. I almost got in—a bath would have been so nice after all of this—but I noticed immediately that there was a film of scum (hair, dead skin cells, soap residue, etc.) floating on the surface of the water. I'm assuming this means that they fill the tub once, at the beginning of the bathing time, and then all inmates just use the same water. It looked very unappealing (and possibly medically risky), so I decided against the bath and turned on the showerhead in the other corner of the room. It felt really nice to finally shower again after like, five days of not bathing, but have no shampoo or anything, so I just washed my body with the soap I've been using to wash my hands in the mornings. A few minutes in, I heard the sound of something clicking and looked toward the opposite wall, and a set of eyes were staring at me—I noticed that there was a panel on that wall when I came into the room, and apparently the cops can sit on the other side of the wall and slide open the cover to watch us while we bathe. Very unsettling, seeing a disembodied, unidentifiable pair of eyes staring at me.

⁸¹ Akari was a Board of Education employee, a fluent English speaker (due to having grown up in the U.S., and a close friend, who I'd spent much of the time at the dinner/party and who was the last person I'd seen before taking the train back to my town of residence.

⁸² Hatano-sensei was my supervisor at the high school at which I taught, and also regularly hosted me for dinners with his family at his house.

Day 9

I woke up feeling ache-y and cough-y, but I figured it was simply due to the fact that I've been lying on a cement floor for the last week, and possibly because of the diet—I eat every single thing served, but am still constantly hungry and can tell that I've lost weight. I mentioned to Akari on Tuesday that I'd been feeling mildly sick, and I think she must've said something to the officers at the station, because they took my temperature shortly after breakfast. It was 37.8 (Celsius), which is a little high, I think. A couple hours later it was 38, and then 38.4. That afternoon, officers rushed me into a van and drove me to a doctor whose "office" was down the street. The inside of the hospital had the look of an abandoned warehouse—not very reassuring. The floor was rust-brown tile, and the walls were yellowed and lined with cracks. I was then led into a room entirely empty aside from an earwax-gold faux leather examination table (and I do mean "led" quite literally—my hands were cuffed and I had a leash attached to a steel girdle around my waist, the end of which one of the cops was holding).

The doctor asked me to lay down on the table, and after I did, he inserted a thin wooden stick into my right nostril. It was incredibly uncomfortable, but after having spent the last four days in jail, most of the time sitting on the concrete floor⁸³ (we're only allowed access to the *futon*, blanket, and pillow during sleeping hours, and the cells don't have any seating or a bed frame), I wasn't exactly expecting a trip to the spa. After he was done he left the room, and the two guards who brought me there started asking me about Alaska (in Japanese, of course, so I tried to respond, but obviously it's pretty limiting). Everyone here is so fascinated by Alaska for some reason.

Anyway, when the doctor came back, he announced to the officers in attendance that I had H1N1 ("Swine Flu"), and that he'd give me some medication for the fever and body aches, as well as antibiotics (Tamiflu). When we got back to the station, a guard told me that I was to be moved to a new cell in an adjacent corridor that appeared to have the same number of cells as my block (12 in total), but none of them were occupied—I'm assuming this is the quarantine wing. The cell is colder than my regular cell and has no access to natural light (if I crane my neck in my normal cell, I can see a very narrow frosted glass window in the hallway diagonal left from me; even though it's never open, a tiny bit of sunlight from outside streams into the hall). I felt like such shit—I laid down on the ground immediately and literally shook from a cold that seemed to penetrate my bones. Thankfully, the guards soon came to give me a *futon* and blanket, ostensibly so that I can sleep off this illness. They also took my temperature again, and now it was 39.1, which, judging by the officers' reaction, must be really high. Shortly after, I was informed that I had a visitor—Hatano-sensei. They let me meet with him but made me wear a mask (although with the plexiglass divider, probably no air passes through anyway). Hatano had come with a private lawyer he'd gotten, a relatively young guy (I'm assuming just a few years older than me). We talked for quite a while about the Japanese legal system. He explained that given the simple, straightforward nature of the case, it really doesn't matter who my attorney is; the outcome will be the same. He basically said not to waste money (as though I had any) on a private attorney because it won't make a difference in my final sentence. He said that I'll likely be paying a \$3,000 fine and may be serving a few years of prison time. I figure of all the countries in the world to go to prison in, Japan's probably the best—it's much cleaner and more polite and civil than the U.S, anyway, and the consular guy said it's better than Jamaica, so there's that.

⁸³ The *futon* (sleeping pad), blanket, and pillow allowed each inmate were only made accessible during sleeping hours, and there was no seating in the cells, so inmates had to sit on the concrete floor during the day. Additionally, reclining was not allowed outside of sleeping hours—inmates caught lying down during other times of day would be immediately reprimanded and could be subject to further discipline in cases of non-compliance.

The lawyer also said that I'll most likely be detained for the maximum amount of time before indictment (23 days) considering the crime. I can only pray for an okay outcome.

Day 14

I'm starting to feel better now, and they just took my temperature—it's back to normal, I think—and returned me to my normal cell. Hatano, Yamamoto, and Uchikawa came to visit late afternoon. There was lots of me crying today. This is the most I've cried since I was a child, I think. I don't cry when I'm in my cell alone—it's just when visitors come, because I start getting emotional seeing *them* getting emotional. It just always makes me feel such overwhelming guilt, having affected this many people due to a random act of carelessness. I can't imagine getting this much support in the U.S., especially from coworkers of all people.

Akari dropped off a few books for me yesterday, but I already finished them. This English-on-one-page, Japanese-on-the-other format is very limiting, and also means that books are actually half as long as their number of pages in terms of readable content. She said it was really hard to find books written this way, but she got me all three she could find at the several bookstores she went to: a Japanese-English dictionary (useful, but by no means entertaining), some English lesson book with three short stories (I think each is like, 15 pages), and an English-Japanese Doraemon manga. I'm trying to keep my mind occupied, but it's getting difficult. I can't imagine what I'm going to do when interrogation ends—at least this way, I have *something* to do and someone to talk to. Writing is the only thing keeping me from utter insanity. I just wish we were allowed to do it for more than an hour a day.

I just had a really weird experience... I could hear a man's voice repeating my name (*Kona*-, according to the Japanese pronunciation) softly several times, but I couldn't see anyone in the entry side of my cell. This disembodied voice persisted for probably over a minute, whispering my name every 10 seconds. I could tell that it was coming from the side of my cell opposite the door, which has a small grated window and a slot where they insert your toothbrush and soap every morning during grooming time, so I opened the panel covering the latter... and there was a single eye staring at me. I recoiled and screamed a profanity in surprise, and then the owner of the eye stood up so that I could see him fully—it was the heavier guard with glasses. How eerie.

Day 20

Nothing particularly new to report, other than the fact that my 23-day initial investigation period has apparently been extended by the number of days I was in quarantine (six, I think). The cops told me (via translator) that this was decided because my illness delayed their investigation. I've been trying to sleep as much as possible to pass the time, but it seems like sleeping during hours not designated *for* sleeping isn't allowed—whenever one of the guards catches me even lying down, they yell at me something to the effect of “sit the fuck up” (this is, of course, speculation, but I'm pretty sure it's accurate). There are no clocks in here, but I'm guessing by the position of the sun that we're woken up around 6:00 or 7:00 AM and that lights-out is around 10:00 PM. That means that compulsory waking hours persist for a total of 16 hours per day. One might not think it, but it's quite a struggle to keep oneself occupied for this length of time. I try to play mind games with myself (reconstructing episodes of “The Sopranos” in my head, or recalling in detail memories from home, or having imaginary conversations with historical figures, or formulating hypothetical lesson plans for work), but I keep being struck with intrusive thoughts about the incident.

I should've just slept at a coworker's place to avoid getting home after the cabs had stopped running, but it would've been uncomfortable and very imposing to ask. I should've just walked home—it probably wouldn't have taken longer than a couple hours—but it's hard to walk those distances in leather dress shoes. Thank God they've been administering my Ativan⁸⁴ nightly—I don't think I'd be able to sleep without it. The dose they give me is way more than I usually take even for a panic attack, but oh well. A few days ago I managed to hold it under my tongue during mouth inspection and then spit it out and flush it down the toilet, but they caught me trying to do this yesterday and got pretty angry.

Murakami-sensei (the conductor of the community orchestra I've been playing with since October or November) came to visit with Inaba-sensei today (she's a violinist in the orchestra, and initially introduced me to them). It was emotional to see him, mostly because of the embarrassment of this situation, but he was very understanding. He said that the orchestra is all thinking of me and hoping that I get out soon—they're currently practicing for the upcoming Stravinsky concert. Just before leaving, he reassured me that they're saving a chair for me and will be awaiting my (hopefully swift) return.

Mom and Dad must be absolutely panicking. I know that they've been informed, but I wish I could speak to them myself to assuage their concerns. I can't figure out why we're not allowed to place phone calls—it would make sense to hold a suspect in comunicado like that for more serious or pre-mediated violent crimes, but it doesn't for something like this.

Day 24

I got some good news during interrogation today: the court required the other driver to see a doctor, and he has no injuries. I'd been worried SICK about his possible condition, so it's a relief. Most of the detectives have been really mean—they're very stern and often yelling, particularly when I tell them that I can't remember details of the incident. I had a different interrogator today, though, and I started crying midway through. The officer looked at me and said (via the translator) that he's "very sorry you have to go through such an ordeal for such a minor crime." It might've been a manipulation strategy, though, because something in the back of my mind keeps insisting that I'm being lied to. Why else would I be approaching four weeks in here? It seems unnecessary and a huge waste of public resources if it *was* as "minor" as some are telling me.

One of the four books I have in my collection here explains that according to Japanese religious belief (I'm assuming of Buddhist origins, with some Confucian influences) that after you die, you enter a purgatory-like state for 48 days, and during this period you proceed through a bureaucratic gauntlet in which you're interviewed and assessed by a different divine court-appointed official/demigod every seven days. All the while, the person's family and friends in the world of the living gather to make offerings and accrue merit on behalf of the deceased, which supposedly improves his or her chances of a favorable divine trial outcome. At the end of the 48-day period, the realm of existence in which the person will be reborn (deva/god, asura/jealous god, human, animal, *preta*/hungry ghost, or hell being) is decided. Maybe I've died and gone to Japanese purgatory and just don't know it yet.

⁸⁴ This is a medication that I had been prescribed to treat acute anxiety in the United States. Although my doctor in the U.S. had instructed to take it only as needed for panic attacks, I was required to take four times my normal dose on a nightly basis while in pre-judicial detention (I presumed that this was due an error made by the facility doctor in translating the directions on the bottle, although I discovered in the process of researching this project that jail and prison inmates in Japan are not uncommonly administered large daily doses of benzodiazepines and other sedatives).

Another bit of happy news: I made a friend in here during smoking/shaving time this morning. He's quite tall (probably an inch taller than me) and ruggedly handsome, has a shaved head and very prominent cheekbones, and is probably around 40 years old. He has one gold tooth in front, but other than that, I was struck by how straight his teeth are in comparison to most people here—Japanese dentistry clearly isn't the world's best. He's also one of like, three Japanese guys in my cellblock (most are foreigners: a couple Brazilians, a couple Koreans, me, etc.). He came up to me and said a few words, and because the monitoring officers were the two younger, more permissive ones today, they didn't break us up when we continued talking. He asked my name (in Japanese) and I told him, and then I asked his. He initially said that his name was "Michael Jackson" (maybe he was joking, or maybe he just didn't want anyone to know his legal name), but I've decided to call him MJ for short. Anyway, he asked me what I was in for and I mimed drinking and driving, since I obviously don't know how to say "DUI" in Japanese. When I asked him what *he's* in for, he turned around and lifted up his sweatshirt to expose a full-back tattoo, like the *bōryokudan/yakuza* (organized crime syndicate) have. It's really richly-colored and exquisitely-detailed, depicting two intertwined dragons—truly breathtaking. He then rolled up one of his sleeves, revealing that his arms are also tatted, and then gestured that his tats go down to around his knees. So obviously, he's in for something related to organized crime—when I asked how long he's likely to be in here, he said "forever." So I'm guessing that his crime is substantial. Anyway, he gave me a hug after we'd both finished our last cigarette and the guards started rounding us up. His company provided some much-needed levity in my life here.

I think I'm going to be indicted soon, which is something of a relief, since it means the legal process is at least moving forward. One of the police officers told me, though, that there's usually at least a month between indictment and the start of the actual court proceedings, and that defendants are typically detained until sentencing. Why, then, did the embassy official tell me that I'd be in here for just 23 days?

Day 30

Interrogation just ended today, and it's bittersweet—I'm glad that I'm gradually getting closer to release, but slightly dreading having nothing to do during the days. There was also a complicating development in my case revealed during the last few minutes: it turns out that the *shaken* (drivers' insurance) on my car had expired just three days before the accident. I'm not sure exactly what the legal implications of this are, as I wasn't able to get any answers on this.

Inaba-sensei ("Mama-san," as she likes me to call her) and Yamamoto-sensei just visited and brought me two new blank notebooks and several more pens (I think I told them last time that my ink was running out). They said that with all of the writing I'm doing here, I could write a book. God, I can't even believe the compassion they've shown me—they've been visiting almost every day. Every time I get bitter about my experience here, someone performs an act of such empathy and kindness that I can't stay upset. It's kind of inconvenient, because it would really be a lot easier if I could just entirely emotionally disconnect. This just makes me feel even more conflicted. And that's been my experience since I got here in August: every time I'd get so frustrated that I was ready to pack my bags and leave, someone would do something so thoughtful and caring that I couldn't.

Inaba-sensei is so funny. During our visit the other day, she told me she's been "very worried" about me because they probably don't serve curry rice in jail (she knows it's my favorite). She's such a wonderful person—actually, probably my favorite person I've met here, which says a lot. She just always has something uplifting to say, and she gives really carefully considered

advice. Yamamoto-sensei also does—he told me the first or second time he visited me here that as long as I’m here, I shouldn’t worry about anything other than staying positive and just surviving the experience physically and mentally. Today, I asked him what the students have been told about my absence, and he said the following:

“After the first article appeared in the newspaper, Principal Uchikawa had to hold a meeting to announce your arrest and detention.”

He then proceeded to explain that the day after my arrest, the local newspaper published a story on it, and it wasn’t even the only one that’s been written about my case. It’s shocking that something of this scale would even be worthy of a *sentence* in a public document like that. Again, I worry that I’m not getting all of the information—how could this situation be attracting this much attention if it *was* just what I’ve been told? I immediately thought about Sakai-sensei and his child pornography arrest, and how he’d been caught doing stuff like that a million times before he was finally detained (Yamamoto-sensei told me that it was because his father had “connections,” so everyone just turned a blind eye). I feel so guilty for heaping onto the school yet another criminal incident—two teachers arrested in a span of like, three months. The last thing they need is more bad publicity.

Day 37

I finally got a lawyer a few days ago—apparently, she’s the only public defender in the prefecture who speaks English, which is miraculous. She’s also just a couple years older than me, and did a year-long exchange program in the U.S., so she has some command of English legal terminology. She always dresses really cute, too—the first time we met, she was wearing a black wool peacoat with fur trim, thigh-high black leather boots, and large black sunglasses. Aiko (that’s her first name, which, in American fashion, she insisted I call her) is also quite assertive and sometimes even aggressive with the guards here, which is a comforting quality in a lawyer. She also told me that DUI law in Japan didn’t used to be this punitive—apparently, there was a high-profile case just a few years ago, in which a young girl was killed by a drunk driver, and that this prompted the government to escalate the rigor and severity of relevant law and policy. So, the timing of my offense is particularly inopportune. She said she thinks I should write a book about this experience, which is comical—how can you tell a compelling story with no plot developments and no character agency? I asked her how to get bail, and she said that I’d need to submit an application. I told her I’m more than willing to do so, but she told me not to even try because no one is granted it—especially not foreigners. I insisted, though, on just submitting one for my own piece of mind. We’re going to work on it during her next visit.

At the end of our second meeting, she asked the guards to bring us a couple of documents and a blank sheet of paper (so that I could hand-write some pledge for her case file), and a 10-minute raised-voice verbal back-and-forth ensued. I could tell that it was pretty much the Japanese equivalent of a cuss-out (or at least as close to one as the culture will allow). When I asked her what it was about, she explained that during our last visit, the cops on watch forced her to verbally translate my entire apology letter to them before leaving the facility. When she returned to her office, her boss told her that what the cops asked of her was actually in violation of law—that she and I as a defendant and their counsel have the right to interact without police scrutiny (or even observation). “So,” she proceeded, “I was just telling the guard that it probably won’t be necessary to do that this time.” I love that she’s both *kawaii* as hell and capable of going OFF on a group of [male] cops. It was reassuring to see that despite her non-threatening appearance and relative lack of professional experience, she can get aggressive if necessary.

MJ and I have been talking during smoking/shaving time when possible, and he always gives me a hug at the end. He also yells “Good morning” and “Good night” to me every day. He’s really been a ray of sunshine in this otherwise very bleak period of my life. Speaking of which, last night I was awoken by what sounded like a young woman screaming, “I have a headache” over and over and at the top of her lungs. What was surprising wasn’t the volume, though, but the fact that someone was speaking English. And not only discernible English, but *native-pronunciation* English. I wanted to ask the guards about it, but I’m sure it would result in a whole lot of confusion. Not only the fact that it’s a complex question (relative, at least, to my standard “What time is it?” or “Can I have my notebook?”), but also that discussing such matters would undoubtedly violate some facility rule or another. Almost every time I open my mouth, one of the cops appears out of nowhere and reprimands me at a very high decibel. A couple of the cops also constantly grope or squeeze my crotch and ass—like, excessively, often while joking to one another—during morning body inspection. I know that this isn’t protocol, because the other guards do it in a much more perfunctory, utilitarian manner. It’s frustrating and borderline humiliating, but obviously I can’t say anything about it, because they’d probably just start yelling at me like they usually do.

As a final thought, I’m starving. Literally. I’ve been trying to sneak onto the scale in the changing room (before bathing), but there’s always a guard watching me, and we’re not supposed to touch anything. I can tell that I’ve lost a lot of weight, though, because my pants have become way too big—they don’t stay up unless I roll the top down several times. I’m also getting really bad dizzy spells whenever I stand up and am constantly fatigued. I’ve told several of my visitors, and they said they’ve said something to the cops about it, but no change has occurred in the way of diet (even just a multivitamin might do *something*).

Day 41

My weight and physical condition has grown steadily worse recently, and I’m starting to feel like I’m losing it. We aren’t allowed outside, nor is there any opportunity for exercise. You can’t even walk in your cell, because it’s like, five feet wide by seven feet long. Between the physical inactivity and the insufficient diet, my legs are getting more and more emaciated by the day. I also passed out yesterday when I was standing up to be led into the visitation room (Hatano-sensei and Principal Uchikawa stopped by). I suppose under-feeding inmates makes them easier to manage, but none of the inmates here are even aggressive—there hasn’t been a single violent outburst since I got here. Also, I just don’t know how literally starving people is legal. How is this happening?! Yesterday was a rough day, and I was crying in my cell. I think MJ heard me, because he said “Kona-, *ganbatte* (a word of encouragement that conveys a sentiment of “keep fighting!”).” Later that night, when he was saying goodnight after the lights were turned out, he said “I love you” (in English). He’s also started running up to his cell bars and holding his hand out when he sees me getting taken into the visitation room.

I had kind of a heartbreaking realization today. The guy in the cell next to mine is kind of old (I’m guessing in his late 70s or early 80s, and is one of the three Japanese guys in my block), and I always hear the guards gathering outside of his cell a few times a day for 10 or 15 minutes at a time; I can tell by the sound that one goes into the cell and the others gather around outside of it. But of course, I can’t see what they’re doing or what’s going on in the cell. Well, this morning during smoking/shaving time, I noticed that the seat of the old man’s grey sweatpants were bulging and sagging slightly, and then this afternoon I noticed that the guards were all wearing rubber gloves as they passed my cell to go to his. Long story short, I think that when they go to his cell

these three times a day, they're changing his diaper. What a rough go of it this man has had—he's elderly, incontinent, in jail basically indefinitely, and to top it all off, he has to have all of these cops standing around watching him get his diaper changed several times a day. Imagine that: he has to lie there on the floor while like, five 20-something men in uniforms crowd around him watching him getting undressed and touched like that. Also, this is certainly not an ideal environment in which to have to wear diapers, since we're only allowed to bathe twice a week at most. Poor guy! I don't think I could handle that. I wonder what he's in here for...probably something absurd like jaywalking.

I suppose I'm lucky in many ways. I'm also lucky not to be a woman—I keep hearing screams all day coming from one of the women's cellblocks. It all started this morning during smoking time. I was shaving initially, so all I could hear was the electric buzz of the beard trimmer, but as soon as I turned it off, there was screaming (in Japanese, this time) coming from another area of the facility. One of the guards noticed my surprised and said "She's very cold" (in Japanese—they know I can understand some very simple words). Evidently, she's still cold, because the noise has been persisting all day. Someone get her a blanket already!

One last note before they take my notebook: I submitted my bail application last week, and although I'm not banking on anything happening, it was just something that I needed to do for my own sanity.

Day 49

I'm still in rough shape with the lack of food in here—I've passed out three more times in the last week. I finally managed to step onto the scale while the guard turned his back momentarily when I was about to take off my clothes to shower, and what I discovered was alarming. I'm apparently currently 56 kilograms, which I think is something around 120 pounds (I think you multiply kilograms by two and some change to convert to pounds). I'm six feet tall and 120-something pounds now. At my time of arrest, I was 160. I've literally lost a quarter of my body mass...which was already fairly light (at least for an American).

My forearms are tiny. I just asked one of the guards for my jeans, and they're huge on me now. I must've lost six inches off my waist, meaning that now I'm a 25 (-inch waist). They don't even cut sizes that small for men. The fainting spells have continued, my ears have started ringing all the time, and I've been getting nosebleeds for some reason. Moreover, I've been continuing to eat everything they provide plus the maximum amount of supplementary snacks we're allowed to purchase weekly. And I've informed several visitors, but no change has occurred. It's no wonder my hair has been falling out—my body is literally eating itself alive.

To add insult to injury, one of the guards tried to stick a key up my ass during inspection. I immediately started screaming profanities at him, and his response was odd: he stopped trying to do it, but he said something about me "looking very thin" (in Japanese). Yeah, I know—that's because I've been starving for two months. I'm kind of dreading looking into a real mirror when I get out of here—it's going to be difficult to have to see myself clearly.

I keep having intrusive thoughts about suicide—more concretely, hanging myself with a tube sock fastened to the grill over the overhead light fixtures in my cell. I don't know if it would be strong enough to support my weight, though, and I would get in so much trouble I survived. Then again, I'm much lighter than I've ever been in my adult life, so it might work.

Day 54

It's the first page of my new notebook, and I have some news. My lawyer came to see me this morning, and when I sat down across from her in the visitation cell, she smiled immediately.

"For the first time, I have some good news to share," she said as she opened a manila envelope and pulled out a document, which she slid up to the window. She paused for a few moments, as if waiting for me to read it (which I couldn't, as it was all written in Japanese).

"We got you bail. This is your official notice."

I couldn't believe it—she'd told me there was almost zero chance of getting this. She continued:

"I emailed your parents to ask them about the money, and here's their reply."

I read her email message, which was slightly blunt, saying in a few sentences that I'd been granted bail and asking them when they could send me the money, which apparently is just over \$20,000. Dad's response was:

"Thank you so much—we are so relieved. To be honest, we are not an affluent family. We will do our best to come up with the money, but it would require taking out a loan using our house as collateral."

Aiko-san said that she's very sorry for being presumptuous; she assumed my parents would be able to come up with the money for some reason (maybe it's because Japanese people, I've gathered, often keep large sums of savings on hand, maybe because they don't regularly use credit here. I know that at the very least, people here aren't typically in the amounts of debt most Americans are). I explained to her that in the U.S. (or maybe just in Alaska?) it's not very common to have that amount of liquid assets. Anyways, I told her that I'd really appreciate if she could send them another email telling them not to feel that they have to come up with the money immediately, and not to attempt to take out a high-interest loan or something if that's the only available option. I asked her to emphasize that I can tolerate being in jail for longer if, for any reason, they can't come up with the money.

I feel so weird right now—like I should be elated, but for some reason I'm not. I'm more just overwhelmed and anxious. Because this is really only the beginning—the trial process likely won't be over for another four to six months. Being released on bail and then alone in my apartment on house arrest for several months sounds almost as daunting as spending that time in here. And the idea of trying to go about mundane tasks, like cooking dinner and cleaning the bathroom, after all of this has happened is mind-boggling. At least here, I have MJ to hug me and say "I love you" every morning and night (he's added that to his standard greetings). And even worse is the thought of having to face my former students, especially considering they all know about my case in detail due to the news reporting (and school assembly, as if the articles weren't enough). I'd probably break down every time I saw one.

My lawyer said that it would probably take another week to get the money from Mom and Dad and finalize the bail transaction, so I suppose I have until then to prepare myself.

"Please enjoy until then" (probably a direct translation of a Japanese formality). "Next time you see mee, you'll be leaving with me!"

She also told me that she's been telling me the worst-case scenario all along so that I wouldn't be upset if things didn't work out in my favor. Kind of an unorthodox approach, but I get it.

Day 55

Hatano-sensei, Inaba-sensei, and Yamamoto-sensei just came to visit. They all had huge excited grins on their faces when I walked into the room. Hatano-sensei even jumped up out of his chair and pressed his hand to the glass. They told me they got the news, and all of the teachers at the high school are so happy that I'm getting out of here. I told them that I didn't want my parents going into debt over this. Hatano fake-cried (as a joke) to show he was touched by my concern. Then Yamamoto said the priority is getting me out of here, and told me not to worry about anything else. Inaba-sensei asked "What's the first thing you're going to do when you get out, eat curry rice?"

They said that they think their frequent visits might've helped me get bail by demonstrating that I "Have strong social ties with people here." I am so grateful for everything they've done. And I'm so grateful for Aiko as my lawyer. It seems like she's tried really hard to help me.

MJ just said "I love you, Kona- [my name in Japanese]" again. He laughs and sings a lot, especially when they play *enka* (a kind of melancholic-sounding folksy musical genre that might be described as the country music of Japan) on the loudspeakers (on the weekends, they play music for an hour immediately after lunch, I think because we're not allowed out of our cells over weekends and on national holidays). He has a really nice voice, too. Every time I walk past his cell, he runs up to the bars and puts his hand up and we press hands through the wire grid. Last week, one of the guards caught us (we usually time it so that no one sees) and didn't let me out of my cell for two days. I can't believe he's going to be in prison for the rest of his life, according to the very vague information he's given me on his case.

Day 56

Today, out of desperation, I asked for one of the handful of manga from the jail collection (I've read all of the like, five English-Japanese books that have been delivered to me several times, so I needed to look at something different). I was quite surprised to find, in this random manga, quite graphic depictions of sexual assault. It's particularly strange given that, upon my admission, I was made to "sign" (again, with my fingerprint) a document verifying that I wouldn't attempt to smuggle in "pornographic materials." Apparently, this description doesn't apply to drawn images. The laws and policies here are so counterintuitive and impossible to predict. Also confusing is the censorship law, which requires that genitals not be depicted vividly. So you can show scenes of sexual violence, so long as you can't clearly make out the particular contours of the genitalia.

There's also a lot of very graphic violence—there's a story in another manga where this old man goes on a murderous rampage at a high school. He's running through the hallways and bludgeoning random students to death with a baseball bat. Blood is spraying everywhere and there are dead bodies strewn in his wake...In any case, if you look closely, you see that he's wearing the school's indoor/hallway slippers (the ones you have to put on whenever you enter an indoor space here). Meaning that even in this berserk state of mind, this mass murder was still courteous enough to remove his shoes. I just thought that detail was funny—amidst all of this chaos and carnage, a touch of propriety.

It kind of reminded me of that story Yamamoto-sensei was telling me about a month or two ago, about how a few years ago, a guy who'd just lost his job hijacked a truck and just plowed through a mob of people in the middle of Tokyo. It was a Sunday, he said, when some of the streets are barricaded off and restricted to people on foot (no cars, bikes, or other modes of vehicular

transport), so the street was packed with people strolling and shopping...who ended up dying horrific deaths.

It also reminded me of that guy from Chiba who was arrested in October or November, shortly after I moved here, who murdered a British English teacher. After killing her, he chopped up her body, placed the mutilated pieces in his bathtub, and then filled it/covered them with sand. The police came to his apartment a while later, and in a state of panic he pushed past them and ran out the door (“He didn’t even change from his indoor slippers into his outdoor shoes,” Yamamoto-sensei made a point of emphasizing in narrating the story to me). Anyways, apparently, the guy managed to evade arrest for *years* by moving south to Kyushu, changing his identity, and (this is where the story gets really weird) undergoing extensive facial reconstructive surgery. I think he had several operations, a year or two apart, before finally getting caught. I guess the last surgeon he went to found something about him suspicious and sent his photo and information to the cops. The story was all over the news for like, a month. They kept showing his “natural” (pre-op) face alongside the face he had at the time of the arrest, and they look *nothing* alike—it’s truly remarkable.

Day 59

Another representative from the American embassy (in Tokyo) came today. He was much more reassuring than the first one, though. He was older—probably in his 50s, I think, with greying hair. He told me that he’s had many cases similar to mine, and that it’s “unbelievable” the way the Japanese legal system detains perpetrators of even very minor crimes for extremely long durations. He said, “Months in jail? What did you do, kill someone?!”

I asked him for more concrete details about my case—I still can’t remember much at all from that entire day. He reiterated that I was just barely over the BAC limit here (which he emphasized was roughly equivalent to one beer) and that according to my case file, I was driving under 10 miles per hour at the time of impact. I asked him if there were any injuries sustained, and he said that there weren’t. The way the cops were interrogating me (not to mention the length of time I’ve been detained), I was literally worried that I might’ve seriously injured or even killed someone. He then reiterated my lawyer’s observation about this landmark legal case dating from just a few years ago, in which a child was killed by a man who was driving drunk, and that DUI law was tightened considerably in response. He said I’m a “casualty of history.”

Anyways, he told me not to worry about any negative impacts this incident could have on my future. He explained that none of this has been reported to officials in the U.S. (outside of the American embassy in Tokyo), nor will it ever. This was what he said (roughly):

“If you wanted to keep this hidden for the rest of your life, you could—easily. In fact, it would be wise to withhold any and all information regarding this incident from as many people in the states as possible, especially from employers. You see all these movies about Interpol and extradition...well, that’s all bullshit. No one has to know if you don’t want them to. When you get home and return to your normal life, it’ll be like this never happened—like you’ve just awoken from a nightmare.”

He told me that he’s dealt with a billion cases just like mine, and that the defendant is always deported (unless it’s a more serious offense like murder). He said that he handled one case in which a photographer from Texas was busted at Customs with a handgun in one of his suitcases (which he’d accidentally packed, allegedly). He was en route to Thailand, where he was photographing some Christian mission. In any case, he was arrested and detained here for three

months. He ended up being proven guilty in the trial and was deported back to the U.S., but he didn't serve any prison time here and apparently hasn't had any long-term consequences there.

Anyways, the embassy official ended the meeting by asking if I had any problems that I need him to address with the facility staff. I said that yes, I've a lot of weight, that my hair is falling out, and that keep passing out when I stand up or try to walk. I also said that I'm starting to feel delirious and that I think it's from not having enough to occupy my mind. He said that it's ridiculous that we're not allowed non-Japanese reading materials (other than those written in the English-on-one-page, Japanese-on-the-other format, which is very hard to find) but said that he would mail me some novels. I told him I don't care which ones as long as they're as long as possible and aren't set in a prison. I can't wait to read something new.

Speaking with him was very helpful. I remember that during my sixth interrogation session, the officer explained (via the translator) that lack of focus wasn't an adequate explanation as to why I'd hit the car (that had stopped abruptly in front of me). He then started questioning me about the position of my car relative to the other, the approximate distance (in meters/yards) I was from the other car when I became aware of its presence (I think their forensics department ultimately calculated this at 42.8 meters), etc. The interrogator also had me show him on the map of the crime scene/accident site he'd diagrammed. Eventually I cracked up, bursting out in laughter from the sheer absurdity. He asked me why I was laughing, and I responded that it was because responding to those questions accurately requires a level of analytical precision and a degree of situational awareness that most people simply don't have the capacity for, even when driving. How am I supposed to know how many meters away from the other car I was when I realized I was about to crash into it? I wouldn't even know the answer to that question in my native system of measurement (inches/feet).

Day 62

This situation really is getting worse by the day. I was eating breakfast yesterday morning when my cell door opened. "Roommate," one of the guards said. I turned around, and an old white man in a sweat suit was being escorted through the door. He sat on the floor as the guards slammed the door shut and walked away. He then immediately went into the bathroom. I could hear piss tinkling in the toilet water. A few minutes later I went to the toilet, and as I unreeled a strip of paper out of the metal slot in the wall, I immediately noticed that my new roommate hadn't flushed—the toilet water was frothy and golden, almost brown. We fumbled through broken conversation (from which I was able to gather that he's from Uzbekistan).

When I returned to my spot in my cell, I saw that the man had taken off his socks and was now picking at his feet. I looked closer to see that they were covered in large boils, which were oozing and bleeding onto his fingers. That night, we slept side-by-side. At one point he rolled off his *futon* and onto mine. Pinned between the stranger and the concrete wall, I was unable to sleep for most of the night. I prayed to be moved into another cell...and my prayers were apparently answered, because this morning he was escorted out of my cell and never came back.

Day 68

I was just called into the visitation room, and there were two officers standing on the other side of the partition carrying a brown cardboard box.

"From American consulate," one of them said.

He then opened the box and removed its contents one by one: several novels. They weren't particularly enticing (a Mario Puzo novel in the vein of *The Godfather*, a John Grisham crime novel, and another couple of novels), but I was just so relieved to finally have something to keep my mind occupied for longer than half an hour at a time. The officer leafed open the first one and held it up to the glass. It wasn't written in the appropriate format—it was entirely in English. He then looked me in the eyes while dropping the book into the garbage can next to him. He did this one by one, with each novel, until they were all in the trash. I literally started laughing/crying hysterically. What a false sense of hope that package gave me.

On another hopeless note, my lawyer visited yesterday and said that my parents are still trying to figure out how to come up with the bail money. I don't know how much longer I can last in here, particularly due to the physical toll the diet has taken on my body. I'm still having fainting spells—everything starts going black and I start seeing stars. My cheeks are sunken in, my face is pocked with scabs and blemishes, my nails bitten down so low they're literally bleeding, my lips are raw, and I have deep, bruise-like circles under both eyes. And my pleas to speak to a doctor remain ineffective—I've managed to see one a couple times in the last few weeks, but all they do is check to see if my heart is beating, write something in their file, and then return me to my cell. I've also been getting clusters of small red bumps all over my body, and I think it might be bed bugs. I'm also getting concerned about the amount of medication they've been giving me in here—it does help me sleep, but it's way more than I've ever been instructed to take. Since they caught me trying to hold it under my tongue to spit it out, the guards have been extra vigilant about forcing me to swallow it.

I'm starting to lose patience even with MJ. I love him, but he just talks and talks to himself for hours, and calls my name all the time—even when I'm trying to sleep. I mean, I appreciate his enthusiastic attitude, but I've been in kind of a slump. He's been talking to me through our cells, but I just can't muster the energy to respond.

I'm trying to stay sane, but it's really hard. Last night I was so frustrated, I almost screamed. I just don't want to do something like that and get assigned additional punishment.

Day 75

I finally have a bit of good news: Murakami-sensei (the conductor of the community orchestra I've been playing in since October, in which Inaba-sensei was a violinist) came to visit me this morning. I was surprised to see him, since this is the first time he's visited. He explained that even though the orchestra has all been following my case because Inaba-sensei has been updating them (she's in the orchestra), and said that after hearing about my bail dilemma, they decided to try to raise some money. Although our concerts are usually free to the public, they've decided to charge for tickets to the Stravinsky concert next weekend. They're also playing a Ghibli music concert (i.e., score highlights from "Princess Mononoke," "Spirited Away," "My Neighbor Totoro," etc.) the following weekend hoping that they'll be able to get extra money that way, and friends and family of orchestra members are going to sell takoyaki, tea, and other snacks and refreshments during intermission to make a bit of extra money. The selection of the program is very smart, I think, since obviously everyone loves those movies and knows the music from them—very mass appealing! It also probably won't take them that long to rehearse, since the music is technically pretty straightforward. I think I'm kind of in disbelief—I only joined the orchestra like, two months ago, so this was very unexpected. I still feel guilty as hell for imposing to such an extent, but Murakami-sensei kept telling me that they unanimously decided to do this. He said that between

the few thousand they have in member dues and the money they might be able to raise, they could possibly come up with at least a chunk of the cost of bail.

I'm still not banking on this working out—that's just a recipe for disappointment—but even just the gesture makes me feel so supported. What an outlandish scenario: a community orchestra (mostly composed of older people) banding together to bail their oboist out of jail. I think my heart is going to explode.

Day 89

It looks like I'm getting out of here within the next few days. Aiko just came to see me and said that the orchestra managed to get over half of the money after all...and Mom and Dad just wired her the remainder. She said it might take a couple of days to process, but as soon as it is, I'm out! Of course, I'm paying them both back soon, since they money will all be returned following the conclusion of my case. My first trial date is set for a couple of months from now, and in the interim I'll be under house arrest. Aiko told me that within the Japanese legal system, it's best to avoid attempting explanation of one's offense when interacting with the court—rather, you're supposed to unequivocally and repeatedly apologize. So she said to keep that in mind when I appear in court and in any interactions with the prosecutor in the interim. I'm still a bit worried about being alone for the first time in months, but I suppose it's better than being in here—even though I'll miss MJ's company, at least I'll have contact with family and friends from home. She also said that my being granted bail is a very good indication that I won't be assigned any prison time, since it indicates that the court might continue going easy on me in final sentencing matters. I'm beside myself with gratitude.

III. Coda

Thanks to the deep empathy and shrewd resourcefulness of my orchestra peers, I was ultimately released on bail shortly after completing my third month of confinement in the local police station detention wing, being held under house arrest in my nearby apartment until my final court hearing just over two months later. Across this period, I received near-daily visits from the same teaching colleagues who regularly visited me in jail; concerned about the severe weight loss I suffered while incarcerated and hoping to assist in expediting my recovery, many delivered groceries or brought pre-made meals to eat together on the *tatami* floor of my cramped living room. The impact of these supporters on the aftermath of my 2009 arrest did not end there, however. At my final court hearing, I was instructed to pay damages to the victim of the collision and assigned a mere *suspended* nine-month term of imprisonment, also being allowed to remain in Japan indefinitely despite my recent domestic criminal record. My lawyer explained after my last trial session that the leniency with which the judge treated my case—particularly in not mandating deportation from the country, a virtual impossibility in the cases of foreigners according to both of the U.S. consular officials who met with me during my period of detention—was largely a result of the frequent visits I received during my period of detention in conjunction with the many character reference letters submitted by my coworkers to the prosecutor's office. Finally, although I was not informed of such at the close of my trial, I would discover years later that Yamamoto-sensei had officially volunteered to serve as my *hogosha*, a legal role combining the functions of a guarantor and a probation officer that is typically required for those recently sentenced or released from prison.

The outpouring of sympathy I received from these supporters contributed much to the sustenance of my psychological wellbeing, although it did not entirely insulate me from the inevitable corrosion of physical and mental health that the Japanese pre-judicial detention system is designed to precipitate. The *hanko* confiscation procedure described in the opening section of this chapter is but the catalyst in enabling the *a/objectifying* treatment of the suspect by symbolically stripping them of personhood and replacing their “outside” social status with that of pure corporeality or “bare life” (Agamben 1998; 2005). The ontologically ambiguous character thereby ascribed to the unconvicted detainee is not confined to the domain of the social, however, as a similar tension is evident also within the realm of their *legal* classification. This is perhaps no more efficiently demonstrated than in the following scenario, derived from a 1999 Japanese Supreme Court ruling. That year, an organizational affiliate of the *Kyūenkai* (“Trial Support Group”) system⁸⁵ initiated a series of civil lawsuits against the national government on the basis of its alleged mistreatment of those awaiting trial; individual points of contention included the holding of suspects in *incommunicado* status for extended periods and the habitual withholding of gifts (namely, those of food, supplies, and money) sent by outsiders from their intended recipients. The plaintiff argued that in upholding such policies, the Japanese government acted in clear violation of the International Covenant on Civil and Political Rights, a treaty whose list of signatories was joined by Japan in 1978. While the action was partially successful in constraining institutional authorities’ ability to intercept mail thereafter, the plaintiff’s invocation of international human rights law was flatly rejected. The Supreme Court provided a counterintuitive but highly revealing rationale in dismissing the claim: that the state could not be ruled as acting unlawfully on such grounds because *human rights protections do not apply to detained persons* (Steinhoff 2014: pp. 37-40). What, then, *is* the status of those awaiting trial in Japan?

In curating journal material to address this question, I was struck by the following observation: the set of conditions, routines, relations, protocols, and policies that comprise the Japanese pre-judicial detention system enact a degradation of social subjectivity not through direct infliction of pain but, rather, through denial of access to outlets for and means of fulfilling basic biological and psychological needs. Key elements of life on the “outside” that are either entirely withheld or severely restricted throughout the term of detention include sufficient food, mental stimulation, social interaction, sound sleep, outdoor activity, and physical movement. Further compounding the harm of such deprivations on the body and psyche of the detainee is a constellation of highly invasive case investigation practices and facility security measures, including chronic surveillance, daily body searches and cell inspections, exhaustive interrogation schedules, coercive police questioning tactics, and the generally demeaning treatment of inmates by detectives and jail guards. These mechanisms for the exercise of state power within the Japanese pre-judicial detention system collectively effect a wholesale negation of the suspect’s personhood by evacuating from their lives one fundamental aspect of both ethical relationality and social justice: dignity (Nussbaum 2006). While the living conditions and officer-inmate social dynamics that constituted my experience of the unconvicted detention were profoundly *a/objectifying* for this very reason, however, the compassion with which I was treated by Japanese friends and coworkers had precisely the opposite effect.

⁸⁵ More information on the *Kyūenkai* (“Trial Support Group”) system can be found in Chapter 2 of this text. In short, this organization emerged in the wake of the “New Left” *Anpo* protest movement of the 1960s with the mission of providing detainees with legal, financial, and emotional assistance. The entity began extending its services to anyone arrested in Japan soon after its formation and remains active in the country today, both supporting criminal suspects on a one-to-one basis and publicly advocating for systemic reform (Steinhoff 2014: pp. 20-26).

In a final gesture of kindness, my guarantor, lawyer, and former supervisor offered to take me out for dinner at a local upscale pasta restaurant the evening of my final hearing. As the four of us were led into a private room at the back of the venue, we were greeted by dozens of my teaching colleagues and orchestra peers, many of them holding lit sparklers and cheering while one presented me with a meticulously wrapped gift. Toward the end of the night, my lawyer approached me and offered a speculative explanation of the collision that prompted my arrest: that I was likely the victim of a *bōryokudan* (or *yakuza*, a domestic organized crime syndicate) grift wherein the perpetrator drives late at night with their brake lights out, waits until another driver begins following them, and then stops abruptly to precipitate a rear-end collision, allowing them to demand monetary compensation from the target thereafter. Although this revelation has come to irreversibly alter my understanding of the distribution of blame within the incident, my sense of gratitude toward those who helped me *out* of it remains unchanged 15 years later.

After returning home, I sat on my living room floor and carefully opened the package given to me at the beginning of the dinner, finding inside a leatherbound journal and gold-plated fountain pen. On the first page of the notebook was a handwritten message:

You need to tell your story—this is for you to start writing it.

With Love,
Your Supporters

Epilogue

It was the summer of 2019, and I had just completed a series of correctional facility visits in various regions across Japan. The two local sociologists who had graciously arranged governmental security clearance on my behalf had placed me in contact with a middle-aged Tokyo resident who had been recently released from a 20-year prison sentence, insisting that his experiences of the system might be of relevance to my research interests; although Akabane-san had accompanied the three of us on two of the site trips, I had yet to speak with him of his own case. Fortunately, he agreed to meet with me for this purpose a few days before my flight home to San Francisco, and we scheduled a lunch date at a local chain restaurant specializing in fresh fish. As I entered the venue a few minutes before the interview start time, I saw that he was already seated at a back corner table perusing the menu. He greeted me jovially as I approached him, waving his hand in the air and gesturing for me to take a seat. After placing our orders—him, fried *tai* (sea bream) with rice and me, a seasonal *sashimi* bowl—he asked me how and why I had come to pursue such intensive study of the Japanese justice system, particularly given my lack of familial relations in the country. I had been reluctant to disclose my personal connection to the topic previously, but found myself unable to resist the request, particularly considering the highly invasive nature of the series of interview questions I had just printed at a nearby convenience store. Explaining my criminal record did little to alleviate the anxiety that had plagued my mind throughout the few days leading to this moment, but I hoped that it even marginally did his.

As our meals were being delivered to the table, I exploited the break in conversation to remove from my bag the interview protocol I had begun preparing the previous week. He glanced at the first page of the packet, asking whether I had written it myself—given my typical social reticence and still-shaky command of the spoken language, I intuited that he might have been surprised at my ability to write in full sentences. Voice trembling, I proceeded with the first question, phrased intentionally vaguely to allow him license to offer as much or as little information as he preferred:

“I understand that you also have a criminal record. Can you tell me a bit more about this?” The story that followed was unexpectedly vivid, including unprompted detail that continues to haunt me.

In coincidentally anthropological fashion, he began his response by drawing a diagram of his family at the time of his arrest in a Tokyo-adjacent prefecture in the late 1990s. A few years prior, his high school girlfriend had given birth to their daughter and died of leukemia shortly thereafter. Because Akabane-san felt entirely unprepared to care for the child, he had permitted her adoption by an older female friend (to whom he referred as *obasan*, or aunt[-like relation]) and her male domestic partner. Now registered as her primary guardians, the couple came to care for her as their own; in the meantime, Akabane-san had begun dating a young woman whom he had first met through the couple. Within a year of their meeting, the young woman disappeared from their suburban community, eventually being discovered dead by strangulation at the base of a nearby mountain range, and Akabane soon found himself detained on suspicion of her murder at the local police station. Throughout the coming year, he would be questioned exhaustively about his speculative role in the crime; although he maintained his own innocence throughout the first few weeks of the ordeal, he eventually gave in to the officers’ demands for confession. His decision to do so, he maintained, was prompted largely by a particularly convincing interrogative manipulation tactic: the case detectives insisted that unless he admitted to having perpetrated the murder, his daughter’s male guardian would be prosecuted for the crime. Fearing that his young

child would be left with little financial support should the apparent alternative suspect be incarcerated, he promptly signed the statement of confession confirming his culpability for the murder.⁸⁶

Addressing the two-decade carceral sentence to follow, he rolled up the sleeve of his dress shirt and pointed to a large circular scar on his inner forearm. A few years following his conviction, he explained, he bit a chunk of flesh from his wrist hoping that he might bleed to death thereafter; following the attempt to end his own life, he was placed on heavy doses of pharmaceutical tranquilizers⁸⁷ and transferred into a suicide watch solitary confinement cell, where he remained for the following three years. Upon his release from the facility in the late 2010s, he discovered that most of his family on the “outside” had perished during the course of his imprisonment: his father, by suicide spurred by the shame and stigma he suffered in his community following the criminal conviction of his son; his *obasan*, by cancer of the pancreas; his *obasan*’s partner, in a bar brawl that culminated in his own stabbing; and, most tragically, his daughter, in a fluke car crash. His act of self-sacrifice in service of his child’s wellbeing, it turned out, was all for naught.

While he had been released from prison over a year before our first meeting and had worked a few odd jobs in the interim, he still struggled to find stable employment. Further complicating his social re-assimilation process were the severe tranquilizer withdrawals he suffered for months following his release alongside the various symptoms of Post-Traumatic Stress Disorder that continued to plague him. Just before saying goodbye for the day (three hours after we met for an ostensibly one-hour interview), Akabane handed me a packet of postcard-sized renderings of watercolor paintings he had created across his last five years in prison; breaking social protocol, I opened the package and leafed through its contents. Struck by a self-portrait of Akabane-san reclining on the *tatami* floor of his prison cell, chin resting on hand and eyes staring off into the middle distance, I asked him why he looks so contemplative in the picture.

“Because I’m waiting for justice,” he said.

⁸⁶ In the essay, “Courting Justice, Contesting ‘Bureaucratic Informality,’” John H. Davis, Jr. describes a similar tactic used in what is known in Japan as the “Sayama Incident.” After the disappearance of a young woman residing in Sayama City, Saitama Prefecture in 1963, the police began investigating a number of local male *buraku* (persons often stigmatized in the country due to working in industries associated with death and decay) residents, eventually detaining and questioning 24-year-old Kazuo Ishikawa for the murder. Although Ishikawa vocally denied participation in the crime, he was ultimately compelled to formally admit guilt (falsely, he would later insist) after detectives told him that his brother would be convicted of the crime if he did not confess himself. Although he was released from prison on parole in 1994, he is still seeking re-trial to clear his record (Davis, John R. 2014: pp. 73-100).

⁸⁷ Akabane-san explained to me later that all of the inmates in the prison at which he was incarcerated were all administered tranquilizers on a daily basis; his own doses were drastically increased following his suicide attempt.

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