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Interview translated by Greg Vanderbilt

Prisoners of conscience, communists, antiwar activists, martyrs for Japan's tottering pacifist constitution: Obora Toshiyuki, Onishi Nobuhiro and Takada Sachimi have been called many things since February 2004.

In the world of right-wing bloggers, they represent the dying strains of a 60-year-old refrain: no matter how the world changes, Japan must stay out of international conflict and remain true to a yellowing document written under US occupation in 1947. For others, including supporters who contributed 3-4 million yen to their legal fees, they are the stubborn keepers of the antiwar flame, the personification of pacifist ideals in the face of huge odds.



Onishi, Sachimi, Obora

This epic struggle received scant attention, however, in a Supreme Court ruling in April that convicted the three of trespassing in a Tachikawa Self-Defence Force (SDF) housing compound, says Obora. In a recent interview in the cramped makeshift office of a tiny antiwar group, Tachikawa Tent Village, he and Onishi shared their thoughts on the verdict.



Obora Toshiyuki and Onishi Nobuhiro in their cluttered office (Photo: David McNeill)

"We didn't expect much but we thought the judge would at least deal with the implications of the case," said Obora. "After all, the legal ramifications of criminalizing the distribution of leaflets are so enormous."

On April 11, Justice Imai Isao ended the four-year legal battle between the state and the activists when he ruled that they broke the law by putting antiwar fliers in the postboxes of SDF members in February 2004. At a press conference after their conviction, Onishi called the decision "a crisis for Japan and its democracy."

The arrest of the three, after decades of antiwar campaigning by their group, was taken by many as a sign that the authorities have upped the ante against their ideological enemies in the wake of the US invasion of Iraq.

Then Prime Minister Koizumi Junichiro sent a small contingent of SDF troops to Iraq in January 2004 despite a constitutional provision prohibiting the use of force to settle international disputes. It was the first deployment of Japan's military to a war zone since 1945, and the decision was made in the teeth of substantial public opposition.

The Tachikawa fliers called on the troops and their families to oppose the SDF dispatch and said: "Bush and Koizumi Are Not Going to the Front!" Bordering an SDF base on the outskirts of Tokyo, the compound has no gates or permanent security and is visited daily by commercial hawkers.

Buddhist priest Arakawa Yousei was subsequently arrested in 2004 for distributing flyers at a Tokyo apartment building and held for 23 days without trial. Civil servant Horikoshi Akio was convicted in 2006 of distributing Communist Party newspapers to homes in the city.

Amnesty International dubbed the Tachikawa three Japan's first "prisoners of conscience" in 2004 when they were detained for 75 days before release on bail. The Tokyo District Court acquitted them in 2004, ruling that any injury to the residents was trivial and more than offset by the importance of protecting freedom of speech.



Obora with Amnesty International banner outside the court (Photo: Lawrenc Repeta)

In December 2005, the Tokyo High Court overturned that ruling and declared Obora and his colleagues guilty of illegal intrusion. Justice Imai added a legal full stop to that trespassing conviction, fining the activists a total of 500,000 yen for "violating the rights" of the SDF residents.

The Supreme Court recognized that "in a democratic society freedom of speech must be respected as an especially important right," but said it must not be used to "improperly violate the rights of others," adding that the SDF compound had repeatedly called the police to complain about the intrusions.

Was the court right that the activists had "disturbed the tranquility of the personal lives" of the compound residents? Obora believes the verdict entirely misses the point. "You can read the judgment over and over and still not understand what that means," he says.

"All we did was post fliers, the same as soba restaurants or pizza delivery shops and other services. Why are those people not arrested? Because we were posting antiwar leaflets. In other words, the political message is the problem. But what if we were distributing leaflets telling the SDF troops to keep going in Iraq? That would be fine, right? So we can only

conclude that [the police] are selectively eliminating ideas they don't agree with."

The group has never denied that its fliers criticized the SDF dispatch or that this caused "discomfort" to some people, but says that this should not be the basis of a criminal charge. "Look, it causes us discomfort to see fliers in the (conservative) Sankei newspaper. But we wouldn't think of complaining to the police every time one appeared," says Obora. "It was a totally unjust and sloppy (zusan) verdict," with no dissenting voices from the judges, delivered on "just 10 sheets of A4 paper."

Four years after the case began they remain stunned by their arrest. "I mean, we've been doing this for 30 years," explains Obora, laughing bitterly. "For eight years we posted fliers in the compound at least once a month."

Phone calls to the SDF housing complex were not returned, but ads for local restaurants are still being stuffed into postboxes, despite notices on the walls prohibiting them. Most residents refused to comment but one housewife, speaking anonymously through an intercom, said the flow of commercial fliers had not slowed since 2004.

The trial cost millions of yen and consumed the lives of Obora, a cook at an elementary school, Onishi and Takada, who both work as home helpers with the disabled. Obora believes that only support from work colleagues saved his job. "If something good has come of the case it is that we are now known across the country and our support has grown," he says, but he admits that the group still has just seven members.



Overflow of observers line up to witness the court hearing (Photo. Lawrence Repeta)

Being convicted of a criminal offense has not dampened their taste for activity. They attended an antiwar demo in Tachikawa in April where the small group of protestors — about 90 according to Obora — was almost outnumbered by special police. "They must think we're very important," he laughs.

The final conviction of the Tachikawa Three was welcomed by the conservative press and the Justice Ministry, which called last month's verdict "satisfactory." But there have been many dissenting voices. The dispatch of troops to Iraq "spurred the worst instincts of the country's authoritarian past," says Lawrence Repeta, professor of law at Tokyo's Omiya School.

"Japan's transformation to a peaceful and democratic society in the aftermath of World War II surely stands as one of the great success stories in democracy building of all time. But the arrests, the detentions and the Supreme Court's summary action in upholding them are reminders that Japan's democracy remains a work in progress."

The Interview

The following is the full transcript of the interview with Obora and Onishi, which took

place on May 12, 2008. Obora (50) has been around the peace movement since the 1970s. Onishi (34) became a member of Tent Village around 2001. He began his involvement in the antiwar movement through a student group while studying at Tokyo's Chuo University. "I felt unhappy that America was preparing to fight wars way into the future, despite the end of the Cold War," he says, explaining why he joined. Takada (34) is from Hokkaido. Before joining the Tent Village, she was homeless and became acquainted with the group through a friend.

Q: Were you surprised by the judgment or did you expect it? I am asking this because regional courts sometimes issue judgments opposed to the interests of political power but the Supreme Court generally rules on the side of the government.

Obora: We did not really have any expectations. Yet, having lost, I can see that its influence on future cases will be immense and that it will end up providing a legal basis for criminalizing the distribution of leaflets and making it grounds for arrest. The thread of hope I clung to was the wish to win for that reason. That said, I agree with you that the conservative tendency in the higher levels of the courts is strong and I predicted that we could not win.

Q: What do you think of the verdict?

Obora: It's unjust! I'm disappointed with how sloppy it is. On the day of the judgment, I went into court interested in what the contents of the ruling would be. I had been told that since it is the Supreme Court the ruling would deal thoroughly with the Constitutional issues and that since there would be four justices, there was a possibility that one of them would dissent. I was really let down that it was nothing like that. The judgment was basically the same as the previous rulings, so simple that it filled only about ten A4 pages.

The ruling said at one point that we "entered the grounds and distributed leaflets, even though the building manager forbade it." Though the ruling states that "the residents' peace was disturbed," there is nothing in it describing our actual invasion, that our words were threatening or that we made a racket with loudspeakers or the like. Rather, the absence of anything of the sort is telling.

Since our leaflets were critical of the overseas deployment of the Self-Defense Forces, I suppose there were people who found them distasteful. But the judgment does not mention this. It might cause us discomfort to get fliers from the Sankei newspaper, but we wouldn't think of complaining to the police every time one appeared.

Basically, this judgment was abstract and astonishingly sloppy. I have a feeling that without that sort of ruling the court couldn't have rendered a judgment of guilt. It's as if there was political pressure leading to a foregone conclusion that the verdict had to be guilty. Unless it was written to meet that conclusion, there's no way the judgment could be so sloppy. If instead they had examined each aspect of the case, they would have had to find us innocent, as the first court did.

Onishi: I half expected it and yet I'm so disillusioned with how bad it is. It's as if this court has abandoned the role that courts have always fulfilled. It uses the prosecution's logic: The "content" of our expression is not prohibited. Since it is only our "means" - entering the building grounds solely for the purpose of distributing leaflets - that is prohibited, the court can conclude that its ruling does not interfere with our constitutionally protected freedom of expression. Following this logic, they can say they are regulating "means," but in the end it is expression that ends up being regulated. Anyone in the future who wants to distribute leaflets will be prevented from doing so

because of this ruling. This logic of “regulating the ‘means’ of entering the premises and not the ‘content’ itself” is ingenious in that it will result in the regulation of expression, when each specific act of expression must be regulated under the guise of “means.” Doesn’t this judgment itself provide the means for a new system of regulating expression?

Q: How much has this trial cost Tent Village?

It hasn’t reached ten million yen but it’s in the millions. We’ve had to gather contributions for all of it.

Q: Have there been similar incidents?

Obora: Well, there is the case of Horikoshi Akio, a (civil servant) employee of the Social Insurance Agency. He is a member of the Japan Communist Party and was arrested for distributing party flyers in a privately-owned apartment building. He was released three days later but, back at home, he was charged with violating the (1947) National Public Service Law (which prohibits political activity). There are broad limitations on the political activities of national public servants. Although there is room for various legal interpretations, it is understood that public servants are to take a position of neutrality and must not act in any way that appears to deviate from that neutral position. For employees of the national government there is even a system of penalties. All Horikoshi did was distribute a special issue of Akahata (the Communist Party daily) on his day off, outside of work hours. Surely there are different opinions as to whether this constitutes political activity under the National Public Service Law but he was arrested and prosecuted for violating this law. He was found guilty and received a suspended sentence but had to pay a fine. It was a guilty verdict that was almost one of complete innocence. He is still working at the Social Insurance Agency and is appealing his case.

Then there is the case of Ujihashi Shinichi. He was arrested while distributing a special issue of Akahata in Setagaya. At first he was charged with trespassing, but when it was discovered that he is a public servant, the charges were changed to violating the Public Service Law. This was the offense. It is nothing more than a way to hurt a public servant. This series of incidents has occurred over the last four years. Until then, I had never heard of such arrests. We were probably the first. Why? After all, I have been passing out leaflets there for thirty years. From 1976 until at least 1984 I went every month.

Q: The antiwar movement in Japan is quite small and does not have much power, so why are the government and public security police so interested in it and so intent on quashing it?

Obora: Certainly, compared to the U.S. or Europe, it is too small in scale [laughs], but the climate in Japan has never permitted rebellion against the state. Our people have no subjectivity. They lack the ability to think for themselves and are immediately swept up in the state and social structure. Individuals tend not to resist or get involved in activism. As a result, if there are antiwar movements, even small ones, the government will try to quash them all. It looks like the government intends to suppress the Tent Village by having the police give the message that “if you all pass out antiwar leaflets, we’ll lock you up.”

Incidentally, last year, Akahata revealed that a Self Defense Forces unit called the Intelligence Security Command has been engaged in widespread surveillance of citizens’ movements, including consumer movements not directly related to antiwar activity. As a follow-up, there was an article reporting that the unit cooperated in various ways with the Public Security Police during [our arrest] by coming to investigate the scene with them. We submitted this information to the Supreme Court but the judgment does not mention it,

treating this issue as if it were unrelated. I suspect that the political direction to coordinate the Public Security Police with the Intelligence Security Command and use it to put down the antiwar movement and sap it of its strength came from the highest levels.

Q: Three of the justices wrote that, while the freedom of speech is inherent, the rights of the people living in the SDF housing complex are stronger. Is there any validity to that? Isn't that a common-sense ruling that a lot of ordinary Japanese people would accept?

Obora: Basically, it is reasonable that you can no longer exercise your freedom of speech when it interferes with the rights of another person. I suppose that is correct, but no matter how many times I read the ruling I cannot find specifically how we invaded the peace and rights of the residents. All we did was distribute leaflets. Noodle and pizza delivery shops and other groups do the same thing. I ask: why aren't they ever picked up by the police? I was told that we were in the wrong because ours were antiwar leaflets. The problem is the political message. Would it be acceptable if instead we passed out pro-war fliers with the message "Everyone in the SDF, do your best in Iraq!"? If that is the case, then this is political discrimination. We are being taken out because of our particular ideology.

Q: Are you still monitored by the police?

Obora: They haven't done anything in particular, aside from investigating. They also monitor attendance at meetings and protests. On April 19, we held a demonstration to make the point that the suppression of antiwar leafleting in Tachikawa is unjust. About 90 people participated. They were faced with 40-50 public security officers. These are incredible numbers.

I really don't know about wiretapping or shadowing, since the police would not do it in a way that we would become aware of. Yet, I

suspect such things are going on. When we were in custody, we were told things like "What you're doing is a nuisance for the residents," "Japan is a good country, since distributing leaflets like these doesn't amount to a major crime here. In North Korea, you'd probably get the death penalty." and "I suppose you'll get fired for this."

Q: What explains the discrepancy in your fines (Obora and Takeda were fined 200,000 yen; Onishi 100,000).

Onishi: The first indictment was for putting fliers in mailboxes in January 2004 and the second indictment was for February. I was there with them in February, but I was not charged, apparently for lack of evidence. By the arithmetic of 100,000 yen per count, those two received fines of 200,000 yen and I, 100,000 yen. For twenty out of our 75 days in custody, the fine was reduced by 5,000 yen per day, and so, by those calculations, I do not have to pay anything but the other two still have to pay 100,000 yen.

Q: Have you heard of anyone who has abandoned antiwar activism following this government suppression?

Obora: I haven't heard of anyone who stopped their activities themselves but I have heard of those who have changed their methods from putting fliers directly into mailboxes to using direct mail. This is what happened with the Citizens' Declaration Against Nuclear Weapons movement in Yokosuka. The antiwar movement around Komaki Airbase in Nagoya has also completely stopped putting fliers in mailboxes.

Q: What kinds of activities will you do from here on?

Obora: This trial is over but we will continue our regular activities as we have until now: antimilitary broadcasts, assemblies, protests, and the like. Our method of resistance is to

keep up the fight as we always have, unwaveringly, in spite of the verdict. Of course, we have to keep being critical of the judgment. If we go back to the same place and put leaflets directly into mailboxes, we'll get arrested and so we are looking for other methods, like direct mail and the like. We thought about newspaper inserts but that won't work because lately newspapers don't accept political inserts. We could try using professional leaflet distributors or we could try getting the permission of the building manager in advance. [laughs] All we can do is keep groping towards\ a way to keep working positively and actively.

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