

## QUESTIONS and PROBLEMS ?

### **What is the legal status of religious organizations ?**

The legal status of religious organization, that is, churches, temples, shrines, their over-all denominations, and similar organizations, is about the same as in the United States, for example. People are free to meet, organize, and perform religious rites without reporting to or being concerned with the police or any government agency.

Religious organizations in Japan are not required to register with the government and do not receive "recognition" from any government agency.

Article 20 Paragraph 1 of the Constitution states that "Freedom of religion is guaranteed to all," and this provision is fully observed.

Article I Paragraph 2 of the Religious Juridical Persons Law reiterates the constitutional guarantee when it says:

Freedom of faith guaranteed in the Constitution must be respected in all phases of government. Therefore, no provision in this Law shall be construed as restricting any individual, group, or organization from disseminating teachings, observing ceremonies and functions, and conducting other religious acts on the basis of said guarantee.

Nevertheless, many writers, both Japanese and foreign, frequently state that so many religions "have been duly registered" or "officially registered" with the government, or that they exist "with government approval." Thus, the impression is created that separa-

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tion of "church" and state in Japan is not complete and that religious organizations are still in some way subject to government supervision. This is incorrect. In the United State and elsewhere, it is not customary to say that denominations, churches, and synagogues are "recognized" by the government or that they exist "with the approval of the government" simply because they are incorporated; and it is incorrect to say so in regard to Japanese religious bodies.

How has this misunderstanding arisen? Why are such statements made by responsible persons that ought to know better? The answer to these questions is relatively simple. The writers inadvertently confuse religious organizations as such, with religious organizations as legally incorporated bodies.

Religious organizations (denominations, sects, churches, shrines, temples, and similar organizations) that desire to hold property and function as legal persons, of course, must become incorporated; but *they are not obliged to incorporate*. To incorporate an applicant, that is, a religious organization, must be qualified under the Religious Juridical Persons Law, its regulations pertaining to incorporation must be authenticated, and, to complete the incorporation procedures, the fact of incorporation must be registered. Hence, it is mistakenly said that religions must register and be recognized. But "authentication" (*ninshō*<sup>a</sup>) applies *only to the regulations for incorporation and not to the religious regulations of an organization*. Incorporation is solely "in order to facilitate.....owning establishments of worship and other properties, maintaining and operating them, and also carrying on business affairs....."

Incorporation by the government, of course, constitutes recognition of the fact that a given religious organization exists, but this is quite different from implying recognition (*ninka*<sup>b</sup> or *kyoka*<sup>c</sup>) in the pre-war sense of official permission to function as a religious body.

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a. 認証 b. 認可 c. 許可

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Just as the incorporation of a business firm constitutes permission to engage in business without in any sense constituting approval of its business, so incorporation as a religious juridical person constitutes permission for a religious organization to hold property, maintain it, and carry on related business affairs without the slightest implication that such a religious organization itself is "recognized" or "approved."

Registration concerns the property held, the manner in which this property is administered, and the names of the officers that manage it. The last named may or may not be religious functionaries.

Thus, it is clear that that *religious organizations do not have to register with and are not "officially recognized" by the government.*

Probably in few, if any, countries of the world is religious freedom as fully respected as it is in Japan today.

### **Is Sectarian Shinto a religion?**

A highly respected Japanese scholar, writing in a recently published English language booklet states that "Sect Shinto is the name given to our native religion officially recognized by the Japanese Government," that "Sect Shinto" gradually became "an independent sect, and in several places he uses the expression "this sect" in reference to Sect Shinto. In one place he even says it was "a special sect under the special sanction of the Emperor." This particular article is filled with many similar errors, one of which is to also call pre-war Shrine Shinto "a sect"!

What is incorrect in these statements?

In the first place, it is incorrect to refer to "Sect Shinto" or

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“Sectarian Shinto” (*Kyōha Shintō*)<sup>a</sup> as if it were a single religion in the sense that Buddhism and Christianity are religions. Sectarian Shinto was an administrative category created by the Meiji government in 1882. Prior to that there were just two religious categories, Buddhism and Shinto, including shrines, both of which were under one official (*jisha bugyō*)<sup>b</sup> of the Tokugawa government.

In connection with the separation of “church” and state and the nationalization of shrines, in order to create a state cult, the government placed shrines in a separate category and arranged for Buddhist temples and Shinto groups, other than shrines, to organize under an abbot as independent denominations. Some groups that did not naturally fall into the new category of Sectarian Shinto arbitrarily arranged their rules and teachings to conform to the legal requirements. Ultimately thirteen separate denominations were established and received recognition (*kyōka*)<sup>c</sup> by the government as belonging to Sectarian Shinto.

In the second place, since there were thirteen separate and distinct sects, the group as a whole should not be called “a sect.”

In the third place, although these sects were recognized before the war, at present no religious sect is officially recognized by the government.

In the fourth place, it is incorrect to say that Sectarian Shinto was ever “under the special sanction of the Emperor” in the sense that it had a higher status than Buddhist sects, for example. The thirteen sects had the same status as Buddhist sects.

Today, Tenri-kyō<sup>d</sup> and Konkō-kyō<sup>e</sup> no longer consider themselves as Shinto sects. They regard themselves as independent, unique religions. Nevertheless, they continue to be affiliated with the Sectarian Shinto Federation because only in this way can they participate in the over-all activities of the Religions League of Japan.

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a. 教派神道 b. 寺社奉行 c. 許可 d. 天理教 e. 金光教

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### **Can foreign religious denominations own property in Japan ?**

Article 36 of the Civil Code reads :

(Recognition of a foreign juristic person, its competency)

With the exception of States, administrative divisions of States and trading companies, the existence of foreign juristic persons shall not be recognized ; however, this shall not apply to such juristic persons as are recognized by laws or treaties.

Foreign juristic persons recognized in accordance with the provisions of the preceding paragraph shall enjoy the same private rights as those of the same classes of juristic persons formed in Japan ; however, this shall not apply to such rights as aliens cannot enjoy, or to those in respect of which any different provisions are made in laws or treaties.

To own property in Japan representatives of a foreign religious organization must either incorporate under the Religious Juridical Persons Law or under Article 34 of the Civil Code which reads :

An association or foundation relating to worship, religion, charity, science, art or otherwise relating to public interests and not having for its object the acquisition of gain may be made a juristic person subject to the permission of the competent authorities.

### **Can a Christian missionary in Japan perform a wedding ceremony ?**

Yes. However, the religious ceremony has no legal validity.

Article 739 of the Civil Code reads :

(Notification of marriage)

A Marriage becomes effective by notification thereof in accordance with the provisions of the Family Registration Law.

The notification mentioned in the preceding paragraph shall be made by both the parties and two or more witnesses of full age either orally, or by a document signed by them.