

## THE CONSTITUTION AND RELIGION

Note: The Constitution Investigation Council, which is currently studying the manner in which the Constitution was drafted and adopted and is considering whether it should be revised, has devoted two sessions (December 2, 1959 and March 9, 1960) to the subject of religion. In this issue we are presenting another installment of a slightly abridged and edited translation of the statements made before the Council by the officials and scholars who were asked to relate their experiences and express their opinions in regard to the above subject. Editor.

**Meeting on March 9, 1960**

(Continued)

*Tagami*

I wonder if this is really a question. I know that the Shinto Directive was of great importance when the new Constitution was enacted. However, it is not necessary for us to take it into direct consideration now when we interpret the Constitution. The Directive ceased to be effective when the Occupation came to an end. The point is that, because the Directive greatly affected the Constitution when the latter was drafted, to the extent that its spirit was incorporated, the spirit of the Directive itself should be respected even today as a principle of the Constitution. This point, however, was not discussed in this committee, so I will not discuss it any longer.

Mine is only one opinion, but let me state it regarding whether or not the Grand Shrine and other shrines constitute a religion. Many discussions also took place regarding this problem at the recent general meeting, so it is needless for me to repeat them; but as Dr. Kishimoto has often stated, the

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idea of religion is very difficult to determine and I think that in a sense it has nothing to do with the law. Moreover, to speak my opinion frankly, it is strange to regard the shrines in law as religion. However, this is a technical problem. For example, as Dr. Kishimoto also well knows, the Religious Juridical Persons Law includes what is not religion from the viewpoint of our common sense. In other words, this means that even when something is not regarded as a religion, viewed from the standpoint of common sense, if the parties concerned arbitrarily treat it as a religion or a religious organization, it is technically difficult for the state to refuse to apply the Law on the ground that it is not religion. To speak the truth, it is strange for the Religious Juridical Persons Law to deal with what substantially is not a religion. This does not accord with the spirit of the law, but technically it is inevitable.

Putting this point aside for while, in regard to the Grand Shrine and other shrines, if these have been treated as religion, it will be very difficult from the standpoint of the Constitution to regard them as not religion. As a matter of fact, however, it is a delicate point whether or not they are a religion. I think there is a rather large possibility of regarding them as not religion through some method of interpretation or, as Mr. Maeda has suggested, on condition that the religious color, if any, be removed. In this regard, when the Religious Organizations Law was enacted in 1939, I discussed this subject in detail as it concerned Christianity with the former Vice Minister of Education, Mr. Inada, who was then the Chief of the Religious Affairs Section.

One of the topics discussed at that time was the Emperor.

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According to Christian theory, the Emperor is also a human being. If so, because in Christianity all human beings are sinners from the beginning, this (faith) would run counter to the basic principle of the national polity. I remember that we came across the very difficult problem as to whether or not Christian organizations should be recognized by the Ministry of Education as religious organizations. Christianity says that God judges human beings. Consequently it develops that the Emperor is also to be judged. I don't think that this is a problem of law or politics but, anyway, when required to propose some written doctrine, we necessarily had to touch upon this subject. The Education Ministry authorities said that they could understand the circumstances very well, but as various circles exerted pressure on them, they required us to present documents which looked reasonable and were not harsh, at least on the surface. Such being the case, if freedom of religion was assumed, I think that the Religious Organizations Law fell under the suspicion of running counter to even the former Constitution regardless of the existence of the Shinto Directive. This is not only a problem of the new Constitution.

Another problem concerns Dr. Sasaki's assertion that shrines were undoubtedly the state religion. He asserted this in a collection of essays in commemoration of a certain person. We were taught the Constitution by Dr. Minobe who maintained the position that Mr. Inuma told us about a little while ago. He made reference to the problem of shrines and religion solely in relation to the problem of freedom of religion, because the separation of "church" and state was not made clear in the old Constitution. He insisted that in a sense the "worship"

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of shrines by the people as a duty did not necessarily run counter to (freedom of religion in) the former Constitution, because (he took the position that) shrines were not religion; though, if they had been religion, these acts would have distinctly run counter to the Constitution. This he argued clearly.

Moreover, he further said that therefore it was naturally proper, according to the Constitution, to distinguish between the Shrine Bureau of the then Home Ministry and the Religions Bureau of the Education Ministry. He strongly insisted that in this sense religion and the shrines should be separated. Needless to say, what lay at the basis of his view was that the Emperor was not a deity. He strongly advocated this in his Emperor-as-an-organ theory with the result that he was severely persecuted.

In the early years of Showa, that is, until 1935, Dr. Minobe's theory seemed to be the common one. Accordingly, the idea that shrines were not religion was recognized by nearly everyone. However, the standpoint of Dr. Sasaki and, to my special regret, the association of shrine priests — not the government — insisted that the shrines were religion. During the war, when Dr. Minobe's theory was unfavorably criticized, the Education Ministry and the government in general, as well as the book *Kokutai no Hongi* (*The True Meaning of the National Polity*) openly treated shrines as religion. In retrospect this was a misfortune. Therefore, I think that, because of Japan's wartime attitude, it was natural that foreigners, who were rather ignorant of the history and real state of shrines, regarded the shrines as religion. However, there is great doubt as to whether or not the interpretation applied by the government in the

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past and during the war, as well as in shrine and other circles, was correct under the Meiji Constitution. From a theoretical viewpoint at least, I think that it was quite questionable to assert that the shrines were religion, because freedom of religion had been recognized since the time of the former Constitution.

If Dr. Minobe's position were adopted, what the Shinto Directive stated after the termination of war would be not all strange; indeed, it would be a matter of course. In short the point is freedom of religion. It is true that Dr. Sasaki said that shrines were the state religion (*jinja wa kokkyō de aru*). However, as I read his statement, he also said that a broad religion such as shrines comprehended all religions, including Buddhism and Christianity. It was probably in this sense that he explained that, although shrines were the state religion, they did not deny freedom of religion.

For the believers of religions other than shrines, however, there is great doubt. Religion is rather exclusive and absolutely dogmatic, or something like that. Therefore, it is rather unreasonable to force someone to believe in shrines as religion in addition to Christianity. As for me, at least, I think that it is very irrational. Therefore, since the Constitution guarantees freedom of religion, it seems to be impossible for any interpretation of the Constitution to recognize that the Grand Shrine or other shrines are religion and at the same time impose any obligation regarding them on the people.

However, as Dr. Minobe said, when freedom of religion was not violated, in other words, in so far as the people were not compelled to believe in the Grand Shrine and other shrines,

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it was unnecessary to consider the question of whether or not they were religion so seriously. In this respect, I am afraid that Dr. Kishimoto might object to my opinion but, if it were possible to separate religion and the shrines as a system, it should somehow be possible to interpret the Constitution in this way. But separation of "church" and state is stipulated in the new Constitution, so if we regard the shrines as religion, in the strict sense it will be impossible to connect them to the state.

In this regard, in my personal view, if it is possible to separate shrines from religion in the normal sense; in other words, if they can be interpreted in the same way as in the old Constitution, even in case the separation of religion and state is recognized, I don't think that it is necessarily unconstitutional to relate special shrines, for example, the Grand Shrine of Ise or Yasukuni Shrine — I don't know much about shrines in general — with the state.

I would like to refrain from being too positive. The religious significance of shrines is a little indistinct. Why is it necessary to separate religion and state in the constitutional system? Is the system of separation accepted unconditionally because this is involved in the Constitution? Or is the system of separation recognized from the standpoint of observing freedom of religion to which the Constitution attaches importance? These doubtful points seem to show that there may be room for a wide interpretation of separation.

In my opinion there seems to be some room for a reconsideration of the relationship between the state and the Grand Shrine and other shrines, even under the current Constitution

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and without amendment. If Dr. Kishimoto or any other persons have a different view, I would like to hear it.

*Kishimoto*

This is not an opinion regarding what you have just said. When we are discussing a certain specific problem, we are apt to go too far and commit a logical contradiction. I fear that we may, in spite of ourselves, do this today also. When only Yasukuni Shrine and the Grand Shrine of Ise are taken up as the subject of discussion, the problem is not so complicated as it is thought to be. However, when the Grand Shrine of Ise is considered as a representative of 80,000 shrines throughout Japan, the question then becomes very complicated. For example, a rather large number of Shinto priests at present are thinking about the salvation of their parishioners. This clearly has a religious content. Therefore, this has to be noted. Application to all shrines of the conclusion which has been reached from a discussion of only the Grand Shrine would be logically dangerous.

*Hirose\**

I would like to put a simple question to the authorities of the Imperial Household Agency. Are the expenses for the Grand Shrine, etc., financed by the private funds of the Imperial Household?

*Takao*

By private funds.

*Hirose\**

Is this because the Emperor visits the shrine in his personal

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capacity from the standpoint of religious freedom as his fundamental human right as an individual? I think that disbursement from Imperial court funds may be all right.

*Takao*

That is not done because to do so might run counter to Article 89 of the Constitution on the ground that the Imperial court funds are public money.

*Hirose\**

Then, if he visits the shrine in his public capacity, would it be all right to use the funds of the Imperial court to cover it?

*Takao*

I think that it would be doubtful under the present Constitution.

*Hirose\**

I would like to ask Mr. Iinuma about his remarks. An important point in your statement, which should be confirmed, is that as far as the government was concerned, the Meiji Constitution also recognized religious freedom unless it ran counter to public order. Is that correct? However, as for me, what we thought was that it was a major premise that shrines were not religion and that the unity of Shinto rites and the state was the national policy. Therefore, although it was not legally stipulated as the state religion, it was, as a matter of fact, State Shinto after all. This is my understanding, but what do you think of this as the last vice president of the Shrine Bureau?



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*Inuma*

The words, state religion were never used, because the Grand Shrine and other shrines were not regarded as religion. However, in the early years of Meiji a movement to disseminate the Great Teaching was made in order to teach the people the way of Shinto. I don't know how many years it lasted. Perhaps it may have ended by the 10th year of Meiji.

*Hirose\**

Didn't the attitude that they were not religion, as well as that of the unity of Shinto rites and the state (*saisei itchi*), change?

*Inuma*

The phrase, "the unity of Shinto rites and the state," was often used in the early years of Meiji. I don't think this was used in public documents afterward, but the spirit seems to have remained in the shadow of the system. The preamble of the Constitution, which was referred to a little while ago as well as the Imperial Rescript on Education, said "The way here set forth is indeed the teaching bequeathed by Our Imperial Ancestors . . ." I understand that the spirit still remained that it was the foundation of government and education.

*Hirose\**

Another question. You said that the biggest question in relation to the Grand Shrine is whether the Grand Shrine and the sacred mirror are public or private property. This relates also to the problem of whether the worship of these is public

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or private. Did you take up the problem of whether it was public or private property on the premise that the Grand Shrine is religion?

*Iinuma*

No. I don't think that it is religion.

*Hirose\**

If you don't think so, from what point of view did you feel that it is the biggest question?

*Iinuma*

I said that we don't know how to interpret it. The Grand Shrine is controlled by the Religious Juridical Persons Law on one hand and by the Imperial Household Finance Law on the the other.

*Hirose\**

I'd like to ask Mr. Maeda's opinion. The present system has become different from the spirit of the previous Constitution, quite apart from the problem of whether or not the present system was made for the purpose of weakening Japan. What is its influence? I think that the Constitution, which came into effect fifteen years ago, is exerting influence on the people's life or, more concretely speaking, on the national morality, the religious sentiment, and even the political life. I'd like to hear the opinions of Mr. Iinuma, Mr. Ogane, and Mr. Maeda about any remarkable examples of the influence of the present Constitution and the present system of religious juridical persons.

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*Maeda*

I have not studied this matter further, so I wonder whether I am competent to answer. If you ask only for my impression in general terms, I think that their influence is all right on the whole, except for the fact that there is something inexplicable, especially about the Grand Shrine of Ise and Yasukuni Shrine.

*Iinuma*

As I said a little while ago, I have had no touch with shrines, other than the Grand Shrine, since the promulgation of the Shinto Directive. Therefore, I don't know much about the real situation. What did you ask?

*Hirose\**

How has the world been influenced? What influence is being exerted on national morality, national religious sentiment, and political life?

*Iinuma*

The people have become free and seem to feel relieved. I think that this is a very good point. But something dependable is missing in the field of education and politics. There seems to be no effort to approach the ideal as nearly as possible. The said directive was issued in relation to Shinto. People seem to have lost all their inclination to approach the kami, that is, the most idealistic form of human beings viewed from the common sense of the people in general. There is, in other words, a moral decline. In this regard, I think that the system of dealing with the Grand Shrine and other shrines

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should be reconsidered. But I don't want to force it. There was no coercion formerly, at least not in the Home Ministry. I don't know what movements took place in other circles but it is meaningless to enforce such a spiritual matter. I think, however, that some kind of moral norm should not be neglected.

*Ogane*

What I am going to say is roughly the same as what Mr. Inuma has just said. I am also one of the members who is anxious about such matters. However, I am afraid that shrine circles in general have been weakened, have lost their ideal, their guiding power, or, to speak the worst, many shrines have become degenerate. I am afraid that Mr. Inuma's apprehensions will be realized unless the power of the state and the power of all the people are exerted in an effort to rebuild the shrine-priest world itself.

*Hirose\**

As the Constitution respects the people's freedom, they have come to feel much relieved. This is very good. However, if the Constitution of Japan remains as it is, all the shrines in every nook and corner of the land will gradually decay. Such a tendency will become stronger under the current Constitution. For this reason, as a matter of fact, the true characteristics of a constitution of Japan are missing. It is my own idea that a constitution of Japan should have the proper Japanese spirit. The proper Japanese spirit can be seen in the shrines. Such shrines will be ruined to my regret if they are left as they are. Nevertheless, I dare not suggest the prohibition of freedom of religion.

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Religion should be free. But doesn't the present Constitution go too far? In other words, there was a misunderstanding when Japanese shrines were regarded as the basis for militarism. This misunderstanding should be corrected. I think that the present Constitution was drafted on the basis of such a misunderstanding. In official statements (*kokubun*)<sup>a</sup> and Shinto prayers (*norito*)<sup>b</sup> peace and prosperity were prayed for. This was not understood by the Americans, so it must be corrected. And, this being the case, I feel that the Constitution itself may have emerged from such a misunderstanding. In this regard I am anxious about the decay of the shrines throughout the country. When revision of the Constitution was first discussed [after the war] it was often said that there should be freedom both in political and religious affairs, but this did not mean that religion should be treated lightly. On the contrary it was felt that religious sentiment should be heightened as much as possible. The way of writing the new Constitution, however, seems very extreme.

I would like to hear from you who are all in very important positions about what the influence will be on the political life of the people if the Constitution is left as it is.

### *Maeda*

It was a great misunderstanding of the Occupation Forces and others who thought that Shinto was the primary motive force for an absurd militarism which was to conquer the world. This misunderstanding, needless to say, must be clarified. Some foreigners have recently become aware of it, and I think

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a. 告文    b. 祝詞

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that learned men no longer say such things. Actually Sir George Sansom, an authority on things Japanese, recently wrote a book entitled *Japanese History* in which he explains about Shinto. According to it, Shinto starts from a kind of love of nature, to which ancestor worship has been added — various objections may arise — and it is absurd to regard it as the motive power for the terrible militarism, as certain groups say. Many of this opinion can be found among men of good sense. Therefore, the misunderstanding should certainly be corrected. However, I doubt if it is necessary for us to revise the Constitution because such a view must be corrected. I am afraid that this is something of a leap in logic.

It will take many hours if we begin such a discussion. I have only stated my conclusion.

Note: The asterick indicates the members of the council.