

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.

*Hirose*³² My words were insufficient.

Iinuma I think that the present Constitution is all right, if it is the state policy that the Grand Shrine and other shrines are not religion. Anyhow when the Emperor observes the festivals of the Grand Shrine as the chief worshipper, on the one hand, or presides at the rites at the Three Palace Shrines, on the other hand, he becomes for the first time the symbol of the state and of the unity of the people in its true meaning. At least this is the way I think about it.

*Hirose*³³ In relation to Article 89, the Imperial Family and so forth...

Iinuma I think there is no problem, because I do not consider Shrine worship as religion.

*Takayanagi*³⁴ This is a very simple question. I asked the question a little while ago as to whether or not Shinto is a religion. If the Emperor decided to convert to

THE CONSTITUTION AND RELIGION

Christianity, for example, would not there be opposition on the part of Shinto? Or would they agree to it? If it is not religion, he would be free to do so.

Kishimoto It would be very shocking, at least for the Shintoists.

*Takayanagi** If so, then Shinto has a very strong religious element.

Kishimoto To my understanding, except in special cases, about 70% of Shinto is religion. Therefore, what you have just said naturally follows.

*Takayanagi** In case the Emperor became a Christian, would they feel that this was a good thing? Or would they feel like opposing it as unpardonable?

Iinuma Who do you mean? Persons concerned with shrines?

*Takayanagi** Shinto priests?

Iinuma I think that it would be opposed. It would be very shocking.

*Takayanagi** If so it is inevitable that Shinto be recognized as something very religious.

Iinuma Shrines?

*Takayanagi** Because of religious freedom, conversion to Christianity should be all right, if Shinto is not a religion...

Iinuma Do you mean from a legal viewpoint?

*Takayanagi** No, as a social phenomenon.

Iinuma If such a matter arose as a social phenomenon, undoubtedly opposition would occur...

Takayanagi Therefore Shinto priests seem to have a strong

THE CONSTITUTION AND RELIGION

feeling that Shrine worship is religion.

Iinuma Those persons who voluntarily reorganized shrines as religious juridical persons and joined the Association of Shinto Shrines after the issuance of the Directive may think of shrines as religion. As for me, however, Shinto is not religion.

*Takayanagi** In case of testifying as to whether or not Shinto is religion, from the standpoint of social psychology or something like that, is the idea acceptable that even the Emperor is personally free to believe in any religion? For example, Christianity or Islam? Or is the feeling strong that the Emperor should not be a believer of any of these religions? This question is very naive, but it seems to touch the point.

Iinuma From a legal standpoint he may believe in any religion. As a matter of fact, however, if the people concerned with the shrines heard about this they would be opposed to it.

*Oishi** I would like to ask Mr. Takao something. I have heard that the actual administration of the relationship between the Grand Shrine and the Imperial Household has been conducted on the basis of the fundamental human rights of the Emperor as a private individual. However, according to Mr. Ogane's personal opinion, it seems to be doubtful whether even under the present Constitution it is possible to administer the Shrine on the basis of his individual, fundamental human rights. I agree with him. Under the present Constitution the Emperor is the symbol of the state,

THE CONSTITUTION AND RELIGION

which constitutes a right belonging exclusively to him in interpreting the Constitution. Therefore, there is no room to consider the Emperor as a private person but only as the symbol of the state. If so, even in regard to his relation to the Grand Shrine, the festivals under the sponsorship of the Emperor in his capacity as a symbol are those of a person having a public capacity recognized by the Constitution. Therefore, according to a strict interpretation of the Constitution, the execution of administrative business on the basis of the fundamental human rights of the Emperor and not as a symbol — the principle may be understood to be an expedient method of defending the tradition against the oppression of the Occupation Forces — does not seem to be right from a logical viewpoint. What does Mr. Takao think about this?

Takao When I spoke about the Emperor observing the rites at the Three Palace Shrines as a personal, fundamental human right, I meant that it was done for the reason that there was no other way under postwar conditions. What is done today in the administration of the Imperial Household depends solely upon the provision of Article 89 of the Constitution, which not only strictly prohibits their maintenance by public funds but also forbids giving any aid to them. No other course can be taken under Article 89. We don't say that it is paid out of the private funds of the Court because of the problem of his fundamental human right. We are dealing with it solely as a problem of Article 89.

THE CONSTITUTION AND RELIGION

*Oishi** You say that the interpretation of Article 89 is being very strictly applied. Do you mean that the interpretation by the Occupation Force and the legislation enforced during the Occupation are still continuing today?

Takao If the functions of the Grand Shrine are clearly explained as not religion, Article 89 is not a question. However there has not been any definite view about this, even in this meeting. If Article 89 prohibits even the giving of aid, in other words, if it does not permit the disbursement of public money under any circumstances, we think that we should observe the limitations of the law.

*Oishi** The chairman has taken up the problem of what would happen if the Emperor converted to Christianity. I think it is simple from the standpoint of Mr. Inuma. The Emperor is not in a position to be partial to a part of the people. He always stands over and above all people. The Emperor should have no private life in the field of religion or any other individual life, because he is the symbol. From this viewpoint, it is undesirable for him to participate in any particular religion; for example, Ōmoto or Islam. It is desirable for him to be as indifferent as possible to any separate religion. Isn't this the opinion which can be derived from your point of view?

*Inuma** As a matter of fact, I have never thought of the question the chairman has just asked. I did not know how to answer. I don't know whether the Emperor has or has not such an individual human right. Of course

THE CONSTITUTION AND RELIGION

I don't think that it is desirable.

*Oishi** As for me I thought it a simple question, but you seem to think it is very complicated.

Iinuma I do not desire such a thing, nor do I think that it will happen.

*Kuroda** I'd like to ask Dr. Kishimoto a question. I have the impression that you are discussing the problem of whether or not shrines are religion, centering in the shrines or the Grand Shrine as they were developed in line with the national policy of the Meiji Government. The problems since the Meiji era have arisen in a very short period in comparison with the history of shrines from the beginning of Japanese history. In this short period it seems that the shrines were unfavorably influenced by the Meiji Government policy. When we consider such a problem, we should look further back to the shrines as being more historic and traditional. Otherwise, we cannot adequately understand these constitutional problems. What is Dr. Kishimoto's opinion regarding this point?

Kishimoto We normally consider Japanese religion from the time prior to the introduction of Buddhism. In this long history there have been various changes in Shrine Shinto. I think that the form of State Shinto since the Meiji era is nothing but one aspect of the changes. It may be safely said that it is the common sense of scholars of the science of religion that Shinto as a whole is regarded as a religion, though it has a very peculiar character. I consider that Shinto was differen-

THE CONSTITUTION AND RELIGION

tiated from religion by thoughtful Shintoists at the beginning of the Meiji era for a special purpose.

In the years prior to the Meiji era, that is, until the end of Tokugawa period, the shrines had a strong tendency to adhere to common beliefs such as seeking worldly divine favors or incantations and prayers. Many unrefined elements, such as divine inspiration (*kami-gakari*) were to be found in them. Therefore, in the early years of Meiji, there occurred a movement to remove such vulgar elements and to make Shinto refined and suitable as the guiding principle of the Meiji Restoration. I think that this was a very pious and idealistic point of view. For this reason these people called this refined thing Shinto, and called the others religion. Therefore the people in Shinto circle after Meiji regarded religion as vulgar beliefs. When a Shinto priest was said to be engaged in religious practices, this meant that he was employing charms or something like that. He was looked down upon by others and he felt great shame. This tradition has continued. Therefore almost all Shinto priests have not considered that among religions there are refined ones, such as Zen, for example. It should be recognized that there is, as a matter of fact, a great difference between the word religion, as it has been used by Shinto priests since Meiji, and as it is being used by us.

Tagami Mr. Fukuda referred a little while ago to public funerals. You said that the observance of religious

THE CONSTITUTION AND RELIGION

exercises in government facilities was prohibited. I am doubtful, however, whether the separation of religion and state requires such strict separation. I think that in regard to the strict observance of the separation of religion and state, the Japanese Constitution is modelled after the American system. In the case of America, however, I wonder if an administrative policy which denies the use of Christian elements is possible. For example, the Presidential oath at the time of his inauguration. There seems to be no room for argument here. It would be too formalistic logic to say that any religious color should be wiped out of all national events. Furthermore, there seems to me to be no ground for saying that the Constitution of Japan requires the separation of religion and state in the way that France took in the past and the Soviet Union is taking now in regard to its religious policy. Needless to say there are some countries that do not recognize this separation. The manner of interpreting the Constitution that was adopted by the Government in this regard seems to be too formalistic. On what basis and with reference to what, have you interpreted it in such a way?

Fukuda I indeed felt confined in attending to my official duties, just as Mr. Tagami stated. The prohibition of public funerals was derived from the Shinto Directive, Therefore, in order to thoroughly enforce the Directive, this seems to have been a very delicate point. In the postwar days many public funerals were held,

THE CONSTITUTION AND RELIGION

mainly for the war-dead. The Occupation paid much attention to the funerals for the war-dead, in case something militaristic might occur. Public funerals were especially watched for this reason.

It was said, however, that a public funeral could be held, if it was in the form of a memorial service for the deceased civilians without a religious ceremony. Therefore it was not intended that public organs should not hold any services but that memorial services or something like that was to certain extent permissible. However, public funerals in a Shinto form were strictly watched.

The ceremony of setting up the ridge pole is observed in the Shinto manner according to Japanese custom when a house is being built. However, when a government building was under construction, it was prohibited to observe a ceremony for setting up the ridge pole in a Shinto manner. Such religious ceremonies were thus strictly prohibited as well as public funerals.

I think that in America and elsewhere, such ceremonies are observed in a Christian manner. We objected to the policy on this ground. Shouldering a portable shrine in a village festival, for example, falls under this case. At present, however, the Shinto Directive is no more; and a relaxed attitude seems to prevail that past customs or something in accordance with social commonsense should be allowed.

*Tagami*** I'd like to ask another question of Dr. Kishimoto

THE CONSTITUTION AND RELIGION

in regard to this point. Is the separation of the state and religion so strict? I would like to follow the view of Roger Williams of America. In his view, if the state was connected with a certain specific religion, it oppressed the other religions. This is the principle. From this viewpoint, I think there is no need to observe a ceremony in such a strict way with no religious color, unless this has an injurious effect on freedom of religion in general.

I think that America is representative of countries where the system of the separation of state and religion prevails. And yet it does not seem to be completely so. Therefore I think that the attitude of postwar Japan in adopting the system was a little extreme. What is your opinion in this regard?

Kishimoto To state my conclusion, it seems to be extreme in regard to the strictness of its enforcement. As to the reason for this strictness, I have my own interpretation. I think that this was caused by a combination of the following two reasons.

One is that the General Headquarters policy generally had its original pattern in America. This seems to be because the General Headquarters authorities had no other model in their mind. The separation of state and religion is the pattern prevailing in America, so it was brought to Japan. This is one of the reasons for stressing the separation of state and religion.

However, there happened to be another reason for strengthening the power of this principle. What was

THE CONSTITUTION AND RELIGION

regarded with disapproval by America during the war was that the power of the state and the power of Shinto were connected. They had to be separated by all means. However separating only Shinto was not reasonable. If separation of the state and religion in general was strictly enforced, Shinto as a religion would be automatically separated from the state. Such an idea was active.

These two reasons were combined to work very strictly. As I think that Mr. Fukuda testified, many people in Shinto circles and connected with primary schools were punished by General Headquarters. They were scolded by General Headquarters in performing traditional Shinto practices. Thereafter the Japanese people seem to have accustomed themselves to maintaining the extreme strictness mentioned above.

Takata Any other question?

Mr. Fujikashi is also present who wrote about the human declaration of the Emperor. Any questions? If you have no more question, today's meeting is closed.

Kanji Glossary

Kami-gakari (divine possession) 神がかり

Ômoto 大本

Tokugawa 徳川

THE CONSTITUTION AND RELIGION

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