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RELIGIOUS FREEDOM PROBLEMS IN JAPAN: BACKGROUND AND CURRENT PROSPECTS

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Abstract

The appearance of democracy in Japan did not arise from the Japanese people themselves, but rather resulted from an outside philosophical system grafted onto a relatively anachronistic feudal social order. This development created a unique expression of "democracy" in Japan—with a civil liberty tradition, which remained undeveloped, and superficial understanding of human rights. This characteristic of Japanese society is especially conspicuous when one looks into the issue of religious freedom. This essay explores historical background and current problems of religious freedom in Japan, focusing on state-sanctioned restrictions as well as social factors. It first examines prewar and wartime relations between church and state, including official persecution of religions by the wartime government. Then, it explores some postwar phenomena that might suggest a revival of religious control. This paper also analyzes some social factors in Japan that restrict religious faith. Finally, it presents a perspective on judiciary problems.

Introduction

Since mid-century, Japan has grown to become one of the most highly industrialized countries in the world. In marked contrast to the rapid development it has enjoyed in the economic arena, however, Japan's culture of civil liberty—particularly religious liberty—is still very much in its infancy. This is partially because the principle of the separation between church and state, which Western countries such as the United States tend to take for granted, has no parallel in Japanese tradition. Instead, the usual pattern of Japanese history has been for governments to control religion. In the words of Metraux (1997, 217), "Americans have a long tradition of the separation of the two entities, but that distinction, despite the postwar constitution, does not exist in the Japanese cultural mind."

Other factors inhibiting the maturation of a culture of religious liberty are an atmosphere of religious apathy, a general lack of respect for human rights, a tradition of social authoritarianism, the absence of a truly independent judiciary and, in recent years, an officially-sanctioned intolerance of religion. As a consequence, threats to religious freedom

have rarely met with resistance, with the exception of opposition from certain religious minorities.

Historical Relations between Church and State

Religious history in Japan has been characterized by a variety of forms of association with the government, which has traditionally used religious bodies to advance the interests of the state. As Kawawata (1996, 199) puts it, "From 701, when the law of the land was first codified, until 1945 [and] the end of World War II, the basic principle of government religious policy was to supervise religious organizations in the interests of the state."

The Feudal System and Religion

During the Tokugawa period (1600-1868), Japanese Buddhism was formally incorporated into the feudal administrative institution known as *danka seido,* a system that required every household to be affiliated with a particular Buddhist temple. This system was aimed largely at detecting and persecuting minority Christians, who as a group were more loyal to their religion than to the state. Although the law establishing this system was rescinded in 1871, to this day many families still feel a special obligation to the temple with which their ancestors were registered—for example, they regularly visit the temple where their "family grave" is maintained, and call upon its priest to conduct family funeral services.

State Shinto: State Control through Emperor Worship

Following the collapse of the Tokugawa regime, the Meiji government (1868-1912) was faced with the internal threat of widespread civil discontent and the external challenge of having to negotiate with intrusive foreign powers. The new regime responded by modernizing the political economy, and by taking steps to strengthen cultural identity and to consolidate national loyalty. Meiji leaders accomplished this through, among other strategies, integrating emperor-centered Shinto beliefs into the power structure by giving its priests and institutions privileged status and financial support. In time, State Shinto became a government institution and its priests government officials. Conflict with the religious freedom article of the constitution was sidestepped by claiming that State Shinto was not a religion.

At the same time, steps were taken to weaken the culturally superior position of Buddhism because, as an international religion, Buddhism appeared less amenable to the nationalist goals of the Meiji leadership. In 1872, the Grand Council of State issued an edict allowing Buddhist priests to eat meat and to marry. Although these practices were traditionally forbidden to the Buddhist priesthood, the majority of priests followed suit, indicating that most Japanese Buddhist groups viewed state authority as superseding the authority of their own religious tradition.

Prewar and Wartime Control of Religion

In the early 20th century, Japanese authorities gradually adopted policies of overt control over religions perceived as being at odds with State Shinto. In 1921, for instance, three leaders of Omotokyo, a new religion which had emerged during the 1890s, were arrested on charges of lèse-majesté and of violating the Newspaper Law's prohibition against publishing materials disrespectful of the emperor.

Japan embarked on a war of aggression against Asian countries in 1937 and against the United States and their allies 1941. The wartime regime was built upon the foundation of pure religious statism. This was made possible by elevating State Shinto to the position of the "only religion" which provided a spiritual basis for Japanese ultranationalism. The emperor was vested with both sovereignty and divinity, and the entire country was forcibly converted. All other religions were either persecuted or subordinated to the cult of emperor worship.

Under the revised Public Security Preservation Law of 1941, the state could and did destroy any religious group for preaching beliefs that simply varied from emperor worship. Some Christian teachers and students were arrested and died in prison. Tsunesaburo Makiguchi and Josei Toda, the cofounders of Soka Gakkai, were imprisoned as "thought criminals" by the Special Higher Police, militarist Japan's equivalent of the Gestapo.[1] Their "crimes" were that they had rejected the compulsory worship of the emperor and State Shinto and thus resisted the wartime regime. Makiguchi died in prison in 1944. With such exceptions, however, the overwhelming majority of religious bodies, including Buddhist and Christian denominations, adjusted to the statist policy and thus escaped direct persecution.[2]

Postwar Revival of Religious Control

Following the second world war, the Allied Occupation severed the ties between church and state—disestablishing State Shinto and assuring people religious freedom. In recent years, however, as Garon (1997, 206) writes, there have been "major movements to revive aspects of prewar managerial policies toward religions." For example, the ruling Liberal Democratic Party (LDP) attempted several times to introduce legislation to make the Yasukuni Shrine—a symbol of Japanese militarism which enshrines the spirits of the war dead, including class A war criminals—a state-supported institution. The LDP's Policy

[1]Then called Soka Kyoiku Gakkai (Value Creating Education Society) and renamed Soka Gakkai (Value Creating Society) in 1945. Soka Gakkai, based on Nichiren Buddhism, is today the largest religious denomination in Japan with approximately ten million members.

[2]In 1941 Protestant churches merged to form a government-sponsored United Church of Christ in Japan. The Vatican told Japanese Catholics that they could consider the gesture to worship the State Shinto shrine a civil duty although they acknowledged after the war that this instruction was a mistake.

Statement, as reported in the *Nihon Keizai Shimbun,* 8 January 1998, has also affirmed its position to "work to realize official visits to Yasukuni Shrine."

Furthermore, with virtually no public debate, the ruling coalition revised the Religious Corporation Law (RCL) in December 1995 so as to grant the government greater powers of supervision over religious bodies—despite the opposition of most major religious groups, from the United Church of Christ to the Kyoto Buddhist Association. Among the provisions of this Act were a shift in authority over religious organizations from the local to the central government and increased governmental access to the records of religious organizations. The government asserted that the revision was part of an effort to prevent such criminal activities as Aum Supreme Truth's gas attack on the Tokyo metropolitan subway in March 1995. However, the real motives for revising the RCL were more political than genuine. This purpose was candidly acknowledged by Shizuka Kamei, an LDP spokesperson, when he told a television audience that the purpose of revising the Law was "to take measures against Soka Gakkai,"[3] a Buddhist group which had previously endorsed a major opposition party. In fact, because legal recognition of the Aum cult as a religious corporation was dropped by court in October 1995, the group has never been governed by the revised RCL. As Metraux (1996) stated:

> The Aum incident demonstrated that the Japanese government lacks an adequate security mechanism to prevent a terrorist incident by a group well-armed with poison gas and imported weapons. A more appropriate reaction might have been to improve the accountability of the nation's security system against terrorists—for which revision of the Religious Corporation Law is really irrelevant. . . . The new law is in its true intent a flagrant violation of Japan's constitutional guarantees of religious freedom.

Furthermore, only months later, as the *Sekai Nippo,* 24 January 1996, and other newspapers reported, the LDP began discussion of an additional "Fundamental Law on Religions"—an act which proposed to set very narrow limits on religious activities, even going so far as to prescribe criminal penalties for evangelizing to the same person more than once. Although this bill was never introduced to the Diet, the fact that the LDP seriously contemplated such legislation adds weight to Garon's concern (1997, 215) that "yet another of the Occupation's efforts to check Japanese propensities to manage society is under attack."[4]

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[3]Asahi National Broadcasting's *Sunday Project,* 22 October 1995.

[4]More recently, however, after LDP lost a majority in the Diet, it requested that the New Komeito party–which is endorsed by the Soka Gakkai–join the coalition government in July 1999. LDP's oppression against the Buddhist group has since been less visible. On the other hand, the major opposition Democratic Party of Japan is now active in conducting negative campaign against the New Komeito and its constituency. These facts further indicated theat pressure against the Buddhist denomination has been largely political.

Social Factors contributing to the Erosion of Religious Liberty

Religious Ambivalence

The cultivation and development of an atmosphere conducive to religious liberty must find its social base in an awareness of civil liberty concerns. This foundation does not, however, exist in the Japanese cultural psyche. Despite the threats to religious freedom represented by the LDP's insistence on official visits to Yasukuni and the revision of the Religious Corporation Law, most Japanese citizens remain unalarmed. In surveys conducted by the *Asahi Shimbun,* 23 September 1995, and the *Yomiuri Shimbun,* 23 November 1995, the majority of respondents were in favor of revision primarily because they hoped that it would help prevent future crimes by religious groups—without realizing either the irrelevance of the measure or the political machinations behind it, and with even less understanding of this legislative action's implications for their own freedoms.

Support for the revised Law is not an isolated incident, but is, rather, an expression of widespread religious apathy. Although the image of Japan abroad is one of a country filled with picturesque temples, the truth is that the Japanese are among the least religious of nations. A poll reported in the *Daily Yomiuri,* 3 July 1994, indicated that only one out of four Japanese claim to follow a particular religion, and over 70 percent do not believe in any religion.

Religious apathy is also reflected in a "pick and mix" approach to religion. For example, it is not unusual for people who visit a Shinto shrine for new year's celebrations to call upon Buddhist priests for funerals. And many young couples currently favor having their weddings held at Christian churches, without any real understanding of the religious significance of the ceremony involved.

Some may argue that such non-exclusive approach is inherent in Japanese culture or some Eastern religions. Such argument, however, fails to address the fact that some influential schools of Buddhism with an exclusive approach were developed in medieval Japan, as Stone (1999, 384-95) demonstrates, by those monks who are regarded as founders of the new Buddhist movements in the Kamakura period (1185-1333) such as Honen, Shinran and Nichiren. Their "logic of exclusive choice" was characterized with the emphasis on a single transcendent *Darma* and a rejection of all other forms of religious practice. Further, a "logic of harmony" of older institutionalized Buddhist schools, which held that all Buddhist teachings were true and accepted Buddhist-Shinto syncretism, was "by no means a medieval equivalent of modern ideals of religious tolerance or pluralism but rather was enlisted for various forms of social control" (Stone, 1999, 391). Many of such exclusivist schools have lost their legacy largely due to political manipulations in different times—from the feudal *danka* system during the Tokugawa period and the integration of Shinto into the power structure of the Meiji government to the more extreme form of religious statism centered on State Shinto during World War II—rather than to the natural Japanese "culture" per se.

While one might anticipate that the religiously apathetic Japanese are also tolerant toward religions, this is not the case. On the contrary, many Japanese are intolerant of any strongly held religious faith. The above-cited poll, for instance, indicated that approximately 50 percent of the respondents felt negative toward religion in general. As O'Brien (1996, 21) observes in his analysis of Japanese religious ambivalence, "Christians and religious minorities invariably confront a lack of sympathy, particularly when claiming the free exercise of religion as an exception to governmental regulations. Strong religious beliefs, sharply defined creeds, and concerns about other-worldly salvation appear not merely unnecessary disturbances but foreign and abnormal."

Downplaying Values of Transcendent Virtue and Individuals

This ambivalence toward religions could be interpreted within the context of what Wolferen (1993, 317) refers to as "the absence of a tradition of appealing to transcendental truth or universal values." Philosophical or religious virtue is not generally acknowledged as being beyond socio-political concerns. The lack of such tradition is, as Wolferen (1993, 317) states, reinforced by such causally intertwined factors as "the malleability, relativity and negotiability of truth in Japan; the claimed superfluity of logic; the absence of a strong intellectual tradition; the subservience to the administrators of law; and the acceptance, even celebration, of amorality."

The absence of such a tradition is especially conspicuous when viewed against the backdrop of the disrespect shown to the values of individuals and human rights. Such values are downplayed because they are not considered part of "traditional truth" or in any way inalienable. An important consequence of disrespecting these values is a society characterized by authoritarianism.

1. Lack of a Human Rights Tradition

Japanese society, lacking a tradition of unchanging, transcendent moral principles, often manifests disrespect for human rights. For instance, Yasuko Nakaya, a Christian, protested the enshrinement of her late husband, who had died after serving with the Self-Defense Force, at a Shinto shrine. Her objections "were difficult even for some of her neighbors and relatives to understand. Someone who wants to be, or appears to be, different and who takes an independent stand, is generally perceived to be abnormal" (O'Brien 1976, 143). In her words, the religious liberty issue "should not be seen alone. It should be placed in our ordinary life. It is deeply related to the Japanese mental structure" (O'Brien 1976, 143).

Indeed, the understanding of the concept of human rights in Japan remains superficial. The Meiji Constitution referred to the rights of people as those of "subjects"—implying that rights were a benefit provided by the emperor or the state rather than as inviolate and the natural heritage of every individual. As Kawakami (1964, 190) states, individual rights in Japan have always been "instruments of the state, not to be utilized for the aim of the individual." In fact, "respect for individual rights and individual identity . . . is inconceivable

for the Japanese" (Kawakami 1964, 190). Still today, Nakaya notes, younger generations are "largely indifferent to claims of human rights and otherwise preoccupied" (O'Brien 1976, 143). As Noda (1976, 159) has strikingly observed, "For the average Japanese this word ["rights"] conjures up something related to egoism."

2. Social Authoritarianism and Education

In the absence of a strong tradition of independent moral principles and civil liberty, what prevails in Japan is social authoritarianism. Okamoto (1993, 125) notes that the "collapse of authoritarianism has been a global phenomenon, seen both in capitalist and socialist economies—excluding only some third world countries and Japan." Authoritarianism has not met with significant resistance from the Japanese, Okamoto (1993, 125) explains, because of attitudes characterized by "standardized uniformity, blind obedience to directives, and group thinking which rejects differences." And there are few signs of a more democratic effort emerging to challenge the authoritarian tendencies of Japanese society.

These attitudes are reinforced by the Japanese education system which emphasizes memorization rather than the logical thinking necessary for intellectual analyses of socio-political phenomena. Comparing Japanese and Western education, Rohlen (1983, 268) concludes, "schooling in logic is as old as Western civilization itself. By contrast, the Japanese tradition . . . has long emphasized memorization and imitation. One approach helps the internalization of a moral and intellectual frame of reference, the second aids adjustment to the environment."

As a result, as Wolferen (1993, 310) states, although

> "engineers and scientists are as familiar with logical thinking as their counterparts anywhere else, ... at least where social and political affairs are concerned, the Japanese are not driven by an overwhelming urge to perceive paradoxes and solve contradictions. ... Modern scientific theory has fared little better. Its 'reality' remains divorced from social reality. Abstract thought tends to be practiced as an end in itself and is not allowed to determine the nature of human exchanges, while social inquiry remains an exercise for its own sake, utterly removed from any points of reference in experience."

3. A Question of Culture

Some may argue that these characteristics of Japanese society are part of its "culture." Although the space does not permit the whole discussion of Japanese culture, the following analysis by Wolferen (1993, 322-3) provides another perspective:

> [Culture] includes ideology and power arrangements of all kinds. But when 'culture' is used to explain Japan, statements such as 'we do this because it is our culture' ... are not perceived as tautology but are believed to give a valid reason for accepting all

> manner of practices whose political nature has been lost sight of. ... A wide variety of political aspects of Japanese life are never scrutinized, since they are justified from the outset as 'culturally determined.' ... The self-consciousness with which Japanese culture is constantly referred to should alert one to its ideological function. 'Culture' is, in fact, working overtime to explain the motives of every Japanese under all circumstances. ... And when 'culture' is brought into the discussion, it is expected that all contentious argument should cease, for we are then in the presence of an immutable given. Japanese culture is treated by Japanese spokesmen as if everything subsumed under it is automatically above reproach."

While it is inappropriate to accept cultural universalism, it is also possible to go to extremes in leaving no room for critical analysis of whatever is considered "culture." Neither approach contributes to understanding of freedom in the context of different cultures—only intellectual analyses and open dialogues will.

Immaturity of an Independent Judiciary

A final factor inhibiting the emergence of a Japanese tradition of religious liberty is the immaturity of the judiciary as a truly independent institution. As O'Brien (1996, 135) observes, "The Supreme Court and the lower courts almost invariably reinforce the government's position out of seemingly purblind deference. As a result . . . 'the courts have ceased to function as an independent judiciary, and merely follow the dictates of the administrative judgment.' ... The separation of the power of the courts from that of the government more generally appears to be a precondition or prerequisite for enforcing the Constitution's mandate for the separation of government from religion."

Given that the constitution stipulates freedom of religion, legal cases involving religious liberty issues lead immediately to constitutional questions. Constitutional decisions are, however, usually avoided by the courts, which abide by a "rule of strict necessity." A decision rendered by the Tokyo High Court (1981) stated that constitutional decision making is "justified only by and limited to specific cases in which it is necessary and unavoidable—it should not be rendered . . . simply because of its logical precedence."[5] Moreover, despite their constitutional authority, the courts have ruled that constitutional questions are not reserved for judicial bodies but are the province of other governmental agencies. In a 1959 decision, the Supreme Court explicitly stated that "the case is of a highly political nature; therefore, constitutional judgment on the case by the judicial court . . . is not

[5]The Tokyo High Court's decision (7 July 1981) in a case involving land purchase by the government for the use of the Self-Defense Force.

appropriate"[6]—a de facto admission that the court was unwilling to chart an independent course by setting itself above political considerations. O'Brien (1996, 83) observes:

> [J]udicial independence in the Supreme Court and the lower courts is discouraged by various means: the prewar tradition weighs against individual expression; separate opinions remain prohibited in the lower courts; the LDP's long reign ensured its ultimate control over judicial appointments throughout most of the postwar era; the judicial bureaucracy promotes judges in calculated ways to reward conformity; and the Supreme Court's composition and operation discourages individualism on the bench.

In a democracy, the judiciary is normally the branch of government through which individuals can demand remedy for damaged or threatened civil rights. Their claims should be judged solely on the basis of the law, and judicial decisions should not be influenced by other governmental authorities. When the judiciary lacks independence as it does in Japan, the rights of individuals lose their edge and become vulnerable to state and social encroachments.

Conclusion

Religious freedom in Japan is being gradually but steadily eroded by a variety of different political and social forces. Because average citizens are indifferent to these issues, prospects for a reversal of this trend appear bleak. The absence of a cultural atmosphere conducive to religious liberty is simultaneously a result and a cause of Japan's underdeveloped civil liberty tradition. Furthermore, there have been few influential religious movements—with the exception of some minority organizations such as Soka Gakkai—or educational reform efforts promoting the ideal of independent moral judgment as opposed to the dominant tradition of submission to authority. Finally, the judicial independence needed to effectively oppose state encroachment on religious and civil liberties is largely undeveloped in the Japanese system.

The Japanese government has recently claimed that it is prepared to take on more responsibilities in the sphere of international security, and has indicated a willingness to become a permanent member of the United Nations Security Council. However, the development of a mature democracy and a robust tradition of civil and religious liberty is a necessary prerequisite for recognition as a truly civilized, peace-loving country which can assume such responsibilities. Japan's stature as the world's second largest economy is not,

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[6]The Supreme Court's decision (16 December 1959) in a case questioning the constitutionality of the United States military bases existing in Japan.

in itself, sufficient qualification for such a role without corresponding achievements in the reform of its social and political culture.

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