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Editor: Martin REPP

Review Editor: Richard F. YOUNG

Desk Editor: Claire DEBENHAM

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Contributors and correspondents are requested to address their communications to the editor in English, Japanese, or German:

NCC Center for the Study of Japanese Religions

Karasuma Shimotachiuri, Kamikyo-ku

Kyoto 602 JAPAN

NCC宗教研究所

602 京都市上京区烏丸下立売上ル

Tel. & Fax: (075) 432-1945

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# Japanese Religions

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John LoBreglio\*

## Revisions to the Religious Corporations Law: An Introduction and Annotated Translation\*\*

### Introduction

On December 8, 1995, the Upper House of the Japanese Diet approved a bill to amend certain provisions of the Religious Corporations Law (*shūkyō hōjinhō* 宗教法人法).<sup>1</sup> The law was first enacted in 1951. Its intention, stated clearly in Article 1, is to provide religious organizations with the legal means necessary to carry out their religious activities. This includes both the ability to own and maintain facilities for worship and to engage in business in order to support their activities. The law is guided by the principle that the freedom of religious belief (*shinkyō no jiyū* 信教の自由) guaranteed by the Constitution is in no way to be infringed. It reflects an understanding of religion as something essentially good which acts as a positive force in society. It is for this secular reason that religious organizations, as well as other enterprises deemed beneficial to the public welfare such as day-care centers, schools, hospitals, libraries, museums, old age homes, et al., receive special tax exemptions and privileges. In its practical application (and this is not at all particular to the Japanese context), such a law is necessarily subject to constant interpretation. The government is charged with the delicate task of regulating religious organizations, as it would any citizen or group, while being proscribed from interfering with religious affairs. Just what constitutes "religious" belief and practice is, then, the ambiguous ground upon which struggles between religious organizations and the state take place. The litany of criminal offenses for which Aum Shinrikyō members have been indicted has brought this inherent ambiguity into the public forum, and it is this

\* PhD Candidate in Religious Studies at the University of California at Santa Barbara, and research student at Kyoto University.

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1. The *shūkyō hōjinhō* was enacted on April 3, 1951 as Law number 126. The Japanese Ministry of Education issued an English translation of this version under the title "Religious Juridical Persons Law." While the term *hōjin* 法人 is therein translated as "juridical person," and this translation still appears, at times, in English-language publications, I have chosen to use "corporation" in order to accord with the contemporary Japanese English-language press, as well as with modern parlance. Thus *shūkyō hōjin* 宗教法人 is translated throughout as "religious corporation(s)." In preparing the following translation, I have referred to the above-mentioned Ministry of Education's English version of the 1951 law. However, the following translations of both the old and revised sections are my own.

which is the proximate cause for the 1995 revisions. The assumption that religion functions positively in society was undermined dramatically and lawmakers were forced to acknowledge publicly what everyone already knows: that there are people and groups who abuse the privileges of the Religious Corporations Law.

There was no consensus, though, on how to respond to such abuse. Government officials were divided along party lines, with the ruling coalition of the Liberal Democratic Party (LDP), the Social Democratic Party and the New Party Sakigake as well as the Japanese Communist Party supporting the revisions. The minority parliamentary bloc Heiseikai, which includes the major opposition party, Shinshintō, opposed the bill. The argument for revising the law, put succinctly, was that it was originally drafted to deal with an entirely different social and religious situation, and was insufficient for dealing with an organization such as Aum Shinrikyō. Indeed, when the law was first enacted, "over 370" organizations applied for and were granted the status of religious corporation.<sup>2</sup> Today there is an estimated 230,000 religious groups,<sup>3</sup> 184,288 of which are incorporated under the law.<sup>4</sup> It is argued that this large number is due, in part, to the tax privileges enjoyed by religious corporations, the ease with which this status is gained, and the inability of authorities to investigate groups once they have become religious corporations. Those opposing the bill, both politicians and religious leaders, argued that the revisions were unnecessary because Articles 81 and 86 (see translation, p. 55, note 5), as well as the provisions of the penal code, were sufficient for dealing with the transgressions perpetrated by Aum. The revisions, they maintain, only strengthen the power of the state over religious groups and thereby endanger the freedom of religious belief. In addition, such opponents decried the revisions as a blatant opportunist attempt by the ruling coalition to exploit the Aum affair for political gain.

The basis for such a charge pertains to the ruling coalition's opposition to Sōka Gakkai's support for Shinshintō. Shinshintō was formed in December 1994 by a merger of opposition parties, including the Kōmeitō, a party originally created as the political wing of Sōka Gakkai. In the July 23, 1995 election for the Upper House, the newly formed Shinshintō won 40 of the 126 seats at stake and increased its representation by 21 seats from 35 to 56. While the ruling coalition still maintained its majority with 60% of the upper chamber,

2. *Japanese Religion, A Survey by the Agency for Cultural Affairs* (Tokyo: Kodansha, 1981), p. 168.

3. *Japan Times*, 20 October 1995, p. 3. Kajimoto Tetsushi gives the 1993 figure of 231,019.

4. This is the most recent statistic valid as of December 31, 1994. *Shūkyō Nenkan* 宗教年鑑 [Religion Yearbook], Heisei 7 Nenban [1995] (Bunkachohen, Gyōsei), p. 29.

it nonetheless received an alarming message, one discernible in the Kyodo News Service's simulated projections which showed that if the results of the Upper House elections were translated into the next general election for the House of Representatives, Shinshintō would win the majority of seats (251 of 500) and thus take control of the government.<sup>5</sup> Sōka Gakkai's role in Shinshintō's success is considered formidable. With a following of about 8.3 million households, it is estimated that Sōka Gakkai delivered between six and seven million votes for Shinshintō.<sup>6</sup> This did not go unnoticed by LDP officials and, although denying publicly any political motivation behind the revisions to the religious corporations law, some LDP officials made it clear that such changes would attempt to "rein in the activities of Sōka Gakkai."<sup>7</sup> The associating of Sōka Gakkai with legal amendments putatively directed against the publicly reviled Aum Shinrikyō was a move of tactical political brilliance. The indirect associating of Sōka Gakkai with Aum took place in the public forum which was the special committee sessions of the Upper House to discuss the revisions. There LDP officials cited "increasingly aggressive political activities by a giant religious organization" and questioned the legality of the extent of Sōka Gakkai's influence in the political sphere.<sup>8</sup> This strategy climaxed in the LDP's attempt to force Ikeda Daisaku, Sōka Gakkai's honorary chairman, to testify before the Diet on the proposed revisions. The effort was thwarted in a dramatic showdown in which Shinshintō and Kōmeitō members physically blockaded the meeting room where a vote concerning the proposal to demand Ikeda's testimony by an Upper House special committee was to take place. Committee Chairman Sasaki Mitsuru was prevented from entering the room, the vote could not take place, and the session was adjourned.<sup>9</sup> Faced with such resolve on the part of its opponents, the LDP was forced to compromise, so as not to "lead to bloodshed,"<sup>10</sup> by summoning Sōka Gakkai chairman Akiya Einosuke instead of Ikeda. In fact, though, it was a clear LDP victory in terms of public perception. By so vehemently defending Ikeda, Shinshintō was made to appear as the defender of Sōka Gakkai. Just over one month earlier, public opinion polls showed that over 60% of those surveyed believed the Religious Corporations Law should be amended and criticized Shinshintō's opposition to the proposed revisions. Shinshintō's greatest political weapon was nimbly transformed into a liability.

5 *Japan Times*, 25 July 1995, p. 1.

6 *Japan Times*, 27 October 1995, p. 18.

7 *Japan Times*, 21 October 1995, p. 2.

8 *Japan Times*, 28 November 1995, p. 1.

9 *Japan Times*, 29 November 1995, p. 1.

10 *Japan Times*, 1 December 1995, p. 1.

To sift through the rhetoric of both sides, it is necessary to look at the revisions themselves with the intent of determining to what extent they (1) will help prevent another incident like that of the Aum tragedy (as the ruling coalition which passed the bill claims), and (2) threaten to restrict religious freedom (as the political and religious opposition to the revisions claims). Ten articles were affected: six were revised, one appended with new provisions, and three obsolete supplementary provisions were replaced with new ones. The most significant changes occur in the first four of the amendments: Articles 5, 25, 72 and 78, no.2.

### Article 5

This article is described simply in the popular press as shifting the jurisdiction over groups operating in more than one prefecture from the prefectural governors to the Minister of Education. In fact, though, a glance at paragraph 2 of the old law reveals that a religious corporation which comprehends<sup>11</sup> a religious corporation located in another prefecture has been subject to the authority of the Minister of Education since the very inception of the law. Although certainly a move towards greater centralization of authority over religious groups, it must be noted that approximately 96% (177,048 of the 184,288 religious corporations<sup>12</sup>) of incorporated religious groups were already under the Minister of Education's authority! Thus, what this provision does is more nuanced: paragraph 2, nos. 1 and 2 of the revisions are the novel items and seem aimed at large, highly centralized religious corporations which, while maintaining facilities throughout Japan, either do not register these facilities as religious corporations, or set up a dummy religious corporation within the same prefecture which then maintains facilities in other prefectures. Both Aum and Sōka Gakkai fell within this approximately 4% of religious corporations that were not subject to the Minister of Education's jurisdiction. Both were granted religious corporation status by, and subject to, the authority of the Tokyo prefectural government. Thus, Aum for example, though its "headquarters" was located in Tokyo, maintained its principal facilities in Kamikuishiki in Yamanashi prefecture and was able to carry on its (illegal) activities virtually unsupervised. The unaccountability of groups in this category to the central

11 Legal comprehension (*hōkatsu* 包括) refers to cases in which a corporation includes under its organizational umbrella other organizations, incorporated or not. In the religious sphere, an example would be the Shinshū Ōtaniha of True Pure Land Buddhism. It is a corporation, a large bureaucracy, which supervises 9,048 religious organizations (temples, meeting halls, associations, etc.), 8,879 of which are themselves incorporated and submit individual tax documents (according to statistics provided in *Shūkyō Nenkan* [1995], pp. 70-71).

12 *Shūkyō Nenkan* [1995], p. 29.

government is highlighted by the fact that statistics for neither Aum nor Sōka Gakkai appeared in the Ministry for Cultural Affairs annually published *Shūkyō Nenkan* (Religion Yearbook).

The revisions to Article 5, then, appear to have stitched shut a loophole category. They are a direct response to Aum's ability to have carried out illegal activities for so long without detection. They also happen to bring Sōka Gakkai's activities under the jurisdiction of the Minister of Education. Such a revision, then, does indeed give the central government powers which, in theory, could prevent another Aum-like organization from flourishing. The difficulty, though, is a practical one: how does one government office keep an eye on some 184,000 organizations? That Article 5 somehow restricts religious freedom, as opponents to the revisions rhetorically claim, is not a tenable position. As we have seen, approximately 96% of religious corporations have been operating under the loose supervision of the Minister of Education, without incident, all along. In fact, since its enactment in 1951 no religious corporation has ever been ordered to dissolve under this law.

#### Article 25

The revisions to this article require increased financial accountability from religious corporations. The major change is that drawing up an account statement of revenue and expenditure (収支計算書 *shūshikeisansho*) which had been optional, has now become mandatory. This document, as well as others (§25.2.2–4) that needed only to be kept on file in the religious corporation's office, must now be submitted annually to the relevant authority. Another important addition is paragraph 3 which allows members and others "with related concerns" access to most major records, financial and otherwise (§25.2.1–6), of the religious corporation.

As in the revisions to Article 5, these amendments can be seen as a direct response to Aum Shinrikyō. Aum was able to accumulate an estimated annual net profit of one billion yen (approximately ten million U.S. dollars)<sup>13</sup> without having to disclose its financial records. It is plausible and legitimate to believe that with such records having not only to be kept, but also submitted to, and on file with, the central government, large religious organizations with extensive financial dealings would be more conspicuous and thus more able to be monitored for illegal financial activities. Given the situation that there are so many religious corporations to monitor and a limited number of bureaucrats to do the monitoring, submission of these documents seems necessary and reasonable. Whether or not this constitutes a restriction of "religious" freedom

<sup>13</sup> *Japan Times*, 28 May 1995, pp. 1 and 14.

will be taken up in the conclusion. It must be noted, though, that if a religious corporation's hands are clean, so to speak, these amendments should not give rise to anxiety.

#### Article 72

Article 72 increased the upper limit on members of the Religious Corporations Council<sup>14</sup> from 15 to 20. As this group is composed of officials from religious organizations, as well as outside experts, whose function is to advise the relevant competent authority before any legal action is taken against a religious corporation, this increase may be cautiously welcomed as an increased safeguard of religious freedom. There is some doubt, though, as to how much weight the council's opinion actually carries. This issue will be discussed further in the conclusion.

#### Article 78, no.2

These new provisions are the most controversial in that they highlight the ambiguity inherent in the constitutional guarantees of freedom of religious belief and the separation of religion and state. This amendment allows the competent authority to demand a report or question the officials of a religious corporation if it suspects that corporation of violating one of the provisions listed in §78, no.2, 1.1–3. One would expect that violations of a financial (§78, no.2, 1.1) or criminal (§81.1.1) nature do indeed require investigation and that the competent authority should have at its disposal the means necessary to enforce the law. An unenforceable law is moot. In this regard, the authority to demand reports and to question officials is reasonable and could untie the shackles which government officials claim bound their hands and prevented a thorough investigation of Aum Shinrikyō. The matter becomes less certain, though, concerning the violations listed in §78, no.2, 1.2 which pertain to Articles 14.1.1 and 39.1.3, and in §78, no.2, 1.3 which pertains to §81.1.2 (see translation and p. 55, notes 4 and 5). Here the violations are concerned with whether or not the religious corporation is in fact "religious" and is engaged in "religious" acts. The ambiguity inherent in the concept "religion" is just cause for concern that the hand empowered to draw the theoretical line which separates religion and politics belongs to officials of the latter sphere. Safeguards against the co-opting of the religious by the political have been

<sup>14</sup> The Religious Corporations Council (宗教審議会 *shūkyō shingikai*) is composed of religious officials and academics chosen by the Minister of Education. Prior to the revisions, eleven members were from religious organizations belonging to the Japan League of Religions (*Nihon Shūkyō Renmei* 日本宗教連盟) and four were outside experts.

written into this amendment, though, in paragraphs 2–6. In particular, it is the provisions that require previous consultation with the Religious Corporations Council that serve as a possible curb to government abuses of its power. However, the ambiguous phrase “. . . must ask for the opinion of . . .” (*iken o kikanakereba naranai*) again raises the question of whether the Religious Corporations Council’s power is merely nominal.

### Conclusions

The vitriolic dispute concerning the revisions to the Religious Corporations Law has at its heart the issue of the separation of religion and politics, or more accurately, their inseparability. Members of religious organizations are at the same time citizens of the state, and their organizations function within the legal parameters of society. That these two spheres must interface is inevitable. It is determining the precise loci and contexts of such interaction that, because of their shifting nature, create difficulties of interpretation and application. “The separation of religion and politics” is a rhetorical and misleading phrase based on a facile reading of Article 20 of the Constitution. That article reads in its entirety:

**Article 20.** Freedom of religion is guaranteed to all. No religious organization shall receive any privileges from the State, nor exercise any political authority.

No person shall be compelled to take part in any religious act, celebration, rite or practice.

The State and its organs shall refrain from religious education or any other religious activity.<sup>15</sup>

What is clear is that the state cannot sponsor or support in any way a religious organization, nor force its populace to engage in religious actions. This is obviously intended to safeguard against the possibility of a phenomenon such as State Shinto – which was imposed, often forcibly, upon the Japanese people from the early Meiji period until the end of World War II – from ever again arising. What is not so clear, however, is (1) a precise understanding of the term “religion” when interpreting the guarantee of “freedom of religion”; and (2) the extent to which religious organizations may be involved in politics. Recognition of these ambiguities and the leeway they lend to interpretation provides a deep understanding of the ideological nature of last year’s political confrontation and the legislative amendments that it spawned.

15 *Mohan Roppō* 模範六法, Shōwa 61 Nenban [1986], Sanshodo, p. 39. English translation contained therein. It should be noted that the phrase translated as “freedom of religion” reads in Japanese *shinkyō no jiyū* 信教の自由, which properly translated should read “freedom of religious belief.” The term “religion” is usually used to translate *shūkyō* 宗教.

Before attempting to delineate the ideological structure of this clash of coalitions, it is useful to read directly statements made by leading representatives on both sides of the divide. The most fundamental positions of each side were expressed succinctly in a television debate over the proposed revisions. Aichi Kazuo of Shinshintō contended that “amending the current law means altering its character from its original function . . . .” Sakigake’s Nakajima Akio disputed this, saying “the basic character of the legislation remains unchanged.”<sup>16</sup> For one side, the revisions are revolutionary, while for the other they are minor amendments necessary to enforce the existing law properly. The “basic character” of the law, for both sides, protects the freedom of religious belief. While the ruling coalition has maintained that the revisions do not encroach upon this freedom, Shinshintō had the opposite interpretation, the extent of which is evident in remarks made by Secretary General of Shinshintō Ozawa Ichirō to the effect that the proposed revisions were unconstitutional and would allow for state interference in religious activities. Referring to the proposed revisions, he said “We can’t allow the establishment of a system against human rights with a political angle.”<sup>17</sup> A few weeks later he compared the revisions to the pre-World War II crackdown on democracy movements.<sup>18</sup>

The ideological polarity is again pronounced concerning the issue of a religious organization’s involvement in politics. It is the second sentence of paragraph 1 of Article 20 that is open to interpretation: “No religious organization shall . . . exercise any political authority.” As citizens, though, members of religious organizations surely have the right to participate in the political process. By extension, the legitimacy of groups of religious citizens acting politically may be defended, and it is this reasoning that Sōka Gakkai Chairman Akiya Einosuke employed when defending his organization’s relationship with Shinshintō. The Constitution, he argued, guarantees the right of religious groups to participate in politics.<sup>19</sup> The ruling coalition’s radically antithetical interpretation of the sentence referred to above is evident in some of the following comments. Katō Koichi, chairman of the LDP’s Policy Affairs Research Council, after telling the press that the proposed amendments aim also to cover the activities of Sōka Gakkai, continued saying that “religious groups are essentially contrary to parliamentary democracy because the principles guiding their actions are the teachings of a single founder. Thus they are not

16 *Japan Times*, 9 October 1995, p. 2.

17 *Japan Times*, 6 September 1995, p. 1.

18 *Japan Times*, 2 October 1995, p. 2.

19 *Japan Times*, 2 October 1995, p. 2.

allowed to seek a central role in politics.”<sup>20</sup> In a speech two days later, Katō again deployed his curious logic: “Democracy is a world where relative values hold importance, but religion is a realm where people believe in absolute values. Religion does not match the principles of democracy.”<sup>21</sup> On TV Asahi, Yamasaki Taku, a leading LDP policy maker, expressed concern about Shinshintō’s involvement with Sōka Gakkai and doubted its constitutionality.<sup>22</sup> Perhaps the most overt comments on the matter were made by Sekine Noriyuki of the LDP during the Upper House special committee session on revising the Religious Corporations Law. There he stated that Article 20 of the Constitution “should be reinterpreted to put restrictions on the political activities of religious groups.”<sup>23</sup>

The extreme positions reflected in these comments, ones which view the revisions either as clearly necessary and appropriate or as unnecessary, political and repressive, are ideological stances in Althusser’s sense of “ideology” as “the imaginary representation of the subject’s relationship to his or her real conditions of existence.”<sup>24</sup> They ignore the central issue of constitutional clarification and instead serve to politicize the Constitution’s inherent ambiguities. An unfortunate (and somewhat inevitable) grey zone is rhetorically presented to the public as patently black and white. Where, then, is the rhetoric and where the reality in (1) the ruling coalition’s stance that the revisions were necessary to prevent another Aum, and (2) the opposition’s contention that the revisions violate the constitutional guarantee of religious freedom?

(1) In order to deflect accusations of neglect of duty, deny culpability for allowing Aum Shinrikyō’s activities to reach such a lethal extent, and quell public fears that such an atrocity could again occur, the government directed all responsibility to shortcomings of the Religious Corporations Law and demonstrated its resolve to prevent another tragedy by revising it. Rightly acknowledging the vast increase in the number of religious organizations over the past forty-four years, the government has, via these revisions, taken steps to monitor more thoroughly this difficult situation. However, it is not clear that these revisions were necessary to prevent another Aum-like tragedy. As the Shinshintō-led coalition argued, Articles 81 and 86 of the Religious Corporations Law, as well as the penal code, if properly enforced, could have revealed the peculiarities of Aum’s operations. It seems that the lack of

<sup>20</sup> *Japan Times*, 4 September 1995, p. 2.

<sup>21</sup> *Japan Times*, 6 September 1995, p. 1.

<sup>22</sup> *Japan Times*, 16 October 1995, p. 2.

<sup>23</sup> *Japan Times*, 28 November 1995, p. 1.

<sup>24</sup> Louis Althusser, *Lenin and Philosophy and Other Essays* (Trans. Ben Brewster) (New York: Monthly Review Press, 1972), p. 162.

investigation was the result both of a lack of staff as well as of resolve. The legacy of State Shinto and the government’s pre-World War II repression of religious groups fostered an atmosphere of reluctance to interfere with religious organizations in any way, and it is this which is perhaps more responsible for illegal activities by religious groups than any laxness in the law. And, ironically, it was the outrageousness of the sarin attacks that, by awakening the authorities and the public to the possible dangers of religious groups, will do more to prevent such future atrocities than the present revisions to the law.

(2) It has already been shown that despite Shinshintō’s rhetoric, the revisions to Article 5 do not greatly alter the existing relationship between religious organizations and the State and, thus, do not encroach upon religious freedom. Rather, it is that large, highly centralized religious groups will now be subject to the same regulation that most other groups have been subjected to all the while. In regard to Articles 25 and 78.2, however, whether or not these revisions restrict religious freedom hinges upon the interpretation of the term “religious.” The opposition’s claim that Article 25, which requires the disclosure of financial information, constitutes such a restriction is dubious. Here it is they that exploit the ambiguity concerning the term “religious” by including financial activities in the same category as “religious activities.” The matter is complex, to be sure, as is illustrated by Akiya Einosuke’s argument that because the giving of alms is part of traditional Buddhist practice it is a religious activity, and the money thereby generated is beyond government scrutiny.<sup>25</sup> It is precisely the drawing of fine lines regarding such matters that needs attention. This is particularly relevant in interpreting Article 78.2, the violations of which explicitly depend upon whether or not a religious corporation’s acts are religious. Thus, while this provision does not in itself limit religious freedom, the continued use of the ambiguous term “religious” does justify the fears of religious organizations that this ambiguity may in the future be exploited against them.

The requirement to consult with the Religious Corporations Council, as well as the “safeguard clauses” (Articles 25.5 and 78, no.2.4, which read “. . . the competent authority shall respect the distinctive religious features, as well as the customs, of the religious corporation and must pay special attention so as to avoid any interference with the freedom of belief”), while apparently sufficient to quell such fears, may, because of their ambiguity, be likewise seen as ideological smokescreen. The cause for such an evaluation is grounded in the recent history surrounding the revisions themselves. The Religious Corporations Council was asked by the Minister of Education on April 25, 1995

<sup>25</sup> *Japan Times*, 21 October 1995, p. 2.

to examine the Religious Corporations Law. It met five times between April and the end of September. On September 29, 1995, the chairman of the committee, Misumi Tetsuo, submitted to Shimamura Yoshinobu, the Minister of Education, the committee's final report which resembles greatly the final version of the revisions. The report was rushed in a last-ditch effort to submit the revisions to the extraordinary Diet session. Consequently, no consensus was reached, and the proposal was adopted without a majority agreement. Committee member Rikihisa Takazumi's reaction gives some indication of the sleight of hand that went on: "Look at my face," he screamed. "We can't call this a council. Give us more time." And, "I suddenly realized toward the end of the meeting that the proposal had been adopted by the chairman." Itō Haruo, another member, responded in similar fashion: "I don't really know what went on. Ask the (chairman how the proposal was adopted)." <sup>26</sup> Such disregard for the opinion of the committee members raises the troubling possibility that the stipulation to ask for the opinion (*iken o kikanakereba naranai*) of the Religious Corporations Council may turn out to be irrelevant, and the Council reduced to a puppet controlled by the Minister of Education via the Council's chairman. Indeed, in a remark made three months before the Council's final meeting, then Minister of Education Yosano Kaoru said in an interview that the Religious Corporations Law could be revised even if the Council were to present a report against such revisions. <sup>27</sup> While the Minister of Education must ask for the Council's opinion, there is no indication that he or she must pay it any heed.

The reaction of most religious groups to the revisions lies somewhere between the rhetoric of both political coalitions and most closely approximates the reality of the situation. (See the article in this issue by Robert Kisala, pp. 60–74.) While last year's revisions to the Religious Corporations Law are not considered to violate the constitutional guarantee of "religious freedom," they are viewed as one step in that potentially dangerous direction. That such a premonition is not without ground is evident in a newspaper account printed a few months after the passing of the revisions:

A group within the Liberal Democratic Party is drafting a bill to strip religious corporations of taxation privileges if they engage in political activities, LDP sources said Sunday . . . .

The bill is aimed at prohibiting religious groups from engaging in political activities such as election campaigning, supporting specific politicians, intervening in the legislative process and making political donations.

<sup>26</sup> *Japan Times*, 30 October 1995, p. 2.

<sup>27</sup> *Japan Times*, 20 June 1995, p. 2.

Groups engaging in political activities could lose their status as religious corporations and with it their taxation privileges . . . .

A senior LDP member said, however, that the central government needs to change its conventional interpretation of Article 20 of the Constitution, which guarantees freedom of religion, to allow such a bill.

The government has interpreted the article as prohibiting the government from intervening in religious affairs, but the LDP group argues that the article should be understood also as barring religious groups from intervening in politics. <sup>28</sup>

Such a reinterpretation would indeed reduce some of the existing ambiguity of Article 20. However, that it would be done unilaterally by one political faction is an ominous indication. Reducing the ambiguous ground upon which religious organizations and the State must interact is a necessary condition. Such clarification would reduce the arsenal of ideological fodder and allow both religious groups and the government to function in the intended spirit of the Constitution, that is, in freedom and for the public good. The difficult task of precisely defining this relationship must somehow be accomplished with equal input from both the religious and the political spheres.

<sup>28</sup> *Japan Times*, 26 February 1996, p. 2.

## The [Original] Religious Corporations Law

(April 3, 1951)

(Competent Authority)

### Article 5.

The competent authority for religious corporations is the governor having jurisdiction over the prefecture (*to, dō, fu, ken* 都道府県) in which its main office is located.

2. Regardless of the provision of the preceding paragraph, the competent authority for a religious corporation which comprehends a religious corporation located in another prefecture<sup>1</sup> shall be the Minister of Education.

(Drawing up and Keeping of an Inventory of Assets, et al.)

### Article 25.

A religious corporation must draw up an inventory of its assets at the time of its incorporation (including incorporation by merger), and within three months after the close of every fiscal year.

2. A religious corporation must at all times keep in its office the following documents and ledgers:

- (1) Its regulations and certificate of authentication.
- (2) A record of the names of its officers.
- (3) An inventory of its assets, and in the case when either a balance sheet of debits and credits or an account statement of revenue and expenditure is drawn up, these documents.
- (4) Documents pertaining to the proceedings of the responsible officers and other organs prescribed by the regulations, and records of the conducting of affairs.

(5) In cases when an enterprise as described under the provisions of Article 6<sup>2</sup> is undertaken, the documents pertaining to that enterprise.

<sup>1</sup> Underlined text indicates passages that have been changed or added in the revisions.

<sup>2</sup> Article 6 reads: "A religious corporation may conduct public welfare enterprises.

"A religious corporation may, insofar as it does not run counter to its purposes, engage in enterprises other than public welfare enterprises. In such cases, if profits have accrued, they must be used for the said religious corporation, a religious organization which comprehends the said religious corporation, a religious corporation aided by the said religious corporation, or for a public welfare enterprise."

## Revisions To The Religious Corporations Law

(December 15, 1995)

(Competent Authority)

### Article 5.

The competent authority for religious corporations is the governor having jurisdiction over the prefecture (*to, dō, fu, ken* 都道府県) in which its main office is located.

2. Regardless of the provision of the preceding paragraph, the competent authority for religious corporations which fall under the following categories shall be the Minister of Education:

- (1) A religious corporation which possesses buildings in other prefectures.
- (2) A religious corporation not included in the preceding item which comprehends such a religious corporation as mentioned in that item.
- (3) A religious corporation not included in the previous two items which comprehends a religious corporation located in another prefecture.

(Drawing up, Keeping, *Inspection and Submission of an Inventory of Assets*, et al.)

### Article 25.

A religious corporation must draw up an inventory of its assets at the time of its incorporation (including incorporation by merger), and within three months after the close of every fiscal year it must draw up an inventory of its assets as well as an account statement of revenue and expenditure.

2. A religious corporation must at all times keep in its office the following documents and ledgers:

- (1) Its regulations and certificate of authentication.
- (2) A record of the names of its officers.
- (3) An inventory of its assets, an account statement of revenue and expenditure, and a balance sheet of debits and credits in cases when such a balance sheet is drawn up.
- (4) Documents pertaining to precinct buildings (with the exclusion of those recorded in the inventory of assets).
- (5) Documents pertaining to the proceedings of the responsible officers and other organs prescribed by the regulations, and records of the conducting of affairs.

(6) In cases when an enterprise as described under the provisions of Article 6 is undertaken, the documents pertaining to that enterprise.



*Original law**(Members)***Article 72**

The Religious Corporations Council shall be made up of not less than ten and not more than fifteen members.

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3. A religious corporation must allow its members and other persons with related concerns to inspect the documents and records listed in each item of the provisions of the preceeding paragraph, and which according to those provisions are kept in the office of the said religious corporation, when there are legitimate interests for such an inspection, as well as when the request for inspection comes from one whose purposes are determined to be not unjustified.

4. A religious corporation must submit to the competent authority copies of the documents mentioned under the provisions of paragraph 2 as being kept in the office of the said religious corporation and described in that paragraph in items numbered 2 through 4, as well as number 6, within four months after the close of every fiscal year.

5. When handling the documents submitted in accordance with the provisions of the preceding paragraph, the competent authority shall respect the distinctive religious features, as well as the customs, of the religious corporation and must pay special attention so as to avoid any interference with the freedom of belief.

*(Members)***Article 72**

The Religious Corporations Council shall be made up of not less than ten and not more than twenty members.

*(Reports and Questions)***Article 78, No.2.**

When the competent authority considers there to be suspicions corresponding to one of the items below concerning religious corporations, it shall demand a report from the said religious corporation, within limits necessary to enforce this law, concerning matters of that religious corporation's management of its operations and enterprises; or, the official representative, responsible officer or some other related person of the said religious corporation may be questioned by a staff member of the aforementioned authority. In this case, when the concerned staff member wishes to enter the facilities of the said religious corporation in order to ask questions, he or she must obtain the consent of the official representative, the responsible officer, or another related person of the said religious corporation.

(1) In cases when the said religious corporation is in violation of the provisions of Article 6, paragraph 2,<sup>3</sup> concerning the conducting of enterprises other than public welfare enterprises.

<sup>3</sup> See preceding footnote.

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(2) In cases when authentication has been granted according to the provisions of Article 14, paragraph 1 or Article 39, paragraph 1 and the requirements listed in Article 14, paragraph 1, item 1 or Article 39, paragraph 1, item 3<sup>4</sup> are lacking for the said religious corporation.

(3) In the case that one of the conditions falling under Article 81, paragraph 1, items 1–4<sup>5</sup> applies to the said religious corporation.

2. In cases when, in accordance with the provisions of the previous paragraph, the competent authority requests a report or is considering having a staff member make an inquiry, when the said competent authority is the Minister of Education he or she must consult in advance with the Religious Corporations Council and ask its opinion; when the said competent authority is the prefectural governor, he or she must communicate in advance with the Minister of Education and ask for the opinion of the Religious Corporations Council.

3. In cases according to the previous paragraph, the Minister of Education must present the facts and reasons for its request of a report or for an inquiry made by its staff member to the Religious Corporations Council, and must ask for its opinion.

4. In cases when the competent authority requests a report or has a staff member make an inquiry in accordance with the provisions of paragraph 1, it shall respect the distinctive features as well as the customs of the religious

4 Both of the provisions are concerned with whether or not a religious organization is, in fact, "religious." Article 14.1.1 reads: "That the said organization is a religious organization," and Article 39.1.3: "In cases when the said merger falls under the provision of Article 35, paragraph 2, that the organization formed after the said merger is a religious organization." The definition of "religious organization" is found in Article 2: "... organizations whose main purposes are the dissemination of religious doctrine, the conducting of ceremonies and events, and the education and nurture of believers."

5 Article 81 is the "Order of Dissolution" which, in addition to Article 86, opponents of the present revisions to the Religious Corporations Law argued was sufficient for dealing with criminal acts such as those perpetrated by Aum Shinrikyō. Paragraph 1.1–4 reads: "The court may, when it determines that there is reason to believe that a religious corporation falls under one of the following items, order its dissolution on the request of the competent authority, persons with related concerns, the public prosecutor, or on its own authority:

(1) The perpetration of acts which can be determined clearly to have violated the law or done considerable harm to the public welfare.

(2) The perpetration of acts which deviate considerably from the purposes of a religious organization as prescribed in Article 2 [see previous footnote], or the non-performance of acts for such purposes for more than one year.

(3) In cases when the said religious corporation is a religious organization mentioned in Article 2, item 1, and its facilities for worship have become defunct and such facilities are not provided for more than two years without compelling reason.

(4) The lack of an official representative and substitute for more than one year."

Article 86 reads: "No provision of this law shall be construed as preventing the application of the provisions of other laws and ordinances in cases when a religious organization has committed acts contrary to public welfare."

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(Order for the Suspension of Enterprises Other than Public Welfare Enterprises)

**Article 79.**

4. In cases when the ordering of the suspension of an enterprise in accordance with the provisions of paragraph 1 [79.1]<sup>6</sup> is being considered, when the said competent authority is the Minister of Education he or she must consult in advance with the Religious Corporations Council and ask its opinion; when the said competent authority is the prefectural governor, he or she must communicate in advance with the Minister of Education and ask for the opinion of the Religious Corporations Council.

(Revocation of Authentication)

**Article 80.**

5. The provisions of paragraph 4 of the preceding article [79.4] apply *mutatis mutandis* to cases which fall under paragraph 1 [80.1].<sup>7</sup>

<sup>6</sup> Article 79.1: "The competent authority may, when it determines that there are facts indicating the violation of the provisions of Article 6, paragraph 2 concerning the conducting of enterprises other than public welfare enterprises by a religious corporation, order the said religious corporation to suspend that enterprise for a period of not more than one year."

<sup>7</sup> Article 80.1: "The competent authority may, in cases when authentication was granted under the provisions of Article 14, paragraph 1, or Article 39, paragraph 1, revoke the said authentication when it has become clear that the case related to the said authentication was lacking the requirements mentioned in Article 14, paragraph 1, item 1, or Article 39, paragraph 1, item 3 [see footnote 3], provided that it is within one year from the day on which the certificate concerning the said authentication was granted."

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corporation and must pay special attention so as to avoid any interference with the freedom of belief.

5. The competent staff member making the inquiry in accordance with the provisions of paragraph 1 shall carry an identification card and present it to the official representative, the responsible officer, or another related person of the religious corporation.

6. Authority exercised in accordance with the provisions of paragraph 1 shall not be interpreted as taken for the purpose of a criminal investigation.

(Order for the Suspension of Enterprises Other than Public Welfare Enterprises)

**Article 79.**

4. The provisions of paragraph 2 of the previous article [78.2.2] apply *mutatis mutandis* to cases in which the ordering of the suspension of an enterprise in accordance with the provisions of paragraph 1 [79.1] is being considered.

(Revocation of Authentication)

**Article 80.**

5. The provisions of Article 78, no.2, paragraph 2 apply *mutatis mutandis* to cases in which the revocation of authentication is being considered in accordance with the provisions of paragraph 1 [80.1].

*Original law***Article 88.**

In cases corresponding to one of the following items, a non-criminal fine not exceeding 10,000 yen shall be imposed upon the official representative, his or her substitute, the acting official representative or the liquidator of the religious corporation:

4. When, in violation of the provisions of Article 25, the drawing up or keeping of the documents or ledgers prescribed by this same article was neglected, or untrue statements were made in the documents or ledgers mentioned in each item of paragraph 2 of the same article.

*Revisions***Article 88.**

In cases corresponding to one of the following items, a non-criminal fine not exceeding 10,000 yen shall be imposed upon the official representative, his or her substitute, the acting official representative or the liquidator of the religious corporation:

4. When, in violation of the provisions of paragraphs 1 or 2 of Article 25, the drawing up or keeping of the documents or ledgers prescribed by these provisions was neglected, or untrue statements were made in the documents or ledgers mentioned in each item of paragraph 2 of the same article.

5. When the submission of copies of the documents in accordance with the provision of Article 25, paragraph 4 was neglected.

10. When the report in accordance with the provisions of Article 78, no.2, paragraph 1 was not submitted, or when no reply was given to the questions asked by the said authority in accordance with the provisions of the same paragraph, or a false reply was given.

***Supplementary Provisions<sup>8</sup>***

23. Until further notice, in cases when a religious corporation does not conduct an enterprise other than a public enterprise as stipulated in the provisions of Article 6, paragraph 2, and when the amount of income for the fiscal year is less than the amount established as the limit by the Minister of Education, it need not draw up an account statement of revenue and expenditure for the relevant fiscal year, regardless of the provisions of Article 25, paragraph 1.<sup>9</sup>

24. When about to establish the limit for the amount prescribed in the previous paragraph, the Minister of Education shall consult in advance with the Religious Corporations Council and ask its opinion.

25. In the case of supplementary provision 23, regardless of Article 25, paragraph 2 (items 1, 2, and 4 through 6 excluded), only in cases when a religious corporation is already drawing up an account statement of revenue and expenditure, as mentioned in item 3 of the same paragraph, must it keep this in the office of the religious corporation.

<sup>8</sup> Supplementary Provisions 23, 24, and 25 replace similarly numbered provisions. However, because those provisions are obsolete and have no relation whatsoever to the provisions replacing them, their translations have been omitted.

<sup>9</sup> This provision, in conjunction with Supplementary Provision 25, is intended to spare small and not well-to-do religious corporations of unnecessary inconvenience due to the present revisions.