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Ernst Lokowandt

Faculty of Law, Toyo University

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The Constitution and the Tennô – A Trial

Ernst Lokowandt*

Abstract

For some time now, I have been thinking about the role of the Tennô versus the Constitution. The religious activities of the Tennô, be it the places of ceremonies, the succession ceremonies, or the yearly ceremonies, are according to most of the constitutional scholars, against the constitution. The present day chaos was made by the GHQ, who at the same time as arranging for the separation of religion and state they also held fast to the Emperor, in order to minimize the number of occupation soldiers and to institute the indirect occupation of Japan. The Emperor fell in between these goals.

The way out is a reinterpretation of the constitution, seen from the Tennô. It is possible to do so, as seen from the famous Art. 9, and above all, the Tennô has been at the center of Japan since 660 BC – or at least for 15 centuries – he has a place in the Constitution, and his religious basis has never been challenged.

Key Words: Tennô and Religion, Constitution, Civil Religion in Japan

“The State and its organs shall refrain from religious education or any other religious activity (Art. 20 JC).” So, if the Tennô is seen as an organ of state, any public religious activity is prohibited. “The Emperor ... and all other public officials have the obligation to respect and uphold this Constitution (Art. 99 JC)”. This article defines not only the Tennô as an organ of state, but it also gives the rank. The Constitution is higher than the Emperor. So, the Constitution urges the Tennô to abstain from religious activity.

However, the Emperor is made Emperor by three Shintô ceremonies, the *senso*, the *sokui no rei*, and the *daijôsai*. The *senso* may at present use a different official name like *sokui*. But the deciding point of view is, whatever the name, it is still a Shintô ceremony which involves the submission of the two Insignia of Rule which is at the base of *senso*. Of course at *senso* two other worldly subjects are also submitted.

Beside the Shintô ceremonies there are no worldly ceremonies. The public appearances of the Tennô have only the aim to commute to the people that he indeed has done the ceremonies etc. Of course he does mention the Constitution, but he does so *inside* a Shintô ceremony.

The Emperor at present is the 126th from Jimmu Tennô. Of course, at present there will be only few people who believe in Jimmu Tennô. The line of emperors will begin at 10th or 15th place. But still, the counting begins at Jimmu Tennô, who was the great grand son of the grand son of *Amaterasu ômikami*, the Sun-goddess and the highest goddess of Shintô.

The first ceremony, the *senso* is a Shintô ceremony, as two of the three Insignia of Rule (*sanshu no shinki*) are passed on to the Emperor. The second ceremony, the *sokui no rei* is a Shintô ceremony, as the Emperor declares in the morning to the gods his intention to succeed the throne. And also, the Sword

* Former Prof. of Law, Tôyô University

and the Jewels are involved in the *sokui no rei*. The designation of the Government, to do it as a worldly ceremony does not convince me, as the Tennô was and is a *partly religious* person, and the shown parts are sufficient to make it a *partly Shintô* ceremony. The Emperor also conducts the ceremony from north to south – as in Shintô ceremonies. The third ceremony, the *daijôsai*, is the once in an era of a Tennô conducted *niinamesai*, a Shintô ceremony.

With *Amaterasu ômikami* begins also the story of the *sanshu no shinki*. They are still basic to the position of Tennô. *Amaterasu* passed them on to her grandson, *Ninigi no mikoto*, who brought them to earth. The Insignia of Rule contain the Mirror, the Sword, and the Jewels. They are all founded in Japanese mythology. The original Mirror was brought on to *Ise jingû* which was founded to place him. A replica was made to be kept in the palace. The original Sword was later brought to *Atsuta jingû*. A replica was made and brought to the palace. Alas, the replica was drowned with Antoku Tennô in 1185¹. A new one was brought to the palace. The Mirror and Jewels were said to have survived the suicide of Antoku. The just mentioned Jewels are the original. These two Insignia are placed with the Emperor and used regularly as the Insignia of Rule.

Around 25 times per year the Tennô is conducting or participating in ceremonies. These ceremonies are very important and take precedence over any other activities. Some of them, like *niinamesai* – a kind of thanksgiving – are conducted with the top of the state powers attending – prime minister, presidents of the houses of parliament, president of the highest court etc.

A probably majority of the constitutional scholars sees these things as unconstitutional. Also, since about ten years, there is a reappraisal of State Shintô². Unlike former times, State Shintô is not only seen to be brought on by the State, but also more than before by the Imperial House. Since that time, the criticism seems to have grown stronger.

State Shintô – *kokka shintô* – is a designation of parts of Shintô, which was never used in Japan as long as it existed. There are words in English, German, French, etc., which described it in the 1880s and beyond. But there was no Japanese equivalent until the Shinto directive of 1945. As there was no word in Japanese, the phenomenon is difficult to explain vis-à-vis Jinja Shintô. In short it may mean the administrative oversight over the shrines, the special place of shrines in the society, and the financial help, which some of the shrines received by the State. It was from the beginning based on both the State and the Imperial House, but the latter tended to be ignored.

I see the responsibility for the unconstitutional role of the Emperor in the fault of the Japanese scholars who were unable to see the relationship between Constitution and Tennô not only in the light of the Constitution but also in light of the Tennô. In other words, what I expect from the scholars is also a search in light of the Civil religion.

Another fault was with the GHQ. The Americans wanted to save a million of soldiers for the occupation forces³, which probably were needed if the Emperor was not cooperating. They also wished a smooth administration, which was extremely difficult, if the Americans directly ruled the country – and not via the government⁴. But more important of the view they had from the Tennô is the letter, which

¹ Kodama Kôta, *Nihonshi Shôhyaka 8 Tennô*, 3rd print 1980, 15

² For example, Shimazono Susumu, *Kokka Shintô to Nihonjin*, 2010

³ Telegram by Douglas MacArthur to Dwight Eisenhower, U.S. Army Chief of Staff, quoted in Herbert Bix, *Hirohito and the Making of Modern Japan*, 2009, 568

⁴ Herbert Bix, 2000, 567, 568

was sent by the Emperor via Terasaki Hidenari and the GHQ to the American government⁵. In this letter the Emperor asks the American government to continue to occupy Okinawa for 25 to 50 years or longer. The occupation would benefit the United States and also would give protection to Japan. The occupation should be based on a separate agreement between Japan and the United States with sovereignty retained by Japan. This would make it easier for the Japanese people to accept the idea. This letter was sent *after* the new constitution, on September 20, 1947 *without any authority by the Tennô to deal with these questions*. It was kept secret, and only made public in 1980, in order to be publicly debated in 1989. It was sent by the Japanese, accepted by the Americans and acted upon as proposed by both sides.

The GHQ has provided Japan with a new constitution. In this constitution there was the separation of State and Religion, which followed American example and which was made in order to create a more peace loving Japan. The motives were wrong – American example is completely different from Japan⁶ – but it was understandable. However on the other hand, the Americans also completely saved the Emperor. In this situation, the Americans created complete chaos, by retaining the Emperor, while at the same time providing Japan with a constitution, which decides that State and Religion be separated.

It is worthless to complain on the fault of the GHQ. That does not solve the problem. We must return to the Japanese scholars, who are the only ones to create a way out of this situation. Of course, I am also a foreigner. But I am a scholar of things Japanese, and in this capacity I may give Japanese scholars a hint of direction in which to proceed.

The Tennô has always been a partly religious person. The solvation of this riddle is probably the famous word for politics or administration, “*matsuri goto*” which also means “affair of Shintô-ceremony”. Even if there is a blank of more than 200 years in the 15th and 17th century when the *niinamesai* was not executed due to financial reasons, this ceremony was done from the beginning to present days. The number of Imperial ceremonies changed from time to time, it should have been the highest in and from Meiji period onward⁷. But nowadays, when Shôwa Tennô and the former Tennô went to foreign countries by plane, there was not one case when a ceremony was to be cancelled or done by a different person. Except for the *shunsai* on the first day of the month – a not so important ceremony – there was no ceremony to be cancelled.

The Tennô has been seen in differing positions at different times of the state, but he has always been on the highest level. The Tennô has not been forced to look up to a person, except for the occupation by the GHQ⁸, but as long as the state existed, the Tennô was the top of this. The Tennô existed from the beginning of recorded history up to the present day. It would be a grave mistake to sacrifice the Tennô just because of the constitution.

The Tennô exists in Japan since 660 BC, more realistically for about 15 centuries. The Tennô has always been from the same family – descendent from the highest goddess – he had different roles to play, but he has always been the highest Japanese – in theory indeed the highest human. In this we must begin.

⁵ Katô Masanobu, *Tennô – Nihon Shakai-nyûmon I*, 1994, 19 - 23

⁶ Montesquieu, *Vom Geist der Gesetze* 1, 433

⁷ In present day Japan, there are about 23 ceremonies per year. Of them there are 14 which were newly made. Ernst Lokowandt, *Shintô und Tennô-System*, 2019, 161

⁸ Ernst Lokowandt, *Shintô und Tennô-System*, 2019, 17

The basic point is, that from the beginning to present day, the Tennô has always been a partly religious person. From the end of the 6th century until the beginning of the Meiji period, Buddhism was the official religion and also the religion of the Imperial house. But Japan was lucky, that brought Buddhism and not Christianity to its shores. At about the same time, Christianity came to the Germanic states. Nowadays, if you ask a German what is the religion of Germany, he will answer with Christianity. Christianity suppressed the own religion, and at present day only specialists will know something from them. In Japan it was opposite to Germany. Buddhism came to Japan, but the original religion, Shintô, survived.

Seen from the Imperial house, Buddhism was its religion, but they continued, to fulfill the ceremonies of state, according to Shintô customs. The beginning of the myths of the state, the descent of the Imperial House, the Insignia of Rule, the ceremonies of the Imperial House etc. they all were and are Shintô. Of course, Buddhism has also influenced the Imperial House. The custom to retreat from the throne in order to head a Buddhist monastery and the Buddhist funerals come to mind. But until the present day, the Tennô is only a descendent from *Amaterasu ômikami*.

How is the religious role of Tennô to be reinterpreted, so that the constitutional problems would dissolve?

The Imperial family on the one hand, and all the other people, politicians, bureaucrats etc. should be seen to be of a different sort of people with different rights and duties. The Imperial family is allowed to conduct Shintô ceremonies and all other religious customs that they are supposed to perform. For the Imperial family there is no constitutional restraint on religion. All the other people have the constitution to rule their lives.

This change of constitutional interpretation does allow the Tennô to do things more freely. For example, the priestly employees are allowed to be paid by the state. The new rule would create a difference between Shintô and other religions. But if America is allowed to be “a Christian Country” so Japan should be allowed to be “a Shintô Country”. These lines are written not in order to fulfill a theoretical constitution theory, but in order to give the people the freedom, to live under a concrete constitution.

The task seems to be great. But for example the Art.14 decrees, that there is no discrimination because of sex. Some are saying, the decision not to allow female succession is a default according to Art.14. However, they are put in the defensive, as the decision is based on long ranging tradition. Also, the Art.9, which at first, *according to the Cabinet ministers* did not allow any forces to Japan, but now, according to a long ranging reappraisal of the Constitution, describes the soldiers of defense as constitutional as any other employee by the Government. In these comparisons this task should not be too great to be accomplished.