

The illusion of Living God “Arahitogami” and “State Shinto”: What invoke Absolute God?

Part 2 The Illusion of “State Shinto”

Chapter2 Was there a "Compulsion" to visit Shrines?

The False Image of "Arahitogami" Belief

In Chapter 1, we traced the development of the State Shinto "illusion." After that, in this chapter, I would like to show why the individual contents of the theory of State Shinto are nothing more than “illusions.” At the outset, I would like to confirm once again the whole picture of the State Shinto "illusion", which is "an ideological device using Shinto Shrines and school education and existing from the Meiji Era until the defeat in the Greater East Asia War in order to inject the people with the belief that the Emperor is an absolute God.

The first and foremost problem there is the existence of the ideology. In other words, the question is whether or not the idea and belief in "Arahitogami" has existed since the Meiji Era, and whether or not it was really infused through education. It has already been discussed in Part 1. It is enough to recall that in 1931, Kawai Eijirō lamented the fact that until then there was no Japanese system of ideology capable of overcoming Marxism, and advocated the creation of such a system. But let's add a little more and listen to what Shinto-related people of the time to say.

Mizoguchi Komazō, a Shinto researcher, wrote an article titled "Reinforcement of Japanese Studies" in *Kōkoku Jihō* [the Imperial Times] (No. 528), published on May 21, 1934. In the article, he said, "It is not the so-called Shintoists who have put the Japanese spirit in this fierce state of excitement today, but the power of the trumpets blown by the military in reality," and lamented, "Must Shintoists really feel remorse for this fact?"

Harada Toshiaki, one of the leading folklorists of the *Jingū Kōgakkai* University, told his students in his class during the Greater East Asia War as follows: "After the last world war [World War I], anarchism, Marxism, etc. were rampant in

Japan, and a series of incidents that could destroy the National Polity occurred, and social unrest reached its peak. It was the Buddhist priests who confronted the ideological issues head-on at that time. The Shintoists didn't do anything then. In the current war, Shintoists must not lag behind others as they did in the past. After this war is over, our country will surely be exposed to dangerous ideas and ideological confusion. At that time, it must be you who will play an active role to the hilt."(*Kōgakkān Hyakunijūssyūnen Kinenshi* [The Hundred and Twentieth Anniversary Book of the Founding of Kōgakkān] , 2002, p.581). According to them, Shrine Shinto was not functioning at all as an ideology or as an ideological device.

You wouldn't think there is any need to discuss the issue of ideology any further, but there are a few things I would like to add, so please bear with me for a while longer. One of them is about the historical documents relied upon by those who claim that the idea of the "Arahitogami" had existed since the Meiji Era and that it had been taught to the people. As I have already mentioned, Murakami Shigeyoshi said that "The process of making the emperor the absolute being, initiated at the time of the Meiji Restoration, finally reached a point that the emperor became sacred and inviolable as God by establishing the Constitution of the Empire of Japan." and that "This new concept was the same as that of God in monotheism and almost close to the concept of God in Christianity." (*Tennō no Saishi*, p.152), which he called the "Doctrine of National Polity." He also wrote, "The doctrine of State Shinto, as the doctrine of the national polity, was ideologically established by the Imperial Constitution and the Imperial Rescript on Education" (*Kokka Shinto*, p.140), or "The doctrine of State Shinto was the doctrine of the national polity, i.e., the concept of the national polity upheld by the Imperial Constitution" (*ibid.*, p.41).

He explained the content of the "Doctrine of State Shinto" = "Doctrine of National Polity" = "Conception of National Polity," which he claimed to have completed with the Imperial Constitution and the Imperial Rescript on Education, by citing the following historical document. "The Empire of Japan is a nation founded by Amaterasu, the ancestor of the Emperor of Japan, and ruled by the descendants of Amaterasu in obedience to the commands of the divine ancestor, from long ago and forever. This is our national polity, unrivaled in all nations." "In Japan, the successive Emperors have always been one with Amaterasu, ruling

the country as Akitsumikami [the Living God] , demonstrating the divine virtues of greatness and infinity, and the people have received these virtues. As a result, an incomparable family state have been formed in which the sovereign and the people are united, and the life of the state, which lasts forever, continues to spring forth and develop one after another.”(*Kokka Shinto*, p.141). Murakami uses this historical document to explain the ideological content of what he calls the "The Completion Period of Doctrine" (1899-1905). However, this quotation is a passage from *Jinja Hongi* [The Essence of Shrines] , published by the Jingiin [Newly organized government office to take jurisdiction over shrines in 1940] in 1944. In other words, in order to explain the content of the ideology and doctrine of the 1899-1905, he brought in a material from some 40 years later. The material of 40 years later cannot prove the current situation of 40 years ago. In this respect, Murakami's theory has already failed. This is also the case with Holtom's argument, and he often relies on *Kokutai no Hongi* [The True Meaning of the National Polity] , published in 1937, when explaining the meaning of the "unity of ritual and government" policy since the Meiji Restoration(1868).

I would like to give one more counter-evidence to Murakami's claim of "The Completion Period of Doctrine" of State Shinto. It is a book titled *Heishitachi no Nichiro-sensō* [The Russo-Japanese War for Soldiers] (Tokyo: Asahi Shimbun, 1988) written by Ōe Shinobu, who, like Murakami, was a leading critic of State Shinto. This book introduces and analyzes the contents of about 500 letters written by soldiers who were mobilized for the Russo-Japanese War to their families. As a conclusion, Ōe writes, "The soldiers of the Russo-Japanese War belonged to the generation before the government itself started producing textbooks for elementary schools, and the Emperor and Yasukuni Shrine were almost completely absent from their consciousness." (p.304).

Indeed, the soldiers who fought in the Russo-Japanese War belong to the generation before the publication of the national textbooks. At the same time, however, they are the first generation to be educated by the Imperial Rescript on Education. Therefore, if, as Murakami says, the Imperial Constitution and the Imperial Rescript on Education completed the "Doctrine of State Shinto" and it was thoroughly disseminated to the people through education, and if, as Umehara Takeshi says, “the spirit of the Imperial Rescript on Education, after all, aimed to make the emperor the absolute God, to establish dying for the sake of

the Emperor as the fundamental morality, and to make other morals subordinate to this fundamental one," it should be impossible that " the Emperor and Yasukuni Shrine were almost completely absent from their consciousness," who were educated by the Imperial Rescript on Education.

There was no "legal compulsion" to visit shrines until 1939.

In the first place, since there was no ideology to be injected into the people, there could be no ideology injector. This short affirmation musterts criticism of the theory that "State Shinto" actually existed. However, some of you may be wondering, "If that is the case, how should we interpret the individual issues that have been discussed as components of 'State Shinto'?" The first thing to say about this is that "the elements that make up a fiction are also fictions," but some readers may be dissatisfied with this answer alone. Therefore, in this chapter, I will take up the "compulsion of the people to visit shrines and believe in them," which is described as a representative component of "State Shinto," and prove its "fiction."

It is necessary to distinguish between "legal coercion" and "de facto coercion" with regard to coercion to visit shrines. My conclusion, in advance to say, is that there was no legal coercion to individual citizens after all until the end of WW II . But the pressure for "de facto coercion" gradually increased after the Manchurian Incident, and the Religious Organizations Law, which came into effect in April 1939, imposed legal coercion on religious organizations and their teachers. And it was the law that should be seen as a clear violation of the freedom of religion guaranteed by Constitution.

It is clear from the government's reply in the Imperial Diet that no legal coercion had taken place until 1939. At a meeting of the Special Committee on the Religious Organizations Bill of the House of Peers in the 74th Imperial Diet held on January 26, 1939, Viscount Ōkōchi Teruyasu asked the following question about the government's insight: "Is there a law that prohibits, restricts, or sanctions acts that are contrary to the duties of subjects, such as refusing to be drafted into the army because it is against one's religious tenet, or failing to show respect to a shrine, or failing to worship an object that should be worshipped?"

In response to this question, government commissioner Matsuo Cyōzō replied as follows: “It is the natural duty of us Imperial subjects to worship at shrines. It is not something that we must just reluctantly do as a matter of duty because it is required by law. We should interpret shrines as objects that we, the subjects, should venerate shrines in the moral sense.”

Ōkōchi was not convinced by Matsuo's vague answer of " the subjects should venerate shrines in the moral sense," and asked the same question again, to which Araki Sadao, Minister of Education. Then finally he responded as follows: “There is no sanction against just not worshipping at the shrines.” This answer shows how absurd it is to claim that the people had been forced to worship at shrines on the basis of the words "not antagonistic to their duties as subjects" in Article 28 of the Imperial Constitution.

However, the fact that the Imperial Constitution does not require the people to visit or worship shrines can be easily seen by examining basic historical documents at the time of the enactment of the Imperial Constitution, even without examining the minutes of the Imperial Diet in 1939. As is well known, the Imperial Constitution was debated in the Privy Council. On June 27, 1898, at the second reading of the First Council, doubts were raised by Sasaki Takayuki and Torio Koyata about Article 28, which provided for freedom of religion. The questions were raised as to what the government would do if ministers or officials refused to take part in imperial ritual on the basis of this article. On the government side, Itō Miyoji and Itō Hirobumi responded to these questions, and the two main points of the discussion were as follows.

- 1).As for the case where the general public refused to participate in the imperial rituals, neither Sasaki and Torio claimed that it was a violation of the Constitution nor that it should be forced. Sasaki said, "That doesn't mean they don't observe their duties as subjects, nor does it mean they disturb the peace and order. It has nothing to do with the people in general." Torio's statement: "Even if the people refused to worship the imperial court rituals, it could not be condemned that they destroyed the national polity or disobeyed their duties as subjects." Since they unquestionably allowed non-participation in the imperial rituals, which were the most important rituals for the nation, it is impossible to assume that they were even thinking of forcing the general public to visit and worship Sninto shrines.
- 2) Neither Itō Miyoji nor Itō Hirobumi, who answered the question, denied Sasaki and Torio's interpretation of the “duties as subjects.” Even regarding the worship

of ministers and officials at imperial rituals, they stated as follows: Itō Miyoj said "There is currently no law that stipulates that officials must attend the imperial rituals." "As for the future, we cannot judge it now." Itō Hirobumi said "Mr. Torio's question is about the future policy of the state toward religion. No one will live for a hundred years. The decision on this issue should be left to the politicians of the moment, and there is no need to answer now."

In short, the Privy Council's discussion of the Article 28 of the Imperial Constitution unquestioningly allowed the people to refuse to worship at shrines. As for ministers and officials, the conclusion was postponed on the grounds that "there is no law requiring them to attend court rituals at present," but "it is unlikely that such insane ministers or officials will appear in the government anytime soon, so if such a situation arises in the future, the government at that time can figure out how to deal with it." Since this was the intention of the framers of the Constitution, it was natural for the government to reply in 1939 that "there is no law that punishes subjects who refuse to visit shrines," that is, "there is no legal compulsion for subjects to visit shrines."

However, while making such a perfectly honest reply in accordance with the original intent of the Imperial Constitution, the government proceeded to enact the Religious Organizations Law with the intention of deviating from the Imperial Constitution and forcing religious organizations and their teachers to visit shrines. The following were the relevant answers: "In the past, there was a big problem with Christian sects advocating non-attendance at shrines, but that was only until a few years ago, and now Christian groups have become very Japanese." "Religious organizations that refuse to visit shrines will not be recognized and will be restricted by Article 28 of the Constitution and Articles 16 and 17 of the Religious Organizations Law that is now under discussion."

Article 16 of the Religious Organizations Law: The competent minister can restrict or prohibit the proclamation of religious doctrines, the performance of rituals, or religious events conducted by religious organizations or teachers, suspend the work of teachers, or revoke the approval for the establishment of religious organizations, if they prejudice to the peace and order, and antagonize their duties as subjects.

Article 17 of the Religious Organizations Law: The competent minister can cancel, suspend, prohibit, or order the person holding office in the organization to be replaced, if religious organizations or teachers holding office in their organizations violate laws, regulations, religious organization's rules, or commit any other acts that are detrimental to the public interest. The competent minister can suspend their acts, if teachers violate any laws, regulations or rules or engage in any other acts that are detrimental to the public interest.

From the above examination, we can say that the situation surrounding shrine visits in 1939 was as follows: Under the interpretation of the Constitution, the freedom of individuals to refuse to visit shrines could not be denied. However, there had been incidents in the not-too-distant past before 1939 that had made it harder to refuse shrine visits for religious organizations and their teachers. This situation gradually progressed until finally shrine visits were enforced by the Religious Organizations Law. The Religious Organizations Law did not cover individual subjects, but, even if it was limited to religious organizations and their teachers, its compulsion is of course a denial of the freedom of religion granted by the Constitution. How did this situation come to be? In following the changes in the academic theories of jurists and the views of administrative officials since the Meiji Era, as well as the specific responses of the government to the "Shrine Issue," we will confirm the background of this process in the next section.

The Interpretation of the "duties as subjects" at the time the Constitution was issued

There were two groups of prewar constitutional scholars: those who advocated the theory of the emperor as sovereign and those who advocated the theory of the emperor as organization. The leading scholars who advocated the theory of the emperor as sovereign were Hozumi Yatsuka (1860-1912) of Tokyo Imperial University and his disciple Uesugi Shinkichi (1878-1929). They were a minority in the academic world.

Today's sensibilities would naturally lead us to believe that these two men should claim that "visiting shrines is a duty as subjects stipulated in the Constitution," but this is not the case. Nowhere in their writings did they make such a claim. As for the "duties as subjects," Hozumi merely stated that "a religion

which absolutely denies murder is incompatible with the death penalty and military service of the country, and therefore contrary to the duties as subjects" (*Kōzoku Kōwakai niokeru Teikoku Kenpō Kōgi* [Imperial Constitution Lecture at the Imperial Family Lecture Meeting] , 1907, pp. 274-275).

Uesugi, who advocated the monotheism of the Emperor, said at best, "The duties as subjects does not mean the duty that the people owe by law. It means that religious beliefs that are inconsistent with the essence of being a Japanese subject are forbidden." in his book, *Teikoku Kenpō Chikyō Kōgi* [Lectures in Articles on the Imperial Constitution] (p. 92). The period between 1924 and 1929, when Uesugi wrote this book, was a time of heated debate over the issue of visiting shrine in elementary schools, as we will see later. At that time, why didn't he insist that it was the legal duty as subjects to visit the shrine, despite he advocated the theory of emperor sovereignty and of the Emperor as "Arahitogami"? At first glance, it is really strange, but there's a reason derived from his own logic.

To put it simply, the reason why neither Hozumi nor Uesugi argued that shrine visitation is a constitutional obligation as Japanese subjects, stems from the basic structure of their constitutional theory. In Hozumi's case, the logical structure is based on *Sosen-kyō* [the ancestor worship] , emphasizing the status of the patriarchs who worship ancestors, and then immediately justifying the sovereignty of the emperor, who is in the position of the patriarch of the Japanese nation. In other words, the shrine was not included in the basic structure of his theory. In the case of Uesugi, his theory was that "conceptually, there is only one emperor who should be a god," so there was no reason to force the people to visit shrines or believe in shrines which enshrine many deities(See my book, *Kindai Seikyō-kankei no Kisoteki Kenkyū* [A Basic Study of The Relationship between State and Relation in Modern Japan] Tokyo: Taimeidō,1997,pp.197-279).

At the time of the promulgation of the Imperial Constitution, there was an up-and-coming scholar of national law (constitutional law) and a bureaucrat named Ariga Nagao. In his *Teikoku Kenpō Hen* [The Imperial Constitution] , published in April 1889, before the Constitution came into effect, he wrote a very detailed explanation of Article 28, which I would like to introduce here.

Before I get into that, let me give you a brief history of him. Born in 1860, Ariga became a secretary of Genrōin [the Senate] after the Meiji Restoration. In 1876, he went to Germany and France to study philosophy, ethics, sociology, and national law, and returned to Japan in 1921. While studying abroad, he acted as an interpreter for Kaieda Nobuyoshi when he attended a detailed lecture on the state, constitution, monarch, and parliament by Lorenz von Stein in Vienna. His activities as a bureaucrat were varied, including serving as legal adviser to President Yuan Shikai. As a scholar, he not only lectured on national law at Waseda University, but also had many works on Japanese history, including *Nihon Kodaihō Syakugi* [The Commentary on Ancient Japanese Law], *Teikokushi Ryaku* [A Brief History of Imperial Japan] and other works on Japanese history, as well as on Western history and international law. *Teishitu Seido Kōnhon* [The manuscript of Imperial Household System, published in 1915, is also said to be a noteworthy work (Suzuki Yasuzō, *Nihon Kenpōgakushi Kenkyū* [A Study on the History of Japanese Constitutional Law], Tokyo: Keisō-syobō). In short, Ariga was the government's preferred scholar and bureaucrat at the time of the Constitution's promulgation, therefore his interpretation of the Constitution would have been highly influential. The commentary given by Ariga on the restrictions contained in Article 28 was as follows.

First of all, he says that "disturbing the peace and order" in the Article 28 means "the cases when different religions fight each other and cause disturbances, or when believers unite and act against the national constitution" (*Teikoku Kenpō Hen*, p.106). Secondly, he writes that the "duties as subjects" are "the duties of paying taxes and military service" and "the duty of those who stand in the position of subjects to the ruling Emperor. And he anticipates that "the duty of those who stand in the position of subjects to the ruling Emperor" will be the subject of serious questioning in the future. The question is as follows.

"It is the duty of the subjects to respect the Emperor and his ancestors, who have loved and nurtured subjects. Therefore, since it is a duty to believe in Shinto, isn't it a breach of this duty to believe in Buddhism, Christianity, etc.?" (p. 108). In order to answer this doubt in advance, Ariga proposes the following theory in this book.

"To regard respect for the Emperor's ancestors as a religion is a private belief of some people, therefore those who respect the Emperor's ancestors necessarily

must not have the belief. If the belief is propagated as a religion, it will be treated administratively as the same as Buddhism. However, Japanese subjects are not necessarily obliged to adhere to Shinto, as long as they do not fail to pay homage to the Emperor and the ancestors. In other words, it is exactly the same as the proper forms of respect required by Article 30 of the Imperial Constitution when presenting petitions." "The proper forms of respect to the Emperor's ancestors is not a religion. Thus, Japanese subjects can believe in Buddhism, Christianity or any other faith. If you are a Japanese subject at all, there is no reason why you refuse the salute to the Emperor's ancestors. Those who do not perform the salute do not understand the difference between faith and salute. It is their sin. Therefore, if they do not understand this difference and do not perform the salute, they cannot be absolved of their responsibility."(pp. 108-110).

Ariga says that people are free to believe in any religion as long as they do not fail to do "the proper forms of respect" to the emperor and his ancestors, and "it is exactly the same as the proper forms of respect required by Article 30 of the Imperial Constitution when presenting petitions." According to Itō Hirobumi's *Constitutional Law Commentary*, "the proper forms of respect" required at the time of petitions are to ensure that there is no "abuse of constitutional rights to defame the Emperor, or slander of the privacy of others". It is therefore clear that Ariga's idea of "the proper forms of respect" does not include "visiting shrines".

On the other hand, Ariga argues that there should be a distinction between religious belief and the proper forms of respect, and that when the proper forms of respect are absent, religious belief should be naturally restricted. Perhaps this interpretation was the general consensus at the time when the Constitution was issued. But when it actually came to the question of what constitutes "the proper forms of respect distinct from religious rites", the opinion about it was divided between religious and sectarian groups. The symbol of the confusion that arose between these differences was the Incident of disrespect of Uchimura Kanzō, which today is generally regarded as the imposition of Shinto rituals by state authority.

What was the Incident of disrespect of Uchimura Kanzō?

On January 9, 1894, a ceremony to read the Imperial Rescript on Education was

held at 8 a.m. in the Ethics Auditorium of the First High School in Hongō, Tokyo, as part of the New Year's commencement ceremony. The Emperor's portrait was placed in front of the ceremony hall, and the Imperial Rescript on Education, signed by the Emperor, was placed in front of the portrait on the table. In place of the headmaster who was absent that day, the head teacher, Mr. Kuhara Mituru read the Imperial Rescript, and then ordered the participants to "Reihai [worship]" the Imperial Rescript. Starting with the head teacher, teachers and students came up to the stage one after the other and "worshipped" it (Ōgawara Reizō, *Uchimura Kanzō to Hukei-jiken-shi*, Tokyo: Bokutakusya. Ozawa Saburō, *Uchimura Kanzō Hukei-jiken*, Tokyo: Shinkyōsyuppan).

The "Reihai" was a new ritual devised by the head teacher, and Uchimura Kanzō, a Christian, who was attending the ceremony as a part-time lecturer, was puzzled by sensing the religious significance of the head teacher's word "Reihai". As a result, he only "saluted" with a slight bow of his head. Teachers and students were angered by Uchimura's attitude, and general journalism widely reported the incident as a case of disrespect by a teacher of First High School, which led to big problem that the abolition of First High School was discussed in the Imperial Diet. Concerned about the situation, the headmaster explained to Uchimura that "Reihai" was not worship to the Emperor, but merely an expression of respect. Having thereby removed the "blame from his conscience", Uchimura, with the agreement of Christian friends, decided to bow deeply to the Imperial Rescript on Education. But as he happened to be very ill, he asked a Christian friend to bow deeply on his behalf. However, the situation did not stop there, and journalism continued to insist on his dismissal, and finally, without Uchimura's knowledge, his resignation was substituted and he was "dismissed on request" on 3 February.

Uchimura's view was: "Of course, I respect the Imperial Rescript on Education, and I would rather embody it actively. I am willing to 'salute', but not to 'worship' in the religious sense." This view was a perfectly legitimate interpretation of the Constitution and the Imperial Rescript on Education, but public opinion was outraged. This was because many Japanese at the time perceived a lack of respect for the Emperor in his attitude of trying to distinguish between "saluting" and "worshipping."

This situation is most clearly illustrated by the attitude of Shimaji Mokurai

towards this issue. Shimaji was the leader of *Daikyōin bunri undō* (the movement for the separation of *Jōdoshinsyū* [True Pure Land Sect] from *Daikyōin*, where enshrine three deities of creation) which rejected the worship of the three deities of creation, and his sect, *Jōdoshinsyū*, most hated idolatry in Buddhist Sects of Japan. Even Shimaji criticized Uchimura's act in his article "Hukei Jiken wo ronzu [The Discussion on the Incident of Disrespect]" in February 1894 as follows: "I have a great respect for the sovereign and my ancestors in my heart. Therefore, when I look at their portraits, I feel a great respect for them. This feeling is so strong that I am not inclined to question whether there is a spirit in the portraits or not. In other words, the reason why they, Christians, do not salute the portraits is not because there is not spirit in the portraits, but because they have no respect for the sovereign or our ancestors." (*Shimaji Mokurai Zensyū* [The Complete Collection of Shimaji Mukurai's Works], Vol.1, Kyoto: Honganji-syuppan-kyōkai, p.491). In other words, Shimaji argued that Uchimura's questioning of idolatry itself showed a lack of respect for the Emperor.

The Japanese Christians were divided on the case. Morita Ryō of the Japanese Orthodox Church criticized Uchimura's attitude as disloyal. Yokoi Tokio and others in the Union Church said that religious worship was not possible, but that the deep bowing to the Imperial Rescript on Education was a normal salute and did not interfere with faith. On the other hand, Minami Hajime and others of the Ordinary Evangelical Church argued that the deep bowing was idolatrous and therefore inconsistent with the faith, and Uemura Masahisa of the Presbyterian Church opposed the deep bowing from a legal and rational point of view, avoiding any judgment on the deep bowing.

This incident prompted Inoue Tetsujirō, a professor at Imperial University, to claim that Christianity was not in harmony with the Japanese national polity. His comments led to a fierce debate in magazines and elsewhere as to whether Christianity was compatible with the national polity of Japan. This was the so-called "Kyōiku to Syūkyō no Syūtotsu [The Clash between Education and Religion]".

The case can be summarized as follows: Firstly, the ritual held at First High School in response to promulgation of the Imperial Rescript on Education was a new idea by the head teacher, and was not a traditional Shinto ritual. But

Uchimura felt it was a religious rite by the head teacher's word "Reihai". On the other hand, to the rest of the attendees it seemed a mere "salute". This led to Uchimura being accused by the general public of being a reprobate who refused to "salute" the Emperor on the pretext of religion.

What I would like to draw attention to in this case is the fact that the government, and in particular the police, allowed a free debate without intervening. It is clear the fact that Christians such as Kashiwagi Gien were able to proudly assert that the Emperor is a constitutional monarch who cannot interfere in matters of thought and belief, and that violating the freedom of conscience is contrary to the spirit of the Imperial Rescript on Education ("Cyokugo to Kirisutokyō [The Imperial Rescript on Education and Christianity] ," *Dōshisya Bungaku*, No.59-60, 1872). A year after the defeat in the WW II, Professor Yanaihara Tadao of Tokyo Imperial University wrote the following in his article "Uchimura Kanzō" in *Cyūōkōron*, comparing the time of the Uchimura Incident with the 1940s.

"The battle which Uchimura Kanzō started at that time has been rekindled in recent years in a very violent form, and some of his disciples have been called people who disrespected for the emperor and abused as rebels against nation. Yet, strangely enough, despite the fact that the disrespect incident of Uchimura Kanzō was such a prominent social issue, the police and other officials never took action against him or his supporters, and the debate about whether it was right or wrong was openly announced. Compared to that time, we can see how great has been the repression and persecution of speech, thought and faith by the authorities in recent years. From the point of view of freedom, Japan in recent years has far retreated than the Japan of before the Sino-Japanese War." (*Yanaihara Tadao Zensyū* [The Complete Collection of Yanaihara Tadao] , Vol. 24, Tokyo: Iwanamisyoten, p.306).

In the light of the facts set out in the Part I of this book, I think the following interpretation of the reasons for the police and other authorities not to obstruct free discussion is the most appropriate, according to Asizu Uzuhiko: "The Imperial Constitution recognized the freedom of interpretation and debate about religion. Social controversies were fierce, but the state power - at least in the Meiji and Taisyō periods - did not intervene in them. Both those who claim that the rituals in response to the Imperial Rescript on Education are religious acts and those

who disagree with that claim, were clear in their support for the Imperial Constitution and the Imperial Rescript on Education. Therefore, the state power under the Imperial Constitution had no reason to intervene in the disputes." ("Teikokukenpō Jidai no Jinja to Syūkō [Shinto Shrines and Religions in the Age of the Imperial Constitution] ," in *Meijiishin Shinto Hyakunenshi* [The Hundred-Year History of Shinto in the Meiji Restoration] ,Vol.2, p.225,Tokyo: Shintobunkakai).

The Interpretation of the "duties as subjects" and its changes in the Syōwa period

Let us turn to the subsequent interpretative history of the "duties as subjects". After the promulgation of the Imperial Constitution, constitutional scholars seem to have maintained until the beginning of the Syōwa period the view that the duties of a subject do not include visits to shrines or worship them. Minobe Tatsukichi, a professor at the Faculty of Law of Tokyo Imperial University, made the following statement in his article "Jinja no Seishitsu to Shinkyō no Jiyū [The Nature of Shrines and Freedom of Religion] " (I) (II), which appeared in the newspaper *Cyūgai Nippō* on May 20-21, 1930.

"I have no doubt that Shinto is a religion in its own nature." "If Shinto is a religion, it is a national religion, that is to say, the state religion of our empire. It is in this respect that Shinto shrines have a different status from other religions under our law." (I)

"If Shinto is the national religion of Japan, the question arises as to how it relates to the provision of Article 28 of our Constitution." "For the spirit of freedom of religion to be fully realized, there must be a complete separation of state and religion. To this extent, however, the principle of freedom of religion has not yet been fully implemented in many constitutional countries, based on their historical traditions." "In our country, too, the rituals of the Shinto shrines are regarded as the affairs of the State. And the Sectarian Shinto and Buddhism, which are explicitly regarded as religions for administrative purposes, are distinguished from other religions, receive special protection from the State, and are subject to special supervision by the State. Under our national law, the separation of state and religion has never been complete. That is to say, although the provision of the Article 28 guarantee freedom of religion to the subjects, it cannot be

interpreted as obliging the State to treat all religions equally. If the principle of freedom of religion is logically expanded to mean that a complete separation of state and religion must be achieved, it is difficult to avoid criticism of ignoring Japanese history." "Therefore, even if Shrine Shinto is the state religion of Japan, it does not violate Article 28 of the Constitution. However, the fact that Shrine Shinto is the national religion of Japan only means that the state conducts rituals and manages shrines as its own affairs, and does not mean that the state can force the people to believe in it as a religion. Freedom of religion is of course firmly guaranteed by the Constitution, and it goes without saying that it is a violation of the Constitution to force people to believe in the national religion."(II)

Thus, in 1930, Minobe was proudly stating that "it is a violation of the Constitution to force people to believe in Shinto." In Late 1930s, however, his argument changed slightly, or rather considerably. In *Nihon Gyōseihō* [Japanese Administrative Law] II, published in April 1935, Minobe wrote as follows: "The rituals of the shrines, if they are religious, are national and Shrine Shinto is a national religion. It is a natural duty of the subjects to venerate [*Sonsū*, a word with the nuance of worship] the shrines and not to commit any act of disrespect towards them. Refusing the *Sonsū* is a breach of the so-called 'duty of the subjects' provided for in the Constitution (Article 28) and such religion is not allowed. However, it is not intended to exclude other religions, nor is it intended to impose religious beliefs." "The rituals of the Shrine Shinto are national. They should be seen as rituals with religious elements in the current system, but, needless to say, not compulsory as objects of faith."(pp. 562-563).

In this book, the clear assertion of 1930 that "even if Shinto is a national religion, it is a violation of the Constitution to force people to believe in Shinto" has receded, and it has been expressed that "venerate of shrines" is a "natural duty of the subjects" and refusing it is a violation of the Constitution. This has led to the contradictory argument that the rituals of Shrine Shinto are rituals, albeit with religious elements, and therefore forcing them does not constitute coercion of faith.

Furthermore, when Minobe's pupil, Miyazawa Toshiyoshi, published *Kenpō Ryakusetsu* [A Summary on Constitutional Commentary] " in 1942, it came to be described as follows: "Since *Kōson Kōrin no Shincyoku* [a decree given by

Amaterasu to her grandson Niniginomikoto] , the principle has been established that the descendants of Amaterasu should reign over this land and people forever. And by it the basis of our system of government has been formed.”(p.73). In other words, he stated that the Imperial Constitution was based on *Shincyoku-Shuken* [the doctrine that sovereignty is based on the decree of Amaterasu]. He went on to say that “This provision of ‘The Emperor is sacred and inviolable’ (Article 3) is a legal expression of the national belief that our country is ruled by the Emperor as a descendant of Kami and as Arahitogami” (p.81).

In accordance with this interpretation, the Shinto Shrine is also explained as follows: “Since ancient times, shrines have had the status of a national religion in Japan. Therefore, the principle of freedom of religion guaranteed by the Constitution is to be recognized, on the basis of this tradition, only to the extent that it is compatible with the tradition.”(p.63). At 1930, Minobe's theory was that "even if shrines are a national religion, freedom of religion should not be violated", but at 1942, Miyazawa's theory was that "freedom of religion can be recognized only insofar as it is compatible with the national religious status of shrines." Thus the interpretation of Minobe and Miyazawa about the relationship between shrines and a national religion had become diametrically opposed.

After Japan's defeat in the war, Miyazawa became a major figure in post-war constitutional studies, working to popularize the new Japanese constitution created by GHQ. And he described the Imperial Constitution as follows: “The Meiji Constitution was based on the divine right of the Emperor and, as a natural consequence, did not like to treat a religion that worshipped the Emperor's ancestors as gods – Jinja or Kannagara-no-Michi - in the same way as other religions. In order to consolidate the Emperor's worship, which was considered to be the basic principle of the Meiji Constitution, it was considered particularly necessary to give a nationalistic character to the shrines as the basis of the Emperor's divinity. Thus was established the State Shinto.” “It [the Meiji Constitution] also compels the people to worship at shrines, and obliges government officials to participate in Shinto rituals held as part of official ceremonies.” However, he was the one who, in fact, overturned the prevailing theory up to the beginning of the Syōwa period, praising *Shincyoku-Syuken* · *Shinken-Tnnōsei* [the sovereignty to the Emperor by divine decree of Amaterasu], and arguing that “Since ancient times, shrines have had the status of a national religion in Japan. Therefore, the principle of freedom of religion guaranteed by

the Constitution is to be recognized, on the basis of this tradition, only to the extent that it is compatible with the tradition.”

The Changes in the interpretation of judicial and administrative officials

The changes, in interpretation among public law scholars that we have described so far, had also affected the views of judicial and administrative officials. In fact, the change is even more vivid in them. To understand what was really going on, it would be more important to know the thinking of the judicial and administrative officials who were actually on the ground, rather than the arguments of the academics who were holed up in their ivory towers.

An interesting source of information on the Meiji officials' understanding of the "duties of subjects" in Article 28 of the Imperial Constitution is a book entitled *Kenpō Tsūsyaku* [The Constitutional Commentary] published in 1905. This was a textbook used at Jingū Kōgakkai, a training institute for Shinto priests, written by Ōkura Masashi, head of the criminal department at Anotsu District Court, and supervised by Fujita Ryūzaburō, head of the Nagoya High Court. This would be a clear statement of the interpretation of the Constitution by the judiciary at the time, and it would be not difficult to imagine that they would have been in a position to make some bold statements about Article 28, given that they were teaching future Shinto priests. However, the only commentary given there is the following.

“There are religious sects which believe that prayer is the only way to cure disease and forbid the practice of medicine. There are religious sects that believe so much in God or Buddha that they do not pay homage to the sovereign. Some religious sects exaggerate good or bad luck to confuse people's minds. There are religious sects which disregard the law of the land by relying on divine revelations. The Constitution does not recognize freedom of religion for such religious sects, whether Buddhist, Christian or any follower of other religions, because such sects interfere with the peace and order of the State and are contrary to the duties of subjects.”(p.83). This interpretation is almost identical to the view of Ariga Nagao, quoted earlier.

I have in my possession an historical document which shows the view of the

Shrine Bureau of the Ministry of the Interior in the early Syōwa period on Article 28 of the Imperial Constitution. It is an article entitled “Jinja Gyōsei no Gainen [The Concept of Shrine Administration]” in *Jinja Kyōkai Zasshi* [the Shrine Association Magazine] (Vol.26, No.8) in August 1927, written by Adachi Osamu, a clerk in the Shrine Bureau and a lecturer on shrine laws and regulations at Kokugakuin University's High School for training teachers. *Jinja Kyōkai Zasshi* was a magazine published by the Shrine Association, which had its office within the Shrine Bureau and it was a kind of public relations magazine of the Shrine Bureau. Therefore, the discourse in it was basically in accordance with the wishes of the Shrine Bureau. I ask you to read on the article with this premise. In the section entitled "The Relationship between the Shrine and the Individual", Adachi writes as follows:

“If shrines are a religion, the Japanese people are not obliged to worship them. If they are not a religion, Article 28 of the Constitution has nothing to do with them. Either way, the Constitution does not require Japanese citizens to worship at shrines. However, even though the Constitution stipulates that the Japanese people are not obliged to worship at shrines, it does not mean that they are free to adopt any attitude towards shrines.”(p.3)

“Appropriate respect for shrines is the same as appropriate respect for the Japanese national polity. In short, as it is the duty of every citizen to pay homage to the Japanese nation, it is also necessary to pay homage to shrines.”(p.415)

“In terms of the individual's relationship to shrines, the individual is not obliged to worship shrines, but is obliged to show proper respect to them. As for the method of the homage, I think it can be any. Whether you chant *Namu Amidabutsu* [I have faith in Amitabha] or *Amen* in front of shrines, forms of expression of respect are left to the freedom of individual belief. Either way, there is nothing wrong with it.” (p.415)

I am a little surprised at the way Adachi said that any homage can be paid, "*Namu Amidabutsu*", "*Amen*" or whatever. However, his view is not very different from that of Ariga Nagao or that of Minobe Tatsukichi in 1930.

However, the aforementioned views of the members of the Bureau of Shinto Shrines changed after 1935, when someone came forward to say that the *Sūkei* [A Japanese word that contains both the meanings of faith and respect] of shrines was a constitutional obligation of the people. In *Jingi Seido Taiyō* [A Compendium of the Administrative Shinto System] published in November 1936,

Okada Kaneyoshi, then a secretary of the Bureau of Shinto Shrines, wrote as follows: "It is theoretically natural that the extent to which the state may require the people to believe in or revere shrines in accordance with the Constitution should be limited to the belief in or reverence of shrines in their public aspects, and that the belief in or reverence of shrines in their private aspects should be left to the freedom of the people" (p.28). He said that the Constitution required "faith or veneration of shrines", albeit limited to "public aspects". He also wrote "If any existing religion does not allow the faith or veneration of shrines as a rule of the religious group, it is subject to prohibition by Article 28 of the Constitution, as it interferes with the peace and order, and disobeys duties as subjects." (p.27).

The changes of interpretations of Article 28 by public law scholars and officials, which we have been following, leads us to the following three conclusions.

(1) According to the interpretations of Article 28 of the Constitution in Meiji Era, visit or worship to shrines was not included in the "duties of subjects".

(2) The interpretation in the early Syōwa Era was basically the same as in the Meiji Era.

(3) After 1935, the interpretation changed, and it became said that "veneration" or "faith" of shrines was constitutional obligation.

Why did the change come about? What were the social factors that prompted this change? We shall explore this in the next chapter.