Cristina Piga

Principle of Laicity and Religious Concepts. An Italian and Japanese Perspective

Cristina Piga

PhD student of the Society of the Future interdisciplinary programme, Doctoral School of Social Sciences at Jagiellonian University in Krakow.

✉ cristina8.piga@student.uj.edu.pl

https://orcid.org/0000-0001-8465-3284

The present research analyses the principle of laicity, aiming to understand whether religious concepts can be introduced and positivised in a lay State, taking the Japanese and Italian constitutions as case studies. The purpose is to understand how religious concepts, if positivised, can contribute to higher protection of fundamental rights. The first phase focuses on the definition of the concept of laicity by separating it from secularism. The second phase deals with the principle of neutrality and non-identification of the lay state towards the religious sphere, deepening the positivisation of religious concepts and their introduction into legal analysis, with particular attention to Habermas' studies on the translation of religious concepts into a universally accessible and independent language. The third phase carries out a comparative constitutional analysis focusing on the principle of laicity in the Italian and Japanese constitutions to understand the different declinations the principle of laicity may take and the potential terrain for religious concepts to be introduced after an imperative translation into universal language independent of any religious interpretation.

Key words: laicity, secularism, neutrality, state, religion, syncretism, constitution, human rights, positivisation, religious concepts, legal systems, Italy, Japan

https://doi.org/10.32082/fp.6(74).2022.1077

Introduction

The present article aims to analyse the different expressions of the principle of laicity and its complex relationship with the religious sphere, as formulated by two very different constitutional, cultural, social, and political realities, by considering the Italian and Japanese constitutions as a case study.

Firstly, I will delineate an initial definition of the principle of laicity, separating it from the concept of secularisation: both of them start from the fundamental idea of the separation of political power from religious influence, in the case of the principle of laicity taking a further step: one of active interaction, not one of total closure, towards the religious sphere.

Secondly, the research focuses on the principle of neutrality and non-identification of the lay State

towards the religious sphere. Following, I believe relevant to address the crucial question of the positivisation of religious concepts in democratic legal systems and the imperative translation into a universal acceptable language, with particular reference to the observations of the German philosopher Jürgen Habermas.

Thirdly, I will test these considerations through a comparative constitutional analysis of the principle of laicity in the Italian and Japanese constitutions. Thereby, I attempt to demonstrate how a different formulation of the principle of laicity at the constitutional level does not a priori mean lower protection of the right to religious freedom and a lower degree of neutrality, non-identification, and tolerance by the State towards the religious streams present in the territory. Eventually, the goal is to understand whether and to which extent a potential positivisation of religious concepts translated into universally acceptable language is possible in the two secular States taken as examples.

1. Principle of laicity. A distinction from secularism

A greater understanding of the State and religion relationship and the following freedom of religion and conscience, is relevant in this first reasoning. The formulation of the principle of laicity allows to define the fundamental characteristics of a State's power legitimated by the "people", according to democratic and pluralistic assumptions, not in specific religious principles and ethics.

Hence, the limits of the present research in the definition of the principle of laicity should be defined, avoiding the sole perspective of linguistics, but considering the cultural-historical point of view of the legal system considered.

The meaning given by Italian scholars to the term laicity emerge as peculiar regarding that one given by French ones. The issue of the translation from foreign languages and the selection of terms and context in which are reported cannot be sidestepped. This statement counts also for the Italian translation, especially for what concerns the term "secularism" or "secular" from foreign languages (English, French and German), often translated into the Italian "*laicismo*" or "*laico*" (respectively laicity and lay).

This translation highlights an important issue of interpretation of the concepts of secularism and laicity, which are differently perceived in the Italian legal literature[1]. The translation from secularism to the "Italian laicity" does not perfectly match, in a philosophical and juridical application. This statement aims to highlight not a wrong translation of "foreign" text (from an Italian perspective) but to underline the intrinsic difference that a term has in different languages and the peculiarity that the translation from a language to another has.

The crucial point here is that the perfect translation of a concept, not limited to this specific case, is rarely possible. This clarification is useful not just to define the limits of this research, but also to introduce an important element to the definition of the concepts of religion and secularism in the Italian and Japanese legal systems.

The "Italian approach to laicity", as called by some authors[2], constantly relates itself to the strong influence that the Catholic Church had on the Italian territory (and still has today) at a social and ethical level and differs from France, as well as England and Germany. Consequently, this research does not aim to formulate a universal definition of laicity, but it intends to present

1 See Stefano Sicardi, "Il principio di laicità nella giurisprudenza della Corte costituzionale (e rispetto alle posizioni dei giudici comuni),", in *Rigore costituzionale ed etica repubblicana*, (Università degli Studi di Roma "La Sapienza", 2006): 13, (*Title in English: The principle of secularism in the jurisprudence of the Constitutional Court (and in relation to the positions of ordinary judges)*); Vincenzo Pacillo, "Alcuni problemi (teorici e pratici) della libertà religiosa diciassette secoli dopo l'Editto di Milano, Lugano," *RTLu XVIII (3/2013), (Title in English: Some problems (theoretical and practical) of religious freedom seventeen centuries after the Edict of Milan)*; E. Ripepe, *Secolarizzazione e diritto costituzionale*, in *Esperienza giuridica e secolarizzazione* a cura di Danilo Castellano and G. Cordini (Milano, 1994), 228 (*Title in English: Secularisation and Constitutional Law, in Legal Experience and Secularisation*).; V. ATRIPALDI, "Cultura dei costituenti del '48," in *Esperienza giuridica e secolarizzazione* edited by di Danilo Castellano and G. Cordini (Milano, 1994), 210 (*Title in English: Culture of the Constituents of 1948, in Legal Experience and Secularisation*).

2 See Stefano Sicardi, *Il principio…*, 13, Vincenzo Pacillo, *Alcuni problemi…*, 384.

the interpretation and the definition that the Italian and Japanese legal systems have on the principle and how this is expressed in the Constitutions and interpreted by the two highest Courts in relevant judgments.

It is fundamental for this research to identify that, even if the concepts of laicity and secularism are close in their original context and meaning, these take different forms, which outline a heterogeneous relationship between the religious and the political sphere. Furthermore, within the analysis of the process of secularisation, it should be considered that in the majority of cases and studies, it refers to the European, Western process, with a special connection with the Christendom and that this mechanism has developed through different areas of the world, in this peculiar case, the Japanese one.

Although concepts as "secularity" and secularism" have been developed in a mainly Eurocentric sense, a different interpretation and formulation can be identified beyond the European borders, considering States that "have all developed their particular secularist ideologies and their models for classifying and regulating religion", as Japan.

To get a greater understanding of the definition of laicity and secularism and where they differ from each other, a reflection over the etymology of the two terms should be opened, to identify the peculiar interpretation given in different legal systems and in different languages.

Firstly, the term "lay" or "laic" as adjective derive from Latin "*laicus*" and from ancient Greek "*laikos*", which have the same meaning: "of or belonging to the people", from Greek word "*laos*" that means people or common people, in distinction with the ecclesiastics.

In English, the adjective "laic"[3] has a direct reference to its Latin origin. In Italian, language of reference of the previous research, the word "laico" (laic or lay) has the same origin and an additional reference to the words "*laitos*" or "*leitos*" which mean public, and are related to the literary term "*laudis*", later "*Leute*" in German, which means "the people"[4].

The word secular has its origins in the term "*saeclum*" or "*saeculum*", regarding both Italian and English etymology, which refers to the verb "*serere*", from the verbal root "*sa*", which means to spread, to sow, and from noun "*semen*", referring to the product of the work of men, the seeds [5].

In Japanese the adjective "laic" can be translated with 在家 (*zaike*), a laic person, word, however, uniquely related to Buddhism. Another term is 信徒 (*shinto*) or 平信徒 (*hirashinto*), which mean a layperson, laity, a believer, adherent of follower. For non-Japanese speakers, it is crucial to not confuse these terms with the word "*Shintō*", the religion, 神, for the similar pronunciation.

The term 俗 (*zoku*) is equally used regarding a layperson, in opposition to the Buddhist monk, as laity, a man of the world and it refers also local manners and local customs.

This last meaning is particularly close to the Latin *serere* and *semen*, as product of men and in connection to the world and to local manners, from which has its origin also the Italian "*secolo*" (century) and the later adjective secular from Latin "*saecularis*" about the "span of time", to the progression of time and future generations.

Although a more precise research would be important to give a more contextualised definition of the concepts, this brief attempt, with all its limits, allows to gain a better understanding of the reasoning expressed at the beginning of the paragraph. In this case, is relevant to understand and do not misunderstand the principle of laicity, expressed in the two Constitutions here analysed.

The two Constitutional Texts have different cultural-historical backgrounds, together with the interpretation and implementation of these concepts, considering what said ahead. However, it can be recognised that they have a common concept on the basis, i.e. the crucial separation between the secular and the religious, despite their diverse definition.

The reasons behind the perception of this concept are not different solely between Western and Eastern legal systems of the world, but also within countries in the same region. In France and Italy, for example,

3 José Casanova, "The Secular, Secularizations, Secularisms," in *Rethinking Secularism*, ed. Craig Calhoun, Mark Jürgensmeyer and Jonathan Vanantwerpen (Oxford, 2011), 11 ss, 57.

4 Ibidem, 56 ff.

5 Ibidem.

the reasons and the dynamics of the process of secularisation should not be considered the same. The process of separation between the two spheres depends on the definition given to the "religious" in the legal system and only subsequently this division is possible to define the limits between it and the secular.

An unprecise identification of the religious sphere is more likely to be confused or "mixed" with judicial norms and political "directives", whose peculiar interpretation could be prejudicial in its influence.

An unprecise identification of the religious sphere is more likely to be confused or "mixed" with judicial norms and political "directives", whose peculiar interpretation could be prejudicial in its influence.

The distinction attempted in the following passage is formulated by the scholar Casanova, who distinguishes between the three concepts of secular, secularisation and secularisms (intentionally left plural from the text)[6].

The concept of secular, in its strict meaning, is connected to its Latin origin of "what is not religious, ecclesiastic", but, as the scholar specifies, in modern epoch, this is perceived in substitution of the religious, as a reality that does not go alongside the religious one but that takes its place. In this sense, the process of secularisation is perceived, as a gradual separation of politics and secular law, from religious doctrines.

However, a sole reference to the separation between the religious and the secular would be inaccurate, if another legal perspective of secularisation would be excluded from this reasoning, which occurs between the secular law and the canon law.

The process of separation from the secular started by the ecclesiastic power, in a complex political dynamic, in the XIII century. As H. J. Berman explains, the process of secularisation starts from the pontifical revolution of Pope Gregory VII. The complex formulation of canon law, the shape given to the pontifical legal system is later picked up by the secular law, starting from the merchant law (*lex mercatoria*).[7]

In Casanova's second distinction, the process of secularisation has to be understood certainly as the necessary separation of politics from religion, but it should be considered that the formulation of the canon law constitutes the formal basis for the later structure given to legal systems and codes of modern States.

In the XI and XII centuries, the canon law was the only one with the complexity and unitary of modern and contemporary States. While in Europe modern States were still embryonal, the feudal law was in force and it was characterised by fragmented political unities that the Sacred Roman Empire could not manage to keep unified, after the death of Charles the Great. The canon law gave the basis to the secular one to give to *consuetudo* and *usus* a formal and enacted structure[8].

The Revolution of Pope Gregory VII, as Berman defines it, is the first formal standpoint and declaration of intent from the Catholic Church to divide the religion from the secular power. Through the *Dictatus Papae*, the Church strongly opposes the secular customs and the temporal power of the kings and feudal princes all around Europe, with peculiar attention to Heinrich IV.

At article IX e.g. "*quod solius pape pedes omnes principes deosculentur*" ("all princes shall kiss the feet of the Pope alone") is given a strong declaration

6 Ibidem, 55 ff.

7 Harold J. Berman, *Law and Revolution. The formation of the Western Legal Tradition* (Cambridge, Massachusetts and London, 1983).

8 Harold J. Berman, *Law and…*, 60 ff.

of supremacy of the Church over secular powers in Europe, but more important is the limits of the religious sphere clearly separated from the multitude of secular ones, fragmented and not unified, despite the formal maintenance of the Holy Roman Empire[9].

At this point, it can be affirmed that the process of secularisation did not start just as a unilateral action from the secular power to get independence from religious one, but it is a more complex and longer process. This parenthesis allows analysing the further distinction given by Casanova, who further distinguishes the concept of secularisation in two dynamics.

The first one is inherent to the Christendom, as protection of monasterial life from the mundane one, held by priests which tended even more often were involved in feudal affairs[10], as their common marriages and union with feudal princes, the main reason of the later prohibition imposed by the Vatican, in force still today.

On the other side, the concept of secularisation is more often considered as an initiative of the secular power from the control of religious principles, containing it into the private sphere, as the example of the French Revolution gives, as the liberal one.

Afterward, in the definition of the theory of secularisation, Casanova makes a further distinction in three components. The one first refers to the institutional differentiation of secular spheres, the State, the economics and the science of religious institutions; the second one, the theory of the progressive decline of the religious beliefs and its practices[11] at the same time of the process of modernisation; the third one, the theory of privatisation of religion as precondition of democratic and secular modern politics.

The scholar underlines that it does not exist a unique interpretation of the concept of secularisation and that the relationship with the religious has different shapes, depending on the legal system and the society in which this process happens: "There are in this respect multiple competing secularisms, as there are multiple and diverse forms of religious fundamentalist resistance to those secularisms"[12]

Another interesting point is the perception that the process of secularisation may have from the viewpoint of societies outside the European "borders". If in Europe is considered as "a general or universal process of human or societal development"[13], on the other side, eastern societies of the world may perceive it merely as an "a particular Christian and post-Christian historical process"[14].

This awareness is fundamental in this research, since the analysis focuses on the principle of laicity as interpreted differently from the European one and allowing to define not just the limits of this research, but to understand more objectively, the two phenomena in the social, political and not least judicial context of the two Constitutions.

Finally, Casanova analyses the concept of secularism, intended as "a whole range of modern worldviews and ideologies concerning religion", in a broader meaning of the term, which refers to the legal-constitutional framework adopted by the legal system of the State which determines the limits, the borderline, with the religious, according to a definition of secularism as "statecraft doctrine"[15], not as ideology.

For this reason, his arguments focus on "secularisms" defined as differently interpreted in multiple societies. Secularism should not be perceived as substitution of the religious, as a sort of "new religion", but conversely it should refer to the normative and political structure of the State and to the legitimation of power itself, which does not lie in religious precepts, but democratic theories, free from particularism.

2. The introduction of religious concepts in the juridical analysis

Introducing the principle of neutrality under the legal perspective is crucial to understand the relations the lay State decides to take with the religious sphere, not underestimating the role of religions within the society. I stress that the separation between politics and the Christian religion in the European context is not synonymous of complete closure by the State, which contrarily exhort the participation to the pub-

9 Ibidem, 71 ff.

10 Ibidem, 88.

11 Jose Casanova, *The secular…*, 60.

12 Ibidem, 63.

13 Ibidem, 61.

14 Ibidem, 66.

15 Ibidem, 67.

lic debate, considering the potential contribution and resourceful participation to a greater defence of human rights within the juridical system.

Böckenförde identifies the principle of neutrality or non-identification as one of the major sources of the legitimacy of the lay State, specifying that this principle stands at the beginning of the modern State, just as freedom of conscience stands at the beginning of individual freedom[16].

In this respect, 'by progressively dismantling existing identifications, the state has opened the way for individual freedom', since only through the state's non-identification, through a 'religion-free' approach is it possible to guarantee religious freedom within a pluralist society and thus prevent a particular religion from influencing the formulation of the state's laws, inevitably coming into conflict with other religious denominations.

Another relevant aspect concerning the relationship between the political and the religious, specifically the Christian one, lays on the neutrality demanded to the State, not to be imposed to the religious confessions when they freely intervene in the public debate, and as Habermas reminds, "It must not discourage religious persons and communities from also expressing themselves as such in the political arena, for it cannot be sure that secular society would not otherwise cut itself off from key resources for the creation of meaning and identity"[17] adding also that "The liberal state must not transform the necessary institutional separation between religion and politics into an unreasonable mental and psychological burden for its religious citizens."[18], pointing out that "They should therefore also be allowed to express and justify their convictions in a religious language even when they cannot find secular "translations" for them"[19].

The distinction between religious and secular meanings, interpretations and language must be made by the legislator, especially when a Christian concept is transposed (and thus) positivised within the legal system. As Habermas again specifies, religious traditions, including the Christian tradition "have a special power to articulate moral intuitions, especially with regard to vulnerable forms of communal life. In corresponding political debates, this potential makes religious speech into a serious vehicle for possible truth contents, which can then be translated from the vocabulary of a particular religious community into a generally accessible language"[20].

Such contents can take on a universal character when they are subsequently positivised in the legal system and thus, to specify further, a religious concept can be positivised when a potentially universal message is recognised, which goes beyond relative religious interpretation and for which a translation into a universal legal language is required, detached from religious interpretation.

However, I emphasise the focus on the introduction of religious concepts into the democratic legal system, stressing the centrality of the secular state's principle of neutrality and the ultimate goal of protecting the fundamental rights by democratic institutions. The positivisation of a religious concept, if not carried out following the two pivotal points mentioned above rigorously "by opening parliaments to conflicts over religious certainties, governmental authority can become the agent of a religious majority that imposes its will in violation of the democratic procedure"[21].

Thus, as much as a religious concept may correspond to and represent universal values in the substance of its meaning, it nevertheless remains a religious concept, and as such cannot be positivised in order to further protect, for example, a specific fundamental right.

I consider it necessary to introduce the second imperative step in this analysis, namely the 'translation' of religious concepts before their actual positivisation in the secular legal system. As Habermas remarks: "For without a successful translation the substantive content of religious voices has no prospect of being taken up into the agendas and negotiations within political bodies and of gaining a hearing in the broader polit-

16 Ernst Wolfgang Böckenförde, *Stato, costituzione, democrazia: studi di teoria della costituzione e di diritto costituzionale* vol. 73, (Italian edition, Giuffrè Editore, 2006), 296.

17 Jurgen Habermas, *Between naturalism and religion: Philosophical essays* (Polity, 2008), 131.

18 Ibidem, 130.

19 Ibidem, 130.

20 Ibidem, 131.

21 Ibidem, 134.

ical process"[22] which makes it imperative to translate them into a generally accessible language so that the population as a whole can benefit from fundamental rights accessible in both form and substance.

The key element for a peaceful and civilised coexistence within the state is precisely the use of a universally accessible language. Otherwise "majority rule mutates into repression if the majority deploys religious arguments in the process of political opinion- and will-formation and refuses to offer publicly accessible justifications that the out-voted minority, be it secular or of a different faith, can follow and evaluate in the light of shared standards"[23].

The key element for a peaceful and civilised coexistence within the state is precisely the use of a universally accessible language.

If, on the one hand, religious doctrine and concepts cannot influence the public normative at any level, on the other hand, the religious cannot be relegated to the private only, and should not be prohibited to believer citizens to manifest and express their faith in public: it would violate the principle and the right to freedom of religion and conscience, the pillar of the liberal democracy.

The controversies on this last point emerge at the academic level and also within society. Two main examples in Europe would be the exposition of the cross in public places in Italy[24] and the prohibition to wear hijab in public places in France[25]. The principle of neutrality of the State, as explained by Böckenförde[26] and Habermas[27], considers religious concepts not as a threat to state legitimation, but as a resource, with a specific look at the protection of fundamental rights by the State.

The so-called process of "de-secularisation"[28] should be intended as a further step in the relationship between State and religion, although keeping in mind that the introduction of religious concept is inadmissible in a legal system and a "linguistification of the sacred"[29] is mandatory, as process of translation in a judicial language.

This reasoning aims to underline that the principle of laicity should not be confined in the mere separation of secular and religious spheres, contrarily it should be referred to a constant dialogue with the religion, albeit keeping their fundamental separation.

Although this research analyses the principle of laicity in the light of the protection of human rights, the State cannot be "neutral" towards their protection. The protection of human rights matches with the protection of the democratic system of values, the Wertordnung; for this reason, the State has to protect human rights to preserve its democratic values and the principle of neutrality of the State explains this crucial connection.

According to this view, laicity refers to the identification of the moral intuitions at the basis of the recognition and pursuing of the Good. The plurality of "declinations" and the definition of Good and Evil,

22 Ibidem, 132.

23 Ibidem, 134.

24 Consiglio di Stato, 15 febbraio 2006, decisione Sez. 4575/03-2482/04. *(Council of State, 15 February 2006, decision Section 4575/03-2482/04).*

25 LOI n° 2010-1192 du 11 octobre 2010 interdisant la dissimulation du visage dans l'espace public (1).

26 See Böckenförde, Stato, costituzione…

27 Habermas, *Between…*, Chapter 4, *Prepolitical Foundations of the Constitutional State?*, 101 ff.

28 Atripaldi, *Cultura dei Costituenti…*, 210.

29 Francesco Callegaro, *Justice as the sacred in language: Durkheim and Habermas on the ultimate grounds of modernity and critique*, vol. 17/4, 342–60.

given by religions, can be identified regardless of the specific religious interpretation, although expressed by religious language.

The distinction with secularism lies in the association of laicity with the protection of human and fundamental rights through the identification of human dignity as a starting point, as moral intuition at the basis of the democratic thought.

Nevertheless, it should be clear that the dialogue with religion, this "de-secularisation", cannot remodel and homogenise again religion and secular "jurisdiction". Albeit some originally religious concepts are considered useful to a greater expression of the protection of a right, are subjected to the process of translation "filter" to the juridical language. This should be constantly reminded.

If religious concepts are considered suitable to greater protection of fundamental rights within legal systems, the principle of laicity reveals itself as a further step, regarding secularism.

Despite the different application of the principle of laicity from one society to another, the definition here given refers to the religious sphere in its broader meaning, without the identification to a specific belief, but as the identification of the transcendent, beyond the temporal experience.

On the other hand, the secular is identified as the political and legal one, and has a specific reference to the democratic Form of government, aiming at the general definition of this relationship. Conversely, in a more specific perspective, the Italian and Japanese dimensions, combined with the given definition of laicity, brings out a peculiar interpretation and application of the principle of neutrality and laicity.

In the following reasoning, a focus on the constitutional provisions is formulated, analysing the interpretation given by the Supreme Court of Japan and the Italian Constitutional Court, keeping the premises given ahead.

3. Evolution of perception of Shinto: syncretism and freedom of religion in Meiji Era

In the observation of the concept of laicity in Japan, it is necessary to point out that the secular has to relate to several religions in the territory and to a phenomenon that has peculiar forms in Japan, the syncretism between Shintō and Buddhism. Therefore, when one goes to analyse the concept of secularism in Japan, it is necessary not only to discern the term "religion" from that of monotheistic ones, but also from the perception that the boundary between religions must necessarily be precisely defined.

The case of Japan is not only about the mixing of several religions, but also about reinterpreting at a local level the different doctrines wherewith the population comes into contact. Over the centuries, the Japanese people have adopted the Buddhist doctrine, the ethics of Confucianism while maintaining a strong link with Shintō. The same imperial family, the same emperor once conferred the title becomes a Buddhist monk, but he continues to be an *Arahito-Gami*[30], a god on earth, a descendant of the goddess Amaterasu and the two religious spheres do not conflict, but mutually strengthen each other.

The case of Japan is not only about the mixing of several religions, but also about reinterpreting at a local level the different doctrines wherewith the population comes into contact.

30 Yuki Shiose, "Japanese Paradox: Secular State, Religious Society," *Social Compass* 47(3) (2000): 317–28.

Syncretism means merging several religious beliefs and rites, following a fluid approach towards spirituality, which presents a very low degree of conflict, if compared to monotheistic religions. The syncretic element, on the one hand, implies a more complex approach by the legislator towards this "alternative" way of perceiving and practicing religion, if seen through the lens of the Christian religion, for example, but which should not be considered alternative and identified as different instead.

However, as I specified before, the principle of secularism is not alien to Japan and the concept of religion itself should not be considered under the Christian perspective of the term. The peculiarity of Japan is expressed not only in the evolution of its forms of State and Government, but also and particularly in the ways in which syncretism leads to the conception of secularism, itself in a "fluid" way, if it is allowed to use this term.

Precisely the concept that was expressed previously, not to define a specific *a priori* delimitation between religion and secularism, follows the need to redefine the notion of secularism itself, beyond national borders and to identify such a border more gradually, through a process of localisation and contextualisation, as is being done by the Japanese Supreme Court and the Italian Constitutional Court in their respective judgements.

Syncretism is important in this analysis because it is the very essence of the peaceful coexistence of Shinto and Buddhism, in cults, rites and doctrine, where it is present. From a purely legislative point of view, the approach to religion follows the one analysed in the previous paragraph, but it is nevertheless interesting, in this analysis, to highlight how much syncretism can be an element which facilitates the very concept of freedom of religion and tolerance, connected to it in a multi-religious State since its origins.

While some scholars still tend to consider Shinto as a non-religion today, due to the lack of dogmas and sacred texts, over the centuries it has permeated not only the religious sphere but also the political and legal spheres. Even in times before the period that more or less coincides with the European Middle Ages, the Shinto shaped not only social interactions but also legal ones, so that "the crime was punished not as antisocial, but as sacrilegious"[31], in a dimension in which the religious and secular spheres were strongly entwined, always keeping in mind the nature of the Shinto religion, which some refer to ancient animist cults, which changed in rites and changed from region to region, if not from village to village.

The tendency is to think of the religious situation at the time in terms of the coexistence of two distinct traditions, namely, Buddhism and the cult of the Gods (Shintō). But it can be perceived in terms of the integration of the two in individual belief where people entrusted their fate in the afterlife to the Buddha, and their fate in this world to the Gods[32]

While Buddhism was imported to Japan around the 6th century, Shintō is to be considered the island's true native religion. It should be noted that the particular relationship that Shintō always had with political power is peculiar, since it was used as a real legitimation of the political power of the imperial family, which still today is considered a descendant of the goddess (approximate translation for the word kami) Amaterasu Ōmikami, at the top of the hierarchy of the gods of Shintō.

The exploitative use of the Shintō religion in the Meiji era must be taken into account in the formulation of the current principle of secularism in Japan and the need to protect religious freedom in the country. As the scholar Yuki Shiose underlines, quoting Berthon, "by becoming the state's main legitimising force for nationalisation and unification, Shintō lost its religious element and became the tool of the state"[33].

In the light of the reflection made in the previous paragraph, Shintō is not deliberately considered a religion in order to be, in substance, elevated to state religion. Furthermore, "the rich variation of folk and shrine Shintō tradition became diluted, and the imperial, "expurgated" version of State Shintō

31 Giorgio Fabio Colombo, "Stato, diritto e sincretismo religioso in Giappone: lo sguardo del giurista," in *Quaderni di diritto e politica ecclesiastica*, Fascicolo speciale,(december 2016): 22.

32 Michiaki Okuyama, *Religious Nationalism in the Modernization Process State Shintō and Nichirenism in Meiji Japan* (Nagoya, 2002), 48.48: 4, cit., 24.

33 Yuki Shiose, *Japanese Paradox…*, 319.

enjoyed the quasi-monopoly of the state organised religious market"[34].

The position occupied by Shintō during the Meiji modernisation era has consequences especially from the point of view of the violation of the rights of citizens of Buddhist faith (above all), who are persecuted, Buddhist temples and symbols destroyed and monks forced to officiate Shintō rites.

While it is easy to see that the mixing of the two religions has always been fundamentally peaceful, this radical change at the political level does not "break out" without a particular reason.

While it is easy to see that the mixing of the two religions has always been fundamentally peaceful, this radical change at the political level does not "break out" without a particular reason.

The nationalist movement, which has been taking hold since the early 1800s, is becoming increasingly strong and the Buddhist religion is "material imported from abroad" and the great predominance of Buddhist rites also at a local level is not without friction among the Shintō clergy. placed in a position compared to that of Buddhist monks, who also at a local level occupy more important positions in city councils and "this situation did not pass entirely without protest, but organised resistance among Shintō priests transcending domain boundaries was virtually unknown before Meiji"[35]

It should be noted that since 1870 the "Great Promulgation Campaign" has been carried out, with the aim not only to standardise Shintō teaching in Japan (a process that had already begun a few decades earlier) but also to make Shintō stronger than Buddhism, which on the other hand had monks much more prepared and influential than the Shintō priests, as mentioned above. Shintō was not structurally organised[36].

The philosophical school of *Kokugaku* was one of the most influential in this process of unification, and it "seemed to offer a way out of Shintō's centuries-old, enforced subordination, and this anticipation exploded with violence in the *haibutsu-kishaku*, (movement to destroy Buddhism) outbreaks just after the Meiji Restoration, which aimed to abolish Buddhism once and for all."[37]

The promulgation campaign lasted about 15 years, during which time Buddhist monks gradually became part of "The National Evangelists"[38] (*kyōdōshoku*) in large number. "However, they were quick to perceive that uprooting their religion was one of the Campaign's covert goals. Joint Shintō-Buddhist proselytisation atrophied after the 1875 withdrawal of Jodo Shinshu, when it had become clear that the Campaign was campaigning for Shintō as a state religion."[39]

The creation of the Great Teaching (*taikyō*) was intended to "level out" and eradicate the different sects in the area and to unify the Shintō according to a single teaching and doctrine and make it stronger. However, these teachings were not clear, and even among the evangelists and the bureaucratic organisation was not efficient, so that "staff were transferred to other government offices with such blinding rapidity and frequency that they did not have enough time in any given post to accomplish anything, even if internal strife had not

34 Ibidem.

35 Helen Hardacre, "The Great Promulgation Campaign and the New Religions," *The Journal of Japanese Studies* vol. 12, no. 1 (Winter, 1986): 29–63, 33.

36 Ibidem.

37 Ibidem, 36.

38 Ibidem, 44 for further explanations on "*kyōdōshoku*".

39 Ibidem, 47.

divided them among themselves"[40] and the government campaign needed the "restoration" of Shintō as the dominant religion in Japan, especially in official rituals.

Although this brief parenthesis allows only a partial understanding of the complexity of the principle of secularism in Japan today, it highlights the instrumentation of Shintō by the Government of the Meiji era of religion for political purposes. If in theory Shintō was not made to fall into the category of "religion", it was essentially proclaimed State religion, in violation of the Meiji Constitution (1868–1945). In Article 28 it states that "Japanese subjects shall, within limits not prejudicial to peace and order, and not antagonistic to their duties as subjects, enjoy freedom of religious belief".

However, it must be kept in mind that the Meiji Constitution is judged negatively by many scholars precisely on the protection of religious freedom in the country. In fact, it is said that the wording of the article has led to the "limitation of the freedom" in the country "within the limit not prejudicial to peace and order and not antagonistic to the duties as subjects"[41].

While in the light of Yoshida Abe's analysis the protection of religious freedom by the Constitution can be considered guaranteed, it should be noted once again that the definition of the Shintō religion as non-religion undermines the very wording of Article 28 of the Meiji Constitution, and a substantial violation of religious freedom can be observed. It is also considered that even in the absence of effective persecution and limitations of other religions by the government, a basic prejudice is created which, if at the legislative level defines freedom of religion as a right, it is then frustrated by the different categorisation of the Shintō, as analysed above. For this reason, it is fundamental to understand how the Supreme Court of Japan today interprets the principle of secularism in the country and how this is fundamental, precisely in the light of this process of instrumentation of the Shintō in the Meiji Era, although briefly described here[42]

4. Principle of laicity in the Japanese and Italian constitutions

If in the more general theory the definition of religion is essential for a precise distinction with the secular, this becomes even more relevant in the Japanese case.

The analysis of the interpretation and application of laicity should be preceded by a focus on the definition of the term religion, to better understand the borderlines with the secular and to highlight the discontinuity between the Meiji and current Constitution. The stress on the interpretation given at juridical and political stage, which changes the expression of the laic and secular State and the following perception of the freedom of religion, before and after World War II.

The term 宗教 shūkyō, in its modern meaning, has been introduced in the Meiji Constitution and interpreted as a "prototype of a belief-centred Protestant-style Christianity in mind"[43], stage that sees the State Shintō 国家神道 or 國家神道 (*Kokka Shintō*) defining Shintō religion as non-religion, according to a perception of the concept of religion assimilated to the Christian/Western one.

Bypassing Meiji Constitution provisions, Shintō is considered a non-religion and no violation of the constitution is highlighted, neither the principle of laicity and the recognition of freedom of religion, although Shintō substantially becomes State religion, considered as national ideology and unified national and secular wave with a "compulsory participation of its subjects in shrine rites without infringing upon the constitutionally granted freedom of religion"[44], with the creation of a dichotomy between the *shūkyō* and the *dōtoku*, the secular, confining the first one at the sole private dimension and the second as a question of morality understood at national level.

Nevertheless, if the analysis on the concept of religion in Japan stops at the translation of the term from its western meaning, as given by the *Kokka Shintō,* there is a high risk to exclude from the analysis an

40 Ibidem, 53.

41 Yoshiya Abe, "Religious Freedom in the MaKmg of the Meiji Constitution," *Contemporary Religions in Japan*, vol. 9, no. 4, 57. *It should be highlighted that the author brings a positive analysis of article 28 of Meiji Constitution in his paper.*

42 Yuki Shiose, *Japanese Paradox…*, 319 ff.

43 Hans Martin Kramer, "Recovering the Secular in Early Meiji Japan: Shimaji Mokurai, Buddhism, Shinto and the Nation," *Journal of the International Research Center for Japanese Studies* vol. 30, (July 24th 2017): 63–77, 89.

44 Ibidem, 90.

important basis for the future process of "laicisation" of Japan.

In this analysis is essential the concept proposed by Kleine[45] to look for not a lexical analogy, a sole formal one, but would be more appropriate to study what the scholar defines the "structural analogies to the binary code religious/secular"[46], and so looking for the substantial analogies between the concept of religion in the Western, better Italian articulation and the Japanese one of the term. As said before, would be misleading and inaccurate researching and analysing the concept of religion and the later of laicity without considering the different perspective and application given at normative level.

Kleine specifies that it is not fundamental to find a semantic equivalent of the term "religious", to analyse the dichotomy with the secular, although the importance to find a "binary code" referring to two separate and opposed spheres: that one of "transcendence", which follows religious patterns that can be associated both to Christendom and Buddhist and Shintō, without considering relevant the different expression (ceremonies, sacred texts, etc.) of different spiritual cults.

Hence, "if we take Japan as an example, Christian missionaries, as well as Buddhist priests in the sixteenth century, presupposed that Buddhism and Christianity belonged to the same polythetic class"[47] considering "regardless of all differences between the two "cultic systems"[48]. In this case, the term "cult" has been used to underline that these moral systems can be both traced back at the same thought category, stressing that the different formal definition is not an obstacle, contrarily, is crucial for this analysis to define the principle of laicity in Japan and Italy.

The debate among scholars on whether or not using the term "religion" when concerns Japan is quite important. Nevertheless, this analysis does not focus on this emblematic linguistic and historical issue, albeit it takes into account, understanding that the term "religion" used here refers not just to Western dialectics, but also the native behaviours and cults that are conveniently called religion, with nothing to do with the Western conception of it.

The analysis aims to understand how the principle of laicity is interpreted in the Japanese Constitution in force and how the principle of separation of the transcendent sphere from the secular one has been applied by the Supreme Court in its judgments. To approach the analysis of the principle of laicity in Japan is fundamental to begin based on article 20 of the Japanese Constitution.

"Freedom of religion is guaranteed to all. No religious organisation 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."[49]

In the text, are used the terms 信教の自由 (*shinkyō no jiyū*) freedom of religion, and 宗教 (*shūkyō*) religion. The first term 信教 (*shinkyō*) refers to the concept of faith and religious belief. The Constitution identifies, in this way, that the religious dimension, the transcendent, is protected as right and is protected by the State to any citizen and human being, in a broader meaning.

It specifies that no religious organisation should have any privilege from the State and no political authority. Following, it indicates the core of the principle of laicity, whereby every State's body must refrain from practicing any religious activity and the religious principles cannot influence politics. To better understand the interpretation given to this principle, two specific judgments of the Supreme Court of Japan are going to be analysed.

The Court's Judgment of July 13th, 1977[50] specified the definition of religious activities and to do so the

45 Christoph Kleine, "Religion and the Secular in Premodern Japan from the Viewpoint of Systems Theory," *Journal of Religion in Japan* 2:1 (2013): 1–34.

46 Ibidem.

47 Christoph Kleine, *Religion and the Secular…*, 7.

48 Ibidem.

49 Japanese original text: 信教の自由は、何人に対してもこれを保障する。いかなる宗教団体も、国から特権を受け、又は政治上の権力を行使してはならない。
何人も、宗教上の行為、祝典、儀式又は行事に参加することを強制されない。
国及びその機関は、宗教教育その他いかなる宗教的活動もしてはならない。

50 Supreme Court of Japan, judgment. N. 1971 (Gyo-Tsu) 69. Reporter: Minshu Vol.31, No.4, at 533, *Judgment on a case*

Court follows the definition of laicity itself in Japan and focuses on their peculiar relation. The principle of neutrality is expressed in the abstention of the State from interfering in any religious belief or individual conscience, which goes beyond the political dimension.

This step refers to what has been mentioned before regarding State Shintō and its interpretation of the principle of freedom of religion, distorted from its right meaning established by 1889 Constitution (the Meiji Constitution), which however guaranteed "within limits not prejudicial to peace and order, and not antagonistic to [the peoples'] duties as subjects"[51].

A strict and limited perception of freedom is given, especially regarding its interpretation by State Shintō, in which Shintō religion was declared as national ideology (not religion), through the interpretation mentioned before regarding the juxtaposition of the meaning with the Western perception of religion and with the creation of a State which is neutral just in theory, which contrarily establishes Shintō religion with mandatory attendance to the public rites violating that freedom of religion and freedom of conscience stated in the Constitutional Text.

In 1977 judgment the Supreme Court specifies that the multi-religious nature of Japan not only requires the definition of freedom of religion as guaranteed to everyone, but also that the State might be neutral to avoid any connection with any kind of religious belief existing on the territory.

If in Western legal systems the process of secularisation first and the introduction of the principle of laicity later is crucial to avoid further interferences from the religious on the political decision and normative formulations, including the protection of human rights of citizens in the State. In Japan, the development and formulation of a plurality of cults and behaviours are greater rooted than in other States in a different way than, for example, Western cultures, and this affects also the interpretation given on the principle of neutrality.

As the Court further specifies, is necessary not to find a hard demarcation line between the two spheres, but accepting that a complete separation cannot subsist and that attempting a "complete separation would inevitably lead to anomalies in every area of social life"[52], and that should be interpreted as violation of the article 20 "only if that connection exceeds a reasonable standard determined by consideration of the conduct's purpose and effects in the totality of the circumstances"[53].

Regarding the judgment, the Court had to clarify the nature of a Groundbreaking ceremony 地鎮祭 (*jichinsai*), "performed at the start of construction of a building to pray for a stable foundation for the building and safe construction of work"[54] and the nature of the payment given to the Shintō priest.

The ceremony as far as formally religious loses the religious connotation and gets closer to a secular custom and "most people would perceive it as a secularised ritual without religious meaning"[55] and in the context in which the ceremony has been held, it did not have a particular religious meaning since "such a ceremony is well within the bounds of general usage widely observed over many years" and even the owner of the construction site aimed to meet "the demand of construction workers to observe a social formality that has become customary at the start of work"[56].

Following, the Court clarifies that the perception of the Japanese population on religion is certainly different from that one of Western countries and that the use of this kind of religious ceremony instead of another cult represent the mixed religious consciousness and that in the case of Shintō occurs a lack of proselytism that can be found in other religions.

The Court considers the context in which the ceremony has been held which is linked to a more "secular ceremony conducted in accordance with general social custom". Moreover, the payment for the ceremony, around 7000 yen, does not violate article 89 of the Constitution, since it can be considered as the payment for a given service, not as financing that specific religion.

concerning the meaning of "religious activity" under Article 20, Paragraph 3 of the Constitution, 1977.07.13.

51 Extract from Article 28, Meiji Constitution.

52 Supreme Court of Japan, judgment. N. 1971 (Gyo-Tsu) 69.

53 Ibidem.

54 Ibidem.

55 Ibidem.

56 Ibidem.

The interpretation given to the ceremony follows the interpretation of the majority of the judges, however, the a dissent note is enclosed to the judgment by some members of the Court who contrarily consider the ceremony as non-convertible to a secular tradition because too soaked in religious symbols and rites, with the further element that the city mayor took part to the ceremony together with other public authorities, underlining the potential preferential treatment that could occur after the ceremony between the local administration and the shrine.

In a further note, the judge Fujibayashi Ekizo[57] specifies that the principle of neutrality of the State should not imply the complete indifference towards religion, which should be respected, also thanks to the right to the freedom of religion, guaranteed by the State.

Another clarification was given by judge Fujibayashi; even if article 20 of the Constitution has western origins, with a specific connection with the American one, it does not follow in toto the principle of laicity as perceived in Western Constitutions, it takes a further step. For this reason, although the judge himself quotes the first amendment of the American Constitution, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof"[58].

The Japanese provision is more specific when it states that "The State and its organs shall refrain from religious education or any other religious activity". According to the Supreme Court judge, the provision should be interpreted as a strict prohibition to any State body and representatives to be involved in any activity with religious implications, not only activities with a formal religious purpose.

The second judgment of April 2nd, 1997[59] on "the constitutionality of the prefecture's expenditure from public funds to religious corporations which held ritual ceremonies" regards the first decision of the District Court on non-constitutional expenses connected to religious activities prohibited by article 20 of the Constitution for two reasons. the first one refers to the fact that "the purpose of the offerings had religious meanings"[60], but also to the fact that "the effect of them would support and promote the religious acts of both Yasukuni and Gokoku Shrines"[61].

The case moves to the High Court in appeal, which challenges the previous judgment overturning it establishing that the case does not violate article 20 with no interference with other religions, even if the donation had religious purposes, which are considered by the Court as minimum personal contribution (from 5000 to 8000 yen per ceremony, according to the defendant), specifying that those were donations to bereaved families of World War II.

However, the Supreme Court affirms that these motivations cannot be accepted in the light of article 20 paragraphs 1 and 3 and article 89.

The state authority finds its representation on the territory in the local administration, which cannot refrain to implement and respect the principle of laicity. The further connection to the Meiji Constitution and its article 28 on freedom of religion, bypassed by the misinterpretation of the concept of religion, forbid any privileged relationship with any religion. The 1997 judgment takes back the principles established by the same Court in 1977.

At this point, the Court itself clarifies that the money offer 玉串料, *tamagushiryo*, should be analysed keeping in mind the context of important traditional ceremonies held in shrines, in religious places of worship with purposes that the Court separates from those of 1977 judgment. If in the previous case the owner wants to ensure safe foundations for his construction site, which was considered with a non-religious meaning. Furthermore, the Court specifies that the local authorities were involved without any doubt and intentionally in the religious group, with the aggravating element that the amount given for the donation had no precedents. The assimilation with the offers for 香典, *kouden*, given to the bereaved family during the funeral ceremony should not be misunderstood, neither with the 賽銭,

57 Judge's note has been translated and reported by the Supreme Court itself, from the same judgment document.

58 Supreme Court of Japan, judgment. N. 1971 (Gyo-Tsu) 69.

59 Supreme Court of Japan, judgment N. 1992 (Gyo-Tsu) 156. "*Judgment upon constitutionality of the prefecture's expenditure from public funds to religious corporations which held ritual ceremonies*".

60 Ibidem.

61 Ibidem.

saisen, given during the visit to the shrine, which is anonymous, unlike this case.

Resuming the interpretation given to article 20 and 89, with the principle of laicity, with the specific focus on the interpretation given by the Supreme Court, the delimitation given between the two spheres is not "complete" and the attempt of delimiting any contact between them would be impossible. Even the Supreme Court states that this purpose would be impracticable in substance. It could cause negative effects on society. Religion likewise politics are creation and expression of men, in their structures and rites and for this reason cannot be perceived as two divided spheres.

The principle of laicity, as elaborated by several scholars, lies in the relation of the State towards religion; in its constant and gradual regulation, the limits between the two spheres are maintained respecting the neutrality of the State on the one hand and the freedom of religion on the other. As the Supreme Court defines, it is important the context of a specific case, which cannot prescind from its grounds and socio-cultural context. As in the above-mentioned two cases, which gives two opposite decisions of the Court, it is necessary, in every single case, to understand how the boundaries move and how the concept of religion develops and changes in time. As in the case of the ground-breaking ceremony, secular reasons held by a religious ceremony which does not"exceed such reasonable limits"[62] is tolerable according to the interpretation of the Court on articles 20 and 89.

In the case of the Italian Constitution and the interpretation given by the Constitutional Court, it can be stated that the approach is similar in the identification of the context in which the religious act is held and the importance of the influence on the political sphere is always taken into consideration, together with the perception of the society.

The landmark judgment of the Court 203/1989 defines the mandatory attendance to religion class till high school, according to Lateran Treaties signed with the Vatican State of 1929 February 11th, according to which the Constitutional Court recognises the value of the religious culture in the country and takes into account that "the principles of Christendom are part of Italians' historical heritage"[63] with the further commitment to assure the teaching of Catholic religion in public schools (excluding Universities). The Court identifies four significant elements to explain its method. First, the recognition of the religious culture of the country; second, the principles of Christianity as part of the historical heritage of Italians; third, the continuity of commitment of the State to assure the pact with the Vatican; four, the teaching of religion as the teleological purpose of education.

The Court specifies that the confessional decision taken by the Albertine Statute, to establish Christian religion as the state religion, is formally abandoned by the Parliamentary Republic according to the Additional Protocol to the Agreement of 1985, re-affirming the Republic as a Laic State, in its bilateral relations with the Vatican State.

Furthermore, the Court indicates articles 2, 3, 7, 8, 19, and 20 of Constitution as legal basis for this statement and it defines, as the Supreme Court of Japan, that the principle of laicity does not mean indifference towards religion, contrarily, it guarantees the safeguard of freedom of religion, in a confessional and cultural pluralism regime. This crucial judgment states that even if "religion" as a subject in school, it cannot be mandatory for those students who decide not to follow it, for any reason. Under the age of 16, they should have the approval of their parents, after that, they can choose freely to follow it or now. And this decision cannot be a reason for discrimination at school, from students and teachers. The students who take this decision cannot be forced to follow another subject. This provision, at the same time, guarantees the commitment to the Lateran Treaty, respects the cultural-historical heritage, but at the same time does not constrain students, citizens from other religions or simply, people who are non-believers to not to follow "religion" as subject and not being discriminated at school, especially regarding the academic evaluation of the student.

As mentioned before, the interpretation of the principle of laicity in the State refers to a general theory

62 Supreme Court of Japan, judgment N. 1992 (Gyo-Tsu) 156.

63 Corte Costituzionale Italiana, Sentenza 203/1989. Giudizio Di Legittimità Costituzionale In Via Incidentale. (*Italian Constitutional Court, Judgment 203/1989. Judgment of Constitutional Legitimacy on incidental plea.*)

of separation of politics from religion, but what this research underlines is the particular interpretation of this principle and the historical and cultural context behind the decision of the two Courts.

Bibliography

Sicardi, Stefano. "Il principio di laicità nella giurisprudenza della Corte costituzionale (e rispetto alle posizioni dei giudici comuni)." In *Rigore costituzionale ed etica repubblicana*, Università degli Studi di Roma "La Sapienza" 2006.

Pacillo, Vincenzo. "Alcuni problemi (teorici e pratici) della libertà religiosa diciassette secoli dopo l'Editto di Milano, Lugano," *RTLu XVIII* (3/2013).

Ripepe, *Secolarizzazione e diritto costituzionale*, in *Esperienza giuridica e secolarizzazione* a cura di Danilo Castellano and G. Cordini, Milano 1994.

Atripaldi, V. "Cultura dei costituenti del '48," in *Esperienza giuridica e secolarizzazione* edited by di Danilo Castellano and G. Cordini, Milano 1994.

Casanova, José "The Secular, Secularizations, Secularisms," in *Rethinking Secularism*, ed. Craig Calhoun, Mark Jürgensmeyer and Jonathan Vanantwerpen, Oxford,2011.

Wolfgang Böckenförde, Ernst. *Stato, costituzione, democrazia: studi di teoria della costituzione e di diritto costituzionale* vol. 73, Italian edition, Giuffrè Editore 2006.

Habermas, Jurgen. *Between naturalism and religion: Philosophical essay*, Polity 2008.

Callegaro, Francesco. *Justice as the sacred in language: Durkheim and Habermas on the ultimate grounds of modernity and critique*, vol. 17/4, 342–60.

Shiose, Yuki. "Japanese Paradox: Secular State, Religious Society." *Social Compass* 47(3) (2000), 317–28.

Giorgio Fabio Colombo, "Stato, diritto e sincretismo religioso in Giappone: lo sguardo del giurista," in *Quaderni di diritto e politica ecclesiastica*, Fascicolo speciale,(december 2016): 22.

Okuyama, Michiaki. *Religious Nationalism in the Modernization Process State Shintō and Nichirenism in Meiji Japan*, Nagoya 2002.

Hardacre, Helen. "The Great Promulgation Campaign and the New Religions." *The Journal of Japanese Studies* vol. 12, no. 1 (Winter, 1986), 29–63.

Abe, Yoshiya. "Religious Freedom in the MaKmg of the Meiji Constitution." *Contemporary Religions in Japan*, vol. 9, no. 4.

Kramer, Hans Martin "Recovering the Secular in Early Meiji Japan: Shimaji Mokurai, Buddhism, Shinto and the Nation." *Journal of the International Research Center for Japanese Studies* vol. 30, (July 24th 2017), 63–89.

Kleine, Christoph. "Religion and the Secular in Premodern Japan from the Viewpoint of Systems Theory." *Journal of Religion in Japan* 2:1 (2013), 1–34.