My interest in con-rev began in 2004, when I became aware that the LDP was preparing revised articles 20 and 89, concerning religious freedom, the separation of religion and state, and state funding for religious observances. Since that time, the LDP has tabled a draft that spells out how things would change. The remarks that I presented at the AAS Roundtable in March, 2007 were current, but in the roughly seven months since that time, other developments have surfaced. I hope to make them the subject of another submission for the constitutional revision website.

The proposed changes would not affect the unconditional guarantee of religious freedom under article 20, but they would, however, reflect the postwar history of Japanese Supreme Court decisions that have established a distinction between “religious” and “customary” ceremonies, based on the argument that while some ceremonies may have religious origins, they have become so ubiquitous as to acquire a “customary” nature, not rooted in allegiance to a particular religion. These cases mainly concern Shinto grounds-breaking ceremonies (jichinsaijichinsai, 地鎮祭) and making monetary offerings at shrine ceremonies and festivals. The high court has ruled that municipalities that use public funds for grounds-breaking ceremonies or to make an offering at a shrine ceremony do not violate the constitution’s mandate for separation of religion from state. On the basis of these verdicts, the LDP proposes to amend the strict separation of religion from state called for in articles 20 and 89.

The revision last December of the Fundamental Law on Education shows us that constitutional revision—in a broad sense—as a large-scale transformation of Japanese law and society—is a matter not only of the constitution itself but also of associated laws that govern basic functions. That example also shows that revision of other laws can lay the groundwork for revising the constitution. The same linkage can be seen in the area of religion. The basic regulations of a new system have yet to be worked out, but the intent to regulate religions more closely in the wake of the 1995 Aum Shinrikyô attack on the Tokyo subway system using sarin gas is clear.

Proposed changes would apparently eliminate the designation of religious corporation (shûkyô hôjin) and substitute designation as one of two categories of “public interest corporation” (kôeki hôjin 公益法人). The process by which a religion now becomes recognized as a “religious corporation” is a relatively simple matter of registration. Under a new system slated to be implemented as of December, 2008, religions seeking recognition would have to be vetted by a committee established by the Diet (to be called Kôeki Ninteitô Iinkai 公益認定等委員会). In effect, the committee would decide whether the religion qualifies as acting in the public interest (kôeki). In other words, it will no longer be taken for granted that religions act in the public interest—henceforth they must prove the claim. A religious group that fails the committee’s test (whatever form it may eventually take) would face significant tax implications and, most likely, a dramatic defection of members.

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1 Different documents use a variety of terms for “customary,” including shakaiteki girei, shuzokuteki, bunkateki gyôji.
Religious groups have not yet responded to these proposals very strongly, partly because so much of the new system remains hypothetical and partly because they are by no means united among themselves on constitutional revision and associated proposals for change. The main players here will be Sōka Gakkai, through Kōmeitō, the party it founded in 1964 and which has been part of the governing coalition since 1993, the Association of Shinto Shrines (Jinja Honchô), and the Federation of New Religions (Shinshūren), within which the Buddhist group Risshō Kōseikai has great influence. Smaller associations of Christian churches and various religious groups that remain aloof from the major associations lie outside these main organizations, as do the larger Buddhist associations, which have so far not adopted public positions, probably out of concern for the political diversity of their members.

The Association of Shinto Shrines strongly favors constitutional revision and acts as an important lobby group through its network of roughly 80,000 shrines. The Association houses the Federation of Shinto Parliamentarians (Shintô Seiji Renmei, founded 1969), a group of LDP politicians who promote the Association’s issues. Prime Minister Abe has been closely associated with these groups. Some elements of the shrine world hope for reinstitution of state support for Yasukuni (and possibly other shrines), but many do not want the supervision that would be entailed. Their position on the new system for national administration of religious organizations is not entirely clear. On the one hand, they certainly favor regulation of new religions; on the other, they do not consider that shrines are properly speaking “religious” and hence would tend to reject the suggestion that shrines should be subject to the same regulations.

Shinshūren’s newspaper Shinshūkyō shinbun has generally expressed reservations and anxiety about constitutional revision, but as yet there is no public position on the overall question. So far, it has established several internal committees to monitor and discuss the issue. Shinshūren has traditionally endorsed individual candidates for election to the Lower House, but 18 years ago it suspended endorsements in Upper House elections. In a reversal of that stance, it has now endorsed three candidates for the upcoming Upper House elections (July, 2007): Kawaguchi Yoriko of the LDP, former Minister for the Environment and Foreign Minister, and two men from the Democratic Party who have no previous experience at the national level. This modest move puts a significant religious association back on an important part of the electoral map, since any draft of a revised constitution would have to pass the Upper House by a two-thirds majority.

Kōmeitō’s position has evolved as the party has sought--and in some measure succeeded--in gaining a following outside the membership of Sōka Gakkai. We have no reliable figures on Gakkai membership, but it is clear that they can deliver between six and eight million votes in national elections, making this religion the single most powerful electoral machine in the nation, far outstripping labor unions or other religions. The party obviously wants to remain in power and so goes along with the LDP on most things, though it would not accept scrapping article 24, and though it clearly does not want to go against Ikeda Daisaku’s often-expressed rejection of collective self-defense. On the other hand, both Kōmeitō and Sōka Gakkai face an uncertain future without Ikeda, who is 79 years old, and both realize the likelihood of schism in the religion when Ikeda dies.