
The Journal of CESNUR



Volume 4, Issue 5
September–October 2020

⊗ The Journal of CESNUR ⊗

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ISSN: 2532-2990

The Journal of CESNUR is published bi-monthly by CESNUR (Center for Studies on New Religions),
Via Confienza 19, 10121 Torino, Italy.

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A Brief History of the Theosophical Society in Japan in the Interwar Period

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ABSTRACT: The article presents for the first time a brief, yet still quite detailed, history of the Theosophical Society (TS) in Japan based on research of primary sources, mainly in the headquarters of the Society in Adyar, a suburb of Chennai, India. Three decades after the first contacts made during the visits by the TS President, Colonel H.S. Olcott (1832–1907), in 1889 and 1891, the first TS lodge in Japan, the Tokyo International Lodge, was established by James Henry Cousins (1873–1956) in 1920. Cousins' initiative stimulated interest in the TS, and other lodges were established, although the duration of their activities was sometimes quite short: Orpheus and Mahayana launched in 1924, while Miroku (Maitreya) Lodge did the same in 1928. The analysis of the interwar history of the TS in Japan points to two key issues. One is the fact that the TS resonated with those Japanese who were committed to restoring Buddhism for modern Japanese society. Thus, the TS was an interim interest for them rather than something in which they desired permanent membership. Second, the impulse to establish the TS in Japan came from the Adyar headquarters, and the messengers were non-Japanese. This led to a persistent problem: namely a lack of study materials in Japanese language. This issue became the key obstacle in effectively spreading the Theosophical teachings. Only in the postwar period did translation activity come to the fore as key texts were translated into the Japanese language.

KEYWORDS: Theosophy, Theosophical Society, Theosophy in Japan, James H. Cousins, Mirra Richard/the Mother, Noemi Raymond, Daisetsu T. Suzuki, Beatrice Lane Suzuki.

The text was prepared with the financial support provided to the Museum of Decorative Arts in Prague by the Czech Ministry of Culture as part of its long-term development programme for research institutions (MK000023442).

Introduction

In her fundamental contribution to the field of history of the Japanese Theosophical Society (TS), the article “Beatrice Lane Suzuki: An American Theosophist in Japan,” Adele Algeo selected excerpts from writings and letters penned by the secretary of the Mahayana Lodge in Kyoto and energetic

Theosophist, Beatrice Lane Suzuki (1875–1939), materials preserved in the TS archives at its headquarters (HQ) in Adyar, India (Algeo 2005). In her last letter to the TS HQ, written in November 1928, Suzuki summarized the key difficulties concerning the establishment of Theosophy in Japan:

It seems difficult for Theosophy to make much growth here just for this reason that it is so similar in its teachings to Buddhism. There seems to be a general idea, especially among Theosophists, that the Japanese are not a spiritual people and do not care for spiritual things. In my opinion this idea is entirely wrong. I consider the Japanese very spiritual; all that is best in their culture is based upon religion. No one could pass through this period of the Emperor's coronation without feeling how near the spiritual world is to the Japanese. But with regard to Theosophy, Theosophy comes not as something new but as a variant of their own Buddhist teaching and for this reason they are slow to come to it. The appeal of Universal Brotherhood is the note that must be struck by Theosophists for the Japanese. It is just the same too in regard to the Order of the Star. Their own great teachers like Kobo Daishi [774–835, founder of the esoteric Shingon school of Buddhism], Shinran Shonin [1173–1262 or 1263, founder of the True Pure Land school of Buddhism], and others stand still too close to theirs in time and they feel that they have not yet fully absorbed the teachings of these great ones, and therefore they do not feel the call to look elsewhere. In my opinion it is not because of their unspirituality that they fail to do so but on account of their strong religious feeling for their own religious leaders. Personally I should like to have a larger membership for I am deeply interested in the Society, but at the same time I appreciate the reasons why it is more difficult than it is in Western countries (Algeo 2005, 12–3).

Based on archival research, the key problem of the TS in Japan at this early stage was therefore the imbalance between its significant foreign membership on one hand, and the lack of active Japanese members on the other. This situation also impacted on the lack of Japanese translations of the key Theosophical texts, and the slow speed of the translation process in general. As Algeo understood, the “international nature of the membership made it difficult to keep the group going, as members kept departing” (Algeo 2005, 14).

This difficulty in establishing an ongoing dialogue and the related problem of increasing the society's membership was apparent from the very beginning of the TS in Japan, when successful talks by Colonel Henry Steel Olcott (1832–1907) in 1889, and another visit in 1891, did not immediately lead to the establishment of the Japanese branch of the movement [Figure 1] (Yoshinaga 2007). However, this brief introduction to Theosophical history in Japan will deal with the subsequent interwar period. The aim of this paper is to show the richness of activity triggered by interest in the TS, a wealth of activities that provided a

platform for extensive networking and collaborations. Further, this study should contribute to debates on the transnational impact of the TS, and its role in fostering fruitful intersections between non-Japanese expatriates and seekers of new spirituality and new arts within Japanese society and culture.



Figure 1. Col. H. S. Olcott standing in the group of seventeen, in the grove of Nagahama, April 22, 1889. (This photograph was published in *The Theosophist*, August 1932, with an incorrect date). Courtesy of the TS Adyar Archive.

James H. Cousins and the First TS Lodge in Japan

The founding figure of the TS in Japan in the interwar era was the Irish writer, poet, playwright, actor, critic, editor, and educator James Henry Cousins (1873–1956), who worked as a professor at Keio University in Tokyo for ten months in 1919–1920 (Cousins 1923; Cousins and Cousins 1950; Hashimoto 2013). During this short time, he managed to fulfil his mission and establish the first TS lodge in Japan, named the Tokyo International Lodge. In a letter to the headquarters dated February 15, 1920 [Figure 2], Cousins referred to the lodge as “a mother lodge” for foreigners and local members, who would then form a new lodge. In fact, an exclusively Japanese lodge, where discussions would be led

in Japanese, was apparently in the making, as translations of the literature into Japanese were being prepared. Cousins surmised that some current members, who were in Japan only temporarily, would transmit the message of Theosophy to their respective countries, such as two American educationalists, a Korean, a Greek, a Kashmiri, and a Bengali; and he also spoke of five permanent Japanese members, who guaranteed several more soon. The variety of nationalities and equal male and female representation were very important to the TS.

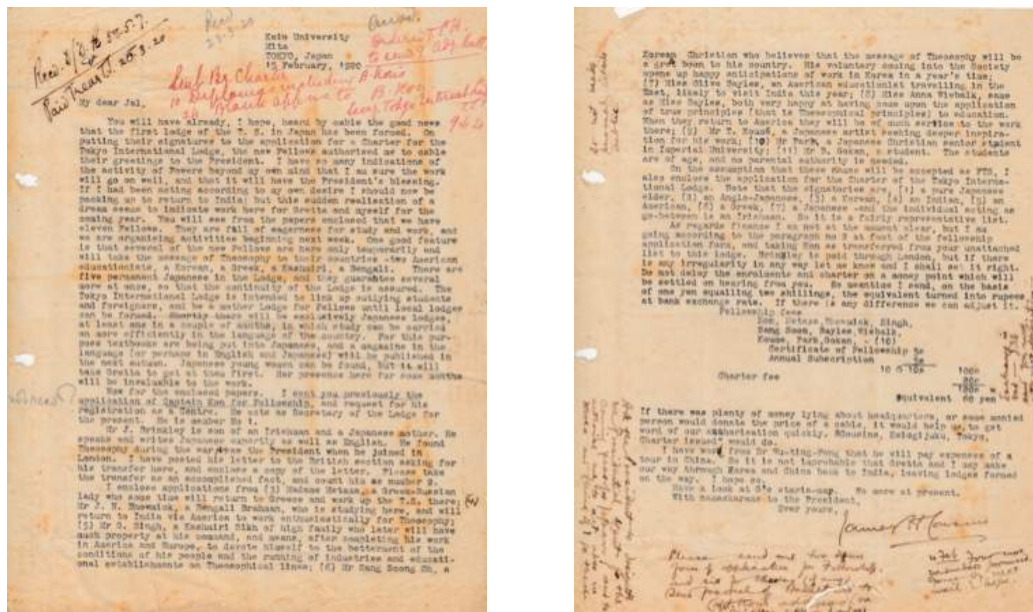


Figure 2. James Henry Cousins' letter to the headquarters from February 15, 1920.
Courtesy of the TS Adyar Archive.

The foremost member and an ongoing liaison with the Adyar headquarters was Buhei Kon (1867?–1936), more commonly known as Captain Kon. Kon was probably the only Japanese member who became friendly with Annie Besant (1847–1933) and senior members of the TS in Adyar, while his ship was docked at the port of Madras a few years before. In the chapter “Early Days,” the lawyer, Japanese resident, and Theosophist Thomas Baty (1869–1954) characterized Captain Kon as a vegetarian and strict, but a likeable and good man. Kon and Baty travelled together to Japan in 1916 (Baty 1959, 88). Baty became an important figure in LGBTQ history and is referred to as transgender. Their commitment to feminism, the women’s liberation movement, and equality of the sexes permeates the book about their stay in Japan, and thus, evidently, they supported the feminist struggle in Japan as well (Baty 1959).

Other members included Jack Ronald Brinkley (1887–1964), an Irish/Japanese, who joined the Theosophical Society during World War I, in London. In his letter of February 14, 1920, Brinkley wrote to the British TS to ask for his membership to be transferred to Japan for the purposes of applying for the charter of the new lodge in Tokyo. Brinkley was the son of Francis Brinkley (1841–1912), an Irish-born military officer who adopted Japan as his home country, and his Japanese wife. Francis Brinkley was a prolific author of Japan-related literature, and an established advisor to the Japanese government (Johnson 2015, 27). Coincidentally, Jack's sister Ine was a model for another TS member, the accomplished modern abstract painter Tami Koumé or Tamijuro Kume (1893–1923) (Omuka 2001; Čapková 2019).

Another important member was Madame Ina Metaxa (1864–1946), who, according to Cousins' letter, was soon to return to Greece. However, Metaxa stayed in Japan for another few years, and continued to be an important member of the Society. A Russian of Greek antecedents and a refugee from Ukraine, Metaxa was born Countess Kapnist in Greece, but marriage to her Russian husband, a lawyer, brought her to his estate in Russia. As aristocrats and supporters of the Czar, they were driven out of the country after the revolution, and thus sought refuge in the US and subsequently in Japan (Metaxa 1918). Metaxa was an avid writer and political commentator; she published extensively about feminism and on art subjects. She provided accommodation to other TS members, the Łubienskis, the Raymonds, and Philippe Barbier Saint Hilaire (1894–1969) among others, at her home after the earthquake of 1923, and their spirits seem very much aligned, as confirmed by both Stefan Łubiński (1894–1975) and Saint Hilaire (Łubiński 1974, 161; Raymond 1972, 95).

In 1927, she published a book on Japan, *Le Japon mystique*, and in 1931 dedicated her second book, *Evening Glow*, to Rabindranath Tagore (1861–1941), who visited Japan three times in 1916, 1924, and 1929. Among her other publications, the article “Cultural Traits of East and West” was published in *Contemporary Japan: A Review of Far Eastern Affairs*, a propaganda vehicle of the Foreign Affairs Association of Japan, in November 1942. Countess Metaxa also became a close friend of Thomas Baty. They met through Theosophy and Cousins' circle. Baty recorded that she died suddenly in 1946 (Baty 1959, 126).

The future leading force of the TS in Japan, Daisetsu Teitaro Suzuki (1870–1966) and his wife Beatrice Lane Suzuki, joined with her mother, Emma Erskine

Lane Hahn MD (1846–1927). They attended meetings six times between March and June. In 1921, D.T. Suzuki became a professor at Otani University, so the Suzukis left Tokyo for Kyoto (Yoshinaga 2013, 60).

TS and Japanese Pan-Asianism

Cousins' activities were by no means restricted to university education and the lodge business. Significantly, he established a close relationship with a right-wing Pan-Asianist group, the Black Dragon Society. The society's activities are often talked about in connection with Japan's expansionist policy in Manchuria, but we should not ignore the fact that the society was financially supported by the Osaka Chamber of Commerce, a group of industrialists who were intensely interested in maintaining the stability of Japanese-Indian relations, as India was the greatest market for manufactured silk and cotton goods. A sea-lane connecting the ports of Kobe and Calcutta was established as an export route for their major products. Much of this merchandise was transported by a steamer service maintained by NYK, the national shipping company Nippon Yusen Kaisha, and none other than Buhei Kon was the captain of its merchant fleet. Several Theosophists, including Cousins, visited and left Japan on board NYK vessels.

Cousins arrived in Japan when the discarding of the Anglo-Japanese Alliance was being seriously discussed, and significant within our context is the fact that Japan was unable to officially support Indian independence as long as the Alliance was valid. Cousins' behaviour is remarkable in that he not only became friendly with the Black Dragon Society, where the unification of oppressed Asian countries was proclaimed aloud, but also he contacted both non-Japanese and Japanese alike who wrote regularly for a pro-British journal in Japan. His purpose may have been to access inside information in the British proxy publisher and, if possible, headhunt some of the contributors and win them to his side. Allegedly, several of the founding members of the International Lodge were recruited from there. The first membership group included three Indians:

J.N. Bhowmick, a Bengali Brahman who is studying in Japan, who will return to India via America, and Mr Gurcharan Singh, of noble birth, who will later have the means and property, after completing his work in America and Europe, to devote himself to betterment of conditions, industries and educational activities (Cousins' letter to the HQ, February 15, 1920).

The last Indian was Kesho Ram Sabarwal, who was then a journalist, a correspondent of the *Bombay Chronicle* and the *Japan Times*. In a confidential memorandum from 1919, Sabarwal is presented as complicit in an Indo-German conspiracy. In the report, Sabarwal is said to have acted as secretary to a well-known Indian revolutionary against the British Raj, Rash Behari Bose (1886–1945). Sabarwal had worked as a secretary of another Indian freedom fighter, Lala Lajpat Rai (1865–1928), and escaped to Japan to live and work with Rash Behari Bose (Rath and Chatterjee 1963, 551).

Bose settled in Japan in 1915 and found support among Japanese Pan-Asianists, the same network that was familiar to James Cousins and that had also supported Mirra (1878–1973) and Paul Richard (1874–1967) during their stay in Japan in 1916–1920 (Barnett 2004). The Richards and the ideas of Sri Aurobindo (1872–1950) were very influential in spiritual/nationalist circles in Japan, and through Kesho Ram Sabarwal they reached Singh and Saint Hilaire, who devoted most of his later life to Sri Aurobindo and his ashram. In the book *We Two Together*, Cousins wrote about spending time with the Richards. He remembered a conversation in their drawing room that was highly political, dealing with ideas of revolution and socialism, which were in fact at odds with the Japanese political regime of the time. Cousins noted that an unnamed Japanese revolutionary responded that “the darkest spot is under the lamp,” hinting at the fact that the network had reached as far as the Imperial Palace (Cousins and Cousins 1950, 352).

The Richards in Japan

The world of esotericism and the circles for national struggle or nationalist expansion were closely related, and produced active networks that linked the Eurasian continent with Japan. The Richards’ four years exile in Japan was filled with activities that fuelled Asian and Japanese radical nationalism. Paul Richard’s influential works include *Au Japon* (To Japan, 1917) and *To the Nations* (1917). Moreover, a sojourn in Japan was crucial for Mirra Richard, later the Mother of the Pondicherry ashram. As a trained artist, Mirra was acutely aware of the Japanese artistic sensibility, and the study of Japanese arts determined her long-term aesthetic preference. A vast collection of Japanese objects, ranging from artworks to ordinary objects, surrounded Mirra in her Pondicherry living quarters

throughout her long and productive life, and reminded her of the refinement and superior aesthetic experience that she found in Japan.

Crucially, it was the experience of Japan that shaped the way for Mirra to identify herself as the Mother. This was the turning point that shaped her future direction. Many quotes have survived that capture her observations and feelings about Japan, such as: “For four years, from an artistic point of view, I lived from wonder to wonder”; “Beauty rules over Japan as an incontestable master”; and Japanese art teaches “the unity of art with life” (Mother 2013). It was in Japan that Mirra became involved in her elaborate exploration of flowers and their spiritual significance. According to her friend Nobuko Kobayashi (1886–1973), with whom she practised still sitting meditation, Mirra started referring to herself as Fujiko (Wisteria). She was inspired by the wisteria flowers on the roof of an ancient Shinto shrine, Kasuga Taisha in Nara.

Fuji/wisteria belongs to a canon of Japanese flowers that bear special cultural significance and symbolism, and are used repeatedly in Japanese literature. The wisteria is associated with nobility and the classical age of the Heian period (794–1185), when several of the celebrated works of literature, such as the *Tale of Genji*, were written. The flower is also understood to represent love and, within a Buddhist context, prayer. Mirra later called the wisteria “a poet’s ecstasy,” with the comment: “Rare and charming is your presence!” (Van Vrekhem n.d.) Wisteria/Fuji is also a pun on fuji—undead or immortal—and points to Fuji, the sacred mountain. Another friend and collaborator of the Richards, Shumei Okawa (1886–1957), said of Mirra:

... You know Mount Fuji ... you can’t appreciate it in full when you are very near, when you are too close ... some distance is needed. ... from a distance, ah! it is grand, it is breath-taking, it is sublime! She was like Mount Fuji, Mirra was. ... (Iyengar 1952, 174).

Okawa and his wife lived with the Richards in Tokyo in order to facilitate the work they did together, primarily writing, translation, and publication of books and pamphlets. Okawa was a university professor, Zen practitioner, and active sympathiser with the Indian liberation movement. He was also a member of the Black Dragon Society and “the leading spirit of the Pan-Asiatic movement in Japan... a person of considerable influence, who is deeply interested in Indian affairs and is bitterly opposed to British rule in India”—according to a Government of India document reporting the publication of “a photograph of

Arabindo Ghosh [sic] and a eulogistic article on his work” by Okawa in *Asia Jiron* (Okawa 1994, 240).

Paul Richard’s work quickly proliferated among the Japanese intelligentsia especially, and placed the Richards on the cultural map of the Japanese capital. The couple and their friends met Tagore during his visits to Japan, which was commemorated in a photograph [Figure 3] (Szpilman 2011).



Figure 3. Paul and Mirra Richard with Rabindranath Tagore in Japan. From left to right; Tetsuo Hirasawa, William Winstanley Pearson (1881–1923), Rabindranath Tagore, Mirra Richard, Paul Richard. In the garden of Kyoto Hotel on February 5, 1917.
Courtesy of a private collection.

A number of episodes are remembered from the meetings, such as an invitation from Tagore to Mirra to join him in his new school Santiniketan, Mirra’s sketches of him, and the story of how Tagore gave Mirra his typewriter.

Shortly upon arrival in Japan, Mirra was approached by a journalist from the *Fujoshinbun* newspaper for an interview, but instead she sent the manuscript *Woman and the War*, which was published on July 7, 1916 (Richard 1916). She

also sent her self-portrait, which was published in the same newspaper two months later, together with a text written by a journalist entitled “A Truly Dedicated Woman” (*Fujoshinbun* 1916) [Figure 4]. The article by Mirra conveyed her ideas related to feminism. She highlighted issues she was passionate about, such as the natural equality of the sexes, the importance of collaboration, and the specific roles each of the sexes have, such as female spirituality.



Figure 4. Recently re-discovered Mirra Richard’s self-portrait published in the article by an unnamed journalist, “A Truly Dedicated Woman,” *Fujoshinbun*, September 29, 1916, 1.

The connections between the Richards and the TS were quite loose, and became a footnote in their own spiritual project. Evidence suggests that Mirra frequented TS events in Paris, and that she stayed in the Adyar HQ before leaving for France and later Japan in 1915.

The Orpheus Lodge in Tokyo

In a letter to the HQ dated March 8, 1924, K.R. Sabarwal reported about a study group of four members and two non-members, who were meeting regularly and studying diligently in Tokyo. Prof. Dirk van Hinloopen Labberton (1874–1961), a Dutch Indologist who became the first General Secretary of the TS in

Indonesia, also joined them. On the other hand, Captain Kon was not interested in joining them and the local lodge. This evidence confirms that Sabarwal was a very keen Theosophist at that time.

The study group became the base for the new lodge Orpheus, established on May 22, 1924 and led by Saint Hilaire for a few months [Figure 5]. In the same year, on August 4, 1924 (according to a letter from Beatrice Lane Suzuki to the HQ from June 22, 1924), a charter was issued to another lodge convened by Mrs Lane Suzuki. In the letter from June 22, Mrs Suzuki confirmed the existence of the new lodge, Mahayana, created on White Lotus Day, May 8, of the same year, and she attached the membership list, which included Chijo Akamatsu (1886–1960), the grandson of Renjo Akamatsu (1841–1919), a friend of Colonel Olcott who, as mentioned before, had visited Japan to introduce the TS. One of the key members, who acted as treasurer of the lodge, was Nishu Utsuki (1893–1951).

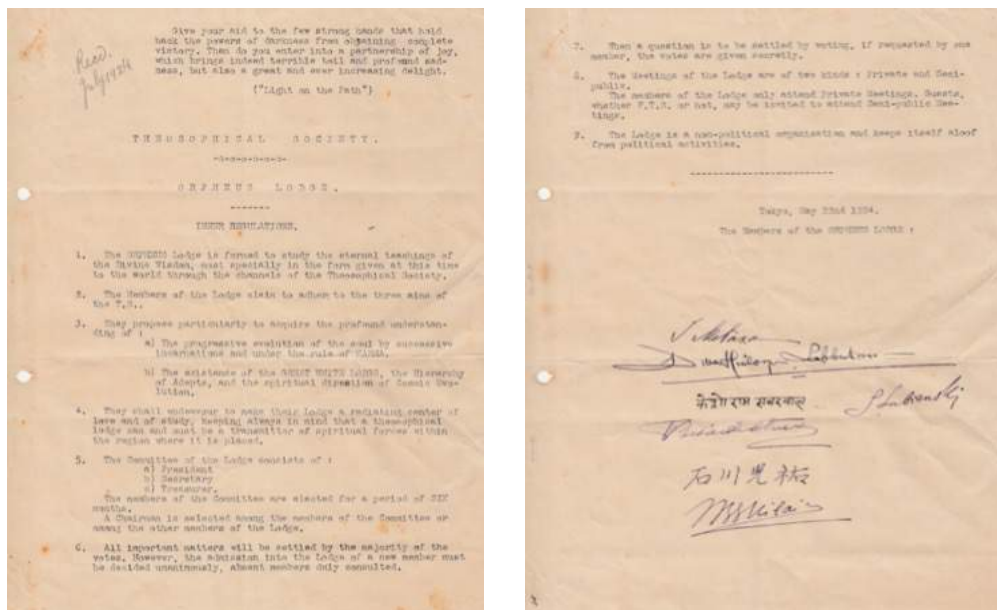


Figure 5. The “Inner Regulations” charter of the Orpheus Lodge (1924–1926).
Courtesy of the TS Adyar Archive.

In his important article, “Three Boys on a Great Vehicle,” Shin’ichi Yoshinaga used evidence from the archive concerning Nishu Utsuki to reconstruct the forgotten history of the transnational connection between the networks that were re-framing Buddhism for modern society and Theosophy. Utsuki is identified as the connecting link between the Mahayana Association and the Mahayana Lodge,

and thus offers a perfect case study to demonstrate the connections and differences between the perceptions of Theosophy and modern Buddhism in Japan (Yoshinaga 2013).

The two lodges existed in parallel, Mahayana in Kyoto and Orpheus in Tokyo. They collaborated and organized events together. According to the archival evidence, on October 11, 1924, the Indian member of the Orpheus, K.R. Sabarwal, gave a lecture on Arya Samaj for the members of the Mahayana Lodge. The secretary and later leader of the Orpheus was Professor D. van Hinloopen Labberton, and the treasurer was K.R. Sabarwal. Labberton led the lodge until his departure from Japan in 1926, when the lodge's operations were suspended. The charter was also signed by Stefan Łubiński, Madame Metaxa, and others. Saint Hilaire left Japan in the summer of the same year and became only loosely involved with the TS until he immersed himself in the teachings of the integral yoga of Sri Aurobindo. Unexpectedly, in summer 1925, he briefly returned to Tokyo, stayed with Łubiński, and planned to go to the convention in Adyar in December (Saint Hilaire and Saint Hilaire 2001, 117–26).

Stefan Łubiński, the composer, fine artist and educator, was a Polish nobleman who learned about Anthroposophy from his mother and her family, and as a youth became attracted to Theosophy. This set of esoteric teachings became a lifelong inspiration for him and led him East. It was a search for superior culture and arts that brought him to Japan, where he and his partner Zina stayed from 1921 to 1926. He focused mainly on learning about Noh theatre, and taught music and composition to support his stay. Upon his arrival back in Poland, he published the book *Między Wschodem a Zachodem: Japonja na straży Azji. Dusza mistyczna Nipponu, etc.* (Between the East and the West: Japan as a Guardian of Asia. The Mystical Spirit of Japan, etc.) in 1927.

The Łubińskis became intimate friends with the designers Antonín (1888–1976) and Noémi (1889–1980) Raymond, and with the French ambassador in Japan, the poet and playwright Paul Claudel (1868–1955). From diplomatic circles, it was only a small step to the network of successful industrialists who received both inspiration and profit from their experiences abroad. One of them was Raymond's client, Hajime Hoshi (1873–1951), who founded a pharmaceutical school in 1922 that complemented his growing pharmaceutical empire, and he commissioned the young Antonin Raymond to build the campus. The monumental, concrete building of the auditorium was a ticket to success for

the young architect. Hoshi also supported a number of exhibitions showcasing foreign artists' works in Japan in the gallery on one of the floors of his trendy pharmaceutical shop in Tokyo's fashionable central district of Ginza. To make the connection even tighter, he employed the aforementioned chemist Philippe Barbier Saint Hilaire. By then, however, as noted by Łubienski, Philippe's view of his life and career was changing, and soon, following an invitation to visit a monk, he went to Tibet in 1924 and then, via Theosophical circles, to Pondicherry to begin work with Sri Aurobindo Ghose [Figure 6].



Figure 6. Several members of the Orpheus are in this picture from the early 1920s. From the left: S. Łubienski, A. and N. Raymond, P. Saint Hilaire, Z. Łubienska, K.R. Sabarwal, and two Japanese. Courtesy of a private collection.

Noémi Raymond, Theosophy, and Art

The outstanding French painter and graphic designer Noémi Pernessin Raymond was educated at the avant-garde Teachers College in New York City, where she joined the New York circle of the Theosophical Society in 1919 and commenced her lifelong study of esoteric thought and religions. Her best friend from art school, painter St. Clair Breckons LaDow, was a TS member, and the

network around St. Clair and her husband, New York stockbroker Stanley LaDow (1892–1945), became crucial to the Raymonds' careers. The Ladows introduced the Raymonds to Miriam Noel (1869–1930), the partner of Frank Lloyd Wright (1867–1959), and later to the great architect himself. Wright thus became Antonin Raymond's teacher in his laboratory in Taliesin, and later his employer. The Raymonds travelled with Wright to Japan to work on his major project there, the Imperial Hotel, and this eventually led to their creating a famous architectural firm in Japan.

An important source of information about Noémi and Antonín's spiritual and creative dialogue is their correspondence during the 1920s and 30s. Noémi always reported about her visits to the Theosophical meetings during her stay in New York. In a letter from December 1923, she noted the split and struggle that was taking place in the Society, and stated that only an explanation from Dr. Archibald Keightley (1859–1930) convinced her that joining the Besant's Society would be wrong. From this letter, we know that Noémi was a member of the Theosophical Society in America (TSA) formed by Ernest Temple Hargrove (1870–1939), Jirah Dewey Buck (1838–1916), and others, which had its headquarters in New York City until 1942, when it eventually disbanded. The TSA published a periodical, *Theosophical Quarterly*. Dr. Keightley, who was mentioned frequently in the correspondence, was very active in this branch of the Society. The reference to the Besant Society indicates the split within the organization, which took place in the Theosophical Society in 1895. The correspondence also refers to the doubts Noémi had about the different treatment of women in the various Theosophical circles.

Even more relevant correspondence in relation to Noemi's search for spiritual fulfilment is contained in the letters exchanged with Saint Hilaire, later known as Pavitra. Correspondence with Pavitra started in 1927, and lasted for many decades. In her letters from New York, Noémi refers to visits to the TSA and conversations with Dr. Keightley. Pavitra's Japanese friends seemed very pleased that he was in the salon of Dr. Gose (Sri Aurobindo), while on the other hand they spoke with suspicion of the actions taken by the Mme Besant society in Adyar. Unlike Pavitra, Noémi continued exploring Theosophy, but not exclusively, and addressed questions to Sri Aurobindo, which Pavitra communicated, later posting the answers back to her in Japan. Another spiritual partner to Noémi Raymond was another member of the TS, Sardar Gurcharan Singh (1898–1995).

Singh is regarded as “the father of studio pottery in India” (Mago 1995), who became a self-conscious artist working on industrial ceramics in India in the 1920s, and a founding member of the All India Fine Arts and Crafts Society in 1928. He also actively contributed to the activities of the All India Handicrafts Board (AIHB), founded in 1952, which promoted the activities of artist-crafts and designer-craftsman (Mago 2000, 139–40). As a young student, he was invited to Delhi to work for his father’s friend’s pottery business, where he learned throwing, moulding, glazing, etc.

It was his father’s friend who sent Singh to Japan to learn about commercial ceramics. He set off in 1919 for Yokohama, where he took a two-year course in industrial ceramics at the local technical school. He had to learn Japanese in order to study, and upon the successful completion of his language studies he enrolled in a course at the Higher Technological School in Tokyo, now known as the Tokyo Institute of Technology. Gurcharan Singh was a member of the Tokyo International Lodge in 1920, as reported by Capt. Jack Brinkley in his letter from September 1920.

In his book, *New Japan*, James Cousins mentioned two Theosophists-artists; Tamijuro Kume, in the chapter on Japanese painting and painters, and Gurcharan Singh, whom he met in Kyoto on his way back to India. He describes him as a personification of the ideal Asian man of the future:

The tall Indian put his farewell into the palm-to-palm salutation of his race. When the crowd on the quay had become a human blur, and my little group was lost among it, I could still see, above the dark turban, the hands of blessing, hands that were destined to mould a thing of beauty, symbolizing the cultural unity of Asia, in the shape of a vase, Chinese in model, Japanese in substance, Indian in craftsmanship.[...]” (Cousins 1923, 322).

Gurcharan Singh actually spent time with Cousins in Kyoto and Nara. Singh introduced Cousins to Horyuji Temple, “where Indian idealism entered the Japanese imagination in the seventh century through the introduction of Buddhist thought and art.” They saw Horyuji Temple as “the fountainhead of Japanese culture,” where Korean masters decorated walls with frescos inspired by the art of Ajanta (Cousins and Cousins 1950, 367).

The participation of the artists in Japanese TS lodges in the early 1920s is remarkable. The significance of art for Theosophical work has been described elsewhere. In the Japan file we can find a discussion of this topic in a text written

by the fourth TS President, Curuppumullage Jinarajadasa (1875–1953), during his 1937 visit to Japan [Figure 7] and published in the November 1950 issue of *The Theosophist*, in the column “On the Watch-Tower.” Jinarajadasa mentioned some of the active members, such as Miss Maria Marsoff, and the achievement of the Japanese translation of the *First Principles of Theosophy*. In relation to the text, he stated that there was a need for such a Theosophical manual for artists

to outline the true basis of all Art, and point out how the more an artist—poet, sculptor, painter, dancer, craftsman—knows of Theosophy, the more lovely and permanent his creation will become. We need to present Theosophy not only as Wisdom, but also, as did the Greeks, as the True, the Good and the Beautiful (Jinarajadasa 1950, 79–80).

He subsequently noted the architects Claude Bragdon (1866–1946) and Jacobus Johannes van der Leeuw (1893–1934) as examples of Theosophical artists, and we can now add the Raymonds, Kume, the Łubienskis, and Singh to the list.



Figure 7. The TS President, Curuppumullage Jinarajadasa, in Japan, 1937.
Courtesy of the TS Adyar Archive.

The Kyoto Mahayana Lodge and Beatrice Lane Suzuki

The head of the Kyoto Mahayana Lodge was the aforementioned enthusiastic student of Buddhism and spiritual matters, Beatrice Lane Suzuki, wife of D.T. Suzuki. Her energetic handwritten notes and several-page letters dominated the Japan file in the TS HQ Adyar archive in the interwar period. The Mahayana Lodge was formed in Suzuki's Kyoto house, and the majority of the fourteen members were from the Buddhist universities in Kyoto: Otani and Ryukoku.

In her letter of May 8, 1924, Beatrice Suzuki explained why she was not considering becoming president of the lodge, even though Prof. Labberton had informed the HQ of this. She stated that she had chosen not to become the president, because she “was a woman and a foreigner” in what was still the very patriarchal society of Japan. This is a significant moment, considering that members of the international feminist movement and emancipated women in general had historically been particularly attracted to the TS.

In the same letter, she credited James Cousins with bringing the spark of Theosophy to Japan, and establishing a transnational Theosophical space that was inspiring but sadly extinct by 1924.

In her letter from November 9, 1925 [Figure 8], Suzuki referred to the lodge's participation in the annual convention and in the planned Arts and Crafts exhibition. Unfortunately, she could never attend the conventions in person, but reported on the activities in writing.

The main contribution to the convention of 1925 was the painting sent to the exhibition, and later donated to the Blavatsky Museum and the library. The donor was a French TS member of Russian origin, Madame Irma de Manziarly née Luther (1878–1956), who visited Japan in 1923 and was familiar with Saint Hilaire and Mirra Alfassa/the Mother, with whom she stayed in Pondicherry (1921–1922). The painting, which is still currently housed in the museum in Adyar, depicts the iconographic motif of the Shaka triad (the Buddha Shakyamuni flanked with two Bodhisattvas, Manjushri and Samantabhadra). Suzuki claimed that it was an old and valuable copy of a well-known painting from the Enryakuji Temple on Mt. Hiei near Kyoto.

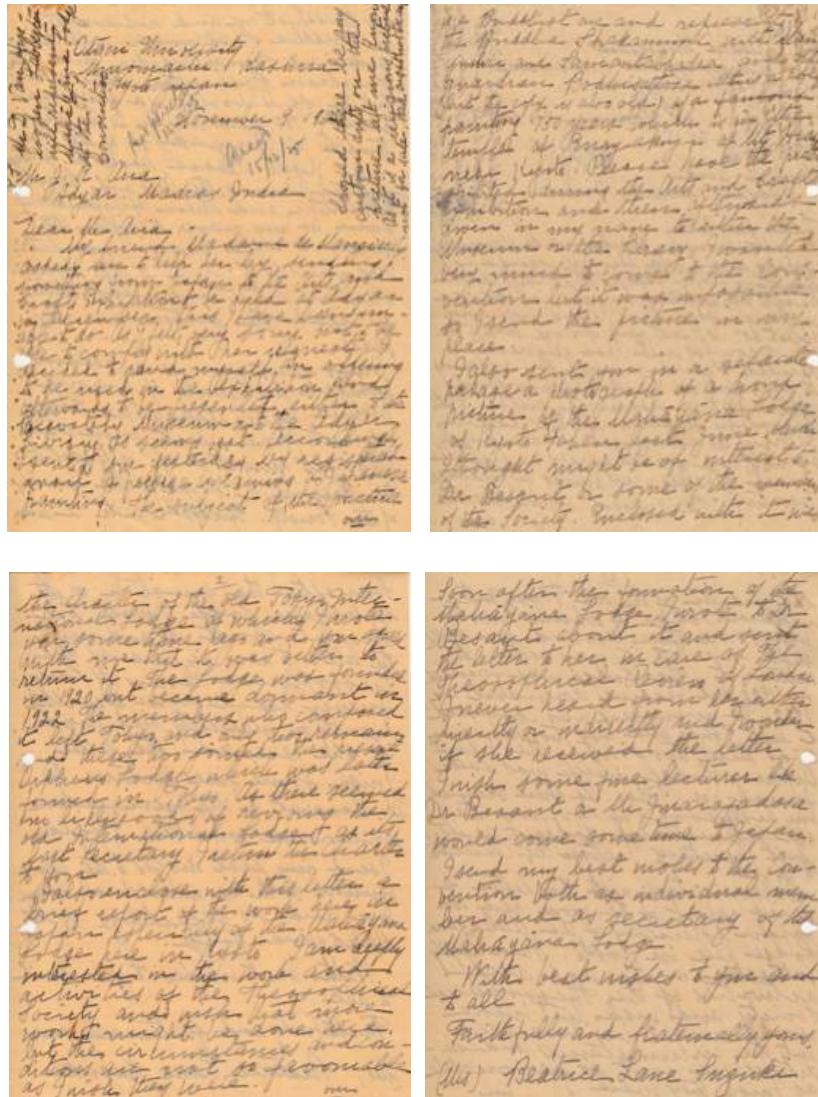


Figure 8. Letter from B. Lane Suzuki to HQ Adyar November 9, 1925.
Courtesy of the TS Adyar Archive.

The charter of the Tokyo International Lodge (1920–1922) was returned. In sum, Suzuki confessed that she was most interested in the Theosophical work, but that the situation in Japan was not favourable. She was also involved in the Order of the Star in the East formed by Besant and C.W. Leadbeater (1854–1934) in 1911 to prepare the international community for the arrival of a great spiritual teacher, Jiddu Krishnamurti (1895–1986). The Kyoto Lodge ceased its activity in 1929, the same year that Krishnamurti dissolved the Order of the Star in the East. In the same year, Utsuki and other professors resigned from Ryukoku University, owing to the opposition between the conservative authorities and the liberal group, whose members were almost identical to the members of the

Mahayana Association or the Mahayana Lodge. Thus, even if it had not been for the dissolution of the Order of the Star in the East, the Mahayana Lodge would have come to an end (Yoshinaga 2013, 62).



Figure 9. Photo Mahayana Lodge 1925 in June 1925, in D.T. Suzuki's home: left to right sitting, Prof. Utsuki, Prof. Morikawa, Mrs. Beatrice Suzuki, Mrs. Erskine Hahn, Mrs. Matheysen, Prof. Hadani, Prof. Uno, Prof. Izumi. Standing left to right: Prof. Kiba, Prof. Yamabe, Mr. Kotani, Prof. Suzuki, Mr. Matsui, Mr. Ikeda, Mr. Sabarwal, Mr. Matheysen. Insert: Prof. Nisoji. Courtesy of the TS Adyar Archive.

A TS Lodge for the Japanese—the Miroku Lodge in Tokyo

A parallel development to the two lodges in Tokyo and Kyoto was the initiative of the longstanding member Capt. B. Kon. In a letter from January 20, 1921, he stated clearly the reason why he did not want to be part of the current TS lodge life in Tokyo/Japan: namely, due to the language problem. He was not able to follow the discussions well, and he suggested that if and when there was a lodge for Japanese people, then he would join it. Otherwise, he preferred to be alone, but a member of the Adyar circle.

In 1922, Kon confirmed that the situation had still not changed, but that they were expecting a new impulse with the arrival of Miss Dorothy Arnold from

Shanghai, who later worked at the Yokohama Standard Oil Company. A connection with the Shanghai Lodge existed also through members who had moved from Tokyo to Shanghai, Maurice A. Browne and his wife (May 27, 1922). At that time, Kon testified that the secretary of the Tokyo International Lodge was Captain Jack Brinkley, who however had not been present in Japan for a long time, and that the most active member of the lodge was Madame Metaxa. Even then, Kon insisted that he was not involved and not a member of this Lodge.

Nonetheless, he remained in communication with the HQ in Adyar, reporting about the payments and his safety during the Great Kanto Earthquake of September 1, 1923. Although he was not involved in the TS meetings, he sporadically mentioned active members such as the other foreigner, Maria Marsoff, a Russian member of the Society. Miss Marsoff was an especially energetic member, a music teacher who remained involved in the Lodge after World War II.

Even in Kon's letter of February 15, 1928, the great issue that faced the Japanese TS remained unchanged. According to him it was twofold—a lack of good leaders-teachers and the persistent language problem. In the same year, Kon established the Miroku Lodge in Tokyo with Miss Eileen M. Casey. The Lodge became primarily focused on attracting Japanese members [Figure 10].

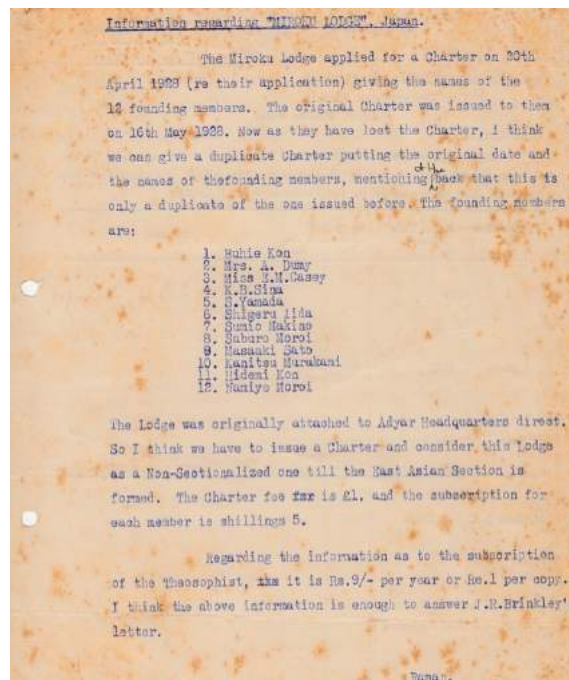


Figure 10. Information about the Miroku Lodge. Courtesy of the TS Adyar Archive.

Conclusion—Transwar Transformation

On August 13, 1936, Capt. Buhei Kon passed away, as reported in a letter from the Miroku Lodge; he was about 68 years old. His son Toko Kon (1898–1977) became associated with the TS in the postwar years. He was formerly a Communist writer, who later converted to Buddhism and became a Buddhist priest and publisher. The President of the TS, C. Jinarajadasa, visited Japan in 1937. He was welcomed by the secretary of the Miroku Lodge, Miss Eileen M. Casey, and gave two lectures in Tokyo. The report was published in *The Theosophist* in November 1950. The lectures were translated into Japanese by D.T. Suzuki. During the war, the secretarial role was transferred from Miss Casey to Dr. C. Rodriguez, according to the letters to the HQ Adyar in 1945.

In the postwar era, the TS work was restarted in Japan by writer and occult practitioner Sekizo/Kanzo Miura (1893–1960) and by Major Pieter Roest (1898–1968), a Dutch-American sociologist and Theosophist who was a member of General Douglas MacArthur's (1880–1964) staff. He played an important role in writing the Constitution of Japan and in arranging the first postwar elections. According to Thomas Baty in his letter from January 31, 1949, the Miroku/Maitreya Lodge existed in Tokyo during World War II. In a letter Baty wrote on August 3, 1949, from the Romanian Embassy summer villa in Nikko, he asked the HQ about the whereabouts of Miss Arnold. The information would be for the benefit of the TS in Japan, he claimed. He exchanged letters with Helen Zahara (1917–1973), the international secretary of the TS based in Adyar. The letters document that Baty was not involved in the new Theosophical work based around Capt. Brinkley. Miss Maria Marsoff remained an instrumental member in the postwar period [Figure 11]. She was enthusiastically involved in what proved to be a key activity in ensuring the success of the TS in Japan—translation.

The challenge of creating an enduring base for the Theosophical work was taken up by the postwar leaders of the TS in Japan: namely by a prolific writer, translator and spiritual healer, Sekizo/Kanzo Miura, and his daughter, the energetic Theosophist and translator Emiko Tanaka (1913–1995).



Figure 11. Japan, 1946?, photograph with Miss Maria Marsoff, Miss Emiko Tanaka, Mr. Takagi, and Mr. Nagano. Courtesy of the TS Adyar Archive.

Miura described his journey to Theosophy in his letter to the President of the TS, C. Jinarajadasa dated February 21, 1949. He informed the president about his 35 years long study of Theosophy, which began when the works of H. P. Blavatsky (1831–1891) stimulated his interest in spirituality. After this discovery, he published widely on “mysticism and culture,” and conducted lectures in Japan, Korea, Manchuria, and even in the US, in Point Loma. In 1935 he began a lecture series in Shanghai and eventually became the leader of the local international group called All Religions Fellowship Society. As the war on the Asian mainland intensified, Miura returned to Tokyo and restarted the TS meetings, including a Wesak/Vesak ceremony in 1945. Tokyo members included American soldiers, Indians, Chinese, and Russians. Lastly, he presented seven focuses of the future work for the Theosophical movement in Japan, with the core again being translation and publication activity. Thus, he asked for free rights to publish the TS publications in Japanese. After his return to Japan, Miura also established Ryuokai (Dragon King Society), a spiritual group that studied ideas by modern spiritual leaders such as the post-Theosophical thinkers Rudolf Steiner (1861–1925) and Alice Bailey (1880–1949), as well as local Asian mysticism, including esoteric Buddhism. Under the leadership of Miura’s daughter Tanaka, a new TS Nippon Lodge was established in 1971, and has

coexisted with Ryuokai ever since. Subsequently, lodges in Osaka and Nagoya were established. The Osaka Lodge is still active. The list of translations kept on growing. Tanaka's colleague and fellow translator, American Theosophist Jeff Clark, led the Nippon Lodge for many years, and the group remains active today.

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A New Religion Fights for Peace: The Case of the Quakers in Korea

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ABSTRACT: The historical perception of the Society of Friends, commonly called Quakers, as a fringe element in the seventeenth century Puritan movement, as well as its presence and active engagement with the Korean government over issues of peace, pacifism, and conscientious objection, raise the question of both the religion's status in Korea and what in scholarly discourse is called a new religion. The article discusses the definition of new religions (aka new religious movements), herein defined as religious groups that exist with neither social nor cultural continuity with the dominant religion(s) of whatever culture they may be found in. Given that definition, Quakers are found to be a new religion in Korea.

KEYWORDS: Quakers, Peace Movements, Pacifism, Conscientious Objection, Religion in South Korea, New Religions (Definition), New Religious Movements (Definition).

Note. An earlier form of this paper was presented at the Conference on “Peace and the Path of Mutual Beneficence in New Religions” sponsored by the Daesoon Academy of Sciences, and held at Daejin University in Seondan-dong, Pocheon City, Korea, October 13-18, 2017.

Now an international organization with some three centuries of history behind it, the Society of Friends, popularly called the Quakers, has three strong credentials for consideration as a new religion. First, they are pacifists, with a lengthy record of commitment to spreading “peace” on both the organizational and individual level, a perspective on the world that remains a decidedly minoritarian point of view in spite of its lengthy history. They not only refrain

from participation in war and violent resolutions of individual and social conflict, but also promote efforts to build a just and peaceful society, and nurture individuals to live in peace among themselves and with their neighbors. Second, while emerging from Puritan Christianity, they established themselves at such a distance from the center of that tradition that, due to their “outsider status,” they suffered centuries of persecutions that included arrests, torture, imprisonment, and even executions by various governments, accompanied by significant social ostracism. Third, relative to Korea, the particular focus of this paper, they arrived only in the 1950s on the heels of the Korean War, and are thus only in their second generation of participation in the local environment. As a Korean religion, they are quite new—newer than many of the more familiar Korean new religions such as the Unification Church or Chondogyo (Baker 2008; Kim 1988; Grayson 2002; Buswell and Lee 2007; Lee 1996).

In addition, the three factors taken together make the Quakers, who have in the last two generations found some degree of real respect and inclusion (if not agreement with their policies) in the larger Western religious community, an excellent subject around which to focus a discussion of our still malleable definitions of just what constitutes a “new religion.”

Introducing the Quakers

Quakers emerged in the middle of the seventeenth century in England at a time in which the Puritan movement, dedicated to further “purifying” the Church of England in the wake of its separation from the Roman Catholics, and its adoption of the Anglican “middle way” advocated by Queen Elizabeth I (1533–1603), was peaking even as it divided into a number of competing segments. While the most conservative of Puritans proposed working within the structure of the Church of England, which dominated Great Britain through its episcopal leadership, most Puritans proposed dramatic structural changes that included the elimination of bishops, the dioceses they led, and the clerical priesthood, and also abandoning a high view of the sacraments (Allen and Moore 2018; Angell and Dandelion 2013; Bacon 1999; Baltzell 1979; Barbour and Frost 1988; Birkel 2004; Hamm 2006; Kennedy 2001; Peck 1988).

The Presbyterians sought the replacement of the bishops by a leadership of presbyters (i.e., elders), including both the ministers (teaching elders) and

laypeople (ruling elders). The Congregationalists wanted the authority for running the church placed in the local congregations. While the Presbyterians and Congregationalists wished to keep the national church—merely revising its ruling structure, the Baptists (who largely agreed theologically with both) wished to do away with the national church altogether, and create not just a congregationally empowered church but one separated from the government and consisting of only those people who wished to belong to it. They were the first major champions in the English-speaking world of the separation of religion from the state.

Still in the Puritan mix, the Quakers stepped further away from the religious community and the theological consensus shared by the Presbyterians, Congregationalists, and Baptists. Without directly attacking central tenets of Christian orthodoxy, the Quakers refused to issue a creedal statement, and called for new theological emphases based on personal religious experience. They also further separated themselves from any participation in the government by withdrawing from what they perceived as the necessary evils of the state—including the making of war and the management of a criminal justice system. They refused to participate in the army, serve as magistrates, and swear the oaths generally required to testify in court. They promoted a simple life, separated from outward evils, while their word was assumed to be honest and straight-forward (Willcuts 1984).

Religiously, they also sought a simple and literal reading of the Bible apart from the sophisticated theology of traditional churches. They sought a direct relationship with God, which they assumed had been promised by Christ without the need of mediation by the clergy. Their drive for simplicity also led them to develop a uniform dress code, which as an unintended consequence made them immediately visible in any social setting. The simple unadorned style of clothing challenged the upwardly mobile as much as the wealthy, making them both religious and social lepers.

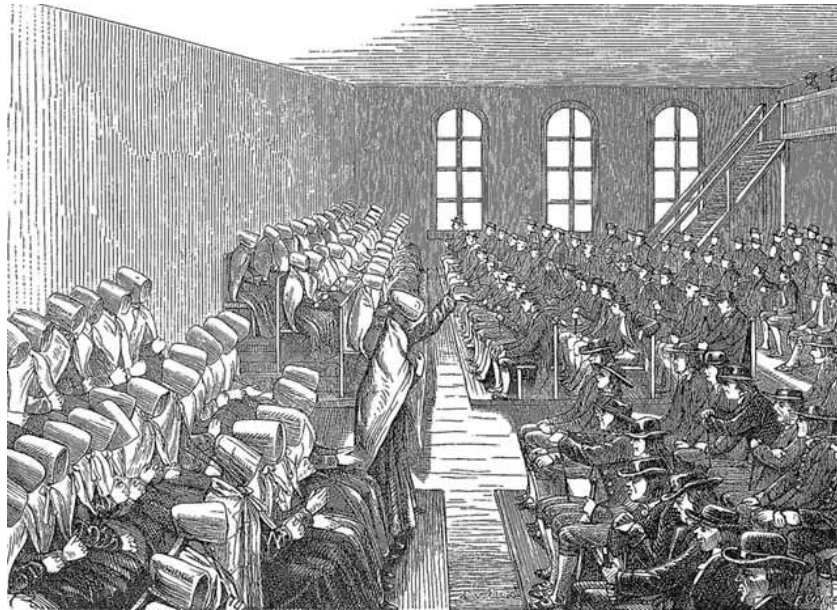


Figure 1. Early Quakers dressed simply and divided the sexes when they worshipped.

As they gathered for worship, they did away with liturgy, and gathered without clergy in silence to await the movement of the Holy Spirit within their fellowship. The community heard any who felt moved to speak during their gatherings, and members tested their words as to their worthiness for acceptance. Sometimes, in their gatherings, the movement of the Spirit led members to tremble as they experienced the Spirit. Those who observed such trembling, or quaking, labeled the Friends as “Quakers.” Thus, at many levels, the Society of Friends presented a very distinctive new religion, which differed from commonly accepted norms on multiple levels.

To America

At the end of the seventeenth century, British Quakers accepted into their membership one William Penn (1644–1718), the son of a prominent naval officer who helped reestablish the monarchy in England after the period of the Commonwealth. Because of his father’s service, the king was indebted to the Penn family, and to pay off the debt he gave William Penn a land grant in the American colonies. Penn used the land to create a haven for the Quakers (Murphy 2018). The Commonwealth of Pennsylvania became a testing ground for religious freedom and attracted every odd sect and new religion that existed

across Europe, including the Mennonites, the Amish, and the German Baptist Brethren. Though Quakers lived quite openly and even prospered in Pennsylvania, elsewhere in the colonies their status as a questionable religious sect remained much the same as previously in Great Britain, especially in New England where they acquired an outlaw status and could be arrested on sight. After arrest, they were most often banished, but some were executed when banishment did not work to keep them outside Massachusetts and its neighboring colonies (Baltzell 1979).

Adding to their marginalized status in the American colonies and in the early years of the American republic was their adoption of an anti-slavery stance. The Quakers were the first religious group that, as a corporate body, challenged the growing institution of slavery. Once they discerned that slavery was an evil, they denounced it, and members set their slaves free and distanced themselves from the practice. As slavery continued to grow, they became founding members of the new anti-slavery societies (Soderlund 1985; Jordan 2007). Early Quaker opponents of slavery deeply affected John Wesley (1703–1791), and led the Methodists to copy them in denouncing slavery and swelling the membership of the antislavery cause (Matthews 1965; Melton 2007). When, in the early nineteenth century, the Methodists weakened their strong anti-slavery stance, the Quakers strengthened their commitment, which costed them any chance of establishing their community in the American South, where slavery was most entrenched, and led them into backing the abolitionist call for an immediate discontinuance of slavery in the United States.

The strong abolitionist stance came to haunt the Quakers as the American Civil War began. As staunch pacifists, they refused to take up arms and fight for the destruction of slavery, and were subsequently left on the outside in defining the peace that followed.

Quaker pacifism would find some broader support in the late nineteenth century, as additional new religious groups that supported conscientious objection to war appeared, including the Seventh-day Adventists, the Bible Student movement founded by Charles Taze Russell (1852–1916), whose main branch was later known as the Jehovah's Witnesses, and the Pentecostal movement. Through their combined efforts, the American government slowly developed an alternative service program, which allowed young men to engage in various non-violent public betterment programs in place of military service.

Through the twentieth century, the Quakers worked to expand the rights and opportunities for conscientious objectors in countries around the world.

Though remaining a relatively small movement, with never more than a few hundred thousand members, the Quakers multiplied their efforts by making common cause with other Peace churches and with individual pacifists in a wide variety of church groups. Members played a leading role in such organization as the Fellowship of Reconciliation, and supported movements such as the nonviolent activism of Martin Luther King (1929–1968).

In their search for a more just society, they were also active in a variety of progressive social causes. British Quakers became, for example, the first Western religious community to engage the gay and lesbian community, and in 1963 issued *Towards a Quaker View of Sex*, a pioneer study calling for a reorientation of the religious community's attitudes toward gay and lesbian people (Heron 1963). Though the views expressed in that pioneer report are now widely shared in Europe and North America, such was not the case when it was issued, and it served to re-marginalize the Quakers even as their work on peace was gaining pockets of support throughout the Christian community as a whole (Mellor 2009).

Quakers shared in the growing pacifism in the United States that spread through the mainstream Protestant churches in reaction to the carnage inflicted upon the armies forced to fight World War I. Dramatic images of the future damage that awaited, as governments developed ever more effective instruments of death, nurtured fears in the wider religious world. In the United States, support for pacifism (which helped keep America out of World War II even after the fall of France) largely collapsed in the face of the attack on Pearl Harbor. Quakers and members of the other Peace churches faced significant public criticism through the war, only recovering a voice as people began to consider the implication of the atomic bomb and the possibility of its being used in any future global combat. And as the world watched, President Harry Truman (1884–1972), the man who had authorized the dropping of the bombs on Hiroshima and Nagasaki, guided the war in Korea. While bringing the war to a ceasefire, on terms that satisfied no one, he did so without luring China into the conflict and while withstanding the temptation to drop another bomb on a North Korean city (Brock 1968; Nuttall 1971; Morehead 1987).

The Quakers in Korea

The American Friends Service Committee had been established during World War I to support conscientious objectors. After the war, it evolved into the major vehicle for Quakers to engage in peacemaking activity, its first target being the rebuilding of Europe. The organization would change as different issues came and went, but following World War II, it immediately mobilized resources to assist a world of refugees, for which it and its British equivalent won the Nobel Peace prize in 1947. That continuing effort in support of refugees brought both British and American Quakers to Korea in the mid-1950s, where they subsequently set up a base in Kunsan, on the western coast of Korea, some hundred miles south of Incheon. Beginning with an effort to counter malnutrition, the AFSC eventually developed a wide-ranging program that included the building of homes, organizing schools, anti-illiteracy programs, and a spectrum of medical services, the overall program being aimed at making the people among whom they worked self-sufficient.



Figure 2. Early Quakers in Kunsan.

The intent of the Quakers had not been to spread their movement, merely to do their peace-building work and move on. But once in place, some of the people among whom they had been working made know their desire to continue their relationship with Quakerism. Before leaving, the Quaker personnel in Kunsan

put those who wished to become Quakers in contact with two Quakers then residing in Seoul—Reginald Price (1911–1977) and Arthur Lyon Mitchell (1916–2000)—who assisted in the organization of regular weekly meetings, which grew to become a formally recognized congregations (called by Quakers a monthly meeting) in 1964. In 1967, that congregation acquired its own meeting house. The members would be responsible in 1960 for the translation of the first piece of Quaker writing to appear in Korean, a short work, *The Faith and Practice of Quakers*, by American Quaker mystic theologian Rufus Jones (1863–1948).

Ham Sook Hon

The Quaker began as a small movement of primarily Korean believers directly influenced by the social work carried out by their fellow believers in the mid- and late 1950s. Among the first members was one person who was blind, and who became a catalyst for the initial group to become activists in support of Seoul's blind residents. Not being a religion that engages in high pressure evangelism, that initial group grew slowly, but in 1967, just as it moved into its new building, it gained a great asset in the person of former schoolteacher and social activist Ham Sook Hon (1901–1989). Ham had initially encountered the Quakers in Kunsan, and later began to hang out among them in Seoul (Kim 2001).

Important in Ham's development were several years he spent in Japan following his graduation from high school. While attending college in Tokyo (1924–1928), he met and studied with Uchimura Kanzō (1861–1930), a Japanese Christian who had founded the Nonchurch Movement (Mukyōkai) after breaking with the Christian missionary establishment. Though theologically orthodox, Kanzo had famously questioned the nature of church organization and worship. He had also questioned the importance of the Christian sacraments of baptism and the Lord's supper. He was an outspoken pacifist (Hiroshi and Shinn 2013; Howes 2006).

Upon returning to Korea, Ham would emerge from obscurity in the 1930s, during the Japanese occupation era, when he published an early serialized version of his book, *Queen of Suffering: A Spiritual History of Korea*, in a Christian monthly, *Songso Choson*. Japanese authorities reacted strongly by closing down the magazine and seizing and destroying all the copies that contained Ham's

articles. They extended their attack on Ham's ideas by arresting him; he spent his first prison sentence in West Gate Prison in Seoul. Only after the end of Japanese rule could he publish his book in full. As successive editions appeared (Ham 1985), he also moved from the more traditional Christianity passed to him by Uchimura to a much more liberal Christian perspective, as he had come to feel that Christianity was not the one true faith, nor the Bible the whole truth. It was simultaneous with his own theological change that he encountered the Quakers in Kunsan, with whom he found an immediate resonance.

He moved south after the Communist takeover of North Korea, but again found himself in trouble in 1958 after publishing articles critical of President Syngman Rhee (1875–1965, in office 1948–1960), whose rule he considered dictatorial. Rhee would be forced from office two years later. Over the several decades following his attaching himself to the small Seoul monthly meeting, Ham would take his fellow Quakers on a dramatic pilgrimage, while the meeting house would provide Ham with a haven for his crusade to bring full democracy to South Korea and make a place in the country, still officially at war with its northern neighbor, for conscientious objectors.

In the early 1960s, Ham moved to America to attend classes at Pendle Hill, the Quaker study center at Wallingford, Pennsylvania, and then went on to spend time in England. Crucially, his time in the United States coincided with the emergence of Martin Luther King whose non-violence activism greatly energized and offered new directions to Ham's previously established pacifism. Shortly after his return to Korea, he formally joined the Society of Friends, in the midst of which he began to articulate and act upon his own version of non-violent activism. The next decade would be spent in opposition to Korean president Park Chung-hee (1917–1979, in office 1963–1971), who initially came to power as the leader of a military coup in 1961.

Over the rest of his life, Ham would actively protest what he saw as an autocratic regime subverting the Korean Constitution, his protests leading to repeated arrests and several stints in prison (1976, 1979), culminating in a period under house arrest beginning in 1980. Following the end of the regime that Park set in place (1987), Ham would finally enjoy a brief moment of success. Seoul hosted the 1988 Olympics, giving to a number of Asian religious leaders (many of whom would be known as founders of new religions) the opportunity to organize what they termed the Peace Olympiad in the city. The aging Ham was

selected to head the event, which culminated in the issuance of a declaration calling for world peace. Meanwhile, his fellow Quakers nominated him for the Nobel peace prize.



Figure 3. Statue of Ham Sook Hon in Seoul.

Since Ham's death in 1989, the members of the Seoul Friends meeting have continued his fight for rights for conscientious objectors in Korea, whose only options, given the role played by the military in the country's life, have been to serve in the army or to go prison. Finally, in 2007, their efforts bore fruit when the government began to offer forms of alternate service. Also in the new century, a second monthly meeting has been opened in Daejeon.



Figure 4. The Quaker Fellowship in Seoul, Korea.

Quakers as a New Religion

The Society of Friends has emerged in Korea over the last half century, and now stands as an independent outpost of a global movement with roots in seventeenth-century England. It inherits the history of what is appropriately viewed as a new religious movement of past centuries, which has now attained in the West some entrance into the religious establishment. In the United States, both the Friends United Meeting and the Friends General Conference are members of the National Council of Churches, and internationally of the World Council of Churches. In 2013, when the World Council of Churches' 10th Assembly gathered in Busan, South Korea, the Quaker delegates made it a point to visit the Seoul monthly meeting while in the country and celebrate there the assembly's theme, "God of life, lead us to justice and peace." It is to be noted, however, that South Korean Quakers are affiliated with neither the Christian Council of Korea nor the National Council of Churches in Korea.

Raising the question of whether the Korean Quakers are properly termed a new religious movement, however, speaks to the more basic issue of definition. A decade ago, sociologist David Bromley and I engaged in a conversation on that topic, each drawing on their very different background as a sociologist (Bromley) and religious historian (Melton). The results were later published as an article in which we proposed a definition that we hoped could be applied internationally, which suggested firstly, that the designation of any group as a new religious movement should include a reference to time and place. That is to say, any given religious group could simultaneously be considered a new religion in one context and not a new religion in another context (Bromley and Melton 2012). Thus today, the Hare Krishna movement manifests as a new religion in most Western countries but is seems very much integrated into the religious establishment in India. In like measure, groups may change their status over time, with the Church of Jesus Christ of Latter-day Saints, which earlier in the twentieth century was almost the definition of a new religious movement, having forced its way into the dominant religious establishment in the United States by its success in becoming the largest religious body in a half dozen states, and assuming a prominent role in one of the major political parties.

Sociologically, we recognized four "types" of religious groups based upon their social and cultural resonance with the larger religious community.

1. Established religions essentially create the religious environment of a country, and thus have the resonance with the larger culture, are aligned with the religious powers that be, and have access to their country's political leadership.

2. Sectarian religions are groups that are aligned culturally with the dominant religion(s) of a country but, due to various factors, have only limited access to the more established religious or political leadership. They are culturally aligned but lack social power.

3. Ethnic religions are groups that primarily serve a single ethnic/linguistic group that exists in sharp contrast to the dominant religious culture of a particular country in which they have a presence, and hence manifest a sharp cultural alienation, but may be related internationally to a community that is part of the religious establishment in another country. Through their religious ties to an ethnic homeland, they have access to power in the countries in which they are a minority. Thus, Thai American Buddhists are religiously very different from the dominant religious community in the United States, but the state religion of Thailand. At the same time, through the Thai government, the Thai American Buddhists have access, however small their community is, to the powers that be in Washington, D.C.

4. Finally, there are the new religions. These religions are initially defined by their sharp religious break with the dominant religious culture of their homeland. They may exist either as an entirely distinct religion, or as a variant of the dominant religion that is nevertheless distinct enough in its beliefs and/or behavior as to be unacceptable to the dominant religious community. Thus, the Unification Church, with roots in Christianity, was found unacceptable to the Christian community upon its arrival in the United States due to its assertion of a spectrum of heterodox beliefs and a variety of unusual behaviors (including its arranged marriages).

Along with their cultural discontinuity, new religions have little to no access to power, either religious or political. While they may momentarily manifest a quietly produced entrée to power, that access will be quickly withdrawn when it becomes public knowledge. By definition, a new religion is both culturally and socially alienated from the society in which it exists (though over time, it may join the religious establishment and in the rarest of cases may even come to dominate it).

Given this definition, the Quakers of Korea certainly appear to fit the definition of a new religion. They exist apart from the two largest religious communities in Korea, the Buddhist orders and the Protestant Christian churches. They are completely different from Buddhism (not to mention the Confucianist and Korean shamanistic communities) and remain apart from the Protestants, which even in their more liberal wing are much more conservative than their Western counterparts. Throughout their history, Quakers have claimed a degree of orthodoxy, at least relative to the essential Christian beliefs, though they do not have a creedal statement as do, for example, the other Peace churches like the Mennonites.

Quakers have argued that their differences related not so much to theology as to issues of worship, personal devotion, and sacraments. However, increasingly through the twentieth century, Quakers have voiced views decidedly at odds with the exclusive claims of Christian faith, leaning toward Unitarianism and even Humanist perspectives. In recent decades, Quakerism has become a very open community, welcoming a wide variety of beliefs. Ham Sok Hon voiced his own departure from the orthodoxy of his younger years, as he backed away from a belief that the Christian faith was the only true religion and the Bible the whole truth (Ham 1985). He was known to cite his adherence to the Friends as due to their “pacifism, egalitarianism, community spirit (group mysticism), and active participation in here-and-now social affairs rather than longing for a ‘heaven or Kingdom of God’ after life” (“Legacy of Ham Sok-hon” 2017).

In following through on their vision of a just and peaceful society, South Korean Quakers have consistently shown themselves at odds with the political powers that have dominated the country, and their loyalty has been questioned in light of the ongoing state of war in which the country was left in 1953. At the same time, Quakers remain a distinct minority in their original homeland (the United Kingdom). In the United States, where they now have their largest membership, they remain too small to show up on most religious surveys. Thus, while other Christian churches operating in Korea might qualify as an ethnic church (with significant power bases in the West), the Quakers remain a small and largely powerless group championing a minority message.

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**Esotericism in the Mirror of COVID-19:
Gregorian Bivolaru, MISA, and the Pandemic**

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ABSTRACT: Despite the legal prosecution of its founder, Gregorian Bivolaru, the Movement for Spiritual Integration into the Absolute (MISA) remains one of the largest international spiritual movements based on esotericism. During the COVID-19 crisis, Bivolaru delivered several lectures on the epidemic. He contested the monopoly of science in offering answers to the crisis, and emphasized the importance of natural remedies, particularly phytotherapeutic, for an effective prophylaxis. Ultimately, however, he taught that an adequate response to COVID-19 should also rely on esoteric exercises based on meditation, blessings, and the use of mantras. The paper discusses MISA's answer to COVID-19 within the framework of the existing literature on esotericism, healing, and science.

KEYWORDS: MISA, Movement for Spiritual Integration into the Absolute, Gregorian Bivolaru, Esotericism and COVID-19, Alternative Medicine and COVID-19.

Gregorian Bivolaru and MISA: Although Persecuted, They Are Very Much Active

In 2017, Gregorian Bivolaru, the founder and leader of MISA, the Movement for Spiritual Integration into the Absolute (Introvigne 2017a; Zoccatelli 2017), was accused of sexual abuse and included, at the request of the Finnish authorities, in the European list of wanted fugitives.

Bivolaru, who was born in 1952 in Tărtășești, in the Romanian region of Muntenia, had been arrested in 1994, and sentenced in 2013 in Romania for an alleged sexual relation with a 17-year old pupil. The age of consent in Romania is 14, but Bivolaru was regarded as the “teacher” of the girl, since he had allegedly been teaching her yoga, and teacher-student sexual relations are a crime in the country. The Supreme Court of Sweden, however, determined that Bivolaru's

prosecution was politically motivated and part of a campaign against MISA as a “cult,” and granted him political asylum in 2006. Nonetheless, Bivolaru was arrested when visiting France in 2016, extradited to Romania, and detained (Di Marzio 2017).

Freed in 2017, he was accused of having sexually abused female Finnish disciples in France. Although he never set foot in Finland, he was accused of having “brainwashed” devotees of the MISA ashram in Helsinki through videos, so that, by the time they met him in Paris, they had been led to consider sexual intimacy with Bivolaru as desirable. While he denies all allegations, Bivolaru is regarded by the Finnish authorities as a fugitive. However, he continues to teach from an unknown location, primarily by sending audio records and texts to his disciples.

MISA became a target of the anti-cult movement, both in Romania and internationally, because of its rapid growth, criticism by the Romanian Orthodox Church, and its teachings on sacred sexuality (Introvigne 2017b; Zoccatelli 2017; Introvigne, Zoccatelli, and Di Marzio 2017). Although sexuality is but a part of Bivolaru’s Tantric teachings, it is the most emphasized by opponents and the media. It is rooted in both Hindu Tantrism and Western esotericism (Melton 2017), and focuses on male continency, i.e. the practice of orgasm without ejaculation. It also celebrates the beauty of the female body in forms that opponents regard as pornographic—although, paradoxically, MISA proposes a structured criticism of pornography, and regards sacred eroticism as an antidote to it (Introvigne 2017c).

The persecution caused MISA to lose some members, but did not destroy the movement. It still maintains some 1,000 full-time members and 20,000 “students” internationally. During the COVID-19 pandemic, its activities moved online. The annual meeting normally held in Herculane, Romania in May—one of two such meetings, the other taking place in Costinești in August—was held online, and thousands participated via the Web. Although the peculiar atmosphere of the gathering cannot be easily reproduced online, I attended the Web event, and found that the offer of courses and lectures (including by Bivolaru) was as rich as usual.

Conspirituality

“Conspiracy theories” has become a convenient label to dismiss unpopular positions. In this sense, it belongs to the same category as the word “cult.” The expression “conspiracy theories” has a tradition of respectable academic use, including in the study of new religious movements (Barkun 2003; Robertson 2016; Dyrendal, Robertson, and Asprem 2018). Theories about conspiracies are enthusiastically embraced, often combining political and religious motivations, and this at both ends of the political spectrum (Asprem 2020). But there are also cases where “conspiracy theory” is used as a four-letter word and as an offensive tool against opponents.

The ambiguity of “conspiracy theories” is that they are often at the border of the sacred and the secular. Religious affirmations about human events, such as “The world is governed by Divine Providence,” are not open to empirical disconfirmation, yet are passionately believed in by religionists. If we define “conspiracy theories” as views about history that cannot be empirically proved or disproved, we can call these statements “conspirationist,” but it is unclear whether defining religion as a vast conspiracy theory adds anything useful to its study (see Aupers and Harambam 2018).

In the tradition of Western esotericism, claims about conspiracies and spirituality appear to be chain-connected. In 2011, Charlotte Ward and David Voas coined the term “conspirituality” to define a spirituality that is inherently conspirationist (Ward and Voas 2011). Conspirituality is typical of the esoteric tradition (Asprem and Dyrendal 2015, 2018). Discussing Bivolaru’s teachings, Sara Møldrup Thejls argued that “conspiracy theory is inherent esoteric in its epistemology,” so that it is not surprising to find it in an esoteric group such as MISA (Møldrup Thejls 2015, 72).

More generally, esotericism and science may directly compete when an esoteric group or author offers a factual statement that also enters the domain of science. For example, Italian esoteric master Giustiniano Lebano (1832–1910) famously argued, developing an unpublished manuscript inherited by his master and father in law, Domenico Bocchini (1775–1840), that the strand of cholera that had killed three of his children between 1865 and 1868 and driven his wife to madness (Casale and Avvisati 2015, 48–51) had been created in a laboratory by “Chinese magicians and priests” (Lebano 1884, 61). In view of the 2020

controversies about Chinese laboratories, the claim looks surprisingly modern, but is open to empirical disconfirmation—unless one believes that Lebano “certainly meant something else,” and the reference to the Chinese magicians should be interpreted in a symbolic rather than a literal sense (Casale and Avvisati 2015, 48).

If the statement should not be interpreted literally, it belongs to a domain other than facts or science. Although dismissed by three subsequent waves of criticism by Protestants, Enlightenment rationalists, and Marxists as *false* knowledge, the “rejected” knowledge of esotericism is better characterized as an *alternative* one. It is a knowledge hard to eliminate from the intellectual history of the West, where it had an enormous influence on culture, the arts, and occasionally science itself (Hanegraaff 2012)—and one that may “work” just as well as others in helping suffering human beings.

In theory, esoteric knowledge may move in a parallel dimension with respect to what is commonly understood as scientific knowledge, without creating any conflict. In practice, however, the same individual or group may regard esoteric and scientific knowledge as alternative rather than complementary. The field of healing offers a good example of this possible conflict.

Esotericism and Healing

Esotericism does not necessarily deal with the healing of physical illnesses. However, many modern esoteric groups and teachings do (Hanegraaff 1996). In the New Age movement, that Wouter Hanegraaff regards as “esotericism in the mirror of secular culture” (a formula I have paraphrased for the title of this article), “therapy and religious ‘salvation’ tend to merge to an extent perhaps unprecedented in other traditions” (Hanegraaff 1996, 46). Interestingly, Hanegraaff refers here to *religious* “salvation,” and in fact similar problems arise when faith healing confronts mainline medicine. There, again, there may be cooperation as well as conflict.

Meredith McGuire noted that in premodern societies, “health, healing and well-being were traditionally interwoven with other institutional domains, especially religion and the family.” Modern medicine claimed health as its

exclusive domain, generating more than one “expression of dissent from the medicalized conception of health and healing” (McGuire 1993, 147–50).

Concerning the esoteric approach to healing typical of the New Age, Hanegraaff argued that, “in their implicit criticism of official western medicine, New Age healing practices not surprisingly evince a rather close affinity to those of traditional cultures which western medicine has sought to replace” (Hanegraaff 1996, 43).

Several esoteric groups today include in their literature about healing disclaimers stating that their suggestions are not intended to replace medical advice, and that in case of doubt doctors should be consulted. These disclaimers serve legal purposes, and try to avoid possible liabilities and lawsuits. On the other hand, as Christopher Partridge has noted, esoteric movements, as well as religious groups, are involved in a process of “democratization” of the “strategies for healing, health and well-being,” where “spiritual health” is emphasized, and the monopoly claimed by modern medicine is increasingly challenged (Partridge 2004–05, II, 4). Few resist the temptation of criticizing a brand of medicine they would call “western,” “mainline,” or “allopathic,” implying that a different medicine is possible.

This conflict emerges again “in the mirror” of the COVID-19 crisis. On the one hand, new religious and esoteric movements are careful in emphasizing that, unlike some mainline churches (Consorti 2020), they respect the authorities’ indications on lockdowns and social distancing. On the other hand, they also offer “spiritual health” suggestions that go beyond medicine and science (see Šorytė 2020). Some also openly criticize what they perceive as monopolistic claims by scientists.

“A Bizarre New Religion Without God”: MISA vs “Mainstream Science”

Gregorian Bivolaru shares with other spiritual teachers a concern about how millions lived the lockdown as a period of “lethargic” life, “fear,” and even “idiocy” (Bivolaru 2020, which is the source of all quotes in this and the next three paragraphs, unless otherwise indicated). The fact that many lived the crisis in a “larval state” is not coincidental. Within an esoteric view of history, it is further evidence that we live in what Hindus call Kali Yuga, the last and more

degenerated of the four ages the world goes through, and Christians call “apocalyptic times.”

These are the signs of the apocalyptic times in which we are living, times which are shattering, and staggeringly symptomatic of the Age of Darkness, of ferocious materialism, of stupidity and of the state of lethargy, of the larval state that unfortunately characterises many human beings and which indicate that we are living in Kali Yuga.

On a more mundane plane, the situation is also due to “a strange system that promotes sickness and not health.” MISA respected the laws during the pandemic, and moved its activities online. However, it also engaged in “a dismantling of the mythical infallibility of mainstream science.” Bivolaru particularly criticizes the “tyrannical” side of mainline science that emerged during the pandemic. He believes scientists tried “to impose their points of view in a forced manner, especially through the state” and censorship of the social media. He denounces “Cerberus censors” who tried to “censor in a criminal manner certain information on the Internet.”

The pandemic, according to Bivolaru, evidenced that mainstream science is becoming

a false and a bizarre new religion without God, which is being imposed forcefully through fines, through prison, and this monstrous tyrannical proclaims of science, in a hallucinating manner, so to speak, through partial truths, not through expositions that are intelligent, objective, profound, full of common sense, but by means of certain dazzling and imposed laws. Such a science is not disseminated by ingenious, honest scientists but is proclaimed by police officers.

Bivolaru quotes the American “chemist of the people” Shane Ellison to argue that prescription drugs have killed hundreds of thousands (Ellison 2014). Ellison is a controversial character, and organized skeptics have denounced his writings as “a handy microcosm for pseudomedical notions” (Moline Skeptics 2015; *Encyclopedia of American Loons* 2016). They have argued that his remedies are not more, and probably less, effective than those of the “official,” and of parts of “alternative,” medicine he denounces. However, Bivolaru refers to Ellison only with respect to casualties deriving from hastily prescribes drugs. Here, Ellison derives his data from mainline sources. One is Peter C. Gøtzsche, who wrote in 2014 that, “our prescription drugs are the third leading cause of death after heart disease and cancer in the United States and Europe,” explaining that,

around 100,000 people die each year in the United States because of the drugs they take, even though they take them correctly. Another 100,000 die because of errors, such as too high a dose or use of a drug despite contraindications (Gøtzsche 2014, 628).

Gøtzsche is a militant opponent to what is often called Big Pharma. Pressures from pharmaceutical industries led to the Danish Ministry of Health sacking him from his positions as director of the Nordic Cochrane Center at Copenhagen's Rigshospitalet and professor at the University of Copenhagen. A petition in his favor promoted by his colleagues gathered 9,000 signatures (Ioannidis 2019, 1). Gøtzsche has been qualified in a scholarly journal as

a well-known firebrand. Yet he is well-respected for the science he has produced. He is clearly a giant with major positive contributions to evidence-based medicine. His work has been instrumental in promoting transparency in clinical research, revealing biases, and fighting against conflicts of interest. Both the citations to and the societal impact of his scientific publications are phenomenal (Ioannidis 2019, 1).

The Gøtzsche incident shows how conflicts penetrate *within* “mainline” medicine as well. Quite apart from the Ellison and Gøtzsche controversies, the Web site of the Center for Ethics of Harvard University reported in 2014 that,

Few know that systematic reviews of hospital charts found that even properly prescribed drugs (aside from misprescribing, overdosing, or self-prescribing) cause about 1.9 million hospitalizations a year. Another 840,000 hospitalized patients are given drugs that cause serious adverse reactions, for a total of 2.74 million serious adverse drug reactions. About 128,000 people die from drugs prescribed to them. This makes prescription drugs a major health risk, ranking 4th with stroke as a leading cause of death. The European Commission estimates that adverse reactions from prescription drugs cause 200,000 deaths; so together, about 328,000 patients in the U.S. and Europe die from prescription drugs each year (Light 2014).

If the argument that prescription drugs kill a significant number of patients is factual, Bivolaru's criticism of “mainline” science is philosophical. He argues that “official science has lost its consciousness,” and quotes a well-known dictum of French 16th century writer François Rabelais (1483?–1553), that “science sans conscience n'est que ruine de l'âme” (science without conscience is but ruination of the soul: Rabelais 1532, 42). Here, Rabelais claims to summarize King Solomon, and Bivolaru calls the French writer an “initiate.”

According to Bivolaru, “scientific truth is partial, is ephemeral, and especially—it is dualistic.” McGuire notes that contemporary dissent from modern medicine is based precisely on its dualism between the body and the

mind, controlled respectively by medicine and psychiatry, and soul, the sphere of religion and esotericism (McGuire 1993, 146–47). Those who contest the benefits of the modern processes of differentiation, including Bivolaru, claim that illnesses are not located in bodies and minds only, but also involve the soul, and that treating body, mind, and soul separately is a mistake.

Consistent with Hanegraaff's comment that esoteric critics of mainline medicine often look to non-Western models, Bivolaru also notes that in China during the COVID-19 epidemic the media often published articles about traditional Chinese medicine remedies, treating them very seriously. Sometimes, their stories were reported in the West in a sensational way (MISA quotes Teodoreanu 2020), yet beyond the tabloid style Bivolaru believes there is something worth investigating. He finds a precedent on the extraordinary career of Tu Youyou (b. 1930), the Chinese pharmaceutical chemist who went from traditional Chinese medicine to become the first citizen of China to win the Nobel Prize for medicine in 2015. Tu became famous for creating Artemisin, isolated from sweet wormwood (*Artemisia annua*) and used against malaria. She insisted she had not invented anything, but simply adapted a traditional remedy known to Chinese traditional medicine and first mentioned some 1,600 years ago (Tu 2017).

Eleven Forms of "Prophylaxis"

A state of crass stupidity combined with the state of panic and hysteria has attained amazing peaks, so to speak. It is, however, essential to keep in mind that for every illness without any exceptions, there are nonetheless perfectly natural and efficient, prophylactic modalities.

In his lectures about COVID-19, Bivolaru proposes a lengthy discussion of prophylaxis, distinguishing between eleven different forms of it. While the taxonomy may seem pedantic, it is in fact essential to allow Bivolaru to claim that the herbal and esoteric methods he proposes constitute an effective prophylaxis for COVID-19.

Prophylaxis is part of preventive medicine, and Bivolaru mentions the distinction between "primary preventive medicine," intended to prevent illnesses, "secondary preventive medicine," which tries to avoid the aggravation

of an already existing illness, and “tertiary preventive medicine,” whose aim is to “limit the secondary diseases that appear following certain illnesses.”

Prophylaxis, Bivolaru explains, is a general word including:

1. *Active prophylaxis*, which aims at improving the specific resistance of a person or a group against infectious diseases.

2. *Passive prophylaxis*, or “passive immunization” through the assumption of preventive remedies.

3. *Collective prophylaxis*, which considers in advance how infectious diseases attack a “collective or group,” and works on the interactions within the group.

4. *Dispositional prophylaxis*, which refers to the dispositions of health authorities to prevent the spread of infections through quarantine and other measures (Bivolaru notes that “the students of our yoga schools” do respect these measures, while also using other remedies).

5. *Expositional prophylaxis*, including measures aimed at limiting the exposure of an individual or a group to infection.

6. *General prophylaxis*, also called *nonspecific prophylaxis*, which includes general measures intended for the population as a whole rather than custom-tailored for a specific person or infection.

7. *Personal prophylaxis*, which considers the specific health and hygiene situation of each individual.

8. *Specific prophylaxis*, targeting a specific pathogenic agent.

9. *Emergency prophylaxis*, including measures that may be implemented urgently, yet are still preventive.

10. *Phyto-prophylaxis*, based on the use of medicinal herbs.

11. *Spiritual prophylaxis*, or *esoteric prophylaxis*, adding remedies that belongs to the field of spirituality or esotericism to other kinds of prophylaxis. An *emergency esoteric prophylaxis* is part of this category.

MISA deals specifically with the last two categories, phyto-prophylaxis and esoteric prophylaxis. However, Bivolaru claim that the remedies he suggests are also adequate for all the other forms of prophylaxis.

An important part of all prophylaxis, Bivolaru adds, is a healthy nutrition. He recommends checking whether there is enough Vitamin C and Vitamin D in our diet, “choosing a preponderantly solar, yang nutrition,” and experimenting with days of fasting with water only. He also recommends products of apiculture, “natural honey, the use of bee pollen, 2 teaspoons full per day, and we also advise you to ingest 2 drops of propolis tincture 3 times a day.” He adds that,

it is also wise to ingest a teaspoon full of Acerola (*Malpighia glabra*) 3 times per day, and it is also indicated to put 21 drops of fresh lemon juice into a quantity of 1.5 litres of water, which we are consuming.

Bivolaru also recommends inhaling essential oils:

to use through inhalation, especially when you are practicing profound yogic breathing, certain perfectly natural volatile essential oils such as: natural volatile mint oil, natural basil volatile oil, natural tea tree volatile oil, and from the series that is already well known by some of you, volatile natural oils from the Young Living company, you can use essential volatile oil of lemon, essential volatile oil of lavender, or you can use the combination from the same company of essential volatile oils for purification.

The reference to the Young Living company shows, once again, the interrelations at work within the alternative therapies subculture. Young Living was founded by Donald Gary Young (1949–2018), a Utah businessman who was once arrested for practicing medicine without a license and had other legal problems, which did not prevent his company from becoming the largest (or the second largest) essential oil distributor in the world, with more than three million customers and annual sales in excess of \$1 billion. As Rachel Monroe wrote in 2017 in *The New Yorker*, the immensely popular essential oils are sold as part of a “spiritual experience,” and their success would be difficult to understand by considering them as a mere secular product (Monroe 2017).

Phyto-prophylaxis

Bivolaru refers to scientific literature arguing that “plants have a complex program of answer regarding the defense against viral infections.” Not only plants react to viruses in their own way, but “medicinal herbs, when ingested in an attentive, systematic, and persevering manner,” have a prophylactic effect that may help even in the case of COVID-19.

MISA has developed two herbal remedies that, it claims, “have clear prophylactic effects, in order to help you to avoid being contaminated with the COVID-19 virus.” To steer clear of any accusation that the movement is exploiting the pandemic for commercial purposes, Bivolaru repeatedly insists that the two remedies are not sold, but offered to MISA students for free. They may mightily contribute to prophylaxis.

Referring to this form of prophylaxis; those of you, either men or women who will ingest the prophylactic remedy that will be provided free of charge, you will feel through direct experience both the increase of nonspecific resistance and the increase and the amplification of an immunization that is not only active but also passive.

One of the phyto-therapeutic mixtures developed by MISA is a tonic, to be used in primary preventive medicine. The second, called “Lightning Phytotherapeutic Mixture,” is part of secondary preventive medicine and “can be used in the first stage of a contamination with the virus COVID-19.”

One of the mixtures is promoted with reference to the story of the four thieves, which refers to a medieval or early modern epidemic of bubonic plague but seemed to have appeared in print first in 1719, in the *Synopsis universæ Medicinæ practicæ; sive doctissimorum Virorum de Morbis eorumque causis ac remediis judicia* by the British doctor John Allen (1660?–1741), which became popular in Europe through the 1741 French edition *Abrégé de toute la médecine pratique*. There, Allen tells the story of four thieves that entered the homes of those who had died of the plague to plunder them, yet miraculously were not infected. When apprehended, one of the thieves, to escape execution, revealed that their secret was a special “vinegar,” in fact a concoction of various herbs granting them immunity from the plague (Allen 1741, 219).

Although the story is often regarded as legendary, modern scientists have noted that the “four thieves vinegar,” a part of traditional European pharmacopeia, had indeed some effectiveness, perhaps because one of its components was the same *Artemisia annua* used by the Chinese doctor Tu against malaria, and also effective in general prophylaxis and against other diseases (Bina and Rahimi 2017).

Bivolaru argues that, when approached with “creative intelligence,” the story of the four thieves emerges as “legendary significant evidence.” Another way of confirming it is just to try the MISA remedy, which is an evolution of the traditional four thieves vinegar, and check whether a “betterment” follows.

“When regarded from an esoteric point of view, the betterment that settles in allows us to have righteous hopes that we have won over the illness.” However, the treatment should continue during convalescence, “with herbs that will be ingested 4 times a day, throughout the 24 hours for another 49 days.”

Do not give up on the treatment based on herbs or even utilising certain appropriate therapeutic modalities because, given the state of sensitivity of both your organism and subtle mysterious vital layer PRANAMAYA KOSHA, it is possible to face a relapse, which—take heed—will not be solved as easily.

Esoteric Prophylaxis

The phyto-prophylaxis proposed by MISA is strictly connected with what Bivolaru calls “esoteric prophylaxis,” as it relies on “aspects which are for the most part hidden.” The combined use of herbs works, Bivolaru claims, because of “the Principle of Occult Totality.”

Certain medicinal herbs that are associated according to certain criteria, and which are selected beforehand because they are appropriate for attaining a certain effect, trigger phenomena of synergy through a mysterious effect, which is something far more than a simple process of addition.

It is not enough to reach a “physical balance,” but we should also achieve “a balance in the sphere of our consciousness.” In fact, simply ingesting the mixtures is not enough.

In situations in which you resort to certain mixtures of medicinal plants or to a liquid tonic that dynamizes the immune system, it is also necessary to bless the respective powder of plants or the correspondent tonic that you will ingest a minimum of 12 times beforehand.

Similarly, it is recommended to

bless the food that you are eating and the water that you are drinking a minimum of 12 times beforehand. By so doing you can be sure that you are using an esoteric prophylactic method that is very strong.

Blessing is an important part of the prophylaxis recommended by Bivolaru. He suggests to “all the [MISA] students to send blessings to one another to avoid a contamination with the COVID-19 virus.”

Another solution is to perform self-blessings. Still, it is necessary for us to mention that, when we choose to offer blessings to a colleague from our classes, either man or woman, we thus set the law of occult giving into action in an eminently beneficial and

constructive manner, and in this way the ones who choose to offer blessings to another human being will thus feel that they are also mysteriously blessed.

Blessings should be generously offered, but not wasted on those who do not understand and reject them.

Those students who will choose to help and protect the members of their family will be able to offer them blessings, either from no matter what distance they may be at, or in close proximity. But it is necessary for the human being who will be blessed to accept beforehand, with humbleness, with benevolence, and with common sense the blessings that are being offered to them. We advise you not to bless human beings who reject blessings with skepticism or who despise such a spiritual gift.

Not everybody can offer effective blessings, and Bivolaru recommends the practice to MISA students who have learned how to bless. Some of them have received during their initiations within MISA certain esoteric artifacts that can be used for blessing.

All those of you men and women, who have already received certain gifts over the course of time that were charged with certain sublime subtle godly energies, you can use them successfully in this period by placing them, if you are not left-handed, in your left hand, and then you will aim to feel, in an uninterrupted flux, the subtle sublime energy of the appropriate godly attribute, with which the respective gift was originally charged for you. This will be significant, and you can be sure that it will be much more than nothing in benefiting you.

Group practice by initiated students is even more effective, as collective energies are mobilized, creating what in the Western esoteric tradition is known as *egregore*.

You can even operate in a group, when you attract and accumulate the subtle sublime energy of a certain godly attribute into your aura. It is worth taking into consideration that, when you operate in this way in a group where there are several people, the power of such an invocation grows to a surprising degree, and in this way you are benefiting from the effects of the phenomenon of occult multiplication.

It is welcome for you to realize that, by choosing to act in this way in a group, you combine the usefulness of spiritual transformation that is accelerated with the ineffable pleasure of accumulating the subtle sublime energy of a certain godly attribute into your aura. In so doing, you resort in an obvious way to a beneficial form of esoteric prophylaxis, which will not remain without consequences.

Bivolaru teaches that there are precious consequences in creating an *egregore* of like-minded practitioners of esoteric blessings, but there are also extremely negative occult consequences in abandoning ourselves to the fear and lethargy

that prevailed in many households during the COVID-19 quarantine. “By acting in this dumb way, you are triggering in a sure and fatal way, a process of occult resonance with the mysterious invisible world of all of those who have become sick.” On the contrary, the collective “heroism, enthusiasm, and optimism” during the pandemic may be directly channelled “into your aura, into your inner universe,” and are “directly proportional with the capture of these subtle sublime energies, of these godly attributes that I have mentioned, that accumulate in your aura.”

Ultimately, these occult principles also contribute to explain why some are infected by the virus and some are not, and why some develop serious and some milder symptoms, as

the specific nature of every human being has what one may call an appropriate field, and this field causes every human to be affected by a certain illness in an appropriate manner. The occurrence and exacerbation of a particular disease occur in an occult manner.

The “occult manner” in which somebody reacts to a pathogen may be “most often suspected to include the karma of that human being.” However,

even in the case of an unfavourable, harmful, inauspicious, bad karma, when a human being who confronts such a karma mobilises strongly in an attentive, systematic, appropriate, enthusiastic, and persevering manner, even then, in spite of bad karma, such a human being can nevertheless fully heal.

Bivolaru does not teach that being a MISA student automatically protects from infections. In an epidemic, an “emergency esoteric prophylaxis” is needed, which implies the creation of an “energetic sphere of protection.” Bivolaru recommends some specific techniques, based on colors, crystals, and yoga. Colors play a key role in prophylaxis.

Those of you who have Zepter chromotherapy devices, you will be able to perform simple chromotherapy sessions by allowing or leaving the respective device focused on your body when you are sleeping, and you will use the yellow filter one day, the green filter the next day, and on the next day the orange filter. And you will repeat this in the same order.

Zepter is a Swiss-based multinational company founded by Serbian entrepreneur Philip Zepter (b. 1950), which started by selling home products such as cookware and tableware accessories, but then carved a successful niche in the alternative medicine market with its light therapy and chromotherapy devices.

Bivolaru details which colors, and in which sequence, should be used in the emergency esoteric prophylaxis.

When you are facing a strange inner state, you will be able to successfully use the set of colors to enter through an appropriate visualization, in communion with certain colored subtle streams. We suggest to you in this regard to use the yellow-colored subtle current, the violet-colored subtle current, the green-colored subtle current, the orange-colored subtle current, and the pink-colored subtle current.

Crystals are also mobilized.

Those of you who have certain appropriate crystals, you can place them in the left hand and, if you are not left-handed, then you will aim to feel, in an uninterrupted flux, the specific beneficial subtle energy of the respective crystal. In that context, you will feel how the subtle energy that you are capturing by means of the respective crystal accumulates into your aura, and gives you an inner state that corresponds to the structure of that crystal.

However, when you need “to burn and annihilate a possible karma that might predispose you to be contaminated with the COVID-19 virus,” Bivolaru believes that advanced yogic practices are necessary. He recommends *laya yoga*, an expression that is often regarded as synonymous of *kundalini yoga*, although in fact, as Georg Feuerstein (1947–2012) noted, “*kundalini yoga*” is a comparatively recent label, while “*laya yoga*” indicates a more specific and ancient Tantric practice (Feuerstein 2011, 70–1). *Laya yoga* aims at liberation from karma, by reabsorbing the five gross elements (*mahābhūta*) that are present both in the universe in the human body, i.e. ether (*ākāśa*), air (*vāyu*), fire (*tejas*), water (*ap*), and earth (*prthivī*), into their divine matrix. *Laya yoga* includes the chant of the *bija mantras*, also known as “seed mantras,” believed to resonate at seven different frequencies connected with the seven chakras.

The *ajna chakra* is the sixth chakra, and is supposed to be located in the center of the forehead, which is believed to be the location of the invisible “third eye.” Its *bija mantra* is AUM or OM, the primordial sound of the world in the Hindu tradition. Bivolaru suggests that,

you perform *laya yoga* with the AUM *bija mantra* 30 minutes a day, and you will be able to focus your attention firmly at the level of the subtle center of force *ajna chakra*. By acting in this way, by doing *laya yoga* and by emitting silently within the AUM *bija mantra*, you can be sure in anticipation that you are burning and annihilating a possible karma that might predispose you to be contaminated by means of the COVID-19 virus. By acting in this way, you will feel at the same time in the microcosm of your being, a strong state of elevated, euphoric, and indescribable safety.

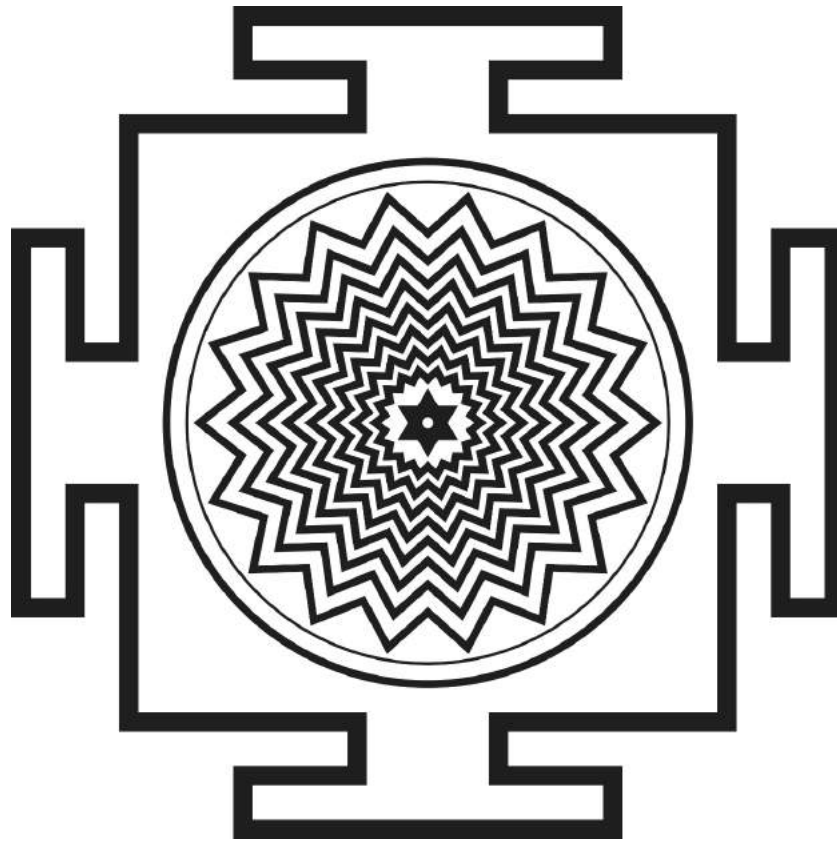


Figure 1. Yantra “The Star of Shiva.”

Also, on the same line of energizing one’s *ajna chakra*, the Tantric tradition recommends *tratakam* meditation, performed by focusing on a single point or on a yantra, or diagram painting. Artists associated with MISA such as Ines Honfi often produce yantras, and believe that during meditation our mind slowly takes the form of these diagrams (see Introvigne 2017b, 6). During the COVID-19 emergency, Bivolaru suggested

to do for a minimum of 2 times at home *tratakam*, both with the yantra named the Star of Shiva and with the yantra of the Great Cosmic Power Tara. When we choose to perform *tratakam* with one of these yantras, it is important to simultaneously feel an ineffable state of supernatural spiritual communion with the immense force sphere of Shiva, or with the macrocosmic force sphere of Tara.

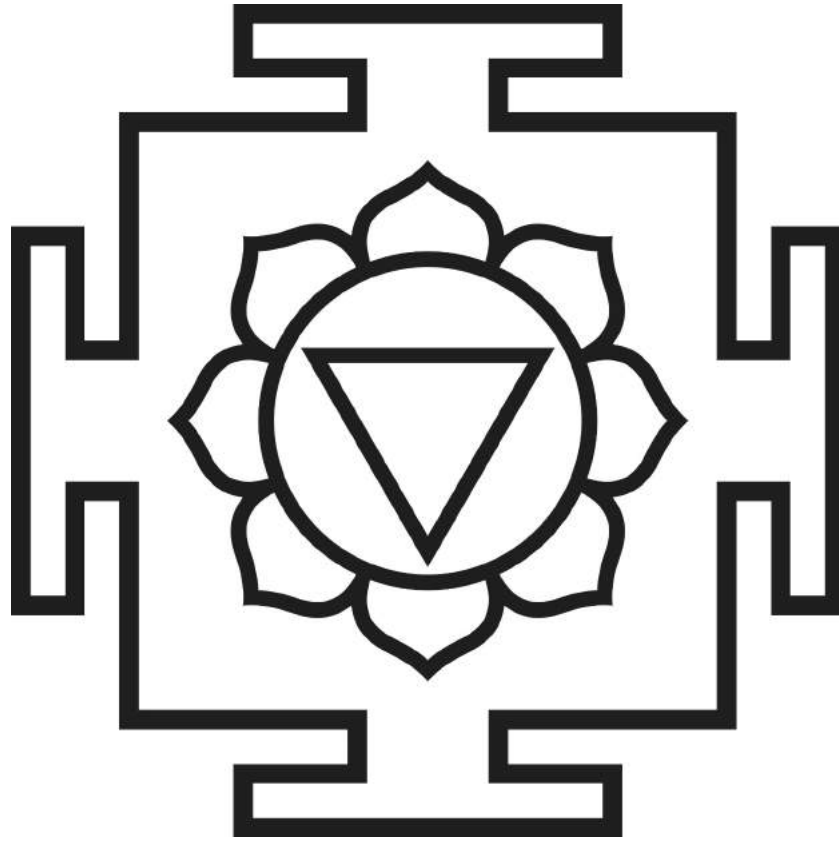


Figure 2. Yantra of the Great Cosmic Power Tara.

Students of MISA initiated in the *bija mantra* practice may also supplement the exercise focusing on the *ajna chakra* with one concentrating on the *manipura chakra*, the third chakra, believed to be located above the navel and in the solar plexus, whose *bija mantra* is RAM. Bivolaru recommends

to those of you who already have the initiation in the *bija mantra* for the dynamizing of the subtle force center *manipura chakra* to perform *laya yoga* for 30 minutes on a daily basis with this *bija mantra*. In this way, you protect in a spiritual manner your being and your body, and you avoid a possible contamination with the COVID-19 virus.

The *manipura chakra* is also associated with fever. According to Bivolaru, one common mistake of those relying on “mainline” medicine is to immediately react to fever by assuming drugs aimed at reducing the body temperature. In fact,

when it is considered from an esoteric perspective, it can be said, rightfully speaking, that the state of fever highlights the dynamizing in the microcosm of the human being of a process of occult energy with the subtle energy of fire, called in the Sanskrit language TEJAS TATTVA, which is in connection to the subtle center of force MANIPURA CHAKRA.

Fever can thus be eminently beneficial, just as inducing abundant perspiration through saunas is useful, although Bivolaru cautions that medical intervention is appropriate in case of extremely high temperatures, and that dehydration should be fought through “water blessed 21 times.”

Conclusion

In an article published in 2006, Brian Hughes criticized the theories explaining the popularity of alternative therapies through “a popular deconstruction of the hegemony of biomedical science, and a counter-cultural onslaught against modernist, technologically focused construction of progress.” In fact, Hughes argued, engagement with therapies “is frequently based on heuristic reasoning rather than logical rationalism” (Hughes 2006, 550). Hughes’ theory is that there is a constant demand for “mysticism.” In modern Western societies, some have noted “a decline in the social acceptance of other mystical belief practices, such as the observance of formal religions” (Hughes 2006, 551). Hughes was aware that, already in 2006, theories of secularization were increasingly criticized. However, he examined data about Ireland to conclude that there is some empirical evidence that “CAM [complementary and alternative medicines] usage is greater where religious observance is lower” (Hughes 2006, 553).

Hughes’ article criticized derogatory explanations of the success of alternative therapies that “have pointed less than flattering fingers at decreasing popular understanding of and respect for science, an increasing level of popular neurosis, or a mass failure of rational thought and critical judgment on the part of the population” (Hughes 2006, 550). In his opinion, rather than a cheaper and less effective alternative to science, CAM are an effective alternative to mainline religion.

My research on MISA and COVID-19 both confirms and calls into question Hughes’ theory. By adopting Hughes’ terminology, one can qualify Bivolaru’s approach to prophylaxis as a form of (esoteric) mysticism. Bivolaru himself would, however, probably argue that any such analysis is inherently dualistic, and based on the presupposition that “mysticism” and bodily health are separate fields, while it is precisely this assumption that MISA’s non-dualistic system intends to challenge.

Some of the practices recommended by Bivolaru for the COVID-19 crisis, including meditation in front of yantras, the use of mantras, and blessings, are clearly part of esotericism and spirituality. They belong to a domain where there is little interaction, and as a consequence little opportunity for conflict, with what he calls mainline or “allopathic” science. On the other hand, herbal remedies and Bivolaru’s view of prophylaxis do enter into, or at least come dangerously close, to the field that modern medicine has claimed at its own. Bivolaru does not shy away from the confrontation, but claims that the contradictions are due to the fact that modern medicine has lost its soul, becoming a Rabelaisian *science sans conscience*. MISA also insists that its prophylaxis was effective, and that this is proved by the fact that none of the yogis in the movement nor their friends got infected.

Ultimately, solving the contradiction matters, both for getting saved from COVID-19 and for saving our souls. For this, both allopathic and herbal remedies are not sufficient, although the latter are introduced as more effective than the former, and we are called by MISA to resolutely enter the path of esotericism and initiation.

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Abusus Non Tollit Usum? Korea's Legal Response to Coronavirus
and the Shincheonji Church of Jesus

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ABSTRACT: The legislative framework crafted by the Korean government in response to the MERS outbreak in 2015 informed its approach when COVID-19 appeared on its territory. This framework conferred broad powers upon the authorities to react promptly and effectively to the pandemic as it developed. However, the relevant legislation suffered for a lack of human rights safeguards, and was ultimately rather opportunistically employed by the government to target an unpopular religious community, raising questions about Korea's commitment to the rule of law and human rights standards.

KEYWORDS: Shincheonji, Lee Man Hee, COVID-19 Epidemics in South Korea, COVID-19 and Religion, COVID-19 and Churches in South Korea.

Introduction

The year 2020 presented the 21st century world with an unprecedented global crisis. The COVID-19 pandemic spread rapidly around the globe, presenting all but the most isolated states and territories with a need to craft direct and effective responses to an as-yet incurable virus with no known vaccine. For scholars in many disciplines, the crisis represented an opportunity to reflect upon the respective approaches adopted by governments to curtail and control the virus. For legal scholars, in particular, any examination tends to be focused around derogations of legal and constitutional protections against executive power, deployed in the name of public health. Such an analysis reveals both common features and divergences, in terms of both the responses adopted and their effectiveness. Throughout the world, citizens have been obliged to submit to

restrictions upon their liberty to circulate freely (“stay at home orders”), to travel, and to engage in economic activity. Beyond this, new police powers and increased surveillance have been used, often without normal levels of legislative or judicial scrutiny, as state organs are hamstrung by the lockdown, and as the focus of media tends to be elsewhere.

Despite these common trends, the toll of the novel coronavirus on the protection of rights and liberties in individual countries has been anything but uniform. This is due not least to the fact that, even amongst democracies, states are differently constituted, prize some values more than others, and deal with crises differently. While firm categorizations may be difficult, some broad observations may be made. A *Verfassungsblog* symposium led by the COVID-DEM project in May of this year proposed four distinct categories of democratic response to the pandemic, namely: (a) effective rationalists; (b) constrained rationalists; (c) autocratic opportunists; and (d) fantasists (Daly 2020).

Tom Daly, summing up the symposium, proposed that a global study of 62 regimes had shown that effective rationalist regimes had

effectively addressed the pandemic through rational policy based on fact, acted within the constraints of the law, and placed clear limitations on emergency actions to preserve maximal democratic functioning,

noting that these states

have benefited from their starting position of high-quality democratic governance, high state capacity, and the economic ability to assist individuals negatively affected by emergency measures (Daly 2020).

Constrained rationalist regimes had also acted in the same vein, reacting in a broadly rational manner based on the rule of law, while being constrained in their policy choices due to poverty and a lack of resources.

These two categories were contrasted with autocratic opportunists and fantasists. Autocratic opportunists were defined as

states where democratic decay has been proceeding apace for years and governments, while seemingly recognizing the reality of the threat, have pounced on the crisis to further consolidate and expand their power,

while fantasists included

governments whose response has been impeded and distorted by partial or full denial of the facts presented by recognized experts, and engagement in conspiracy theories (e.g. that the pandemic is a Chinese bioweapon) (Daly 2020).

This included pandemic denial, while both the third and fourth categories were cast as representing extreme examples of what Sophia Rosenfeld calls “antitruth governance,” based on “indifference to the boundaries between truth and falsehood,” and on the rejection of discrete and respected scientific expertise (Rosenfeld 2018).

The separation between the first and second (“good”) categories and the third and fourth (“bad”) categories is largely one based on the honesty of efforts to take the pandemic seriously, and to meet the challenges arising from it to the best of the state in question’s abilities. Hungary’s use of COVID-19 as a Trojan horse for a power grab by Prime Minister Victor Orbán is presented as the autocratic opportunist model *par excellence*, while Brazil, Poland, and the United States are cast into the fantasist camp, relying on distorted official narratives and undermining the best scientific evidence for the respective administrations’ political ends. Both groups opportunistically employed the pandemic, albeit in different ways.

Per Daly—and indeed, the tenor of the entire *Verfassungsblog* symposium—this is to be contrasted with the two rationalist groups, whose commitment to the rule of law involved making an honest effort to meet the challenges raised by the virus:

In many states, the pandemic has simply laid bare the true nature of the political system. Where commitment to good governance and the rule of law endures, it has been reflected in the action taken (Daly, 2020).

Amongst the regimes to attract praise were South Africa (despite resource limitations), New Zealand, and the Republic of Korea (South Korea: hereinafter, Korea), with the latter lauded for having “flattened the curve primarily through contact tracing and successfully held national elections on 15 April—the first country to do so” (Daly 2020).

Efforts to examine legal responses to COVID-19 are useful, demonstrating as they do that the virus itself is not the sole danger. Rather, an additional peril may arise from the abuse of emergency powers or other responses designed to deal with a developing crisis (Ferejohn and Paquino 2004). It is well known that sudden and widespread crises have, in the past—and not infrequently—been

used to enact extraordinary legal measures in the name of national security, public health, or other reasons (Feinberg 2016). Such measures often entail grave consequences for human rights protection, and are sometimes difficult to roll back once the crisis is over. As such, the identification of best practices, or good examples, is particularly valuable, as a means of insulating against future crises.

That Korea had been identified as one of the success stories in terms of its response to the outbreak of COVID-19 is hardly a surprise (White 2020). A rigorous system of contact tracing and multiple government interventions helped to keep the transmission rate relatively low. The government quickly identified the importance of preventive measures, early diagnostics, and a centralized control system (Oh 2020).

In addition, as distinct from many other countries, Korea was well prepared for the outbreak. The government had learned lessons from the comparatively recent outbreak of Middle East Respiratory Syndrome (MERS) in 2015, where Korea was the worst hit state outside the Middle East (Lee 2015). The lessons learned from the MERS outbreak led to significant legislative reform, and bespoke legislation to deal with future outbreaks, which was invoked in the wake of COVID-19, and which crucially rendered it unnecessary to declare a state of emergency (Kim B. 2020).

However, as shall be explained, the superficial veneer of Korea's success story obscures a troubling appendix. Many confirmed cases of the novel coronavirus have been officially linked to an already marginalized religious minority, and the Korean authorities' actions in relation to its members—and more recently, its leader—raise difficult questions concerning Korea's compliance with an assortment of international human rights norms, its own constitution, and whether the response of the authorities in fact belongs in the “effective rationalist” category at all.

Learning from MERS

Korea experienced its first confirmed MERS infection in May of 2015. Directly thereafter, the Ministry of Health and other official organs undertook a range of public health protection measures, including several that were not

officially sanctioned by legislation (Kim 2017). The law that was then in force was seen as not being fit for purpose, as it failed to grant effective enforcement powers for mass public health measures to either the central or the regional authorities. As such, the authorities justified their response as doing what was necessary in the circumstances (Park 2017).

However, given that no legislation existed to guide the response, it was up to policy makers to determine how to proceed on an *ad hoc* basis. This resulted in a response characterized by a culture of secrecy, in the interest, *inter alia*, of the right to privacy of those infected as well as the prevention of public panic. The Health Ministry withheld details concerning the locations of infected individuals from the public, on the grounds that identifying the medical institution treating MERS patients might cause unnecessary anxiety to other patients (Shin 2015; Lim 2015; Bae 2015).

However, this approach was deeply unpopular, and resulted in local authorities—including hospitals and municipalities—being uninformed or underinformed about the risks they were facing from infected individuals in their locality, as well as ultimately spreading the virus further (Chowell et al. 2015, 210). Moreover, the government's approach to the outbreak was inconsistent over time, with policies changing in response to public outcry. This did not give the impression of a state led by persons with a firm hand on the tiller.

Anxious to avoid a repeat of the mistakes made in response to MERS, the government engaged in a stocktaking exercise after infections subsided, eager to be better prepared for the next infectious disease (Lee and Ki 2015, 706). A number of core issues to be addressed were identified, including inter-institutional cooperation. In order to deal with issues around communication, overlapping competences, and effective responses, it was decided that a new legal regime for the management of infectious disease outbreaks should be implemented. The main plank of this reformed legal structure was the Infectious Disease Control and Prevention Act (IDCPA), which came into force in 2016.

The IDCPA is a comprehensive legislative enactment, aiming to provide for a firm, overarching framework concerning measures that may be taken by the authorities in the event of an infectious disease outbreak. It represents *lex specialis*, therefore derogating from certain general provisions of Korean law (for example the Data Protection Act), but as ordinary legislation, is to be interpreted

and applied in accordance with the fundamental rights provisions of Korea's Constitution. This is an important consideration. Past examples from around the globe have shown that failure to guarantee fundamental rights in the face of emergencies can result in the scapegoating of unpopular minorities as a means of avoiding pointing the finger of blame at the authorities.

In addition, the public panic accompanying moments of national crisis can often mean that governmental responses thereto escape the usual scrutiny, giving public powers a freer hand to act against their enemies. The example *par excellence* is the 1933 *Ermächtigungsgesetz*, enacted by the Nazi regime, ostensibly in reaction to the arson of the *Reichstag*, allegedly by a Dutch Communist agitator (Schneider 1955). As noted, responding to COVID-19 has also provided some governments with an opportunity to seize additional powers, increasing the risk that minorities—including religious groups—may find themselves marginalized and ostracized.

An Uncoordinated Comparator: The Indian Example

The risks arising from an uncoordinated approach to COVID-19 have proven deeply problematic for religious communities in other states. India provides a prime example of a state in which case the virus outbreak resulted in increased discrimination against a particular religious group, namely the Muslim community. Members of the Muslim minority had gathered in confined places to pray together in close proximity, sharing food and socializing (Subramaniam 2020).

In India, the gathering of the Islamic group Tablighi Jamaat provided the starting point for discriminatory behavior within the Corona crisis. An outbreak was linked to a festival held by this group in Delhi, which included visitors from several other countries, including Thailand, Indonesia, and Sri Lanka, who visited India for the event, and then left India again (Subramaniam 2020). Muslim groups in India had been targeted well before the Corona crisis started, and bore the brunt of majoritarian prejudices (Kapila 2020). However, in India, this had been backed by official action. The government of Narendra Modi has pursued an agenda of promoting Hindu nationalism since 2014. This has involved repeated targeting of the Muslim minority in the country (Bajoria 2020). A prominent example of this is the Citizenship (Amendment) Act of 2019, which rendered

religion a relevant factor for the granting of citizenship (Bajoria 2020). The Act provided a right to attain citizenship for all non-Muslim irregular migrants present in India, though not for Muslims, thus directly discriminating on religious grounds (Human Rights Watch 2019).

The government of India has overtly and repeatedly linked the rapid spread of COVID-19 to minority religious groups. In India, claims were made that the Tablighi Jamaat was in the process of waging a “Corona Jihad” (Kapila 2020). Kapil Mishra, a member of the ruling Hindu nationalist Bharatiya Janata Party (BJP), claimed that “Tablighi Jamaat people have begun spitting on the doctors and other health workers. It’s clear, their aim is to infect as many people as possible with coronavirus and kill them” (Ellis-Petersen and Rahman 2020). Indian media went a step further, claiming that the Muslims, and not only the Tablighi Jamaat, were deliberately aiming to spread the virus across the country (Ellis-Petersen and Rahman 2020). Muslims were accused of spitting on food and infecting water supplies with the virus, being branded “corona terrorists,” an impression the government did little to dispel (Ellis-Petersen and Rahman 2020).

In addition, the machinery of the State was employed to menace leaders of the community via the criminal justice system. In India, Maulana Saad, the leader of the Tablighi Jamaat, was charged with breaking the Epidemic Diseases Act for not observing the social distancing recommendations of by the Government (Prasad 2020), and with culpable homicide and negligence (Krishnan 2020). The police in Maharashtra filed cases against more than 200 members of the group (*The Japan Times* 2020).

The public reaction in India was predictably extreme. Examples of excesses by members of the public and officials abound. An imam was stopped on his scooter by a police officer who assaulted him, and accused him of spreading the virus (Regan, Sur, and Sud 2020). Some Muslims were denied medical care (Slater and Masih 2020). The privately-run Valentis Cancer Hospital in Uttar Pradesh published an advertisement stating that any Muslim desiring treatment must prove beforehand that he or she was free from COVID-19 (Naqvi and Trivedi 2020). Other hospitals have separated their patients into Hindus and Muslims (Yashoda 2020). Certain villages have denied access to Muslims, and warned that if any Hindu were found to be fraternizing with a Muslim, they would be fined 500 to 1,000 rupees (Ellis-Petersen and Rahman 2020).

Korea's Coronavirus Response: A Legal Framework Fit for Purpose?

On the face of it, as noted, Korea's Constitutional framework, as well as its commitment to the rule of law, its adherence to international human rights treaties, but in particular, its bespoke legislation, gave good grounds to assume that a proportionate, evidence-based response to COVID-19 would be deployed, and rendered the position of marginalized minority groups much safer than in a context like that of India. However, the reality as it transpired did not reflect this supposition. In order to explain why this was the case, it is necessary to examine in detail the framework itself.

Korea's 1948 Constitution was substantially revised in 1987, in order to strengthen the protections for democracy and the rule of law; this was accompanied by several legislative enactments covering human rights (West and Baker 1988, 135). The Constitution now contains a number of provisions covering human rights. Specifically, the right to freedom of religion is protected under Article 20, which also provides for the separation of church and state, and proscribes the recognition of a single national creed. Further, Article 11 proscribes any discrimination based on a citizen's religious belief.

In tandem, Korea has progressively increased its level of international human rights protection, having ratified seven significant human rights treaties: the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol, the International Covenant on Civil and Political Rights (ICCPR) and its Optional Protocol, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and the Convention on the Rights of Persons with Disabilities (CRPD) (Lee 2017, 96). The overall impression, then, is one of a state that is deeply concerned with the protection of human rights on its territory.

It is into this framework that the IDCPA was inserted. The IDCPA was essentially a technical enactment, having little enough, on the face of it, to do with human rights, but rather representing a *modus operandi* of effectively dealing with any outbreaks of infectious diseases that might occur in the future. However, in reality, its impact upon the rights of one particular religious community was

considerable, owing chiefly to the flexibility that formed part of its legislative design. Article 76-2 of the IDCPA grants the Ministry of Health and the Director of the Korean Center for Disease Control (KCDC) legal authority to collect personal data, without a warrant, from those already infected and from potential patients. Article 76-2(1) enables the authorities to require “medical institutions, pharmacies, corporations, organizations, and individuals” to provide “information concerning patients [...] and persons likely to be infected.”

Article 76-2(4) also expressly mandates private telecommunications companies, as well as the National Police Agency to share the “location information of patients [...] and [of] persons likely to be infected” with health authorities, upon request. It should also be noted that no criteria were provided for identifying persons “likely to be infected” through contact tracing or otherwise, thus giving the authorities significant discretion in this regard. In addition, per Article 76, upon request, both public and private actors were obliged to surrender, *inter alia*: (a) personal information, such as names, resident registration numbers, addresses, and telephone numbers; (b) prescriptions and records of medical treatment; (c) records of immigration control; and (d) other information for monitoring the movement of patients with infectious diseases.

Again, the category of “other information” was left undefined, to be determined on an *ad hoc* basis via presidential decrees. These provisions ensured that the ambit of the material that might be suggested by the authorities was extremely broad. While the Data Protection Act continued to apply to the extent that it did not conflict with the IDCPA, the only significant protections afforded in this regard were that individuals placed under surveillance should be notified, and that information gathered should be destroyed when the “relevant tasks have been completed,” though the means by which such information can be effectively destroyed was not prescribed.

In addition to Article 76, several provisions of Articles 6 and 34(2) are also highly relevant. These were drafted as a result of the public perception that the response to the 2015 outbreak was overly secretive. Articles 6 and 34(2) invoke the public “right to know,” requiring the Ministry of Health to “promptly disclose information” to the public about the “movement paths, transportation means [...] [and] contacts of patients of the infectious disease.” These articles, read together, constitute another significant incursion into the private lives of infected persons and of those with whom they had contact (Jo 2020).

The IDCPA also provides the government with a variety of legal means to impose physical restrictions upon individuals during a pandemic or similar outbreak. Article 47(1) empowers authorities to shut down any location “recognized (or confirmed) to have been infected,” without stipulating any test for contamination. Article 49(1)(2) further permits the “restrict[ion] or prohibit[ion of] performances, assemblies, religious ceremonies, or any other large gathering of people.”

While it is clear that the framework proposed by the IDCPA answers many of the objections that may have been levelled against the previous response to MERS, prioritizing as it does transparency and the protection of public health vis-à-vis data protection and personal privacy, some objections might be levelled against it. Most obviously, the categories described are broad, key terms are left undefined, and the entire IDCPA, read together, suffers for a lack of legal certainty. This entailed that it could be applied in a number of different ways in practice, as was to become apparent during the novel coronavirus outbreak of 2020, with problematic results.

Applying the IDCPA and the Shincheonji Church of Jesus

The vague definitions and broad terminology of the IDCPA were to prove significant in the context of the COVID-19 pandemic, which spread to Korea in early 2020, with the first confirmed case being announced on January 20. Preparations for the management of a fresh epidemic began as early as November 2019, however, adding to the impression of a country that was well prepared to weather the gathering storm (Khatouki, 2020). In mid-February, President Moon declared that he was confident that “the situation [would] almost disappear” (Khatouki 2020), and urged people not to succumb to “excessive fear and anxiety [that would make] it more difficult for the economy” (Do 2020).

However, the positive outlook was to change. On February 16, 2020, a 61-year-old woman, “Patient 31,” entered a building belonging to the Shincheonji Church of Jesus (SCJ) in Daegu, and joined a ceremony with approximately 1,000 other church members. She left several hours later, having apparently scattered pathogens around the building, which was later identified by the Korean authorities as having triggered one of the largest COVID-19 outbreaks in the world (Thompson 2020).

The SCJ, a Christian group with approximately 320,000 members (KOSIS 2017), is part of the so-called Christian new religious movements in Korea. New religions are especially popular there, particularly since the end of the Korean War (Pokorny 2018, 243–44). Other movements within this group, however, have larger membership bases (Barker 2018; Pokorny 2018). The SCJ enjoys a disproportionately high profile, being unpopular with other religious congregations in particular, which resent its rapid growth at their expense, and which have endeavored to engender public hostility to the SCJ (International Institute for Religious Freedom 2020; see also Introvigne 2020). In response to the hostility that it has faced, the SCJ defended its position via recruitment and information campaigns. In tandem with this, a culture of increasing secrecy has developed, partly due to the fact that members of the SCJ face discrimination if “outed.” This secrecy has raised claims that those who join the SCJ may have been deceived (Introvigne 2020).

Prior to the identification of Patient 31, the SCJ took measures to inform its members concerning the risks associated with COVID-19, and preventive measures that might be undertaken. From February onwards, anyone who was at risk of being infected with the virus was prohibited from participating in church events. Despite this, Patient 31 attended several such events, and is assumed to have spread the disease to hundreds of SCJ members (Khatouki 2020).

By February 20, 53 of those who had attended the SCJ ceremony in Daegu, or family members of attendees, had been infected with the virus. Three days later, this figure had risen to 300, representing over 50% of cases in Korea, though with virtually no spread outside the city of Daegu (*The New York Times* 2020). By March 8, the KCDC announced that 79.4% of confirmed COVID-19 cases were related to group infections, and that the outbreak associated with SCJ totaled 4,482 infections, or 62.8% of all confirmed cases in Korea (Bahk 2020). As of July 21, the proportion of the total cases associated with the SCJ had dropped to 37%, though the proportion was still notably high (Korean Centre for Disease Control 2020a). However, as time went on, the origin of the confirmed cases around Korea became more diversified, with a progressively lower proportion being linked to the SCJ (Kang 2020, 168–70).

In mid-February, President Moon called for a full survey and examination of all members of SCJ (Choi 2020). In response, the Prime Minister instructed the KCDC to test the entire SCJ community (*Yonhap News Agency* 2020b). He

vowed that all members of the Church would be “found and tested” (Kim S. 2020). The implication seemed to be that the church’s leadership was attempting to hamper such activities. SCJ members were thus interviewed and tested, regardless of whether they had come into contact with the virus, or were even in Korea at the time. This policy was not applied to other groups at the source of outbreaks in the country.

The differential treatment of the SCJ was exacerbated by the media, which cited a culture of secrecy as thwarting the efforts of the KCDC (Rachid 2020). On March 3, SCJ Chairman Lee Man Hee publicly apologized for the church’s role in the outbreak, and called for an end to the “stigmatization, hatred and slander” of its followers (Shin and Park 2020). However, no such reprieve was to be granted. Rather, it was clear that the connection between the SCJ and the COVID-19 pandemic was providing ample ammunition for those opposed to the Church and its interests. The SCJ was repeatedly cast as having provided false lists of members to the government (Khatouki 2020). Other false and increasingly wild rumors were also propagated (Khatouki 2020).

Just as the media added fuel to the government’s fire, official action was, in turn, cast as responding to the outrages reported by the media. The KCDC issued repeated press releases explicitly linking the SCJ to the outbreak in statistical terms, using a separate column for SCJ-linked cases of coronavirus, thereby contributing to the impression that the SCJ should continue to be seen as an independent originator of the virus. The same treatment was not applied to other groups. Patient 31 was often referred to as a “superspreader” (Korean Centre for Disease Control 2020b). The KCDC called the SCJ a “cult” in an official report that led world news to employ the same term (Down to Earth 2020). This led to increased marginalization.

In March, Seoul Mayor, the late Park Won-soon (1956–2020), announced a lawsuit against 12 SCJ leaders “for murder, injury, and violation of prevention and management of infectious diseases” (Mahbubani 2020) “through willful negligence” (Choe 2020). He also threatened to revoke the SCJ’s operating license, while the central government closed SCJ facilities (Choe 2020). In late February, a petition to President Moon urging the disbandment of the SCJ attracted over 750,000 signatures, most of them from fundamentalist Christian groups (Kim T. 2020). In response, the Korean Government admitted that it was not within its powers to ban a church, but the National Tax Service immediately

started investigating the SCJ (Yonhap 2020a). On February 25, SCJ headquarters in Gwacheon, Gyeonggi Province, was raided (Jun 2020). Lee Jae-myung, the Governor of Gyeonggi Province, and member of the ruling Democratic Party, who led the raid, pronounced that “this is a state of war,” with the SCJ clearly identified as the enemy (Rachid 2020).

On June 22, the City of Daegu began the process of suing the SCJ for damages on the grounds of allegedly hindering lockdown efforts and causing thousands of additional infections, demanding 100 billion won, or two-thirds of the coronavirus-related spending of the city (Perper 2020). On July 8, Suwon District Court issued a warrant for the arrest of three SCJ officials on charges of obstructing justice and inciting the destruction of evidence (*Yonhap News Agency* 2020c). These individuals were accused of providing health authorities with erroneous information and documentation regarding the number of SCJ followers and the venues of past gatherings. Further prosecutions occurred, in turn, on grounds of allegedly concealing information concerning a limited number of church members (*Teller Report* 2020).

While the SCJ was facing continued attacks from both the media and the central government, other churches had also been linked to outbreaks of COVID-19 in Korea. These included the Wangsung Presbyterian Church (WPC), though as a much smaller congregation, it attracted less attention (Yonhap 2020b). However, further clusters were identified around the Anyang Jesus Younggwang Church, the Ilgok Central Church, the River of Grace Community Church in Seongnam, the Manmim Central Church, and the Gwangneuksa Temple in Gwangju (Korean Centre for Disease Control 2020b). The response of the Korean administration to these outbreaks was distinctly different from that which had been meted out to the SCJ. The KCDC recommended a generalized framework of preventive measures applicable to *all* religious facilities, without specifying or taking measures against any individual congregation. These included contactless events, directions on how to move towards online activities, social distancing, and avoiding activities such as singing, chanting, and shouting that may be prone to move respiratory droplets through the air (Korean Centre for Disease Control 2020b).

From an epidemiological perspective, the situation as it had evolved by July, involving multiple clusters, was and is far less controllable and potentially more disconcerting than when infections originated in a single cluster (involving the

SCJ) (Lee and Bak 2020). Despite this, as noted, none of the churches involved was subjected to individualized measures on the part of the government attacks by the media, as the SCJ had been in the first wave, although some of their practices appear *prima facie* significantly more controversial than those of SCJ, particularly several months into the epidemic (Park 2020). For example, in March, at the River of Grace Church in Sungnam City, the wife of its leading pastor sprayed salt water into the mouths of followers in the belief that this would prevent the spread of the virus (Park 2020). Many other Protestant churches refused to close their doors and move worship online, sparking some public criticism, but nothing more (*Yonhap News Agency* 2020a), with the exception of the Sarang Jeil Church, whose leader is a well-known opponent of President Moon, and whose prosecution for COVID-19-related violations has just started at the time of this writing.

Abusus non Tollit Usum? Assessing Korea's Interaction with the SCJ in Light of its Human Rights Commitments

The treatment of the SCJ by the Korean authorities—at local, municipal, regional, and central level—raises two *prima facie* concerns. The first pertains to the differential treatment of members of the SCJ *vis-à-vis* members of other religious congregations in Korea. This raises questions of (non-)discrimination. The second concern relates to the measures employed in relation to the SCJ, and whether they were actually fit for purpose in order to contain the spread of the pandemic, or whether less restrictive and invasive measures could have served the same purpose. This raises questions of *proportionality*.

Non-discrimination and proportionality are important obligations, incumbent upon states by virtue of international human rights law, including core treaties to which Korea is a party. These same treaties allowed for Korea to issue notifications concerning unilateral derogations from certain human rights norms in circumstances in which the state's government deemed there to be a state of emergency threatening the life of the nation. In the event, over 20 states have submitted notifications to the United Nations, the Organization of American States, or the Council of Europe concerning unilateral derogations from some of their treaty obligations under the ICCPR (Article 4), and two regional human rights treaties, the ACHR (Article 27) and the ECHR (Article 15). However,

Korea did not find it necessary to do so, as it was well legislatively prepared (via the IDCPA) to tackle the crisis. The government further explicitly argued that the situation did not meet the requirements of the Korean Constitution for the issuance of an emergency order (Lee 2020). This entailed that the government was convinced that it could tackle the COVID-19 situation with no substantial derogation to human rights norms, even when legal tools were at its disposal allowing it to derogate, in a limited manner, from such norms.

Despite the *de iure* analysis above, as noted, the *de facto* employment of the legislation in question raises concerns. Although, quite clearly, the Korean authorities had devised a legislative framework that allowed the principal purpose of the IDCPA to be achieved, namely curbing the pandemic (which was factually more successful in Korea than in many other countries), its negative side-effects were significant. The reasons for this have much to do with legislative design.

The IDCPA was conceived in 2015 to deal with an evolving, potentially uncertain, situation involving a future outbreak. Every infectious disease outbreak is different from the last. As such, any legislation aiming to prospectively deal with such outbreaks must fulfil a number of criteria. It must provide the authorities within the state with ample *authority* to take any measures necessary to contain the virus, hamper its spread, deal with infected persons, contact-trace possibly infected persons, and keep the public informed. In addition, it must provide *flexibility* to take account of the particular characteristics of the outbreak as it evolves.

This combination of broad powers (any measures necessary) and flexible working definitions explains much of the language of the IDCPA. Key definitions, such as persons “likely to be infected” (Article 76), are left undefined, as determining infection may be accomplished according to different criteria for different viruses. Similarly, the fact that the definition of the information that the public authorities may seize, and how they may use it, is not made clear. This is particularly relevant, given how quickly information technology is developing, insofar as an open category allows the IDCPA to keep pace with the steady march of technological advancement. However, such flexibility may also pave the road for abuse. Other provisions of the IDCPA also raise similar concerns. Allowing for search and seizure of personal data without judicial oversight may be necessary in a public health emergency, but it represents a very serious intrusion into the private lives of citizens.

Better legislative design can obviate such problems. For example, if search and seizure of personal data without judicial oversight is to be countenanced, such powers should be accompanied by sufficient safeguards, including the data minimization principle, storage limitation, integrity and confidentiality, accountability of the data controller, as well as lawfulness, fairness, and transparency—principles succinctly expressed by the European Union General Data Protection Regulation, which represents the gold standard in this domain. Moreover, an effective system of data protection oversight and judicial review must ultimately be available to injured citizens. However, the IDCPA does not espouse similar standards. Rather, the legislation, drafted in the name of efficiency and flexibility, leaves too much room for interpretation by the state authorities, allowing them to employ the Act in a manner contrary to the ICCPR and Korea's human rights obligations, and particularly the proportionality and non-discrimination principles.

The proportionality of actions by Korean state actors—at national, regional, and local level—against the SCJ must be assessed in light of the factual situation. It should be noted that, clearly, the SCJ is not directly and solely responsible for the epidemiological situation in Korea. The latter is highly volatile, and continues to evolve over time. Although the SCJ was, according to the KCDC, linked to approximately 60% of initial infections, by late July, it had been linked with around 35% of cases, and relatively few new cases. Further, *all* SCJ members were traced by the Korean authorities, regardless of whether they had contact with the Daegu cluster. It was not justified for a few dozen initial cases to lead to tracing hundreds of thousands SCJ members, including some outside Korea. In addition, the legislative framework did not provide sufficient guarantees for data protection, and the authorities effectively identified many SCJ members and made their details public, though this was not necessary to protect public health. On this basis, it is clear that the proportionality principle was not respected.

In addition, as noted previously, the non-discrimination principle was also breached by the action of the Korean authorities, as a significantly less restrictive approach was employed with regard to other congregations within Korea that were linked to outbreaks. This has persisted until today, with the KCDC's publications still distinguishing SCJ-linked cases from all other cases, despite new cases associated with the SCJ becoming progressively less statistically significant as time goes on.

Conclusion

On 31 July 2020, Lee Man Hee, Chairman of the SCJ, was arrested for allegedly hiding crucial information from authorities concerning the Church, and thereby contributing to the outbreak. At the time of writing, the case against him has yet to properly begin, and the weight of the evidence is unclear. However, arresting a church leader, let alone an 88-year-old one, for failing to co-operate with draconian measures undertaken on the basis of a broad and uncertain law seems, on the face of it, deeply suspect, and difficult to reconcile with Korea's avowed respect for human rights. It is also worth noting that no other religious leaders have been arrested (at the time of this writing), contributing to the impression that the legal framework is being employed in a manner contrary to the twin principles of proportionality and non-discrimination, and for the persecution of enemies of the political regime.

Responding to any emergency, including one pertaining to public health, involves compromises, which may include human rights implications. Officially declaring a state of emergency and notifying international institutions about derogations from certain human rights treaty obligations can tame emergency powers by making states justify measures taken on the basis of necessity, proportionality, exigency in the situation, temporality, and a commitment to human rights.

However, Korea chose to pursue a different course, which, on the face of it, seemed a good one. By framing the situation as within the bounds of normalcy, and using regular legislation, broad emergency measures were avoided. However, as shown by the IDCPA model, the flexibility needed to make such a model effective may still result in abuses, because pandemics are likely to require exceptional measures and some deviation from full enjoyment of all human rights by all citizens.

The temptation is to give the government space and time to fix the problems that may arise in a time of national crisis. However, democratic oversight mechanisms and human rights are not just fair-weather friends. They are, above all, important when no-one is looking, when people's attention is elsewhere. Legislative drafting must take into account the political temptation to use flexible legislation in a non-impartial manner in order to scapegoat and pursue one's enemies. History has repeatedly shown this to be a potential pitfall of such

enactments. The Korean example, and the IDCPA, are reminders that we should remain vigilant to such problems in the future.

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COVID-19: Treatment of Clusters in Protestant Churches and the Shincheonji Church in South Korea. A Comparative Study

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ABSTRACT: The treatment of the COVID-19 epidemic by the state of South Korea with regard to religious groups has revealed a strong bias to the detriment of the Shincheonji Church, a new rapidly expanding religious movement, and a more conciliatory treatment of Protestant churches. Shincheonji was met with stigmatization, deceptive and destructive rumors, demands of lists of all members and properties, unfounded suspicions, threats, fiscal harassment, prosecutions, spurious charges, and arrests and imprisonment of several leaders, including the founder. Excessive tolerance and impunity were shown towards several Protestant churches. This paper provides concrete facts and evidence highlighting the discriminatory treatment of Shincheonji, and analyzes the religious and socio-political dynamics underpinning the harassment of this new religious movement.

KEYWORDS: Shincheonji, Religion and COVID-19, Protestant Churches in South Korea, Lee Man Hee, Jeon Kwang-hoon, Sarang Jaecil Church, Prime Minister Chung Sye-kyun.

Introduction

Article 11 of South Korea's Constitution forbids any form of discrimination on account of religion, and states that "no privileged caste shall be recognized or ever established in any form." However, a White Paper released by the Center for Studies on New Religions (CESNUR) and Human Rights without Frontiers (HRWF) on July 24, 2020, titled *COVID-19: Scapegoating Shincheonji in South Korea* (Introvigne et al. 2020b) highlights various instances when this constitutional principle has been violated. One of them is the discriminatory treatment of a new religious movement, the Shincheonji Church (hereafter Shincheonji), in comparison to mainline Protestant Churches.

Shincheonji, which self-identifies as Christian, has been accused of the acceleration and expansion of the COVID-19 pandemic in South Korea by the media, state and city authorities, politicians, and fundamentalist Protestant Churches. This allegation surfaced when a so-called super-spreader, Patient 31, was identified as a member of Shincheonji in Daegu, a city of about 2.5 million inhabitants. CESNUR and HRWF published an initial White Paper in March 2020, titled *Shincheonji and Coronavirus in South Korea: Sorting Fact from Fiction* (Introvigne et al. 2020a), which systematically debunked myths concerning the moral and legal responsibility of that patient and her Church. This paper found that the reaction of the South Korean authorities was disproportionate, which included measures such as: closing all places of worship for Shincheonji, interrogating the 89-year old Shincheonji founder and leader for four hours before he collapsed, arresting several of the movement's leaders in July 2020, dissolving its legal corporations, confiscating and destroying property, carrying out a nation-wide tax audit of Shincheonji and its local branches, financially crippling the movement through multi-billion civil suits, and, finally, putting in pretrial detention Shincheonji's founder and leader after an extensive interrogation on the night of 31 July. Surprisingly, one person who has not been subjected to criminal proceedings is Patient 31, which confirms that she did not commit any crime.

On the other hand, numerous Protestant churches have disregarded government restrictions related to freedom of worship and assembly. However, they were not treated as harshly as Shincheonji. This paper will analyze the treatment of Protestant churches that refused to abide by the government's health restrictions, as compared to Shincheonji.

It is noteworthy that COVID-19 appeared in these churches about two months before the legislative elections in South Korea, which were scheduled for April 15. This political context played an important role in the government's dealings with Shincheonji, as well as the refusal by a number of Protestant churches to comply with restrictions regarding freedom of worship and assembly.

First, this paper will provide a short overview of proactive measures taken by several major religious organizations. This research demonstrates that Shincheonji was at the forefront of prevention efforts.

A Short Timeline of Proactive and Reactive Initiatives

25 and 28 January: Shincheonji issued orders forbidding members who had recently arrived from China to South Korea from participating in religious services (Introvigne et al. 2020a, 19: see *ibidem* for information about Shincheonji included in this timeline).

18 February: Shincheonji leaders ordered all of their centers in Daegu to close. They also recommended that all members avoid private gatherings and meetings, refrain from meeting each other socially, self-quarantine, and be tested for COVID-19 if symptoms appeared.

Later that same day, orders were issued by Shincheonji to close all its churches and mission centers throughout South Korea. Simultaneously, President Moon held a cabinet meeting and reiterated the need to return to normal daily lives (Office of the President 2020).

22 February: Shincheonji services abroad were also suspended.

25 February: The Jogye Order, the largest Buddhist movement in Korea, announced the suspension of services at its temples for a month (*Korea JoongAng Daily* 2020a).

26 February: All Shincheonji meetings, activities, or gatherings in all countries outside of South Korea also ceased.

26 February: The Catholic Archdiocese of Seoul announced that all 232 of its churches in Seoul, attended by some 1.52 million Christians, would cancel masses from February 26 until March 10 to prevent the spread of the coronavirus. This was the first cancellation of Catholic services there in 189 years. The religious services of the Myeongdong Cathedral were also to be suspended, but the main hall would remain open for visitors from 10am to 7pm (Kwak, Lee, and Kim 2020).

After Shincheonji ordered all congregations and centers to stop gatherings and meetings on February 18, local governments issued separate administrative orders at a provincial level on different dates, which imposed restrictions on religious gatherings for a period of two weeks. However, Shincheonji facilities were ordered to shut down for an indefinite period, and have remained closed to this day. For example, the closure order dated February 21 that the Shincheonji

headquarters in Gwacheon received from the local government failed to mention a date for the end of the “Temporary Closure of the Facilities of the Shincheonji Church of Jesus to Prevent the Spread of COVID-19 Epidemic in Daegu into the Community” (see Annex 1 and 2).

At the end of February, most Korean Churches, *but not all*, suspended Sunday services and instead held them online. What happened next was predictable.

The Grace River Church

On March 1 and 8, the Grace River Church, a small Protestant Church in Seongnam, Gyeonggi Province, held Sunday services despite calls for caution.

On 16 March, 46 members of this church tested positive for COVID-19, making it the second largest cluster in the Seoul area (*Korea JoongAng Daily* 2020b).

No prosecution was initiated against the leaders of this Protestant community, no penalties were imposed, members were not scapegoated by the media, and the church was not closed by the authorities.

The Case of Pastor Jeon Kwang-hoon, a Political Opponent to President Moon

On February 24, a populist pastor of the well-known conservative Sarang Jaecil Church in northern Seoul, Jeon Kwang-hoon, was arrested and jailed for violating city ordinances banning mass rallies. However, his sentencing was not solely due to this breach of the COVID-19 ban on religious gatherings. He was arrested for being involved in a series of pre-election campaigns, which violates the national Public Official Election Act. Every week, he held a rally calling for “A Pan-National Center to Fight for President Moon Jae-In’s Resignation,” and appealing for support for a particular political party (Kang 2020).

The South Korean authorities were quick to neutralize this political opponent to President Moon and his administration.

Prime Minister Chung Sye-kyun Steps In

On March 21, Prime Minister Chung Sye-kyun issued an administrative order calling for the suspension of mass religious gatherings, entertainment and indoor sports activities for 15 days, from March 22 to April 5—which, according to the Prime Minister, was a “critical period” to contain the coronavirus. He warned that “stern legal action” would be taken against churches violating the quarantine guidelines, including social distancing during small scale services, and checking congregants’ temperature (Shim 2020).

“[Such meetings] are actions that threaten not only the individuals partaking in them but also the safety of our entire community,” Chung said. “Now is a time of emergency akin to a state of war, so executive orders should not be regarded lightly as a bluff” (Shim 2020).

However, while mass gatherings were prohibited, Chung left room for smaller scale religious meetings. Hundreds of Protestant churches across Korea used this opportunity to hold their Sunday services, without always following the official health guidelines. As there was no obligation to declare such meetings and thus no systematic oversight, impunity prevailed.

The Case of the Sarang Jaeil Church

In the “absence” of its pastor, the Sarang Jaeil Church held a Sunday service on March 22 to criticize the Moon Jae-in administration. Over 100 municipal officials and 400 policemen were deployed to the premises to monitor the situation. Some members of the church squabbled with the police, as they tried to carry hundreds of plastic chairs from a truck into the church.

“The service held today is an undeniable violation of the administrative order that the city government has imposed on the Sarang Jaeil Church. [...] We will strictly impose penalties,” a Seoul city official said (*Yonhap News Agency* 2020a).

Seoul Mayor Park Won-soon (1956–2020), a member of President Moon’s Democratic Party who later committed suicide for unrelated reasons, called the church’s actions “intolerable” at a press briefing on March 23, and issued an order banning the church from holding any gatherings or services until April 5.

“The case of the Sarang Jaeil Church constitutes an action that seriously threatens the safety of the community and threatens the [health] goals of the government and the people,” Park said. “The extreme measures we have taken with regard to the Sarang Jaeil Church have nothing to do with freedom of religion, and I’m certain religious leaders will understand” (Shim 2020).

South Korea pledged to take legal action against several Protestant churches for violating the government’s guidelines to prevent the spread of COVID-19, the Prime Minister said after this incident. He added that all members violating the order could face a penalty of up to 3 million Korean won (approximately \$2,500 or EUR 2140) (*Yonhap News Agency* 2020a).

At the time of this writing, however, the status of the proceedings against the Sarang Jaeil Church and its pastor was still unknown.

Other Protestant Churches

Other Protestant churches also held their usual weekend services, with some attempting to adhere to the health guidelines.

The Yonsei Central Church in Guro district limited access to registered members, and disinfected all members and vehicles entering church premises. Worshippers were asked to write down their names and contact details on a visitors’ list, and to keep their distance from one another during the service (*Yonhap News Agency* 2020a).

On March 25, it was discovered that at least 28 people had been infected with COVID-19 in the Protestant Manmin Central Church in Guro District, Western Seoul. Numerous people that they were in contact with, including relatives and acquaintances, then tested positive. The church had mainly offered online streaming for services since March 6, but officials believed that an infected person might have spread the disease when several workers and church members convened earlier to discuss the filming of services. The Seoul Metropolitan Government closed and disinfected the church, and assigned 40 officials to conduct contact tracing to block further spread (Namgung and Lee 2020).

No prosecution was initiated against the leaders of this community, and the church was not closed indefinitely.

Second Wave of Outbreaks in Protestant Churches: Wangsung Church, Seoul

After the effects of the two-week administrative order for the period from March 22 to April 5 ended, Protestant churches resumed their Sunday services, and small gatherings on weekdays. Three months later, an increasing number of new infections had cropped up in Protestant churches in Seoul and its adjacent cities (*Yonhap News Agency* 2020a).

At the end of June, the *Yonhap News Agency* and *Dong-A Daily* investigated the worsening trend within Protestant congregations. On 27 June, *Yonhap* published updates and statistics (Shin 2020), reporting that 22 members of the Wangsung Church, Gwanak-gu, Seoul, had tested positive as of that day, according to the Korea Centers for Disease Control and Prevention (KCDC) and the City of Seoul.

The first confirmed patient from this church was a 31-year-old female residing in Seowon-dong, who tested positive on June 24. The following day, seven members were confirmed to have contracted the virus, and six more were confirmed on the 26.

Out of these first 14 members to test positive, three took part in choir practice on June 18, and seven joined the church's retreat in Daebudo Island, Ansan City, on June 19 and 20. One attended the church service on June 21, and the final member was at all the events listed above.

It is estimated that around 1,700 members attended the service on June 21, so the total number of confirmed patients may have risen since then.

The KCDC is assuming that the virus spread during choir practice or the retreat. It is still unknown whether the church members wore masks during these events.

The authorities explained that the Wangsung Church followed guidelines for services such as people logging information upon arrival, placing hand sanitizers on site, maintaining distance between seats, etc. However, it is highly likely that churchgoers did not continue these measures at small-scale events, and that this led to the virus spreading.

Just a month before, in May, staff members of "pioneer churches" in the metropolitan area visited different churches for revival meetings every day. They sang hymns and said prayers without wearing masks at these meetings, which

resulted in over 70% of the participants contracting the virus.

The reason why church congregations are quick breeding grounds for COVID-19 is that activities such as Bible studies, singing, and sharing meals involve the spread of droplets that carry COVID-19. Also, oftentimes it is the same participants having repeating contacts through these gatherings, which increases the risk of contracting the virus.

Jung Eun-kyeong, the Director of the KCDC, said, “Recently, COVID-19 clusters are tied to religious activities such as church retreats, so we ask for special caution on weekends.” She emphasized that,

If offline services are inevitable, minimize the number of congregants, and restrict activities where droplets can be dispersed such as having meals, singing, and especially joining choir activities.

Other Churches

As of 27 June, *Yonhap News Agency* found that the following churches had this number of members who had tested positive for COVID-19:

Manmin Central Church in Guro-gu, Seoul: 41 confirmed patients.

Dongan Church in Dongdaemun-gu, Seoul: 28 confirmed patients.

Campus Crusade for Christ in Jongno-gu, Seoul: 7 confirmed patients.

Additionally, infections linked to Protestant churches emerged outside of Seoul. A few examples are:

Grace River Church in Seongnam, Gyeonggi Province: 67 confirmed patients.

Water of Life Church in Bucheon city, Gyeonggi Province: 50 confirmed patients.

Newly established churches in metropolitan areas, in Gyeonggi Province (which includes 28 cities around Seoul): 25 confirmed patients.

Meetings of pastors in Gunpo and Anyang, Gyeonggi Province: 22 confirmed patients.

Newly established churches in metropolitan areas in Incheon: 57 confirmed patients.

Jesus Malsseum Silcheon Church in Incheon city, Gyeonggi province: 5 confirmed patients.

Two days later, on June 29, *Dong-A Daily* published complementary and updated statistics (*Dong-A Daily News* 2020):

Wangsung Church in Gwanak-gu, Seoul: 27 cases.

Dongan Church in Dongdaemun District, Seoul: 28 cases.

Lord Glory Church in Anyang, Gyeonggi Province: 38 cases.

Joongang Baptist Church in Suwon, Gyeonggi Province: three new cases occurred, and public health authorities said 717 people have been identified as close contacts.

Onchun Church in Busan Metropolitan city, Gyeongnam province: 39 cases.

Metropolitan Area Pioneering Church Meeting in Seoul: 37 cases.

No sanctions were ever enlisted against these churches nor their pastors. They were never asked to provide lists of all their members and attendees of religious services, unlike Shincheonji.

Facing a second wave of infections in Protestant churches, the health authorities hesitated about the measures they should take. They finally opted for a ban on small gatherings and meetings in churches. On July 8, they announced that Protestant churches would have to suspend their Bible classes, choir practices, and lunch services from July 10. They would also have to use QR-codes on entry logs to keep records of worshippers participating in services. Congregations would also be prohibited from singing and praying loudly.

The United Christian Churches of Korea (UCCK), one of the biggest associations of Protestant Churches in South Korea, immediately reacted with a press release demanding that the government lift the ban.

Another Protestant group, the Communion of Churches in Korea (CCIK), also opposed the government's decision. "We cannot accept the measures as they labeled the whole Protestant community a hotbed for the virus spread," the CCIK said (*Yonhap News Agency* 2020b). Ironically, this perceived scapegoating is exactly the treatment that Shincheonji had endured for months and that was actively supported by Protestant churches.

Conclusions

Throughout the pandemic, South Korean authorities have dealt with the Protestant churches, very carefully while adopting a completely opposite attitude towards Shincheonji. Tolerance and impunity were shown to Protestant churches, but Shincheonji was met with stigmatization, deceptive and destructive rumors, demands of lists of all members and properties, unfounded suspicions, threats, fiscal harassment, prosecutions, spurious charges, and arrests and imprisonment of several leaders including the founder. This disproportionate and discriminatory treatment seems incomprehensible at first sight, but is unsurprising once some religious and socio-political dynamics are brought to light.

The first reason for this prosecution is that there has been a war waged for years by fundamentalist Protestant churches against Shincheonji. With its around 250,000 members in South Korea, Shincheonji has been a fast-growing religious movement at the expense of the mainstream Protestant churches. Under the guise of fighting against “heresies,” they have been desperately trying to recover and retain their followers. For almost twenty years, they have organized the kidnapping, confinement, and coercive de-conversion of thousands of their members who converted to Shincheonji, a practice that is illegal in South Korea but has been tolerated by the authorities (Fautré 2020).

The second reason is political. The fundamentalist Protestant churches are politically conservative, aligning closely with the parties opposed to President Moon. The weight of the Protestant voting block during elections in South Korea is significant. While campaigning for the legislative elections in the spring, fundamentalist Protestant groups instrumentalized the COVID-19 crisis by accusing Shincheonji of deliberately spreading the virus in South Korea. They organized a public petition asking for the ban of Shincheonji and pressed local prosecutors to charge the 89-year-old leader of the Church, Chairman Lee, with homicide by “willful negligence.” During the election campaign, the opposition accused President Moon of serious negligence and failures in his management of the COVID-19 crisis. The reaction of the governmental coalition was to place the blame on Shincheonji, which coincided with the interests of the Protestant churches.

Now that the parliamentary election is over, the fundamentalist Protestant churches see a unique opportunity to destroy Shincheonji, which has always been their objective. The COVID-19 pandemic provided an opportunity to sow hostility against Shincheonji, capitalize on other vested interests, and get one step closer to the final solution of their problem.

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Annex 1

Fax from Gyeonggi Provincial Government to Shincheonji, February 21, 2020
(original).

2020-02-21 11:42

From: 03180084179 To: 025026426

Page.001/004



새로운 경기, 공정한 세상

경 기 도



수신 신천지예수교회 과천본산

(경유)

제목 (간급) 대구 코로나19 유행 관련 지역사회 확산 차단을 위한 교회시설 일시폐쇄 등 협조 요청

1. 귀 교회의 무궁한 발전을 기원합니다.
2. 코로나19 유행과 관련, 경기도내 귀 교회 소속 신자 분들 중 일부가 확진자가 발생한 대구 집회에 참석하는 등 감염병 전파 우려가 있어 감염병 유행을 차단하고자 행정절차법 제49조에 따라 아래사항을 행정지도하오니 적극 이행(협조)하여 주시기 바랍니다.
 - 가. 귀 교회 소속 예배당 및 관련시설 전체 일시폐쇄
 - 나. 일체의 집회 및 봉사활동 중단 및 기 실시한 집회 및 봉사활동 내역 제출
 - 다. 대구집회 참석자 명단 제출, 보건소 신고 및 검사, 자가격리 조치
 - 라. 유증상자 전수조사를 위한 경기도내 전체 신자 명단 제출
 - ※ 일시폐쇄는 소독 등을 통한 전파 차단 조치이며, 신자 명단 등은 유증상자 발생 시 역학조사 및 무료 검사 등을 위해 요구하는 것임.
 - 마. 제출방법 : 지체없이 경기도청 감염병관리과 이메일(gg0065@gg.go.kr) 송부
3. 경기도는 이번 대구지역 코로나19 집단발생에 따른 경기도내 감염병 유행 차단을 위해 귀 교회와 적극 협의할 용의가 있으며 보건환경연구원 및 관할 보건소 등을 통하여 유증상자 무료검사, 시설 폐쇄, 소독 등의 조치를 지원할 계획입니다.
4. 아울러, 상기 행정지도사항 불이행 시 감염병 전파 차단을 위해 부득이 압수수색 및 강제 폐쇄 등의 조치를 취할 계획임을 알려드립니다.

붙임 신도명단 서식 2부. 끝.

Annex 2

Fax from Gyeonggi Provincial Government to Shincheonji, February 21, 2020 (translation).



Brand New Gyeonggi, Fair World
Gyeonggi-do



To: Gwacheon Headquarters of the Shincheonji Church of Jesus
(Via)

Title: (URGENT) Request for Cooperation with the Temporary Closure of the Facilities of Shincheonji Church of Jesus to Prevent the Spread of COVID-19 Epidemic in Daegu into the Community.

1. We hope your church to continue to develop and thrive.
 2. Regarding COVID-19 epidemic, since some of your congregation members in Gyeonggi-do may have been at a risk of spreading this infectious disease by attending the religious assemblies in Daegu, where many confirmed cases are identified, the following administrative guidance is provided in accordance with Article 49 of the Administrative Procedures Act, and therefore please actively follow (cooperate with) the guidance to prevent the spread of COVID-19 epidemic into our community.
 - a. To temporarily close all of chapels and related facilities of your church;
 - b. To stop all religious assemblies and service activities and submit the details of the previous assemblies and service activities;
 - c. To submit the list of your congregation members who attended the religious assemblies in Daegu; to report these congregation members to the public health centers and have them get COVID-19 tests; to have them enter self-isolation;
 - d. To submit a complete list of your congregation members in Gyeonggi-do to conduct a thorough investigation of symptomatic individuals.
- ※ Temporary closure of the facilities is intended to disinfect to prevent the spread of the infectious disease, and submission of the list of the

congregation members is required to identify symptomatic individuals to conduct epidemiological investigations and free examinations.

e. How to Submit: Email to the Infectious Diseases Management Section (gg0065@gg.go.kr) of the Gyeonggi Provincial Government without delay.

3. Gyeonggi-do is willing to actively consult with your church to prevent the spread of the infectious disease into Gyeonggi-do from the mass outbreak of COVID-19 in Daegu. Especially, we plan to support measures such as free examination of symptomatic individuals, closure of facilities, and disinfection, with the help of the Research Institutes of Public Health and Environment and the respective public health centers.

4. In addition, in the event of non-compliance with the above administrative guidance, we inform that we plan to take measures such as seizure and search and forced closure to prevent the spread of the infectious disease.

Attachment.

Two copies of the forms for the lists of the congregation members.

EOD.

Abrogating the Rule of Law: The Tai Ji Men Tax Case in Taiwan

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kenneth.jacobsen@temple.edu

ABSTRACT: Tai Ji Men, a spiritual school in Taiwan that teaches Qigong based on ancient Taoist traditions, was one of the movements targeted in a local crackdown against “cults” in 1996. Although the school and its founder, Dr. Hong Tao-tze, were eventually declared innocent of all charges, as a by-product of these events a tax case has continued for the next twenty-four years. The highest jurisdictions in Taiwan concluded that there had been no tax evasion. However, Taiwan’s National Taxation Bureau has maintained its (illegal) tax bill for one year, 1992, and based on this, in 2020, has seized and auctioned properties of Dr Hong. The article surveys the main political and legal institutions in Taiwan and the Tai Ji Men case, concluding that what happened is a serious blow to Taiwan’s image as a Constitutional democracy.

KEYWORDS: Tai Ji Men, Hong Tao-tze, Tax Justice, Taxes and Spiritual Schools, Tax Cases in Taiwan.

“The power to tax involves the power to destroy”
(U.S. Supreme Court 1819, 431)

I. Introduction

United States and Taiwan share a common respect for the Rule of Law. Fundamental to our two systems of justice is freedom from tyranny and oppression from an abusive government. These are principles Americans and Taiwanese hold dearly both in concept and in practice. We must always be vigilant against those who would trample on those fundamental rights for personal, economic, or political gain.

Despite the mandate of the Rule of Law for due process, Tai Ji Men, and its founder, Dr Hong Tao-tze, have been relentlessly pursued, prosecuted and

persecuted for 24 years by rogue government officials seeking to collect taxes on financial gifts made by members of Tai Ji Men to Hong. Although bogus criminal and administrative cases brought by these unscrupulous government officials for tax years 1991, 1993, 1994, 1995, and 1996 have all been resolved in favor of Tai Ji Men and Hong, tax officials have continued to pursue their case for 1992, until land belonging to Hong was seized and auctioned in 2020. The case for 1992 is identical in all respects to the other years for which Tai Ji Men and Hong were exonerated. That 1992 case should have been dismissed as well.

II. Taiwan's Constitutional Branches of the Government

The system of Constitutional democracy in Taiwan, like that of the United States, has three traditional branches of national government: the Executive Branch, the Legislative Branch, and the Judicial Branch. But Taiwan has two additional branches—the Control and Examination Branches (Government of Taiwan 2016).

A. The President and Vice President of the Republic and the Executive Yuan

The Executive branch consists of two Constitutionally distinct entities. Instead of having a single President, there are actually two chief executives: the President of the Republic and the President (called the Premier) of the Executive Yuan. The President and Vice President of Taiwan are jointly elected by popular vote for a term of four years. The President's main tasks are to direct international relations, including the use of the armed forces. Additionally, the President appoints the President (Premier) of the Executive Yuan and nominates members of other branches of government, including members of the Control Yuan, of the Examination Yuan, and the Grand Justices of the Judicial Yuan.

The Executive Yuan has a number of ministers and chairpersons of committees. In addition to supervising the subordinate agencies of the Executive Yuan, the Premier also:

- performs the duties of the President in the event of vacancies in the presidency;
- presents administrative policies and reports to the Legislature; and
- countersigns laws and decrees promulgated by the President (Government of

Taiwan 2016).

B. The Legislative Yuan

The Legislative Yuan is the highest legislative body of the state, consisting of popularly elected representatives who are eligible to stand for re-election.

As prescribed in the Constitution, the Legislature has broad general legislative powers; confirms emergency decrees issued by the President; receives reports on the state of the nation from the President; receives reports on administration and revision of government policy; examines budgetary bills and audit reports; grants or withholds consent to Presidential nominations to top government posts, including nominees for the Control Yuan and the Examination Yuan; amends the Constitution (subject to a subsequent popular referendum); and hears and settles disputes between the Central and local governments.

In exercising their legislative functions, legislators enjoy broad immunity for opinions expressed or votes cast, and no member of the Legislative Yuan may, except in extreme circumstances, be arrested or detained without the consent of the Legislature (Government of Taiwan 2016).

C. The Control Yuan

The Control Yuan exercises the powers of impeachment, censure, and audit. Members of the Control Yuan (including its President and Vice President) are nominated and appointed by the nation's President with the consent of the Legislative Yuan for a fixed term, which may be renewed. The Constitution empowers the Control Yuan to institute impeachment proceedings against public officials (except for the President and the Vice President of the Republic). The Control Yuan may also file a written censure against offending public officials, after which the case goes to the appropriate authority for action—the Commission on the Discipline of Public Functionaries in the case of a civil servant, or the Ministry of National Defense for military personnel.

The Control Yuan may investigate and propose corrective measures concerning the operations of the Executive Yuan and its subordinate agencies. The Control Yuan also exercises the power of audit through its Ministry of Audit, which oversees the budgets of all government organizations. The head of the ministry, the auditor-general, is nominated by the President and appointed with

the consent of the Legislature, and is responsible for auditing central government expenditures.

It is this unique feature of Taiwan's Constitution that distinguishes it from other democratic Constitutions—the provision for a special branch of the government to watch over wayward politicians and bureaucrats. The Control Yuan has the power, by itself, to direct the Executive Yuan to remove any elected and appointed public official from office. The intent was to create an independently elected watchdog group with real power and authority. The Control Yuan is authorized to review government documents, question governmental officials, and punish offenders if it believes there is neglect of duty or violation of law. If it believes that a law was violated, it has the obligation to turn its findings over to a court of law (Government of Taiwan 2016).

D. The Judicial Yuan

The Judicial Yuan is vested with the power of interpretation, adjudication, discipline, and judicial administration. Justices of the Judicial Yuan, including that body's President and Vice President, are nominated and appointed by the President of the Republic with the consent of the Legislative Yuan. The justices interpret the Constitution and unify the interpretation of laws and ordinances. The Constitutional Court is also empowered to review and decide on the impeachment of the President or the Vice President of the Republic after such an action is proposed by the Legislative Yuan.

— Commission on the Disciplinary Sanctions of Functionaries

Cases involving public functionaries are heard by the Commission on the Disciplinary Sanctions of Functionaries. The decisions of the Commission are final, but a re-adjudication may be granted when legitimate grounds exist. Cases involving judges and prosecutors are heard by the Judicial Yuan's Court of the Judiciary.

— Court System

The Judiciary has three levels: district courts and their branches, which hear

civil and criminal cases in the first instance; high courts and their branches at the intermediate level, which hear appeals against judgments of district courts and their branches; and the Supreme Court at the highest appellate level, which reviews judgments by lower courts for compliance with pertinent laws or regulations.

— Supreme and High Administrative Courts

National law mandates use of the “two-level and two-instance system” for administrative litigation. One Supreme Administrative Court and three high administrative courts have been established to adjudicate administrative cases since this law’s promulgation in 2000.

The administrative courts have a separate authority from that of the other courts in the system. Any person who claims that his or her rights or interests have been violated by an administrative action on the part of a government agency may institute administrative proceedings before a high administrative court. The high administrative courts decide questions of both fact and law, while the Supreme Administrative Court decides only questions of law (Government of Taiwan 2016).

E. The Examination Yuan

The Examination Yuan is responsible for the nation’s civil service system. It oversees examinations; qualification screenings; security of tenure; monetary assistance in case of death; retirement; and all legal matters relating to the employment, discharge, performance evaluation, scale of salaries, promotion, transfer, commendation and presenting of awards to civil servants. The Examination Yuan has a president, a vice president, and 19 members, all of whom are appointed for six-year terms by the nation’s President with the approval of the Legislative Yuan. At the end of their terms, they may be re-appointed (Government of Taiwan 2016).

It is against this backdrop of Constitutional authority, including a unique branch of government specifically charged with investigating and, if appropriate, punishing bureaucrats and other government officials, that the Tai Ji Men tax case unfolded for more than two decades.

III. The Tai Ji Men Tax Case

Tai Ji Men is a school of martial arts which practices Qigong, a regimen of movements, exercises and mental concentration said to improve not just physical well-being but also emotional and spiritual health. Dr. Hong Tao-tze, the founder of Tai Ji Men, is said to have inherited this ancient art form developed over thousands of years in China from past, great martial arts masters. Tai Ji Men integrates dance, music, drumming, flags and elaborate ceremonies into its study and celebration of traditional Chinese culture, and international advocacy for world peace and love. The organization merges medicine, philosophy, literature, education, and other disciplines into a holistic approach to the martial arts and overall physical, mental, and spiritual improvement through the practice of Qigong (Tai Ji Men Qigong Academy 2000).

Tai Ji Men Qigong is passed on from Hong (“Shifu,” a type of father and teacher) to students called “dizi.” The organization places great value on moral principles. Aspiring dizi must follow ancient rituals to show their respect and sincerity before being accepted as members of Tai Ji Men. The ties between the Shifu and his dizi are deep and strong, as are the relationships among the dizi themselves.

Dizi offer honorariums to their master, Hong, in appreciation for the mental, spiritual, and physical growth that they experience after becoming members of Tai Ji Men. There is no tuition or other fees for joining Tai Ji Men or practicing Qigong at one of the many Tai Ji Men locations established in Taiwan. Tai Ji Men also has academies in the United States, largely located in California, which are tax exempt non-profit organizations under Section 501(c)(7) of the U.S. Internal Revenue Code. The honorariums indicate the dizi’s respect for their Shifu, which is customary in Chinese culture.

Since Hong established the Tai Ji Men Qigong Academy in Taiwan in 1966, it has been a member of the Qigong and Martial Arts Associations. There has never been any martial arts or Qigong organization taxed in Taiwan because of honorariums offered by their members to their leaders or to the organization itself. The Taipei Martial Arts Association, the Chinese Martial Arts Association, and the Chinese Qigong Association have all confirmed that their member organizations have never been taxed by the Taiwan National Tax Bureau for receiving honorariums.

Tai Ji Men Qigong Academy is also registered with the Ministry of Interior and the Taoism Association, which means that Tai Ji Men is a legally registered organization (*Global People Daily News* 2015).

A. The Government Begins Its Crackdown on Tai Ji Men

1. 1994 through 1996: Prosecutor Hou's Search, Detention of Hong, and Frozen Assets

During 1994, 1995, and 1996, the National Tax Bureau ("NTB") conducted on-site inspections of Tai Ji Men. At that time, the NTB did not issue any tax bills, and Tai Ji Men did not have any tax issue. In 1996, the government began aggressively cracking down on religious "cults." In November, after receiving an anonymous letter about the Academy, the Kaohsiung District Prosecutor's Office searched the Kaohsiung branch of the Tai Ji Men Academy, and the Hsinchu District Prosecutor's Office interrogated Hong, and searched other Tai Ji Men academies. Again, no illegal acts or unlawful activity were found. On November 30, the Kaohsiung District Prosecutors Office concluded the matter, and the Hsinchu Office told the media on December 18th that it would follow suit.

The very next day, on December 19, Prosecutor Hou Kuan-jen searched Tai Ji Men's facilities and dizi's homes based on unspecified complaints about the nature of Tai Ji Men's activities. For the next month, Hou continued to search the residences of Tai Ji Men's members. Investigators even attempted to take away some of the dizi's children from elementary schools during class hours in order to intimidate their parents, but failed when the schools notified the parents. When some of the members proposed to take to the streets to protest this treatment, Hong, through his lawyer, asked his members to remain patient and peaceful, and not to cause any social instability. Tai Ji Men's members followed his instruction, and avoided any altercation or confrontation with the authorities.

On December 19, Hou detained Hong (for this, and subsequent details of the cases until 2016, see Tan, Ding, and Huang 2016; I have also had access to the main legal documents of the cases). Subsequent to his initial incarceration, Hou transferred Hong to six different detention centers. Whenever Hong was transferred, unlike the conventional practice of confinement of those who were alleged to have committed economic crimes, Hou placed Hong in cells with hardened criminals.

Hou asked Hong's cellmates to testify against him by fabricating stories and statement that were never made by the prisoner.

During Hong's detention, he was allowed to meet only his lawyer. The winter incarceration, harsh environment, and mistreatment by prison authorities caused serious injuries to Hong, almost resulting in the amputation of his feet.

During the 118 days from the date of detention to the issuance of an indictment, Hou, interrogated Hong three times, for 29 minutes, asking only 13 questions.

On December 23, Hou froze all of Hong's and his wife's assets, including the wife's dowry and assets unrelated to Tai Ji Men. Hong had nothing to pay for his family's basic living expenses and their children's education. The twelve facilities of Tai Ji Men in Taiwan were immediately impacted. The payment source for rent, utility bills and other miscellaneous expenditures incurred by the facilities was lost. However, no facilities were shut down, and the regular activities of the facilities continued.

On December 25, Prosecutor Hou publicly encouraged those who had been "victimized" by the allegedly unlawful activities of Tai Ji Men to identify themselves on a list of victims maintained by a so-called "self-help" association. This entire organization was a sham, as found by the Control Yuan and three criminal courts. Tsai Chang-pin, the president of the self-help association whom Hou encouraged victims to join, stated that he was defrauded of NT\$30 million. However, at a hearing on July 20, 2001 at the Taipei District Court, Judge Chao Tze-jung found that Tsai had lied. Tsai finally admitted that the NT\$30 million loss was a complete fabrication.

Similarly, on September 19, 2001 at the Taipei District Court, Tseng Pi-yun, the vice president of the self-help association, admitted that she had used the names of her two sons and 19 other individuals, in order to claim that she had sustained damages in the amount of NT\$3 million from Tai Ji Men's activities. Her scheme was exposed during a hearing before Judge Chen Kun-ti of the Taipei District Court. Tseng was referred to the Taipei District Prosecutors Office for investigation for forgery of private documents.

At a court hearing on November 21, 2000, Chu Hui-ying, who claimed to be an attorney for the self-help association, assaulted Tai Ji Men members attending the hearing, and was sentenced to 20-days of detention for the attack. Tsai Chia-lung, another member of this self-help organization, filed numerous complaints and sent a letter to Kung Ling-cheng, the former Director-General of the National Police Agency,

falsely claiming that he was defrauded out of hundreds of thousands of dollars by Tai Ji Men. At a court hearing on June 5, 2002, the Taipei District Court thoroughly discredited and rejected the accusations.

In short, the self-styled “self-help” associations inspired and encouraged by Prosecutor Hou to draw out “victims” of the alleged Tai Ji Men fraud was itself a sham populated with and run by fraudsters themselves.

2. 1997: Indictment, and the Case Transferred to Taipei District Court

On April 15, 1997, the prosecution indicted Hong, his wife, and three Tai Ji Men dizi for “raising goblins” as a religious “cult,” committing occupational fraud, and violating the Tax Collection Act. On May 26, 1997, after Hong was granted bail by the court, he stated to reporters and his supporters gathered at the Taipei District Court: “I don’t know how to raise goblins. I do not conduct any fraud or evade taxes. Everything I do is lawful. As long as my disciples wish to learn, I will keep teaching.”

But the indictment filed by Hou against Tai Ji Men had serious flaws. A week before the indictment was issued, Hou asked Shih Yueh-sheng, a tax collector who had never conducted an actual audit or investigation of any Tai Ji Men facility, to provide testimony that Tai Ji Men was a so-called “cram” school, and that it had engaged in tax evasion. Shih’s testimony was the only testimony in Hou’s indictment, which alleged that Tai Ji Men violated the Tax Collection Act.

Hou also inflated the balance in a Tai Ji Men bank account from NT\$610,000 to NT\$3.1 billion. Hou disclosed the information to the media on the day following the searches and raids on Tai Ji Men, before any bank balances could be verified, in order to leverage public opinion against the Academy and its founder, Hong. The money was described by Hou’s indictment as both illegal proceeds from fraudulent activities and as cram school tuition. A “cram” school, as its name suggest, is a school where students engage in intensive study of a subject over a short period of time to master that subject, often for upcoming exams. The NTB referred to Tai Ji Men as a cram school to levy a tax on the “tuition” donated by its members as honorariums—as mentioned above, the first time that any such tax assessment had been levied against a martial arts academy in the country.

The prosecutor referred the case to the NTB. Without verifying the nature, source, amount, or character of any monies received by Tai Ji Men or Hong, and

without giving them any opportunity to explain the payments or assert any defense, the NTB imposed retroactive taxes and heavy fines and penalties, based solely on the strength of Prosecutor Hou's indictment.

On April 25, 1997, while the case was still underway at the Taipei District Court, Hou issued a letter to the Ministry of the Interior requesting the dissolution of Tai Ji Men, which he accused of being an "evil religious cult." On May 21, 1997, Hou issued similar letters to eight county and city governments in Taiwan to "order" the dissolution of Tai Ji Men. On June 18, 1997, Hou issued yet additional letters to the Public Works Department of Taipei City and the Taipei County Government demanding the termination of water and electricity to Tai Ji Men's facilities, and the execution of his "dissolution order." These letters were issued in an obvious attempt to prevent continued operation of Tai Ji Men's facilities. The closedown and dissolution orders from Hou's letters were not vacated until December 1999, when administrative relief was obtained.

As noted above, in December 1997, the NTB issued tax bills for 1991 through 1996 to Hong and his wife, imposing taxes, fines and penalties based solely on Hou's indictment, without waiting for a final court decision and without conducting its own audit. Critical of the NTB's failure to fulfill its mandated duty to conduct independent investigations before imposing such draconian punishment, the Ministry of Finance stated that taxes and penalties should not be assessed based solely on information provided by agencies with investigation authority or from indictments, and that the NTB should conduct its own independent investigation of the facts and make tax determinations based on the evidence produced during that process (Ministry of Finance [Taiwan] 2004).

The Ministry of Education, the agency with direct regulatory authority over cram schools, declared three times, from 1997 through 2000, that Tai Ji Men is not a cram school (Ministry of Education [Taiwan] 1997, 1999). The most recent was on December 21, 2000, during a Legislative Yuan public hearing hosted by Legislator Ting Shou-chung, when Tseng Wen-chang, a director from the Ministry of Education stated unequivocally that Tai Ji Men is not a cram school. Although Chang Sheng-ford, the Director-General of the NTB at that time, was present at the hearing, the NTB continued to issue tax bills and levy taxes on Tai Ji Men, on the grounds that the school is a cram school and that the honorariums are disguised cram school tuitions.

Liu Li-hsia, an attorney representing the National Taxation Bureau of Taipei,

stated during a hearing on November 17, 2004 before the Taipei High Administrative Court that her agency did not consider Tai Ji Men to be a cram school. It was not until August 3, 2012 that the NTB of Taipei admitted in official documents that Tai Ji Men is not a cram school. But the illegal tax bills continued.

3. 1998 to 2000: Administrative and Legislative Efforts to Resolve the Tax Issue

Since 1998, Tai Ji Men and Hong have also pursued administrative relief under the designated laws and procedures to lift the crushing burden of the tax bills and penalties. From 1998 through 2002, Tai Ji Men members submitted tens of thousands of documents attesting that the payments made were gifts and honorariums, not tuition to any school—cram or otherwise. The NTB unilaterally rejected all of these thousands of submissions but ten, recognizing only those ten honorariums as gifts.

During 1998 through 2002, the Petition and Appeals Committee of the Ministry of Finance set aside the tax assessments multiple times, requesting that the NTB investigate (as was its mandated duty) the nature of the honorariums, to ascertain if they were gifts or cram school tuitions. However, the NTB still did not conduct this inquiry, even after the tax dispositions were set aside by that Committee. On August 18, 2010, the Petition and Appeals Committee once again set aside the NTB's tax disposition. However, the NTB continued to treat the honorariums as cram school tuitions, and continued to issue tax bills for those gifts from Tai Ji Men members.

On September 1, 1999, 82 fourth-term legislators signed a joint petition, demanding that the NTB cancel the tax dispositions on the grounds that the NTB had issued tax bills in violation of due process. The Legislative Yuan has conducted extensive public hearings and meetings about the Tai Ji Men tax case for two decades. Some 296 legislators have signed petitions, introduced proposals, and requested the tax agency to cancel the tax bills to Tai Ji Men and Hong, all without success.

In 1999 and 2000, Finance Minister Yen Ching-chang and Deputy Finance Ministers Wang Teh-shan and Wang Jung-chou jointly stated that, since the Tai Ji Men tax case was derived from a criminal case, if the defendants were acquitted in the criminal case, the tax disposition would be cancelled. Although Tai Ji Men and Hong were fully exonerated of all criminal charges, the tax assessments and penalties remained and continued.

4. 2001 to 2010: Prosecutor Hou's Violations of Law and Control Yuan's Request of Disciplinary Action

a. 2002: The Control Yuan's Report—Hou's Eight Violations of Law

On March 4, 2002, the Control Yuan issued a report finding that Prosecutor Hou had committed eight major violations of law while investigating Tai Ji Men. According to the Control Yuan's report, Hou violated the principle of confidentiality in the investigation; engaged in illegal searches; unlawfully froze personal assets; evaluated the case not in accordance with evidence; illegally demanded that the city and county governments shut down the facilities of the Tai Ji Men Academies; failed to allow defendants' counsel to be present during interrogations and other investigation; and questioned the defendant in an unlawful manner. As a result of finding of Hou's violations, the Control Yuan sent notice to the Ministry of Justice seeking disciplinary actions against Hou.

The Control Yuan also found that there were contradictions between the charges in the indictment and evidence produced as part of the investigation and thereafter. In response to the Control Yuan's finding of those contradictions, Hou admitted that he had not investigated the case properly. The Control Yuan would subsequently include the Tai Ji Men case as one of the major human rights protection cases in the Consolidated Report of the 3rd Term Control Yuan on Human Rights Protection released on January 7, 2005.

After receiving the official sanction letter from Control Yuan in 2002, the Ministry of Justice did not sanction Hou immediately. Instead, the Ministry of Justice responded that the matter of Hou's conduct would be deferred until after a final decision on the Tai Ji Men case was ultimately taken. The Ministry passed the issue of Hou's violations to the Taiwan High Prosecutors Office to conduct its own investigation. The Taiwan High Prosecutors Office put the matter on hold until 2007, when it belatedly announced that its investigation showed no legal violations by Hou. The Prosecutor's office also stated, as did the Ministry of Justice, that the statute of limitations for any disciplinary action against Hou began in June 1997 and lapsed on June 18, 2007, so no disciplinary action could be taken against Hou in any event.

In fact, the Control Yuan had completed its investigation report on March 4, 2002 and requested *ex officio* that the Ministry of Justice take strict disciplinary action against Hou. Moreover, Hou had admitted during the Control Yuan investigation that he sent letters to the Ministry of the Interior and county and city governments to order the

dissolution of Tai Ji Men or to cut off the water and electricity supply. He admitted that he had done so without the required approval of his supervisor. In addition, he seized all of the property registered under the names of Hong and his wife based on unilateral, unsubstantiated allegations of a few witnesses. He also admitted that he had not verified that the “list of victims” was true and accurate.

On December 15, 2010, the Control Yuan issued a correction against the Ministry of Justice for failing to sanction Hou. The Ministry was accused of delaying any action before the expiration of the statute of limitations for the sanction, and the Control Yuan urged that the clash of the Constitutional system of separation of government powers gravely undermined the public credibility of the prosecutors’ offices.

On October 30, 2007, December 17, 2007, February 22, 2008 and March 6, 2007, the Taiwan High Prosecutors Office summoned Hong, his wife, and various Tai Ji Men members, including Chen Tiao-hsin, for interrogation. According to the Ministry of Justice in a letter dated March 11, 2008, the interrogations were ostensibly to investigate the conduct and activities of Hou. That move enraged Yeh Yao-peng, a member of the Control Yuan, who believed that this was further harassment of Hong and his devotees, and that disciplinary action against Hou was still necessary. According to Yeh, although the Attorney General could ignore this matter, members of the Control Yuan would not turn deaf ears to this issue, since maintaining the integrity of the judiciary and the Constitution are its most important functions. On December 15, 2010, the Control Yuan issued a correction to the Ministry of Justice for the likelihood of violating the current Constitutional system of five powers, when it failed to directly sanction Hou according to the investigation of the Control Yuan, and referred the matter to the Taiwan High Prosecutors Office to carry out a new investigation.

b. 2002: The NTB’s Concealment of Evidence—The 206 Member Survey

From 2002 to 2003, the case entered another phase of administrative action. Five years after the tax bills were issued, on August 15, 2002, the NTB designed its own survey forms and conducted a survey on the nature of the honorariums. The NTB conducted the survey to comply with decisions of the Petition and Appeals Committee of the Ministry of Finance. Chang Sheng-ford, the Director-General of the NTB of Taipei at that time, ordered the survey forms distributed to

select members of Tai Ji Men. 206 Tai Ji Men dizi returned the survey forms.

All of the 206 responding Tai Ji Men members indicated that their honorariums to Hong were gifts. Despite the results of its own survey, the NTB re-assessed the taxes and issued tax bills again on the grounds that the honorariums were not gifts but cram school tuitions. At the administrative appeal, the NTB represented that only nine respondents had indicated that the honorariums were gifts—a number known to Tai Ji Men lawyers to be untrue. The 206 responses were never provided to the Petition and Appeals Committee or to Tai Ji Men lawyers to verify the NTS’ representations. Efforts by members of Tai Ji Men to obtain copies of their own response forms were rejected and thwarted by the NTB.

Based on the “evidence” provided by the NTB, the Petition and Appeals Committee rejected the administrative appeal on June 17, 2003. Hong and his wife therefore pursued additional remedies under the law.

On August 29, 2003, Hong was required to provide security so that the NTB of Taipei and the Administrative Enforcement Agency would defer enforcement of the tax assessments and penalties. Under Article 39 of the Tax Collection Act, unless a taxpayer pays half of the tax or provides a security equivalent in value to one half of the tax, the taxpayer’s assets are subject to compulsory seizure. To prevent Tai Ji Men’s facilities, which are used for its members’ practice of Qigong, from being auctioned, Hong and his wife agreed that, as soon as the court lifted Hou’s asset freeze, they would provide a security to the NTB.

On October 15, 2003, Judge Chao Tze-jung of the Taipei District Court lifted the asset freeze imposed on Hou. Despite the parties’ prior agreement to use those assets for security and avoid compulsory enforcement under Article 39, just weeks later, on November 6, 2003, the Administrative Enforcement Agency and the NTB of Taipei jointly withdrew bank deposits and sold stocks without the knowledge of Hong or anyone else at Tai Ji Men. It was not until two years later that Chang Sheng-ford returned the assets as a “tax refund” to Hong, after the Administrative Court condemned his maneuver. While Chang Sheng-ford and his tax collectors received rewards and performance bonuses for monies collected from the Tai Ji Men case, Hong was deprived of assets and lost interests on property unlawfully seized and sold by the tax authorities.

c. Vindication in Criminal Courts

All the three criminal trial decisions rendered during 2003 through 2009 found that the honorariums to Hong were gifts, and that there had been no fraud or tax evasion by Tai Ji Men or Hong. On September 25, 2003, the first criminal decision acquitted all defendants, including Hong. On December 13, 2005, a second not-guilty verdict was issued in the second criminal trial, which again concluded that there was no tax evasion. On July 13, 2007, the final criminal trial again acquitted the defendants and concluded that there was no tax evasion. On that day, the Supreme Court rejected the prosecutor's appeal and acquitted all defendants. The court found that 1) the indictment was defective, and that 2) none of the defendants committed fraud, tax evasion or violations of the Tax Collection Act. The Supreme Court expressly stated that "the honorariums provided by the disciples to their master were gifts in nature and were thus tax-free income under Article 4, Subparagraph 17 of the Income Tax Act." All those who were detained received national compensation of approximately NT\$1.8 million from the government for wrongful detention in December 2009. But what was done to them can never be undone (Wang 2010). Worse, despite their victories in these criminal cases, Tai Ji Men and Hong continued to be subject to tax assessments and penalties.

d. The Control Yuan's Finding of NTB Concealment

On December 9, 2008, the Bureau of Investigation under the Ministry of Justice replied to an inquiry by Legislator Chu Feng-chih, stating that the assessment of taxes in this case and the examination and punishment of tax evasion are the authority and responsibility of tax agencies.

The Control Yuan investigated the NTB's concealment for the second time. On September 2, 2009, the Control Yuan concluded that the NTB committed seven major legal violations in handling the taxation issue in the Tai Ji Men case. Specifically, the NTB failed to fulfill its duty to independently investigate the case. The NTB also failed to pay equal attention to evidence both favorable and unfavorable to the taxpayer. On October 6, 2009, the NTB of Taipei replied to the Control Yuan. The reply included the survey that the NTB had conducted in 2002, where the NTB designed and distributed the 206 survey forms to some members of Tai Ji Men. Once again, the NTB concealed the true responses of the

206 Tai Ji Men members that the honorariums to the Hong were gifts.

The Taipei High Administrative Court and the Supreme Administrative Court determined that the nature of the honorariums should be based on the actual survey results, which the NTB never itself released but which were independently verified by members of Tai Ji Men. On August 6, 2009, the Supreme Administrative Court rendered a final decision to set aside the NTB's tax dispositions. However, on October 30, 2009, the NTB of Taipei ignored that decision, and continued to impose taxes against Tai Ji Men, treating it as a cram school.

5. 2011 to 2020: The Inter-Ministerial Meeting, the 7,401 Survey, Legislators' Joint Signature, the Taipei High Administrative Court, and the Auction of Hong's Properties

When visiting the Executive Yuan in 2010 and 2011, members of the Control Yuan urged on both occasions that the Tai Ji Men tax case be fairly dealt with. On July 1, 2011, the Presidential Office acknowledged that there was injustice in the Tai Ji Men case, after accepting a petition from Tai Ji Men members. The Presidential Office issued a letter requesting the Executive Yuan to follow the court decision and regard the honorariums to Hong as gifts and, therefore, tax-free.

Meanwhile, on December 9, 2011, Secretary General Lin Join-sen of the Executive Yuan organized an inter-ministerial meeting for the purpose of resolving the Tai Ji Men tax case once and for all. The attendants included the NTB, Minister of Finance Lee Sush-der, Deputy Minister of Justice Chen Ming-tang, Chief of Taipei Tax Administration Chen Jin-jian, the Director-General and the Supervisor of the Legal Office of the NTB of Taipei, the attorney for Hong and his wife, the representatives of Tai Ji Men members (see, in addition to Tan, Ding, and Huang 2016, *Global People Daily News* 2015).

At the meeting, the attendants adopted a resolution. Among other things, the resolution declared that: 1) the indictment in the criminal case should not be used as the basis of taxation; and 2) the tax administration should bear the burden of proof under Article 12-1 of Tax Collection Act. Accordingly, the NTB of Taipei should conduct an open survey on the nature of the honorariums to Hong over a period of two months. If the results of the survey would indicate that the

honorariums were gifts, they should not be taxed pursuant to law. If anyone claims the offering as tuition fees, the case should be processed accordingly.

On December 16, 2011, the NTB of Taipei called the 2074th Reconsideration Committee meeting, indicating that it agreed to the resolutions made at the inter-ministerial meeting. The NTB issued the Tsai-Pei-Guo-Shui-Fa-2-Tzu-No.100024971 announcement about the agreement on the same day. On December 16, the announcement was posted in the NTB's website and offices for two months, and published in domestic and overseas newspapers. On the same day, an open survey targeting all citizens was launched via the Internet and domestic and overseas newspapers. This was the two-month open survey that the NTB committed to conduct, in order to resolve the nature of the honorariums to Hong by Tai Ji Men members.

On February 19, 2012, the results of the survey revealed that all of the 7,401 survey forms indicated that the honorariums to Hong were gifts. No respondents indicated that the honorariums were tuition fees. Despite these results, and the ministers' agreement to abide by this survey process, the NTB issued a tax bill again when Chang Sheng-ford took office as the Minister of Finance. Eventually, the NTB ignored the outcome of the open survey, and treated half of the honorariums to Hong as tuition and the other half as gifts. On September 3, 2012, Tai Ji Men again filed an administrative appeal. However, on November 18, 2013, the Ministry of Finance (with Chang Sheng-ford as its Minister) rejected the administrative appeal.

On November 8, 2013, 33 legislators of the Legislative Yuan introduced a proposal for which joint signatures were collected to request the Ministry of Finance to cancel the latest tax assessment, pursuant to the resolution adopted at the December 9, 2012 inter-ministerial meeting, and based on the outcome of the open survey by which all of those ministers and departments (including the Minister of Finance and NTB) had explicitly agreed in writing to abide. However, the NTB ignored the outcome of the open survey and continued to impose illegal taxes.

On March 24, 2015, the Taipei High Administrative Court ruled in favor of Tai Ji Men regarding the 1996 income tax assessment, setting aside the assessment on the ground that the tax dispositions violated evidentiary rules and logical principles, and that the NTB of Taipei had never properly explored the nature and characteristics of Tai Ji Men and the honorariums given by its

members. On July 9, 2015, the Supreme Administrative Court rejected the appeal of the NTB of Taipei. The Administrative Court remanded the case to the NTB of Taipei for a legally appropriate disposition, while Hong's assets remained in jeopardy.

The Administrative Court set aside the illegal tax assessments from 2013 through 2015, and other challenges had similarly been successful for other years, but the NTB and Minister of Finance refused to remove the unlawful assessments and penalties for a six year period from 1991 to 1996. Thus, despite successes in every venue imaginable under Taiwan's Constitutional system of government, Tai Ji Men and Hong remained under attack by the same forces that initiated this threat more than two decades before.

In 2018, the Supreme Administrative Court ruled against the NTB in yet another case, finding that Tai Ji Men is an academy of Qigong, martial arts, and self-cultivation, not a cram school—the entire basis of the NTB's illegal tax assessments.

Based on decisions of the Criminal Division of the Supreme Court in 2007, the Taipei High Administrative Court in 2015, and the Supreme Administrative Court in 2018 (copies of the decisions are in the author's possession), and under pressure from other sources, both the National Taxation Bureau of Taipei and the National Taxation Bureau of the Central Area finally, after more than two decades, corrected the tax amounts for the honorariums for years 1991, 1993, 1994, 1995, and 1996 to zero. But in an apparent vendetta against Tai Ji Men and Hong, and in likely retaliation for their vindication in those other cases, these agencies continued to pursue taxes and fines for 1992, until in 2020, despite street protests with thousands of participants in Taiwan and statements by international scholars and human rights activists, properties belonging to Hong were seized and auctioned.

IV. Miscarriage of Justice and Abuse of the Role of Law

Hong's supporters, loyal members of Tai Ji Men throughout the world, have taken their case to the court of public opinion in the international community, including the United Nations (UN), couching the conflict as a violation of human rights (*Digital Journal* 2010). And so it is. But one impediment to gaining any

traction in that forum is Taiwan's unique status in the international diplomatic community.

Taiwan is not a member of the United Nations or its sub-organizations. Only sovereign states enjoy membership in the UN. China claims Taiwan as part of its territory, and denies that Taiwan is a sovereign state, thereby depriving Taiwan of the international diplomatic muscle that other nations might enjoy through UN membership. China has the further advantage in that it is one of the five permanent members of the Security Council. China also enjoys increasing international clout outside the UN system. The Taiwan government in Taipei does not engage in consultations with Beijing on its participation in international organizations, while Beijing continues to openly reject the possibility of expanding Taiwan's presence in international organizations (Winkler 2012).

Protests to these international human rights organizations, at least those connected directly or indirectly to the UN, will produce uncertain results for Tai Ji Men and Hong. But the Taiwan government, particularly the current administration, is not immune from forces that can shape its international stature as a Constitutional democracy. The ongoing tax case against Tai Ji Men does nothing to advance that goal, and continuing this sordid saga may undermine its perception as a modern, advanced nation dedicated to the Rule of Law. Certainly, criminal charges levied against one of its own citizens for "raising goblins" will do nothing to advance Taiwan's prestige on the international stage.

But setting aside questions of geopolitical sovereignty, there nevertheless are disturbing questions of due process and violations of the Rule of Law that should trouble any Constitutional democracy, which Taiwan professes to be. Tai Ji Men appears to have followed all of the rules—and won. That is, Hong and his followers were successful in the criminal courts, in administrative hearings, before legislative bodies, and even before the Constitutional branch of Taiwan government explicitly charged with reining in wayward politicians and bureaucrats—the Control Yuan. But to what avail? It appears none. How can there be a right without a corresponding remedy? Availing oneself of the "process" that is "due" is meaningless, unless the outcome of that "process" yields results that are consistent with the ultimate decision and are legally enforceable. Otherwise, as with Tai Ji Men, the Rule of Law is a hollow platitude.

Which raises the even larger question—how can a few rogue bureaucrats defy the findings and directives of virtually every branch of Constitutional authority in the country to bring a lawful organization and its leader to their knees, and

continue to do so with impunity to this very day? Perhaps the President of Taiwan can finally end this travesty, and restore the Rule of Law to its rightful place in Taiwan's Constitutional democracy.

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