

ASSOCIATION OF JAPANESE VICTIMS OF KIDNAPPING AND FORCED RELIGIOUS DE-CONVERSION

The Association of Japanese Victims of Kidnapping and Forced Religious De-Conversion submitted to the Human Rights Committee a Report on July 24, 2013 for the determination of a list of issues for the review on Japan which will take place on 15-16 July 2014.

The Committee determined on 14 November 2013 a list of issues for the Government of Japan, amongst which Issue n° 16 relating to Freedom of religion, opinion and expression (Articles 18 and 19 of the ICCPR) was formulated as follows:

“Please comment on reports of cases of abduction, forced conversion and forced de-conversion, which were not investigated and prosecuted by the State party.”

On 6 March 2014, Japanese authorities made the following answer:

- 181. We do not know of any cases as those described.
- 182. Generally, when any act violating the criminal laws and regulations is discovered, the investigative authorities deal with the case appropriately based on evidence and the laws covering such cases.

This answer runs afar from reality and is totally unsatisfactory. It calls for the following complementary information and update in this regard.

I – No Criminal Investigation or Prosecution

As evidenced by the documented cases provided with our July 2013 Report, the police have never launched compulsory investigations and the Prosecutors have never brought charges against anyone despite unequivocal evidence of abductions and confinements to obtain forced religious renunciations and conversions to the “right interpretation of the Bible”. (See our July 2013 Report with the documented cases attached.)

Even in a case where the police finally decided, because of the pressure of her Korean husband through the Embassy, to go to some Church facilities where a woman was retained against her will, the complaint was dismissed by the Prosecutor (see Emiko Motoki’s case in our Report at page 16 and attachments).

Over the last thirty years or more where these acts have been perpetuated, the most commonly invoked reason for dismissing criminal complaints has been “suspension of prosecution”, which means, according to the internal rules of the Ministry of Justice, that criminal acts have been established but that charges are considered by the Prosecutors to be “not needed due to the

situation: character, age and circumstances of the suspect, gravity and circumstances of the crime, and the circumstances after the crime”.

The gravity of the crime has been systematically mitigated by the circumstance that parents wanted to wrest their adult children from the Unification Church and their beliefs.

The Japanese Government could not ignore the Prosecutors’ positions concerning this issue. Although the Japanese Public Prosecutors Office Law provides for the independence of Public Prosecutors who cannot be directly controlled in their investigation or disposition of individual cases, the Minister of Justice conducts the Prosecution policy and controls and supervises Public Prosecutors giving them general guidance for crime prevention and how to dispose of affairs related to prosecution to maintain their uniformity.¹

In any case, States are responsible for the decisions made and positions taken by their national institutions under international human rights law, even if those institutions are supposed to be independent from the executive power.

While the executive and legislative branches of a government are responsible for the submission and ratification of the treaties, once ratified the treaties are binding on all State institutions, executive, legislative or judicial, and all levels of government, state or municipal. It is the duty of all relevant officials to uphold the treaties’ obligations.

This applies in particular to Japanese Prosecutors who have a duty to uphold the obligations resulting from the International Covenant on Civil and Political Rights, and to protect Japanese citizens’ right to freedom of movement and freedom from coercion to recant their faith.

This applies also to the Japanese Civil Courts which have been similarly reluctant to render deterrent decisions against perpetrators of those abductions and confinements for enforced religious conversions.

II – No Deterrent Decisions by Civil Courts

The last case which we wish to update in this regard is the case of Toru Goto which was documented in our initial Report.

On April 2, 2008, Toru Goto who had been confined for over 12 years submitted a criminal complaint for attempted extortion, arrests, confinement and injury. When he was hospitalized after his release and diagnosed with malnutrition, the doctor established a certificate to denounce a life-threatening abuse. In spite of this report from the hospital doctor, the police never investigated. Subsequently, the Prosecutor dropped the case for “insufficient evidence” on December 9, 2009, a decision which was appealed and upheld on 6 October 2010.

¹ From the official web site of the Ministry : http://www.unafei.or.jp/english/pdf/CJSJ_2011/03Chapter1.pdf

On 31 January 2011, Mr. Goto brought a civil case for the prejudice suffered from his abduction and confinement for over 12 years (from the age of 32 to the age of 44) for the purpose of having him recant his faith.

Since our last report, on 28 January 2014, the Tokyo District Court rendered a decision in this matter, which we want to analyze here briefly for the Committee.

It should be underlined that this striking case was covered by national media (attached) and that the Japanese government cannot pretend to have been unaware of it.

Defendants in the case were Toru Goto's family members (hereafter the "Relatives"), the two "exit persuaders" (deprogrammers), an Evangelical Pastor called Yasutomo Matsunaga and his "exit persuasion" partner called Takashi Miyamura, and the legal entity the Evangelical Alliance Mission (Japan Union Christ Church) where Pastor Matsunaga practiced his activities.

The Tokyo District Court gave a clear description of the latters' "exit persuasion" activities, i.e. forced de-conversion and conversion of adult followers through enforced lengthy briefings on the alleged crimes of the Unification Church and its leader and on the "correct" interpretation of the Bible.

A) Genesis of "exit persuasion" activities of the Defendants

The Court found the following facts established by evidence.

In 1984 Defendant Miyamura frequented the Ogikubo Eiko Church, where he engaged in Bible study under Pastor Moriyama and from around the summer of 1984, he began to assist in "persuasion" activities with respect to believers of the Unification Church. Together with Pastor Moriyama and under his direction, he visited believers undergoing "exit persuasion" and educated such believers on his thoughts regarding contradictions between teachings of the Unification Church and teachings of the Bible and about the realities of the Unification Church.

Around 1986, Defendant Matsunaga read a book authored by Pastor Moriyama in which he criticized the Unification Church. He became interested and visited Ogikubo Eiko Church, where he met Pastor Moriyama and Defendant Miyamura.

On September 3, 1987, a meeting was held at Ogikubo Eiko Church for the launching of GenTaiKyo, a group organized to enforce "persuasion". This meeting was attended by Pastor Moriyama, Defendant Matsunaga and Defendant Miyamura.

At this preparatory meeting, the name of the organization was decided and there was discussion regarding the activities to be undertaken by the organization. It was decided that "The purpose shall be to provide rescue counseling to souls captured by the Unification Church and their families."

The founding meeting of GenTaiKyo was held on October 16, 1987. Defendant Matsunaga wrote down the content of the meeting and later compiled this as a memorandum that he could

refer to when he himself was engaged in persuasion. The memorandum was filed in the case at the Tokyo District Court by Toru Goto (the "Plaintiff"). (see the translation of the Court decision attached pp. 30-32)

The memorandum provided instructions to parents in order to lure their (over age) children to a family place, where discussions on affiliation to the Unification Church would be discussed, then abduct them (calling it "rescuing") with six adult relatives or friends (including "four or five males"), force them into a van, and drive them to a secret flat where they would be secluded and would have to undergo "persuasion" until they recant their faith. Parents were told to allow the child no telephone calls or any walk outside, not even on the balcony to avoid escapes. They were also told to avoid alerting the police by any means as if the police came, their adult child would use religious freedom as an excuse to try to escape.

Parents were told to use their parental authority to enforce "persuasion" by an Evangelical Pastor or disciple telling their child that they asked them to come and if he/she doesn't want to listen "this situation will continue forever". Parents were also told to report to the Evangelical Pastor or disciple and seek advice and receive instructions for any move they would make, in particular to decide if and when to release the child.

Around October 1987, Defendant Matsunaga began recording a video of his lectures at Niitsu Church where he was a Pastor for parents whose children who had become believers of the Unification Church.

The Relatives started to frequent Niitsu Church from around the summer of 1995 and decided to carry out the enforced "persuasion" of the Plaintiff with the involvement of Defendant Matsunaga.

At Niitsu Church in 1995, there was a study group where families that had been successful in having their children exit the Unification Church would speak about the methods for "persuading" believers. The guidance they received included all the precise details on how to abduct their adult child with the help of relatives, to select a place where he/she would be secluded, and that it was necessary to follow the instructions of Defendant Matsunaga; that Defendant Matsunaga could not cooperate in persuading the believer to exit the Church unless his instructions were followed; and that even if the child asked to leave the room, the family should not respond to this by their own judgment but should act in accordance with Defendant Matsunaga's judgment.

When it came near the time to begin persuading a family's child to exit the Church, Defendant Matsunaga would gather the family and discuss the arrangements to transport the child to the room prepared for the "persuasion" activity. He would also guide the family on how they should speak to the believer at the time of transporting the believer and tell them, "When conducting the rescue, please stay in close contact with me regarding your child's situation", "During the rescue, please follow my words. If you cannot follow me, I cannot take on this rescue" and other content.

There were instances in which Defendant Matsunaga would introduce a family intending to "persuade" a child to exit the Church to a room to be used for the "persuasion". One of these

rooms had implements installed so the windows could not be opened and the front door could be locked from the inside as well.

Around the summer of 1995, Plaintiff's father called Defendant Matsunaga by telephone and requested a consultation regarding the fact that Plaintiff was a believer.

Defendant Matsunaga recommended to Plaintiff's father to visit Niitsu Church, and the Relatives started to attend Niitsu Church from around this time, and through its "study" meetings, began preparations to "persuade" the Plaintiff. They watched videos made by former believers and their families who had succeeded in exit "persuasion", and listened to talks given by Defendant Matsunaga, former believers and their families.

The Relatives decided to carry out the persuasion of Plaintiff with the cooperation of Defendant Matsunaga. As the Plaintiff was scheduled to visit the house of his father on September 11, 1995, they set that as the date to execute their plan.

In spite of the findings on the very nature of the forceful "exit persuasion" activities of the Defendants, the Tokyo District Court denied liability of Pastor Matsunaga and of his Church (which was brought into the case by the Plaintiff for having let happen Pastor Matsunaga's well known activities for over twenty years), and found very limited liability of his "exit persuasion" partner Miyamura and of the Plaintiff's Relatives.

B) Findings of the Court concerning the Relatives

In its decision, the District Court found that the Plaintiff's abduction in 1995 was not sufficiently established as he had not screamed in the street while being escorted to the van. However, the Plaintiff's confinement and enforced persuasion were established by evidence from 1997 to 2008, when he was finally kicked out on the street by his family after they realized he would not change his mind.

The Court found that the Plaintiff had been confined by the Relatives in an apartment especially equipped with locks on the front door and windows so he could not escape. The Relatives watched him very closely, not allowing him to leave the apartment or communicate with anybody outside. Considerable restraint was placed on Plaintiff's range of activity over an extended period of time, causing his overall physical strength to decline.

According to the Court's findings, the Relatives believed it was a problem that the Plaintiff was a Church believer, and consistently engaged in persuading the Plaintiff to change his faith, with the help of Defendant Matsunaga and Defendant Miyamura, who possessed much experience related to exit "persuasion" of believers. Thus, it is clear that the actions of the Relatives were taken for the purpose of making the Plaintiff renounce his faith in the Unification Church. It can be said that the Relatives indicated by their attitude to the Plaintiff that, unless he renounced his faith, he would not be released from the state that he had been placed in, and therefore, the Relatives coerced the Plaintiff to renounce his faith through their actions.

The Court consequently "recognized that the psychological suffering experienced by the Plaintiff was tremendous." And the Court granted the Plaintiff damages in an amount of

JPY 4,839,110: JPY 839,110 (around 6,000 euros) for medical costs and attorney fees and only JPY 4,000,000 (28,000 euros) for mental suffering for over ten years.

The Court justified the low level of damages and mitigated the tort inflicted by the Relatives. The Court found that they “resorted to the said torts out of their love and concern for the Plaintiff as a member of their family” and recognized that, taking into overall account these circumstances, JPY 4,000,000 was a suitable compensation.

Therefore JPY 400,000 or 2,800 euros were granted per year of the Plaintiff’s life spent in seclusion and “tremendous” mental suffering because the Court deemed that this coercive treatment was based on “love” and “concern” about the Plaintiff’s religious affiliation.

This ruling implies that the Court found that the Relatives’ “concern” justified and exonerated them in part from the assault and battery committed against the Plaintiff and the more than ten years they stole from his life.

C) Findings of the Court concerning Pastor Matsunaga and his Church

The Court found that, around 1995, Defendant Matsunaga already possessed much experience with regard to the exit “persuasion” of believers and was providing instruction to members of families regarding the methods for exit “persuasion”. According to the Court, the treatment of the Plaintiff during the period from September 11, 1995 to February 10, 2008, by the Relatives “*followed, on the whole, the methods considered to be practical and effective for such persuasion by Defendant Matsunaga*”, who had much experience in persuading believers to exit the Church.

However, the Court found that the establishment of a tort could be recognized only with respect to actions that occurred after the Plaintiff moved to a new location in December, 1997, that Defendant Matsunaga visited the Plaintiff only once after the Plaintiff moved to this new place (as his “partner” Miyamura took over the “persuasion” at that point), and therefore that Defendant Matsunaga “*had minimal involvement with the persuasion at that stage.*”

The Court concluded that it could not be deemed that the torts committed by the Relatives against the Plaintiff took place under the supervisory control of Defendant Matsunaga and that he did not share any tort liability for the torts committed by the Relatives against the Plaintiff.

In spite of its own findings that Pastor Matsunaga organized the Plaintiff’s abduction, confinement and “persuasion” with the Relatives and that he gave instructions that: “When conducting the rescue, please stay in close contact with me regarding your child’s situation”; and “During the rescue, please follow my words. If you cannot follow me, I cannot take on this rescue”; the Tokyo District Court found that he was not liable in any way and, thereby, exonerated him from his unlawful activities.

As concerns the liability of Defendant the Evangelical Alliance Mission for his activities to organize abductions and forced religious conversions with families at the Niitsu Church, the Court found that the Church bore no liability in this regard as it was not “in a position to have knowledge about the operation of each individual Church under it”, in spite of the numerous

years of organized “study” sessions and “training” of parents, and was not “in a position to guide the activities of the ministers working in the individual Churches” under it.

This decision gives total impunity to representatives of “traditional” religions to continue organizing confinements and forced conversions in Japan.

D) Findings of the Court concerning Defendant Miyamura

The Court also found that Defendant Miyamura possessed much experience on the exit “persuasion” of believers, and based on his experience, gave instructions on practical and effective methods of exit “persuasion” to the family members of followers. The Relatives attended meetings and studied “exit persuasion” methods under Miyamura. After the Plaintiff was transferred to the new location, Miyamura continued to conduct exit “persuasion” against the Plaintiff, based on these methods. As it was found that Defendant Miyamura, while being aware that the Plaintiff was being unjustly restrained at the new place, frequently visited the Plaintiff with former Church believers from around January 1998 to around September 1998 to coerce the Plaintiff to quit the Church, the Court concluded that it was fair to recognize with regard to Defendant Miyamura that he aided the Relatives in their torts against the Plaintiff during the said period.

However, the Court found that Defendant Miyamura frequented the new place only until around September of 1998, when he was told by the Relatives that the family wanted to carry on the discussions on their own. Defendant Miyamura did not visit Plaintiff after this point, and the Court concluded that as there was “no clear evidence that there was guidance, supervisory control or other involvement by Defendant Miyamura with regard to the Plaintiff’s stay at [the new place] after this point”, it should be said that “involvement of Defendant Miyamura in the torts by the Relatives was limited to the period from about January to about September 1998 and that he bore no tort liability regarding the stay of Plaintiff at [that place] following this period.”

Therefore the Court ignored its own findings that during meetings Defendant Miyamura advised the family members of believers on organizing “exit persuasion” and, although he helped the family organize the “exit persuasion” of the Plaintiff back in 1995, the Court retained his liability only for a limited period of nine months in 1998 where he personally visited the confined Plaintiff 73 times to enforce “persuasion” and abuse him verbally.

Still, the Court noted that there were “a multiple number [of believers] who received exit persuasion from family members and Defendant Miyamura, in a manner similar to the Plaintiff, in other units of [the same building]”. In particular, one of these believers, Kiyomi Miyama, who was secluded in another flat in the same building as the Plaintiff testified to support the Plaintiff’s claims in the case.

Despite all this evidence of long standing organization of confinements and enforced “persuasion” by Defendant Miyamura, the Tokyo District Court chose to retain very limited liability against him and sentenced him to damages of JPY 967,822, (6,840 euros) corresponding to 20% of the total damages of JPY 4,839,110 to be paid jointly and severally with the Relatives.

This decision exonerates the “persuaders” from the organization of abductions and confinements for the purpose of enforced religious conversions and represents a *carte blanche* for them to continue.

Additionally, in a new case of a Unification Church follower who has disappeared since the beginning of January this year, the Japanese police have consistently refused to search and release him from confinement. This person is still missing to date.

III – Refusal of Action by the Police

Masato Ishibashi, 26 years old, who has been a follower of the Unification Church for 7 years disappeared during a visit to his parents for the New Year 2014.

As he discovered three years ago that his family was consulting an “anti-Unificationist” Minister, Mr. Ishibashi was carrying a GPS terminal that provided location information to a rescue service called ‘CocoSecom’ when he visited his home, which he could activate for help in case of abduction and confinement.

On January 2, 2014, ‘Secom,’ the security service company, contacted the Unification Church to report that a notification signal was being sent by Mr. Ishibashi’s GPS from an area around the Narita City Office of Chiba Prefecture. It was suspected that Mr. Ishibashi was being confined in an apartment close to the City Office, but due to malfunction of the radio waves, the building could not be identified.

Despite repeated requests from his fellow followers of the Unification Church, the police refused to search for him under the justification that only family members could file a missing person’s search request and that the police contacted his relatives who told them that he was doing fine.

However, this is a voluntary misinterpretation of the law. As detailed in our previous report, the legal provisions governing the search for missing persons in Japan are the “Rules on activities to find a missing person”, which are part of the “Rules of The National Public Safety Commission” which is placed right under the Prime Minister and is the top of Japanese Police Organization. Its Rules are to be applied by all the police forces in Japan.

Article 6 of the Rules states that when a person goes missing, the Chief of Police who has jurisdiction over the domicile or residence of the person shall receive a notification on the missing person (“missing-person report”) from the following persons:

(...)

2) Spouse of the missing person (including persons who are in a de facto state of marriage, even if it has not been legally registered) and other relatives.

(...)

5) In addition to those listed in the preceding items, a person living together with the missing person, employer of the missing person, and person who has a close relationship with the missing person in social life.

So the police should have accepted the missing person’s search request from Mr. Ishibashi’s close friends in the Unification Church and acted upon it.

Mr. Ishibashi had also signed a power-of-attorney instructing Lawyer Fukumoto to take all measures necessary to find and rescue him in case he would disappear and be confined in a place kept secret to his fellow members of the Unification Church.

On May 22, 2014, the lawyer sent a letter to the Public Safety section in charge of conducting searches for missing persons at the relevant Chiba Prefectural Police Station. He asked for a meeting to be organized by the police with his client as he was instructed to search for him in case of disappearance and he knew that the police had direct contact with his family.

The lawyer never received any reply in writing from the police but merely received a phone call informing him that the police would not organize such a meeting between the lawyer and Mr. Masato Ishibashi.

Lawyer Fukumoto wrote an affidavit for the Human Rights Committee which is attached.

Unfortunately, this attitude of the police is not new. In all the previous cases of disappearances of followers of the Unification Church, the police have always refused to respond in writing to missing person search requests by their fellow followers or of their lawyer.

This systematic obstruction by the police reveals a policy of “let happen”, which the Japanese government is accountable for before the other UN Member States, the UN Institutions and in particular the UN Human Rights Committee.

The Association therefore respectfully asks the Committee to follow up and monitor this issue closely so that the rights of Japanese believers are respected in full.