

# UNIVERSAL PRINCIPLE

- Human Rights Newsletter from JCLU -

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**UNITED NATIONS**

**Human Rights High Commissioner  
Visits Japan**

**Meeting with NGOs held**

One of the major outcomes of the United Nations sponsored Second World Conference on Human Rights held in June 1993 in Vienna was the establishment of the High Commissioner for Human Rights. The first appointment for the post went to Mr. Jose Ayala Lasso, who is the former Minister of Foreign Affairs of Ecuador.

On July 22, 1994, a meeting with several Japanese NGOs was held upon his request. Participating NGOs were: the JCLU, Amnesty International Japan Section, the International Movement Against All Forms of Discrimination and Racism (IMADR), Free East Timor Japan Coalition, and the Korean Rights Group in Japan. The JCLU was represented by Representative Director Takao Yamada, Secretary-General Yoichi Kitamura and Board Member Yoko Hayashi.

At the beginning of the meeting, Mr. Lasso delivered a speech saying that the Vienna Declaration adopted at the World Conference contains highly important messages. First, the declaration reaffirmed that human rights is a global issue and that it has a universal character. Second, the declaration implies that nations should not dismiss accusations concerning domestic human rights situations on the basis that it may interfere with domestic matters.

According to Mr. Lasso, the role of the High Commissioner for Human Rights is not to criticize specific governments. This point makes an obvious difference with the roles of NGOs. The High Commissioner is expected to contribute to the improvement of human rights situations through political and diplomatic means.

After Mr. Lasso's speech, a discussion was held with representatives of the NGOs. He gave a clear answer to the question of the universality of human rights, saying that an East-West categorization is not appropriate for human rights. Human rights are ascribed to individuals. They are universal and not domestically defined. Thus, he questioned the position of China claiming that Western

countries raising human rights issues are violating China's national sovereignty.

He reiterated that human rights problems should be settled by political and diplomatic approaches. Despite discussions between the High Commissioner and the NGO participants, the question of what sort of dialogues are to be held with which governments remained unanswered. Some NGO participants at the meeting raised doubts concerning the power of the High Commissioner, whose office lacks solid financial support.

The luncheon meeting between NGO members and Mr. Lasso was held in a conference room at the Ministry of Foreign Affairs, with Mr. Kunikata, Director of the Human Rights and Refugee Division of the Ministry of Foreign Affairs, attending as an observer. Although the meeting itself was short, the direct exchange of views between the High Commissioner and NGOs was significant. The JCLU is expected to play a role in actively sending out to the world the voices on human rights from Japan.

For those interested, an article concerning Mr. Lasso's discussion with Professor Yozo Yokota and Ms. Makiko Arima appeared in the Yomiuri Shimbun (a nation-wide Japanese newspaper) dated August 3, 1994.

[Jinken Shimbun, October 25, 1994, No. 291]

**Request for the Establishment of an  
International Criminal Court Submitted to  
the Ministry of Foreign Affairs**

The JCLU decided to support the International Commission of Jurists (ICJ) proposal to establish a permanent International Criminal Court in order to protect the victims of human rights abuses conducted throughout the world in violation of international law. On March 14, the JCLU requested the Ministry of Foreign Affairs to support the ICJ proposal at the United Nations. The JCLU contacted the Ministry's UN Policy Department, Policy Division in the Foreign Policy Bureau and the Legal Division of the Treaties Bureau.

In Bosnia-Herzegovina, an international criminal tribunal has been set up in accordance with a Security Council resolution. If a permanent international criminal

court is created, war crimes and gross violations of human rights would be addressed by said court, eliminating the necessity for regional bodies to carry out this function. The UN is to consider the establishment of the court from 3 to 13 April 1995, by setting up a special committee. The JCLU, which is the Japanese affiliate organization of the ICJ, supports this move, and seeks to motivate the Ministry of Foreign Affairs to realize the establishment of the court in the near future.

[Jinken Shimbun, April 28, 1995, No. 294]

## ASIA/ ODA

### JCLU Investigation of Prisons in Cambodia

A delegation of eight JCLU members visited Cambodia from August 21 to 26, 1994, to investigate the Cambodian justice system, in particular the training system for legal specialists and the human rights situation in the prisons. The JCLU delegation also took this opportunity to arrange some of the training programs for the two Cambodian trainees who were to stay in Japan from late September until December of 1994.

The delegation, led by Mr. Yasunobu Sato, was composed of the following JCLU members: Mr. Masaru Sato, Mr. Shigeki Matsui, Mr. Yuichi Kaido, Mr. Toshiro Ueyanagi, Mr. Tadashi Nojima, Ms. Mikiko Takeda and JCLU staff Ms. Amy Furuya.

The mission's energetic activities began on August 22 after the members arrived in Phnom Penh, via Bangkok. The Acting Director of the United Nations Human Rights Center in Cambodia, Mr. Basil Fernando, briefed the delegation on the current state of the justice system, human rights conditions, and assistance programs for prisons in Cambodia. They also exchanged opinions with several NGO representatives devoted to the reform of the justice system and the prison administration.

After meeting with the Chief of the Prison Department of the Ministry of Interior, Mr. Yin Sreang, members visited three prisons: Takhmao and PJ in the Phnom Penh area, and Prey Sar in Kandal. The members were shocked by the poor facilities at Takhmao, the result of inadequate financial resources, but at the same time, were impressed by the rather open and casual style of management at Prey Sar.

After receiving a briefing on relevant sections of local legislation from Dr. Phat Mau, Legal Advisor to

the Minister of Justice, the mission visited and observed a session of the Phnom Penh municipal court. Cambodia's legislation is confronted with a number of problems. For example, the French-styled Criminal Procedure law naturally clashes with the Americanized Criminal law. Also the pending Immigration Law is quite controversial.

Positive steps are being taken, however. For example, the implementation of a French-government-propelled training program for the judges and a training program for attorney sponsored by the Asia Foundation of the United States are currently underway. The Asia Foundation is also proposing to establish a law school in Phnom Penh University.

The members also visited a lawyer training program sponsored by the American NGO, International Human Rights Law Group. However, the delegation learned that despite the trainee's diligence in their studies, there is no guarantee that they can ever obtain attorney licences under the new justice system that the government is planning for the near future.



Prey Sar Prison in Kandal.

According to Mr. Luy Chanphal of the Cambodian Defender's Association, the military is becoming even more provocative. Currently the situation has become precarious as local troops have absolute power to force the court to suspend particular ongoing cases. Japanese national broadcast, NHK, produced a news program concerning the JCLU mission that was broadcasted in Japan and throughout the world via satellite broadcast late last August.

The result of this investigation was published in a report entitled "Prisons in Cambodia: Problem Areas and Approaches to Reform" in the spring of 1995, and is available in both Japanese and English. For details, see "Publications" section of this newsletter.

[Jinken Shimbun, October 25, 1994, No. 291]

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**Cambodian Legal Training Program**

The JCLU was entrusted by the United Nations Centre for Regional Development headquartered in Nagoya to carry out the Cambodian Legal Training Program in cooperation with the Japan Jurists League for Cambodia. The program was designed to introduce a system of law including human rights.

The trainees were Mr. Luy Chanphal (38), the president of the Cambodian Defenders Association, and Mr. Kuong Teilee (30), who is the legal assistant of the Office of the United Nations Centre for Human Rights in Cambodia. They came to Japan on September 22 and stayed for three months. This training program was realized as a result of the mission that was sent to Cambodia last August. During the trip, members recognized the need for legal training in Cambodia and decided to start the program. The Program consisted of lectures on the Constitution, laws from the human rights perspective and practical affairs of lawyers. The lectures were held primarily in English, with JCLU members as lecturers and interpreters.



Cambodian Trainees Mr. Luy Chanphal and Mr. Kuong Teilee.

The trainees also visited other institutions such as the Supreme Court, the Ministry of Justice, the Ministry of Foreign Affairs, the Police Agency, UNAFEI, and had a training session from each institution. It was meaningful that we could start the Cambodian Legal Training Program in cooperation with various institutions, as it is desired that it be continued.

The trainees completed their training on December 16, and the JCLU held a farewell reception on December 20.

[Jinken Shimbun, December 20, 1995, No. 292]

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**Kubota Memorial Symposium:  
Japan's Contribution to Peace and  
Human Rights in Asia**

Debate on the role of NGOs and  
the Promotion of Human Rights in Asia  
- Guest Speaker Fiona-Blythe Kubota

The Japan Civil Liberties Union, on November 28, at the Kuramae-Kogyo Kaikan in Shimbashi, Tokyo, held the Sixth Kubota Memorial Symposium under the theme "Japan's Contribution to Peace and Human Rights in Asia- With the Report From the JCLU Mission to Cambodia".

At the outset, the greeting was given by Ms. Fiona Blythe- Kubota, wife of the late Mr. Yo Kubota, and the Human Rights Officer in charge of the Rights of the Child at the United Nations Centre for Human Rights. Ms. Kubota said, "The theme of today's symposium is vital and timely. The Centre, together with NGOs and the Cambodian government, hopes to carry out activities towards the establishment of human rights in the country. For that purpose, it is necessary for the Centre to provide human rights education. It is also important to have independent investigations of human rights violations and present policy choices to the government." Ms. Kubota further stressed the importance of strengthening the activities of the Centre in Cambodia.

After Ms. Kubota, Mr. Masaru Sato (former Secretary-General of the JCLU) and Mr. Yuichi Kaido, both JCLU member lawyers, gave their report on the August JCLU mission to Cambodia. Following this, the two Cambodian legal trainees, Mr. Luy Chanphal (President of the Cambodian Defenders Association) and Mr. Kuong Teilee (Legal Assistant at the office of the United Nations Centre for Human Rights in Cambodia) both gave speeches, entitled "Voices from Cambodia."

Mr. Yasunobu Sato, JCLU member attorney, and former Human Rights Officer of the United Nations Transitional Authority in Cambodia (UNTAC) then chaired a debate with Mr. Kojiro Takano, Director of the Division of International Cooperation of the Ministry of Foreign Affairs, and Mr. Tatsuro Kunugi, Professor at the International Christian University and the former Officer in Charge of UN Humanitarian Assistance to Cambodia. The debate developed around prospects for



Japan's human rights diplomacy and NGO activities in Asia.

The report of the JCLU Mission to Cambodia, which included proposals on the Cambodian Legal Training Program and the improvement of prisons and the treatment of prisoners, gained approval from the participants at the end of the symposium.

### Japan's "Human Rights Diplomacy"



Mr. Yasunobu Sato

**Mr. Yasunobu Sato:** I would like to start by raising an issue. When I was an intern at the UNCHR (United Nations Center for Human Rights) in Geneva in 1989, the Tiananmen Square Incident occurred in China. At that time, China was denounced severely for its violations of human rights by the Sub-Commission on Human Rights. As for Japan,

however, neither the Japanese Government nor Japanese Experts made any comment on it. I wondered whether Japan had so-called "human rights diplomacy" or not. Also, when the movement for democracy in Myanmar was suppressed by the military government, Japan did not impose strong sanctions against the government for its violations of human rights.

On the other hand, for Cambodia, the Japanese Government decided to donate USD \$200,000 for the United Nations Human Rights Fund proposed by Mr. Akashi, the former Special Representative to Cambodia. Unfortunately, I found out during my visit to Cambodia last August that no concrete plan had emerged from the fund. Meanwhile, in the field of legal training, the French Government began operations actively. In addition, both the American Government and NGOs also began activities for legal training. Compared with these countries, Japan, including NGOs, has not contributed enough to the activities that would directly support the promotion of democracy and human rights in Cambodia, e.g., law-making and legal training. The financial contribution by the government does not seem to be sufficient either.

Here, I would like to ask both of you three questions. The first question is do we [Japan] have human

rights diplomacy? The second one is, can promoting human rights in Asia be the Japanese contribution to peace? And finally, are there any possibilities for the use of ODA to promote human rights operations in cooperation with NGOs? Could you tell me your opinion, Mr. Takano?

**Mr. Kojiro Takano:** The thinking at the Ministry of Foreign Affairs is that human rights issues do not resolve themselves by simply accusing others of human rights violations. Our biggest diplomatic aim is "the maintenance of peace" and, as the basis of it, fundamental human rights and freedoms should be respected by all member states of the international community, and democracy as an institution is desirable. These are our basic attitudes towards human rights in Japanese diplomacy.

For example, considering Myanmar, it is easy but meaningless for Japanese diplomacy just to criticize the government of Myanmar. What is important for Japanese diplomacy is to improve the situation of human rights in that country. It is significant for Japan, as a member of the international community, to send a message calling for a stop to human rights violations in Myanmar, but at the same time, one must have a realistic approach. For instance, if there are some improvements, one must adopt an approach that takes them into consideration and recognizes them.



Mr. Kojiro Takano

Human rights has a universal value, therefore it is a matter of international concern. I think there is a consensus among members of the United Nations on this, and this is also our basis in formulating diplomacy.

**Mr. Tatsuro Kunugi:** Article One of the United Nations Charter enunciates four purposes of the United Nations, and the third purpose states the promotion of international cooperation in the field of human rights and development. International cooperation has become increasingly important as it replaces overseas assistance, which was used as a tool of the Cold War.

Multilateral cooperation, not bilateral cooperation has become important. International cooperation has four main global issues: peace, human rights, development

and the environment. Among these, it has been discussed as to whether human rights is a matter of international concern or not. Human rights was regarded as a domestic concern as long as its violations were committed within one's own territory, and therefore no countries could intervene to stop the violation of human rights. Every country has tried to keep their state sovereignty and the attitude has conflicted with the idea of human rights.

As a result, among the four issues, human rights is the most difficult to overcome in terms of state sovereignty. How can we overcome this? Here, I believe NGOs can play an important role. It is unfortunate that the Japanese tend to consider international cooperation only in terms of development cooperation. In addition, contribution to international society is regarded as not the activities related to environment or human rights, but activities like PKO (peace-keeping operations). What is necessary for us is to change the paradigm, and rethink what is international cooperation from a broader viewpoint.

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### ODA and Human Rights Provisions

**Sato:** What Japan can do to promote human rights in Asia may be non-military contribution. It has been reported that Cambodia has recently enacted an immigration law that deprives Vietnamese inhabitants of their right to residence. There is a potential danger that human rights issues will give rise to a conflict between the nation states, so in this context the human rights issue in Asia is also a very important security issue.



Mr. Tatsuro Kunugi

**Kunugi:** Up until now, Japan has carried out profit-motivated international cooperation. From now on, how to deal with it as a universal value will be important. Japan presented four guidelines on ODA in 1991, and in 1992 the ODA Charter (*ODA taiko*) was laid out, and this attracted attention from all over the

world. In it there is a line which states "taking human rights situations into consideration." Whether there is consistency in its implementation is the problem. While it is understandable that there exists a gap between the

real intention of the official stance and the *realpolitik* at both the domestic and international levels, the official stance acquires its value when it is continuously presented as the sound and correct argument. And when the correct argument is followed, you will be respected by the international community. [Therefore], it seems desirable to propose at the United Nations to add conditions regarding human rights in ODA and suggest that as an international standard.

**Takano:** The Japanese government's ODA Charter laid out in June 1992 makes a reference to a) the promotion of democratization, b) the introduction of market-oriented economy, and, c) monitoring the situation in developing countries to see whether basic human rights and freedoms are secured.

As for the suggestion to add human rights as a condition regarding the disbursement of ODA, I don't agree with the idea of making human rights a rigid conditionality. First of all, ODA is implemented as part of diplomacy and it is important to see, as a total judgement, whether it is pertinent. It is better not to invite a situation where you put too many constraints on yourself.

The second reason for disagreeing is there is a tendency that the countries often violating human rights are the ones most in need of ODA. Depending on the economic and social conditions the developing countries are now in, there is a strong tendency not to protect human rights. In this context, there is the reality that the countries most in need of ODA have the greatest potential to violate human rights. If you set up a rule that, simply because there is some sort of human rights violation, assistance is not given, it is possible that there will be cases with results that are against the purpose of the ODA.

I would like to make two points regarding human rights in Asia. First, there is a big gap between developing countries and developed countries with regards to human rights issues. Western countries criticize Asian countries, and Asian countries strongly oppose this, insisting that Western countries are forcing their culture on Asia and claim that Asia has Asian human rights. The conflict is becoming serious. I believe Japan's role is to fill this gap.

The other is that only Asia has no regional institution on human rights. Japan has been saying at the

United Nations that the Japanese government would like to consider this. However, in Asia, since the situations are so different between countries, this will not be possible in the near future, and it is important first of all to have more dialogue. From this point of view, the Ministry of Foreign Affairs is now considering holding an Asian regional human rights seminar in Tokyo next year, not only on the government level, but also including NGOs.

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**NGO as a Strong Player**

**Kunugi:** If I may take the opportunity to say this, I think there are some problems in Japan's taking the role of mediator between Asian and Western approaches. Even when they are labeled as Western values, there is no need for the universal values to step aside. The "Asia has a different nature" argument is dangerous because it can be used as a means by both sides, and thus should be eliminated. When we try to call on Asian countries to go hand in hand in development, it is necessary to ask them to present clearly, from their point of view, what the alternative to western thinking is and what the new approaches are, and at the same time we should recognize the limitations of the Universal Declaration of Human Rights, and try to further develop international human rights.

**Takano:** What Prof. Kunugi has spoken about is correct and I have no objection to that. In a paper, it was argued that there are three factors concerning democracy and human rights. One is free election. Second is the establishment of an effective judicial system. It is important that fundamental human rights and parliamentary democracy are guaranteed by municipal law, and whether one can be saved by conventional judicial measures when these are violated is crucial. Third is a sound citizen class. These three are the minimum to call a country democratic.

I believe that when considering viewpoints such as ODA and human rights one should have these three in mind, and, in terms of the three factors, I believe we should provide assistance to enable the growth of a sound citizen class that becomes the core of the country. Also, isn't it realistic to provide assistance in order to realize free elections and an effective judicial system?

**Sato:** Are there any questions from the floor?

**Questioner:** Are NGO contributions being discussed in the government?

**Takano:** After the demolition of the cold war structure, borders have become lower. Problems arising in this situation include many non-political, non-military issues that have a lot to do with NGOs. NGOs have been recognized as a strong player. However, it is also true that as far as human rights issues are concerned, the government's attitude is not quite in that direction. Both sides have problems, and I sincerely believe this should be improved. I am also in charge of population and AIDS issues, and we have asked representatives from NGOs to join the government's delegation from Japan to the International Population Development Conference to be held in Cairo in September. We are asking the same for the AIDS summit in Paris in December. Also for the Social Development summit in March and the Fourth Women's Conference in Beijing in September. We hope to collaborate with NGOs and wish to have them in the delegation.

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**Voices from Cambodia**

**Mr. Luy Chanphal,** President of the Cambodian Defenders Association (CADEAS)

As all of you already know, the Cambodian people suffered through a twenty year war from 1970 until 1993. Where there is war, there is never anything except suffering, tragedy, bereavement, destruction, holocaust and ruthless killing. From 1970 until 15 August 1973, the US Air Force operated to bomb in the whole of Cambodia from day until night. They dropped three times more bombs in Cambodia than were used during the entire of World War II. The result: one million people killed, several thousand more handicapped. From 1975 to 1979, about three million people or so were killed or died by torture, starvation, forced field working... there was no right to expression, no right to meet without the permission of the [ruling] party, no right to movement and so on. Can you imagine the suffering? As a human being do you want to live in such a way?

Between 1979 and 1993 there was another program of systematic murder in Cambodia. During that period there were many political movements and political



fronts. The people accused each other and were brought to jail, where they were tortured and executed without reason or proper investigation. The victims were usually benign or innocent people and, as a result, I have 25 relatives who disappeared and were presumably killed.

Ladies and Gentlemen, because of the overwhelming efforts of the world community, Cambodia is now in peace. Even though there still has been some occasional fighting with the Khmer Rouge, we realise we are in true peace. We of the younger generation recognize that Cambodia's tragic history requires special measures to assure the protection of human rights, and that we not return to policies and practices of the past. In order to maintain peace, to strengthen our new-born democracy offered by the United Nations, many human rights associations have been created by Cambodian human rights activists, including myself.

Human rights NGOs in Cambodia may not last long without the financial support and assistance from the international community. For three years we have received funds from the United States government through the Asia Foundation, from the European Community, the Lawyers' Foundation of the Netherlands, and we hope in 1995 we will receive support from Japan. Today we appeal for generous assistance to our work for the cause of social justice, international human rights and the movement of liberal democracy.

**Mr. Kuong Teilee**, Legal Assistant at the United Nations Center for Human Rights in Cambodia

Since the great majority of Cambodian national and local leaders do not have the experience of working in a genuine democratic system, and since the present Cambodian people were never given a chance to be actively involved in deciding their own destiny, it is absolutely vital that at this unique moment both the government and the people of Cambodia be given sufficient and useful assistance to enrich and develop a positive attitude towards their respective participatory contribution. More often than not, any effort by the administration to change or create new initiatives for development would be made with reluctance and lack of decisiveness. To avoid this negative and disruptive tendency, the administration needs more encouragement from its own people. In other words, a positive participatory democratic system is needed in Cambodia to replace the motionless democracy infested with general indifference. To this end, support from NGOs working on

human rights and democracy is as important as the governmental assistance. Experience in Japan as well as in other democratic countries has manifested the fact that NGOs are the central catalysts for the movements and activities of the public. In Cambodia, this catalyst has been brought to the scene by the international community. So it is necessary that the same international community be eager to continue guiding and supporting these new movements and activities.

## WOMEN

### Toward the Fourth World Conference on Women in 1995:

Report of the June Public Lecture at the JCLU

On June 18, 1994, at the Atagoyama Bengoshi Building in Tokyo, the JCLU held its monthly public lecture as the second briefing session for the World Conference on Women, which will take place in Beijing in 1995. The meeting was focused on the reports by two JCLU members, Ms. Seiko Hanochi and Ms. Kazue Akita, who attended the second Asian and Pacific Ministerial Conference on Women in Development held in Jakarta from June 7 to 14, 1994, and the NGO Conference preceding the governmental meeting. The Jakarta Conference was the second regional meeting in preparation for Beijing, after the Manila Conference held in November 1993.

The following report on the details of the June lecture was written by JCLU member Ms. Mikiko Takeda.

#### Conference for Both Women and Men: From Jakarta, through Tokyo, to Beijing

The second monthly lecture of the JCLU to prepare for the World Conference on Women began with the briefing by attorney Kazue Akita on the NGO Conference in Jakarta. First, she described the tense atmosphere surrounding the conference due to the restricted rights to free speech in the host country, Indonesia, and cited examples such as the presence of plainclothes policemen and the restricted use of copying facilities.

The Jakarta Conference was to be an official NGO symposium following the Manila Conference in 1993. However, under the restrictions imposed by the



Indonesian government, this conference turned out to be a forum in which to train lobbyists to reflect properly the voices of NGOs at the governmental meeting, to give lectures on various topics and to discuss specific subjects raised by the participants. Ms. Akita especially stressed the importance of examining the close relationship between the improvement of the status of women and factors such as education and religion.

Following Ms. Akita, Ms. Seiko Hanochi, Secretary-General of the East Asia Women's Forum, reviewed the background and proceedings of the Jakarta Conference and the adopted Jakarta Declaration for the Improvement of the Status of Women in Asia and the Pacific. She also suggested how women's groups in East Asia could prepare for the Beijing Conference.

According to Ms. Hanochi, the first objective of the Jakarta Conference was to re-examine the "Nairobi Strategies" adopted at the Nairobi Conference (Third World Conference on Women) in 1985 and work out the "Asian Strategies" for the Beijing Conference. The second was to adopt the Jakarta Declaration and Programme of Action.

As she pointed out, tremendous economic disparity among its countries distinguishes Asia from other parts of the world. Poverty and economic disparity is not only the biggest barrier to development, but also to the improvement of the status of women in Asia. It is noteworthy that the necessity of eradicating poverty was included in the Jakarta Declaration.

As the basis for sustainable development, the Declaration also states that it is important to empower women; that is, to facilitate their greater participation in the decision-making process. Ms. Hanochi further emphasized the importance of setting up a strong network among women in East Asia, which was impossible before the end of the Cold War.

Following the two presentations, attorney Etsuro Totsuka and Ms. Sayoko Arai, who also attended and monitored the Jakarta Conference, made relevant comments. What impressed this reporter the most was the attitude of the Japanese government delegation which revealed their lack of commitment and understanding of human rights, giving the highest priority to bureaucratic interests. According to Mr. Totsuka, when the Draft Programme of Action was adopted, the Japanese

delegation rejected the section of the draft that denounced "systematic rape" in wartime or other situations of armed conflict and called for punishment of the offenders. The government delegation demanded that the section be deleted or partially revised. In addition, the Japanese government raised an objection to another section of the draft, which called for women migrant workers to be granted the "full" rights of work. The government demanded that the word "full" be replaced by the word "basic". In all, the Japanese government held three reservations to this Programme of Action.

Various women's groups in Japan have already begun preparing for the Beijing Conference. From 20 to 23 October, 1994, the first East Asian Women's Forum was held in Kanagawa and Tokyo. Women from East Asian countries and regions, who have been rather passive in women's issues, gathered to draw up an action plan for the Beijing Conference. According to Ms. Hanochi, head of the Japanese organizing committee, women's groups involved in this forum have been preparing for their country reports or research papers on specific subjects including Development and Women, Women's Participation in the Political Process, the Human Rights of Women, Women and Culture, and Women and War.

This second briefing session for the World Conference on Women was well attended. To this reporter's regret, however, only about one-fifth of those present were men. Why should only women deal enthusiastically with women's issues? As women alone cannot solve these problems single-handedly, isn't it about time for men to play a more active role?

[Jinken Shimbun, October 25, 1994, No. 291]



### Thinking About the Population Issue From the Women's Perspective

On September 29th, 1994, the JCLU invited as a guest speaker Ms. Yuriko Ashino, Deputy Executive Director of the Family Planning Federation of Japan, to the monthly public lecture. The theme of the lecture was the population issue and the right of women to the self-determination of their own body and sex. Ms. Aki Okubo, a JCLU member and a graduate student at International Christian University, reported on the lecture.

### **Legal System for the Protection of Health and Rights**

Ms. Ashino, first of all, talked about the Family Planning Federation of Japan and the International Conference on Population and Development (ICPD) which was held in Cairo in September. She then addressed three issues: (1) assistance for population issues by United Nations organizations and the Governments of each state, (2) population policies as viewed by women, and, (3) problems in Japan.

The concept of women's right to self-determination over their own body and sex originated primarily from the women's movement demanding the freedom to choose birth-control and access to legalized abortion. Ms. Ashino, from the standpoint of promoting the right to self-determination, pointed out the problems in the Action Plan adopted at the ICPD, and the problems with the approach taken by the Japanese government.

In regards to the Action Plan, women's perspectives have been reflected in both Chapter 4, addressing gender equality, and Chapter 7, concerning reproductive rights (rights concerning sex and reproduction/ health). However, under pressure from the Vatican and Islamic countries, emphasis on different religious values and cultures in implementing the plans was added to the contents. Ms. Ashino mentioned that this could weaken the women's perspective as a consequence. Also, as to the tasks of the Japanese government, she pointed out the necessity of the abolition of abortion as a crime, and the Eugenic Protection Law, which denies the right to self-determination, and also the need for new laws and policies to protect women's health and rights. She presented the content of the proposed new laws, including the expansion of contraceptive usage, the establishment of centers that provide information and counseling, and the adoption of a quota system in which at least half of the members on the council for the policy-making on birth-control and abortion would be women.

### **Abortion Should be Legitimated by a Flexible Term Regulation**

Following Ms. Ashino's speech many questions were raised: (1) the propriety of a woman's right to have an abortion of her own will, (2) the validity of legalizing abortion by the term of pregnancy and the balance between pro-life and pro-choice, (3) the suitability of discussing abortion in the ICPD, and, (4) the necessity of

having a male point of view, etc. Ms. Ashino gave detailed answers for each question as follows.

(1) Although it is desirable to have an abortion after getting the consent of both the man and the woman involved, in the case of non-agreement, women who actually carry the children should have the right to make the final decision. (2) Concerning the legalization of abortion, a term regulation which sets a certain period of time in which women can decide freely whether to have an abortion is more appropriate than regulations which impose various conditions on legalized abortion. However, diversity in argument exists on the beginning of life and whether an embryo can be recognized as a human being. No clear line can be drawn that is unanimously agreed on. (3) Despite the fact that it is controversial to talk about abortion as a means of population control, it was significant as it brought out the issues of abortion from a women's point of view and concerns the issue of health. (4) There is no way to solve the issues on contraception and abortion without changing men's attitudes.

Through the meeting, this writer recognized the necessity of pursuing both a solution towards the population issue and striving towards the right of self-determination on contraception and abortion, as well as the complexity of issues which are related to these problems.

[Jinken Shimbun, December 20, 1994, No. 292]



### **Sexual Harassment Seminar Instructed by Yuri MORITA by Teddy TOKITA**

Secretary of Human Rights Consulting Committee.

The Human Rights Consulting Committee, in cooperation with Sumitomo Trust Bank and the Associations of Enterprises for Enlightening Human Rights in Tokyo, invited Ms. Yuri Morita to conduct a seminar on sexual harassment. The program introduced by Ms. Morita consisted of three parts: a "pre-test of sexual harassment", a "sexual harassment examination" and a "table discussion." The training provided an opportunity for the participants to discuss different methods of combatting sexual harassment while taking into account the social tendencies within Japanese culture.

### Insufficient Countermeasures

At the outset of the seminar, Ms. Morita referred to her own personal efforts to promote the realization of effective measures to counter sexual harassment. She has been proposing for ten years an operation of "programs against abuses", through which such issues as bullying within the educational system (*ijime*) could also be addressed. However, in spite of her efforts, almost no concrete measures have been established. Ms. Morita further emphasized the importance and necessity of addressing the problem with concrete and practical measures, as opposed to promises and assurances, from legislative bodies.

### Pre-Test of Sexual Harassment

Following the introduction, a "pre-test of sexual harassment" was given to the participants. The purpose of the pre-test was to evaluate the participants' awareness and knowledge of sexual harassment legislation and countermeasures both within Japan and in the United States. The pre-test consisted of considering the possible implementation of American countermeasures to sexual harassment while taking into account cultural dissimilarities. Ms. Morita then explained the process through which sexual harassment policies were established as legal obligations for American firms of more than fifteen employees, and how sexual harassment, like sexism, came to be considered a civil rights violation. She further elaborated by citing several kinds of laws and judicial precedents.

### Sexual Harassment Severity Test

In the second part of the seminar, the participants were divided into smaller groups, and were asked to express their opinions of eight specific situations. The issues ranged from obvious situations of sexual harassment to those which are not commonly recognized as problematic. For example, one hypothetical situation consisted of "a poster highlighting a half-naked woman is hung above male colleague A's desk. Female colleague B feels disgusted every time she looks at it." The discussion groups differed in their evaluation of the severity of the situation. The reactions ranged from groups not finding the situation problematic, to those who considered it a matter of personal privacy, and finally to several participants who found the situation intolerable. In general, interpretations of the hypothetical situations differed according to sex and age.

### Table Discussion: "Blaming the Victims"

Referring to the reality that many victims of child

abuse, bullying or sexual violence blame themselves, Ms. Morita gave this example: a girl is harassed by a molester, but escaped. She ran home and reported this to her mother who, despite being distressed at her daughter's experience, says "that's why I told you to come home early!" Ms. Morita pointed out that there is an environment which leads society to blame the victim.

Since this type of training seminar was unprecedented in Japan, it became an introduction to methods of sexual harassment rather than a training program for the participants. The Human Rights Consulting Committee of the JCLU intends to devise and operate programs meeting the reality of Japanese problems and cultural background, and hopes to cooperate with Ms. Morita in the future.

Lastly, we would like to express our thanks to Sumitomo Trust Bank and the Association of Enterprises for Enlightening Human Rights in Tokyo for their cooperation in the seminar.

[Jinken Shinbun, February 24, 1995, No. 293]

## RIGHTS OF THE CHILD/ NATIONALITY

### Andelle Wins His Suit: Supreme Court Grants Japanese Nationality

#### New Development in Protection of the Right to Nationality

On January 27, 1995, with Justice Toshihiro Nagashima presiding, the Supreme Court ruled on the acquisition of Japanese nationality for Robert Andelle Rees, 4 years old. The boy, whose parents were unknown, was born in Japan but had not been given Japanese nationality. He was on his final appeal to the Supreme Court requesting the state to grant him Japanese nationality.

The ruling for the first time provided a loose interpretation of Article 2(3) of the Nationality Law. It concluded that even if a person may possibly be either the father or the mother but cannot be identified positively, the case should be recognized under the condition "both father and mother are unidentifiable", in which case nationality is to be granted. Thus the Court supported the first trial decision accepting the claim of the plaintiff and repealed the decision made at the second trial approving



the appeal of the state.

As Japan becomes more international, the number of children without nationality is increasing. The survey by the Immigration Bureau of the Ministry of Justice as of the end of 1992 indicates that the number of such children up to 4 years old (without nationality status) amounts to 138. Many of them are the children of foreign women working away from home and Japanese men, which means that they cannot be legally recognized as Japanese nationals. In most cases the identity of both parents is unknown.



From left to right: Attorney Akira Nakagawa, Andelle, Mr. and Mrs. Rees

The focus of this suit was on two points. First, who is responsible for proving the condition "both father and mother are unidentifiable", the child or the state, and second, at what point is the condition to be acknowledged as proved. The Supreme Court first identified that the purpose of Article 2(3) of the Nationality Law is to prevent, to the fullest extent possible, the occurrence of people without nationality. It then recognized that in deciding whether or not nationality is to be granted, the responsibility of the state to disprove the existence of the condition is more essential than the responsibility of the child requesting nationality to prove it. This recognition clarifies the state's duty in legal remedies for children lacking nationality, which influences to a significant degree the closed and exclusive system of law-enforcement administration.

In addition, the Convention on the Rights of the Child came into effect for Japan on 22 May 1994. Article 7 of the Convention stipulates that the child is vested since his or her birth with the right to nationality. Paragraph 2 defines the duty of the state party to take concrete measures for the prevention of children without nationality. The ruling of the Supreme Court makes no

direct reference to the Convention. It did, however, take into maximum consideration the situation of children without nationality in accordance with the Convention, which is meaningful from the viewpoint of the duty to enforce the Convention.

The JCLU, especially the Committee on the Rights of Foreigners, has been attentive to the issue of children without nationality and has conducted studies inviting Attorney Akira Nakagawa, a member of the defense counsel for Andelle, and JCLU member, on 30 July 1994, and Attorney Yukiko Yamada, another member of the counsel, on 9 November 1994 as lecturers. The issue deserves further attention and consideration by the JCLU.

[Jinken Shimibun, February 24, 1995, No. 293]

### Summary of the Judgment

On January 27, 1995, the Supreme Court granted Japanese nationality to Andelle Rees, 4, who was born to an unidentified foreign woman and has since remained stateless.

The boy was born January 18, 1991, in Komoro, Nagano Prefecture. His mother disappeared from the hospital without registering the boy with the authorities. The identity of the father was unknown. The boy was adopted by an American missionary, William Rees, and his wife Roberta in October 1991, and when the local authorities refused to register the child as Japanese, Mr. and Mrs. Rees filed a lawsuit in 1992.

The Tokyo District Court in February 1993 awarded Japanese nationality to the boy. The Court said it was difficult to identify the child's mother and adopted Article 2(3) of the Nationality Law, which states that a child born in Japan to unknown parents should be recognized as Japanese. But the Tokyo High Court accepted an appeal by the government in January of 1994, refusing to grant the boy Japanese nationality, stating that the boy should prove that his mother is unidentified and that there is a high probability the mother is a Filipino woman who has been named by the government.

The Supreme Court overturned the Tokyo High Court decision and said that nationality should be granted to the boy in accordance with Article 2 of the Nationality Law. The Court ruled:

(1) The intention of Article 2(3) of the Nationality Law  
The intention of Article 2(3) of the Nationality Law is to

avoid stateless children. So the term "parents who are unknown" should be interpreted as "parents who are unidentified." So even if there is a high probability that the boy was born to a certain person, this provision should be adopted.

(2) The burden of proof for the condition "parents are unknown"

The burden of proof for the condition "parents are unknown" lies on the party arguing for acquiring the nationality in principle. But if he proves that there were circumstances that parents are unidentified when he was born, the condition "parents are unknown" should be admitted. Unless the state can prove the mother or father of the boy is identified the provision of the Nationality Law should be adopted.

(3) There is a high probability that the boy was born to a Filipino woman named Cecilia Rosette, but the state failed to positively identify his mother. So the provision should be adopted.



### Background on the Case of JR's Refusal to Sell "Bunshun" Weekly Magazine

In June 1994, "Shukan Bunshun", a weekly magazine published by Bungei Shunju, which is one of the leading publishing companies in Japan, started running a four-part series of articles entitled "A Monster Hiding in JR East". The main focus of said articles was a top leader of the labor union of JR East, the leading railroad company in Japan. The articles revealed that the leader once belonged to a radical leftist group and cast doubt on his claim that he had long deserted the group. Although the articles mentioned JR East rather incidentally, JR East immediately fought back; one day before the first "Shukan Bunshun" was to be issued, it ordered its subsidiary running newsstands at every and all JR East stations to stop forthwith and forever dealing with "Shukan Bunshun". Since almost 12% of "Shukan Bunshun" were purchased at these newsstands, said move by JR East was clearly aimed at cutting off the flow of information it deemed inaccurate.

This incident gave rise to many lawsuits initiated by Bungei Shunju, JR East and JR East Labor Union. Although JCLU never involved itself in any of these lawsuits, it nonetheless held concerns over this incident

from the viewpoint of civil liberties including the freedom of speech. Hence, it conducted a thorough research of the problem and issued the statement in March 1995. JCLU sent the statement to JR East Japan, Bungei Shunju and relevant publishers and distributors, criticizing an act of refusing to sell "Shukan Bunshun" as instructed by JR East Japan and the publisher's response to settle the matter in such a manner as succumbing to suppression by JR East Japan.

JCLU has studied this issue, with the Mass Media Committee taking a lead role in the discussion.

#### JCLU STATEMENT

March 23, 1995  
Japan Civil Liberties Union

It is needless to say that the freedom of expression has helped lay the foundation for democracy and should be secured to the maximum extent possible. The freedom of expression includes the freedom of speech, the freedom of collection of information, the right to know, and among others, the freedom of distribution of information. Only after such freedom is ensured in each of these stages is it fair to say that the freedom of expression has been socially secured.

There remain, however, many issues to be discussed or improved concerning the freedom of distribution of information, which does not, even slightly, deny the importance thereof within the framework of the freedom of expression.

As for publications, it is not until they pass through certain distribution routes that they are exposed to the eyes of the public. Since such distribution has actually played a highly public role, the national authorities should not be allowed to intervene, for any reason, in such system to hinder the freedom of information distribution. Likewise, any organizations responsible for the distribution system or those having great influence over such system shall not be allowed to deprive a publisher of the freedom of distribution by unilaterally restricting or cancelling the handling of relevant publications, with the intention of silencing criticisms against the organization itself.

Even in the case where any criticism against oneself is found illegal or unreasonable, the

counterargument against such criticism should be made in principle in the "press" or through ex post facto lawsuit. An act of exercising influence on the distribution system and eliminating publications preventatively is the equivalent of abandoning a public role. In this sense, we are indeed concerned about the act of refusing to sell "Shukan Bunshun", a weekly magazine, at "Kiosk", as instructed by JR East Japan, sabotage of sale thereafter, and the publisher's response to settle the matter in such a manner as to succumb to suppression by JR East Japan. This issue should be discussed from a viewpoint of the freedom of distribution of information, separately from an argument of whether the contents of the article of "Shukan Bunshun" are true and correct or not. Furthermore, JR East's action has raised a grave concern in that the company took advantage of its position as an owner of exclusive rights to sell in public places such as the premises of train stations.

JCLU hereby urges any organizations responsible for distributing information to recognize anew the importance of the freedom of distribution and not to unilaterally refuse handling of any publications by reason of the contents of expression.  
[Jinken Shimbun, April 18, 1995, No. 294]

## NGO TAX SYSTEM

### Reinforcing the Financial Basis of NGOs and Citizens' Organizations

The regular monthly lecture was held in the Atagoyama Bengoshi Building on July 2. The theme was "In order to help finance NGOs: considering the system of contributions for public interests." The draft proposition was "The Proposal on the Improvement of the Tax System for Contributions for Public Interests," which has been discussed by the Committee on Taxpayer's Rights since September of 1993. July's debate was about the ideal NGO tax system in Japan. The lecturers were Prof. Hirohisa Kitano and Attorney Yukio Kumagai, both Board Members. Mr. Akira Matsubara, a JCLU Secretariat member reported the following:

#### A Desirable Tax System

Recently, the importance of citizen's activities for the public interest and volunteer work has been increasingly recognized. However, as NGOs and citizen's organizations take the lead in these activities, their present financial condition is far from being sufficient

enough for them to fulfill their expected social responsibilities. In order to function well, infrastructural support for their financing is indispensable, especially in the fields of human rights, welfare and the environment. Of particular importance is the need to adjust the taxing of individual donations to promote contributions and thereby helping to guarantee citizens' organizations and NGO independence.

The committee members propose that when individuals make a contribution to these organizations they will qualify for a deduction when they calculate their income tax, making it easier and more desirable to contribute.

#### Special Qualified Public Interest Corporations

In the present tax system, there is a qualification called "Qualified Public Interest Corporations," which allows donations to be deducted. But this status is very difficult to obtain for NGOs and citizen's organizations. To qualify, organizations must first be categorized as a corporation. However, most of them are not, as they need approval from relevant ministries and their annual budget must be above a certain amount. Furthermore, even if the organizations are corporations, it is unlikely that they will gain the "Qualified Public Interest Corporation" status unless their activities are recognized by the National Tax Administration Authorities as highly beneficial for the public. So, the proposition is to establish a new qualification to the "Special Qualified Public Interest Corporations," the purpose of which is to give more opportunities for organizations which are not corporations to qualify for rebates.

In this new system, NGOs and citizen's organizations which are not corporations, if proper action is taken, would be recognized legally as "Special Qualified Public Interest Corporations," making it easy for them to qualify for tax deductions, just as the official "Qualified Public Interest Corporations" qualify for deductions. This system, however, should be carefully monitored so as to prevent the system from becoming a hotbed of tax evasion and protect it from government intervention. The system proposes that (a) the application procedure, such as the criteria and finding method of "non-profit" status must be disclosed, (b) organizations be given the right to appeal on rejection, and, (c) successful applicants be eligible for the use of special bank accounts. It was also proposed that the expense required for volunteer activities should be qualified for deduction.



Also, the proposals are "to reexamine the designated donation systems," "to establish a new system for individual donation" and "to improve the donation system as a whole." Allowing small donations to be taken into account for deduction was also proposed when individual donors calculate their taxes. Some arguments are being left to the committee to be discussed, but conclusive results have not yet been reached.

In addition it was pointed out by the Committee members that some of the tax problems arise from the accounts of NGOs and citizens' organizations and with their lack of understanding about taxation. As to the Committee on Taxpayer's Rights, the Committee aims to present their final proposals within the first half of this year.

[Jinken Shimibun, October 25, 1994, No. 291]

### Meeting With the Finance Minister

JCLU members met with the Minister of Finance, Mr. Masayoshi Takemura, to discuss the JCLU's recommendations to establish a new tax system for special public interest organization in order to promote the easy access of donation and citizens' voluntary activities. The government recently has established "the Intra-Ministerial Liaison Conference on the Issue of Volunteers," and is considering a legislation to support the volunteers. The JCLU proposal was sent to concerned ministries and agencies including the Houses of Counselors and Representatives' Finance Committee and Government Review Committee on Tax System.

On March 17, Mr. Yoichi Kitamura, Secretary-General of the JCLU, and Mr. Akira Matsubara, a Secretariat member, met with Minister Takemura, and Diet member, Ms. Akiko Domoto, and presented to them the JCLU's "Suggestion for Reforming Public Interest Donation Tax System," and explained its aim.

Currently in Japan it is difficult for citizens' voluntary organizations to collect donations because few organizations are officially admitted as Qualified Public Interest Corporations. Recently, there was a case in which volunteer organizations which effectively worked at Great Hanshin Earthquake disaster were hampered in receiving donations from the public on this basis of not having the official status.

The lack of financial support is considered the main reason that we cannot promote activities of civilian and voluntary organizations in Japan. To resolve this situation, the Taxpayer's Rights Committee of the JCLU, after its examining for almost a year and a half, suggested the new establishment of the system under which citizen and voluntary organizations without the corporate status should be admitted to the tax deduction. Additionally, it suggested the tax reform to deduct activity-cost for promoting individual voluntary activities.

This suggestion is included in the pamphlet, "A Suggestion for Reforming the Public Interest Donation Tax System-- aiming to establish financial foundation of citizens' activity organizations," which also includes the annotations of tax terms.

In December 1994, the JCLU decided to join the League to Create the System which Supports Citizens Activities. The JCLU intends to popularize and actualize the suggestion by cooperating with other member organizations.

[Jinken Shimibun, April 28, 195, No. 294]

## VISITORS

### Human Rights Watch Investigates Japanese Prison Conditions

by Yuichi Kaido,  
Attorney-at-Law, JCLU member

A two member mission of the Human Rights Watch Prison Project visited Japan from July 16 to 30 1994 to study prison conditions in Japan. The investigators were Ms. Joanna Weschler and Ms. Deborah Krisher. The JCLU assisted them in their fact finding work, which was an adhoc project organized jointly by the Prison Project and Human Rights Watch Asia, a regional division of the Human Rights Watch.

The Prison Project has thus far carried out investigations of prison conditions in Brazil, the former Czechoslovakia, Egypt, India, Israel, Mexico, Poland, Puerto Rico, Romania, South Africa, the former Soviet Union, Turkey, Spain, the United Kingdom, the United States, Venezuela and Zaire. The resulting published country-specific reports on prison conditions are based on objective and close examinations made by the

investigating team. Each report, reputed to be very reliable worldwide, has played an important role in improvements in the prison system in the country in question.

Upon arrival in Japan, the mission negotiated twice with the Japanese Ministry of Justice concerning its investigation of Japanese prisons. The Ministry agreed to allow visitations to three of the prisons that the mission had planned to visit, but did not permit the mission team to inspect the controversial institutions, such as Asahikawa and Niigata Prisons. Furthermore, mutual agreement could not be reached on the method of fact-finding. The Ministry declined the mission's proposal to examine all the facilities of an institution and to talk directly with inmates. As a result, the mission conducted its investigation only at the Fuchu Prison in Tokyo.

Examination of the entire facilities and direct interviews with inmates are the basis of the Prison Project's study. They are in accordance with opinions expressed by the European Commission on Prohibition Against Torture and other organizations. The same methods were allowed even in Poland and the former communist Soviet Union. It is a grave concern that the Japanese Ministry of Justice must conduct its policy in secrecy.

Fortunately, many former prisoners, lawyers, prison experts and concerned groups formed a network to support the mission's activities. The mission met persons awaiting judgement at a detention house and many who were once imprisoned. Interviews with them, which seemed quite impressive to the mission, were very helpful in clarifying the current situation. Lawyers engaged in a lawsuit against prison conditions also took an active part in the fact-finding. The JCLU, through the Secretary-General, provided the mission with useful information. Cooperation was obtained also from the Japan Federation of Bar Associations and Osaka Bar Association.

A report on prison conditions in Japan is scheduled to be published in the spring of 1995 in both Japanese and English. Though quite serious, human rights problems within prisons are hardly known to the public in Japan. Hopefully, the report will be a good start in bringing them to light in and out of the country. The supporting network is planning to invite Ms. Weschler, who took the lead in the investigation, to Japan at the time of the publication of the report.

The Prison Project's visit made us ever feel the need for a Japanese NGO that can be influential enough to appeal human rights problems related to the Japanese prison system to international society. Apart from

activities by bar associations, a grass-roots organization should exist to investigate and reveal human rights violations being committed within prisons, detention houses and police jails and to give relief to individual sufferers by providing a lawyer and supporting lawsuits. To that end, we must discuss the issue, including roles that the JCLU can play, in a more concrete manner.

[Jinken Shimbun, October 25, 1994, No. 291]

▼  
**IBA Investigates Japanese  
Daiyo-Kangoku**

Australian attorney Nicholas Cowdery, Vice-Chairman of the International Bar Association's Human Rights and a Just Rule of Law Committee, visited the JCLU office and met the Secretary-General on September 13. His purpose in coming to Japan was investigating the *daiyo kangoku* ("substitute prisons") problem and he was referred to the JCLU by the International Commission of Jurists (ICJ).

The problem has been featured in the counter-report of the JCLU and we explained to him how the JCLU has approached the issue, in addition to supplying him with JCLU publications. As for Mr. Cowdery's request to give him some concrete examples, we told him the reality that the bailing rate has declined, but if a suspect denies his suspicioned offenses, he will actually be denied bail. We asked Mr. Cowdery to put this in his report.

The result of the investigation will be present at the IBA Conference in Melbourne in October and we should pay attention to its reactions which will be produced worldwide.

[Jinken Shimbun, October 25, 1994, No. 291]

**MEMBERS**

▼  
**Nobuo Yamada,  
Former Secretary-General Dies**

On November 28, 1994, JCLU Board Member and former Secretary-General Nobuo Yamada passed away due to heart failure.

Mr. Yamada, since his registration as an attorney, worked in the law office of JCLU founder Sinkichi Unno, and worked as a JCLU member to protect human rights.

In the JCLU supported Thalidomide\* cases, Mr. Yamada was an important member of the lawyers group from the time the law suit was brought in 1965 until the time of the favorable court settlement in 1974. He was also responsible for the Siberian forced labor internment compensation cases. \*\*

6.



Mr. Nobuo Yamada

About the same time as the Thalidomide cases came to an end, Mr. Yamada was busily occupied with establishing an independent office for the JCLU, a dream of the JCLU for many years. In January of 1976, he fulfilled this long-held wish by establishing the current JCLU office in Atago, Minato-ku, Tokyo. In February of that year, in the

new JCLU office, Mr. Yamada was elected Secretary-General. His service as Secretary-General spanned six years, during which time he took the lead in the new leadership system and laid a solid foundation for today's JCLU activities. At age 57, the news of his death was unexpected.

The funeral was held on December 2nd, at the Jisou Kaikan in Meguro. A large number of relations were in attendance, where a quiet and somber ceremony was held.

**\*Editor's Note:** The Thalidomide trials first started in 1963 when a lawsuit was filed in Nagoya claiming that the use of Thalidomide pills by the pregnant mother caused deformity of her child. 63 families followed to pursue the responsibility of the Government and of the pharmaceutical company which sold Thalidomide pills. Mr. Yamada played an important role in promoting the trials, and devoted great efforts to winning the out-of-court settlement which provided for compensation for the children.

**\*\* Editor's Note:** Mr. Yamada led the group of attorneys representing former Japanese soldiers who were held as prisoners of war by the Soviet government and forced to labor in Siberia at the end of World War II. The plaintiffs are claiming for compensation from the Japanese government. With the support of the JCLU, the case was brought to court in 1981 and is now pending in the Supreme Court.

[Jinken Shimibun, December 20, 1994, No. 292]

## OSAKA-HYOGO BRANCH

### JCLU Member Joins Opening of the HURIGHTS-Osaka

by Yasuhiro KANAITSUKA  
Secretary General, JCLU Osaka-Hyogo Branch

On December 7, 1994, the Asia Pacific Human Rights Information Center (HURIGHTS-Osaka), opened with more than 100 million yen in capital, which was funded mainly by the prefectural and city governments of Osaka. The Center's activities include gathering, translating and sorting out various information related to human rights in countries throughout Asia and the Pacific Rim. The Center also disseminates the information to interested citizens and provides human rights education as well as human rights related advice to citizens.

I was appointed to the Center's Advisory Committee as the Secretary-General of the JCLU Osaka-Hyogo Branch. The first meeting of the Committee was held on November 14, 1994. The Committee members, which include a novelist, photo-journalist, law professor and a member of a cultural exchange organization supported by a local government, exchanged opinions from various viewpoints with regards to the management of the new Center. Mr. Tsunenari, another Committee member and a representative of the Amnesty International Japan Section, and I spoke from the viewpoint of NGO activists. We explained how the new Center could be useful to activists of NGOs as well as to people planning to bring human rights related lawsuits. We also emphasized the necessity of providing training to professional judges, especially on international human rights.

The Center is the first organization of such kind to be established in Japan. The Center's aim is not to lead human rights activities by itself, but rather to be a resource center for NGOs and human rights activists. Its role, however, will not be limited to merely creating another library, or stockpiling information. The Center aims to process information in user-friendly forms and to propose how such information may be best utilized. I believe that the Center promises to be a great help to all human rights activities.

[Jinken Shimibun, December 20, 1994, No. 292]



▼  
**Great Hanshin Earthquake**

The Great Hanshin Earthquake, which occurred just before dawn on January 17, hit the members of JCLU Osaka-Hyogo Branch heavily.

We received a letter dated February 4 from Mr. Yasuhiro Kanaitzuka, the Secretary General of the Osaka-Hyogo Branch. The human rights of vulnerable people are being violated seriously and it should be pointed out that the government has given little consideration to crisis management. The JCLU must think over what we should do under these situations.

**Record Earthquake**

*February 4, 1995*

It is with great regret that no one from the Osaka-Hyogo Branch will be able to attend the JCLU's Board of Directors and Bureau meeting.

Fortunately, I have not been informed of any members being seriously injured physically. However, the earthquake destroyed buildings which were used as offices by many attorney-members. The town is in process of reconstruction, but water and gas supplies, railroad and roads are still not completely operational.

It has already been pointed out that the rights of vulnerable people have been seriously violated throughout this earthquake; including women, the elderly, sick persons, the handicapped, children and foreigners- especially those who don't understand Japanese nor English. Their right to privacy and the right to enjoy the minimum standard of healthy and cultural life have been threatened. Not to mention that the Constitution and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) guarantees the right of everyone to an adequate standard of living (Art.11), the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (Art. 12), and calls for the States Parties taking appropriate steps to ensure the realization of these rights. Some persons believe that the situation in Kobe is against the International Covenant. This is apparent as ICESCR Art.11 and Art.12 are not considered suspendable under any situation and are to be exercised without discrimination of any kind. (Mr. Katsuyuki Kumano, attorney).

It is clear that the government has given little consideration from the aspect of human rights.

Human rights has been said to cross over national

borders. In fact the helping hands were extended quickly to us from beyond our borders by countries such as Switzerland, the United States, and France. We are ashamed that we could not help citizens adequately or had not been helping them at all even after the earthquake in Hokkaido and the Tohoku region in recent years, to say nothing of the disaster in other countries. (For example, the eruption of the Volcano Pinatubo in the Philippines). Furthermore, human rights have not so much as crossed the border between prefectures. (People go about their daily lives as usual in almost all places in Osaka, and quake victims shopping for necessities often pass by youths on their way to ski at Umeda Station.) The human rights of vulnerable people are continually being violated around us.

Osaka-Hyogo branch would like to consider how we should cope with the fact that human rights do not even cross the prefectural borders in Japan, and what JCLU can do to aid the earthquake victims.

Yasuhiro Kanaitzuka  
Secretary General,  
JCLU Osaka-Hyogo Branch  
[Jinken Shimbun, February 24, 1995, No. 293]

**PUBLICATIONS**

▼  
**Translation of ICJ Report on  
"Comfort Women"**  
by Matthew S. Harada, JCLU Intern

The International Commission of Jurists (ICJ), a non-governmental organization based in Geneva, published in November 1994 its report "Comfort Women: an unfinished ordeal - Report of a Mission." The report was the result of an extensive investigation carried out by two ICJ experts, Ms. Ustinia Dolgopol and Ms. Snehal Paranjape, and included visits to the Philippines, North and South Korea, and Japan. In all, forty former "comfort women," along with three former Japanese soldiers, government representatives, NGOs, lawyers, academics and journalists were interviewed. The JCLU, in cooperation with the Japan War Responsibility Resource Center, translated and published the Japanese version of the report.

The ICJ report was intended to bring further pressure on the Japanese government to properly address the issue of individual compensation and full rehabilitation of the victims.

"This is the story of people everyone tried to forget. It is inexplicable that human rights violations on such a massive scale were not discussed in any meaningful way for more than forty years."

Included among the recommendations made in the ICJ report was a call for the Japanese government to "pay, as a purely interim measure, without prejudice to its rights and contentions, the sum of US \$40,000 for the rehabilitation of each woman who has come forward." With the Fiftieth Anniversary of the end of the war in Asia due this summer, NGOs, armed with the ICJ report, are pressing the Japanese Government for concrete action regarding the assumption of responsibility for the military sexual slavery, and demanding adequate compensation be given to the former "comfort women" who have come forward in recent years, and those who have yet to reveal themselves as victims.

Since the publication of the report, the two authors have visited Japan. Ms. Paranjape, together with Ms. Dilbur Parakh, the then Asian Legal Officer for the ICJ, came in December of 1994 with the support of the JCLU to reprimand the Japanese government officials for their failure to recognize the ICJ report. At that time, an official from the Ministry of Foreign Affairs had stated that the Ministry refused to deal with the ICJ report on the basis that it had been compiled without interviewing Japanese officials, but later revised this statement by acknowledging that officials from the Asian Affairs Department had in fact met with the ICJ mission, and that the report was "not handled properly within the ministry department" (*Japan Times*, Dec. 8, 1994). The ICJ representatives demanded that the Japanese government give due consideration to the report, and re-examine its policies on the issue.

As a follow-up, on July 2 to 5, 1995, at the United Nations University, the ICJ held its first symposium in Japan to discuss the issue of "Sexual Slavery and Slavery-Like Practices in World War II". Among the speakers were Mr. Adama Dieng, Secretary General of the ICJ, Mr. Theo van Boven, Dean of the Faculty of Law at the University of Limburg in the Netherlands, Ms. Dolgopol, and a consortium of 28 scholars, lawyers and NGO representatives from North and South Korea, the Philippines and Japan.

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### JCLU Report on Prisons in Cambodia- Judicial Assistance Project Underway

In August 1994, members of the Asian Human Rights Committee conducted a fact-finding mission on the human rights conditions inside prisons in Cambodia. The results of their investigation have now been compiled in a report entitled, "Prisons in Cambodia: Problem Areas and Approaches to Reform."

The report consists of two parts: Part 1 is a report on the findings of the mission and Part 2 contains recommendations to the Cambodian government and a proposal to the Japanese government.

Prisons in Cambodia are in extremely poor conditions; buildings are old, and are in danger of collapsing in some cases. Most of the prisons are overcrowded and 2 to 3 people are sometimes imprisoned in a single solitary cell.

The report points out these issues and recommends the Cambodian government to make improvements. The JCLU met with Mr. Troung Mealy, the Cambodian Ambassador in Japan, and asked him to convey this message to the Cambodian Government. The report also proposes the Japanese government to allocate ODA for repairing prison facilities and has conveyed this message as well through the Ministry of Foreign Affairs on April 19.

At the time of the investigation, the committee was asked by prison staff and NGOs to provide financial assistance, and the committee began in January of this year to collect donations for judicial assistance in Cambodia. Fund-raising was launched based on the idea that we should not only conduct research but also make some concrete contributions. In the first few months, more than 300,000 yen of contribution was raised by JCLU members. From this, \$1000 was donated for a water pump to secure drinking water for the Takhmao Prison. The Sotoshu Volunteer Association (SVA), a Japanese NGO, was entrusted with the implementation. Another \$1000 was donated through the Asia Foundation to the Cambodian Defenders Association, where Mr. Luy Chanphal, one of the former JCLU Cambodian Trainees, is the representative. A letter of appreciation and a plan to allocate the money (\$250 for domestic travel and \$750 for daily allowance of lawyers travelling to clients in the provinces) was sent to the JCLU.

[*Jinken Shimbun*, April 28, 1995, No. 294]

## ABOUT JCLU

The Japan Civil Liberties Union (JCLU) is an independent non-profit organization which aims to protect and promote human rights for all persons regardless of beliefs, religion or political opinion. JCLU's work is conducted in accordance with internationally recognized human rights principles, namely the Universal Declarations of Human Rights. The JCLU was founded in 1947, the year the new Constitution of Japan was promulgated. The American Civil Liberties Union (ACLU) played an important role in the JCLU's foundation. The JCLU is affiliated with the International Commission of Jurists (ICJ) and the International League of Human Rights (ILHR).

Membership is open to anyone who agrees with the JCLU's purposes and is willing to work for the improvement of human rights situations. JCLU currently has about 800 members, 60% of whom are lawyers engaged in private practice, and others include citizens of various professions such as scholars, journalists, and students. JCLU is financed by membership dues and unconditional donations from its members and outside supporters. Day-to-day matters are left to the Secretary-General and the Board of Directors, which is comprised of 45 members. Three Representative Directors attend to external matters. Currently, the JCLU is comprised of 20 committees.

JCLU frequently issues advice, memoranda, and opinions on specific human rights cases relating to activities of the national and local government, the Diet, and the courts of Japan. In addition, it has acted as a leader in movements for new domestic legislation and ratification of the international human rights treaties by the Japanese Government. Member attorneys are active in a broad range of human rights litigations involving the freedom of religion, freedom of information, postwar compensation, environmental pollution, refugees, and serious criminal cases. Recent activities include work on foreigner's rights, sending of a fact-finding mission to Cambodia, and participation in the World Conference on Human Rights. JCLU organizes seminars, meetings and symposiums, conducts research, and publishes reports, books and newsletters. JCLU has a chapter in Osaka.

**JCLU Officers** : Representative Directors: Takao Yamada, Takehiro Uchida, Kiyoko Kinjo;  
Secretary-General, Yoichi Kitamura.

**Committees**: Freedom of Information Committee, International Human Rights Law Committee, Mental Patients' Rights Committee, Asian Human Rights Committee, Supreme Court Study Committee, Criminal Procedure Committee, Taxpayers' Rights Committee, Elimination of Racial Discrimination Committee, Membership Promotion Committee, Mass Media Committee, AIDs and Human Rights Committee, Human Rights Consulting Committee, Foreigners Rights Committee, Abolition of Death Penalty Study Committee, Postwar Compensation Committee, Legal Consultation Committee, Legal Trainees Committee, Students Committee, Jinken Shimbun Committee (Japanese-language newsletter), Universal Principle Committee (English-language newsletter).

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