

Forcible "Deprogramming," the Japanese State, and International Human Rights

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Over the past few years the issue of religious "deprogramming" in Japan, a problem which has been well known to certain circles within the Unification Movement for decades, has been given increasing attention in print not only by American academics but also in the United States Department of State Annual Report on International Religious Freedom (hereinafter Religious Freedom Report)..[i] These recent works compliment earlier works which were primarily limited in focus to the involvement of Christian ministers, particularly ministers associated with the United Church of Christ in Japan (Kyodan), in forcible "deprogramming" cases.[ii]

What is missing from the extant material on the subject, however, is a proper and comprehensive investigation of the response of and role played by the Japanese State, as represented by state agents such as police, prosecutors, judges and state-employed mental health officials. Even though works have suggested state negligence and even contrition to varying degrees, none go so far as to sufficiently document the response of the prosecutor's office, the law courts or the worrisome trends by governmental authorities to endorse forcible "deprogramming." Nor have previous works attempted to analyze the situation in Japan from the perspective of international human rights norms.

This paper considers the contemporary situation of forcible "deprogramming" in Japan and finds that state officials have indeed been supporting, either directly or indirectly, forcible religious "deprogramming." This paper further finds that forcible "deprogramming" is a behavior which is in violation of a number of provisions in key human rights documents, and that the Japanese State, as a member of the United Nations and a party to the International Bill of Rights, has been negligent of its duty under those provisions to defend and protect Japanese citizens.

The idea that the Japanese State, as represented by the actors mentioned above, is in some way involved in forcible "deprogramming" cases has been suggested by a number of commentators. For example, the Reverend Sun Myung Moon, at a public symposium in Chicago in 1983, commented on the attitude of "judges and courts" towards "deprogramming" cases as follows:

The most despicable act, however, is the inhumane treatment of those who join the Unification Movement [in Japan]... Judges and courts, who are supposed to be the custodians of human rights, often collaborate in this infringement upon fundamental religious liberties... You cannot imagine the deep sorrow I feel when I see so many people whom I love suffer for their faith and ideals.[iii]

In addition to Reverend Moon's remarks, some scholars have questioned the attitude of police and the Japanese court system towards these cases. For example, in his 1992 seminary paper on "The Kidnap Ministry," Andrew Davies pointed out "there is no evidence in Japan of any significant court condemnations and precedent setting rulings regarding kidnapping." [iv] Likewise, in his 1994 essay

in Anti Cult Movement in Cross-Cultural Perspectives Michael Mickler noted that "there appears not to be a single case of a deprogrammer being prosecuted much less convicted," suggesting that such indifference by state authorities has "helped to proliferate the practice." [v] Most recently, Harvard University Professor Helen Hardacre, in the August 2002 Journal of Asian Studies, recognized that "deprogrammers" in Japan "kidnap members of religions they disliked." She mentioned the Unification Church as being especially targeted and further acknowledged that "a number of court cases have tested the legality of this technique." [vi] Also in 2002, James Richardson published an essay in International Perspectives on Freedom and Equality of Religious Belief in which he describes some recent developments pertaining to the Unification Church in Japan as "breakthroughs" with state officials in the courts and the Japanese Diet. [vii] Though not a scholarly work, yet significant still, the Religious Freedom Report has gone so far as to recognize "alleged police indifference to allegations of forced deprogramming." [viii]

Even though the idea that the Japanese State is in some way involved in forcible "deprogramming" cases has been suggested by all of the above commentators, they are in some cases inaccurate and in all cases insufficient. For example, Davies claims some ministers have been "sued for assault" in the Japanese courts, when in fact this did not occur until 1999. [ix] Mickler argued in 1994 that the so-called "counter-cult movement" in Japan had met with an "utter lack of response" from "governmental authorities," suggesting that those involved in "deprogramming" lacked legitimacy and validation by the State. [x] While this may have been the case before the Aum Shinrikyo gas attack in the Tokyo Subway in 1995, since that attack there are a number of worrisome signs that those involved in "deprogramming" are actually gaining legitimacy from the State. That is, governmental authorities have responded positively to what Mickler called the "counter-cult movement," to the extent that some state officials have even begun to build alliances with key figures in that movement. This is particularly true with regards to the developments within government agencies such as the National Police Agency, the Ministry of Health, Welfare and Labor (hereinafter Ministry of Health) and the Ministry of Justice that will be discussed later in this paper. [xi] Hardacre, while recognizing the "legality" of "deprogramming" is being "tested" in the courts, did not go so far as to mention the results of the "test," nor tell us whether or not she approved of those results. Richardson's article did mention some results of the legal "test", but his essay is misleading not only because he confused the names of plaintiffs and defendants, but also because he fails to note that the judgment to which he referred to as a "breakthrough" was in the District Court, and the defendants subsequently appealed to the High Court, which not only reduced the compensation but also cancelled the injunction which had ordered the parents and "deprogrammer" not to use violence, threats, kidnapping, or confinement in the future. While acknowledging "allegations" against the police, the Religious Freedom Report has failed to mention the courts, the prosecutors or the Civil Liberties Bureau of the Ministry of Justice. [xii]

Definition of Terms: Forcible "Deprogramming"

One obstacle towards understanding just exactly what is going on in Japan is the slippery use of language by the different parties involved. This paper uses the expression "forcible

deprogramming", but with some reservations. There are at least two justifications for using this expression. First of all, both the parties involved dislike the expression. On the one hand, those who seek to remove individuals from religious groups they perceive to be harmful, typically deny they use "forcible" means, instead referring to the behavior as "peaceful conversation", "protection," "confinement therapy," "persuasion," "exit-counseling," or "rescue." On the other hand, those who have been targeted for removal, that is, the members of the "harmful" religious groups, dislike the term "deprogramming" because it infers that, as members of a religious group, they have been "programmed" or even "brainwashed." Moreover, the term "deprogramming," these individuals argue, veils the actual criminal activity taking place, which they feel would be more accurately described as: "incitement," "kidnapping," "false imprisonment," "confinement," "arbitrary detention," or "coercion." The second justification for using the expression "forcible deprogramming" is that the term "deprogramming" has a familiar ring to western ears, and has been used consistently in academic writing on the subject over the past three decades, though often with the word deprogramming in quotation marks. Since there is no consensus in Japan on what to call the behavior discussed herein, for lack of a better expression, forcible "deprogramming" will be used.

At this point, some further explanation is needed regarding the use of the term "forcible" in this paper. Admittedly, a variety of different scenarios exist. In some cases, there is no kidnapping -- the individual targeted for "deprogramming" goes freely to a place, and only after arriving at the place discovers that he or she has been brought there in order to be confined. In other cases, there may not be "false imprisonment" in the sense that the room for "deprogramming" is not locked, even though the location may be remote and the individual targeted for "deprogramming" may be stripped of all possessions, such as shoes and money, and kept under constant surveillance. In a number of cases, however, there is a clear kidnapping: an individual is taken from a public place by physical force against his or her will. Likewise, many times, the existence of false imprisonment is also clear: the person targeted for "deprogramming" is confined in a room where all windows and doors are fixed with special devices to prevent escape.

Even though a number of scenarios exist, all of them discussed in this paper fall under the umbrella of "forcible" because all of them have resulted, to a greater or lesser extent, in physical and or psychological injury. How can we know that such injuries occur, when those accused of committing them typically deny it? One way is to consider the results of the "deprogramming" experience. Physical injuries do occur. While they may have been more common in the 1980s, when church members were being confined in mental hospitals and family members were less directly involved, it is still true today.[xiii] In 1998, for example, Mitsuko Ishikawa fractured her hip when attempting to escape from an apartment in which she had been confined; likewise when Hiroko Tomizawa was forcibly abducted in 1997 her church leader was physically assaulted: first he was assaulted with what he claims was an electric stun gun and then he was beaten in the face. Rie Imari's husband was injured when he was pushed to the ground attempting in vain to prevent a group from kidnapping her from a public parking lot. All of these cases, which will be discussed in greater detail below, involve bodily harm, which is the most compelling evidence of force.

More common than physical injuries, however, are psychological injuries. Studies in the West as well as in Japan have found that forcible deprogramming does result in serious mental harm, particularly so-called "post-traumatic stress disorder" (hereinafter PTSD).[xiv] Some cases of PTSD have been documented in Japan, but the number of documented cases is far less than the number of individuals actually suffering from the disorder.[xv] One factor that increases the possibility of PTSD is that in Japan individuals are typically confined in locked apartments for periods far longer than most cases of "deprogramming" in the United States and perhaps even the world: two months on the average but extending to as long as two years, as in the case of Hirohisa Koide.[xvi] Since individuals are subjected to extreme duress for such protracted periods, there is a much greater likelihood for serious mental harm to occur. Some individuals in Japan have suffered such severe mental harm through "deprogramming" that they have attempted to commit suicide while in confinement.[xvii] Others, whom the advocates of "deprogramming" might claim among the "rescued," continue to publicly criticize the method of forcible "deprogramming" as a violation of human rights, even though they have lapsed from the church.[xviii]

The Context of "Deprogramming" in Japan

In 1994 Michael Mickler noted that "in Japan kidnapping and deprogramming is still increasing." [xix] While this may have been true a decade ago, this is no longer the case. There is no question now that the number of reported "deprogramming" cases to the headquarters of the Unification Church in Japan (Toitsu Kyokai) has dropped significantly in the last decade: from a reported three hundred and seventy five in 1992 to less than thirty in 2002.[xx] Several factors may account for this decline. One factor, which has already been mentioned, is the increasing attention given to the issue in America, particularly the notice -- however brief -- in the Religious Freedom Report.. Another factor which has likely caused the decrease has been the legal offensive taken since 1999 by members of the Unification Church, a phenomenon that will be discussed later in this paper.

However, just because the numbers are decreasing does not mean that the situation for members of the Unification Church -- or for members of many minority religions in Japan for that matter -- is improving. The fallout of the Aum Shinrikyo affair has been widely documented and commentators have argued persuasively that the State has responded to the tragedy by becoming increasingly hostile towards some religious groups in Japan.[xxi] Before we examine particular cases in which members of the Unification Church have sought redress by the State, it is helpful to look briefly at the larger context in which these particular cases lie. What follows, then, are some significant developments since 1999 that suggest how the Japanese State is relating to religious groups like the Unification Church.

- September 1999: The first Religious Freedom Report is released acknowledging that members of the Unification Church have "alleged" as follows: (1) "police do not act in response to allegations of forced deprogramming of church members;" (2) "police do not enforce the laws against kidnapping" or "prolonged arbitrary detention;" (3) the responsible individuals "are not charged by police." [xxii]

- March 2000: The first of a series of reports on religious groups (Health Reports) is published by the National Institute of Mental Health in the National Center for Nerve and Psychiatry (Kokuritsu Seisin Shinkei Center Seisin Hoken Kenkyujo) and subsidized by the Ministry of Health. The title is "Health Care for Ex-Members of Specific Groups," but "specific groups" is an obscure reference to religious groups, including, but not limited to the Unification Church.[xxiii]
- April 2000: A twenty-four page complaint is submitted by the Unification Church to the National Police Agency (Keisatsucho) documenting six cases in which police either engaged in a conspiracy to commit forcible "deprogramming," or neglected to control forcible "deprogramming." They receive an anonymous, undated one-page response stating that, in each of the six cases, "the police had done their best, so the National Police Agency could do nothing." [xxiv]
- Several prominent actors in the "anti-cult" movement in Japan, including two lawyers, a professor of psychology and a Kyodan minister travel to the United States and attend the annual conference of the American Family Foundation (hereinafter AFF) -- an association with direct ties to the former Cult Awareness Network, which had gone bankrupt just a couple of years earlier after being found guilty of collaborating in a forcible "deprogramming" case.[xxv] Those actors present on "Aum Shinrikyo, the Unification Church, and Other Groups in Japan," arguing that the Unification Church and Aum Shinrikyo are both "dangerous groups." [xxvi]
- Shingo Takahashi, assistant professor of psychiatry and president of the Japan De-Cult Council, lectures a group of state officials at the Ministry of Justice on how "cults" conduct "mind-control" to manipulate followers. He claims mind-control is "conducted deliberately by design so a powerful counselor is needed in order to help believers renounce their faith." He recommends state officials employ the "exit-counseling" system, likely the same system he has advocated in his book Senno no Shinrigaku (Psychology of Brainwashing) which is actually forcible "deprogramming." [xxvii]
- Jin Hinokida, a legislator, refers to the Religious Freedom Report mentioned above and criticizes the police attitude toward Unification Church members in the Japanese Diet (Kokkai). In response to Hinokida's condemnation, Setsuo Tanaka, chief of the National Police Agency asserts that the police have been regarding the kidnapping of adult children by their parents as an "illegal activity" and have been practicing "equality under the law." [xxviii]
- September 2000 The second Religious Freedom Report is released, continuing to acknowledge that "members of the Unification Church have alleged that police do not act in response to allegations of forced deprogramming of church members," but further noting that even though Hinokida had "raised this allegation" in the Diet and even though "National Police Agency and Ministry of Justice officials" considered the member's request for "appropriate actions," those officials "took no action during the period covered by this report." [xxix]
- December 2000: The first report prepared by a joint-study group of state officials from the Ministry of Justice, the National Police Agency and the Ministry of Health is released on "How to Support Ex-members from Specific Groups from the Viewpoint of Psychiatry and Psychology.." The report defines "specific groups" as "cult groups" like Aum Shinrikyo and the Unification Church and aims to study how to make active members of those "specific groups" withdraw their membership, even going so far as to affirm a method of so-called "coercive persuasion projects" (kyoseiteki dakkai kosaku) which are in effect forcible "deprogramming." [xxx]

- January 2001: Takashi Takee, a police officer from the Tokyo Police Agency, delivers a speech at a public symposium in which he gives direct and public incitement to commit forcible "deprogramming," which he terms "confinement therapy," in order to remove members from the Unification Church.[xxxix]
- March 2001: The second Health Report is prepared with a subsidy from the Ministry of Health on "Study on New Mental Diseases which cause Socially Problematic Behavior," which further regards membership in specific religious groups as a mental disease which can be treated by "coercive persuasion projects." [xxxix]
- April 2001: The Unification Church in Japan, having sent a letter to the director of the Tokyo Police Agency to protest the police officer who had spoken on "confinement therapy," receives an official response from the Crime Prevention Bureau explaining that that officer had no intention "to violate the honor and religious freedom" of the church but was only expressing concern for a "desirable relationship" between parents and children.[xxxix]
- State officials from the Ministry of Health travel to the United States and attend the AFF conference and have a special hearing (choshu) with AFF officers, presumably about strategies for controlling "dangerous cults." [xxxix]
- June 2001: In response to allegations that police in Japan were either conspiring to commit or actively complicit in forcible "deprogramming" cases, Kijuro Sugawara, a House of Representative member in the Japanese Diet, submits an Inquiry Document (shitsumon shuisho) to the State through Tamisuke Watanuki, the chairman of the House of Representatives.[xxxix]
- The Ministry of Justice, the National Police Agency and the Ministry of Health all respond to a Unification Church inquiry about the report by the joint-study group admitting the report has been distributed nationwide to state offices and agencies such as: the presidents of juvenile prisons, the Civil Liberties Bureaus, the Mental Health and Welfare Division of the Ministry of Health, health centers, and local police departments.[xxxix]
- September 2001: In response to the shitsumon shuisho, the State delivers a document to the House of Representatives signed by Prime Minister Junnichi Koizumi, which asserts, "Japanese police officials have not been involved in confinement cases," and hence the matter need not be discussed any further.[xxxix]
- March 2002: The third Health Report is released, including a "Study Concerning Support for those who Quit from 'Cult' Groups," which contains materials on "dangerous" religious groups obtained from the AFF in the United States.[xxxix]
- June 2002: the Central Education Council (Chuo Kyoiku Shingikai), a consultative organ of the Ministry of Education and Science, holds a meeting and discusses "educating young people so they can resist mind-control." [xxxix]
- October 2002 The fourth Religious Freedom Report is released. For the first time members of Jehovah's Witnesses are included among those who have made "allegations of forced deprogramming." [xl]

Specific Attempts by Individuals to Obtain State Redress

The previous section focused on the context of "deprogramming" in Japan, and laid out a series of events since 1999 that helps us to understand some of the steps the church has taken as an organization to address this problem as well as some of the responses of the State to both the particular phenomena of "deprogramming" and the perceived "cult" menace. This section sets out to examine specific cases in which members of the Unification Church have attempted to gain a remedy through the State. Since the 1980s members have been claiming their rights have been violated through the four administrative or judicial procedures available: the police, the prosecutor's office, the Civil Liberties Bureau (Jinken yogokyoku), and the law courts. Let us examine how Unification Church members have sought redress through each of these procedures, and then consider whether or not the existence of a violation was determined by a competent authority and, in cases of violation, whether or not an effective and enforceable remedy was ordered.

The Police

Kobayashi Case

Soichiro Kobayashi was confined for a total of seven months on two different occasions and had the following three encounters with the police: (1) the police came to the apartment where he was being confined after they had been informed that someone inside was shouting for help, but the police were told by the parents that they were "protecting" him from the Unification Church so they left without doing anything; (2) the police stopped the van driven by a group that had just kidnapped him from a public street (The police had been informed of the incident by some bystanders so they brought everyone to the police station to investigate) but the police heard he was "mind-controlled" and in need of "protection" so the police let the group take him against his will; (3) the police came to a street near the apartment where he was being confined after they had been informed that a group of people were attacking a young man outside the building, but the police were told by the group that the young man had escaped a "counseling session" in order to return to the Unification Church, and they were holding him in order to "protect" him from that church, so the police let the group take him against his will.[xli]

Akemi Case

After Suzuki Akemi had been detained for eighteen days the police came to the sixth-floor apartment where she was being held in response to a call she was able to make after climbing from the veranda to the apartment next door. The police brought her to the police station where they learned she was a member of the Unification Church.. She had been able to contact a church member so four church members arrived at the station to pick her up. However, more than ten policemen surrounded them, pushed them, ostracized them, and prevented them from meeting Akemi. During this time, the church members witnessed a police officer force Akemi into an official police car and take her away. The officer drove her to a highway interchange -- where her parents were waiting in a car -- and helped the parents put her into their car against her will. The parents then took her to another place and confined her again.[xlii]

Katagiri Case

While this female believer was being confined over a five-month period, the following four appeals were made to the police on her behalf: (1) the husband tried to make a criminal complaint against her relatives to the police, but the police rejected the husband's complaint on the grounds that the parents were "talking to her to solve the brainwashing;" (2) the husband's parents visited the police station, but the police not only refused again to intervene in the wife's case, they even encouraged them to help the husband quit the church; (3) church members located the confinement place and a lawyer representing Katagiri's husband called the police station to demand that the police intervene, however the police refused a third time, saying "we will never do anything on the condition her parents are with her;" (4) a church member called the police and -- while concealing his church affiliation -- reported that a woman was shouting for help in a locked room. In response to this appeal, police came to the apartment, brought Katagiri and her father to the police station, tried to persuade her to stay with her parents, but when she refused they finally allowed her to go free..[xliiii]

Syukuya Case

Asako Syukuya was kidnapped and confined two times, because, as she put it, "everyone -- her friends, family -- opposed her joining the Unification Church." She was kidnapped by a group off a crowded street in Tokyo. Even though she screamed "this is kidnapping help me!" in front of hundreds of witnesses, and even though the police chased after her, she said the police "refused to save me because I was a Unification Church member." Consequently, she was taken to an apartment where every window was double or triple locked with a special seal over the glass and the bathroom could not lock. She was held there for the next four months.[xliv]

Motoki Case

While the four incidents described above illustrate the typical attitude among police towards "deprogramming" cases, admittedly, the police in Japan have shown some willingness to curtail the violations, especially since the chief of the National Police Agency declared "deprogramming" an "illegal activity" in the Diet.[xlv] Perhaps the most outstanding example of police intervention on behalf of church members occurred in November 2002, when the police directly intervened to locate and rescue Emiko Motoki, who was being held under duress in a room at a Lutheran Church in Akita City. Why did the police act in the Motoki Case when not in others? One difference is that Motoki's husband, a Korean, appealed to the Korean Consulate in Sendai and the Korean Embassy in Tokyo. Apparently, Korean officials from both offices called the local Japanese police station in Yamagata and an official from the Korean Embassy even wrote a letter to the chief of the National Police Agency demanding that the police investigate. Within ten days after receiving the report, the police discovered the place and a squad of ten officers went to the church, took her into the police station for a hearing, and then allowed the woman to leave with her husband.[xlvi]

Even though the police directly intervened in the Motoki Case, it is important to understand that Motoki has sought criminal prosecution against the minister involved in the "deprogramming" yet at

the time of this writing the police have made no arrests. So, while the fact that the police did intervene in this case is certainly significant, without subsequent prosecution of those who perpetrated the act, intervention alone will hardly deter prospective "deprogrammers" from continuing their practice. Moreover, it is also important to remember that the police officer who gave the "confinement therapy" address mentioned above did so almost nine months after the chief of the National Police Agency declared in the Diet that the kidnapping of adult children by their parents is an "illegal activity." Of course that officer's remarks may just have been the actions of one zealous officer rather than an expression of police policy, but the accumulated evidence of not only that officer's remarks but also the content of the Heath Reports discussed above -- and the fact that one of those reports was co-authored by officials from the National Police Agency and all of them were distributed to police offices nationwide -- suggests that the incident in the Diet, as well as international pressure from the Religious Freedom Report, has had at best only a marginal impact on police behavior.

The Prosecutor's Office

Despite fifteen attempts to prosecute ministers on criminal charges over the last fifteen years, none have been prosecuted nor even arrested (see Table 1). Although the Criminal Code (Keiho) recognizes confinement as an illegal act, ultimately the prosecutor is the one who decides whether or not to indict and proceed to trial in a case. Thus, Lawrence Beer, a scholar on Japanese Law, has noted, the prosecutors "affect the actual status of constitutional rights in criminal justice practice in Japan more profoundly than the courts themselves."^[xlvii] In every case brought by members of the Unification Church the prosecutors have responded that "prosecution is an improper and unwarrantable measure" and thus decided not to indict but rather "suspend prosecution" (kiso yuyo).

Table 1. Appeals by Unification Church Members to the Prosecutors Office, 1988–2002

Name	Confinement	Application	Rejection
1 Nishizaki Isamu	1 Dec 87–22 Jan 88	27 Jun 88	26 Oct 89
2 Ueki Kazuyuki	29 Nov 87– 8 Dec 87	27 Jun 88	26 Oct 89
3 Koike Hiroaki	21 May 87– 2 June 87	28 Jun 88	13 Oct 89
4 Okada Yukari	2 Aug 87– 5 Aug 87	28 Jun 88	13 Oct 89
5 Ohara Akira	31 Jan 88– 25 Feb 88	28 Jun 88	13 Oct 89
6 Oka Tetsuo	7 Apr 88– 17 May 88	25 Jun 88	11 Oct 89
7 Sugisaka Kumiko	26 Apr 88– 5 May 88	26 Oct 88	27 Dec 89
8 Yamanashi Oriie	11 Sept 88– 25 Sept 88	26 Oct 88	27 Dec 89
9 Koyanagi Tshuhiko	24 Jul 87– 2 Aug 87	26 Oct 88	27 Dec 89
10 Hoshi Tomoe	21 Aug 88– 11 Sept 88	30 Jan 89	? 1989
11 Takei Maho	15 June 88– 7 July 88	15 Mar 89	27 Dec 89

12 Tomizawa Hiroko	07 June 97– 15 Sept 98	25 Apr 2000	6 Aug 2001
13 Imari Rie	10 Jan– 15 June 97	4 Sept 1997	26 Mar 2002
14 Terada Kozue	28 Oct– 27 Dec 2001	2002	Investigation
15 Motoki Emiko	12 Nov– 25 Nov 2002	2003	Investigation

Sources: Tadayoshi Ueno, Kokuso no Jokyo Ichiranhyo [List and state of complaints] April 14, 1990, and documents received by Tomizawa and Imari. Also, conversation between the author and Norishige Kondo.

Is a failure to prosecute "deprogrammers" an indicator that the Japanese State has been negligent, or even worse, engaging in a conspiracy against Unification Church members? That is, has the State been deliberately promoting an illegal practice by failing to prosecute offenders? Although the evidence points towards this conclusion, other historical and cultural factors must be considered. In particular, two obstacles are apparent when seeking any kind of criminal prosecution in Japan: the tendency not to prosecute in the Japanese legal system and the reluctance of state officials to interfere in religious affairs.[xlvi] Michael Young, a scholar of Japanese Law, says that even in murder cases some fifteen percent of the culprits are not prosecuted in the Japanese system.. Moreover, Young says Japanese police are "tentative" about religion and keep a "hands-off attitude" to religion because they have been "burned and scarred" by prewar history.[xlix] Against this backdrop, one might argue that the failure to prosecute is less the result of any particular stigma directed at the Unification Church, or any deliberate conspiracy by the State to stamp out a perceived dangerous cult, than it is the result of these other cultural and historical factors.

The Civil Liberties Bureau

The Civil Liberties Bureau under the Ministry of Justice has the mandate to "ensure the full protection of human rights" and to "promote and make widely known the ideal of human rights in order to protect the fundamental rights guaranteed to the people." [i] However, the Civil Liberties Bureau has no police powers or authority to prosecute. This seems to be the reason why members of the Unification Church first attempted to gain redress through the prosecutor's office, and only later, after those applications had been rejected, began appealing to the Civil Liberties Bureau.

Since 1996 members of the Unification Church have appealed to the Civil Liberties Bureau on at least three cases. Perhaps the first appeal to the Civil Liberties Bureau was in 1996 with regards to the case Mitsuyo Kitazato, who reported to the Kumamoto Branch Office how she had been kidnapped and confined.[ii] However, the Bureau, in an oral response, said it could not intervene in such a "family affair." The second appeal was made by staff members of the Headquarters church in Tokyo, who visited the Tokyo Branch Office on several occasions between 1997 and 2001 to report about kidnapping cases, especially the Imari Case, which will be discussed below. However, the Bureau has done nothing at the time of this writing.[iii] A third appeal was made in 1997 by Mariko Ono, who submitted a written testimony to the Civil Liberties Bureau explaining how she had been kidnapped and confined for one year and four months in a locked apartment. According to

that testimony, Ono had attempted to submit an accusation document to the police, but the police threatened to arrest the people who had helped her escape, so she was appealing her case to Civil Liberties Bureau. However, an official from the Bureau called her several weeks later and told her they could not do anything.[liii]

The Law Courts

While criminal prosecution would lead to arrest and imprisonment and thus likely provide an effective deterrent to would-be "deprogrammers," an order from a civil court can at best require the accused to pay compensation to the victim. Thus, only as a last resort, after repeated rejections by the prosecutor's office, have members initiated suits in the civil law courts.

Imari Case

The first church member to bring a lawsuit in a case of apartment-detention was Rie Imari in 1999. [liv] On January 10, 1997 she and her husband were walking to their car in the parking lot of a Denny's Restaurant when at least six people surrounded them, assaulted her husband and forced her into a van. Over the next five months she was confined in three different apartments until she escaped in June of that year. Sakae Kurotori and Yoshio Shimizu, both associated with the Kyodan, were involved in the incident and Shimizu visited Imari in the apartment frequently in order to "persuade" her to quit the Unification Church. Although Imari and her husband both submitted an accusation document to the Miyamae Police and the case was brought to the Yokohama District Prosecutors Office, their appeal was rejected. The final judgment for this case should be available at the time this essay is published.[lv]

Tomizawa Case

The only deprogramming case in which a member of the Unification Church has received compensation from a Christian clergy for his involvement in forcible "deprogramming" is the case involving Hiroko Tomizawa. In June 1997 Tomizawa was forcibly abducted from a church in Tottori Prefecture by a group of about twenty thugs armed with an electric stun gun, iron chains and an iron pipe. While she was confined in three different apartments over the next fifteen months Mamoru Takazawa, a Protestant minister, visited her in the locked rooms and tried to "deprogram" her. The Tottori District Court ordered the defendants to pay compensation and ordered them an injunction not to "deprogram" Tomizawa again. However, the defendants appealed and the Hiroshima High Court Matsue Branch, considering the "family relations" between the plaintiff and two of the three defendants, reduced the compensation to one thousand dollars and canceled the injunction.[lvi]

Ishikawa Case

The first "deprogramming" case in Japan to reach the Supreme Court is the case involving Mitsuko Ishikawa, who had been confined in private apartments in 1996 and again in 1998 for periods of

fifty-two and seventy days respectively.[lvii] The parents had read a book by Kyoko Kawasaki and consulted with Yoshio Shimizu, both Kyodan ministers, and Shimizu even visited the place on ten occasions.[lviii] She jumped out a window to escape and subsequently she and her husband filed a civil lawsuit in the Tokyo District Court against her parents and Shimizu.

Like Tomizawa, she demanded compensation from the minister and a court injunction for every defendant as a safeguard against future "deprogramming" attempts. However, the Tokyo District Court dismissed all of the claims. Even though the court admitted she had been in a locked room and her "spiritual and physical freedom had been restricted," the court reasoned that the incident did not constitute either "coercion" or "confinement," but rather a "family talk" motivated by "parental affection." [lix] As for Shimizu, he claims his intent was to engage in what he has called "peaceful conversation," even though the court recognized he did hit the plaintiff and he did shout such threats as "you should stay in a room with iron bars your entire life." [lx] Moreover, even though the father admitted Shimizu "asked me to make sure Mitsuko does not escape," Shimizu claimed in court that on all ten occasions he visited the room he did not know the room was locked, so the court dismissed all charges against him, finding his behavior to be "improper" but "not illegal." [lxi] The plaintiffs appealed to the Tokyo High Court and again to the Supreme Court but both appeals were rejected.

Terada Case

As has been noted above, in February 2002 the Hiroshima High Court ordered Mamoru Takazawa to pay compensation to Tomizawa. At the time of this writing, Takazawa is the defendant in another civil suit brought by Kozue Terada, who claimed Takazawa had collaborated with her parents in Japan to kidnap and confine her in November of 2001. According to a complaint she submitted against Takazawa to the National Human Rights Commission of Korea (where Terada was residing with her husband at the time she visited Japan and disappeared), Terada was confined for about two months during which time Takazawa frequently visited the place in order to persuade her to quit the church. [lxii]

Has the State denied a fair trial to plaintiffs in forcible "deprogramming" cases on account of their membership in the Unification Church? While this might appear to be the case, another factor that must be considered is that all of the plaintiffs in the above-mentioned cases are women. The Human Development Report for 1993 of the United Nations Development Program noted that the Japanese, "despite some of the world highest levels of human development," still have "marked inequalities in achievement between men and women." [lxiii] In 1999 the United Nations Human Rights Committee expressed concern that in Japan "there still remain in the domestic legal order of the State party discriminatory laws against women" and the Committee was "troubled that the courts in Japan seem to consider domestic violence . . . as a normal incident of married life." [lxiv] In this regard, Japan seems to resemble some Islamic States, where women are subjected to specific limitations in the administration of justice. [lxv] Against this backdrop, one could imagine that the judgments might have been more favorable if the plaintiffs had been men.

Perhaps a better case could be made that the State is discriminating against members of the Unification Church by comparing two recent judgments regarding forcible "deprogramming" suits brought by women: the first is the Tomizawa Case mentioned above, and the second is the case brought by a member of the Jehovah's Witnesses, which concluded in Osaka in August 2002. If the sex of the plaintiffs is the primary factor influencing court opinion, one would expect the court to equally discriminate against both of the plaintiffs, since both plaintiffs were women. However, the member of the Unification Church, who had been confined for over fifteen months, received less than a third of the compensation awarded to the member of Jehovah's Witness, who had been confined for seventeen days.[ixvi] How can one account for this discrepancy in the administration of justice? Here there appears to be a clear case of discrimination by the courts. These judgments have had significant consequences for both religious groups. On the one hand, according to officials of the Jehovah's Witnesses in Japan, the legal victory ended the attempts to "deprogram" their members.[ixvii] On the other hand, as concerns the Unification Church, the judgment has not provided an effective deterrent: recall that Takazawa, the minister who had been ordered to pay compensation in the Tomizawa Case, was involved in another "deprogramming" less than ten months later and is now the defendant in the Terada Case.

With recent legal precedents set in the Tomizawa Case at the Hiroshima High Court, which ordered a measly compensation equivalent to less than three dollars for each of the days Tomizawa spent in confinement, and in the Ishikawa Case at the Supreme Court, which granted complete impunity to all the defendants, forcible "deprogramming" appears to have been validated in the courts. This means there exist a high probability that the number of "deprogrammings," which had been decreasing, will rise again in subsequent years. Consider that in response to the District Court judgment in the Ishikawa Case, Seshi Kojima, the Chairman of the Kyodan General Assembly, said he was "very happy" that Shimizu received a "legitimate judgment" and he wished him "to be encouraged by this [judgment] and continuously engage himself in precious activities." [ixviii] Consider also that Kojima's successor, Norihisa Yamakita, in response to the High Court judgment in the same case, issued a statement that reads as follows:

The judgment consoles the suffering of victims whom the Unification Church produced and encourages the ministers throughout the nation who are engaged in the same activities as Minister Shimizu. At the same time the Kyodan is proud of it and I want to report the result loudly in front of Jesus Christ whom we believe in.[ixix]

These developments indicate that since forcible "deprogramming" appears to have gained validity and legitimacy in the courts, those who may have been initially discouraged by the lawsuits have now been encouraged by the State to continue "deprogramming" church members.

Summary of Findings

Before we look at specific provisions in international human rights documents that might help us evaluate the situation in Japan, let us first summarize the findings of this paper thus far.

1. State officials in Japan have rejected every attempt by members of the Unification Church to file a criminal prosecution in cases of forcible "deprogramming," no "deprogrammer" has been prosecuted nor arrested in Japan, and the civil law courts have failed to take "effective measures" to prevent future "deprogramming."
2. With recent legal precedents granting practical impunity to defendants, forcible "deprogramming" appears to have been validated in courts, so there exist high probability the number of "deprogrammings," which had been decreasing, will rise again in subsequent years.
3. The Central Education Council, a consultative organ of the Ministry of Education and Science, is adopting misguided stereotypes in lieu of a genuine understanding of minority religious groups, promoting intolerance and inciting hostility towards such minority religious groups by "cults-labeling," and adopting questionable theories about "mind-control" as established fact.
4. The National Police Agency, the Ministry of Health, and the Ministry of Justice are collaborating with figures in the so-called "anti-cult" movement in order to affirm so-called "coercive persuasion projects," and at least one policeman has publicly and openly incited the above crimes in the guise of "confinement therapy," without "appropriate measures" nor "remedies" provided by the State.

Relevant International Human Rights Norms

International human rights norms refer to norms derived from several sources. Perhaps the most recognized source is the so-called International Bill of Rights, which includes three significant documents: the UNIVERSAL DECLARATION OF HUMAN RIGHTS (UNDHR), the INTERNATIONAL COVENANT OF CIVIL AND POLITICAL RIGHTS (ICCPR) and the INTERNATIONAL COVENANT OF ECONOMIC AND SOCIAL RIGHTS (ICESR). In addition to this Bill of Rights, another source of norms is the numerous conventions, declarations, and statements issued by the United Nations Human Rights Committee.. A third source of norms is the judgments of foreign and international tribunals. Since Japan ratified both the ICCPR and the ICESR in 1979, they are legally binding and enforceable. However, the conventions and declarations as well as the judgments from foreign and international tribunals have no binding power for any states. The significance of these latter sources is that they often serve as useful points of reference in the international community.

Sources from the International Bill of Rights

Article 8 of the UNDHR provides, "everyone has a right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law." This provision is repeated in both Article 2 of the ICCPR and Article 2 of the ICESR.

The ICCPR contains a number of relevant provisions, such as: Article 3 (right to liberty and security of person); Article 13 (right to freedom of movement and residence); Article 16 (right to marry and found a family); Article 18 (right to freedom of religion), Article 18 (no one shall be subject to

coercion that would impair his freedom to follow or adopt a religion or belief of his choice); and Article 20 (the State should prohibit by law any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence).

Article 13 of the ICESR provides that State Parties educate to "promote understanding, tolerance and friendship among religious groups."

Sources from Conventions and Declarations

Article 4 of the DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND DISCRIMINATION BASED ON RELIGION OR BELIEF (DECLARATION ON INTOLERANCE) provides that all States "take effective measures to prevent and eliminate discrimination on the grounds of religion or belief" and further provides that all States "make all efforts" not only "to prohibit such discrimination" but also to "take all appropriate measures to combat intolerance on the grounds of religion.."[lxx]

Article 2 of the INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (CONVENTION ON RACIAL DISCRIMINATION), which Japan ratified in 1995, provides that State Parties undertake to "encourage integrationist multi-racial organizations and movements and other means of eliminating barriers between races."[lxxi]

Both Article 5 of the UNESCO CONVENTION AGAINST DISCRIMINATION IN EDUCATION, as well as the comments of Professor Abdel-fattah Amor, who began serving as the Special Rapporteur for Freedom of Religion and Belief in 1994, buttress Article 13 of the ICESR mentioned above, emphasizing that State Parties must not only "implement a strategy to prevent intolerance in the field of religion and belief" but also make "sustained efforts... to promote and develop a culture of tolerance and human rights."[lxxii]

Sources from Foreign and International Tribunals

Scott Case

In 1995, The District Court of Washington in the United States found a professional "deprogrammer" and the now defunct Cult Awareness Network (hereinafter CAN) guilty for violating the civil rights of Jason Scott. Under the auspices of Scott's mother, three men had kidnapped Scott and confined him for about ten days in order to "deprogram" him from a Pentecostal church of which his mother disapproved. CAN was found to be a part of the conspiracy because a staff member had advised Scott's mother about the "deprogrammers." The District Court of Washington awarded Scott a massive settlement -- a grand sum of \$4,875,000 in punitive damages, with one million dollars paid by CAN.[lxxiii]

Spain Case

In 1999 the European Court of Human Rights ruled in a forcible "deprogramming" case that the state authorities in Catalan, Spain had been in violation of Article 5 of the EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, which provides for "the right of liberty and security of person." The applicants had exhausted all domestic remedies in Spain so they had appealed to the regional mechanism, which found as follows:

The Catalan authorities knew all the time that the applicants were still held at the hotel [against their will] and did nothing to put an end to the situation... The national authorities at all times acquiesced in the applicants' loss of liberty. While it is true that it was the applicants' families and the Pro Juventud association [a private anti-cult organization] that bore the direct and immediate responsibility for the supervision of the applicants during their ten days' loss of liberty, it is equally true that without the active cooperation of the Catalan authorities the deprivation of liberty could not have taken place.[lxxiv]

On these grounds the Court concluded that the State had violated Article 5 of the Convention, and ordered Spain to pay damages to the applicants.

Analysis in Light of International Norms

One problem confronting anyone who attempts to apply the above provisions to actual situations in Japan, or anywhere else in the world, is arriving at a clear understanding of what is meant in the language of the documents themselves. Particularly, words like discrimination, intolerance, coercion and persecution are all open to various interpretations. Nathan Lerner notes that the word discrimination has "a clear legal meaning," but he says this is not the case with intolerance, which he describes as "vague and lacks exact legal meaning." [lxxv] Likewise, although the term coercion is not defined in the ICCPR, Lerner has noted that the Human Rights Committee, in defining coercion, included "the use of threat of physical force," and he thinks one can reasonably "infer" that coercion "applies to the use of force or threats as well as more subtle forms of illegitimate influence, such as moral pressure." [lxxvi] T. Jeremy Gunn distinguishes two types of coercion in religious discrimination and persecution: "one that disrupts or interferes with religious activity, and the other that enforces compliance with religious norms" [italics his]. [lxxvii] On the latter type of coercion, Gunn says as follows:

Coercion to enforce religious standards may range from modest parental punishment of a child to an extra-judicial execution of a heretic. While not all coercion to enforce religious norms constitutes religious persecution, the coercion may be sufficiently serious that a person risks severe physical harm or even death merely for holding unacceptable opinions. While this form of persecution may not be the most commonly understood aspect of persecution, it is nevertheless serious and pervasive. As in many other areas related to religious persecution, girls and women are more likely to be the targets of coerced conformity than are males. [lxxviii]

Here we must ask: is forcible "deprogramming" "sufficiently serious" to constitute coercion and religious persecution? Certainly there is evidence of "the use of threat of physical force." Likewise, forcible "deprogramming" clearly "disrupts or interferes with religious activity" and the ministers who engage in "deprogramming" are clearly seeking to "enforce compliance with religious norms" (specifically, a more orthodox interpretation of the Bible). Apparently the Japanese State takes the view that forcible "deprogramming" is a "family affair" and thus might be viewed as nothing more than "modest parental punishment of a child" on Gunn's scale of coercion. Yet to thus characterize kidnapping and false imprisonment under extreme duress seems to belittle the actual situation, where third-party actors are involved. All of the cases discussed in this paper qualify as "forcible" because all of them result, to a greater or lesser extent, in physical and or psychological injury. While there is no evidence of "extra-judicial executions," even so, one could argue that the cases of forcible "deprogramming" discussed in this paper are "sufficiently serious" to constitute a form -- even if not the worst form -- of coercion and persecution, so they should not be easily dismissed. If we accept that forcible "deprogramming" is coercion and religious persecution, then it follows that anyone -- whether state or private actor -- who advocates forcible "deprogramming" is -- in the language of the above documents -- advocating "religious hatred" and "incitement to discrimination, hostility or violence."

Has Japan ensured, as all State Parties to the ICCPR have a binding legal obligation to do, that persons whose rights and freedoms recognized in that Covenant have been violated are given an "effective remedy"? Specifically, have the judicial, administrative and legislative authorities in Japan been "competent" in their determination of whether or not a violation exists, and whether or not applicants claiming such a remedy actually are deserving of such? Moreover, has Japan protected or violated, such fundamental rights as the right to liberty and security of person (Article 3); right to freedom of movement and residence (Article 13); right to marry and found a family (Article 16); and the right to freedom of religion (Article 18) by acquiescing in the believers' loss of liberty? This paper finds that Japan, in all cases involving forcible "deprogramming," has not provided an effective remedy, Japanese authorities have been incompetent, ignoring evidences and appeals for redress in most cases of forcible "deprogramming," and the authorities, as such, have violated the above provisions in the Covenant.

Has Japan made "all efforts" to prohibit "discrimination" and taken "all appropriate measures to combat intolerance on the grounds of religion," as recommended in the DECLARATION ON INTOLERANCE mentioned above? Although the meaning of to combat is not explained, Nathan Lerner says "it suggests an obligation to adopt criminal law measures against organizations that incite others to practice religious intolerance." [Ixxix] If we accept that advocating forcible "deprogramming" is the same as "inciting others to practice religious intolerance," which the author of this paper is inclined to do, and if we recall that thus far Japan has taken no criminal law measures against the individuals or organizations which have been proven to be advocating forcible "deprogramming," then we must conclude again that Japan has not taken "all appropriate measures to combat intolerance on the grounds of religion."

Has Japan undertaken to "encourage integrationist multi-racial organizations and movements and other means of eliminating barriers between races," as recommended by the CONVENTION ON RACIAL DISCRIMINATION mentioned above? Perhaps more than any other "organization or movement" in Japan, the Unification Church qualifies as "integrationist" and "multi-racial," and is therefore deserving of "encouragement" by the State. [lxxx] While exactly what is meant by the word "encourage" is open to interpretation, Japan should, at the very least, show encouragement by providing more effective remedies to members who appeal to the State for redress. However, considering all the cases discussed in this paper, a better argument could be made the Japan is in fact discouraging members of the Unification Church.

The Scott Case and the 1999 European Court of Human Rights ruling against Spain provides a useful model to reflect upon the situation in Japan. Recall that in the Scott Case, the plaintiff was confined for about ten days and was awarded nearly five million dollars in damages. Also recall that in the Tomizawa Case, the plaintiff was confined for about fifteen months and was awarded about one thousand dollars. One may argue that Japan is a far less litigious society and compensation orders across the board are significantly less than in the United States, but can cultural factors alone account for this discrepancy? Similar discrepancies exist in the Spain Case. Recall that just like the Catalan authorities knew all the time that the applicants were held against their will and did nothing to put an end to the situation, a similar scenario occurred in the Kobayashi, Akemi, Katagari and Syukuya cases discussed above. In all four of those cases the police were either informed, or were directly involved, so they must have been fully aware that each of the four individuals were being held against their will. Still, like the authorities in Spain, they did nothing to put an end to the situation.. Instead, as the court found in the Spain Case, "the national authorities at all times acquiesced in the applicants' loss of liberty." Just as in the Spain Case, without the active cooperation of the authorities in Japan, "the deprivation of liberty could not have taken place." For applicants in Spain, which falls under a regional human rights mechanism, they have the option to appeal to a higher authority than the State. By utilizing this option the applicants were able to obtain a remedy from the State, even after they had exhausted all domestic remedies. Unfortunately, there is no parallel regional mechanism to the European Court of Human Rights in Asia. This means the only option left for applicants in Japan who have exhausted all domestic remedies is to appeal directly to the United Nations High Commission on Human Rights -- a process that is already underway.[lxxxi]

Concluding Remarks

To summarize, this paper finds that far from fulfilling its duties and obligations to defend and promote internationally recognized rights, a strong argument exists that the Japanese State has, in cases of forcible "deprogramming," not only been ignoring obligations under domestic law and both binding and non-binding provisions in the international human rights instruments, the State has also been contributing to the violation of fundamental rights and freedoms: judges embrace perjured testimony and, together with prosecutors, ignore compelling evidence and grant impunity to criminals, resulting in a mockery of justice; government ministries cooperate with religious hate

groups to incite religious intolerance and persecution; police aid and abet criminals to kidnap and confine believers. Certainly the evidence falls short of proving the existence of a deliberate government policy to destroy the Unification Church.. After all, the church continues to enjoy tax-exempt status as a registered religious organization, and believers are generally free to gather and worship as they please without state interference. At the very least, the evidence indicates a general state hostility towards a number of new religions, among them the Unification Church.

These are enough worrisome signs to alert defenders of religious liberty and human rights worldwide to give greater attention to Japan and bring these issues to the fore. Donna Sullivan is correct in her remark that, on the one hand, "Governments do have a legitimate interest in controlling violence against the state or disruptions of public order." In this regard a heightened watchfulness by the Japanese State following the violence of Aum Shinrikyo is understandable and maybe even desirable. On the other hand, Sullivan also points out, "All too frequently, a state seeking to suppress religions freedoms characterizes the activities of religious groups and leaders as impermissible political actions or subversions." [lxxxii] Thus, it is in light of such a tendency among states to characterize religious groups as subversive pseudo-religions that Japan must come under scrutiny by the international community.

Having suggested all the ways in which Japan is violating international human rights norms, it seems only fair to recognize, in the defense of Japan, that every nation without exception is guilty, to one extent or another, of violating either these very same norms, or at least a slew of others. That is, the very existence of a law does not mean enforcement or even obedience by the very parties that ratify the law. [lxxxiii] In this sense, international human rights norms, including even the International Bill of Rights, in the words of Columbia University Professor Joseph Chuman, "are not so much documents that end conversations, but rather serve as objective ground to start them." [lxxxiv]

[i] E.g. Helen Hardacre, *Journal of Asian Studies* (August 2002), James T. Richardson and Bryan T. Edleman, "Cult Controversies and Legal Developments Concerning New Religions in Japan and China," in Derek Davis and Gerhard Besier, eds. *International Perspectives on Freedom and Equality of Religious Belief* (Waco: Baylor University Press, 2002). The Religious Freedom Report for 2002 is available at <http://www.state.gov/g/drl/rls/irf/2002/13874.htm>.

[ii] See the following papers in the library at Unification Theological Seminary (hereinafter UTS): Tomoko Yu, "Translation of Documents Concerning the Opposing Movement against the Unification Church in Japan," (1990); Andrew Davies, "The Kidnap Ministry: The Involvement of Christian Ministers in the Kidnapping and Deprogramming of Unification Church Members in Japan," (1992). See also Michael Mickler, "The Anti-Cult Movement in Japan," in *The Anti-Cult Movement in Cross-Cultural Perspectives*, eds. Shupe and Bromley (New York: Garland, 1994).

[iii] Sun Myung Moon, "Absolute Values and the New Cultural Revolution," Twelfth International Conference on the Unity of the Sciences, Chicago, November 25, 1983. Available online at: <http://www.unification.net/1983/831125.html>.

[iv] See Davies, "The Kidnap Ministry," p. 35.

[v] Mickler, "The Anti-Cult Movement in Japan," pp. 268-69.

[vi] Hardacre, *Journal of Asian Studies*, p. 1063.

[vii] Richardson and Edleman, "Cult Controversies."

[viii] See <http://www.state.gov/g/drl/rls/irf/2002/13874.htm>.. Released October 7, 2002.

[ix] E.g. Davies mistranslated the Japanese word *uttaeru* -- which can be interpreted as either "to file a civil suit" (*minji-saiban wo teki suru*) or as "accuse or submit an accusation document to the police" (*kokuso-jo wo teshutsu suru*) -- as the English word "sue" or "to file a civil suit" when in fact no civil suits have been filed in any of the cases he describes.

[x] Mickler, "The Anti-Cult Movement in Japan," p. 268.

[xi] See Norishige Kondo, "Officials Aim Forcible Faith-Breaking to be a National Policy" UC Report on Religious Freedom Issues to the US (2001-2), July 25, 2001.

[xii] Although future reports may compensate for previous shortcomings, as an official from the Office of International Religious Freedom has promised, "the UC-J [Unification Church in Japan] deprogramming situation is given expanded attention" in the 2003 Religious Freedom Report. Judson Birdsall, staff of the Office for International Religious Freedom at the Department of State, email to the author, July 23, 2003.

[xiii] On confinement in mental hospitals see Tadayoshi Ueno, *Nihonban Shuyojou Rettou: Kyosan Shugi no Shukyo hakugai* [The gulag in Japan: religious persecution by the Communist Party], Research Institute on Communism and Religion (Tokyo: Zenhosha, 1984). An English translation is available in the UTS library.

[xiv] See Keiko Ikemoto and Masakazu Nakamura, "Shukyo karano Kyosei Dakkai (deprogramming) niyori PTSD wo Teishita 1shorei" [A case report of PTSD caused by coercive deprogramming from a religion] *Rinsho Seishin Igaku* [Japanese journal of clinical psychiatry] 29.10 (2000): 1293-1300.

[xv] E.g. Mitsuko Ishikawa, Hiroko Tomizawa and Rie Imari were all diagnosed with PTSD after confinement.

[xvi] Notes of a testimony by Hirohisa Koide to Robert R. Seiple, ambassador-at-large for international religious freedom, Department of State, Washington D.C., October 22, 1998. See Hirohisa Koide, *Hitosarai karano Dasshutsu* [Escape from Kidnappers] (Tokyo: Kogensha, 1996).

[xvii] E.g. Mitsuko Ishikawa gave testimony to this in a court statement.

[xviii] Notes of a testimony by Asako Syukuya, a victim of "deprogramming" and apostate, to Jeffery Reneau, assistant to the US ambassador of Japan, translated by Norishige Kondo, Embassy of the United States, Tokyo, April 1, 2003.

[xix] Mickler, "The Anti-Cult Movement in Japan," 255.

[xx] The 1992 number is according to a chart prepared by Tomohisa Ota and reprinted in Japanese by Shunsuke Uotani, *Toitsu Kyokai no kensho* [Verification of the Unification Church] (Tokyo: Kogensha, 1999), 33. The 2002 number is according to an email to the author from Norishige Kondo, July 1, 2003.

[xxi] See Tokihisa Sumimoto, "The Restriction of Religious Freedom in Japan: Background and Current Prospects," *American Asian Review* 17.1 (1999): 49-60; Robert Kisala and Mark R. Mullins, eds., *Religion and Social Crisis in Japan: Understanding Japanese Society Through the Aum Affair* (New York, New York: St. Martin's Press, 2001), Paul Swanson, "Religion as a Social Problem: The 11th Nanzan Symposium," *Nanzan Bulletin* 26 (2002): 8-18.

[xxii] See http://www.uscirf.gov/dos99Pages/irf_japan99.php3. Section I paragraph 12. Released September 9, 1999.

[xxiii] Takehiko Kikkawa, Masahisa Nishizono, Toshinori Kitamura, Shin Maruyama and Jun'ichiro Ito. Tokutei Shudan kara Hanaretamono ni Taisuru Hoken Shido no Arikata ni Kansuru Kenkyu: Heisei 11 Nendo Kenkyu Hokokusho (Ichikawa City, Chiba Prefecture: Kokuritsu Seisin Shinkei Center Seisin Hoken Kenkyujo [National Inst. of Mental Health in the National Center for Nerve and Psychiatry, hereinafter NIMH-NCNP], March 2000).

[xxiv] Letter is on file with the Unification Church. A PFD version may be downloaded from the Internet version of the author's thesis: Appendix 2 at 100.

[xxv] This was the Jason Scott case. See supra note 73.

[xxvi] According to Dan Fefferman, who had attended the conference in Seattle, Washington, in a phone conversation with the author on July 24, 2003. The delegates from Japan included: Hiroshi Hirata, a lawyer from the Fukuoka Danchi Law office in Fukuoka; Professor Kimiaki Nishida, in the Department of Psychology at the University of Shizuoka, Japan; the Reverend Makoto Kidaka-Shimura of Joge Church (Kyodan) in Shimane, Japan; Hiroshi Yamaguchi, an attorney at Tokyo Kyodo Law Office, in Tokyo. On ties between AFF and CAN see Anson Shupe, Susan Darnell and Kendrick Moxon, "The Cult Awareness Network and the Anti-cult Movement: Implications for New Religious Movements in America," in Davis and Hankins, eds. *New Religious Movements and Religious Liberty in America*, (Baylor, 2002) pp. 21, 40.

[xxvii] See Takehiko Kikkawa, "General Report" at 3 in Takehiko Kikkawa, Hiroshi Isige, Jun'ichiro Ito, Hideo Ohashi, Hiroaki Sato, and Masayuki Tamura. Tokutei Shudan karano Ridatsusha ni Taisuru Seishin'igakuteki Shinrigakuteki Shien no Arikata ni Tsuiteno Kenkyukai Hokokusho (Ichikawa City, Chiba Prefecture: NIMH-NCNP, Dec. 2000). On Takahashi's direct incitement to commit forcible "deprogramming" see Senno no Shinrigaku (Psychology of Brainwashing), pp. 103-5, 116, 118-9. For background on the Japan De-Cult Council, see Manabu Watanabe, "Opposition to Aum and the Rise of the Anti-Cult Movement," in Kisala and Mullins, eds. *Religion and Social Crisis in Japan*.

[xxviii] Japan National Diet. Dai 147 kai kookai syuguiin kessangyoseikanshi iinkai dai 3 bunkakai gijiroku [Report of the National Diet of Japan] April 20, 2000, pp. 32–36. A PFD version may be downloaded from the Internet version of the author's thesis: Appendix 3, p. 102.

[xxix] See http://www.uscirf.gov/dos00Pages/irf_japan.php3). Section I part 3 "Governmental Abuses of Religious Freedom," paragraph 4, September 5, 2000.

[xxx] See Kikkawa, et al. (Dec. 2000). On the endorsement of forcible "deprogramming" see *ibid.* Masayuki Tamaru, "Instruction Manual to Handle Ex-Members of Cults," p. 4. On the endorsement of state cooperation with private groups involved in forcible "deprogramming" (the Japan De-Cult Council, the Japan Federation of Bar Associations and Christian groups) see *ibid.* Jun'ichiro Ito, "Crisis Management for Ex-Members and the Mental Health Care by the Community," p. 17.

[xxxi] Takashi Takee, remarks made at the "21 Seiki eno SPICE · Heiwa eno Kakehashi." [Spice toward 21 century: Bridge toward peace]. Tokyo-to Seishonen Kyokai Zaidan Hojin Tokyo-to Yusuhosteru Kyokai Shusai, Kokusai Shinpojiumu [Joint-Symposium by the Tokyo Youth Assoc. and the Tokyo Youth Hostel Foundation]. Tokyo Kokusai Forum, Tokyo, Japan. January 27, 2001. Tape recording on file at the Unification Church Headquarters Building. Translated and transcribed in Norishige Kondo, "Faith-breaking by Police: "Confinement Therapy," UC Report on Religious Freedom Issues to the U.S.: 2001-1, Tokyo, Japan, July 10, 2001. Although Takee did not mention the Unification Church by name, he inferred to that religious group by referring to group marriages, a practice unique to the Unification Church.

[xxxii] Takehiko Kikkawa, Shakai Mondai wo Okosu Aratana Seishin-byori ni Kansuru Kenkyu Hokokusho (Ichikawa City, Chiba Prefecture: NIMH-NCNP, March 2001)

[xxxiii] Letter from Tokyo Police Agency to the Unification Church, May 18, 2001.

[xxxiv] Junichiro Ito and Hirohumi Noguchi, "Cult Shudan' karano Ridatsu-sha Toni Taisuru Shien ni Kansuru Tansakuteki Kenkyu" [Study concerning support for those who quit from 'cult' groups] in Toshinori Kitamura ed., *Ningenkankei no Kihakuka ga Motarashita Seishin Hoken Mondai ni Kansuru Kenkyu* [Study on mental health matters caused by poor human relationships: general and specific reports from 2001], a special report prepared with a subsidy from the Ministry of Health (Ichikawa City, Chiba Pref.: NIMH-NCNP, (Mar. 2002), pp. 60-2.

[xxxv] Norishige Kondo, "Faith-breaking by Police: "Confinement Therapy." UC Report on Religious Freedom Issues to the U.S.: 2001-1, Tokyo, Japan, July 10, 2001, p. 6.

[xxxvi] Norishige Kondo, "Officials Aim Forcible Faith-Breaking to be a National Policy," UC Report on Religious Freedom Issues to the US, July 25, 2001, pp. 6-7.

[xxxvii] A photocopy of this letter is on file with the author. A PDF version may be downloaded from the Internet version of the author's thesis: Appendix 7 at 106.

[xxxviii] See *infra* note 34.

[xxxix] Japan Ministry of Education and Science, "Dai 10 Kai Chuo Kyoiku Shingikai Kihon Mondai Bukai Gigi Gaiyo" [10th Meeting of the Central Education Council] Hotel Furorashion Aoyama, Tokyo, June 14, 2002; Ministry of Education and Science Search Engine, Keyword: "cult mind-control"; available at http://www.mext.go.jp/b_menu/shingi/chukyo/chukyo0/gijigaiyou/002/020603.htm; accessed December 24, 2002.

[xl] See <http://www.state.gov/g/drl/rls/irf/2002/13874.htm>. Sec. II part 2 "Restrictions on Religious Freedom," paragraph 5. Released October 7, 2002.

[xli] Based upon documents provided by Norishige Kondo.

[xlii] This account comes from three sources: (1) a conference presentation by Shunsuke Uotani transcribed and printed in Dan Fefferman, ed. *Religious Freedom and the new Millennium: Papers and Presentations from Four International Conferences* (Falls Church, VA.: International Coalition for Religious Freedom, 2000); (2) a document prepared by Norishige Kondo, "Cases Implicating the Japanese Government," in June 2000; (3) the written testimony of Shinji Komata, one of the four church members who went to the station to meet Akemi, dated January 10, 1998, translated by Norishige Kondo.

[xlili] Interview with Namiko Katagiri, translated by Norishige Kondo, December 24, 2002.

[xliv] Testimony of Asako Syukuya. See *infra* footnote 18.

[xlv] Report of the National Diet of Japan, 32–36. See *infra* footnote 28.

[xlvi] This account is based upon two sources: (1) Interview with Nobou Okumra, director of general affairs, Headquarters Building, December 22, 2002; (2) Chuwa Shinbum, December 15, 2002.

[xlvii] Lawrence Beer and Hiroshi Itoh, eds. *The Constitutional Case Law of Japan, 1970-1990* (Seattle: University of Washington Press, 1996), p. 26.

[xlviii] Conversation with Michael K. Young, dean of the George Washington University Law School, professor of Japanese Law, and vice chair of the US Commission on International Religious Freedom, George Washington University Law School, in Washington, D.C., July 2, 2003.

[xlix] *Ibid.*

[i] Quoted in Lawrence Beer, *Freedom of Expression in Japan: A Study in Comparative Law, Politics and Society* (Tokyo: Kodansha International, 1984), p. 141.

[ii] Testimony of Mitsuyo Kitazato, March 18, 1996.

[iii] Conversation with Norishige Kondo, October 22, 2002.

[liii] Testimony of Mariko Ono, August 27, 1997.

[liv] The first civil case brought by church members who had been subjected to forced "deprogramming" was actually a case of forced hospitalization in psychiatric wards. The case was initiated in a joint-suit by three individuals in 1980 against Yoshie Ochi, the director of Kurumegaoka Hospital, and Tomigoro Goto, the president

of group of parents opposed to the Unification Church. The Tokyo District Court, after six years deliberation, ordered the defendants to pay compensation of 2,500,000 yen. See Masayuki Kachi and others, eds. *Nihon Toitsu Undo-shi [History of the Unification Movement in Japan]* (Tokyo: Kogensha, 2000), p. 416.

[lv] Interview with Rie Imari, translated by Norishige Kondo, in Fujisawa City, Japan, December 23, 2002.

[lvi] Norishige Kondo, "Recent Legal Precedents Will Promote Further Persecution." UC Report on Religious Freedom Issues to the U.S.: 2002-1, Tokyo, Japan. June 15, 2002.

[lvii] Mitsuko Ishikawa is the wife of the author. All original documents pertaining to this case are available from the author in both the original Japanese and the translations from the Japanese originals by Yuji Yokoyama.

[lviii] See Kyoko Kawasaki, *Toitsu Kyokai no Sugao: Sono Senno no Jittai to Taisaku [Uncovered Unification Church: its Brainwashing and Countermeasures]*, 1990. Reprint, (Tokyo: Kyobunkwan, 1997), which instructs how to kidnap and confine believers through a testimony of an ex-member. Norimichi Tsuji, the former Chairman of the Kyodan, wrote a recommendation for the book, which is reprinted in the book.

[lix] Judgment 26 Dec. 2002 Tokyo High Ct. wa 7723.

[lx] For the "peaceful conversation" claim by Shimizu see "Letter from Rev. Yoshio Shimizu [to Steven Hassan] on claims by Unification members regarding kidnappings," April 19, 2000. Freedom of Mind Resource Center at <http://www.freedomofmind.com/groups/moonies/shimizu.htm>. Visited February 18, 2003.

[lxi] Kesuke Ishikawa, the father of Mitsuko, to Yukiko Ishikawa, the sister of Mitsuko in a conversation on February 19, 1999. Tape Recording submitted as evidence to the court. Translated from the Japanese original by Yuji Yokoyama.

[lxii] "Complaint" filed November 7, 2002 at the National Human Rights Commission Building in Seoul, South Korea. Translated from the Korean original by the author.

[lxiii] Human Development Report, 46. Reprinted in Henry Steiner, ed. *International Human Rights in Context: Law, Politics, Morals* (Oxford: Oxford University Press, 2000), p. 164.

[lxiv] Human Rights Committee, 23rd Annual Report, UN Doc A/54/40, October 21, 1999, paragraphs 158 and 172. Reprinted in Steiner, *International Human Rights in Context*, p. 721.

[lxv] E.g. according to Abdullah Ahmed An-na'im, in the *Harvard Human Rights Journal* 3/13 (1990), "the Shari'a holds women to be incompetent witnesses in serious criminal cases, regardless of their individual character and knowledge of the facts. In civil cases where a women's testimony is accepted, it takes two women to make a single witness. Dinya, monetary compensation to be paid to victims of violent crimes or to their surviving kin, is less for female victims than it is for male victims."

[lxvi] For a comparison of these two cases see Isamu Noguchi, "Shukyo Dantai karano Dakkai Kyosei" [Forcible renunciation from religious groups] *Shukyo Ho Bassatsu [Religious law abstractions]* 21 (2002): 93-127. On the Jehovah Case see also *Chugai Nippo*, August 10, 2002.

[lxvii] Interview with Masaharu Shigemoto, public relations officer, translated by Masahiro Harada, Bethel Center of the Watchtower Bible and Tract Society, in Kanagawa, Japan, December 23, 2002.

[lxviii] *Kyodan Shinpo*, April 6, 2002, p. 3.

[lxix] *Kyodan Shinpo*, January 18, 2003, p. 4.

[lxx] Proclaimed by the United Nations General Assembly Resolution 36/55 on November 25, 1981.

[lxxi] Adopted and Opened for Signature by United Nations General Assembly Resolution 2106A (XX) on December 21, 1965. Entered into Force January 4, 1969.

[lxxii] The UNESCO document was adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on December 14, 1960, and entered into force May 22, 1962. Professor Amor's comments were made at the Commission on Human Rights 55th Session, Specific Groups and Individuals: Minorities, Pt II A at 15; E/CN.4/1999/113; January 29, 1999.

[lxxiii] Scott v. Ross et al. 1995. The documents may be downloaded PDF format from the CESNUR homepage at <http://www.cesnur.org>.

[lxxiv] Riera Blume and others, v Spain. European Court of Human Rights. Application no. 37680/97 Judgment October 14, 1999. paragraphs 33, 35. <http://www.cesnur.org/2002/blume.htm>; accessed December 25, 2002.

[lxxv] Nathan Lerner, "Religion and International Human Rights," in Liam Gearon, ed. Religion and Human Rights: a Reader (Brighton and Portland, England: Sussex Academic Press, 2002), p. 55.

[lxxvi] Nathan Lerner, Religion, Beliefs, and International Human Rights (Maryknoll: Orbis Books, 2000), p. 15.

[lxxvii] T. Jeremy Gunn, "The Complexity of Religion and the Definition of Religion in International Law," 16 Harvard Human Rights Journal (2003): 206.

[lxxviii] Ibid.

[lxxix] Lerner, "Religion and International Human Rights," p. 58.

[lxxx] For example, the church has, as a primary objective, "eliminating barriers between races," particularly through the international, interracial marriage ceremonies, or so-called "Marriage Blessings." Consider that three of the four plaintiffs discussed were all married to Koreans -- who are still regarded by some in Japan as an "inferior" race -- in Blessing Ceremonies. Moreover, the other plaintiff is married to a white American. These Japanese women have enthusiastically participated in "integrationist multi-racial" projects for the sake of "eliminating barriers between races." As it stands, the state is discouraging these four women, and others like them for that matter, by either trivializing or flat-out rejecting their appeals for state protection and redress.

[lxxxi] This information was conveyed to the author in an email from Dan Fefferman on July 24, 2003, Lee Boothby, an international lawyer and long-standing member of the Religious Liberty Committee of the National Council of Churches of Christ in the United States, is preparing a white paper on the Ishikawa Case which will be circulated in the human rights community. In July 2003 Boothby met with the United Nations Special Rapporteur for Freedom of Religion and Belief, Professor Amor, at the Organization for Security and Cooperation in Europe, in the Hague, Netherlands, and briefed Amor about the Japanese government's failure to protect members of the Unification Church from forcible "deprogramming." Amor apparently expressed serious concern about the issue, is eager to see the white paper, and is considering raising the matter with Japanese officials.

[lxxxii] Donna Sullivan, "Advancing the Freedom of Religion or Belief through the UN Declaration on the Elimination of Religious Intolerance and Discrimination," 82 American Journal of International Law 487 (1988), 488. Reprinted in Steiner, ed. International Human Rights in Context, p. 471

[lxxxiii] See generally Yuji Iwasawa, International Law, Human Rights, and Japanese Law: The Impact of International Law on Japanese Law (Oxford: Clarendon Press, 1998).

[lxxxiv] Joseph Chuman, "The Documents of Human Rights, their Enforcement and the Differing Roles of Religion in Relation to Human Rights," lecture, University for Peace, San Jose, Costa Rica, personal notes by the author, July 10, 2003.

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Court cases as well as letters from the prosecutors office, can be viewed in the original Japanese at the above site.