

## COURT CASES AND HUMAN RIGHTS IN JAPAN

"Foreigners are not guaranteed the right of continued residence in Japan nor are they guaranteed the right of re-entry once they leave," responded an attorney for the Ministry of Justice on April 26, 1983, in the second hearing of the suit brought by the Rev. CHOE Chang Wha, pastor of a church of the Korean Christian Church in Japan. Mr. Choe maintains that in refusing him a re-entry permit the Ministry of Justice is depriving him of a constitutionally guaranteed freedom to travel abroad.

"This case is not just a matter of challenging a regulation for controlling foreign residents in our country. It is a case calling into question the nature of Japanese society," argued an attorney representing Mr. Choe in the third hearing in the Tokyo District Court on July 17, 1983.

These two quotations illustrate some of the issues being raised in various legal moves in Japan seeking equitable treatment for aliens here.

The focus is on the alien registration process in Japan and on the refusal by the Ministry of Justice to give re-entry permits to those who have refused fingerprinting but who have not been convicted in court of breaking the law related to the alien registration process.

All aliens, including those born in Japan, who are above 16 years of age and intend to be in Japan for more than one year are required to be fingerprinted as part of the alien registration process. Those persons must carry at all times an alien registration certificate, a document which includes a fingerprint and a photograph.

Over 30 persons (of whom 25 are Korean residents of Japan) have refused to be fingerprinted either when they initially registered as aliens in Japan or when they requested a renewal of their alien registration, as aliens must do every five years.

One reason for this refusal to be fingerprinted in relation to alien registration is that fingerprinting in Japan is a procedure required only of those under criminal indictment, those convicted of crimes, and foreigners when they apply for an a.r.c. (*See the letter to the Ministry of Justice for additional details.*) In Japan the very fact of being fingerprinted is perceived as part and parcel of Japan's criminal investigation procedure, and thus dis-discriminatory against aliens since they are the only group targeted for fingerprinting.

Another argument against the fingerprinting provision is that since it is required only of aliens, it is discriminatory and illegal since Japan ratified the International Covenant on Civil and Political Rights in 1979 promising that non-citizens would receive the same protection and have the same rights at Japanese citizens.

Koreans resident in Japan have a prominent role in challenging Japan's treatment of foreign residents since over 85% of the foreigners resident in Japan are Koreans, a large number of whom were brought into Japan as forced labor as part of Japan's World War II effort, and the children and grandchildren of these forced labourers.

Some of the younger generation of Koreans neither speak nor understand the Korean language. Young people report being shocked and embarrassed at being fingerprinted when they reach age 16 and go to the city hall for alien registration. Some 16 year old youth have refused to be fingerprinted and have subsequently been denied re-entry permits.

Of the approximately 30 persons who have refused to be fingerprinted, recent reports indicate that four have been indicted. One reason for the comparatively low number indicted is that personnel in some of the local government offices responsible for alien registration are reluctant to report to the public prosecutor the fact of non-compliance to the prosecutors so that they may investigate and institute legal proceedings.

### **Toward Mass Refusal**

The refusals to be fingerprinted have thus far been made on an individual basis. However, the July 17, 1983 Mainichi Shimbun newspaper reported that consideration and planning toward mass-refusal of fingerprinting is underway in the Korean community now. A Korean women's organization in Japan is looking toward the possibility of group refusal of fingerprinting in 1984 and 1985 when approximately 400,000 alien registration certificates come up for renewal. Study groups all over Japan are being planned to help persons decide whether to reject being re-fingerprinted or not, and to provide information about the legal rights and procedures if they decide to refuse to submit to the process.

There are approximately 50,000 Korean women over 60 years of age who have been long time residents of Japan. The Mainichi report suggested that initial mass refusals may be done by women in this category.

### **International Pressure**

On the international scene various pressures are being brought to bear on Japan. Page 2 of the July 21, 1983 New York Times carried an account of the case of Kathleen Morikawa, a ten-year resident of Japan married to a Japanese citizen. Ms. MORIKAWA refused to be re-fingerprinted when she went for a new a.r.c. and is now being tried in the Yokohama District Court.

See page 1 for another case of international pressure from churches meeting in Seattle, Washington, U.S.A.

### **Re-Entry Permits**

Three of those being tried for refusal to be re-fingerprinted have brought suits against the Justice Minister because they were subsequently refused re-entry permits. The three are Ms. K. Morikawa, mentioned above, Missionary Rev. Ron FUJIYOSHI, and Rev. Choe, also mentioned above.

Ms. Morikawa is suing the Minister of Justice claiming she is being denied a constitutionally guaranteed right to travel abroad. She also claims that she is a virtual prisoner in Japan because, though an English teacher in Japan and married to a lecturer in a Japanese university, she has been refused a re-entry permit. If she leaves Japan there would be no guarantee she could return to her family. Ms. Morikawa has been fingerprinted on previous occasions when she secured an a.r.c. but is being tried for refusal of re-fingerprinting. She commented that in Japan "unless a warrant for their arrest is issued, Japanese criminal suspects do not have to be fingerprinted--they must give their permission first."

Another suit against the Minister of Justice for refusal to issue a re-entry permit is being brought by Mr. Ron Fujiyoshi, who works with the Korean Christian Church in Japan. One reason that Mr. Fujiyoshi is being denied a re-entry permit is because he is presently being tried for refusal to be fingerprinted, an apparent assumption that he is guilty as charged. Mr. Fujiyoshi could leave but may not be allowed to return to his family or to continue missionary activities with the K.C.C.J.

In the suit being brought by Rev. Choe the Ministry of Justice is being asked to make clear its reasons for refusing to issue a re-entry permit. In the April 26 hearing in the Tokyo District Court attorneys for the Justice Ministry made the point that refusal to be fingerprinted (really re-fingerprinted) is an *akushitsu koi* (悪質行為) - a particularly bad or vicious act. In response to this characterization, it was pointed out in court that even high school students were refusing fingerprinting and that it was hard to argue that their refusal was *akushitsu*. Furthermore, some of those refusing fingerprinting have felt shame at refusing to follow the law and therefore refusing is not *akushitsu*.

Many hope that these court cases will soon be over with the Japanese government adhering to the provisions of the international commitments it made in 1979 to treat aliens in the same way that Japanese citizens are treated.

(see also: „Letter to Justice Minister“)

(JCAN staff; Japan Christian Activity News 600, August 12, 1983)