The Asia-Pacific Journal | Japan Focus Volume 22 | Issue 3 | Number 1 | Article ID 5831 | Mar. 13, 2024

Right Side Down: Five-Year Legal Battle Over Freedom of Expression Ends in Defeat for Nagoya Mayor

David McNeill

***Abstract**: A recent decision by the Supreme Court of Japan has dealt the conservative right another blow in the comfort women issue. In this article, David McNeill places the court's decision to uphold an order forcing the city of Nagoya to pay its promised share of the budget for the 2019 Aichi Triennale — despite the controversial artworks displayed there — in the context of a broader campaign by the right to realign history in accordance with Japanese government objectives.*

***Keywords**: Aichi Triennale, Supreme Court, comfort women, conservative right*

Japan's Supreme Court has effectively ended a landmark dispute over freedom of expression by ruling that Nagoya City must pay outstanding contributions to the organizer of the 2019 Aichi Triennale. The international art festival was targeted by the city's mayor and rightwing activists, who objected toone exhibition called "After Freedom of Expression," which included artwork satirizing the Imperial Family and highlighting Imperial Army war crimes.

Omura Hideaki, the governor of Aichi, shuttered the exhibition in August 2019 after the organizers were bombarded with thousands of angry phone calls and emails, many threatening violence. One protestor, later arrested, faxed a threat to firebomb the exhibition. Hundreds of artists and academics protested Omura's decision, which ignited a fierce debate on censorship. The exhibition briefly reopened in October 2019 under heavy security.

The protests intensified after Kawamura Takashi, the mayor of Nagoya and a member of the ultra-right lobby group, Nippon Kaigi, visited the Aichi Arts Center and singled out a statue of a Korean "comfort woman" by the husband-and-wife sculptor team Kim Seo kyung and Eun sung. The exhibit, Kawamura said, should not have been supported by taxpayers. Nagoya subsequently withheld about 33.8 million-yen of its 171-million-yen contribution toward the event.

Aichi sued Nagoya. In December 2022, the Nagoya High Court upheld a ruling by a lower court that acknowledged the exhibition's "strong political content", but said the city's funding did not imply support for this content. The court added that art unavoidably causes "discomfort among those who view it." "It is easy to declare works of art illegal on the basis

that they cause discomfort or disgust to viewers," said the ruling.

The Supreme Court rejected Nagoya's final appeal on March 6th, concluding that the refusal to pay was illegal. Mayor Kawamura said he was "beyond disappointed." "The mayor has the discretion to ensure that taxpayers' money is used fairly, and I have argued that it cannot be used for the contents of this exhibition," he told reporters. "I guess [the mayor] can no longer say, 'Please stop' spending taxpayer money on claims that are too politically biased."

The city and prefecture had agreed to share the roughly 1.2-billion cost of the Triennale, which was also supported by the Agency for Cultural Affairs. After the controversy erupted, the agency refused to pay the full 78 million yen in promised subsidies because of "inappropriate procedural matters," saying the prefecture had failed to notify it of "serious facts that threatened the safety of the exhibition hall and the smooth operation of the business."

Hagiuda Koichi, then in charge of the agency as Minister of Education, Culture, Sports, Science and Technology said the funding decision was based solely on "whether the event could be properly managed and organized," and rejected criticism that he had bowed to a rightwing mob. Omura also threatened to sue the ministry but this row was settled out of court.

The artistic director of the Triennale 2019, Tsuda Daisuke, said his aim was to "provoke discussion" on the health of freedom of expression in Japan. The exhibits included Koizumi Meiro's Air#1, a portrait of the Imperial Family with all its members erased, nodding to the ghostly space they occupy in the collective Japanese unconscious. Shimada Yoshiko's twin portrait of the Showa Emperor (Emperor Hirohito) with his face scratched out, then burned, also infuriated nationalists.

Koizumi helped launch a petition of over 100,000 online signatures against what he called "state censorship" after the exhibition's closure, which was also protested by Japan's International Association of Art Critics and dozens of artists and academics in Japan, South Korea and around the world. "Censorship thrives on fear and insecurity and silence is its accomplice," Mexican artist Monica Mayer told a conference in Nagoya in 2019.

The ruling is the latest defeat for the right on the comfort women issue. In March 2023, the Supreme Court also rejected a final appeal by the plaintiffs in a civil suit against the makers of the documentary Shusenjo: The Main Battleground of the Comfort Women Issue. The movie's director, MikiDezaki and its distributor were sued for defamation by five of Dezaki's interviewees who argued the denialist case – that neither the Japanese state nor the wartime military had been involved in coercing thousands of Asian women into sexual bondage.

The plaintiffs, including Kent Gilbert, a lawyer and TV celebrity, Fujioka Nobukatsu, the deputy chairman of the Japanese Society for History Textbook Reform, and Yamamoto Yumiko, a former leading member of far-right group Zaitokukai, argued they had been "deceived" into joining what they thought was a student film and upset to have found themselves dubbed "nationalists" and "revisionists"

in a movie that Gilbert denounced as a "propaganda hit piece."

Dismissing the suit in the Tokyo District Court on Jan 27th, 2022, Shibata Yoshiaki, the presiding judge said the plaintiffs had signed consent forms before the movie's release, allowing the producer "to permanently distribute, show, display, or transmit the film to the public in Japan or abroad, or to sell or rent copies of the film." He found no evidence that the film had diminished the social reputation of the plaintiffs by calling them revisionists, which after all means they were trying to "reexamine the established theories of history and present new interpretations."

For an issue increasingly couched in euphemism, or avoided altogether (NHK's stylebook, for example, instructs editors, translators and journalists to avoid giving explanations of what comfort women were and bans expressions such as "be forced to," "brothels," and "sex slaves") Dezaki's documentary seemed raw and unfiltered. Freed from their dread of hostile interviewers, the denialists unleashed some striking bon mots. Gilbert insisted the women were "prostitutes," not slaves. Journalist Sakurai Yoshiko said she "knew in her heart" that the Japanese military could never rape women. Fujiki claimed that feminism was started by ugly women.

Asked to cite a reputable historian, Kase Hideaki, the now deceased director of the Alliance for Truth about Comfort Women, and a major supporter of denialist causes, said he "doesn't read books by other people" and at one point seems to attribute the rise of America's civil rights movement to Japan. Discussing the fury that comfort-women denialism provokes in South Korea, Kase called Koreans "cute," like children.

The pressure against Dezaki and the Triennale organizers is part of a broader campaign to realign history in accordance with Japanese government objectives. In 2018, Japan's incoming ambassador to the U.S. Sugiyama Shinsuke pledged to "travel around the U.S. and explain the Japanese government's position in person," in an attempt to remove comfort women statues that had appeared in several American cities. Before he had taken office, America's Supreme Court ended the three-year legal battle to remove a statue in Glendale, Southern California when it dismissed a lawsuit, funded by Kase and other denialists. Japan has repeatedly demanded that the Mitte district in Berlin remove a comfort women statue there.