

# **TWO PRINCIPLES OF MODERN CIVIL SOCIETY : CONSIDERATIONS ON THE CASE OF FORGERY BY THE NIID AND TWO AMERICAN INSPECTORS**

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## 1. Backgrounds to the issues considered in this paper

1. In a previous paper of mine entitled, "Toward Prevention of Biohazards : For Human Rights in the Age of Emerging New Pathogens and Biotechnology" (Shibata, 1997a), I explained the backgrounds to the issues considered in this paper. They might be outlined as follows :

1.1 The origin and history of the Japanese National Institute of Health (JNIH), originally established in 1947, and its successor, the National Institute of Infectious Diseases (NIID), renamed in 1997.

1.2 The theoretical background of the civil rights campaign against the wrong location of the JINH-NIID. This deals with various kinds of dangerous pathogens, genetically modified organisms (GMOs), a large quantity of organic solvents and radioisotopes as well as tens of thousands of lab animals, while the JNIH-NIID is located at a small site in one of the most populated residential areas in Tokyo.

The site is adjacent just to many houses, housing complexes, two welfare facilities for handicapped persons, Waseda University (WU) with tens of thousands of students, a major hospital and the legally designated sites for refugees in case of emergency, big earthquakes and/or fires.

1.2.1 It was in July of 1986 when the JNIH made public its plan to move to such a site. Since January of 1987, together with my colleagues and friends, I have continued to raise lots of questions and related issues about the safety and location of the JNIH to its directors requesting them to reply. To our surprise, they have not been able to respond. Further, the JNIH has taken a strong stand against us, the residents, the handicapped people and WU, virtually telling us "Shut your mouth!" Meanwhile, the Mayor and the City Assembly of Shinjuku-ku (ward) with a population of about 270,000, have continued to urge the JNIH to refrain from constructing the laboratory. In spite of all these protests and appeals, in December 1988, the JNIH dared to mobilize the riot police and to begin its construction backed by force.

1.2.2 So, I, together with 200 colleagues, residents and 30 WU professors, brought a lawsuit against the JNIH seeking to have its construction transferred out of our residential area and its experiments in this area halted.

1.2.3 At the Tokyo District Court the JNIH contended that it was "completely safe" because its biosafety conditions were in compliance with the regulations recommended by the WHO's *The Laboratory Biosafety Manual* (WHO, 1st ed. 1983, 2nd ed. 1993). We completely refuted such arguments and proved how the JNIH was dangerous to the residents, handicapped persons, students and staff of WU as well as the public. Since our suit began, almost ten years have passed. Our arguments have convinced the public of the justice of our cause. So, the Mayor and the City Assembly of Shinjuku-ku, Tokyo, have continued to ask the JNIH to have its experiments halted. Even the Minister of the Environment Agency told the Diet that he did not think that the location of the JNIH was "appropriate."

1.3 In 1995-1996 the misdeeds of the JNIH (Shibata, 1997b) were under fire from the side of the public and mass media. One of them was that many hemophiliacs were infected with the *HIV* through the JNIH-approved blood products. Nevertheless, its Director General Shudo Yamazaki openly declared that he would never apologize to the victims and nation for these misdeeds. In the face of the public denunciation, however, the Ministry of Health and Welfare could not but rename “the JNIH” “the NIID” on April 1, 1997.

1.4.1 In 1997 we proposed that the court invite a British microbiologist of international repute, **Dr. C.H. Collins**, the coordinating editor of the above WHO manual and another WHO publication (WHO, 1997) to submit his inspection report to the court. As a result, the NIID could not but reluctantly accept our proposal with the condition that it invite two American scientists, **Mr. V. R. Oviatt** and **Dr. J.Y. Richmond**. Mr. Oviatt was the Head of the Environmental Health and Safety Division at the National Institute of Health (NIH), in Bethesda, and is retired in Scotland. Dr. Richmond is Director, Office of Health and Safety, the Centres for Diseases Control (CDC), in Atlanta. In order to make the inspection fair and balanced, Dr. Collins recommended to us his colleague, **Dr. David A. Kennedy**, to be another member of the British inspection team. Dr. Kennedy was a principal technology officer at the Medical Devices Agency, Department of Health, in the UK, from 1968 to 1996, as well as a WHO advisor on medical devices. He is a Visiting Fellow at the Cranfield Biomedical Centre, Cranfield University, UK.

1.4.2 The NIID insisted that Drs. Collins and Kennedy would be allowed to enter the laboratory only on the one day of June 18, that the number of our interpreters be restricted to one, and that the facilities available for Drs. Collins’ and Kennedy’s inspection should also be restricted. The NIID went further to forbid their tape-recording of all oral explanations given during the process of the inspection, as well as any photography on the site. Essentially, the NIID itself wanted to conduct its own inspection, rejecting that of Drs. Collins and Kennedy. Thus, the

NIID dictated nearly all the conditions of the inspection, rudely rejecting what should have been a free inspection by Drs. Collins and Kennedy. *Nonetheless, under such restrictions, the international inspection by the two groups of scientists took place on June 18, 1997.*

1.5.1 The deadline for the plaintiffs and the defendant to submit each report of their invited inspectors to the court was Friday, August 29, 1997. We submitted the report by Drs. Collins and Kennedy (hereafter, C/K ; Collins and Kennedy, 1997a) and its Japanese translation to the court on the 28th of August. The NIID received them from the court the next day. But it was on the 10th of September, 12 days later than the deadline, that the NIID submitted the Oviatt and Richmond (hereafter O/R) report (Oviatt and Richmond, 1997) and its Japanese translation to the court.

1.5.2 This suggested that there was a possibility for the leading staff of the NIID to have faxed the C/K report to O/R in order to have the opportunity of adding several comments to counteract or change some of those made in their original report.

1.5.3 It was also strange that the O/R report was undated. In my opinion, O/R may have omitted the date intentionally.

1.6 Our civil rights campaign against the wrong location of the JNIH-NIID has widely been reported in Japan. There have been over 1,000 articles reported in the mass media as well as over 100 articles published in many leading journals. There have been more than ten books, in addition to my own three books, which warned the public of the danger of the relocated JNIH-NIID. Almost all of them have criticized the JNIH-NIID, while very few have favored it. Not only that. Some of the overseas leading scientific journals, including *Nature* and *Science Magazine*, paid appropriate attention to our campaign (Hesse, 1992, Heim, 1992, Swinbanks, 1992, Shibata, 1993, Normile, 1998, Collins and Kennedy, 1998). So, it might be said that the wrong location issue of the JNIH-NIID has been brought before the

world court of the scientific community and public opinion.

## 2. Accusation of the NIID's forgery of its inspection report : Conspiracy of two American inspectors also denounced

2.1 Several months later than the deadline, that is, in March of 1998, we had an opportunity to compare the signatures of Oviatt and Richmond with those in the O/R report. They seemed to be quite different.

2.2.1 You are asked to examine the signatures at the end of this paper. The signatures O-1 and R-1 are copies of the signatures in the letters of Oviatt (8 November 1995) and of Richmond (9 November 1995), each of which was addressed to Dr. Shudo Yamazaki, Director General of the NIID. We had the copies of these letters made from the originals that were submitted to the court as the defendant's documentary evidence No. 43 and No. 45.

2.2.2 In contrast, the signatures O-2 and R-2 are copies of the signatures from their report.

2.2.3 I think that the signatures O-1 and R-1 must be genuine, because they are each from letters of Oviatt and Richmond. But it did not seem even to the eyes of untrained observers that each of signatures O-1 and O-2, as well as each of signatures R-1 and R-2, was signed by a same person.

2.2.4 Therefore, we asked one of the leading experts on handwriting analysis to give us an expert's opinion on the signatures. He was Mr. Kazuyoshi Ichikawa, a former Chief Researcher of handwriting analysis at the Institute of Police Science attached to the National Police Agency and then a lecturer of forensic medicine at the Nippon University. *He carefully examined the signatures in question and reported that they were surely forged by another person.*

2.3.1 In this context, on the 19th of June 1998, *we accused some leading staff of the NIID of the crime of forgery of an important legal document before the Tokyo*

*Prosecutors' Office*. At this stage, the Japanese mass media generally did not give much coverage to the case. Only after the police have arrested an accused or the prosecutors' office has brought an accusation against the accused, does the mass media give any big coverage to such an accusation.

2.3.2 But in this case, the daily *Tokyo Shimbun* (20 June 1998) gave big coverage to our accusation. According to the newspaper article, the NIID reportedly refused to answer questions raised by its reporter. A few months later, the September 7, 1998 issue of *AERA*, one of *Asahi Shimbun's* most prestigious weeklies in Japan, published a detailed report under the title "The NIID forged the signatures of two American scientists."

2.3.3 On the 2nd of July, 1998, the Tokyo Prosecutors' Office officially accepted our accusation. As the crime was committed behind closed doors at the NIID, we could not identify the name(s) of the criminal(s), but we suggested that **Dr. Shudo Yamazaki**, Director General of the NIID and/or **Dr. Takeshi Kurata**, Director of the Department of Pathology of the NIID, were surely involved in the crime.

2.3.4 There is no doubt that such a forgery should be considered not only as one of the most serious crimes committed against the court by a governmental scientific institute, but also as one of the most shameful crimes against all scientists here and abroad. *It should be regarded not only as one of the most infamous scandals in the Japanese history of jurisprudence and science, but of the world as well.*

2.4.1 Immediately after the disclosure of the crime of forgery committed by the NIID, we sent a fax message of inquiry about the signatures to both Mr. Oviatt and Dr. Richmond. We only asked them if the signatures in question were their own or not. They never replied.

2.4.2 A few weeks later, we called Oviatt and Richmond and asked their opinion on the forgery. *To our amazement, they replied without flinching that they had, in fact, allowed the leading staff of the NIID to sign their names.* Oviatt said that he was writing to the Tokyo District Court (TDC) to testify that he certainly had al-

lowed the NIID to sign his name. Richmond also said that the same report, this time with their “genuine signatures and new dates,” would be submitted to the TDC.

2.5.1 On the 2nd of October, 1998, having been forced to respond to our accusation, the NIID could not but submit to the TDC a copy of the “new” report of its inspection, this time with what it called “true” signatures of O/R, together with copies of Oviatt’s letter of 30 June and of Richmond’s letter of 1 July 1998, both of which were addressed to Dr. Kurata. *By virtue of these submissions, O/R confessed that the crime of forgery had been committed by Kurata with their approval.*

2.5.2 As to the newly submitted report, the signatures in question seemed to be “true,” but it was strange that, again, neither of the two signatures was dated. (Oviatt retires in Scotland, UK, while Richmond lives in Georgia, USA.) I have already suggested the reason why the previous and undated version of the O/R report was submitted to the TDC 12 days later than the deadline (see 1.5 above).

2.5.3 Richmond, in his above letter, called their report “the report dated June 18, 1997.” Such a date is nothing but a fiction, because it is the date that the inspections by the two different groups of the inspectors, that is, the British group on behalf of us, the plaintiffs as well as the American one on behalf of the NIID, the defendant, took place at the laboratories of the NIID. The fact that there were still no dates of the signatures in the new version of the O/R report suggested that it was impossible for O/R to date the report. This fact again cast doubt on the so-called “true” signatures of O/R.

2.5.4 In the forged version of the report, Richmond titled himself as “Director, Office of Health and Safety, WHO Collaborating Centre for Applied Biosafety Programmes and Training[,] Centres for Disease Control and Prevention.” But in the new version, he deleted this title. This means that he intentionally assumed that the official and prestigious title used in the forged version would deceive the TDC, the plaintiffs, the public and the scientific community here and abroad. Neverthe-

less, he neither explained the reason for nor apologized for his deception about the title to the TDC and others.

2.5.5 The letter of Oviatt deserves to be cited, “This letter affirms that I asked and authorized you to *reproduce my signature* and *affix* it to the report.” (Emphasis added)

2.5.6 The letter of Richmond also deserves to be cited, “I gave you *permission to “sign my name”* to the *final* report...I understand at the time that there was a need to file the report *in a timely manner* and that there was not *time to get our signatures.*” (Emphasis added)

2.6.1 It is noteworthy that the word “final” report suggests that there was a prior report, and that *the final one was completed by Kurata. It was finally printed using an NIID printer.* So, it appears that Oviatt honestly wrote that he asked Kurata to “affix” his reproduced signature to the final report.

2.6.2 In the same context, Richmond also confessed, “there was not *time to get our signatures.*” If the final one was completed and printed by O/R themselves, they should have never written in such a way, “there was not *time to get our signatures.*”

2.6.3 So, the letters of O/R themselves confessed that the *final* text was completed and printed by the NIID, and that Kurata, who had to “*get our (O/R) signatures,*” asked *permission* to “*reproduce my (Oviatt’s) signature*” or to “*sign my (Richmond’s) name*” from O/R, and that *then*, O/R gave him “permission.” In this case, there is no doubt that *Kurata initiated the request “to get their signatures.”* Responding to the request, then, O/R gave him the “permission.” If not, O/R should have never used the word “permission.”

2.6.4 Richmond confirmed, “there was a need to file the report *in a timely manner*” and “there was not *time to get our signatures.*” Nevertheless, the O/R report was submitted to the TDC 12 days later than the deadline, that is, not in a timely manner. O/R did not explain why, how and when “there was not time.” I have al-

ready explained how the wantonly secretive behavior was conspiratorially aided by O/R after the NIID had received the C/K report, which was filed in a timely manner. Why didn't O/R and the NIID explain the reason why "there was not time to get O/R signatures" to the TDC and the public?

*I believe it is clear how O/R were completely and miserably caught in their own trap. Is there any value to scientific and documentary evidence in such an undated report containing the so-called "true" signatures of O/R, accompanied with so unreasonably argued letters written by such self-styled co-authors?*

### 3. Two principles of modern civil society : Juridical considerations in the case of forgery by the NIID and two American inspectors

3.1 As you well know, there are several important juridical principles in our modern civil society. Only to cite from the US Declaration of Independence, it is confirmed that we are endowed with the rights to life, liberty and the pursuit of happiness, as well as the right to and duty of revolution (Shibata, 1977, 1987 and 1998). In connection with the subject of this paper, here I would like to ask you to pay attention to *two other important juridical principles of our society*, when it comes to world-wide accepted practice for the proper identification and submission of legal documentation. One *is the correct identification of the individual*. Another is *the proper dating of documentation by the individual submitter*.

3.2 As to the first principle, there should be no need to explain its juridical implication. Modern civil society is based on mutual respect for the dignity and identity of individual parties in any legal proceeding. Without such a principle modern civil jurisprudence in society could not exist. But how is it possible for each citizen to express his/her own dignity and identify as an individual personality to another citizen? How is it possible in the legal process for each citizen to recognize and/or identify another citizen as an individual personality? As I understand, it is

possible *only with and/or through signature of his/her own name* upon any documentation submitted to a court as part of any legal procedure.

3.3 As for the second principle, as a matter of fact, Americans, Europeans, Japanese and many other people always date any documents and letters, when they sign their names on them, especially if these writings are to serve a legal purpose. Why? The reason is that by doing so, they want and/or are asked to confirm the legal validity of their signatures for the purposes of establishing their legal rights, duties and responsibilities. Therefore, it would be no exaggeration to say that *any undated signature is legally invalid in the modern civil society*. Indeed, there is, in the modern world, very little official or legal documentation upon which signature(s) of the submitting parties/party remain(s) undated. In fact, the modern civil society is nothing but *a society controlled and registered with references to and indications of time*. Therefore, from a legal point of view, to intentionally omit either of these two principles, undermines the universally accepted documentary content essential to the conduct of proper legal procedure in our modern civil society.

3.4 Accordingly, *an act of forgery of signature(s)* on any official or private document, as well as an act of its use in the legal process, should be considered as serious crimes and punished severely by the criminal law. In Japan, the act of forgery of private documentation and an act of its use are indictable offense, carrying a maximum five year's imprisonment according to the Articles 160 and 161 of the Criminal Law.

3.5 To my knowledge, however, there are very few juridical studies on the implications of forged signatures and dating as these pertain to the accepted juridical principles of the modern civil society. I submit that this scarcity exists due to the overwhelmingly accepted practice of signing and dating documentation involved in the legal process.

3.6 In light of these principles, what are the juridical implications of the forgery

acts on the part of Dr. Kurata, Mr. Oviatt and Dr. Richmond?

3.6.1 Of course, Kurata would justify his behavior by simply insisting that he is not guilty of the forgery because he was “permitted” to “reproduce their signatures” by O/R, while O/R would reply that they also should not be denounced of the conspiracy either because they, too, had “permitted” to “reproduce their signatures.”

3.6.2 In reply to such arguments, I would like to remind them of the principles explained above - that in our modern civil society, it is only an independent citizen who is qualified to sign *his/her own name*. No citizen is allowed to sign the name of another person without following proper legal procedure.

3.6.3 Furthermore, I believe it is essential to have answers to the following questions :

3.6.3.1 Why did not Oviatt ask Kurata to “sign the name of Kurata on behalf of Mr. Oviatt”? *Doing so represents the common sense and morals of any citizen, including scientists, who follows proper legal procedure in any modern civil society.* Nevertheless, Oviatt, *ignoring common procedure, authorized Kurata to “reproduce my signature.”* Why did O/R allow Kurata to sign “Vinson R. Oviatt and Jonathan Y. Richmond,” not “Takeshi Kurata on behalf of Oviatt and Richmond”? By letting Kurata sign the signatures “Vinson R. Oviatt and Jonathan Y. Richmond,” O/R submitted the conspiratorially produced report to the court in order to pretend as if it were a “genuine” report written only by O/R.

3.6.3.2 Even if O/R had allowed Kurata to reproduce their signatures, it does not justify the latter to sign “Vinson R. Oviatt and Jonathan Y. Richmond,” because it is clear that Kurata is not Oviatt and Richmond. Whether O/R permitted it or not, it was a crime of forgery for Kurata to sign the signatures of O/R, because by doing so, he intentionally deceived the court, the plaintiffs, lawyers, scientists and the public into taking the bogus report as a genuine one.

3.6.4 Thus, the TDC had been deceived into accepting the bogus report as genuine

documentary evidence. We ourselves have been deceived to believe that it was a genuine one. So, we made many copies of it and distributed them among scientists and editors of scientific journals, here and abroad, asking for their comments. Therefore, not only we, but also many scientists here and abroad, including Drs. Collins and Kennedy, have been deceived into reading it as a genuine one.

3.7 To refute the arguments of Kurata and C/R, it would be enough to offer the following example :

3.7.1 Suppose a buyer A bought a valuable thing from C and paid for it with a check with a forged signature of his friend B with the approval of B, and in such a way that A and B together committed the crime of fraud against C. One year later, C found the signature forged and the check voided, and accused A of a crime of fraud before a prosecutors' office.

3.7.2 As a result, only after having been forced by the accusation, A asked B to give him a check with "true" signature of B but without a date, and then A submitted the check to C, along with a letter from B which says : "At that time I gave A permission to reproduce my signature" because "there was not time for A to get my signature." And, without any apology, A asks C to accept the check, shouting to C and the concerned prosecutor, "You are wrong. I am not guilty of the crime of forgery!"

Do you think that C should accept such a check? I am sure that nobody would support A's argument. Anybody would certainly contend that A and B must be accused of the crimes of fraud and conspiracy which were committed against C.

3.7.3 Is there any difference between the crime committed by A and B and the crime of forgery committed by Kurata aided by O/R? Nobody would dare to say that A and B, as well as Kurata and O/R, are not guilty of the crime. Furthermore, anybody would surely say that *the crime committed by Kurata and O/R is more serious and dangerous to the public and humankind as a whole* than the one committed by A and B. The reasons are as follows :

3.7.3.1 In this case, “A” is not only an institution of the government of Japan, but also the governmental laboratory which deals with emerging new pathogens and unknown genetically modified organisms (GMOs), the danger and risk of which can only be recognized through an infection among residents and the public. Kurata, as the institute’s Director of the Department of Pathology, committed the crime of forgery of the institute’s safety and environmental impact inspection report in order to deceive the TDC, the plaintiffs, the public and the scientific community.

3.7.3.2 “B” represents the two American scientists. To repeat the above description (1.4.1), one of them was the prestigious Head of the Environmental Health & Safety Division at the NIH, Bethesda, and the other assumed the official and prestigious title as “Director, Office of Health and Safety, WHO Collaborating Centre for Applied Biosafety Programmes and Training [,] Centres for Disease Control and Prevention.” They conspired with Kurata against “C,” that is, the TDC, the plaintiffs, the public and the scientific community in Japan, pretending “NIID poses no biosafety threat to the outside surrounding community as a consequence of its work with infectious diseases” in one of the most populated residential areas in the very center of Tokyo. Of course, the O/R report did not submit any scientific proof for such a pretension (Collins and Kennedy, 1997b, Shibata, 1997a).

#### 4. Implications of the forgery committed by NIID and two Americans : Considerations on morals, science of safety, public health and human rights in our times

4.1.1 As to the conspiracy of O/R, it is incredible that the two American scientists, who were asked by the court to submit an experts’ report on the inspection of the so-called “safety” condition in and around the NIID, allowed the inspected laboratory to “reproduce their signatures.” It is nothing but a shameful corruption among

scientists in the light of morals, science of safety, public health and human rights in our civil society.

4.1.2 It is again unbelievable that such well-reputed scientists like Mr. Oviatt and Dr. Richmond could be implicated in these forgeries. Such behavior seriously harms the reputation of the American scientific community.

4.1.3 The conspiracy of Mr. Oviatt and Dr. Richmond, in conjunction with the NIID, leads one to wonder whether further phenomena of such shameful behavior exists elsewhere among American and Japanese laboratory scientists involved in the fields of infectious diseases, biotechnology and science of safety.

4.1.4 The poor arguments in the letters of O/R reminded me of the term “colonial science.” This word was used to characterize the attitude of American scientists to atomic survivors in Hiroshima and Nagasaki by an American science historian (Lindee, 1994). Lindee, now Professor of History of Science at the University of Pennsylvania, studied the Atomic Bomb Casualty Commission (ABCC) as one of the Occupational Agencies of the U.S. Army. She also studied the Japanese National Institute of Health (JNIH), the Hiroshima and Nagasaki Branches of which were set up in the same rooms in the same buildings as the ABCC. The JNIH intimately cooperated with the ABCC in loyally following the U.S. Army’s non-treatment policy toward survivors of Hiroshima and Nagasaki. The ABCC was a typical example of “colonial science” institute. It was helped by the JNIH, the institute of “persons of a relatively inferior caliber” (Lindee, 1994), in dealing with the Hiroshima and Nagasaki survivors as human guinea pigs. The ABCC tried to collect information about the aftereffect of the atomic radiation on these survivors in order to contribute further toward the development of nuclear weaponry (Shibata, 1996).

4.1.5 Don’t the O/R reports with the forged signatures and the so-called “true” signatures of O/R, together with their two letters, smell a lot like “colonial science”? Doesn’t the submission of forged documentation display contempt for our

judges, residents, the public and the scientific community while simultaneously revealing O/R's racist attitude of "colonial science"? How can these scientists so arrogantly and unlawfully justify their crimes of forgery and conspiracy before our court, public and scientific community?

4.2. Why did Dr. Kurata, as one of the leading staff of the NIID, commit such a grave crime of forgery?

4.2.1 In this respect, you have to understand the origin and history of the JNIIH-NIID. It was established on May 21, 1947 by the order of the U.S. Occupation Forces. It was staffed with many medical scientists who cooperated with the biological warfare (BW) crime committed by the Japanese Imperial Army during the period of its invasion of Asian and Pacific countries. All directors general and almost all vice-directors general of the JNIIH, during the period from its establishment to the beginning of the 1980s, were BW scientists. Thus, the JNIIH inherited the legacy of the BW forgery corps of medical scientists. The principle of their forgery morals has always been that "the end justifies the means" (Williams and Wallace, 1989, Shibata, 1990 and 1997b, Harris, 1994 and 1995, Gold, 1996).

4.2.2 To cite from Lindee, the JNIIH remained "an emphatic Occupation agency" throughout the Occupation. Not only that. The JNIIH continued to provide services to the ABCC from 1947 through 1975, and together they intimately cooperated to infringe on the human rights of atomic survivors. (Shibata, 1996)

4.2.3 Another of the hidden aims of the U.S. Occupation Forces, which ordered the JNIIH to be set up, was to have it cooperate with the U.S. Army's 406th Medical Laboratory, an Asian unit of the U.S. Army's center of BW research institutes at Fort Detrick, Frederick, Md. Unit 406 supervised and controlled the JNIIH from its establishment through the middle of the 1960s. Many cooperative research projects between the JNIIH and the U.S. Army's institutes can be documented from its establishment until the end of the 1980s. As a matter of fact, Dr. Kurata himself was reportedly financed by one of these U.S. Army's institutes (Shibata, 1997b).

4.2.4 In 1997, in face of wide public denunciation of its many misdeeds, the JNIH could not but change its tarnished name to the NIID. But the unscientific, unethical and inhumane tradition of the BW scientists in the JNIH was not reformed, but simply and directly inherited by the leading staff, including Dr. Kurata, of the re-named NIID.

4.2.5 The NIID and Dr. Kurata have never apologized to the TDC and the public for their crime of forgery. Not only that. In spite of public denunciation, the NIID, in appreciation of the misdeeds of Dr. Kurata, arrogantly promoted him to the post of its Vice-Director General on April 1, 1999! He is expected to become its Director-General in a few years! Such is typical of the morals, the science of safety and the bioethics of the NIID.

4.3.1 As a proverb says, "Birds of a feather flock together." Thus, it would be no exaggeration to say that O/R were purposely invited by their colleagues in Japan to deliberately reveal their "colonial science" before the eyes of our court, public and scientists who, alternatively and passionately, speak out for "independent science." In this respect, the conspiracy of O/R and the NIID was no accident. It deserves to be carefully studied as a textbook on "colonial science" and as a blatant case of how science and scientists can both become corrupted.

4.3.2 What would occur if our court should happen to favor the report conspiratorially produced by the NIID and O/R and to ignore the scientific warning expressed by the Collins/Kennedy report? Although it seems to be unlikely, it would predictably encourage every development adverse not only to the new regulations on the locations of laboratories of pathogens (WHO, 1997) with which we can agree, but also the expected promotion of the public health and improvement of biosafety in the NIID. It would also disasterously encourage almost all other laboratories of pathogens and GMOs to ignore legislative regulations against the potential misconducts of these laboratories. Finally, it would seriously undermine efforts to maintain strong environmental protection in the age of emerging new

pathogens and biotechnology. We should never allow our courts to make these terrible mistakes.

4.3.3 In the case of such an adverse ruling, we cannot deny that there is a possibility that an outbreak of infectious disease with an unknown new emerging pathogen and GMOs may occur. Should this terrible event take place among residents around the NIID at the very center of Tokyo and other laboratories, it is not alarmist to predict that such an outbreak could possibly immediately cross borders and spread to all the corners of the world. As previously experienced in the case of the *HIV*, *E. coli O-157* and so on, such scenarios have already occurred. Is there a more serious threat to humankind in our age of newly emerging pathogens?

4.3.4 As we saw in the BW crimes of Japanese medical scientists and the cover-up of the crimes by their American colleagues (Williams and Wallace, 1989, Shibata, 1990 and 1996, Harris, 1994 and 1995), *science without conscience is nothing but the corruption and destruction of science itself. We have just witnessed the phantom of their second generation in the JNIH-NIID and O/R.* It is a grave warning for all people and the public who are concerned about the future of humankind in our age.

4.3.5 We have to redouble our energy to promote the science of safety and biosafety, as well as morals, bioethics, public health and human rights in our age. Your kind help and deep concerns would be greatly appreciated.

#### References (only in non-Japanese languages) :

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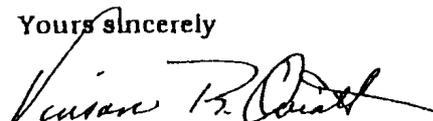
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\* These references are available through our website <<http://village.infoweb.ne.jp/~yoken/>>.

Appendix

O-1

Yours sincerely



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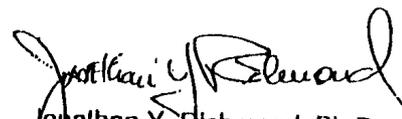
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R-1



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The more detailed information about the JNIH-NIID and our civil rights campaign against it would be available through our website <<http://village.infoweb.ne.jp/~yoken/>> .