

## **The Jakarta Intercultural School Case – A Summary**

In March of 2014 a mother of a kindergarten student at the Jakarta Intercultural School [“JIS”] called the school, late one night, to say that her son had been sexually abused at the school during the school day. The following day she took her son to the SOS International Medical Clinic in Jakarta. The doctor saw no signs of physical abuse but ordered a series of blood tests to check for sexually transmitted diseases. The mother was directed to return to the clinic to review the test results with the doctor but did not do so. Instead, she collected the test results from the clinic without seeing the doctor. The result was negative for Anti HSV 2 IgG but positive for Anti HSV 2 IgM. [The IgM marker can be positive for a number of common infections, including chicken pox and strep throat.] Only consecutive positive IgG results indicate the presence of herpes, not a single IgM result. Nevertheless, the mother interpreted the positive IgM marker to mean her son had herpes. Further testing would have been required for an accurate determination but she did not return her child to the SOS clinic.

Instead, she took the incomplete lab report to the police and the media, alleging that her child had contracted herpes as a result of sexual abuse by janitorial staff at the school. She approached the school demanding photos of all thirty-one cleaners who worked at the school. She then alleged that the child had identified six cleaners [five males and one female] and that they had sodomized him multiple times in a school bathroom over an indeterminate but extended period of time in the preceding months. Soon afterwards, she launched a US\$12.5 million lawsuit against the school.

The cleaners were detained and interrogated by police. One cleaner died on the day of his interrogation. Police claim that he committed suicide. His colleagues claim he was savagely beaten. Pictures of his battered and bruised body attest to the latter. The four remaining males confessed, without legal representation. The female, who did have legal representation, did not confess. The accused were required to undergo medical testing and four of the five tested positive for herpes. It was claimed that this was proof of guilt, given that the child had allegedly been infected with herpes.

In May and again in July of 2014, the boy had more blood tests for the herpes virus. Tests were done at two separate Indonesian hospitals. Both of these tests produced negative IgG results. Two more tests, from European hospitals in late 2015, were also IgG negative. Medical experts have since stated that this proves conclusively that the child does not have herpes and furthermore, that the child could not have been sodomized as alleged by herpes positive adult males without contracting herpes himself. In short, they say, the alleged assaults did not occur.

The trial of the cleaners was held in late 2014. Once in the safety of the courtroom, the cleaners recanted their confessions. They said the confessions were signed after they were savagely beaten and tortured and after their colleague died under interrogation. However, the confessions were accepted by the court as positive proof of guilt. The original incomplete medical test from SOS was introduced as evidence that the child had contracted herpes, and this too was accepted as proof of guilt. The two additional negative tests, conducted well in advance of the trial and certified by medical experts as proof that the child does not have herpes, were hidden from the defence and not presented during the trial. Medical experts who testified were unaware of the existence of the exculpatory tests so could only say that the incomplete

test from SOS did not prove the presence of herpes. A letter from another hospital, in Bekasi [sub-district of Jakarta], was introduced, alleging that the child had herpes. The hospital from which this letter originated has disowned it, noting that the child was not examined at the hospital and that it does not permit doctors to reach conclusions based on lab tests done at other hospitals. Nevertheless, the letter was accepted by the court in trial.

Medical examinations conducted as early as March of 2014, at the SOS clinic and several other reputable hospitals, found no physical evidence of sexual abuse and noted no signs of emotional distress or resistance from the child when he was examined. No adult who interacted with the child at the school over the period of the alleged abuse noticed any physical injury, emotional distress, or behavioural changes consistent with the horrendous abuse it was claimed he had undergone.

In short, the prosecution presented evidence they knew to be false while hiding evidence that they knew to be exculpatory. In December of 2014 the cleaners were convicted. The males were sentenced to eight years, the lone female to seven. They appealed to the High Court and ultimately to the Supreme Court, both of which confirmed the convictions. They remain in prison with only a judicial review as their remaining hope for justice.

So how did Neil Bantleman and Ferdinant Tjiong become victims of baseless allegations like the cleaners?

In April of 2014, a second mother, a friend of the first mother, claimed to suspect abuse of her child. She took the child to the KK Women's and Children's hospital in Singapore where he underwent, under anaesthetic, an invasive external and internal examination. The medical team found no evidence of any injury, existing or residual, consistent with sodomy. They concluded that the child had not been sexually abused. In May this mother expressed relief and stated to friends on several occasions that the child had not been abused. Both parents also stated that the child denied having been sexually abused and reported this to the school.

But then, on May 28<sup>th</sup> 2014, this mother suddenly alleged that the child had been raped more than twenty times. From Singapore she began to send messages to other JIS parents, alleging that her child had also named their children as victims and identified school personnel as having been directly involved. By the first week of June, the allegations widened and she, along with a third family, accused Neil Bantleman and Ferdinant Tjiong, as well as a female Principal, and the cleaners, of sexually abusing their sons. At the same time, the first mother increased her lawsuit from US\$12.5 million to US\$125 million and changed her story to include Neil, Ferdi and the Principal. [Of interest is the fact that the cleaners worked for a sub-contracted janitorial service named ISS and not directly for the school. Inclusion of the teaching staff cleared the way for a significantly larger lawsuit against the school.]

Subsequently the school, and the staff members named by the second mother, sued her for defamation in a Singapore court. The Singapore High Court judgment was released in July of 2015 and awarded aggravated damages to the plaintiffs on the grounds that "...the objective evidence suggested that [the child] was never sexually abused" and "...it appears that the defendant had acted maliciously by being reckless to the truth of her allegations." Fundamental to their decision was the report from the

KK Women's and Children's Hospital concluding that the alleged assaults had not occurred.

Nevertheless, the damage had already been done. By mid-July 2014, Neil and Ferdi were named as suspects, detained for questioning and then held in prison for months, while the investigation was conducted. The female Principal was taken in for questioning but released. The police eventually dropped the allegations that she had abetted and videotaped the assaults. Quite appropriately, no charges were ever laid against her.

Complicating the investigation, and ultimately hamstringing the defence, was the fact that the allegations were entirely vague as to dates, times and even locations of the alleged assaults. The assaults were alleged to have occurred during the school day, but no dates or times were ever established. The alleged locations changed a number of times when the original locations were seen to be implausible. For example, it was initially alleged that the assaults occurred in an office, made entirely of glass, beside the busy main office of the school, making it impossible to explain why no one had noticed anything. The alleged locations then changed, at one point settling on a secret room that was never found.

Police conducted a late-night raid on the school premises, seeking evidence; months after the abuse was alleged to have taken place. In attendance were the first mother and her child. On video, the child appears to display no hesitation about re-entering an area where he was supposedly sodomized regularly, while the mother is seen pointing him to the places she wants him to identify. The police found no physical evidence of any kind that would tie the children to the location, no secret room, and nothing to implicate any of the accused. A blender was seized as evidence.

Neil Bantleman was supposedly identified by the children, using a school yearbook, and then in a police line-up. The line-up consisted of Neil, who is well over six feet tall, and two much shorter Indonesian police investigators who were already known to the children through their involvement in the investigation. Ferdi was identified the same way.

The allegations included the following: The children were picked up from their classroom and delivered to the office, or secret room. [The children's teachers testified that the children were never taken from their classrooms.] The children were allegedly fed a magic potion mixed up by the Principal in a blender. [Hence the seizing of the blender. The allegation against the Principal was dropped but the empty blender was still cited as corroborating evidence of the allegations and was accepted by the court as evidence.] Mr. Bantleman allegedly plucked a magic stone from thin air and inserted it into the child's anus to anaesthetize him against pain or injury. [That was the explanation for why the children showed no ill effects, and why no one noticed anything out of the ordinary when the children returned to class after the alleged abuse. The police searched for the stone but failed to find it.]

Despite the absence of evidence of any kind, the file was tossed back and forth between the police and prosecutors four times. Then, suddenly, when the allowable period for detention without charges was about to expire, Neil and Ferdi were formally charged, and the case was accepted for trial.

The irregularities in the investigation and the trial are too numerous to include, but a few are critical. The initial charges were invalid because they cited a superseded law. Normally this would be grounds for dismissal but was overlooked. The allegations were never clearly specified and were changed over time. The judge placed a total gag order on the trial proceedings, but only at the point at which the defence began to present its case. Embassy officials were barred from the courtroom. Time limitations for testimony were imposed only on the defence. Not only were the children allowed to testify, in defiance of Indonesian law, but they testified with the presence and assistance of their parents. On at least one occasion it was reported that a trial judge described for the child the alleged events and then simply asked the child for confirmation. There is an audio tape of the second mother explaining how she knows her child was abused. It is the most blatant example imaginable of a child being coached, bullied and coerced into telling his parent what she wants him to say, under her threat that "I don't want a liar in my home". The court accepted all the testimony of the children. Testimony from all defence witnesses, including teachers and school staff, who saw nothing amiss over the protracted period of the alleged abuses, was rejected.

The most serious irregularity, however, was the deliberate suppression of exculpatory evidence. The single most important piece of such evidence was the independent report from the KK Women's and Children's Hospital in Singapore, which concluded that the alleged abuse had not occurred. The trial judge ruled this report inadmissible on the specious grounds that it was a photocopy rather than the original. In comment she dismissed it as only the opinion of a foreign hospital, even though it was a certified copy. Of note: The only medicals done on the children, and submitted in Neil and Ferdi's trial, were done at the police hospital months after the crimes were alleged to have occurred, and after the children had withdrawn from school at JIS.

In April of 2015 Neil and Ferdi were convicted and sentenced to ten years in prison. The reading of the verdict took almost nine hours, during which the panel of judges accepted at face value all of the evidence presented by the prosecution, including the magic stone and the guided testimony of the children, and summarily dismissed all of the evidence presented by the defence, including evidence from medical experts, leading forensic psychologists, and experts in the area of child abuse investigation. Perhaps the most telling comment from the chief judge was that absolute proof of guilt could be inferred from the fact that the accused did not admit what they had done or show any remorse. Indonesian law includes the presumption of innocence until proven guilty. This judge believed that innocence, and the maintaining of innocence, is proof of guilt.

In August of 2015: - the lawyer representing the mother in the US\$125 million lawsuit against the school [OC Kaligis] was arrested on suspicion of offering a bribe to court officials in an unrelated case. It was announced that his other cases would be examined for evidence of corruption. He has since been convicted and is serving a prison sentence.

- the civil lawsuit for US\$125 million was rejected by an Indonesian court. It was noted that "...the charges are not clear and the evidence presented is not enough to prove wrongdoing..." and the plaintiffs "didn't give any clear detailed information about when and how" the alleged assaults occurred. This ruling is currently being reviewed by the High Court.

- the appeal of the convictions of Neil and Ferdi was heard by the High Court, which overturned the convictions, announced a not-guilty verdict and ordered Neil and Ferdi set free. The High Court observed that the lower court had improperly ignored exculpatory evidence, [in their words – “made a shallow, inaccurate and not thorough consideration”] concluding that there was no evidence that the assaults had occurred.

Soon after Neil and Ferdi’s acquittal, the prosecution announced its determination to appeal the High Court ruling to the Supreme Court and issued a travel ban, effectively preventing Neil from leaving Indonesia. The travel ban was due to expire on February 21<sup>st</sup> 2016. Given the approaching deadline, the prosecution requested an immediate ruling by the Supreme Court [this was reported in the media]. The Supreme Court panel was chosen and ruled within two days, on February 24<sup>th</sup>. Normally a decision takes at least two weeks from the date of the dossier distribution, and often much longer in complex cases. The February 24<sup>th</sup> ruling of the Supreme Court overturned the ruling of the High Court, reinstated the convictions of both Neil and Ferdi, and added one year to the previous ten-year sentence. It also included an additional monetary fine.

Ferdi was re-arrested at home, in the middle of the night, by armed police, with his eldest daughter and wife witnessing the whole ordeal. Neil and his wife Tracy were in Bali on holiday. Neil voluntarily returned to Jakarta into the hands of prosecutors late the following night. Neil and Ferdi have now been imprisoned once again and are currently detained in a long term prison called Lapas Cipinang. The conditions in this prison are deplorable. Neil and Ferdi have announced their intention to seek a judicial review of the Supreme Court decision. The cleaners will now also seek a judicial review. This legal process is expected to take six months to one year.