

Korean A-Bomb Victims' Victory: Japan ordered to pay compensation

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associated with slave labor on grounds of the statute of limitations and treaty provisions. The present article, and the literature generally, while shedding much light on Japanese war responsibility, make no mention of another unmet responsibility: is it not high time that the United States contribute financial support for the treatment of the surviving hibakusha, whether in Japan, Korea, Taiwan or the United States?

[Japan Focus Introduction: The world has little noted nor long remembered the multinational character of atomic bomb victims including Americans of Japanese ancestry, Chinese, and, by far the largest group, Koreans. Many of the tens of thousands of Korean hibakusha were forced laborers conscripted during the war to work in mines and factories of Japan's leading corporations. Like their brothers conscripted into the Japanese military, and their sisters kidnapped into sexual slavery, Korean forced laborers were cut loose following the end of the war, frequently denied the most rudimentary benefits, shortly deprived of Japanese citizenship and, notably in the case of those who returned to Korea, denied access to government-funded treatment available to hibakusha in Japan. The landmark Supreme Court case described here for the first time held the Japanese government liable for compensation to the Korean atomic victims, At the same time, while severely criticizing the wrongdoing of the Japanese government, it denied government to corporate liability to provide compensation for crimes

The 19 January Hiroshima Supreme Court verdict in the lawsuit brought by A-bomb victims who had been conscripted as forced laborers at Mitsubishi's Hiroshima Heavy Industries was epoch making. Overturning an earlier ruling, it ordered the government to pay each appellant 1,200,000 yen. In a series of post-war compensation trials that rejected all claims by the plaintiffs, this was the first ruling to order the government to pay compensation.

The plaintiffs were men from the Korean peninsula who had been forcibly drafted into hard labour at Mitsubishi's Hiroshima shipyards and machine works in 1944. On 6 August the following year they became victims of the A-bomb. Abandoned by Mitsubishi Heavy

Industries with no relief whatsoever, they made their own way home across the Korean Straits.

In the absence of any sign of apology and compensation from Mitsubishi Heavy Industries or government compensation, in February 1995, fifty years after the war, the plaintiffs took their only remaining option. They launched an action in the Hiroshima District Court, naming the Japanese government and Mitsubishi Heavy Industries as defendants for damages of 11 million yen each and payment of unpaid wages. Of the original forty-six plaintiffs, six died and the remaining forty continued their struggle for the next five years, appealing the case all the way to the Supreme Court. After ten years, the judgement was finally in their favour, but for some it was too late.

The judgement declared illegal a former Ministry of Health and Welfare Bureau Notification (No. 204) that stripped A-bomb victims residing outside of Japan of their rights, and ordered the payment of consolation money to all forty appellants. This went well beyond the 2001 and 2002 judgements in which Kwak Kwi Hun (2001) and Yi Kang Nyeong and Keon Kang-gwan (2002) respectively won health care allowances based on the Atomic Bomb Victims Relief Law.

The judgement acknowledged that the administration of relief to A-bomb victims residing outside of Japan was fundamentally

flawed. This was only proper if the application of the Atomic Bomb Victims Relief Law was not to depend upon nationality. But the judgement also condemned as illegal the response of the Japanese government, which, it ruled, had contributed to the feelings of hopelessness, dissatisfaction, anger, resentment, discrimination and impatience that had tormented A-bomb victims for many years.

On the questions of forced conscription and forced labour, the Hiroshima Supreme Court did not accept responsibility on the part either of Mitsubishi or the government. It did find both the government and Mitsubishi guilty of having acted illegally by conscripting workers by means of lies and threats to the effect that half of their wages would be forwarded to their families or that their families would be arrested if they did not cooperate. In the end, however, it concluded that because of a lack of justiciability, the statute of limitations, and the Property Rights Measures Law based on the Japan-Korea Treaty on the Right of Claim, the plaintiffs' right to claim compensation had been extinguished. The judgement's acknowledgement of illegality is nevertheless highly significant. Furthermore, the court clearly rejected the notorious theory of state inviolability.

The plaintiffs' support group and legal team visited South Korea immediately following the judgement. They had the opportunity to report

and openly shared the plaintiffs' joy at the outcome of the ten-year struggle. All concerned called on the government to accept the judgement and brook no delay in providing compensation. However, the plaintiffs noted that, 'It was the Japanese government and Mitsubishi Heavy Industries which took us. We've suffered for as long as sixty years. There's still no apology and we've not been paid any unpaid wages. We'll fight to the end, until these are forthcoming.'

This judgement can be understood as a clear indication that 'relief for A-bomb victims in Korea' is a fundamental problem inherent in the Japanese government's policy toward war victims. A policy of the sort that deliberately anticipates the passing of actual victims of war must be fundamentally revised. The government

must seriously accept past facts without reservation, face up to its responsibility, and frame a response that is acceptable to victims who have suffered for years. This is not only a matter of atoning for the past, but also an attitude that, more than ever, must be demanded of the government so that in the future Japan and Korea can live side by side as Asian neighbours.

This article appeared in Shukan Kinyobi on January 28, 2005. Zaima Hidekazu is a lawyer and head of the support committee for the Mitsubishi Heavy Industry former forced laborers and A-bomb victims. Posted at Japan Focus on March 25, 2004.

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