

For a World Without Nuclear Arms Or Nuclear Energy: A Discussion Including Judicial Precedents from Japan

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1. Introduction: The Situation

Our planet now has more than 16,000 nuclear weapons and 435 nuclear reactors. I would like to eliminate all of them. I agree with the view that “nuclear weapons and nuclear energy have the same root, and are the natural enemies of humanity,” and I concur with the view of Hibakusha (atomic bombing survivors) that “nuclear weapons and humanity cannot coexist.” I also firmly believe that it is possible to eliminate both nuclear weapons and nuclear energy because they are made and used by people. We need only create the intent to stop using them, stop making them, and abandon them, and then carry out that intent. Doing these things may be difficult, but they are not impossible. Let us start by surveying the current situation.

2. Legal Status of Nuclear Weapons and Nuclear Energy

The Treaty on the Non-Proliferation of Nuclear Weapons (NPT) prohibits the possession of nuclear weapons by non-nuclear-weapon states, but it holds that parties to the treaty have an “inalienable right” to the peaceful use of nuclear energy. Current international law not only allows the possession of nuclear weapons by multiple countries, but also says that the peaceful use of nuclear energy is a right. The intrinsic danger of nuclear energy is not subject to legal control.

And although the international trend toward banning nuclear weapons is gaining steam, nuclear-weapon states are putting up stiff resistance, and there is still no treaty banning them.

At present, nuclear weapons — the ultimate violence — and the urge to pursue profit by means of nuclear energy have a dominant position in international society. Those who desire to part with nuclear weapons and nuclear energy must shift away from this system.

3. The Japanese Government’s Stance

Japan’s government likewise depends on nuclear weapons and has not precluded their use. It also underestimates the impacts of radiation on human health. Additionally, it considers nuclear energy to be “an important base-load power source.”

This means that the Japanese government’s policy is to depend on nuclear technology as both weapons and an energy source. To the extent that there is no contradiction with dependence on US nuclear deterrence, the government states its compliance with the three nonnuclear principles and it advocates the abolition of nuclear weapons, but in reality Japan is dependent on those weapons. Additionally, Japan not only hurries to restart nuclear power plants, but also promotes the export of nuclear energy. The government considers nuclear weapons to be a trump card for national security, and nuclear energy to be a mainstay of economic activity.

Such is the current situation. There is a long road ahead.

4. Initiatives by Japan’s Lawyers

Japanese lawyers have filed a number of lawsuits in a bid to rid Japan of nukes. These include the Shimoda Case (see the paper by Yoshiro Matsui among these *Recommendations*), the

lawsuits for A-bomb illness certification (see the paper by Masayoshi Naito among these *Recommendations*), and lawsuits to stop nuclear power plants.

The Shimoda Case confirmed the illegality of the atomic bombings, and lawsuits for A-bomb illness certification certified the harm from radiation. Among the lawsuits against nuclear power plants is one that prohibited the restart of a nuclear plant (the Ohi Nuclear Plant Lawsuit decision). The reason was that, although it is claimed that operating nuclear plants helps stabilize the power supply and lower costs, one cannot argue about rights that impinge upon the very survival of countless people on the same level as the issue of whether electricity rates are high or low.

5. Characteristics of These Lawsuits

The Shimoda Case concluded that the use of nuclear weapons violates international humanitarian law. It adopts the legal norm that even if war is not illegal, there are means of combat that cannot be allowed. The lawsuits for A-bomb illness certification exposed the government's irresponsibility in determining the impact of radiation on human health. And the Ohi Nuclear Plant Lawsuit advocated the superiority of human rights over economic activity. What these lawsuits have in common is that they squarely recognized the severity of the damage, and applied laws that are backed by humanity and justice.

The government and electric utilities, which were the defendants in these lawsuits, came up with a variety of excuses. Intimidation and sophistry were employed liberally. But the plaintiffs circumvented these obstacles.

Overcoming the existing dominant rationale and values requires facts and reason, that is, demands based on humanity and justice, and a movement which involves a broad range of people. And when people succeed in achieving these, the courtroom's heavy doors are opened. When the courts exercise control over political power and big capital, the judicature does the job it is supposed to do.

6. Hibakusha Wishes and the Lawsuits for A-Bomb Illness Certification

The Hibakusha (atomic bombing survivors) want nuclear weapons to be abolished immediately, but the government says Japan depends on US nuclear deterrence. This is called extended deterrence, whose underlying idea is to guarantee national security by threatening to use nuclear weapons. This kind of thinking is totally incompatible with the Hibakusha wish that nuclear weapons be abolished while they are still living. What is more, extended deterrence condones the repeat of Hiroshima and Nagasaki, and runs counter to the desire of the Hibakusha to be the last victims of nuclear weapons.

In the lawsuits for A-bomb illness certification, the Hibakusha asked the court for its judgment on the effects of atomic bomb radiation on human health. The court recognized the existence of low-dose exposure and internal exposure, as well as their deleterious impact on human health. This means that the court criticized the government's determination of radiation damage as insufficient. Therefore the court confirmed not only the indiscriminate and cruel nature of nuclear weapons in the instant of their use, but also the permanent suffering they cause.

Because of the court's ruling, harm from the atomic bombings was not limited to heat rays, bomb blast, and direct radiation, but added the low-dose exposure and internal exposure from residual radiation. This outcome must be used to advantage in dealing with the Fukushima disaster.

7. From Hiroshima and Nagasaki to Fukushima

In a conventional war the damage ends with the war, but radiation damage from the atomic bombings not only did not end with the war, but continued into the future.

This characteristic represents a similarity with the Great East Japan Earthquake and the Fukushima nuclear accident. The tragedy and misfortune caused by the earthquake and tsunami are certainly unprecedented, but although the earthquake and tsunami have ended, the victims of the nuclear accident — while perhaps suffering no immediate effects — must live in fear of health impacts which may occur at any time.

During the lawsuits for A-bomb illness certification the government stubbornly refused to recognize the radiation damage of low-dose exposure and internal exposure, but radiation damage from these kinds of exposure actually exist. Humanity still lacks sufficient knowledge and technology to control radiation. Not only that, we have not determined the extent of impacts on human health from low-dose internal exposure, or its mechanism.

The Fukushima nuclear accident provided an opportunity to fundamentally reconsider the relationship between nuclear energy and human society because it reconfirmed that nuclear energy could get out of control not only due to an intentional explosion by someone, but also by belief in the mythology of safety, human error, an unusually huge natural disaster, social upheaval, or other causes, and inflict severe damage on people and the environment.

Additionally, we must keep in mind that the use of nuclear energy is inherently dangerous from the mining of uranium ore, through its refining, enrichment, and use, and until the fuel is spent.

8. Conclusion

In light of these characteristics of nuclear energy, the government should change its nuclear policy, but no such initiatives are underway because the government intends to continue its policy of reliance on nuclear energy. This is because the government's policy calls for guaranteeing the nation's security with nuclear weapons, and for using nuclear energy as a base-load power source.

Those of us who know the Hibakusha and their demands share the proposition that nuclear weapons and humanity cannot coexist. We must part ways with this hellfire.

Humanity has accumulated the potential energy that will destroy the underpinning of our own survival. Saying farewell to nuclear is the surest way to suppress the emergence of this energy of doom.

We must be victorious in our struggle against governments which depend on nuclear energy, and against the forces which support them. For the future of human society, we must overcome the rule of power and the rule of money, and firmly establish the rule of law.