

**The Activities of the Japan Association of
Lawyers Against Nuclear Arms (JALANA)
-As a Lawyer Fighting Alongside the Hibakusha-**

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The Japan Association of Lawyers Against Nuclear Arms

The atomic bombs that were dropped on Hiroshima on August 6th and Nagasaki on August 9th, 1945, turned cities to ruins, took the lives of many citizens, and deprived the survivors of their health, property, livelihoods and the possibility to lead normal human lives. Nonetheless, to this day, our planet has more than twenty thousand nuclear warheads capable of annihilating the human race. We who had participated in the inaugural general assembly of the International Association of Lawyers Against Nuclear Arms (IALANA) formed the Kanto Association of Lawyers Against Nuclear Arms in the autumn of 1989. We went on to establish "The Japan Association of Lawyers Against Nuclear Arms" in August 1994 as the World Court Project (WCP) was gaining momentum in its efforts to seek an advisory opinion from the International Court of Justice (ICJ) declaring the illegality of the threat or use of nuclear weapons. As nuclear war is a denial of the rule of law, we jurists resolved to contribute to relief of the Hibakusha, abolishment of nuclear weapons and prevention of nuclear war from our standpoint as jurists. We have continued to work for conclusion of a convention to completely abolish nuclear weapons in order to fulfill the wishes of the Hibakusha to prevent the recurrence of the horrors that they experienced.

In response to the accident at the Fukushima No. 1 Nuclear Power Plant on March 11th, 2011, we have set forth and are working towards a new goal to free society from its dependence on nuclear power plants.

The Experiment of the Century - It was not a War

At 8:15 AM on August 6th, 1945, on a crisp and clear summer morning, the tranquil blue sky was torn apart by an intense flash of orange light like nothing in this world, followed by a thunderous sound, as if the ground had split open. There was a peculiar-shaped, eerie, dark black mushroom cloud standing still in the sky. It was a weird sight.

Though I was 32 km away from Hiroshima, the massive mushroom cloud looming above seemed as if it had risen from the neighboring town 4 km away. That flash of light and sound changed everything. In the blink of an eye, the city

of Hiroshima, with a population of 350,000 people was turned to scorched earth and 70,000 people were killed. By the end of the year, a total of 140,000 people had been killed.

My two aunts and my mother's father, who lived in his house 2.5 km from the hypocenter, survived the bombing. One of my aunts, who was in a crowded train 0.8 km from the hypocenter died two years later at the age of only thirty, and one of my uncles, who was leading an effort to dig bomb shelters 1.3 km from the epicenter died from a heart attack 19 years later at the age of fifty-two.

Twenty three of the 40 lawyers, nine judges, one probationary judge, 35 judicial officials, and 60 of the 298 medical doctors living in Hiroshima City were killed by the bomb blast.

The atomic bomb that was dropped on Nagasaki, with a population of 270,000 people, at 11:02 AM on August 9th, 74 hours and 47 minutes after the atomic bombing of Hiroshima, killed 70,000 people by the end of that year.

Following the nuclear test in Alamogordo, New Mexico, the uranium bomb dropped on Hiroshima was the second experiment using an atomic bomb. The plutonium bomb dropped on Nagasaki was the third experiment. Masses of people, including my uncle and aunt, as well as the cities and their cultural assets, their natural surroundings, and everything else were used as objects of this "experiment of the century."

The atomic bombs inflicted severe injury on the Hibakusha, robbed them of their property, ruined their lives entirely, tormented them with illness, traumatized them psychologically, and forced them to lead lives of travail.

The Hibakusha, who have survived to this day, bearing the burden of illness, poverty, discrimination, radiation-induced diseases, and the anxiety of life, speak out: "Nuclear weapons and human beings cannot coexist!" The instant that Hiroshima was turned into hell and the moment that Nagasaki became purgatory were moments of infamy - international law had been violated. The cruel, merciless, devastating tragedy caused by the use of a single inhumane weapon could not be considered part of a "war." It far exceeds the scope of the definition of "war."

We must not close our eyes to the "illegality and criminality" of the atomic bombings. It is our responsibility to tell the world the truth about atomic bombing, which annihilates life.

Relief for the Hibakusha

In 2003, the elderly Hibakusha, whose health had been harmed by cancer, leukemia and other illnesses, filed numerous class actions in various localities

nationwide to demand certification that they suffered from atomic bomb disease.

The "Atomic-Bomb Survivors' Assistance Act" entitles Hibakusha to receive a special medical allowance of about 130,000 yen per month if they are certified as having atomic bomb disease, which requires that their disease is recognized to be due to the effects of radiation from the atomic bomb (radiation-induced) and to require medical treatment (requiring treatment). However, the government seldom recognizes that the disease is radiation-induced.

Except for cases in which the Hibakusha had been exposed to a high dosage of initial radiation at the moment of the blast and fell ill with one of a limited number of designated diseases, they have been excluded from certification.

There is nothing unique about diseases contracted by Hibakusha compared to those of non-Hibakusha. Therefore, it is extremely difficult, indeed almost impossible for the Hibakusha to prove that their cancers etc. were contracted as a result of radiation.

On that day, Hiroshima was a cloud of ashes overflowing with Hibakusha frantically trying to escape. The fallout floated about in the air and fell to the ground. People breathed radioactive dust and consumed food and water contaminated with radioactivity. Some Hibakusha were more than 2 km from ground zero. There were people who were wet by black rain that was contaminated with radioactive fallout. There were some Hibakusha who went to the hypocenter to rescue or search for their loved ones and were exposed to residual radiation. My grandfather and grandmother were among them.

The intaken radioactive substances hid in the recesses of their bodies, and surreptitiously bared their fangs to emit alpha and beta rays that continued to irradiate internal organs, causing various diseases today. The atomic bomb is not a thing of the past; to this day it continues to wreak havoc in the body, exposing it to radiation from the inside.

The twenty-nine judgments handed down in favor of the plaintiffs criticized the government's erroneous certification criteria, and gave certification not only to external exposure to initial radiation but also internal exposure to radioactive fallout that had entered the body as well as exposure to residual radiation emitted from radioactivated objects. The judgments certified that not only cancerous diseases, but also liver diseases and other non-cancerous illnesses were radiation-induced, and also certified that radiation-induced diseases arose not only from high dose direct exposure, but also from low dose exposure at distances greater than 2 kilometers and from exposure incurred by people who entered the city later.

As a result of this grand struggle, which I joined as the head of the legal counsel in Hiroshima, the government drafted a "new screening policy" in April 2008.

However, the government remains reluctant to certify atomic bomb disease, so new suits have been filed to carry on with the struggle.

Hibakusha without relief

Operation Castle, which started with the Bravo test of a hydrogen bomb with 1000 times the explosive power of the atomic bomb dropped on Hiroshima, was carried out in the Central Pacific Ocean from March through May of 1954. A total of 992 fishing vessels were doused with "death ashes" and had to dispose of the tuna and other catch that had become contaminated with radiation. Crew members who ate the contaminated fish contracted atomic bomb disease and died at a young age or have suffered from the aftereffects. With the exception of the crew of Daigo Fukuryu Maru (Lucky Dragon No. 5), they have received no compensation or relief whatsoever. The truth about these nuclear bomb tests remains shrouded in secrecy.

Towards conclusion of a Comprehensive Nuclear Weapons Convention

The abolishment of nuclear weapons is the earnest aspiration of the Hibakusha who experienced the tragedy of the atomic bombings. It is a challenge for all of humanity. Our association aims to achieve "a world without nuclear arms" by creating a legal framework for a "Comprehensive Nuclear Weapons Convention."

(1) The judgment on the atomic bombings in Shimoda vs. the State

The judgment on the atomic bombings in Shimoda vs. the State (Tokyo District Court judgment on December 7th, 1963) was the only judicial ruling concerning the atomic bombings until the ICJ gave its advisory opinion on July 8th, 1996.

The ruling was of great significance in that it indicated a set of criteria for evaluation of the use of nuclear weapons under international law, first by examining the issue of the legality of the atomic bombings, secondly by making a legal interpretation of the atomic bombings, the prohibition of which is not explicit in international conventions, in light of the interpretation of international customary law and conventions at the time, application by analogy and the basic principles of international law, and thirdly by reaching a judgment in light of the basic principles of international humanitarian law. This year, on the 50th anniversary of the judgment, our association will organize an event to discuss about the atomic bombings and international humanitarian law.

(2) The Advisory Opinion

As the World Court Project progressed, our association set up a center in Japan, called upon municipal governments to adopt resolutions that "nuclear weapons violate international law" and urged citizens to sign a "declaration of public

conscience." In a short period of time, 3.3 million signatures were collected, delivered to, and made to be received by the International Court of Justice. The association also made its utmost efforts and lobbied the Japanese government so that the mayors of Hiroshima and Nagasaki could provide testimonies regarding the truth of the atomic bombings and their inhumanity directly in the presence of the judges.

Though the advisory opinion has serious issues with regard to the right of self-defense, which is a stumbling block, it refers to the "unique characteristics of nuclear weapons," stating that "it is imperative to take account of the unique characteristics of nuclear weapons, and in particular their destructive capacity, their capacity to cause untold human suffering, and their ability to cause damage to generations to come," recognizes that their use is "scarcely reconcilable with" the basic principles of humanitarian law, judges that the threat or use of nuclear weapons is "generally" illegal, and concludes that "there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control." It has been a major driving force for the movement ever since, raising awareness of the inhumanity of nuclear weapons around the world.

(3) The International Peoples' Tribunal

In July 2006, the "International Peoples' Tribunal on the Dropping of Atomic Bombs on Hiroshima and Nagasaki" was held in Hiroshima. I served as one of its co-representatives. Members of our association served as amici curiae and joined the prosecution, while three university professors of international law (including Carlos Vargas, Vice-President of IALANA (Costa Rica)) served as judges. In July of the following year, the 13 defendants including President Roosevelt and President Truman were found guilty in the judgment, which certified the criminality of the atomic bombings, which were deemed to constitute crimes against humanity and war crimes, being indiscriminate bombings of defenseless cities.

(4) Towards a Comprehensive Nuclear Weapons Convention

We are calling upon governments to conclude a "Comprehensive Nuclear Weapons Convention" based upon the "Model Nuclear Weapons Convention" which was drafted in 1997 by IALANA and others in response to the advisory opinion and which provides for the time-bound, phased abolition of nuclear weapons.

We sent a delegation to the NPT Review Conference held in 2010 at the UN Headquarters in New York, and submitted a memorandum calling for immediate commencement of negotiations leading to such a convention.

(5) Establishment of a Northeast Asia Nuclear Weapon-Free Zone

Northeast Asia faces extreme political instability as the Korean Peninsula has remained in a state of war (armistice) for many years, North Korea conducts tests of nuclear weapons and launches rockets (the Japanese government refers to them as missiles, but one of the satellites is in orbit), China and Russia possess nuclear weapons and Japan clings to a policy of relying on the American "nuclear umbrella" with the excuse of the nuclear threat of North Korea and China.

Our association aims to build a security regime for stability and peace that does not rely on nuclear weapons, through creation of a "Northeast Asia Nuclear Weapon-Free Zone" on the basis of confidence-building starting with "no first use."

(6) Enshrining the three non-nuclear principles in law

The three non-nuclear principles, the Japanese government's established policy "to neither possess nor manufacture nuclear weapons, nor permit their introduction" is now on the verge of collapse under nuclear umbrella and nuclear deterrence policies. We are carrying out a movement to establish a legal framework for the three non-nuclear principles by enshrining them in law, rather than leaving them as a political declaration.

A society that does not rely upon nuclear power plants

After the nuclear power plant accident, our association has been taking initiatives to provide relief to the Hibakusha in Fukushima, in pursuit of a "society that does not rely upon nuclear power plants," so as to never again create "new Hibakusha," reconfirming the importance of the appeal : "No More Hiroshima. No More Nagasaki. No More Hibakusha."

Conclusion

The Preamble of the Japanese Constitution declares that all peoples have "the right to live in peace, free from fear and want." Both nuclear weapons and nuclear power plants are sources of fear, as their use or malfunctioning threatens the right to live in peace, depriving people of their lives and health and leading humanity towards annihilation. Human beings cannot coexist with nuclear weapons or nuclear power plants.

Our association is conducting activities to seek a shift in Japan's nuclear policy, recognizing that nuclear weapons and nuclear power plants deny the principles of the sanctity of life and human dignity and that humanity is unable to control nature and does not know how to dispose of nuclear waste, and appealing therefore that humanity must eschew nuclear weapons and nuclear energy.