

Compensation Measures for Sufferers of the Atomic Bombings of Hiroshima and Nagasaki: An Explanation of the Atomic Bomb Survivors' Support Law¹

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1. Context of the Enactment of the Atomic Bomb Survivors' Support Law

The current support for sufferers of the atomic bombings of Hiroshima and Nagasaki is implemented on the basis of the Atomic Bomb Survivors' Support Law (hereinafter referred to as "Survivors' Support Law"), which was promulgated in December 1994 and enacted in July 1995. The Survivors' Support Law was formulated by integrating two preceding laws: The Law on Medical Care of the Atomic Bomb Survivors (hereinafter "Medical Care Law") enacted in 1957 and the Law on Special Measures for the Atomic Bomb Survivors (hereinafter "Special Measures Law") enacted in 1968. Enactment of the Survivors' Support Law repealed the two laws.

The Medical Care Law was promulgated in 1957, 12 years after the bombings, and it was enacted in the same year. It was the first law that provided support for sufferers of the atomic bombings of Hiroshima and Nagasaki. A sufferer who was certified as a rightful beneficiary of the law was defined as a "hibakusha (atomic bomb survivor)"² and the law

¹ This article was translated from Japanese by Yuichi Yokoyama and proofread by Annelise Giseburt.

² Defined currently in the Survivors' Support Law and previously in the Medical Care Law, "hibakusha" is a general term referring to those whom the Japanese government defines as beneficiaries of its support policies among the sufferers of the atomic bombings. Therefore, the "hibakusha" defined by the law does not necessarily include all the sufferers of the atomic

established a system in which the government of Japan provided them with medical examinations and covered medical expenses³. The Special Measures Law aimed to promote survivors' "welfare," such as stability of their life, and the atomic bomb survivors who fulfilled the conditions designated by the law were entitled to various benefits.

Sufferers themselves contributed to the formulation of the Medical Care Law. Sufferers gathered from all over the country and, in August 1956, organized the "Japan Confederation of A- and H-Bomb Sufferers Organizations" (hereinafter "Hidankyo") as a nationwide sufferers' organization. After it became known to the public that Japanese fishermen such as crew of the Daigo Fukuryu Maru (also known as Lucky Dragon No. 5) had been exposed to nuclear fallout from a U.S. hydrogen bomb test in the Marshall Islands in March 1954, Japanese public opinion became powerfully in favor of the prohibition of atomic and hydrogen bombs, which boosted the formation of sufferers' organizations.

Even after the Medical Care Law and the Special Measures Law were formulated, Hidankyo demanded the formulation of a law that supports sufferers based on "state compensation" from the Japanese government. Hidankyo meant that the state of Japan, which began the Asia-Pacific War that ultimately resulted in the atomic bombings, should take responsibility for the war and make compensation as the party that created the cause of the damages (Hidankyo 1966, 2021). In 1984, Hidankyo issued "Atomic Bomb Sufferers' Basic Demands" and demanded that the U.S. government make an official apology, that all nuclear powers conclude a "complete nuclear weapon ban treaty," and that the Japanese government should immediately enact "an 'atomic bomb sufferer support law based on state compensation' so that there would be no more hibakusha" (Hidankyo 1984). Hidankyo 1984 further writes, "The atomic bomb damages, which must never be repeated again, were not caused by hibakusha as a matter of course. They are 'traced back to the war, which is the act of the state [of Japan].'⁴ Since the inhumane atomic bomb damages resulted from the

bombings. As this article presents, among those whom the laws have not entitled to benefits, there are people who have been demanding to be certified as "hibakusha," raising their voice—"I, too, am hibakusha." The term "hibakusha" has sometimes been used as a collective term referring to all sufferers of the atomic bombings since the formulation of the Medical Care Law. Nevertheless, this article, which analyzes support policies or lack thereof for sufferers of the atomic bombings, uses the term "hibakusha" (and "atomic bomb survivor(s)," the term used as the English equivalent in this article) to refer only to those who are defined by the laws as such and certified as beneficiaries of the benefits stipulated by the laws. Using the term "hibakusha (atomic bomb survivor)" in this narrow sense brings our attention to demarcations between who are defined as the beneficiaries and who are not.

³ To be precise, the government covers copayments which survivors pay for designated healthcare services that are covered by the public health insurance.

⁴ Here, Hidankyo 1984 refers to the phrase which was originally presented in the Supreme Court ruling of the Son Jin-doo trial. Son illegally entered Japan from South Korea hoping to receive treatment for atomic bomb sufferers, and after his arrival, he made an application to be certified as an atomic bomb survivor and obtain a Health Handbook for Atomic Bomb Survivors, but his application was rejected by Fukuoka Prefectural Government. With the help of Japanese supporters, he brought the matter to the court, and the case was eventually brought to the

war, it is natural for the state that conducted the war to compensate for the damages.”

Hidankyo’s actions and the tide of public opinion, as well as the Supreme Court ruling of the Son Jin-doo Trial (see below for details), pressured the then Minister of Health and Welfare, who held jurisdiction over policies on atomic bomb survivors, into setting up the “Conference for Fundamental Problems of Measures for the Atomic Bomb Survivors” (hereinafter “Fundamental Problems Conference”) to discuss guiding principles and possible support measures for atomic bomb survivors in 1979. In the next year, 1980, the Fundamental Problems Conference submitted a report on the minister’s inquiry.

The report, taking the Son Jin-doo trial into account, pointed out, “Regarding health effects of radiation which atomic bomb survivors experienced in the process of the war, that is, their ‘extraordinary sacrifices,’ the government should make ‘considerable compensation’ proper for compensating these war damages on its ‘responsibility for consequence’ (or we can say ‘strict liability’), regardless of whether the action that caused them was illegal, intentional, or resulted from negligence” (Fundamental Problems Conference 1980, 6). It concluded, “From the standpoint of state compensation in a broad sense, the state should implement appropriate and reasonable measures which are suitable for the damages atomic bomb survivors suffer” (6).

On the other hand, however, the report noted, “considering the standpoint of state compensation means neither acknowledging the state’s tort liability for initiating and waging the war nor admitting [atomic bomb survivors’] right to claim compensation from the state which, through the Treaty of Peace with Japan, waived the survivors’ right to claim compensation for loss or damage against the U.S., which conducted the illegal atomic bombings” (5-6). Thus, the report further writes, “It is necessary to note that it [‘the standpoint of state compensation’] does not mean admitting the state’s complete responsibility to compensate for loss or damage” (6). Moreover, the Fundamental Problems Conference denied compensation for civilians’ war damages, saying, “In general, under war, that is, the state of emergency which threatens the survival of the country, even when the war makes it unavoidable for the nationals to incur certain sacrifices regarding their lives, bodies, or properties, all the nationals have to equally endure the sacrifices as ‘general sacrifices’ due to the nation’s total war” (2). On top of that, the report put forward a negative opinion on claims for expanding support for atomic bomb survivors, saying, “granted that the atomic bomb survivors’ sacrifices are extraordinary, if measures to address them create significant imbalance in comparison with measures for other war victims, national

Supreme Court. For the details of the trial, see our discussion presented below in this article. For the Supreme Court judgement, see Saikō Saibansho [Sup.Ct.] Mar. 30, 1978, Shō50 (gyō tsu 行ツ) no. 98, 32-2 Saikō Saibansho minji hanreishū [Minshū] 435.

consensus cannot be achieved” (Ministry of Health and Welfare 1980, 1).

When the Fundamental Problems Conference was set up, Hidankyo appealed for further promotion of the movement for a sufferer support law, carried on a variety of campaigns including nationwide campaign tours, a petition to the National Diet, and a signature-collection campaign, and published an outline of their demand for a sufferer aid law based on state compensation (Hidankyo’s History Editorial Committee 2009). As mentioned above, however, the final report of the Fundamental Problems Conference in the end did not recognize the state compensation Hidankyo demanded. On the contrary, it declared that all nationals have to endure wartime sacrifices—which forced civilian war victims who were neither military personnel nor civilian military employees to suffer damages and losses caused by the war (Fundamental Problems Conference 1980). Furthermore, the conference advised against expanding areas deemed to be affected by the atomic bombs’ radiation, stating, that “[a]dditional designation of affected areas should be conducted only when there are scientific, reasonable grounds” (Fundamental Problems Conference 1980, 11), and that “expanding the designated affected areas for the reason of maintaining the balance between the expanded areas and the previously designated areas causes [...] a sense of unfairness” (10). These responses by the conference served as the basis on which the government rejected formulation of a sufferer aid law based on state compensation that Hidankyo demanded and expansion of the affected areas.

The persistent campaign by Hidankyo and its supporters, however, pressured the government into formulating the 1994 Survivors’ Support Law before the 50th anniversary of the bombings in 1995. Nevertheless, the Survivors’ Support Law is highly colored by the outcomes of the Fundamental Problems Conference, whose report has thus guided the government’s policies for sufferers of the atomic bombings.

2. Purposes and Goals of the Survivors’ Support Law

Formulated as a law integrating the preceding Medical Care Law and the Special Measures Law, the Survivors’ Support Law expanded the support measures provided by these laws, for example by creating a “special funeral service benefit” and lifting an income ceiling for the benefits provided by the laws. This law was enacted “under the responsibility of the state,” “taking comprehensive measures for health, medical care and welfare of the aging atomic bomb survivors, in light of the fact that the health damage caused by radiation resulting from the atomic bombings is a unique kind of damage different from any other

war damage,” and “remembering, as the state, the sacrifice of precious human lives by the victims of the atomic bombings” (Preamble).

The “responsibility of the state” stipulated by the law, however, is different from the “state compensation” which Hidankyo has been demanding. The Japanese government itself explains that the stipulation of “the responsibility of the state” in the law is meant to “clarify the role of the state as the actor that undertakes programs related to measures for atomic bomb survivors.”⁵ Hidankyo’s demand for a sufferer aid law that clearly mentions the “state compensation” was not fulfilled.

Also, the Survivors’ Support Law includes neither the addition of an article on support for children and grandchildren of atomic bomb survivors, which was demanded by groups of sufferers’ children, nor support for sufferers of the atomic bombings who reside overseas that is equivalent to support for those in Japan, which was demanded by sufferers overseas. Note, however, that the “Supplementary Resolution regarding the Draft of the Atomic Bomb Survivors’ Support Law,”⁶ which was adopted at the Diet (Committee on Health and Welfare, House of Representatives) in the process of the formulation of the law, clearly mentioned that one of the goals “the Government should endeavor to carry out, in particular” is to “give due consideration to research and studies on, and remedial measures to mitigate, the effects of the atomic bombings on atomic bomb survivors and their children and grandchildren, and continue medical examinations for the second generation while further enhancing the examinations by understanding the second generation’s circumstances.”

3. Contents of the Survivors’ Support Law

The atomic bomb survivors (hibakusha), that is, the beneficiaries of the support benefits stipulated by the law, are defined as persons who are classified in one of the following four categories (Article 1):

⁵ Genshi-bakudan Hibakusha ni taisuru Engo ni kansuru Hōritsu no Sekō ni tsuite 原子爆弾被爆者に対する援護に関する法律の施行について [On Enactment of the Atomic Bomb Survivors’ Support Law], Notification by Vice-Minister of Health and Welfare on May 15, 1995 (Issued from Health Service Bureau, No. 158) 厚生事務次官通知 (発健医第 158 号), art. 2-2 (Kōseirōdō-shō Hōrei tou Dētabēsu Sābisu Tsūchi Kensaku), https://www.mhlw.go.jp/web/t_doc?dataId=00ta4991&datatype=1&pageNo=1.

⁶ Genshi-bakudan Hibakusha ni taisuru Engo ni kansuru Hōritsu-an ni taisuru Futai Ketsugi 原子爆弾被爆者に対する援護に関する法律案に対する附帯決議 [Supplementary Resolution regarding the Draft of the Atomic Bomb Survivors’ Support Law], para. 5. 衆議院厚生委員会 Committee on Health and Welfare, House of Representatives, December 2, 1994. Kanpō 官報 [Official Gazette] Extra Issue on December 2, 1994, p. 879 (Kokkai Kaigiroku Kensaku Shisutemu), <https://kokkai.ndl.go.jp/img/113105254X01519941202/879>.

- (1) “A person who was in the area of Hiroshima or Nagasaki city at the time of the atomic bombing, or in an area adjacent to the areas of these cities, as determined by Cabinet Order” (Category-1 Atomic Bomb Survivor, who was directly exposed to the bombings);
- (2) “A person who, within the period of time specified by Cabinet Order from the time of the atomic bombing, was in a Cabinet Order-specified place within an area specified in the preceding item” (Category-2 Atomic Bomb Survivor, who entered the affected areas after the bombings);
- (3) “[A] person who was under circumstances, at the time of or after the atomic bombing, which affected the person physically due to atomic-bomb radioactivity” (Category-3 Atomic Bomb Survivor, who engaged in relief activities or disposal of dead bodies or who was in the “heavy rain areas” where the radioactive “black rain” fell);
- (4) “A person who was a fetus of a person listed in any of the preceding three items when any of the reasons set forth in those items applied to the latter person at that time.” (Category-4 Atomic Bomb Survivor, who was, at that time, an unborn child in the womb of the Category-1, 2, or 3 Atomic Bomb Survivors).

The government grants a person, who falls under at least one of the above four categories, a Health Handbook for Atomic Bomb Survivors (hereinafter “Handbook”).

The government implements the following support measures for persons certified as an “atomic bomb survivor (hibakusha).”

Support measures for all atomic bomb survivors⁷:

- An annual medical examination (Article 7) and a thorough workup based on the result of the examination (Article 9 of the Regulation for Enforcement of the Survivors’ Support Law);
- Payment of the medical expenses that an atomic bomb survivor is supposed to pay to designated medical care providers (granted that the survivor is enrolled in the public health insurance system and is paying their insurance contribution) (Article 18); and
- Social welfare services: consultation services (Article 37), in-home support services (Article 38), and protective care services (Article 39).

Support measures for the atomic bomb survivors who satisfy certain requirements⁸:

⁷ The government had taken budgetary measures to implement these measures before enactment of the Survivors’ Support Law, which now clearly stipulates these measures.

⁸ Note that there are no income ceilings for the following allowances.

- An atomic bomb survivor whose injury or illness was certified as caused by the effects of the atomic bombs (Article 11) receives medical care (Article 10) or medical expenses necessary for medical care (Article 17) and allowances (Articles 24 and 25).
- An atomic bomb survivor who suffers from microcephaly due to the effects of radiation from the atomic bombs is entitled to atomic-bomb microcephaly allowance (Article 26). And an atomic bomb survivor who satisfies the requirements receives health management allowances (Article 27) and health allowances (Article 28).

Support measures for a bereaved family member of an atomic bomb survivor:

- Payment of funeral service fees (Article 32); and
- Special funeral service benefit (Article 33)⁹

In addition to these support measures, the law mandates the government to promote research on the effects of atomic bomb radiation (Article 40), and to undertake peace memorial projects to deepen the public's understanding of the horrors of the atomic bombings and to pass on their experiences to future generations in order to remember the sacrifice of human lives by the victims of the atomic bombings of Hiroshima and Nagasaki and to pray for a lasting peace (Article 40).

4. Expansion and Upgrade of Support Measures after the Enactment of the Survivors' Support Law

After the Medical Care Law, the Special Measures Law, and the Survivors' Support Law were enacted, atomic bomb sufferers' appeals and lawsuits have resulted in expansions and upgrades of support measures which are based on the laws in the following ways.

4.1 Expanding and Upgrading Support Measures for Sufferers of the Atomic Bombings Residing Overseas

Tens of thousands of people from the Korean Peninsula under Japanese colonial rule were exposed to the atomic bombings of Hiroshima and Nagasaki. According to Ichiba (2005), Chairperson of the Association of Citizens for the Support of South Korean Atomic Bomb Victims, one out of 10 people exposed to the atomic bombings was from the Korean

⁹ Special funeral service benefit is a benefit granted to a bereaved family member of a hibakusha who had passed away in the past. The law requires the bereaved family member to be a holder of a Handbook and a request for the benefit to be made in two years after the enactment of the law.

Peninsula. Japan and South Korea normalized diplomatic relations by concluding the “Treaty on Basic Relations between Japan and the Republic of Korea” and related agreements in 1965, but no compensation was made for war damages incurred by people who were under Japanese colonial rule, including atomic bomb sufferers residing in South Korea. In 1967, the Support Association of Korean Atomic Bomb Sufferers (currently the Association of Korean Atomic Bomb Sufferers) was established, and sufferers of the atomic bombings residing in South Korea started a campaign to appeal to the Korean government and the Japanese and U.S. embassies in South Korea for support for their predicament.

Atomic bomb sufferers residing overseas are not limited to those from South Korea and include, for example, those from North Korea, Dutch and American prisoners of war, Chinese mobilized as wartime laborers, and students from Southeast Asia. Also included are Japanese who, after being exposed to the bombings of Hiroshima and Nagasaki in the war, migrated to foreign countries such as the U.S. or Brazil.

The Survivors’ Support Law, which is currently in force, and the preceding two laws do not stipulate Japanese citizenship or residency in Japan as requirements for benefits. Support for sufferers residing overseas, however, has not been equally implemented in comparison with that in Japan.

In the 1970s, sufferers residing overseas started demanding issuance of a Handbook. In 1970, Son Jin-doo smuggled himself into Japan in hope of receiving treatment for atomic-bomb sufferers and made an application for a Handbook, which was rejected. Dissatisfied with the rejection, Son, with the help of Japanese supporters, filed a lawsuit at the Fukuoka District Court seeking revocation of the rejection of his application for a Handbook. He won in the first and second trials, and in March 1978, the Supreme Court dismissed the final appeal and upheld Son’s claim for a Handbook. In the judgement, the Supreme Court writes, “The Law on Medical Care of the Atomic Bomb Survivors [...] is a relief measure which the state, the party that pursued the war, takes to compensate for [...] extraordinary damage from war on its own responsibility, and in that regard, it is undeniable that state-compensation-like consideration [for atomic bomb survivors] substantially underlies the law.”¹⁰ Since this ruling, regardless of the nationality of the applicants, Handbooks have been issued to eligible sufferers residing overseas if they come to Japan. This ruling led grassroots movements to further support South Korean atomic bomb sufferers by helping them receive treatment in Japan. This further strengthened cooperative relationships between sufferers in South Korea and the Japanese grassroots movements.

¹⁰ See note 3 above for the citation of the Supreme Court Judgement quoted here.

In 1974, while Son's case was still under trial, however, the Ministry of Health and Welfare issued "Circular Note No. 402,"¹¹ which clarified that "the law is not applied to atomic bomb survivors who relocate their domicile out of the territory of Japan." In other words, the ministry stated that if a person who had the status of "atomic bomb survivor" emigrated from Japan, their right to receive the benefits stipulated by the Medical Care Law and the Special Measures Law would lapse. Against this, in 1988, South Korean atomic bomb sufferer Kwak Kwi-hoon filed a lawsuit demanding that he continue to receive Health Management Allowance even after leaving Japan. In 2002, Kwak won the suit at Osaka High Court, which judged "Circular Note No. 402" to be illegal. As a result, the Ministry of Health, Labour and Welfare repealed "Circular Note No. 402" in 2003.

In this way, South Korean atomic bomb sufferers brought cases to the Japanese courts in demand of compensation, and people in both Japan and South Korea campaigned for many years supporting them. As a result, applicants residing overseas, if eligible, can now be legally certified as "atomic bomb survivors," that is, beneficiaries of the support measures.

Nevertheless, in order to obtain a Handbook, an atomic bomb sufferer living abroad was still required to come to Japan. Moreover, even if certified as an atomic bomb survivor, they were not able to receive medical care stipulated by the laws when receiving treatment at medical institutions abroad. Atomic bomb sufferers residing not only in South Korea but also in Brazil and the U.S. brought cases to the Japanese courts. Through these lawsuits, the Survivors' Support Law was revised in 2008 so that an atomic bomb sufferer residing abroad is able to obtain a Handbook without coming to Japan. In addition, based on an ordinance of the Ministry of Health, Labour and Welfare¹², in 2016, it became possible for an atomic bomb survivor residing outside Japan to receive a refund of the amount charged to the survivor for medical expenses.

Through many years of persistent campaigns carried out under the slogan "atomic bomb survivors know no borders," in theory, it is currently possible for atomic bomb

¹¹ Genshi-bakudan Hibakusha no Iryō tō ni kansuru Hōritsu oyobi Genshi-bakudan Hibakusha ni taisuru Tokubetsusochi ni kansuru Hōritsu no ichibu o kaisei suru Hōritsu no Sekō ni tsuite 原子爆弾被爆者の医療等に関する法律及び原子爆弾被爆者に対する特別措置に関する法律の一部を改正する法律等の施行について [On Enactment of the Laws Revising Parts of the Law on Medical Care of the Atomic Bomb Survivors and the Law on Special Measures for the Atomic Bomb Survivors], Circular by Director-General of the Public Health Bureau on July 22, 1974 (Issued from the Public Health Bureau No. 402) 厚生省公衆衛生局長通達 (衛発第 402 号), (Kōseirōdō-shō Hōrei tou Dētabēsu Sābisu Tsūchi Kensaku), https://www.mhlw.go.jp/web/t_doc?dataId=00ta5029&dataType=1&pageNo=1.

¹² "Genshi-bakudan Hibakusha ni taisuru Engo ni kansuru Hōritsu Sekō-kisoku no ichibu o kaisei suru Shōrei" 「原子爆弾被爆者に対する援護に関する法律施行規則の一部を改正する省令」 [Ministry Ordinance Revising Parts of the Rules and Regulations for Implementing the Atomic Bomb Survivors' Support Law], Ordinance of the Ministry of Health, Labour and Welfare No. 174 of 2015.

sufferers abroad to get covered by the Survivors' Support Law on a par with those in Japan. In reality, however, there are sufferers who cannot receive the benefits available to those in Japan, such as those living in North Korea, with which Japan does not have diplomatic relations. The Japanese government takes budgetary measures to implement programs for atomic bomb sufferers residing overseas, such as supporting Handbook applications or financially supporting travel expenses to receive medical treatment in Japan. Furthermore, the government sends doctors from Japan to North America, South America, and South Korea to provide medical examinations for sufferers living in those areas (Kamada 2007).

4.2 Widening of the Criteria for Certification of Injuries or Illnesses Caused by the Atomic Bombs

The Survivors' Support Law (Article 10) stipulates, "The Minister of Health, Labour and Welfare shall provide the necessary medical care for atomic bomb survivors who need medical treatment due to injuries or illnesses caused by the injurious effects of the atomic bombs." It also prescribes payment of allowances (Articles 24 and 25).

Medical care and allowances are not available to all atomic bomb survivors, but only to those who are certified to have injuries or illnesses that are "caused by radiation from the atomic bombs" (Article 10). The requirements for an injury or illness to be certified as one caused by radiation is that an atomic bomb survivor contracted it due to health effects of the radiation from the atomic bombs and that treatment of the injury or illness is necessary.

In 2003, when only 1% of the atomic bomb survivors (holders of a Handbook) were certified to have an injury or illness caused by radiation (Hidankyo 2021), atomic bomb survivors filed multiple simultaneous lawsuits against the government to demand further certification. Terumi Tanaka, Hidankyo's then secretary general, explained what led them to the class action: "We hoped to correct errors in the certification system. [...] [T]he criteria for certifying illnesses caused by the atomic bombs were too divorced from the reality of the survivors' lives, and the government left us suffering from illnesses. We couldn't put up with that any longer."¹³ He also said, "Among the hellish damages caused by the atomic bombs, the current Survivors' Support Law compensates only for health effects from radiation. [...] Moreover, the law only takes into consideration health effects from the underestimated initial radiation, which is totally different from the actual radiation we

¹³ Dai-1-kai Genbakushō Nintei no Arikata ni kansuru Kentōkai Gijiroku 第1回原爆症認定の在り方に関する検討会議事録 [Minutes of the Meeting to Consider the System of Certifying Atomic-bomb Illnesses], Sept. 28, 2007. Accessed December 31, 2021. Available at https://www.mhlw.go.jp/content/2007_09_txt_s0928-2.txt.

survivors experienced, and a little bit of the residual radiation.”¹⁴ As Tanaka clearly stated, the plaintiffs demanded the government reform the certification system based on the actual suffering survivors experienced.

The multiple simultaneous lawsuits were decided in favor of the plaintiffs (the survivors), and parts of the health effects of the atomic bombs that the Japanese government disregarded, such as effects of residual radiation and internal exposure, came to light. As a result, the criteria for certifying injuries or illnesses caused by the atomic bombs has been widened. For example, before the class action, it was only possible for injuries or illnesses of survivors who were exposed to the atomic bombings within two kilometers of the hypocenter to be certified as ones caused by the bombings. The government revised this criterion, and it is currently possible that injuries or illnesses of those within 3.5 kilometers of the hypocenter are certified as caused by the bombings. The government revised the criteria twice, which increased the proportion of survivors whose injuries or illnesses are certified as caused by the bombs from 1% to approximately 7% (Hidankyo 2021). Nevertheless, Hidankyo’s battle to widen the criteria for certifying injuries or illnesses induced by the atomic bombings continues even today.

4.3 Atomic Bomb Survivors’ Battle for Expansion of “Affected Areas”

The Survivors’ Support Law and one of its two preceding laws, the Medical Care Law, made demarcations between who is atomic bomb survivors and who is not by designating areas. For example, as already mentioned above, the Survivors’ Support Law prescribes one of the categories of the atomic bomb survivors as “[a] person who was in the area of Hiroshima or Nagasaki city at the time of the atomic bombing, or in an area adjacent to the areas of these cities, as determined by Cabinet Order” (Article 1, Paragraph 1 of the Survivors’ Support Law). Among those who were out of the designated areas and thus have not been certified as “hibakusha (atomic bomb survivors),” however, there are people who have demanded that the government designate the areas where they claim there were damages due to radioactive fallout as areas affected by the bombings.

In Nagasaki, the government established a “Health Check Certificate” system so that atomic bomb sufferers who are not certified as “atomic bomb survivors” designated by the Survivors’ Support Law but were in certain areas at the time of the bombing are able to take the same kind of medical examinations available to the survivors. The system designates two categories of areas: (i) areas in which sufferers are able to obtain “Class 1 Health Check Certificates” (designated in 1974 and 1976); and (ii) areas in which sufferers

¹⁴ See note 12 above.

are able to obtain “Class 2 Health Check Certificates” (designated in 2002; certain areas within 12 km from the hypocenter of Nagasaki).

(i) “Class 1 Health Check Certificate” Areas

Eligible applicants for a “Class 1 Health Check Certificate,” who were in designated areas at the time of the bombing, can receive the same medical examinations that are available to the Handbook holders¹⁵. If they are diagnosed with one or more of the 11 kinds of injuries or illnesses for which health management allowances are provided based on the Survivors’ Support Law, they are certified as “atomic bomb survivors,” and they can upgrade Class 1 Health Check Certificates to Handbooks.

(ii) “Class 2 Health Check Certificate” Areas

In contrast, eligible applicants for a “Class 2 Health Check Certificate,” who were in designated areas at the time of the bombing, can receive only one medical examination per year. This examination does not include a cancer screening or detailed testing but only a general health screening, and even when they are diagnosed with one or more of the injuries or illnesses for which health management allowances are provided, they are not certified as an “atomic bomb survivor.”

Based on the abovementioned 1980 report by the Fundamental Problems Conference, the Japanese government did not expand areas for which Handbooks can be issued, and thus created a different kind of area to provide sufferers therein only with general health screenings. The Class 2 Certificate holders in these areas can get reimbursed for their copayment for medical treatment of the designated illnesses through the following process: (a) They have to obtain from their primary doctor at their own expense a medical certificate of a mental illness (e.g., mental disorder or sleeping disorder) or a psychosomatic disorder that develops as various internal diseases; (b) Based on this medical certificate, a psychiatrist diagnoses the symptoms as being “caused by the mental effects of their experience of the atomic bombing”¹⁶; and (c) They obtain a “Mental Healthcare Certificate for People Who Experienced the Atomic Bombings” and get reimbursed for the copayment. Thus, the government does

¹⁵ The atomic bomb survivors are allowed to take a total of four medical examinations per year (two regular examinations that are held at fixed periods and two examinations that they can take whenever they want to). In one examination, they take a general health screening, a cancer screening, and, if necessary, detailed testing.

¹⁶ “Hibaku Taikensha Shien Jigyō 被爆体験者支援事業 [Support Program for People Who Experienced the Atomic Bombings],” Nagasaki City, accessed Dec. 31, 2021, <https://www.city.nagasaki.lg.jp/heiwa/3010000/3010200/p002213.html>.

not recognize that the people in these designated areas have had any health effects from the atomic bomb radiation. The government regards them not as “atomic bomb survivors (*hibakusha*)” but as “people who experienced the atomic bombings (*hibaku taikensha*),” and provides them only with mental health care.

These people whom the government does not certify as “atomic bomb survivors” and instead define as “people who experienced the atomic bombings” filed a lawsuit against the government to receive Handbooks, claiming that it was possible for them to have incurred physical effects of the bombings. Although the judgement by the Supreme Court in 2017 went against the plaintiffs, sufferers have continued to demand Handbooks.

In Hiroshima, in 1976, the areas where “black rain”—radioactive fallout right after the bombing—fell were designated as areas from which sufferers could obtain “Class 1 Health Check Certificates.” This means that eligible applicants with atomic bomb induced injuries or illnesses in these areas can be certified as “atomic bomb survivors” and obtain Handbooks.

Nevertheless, the areas where black rain fell and whose sufferers can be certified as “atomic bomb survivors” were limited to what the government defined as “heavy rain areas.” Residents outside these areas who claimed exposure to the radioactive black rain thus continued many years of steady campaigning, demanding that Hiroshima Prefectural Government, the City of Hiroshima, and the national government expand the “rain areas” and issue Handbooks for them. Since their petitions to the governments were not enough to change the situation, they filed a lawsuit in 2014. The plaintiffs won the first trial at the Hiroshima District Court in 2020 and the second at the Hiroshima High Court in 2021. Both the prefectural and city governments indicated their intention not to appeal to the Supreme Court, and the national government also gave up the final appeal, and thus the suit ended in favor of the plaintiffs. The Hiroshima High Court¹⁷ judged that proving it impossible to deny health effects of the atomic-bomb radiation is enough for an applicant to be certified as an atomic bomb survivor even outside the designated areas. Furthermore, it judged that if there is a possibility of internal exposure, for example by drinking well water, an applicant should be certified as an atomic bomb survivor even if the applicant was not directly exposed to the black rain.

In summary, atomic bomb sufferers in both Nagasaki and Hiroshima have taken legal action to become certified as “atomic bomb survivors.” In Nagasaki, on one hand, “people

¹⁷ Hiroshima Kōtō Saibansho [Hiroshima High Ct.] July 14, 2021, Rei2 (gyō ko 行コ) no. 10, Saibansho saibanrei jōhō [Saibanshoweb], https://www.courts.go.jp/app/hanrei_jp/detail4?id=90607.

who experienced the atomic bombings (*hibaku taikensha*)” who have held the “Class 2 Health Check Certificates” have demanded Handbooks, and thus this has been a battle over the range of the Category-1 and 3 Atomic Bomb Survivors. On the other, in Hiroshima, atomic bomb sufferers to whom nothing including “Health Check Certificates” was issued demanded Handbooks, and thus this was a battle over the range of the Category-3 Atomic Bomb Survivors. Thus, there are differences between them in terms of which parts of the Survivors’ Support Law have been in dispute. Both cases, however, share a common feature in that the following questions were disputed: whether the plaintiffs have suffered any physical effects of the atomic bomb radiation, who are defined as the “atomic bomb survivors” and provided with benefits, and how the beneficiaries of the support measures should be determined.

4.4 Demand for Support for Second and Third-Generation Atomic Bomb Survivors¹⁸

The Survivors’ Support Law does not have any provisions about second-generation atomic bomb survivors, and thus they are deemed ineligible for the support measures stipulated by the law. On the other hand, as mentioned above, the “Supplementary Resolution regarding the Draft of the Atomic Bomb Survivors’ Support Law”¹⁹ stated that the government should “give due consideration to research and studies on, and remedial measures to mitigate, the effects of the atomic bombings on atomic bomb survivors and their children and grandchildren, and continue medical examinations for the second generation while further enhancing the examinations by understanding the second generation’s circumstances.” Based on this, the government offers annual medical examinations for children of atomic bomb survivors. Some local governments provide survivors’ children with not only medical examinations but also financial support for their medical expenses and “Health Handbooks for Second-Generation Atomic Bomb Survivors.” There have been other small steps forward in measures for survivors’ children. For example, a test for multiple myeloma (a serum protein electrophoresis) was added to the medical examinations for survivors’ children in 2016. For another example, the Ministry of Health, Labour and Welfare presented a prototype of a “Health Record Book for Second-Generation Atomic Bomb Survivors” in 2020 so that local governments can issue them from fiscal year 2021.

¹⁸ Note that the people whom this subsection refers to as the “second-generation atomic bomb survivors” include not only children of the atomic bomb survivors defined in the Survivors’ Support Law but children of those who were exposed to the atomic bombings but are/were not certified as atomic bomb survivors.

¹⁹ See note 5 above.

The Japanese Liaison Council of Second-Generation Atomic Bomb Survivors (*Zenkoku Hibakunisei-dantai Renraku Kyōgi-kai*, hereinafter referred to as JLCSGABS)²⁰, the nationwide confederation of organizations formed by second-generation survivors, has demanded that the Japanese government legalize the medical examinations for the second generation currently available, upgrade the examinations so that they include cancer screenings, and issue a national “Health Handbook for Second-Generation Atomic Bomb Survivors.” Since 2017, JLCSGABS has been involved in a lawsuit against the government, suing for national redress for the government’s legislative omission of measures for the second generation. They claimed that while the purposes and goals of the Survivors’ Support Law required the second-generation atomic bomb survivors to be beneficiaries of governmental support measures, the government had been taking no measures. In the trial, the plaintiffs have claimed the applicability of the Survivors’ Support Law to second-generation survivors in reference to the abovementioned judgement of the Hiroshima High Court²¹, saying that through their parents, a second-generation survivor “was under circumstances [...] after the atomic bombing that affected the person physically due to atomic bomb radioactivity” (Article 1, Paragraph 3 of the Survivors’ Support Law).

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Special Measures Law

Genshibakudan Hibakusha ni taisuru Tokubetsusochi ni kansuru Hōritsu 原子

²⁰ For the information on JLCSGABS, see the following webpages:

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²¹ See note 16 above.

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