

Short Summaries of the Supreme Court Decision of March 30, 1978
and the Laws for Atomic Bomb Victims

On March 30, 1978, the Supreme Court handed down a decision ordering the governor of Fukuoka Prefecture to issue a certificate for free medical treatment to a South Korean atomic bomb victim staying in Japan (see the attached article from The Japan Times Weekly). In this case, a South Korean plaintiff illegally entered Japan in 1970 in order to receive free medical treatment for his illness caused by exposure to atomic bomb radiation in Hiroshima in 1945. The plaintiff applied to the governor of Fukuoka Prefecture for a health certificate which would entitle him to free medical treatment. The governor rejected the plaintiff's application; upon appeal, both the Fukuoka District Court and the Fukuoka High Court ordered the governor to grant a certificate to the plaintiff regardless of the legality of his residence in Japan.

Upholding the decisions of the lower courts, the Supreme Court held that the Law Concerning Medical Treatment for Atomic Bomb Victims ^{1/} should be applicable to atomic bomb victims of any nationality who were exposed to atomic bomb radiation in Hiroshima and Nagasaki. A summary of the Law Concerning Medical Treatment for Atomic Bomb Victims, specifically referred to in the Supreme Court Decision, follows.

^{1/} Law No. 41, March 31, 1957, as last amended by Law No. 86, June 17, 1974.

The purpose of the Law Concerning Medical Treatment for Atomic Bomb Victims is to provide, through the government, free medical service and treatment for these victims, thereby promoting and preserving their health (Article 1). The law applies only to those victims of the atomic bombs dropped on Hiroshima and Nagasaki.

In order to receive these benefits under the law, a victim must first apply to the governor of the Tokyo Metropolis, Hokkaido, or the urban or rural prefecture where he resides for a health certificate. The holder of a certificate is entitled to receive free annual checkups, necessary medical services and guidance from the competent governor (Article 4).

Furthermore, the holder of a certificate who is currently in need of medical treatment for an illness directly caused by atomic bomb radiation must apply to the Minister of Health and Welfare for free medical service and treatment. If the application is approved, the victim becomes a "designated" victim and is then entitled to receive the following medical services and treatment: checkups, medicine and medical supplies, therapeutic equipment, physical therapy, any necessary operations, hospitalization, nursing care, and transportation (Article 7).

These above-mentioned medical services and treatment are provided by hospitals and clinics which are designated by

the Minister. In an emergency case, if the victim is treated by a clinic or hospital other than one designated by the Minister, the victim may be reimbursed by the Minister to the full extent of the actual expenses incurred for the emergency treatment (Article 14). If the victim is treated for an injury or disease other than that caused by radiation, he may be paid under certain conditions (Article 14-2 through Article 14-7). All medical services and treatment are provided under this law, and the payments for such services and treatment are made regardless of the status of the victim's income.

In addition, under the Special Measures Law Concerning Atomic Bomb Victims,^{2/} the designated victim is entitled to receive until his death a special allowance. The amount of this special allowance is fixed by law and is paid to the victim having a limited income. Included among the special allowances payable to designated victims with limited incomes are allowances to cover expenses for special care needed to treat mental or physical disabilities, funeral expenses, and others. The victim who suffers from a liver or hematogenous dysfunction, although he may not be entitled to receive a special allowance, may receive a separate

^{2/} Law No. 53, May 20, 1968, as last amended by Law No. 61, June 5, 1976.

allowance, regardless of his income. These allowances, payable under the law, are intended to guarantee and stabilize a minimum standard of living for the bomb victims. In this respect, the law is similar to the laws relating to special child support and welfare pensions.

Prepared by Dr. Sung Yoon Cho
Assistant to the Chief
Far Eastern Law Division
Law Library
Library of Congress
Washington, D.C. 20540
April 1979

SU. VM

SYC/VMY/vmy

4/19/79