

Message Text

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ACTION EA-12

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SUBJECT: MEDICAL TREATMENT FOR FOREIGN A-BOMB VICTIMS
REF: (A) TOKYO 5366; (B) STATE 86691

1. CAMPAIGNS FOR RELIEF CONDUCTED BY JAPANESE A-BOMB VICTIMS LED GOJ TO PASS THE LAW FOR MEDICAL TREATMENT OF ATOMIC BOMB VICTIMS IN 1957 AND A SPECIAL MEASURES LAW IN 1968. BOTH LAWS HAVE BEEN TREATED AS A PART OF THE SYSTEM OF SOCIAL SECURITY LAWS. GOJ FEARED THAT IF IT APPROVED OF "COMPENSATION" TO THE A-BOMB VICTIMS IT WOULD HAVE TO COMPENSATE OTHERS WHO SUFFERED FROM THE WAR ALSO. THE SUPREME COURT'S RULING IS IMPORTANT BECAUSE IT HOLDS THAT, UNLIKE OTHER SOCIAL WELFARE LAWS, THE LAW FOR MEDICAL TREATMENT OF ATOMIC BOMB VICTIMS WAS DESIGNED TO FULFILL THE STATE'S RESPONSIBILITY TO PROVIDE HUMANITARIAN AID TO WAR VICTIMS.

2. THE DECISION OF MARCH 30 DEALT WITH THE CASE OF SON JIN DU, A SOUTH KOREAN WHO WAS BORN IN OSAKA IN 1927 AND SUBSEQUENTLY MOVED TO HIROSHIMA WHERE HE WAS EXPOSED TO NUCLEAR RADIATION. HE WAS DEPORTED IN 1951 FOR VIOLATING THE ALIEN REGISTRATION ORDINANCE, MADE TWO UNSUCCESS-
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FUL ATTEMPTS TO SNEAK INTO JAPAN, AND HAS RESIDED IN JAPAN ILLEGALLY SINCE A SUCCESSFUL THIRD ENTRY ATTEMPT IN DECEMBER 1970. IN 1971 SON APPLIED TO THE GOVERNMENT OF FUKUOKA PREFECTURE FOR AN A-BOMB VICTIM'S CERTIFICATE BUT WAS TURNED DOWN THE FOLLOWING YEAR. WITH SUPPORT FROM JAPANESE AND KOREAN SYMPATHIZERS, HE WENT TO COURT IN NOVEMBER 1971, DEMANDING THE CERTIFICATE. THE FUKUOKA

DISTRICT COURT RULED IN HIS FAVOR IN MARCH 1974, AND WAS UPHELD BY THE FUKUOKA HIGH COURT IN JULY 1975. THE PREFECTURAL GOVERNMENT APPEALED TO THE SUPREME COURT ON THE GROUNDS THAT THE LAW WAS APPLICABLE TO FOREIGNERS STAYING IN JAPAN ONLY IF THEY HAD LEGAL RESIDENT STATUS AND WERE "MEMBERS OF THE SOCIETY" (WERE CONTRIBUTING TAXES TO THE SUPPORT OF THE SYSTEM). THE SUPREME COURT RULED THAT ANY FOREIGNERS AFFECTED BY THE A-BOMBINGS OF HIROSHIMA AND NAGASAKI ARE ENTITLED TO FREE MEDICAL TREATMENT UNDER THE LAW FOR TREATMENT OF ATOMIC BOMB VICTIMS, AS LONG AS THEY ARE IN JAPAN, EVEN IF THEY ARE HERE ILLEGALLY. THE RULING ALSO SAID THAT THE GOVERNMENT COULD DEPORT SON--THAT THIS WAS A DIFFERENT QUESTION FROM THAT OF HIS ELIGIBILITY FOR TREATMENT. SON WAS ISSUED HIS CERTIFICATE ENTITLING HIM TO TREATMENT ON APRIL 3.

3. MHW FIGURES INDICATE ABOUT 20,000 A-BOMB VICTIMS IN KOREA AND ANOTHER 1,000 IN THE U.S. AND OTHER COUNTRIES. THE SUPREME COURT RULING WOULD MAKE THESE ELIGIBLE FOR FREE MEDICAL CARE IF THEY WERE IN JAPAN. IT MAKES NO REFERENCE TO THOSE NOT IN JAPAN. MHW'S INTERPRETATION OF THE LAW AS APPLYING ONLY TO FOREIGNERS "LEGALLY RESIDENT" IN JAPAN IS OBSOLETE. HOWEVER CHECKS WITH MHW REVEAL THAT NOTHING HAS YET BEEN DECIDED ON WHAT, EXACTLY, THE NEW POLICY MIGHT BE. SINCE 1975 MHW HAS PERMITTED ISSUANCE OF CERTIFICATES TO FOREIGNERS STAYING LEGALLY UNCLASSIFIED

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IN JAPAN FOR OVER ONE MONTH. AT PRESENT ABOUT 366,000 PERSONS, INCLUDING 11 FOREIGNERS, HOLD CERTIFICATES.

4. MHW CLAIMS IT WILL COME OUT WITH A NEW POLICY IMPLEMENTING THE COURT'S DECISION IN THE NEAR FUTURE. CERTIFICATES WILL NOT BE ISSUED TO THOSE IN FOREIGN COUNTRIES, ONLY TO THOSE IN JAPAN. PERIOD OF REQUIRED RESIDENCE (IF ANY) IS NOT YET DECIDED. MHW FORESEES THE POSSIBILITY OF JAPANESE DOCTORS BEING ASKED TO TRAVEL TO FOREIGN COUNTRIES SUCH AS ROK TO TREAT SURVIVORS. IT ALSO FORESEES POSSIBILITY OF FOREIGN A-BOMB VICTIMS COMING TO JAPAN TO RECEIVE FREE MEDICAL TREATMENT. IN A COMMENT FOR THE PRESS AFTER THE DECISION, TOSHIRO MATSUURA, DIRECTOR OF MHW'S PUBLIC HEALTH BUREAU STATED THAT "IT IS NATURAL FOR THE STATE (CENTRAL GOVERNMENT) TO ABIDE BY THE SUPREME COURT DECISION (THAT FOREIGN A-BOMB VICTIMS IN JAPAN BE ISSUED CERTIFICATES)." HE ADDED THAT HE EXPECTED VICTIMS LIVING ABROAD TO BECOME MORE VOCAL IN DEMANDING FREE MEDICAL TREATMENT. "THIS," HE SAID "IS AN INTERNATIONAL MATTER AND IF IT IS TAKEN UP THROUGH DIPLOMATIC CHANNELS, THE GOVERNMENT WILL DEAL WITH IT ACCORDINGLY."

5. COMMENT: THE RIGHT OF A-BOMB VICTIMS TO FREE MEDICAL TREATMENT IN JAPAN HAS BEEN DETERMINED BY THIS COURT DECISION. THIS RIGHT TO A VICTIM'S CERTIFICATE, HOWEVER, WILL NOT BE MEANINGFUL UNLESS ACTION IS TAKEN BY GOJ AND OTHER CONCERNED GOVERNMENTS (ESPECIALLY ROK) TO GIVE REAL ACCESS TO TREATMENT TO THE VICTIMS CONCERNED. IT MUST BE STRESSED THAT NO DECISIONS HAVE YET BEEN MADE REGARDING THE MAIN QUESTION OF HOW THE COURT DECISION WILL BE SUPPLEMENTED. MHW IS ALSO NOT THE ONLY MINISTRY CONCERNED. ISSUANCE OF VISAS FOR SPECIFIC PURPOSES (TREATMENT FOR EXAMPLE) IS A QUESTION FOR THE JUSTICE MINISTRY. THE MOST

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IMMEDIATE EFFECT WILL BE SEEN IN THE CASES OF KOREAN A-BOMB VICTIMS PRESENTLY LIVING IN JAPAN. ON APRIL 8 A CERTIFICATE WAS ISSUED TO SUCH A PERSON RESIDING IN NAGASAKI. DEPT. WILL RECALL THAT JAPANESE DOCTORS FROM RADIATION EFFECTS RESEARCH FOUNDATION VISITED U.S. IN LATE 1976 TO EXAMINE A-BOMB SURVIVORS LOCATED PRINCIPALLY IN CALIFORNIA. VISIT CAME ABOUT AT INSTIGATION OF ASSOCIATION OF SURVIVORS LOCATED THERE WHICH APPLIED CONSIDERABLE PRESSURE TO MHW TO AUTHORIZE VISIT AND EXAMS. MANSFIELD

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