

Report on the Human Rights of Second-Generation Atomic Bomb Survivors in Japan and The Measures to be Taken by the Japanese Government

1. The Japanese Liaison Council of Second-Generation Atomic Bomb Survivors submits a report to the 42nd session of the Universal Periodic Review in the UN Human Rights Council to provide information on the human rights of 2nd-generation A-bomb survivors in Japan. We expect that the UN Human Rights Council will make recommendations to the Japanese government to take measures that guarantee the human rights of 2nd-generation A-bomb survivors.

I. Introduction

2. The atomic bombs dropped on Hiroshima at 8:15 a.m. of August 6th and on Nagasaki at 11:02 a.m. of August 9th, 1945, by the American Army were responsible for existence of A-bomb survivors. More than 200,000 people were either killed or injured by the A-bombs. Survivors have suffered or have been suffering from acute radiation disorders and the onset of the delayed effects of radiation from the bombings. While they have been suffering from the difficulties of life caused by health problems, they have had to contend with prejudice and discrimination in the society.
3. The Japanese government as well as the American government was responsible for the atomic bombings because they were caused by Japan's past colonization and wars of aggression. Although it was the American Army who dropped the A-bombs, it is the Japanese government's sole responsibility to institute support measures for A-bomb survivors since it gave up its right to claim compensation for damages. The untiring efforts of survivors resulted in the Atomic Bomb Survivors' Relief Law. It is a law that took effect in July 1995 coinciding with the 50th anniversary of the atomic bombings. The said law provides such supports as free medical examinations, benefits for medical treatment, and allowances for A-bomb survivors.
4. Second-generation A-bomb survivors are children of A-bomb survivors. The Atomic Bomb Survivors' Relief Law defines A-bomb survivors as follows: "direct A-bomb survivors", those who were exposed directly to the blast of the A-bombs (1st A-bomb survivors); "enter-city A-bomb survivors", those who entered within about 2 kilometers of the hypocenters in less than two weeks of the bombings (2nd A-bomb survivors); those who were in any circumstances that might cause physical effects of A-bomb radiation when or after the A-bombs were dropped (3rd A-bomb survivors); "in utero A-bomb survivors", those who were exposed to radiation in utero and whose mothers were qualified as the 1st, 2nd or 3rd A-bomb survivors (4th A-bomb survivors). Second-generation A-bomb survivors were born later than 4th A-bomb survivors. However, the Atomic Bomb Survivors' Relief Law is not intended for 2nd-generation A-bomb survivors.
5. The Japanese government states in "the Operating Procedure of Second-Generation A-Bomb Survivors' Medical Examinations" provided with a single-year budget that 1) examinees should be those whose both or either of parents are A-bomb survivors and, 2) examinees should be those who were born after June 4th, 1946, in the case of Nagasaki and after June 1st, 1946, in the case of Hiroshima. This is not the definition of 2nd-generation A-bomb survivors specified in the law, but is just a guide-line for conducting the annual medical examination.
6. More than seventy-six long years after the A-bombs were dropped, the Japanese government support measures for A-bomb survivors remain insufficient. The A-bomb survivors who were in the long distance or were exposed to the residual radiation have not been officially recognized as victims meriting government assistance for "recognized A-bomb related disorders" (diseases, injuries and insufficient

power of healing which might be related to A-bomb radiation) even if many of them have suffered or continue to suffer from various radiation-related illnesses such as cancer. The effects of low dose of radiation and residual radiation on the human bodies have been underestimated. Their right to health, being a basic human right, is not adequately guaranteed by the Japanese government.

7. According to judiciary judgement in Japan, it should be said that the legislative purpose of the Atomic Bomb Survivors' Relief Law is to establish various systems for the support of A-bomb survivors practically from national compensatory consideration so that the Japanese government, which waged the war, may take responsibility to relieve such particular kinds of war damages as unprecedentedly peculiar and serious health disorders caused by the A-bombs. And the 3rd A-bomb survivors defined in the Atomic Bomb Survivors' Relief Law, "those who were in any circumstances that might cause physical effects of A-bomb radiation," are interpreted as "those who were in any circumstances where there was no denying that health disorders would be caused by A-bomb radiation." Therefore, in order for A-bomb survivors to be qualified as 3rd A-bomb survivors, it is concluded that it is enough to just prove that they were exposed to specific radiation and that due to such radiation exposure, "there was no denying that health disorders would be caused for them by A-bomb radiation." The Japanese government should widely relieve A-bomb survivors based on the fundamental legislative purpose of the Atomic Bomb Survivors' Relief Law.
8. Since 1948, the late effects of radiation and the genetic links of A-bomb radiation on human beings have been investigated by the Atomic Bomb Casualty Commission (ABCC). Later on, the ABCC was succeeded by the Radiation Effects Research Foundation (RERF). The RERF has reported that at present their studies show no proof of genetic damages. However, it must be said that there is no scientific evidence either that assures there is no effect on genetics.
9. In plant and animal experiments, it has already been proved that there are radiation effects on the next generations. For example, the experiments using mice showed that baby mice whose male parents had been exposed to radiation were born with the constitutions liable to diseases of various types including cancer, which turned out to be inherited by the next generations. As the birth frequency of baby mice having such health risk is in proportion to their parents' radiation exposure dose, this can scientifically explain a causal relation to radiation exposure. The result of such experiments using mice implies that there are increased health risks from the genetic effects caused by A-bomb radiation on human beings as well, which like mice belong to the mammals species.
10. However, the Japanese government has taken a firm stand against the genetic effects of A-bomb radiation on 2nd-generation A-bomb survivors unless they have "scientific evidence of the genetic effects" on humans. So it does not provide any support measures for 2nd-generation A-bomb survivors. Second-generation A-bomb survivors are A-bomb victims, that is, nuclear victims because there is no scientific evidence to clearly deny the trans-generational genetic health effect of A-bomb radiation. The Japanese government should also apply "the Atomic Bomb Survivors' Relief Law" to them based on the fundamental legislative purpose of the Law.
11. In the Rio Declaration on Environment and Development during the United Nations Conference on Environment and Development (Earth Summit) (of 1992), "the precautionary principle"—"Where there are threats of serious or irreversible damage, lack of full scientific certainty" shall not be used as a reason for postponing measures—was internationally verified. The Japanese government must have a full grasp and understanding of the predicaments faced by 2nd-generation A-bomb survivors, and so must take it upon itself to provide them with support measures and guarantee their basic human rights including the right to health, according to "the precautionary principle".

II. How the human rights of second-generation A-bomb survivors were violated

12. Series of conferences on the inhumanity of nuclear weapons were held in the world during the past several years. Through these efforts, the inhumanity of nuclear weapons has been commonly recognized as an international awareness in the world, which led to the establishment and entry into force of the Treaty on the Prohibition of Nuclear Weapons. We emphasize that the health hazards of radiation to future generations of mankind is one of the most serious aspects of the violation of human rights caused by nuclear weapons.
13. It is unfair that 2nd-generation A-bomb survivors, who were not born during the war and at the time of the bombings, have or will have health risks in the present or in the future due to the genetic effects from A-bomb radiation. Their human rights have been violated with the following problems.
14. First, 2nd-generation A-bomb survivors are in health dangers from the genetic effects of A-bomb radiation. Many of them, like their parents, have died of cancer and leukemia. There are present sufferings of physical disorders like cancer and leukemia. Some of them have lost their younger siblings to cancer and leukemia. Others have suffered from various kinds of health disorders including non-cancer ailments as well. Some 2nd-generation A-bomb survivors have been suspecting that their present diseases, which are similar to their parents' diseases, are related to the radiation exposure of their parents. The mental anguish and torture of worries about their present diseases and in the near or distant future scare them every day of their lives. There are even A-bomb survivors who blame themselves for their exposure to radiation because in effect, it is they who are causing their children to have diseases and physical disorders. In these ways, 2nd-generation A-bomb survivors have been suffering from their present and past health problems, and from anxiety about their future health disorders.
15. Second, they are confronted by difficulties in their social life because they are A-bomb survivors' children. Due to diseases or physical disorders caused by the A-bombs, not a few of A-bomb survivors are unable to settle into regular jobs or have to consent to low pay. Living under such meager means, some 2nd-generation A-bomb survivors were not able to attain higher education. Even as adults, they have had to live an economically hard life because they need to take care of sick parents or grandparents who were first-generation A-bomb survivors. Some lived and still live within "the vicious cycle of diseases and poverty" — such a hard life as their parents', to be sick and not to have money for treatments. Others could hardly sustain their own daily life because of their low income, and the high cost of medical treatments for their diseases makes their suffering even worse.
16. Third, 2nd-generation A-bomb survivors suffer from severe discrimination and social prejudice. The Japanese government has not taken any measures to support the 2nd-generation A-bomb survivors who have been suffering from health disorders and difficulties of life. This situation puts them at disadvantage and forces them to face with social prejudice and discrimination. In this sense, the Japanese government is to blame first of all. Under such circumstances without any public support for the 2nd generation, people often have such prejudice as follows, which leads to discrimination: "All 2nd-generation A-bomb survivors have health disorders because of their parents' exposure to A-bomb radiation." "If you are married with a 2nd-generation A-bomb survivor, you may have a baby with congenital malformation." Once it was found out that they were 2nd-generation A-bomb survivors, some were denied marriage by their prospective spouses' parents, some committed suicide after they were divorced, or others were dismissed from their jobs. Though all 2nd-generation A-bomb survivors do not actually have health disorders, people in the society often have a prejudice towards them that all of them must have any health problems. In such ways, they have had to face social discrimination in their daily life.

III. It is the Japanese government's responsibility to guarantee the human rights of 2nd-generation A-bomb survivors.

17. The former national policy of the Japanese government on colonial expansion and wars of aggression resulted in the creation and use of the atomic bombs by the United States on Hiroshima and Nagasaki. From these twin bombs, A-bomb survivors and their sufferings were born. Therefore, both the Japanese government which started the war, and the American government which dropped the A-bombs, are to blame for the consequences of the A-bombings. Having signed the San Francisco Peace Treaty after the war, the Japanese government gave up all claims to the right of compensation. And so, it is now

the Japanese government's responsibility to institute support measures and thereby guarantee the human rights of A-bomb survivors and their 2nd generation. It is also its responsibility to prove whether there are potential genetic effects from A-bomb radiation or not on the 2nd generation. As long as the Japanese government cannot prove that "there are not", it remains responsible for guaranteeing the human rights of 2nd-generation A-bomb survivors. That is, their human rights should be guaranteed by the Japanese government based on state compensation.

18. In spite of all these 2nd-generation A-bomb survivors' sufferings from the violation of their human rights as mentioned before, the Japanese government has done nothing significant for them. "The medical examinations for 2nd-generation A-bomb survivors" were the only measure provided for them by the government just with single-year budget for each year from 1979 with the purpose of lessening their worries about radiation-related diseases. However, the medical examinations are too simple to actually lessen their worries. The government did not include medical check-ups to detect early signs of cancer, which they are most anxious about. (In April 2016, after a very long time, only a check-up on multiple myeloma were added.) If 2nd-generation A-bomb survivors get ill or develop any ailment, no free medical treatments and allowances for life security are provided for them.
19. The Japanese government takes a stand that according to the Reports of the Round Table Conference on Basic Issues for Atomic Bomb Survivors in December 1980, all people should equally accept their war damage. On the other hand, the government also takes a stand based on the state-compensation viewpoint in its broad sense that it must take proper measures for A-bomb survivors because their health disorders caused by radiation are "exceptional damages".
20. However, the Japanese government has remained adamant that there are no genetic effects from radiation on 2nd-generation A-bomb survivors. As such, the Japanese government insists that there should be scientific confirmation that the health risks originate from their parents before it provides them with support measures.

IV. We request the Japanese government for the application of the Atomic Bomb Survivors' Relief Law to second-generation A-bomb survivors to guarantee their human rights based on the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), and the Constitution of Japan.

21. The Japanese government has ratified both of the ICESCR and the ICCPR. The ICESCR states that the rights enunciated in the covenant will be exercised without discrimination (Article 2). It recognizes the right to work (Article 6), the right to enjoy the highest attainable standard of physical and mental health (Article 12) and the right to education (Article 13). The ICCPR also states that each state party to the covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the covenant, without distinction of any kind (Article 2). It recognizes the right to marriage (Article 23) and it states that the law shall prohibit any discrimination and guarantee all persons' equal and effective protection against discrimination (Article 26).
22. Additionally, with the right to peaceful life stated in the preamble, the Constitution of Japan states the right to live (Article 25), the right to receive education (Article 26), the right to life, liberty, and the pursuit of happiness (Article 13) as fundamental human rights, and guarantees them (Article 11).
23. Second-generation A-bomb survivors have their fundamental human rights such as the right to health and the right to live being threatened, and have the right to peaceful life being violated, in the past, in the present, and in the future by the A-bombs dropped in war times before they were born. Their right to education, to marriage and to work are also violated as mentioned above. Yet, the Japanese government has not instituted any support provisions to guarantee their human rights which should be required in the ICESCR, the ICCPR and the Constitution of Japan. In this sense, the Japanese government violates both of

the human-rights covenants and the Constitution of Japan.

24. A-bomb survivors continue requesting the Japanese government for the Atomic Bomb Survivors' Relief Law based on state compensation. The reason for their requests are that they have decided to implement the following four requests by the Atomic Bomb Survivors' Relief Law based on state compensation: 1) to establish the curative treatments of A-bomb diseases; 2) to take responsibility for their medical care and life security; 3) to compensate for those who lost their parents, brothers, sisters, or children as A-bomb victims; 4) to reflect what Japan did in the war and make efforts to work for a world without atomic and hydrogen bombs. Second-generation A-bomb survivors have the same requests.
25. The number of A-bomb survivors who suffered from leukemia affected by A-bomb radiation about five years after the bombings had increased. And several years more after, an increase in various types of cancer and non-cancer diseases was recorded. Many A-bomb victims had suffered so much before they died from those various diseases. Looking back, it took several decades to epidemiologically prove that these said diseases were caused by A-bomb radiation. Regretfully, during this time many victims lost their lives without having their physical disorders recognized as having originated from A-bomb radiation. As a result, they did not receive any support. The same mistake should not be repeated for the second generation. It must be noted that the periods of time the ABCC and the RERF took to find out the significant rise in the number of diseases among the bombing survivors are as follows: five years after the bombings—leukemia; ten years—thyroid gland cancer; twenty years—breast and lung cancer; thirty years—stomach and colon cancer and myeloma; forty years—skin and uterine cancer, and non-cancer diseases after 1991.
26. We, the Japanese Liaison Council of Second-Generation Atomic Bomb Survivors, have requested the Japanese government to take support measures for 2nd-generation A-bomb survivors for more than thirty years. Placing the second-generation as "5th A-bomb survivors", we have requested for the application of the Atomic Bomb Survivors' Relief Law to them and the specification of state compensation in the Law.
27. Also, we have requested the Japanese government to take responsibility for support measures to equally guarantee the human rights of not only 2nd-generation A-bomb survivors in Japan but also those in other countries of the world, insisting that "2nd-generation A-bomb survivors are what they are, wherever they are," just like the first generation.
28. We presented a written request including those mentioned above to the Minister of Health, Labor, and Welfare every year, yet the Japanese government has not acted on it—no adequate measures. Therefore, in February 2017, the members of our Council filed class action lawsuits in Hiroshima and Nagasaki representing 2nd-generation A-bomb survivors so that they could be momenta of the legislative measures taken by the Japanese government to support all 2nd-generation A-bomb survivors. Second-generation A-bomb survivors have already grown old enough to be liable to cancer, which makes them feel all the more uneasy about their health. These support measures are urgent to protect their human rights.
29. The Japanese government should take support measures for 2nd-generation A-bomb survivors as soon as possible. It should extend the Atomic Bomb Survivors' Relief Law to them with immediacy, which we expect to lead to the achievement of state compensation.

V. The Japanese government should accept the recommendations made at the 28th session of the Universal Periodic Review (UPR)

30. Our Council provided the same information as mentioned above to the 28th session held by the Working Group on the Universal Periodic Review in the UN Human Rights Council from 6 to 17 November 2017. The review of Japan was held at the 13th meeting on 14 November. As a result, at its 17th meeting held on 16 November, the Working Group adopted the report on Japan, in which the

following recommendations concerning the issues of 2nd-generation A-bomb survivors were included.

161.143 Consider amplifying the application of the Relief Act for the Victims of the Atomic Bomb to the second generation of the survivors of atomic bombs, particularly in health issues. (Costa Rica)

161.217 Guarantee access to health services for those affected by the Fukushima nuclear accident, as well as for the generations of survivors of the use of nuclear weapons. (Mexico)

31. Afterward, our Council requested that the Japanese government accept those recommendations. However, the Japanese government submitted “Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review” in reply to “Report of the Working Group on the Universal Periodic Review” to the 37th UN Human Rights Council on 1 March 2018. It responded “not accept” to the recommendations concerning the issues of 2nd-generation A-bomb survivors as follows. The Japanese government should support and accept the recommendations.

161.143 Not accept

As no scientific knowledge of hereditary influencing caused by radiation to the second generation of the survivors of atomic bombs has been obtained to date, Japan does not consider amplifying the application of the Relief Act for the Victims of the Atomic Bomb to the second generation of the survivors of atomic bombs.

161.217 Accept to follow up

Japan guarantees access to health services for everyone by the health insurance system and provides additional supports to victims of the Atomic Bombs in Hiroshima and Nagasaki under the Relief Act for the Victims of the Atomic Bomb. (As no scientific knowledge of hereditary influencing caused by the radiation to the second generation of the survivors of atomic bombs has been obtained, Japan does not consider providing supports by the Relief Act for the Victims of the Atomic Bomb to the second generation of the survivors of atomic bombs.)

VI. Conclusion

32. The Japanese government does not observe the international covenants on human rights such as the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) that guarantee the right to health though Japan has ratified them. It does not observe our own Constitution of Japan that guarantees fundamental human rights. These attitudes of Japan cannot be internationally accepted as one of the joint countries of the ICESCR and the ICCPR, and as a member of the Human Rights Council of the United Nations. We request the Japanese government to take immediate action in support measures for the human rights of the second-generation. We expect the UN Human Rights Council to investigate the situations of the 2nd-generation A-bomb survivors' human rights predicament and to advise the Japanese government accordingly, that is, for it to assume the responsibilities they are obliged to act upon.

33. It is relevant to the issues of not only 2nd-generation A-bomb survivors in Japan but also those in the world, what support measures the Japanese government will take for 2nd-generation A-bomb survivors, whether the government will take measures to guarantee their human rights, and whether nuclear victims including 2nd-generation A-bomb survivors and future generations will be regarded as eligible for “victim assistance” mentioned in Article 6 of the Treaty on the Prohibition of Nuclear Weapons. Also, they are extremely important international human rights issues which can lead to guaranteeing the human rights of next- and future-generation nuclear victims.

34. One of the most serious aspects of the human rights violation by nuclear damage is the radiation effects on the future generations. We are confident that a common understanding of this aspect will lead the international community to realize a nuclear-free world so that no more people will become radiation victims. We, 2nd-generation A-bomb survivors in Japan, think it our mission and duty to continue to

appeal to the international community the problem of serious human rights violation of future generations caused by radiation exposure of A-bombings.