

## Government Loses in Supreme Court but Refuses to Revamp Criteria for Minamata Disease

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I am one of the younger Minamata Disease victim supporters. But even in my 15-year involvement, many people have died. As you can see, I am in casual clothes, but even I who do not like formal dress own a black suit because of the funerals I must attend. This is just not for Minamata victims but for their supporters and lawyers. The long court battles have literally been fought with people's lives.

The fight is taking place on an unfairly matched battleground, between those who can be replaced by others when their terms end, and those who cannot flee their plight. Therefore, even more so, the defendants who are responsible for this plight must shoulder responsibility for statements made by their predecessors.

Let me explain concretely. When the Osaka High Court verdict ruled that the government was responsible for compensating Minamata victims in the Kansai Lawsuit, then Environment Minister Kawaguchi stated the government's reason for appealing the case. She said the reason was that the verdict diverged from the established medical opinion upon which the government based its judgment of Minamata Disease. In other words she was aware of the fact that if the Kansai Lawsuit victims' right to obtain compensation from the national government were legally recognized, then it was inevitable that the government's current criteria, the guidelines for certifying Minamata Disease victims, must be reconsidered. *That* is why the government appealed the High Court decision.

But now that the government lost its appeal in the Supreme Court in 2004, what is it saying? It is saying that the text of the Supreme Court verdict does not *directly* negate the government guidelines." In other words, although the established medical opinion upon which the government bases its judgment of Minamata Disease was negated by the Supreme Court, the government is saying the verdict does not *directly* state that the government's guidelines are wrong. This is like a toddler saying, "Mommy told me to be a good boy but she didn't tell me that I can't go break the flower vase."

What had the government been consistently saying? It had been saying that government compensation cannot be obtained unless it can be proven with a high degree of certainty that damages have been caused as result of willful or negligent conduct by public officials, and that this requirement is a higher hurdle, a more severe requirement, than the requirement of 50% or more probability of having Minamata Disease requirement under the Law concerning Compensation and Prevention of Pollution-related Health Damage which has as its purpose the "timely and fair protection of victims." In other words, what the government has been saying all along is that those who are rejected under this law cannot be candidates for receiving compensation from the national government because this requires higher, more severe legal requirements.

What does it mean then, now that it has been legally recognized that the plaintiffs of the Kansai lawsuit whose applications for Minamata Disease certification had been rejected by the government meet the requirements for being compensated by the national government? The bureaucrats of the national government know full well what this means. They are now on the run because they know that they have lost by the very ground rules they themselves had set down.

The Japanese government is saying people like the Kansai Lawsuit victims might have methyl mercury poisoning but they don't have Minamata Disease under the official government guidelines. Right after the Supreme Court verdict, when the Ministry of Environment was asked during negotiations with victims, supporters what then was the difference between Minamata disease and methyl mercury poisoning, the government's answer was like a Zen koan. Whatever it is, evidently for Ministry of Environment officials there is supposed to be a difference between the two.

However, we know. Not only we, but also everyone who is involved with the Minamata Disease case knows. Everyone knows that this illness, which is methyl mercury poisoning, is a heavy illness that warrants compensation of 16 million yen. But for government authorities who do not want to pay this compensation even if they know the victims have methyl mercury poisoning, they say people do not have Minamata Disease. That is what the government officials do not admit. Instead they say that government guidelines are based on medical science — even though this very medical opinion they depend upon has now been rejected by the Supreme Court.

Domestic violence is going on. It is being perpetrated by the Japanese government upon the victims of Minamata Disease. Outside, internationally toward other countries, the "head of the household," the Ministry of Environment, is wearing a respectable face, but inside within Japan it continues to beat up on those within its household.

The judiciary has now made its statement, its demand, and this means that even if victims have not been certified under the pollution relief law, they should receive compensation from the national government.

[Minor adaptations to the text were made for this printed version.]