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Minamata: The Irresponsibility of the Japanese State

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On 14 October 2004, a suit filed by 45 plaintiffs against the Japanese state and Kumamoto prefecture was successful in the Supreme Court in Osaka. The case concerned the mass poisoning almost half a century ago of residents of the town of Minamata in Western Japan, when mercury contained in effluent from the Chisso Corporation's factory contaminated the Shiranui Sea and then accumulated in the bodies of those who ate its fish and shellfish. The Supreme Court found the national and prefectural government authorities responsible for administrative malfeasance. The status of the plaintiffs as Minamata sufferers, till then persistently denied by the authorities, was upheld, and compensation was ordered. This was an action launched in 1982, preceded by a long and anguished course on the path of the plaintiffs, and in the twenty-two years that has passed since the suit was launched twenty-three of the fifty-nine died (the bereaved families of fifteen of them persisting in the action), and the average age of the survivors came to be over seventy. The authorities, responsible for protecting the rights and health of the people, had caused these citizens continuous pain by denying them their just rights.

Minamata is a disease of the nervous system, first noted in 1953, affecting those who had eaten fish or shellfish contaminated with organic mercury from a factory in Minamata City. In 1965, a so-called "Second Minamata" disease epidemic broke out in the Agano River region in Niigata Prefecture and the two were recognized by the Ministry of Health and Welfare in September 1968 as pollution diseases caused by the organic mercury in the effluent from Chisso Corporation in Minamata and Showa Denko in Niigata. To date 2,955 people (including 690 in Niigata and 490 in Kagoshima), have been recognized as victims of mercury poisoning, making them eligible for a variety of health benefits, but 16,289 people were refused recognition. In Kumamoto, those denied such recognition launched a suit for recognition and compensation in 1969 and subsequently many others joined them. There is still no consensus on what it is exactly that constitutes Minamata Disease. The criteria for recognition as a sufferer, fixed in 1977, remain strict and many victims remain officially unrecognized.

In 1979, the president and executives of Chisso Corporation were found guilty on criminal charges. That judgment was upheld by the Supreme Court in 1988. From 1980, thoroughly fed up at the official lack of response the unrecognized disease sufferers turned to legal proceedings against the national and prefectural governments. Japan is notorious for its plodding judicial procedures, but even in Japan the slowness of these proceedings has been exceptional, and judgments against the authorities were regularly appealed in the effort to evade responsibility.

In 1990, the courts one after another urged conciliation. After such a recommendation from a Tokyo court, the head of the Environment Agency, Kitakawa Ishimatsu, visiting Minamata, referred in this way to the rigidity of the administration:

"When a young sufferer in the Minamata Hospital grabbed me by the shirtfront, I was overwhelmed with pity at what had happened to him, just by eating fish. I have constantly called for conciliation and for something to be done, but I faced massive resistance from the bureaucracy. The head of the project liaison bureau was even driven to commit suicide."

In 1995, the cabinet of Murayama Tomiichi published a "final proposal," indicating a readiness to pay each and every victim 2.6 million yen (approx. US$23,000) plus medical expenses, provided all legal claims were withdrawn. About 10,000 accepted, and legal proceedings were withdrawn in seven different courts. However, the plaintiffs in the present action persisted, demanding recognition and insisting on the responsibility of the authorities. They found it intolerable that the state could escape its responsibility by just paying a paltry sum of money while refusing to accept its own responsibility for failure to curb the pollution decades after its source was discovered, and to recognize the sufferers as Minamata victims.

In December 1999, the National Minamata Disease Research Centre issued its Minamata Disease report. Miyazawa Nobuo, a journalist who had long been involved in Minamata victim support activities, issued this sharp comment on it:

"Basically the matter is very simple. People who ate the fish and shellfish of Minamata bay polluted by Minamata factory effluent got sick. The facts of 'contamination caused by effluent' and 'sickness caused by eating fish' were pretty much clear just six months after Minamata Disease was declared and measures should have been taken to deal with the problem there and then. Furthermore, by the spring of 1957 cause and effect were clear beyond doubt and measures to stop the disease spread were proposed. Had they been adopted, it could have been ended within a year. What complicated and prolonged the proceedings was simply that at every twist and turn thereafter all parties other than the victims made excuses and did whatever they could to avoid doing what they needed to do. In other words, Minamata is a disease that was willfully inflicted. It cannot be understood save in the context of these bureaucratic responses."

That his assessment hit the nail on the head is plain from the chronology of responses at the official national, prefectural, and business level during the decades that followed the Minamata outbreak.

From December 1953, case after case began to be reported from Minamata City, the company town overlooking the Shiranui (also called Yatsushiro) Bay, of people complaining of sensory disorder, such as numbness or loss of feeling in the arms or legs, inability to coordinate fingers, legs, hands, narrowing of the visual field, and stabbing pains in various parts of their body. Symptoms were more pronounced in the case of those who had eaten lots of fish and shellfish.

In January 1957, Minamata fishermen, putting together the increasing numbers of deformed fish with the outbreak of the "strange disease," suspected the effluent and asked the company to stop its emissions. While the Minamata health department was investigating it as an unexplained illness, 17 of the 54 sufferers had already died.

In February, a Kumamoto University research team warned that fishing should be banned. In March, the first report of Kumamoto prefecture's Liaison Committee on Measures to Address the Strange Illness, held that the illness should be treated as something "unconnected with the factory." At the end of March, the scientific report of the Ministry of Health and Welfare referred to the effluent from the plant as suspect, and in July Kumamoto prefecture decided to apply health regulations to local marine products, but it made no public announcement.

More than a year passed before it took the step, in August 1958, of issuing a directive recommending that fishing be suspended in

Minamata Bay. In September of the following year, Chisso altered its system so that it began discharging its effluent into the Minamata River. Mercury contamination thereafter spread from Minamata City to the whole of the Shiranui Sea, and casualties grew.

In July 1959, a research group at Kumamoto University announced its view that symptoms of Minamata disease were caused by mercury poisoning and attention focused on mercury contained in the effluent from the Chisso factory. When doctors at Chisso conducted the experiment of giving cats effluent to drink, the cats developed the same symptoms as sufferers from the "strange disease" and died. Chisso did not make this outcome public.

In November of the same year, an advisory body to the Ministry of Health and Welfare found that "the cause of the disease is organic mercury poisoning." Though fully understanding the grave risk to the life and health of residents, the Ministry, far from forbidding the catch or sale of fish in the contaminated area, actually dissolved the advisory sub-committee.

Following the launch of a large-scale movement of opposition by fishermen against effluent from a paper factory in Urayasu in Chiba prefecture, two laws were passed in January 1960 designed to protect the life and health of residents: one for the maintenance of water quality and the other for the restriction of factory effluent. The Factory Emissions Regulation Law established contamination limits on the emission of fluids into public waters, and empowered the Minister of International Trade and Industry (MITI) to require necessary steps, such as improvement in water treatment methods and facilities, or to order temporary suspension of works, in order to maintain regional water quality. However, it was 1969 before the national government began to apply this law to Minamata Bay. By then, organic mercury generating operations had ceased and effluent was no longer being emitted from the factory.

Minamata disease was above all a disease of the spirit to which Japan succumbed as growth, money, material wealth come to be valued above the natural environment or humanity. Forgetting the basic principle that the purpose of economic activity is so that human society might flourish, MITI and the Economic Planning Agency decided that, even if a few people were to fall ill or die from mercury poisoning, corporations should be protected. The authorities in Minamata and some residents seemed to think that, even if a minority of people from the town had to be sacrificed to the disease, Chisso Corporation should be protected as the major employer in the town. The actions of the Ministry of Health and Welfare, that was supposed to protect the health and wellbeing of the people, and of the Environment Ministry, whose supposed rationale was the preservation of nature, including not only humans, cats and dogs, but fish and shellfish, birds, and all creatures, was inexplicable to ordinary citizens. Why, as soon as doubts were raised about the industrial effluent, did they not take steps to stop it? Why, sorry for not having warned people at an early stage and having failed to prevent more people from being infected, did they not make sincere efforts to help people? While they resorted to the excuse that there was nothing an individual official could do about it, the disease became rampant and enormous suffering and death was caused.

An editorial in the Asahi shimbun ("The state found guilty of neglect of its duty," 16 October 2004) sums up the situation:

"The spread of Minamata disease was due to the authorities of the national and prefectural (Kumamoto) governments folding their arms and ignoring it. Such was the judgment of the Supreme Court, which ordered the two governments to pay compensation. By holding that it was 'official negligence' that had failed to put a stop to the release of effluent from Chisso chemical company's plant, the judgment brought legal closure to the debate over responsibility that had continued for almost half a century ...

"The Supreme Court criticized the response to the disease on the part of MITI, Ministry of Health and Welfare, Ministry of Agriculture, Ministry of Fisheries, and Economic Planning Agency during the late 1950s when Minamata disease became a problem. It was especially severe in its denunciations of MITI. That ministry put pressure on the Ministry of Health and Welfare, saying 'You must not find Chisso effluent to be the cause of the disease,' and it was blind to the fact that the water treatment system belatedly and grudgingly installed by Chisso Corporation was a sham that did not eliminate mercury.

"Although the Kumamoto prefectural government was supposed to be close to the local residents, the judgment was also critical of its passivity. As the people of Minamata see it, this has been a half-century of constantly appealing to and constantly being given the cold shoulder by national and local governments. If they appealed to the local health department or city hall, they were treated like carriers of an infectious disease and forced to live their lives cringing before public opinion. If they went in a group to protest against Chisso they were blocked by riot police and arrested. If they went up to Tokyo to call on the various ministries, nobody would meet them. When we pay taxes, do we not think that it is because, when it comes down to it, public organs will protect our lives and health? We cannot help thinking that public officials who saw the suffering of people whose bodies were wracked by mercury but did nothing for them were lacking in any sense of responsibility.

"Hansen disease sufferers were held long in isolation for no reason and, although officials knew the dangers of AIDS being contracted from contaminated blood products, they did nothing about it. Such a system of government is not unrelated to Minamata disease. Such cases clearly demonstrate that the crime of administrative malfeasance must not be tolerated.

"This present judgment has an additional meaning. It recognized as Minamata disease sufferers those who had failed to gain certification under the criteria set by the Environment Agency. There are still many who are applying for certification. The Environment Ministry must revise its criteria, which it has kept without change since 1977.Thi"It is 48 years since Minamata disease was first noticed, and 36 years since Chisso stopped its discharges. A treatment has yet to be found for Minamata disease. Those who contracted the disease in the womb before they were born are now in their mid-forties. The suffering of victims continues.

"Ours is a time when above all health and safety are at issue. The weight of this judgment on the authorities is likely to grow heavier and heavier."

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