

Japan: “Court cases involving nuclear plants were hard to judge”

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Former judges say court cases involving nuclear plants were hard to judge

Cases involving nuclear power plants were difficult to judge, according to former judges interviewed by the Mainichi.

Amid the current spate of lawsuits seeking shut downs of nuclear power plants after the disaster at the Fukushima No. 1 Nuclear Power Plant, the Mainichi interviewed 10 former judges who handled past lawsuits that dealt with the safety of nuclear plants.

Almost all the ex-judges talked about how hard it was to treat nuclear energy issues in court, and one judge said that after the Fukushima crisis he now feels he did not take the dangers of nuclear plants seriously enough. In none of the cases did the judges rule in favor of the residents who filed them.

Some judges, however, predicted that after recent events, courts will be more critical of the government and power utilities that operate nuclear power plants.

The 10 former judges were among 36 contacted by the *Mainichi* who were involved with 14 major nuclear-related lawsuits. It is unusual for former judges to reveal their personal thoughts on their past cases.

One of the former judges, Mikio Ohara, was part of an appeal trial of a lawsuit in which plaintiffs sought cancellation of the construction permit for the No. 1 reactor of the Fukushima No. 2 Nuclear Power Plant. He said, “We had no science experts there. Reaching a ruling was difficult.” The final ruling against the plaintiffs was confirmed in 1992.

Former judge Sueo Kito participated in an appeal trial for a lawsuit in which plaintiffs sought a shut down of the No. 3 reactor at the Fukushima No. 2 nuclear plant, said, “Shutting down a nuclear plant brings a huge cost on the operator, so we can’t order a shut down lightly. Amidst societal and political demand to promote nuclear power, it was not easy for courts to make decisions that would get in the way of that.”

On recent criticism that courts affirmed the safety of nuclear plants until now, a former judge who was involved in an appeal trial for a lawsuit in which plaintiffs sought a halt to construction of the No. 1 reactor at the Shika Nuclear Power Plant in Ishikawa Prefecture said on condition of anonymity, “I made the decision (to dismiss the plaintiffs’ claim) based on the law and the evidence. I didn’t do it based on personal views or political opinions.”

The criticism against the courts’ past rulings “is based on political views and ignorance about the litigation system, and is just an unreasonable attempt to pin blame for results without considering what led to them,” he said.

Hiroshi Kaiho, a lawyer who previously was a judge in the trial of a lawsuit against the Takahama Nuclear Power Plant in Fukui Prefecture, said, "In the face of the ongoing nuclear disaster, I feel I did not take the dangers of nuclear power seriously enough."

A former Supreme Court judge who was involved in the appeal hearings for two nuclear plant-related lawsuits said on condition of anonymity, "Such a difficult issue as nuclear power should be put through a debate that the public will be satisfied with in the Diet and during administrative procedures (before it is brought to court)."

The five other former judges also talked about the difficulty of dealing with the issue in the courtroom and expressed discontent with criticism against the past nuclear plant-related rulings after the Fukushima nuclear disaster.

One lawsuit in 1992 brought a somewhat favorable result for the plaintiffs. In trying a lawsuit seeking revocation of the construction permit for the Ikata nuclear plant's No. 1 reactor in Ehime Prefecture, the Supreme Court set a precedent by ruling that the construction permit for the nuclear plant could be declared illegal if a major error in the screening phase emerged.

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