

**UN Special Rapporteur on the right of everyone to the enjoyment of the highest
attainable standard of physical and mental health
Mr. Anand Grover**

Country Visit to Japan, 15 to 26 November 2012

Press-statement

Tokyo, 26 November 2012

**Members of the press,
Ladies and gentlemen,**

Allow me to begin by warmly thanking the Government for inviting me to Japan and for facilitating a rich and interesting programme of meetings and visits. During my visit, I have met with Government officials, officials of the Tokyo Electric Power Company (TEPCO), medical and legal experts as well as representatives of communities and civil society. I have also visited cities and communities in Fukushima and Miyagi prefectures, which were affected by the tsunami and nuclear power plant accident. Throughout my visit, I have been welcomed with warm hospitality and courtesy. There has been a candid and frank exchange of views with senior Government officials. I am grateful to the Government and relevant ministries for all their efforts in organizing and facilitating my mission. I take this opportunity to thank all those who have given me the benefit of their time and experience.

You will find in this room a short document that explains my responsibilities as the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (the right to health). In brief, I am an independent expert who reports to and advises the UN Human Rights Council and the UN General Assembly on the realization of the right to health. Although appointed by the Human Rights Council, I am not employed by the United Nations and the position I hold is honorary. As an independent expert, I exercise my professional judgment in order to arrive at my conclusions and recommendations.

Today, I would like to confine myself to discussing some of my preliminary observations, which will be explored in more detail in the final report to be presented to the Human Rights Council in June 2013.

Ladies and Gentlemen,

The objective of my mission was to understand, in the spirit of dialogue and co-operation, how Japan endeavours to implement the right to health, the measures taken for its successful realization, and the obstacles encountered. More specifically, I have addressed the realization of the right to health within the context of the Great East Japan Earthquake, including a particular focus on challenges and actions taken in response to the triple disaster, as well as lessons learned and good practices.

At the outset, I offer my condolences to the bereaved families who have lost their loved ones and those who have suffered on account of the tsunami, earthquake and the nuclear accident.

On 11 March 2011, Japan suffered an unprecedented triple disaster when the earthquake, tsunami and the man-made nuclear disaster occurred successively in the Tohoku region in Japan. The triple disasters saw the death of around 18,000 people and injury to thousands of others. I would like to commend the Government of Japan in being proactive in taking a leadership role in responding to the emergency.

I also take note of a number of reports, including those concluded by the Government appointed Investigation Committee on the Accident at Fukushima Nuclear Power Stations of Tokyo Electric Power Company and the Diet appointed Nuclear Accident Independent Investigation Commission (NAIIC). I welcome the vibrant debate on the issue.

It is regrettable to note that neither TEPCO nor the Government informed the local residents of disaster management plans in the event of a potential nuclear accident. In fact, local residents of Futaba city in Fukushima were led to believe by the Safety Agreement signed in 1991 that the TEPCO plant was safe and there would be no occasion for a nuclear accident.

I would like to commend the Government in setting up the Nuclear Regulatory Authority with a view to having an independent scrutiny and monitoring of the nuclear power plants. This addresses one of the fault lines in the earlier regulatory framework, namely the lack of independence and effective monitoring of nuclear power plants and the lack of transparency and accountability of regulatory authorities. This much-needed process has also been recommended by the report of the Nuclear Accident Independent Investigation Commission. It is therefore important that the chair and commissioners of the Nuclear Regulatory Authority are not only independent but are also seen to be independent. In this respect, it is well established to disclose any conflict of interest by potential incumbents. I recommend the Government to adopt such a procedure at the earliest, which will facilitate the building of confidence in the independence of the scrutinizing process.

In the immediate aftermath of nuclear accidents, it is the established procedure to distribute stable iodine to the population in an attempt to block the uptake of radioactive iodine in those exposed to it, thereby reducing the risk of thyroid cancer. I regret to note that the Government neither gave instructions nor distributed stable iodine to the affected population. *Ad-hoc distribution by some prefectural municipalities.*

Any disaster, in particular a man-made disaster like the nuclear accident, puts the credibility of the Government into question. It is therefore crucial that the Government provide accurate information and evacuate people from areas of contamination. However, it is regrettable that radiation dosage information through SPEEDI and the movement of the radioactive plume was not immediately communicated to the public. Moreover, evacuation zones were imposed on the basis of geographical distance from the site of the disaster and the footprint of the radioactive plume, rather than the actual radiation dosage. Initial evacuation zones therefore neglected hot spots. Furthermore, the Government used the threshold level of 20 mSv/year for the designation of evacuation zone. This conveyed the message that effective radiation dose up to 20 mSv/year was safe. It was further aggravated by the Government's release of a number of publications, including school booklets, informing the public that there was no clear evidence of direct risk of cancer if a person was exposed to radiation dose up to 100 mSv/year.

The threshold level of 20 mSv/year is in contrast to the statutory legal limit imposed by the 1972 industrial safety regulation for the nuclear industry. For workers at a nuclear power plant, the maximum limit of exposure (in the controlled area) prescribed by law is 20 mSv/year (not exceeding 50 mSv/year) and a cumulative dose of 100mSv in five years. The law prohibits the entry of ordinary citizens into the controlled area with radiation dose of 1.3 mSv/quarter and further prohibits workers to eat, drink or sleep in that area. It also prohibits pregnant women to be exposed to radiation dose in a controlled area of over 2mSv/year.

I would like to recall that in Chernobyl the threshold limit for obligatory resettlement was 5 mSv/year or above, apart from soil contamination levels. There are also a significant number of epidemiological studies, which indicate that cancer and other diseases could occur in low dose radiation below 100 mSv/year. According to these studies, there is no low threshold limit for the occurrence of diseases.

It is unfortunate that inconsistency between the current limits imposed by policy on the one hand, and the limits prescribed by the industrial safety regulation in Japan, radiation limits used in Chernobyl and the findings in the epidemiological studies, on the other hand, has created confusion among a significant number of the local population, who increasingly doubt Government data and policy. This is further compounded by the fact that radiation monitoring stations do not reflect the varied dosage levels in areas in close proximity. As a result, local residents are carrying out their own monitoring of radiation dosage in their neighbourhoods. During the visit, I was shown ample data indicating the variance. In the circumstances, I would like to urge the Government to incorporate all validated independent data, including those from residents, and make them publicly available.

According to the right to health, the Government should monitor the impact of radiation on people's health in radiation-affected zones through holistic and comprehensive screening and provide appropriate treatment. In this regard, I am pleased to note that the Government has undertaken a health management survey. However, the health management survey is limited to the residents of and visitors to the Fukushima prefecture at the time of the disaster. I would urge the Government to expand health survey to all radiation-affected zones. Pertinently, the response rate to the questionnaire of the Fukushima health survey was only about 23 per cent, which is considerably low. Moreover, health check-ups are limited to thyroid examination for children, comprehensive health check, mental and life-style survey, and pregnancy and birth survey. The scope of the surveys is unfortunately narrow as they draw on the limited lessons from the Chernobyl accident and ignore epidemiological studies that point to cancer as well as other diseases in low-dosage radiation, even in areas of exposure below 100 mSv/year. Following the right to health framework, I would encourage the Government to err on the side of caution and carry out comprehensive studies, which would entail examining and monitoring of internal radiation exposure for a considerable length of time.

I am concerned about reports received from residents whose children underwent thyroid examination and whose results detected the presence of cyst and/or nodules below the threshold size under the protocol. Accordingly, those parents were neither allowed to obtain a second examination, nor given medical papers on demand, in effect denying them the right to access their own medical documentation.

Unfortunately, they are required to undergo a cumbersome freedom of information act procedure.

The Government

We also need to pay special attention to the monitoring of the effects of radiation doses on nuclear plant workers, some of who were exposed to extremely high dosage of radiation. I was distressed to learn that there is a practice of employing a large number of contract workers through a layer of sub-contractors. A significant number of them are employed for short periods of time with no effective long-term monitoring of their health after their employment contracts ^{are} terminated. I call upon the Government to look into this and ensure that no workers, who have been exposed to radiation, are left without monitoring and/or treatment.

I am pleased to note that the Government has made arrangements for the evacuees either through temporary shelters or subsidized accommodation. However, I learnt from residents that emergency evacuation centres did not provide accessible environment for people with disabilities or appropriate conditions for women with young children. It is tragic that evacuation of residents following the nuclear accident has caused painful separations in families, leading to a separation between the husband and the wife with the children, as well as from the elderly. This has led to disharmony, discord, and in some cases even divorce, leading to distress and mental health concerns. The Government should address these important issues urgently.

Radioactive contamination of food is a long-term issue. I commend the Government for reducing the threshold for food safety from 500 BQ/kg to 100 BQ/kg. However, individual prefectures have imposed lower threshold levels. Moreover, residents have raised concerns about the enforcement of the standards. The Government should strengthen the enforcement of food safety in an urgent manner.

I am pleased to note that the Government is carrying out soil decontamination activities with specific policy targets to reduce radiation levels in areas less than 20 mSv/year to 1mSv/year as a long-term goal, as well as in areas from 20 to 50 mSv/year to reduce exposure dose to less than 20 mSv/year by the end of 2013. I also regret to note that there is no fixed timeline to reduce radiation in the area where current radiation level is less than 20 mSv/year to the level of 1 mSv/year. It is also unfortunate that in other areas the decontamination target is much higher than 1 mSv/year. The residents are entitled to live in a safe and healthy environment. I therefore urge the Government to adopt an action plan with clear timelines, indicators and benchmarks for decontamination to reducing radiation levels to 1 mSv/year for other areas. I was pleased to learn that decontamination is to be done by workers who are to be hired specially for this purpose. However, it is regrettable that some decontamination activities are carried out by residents themselves, without proper equipment or information about the harmful effects of radiation exposure.

In the meantime, I encourage the Government to continue and/or restore financial support and subsidies to all evacuees so that they can make a voluntary decision to evacuate or return to their homes, if they wish to do so. This will also help build confidence among evacuees in the Government's plans.

During my visit, a number of people shared with me their apprehension that TEPCO is not being held accountable for its responsibility for the nuclear accident. The Government's majority shareholding in TEPCO has meant that taxpayers may foot the bill, ultimately. The right to health framework provides for accountability of those

actors who are liable for committing actionable wrongs. The Government should therefore ensure that TEPCO is also held accountable and that taxpayers are not foisted with the eventual liability.

During the visit, I have also heard from the affected residents, and particularly from such groups as persons with disabilities, young mothers and pregnant women, children and older persons, that they have had no say in decisions that affect them. The right to health framework requires the State to ensure the participation of all communities in decisions that affect them. This means that the affected people need to be part of the decision-making process as well as of the implementation, monitoring and accountability processes. Participation would not only inform the decisions holistically but also build the confidence of the affected community in the Government, facilitate the implementation of those decisions and improve monitoring and accountability. This is also necessary in restoring normalcy after the disaster in an effective manner.

I urge the Government to ensure that the affected people, particularly the vulnerable groups, are fully involved in all decision-making processes. This should include their participation, among others, in the formulation of health management surveys, designing of evacuation shelters and implementation of decontamination.

In this respect, I welcome the enactment of the Act on the Protection and Support for the Children and other Victims of TEPCO Disaster in June 2012, which provides for a framework for support and care to the people who were affected by the nuclear accident. The Act has not been implemented yet. I urge the Government to take urgent measures to implement the Act. It is a good opportunity for the Government to frame the basic policy and subordinate regulations with the full participation of the affected communities, including vulnerable groups.

I welcome your questions, Ladies and Gentlemen.

Thank you.

