

HUMAN RIGHTS SITUATION AFTER THE GREAT EAST JAPAN EARTHQUAKE AND NUCLEAR POWER PLANT ACCIDENT IN JAPAN

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I. INTRODUCTION

On 11 March 2011, the earthquake and tsunami, which occurred in Eastern Japan, caused tremendous damage and resulted in numerous deaths. Many victims who lost their land and houses have become evacuees and have been staying in temporary housing.

Moreover, due to radioactive contamination resulting from Tokyo Electric Power Company (TEPCO)'s Fukushima Daiichi nuclear power plant disaster, the health and daily life of a large number of people who live in the nuclear plant's surrounding areas are being subject to considerable risk. To date, living condition of affected people is very serious and insecure, and fundamental human rights of affected people are not fully guaranteed.

Human Rights Now (HRN), a Tokyo based international human rights NGO established in 2006, has been working on grave human rights situations in the world with a special focus in Asia by means of fact finding, reporting, policy proposal and advocacy,¹ and it recognized that the gravity of human rights situation after the disaster in Japan deserved the involvement of human rights NGOs. Thus HRN started activities, such as fact finding in the affected area, reporting, policy proposal and advocacy to the national and local government. In this article, I would like to describe the current human rights situation caused by the natural and nuclear disaster which I observed through the activity of HRN and our recommendations.

II. INTERNATIONAL STANDARD AND PRACTICE IN JAPAN

Overall coordination of disaster relief and recovery after the Earthquake lacks the sense of protection of fundamental human rights for the affected people.

There are international norms and standards to guarantee the human rights of people af-

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¹ See the Human Rights Now homepage for details of activities (<http://hrn.or.jp/eng/>).

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ected by natural disaster² as well as for the special protection of most vulnerable people such as women, elderly and children.³

In my understanding, there are four principles of the protection of human rights after natural disaster, as follows.

1. The victims of natural disaster or Internally Displaced People (IDP) shall be guaranteed all protection of human rights under both international and national law without any discrimination based on their status. The international law includes the International Covenant on Economic, Social and Cultural Rights (ICESCR), which guarantees the right to health, food and safe drinking water and the right to adequate housing. National law includes Article 25 of the Japanese Constitution, which guarantees the right to live with the minimum standard of life with health and dignity.
2. The victims of natural disaster or IDPs shall be provided special assistance to fulfill their fundamental human rights and special protection based on their vulnerability as IDPs or victims of natural disaster.
3. The principle of non-discrimination in terms of treatment for the IDPs or affected people.
4. Among the IDPs or affected people, most vulnerable people, such as women, disabled people, elderly and children shall be provided special protection and treatment based on their specific vulnerability.

However, with little involvement of international relief agencies, such norms and standards have not been effectively implemented in the affected area in Japan after the earthquake.

III. ACTUAL SITUATION OF AFFECTED PEOPLE AFTER THE EARTHQUAKE

In general, the living condition of people affected by the natural disaster in Japan is very poor and insecure.

In the wake of the Earthquake, the government provided significant numbers of evacuation centers. However, entire treatments are below the level expected in accordance with the ICESCR. Most of the evacuation centers were set up at school gymnasiums, and spaces just enough to sleep were allocated to the evacuees without measures to protect their privacy.

The food provided basically consists of cold bread and rice balls, and it is not nutritious at all.

The lack of adequate health services has resulted in a significant number of "disaster-

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- 2 UN Guiding Principles on Internal Displacement (<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G98/104/93/PDF/G9810493.pdf?OpenElement>)
 - 3 See IASC OPERATIONAL GUIDELINES ON THE PROTECTION OF PERSONS IN SITUATIONS OF NATURAL DISASTER (<http://ochanet.unocha.org/p/Documents/Operational%20Guidelines.pdf>).

related deaths" as an indirect result of the Earthquake and the evacuation. The number of "disaster-related deaths" surpassed 1,300 instances in three prefectures,⁴ higher than that of the Hanshin Earthquake in 1995. The number of suicides caused by the Earthquake from June to November of 2011 reached 49,⁵ and as of the end of 2011 a total of 573 deaths were recognized as resulting from indirect effects of the disaster in 13 municipalities in Fukushima Prefecture.⁶ Moreover, solitary deaths in temporary housings amounted to six in Iwate Prefecture (February 1, 2011), eight in Miyagi (end of December 2011), and four in Fukushima (January 27, 2012).⁷

Moreover, it was not until the summer of 2011 that the evacuees were able to move to temporary housing.

IV. PROTECTION OF VULNERABLE PEOPLE

The government failed to give due consideration to the various needs of residents, especially vulnerable children, women, people with disabilities and the elderly.

The condition of evacuation center was severe for persons with disability. Most people with disabilities hesitated to enter into evacuation centers out of fear of discrimination, harassment, and severe conditions without special protection. Although many chose to stay at their own houses due to the lack of shelters designed for people with disabilities, the government has not provided support measures for those staying in their houses.

With respect to the protection of women, in March 2011, the government issued a notice to all institutions concerned, calling on gender sensitive operation of evacuation centres. Specifically, the notice stated that 1) Women's specific needs are to be respected, 2) Measures to protect the right to privacy of women, such as setting up of partitions, are to be taken, 3) counseling service for women shall be provided, and 4) women's participation in the decision making process shall be ensured. Despite such notice, none of the issues was sufficiently implemented on the ground and affected women faced enormous difficulties.

V. HUMAN RIGHTS CONDITIONS IN TEMPORARY SHELTERS

During the summer and fall in 2011, the evacuees moved from evacuation centres to

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- 4 Asahi Shimbun Digital, "'Disaster-related Death' Exceeds 1300 in 3 Prefectures", 27 February 2012 (<http://www.asahi.com/national/update/0227/TKY201202270461.html>). See also Asahi Shimbun Digital, "Disasters Take Heavy toll on Nursing Home Residents" 20 July 2011 (<http://www.asahi.com/english/TKY201107190358.html>).
 - 5 Cabinet Office, Government of Japan, The Number of Suicides in Relation to The Great East Japan Earthquake, 22 December 2011 (http://www.esri.go.jp/jp/archive/jisatsu/monthly/2011nov/h2311_s10_1.pdf).
 - 6 Yomiuri Shimbun, "573 Deaths Related to Nuclear Crisis" 5 February 2012 (<http://www.yomiuri.co.jp/dy/national/T120204003191.htm>).
 - 7 Asahi Shimbun, February 9, 2012, Morning edition, p.1.

temporary shelters.

However, the government terminated food, transportation and medical services for evacuees who moved to temporary shelters. Thus, most dependant and vulnerable evacuees were hesitant to move to shelters, and had no choice but to stay in evacuation centres longer than others.

The condition of the temporary shelters is poor, some located in mountainous areas or even in designated hazardous risk areas.

For instance, at least three temporary shelters in Kesenuma City in Miyagi have been built in the area on the hazard map. Another temporary shelter in the same city accommodates 56 households including 36 single households, many of which are single elderly. The local government does not provide any food service, transportation to the city or hospital, or free medical check.

The housing was not equipped for winter and the government did not provide sufficient measures to prepare for a cold winter season.

Since there are significant numbers of poorly equipped shelters in mountain area without sufficient support from the municipal government, people suffer from difficulties to survive under harsh conditions.

Residents are allowed to live in the temporary housing for two years, but the government has not informed the residents about their prospects for housing afterward.

VI. RIGHT TO HEALTH OF THE PEOPLE AFFECTED BY THE NUCLEAR ACCIDENT

1. The most serious problem is the effect of radioactive contamination caused by the nuclear power plant accident. It has been estimated that the amount of radioactive contamination released from TEPCO's Fukushima Daiichi power plant is over 168 times that released by the atomic bomb in Hiroshima,⁸ and this creates serious health risks to the population, in particular expecting mothers, infants, children and the young who are most vulnerable to radiation. The measures taken by the government, such as designation of the evacuation zone, support for evacuation, disclosure of information, risk education, medical care and health checks are all inadequate and as a result, serious violations of economic and social rights are caused.
2. Many citizens in Fukushima still live in highly contaminated areas, because the government limited the evacuation zones very narrowly,⁹ based on a 20mSv per year exposure standard, which is indeed 20 times greater than the previous regulation based on the international standard to protect citizens from radioactive hazards.

The government is using the 20mSv per year standard to designate areas where evacuation is recommended. For areas and spots that may become subject to higher radiation levels than this standard, the government undertakes measures for

evacuations. Such designated areas or spots are highly limited. In such an area, without sufficient financial support for evacuation from the government, many people who cannot afford to relocate have no choice but to stay in the contaminated area even though they may be exposed to health risks. Some families including children, babies, and expecting mothers decided to evacuate on their own without government support, but they are not the majority.

Outside the designated area of 20mSv, the government recognizes the area as safe and thus provides little measure to protect people from radioactive hazards. The areas that have not been designated as evacuation areas are very wide with large population, including the central part of Fukushima Prefecture. The government does not support evacuation, and it fails to provide free medical check, medical care and clean food from outside. In such areas, some households with expecting mothers, infants and children have independently decided to evacuate, but there has been little public financial support for such evacuees from the government. As for the residents who do not have the financial means to relocate, to the extent that the government does not provide sufficient compensation to evacuate, they are left with no other choice but to remain in contaminated areas even though they may be exposed to health risks. In March 2011, TEPCO declared that the standard of compensation for children and pregnant women who had evacuated would be 600,000 yen. Meanwhile, children and pregnant women staying in the contaminated area without evacuation would receive a compensation amount of 400,000 yen, and others, regardless of their evacuation status, would receive only 80,000 yen. These amounts are not sufficient as in most cases they do not reach the amount of money the evacuees actually paid for the evacuation.

3. Pregnant women and mothers are the people who are most seriously affected by the situation. However, women's voices are not given due regard in the decision making process. Further, the government failed to conduct proper guidance regarding the risk of radiation. Instead, there is a strong campaign surrounding Fukushima, emphasizing the safety and downplaying the harm of low level radiation such as, "no immediate harm", "no evidence of physical harm under 100mSv per year", "Do not be so nervous, stress will be most harmful to children". People who are concerned by the situation become the minority, isolated, and virtually forced to be silent. Without proper guidance, the children in Fukushima play outside without any protective measures.
4. After the Chernobyl nuclear disaster, the former Soviet Union and successor states designated the contaminated areas with a radiation dose in excess of 5mSv per year as evacuation areas, and in areas where the radiation dose exceeded 1mSv per year, recognized the right of the residents to compensation and support for relocation. Also, within the zone with radiation between 1mSv and 5mSv per year, the government assisted the life of people who decided to stay in the zone by providing clean food supplies, periodic health check and free medical care. Although Japan is recognized as a liberal democratic country with sensitivity to human rights, it was obvious that the protective measures taken by the Soviet Union and successor states for the people affected by the Chernobyl disaster over 20 years ago were much better than

⁸ <http://sankei.jp.msn.com/science/news/110826/scn11082619220001-n1.html>

⁹ For the map of the designation see, Government of Japan, Deliberate Evacuation Areas and Specific Recommended for Evacuation, 2011 (obtainable at http://www.meti.go.jp/english/earthquake/nuclear/roadmap/pdf/evacuation_map_b.pdf).

the measures taken by the Japanese government for the people affected by the Fukushima accident.

5. In this regard, HRN published an opinion paper, urging the government to take immediate measures to protect the health and restore the living environment of the residents living in areas where the radiation dose exceeds 1mSv per year (excluding background radiation) in accordance with international standards and the standards applicable to the contaminated zones following the Chernobyl nuclear disaster.¹⁰

Specifically, HRN proposed to the government that:

- a) the right to compensation as well as sufficient support for relocation must be provided to people living in contaminated areas exceeding 1 mSv per year so that affected people can evacuate;
- b) the affected people must be provided long term medical care as well as clean food;
- c) the levels of contamination must be strictly monitored and disclosed to citizens in a timely manner; and
- d) the government should provide proper guidance and education of low level radiation risk based on the 1mSv per year standard.

VII. THE ACTIVITY OF CIVIL SOCIETY

In order to make a difference in the ongoing situation, HRN conducts various fact finding missions in the area affected by the Earthquake, Tsunami and Nuclear accident, and publishes a report of the human rights situation of affected people on their behalf. We believe that this kind of activity, casting light to the unknown human rights situation of most disadvantaged people, is quite important since the mainstream media does not necessarily focus on the situation of marginalized people. Based on the findings, HRN proposes specific recommendations to the national and local government. Although the progress is slow and little, the advocacy efforts of HRN and other civil society actors have made a substantial difference for the treatment of the affected people. However, the gap between the expected human rights protection and reality is still serious.

Besides the domestic advocacy, HRN conducts international advocacy. In June 2011, HRN, together with other civil society groups, sent a joint letter to the United Nations (UN), calling for the relevant UN special rapporteurs to conduct a joint fact finding mission to Japan. In response, the UN special rapporteur on the right to health announced to visit Japan in November 2012.

On the occasion of the 56th Session of the Commission on the Status of Women (CSW),

¹⁰ Human Rights Now, Opinion on the Measures to be Taken by Japan and Tokyo Electric Power Company to Address the Destruction of Health, Environment and Life Caused by the Fukushima Daiichi Nuclear Power Plant Disaster, 2011 (obtainable at http://hrn.or.jp/eng/activity/20110912_ikensho.pdf).

held in the UN headquarters in March 2012, HRN organized a parallel event titled "Situation of Rural Women affected by the Great Japan Earthquake and Nuclear Power Plant Accident" together with the Japan Federation of Bar Associations (JFBA). In the event, HRN presented the current situation in Japan and Ms. Kate Burns from the UN Office for the Coordination of Humanitarian Affairs (OCHA) explained the international standard regarding protection of affected women and OCHA's effort in disaster hit areas in the world. Most notably, the event invited two mothers and three children from Fukushima, and they expressed how the nuclear power plant accident seriously affected their lives and made an urgent appeal for the protection of women, children and future generations. The children expressed their wish to maintain their health and their hopes for the future. The mothers and children's remarks were widely covered by both international and Japanese media. It was very important that the affected women and children who have had little chance to be heard publicly expressed their grave concerns and hopes for the future.

In the 56th CSW, Japan for the first time in the history of CSW proposed a draft resolution titled "Gender Equality and the Empowerment of Women in Natural Disasters" and the resolution was unanimously adopted.¹¹ The resolution mentions protection of women after natural disaster and importance of participation in the decision making of post recovery process. This development is welcomed as a reflection of civil society's active campaign after the Earthquake. Although the text in the resolution is far from the reality in Japan, I hope the resolution can be a vehicle to make a difference in women's status after the natural disaster in Japan and in other disaster hit areas. However, it was very regrettable that the resolution has no word of nuclear power plant accident. Japan should be in a position to take all necessary measures to protect the affected people and to propose an effective resolution on the prevention of radioactive hazards and the protection of people including women from such hazards.

This is not an isolated situation in Japan but a universal problem in the current world. This kind of nuclear disaster could happen again as long as we have nuclear power plants and nuclear weapons. Also, how to address the nuclear hazard is a critical issue since it is a threat to the right to health and reproductive health of women.

I would like to ask the international community to closely monitor the situation in Fukushima and make sufficient recommendations to protect the people, as well as to establish binding standards and norms to protect women, girls and future generations from radioactive hazards, and to decide to eliminate such risk as a whole.

The accident is a very painful lesson in Japan but it should be a meaningful lesson for the world to ensure a safer and better future for the next generation.

¹¹ http://www.un.org/womenwatch/daw/csw/csw56/resolutions_advance_versions/Natural-disasters-CSW56-res-advance.pdf