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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[03 June 2020]

*Issued as received, in the language(s) of submission only.

The Government of Japan Must Address Alleged Labor Rights Violations and Problems of the Grievance Mechanism for Tokyo Olympic Construction Workers

Human Rights Now (HRN), a Tokyo-based human rights NGO, expresses serious concern about possible labor rights violations and poor working conditions among construction workers at construction sites for venues of the Tokyo Olympics and the difficulties workers have faced to report violations due to problems with the available grievance mechanisms for the sites and other problems. These problems undermine workers' rights to access to justice, have their complaints heard, and receive an effective remedy if violations are identified. HRN calls on relevant authorities to reform the grievance mechanism and to investigate and address the allegations of violations. In a positive development, the Tokyo Organising Committee for the Olympic and Paralympic Games (TOCOG) has stated that it plans to conduct interviews and investigate the problem, and we look forward to hearing their findings.

I. Investigation of Labor Conditions and Official Complaints

In September 2018 Building and Wood Worker International (BWI) investigated working conditions at Olympic construction sites, and in February 2019, with the Japanese union Zenkensoren, they interviewed workers at two sites.¹ They found out that almost half did not have contracts; workers reported working 26 and 28 days in a row at two sites, respectively; some workers had to buy their own personal protective equipment; and a poorly lit area resulted in an injury. The report quotes one worker stating that “The work here is extremely dangerous because proper procedures aren’t followed, and no number of lives would ever be enough.” An official report by the Japanese Ministry of Health, Labour and Welfare had already recorded two deaths of construction workers from Olympic sites by the end of 2018.² Workers also reported a culture of fear discouraging them from making complaints on working conditions for fear of reprimand or losing their job. Zenkensoren made a complaint to Japan Sport Council (JSC) under the established grievance mechanism for some of these issues, but it was rejected because it had been brought by the union instead of the affected individual. Another complaint by Rainforest Action Network (RAN) on possible procurement of illegally and abusively cut timber from Indonesia was also rejected in July 2019 for similar reasons.³ RAN also reported wood used in Tokyo Olympic construction being taken from Ainu territory without notifying or consulting local Ainu, an indigenous group, inconsistent with regulations.⁴

In August 2019, HRN recorded very high temperatures at construction sites with workers not wearing protective equipment, and on August 8th a construction worker at one site was reported

1 “The Dark Side of the 2020 Tokyo Summer Olympics”, BWI, 16 May 2019,

<https://www.bwint.org/web/content/cms.media/1542/datas/dark%20side%20report%20lo-res.pdf>.

2 “Occurrence of Accidents in the Construction of Games Facilities (2016.7.29 to 2018.12.3)”, MHLW, <https://www.mhlw.go.jp/content/11200000/000493347.pdf>.

3 <http://japan.ran.org/wp-content/uploads/2019/07/%E6%9D%B1%E4%BA%AC%E4%BA%94%E8%BC%AA%E6%9C%A8%E6%9D%90%E8%AA%BF%E9%81%94%E9%80%9A%E5%A0%B1%E4%B8%80%E8%A6%A7.pdf> (Japanese).

4 <https://www.msn.com/ja-jp/news/other/%E4%BA%94%E8%BC%AA%E3%81%AE%E6%9C%A8%E6%9D%90%E3%80%81%E8%AA%AC%E6%98%8E%E3%81%AA%E3%81%8F%E4%BC%90%E6%8E%A1%E3%81%A8%E5%8F%8D%E7%99%BA-%E3%82%A2%E3%82%A4%E3%83%8C%E5%9B%A3%E4%BD%93%E3%80%81%E5%9B%BD%E7%AB%8B%E7%AB%B6%E6%8A%80%E5%A0%B4%E3%81%AB%E4%BD%BF%E7%94%A8/ar-BB11avne> (Japanese)

to have passed away by heat stroke according to news reports.⁵ HRN sent grievance notifications to TOCOG in October 2019 for two sites, the Ariake Urban Sports Park and Ariake Gymnastics Stadium. Although TOCOG accepted the grievance notification for the sports park, it rejected the gymnastics stadium notification “because the contract was completed before the establishment of the Sustainable Sourcing Code” making it “not covered by the grievance notification reception office.”⁶

However, it is problematic that the site is not covered by the grievance mechanism just because the contract was created before the Sustainable Sourcing Code was established, setting up the reception office. When the Sustainable Sourcing Code was being developed, TOCOG should have reached an agreement with its contractors urging them to comply with the code, and for the Sustainable Sourcing Code and grievance receptions to apply to all construction relating to the Tokyo Olympics when it was passed.

Although the grievance notification for Ariake Urban Sports Park was accepted, there was no response before construction was completed. TOCOG eventually set up a hearing consultation with HRN on 24 March 2020 where we discussed our findings and the findings described in the BWI report, but the delay in the response is a major issue considering the issue regarded the safety of workers. In the hearing, TOCOG stated that it plans to conduct interviews and compile an investigative report.⁷ We welcome this engagement and look forward to hearing their findings.

II. Problems with the Grievance System

HRN has identified the following problems within the grievance mechanism covering Olympic construction sites that renders it ineffective and calls for reforms.

A. Fragmentation of the Grievance Notification Reception Offices

The grievance mechanism is divided among three separate reception offices according to whether the relevant site is under the jurisdiction of TOCOG, the Tokyo Metropolitan Government (TMG), or JSC.⁸ Thus different sites are subject to different criteria, leading to inconsistent results and ineffectiveness, as well as fragmenting complaints so that shared issues across sites cannot be addressed together.

B. Inaccessibility of the Grievance Mechanism and Lack of Guidance and Assistance

The Operational Standards for the grievance mechanism specifies in its Basic Principles that it shall be based on Principle 31 of the Guiding Principles on Business and Human Rights, “Effectiveness Criteria for Non-Judicial Grievance Mechanism”.⁹ Principle 31(b) says a grievance mechanism should be “Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access”.¹⁰

⁵ “Is this Still an Olympics for Sustainable Development (SDGs)?”, HRN, 14 Sept. 2019, <https://hrn.or.jp/eng/news/2019/09/14/construction-2020-olympics-report/>.

⁶ “Status of the reports received in the Grievance Mechanism for the Sustainable Sourcing Code”, TOCOG, <https://gtimg.tokyo2020.org/image/upload/production/awd9bwei6g08nkW62w5h.pdf>.

⁷ “Severe working conditions for Olympic construction”, HRN, 23 April 2020, <https://hrn.or.jp/eng/news/2020/04/23/statement-olympic-organizing-committee-hearing/>

⁸ <https://www.jpnsport.go.jp/corp/Portals/0/corp/keisen/Establishment%20of%20grievance%20mechanisms%20for%20the%20Sustainable%20Sourcing%20Code%20.pdf>.

⁹ “Grievance Mechanism for the Sustainable Sourcing Code: Operational Standards”, Tokyo 2020, April 2018, <https://gtimg.tokyo2020.org/image/upload/production/rpvlkjotr0gtdykhtlhb.pdf>, p. 1.

¹⁰ https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.

However, the grievance mechanism is inaccessible in multiple ways. First, many workers do not know it exists. Even if they know, reporting can be complicated and in a foreign language for foreign workers, and there is not adequate guidance or assistance. Then there is a reported culture of fear of being reprimanded or losing their jobs that discourages workers from complaining without assurances against or protection from retaliation.

According to the Operational Standards for the mechanism, anonymous grievance reports are not allowed.¹¹ Therefore, there is no anonymity to protect workers from possible retaliation. Furthermore, unions cannot file grievance reports on workers' behalf, which forces individual workers to protect their rights by themselves. However, workers should have the right to rely on unions to raise collective concerns consistent with international standards permitting union assistance.

The Sustainable Sourcing Code requires that suppliers "establish systems for enabling foreign workers to easily file complaints and ask for consultation, and to collaborate with authorized labour-related organisations."¹² The Sustainable Sourcing Code also requires all suppliers to ensure "freedom of association and the right of collective bargaining".¹³ However, only TOCOG provides English instruction for grievance reporting, while JSC and TMG's guidelines for grievance reports are only in Japanese, and they do not provide assistance nor collaborate with unions giving reports. This poses significant barriers for workers who do not understand English or fear reprisals.

The grievance mechanism also requires workers to enter details that are confusing, without sufficient explanation, and difficult to know specifically, which should not negate a complaint if a worker does not know every specific detail. Workers should describe, for example, the article, etc., relating to the Tokyo 2020 Olympics supplied to TOCOG or JSC, including the type and name of article, name of manufacturer, its characteristics, time of production or delivery, lot number, etc., or details about the violation including the specific article name and the given general rule, which workers may not know in exact specificity.

As of 30 April 2020, only 11 reports have been received by TOCOG (JSC does not release the status of reports), and only HRN's report for Ariake Urban Sports Park was accepted.¹⁴ It is highly possible that the inaccessibility influenced the low number of reports.

III. Recommendations

HRN sincerely hopes the complaints of workers on Olympic sites will be heard and addressed, and we offer the following recommendations to relevant authorities.

- Grievance reports should be integrated into one consistent system and reception desk with guidance in multiple languages.
- Complaints should be allowed anonymously and not disqualified if made by a union or NGO representing a worker, nor if missing details when the content of the complaint can be established.
- Grievance reports should be made public, include specific reasons when denied, and responded to promptly.

¹¹ Above, note 9.

¹² Article (4)(ix), <https://gtimg.tokyo2020.org/image/upload/production/groytiigyqncp1pxo43s.pdf>.

¹³ Article (4)(ii), *id.*

¹⁴ Above, note 6.