

Mandates of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the human rights of internally displaced persons

REFERENCE:
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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and Special Rapporteur on the human rights of internally displaced persons, pursuant to Human Rights Council resolutions 27/23, 33/9 and 32/11.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **decision of the Government of Japan to lift, by March 2017, evacuation orders relating to areas in Fukushima where radiation levels allegedly remain high.**

According to the information received:

Following the 2011 nuclear accident at Fukushima Daiichi Nuclear Power Station, over eighty thousand former Fukushima residents remain officially evacuated, as of December 2016. The number of evacuees from outside government-designated evacuation zones is reported at about thirty-two thousand individuals, as of January 2017, who constitute internally displaced persons.

Those officially evacuated receive compensation payments by the facility's operator, the Tokyo Electric Power Company (TEPCO), that cover evacuation expenses, as well as pain and suffering. Evacuees without government evacuation orders are entitled to receive free housing support from the Government.

It is reported that the Government has gradually been lifting evacuation orders in areas where the annual radiation dose is estimated to be less than 20mSv. In particular, of the eleven municipalities within the designated evacuation areas, five have reportedly seen evacuation orders fully or partially lifted since April 2014. Four others will allegedly follow on 31 March and 1 April 2017, rolling back the evacuation zone by seventy percent since the disaster.

As a result, evacuees without government evacuation orders will no longer be entitled to free housing support, while TEPCO compensation payments to those officially evacuated shall, in any event, be terminated by March 2018.

It is alleged that once housing support and compensation payments will cease, many evacuees will find themselves in a situation of financial hardship. They will therefore have no other choice than to return to live, out of financial necessity, in areas insufficiently decontaminated, where potential exposure to radiations may be up to twenty times greater than that of 1mSv per year, the maximum public exposure limit recommended by the International Commission on Radiological Properties (ICRP).

It is further alleged that the Government has not provided information on exposure levels over a lifetime for those who return to Fukushima Prefecture.

Many of the evacuees are women of reproductive age and children. Therefore, it is feared that they may be exposed to greater risks to their health as a result of prolonged exposure to radiations. As far as children are concerned, cases of bullying of evacuee children have also been reported from different regions of the country.

Within this context, extremely high radiation levels have reportedly been detected at the damaged reactor at the Fukushima Daiichi nuclear power station.

We are deeply concerned at the uncertainty about the return prospects of nuclear evacuees due to the alleged potential negative effects of radiations on their health.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government to the international principles and norms applicable to the present case.

In particular, we would like to recall the different international instruments, to which Japan is party, that recognize the right to life and to health, namely Articles 3 and 25 of the Universal Declaration of Human Rights; Article 6 of the International Covenant on Civil and Political Rights (ICCPR); Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR); Article 5 (e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination; Articles 11.1 (f) and 12 of the Convention on the Elimination of All Forms of Discrimination against Women; and Article 6 and 24 of the Convention on the Rights of the Child.

We would like to stress that the right to health requires States to pay special attention to the needs of vulnerable groups. States are also under an immediate obligation to prevent discrimination, especially against vulnerable groups in its policies or practice, even during times of resource constraint.

We would like to further recall General Comment no. 14 of the Committee on Economic, Social and Cultural Rights (Committee) which clarifies the normative content

of Article 12 of the ISESCR. The Committee has interpreted the right to health as an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as, inter alia, healthy environmental conditions, including housing, and access to health-related education and information. The Committee also considered that a further critical aspect of the right to health is the participation of the population in all health-related decision-making at the community level. Health-related laws and policies should be instituted only with the direct, active and effective involvement of communities, given that they are the most affected by these decisions. In this context, We would like to recall that the right to information, as also recognized in the ICCPR, encompasses the right of individuals to request and receive information of public interest and information concerning themselves that may affect their individual rights.

Based on the above international legal framework, we would like to note that in its 2014 Concluding observations on the sixth periodic report of Japan (CCPR/C/JPN/CO/6), the Human Rights Committee expressed concern that the high threshold of exposure level set by Japan in Fukushima and the decision to cancel some of the evacuation areas would give people no choice but to return to highly contaminated areas. Therefore, the Committee recommended Japan to take all the necessary measures to protect the life of the people affected by the nuclear disaster in Fukushima and lift the designation of contaminated locations as evacuation areas only where the radiation level would not place the residents at risk. The Committee further recommended that Japan should monitor the levels of radiation and disclose that information to the people affected in a timely manner.

We would also like to bring to your attention the report by the former Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health after his visit to Japan in November 2012, during which he considered issues relating to the realization of the right to health in the wake of the nuclear accident at the Fukushima Dai-ichi nuclear power plant in November 2011, the events leading up to it, and the emergency response, recovery and mitigation efforts. The Special Rapporteur encouraged the Government to address a number of serious challenges and to consider particular areas for improvements in the nuclear emergency response system; including the scope and extent of the basic and detailed health management surveys; the dose limits of radiation; access to accurate information on radiation and its impact on health; the transparency and accountability of the nuclear industry and regulatory authority; and participation of affected communities in decision-making processes. In this connection, he made a number of recommendations, including on health monitoring of affected populations, on policies and information about radiation doses, on decontamination, and on compensation and relief for those affected.

We take this opportunity to recall that those persons evacuated from their homes by the Fukushima disaster constitute internally displaced persons (IDPs) and to remind your Excellency's Government of its obligations relating to the human rights of IDPs,

including those contained in the provisions of the 1998 Guiding Principles on Internal Displacement. It is necessary that those persons internally displaced by the disaster are assisted and supported by the government until such time that they achieve durable solutions. Guiding Principle 28 establishes that “[c]ompetent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, *or to resettle voluntarily in another part of the country*. Such authorities shall endeavor to facilitate the reintegration of returned or resettled internally displaced persons.” Where return to places of origin is deemed unsafe, alternative solutions must be found in consultations with affected communities and until such time that safe and dignified return is possible. Furthermore Guiding Principle 29 states that “[c]ompetent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. *When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.*” In regard to the requirement to ensure durable solutions for IDPs, we furthermore recall the provisions of the IASC Framework on Durable Solutions for Internally Displaced Persons.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Government to safeguard the rights of the nuclear evacuees in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above mentioned allegations, including on whether they are accurate.
2. Please indicate what steps have been taken to implement the recommendations formulated by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health in his July 2013 report to the Human Rights Council related to his mission to Japan of November 2012 (A/HRC/23/41/Add.3), in particular regarding health monitoring of affected populations, policies and information on radiation doses, decontamination, and compensation and relief of those affected (paras. 77, 78, 79 and 81).

3. Please indicate what steps have been taken to implement the recommendations formulated by the Human Rights Committee in its Concluding observations on the sixth periodic report of Japan (CCPR/C/JPN/CO/6), particularly with regard to the Fukushima nuclear disaster.
4. Please indicate whether the radiations levels in those areas where evacuation orders are going to be lifted are at the recommended 1mSv/year or below. If not, please indicate what the radiations levels registered are.
5. Please indicate what lifetime radiation exposure would be for those who return to Fukushima Prefecture, including children.
6. Please indicate whether any measure is being envisaged in order to mitigate the alleged effects of the termination of the current relocation support so as to continue to assist those persons in need.
7. Please indicate what measures have been taken/are being taken in order to protect women, children and groups at elevated risk of adverse impacts as a result of the above-mentioned situation.
8. Please inform us of what measures your government is taking to guarantee the protection and human rights of internally displaced persons according to international standards, including the requirement to provide durable solutions for them.
9. Please indicate whether any consultation has been held with internally displaced persons concerned and what efforts have been made to ensure their meaningful participation in the decision-making.
10. Please indicate what measures have been taken/are being taken to address the allegedly increased radiation levels recorded inside the damaged reactor at the Daiichi nuclear power station.

While awaiting a reply, we urge that all necessary interim measures be taken with a view to protect public health and the environment and to ensure the accountability of any person responsible of any alleged violation.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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