

## End of Mission Statement

### *Mission of the Special Rapporteur on the human rights of internally displaced persons to Japan*

7 October 2022

#### I. Introduction

**Tokyo, 7 October 2022** – In my capacity as United Nations Special Rapporteur on the human rights of internally displaced persons (IDPs), I have had the honour to carry out an official visit to Japan from 26 September to 7 October 2022, with the agreement of the Government of Japan. My visit aimed primarily to assess the human rights situation of IDPs – also known as “evacuees” in Japan - displaced by the Fukushima Daichii nuclear disaster that followed the Great East Japan Earthquake and tsunami in 2011, within the international legal framework of the Guiding Principles on Internal Displacement and the Inter-Agency Standing Committee Framework on Durable Solutions for Internally Displaced Persons.

During my visit, I had meetings in Tokyo and traveled to the prefectures of Fukushima, Kyoto, and Hiroshima. I met with executive and legislative officials at the national, prefectural, and municipal levels. I also had the opportunity to meet with victims of internal displacement and communities in Fukushima affected by the disaster, civil society organisations, lawyers, and academic researchers with expertise on these issues. I received moving firsthand testimonies from IDPs, research and documentation related to the disaster and subsequent relief measures, and was able to review legislation related to the rights of persons displaced by natural and manmade disasters in Japan to protection and assistance, including *inter alia* the Disaster Relief Act<sup>1</sup>, the Basic Act on Disaster Management<sup>2</sup>, the Act on Compensation for Nuclear Damage<sup>3</sup>, the Act on Special Measures for the Reconstruction and Revitalization of Fukushima<sup>4</sup>, and the Act on Promotion of Support Measures for the Lives of Disaster Victims to Protect and Support Children and Other Residents Suffering Damage due to Tokyo Electric Power Company’s Nuclear Accident<sup>5</sup>.

I would like to thank the Ministry of Foreign Affairs for its excellent cooperation with my mandate and openness to international scrutiny, and its respect to the Terms of Reference of Special Rapporteurs on Mission. I thank the several other ministries and agencies that delivered presentations and provided information relevant to my visit. I also thank the prefectural authorities in Fukushima, Kyoto, and Hiroshima as well as the municipal authorities in Aizu-Wakamatsu, Okuma, Futaba, Iwaki, and Kyoto for providing me with detailed information on the realities of their local situations. I am grateful to the various civil society organizations, lawyers, and academics who provided me with an overview of the context, and above all to the victims of internal displacement and the nuclear disaster, including mothers, youth, older persons, people with disabilities, and human rights defenders for sharing details about the difficulties they have faced since the nuclear accident.

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<sup>1</sup> Act No. 118 of October 1947

<sup>2</sup> Act No. 223 of November 1961

<sup>3</sup> Act No. 147 of 1961

<sup>4</sup> Act No. 25 of March 2012

<sup>5</sup> Act No. 48 of June 2012

This statement presents only the preliminary observations from my visit. My complete analysis and recommendations to the Government and other stakeholder will be prepared in the coming months and presented to the Human Rights Council in June 2023.

## II. Context and background of the displacement

The Great East Japan Earthquake, Tsunami, and Nuclear Disaster on 11 March 2011 was an almost-unprecedented triple disaster. A 9.0 magnitude earthquake off the eastern coast of Japan – the largest every recorded in the country – wrought significant terrestrial destruction in addition to triggering tsunami waves of up to 40 meters high. Over 20,000 people died or went missing as a result of the disaster, while over one million buildings were completely or partially destroyed.

The tsunami in turn precipitated the nuclear accident at the Fukushima Daiichi Nuclear Power Station, where emergency preparedness and disaster mitigation measures had failed to account for the possibility of a natural disaster of that scale. Waves of up to 14 meters in height overwhelmed the plant's seawalls and flooded the plant's turbine buildings, leading to a power blackout. In the days following the initial disaster, a series of nuclear meltdowns and hydrogen explosions within the power station led to the release of radioactive contamination. In response, the Government established a mandatory evacuation zone of 20 kilometers around the plant, covering approximately 110,000 residents. This initial border was determined based on operational considerations with regard to the number of people who would need to travel by road; enlarging the evacuation zone at this stage could have created traffic congestion that could have limited the ability of those closest to the plant to flee expeditiously. The mandatory evacuation zone was eventually expanded to include areas outside this radius that were thought to be susceptible to high radiation, and a total of 154,000 residents of Fukushima Prefecture were eventually evacuated.

As the possible implications of the nuclear disaster in terms of radiation exposure would only slowly become clear over the coming weeks and months, many additional citizens fled their homes, including residents of neighboring prefectures as well as people living within Fukushima Prefecture not subject to evacuation orders. Given the uncertainty about how radiation would spread from the disaster zone as well as conflicting public information on radiation exposure and the risks of such radiation, many Japanese citizens, particularly those with children, felt it was safest to evacuate until more reliable information on the implications of the disaster could be made available. At the height of the disaster, a total of at least 470,000 people were displaced.<sup>6</sup>

Initial Government support to IDPs was provided for through the Disaster Relief Act, and eventually the more specialized Act on Special Measures for the Reconstruction and Revitalization of Fukushima in 2011, which outlined measures for providing IDPs with access to medical care, welfare, housing support, education and other services. The Dispute Reconciliation Committee for Nuclear Damage Compensation, based within the Ministry of Education, Culture, Sports, Science and Technology (MEXT) also established a series of guidelines and processes for compensation to be provided to victims by the Tokyo

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<sup>6</sup>Figure from Reconstruction Agency ([https://www.reconstruction.go.jp/english/topics/Progress\\_to\\_date/index.html](https://www.reconstruction.go.jp/english/topics/Progress_to_date/index.html)); includes those displaced by the earthquake, the tsunami, the nuclear accident, or some combination thereof

Electric Power Company (TEPCO) in 2011, and TEPCO subsequently began compensation payments to victims of the disaster. While the early adoption of these measures was a laudable step, there remained a significant degree of discrimination in terms of how IDPs were able to access these benefits, in particular for those whose evacuation was termed “voluntary” by the authorities. These measures were later complemented by the Act on Promotion of Support Measures for the Lives of Disaster Victims passed in 2012, which also recognized the right of disaster victims to make their own choices as to return or evacuation; however, the full implementation of this Act has yet to be realized, ten years later. The level of support and services IDPs received was also dependent to a large extent of the policies of the prefectures to which they fled, rather than there being a coherent national approach to their protection and assistance.

In recent years, there has been a shift away from supporting IDPs to decide on their own futures and towards coaxing IDPs to return, or face the loss of any support. Housing assistance has been terminated for IDPs living outside the prefecture. Reconstruction funds are increasingly used to rebuild physical infrastructure in towns formerly under evacuation orders. Other reconstruction efforts include work to decommission the nuclear power plants, and development projects such as the Fukushima Innovation Coast Framework, which aims to build high-tech industrial infrastructure in the prefecture. While the setting up of the 26 Fukushima help desks all over the country to provide referrals to basic services, as well as local government’s services in areas where the IDPs have been and are located, have been instrumental in enabling the dissemination of information especially in the initial period of the displacement and are a good practice, referral to services alone may not address all the needs of IDPs.

Meanwhile, hundreds of IDP plaintiffs throughout the country have brought cases and continue to pursue litigation against both the Government and TEPCO, seeking basic assistance and compensation for the disaster under the Civil Code, and the Act on Compensation for Nuclear Damage. Many IDPs are also engaged in Alternative Dispute Resolution (ADR) processes in parallel.

### III. Human rights of Internally Displaced Persons in the Context of the Fukushima Disaster:

The Guiding Principles on Internal Displacement provide that IDPs are “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid, the effects of . . . . natural or human-made disasters, and who have not crossed an internationally recognized border”.

In the context of the Fukushima nuclear disaster in 2011, it is clear that both so-called “mandatory evacuees”, or IDPs who were displaced by virtue of the forced evacuation orders, and “voluntary evacuees”, or IDPs who felt they had to displace themselves despite not being ordered to, are IDPs under international law. The right to evacuate as triggered by disasters is a human right based on freedom of movement.

Moreover, in providing humanitarian assistance, protection and enabling durable solutions for IDPs, there is no distinction. I also would like to stress at this point that under international law, IDPs remain citizens of Japan despite their displacement status, and have the rights pertaining to any other citizen of the country. It is therefore important that in the

exercise of the primary responsibility of the State in the protection of IDPs, conditions are facilitated that would enable IDPs to normally exercise their human rights.

#### IV. Rights of IDPs in Displacement:

##### Right to safety and security and the right to housing:

As mentioned, the right to seek safety from actual or perceived risks is a right associated with the freedom of movement. This is an important consideration that must be taken into account in view of the multiple displacements that have been experienced by many IDPs from the Fukushima nuclear disaster. Statistical surveys have shown that the majority of IDPs from Fukushima displaced themselves four or more times in a six-month period, searching for safety and security, and experience different circumstances that affected the exercise of their rights.

Fortunately, certain Japanese policies, including from Fukushima Prefecture and other prefectural and municipal host governments' programmes, provided temporary housing where possible. Among others, this important support took the form of temporary housing, use of public housing facilities, rental subsidies and the like. Unfortunately, much of the housing support has been terminated, which has had particularly severe impacts on those in poverty, those who have no livelihoods, the elderly and persons with disabilities. Moreover, IDPs still resident in certain types of public housing are currently facing eviction lawsuits brought against them. It is recommended that Government restore provision of housing support, especially to IDPs in vulnerable situations, wherever they may be.

##### Right to family life

The right to family life is an essential right in most societies that provide stability in both the private and public spheres. Particularly among the IDPs not subject to forced evacuation orders, choices were made to enable the mothers with children to seek safety while the traditional breadwinners, i.e. husbands, stayed behind to ensure family income. Unfortunately, this situation has obliged families to maintain two households, which entails economic hardship to Moreover, a high rate of divorce is occurring among such IDP evacuees.

Large families of more than two generations tended to be dispersed, with elderly IDPs finding themselves living apart from their original families and having to live on their own. Statistical studies show that nearly 30 per cent of all cases of family break ups occurred after the earthquake. There were many cases of families being systematically separated during the initial phase of the evacuation, due to the occupancy limit of emergency temporary housing under the Disaster Relief Act. Because of uncertainty regarding the future, the separation has tended to become prolonged rather than resolved. The high levels of anxiety, particularly among the older populations, as well as diagnosed cases of Post-Traumatic Stress Disorder (PTSD), are said to be traced to such dispersal and breakdown of support systems.

It is recommended that social welfare programmes, particularly at the local levels, pay particular attention to the vulnerability of separated family members in evacuation.

##### Right to livelihood

The right to livelihood is a basic right among IDPs living in any context. It enables them to reconstruct their lives in dignity, provide a sense of belonging to the community and to have an economic and social purpose. Referrals to livelihood opportunities through the 26 Fukushima help desks is a good practice in this regard. Moreover, certain IDPs were able to set up small businesses in the areas of evacuation, employ fellow evacuees and local residents.

Nevertheless, studies and statistical surveys have showed that 20 per cent of the “working-age population” of the IDPs (i.e. between 20 and 60 years old) are unemployed, a high rate compared to the much lower rate of unemployment in the country of just under 3 per cent. Moreover, some testimonies, especially from women, have revealed their burdens as women because they became single mothers while in evacuation, or because they were not able to obtain similar part-time employment they had in the places of origin, which had helped them balance childcare responsibilities. Rebuilding of livelihoods through work is therefore still not progressing. Many women were also dependent on family networks for childcare in their areas of origin, which do not exist in areas of displacement.

It is highly recommended that the existing helplines for livelihoods be enhanced with matching jobs schemes such as job and business fairs or mechanisms where IDPs can avail of information and undertake private company promotions, as well as access to facilitated business capital. It is recommended that efforts to expand access to childcare, especially for single and working mothers, be urgently undertaken.

#### Right to health:

The impact on the right to health of IDPs is always one of the consequences of any internal displacement situation. Both physical and mental health are implicated on the part of the IDPs, as they struggle to adjust to new circumstances in the midst of their daily challenges of adjusting to new environments, the uncertainties of the future and the breakdown of the usual family and community support mechanisms. Moreover, the elderly persons and persons with disabilities are particularly vulnerable, especially if they are living in isolation. It is no such surprise that studies have shown there are high levels of PTSD among IDPs even at this time. It is recommended that specialised monitoring and treatment be provided to those suffering from PTSD as a result of displacement.

Particularly, the Fukushima nuclear disaster has raised many issues about the effects of radiation exposure to the health of both residents and IDPs, especially for younger children. The Fukushima Prefecture implemented a good practice of providing free screening for thyroid cancer, for example, which is recommended to be continued on a regular basis. This would enable continued monitoring of this issue and provide much needed data to see evolution of health risks over time, with a view to ensure focused treatment programmes to those who are suffering.

#### Right to education

Education is an inalienable human right for all persons, yet the experience of displacement often disrupts enjoyment of this right. The right to education is critical for IDP children to develop the knowledge and skills they will need to overcome the setbacks and inequalities they may suffer as a result of displacement.

IDP children often face significant challenges when they are abruptly removed from the learning environments to which they are accustomed and forced to adjust to new circumstances. I have unfortunately received many reports of IDP children from Fukushima facing significant stigmatization and bullying by their classmates, psychologically challenging experiences that may imperil their ability to learn effectively. IDP children have been bullied for their supposed “choice” to leave, for the perception that their parents have unjustly received large sums of compensation as evacuees, or due to erroneous beliefs about radiation, such as them potentially being “carriers” of radioactivity. A good practice is acknowledging the bullying Fukushima victims face in educational materials, such as supplementary readers on the disaster. The adoption of the Act for the Promotion of Measures to Prevent Bullying in 2013 was another positive step to address the issue in broad terms. I recommend that more systematic efforts to monitor and proactively root out bullying specifically faced by children displaced from Fukushima or other vulnerable groups – rather than waiting for traumatized children to first raise these complaints – are necessary to end this harmful practice, which is detrimental to children’s ability to learn.

An additional recommendation, first made by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health in 2013, and reiterated by the Committee on the Rights of the Child in its concluding observations on the combined fourth and fifth period report of Japan in 2019, would be for educational materials to accurately reflect the risks of radiation exposure and the increased vulnerability of children to radiation exposure. During my visit, I was presented with supplementary readers on radiation that appear to minimize the risks related to radiation. These materials suggest *inter alia* that the risks of radiation exposure may be compared to the risks of a high-sodium or low vegetable diet, do not fully distinguish between the relatively low doses of radiation received as background radiation and the much higher doses likely to be received as result of nuclear contamination, and do not delve into the specific impact of radiation on children.

#### Right to participation:

IDPs have the right to participate in decisions affecting them, particularly in the protection and reconstruction of their lives. Being an IDP means finding oneself usually in a situation where the usual support is absent. Many testimonies I have received attest to isolation and social exclusions.

The support provided by the government, by Fukushima Prefecture and by the local governments directed to the programmes set up by non-profit organisations and support group is highly commendable as it has enabled the conduct of such activities that relate to the building of networks among the IDPs, answering some of their information needs and just generally fostering a sense a solidarity among the IDPs and the local resident populations especially in particular localities of evacuation. It is recommended that such support to the NPOs and support be continued and not suppressed since these groups provide some social stability where possible to the IDPs. It is, moreover, recommended that the programmes of such NPOs and support be enhanced with regard to the social integration of the IDPs in the areas of evacuation.

Moreover, the Fukushima Prefecture’s practice of disseminating news of their hometowns to IDPs dispersed all over the country, through local governments in areas of evacuation,

ensures that information on Fukushima is relayed to the IDPs. In order to ensure the relevance of this newsletter, it is recommended that this good practice be strengthened with the participation of the IDPs themselves by telling their stories and views in the newsletters which should also be provided to and accessed by the residents in Fukushima. In this way, any reconstruction and recovery initiatives focused on Fukushima are supported with voices from the residents and the IDPs themselves, enabling an exchange of views hopefully leading to understanding and empathy contributing to social cohesion of citizens of Fukushima.

Lastly, the Japanese system of political participation through voting in local government electoral processes is a good practice that avoids electoral disenfranchisement of IDPs, regardless of where they may be and until they change their official residence. With many IDPs retaining their certificate of residence in their places of residence, this system must be strengthened by simplifying “absentee voting” procedures. At the very least, support should be provided to IDPs especially those in isolation or who find it difficult to implement their right to vote in this manner.

#### V. Rights of IDPs in Durable Solutions:

Internally displaced persons, in their search for durable solutions, are provided with three settlement options: sustainable return, sustainable local integration and sustainable settlement elsewhere in the country. The key word here is “sustainable” and the right to make decisions should be undertaken freely and voluntarily based on full information on such “sustainability”. Moreover, in designing durable solutions for IDPs especially for return, conditions should be put in place to enable IDPs to participate in the planning and management of decisions affecting them. In other words, their voices have to be heard.

#### Adequate standard of living, including the restoration of housing, land and property:

The right to shelter, especially through sustainable housing, is an essential part of an adequate standard of living that would contribute to the desire to return. Unfortunately, the Fukushima disaster has destroyed much private property in terms of physical destruction as well as irradiation. Statistical studies and testimonies we have received point to the fact that much reluctance prevails on IDPs to return because of the disrepair of their houses as well as their radiation contamination. Some of the IDPs I interviewed report that even if their houses are decontaminated, the immediately surrounding areas including gardens, and local forests are often not decontaminated, and that information on soil radiation level is not made accessible. Additionally, it is necessary that the standard of 20mSv/year as an acceptable level of radiation for evacuation orders to be lifted be reviewed. This standard only applies to public persons in emergency exposure situation, and these guidelines would apply to private persons in a long-term situation. It would be useful to re-evaluate the suitability of this standard, in order to provide IDPs with full and scientifically accurate information to guide their decisions on whether to return or settle elsewhere, as

Moreover, even though the intention to return may remain, the willingness to return is influenced by the protracted displacement the IDPs have experienced. It is recommended that specific programmes be set up in regard to facilitating both repair of damaged properties and decontamination of places of residence in places of origin that would enable an adequate standard of living.

A current good practice is where alternative housing was being provided by the government and the Fukushima prefecture, especially for those who came from difficult to return areas. This would however imply that in order for these important housing schemes to be successful, other incentives for return are provided.

#### Access to employment and livelihoods

Similar to the right of IDPs during displacement, the right to work as part of durable solutions is essential to one's dignity, productivity and inclusion. Recognising the efforts of the government and Fukushima Prefecture in the reconstruction of the economy, it is highly recommended that more concrete efforts to ensure that returning IDPs are provided facilitated conditions to resume their livelihoods in terms of employment and businesses. Particular attention should be given to returning IDPs engaged in the agricultural sector, e.g. farmers and fishermen, whose livelihoods may be more vulnerable because of the risk of radiation due to the nature of their livelihoods, or reputational damage that suppresses demand for their products, and whose voices must be heard and responded to.

#### Effective remedies for displacement-related violations, including reparations and information about the causes of violations

Another durable solutions criterion relevant to the displacement consequences of the Fukushima nuclear disaster is the provision of effective remedies. Several Japanese laws provide for these remedies, of which a good number of claims are currently in court litigation or in ADR.

On this matter, many IDPs, whether or not involved in such litigation, have pronounced that it is important for them to fully understand the circumstances of the disaster as a priority, as it would assist them in making choices for their settlement options. It is highly recommended a genuine dialogue be initiated in this regard.

#### VI. Preliminary General Conclusions:

The research, interviews and discussions I have undertaken in Japan have been particularly productive in enabling an understanding of the different viewpoints related to the causes of the various displacement related to the Fukushima disaster, their trajectories, as well as the current situation in the protection and support to IDPs. Many issues have arisen that the Japanese government is trying to address. Likewise, there are issues that need to be responded to.

At this point in time, in view of the above, I hereby present my preliminary conclusions:

1. IDPs – called evacuees – regardless of whether or not they come from areas designated areas where forced evacuation orders were enforced, are all internally displaced persons with the same rights and entitlements as citizens of Japan. The categorisation of “forced evacuees” and “voluntary evacuees” in terms of receiving support and assistance should therefore be dropped in practice. Humanitarian protection and support should be based on rights and needs, and not on the basis of status-based categorisation which has no basis in international human rights law.
2. The ongoing initiatives undertaken by the Japanese government and good practices should be enhanced with ensuring a rights-based approach that include both the IDPs



and the Fukushima residents together, enabling an area-based approach to the reconstruction of Fukushima in an inclusive manner. This approach necessitates the inclusion of full information for, and with the participation of, the IDPs in evacuation, those returning IDPs and the current residents of Fukushima in order to have a socially cohesive approach to reconstruction and recovery. This approach should include community strategies for housing and recovery of housing, land and property, health, livelihoods and safety.

3. For remaining IDPs: in evacuation, there should be continued basic support, especially housing for vulnerable populations and conditions for livelihoods, including in the context of social integration in the host community. The guarantee of the implementation of the rights of IDPs would contribute to greatly to social cohesion, both in the area of evacuation and, eventually in their return should they choose to do so.