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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.

[04 June 2020]

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

Governments Must Respect and Protect Rights in Measures to Address the Spread of Coronavirus

Human Rights Now (HRN), a Tokyo-based international human rights NGO, is deeply concerned about the damage being done to the lives, health, and human rights of people around the world and in Japan caused from the spread of COVID19. HRN calls on the government of Japan and other governments to take effective measures to respect and protect human rights, health, and safety of people threatened by COVID19, the economic and social harm it is causing, and possible negative consequences of the government's own measures. This includes providing appropriate support to persons suffering economic losses, securing full access to treatment and testing, preventing discrimination and protecting vulnerable populations such as women, children, persons with disabilities, and foreigners, and having response measures respect people's human rights and freedoms.

1. Providing Appropriate Support to Those Suffering Economic Losses

Given the Japanese government's requests to "voluntarily refrain from activities", many industries have been forced to reduce their economic activities drastically, challenging the continuity of work for many businesses. Many people struggle to support their livelihoods after being forced to suspend or greatly reduce their economic activities, threatening some people's right to an adequate standard of living for themselves and their family, such as adequate food, clothing and housing. If the virus is globally contained by the end of this year, Japan would see a 4.5% fall in the number of workers from the previous year. It is estimated that retailers and wholesalers would lose 845,000 jobs, manufacturing 614,000 jobs, and accommodation and restaurants 589,000 jobs.¹

Other OECD countries have adopted unprecedented economic and social support measures to address people's problems.² The government of Japan must also implement sufficient social welfare measures immediately so that no one is left behind. The government should provide necessary support to people facing economic difficulties by adopting flexible public assistance policies, assuming the costs of rent and electricity for a limited time, and providing for the expenses of food security for individuals and their families.

Moreover, companies must fulfill their duties to protect employees by protective measures and those working in their supply chains around the world by conducting effective human rights due diligence in compliance with international human rights standard including the UN Guiding Principles on Business and Human Rights. Many companies have failed to assess and address adverse impacts to people in connection with their businesses. Termination of precarious employment contracts, including subcontracts, may disproportionately harm migrant workers and women, rooted in and exacerbating existing economic inequalities. Instead of a temporary response to the pandemic, companies should pursue sustainable economic recovery by adequately identifying and addressing human rights risks across their businesses and suppliers, providing remedies when human rights violations are identified, establishing an effective grievance system, and taking meaningful measures to protect vulnerable workers through inclusive dialogue recognizing a crucial role of trade unions or workers' representatives.

2. Provide Testing and Treatment

To protect the right to health, governments must provide widespread and accessible testing and treatment to persons. The number of PCR tests conducted in Japan is remarkably low compared to other countries with reported spread of the virus and, especially when measured as a rate by population, significantly fewer people have been tested. Statistics show that by May 19th, South Korea had conducted approximately 14.69 tests, Italy 51.35 tests, and Japan 2.04 tests per 1,000 people.³ While the Japan government states that testing is not restricted, the hurdles for receiving testing are high. There is also a lack of information about where and how to get tested.

1 "Over 3 Million Jobs Could Be Lost in Japan Due to Virus, Study Says", Japan Times, 21 May 2020, <https://www.japantimes.co.jp/news/2020/05/21/business/job-loss-coronavirus>.

2 IMF, "Policy Responses to COVID-19". <https://www.imf.org/en/Topics/imf-and-covid19/Policy-Responses-to-COVID-19#F>, <http://oecd.org/coronavirus/en/>.

3 <https://ourworldindata.org/grapher/full-list-cumulative-total-tests-per-thousand>.

The government decision to hold patients with mild symptoms in facilities other than hospitals is positive, but more effective and timely measures are needed to prevent the spread of the virus. HRN requests the government to make PCR tests available and accessible to anyone who may possibly be showing coronavirus symptoms with no discrimination to allow for earlier access to treatment when necessary while providing sufficient support for medical institutions.

3. Extending Special Support to Vulnerable People and Banning Discrimination

It is necessary to have special support measures to vulnerable people who are at risk of becoming victims caused by the crisis, such as women, children, persons with disabilities, and others.

A report released by UN Women, IDLO, UNDP, and other organizations shows emerging challenges and pre-existing gaps in gender justice that the pandemic has exacerbated.⁴ Domestic violence has surged since the worldwide lockdowns in countries around the world, and the number of abuse consultations has been rising in Japan as well.⁵

After the emergency declaration, in-person consultations were suspended, and voluntarily quarantine makes it difficult for women to report abuse since abusive partners are always at home. The government should provide full support to victims of domestic violence by offering 24-hour accessible consultations services, creating a safe reporting system for victims to get help, promptly establishing temporary protection shelters, and making information on available services accessible and multilingual to ensure support is provided without discrimination.

Financial support for the education of children in need is also required so that no child will be deprived of any educational opportunities such as online classes.

Special consideration should also be given to persons often left behind in emergency situations, including foreigners, homeless people, and people detained by the Immigration Bureau or in prisons. OHCHR, IOM, UNHCR and WHO issued a joint statement calling on governments to protect migrants and refugees as many of them are placed in cramped and unsanitary conditions.⁶ The Immigration Bureau should provisionally release all persons detained since they are placed in crowded rooms and at a heightened risk of infection. Japanese law has some regulations regarding detention relief, but many of them are not functioning. It is important that the government refrains from new detentions through the emergency period. In addition, people who do not have a status of residence cannot enroll in National Health Insurance and thus cannot get treatment because medical assistance is virtually inaccessible without insurance. Therefore, HRN requests that the government grant short-term resident status and temporary work permits for such people to secure a living and have access to treatment.

In emergency situations, discrimination and anti-foreigner sentiment also tends to be aggravated. The government should also provide equal support for foreigners, ethnic minorities, and others, and it must fight against hate speech.

4. Preventing Misuses of Authority

A state of emergency, according to Japanese law, does not permit significant restrictions on private rights. However, there is a concern that a great deal of authority will be concentrated in the heads of the national and local governments. The exercise of authority to prevent the spread of the virus must not violate the law or be abusive, and restrictions on the fundamental human rights of citizens must be legal, proportionate, necessary, have a specific focus and duration, and the least restrictive possible to protect public health.

Measures taken by states during public emergencies must be consistent with their other obligations under international law and must not discriminate on the ground of race, color, sex, language, religion, or other category.

⁴ <https://www.unwomen.org/en/news/stories/2020/5/press-release-covid-19-sparks-urgency-around-justice-for-women>.

⁵ Taub, "A New Covid-19 Crisis: Domestic Abuse Rises Worldwide", <https://www.nytimes.com/2020/04/06/world/coronavirus-domestic-violence.html>; Siripala, "Japan Domestic Violence Fears Rise Amid Coronavirus Pandemic", <https://thediplomat.com/2020/04/japan-domestic-violence-fears-rise-amid-coronavirus-pandemic/>.

⁶ <https://www.unhcr.org/news/press/2020/3/5e836f164/rights-health-refugees-migrants-stateless-must-protected-covid-19-response.html>.

Control over or applying pressure on the freedom of speech and violations of the right to privacy must not happen. The actions of authorities must be constantly monitored, and proper checks must be applied when necessary. The government must place the highest priority on transparency and the disclosure of information, and it must respect the role of the media.

5. Recommendations

HRN requests that the government of Japan and similarly situated governments consider the following recommendations to respect and protect human rights in the fight against Coronavirus and to “Build back better”.

- Provide adequate support for persons and businesses suffering economic harms, and require companies to conduct human rights due diligence and protect employees and affected people’s rights;
- Provide widespread and accessible COVID19 testing;
- Provide special support for vulnerable populations, including a safe reporting system and greater support for domestic violence victims, financial support for children’s education, and special assistance and relief for foreign, homeless, and persons deprived of their liberty.
- Respect and protect fundamental human rights in emergency policies.
