

INTERVIEW WITH MR. KENJI FUKUDA



Kenji Fukuda,
an attorney at law
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Commons.

Kenji Fukuda is a lawyer who helps the victims of the Fukushima Daiichi disaster battle a compensation scheme that is inadequate. The unfairness of the system compounds the problems victims have faced over the past three years because they have been split from family, have lost their communities, their livelihoods, and homes. Mr Fukuda is a registered lawyer in Japan and New York State. He is Vice Chairman of the "Save Fukushima Children Lawyers' Network" and represents around 700 people from the heavily contaminated southern part of Miyagi prefecture and 30 other victims of the nuclear disaster.

In this interview with Nina Schulz, he explains how the whole compensation scheme protects TEPCO's interests rather than the interests of the victims.

Q: The compensation process for victims of the Fukushima Daiichi nuclear disaster is severely criticised. On which grounds?

A: First, TEPCO created a huge application form of more than 100 pages. This document was very complicated, even for lawyers. TEPCO also required lots of evidence to file with those applications. We criticised the process. Victims said it is not workable. Then TEPCO created a new version. But people still have difficulties filling it in, specifically the elderly or people with disabilities. Most people claim their compensation directly against TEPCO. In most cases, TEPCO receives the application for compensation and determines which amount they want to pay to the victims. TEPCO drives the process but they are the cause of the disaster. That makes the issue very complicated and very complex for victims. We want people to go to a lawyer to see if what they have received is actually fair or enough for them.

Q: There is no independent body setting guidelines?

A: There are several guidelines for compensation set up by the government panel on nuclear damage compensation. The panel is under the Ministry of Education and consists of experts on law and nuclear technology. They decide the basic structure of victims' compensation. But the panel didn't research very well what is happening to the victims of the disaster. The guideline is very broad. It doesn't refer to some people, who actually suffer from the disaster. It draws strange lines between groups of victims. And it doesn't reflect the reality of people affected by the accident. The guideline itself is a very big problem.

Q: Which other problems have you seen?

A: Sometimes, TEPCO doesn't follow the guidelines, distorts them and then people are very confused about why they cannot get money, even if their damage is covered by the guidelines. But those are just guidelines. TEPCO has the authority to decide how much money they want to pay or don't want to pay to the victims.

Q: What kind of damages can victims be compensated for?

A: For evacuation from areas which the government designated for evacuation. For pain and suffering. For transportation, housing and also lost wages. If you live in the prefectures outside Fukushima but the radiation level is so high and you decide to evacuate, you cannot get compensation for your evacuation.

Q: What can those people do?

A: There are two other ways apart from filing applications to TEPCO. We can file the compensation claim with the Nuclear Damage Conflict Resolution Centre set up by the government. A committee of one or three lawyers decides how much TEPCO should pay. But the Centre has no authority to order TEPCO to pay. They can propose a settlement agreement. When TEPCO does not accept the settlement proposal, people have to go to court. In terms of preparation, time and cost, that is more burdensome for victims. In Japan, people don't always want to go to court to present their case and their testimony to the judge. It is a cultural issue, since some people think it is burdensome, something shameful for them.

Q: But sometimes, courts open up space for victims' testimonies.

A. That is exactly what some plaintiffs want to do. Two big issues are not heard under the Centre's procedure. First, they don't care about the fault of TEPCO or the government. Currently, we have a no-fault system under the Nuclear Damage Compensation Law. The victims don't have to prove that TEPCO caused the accident at the power plants. But plaintiffs want to prove that TEPCO could have prevented the accident. In that case, the compensation should be much higher since it is something they could have prevented and they caused this accident by their mistake. The second issue is that they want to talk about their story in courtroom, open to the public and put it on record with the court. If you go through the Centre, the process itself is not open to the public. People cannot make a public record of the kind of suffering they have had from the accident. But those lawsuits have just started. The first case was filed on March 11, 2012. The discussion around the liability of the government and TEPCO has just started. They haven't started to discuss the damage for victims. We need more time.

Q: Is the liability of suppliers being discussed?

A. We have a lawyers' group preparing a case against a supplier. The Nuclear Damage Compensation Law prevents a claim against suppliers. The objective of the Law itself is to promote the nuclear industry rather than help victims or share the burden fairly among the actors involved in the nuclear industry. However, people are thinking why should those suppliers enjoy immunity from claims against them by the victims of the accident. A group of lawyers is trying to challenge this statute.

**Update from the editor:
This lawsuit was filed on
January 30, 2014 with Tokyo
District Court.****Q: If the compensation
scheme hardly helps victims to
set up a new life, what is it for?**

A: The whole compensation scheme is trying to protect TEPCO's interests and trying to save TEPCO from bankruptcy rather than paying fair compensation to victims. The basic idea is to limit the payment from TEPCO to the victims, to make the compensation procedure more difficult for victims, so that the victims have to be satisfied with what TEPCO is willing to offer. If you want more, you have to go through a more difficult procedure. Many people are giving up.

**Q: For most victims it is
probably not even about the
money...**

A: Victims always say they want their life back; they want to go back to normal, they want to get back to before March 11, 2011. Those are the biggest wishes of the victims. They need compensation, but it is only about money. Victims of the nuclear accident, especially from the areas heavily contaminated by radiation, cannot go back to their original land. Such damage is very difficult to value. Outsiders have difficulty in trying to understand what kind of damage this is. We cannot calculate this kind of damage in money. Money cannot restore the lives of people to before the accident.