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International Human Rights Law and Nuclear Disasters

Michel Prieur

President - CIDCE

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www.cidce.org

Key Sources

- Disasters and human rights, CIDCE 2010
- Ethical principles on disaster risk reduction and people's resilience, Council of Europe 2012
- Protection of persons in the event of disasters, International Law Commission, 2014
- Waseda-Sendai, CIDCE recommendation on human rights and medical management in nuclear disasters 2014-2015

Nuclear Law and Human Rights Law

- *Convention on Early Notification of a Nuclear Accident (IAEA-1986)*: information received “may be used without restriction, **except when such information is provided in confidence by the notifying State Party**” (art.5-3); further information/consultations “**as far as is reasonably practicable**“ (art. 6).
- *Convention on Assistance in the Case of a Nuclear Accident Or Radiological Emergency (IAEA-1986)*: “**protect life, property and the environment** from the effects of radioactive releases.” (art 1-1)
- **BUT** “requesting State and the assisting party **shall protect the confidentiality of any confidential information** that becomes available to either of them in connection with the assistance in the event of a nuclear accident or radiological emergency. Such **information shall be used exclusively for the purpose of the assistance agreed upon.**(art.6)

Human Rights Treaties Ignore Nuclear Disasters

- 35 universal and 4 regional treaties
- ***General Principle: Universal application everywhere and always to any situation***

In all HR treaties, disasters are mentioned only twice:

1) **Convention on the Rights of Persons with Disabilities** (2006), art. 11: “armed conflict, humanitarian emergencies and the occurrence of natural disasters.”

- **African Charter on the Rights and Welfare of the Child** (1990), art.23: “natural disaster, internal armed conflicts, civil strife, breakdown of economic and social order or howsoever caused.”

No Exemption of Human Rights in the case of Disasters

- The Right to life is non-exemptible
- If there is an Exemption Clause, it should apply only to:
 - An officially proclaimed state of public emergency that threatens the life of the nation (International Covenant on Civil and Political Rights (1966), art.4)
 - “war or other public emergency threatening the life of the nation” (European Convention on Human Rights (1950), art.15)

No regression on human rights motivated by nuclear disasters

- General principle: there should be no regression of human rights. They should progress continuously.
- Reduction or abolishment of Human Rights is prohibited.
- Applied to the Human Right to the Environment:
no retrogressive measures are permitted
- Since Rio+20: no backtracking in environmental issues as in Human Rights

Fukushima Nuclear Disaster and the Right to Health

- Anand Grover report (2013): Japan violates the right to health: Human Rights Council makes 29 recommendations and critics
 - Disaster Management, information, displacement of populations, little or no iodine distribution, health control gaps, return of population in 20 msv exposed areas instead of 1 msv; bad management of radioactive land and waste.

Main Human Rights to be strengthened for nuclear disaster risk management

Specific human rights provisions must be introduced in the event of a nuclear disaster :

- Right to health for future generations;
- Right to information and the freedom of expression on nuclear risks, (EHRC 2006, Mamère / France);
- Right to compensation, EHRC on Tchernobyl;
- Rights of displaced persons: international law and human rights law gap – nothing exists for nuclear disasters

- Right to damages resulting from a nuclear disaster shall not be subject to any statute of limitation instead of the 10-year statute of limitations of the 1960 Paris Convention
- Radioactive contamination resulting from nuclear industry activities or a nuclear disaster should be recognized as a Crime against Humanity under the Rome Statute of the International Criminal Court, as inhumane act.

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