THE RIGHT TO SAFETY: SOME CONCEPTUAL AND PRACTICAL ISSUES

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1. Introduction

Increased vulnerability to environmental hazards is one among many problems generated by urbanisation in developing countries. There is plenty of experience of effective risk reduction in towns exposed to natural hazards. However, the scale of urban vulnerability and the speed of its growth have outstripped efforts to reduce risk. Complex socioeconomic and institutional contexts are also a major obstacle.¹

Scaling up is a particular challenge: to date, many urban risk reduction initiatives have been small-scale, one-off activities, often focusing on a single hazard or aspect of risk. New approaches are needed to stimulate broad-based, multi-disciplinary disaster risk reduction and to mainstream mitigation into development planning.

The concept of a 'right to safety' may assist in mainstreaming, in both urban and rural contexts. The idea has been discussed in general terms, but there are problems associated with its application. For this reason it has not made much headway outside academic circles. This paper describes how the right to safety may be defined and discusses issues in its application. It aims to stimulate further debate, in the hope that this will lead one day to the right to safety's adoption internationally.

2. Definition of the 'right to safety'

The right to safety can be defined, quite simply, as follows:

Everyone has the right to the highest attainable standard of protection against natural and man-made hazards.

This definition is supported by other economic, social and cultural rights agreed in international human rights instruments. Like other rights, the right to safety carries obligations – primarily on governments, but also on other stakeholders – to take steps to realise it.

3. Human rights and development

There are two main types of human right:

- o *civil and political rights* (e.g. the right to a trial, to freedom of association, not to be tortured)
- economic, social and cultural rights (e.g. the right to food, housing, or employment)²

¹ Twigg J 2004 in press, *Disaster Risk Reduction: mitigation and preparedness in development and emergency programming* (London: Overseas Development Institute), chapter 14.

² Some people maintain that there is a third category of 'collective rights' deriving from principles of international solidarity and co-operation – e.g. a right to development, and to peace.

Both kinds are found in the Universal Declaration of Human Rights (1948), which is the cornerstone of internationally accepted rights. The Universal Declaration and the two International Covenants of 1966 (the International Covenant on Civil and Political Righgth()5.In7.4(t3-5.7(7.6(n)-8.9tna)7.(tio)7.3(n3-5.sal)-5.Cic)5.tion3-5.2(g)3.(nt2-4.9on E()6.cn3-5.tio)7.

4. Rights and disaster reduction

4.1 Global level

The right to safety is not an *explicit* right in international human rights instruments but some address it, implicitly or otherwise. Certain aspects are covered by the three major instruments of human rights: the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (CCPR) and the International Covenant on Economic, Social and Cultural Rights (CESCR). These aspects can be grouped into six main kinds.⁵

(i) Right to security in general

The right to life is the supreme right, and is basic to all human rights. Some codes begin with a general statement on the right to life, liberty and security of person.

human rights instrument or a General Comment by the UN's monitoring Committee on Economic, Social and Cultural Rights.⁷

(iv) Freedom from hunger

Adequate food is another component of the right to an adequate standard of living. The 1966 Covenant on Economic, Social and Cultural Rights is a landmark in commitment, asserting the right of everyone to be free from hunger and sketching out specific measures to improve production and distribution of food in order to achieve this.

(v) Right to health and safety at work

Safety in the workplace is generally regarded as a right and moreover as a right that can be enforced, because employers are clearly responsible – both morally and legally – for quaranteeing it.

(vi) Right to health

The commitment to the highest attainable standard of physical and mental health in the Covenant on Economic, Social and Cultural Rights provides a substantial support to the right to safety. Hazards are clearly a major cause of death and ill health. States must take steps to prevent diseases and to improve environmental and industrial hygiene. From this it is only a short step to requiring measures to deal with hazards.

The UN's monitoring Committee on Economic, Social and Cultural rights explains aspects of this in greater detail. It interprets 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 access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health'. The emphasis on the *underlying determinants* of health is significant, and clearly applicable to the idea of a right to safety.

4.2 Regional and national levels

Little research has been done on regionally- or state-defined rights relating to disasters, and there is probably a wide variation in the concepts and approaches used. Some echo the international conventions: for example, the Charter of Fundamental Rights of the European Union (2000) covers general liberty and security, health and safety at work, health care and protection, and environmental quality.⁹

⁷ The UN has six treaty monitoring committees covering the main rights instruments (civil and political, economic-social-cultural, torture, race, women and children). They receive reports from countries and issue 'General Comments' or interpretations of these instruments that have authority equivalent to that of the original agreements.

⁸ The right to the highest attainable standard of health. E/C. 12/2000/4, CESCR General Comment 14, paragraph 11 (see also paragraph 15).

⁹ Charter of Fundamental Rights of the European Union 2000 (Brussels: European Commission).

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therefore not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients.

Here the term 'adequate' is not defined rigidly: 'The precise meaning of "adequacy" is to a large extent determined by the prevailing social, economic, cultural, climatic, ecological and other conditions.' However, there is a 'core content' of the right to adequate food, which implies: 'The availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture' and 'The accessibility of such food in ways that are

5.3 Choice of definition

This paper defines the right to safety in terms of the 'highest attainable standard of protection' against natural and man-made hazards rather than 'adequate protection'. Although both variations have a basis in international human rights, the former is preferable because it aims higher: 'the highest attainable standard of protection' is clearly a more advanced state than 'adequate protection'. The challenge of finding appropriate indicators of progress towards this standard is discussed in Section 7.

6. Responsibility for safety

Who is ultimately responsible for ensuring the safety of the public and mitigating hazards (natural or man-made)? There is no simple answer to this. In the built environment, for instance, individuals expect government to ensure the safety of their homes and the buildings in which they work by issuing and enforcing standards and regulations; but society as a whole also places much of the responsibility on builders, architects and the consumer public.

6.1 The state

International human rights codes are directed at the state, which should be the guarantor of such rights. It is states that sign up to such documents and undertake to fulfil their obligations.

In the case of political and civil rights, this responsibility is clear enough. Every state signing the International Covenant on Civil and Political Rights 'undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind' (Article 2.1).

However, it is harder to assign responsibility for economic, social and cultural rights. For example, the Universal Declaration of Human Rights states that everyone is entitled to realisation 'of the economic, social, and cultural rights indispensable for his dignity and the free development of his personality', but 'in accordance with the organisation and resources of each state' (Article 22). Each state signing the International Covenant on Economic, Social and Cultural Rights undertakes 'to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in

The concept of a right to safety is likely to be challenged by those who fear it will increase their own liability (e.g. government and the private sector).

6.3 Enforcing rights

The distinctive feature of a human rights-based approach is its legal foundation — internationally, regionally and nationally. However, rights are notoriously difficult to enforce. International conventions that have UN bodies associated with monitoring them have the greatest status and binding authority, but these bodies do not enforce rights — this can only be done where they have been incorporated within international law. Although many national governments sign international agreements, they fail to ratify them, and even where they do they may not make adequate provision in domestic law or may lack effective mechanisms for enforcement. States signing up to UN covenants are expected to report on progress towards them, but their reports may not give much information on what has been achieved — a problem noted, for example, with regard to realizing the right to adequate food. There is a complaints procedure attached to the Covenant on Civil and Political Rights but not for the Covenant on Economic, Social and Cultural Rights.

The international community sometimes prefers to steer away from rights. For example, the Habitat Agenda agreed by the UN Conference on Human Settlements at Istanbul in 1996 contains a commitment to tackle urban vulnerability to disasters, but this does not mention rights and is not binding in the way that a right to safe housing would be.²¹ At international level, recent discussions concerning social policy have focused on principles rather than rights.

Because of such problems, some people have argued against over-reliance on the law and for alternative approaches. Codes of conduct and quality standards may be seen as more flexible, attainable alternatives. Discussion of 'entitlements' rather than rights avoids the legalism associated with rights thinking, too. Entitlements may be legal rights, and the term entitlement tends to assume some prior rights, but the term has wider usage and application and comes closer to the idea of moral rights than that of human rights.

Despite these legal weaknesses, the international apparatus can promote a culture of compliance, for instance through UN monitoring bodies. Its different conventions and treaties also provide a generally accepted benchmark of good practice against which governments can be measured and challenged.

7. Measuring progress towards the right to safety

7.1 Economic, social and cultural rights

Human rights instruments are primarily about principles and fundamental obligations. It is not their business to advise on methods of implementation. Nevertheless, as we have

²⁰21 The right to adequate food. E/C.12/1999/5, CESCR General Comment 12, paragraph 2. Habitat Agenda (1996) section 172 (Nairobi: United Nations Centre for Human Settlements)

seen above, some of the recent General Comments of the UN Committee on Economic, Social and Cultural Rights have set down benchmarks for measuring progress towards achievements of rights. They have also been specific about the actions required to realise

The task, then, is to identify these facilities, goods, services and conditions and provide indicators for achievement or improvement. This will be far from straightforward because

Appendix: Aspects of the right to safety in the UDHR, CCPR and CESCR

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(1	l)	Right	to	security	1n	general

Everyone has the right to life, liberty and security of person.

Universal Declaration of Human Rights 1948, Article 3

The right to the highest attainable standard of health. E/C. 12/2000/4, CESCR General Comment 14, paragraph 15
Universal Declaration of Human Rights 1948, Article 25.1
International Covenant on Economic, Social and Cultural Rights 1966, Article 11.1

recognizing the fundamental right of everyone to be free from hunger, shall take,

(vi) Right to health

(10) 200310 10 1000001	
The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.	International Covenant on Economic, Social and Cultural Rights 1966, Article 12.1
The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right [to health] shall include those necessary for (b) The improvement of all aspects of environmental and industrial hygiene; (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases. The Committee interprets the right to health, as defined in article 12.1 [of the CESCR], as an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and	International Covenant on Economic, Social and Cultural Rights 1966, Article 12.2

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