

OPEN PEER REVIEW

Analysis of Principles of Nuclear Damage Compensation in International Conventions and Customary Law

Behrouz. Kia¹, Saleh. Rezaei Pishrobat^{2*}, Mohammad. Musazadeh³

¹ PhD student in International Law, Maragheh Branch, Islamic Azad University, Maragheh, Iran
² Associate Professor, Nuclear Science and Technology Research Institute, Tehran, Iran
³ Assistant Professor of International Law, Department of Law, Faculty of Humanities, Maragheh University, Maragheh, Iran

* Corresponding author email address: SalehRezaeipishrobat@gmail.com

Received: 2024-09-23	Revised: 2024-12-27	Accepted: 2024-01-11	Published: 2025-04-10
EDITOR: Tahereh Ebrahimifar Head of Sociology Department, Faculty of Arts, Helwan University,Cairo, Egypt. Email: Tah.Ebrahimifar@iauctb.ac.ir			
REVIEWER 1: Yuyu Zheng School of International Relations, University of St Andrews, St Andrews, London, United Kingdom. Email: yuyuzheng@gmail.com			
REVIEWER 2: Mustafa Kaan Tuysuz Institute of Social Sciences, Siirt Universite, Siirt, Turkey . Email: AhmetKılıç@siirt.edu.tr			

1. Round 1

1.1. Reviewer 1

Reviewer:

The claim "This underscores the need for greater clarity and coherence in the relationship between these sources of law" would benefit from a specific example where customary and treaty laws conflicted, to illustrate this need more concretely.

The reference to due diligence is important but abstract. Please consider citing a specific case or article in international environmental law where this principle has been judicially applied to nuclear incidents.

The statement "disparities in domestic implementation often undermine these provisions..." should reference at least one concrete example, preferably including Iran, to ground the claim in reality.

The sentence "Iran's domestic liability framework incorporates elements of both Islamic jurisprudence and international law..." is crucial. However, a concrete reference to a particular Iranian statute or legal code would significantly strengthen this point.

When stating "Customary international law's focus on state obligations can thus leave significant gaps...", it would be useful to briefly explore whether scholars have proposed hybrid models that combine operator and state liability.

The phrase "principle of equitable utilization..." is introduced but not fully developed. A brief definition and example would clarify its application to nuclear liability contexts.

The authors mention "the dual legal systems in countries like India and South Africa...". This could be enriched with a short example of how these dual systems interact or conflict in the context of nuclear damage regulation.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

The phrase "Nuclear energy is a strategic industry for many states..." could be expanded to reflect the contemporary shift in nuclear politics post-Fukushima and in the context of climate change mitigation goals.

When discussing the 1997 Protocol to Amend the Vienna Convention, it would be helpful to state whether Iran has ratified this amendment or not, given the Iranian legal context is a central focus of the article.

The sentence "The Fukushima disaster in 2011 revealed significant gaps in financial preparedness..." should be followed by specific compensation figures or comparative analysis of insurance coverage vs. actual cost to emphasize the magnitude of the gap.

The phrase "Following the Chernobyl disaster in 1986..." would benefit from a direct reference or example illustrating how customary law was used (or failed to be used) in response to Chernobyl, especially by affected neighboring states.

The authors note "the lack of binding enforcement mechanisms limited their practical application." Consider suggesting a mechanism or reform proposal to address this challenge, which would enhance the policy relevance of the discussion.

The sentence "while conventions prioritize operational accountability, customary law underscores the regulatory and supervisory obligations of states" is a strong point. However, it should be followed by a short example illustrating the practical implications of this distinction.

The authors state "this framework facilitated compensation for domestic victims but struggled to address transboundary harm...". This assertion would benefit from specific figures or official complaints by South Korea or China to support the analysis.

The phrase "Customary international law... relies instead on the principle of full reparation..." would benefit from clarification: how is "full reparation" practically calculated or enforced in nuclear contexts?

Authors revised the manuscript and uploaded the document.

2. Revised

Editor's decision: Accepted.

Editor in Chief's decision: Accepted.