Introduction

Considering that catastrophes keep striking States and their population — thereby jeopardizing their development and enjoyment of human rights — the international community has begun to lay out a set of potential rapid responses whose aim, on the one hand, is to foster a network of institutional and non-governmental actors and, on the other, quite obviously, to develop remedies specifically tailored to the nature of each disaster. In any case, the need for cooperation amongst States, as well as the protection of victims’ basic subsistence rights, are steadily emerging as priorities.

This specific domain of International Disaster Response Law (IDRL) has been rapidly evolving, starting from the United Nations General Assembly (UNGA) Resolution 46/182, but not limited to that development. Indeed, model in paragraphs 1 to 3, providing humanitarian assistance for victims of natural disasters, the so-called Bruges Resolution, adopted by the Institute of International Law and representing the opinion its members have formed independently of governmental interests, seeks to shed light on some IDRL concepts, especially regarding the protection of victims. It bears pointing out in this connection that humanitarian assistance is often ‘the first necessary step’ in alleviating the consequences of a disaster. The Bruges Resolution then acknowledges the existence of ‘essential needs’ but without providing a definition of them, linking them to the very concept of humanitarian assistance. This, in turn, refers to goods and services that are indispensable for the survival and fulfillment of the victims’ needs. The Victims of Disaster, on an approach already endorsed in two other UNGA resolutions.

Taking stock of the aforementioned UNGA and Bruges Resolutions, the new recent Draft Articles on the Protection of Persons in the Event of Disasters (hereinafter, Draft Articles), adopted by the UN International Law Commission in 2016, attempt to codify victims’ rights and States’ duties in a disaster scenario. While it is accepted that disaster law is composed of three intertwined parts: (1) prevention; (2) response; and (3) recovery, the focus of this chapter is on the third part, i.e., the aftermath of a disaster, seeking to shed light on some IDRL concepts, especially regarding the protection of victims. This chapter aims to provide a comprehensive overview of the mechanisms of protection of victims’ basic subsistence rights, focusing on the Draft Articles and their potential implications for the protection of victims in disaster scenarios.
This chapter takes a top-down approach, looking at the practice of international organizations as well as the interpretation of some rights set forth in treaty-based bodies in order to first map out a pool of basic subsistence rights, provisionally including the rights to life, shelter, health, food, and water. However, because the right to life is uniquely distinctive, it will not be treated here, while the right to shelter will be dealt with elsewhere in this book, in Chapter 12. The practice of regional organizations and forums will be considered in passing in order to assess whether the instruments they promote include the same pool of rights. Once we have a set of rights, we will consider whether they can be helpful as a theoretical basis for basic subsistence needs. Thirdly, and finally, it will be argued that IDRL still lacks a proper analysis of basic subsistence rights and that further work is needed, especially in emergency situations, if States and relief personnel are to be able to make meaningful decisions in the effort to ensure the protection of victims. Note that the analysis will not take account of the distinction between natural and man-made disasters; moreover, as the commentary specifies, armed conflicts are excluded from the notion of disaster.

Mapping basic subsistence rights in universal instruments

In chronological order, the three UNGA Resolutions 43/131, 45/100, and 46/182 paved the way for the concepts underpinning the protection of victims’ basic subsistence rights, stressing that States in need of humanitarian assistance have to facilitate the work of organizations by providing, in particular, a supply of food, medicines, and healthcare. These elements are not expressly defined as basic subsistence rights, even though the emphasis placed on them suggests a recognition that they are more imperative than the others.

The Bruges Resolution explicitly states that the concept of humanitarian assistance encompasses the provision of goods and services indispensable for the survival and the fulfillment of the essential needs of the victims. As a way of simplification, and perhaps as an open list, these goods and services include foodstuffs, medical supplies — including medical services, decontamination tools, and psychological assistance, vehicles, tents, and temporary shelters. Again, concrete actions are spelled out, but no definition of basic subsistence needs is attached. Article I (3) describes victims as ‘groups of human beings whose fundamental human rights or whose essential needs are endangered’. The victims are not helpless either since they essentially refer to ‘human[2]s endangered by fundamental human rights’.

The Draft Articles are the most recent attempt to assert victims’ rights in a disaster scenario. Article 2 of the Draft Articles, defining their purpose, distinguishes between ‘essential needs’ and ‘rights’, wedging in a dichotomy that is difficult to grasp. The commentary specifies that the former refers to ‘survival or similarly basic needs in the aftermath of a disaster’, while the latter consists of human rights and rights acquired under national law. It seems to be at odds with the purpose of the Draft Articles that basic subsistence needs have not been defined in Draft Article 3 (‘Use of terms’), while the same norm defines the concepts of disaster, affected State, assisting State, other assisting actors, external assistance, relief personnel, and equipment and goods. In particular, goods encompass foodstuffs, drinking water, medical supplies, means of shelter, clothing, blankets, vehicles, telecommunications equipment, and other objects for disaster relief assistance, which is therefore consistent with the approach taken in the UNGA resolutions. Although this list offers an idea of what might be termed basic subsistence needs, it does not mean the problem that the latter concept is not accurately defined. A reason for the choice could be that other provisions specifically deal with human dignity and human rights.

Draft Article 4 provides for the respect and protection of human dignity. The commentary on this Article considers human dignity as a prerequisite of victims’ protection, and in a counter...
Mapping basic subsistence rights

describing a separate provision. The commentary further recalls the instruments devoted to the protection of human rights, stressing that the affected States bear the duty to protect persons in their territory or under its jurisdiction.

The most important provisions for our purposes is Draft Article 5, for it states that ‘[p]ersons affected by disasters are entitled to the respect for and protection of their human rights in accordance with international law’. The reason why there is not an exhaustive list of rights is that such a list would have established a hierarchy of rights (something the framers tried to avoid) and, even more importantly, that any rights not in the list would not have been protected. The commentary, however, does not refrain from enumerating some of such rights, with an emphasis on the rights to life, food, health, shelter, and humanitarian assistance. The problem of their enforcement and that of the derogations they may be subject to are left open, with the caveat that these situations should be treated under the rules of international law.

In light of this brief survey, it seems possible to maintain that the Draft Articles took a neutral attitude in the identification of basic subsistence rights. This choice has a beneficial and a downside effect at the same time. The former essentially lies in the fact that there is no hierarchy of basic subsistence rights, leaving them open-ended enough that they can be invoked by victims in different situations and protected by affected States as well as other assisting actors with a sufficient margin of discretion. The latter instead lies in the fact that certain rights could be disregarded or sidelined, thereby introducing a de facto hierarchy. In other words, naming some human rights as basic subsistence rights would have been helpful in identifying them in a disaster scenario and guaranteeing a quicker and targeted intervention by relief agents. In any case, again, the duty to cooperate is constantly highlighted.

What the foregoing analysis suggests is that basic subsistence rights encompass at least the rights to health, food, water, shelter, and life—all of these underpinned by human dignity as a sort of meta-principle. Considering that the last three are addressed in other chapters of this book, we will focus on the first three.

In the Draft Articles, the words health, food, and water appear twelve, fourteen, and six times, respectively, and are qualified through their basic components, namely, access to essential medicines and healthcare facilities, access to safe and sufficient foodstuff, and access to safe water. At the international level, these rights have been enshrined in different instruments, starting from the International Covenant on Social, Economic, and Cultural Rights (ICESCR). Therefore, we will now turn to the General Comments of the ESCR Committee to determine whether these rights—owing to their substantive nature—have been interpreted as having a privileged role in disaster situations.

The right to health

The right to health has several overlapping dimensions, commonly referred to as ‘social determinants’. There are prescriptions of sorts that can be useful in making sure that this right can be enjoyed or that it is not jeopardized. Thus, for example, access to health education and the right to education could serve both purposes.

General Comment No. 14 on the right to the highest attainable standard of health explicitly interpret Article 12(2)(c) ICESCR as also encompassing the provision of disaster relief, while linking this dimension to the general obligations of signatory States to cooperate with the United Nations and the World Health Organization. Furthermore, it seeks to also be borne in mind that a quality component of the right to health is access to medicine. If we combine this element with the general obligations to cooperate—also expected in the UN Charter and in the ICESCR, among other places—we can infer, on the one hand, that existing States have a duty...
to provide medicines and, on the other hand, unenforceable remedies, for instance, intellectual property rights might be suspended in order to produce a specific medicine if, and only if, the affected State's facilities are no longer able to manufacture it. At least theoretically and indirectly, the reading seems to be supported by Article 31(b) of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), which lists the conditions to be complied with to exploit a patent without the right-holder's authorization. A broad understanding of this provision may encompass natural and man-made disasters. Unfortunately, there is no relevant practice to support this idea, and until further developments, it remains purely theoretical.

The importance of the right to health is also evidenced by the practice of international organizations and other treaty-based bodies. For instance, the Inter-American Commission on Human Rights recognized that the Haitian population's right to health was severely affected by the tropical storm Jeanne and thus recommended making all the necessary efforts to restore an efficient health service. The Committee on the Elimination of Discrimination against Women, in its concluding observations on the Dominican Republic, highlighted the need to protect the right to health of women living in rural areas affected by the 2015 tsunami. Similar conclusions are present in the reports on the assessment of post-Chernobyl Belarus as well as post-Fukushima Japan. In addition, the Committee on the Rights of the Child, in its concluding observations on the Philippines, stressed the need to protect children's health after the typhoon Yolanda and the closure of a nuclear testing site. Furthermore, General Comment No. 15, on the right of the child to enjoy the highest attainable standard of health,underlines the need for States to ensure unhindered access to health services and facilities, including psychological assistance for their families. The Human Rights Committee, in its report, has recommended to the United Nations that it take further steps to ensure access to essential healthcare facilities for the African American population in the aftermath of Hurricane Katrina.

As concerns the practice of States, the Djibouti Combined Initial and Periodic Reports under the African Charter on Human and Peoples' Rights stress that, in setting up a national health system, specific actions need to be taken to ensure access to health care in disaster-prone areas, so as to protect potential victims by taking the essential needs of vulnerable people into account. Moreover, in the concluding observations on Chile, the Committee on the Elimination of Discrimination against Women regrets that a national plan on natural disaster management has not included the specific health needs of women.

In what concerns the UN system, the World Health Organization has been very active enacting a plethora of instruments by which to tackle the different layers of the right to health over the entire course of a disaster's lifecycle. These instruments are essentially operational and do not contain any statement that the right to health is a basic subsistence right, nor do they mention its relation to other rights. However, an interesting step forward has been taken by the UN Security Council in declaring that the Ebola outbreak 'constitutes a threat to international peace and security'. This instrument on the one hand amplifies the duty of States and intergovernmental organizations to cooperate in providing specialized health care assistance, while at the same time acknowledging the relevant role the World Health Organization needs to play in coordinating joint efforts and in providing technical assistance and personnel. Looking at the practice of regional organizations, the Association of Southeast Asian Nations (ASEAN) has adopted the Manila Declaration on Mutual Assistance on Natural Disasters, aimed at preventing serious consequences amongst States in order to enhance the dissemination of medical supplies. In addition, the Vienna Agreement on Disaster Management and Emergency Response acknowledges that the national frequency and scale of disasters in the region is a major concern. Although the agreement does not address the right to health directly, it provides for a comprehensive strategy to protect disaster victims. These instruments are entirely operational in

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that they deal with aspects such as prevention and mitigation, preparedness, emergency response, rehabilitation, technical cooperation, and scientific research. Although these instruments do not say much on the concept of basic subsistence rights, it is noteworthy that they seem to favour a practical rather than a theoretical approach to the subject matter at hand.

Another interesting example of this practical approach may be found in the European Union (EU). The EU is equipped with an administrative framework for coping with disasters, centrally managed by the Directorate General European Civil Protection and Humanitarian Aid Operations (DG ECHO) – a European Commission service – deriving from the fact that the EU as a whole enjoys a competence to support and complement the actions of Member States if needed by the mechanisms based on Article 196 of the Treaty on the Functioning of the European Union (TFEU).43 The EU is currently looking for a comprehensive crisis planning strategy,44 while actions are still being carried out on a case-by-case basis.45 Against this general backdrop, we need to stress the recent establishment of European Medical Corps (EMC), established in response to the Ebola outbreak.46 The EMC, created under the auspices of the EU Civil Protection Mechanism,47 can be deployed on short notice to act in disaster scenarios offering specific types of assistance, such as providing medical equipment, vaccinations, and logistical support meeting the quality standard set out by the World Health Organization. The EMC thus contributes to the enforcement of the right to health in disaster scenarios, highlighting the duty of international organizations to cooperate with the affected and the assisting States.

The discussion so far shows that the right to health has several implications — acknowledged at different levels — whose main components include access to essential health care facilities and essential medicines, as well as prevention and control of epidemic diseases.48 The overlapping dimensions of the right to health have to be considered together, forming as a whole a comprehensive right, having a prominent role in disaster scenarios and, as such, a right to be protected.

The right to food

The ESCR Committee has interpreted the right to food in General Comment No. 12,49 identifying it as an independent concept and highlighting its relation to the right to health.50 However, these two dimensions overlap to the extent that, in the aftermath of a disaster, foodstuff must be provided as quickly as possible. This point is linked to the concept of safety given that stocked foodstuffs may have been contaminated through water and soil especially in case of human-made disasters. Indeed, the lack of immediate available scientific evidence makes it difficult to foresee how a disaster can concretely affect the right to food in its component of access to safe foodstuffs.

This reading is confirmed by General Comment No. 12, which, in considering the concept of physical accessibility to food, it noted that "victims of natural disasters...in disaster-prone areas...may need special attention." Moreover, in virtue of the consolidated tripartite nature of the obligation of States to ensure human rights, States have a duty to respect, protect, and fulfill the right to food by preventing it in disaster situations. Finally, General Comment No. 12 once more underlines the fact that States bear a joint and individual responsibility to cooperate in the event of catastrophes by offering the necessary assistance to ensure that the right to food is guaranteed.52

These findings are corroborated by the practice of States as well as that of international organizations and treaty-based bodies. In what concerns the former, the second Combined Periodic Report of Niger on the Implementation of the African Charter on Human and Peoples’ Rights highlights that hunger reduction is a goal to be achieved especially in response to natural or other disaster in order to improve the resilience of the Nigerian population.53 To this end, the government has put in place a national mechanism for disaster and food crisis prevention and
management. Nigeria, by contrast, endorsed a different approach: on the one hand, it recognized the right to food as a ‘non-health factor’ affecting the population; on the other, as a member of international organizations, it highlighted its contribution in delivering food in post-disaster scenarios. As for the latter, the Committee on the Rights of the Child in its concluding observations on Kazakhstan stresses the need to guarantee safe access to food, especially in response to the shrinking of the Aral Sea.

In the same vein as the World Health Organization, the Food and Agriculture Organization has promoted several operational instruments to guide relief work and States in implementing disaster response activities. However, it is important to stress that these instruments prefer the term ‘basic subsistence needs’ to a right-based approach, thereby contributing to the terminological confusion surrounding this category.

The African Union (AU) presents an interesting framework on disaster law and the protection of basic subsistence needs, with particular emphasis on the right to food and water. Indeed, the African Regional Strategy for Disaster Risk Reduction was enacted in 2004 under the auspices of the Executive Council. Significantly, the strategy contributes ‘to the attainment of sustainable development and poverty eradication by facilitating the integration of disaster risk reduction into development’. The integrated approach echoes a different attitude to basic subsistence needs in that their protection must take the peculiarities of AU Member States into account; therefore, interventions need to be based on the principles of sustainable development and non-risk accumulation. These actions include ‘cash-for-relief instead of food, voucher-based seed programmes at seed fairs, small-scale water harvesting and integrated food, health and functional education programmes’ as endorsed in 2010 at the second ministerial conference on disaster risk reduction.

The right to food, in its predominant component of ensuring safe foodstuffs, has thus been considered as a priority in disaster scenarios, thereby enriching the obligations that States bear vis-à-vis their population, especially in what concerns the resilience of agricultural and productivity systems.

The right to water

The foregoing considerations are applicable, mutatis mutandis, to the right to water as well as to the preservation and restoration of water resources. However, a different, rather practical, aspect needs to be added: in the right to water is expressed not only in the obligation to sanitize water but also in the obligation to avoid water shortages. Indeed, the ICESCR Committee’s General Comment No. 15 specifically stipulates that the right to water has to be ensured for ‘groups facing difficulties with physical access’, with an emphasis on victims of natural disasters or people living in disaster-prone areas. Moreover, General Comment No. 15 goes on to highlight that, as disaster relief improves, all the rights enshrined in the ICESCR need to be given priority, with particular emphasis on the right to water while international assistance needs to be provided in compliance with the ICESCR itself. Finally, on a more general level, States are required to comply with the obligation to respect and protect the right to water.

Looking at the practice on the ground, three elements bear mention. Firstly, the High Commissioner for Human Rights has stressed the impact that climate change can have on weather-related disasters therefore endangering a potential breach of the right to water. Secondly, in the concluding observations regarding Uzbekistan, the Committee on the Rights of the Child considers the right to water a component of environmental health, a matter closely bound up with the ecological disaster in the Amu–Seyr. Thirdly, the World Health Organization has put out a set of guidelines designed to ensure safe water in disaster scenarios.

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it could be inferred that the right to water should not be regarded as isolated from the rights to health and food.

The theoretical account contained in General Comment No. 15 and the practice concerning the right to water make it possible to conclude that this right constitutes a basic need to be protected and ensures a disaster scenario. In doing so States have to insert these protections in legislative acts, especially those aimed at implementing a disaster response framework.

The foregoing combined analysis of the rights to health, food, and water make it possible to conclude that this right constitutes a basic need to be protected and ensured in a disaster scenario. In doing so, States have to insert these protections in legislative acts, especially those aimed at implementing a disaster response framework.

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The foregoing combined analysis of the rights to health, food, and water has shown that these rights are the main elements to be taken into account in disaster scenarios. Hence, the practice of States and international organizations seems to suggest that they should never be interpreted separately but as a whole, thereby supporting the idea that they all constitute a sort of basket of basic human needs.

Identifying the concept of basic subsistence rights

Despite some attempts, legal theory has not yet come up with a comprehensive analysis of basic subsistence rights, even if the problem has captured the attention of many philosophers. A detailed account of the philosophical debate on the concept of human rights, and of basic subsistence rights amongst them, falls outside the scope of this chapter and is well beyond my own capacity. However, before delving into the legal dimension of these rights, it may be helpful to provide a brief overview of that debate as to its better delineate our findings.

In his seminal monograph, Henry Shue argues that the right to subsistence is a basic human right whose full enjoyment is needed as a condition for the enjoyment of other rights. The broad scope of this premise has led other commentators to accept or criticize it, thereby sparking an intense academic debate.

This theory has been fine-tuned in such a way as to support the view that on an objective ranking of interests, the interest in subsistence is so important that . . . lacking subsistence is unsustainable, and . . . , the right-holders’ interest in subsistence is likely to outweigh their interest in the substances of any other right.

It has been argued that ‘coordinated action’ is a decisive feature for the enjoyment of basic subsistence rights. Nonetheless, a consensus on the core content of basic subsistence rights is still lacking. Departing again from Shue’s theory, a decisive contribution to the debate has identified the content of these rights as including, at least, ‘clean water, adequate food and shelter, and basic health care’, whose enjoyment, according to this argument, has to be guaranteed in rem.

Having looked at these arguments – in combination with the relative practice and the interpretation that treaty-based bodies have given of the rights to health, food, and water – we are now in a position to identify the basic subsistence rights that States need to protect in disaster scenarios. We are now in a position to identify the basic subsistence rights that States need to protect in disaster scenarios. What emerges from the interpretations of treaty-based bodies, and from the practice of regional and universal organizations and that of States, is that we still lack a general understanding of basic subsistence rights. At least two different reasons can account for this shortcoming: First and foremost, at a more theoretical level, there seems to emerge a trend that equates basic subsistence rights with human rights, laying special emphasis on the rights to life, health, food, and shelter. Therefore, considering the copious amount of instruments protecting these rights and the abundant interpretation and relative practice, it would seem redundant to include their specifications in instruments devoted to protecting victims of disasters. This approach seems to be endorsed by the ILC’s Draft Article 5 in the extent that, as discussed, Draft Article 5 leaves the open-ended statement ‘in accordance with international law’. Indeed, the commentary
on this provision, clearly states that these human rights encompass ‘human rights obligations expressed in relevant international agreements’ and ‘customary international law’. Secondly, the analysis done in the previous sections brings a contrast into focus: whereas on the one hand, treaty-based bodies have provided a sound theoretical account of the rights in question, on the other the practice of organizations and States is more focused on concrete interventions. The main consequence of this finding is that the standard for the protection of basic subsistence rights in a disaster scenario can operate on two different levels. This difference does not entail a binary choice between the two different approaches, any discrepancies between the two can ideally be overcome to the benefit of victims through the duty to cooperate, which in turn targets at an obligation of all States. On the other hand, the lack of a theory of basic needs at both the universal and the regional level means that these needs essentially overlap with the rights to life, shelter, health, food, and water, but the overlap does not necessarily impact disaster relief operations and recovery actions — this is to the extent that these actions and operations are in any case taken care of by the affected State itself or, with the support of assisting States and relief personnel.

In sum, as much as a better specification of basic subsistence rights would probably be useful at the theoretical level, such a specification seems less crucial than expected when it comes to the practice on the ground.

**Conclusion**

Research has made it possible to identify three different trends in the protection of basic subsistence rights in the aftermath of a disaster. Firstly, basic subsistence rights essentially overlap or rather, they belong in the wider category of human rights, with a marked focus on the rights to life, health, food, water, and shelter. Secondly — with the exception of the right to life — there is a consensus that States have an obligation to respect, protect and fulfil these rights, realizing them progressively and using all available economic resources. In any case, it has to be stressed that these core content — such as it can be gleaned from the general comments — must be guaranteed immediately, even in emergency situations, and in a disaster scenario. This finding is corroborated by the recent Sendai Framework for Disaster Risk Reduction, an instrument promoted as the successor to the Hyogo Framework. 82 It includes the rights to health, water, and food within the wider category of human rights as key elements to be taken into account in the ex ante phase of a disaster. As we have seen, the does not append itself is almost impossible to isolate the protection of basic subsistence rights in the lifecycle of a disaster. Thirdly, the vast majority of instruments analyzed in this chapter are mainly operational, that is, rather than insisting on the need to define basic subsistence rights, their focus is on ensuring that concrete actions are taken by all of the agents involved. This, however, appears to us the lack of a theoretical statement on the need to define basic subsistence rights, their focus is on ensuring that concrete actions are taken by all of the agents involved. This is one of the reasons for a proper categorization of basic subsistence rights is often lacking to such an extent that it would be extremely difficult to interpret the interaction of rights into a hierarchy of actions. In any case, the lack of a theoretical statement has not affected the practicability of interventions, in other words, the absence of specific constraints led to any instruments makes for a good deal of flexibility — the more the better — and this is why we see this as a positive outcome that should be safeguarded.

Another issue needs to be stressed. To date, there is no international litigation regarding the enforcement of basic subsistence rights. Even though certain elements could be inferred from the Hurricane Katrina case, it remains difficult for treaty-based bodies to hear complaints alleging a violation of basic subsistence rights. 83
Mapping basic subsistence rights

In light of the piecemeal framework that has been sketched out, and considering that disaster scenarios require a practical rather than a theoretical approach, the lack of a proper theory of basic subsistence rights does not seem a big issue. Indeed, these rights are included in ICESCR general comments and constantly referred to as well in the practice of international organizations. Moreover, the review mechanisms established under universal treaties entail that treaty-based bodies will assess the legislative and operational framework that States put into practice to cope with disasters. A full-fledged list of basic subsistence rights seems to amount to a theoretical exercise to the extent that, in one way or another, these rights are already in place as State obligations. It can thus be concluded that basic subsistence rights enjoy a very practical dimension singled out in both the ex ante and the ex post phase—a dimension that is key to ensuring the protection of victims provided for in the ILC’s Draft Article 5.

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[Further bibliography is listed here.]

Notes

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11. UNGA, Res 45/110 (n. 7) para 8; UNGA, Res 49/180 (n. 7) para 8; UNGA, Res 49/181 (n. 7) para 8.

12. For instance, UNGA, Res 45/110 acknowledges that in providing humanitarian assistance it is preferable to supply food and medicines to health-care; for vehicles access to victims to reach in the shortest possible time is essential. Similarly, UNGA Res 49/182 stipulates that the United Nations should continue to make appropriate arrangements with interested Governments and intergovernmental and non-governmental organizations to enable it to have more expeditious access, when necessary, to their emergency relief capacities, including food reserves.

13. Art 4, letters (c) and (d).


17. Ibid art 4, para 1.

18. Ibid art 4, para 1.


Mapping basic subsistence rights


HRComm, Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant (Concluding Observations of the Human Rights Committee: United States of America), UN Doc. CHRD/CUSA/CO/3/Add.1, detailing the concrete measures taken to respond to the Committee's observations.

Likewise, 1996 World Health Organization meeting urging States to ensure access to health care, in particular for vulnerable groups such as women and children and those affected by communicable diseases or disability. See also the WHA 58 (12 February 2005) para 117. For a historical account of the development of human rights protection in the context of disasters, see E. Sognigbe, 'Institutional Theory and Southeast Asia: the Case of ASEAN' 161 (Cambridge University Press, 2015). For a historical account of the development of human rights protection in the context of disasters, see E. Sognigbe, 'Institutional Theory and Southeast Asia: the Case of ASEAN' 161 (Cambridge University Press, 2015).


WHO, Assessing Mental Health and Psychosocial Needs and Resources: Toolkit for Humanitarian Settings, offering case studies drawn from disasters affecting specified countries (37–61). On mental health, see WHO, Emergency Response Framework, providing a set of guidelines enabling States and other organizations to assess whether the affected State is suffering a public health threat taking into account the scale of the disaster and the affected by communicable diseases or disability (art 2(7)). See also the WHO, Emergency Response Framework, providing a set of guidelines enabling States and other organizations to assess whether the affected State is suffering a public health threat taking into account the scale of the disaster and the affected by communicable diseases or disability (art 2(7)).


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WHO, Strengthening National Health Emergency and Disaster Management Capacities and Resilience during the Fukushima nuclear plant disaster.

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51 General Comment No. 12 (n. 49) para 13.

52 Ibid paras 38–39.


54 Ibid para 303.


56 CommRC (n. 33) para 59.


61 Ibid para 3.1.

62 Ibid para 3.3.6.


68 General Comment No.15 (n. 66): ‘Groups facing difficulties with physical access to water, such as . . . victims of natural disasters, persons living in disaster-prone areas . . . are provided with safe and sufficient water’ (para 16(g)).

69 Ibid para 34.
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70  Ibid.
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