

Fukushima nuclear power plant accident and illegality of nuclear power generation

- 1, Fukushima disaster in 2011
- 2, Lawsuit for victims and an injunction to the operation of the nuclear power plant and the discharge of contaminated water
- 3, Introduced by U.S.- nuclear power generation into the world
- 4, Nuclear power and NPT treaty and TPNW - legalization of the right to develop nuclear energy
- 5, The role of the IAEA in promoting nuclear power
- 6, The release of contaminated water into the Pacific Ocean.
- 7, Why nuclear power generation should be illegal?
- 8, Costa Rica 2008 court ruling: nuclear power leads to the development of nuclear weapons.

1. Fukushima Accident in 2011

At the time of the Fukushima disaster in 2011

The big earthquake and the following tsunami destroyed the electricity facility of the Fukushima Daiichi nuclear power plant. It led to an explosion of the nuclear reactor buildings and the reactor was also damaged. At the time of the explosion, there were fears of catastrophic damage in Fukushima and all over Japan. Even in Tokyo, we checked radiation levels every day. Even today, residents near the Fukushima power plant cannot return to their homes and have become internal and international evacuees. Meanwhile, TEPCO continued to cool down the nuclear debris and could not take up it from the meltdown reactor, and many have yet to return.

No final disposal method for nuclear waste has been established, and although nuclear waste is temporarily stockpiled at a final disposal facility in Aomori Prefecture, no final disposal technology has been established.

In 2023 the Japanese government and TEPCO pushed through the contaminated water discharge into the Pacific Ocean despite domestic and international criticism.

2. Lawsuit for victims and an injunction to the operation of the nuclear power plant and the discharge of contaminated water

Since the Fukushima accident, many lawsuits for compensation and injunctions have been

êled by many victims as plaiñtiñs.

In the lawsuits for compensation for damages, TEPCO's liability was acknowledged by the courts. However, on June 17, 2022, the Supreme Court declined to recognize the government's liability for damages in the case of 4 lawsuits.

Lawsuits for injunction against the operation of nuclear power plants were accepted in some cases. However, the government is now trying to restart nuclear power plants by setting new safety standards. It is as if the government and the power companies have forgotten the tragedy of Fukushima.

In 2023, a lawsuit was êled seeking an injunction to stop the discharge of contaminated water from Fukushima into the Paciêc Ocean, claiming infringement of êshing rights. The lawsuit is currently ongoing.

3. Introduced by U.S.- nuclear power generation into the world

However, the nuclear materials that nuclear power plants use as fuel are linked to the development of nuclear weapons. I believe that there is a need to determine how nuclear power plants should be regulated and made illegal under international law.

I would like to trace this historically.

Introduction of nuclear power plants

In 1953, when the Soviet Union gained the advantage in the development of the nuclear hydrogen bomb, U.S. President Eisenhower declared "Atoms for Peace" in his speech at the United Nations in 1953 and formulated a strategy to promote nuclear power generation as a safe and eñective means of energy generation worldwide.

However, since the proliferation of nuclear materials is linked to the production of nuclear weapons, the U.S. led the creation of the IAEA as an organization to promote the use of nuclear energy and proposed an international control system under the supervision of the IAEA to prevent the development of nuclear weapons.

In this way, the U.S. sought to gain an advantage over the Soviet Union by promoting the commercial use of nuclear energy. By promoting the civilian use of nuclear energy, the U.S. sought to erase the negative image of nuclear weapons. At the same time, however, the U.S. was trying to gain an advantageous position in the Cold War by promoting the development of nuclear submarines and the deployment of nuclear weapons in NATO countries.

In 1954, a nuclear test of a hydrogen bomb was conducted by the United States at Bikini Atoll

in the Pacific Ocean. As a result, Japanese fishing ships were exposed to radiation. Radioactivity was also detected in tuna. It caused a radiation panic in Japan, and public opinion against the U.S. nuclear tests increased. As the Japanese people remembered the atomic bombings in Hiroshima and Nagasaki, if opposition to nuclear weapons increases, the U.S. military strategy will not be viable.

The left-wing against nuclear weapons gained momentum in Japan, and the U.S. needed to prevent spread of the communism. Therefore, it promoted the peaceful use of nuclear energy in Japan, saying that nuclear power was safe. To this end, the U.S. tried to weaken the opposition by promoting nuclear energy as beneficial for peace and prosperity. The major Japanese TV and newspapers also cooperated with the U.S. in promoting the peaceful use of nuclear energy.

Meanwhile, the Soviet Union also developed commercial nuclear power plants in the 1950s and tried to expand them to China and Eastern Europe. To counter this, the U.S. gained control over uranium by signing bilateral treaties with a number of countries. The U.S. made the Atomic Energy Agreement with 39 countries in the 1950s. At the same time, it also promoted the import of enriched uranium from the U.S. to other countries and fostered the dream that nuclear fission could be used to generate electricity.

Under such context, the IAEA was established in 1957 under the leadership of the United States to promote nuclear power and monitor the development of nuclear weapons through nuclear inspections. Article 2 of the IAEA Charter states that the IAEA "shall endeavor to promote and increase the contribution of atomic energy to peace, health, and prosperity throughout the world.

At the same time, Article 12 of the Charter requires that nuclear facilities be inspected and that plutonium and other materials produced at nuclear power plants be placed under IAEA control to prevent diversion to military purposes by countries other than the five nuclear nations. This indicates that the NPT Treaty and the IAEA are a set of treaties.

4. Nuclear power and NPT treaty and TPNW - legalization of the right to develop nuclear energy

Both the NPT and TPNW treaties restricted the possession of nuclear weapons while actively recognizing and legalizing the use of nuclear energy. This is in line with the U.S.

strategy of the IAEA. This was also consistent with the interests of some Global South countries.

Article 4 of NPT

1. Nothing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles I and II of this Treaty.

2. All the Parties to the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials, and scientific and technological information for the peaceful uses of nuclear energy. Parties to the Treaty in a position to do so shall also cooperate in contributing alone or together with other States or international organizations to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States Party to the Treaty, with due consideration for the needs of the developing areas of the world.

The preamble of TPNW

Emphasizing that nothing in this Treaty shall be interpreted as affecting the inalienable right of its States Parties to develop research, production and use of nuclear energy for peaceful purposes without discrimination,

This clause of TPNW explicitly acknowledged that the development of nuclear energy is aimed at the non-nuclear-weapons countries.

The NPT Treaty fixed the NPT regime, and this regime did not change when the Treaty on the Prohibition of Nuclear Weapons (TPNW) was concluded.

An international legal regime was established, in which restrictions on the possession of nuclear weapons and the use of nuclear energy are considered one set. The restriction of nuclear weapons and the legalization of nuclear energy were thus traded off. Can we really allow nuclear generation to become legal in this way?

5. The role of the IAEA in promoting nuclear power

Fukushima contaminated water and involvement of IAEA

Contaminated water from nuclear power plants contains tritium. The contaminated

water contact directly with the nuclear fuel in the destroyed reactor and the water has a significant impact on human health and the environment.

When the Japanese government made plans to discharge nuclear-contaminated water into the Pacific Ocean, it immediately consulted the IAEA. IAEA Secretary General Grossi visited Japan several times and issued a report just before the August 2023 discharge of contaminated water stating that the water "meets international safety standards and has negligible impact on humans and the environment. In post-discharge inspections, the IAEA has also stated that the standards have been met.

Cf. IADL Statement on Release of Contaminated Water from Fukushima Nuclear Power Plant to the Pacific Ocean ⁱⁱ

The United States created the IAEA which is the agency to promote nuclear power, as I said before. Therefore, there is a question of whether the standards set by the IAEA are reliable. It is said that it will take more than 30 years to complete discharge of the water. Even if the concentration of contamination meets the standards, the total amount of contaminated water released has not been disclosed. Therefore it cannot be said that there will be no impact on the environment or human health.

Also, if the discharge of tritium-contaminated water into the ocean is not allowed at Fukushima, the discharge of cooling water from reprocessing facilities in the U.K. and France will be prevented. The IAEA is afraid of such an impact.

Therefore, the IAEA may have reported that the impact on the environment and health is small because of the high need to allow the discharge of contaminated water from the Fukushima plant.

Reference: WHO and IAEA agreement in 1959

NGO, IndependentWHO, denounced this agreement, saying WHO is unable to fulfill its mission on the health consequences of radioactivity due to this agreement. Whether during the Chernobyl disaster and then in Fukushima, but also in relation to all manner of nuclear issues, the evidence shows that WHO has not exhibited any autonomy of initiative or resources in radiation protection. ⁱⁱⁱ

6. The release of contaminated water into the Pacific Ocean.

What we can do now to take action and make claims about contaminated water in

Fukushima using international law

- (1) File injunction lawsuits and claims for damages against the Japanese government and TEPCO on the grounds that the discharged water will lead to environmental destruction and infringement of human health.

An injunction lawsuit filed by Japanese citizens and fishermen was submitted to the Fukushima District Court in 2023, but no lawsuit has yet been filed by foreign victims.

- (2) Violation of the London Convention: Ocean dumping of radioactive waste is totally prohibited.

The London Convention came into effect in 1975 as a result of protests against the dumping of nuclear waste into the ocean in oil barrels by the nuclear power states. The IAEA was the lead agency for this treaty. It recommended not restricting permit-level standards for ocean dumping. The permit level for tritium is set only for the concentration, which means that ocean dumping is allowed even if the amount is large if the tritium is diluted.

In addition, reprocessing facilities in the U.K. and France are still dumping tritium into the ocean, but this is not considered a violation of the London Convention and is being left unchecked. The London Convention has this loophole.

- (3) The United Nations Convention on the Law of the Sea requires governments to observe their obligation to prevent environmental pollution.

Article 192 (Obligation to protect and preserve the marine environment)

Article 194 (Obligation to prevent marine pollution)

Article 197 (Obligation to Global and regional Cooperation for the protection and preservation of the marine environment)

- (4) Violation of human right

Right to health (in the International Covenant on Economic, Social and Cultural Rights,)

Right to healthy environment (adopted as a UN declaration in 2022)

In this regard, UN Special Rapporteur issued a statement that showed concern about the discharge of Fukushima-contaminated water, saying the discharge could impact millions of lives and livelihoods in the Pacific region. (April 2021)

*The experts: Special Rapporteur on toxics and human rights, SR on Right to Food, SR on human rights and the environment

7. Why nuclear power generation should be illegal?

We need to consider again why we need to outlaw nuclear power generation.

A) If any nuclear accident takes place, the damage is huge. Given there is a possibility of natural disasters, nuclear accidents can take place in every country.

The effects of the Chernobyl and Fukushima accidents are still ongoing. People can no longer live on the site.

B) Final disposition methods for nuclear waste have not been confirmed and it is not perfect. They are trying to bury it deep underground, but there is no certainty that it will be able to withstand all-natural disasters, including earthquakes.

C) Nuclear power plants could be a target of terrorists and enemy armed attacks

In general, nuclear power plants can be targets of armed conflict and terrorist attacks. During the war in Ukraine, nuclear power plants were also the subject of offensive and defensive actions. This danger will not disappear.

D) Even if it were safe, nuclear material can be changed into nuclear weapons by political intention. This risk will not be eliminated.

The NPT treaty has not been fully implemented and some countries are pursuing nuclear development outside the NPT regime. There is also the danger that a country like Iran will allow nuclear development in exchange for a ban on nuclear weapons. Thus, nuclear development is used as a political bargaining tool. If bargaining fails, it will lead to the development of nuclear weapons.

8. Costa Rica 2008 court ruling: nuclear power leads to the development of nuclear weapons.

In this regard, the 2008 Costa Rican court decision declares the close relationship between nuclear power plants and nuclear weapons. This is an instructive ruling.

Costa Rica's 2008 ruling held that a decree authorizing the extraction of uranium and thorium, manufacturing of nuclear fuel and fabrication of nuclear reactors violates the Costa Rica Peace

Constitution.

The thorium and the uranium, on their side, are radioactive minerals, and even when the Mining Code reserves the State the right to its exploitation, whether by itself or through concessions to privates, its well-known use for war and its highly contaminating character forces the consideration as unconstitutional its belonging to the list here contested.

VII. The Chamber cannot do less but consider that the inclusion within a catalogue of permitted activities [] of the topic mixture exposed within the present action of unconstitutionality (extraction of uranium and thorium, manufacturing of nuclear fuel and fabrication of nuclear reactors) results against to the value of peace for its possible links with bellicose activity, as well as to the right to a healthy environment and, therefore, it is unconstitutional to include within a catalogue of possible activities to be authorized by a public authority."

9. Conclusion

We should outlaw nuclear power generation from the lesson from the Fukushima disaster and their potential for diversion to nuclear weapons.

ⁱ NHK documentary (in Japanese):

<https://www.youtube.com/watch?v=aj76EegmhVc&t=9s>

ⁱⁱIADL statement of the Fukushima contaminated water release:

<https://iadllaw.org/2023/07/iadl-resolution-opposing-fukushima-contaminated-water-release/>

ⁱⁱⁱ IndependentWHO: [https://independentwho.org/en/who-and-aiea-agreement/#:~:text=The%20World%20Health%20Organization%20\(WHO,central%20element%20of%20our%20demands.](https://independentwho.org/en/who-and-aiea-agreement/#:~:text=The%20World%20Health%20Organization%20(WHO,central%20element%20of%20our%20demands.)