

LAW & SOCIAL POLICY | RESEARCH ARTICLE

Juridical Analysis of the Concept of State Responsibility towards Natural Disaster Victims Based on Indonesian Law Number 24 of 2007 on Disaster Management

Muh. Nur Iqbal N^{1*}, Andi Darmawansya Tenri Liweng², Ahmad Reski Awaluddin³

^{1,2} Department of Law, Faculty of Law Science, Universitas Muslim Indonesia, Makassar, Indonesia. Email: muh.nuriqbal@umi.ac.id^{*}, darmawansya.tenriliweng@umi.ac.id²

³ Urban Regional and Planning, Universitas Sulawesi Barat, Majene, Indonesia.

ARTICLE HISTORY

Received: November 27, 2024

Revised: December 06, 2024

Accepted: December 31, 2024

DOI

<https://doi.org/10.52970/grspr.v4i1.847>

ABSTRACT

This research aims to analyze the concept of state responsibility towards natural disaster victims. Case study on the impact of the earthquake in West Sulawesi in 2021. The approach used is a philosophical approach. The research method used is a mixed qualitative and quantitative approach. The primary data used consists of interview data conducted with the Head of the BPBD of West Sulawesi Province, the Head of the Social Service of West Sulawesi Province, the Head of Law and Human Rights of West Sulawesi, and the community victims of Natural Disasters in West Sulawesi Province. The secondary data used includes (1) Primary legal materials, which are all related regulations such as the 1945 Constitution and Law No. 39 of 1999 on Human Rights. (2) Secondary legal materials, which provide explanations of primary legal materials in the form of laws written in journals by legal scholars, and theories or opinions of experts such as the theories used, namely the theory of state responsibility, the theory of legal protection, and the theory of human rights. (3) Tertiary legal materials, which provide guidance in the form of dictionaries, encyclopedias, and books that explain primary and secondary legal materials. The research results show that the sustainability of victim handling and the effectiveness of social assistance guarantee implementation are influential factors on the state's responsibility towards natural disaster victims. The importance of human rights-based policies, coordination between the central, provincial, and regional governments, and the fulfillment of basic needs to ensure the state's responsibility towards victims are met.

Keywords: State Responsibility, Natural Disaster, Victims.

I. Introduction

Natural disasters are phenomena that cannot be avoided and often have serious impacts on society, both socially, economically, and environmentally. Indonesia, as a country located in the Pacific Ring of Fire, often experiences various types of disasters, such as earthquakes, tsunamis, floods, and volcanic eruptions. Therefore, disaster management becomes very important to protect the community and minimize losses. The Republic of Indonesia Law Number 24 of 2007 on Disaster Management provides a clear legal framework for disaster management in Indonesia. This law establishes basic principles, objectives, and mechanisms for disaster management involving various parties, including the government, the community, and the private



sector. However, despite the existence of this law, there are still challenges in its implementation, such as the lack of coordination between agencies, limited resources, and the low public awareness regarding disaster mitigation. In this context, a juridical analysis of Law No. 24 of 2007 becomes important to evaluate the effectiveness of the existing regulations and to identify aspects that need improvement. This research aims to examine the concept of disaster management regulated in the law, as well as to explore the roles of various elements of society in the disaster management process. Thus, it is expected to provide constructive recommendations for improving disaster management policies in Indonesia. Through this analysis, it is hoped to reveal the extent to which Law No. 24 of 2007 is capable of addressing the increasingly complex challenges of disaster management, as well as contributing to the development of laws and policies in the field of disaster management in the future.

II. Literature Review

In Law No. 24 of 2007 on Disaster Management, it is emphasized that the Government and Local Governments are responsible for disaster management. The government's responsibilities in disaster management include: 1) Disaster risk reduction and integrating disaster risk reduction with development programs 2) Protecting the community from disaster impacts 3) Ensuring the fulfillment of the rights of communities and disaster-affected refugees fairly and in accordance with minimum service standards 4) Recovery from disaster impacts 5) Allocating a sufficient disaster management budget in the State Revenue and Expenditure Budget 6) Allocating a disaster management budget in the form of standby funds 7) Maintaining authentic and credible archives or documents from disaster threats and impacts. Meanwhile, the authority of the Government in disaster management includes: 1) Establishing disaster management policies in line with national development policies 2) Creating development plans that incorporate elements of disaster management policies 3) Determining the status and levels of national and regional disasters 4) Establishing cooperation policies in disaster management with other countries, organizations, or other international parties 5) Formulating policies on the use of technology that has the potential to be a source of disaster threats or dangers 6) Formulating policies to prevent the control and depletion of natural resources beyond the natural capacity for recovery 7) Controlling the collection and distribution of money or goods on a national scale. A disaster is an event or series of events that threaten and disrupt the lives of the community caused by natural factors, non-natural factors, and human factors, resulting in loss of human life, environmental damage, property loss, and psychological impact. According to Law No. 24 of 2007, disasters are classified into three categories: 1) Natural disasters are disasters caused by events or sequences of events caused by nature, including earthquakes, tsunamis, volcanic eruptions, floods, droughts, typhoons, and landslides. 2) Non-natural disasters are disasters caused by events or sequences of events, including disease outbreaks, epidemics, technological failures, and modernization failures. 3) Social disasters are disasters caused by humans, including social conflicts between groups or communities, and terrorism.

III. Research Method

The research approach used is the Philosophical Approach, which is employed to examine the values of the State's Responsibility towards Natural Disaster Victims. Efforts to address the issues in this research used qualitative analysis with an inductive-deductive thinking method. The analysis was conducted on articles containing legal principles, and after the analysis, it was reconstructed and given meaning by connecting one article with another related to institutional authority. The data used in this research are primary and secondary data. The primary data used consists of interview data conducted with the Head of the BPBD of West Sulawesi Province, the Head of the Social Service of West Sulawesi Province, the Head of Law and Human Rights of West Sulawesi, and the community victims of Natural Disasters in West Sulawesi Province. The secondary data used includes (1) Primary legal materials, which are all related regulations such as the 1945 Constitution and Law No. 39 of 1999 on Human Rights. (2) Secondary legal materials, which provide explanations of primary legal

materials in the form of laws written in journals by legal scholars, and theories or opinions of experts such as the theories used, namely the theory of state responsibility, the theory of legal protection, and the theory of human rights. (3) Tertiary legal materials, which provide guidance in the form of dictionaries, encyclopedias, and books that explain primary and secondary legal materials.

IV. Result and Discussion

The concept of state responsibility towards natural disaster victims from the perspective of Human Rights (HR) is a principle that emphasizes the state's obligation to protect, fulfill, and promote the basic rights of citizens affected by natural disasters. This aligns with the term "the safety of the people is the highest law," which originates from a legal concept stating that the welfare and safety of society must be the top priority in the formulation and implementation of state policies. This is often associated with the principle of *Salus Populi Suprema Lex Esto*, which is Latin for "The welfare of the people is the highest law." This principle emphasizes that all government decisions must focus on the protection and welfare of its people, reflecting a commitment to human rights and social justice.

The state has a constitutional responsibility to protect every citizen, including victims of natural disasters, in accordance with the 1945 Constitution. This protection includes the rights to life, security, health, and welfare. Natural disaster cases in Indonesia are among those that occur frequently. The issue that follows a natural disaster is the rights of the victims, one of the disaster victim management approaches is the sustainability of disaster victim management. Indonesian bureaucrats often neglect the rights of victims, causing the plight of those affected to receive even more attention due to the neglect by the bureaucrats. The rights of disaster victims guaranteed by the state are outlined in Law Number 24 of 2007 on Disaster Management. The rights of disaster victims guaranteed by the state are as follows:

- a. Disaster risk protection, as the state's first effort in disaster management regarding the rights of disaster victims guaranteed by the state, is to create adequate development programs in accordance with natural disaster standards. Public buildings constructed by the state can at least minimize the impact of natural disasters. In addition, the government has also established regulations regarding the construction of residential areas that are not close to disaster-prone zones. The services provided to disaster victims, as we all know, living as a refugee is far from pleasant. Where every disaster victim refugee will live together in emergency tents set up after the disaster occurs. As refugees, they will not prepare their own supplies or personal belongings, so this becomes a right of disaster victims guaranteed by the state according to minimum standards;
- b. The Right to Post-Disaster Recovery, which means that after a disaster occurs, the government will carry out recovery in the disaster-affected area, such as rebuilding damaged buildings, restoring electricity networks, logistics, food, and other needs required by disaster victims. The rights of disaster victims guaranteed by the state in the recovery process can include physical, psychological, and other material conditions. Like obtaining credit forgiveness and reprocessing lost authentic documents;
- c. The allocation of Disaster Management Budget in the State Budget, which means that disaster management funds must be ready-to-use funds, where the State will provide these funds to the National Disaster Management Agency (BNPB) to meet all urgent humanitarian needs. So that in the recovery process, disaster victims will not face difficulties in meeting their basic needs, because the disaster relief budget has been prepared by the State as assistance for natural disaster victims;
- d. Guarantee of the Return of Important Documents for Disaster Victims, which is the last right of disaster victims guaranteed by the state, namely the ease of returning or reissuing authentic documents that are important for natural disaster victims. The State will strive to rescue important documents and hand them over to the National Land Agency for land documents. If the document is damaged and cannot be used, it will be reissued.

Based on the above, the researcher elaborates on the findings from the studies and research conducted in the field, related to the responses of various respondents regarding the Sustainability of Victim Handling and the effectiveness of the implementation of the Sustainability of Victim Handling carried out by the local government, which can be illustrated in the following table 1:

Table 1. Respondents' Responses Regarding the Sustainability of Natural Disaster Victim Handling in West Sulawesi Province in 2024

| No | Description | Frequency (Number of Respondent) | Percentage (%) |
|-------|------------------|-------------------------------------|-------------------|
| 1 | Influential | 30 | 20 |
| 2 | Less Influential | 65 | 43.34 |
| 3 | Not Influential | 55 | 36.66 |
| Total | | 150 | 100 |

Source of Data: Processed Primary Data for the Year 2024

The data shows that the factor of Sustainability of Victim Handling, which is one of the influential factors on the state's responsibility towards natural disaster victims from a human rights perspective, is carried out by the local government of West Sulawesi Province. Based on the Regulation of the National Disaster Management Agency of the Republic of Indonesia Number 03 of 2018 concerning the Handling of Refugees in Disaster Emergency Situations, it is explained that the authority given for refugee handling is the National Disaster Management Agency (BNPb). This authority is described in Article 5 as follows: "The authority of BNPb in the Handling of Refugees in Disaster Emergency Situations includes: (a) providing assistance in the integrated handling of refugees through the Disaster Emergency Response Command System; and (b) coordinating the handling of refugees at the international level based on the President's directives." Information on refugee handling is explained in Article 10 as follows: "The management of data and information in the integrated handling of refugees is incorporated into the Disaster Emergency Response Command System." The researchers outlined the results of the study and field research regarding the responses of various respondents on the effectiveness of the implementation of social assistance guarantees to natural disaster victims, which can be illustrated in the following table 2:

Table 2. Respondents' Responses Regarding the Effectiveness of the Implementation of Social Assistance Guarantees for Natural Disaster Victims in West Sulawesi Province in 2024

| No | Description | Frequency (Number of Respondent) | Percentage (%) |
|-------|----------------|-------------------------------------|-------------------|
| 1 | Effective | 45 | 30 |
| 2 | Less Effective | 50 | 33.34 |
| 3 | Ineffective | 55 | 36.66 |
| Total | | 150 | 100 |

Source of Data: Processed Primary Data for the Year 2024

The data shows that the factor of Sustainability of Victim Handling, which is one of the influential factors on the state's responsibility towards natural disaster victims from a human rights perspective, is carried out by the local government of West Sulawesi Province. Based on the Regulation of the National Disaster Management Agency of the Republic of Indonesia Number 03 of 2018 concerning the Handling of Refugees in Disaster Emergency Situations, it is explained that the authority given for handling refugees is the National Disaster Management Agency (BNPb). This authority is explained in Article 5 as follows: "The authority of BNPb in Handling Refugees in Disaster Emergency Situations includes: (a) providing assistance in the integrated handling of refugees through the Disaster Emergency Response Command System; and (b) coordinating the

handling of refugees at the international level based on the President's directives." Information on refugee handling is explained in Article 10 as follows: "The management of data and information in the integrated handling of refugees is incorporated into the Disaster Emergency Response Command System." The government is responsible for ensuring that social assistance is distributed fairly to all disaster victims. This means that the government must adopt transparent and fair processes and mechanisms in the distribution of such assistance.

4.1. The importance of human rights approach in disaster planning

Law Number 24 of 2007 emphasizes the importance of protecting human rights in disaster management. This can be linked to the state's obligation to ensure that disaster planning not only meets technical and operational needs but also respects and protects the rights of disaster victims. The state is obliged to ensure that post-disaster assistance prioritizes the principles of justice, accessibility, and non-discrimination. The creation of a planning system that protects vulnerable groups, including women, children, persons with disabilities, and other vulnerable groups in disaster situations.

4.2. The importance of evaluation and update of disaster planning

The importance of periodic evaluation and updating of disaster planning systems. In this regard, the planning process cannot be static, but must continuously be evaluated and adjusted to the evolving situations and new challenges in disaster mitigation. Evaluation of disaster response and impact, which serves as the basis for policy improvement and future planning. Enhancing the capacity of human resources, tools, and technology in planning and responding to disasters.

V. Conclusion

The conclusion of the concept of state responsibility towards natural disaster victims from the perspective of Human Rights (HR) is that the state has an obligation to protect, fulfill, and promote the basic rights of citizens affected by natural disasters. The principle of "the safety of the people as the highest law" emphasizes that state policies must prioritize the welfare and safety of the community, which is reflected in the state's efforts to protect disaster victims. Law No. 24 of 2007 regulates the rights of disaster victims, which include disaster risk protection, refugee services, post-disaster recovery, disaster response budget allocation, and the return of important documents lost due to disasters. The state is obligated to provide readily available budgets for disaster response, ensure targeted social assistance, and facilitate the recovery of the physical, psychological, and material conditions of the victims. Thus, the state's obligation in the context of natural disasters is not only focused on technical aspects but also on respecting the basic rights and welfare of the victims in accordance with human rights principles.

References

- Abdul Manan (2006), *Aspek-aspek Pengubah Hukum*, Kencana, Jakarta
- Abdul Azis Hakim (2011), *Negara Hukum dan Demokrasi Indonesia*, Pustaka Pelajar, Yogyakarta
- Andi Hamzah (1986), *Kamus Hukum*, Ghalia Indonesia, Jakarta
- Andreas Pramudianto (2014), *Hukum Perjanjian Internasional*, cet. Pertama, Setara Press, Malang
- Azhar (2003), *Penegakan Hukum Lingkungan di Indonesia*, Universitas Sriwijaya, Palembang
- Badan Pembinaan Hukum Nasional (2011), *Analisa dan Evaluasi UU No. 24 Tahun 2007 Tentang Badan Pembinaan Hukum Nasional*, Jakarta
- Budiman Chandra, *Pengantar Kesehatan Lingkungan*, EGC, Jakarta
- Hadi Purnomo dan Ronny Sugiantoro (2010), *Manajemen Bencana Prespon dan Tindakan Terhadap Bencana*, Metpress, Yogyakarta.

- Hidjaz, K. (2019). Effectiveness of Environmental Policy Enforcement and The Impact by Industrial Mining, Energy, Mineral, And Gas Activities In Indonesia. *International Journal of Energy Economics and Policy*, 9(6), 79–85. <https://doi.org/10.32479/ijeep.8146>
- Khamdan, Muh. dan Naniek Pangestuti (2017), *Pelanggaran HAM, Pusat Pengembangan Diklat Teknis dan Kepemimpinan Badan Pengembangan Sumber Daya Manusia Hukum dan HAM*
- Nurul Qamar (2022), *Hak Asasi Manusia dalam Negara Hukum Demokrasi (Human Right in Democratiche Rechtsstaat)*, Sinar Grafika, Jakarta
- Purnomo, Hadi dan Sugiantoro, Ronny (2010), *Manajemen Bencana: Respon dan Tindakan Terhadap Bencana*. Media Pressindo, Yogyakarta.
- Rahman Tanjung, dkk (2020), *Manajemen Mitigasi Bencana*, Penerbit Widana, Bandung.
- Syahrudin Nawi (2018), *Penelitian Normatif versus Penelitian Hukum Empiris*, Penerbit Umitoha Grafika, Makassar
- Takdir Rahmadi (2015), *Hukum Lingkungan di Indonesia*, cet.2, Rajawali Press, Jakarta