

The Reality of The State's Responsibility for Victims of Natural Disasters in The Perspective of Human Rights

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Abstract

This study critically examines the state's role in fulfilling its responsibilities towards victims of natural disasters from a human rights perspective. It aims to analyze the nature of these responsibilities, their conceptual framework, and the factors influencing their effective implementation. Using a philosophical approach alongside qualitative research methods like interviews and direct observations, the study seeks to deepen understanding of how state actions intersect with humanitarian principles. Key findings emphasize the importance of grounding state responsibilities in humanitarian values to uphold human rights and preserve the dignity of affected individuals. This perspective is particularly relevant in Indonesia, where Pancasila principles underscore the state's role in disaster response and recovery. Despite these principles, the study identifies persistent challenges such as inadequate disaster mitigation policies, insufficient community protection measures, and complexities in inter-governmental coordination. To enhance the implementation of state responsibilities in disaster management, several recommendations are proposed. Firstly, integrating humanitarian considerations into criteria for determining national disaster status is essential to prioritize human rights in decision-making. Secondly, regional governments should allocate resources in their budget planning for both proactive disaster prevention and effective post-disaster response tailored to local vulnerabilities. Additionally, the study advocates for improved disaster mitigation policies, including comprehensive public education on disaster impacts, strict building regulations, and robust disaster risk zoning frameworks. Addressing these recommendations can align state actions with humanitarian principles, thereby improving the protection and well-being of communities affected by natural disasters.

Keywords: State, Natural Disasters, Human Rights

INTRODUCTION

Indonesia, as one of the largest archipelagic countries in the world, has a geographically, hydrologically, geologically, and demographically diverse territory. Located between two major continents, Asia and Australia, and surrounded by the Pacific Ocean and the Indian Ocean, Indonesia has a dynamic geographical position with two continental plates actively interacting with each other. This makes Indonesia vulnerable to natural events such as earthquakes, tsunamis, volcanic eruptions, floods, landslides, strong winds, and forest fires. Continental plate shifts that occur due to tectonic activity can trigger serious natural disasters, such as those that often occur in Indonesia. For example, there are 129 active volcanoes that continue to be monitored by the Directorate of Volcanology and Geological Disaster Mitigation (PVMBG), while the Meteorology, Climatology, and Geophysics Agency (BMKG) closely monitors earthquake activity and tsunami potential. However, in disaster management, human rights often do not receive adequate attention. Natural disasters often cause material losses, environmental damage, and significant psychological impacts, while the protection of human rights is often neglected in such crisis situations. In fact, many disaster victims face discrimination in receiving aid, unsafe relocation, or even slow recovery due to inadequate policies. To address these challenges, it is important for the Indonesia government to further strengthen disaster planning and mitigation that involves a deep understanding of human rights. The need for the integration of human rights principles in disaster management policies can ensure that every government action and international humanitarian assistance is based on justice, non-discrimination, and protection against the vulnerability of affected communities. Thus,

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Indonesia can be more effective in protecting its population from the risk of natural disasters that are always lurking.

Natural disasters in Indonesia often result in serious impacts on society. In addition to earthquakes and tsunamis, other disasters such as floods, landslides, droughts, and tornadoes also often hit. In 2018, there was an earthquake in Palu City, Central Sulawesi Province. Central Sulawesi Governor Longki Djanggola said that the results of the verification of the impact of natural disasters on September 28, 2018, recorded that the death toll due to earthquakes, tsunamis and liquefaction reached 4,340 people (Republika.co.id, January 29, 2019). The Palu area that is prone to liquefaction has been studied by the Geological Agency published the results of the study in 2012. Based on the results of the study, the area near the coast in Palu Bay turns out to have a high potential to experience liquefaction. This is what causes most of the city of Palu to be prone to liquefaction. The potential danger is even almost all over the region (Kompas.com, January 5, 2018). Based on this, the City Regional Government is considered negligent because it did not pay attention to the results of the Geological Agency in 2012, while in the Presidential Instruction Article 7 paragraph a, it reads the preparation of the Central Government's development program plan by paying attention to the disaster risk map.

Efforts to ensure that approaches in natural disaster management also take into account the protection of the human rights of these groups are essential to be integrated into every policy step. The Government of Indonesia continues to strive to increase capacity in natural disaster management, including through regional and international cooperation in sharing knowledge, technology, and resources to strengthen community resilience to disasters. One example is active participation in the ASEAN Agreement on Disaster Management and Emergency Response (AADMER), which facilitates the coordination of cross-border assistance in the event of a major disaster. In the context of global climate change, the prediction of extreme weather and the intensity of natural disasters are likely to increase. Therefore, investment in disaster adaptation and mitigation capacity is crucial to minimize risks and ensure the economic and social sustainability of Indonesia's people in the future. Thus, awareness of the importance of disaster risk reduction, quick and effective response, and protection of human rights in the context of natural disasters must continue to be increased as part of Indonesia's strategy to strengthen national resilience. Hopefully, this information can provide a broader picture of the complexities and challenges in managing natural disasters in Indonesia and the efforts made to minimize their impact.

METHOD

The research approach carried out is the Philosophical Approach or Philosophical Approach which is used to examine the values of the Implementation of State Responsibility for Natural Disaster Victims in the Perspective of Human Rights. Conceptual Approach is a conceptual approach to a problem that does not yet have legal rules. Statute Approach by using literature data, namely the 1945 Constitution of the Republic of Indonesia, Human Rights Law No. 39 of 1999.

RESULT AND DISCUSSION

The Nature of State Responsibility for Natural Disaster Victims in the Perspective of Human Rights

The term "essence" or "esensi" originates from the Latin word "essential," which is defined in the Kamus Besar Bahasa Indonesia (KBBI) as meaning essence, core, or fundamental. Etymologically, essence refers to the part of reality that is true and essential. Meanwhile, according to the Dictionary of Law, the concept of state responsibility is described as "the obligation of a state to make reparation arising from a failure to comply with a legal obligation under international law." This means that state responsibility entails the duty to rectify any breaches of legal obligations under international law. The Republic of Indonesia has accommodated and guaranteed human rights concerning the handling of refugees. The international community faces challenges in ensuring protection for individuals who are forced to leave their countries, often due to conflicts accompanied by violence and human rights abuses. Such violations often result in traumatic experiences for the victims, who commonly suffer discrimination from both authorities and their peers who hold more dominant positions. These victims are often referred to as refugees, and allegations of human rights violations are widespread during natural disasters, covering civil, political, economic, social, and cultural rights. Therefore, the protection,

promotion, enforcement, and fulfillment of human rights in the constitution are the responsibility of the state, especially the government. Referring to the 1951 Convention relating to the Status of Refugees, it defines a refugee as someone who, due to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of their nationality and is unable or unwilling to avail themselves of the protection of that country. In simple terms, a refugee is someone who is compelled to sever ties with their home country due to a genuine fear of persecution. This fear-based element distinguishes refugees from other types of migrants, regardless of how dire their situation may be, and also from others in need of humanitarian assistance.

In the context of disaster management, psychological, economic, and social perspectives play an important role in understanding impacts and recovery efforts. Psychologically, trauma caused by disasters can result in serious mental disorders such as PTSD, depression, and anxiety. Victims who have lost family members or suffered property damage often face a long and difficult recovery process. Psychosocial support and access to mental health services are crucial in helping victims cope with this trauma. From an economic perspective, disasters can cause significant losses to both individuals and society. Loss of income sources, property damage, and disruption to the local economic system can plunge victims into prolonged poverty. The economic recovery process requires a holistic approach that includes financial assistance, community empowerment, and sustainable infrastructure development. Social is also an important aspect in disaster management. Disasters can exacerbate existing inequities and increase the vulnerability of vulnerable groups such as women, children, the elderly, and people with disabilities. Inclusive disaster management is needed to ensure that all these groups receive adequate protection and support. In Indonesia, Law Number 24 of 2007 concerning Disaster Management stipulates that disaster management must be carried out in a planned, integrated, coordinated, and comprehensive manner. Local governments, as stipulated in West Sulawesi Provincial Regulation Number 2 of 2010, play a central role in the implementation of disaster management, ensuring the protection and safety of the community in the midst of natural disasters. These points underscore the complexity and challenges of disaster management and the importance of coordination, integration, and inclusion in all aspects of disaster management to achieve a sustainable and inclusive recovery for all affected parties.

Regarding the principle of non-refoulement and government responsibility in disaster management, there are several important points that need to be understood:

Non-Refoulement Principle: The principle of non-refoulement is the prohibition of expelling or forcibly returning a refugee to their home country if it threatens their safety or security. Although not all countries are parties to the 1951 Refugee Convention, this principle is considered a peremptory norm or *ius cogens* in international law. This means that the principle of non-refoulement is considered a fundamental norm and cannot be ignored by States, regardless of whether they have ratified the convention. This confirms the moral and legal obligation of countries to respect this principle in the protection of refugees.

Government Responsibilities in Disaster Management: Governments have primary responsibilities in responding to natural disasters. These responsibilities include planning, disaster response preparation, aid coordination, reconstruction policy, and addressing disaster-related population issues. It reflects a commitment to protect citizens from threats, risks, and the impact of disasters, in accordance with obligations mandated in international humanitarian law.

Development of Disaster Management Programs: To be able to respond to disasters effectively, governments need to develop comprehensive disaster management programs. This includes careful planning, good preparation, efficient coordination between agencies and actors, and the implementation of policies that are responsive to the needs of the affected communities.

The considerations and elements you mentioned are very important in disaster management, which includes various aspects from impact evaluation to refugee protection. To give you a more complete picture, here are additional points that can be considered in the context of disaster management:

Response Readiness and Planning: Governments need to have a detailed and well-structured emergency response plan in place to deal with different types of disasters. This includes risk identification, disaster simulation, and drills and training for personnel and volunteers.

Coordination and Collaboration: Collaboration between government agencies, international organizations, NGOs, the private sector, and civil society is essential. Effective coordination ensures that aid and resources are channeled in a timely and efficient manner.

Technical and Technological Capacity: The utilization of technology and innovation in disaster management can improve response and recovery. These include the use of geographic information systems (GIS) for risk mapping, the use of drones for damage surveys, and digital platforms for logistics coordination.

Recovery and Sustainable Development: Recovery efforts after disasters should include long-term plans for rebuilding infrastructure, livelihood recovery, as well as psychosocial rehabilitation programs for victims.

Community Education and Counseling: Public education on disaster preparedness, evacuation procedures, and how to respond to emergencies is essential to improve preparedness and reduce the risk of loss of life.

Psychosocial Support: Disaster victims often experience serious psychological trauma. Psychosocial and mental health support programs for victims and their families should be an integral part of the disaster response.

Governance and Risk Management: The implementation of good governance in disaster risk management helps in reducing the vulnerability of communities to future disasters. This includes continuous risk analysis and adjustment of response plans.

Environmental Sustainability: Disaster management efforts must consider the impact of the natural environment and efforts to minimize environmental damage during and after disasters.

Community Empowerment: Building the capacity of local communities to respond to disasters is key to improving preparedness and accelerating recovery. This involves the active involvement of citizens in the planning, implementation, and evaluation of disaster programs.

Fundraising and Resources: Governments need to have robust mechanisms for domestic and international fundraising and appropriate allocation of resources for disaster response and recovery.

District	Jumlah Penduduk	Area (Ha)
Majene	174.410	184.0078494
Mamuju	278.760	55,75545684
Mamuju Tengah	135.280	44,78736596
Pasangkayu	188.860	62,04845996
Polewali Mandar	478.530	269,4956776

Data Source: Primary Data Processing Results in 2024

The data presented illustrates significant variations between population and area in several districts in the region. Polewali Mandar Regency stands out as the largest with a population of 478,530 people and an area of 269,495.6776 hectares. On the other hand, Central Mamuju Regency has a smaller population and area compared to other districts in the data. In addition, information on earthquake vulnerability shows that most areas of Majene and Mamuju Regencies are in the low to moderate category. The higher distribution of population density in Majene Regency compared to Mamuju reflects differences in the social and economic impacts of natural disasters. The implementation of Law No. 24 of 2007 on Disaster Management and the perspective of Human Rights emphasizes the importance of cross-sectoral coordination, effective response, and protection of victims' dignity in every stage of disaster management. The responsibility of local governments in strengthening disaster preparedness is also emphasized to ensure a coordinated and inclusive response in facing emergency challenges.

Based on the above, the researcher elaborated based on the results of studies and research conducted in the field, related to the responses of various respondents to the Sustainability of Victim Handling on the effectiveness of the implementation of Sustainability of Victim Handling carried out by local governments, which can be described through the following table:

The data shows that the Sustainability of Victim Handling factor which is one of the factors affecting the state's responsibility for victims of natural disasters 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 Detention of Refugees in Disaster Emergencies, it is explained that the authority given for handling refugees is the National Disaster Management Agency (BNPB). The authority is explained in Article 5 that: "The authority of BNPB in Handling Refugees in Disaster Emergencies includes: (a) providing assistance to integrated Refugee Handling through the Command System Disaster Emergency Management; and (b) coordinating the handling of refugees at the international level on the basis of the direction of the President." Information in the handling of refugees is explained in Article 10 that: "The management of data and information in the handling of refugees is integrated into the Disaster Emergency Management Command System."

The Concept of State Responsibility for Natural Disaster Victims in a Human Rights Perspective

The concept of state responsibility for victims of natural disasters from the perspective of Human Rights (HAM) emphasizes the state's obligation to protect, fulfill, and advance the basic rights of citizens affected by natural disasters. The principle of "people's safety as the supreme law" or *Salus Populi Suprema Lex Esto*, emphasizes that the main priority of state policy must be to protect the safety and welfare of its people. This includes the protection of rights such as life, security, health, and welfare for disaster victims. Law Number 24 of 2007 concerning Disaster Management provides a legal framework for the protection of disaster victims, including in terms of risk mitigation, services for refugees, post-disaster recovery, budget allocation in the State Budget for disaster management, and guarantee of the return of important documents. The implementation of these principles not only ensures an effective response from governments, but also demonstrates a commitment to human rights and social justice in the face of the challenges of natural disasters.

A Human Rights-based approach to disaster management aims to ensure that the rights of disaster victims are recognized and protected. This policy involves several key aspects that need to be understood in depth:

1. The Principle of Universality and State Obligations

The state has a responsibility to protect the rights of all individuals, including disaster victims. It includes the right to life, health, and security. Assistance and protection must be provided fairly and without discrimination.

2. Policies and Regulations

Human rights-based policies require the integration of human rights principles in the planning and implementation of disaster policies. This includes providing equal access to emergency, health, and rehabilitation services, as well as ensuring victims' participation in disaster-related decision-making processes.

3. Accountability and Transparency

States must implement accountability mechanisms to ensure that victims' rights are respected. This includes oversight and evaluation of disaster response, as well as mechanisms for holding human rights violations accountable.

4. Holistic Approach

This approach requires special attention to vulnerable groups, such as women, children, and people with disabilities. Disaster management must be tailored to address their specific needs.

Based on an interview with Mr. Munir, Head of Human Rights at the Regional Office of the Ministry of Law and Human Rights of West Sulawesi, several important points were revealed:

Distribution of Social Assistance: The distribution of social assistance by BPBD has been carried out well and evenly in accordance with the Governor of West Sulawesi Regulation Number 8 of 2009.

Administrative Synchronization: There is a synchronization problem between administrative reports and field conditions in the distribution of aid, causing state civil servants to be subject to legal sanctions even though they have carried out their duties in accordance with applicable regulations.

5. Coordination Between Central and Regional Governments

Coordination between the central and regional governments is key in disaster management. The central government sets national policies, while local governments are responsible for local implementation. The coordination mechanism involves various forums and institutions, such as BNPB and BPBD, as well as regular meetings and disaster information systems.

6. Fulfillment of Basic Needs

The state is obliged to provide basic necessities for disaster victims, such as food, clean water, shelter, and health services. The fulfillment of these basic needs must be carried out in a transparent, participatory, and non-discriminatory manner. The government must also ensure public access to relevant disaster knowledge and information.

The fulfillment of these basic needs is not only a moral responsibility but also a legal obligation for the state. Based on the Regulation of the Minister of Social Affairs of the Republic of Indonesia Number 10 of 2010, the rehabilitation of disaster victims must be carried out to restore their dignity of life in a humane manner.

CONCLUSION

The essence of the state's responsibility for victims of natural disasters from the perspective of Human Rights is that every natural disaster event declared as a national disaster is the responsibility of the central government, referring to the five criteria regulated in Law Number 24 of 2007 concerning Natural Disaster Management. The humanitarian aspect must be considered in order to uphold and realize the values of Human Rights and maintain the dignity and dignity of every citizen, so that this responsibility cannot also eliminate the responsibility of local governments as mandated in the 2nd precept of Pancasila. The concept of state responsibility for victims of natural disasters from the perspective of Human Rights is based on Law Number 24 of 2007, by fulfilling five criteria: the number of victims, property losses, damage to facilities and infrastructure, the impact on social and economic life, and the area affected by the disaster. Therefore, the determination of national disaster status is based on a comprehensive assessment of the overall situation and the very significant impact of the event, even if one of the indicators is not fully met. So, if one of the indicators is not found but the impact of the incident is still very large and meets other criteria, the event can still be referred to as a national disaster, so the authority is the responsibility of the central government and local governments. Considering the humanitarian aspect is very important in realizing the basic values of Human Rights in accordance with the concept of the state of law (Rechtsstaat) embraced in Indonesia.

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