



ASSESSING THE LEGAL IMPLICATIONS OF FLOOD DISASTERS ON ENVIRONMENTAL HUMAN RIGHTS IN THE CONTEXT OF SUSTAINABLE DEVELOPMENT

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Abstract

This research examines the legal implications of flood disasters concerning the protection of environmental human rights within the framework of sustainable development. The primary focus of this study is to address three research problems: first, whether flood disasters can be categorized as an unlawful act by the government (Onrechtmatige Overheidsdaad) that constitutes a violation of environmental human rights; second, whether flood disasters are considered a form of environmental degradation under governmental responsibility and whether citizens possess legal standing (jus standi) as victims; and third, what constitutes an effective legal protection model for flood victims within the concept of sustainable development. The methodology employed is normative legal research utilizing statutory, conceptual, and comparative approaches. This study analyzes regulations, legal concepts, and policy implementation related to flood disaster management and environmental human rights protection. The findings indicate that the government bears legal liability for flood risk management, and negligence in this regard can be deemed an unlawful act that prejudices public rights. Furthermore, flood victims have the right to file lawsuits against the government to ensure the protection of the right to a healthy and safe environment. This research also formulates a legal protection model that integrates sustainable development principles as the foundation for disaster management and the protection of victims' rights.

Keywords: Environment, Floods, Human Rights, Legal Implications.

INTRODUCTION

Indonesia is widely recognized as a disaster-prone region due to its location along the Circum-Pacific Belt, more commonly known as the Pacific Ring of Fire. The Pacific Ring of Fire is a seismic belt where three of the world's active tectonic plates converge: the Indo-Australian, Eurasian, and Pacific plates. This belt accounts for approximately 75 percent of the world's volcanoes; of the 452 volcanoes located within the Ring of Fire, approximately 127 are situated within Indonesian territory. This geographical positioning is precisely why Indonesia is situated within the "ring of fire," rendering it a high-risk zone for natural disasters (Adiguna, 2018). Based on data from the National Disaster Management Authority (BNPB), throughout 2021, a total of 5,402 disasters occurred across all provinces and districts in Indonesia, 99.5% of which were categorized as hydrometeorological disasters. This frequency was dominated by 1,794 flood events, 1,577 instances of extreme weather, 1,321 landslides, 579 forest and land fires, 91 tidal waves and abrasions, 24 earthquakes, 15 droughts, and 1 volcanic eruption. The impact of these events included 728 fatalities, 87 missing persons, 14,915 injuries, and 7,630,692 individuals suffering or displaced, alongside the destruction of 158,658 houses, 4,445 public facilities, 664 offices, and 505 bridges. The five provinces with the highest disaster frequency included West Java with 1,358 events. In comparison to the previous year, 4,649 disasters were recorded in 2020, while 5,402 were recorded in 2021, representing a 16.2% increase in disaster occurrences (Aldardasawi, et al. 2021).

Furthermore, although there was a decline during 2022, the BNPB recorded 3,494 natural disaster events, yet flooding remained the most frequent occurrence with 1,506 events. This figure is equivalent to 43.1% of the total national disaster occurrences. Collectively, these disasters caused more than 5.38 million people to suffer or be displaced, with 851 fatalities, 8,725 injuries, and 46 missing persons (Amartya, 2009). Subsequently, in 2023, according to the 2023 Indonesian Disaster Data Infographic, there were 5,400 disaster events in Indonesia, dominated by hydrometeorological disasters at 99.35%. The breakdown of these events consisted of forest and land fires (2,051), extreme weather (1,261), floods (1,255), landslides (591), droughts (174), tidal waves and abrasion (33), earthquakes (31), and volcanic eruptions (4). Approximately 99.35% were hydrometeorological disasters, which are events influenced by weather and surface runoff. For the year 2025, according to the records of the National Disaster Management Authority (BNPB) until December 4, 2025, Indonesia experienced 2,997 natural disaster events throughout the year. These data confirm that the nation remains in a high-risk zone, particularly regarding hydrometeorology. Floods occupied the top position with 1,503 events, followed by 644 cases of extreme weather. High rainfall intensity, land-use conversion, and geographical conditions serve as factors that exacerbate this vulnerability (National Disaster Management Authority, 2025).

According to BNPB data, there were 175 natural disaster events in Indonesia from the beginning of the year until January 23, 2026, with floods being the most prevalent. The high intensity of hydrometeorological disasters in Indonesia has once again become a focal point. Among the various types of disasters occurring, floods emerged as the most dominant event, striking many regions within a relatively short period (National Disaster Management Authority, 2026). High precipitation, shifting climate patterns, and vulnerable environmental conditions ensure that floods continue to dominate the list of most frequent disasters. The impact is widespread, causing not only damage to infrastructure and residential areas but also hindering economic activities and the daily lives of the community. Data from the National Disaster Management Authority (BNPB) stated that as of Tuesday (27/1/2026) at 08:00 WIB, there were a total of 205 disaster events in Indonesia throughout 2026, with 127 of them being

flood disasters. This figure underscores that the issue of flooding has not been fully addressed and requires more comprehensive mitigation efforts.

Before the United Nations formulated the concept of security, the founding fathers of the Indonesian nation had already placed national security as the foundation of an independent state, with a scope encompassing: (i) security from the threat of war; (ii) community security through the achievement of welfare; (iii) the security of every citizen in obtaining health, education, and employment; and (iv) security to participate in maintaining world peace (Darmono, 2010:50). Thus, national security is understood not merely as a condition but as a governmental function that must be actively realized through state policy. The occurrence of a flood is indeed a natural event as juridically formulated in Government Regulation No. 38 of 2011 concerning Rivers, which states in Pasal 1 point 7 that a flood is an event where river water overflows beyond the river bed. However, a different formulation is found in Law No. 32 of 2009 concerning Environmental Protection and Management, which determines that floods are caused by environmental damage. Thus, it is not merely an ordinary natural event but a consequence of environmental degradation.

Flooding does not only cause rice fields to be inundated – preventing harvests – and devastate housing and settlements, but it also damages socio-economic service facilities and public infrastructure, and even claims lives. Losses escalate further if economic and governmental activities are disrupted or halted. Although community participation in flood management is tangible, particularly in emergency response activities, floods impose an additional burden on the state budget, especially for the rehabilitation and restoration of damaged public infrastructure. The primary victims of such flooding are human beings, as compared to the environmental impact, although the destruction of the environment indirectly affects humanity as well. The losses suffered by the community due to flooding are deeply concerning and require profound analysis from socio-economic and legal perspectives. From the standpoint of environmental law, the occurrence of floods can be examined through the form of perpetrator liability for environmental damage, alongside the resolution of the rights of flood-affected citizens. Environmental law already regulates liability for compensation in the environmental field, as stipulated in Pasal 87 paragraph (1) of Law No. 32 of 2009.

Every Indonesian citizen can defend the right to a good and healthy environment by filing a lawsuit against the Indonesian government or corporations regarding the impacts of flooding. Floods occur partly because the rainforest area in Kalimantan shrinks from year to year due to the expansion of palm oil plantations and mining. One consequence of massive forest destruction due to expansion is the systematic marginalization of the rights of indigenous peoples, and citizens may demand accountability from the government. Other rights that can be claimed range from the right to a healthy environment and the right to adequate housing to compensation for those who lose their livelihoods, the right to health, and other human rights lost due to flooding. All of these constitute human rights guaranteed within the basic law (constitutional rights). If a flood results in the death of a citizen, then the citizen's family may also seek legal accountability from the state. The failure of the state to protect its citizens is a clear violation of human rights as regulated in Law No. 39 of 1999 concerning Human Rights.

In international law, the recognition of the Right to a Clean Environment has been established, where the Office of the United Nations High Commissioner for Human Rights states that all humans depend on the environment in which we live. A safe, clean, healthy, and sustainable environment is an integral part of fulfilling various human rights, including the rights to life, health, food, water, and sanitation. In the case of *R v. Anglian Water Services Ltd* [2003] EWCA Crim 2243, it was significantly stated that the environment in which we live is a

precious heritage for humanity, and it is the duty of the current generation to protect it for the sake of the future. Without a healthy environment, we cannot realize our aspirations or even live according to the minimum standards of human dignity. Thus, it is clear that flood disasters constitute a loss of citizens' human rights; namely, the right of citizens to a good and healthy environment has transformed into a poor environment, causing losses to citizens due to the loss and damage of their homes, businesses, and even the lives of their relatives, which according to the law, must be protected by the Government. This receives recognition and protection in Pasal 28H of the 1945 Constitution.

RESEARCH METHODS

This research is a type of legal study that performs an analysis of legal materials—extending beyond mere description or exposition—in relation to the development of the legal system. It is also hermeneutic (interpretative) and evaluative in nature regarding prevailing laws or regulations, aimed at recommending a theoretical model for practical interests. Legal research is prescriptive, meaning it is intended to provide suggestions on actions required to address specific issues, thereby generating arguments, theories, or new concepts as prescriptions for resolving the problems at hand (Peter Mahmud Marzuki, 2016). In this context, "prescriptive" implies that the object of legal science is the coherence between legal norms and principles, the coherence between legal rules and norms, and the coherence between individual conduct and legal norms (Peter Mahmud Marzuki, 2016).

The research type is normative juridical with prescriptive analysis. To address the problems in this dissertation, normative legal research—also referred to as doctrinal research—is employed, based on the prescriptive character of legal science which aims to identify and explain the internal dynamics of legal arrangements (Soerjono Soekanto & Sri Mamudji, 2001). Specifically, this study involves environmental legal research supported by ecological and planological data, categorized by Terry Hutchinson as Reform-Oriented Research: doctrinal legal research that incorporates an evolving taxonomy for the integration of insights from other disciplines (Terry Hutchinson, 2013).

This study utilizes several legal approaches, as outlined in Table 1 below.

Table 1: Approaches in the Study of National Security Law

No.	Type of Approach	Description
1	Statute Approach	Understanding the hierarchy and principles within statutory regulations.
2	Conceptual Approach	Discovering ideas that give rise to relevant legal definitions, concepts, and principles.
3	Historical Approach	Examining legal history, such as the developmental history of forests and land surrounding flood sites.
4	Comparative Approach	Conducting a legal comparison between Indonesian positive law and the positive laws of other countries.

The legal materials utilized consist of various sources, classified as follows:

1. Primary Legal Materials: The 1945 Constitution, Law No. 39 of 1999, Law No. 12 of 2005, Law No. 19 of 2004, Law No. 24 of 2007, Law No. 32 of 2009 (corrected from 2019), Law No. 8 of 2008, and Minister of Public Works and Public Housing Regulations No. 26, 27, and 28 of 2015.
2. Secondary Legal Materials: Legal textbooks, journals, research results, and expert opinions regarding intelligence, state authority, and constitutional law.

3. Tertiary Legal Materials: Legal dictionaries, encyclopedias, legal media Pasals, and official online sources.

The legal materials in this research are directed toward studying the content and structure of concrete positive law while extracting legal principles and concepts to achieve legal certainty and justice, particularly concerning human rights and flooding (Soerjono Soekanto & Sri Mamudji, 2001). Consequently, an interpretation of prevailing legal norms is required (Peter Mahmud Marzuki, 2016), leading to the use of the "Hermeneutic" method of analysis. Legal hermeneutics can be defined as a philosophical doctrine regarding the understanding of a subject or a method of interpreting texts (Hans-Georg Gadamer, 2004). The "subject/text" in question may include legal texts or legislation, legal events, legal facts, official state documents, or ancient manuscripts in their capacity as objects of interpretation (E. Sumaryono, 1999).

RESULTS AND DISCUSSION

Flood Disasters

Disasters occurring within our society are not solely caused by natural phenomena—often referred to as natural disasters—but can also be triggered by human attitudes and behaviors. Therefore, the use of the term "disaster" alone is more accurate than the phrase "natural disaster," which is widely used by the public. This is because disasters do not occur purely due to natural activities but also involve human agency (Chmutina & Von Meding, 2019).

Habits such as disposing of waste into waterways, littering, deforestation, and obstructing catchment areas with impermeable surfaces are primary causes of flooding. Furthermore, the reduction of river volume due to land use along riverbanks exacerbates the frequency of floods during the rainy season. In addition to these factors, deforestation also triggers landslides; without tree roots, the soil loses its capacity to absorb water, leading to instability. Forest fires serve as another example of human-induced disasters. While they can occur naturally due to lightning, in the modern era, the majority of forest fires are caused by human activities.

Forest fires may result from the misuse of equipment, discarded lit cigarettes, or unextinguished campfires. However, the most fatal cause is deliberate forest burning for land conversion, such as for plantations, agriculture, and industry. According to Science, human-triggered forest fires typically spread at a rate of approximately 1.83 kilometers per day, whereas lightning-triggered fires spread at about 0.83 kilometers per day. This indicates that the spread of human-induced fire is twice as fast as naturally occurring ones.

According to the Massachusetts Institute of Technology, tree root systems absorb water during the rainy season and anchor the soil to mitigate flood velocity. Deforestation removes these trees, resulting in the loss of water catchment areas. Consequently, during periods of heavy rain, unabsorbed water overflows and leads to flooding. Thus, floods are frequently the result of societal behavior, such as littering in rivers, lakes, or streets. While organic waste may decompose, inorganic and bulky waste accumulates and clogs drainage systems, disrupting water flow and causing floods.

The U.S. Environmental Protection Agency notes that higher temperatures cause increased evaporation from land and oceans, leading to changes in the magnitude and frequency of heavy rainfall. An increase in the frequency of heavy rain results in a volume of water that exceeds the capacity of the soil to absorb or the surface water systems to drain, subsequently causing floods. Furthermore, human-induced global warming leads to the melting of polar ice, which increases sea levels.

According to National Geographic, average sea levels are rising by approximately 3.2 millimeters per year. This rise results in flooding that inundates coastal areas, rendering them uninhabitable. Furthermore, human development of roads, fields, houses, buildings, and various infrastructures utilizes impermeable materials. As a result, rainwater or runoff cannot be absorbed by these surfaces. During the rainy season, the prevalence of waterproof surfaces combined with a lack of catchment areas inevitably leads to flooding. Inadequate drainage systems also serve as a significant human-induced cause of floods.

Various disasters occur intermittently, causing human suffering; these disasters arise as a consequence of mismanagement of nature and a failure to integrate ethical or religious principles as life guidance. Nature, the environment, and humanity were created to interact through mutual necessity and care. Nature exists within a complete and integrative system, where life on Earth is part of a natural order governed by consistent laws.

Floods as Unlawful Acts by the Government

Flood disasters are frequently caused by human factors and negligence committed by both the population and the government itself (Satjipto Rahardjo, 2000). Satjipto Rahardjo explains that a legal event is something capable of activating legal regulations, effectively demonstrating their potential to govern. Flooding is often categorized as force majeure—an event or circumstance beyond the control of the interested parties, also referred to as an emergency. Force majeure typically refers to an "act of God," such as natural disasters (floods, earthquakes), epidemics, riots, declarations of war, or hostilities.

As a legal event, the force majeure clause is commonly regulated within agreements. In the Indonesian Civil Code (KUH Perdata), force majeure is addressed in Pasals 1244 and 1245, within the section concerning compensation, as it serves as a basis for exemption from the obligation to pay damages. Rahmat S.S. Soemadipradja states that the scope of force majeure implied in these Pasals covers three areas: first, natural events such as floods, landslides, and earthquakes; second, fire; and third, the destruction or loss of the objects specified in an agreement. Meanwhile, legal subjects—encompassing all human beings, including fetuses, infants, and those with mental illness—are recognized as subjects of law (Subekti, 2003). Legal subjects consist of natural persons (*natuurlijke persoon*) and legal entities (*rechtspersoon*), which may take the form of managed assets like endowments (*waqf*), structural relations such as limited liability companies and cooperatives, or correlated figures like testators and heirs in inheritance law.

1. Citizen Lawsuits

Citizen lawsuits against the government regarding flooding have occurred on several occasions (Jakarta Legal Aid Institute/LBH Jakarta, 2020). While significant attention has been given to forest fire litigation, communities are increasingly suing the government over floods. Beyond the loss of life, the primary grounds for these suits are the perceived sluggishness of the government's response, which results in public prejudice. The Director of LBH Jakarta, Arif Maulana, emphasized that the government must fulfill the rights of flood victims: "The primary rights are food, clothing, and shelter which are damaged or threatened. The government must provide these to the victims." Addressing the friction between central and local governments, Arif noted that disaster management is a shared obligation, requiring inter-governmental cooperation rather than mutual blame.

2. Insurance

The impact of flooding extends to the financial sector, where insurance companies experience a surge in claims. Data from the General Insurance Association of Indonesia (AAUI) collected between January and September 2019 shows that property and motor vehicle insurance contributed 50% of the premium market share (26% and 24% respectively). Realized property insurance claims during this period reached IDR 4.73 trillion, a 17.1% increase from 2018. Meanwhile, motor vehicle insurance claims reached IDR 6 trillion, up 5.5% from the previous year (General Insurance Association of Indonesia, 2019). During this nine-month period, total general insurance claims paid reached IDR 25.8 trillion, a 28.8% increase compared to 2018. However, issues arise because not all assets are automatically covered; for property, owners must often purchase a separate "flood extension" policy, which insurance providers now frequently unbundle from standard property policies due to the increasing frequency of urban flooding.

3. Inheritance

According to the Civil Code, inheritance principles are twofold: first, the estate only opens upon death (Pasal 830); and second, there must be a blood relationship between the testator and the heir, except for the surviving spouse (Pasal 832), provided they were still legally married at the time of death. Thus, only those with blood ties—direct descendants, parents, siblings, or grandparents—are entitled to inherit, categorized into four major groups (Subekti, 2003):

Group I : Surviving spouse and children/descendants (Pasal 852).

Group II : Parents and siblings of the deceased.

Group III : Ascendants in a straight line after the parents.

Group IV : Uncles, aunts, and their descendants up to the sixth degree, including grandparents' siblings and their descendants.

4. Damaged Documents

Floods also destroy vital documents such as Family Cards (KK), Marriage Certificates, ID Cards (KTP), vehicle registrations, and land titles. To mitigate this, the National Archives of the Republic of Indonesia (ANRI) provides free family document restoration services (Laraska), launched in May 2019. ANRI also collaborates with the Ministry of Agrary and Spatial Planning/National Land Agency (ATR/BPN) to restore Land Certificates. This disaster should push for systemic changes in mitigation at local land offices to save land archives (warkah). The loss of such documents causes legal uncertainty regarding land ownership and triggers future land disputes.

5. Impact on Agreements and Legal Liability

Flooding causes significant logistics delays. For instance, J&T Express (via jet.co.id) has acknowledged delays due to transport access being blocked across Sumatra, Java, and Nusa Tenggara. As previously noted, flooding constitutes force majeure (Subekti, 2003), which under Pasals 1244 and 1245 of the Civil Code, serves as a legal ground for exemption from damages regarding the loss or destruction of objects in an agreement (Rahmadi Usman, 2012).

However, the legal analysis of floods must examine the "cause" as well as the "effect," particularly if the flood resulted from governmental negligence. Under Law No. 24 of 2007 on Disaster Management, the government (central and local) is responsible for planned, integrated, and coordinated disaster protection (Pasal 5). Furthermore, Pasal 87 paragraph (1) of Law No. 32 of 2009 stipulates that any party responsible for an undertaking that causes environmental

damage must pay compensation, based on either "liability based on fault" or "strict liability" (as per Pasal 88). The public also holds the right to file complaints regarding environmental destruction (Pasal 65, paragraph 5) and is protected from criminal or civil retaliatory suits (Pasal 66).

Table 2. Legal Bases for Lawsuits

No.	Legal Basis	Description
1	Pasal 1365 Civil Code (Tort/PMH)	Elements to prove: (1) Unlawful act, (2) Damages, (3) Fault/Negligence, (4) Causality. The government is liable if it neglects its duties.
2	Law No. 26 of 2007 on Spatial Planning	Lawsuits may be filed if flood losses result from improper spatial planning, such as land-use conversion or riverbank development.
3	Law No. 25 of 2009 on Public Services	Regulated in Pasals 51–53. Suits can be civil, administrative, or criminal, covering sectors like environment, housing, and transport.
4	Law No. 32 of 2009 (UUPPLH)	Pasal 88 applies Strict Liability, meaning fault does not need to be proven. Pasal 91 grants the public the right to sue for environmental damage.
5	Supreme Court Regulation (Perma) No. 2 of 2019	Disputes regarding government actions (Onrechtmatige Overheidsdaad) fall under the jurisdiction of the Administrative Court (TUN).
6	Law No. 24 of 2007 on Disaster Management	Responsibilities include risk reduction, public protection, and post-disaster recovery. Negligence can lead to criminal sanctions and fines.

Flooding within the Framework of Environmental Human Rights

The relationship between human rights and the environment has been established since the first World Environment Conference in Stockholm in 1972. As noted by the Icelandic Human Rights Center: *“The link between the two emphasises that a decent physical environment is a precondition for living a life of dignity and worth... Environmental degradation and human rights was first placed on the international agenda in 1972, at the UN Conference on the Human Environment. Principle 1 of the Stockholm Declaration establishes that man has a fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being.”*

This conference served as the foundation for recognizing that a sound environment is a prerequisite for a dignified life, while simultaneously establishing the United Nations Environment Programme (UNEP) as the international body handling environmental issues. Thus, the nexus between human rights and the environment asserts that a decent physical environment is essential for a life of dignity and value, encompassing protection against air and water pollution, noise disturbances, and the disposal of toxic substances.

In Indonesia, the right to a good and healthy environment is recognized as a fundamental human right. This is affirmed in Pasal 9 paragraph (3) of Law No. 39 of 1999 on Human Rights, which states that “everyone has the right to a good and healthy environment.” This provision is further strengthened by Pasal 28H paragraph (1) of the 1945 Constitution, which stipulates that every person has the right to live in physical and spiritual prosperity, to have a home, and to enjoy a good and healthy environment and health services. Consequently, the right to the environment is a fundamental human right that the state is mandated to respect, protect, and fulfill.

Nevertheless, environmental degradation can lead to human rights violations. Elizabeth Ferris explains that: *“People around the world increasingly experience the devastating effects of environmental crises... inadequate regulation and enforcement of environmentally destructive sectors of the economy drives human rights violations.”*

Environmental crises, such as climate change, air and water pollution, and the exploitation of natural resources, do not only damage ecosystems but also directly impact food security, health, and livelihoods, while increasing poverty—particularly among poor and marginalized groups. Therefore, the state has an obligation to respect, protect, and fulfill human rights within the environmental context. This aligns with international human rights principles stating that states must prevent violations, halt ongoing violations, and guarantee remedies when violations occur. Such protection is also emphasized in Law No. 32 of 2009 on Environmental Protection and Management, which states that everyone has an equal right to a good and healthy environment and a duty to maintain environmental sustainability. Protecting the environment, therefore, is synonymous with protecting human rights, as these rights cannot be enjoyed without a safe, clean, and healthy environment.

Forms of Government Responsibility for Flooding

Constitutionally, the legal provisions for disaster management are enshrined in the fourth paragraph of the Preamble to the 1945 Constitution, which states: “...to form a Government of the State of Indonesia which shall protect the whole people of Indonesia and the entire homeland of Indonesia.” This provision underscores that it is the state’s obligation and the government’s duty to protect the entire population, including providing legal protection for disaster victims.

In a legal sense, a disaster is an event or series of events that threaten and disrupt community life. Disasters are categorized into natural, non-natural, and social disasters resulting from human actions. Flooding is a natural disaster that can also be caused by human activity. Under Law No. 24 of 2007 on Disaster Management, disaster management is a series of efforts encompassing the establishment of development policies that carry disaster risks, prevention, emergency response, and rehabilitation.

Law No. 24 of 2007 divides the stages of disaster management into pre-disaster, emergency response, and post-disaster. The pre-disaster stage involves the preparation of Disaster Management Plans, Preparedness Plans, and Contingency Plans. The emergency response stage involves the execution of Operational Plans, while the post-disaster stage focuses on Recovery Plans, including rehabilitation and reconstruction.

The government’s responsibility regarding flood disasters follows these stages. In South Kalimantan, this responsibility is manifested through the establishment of regional apparatus institutions based on South Kalimantan Governor Regulation No. 0166 of 2017 concerning the Duties, Functions, and Coordination of Regional Apparatus Units in Disaster Management.

During the pre-disaster stage, government responsibility aims to prevent or reduce disaster risks through disaster management planning, risk reduction, prevention, and integration into regional development planning. This planning is integrated into the Long-Term Regional Development Plan (RPJPD), Medium-Term Regional Development Plan (RPJMD), Institutional Strategic Plans, and Government Work Plans (RKPD), in accordance with the mandates of Law No. 24 of 2007 and Law No. 25 of 2004 on the National Development Planning System.

During the emergency response stage, activities include victim rescue, evacuation, and relocation to safe areas. According to National Disaster Management Authority (BNPb) Regulation No. 13 of 2010 on Guidelines for Search, Rescue, and Evacuation, evacuation is the act of moving victims from a disaster site to a safe location for further handling. This process requires disaster risk mapping, the designation of temporary evacuation sites, and safe evacuation routes.

Disaster mitigation is a vital component of disaster management policy, involving both physical and non-physical preparations, such as spatial planning for disaster-prone areas, building disaster-resilient infrastructure, and community education. This is consistent with the Hyogo Declaration (2005), which affirms that states have the primary responsibility to protect people and property from disaster threats by prioritizing disaster risk reduction in national policies. As flooding is influenced by both high rainfall and human activities – such as land-use conversion and deforestation – flood management requires the active involvement of both government and society through prevention, mitigation, preparedness, and emergency response.

The Position of the Community within the Framework of Government Responsibility for Flood Management

Based on Law No. 24 of 2007, Pasal 26, every individual has the right to social protection and a sense of security, particularly for groups vulnerable to disasters. This includes the right to receive education, training, and skills in disaster management; access to information regarding disaster management policies; and the right to participate in the planning, operation, and maintenance of health assistance programs, including psychosocial support. Furthermore, individuals are entitled to participate in decision-making processes related to disaster management and to perform oversight in accordance with established mechanisms. Additionally, every person affected by a disaster has the right to basic necessity fulfillment and compensation if the disaster was caused by construction failure.

Pasal 27 further stipulates that every individual is obligated to maintain harmonious social life, preserve the balance and sustainability of environmental functions, engage in disaster management activities, and provide accurate information to the public regarding disaster management efforts. Thus, the position of the community in flood management decisions is primarily manifested through participation. Participation is defined as the involvement of citizens in decision-making, either directly or through institutions representing their interests.

In the seminal paper “A Ladder of Citizen Participation” published in the *Journal of the American Planning Association* (1969), Sherry Arnstein proposed eight levels of participation: citizen control, delegated power, partnership, placation, consultation, informing, therapy, and manipulation, which represent a spectrum from high to low engagement. According to Ach. Wazir (1999), participation is interpreted as a person's conscious involvement in social interaction through the sharing of values, traditions, feelings, loyalty, obedience, and shared responsibility. Meanwhile, Isbandi (2007) explains that community participation involves public engagement in the processes of problem identification, solution-oriented decision-making, activity implementation, and the evaluation of resulting changes.

Conyers (1991) emphasizes the importance of community participation as a tool for obtaining information regarding local conditions and needs, increasing public trust in development programs, and exercising the democratic right to be involved in development. According to Juliantara (2002), the substance of participation is the functioning of a governance system where policies are not adopted without public consent. Participation allows the community to organize independently, serves as a medium for channeling aspirations, and assists in resolving development issues.

Stakeholders in flood management are generally categorized into three groups: beneficiaries (the community receiving benefits), intermediaries (consultants, experts, NGOs, and professionals), and decision/policy makers (government agencies and water resource

councils). Stakeholder determination is conducted through a Stakeholder Analysis, which includes stakeholder identification, assessment of interests, evaluation of influence and importance levels, and the formulation of participation strategies. The level of community participation in flood management can range from rejection, information exchange, consultation, consensus, and collaboration to empowerment through risk-sharing and partnership.

Under Law No. 25 of 2004 on the National Development Planning System, local governments formulate the Regional Long-Term Development Plan (RPJPD), Regional Medium-Term Development Plan (RPJMD), and the Local Government Work Plan (RKPD), which are further detailed in the Work Plan of Regional Apparatus Units (Renja SKPD). In regional development planning, community participation and the availability of accurate data and information are paramount. Formal community participation is facilitated through the Development Planning Deliberation (Musrenbang), conducted via a bottom-up approach from the sub-district level up to the provincial level. The results of Musrenbang serve as the foundation for local governments in drafting development programs and budgets.

Furthermore, development planning must be based on accurate data as mandated by Law No. 25 of 2004. Such data is managed through the Regional Development Information System (SIPD), covering geographical conditions, demography, resource potential, economy, and other development information. In flood management, development activities fundamentally consist of three phases: planning, implementation/construction, and monitoring. The planning and monitoring phases are heavily reliant on the availability of valid data. For example, drainage construction requires data on land slope, water discharge, flow direction, soil type, and land conditions. Accurate data ensures sound planning so that infrastructure functions optimally.

Community participation is vital due to the limited human resources within regional apparatuses, whereas the community possesses a deeper understanding of their own environment, including recurring inundation or drainage overflows. A participatory approach can be implemented through the COAD model (Collecting, Organizing, Analyzing, Decision Making). The collecting phase involves the community in data gathering, such as through geo-tagged photos of flood locations. The organizing phase is handled by technical parties to categorize the data. The analyzing phase is conducted by experts by integrating community-sourced data with technical data. The final phase is decision making, where the government renders decisions based on the analysis.

Cultivating public awareness regarding flood disasters is as essential as the construction of flood control infrastructure. Flood management requires active roles from both the government and the community, as many rivers in Indonesia have the potential to cause flooding due to spatial changes, high rainfall, and environmental degradation. While the government has undertaken various efforts—such as building reservoirs, increasing river capacity, diverting river flows, rehabilitating small lakes (*situ*), and river dredging—these efforts must be supported by community participation, such as environmental preservation and avoiding activities that accelerate erosion.

Procedures for Claiming Rights for Flood Victims

Communities suffering losses due to flooding have the right to file a lawsuit against the government if there is negligence in disaster management. The basis for such a lawsuit can refer to Pasal 5 of Law No. 24 of 2007 on Disaster Management, which identifies the central and local governments as the parties responsible for disaster management implementation.

There are several legal alternatives for lawsuits that the public can pursue. First, a civil compensation lawsuit based on a tort (*Perbuatan Melawan Hukum*), as regulated under Pasal 1365 of the Civil Code (*KUHPer*). Second, a citizen lawsuit aimed at demanding an evaluation and improvement of government policies. Third, a class action filed by directly affected citizens to seek restitution for sustained losses. Fourth, an organizational legal standing lawsuit, typically initiated by environmental organizations for environmental restoration.

In practice, citizen lawsuits and class actions are considered more relevant as they do not only seek damages but also push for the evaluation and reform of government policies to prevent future flood occurrences. A class action represents a large group of people sharing similar grievances or losses. This lawsuit is filed in court by demonstrating evidence of governmental negligence in flood management. Without strong evidence, the lawsuit risks being dismissed by the panel of judges. Therefore, the substance of the lawsuit must successfully prove the existence of losses and the unlawful act committed by the government (Supreme Court Regulation No. 1 of 2002).

Legal Protection of Citizens from Losses Due to Flooding

The Law on Disaster Management aims to provide protection for life and livelihood, including protection against disasters, to realize public welfare based on *Pancasila*, as mandated by the 1945 Constitution. Law No. 24 of 2007 on Disaster Management was enacted with the objective of protecting the community from disaster threats and ensuring that disaster management is implemented in a planned, integrated, coordinated, and comprehensive manner. However, in its implementation, the community—particularly flood victims—has not fully experienced rapid and appropriate protection due to persisting issues such as policy gaps, disaster status determination, inter-agency coordination, funding, and the fact that Regional Disaster Management Agencies (*BPBD*) have not yet been established in several regencies/cities.

Pasal 6 of Law No. 24 of 2007 affirms that the government's responsibility in disaster management includes disaster risk reduction, community protection from disaster impacts, guaranteeing the fulfillment of the rights of communities and evacuees fairly according to minimum service standards, recovery from disaster impacts, and the allocation of disaster management budgets in the State Budget (*APBN*). Furthermore, Pasal 8 mentions that local governments are also responsible for guaranteeing the fulfillment of the rights of disaster-affected communities and evacuees, protecting the community from disaster impacts, reducing disaster risks, and providing disaster management budgets in the Regional Budget (*APBD*).

Flooding does not only cause residents to displace and damage public facilities, but it also inflicts significant losses upon the community. Protection for flood victims, including legal protection, has not been maximized. Citizens who fall victim to floods possess rights protected by law, such as the right to a sense of security, access to accurate information regarding shelters, and knowledge of their legal rights while in evacuation centers. Moreover, flood victims require protection for agricultural land, fulfillment of basic needs, and psychosocial assistance as regulated in Pasal 53 of Law No. 24 of 2007, Law No. 41 of 2009 on Sustainable Food Agricultural Land, and Law No. 35 of 2014 on Child Protection.

Flood disasters can also damage the community's legal documents, such as population administration, land documents, and educational records; thus, victims require efficient public services for document restoration. If community rights are neglected, flood victims may pursue legal remedies through a class action, provided they meet the requirements specified in Supreme Court Regulation No. 1 of 2002 on Class Action Procedures, particularly if there is governmental negligence in management, handling, and the fulfillment of victims' rights.

Additionally, flooding can be viewed as a human rights violation because it deprives citizens of their right to a good and healthy environment. This right is guaranteed under Pasal 28H of the 1945 Constitution, establishing a legal obligation for the government to protect the community from losses caused by flood disasters.

Sustainable Development in Relation to Flood Disasters

Following the fourth amendment of the 1945 Constitution of the Republic of Indonesia, the nation has adopted constitutional principles that are environmentally oriented, a concept popularized by Jimly Asshidiqie as the Green Constitution. This principle demonstrates that environmental protection is an essential part of state governance and national development.

Pasal 28H paragraph (1) of the 1945 Constitution states that every person has the right to live in physical and spiritual prosperity, to have a home, and to enjoy a good and healthy environment and health services. This provision affirms that a good and healthy environment is a constitutional right for every citizen. Furthermore, Pasal 33 paragraph (4) of the 1945 Constitution states that the national economy shall be organized based on economic democracy with principles of togetherness, efficiency with justice, sustainability, environmental perspective, independence, and by maintaining a balance of progress and national economic unity. This provision directs that economic development must be carried out with due regard for the principles of sustainable development.

According to Jimly Asshidiqie, although it does not explicitly emphasize sustainable development as the direction of national development, this provision can be interpreted as providing a constitutional basis for the implementation of environmentally-conscious development. This is pertinent given the increasingly concerning state of environmental preservation; thus, the Constitution as the supreme law of the land provides the fundamental idea of environmental sovereignty.

As the highest legal norm, the Constitution plays a crucial role in the formation of various laws and regulations and in governing state administration. Therefore, the concept of the Green Constitution in Pasal 33 paragraph (4) of the 1945 Constitution serves as a limitation on the state's exercise of power, particularly in the field of environmental protection and management, including development policies related to flood disaster management. Moreover, Indonesia adheres to the concept of the Welfare State, wherein the state bears the responsibility to ensure public welfare. In the context of flood disasters, the welfare state principle demands the government to implement sustainable development and prioritize environmental protection so that disaster risks can be minimized and community welfare remains guaranteed.

CONCLUSION

Flood disasters can be legally categorized as an Unlawful Act by the Government (Onrechtmatige Overheidsdaad) if there is negligence or failure on the part of the state to fulfill its constitutional obligations to protect human rights within the environmental sector. This condition escalates into a human rights violation when the government fails to effectively manage flood risks and prevent the adverse impacts of disasters in accordance with the legal responsibilities inherent in public authority.

As a manifestation of environmental degradation, flooding constitutes a legal responsibility of the government. In this context, affected citizens possess the legal standing (*jus standi*) to file a lawsuit against the government if disaster management and environmental protection efforts are deemed inadequate. Consequently, the synergy between state mandates and active community participation forms the essential foundation for environmental

preservation and disaster risk reduction, ensuring the fulfillment of the right to life, a healthy environment, and general welfare.

The model of legal protection for flood victims within the framework of sustainable development emphasizes integrated protection that encompasses the fulfillment of basic rights, preventive risk mitigation, and the integration of disaster management into the national development agenda. This model demands sustained accountability from the government and the recognition of citizen lawsuits as a comprehensive judicial oversight mechanism to achieve social justice and environmental sustainability for both current and future generations.

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