

LEGAL ASPECTS IN DETERMINING FLOODS AS A NATIONAL DISASTER

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Abstract. *The flash floods that struck West Sumatra, North Sumatra, and Aceh in late 2025 resulted in environmental damage and numerous deaths. Community groups have demanded that the government immediately declare the disaster a national disaster. This study employed a descriptive normative method with a qualitative analysis model. The findings explain the legal aspects of disaster management as stipulated in Law Number 24 of 2007, along with its implementing regulations. This law establishes criteria for determining the legal status of a disaster. The regulation stipulates that the legal status of a disaster is determined by whether it qualifies as a national disaster. If the disaster is local in nature, the local government has the authority and responsibility to manage the situation at the regional level. In addition, based on Law Number 24 of 2007 concerning Disaster Management, the President will only fully declare a national disaster if the regional government is completely paralyzed and no longer able to manage resources.*

Keywords: *Environmental Damage; Flood Disasters; Government Authority; Legal Aspects.*

1. Introduction

In recent months, toward the end of 2025, disasters struck the island of Sumatra, particularly in the provinces of Nangroe Aceh Darussalam, North Sumatra, and West Sumatra. These disasters included flash floods and landslides, generating significant public concern due to the environmental damage caused and the violations of human rights related to the right to a healthy and safe environment (Prasetyoningsih & Ichsan, 2024). The destruction in these three provinces has severely impacted human habitats and destroyed existing infrastructure, resulting in loss of life. This national disaster has prompted calls from various groups for the central government to assume control of disaster management, coordinating efforts through a comprehensive command system.

The public generally believes that any disaster or calamity should be designated as a national disaster. However, the government has not yet declared the recent flash floods and landslides as a national disaster. Instead, they are taking a different approach to

address the situation in Sumatra. The government has its reasons for not declaring it a national disaster, as they base their decisions on legal frameworks and studies provided by disaster management agencies (Chaterine & Ramadhan, 2026). That said, the impact of the disaster has been significant, devastating the region and resulting in the loss of 1,182 lives, according to a report from the National Disaster Management Agency dated January 12, 2026.

The government's decision not to declare the floods and landslides in Sumatra a national disaster is not an act of negligence; rather, it is based on legal requirements and thorough technical evaluations. According to Law Number 24 of 2007 concerning Disaster Management, national disaster status can only be declared when the impact of the disaster exceeds the local governments' capacity to manage it. This assessment includes factors such as evacuation capabilities, availability of logistical support, infrastructure stability, and emergency command readiness at both provincial and district levels. The government believes that disaster management can still be effectively carried out through local government emergency response mechanisms, with support from the central government (Zuhdi, 2024). Local governments in Aceh, North Sumatra, and West Sumatra have already declared disaster emergencies, which provides a strong legal basis for mobilizing aid from authorized government agencies, including the Ministry of Health, without needing to wait for a national disaster declaration.

The central government has emphasized that since the onset of the floods, a joint team has been actively conducting evacuations, setting up isolation facilities, distributing aid, and ensuring the continuation of health services. They assert that disaster management does not cease simply because a national disaster status has not been declared. Government officials, including the Coordinating Minister for Human Development and Culture, along with the National Disaster Management Agency (*Badan Nasional Penanggulangan Bencana*/BNPB), have stated that the main priority is to swiftly meet the needs of all victims, rather than questioning the administrative status of the disaster. In disaster management, the effectiveness of actions is often deemed more critical than the formal declaration of a disaster. Therefore, the government prioritizes working quickly, accurately, and in a coordinated manner (Sadat, 2019).

Another important consideration is the highly variable nature of the disaster situation. Some areas have been severely impacted, while others have experienced only minor effects, and some are starting to regain control thanks to the cooperation of local governments, officials, and volunteers. Declaring a national disaster has administrative implications, including changes to command structures, budget allocations, and cross-agency assignments. Therefore, this decision must be made with great care to avoid disrupting existing coordination efforts. The government is also waiting for official declarations of regional incapacity, which is a crucial requirement that must be submitted by governors as mandated by law. So far, only a few district heads, rather than governors, have submitted letters. As a result, the central government has not yet been able to process these into a national declaration.

The Preamble to the 1945 Constitution states that "the state protects the entire nation and all of Indonesia's homeland, advances general welfare, educates the nation's life, and participates in implementing world order based on independence, eternal peace, and social justice." This mandate is carried out through national development aimed at achieving a just and prosperous society that consistently prioritizes the right to livelihood

and protection for every citizen. Indonesia, as a nation, has a vast territory located on the equator, positioned between two continents and two oceans, and possesses natural conditions that offer various advantages (Haryanto, 2016). However, its geographical, geological, hydrological, and demographic characteristics also make it prone to disasters, which occur with a relatively high frequency. This situation necessitates systematic, integrated, and coordinated disaster management. The potential causes of disasters in Indonesia can be categorized into three types: natural disasters, non-natural disasters, and social disasters (Yulianto et al., 2021).

The research problem in this study is the legal status of the determination of flash floods as a national disaster. This paper examines the legal aspects of the current flash floods in Sumatra and aims to provide a solid framework for the government in handling disasters within its jurisdiction. Therefore, the question is how the disaster in Sumatra is classified as a national disaster under applicable law

2. Research Methods

The method employed in this research is descriptive-normative. This approach involves describing existing legal phenomena, such as community behavior toward the law, while simultaneously assessing and analyzing them based on applicable legal standards or norms (positive law). The aim of this method is to understand how the law should function and how it is implemented in practice, using library data to create a systematic and comprehensive overview. This research utilizes secondary materials, which consist of primary, secondary, and tertiary legal sources (Benuf & Azhar, 2020). Primary legal materials are the most authoritative legal sources, binding in nature, and serve as the main foundation for the research or for addressing legal issues. These primarily include statutory regulations. Secondary legal materials are not legally binding but help explain, interpret, and provide context for primary legal materials. Examples include legal textbooks, journals, expert opinions, and relevant research findings that support legal analysis. Tertiary legal materials further clarify or deepen the understanding of primary and secondary legal materials (Mezak, 2006). These can include legal dictionaries, encyclopedias, legal magazines, mass media sources, and pertinent internet content, all of which aid researchers in interpreting legal concepts. This research analysis employs qualitative methods. Saleh (2017) that describe data in a natural and objective manner, aiming to understand the core phenomenon of the issue at hand, specifically the legal status of national disasters.

3. Results and Discussion

3.1. National Disaster Status According to Indonesian Law

The primary regulation governing natural disasters in Indonesia is Law Number 24 of 2007. This law serves as the legal framework for all aspects of disaster management, including prevention, mitigation, preparedness, emergency response, and recovery. It also establishes the National Disaster Management Agency and the Regional Disaster Management Agency (*Badan Nasional Penanggulangan Bencana*/BNPB & *Badan Penanggulangan Bencana Daerah*/BPBD). Additionally, it also outlines the responsibilities of both the government and communities, detailing the stages of disaster management: pre-disaster, emergency response, and post-disaster. The implementing regulations of this law are Government Regulation Number 21 of 2008 concerning the Implementation

of Disaster Management, and Presidential Regulation Number 17 of 2018 concerning the Implementation of Disaster Management in Certain Circumstances, as well as Regional Regulations made by each regional government (Dadek et al., 2020).

Law Number 24 of 2007 addresses several important issues related to disaster management, which is the responsibility and authority of both central and regional governments (Ramli et al., 2025). During the emergency response phase, disaster management is fully carried out by the national disaster management agency at both levels, while respecting community rights (Prasetyoningsih & Ichsan, 2024). This activity involves offering extensive opportunities to both national and international institutions. Disaster management consists of several stages, each with specific handling characteristics. During the emergency response phase, disaster management activities are supported not only by state and regional budgets but also by readily available funds, which are managed through a special accountability mechanism.

Government Regulation Number 21 of 2008 addresses various aspects of disaster management. It covers activities that take place before, during, and after a disaster. The regulation emphasizes preventive measures to be taken prior to any disaster, ensures easy access for disaster management agencies during emergency responses, and outlines the implementation of rehabilitation and reconstruction efforts following a disaster (Nariani & Surata, 2017).

Additionally, Presidential Regulation Number 17 of 2018 addresses the management of disasters under specific circumstances. This regulation focuses on national disasters, outlining the procedures and coordination needed to handle incidents that have wide-ranging impacts and require special attention, such as natural disasters that result in loss of life, property damage, or economic and social disruption. It governs the management of aid, evacuation, and recovery efforts in affected areas, detailing the roles of the National Disaster Management Agency and local governments. In contrast, Regional Regulations (*Peraturan Daerah/Perda*) are established by individual regions to address local-scale disasters that can be managed by their respective local governments (Maulana et al., 2024). Indonesian laws and regulations define and clarify what constitutes a disaster, as well as the state's responsibilities. These responsibilities include prevention, mitigation, preparedness, emergency response, and recovery (Bencana, 2013). Additionally, the government is responsible for funding and overseeing measures to protect the public from the threats posed by natural disasters.

Disaster management, according to the relevant law, must adhere to specific principles. These principles are as follows: 1) Principle of Humanity: Disaster management must ensure the protection and respect for the human rights, dignity, and worth of every citizen and resident of Indonesia proportionally; 2) Principle of Justice: The provisions related to disaster management should reflect proportional justice for every citizen without exception; 3) Principle of Equality Before the Law and Government: Disaster management provisions must not discriminate based on religious background, ethnicity, race, class, gender, or social status; 4) Principle of Balance: The provisions must reflect a balance between social life and environmental considerations; 5) Principle of Harmony: Disaster management provisions should promote harmony within the community and the environment; 6) Principle of Order and Legal Certainty: Disaster management must create social order by ensuring legal certainty; 7) Principle of Togetherness: Disaster management is a shared responsibility between the government and society, carried out

through cooperation; 8) Principle of Environmental Sustainability: Disaster management should promote environmental sustainability for the benefit of both current and future generations; 9) Principle of Science and Technology: Disaster management must optimally utilize science and technology to facilitate and expedite the processes of prevention, response, and recovery. These principles guide the effective management of disasters to ensure a comprehensive and equitable approach.

The principles outlined are designed to promote efficient and effective disaster management, coordination, integration, transparency, accountability, partnership, empowerment, non-discrimination, and non-proletarianism. The goal of disaster management is to protect communities from disaster threats. It also aims to harmonize existing laws and regulations by ensuring that disaster management is carried out in a planned, integrated, coordinated, and comprehensive manner. Moreover, disaster management should respect local cultures by fostering participation and partnerships among both public and private sectors. Furthermore, it encourages cooperation, solidarity, and generosity to help create peace within society, the nation, and the state (Khambali & ST, 2017).

The government, both at the central and regional levels, is responsible for implementing disaster management. Its key responsibilities include: 1) Reducing disaster risks and integrating disaster risk reduction with development programs; 2) Protecting communities from the impacts of disasters; 3) Ensuring that the rights of communities and refugees affected by disasters are upheld fairly, in accordance with minimum service standards; 4) Recovering from the impacts of disasters; 5) Allocating an adequate budget for disaster management within the State Budget; 6) Providing disaster management funding in the form of ready funds; 7) Maintaining authentic and credible archives and documents concerning disaster threats and impacts (Islamiyah et al., 2025). In addition to these responsibilities, the government has the authority to establish disaster management policies that align with national development goals, create development plans that incorporate disaster management strategies, determine the status and severity of national and regional disasters, develop cooperation policies for disaster management with other countries, organizations, or international entities, formulate policies concerning the use of technology that may pose disaster threats or risks, create strategies to prevent the depletion of natural resources and manage activities within the environment's capacity to recover, and oversee the collection and distribution of funds or goods on a national scale. The government is tasked with determining the status and level of national and regional disasters, including assessing the number of victims, property loss, damage to infrastructure and facilities, the extent of the affected areas, and the resulting socio-economic impacts (Zuhdi, 2024).

3.2. Government Authority and National Disaster Parameters

The law mandates that the government, as the representative of the state, is responsible for protecting all Indonesians and their homeland. This includes ensuring the protection of life and livelihood, as well as disaster management, to achieve general welfare based on Pancasila. Due to Indonesia's geographical conditions, which make disasters likely, the government needs to implement an emergency response plan in certain situations to prevent these disasters from hindering national development (Hermon, 2015). However, the existing laws and regulations regarding disaster management do not provide a strong and comprehensive legal foundation. They are not fully aligned with

the development of the Indonesian people or the needs of the nation, which hampers coordinated and integrated disaster management efforts (Ritonga, 2024). Despite the significant number of victims affected, the damage to infrastructure, the loss of property, and the resulting paralysis of the economy and society, the government has not declared the recent flash flood disaster a national disaster. The government holds that not all natural disasters qualify for national disaster status due to specific procedures that must be followed to determine such status.

The government has made Law Number 24 of 2007 the basis for determining disaster levels, and the authority to determine national disaster status lies with the President. The President can make decisions on disaster levels based on data and technical recommendations from the National Disaster Management Agency. Meanwhile, at the provincial or district/city level, the authority to determine emergency status rests with the Governor or Regent/Mayor. The central government will continue to provide assistance, but the responsibility for disaster management rests with the local head of the region (Setyorini, 2023). The government is responsible for implementing disaster management. Its key responsibilities include, implementing disaster risk reduction measures and integrating them into development programs, protecting communities from the impacts of disasters, ensuring that the rights of communities and refugees affected by disasters are fulfilled fairly and in line with minimum service standards, facilitating recovery from the impacts of disasters, allocating an adequate disaster management budget within the State Budget, providing readily available funds for disaster management, and maintaining authentic and credible records and documents related to disaster threats and their impacts.

According to Article 7, paragraph (1) of Law Number 24 of 2007, the government possesses several authorities related to disaster management (Puspita & Sembiring, 2024), which include establishing disaster management policies that align with national development strategies, creating development plans that incorporate disaster management elements, determining the status and severity of national and regional disasters, formulating cooperation policies for disaster management with other countries, agencies, and international organizations, developing policies for the use of technology that may pose disaster threats or risks, creating policies to prevent the over-exploitation of natural resources and to ensure their sustainable recovery, and regulating the collection and distribution of money or goods on a national scale.

Regarding the parameters for determining the status and level of disaster, it is regulated in Article 7 paragraph (2), that the determination of the status and level of national and regional disasters as referred to in paragraph (1) letter c, so that the criteria for determining the disaster status are the parameters used to determine the disaster status according to Law Number 24 of 2007. Thus, Article 7 paragraph (2) details the main indicators for determining the national disaster status which include: a) the number of fatalities, namely how many victims died and were injured as a result of the incident; b) property losses which mean the estimated value of damage to community assets such as houses, vehicles, and agricultural land; c) damage to infrastructure and facilities, namely the level of destruction of vital public facilities such as bridges, highways, electricity networks, and telecommunications; d) the extent of the area, namely whether the disaster spreads to cross provincial administrative boundaries massively; and e) socio-economic impact, namely how badly the disaster paralyzes the economic and social activities of the community. Further provisions regarding the determination of the status

and level of disaster are regulated through a Presidential Regulation (*Peraturan Presiden/Perpres*). The Presidential Regulation in question is Presidential Regulation Number 17 of 2018 concerning the Implementation of Disaster Management in Certain Circumstances. The President has the authority to regulate procedures and coordinate disaster management with widespread impacts that require special handling. This Presidential Regulation grants the President full authority to regulate disaster management in special circumstances, not everyday disasters, which require a rapid and coordinated response.

Regional governments play a crucial role in disaster management, as outlined in Article 8 of Law Number 24 of 2007 (Permana, 2023). Their responsibilities include, ensuring that the rights of communities and refugees affected by disasters are fulfilled in accordance with minimum service standards, protecting communities from the impacts of disasters, reducing disaster risks and integrating disaster risk reduction into development programs, and allocating sufficient funds for disaster management within the Regional Revenue and Expenditure Budget. Additionally, there is an important factor that is not always explicitly stated but significantly influences disaster management: the potential paralysis of the regional government system. If the bureaucratic system of the regional government becomes completely non-functional, the central government assumes full authority.

The question arises as to why the floods in Sumatra were not declared a national disaster. Many in the public believe that the damage caused by the flash floods in Nangroe Aceh Darussalam, North Sumatra, and West Sumatra meets the criteria for a national disaster declaration. However, the central government has a differing assessment regarding the floods in Sumatra in 2025. The primary reason for this is the continuity of regional government functions. The central government believes that the governors, regents, and mayors in the affected regions are still in place and capable of managing the situation. They do not want declaring a national disaster to hinder regional initiatives and responsibilities. If such a declaration were made, all regional authorities would be automatically revoked and replaced by the central government, which could potentially complicate the bureaucratic process on the ground.

3.3. Government Statement and Position

The government, led by President Prabowo Subianto, has made the strategic decision to classify the disaster as a "National Priority." While the legal status remains that of a regional disaster, the response is being executed with the urgency and resources typically reserved for a national disaster. This includes the deployment of the Indonesian National Armed Forces (*Tentara Nasional Indonesia/TNI*), the Indonesian National Police (*Polisi Republik Indonesia/Polri*), and the provision of unlimited central budget support. Despite this classification, the government has not shown any signs of neglecting the victims. The President and relevant ministries are monitoring the situation daily, and central government aid is continuously being delivered to critical areas. Key strengths in this response include data transparency, coordination among agencies, and community involvement, which are essential for accelerating the recovery process. The government is committed to a regulatory-based approach that utilizes regional capacities effectively. Every decision is being made carefully and deliberately to ensure that disaster management remains efficient and targeted. In times of humanitarian emergencies, this caution should not be perceived as a weakness; rather, it reflects a responsible

commitment to ensuring that the entire process is conducted according to the law, stays under control, and provides meaningful support to the affected communities (Ministry of State Secretariat of the Republic of Indonesia, 2025).

A national disaster in Indonesia is the highest legal status in emergency management. This status is declared when a natural or man-made disaster significantly disrupts community life, and local governments are considered unable to manage the situation on their own. It's essential to recognize that this designation goes beyond just describing the level of destruction; it also defines who is in command, where the primary funding comes from, and how resources are mobilized. In contrast, a "regional disaster" refers to a situation in which local governments (both provincial and district/city) are still seen as capable of leading the response, although they continue to receive full support from the central government (Albert, 2025).

The impact of the national disaster status if implemented, will have legal and administrative consequences, such as: a) centralized command and control of operations are no longer in the hands of governors or district heads/mayors, but directly under the Head of BNPB or officials appointed by the President; b) full APBN funding, so that all response costs are borne by the APBN, local governments are no longer burdened with costs from their limited APBD; c) open to foreign aid and this national status usually signals to the international community that Indonesia is officially opening the door (open door policy) for foreign aid; d) total mobilization such as the deployment of national resources (military, civil, private) is carried out in an instructive manner from the center, no longer in the form of assistance; and e) in the cases of Aceh, North Sumatra, and West Sumatra, the government feels that funding support can be resolved through the BNPB Ready to Use Fund (*Dana Siap Pakai/DSP*), so that changes in administrative status are not considered urgent.

Disaster management is a crucial component of national development, involving a series of activities before, during, and after a disaster occurs. Currently, there are significant weaknesses in both the implementation of disaster management and its legal framework, as there is no specific law addressing disaster situations. To address these issues and establish a robust legal foundation for disaster management, a Disaster Management Law was drafted. This law primarily regulates the various stages of disaster management. The legal framework for disaster management emphasizes the government's role as the responsible state institution for managing disasters. Key provisions of the law include:

- a. The government is responsible for disaster management
- b. This responsibility is assigned to the Disaster Management Agency as a representative of the government.
- c. Disaster management must consider the rights of communities in order to meet basic needs, and social protection, and also participate in the decision-making process.
- d. Disaster management activities should create opportunities for businesses and international organizations to contribute.
- e. Disaster management is conducted in stages, each with distinct characteristics.
- f. During the emergency response, disaster management activities are funded by the State Budget and Regional Budgets, as well as other available funds, with accountability ensured through a special mechanism.

- g. The government and community are closely monitoring all disaster stages to prevent misuse of funds.

Providing legal guarantees and provide a deterrent effect against negligent or deliberate actions that lead to disasters, which result in property loss or loss of life, impede access to disaster management activities, or misuse disaster relief resources, criminal penalties will be imposed. These may include imprisonment and fines, with defined minimum and maximum penalties. With these provisions, the Disaster Management Law aims to serve as a strong legal basis for implementing disaster management in a planned, coordinated, and integrated manner

4. Conclusion

Disaster management begins in situations where there is a high potential for disaster, which can include activities such as evacuation, rescue operations, or addressing disruptions to public services that significantly impact the social and economic well-being of the community. The legal framework for disaster management is outlined in Law Number 24 of 2007 and its implementing regulations. The classification of a disaster as a national disaster or not is based on these laws and regulations. If a disaster is deemed limited to a regional scale, the local government retains the authority and responsibility to manage the situation at that level. Flash floods in the provinces of Aceh, North Sumatra, and West Sumatra have not been classified as national disasters, despite causing significant environmental damage. Therefore, the management of floods and landslides in Sumatra has centered on a sharp legal debate between the legality of government discretion and the constitutional rights of victims to protect their rights. The government has chosen not to designate a "National Disaster" status but instead uses the phrase "National Priority." From a legal perspective, the use of this term has been criticized because it is not recognized within the disaster management hierarchy of Law Number 24 of 2007, thus creating legal uncertainty (discretionary absolutism).

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