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International Human Right Violations by the Indonesian Government in Managing Deforestation-Induced Disasters in Sumatera

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ABSTRACT

This study analyses potential international human rights violations by the Indonesian government in response to the Sumatra flood disaster, highlighting a policy paradox in which fiscal and administrative regulations impede international assistance despite failures to prevent deforestation-driven disasters. This study used a socio-legal approach that reviews international legal instruments (ICCPR, ICESCR, and the IFRC Guidelines) and domestic regulations governing disaster management, customs, and donation audits. Findings show that the floods were largely man-made due to inadequate environmental enforcement; restrictive policies have criminalised humanitarian aid; and delays in declaring a National Disaster status obstruct international relief efforts, thereby violating R2P principles and the right to an adequate standard of living. The study concludes that the government committed human rights violations both by omission, through environmental neglect, and by commission, via legal and administrative barriers limiting emergency aid access. It underscores the urgent need for disaster management law reform, prioritising human protection over political or bureaucratic interests.

Keywords: International human rights; Natural disaster; Sumatra; Indonesian government

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1. Introduction

The recurring and severe hydrometeorological disasters across various regions of Sumatra can no longer be regarded as merely neutral natural events or as simple geographical consequences of the tropics. Extreme rainfall that causes flooding of settlements, damages roads and bridges, and halts local economic activities indicates a systemic structural failure. Based on the social construction of disaster theory, disasters are understood as a failure to incorporate ecological risk assessments into administrative decision-making (Wisner et al., 2003).

Various scientific studies have shown that flood vulnerability in Sumatra is strongly linked to extensive deforestation and ecosystem degradation, particularly in forest and peatland areas converted to oil palm plantations, mining, and other non-forest uses. Research by Lupascu (2020) demonstrated that peatland degradation significantly reduces natural hydrological capacity, thereby increasing surface runoff and flash flood volume. Similar findings were reported by Yuwati (2021), who stated that peatland exploitation in Indonesia has led to the loss of ecosystem functions, including water storage and regulation of hydrological processes (Yuwati et al., 2021). Thus, the flood disaster in Sumatra is a clear manifestation of the ecological crisis induced by human activities and unsustainable land-use policies.

Ecologically and legally, the loss of forest cover eliminates the ecosystem's vital function as a hydrological buffer. When vegetation is no longer able to absorb rainwater optimally, water flows directly into the watershed at a drastically increased speed and volume. This condition makes flooding no longer a chance occurrence, but rather a scientifically predictable consequence. From the perspective of modern environmental law, particularly the precautionary and precautionary principles recognized in the Rio Declaration on Environment and Development, states have an obligation to prevent ecological risks before damage occurs. Failure to fulfill this obligation shifts the character of a disaster from force majeure to administrative negligence and a breach of legal obligations.

Indonesia has a strong environmental legal framework through Law No 32 of 2009 concerning Environmental Protection and Management,[1] and Law No 41 of 1999 concerning Forestry.[2] These laws emphasise the state's and corporations' responsibility to prevent environmental damage and to regulate accountability mechanisms through administrative, civil, and criminal sanctions (Azhar MY and Lubis SD, 2025). Article 88 of the Environmental Management and Management Law explicitly adopts the principle of strict liability, which relieves victims of the obligation to prove the business actor's fault.[3] The application of this

[1] *Undang-Undang Republik Indonesia Nomor 24 Tahun 2007 tentang Penanggulangan Bencana*. (2007). https://peraturan.bpk.go.id/Details/39901/Uu-No-24-Tahun-2007.

[2] *Undang-Undang Republik Indonesia Nomor 41 Tahun 1999 tentang Kehutanan* [Law of the Republic of Indonesia Number 41 of 1999 concerning Forestry]. (1999). https://peraturan.bpk.go.id/Details/45373/uu-no-41-tahun-1999.

[3] Kitab Undang-Undang Hukum Perdata. https://kejari-sukoharjo.kejaksaan.go.id/file/a6d2803a1ea733394063e8f006d31912.pdf.

principle has been confirmed in judicial practice, including through the Decision of the North Jakarta District Court No 735/Pdt G-LH/2018/PN Jkt Utr.,[4] which affirms the absolute responsibility of corporations for environmental damage without proof of negligence.

The state's failure to monitor corporate compliance and enforce environmental laws not only violates positive law but also contradicts the state's constitutional obligations. Article 28H paragraph (1) of the 1945 Constitution guarantees the right of every citizen to a good and healthy environment, while Article 27 paragraph (2) guarantees the right to a decent living.[5] The Constitutional Court, in various rulings, has emphasised that environmental protection is a fundamental component of the realisation of human rights. Therefore, the government's failure to address disasters caused by ecosystem damage may constitute an unlawful act by authorities, thereby giving rise to civil and citizen lawsuits under Article 1365 of the Civil Code.[6]

The governance paradox is more evident in the country's response to the Sumatra disaster. The central government openly asserted its national capacity for disaster management by relying on state officials and national institutions, such as the National Disaster Management Agency (BNPB), the Indonesian National Armed Forces (TNI), and the Indonesian National Police (Polri), while simultaneously rejecting or limiting international assistance. Reuters reported that the government emphasised claims of national independence in its management of the massive floods in Sumatra. This policy is grounded in the principles of state sovereignty and the central government's complete authority over foreign affairs, as set out in the Regional Government Law and the Government Regulation on Disaster Management.

From a securitisation theory perspective, disasters are viewed as a state security issue, thus strictly limiting interactions with international actors. This approach creates tension between the need to maintain sovereignty and humanitarian imperatives that require a swift, effective response. The government's reluctance to declare a national disaster, which would formally authorise access to coordinated international aid, casts serious doubt on the state's effectiveness in protecting victims. An AP News analysis shows that human-induced climate change is increasing the severity of extreme rainfall events, making claims of domestic capacity without sufficient international support increasingly problematic (Arasu and Delgado, 2025).

The structural weaknesses of Law Number 24 of 2007 concerning Disaster Management further exacerbate the situation.[7] Academic evaluations have shown inconsistent disaster

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4 *Putusan Nomor 735/Pdt.G-LH/2018/PN Jkt.Utr* [Decision Number 735/Pdt.G-LH/2018/PN Jkt.Utr]. (2018). Pengadilan Negeri Jakarta Utara.

5 *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945* [Constitution of the Republic of Indonesia of 1945]. (1945). https://www.mkri.id/public/content/infoumum/regulation/pdf/UUD45%20ASLI.pdf.

6 Kitab Undang-Undang Hukum Perdata. https://kejari-sukoharjo.kejaksaan.go.id/file/a6d2803a1ea733394063e8f006d31912.pdf.

7 *Undang-Undang Republik Indonesia Nomor 24 Tahun 2007 tentang Penanggulangan Bencana* [Law of the Republic of Indonesia Number 24 of 2007 concerning Disaster Management]. (2007).

definitions, overlapping authority between institutions, and a lack of explicit regulations regarding the role of civil society organisations and volunteer organisations. In collaborative governance theory, the neglect of non-state actors actually weakens response capacity and reduces the flexibility of emergency management. The state retains complete control over the collection and distribution of aid, but cannot always guarantee the speed and accuracy of distribution on the ground.

Complex customs regulations and donation permits further complicate operational challenges. International and national media reports indicate that restrictive customs policies slow down the disbursement of foreign aid, despite the existence of a normative duty-free mechanism for disaster relief. This situation reflects systemic administrative barriers to humanitarian access. In an emergency, bureaucratic delays can constitute administrative negligence, depriving victims of their right to prompt and practical assistance. Strict licensing regulations and donation audits also discourage community participation. The threat of administrative and criminal sanctions, including potential corruption charges arising from the management of grant funds, creates disproportionate legal risks for well-intentioned volunteers and donors. Legal studies show that a repressive approach in emergencies tends to increase caution and slow humanitarian responses. This demonstrates that Indonesia's current legal system leans more toward post-disaster control and retribution than adaptive facilitation and prevention.

The primary aim of this research is to critically evaluate the Indonesian government's accountability in the management of natural disasters in Sumatra, specifically focusing on the intersection of environmental negligence and the systemic obstruction of humanitarian aid. This study seeks to bridge the gap between law in books (constitutional guarantees) and law in action (administrative practices) by analysing how state discretion often subordinates human rights to bureaucratic and economic interests.

To achieve this aim, the following research objectives have been identified:

(1) To analyse the state's positive obligations and due diligence duties under international human rights law (Article 6 ICCPR) in preventing foreseeable environmental risks caused by deforestation.

(2) To examine the proportionality of fiscal and administrative regulations that act as post hoc legitimising devices, impeding international and diaspora humanitarian assistance.

(3) To formulate a normative framework for disaster management reform that prioritises preventive justice and the protection of victims as legal subjects.

https://peraturan.bpk.go.id/Details/39901/Uu-No-24-Tahun-2007.

In alignment with these objectives, this study addresses the following research questions:

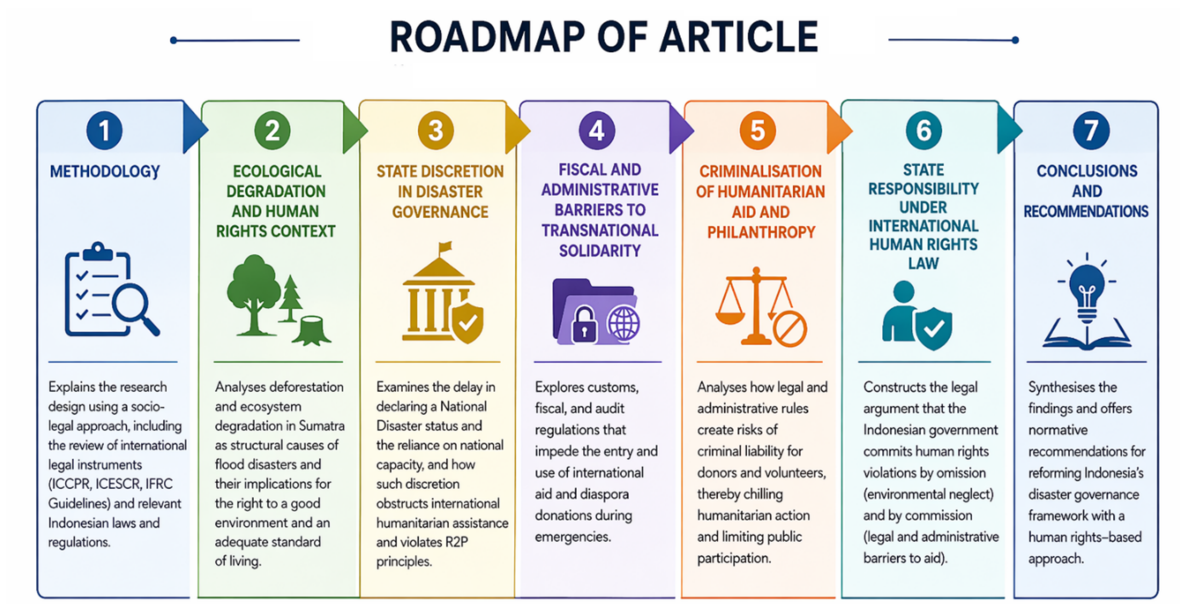
(1) How does the persistent gap between constitutional environmental mandates and actual licensing practices in Sumatra constitute a breach of the state's due diligence to protect the right to life?

(2) To what extent do bureaucratic barriers and fiscal rigidities in disaster response qualify as a violation by commission against international standards of humanitarian access?

(3) How should Indonesian disaster law be reframed to move from a reactive, state-centric model to a rights-based framework that prevents the criminalisation of humanitarian actors?

This research holds significant theoretical, practical, and policy relevance. Theoretically, it advances environmental and disaster law by integrating state responsibility, human rights, and risk-based disaster governance. It also broadens the discourse on the right to life within the context of ecological crises and non-natural disasters. In practice, the findings aim to assist state institutions, law enforcement, and civil society organisations in understanding the limits of administrative authority and the risks of human rights violations associated with overly restrictive disaster policies. Policy-wise, it offers a normative and empirical foundation for reforming disaster management regulations, including revisions to Law Number 24 of 2007, enhancing state accountability for environmental failures, and developing more flexible, proportional, and victim-centred humanitarian assistance procedures.

For further clarity on the organisation and analytical flow of this study, the following figure presents a structured roadmap of the article:



2. Research Methodology

This research adopts a juridical-normative method, a legal research approach that emphasises law as a system of norms comprising principles, rules, and doctrines, embodied in legislation and court decisions. This approach focuses on a normative analysis of disaster management regulations and their synchronisation with other sectoral legal instruments, such as customs law and state administrative law. The theoretical basis used is legal positivism and normative jurisprudence, which view law as a set of rules that can be systematically analysed to assess their consistency and compliance with constitutional principles.

In addition, this study applies the Case Study Approach to provide empirical and contextual insights. This method is used by examining legal facts related to disasters in the Sumatra region, such as flash floods and chronic forest fires, to identify legal gaps, namely the difference between das Sollen (what should be according to the law) and das Sein (the reality that occurs). The case approach enables a critical analysis of how state practices in issuing oil palm land permits often overlook environmental carrying capacity, while also evaluating the effectiveness of administrative authority in reducing disaster risks. This research is based on library research and relies on secondary data classified into three categories. Primary legal materials consist of binding laws and regulations, including the 1945 Constitution of the Republic of Indonesia; laws on disaster management, environmental protection and management, customs, and the collection of money and goods, along with their implementing regulations. Secondary legal materials comprise scholarly literature, national and international journals, reports from non-governmental organisations, and documents issued by international organisations that provide analysis and interpretation of primary legal sources in accordance with doctrinal legal research principles. Tertiary legal materials include legal dictionaries, encyclopedias, and reference works used to clarify key legal concepts relevant to state administrative practices in disaster mitigation and humanitarian assistance.

Data analysis was conducted qualitatively using deductive logic. The process begins with broad legal norms, such as the state's constitutional obligation to protect all citizens and the environment, which are then translated into specific facts, such as bureaucratic obstacles in customs and land permit policies. This approach allows researchers to systematically evaluate whether the state has violated national and international laws in disaster response and in obstructing humanitarian aid. This analytical framework aligns with the principles of normative legal analysis, where legal interpretation is prescriptive and critically examines the gap between norms and actual practice.

3. Analysis and Discussion

3.1 Palm Oil Deforestation and Environmental Rights Violations by the Indonesian Government

The results of this study indicate that deforestation in Sumatra cannot be understood solely as a technical consequence of agrarian development or the dynamics of global commodity markets. Rather than an ecological disaster constructed through state legal instruments, this condition reflects how power relations between the state and capital shape the environmental landscape through legal mechanisms that appear administratively legitimate yet are substantively problematic. From this perspective, political ecology shows how these power relations influence the environment via legal tools that appear legitimate but are fundamentally flawed (Bryant and Bailey, 1997). The state, by issuing plantation business permits, confers legal legitimacy on the conversion of forest areas into oil palm monocultures without requiring environmental carrying capacity as a prerequisite for ecological sustainability.

Analysis of licensing documents across several key areas in Sumatra reveals a consistent disregard for the mandate of Article 12 of Law Number 32 of 2009 concerning Environmental Protection and Management, which clearly states that:

> 'The utilisation of natural resources is carried out in accordance with the Environmental Protection and Management Plan.'[8]

This norm explicitly establishes the Environmental Protection and Management Plan as the legal and ecological foundation for all types of natural resource use. Additionally, paragraph (2) highlights that:

> 'The RPPLH serves as the basis for both national and regional development planning, which includes: a) sustainability of environmental processes and functions; b) sustainability of environmental productivity; and c) safety, quality of life, and community welfare.'[9]

This finding is not merely an administrative anomaly, but rather reflects a pattern of maladministration that has been repeatedly identified by state oversight bodies. Audit reports by the Supreme Audit Agency (BPK) on the management of forestry and plantation sector permits in several provinces in Sumatra revealed permits being issued without adequate environmental planning documentation, including the absence or inconsistency of

8 *Undang-Undang Republik Indonesia Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup* [Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management]. (2009), art. 12. https://www.hukumonline.com/pusatdata/detail/lt4b2885a7bc5ad/undangundang-nomor-32-tahun-2009/document/.

9 *Undang-Undang Republik Indonesia Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup* [Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management]. (2009), art. 12. https://www.hukumonline.com/pusatdata/detail/lt4b2885a7bc5ad/undangundang-nomor-32-tahun-2009/document/.

RPPLH (Regional Environmental Management Plan) and ecological carrying capacity assessments. The BPK has consistently classified these practices as violations of the principles of compliance with laws and regulations and the principle of prudence in natural resource management.

This type of legal construction has also faced criticism in court decisions. The Supreme Court, in several state administrative cases revoking environmental permits, asserted that permits issued without a valid ecological planning basis are legally flawed administrative decisions from the outset. From a state administrative law perspective, granting oil palm land permits that preempt the RPPLH (Regional Development Plan for Environmental Management) is procedurally and legally flawed. A flaw in authority arises when administrative officials exercise their licensing discretion for purposes that deviate from the statutory mandate for environmental protection. Under the doctrine of *detournement de pouvoir,* the use of authority to serve short-term economic interests at the expense of ecological control constitutes an abuse of administrative power.

Meanwhile, procedural flaws are evident in the failure to address the essential stages of environmental planning required for permit issuance. Under the theory of due process of law in administrative law, procedures are understood not just as formal steps but as mechanisms to safeguard the public interest. By bypassing the RPPLH, the state not only breaches procedures but also removes the opportunity for ecological evaluation, which should underpin decision-making. These licensing practices show that the state has not just failed to perform its environmental oversight function but has actively reversed the hierarchy of norms in environmental law. There is a gap between law in books (constitutional guarantees) and law in action (licensing practices) that persists because the state utilises administrative procedures as post hoc legitimising devices to subordinate ecological norms to capital accumulation. This situation conceptually supports the thesis of regulatory capture, as stated by Gunningham N (2017), that:

> 'Environmental regulation may be captured by regulated interests, such that regulatory instruments are reshaped to serve economic objectives rather than to constrain environmentally harmful conduct.'

Within this framework, environmental regulation no longer functions as a normative constraint on state and market power but instead serves as a battleground where industrial interests systematically influence public policy. The Sumatran context illustrates this form of capture, ecologically harmful permits remain normalised through narratives of national development, economic resilience, and investment stability. Procedural legality is preserved as a shield, while the substantive goal of environmental protection is sacrificed. As a result, environmental law not only fails to prevent damage but also reinforces ecological vulnerability through the state's legitimacy in upholding norms.

This inversion of legal function is especially evident in how the precautionary principle is applied today. State practice reflects a more formalistic approach that reduces the principle to an administrative task, distinct from its primary preventive and corrective goals.

Analysing Environmental Impact Assessment (EIA) documents reveals that EIAs are primarily regarded as procedural tools to support licensing and administrative approvals, rather than as meaningful mechanisms for identifying, assessing, and reducing significant ecological risks. This approach directly conflicts with international environmental law doctrine, which holds that the precautionary principle serves as a normative limit on both state and market actions in conditions of scientific uncertainty. As Sands (2018) explains:

> 'The precautionary principle requires States to take preventive measures where there are reasonable grounds for concern that an activity may cause harm, even if there is no conclusive scientific evidence establishing a causal relationship.'

However, licensing practices in Sumatra reveal a normative inversion of this principle. The precautionary principle has been reduced to a symbolic procedure that merely completes licensing documents, with no real impact on decisions to halt, limit, or review activities that pose a high risk to forest ecosystems. This reduction suggests that the Environmental Impact Assessment (EIA) has been depoliticised, losing its capacity to constrain state authority and capital. Under these conditions, the EIA no longer functions as a preventive measure but rather as a means to legalise natural resource exploitation, institutionalised through administrative law.

Theoretically, these findings show that the environmental crisis in Sumatra cannot be reduced to poor implementation. Instead, it reflects a fundamental distortion in the design and regulatory focus of environmental law itself. When ecological regulations are systematically used to support short-term economic goals, the state's role shifts from environmental protector to enabler of legally authorised ecological destruction. Consequently, environmental law is deprived of its normative legitimacy as a means to protect the right to a healthy environment. In contrast, the gap between constitutional environmental guarantees and regulatory practices becomes more evident.

One key sign of this structural failure is spatial planning inequality, which highlights the erosion of the normative role of environmental planning tools. Empirical analysis shows that the alignment between Regional Spatial Plans and the actual state of forest ecosystems is weak and easily altered to accommodate large-scale investment projects. From an administrative law perspective, such practices cannot be seen as neutral policy choices or simple technical flaws. Instead, they represent a misuse of regulatory discretion and an abuse of state authority, as planning tools are intentionally manipulated to serve interests that contradict their legally mandated environmental goals, as Craig (2012) argues:

> 'A public authority acts unlawfully where it uses a power for a purpose other than that for which the power was conferred.'

The concept of abuse of power highlights the risk that state discretion loses its legitimacy when it is exercised for purposes that deviate from its mandate to protect the public interest, including environmental protection. Such abuse of authority in spatial planning carries profound constitutional implications. The right to a good and healthy environment is a fundamental component of Indonesia's human rights framework, as expressly guaranteed in Article 28H paragraph (1) of the 1945 Constitution, which provides that:

> 'Everyone has the right to live in physical and spiritual prosperity, to have a place to live, to have a good and healthy living environment, and to receive health services.'[10]

However, the severity of deforestation and the rise of ecological disasters in Sumatra show that these constitutional guarantees are not reflected in corresponding policy actions. According to human rights theory, state obligations are not only to respect and protect, but also to fulfil these obligations through policies that actively prevent environmental harm. When the state fails to fulfil these obligations, environmental rights violations are no longer incidental but rather structural.

The findings of this study indicate that these licensing practices represent a breach of the state's positive obligations of due diligence. By ignoring ecological carrying capacity, the state failed to address foreseeable risks to the right to life, as mandated by Article 6 of the ICCPR. Recurrent flooding and chronic haze in Sumatra cannot be understood merely as byproducts of development, but rather as precise results of the failure of state policies to regulate the exploitation of natural resources. In line with this, Keller and Gurash (2023) argued that when state regulations enable environmental degradation, the state commits an omission or neglect of its human rights responsibilities. In this configuration, the state is no longer neutral but becomes an actor that actively reproduces ecological vulnerability through its own public policies.

This failure underscores a significant breach of ecological justice, particularly concerning the rights of local and Indigenous communities. Oil palm plantation concessions have repeatedly disregarded customary land rights and Indigenous ecological knowledge, despite clear constitutional and judicial protections. In Constitutional Court Decision No. 35/PUU-X/2012, the Court affirmed that customary forests belong to Indigenous communities and declared unconstitutional the Forestry Law's claim that 'customary forests are state forests'. This ruling establishes that the state's role is regulatory rather than proprietary, obliging it to respect and safeguard Indigenous rights in accordance with Article 18B(2) of the 1945 Constitution, which recognises and protects the traditional rights of customary law communities.

Further analysis reveals a positive correlation between the increase in oil palm plantation permits and the frequency and severity of hydrometeorological disasters in Sumatra. From an environmental law perspective, this correlation carries significant normative implications because it confirms a causal link between public policy and ecological damage. The principle of state responsibility in international environmental law states that states can be held responsible for environmental harm resulting from policies that

[10] *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945* [Constitution of the Republic of Indonesia of 1945]. (1945), art. 28H para. (1). https://www.mkri.id/public/content/infoumum/regulation/pdf/UUD45%20ASLI.pdf.

are not aligned with sustainability (Boyle and Redgwell, 2021). Thus, state failure does not end at the domestic policy level; it can also give rise to legal liability within the broader environmental legal regime.

These findings strengthen the argument that the ecological disaster in Sumatra was not a natural event independent of human intervention, but rather a structural result of government policy choices. Bedner (2010) asserts that weak environmental law enforcement in Indonesia is often caused by sectoral rivalry between institutions focused on economic growth and those focused on ecological concerns protection. In the context of Sumatran deforestation, the supremacy of environmental law is consistently subordinated to short-term economic interests, disguised as a narrative of national strategic development.

Thus, the results of this study confirm that the state not only fails to prevent environmental damage but also actively creates conditions that enable ecological disasters. Within the theoretical framework of state responsibility, this situation positions the state as a legal entity responsible for systemic, long-term environmental damage. This finding fundamentally challenges traditional development narratives and highlights the urgent need to redesign environmental policies grounded in ecological justice, the primacy of environmental law, and core principles of sustainability.

Legally, the state’s obligation to protect citizens from foreseeable ecological risks is set out in Article 28H, paragraph 1, of the 1945 Constitution, which affirms every person’s right to live in physical and spiritual prosperity, including a healthy environment. The implementation of this obligation is further specified in Law Number 24 of 2007 concerning Disaster Management (UUPPLH), which details the state's responsibility to develop policies, oversee enforcement, and impose sanctions for environmental violations that could threaten the lives and well-being of the community. However, in practice, there is a gap between legal norms and the protection of citizens' rights. For example, supervision of the conversion of forest land to oil palm plantations is often limited to the formality of an Environmental Impact Assessment (EIA), without ensuring adequate mitigation of ecological risks (Hadi, 1995).

The findings of this study indicate that these licensing practices represent a breach of the state’s positive obligations of due diligence.[11] Under international law, this obligation operates in two main dimensions: a conduct obligation that sets standards of precaution and a result obligation that demands tangible effectiveness (Kiss and Shelton, 2007). In Sumatra, the government’s inability to enforce sanctions and monitor industry practices demonstrates a failure in both dimensions. This structural failure is further exacerbated by national legal reform under the Job Creation Law, which shifts strict liability to fault-based liability. This shift weakens the law's preventive effect and makes it more challenging to prove responsibility for environmental damage (Faizal, 2021). Consequently, by ignoring

[11] *International Covenant on Civil and Political Rights* (adopted 16 December 1966, entered into force 23 March 1976) vol. 999 United Nations Treaty Series, p. 171.

foreseeable risks to the right to life as mandated by Article 6 of the ICCPR, the state has moved from a neutral regulator to an actor that actively reproduces ecological vulnerability.

3.2 Political Discretion in Determining National Disaster Status and the Production of State Power

The research findings indicate that the determination of national disaster status in Indonesia does not operate as a neutral, purely technical administrative mechanism. Still, rather than as an arena for state political discretion. Normatively, Law Number 24 of 2007 concerning Disaster Management stipulates that disaster emergency status is determined by objective indicators such as the number of victims, environmental damage, property losses, and cross-regional impacts.[12] However, the absence of a clear quantitative threshold in the law leaves expansive room for interpretation for decision-makers at the executive level, particularly the President as the final authority for status determination. This condition reinforces the discretionary character of policy, as explained in the theory of discretionary power in state administrative law, which positions discretion not as a deviation from the law, but as an inherent part of modern government practice where laws are deliberately designed to be flexible to deal with uncertainty (Mashaw, 1983).

The implications of this normative flexibility extend beyond administrative governance issues, directly determining the extent to which state obligations toward disaster victims are activated or restricted. National disaster status serves as a triggering mechanism linking legal norms to the realisation of victims' rights, including access to emergency assistance, national funding, international assistance, and long-term recovery and rehabilitation. Therefore, to understand the concrete impact of the discretionary status determination, it is necessary to map how the articles in Law Number 24 of 2007 operate as the legal basis for fulfilling victims' rights and also as vulnerable points for limiting those rights.

Normatively, Law Number 24 of 2007 grants the President expansive discretionary power to determine national disaster status. However, this flexibility functions as a double-edged sword: It is designed for uncertainty but often serves as a tool for 'legal avoidance'. By withholding formal status, the state fragments its responsibility to the regional level, effectively curbing its financial and legal obligations without explicitly denying victims' rights. This illustrates how administrative discretion transforms from a technical necessity into a domain of power where legal norms are utilised to manage and limit the scope of state accountability.

From the perspective of governmentality (Foucault, 2017) and political risk management, this reluctance to declare a national disaster is an epistemic device to control the crisis narrative (McKinlay and Pezet, 2018). Declaring a disaster is not a neutral act; it is a political declaration that exposes the state to reputational and fiscal risks (Tierney, 2014).

[12] *Undang-Undang Republik Indonesia Nomor 24 Tahun 2007 tentang Penanggulangan Bencana* [Law of the Republic of Indonesia Number 24 of 2007 concerning Disaster Management]. (2007). https://peraturan.bpk.go.id/Details/39901/Uu-No-24-Tahun-2007.

Consequently, the state prioritises 'image management'—minimising exposure to international criticism and preserving perceptions of domestic capacity—over the humanitarian urgency of the victims.

The IFRC Disaster Law scholarship has consistently observed that states often frame the rejection or postponement of a declaration of a national disaster as an effort to preserve sovereignty and project an image of sufficient domestic capacity to the international community. This stance is reflected in the IFRC Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (IDRL Guidelines), which affirm in Section 3, paragraph 1 (International Federation of Red Cross and Red Crescent Societies, 2017), that:

> 'The affected State has the primary role in the initiation, organisation, coordination, and implementation of humanitarian assistance within its territory.'

While this provision underscores state sovereignty and leadership, the IFRC's commentary accompanying the Guidelines explicitly notes that governments may be reluctant to formally request or acknowledge the need for international assistance due to concerns about political legitimacy, international perception, and control over external actors.

This stance creates a policy paradox, while the IFRC Guidelines and ASEAN Agreement (AADMER) emphasise state sovereignty in disaster response, this sovereignty is not absolute (Evans, 2008).[13]

Under the 'Responsibility to Protect' (R2P) doctrine, state legitimacy depends on the ability to protect its population. By delaying disaster status to project an image of self-sufficiency, the state prioritises the symbolism of sovereignty over substantive protection (Agamben, 2005). This obstruction of international aid—often framed as preserving autonomy—effectively denies citizens access to life-saving resources, transforming sovereignty into a barrier rather than a shield.

This inversion of state function is most evident in 'fiscal gatekeeping'. Under PMK Number 4 of 2025,[14] the state imposes strict import duties even on humanitarian aid from the diaspora, failing to differentiate between commercial goods and social assistance (Yaputra, 2025). Without a national disaster declaration, these aid packages are trapped in customs, subject to taxes that most vulnerable groups cannot afford. As Galtung (1969) suggests, this

[13] *ASEAN Agreement on Disaster Management and Emergency Response* (2005). https://asean.org/speechandstatement/asean-agreement-on-disaster-management-and-emergency-response-vientiane-26-july-2005/.

[14] *Peraturan Menteri Keuangan Nomor 4 Tahun 2025 tentang Perubahan Kedua atas Peraturan Menteri Keuangan Nomor 96 Tahun 2023 tentang Ketentuan Kepabeanan, Cukai dan Pajak atas Impor dan Ekspor Barang Kiriman* [Regulation of the Minister of Finance Number 4 of 2025 concerning the Second Amendment to the Regulation of the Minister of Finance Number 96 of 2023 concerning Customs, Excise and Tax Provisions on the Import and Export of Consigned Goods]. (2025). https://peraturan.bpk.go.id/Details/313252/pmk-no-4-tahun-2025.

constitutes 'structural violence', where administrative machinery becomes an insurmountable obstacle to the right to an adequate standard of living (ICESCR). The state's failure to adapt its fiscal procedures during a crisis is not just a technical oversight, but a breach of its due diligence to prevent foreseeable harm. Consequently, the persistence of these structural constraints in public policy can produce humanitarian outcomes equivalent to direct conflict, signifying a regression in the state's commitment to its human rights obligations.

3.3 Fiscal and Procedural Barriers Causing Diaspora Dilemmas in Transnational Solidarity

The findings of this study indicate that the imposition of import duties and import taxes on humanitarian aid from the Indonesian diaspora for victims of the natural disaster in Sumatra several days ago cannot be understood as an administrative anomaly or a technical error in policy implementation. Rather, this incident is a manifestation of the state's structural failure to organise disaster and climate governance that is responsive to the reality of the ecological crisis. In the context of climate governance, the state continues to maintain a regular fiscal legal regime in a materially abnormal situation, namely a disaster produced by the escalating climate crisis and environmental degradation.

Transnational diaspora solidarity, as conceptualized within Levitt and Glick Schiller's framework of transnational social fields, operates as a network of cross border social relations that mobilizes resources beyond market and state mechanisms, grounded in moral obligation, affective ties, and collective responsibility toward communities of origin. In the context of disaster response, however, this form of solidarity encounters a national legal regime that treats humanitarian assistance primarily as an object of fiscal administration Law Number 10 of 1995 on Customs, as amended by Law Number 17 of 2006, defines importation for use in Article 8 paragraph 1 as:

> 'Importation for use is the bringing of goods into the Customs Territory for use.'[15]

This formulation makes no normative distinction between commercial goods and humanitarian aid, thereby placing medical supplies, food assistance, and emergency logistics squarely within the general import regime subject to customs procedures. Furthermore, Article 8, paragraph 2 of the same law stipulates that:

> 'Importation for use as referred to in paragraph (1) is importation carried out by a person domiciled in Indonesia.'[16]

[15] *Undang-Undang Republik Indonesia Nomor 17 Tahun 2006 tentang Perubahan atas Undang-Undang Nomor 10 Tahun 1995 tentang Kepabeanan* [Law of the Republic of Indonesia Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs], art. 8 para. (1). (2006). https://peraturan.bpk.go.id/Details/40189/uu-no-17-tahun-2006.

[16] *Undang-Undang Republik Indonesia Nomor 17 Tahun 2006 tentang Perubahan atas Undang-Undang Nomor 10 Tahun 1995 tentang Kepabeanan* [Law of the Republic of Indonesia Number 17 of 2006 concerning Amendments to Law

This provision demonstrates that the legal release of goods from customs supervision is conditioned upon administrative and fiscal compliance, regardless of the emergency context or humanitarian purpose. In disaster situations, such a legal construction transforms solidarity into an object of administrative selection, in which the capacity to save lives becomes contingent upon documentary completeness and fiscal guarantees rather than on the urgency of human suffering.

The implications of this legal framework are particularly severe in disaster contexts. When humanitarian aid is subject to standard import and fiscal rules, the law no longer protects disaster victims. Instead, it becomes an administrative barrier that restricts access to essential aid. This approach fundamentally conflicts with Indonesia's commitments under the International Covenant on Economic, Social and Cultural Rights (ICESCR), which it has ratified. Article 12(1) of the Covenant guarantees:

> 'The right of everyone to the enjoyment of the highest attainable standard of physical and mental health.'

while Article 12(2)(c) imposes a positive obligation on States to take steps necessary for:

> 'The prevention, treatment, and control of epidemic, endemic, occupational, and other diseases.'

Regulatory and fiscal barriers that delay the entry of medical equipment and health assistance during disasters thus constitute a failure to fulfil these affirmative duties. The same normative tension appears in the context of food security. Article 11(1) and (2) of the ICESCR recognise:

> 'The right of everyone to an adequate standard of living, including adequate food. The fundamental right of everyone to be free from hunger.'

It requires States to take appropriate measures, both individually and through international cooperation, to ensure equitable access to food on the basis of need. The imposition of import restrictions and taxation measures on international food aid during disasters not only hampers humanitarian cooperation but also significantly undermines the state's ability to fulfil its non-derogable obligations to protect and realise the socio-economic rights of disaster-affected populations.

From the perspective of disaster law and welfare state theory, this situation reflects a transformation of law from an emancipatory instrument into an administrative gatekeeping device (Tierney, 2014). Rather than facilitating the flow of assistance as part of the realisation of human rights obligations, the law constructs barriers that produce delays, increase preventable mortality, and deepen food and health crises. Consequently, the failure of disaster response cannot be reduced to a matter of technical bureaucracy. Still, it must be understood as a systemic failure in which the law itself actively contributes to the production of vulnerability and human suffering.

Number 10 of 1995 concerning Customs], art. 8 para. (1). (2006). https://peraturan.bpk.go.id/Details/40189/uu-no-17-tahun-2006.

Furthermore, this failure becomes more acute when examined through Karl Polanyi's concept of economic embeddedness. Fiscal and regulatory frameworks that operate in abstraction from the social and ecological realities of disaster governance do not merely result in administrative inefficiency. Instead, they reflect a process of institutional dis-embedding, in which legal and economic instruments are insulated from the societal and environmental contexts they are meant to regulate (Polanyi and Dale, 2024).

Through customs and taxation regimes, the state fails to recognise humanitarian aid as a socially embedded practice and instead reconstitutes it as an economic transaction (Polanyi and Dale, 2024). In doing so, transnational diaspora solidarity is legally reframed as individual import activity subject to fiscal calculation. At the same time, disaster-affected populations are rendered invisible as external variables outside the scope of budgetary decision-making.

Normatively, the existence of Minister of Finance Regulation Number 70/PMK 04/2012 is often cited as evidence that the state has established a mechanism to exempt donated goods from import duties. However, Articles 3, paragraphs (1) and (4) of the regulation require recipients to be legal entities and to have ministerial recommendations. In climate-disaster situations, the requirements for recipients to be legal entities and obtain ministerial recommendations demonstrate the exclusive nature of Indonesian disaster law (Nonet et at., 2001). This creates a 'street-level bureaucracy' where official discretion determines the life and death of aid, rather than the urgency of victims' needs. In the case of diaspora aid to natural-disaster victims in Sumatra, this bureaucracy served as a filtering mechanism that delayed or even blocked aid distribution when it was most needed.

The mismatch between legal design and on-the-ground needs becomes even more acute when considering the nature of climate-induced disasters. The United Nations Office for the Coordination of Humanitarian Affairs (2017) identified that the first 72 hours after a disaster are the most crucial phase for rescue and initial recovery. However, the import duty exemption procedures, which require up to 14 working days to process, reveal that Indonesian customs law is structurally misaligned with the temporal demands of emergency governance (Darussalam et al., 2024). Rather than enabling rapid humanitarian response, the legal framework remains anchored in ordinary administrative rationality (Agamben, 2005).

Beyond administrative delays, the imposition of taxes on humanitarian aid reveals a fundamental paradox in the state's fiscal policy. Constitutionally, the state's obligation to protect vulnerable populations and disaster victims is clearly articulated in the 1945 Constitution of the Republic of Indonesia. Article 34, paragraph (1) stipulates that:

> 'The poor and abandoned children shall be taken care of by the State.'[17]

[17] *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945* [Constitution of the Republic of Indonesia of 1945]. (1945). https://www.mkri.id/public/content/infoumum/regulation/pdf/UUD45%20ASLI.pdf.

while Article 34 paragraph (3) further mandates that:

> 'The State shall be responsible for providing proper healthcare services and public service facilities.'[18]

These provisions establish a clear constitutional duty for the state to assume primary responsibility for social protection, particularly in contexts of crisis and disaster where citizens' basic needs and survival are at stake. However, imposing import taxes and fiscal levies on humanitarian assistance sent by the diaspora effectively shifts part of this constitutional responsibility to private citizens and transnational solidarity networks. This policy choice simultaneously constrains the very space of humanitarian assistance that arises beyond national borders, even though such aid is directed toward fulfilling constitutionally guaranteed rights.

From the perspective of Schumpeter's fiscal sociology, taxation is not merely a technical instrument of revenue collection but a reflection of the state's moral and political priorities (Schmidt, 2003). Schumpeter (1991) famously argued that:

> 'The fiscal history of a people is above all an essential part of its general history.'

It is because tax policy reveals how a state conceives its relationship with society and the limits of its responsibility toward citizens (Schumpeter, 1991). In this sense, the taxation of humanitarian aid signals a moral orientation in which short-term fiscal stability is privileged over the imperative of human safety and social protection.

Ultimately, from a welfare-state perspective, this situation demonstrates a failure to mobilise social solidarity within a collective protection system (Esping-Andersen, 1998). The state is not merely absent but actively creates obstacles through law and policy. Without a paradigm shift from procedure-based management to disaster governance based on ecological justice, fiscal law will remain a structural barrier rather than a solution in the era of the climate crisis.

3.4 Administrative Criminalisation in Humanitarian Philanthropy and the Failure of State Regulatory Design

The results of this study indicate that the policy of the Ministry of Social Affairs of the Republic of Indonesia, which requires fundraisers for natural disaster relief in Sumatra with a value exceeding IDR 500 million to involve certified auditors, along with the threat of up to three months' imprisonment for administrative non-compliance, reflects a serious problem in the design of public regulations that is disproportionate and potentially contradicts the principles of constitutional law and modern administrative law (Caniago and Batubara, 2025).

[18] *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945* [Constitution of the Republic of Indonesia of 1945]. (1945). https://www.mkri.id/public/content/infoumum/regulation/pdf/UUD45%20ASLI.pdf.

This policy framework is grounded in Law Number 9 of 1961 on the Collection of Money or Goods and Regulation of the Minister of Social Affairs Number 8 of 2021, both of which position licensing and administrative audits as the principal instruments of state oversight over public participation. Law Number 9 of 1961 explicitly provides in Article 2, paragraph 1 that:

> 'The term 'collection of money or goods' in this Law means any effort to obtain money or goods for development in the fields of social welfare, mental/ religious/ spiritual, physical well-being, and cultural activities.'[19]

This licensing requirement is further supported by Article 3, which grants the government broad discretionary authority to determine the conditions, procedures, and scope of such collections. Additionally, Article 6 establishes criminal penalties for any collection carried out without authorisation, highlighting the regulation's focus on control and compliance rather than facilitation.

This regulatory orientation is outlined in the Minister of Social Affairs Regulation Number 8 of 2021 regarding the Implementation of the Collection of Money or Goods. Article 3, paragraph 1, states that:

> 'Any person or entity intending to conduct the collection of money or goods as referred to in Article 1 must first obtain authorisation from the competent official.'[20]

However, the findings of this study demonstrate that when this regulatory framework is applied rigidly in the context of large-scale hydrometeorological disasters in Sumatra, the reliance on *ex ante* licensing and audit mechanisms not only fails to advance the protection of disaster victims but also risks contravening fundamental principles of legal proportionality and expediency. Instruments originally designed to prevent the misuse of public donations effectively operate as structural barriers to rapid humanitarian response, particularly in the critical early phases of disaster relief.

From a rule-of-law perspective, the rigid application of licensing and audit requirements in emergency contexts raises serious concerns regarding proportionality (Tamanaha, 2004). While financial accountability constitutes a legitimate regulatory objective, the restrictive impact imposed on public participation and humanitarian assistance during large-scale disasters is no longer commensurate with that objective. In situations where human life, health, and bare subsistence are immediately at risk, the insistence on prior authorisation and the threat of punitive oversight transform regulatory

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[19] *Undang-Undang Republik Indonesia Nomor 9 Tahun 1961 tentang Pengumpulan Uang atau Barang* [Law of the Republic of Indonesia Number 9 of 1961 concerning the Collection of Money or Goods], art. 2 para. (1). (1961). https://peraturan.bpk.go.id/Details/51166/uu-no-9-tahun-1961.

[20] *Peraturan Menteri Sosial Republik Indonesia Nomor 8 Tahun 2021 tentang Penyelenggaraan Pengumpulan Uang atau Barang* [Regulation of the Minister of Social Affairs of the Republic of Indonesia Number 8 of 2021 concerning the Implementation of the Collection of Money or Goods], art. 3 para. (1). (2021). https://peraturan.bpk.go.id/Details/217212/permensos-no-8-tahun-2021.

law into a mechanism of delay rather than protection. As a result, legal instruments that are normatively designed to safeguard public interest instead undermine their own purpose by obstructing timely life-saving interventions.

This dynamic is evident in the uncontextualized enforcement of Law Number 9 of 1961 and Ministerial Regulation Number 8 of 2021 during large-scale hydrometeorological disasters. When these rules are applied without emergency-specific flexibility, they turn law into a tool for administrative gatekeeping rather than a means to protect disaster-affected populations effectively. In such cases, legality is reduced to mere procedural compliance, while substantive justice and human protection are sidelined in favour of bureaucratic control. This outcome conflicts with the core idea of the rule of law, which holds that legal norms should promote social welfare and safeguard fundamental rights, particularly during periods of collective vulnerability.

From the perspective of constitutional law and international human rights, restrictions on public participation in humanitarian activities must be assessed through the cumulative tests of legality, necessity, and proportionality, as consistently articulated in international legal practice and human rights jurisprudence (Alexy, 2010). United Nations General Assembly Resolution 46/182 affirms that humanitarian assistance must be provided rapidly and without unnecessary impediments, emphasising the centrality of unimpeded access in emergency response.[21] Similarly, the Sphere Handbook places the preservation of life and human dignity as the highest priority in humanitarian action. When states impose extensive administrative obligations and criminal sanctions during the critical phases of disaster response, such measures risk exceeding the limits of legally justifiable restrictions and failing the necessity and proportionality tests (Sphere Association, 2018).

Accordingly, the regulation of public fundraising and humanitarian participation in disaster contexts cannot be assessed solely as a matter of administrative policy. Instead, it warrants constitutional scrutiny to the extent that it interferes with the realisation of fundamental economic and social rights, including the right to health, the right to food, and the broader right to humanitarian assistance grounded in social solidarity. In this sense, the application of public collection regulations during large-scale disasters is not merely inefficient but constitutionally problematic, as it constrains the operational space required to fulfill second-generation human rights obligations and undermines the state's duty to facilitate, rather than hinder, collective life-saving efforts.

The chilling effect in legal theory can explain this phenomenon, a concept commonly used to criticise regulations that indirectly silence public expression or participation. Schauer asserts that the threat of criminal sanctions, even if not consistently enforced, is enough to suppress legitimate social behaviour. In the context of the Ministry of Social Affairs' policy, the threat of criminal sanctions for administrative errors engenders an irrational and excessive fear of the law among humanitarian organisations, thereby de facto

[21] United Nations General Assembly Resolution 46/182, *Strengthening of the coordination of humanitarian emergency assistance of the United Nations*, United Nations Document A/73/78. file:///C:/Users/MU230310/Downloads/A_73_78&E_2018_54-EN.pdf.

restricting public participation in disaster fundraising. From an administrative law perspective, this situation shows the state's failure to distinguish between administrative violations and criminal acts, a key distinction in modern legal systems that uphold the principle of ultimum remedium (Craig, 2012).

The strict implementation of certified audit requirements during the emergency response phase also creates a normative conflict with Law Number 24 of 2007 concerning Disaster Management.[22] This law explicitly states that disaster management must be carried out quickly, accurately, and prioritize humanitarian principles. However, research shows that the Ministry of Social Affairs' audit policy actually shifts the orientation of humanitarian actors from rapid response to legal risk mitigation. From the perspective of street-level bureaucracy theory, this type of administrative pressure encourages field actors to prioritize procedural compliance over substantive effectiveness. Legally, this condition indicates regulatory disharmony, where implementing regulations actually negate the normative objectives of the laws above them (Lipsky, 1980).

Furthermore, the use of the threat of imprisonment for administrative violations in donation management indicates a tendency toward overcriminalisation, which runs counter to the principle that criminal law should be the last resort. Garland (2012) argues that the expansion of criminal law into the administrative sphere is a sign of a controlling state that prioritises control over trust. In the context of humanitarian philanthropy, this approach is not only ineffective but also counterproductive, as it undermines the partnership between the state and civil society. A literature indicates that Indonesia's donation regulatory regime has historically been oriented toward surveillance and control rather than facilitation and empowerment. The findings of this study demonstrate that this regulatory orientation generates a systemic chilling effect, manifested in heightened legal uncertainty, collective apprehension, and the progressive withdrawal of humanitarian actors from the formal public sphere (Anoraga, 2024).

From the perspective of responsive regulation theory, the Ministry of Social Affairs' policy can be classified as a regulatory design failure because it places criminal sanctions at the apex of the law-enforcement hierarchy. Ayres and Braithwaite (1992) emphasise that a practical approach should start with persuasion, guidance, and administrative support, with criminal sanctions used only as a last resort. The findings of this study indicate that the threat of criminal sanctions does not increase substantive compliance but instead encourages self-censorship and fragmentation of philanthropic practices. In line with this, Becker (1968) argues that rational actors avoid activities with high legal risks; thus, policies intended to increase accountability reduce the state's capacity to mobilise social resources during crises.

[22] *Undang-Undang Republik Indonesia Nomor 24 Tahun 2007 tentang Penanggulangan Bencana* [Law of the Republic of Indonesia Number 24 of 2007 concerning Disaster Management]. (2007). https://peraturan.bpk.go.id/Details/39901/Uu-No-24-Tahun-2007.

3.5 Impact of Ignoring the Principles of R2P Disaster Status

In an empirical study of the government's response to the crisis in Sumatra at the end of 2025, the decision not to declare a 'National Disaster' must be understood as more than just an administrative choice, as this action directly impacts the effectiveness of the humanitarian response and the realisation of the human rights of affected citizens. Within the framework of international law, although the Responsibility to Protect (R2P) was formally formulated in the 2005 World Summit Outcome Document, specifically in relation to the four atrocity crimes of genocide, war crimes, ethnic cleansing, and crimes against humanity, the document explicitly affirms the shift in the meaning of state sovereignty from an exclusive right to an obligation to protect its population. Paragraph 138 of the World Summit Outcome Document states that:

> 'Each State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing, and crimes against humanity.'[23]

It emphasises that responsibility includes the state's obligation to prevent profound suffering through appropriate and effective measures. Furthermore, paragraph 139 affirms that the international community has a responsibility to 'encourage and assist States to exercise this responsibility' and to take collective action through peaceful means, including humanitarian and diplomatic assistance, when national authorities 'manifestly fail to protect their populations'.[24]

While the normative formulation explicitly mentions specific international crimes, interpretive developments in international law and global policy studies position R2P as a broader doctrine for understanding state responsibility for mass suffering that systematically threatens the lives of populations. In this context, R2P serves as an ethical and legal framework that affirms that sovereignty cannot be used as a shield to delay or hinder responses to large-scale humanitarian crises, including when such suffering arises from natural disasters exacerbated by failures in state policy and capacity. Thus, R2P Theory conceptually shifts state sovereignty from an absolute right to a protective responsibility that requires an effective, timely, and open response to international assistance and should not be constrained by political calculations that compromise the safety and fundamental rights of affected populations.

When a state, as the primary party in the implementation of R2P, delays or avoids declaring a 'National Disaster', the consequence is that access to humanitarian aid is hampered. This administrative barrier is directly linked to the implementation of effective disaster governance. In disaster management literature, rapid response time is a crucial determinant of minimizing preventable mortality, as every hour of delay in the distribution of medical equipment, medical logistics, and technical support in the early stages of a crisis

[23] United Nations General Assembly Resolution 60/1, *World Summit Outcome*, United Nations Document A/RES/60/1.

[24] United Nations General Assembly Resolution 60/1, *World Summit Outcome*, United Nations Document A/RES/60/1.

increases mortality. Administrative barriers created through the manipulation of disaster status distort international agencies' ability to operate quickly and effectively on the ground, constituting a substantial violation of human rights obligations in the context of a health and basic needs crisis.

The international human rights instrument ratified by Indonesia, the International Covenant on Economic, Social, and Cultural Rights (ICESCR),[25] provides a strong normative basis for assessing policies that delay disaster status and restrict access to aid as a form of negligence of state obligations. Under Article 11, the ICESCR guarantees the right to an adequate standard of living, including food, and obliges states to take domestic and international measures to prevent hunger. Article 12 guarantees the right to the highest attainable standard of physical and mental health, requiring states to prevent and respond to disease and to provide timely medical care.

In the context of disasters, this provision imposes a positive obligation on states to ensure quick access to health services, medical equipment, and emergency interventions, including through international cooperation when national resources are insufficient. Therefore, when bureaucratic procedures and legal uncertainties impede the import of medical equipment and support from abroad, such failures cannot be regarded as logistical issues. Instead, it constitutes a violation of international legal obligations regarding the rights to health and life.

This framework is further reinforced by international humanitarian standards set out in the Sphere Handbook's Humanitarian Charter (2018), which recognises the right to life with dignity for all disaster, or conflict-affected populations and the obligation to alleviate their suffering.

This principle states that protecting human life is the basis of all humanitarian action. It affirms that any obstruction to life-saving aid goes against the minimum standards of humanitarian response, which have become a global consensus. In Indonesia, this provision aligns with Government Regulation No 23 of 2008 on the Participation of International Institutions and Foreign Non-Governmental Organisations in Disaster Management. This regulation explicitly encourages participation and provides facilities for international actors during emergencies. However, the implementation of this legal framework is inconsistent, with administrative law often acting more as a barrier than a facilitator for fundamental human rights.

Due to these administrative hurdles, the escalation of crises on the ground clearly shows a link between policy failure and worsening humanitarian conditions. Delayed responses caused by bureaucratic layers and uncertainty about legal risks directly weaken emergency efforts and lead to more preventable deaths. When rigid import-export procedures and legal ambiguities delay medical supplies, the collective ability to save lives and address urgent

[25] *International Covenant on Economic, Social and Cultural Rights* (adopted 16 December 1966, entered into force 3 January 1976) vol. 993 *United Nations Treaty Series*. https://treaties.un.org/doc/treaties/1976/01/19760103%2009-57%20pm/ch_iv_03.pdf.

health needs is severely reduced. This situation directly conflicts with states' obligations under Article 12 of the ICESCR and the core principle of the Humanitarian Charter, which emphasises respect for life as essential for all humanitarian work.

Overall, this analysis reveals that administrative policies that block the declaration of a national disaster and access to international aid are not merely management issues but also structural failures in human rights and humanitarian governance. Such policies slow rescue efforts, hinder the fulfilment of basic needs, and weaken the internationally recognised rights to food, health, and life. Disaster governance reforms that prioritise human rights and actively engage the international response are crucial to prevent avoidable deaths and ensure compliance with international legal commitments.

4. Conclusion

This study concludes that the humanitarian and environmental crisis in Sumatra is not merely a product of isolated administrative failures, but signifies a breach of the state's positive obligations to protect the right to life and a healthy environment. Under Article 6 of the ICCPR and Article 12 of the ICESCR, the state bears a due diligence duty to prevent foreseeable risks arising from environmental degradation. The evidence suggests that by failing to enforce environmental standards and allowing unchecked deforestation, the Indonesian government has neglected its obligation to mitigate predictable disaster risks, thereby transforming natural phenomena into preventable human rights violations.

Furthermore, the research identifies a systemic failure in the legal orientation of disaster governance. Laws governing fiscal control, customs, and donation audits—originally intended for accountability—have been instrumentalised as restrictive tools that prioritise political-bureaucratic interests over human security. The state's conduct in maintaining rigid administrative barriers during crises constitutes a 'violation by commission', where the instrumentalisation of sovereignty to obstruct humanitarian aid leads to a regression of constitutional and international human rights commitments.

Based on this interdisciplinary analysis, the study proposes the following strategic recommendations:

(1) Indonesia must transition from a reactive-bureaucratic model to a rights-based disaster management framework. This includes legal reforms that mandate the prioritisation of human protection over administrative technicalities.

(2) Customs regulations should be amended to include an automatic emergency regime. This mechanism must expedite the entry of international humanitarian aid and waive restrictive duties during localised disasters, regardless of whether a "National Emergency" has been formally declared.

(3) The government should replace the current restrictive oversight on humanitarian donations with proportional and simplified audit procedures. This is essential to

prevent the over-criminalisation of social solidarity and to foster public participation in disaster response.

(4) A strict moratorium on oil palm expansion and extractive industries in ecologically sensitive areas is imperative. This policy is necessary not only for disaster mitigation but also to fulfil the state's positive obligation to uphold the constitutional right to a healthy environment and to prevent future foreseeable casualties.

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The author declares that no conflict of interest in this study.

Ethics Approval

Ethical approval was not required for this study as it is based on doctrinal legal research involving the analysis of legislation, case law, and secondary sources, and does not involve human participants, personal data, or sensitive materials.

AI Usage Declaration

The author declares that Artificial Intelligence (AI) tools were used solely to assist with language editing and improvement of readability. No AI tools were used to generate the substantive content, analysis, or conclusions of this manuscript. The author has reviewed and takes full responsibility for the content of this work.

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