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## State Responsibility for Damage Caused by Natural Disasters from a Civil Law Perspective

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### Abstract

Natural disasters pose a serious threat to human survival and the environment. Their impacts extend beyond physical damage to include economic, social, and psychological ramifications. In this context, the state's responsibility in addressing the damage caused by natural disasters is a primary concern in civil law. This abstract explores the concept and implementation of the state's civil legal responsibility for damage caused by natural disasters and the influencing factors. Analysis indicates that the fundamental concept of the state's civil legal responsibility is based on the principle of protecting citizens and their environment, both internationally and domestically. Legal instruments such as the United Nations' 2005 Declaration on Disaster Risk Reduction provide a framework for mitigation efforts and disaster response. However, determining the state's responsibility is influenced by factors such as inadvertence, the effectiveness of prevention measures, state intervention, and disaster response. Case studies of earthquakes and other natural disasters provide insights into the implementation of the state's responsibility in recovery, rehabilitation, and compensation allocation to victims. In conclusion, a comprehensive understanding of the state's responsibility in managing natural disasters is crucial for enhancing the state's response and protecting affected communities. Clear legal frameworks, effective prevention measures, and fair law enforcement are necessary to address the challenges of natural disasters in the future. This abstract contributes to the development of legal policies and practices that can improve state readiness and response to natural disasters.

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### Introduction

Natural disasters are natural phenomena that cannot be avoided and have become one of the main challenges faced by humans in maintaining their survival <sup>[1]</sup>. From earthquakes that destroy settlements, floods that destroy crops, landslides that bury settlements, to tropical storms that devastate infrastructure, natural disasters have the potential to cause widespread damage and serious impacts on communities and the surrounding environment.

The damage caused by natural disasters is not only limited to physical aspects, such as damaged buildings and infrastructure, but also involves economic losses due to loss of resources and production, social losses such as loss of life, mass displacement, and psychological losses such as trauma and loss <sup>[2]</sup>. In some cases, these losses can impact people's lives and ecosystems in the long term.

As the frequency and intensity of natural disasters increases in various parts of the world, attention is growing to the responsibility of the state in dealing with the damage caused by natural disasters. The state is often considered to have a central role in managing and responding to natural disasters, and is responsible for protecting its citizens from these threats <sup>[3]</sup>.

<sup>1</sup> M. Chazienul Ulum, *Disaster Management: An Introduction to a Proactive Approach* (Malang: UB Press, 2014).

<sup>2</sup> Listya Endang Artiani, "Macroeconomic Impact of Disasters: Interaction between Disasters and National Economic Development," *Proceedings of Semnasif 2022*, vol.1 (5) (2015).

<sup>3</sup> H. A Sudibyakto, *Where is Disaster Management in Indonesia?* (Yogyakarta: Gadjah Mada University Press, 2018).

This responsibility is often reflected in the policies, regulations, and resources allocated for disaster mitigation, response, and recovery.

However, while states may have the resources and authority to act, the question of the extent of state legal responsibility in dealing with natural disaster damage remains a complex debate. Aspects of concern in this debate include the extent to which states should be held accountable for unavoidable damage, how to allocate resources for disaster mitigation and response, and how to effectively manage disaster risk within the existing legal framework<sup>[4]</sup>. With this complexity, it is important to understand and evaluate the role and responsibilities of the state in facing the challenges of natural disasters with a comprehensive view and based on fair and just legal principles<sup>[5]</sup>.

A number of literatures have detailed the state's responsibility in dealing with natural disasters from a civil law perspective. This concept of state responsibility can be found in various international legal instruments that have been implemented, including the 2005 Declaration on Disaster Risk Reduction released by the United Nations (UN)<sup>[6]</sup>. This document emphasizes the importance of mitigation and response efforts to natural disasters and states that member states should take necessary steps to protect their citizens from the impact of natural disasters.

At the national level, many countries have developed laws and regulations that define state responsibilities in responding to natural disasters. While the approach and level of state involvement can vary, the general goal is to provide a clear framework for disaster mitigation, response, and recovery. For example, many countries have agencies or institutions specifically responsible for coordinating disaster responses, as well as managing emergency, evacuation, and rehabilitation measures.

Several studies have highlighted the challenges in determining state responsibility in the context of natural disaster damage. One is the issue of unintentionality, where it is difficult to determine the extent to which a state is responsible for damage that could not have been avoided despite taking reasonable precautions. Another is resource allocation, where there is the question of how much investment a state should make in disaster mitigation and response.

Private sector involvement is also a concern in this context. In some cases, private companies can play a significant role in disaster mitigation and response, whether through financial, technological, or human resource contributions<sup>[7]</sup>. However, there are challenges in determining the private sector's civil legal liability in cases of natural disaster damage, especially when issues such as corporate social responsibility and victim compensation are involved.

In addition, case study analysis of various natural disasters in various countries also provides valuable insights into how state responsibility is applied and implemented in practice. These case studies not only help in understanding the existing legal framework, but also provide valuable lessons for improving future policies and practices<sup>[8]</sup>. Thus, this

literature provides a strong foundation for understanding and evaluating state responsibility in the context of civil law related to natural disasters.

The problem that is the focus of this research is the extent of the state's civil legal responsibility in handling damage caused by natural disasters, along with the factors that influence its implementation. In this context, the research aims to explore a deeper understanding of the legal basis, principles, and practices that regulate the state's responsibility in managing and responding to damage caused by natural disasters. Thus, the main objective is to provide a meaningful contribution to the development of legal policies and practices that can improve the state's response to natural disasters and protect the affected community. It is hoped that this research will not only provide a more comprehensive understanding of the state's civil legal responsibility, but also provide guidance for policy makers in formulating more effective strategies in dealing with natural disasters and protecting the community from their impacts.

## A. Research Methods

The research methods used in this study include legal document analysis and case studies. First, legal document analysis is conducted to examine the existing legal framework related to state responsibility for damage caused by natural disasters, both at the national and international levels<sup>[9]</sup>. Documents analyzed include constitutions, laws, regulations, court decisions, and other relevant legal documents.

Second, case studies are used to illustrate the application of civil law concepts in resolving legal conflicts related to natural disaster damage. Case studies are selected from various natural disasters in various countries to gain comprehensive insight into how state responsibility is applied and implemented in practice. Data from these case studies will be critically analyzed to understand various aspects of state responsibility, including factors that influence its implementation and challenges faced in enforcing civil law in the context of natural disaster damage. This method is expected to provide a deep understanding of the state's civil legal responsibility in dealing with natural disasters from a civil law perspective.

## B. Results and Discussion

### 1. Basic Concept of State Civil Law Responsibility

The basic concept of state civil legal responsibility for damage caused by natural disasters includes principles that affirm the state's obligation to protect its citizens and their environment from the adverse effects caused by natural disasters<sup>[10]</sup>. This principle is the main foundation in efforts to protect communities and the environment from the threat of natural disasters, both at the international and national levels.

At the international level, the principle of state responsibility for natural disasters is regulated in various legal instruments, such as treaties and declarations issued by the United Nations (UN). One of the main documents regulating this is the

<sup>4</sup> Dian Tamitiadini *et al.*, *Disaster Communication: Theory and Practical Approach to Disaster Studies in Indonesia* (Malang: UB Press, 2019).

<sup>5</sup> *Ibid.*

<sup>6</sup> M. Chazienul Ulum and Rispa Ngindana, *Environmental Governance: Issues of Environmental Policy and Management* (Malang: UB Press, 2017).

<sup>7</sup> *Disaster Management: An Introduction to a Proactive Approach*.

<sup>8</sup> Aqori Satria Azka, "Efforts to Mitigate Natural Disasters in Earthquakes in Correctional Institutions Reviewed from KEPDIRJENPAS No. 57 of 2019," *Journal of Correlational Studies*, vol.1 (10 (2024): 37–47.

<sup>9</sup> Rusdin Tahir *et al.*, *Legal Research Methodology: A Theoretical and Practical Approach* (Jambi: PT. Sonpedia Publishing, 2023).

<sup>10</sup> Moh. Fadli *et al.*, *Environmental Law and Policy* (Malang: UB Press, 2016).

Declaration on Disaster Risk Reduction 2005<sup>[11]</sup>. The Declaration affirms the importance of member states to reduce disaster risks, protect citizens and enhance the resilience of communities to natural disasters. These principles serve as a guide for countries in formulating policies and actions related to disaster mitigation, response and recovery.

At the national level, many countries have laws and regulations that specifically address the state's responsibilities for natural disasters. For example, some countries have disaster management laws that set out a framework for disaster risk mitigation, disaster response, and post-disaster recovery. These laws may also include concrete measures such as the establishment of a dedicated agency or institution responsible for disaster management and the allocation of resources for prevention, emergency response, and recovery<sup>[12]</sup>.

Thus, the basic concept of state civil legal responsibility for damage caused by natural disasters becomes an important foundation in efforts to prevent and reduce the negative impacts of natural disasters, both at the international and national levels. These principles provide a strong legal basis for efforts to protect communities and the environment from the threat of natural disasters and provide a framework for effective mitigation, response and recovery actions.

## 2. Factors Influencing the Determination of State Responsibility

Determining state responsibility for damage caused by natural disasters is influenced by a variety of complex factors and requires careful consideration. Some of the main factors that influence this determination are:

### 1. Accident

One of the main factors influencing the determination of state responsibility is the degree of unintentionality in which the damage occurred. If the state has taken reasonable precautions and complies with applicable standards, then the state may not be directly responsible for the damage. However, it is important to note that in practice, this factor is often the subject of complex debate, especially when damage still occurs despite the precautions taken.

### 2. Precautions to Take

The preventive measures taken by a state before a natural disaster occurs are also an important factor in determining the level of state responsibility. A state that has invested in disaster risk mitigation infrastructure and early warning systems may be considered to have a lower level of responsibility for the damages that occur. However, if the preventive measures taken are deemed inadequate or ineffective, the state's responsibility may be questioned.

### 3. State Intervention

State intervention in the context of a natural disaster can also play a role in determining its responsibility. If a state's decisions or actions have worsened the impact of a natural

disaster or resulted in greater losses than necessary, then the state can be held responsible for the damage<sup>[13]</sup>. In this case, it is important to carefully examine whether state intervention has violated existing legal principles or policies.

## 4. Response to Disaster

In addition, a country's response to a disaster event can also influence the determination of responsibility. A country that responds quickly and effectively may be considered to have a lower level of responsibility, as such efforts may help to mitigate the damage and prevent greater losses.

## 5. Applicable Policies and Regulations

Finally, factors such as applicable policies and regulations can also influence the determination of state responsibility. Clarity and certainty in regulations regarding state responsibility in dealing with natural disasters can help reduce uncertainty and facilitate fair and effective law enforcement.

By considering these factors in full, more precise decisions can be made in determining the state's responsibility for damage caused by natural disasters. A careful assessment of these factors is an important step in ensuring adequate protection for communities and the environment from the threat of natural disasters and in promoting justice in law enforcement.

## 3. Case Study Analysis

Natural disaster case study analysis is a very useful method for understanding in depth how the concept of state responsibility is applied and implemented in practice, as well as for evaluating the effectiveness of state civil law responsibility in resolving legal conflicts related to damage caused by natural disasters.

For example, let us consider a case study of a major earthquake that struck a country. In this case, the analysis would involve exploring how the country responded to the natural disaster and the extent to which the state's civil law responsibilities played a role in facilitating recovery and rehabilitation.

First of all, the analysis will include an evaluation of the concrete steps taken by the government after the earthquake. This includes emergency response, rescue and victim care, as well as mitigation measures taken to prevent further damage<sup>[14]</sup>. By considering the effectiveness and timeliness of the response, it can be evaluated to what extent the state's responsibilities have been carried out properly.

Next, the analysis will include an understanding of the post-earthquake recovery and rehabilitation process. This includes reconstruction programs, infrastructure rehabilitation, assistance to victims, and other steps taken to restore the lives of affected communities. An evaluation of the speed, accuracy, and involvement of the government in the recovery process will help assess how effective the state's civil legal responsibilities are in facilitating the recovery process<sup>[15]</sup>.

In addition, the analysis will highlight issues of fairness in the allocation of compensation to victims. This includes

<sup>11</sup> Asdar, "Transboundary Haze Pollution in Malaysia and Singapore Due to Forest Fires in Riau Province Reviewed from International Environmental Law," Legal Opinion (2016).

<sup>12</sup> Nursyabani, "Disaster Mitigation in Increasing Awareness of Earthquake Threats at Andalas University," ASIAN: Journal of Public Administration, vol.8 (2) (2020): 81-90.

<sup>13</sup> *Disaster Communication: Theory and Practical Approach to Disaster Studies in Indonesia*.

<sup>14</sup> Biyan Anugrah Awusi *et al.*, "Performance of the Manado City Regional Disaster Management Agency (BPBD) in Efforts to Manage Flood Disaster Victims," Executive Journal: Department of Government Science, vol.1 (1) (2018).

<sup>15</sup> *Where is Disaster Management in Indonesia?*

understanding the process of determining and distributing compensation, as well as the extent to which victims are treated fairly and equally. If there is inequality or unfairness in the allocation of compensation, this may indicate deficiencies in the implementation of the state's civil legal responsibilities.

In addition to earthquakes, case studies can also reveal the role and responsibility of the state in cases of natural disaster damage caused by human actions, such as industrial pollution or development policies that do not take disaster risks into account. Such analysis can help identify weaknesses in the existing legal system and formulate recommendations for future improvements. For example, whether the punishments or sanctions given to responsible parties are effective enough or whether there needs to be improvement in the enforcement of environmental laws and regulations.

By considering these aspects through case study analysis, we can gain a deeper understanding of the implementation of state civil legal responsibilities in handling natural disasters. Recommendations resulting from this analysis can help improve existing policies and practices to improve state responses to natural disasters and protect affected communities.

### C. Closing

In the context of state responsibility for damage caused by natural disasters, the analysis of the legal framework, factors influencing the determination of responsibility, and case studies provide an in-depth understanding of the implementation of civil law concepts. The basic concept of state responsibility, both at the international and national levels, emphasizes the obligation of states to protect their citizens and their environment from the adverse effects of natural disasters. However, the determination of state responsibility is influenced by factors such as unintentionality, preventive measures, state intervention, and response to disasters.

Through case study analysis, we can see how the concept of state responsibility is applied in practice. Case studies help evaluate the effectiveness of state civil legal responsibility in post-disaster recovery and rehabilitation, as well as the fairness in allocating compensation to victims. In addition, case studies also reveal the role and responsibility of the state in natural disaster damage caused by human actions.

Factors such as unintentionality, preventive measures, state intervention, and disaster response influence the determination of state responsibility in cases of natural disaster damage. The case study analysis proves that the implementation of state civil law responsibility in resolving legal conflicts related to natural disasters can vary depending on the specific context and conditions. The case studies also clarify the role and responsibility of the state in dealing with damage caused by human actions to the environment.

Recommendations for improving state responses to natural disasters include improving law enforcement, increasing investment in disaster risk mitigation, and developing policies that are more inclusive and responsive to disaster threats. Thus, a deeper understanding of state civil legal responsibilities can help strengthen protection of communities and the environment from the impacts of natural disasters and promote fairness in the handling of legal conflicts related to disaster damage.

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