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The Determination of National Disaster Status under Law Number 24 of 2007 on Disaster Management: An Analysis from the Perspective of *Siyasah Dusturiyah*

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Abstract

This study is motivated by the ambiguity of Article 7 paragraph (2) of Law Number 24 of 2007 on Disaster Management, which stipulates five indicators for determining national disaster status namely the number of casualties, property losses, damage to infrastructure, the extent of affected areas, and socio-economic impacts without providing binding quantitative thresholds. This normative ambiguity grants excessively broad executive discretion and has resulted in inconsistent treatment of major disaster events in Indonesia. The study aims to analyze the application of attributed authority in determining national disaster status, examine the procedures for establishing disaster indicators under Law Number 24 of 2007, and assess the issue from the perspective of *Siyasah Dusturiyah*. This research employs a normative juridical method using statutory and conceptual approaches with a descriptive-analytical design. Data were analyzed using the interactive model developed by Miles, Huberman, and Saldana. The findings reveal that the President's authority to declare a national disaster derives from constitutionally attributed powers inherent to the office; however, such authority is not supported by an adequate disaster risk governance mechanism. Consequently, the risk assessment process becomes disconnected from the risk evaluation stage due to the absence of binding quantitative parameters. From the perspective of *Siyasah Dusturiyah*, such attributed authority is justifiable as a mandate to safeguard public welfare (*maslahah*). Nevertheless, without objective standards, it lies on a delicate boundary between legitimate *ijtihad* and arbitrary executive discretion. This study concludes that the ambiguity of the indicators set forth in Article 7 paragraph (2) constitutes a systemic deficiency in Indonesia's disaster governance framework. It therefore recommends reformulating the provision by establishing clear, measurable, and accountable quantitative thresholds to strengthen legal certainty, transparency, and accountability in determining national disaster status.

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Introduction

Indonesia is among the countries with the highest disaster risk in the world, and this condition constitutes part of the broader challenge of global disaster governance. The United Nations Office for Disaster Risk Reduction (UNDRR) introduced the *Sendai Framework for Disaster Risk Reduction 2015–2030*, which outlines four priority areas for action: understanding disaster risk, strengthening disaster risk governance, investing in disaster risk reduction, and enhancing disaster preparedness to ensure effective response and recovery (UNDRR, 2015). Within this framework, the state is recognized as the primary actor responsible for establishing regulatory and institutional mechanisms capable of responding to disasters in a timely, measurable, and rights-based manner. Accordingly, the legal clarity governing the determination of national disaster status constitutes a fundamental component of an effective disaster governance system.

Indonesia's geographical location at the convergence of three major tectonic plates and within the Pacific Ring of Fire renders the country highly vulnerable to geological hazards, including earthquakes, tsunamis, and volcanic eruptions. At the same time, the accelerating impacts of global climate change have intensified the frequency and severity of hydrometeorological disasters, such as floods, landslides, and droughts. Data published by the World Meteorological Organization (WMO) indicate a substantial increase in weather-, climate-, and water-related disasters over the past two decades, resulting in significant economic losses and widespread casualties across many countries (World Meteorological Organization, 2024). These findings reinforce the view that disaster management has become a strategic governance issue requiring proactive state intervention through effective and responsive public policies.

As both a constitutional state (*rechtstaat*) and a welfare state, Indonesia bears a constitutional obligation to protect its citizens from disaster-related threats. This obligation is implemented through Law Number 24 of 2007 concerning Disaster Management, which establishes the legal framework for disaster management, including the government's authority to determine national disaster status. In practice, however, Indonesia continues to face significant regulatory challenges in determining when a disaster should be classified as a national disaster. The absence of uniform standards and legally binding quantitative indicators has made such determinations heavily dependent upon executive discretion, thereby creating the potential for inconsistent decision-making and legal uncertainty. This situation is fundamentally inconsistent with the principles embodied in the *Sendai Framework*, which emphasizes that disaster management systems should be governed by clear, transparent, and accountable regulatory arrangements (Djalante, Garschagen, Thomalla, & Shaw, 2017).

Article 7 paragraph (2) of Law Number 24 of 2007 concerning Disaster Management stipulates that the determination of disaster status and classification shall be based on several indicators, namely the number of casualties, property losses, damage to public facilities and infrastructure, the geographical extent of the affected area, and the resulting socio-economic impacts. However, the provision fails to specify quantitative thresholds or objective benchmarks for each of these indicators, thereby creating considerable interpretative ambiguity in its implementation (Republik Indonesia, 2007). This normative ambiguity extends beyond a mere technical deficiency in legislative drafting and gives rise to more fundamental legal concerns. A vague norm creates an uncontrolled sphere of

executive discretion, rendering decisions on the designation of national disaster status difficult to assess objectively and susceptible to legal challenge on the grounds of arbitrariness. Furthermore, the absence of binding quantitative thresholds undermines the protection of disaster victims' rights to national assistance and post-disaster recovery, as the mobilization of state resources ultimately depends upon the subjective assessment of the competent authorities. Such a condition is also inconsistent with the principle of *lex certa* in legislative drafting, which requires legal norms to be formulated with clarity, precision, and certainty so as to avoid multiple interpretations, as mandated by Law Number 13 of 2022 concerning the Formation of Laws and Regulations.

The inconsistent treatment of major disaster events in Indonesia provides compelling evidence of this regulatory deficiency. Despite the occurrence of numerous catastrophic disasters, only three events have been officially designated as national disasters throughout Indonesia's history: the 1992 Flores tsunami, the 2004 Aceh tsunami, and the COVID-19 pandemic in 2020. By contrast, several other major disasters including the 2006 Yogyakarta earthquake, the 2018 Lombok earthquake, and the 2018 Palu earthquake and tsunami were not accorded the same status, notwithstanding their devastating human casualties and substantial economic losses. A similar pattern can also be observed in the floods and landslides that occurred in Aceh and North Sumatra, which claimed hundreds of lives and caused significant economic damage but were never designated as national disasters. This disparity raises a fundamental question concerning the legal basis and objective parameters actually employed by the government in determining national disaster status.

The absence of clear and measurable indicators for determining national disaster status not only generates legal uncertainty but also undermines the principles of timeliness and effectiveness in disaster management. Law Number 13 of 2022 concerning the Formation of Laws and Regulations expressly requires that every legal norm adhere to the principle of clarity in legislative drafting to prevent multiple interpretations during its implementation. When the criteria for determining national disaster status are not formulated in a clear and measurable manner, the decision-making process becomes vulnerable to subjective considerations, which may ultimately delay or impede the mobilization of national resources for disaster response and recovery (Republik Indonesia, 2022). Accordingly, this study adopts the Risk Governance Theory developed by the International Risk Governance Council (IRGC), which conceptualizes risk governance as an institutional and normative process encompassing risk assessment, risk communication, and evidence-based decision-making (IRGC, 2017). This theoretical framework serves as an analytical bridge linking the theories of governmental authority and legal certainty with the perspective of *Siyasah Dusturiyah*, all of which are examined in greater detail in the Results and Discussion section (Djazuli, 2003).

From the perspective of Islamic constitutional law, the determination of national disaster status constitutes part of the state's authority to promote the public interest (*maslahah*). The concept of *Siyasah Dusturiyah* regards the government as the institution entrusted with safeguarding the lives, property, and welfare of the people. This principle is consistent with the doctrine of *fiqh siyasah*, which holds that every policy adopted by a ruler must be directed toward achieving the public good (*maslahah*). Accordingly, any

policy concerning disaster management should be grounded in the principles of public protection, justice, legal certainty, and public benefit (Al-Mawardi, 1996).

A review of previous studies indicates that the issue of determining national disaster status within Indonesia's legal system has received only limited scholarly attention. Rahmi Rinaldi, Dodi Haryono, and Muhammad A. Rauf (2025) confined their analysis to the legal validity of Presidential Decree Number 12 of 2020 concerning the designation of COVID-19 as a national disaster, without addressing the normative ambiguity embedded in Article 7 paragraph (2) of Law Number 24 of 2007, which serves as its principal legal foundation. Likewise, Mulyani Zulaeha, Lies Ariany, Akhmad Hendryan Dwifama, Rizka Annisa Falmelia, and Muhammad Shofwan Ridhani (2022) focused primarily on disaster mitigation policies at the regional level, leaving the normative construction of the indicators for determining national disaster status largely unexplored. Meanwhile, Sajida Humaira (2021) examined the declaration of the COVID-19 emergency from the perspective of constitutional emergency law but did not address the issue of legal certainty arising from the absence of measurable normative parameters, particularly from the standpoint of Islamic constitutional law (Rahmi Rinaldi dkk., 2025; Mulyani Zulaeha dkk., 2022; Sajida Humaira, 2021). Based on this review, no previous study has comprehensively integrated the normative issues surrounding Article 7 paragraph (2) of Law Number 24 of 2007, the principle of attributed governmental authority, Risk Governance Theory, the principle of legal certainty, and the perspective of *Siyasah Dusturiyah* into a single analytical framework for evaluating the legal basis for determining national disaster status. This research gap therefore constitutes both the point of departure and the principal scholarly contribution of the present study.

Compared with previous studies, this research offers four principal contributions. First, it critically examines the regulatory framework established under Article 7 paragraph (2) of Law Number 24 of 2007, arguing that the provision fails to provide legal indicators that are clear, objective, and measurable. Second, from a theoretical perspective, the study integrates the Theory of Authority, the Theory of Legal Certainty, Risk Governance Theory, and the perspective of *Siyasah Dusturiyah* into a multidisciplinary analytical framework. Third, from an analytical perspective, it evaluates the system for determining national disaster status in a comprehensive manner rather than limiting its analysis to a single case study. Finally, from a practical perspective, the study proposes normative indicators that are more objective, measurable, and accountable as recommendations for improving Indonesia's disaster management regulatory framework.

This study addresses three principal research questions: (1) how is the principle of attributed authority applied in determining national disaster status under Law Number 24 of 2007; (2) how are the indicators for determining national disaster status regulated under Law Number 24 of 2007; and (3) how does the perspective of *Siyasah Dusturiyah* evaluate the principle of attributed authority and the determination of national disaster indicators? This study argues that the normative ambiguity contained in Article 7 paragraph (2) of Law Number 24 of 2007 is not merely a technical deficiency in legislative drafting but rather reflects a systemic failure within Indonesia's disaster governance architecture. Such a deficiency ultimately weakens the legal protection afforded to citizens affected by disasters by undermining legal certainty, accountability, and the effective mobilization of state resources.

Method

This study employs a normative legal research (juridical normative) method using both the statutory approach and the conceptual approach to examine the legal framework governing governmental authority in determining national disaster status and to assess its conformity with the principles of *Siyasah Dusturiyah*. The research adopts a descriptive-analytical design (Widiarty, 2024), systematically describing the applicable legal provisions before analyzing them through relevant theoretical perspectives in order to identify legal issues and formulate normative arguments addressing existing legal ambiguities and regulatory gaps.

Data were collected through library research by identifying and compiling both primary and secondary legal materials related to governmental authority in determining national disaster status. The data analysis followed the interactive model developed by Miles, Huberman, and Saldana, which consists of three stages (Abdussamad, Zuchri, 2021, h. 113). The first stage, data reduction, involved selecting primary legal materials, including Law Number 24 of 2007 concerning Disaster Management, its implementing regulations, and relevant technical guidelines issued by the National Disaster Management Agency (BNPB), as well as secondary legal materials encompassing the theories of governmental authority, the welfare state, risk governance, and *Siyasah Dusturiyah* relevant to the research objectives. The second stage, data display, organized the selected legal materials into a comparative framework encompassing four major disaster events together with their quantitative and qualitative indicators, thereby enabling a systematic analysis of the relationships among the relevant indicators. The final stage, conclusion drawing and verification, examined the patterns identified through the analytical frameworks of legal certainty, risk governance, and the principle of *maslahah* within *Siyasah Dusturiyah*. These findings were subsequently cross-checked against the applicable statutory framework to ensure the consistency and validity of the legal arguments advanced in this study.

Results

The results are presented in three parts: the legal basis and locus of the President's authority, the statutory procedures and indicators for determining national disaster status, and comparative findings from four major disaster events in Indonesia.

Legal Basis And Locus Of Authority For Determining National Disaster Status

Article 7 paragraph (1)(c) of Law Number 24 of 2007 assigns the Government authority to determine the status and classification of disaster events. Article 1 paragraph (23) defines the Government as the President acting as the holder of executive power under the 1945 Constitution, while Article 51 paragraph (2) distinguishes the President's national authority from that of governors and regents or mayors at regional levels. These provisions establish that the authority to determine national disaster status is vested directly in the President by statute.

Procedures and Indicators for Determining National Disaster Status

Article 7 paragraph (2) of Law Number 24 of 2007 identifies five bases for determining national or regional disaster status: the number of casualties, property losses, damage to public facilities and infrastructure, the geographical extent of the affected area, and socio-economic impacts. The provision does not specify binding numerical thresholds for any of these indicators.

The casualty indicator covers fatalities, missing persons, and people with serious or minor injuries. Government Regulation Number 21 of 2008 requires casualty data in emergency-response documentation, but establishes no minimum number for a national declaration. BNPB Regulation Number 12 of 2010 similarly requires casualty reports for emergency assistance without prescribing a threshold. Property losses and infrastructure damage are assessed through the Post-Disaster Needs Assessment (Jitupasna), but BNPB Regulation Number 5 of 2017 does not set a mandatory minimum loss value.

The geographical indicator is reflected in the distinction between national and regional disasters under Article 51 of Law Number 24 of 2007. However, the law does not state whether a national disaster must cross provincial borders, affect a minimum number of districts or municipalities, or cover a defined proportion of national territory.

Disaster data are initially collected through rapid assessment, including information on casualties, building damage, economic losses, affected areas, urgent needs, and secondary risks. Local governments, Regional Disaster Management Agencies (BPBD), and the National Disaster Management Agency (BNPB) use these data to determine emergency-response measures.

Reporting and verification are further regulated by BNPB Regulation Number 12 of 2010, which requires disaster incident reports, casualty data, damage and loss information, descriptions of response measures, and emergency-status documentation. BNPB Regulation Number 5 of 2017 supplements this process through Jitupasna for post-disaster rehabilitation and reconstruction planning.

Jitupasna assesses physical damage, economic losses, loss of access, disruption of public services, increased risk, and socio-cultural, political, and environmental impacts. Although this mechanism generates structured data on disaster severity, the resulting measurements are not linked to a legal threshold that requires designation as a national disaster.

Comparative Findings from Four Major Disaster Events

Table 1. Comparative Analysis of the Indicators for Determining National Disaster Status in Four Major Disaster Events in Indonesia

No.	Disaster Event	Year	Fatalities (Deaths/Missing)	Displaced Population	Affected Area	Estimated Losses	National Disaster Status	Legal Basis / Stated Justification for the Status Determination
1	Aceh Tsunami (Indian Ocean Earthquake and Megatsunami)	2004	Approximately 165,708 deaths; approximately 37,063 missing (BNPB, 2005; BPS Aceh, 2005)	Approximately 500,000 people (OCHA, 2005)	10 regencies/municipalities in Aceh Province and Nias Regency (North Sumatra); approximately 800 km of coastline (BRR Aceh-Nias, 2005)	IDR 41.4 trillion (approximately USD 4.45 billion) (ADB, 2005)	DECLARED – Presidential Decree No. 112 of 2004	Article 7(1)(c) jo. Article 51(2), Law No. 24/2007 (national- scale casualties, cross-provincial impact, and total institutional paralysis cited as grounds)
2	COVID-19 Pandemic (Non-Natural Disaster)	2020	At the time of declaration: 19 deaths and 514 confirmed cases; cumulative total: approximately 160,656 deaths (Satgas COVID-19, 2022; Republik Indonesia, 2020)	Entire population affected (274 million people) (Satgas COVID- 19, 2022)	All 34 provinces across Indonesia (Satgas COVID- 19, 2021)	GDP contracted by 2.07% (2020); estimated economic losses of approximately IDR 1,356 trillion (BPS, 2021; Bank Indonesia, 2021)	DECLARED – Presidential Decree No. 12 of 2020	Article 7(1)(c), Law No. 24/2007, invoked via Presidential Decree No. 12/2020 on the grounds of nationwide territorial spread and systemic socio-economic impact
3	Palu– Donggala–Sigi Earthquake, Tsunami, and Liquefaction	2018	4,340 deaths; 1,309 missing (BNPB, 2019a)	Approximately 170,000 people (BNPB, 2019a)	Four regencies/municipalities in Central Sulawesi Province (BNPB, 2019b)	IDR 18.48 trillion (Bappenas, 2019)	NOT DECLARED as a National Disaster	Article 7(2) indicators formally met, but treated as a regional/provincial- level disaster under Article 51; no binding threshold triggered national status (BNPB, 2019a)

4	Flash Floods and Landslides in Sumatra (Aceh, North Sumatra, and West Sumatra)	2025	1,204 deaths; approximately 140 missing (BNPB, 2026)	Peak displacement exceeded 900,000 people in December 2025; subsequently declined to approximately 111,000 people (BNPB, 2026)	Three provinces (Aceh, North Sumatra, and West Sumatra); 225 sub-districts and 3,658 villages (<i>gampong</i>) in Aceh alone (BNPB, 2025)	IDR 51.82 trillion required for recovery (BNPB, 2025); estimated macroeconomic impact of IDR 68.67 trillion (Celios, 2025)	NOT DECLARED as a National Disaster	Classified instead as a "national priority" (<i>prioritas nasional</i>); no provision in Article 7(2) or its implementing regulations makes national status automatic once indicators are met (BNPB, 2025)
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Source: Compiled by the author based on various sources.

Table 1 shows that the legal designation did not consistently correspond to the scale of casualties, economic losses, or affected territory across the four events. Events with severe impacts were not uniformly designated as national disasters, while the legal justifications recorded for each decision differed.

Discussion

Attributed Authority, Discretion, and Legal Certainty

The legitimacy of every act undertaken by a public administrative authority requires the existence of lawful authority as a logical consequence of the principle of legality that underpins the rule of law. Hadjon explains that governmental authority may originate from three legal sources: attribution, delegation, and mandate (Hadjon, 2011). From the perspective of administrative law, delegated authority entails the complete transfer of legal responsibility to the delegate, whereas a mandate merely authorizes the performance of administrative functions without transferring legal responsibility from the mandator (Widjaja, 2023). Each source of authority possesses distinct legal characteristics. Attribution refers to the conferral of original authority created directly by the constitution or legislation for a governmental institution; delegation involves the transfer of an existing authority together with its corresponding legal responsibility to another authority; while a mandate merely authorizes the execution of governmental functions without transferring responsibility, such that any decision adopted by the mandatory remains legally attributable to the mandator (Gandara, 2020).

Among these three sources, attributed authority is regarded as the strongest because it constitutes original authority inherently vested in a public office by virtue of the Constitution or statutory law, without requiring any transfer from another governmental institution (Susanto, 2020). This characteristic serves as the primary analytical framework for examining the President's authority to determine national disaster status. Article 1 paragraph (22) of Law Number 30 of 2014 concerning Government Administration defines attribution as the conferral of authority upon governmental bodies and/or officials pursuant to the 1945 Constitution of the Republic of Indonesia or statutory law (Bimasakti, 2014). As a matter of principle, such attributed authority cannot be further transferred to another institution unless expressly authorized by the Constitution or by legislation itself (Widjaja, 2023).

The ability to act promptly, which is inherent in attributed authority, is consistent with Indonesia's constitutional identity as a welfare state, under which the state bears responsibility for protecting its citizens, including from disaster-related threats, as an essential manifestation of its welfare function (Sukmana, 2017; Elviandri, 2019). Nevertheless, prompt governmental action founded solely upon formal legal legitimacy is insufficient to ensure that such authority is exercised in a measurable and accountable manner. At this point, the Risk Governance Framework developed by the International Risk Governance Council (IRGC) provides an important analytical bridge. This framework conceptualizes disaster risk management as a sequential institutional process comprising pre-assessment, risk assessment, risk characterization and evaluation, and risk management, with stakeholder communication and engagement integrated throughout every stage of the process (IRGC, 2017). While the President's attributed authority addresses the question of who possesses the legal authority to determine national disaster status, the Risk Governance Framework addresses how such authority should be exercised in a measurable, evidence-based, and accountable manner.

The principal consequence of attributed authority is that both legal and administrative responsibility remain vested in the President as the original holder of that authority. Such responsibility corresponds to the risk evaluation and risk management

stages of the Risk Governance Framework, whereby the legitimacy of governmental action is assessed not merely on the basis of formal authority but also according to the quality of the underlying considerations and the accountability of the decision-making process. Consequently, any decision either to designate or not to designate a disaster event as a national disaster should ideally be based upon objective legal considerations and verifiable factual circumstances rather than temporary political considerations (Setyorini, 2023).

Having established these findings on the legal basis and locus of attributed authority, the discussion now turns to their implications. The principal difficulty arises when this robust attributed authority encounters significant operational deficiencies. Although Article 7 paragraph (2) of Law Number 24 of 2007 specifies five indicators for determining national disaster status namely the number of casualties, property losses, damage to infrastructure, the geographical extent of the affected area, and socio-economic impacts it fails to prescribe binding quantitative thresholds for any of these indicators. From the perspective of the Risk Governance Framework, this weakness originates during the pre-assessment and risk assessment stages, which should establish objective parameters for measuring the complexity, uncertainty, and ambiguity of disaster risks before proceeding to the stages of evaluation and management (Klinke & Renn, 2012). In the absence of standardized parameters at these preliminary stages, the President's exercise of attributed authority loses its objective foundation and instead relies predominantly upon subjective judgment, thereby creating an exceptionally broad scope of executive discretion. Although administrative discretion constitutes a legitimate legal instrument enabling the government to act in the public interest where statutory law is incomplete (Ridwan HR, 2016), excessively broad discretionary power risks generating inconsistent governmental assessments of disaster events possessing substantially similar characteristics.

This situation reveals a fundamental tension between the principle of administrative discretion (*freies Ermessen*), which prioritizes flexibility and rapid governmental action in pursuit of the objectives of the welfare state, and the principle of legal certainty (*lex certa*), which requires legal norms to be formulated in a clear, consistent, and measurable manner as mandated by Article 3 paragraph (1)(e) of Law Number 24 of 2007 and Law Number 13 of 2022 concerning the Formation of Laws and Regulations. Ideally, these two principles should operate harmoniously (Yacob, 2022). However, the absence of measurable parameters in Article 7 paragraph (2) has instead placed them in direct conflict: the broader the scope of discretion afforded to facilitate rapid governmental responses, the greater the erosion of the legal certainty that the legislation itself is intended to guarantee. This normative conflict is also reflected in recent constitutional developments. During the constitutional review of Law Number 24 of 2007 before the Constitutional Court of the Republic of Indonesia, several expert witnesses argued that the President's discretion to determine national disaster status without clear legal parameters is incompatible with the principles of the rule of law and legal certainty. Conversely, other experts maintained that such broad discretion constitutes an integral aspect of the State's constitutional obligation to protect its citizens rather than evidence of a legal vacuum (Mahkamah Konstitusi RI, 2025).

Previous studies concerning the determination of national disaster status have generally followed one of two approaches. First, they examine the formal legality of a particular Presidential Decree, such as analyses concerning Presidential Decree Number

12 of 2020 designating COVID-19 as a non-natural national disaster. Second, they debate the validity of presidential discretion exclusively from the perspective of either administrative law or constitutional law in isolation. To the best of the author's knowledge, no previous study has explicitly integrated attributed governmental authority, the absence of objective parameters in Article 7 paragraph (2), the Risk Governance Framework, welfare state theory, and the perspective of *Siyasah Dusturiyah* within a single coherent analytical framework. By integrating these five perspectives, this study argues that the ambiguity surrounding the indicators for determining national disaster status should not be viewed merely as a technical problem of legislative drafting. Rather, it represents the intersection of three interrelated issues: the legitimacy of governmental authority, the governance of disaster risk, and substantive justice, all of which are subsequently examined through the perspective of *Siyasah Dusturiyah*.

Risk Governance and the Normative Evaluation Gap

The Risk Governance Framework developed by the International Risk Governance Council (IRGC) is employed as the analytical benchmark for evaluating how the procedures for measuring these indicators ought to operate. The procedural failure to translate the qualitative indicators contained in Article 7 paragraph (2) into measurable operational parameters essentially reflects deficiencies at the pre-assessment and risk assessment stages within the Risk Governance cycle (IRGC, 2017). It is at this point that the theories of governmental authority and the welfare state again become particularly relevant. The President's extensive attributed authority to determine national disaster status can only be exercised responsibly and in a manner that promotes the public interest (*maslahah*) if it is supported by an adequate risk measurement mechanism a condition that has yet to be fully realized within the normative framework of Law Number 24 of 2007.

With these comparative findings established, the discussion now turns to what they reveal about the underlying decision-making process. The data presented in Table 1 clearly demonstrate that the magnitude of the quantitative indicators is not directly correlated with the Government's decisions to designate a national disaster, as no consistent pattern can be identified between the two. This finding suggests that the risk evaluation stage during which the results of risk assessment are weighed against societal values, policy preferences, and institutional capacities to reach a final decision is conducted without standardized evaluation criteria that are transparent and publicly verifiable (IRGC, 2017). If the protection of public welfare, as the fundamental objective of the welfare state, is taken as the primary normative orientation, then the absence of such evaluation standards should not be regarded merely as a technical deficiency in legislative drafting. Rather, it reflects the State's failure to adequately fulfill its constitutional obligation to protect citizens affected by disasters (Muis, Harsya, Lestyowati, Isvany, & Nazriah, 2025).

The existing procedural mechanisms essentially demonstrate that Indonesia has established a systematic risk assessment process. The fundamental problem, however, does not lie in the absence of assessment procedures but in the broken normative linkage between the outcomes of risk assessment and the subsequent stage of risk evaluation. At present, no legal provision explicitly requires that the exceedance of specified indicator thresholds must result in the declaration of a national disaster, rather than merely serving as a discretionary policy option. This regulatory gap creates an excessively broad scope

of executive discretion (Nurrahman & Nurnawati, 2025), as accommodated by the doctrine of *freies Ermessen* under Law Number 30 of 2014 concerning Government Administration, which authorizes public officials to exercise discretion where statutory regulations are incomplete or insufficiently clear (Republik Indonesia, 2014). Excessively broad discretionary authority, however, risks undermining both legal certainty and governmental accountability, thereby conflicting with the principle of *lex certa*, which requires legal norms to be formulated in a clear, precise, and unambiguous manner, as mandated by Law Number 13 of 2022 concerning the Formation of Laws and Regulations (Republik Indonesia, 2022).

International Comparative Perspectives on Disaster Status Determination

Placing Indonesia's normative ambiguity in comparative perspective clarifies both the severity of the gap and the range of plausible remedies. In the United States, the Robert T. Stafford Disaster Relief and Emergency Assistance Act likewise does not attach a fixed numerical trigger to a "major disaster" declaration; the standard instead turns on the President's assessment that damage is of a severity and magnitude exceeding the combined response capacity of state and local governments. What distinguishes the American arrangement is not a quantitative threshold but a transparency-forcing mechanism: federal courts have held that the responsible agency must publish the standards it applies in evaluating individual disaster-assistance requests, and discretionary determinations remain subject to non-discrimination review, so that even an open-textured standard is anchored by documented, reviewable criteria (Rahmawan, Eliana, Habibi, & Nariswari, 2024). Indonesia's Article 7 paragraph (2) contains no equivalent obligation to publish or justify the criteria actually applied in a given case, which is precisely the accountability gap this study identifies. Comparative work on South Asian disaster-management regimes points to a related lesson: legal frameworks in Pakistan, India, and Bangladesh have moved toward codifying graduated severity classifications precisely to reduce the discretionary space left by open-ended statutory language, though implementation capacity across these jurisdictions remains uneven (Parikh & Hota, 2023). Taken together, these comparative experiences suggest that Indonesia's deficiency lies not merely in the absence of numerical thresholds as such since even jurisdictions without fixed quantitative triggers can achieve legal certainty through binding procedural safeguards but in the absence of any published, judicially reviewable standard against which a presidential determination can be measured.

Siyasah Dusturiyah Evaluation

The ambiguity surrounding the application of the principle of attributed authority and the absence of quantitative thresholds for determining national disaster status are not merely technical issues of legislative drafting. Rather, they concern a more fundamental question: the extent to which the State fulfills its constitutional and moral responsibility to protect its citizens during times of crisis. Such issues fall within the domain of *Siyasah Dusturiyah*, the branch of Islamic constitutional jurisprudence that examines the constitutional structure of Islamic governance, the relationship between rulers and the governed, and the normative standards by which public policies should conform to the objectives of the Sharia (Djazuli, 2003; Pulungan, 1997). The doctrine of *maslahah*

mursalah provides the principal analytical foundation for this discussion. This doctrine refers to considerations of public interest that are neither explicitly affirmed nor rejected by the primary sources of Islamic law but remain consistent with the general objectives of the Sharia in promoting benefit and preventing harm (Khallaf, 2002).

This legal status provides room for *ijtihad*, allowing political leaders to formulate policies insofar as such policies genuinely serve the public interest. Since neither the Qur'an nor the Sunnah explicitly prescribes or prohibits the establishment of quantitative thresholds within disaster management regulations, the determination of indicators for national disaster status falls within the scope of *maslahah mursalah*, the resolution of which is entrusted to the exercise of *ijtihad* by the legitimate authority (Khallaf, 2002). Abu Zahrah, in *Ushul al-Fiqh*, identifies three requirements for *maslahah mursalah* to serve as a legitimate basis for public policy: it must not contradict definitive (*qath'i*) scriptural texts, it must concern the collective public interest (*kulliyah*), and it must address an urgent necessity such that its neglect would result in serious harm (Abu Zahrah, 2014). All three requirements are satisfied in the context of reformulating the indicators for determining national disaster status. Consequently, the Government is not merely authorized to improve the existing regulatory framework but is, from the perspective of Islamic law, obligated to do so, since allowing vague and immeasurable indicators to remain in force constitutes a failure to safeguard the public interest that the State is entrusted to protect.

Maqasid al-Sharia, particularly the objective of preserving human life (*hifz al-nafs*), determines the urgency and binding nature of such governmental action. Imam al-Ghazali, in *al-Mustashfa min 'Ilm al-Ushul*, explains that the objectives of the Sharia commonly referred to in contemporary Islamic legal scholarship as *maqasid al-sharia* are directed toward safeguarding the five essential interests (*al-kulliyat al-khams*): religion, life, intellect, lineage, and property (Al-Ghazali, 2010). Any measure that protects these five essential interests constitutes *maslahah*, whereas anything that threatens them constitutes *mafsadah* and must therefore be prevented. Within al-Ghazali's hierarchy, the preservation of life occupies the second position after the protection of religion and is classified as a *daruriyyah* (essential necessity), meaning that its absence would endanger the continuation of human existence itself (Al-Ghazali, 2010). This classification carries significant legal implications, as measures necessary to protect human life including the establishment of an effective regulatory framework are not merely recommended but constitute binding obligations that the governing authority must fulfill.

The objectives of the Sharia require the State to establish and maintain a system capable of protecting human life in a prompt, organized, and equitable manner. The determination of national disaster status represents a key component of this system because it provides the legal basis for mobilizing national resources, allocating emergency response funds, coordinating cross-ministerial actions, and activating international assistance (Republik Indonesia, 2008). When this mechanism becomes ineffective due to ambiguous regulatory indicators, the objective of preserving human life is inevitably undermined. Disaster victims consequently fail to receive adequate protection because the mobilization of national resources cannot legally be activated, while the impacts of the disaster continue to escalate.

Al-Ghazali further argues in *Ihya' 'Ulum al-Din* that a ruler who possesses the capacity to prevent harm but fails to do so whether through negligence or by allowing a

defective system to remain unreformed bears moral responsibility equivalent to that of those who actively cause such harm (Al-Ghazali, 2011). This principle is directly relevant to the issue examined in this study. By allowing Article 7 paragraph (2) of Law Number 24 of 2007 to remain without clear quantitative thresholds despite possessing the institutional capacity to amend it, the Government likewise bears moral responsibility for the harm suffered by disaster victims as a consequence of delayed determinations of national disaster status.

The hydrometeorological disasters consisting of flash floods and landslides that struck Aceh, North Sumatra, and West Sumatra beginning in late November 2025 claimed at least 1,204 lives, displaced hundreds of thousands of residents, and caused estimated economic losses amounting to IDR 68.67 trillion (Celios, 2025). Nevertheless, these events have not been officially designated as a national disaster and continue to be treated merely as a "national priority." This circumstance constitutes tangible evidence of the State's failure to realize the Sharia objective of preserving human life at the regulatory level. Citizens who should have received comprehensive protection including access to nationally coordinated emergency resources that can only be mobilized through the declaration of national disaster status have instead been denied such protection because no legal norm objectively and measurably requires such a declaration.

These principles are firmly grounded in both the Qur'an and the classical principles of Islamic jurisprudence. Allah states in Surah Ar-Rum [30]:41:

ظَهَرَ الْفَسَادُ فِي الْبَرِّ وَالْبَحْرِ بِمَا كَسَبَتْ أَيْدِي النَّاسِ لِيُذِيقَهُمْ بَعْضَ الَّذِي عَمِلُوا لَعَلَّهُمْ يَرْجِعُونَ

Translation: *"Corruption has appeared on land and sea because of what people's hands have earned, so that He may let them taste part of the consequences of their deeds, in order that they may return (to the right path)."* (Qur'an, Ar-Rum [30]:41)

This verse emphasizes that the destruction occurring on earth, including disasters exacerbated by human negligence, cannot be separated from human actions and public policies. The phrase *la'allahum yarji'un* ("that they may return") further conveys the message that disasters should become a moment of reflection and institutional reform, including improvements to regulatory systems that remain inadequate.

This Qur'anic foundation is reinforced by two fundamental maxims of Islamic jurisprudence. The first states:

تَصَرُّفُ الْإِمَامِ عَلَى الرَّعِيَّةِ مَنُوطٌ بِالْمَصْلَحَةِ

Translation: *"The policies of a ruler toward the people must always be based upon the public interest."*

This legal maxim originates from *al-Asybah wa al-Nazhair* by Imam Jalaluddin al-Suyuthi and constitutes one of the principal foundations of *Siyasah Dusturiyah* in evaluating governmental actions (As-Suyuthi, 1983). When applied to the determination of national disaster status, which currently depends upon subjective executive discretion in the absence of measurable legal standards, this maxim raises a fundamental question:

how can public interest serve as the basis for governmental decision-making when the criteria for determining that public interest have never been clearly formulated in law? Ibn Taymiyyah, in *al-Siyasah al-Syar'iyah*, emphasizes that the public interest is not whatever a ruler unilaterally claims it to be; rather, it must be objectively verifiable and capable of public scrutiny (Ibn Taimiyyah, 2005).

The second equally fundamental legal maxim states:

الضَّرَرُ يُزَالُ

Translation: "*Harm must be eliminated.*"

This maxim constitutes one of the five major universal maxims (*al-qawa'id al-khams al-kubra*) unanimously recognized by all schools of Islamic jurisprudence and serves as a foundational principle of Islamic law in responding to various forms of harm (Djazuli, 2003). Within the context of this study, the maxim operates on two levels. First, the disaster itself represents a form of harm that must be eliminated or minimized through an effective disaster management system. Second, the ambiguity surrounding the indicators for determining national disaster status constitutes a secondary form of harm namely, a deficiency within the regulatory framework that aggravates the primary harm by delaying disaster victims' access to state protection.

The President's attributed authority to determine national disaster status can therefore be justified within the framework of *Siyasah Dusturiyah* as a mandate to adopt strategic decisions for the realization of the public interest. Nevertheless, authority exercised without objective standards of measurement can scarcely be regarded as a complete implementation of *siyasah shar'iyah*, since it occupies a narrow boundary between legitimate *ijtihad* and arbitrary executive discretion. The ambiguity embedded in Article 7 paragraph (2) of Law Number 24 of 2007 constitutes a form of *mafsadah* that undermines the objectives of the Sharia, particularly the preservation of human life as one of the most fundamental public interests that the State is obligated to protect. Accordingly, the appropriate solution is not to abolish the President's attributed authority but rather to strengthen it through normative reform by establishing clear and measurable quantitative thresholds for each indicator contained in the provision, in accordance with the principle of *maslahah mursalah*. Such a reformulation of Article 7 paragraph (2) through implementing regulations would therefore constitute not only a requirement of the principle of *lex certa* under Indonesian positive law but also an obligation of *siyasah shar'iyah* that is fully justifiable under Islamic jurisprudence.

Conclusion

The President's authority to declare a national disaster derives from attributed authority as stipulated in Article 7 paragraph (1) letter (c) in conjunction with Article 51 paragraph (2) of Law Number 24 of 2007, thereby constituting an original authority that is inherently vested in the office of the President. This attributed authority enables the President to act expeditiously in accordance with the principles of the welfare state. However, decision-making based solely on formal legal legitimacy does not, by itself, ensure accountability, as it is not supported by a risk governance mechanism capable of regulating the exercise of such authority through objective and measurable standards.

This deficiency is further reflected in the differing opinions expressed by constitutional law experts during the judicial review of the *a quo* law before the Constitutional Court.

Article 7 paragraph (2) of Law Number 24 of 2007 establishes five indicators for determining national disaster status, supported by data collection mechanisms through rapid assessment and Post-Disaster Needs Assessment (*Jitupasna*), which collectively constitute a relatively systematic stage of risk assessment. Nevertheless, these indicators are not accompanied by legally binding quantitative thresholds. Consequently, the normative linkage between risk assessment and risk evaluation is disrupted, leaving the final determination of national disaster status largely dependent upon subjective executive discretion. Comparative analysis of major disaster events further demonstrates that the magnitude of fatalities, economic losses, and the extent of affected areas does not consistently correlate with the Government's decisions to declare a national disaster.

From the perspective of *Siyasah Dusturiyah*, the President's attributed authority to determine national disaster status is justifiable as a mandate to safeguard the public interest (*maslahah*). However, in the absence of objective standards, such authority risks shifting from legitimate *ijtihad* to arbitrary executive discretion. The doctrine of *maslahah mursalah* regards the formulation of quantitative thresholds as an area of *ijtihad* that the Government is obliged to undertake, while the objective of *maqasid al-sharia*, particularly *hifz al-nafs* (the preservation of human life), affirms that the ambiguity of these indicators constitutes a form of *mafsadah* that contradicts the fundamental objectives of Islamic law. Principles of Islamic jurisprudence further reinforce the State's obligation to eliminate such normative ambiguity. This study therefore demonstrates that the lack of clear normative indicators in Article 7 paragraph (2) represents not merely a technical weakness in legislative drafting but a systemic failure within Indonesia's disaster governance framework, one that undermines the protection of the rights of disaster-affected communities while simultaneously conflicting with both the principle of *lex certa* and the Sharia objective of preserving human life.

This study recommends that the legislature and the Government promptly reformulate Article 7 paragraph (2) of Law Number 24 of 2007 by establishing clear and legally binding quantitative thresholds for each indicator used in determining national disaster status, thereby ensuring that such decisions are no longer based primarily on subjective executive discretion. Future research is also encouraged to examine appropriate models of quantitative thresholds that reflect Indonesia's diverse geographical and socio-demographic characteristics, including the possibility of developing differentiated threshold standards for different categories of disasters.

This study is nonetheless subject to several limitations. First, as a normative-juridical study relying on library-based legal materials, it does not incorporate primary empirical data such as interviews with BNPB officials or affected communities, which could further illuminate how discretionary judgment is actually exercised in practice. Second, the comparative discussion of international practice is necessarily limited in scope, drawing primarily on the United States and, more generally, other South and Southeast Asian jurisdictions; a more comprehensive comparative study encompassing a wider range of legal systems, including those in earthquake- and typhoon-prone jurisdictions such as Japan and the Philippines, would further strengthen the comparative dimension of this line of inquiry. Third, the four-case comparison in Table 1, while illustrative of the

disconnect between empirical severity and legal designation, is not exhaustive of all disaster events in Indonesia's history and should not be read as a statistically representative sample. Future research is therefore encouraged to pursue empirical and socio-legal studies of how executive discretion is exercised in practice, to undertake a more systematic cross-country comparison of disaster-declaration regimes, and to evaluate, following any legislative reform of Article 7 paragraph (2), whether the resulting quantitative thresholds achieve their intended effect on the consistency and timeliness of national disaster declarations.

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