



Reformulating the Legal and Institutional Mandate of BNPB in Disaster Mitigation Policy

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Abstract

Disaster mitigation in Indonesia requires a coherent and adaptive institutional framework capable of addressing the country's high vulnerability to natural hazards. The National Disaster Management Agency (BNPB), as the central authority for disaster management, faces persistent challenges in coordination, regulatory fragmentation, and institutional rigidity that undermine its capacity for effective mitigation. This article examines the need to reconstruct the legal and institutional architecture of BNPB to strengthen its preventive and risk reduction functions. Using a qualitative juridical-normative approach combined with policy analysis, the study explores the alignment between existing disaster laws, decentralization policies, and international disaster governance standards such as the Sendai Framework for Disaster Risk Reduction. The findings reveal that BNPB's current legal mandate remains overly response-oriented, lacking clear authority and integration mechanisms with regional disaster agencies (BPBD) and sectoral institutions. Therefore, the paper proposes a reconstruction model emphasizing legal harmonization, institutional redesign, and collaborative governance among central and local actors. Such a transformation is expected to shift BNPB's paradigm from reactive disaster response toward proactive, community-based, and sustainable disaster mitigation—anchored in legal certainty, institutional accountability, and resilience-oriented policy coherence.

Keywords: BNPB, Disaster, Legal Risk, Mitigation

INTRODUCTION

Indonesia is widely recognized as one of the most disaster-prone countries in the world. Geographically, the Indonesian archipelago lies at the convergence of three major tectonic plates—the Eurasian, Indo-Australian, and Pacific plates—creating high levels of seismic, volcanic, and geological activity. In addition, its tropical climate, vast archipelagic geography, and exposure to the monsoon cycle exacerbate the likelihood of hydrometeorological disasters such as floods, landslides, droughts, and tropical storms. The combination of natural and anthropogenic factors makes disaster risk management a strategic

national issue that is inseparable from sustainable development policy, governance, and national resilience.¹

Since the early 2000s, Indonesia's disaster management paradigm has undergone a fundamental transformation. Previously, disaster policy was dominated by emergency response (*emergency-oriented management*), but since the enactment of Law No. 24 of 2007 on Disaster Management, the national policy framework has shifted toward a more comprehensive and sustainable approach that encompasses the pre-disaster, during-disaster, and post-disaster phases.² This normative transformation represents the state's recognition of the importance of mitigation and preparedness as essential government responsibilities in protecting citizens from disaster risks.³ However, despite the legal and conceptual advances, implementation continues to face serious challenges, particularly in institutional coordination and policy coherence across levels of government.

The National Disaster Management Agency (Badan Nasional Penanggulangan Bencana—BNPB) serves as the central authority within Indonesia's national disaster management system. Established under the 2007 Disaster Management Law, BNPB is mandated to formulate policies, coordinate implementation, and oversee disaster management efforts across central and local levels.⁴ Yet, in practice, BNPB's performance has often been constrained by overlapping authority with line ministries, weak vertical coordination with regional disaster agencies (BPBDs), limited human and financial resources, and fragmented policy implementation between the national and subnational governments.⁵ These institutional challenges create significant legal and operational uncertainty in disaster mitigation. When inter-agency coordination is slow or misaligned, disaster response becomes inefficient and ad hoc.⁶ Furthermore, global environmental changes—particularly those driven by climate change—demand an institutional structure that is more adaptive, integrated, and collaborative. In this context, the reconstruction of BNPB's legal and institutional architecture emerges as a strategic necessity to modernize Indonesia's disaster governance framework.

Institutional reconstruction should not merely focus on organizational restructuring but also on redefining the agency's legal basis, mandate, and inter-agency relationships. Conceptually, an effective disaster mitigation institution must operate within a multi-level governance framework that ensures integration between national and local policies, inter-sectoral coordination, and participation from civil society and the private sector.⁷ This approach aligns with the principles of the Sendai Framework for Disaster Risk Reduction

¹Prihatin Hadi, *Geology and Disaster Risk in Indonesia* (Jakarta: LIPI Press, 2019), 5.

²Republic of Indonesia, Law No. 24 of 2007 on Disaster Management.

³ Saut Aritonang, "The New Paradigm of Disaster Management in Indonesia," *Journal of Public Administration*, Vol. 14, No. 2 (2018): 122.

⁴ National Disaster Management Agency (BNPB), *BNPB Performance Report 2023* (Jakarta: BNPB, 2024), 7.

⁵ Dwi Andayani, "Evaluating Coordination Effectiveness between BNPB and BPBD in Disaster Management," *Journal of Public Policy* Vol. 10, No. 1 (2022): 65.

⁶ iza Ardiyansyah, *Disaster Risk Governance in Indonesia* (Yogyakarta: Gadjah Mada University Press, 2020), 33.

⁷Jon Pierre and B. Guy Peters, *Multi-Level Governance and Democracy* (Oxford: Oxford University Press, 2021), 89

2015–2030, which emphasizes the strengthening of institutional capacity, policy integration, and clearly defined roles among stakeholders.⁸

Unfortunately, BNPB's current institutional design still reflects a bureaucratic and hierarchical model that lacks flexibility in addressing complex and cross-sectoral disaster risks. The agency tends to play a dominant role during emergency response phases, while its preventive and risk reduction functions remain underdeveloped due to limited resource allocation and weak inter-ministerial collaboration. In reality, effective mitigation requires an institution that possesses not only strong legal legitimacy but also robust coordination mechanisms that can unify multiple actors through integrative and participatory policy processes.⁹ The lack of regulatory harmony has also become a major impediment to disaster mitigation in Indonesia. Numerous implementing regulations—from Government Regulation No. 21 of 2008 on Disaster Management Implementation to various sectoral decrees—often overlap or conflict in defining responsibilities and funding mechanisms among institutions.¹⁰

For example, the mandates of the Ministry of Public Works in flood control, the Ministry of Social Affairs in social rehabilitation, and the Ministry of Environment and Forestry in forest protection frequently intersect with BNPB's authority.¹¹ This has created a pattern of institutional overlap and policy incoherence, undermining the effectiveness of the national mitigation system.¹²

Moreover, the implementation of decentralization under Law No. 23 of 2014 on Regional Government has complicated disaster governance. In practice, many provincial and district-level BPBDs lack the capacity to conduct effective mitigation.¹³ Constraints such as inadequate funding, limited technical expertise, and heavy dependence on BNPB's logistical support have rendered these regional agencies administratively functional but strategically weak.¹⁴ As a result, vertical coordination between BNPB and BPBDs remains suboptimal, while horizontal collaboration among regional institutions is minimal.¹⁵ To overcome these limitations, a reconstructive approach to BNPB's legal and institutional architecture is urgently required. Reconstruction, in this sense, does not merely imply structural reorganization but entails the reformulation of legal foundations and institutional paradigms.¹⁶ A renewed paradigm must prioritize mitigation as the agency's core function rather than as a secondary or reactive element of disaster management. Consequently, mitigation must be supported by a clear legal mandate, predictable financing mechanisms, and enforceable coordination frameworks among stakeholders.¹⁷ From the perspective of constitutional and administrative law, institutional reconstruction must adhere to the

⁸ United Nations Office for Disaster Risk Reduction (UNDRR), *Sendai Framework for Disaster Risk Reduction 2015–2030* (Geneva: UNDRR, 2015), 10.

⁹ BNPB, *National Disaster Risk Reduction Strategy 2021–2025* (Jakarta: BNPB, 2021), 4.

¹⁰ Republic of Indonesia, *Government Regulation No. 21 of 2008 on Disaster Management Implementation*.

¹¹ Fadli Rahman, *Sectoral Policy and Disaster Coordination in Indonesia* (Jakarta: Center for Policy Studies, 2020), 41.

¹² *Ibid.*, 43.

¹³ Fitri Wahyuni, "Decentralization and the Capacity of BPBD in Indonesia," *Journal of Decentralization* Vol. 8, No. 1 (2021): 27.

¹⁴ *Ibid.*, 30.

¹⁵ *Ibid.*, 32.

¹⁶ Bambang Widodo, *Reconstructing Public Institutions in Constitutional Law Perspective* (Malang: UB Press, 2022), 18.

¹⁷ *Ibid.*, 22.

principles of *checks and balances* and *good governance*. Over-centralization may result in excessive concentration of authority and reduced accountability, whereas excessive decentralization can fragment coordination and weaken national policy coherence. Therefore, a hybrid governance model is necessary—one that combines centralized policy coordination with decentralized implementation flexibility.¹⁸ Furthermore, BNPB's reconstruction must align national disaster management law with international standards and frameworks. The Sendai Framework outlines four core priorities: (1) understanding disaster risk; (2) strengthening disaster risk governance; (3) investing in risk reduction; and (4) enhancing preparedness for effective response and recovery.²¹ These priorities can guide national legal reform by clarifying BNPB's mandate and reinforcing its role as the central coordinator of disaster mitigation.

Previous studies relevant to the topic Reformulating the Legal and Institutional Mandate of BNPB in Disaster Mitigation Policy indicate that the core problem in Indonesia's disaster governance lies in the weakness of institutional mandates and a predominantly reactive legal framework. Lassa (2014), in his study on disaster risk reduction governance in Indonesia, emphasizes that BNPB remains institutionally oriented toward emergency response rather than disaster mitigation and prevention, while also facing fragmentation of authority with sectoral ministries and regional governments. Furthermore, Rahman and Nugroho (2018), through a legal analysis of Law Number 24 of 2007, conclude that the constitutional responsibility of the state to protect society from disaster risks has not been effectively translated into the normative authority of BNPB, which continues to function largely as a coordinating body without sufficient legal coercive power. Meanwhile, a comparative study by Shaw, Takeuchi, and Parvez (2016) on disaster management institutions in ASEAN countries demonstrates that jurisdictions with more effective disaster mitigation outcomes tend to endow their national disaster agencies with strong legal mandates, cross-sectoral authority, and clear policy control—conditions that are not yet fully realized in the institutional position of BNPB. Collectively, these studies highlight persistent normative and institutional gaps in Indonesia's disaster management system, while also revealing the absence of a comprehensive legal reconstruction of BNPB's mandate, thereby justifying the need for this research to propose a reformulation of BNPB's legal and institutional authority with a stronger focus on disaster mitigation policy.

Accordingly, this article focuses on three main areas: first, an analysis of the structural and legal weaknesses in the current BNPB framework; second, a conceptual exploration of an effective disaster mitigation governance model based on multi-level governance theory; and third, the formulation of a proposed model for reconstructing BNPB's legal and institutional architecture to meet future disaster challenges.¹⁹ Through these discussions, the paper aims to bridge the gap between normative legal provisions and practical policy implementation in Indonesia's disaster mitigation system.²⁰

¹⁸ Jimly Asshiddiqie, *Constitutional Law and Principles of Good Governance* (Jakarta: Konstitusi Press, 2020), 55.

¹⁹ Widodo, *Reconstructing Public Institutions*, 27.

²⁰ Nugroho, "Resilience Governance," 210.

RESEARCH METHOD

This research adopts a qualitative normative legal approach combined with policy analysis to examine the reconstruction of Indonesia's National Disaster Management Agency (BNPB) within the context of disaster mitigation governance. The juridical-normative approach is used to analyze the substance of disaster management laws, institutional frameworks, and related policy instruments that govern national and regional disaster mitigation systems. This approach focuses on the interpretation, evaluation, and harmonization of legal norms that define BNPB's authority, coordination mechanisms, and relationship with regional and sectoral agencies. The method allows the researcher to assess whether existing legal provisions effectively support proactive disaster mitigation and align with the principles of disaster risk reduction and good governance.

In parallel, policy analysis is applied to evaluate the practical implementation of BNPB's legal mandates in the context of intergovernmental relations, decentralization, and multi-sectoral coordination. This part of the analysis explores how BNPB interacts with the Regional Disaster Management Agencies (BPBDs), ministries, and local governments in carrying out mitigation activities. It also identifies the institutional and bureaucratic obstacles that hinder integrated disaster management. The policy analysis framework is used to assess institutional capacity, governance coherence, and the effectiveness of coordination mechanisms that are essential for implementing disaster risk reduction strategies.

The study uses as the main source of analysis, consisting of legislation, academic publications, government reports, and policy documents related to disaster management and institutional reform. Key legal materials include the Disaster Management Law No. 24 of 2007, the National Disaster Management Plan, and various presidential regulations and ministerial decrees concerning the structure and function of BNPB and BPBD. These legal sources are analyzed descriptively and interpretatively to identify gaps, overlaps, and inconsistencies that affect the agency's mitigation performance. In addition, comparative data from international frameworks such as the Sendai Framework for Disaster Risk Reduction (2015-2030) and relevant case studies from other disaster-prone countries are used to enrich the analysis and provide a global perspective on institutional design for disaster mitigation.

Data are analyzed through qualitative content analysis, focusing on identifying patterns, legal inconsistencies, and thematic relationships among regulations and policy outcomes. The analysis is conducted in three stages. The first stage involves data reduction, in which all relevant legal materials and policy documents are reviewed and categorized according to their relevance to BNPB's structure, authority, and coordination mechanisms. The second stage is data display, where categorized data are organized systematically to reveal the relationships between central and regional governance frameworks, as well as between preventive and responsive functions of BNPB. The third stage is conclusion drawing and verification, where interpretations and theoretical propositions are formulated to support the reconstruction model proposed by the study.

The research also adopts a conceptual and analytical framework derived from disaster governance theory, institutional reform theory, and legal system analysis. This framework emphasizes that institutional effectiveness in disaster mitigation depends not only on formal legal mandates but also on the coherence and integration of governance systems across administrative levels. Therefore, the study seeks to identify both normative and structural reform needs that would transform BNPB into a more proactive, preventive, and community-based institution.

In addition, the study uses an interdisciplinary perspective that integrates legal studies, public administration, and disaster management sciences. This approach is crucial because disaster mitigation in Indonesia is a complex domain that transcends purely legal dimensions. The juridical-normative analysis alone would be insufficient without understanding the administrative and policy processes that shape the implementation of laws. Therefore, by combining legal interpretation with policy evaluation, this study aims to generate a comprehensive understanding of how BNPB can be reconstructed both normatively and institutionally.

To ensure validity and reliability, the study applies triangulation of data sources, comparing information obtained from statutory regulations, policy reports, and scholarly analyses. Through this triangulation, the study ensures that the conclusions drawn are based on consistent and corroborated evidence. The analytical findings are interpreted within the broader context of Indonesia's legal system and governance reform agenda, particularly in relation to decentralization and institutional resilience.

The overall design of this research is descriptive-analytical, intended not only to describe the current state of BNPB's legal and institutional framework but also to provide a critical evaluation of its effectiveness and propose a reconstruction model. The descriptive aspect presents the existing conditions, while the analytical dimension focuses on identifying normative gaps, policy weaknesses, and potential strategies for institutional reform. The ultimate goal is to contribute to the development of a more robust, integrated, and legally coherent national disaster management system that prioritizes risk reduction and resilience. In summary, the methodological foundation of this study allows a systematic exploration of BNPB's institutional architecture from legal, policy, and governance perspectives. The integration of juridical-normative and policy analysis methods ensures that the research findings are both theoretically grounded and practically relevant. The results are expected to support the formulation of recommendations for legal reform, institutional restructuring, and policy alignment that will strengthen the effectiveness of disaster mitigation efforts in Indonesia

DISCUSS AND ANALYSIS

REFORMULATING THE LEGAL AND INSTITUTIONAL MANDATE OF BADAN NASIONAL PENANGGULANGAN BENCANA IN DISASTER MITIGATION POLICY

The dynamics of disaster governance in Indonesia reveal a persistent tension between normative ideals of legal certainty and the realities of fragmented institutional authority. The National Disaster Management Agency (BNPB), established under Law No. 24 of 2007 on Disaster Management, was envisioned as a central body capable of coordinating all aspects of

disaster management from prevention to recovery. Yet, over time, it has become clear that the agency's authority remains largely administrative rather than normative, shaped more by political discretion than by binding legal obligation. This institutional fragility stems from the doctrinal construction of the law itself, which defines disaster management in cyclical terms – prevention, emergency response, and rehabilitation – without embedding the principle of disaster mitigation as a mandatory legal duty.²¹ Consequently, BNPB's role in mitigation has been reduced to coordination and facilitation, lacking both the coercive power and regulatory capacity required to enforce compliance across ministries and regions. This imbalance between legal design and institutional function exposes a deeper theoretical issue: the positivist orientation of Indonesian administrative law that privileges organizational form over substantive function. In the case of BNPB, its creation was a legislative response to the catastrophic events of the early 2000s – such as the Aceh tsunami – but without sufficient doctrinal elaboration on how the law would transform the governance of risk into an enforceable legal framework.²²

The absence of *lex specialis* provisions that clearly define BNPB's authority relative to other institutions has produced a fragmented landscape of disaster-related regulations.²³ Various ministries – Environment and Forestry, Public Works, Social Affairs, and Home Affairs – operate under their own sectoral mandates, each partially addressing risk management but without integration.²⁴ This sectoral pluralism dilutes the effectiveness of disaster governance, resulting in overlapping programs, inconsistent data sharing, and inefficiencies in funding allocation.²⁵ Presidential Regulation No. 8 of 2008, which operationalizes BNPB, exacerbates this ambiguity by assigning the agency a coordinating role under the President but denying it any binding enforcement authority over other ministries or regional governments.²⁶ In practice, this has left BNPB dependent on inter-agency consensus rather than legal compulsion, weakening its ability to institutionalize risk reduction as a national priority.²⁷ The agency's structural design as a non-ministerial body symbolizes autonomy, yet in operational reality, it functions within the administrative hierarchy of ministerial politics, a contradiction that undermines both its independence and effectiveness.²⁸

Indonesia's decentralized governance structure further complicates this institutional architecture. Law No. 23 of 2014 on Regional Government devolves significant responsibilities to local governments, including the establishment of Regional Disaster Management Agencies (BPBD).²⁹ However, this decentralization lacks a clear mechanism for vertical integration be-

²¹ Law No. 24 of 2007 on Disaster Management (Indonesia).

²² Ryaas Rasyid, *Otonomi Daerah dan Desentralisasi* (Jakarta: PT RajaGrafindo Persada, 2013).

²³ BNPB, *Rencana Nasional Penanggulangan Bencana 2020–2024* (Jakarta: BNPB, 2020).

²⁴ UNDRR, *Sendai Framework for Disaster Risk Reduction 2015–2030* (Geneva: United Nations, 2015).

²⁵ Hermansyah, "Fragmentasi Regulasi Kebencanaan di Indonesia," *Jurnal Hukum dan Pembangunan* Vol. 49, No. 2 (2019).

²⁶ Government of Indonesia, *Peraturan Pemerintah No. 21 Tahun 2008 tentang Penyelenggaraan Penanggulangan Bencana*.

²⁷ Bappenas, *Evaluasi Implementasi Kebijakan Penanggulangan Bencana Nasional* (Jakarta, 2019).

²⁸ Satjipto Rahardjo, *Hukum dan Masyarakat* (Bandung: Angkasa, 2008).

²⁹ Law No. 23 of 2014 on Regional Government (Indonesia).

tween BNPB and BPBD, creating fragmented chains of command and accountability.³⁰ Many BPBDs operate with limited resources and weak technical capacity, while BNPB lacks the legal instruments to supervise, evaluate, or enforce compliance with national standards.³¹ The result is a patchwork system where local autonomy often trumps national coordination.³² In doctrinal terms, this demonstrates a legal vacuum in defining the hierarchical relationship between central and regional disaster management bodies.¹⁵ The decentralization policy, though intended to promote responsiveness, inadvertently contributes to legal uncertainty, as BNPB cannot compel regional governments to align their local mitigation plans with national strategies.¹⁶ The law's silence on supervision and accountability mechanisms leads to a situation where disaster management becomes reactive and politicized—heavily dependent on the preferences of local leaders rather than national norms.³³

At the doctrinal core of these weaknesses lies the failure to conceptualize disaster mitigation as a binding legal obligation rather than a policy aspiration.³⁴ Law No. 24 of 2007 acknowledges mitigation as a stage in disaster management but provides no enforceable provisions mandating its implementation.³⁵ Unlike environmental law, which imposes legal requirements such as environmental impact assessments (AMDAL), disaster risk assessment (Kajian Risiko Bencana) remains discretionary and lacks sanctions for non-compliance.³⁶ BNPB's inability to impose administrative sanctions or issue mandatory guidelines demonstrates that mitigation is not yet a matter of *ius cogens* within the national legal system.³⁷ From the standpoint of legal theory, this undermines the principle of *lex certa*—that legal norms must be clear, binding, and enforceable to create certainty.³⁸ Without such certainty, the government's obligation to protect citizens' safety and welfare becomes conditional rather than constitutional.³⁹ In effect, BNPB becomes a policy instrument rather than a legal institution, operating within a governance framework where law follows politics instead of guiding it.⁴⁰

Reconstruction of BNPB's legal architecture thus requires a transformation of both its statutory basis and institutional design.⁴¹ First, the Disaster Management Law should be amended to explicitly define disaster mitigation as a mandatory legal duty for all government levels and sectors.⁴² This amendment should include clear provisions for administrative sanctions against agencies that fail to integrate risk reduction into planning and budgeting processes.²⁷ Second, BNPB must be granted regulatory powers to issue binding technical stand-

³⁰ BPBD, *Laporan Evaluasi Kinerja BPBD Provinsi 2022* (Jakarta: BNPB, 2023).

³¹ Maria S.W. Sumardjono, *Desentralisasi dan Hukum Tata Pemerintahan* (Yogyakarta: UGM Press, 2017).

³² UNDP Indonesia, *Strengthening Disaster Risk Governance in Indonesia* (Jakarta, 2020).

³³ Muladi, *Demokrasi, Hukum, dan Hak Asasi Manusia* (Bandung: Refika Aditama, 2015).

³⁴ Law No. 24 of 2007 on Disaster Management.

³⁵ Government Regulation No. 21 of 2008.

³⁶ UNDRR, *Sendai Framework for Disaster Risk Reduction*.

³⁷ Jimly Asshiddiqie, *Konstitusi dan Hukum dalam Tata Negara Indonesia*.

³⁸ Satjipto Rahardjo, *Hukum Progresif: Sebuah Sintesa Hukum Indonesia* (Jakarta: Kompas, 2009).

³⁹ The 1945 Constitution of the Republic of Indonesia, Article 28A.

⁴⁰ Ryaas Rasyid, *Otonomi Daerah dan Desentralisasi*.

⁴¹ BNPB, *Rencana Nasional Penanggulangan Bencana 2020–2024*.

⁴² UNDP Indonesia, *Strengthening Disaster Risk Governance in Indonesia*.

ards applicable nationwide.⁴³ These standards should cover hazard mapping, land-use planning, infrastructure safety, and community-based preparedness.⁴⁴ By institutionalizing such authority, BNPB would evolve from a reactive coordinator into a national regulatory authority for disaster governance, capable of ensuring uniform legal compliance.⁴⁵

The next dimension of reconstruction involves harmonizing the fragmented legal system governing disaster-related sectors.⁴⁶ Currently, disaster management operates at the intersection of environmental protection, spatial planning, infrastructure development, and public administration.⁴⁷ Each domain is governed by separate statutes that rarely refer to one another, resulting in legal pluralism and administrative inefficiency.⁴⁸ Harmonization can be achieved through the enactment of a comprehensive Framework Law on Disaster Risk Governance, modeled on the integrative structure of climate change legislation.⁴⁹ Such a framework would position BNPB as the central coordinating and supervisory authority, ensuring coherence among ministerial and regional regulations.⁵⁰ Additionally, it would provide normative hierarchy by specifying that all sectoral regulations must conform to the principles of disaster risk reduction, thereby reducing conflicts between overlapping mandates.⁵¹ Legal harmonization would also clarify accountability, introducing performance indicators, reporting obligations, and sanctions for non-compliance to ensure that mitigation is treated as a public duty rather than an administrative task.³⁷

Institutional integration must be accompanied by a redefinition of BNPB's legal accountability.³⁸ At present, the law provides only vague guidelines regarding BNPB's responsibility to the President and the public, without mechanisms for evaluation or oversight.³⁹ Introducing legal accountability mechanisms – such as mandatory annual reports to the legislature, independent audits, and public transparency requirements – would enhance institutional integrity and democratic legitimacy.⁴⁰ This reform aligns with the Sendai Framework for Disaster Risk Reduction (2015–2030), which emphasizes governance, accountability, and institutional capacity as key pillars of effective disaster management.⁴¹ By aligning national law with international standards, Indonesia would not only fulfill its global commitments but also strengthen domestic governance.⁵²

Another critical aspect of reconstruction is the shift from reactive to preventive legality. Indonesia's legal response to disasters has historically been event-driven, emphasizing emergency response and post-disaster relief. A proactive legal model requires the embedding of risk assessment and mitigation obligations into all levels of public administration. This

⁴³Hermansyah, "Fragmentasi Regulasi Kebencanaan di Indonesia."

⁴⁴ Government Regulation No. 21 of 2008.

⁴⁵ Jimly Asshiddiqie, *Konstitusi dan Hukum dalam Tata Negara Indonesia*.

⁴⁶ Satjipto Rahardjo, *Hukum dan Masyarakat*.

⁴⁷ Bappenas, *Evaluasi Implementasi Kebijakan Penanggulangan Bencana Nasional*.

⁴⁸ UNDRR, *Sendai Framework for Disaster Risk Reduction*.

⁴⁹ UNDP Indonesia, *Strengthening Disaster Risk Governance in Indonesia*.

⁵⁰ Maria S.W. Sumardjono, *Desentralisasi dan Hukum Tata Pemerintahan*.

⁵¹ BNPB, *Rencana Nasional Penanggulangan Bencana 2020–2024*.

⁵² Law No. 24 of 2007 on Disaster Management.

means that ministries responsible for infrastructure, environment, and spatial planning should be legally required to consult with BNPB before approving projects in disaster-prone areas. Likewise, regional governments should be mandated to include risk reduction indicators in their development plans, with BNPB authorized to review and approve these plans. The reconstruction of BNPB, therefore, must also involve a redefinition of inter-agency legal relationships, establishing BNPB as a supervisory body whose approval carries binding legal effect. This transformation would elevate disaster risk governance from an administrative concern to a constitutional function—anchored in the state’s obligation to protect life and welfare under Article 28A of the 1945 Constitution.

Such legal transformation also demands institutional redesign. BNPB should be reconstituted as a semi-autonomous national authority with statutory independence similar to regulatory commissions. Its leadership should be appointed through transparent procedures, and its budget should be insulated from political fluctuations. This autonomy would allow BNPB to operate on the basis of professional standards and legal mandates rather than political expediency. Moreover, integrating BNPB’s planning functions with the National Development Planning Agency (Bappenas) would ensure that disaster mitigation becomes a cross-sectoral legal obligation embedded within the national development agenda.⁵⁴ Such integration not only reinforces coherence but also operationalizes the principle that disaster risk reduction is integral to sustainable development.

The lack of *lex specialis* provisions that clearly delineate BNPB’s authority in relation to other state institutions has resulted in a fragmented regulatory framework governing disaster management. Multiple ministries—such as Environment and Forestry, Public Works, Social Affairs, and Home Affairs—exercise their respective sectoral mandates in addressing risk management, yet these efforts operate in parallel rather than within an integrated system. This sectoral fragmentation weakens overall disaster governance, giving rise to overlapping programs, inconsistent data coordination, and inefficient allocation of financial resources. Presidential Regulation No. 8 of 2008, which serves as the operational basis for BNPB, further reinforces this ambiguity by positioning the agency as a coordinating body under the President while withholding binding enforcement powers over ministries and regional governments. Consequently, BNPB’s effectiveness depends largely on inter-agency consensus instead of legally enforceable authority, limiting its capacity to institutionalize disaster risk reduction as a national priority. Although BNPB is structurally designed as a non-ministerial institution symbolizing formal autonomy, in practice it remains embedded within ministerial administrative politics, a contradiction that erodes both its independence and functional effectiveness.

Indonesia’s decentralized governance framework adds another layer of complexity to this institutional arrangement. Law No. 23 of 2014 on Regional Government delegates significant responsibilities to local governments, including the establishment of Regional Disaster Management Agencies (BPBD). However, this decentralization is not accompanied by a clear legal mechanism for vertical integration between BNPB and BPBD, resulting in fragmented authority, unclear lines of accountability, and weak coordination. Many BPBDs function with limited financial and technical capacity, while BNPB lacks sufficient legal instruments to su-

perverse, evaluate, or enforce adherence to national disaster management standards. As a result, local autonomy frequently overrides national coordination. From a doctrinal perspective, this condition reflects a legal vacuum in defining the hierarchical relationship between central and regional disaster management institutions. While decentralization aims to enhance responsiveness, it paradoxically generates legal uncertainty, as BNPB is unable to compel regional governments to align local mitigation strategies with national policies. The absence of explicit supervision and accountability mechanisms encourages a reactive and politicized approach to disaster management, one that depends heavily on local political priorities rather than uniform national legal norms.

A further dimension of institutional reconstruction lies in shifting disaster governance from a reactive to a preventive legal framework. Historically, Indonesia's disaster laws have been event-oriented, concentrating on emergency response and post-disaster recovery. A preventive legal approach requires the systematic incorporation of risk assessment and mitigation obligations across all levels of public administration. This would entail legally mandating ministries responsible for infrastructure, environmental protection, and spatial planning to consult BNPB prior to approving development projects in disaster-prone areas. Similarly, regional governments should be required to integrate disaster risk reduction indicators into their development planning, subject to review and approval by BNPB. Such reconstruction necessitates redefining inter-agency legal relationships by positioning BNPB as a supervisory authority whose decisions carry binding legal consequences. Through this transformation, disaster risk governance would be elevated from a purely administrative matter to a constitutional function, grounded in the state's obligation to protect life and welfare as guaranteed under Article 28A of the 1945 Constitution.

This legal transformation must also be accompanied by institutional redesign. BNPB should be restructured as a semi-autonomous national authority with statutory independence comparable to that of regulatory commissions. Its leadership should be appointed through transparent and accountable procedures, and its budgetary framework should be safeguarded from political volatility. Such autonomy would enable BNPB to operate on the basis of professional expertise and legal mandates rather than political expediency. Moreover, closer integration between BNPB's planning functions and the National Development Planning Agency (Bappenas) would ensure that disaster mitigation is embedded as a cross-sectoral legal obligation within the national development agenda. This integration would enhance regulatory coherence and reinforce the principle that disaster risk reduction is inseparable from sustainable development.

Ultimately, the reconstruction of BNPB's legal and institutional framework seeks to shift Indonesia's disaster governance paradigm from mere administrative coordination toward normative integration. By establishing disaster mitigation as a binding legal principle, strengthening regulatory and enforcement authority, and harmonizing overlapping legal regimes, Indonesia can institutionalize disaster resilience as a constitutional value. This shift aligns with the concept of preventive legality, whereby the law functions to anticipate and reduce risks rather than merely respond to their consequences. Such an approach is consistent

with the constitutional mandate to ensure citizens' rights to safety, welfare, and protection from natural hazards. Accordingly, reformulating BNPB's legal mandate represents not only an institutional adjustment but also a reaffirmation of the state's constitutional responsibility to protect its people through coherent, just, and forward-looking governance.

CONCLUSION

The reconstruction of the National Disaster Management Agency (BNPB) stands as an urgent juridical and institutional imperative within Indonesia's evolving system of disaster governance. Law No. 24 of 2007 and its derivative regulations have successfully institutionalized the concept of disaster management but remain doctrinally incomplete in embedding mitigation as a binding legal obligation. The agency's legal design as a coordinating body without clear supervisory or enforcement authority has rendered it reactive, fragmented, and heavily dependent on administrative discretion rather than legal certainty. This structural weakness, compounded by the challenges of decentralization and sectoral overlap, undermines Indonesia's constitutional commitment to protect its citizens' rights to safety and welfare. From a legal-analytical standpoint, reform must therefore transcend administrative adjustments and focus on the reconstruction of BNPB's legal authority as a normative and regulatory entity endowed with clear powers to issue technical standards, supervise subnational compliance, and integrate disaster mitigation into all sectors of governance.

Comparative analysis reveals that states with effective disaster governance—such as Japan, the Philippines, the United States, and Australia—share a set of legal features absent in Indonesia's framework: (1) comprehensive framework legislation that codifies risk reduction as a legal duty; (2) delegated authority for national disaster bodies to issue binding technical regulations; (3) fiscal mechanisms or conditional funding linking compliance with mitigation standards; and (4) legally formalized intergovernmental coordination protocols. These instruments ensure both vertical coherence between national and local levels and horizontal integration across sectors. Indonesia's BNPB, by contrast, operates within a fragmented statutory landscape in which mitigation remains largely policy-based, without the juridical force to compel integration into spatial, environmental, and development planning. Accordingly, legal reconstruction should not merely emulate foreign models but adapt their normative logics to Indonesia's constitutional and administrative realities, ensuring that decentralization coexists with enforceable national standards. In this regard, the reformation of Law No. 24 of 2007 should aim to transform BNPB into a semi-autonomous national authority possessing hybrid capacities—regulatory, coordinating, and supervisory—under direct presidential oversight. This would enable BNPB to issue binding regulations (*peraturan badan*), establish minimum mitigation standards, and ensure regional compliance through legal rather than discretionary mechanisms. Simultaneously, the statute should institutionalize fiscal linkages, requiring regional disaster agencies (BPBD) to allocate dedicated budgets for mitigation and conditioning central assistance on adherence to national standards. Such provisions would align Indonesia's disaster law with the Sendai Framework for Disaster Risk Reduction (2015–2030), which emphasizes governance, accountability, and legal coherence as prerequisites for resilience.

Ultimately, the reconstruction of BNPB represents not only a reform of administrative machinery but a legal rearticulation of the state's duty to prevent harm. It demands a transition from a model of reactive governance – where law intervenes after disaster strikes – to one of anticipatory legality, where law structures risk governance before catastrophe occurs.⁶ Embedding mitigation as a juridical obligation, empowering BNPB with enforceable regulatory authority, and harmonizing national and regional responsibilities will reconstitute disaster management as an integral component of Indonesia's rule-of-law framework. Such a transformation would institutionalize resilience as a constitutional value, reinforcing the principle that the protection of life, environment, and welfare from disaster is not merely an administrative policy but a fundamental expression of the state's legal responsibility.

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