



National Disaster Status under Emergency Constitutional Law: Central and Regional Government Authorities

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Abstrak: The determination of national disaster status raises legal issues concerning the legal basis and limits of presidential authority, the parameters for determining disaster status, and the distribution of authority between central and regional governments. Previous studies have examined disaster determination parameters and presidential authority, but have not yet integratively analyzed these three aspects from the perspective of emergency constitutional law. This study aims to analyze the legal basis and limits of presidential authority, the parameters for determining national disaster status, the distribution of authority between central and regional governments, and their conformity with the principles of emergency constitutional law. This study employs normative legal research using a statutory approach and a conceptual approach. The findings show that presidential authority has constitutional and legal foundations, but the parameters for determining disaster status do not yet establish objective and measurable weights, thresholds, or relationships among the relevant indicators. The relationship between central and regional governments reflects a layered distribution of authority, while the regulation of national disaster status only partially reflects the principles of emergency constitutional law, particularly necessity, proportionality, temporality, and accountability. The novelty of this study lies in integrating the analysis of disaster status determination parameters, limits on presidential discretion, and central–regional authority relations within a framework of constraints on governmental authority under emergency constitutional law.

Keywords: National Disaster; Presidential Authority; Disaster Determination Parameters; Central and Regional Governments; Emergency Constitutional Law.

INTRODUCTION

Indonesia is highly vulnerable to disasters due to its geographical and geological conditions, including earthquakes, tsunamis, floods, landslides, and volcanic eruptions (Zuhriana, 2024). In this context, the determination of national disaster status is of strategic importance because it determines the scale of governmental authority exercised in responding to a crisis, including resource mobilization, cross-sectoral coordination, and the implementation of special policies for disaster management. Such determination also has

implications for the distribution of authority between the central and regional governments, particularly when the scale of a disaster exceeds the response capacity at the regional level.

The problem is that Law Number 24 of 2007 on Disaster Management has established indicators for determining disaster status and levels, but has not translated them into clear, precise, and measurable parameters for determining when a disaster should be designated as a national disaster. This condition creates considerable room for discretion in determining the level of a disaster and the scale of governmental intervention (Katrino & Hidayat, 2025). The lack of clarity regarding these parameters concerns not only legal certainty in the determination of disaster status but also has implications for determining the appropriate level of governmental response and coordinating authority between the central and regional governments.

From the perspective of constitutional law, the determination of national disaster status concerns the exercise of state authority in responding to extraordinary circumstances. However, national disaster status under Law Number 24 of 2007 must be distinguished from a state of danger as regulated under Article 12 of the 1945 Constitution of the Republic of Indonesia. The disaster management regime has its own legal framework under Law Number 24 of 2007, which does not directly rely on Article 12 of the 1945 Constitution of the Republic of Indonesia as the legal basis for determining national disaster status. This is consistent with the finding that statutory emergency regulations do not necessarily rely on Article 12 of the 1945 Constitution of the Republic of Indonesia as their legal basis (Nurbaiti, 2024). Nevertheless, the exercise of special powers in disaster management remains relevant to be examined from the perspective of emergency constitutional law because it concerns the granting and limitation of executive authority in responding to extraordinary circumstances. This condition raises legal questions concerning the legal basis and limits of presidential authority in determining national disaster status, as well as the distribution of authority between the central and regional governments.

Law Number 24 of 2007 establishes five indicators for determining disaster status and levels, namely the number of casualties, property losses, damage to infrastructure and facilities, the geographical extent of the affected area, and the resulting socioeconomic impacts. However, these five indicators do not normatively establish the weights, thresholds, or relationships among the indicators that can be used to distinguish disaster levels, including determining when a disaster should be designated as a national disaster. The issue of the measurability of these parameters has been addressed in previous studies. This indicates that the indicators under Law Number 24 of 2007 have not yet been elaborated into detailed standards for categorizing disaster status and levels (Rifaldi, 2020).

This issue has acquired constitutional relevance through the judicial review of Article 7 paragraph (2) of Law Number 24 of 2007 before the Constitutional Court in 2025–2026, which, among other matters, challenged the clarity and measurability of the parameters for determining disaster status and levels (MKRI, 2026). This development demonstrates that the issue of parameters for determining disaster status is not merely an academic concern but has also become a legal issue subject to constitutional review.

Several previous studies have examined aspects related to the determination of national disaster status. Rifaldi identified problems in the regulation of parameters for determining disaster status and levels, as the indicators under Law Number 24 of 2007 had not been elaborated into detailed categorization standards (Rifaldi, 2020). Meanwhile, Marfuah and Lubis examined the constitutional authority of the President to determine national disaster status from the perspective of constitutional law and placed it within the framework of *executive emergency power*, which remains subject to the principles of legality, proportionality, temporality, and accountability (Marfuah & Lubis, 2025). Studies concerning the distribution of authority between central and regional governments have also demonstrated the existence

of a division of authority in disaster management. However, these studies have not yet integratively connected the measurability of national disaster status determination parameters, the limits of presidential discretion, and the distribution of authority between central and regional governments within the framework of emergency constitutional law. Consequently, it remains insufficiently explained how these three aspects form a mechanism for constraining and controlling presidential authority in determining national disaster status. This gap constitutes the focus of the present study.

The determination of disaster status as a form of response to an emergency situation is not solely concerned with the need to manage a crisis, but also with constraining governmental power so that the exercise of special powers remains within the framework of the Constitution and the rule of law (Ayuni et al., 2022). Within this framework, the issue of determining national disaster status concerns not only whether the President has the authority to make such a determination, but also whether that authority is subject to sufficient parameters to ensure that its exercise is genuinely necessary, proportionate, temporary, and accountable. Therefore, this study aims to analyze the legal basis and limits of presidential authority, the parameters for determining national disaster status, the distribution and allocation of authority between the central and regional governments, and the conformity of the legal framework governing national disaster status determination with the principles of emergency constitutional law.

Based on these objectives, the research questions are formulated as follows: (1) What are the constitutional basis and parameters of presidential authority to determine national disaster status from the perspective of emergency constitutional law? (2) How are authority and responsibilities distributed between the central and regional governments in determining national disaster status? and (3) To what extent does the legal framework governing the determination of national disaster status in Indonesia reflect the principles of emergency constitutional law?

RESEARCH METHOD

This study employs normative legal research using a statutory approach and a conceptual approach. The study focuses on the legal framework governing the determination of national disaster status, presidential authority, and the distribution of authority between central and regional governments from the perspective of emergency constitutional law (Efendi, 2021). The legal materials consist of primary legal materials, including the 1945 Constitution of the Republic of Indonesia, Law Number 24 of 2007 on Disaster Management, as well as other relevant laws and implementing regulations, and secondary legal materials consisting of relevant books, scholarly journal articles, research findings, and legal doctrines. The legal materials were obtained through library research and analyzed using qualitative juridical analysis through the interpretation and systematization of legal norms to examine presidential authority, the distribution of authority between central and regional governments, and the conformity of the legal framework governing national disaster status determination with the principles of emergency constitutional law.

DISCUSSION

Constitutional Basis and Parameters of Presidential Authority in Determining National Disaster Status

The determination of national disaster status constitutes part of the Government's authority in disaster management. Constitutionally, governmental power under Article 4 paragraph (1) of the 1945 Constitution of the Republic of Indonesia is vested in the President, while Article 12 grants the President the authority to declare a state of danger. However, the authority to determine national disaster status is not identical to the authority to declare a state of danger under Article 12. The determination of disaster status and level constitutes

governmental authority within the special legal framework of disaster management pursuant to Article 7 paragraph (1) letter c of Law Number 24 of 2007 on Disaster Management. Accordingly, presidential authority in the context of disasters must be situated within the legal framework of disaster management, which is distinct from the state-of-danger regime under Article 12 of the 1945 Constitution of the Republic of Indonesia.

Article 7 paragraph (2) of Law Number 24 of 2007 stipulates that the determination of national and regional disaster status and levels shall take into account five indicators, namely the number of casualties, property losses, damage to infrastructure and facilities, the geographical extent of the affected area, and the resulting socioeconomic impacts. Furthermore, Article 7 paragraph (3) mandates that further provisions concerning the determination of disaster status and levels be regulated by presidential regulation. Normatively, this provision demonstrates that the legislature has conferred authority upon the Government while simultaneously establishing the indicators that must be considered in determining disaster status and levels.

In contrast, Law Number 24 of 2007 also regulates disaster emergency status. Article 51 paragraph (1) stipulates that the determination of disaster emergency status shall be carried out by the Government according to the scale of the disaster, while paragraph (2) provides that emergency status at the national level is determined by the President, at the provincial level by the Governor, and at the regency/city level by the Regent or Mayor. This provision is further affirmed by Article 23 paragraph (2) of Government Regulation Number 21 of 2008, which provides that disaster emergency status at the national level is determined by the President, at the provincial level by the Governor, and at the regency/city level by the Regent or Mayor.

The distinction between disaster status and level, on the one hand, and disaster emergency status, on the other, is important in analyzing presidential authority. Article 7 of Law Number 24 of 2007 concerns the determination of disaster status and levels and establishes indicators that must be considered, whereas Article 51 and Government Regulation Number 21 of 2008 regulate the determination of emergency status and the allocation of authority based on governmental levels. Thus, the two are interconnected within the disaster management system but cannot be equated because they have different regulatory objects and legal consequences.

At the technical level, the National Disaster Management Agency has also issued Guidelines for the Determination of Disaster Emergency Status as a reference for determining emergency status and stages of disaster response. The guidelines provide technical elaboration concerning emergency preparedness, emergency response, and the transition from emergency response to recovery, including the determination of disaster emergency levels at the regency/city, provincial, and national levels. The existence of these guidelines demonstrates that the operational aspects of determining disaster emergency status have been subject to technical regulation. Nevertheless, these guidelines must be distinguished from the parameters for determining disaster status and levels as referred to in Article 7 of Law Number 24 of 2007. Accordingly, the existence of technical guidelines does not, by itself, resolve the issue of the weighting, thresholds, and interrelationships among the indicators that form the basis for determining whether a disaster should be classified as a national disaster.

The complexity of this legal framework becomes more apparent with the enactment of Presidential Regulation Number 17 of 2018 on Disaster Management in Certain Circumstances. The Presidential Regulation governs circumstances in which disaster emergency status has not yet been declared or has expired and/or has not been extended, but action is still required to reduce disaster risks and broader impacts. Under such circumstances, the National Disaster Management Agency is assigned authority to carry out disaster management activities.

Accordingly, at least three legal constructs must be distinguished: first, disaster status and levels as referred to in Article 7 of Law Number 24 of 2007; second, disaster emergency status as regulated under Article 51 of Law Number 24 of 2007 and Government Regulation Number 21 of 2008; and third, disaster management in Certain Circumstances as regulated by Presidential Regulation Number 17 of 2018. These three constructs are interconnected within disaster management, but each has a different legal basis, regulatory object, and mechanism of authority.

This distinction is important because the existence of regulations concerning disaster emergency status and Certain Circumstances cannot automatically be regarded as the direct implementation of the mandate contained in Article 7 paragraph (3) of Law Number 24 of 2007. Based on an examination of the relevant laws and regulations, no Presidential Regulation has been identified that specifically elaborates the weighting, thresholds, and interrelationships among the indicators under Article 7 paragraph (2) as operational parameters for determining disaster status and levels. Moreover, in 2015, the National Disaster Management Agency discussed the preparation of a draft Presidential Regulation concerning disaster status and levels and explicitly noted that the assessment at that time remained qualitative, including assessments concerning the number of casualties and losses that could serve as a basis for determining national disaster status (BNPB, 2015).

These findings indicate that the principal problem does not lie in the absence of indicators, but rather in the failure to transform those indicators into operational legal parameters. The five indicators under Article 7 paragraph (2) have been established by law, but the provision does not determine the weight of each indicator, the threshold that must be reached, or whether the indicators operate cumulatively or alternatively in distinguishing disaster levels. Consequently, the indicators function as a basis for consideration but do not yet constitute objective criteria capable, by themselves, of determining when a disaster must be designated as a national disaster. The assessment of disaster conditions therefore still requires consideration by the competent authority based on the overall circumstances involved.

This condition demonstrates the existence of a normative-operational gap between the authority granted by law and the parameters required to constrain the exercise of that authority. The issue is not merely the absence of guidelines for emergency response, since disaster emergency status and its response mechanisms have already been regulated through Law Number 24 of 2007 and Government Regulation Number 21 of 2008. Rather, the issue concerns the lack of clarity regarding how the five indicators under Article 7 paragraph (2) should be translated into criteria capable of objectively determining the level of a disaster. Consequently, considerable room for assessment remains in determining whether a disaster meets the characteristics required for designation at the national level.

The issue of the measurability of these parameters has gained constitutional relevance through the judicial review of Article 7 paragraph (2) of Law Number 24 of 2007 in Case Number 94/PUU-XXIV/2026 before the Constitutional Court. In that case, the Petitioners challenged the clarity and measurability of the parameters for determining disaster status and levels, including issues concerning the geographical scope of affected areas, recognition of psychological and psychosocial impacts, and the measurement of property losses. At the preliminary examination stage, the case was still under review and had not yet resulted in a judgment that could serve as a basis for conclusions concerning the constitutionality of the provision. Accordingly, this development is positioned in this study as current confirmation of the existence of a legal issue concerning the parameters for determining disaster status, rather than as an argument based on a final judgment of the Constitutional Court.

From the perspective of emergency constitutional law, the existence of authority in a crisis situation does not imply unlimited governmental power. The exercise of special powers must have a legal basis, be directed toward an actual necessity, be proportionate to the

circumstances faced, be temporary in nature, and be subject to accountability through oversight mechanisms. Within this framework, presidential authority to determine disaster emergency status at the national level may be analyzed as an exercise of executive authority in a crisis situation that remains subject to the principle of limited government power. Accordingly, the legal issue concerns not only whether the President possesses the authority to determine national-level status, but also whether sufficient parameters are available to constrain the exercise of such authority.

Within this framework, the five indicators under Article 7 paragraph (2) may be regarded as an initial basis for assessing the need to determine the level of a disaster, but they do not yet fully function as parameters for constraining executive discretion. The absence of weighting, thresholds, and clear interrelationships among the indicators causes the assessment of disaster levels to remain highly dependent on the judgment of the competent authority. This condition is significant from the perspective of emergency constitutional law because the greater the authority that may be exercised during a crisis, the stronger the need for parameters capable of explaining and justifying the basis for exercising such authority.

Accordingly, the President's authority in national-level disaster management is essentially already established, both through the President's general governmental authority and through the specific provisions of Law Number 24 of 2007. However, a distinction must be made between the authority to determine disaster status and levels under Article 7 and the authority to determine disaster emergency status at the national level under Article 51. The more fundamental issue lies in the gap between the authority established normatively and the parameters that constrain its exercise. The five indicators have been established, but they have not yet been elaborated into weighting, thresholds, and interrelationships that can serve as objective criteria for determining disaster levels. At the same time, disaster status and levels, disaster emergency status, and Certain Circumstances constitute distinct legal constructs and cannot be equated. These findings demonstrate that the principal problem within the national disaster status regime is not a *legal vacuum*, but rather the insufficient operationalization of parameters and constraints on executive discretion in the exercise of such authority.

Relations and Allocation of Authority between Central and Regional Governments in Determining National Disaster Status

Disaster management within the Indonesian legal system is not solely the authority of the central government but also constitutes a responsibility and authority of regional governments. Law Number 24 of 2007 on Disaster Management places both the Government and Regional Governments as entities vested with responsibilities and authorities in disaster management. Article 8 regulates the responsibilities of regional governments, while Article 9 regulates their authority in disaster management. These responsibilities include, among others, fulfilling the rights of affected communities and displaced persons, protecting communities, reducing disaster risks, and allocating disaster management funds through regional budgets. This framework demonstrates that disaster management has, from the outset, been structured through a division of authority between the central and regional governments rather than through the concentration of all authority at the central level.

The division of authority is also reflected in the institutional structure of disaster management. At the national level, the National Disaster Management Agency is established as the institution responsible for carrying out disaster management functions, while at the regional level, disaster management is carried out through Regional Disaster Management Agencies. The existence of the National Disaster Management Agency at the national level therefore does not eliminate the functions and responsibilities of regional governments in managing disasters within their respective territories. This is consistent with Article 9 of Law

Number 24 of 2007, which specifically grants regional governments authority in disaster management.

The division of authority is also related to the legal regime governing regional government. Law Number 23 of 2014 on Regional Government places the administration of regional governmental affairs within a framework for the allocation of governmental affairs between the central and regional governments. At the level of basic public services, Government Regulation Number 2 of 2018 and Regulation of the Minister of Home Affairs Number 101 of 2018 provide a framework for minimum service standards, including technical standards for basic services in the disaster sub-sector at the regency/city level. Accordingly, the determination of disaster status at the national level does not, by itself, eliminate the responsibility of regional governments to provide public services within their respective territories.

In the context of disaster emergency status, the allocation of authority is determined according to the level of the emergency. Article 51 of Law Number 24 of 2007 provides that the determination of disaster emergency status shall be carried out according to the scale of the disaster, while further provisions concerning the national, provincial, and regency/city levels are set out in Government Regulation Number 21 of 2008. Under this framework, disaster emergency status at the national level is determined by the President, at the provincial level by the Governor, and at the regency/city level by the Regent or Mayor.

This provision demonstrates an allocation of authority for determining emergency status according to the level of the disaster. The President has the authority to determine disaster emergency status at the national level, while regional heads have the authority to determine emergency status according to their respective territorial levels. This allocation must be distinguished from the authority to determine disaster status and levels under Article 7 of Law Number 24 of 2007, as analyzed in the first research question. Accordingly, the authority to determine disaster emergency status and the authority to determine disaster status and levels cannot be treated as a single legal construct.

However, the determination of disaster emergency status at the national level does not mean that all disaster management authority in the regions is transferred to the central government. Regional governments retain their responsibilities and authorities derived from Law Number 24 of 2007, including the protection of communities and the provision of basic public services. Accordingly, the relationship between the central and regional governments during an emergency is more appropriately understood as a layered allocation of authority, whereby the national level possesses the authority to determine status and coordinate disaster response according to the scale of the disaster, while the authorities and responsibilities of regional governments continue to operate in accordance with applicable laws and regulations.

At the operational level, this relationship is supported by mechanisms for emergency disaster response. Regulation of the Head of the National Disaster Management Agency Number 3 of 2016 specifically regulates the Disaster Emergency Management Command System, including its command structure and mechanisms for emergency response. This regulation constitutes one of the operational instruments supporting disaster emergency management. Thus, from a normative perspective, instruments for establishing coordination and command systems during disaster emergencies are already available. The issue of central-regional relations should therefore not be understood merely as the absence of command mechanisms, but rather in terms of how such authorities are exercised in a coordinated manner when the central and regional governments are simultaneously involved.

In addition to the regimes governing disaster emergency status and command systems, disaster management law also recognizes the legal construct of Certain Circumstances. Presidential Regulation Number 17 of 2018 provides the legal basis for disaster management in Certain Circumstances, which is further elaborated through National Disaster Management

Agency Regulation Number 5 of 2018 on the Conditions and Procedures for Implementing Disaster Management in Certain Circumstances. This National Disaster Management Agency regulation specifically governs the conditions and procedures for conducting disaster management under Certain Circumstances.

The existence of these regimes demonstrates that disaster management is not governed by a single legal construct but consists of several regimes regulating different aspects, namely disaster status and levels, disaster emergency status, the disaster emergency management command system, and Certain Circumstances. Each regime has a distinct legal basis and mechanism for allocating authority.

This fragmentation of regulation is significant in understanding the relationship between central and regional governmental authority. Normatively, the respective authorities of each level of government have been established through various regulations. However, the distribution of provisions across several legal regimes may create coordination challenges when the determination of status, response coordination, command systems, disaster management operations, and the provision of basic public services must be carried out simultaneously. In other words, the principal issue is not necessarily a legal vacuum, but rather the need to harmonize the implementation of various authorities within a single disaster situation.

Accordingly, a distinction exists between the normative design and the challenges of implementation. Normatively, Indonesian law has allocated authority between the central and regional governments and provided coordination and command mechanisms for disaster emergency management. At the implementation level, however, challenges arise when these authorities must be exercised simultaneously in situations requiring rapid decision-making, cross-regional resource mobilization, and the continued provision of public services at the regional level. Therefore, the effectiveness of central-regional relations is determined not only by the normative allocation of authority but also by the clarity of coordination and the harmonization of its implementation.

From the perspective of emergency constitutional law, this relationship must balance the need for national leadership with the principle of the distribution of governmental authority. Strengthening coordination and capacity at the national level is necessary when the scale of a disaster requires the mobilization of resources beyond the capacity of regional governments. However, such strengthening cannot be interpreted as eliminating the authority of regional governments derived from law. Therefore, emergency management requires a framework of authority that clearly distinguishes between the authority to determine status, the authority to coordinate and command disaster response, and the responsibility of regional governments to provide public services to their communities.

Based on this framework, the relationship between central and regional governments in Indonesian disaster management demonstrates a layered model of authority. The President has the authority to determine disaster emergency status at the national level; the National Disaster Management Agency performs disaster management functions and operates the disaster emergency command system within its authority; while regional governments and Regional Disaster Management Agencies retain their respective authorities and responsibilities in disaster management and in providing public services within their territories. The findings in this section demonstrate that the principal issue in central-regional relations does not lie in the absence of a legal basis for authority, but rather in the fragmentation of regulations and the need to harmonize the implementation of authority concerning status determination, national-level coordination and command, and the responsibilities of regional governments.

Regulation of National Disaster Status Determination from the Perspective of Emergency Constitutional Law

Emergency Constitutional Law provides a framework for assessing the exercise of special state powers in responding to crises that require measures beyond ordinary governmental mechanisms. Nevertheless, emergency powers do not constitute unlimited powers. Their exercise must be constrained by principles ensuring that such powers are based on genuine necessity, correspond to the level of threat, remain temporary, and are subject to accountability. In their study of emergency powers in disaster management in Indonesia, Ayuni, Febriyanto, and Widyastanti identify the principles of *necessity*, *proportionality*, and *temporality* as important considerations in assessing the exercise of emergency powers, while also highlighting issues of oversight and accountability in disaster management (Ayuni et al., 2025).

Within the Indonesian legal system, Article 12 of the 1945 Constitution of the Republic of Indonesia regulates a state of danger as one of the constitutional constructs of emergency, while Law Number 24 of 2007 establishes a specific legal regime for disaster management. Therefore, national disaster status under Law Number 24 of 2007 cannot simply be equated with a state of danger under Article 12 of the 1945 Constitution of the Republic of Indonesia. Nevertheless, the exercise of governmental powers in disaster situations remains relevant to be analyzed from the perspective of Emergency Constitutional Law, particularly with regard to limitations on executive power. In their study of the President's constitutional authority to determine national disaster status, Marfuah and Lubis characterize such authority as an *executive emergency power* that remains subject to the principles of legality, proportionality, temporariness, and accountability (Marfuah & Lubis, 2025).

a. The Principle of *Necessity*

The principle of *necessity* requires special powers to be exercised only when the circumstances genuinely require measures that cannot be adequately addressed through ordinary governmental mechanisms. In the context of determining disaster status and level, Law Number 24 of 2007 establishes five indicators: the number of casualties, property losses, damage to infrastructure and facilities, the extent of the affected area, and the resulting socioeconomic impacts.

The existence of these five indicators demonstrates that the legislature has linked the determination of disaster status and level to the factual conditions faced. However, as identified in the discussion of the first research question, these indicators have not been complemented by weighting, thresholds, or relationships among the indicators that determine when a disaster should be classified at the national level.

This condition is significant from the perspective of *necessity*. The five available indicators may serve as a basis for assessing the factual conditions of a disaster, but they do not yet provide an objective measure of when such conditions have reached a level requiring the determination of national disaster status. Thus, the principle of *necessity* is reflected through the existence of normative indicators, but has not yet been fully translated into operational parameters capable of limiting the discretion of the competent authority.

This finding is consistent with the study by Ayuni et al., which identifies *necessity* as one of the principles governing the exercise of *emergency powers* in disaster management. The study demonstrates the importance of limiting the circumstances that may serve as a basis for exercising emergency powers so that their use does not depend entirely on executive assessment (Ayuni et al., 2025).

Accordingly, from the perspective of *necessity*, the principal issue is not the absence of indicators concerning disaster conditions, but rather the absence of parameters that

transform those indicators into an objective measure of the need to determine disaster status at the national level.

b. The Principle of *Proportionality*

The principle of *proportionality* requires a correspondence between the level of threat, the objectives to be achieved, and the powers or measures exercised by the government in responding to an emergency. In the context of disaster management, this principle is relevant for assessing whether the exercise of authority at the national level corresponds to the scale and characteristics of the disaster concerned.

Law Number 24 of 2007 establishes disaster management based on disaster status and level. Likewise, the regulation of disaster emergency status under Government Regulation Number 21 of 2008 distinguishes between national, provincial, and regency/city levels. This hierarchical structure demonstrates an effort to align the implementation of disaster management with the scale of the disaster concerned.

However, the problem lies in the absence of operational criteria linking the level of disaster impact to the level of government intervention required. The five indicators under Article 7 paragraph (2) of Law Number 24 of 2007 do not specify when particular levels of casualties, losses, damage, affected areas, or socioeconomic impacts require an escalation of the governmental response from the regional to the national level.

From the perspective of *proportionality*, this condition indicates that the principle of proportionality is structurally reflected through the classification of disaster management levels, but has not yet been fully supported by parameters that enable an objective assessment of the correspondence between the severity of a disaster and the level of government intervention required. Ayuni et al. likewise identify *proportionality* as one of the principles that should be considered in the exercise of *emergency powers* in disaster management (Ayuni et al., 2025).

Accordingly, the issue of proportionality in determining national disaster status does not primarily concern the absence of a division of authority according to different levels, but rather the lack of clarity regarding the relationship between the severity of disaster impacts and the level of government intervention required.

c. The Principle of *Temporality*

The principle of *temporality* emphasizes that emergency powers are inherently temporary and may be exercised only for as long as the circumstances underlying their exercise continue to exist. Within the disaster management regime, Government Regulation Number 21 of 2008 recognizes stages of emergency conditions consisting of emergency preparedness, emergency response, and transition from emergency response to recovery. Accordingly, disaster emergency management already incorporates a temporal dimension and stages of implementation.

However, these provisions must be distinguished from the mechanism for determining disaster status and level as referred to in Article 7 of Law Number 24 of 2007. The provisions concerning stages of emergency conditions do not specifically establish the relationship between the duration of an emergency and the evaluation and termination of disaster status and level as referred to in Article 7.

Accordingly, the issue of *temporality* in this study does not mean that Indonesian law entirely fails to regulate the duration of an emergency. Rather, the issue concerns the lack of clarity regarding the relationship between the temporal mechanism governing disaster emergency status and the mechanisms for evaluating and terminating national disaster status.

This finding should be considered in light of the study by Ayuni et al., which finds that the regulation of disaster emergencies in Indonesia continues to face issues concerning the duration of emergency status and its extension. The study also demonstrates the limited role of legislative institutions in the extension and termination of emergency status (Ayuni et al., 2025).

Thus, the principle of *temporality* has been incorporated into the regulatory regime governing disaster emergency status, but has not yet been clearly integrated with the mechanisms for evaluating and terminating disaster status and level at the national level as referred to in Article 7 of Law Number 24 of 2007.

d. The Principles of *Accountability* and *Checks and Balances*

The exercise of emergency powers also requires *accountability* and *checks and balances* to ensure that the special powers granted to the government remain subject to accountability and do not develop into uncontrolled powers. In the context of disaster management, this issue concerns the broad range of measures that may be undertaken by the government during an emergency, including the mobilization of resources, the use of public funds, and the provision of administrative facilities in emergency response operations.

Ayuni et al. find that disaster emergency governance in Indonesia is characterized by the limited role of legislative institutions in determining, extending, and terminating emergency status, as well as weaknesses in oversight of actions undertaken during emergencies. The study also emphasizes the importance of strengthening the legislative role, clarifying oversight and budgetary authority, and regulating the duration and extension of emergency status to strengthen accountability (Ayuni et al., 2025).

This perspective is further supported by Najib's study on constitutional control over *emergency powers* within Indonesia's presidential system. Najib demonstrates that Indonesia's *emergency powers* framework continues to face challenges concerning the clarity of emergency standards, time limits, institutional oversight, and the termination of emergency measures. The study emphasizes the importance of legislative involvement, temporal limitations, and judicial review as mechanisms for constraining executive discretion during emergencies (Najib, 2026).

However, Najib's findings primarily concern the construction of *emergency powers* from the perspective of Article 12 of the 1945 Constitution of the Republic of Indonesia and do not specifically examine the parameters for determining national disaster status under Article 7 of Law Number 24 of 2007. Therefore, these findings are not used to argue that oversight mechanisms concerning the determination of national disaster status are unavailable, but rather as a conceptual framework for assessing the need to limit and oversee executive authority in crisis situations.

In the context of determining national disaster status, *accountability* requires that such a decision be traceable to its legal basis, the factual circumstances confronted, the indicators employed, the reasons demonstrating the necessity of the determination, and the legal consequences arising from the exercise of the relevant authority. Where the parameters for determining disaster status are not objective and measurable, oversight of such decisions also becomes more difficult because the standards for assessing whether a decision is necessary and proportionate have not been adequately established.

Accordingly, certainty regarding the parameters for determining disaster status is not merely a matter of legal certainty, but also constitutes one of the prerequisites for effective *accountability* and *checks and balances* over the exercise of executive authority.

e. Assessment of the Regulatory Framework from the Perspective of Emergency Constitutional Law

Based on the foregoing analysis, the Indonesian regulatory framework governing the determination of national disaster status reflects some of the principles of Emergency Constitutional Law. The principle of *necessity* is reflected in the existence of indicators concerning disaster conditions under Article 7 paragraph (2) of Law Number 24 of 2007. The principle of *proportionality* is reflected in the classification of disaster management levels according to the scale of the disaster. The principle of *temporality* is reflected in the regulation of stages of disaster emergency status. Meanwhile, *accountability* and *checks and balances* may be examined through various mechanisms of administrative oversight, legislative oversight, public financial management, and controls over governmental actions.

However, the application of these principles has not yet been fully supported by an operational legal framework. With regard to *necessity*, the five indicators lack objective weighting and thresholds. With regard to *proportionality*, there are no clear criteria linking the severity of disaster impacts to the level of government intervention required. With regard to *temporality*, provisions concerning the stages of disaster emergencies are already available, but their relationship with the evaluation and termination of national disaster status remains unclear. Meanwhile, with regard to *accountability* and *checks and balances*, various oversight mechanisms are generally available, but their effectiveness in reviewing decisions to determine national disaster status is affected by the lack of clear parameters underlying such decisions.

The issue of measurable parameters has acquired contemporary relevance through Case Number 94/PUU-XXIV/2026 before the Constitutional Court. In that case, Article 7 paragraph (2) of Law Number 24 of 2007 was challenged in relation to the clarity and measurability of the parameters for determining disaster status and level. Because the case is treated in this study as a legal development at the examination stage and not on the basis of a final judgment, its existence cannot be used to conclude that the provision has been declared unconstitutional. Rather, the case is more appropriately regarded as confirmation that the issue of measurable parameters for determining disaster status and level has received attention within the constitutional review process.

Accordingly, the Indonesian regulatory framework governing the determination of national disaster status only partially reflects the principles of Emergency Constitutional Law. The legal basis of authority, determination indicators, distribution of governmental authority, and stages of disaster emergencies have been established. Nevertheless, the regulatory framework does not yet fully provide objective and measurable parameters linking disaster conditions to the necessity of determining national status, the level of government intervention, the temporal limits on the exercise of authority, and mechanisms of accountability.

The findings of this study demonstrate that the principal problem within the regime governing national disaster status does not lie in the absence of authority to act in crisis situations, but rather in the lack of integration among determination parameters, limitations on executive discretion, temporal constraints, and accountability mechanisms within a coherent legal framework. Accordingly, strengthening the legal framework should not be limited to granting the President the authority to act swiftly in disaster situations. It must also ensure that such authority is grounded in a clearly established necessity (*necessity*), corresponds to the level of threat (*proportionality*), is limited by the circumstances and duration of the emergency (*temporality*), and remains subject to oversight and accountability (*accountability* and *checks and balances*).

CONCLUSION

Based on the findings of the study, first, the authority to determine the status and level of disasters under Law Number 24 of 2007 has a clear legal basis; however, the parameters for such determination are not yet objective and measurable. The five indicators under Article 7 paragraph (2), namely the number of casualties, property losses, damage to infrastructure and facilities, the geographical extent of the affected area, and the resulting socioeconomic impacts, are not accompanied by specific weights, thresholds, or relationships among the indicators that determine when a disaster should be classified as a national disaster. This condition leaves considerable room for assessment by the competent authorities.

Second, the relationship between central and regional government authorities in disaster management demonstrates a layered distribution of authority. The President has the authority to declare a state of disaster emergency at the national level, while regional governments retain their responsibilities and authorities in disaster management and the provision of public services. Accordingly, the declaration of a national disaster emergency does not eliminate the authority of regional governments. The main issue requiring further strengthening is the harmonization of the exercise of these authorities, particularly with regard to coordination, command systems, resource mobilization, and the continuity of public services.

Third, from the perspective of emergency constitutional law, the regulation governing the determination of national disaster status reflects the principles of *necessity*, *proportionality*, *temporality*, *accountability*, and *checks and balances*, but not yet in a comprehensive manner. The principle of *necessity* is reflected in the disaster indicators, *proportionality* in the classification of disaster levels, and *temporality* in the stages of the state of disaster emergency. However, these principles are not yet supported by sufficiently operational parameters to establish a clear relationship between disaster conditions, the level of government intervention, temporal limitations, and accountability mechanisms. Thus, the fundamental problem lies not in the absence of authority, but in the lack of integration among determination parameters, limitations on executive discretion, temporal restrictions, and accountability mechanisms within a coherent legal framework.

Recommendations

The legislature should clarify the parameters for determining the status and level of disasters by establishing more objective and measurable criteria, including specific weights, thresholds, and relationships among the indicators. Such regulation should be harmonized with the provisions governing states of disaster emergency, command systems, and the distribution of authority between central and regional governments, so that national-level disaster management can ensure a rapid response without eliminating the responsibilities of regional governments.

In addition, the disaster management framework should strengthen mechanisms for the evaluation, extension, and termination of states of disaster emergency, as well as oversight of the exercise of governmental authority and the use of disaster-management funds. Such strengthening is necessary to ensure that the principles of *necessity*, *proportionality*, *temporality*, and *accountability* are not merely theoretical principles within emergency constitutional law, but can be applied operationally in the determination and implementation of national disaster status.

Limitations

This study has several limitations. First, it employs a normative legal approach and therefore focuses on the analysis of legislation, policy documents, and legal literature, without empirically examining the decision-making processes and implementation of national disaster status determination in practice. Second, the study does not examine in depth the political,

administrative, and institutional dynamics that may influence the exercise of authority in determining disaster status. Third, the dynamic development of disaster management regulations and policies may affect the legal framework analyzed in this study. Therefore, future research may broaden the analysis through an empirical approach to examine the application of disaster status determination parameters, decision-making mechanisms, and the relationship between central and regional government authorities in the practice of determining and managing national disasters.

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