
Legal Protection of Internally Displaced Persons due to Climate Change Disaster in Indonesia*

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Indonesia is a disaster-prone archipelagic country and one of the world's largest emitters. Climate change has increased the risk of disasters in Indonesia, such as rising sea levels leading to floods. This is undoubtedly a threat to the Indonesian population in coastal areas and small islands. They will be forced to become Internally Displaced Persons (IDPs) if sea levels continue to rise and drown their houses. The number of IDPs in Indonesia has increased significantly in recent years. While IDPs have a legal status and are entitled to protection from the state, there is unfortunately no specific provision for IDPs due to climate disasters in Indonesia. This article examines the legal protection afforded to IDPs in Indonesia as a result of climate-related disasters; deals with the existing legal framework for IDPs; and assesses its adequacy in addressing the specific challenges faced by climate-related IDPs.

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I. Introduction

A state is the most responsible party with absolute sovereignty in managing disasters in its territory based on the principle of state responsibility.¹ Climate change has increased the risk of disasters. Disasters caused by climate change are often referred to as a socio-natural disaster.² The term is used for the circumstances where human activities increase the occurrence of certain hazards beyond their natural probabilities. So, it can be said that climate change is not only a natural phenomenon, but also the result of human actions.³ Landslides, floods, subsidence, and droughts are the disasters associated with climate change. Climate change is the ultimate price of society for decades of environmental neglect.⁴

According to a major news report by the World Meteorological Organisation (WMO), the number of recorded disasters has quintupled over the past 50 years, partly due to human-induced climate change and more extreme weather.⁵ Climate change disaster occurred every day on average over the past 50 years – killing 115 people and causing USD 202 million in losses daily.⁶ From 1970 to 2019, weather, climate, and water hazards accounted for 50% of all disasters, 45% of all reported

¹ UNDRR, What is the Sendai Framework for Disaster Risk Reduction?, <https://www.undrr.org/implementing-sendai-framework/what-sendai-framework>.

² Emmanuel Raju, Emily Boyd & Friederike Otto, *Stop Blaming the Climate for Disaster*, 3(1) J. COMM'N EARTH ENVTL. 1-3 (2022).

³ Renee Cho, *How We Know Today's Climate Change Is Not Natural*, STATE PLANET (Apr. 4, 2017), <https://news.climate.columbia.edu/2017/04/04/how-we-know-climate-change-is-not-natural>. See also Natalia Puspita, *Good Governance and Flood Management*, in URBAN CLIMATE RESILIENCE: THE ROLE OF LAW 177 (Angela van der Berg & Jonathan Verschuuren eds., 2022).

⁴ Vinod Thomas, CLIMATE CHANGE AND NATURAL DISASTERS: TRANSFORMING ECONOMIES AND POLICIES FOR A SUSTAINABLE FUTURE xvii (2017).

⁵ UNDP, Amid Rising Climate Change Disaster Risks, EU-UN Initiative Helps the African, the Caribbean and Pacific Countries Better Prevent and Recover from Disasters (Nov. 28, 2022), <https://www.undp.org/european-union/news/amid-rising-climate-change-disaster-risks-eu-un-initiative-helps-african-caribbean-and-pacific-countries-better-prevent-and>.

⁶ WMO, Weather-related Disasters Increase Over Past 50 Years, Causing More Damage but Fewer Deaths (Aug. 31, 2021), <https://public.wmo.int/en/media/press-release/weather-related-disasters-increase-over-past-50-years-causing-more-damage-fewer>.

deaths, and 74% of all reported economic losses.⁷ More than 91% of these deaths occurred in developing countries.⁸ Of the top 10 disasters, the hazards that led to the largest human losses during the period have been droughts (650,000 deaths), storms (577,232 deaths), floods (58,700 deaths), and extreme temperature (55,736 deaths).⁹

In 2022, there were 10 climate change disasters that caused more than USD 3 billion worth of damage each.¹⁰ Besides causing a worth of damage, in 2022, disasters related to climate change also caused the largest human losses. These were: drought in the Horn of Africa (which has impacted 36 million people), flood in West Africa, (which killed more than 600 people and displaced 1.3 million people), cyclone Sitrang in Bangladesh (which killed 35 people and displaced one million people), tropical storm Nalgae in the Philippines (which killed 162 people and displaced 850,000 people), flood in Malaysia (which killed 54 people and displaced 70,000 people), flood in Brazil (which killed 231 people and displaced 1,400 people), storm in Southeast Africa (killed 366 people), heat wave in India and Pakistan (killed at least 90 people), wildfire in Tierra del Fuego Chile, and heat wave in the Arctic and Antarctica.¹¹

Disasters often lead to displacement. Refugees within one country's jurisdiction are referred to as Internally Displaced Persons (IDPs).¹² IDPs are distinguished from refugees based on the 1951 Refugee Convention and the 1967 Protocol.¹³ IDPs are not protected by international law because they are legally under the protection of their own government. Among the total of 60.9 million new internal displacements registered in 2022, 53% were triggered by disasters.¹⁴ As of 31 December 2022, at least 8.7 million people in 88 countries and territories were living in internal displacement as a result of disasters that happened not only in 2022, but also in the previous years.¹⁵ This is a 45% increase in the total number of IDPs due to disasters compared to 2021.¹⁶

Climate change disasters often result in permanent loss of shelter and livelihoods for the affected population. Migration of residents due to climate change disasters to other places within one region of the country can also lead to conflicts with residents

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Olivia Rosane, *10 Costliest Climate Disasters of 2022*, WORLD ECON. F. (Jan. 5, 2023), <https://www.weforum.org/agenda/2023/01/10-costliest-climate-disasters-of-2022>.

¹¹ *Id.*

¹² UNHCR, *Internally Displaced People*, <https://www.unhcr.org/internally-displaced-people.html>.

¹³ UNHCR, *Who is a Refugee?*, <https://www.unrefugees.org/refugee-facts/what-is-a-refugee>.

¹⁴ IDMC, *Global Report on Internal Displacement 2023*, at 3-9, <https://www.internal-displacement.org/global-report/grid2023>.

¹⁵ *Id.*

¹⁶ *Id.*

visiting. The Intergovernmental Panel on Climate Change (IPCC) projects that more than one billion people globally could be exposed to coastal-specific climate hazards by 2050, potentially driving tens to hundreds of millions of people to leave their home in coming decades.¹⁷

IDPs due to climate change disaster have the same legal status as citizens who are not displaced or nationals of the areas they came to. Therefore, they have the same rights and obligations as citizens of the country concerned. In case of disaster, the understanding and fulfillment of human rights for disaster victims, especially IDPs, is often overlooked and has not been given top priority. IDPs are humans who are suffering physically and spiritually.¹⁸ Therefore, IDPs due to climate change disasters need not only material assistance, but also protection related to the fulfillment of their human rights and environmental justice.¹⁹

Indonesia is a disaster-prone country and one of the five largest emitting countries in the world.²⁰ The 2018 Special Report of the IPCC states that more countries' commitment to achieving greenhouse gas (GHG) emissions with a target of 2 degrees Celsius is needed to avoid climate disaster.²¹ The impact will be more severe for countries in the southern hemisphere, including Indonesia.²² Indonesia's geographical condition is very vulnerable to extreme climate change and sea level rise. With the second longest coastline in the world and tens of millions of people living on the coast and small islands, the risk is multiplied.²³ Projections from Climate Central even state that at least 23 million people in Indonesia will be directly affected and forced to become internal refugees if the sea level rise reaches 0.6-2 meters at the end of the century.²⁴

The threat of disaster due to climate change was experienced by Indonesians living on Pari Island, the Thousand Islands, in 2020. They are hit by tidal floods twice a year,

¹⁷ IOM Global Data Institute Thematic Brief #1: Evidence Summary on Climate Change and the Future of Human Mobility (2022), at 3, <https://www.migrationdataportal.org/resource/iom-global-data-institute-brief-climate-change-and-mobility>.

¹⁸ KOESPARMONO IRSAN, INTERNALLY DISPLACED PERSONS AND HUMAN RIGHTS LAW [Koesparmono Irsan, Pengungsi Internal Dan Hukum Hak Asasi Manusia] 3 (2007), <https://www.komnasham.go.id/files/20100305-pengungsi-internal-dan-STFA7H.pdf>.

¹⁹ *Id.*

²⁰ Annissa Mutia, *10 Biggest Carbon Emitting Countries in the World, There's Indonesia* [10 Negara Penyumbang Emisi Karbon Terbesar di Dunia, Ada Indonesia], DATABOKS (Oct. 11, 2022), <https://databoks.katadata.co.id/datapublish/2022/11/10/10-negara-penyumbang-emisi-karbon-terbesar-di-dunia-ada-indonesia>.

²¹ *See Five Year Paris Agreement: Indonesia's Climate Policy Is Not Serious* [Lima Tahun Perjanjian Paris: Kebijakan Iklim Indonesia tidak Serius dan Ambisius], WALHI (Dec. 13, 2020), <https://www.walhi.or.id/lima-tahun-perjanjian-paris-kebijakan-iklim-indonesia-tidak-serius-dan-ambisius>.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

which has yet to happen in the last 65 years.²⁵ In early 2020, WALHI (Indonesian Forum for Environment) also reported that Betet Island and Gundul Island, in Banyuasin Regency, had sunk 1 and 3 meters below sea level, respectively.²⁶ Losses of property and even lives continue to haunt the Indonesian people who live in coastal areas and small islands due to climate change. They are forced to move places or flee to save their lives from the threat of climate disasters. The Government of Indonesia is responsible for protecting the IDPs due to climate change disasters, considering that the climate change disasters that occur in Indonesia are increasing daily. Legal protection pays attention to the fulfillment of human rights and environment justice. The more prepared and resilient a country is to the impacts of climate change, the fewer climate change disasters occur in that country, and of course, the more evacuation happens.

Against this background, this research aims to discuss Indonesia's legal protection for IDPs due to climate disasters. This article examines the legal protection of IDPs in Indonesia as a consequence of climate change disasters. It explores the existing legal and policy frameworks, identifies gaps and challenges, and suggests potential solutions to ensure comprehensive protection for IDPs. This article is composed of six parts including Introduction and Conclusion. Part two will analyze climate change disaster and IDPs in Indonesia. Part three will discuss international legal framework for the protection of IDPs due to climate change disaster. Part four will examine Indonesian legal policies related to the protection of IDPs due to climate change disaster. Part five will go over the application of Indonesian legal policy in the protection of IDPs due to climate change disaster in Indonesia.

II. Climate Change Disasters and Internally Displaced Persons in Indonesia

A. Climate Change and Disaster

Climate change is defined by the Intergovernmental Panel on Climate Change as “any change in the climate over time, whether due to natural variability or [...] human activity.”²⁷ However, the United Nations Framework Convention on Climate

²⁵ See *The Impact of Climate Change, Pari Island Experiences Rob Floods Twice a Year* [Dampak Perubahan Iklim, Pulau Pari Alami Banjir Rob Dua Kali Setahun], WALHI (Nov. 18, 2020), <https://www.walhi.or.id/dampak-perubahan-iklim-pulau-pari-alami-banjir-rob-dua-kali-setahun>.

²⁶ *Supra* note 21.

²⁷ IPCC, *Summary for Policymakers*, in CONTRIBUTION OF WORKING GROUP II TO THE FOURTH ASSESSMENT REPORT OF THE

Change (UNFCCC) focuses specifically on climate change that is “attributed directly or indirectly to human activity” and is “in addition to natural climate variability.”²⁸

Climate change is not a normal natural phenomenon, but occurs for human actions.²⁹ Human actions are estimated to be causing the planet's climate to change 170 times faster than natural forces.³⁰ Scientists recently found that 45% of all potential ecological collapses are interrelated and could reinforce one another. In other words, exceeding the tipping points in one system can increase the risk of crossing them in others.³¹ The UN Trust Fund for Human Security (UNTFHS) stated that: “climate change’s influence is significant to extreme weather causing disasters such as floods, droughts, forest fires, and hot waves. Climate change has caused a decline in environmental quality.”³²

The impacts of climate change can also cause conflicts between individuals, groups, or between countries. The World Resources International (WRI) in Africa stated that there has been a conflict over clean water as the impact of climate change.³³ It has sparked the conflict, social unrest, and migration.³⁴ Climate change is a serious risk to the increase of poverty and could undo decades of development efforts.³⁵ While climate change is global, its negative impacts are more severely felt by poor people and developing countries. They are more vulnerable because of their high dependence on natural resources and limited capacity to cope with climate variability and extremes.³⁶

The frequency of climate change and its impacts are currently at a worrying and detrimental level for some significant communities around the world. The UN also

INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE 21 (S. Solomon et al. eds, 2007), <https://www.ipcc.ch/site/assets/uploads/2018/02/ar4-wg1-spm-1.pdf>.

²⁸ UNFCCC art. 1, ¶2, https://treaties.un.org/doc/source/recenttexts/unfccc_eng.pdf.

²⁹ Cho, *supra* note 3.

³⁰ Joana Pareira, *Catastrophic Climate Change*, in GLOBAL CATASTROPHIC RISK 21: NAVIGATING THE COMPLEX INTERSECTIONS 16 (Ulrika Westin ed., 2021), <https://globalchallenges.org/app/uploads/2023/06/Global-Catastrophic-Risks-2021--Navigating-the-Complex-Intersections.pdf>.

³¹ *Id.* at 18.

³² UNTFHS, Climate Change, <https://www.un.org/humansecurity/climate-change>.

³³ Nathaniel Mason, Denali Nalamalapu & Jan Corfee-Morlot, *Climate Change Is Hurting Africa's Water Sector, but Investing in Water Can Pay Off*, WORLD RES. INST. (2019), <https://www.wri.org/insights/climate-change-hurting-africas-water-sector-investing-water-can-pay>.

³⁴ Viktor Maulana, *Water Crisis Predicted to Be a Source of War, Riots, and Migration in the Future* [Krisis Air Diprediksi Jadi Sumber Perang, Kerusuhan, dan Migrasi di Masa Depan], SINDONEWS (Oct. 11, 2020), <https://international.sindonews.com/read/192490/44/krisis-air-diprediksi-so-source-war-riot-and-migration-in-the-future-1602364229>.

³⁵ Olufemi Adedeji, Okocha Reuben & Olufemi Olatoye, *Global Climate Change*, 2(2) J. GLOB. GEOSCI. & ENVTL. PROT. 114-22 (2014).

³⁶ *Id.*

stated that “climate change threatens the lives and livelihoods of billions of people as natural disasters, environmental degradation, and extreme weather that disrupts harvests, depletes fisheries, erodes livelihoods, and spurs infectious diseases.”³⁷ Coast, island, and developing countries are the most vulnerable to climate change.³⁸

According to the International Federation of Red Cross and Red Crescent Societies (IFRC), disasters are “serious disruptions to the functioning of a community that exceeds its capacity to cope using its resources.”³⁹ IFRC also categorizes the type of disaster seen from the causes that are nature, people, and technology failure as well as other factors influencing exposure and vulnerability from society. Disaster management is a process that includes “the organization, planning, and application of measures preparing for, responding to, and recovering from a disaster.”⁴⁰ The United Nations Office for Disaster Risk Reduction (UNDRR) defines ‘disaster’ as “a serious disruption of the functioning of a community or a society at any scale due to hazardous events interacting with conditions of exposure, vulnerability and capacity, leading to one or more the following: human, material, economic and environmental losses and impacts.”⁴¹ Disaster comes from the Latin word *astrum*, which means star.⁴² The ancients believed that earthquakes, volcanoes, and the like were mandated by the heavens.⁴³ Disaster occurs when a hazard impact strikes a vulnerable community with low capacity resulting in damages, losses, and serious disruptions of community functioning.⁴⁴ The widespread of human, material, and environmental losses exceed the community’s ability to cope using its own resources.⁴⁵

Meanwhile, Article 1, section (1) of Law Number 24 of 2007 [of Indonesia] concerning Disaster Management (UUPB) interprets a disaster as “an event or series of events that threatens and disrupts people’s lives and livelihoods caused by either natural factors, or non-natural factors as well as human factors resulting in human

³⁷ UNTFHS, *supra* note 32.

³⁸ *Id.*

³⁹ IFRC, What-Disaster, <https://www.ifrc.org/what-disaster>.

⁴⁰ UNDRR, Disaster Management, <https://www.undrr.org/terminology/disaster-management>. See also Paul Harvey, *The Role of National Government in International Humanitarian Response to Disaster* (26th ALNAP Meeting in Kuala Lumpur, Meeting Background Paper, 2010), at 3, <https://www.humanitarianoutcomes.org/sites/default/files/publications/meeting-paper-2011.pdf>.

⁴¹ UNDRR, Disaster, <https://www.undrr.org/terminology/disaster>.

⁴² Joseph Zibulewsky, *Defining Disaster: The Emergency Department Perspective*, 14(2) BAYLOR U. MED. CTR. PROC. 144 (2001).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

casualties, environmental damage, loss of property, and psychological impacts.”⁴⁶ Disasters can be categorized into 3 (three) types, namely natural disasters, non-natural disasters, and social disasters. Article 1, section (2) of the UUPB states that natural disasters are caused by natural events, including earthquakes, tsunamis, volcanic eruptions, floods, droughts, hurricanes, and landslides. Based on Article 1, section (3) of the UUPB, non-natural disasters are disasters caused by events or a series of non-natural events, including technological failures, modernization failures, epidemics, and disease outbreaks. A social disaster is a disaster caused by an event or series of events done by humans, which includes social conflict between groups or between communities and terror. It should be noted here that the Government of Indonesia still defines natural disasters as disasters that are only caused by natural phenomena. It classifies hydrometeorological disasters such as floods, droughts, hurricanes, and flood erosions as natural disasters, even though floods, droughts, hurricanes, and landslides are mostly caused by human actions or activities, not natural phenomena.⁴⁷ Uncontrolled human activities such as misuse of land use and use of fossil fuels are the triggers for global warming that causes climate change.

Climate change also intensifies both sudden-onset and slow-onset disasters, both of which cause displacement. Sudden-onset disasters such as cyclones and floods are expected to become both more intense and unpredictable as a result of climate change. According to the data from the International Monetary Fund (IMF), within ten years (2011-21) there was an increase in the number of disasters caused by climate change. As for 2021, there were 390 natural disasters related to climate change.⁴⁸ This number increased by 5.7% compared to the previous year’s 369 natural disasters.⁴⁹ In detail, the number of natural disasters in the world related to climate change in 2021 includes 223 floods, 119 storms, 19 forest fires, 15 droughts, 12 landslides, and 2 extreme temperatures.⁵⁰ The IMF also reported that the increase in global average temperature has also caused sea levels to rise. As of May 11, 2022, the IMF noted that sea levels had risen 62.3 millimeters (mm).⁵¹ This has also caused unstoppable floods

⁴⁶ Law Number 24 of 2007 concerning Disaster Management [Undang-Undang Republik Indonesia Nomor 24 Tahun 2007 tentang Penanggulangan Bencana], <https://bnpb.go.id/storage/app/media/uploads/migration/pubs/1.pdf>.

⁴⁷ Waluyo Yogo Utomo, Widiatmaka & Komarsa Gandasasmita, *An Analysis of Potential Hazard and Risk for Flood and Landslide Areas (Case Study in West Java Province)*, in A COMPENDIUM OF REMOTE SENSING AND UTILIZATION [Bunga Rampai Pemanfaatan dan Penginderaan Jauh] 175-7 (2015), http://karya.brin.go.id/id/eprint/111049/1/Bunga%20Rampai_Waluyo%20Yogo%20Utomo_Hal.175-191_2015.pdf.

⁴⁸ IMF, Climate-related Disasters frequency, <https://climatedata.imf.org/pages/climatechange-data#cc5>.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

and submerged several small islands in the world.

Slow-onset disasters tend to prompt people to move in search of livelihoods, food security and safety - a trend that is already happening throughout much of the world.⁵² In Africa and Asia, in particular, climate change related displacement is affecting populations that are already vulnerable.⁵³ For example, in 2011, an estimated of 12 million people in the Horn of Africa were in need of immediate humanitarian assistance due to drought and food insecurity affecting Somalia, Kenya, Ethiopia, Uganda, and Djibouti.⁵⁴ Somalia also faced drought-induced crop failures, spiraling food prices and lack of food assistance - which came on top of conflict, insecurity and limited humanitarian access.⁵⁵ This resulted in the worst famine in decades, putting 3.7 million people in need of urgent assistance and causing large-scale displacement.⁵⁶

B. Impacts of Climate Change in Indonesia

Indonesia is a developing country located in an area that is highly vulnerable to the effects of climate change. The average temperature increase in Indonesia is expected to reach 0.5 - 3.92°C in 2001 from the conditions of the period in 1981-2010.⁵⁷ This will lead to sea level rise, extreme weather events, and ecosystem degradation. Climate change poses significant challenges to the environment, economy, and social well-being of the country. Located in a region prone to natural disasters and with a significant reliance on natural resources, Indonesia is experiencing a wide range of climate-related impacts. From rising sea levels to extreme weather events and ecosystem degradation,⁵⁸ the consequences of climate change pose significant challenges to the country's environment, economy, and social well-being.

The existence of climate change has contributed to the increasing number of natural disasters that have occurred in Indonesia. In 2017, 729 disaster events occurred in Indonesia. Then, the National Disaster Management Agency reported that in 2021 there were 5,042 disaster events, with 99.5% of these being hydrometeorological

⁵² BROOKINGS, CLIMATE CHANGE AND INTERNAL DISPLACEMENT 4 (2014), <https://www.brookings.edu/wp-content/uploads/2016/06/Climate-Change-and-Internal-Displacement-October-10-2014.pdf>.

⁵³ UNFCCC, Conflict and Climate (July 12, 2022), <https://unfccc.int/blog/conflict-and-climate>.

⁵⁴ FAO, Famine in Somalia (July 20, 2011), www.fao.org/news/story/en/item/82387/icode.

⁵⁵ *Id.*

⁵⁶ UNOCHA, Somalia Famine & Drought Situation Report, <https://reports.unocha.org/en/country/somalia>.

⁵⁷ S Suryansyah et al., *Scientific Thinking Skills in Solving Global Warming Problems*, 683 IOP CONF. SER.: EARTH ENVTL. SCI. I (2021). See also BPHN, Paris Agreement Ratification Bill [Naskah Akademik Rancangan Undang-Undang Ratifikasi Paris Agreement] https://www.bphn.go.id/data/documents/na_ruu_ratifikasi_paris_agreement.pdf.

⁵⁸ Budi Sutrisno, *Jakarta Among Cities Most Threatened by Rising Sea Levels, Extreme Weather: Report*, JAKARTA POST (Feb. 29, 2020), <https://www.thejakartapost.com/news/2020/02/28/jakarta-among-cities-most-threatened-by-rising-sea-levels-extreme-weather-report.html>.

disasters.⁵⁹ Hydrometeorological disasters such as floods are closely correlated with climate change. This disaster has resulted in losses that are not small. As of the natural disasters in 2021, it was reported that 728 people died, 14,915 people were injured, 7,630,691 were displaced, and as many as 4,445 public facilities were damaged.⁶⁰

C. Trends and Patterns of Climate-Induced Internal Displacement in Indonesia

It has long been recognized that the effects of climate change will displace people and the most of this displacement will be within national border.⁶¹ The Intergovernmental Panel on Climate Change' very first report from 1990 stated that the greatest single impact of climate change may be on human migration.⁶² The report estimated that by 2050, 150 million people could be displaced by desertification, water scarcity floods, storms, and other climate change-related disasters.⁶³ It also estimated that half a million people in archipelago and island countries might live in sites at risk of submergence or loss of land by 2100.⁶⁴

Indonesia has more than 17,000 islands and nearly 65% of the population lives in coastal areas.⁶⁵ Coastal areas are vulnerable to rising sea levels and storm surges, causing displacement of communities living in low-lying regions. Referring to the Statistic Indonesia Year 2020, around 42 million people live in areas less than 10 meters above sea level.⁶⁶ Sea level rise will submerge 2,000 small islands by 2050, which means that there are 42 million people at risk of losing their houses.⁶⁷ For fishermen, the direct impact of climate change in coastal areas is higher risk of going to the sea in the midst of weather uncertainty, which can cause fishermen to no longer be able to go to the sea and lose their livelihoods. This condition makes the economic life of

⁵⁹ Sugiharto Purnama, *BNPB Records 5402 Disaster Events Occurring in Indonesia Throughout 2021* [BNPC Catat 5402 Kejadian Bencana terjadi di Indonesia Sepanjang 2021], ANTARA NEWS (Feb. 17, 2022), [https://www.antaranews.com/berita/2711121/bnpb-catat-5402-kejadian-bencana-terjadi-di-indonesia-sepanjang-2021#:~:text=Jakarta%20\(ANTARA\)%20%2D%20National%20Agency%20,the%20incident%20was%20a%20hydrometeorological%20disaster](https://www.antaranews.com/berita/2711121/bnpb-catat-5402-kejadian-bencana-terjadi-di-indonesia-sepanjang-2021#:~:text=Jakarta%20(ANTARA)%20%2D%20National%20Agency%20,the%20incident%20was%20a%20hydrometeorological%20disaster).

⁶⁰ *Id.*

⁶¹ Brookings, *supra* note 52, at 1.

⁶² IOM, *Migration and Climate Change 9* (2008), https://www.ipcc.ch/apps/nj-lite/srex/nj-lite_download.php?id=5866.

⁶³ *Id.*

⁶⁴ Celia McMichael et al., *A Review of Estimating Population Exposure to Sea-Level Rise and The Relevance for Migration*, 15(12) ENVTL. RES. LETTERS 1 (2020).

⁶⁵ Ewin Winata, *Adaptive Governance for Building Urban Resilience: Lessons from Water Management Strategies in Two Indonesian Coastal Cities*, 1(2) INDON. J. DEV. PLAN. 147 (2017).

⁶⁶ USAID, *Climate Risk Profile: Indonesia* (2016), https://www.climatelinks.org/sites/default/files/asset/document/2017_USAID_ATLAS_Climate%20Risk%20Profile_Indonesia.pdf.

⁶⁷ *Id.*

coastal communities even worse. The Ministry of National Development Planning stated that Indonesia's potential economic losses due to climate change could reach Rp 544 trillion in 2020–2024.⁶⁸ As a result, climate change has become a significant driver of human displacement in Indonesia.

III. International Legal Framework for the Protection of IDPs due to Climate Change Disaster

IDPs affected by climate change often face challenges in accessing humanitarian assistance and support. At the evacuation center, IDPs are often exposed to unsanitary living conditions, inadequate shelter, and limited access to education and healthcare services. The lack of proper sanitation and clean water further exacerbates the health risks faced by IDPs, particularly children, pregnant women, and the elderly. The stress and trauma associated with climate-induced displacement also increase the risk of mental health disorders among IDPs.

When disasters occur, protection should be guaranteed for peace, security, and well-being / against all dangers or risks that threaten them.⁶⁹ In particular, legal protection should be given by the state to all parties to exercise their rights, obligations, and legal interests in their capacity as legal subjects. It is necessary to defend dignity and human rights owned by legal subjects. In other words, legal protection illustrates the function of the law itself, which provides justice, order, certainty, benefit, and peace.⁷⁰

In international law, the state is obliged to protect human rights of its citizen.⁷¹ The United Nations High Commissioner for Refugees (UNHCR) defines IDPs as people who are forced to leave their houses or hometowns due to conflict or disaster, but remain within their country's borders.⁷² IDPs have not crossed the border in search of safety. Unlike refugees, they are on the run but remain within the borders of their country of origin. IDPs live within their own country and remain under their

⁶⁸ Astrid Faidlatul H & Resinta S, *Climate Change Losses Could Touch Rp544 Trillion in 2020--2024: Gov't*, ANTARA NEWS (Aug. 9, 2022), <https://en.antaranews.com/news/243525/climate-change-losses-could-touch-rp544-trillion-in-2020-2024-govt>.

⁶⁹ SATIPTO RAHARDJO, *LEGAL STUDIES [Ilmu Hukum]* 18 (2006).

⁷⁰ *Id.*

⁷¹ Monica Hakimi, *State Bystander Responsibility*, 21(2) *EUR. J. INT'L L.* 347-8 (2010).

⁷² UNHCR, *What is a Refugee?*, <https://www.unrefugees.org/refugee-facts/what-is-a-refugee>.

government's protection.⁷³ The definition of the IDPs is also stated in the Guiding Principles on Internal Displacement (hereinafter Guiding Principles), Introduction: Scope and Purpose, Number 2 as follows:

Internally Displaced Persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.⁷⁴

Meanwhile, the United Nations Commission on Human Rights defines IDPs as “have been forced to flee their homes suddenly or unexpectedly in large numbers due to armed conflict, internal strife, systematic violations of human rights, or natural or man-made disasters.” They are within the territory of their own country.⁷⁵

Based on the definition above, IDPs are forced to move from their houses or leave their hometowns but are still within the territory of their own country. IDPs are neither considered refugees receiving international protection (from other countries/parties), nor have an international legal status or special rights related to their situation.⁷⁶ The definition of IDPs due to climate change disaster has also not been specified and is still equated with all disaster-induced displacement in a country. However, IDPs due to climate change disasters are different from other forms of displacement, such as conflict-induced displacement or development-induced displacement. The International Organization Migration (IMO) defines “climate migration” as “the movement of a person or groups of persons who, predominantly for reasons of sudden or progressive change in the environment due to climate change, are obliged to leave their habitual place of residence, or choose to do so, either temporarily or permanently, within a State or across an international border.”⁷⁷ In this definition, the movement of people or groups of people is still defined in general terms, which can occur within the country or across national borders. Thus, if the definition of climate

⁷³ UNHCR, Internally Displaced Persons, <https://www.unhcr.org/about-unhcr/who-we-protect/internally-displaced-people>.

⁷⁴ UNOCHA, Guiding Principles on Internal Displacement, <https://www.internal-displacement.org/sites/default/files/publications/documents/199808-training-OCHA-guiding-principles-Eng2.pdf>.

⁷⁵ U.N. Doc. E/CN.4/1992/23 (1992), https://www.ohchr.org/sites/default/files/Documents/Issues/IDPersons/E_CN.4_RES_1992_73.pdf.

⁷⁶ UNHCR, About Internally Displaced Persons, <https://www.ohchr.org/en/special-procedures/sr-internally-displaced-persons/about-internally-displaced-persons>.

⁷⁷ Migration Data Portal, Environmental Migration, https://www.migrationdataportal.org/themes/environmental_migration_and_statistics.

migration is associated with the definition of displacement of people according to the Guiding Principles which refers to the scope of the place of displacement, then the displacement of people or groups of people due to climate change within one country can be understood as climate IDPs.

Climate change impacts specific rights, vulnerable groups, forced displacement and conflict.⁷⁸ Climate change has an impact on the fulfillment of national and international obligations related to human rights, especially the right to life. In this regard, the international human rights law approach can be used to justify legal protection for IDPs⁷⁹ such as Universal Declaration of Human Rights 1948 (UDHR), etc. For example, the UDHR has included some provisions on fundamental principles that can be applied by a country in providing legal protection to climate IDPs for the respect, protection, honor, and dignity of people. Article 1 of the UDHR states that every human being is born free and equal in dignity and worth.⁸⁰ In this case, all human beings have the same value and dignity. Furthermore, Article 3 of the UDHR states that everyone has the right for livelihood, freedom, and individual safety.⁸¹ Based on the two articles, the climate IDPs are entitled to obtain the same rights as individuals. They are entitled to livelihoods, freedom, and safety. Like all humans, IDPs enjoy human rights.

The obligation of governments with respect to international human rights have three elements, namely: the duty to respect, protect and fulfill human rights.⁸² Article 2 of the ICCPR provides the legal basis for a country to give special legal protection to Climate IDPs. A country has the responsibility to respect, protect, and ensure fulfillment of rights based on the individual at the bottom jurisdiction based on the ICCPR.⁸³

In the framework of legal protection of IDPs, the UN has issued the Guiding Principles on Internal Displacement (Guiding Principles) in 1998, which guarantees

⁷⁸ UNGA, Report of the Office of the United Nations High Commissioner for Human Rights on the Relationship between Climate Change and Human Rights, U.N. Doc. A/HRC/10/61 (Jan. 15, 2009), <https://www.refworld.org/docid/498811532.html>.

⁷⁹ Yanuarda Persian, Regulations in International Law Concerning Refugees Due to Climate Change Crossing International Boundaries [Pengaturan dalam Hukum Internasional mengenai Pengungsi akibat Perubahan Iklim yang Melintasi Batas Internasional], <https://media.neliti.com/media/publications/34868-ID-pengaturan-dalam-hukum-internasional-mengenai-pengungsi-akibat-perubahan-iklim-y.pdf>.

⁸⁰ UDHR art. 1.

⁸¹ *Id.* art. 3.

⁸² UNEP, CLIMATE CHANGE AND HUMAN RIGHTS 15 (2015), https://wedocs.unep.org/bitstream/handle/20.500.11822/9530/-Climate_Change_and_Human_Rightshuman-rights-climate-change.pdf.pdf.

⁸³ ICCPR art. 2.

the protection of individual rights in the event of disaster.⁸⁴ The Guiding principles provide a format for guaranteeing legal rights of Climate IDPs.⁸⁵ The Guiding Principles address state responsibility, non-discrimination, and fundamental human rights. Climate IDPs have the same rights to national and international legal protection as obtained by other citizens in their country. In case of climate disaster, each government is thus responsible for providing the protection and assistance to IDPs who are within their sovereign territory. The protections for the IDPs while in evacuation are as follows:

- a. Protection of the right to life (Principle 10)
- b. Protection of dignity and integrity in physical, mental, and moral (Principle 11);
- c. Protection of independence and security personnel (Principle 12);
- d. Protection to recruitment, appointment compulsion, or permitting children to take part in armed conflict (Principle 13);
- e. Protection on the right to liberty of movement and freedom to choose his or her residence (Principle 14);
- f. Protection on the right to seek safety in another part of the country, to leave the country, to search asylum in another country, and to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at threat (Principle 15);
- g. Protection on the right to know fate of the missing family (Principle 16);
- h. Protection of honorable life in a family (Principle 17);
- i. Protection on a level of adequate living (Principle 18);
- j. Protection of injured, sick, and disabled IDPs (Principle 19);
- k. Protection on recognition as a person before the Law (Principle 20);
- l. Protection of property and wealth (Principle 21);
- m. Protection against discrimination in all shapes (Principle 22); and
- n. Protection on education (Principle 23).⁸⁶

In 2006, the International Conference on the Great Lakes Regions was held to support the implementation of Guiding Principles, which resulted in the Protocol on the Protection and Assistance to Internally Displaced Persons (Protocol IDPs).⁸⁷

⁸⁴ OHCHR, International Standards: Special Rapporteur on the Human Rights of Internally Displaced Persons, <https://www.ohchr.org/en/special-procedures/sr-internally-displaced-persons/international-standards>.

⁸⁵ DAVID FISHER, GUIDE TO INTERNATIONAL HUMAN RIGHTS MECHANISM FOR INTERNALLY DISPLACED PERSONS AND THEIR ADVOCATES 8-9 (2006), https://www.globalprotectioncluster.org/sites/default/files/2022-07/human_rights_mechanisms_for_idps-en.pdf.

⁸⁶ UNHCR, *The Legal Framework*, in HANDBOOK FOR THE PROTECTION OF INTERNALLY DISPLACED PERSONS 28 (2010), <https://www.unhcr.org/sites/default/files/legacy-pdf/47949f342.pdf>.

⁸⁷ UNHCR, International Conference on the Great Lakes Region-Protocol on the Protection and Assistance to Internally Displaced Persons, <https://www.unhcr.org/media/international-conference-great-lakes-region-protocol-protection-and>

Article 3, section 2 of the IDPs Protocol states: “Member States shall, to the extent possible, mitigate the consequences of displacement caused by natural disasters and natural causes.”⁸⁸ It does not, however, mention disasters due to climate change. The mention of natural disasters is still in the general category, though natural disaster management due to climate change needs unique handling because it is slow, predictable, significant, frequent, and widespread and massive. Therefore, it is needed to give protection to Climate IDPs more specifically. The state has the main responsibility to cope with disasters that occur in its territory. In addition, the international community should accept and acknowledge the obligation to deliver protection to the IDPs if a country fails to deliver guaranteed protection for IDPs.

Human rights protection for Climate IDPs is closely related to environmental issues. The relationship between human rights and the environment first emerged at the 1972 Stockholm Conference on the Human Environment and the 1992 Earth Summit in Rio de Janeiro.⁸⁹ In 1994, the UN Special Rapporteur on Human Rights and the Environment reported that environmental degradation has caused serious impacts on the quality of human rights fulfilment. The UN General Assembly further recognized the right to a clean, healthy, and sustainable environment as a universal human right on July 28, 2022.⁹⁰ This follows the recognition of the right to a healthy environment as a Universal Human Right by the UN Human Rights Council Resolution 48/13 in October 2021.⁹¹

The state must be able to guarantee the protection, respect and fulfilment of the right to the environment as a form of human rights fulfilment, especially related to the issue of climate change impacts. In this case, the common but differentiated principle can be invoked as a basis for state responsibility. This common but differentiated principle is contained in Principles 6, 7, and 11 of the 1992 Rio Declaration, and Article 3, paragraph 1 of UNFCCC.⁹² This Principle consists of two fundamental elements. First, every country has the same obligations regarding protecting the environment, or parts thereof, at a national, regional, and global level. Second, that

assistance-internally.

⁸⁸ *Id.*

⁸⁹ Longgena Ginting, *Environmental Rights as Human Right* [Longgena Ginting, Hak-Hak Lingkungan Hidup sebagai Hak Asasi Manusia], 2(2) J. INT'L L. 316 (2005), <https://media.neliti.com/media/publications/39234-EN-hak-hak-lingkungan-hidup-sebagai-hak-asasi-manusia.pdf>.

⁹⁰ UNGA, Human Right to a Clean, Healthy, and Sustainable Environment, U.N. Doc. A/RES/76/300 (July 28, 2023), <https://digitallibrary.un.org/record/3983329>.

⁹¹ OHCHR, UNDP & UNEP, What is the Right to a Healthy Environment: Information Note, at 7, <https://www.undp.org/sites/g/files/zskgke326/files/2023-01/UNDP-UNEP-UNHCHR-What-is-the-Right-to-a-Healthy-Environment.pdf>.

⁹² United Nations Framework Convention on Climate Change (UNFCCC), <https://unfccc.int/resource/docs/convkp/conveng.pdf>.

exists different responsibilities for every country regarding each state's contribution to the development/evolution of several problems and their ability to prevent, mitigate, and control the threat.⁹³ The UNFCCC also calls for States to protect the climate system for the benefit of current and future generations and to take action on climate change on the basis of equity. Besides, the UN General Assembly called for the protection of the global climate for present and future generations based on the resolutions 43/53, 44/207, 45/212, and 46/169.⁹⁴

Meanwhile, the UN General Assembly's Resolution 64/162 of December 2009 recognized natural disasters as a cause of internal displacement and raised concerns that climate change could exacerbate the impact of both sudden- and slow-onset disasters, such as floods, mudslides, droughts, or violent storms.⁹⁵ In 2010, the Conference of the Parties to the UNFCCC recognized that mobility – migration, displacement, and planned relocations – is an important form of adaptation to climate change.⁹⁶ In its “Cancun Adaptation Framework,” it invites all parties to go further in understanding, coordinating, and cooperating on climate change-induced displacement, migration and planned relocation, where appropriate, at national, regional and international levels.⁹⁷

IV. The Indonesian Legal Framework related to the Protection of IDPs due to Climate Disaster

IDPs are still a challenge to Indonesia. Indonesia has experienced several waves of displacement in society, and one of the largest ones occurred in the post-reform era. The current situation encouraged people to migrate to other places to avoid horizontal conflict. As this phenomenon is widespread and continuing, just permanent or temporary displacement will not be a fundamental strategy for people in the face of

⁹³ Charlotte Epstein, *Common but Differentiated Responsibilities*, BRITANNICA (Mar. 11, 2013), <https://www.britannica.com/topic/common-but-differentiated-responsibilities>.

⁹⁴ OHCHR, *Frequently Asked Questions on Human Rights and Climate Change: Fact Sheet No. 38* (2021), at 55, https://www.ohchr.org/sites/default/files/Documents/Publications/FSheet38_FAQ_HR_CC_EN.pdf.

⁹⁵ Brookings, *supra* note 52, at 1. *See also* UNGA, *Protection of and Assistance to Internally Displaced Persons*, U.N. Doc. A/Res/64/162 (Mar. 17, 2019), https://www.iom.int/sites/g/files/tmzbd486/files/jahia/webdav/shared/shared/mainsite/policy_and_research/un/64/a-res-64-162.pdf.

⁹⁶ *Id.*

⁹⁷ *Id.* *See also* UNFCCC, *The Cancun Adaptation Framework*, <https://unfccc.int/topics/adaptation-and-resilience/the-big-picture/introduction>.

such disasters.⁹⁸ As such, triggering events of IDPs occurred in Aceh and Nias⁹⁹ and Central Sulawesi¹⁰⁰ in 2004 and 2018 due to the earthquake and tsunami, respectively.

IDPs in Indonesia can be understood as a result of several factors like conflict in the area of origin, lack of supply of food and employment (economy), social pressure, politics, race, religion, and ideology to the problem of discomfort climate condition.¹⁰¹ Disaster-prone geography and a population that does not fully understand what and how climate change will affect them are another factors that underline the importance of regulating the protection of IDPs due to climate change in Indonesia. To date, Indonesia does not have a special law to deal with IDPs in the context of climate disasters. However, there are some regulations that can be used as guidance.

A. IDPs Protection based on the 1945 Constitution of Indonesia

The Preamble of the 1945 Constitution states the principle of “just and civilized humanity.”¹⁰² This principle is one of the normative grounds for Indonesia to assist the IDPs. Indonesia is fully responsible for providing life and livelihood including disaster protection to all Indonesian citizens.¹⁰³ Furthermore, Article 28 D of the 1945 Constitution states that “every person has the right to recognition, guarantee of protection, and certainty of a just law and equal treatment before the law.”¹⁰⁴ This article emphasizes the importance of guaranteeing the protection of human rights in the Indonesian legal system.

B. Presidential Decree Number 3 of 2001 concerning the National Coordinating Agency for Disaster Management and Refugees

In 2001, the Indonesian government issued Presidential Decree Number 3 of 2001 (Keputusan Presiden No. 3/2001) on the National Coordinating Agency for Disaster

⁹⁸ According to the Displacement Tracking Matrix (DTM) published in August 2019, conflict is the primary driver of displacement, followed by displacement due to natural disasters exacerbated by climatic factors. See IOM, Displacement Tracking Matrix, https://dtm.iom.int/dtm_download_track/16765?file=1&type=node&id=12832.

⁹⁹ ACEH & NIAS, One Year After Tsunami: The Recovery Effort and Way Forward (2005), at 14, <https://www.gfdrr.org/sites/default/files/publication/Aceh%20and%20Nias%20One%20Year%20After%20the%20Tsunami.pdf>.

¹⁰⁰ World Vision, Central Sulawesi Earthquake and Tsunami Emergency Response (Sept. 2018 – Mar. 2019), at 1 (Mar. 31, 2019), <https://reliefweb.int/report/indonesia/central-sulawesi-earthquake-and-tsunami-emergency-response-september-2018-march>.

¹⁰¹ IOM, MANUAL FOR OFFICERS IN THE CONTEXT OF HANDLING PEOPLE SMUGGLING ACTIVITIES AND CRIMES RELATED TO PEOPLE SMUGGLING 15 (2015).

¹⁰² INDON. CONST. 1945, pmb1.

¹⁰³ *Id.* art. 27, ¶ 2.

¹⁰⁴ *Id.* art. 28.

and Refugee Management.¹⁰⁵ The decree was designed to address post-reform social movements pushed by various conflicts in society. Keputusan Presiden No. 3/2001 mentions disasters in general terms, but does not regulate disasters due to climate change. It is interesting to examine the wording of Article 1 (3) Keputusan Presiden No. 3/2001, which states that “the management of refugees referred to in paragraph 1 shall include efforts to provide humanitarian assistance and protection to refugees resulting from social and political conflicts occurring in an area, including prevention, emergency response, shelter, resettlement, and repatriation of refugees.”¹⁰⁶ Accordingly, the specific management of refugees applies only to those resulting from social and political conflicts. In other words, Climate IDPs cannot receive humanitarian assistance and protection. Finally, Keputusan Presiden No. 3/2001 was revoked and replaced with Presidential Decree Number 111 of 2001 on the Amendment of Presidential Decree Number 3 of 2001 on the National Coordinating Agency for Disaster Management and Refugee Management.¹⁰⁷

C. Regulation of the National Agency for Disaster Management of the Republic of Indonesia Number 3 of 2018 concerning Handling Refugees in Circumstances of Disaster Emergency

The National Agency for Disaster Management (BNPB) Regulation Number 3 of 2018 on the Handling of Refugees in Disaster Emergencies is basically issued as a form of state responsibility in the implementation of disaster management, in the form of protecting communities from the effects of disasters and ensuring the fulfilment of the rights of communities and refugees affected by disasters in a fair manner and in accordance with minimum service standards.¹⁰⁸ Another consideration in the adoption of the Regulation is to ensure that disaster management is an obligation of all parties and that every disaster victim is entitled to the same treatment in the provision of humanitarian assistance without discrimination.¹⁰⁹

The definition of refugee in this Regulation is broad: “a person or group of persons if, as a result of the adverse effects of a disaster, the person or group of persons is forced or displaced from his or her place of residence for an indeterminate period of

¹⁰⁵ Presidential Decree Number 3 of 2001 [Keputusan Presiden No.3/2001], <https://peraturan.bpk.go.id/Home/Details/56882/keppres-no-3-tahun-2001>.

¹⁰⁶ *Id.* art. 1, ¶ 3.

¹⁰⁷ Presidential Decree Number 111 of [2001Keputusan Presiden No. 111/2001], <https://peraturan.go.id/files/kp111-2001.pdf>.

¹⁰⁸ Consideration Section Letter (a) BNPB Regulation Number 3 of 2018 [Peraturan BNPB No. 3/2018], <https://peraturan.bpk.go.id/Home/Details/224660/peraturan-bnpb-no-3-tahun-2018>.

¹⁰⁹ *Id.*

time.”¹¹⁰ A fundamental question is whether the refugee definition in the Regulation and other relevant instruments can be applied to climate IDPs in case of the slow onset of IDPs due to environmental change and climate change-related disasters and the complex and dynamic nature of the phenomena that occur. This makes it difficult to distinguish them from internal displacement caused by social conflict and gradual environmental change. It is hard to define consistent boundaries for displacement associated with slow-onset events such as drought, sea-level rise, melting ice sheets, and other environmental degradation processes. The difference between social and climate IDPs will lead to technical and legal problems unless addressed by appropriate legal provisions or policies.

In addition, the Government of Indonesia provides protection for IDPs in general under Law Number 24 of 2007 concerning Disaster Management, international human rights regulations that have been ratified by Indonesian national law, and also Law Number 39 of 1999 on Human Rights and Law Number 26 of 2000 on Human Rights Courts.¹¹¹

V. Application of Indonesian Legal Policy in the Protection of IDPs due to Climate Change Disaster in Indonesia

Climate IDPs will be protected by a disaster management mechanism before, during and after climate disaster. In the pre-disaster phase, they are protected through mitigation and adaptation to the effects of climate change. A country’s preparedness is the key to success in coping with the climate disaster. Preparedness is a tangible manifestation of the state responsibility to protect its citizens. The more vigilant and resilient a country is in dealing with the impacts of climate change, the fewer climate disasters will occur, and ultimately, the less displacement will occur. One of the most important activities in this course is to develop careful plan through appropriate and systematic policies to anticipate disasters.

The state has the primary responsibility to protect its territory and population from security disturbances. The Indonesian state under its Constitution has been mandated to ensure a decent livelihood for its citizens, one of which is to be active in cooperation with the international agenda related to climate change control. The

¹¹⁰ BNPB Regulation art. 1, ¶ 3.

¹¹¹ IRSAN, *supra* note 18, at 66.

efforts to control climate change must be implemented by considering the conditions, capacity, and sovereignty of each country. This is in accordance with the principle of common but differentiated responsibilities-respected capabilities.

Indonesia's preparedness in climate disaster management requires synergy, coordination, and cooperation at the international and national levels. Climate disaster preparedness at the international level is implemented through the UNFCCC mechanism. As a state party to the UNFCCC,¹¹² One of Indonesia's active roles at the international level in climate disaster preparedness (controlling the impacts of climate change) is as follows:

- a. Indonesia has ratified the UNFCCC with Law Number 6 of 1994 and also ratified the 1997 Kyoto Protocol. Therefore, Indonesia is bound by the rights and obligations mandated by the UNFCCC to reduce and control climate change.
- b. Indonesia hosted the 13th COP in Bali in 2007 which resulted in Bali Action Plan. This action plan emphasized the important role of Indonesia's forests through the REDD+ mechanism. In addition, it also approved the Policy Approach and Postive Incentives for REDD+ in Developing Countries which provides a solution to the problem of deforestation in developing countries, namely that countries can carry out their national development but by requiring developing countries to reduce tree cutting.
- c. Indonesia ratified the Paris Agreement through Law Number 16 of 2016 on 22 April 2016, which commits Indonesia to reduce greenhouse gas emissions and control climate change. The Paris Agreement also reaffirms the important role of forests in reducing greenhouse gas emissions.
- d. The Government of Indonesia develops and submits a Nationally Determined Contribution (NDC). The NDC is used as one of the references for the implementation of climate change mitigation commitments with a plan to reduce emissions until 2030 by 29% up to 41% if it receives international support.¹¹³
- e. The Government of Indonesia has appointed the Directorate General of Climate Change Control (DJPPi) of the Ministry of Environment and Forestry to implement coordination, synergy, integration, and leadership functions including monitoring, reporting, and verification of the implementation of climate change mitigation and adaptation both at the national and international

¹¹² UNFCCC, Indonesia: The First National Communication on Communication on Climate Change Convention, <https://unfccc.int/sites/default/files/resource/Indonesia%20INC.pdf>.

¹¹³ Ditjenppi Ministry of Environment and Forestry, Mandate for Climate Change [Amanat Perubahan Iklim], <http://ditjenppi.menlhk.go.id/kcpi/index.php/regarding/amanat-perubahan-iklim/komitmen-indonesia>.

levels. DJPPI is also appointed as the National Focal Point (NFP) of UNFCCC.¹¹⁴

In addition, the Government of Indonesia continues to remind the involvement of developed countries to assist or provide financial support, technology, and building capacity for developing countries in the process of mitigation and adaptation to climate change.¹¹⁵

At the national level, meanwhile, the Government of Indonesia's readiness to climate disasters (climate change impact mitigation) is addressed by the actions of the Indonesian NFP, which continues to establish good communication and coordination with policy makers and related partners. In addition, the Government of Indonesia continues to cooperate and coordinate with academics, entrepreneurs, journalists, and the community to manage the impacts of climate change. In this regard, the Government of Indonesia has established a climate change mitigation program within the framework of sustainable development based on three areas: environment, economic, and social.¹¹⁶ Mitigation and adaptation to climate change are important in the national development agenda. Mitigation is a participatory action to prevent/inhibit/control the occurrence of global warming that leads to climate change, as well as efforts to reduce its impact by reducing greenhouse gas emissions. Mitigation is a part of the prevention efforts included in government policies.¹¹⁷ Adaptation is an effort to adjust to a changing climate system. It becomes a framework/pattern for national development that is resilient and responsive to climate change.¹¹⁸

Regarding the relationship between environmental and human rights, Indonesia has recognized the right to a clean, healthy, and sustainable environment since 1999 through Law Number 39 of 1999 on Human Rights. This recognition was followed by the second amendment of Article 28 H paragraph (1) of the 1945 Constitution.¹¹⁹

¹¹⁴ *Id.*

¹¹⁵ Ministry of National Development Planning, Climate Change Management [Penanganan Perubahan Iklim], <https://sdgs.bappenas.go.id/tujuan-13>.

¹¹⁶ Investor Relations Unit- Republic of Indonesia, Strengthening Policy Synergy to Maintain Stability and Recovery amid Lower Global Growth and Heightened Uncertainty (Jan. 2023), <https://www.bi.go.id/en/iru/presentation/Documents/Republic%20of%20Indonesia%20Presentation%20Book%20-%20January%202023%20%28Sustainability%20Commitment%29.pdf>.

¹¹⁷ Ramadhan Pancasilawan et al., *Mitigation of Disaster Risk Reduction in Pangandaran Regency*, 22(2) J. SOC. SCI. & HUMANITIES [SOSIOHUMANIORA: JURNAL ILMU-ILMU SOSIAL DAN HUMANIORA] 215 (2020), <https://jurnal.unpad.ac.id/sosiohumaniora/article/view/25774/13716>.

¹¹⁸ BO LIM & ERIKA SPANGER-SIEGFRIED, ADAPTATION POLICY FRAMEWORKS FOR CLIMATE CHANGE: DEVELOPING STRATEGIES, POLICIES AND MEASURES 1 (2014), https://www.preventionweb.net/files/7995_APF.pdf.

¹¹⁹ Asrul Ibrahim Nur, *Human Rights Aspect in the Indonesian Energy Transition: The Challenges of Promoting the Right to a Clean, Healthy, and Sustainable Environment*, 1(2) HRGS 109 (2022), <https://journal.sepaham.or.id/index.php/HRGS/article/download/15/10>.

However, the implementation of protection and realization of the right to environment in Indonesia still faces many challenges.

As for the protection of IDPs due to climate change during climate disasters, the Government of Indonesia has not enacted laws that comprehensively regulate these issues. Based on the research data to date, there are only government regulations/policies directly related to IDPs at the level of presidential decrees and BNPB regulations.¹²⁰ These regulations only handles the general issues of IDPs (neither related to climate disasters, nor evacuation between administrative regions / districts / provinces / islands).

Rehabilitation and reconstruction after climate disasters also receive less attention from the Indonesian government. Climate IDPs often cannot return to their places of origin, given that those places are even lost or drowned due to the rising sea levels. Therefore, the right to adequate housing, access to essential services, healthcare, education, and livelihood opportunities are very much needed for Climate IDPs.

Recognizing the right to the environment as a part of universal human rights is an important momentum to realizing the right to the environment in Indonesia. A clean, healthy, and sustainable environment is an important factor in controlling the impacts of climate change. It will reduce the level of disaster and population displacement due to the disaster itself. Comprehensive Indonesian legal policies related to human rights and environmental protection in the frame of climate change are urgently needed to protect the rights and welfare of vulnerable populations.

VI. Conclusion

The legal protection of Climate IDPS in Indonesia is an urgent matter that requires immediate attention. Climate change is increasingly causing natural disasters, such as floods, droughts, and extreme weather events, leading to the displacement of countless individuals and communities across the country. While Indonesia has made some progress in recognizing the rights of IDPs, there is still a significant gap in legal frameworks and policies specifically addressing the protection and assistance of climate-induced IDPs. Existing laws and regulations mainly focus on disaster response and management, but fail to adequately address the long-term

¹²⁰ Presidential Decree Number 111 of 2001 on the Amendment of Presidential Decree Number 3 of 2001 on the National Coordinating Agency for Disaster Management and Refugee Management and BNPB Regulation No. 03 of 2018 concerning the Handling of Refugees during Disaster Emergencies.

needs and rights of those displaced by climate change. To effectively address this issue, Indonesia should consider adopting comprehensive legislation that explicitly: 1) recognizes the relationships between human rights and environmental protection in frame of climate change and rights of climate-induced IDPs; and 2) establishes a legal framework for their protection. This legislation should encompass various aspects including, but not limited to, the right to adequate housing, access to essential services, healthcare, education, and livelihood opportunities.

Additionally, it is crucial for the Indonesian government to strengthen coordination among relevant stakeholders, including government agencies, civil society organizations, and international partners to develop and implement comprehensive strategies for climate-induced IDPs. This collaboration should involve efforts to assess and monitor displacement patterns; provide timely and accurate data on climate-induced displacement; and develop effective early warning systems to mitigate the impact of future climate disasters. Furthermore, building resilience within vulnerable communities through climate adaptation and mitigation measure is crucial. By investing in sustainable infrastructure, disaster risk reduction, and climate change adaptation programs, Indonesia can reduce the risk of displacement and provide better protection for its citizens in the face of climate change-induced disasters. Ultimately, the legal protection of Climate IDPs in Indonesia requires a multifaceted and inclusive approach that integrates legal reform, policy development, community engagement, and international cooperation. By addressing the specific needs and rights of Climate IDPs, Indonesia can set a positive example for other nations facing similar challenges and contribute to a global effort to protect and support those vulnerable from the impacts of climate change.

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