



LEGAL LIABILITY OF THE PARTIES TO THE TRAGEDY OF THE MATCH AT KANJURUHAN STADIUM INDONESIA

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Abstract

Fanaticism towards high football in Indonesia has essentially been embedded in people's lives. The adverse impact of the phenomenon on his travels has evolved into hooliganism. The purpose of this article is to find out the responsibility of the parties to the tragedy of the match at the Kanjuruhan Stadium in Indonesia. The research methods used are Normative Juridical and Socio Phenomena to reveal cases that do not yet have permanent legal force (In Kracht) so that they are classified into a phenomenon, the approaches used are Statue Approach and the case approach. The results of the study revealed first, the organizing committee violated the provisions of Article 19 letter b of the FIFA Legal Handbook which states "firearms or mass control gas must not be carried or used and Article 21 letter c the organizing committee is required to ensure that no door or gate is locked under any circumstances. Second, the Executive Committee of the Police element is indicated to have violated the Regulation of the Chief of Police of the Republic of Indonesia Number 1 of 2009 concerning the Use of Force in Police Actions which regulates the stages that must be carried out when wanting to use force. Third, the Indonesian Football Association (PSSI) is assumed to be responsible in accordance with 50 paragraphs (1) of Law Number 11 of 2022 concerning Sports.

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I. INTRODUCTION

Article 12 of the Republic of Indonesia's 1945 Constitution, referred to hereafter as the 1945 Constitution, states: "President announced a state of emergency. The law determines the conditions and consequences of a state of risk." A state of emergency is an exceptional and sudden situation that threatens public order and safety. To combat the threat to security and order, the government must act swiftly and strategically to overcome the threat and the consequences of this perilous scenario. In addition to conventional handling actions, the government may also take extraordinary steps that are both out of the ordinary and normal under normal conditions. State of war or internal state war is a term used by the Netherlands, Italy, and Uruguay, among other nations, to describe emergencies. The phrase siege is utilised in France, Brazil, and Spain. In addition, Algeria, South Africa, India, and Ireland employ the state of urgency or emergency. Also found are the expressions state of stress, state of defence, state of alarm, and others, all of which refer to emergency, emergency, and perilous situations.

State of emergency (Article 22 of the Constitution of 1945); Article 22 of the Constitution of 1945 contains the following three paragraphs: (1) In cases of compelling urgency, the President may issue government regulations in lieu of laws; (2) The government regulation must obtain the approval of the DPR in the following session; and (3) If approval is not obtained, the government regulation must be revoked. In addition, Article 22 of the Constitution of 1945, paragraphs (1), (2), and (3), provides as follows: "(1) In the event of a dire emergency, the President has the authority to issue an executive order in lieu of a law. (2) The government regulation must receive DPR approval during the subsequent session. (3) In the absence of approval, the government regulation must be rescinded." The provisions of Article 22 of the 1945 Constitution underline that if the state is in a state of emergency, referred to in this context as a compelling crisis, the president has the authority to issue executive orders in lieu of laws which is known as Perpu.

Throughout the history of the constitutional administration of the Republic of Indonesia, the President of the Republic of Indonesia has issued Perpu multiple times in response to dangerous or emergency situations, such as during the Bali bombing on October 12, 2002, in which at least 202 people were killed and 209 were injured. The second bombing in Bali occurred on October 1, 2005, killing at least 23 people and injuring 122 others. The president issued Perpu Number 2 of 2002 regarding the Enforcement of Government Regulations in Lieu of Law of the Republic of Indonesia Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism in the Bali Bombing Incident on October 12, 2002, in response to the Bali bombing.

The Government of the Republic of Indonesia issued Perpu Number 2 of 2005 regarding the Regional Rehabilitation and Reconstruction Agency for the Regions and People's Lives of the Nanggroe Province Aceh Darussalam and the Nias Islands of North Sumatra Province at the time of the earthquake and tsunami that struck Aceh and the West Coast of Indonesia on December 24, 2004, which devastated Aceh and parts of Indonesia's west coast.

In addition, the President of the Republic of Indonesia has issued Perpu Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the 2019 Corona Virus Disease (Covid-19) Pandemic and/or in the Context of Handling Threats that Harm the National Economy and/or Financial System Stability. It was issued in anticipation of the social and economic turmoil that the Covid-19 pandemic would cause among the Indonesian populace. A portion of the State Budget (APBN) and Regional Expenditure Budget (APBD) funds must be reallocated to protect the needs and resiliency of the people's economy in order for the President to enact strategic measures and policies to safeguard the community's interests, particularly from economic downturns. Indonesia has been hit evenly by the Covid-19 pandemic, including Aceh Province.

Aceh Province is one of Indonesia's westernmost provinces, located in the westernmost region of the Unitary State of the Republic of Indonesia. Aceh is notable not just for its variety of cultures and languages, but also for its long history of warfare, the most memorable of which was the earthquake

and tsunami that struck this province on December 24, 2004, destroying several districts and cities along the west coast of Sumatra Island. In addition, Aceh was repeatedly struck by earthquakes, floods, landslides, flash floods, tornadoes, etc. The 2004 Earthquake and Tsunami directly or indirectly affected Banda Aceh City, Aceh Besar District, Pidie Jaya District, and Aceh Jaya District.

The history of the development of Banda Aceh City is inseparable from the Covid-19 disaster and natural disasters. Banda Aceh was among the cities hardest impacted by the 2004 earthquake and tsunami. Previously, major floods had hit Banda Aceh City. Prior to it, in mid-April of 2000, practically all subdistricts in Banda Aceh City were affected by flooding. In certain regions, including Peuniti village, the water level exceeds about 2 metres. The oldest incident occurred on July 17, 2020, when a severe wind and tornado damaged at least six homes in the Banda Aceh City region.

The Aceh Besar District, which is recognised for its agricultural and seaside regions, cannot be isolated from natural calamities. In addition to the earthquake and tsunami that struck parts of the district's west coast on December 24, 2004, this district is routinely struck by floods and landslides. On May 8, 2020, a landslide occurred at Kilometer 37, Paroy Village, Lhong District, causing trees to fall in a number of locations, covering the Banda Aceh-Meulaboh national road and causing damage to local homes. Strong winds accompanied by a tornado on September 19, 2020, uprooted a number of trees, closed roads, and caused at least three residences to sustain damage from fallen trees. 412 persons were relocated on August 10, 2021 due to floods and landslides. In addition, landslides occurred on November 22, 2020 in the Seulum Area, namely around kilometre 47. On September 1, 2022, eight villages in the Lhong region of Aceh Besar were swamped by flooding. Finally, the Aceh Besar District Government issued a weather emergency declaration. On May 31, 2022, several subdistricts in the district of Aceh Besar were subjected to three days of strong winds.

It is impossible to separate Pidie Jaya Regency from the myriad natural calamities that have befallen it. At approximately 05:03 WIB on December 7, 2016, a quake with a magnitude of 6.5 M, centred 2 kilometres north of Meureudu, and a depth of 15 kilometres shook Pidie Jaya. The National Disaster Management Agency said that the earthquake destroyed at least 11,730 homes, 105 storefronts, 1 hospital, 14 mosques, and 1 school. The community has not yet recovered from the earthquake's devastation; Pidie Jaya is again struck by calamity. On Friday, March 24, 2017, a tornado rushed through Gampong Deah Pangwa, Trienggadeng District, causing severe damage to around seven residences. On January 13, 2022, seven (seven) subdistricts of the Pidie Jaya Regency were inundated.

The crucial Aceh Jaya Regency to the west-southwest has not escaped natural calamities. On October 14, 2019, landslides occurred on the Banda Aceh-Meulaboh national road track, namely at Kilometer 62 in the Geureute Mountains Area, Gampong Babah Ie, Lamno District, Aceh Jaya. On Thursday evening, June 11, 2020, the District of Aceh Jaya was blasted by strong winds and heavy rain. On September 1, 2022, a landslide happened on the Banda Aceh-Meulaboh national route,

namely in Gampong Gle U, Indra Jaya District, and on October 20, 2022, one occurred in Gunong Cincrang, Sawang Village, Setia Bakti District.

This paper focuses on the difficulty of implementing the Aceh Government's role in resolving catastrophes caused by natural and man-made disasters. This research is necessary to give the Government of Aceh advice and strategic and solution-oriented actions for addressing an emergency situation in Aceh, as well as to explain the inhibiting and supporting variables in the policy-making process for addressing an emergency situation in Aceh. With anticipatory legislation and policies in place, the Government of Aceh will not falter or fail to provide services and protection to its citizens in regular, abnormal, or emergency circumstances. Moreover, Aceh Province is one of the provinces prone to natural disasters, and this study encourages all stakeholders to be constantly prepared to face and manage emergency situations in Aceh.

II. RESEARCH METHODS

Based on the issues addressed, this study employs empirical legal research techniques. Empirical juridical legal research is the study of the application of normative legal provisions to specific legal events that occur in society (Abdulkader Muhammad, 2004:134). In other words, empirical legal research is also known as sociological legal research. The data was gathered through field investigation and library research. Empirical legal research is based on primary or fundamental data, i.e., data gathered directly from the community as the first source via field study, specifically by conducting interviews. This research aims to provide an overview of the Aceh government's implementation of emergency situation regulations and policies, to explain the factors that hinder and support policymaking in an emergency situation in Aceh, and to identify the steps that must be taken and anticipated in a disaster emergency situation.

This study was conducted in the cities of Banda Aceh, Aceh Besar District, Pidie Jaya District, and Aceh Jaya District. The research locations were selected based on the initial supposition that the four research places or locations have encountered catastrophic emergency scenarios, including both natural and man-made disasters, such as Covid-19.

III. RESULT AND DISCUSSION

3.1. Types of Emergency Response Regulations and Policies in Aceh

A protracted fight between the people of Aceh and the central government is documented in the history of Aceh. The DI/TII rebellion in Aceh on September 20, 1953, as part of the Islamic State of Indonesia led by Kartosuwiryo, was the culmination of the Acehnese people's discontent with the government's policy of making Aceh Province one of the residencies in North Sumatra. Teungku Muhammad Daud Beureueh commanded the DI/TII uprising in Aceh. Aceh was granted Special Region status with expanded autonomous powers in the domains of religion, education, and customs

with the conclusion of the peaceful settlement of the DI/TII insurrection there. The Decree of the Prime Minister of the Republic of Indonesia outlined the decision to end the DI/TII rebellion in Aceh. I/Mission/1959, dated May 26, 1959. Also regarding the 7 April 1962 directive number KPTS/PEPERDA-061/3/1962 by the war authorities regarding the Implementation of Islamic Teachings for Its Adherents in the Special Region of Aceh.

In addition, the conflict in Aceh recurred during the New Order regime as a result of the central government's discriminatory policies regarding the management and distribution of Aceh's natural resources. Aceh suffers poverty and social inequality despite its abundant natural resources and status as the capital of Indonesia. The Free Aceh Movement (later called GAM) was proclaimed in Tiro on December 4, 1976, under the leadership of Teungku Hasan Muhammad. GAM has earned support from the people of Aceh due to its desire to honour their culture, religion, and customs. In Aceh, between the late 1980s and early 1990s, the Indonesian central government ultimately conducted a military operation (DOM) in response to the armed repressive resistance of GAM.

The battle between GAM and the Central Governance is spiralling out of control, government in Aceh is paralysed, and the economy of the people is deteriorating. President Megawati issued Presidential Decree Number 28 of 2003 regarding the Declaration of a State of Emergency with the Level of Military Emergency in the Province of Nanggroe Aceh Darussalam in order to suppress the GAM rebellion. The presidential decree contains six articles across four pages. Article 6 of Presidential Decree Number 28 of 2003 states: "This Presidential Decree shall take effect at 00:00 WIB on 19 May 2003 for a period of 6 (six) months, unless extended by a separate Presidential Decree. Ordered the publication of this Presidential Decree in the State Gazette of the Republic of Indonesia so that everyone is aware of it. In accordance with Presidential Regulation Number 2 of 2004, President Susilo Bambang Yudhoyono lowered the military emergency status to a civil emergency.

The quake and tsunami that struck Aceh on December 26, 2004 intensified the struggle between the GAM and the central government. At 7:58:53 WIB, the Aceh earthquake occurred; its epicentre was located off the west coast of Sumatra, Indonesia. The magnitude of the earthquake was between 9.1 and 9.3 on the Moment scale and IX on the Mercalli scale. The earthquake and tsunami claimed the lives of 227,898 people and left many more missing. The entire cost of the catastrophe was around \$2.9 billion. President Susilo Bambang Yudhoyono issued Presidential Regulation Number 30 of 2005 regarding the Master Plan for the Rehabilitation and Reconstruction of Areas and People's Lives in the Province of Nanggroe Aceh Darussalam and the Nias Islands of North Sumatra Province in order to overcome the effects of the earthquake and tsunami.

The signing of the Helsinki Memorandum of Understanding (MoU) on August 15, 2005 in Helsinki, Finland, inaugurated a new era of peace in Aceh. The terms of the accord included in the

Helsinki Memorandum of Understanding were later codified in Law Number 11 of 2006 pertaining to the Government of Aceh.

The subsequent emergency in Aceh happened when the Covid-19 epidemic struck. The Covid-19 outbreak became a global pandemic after the World Health Organization announced it (WHO). Government Regulation in Lieu of Law (Perpu) Number 1 of 2020 Concerning State Financial Policies and Financial System Stability for Handling the 2019 Corona Virus Disease (Covid-19) Pandemic and/or In the Context of Dealing with Threats that Harm the National Economy and/or Financial System Stability was issued in anticipation of the COVID-19 outbreak. In addition, the government enacted Law Number 2 of 2020 regarding the Stipulation of Government Regulations in Lieu of Law Number 1 of 2020 concerning State Financial Policies and Financial System Stability for Handling the 2019 Corona Virus Disease (Covid-19) Pandemic and/or in the Context of Facing Threats that Endanger the National Economy and/or Financial System Stability.

The province of Aceh is also inextricably linked to the Covid-19 pandemic. In response to this emergency, the Government of Aceh has issued Governor Regulation Number 51 of 2020 on Improving Handling of Corona Virus Disease 2019 (Covid-19), Implementing Discipline and Enforcing Health Protocols in Aceh. Governor of Aceh Regulation Number 9 of 2022 was subsequently released pertaining to Amendments to Governor of Aceh Regulation Number 51 of 2020 pertaining to Improved Management of Corona Virus Disease 2019, Implementation of Discipline and Law Enforcement of Health Protocols in Aceh. This Governor's Regulation is a precaution against the effects of non-natural disasters caused by the Covid-19 outbreak, which has resulted in social and economic damages for the citizens of Aceh.

Banda Aceh City Government has also taken measures to anticipate the effects of Covid-19 in Banda Aceh City by issuing Banda Aceh Mayor Regulation Number 45 of 2020 on the Implementation of Discipline and Law Enforcement of Health Protocols in an Effort to Prevent and Control Corona Virus Disease 2019 (Covid-19) in Banda Aceh. The Aceh Besar District Government has released Aceh Besar Regent Regulation Number 24 of 2020 on the Implementation of Discipline and Law Enforcement of Health Protocols in an Effort to Prevent and Control Corona Virus Disease 2019 in the Aceh Besar District. Similarly, the Pidie Jaya Regency Government published Pidie Jaya Regent Regulation Number 27 of 2020 on the Implementation of Discipline and Law Enforcement of Health Protocols in an Effort to Prevent and Control Corona Virus Disease 2019 in Pidie Jaya Regency. Additionally, Aceh Jaya Regency issued Aceh Jaya Regent Regulation Number 48 of 2020 on the Implementation of Discipline and Law Enforcement of Health Protocols in an Effort to Prevent and Control Corona Virus Disease 2019 in Aceh Jaya District.

3.2. Supporting and Obstacle Factors for Emergency Situation Management in Aceh

Supporting factors are everything that aids the Government of Aceh in carrying out its responsibilities and authorities, despite the fact that the region is in a disaster emergency or scenario. Decentralization of operations and authority from the centre to the areas, in order to establish regulations and policies according to regional interests, is a factor supporting the Aceh Government's involvement in overcoming the disaster emergency scenario. Article 18B of the 1945 Indonesian Constitution states: "The state recognises and respects regional government units that are special or special in nature and which are regulated by law." The Indonesian Constitution recognises and protects the territorial rights of regions with unique characteristics and specificities.

The provisions of Article 1 paragraph 1 of the 1945 Constitution underline that Indonesia is a unitary state in the form of a republic and delegate government affairs to regional governments on the basis of the decentralisation principle. The province of Aceh is one of the regions whose social, political, and cultural distinctiveness and features have been recognised by the government and are accompanied by the delegation of authority to administer their own domestic affairs with special autonomy and advantages. The delegation of responsibilities from the central government to the Government of Aceh was bolstered by the passage of Law Number 11 of 2006 pertaining to the Governance of Aceh. The decentralisation of Aceh gives direction and directives to the Government of Aceh so that it can establish aspirational and responsive rules and policies to address the catastrophe emergency situation in Aceh.

The absence of rules delegating direct authority to the Government of Aceh to create practical regulations and policies in dealing with and managing emergency conditions is a factor in the impediment of emergency response. The government and regional governments are responsible for implementing disaster management, according to Article 5 of Law Number 24 of 2007 on Disaster Management. Article 10 of Law Number 24 of 2007 requires the government to establish a National Disaster Management Agency (BNPB), while Article 18 of the same law requires local governments to establish a Regional Disaster Management Agency (BPBD). This legislation does not provide and advise regional governments, including the Aceh Government, to establish emergency response regulations and policies that are swift, precise, anticipatory, and responsive.

Inadequate human resources may result from the incompetence of regional government administrators and officers who are responsible in the event of a natural catastrophe or other emergency. Attending disaster education and training has a significant impact on both the apparatus and the officers' level of proficiency. In 2022, only 62 Aceh BPBD and local BPBD officials will receive training in disaster management, including the ability to develop Post-Disaster Rehabilitation and Reconstruction Plans (R3P).

One of the obstacles to executing the role of local governments in anticipating and overcoming the effects of natural disasters is the low degree of community participation in emergency

management. Community engagement during a disaster may involve submitting information about disaster events to the BNPB/BPBD or other relevant entities. The submitted information may include the form and location of the disaster, the impact of the disaster, and the number of fatalities, injuries, and other material losses. Additionally, communities must be able to escape independently. In addition, the community is expected to be able to participate in emergency response according to their areas of expertise. For instance, medical and/or paramedical personnel can provide first aid to disaster victims, and police officers, TNI members, Satpol PP members, and Linmas members can evacuate and secure the community from the disaster site.

3.3. Required and Anticipated Actions in a Disaster Emergency Situation in Aceh

Due to the impact of a disaster, it is vital to strengthen the competence of officers and apparatus responsible in the case of a disaster and/or emergency. Due to this, it is imperative that the Aceh government, including the Aceh BPBD, budget for and implement disaster education and training (training) with one of the required curricula on disaster mitigation. The government of Aceh is also required to educate and develop public knowledge about the significance of disaster prevention. In addition, emergency response infrastructure and facilities must be planned for. These facilities and infrastructure are adapted to the occurrence of natural and man-made disasters. Information service posts and catastrophe complaints are available around-the-clock, seven days per week. Agents of the information and complaint service must be proactive and responsive. It is also essential for the preparation of a disaster early warning system.

Increased public participation in preparing for and responding to catastrophes or emergency circumstances caused by disasters is essential. A community's awareness of the significance of disaster mitigation can lessen the severity and likelihood of disaster events. People who recognise the significance of catastrophe mitigation can reduce fatalities, injuries, and property losses. In the event of a disaster, community engagement in providing disaster information, the ability to conduct an independent evacuation, and the provision of first assistance in accordance with the skills and knowledge held.

As a proactive and reactive effort in an emergency, it is crucial and strategic to facilitate the Government of Aceh's ability to develop regulations and policies in emergency situations. Legal protection must be ensured for pro-people policymakers in times of emergency. It is crucial to maintain and increase coordination and collaboration between the Government of Aceh and the central government, particularly through vertical agencies in the regions, in an effort to jointly define and deliberate on the procedures to be done to overcome a disaster emergency.

IV. CONCLUSION

In conclusion, the implementation of the role of the Government of Aceh in overcoming disaster emergencies, both natural disasters and disease outbreaks, can run effectively and optimally if there is good coordination and cooperation with the central government. Authorization to formulate regulations and policies in dealing with emergency situations carried out by the Government of Aceh must receive legal protection so long as regulations and policies are aimed at saving the lives of the people. *Salus Populis Suprema Lex Esto* or the people's safety is the highest law, indicates that the Government of Aceh can take vital and strategic activities and procedures to preserve the safety of the people in the event of a disaster emergency.

The lack of rules that grant the Government of Aceh immediate authority to respond to emergency conditions is one of the impediments to responding to emergency situations. The Government of Aceh must also address the insufficiency of human resources and the amount of community participation in emergency response scenarios.

Decentralization of operations and authority from the centre to the areas, in order to establish regulations and policies according to regional interests, is a factor supporting the Aceh Government's involvement in overcoming the disaster emergency scenario. The asymmetric decentralisation offered by the central government to the Government of Aceh can be used to formulate legislation and policies for dealing with emergency disaster scenarios.

According to the research, the Government of Aceh enacted restrictions in the form of governor regulations during the Covid-19 epidemic as well as the 2004 earthquake and tsunami natural catastrophes. Districts or city administrations in Aceh also established mayor laws/regent regulations to address and overcome both natural and man-made disaster events.

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