

# Article

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**Submission date:** 05-Jun-2023 07:41PM (UTC+0700)

**Submission ID:** 2109473810

**File name:** of\_Human\_Rights\_of\_Residents\_Affected\_by\_the\_Semeru\_Eruption.pdf (272.58K)

**Word count:** 5058

**Character count:** 27478

# PROTECTION AND COMPLIANCE OF HUMAN RIGHTS OF RESIDENTS AFFECTED BY THE SEMERU ERUPTION

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**Abstract** : The eruption of Mount Semeru had a major impact on the surrounding communities affected. Not only about health, but these natural disasters also affect other aspects such as the economy, education, clean water facilities, and residential areas. The fulfilment of these rights is actually regulated in the International Covenant on economic, social, and cultural matters. Any country subject to such rules is insufficient to grant the right to access Education. Still, the state is obliged to provide Educational facilities, and the existing social and Educational facilities will necessarily suffer damage due to natural disasters. From these problems, this study aims to understand and elaborate on legal responsibility, protection and fulfilment of human rights for residents affected by the Semeru eruption. The method used in this research is Socio-Legal based legal research with an approach of *Participatory Action Research* (PAR).

Keywords: Semeru; Natural Disasters; Human Right.

## I. INTRODUCTION

A disaster is a natural or non-natural event that can cause casualties as well as large property losses (Fitriani et al., 2021; Parulian et al., 2019; Sadewo et al., 2018). Therefore, disaster mitigation is very important in some areas that do have a great potential for natural disasters (Maryani, 2016).

Volcanoes scattered in Most parts of Indonesia are active volcanoes. Data submitted by BMKG, there are at least 127 volcanoes spread from the islands of Sumatra, Java, Bali, Lombok, Sulawesi, to Halmahera, including Mount Semeru which is located in Lumajang regency, East Java. Therefore, Indonesia is made as a country that has the most active volcano in the world (Hariyono et al., 2016; Setiawan et al., 2017). This also makes Indonesia one of the countries that are prone to volcanic eruptions (Kaban et al., 2019). Despite all the risks, Mount Semeru actually has a positive impact, especially in the agricultural sector which makes the land more fertile. But behind it all there is a great danger and can threaten the safety of any occupation that settles in the vicinity.

The eruption of Mount Semeru made so many residents living on the mountainside areas, such as in Pronojiwo, Candipuro, and surrounding areas become victims. houses, farm animals, crops, and some other things became damaged. In these conditions, it is undeniable that people

who are victims of semeru eruptions are faced with complex situations both physically, psychosocially or psychologically, and their communication. After the disaster, of course, the fundamental problem that needs attention is the safety and physicality of the victims (Mannakkara & Wilkinson, 2014). Inhibition of fulfillment of basic needs such as eating/drinking, clothing, and housing, as well as other needs such as health, education, public facilities, social conditions, and poor environmental sanitation resulting in discomfort and can even become a source of disease. The loss of property makes the victim even worse, this is exacerbated because search sources (such as farmland and plantations) are also damaged.

The compelling conditions made the victims finally choose to evacuate. Of course, not everyone can accept the refugee camp. The United Nation High Commission for Refugees (UNHCR) provides definitions and limitations related to it (CHIMNI, 1993). It is stated that those who are categorized as refugees are those who leave their homes because there are things that are emergency and coercive, including natural disasters, getting to a place that feels safer.

The inherent status of each person who is a refugee has influenced his position and role in the social order. Refugees are considered a vulnerable group and deserve special attention as a result of disasters that put them in a space of helplessness (Rajaram, 2002). However, this does not necessarily make them a social group that is numbered (Tri Ananda et al., 2019). We can look at the guidelines made by the UN humanitarian affairs coordinator (OCHA). That there are five (5) basic things related to protection for refugees victims of disasters, namely;

- a. General Protection, such as the right to equality before the law, freedom of speech, freedom from discriminatory actions, and special protection, especially children, pregnant women, women who are the head of the family, the elderly, and disability groups
- b. Protection against the potential coercion of discriminatory refugees, such as coercion to evacuate on the basis of differences in race, color, ethnicity, religion, and political views.
- c. Protection from crimes, such as murder, theft, incarceration, violence, robbery, hostage taking, rape, torture, sexual abuse, and exploitation. Moreover, all refugees also have the right to know about the whereabouts of their families, or proper funerals when they die.
- d. Humanitarian assistance in the form of meeting food needs, such as food, clothing, health or medicine, education, and population administration services.
- e. Assistance in repatriation, relocation and integration with the place where the refugee is located.

Some of the things mentioned above are the main foundation for several things that are the rights of refugees. Of course, the big question is, who is obliged and has the responsibility to carry out all the fulfillment of these rights. As well as how it looks the responsibility of the state for natural disasters that befall its citizens. On this basis, it should be necessary to conduct an in-depth study related to the Protection and Fulfillment of Human Rights of Residents Affected by the Semeru Eruption.

## II. RESEARCH METHOD

Banakar dan Travers (Banakar & Travers, 2005) said the socio-legal approach is an interdisciplinary approach. The goal is to combine all aspects of the perspectives of 1 discipline, social sciences and legal sciences, into a single approach. Because of such an approach, the socio-legal goal is to completely combine the knowledge, skills, and forms of research experience of two (or several) disciplines in an effort to overcome some of the theoretical and methodological

limitations of the discipline in question and create a foundation for developing a new form of analysis.

The approach used by researchers is Participatory Action Research (PAR), So, researchers do not only focus on the subject matter, but also find solutions to existing problems

### III. RESULTS AND DISCUSSION

Human behavior that damages ecology is identical by committing human rights violations (Al-Fatih, 2021). In the consideration of Law Number 39 of 1999 concerning Human Rights, it is stated, that man, as a creature of God Almighty who carries out the task of managing and maintaining the universe with full devotion and full responsibility for the welfare of mankind, by His creator is awarded the human right to ensure the existence of dignity and dignity of his glory and the harmony of his environment. In letter b of the Human Rights Law, it is stated, that human rights are basic rights that are naturally inherent in human beings, are universal and langgem, therefore they must be protected, respected, maintained, and must not be ignored, reduced, or deprived by anyone (Nuraeni & Sihombing, 2019) (Al-Fatih & Aulia, 2021).

Originally the term known in the West regarding human rights was "right of man" replacing the term "natural right". The term apparently does not accommodate the notion of "right of women" by Eleanor Roosevelt because it is seen as more neutral and universal. Meanwhile, in the Islamic world human rights are known as huquq al-insan ad-dhoruriyyah and huquq Allah (Syafuri, 2020). 17 In this case the two things cannot be separated or run alone without any relation to each other. (Minanda & Juniati, 2016)

Inspired by the French Revolution, by Vasak HAM was divided into three generations as follows: (a) first generation, civil and political rights (liberte); (b) second generation, economic, social, and cultural rights (egalite); and (c) the third generation, the right to solidarity (fraternite). According to its content, human rights can be classified in civil and political rights, and economic, social and cultural rights (Mapulanga-Hulston, 2002).

The state in carrying out its duties must protect the human rights of every citizen (Al-Fatih & Kurniawan, 2021). Legal products made by the state in carrying out its duties must also protect and guarantee the enforcement of human rights of every citizen. Everyone has the right to a good and healthy living environment based on the fulfillment of basic human rights. The fulfillment of a good and healthy living environment is not only an obligation of the government, but is a right for the entire society without exception. For this reason, related to the fulfillment of a good environment, the Government is obliged to provide proper and dignified protection for the community (Minanda & Juniati, 2016).

The same thing is also affirmed in the Indonesian Constitution in Article 28G paragraph (1), Article 28H paragraph (1) and Article 33 paragraph (4) states that: Everyone has the right to the protection of personal self, family, honor, dignity, and property under his control, and is entitled to a sense of security and protection from the threat of fear to do or not do something that is a human right. Everyone has the right to live a prosperous life born and mentally, to live, and to have a good and healthy living environment and the right to obtain health services. The national economy is organized based on economic democracy with the principles of togetherness, equitable efficiency, sustainability, environmental insight, independence, and by maintaining a balance of progress and national economic unity. Other provisions in Law Number 39 of 1999 concerning

Human Rights Article 29 paragraph (1) states that: Everyone has the right to the protection of personal self, family, honor, dignity, and property rights". The human rights instruments are as follows;

**Table 1. Human Rights Instruments**

<b>Instrument</b>	<b>Date/Entry into Force</b>	<b>Number of States Parties</b>	<b>Indonesia as a State Party</b>	<b>Adopted Indonesia</b>	<b>Declaration/Reservation Indonesian</b>
Universal Declaration of Human Rights	<b>10 Des 1948</b>				
International Covenant on Economic, Social and Cultural Rights	<b>16 Des 1966/ 03 Jan 1976</b>	<b>155</b>	<b>Yes</b>	Law No. 11 of 2005	<b>Declaration Article 1.</b>
International Covenant on Civil and Political Rights	<b>16 Des 1966/ 23 Mar 1976</b>	<b>160</b>	<b>Yes</b>	Law No. 12 of 2005	<b>Declaration Article 1.</b>
Additional Protocol of the International Covenant on Civil and Political Rights	<b>16 Des 1966/ 23 Mar 1976</b>	<b>109</b>	<b>No</b>		
Second Additional Protocol of the Covenant on Civil and Political Rights, For the Abolition of the Death Penalty	<b>15 Des 1989</b>	<b>60</b>	<b>No</b>		
International Convention on the Elimination of All Forms of Racial Discrimination	21 Des 1965/ 04 Jan 1969	173	Yes	Law No. 29 of 1999	Reservation Article 22.
Convention on the Elimination of All Forms of Discrimination Against Women	<b>18 Des 1979/ 03 Sep 1981</b>	<b>185</b>	<b>Yes</b>	Law No. 7 of 1984	<b>Reservation Article 2229, point 1.</b>
<i>Additional Protocol of the Convention on the Elimination of All Forms of Discrimination Against Women</i>	<b>06 Okt 1999/ 22 Des 2000</b>	<b>85</b>	<b>Yes</b>		
Convention Against Torture and Other	10 Des 1984/ 26 Jun 1987	144	Yes	Law No. 5 of 1998	Declaration of Article 20,

Cruel, Inhuman, and Degrading Treatment or Punishment					paragraphs 1, 2, and 3. Reservation Article 30, paragraph 1.
<i>Additional Protocols of the Convention Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment</i>	18 Des 2002/ 22 Jun 2006	32	No		
Convention on the Rights of the Child	20 Nov 1989/ 2 Sep 1990	193	Yes	<b>Presidential Decree No. 36 of 1990</b>	<i>Reservations Articles 1, 14, 16, 17, 21, 22, and 29.</i>
<i>Additional Protocols of the Convention on the Rights of the Child on the Involvement of the Child in Armed Conflict</i>	25 Mei 2000/ 12 Feb 2002	110	Yes		
<i>Additional Protocols of the Convention on the Rights of the Child on Child Trafficking, Child Prostitution, and Child Pornography</i>	25 Mei 2000/ 18 Jan 2002	107	Yes		
<i>International Convention on the Protection of the Rights of All Migrant Workers and Their Family Members</i>	18 Des 1990/ 01 Juli 2003	35	No		
International Convention on the Protection of All Persons from Enforced Disappearances	20 Des 2006/ belum berlaku	-	-	-	-
<b>International Convention on the Rights of Persons with Disabilities</b>	-	-	-	-	-

<b>International Criminal Court (ICC)</b>	<b>17 Juli 1998/ 01 Juli 2002</b>	<b>104</b>	<b>No</b>		
International Convention on the Protection of All Persons from Enforced Disappearances	<b>23 Sep 2005 / -</b>	-	-	-	-

### Protection of Human Rights of Residents Affected by the Semeru Eruption

Every individual has an obligation to be active in giving maximum happiness to others. Every individual also has human rights that require the implementation of human rights. For example, in Indonesia, a number of regions often face natural disasters. This disaster even became a routine occurrence, not just once a year, but up to several times. People who live in disaster sites memorize the times when disasters come.

According to research Jon and United Nations International Strategy for Disaster Reduction (UNISDR; United Nations Agency for the International Strategy for Disaster Risk Reduction), that Indonesia is the most vulnerable country to natural disasters in the world (Nasution et al., 2020). Various natural disasters come every year in several parts of Indonesia, ranging from floods, landslides, forest fires, earthquakes, social conflicts, volcanic eruptions, and others (Ali et al., 2019). Article 6 and Article 8 of Law No. 24 of 2007 concerning Disaster Management (PB Law) state that the Unitary State of the Republic of Indonesia is responsible for protecting the entire Indonesian nation and all Indonesian bloodshed with the aim of providing protection for life and livelihoods including protection for disasters, in order to realize general welfare based on Pancasila, as mandated in the 1945 Constitution of the Republic of Indonesia.

Through this mandate, this law becomes the main source of law for the implementation of disaster management, which is then followed up with implementing regulations, including Government Regulation Number 24 of 2008 concerning the Implementation of Disaster Management (PP No. 21 of 2008), Government Regulation Number 24 of 2008 concerning Funding and Management of Disaster Assistance (PP No. 22 of 2008), Government Regulation Number 23 of 2008 concerning the Participation of International Institutions and Institutions Non-Government Foreigners in Disaster Management (PP No. 23 of 2008), Government Regulation Number 17 of 2018 concerning the Implementation of Disaster Management in Certain Circumstances (PP No. 17 of 2018), and Presidential Regulation Number 8 of 2008 jo. Presidential Regulation Number 1 of 2019 concerning the National Disaster Management Agency (Presidential Regulation No. 1 of 2019).

In relation to disasters that occur, the Government is responsible for the implementation of disaster management covering 1. disaster risk reduction and disaster risk reduction mixing with development programs; 2. protection of the community from the impact of disasters; 3. guarantee the fulfillment of the rights of communities and refugees affected by disasters in a fair manner and in accordance with minimum service standards; 4. recovery of conditions from the impact of disasters; 5. allocation of disaster management budgets in an adequate State Budget; 6. allocation of disaster management budget in the form of ready-made funds; and 7. maintenance of authentic and credible archives/documents from the threat and impact of disasters.

In 2006, the Inter-Agency Standing Committee (IASC) adopted the Operational Guidelines and Manuals for Protecting People Affected by Natural Disasters (IASC Operational Guidelines). Its purpose is to promote and facilitate a human rights-based approach to disaster management by translating human rights principles, norms, and standards into practical steps to help states, non-state actors, and the community to understand the relationship between human rights and disaster management. The relationship between human rights and the handling of natural disasters. The IASC Operational Guidelines stand on the basic values that communities affected by disasters have human rights human beings and basic freedoms. The IASC Operational Guidelines categorize human rights in disaster situations into four parts, namely:

First, Rights related to physical security and integrity (for example, protection of the right to life and the right to be free from violence, rape, arbitrary detention, kidnapping, and intimidation). Second, Rights related to basic necessities for life (e.g., the right to food, drinking water, shelter, adequate clothing, adequate health services, and sanitation). Third, Rights relating to economic, social and cultural protection needs (e.g., the right to access education, to receive indemnity or compensation for lost property, and the right to work). Fourth, Rights relating to the needs of civil and political rights protection (e.g., rights to freedom of religion and freedom of speech, personal documentation, political participation, access to courts, and freedom from discrimination).

### **Fulfillment of Human Rights of Residents Affected by the Semeru Eruption**

Legal protection is an effort to guarantee and protect the legal rights of the community (Prakasa et al., 2021)(Aditya & Al-Fatih, 2020). In the case of disaster, legal protection can be translated as: a. guarantee of the right to life and maintain life and life, as specified in Article 28A of the 1945 Constitution; b. guarantee of the right to live a prosperous life born and inwardly, to live, and to have a good and healthy living environment, as well as to obtain health services, as specified in Article 28H paragraph (1) of the 1945 Constitution

Legal protection is organized as a systematic and integrated effort. Likewise, the implementation of disaster management includes activities: 1) disaster management planning; 2) disaster risk reduction; 3) prevention; 4) mixing in development planning; 5) disaster risk analysis requirements; 6) implementation and enforcement of spatial plans; 7) education and training; and 8) requirements of disaster management technical standards. Leading to several aspects of these activities, the implementation of disaster management as a form of legal protection from the State includes three dimensions of concepts, namely: a. disaster management as a comprehensive and proactive effort starting from disaster risk reduction, emergency response, and rehabilitation and reconstruction; b. disaster management as an effort jointly carried out by stakeholders with complementary roles and functions; and c. disaster management as part of the development process so as to realize resilience to disasters.

The participatory approach model is effective in helping citizens recover while empowering communities, building a sense of ownership, and to maintain sustainability. According to Mrs. Rika, as a resident affected by the disaster, she said, "I don't understand for economic problems, only those affected by the eruption of Mount Semeru will be relocated to the source of efficacy or to Pronojiwo and the area around Sidomulyo. Now that's where he says it will be filled with economic and social problems. Meanwhile, residents who are affected such as lost houses are still indecisive about whether to move or not, because they have food clothing there. Even if it moves,



it is still thinking about whether it will be fulfilled forever while the government is still gray on the issue" The first time the eruption of government assistance was fast, such as logistics, tents, and Health so logistically it was good Only the back is still lacking. He also added that the Actions taken by the government at the time were felt to be very helpful, such as providing emergency tents and so on. Food and clothing is also filled with the existence of a Public Kitchen.

As for Mr. Bambang: "For our economy, it is enough to start from basic necessities and other necessities of life. Then it is also given protection such as a Long-shaped shelter, and is used for all victims. The fulfillment of family needs is also expected to have temporary shelters such as family boarding houses, thus family relationships are normal". Meanwhile, from a legal point of view, that whatever assistance is given is distributed equally but also not all assistance is distributed. Like rice is distributed a certain time, for example, once a week it is distributed in a certain amount. We hope that it will be fulfilled and also not overdone. So that what is distributed is really utilized as much as possible by refugee families.

Government intervention provided through the data collection of refugees who are actually affected by the eruption, because even the displaced persons can actually be divided into several categories. First, there are those who really feel the direct impact of the semeru eruption. Second, the residence was near the area affected by the eruption, but the residents experienced deep fear and traumaticism. Third, it is that residents who are far from the eruption site, do not feel the impact, but because of the potential for themselves to also become victims, which in the end encourages them to participate in the outbreak. From this fact, more accurate data is needed and people who are properly handled are accommodated and relocated prepared. especially to those who really need it. Others are strengthened so that they will not feel afraid, worried, and immediately able to carry out life normally. Local community leaders also placed emphasis on strengthening the incumbent to remain patiently waiting for the completion of the temporary residential relocation.

One of the things that becomes urgency is related to the fulfillment of the fundamental rights of each victim. Data released by MDMC Lumajang, as of January 06, 2022, at least from each village there are 10 families who receive logistical assistance. Especially in the settlement of renteng village, oro-oro ombo village, Pronojiwo district, Lumajang. Meanwhile, a larger number is found in Kalilengkong Hamlet, because in that place there are 25 families displaced in 13 houses of survivors. With the division of the category table as follows;

**Table 2. Survivor Identity**

No	Gender	Number
1	Female	53
2	Male	36
Total		89
No	Age category	Number
1	Elderly	23
2	Adult	35
3	Adolescent	11
4	Child	15
5	Toddler	4
6	Baby	1

Total		89
No	Education	Number
1	Kindergarten	2
2	Primary school	7
3	Junior High School	3
4	Senior High School	3
Total		15

During the emergency period, logistical needs, temporary shelter tents, and medical equipment have been provided to residents. Of course, the main problem is related to the accuracy of the target of assistance with what is needed by each family. The existence of a soup kitchen is an important buffer to meet the food needs of residents. One of the other problems is related to the availability of needs, so that not all assistance needed by the community can be carried out properly, there are considerations of time and energy, this is done to ensure the equitable distribution of the assistance.

#### IV. CONCLUSION

Vulnerability to human rights violations in natural disaster conditions including basic rights such as the right to education, access to health, social assistance, clean water facilities, and decent housing, including the right to information needs to be an important concern. Because it is guaranteed by the EKOSOB covenant. Efforts to fulfill human rights are absolutely absolute and are not allowed to be discriminated against. In addition, it is also necessary to emphasize the state's commitment to oversee the fulfillment of EKOSOB rights as regulated by the constitution and the Human Rights Law. This is intended so that people's rights can be fulfilled as appropriate including knowledge about the protection, respect, and fulfillment of the right to education and legal mechanisms for violations of EKOSOB rights, especially for residents affected by the Semeru eruption. Not only the state, the active participation of the Indonesian people to oversee the fulfillment of rights must also be prioritized to avoid potential violations and arbitrariness by the state.

#### V. ACKNOWLEDGMENTS

Researchers would like to thank all parties who have helped for the implementation of this research. Especially to the people who were victims of the Semeru eruption, and donors who have funded this research.

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