THE ACCELERATION MODEL OF PROTECTION RIGHTS FOR THE IMPACT OF NATURAL DISASTER BASED ON THE LOCAL WISDOM THROUGH THE HARMONIZATION OF LEGISLATIONS

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ABSTRACT

This research investigated and created an acceleration model of protection rights for the impact of natural disaster based on local wisdom through the harmonization of legislations in Central Java. Social, emphirical, political and normatif arguments are included here. This was the continuation of research conducted in 2012 regarding the Model of Policy Formulation based on Cultural Conservation to empower women's organization in assisting children and the study on the natural disaster management model in Temanggung Regency.

This study was focused on the acceleration of protection rights for the impact of natural disaster based on the local wisdom. Its objective was to create an acceleration model through the harmonization of legislations regulating natural disaster in Central Java. The primary resources in this research were 1945 Constitution, Legislations, Government Regulation, Presidential Regulation and Local Regulation in line with the natural disaster management whereas the emphirical resources from the sociological perspective were the stakeholders of natural disaster management, policy maker, the scholars in related field and the expert of human rights. The target of this research was to create and patent a model in the formulation of local regulation and to patent that output, textbook and international journal publication.

Constructivism paradigm, qualitative-hermenutik approach by juridicial-sociological research were employed during the process. The data were analyzed using the theoretical framework from Josept Golstein in the interaction analysis of constructivism in the R&D technique analysis. The investigation was conducted in National Search and Rescue Agency, Local Search and Rescue Agency, Local Government, Law Firm and Division, and the culture of Central Java society.

The first year was focused on the urgency of emphirical database and the acceleration model of protection rights for natural disaster impact based on local wisdon through the harmonization of legislations of natural disaster in Central java. The second year was focused on the experiment of approriateness, the development of this acceleration model as well as its implementation with valid money,

The result indicated the normatif, emphirical, sociological urgency of legitation harmonization as the basis implementation of disaster management in order to manifest the right to obtain the accelerated protection. This acceleration model utilized vertical harmonization with local wisdom using the concept of sister village after the vulcanic eruption in Merapi Mountain, Magelang and the mutual cooperation through vocal point of social elements after the flood disaster in Mijen municipality, Demak regency. In conclusion, the urgency to harmonize the legislations vertically and the existence of sister village became two instruments to accelerate the protection rights after a natural disaster. The sister village, therefore, shall be developed in accordance with the ability of the society supported fully by the government through National Disaster Management Agency (BPBN) and Local Disaster Management Agency (BPBD). The vocal point is enhanced through the religious mutual cooperation value in the referred location after a natural disaster.

Keywords: Acceleration Model, Natural Disaster, Harmonization

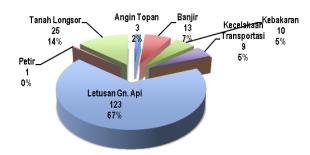
A. INTRODUCTION

In Indonesia, the legislation regulating disaster management have been enacted (as a normative fact) including the implementation of Law Number 24 of 2007 stated in Government's Regulation Number 21 of 2008 as the legal basis in the national level. Related to the legal framework for such issue, the local government of Central Java Province has enacted Local Regulation Number 11 of 2009. A local disaster management agency in this province was established in accordance to the Regulation from Ministry of Domestic Affair Number 46 of 2008 regarding the guideline, mechanism and Local Regulation Number 3 of 2008.

A previous juridical study of those provisions indicated the lack of synchronization and if the issue is continuously neglected, it will trigger a legal uncertainty for disaster management cases. Ironically, the situation is worsened by management system which is not in line with local wisdom as the defense of social life in Central Java. Though the society is renowned for its cooperative act, the management of flood disaster in Semarang and Kendal, of landslide in Temanggung and Karang Anyar had disregarded the role of society. At that time, the legislative provisions were exercised by the local government but the involvement of social organizations and the participation of society were not included. The government, working independently according to the prevailing legal procedure even became the burden of local society due to their inability to accommodate the voice of the people regarding the pattern of natural disaster management.

According to empirical facts, Indonesia is prone to disasters and even placed in the 7th rank among countries with frequent natural disasters in 2005 based on International Strategy for Disaster Reduction 2006-2009. According to the data from the local disaster management agency of Central Java province, in the last three years (2008-2010) the frequently occurred disasters in this area were landslide (31%), fire (25%), hurricane (24%) and flood (19%). The other types of disaster less than 10% included drought, volcanic eruption, transportation accident, lightning struck, social conflict and tsunami).

Meanwhile, the highest number of victims from the aforementioned disasters from 2008 to 2010 was found in volcanic eruption with 123 fatalities (67%). The other victims were found in landslide with 25 fatalities (14%). Here is the illustration:



The 1st Graphic
Fatalities due to natural disasters in Central Java Province in 2008-2010

The focused **research problems** here are: (1) Why is it urgent to accelerate protection rights for the impact of natural disasters based on the local wisdom through the harmonization of legislation regulating natural disaster in Central Java?; (2) how is the model to accelerate protection rights for the impact of natural disasters based on the local wisdom through the harmonization of legislation regulating natural disaster in Central Java?. **The purposes** of this research are: (1) to describe the urgency of the accelerated model to obtain protection rights for the impact of natural disasters based the on local wisdom?; and (2) to figure out an accelerated model to obtain protection rights for the impact of natural disasters based on the local wisdom through the harmonization of legislation regulating natural disaster in Central Java.

B. RESEARCH METHOD

This research employed constructivism paradigm, a qualitative approach with the type of sociological-juridical study of sociolegal perspective. Normatively the study was through the secondary resource of primary legal material (Government Regulation Number 21 of 2008 concerning the disaster management and local regulation Number 11 of 2009 regarding the disaster management in Central Java province). Sociologically, it used interviews and observation in the disaster area focusing on local wisdom in Magelang regency (Merapi volcanic activities) and Demak regency (flood in Mijen sub district).

To examine its validity, triangulation was utilized which is defined as the data accuracy based on research method used more than once and interview guidelines. In this regard, selected theoretical concepts in line with the research focus were examined through primary and secondary data resources.

The data were then analysed using silogism or deductive logic method with interactive analysis models. In other words, the major premis logic was the legal regulations whereas the minor premis was the legal facts. Afterwards the results were analyzed, a conclusion was drawn (Marzuki, 2006: 47) and continued by the presentation of data, reduction, conclusion and verification.

C. RESULT AND DISCUSSION

1. The Urgency to Accelerate the Protection Rights for the Impact of Natural Disasters based on the Local Wisdom through the Harmonization of Legislation Regulating Natural Disaster in Central Java.

The urgency to accelerate the protection rights for the impact of natural disasters based on local wisdom through the harmonization of legislation regulating natural disaster in Central Java includes sociological, empirical and normative perspectives.

a. Sociological Urgency

The disasters referred here are natural phenomena destructing life veins. They frequently result in fatalities, environmental destruction and material loss. Central Java province has geographical and geological conditions prone to disasters, caused by both nature and human including:

1) Economic sector (poverty)

2) Social sector (society)

The president of Republic of Indonesia, Susilo bambang Yudhoyono in his speech in International Conference of Lessons Learned and Experiences in Indonesia entitled the Preparedness and Immunity for Disasters stated that "disasters encourage the shift of natural disaster paradigm, initially from an emergency quick response to the reconstruction and rehabilitation, and now added by the reduce of disaster risks (Investor Daily: 2013). The shift of paradigm from reactive to proactive efforts principally emphasizes on the pre-disaster stage. Its integrated elements, therefore, shall be emphasized on the preparedness to manage proactive efforts effectively. In fact, for the time being the society still focuses on occurrence of disasters and has not considered preventive acts to decrease their risks. Consequently, many people are trapped in an area prone to disasters. It happens due to the lack of information and socialization by the designated institutions (local and national disaster management agency).

3) Cultural sector (education)

Students are a tangible asset of national development and future so that a protection from threats and dangers of disasters is deemed necessary. They (including students with special needs) as the member of society are prone to natural disasters. The school community, particularly students, can actively act as an agent as well as communicator to disseminate knowledge related to disaster management education for parents and their surrounding (SC-DRR: 2010).

b. Empirical urgency

Reducing the risk of disasters is a concept and application through systematic efforts to analyze and manage influencing factors including explaining the threats, reducing human and property proness, managing the land and environment wisely, and increasing the preparedness for disadvantegous events. The current condition in Central Java is presented in indicator boards and data below:

Table 1
The Classification of Threats in Central Java

The Classification of Threats in Central Java							
Classification		Threat Level					
		Low			Medium	High	
	Low						
	Medium	Epidemic and Endemic Disease					
		Extreme Wave & Abrasion, Extreme					
Loss Level		Weather, Epidemic Disease, Earthquake,					
	High	Forest & Land F		•			
		Drought, Social			,		
		Volcanic Eruption	on, Ts				
Classific	ation	Threat Level					
Classific		Low		Medium		High	
	Low						
Presented	Medium						
Inhabitant Level		Epidemic and		Social		Tsunami, Earthquake, Forest Fire,	
(People/Km ²)	High	Endemic Disease Co		Conflict	Drought, Technological Failure,		
(· · · · · /					Flood, Volcanic Eruption, Extreme		
					er, Landslide, Abra	sion	
Classific	ation	Threat Level					
		Low		Medium		High	Į .
	Low		Б.				
	Medium		Epidemic Disease				
						treme Wave, Flood, Earthquake, Icanic Eruption, Forest and	
		Technological Failure, Droug Social Conflic		•		•	
Loss Level					Lane	d Fire, Landslide, 7	sunamı
(Rupiah)			300	iai Commet			
	High						
Classification		Threat Level					
Classification		Low		Mediu	m	Hi	igh

Area Capacity Level	Low	Epidemic Disease	Extreme Wave, Extreme Weather, Flood, Earthquake, Land Fire, Technological Advancement, Drought, Social Conflict, Landslide, Tsunami
	Medium		
	High		

Source: The Plan of Disaster Management of Central Java 2012-2016

According to the above explanation, the capacity of Central Java Province is still insufficient with the high level of disaster, threat and proneness. As a result, the program to reduce disaster risks in this area is hardly manifested. Basically the concept emphasizes the threat/danger and proneness and increases the existing capacity in Central Java. This condition occurs in the research location of Demak Regency (Flood in Mijen Subdistrict) and the volcanic eruption of Merapi Mountain in Magelang Regency.

c. Normative Urgency

It employed juridicial data through the synchronization of legislation with a substantial analysis related to Government Regulation Number 21 of 2008. The concept particularly on the pre-disaster stage as stated in Government Regulation Number 21 of 2008 becomes the basis of synchronization reference so that a correlation can be drawn with substantial provisions in pronvincial regulation Number 11 of 2009. As a result, the synchronization level can be examined and concluded as the table below:

Table 2
The Synchronization of Government Regulation Number 21 of 2008
and Local Regulation Number 11 of 2009
(Disaster Management – Pre-Disaster – When the Disaster does not occur)

		Legislation regarding the Disaster Management		
No	Classification	Government Regulation Number 21 about the Disaster Management	Local Regulation of Central Java Province Number 11 of 2009 concerning the Disaster Management in Central Java Province	
1.	Chapter	II. Pre-disaster	VIII. Disaster Management Activities	
	Part/Paragraph	Part 1. General	Part 2/Paragraph 1. Pre-disaster	
	Article (Clause)	4	29	
	Substantial Explanation	Classify pre-disaster into two stages namely: a. When a disaster does not occur b. When a disaster probably occurs	Classify pre-disaster into two stages namely: a. When a disaster does not occur b. When a disaster probably occurs.	
2.	Part/Paragraph	Part 2. A situation when a disaster does not occur.		
	Article (Clause)	5 Articles (1), (2), (3)	30	
	Substantial Explanation	Classify 8 disaster management activities when a disaster does not occur.	Classify 8 disaster management activities when a disaster does not occur.	

Source: Edited from the secondary data of 2013

Related to the disaster management on pre-disaster stage by both the central and local government, there are two different managements stated in Government Regulation Number 21 of 2008 and Provincial Regulation Number 11 of 2009. They included a situation when a disaster does not occur and a situation when the disaster probably occurs.

Table 3 The Synchronization of Government Regulation Number 21 of 2008 and Local Regulation Number 11 of 2009

(Disaster Management – Pre-Disaster – A Situation when a Disaster probably Occurs)

			1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	
		Legislation regarding Disaster Management		
No	Classification	Government Regulation Number 21 concerning the Disaster Management Activities	Local Regulation of Central Java Province Number 11 of 2009 about the Disaster Management Activities in Central Java Province	
12.	Part/Paragraph	Part 3. A situation when the disaster probably occurs		
	Article (Clause)	15	36	
	Substantial	Classify 3 activities during a	Classify 3 activities during a	
	Explanation	situation when a disaster	situation when a disaster probably	
		probably occurs.	occurs.	

Source: Edited from the secondary data of 2013

According to Table 2 above, the disaster management activities in the pre-disaster stage between Government Regulation of 2008 and Local Regulation Number 11 of 2009 is simultaneous. They are indicated by the similarity of eight activities conducted during a situation when a disaster does not occur and three activities conducted during a situation when a disaster probably occurs with the lack of some clauses in the local government.

2. The accelerated model of protection rights for the impact of natural disasters based on the local wisdom through the harmonization of legislation in Central Java.

a. The accelerated model of protection rights for the impact of volcanic eruption employs a local wisdom with a sister village (Merapi-Magelang) and a vocal point in Mijen Village-Demak. Merapi mountain as one of the most active volcanoes in Central Java definitely will become a constant threat for the surrounding society. Thus, a similarity of perceptions is necessary among the society, the government and all stakeholders related to the threat characteristics and ways to manage them. A sister village is one of the efforts to reduce disaster risks as the manifestation of the principle of living in harmony with Merapi. It facilitates the society in a prone-to-disaster area to formulate "how to evacuate correctly and well" and facilitates the targeted evacuation village to "accept the refugees correctly and well".

b. The synchronization of legislation

The process takes into account not only the structure of hierarchy of legislation but also the principles and norms implied in them. The further elaboration is as follow:

1). The synchronization towards legal systematization

Hans Kelsen in his proposition, *Stuffenbow*, argued that legal norms are leveled and layered in a structure of hierarchy in which the lower norm is conducted, referred, and based on the higher norm until this *regresus* eventually stops in the highest norm (Grondnorm) (Rodiyah, 2011: 16).

The thought regarding the hierarchy of legislation is the consequence of legal thought by Hans Kelsen in which law is included in the nomodynamic norm because it is constantly formulated and abolished by an incumbent institution or authority (Faride 1998:9).

The systematization of legislation is regulated in article 7, clause (1) of law number 12 of 2011 regarding the formulation of legislative provisions. To know the synchronization level of legislation concerning disaster management with Law number 12 of 2011, the elaboration is presented below:

Table 4
The Synchronization of Legislation Regulating Disaster Management
For the Legal Systematization

Type and Hierarchy of Article 7	Legislation regulating	
Clause (1) Law No.12 of 2011	Disaster Management	
1945 Constitution of Republic of		
Indonesia	-	
House of Representative Decision	-	
Law	Law Number 24 of 2007 regarding disaster management	
Government Regulation	Law Number 21 of 2008 concerning disaster management activities	

Type and Hierarchy of Article 7 Clause (1) Law No.12 of 2011	Legislation regulating Disaster Management
	Law Number 22 of 2008 about the Budgeting and Management of Disaster Aid
President's Decision	Presidential Regulation Number 8 of 2009 about the Involvement of International and Foreign Non-Governmental Organization in Disaster Management
Local Regulation (Central Java Province)	Local Regulation Number 11 of 2009 regarding the Disaster Management in Central Java Province
Local Regulation in a Regency/Municipality	-

Source: Edited from Secondary Data, 2013

2). The Synchronization towards Legislative Principles

The synchronization is in accordance with Merkl's theory regarding the legal stages. Here, law is a system of a hierarchical order, a system of norm, conditioning and conditioned and legal acts. The conditioning norm includes a condition to form other norms or acts. This hierarchy is manifested in regression from the higher legal system to the lower one. This is always a concrete and individualized process.

In this theory, Adof Merkl explained that Norm has two faces:

- 1) Norm facing beneath it (coming from the lower norm)
- 2) Norm facing above it (coming from the higher norm)

The consequences of this theory are:

- 1) The expiry of a norm depends on the higher norm
- 2) If the higher norm is not enacted, the lower norm will not be in effect.

The formulation of legislation is in line with (Article 5) Law Number 12 of 2011, stating that the principles of a sound formulation include:

- 1. clarity of purpose
- 2. appropriateness of organization and official
- 3. relevance among the type, hierarchy and content material
- 4. applicable implementation
- 5. benefit and usefulness
- 6. clarity of formulation
- 7. openness (Rodiyah 2011:16).

According to the aforementioned principles based on Article 5 of Law Number 12 of 2011, the synchronization can be carried out through:

Table 5
Principle Synchronization-Legislative Principles- Legislation Regulating Disaster Management

Principle of	Legislation Regulating Disaster Management		
Article 5 of Law Number 12 of 2011	Government Regulation No. 24 of 2007	Local Regulation No. 11 of 2009	
Clarity of	Article 2	Article 3	
Purpose	Disaster management activities are intended to ensure the implementation of well-planned, integrated, coordinated and comprehensive activities in order to provide protection for society from the threats, risks, and impacts of disasters.	The purposes of disaster management are: a. to provide protection for the society from the threats of disasters; b. to harmonize the existing legislation; c. to ensure the implementation of well-planned, integrated, coordinated and comprehensive disaster management; d. to respect local cultures; e. to establish public and private partnership and participation; f. to encourage cooperativeness, solidarity and	

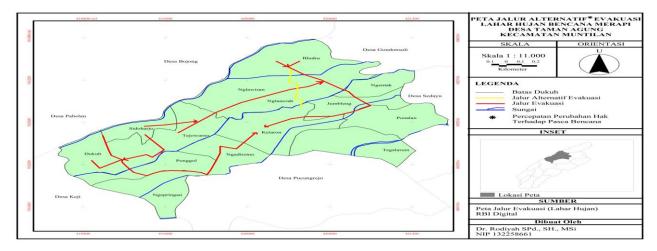
Principle of	Legislation Regulating Disaster Management		
Article 5 of Law Number 12 of 2011	Government Regulation No. 24 of 2007	Local Regulation No. 11 of 2009	
		generosity; g. to foster peace among society and state affair.	
Appropriaten ess of Organization/ Official	People's Representative Council altogether with the President	Regional Representative Council altogether with the Governor	
Relevance among the type, hierarchy and content material	Implement the order from Article 50 clause (2), article 58 clause (2), and article 59 clause (2) of law number 24 of 2007 about the disaster management	Implement the order from Law Number 24 about the disaster management in order to encourage local autonomy and assisting tasks as well as President Regulation Number 8 of 2008 concerning National Disaster Risk Management Agency and Regulation from the Ministry of Domestic Affair Number 46 of 2008 regarding the rule of organization and mechanism of Local Disaster Risk Management Agency.	
Applicable Implementati on	All activities can be implemented effectively		
Benefit, Advantage and Clarity of Formulation	Central and Local governments are responsible to protect all Indonesian society for their life and living to actualize social welfare. The areas in Indonesia have geographical, geological, hydrological and demographical having high possibility of disasters due to natural, non-natural, or human factors primarily natural disasters such as earthquake, landslide, drought, hurricane, tsunami and volcanic eruption which can cause environmental destruction, material loss, psychological impact and fatalities; The disasters can hinder and disturb the social life and living, the national development and its results so that a coordinated, integrated, quick and appropriate anticipation and management are necessary.		
Openness	A vast majority of society and social organizations have freedom to channel their opinions and ideas related to legislation.		

Source: Edited from the Secondary data, 2013

The synchronization of legislation can be carried out through two methods namely vertical and horizontal synchronization. Both of them examine to what extent the prevailing written positive law for similar fields is synchronized (Goesnadhie 2006:23-24).

According to the synchronization of legislation towards the type, hierarchy, principles and norm implied in the Law Number 21 of 2008 and Law Number 11 of 2009, it can be concluded that vertical type is employed there because it examines whether or not each prevailing legislation in a particular field is contradictory to another and in this study, it indicates the structure of hierarchy of the aforementioned laws.

Here is the alternatif route for an evacuation in Merapi disaster to accelerate the protection rights.



Based on the initial map is as follow:



D. CLOSING

In conclusion, the urgency to synchronize the legislation regulating disaster management can be divided into three parts namely sociological, empirical and normative views. The sociological and empirical urgencies are one of the influencing factors of legislative synchronization as they illustrate the current condition of the society. Examining that circumstance will become an indicator of success in disaster management in Central Java after the enactment of Local Regulation Number 11 of 2009 concerning the disaster management activities there.

From the sociological urgency, the economic, social and cultural condition of society and the range of area hugely influence the occurrence of disasters in Central Java Province. The empirical urgency indicates that the status quo regarding the capacity level there is still insufficient whereas the risk, threat and proneness of disasters are considerably high. The normative urgency demonstrates that disaster management activities in the stage of pre-disaster between Government Regulation Number 21 of 2008 and Local Regulation Number 11 of 2009 are simultaneous indicated by the similarity of eight activities when a disaster does not occur and three activities when a disaster probably occurs. According to the type, hierarchy and principles of legislation, it can be concluded that the vertical synchronization is employed for Law number 21 of 2008 regarding the disaster management activities with local regulation number 11 of 2009 concerning the management in Central Java Province.

The accelerated model of protection rights in Merapi disaster used the local wisdom with the sister village and the vocal point in Mijen Village – Demak. Merapi, one of the most active volcanoes in Indonesia, of course, will be a threat for the surrounding thus the congruence of perceptions is necessary among the society, the government and all stakeholders related to its threat characteristics and management. Sister village is one of the efforts to reduce the disaster risks as the manifestation of principle of living in harmony in Merapi. The other fundamental effort is facilitating the prone-to-disaster village to "evacuate correctly and well" and the targeted evacuation village to "accept the refugees correctly and well".

For constructive suggestion, the effort to synchronize juridical study for legislation regulating disasters shall be undertaken. Through this harmonization, there will be substantial similarity which is synergic and not overlapping. Thereore, the programs mandated there can be be carried out optimally to reduce the disaster risks by the national and provincial disaster risk management agencies as well as the designated institutions in the regency/municipality. The study of the synchronization of legislation regulating disaster management indicated the incompleteness of clauses discussing the pre-disaster stage in the local regulation Number 11 of 2009 in Central Java. The decision makers are, therefore, suggested to implement the accelerated model of protection rights for the impact of Merapi volcanic eruption through applying local wisdom values with the sister village and the development of vocal point in Mijen Village – Demak. The next recommendation relates to the use of an alternative evacuation route in Taman Agung Village, Muntilan Subdistrict. This database, furthermore, will become the basis of following research to formulate Academic Document of local regulation related to the disaster management.

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