

Post-Disaster Aid in Electoral Contexts: The Intersection of Insurance Law and Economic Justice

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Abstract

This study analyzes the politicization of post-disaster aid through the distribution of insurance claims that are exploited as instruments for gaining electoral advantage during local elections in North Lombok. This phenomenon reveals a lack of regulatory oversight over insurance companies as business entities that should be subject to principles of good corporate governance and CSR. Employing a socio-legal and law and development approach, the research investigates the interrelation between local political dynamics, insurance regulatory frameworks, and economic justice for disaster-affected communities. The findings indicate legal loopholes and conflicts of interest within contracts between local governments and insurance providers, as well as the ineffectiveness of existing regulations in ensuring corporate accountability. The study recommends comprehensive reform of the insurance legal framework, strengthening of oversight by the Financial Services Authority, and integration of CSR principles in disaster aid management. Theoretically, this study highlights the need to broaden the scope of business law scholarship by incorporating political and disaster-related variables to support the development of a more just and responsive legal system.

1. Introduction

Considering Indonesia's high vulnerability to disasters, there is an urgent need for a more integrated and proactive approach from both governmental institutions and civil society. The development of comprehensive mitigation frameworks, combined with targeted educational initiatives, is essential to enhance societal resilience. Moreover, substantial investment in education and the systematic application of mitigation knowledge are critical not only for reducing disaster impacts but also for ensuring long-term environmental sustainability.¹

Elections in the context of disasters have been extensively studied by previous researchers, examining various aspects including social, economic, political, environmental, and cultural factors, along with the methods and analyses used by the researchers. One such study on elections in the context of disasters was conducted by Paulo Bastos and Sebastian ,who clearly illustrated that the declaration of droughts prior to political contests could

¹ Mir'atul Azizah Et Al., "Kajian Risiko Bencana Berdasarkan Jumlah Kejadian Dan Dampak Bencana Di Indonesia Periode Tahun 2010 – 2020," *Pendipa Journal Of Science Education* 6, No. 1 (June 19, 2021): 35–40, <https://doi.org/10.33369/Pendipa.6.1.35-40>; Rita Noviani Et Al., "Literasi Satuan Pendidikan Aman Bencana (Spab) Untuk Meningkatkan Kapasitas Mgmp Geografi Kabupaten Boyolali," *Semar (Jurnal Ilmu Pengetahuan, Teknologi, Dan Seni Bagi Masyarakat)* 12, No. 2 (November 9, 2023): 208, <https://doi.org/10.20961/Semar.V12i2.76890>; Jaya Iskandar, Roi Milyardi, And Cindrawaty Lesmana, "Pemetaan Risiko Multibencana Alam Pada Infrastruktur Jalan," *Jmts: Jurnal Mitra Teknik Sipil*, May 26, 2023, 495–510, <https://doi.org/10.24912/Jmts.V6i2.23298>.

strengthen the electoral advantage of incumbent mayors in Brazil. Policy responses to extreme weather conditions are influenced by political considerations and have significant effects on the functioning of democratic institutions as well as the design and management of activities related to the distribution of aid to communities.² reinforced this statement in their research findings, showing that the performance of regional heads during emergencies has a strong correlation with their chances of reelection during crises³, which found that the greater the damage, the more frequently politicians reach out to a wide network of connections that could benefit them politically.

This notion aligns with findings from a related study, which suggests that material damage resulting from disasters increases the likelihood of voters supporting left-wing and independent candidates. Voters affected by such events tend to favor candidates whose ideological positions resonate with their post-disaster needs and sentiments. Supporting this trend, found substantial electoral effects following flood events, where support for pro-climate policy platforms increased by up to 20 percent. These results contribute to the growing body of literature examining how local environmental and socio-political conditions influence voting behavior. Further reinforcing these observations, found that natural disasters may offer electoral advantages to incumbents, particularly when aid is distributed strategically to influence voter preferences. Drawing on data from Colombia's Office of the Inspector General, his study underscores the role of clientelism, where leaders leverage disaster relief funds to secure electoral support, often through the direct exchange of material aid for votes.

A different perspective on the phenomenon of elections in the context of disasters, particularly regarding the defeat of incumbents, is presented in studies by Boris Heersink et al. (2021)⁴. Their research begins by posing the question: Do natural disasters help or harm the electoral fortunes of politicians? Their findings emphasize a contradiction with earlier studies. Other research has found that voters indiscriminately punish elected officials following natural disasters, a phenomenon referred to as "blind retrospection."⁵ In contrast, some scholars argue that voters consider officials' relief efforts in their evaluations, known as "attentive retrospection"⁶. However, found that incumbent party candidates did not perform worse in disaster-affected copartisan counties compared to unaffected copartisan counties. Instead, their poor performance in disaster-affected counties was attributed to pre-existing attitudes, a dynamic they term "partisan retrospection."⁷ Similarly, found that the amount of

² Ytzhak Katz, & Baruch Mevorach Amir Horkin, "Perceived Crisis Management And Its Effect On Re-Election: The Case Of Local Government In Israel Under The Second Lebanon War.," 2013.

³ Daniel P. Aldrich & Yoshikuni Ono, "Local Politicians As Linking Social Capital: An Empirical Test Of Political Behavior After Japan's 3/11 Disasters," 2019.

⁴ Kosta, Benjamin Banai, And Irena Pavela Banai Bovan, Do Natural Disasters Affect Voting Behavior? Evidence From Croatian Floods." Plos Current Disasters , 2018.

⁵ Christopher H., And Larry M. Bartels. Achen, "Blind Retrospection: Electoral Responses To Drought, Flu, And Shark Attacks.," " Paper Prepared For Presentation At The Annual Meeting Of The American Political Science Association, Boston., 2002; A., & Malhotra, N. Healy, "Myopic Voters And Natural Disaster Policy American ," Political Science Review 100, No. 3 (2009): 387-406.

⁶ Healy, "Myopic Voters And Natural Disaster Policy American ."

⁷ Jeffery A. Jenkins, Michael P. Olson³, Brenton D. Peterson Boris Heersink, Natural Disasters, 'Partisan Retrospection,' And U.S. Presidential Elections., 2020.

government aid expenditure had no significant impact on voter behavior in the aftermath of a natural disaster, applying a retrospective voting model in their analysis.⁸

The 2018 Lombok earthquake disaster represents a multidimensional crisis that profoundly disrupted the region's social, economic, and environmental structures. The main shocks, recorded at magnitudes of 6.4 on July 29 and 6.9 on August 5, were followed by a series of powerful aftershocks, collectively resulting in the destruction of more than 10,000 buildings and claiming hundreds of lives⁹. Lombok's geographical positioning between the Indo-Australian and Eurasian tectonic plates renders it exceptionally vulnerable to seismic events. Research suggests that the sequence of earthquakes was driven by complex fault system activity, producing far-reaching consequences that greatly exceeded the typical impacts of isolated seismic incidents.¹⁰

The post-disaster recovery process following the 2018 Lombok earthquake created significant overlaps with the political dynamics surrounding the 2020 local elections (Pilkada). The disaster not only devastated physical infrastructure but also profoundly affected the socio-economic conditions of the community, unfolding simultaneously with preparations for the local elections. Research by Bakti and Nurmandi highlights that post-disaster recovery efforts in North Lombok were required to be carried out under the responsibility of the local government, as mandated by Law Number 24 of 2007 concerning Disaster Management (hereinafter as Law No. 24/2007), which obliges the integration of recovery policies into governmental agendas¹¹. In this context, political agendas can influence the allocation of resources and the prioritization of recovery efforts. For example, local governments may sometimes focus more on projects that can boost their popularity ahead of elections, such as infrastructure development, rather than on recovery programs that directly address the fundamental needs of the community. As a consequence, recovery initiatives tend to neglect community participation, despite its critical importance in building long-term disaster resilience.¹²

The politicization of post-disaster aid has become a critical issue, highlighting the complex interplay between social and political dynamics. In Lombok, following the series of earthquakes in 2018, significant challenges emerged, including the community's increasing dependence on political actors for access to aid and recovery efforts. Indicates that social assistance programs were often leveraged by politicians to boost their electability, particularly in the lead-up to elections. This situation created a dynamic in which humanitarian aid, which

⁸ Bovan, Do Natural Disasters Affect Voting Behavior? Evidence From Croatian Floods." *Plos Current Disasters* .

⁹ Annisa Trisnia Sasmi Et Al., "Shear Wave Splitting Of The 2018 Lombok Earthquake Aftershock Area, Indonesia," *Geoscience Letters* 10, No. 1 (January 19, 2023): 7, <https://doi.org/10.1186/S40562-022-00258-3>.

¹⁰ Sasmi Et Al.

¹¹ Heru Kusuma Bakti And Achmad Nurmandi, "Pemulihan Pasca Bencana Gempa Bumi Di Lombok Utara Pada Tahun 2018," *Jurnal Geografi* 12, No. 2 (August 1, 2020): 137-51, <https://doi.org/10.24114/Jg.V12i02.16750>.

¹² Mappatoba Mappatoba Et Al., "Sosialisasi Kewirausahaan Pada Masyarakat Terdampak Bencana Gempa Dan Tsunami Di Desa Tompe Kecamatan Sirenja Kabupaten Donggala," *Parta: Jurnal Pengabdian Kepada Masyarakat* 4, No. 2 (January 3, 2024): 100-106, <https://doi.org/10.38043/Parta.V4i2.4524>.

should have been impartial, became politicized, fostering a reliance on political decisions and actions rather than promoting a more autonomous and resilient community system.¹³

This dependency tends to exacerbate the vulnerabilities of affected communities, as they are left waiting for assistance from the government or political candidates, creating a dangerous state of uncertainty. This condition is often worsened by issues related to transparency in aid management, where politicization frequently leads to inefficient and misdirected allocation of resources.¹⁴ As a result, there is a growing perception among the public that their economic recovery and resilience depend on the support of specific individuals rather than on a comprehensive economic system and broader recovery programs.

Importance of sustainability in post-disaster economic and social management, emphasizing the need for public awareness of their rights and active participation in decision-making processes¹⁵. Dependence on politically driven aid can hinder the development of local capacity that is crucial for sustainable recovery. By understanding these issues, communities can be better prepared to demand transparency and accountability from political actors, thereby helping to reduce reliance on them.

The lack of financial protection mechanisms, such as insurance for disaster victims, has emerged as a central issue in the context of community recovery following natural disasters, such as the 2018 Lombok earthquake. Research revealed that community participation in disaster insurance schemes in Indonesia remains very low, resulting in economic instability for individuals affected by disasters¹⁶. Many people are often unable to access the insurance products needed to ensure adequate financial protection during times of crisis.

The process of insurance claims post-disaster is often complicated and confusing, adding to the difficulties faced by disaster victims in recovering their conditions. They find that there is a gap between the protection promises made by insurance companies and what they can actually deliver on the ground¹⁷. This situation leads to a lack of trust in insurance products, further exacerbating their financial resilience in facing future disaster risks.

Ericson and Vet also discuss that insurance should not only function to restore financial conditions post-disaster but should also be viewed as part of a more comprehensive approach to disaster recovery. They emphasize that recovery is often more complex than merely compensating financial losses; uncertainty and lack of information can slow down the

¹³ Willya Achmad, "Politics And Social Welfare: Dynamics Of Social Assistance Programs On Electability In Indonesia," *Jwp (Jurnal Wacana Politik)* 9, No. 2 (May 23, 2024): 205, <https://doi.org/10.24198/jwp.v9i2.53634>.

¹⁴ Achmad.

¹⁵ Kholil Kholil Et Al., "How To Ensure Sustainability Of Economic And Social Activities Post Earthquake A Case Study In Lombok West Nusatenggara Indonesia," *Jurnal Pengelolaan Lingkungan Berkelanjutan (Journal Of Environmental Sustainability Management)*, January 2, 2021, 471-85, <https://doi.org/10.36813/jplb.4.2.471-485>.

¹⁶ Siskarossa Ika Oktora Et Al., "Identifying The Potential Participation In Natural Disaster Insurance: First Attempt Based On A National Socio-Economic Survey In Indonesia," *International Journal Of Disaster Resilience In The Built Environment* 15, No. 2 (February 13, 2024): 177-92, <https://doi.org/10.1108/Ijdrbe-04-2022-0034>.

¹⁷ Evgenia Bourova, Ian Ramsay, And Paul Ali, "The Arduous Work Of Making Claims In The Wake Of Disaster: Perspectives From Policyholders," *Geographical Research* 60, No. 4 (November 21, 2022): 534-48, <https://doi.org/10.1111/1745-5871.12553>.

recovery process.¹⁸ The need for capacity building and increasing public awareness about the importance of disaster insurance is a crucial step in reducing risks and enhancing community resilience.

Show that disaster insurance can play a crucial role in mitigating the financial consequences of natural disasters, but its implementation in Indonesia still faces many challenges. For example, dependence on an uneven premium payment system in certain areas limits accessibility to insurance for low-income communities. Therefore, creating a fair and affordable insurance model, as well as improving financial literacy regarding insurance protection among the public, becomes crucial.¹⁹

It should be underlined that the distribution of aid and the involvement of the private sector in post-disaster recovery must adhere to legal principles, including the principle of legal compliance, Corporate Social Responsibility (CSR), and Good Corporate Governance (GCG). These principles form an integral part of the modern business-law framework, which emphasizes not only economic profit but also corporate ethics and social accountability²⁰. In addition, the presence of the insurance industry as a financial protection instrument for disaster victims is a crucial aspect of this discussion. Unfortunately, public participation in disaster-insurance schemes in Indonesia remains very low²¹, indicating unequal access to legal and financial protection. Complicated claims processes and low financial literacy have further eroded public trust in insurance products.

In this regard, the role of insurance companies should not be understood merely as profit-seeking business entities, but also as legal subjects with responsibilities to uphold the prudential principle, transparency, and sustainability²². Compliance with insurance regulations—such as those stipulated in Law No. 40 of 2014 on Insurance—and the implementation of CSR as required by Article 74 of Law No. 40 of 2007 on Limited Liability Companies constitute forms of corporate legal accountability to the public and disaster victims. Therefore, in the context of post-earthquake recovery in Lombok (2018), a business-law perspective is relevant to assess the extent to which the private sector—especially insurance companies—has been involved in a fair, transparent, and sustainable manner²³.

Furthermore, the politically charged dynamics surrounding the distribution of post-disaster aid raise questions about the integrity of the legal system and the protection of

¹⁸ Christine Eriksen And Eliza De Vet, "Untangling Insurance, Rebuilding, And Wellbeing In Bushfire Recovery," *Geographical Research* 59, No. 2 (May 30, 2021): 228–41, <https://doi.org/10.1111/1745-5871.12451>.

¹⁹ Kalfin Et Al., "Insurance As An Alternative For Sustainable Economic Recovery After Natural Disasters: A Systematic Literature Review," *Sustainability* 14, No. 7 (April 6, 2022): 4349, <https://doi.org/10.3390/Su14074349>.

²⁰ Satjipto Rahardjo, *Penegakan Hukum Progresif* (Penerbit Buku Kompas, 2010).

²¹ O J K Gelar, Sosialisasi Pengawasan, and Market Conduct, "Siaran Pers Ojk Minta Pelaku Jasa Keuangan Perkuat Pelindungan Konsumen Secara Menyeluruh OJK Gelar Sosialisasi Pengawasan," 2023, 1–2.

²² Syawal Amry Siregar and Kristofel Ablio Manalu, "Kajian Hukum Terhadap Tindak Pidana Penipuan Dengan Dasar Hutang Piutang," *JURNAL RECTUM: Tinjauan Yuridis Penanganan Tindak Pidana* 3, no. 1 (2020): 12, <https://doi.org/10.46930/jurnalrectum.v3i1.815>.

²³ Heru Kusuma Bakti and Achmad Nurmandi, "Pemulihan Pasca Bencana Gempa Bumi Di Lombok Utara Pada Tahun 2018," *JURNAL GEOGRAFI* 12, no. 2 (August 1, 2020): 137–51, <https://doi.org/10.24114/jg.v12i02.16750>.

the rights of affected communities. Local governments, as key stakeholders, have a legal obligation to integrate recovery policies into their governance agenda, as mandated by Law No. 24 of 2007 on Disaster Management, particularly Article 26(1)(c), which requires local governments to implement disaster management as part of their governmental responsibilities. Conversely, companies involved in the recovery process—whether directly through CSR programs or indirectly through insurance—must operate within a legal framework that governs business ethics and consumer protection, as set out in Law No. 8 of 1999 on Consumer Protection.

Observes that most existing studies have yet to thoroughly investigate the empirical relationship between disaster insurance and community recovery, thereby presenting an opportunity to deepen our understanding of the critical role of financial protection in the context of disasters.²⁴ This gap underscores the need for increased attention from governments and relevant institutions to develop more effective policies that support financial resilience among communities in disaster-prone areas. Observes that most existing studies have yet to thoroughly investigate the empirical relationship between disaster insurance and community recovery, thereby presenting an opportunity to deepen our understanding of the critical role of financial protection in the context of disasters.²⁵ This gap underscores the need for increased attention from governments and relevant institutions to develop more effective policies that support financial resilience among communities in disaster-prone areas.

Law Number 40 of 2014 on Insurance (Law No. 40/2014) serves as the primary legal framework governing insurance activities in Indonesia. A preliminary analysis of the provisions within this law reveals that it generally provides an adequate legal structure for overseeing the insurance industry, including the strengthening of capital requirements, policyholder protection, and institutional supervision. One of the key elements emphasized by the Insurance Law is the obligation of insurance companies to implement prudent practices through effective risk management systems. In line with this, the Financial Services Authority (OJK) has issued several implementing regulations, such as POJK No. 71/POJK.05/2016 on the Financial Soundness of Insurance Companies and POJK No. 1/POJK.05/2023 on Risk Management Implementation for Non-Bank Financial Institutions. These regulations underscore the importance of identifying, measuring, monitoring, and controlling risks, especially those related to natural disaster insurance, which carries significant implications.

CSR in Indonesia is firmly grounded in legal frameworks, most notably Law No. 40 of 2007 on Limited Liability Companies (Law No. 40/2007). Article 74 of this law stipulates that companies engaged in or related to natural resource-based activities are legally required to carry out social and environmental responsibilities. This provision is not merely normative but legally binding, aiming to ensure that corporate operations contribute to sustainable social, economic, and environmental development. Furthermore, CSR obligations in the financial

²⁴ Sahar Zavareh Hofmann, "Build Back Better And Long-Term Housing Recovery: Assessing Community Housing Resilience And The Role Of Insurance Post Disaster," *Sustainability* 14, No. 9 (May 6, 2022): 5623, <https://doi.org/10.3390/Su14095623>.

²⁵ Sahar Zavareh Hofmann, "Build Back Better And Long-Term Housing Recovery: Assessing Community Housing Resilience And The Role Of Insurance Post Disaster," *Sustainability* 14, No. 9 (May 6, 2022): 5623, <https://doi.org/10.3390/Su14095623>.

services sector are reinforced by the Financial Services Authority Regulation No. 51/POJK.03/2017 concerning the Implementation of Sustainable Finance for Financial Services Institutions, Issuers, and Public Companies. Under this regulation, financial institutions—including insurance companies—are required to prepare and submit a Sustainable Finance Action Plan (RAKB) and a Sustainability Report, which must include CSR activities as part of their sustainable finance practices. This underscores that CSR in the insurance industry is not merely philanthropic; rather, it is a legal obligation and an integral component of corporate governance and business strategy. Nevertheless, in practice, several challenges have emerged that reveal potential legal loopholes and inconsistencies. One major gap lies in the insufficient regulation concerning claim settlement mechanisms for disaster-related insurance. The existing legal and regulatory provisions lack detailed procedures on how to handle large-scale disaster claims, including corporate liability, timelines for claim payments, and inter-agency coordination. This often results in legal uncertainty and inadequate protection for policyholders. Additionally, there is inconsistency in the implementation of risk management principles, as some insurance companies fail to meet the minimum standards mandated by OJK, indicating weak regulatory enforcement. Therefore, identifying these shortcomings is crucial for establishing a solid foundation for legal research aimed at advocating for more responsive and adaptive regulatory frameworks that address systemic risks in the insurance sector.

In the system of aid distribution, particularly aid based on insurance schemes such as agricultural or disaster insurance, fairness and transparency are fundamental principles that must be upheld. However, in practice, various dynamics may undermine these principles, one of which is the potential for political intervention in the process of claim submission and assessment. This raises several critical questions: To what extent can political actors influence the insurance claims process, which is ideally technocratic and objective? Is there a structural or transactional relationship between insurance companies and certain political actors that could affect the distribution of aid?

Based on this background, the study formulates two main research questions: First, how is the distribution of post-disaster aid politicized in the context of elections? Second, What is the role of insurance companies and their compliance with insurance law, corporate governance principles, and corporate social responsibility (CSR) in the distribution of post-disaster aid?

2. Methods

This research a socio-legal approach combined with the law and development framework to explore the intersection of disaster aid, electoral politics, and insurance regulation. Data collection will be carried out through documentary studies, including the analysis of relevant regulations, insurance contracts, CSR reports, and local government decisions. Where feasible, semi-structured interviews with key stakeholders such as local officials, insurance representatives, and community members will complement the data. The study focuses on the case of the North Lombok regional election (Pilkada) as a concrete instance of the politicization of post-disaster aid. In terms of legal analysis tools, the study employs normative analysis of the Insurance Law, OJK (Financial Services Authority) regulations, and CSR standards. Furthermore, a critical analysis of contractual agreements and the practical implementation of

business law on the ground will be used to assess the alignment between legal norms and actual practice²⁶.

3. Results and Discussion

Law No. 24/2007 emphasizes that disaster mitigation can generally be carried out in two ways: structural and non-structural mitigation. Structural mitigation efforts can be categorized as preventive measures through physical development and the use of technological approaches. Meanwhile, non-structural mitigation refers to a series of efforts to reduce the impact of disaster events, including policy exploration, regulations, disaster risk reduction education, and the dissemination of knowledge to the public regarding disaster risk reduction efforts. One of the commonly recognized non-structural mitigation efforts by the community is local wisdom.²⁷

Table 1. Recapitulation of Damage and Loss Assessment due to Earthquake Natural Disaster

Sector	Damage Value (IDR)	Loss Value (IDR)	Total Damage and Loss (IDR)
Housing	3,505,485,200,000	3,731,409,800,000	7,236,895,000,000
Infrastructure	303,676,794,062	15,943,406,000	319,620,200,062
Social	1,160,633,995,036	169,893,013,566	1,330,527,008,602
Economy	274,310,973,839	428,718,820,000	703,029,793,839
Cross-Sector	235,104,235,250	166,009,017,698	401,113,252,948
Total	5,479,211,198,187	4,511,974,057,264	9,991,185,255,451

Source: Document of the Post-Earthquake Rehabilitation and Reconstruction Action Plan, North Lombok, 2018

The data above shows that the physical and financial damage caused by the 2018 earthquake was very significant. As a result, the rebuilding process requires adequate funding and time for post-disaster recovery. Law No. 24/2007 mandates that both the central and regional governments are the main authorities responsible for post-disaster recovery. According to Government Regulation No. 21, the central and regional governments are responsible for disaster management from the pre-disaster phase, emergency response, to post-disaster recovery²⁸.

However, even though post-disaster recovery is regulated, the handling of disaster victims is still not optimal. Aid distribution faces issues due to uncoordinated preparedness, leading to disorganized handling. The recovery phase, still relying on external assistance, makes the situation even more challenging. This situation has been taken advantage of by various parties to gain political benefits by presenting themselves as humanitarian helpers to the disaster victims. 2020 Regional Head Election in North Lombok was held in a post-disaster context, which generated significant political dynamics, with the politicization of disaster aid potentially leading to social conflict. The incumbent candidates, Najmul Akhyar and Suardi (NADI), supported by major political parties and local bureaucratic control, were expected to

²⁶ Adriaan W Bedner Et Al., "Kajian Sosio-Legal," N.D.

²⁷ Adhianty Nurjanah, Dyah Mutiarin, And Aulia Nur Kasiwi, "The Use Of Artificial Intelligent In Disaster Communication Between Government And Society Through E-Government In North Lombok," In Iop Conference Series: Earth And Environmental Science, Vol. 717 (Iop Publishing Ltd, 2021), <https://doi.org/10.1088/1755-1315/717/1/012038>.

²⁸ Bakti And Nurmandi, "Pemulihan Pasca Bencana Gempa Bumi Di Lombok Utara Pada Tahun 2018."

have a significant electoral advantage, particularly due to their close relationships with religious leaders and prominent organizations in Lombok. However, despite their strong political and religious backing, the NADI pair struggled to address disaster-related issues raised by their political opponents, Djohan Sjamsy and Danny Carter Febrianto (JODA). Issues such as Earthquake-Resistant Houses (RTG) and Livelihood Assistance (JADUP) became central to JODA's campaign, benefiting their position. Although NADI attempted to counter these issues with data and information, they were unable to effectively neutralize these attacks.

Although the incumbent Najmul Akhyar and Suardi (NADI) received praise for their disaster management efforts, they still lost the 2020 North Lombok Regional Head Election due to the continued politicization of disaster-related issues by their political opponents, particularly concerning RTG and JADUP. Several communities that were supposed to receive severe-level RTG assistance ended up with only mid-level assistance, which led to growing dissatisfaction. Internal factors also played a role, such as Suardi's selection as vice regent candidate, which was not approved by volunteers. Furthermore, the overconfidence of the incumbent pair, who felt secure based on survey results, led to their inadequate response to attacks from their opponents and their neglect of the importance of engaging with voters. The issue of unmet campaign promises from their first term was also exploited by the JODA pair, which ultimately succeeded in gaining public support, leading to the incumbent's defeat in four districts.

The study of political contestation in the context of disasters shows that the incumbent's defeat, often seen as a victory for political elites, can be influenced by the incumbent's failure to address disaster-related issues.²⁹ A legitimacy crisis occurs when the government fails to meet the promises and needs of the people, leading to voter dissatisfaction. Research indicates that voters are likely to punish incumbents if their disaster management policies or responses are seen as ineffective, as observed in various global disasters.³⁰ Giancarlo Visconti argues that disaster victims prioritize urgent social or economic policies, which influence their political choices. The incumbent's failure to manage disaster recovery and the distribution of aid that does not meet the public's expectations can lead to political resistance, where the public expresses their dissatisfaction through their election choices.

3.1. Politicization Instrumentalization of Post-Disaster Aid in North Lombok a Legal Reflection on the Role of Insurance

The use of aid for political gain by candidates in Indonesia's 2020 regional elections has become a highly relevant issue in discussions surrounding transparency and accountability in resource distribution. In the context of the 2018 Lombok earthquake, post-disaster recovery efforts and aid distribution were often marked by politicized dynamics. Indicates that candidates' utilization of aid in local elections can influence public perception, especially when associated with voters' short-term interests in receiving immediate benefits.³¹

²⁹ Christian Krekel, Tim Tiefenbach, & Nicolas R. Ziebarth Jan Goebel, *How Natural Disasters Can Affect Environmental Concerns, Risk Aversion, And Even Politics: Evidence From Fukushima And Three European Countries.*, 2015.

³⁰ Healy, "Myopic Voters And Natural Disaster Policy American."

³¹ Nurul Fajri Et Al., "The Politicization Of Aid In The Electoral Process In Banda Aceh," *Electronic Journal Of Education, Social Economics And Technology* 5, No. 2 (October 30, 2024): 79-87, <https://doi.org/10.33122/Ejeset.V5i2.258>.

Politicized aid distribution frequently fosters expectations among communities that assistance may be temporary and dependent on their proximity to certain political actors. This has contributed to the growing perception that material aid is used as an electoral tool to garner votes. Empirical findings reveal that such expectations can shape voter behavior and potentially influence electoral outcomes.³²

Regulatory limitations also contribute to this issue. While Law No. 24/2007 provides a framework for aid governance, it often lacks mechanisms to ensure transparency in distribution processes, raising concerns about fairness and community involvement in decision-making. Critics argue that current regulations are insufficient to address the politicization of aid in electoral contexts, with political decisions potentially influencing how aid is allocated and utilized. Furthermore, public perceptions of aid are frequently shaped by the level of transparency and government efforts to mitigate corruption risks, which are crucial for maintaining public trust³³. This distrust, in turn, weakens civic engagement in monitoring aid distribution, which can have direct implications for electoral outcomes.³⁴

The stagnation in post-disaster aid governance, combined with political uncertainty, often leads communities to favor candidates who promise material support. This underscores the urgent need to reform and strengthen existing regulatory frameworks so that public expectations shift from short-term, politically motivated assistance to long-term solutions based on sustainable resource management and accountable leadership.³⁵ Use of aid and insurance claims in the context of political campaigns in Indonesia raises various legal implications, particularly concerning the principles of neutrality and fair distribution.

One of the main aspects that needs to be considered is the mechanism of social insurance, such as the National Health Insurance (JKN), which aims to reduce the burden of healthcare costs for the public. This program is expected to facilitate fairer conditions for underprivileged communities, whereby savings and appropriate claims in insurance can be used in campaigns to showcase a candidate's concern for the people³⁶. However, challenges remain regarding transparency and fairness in the handling of claims. As explained by Febriyanti et al., a lack of understanding of insurance products can lead to dissatisfaction and unfairness in the distribution of insurance benefits³⁷.

Analysis of Normative Conflicts and Regulatory Overlaps in the Regulation of Post-Disaster Insurance Claims in Indonesia. Law No. 24/2007 establishes several key principles,

³² Fajri Et Al.

³³ W. W. Weng Et Al., "Public Trust And Corruption Perception: Disaster Relief," *Applied Economics*, April 28, 2015, 1-15, <https://doi.org/10.1080/00036846.2015.1039703>.

³⁴ Thilo Bodenstien And Jörg Faust, "Who Cares? European Public Opinion On Foreign Aid And Political Conditionality," *Jcms: Journal Of Common Market Studies* 55, No. 5 (September 26, 2017): 955-73, <https://doi.org/10.1111/Jcms.12556>.

³⁵ Hassan Adamu Et Al., "Framing Twitter Public Sentiment On Nigerian Government Covid-19 Palliatives Distribution Using Machine Learning," *Sustainability* 13, No. 6 (March 22, 2021): 3497, <https://doi.org/10.3390/Su13063497>.

³⁶ Budi Setiyono, "Perlunya Revitalisasi Kebijakan Jaminan Kesehatan Di Indonesia," *Politika: Jurnal Ilmu Politik* 9, No. 2 (October 4, 2018): 38, <https://doi.org/10.14710/Politika.9.2.2018.38-60>.

³⁷ Emilia Febriyanti, Wiwik Sri Widiarty, And Aartje Tehupeiory, "Perlindungan Hukum Terhadap Tertanggung Dalam Bentuk Penolakan Klaim Polis Asuransi Yang Telah Diberikan Ke Otoritas Jasa Keuangan," *Action Research Literate* 8, No. 5 (June 5, 2024), <https://doi.org/10.46799/Arl.V8i5.351>.

among others, in Article 3, which stipulates that disaster management shall be based on public interest and non-discrimination. Article 44, paragraph (1) provides that disaster victims are entitled to assistance in meeting their basic needs, while Article 60 affirms the right of every person to receive social protection and a sense of security from disaster threats. Furthermore, Article 61 letter (c) guarantees that everyone has the right to obtain information, either in written or oral form, regarding disaster management policies. Nevertheless, the law does not explicitly regulate the mechanism for post-disaster insurance claims, thereby creating a normative gap in the legal protection of disaster victims.³⁸

Law No. 40/2007, particularly Article 74 paragraph (1), requires every company engaged in and/or related to natural resources to implement CSR. Furthermore, Article 74 paragraph (2) stipulates that this CSR obligation constitutes a corporate responsibility calculated as part of the company's expenses, taking into account propriety and fairness. The issue arises when this CSR obligation potentially overlaps with the mechanism for post-disaster insurance claim payments, as the absence of clear separation rules creates a risk of double-counting, whereby CSR expenditures could be claimed or considered as part of the fulfillment of insurance policy obligations.³⁹

The Financial Services Authority Regulation No. 51/POJK.03/2017 on the Implementation of Sustainable Finance stipulates that financial service institutions, issuers, and public companies are required to apply sustainable finance principles in their business activities, as stated in Article 2 paragraph (1). This implementation is carried out through the preparation of a Sustainable Finance Action Plan (RAKB) as provided in Article 3 paragraph (1), and the obligation to prepare a Sustainability Report pursuant to Article 10 paragraph (1). However, in the post-disaster context, this regulation focuses primarily on reporting obligations and does not provide substantive instruments to ensure transparency in managing disaster insurance claims. This creates a legal gap, as there is no mechanism explicitly prohibiting the politicization of claims, thereby potentially undermining accountability and protection for disaster-affected parties.

The Financial Services Authority Regulation No. 51/POJK.03/2017 on the Implementation of Sustainable Finance requires financial service institutions, issuers, and public companies to apply sustainable finance principles in their business activities (Article 2 paragraph (1)), through the preparation of a RAKB (Article 3 paragraph (1)) and the obligation to prepare a Sustainability Report (Article 10 paragraph (1)). However, in the post-disaster context, this regulation primarily emphasizes reporting without providing substantive instruments to ensure transparency in disaster insurance claims, creating a legal gap as there is no mechanism explicitly prohibiting the politicization of claims. In addition, the Financial Services Authority Regulation No. 69/POJK.05/2016 on the Implementation of Insurance Business stipulates that insurance companies must settle claim payments within 30 working days after an agreement (Article 25 paragraph (1)) and provide written reasons when rejecting a claim (Article 27 paragraph (1)), establishing obligations for timeliness and transparency. Nevertheless, there is no provision linking post-disaster claim mechanisms with the principle of social justice as mandated by Law No. 24/2007, leaving a critical regulatory disconnect.

³⁸ 'UU Nomor 40 Tahun 2007', n.d.

³⁹ 'SAL POJK 51 - Keuangan Berkelanjutan', n.d.

There is a normative conflict between Article 25 of POJK No. 69/2016, which mandates insurance claim settlement within 30 working days, and Article 44 of Law No. 24/2007, which guarantees immediate assistance for disaster victims, reflecting a tension between the principle of contractual certainty and the principle of prompt fulfillment of basic needs. Additionally, regulatory overlap exists between Article 74 of the Law No. 40/2007 and Article 61 of the Law No. 24/2007 (the right to information and assistance), as CSR obligations imposed on corporations may be misused or counted as a substitute for insurance obligations or state-provided aid. Furthermore, a significant normative gap remains, as neither Law No. 24/2007, the Limited Liability Company Law, nor POJK No. 51/2017 explicitly prohibit the politicization of post-disaster insurance claims, leaving room for potential abuse and lack of accountability in claim management.

The lack of regulatory harmonization impacts economic justice, particularly for disaster victims whose right to recovery becomes obstructed. From the perspective of Rawls'⁴⁰ theory of distributive justice, this situation exacerbates inequality, as vulnerable groups who most need protection end up being victims of bureaucratic procedures and potential politicization. Furthermore, the absence of transparency rules in the integration of insurance claims and government assistance creates information asymmetry between corporations, the government, and the public. This, in turn, generates a risk of moral hazard at both the corporate level (avoidance of obligations) and the government level (allocation of aid for political purposes).

Furthermore, the use of insurance claims may potentially conflict with the principle of political neutrality if applied disproportionately for personal or group interests. This is particularly relevant in the context of elections, where fairness among all parties must be upheld⁴¹ emphasizes the importance of fair and transparent claim procedures to ensure proper accountability between insurance companies and participants, which not only contributes to economic justice but also has the potential to reduce manipulation within political campaigns⁴².

From a legal perspective, there is a need for stricter regulation in the use of social assistance and insurance claims in politics. Strong law enforcement is necessary to preserve neutrality and fairness in distribution so that the public can receive appropriate benefits without discrimination or abuse⁴³. In addition, it is crucial to continue educating stakeholders about their rights within the insurance system and to ensure they have sufficient access to information regarding claim cases and existing procedures.⁴⁴

⁴⁰ 'Muhammad Taufik - Filsafat John Rawls', n.d.

⁴¹ Setiyono, "Perlunya Revitalisasi Kebijakan Jaminan Kesehatan Di Indonesia."

⁴² Ulya Hanifah, Fiola Seltina, And Muhamad Aji Purwanto, "Tanggung Jawab Asuransi Dalam Mekanisme Klaim Asuransi Kerugian : Studi Konsep Tafakul," Jurnal Ekonomi Dan Kewirausahaan West Science 2, No. 03 (July 31, 2024): 393–99, <https://doi.org/10.58812/Jekws.V2i03.1210>.

⁴³ Ni Luh Putu Sri Wahyuni, I Nyoman Widana, And Kartika Sari, "Perhitungan Premi Asuransi Menggunakan Model Select Table Pada Asuransi Joint Life," E-Jurnal Matematika 13, No. 1 (January 31, 2024): 1, <https://doi.org/10.24843/Mtk.2024.V13.I01.P434>.

⁴⁴ Alexander Oktovianus Tampubolon, "Dinamika Penggunaan Dana Bantuan Oleh Dpd/Dpw Partai Politik Di Provinsi Bangka Belitung Pada Tahun 2020," Journal Of Politics And Democracy 1, No. 2 (March 30, 2022): 89–100, <https://doi.org/10.61183/Polikrasi.V1i2.18>.

Law No. 24/2007 has yet to explicitly regulate the principle of anti-politicization in the distribution of aid, even though politicization practices are highly prevalent in disaster-affected regions, especially during electoral periods. In this context, the role of the insurance sector becomes crucial, not only as a financial risk mitigation tool but also as a component of fair and transparent post-disaster governance. Within insurance systems, two main categories of risk are recognized: pure risks and speculative risks. Pure risks involve events that only result in losses, such as natural disasters or accidents, and thus are the primary focus of insurance policies. Conversely, speculative risks—those that involve both potential gain and loss, such as investment—are typically excluded from insurance coverage due to their high uncertainty. Furthermore, risks in insurance are also classified as static risks and dynamic risks. Static risks, such as natural disasters, are relatively predictable and consistent over time. Dynamic risks arise from changing economic or socio-political conditions and carry greater unpredictability. These classifications are important in contractual analysis as they affect the determination of premiums, coverage limits, and the rights and obligations of the parties involved. In the context of post-disaster aid distribution, dynamic political risk becomes highly relevant, as political intervention can undermine principles of fairness and neutrality in aid governance.

Empirical evidence shows that aid distribution is often entangled with political interests, where local elites and political actors leverage assistance programs to reinforce patronage networks and secure electoral gains. In such a context, insurance schemes—originally designed to provide impartial, contract-based compensation—risk being undermined or co-opted for political purposes. Claims processes may be delayed, manipulated, or prioritized based on political affiliations, rather than contractual or legal merit. This not only erodes public trust in insurance institutions but also creates legal uncertainty for policyholders. The absence of clear regulatory safeguards to prevent political interference in claim assessment and payout procedures exposes a normative gap in current insurance governance. To address this, stricter compliance enforcement mechanisms under the supervision of the Financial Services Authority should be implemented, including transparency standards, independent claims audit systems, and sanctions for politically motivated claim manipulation. Moreover, integrating CSR obligations under Law No. 40/2007 and OJK Regulation No. 51/POJK.03/2017 can serve as a legal basis for mandating insurance companies to contribute to impartial and accountable disaster relief efforts, particularly in politically sensitive regions like North Lombok.

3.2. Role of Insurance in Ensuring Economic Justice After Disasters

The implementation of disaster microinsurance in North Lombok has great potential to provide economic security for communities after a disaster, but it also faces several challenges. The potential lies in microinsurance's ability to offer financial protection that strengthens community resilience against natural disasters. Various studies have shown that microinsurance can be an effective tool to speed up economic recovery for affected

communities and reduce the government's burden in post-disaster management^{45,46}. International studies have confirmed that disaster insurance is an important tool to manage losses and damages from disasters. In countries like Malawi, where disaster insurance has been implemented, challenges and opportunities have been identified, particularly regarding the need for clear institutional mechanisms to ensure fair access, monitoring, and evaluation of insurance programs⁴⁷. Strengthening disaster risk management (DRM) structures and improving coordination between stakeholders, including civil society and insurance industries, are crucial for successful microinsurance implementation⁴⁸.

To ensure that economic justice in disaster insurance implementation can be measured and monitored, a normative approach must be linked to standardized operational indicators that are published regularly. At a minimum, regulators and industry actors should establish: (i) the on-time claim payment ratio against emergency SLA – e.g., ≤ 14 calendar days for parametric products and ≤ 21 working days for indemnity policies; (ii) median claim settlement time; (iii) percentage of vulnerable victims covered (coverage rate for poor households, female-headed households, the elderly, and persons with disabilities), with gradual improvement targets; (iv) geographic equity index (coefficient of variation/Gini) to detect spatial bias; and (v) transparency level (availability of a public dashboard containing claim data, rejections with reasons, and appeals). Additional indicators – such as justified denial rate (proportion of rejections proven valid after independent peer review), appeal resolution time, and political neutrality score (zero political co-branding, zero findings by the election supervisory agency) – strengthen accountability and prevent politicization.

The international dimension provides design references that can be adopted or adapted. Malawi's experience with index/parametric disaster insurance demonstrates the advantage of rapid payouts triggered by objective parameters (e.g., event intensity) rather than individual loss assessments. For the Indonesian context, this model can be adapted through: (1) official trigger standards referring to national agency data (BMKG/BNPB) to reduce disputes and local political interference; (2) ring-fencing claim funds in an escrow/pooled fund, disbursed only upon verified trigger; (3) emergency SLA regulations and mandatory public reporting of indicators through a new OJK regulation on Disaster Emergency Claims Protocol; and (4) OJK supervision of parametric product design (trigger mechanism, index methodology, data governance, and solvency stress testing), including mandatory simple key facts sheets for consumer protection.

From Bangladesh, the key lesson is that targeted premium subsidies can drive disaster insurance adoption among low-income groups (e.g., farmers). In Indonesia, this policy could be implemented through a differential subsidy scheme based on risk and poverty (referring to

⁴⁵ Kalfin Et Al., "Insurance As An Alternative For Sustainable Economic Recovery After Natural Disasters: A Systematic Literature Review."

⁴⁶ Ulfiah Syukri, Nandang Alamsah Deliarnoor, And Ida Widianingsih, "Comparison Of Disaster Management Practices In Indonesia: A Study Of Resilience In Garut And Majene Districts," April 17, 2025, <https://doi.org/10.21203/rs.3.rs-5670963/v1>.

⁴⁷ Stern Mwakalimi Kita, "Disaster Insurance For Climate Loss And Damage: Assessing Challenges And Opportunities To Adoption In Malawi," Risk, Hazards & Crisis In Public Policy 16, No. 1 (March 30, 2025), <https://doi.org/10.1002/Rhc3.70002>.

⁴⁸ Kita.

the Social Welfare Integrated Data System and BNPB hazard maps), with the following architecture: (a) relevant ministries set eligibility criteria and subsidy amounts; (b) OJK mandates tagging of subsidized participants and granular reporting (sub-district/income decile/vulnerability type) to allow auditing of vulnerable group coverage; (c) insurers provide low-cost, simple products, digital claim channels, and 24/7 service; (d) public reinsurance/partnership (e.g., with state-owned reinsurers) or catastrophe risk layering to maintain financial sustainability (with a controlled payout-to-premium ratio during major disaster years due to state backstop). The entire scheme must prohibit political co-branding and ensure benefit distribution directly to recipients' bank accounts or e-wallets to minimize politicization.

From a legal framework perspective, these adaptations should align with: Law No. 24/2007 (principles of victim protection and service urgency), Law No. 21/2011 (OJK mandate) for product and market conduct regulation and supervision, OJK Regulation 69/2016 (obligation to pay claims and provide written reasons for denial) strengthened with emergency SLAs through new OJK regulations or circulars, and OJK Regulation 51/2017 upgraded from sustainability reporting to mandatory publication of operational indicators (on-time ratio, vulnerable coverage, transparency, political neutrality). On the fiscal side, government subsidy policies can be implemented through ministerial/local regulations using a risk-poverty-based formula and non-cash distribution mechanisms. Finally, an MoU among OJK, BNPB, Bawaslu, and the General Elections Commission ensures data sharing, joint inspections during emergencies, and enforcement of the prohibition on claim politicization. With measurable indicators, transparent parametric product design, and well-targeted subsidies, economic justice shifts from a normative slogan to auditable performance while remaining fully compatible with Indonesia's regulatory framework.

However, North Lombok faces similar challenges to other regions, especially low public trust in insurance. This distrust often stems from negative experiences, such as complicated claims processes and lack of transparency from insurance providers⁴⁹. Weak regulation regarding financial protection for disaster victims further discourages community participation in insurance programs. That limited public understanding of disaster risks is a barrier to microinsurance implementation. Communities must be made aware of the importance of financial protection in times of disaster. Moreover, the higher the community's awareness of risks and the benefits of disaster insurance, the more likely they are to invest in it.⁵⁰

Experiences from other countries offer valuable lessons. For example, in Bangladesh, government subsidies for insurance helped increase adoption among farmers to manage

⁴⁹ Felix Wisnu Handoyo Et Al., "Enhancing Disaster Resilience: Insights From The Cianjur Earthquake To Improve Indonesia's Risk Financing Strategies," *Sage Open* 14, No. 2 (April 31, 2024), <https://doi.org/10.1177/21582440241256777>.

⁵⁰ Carolyn Kousky And Howard Kunreuther, "Risk Management Roles Of The Public And Private Sector," *Risk Management And Insurance Review* 21, No. 1 (March 25, 2018): 181-204, <https://doi.org/10.1111/Rmir.12096>.

disaster risks⁵¹. This shows that government support can boost public interest in insurance, as indicated by research from Philippi and Schiller, where incentives successfully raised insurance demand among farmers.⁵² Furthermore, the success of disaster risk financing models, such as those proposed by⁵³, could help develop insurance premium systems targeting high-risk areas with subsidies, making it more affordable for low-income communities. Inclusive product design and better information distribution are also key to increasing participation.

A failure by insurance companies to fulfill these obligations may result in breach of contract (*wanprestasi*) if the terms of the agreement are violated, or tort liability if negligence causes harm to the insured party. A central principle in insurance contracts is the doctrine of utmost good faith, which requires full disclosure of all material facts. Any breach of this principle—such as through concealment or vague contractual language—may render the insurer legally liable. Administratively, the Financial Services Authority holds regulatory authority under Law No. 21 of 2011 on OJK, which mandates the supervision of insurance activities, including risk management, product approval, and consumer protection. If administrative violations occur—such as offering disaster insurance products that contravene OJK regulations or engaging in unfair practices—OJK may impose sanctions ranging from written warnings and monetary fines to license suspension or revocation.

Furthermore, Law No. 8 of 1999 on Consumer Protection (Law No. 8/1999) provides a crucial legal foundation for protecting the rights of insured parties. In the case of disaster insurance, information asymmetry often becomes a critical issue, particularly when insurers fail to communicate terms clearly or use complex legal jargon that consumers—especially disaster victims—cannot reasonably understand. This may violate Article 4 of the Law No. 8/1999, which guarantees consumers the right to accurate, clear, and honest information about the condition and guarantees of the goods or services. Failure to comply with these obligations may result in civil lawsuits and, in certain circumstances, constitute a breach of statutory consumer rights as protected under Indonesia's positive legal framework. The term "economic justice" in this context should not be used merely as a normative slogan but must be legally framed. Constitutionally, Article 28H (1) and (3) of the 1945 Constitution guarantees every citizen's right to welfare, social security, and protection from disaster risks. Similarly, the principle of social justice in Article 33 of the Constitution mandates equitable distribution of economic benefits, including access to risk protection mechanisms. Hence, economic justice should be linked to the principle of equality before risk, meaning that all citizens deserve equal access to protection in the face of disaster risks.

In the electoral context, this issue becomes strategic because disaster protection policies and access to microinsurance can influence political preferences among communities in

⁵¹ Din Il Islam Et AL., "Factors Affecting Farmers' Willingness To Adopt Crop Insurance To Manage Disaster Risk: Evidence From Bangladesh," *International Food And Agribusiness Management Review* 24, No. 3 (April 13, 2021): 463–80, <https://doi.org/10.22434/Ifamr2019.0190>.

⁵² Tim Philippi And Jörg Schiller, "Abandoning Disaster Relief And Stimulating Insurance Demand Through Premium Subsidies," *Journal Of Risk And Insurance* 91, No. 2 (June 18, 2024): 339–82, <https://doi.org/10.1111/Jori.12467>.

⁵³ Kalfin Et AL., "Insurance As An Alternative For Sustainable Economic Recovery After Natural Disasters: A Systematic Literature Review."

disaster-prone areas. An inclusive and affordable disaster insurance program has the potential to enhance the political legitimacy of the government and its supporting parties, particularly in vulnerable regions. Conversely, the state's failure to guarantee financial protection can be exploited as a campaign issue by political opponents, highlighting weaknesses in the implementation of the welfare state and the government's inability to reduce socio-economic vulnerability. Therefore, the success or failure of implementing disaster microinsurance not only impacts legal and socio-economic aspects but also shapes electoral dynamics and political stability at both local and national levels.

From the perspective of a constitutional state and a welfare state, the government cannot remain neutral in the face of disaster risks that affect its citizens. The state assumes a dual role: first, as a regulator that sets minimum standards and supervises the insurance industry; second, as the insurer of last resort, ensuring protection when market mechanisms fail to deliver adequate and equitable coverage. The state is also responsible for implementing a legally grounded social safety net during emergencies, as mandated by Law No. 24/2007 and other social protection policies. Failure to ensure fair and inclusive access to risk protection may amount to a violation of constitutional principles of economic justice and undermine the legitimacy of law as a tool for the equitable distribution of welfare.

State is often positioned as the insurer of last resort, but there is no clear explanation of the extent to which this obligation is fulfilled and how oversight mechanisms ensure the insurance industry's role in covering disaster risks. This lack of clarity in responsibility-sharing creates potential for politicization, especially when claims processing and aid distribution are leveraged as instruments for political gain during election periods. Furthermore, the economic justice dimension, which is currently discussed in normative terms—such as equitable access and social justice principles—needs to be strengthened through operational indicators that can measure its achievement. For instance, the ratio of claims paid on time, the percentage of vulnerable victims covered, and the level of transparency in benefit distribution could serve as measurable benchmarks. Incorporating these indicators would move the analysis of economic justice beyond conceptual discourse and toward empirical evaluation, ensuring that the disaster insurance system provides fair protection and remains free from political manipulation.

3.3. Regulations Governing Disaster Management and Insurance in Indonesia

Regulations related to disaster management in Indonesia, particularly through Law No. 24/2007, provide a fundamental legal framework but also reveal several weaknesses in implementation. This law establishes the foundation for disaster management, outlines government responsibilities, and guarantees community rights during disaster response. However, emphasize that revisions or additional articles are necessary to ensure stronger legal protection for community rights. Challenges remain in the field, especially regarding inter-agency coordination and community participation in recovery efforts.⁵⁴

Law No. 40 of 2014 on Insurance sets important mechanisms for social protection, although its relevance to disaster protection schemes requires further evaluation. This law

⁵⁴ Chintya Rachma Hudaya And Irwan Triadi, "Perlindungan Hukum Terhadap Hak Masyarakat Desa Di Dalam Pemerintahan Desa," *Indonesian Journal Of Law And Justice* 1, No. 4 (March 22, 2024): 10, <https://doi.org/10.47134/Ijlj.V1i4.2332>.

aims to safeguard the rights of the insured and provide legal certainty for individuals suffering losses due to disasters.⁵⁵ However, challenges such as low community participation in insurance products and the complexity of claim processes often discourage people from seeking financial protection. Previous studies highlight that public distrust toward insurance companies significantly hampers investment in financial protection.

Law No. 10 of 2016 on Regional Elections to post-disaster recovery is also important, as local politics significantly affect the allocation of resources and aid. In the context of elections, the politicization of aid can influence public perceptions of candidates and election outcomes. Suggests that election regulations must ensure that aid distribution is not manipulated for political gain. This indicates the critical need for transparency and accountability principles to be upheld in all aspects of disaster management, including during elections.

Moreover, the current regulations have not efficiently integrated insurance systems into disaster management frameworks, resulting in suboptimal protection for communities. For instance, in countries like Bangladesh, the use of subsidies in disaster insurance schemes has successfully increased insurance adoption among vulnerable farmers. This experience suggests that regulatory reforms that integrate disaster protection with insurance mechanisms can create a more cohesive and responsive system for community needs.

Law No. 40 of 2014 on Insurance, this law provides a general legal framework for insurance business operations in Indonesia, including types of insurance, licensing, supervision, and consumer protection. Key provisions include:

- a. Article 1 (1) and (2): Define insurance business and insurance companies.
- b. Article 6 (e): Allows insurance companies to offer various types of products that are responsive to the evolving needs of society.
- c. Article 19: Authorizes the Financial Services Authority to regulate and supervise product innovation in the insurance sector.
- d. Articles 23–24: Mandate companies to ensure transparency and provide information to the public, a key principle in consumer protection.

While this law does not explicitly mention “disaster microinsurance,” it provides a legal basis for insurance companies to develop innovative products, including those tailored to disaster risks. The OJK plays a central role in encouraging and supervising such development.

OJK Regulation No. 69/POJK.05/2016 on the Conduct of Insurance Business This regulation offers more detailed guidance on the operation of insurance businesses and explicitly addresses microinsurance:

- a. Article 1 (17): Defines microinsurance as simple insurance products with affordable premiums and easy procedures, targeted at low-income communities.
- b. Article 33: States that insurance companies may propose microinsurance products for OJK approval.
- c. The appendix of the regulation indicates that microinsurance may cover risks such as natural disasters, including floods, fires, and earthquakes.

⁵⁵ Desanto Tri Wahyudi, Ernu Widodo, And Sri Astutik, “Perlindungan Hukum Tertanggung Atas Klaim Penyakit Yang Dikategorikan Pandemi Menurut Undang-Undang No 40 Tahun 2014 Tentang Perasuransian,” Court Review: Jurnal Penelitian Hukum (E-Issn: 2776-1916) 5, No. 05 (February 9, 2025): 60–70, <https://doi.org/10.69957/Cr.V5i05.2007>.

This regulation implicitly accommodates disaster microinsurance, especially as part of financial inclusion strategies. By simplifying procedures and emphasizing accessibility, it provides a regulatory foundation to support vulnerable populations facing disaster risks.

Law No. 24/2007, this law governs disaster management in Indonesia, including prevention, emergency response, and recovery. It also highlights the role of the private sector:

- a. Article 4 (f) and (i): Stipulates that disaster management aims to protect citizens and ensure fair and equitable recovery.
- b. Article 26 (4): Asserts the community's right to economic protection and social security in the context of disasters.
- c. Articles 35–36: Recognize the role of business actors in disaster management, especially in funding and recovery efforts.
- d. Article 58: States that funding may come from the private sector and other legal sources.

Although this law does not specifically regulate the insurance sector, it opens legal opportunities for private sector engagement, including insurance companies, to contribute to disaster financing and risk reduction. The concept of “economic protection” may reasonably include disaster microinsurance schemes as part of broader social security efforts.

In regions like Lombok, informal schemes such as risk-sharing *arisan* (rotating savings groups), cooperatives, or mutual-aid models often act as *de facto* microinsurance systems. Currently: There is no formal legal recognition for such models, the Insurance Law requires all risk management institutions to be legal entities and licensed by OJK, which is unrealistic for grassroots communities, this legal rigidity hinders financial inclusion and excludes vulnerable populations from meaningful risk protection.

Integration of disaster insurance into Indonesia's disaster management framework is a legal and policy imperative aimed at mitigating fiscal shocks and ensuring social justice in post-disaster recovery. However, ambiguity persists in defining the division of responsibilities between the state and the insurance industry, particularly in emergencies that are vulnerable to politicization. Electoral dynamics often exacerbate these challenges, as governments tend to prioritize short-term populist measures, such as direct cash transfers or housing aid, rather than developing sustainable risk-transfer mechanisms like disaster insurance. This approach not only undermines fiscal resilience but also perpetuates dependency on state budgets during politically sensitive periods, such as pre-election phases. Consequently, the absence of clear legal mandates for shared responsibility leads to an overreliance on state resources and insufficient participation from the private insurance sector.

Current discourse on economic justice in disaster insurance remains largely normative, emphasizing fairness and social equity without translating these principles into measurable standards. To operationalize economic justice, specific indicators must be incorporated, such as: Timeliness of claim payments (e.g., percentage of claims processed within a 30-day window post-disaster), Coverage of vulnerable populations, including low-income households and marginalized communities, Premium affordability ratio in relation to median household income in disaster-prone areas.

Experiences from countries like Malawi and Bangladesh offer valuable insights into designing inclusive disaster insurance systems. Malawi's African Risk Capacity (ARC) initiative pools regional risks and leverages parametric insurance to provide rapid payouts

within weeks of a disaster, reducing delays in relief efforts. Similarly, Bangladesh has implemented microinsurance schemes targeting smallholder farmers, supported by public subsidies and international donors to ensure affordability. Adopting these models in Indonesia would require alignment with: OJK licensing requirements, particularly in simplifying product approval for microinsurance, Government subsidy policies, to offset premium costs for economically vulnerable communities, Disaster financing instruments under Law No. 24/2007, enabling integration of insurance into the national disaster risk reduction strategy.

This adaptation could be operationalized through public-private partnerships (PPP), where the state provides premium subsidies and regulatory flexibility, while insurers assume risk-bearing functions. Such mechanisms would balance fiscal responsibility and private sector participation.

These indicators would allow policymakers and regulators to assess whether the legal framework effectively promotes equitable access and prevents discrimination against vulnerable groups. Such benchmarks should be embedded in OJK regulations and disaster risk financing strategies to ensure compliance and accountability.

The 2018 Lombok earthquake serves as a critical empirical lens to evaluate the practical implementation of Law No. 24/2007 and Law No. 40/2014. While the Disaster Management Law mandates the state to guarantee citizens' basic rights during emergencies, including recovery assistance, in practice, disaster recovery efforts were heavily reliant on fiscal allocations (APBN/APBD) and ad hoc donations rather than structured insurance mechanisms. Insurance penetration in Lombok remained negligible, revealing significant regulatory and operational shortcomings. Key barriers include: (i) Regulatory Gaps, where no explicit legal mandate requires insurers to provide disaster insurance products, leaving participation entirely voluntary; (ii) Operational Hurdles, such as low insurance literacy among affected communities and the absence of financial incentives for insurers to engage in high-risk markets; and (iii) Coordination Failures, marked by the lack of an integrated framework linking BNPB, local governments, and insurers in post-disaster reconstruction. Furthermore, technical compliance requirements under POJK No. 69/2016 slowed the deployment of microinsurance products in disaster-affected zones, resulting in an excessive financial burden on the state and undermining the principle of shared responsibility envisaged by both laws.

These findings highlight the urgency for comprehensive legal reform, which could include: establishing mandatory disaster risk insurance schemes for households in high-risk zones with government-subsidized premiums; developing special regulatory pathways for rapid approval of emergency insurance products under OJK supervision; and incentivizing private sector participation through tax relief and reinsurance support. Moving forward, a hybrid regulatory model is proposed to reconcile existing legal tensions and strengthen resilience. This model would mandate insurance coverage for critical public infrastructure and designated high-risk communities, integrate parametric insurance instruments to facilitate rapid post-disaster payouts, and establish a Public-Private Disaster Insurance Fund jointly managed by the state and the insurance industry to pool risks and ensure solvency. Anchored in measurable indicators of economic justice—such as timely claim settlement ratios and

coverage rates for vulnerable populations—this framework should be embedded within Indonesia's National Disaster Risk Financing Strategy, aligning with the normative objectives of Law No. 24/2007 and Law No. 40/2014, while drawing on global best practices from countries like Bangladesh and Malawi to enhance financial inclusion and risk-sharing in disaster management.

The government and OJK should adopt a more adaptive regulatory framework that recognizes and supports community-based microinsurance models, such as Legal registration pathways for informal schemes, Strategic partnerships between licensed insurers and community-based organizations (e.g., farmer associations, cooperatives). Explicit integration of insurance mechanisms into national disaster financing strategies is urgently needed. Amendments to current laws (e.g., Disaster Management Law or Insurance Law) could mandate the involvement of insurers in providing disaster microinsurance as part of pre-disaster risk mitigation.

3.4. Insurance Companies as Regulated Business Entities

Insurance companies have a significant legal role and responsibility in ensuring protection against risks faced by individuals and organizations. This responsibility includes the obligation to provide legal certainty and appropriate compensation for the losses suffered by the insured, as emphasized by Setiawan et al. in the context of the principle of indemnity. This principle requires insurance companies to ensure that the compensation provided does not exceed the value of the actual loss, thereby creating fairness in the protection granted. This responsibility becomes even more critical in emergencies, where insurance companies are expected to act quickly and efficiently in processing claims as part of their duty to policyholders⁵⁶.

In implementing CSR, insurance companies are expected not only to focus on profit but also to consider the social impact of their activities. This becomes essential in emergency contexts where companies can actively support communities, for example, by providing financial assistance or aid during natural disasters.⁵⁷ Indicates that CSR can facilitate effective communication between companies and the public, as well as serve as a means of demonstrating corporate commitment to social welfare⁵⁸. Thus, the application of CSR principles during emergencies can enhance a company's reputation and deliver positive outcomes for society. CSR obligations for limited liability companies are explicitly mandated by Article 74 of Law No. 40/2007, which requires companies engaged in or related to natural resources to carry out social and environmental responsibilities. CSR is thus a legal obligation, not mere voluntary philanthropy.

⁵⁶ Julivan Charlie S, Hulman Panjaitan, And Wiwik Sri Widiarty, "Analisis Mendalam Mengenai Asas Indemnitas Dalam Implementasi Asuransi Kerangka Kapal Dari Perspektif Hukum Di Indonesia," *Action Research Literate* 8, No. 5 (June 10, 2024), <https://doi.org/10.46799/Arl.V8i5.374>.

⁵⁷ Anjar Nopriyanto, "Analisis Pengaruh Corporate Social Responsibility (Csr) Terhadap Nilai Perusahaan," *Komitmen: Jurnal Ilmiah Manajemen* 5, No. 2 (July 16, 2024): 1-12, <https://doi.org/10.15575/Jim.V5i2.37655>.

⁵⁸ Gregoria Arum Yudarwati, "Perspektif Dan Motif Csr Serta Implikasinya Pada Komunikasi Csr: Sebuah Tinjauan Pustaka," *Jurnal Komunikasi Pemberdayaan* 2, No. 2 (December 22, 2023): 75-87, <https://doi.org/10.47431/Jkp.V2i2.323>.

Within the financial sector, CSR is elaborated under OJK Regulation No. 51/POJK.03/2017 on Sustainable Finance Implementation, which requires financial service providers to develop Sustainable Finance Action Plans (RAKB) and submit Sustainability Reports. The regulatory model follows a “comply or explain” approach—companies must either comply or provide valid reasons for non-compliance. However, the current legal discussion does not sufficiently clarify whether insurance companies bear legal liability if they fail to fulfill CSR commitments, particularly in disaster recovery situations. Whether affected communities or policyholders may claim legal redress for social non-performance or administrative negligence, especially if CSR plans were officially submitted to or approved by regulators.

In post-disaster contexts, the absence or insufficiency of CSR support may expose insurance companies to reputational and legal risks, particularly where CSR funds were allocated but not disbursed. If CSR activities are codified in corporate planning documents or disclosed in reports to the Financial Services Authority, failure to implement them could be deemed a breach of corporate duty or contractual negligence. Furthermore, under Law No. 8/1999 and Administrative Governance Law (Law No. 30/2014), third parties—including disaster victims—may file legal objections or claims if companies violate public service obligations related to CSR.

However, significant legal gaps may hinder the effective implementation of Good Corporate Governance (GCG) and CSR principles within insurance companies. These gaps include a lack of oversight regarding corporate compliance with existing regulations, particularly in terms of financial transparency and claims handling. The Financial Services Authority plays a crucial role in this oversight, but challenges arise when companies operate in highly dynamic conditions, such as during economic crises or other emergencies. Laapen et al. emphasize that proactive, rather than merely reactive, supervision is essential to ensure that insurance companies avoid operational failures and provide adequate protection to consumers⁵⁹.

Reinforced by OJK regulations, which require insurers to ensure investment activities align with the risk profile of the company and the interests of policyholders. However, current analyses do not sufficiently explore whether the implementation of GCG genuinely ensures prudential fund management. Questions remain regarding the effectiveness of boards of directors and commissioners in supervising premium allocation and whether transparency and disclosure meet regulatory and audit standards. GCG, as regulated under OJK Regulation No. 73/POJK.05/2016, mandates the implementation of five core principles: transparency, accountability, responsibility, independence, and fairness. Nonetheless, many companies treat these requirements as formalities rather than integrating them into systemic risk management practices, particularly in disaster scenarios.

OJK must also strengthen its supervisory systems to ensure that insurance companies not only fulfill legal obligations but also adhere to GCG principles. Research by Ramadhan et

⁵⁹ Calinka Princess Belinda Laapen, Gunardi Lie, And Moody Rizqy Syailendra Putra, “Peran Otoritas Jasa Keuangan Dalam Pengawasan Dan Penyehatan Perusahaan Asuransi,” *Journal Of Management Accounting, Tax And Production* 3, No. 1 (March 27, 2025): 57–66, <https://doi.org/10.57235/Mantap.V3i1.4631>.

al. highlights the measures taken by OJK in addressing cases within insurance companies to protect policyholders' interests and maintain public trust in the insurance sector – reflecting efforts to improve existing oversight mechanisms. Additionally, it is important for OJK to develop a stricter framework for monitoring CSR practices, especially in emergencies where transparency and accountability are crucial.⁶⁰ OJK plays a central role in supervising the insurance sector, as stipulated in Law No. 21/2011 on OJK and Law No. 40/2014. Articles 9 and 10 of the OJK Law mandate the authority to conduct individual and sectoral supervision, impose administrative sanctions, including revocation of business licenses (Article 36), and apply a risk-based supervision approach. However, the effectiveness of these powers remains questionable, as illustrated by the Jiwasraya case, where OJK failed to act promptly against high-risk investment practices that were inconsistent with the company's financial profile. Administrative Sanctions, Law No. 40/2014 (Articles 72–74) provides for administrative sanctions for violations of the insurance law, including: Written warnings, Business restrictions, Suspension of business activities, Revocation of business licenses.

However, concerns arise over the timeliness and consistency of enforcement, as many violations reportedly persisted for years before corrective actions were taken, reflecting potential regulatory moral hazard and eroding public trust in the regulator. One critical institutional weakness is the absence of whistleblower protection mechanisms in the insurance sector. Whistleblowers play an essential role in exposing financial misconduct, yet neither the Law No. 21/2011 nor the Insurance Law provides explicit provisions regarding: Internal and external reporting channels, Legal immunity for whistleblowers, Protection against retaliation, such as termination or harassment. Looking ahead, the advancement of information technology and digitalization can support both insurance companies and OJK in enhancing reporting systems and transparency. This can be achieved through the use of digital infrastructure to streamline claims processes and ensure that financial reports are more easily accessible to the public. It is expected that such developments will help close existing legal gaps and strengthen regulatory oversight of insurance companies. OJK to strengthen its supervisory role is frequently raised in policy discussions; such statements often remain normative and lack a critical evaluation of OJK's legal and institutional capacity. Revealed structural weaknesses in the supervision of Indonesia's insurance sector. Law No. 21/2011, Law No. 40/2014, Under Articles 9 and 10 of the Law No. 21/2011, the authority has the mandate to: Conduct individual and sectoral supervision of financial service providers;

Impose administrative sanctions, including revocation of business licenses (Article 36); Apply a risk-based supervision approach. However, it remains unclear whether these powers have been effectively and fully exercised, especially in preventing the build-up of systemic risks. For instance, in the Jiwasraya case, OJK failed to act promptly on risky investment behavior that was inconsistent with the company's financial profile, highlighting possible supervisory inertia.

⁶⁰ Nayla Az Zahra Ramadhan, Gunardi Lie, And Moody Rizqy Syailendra Putra, "Peran Ojk Dalam Penanganan Terhadap Kasus Pt Asuransi Jiwa Prolife Indonesia," *Journal Of Business Inflation Management And Accounting* 2, No. 1 (February 27, 2025): 64–70, <https://doi.org/10.57235/Bima.V2i1.4660>.

Enforcement of Administrative Sanctions Law No. 40/2014 (Articles 72–74) outlines administrative sanctions for insurance law violations, including: Written warnings; Business restrictions; Suspension of business activities; Revocation of business licenses. Nevertheless, questions arise regarding the timeliness and consistency of enforcement, as many violations reportedly persisted for years before corrective actions were taken. This delay may reflect a regulatory moral hazard, eroding trust in the regulator's commitment to safeguard public interests. Legal Gap in Whistleblower Protection within the Insurance Sector. One key institutional deficiency is the lack of whistleblower protection mechanisms in the insurance sector. Whistleblowers play a crucial role in exposing financial misconduct or fraudulent reporting, yet there is no explicit regulation under either Law No. 21/2011 or Law No. 40/2014 regarding: Internal and external reporting channels; Legal immunity for whistleblowers; Protection from retaliation, such as termination or harassment.

3.5. Contractual Mechanisms and Legal Loopholes

The structure and content of contracts between local governments and insurance service providers are crucial in determining the rights and obligations of both parties. One of the key elements in such contracts is the principle of good faith, which underlies the legal relationship between the local government and the insurance provider. These contracts typically include provisions such as the scope of services, premium payments, claims procedures, and obligations to maintain data confidentiality⁶¹. Provisions regarding dispute resolution are also regulated, requiring clear mechanisms for resolving disagreements should they arise. In this regard, clear and binding regulations can prevent future disputes that might be detrimental to both parties.

Concept of "compliance with insurance law" was presented in general terms and had not been operationally defined, making it difficult to accurately assess the legal dimensions that must be adhered to by insurance industry actors. This compliance will be broken down into three main aspects, each supported by clear legal norms and concrete illustrations. First, compliance with policy terms and contractual obligations (contractual compliance) refers to Articles 1320 and 1338 of the Indonesian Civil Code (KUHPdata), which state that legally valid agreements bind the parties as law. In practice, disputes often arise when insurance companies deny claims based on exclusions that were not clearly disclosed to the policyholder. A relevant example can be seen in Supreme Court Decision No. 3176 K/Pdt/2010, where the insurance company was found to be in breach of contract for refusing to pay a claim even though the policyholder had met all contractual conditions. Second, compliance with OJK regulations (regulatory compliance) is governed by Law No. 21 of 2011 on the Financial Services Authority and Law No. 40/2014, as well as derivative regulations such as OJK Regulation No. 71/POJK.05/2016 on the Financial Health of Insurance Companies. These laws require insurance companies to maintain financial health, transparency in reporting, and risk management. A concrete example is the case of PT Asuransi Jiwasraya's default, which involved major violations of prudential principles and financial report manipulation, causing state losses in the trillions of rupiah. This case highlights the critical importance of regulatory

⁶¹ Harry Ismaryadi, Khairani Khairani, And Yussy Adelina Mannas, "Implementasi Asas Itikad Baik Dalam Pemberian Kesempatan Penyelesaian Pekerjaan Pengadaan Barang Jasa Pemerintah," *Unes Journal Of Swara Justisia* 7, No. 2 (July 8, 2023): 680, <https://doi.org/10.31933/Ujsj.V7i2.363>.

compliance and OJK's oversight role. Third, legal liability for negligence, breach of contract, or other violations is based on Article 1365 of the Civil Code, which governs unlawful acts (tort), and can also involve strict liability, a concept recognized in modern legal doctrine. For instance, in the Montara oil spill case (though not a pure insurance case, it is relevant to corporate liability), the court emphasized corporate accountability for harm caused, even without proven fault. Furthermore, CSR-based liability, as mandated by Article 74 of Law No. 40/2007, underlines the obligation of insurance companies to act ethically and proactively in protecting consumer interests. Ignoring CSR principles can lead not only to reputational damage but also potential legal action when public harm is involved.

The Insurance Law No. 40/2014, particularly Article 5(2), mandates that insurance products must clearly describe the benefits, risks, and terms. This entails that any ambiguous clause—such as those regarding force majeure—must be transparently disclosed and not subject to multiple interpretations. In relation to business regulations and the protection of public rights, there is an urgent need to ensure that agreed contracts do not infringe upon community rights. Legal protections for both service providers and the public must be clearly formulated in the relevant laws and regulations⁶². Oversight by the Financial Services Authority and other government entities is crucial to ensure that business practices, particularly in the insurance sector, remain fair and transparent⁶³. Without strict regulations, the potential for abuse in insurance contracts increases, ultimately harming the public who rely on insurance coverage.

The implementation of Good Corporate Governance principles is essential in the procurement of insurance services. In this context, transparency and accountability in the procurement process must be upheld, so the public can be assured that their rights are well protected and that no party gains unfair advantages⁶⁴. Therefore, both the government and insurance providers bear responsibility for creating a fair and sustainable environment for insurance management.

On the other hand, there is a potential for ambiguous clauses in the contract that can be politically exploited. These clauses often take the form of vague or overly general provisions, making them vulnerable to misuse for certain political interests beyond their intended purpose. For example, clauses related to arrears resolution or discretionary powers in claim handling could exploit legal uncertainty and trigger conflicts of interest. In some cases, insurance providers may attempt to pressure local governments through self-serving clauses, which in turn can influence decisions on budget allocations and the implementation of social and health programs that require insurance support⁶⁵.

⁶² Silvana Herman and Dhea Aulia, "Asuransi Dalam Sistem Hukum Indonesia," *Journal of International Multidisciplinary Research* 2, no. 6 (June 24, 2024): 672–76, <https://doi.org/10.62504/jimr676>.

⁶³ Febriyanti, Sri Widiarty, and Tehupeiory, "Perlindungan Hukum Terhadap Tertanggung Dalam Bentuk Penolakan Klaim Polis Asuransi Yang Telah Diberikan Ke Otoritas Jasa Keuangan."

⁶⁴ Imam Suwandi, Ria Arifianti, and Muhamad Rizal, "Pelaksanaan Prinsip-Prinsip Good Corporate Governance (GCG) PADA PT. Asuransi Jasa Indonesia (JASINDO)," *Jurnal Manajemen Pelayanan Publik* 2, no. 1 (July 2, 2019): 45, <https://doi.org/10.24198/jmpp.v2i1.21559>.

⁶⁵ Ajik Sujoko, "Asas Kebebasan Berkontrak Dalam Pemberian Kesempatan Penyelesaian Pekerjaan Pengadaan Barang/Jasa Pemerintah (PBJP)," *Masalah-Masalah Hukum* 49, no. 2 (April 30, 2020): 136–47, <https://doi.org/10.14710/mmh.49.2.2020.136-147>; Ajik Sujoko, "Menggagas Sistem Pengupahan Dan

References to “ambiguous clauses” in contracts – particularly in the context of disaster response and insurance – must be clarified through concrete legal analysis. One of the critical shortcomings in current contractual practices is the absence of specific identification of clause types that are prone to legal abuse. Moreover, there is insufficient evaluation of potential normative conflicts between contract provisions and binding statutory law. For a coherent legal analysis, such clauses must be directly linked to the core issues under investigation.

1. Force Majeure Clauses

Force majeure clauses are commonly included in insurance and public procurement contracts related to disaster recovery. However, these clauses are often vaguely defined and potentially misused to evade legal obligations. According to Articles 1244 and 1245 of the Indonesian Civil Code (KUHPdata), exemption from liability is only permissible under unforeseeable and unavoidable circumstances. Therefore, the absence of specific criteria in contracts can create legal loopholes.

2. Claims Procedures and Default Settlement Clauses

Clauses outlining procedures for claims submission, deadlines, and documentation requirements can create procedural barriers for disaster victims. OJK Regulation No. 69/POJK.05/2016, Article 2, requires insurance companies to conduct their business prudently, fairly, and with responsibility toward policyholders. This implies that excessive bureaucratic requirements contradict the consumer protection principle and can result in unjust outcomes, especially in post-disaster situations. Additionally, under Law No. 24 of 2007 on Disaster Management, Article 55 emphasizes the involvement of private actors – including insurance companies – in the recovery and reconstruction process. However, if private contracts lack sufficient regulatory oversight, political discretion may override legal objectivity.

3. Contra Legem and Politically Charged Clauses

Certain CSR or public aid contracts – often funded by private entities such as insurers – include vague budget clauses like “subject to adjustment based on local government discretion.” Such wording creates potential for political misuse. According to Articles 1320 and 1337 of the Civil Code, any contract provision that conflicts with statutory law or public morality is null and void. In addition, Article 6 of Law No. 25 of 2009 on Public Services mandates that public services, including disaster aid, must be non-discriminatory, participatory, and transparent. If contract clauses are used to promote political interests or bias aid distribution, this not only undermines the legal framework but also constitutes a breach of administrative law and social justice principles.

Contracts between local governments and insurance companies, especially in the context of disaster protection or recovery programs, should not be treated merely as private civil agreements. Instead, they must be regarded as administrative contracts due to their use of public authority and funding sourced from the Regional Revenue and Expenditure Budget (APBD). Consequently, the analysis of such contracts must incorporate the principles of state administrative law, beyond conventional civil contract norms. Legal principles and regulatory frameworks are relevant in this regard:

1. Principle of Speciality and the Supremacy of Public Law

Public officials are strictly bound by the scope of authority granted by the law (*legalitas* principle). Therefore, any agreement involving public resources must adhere to public

law norms and cannot be overridden by mutual consent alone, as often permitted in private law (Article 1338 of the Indonesian Civil Code in conjunction with Article 18 of Law No. 30/2014 on Government Administration).

2. Prudent Governance in the Procurement of Public Services Local governments are obligated to implement prudential principles in designing, executing, and supervising contracts for public services. In this case, the partnership with insurance companies to provide disaster coverage must follow transparent and accountable procurement mechanisms in accordance with Presidential Regulation No. 16/2018 on Government Procurement of Goods/Services. Supervision of Public Budget Use
3. Since the contract is funded by public money, it must be subject to administrative oversight by the regional inspectorate and the Audit Board of Indonesia (BPK). Contracts that fail to meet standards of efficiency and effectiveness as mandated by Article 3 of Law No. 17/2003 on State Finance may be legally challenged, reviewed, or annulled.
4. Legal Protection for Third Parties (the Public) Inadequate analysis of public contracts risks harming third parties, namely the citizens meant to benefit from these agreements. If an insurer fails to fulfill claims, or the local government neglects oversight, the public may be denied essential services. Law No. 25/2009 on Public Services guarantees the right of the public to file complaints and demand accountability if service delivery fails.
5. Assessment of Clauses that Pose a Moral Hazard Risk Provisions such as force majeure, claim settlement procedures, or vague exceptions must be carefully evaluated for potential conflict with statutory regulations (*contra legem*). Ambiguous or broad clauses can be exploited, particularly in politically sensitive budgeting contexts. For example, unclear delay clauses may be used to postpone compensation unjustly, undermining the public's right to timely assistance.

Analysis of the Link Between National Legal Framework and Local Issues in North Lombok North Lombok is one of Indonesia's most disaster-prone regions, as evidenced by the devastating 2018 earthquake. While Indonesia has established a national legal framework—such as Law No. 24/2007, Law No. 40/2014, and various Financial Services Authority regulations—these regulations have not fully addressed the specific needs of vulnerable communities in disaster-prone areas like North Lombok. The Disaster Management Law mandates public participation and state responsibility in disaster protection. However, it does not explicitly outline the role of the insurance sector. The Insurance Law provides a legal basis for the development of various insurance products, including microinsurance, but lacks a clear mandate for the development of disaster-specific insurance tailored to vulnerable communities. As a result, many residents rely on informal risk-sharing mechanisms such as community savings groups, mutual aid systems (*arisan risiko*), or cooperative credit schemes.

These community-based schemes are not recognized under current positive law, neither in the Insurance Law nor in OJK regulations such as POJK No. 69/POJK.05/2016 on the Insurance Business Operation. Without legal protection, these informal models are vulnerable to abuse, lack accountability, and provide no structured dispute resolution. This represents a regulatory gap that weakens long-term disaster risk mitigation, especially in underserved regions like North Lombok.

Most residents of North Lombok fall within low-income brackets. Access to conventional insurance remains limited due to high premiums, low financial literacy, and deep distrust in financial institutions. This contradicts the intent of OJK Regulation No. 1/POJK.07/2013 on Consumer Protection in the Financial Services Sector, which mandates providers to offer fair,

transparent, and comprehensible products. In practice, these principles have yet to translate into accessible and inclusive disaster microinsurance for marginalized areas.

To bridge this gap, there is a pressing need to revise the national regulatory framework to accommodate community-based approaches. This can be achieved through: Limited legal recognition of informal microinsurance models, provided they meet basic standards of transparency and accountability. Coordination between local governments and OJK to promote insurance literacy and subsidized premiums in disaster-prone regions. Enforcement of Good Corporate Governance principles by insurance providers in collaboration with local authorities, including accountability in the implementation of post-disaster CSR initiatives. The proposed regulatory revision to formally recognize community-based microinsurance models requires a more detailed analysis regarding the appropriate form of regulation. Considering the supervisory authority of the OJK (Financial Services Authority), issuing an OJK Regulation could serve as an initial step to govern technical aspects such as licensing requirements, distribution mechanisms, and consumer protection for microinsurance products. However, if the aim is to institutionalize this model on a broader scale and make it binding for communities in disaster-prone areas, stronger legal backing through a Presidential Regulation or even an amendment to Law No. 40/2014 may be necessary to ensure legal certainty and prevent normative conflicts. Furthermore, the discussion on the potential for political exploitation should clearly illustrate how insurance contract clauses could be leveraged for vote-buying practices—for example, through schemes offering free premiums or expedited claims targeted at specific voter groups during campaign periods. To reinforce the argument regarding “legal loopholes,” it is crucial to conduct a comparative legal analysis by referencing countries that have successfully implemented mandatory disaster insurance or community-based models, such as the Philippines or Japan.

Additionally, the concept of force majeure should be linked to procurement practices in post-disaster contexts that have been audited by the Audit Board of Indonesia (BPK), as emergency procurement has often been a high-risk area for irregularities. Concrete examples should be drawn from LKPP regulations governing emergency procurement and Presidential Decrees on disaster management acceleration. This linkage is essential to determine whether insurance and disaster aid contracts fall under the regime of administrative contracts, which would subject them to the general principles of good governance (*Asas-Asas Umum Pemerintahan yang Baik* or AUPB). By integrating normative analysis, practical legal considerations, and comparative law, this discussion not only identifies existing legal gaps but also provides a robust foundation for developing regulatory instruments that are adaptive, enforceable, and capable of closing avenues for aid politicization and abuse of authority.

3.6. Regulatory Effectiveness and Accountability

Within the existing legal framework in Indonesia, there are several challenges related to the prevention of abuse, particularly in the insurance sector. Although these regulations are designed to protect the interests of all stakeholders, their implementation in practice often

reveals weaknesses in the existing supervisory system, especially in post-disaster situations or during emergencies.⁶⁶

Firstly, although the existing laws aim to ensure consumer protection and prevent abuse by service providers, many clauses in insurance contracts are ambiguous. These clauses can create loopholes for service providers to engage in practices that are detrimental to consumers, such as denying claims without clear justification or using premiums non-transparently⁶⁷. This indicates that the current laws are not yet fully effective in preventing abuse, particularly in disaster situations that require insurance providers to fulfill their obligations.

On the other hand, the supervisory system conducted by the Financial Services Authority still has shortcomings. While OJK strives to maintain the integrity of the insurance industry, limitations in resources and supervisory capacity sometimes lead to the neglect of unethical practices in the field. However, the relevance of political connections and business interests influencing OJK's oversight needs to be supported by more specific research, and such supporting sources are not currently found in the available references.⁶⁸

In efforts to improve this situation, business law reform is highly necessary, especially in post-disaster contexts. This reform could include enhancing transparency in insurance policy management and improving OJK's supervisory mechanisms to ensure that all actors in the insurance industry comply with existing regulations⁶⁹. In addition, revisions to insurance laws are needed, with a focus on eliminating ambiguous clauses and guaranteeing consumer rights.

Preventive measures against abuse in the insurance sector must be placed as a legal priority in order to strengthen public protection, especially in emergencies when uncertainty and risks increase. With such reforms, the law is expected to be more responsive to the needs of society and to deliver better justice for all parties involved in the insurance industry.

4. Conclusions

Political instrumentalization of post-disaster aid, particularly through the distribution of insurance claim payouts, has been utilized as a means to gain electoral advantage in local elections in North Lombok. This issue is exacerbated by regulatory and supervisory weaknesses concerning insurance companies as business entities, which should otherwise comply with the principles of good corporate governance and CSR. Existing regulations have proven inadequate in preventing conflicts of interest and the misuse of contractual

⁶⁶ Lastuti Abubakar and Tri Handayani, 'Enhancing Consumer Protection in the Indonesian Financial Service Sector through the Utilization of Standardized Contracts', *Yustisia Jurnal Hukum* 12, no. 2 (2023): 153, <https://doi.org/10.20961/yustisia.v12i2.61271>.

⁶⁷ Silvana Herman and Dhea Aulia, "Asuransi Dalam Sistem Hukum Indonesia," *Journal of International Multidisciplinary Research* 2, no. 6 (June 24, 2024): 672-76, <https://doi.org/10.62504/jimr676>.

⁶⁸ Abubakar and Handayani, 'Enhancing Consumer Protection in the Indonesian Financial Service Sector through the Utilization of Standardized Contracts'.

⁶⁹ Suprima, Wardani Rizkianti, and Khoirur Rizal Lutfi, "Implikasi Hukum Penunjukan Ahli Waris Berdasarkan Klausul Asuransi Dalam Perspektif Hukum Waris Perdata," *Esensi Hukum* 1, no. 1 (December 18, 2019): 109-18, <https://doi.org/10.35586/esensihukum.v1i1.12>; Yustina Dhian Novita and Budi Santoso, "Urgensi Pembaharuan Regulasi Perlindungan Konsumen Di Era Bisnis Digital," *Jurnal Pembangunan Hukum Indonesia* 3, no. 1 (January 30, 2021): 46-58, <https://doi.org/10.14710/jphi.v3i1.46-58>.

mechanisms during emergencies, thereby creating opportunities for economic injustice among affected communities.

Studies highlight the need to expand business law discourse by integrating political dynamics and disaster conditions as essential contextual variables in regulatory analysis. Accordingly, reform of the legal framework governing insurance and CSR in the context of disaster response is urgently needed, including strengthening the role of the Financial Services Authority in preventing political interference in aid distribution. This research also opens avenues for further inquiry, such as comparative regional studies or empirical approaches to assess the effectiveness of business regulation and corporate accountability in post-disaster local elections.

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