

The Nexus Between Human Rights and Climate Justice: Climate-Induced Internally Displaced Persons Within Indonesia Law

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Informasi Artikel	Abstract
<p>Penulis Korespondensi: muhammad.farkhan@mail.ugm.ac.id</p> <p>Proses: Submisi: <u>02-12-2024</u> Revisi: <u>26-12-2024</u> Diterima: <u>26-06-2025</u></p> <p>Copyright © 2025 by Jurnal Pro Natura</p> <p>This work is licensed under a Creative Commons Attribution-NonCommercial 4.0 International (CC BY-NC 4.0)</p>	<p>Climate change threatens human life. One of the ways it does so is by forcing people to migrate, either across national borders or within their own country, becoming internal refugees. This article questions how Indonesia's legal system specifically addresses internal refugees affected by climate change as a vulnerable group. This article addresses two main questions: first, what are the considerations for regulating internally displaced persons due to climate change within Indonesia's legal system? Second, how does Indonesia's current legal framework balance human rights and climate justice perspectives regarding internally displaced persons caused by climate change? This article concludes that internally displaced persons due to climate change are currently regulated through general provisions. As a result of these general regulations, the human rights and climate justice aspects for internally displaced persons due to climate change, which have specific dimensions, are not yet adequately accommodated and protected in the existing regulations.</p> <p>Keywords: climate change, internally displaced persons, human rights, climate justice</p>
	<p>Abstrak</p> <p>Perubahan iklim mengancam kehidupan manusia. Salah satunya adalah memaksa orang untuk berpindah baik melintasi batas negara maupun masih dalam batas teritorial negara, atau pengungsi internal. Artikel ini mempertanyakan bagaimana pengaturan khusus terhadap pengungsi internal akibat perubahan iklim sebagai kelompok rentan di Indonesia. Artikel ini berangkat dari dua pertanyaan utama: pertama, apa yang menjadi pertimbangan dalam mengatur pengungsi internal akibat perubahan iklim dalam sistem hukum Indonesia; kedua, bagaimana hukum Indonesia saat ini mengakomodasi perspektif hak asasi manusia dan keadilan iklim terkait pengungsi internal akibat perubahan iklim. Artikel ini menyimpulkan bahwa pengungsi internal akibat perubahan iklim saat ini diatur melalui ketentuan bersifat umum. Sebagai akibat dari pengaturan yang bersifat umum ini, aspek hak asasi manusia dan keadilan iklim bagi pengungsi internal akibat perubahan iklim yang memiliki dimensi yang spesifik belum begitu terakomodir dan dilindungi secara memadai dalam aturan yang ada.</p> <p>Kata Kunci: perubahan iklim, pengungsi internal, hak asasi manusia, keadilan iklim</p>

A. BACKGROUND

As the threat of climate change prevails, human life is heavily affected by its impact. Caused by various factors, primarily emission inducing activities,¹ climate change has a significant impact on human life aspects such as health, economy, and social. The aforementioned impacts, showcasing the threat of climate change towards human rights, garnered the attention of the public and global governments to address the issue. In the case of health, the implication of climate change is showcased within the research done by Rocque and others in 2019 which conducts a systematic review on the implication of climate change upon public health. Within the research, the increasing health risk can be associated with climate change which is dominated by three health issues of infectious diseases, mortality, and respiratory, cardiovascular or neurological health problems.² While in regards to the economy, Tol in his meta-analysis research in 2023 showcased the increasing welfare loss can manifest an income drop, which he deemed as an underestimation of the climate change impact to the economy.³ Indicating a similar pattern, Vanclay in 2019 stated social issues in the future might increase especially in correlation to the climate change manifested in a form of displacement.⁴ Those researches are only a glimpse of the issues which could occur due to climate change, leading to the attention to the issue becoming the primary concerns of numerous stakeholders. On an international level, the first legal recognition of the climate change threat was done through the United Nations Framework Convention on Climate Change 1992 (UNFCCC 1992).⁵ Deemed as the first international collective agreement for cooperation,⁶ UNFCCC 1992 and its protocols remained as the primary guide for global communities' response towards climate change which was ratified by most countries in the world.

Following the recognition, occurrence of climate change impacts demands several adjustments to other laws to adapt and mitigate the issue at hand. One of the prominent examples is the legal discourse related to the consideration of climate change as a cause of displacement. Acknowledging climate change can manifest environmental hazards,⁷ it can force individuals to migrate due to the threats and impacts it has. On an international level, the discourse exhibits the international law to be incapable of covering such demography due to the distinct characteristic of climate change induced displacement. Referring to the cross-border displaced individuals as refugees, the existing international legal framework is currently incapable of accommodating climate change as a reason to obtain such status. Exhibited through the Ioane Teitiota in 2013, the appeal for refugee status of the Kiribati citizen was rejected in New Zealand by the Supreme Court decision and the Human Rights Committee.⁸ Such rejection was caused by the existence of environmental threat experienced by the individual deemed to be insufficient to fulfill the requirement of "persecution" of the refugee definition mentioned within

¹ Alexey Mikhaylov, Nikita Moiseev, Kirill Aleshin, and Thomas Burkhardt, "Global Climate Change and Greenhouse Effect," *Entrepreneurship and Sustainability Ideas* 7, no. 4 (2020): 2898. [http://doi.org/10.9770/jesi.2020.7.4\(21\)](http://doi.org/10.9770/jesi.2020.7.4(21)).

² Rhea J. Rocque, Caroline Beaudoin, Ruth Ndjaboue, Laura Cameron, Louann Poirier-Bergeron, Rose-Alice Poulin-Rheault, Catherine Fallon, Anndrea C. Tricco, and Holly O. Witteman, "Health Effect of Climate Change: An Overview of Systematic Reviews," *BMJ Open* 11, no. 6 (2021): 11. <https://doi.org/10.1136/bmjopen-2020-046333>.

³ Richard S.J. Tol, "A Meta-Analysis of the Total Economic Impact of Climate Change," *Energy Policy* 185, (2024): 11-12. <https://doi.org/10.1016/j.enpol.2023.113922>.

⁴ Frank Vanclay, "Reflections on Social Impact Assessment in the 21st Century," *Impact Assessment and Project Appraisal* 38, no. 2 (2020): 128-129. <https://doi.org/10.1080/14615517.2019.1685807>.

⁵ Boudewijn de Bruin, "Against Nationalism: Climate Change, Human Rights, and International Law," *Danish Yearbook of Philosophy* 55, no. 2 (2022): 192. <https://doi.org/10.1163/24689300-20221060>.

⁶ Ravi S. Prasad, and Ridhima Sud, "The Pivotal Role of UNFCCC in the International Climate Policy Landscape: A Developing Country Perspective," *Global Affairs* 7, no. 1 (2021): 1-2. <https://doi.org/10.1080/23340460.2021.1912628>.

⁷ Marina Andeva and Vasilka Salevska-Trajkova, "Climate Refugees or Climate Migrants: How Environment Challenges the International Migration Law and Policies," *AICEI Proceedings* 15, no. 1 (2020): 79. <https://doi.org/10.5281/zenodo.4393529>.

⁸ Najla Nur Fauziyah, "The Legal Status and Legal Protection Towards Climate Refugees Under International Law: A Study Case of Ioane Teitiota Case," *Belli Ac Pacis (Jurnal Hukum Internasional)* 8, no. 1 (2022): 72. <https://doi.org/10.20961/belli.v8i1.68785>.

Article 1A (2) of Convention of the Refugee Convention 1951.⁹ Through the case, it is acknowledged there is a distinct nature of the climate induced displacement which is unable to be accommodated by the existing international law of refugees. Such circumstances forced individual(s) to stay within the jurisdiction of their origin countries and be categorized as Internally Displaced Persons (IDPs) due to climate change.

Due to the aforementioned circumstances, subjects displaced due to climate change primarily fall under the jurisdiction of the national government through IDPs regulation. Unfortunately, the regulations over IDPs are not strictly regulated by international law. Such is exhibited by the primary instrument for the national government to refer is a non-binding legal instrument in the form of the Guiding Principle on Internal Displacement 1998 (GPID 1998) made by the Commission on Human Rights.¹⁰ Even though such circumstances provide freedom for the states to address the IDPs, the existence of other international instruments such as International Humanitarian Law and International Human Rights Law, still need to be adhered to.¹¹ Within such circumstances, the consideration of climate change induced IDPs is only going to happen when the national government deems it necessary.

As developing¹² and environmentally vulnerable countries,¹³ climate change can increase the number of IDPs in Indonesia. Indonesia's vulnerabilities against climate change are showcased through numerous studies. Taking the example from the research done by Yamamoto and others in 2021, the occurrence of climate change has the risk to prolong and increase the possibility of flood to occur in Indonesia, within this case primarily talking about Jambi city.¹⁴ Portraying different forms of disaster, research done by Suhadi and others in 2023 showcase the occurrence of climate change can increase the number of El Nino and La Nina occurrences, unpredictable forms of weather phenomenon, which leads to numerous issues such as flood and landslide.¹⁵ Those increasing risks of environmental disaster, which has relations to climate change, in Indonesia can cause an increase of IDPs deemed by some scholars as a separate category called as climate change induced IDPs. Currently, climate change induced IDPs in Indonesia are addressed generally through Law Number 24 Year 2007 on Disaster Mitigation (Law 24/2007). Within Article 1 Number 20 of Law 24/2007, IDPs are addressed as *pengungsi*, and will be translated as evacuee to differentiate from refugee, within the regulation. The regulation can be deemed as *lex generalis* which does not differentiate the cause and type of the IDPs. Such circumstances indicate the treatment received by evacuee induced by natural disasters, social conflict, or climate change will all be the same. Noting so, there is a question on whether or not the existing law is sufficient to protect the climate change induced IDPs. Enhanced by Jagers statement in his research, the nature of climate change which is progressively worsened is causing both the definition proposed by GPID 1998 and the national disaster framework to render useless for the movement done

⁹ *Ibid*, 73.

¹⁰ Vitória Dell'Aringa Rocha, "International Environmental Displacement: Could Soft Law Fill the Legal Protection Void," (Tesis Magister, Åbo Akademi University, 2024), 17.

¹¹ Naziye Dirikgil, "Addressing the Prevention of Internal Displacement: The Right Not to Be Arbitrarily Displaced," *Journal of International Migration and Integration* 24, (2023): 118. <https://doi.org/10.1007/s12134-022-00935-4>.

¹² Muhammad Rafi Darajati, "Efektivitas Protokol Kyoto dalam Masyarakat Internasional Sebagai Suatu Rezim," *Shar-E: Jurnal Kajian Ekonomi Hukum Syariah* 6, no. 1 (2020): 22-23. <https://doi.org/10.37567/shar-e.v6i1.10>.

¹³ Vidia Syahbani Putri Rahman, "Strategi Indonesia dalam Mengatasi Perubahan Iklim Melalui Kerjasama Internasional," *Mimbar: Jurnal Penelitian Sosial dan Politik* 13, no. 1 (2024): 26. <https://doi.org/10.32663/2sw5a954>.

¹⁴ Kodai Yamamoto, Takahiro Sayama, and Apip, "Impact of Climate Change on Flood Inundation in A Tropical River Basin in Indonesia," *Progress in Earth and Planetary Science* 8, no. 5 (2021): 2-5. <https://doi.org/10.1186/s40645-020-00386-4>.

¹⁵ Suhadi, Faizatul Mabrurroh, Adis Wiyanto, and Ikra, "Analisis Fenomena Perubahan Iklim Terhadap Curah Hujan Ekstrim," *Jurnal Pendidikan Fisika* 7, no. 1 (2023): 96-99. <https://doi.org/10.37478/optika.v7i1.2738>.

preemptively in response to the change occurring.¹⁶ Noting so, this research has the intention to analyze the issue through two primary research questions: 1) What shall be considered in addressing climate change induced IDPs in Indonesia law based on human rights and climate justice perspectives?; 2) How does current Indonesia's law accommodate the human rights and climate justice perspectives on climate change induced IDPs?

As a normative research, the method utilized to answer the research questions is utilizing the literature review method. Focusing on climate change induced IDPs, the utilized literature will be several previous researches related to climate change, IDPs, Indonesia's disaster response, and related law. The approach utilized within this research is conceptual approach and statute approach. Addressing the first research question, the second chapter of this article will dissect the existing law through statute approach to assess its sufficiency based on human rights and climate justice perspective. On the other hand, the third section of this article will deploy the progressive law theory stated by Satjipto Rahardjo as an evaluation tool for the existing law and how it can be developed through other alternatives. Last but not least, the last section of this research will conclude with the result of the analysis done within the whole article.

B. HUMAN RIGHTS AND CLIMATE PERSPECTIVES ON CLIMATE CHANGE INDUCED IDPS IN INDONESIA

Currently, Indonesia recognizes IDPs through the terminology of pengungsi, or evacuees, within Law 24/2007. Defined as "...person or group of persons forced or obliged to leave their home for an undetermined duration due to the bad impact of disaster" through Article 1 Number 20 of Law 24/2007, evacuees status within Indonesia law is established while considering the definition of IDPs mentioned within GPID 1998. Within the GPID 1998, IDPs can be defined as "...persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular result of or in order to avoid the effects of armed conflict, situations of generalized violence, violation of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border."¹⁷ Through the aforementioned definition of IDPs, there are three distinct characteristics, first, "forced or obliged to flee or to leave their homes or places of habitual residence," second, "to avoid the effects of armed conflict, situations of generalized violence, violation of human rights or natural or human-made disasters," and third, "have not crossed an internationally recognized state border." The accommodation of the first characteristic mentioned within the GPID is showcased by the recognition of the situation faced by the evacuees within the legal definition proposed in Law 24/2007, which is "forced or obliged to leave their home." Such recognition is important to establish the justification of specific treatment and protection received by the subjects.¹⁸ On the other hand, the fulfillment of the second characteristic is shown by the mentioning of "bad impact of disaster" within the Indonesian legal framework. Even though it is not explicitly mentioned, the type within the definition of evacuee, we can refer to Article 1 number 1 Law 24/2007 which defines disaster, translated from bencana, as "...event or chain of events threatening and disturbing life and living of peoples caused by, natural and/or non-natural or human factor causing life victim, environmental damage, material lost, and psychological damage." Through the aforementioned definition, it is established that all types of factors mentioned within GPID 1998 have been recognized even though not explicitly. Lastly, even though the third characteristic is not explicitly mentioned within

¹⁶ Nicola Jagers, "Climate Change Induced Displacement, Migration, and International Law," in *Research Handbook on Climate Change Adaptation Law*, ed. Jonathan Verschuuren (Edward Elgar Publishing Ltd, 2022): 96-97.

¹⁷ Jamie Draper, "Justice and Internal Displacement," *Political Studies* 71, no. 2 (2021): 315. <https://doi.org/10.1177/00323217211007641>.

¹⁸ *Ibid*, 321-322.

the definition of evacuee, the nature of Law 24/2007 as national law automatically restricts the appliance to only within Indonesia's territory. Noting the aforementioned explanation, Law 24/2007 can be deemed to be in line with the GPID 1998.

Even though the existing laws, Law 24/2007, didn't mention climate change specifically, the established definition of IDPs accommodates climate change induced displacement. Climate change is considered noting the definition of both regulations acknowledges natural and human-made disasters can cause displacement. Acknowledging the factor of climate change is an accumulation of both causes,¹⁹ the terminology applicable towards climate change induced IDPs. Noting so, the existence of Law 24/2007 which in accordance with the GPID 1998 is applicable to the subjects of climate change induced IDPs. While it is applicable, the question in regards to sufficiency remained, noting the current legal framework in Indonesia addresses all kinds of IDPs through the same status of evacuee. Therefore through this chance, this research would analyze the disposition of climate change induced IDPs through human rights and climate justice perspectives.

1. Human Rights Perspective: Weighing the Significance of Inducing Factors Differentiation for Climate Change Induced IDPs Rights Protection

Before focusing on the IDPs, it is necessary to elaborate on human rights which will be utilized as the lens for analysis. Recognized as inherent rights of all individuals,²⁰ human rights discourse continuously occurred both in theory and practice.²¹ Internationally constituted for the first time through the Universal Declaration of Human Rights 1948 (UDHR 1948), human rights have been deemed as a primary ethical aspect²² which shall be considered in lawmaking and governance. The importance of human rights as a principal value is continuously showcased through the establishment of various other international legal instruments to supplement the UDHR 1948, such as the International Covenant on Civil and Political Rights 1966 and the International Covenant on Economic, Social, and Cultural Rights 1966. While such circumstances showcase the principal value of human rights, implementation of human rights can be deemed complex due to the continuous development of value,²³ necessary involvement of diverse stakeholders,²⁴ dynamic social circumstances,²⁵ and numerous other variables. Such exhibits the rigorousness of human rights in itself. Even so, the nature of human rights, as an inherent and principal aspect of life, is necessary to be considered.

In the context of IDPs, the experience of involuntary displacement is the primary reason why the subjects experience human rights deprivation. Mentioned by in 2024, there are four reasons for the human rights deprivation experienced by IDPs, which are loss of control, home, social status, and the psychological impact manifested.²⁶ The loss and impact mentioned are manifested due to the

¹⁹ Selemon Thomas Fakana, "Causes of Climate Change: Review Article," *Global Journal of Science Frontier Research* 20, H2 (2020): 7.

²⁰ Lukman Hakim and Nalom Kurniawan, "Membangun Paradigma Hukum HAM Indonesia Berbasis Kewajiban Asasi Manusia," *Jurnal Konstitusi* 18, no. 4 (2022): 872-873. <https://doi.org/10.31078/jk1847>.

²¹ Alexander Kennedy, "Hak Asasi Manusia dan Keadilan Bermartabat: Perbandingan Teori dan Realitas di Indonesia," *Ekasakti Jurnal Penelitian & Pengabdian (EJPP)* 4, no. 1 (2024): 133-134. <https://doi.org/10.31933/ejpp.v4i1.1043>.

²² Ajna Jodanovic, "Protection of Human Rights at the International Level: The Role of the Human Rights Committee," *Regional Law Review*, (2023): 34. https://doi.org/10.56461/iup_tlr.2023.4.ch3.

²³ Paul Nkemngu Acha-Anyi, "Analysis of Human Rights Needs of Internally Displaced Person and the Role of Social Work Practice: The Case of the Northwest, Southwest, and Littoral Regions of Cameroon," *Journal of Human Rights and Social Work* 9, (2024): 213-214. <https://doi.org/10.1007/s41134-024-00299-y>.

²⁴ Ana Fauzia and Fathul Hamdani, "Aktualisasi Nilai-Nilai Pancasila dan Konstitusi Melalui Pelokalan Kebijakan Hak Asasi Manusia (HAM) di Daerah," *Indonesia Berdaya* 2, no. 2 (2021): 163-164. <https://doi.org/10.47679/ib.2021136>.

²⁵ Viviane de Melo Resende and Cintia de Freitas Rodrigues Loureiro, "Intersectionality in Human Rights: A Discursive Critique to Understand Clashes Between the Extreme Right and Political Resistance in Brazil," *Journal of Gender Study*, (2024): 2. <https://doi.org/10.1080/09589236.2024.2394549>.

²⁶ Laura Santi Amantini, "The Harms of Internal Displacement beyond Human Rights Violation," In *The Political Philosophy of Internal Displacement*, ed. Janie Draper and David Owen (Oxford University Press, 2024), 17.

involuntary displacement and stripping access of IDPs to the human rights they had. Acknowledging so, IDPs can be deemed as a vulnerable community which shall receive differentiated protection.²⁷ Thus circumstances became part of the consideration for the international community to address the human rights of IDPs through GPID 1998. Mentioned through Principle 6 and Section III (Principle 10 until 23) of GPID 1998, there are various human rights deprivations which can be experienced by the IDPs. Simultaneously, it is important to recognize the deprivation of human rights experienced by the IDPs occurred before, during, and after the displacement. In the case of before displacement, those individuals deserve the right to not experience being displaced in the very first place.²⁸ Noting so, the existence of IDPs in itself is referring to subjects deprived of human rights to not be displaced. Such right is also mentioned through Article 6 GPID 1998 in regards to rights to not be arbitrarily displaced. According to the aforementioned Article, all individuals have the right to not experience being forced to leave their homes except if the situation demands so. Bear in mind, the existence of IDPs in any sense is not indicating a form of human rights violation, except the displacement occurred arbitrarily as being ruled within GPID 1998. Even so, the state responsibility to the subjects persists, even in the case where the displacement cause is beyond the government's control, such as environmental disaster. Elaborating it through Hobbes social contract theory, the authority government has existed due to the attribution of rights by people towards the institution.²⁹ In which, the state exists to accommodate the will of the people. Within the case of IDPs, their disposition as members of the states showcase the social contract relations leading to the state's responsibility to provide protection for IDPs, even in the case government is not fully responsible for their displacement. Additionally, IDPs is susceptible to human rights deprivation caused by the manifested loss and impact.³⁰ Even in some instances, the experienced loss and impact of IDPs might be prolonged for a certain period of time which will require an additional assistance to be able to reintegrate post displacement. The experience of being displaced often causes long-term post displacement impact, such as mental disturbance,³¹ towards the subjects showcasing the entitlement for further assistance. Those circumstances demand the human rights protection for IDPs to be comprehensive. Taking the relation between human rights and disaster relations elaborated within Chari and others research in 2021 which analyze the Cyclone Idai implication on Zimbabwe, the occurrence of environmental disaster causes many individuals to be displaced and lose access to their basic rights.³² Even though the disaster is a natural phenomenon, the government has the responsibility to provide relief and assistance acknowledging the status of the affected individuals are their civilians binding state to the social contract to protect the subject.

In applying the human rights analysis on IDPs in Indonesia, it is necessary to recognize the protection of human rights within Indonesian Law. Primarily being addressed through the 1945 Constitution of the Republic of Indonesia (UUD 1945) and Law Number 39 Year 1999 (Law 39/1999), the human rights deprivations experienced by IDPs are being addressed. In instances of the right to not

²⁷ *Ibid*, 20.

²⁸ Okpalaobi and EC Okika, "International Human Rights Law and the Protection of Internally Displaced Persons in Nigeria," *International Journal of Law and Clinical Legal Education* 5, (2024): 50-51.

²⁹ Ann Akenzua and Joseph Unufe, "Public Administration and the Bumpy Road to Social Welfare Provisioning: An Assessment of the Internally Displaced Persons (IDPs) Camps in Nigeria," *Niger Delta Journal of Gender, Peace, & Conflict Studies* 1, no. 4 (2021): 176-178.

³⁰ Noam Schimmel, "Trapped by Sovereignty: The Fate of Internally Displaced Persons and Their Lack of Equal Human Rights Protection Under International Law," *World Affairs* 185, no. 3 (2022): 503-504. <https://doi.org/10.1177/00438200221104498>.

³¹ Dito Alif Pratama, "The Role of religion in Dealing with Natural Disaster Trauma: A Case Study of the Survivor of Aceh's Earthquake and Tsunami in 2004," *Empirisma: Jurnal Pemikiran dan Kebudayaan Islam* 32, no. 2 (2023): 288. <https://doi.org/10.30762/empirisma.v32i2.1104>.

³² Felix Chari, Bethuel Sibongiseni Ngcamu, and Cawe Novukela, "Supply Chain Risks In Humanitarian Relief Operations: a Case of Cyclone Idai relief efforts in Zimbabwe," *Journal of Humanitarian Logistics and Supply Chain Management* 11, no. 1 (2021): 29-39. <https://doi.org/10.1108/JHLSCM-12-2019-0080>.

be displaced, UUD 1945 addressed through Article 28H (1) which explicitly states the rights of all individuals over the place to live. Stated once more through Article 27 (1) of Law 39/1999, all individuals have the freedom to move and decide on their place to live. While it is a recognized human right, the existence of inducing factors beyond the control of government lead to the existence of IDPs is not synonymous with state practicing a human rights violation, except it contradicts GPID 1998. Even so, state liabilities to assure the protection of IDPs human rights are still applicable even though the government is not the cause of the displacement. Other than based on Hobbes theory, Article 8 of Law 39/1999 states the government has the responsibility to assure the protection of human rights. Such Article applied generally which applies to the IDPs. The existence of such recognition exhibits how the human rights deprivation experienced by IDPs, during and after the displacement, shall be accommodated by the governments. Regardless of the cause of the displacement is due to the fault of the state or not, the deprived rights experienced by IDPs is sufficient for the government to put an attention to ensuring the rights of the subject are protected. Due to such recognition, the existence of Law 24/2007 which addresses evacuees in general is an effort for the governments to achieve it. As general as it is being regulated in Law 24/2007, the writers deemed such approach is more appropriate, especially for the human rights protection of climate change induced IDPs in Indonesia.

Whilst it's true the threat of climate change might lead to the increasing number of IDPs, the proposal to establish a separated status for the subjects shall be questioned further. Before diving deeper on the climate change induced IDPs, recognizing the relation between human rights and climate change is necessary. Exhibited within the research done by Savaresi in 2021, currently climate change is unable to stand as an independent legal argument due to numerous technical obstacles such as attribution and causation.³³ Due to such circumstances, human rights is utilized as a medium for climate change to carry a certain legal weight and be considered. Unfortunately, human right as an intermediary to consider climate change is dependent on the implication it manifests.³⁴ Such circumstances lead to the weight of climate change primarily judged based on the deprivation of rights it causes and does not carry any inherent value. Such relations became part of the consideration why the writer deems within the context of IDPs, classifying climate change induced IDPs as a specific demography regulated within law is unfavorable. The primary reason is due to the relations between displacement and human rights deprivation is highly contextual. There are two reasons why it is contextual. First, a single displacement inducing factor can lead towards a diversified impact based on the subject circumstances. Such was caused by the loss and the impact manifested can be different for each individual. Taking the example of the case of IDPs in the recent 2018 Palu Tsunami, the deprived human rights experienced are variative. For some individuals, their well-being is affected and their incapability to access health facilities showcasing their deprivation of rights to healthcare.³⁵ Within the same Palu Tsunami case, females and kids experience the deprivation of human rights in a form of threat or torture showcased by the increasing harassment number post the disasters.³⁶ Such examples exhibit how the deprivation of rights experienced, even within the same case, can be different. The aforementioned case is relevant within this research due to climate change IDPs occurring due to the natural disasters it manifests. Knowing a tsunami is one of the possible disasters manifested from climate change, the example showcases how a single form of disaster even requires a broad regulation to consider numerous human rights deprivation which can occur. Bearing in mind "climate change" could manifests a diverse form of

³³ Annalisa Savaresi, "Human Rights and the Impacts of Climate Change: Revisiting the Assumptions," *Onatio Socio-Legal Series* 11, no. 1 (2021): 234-236. <https://doi.org/10.35295/osls.iisl/0000-0000-0000-1143>.

³⁴ *Ibid*, 244.

³⁵ Rizky Alfarizy, "Penjarahan dan Kekerasan Domestik Pasca Gempa Bumi dan Tsunami di Sulawesi tahun 2018: Analisis General Strain Theory," *Jurnal Kriminologi Indonesia* 16, no. 2 (2020): 42.

³⁶ *Ibid*, 42-43.

environmental disasters,³⁷ the scope of human rights deprivation will once again expand and law on Climate change induced IDPs became required to be general. Under such circumstances, the introduction of climate change induced IDPs is no different from applying the existing general regime on the subject such as how it is being regulated within Law 24/2007.

Second, the same deprivation of human rights experienced by IDPs often requires different forms of approaches. In the context of assuring the protection of deprived human rights of IDPs, the same form of inducing factors can't always be approached through similar resolutions. Taking the example of disasters induced IDPs, closest to climate change induced, two occurrences of displacement caused by the same factor will require a different response. Two cases exhibit such occurrences are the experience of floods which occurred in Kendari in 2017³⁸ and Pekalongan in 2020.³⁹ While both cases demand the provision of basic healthcare provisions for IDPs, other variables occurring during the time of both cases demand different responses. In the case of the Pekalongan Flood in 2020, the occurrence of Covid-19 showcases how human rights protection shall consider the threat it holds.⁴⁰ Noting so, the resolution in providing basic healthcare to the same inducing factor IDPs will be different. Such a factor is one of many other reasons why a contextual approach to human rights protection for IDPs is necessary both during and after the occurrence of displacement. The effects of those factors also influence the need to address the climate change induced IDPs to be treated contextually and can't be generalized based on the inducing factors.

Significance of inducing factor differentiation, such as climate induced IDPs, became more problematic recognizing the relations between the rule of law and human rights. While human rights are universally recognized as fundamental rights, the rule of law remains a significant tool for assurance. Such caused by the rule of law appliance to guide the behavior of all actors, including government and society.⁴¹ Meaning the rule of law appliance also dictates the human rights protection of IDPs. Acknowledging the theory, there is a risk of restricting the human rights protection effort. While it might provide better certainty on protection,⁴² detailed regulation on specifically induced IDPs could be a double-edged sword leading to an unprecedented circumstance that can't be accommodated. Such was caused by the rule of law shrinking the room of flexibility for law in practice in fear of contradicting the existing norms.⁴³ Additionally, the diverse forms and human rights deprivation manifested from climate change will demand responsiveness more to assure protection of rights. Therefore, it became unfavorable for the climate induced IDPs to be ruled strictly. Bearing such consideration in mind, there are more reasons to regulate IDPs generally instead of categorizing the subjects based on the inducing factors.

³⁷ Dimitra Angra and Kalliopi Sapountzaki, "Climate Change Affecting Forest Fire and Flood Risk-Facts, Prediction, and Perceptions in Central and South Greece," *Sustainability* 14, no. 20 (2022): 2. <https://doi.org/10.3390/su142013395>.

³⁸ Nasrullah, Eko Teguh Paripurno, and Johan Danu Prasetyo, "Pengelolaan Bantuan Logistik Bencana Banjir: Studi Kasus Tanggap Darurat Bencana di Kota Kendari Tahun 2017," *Intelektiva: Jurnal Ekonomi, Sosial dan Humaniora* 2, no. 7 (2021): 31-35.

³⁹ Kuat Ismanto, Suryo Pratikwo, Benny Diah Madusar, and Paminto Agung Christianto, "Analisis Kebutuhan Masyarakat Terdampak Banjir Rob: Studi Kasus Kota Pekalongan," *Jurnal Litbang Kota Pekalongan* 19, no. 1 (2021): 20-23. <https://doi.org/10.54911/litbang.v20i.141>.

⁴⁰ *Ibid*, 20.

⁴¹ Dongxiao Xu, "How the Rule of Law Connects and Protects Human Rights," *Journal of Management and Humanity Research* 8, (2022): 26-27. <http://dx.doi.org/10.22457/jmhr.v08a032251>.

⁴² Dr. Zahid Ullah, Dr Syed Raza Shah Gilani, Nadia Noreen, Ijaz Ahmad, Bushra Zaib, Sayyed Junaid Shah, Zakir Ullah, and Kashmala Asad Khan, "Rule of Law, Human Rights, and Democracy: An Analysis of Key Principles, Issues, and Challenges," *Journal of Positive School Psychology* 6, no. 12 (2022): 343.

⁴³ Parkhomenko Nataliia and Tarakhonych Tetiana, "Law-Making Activity in Modern Conditions: Essentials Dimensions and Functional Orientation," *Visehrad Journal on Human Rights* 1, (2023): 135. <https://doi.org/10.61345/1339-7915.2023.1.19>.

2. Climate Justice Perspective on Climate Induced IDPs: Complex Relations of Climate Change with Displacement and Climate Change with IDPs

As the deterioration of climate occurs, terminology of justice also expands. Caused by the impacts of climate change towards the global community in general,⁴⁴ “climate justice” as a terminology is being introduced and discoursed within the academic world. Rooted from environmental justice discourse,⁴⁵ the terminology of “climate justice” is utilized to address the unfairness and inequality manifested due to climate change.⁴⁶ While it remains in the theoretical realm, climate justice is utilized as reasoning in establishing climate change related law.⁴⁷ Climate justice was described by Sultana in 2021 as a justice discourse of praxis, a practice which is informed and continuously assessed, related to climate change.⁴⁸ The climate change induced IDPs are part of vulnerable subjects within the climate justice discourse.⁴⁹ Mentioned by Mohtat and Khirfan in 2021, the categorization of vulnerable subjects within the lens of climate justice is caused by the unfulfillment of justice pillars which are distributive justice, procedural justice, and recognitional justice.⁵⁰ Elaborating further, distributive justice in itself is a form of justice judged based on substantive fairness.⁵¹ In contrast, procedural justice refers to the fairness in the process and procedures related to the decision making.⁵² Last but not least, the recognitional justice refers to the legitimization of subjects based on diverse dispositions (i.e. economy and social).⁵³ The primary considerations in attaining the three pillars of justice lie in ensuring the most vulnerable parties to experience fairness by considering the disadvantages experienced,⁵⁴ which in the context of climate justice is caused by climate change. The disposition of climate change induced IDPs as the victims who experience rights deprivation showcases how the subjects deserve specific protection.

While it is agreeable climate change induced IDPs deserve specific protection, the discourse of climate justice as a praxis will ponder on the plausibility. The writer deems it is improbable to specifically address the climate change induced IDPs due to the indirect relation between climate change and displacement. The relation is indirect because the displacement occurred due to the impact manifested in the form of disaster and not the climate change in itself. For instance, the appeal done by Ioane Teitiota is not based on the occurring global climate change but rather the submerging occurred due to climate change.⁵⁵ Even though the case is related to the appeal for refugee status, the Ioane Teitiota case is still a relevant example that exhibits the relation between climate change and displacement is based on the implication it causes in disaster form. While some argue the contextualization of climate change induced IDPs primarily address the displacement caused by

⁴⁴ Judge John Mativo, “7. Climate Change Displacement Litigation in Africa: A Human rights and Refugee Law-Based Approach,” In *Climate Litigation and Justice in Africa*, (Bristol University Press, 2024): 153-154. <https://doi.org/10.51952/9781529228977.ch007>.

⁴⁵ Nives Dolsak and Aseem Prakash, “Three Faces of Climate Justice,” *Annual Review of Political Science* 25, (2022): 283-284. <https://doi.org/10.1146/annurev-polisci-051120-125514>.

⁴⁶ Blanche Verlie, “Climate Justice in More-Than-Human Worlds,” *Environmental Politics* 31, no. 2 (2022): 297-298. <https://doi.org/10.1080/09644016.2021.1981081>.

⁴⁷ Sam Adelman, “A Legal Paradigm Shift Towards Climate Justice in the Anthropocene,” *Oñati Socio-Legal Series (OSLS)* 11, no. 1 (2021): 48. <https://doi.org/10.35295/osls.iisl/0000-0000-0000-1177>.

⁴⁸ Farhana Sultana, “Critical Climate Justice,” *The Geographical Journal* 188, no. 1 (2021): 119. <https://doi.org/10.1111/geoj.12417>.

⁴⁹ *Ibid*, 120.

⁵⁰ Niloofar Mohtat and Luna Khirfan, “The Climate Justice Pillars vis-a-vis Urban Form Adaptation to Climate Change: A Review,” *Urban Climate* 39, (2021): 2. <https://doi.org/10.1016/j.uclim.2021.100951>.

⁵¹ *Ibid*.

⁵² *Ibid*.

⁵³ *Ibid*.

⁵⁴ *Ibid*.

⁵⁵ Azmi Julifa Wattiheluw, Arman Anwar, and Popi Tuhulele, “Legal Status of Climate Refugees: Is It Regulated in International Law?” *Uti Possidetis: Journal of International Law* 5, no. 3 (2024): 407-408. <https://doi.org/10.22437/up.v5i3.33591>.

slow-onset disasters,⁵⁶ such as what happened in the Ioane Teitiota case, it would be a partial recognition of the disaster type manifested by climate change. The partial recognition might lead to injustice acknowledging climate change can manifest a rapid-onset disaster such as cyclones and floods.⁵⁷

Furthermore, the coverage of “climate change” is restricted within the current legal development. To understand this, we need to first separate climate change from the disaster it can manifest. Referring to Article 1 of UNFCCC 1992, climate change is defined as “...a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.”⁵⁸ Such showcase how within the current legal framework, the term climate change doesn’t include the implication it manifests even though climate change scientifically proven might cause unprecedented disaster.⁵⁹ Even so, the use of “climate change” terms might lead to legal inconsistency in substance knowing the current international regime didn’t include the disasters manifested as part of the definition. Simultaneously, the legal practice might also be hindered. Elaborating through two examples of bushfires occurred in Australia and the submerging of Kiribati (noting the refugee status appliance being rejected, subjects can be deemed as climate change induced IDPs), the nature of the disasters will require different treatment. While the IDPs caused by Australian bushfire demand temporary housing until it is safe,⁶⁰ IDPs of Kiribati will require permanent resettlement caused by the submerging to reduce the availability of land.⁶¹ Such comparatives showcase the wide spectrum of the climate change impact causing displacement is implausible to be generalized through the recognition of “climate change” as inducing factors. Even when the impacts of climate change can be included, differentiating the subjects remains a task due to not all its implications directly contribute to displacement. For instance, from Mexico's coffee production, it was stated the increase in the temperature already reduced 34% of the production rate in 2021 and is projected to reduce continuously.⁶² Even though it is regrettable, the implication of climate change didn’t cause a displacement, noting there is an alternative for the individual to resolve the issue at hand. Such showcase another task for the regulation making to specifically address the form of climate change impacts which would be considered as inducing a displacement, knowing climate change impact relation to displacement is uncertain. Noting so, the use of “climate change” as categorization for IDPs is an arduous task due to the current development didn’t expand to the implication while the categorization could lead to generalization of response to different disasters manifested. While it’s possible to do so, the regulator shall be specific in attributing “climate change” impact as an inducing factor knowing not all its impact can’t be deemed as displacement inducing factors.

⁵⁶ Robert Max Lange, “The Right to Adequate Housing for IDPs in the Context of Slow-Onset Climate-Induced Disasters within the European Union,” *Renewable Energy Law and Policy Review* 11, no. 1 (2022): 11-12. <https://doi.org/10.4337/relp.2022.01.03>.

⁵⁷ Tahmina Chumky, Mrittika Basu, Kenichiro Onitsuka, and Satoshi Hoshino, “The Current Research Landscape of Disaster-Induced Migration: A Systematic Review and Bibliometric Analysis,” *International Journal of Disaster Risk Reduction* 74, (2022): 1-2. <https://doi.org/10.1016/j.ijdr.2022.102931>.

⁵⁸ Demetris Koutsoyiannis, “Rethinking Climate, Climate Change, and Their Relationship with Water,” *Water* 13, no. 6 (2021): 18. <https://doi.org/10.3390/w13060849>.

⁵⁹ John F. McEldowney and Julie J. Drolet, “Climate Change and Refugees,” *The Impact of Climate Change*, (2020): 540. <https://doi.org/10.1016/B978-0-12-822373-4.00010-0>.

⁶⁰ Anastasia Mortimer, Temitope Egbelakin, and Willy Sher, “Making the Case for Policy Interventions in Disaster Governance and Management in Australia to Better Support Internally Displaced People,” *International Journal of Disaster Resilience in the Built Environment* 14, no. 4 (2023): 483. <https://doi.org/10.1108/IJDRBE-11-2022-0108>.

⁶¹ Elena Papadakis, “Case Note: The Lack of Teeth in Teitiota: Exploring the Limits of the Groundbreaking U.N. Human Rights Committee Case,” *Natural Resource Journal* 63, no. 2 (2023): 359-360.

⁶² Gurdeep Singh Malhi, Manpreet Kaur, and Prashant Kaushik, “Impact of Climate Change on Agriculture and Its Mitigation Strategies: A Review,” *Sustainability* 13, no. 3 (2021): . <https://doi.org/10.3390/su13031318>.

While it is impossible to segregate climate change induced IDPs from other types of IDPs based on inducing factors, there are still relations between IDPs and climate change. First, the contribution of deteriorating climate towards environmental disasters is significant enough to require the policy related to climate change to address displacement as part of the adaptation effort. Based on data retrieved from the International Organization for Migration, ever since 2012-2022, the number of new IDPs caused by disasters has always been higher compared to the IDPs caused by conflicts/violence.⁶³ Based on the Intergovernmental Panel on Climate Change (IPCC) statement, the number of disaster-induced IDPs projected to be more than one billion people globally by 2050 if climate change is not being mitigated appropriately.⁶⁴ Such attributions are based on the influence of climate change towards the disaster's severity based on quantity and impact quality.⁶⁵ Second, climate change acts as a hindrance in the assurance of IDPs's human rights protection. The influence of climate change which manifests issues such as, but not limited to, health threat, shelter vulnerability, and even food scarcity are causing the human rights of IDPs to be derogated further.⁶⁶ Such relations showcase how the implication manifested by climate change influences the vulnerabilities of all IDPs.

To attain climate justice, it is necessary to consider the aforementioned relations of climate change with displacement and climate change with IDPs. First and foremost, it requires analysis on the plausibility. Even when it is justified and deemed as necessary to recognize climate change induced IDPs specifically, it is improbable to differentiate the subjects from others. Caused by the indirect relations of climate change and displacement, differentiating climate change induced IDPs from other induced IDPs is challenging. Added with the current restricted scope of the term "climate change", addressing the subject through general norms of IDPs to avoid the legal uncertainty is favorable. Adding the nuance based on Friedman's theory on the legal system, such legal substances might affect the performance of the legal structure. A complex legal substance relying on the judgment of the legal structure leads towards uncertain legal appliance.⁶⁷ Acknowledging so, to enforce such substances can cause ineffective performance of the legal structure leading to failure in protecting IDPs's rights.

Secondly, the three pillars of climate justice will require consideration on the impacts of climate change on IDPs in general. Even though the subjects are not being recognized specifically, the recognition of climate change as an aspect influencing the protection of IDPs is necessary. In regards to distributive justice, climate change as a variable affecting the process of IDPs protection demands it to be considered in general, not only as an inducing factor. Referring to the research done by Jafino and peers in 2021, utilizing Integrated Assessment Models (IAM) in assessing distributive justice in the context of climate change, there are four crucial aspects mentioned which are the diversified physical process following climate change, unequal vulnerabilities experienced by subjects, uneven option experienced by different groups, and power inequalities between groups.⁶⁸ Those four reasons are why

⁶³ IOM UN Migration, "Migration and Migrants: A Global Overview," <https://worldmigrationreport.iom.int/what-we-do/world-migration-report-2024-chapter-2/internally-displaced-persons> (accessed on 20 November 2024).

⁶⁴ Migration Data Portal, "Environmental Migration," <https://www.migrationdataportal.org/themes/environmental-migration> (accessed on 20 November 2024).

⁶⁵ Sara I. Zandalinas, Felix B. Fritsch, and Ron Mittler, "Global Warming, Climate Change, and Environmental Pollution: Recipe for a Multifactorial Stress Combination Disaster," *Trends in Plant Science* 26, no. 6 (2021): 588-589. <https://doi.org/10.1016/j.tplants.2021.02.011>.

⁶⁶ Ayman Ahmed, Nouh Saad Mohamed, Emmanuel Edwar Siddig, Talha Algaily, Suad Sulaiman, and Yousif Ali, "The Impacts of Climate Change on Displaced Populations: A Call for Action," *The Journal of Climate Change and Health* 3, (2021): 2-5. <https://doi.org/10.1016/j.joclim.2021.100057>.

⁶⁷ Anak Agung Sagung Ngurah Indradewi, "Legal System Study," *The International Journal of Social Sciences World (TIJOSW)* 5, no. 2 (2023): 247.

⁶⁸ Bramka Arga Jafino, Jan H. Kwakkel, and Behnam Taebi, "Enabling Assessment of Distributive Justice Through Models for Climate Change Planning: A Review of Recent Advances and A Research Agenda," *WIREs Climate Change* 12, no. 4 (2021): 2. <https://doi.org/10.1002/wcc.721>.

distributive justice can't be attained when the disposition of climate change is recognized only as an inducing factor. The diversified degree along with the form of influence, implication, and vulnerability from climate change demands the assurance of distributive justice for IDPs to be extensive. Therefore, climate change shall be considered as a variable affecting all IDPs in all periods of time. Furthermore, distributive justice also mentions the contribution of all necessary stakeholders in protecting the climate change induced IDPs. While it is improbable to differentiate the demography from other types of induced IDPs, especially disaster induced, the collective international liabilities on the subjects are still recognizable. Such was caused by the nature of climate change as a collective international issue,⁶⁹ meaning collectively all states and actors liable for the subjects. Due to such circumstances, all stakeholders shall have a certain involvement to the protection of climate change induced IDPs to share the burdens on protecting the subjects.

Simultaneously, the context of procedural justice demands room of participation to consider the implication of climate change to the subject. In this research, the primary subject shall be the IDPs which experience the impacts of climate deterioration. In research done by Ridder and others in 2023, part of the procedural justice's element requires participation and voice.⁷⁰ In this context, the participation and voice shall be holistics. While it is not possible to involve all IDPs participation and voice,⁷¹ the necessity lies in the existence of holistic representations. To do so, all-IDPs encompassing representatives knowledgeable on the diverse implication of climate change towards the demographic in general is more significant instead of separated IDPs representatives. Simultaneously instead of assuring representation of IDPs based on the inducing cause, it is much more appropriate to assure the representation based on the actual case in itself. Such was caused by the degree of influence from climate change can also be diversified for the same factor inducing displacement. While recognitional justice requires a certain acknowledgement for climate change induced IDPs to be considered as the most affected, such specific recognitions might cause issues. Other than the threat of misrecognition due to difficulties in differentiation, a specific recognition could restrict formal rights. Such was caused by specific recognition that will be followed by stringent formal rights which normatively could limit the scope of rights protected for the subjects.⁷² Such circumstances lead to the same conclusion of how the differentiation might not favor the protection of IDPs.

C. CONSIDERING HUMAN RIGHTS AND CLIMATE JUSTICE PERSPECTIVE ON CLIMATE CHANGE INDUCED IDPS: EVALUATION ON INDONESIA'S LAW

Recognizing the perspective of human rights and climate justice towards climate change induced IDPs, those considerations shall be applied within Indonesian law. In regards to the application of such consideration, it is necessary to describe the current positive law. Addressing IDPs in general manner through evacuee terminology, the positive law in Indonesia treats the rights of the subjects generally. Furthermore, the protection of evacuees attempted to be done before, during, and after the displacement occurred.⁷³ Mentioned through Article 5 Law 24/2007, the responsibility to protect evacuee lies on the hand of the central government and regional government. The central government provide protection through National Disaster Mitigation Body, translated from *Badan Nasional*

⁶⁹ Clare Pitt, Kimberley Norris, and Gretta Pecl, "Informing Future Directions for Climate Anxiety Interventions: A Mixed-Method Study of Professional Perspectives," *Journal of Outdoor and Environmental Education* 27, (2024): 222-223. <https://doi.org/10.1007/s42322-023-00156-y>.

⁷⁰ Kilian de Ridder, Felix Carl Schultz, and Ingo Pies, "Procedural Climate Justice: Conceptualizing a Polycentric Solution to A Global Problem," *Ecological Economics* 214, (2023): 2. <https://doi.org/10.1016/j.ecolecon.2023.107998>.

⁷¹ *Ibid*, 4.

⁷² Helen Hanna, "Being a Migrant Learner in A South African Primary School: Recognition and Racialisation," *Children's Geographies* 21, no. 3 (2023): 520. <https://doi.org/10.1080/14733285.2022.2084601>.

⁷³ Article 33 Law Number 24 Year 2007 on Disaster Mitigation (Law Number 24 Year 2007).

Penanggulangan Bencana (BNPB),⁷⁴ while the regional government establish Regional Disaster Mitigation Body, translated from *Badan Penanggulangan Bencana Daerah* (BPBD).⁷⁵ It is regulated further through Government Decree (*Peraturan Pemerintah*) Number 21 Year 2008 on Disaster Mitigation Implementation (Government Decree 21/2008). To provide better analysis, the writer would like to segregate the analysis based on the respective lens of human rights and climate justice.

1. Indonesian Positive Law and Climate Change Induced IDPs: General Addression of idps Rights Protection

While analyzing the positive law, the writer discovers Indonesia's current legal framework already addresses the basic addressals for the IDPs protection. While the terminology of evacuee is utilized to address all kinds of IDPs, the considerations on the human rights of the subjects already accomodate all periods before, during, and after the displacement. Before the displacement, the consideration of human rights are directed through several efforts mentioned within Government Decree 21/2008 are segregated into two which are before the disaster threat exists and after the disaster threat exists. Before the disaster threat existed, the Article 5 (1) of Government Decree 21/2008 state there are eight actions shall be done, which are establishment of disaster mitigation plan; disaster risk reduction; prevention efforts; disaster consideration in development plan; disaster risk analysis requirement; implementation of land planning; education and training; added with technical standard on disaster mitigation. All of those efforts play a significant role in the protection of IDPs human rights. In the case the threat of disaster exists, Article 15 of Government Decree 21/2008 stated three actions which shall be taken which are readiness; early warning; added with disaster mitigation. In both scenarios, whether the disaster threat exists or not, the approach done through the positive rules are part of action to mitigate the occurrence of displacement.

Applying the previous analysis on the relation of climate change induced IDPs and human rights, evaluation on the current Indonesia's law shall be done by questioning the accommodation offered through the positive law. As mentioned in the previous chapter, the relation between displacement and human rights are highly contextual due to the diverse impacts manifested while also requiring a suitable approach. In regards to the pre-displacement, the consideration of such relations demands a comprehensive response preparation which is rather plausible to be regulated through general norms with a contextual implementation. Showcased through Government Decree 21/2008, the pre-displacement effort will require the stakeholders involved to consider all subjects equally and allocate distinct attention to the most vulnerable groups. For instance during the process of establishing the disaster mitigation plan during no disaster threat, the consideration done by BNPB and BNPD, as respective institutions mandated,⁷⁶ shall evaluate all forms of disaster and impacts while also considering the general vulnerabilities of the public.⁷⁷ Such regulation showcases the holistic consideration of the diverse threat of disaster towards the human rights deprivation which can be experienced by all individuals. While in regards to when threat of disasters exist, the government mandates BNPB and/or BPBD to conduct an early warning based on the monitoring of the disaster trait⁷⁸ by the relevant stakeholders.⁷⁹ This example showcases how the currently implemented approach taken considers the disaster threat.

⁷⁴ Article 10 *jo.* Article 5 Law Number 24 Year 2007.

⁷⁵ Article 18 (1) *jo.* Article 5 Law Number 24 Year 2007.

⁷⁶ Article 6 (4) Government Decree Number 21 Year 2008 on Disaster Mitigation Enforcement (Government Decree Number 21 Year 2008).

⁷⁷ Article 6 (3) Government Decree Number 21 Year 2008.

⁷⁸ Article 19 (4) Government Decree Number 21 Year 2008.

⁷⁹ Article 19 (3) Government Decree Number 21 Year 2008.

Moving forward to the discussion during disaster occurrence, the human rights considerations on all IDPs, regardless of the inducing factors, are treated contextually with the same standards. Mentioned within the Government Decree Number 21 Year 2008, during the occurrence of disaster the government responsible to take actions for quick and appropriate analysis on location, damage, loss, and resources; emergency disaster status classification; securing and evacuation of public from disaster; fulfilment of basic needs; protection on vulnerable peoples; added with immediate recovery of vital facilities.⁸⁰ Such actions will be done to all forms of disasters regardless of whether it is a natural and/or man-made. Even so, the protection provided can still be segregated based on the scope of the disaster and the post-disaster development through emergency disaster status classification. In regards to the scope of disaster, Article 23 (2) of Government Decree 21/2008 gave the responsibilities to declare the scope of the disaster based on the judgement of the regional and/or national government. It can be segregated into three which are city/regency, province, and national level based on the bottom-to-top response capacity. The differentiation of those levels lie on the involved government stakeholders in mitigating the impact manifested from the disasters. On the other hand, the classification based on the disaster development are segregated into three phases based on the explanation of Article 23 (1) of Government Decree 21/2008 which are *siaga darurat*, *tanggap darurat*, and *transisi darurat ke pemulihan*. Referring to the Guidebook on Emergency Disaster Status Classification of BNPB, the form of action taken from each phase are differentiated. While *siaga darurat* phase refers to the period during which the disaster hasn't occurred, the phase will require the threatened individuals, potential IDPs, to be evacuated and to be provided with appropriate protections.⁸¹ On the other hand, *tanggap darurat* phase refers to circumstances where the disaster occurred and the impact already manifested, which during this period individuals affected are carrying the status as victim and evacuee.⁸² Last but not least, *transisi darurat ke pemulihan* phase refers to post disaster circumstances where the threat reduces significantly and the government and public starts the recovery process.⁸³ Both classification are utilized as an effort to assure the protection of the public, while bearing the status of evacuee and victims or not, accommodated appropriately.

Such elaboration showcases how Indonesian government addressals on the IDPs are conducted generally in assuring the protection of human rights during the occurrence of disasters. Contemplating on the disasters impact diversity and contextual nature, the addressals of IDPs in general manner without segregating the subject based on inducing factors already done within the regulations. In which such an approach provides an appropriate basis to accommodate the needs of IDPs, including the climate induced IDPs. Even so, the writers would endorse the strengthening of IDPs human rights protection which still necessary. Normatively, the Government Decree 21/2008 through Article 52 (1) only includes six aspects as the basic necessities for the IDPs which are clean water and sanitation; food; clothes; healthcare treatment; psychological treatment; added with temporary settlement. In the context of climate change induced IDPs, the enhancement of the protection lies in the consideration of climate deterioration as a variable which might affect the degree of rights deprivation experienced by the evacuee. During the process of protection, the occurrence of climate change might impose a challenge. Taking the example of Bangladesh through the research done by Chowdhury and friends in 2020, climate change showcased an adaptive response in the provision of healthcare for the IDPs.⁸⁴

⁸⁰ Article 21 (1) Government Decree Number 21 Year 2008.

⁸¹ Badan Nasional Penanggulangan Bencana (BNPB), *Pedoman Penetapan Status Keadaan Darurat Bencana*, (Jakarta: BNPB, 2016), 7-8.

⁸² *Ibid*, 8-9.

⁸³ *Ibid*, 9-10.

⁸⁴ Md. Arif Chowdhury, Md. Khalid Hasan, Md. Robiul Hasan, and Tahmina Bintay Younos, "Climate Change Impacts and Adaptation on Health of Internally Displaced People (IDP): An Exploratory Study on Coastal Areas of Bangladesh," *Heliyon* 6, no. 9 (2020): 8-9. <https://doi.org/10.1016/j.heliyon.2020.e05018>.

Similarly in Iraq based on the research done by Marzouk and his partners in 2022, a policy which considers the correlation of the mental well-being of IDPs and the occurrence of climate change is necessary to assure the protection of the subjects rights.⁸⁵ While it is impossible to generalize the conclusion from two researches only, the aforementioned references showcase the necessities to consider climate change as a variable which could affect the protection of IDPs's human rights. Noting so, it can be concluded the process of IDPs's human rights protection requires the consideration of climate change as a variable.

While in regards to post-disasters protection of IDPs, the current national framework divides the process to be rehabilitation and reconstruction.⁸⁶ Rehabilitation is defined as reparation and recovery of all public services for the sake of government and people,⁸⁷ reconstruction is defined as rebuilding of infrastructure necessary.⁸⁸ Both aspects remained crucial as a form of reparation towards the IDPs affected by the disaster itself. The responsibility to conduct both processes lies on central and regional governments which mainly bridged through BNPB and BPBD.⁸⁹ The expanse of the coverage within the Chapter IV of Government Decree Number 21/2008 showcase a wide spectrum effort to assure the re-assimilation of the IDPs to the society. In relation to the climate change induced IDPs, such frameworks can be deemed to be accommodative. Such was caused by the provision of Government Decree Number 21/2008 judges the approach based on the damage and loss of the disasters as being mentioned through Article 56 (3) and Article 75 (3). Those assure the contextuality of the approach taken by the government in conducting rehabilitation and reconstruction. While some might argue the distinct differentiation of the climate change induced displacement are the irreparable nature of the damage,⁹⁰ the scope of the current regulations is contextual. Taking an example of the recent Indramayu flood in 2022-2023, the regional government conducts relocation as it is regulated within the Government Decree 21/2008 to resolve the irreparable damage to the area of disaster.⁹¹ In these instances, the existing regulation is showcased to be as adaptive as it is to accommodate the necessary recovery done to assure the protection of IDPs, including climate change induced, human rights.

2. Disposition of Climate Justice: Necessities of climate Adaptation Effort to Include the Consideration of Climate Change Induced IDPs

As a praxis discourse, the writer deems the accommodation of climate justice for climate change induced IDPs shall be based on the attainment of all three justice pillars. The previous chapters in itself provide an elaboration on the distributive and procedural justice's pillars showcased through the protection provided in each phase within the frameworks. Briefly reframing the previous sub-chapter in relations to distributive justice pillar, protection provided within each phases of protection are considering the relations of climate change and displacement noting the contextual approach ruled within the legal norms applied. While in regards to procedural justice, the involvement of the public is

⁸⁵ Hatem Alaa Marzouk, Yasin Duman, Julie Meier, Qanea Lashkri Khudhur, and Omar Alani, "Assessment of Perceptions of Climate Change and Its Causes and Impacts on Mental Health and Psychosocial Wellbeing among a Group of Internally Displaced Persons in Iraq," *Intervention* 20, no. 1 (2022): 104-105. https://doi.org/10.4103/intv.intv_40_21.

⁸⁶ Article 55 Government Decree Number 21 Year 2008.

⁸⁷ Article 1 number 9 Government Decree Number 21 Year 2008.

⁸⁸ Article 1 number 10 Government Decree Number 21 Year 2008.

⁸⁹ Chapter IV Government Decree Number 21 Year 2008.

⁹⁰ Isaac McNeill, Asma Al Amin, Giwoong Son, and Swasti Karmacharya, "A Lack of Legal Frameworks for Internally Displaced Persons Impacted by Climate Change and Natural Disasters: Analysis of Regulatory Challenges in Bangladesh, India and the Pacific Islands," *Global Campus Human Rights Journal* 6, (2022): 72. <http://doi.org/10.25330/2504>.

⁹¹ DISKOMINFO Indramayu, "Bupati Indramayu Nina Agustina Relokasi Korban Banjir Rob dan Bangunkan 72 Rumah Bersubsidi," <https://www.dinaskomininfo.indramayukab.go.id/berita/detail/bupati-indramayu-nina-agustina-relokasi-korban-banjir-rob-dan-bangunkan-72-rumah-bersubsidi> (diakses pada tanggal 30 November, 2024).

assured through the same mechanism by each disaster occurrence assessment by the responsible stakeholders, BNPB and BPBD. Even so, the elaboration hasn't touched on the distributive justice pillar attainment based on the liabilities on climate change induced IDPs due to the nature of climate change as a collective issue and the evaluation of recognitional justice pillar consideration in Indonesian law.

In regards to the distributive justice pillar attainment based on the liabilities to climate change induced IDPs, the primary question lies on how the current legal framework assures the distribution of liabilities, among the international community and the states as it is bound with the social contract, in realizing protection for the subjects. To ensure such distribution of liabilities, the first necessary step is to recognize the indirect relations between climate change and displacement, knowing the disasters are the primary cause of displacement. Such recognition is done by Indonesia through the establishment of the Ministry of Environment and Forestry Decree Number 12 Year 2024 on Enforcement of National Determined Contribution in Climate Change Mitigation (Ministry of Environment and Forestry Decree 12/2024). Through Article 56 (3) of the aforementioned Ministry of Environment and Forestry Law, the consideration of climate resiliency regarding disasters can be done based on the needs. Such regulations suffice to provide a legal basis in utilizing the government international and national fund and other stakeholders involvement to protect IDPs especially those affected by the climate change. Such as caused by the climate resiliency mentioned above is considered as part of climate adaptation efforts which can involve various stakeholders such as governments, publics, and private entities in regards to the funding.⁹² Such premises provide a legal ground to utilize climate funds for the sake of IDPs affected by climate change. Even though it is already directed to the rights consideration of distributive justice on the involvement of necessary stakeholders, the current situation demands the governments to take concrete actions to practice the law soon. Till this date, the writer hasn't found a specific budget or regulation in Indonesia which considers climate change as part of the variable causing the disaster, or to be more specific related to displacement. While on the other hand, the recognitional justice already attained through the general classification of IDPs as evacuee. The general addression can be judged as sufficient due to the improbability to segregate the climate change induced IDPs from other factor induced IDPs, especially natural disaster induced. Noting so, the issue on practicality is causing the recognitional justice to only extend to the acknowledgement of climate deterioration as a variable affecting the well-being of the subjects.

D. CONCLUSION

While it is true the increasing number of IDPs can be attributed to climate change, classifying climate change as an inducing factor is rather intricate the human rights protection and climate justice attainment. In the human rights perspective while it is important to recognize the rights of IDPs, the contextual relationship between human rights deprivation and displacement due to the wide and diversified impacts of the inducing factors cause categorization to be unfavorable. Furthermore, the rule of law principle might render separate recognition of climate change induced IDPs to be restrictive and inadaptive. On the other hand, climate justice perspective shall take notes on the relations of climate change with displacement and climate change with IDPs. The relations of climate change and displacement are showcasing indirect relations. The indirect relation is caused by the displacement occurred due to disasters manifested from climate change. Simultaneously, not all climate change impacts cause displacement, thus the relation is uncertain. Noting so, the differentiation will only hinder the attainment of climate justice. At the same time, climate change does have an influence on the IDPs well-being leading to the need for attribution. To accommodate it through the three pillars of

⁹² Article 113 (1) *jo*. (2) Ministry of Environment and Forestry Decree Number 12 Year 2024 on Enforcement of National Determined Contribution in Climate Change Mitigation (Ministry of Environment and Forestry Decree 12/2024).

climate justice, both relations can be considered by taking the alternative of addressing IDPs in general while still acknowledging climate change as a variable.

In Indonesia, the current legal frameworks accommodate the perspective of both human rights and climate justice even though it can be improved. Primarily it showcased by how the IDPs, including the climate change induced, addressed through the general norms of evacuee within Law 24/2007 and Government Decree 21/2008. Addressing all three phases of before, during, and after displacement, the aforementioned regulations assure the protection of human rights generally for all of IDPs regardless of the inducing factors. While during the occurrence of displacement it can be improved by considering climate change as a variable, the general approach taken through the positive law is rather accommodative. Simultaneously, it accommodates the attainment of the all three pillars, named distributive, procedural, and recognitional justice, for the climate change induced IDPs. Especially noting the existing framework of the Ministry of Environment and Forestry Decree 12/2024 considers disasters as part of the field to be regulated as a form of climate change adaptation.

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