



## Force Majeure and Credit Restructuring: A Doctrinal Perspective on the Resolution of Non-Performing Loans Caused by Natural Disasters

Tarmizi<sup>1\*</sup>, Atika Sandra Dewi<sup>1</sup>

<sup>1</sup>Universitas Amir Hamzah, Medan, Indonesia

\*Corresponding author: [tarmizidoktor@gmail.com](mailto:tarmizidoktor@gmail.com)

**Abstract.** This study analyzes the legal relationship between force majeure and credit restructuring in Indonesia, particularly in addressing non-performing loans (NPLs) caused by natural disasters. It examines how force majeure is applied in credit agreements and how credit restructuring serves as a legal and financial mechanism to manage disaster-related credit distress. Using a doctrinal legal approach, the study reviews statutory provisions, banking regulations, and relevant literature, including Articles 1244 and 1245 of the Indonesian Civil Code and OJK Regulation No. 40/POJK.03/2019. The findings indicate that although Indonesian law recognizes natural disasters as potential force majeure events, their application in credit agreements is not automatic. Debtors must prove a direct causal link between the disaster and their inability to perform contractual obligations, which often leads to legal uncertainty and inconsistent interpretation. At the same time, credit restructuring, through rescheduling, reconditioning, and restructuring, provides a more practical response to financial distress. However, it operates separately from the force majeure doctrine, resulting in limited legal integration. The study also highlights that credit restructuring thus plays a dual role: supporting financial system stability and contributing to socio-economic recovery, particularly for micro, small, and medium enterprises.

**Keywords:** Credit Restructuring, Doctrinal Perspective, Force Majeure, Natural Disasters, Non-Performing Loans (NPLs).

Received: August 11, 2025 | Revised: October 4, 2025 | Accepted: December 10, 2025



**Abstrak.** *Studi ini menganalisis hubungan hukum antara force majeure dan restrukturisasi kredit di Indonesia, khususnya dalam menangani kredit macet (kredit bermasalah) yang disebabkan oleh bencana alam. Studi ini meneliti bagaimana force majeure diterapkan dalam perjanjian kredit dan bagaimana restrukturisasi kredit berfungsi sebagai mekanisme hukum dan keuangan untuk mengelola kesulitan kredit terkait bencana. Dengan menggunakan pendekatan hukum doktrinal, studi ini meninjau ketentuan undang-undang, peraturan perbankan, dan literatur terkait, termasuk Pasal 1244 dan 1245 KUHP Indonesia dan Peraturan OJK No. 40/POJK.03/2019. Temuan menunjukkan bahwa meskipun hukum Indonesia mengakui bencana alam sebagai potensi peristiwa force majeure, penerapannya dalam perjanjian kredit tidak otomatis. Debitur harus membuktikan hubungan sebab akibat langsung antara bencana dan ketidakmampuan mereka untuk melaksanakan kewajiban kontraktual, yang seringkali menyebabkan ketidakpastian hukum dan interpretasi yang tidak konsisten. Pada saat yang sama, restrukturisasi kredit, melalui penjadwalan ulang, penyesuaian kembali, dan restrukturisasi, memberikan respons yang lebih praktis terhadap kesulitan keuangan. Namun, hal ini beroperasi secara terpisah dari doktrin force majeure, sehingga menghasilkan integrasi hukum yang terbatas. Studi ini juga menyoroti bahwa restrukturisasi kredit memainkan peran ganda: mendukung stabilitas sistem keuangan dan berkontribusi pada pemulihan sosial-ekonomi, khususnya untuk usaha mikro, kecil, dan menengah.*

**Kata kunci:** *Restrukturisasi Kredit, Perspektif Doktrinal, Force Majeure, Bencana Alam, Kredit Macet (NPL).*

## 1. Introduction

Indonesia is geographically located within the Pacific Ring of Fire at the convergence of the Eurasian, Indo-Australian, and Pacific tectonic plates, making it one of the most disaster-prone countries globally. This condition results in a high and persistent frequency of natural disasters such as earthquakes, volcanic eruptions, floods, and landslides.<sup>1</sup> Data from the National Disaster Management Agency show approximately 5,400 disaster events occurred in 2023 alone, indicating not only recurrence but also an increasing intensity of disasters over time.<sup>2</sup>

Beyond physical destruction, these disasters generate a significant phenomenon gap in socio-legal and financial systems, particularly within credit and banking governance. Empirical evidence shows that disaster shocks severely disrupt income streams, destroy productive assets, and undermine borrowers' repayment capacity, which subsequently accelerates the transformation of performing loans into non-performing loans.<sup>3</sup> This situation exposes structural vulnerabilities in credit systems when confronted with systemic shocks.

Although Indonesian legal frameworks recognize force majeure as a doctrinal basis for non-performance of contractual obligations, its application remains highly restrictive and evidentiary in nature. Debtors must prove direct causal linkage between disasters and inability to perform, while natural disasters are not automatically classified as force majeure in financial contracts.<sup>4</sup> This creates a legal gap between normative disaster recognition and practical financial relief mechanisms. Moreover, inconsistencies in credit restructuring policies between banking and non-bank institutions further complicate implementation.<sup>5</sup>

---

<sup>1</sup> Jaap WB Bos et al., "Hazardous lending: The impact of natural disasters on bank asset portfolio," *Economic Modelling* 108 (2022): 105760.

<sup>2</sup> Badan Nasional Penanggulangan Bencana, *Buku data bencana Indonesia tahun 2023*, Retrieved in January 23, 2025 from <https://www.bnpb.go.id/buku/buku-data-bencana-indonesia-tahun-2023>.

<sup>3</sup> Farid Kadri, Babiga Birregah, and Eric Châtelet, "The impact of natural disasters on critical infrastructures: A domino effect-based study," *Journal of Homeland Security and Emergency Management* 11, no. 2 (2014): 219. See also, Syifa Fitri Rahmawati, and Rusli Subrata, "Pemahaman Terhadap Wanprestasi Debitur: Implikasi Terhadap Manajemen Risiko Kredit di Sektor Perbankan," *Hukum Inovatif: Jurnal Ilmu Hukum Sosial dan Humaniora* 1, no. 3 (2024): 288.

<sup>4</sup> Mutia Kartika Putri, "Implications of the Covid-19 pandemic on business contracts implementation," *Indonesia Private Law Review* 4, no. 1 (2023): 12. See also, Gunawan Widjaja, "Impact of COVID-19 pandemic to the payment obligations to Banks and Financial Institutions; a perspective from Indonesian laws and regulations," *Hamdard Islamicus* 43 (2020): 546.

<sup>5</sup> Achmad Nurdany et al., "Covid-19 pandemic and the banking risk mitigation: A lesson from the Indonesian credit restructuring policy," *Iranian Economic Review* 27, no. 4 (2023): 1343. See also, Nailia Andriani Sakinah, and Suherman, "Pelaksanaan Konsep Restrukturisasi Kredit Pada

From a legal perspective, such conditions are closely related to the doctrine of force majeure in contract law. Under Articles 1244 and 1245 of the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata/KUHPerdata*), a debtor may be released from liability for damages if failure to perform contractual obligations is caused by unforeseen events beyond their control and not attributable to their fault.<sup>6</sup> Natural disasters, due to their unpredictable, unavoidable, and external nature, are theoretically categorized as force majeure events.<sup>7</sup> This doctrinal framework suggests that debtors affected by natural disasters should receive legal protection from liability arising from their inability to perform contractual obligations.<sup>8</sup>

However, the application of the force majeure doctrine in banking credit agreements is not straightforward. Credit agreements have distinct legal characteristics that differentiate them from ordinary civil contracts.<sup>9</sup> They are governed not only by private law principles but also by strict regulatory frameworks due to their connection with public funds, financial stability, and broader public interests. In practice, such agreements are generally standardized contracts drafted unilaterally by banks, often containing restrictive force majeure clauses that may limit the debtor's ability to invoke such defenses.<sup>10</sup> This condition creates an imbalance in contractual relations and raises concerns regarding fairness and legal protection for debtors affected by extraordinary circumstances.

In parallel, the Financial Services Authority (*Otoritas Jasa Keuangan/OJK*) has established regulatory mechanisms to address non-performing loans through credit restructuring policies. OJK Regulation Number 40/POJK.03/2019 concerning the Assessment of Asset Quality of Commercial Banks provides a framework for restructuring credit facilities for debtors experiencing financial difficulties.<sup>11</sup> This mechanism allows adjustments in credit terms, including interest rate reductions, extension of repayment periods, and other modifications aimed at restoring the debtor's repayment capacity. Additionally, in disaster situations, OJK has issued

---

Lembaga Bank dan Non Bank (Studi Pada KCP BCA Syariah Bogor dan PT Pegadaian (Persero) Bogor)," *Jurnal Hukum Bisnis Bonum Commune* (2021): 65.

<sup>6</sup> Daryl John Rasuh, "Kajian Hukum Keadaan Memaksa (Force Majeure) Menurut Pasal 1244 Dan Pasal 1245 Kitab Undang-Undang Hukum Perdata," *Lex Privatum* 4, no. 2 (2016): 1727.

<sup>7</sup> K. Isanov, "The legal nature of force majeure," *R.A. J. Applied Res* 7 (2021): 2689.

<sup>8</sup> Bos et al., "Hazardous lending: The impact of natural," 105762.

<sup>9</sup> Rizkan Zulyadi Amri et al., "Legal Review of Late Payment of Syndicated Bank Credit Agreements Due to Covid-19," (2020): 235.

<sup>10</sup> Montayana Meher, and Ningrum Natasya Sirait, "Standard contracts in bank credit agreements," In *E3S Web of Conferences*, vol. 52, (Les Ulis Cedex: EDP Sciences, 2018), 29.

<sup>11</sup> Mikael Ananda Septian Hadiputranto, "Keabsahan perjanjian Kredit Usaha Rakyat atas pencantuman klausula restrukturisasi berdasarkan Peraturan Otoritas Jasa Keuangan Nomor 40/POJK.03/2019," (2020): 566. See also, P. O. J. K Nomor, 40/POJK.03/2019 tentang Penilaian Kualitas Aset Bank Umum, *Lembaran Negara Republik Indonesia Tahun*, 2019.

special stimulus policies to facilitate credit restructuring through regulatory relaxations.

Despite these mechanisms, a key issue is the lack of synchronization between the force majeure doctrine in civil law and credit restructuring policies in banking regulation. Force majeure is generally understood as an unforeseen event that may release a party from contractual liability when performance becomes impossible due to disasters.<sup>12</sup> However, its application is restrictive and requires strict proof of causal impact.<sup>13</sup> In contrast, credit restructuring focuses on adjusting repayment obligations through rescheduling or renegotiation rather than eliminating liability.<sup>14</sup> This creates legal uncertainty because both systems address similar disaster impacts but operate without clear integration.<sup>15</sup>

Existing studies on force majeure and credit restructuring have generally developed in a fragmented and discipline-separated manner, creating a clear research gap in understanding their intersection, especially in disaster-related financial distress. Legal scholarship such as Guo et al.<sup>16</sup> mainly discusses force majeure from a doctrinal perspective, focusing on its legal elements, thresholds, and consequences within general contract law. In contrast, financial and banking literature, including Berndt et al.<sup>17</sup> and Disemadi and Shaleh<sup>18</sup> focuses on credit restructuring as a risk management and regulatory compliance tool, particularly in relation to Non-Performing Loans (NPLs) and banking stability.

However, these two bodies of literature rarely interact in a unified analytical framework. As a result, there is limited understanding of how force majeure as a legal doctrine actually influences or shapes credit restructuring practices in

---

<sup>12</sup> Rudy Haposan Siahaan, and Rika Fatimah PL, “The Concept of Welfare State in Indonesia as a Strategic Move to Win People Trust Through Economic Sustainability: Good Governance and Bank Conduct on Bank Debt Cancellation Due to Natural Disasters,” *Mediterranean Journal of Social Sciences* 5 (2014): 313. See also, Widjaja, “Impact of COVID-19 pandemic,” 547.

<sup>13</sup> Cindy Cendhani et al., “Legal consequences of presidential decree number 12 of 2020 on the implementation of private contracts,” *Lex Scientia Law Review* 4, no. 2 (2020): 58.

<sup>14</sup> Ashar Sinilele, and Syahrul Alim, “Implementation of Hardship Principles on Financing Agreements Islamic Bank Due to Corona Virus Disease 2019,” *Jurnal Hukum Novelty (1412-6834)* 13, no. 2 (2022): 733. See also, Nurdany et al., “Covid-19 pandemic and the banking risk mitigation,” 1344.

<sup>15</sup> Ninis Nugraheni et al., “Public procurement contract for goods and services following the presidential decree number 12 of 2020 on the stipulation of the coronavirus disease (COVID-19) pandemic as a national disaster,” *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 7, no. 2 (2020): 3.

<sup>16</sup> Yuanyuan Guo et al., “Comparative research on force majeure system in contract law,” *International Journal of Criminal Justice Sciences* 19, no. 1 (2024): 101.

<sup>17</sup> Antje Berndt et al., “Restructuring risk in credit default swaps: An empirical analysis,” *Stochastic Processes and their applications* 117, no. 11 (2007): 1729.

<sup>18</sup> Hari Sutra Disemadi, and Ali Ismail Shaleh, “Banking credit restructuring policy amid COVID-19 pandemic in Indonesia,” *Jurnal Inovasi Ekonomi* 5, no. 02 (2020): 247.

response to natural disasters. While several studies acknowledge that natural disasters and pandemics may be considered force majeure events under certain conditions, they also emphasize that its application in Indonesia is legally complex and not automatic, requiring strict proof of causal impact on contractual performance.<sup>19</sup> At the same time, credit restructuring mechanisms are widely recognized as key tools to manage financial distress and reduce NPLs, but they are not systematically linked to underlying private law doctrines such as force majeure or hardship principles.<sup>20</sup>

This creates a clear conceptual and practical “missing link”: how does the recognition of force majeure in legal terms translate into effective credit restructuring policies in banking practice during natural disasters? Without this integration, responses to disaster-induced credit problems remain fragmented between legal doctrine and financial regulation. In addition, ethical and justice-related concerns further highlight this gap. As Susanti<sup>21</sup> explains, disaster victims often face unfair situations where they are still legally expected to fulfill obligations despite losing their economic capacity, showing a lack of alignment between legal rules and substantive fairness. The urgency of this issue is also reinforced by the increasing frequency of natural disasters and their growing impact on financial systems, including rising NPLs and systemic banking risks.<sup>22</sup>

Therefore, the objective of this study is threefold: first, to analyze the legal status of force majeure in Indonesian banking credit agreements in the context of natural disasters; second, to examine how credit restructuring functions as a mechanism to address disaster-related non-performing loans; and third, to develop an integrated framework that aligns force majeure doctrine with credit restructuring policies, ensuring legal certainty, financial stability, and fair protection for affected debtors.

---

<sup>19</sup> Ninis Nugraheni, “Force Majeure Parameter in Goods and Services Procurement Contract by The Government,” *Croatian International Relations Review* 28, no. 89 (2022): 262. See also, Putri, “Implications of the Covid-19,” 13; Sinilele, and Alim, “Implementation of Hardship Principles,” 733; Widjaja, “Impact of COVID-19 pandemic,” 549.

<sup>20</sup> Yulianto, “A Comparative Analysis and Overview of Indonesian & Global Debt Restructuring Policies Amid the Covid-19 Pandemic,” *Croatian International Relations Review* 12, no. 3 (2022): 13. See also, Nurdany et al., “Covid-19 pandemic and the banking risk mitigation,” 1345.

<sup>21</sup> Ida Susanti, “Ethical and legal aspects of disaster response under Indonesian legal system,” In *MATEC Web of Conferences*, (Les Ulis Cedex: EDP Sciences, 2018), 46.

<sup>22</sup> Rayenda Brahmana et al., “Natural disaster and local bank non-performing loan: Case of Nias tsunami 2004,” *Economics Bulletin* 36, no. 4 (2016): 2417. See also, Badan Nasional Penanggulangan Bencana, *Buku data bencana Indonesia tahun 2023*, Retrieved in January 23, 2025 from <https://www.bnpb.go.id/buku/buku-data-bencana-indonesia-tahun-2023>.

## 2. Research Methods

This study employs a normative juridical (doctrinal) research design that focuses on examining legal norms, principles, and regulations governing force majeure and credit restructuring in the context of natural disasters. The doctrinal approach is applied to assess the coherence and synchronization between civil law principles and banking regulatory frameworks within the Indonesian legal system.<sup>23</sup> This method is appropriate because the study does not rely on empirical field data, but instead analyzes written legal sources to construct a systematic legal interpretation.

The research uses statute, conceptual, and case approaches. The statute approach examines relevant legal instruments, including the Indonesian Civil Code (Articles 1244–1245), Law No. 10 of 1998 on Banking, Law No. 24 of 2007 on Disaster Management, and OJK Regulation No. 40/POJK.03/2019.<sup>24</sup> These instruments are analyzed to determine how force majeure and credit restructuring are regulated in disaster-related credit disputes. The conceptual approach explores legal doctrines such as force majeure, contractual liability, hardship, and credit restructuring principles to understand their theoretical foundations and practical implications.<sup>25</sup> The case approach is used to reflect how these norms are interpreted and applied in disaster-related financial disruptions.

The legal materials consist of primary, secondary, and tertiary sources. Primary materials include statutes and regulatory provisions. Secondary materials include scholarly articles, legal doctrine, and academic books, while tertiary materials include legal dictionaries and encyclopedias. Data collection is conducted through library research by reviewing legal documents, academic literature, and institutional reports from agencies such as OJK and BNPB.<sup>26</sup> Data analysis is conducted using qualitative juridical analysis with deductive reasoning to interpret legal norms and evaluate the relationship between force majeure and credit restructuring.

---

<sup>23</sup> Tatang Sudrajat, “The Combination of Normative Juridical Methods and Literature in Educational Administration Research,” In *Proceedings of International Conference on Social Science, Political Science, and Humanities (ICoSPOLHUM)*, vol. 3, (2022), 26.

<sup>24</sup> Peraturan Otoritas Jasa Keuangan Nomor 40/POJK.03/2019 tentang Penilaian Kualitas Aset Bank Umum, *Berita Negara Republik Indonesia* Tahun 2019 Nomor 1329. See also, Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking. State Gazette of the Republic of Indonesia 1998 Number 182.

<sup>25</sup> Gudmund R. Iversen, and Mary Gergen, *Statistics: The conceptual approach* (Springer: Springer Science & Business Media, 2012), 23.

<sup>26</sup> Thomas Mann, *The Oxford guide to library research* (Oxford: Oxford University Press, 2015), 21.

### 3. Results and Discussion

#### 3.1. Legal Status of Force Majeure in Credit Agreements Due to Natural Disasters

Article 1 number 1 of Law Number 24 of 2007 concerning Disaster Management defines a disaster as “an event or series of events that threaten and disrupt the lives and livelihoods of the community caused by natural and/or non-natural factors, as well as human factors, resulting in human casualties, environmental damage, property losses, and psychological impacts”.<sup>27</sup> This definition emphasizes that disasters are not merely physical phenomena but multidimensional events that affect social, economic, and legal aspects, including contractual relations in the banking sector.

In contract law, such exceptional circumstances are closely linked to the doctrine of force majeure, which is broadly recognized across legal systems as a mechanism for addressing unforeseen events that hinder the fulfillment of contractual obligations. Force majeure refers to situations beyond the control of the parties that make performance impossible or impractical, including natural disasters, pandemics, and other unexpected occurrences.<sup>28</sup> In Indonesian civil law, Articles 1244 and 1245 of the Civil Code provide the legal foundation for exemption from liability when non-performance arises from such conditions, provided that the debtor can prove the absence of fault and the causal link between the event and the inability to perform.<sup>29</sup>

Conceptually, natural disasters fulfill the essential elements of force majeure. First, they are unpredictable in terms of occurrence, timing, and magnitude, making them difficult to anticipate at the time of contract formation. Second, they are unavoidable, as they arise from natural forces beyond human control. Third, they are not attributable to the fault or negligence of the debtor. Fourth, they generally result in the inability of the debtor to fulfill contractual obligations, particularly in credit agreements where repayment capacity is directly affected by economic

---

<sup>27</sup> Law Number 24 of 2007 concerning Disaster Management. State Gazette of the Republic of Indonesia 2007 Number 66.

<sup>28</sup> Rodrigo Momberg, “Some Reflections on Force Majeure Clauses in Modern Contracting,” *Latin American Legal Studies* 11, no. 2 (2023): 258. See also, Neneng Nurhasanah et al., “Force Majeure from the Perspective of Islamic Economic Law: A Critical Review of Shari'ah Banking's Response to COVID 19 in Indonesia,” *J. Int'l L. Islamic L.* 20 (2024): 137; Alfons H. Puelinckx, “Frustration, Hardship, Force Majeure, Imprevison, Wegfall der Geschäftsgrundlage, Unmöglichkeit, Changed Circumstances-A Comparative Study in English, French, German and Japanese Law,” *J. Int'l Arb.* 3 (1986): 47.

<sup>29</sup> Cendhani et al., “Legal consequences of presidential,” 59.

disruption. These characteristics position natural disasters as classical and widely accepted examples of force majeure in legal doctrine.<sup>30</sup>

However, in practice, the application of force majeure remains complex, as it does not automatically terminate contractual obligations but requires legal assessment and proof, often leading to uncertainty in financial and banking arrangements.<sup>31</sup> The application of the force majeure doctrine in credit agreements is not as straightforward as its theoretical formulation suggests. In practice, several legal and practical challenges arise. One of the primary issues concerns the distinction between absolute and relative force majeure. Absolute force majeure refers to situations where performance becomes entirely impossible, while relative force majeure refers to situations where performance is still possible but requires unreasonable sacrifice.<sup>32</sup> This distinction is crucial because it determines the legal consequences of force majeure, particularly whether obligations are suspended, modified, or potentially terminated.<sup>33</sup>

Another significant issue is the requirement to prove a direct causal relationship between the natural disaster and the debtor's inability to perform. Courts and legal practitioners generally require that the debtor demonstrate that the disaster directly prevented the fulfillment of contractual obligations. This evidentiary burden often becomes a challenge, especially in complex economic situations where multiple factors contribute to the debtor's financial difficulties. As noted by Putri<sup>34</sup> and Erdem<sup>35</sup> the enforceability of force majeure claims depends not only on the occurrence of the event but also on the ability to prove its direct impact on contractual performance.

Furthermore, the effectiveness of force majeure in credit agreements is highly dependent on the formulation of contractual clauses. In Indonesian banking practice, credit agreements are typically standardized contracts drafted unilaterally by banks. As a result, force majeure clauses are often narrowly defined and tend to

---

<sup>30</sup> Admiral et al., "Impossibility of Performance in Environmental Contracts: A Case Study of the Merapi Volcano Eruption and Its Impact on Contractual Obligations," *Indonesian Journal of Environmental Law and Sustainable Development* 4, no. 2 (2025): 179. See also, Susanti, "Ethical and legal aspects," 48.

<sup>31</sup> Nugraheni, "Force Majeure Parameter," 263. See also, Putri, "Implications of the Covid-19," 14; Widjaja, "Impact of COVID-19 pandemic," 549.

<sup>32</sup> Admiral et al., "Impossibility of Performance," 181. See also, Siahaan, and Fatimah, "The Concept of Welfare State," 314; Sinilele, and Alim, "Implementation of Hardship Principles," 734.

<sup>33</sup> Nugraheni et al., "Public procurement contract," 4. See also, Riska Wijayanti, and Ani Yunita, "Covid-19 Pandemic as the Reasoning of Force Majeure towards Financing in Islamic Banking," *Jurnal Hukum Islam* 18, no. 2 (2020): 220.

<sup>34</sup> Putri, "Implications of the Covid-19," 15.

<sup>35</sup> Fatih Buğra Erdem, "Boundaries of force majeure in shipbuilding contracts pursuant to the recent judgment of RTI Ltd v. MUR Shipping," *Global Trade and Customs Journal* 20, no. 9 (2025): 57.

favor the interests of creditors.<sup>36</sup> Some agreements explicitly exclude certain types of natural disasters, particularly those considered recurring risks in specific regions, on the assumption that such risks are foreseeable.<sup>37</sup> This practice limits the debtor's ability to invoke force majeure and raises concerns regarding the imbalance of bargaining power between banks and debtors.<sup>38</sup>

The importance of explicit contractual formulation is also emphasized in comparative legal studies, which highlight that force majeure clauses must be clearly defined to be enforceable.<sup>39</sup> In the absence of clear provisions, disputes regarding the interpretation of force majeure are likely to arise. In such cases, Articles 1342 and 1343 of the Civil Code become relevant, particularly through the application of the *contra proferentem* principle, which requires that ambiguous clauses be interpreted against the party that drafted them. In the context of credit agreements, this principle theoretically provides a form of protection for debtors, although its practical application may vary depending on judicial interpretation.

In addition to natural disasters, recent developments such as the COVID-19 pandemic have further illustrated the complexity of applying force majeure in credit agreements. The pandemic has been widely recognized as an extraordinary event that significantly disrupted economic activities, leading to widespread financial distress and the need for renegotiation of contractual obligations.<sup>40</sup> However, as noted by Widjaja<sup>41</sup> and Hasna<sup>42</sup> the pandemic does not automatically qualify as force majeure unless it is explicitly recognized in the contract or meets the required legal elements. In some cases, such events are instead categorized as *hardship*, which allows for contract adjustment rather than release from obligations. This distinction further complicates the application of force majeure in practice.

From a broader perspective, the application of force majeure in disaster contexts also raises important legal and ethical considerations.<sup>43</sup> While the doctrine is intended to provide relief for debtors, in practice, disaster victims often remain burdened with financial obligations, including the cost of rebuilding damaged

---

<sup>36</sup> Sakinah, and Suherman, "Pelaksanaan Konsep Restrukturisasi Kredit," 66.

<sup>37</sup> Putri, "Implications of the Covid-19," 16. See also, Susanti, "Ethical and legal aspects," 49.

<sup>38</sup> Cendhani et al., "Legal consequences of presidential," 61. See also, Sinilele, and Alim, "Implementation of Hardship Principles," 736.

<sup>39</sup> Ratna Januarita, and Yeti Sumiyati, "Legal risk management: Can the COVID-19 pandemic be included as a force majeure clause in a contract?" *International Journal of Law and Management* 63, no. 2 (2021): 221. See also, Erdem, "Boundaries of force majeure," 59.

<sup>40</sup> Nugraheni, "Force Majeure Parameter," 267. See also, Sinilele, and Alim, "Implementation of Hardship Principles," 737.

<sup>41</sup> Widjaja, "Impact of COVID-19 pandemic," 551.

<sup>42</sup> Hasna, "Force Majeure in Aircraft Lease Agreement and Covid-19: Indonesian and English Law Perspectives," *Padjadjaran Jurnal Ilmu Hukum (Journal of Law)* 9, no. 1 (2022): 91.

<sup>43</sup> Nugraheni, "Force Majeure Parameter," 268. See also, Susanti, "Ethical and legal aspects," 51.

assets.<sup>44</sup> This indicates that the existing legal framework may not fully achieve substantive justice, particularly for vulnerable groups affected by disasters. Therefore, there is a need to balance legal certainty with fairness, ensuring that the application of force majeure does not disproportionately disadvantage either party.<sup>45</sup>

If a natural disaster is recognized as a force majeure event in a credit agreement, several legal consequences arise. First, the debtor is relieved from the obligation to pay compensation, including penalties and damages, for failure to perform during the force majeure period.<sup>46</sup> Second, the creditor, in this case the bank, cannot enforce collateral solely on the basis of default if the default is proven to result from force majeure.<sup>47</sup> Third, additional financial burdens such as penalty interest or late fees cannot be imposed during the period affected by the disaster.<sup>48</sup>

Nevertheless, it is essential to emphasize that force majeure does not automatically extinguish the principal obligation of the debtor. The doctrine primarily functions to suspend the performance of obligations and release the debtor from liability for damages, rather than eliminating the debt itself. Once the force majeure situation ends, the debtor remains obligated to fulfill the contractual obligations, although adjustments such as rescheduling or restructuring may be necessary. In this regard, force majeure often serves as a basis for renegotiation rather than termination of the contractual relationship.<sup>49</sup>

A key finding is that force majeure does not automatically release parties from contractual obligations; instead, it requires legal evaluation and supporting evidence, which often leads to uncertainty in financial enforcement.<sup>50</sup> In practice, courts and financial institutions must first determine whether the conditions of force majeure are met before any legal consequences can be applied.

In addition, the way credit agreements are structured in Indonesian banking practice affects the application of force majeure. Many credit contracts are drafted

---

<sup>44</sup> Putri, "Implications of the Covid-19," 18. See also, Siahaan, and Fatimah, "The Concept of Welfare State," 316.

<sup>45</sup> Cendhani et al., "Legal consequences of presidential," 62. See also, Sinilele, and Alim, "Implementation of Hardship Principles," 739; Widjaja, "Impact of COVID-19 pandemic," 553.

<sup>46</sup> Nugraheni et al., "Public procurement contract," 5. See also, Wijayanti, and Yunita, "Covid-19 Pandemic," 221.

<sup>47</sup> Siahaan, and Fatimah, "The Concept of Welfare State," 319. See also, Widjaja, "Impact of COVID-19 pandemic," 554.

<sup>48</sup> Putri, "Implications of the Covid-19," 19.

<sup>49</sup> Iñigo Andrés, and Álvaro Vidal Olivares, "Los efectos del incumplimiento contractual causado por caso fortuito en tiempos de pandemia CoViD-19/The effects of Contractual Non-performance caused by Force Majeure," *Revista de Derecho Civil* 7, no. 3 (2020): 127. See also, Nugraheni et al., "Public procurement contract," 6.

<sup>50</sup> Nugraheni, "Force Majeure Parameter," 271. See also, Putri, "Implications of the Covid-19," 19; Widjaja, "Impact of COVID-19 pandemic," 555.

using standard clauses prepared by banks, which often narrow the scope of force majeure protection and may exclude certain types of disasters that are considered foreseeable risks in particular regions.<sup>51</sup> As a result, debtors may face limitations in invoking force majeure, which contributes to an imbalance in bargaining power between banks and borrowers.

### **3.2. Credit Restructuring Mechanisms After Natural Disasters**

Credit restructuring in Indonesia functions as an important response mechanism when natural disasters disrupt borrowers' repayment capacity and increase non-performing loans (NPLs). Evidence from prior studies shows that disasters such as the Aceh tsunami and the COVID-19 pandemic have significantly affected banking performance, requiring regulatory and contractual adjustments to maintain financial stability.<sup>52</sup> In this situation, restructuring becomes a practical tool to prevent default escalation and preserve banking system resilience.<sup>53</sup>

The Financial Services Authority (OJK) plays a central role by issuing policy measures that allow banks to adjust loan obligations for affected debtors. These measures typically include rescheduling payment timelines, modifying loan terms, and renegotiating contracts based on debtor capacity.<sup>54</sup> During large-scale disruptions such as the COVID-19 pandemic, regulatory flexibility was introduced to support financial institutions in managing risk exposure while maintaining borrower continuity.<sup>55</sup>

However, implementation is not always uniform. Differences in institutional interpretation and coordination between financial institutions can create inconsistencies in application, especially between bank and non-bank lenders.<sup>56</sup> Despite these variations, credit restructuring remains essential not only for financial stabilization but also for supporting recovery of affected communities and businesses, particularly micro and small enterprises that are highly vulnerable to disaster impacts.<sup>57</sup>

The OJK stimulus policy in disaster situations generally encompasses three main aspects, reflecting regulatory flexibility to maintain financial stability during

---

<sup>51</sup> Sakinah, and Suherman, "Pelaksanaan Konsep Restrukturisasi Kredit," 67.

<sup>52</sup> Brahmana et al., "Natural disaster and local bank," 2418.

<sup>53</sup> Nurdany et al., "Covid-19 pandemic and the banking risk mitigation," 1346.

<sup>54</sup> Sinilele, and Alim, "Implementation of Hardship Principles," 740.

<sup>55</sup> Nugraheni et al., "Public procurement contract," 7. See also, Wijayanti, and Yunita, "Covid-19 Pandemic," 224.

<sup>56</sup> Sakinah, and Suherman, "Pelaksanaan Konsep Restrukturisasi Kredit," 68.

<sup>57</sup> Siti Malikhatun Badriyah et al., "The restructuring of credit and lease agreements and its impact on micro, small, and medium-sized enterprise and insolvency risks amid the pandemic: a normative juridical method," *Corporate Law & Governance Review* 6, no. 3 (2024): 36. See also, Hariyono et al., "Post-eruption economic recovery: Strengthening livelihoods in Lumajang Indonesia after Mount Semeru disaster," *Central Community Development Journal* 5, no. 1 (2025): 11.

shocks such as natural disasters. First, there is a relaxation in credit quality assessment, allowing debtors in disaster-affected areas to avoid automatic downgrading of their credit status solely due to temporary payment delays caused by the disaster. This policy is crucial in preventing a sudden surge in non-performing loans (NPLs) that could destabilize the banking system.<sup>58</sup> Second, the OJK simplifies administrative requirements and procedures for submitting credit restructuring applications, thereby enabling faster access to relief for affected debtors and supporting the broader restructuring mechanism commonly applied in force majeure situations.<sup>59</sup> Third, prudential incentives are provided to banks that actively engage in restructuring efforts, encouraging financial institutions to support economic recovery in disaster-affected regions while maintaining risk management discipline.<sup>60</sup>

From a normative standpoint, the mechanism for credit restructuring is regulated under Article 55 of OJK Regulation No. 40/POJK.03/2019 concerning the Assessment of Asset Quality of Commercial Banks. Credit restructuring is also closely linked to the legal response to force majeure situations in Indonesia, particularly natural disasters that disrupt debtor capacity.<sup>61</sup> The restructuring process generally involves several stages. Initially, the debtor submits a restructuring request to the bank, supported by evidence showing that their financial condition and repayment ability have been affected by a disaster event.<sup>62</sup> Subsequently, the bank conducts a credit analysis to assess the debtor's business prospects and post-disaster repayment capacity, taking into account broader economic disruptions and non-performing loan risks.<sup>63</sup> Based on this assessment, both parties enter negotiations to determine appropriate restructuring terms, which may include rescheduling, reconditioning, or refinancing adjustments.<sup>64</sup> The final agreement is formalized through an addendum to the original credit contract,

---

<sup>58</sup> Brahmana et al., "Natural disaster and local bank," 2419. See also, Widjaja, "Impact of COVID-19 pandemic," 555.

<sup>59</sup> Sakinah, and Suherman, "Pelaksanaan Konsep Restrukturisasi Kredit," 69. See also, Sinilele, and Alim, "Implementation of Hardship Principles," 741.

<sup>60</sup> Gatot Soepriyanto et al., "Analysis of countercyclical policy factors in the era of the COVID-19 pandemic in financial statement fraud detection of banking companies in Indonesia," *Sustainability* 14, no. 16 (2022): 1034. See also, Nurdany et al., "Covid-19 pandemic and the banking risk mitigation," 1347; Yulianto, "A Comparative Analysis," 14.

<sup>61</sup> Siahaan, and Fatimah, "The Concept of Welfare State," 317. See also, Susanti, "Ethical and legal aspects," 52; Widjaja, "Impact of COVID-19 pandemic," 556.

<sup>62</sup> Putri, "Implications of the Covid-19," 20.

<sup>63</sup> Brahmana et al., "Natural disaster and local bank," 2418.

<sup>64</sup> Sakinah, and Suherman, "Pelaksanaan Konsep Restrukturisasi Kredit," 70. See also, Sinilele, and Alim, "Implementation of Hardship Principles," 741.

ensuring legal certainty while maintaining contractual continuity under force majeure conditions.<sup>65</sup>

In practice, credit restructuring is not limited to simple rescheduling but may involve broader financial strategies. Comparative studies highlight various restructuring mechanisms, such as maturity extensions, interest rate adjustments, and Net Present Value (NPV)-based approaches to absorb liquidity shocks.<sup>66</sup> These strategies aim to balance the interests of creditors and debtors by maintaining repayment feasibility while minimizing financial losses. In addition, innovative mechanisms such as Risk-Contingent Credit (RCC) have been introduced in some jurisdictions, providing partial debt relief triggered automatically by predefined disaster events.<sup>67</sup> Although such mechanisms are not yet widely implemented in Indonesia, they offer valuable insights into potential policy development.

Beyond formal restructuring mechanisms, alternative financing arrangements also play a role in post-disaster recovery. For instance, trade credit often becomes a substitute for bank financing, particularly in communities with strong social trust, where firms rely on supplier relationships to sustain operations.<sup>68</sup> At the macro level, banks may adjust their lending behavior by reallocating resources to meet increased credit demand in disaster-affected areas. However, such adjustments may create imbalances, as increased lending in affected regions can lead to credit contraction in unaffected areas due to capital constraints.<sup>69</sup> The effectiveness of credit restructuring is also influenced by the availability of supporting financial instruments. Disaster risk financing tools, such as catastrophe insurance and parametric insurance, can provide rapid liquidity to affected debtors, thereby improving their ability to meet restructured obligations.<sup>70</sup> Similarly, weather derivatives have been proposed as instruments to mitigate financial risks associated with climate-related disasters, although their application remains limited in developing economies.<sup>71</sup> Government-led interventions, including financial

---

<sup>65</sup> Nugraheni, "Force Majeure Parameter," 274.

<sup>66</sup> Sansan Vincent de Paul Kambou, "Debt relief instruments and external debt dynamics following natural disasters in developing countries," *International Economics* (2025): 10624.

<sup>67</sup> Ron Weber, and Oliver Musshoff, "Risk-contingent credit for sovereign disaster risk finance," *International Journal of Disaster Risk Reduction* 56 (2021): 1215.

<sup>68</sup> Shaojie Lai, "Natural disasters, trade credit, and firm performance," *Economic Modelling* 116 (2022): 106029.

<sup>69</sup> Kristle Romero Cortés, and Philip E. Strahan, "Tracing out capital flows: How financially integrated banks respond to natural disasters," *Journal of Financial Economics* 125, no. 1 (2017): 185. See also, Ivan T. Ivanov et al., "Bank lending networks and the propagation of natural disasters," *Financial Management* 51, no. 3 (2022): 913.

<sup>70</sup> Christopher Bayliss et al., "A biased-randomized algorithm for optimizing efficiency in parametric earthquake (Re) insurance solutions," *Computers & Operations Research* 123 (2020): 15033.

<sup>71</sup> Diego Arias, "Management of Weather and Ecosystem Risks in Latin America: the New Financial Instruments of Transfer," *Revista Del Clad Reforma Y Democracia* 55 (2013): 49.

assistance and restructuring policies, have also been shown to reduce NPL levels and stabilize banking systems in disaster contexts.<sup>72</sup>

Despite these mechanisms, implementation of credit restructuring in disaster situations faces several structural challenges. One of the main obstacles is “good business prospects” as stipulated in OJK Regulation No. 40/POJK.03/2019. In many cases, businesses affected by natural disasters suffer severe damage, making it difficult to demonstrate short-term viability, even though long-term recovery may still be possible.<sup>73</sup> This requirement can limit access to restructuring for the most vulnerable debtors, thereby undermining the effectiveness of the policy.<sup>74</sup> Another challenge relates to the operational capacity of banks in disaster-affected areas. Natural disasters often disrupt banking infrastructure and personnel, reducing the ability of financial institutions to process restructuring applications efficiently. This delay can exacerbate the financial difficulties faced by debtors, particularly small and medium enterprises (SMEs) that depend on timely access to credit relief.<sup>75</sup>

From a prudential perspective, large-scale credit restructuring also poses risks to the financial health of banks. Massive restructuring efforts may increase the burden of establishing Allowance for Impairment Losses (Cadangan Kerugian Penurunan Nilai/CKPN), which can affect bank profitability and capital adequacy. Additionally, limited insurance penetration in developing economies further complicates the situation, as debtors often lack financial protection against disaster risks.<sup>76</sup> High insurance costs and low trust in insurance products remain significant barriers, although innovations such as parametric insurance and RCC offer potential solutions.<sup>77</sup> Moreover, disaster recovery is often uneven, as financial assistance and restructuring policies may not align with long-term sustainability goals. As noted by Thaler and Fuchs<sup>78</sup> post-disaster financial aid can create disparities if not integrated with broader recovery strategies.

---

<sup>72</sup> Huan Huu Nguyen et al., “Banking in the storm: How natural disaster influence non-performing loans and the path to sustainability in Vietnam,” *Journal of Climate Finance* (2025): 1076.

<sup>73</sup> Brahmana et al., “Natural disaster and local bank,” 2420.

<sup>74</sup> Nurdany et al., “Covid-19 pandemic and the banking risk mitigation,” 1348.

<sup>75</sup> Sakinah, and Suherman, “Pelaksanaan Konsep Restrukturisasi Kredit,” 71. See also, Widjaja, “Impact of COVID-19 pandemic,” 558.

<sup>76</sup> Benjamin L. Collier, and Volodymyr O. Babich, “Financing recovery after disasters: Explaining community credit market responses to severe events,” *Journal of Risk and Insurance* 86, no. 2 (2019): 481.

<sup>77</sup> Bayliss et al., “A biased-randomized algorithm,” 15035. See also, Weber, and Musshoff, “Risk-contingent credit,” 1215.

<sup>78</sup> Thomas Thaler, and Sven Fuchs, “Financial recovery schemes in Austria: how planned relocation is used as an answer to future flood events,” In *Financial Schemes for Resilient Flood Recovery* (Routledge: Routledge, 2021), 46.

Overall, this highlights that credit restructuring in Indonesia under force majeure conditions emerges as a critical legal-financial mechanism that balances contractual continuity with disaster-induced economic disruption. Empirical evidence shows that natural disasters such as the Aceh tsunami and the COVID-19 pandemic significantly increase non-performing loans (NPLs), thereby necessitating regulatory intervention to stabilize the banking system.<sup>79</sup> In this context, restructuring functions as a preventive instrument against systemic credit failure and supports banking resilience.<sup>80</sup>

The effectiveness of this mechanism is largely driven by the Financial Services Authority (OJK), which authorizes flexible adjustments such as rescheduling, reconditioning, and renegotiation of credit obligations.<sup>81</sup> These policies are particularly important during force majeure events, where debtor capacity is temporarily or structurally impaired due to external shocks.<sup>82</sup> However, the policy is not purely technical; it reflects a broader legal objective of sustaining economic continuity while protecting vulnerable borrowers.<sup>83</sup> Justifiably, restructuring also produces wider socio-economic spillovers. It enables SMEs and households to regain financial stability and supports post-disaster recovery processes at the community level.<sup>84</sup>

### **3.3. Synchronizing Force Majeure and Credit Restructuring Towards Comprehensive Legal Protection**

Force majeure and credit restructuring essentially have the same underlying objective, which is to offer relief to debtors who are unable to meet their obligations due to circumstances beyond their control. However, despite this shared purpose, both instruments operate within different legal frameworks, possess distinct legal characteristics, and produce consequences that are not always aligned. This divergence creates a conceptual and practical gap that requires careful legal analysis and policy integration.

From a doctrinal perspective, force majeure is a principle rooted in civil law that addresses unforeseen events beyond the control of contracting parties which

---

<sup>79</sup> Dinda R. Himmah, and Tazqia Aulia Al-Djufri, “Supervening Events in Indonesian Commercial Contracts and Notes on the UNIDROIT PICC in Relation to COVID-19 Health Crisis,” *Journal of Central Banking Law and Institutions* 1, no. 2 (2022): 239. See also, Brahmana et al., “Natural disaster and local bank,” 2423; Siahaan, and Fatimah, “The Concept of Welfare State,” 318.

<sup>80</sup> Nurdany et al., “Covid-19 pandemic and the banking risk mitigation,” 1349.

<sup>81</sup> Sinilele, and Alim, “Implementation of Hardship Principles,” 744. See also, Widjaja, “Impact of COVID-19 pandemic,” 557.

<sup>82</sup> Susanti, “Ethical and legal aspects,” 53.

<sup>83</sup> Wijayanti, and Yunita, “Covid-19 Pandemic,” 225.

<sup>84</sup> Badriyah et al., “The restructuring of credit,” 38. See also, Hariyono et al., “Post-eruption economic recovery,” 13.

prevent the performance of contractual obligations. Such events may include natural disasters, pandemics, or government actions that disrupt normal economic activities.<sup>85</sup> The concept is widely recognized across various legal systems, including civil law, common law, and international frameworks such as the United Nations Convention on Contracts for the International Sale of Goods (CISG).<sup>86</sup> In principle, force majeure releases the debtor from liability for damages arising from non-performance and may suspend or excuse contractual obligations, depending on the nature and duration of the event.<sup>87</sup>

In contrast, credit restructuring is a contractual and regulatory mechanism governed by banking law and supervised by financial authorities such as the Financial Services Authority (OJK). Unlike force majeure, credit restructuring does not relieve the debtor from principal obligations, but rather modifies the terms of the contract to accommodate the debtor's reduced ability to pay. This may involve rescheduling payments, reducing interest rates, or renegotiating contractual conditions.<sup>88</sup> Therefore, credit restructuring is better understood as a form of contract adjustment rather than a release from obligations.

The divergence between these two instruments becomes particularly evident in disaster contexts. Force majeure focuses on the legal consequences of obligations, while credit restructuring emphasizes economic recovery and the sustainability of contractual relationships. In practice, however, these mechanisms often intersect. Force majeure events, such as natural disasters or pandemics, frequently trigger financial distress that necessitates credit restructuring. For example, the COVID-19 pandemic led to widespread non-performing loans and prompted large-scale restructuring policies in various jurisdictions, including Indonesia.<sup>89</sup> This demonstrates that, although conceptually distinct, force majeure and credit restructuring are functionally interconnected.

The interaction between force majeure doctrine and credit restructuring in Indonesia reveals a structurally complex legal landscape, particularly in disaster contexts. A key issue is the persistent ambiguity in defining force majeure events

---

<sup>85</sup> Kokorin Ilya, "Force Majeure and unforeseen change of circumstances. The case of embargoes and currency fluctuations (Russian, German and French approaches)," *Russian Law Journal* 3, no. 3 (2015): 49. See also, Klaus Peter Berger, and Daniel Behn, "Force majeure and hardship in the age of corona: a historical and comparative study," *McGill J. Disp. Resol.* 6 (2019): 76; William C. Hennings et al., "Proper risk allocation: Force majeure clause," *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction* 14, no. 1 (2022): 452148.

<sup>86</sup> Yuanyuan Guo et al., "Comparative research on force majeure system in contract law," *International Journal of Criminal Justice Sciences* 19, no. 1 (2024): 102. See also, Svetlana Zimneva et al., "Applying Force Majeure Events in Russian and South African Law: A Comparative Evaluation," *BRICS LJ* 12 (2025): 46.

<sup>87</sup> Andrés, and Olivares, "Los efectos del incumplimiento," 128.

<sup>88</sup> Sinilele, and Alim, "Implementation of Hardship Principles," 745.

<sup>89</sup> Sinilele, and Alim, "Implementation of Hardship Principles," 746.

and determining their legal consequences. While Indonesian law and practice recognize natural disasters and pandemics as potential force majeure triggers, their application is not automatic and requires strict evidentiary thresholds.<sup>90</sup> Comparative legal literature further shows that inconsistent contractual drafting and divergent interpretive approaches across jurisdictions and institutions lead to uneven enforcement outcomes, reinforcing legal uncertainty.<sup>91</sup> This inconsistency is also reflected in Indonesia, where banks and non-bank financial institutions may apply restructuring rules differently depending on internal policies and regulatory interpretation.

Another critical complication lies in distinguishing force majeure from hardship doctrines. As highlighted in Indonesian legal scholarship, force majeure generally suspends or relieves obligations when performance becomes impossible, whereas hardship allows modification when performance becomes excessively burdensome but still possible.<sup>92</sup> The absence of clear doctrinal boundaries often results in disputes over whether credit obligations should be suspended, renegotiated, or terminated entirely, thereby weakening legal predictability in restructuring processes.

Risk allocation further intensifies this problem. Standardized credit contracts frequently contain narrowly drafted force majeure clauses that disproportionately shift disaster-related risks to debtors. This creates structural imbalance, particularly for SMEs and vulnerable borrowers who are least able to absorb shocks. As emphasized by Hennings<sup>93</sup> et al. effective contractual risk allocation requires deliberate negotiation that anticipates unforeseeable disruptions, ensuring that neither party bears excessive burden. However, in practice, unequal bargaining power limits such balanced arrangements.

Taken together, these challenges demonstrate that while force majeure and credit restructuring mechanisms are intended to provide legal and financial resilience during disasters, their effectiveness is constrained by doctrinal ambiguity, inconsistent interpretation, and asymmetrical risk distribution.<sup>94</sup>

A coherent legal framework for force majeure and credit restructuring in Indonesia requires not only clear legal doctrine but also harmonisation with international standards. One of the main legal implications is the need to

---

<sup>90</sup> Widjaja, "Impact of COVID-19 pandemic," 558. See also, Wijayanti, and Yunita, "Covid-19 Pandemic," 224.

<sup>91</sup> Guo et al., "Comparative research on force majeure," 103. See also, Zimneva et al., "Applying Force Majeure," 47.

<sup>92</sup> Nugraheni, "Force Majeure Parameter," 276. See also, Sinilele, and Alim, "Implementation of Hardship Principles," 747.

<sup>93</sup> Hennings et al., "Proper risk allocation," 452149.

<sup>94</sup> Siahaan, and Fatimah, "The Concept of Welfare State," 319. See also, Susanti, "Ethical and legal aspects," 54.

standardise force majeure clauses in credit agreements. Without standardisation, the application of force majeure remains inconsistent, as similar disaster events may lead to different legal outcomes across institutions and jurisdictions. International best practices, including those from the International Chamber of Commerce (ICC), emphasise that force majeure clauses should clearly define triggering events, procedures for invocation, evidentiary requirements, and legal consequences to ensure certainty and fairness.<sup>95</sup>

In Indonesia, this issue is particularly important because force majeure is not automatically applied even when natural disasters occur. Debtors must still prove that the event directly prevented contractual performance, which creates legal uncertainty in practice.<sup>96</sup> To address this, the Financial Services Authority (OJK) has introduced credit restructuring mechanisms such as rescheduling, reconditioning, and restructuring. However, implementation differences between banks and non-bank financial institutions still create gaps in legal consistency and effectiveness.<sup>97</sup>

**Table 1.** Key Legal Implications

Aspect	Implication	Source
Force Majeure Criteria	Must prove event was beyond control and directly impeded performance	(Widjaja, 2020); (Wijayanti & Yunita, 2020); (Nugraheni, 2022). <sup>98</sup>
Credit Restructuring	Includes rescheduling, reconditioning, and renegotiation	(Wijayanti & Yunita, 2020); (Sinilele et al., 2022). <sup>99</sup>
Ethical Concerns	Legal solutions may fail to ensure fairness for disaster victims	(Susanti, 2018). <sup>100</sup>
Contract Validity	Contracts remain binding unless performance is permanently impossible	(Nugraheni et al., 2020). <sup>101</sup>

From a financial stability perspective, clearer rules on force majeure combined with structured restructuring mechanisms help reduce systemic risk. Natural disasters often lead to higher non-performing loans, which can weaken banking

<sup>95</sup> Zimneva et al., “Applying Force Majeure,” 49.

<sup>96</sup> Widjaja, “Impact of COVID-19 pandemic,” 559. See also, Wijayanti, and Yunita, “Covid-19 Pandemic,” 226.

<sup>97</sup> Sakinah, and Suherman, “Pelaksanaan Konsep Restrukturisasi Kredit,” 72.

<sup>98</sup> Widjaja, “Impact of COVID-19 pandemic,” 553. See also, Wijayanti, and Yunita, “Covid-19 Pandemic,” 228; Nugraheni, “Force Majeure Parameter,” 277.

<sup>99</sup> Wijayanti, and Yunita, “Covid-19 Pandemic,” 228. See also, Sinilele, and Alim, “Implementation of Hardship Principles,” 749.

<sup>100</sup> Susanti, “Ethical and legal aspects,” 57.

<sup>101</sup> Nugraheni, “Force Majeure Parameter,” 279.

stability, especially for smaller financial institutions with limited capital capacity.<sup>102</sup> Therefore, a predictable legal framework is not only important for contract enforcement but also for maintaining overall financial system stability.

At the same time, legal arrangements must also consider social impacts. Credit restructuring plays an important role in supporting post-disaster recovery by reducing financial pressure on affected individuals and businesses, particularly micro, small, and medium enterprises.<sup>103</sup> This helps strengthen community resilience and economic recovery after disasters.

Furthermore, legislative reform is necessary to address existing regulatory gaps. Current legal frameworks often treat force majeure and credit restructuring as separate instruments without providing clear guidance on their interaction. As suggested in recent studies, legal reforms should aim to harmonize these frameworks by establishing clear rules on how force majeure events trigger or influence restructuring mechanisms.<sup>104</sup> In the Indonesian context, this could involve integrating civil law provisions with banking regulations, ensuring that disaster declarations by competent authorities automatically activate specific restructuring policies. Legal protection for debtors affected by natural disasters must also be viewed from both preventive and repressive perspectives. Preventive legal protection involves measures designed to reduce the risk of disputes and ensure fairness before problems arise. This includes the obligation for banks to incorporate comprehensive and balanced force majeure clauses in credit agreements, the requirement to offer credit insurance products, and the establishment of internal policies for handling non-performing loans in disaster situations. Such measures not only protect debtors but also enhance the resilience of the financial system.

On the other hand, repressive legal protection focuses on resolving disputes after they occur. In addition to litigation through the courts, alternative dispute resolution mechanisms play a crucial role in providing accessible and efficient remedies. The Financial Services Authority (OJK) has established banking mediation and the Alternative Dispute Resolution Institution for the Financial Sector (*Lembaga Alternatif Penyelesaian Sengketa Sektor Jasa Keuangan/LAPS SJK*), as regulated under OJK Regulation No. 61/POJK.07/2020.<sup>105</sup> These mechanisms are

---

<sup>102</sup> Brahmana et al., “Natural disaster and local bank,” 2421.

<sup>103</sup> Badriyah et al., “The restructuring of credit,” 39. See also, Hariyono et al., “Post-eruption economic recovery,” 14.

<sup>104</sup> Wala Saad et al., “The Impact of Emergency Circumstances on an Employment Contract.” In *From Machine Learning to Artificial Intelligence: The Modern Machine Intelligence Approach for Financial and Economic Inclusion* (Cham: Springer Nature Switzerland, 2025), 616. See also, Sinilele, and Alim, “Implementation of Hardship Principles,” 748.

<sup>105</sup> Muhammad Fikri Aufa, and Fadia Fitriyanti, “The Integration of Alternative Dispute Resolutions Institutions in the Financial Services Sector with POJK No. 61/POJK.07/2020,” *Veteran Law Review* 5, no. 2 (2022): 108. See also, Peraturan Otoritas Jasa Keuangan

particularly important for disaster-affected debtors, who often lack the financial resources and capacity to pursue formal litigation. By providing a more flexible and cost-effective dispute resolution process, these institutions contribute to the realization of substantive justice.

#### **4. Conclusion**

This study concludes that natural disasters conceptually fulfill the elements of force majeure under Articles 1244 and 1245 of the Indonesian Civil Code. However, their application in banking credit agreements remains problematic due to restrictive contractual clauses that tend to favor banks and the difficulty of proving a direct causal link between the disaster and the debtor's inability to perform. As a result, the protective function of force majeure is not fully realized in practice. In contrast, credit restructuring under OJK Regulation No. 40/POJK.03/2019 provides a more practical mechanism for addressing non-performing loans arising from natural disasters. Through regulatory flexibility and stimulus policies, banks are able to adjust repayment terms and support debtor recovery. Nevertheless, this mechanism is largely reactive and operates independently from the force majeure doctrine, resulting in a lack of legal integration between civil law and banking regulations. The main contribution of this study lies in its integrative analysis, which demonstrates the structural gap between the force majeure doctrine and credit restructuring mechanisms, and highlights the need for their harmonization within a unified legal framework. This study finds that the absence of synchronization between these two instruments creates legal uncertainty and limits comprehensive protection for disaster-affected debtors.

From a policy perspective, this study emphasizes the urgency of developing a more coherent and responsive regulatory framework. Such integration may include provisions that automatically trigger credit restructuring policies upon official disaster declarations, as well as the establishment of a balanced risk-sharing system involving the government, banks, and debtors through credit guarantees, insurance schemes, and disaster reserve funds. In addition, banks should be required to incorporate clear and balanced force majeure clauses in credit agreements, while access to alternative dispute resolution mechanisms, such as banking mediation and financial sector dispute resolution institutions, must be strengthened to ensure equitable and accessible remedies.

---

Nomor 61/POJK.07/2020 tentang Lembaga Alternatif Penyelesaian Sengketa Sektor Jasa Keuangan. *Berita Negara Republik Indonesia* Tahun 2020.

## References

- Admiral, Admiral, Fadhel Arjuna Adinda, Rosyidi Hamzah, Maisa Maisa, and Ridwan Arifin. "Impossibility of Performance in Environmental Contracts: A Case Study of the Merapi Volcano Eruption and Its Impact on Contractual Obligations." *Indonesian Journal of Environmental Law and Sustainable Development* 4, no. 2 (2025): 177-216.
- Amri, Rizkan Zulyadi, Zaini Munawir, and Mahalia Nola Pohan. "Legal Review of Late Payment of Syndicated Bank Credit Agreements Due to Covid-19." (2020): 232-241.
- Andrés, Iñigo, and Álvaro Vidal Olivares. "Los efectos del incumplimiento contractual causado por caso fortuito en tiempos de pandemia CoViD-19/The effects of Contractual Non-performance caused by Force Majeure." *Revista de Derecho Civil* 7, no. 3 (2020): 123-161.
- Arias, Diego. "Management of Weather and Ecosystem Risks in Latin America: the New Financial Instruments of Transfer." *REVISTA DEL CLAD REFORMA Y DEMOCRACIA* 55 (2013): 49-+.
- Aufa, Muhammad Fikri, and Fadia Fitriyanti. "The Integration of Alternative Dispute Resolutions Institutions in the Financial Services Sector with POJK No. 61/POJK. 07/2020." *Veteran Law Review* 5, no. 2 (2022): 102-114.
- Badan Nasional Penanggulangan Bencana. *Buku data bencana Indonesia tahun 2023*. Retrieved in January 23, 2025 from <https://www.bnpb.go.id/buku/buku-data-bencana-indonesia-tahun-2023>.
- Badriyah, Siti Malikhatus, R. Suharto, and Retno Saraswati. "The restructuring of credit and lease agreements and its impact on micro, small, and medium-sized enterprise and insolvency risks amid the pandemic: a normative juridical method." *Corporate Law & Governance Review* 6, no. 3 (2024): 34-52.
- Bayliss, Christopher, Roberto Guidotti, Alejandro Estrada-Moreno, Guillermo Franco, and Angel A. Juan. "A biased-randomized algorithm for optimizing efficiency in parametric earthquake (Re) insurance solutions." *Computers & Operations Research* 123 (2020): 105033.
- Berger, Klaus Peter, and Daniel Behn. "Force majeure and hardship in the age of corona: a historical and comparative study." *McGill J. Disp. Resol.* 6 (2019): 76.
- Berndt, Antje, Robert A. Jarrow, and ChoongOh Kang. "Restructuring risk in credit default swaps: An empirical analysis." *Stochastic Processes and their applications* 117, no. 11 (2007): 1724-1749.
- Bos, Jaap WB, Runliang Li, and Mark WJL Sanders. "Hazardous lending: The impact of natural disasters on bank asset portfolio." *Economic Modelling* 108 (2022): 105760.
- Brahmana, Rayenda, C. Puah, and Michael Chai. "Natural disaster and local bank non-performing loan: Case of Nias tsunami 2004." *Economics Bulletin* 36, no. 4 (2016): 2413-2421.
- Cendhani, Cindy, Dita Elvi Kusuma Putri, and Ezra Tambunan. "Legal consequences of presidential decree number 12 of 2020 on the implementation of private contracts." *Lex Scientia Law Review* 4, no. 2 (2020): 55-76.
- Collier, Benjamin L., and Volodymyr O. Babich. "Financing recovery after disasters: Explaining community credit market responses to severe events." *Journal of Risk and Insurance* 86, no. 2 (2019): 479-520.
- Cortés, Kristle Romero, and Philip E. Strahan. "Tracing out capital flows: How financially integrated banks respond to natural disasters." *Journal of Financial Economics* 125, no. 1 (2017): 182-199.
- de Paul Kambou, Sansan Vincent. "Debt relief instruments and external debt dynamics following natural disasters in developing countries." *International Economics* (2025): 100624.
- Disemadi, Hari Sutra, and Ali Ismail Shaleh. "Banking credit restructuring policy amid COVID-19 pandemic in Indonesia." *Jurnal Inovasi Ekonomi* 5, no. 02 (2020): 244-262.

- Erdem, Fatih Buğra. "Boundaries of force majeure in shipbuilding contracts pursuant to the recent judgment of RTI Ltd v. MUR Shipping." *Global Trade and Customs Journal* 20, no. 9 (2025): 54-79.
- Guo, Yuanyuan, Hazlina Shaik Md Noor Alam, and Nur Khalidah Dahlan. "Comparative research on force majeure system in contract law." *International Journal of Criminal Justice Sciences* 19, no. 1 (2024): 99-116.
- Hadiputranto, Mikael Ananda Septian. "Keabsahan perjanjian Kredit Usaha Rakyat atas pencantuman klausula restrukturisasi berdasarkan Peraturan Otoritas Jasa Keuangan Nomor 40/POJK. 03/2019." (2020): 561-583.
- Hariyono, Hariyono, Rudi Purwono, Ni Made Sukartini, Sri Pantja Madyawati, and Adrian Chrisnahutama. "Post-eruption economic recovery: Strengthening livelihoods in Lumajang Indonesia after Mount Semeru disaster." *Central Community Development Journal* 5, no. 1 (2025): 1-13.
- Hasna, Hasna. "Force Majeure in Aircraft Lease Agreement and Covid-19: Indonesian and English Law Perspectives." *Padjadjaran Jurnal Ilmu Hukum (Journal of Law)* 9, no. 1 (2022): 89-110.
- Hennings, William C., Sarah A. Abdellatif, and Awad S. Hanna. "Proper risk allocation: Force majeure clause." *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction* 14, no. 1 (2022): 04521048.
- Himmah, Dinda R., and Tazqia Aulia Al-Djufri. "Supervening Events in Indonesian Commercial Contracts and Notes on the UNIDROIT PICC in Relation to COVID-19 Health Crisis." *Journal of Central Banking Law and Institutions* 1, no. 2 (2022): 237-266.
- Ilya, Kokorin. "Force Majeure and unforeseen change of circumstances. The case of embargoes and currency fluctuations (Russian, German and French approaches)." *Russian Law Journal* 3, no. 3 (2015): 46-82.
- Indonesia, P. R. (2007). Undang-Undang Republik Indonesia Nomor 24 Tahun 2007 tentang Penanggulangan Bencana.
- Isanov, K. "The legal nature of force majeure." *R.A. J. Applied Res* 7 (2021): 2683-2686.
- Ivanov, Ivan T., Marco Macchiavelli, and João AC Santos. "Bank lending networks and the propagation of natural disasters." *Financial Management* 51, no. 3 (2022): 903-927.
- Iversen, Gudmund R., and Mary Gergen. *Statistics: The conceptual approach*. Springer Science & Business Media, 2012.
- Januarita, Ratna, and Yeti Sumiyati. "Legal risk management: Can the COVID-19 pandemic be included as a force majeure clause in a contract?." *International Journal of Law and Management* 63, no. 2 (2021): 219-238.
- Kadri, Farid, Babiga Birregah, and Eric Châtelet. "The impact of natural disasters on critical infrastructures: A domino effect-based study." *Journal of Homeland Security and Emergency Management* 11, no. 2 (2014): 217-241.
- Lai, Shaojie, Lihan Chen, Qing Sophie Wang, and Hamish Anderson. "Natural disasters, trade credit, and firm performance." *Economic Modelling* 116 (2022): 106029.
- Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking. State Gazette of the Republic of Indonesia 1998 Number 182.
- Law Number 24 of 2007 concerning Disaster Management. State Gazette of the Republic of Indonesia 2007 Number 66.
- Mann, Thomas. *The Oxford guide to library research*. Oxford University Press, 2015.
- Meher, Montayana, and Ningrum Natasya Sirait. "Standard contracts in bank credit agreements." In *E3S Web of Conferences*, vol. 52, p. 00029. EDP Sciences, 2018.
- Momberg, Rodrigo. "Some Reflections on Force Majeure Clauses in Modern Contracting." *Latin American Legal Studies* 11, no. 2 (2023): 255-294.

- Nguyen, Huan Huu, Anh Chieu Hoang Phan, Nghi Thuc Thuy To, Nguyet Minh Song Nguyen, and Tram Bao Huynh Nguyen. "Banking in the storm: How natural disaster influence non-performing loans and the path to sustainability in Vietnam." *Journal of Climate Finance* (2025): 100076.
- Nomor, P. O. J. K. (2019). 40/POJK. 03/2019 tentang Penilaian Kualitas Aset Bank Umum. *Lembaran Negara Republik Indonesia Tabun*.
- Nugraheni, Ninis, Hening Prabawa Arifanda, and Alifihan Astafiyani. "Public procurement contract for goods and services following the presidential decree number 12 of 2020 on the stipulation of the coronavirus disease (COVID-19) pandemic as a national disaster." *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 7, no. 2 (2020): 3.
- Nugraheni, Ninis. "Force Majeure Parameter in Goods and Services Procurement Contract by The Government." *Croatian International Relations Review* 28, no. 89 (2022): 259-268.
- Nurdany, Achmad, Hasan Al Banna, Dwi Marlina Wijayanti, and Abdul Qoyum. "Covid-19 pandemic and the banking risk mitigation: A lesson from the Indonesian credit restructuring policy." *Iranian Economic Review* 27, no. 4 (2023): 1341-1360.
- Nurhasanah, Neneng, Ahmad Hasan Ridwan, and Uus Rustiman. "Force Majeure from the Perspective of Islamic Economic Law: A Critical Review of Shari'ah Banking's Response to COVID 19 in Indonesia." *J. Int'l L. Islamic L.* 20 (2024): 137.
- Peraturan Otoritas Jasa Keuangan Nomor 40/POJK.03/2019 tentang Penilaian Kualitas Aset Bank Umum. *Berita Negara Republik Indonesia Tahun 2019 Nomor 1329*.
- Peraturan Otoritas Jasa Keuangan Nomor 61/POJK.07/2020 tentang Lembaga Alternatif Penyelesaian Sengketa Sektor Jasa Keuangan. *Berita Negara Republik Indonesia Tahun 2020*.
- Puelinckx, Alfons H. "Frustration, Hardship, Force Majeure, Imprevison, Wegfall der Geschäftsgrundlage, Unmöglichkeit, Changed Circumstances-A Comparative Study in English, French, German and Japanese Law." *J. Int'l Arb.* 3 (1986): 47.
- Putri, Mutia Kartika. "Implications of the Covid-19 pandemic on business contracts implementation." *Indonesia Private Law Review* 4, no. 1 (2023): 9-18.
- Rahmawati, Syifa Fitri, and Rusli Subrata. "Pemahaman Terhadap Wanprestasi Debitur: Implikasi Terhadap Manajemen Risiko Kredit di Sektor Perbankan." *Hukum Inovatif: Jurnal Ilmu Hukum Sosial dan Humaniora* 1, no. 3 (2024): 285-297.
- Rasuh, Daryl John. "Kajian Hukum Keadaan Memaksa (Force Majeure) Menurut Pasal 1244 Dan Pasal 1245 Kitab Undang-Undang Hukum Perdata." *Lex Privatum* 4, no. 2 (2016): 155727.
- Saad, Wala, Suhail Al-Ahmad, and Tareq Hammad Almubaydeen. "The Impact of Emergency Circumstances on an Employment Contract." In *From Machine Learning to Artificial Intelligence: The Modern Machine Intelligence Approach for Financial and Economic Inclusion*, pp. 613-621. Cham: Springer Nature Switzerland, 2025.
- Sakinah, Nailia Andriani, and Suherman Suherman. "Pelaksanaan Konsep Restrukturisasi Kredit Pada Lembaga Bank dan Non Bank (Studi Pada KCP BCA Syariah Bogor dan PT Pegadaian (Persero) Bogor)." *Jurnal Hukum Bisnis Bonum Commune* (2021): 61-74.
- Siahaan, Rudy Haposan, and Rika Fatimah PL. "The Concept of Welfare State in Indonesia as a Strategic Move to Win People Trust Through Economic Sustainability: Good Governance and Bank Conduct on Bank Debt Cancellation Due to Natural Disasters." *Mediterranean Journal of Social Sciences* 5 (2014): 312-341.
- Sinilele, Ashar, and Syahrul Alim. "Implementation of Hardship Principles on Financing Agreements Islamic Bank Due to Corona Virus Disease 2019." *Jurnal Hukum Novelty (1412-6834)* 13, no. 2 (2022): 731-762.
- Soepriyanto, Gatot, Meiryani, Ridho Bramulya Ikhsan, and Leony Rickven. "Analysis of countercyclical policy factors in the era of the COVID-19 pandemic in financial statement fraud detection of banking companies in Indonesia." *Sustainability* 14, no. 16 (2022): 10340.

- Sudrajat, Tatang. "The Combination of Normative Juridical Methods and Literature in Educational Administration Research." In *Proceedings of International Conference on Social Science, Political Science, and Humanities (ICoSPOLHUM)*, vol. 3, pp. 00026-00026. 2022.
- Susanti, Ida. "Ethical and legal aspects of disaster response under Indonesian legal system." In *MATEC Web of Conferences*, vol. 229, p. 04006. EDP Sciences, 2018.
- Thaler, Thomas, and Sven Fuchs. "Financial recovery schemes in Austria: how planned relocation is used as an answer to future flood events." In *Financial Schemes for Resilient Flood Recovery*, pp. 46-62. Routledge, 2021.
- Weber, Ron, and Oliver Musshoff. "Risk-contingent credit for sovereign disaster risk finance." *International Journal of Disaster Risk Reduction* 56 (2021): 102105.
- Widjaja, Gunawan. "Impact of COVID-19 pandemic to the payment obligations to Banks and Financial Institutions; a perspective from Indonesian laws and regulations." *Hamdard Islamicus* 43 (2020): 545-574.
- Wijayanti, Riska, and Ani Yunita. "Covid-19 Pandemic as the Reasoning of Force Majeure towards Financing in Islamic Banking." *Jurnal Hukum Islam* 18, no. 2 (2020): 219-234.
- Yulianto. A Comparative Analysis and Overview of Indonesian & Global Debt Restructuring Policies Amid the Covid-19 Pandemic. *Croatian International Relations Review* 12, no. 3 (2022): 11-31.
- Zimneva, Svetlana, Nazreen Shaik-Peremanov, and Irina Pluzhnik. "Applying Force Majeure Events in Russian and South African Law: A Comparative Evaluation." *BRICS LJ* 12 (2025): 43.