

Justification and System Construction of Disaster Law's Disciplinary Independence

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Abstract: In the context of the global risk society and the increasingly frequent and extreme disasters, this research paper analyzes the necessity of the independence of Disaster Law as a discipline. To achieve it, the concept of Disaster Law is thoroughly defined along with the unique adjustment objects and legal attributes, along with the distinction from related fields. A theoretical justification of the independent orientation of values, objectives, and research paradigm is provided, and the practical requests for independence are structured with their previous implications. Existing barriers, such as the undefined legal status of the field, the absent normative system, and the marginalization of the field in the educational process, are devoted most attention. Also, as the culmination of the research, the field is provided with the independence-building plan based on the examples drawn from other surrounding areas and fields, including the basic, substantial, procedural, and supportive systems of Disaster Law, followed by the closing prospective wishes related to the independence of Disaster Law as an academic discipline.

Keywords: Disaster Law; Disciplinary Independence; Disaster Risk Governance; Resilience; Legal System Construction

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Introduction

Due to the increase in extreme disasters, humanity has already won a risk society, where effective legal regulation is required. Despite the increasing practical demand for efficient disaster risk governance, Disaster Law has no definitional positioning in science and legislation, and today is in danger of being excluded from legal studies and policy research. Important questions arise: why Disaster Law must position itself as an independent discipline? How can this independence be proved? How to create the construction of an independent discipline? The answers to these

questions are significant for advancing risk governance to ensure that society is adequately prepared and can efficiently recover from disasters. To this end, the paper uses analytical, comparative and interdisciplinary methods and research to describe the conceptual foundations, to theoretically justify the independence of Disaster Law, to establish existing barriers, to understand the international experience and to design a comprehensive disciplinary development system.

I. The Concept, Scope and Attributes of Disaster Law

1.1 Definition, Scope and Distinct Adjustment Objects

Disaster Law is an independent legal discipline that is evolving to engage with the development and governance of the entirety of the disaster risk continuum, both natural and man-made. Its understanding is based on the specific nature of the disaster phenomenon, and its scope is the entirety of disaster cycle management (mitigation, response, recovery and reconstruction), as well as the establishment of institutional mechanisms that define the role of government and non-government actors in the above process (Shaw & Cui, 2025). Due to the above factors, the way in which disaster outcomes are defined in legal instruments will have considerable implications in terms of their international and domestic binding forces, as well as the broader legal scope of this field of International and Domestic Law (Zannoni, 2019). In addition, Disaster Law as a discipline will consider its complex legal characteristics based on the fact that it involves both public and private features, integrates cross disciplinary approaches underlying it, and pursues governance mechanisms that are marked by adaptive approaches, resilience enhancing practices and the use of data for a risk informed decision making. The above elements underline the need for an independent and self-standing academic and practice-based approach to the phenomenon of Disaster Law, which cannot be addressed by existing legal disciplines and the usual governance frameworks.

In addition, Disaster Law is based on a variety of distinct adjustment objects that define its peculiar area within the specific public law theory and practice. The adjustment objects such as prevention, immediate relief, recovery, reconstruction, and risk governance, encompass the entire disaster management cycle that Disaster Law is apt to regulate. It establishes the framework to prevent disasters, organize emergency response, but also to recover, reconstruct and govern risk across other sectors of society. The fact that persons affected by the disaster are involved in the

recovery makes it obvious that this is a direct participation and direct remedy scenario requiring an area of law to protect, but limitless access to its benefits may be compromised by a lack of access to justice or failing to achieve justice in law or practice or in the form of legal representation (Nalla et al., 2021). Therefore, the short, medium and long-term adjustment objects focus of Disaster Law makes it distinct from similar but other areas in law, to justify its appurtenance to the emerging infrastructure of disaster risk management.

1.2 Complex Legal Attributes

At the same time, the legal features of the Disaster Law are a complex combination of public law, private law, and interdisciplinary approaches that enable the discipline to respond to the multiple demands of disaster governance. The features of Disaster Law as public law are apparent in its governmental character, responsibility for coordination of public interests and functions, and the preservation of collective social interests throughout the disaster management process. The principles of private law are also observable in its legislation that governs individual rights, contract relationships, compensation payments, and the issues of liability for the damage caused by a disaster. The combination of public and private law features can be seen in other complex legal areas that encourage interdisciplinary approaches, pluralistic arrays of adaptive and risk-oriented legal instruments and great flexibility in using functional regulatory mechanisms that allow the law to be dynamic and non-static within an ever-changing environment (Yeung & Bygrave, 2021). By embracing public duties, private rights, and interdisciplinary methodology, Disaster Law is able to build a structure that is capable of addressing the regulatory, moral and pragmatic challenges growing from the nature of modern risk societies.

1.3 Distinction from Related Fields

In addition, to make further progress in presenting Disaster Law as a distinct discipline, it is important to clarify how to draw the line between it and its associated fields. First of all, although emergency law is similar to disaster law in that they both allow for state interventions in times of crisis, the duration of the latter's mechanism partly makes the difference between the two fields as it includes pre and post-crisis cycles, while emergency law only allows for temporary interventions. Secondly, unlike environmental law, whose laws and regulations have been modified

periodically to accommodate the increasing threats posed by ecological risks within the framework of the development and sustainability agenda, disaster law has a broader range of applications. For instance, it includes pre and post-crisis socio-economic recovery approaches and risk management strategies which are not limited to the protection of the environment. Similarly, despite its important parallels to administrative law in terms of its scope, disaster law manages to build its own institutional architecture ensuring coordination among the concerned stakeholders during the crisis and emergencies. As for tort law, its relevance to disaster law is limited to a small portion of its concerns since the quest for accountability is only a part of the complex remedial system that disaster law creates and sustains making it a fully-fledged legal field of its own and not its subfield.

II. Theoretical Basis of Autonomous Discipline of Disaster Law

2.1 The Need for a Theoretical Framework and Its Core Elements

The second item that should be established – theoretical framework that justifies the independence of Disaster Law. Theoretical framework is important because it sets boundaries between the study and other legal studies. It also provides credibility for the study in academic and legislative context. Theoretical framework is important in the context of jurisprudence. The discourse of the emergency and crisis scenario within the jurisdiction and laws has been widely discussed by scholars that exposes underlying contradictions between the universality of law principle and discretionary power of the states. This is also correlated with the question of autonomy in Disaster Law (Hussain, 2019). Different from emergency law or administration law which typically is that those legal frameworks govern what is the response in an emergency circumstances, Disaster Law is designed to govern the entire life cycle of disaster from mitigation, response, and recovery. The need of the body of knowledge in Disaster Law is to create legal provisions on how to govern continuity (Hussain, 2019) of disaster management, which covers its length and breath. These cannot be covered by the emergency rule theory that only prescribes the dictate situation to happen. Therefore, the theoretical framework for Disaster Law must seek independence because this study approach the issues when disaster happens from a legal, jurisdictional, and administrative perspective.

The component consists of the valid basis for the independent adjustment object and social

relationship of Disaster Law. This unique disaster law cannot be regulated and protected through adjacent legal disciplines because of the particular risk-disaster-recovery continuum. Although the administrative and emergency laws can protect and govern in case of an emergency or imminent disaster, the boundaries of risk governance and post-disaster social recovery cannot be affected by them. The social and economic factors that determine the vulnerability of certain groups or a differentiated impact after the disaster are the subject of study of disaster law. Disasters are not caused just by natural catastrophes (Tierney, 2025). This third point produces a continuous legal process based on risk discovery, disaster discovery, and recovery at different levels. However, the laws must approach the social relations that allow the vulnerability and difference in exposure to disasters. This approach is justified since the law has a direct implication on human relationships in our societies. Disasters pose critical risks to fundamental rights, and only a global approach can ensure specific risk control and recovery to horizontal and vertical lines and structures that the other legal branches cannot affect.

2.2 Independent Value Orientation and Basic Principles

The independent value orientation of Disaster Law is seen in the multitude of values, including safety, resilience, fairness, respect for human rights, and sustainable development, which serves to identify its ethical distinctiveness from other related fields. The value orientation of Disaster Laws focuses on the state obligation to safeguard its people before, during and after disaster, which presents itself as a significant normative ground for the legal regime legitimacy (Zack, 2023). As contemporary disasters are perceived as constant risks for society and an amplified phenomenon caused by climate change, the law requires an all-encompassing approach to risk reduction and adaptive governance alongside fundamental rights protection. With its value orientation, Disaster Law addresses fairness by approaching the disadvantageous situation of marginalized and vulnerable groups and ensuring that legal standards serve their equality in results, not only in terms of proceeding (Zack, 2023). These values imply the necessity for a multidisciplinary approach to Disaster Law as it integrates legal science, moral philosophy, and public policy to address the landscape of modern disasters (Zack, 2023).

The independent basic principles of Disaster Law are equipped with peculiarities that will provide the right normative capacity to react to the specificities of disaster governance in an

innovative risk society. Among them is first, the principle of prevention first, implying that disaster law is concerned more with the governance of risks and vulnerabilities ahead of disasters than with their management (Cubie, 2024). Another distinctive principle is that of whole-cycle governance, that is, the legally regulated entirety of the disaster cycle, from preparedness, through response, recovery and reconstruction, because it will guarantee legal continuity and institutional coherence from the first to the last steps (Cubie, 2024). Moreover, human rights are the paramount consideration, which will force disaster law to grant veritable respect to the dignity, safety and provision of everything that is right to those affected by disasters, thus incorporating fairness and social justice into the governing legal order. Alongside is the principle of multi-stakeholder participation and the fostering of international cooperation that will ensure better legal interpretation and adaptive mechanisms at all levels and between different actors - governments, NGOs, international organizations, etc. - thereby uniting general principles with particular disaster scenarios (Cubie, 2024).

2.3 Methodological Independence and Practical Rationale

Compared to the structural independence, the methodological independence of Disaster Law can be furthered articulated by its whole-process, whole-domain, and multi-institutional characteristics. Firstly, in the method of Disaster Law, legal practices are not necessarily compartmentalized to a specific phase of disaster management, but instead enriches the entire process through a pathway in which the legal system resolves issues via communication . Furthermore, empirical inference upon legislation benefits research by rooting it within a practical environment in which disaster risk reduction, preparedness, and resilience are directly correlated to the context of exposure . ‘Comparative’ methods can also provide insight into a similar adaptability of different legal systems to the challenges presented by disasters . Thirdly, inter-disciplinary methods practiced by Disaster Law researchers strive to maximize their ability to counter the behaviours of actors in multi-faceted, cross-disciplinary interactions within a risk society . The general logic and systemic appropriateness behind a government’s legal instruments, for example, could only be secured through a thorough understanding of applied nature within the realms of public health, engineering, sociology, sociology and other fields associated with the disaster risk.

The practical rationale in recognising Disaster Law as an independent field of study, results from existing and emerging gaps in national governance, legislative drafting, policy making and emergency management practices. Rapidly evolving nature of disaster risk requires a comprehensive legal architecture that will be able to preemptively galvanise flexible but cohesive capacities in enhancing prevention, preparedness and recovery across various sectors and levels of government. In many jurisdictions, existing legislative frameworks for disaster risk reduction are so integrally bound to each specific sector or nature of risk, that there is no available trans-sectoral or cross-functional instrument that can trigger an adequate cohesive emergency response or realisation of disaster risk reduction obligations. Current legislative reform and policy trends globally, reflect the call for resilience thinking that will implement disaster risk reduction across all aspects and structures of the national system, allowing for intrinsic sustainability and a heightened capacity to adapt (Polymenopoulou & Giustiniani, 2024). Against this backdrop, the establishment of Disaster Law as a distinct discipline, ensures the availability of legal coherence that can effectively fill policy gaps, yield enforceable rights and obligations and allow for collaborative and seamless emergency management in line with the evolving global normative framework.

III. Current Obstacles to the Independence of Disaster Law

3.1 The Reactive Paradigm and Absence of Legal Status

Notwithstanding the growing theoretical status of independent Disaster Law, there are currently a number of barriers that continue to threaten the realization of its disciplinary potential. Principal among these is the apparent (treaty) suspension or derogation that governs both domestic and international discourse around disaster law and policy, which regulate exceptionality rather than a whole of society governance framework. The reactive nature assigned to disasters in the legal discourse is precisely what threatens the potential for Disaster Law to emerge as a serious risk governance tool, in that states do not seek establish an anticipatory regime where ongoing, systemic risks are recognized and regulated (Carvosso, 2021). Instead, disasters are treated on the rare occasion when they appear to occur, which creates a significant chasm in legal interpretations that can unify prevention and post-disaster responses under a single legal regime. As such, the disparate legislative and institutional silos continue because the anticipated responses have

become entrenched in the reactive outlook on disaster (Carvosso, 2021)

The absence of clear legal status of Disaster Law is the most important issue affecting its cognizability as an academic science and practice. Disaster Law is inherently lacking legal status due to the absence of a specific legal authority or legislation i.e. a specific statute or body of law, to provide the necessary legal context for the establishment and framework of such a discipline. The absence of this legal status limits the cognizability of Disaster Law and practice as an independent body of law because this legal field is considered as a phenomenon dependent on the existence of a distinctive system of rule i.e. a set of legal principles and norms specifically allocated for the law of the theory. Instead, Disaster Law is perceived as a secondary branch or extension of an existing body of law such as legal theories or administrative law where existing legislative texts could be presenting a *lex specialis* to deal with the phenomena of disasters. This absence of clarity, legality and status will affect the cognizability of the institutions and players of Disaster Law in terms of governance and jurisdiction, the cognizability of the jurisprudence of Disaster Law as a comprehensive legal principle that can be used to draft laws or legislations for all stages of the disaster's cycle. In other words, in the absence of evidence for clear legal principles and legislative texts, Disaster Law will have no legitimacy or playground to be in any institution or framework governed by the rule of law such as schools, organizations, and main state institutions. In other words, the absence of legality and boundaries of this discipline at the above levels will leave no space for the possibility of integrating its principles and practices into these institutions providing official frameworks in national governance and development. As a result, Disaster Law would be excluded from preparedness frays and implemented practices in schools, workplaces, and government institutions. Therefore, this will add to the marginalization of Disaster Law and its absence from legal literature and studies conducted particularly on its principles despite of its importance in the effective governance of disaster risks.

3.2 Lack of Core Norms and Regulatory Fragmentation

The lack of core norms and the absence of an all-encompassing basic law on Disaster Law impairs the domain's autonomy and potential for development on a structurally unsustainable basis. The lack of common legislatively established definitions and binding legal standards for disaster law and governance impedes the establishment of coherent sector-specific regulatory

systems and the development of coherent disaster strategies, given that no two jurisdictions or legal systems are alike (Zannoni, 2019). Without a basic statute as a guiding legal document to outline the fundamental principles applicable to the problem and the scope of related obligations, legal approaches to disasters are disjointed and poorly coordinated among those with interests in and responsibilities for disaster management (Zannoni, 2019). This legal void in the specified environment also significantly restrains the opportunities for coherent governance on all levels, cripples the proposed potential for international cooperation, and limits appreciable success in bringing in applicable technologies and data exchange projects that could help facilitate disaster prevention and relief (Zannoni, 2019). The continued absence of a core body of legislation seriously jeopardizes the academic legitimacy, institutional credibility, and the overall development of Disaster Law and its regulatory and social function in addressing pressing issues for the state in the functioning of modern risk governance mechanisms.

Additionally, the discontinuity of divided subject matter regulations constitutes an obstacle for the productive assimilation of Disaster Law as a specialized branch of law. The terms and norms regulating disasters and their impact are not generally found within a systemic centralized body of legislature. Rather, they are commonly situated in discrete venues among various specialized laws - from laws on public health and the protection of the environment to property law and administrative law. Under such circumstances, it does not lie within an integrated body of legislature wherein there may be cross-examinations, and exacerbations due to overlapping laws or omissions wherein precedential statutes may be established. This, altogether compromises the behavior and behavior of legislation during disasters - also without a single legislative body it does not function in a proactive and preventive manner, as it does under legislation that is designed as reactionary statutes in a reactive approach in which laws are ordinarily activated and implemented only during specified disasters, omitting generalized and antecedent studies of the magnitude of human-inducing and natural disasters (Carvosso, 2021). As such, there cannot exist a model of materialization and development for Disaster Law as an integrated and cohesive body of legislation primarily due the disconnected scope of existing legislation.

3.3 Academic Marginalization and Theoretical Underdevelopment

he neglect of Disaster Law in academia and education becomes a severe hindrance to the

scholarly advancement of the discipline and the capacity of developing competent experts in this area. Not only is the sporadic offering of the few Disaster Law courses in a law school's curriculum a deterrence, but also the low output of Disaster Law scholarly publications also cripples the intellectual groundwork for the theoretical and scientific progress of the discipline. As a consequence, a loss of profound analytic frameworks that prop up the knowledge of the social root causes of disaster vulnerability and the wider impacts on society of the failures of risk governance are inhibited to arise (Tierney, 2025). Universities' mainstream teaching of alternative fields of law prevents the development of strong academic research that analyses the interplay among law, social structures, and the effects of disasters. As a result, the image prevails in society the view disasters as unique geophysical incidents rather than manifestations of deep-rooted social and institutional processes. The short supply of competent specialized lawyers, directly interviews with the empowerment of the adequate critical size of human resources able to reorient the politics of the national institutions so that to do research across specialized disciplines, particularly able to efficiently advocate for changes based on evidence that are vital for the successful implementation of the discipline of disaster risk management (Tierney, 2025).

Moreover, a weak theoretical system, which characterizes Disaster Law even today, severely undermines the integrity and developmental prospects of the scientific paradigm. A lack of a consolidated normative framework of generic principles and analytical instruments for political discourse limits opportunities for academic synthesis and reduces the caliber of Disaster Law scholarship to a disparate collection of disparate works. The resulting deficiency of a theoretical apparatus inhibits Disaster Law from framing its unique intervention into the public policy field, which deals with the intertwining of risk governance and social justice (Zack, 2023). The absence of a credible approach to normalizing the ethical considerations and cross-disciplinary cooperation pushes this area of study to the margins of public debate on governmental obligations, societal vulnerability, and the search for adaptive strategies in the face of systemic risks. Thus, the lack of progress addressing the theoretical foundations of Disaster Law today constitutes a permanent barrier not only to the advancement of scholarship devoted to this area of law but also to the paradigm's practical authority in shaping the legal framework for disaster management in the future (Zack, 2023).

IV. International Experience and Reference

At the same time, comparative examination of international strategies indicates that the path of Disaster Law towards institutionalization, systematization now and autonomy has already made significant progress. There is a national Disaster Framework in the United States which not only sets out aligned roles for the federal, state and local authorities but also institutionalizes the roles of different sectors under the Union Policy and integrates resilience thinking into all stages of disaster policy development. European Union rules on civil protection and the Union policy on disaster risk follow an integrated systematic approach to align regional requirements for risk reduction and systematization of trans-national cooperation which illustrate a deliberate shift from the ‘mop up’ approach to ‘disaster risk reduction’ (Polymenopoulou & Giustiniani, 2024). The Basic Law on Disaster Control Administration in Japan demonstrates how important it is to separate the process of preparation, response and recovery in one law to institutionalize the roles and help to innovate and create continuously in the governance of disaster management. All these efforts around the world show a trend of embedding disaster risk reduction and resiliency in legislation supporting the argument for the independent, systematic and organized structure of Disaster Law (Polymenopoulou & Giustiniani, 2024).

These international experiences also serve as a reference for the institutionalization and evolution of Disaster Law as an autonomous field of knowledge and occupation. The functional analysis of the law of the United States of America, European Union and Japan highlights the necessity of the development of specific principles and explicit functions for Disaster Law: thirdly, the legal certainty that these principles and functions create strengthens the resilience, the interaction of multiple actors and the responsive governance to the constantly changing risk landscape. The comparison of these three systems also serves to illustrate how the principles of Disaster Law - once identified and bridged - can be functional: Disaster Law permeates existing norms at multiple levels of governance and transforms them into specific obligations and rights, suitable for disaster management complex and transitions. In this sense, integration allows the adaptation of these norms to the evolving realities, without compromising the coherence of the general system (Cubie, 2024). It is concluded that the analysis of the relevant experiences national and international of the models studied exposes the need that in other contexts guarantee the

articulation of principles, their integration and the institutionalization of mechanisms and procedures as a best practice to promote the independence and effectiveness of the Disaster Law .

IV. System Construction of Independent Disaster Law

5.1 A Strategic Roadmap for an Integrated Legal System

A strategic roadmap for creating a self-sufficient Disaster Law discipline is essential in affording the ability to manage and cope with the multidimensional complexity of risk and the layered governance challenges that have been highlighted at the global and national levels. This discipline must address not only immediate response mechanisms but also long-term resilience building, incorporating insights from past disasters and anticipating future threats. Rather than simply creating a set of laws or statutes, the proposed framework must incorporate relevant elements of substantive law, procedural law, institutional roles and responsibilities, and supporting infrastructure within a comprehensively integrated legal system. For instance, substantive law should define rights and duties related to risk reduction, while procedural law must ensure efficient enforcement and dispute resolution. Institutional roles need to be clearly delineated to avoid overlaps and gaps in governance, and infrastructure such as technology and communication networks should bolster legal operations. This must have the capacity to enable learning, adaptation and change in response to the full cycle of disaster risk reduction, management and recovery, including phases like prevention, preparedness, response, and rehabilitation. In creating such an integrated legal system, consideration must be given to core legal fundamentals, both centralised and decentralised legislative manifestation, significant procedural pathways, and supportive elements, such as risk financing and data governance systems. Additionally, it should embrace principles of equity and inclusivity to ensure that vulnerable populations are protected, and foster international cooperation to align with global standards. The roadmap must also outline practical steps for implementation, monitoring, and evaluation, ensuring that the legal framework remains dynamic and responsive to evolving societal and environmental needs. All these elements must coalesce to achieve a desired level of legal coherence and resilience. For this to occur, it must be accepted that law is not merely a means of serving the power of command and control. Rather, it is a dynamic toolbox, with the potential and capacity to reshape the fundamental drivers of vulnerability to harm, promote inclusive and participatory governance, and drive revolutionary

change in patterns of risk throughout society (Matyas, 2020). The holistic approach reflected in the above model demonstrates what is needed to allow Disaster Law to flourish as a self-standing entity for both current and future risk governance.

5.2 Four Pillars of the Independent Disaster Law System

The foundational building blocks of the independent Disaster Law system consist of four core components designed to ensure both systemic integration and an adaptive governance approach. At its base, the Basic Disaster Law and its corresponding legislative framework establish a systemic foundation. This framework harmonizes central and local laws, legislative acts, and executive functions, thereby enabling seamless inter-governmental coordination. Complementing this are the remaining three components: a dedicated regulatory mechanism for enforcement and compliance, a comprehensive operational protocol for disaster response and recovery, and a dynamic evaluation and learning system for continuous improvement. Together, these elements form a cohesive and resilient structure that supports proactive risk management and effective multi-level governance in the face of disasters. The core needs include substantive elements of risk reduction, disaster response, recovery, compensation, insurance and international disaster mechanisms, substantively identified in the comparative legal studies as a contract risk transfer and insurance mechanisms to provide redistributed financial and operational risks to multiple actors to strengthen resilience (Bunni & Bunni, 2021). The procedural and institutional elements identify the administrative steps in warning systems, disaster decision procedures, enactment, enforcement and implementation, legal monitoring and supervision, and disaster management organizational structure and systems in which to minimize administrative hold-ups and lock-ins at every phase of the disaster management cycle, demands identified in the analysis of individual sector laws (Burr, 2024). The supportive systems component encompasses critical areas such as disaster funding, insurance and social security, volunteer protections, and the governance of disaster data, information, and technology. This component seeks to establish and oversee supportive structures that are fundamental to underpinning the efficacy and reliability of the standalone Disaster Law system. By integrating mechanisms for financial resilience, social safety nets, safeguards for volunteer engagement, and robust data and technology management, these systems collectively ensure that the legal framework operates effectively, enhancing overall

disaster response and long-term recovery efforts.

Conclusion

All discussed above let conclude that the development of the system of Disaster Law proves the necessity of its recognition as an independent branch, the original adjustment object, value-based orientation, special principles, and methodology. The proofs of its independence found its reason in the multifactorial nature of contemporary disaster risk phenomena, the inability of the existing branch of law, and the global trend toward systemic and progressive changes in the law concerning risk. The consolidation of the status of Disaster Law as an independent branch is an understandable legal system that implicates basic laws, substantive, procedural, and organizational provisions to enable effectual prevention, reaction, and restoration. Though the issue of comprehensive legislation consolidation and peripheral status in the education field are among the current challenges, development trends and the full-speed progress inspire hope for its future. Further theoretical and practical research will pay off making Disaster Law a bulwark of disaster risk management in the unpredictable and hazardous reality.

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