

INTISARI

Sumber daya laut Indonesia mencapai luas 3,11 juta km² menyebabkan potensi sektor kelautan menjadi tidak ternilai, terutama dari sektor kekayaan alam lautnya. Laut secara potensial memenuhi kepentingan transportasi laut, khususnya transportasi Kapal Tanker. Laut Indonesia termasuk laut jalur padat lalu lintas tanker sehingga berisiko terjadi pencemaran minyak karena kecelakaan kapal tanker sebagaimana tiga kasus pencemaran minyak akibat kecelakaan kapal tanker yang terjadi di Laut Cilacap yang merupakan kilang minyak terbesar di Indonesia. Penelitian ini dilakukan untuk mencari nilai keadilan ganti kerugian pencemaran minyak akibat kecelakaan kapal tanker mengingat Indonesia telah meratifikasi konvensi internasional pertanggung jawaban sipil tumpahan minyak oleh kapal tanker, CLC 1969 dan perubahannya CLC 1992 beserta Protokol tambahannya.

Penelitian ini menggunakan metode penelitian hukum normatif empiris (*applied law research*). Data yang digunakan berupa data sekunder, bahan hukum primer berkaitan dengan nilai keadilan ekososial dan prinsip-prinsip ganti kerugian pencemaran minyak kapal tanker serta peraturan-peraturan baik nasional maupun internasional, bahan hukum sekunder berupa publikasi karya ilmiah dan bahan hukum tersier berupa kamus. Bahan hukum sekunder diperoleh melalui studi kepustakaan sedangkan bahan hukum primer diperoleh melalui riset lapangan. Selanjutnya data yang diperoleh dianalisis dengan cara berpikir deduktif menggunakan metode kualitatif eksplanatif untuk mencari kebenaran berdasarkan nilai atau kualitas data.

Prinsip-prinsip hukum internasional (*polluter pays principle*, *precautionary principle* dan *strict liability*) untuk ganti kerugian pencemaran minyak akibat kapal tanker telah diterapkan kedalam sistem hukum nasional, namun dalam praktek belum diterapkan secara ideal. Penyelesaian tuntutan ganti kerugian belum dapat diselesaikan dengan baik, institusi terkait belum melaksanakan prinsip-prinsip dengan sesuai, masih terjadi tumpang tindih kewenangan dan konflik kewenangan antar institusi pada periodisasi sebelum tahun 2015 sebelum terbentuknya Kemenko Kemaritiman. Setelah periodisasi 2015 dengan terbentuknya Kemenko Kemaritiman sebagai Koordinator diharapkan dapat menyelesaikan kerugian pencemaran minyak akibat kecelakaan kapal tanker dengan menggunakan metode penghitungan kerugian sumber daya alam yang tepat (*Contigent Analysis Method*), dengan memperhitungkan keinginan untuk membayar (*willingness to pay*) dan kesediaan untuk menerima (*willingness to accept*) antara Asuransi P&I dan korban.

Kata kunci : *polluter pays principle*, *precautionary principle*, *strict liability*, ganti rugi, metode penghitungan sumber daya alam, asuransi P&I.

ABSTRACT

Indonesia's marine resources reaching an area of 3,11 million km², it makes the potential of the marine sector invaluable, particularly from its marine natural resource sector. The sea potentially fulfills the interests of sea transportation; for example, the transportation of tankers. The Indonesian sea is included in the seas with the dense traffic of tankers causing the risk of oil pollution due to tanker accidents. For example, the three cases of oil contamination caused by tanker accident occurred in the Cilacap Sea which is the largest oil refinery in Indonesia. The aim of this study was to find the value of justice for oil pollution losses due to tanker accidents considering that Indonesia has ratified the international convention of the civil liability of oil spill by tanker, CLC 1969 and its amendment of CLC 1992, along with its supplementary protocol.

This research used the legal research method of empirical-normative (*applied law research*). The data used were in the form of secondary data, primary legal materials related to the value of ecosocial justice, the principles of tanker oil pollution compensation, national and international regulations, secondary legal materials in the form of publications of scientific papers, and tertiary legal materials in the form of dictionaries. The secondary legal materials were obtained through library study, and the primary legal materials were obtained through field research. Furthermore, the data obtained were analyzed using deductive thinking with qualitative-explanative method to find truth based on the value or quality of the data.

The international law principles (*polluter pays principle*, *precautionary principle* and *strict liability*) for oil tanker losses caused by tankers have been applied to the national legal system. However, in practice, they have not been applied ideally. The settlements of the compensation claims had not been resolved properly, and the relevant institutions had not implemented the principles accordingly. There were still overlapping authorities and the conflicts of authorities among the institutes in the period before 2015 prior to the establishment of the Coordinating Ministry of Marine Affairs. After the periodization of 2015 with the formation of the Coordinating Ministry of Marine Affairs, it is expected to resolve the loss of oil pollution as a result of tanker accidents using the right method of calculating the loss of natural resources (Contingent Analysis Method), taking into account the willingness to pay and the willingness to accept between the P & I insurance and victims.

Keywords : *polluter pays principle*, *precautionary principle*, *strict liability*, compensation, the method of calculating natural resources, P & I insurance.