VALUE OF JUSTICE REPLACEMENT OF OIL POLLUTION DAMAGED BY TANKER ACCIDENT IN INDONESIA'S LAW SYSTEM

Elly Kristiani Purwendah
Aniek Periani

ABSTRACT

The fair value of compensation for oil pollution due to tanker accidents can be realized using the economic approach. Analysis of economic theory in law needs to be used, so that the value of justice can be measured properly. Economic concepts such as the concept of maximization (maximalisation theory), the concept of equilibrium (equalibirium theory) and the concept of efficiency (efficiency theory) are needed to be a measure of the value of justice. The calculation method needed to calculate the compensation that can be demanded is the contigent analysis method, which is a calculation method based on giving monetary values to environmental goods or commodities, the desire to pay polluters for goods and services produced by natural and environmental resources (willingness to pay), and acceptance to accept a decrease in something (willingness to accept).

Keywords: justice, oil pollution, compensation, Indonesian law

INTRODUCTION

The environment is a gift from God Almighty that must be protected and preserved so that it can still be a source of life support for humans and other living things for the continuity and improvement of quality of life. The development of the international community shows that the environment can no longer be ignored in human life. Sufficient attention and serious handling must be done immediately. Given that environmental damage means a threat to human survival in this world (Ariadno; 2007; 55).

The territory of a country other than air and land is also the ocean. The sea is a part of the environment that has enormous benefits for human life. Because, the sea has many functions and contains various kinds of natural wealth that are useful to meet the needs of human life. In addition, the Sea also has a very important role in human life. In history, the sea has proven to have various functions, including: food sources, trade highways, means of transportation, recreation / tourism, and separating or unifying the nation. Then, along with the advancement of science and technology, the function of the sea has increased again with the discovery of various kinds of mining materials and valuable excavations on the seabed (Sodik; 2011; 1).

At present, damage to the marine environment is one of the problems that has received great attention from the international community. This is because the sea, which is an important resource center for human life, is already in a very worrying condition. The country of Indonesia is one of the countries that benefited from the enactment and enactment of UNCLOS 1982, because Indonesia has a vast sea area and unique geographical location. Besides the location of the Indonesian archipelago on the equator, this geographical position is in fact an archipelagic state that is in a cross position of the world, namely between two continents namely the Asian and Australian Continents and between two oceans namely the Indian Ocean and The Pacific Ocean. The total area of Indonesia's sea can be broken down into 0.3 million km2 of territorial sea, 2.8 million km2 of the waters of the archipelago (archipelagic waters), and 2.7 million km2 of the Indonesian Exclusive Economic Zone. In this sea area there is an Indonesian marine environment (Suhaidi; 2006; 3).

Indonesia as an archipelagic country must be able to protect the sea and its wealth. So that what has happened so far in the form of illegal fishing, illegal trade, and pollution or destruction of the marine environment can be prevented. Because if that keeps happening, then Indonesia's marine wealth will be drained and Indonesia will become a poor country. Therefore, Indonesia must rise to develop the maritime field including building infrastructure, equipment, and making national regulations in the field of maritime affairs accompanied by law enforcement (Indonesian Maritime Council; 2008; 1).

As the principles of environmental law regarding the principle of direct and immediate accountability and the principle of polluting pay, it is necessary to understand environmental valuation. Ecosystems provide resources and services with broad and complex values for the community. These diverse environmental values include direct use values related to natural resources that can be managed and utilized and indirect use values related to biodiversity and ecosystem services that are important to humans. Nature also produces a variety of intrinsic values and cultural, religious and historical values which are non-use values (Phelps, 2014).

In the system of liability for oil pollution by tankers as a risk consequence, it is implemented with a regulatory or statutory approach without the aid of market mechanisms (command and control). The responsibility for the risk of oil pollution by tankers is manifested in the form of an insurance obligation. The regulatory or statutory approach is used in liability for risk responsibilities. This is in line with the compensation limit stipulated in Article 6, 1992 CLC Protocol ratified in Indonesia through Presidential Decree of the Republic of Indonesia Number 52 of 1999. This convention is based on the principle of absolute responsibility for ship owners and creates a mandatory insurance system. The ship owner has the right to limit the amount of compensation related to the tonnage of the ship. Fund 1992 provided additional compensation to victims when compensation provided by the 1992 CLC was inadequate. The 1992 CLC applies to pollution damage including territorial sea

and exclusive economic zones (EEZ) or convention member countries (http://www.imo.org/imo/convent/summary.htm, IMOs Web Site Summary of Status of Convention).

In addition to the CLC as a civil liability convention for oil spills from tankers formed by countries, there are conventions made by companies owning tankers. This is like the economic incentive approach based on market mechanism (market based incentive). Insurance formed as the implementation of CLC is known as voluntary industry schemes called TOVALOP (the Tanker Owner's Voluntary Agreement Concerning Liability for Oil Pollution) and CRISTAL (Contract Regarding an Interim Supplement to Tanker Liability for Oil Pollution) which provides compensation for damages due to oil pollution . These two schemes were formed in conjunction with international conventions, the purpose of these two industrial schemes was to settle compensation compensation comparable to that given by the CLC and the Fund Convention for countries that have not ratified the two conventions (International Oil Polution Compensation Funds). TOVALOP and CRISTAL are intended for internal settlement and will remain in effect until the international conventions take effect globally. The nature of TOVALOP as a private oil pollution guarantee institution and provides compensation on the basis of the coverage agreement and the premium it receives (The International Tanker Owners Pollution Federation Ltd).

History of International Ocean Law

The discussion of the history of international marine law will certainly be related to the functions of the sea that have been felt by humans. The functions of the sea give impetus to the rule and use of the sea by every country or kingdom based on a legal conception. The birth of the concept of international marine law cannot be separated from the history of the growth of international sea law which recognizes the struggle between two conceptions, namely:

a. Res Communis, which states that the sea belongs to the world community, and therefore cannot be taken or owned by each country;
b. Res Nulius, who stated that no sea possessed and therefore could be taken and owned by each country.

The growth and development of these two doctrines began with a long history of the domination of the sea by the Roman Empire. The Roman Empire ruled the edge of the Middle Sea and therefore took control of the entire Central Sea. Thus, the Middle Sea is free from the interference of pirates, so that everyone can use the Middle Sea safely and prosperously. The Roman legal thinking of the sea was based on the doctrine of res communis, which saw the use of the sea as free or open to everyone (Kusumaatmadja, 1986: 3).

Around the 14th to 17th century there was a race of western nations to sail the seas in order to look for new continents and with the main goal of finding a country or nation which was the origin of the spice producers. Therefore, territorial claims arose from the explorers' nations towards the ocean. One example such as the Romans who have shown many signs in carrying out their power that the sea can be owned through the rights of coastal residents to catch fish in the sea area that they admit. In the same period of time as the beginning of the exploration of the hemisphere certainly added to the hectic voyages across continents and oceans, the legal status of the oceans began to be questioned. Spain, Portugal, Italy and the United Kingdom argue that the ocean can be owned. In the midst of countries that are competing to claim sovereignty over the sea, the Netherlands as a small country that also travels the ocean feels no longer free to sail in the North Sea and the Atlantic Sea. Therefore, the Dutch oppose claims from these countries by saying that the oceans must not be owned by anyone and must be open to all nations.

The most important source of marine law to date is international custom. This international habit was born as a result of actions carried out continuously until it was considered a general habit that was accepted as a law on the basis of the similarity of needs at sea. As a source of international law, international customs are very closely related to international agreements. The legal source of the law of the sea was the result of the United Nations Conference on marine law in 1958 in Geneva. This conference managed to agree on four conventions, namely (Parthiana, 2014: 17):

1) Convention on Ocean Territories and Additional Zones, entered into force on 10 September 1964;
3) Convention on the High Seas (Convention on High Seas, came into force on September 30, 1962;
4) Convention on fisheries and Protection of Natural Marine Resources, entered into force on March 20, 1966;
5) Convention on the Continental Shelf, came into force on June 10, 1964.

The United Nations Conference held in New York and Geneva also gave birth to an agreement on the United Nations Convention on the Law of the Sea (UNCLOS) in 1982 which can also be said to be a source of international marine law. This Convention regulates the whole and integrated provisions of the ocean as a whole.

Fair Value of Damages for Oil Pollution Due to Tanker Accident

Article 33 of the 1945 Constitution is based on a people's economy. Therefore it is necessary to understand the spirit of state domination in Article 33 of the 1945 Constitution relating to the authority of Pertamina as an oil business actor. This is very important to be understood by the relevant stakeholders, so that the settlement of compensation for oil pollution due to tanker accidents can have the expected fair value. Law number 22 of 2001 has reduced the functions of corporate bodies which were previously very broad (performing both regulating and commercial functions), to be parallel (only commercial functions) with other oil and gas companies (Krisnadevi, 2016).

This role shows that oil companies owned by the state function as implementing operators, so as an operator, Pertamina must monitor the regulators and market regulators in this country so that the ideal ideals of democratic economic justice as the basis of Article 33 of the 1945 Constitution are fulfilled ideally. The separation of regulatory and commercial functions between the state and State-Owned Enterprises in Indonesia follows a power separation model system. In this model between policies, regulators

and business operators run by three different institutions, the ministry as regulator, government agencies will regulate the market and the state oil company (National Oil Company) will conduct daily business operations (The Scheme Applies when the policymaker, regulators and business operators are run by three different institutions; namely, the Ministry will act as the policymaker, the Government Agencies will regulate the market and the NOC will conduct the day to day business operations. , Brazil, Mexico, Nigeria and Norway Indonesia also used this model when BP Mikas was established as a Regulator, based on Law 22/2001).

The role of the legal structure is very important to maintain this position from the traps of injustice in the event of tanker oil pollution. From the results of the analysis that has been presented, empirically there is still an injustice in the settlement of compensation claims due to incorrect understanding of the state oil company as a business actor. The right to control the state, Article 33 of the 1945 Constitution needs to be well understood, the right to control is not interpreted as "the state has", but in the sense that the state only formulates policies (regulations), makes arrangements (regelendaad), management (bestuursdaad), management (beheersdaad) and supervision (toezichthoundendaad) (Mawuntu, 2012).

The responsibility of the state directly becomes very important in the application of an ideal value that is expected to be achieved in the completion of oil pollution due to fair value-based tanker accidents. The Dictionary of Law says that state responsibility is "a bond of a state to make reparation arising from a failure to comply with a legal obligation under international law." Which means that state responsibility is an obligation to make improvements arising from an error countries to comply with legal obligations under international law (Martin, 2002). Istanto argues that Liability means the obligation to provide an answer which is a calculation of all things that occur and the obligation to provide recovery for losses that may be caused (Istanto; 1994). Every individual, group or country that carries out an action that is detrimental to others can be prosecuted and bears responsibility.

From this understanding, state responsibility is a mistake that arises from non-compliance with international obligations, so in the case of oil pollution due to tankers, the state must be responsible for recovering the losses incurred. State responsibility is needed to realize a fair value from the problem of oil pollution due to tanker accidents. To fulfill the value of justice as a form of state responsibility for the calculation and recovery of losses, an approach using an economic legal system is needed. Support for economic interests is needed through the application of the rule of law as a strategy for developing economic law in Indonesia. It is also necessary to pay attention to the concept of sustainable economic law development (sustainable economic law development), which carry out development no longer merely by 'unloading' the articles in a law. just legislate or make laws, but pay attention to other aspects, namely economic aspects. The value of justice like this is expected to realize a people's economic legal system or family.

The expected fairness value in fairness compensation for oil pollution due to tanker accidents in the event of Exxon Valdes is very fair. This is because ecological and social justice have become the basis for resolving cases. Economic calculation has become the basic approach to the problem at hand. This benchmark is expected to be an ideal measure of the value of justice in Indonesia. America has adopted the understanding, everyone has equality to do business, but with strict risk restrictions. Strict risk is evidenced by the liability of business actors for civil liability for losses incurred. The value of fairness in the exxon valdez benchmark relates to the application of economic analysis theory in law.

This is consistent with the thought of Richard A Posner (1994) emphasizing the principle of Efficiency of wealth maximization. Posner defines efficiency as the condition by which resources are allocated so that its value is maximized. In economic analysis, efficiency in this case is focused on ethical criteria in the context of making social decisions (social decision making) concerning the regulation of public welfare. Efficiency in Posner's glasses is related to increasing one's wealth without causing harm to others. In this regard, economic analysis in law like this is known as the idea of wealth maximization or in the term Posner "Kaldor-Hics" in which changes in the rule of law can improve efficiency if the profits of the winning party outweigh the losses of the losing party and the winning party can provide compensation losses for the losing party so that the losing party is still getting better. In this context, Posner (1994) views one aspect of justice that includes not just distributive and corrective justice. Posner stressed "pareto improvement" where the objectives of legal regulation can provide valuable input for justice and social welfare.

So that the value of fairness in compensating oil pollution losses due to tanker accidents can be fulfilled, it is necessary to approach economic principles in the rule of law. Economic analysis of law is a branch of the realm of legal philosophy, hence the expected goals can be fulfilled are abstract values. The expected goal is that the law is expected to achieve the ideals (ideè des recht) in the form, certainty, usefulness and justice. This goal can be achieved through other non-legal approaches. According to Postner, the role of law must be seen in terms of value, utility and efficiency (Postner, 1992). Economic theories that can be used to analyze the fair value of compensation for oil pollution due to tanker accidents in this case are, the theory of maximization (maximalisation theory), the theory of balance (equalization theory) and the theory of efficiency (efficiency theory) (Hanafi, 2001).

The maximization theory is a theory that is guided by the maximum results that someone might get in any field and for any purpose. Legal institutions really need this theory in order to play a role in development. Maximization in national legal institutions related to preventing losses due to oil pollution from tanker accidents has been carried out. This is proven by the ratification of the 1969 CLC and other regulations needed to support the 1969 CLC. The legal structure as a supporter of legal instruments has been provided through interested institutions such as KLHK, Kemenhub and KKP. The problem is whether with three ministries (now four with the Coordinating Ministry for Maritime Affairs) who have the interest in arranging compensation for oil pollution losses due to tanker accidents, the maximum is? or instead becomes a burden on the government in budgeting and is ineffective? This of course needs to be analyzed separately through the concept of maximization as one measure of the

value of justice. From the analysis that has been done, it turns out that the maximization of principles and institutions has not been fulfilled. This situation certainly requires corrective measures so that the expected value of justice can be fulfilled.

The next measuring instrument in the form of a balance theory is needed to limit the maximization theory. The balance theory is needed because it gives a limitation to the maximization theory, because if the balance theory is not used there will be anarchy in various fields. This theory is needed to maintain an orderly and moral human life (Himawan, 1991). This approach is needed to anticipate overlapping authority and sectoral egos of legal institutions related to compensation for oil tanker accident accidents. From the results of the analysis of the concept of balance has not been fulfilled with the limitations of authority and sectoral ego of the institution, the consequence is to weaken the implementation of supporting principles in practice (the precautionary principle, the principle of polluter pays and absolute responsibility).

The last element, as the third element, is the theory of efficiency as a theory that emphasizes the utility of a thing. This efficiency refers to the relationship between the overall benefits of a situation and the overall expenditure from the situation. In measuring the fair value of compensation for oil tanker accident accident compensation, this approach needs to measure the benefits of the oil pollution prevention and prevention team due to tanker accidents, the task mechanism and its implementation with the compensation obtained. Calculating the efficiency of the state budget and revenues needs as well as losses (human casualties or the environment) need to be calculated for large benefits. According to the authors, this element is very important to remember given the periodization before 2015. The team for preventing and overcoming the pollution of oil spills has not yet reached the stage of an assessment of the losses actually suffered. The sectoral ego of each institution has not answered the expected efficiency. So it needs to be revised in the periodization period after 2015 through the role of the Ministry of Maritime Affairs by adding / forming a loss adjuster in the team.

Indonesia's economic law development strategy needs to pay attention to the concept of sustainable economic law development (sustainable economic law development), which carry out development is no longer just a 'dismantling pairs' of articles in a law or making a new law, but pay attention to aspects another. The aspects referred to here cover a wide range of dimensions, which can basically be abstracted into three elements as follows: (1) structur, (2) substance, and (3) legal culture. There are 3 (three) factors that cause the absence of legal certainty in Indonesia, namely first, the hierarchy of laws and regulations does not function and the overlapping of regulated material, secondly, the apparatus is weak in carrying out the rules, and third, the resolution of disputes in the field economics cannot be predicted, therefore civil liability theory and risk transfer theory are needed.

As an answer that is trying to be given in addition to the need to realize an abstract measure of the value of justice, it takes the concept of civil liability of business actors through liability based liability insurance. Conceptually, legal liability (liability) is understood as, a person can be subject to sanctions for his actions that are contrary or against the law. This responsibility includes the obligation to bear everything that happens (related to risks that may arise), prosecuted, blamed and sued. The risk of tanker oil pollution is a speculative risk based on its alternative range. Speculative risk contains two elements of hope, namely win / profit or lose / lose.

In tanker transportation there are two risks, there is the possibility of profit (not paying losses) and the possibility of loss (there is pollution and must pay). Based on this risk, Insurance Protection and Indeminity (P&I) is formed by deviating from insurance provisions in general. P&I insurance is given to members or members of the P&I Club. Member membership system with fees (not premium) is the goal of membership of the P&I Club as an association that is mutually beneficial (mutual). This is different from Indonesia, which only follows CLC 69 along with the 1992 Protocol amendments, while the 1971 Supplementery Fund, which was originally followed through Presidential Decree No. 19 of 1971 was revoked through Presidential Decree No. 41 of 1998 on the grounds that it was inefficient and not economical.

The expected value of justice related to insurance as the main interest in an uncertain situation of oil pollution is important to be a priority of the country. The presence of the state is needed in ensuring the implementation of the international insurance system to ensure certainty, fairness and benefits of oil pollution due to tanker accidents. Not long ago the government tried to find a solution through the Financial Services Authority (OJK) which pushed insurance obligations for ships (in general) to the Directorate General of Sea Transportation in accordance with the Minister of Transportation Regulation No. 71 of 2013 concerning Salvage and / or Underwater Works. So far, Indonesian ships have bought P&I insurance policies in Singapore or London, now they are obliged to buy at insurance companies in Indonesia. in addition it is also necessary to consolidate the product format and or uniformity of the P&I insurance policy.

The marketing of this product will be directed through the implementation of a consortium consisting of a number of insurance companies, so that it is more effective in monitoring and facilitating consumers when claims occur. It is planned that the financial industry regulator will collaborate with the Ministry of Transportation. OJK will invite the Indonesian General Insurance Association to coordinate, including with Indonesian club players and P&I to facilitate the implementation of P&I policy obligations in Indonesia. P&I generally guarantees losses that were not recognized before. This is different from insurance for ship frames and cargo that guarantees risks to the object of coverage that may occur. P&I Insurance guarantees third-party liability that is not guaranteed in shipbuilding insurance. Risks to these third parties include the responsibility of the carrier for the cargo owner if it is damaged, the responsibility of the ship owner for collisions between ships, environmental pollution to shipwrecks.

The government's intention to provide a solution for the expensive Indonesian-flagged tanker insurance, in practice is difficult to materialize, this is because the insurance system used is not based on membership as the P&I Club so that it has problems in the capital system. This situation will certainly have an impact on compensation that is expected to be met by the insurance

company. It is time for Indonesia to be consistent with the obligations of P&I insurance which is mandated by CLC 69, even though with high cost consequences. It is time for Indonesian tanker entrepreneurs to join the P&I Club membership to ensure social and corrective ecological justice as expected.

CONCLUSION

The fair value of compensation for oil pollution due to tanker accidents can be realized using the economic approach. Analysis of economic theory in law needs to be used, so that the value of justice can be measured properly. Economic concepts such as the concept of maximization (maximalisation theory), the concept of balance (equalibirium theory) and the concept of efficiency (efficiency theory) are needed to be a measure of the value of justice. The calculation method needed to calculate the compensation that can be demanded is the contigent analysis method, which is a calculation method based on giving monetary values to environmental goods or commodities, the desire to pay polluters for goods and services produced by natural and environmental resources (willingness to pay) , and acceptance to accept a decrease in something (willingness to accept). Furthermore, through principles that have been adjusted by the national legal system, compensation can be prosecuted based on civil liability and liability insurance.

REFERENCES

Ch. Himawan, 1991, *Pendekatan Ekonomi terhadap Hukum sebagai Sarana Pengembalian Wibawa Hukum*, Hukum dan Pembangunan, No. 5 Tahun XXI, Oktober 1991.

Charter of the United Nations. 1945. Done at San Francisco on 26 June 1945. Entered into force on 24 October 1945, in accordance with article 110.

Clark R.B., Marine Pollution. Third Edition. Clarendon Press, Oxford. 1992,

Convention on the International Maritime Organization. 1948. Done at Geneva on 6 March 1948. Entered into force on 17 March 1958, in accordance with article 60.

Convention on the Territorial Sea and the Contiguous Zone. 1958. Done at Geneva on 29 April 1958. Entered into force on 10 September 1964, in accordance with article 29. Registered on 22 November 1964, No. 7477

Deklarasi Rio. 1992. Tentang Lingkungan dan Pembangunan. Rio de Janeiro pada tanggal 3 – 14 Juni 1992.

Deklarasi Stockholm. 1972. Tentang Lingkungan Manusia. Stockholm, Swedia pada tanggal 5 – 16 Juni1972.

Dewan Kelautan Indonesia.Evaluasi Kebijakan Dalam Rangka Implementasi UNCLOS 1982 di Indonesia.Departemen Kelautan dan Perikanan Republik Indonesia. 2008.

Elizabeth A. Martin , 2002, *A Dictionary of Law*, Oxford University Press, New York

F. Soegeng Istanto, *Hukum International*, UAJY Yogyakarta, Yogyakarta, 1994.

Hanafi, 2001, *Analisis Ekonomi Terhadap Hukum Sebagai Upaya Peningkatan Peran Hukum dalam Pembangunan*, Jurnal Hukum, No. 18 Vol.8, Oktober 2001.

International Oil Polution Compensation Funds, 92 Fund/A.ES.10/13, 1 February 2006, Assembly 10th extraordinary session agenda item 13. *Under the revised STOPIA, the limited amount applicable to small tankers would, on a voluntary basis, be increased to 20 million SDR for tankers of 29.548 gt or less for pollution damage in all 1992 Fund Member State. TOPIA 2006 would result in the shipowner indemnifying, on a voluntary basis, the Supplementary Fund for 50% of the compensation amounts paid by it under the Supplementary Fund Protocol.*

Isfarin, Nadia Nurani. (2012). "Perlindungan Lingkungan Laut Selat Malaka Dari Pencemaran Minyak Lintas Batas". Jurnal Ilmu Hukum, Vol. 15 No. 2. Jakarta: Sinar Graffika.

J. Ronald Mawuntu, 2012, *Konsep Penguasaan Negara Berdasarkan Palas 33 UUD 1945 dan Putusan Mahkamah Konstitusi*, Vol. XX.3/April-Juni/2012.

Jacob Phelps, Bernadeta Hariyanti, Anna Christina Sinaga, dan Ahmad Dermawan, 2014, *Valuasi Lingkungan di Indonesia, Implikasi pada Kebijakan di Kehutanan*, Pertanggungjawaban Hukum dan Estimasi Kerugian Negara, Brief CIFOR, NO. 32, Oktober 2014. diakses dari cifor.org http://www.imo.org/imo/convent/summary.htm, *IMOs Web Site Summary of Status of Convention*

Kamil Ariadno, Melda, Hukum Internasional Hukum yang Hidup, Diadit Media, Jakarta. 2007.

Kusumaatmadja, Mochtar. 1986. Hukum Laut Internasional. Bandung: Binacipta. Kusumaatmaja, Mochtar.1992. Perlindungan dan Pelestarian Lingkungan Laut.

Laist D.W., Impacts of Marine Debris: Entanglement of Marine Life in Marine Debris Including a Comprehensive List of Species with Entanglement and Ingestion Records.. J.M. Coe and D.B. Rogers (Eds.), In: Marine Debris. Sources, Impacts, Solutions, Springer-Verlag New York, Inc.,1997.

Mailinda Eka Yuniza, Andhika Widyaparaga, Rifky Wicaksono dan Putu Shanti Krisnadevi, 2016, *Natural Gas Aggregation and the Opportunity for Synchronization under Indonesian Law*, Journal of World Energy Law and Business, 2016, 9, 388-409, Oxford University Press.

Mangku, D. G. S. (2010). Pelanggaran terhadap Hak Kekebalan Diplomatik (Studi Kasus Penyadapan Kedutaan Besar Republik Indonesia (KBRI) di Yangon Myanmar berdasarkan Konvensi Wina 1961). *Perspektif*, *15*(3).

Mangku, D. G. S. (2011). Peluang dan tantangan ASEAN dalam penyelesaian sengketa Kuil Preah Vihear di perbatasan Kamboja dan Thailand. *Pandecta: Research Law Journal*, *6*(2).

Mangku, D. G. S. (2012). Suatu Kajian Umum tentang Penyelesaian Sengketa Internasional Termasuk di Dalam Tubuh ASEAN. *Perspektif*, *17*(3).

Mangku, D. G. S. (2013). Kasus Pelanggaran Ham Etnis Rohingya: Dalam Perspektif ASEAN. *Media Komunikasi FIS*, *12*(2).

Mangku, D. G. S., & Itasari, E. R. (2015). Travel Warning in International Law Perspective. *International Journal of Business, Economics and Law*, *6*(4).

Nicholas Mercuro dan Steven G Medumo, 1999, *Economic and The Law: From Posner to Post- modernism*, New Jersey: Princenton University Press.

Parthiana, I Wayan. 2002. Hukum Perjanjian Internasional Bagian 1. Bandung: CV. Mandar Maju.

Parthiana, I Wayan. 2014. Hukum Laut Internasional dan Hukum Laut Indonesia. Bandung: Yrama Widya.

Periani, A., & Mangku, D. G. S. Implementation Of Asean Convention On Counter Terrorism In Eradication Of Terrorism That Happens In The South Asia Area.

Purwanto, H., & Mangku, D. G. (2016). Legal Instrument of the Republic of Indonesia on Border Management Using the Perspective of Archipelagic State. *International Journal of Business, Economics and Law*, *11*(4).

Purwendah, E., Mangku, D., & Periani, A. (2019, May). Dispute Settlements of Oil Spills in the Sea Towards Sea Environment Pollution. In *First International Conference on Progressive Civil Society (ICONPROCS 2019)*. Atlantis Press.

Richard A. Posner, 1994, *Economic Analysis of Law*, Ed. 4, USA: Harvard University Press.

Richard A. Postner, 1992, *Economic Analysis of Law*, Fourth Edition, Little Brown and Company, Boston Toronto, London.

Sodik, Dikdik Mohammad, Hukum Laut Internasional dan Pengaturannya di Indonesia. Refika Aditama, Bandung.

Suhaidi, Perlindungan Lingkungan Laut: Upaya Pencegahan Pencemaran Lingkungan Laut Dengan Adanya Hak Pelayaran Internasional Di Perairan Indonesia. Pidato pengukuhan Jabatan Guru Besar Tetap dalam Bidang Ilmu Hukum Internasional pada Fakultas Hukum Universitas Sumatera Utara. 2006

Syofyan, Ahmad. "Tanggung Jawab dalam Pencemaran Laut yang disebabkan minyak menurut Hukum Internasional". Fiat Justitia, Jurnal Ilmu hukum Vol. 6 Nomor 1 Januari-April.

Syofyan, Ahmad. (2010). "Tanggung Jawab Dalam Pencemaran Laut yang Disebabkan Oleh Minyak Menurut Hukum Internasional". Inspirasi, No. X Edisi Juli 2010.

The International Tanker Owners Pollution Federation Ltd., 1973, *TOVALOP*.

The Scheme Applies when the policymaker, regulator and business operator are run by three different institutions; namely the Ministry will act as the policymaker, the GovernmentAgency will regulate the market and the NOC will conductthe day to day business operations. Three are numerous other countries that use this model, such as Algeria, Brazil, Mexico, Nigeria and Norway. Indonesia also used this model when BP Mikas was established as a Regulator, based on Law 22/2001.

UNEP, Action Plan for the Protection, Management, and Development of the Marine and Coastal Environment of the Northwest Pacific Region, 2004.

United Nations Convention on the Law of the Sea. 1982. Done at Montego Bay on 10 December 1982. Entered into force on 16 November 1994, in accordance with article 208 (1).

United Nations General Assembly Resolution A/65/37A on Oceans and Law of the Sea, 2010.

Elly Kristiani Purwendah
Faculty of Law
Universitas Wijaya Kusuma Purwokerto

Aniek Periani
Faculty of Law
Universitas Wijaya Kusuma Purwokerto