

Ganti rugi cemaran laut oleh tumpahan minyak (oil-spill) menurut konvensi internasional : studi kasus kecelakaan kapal nagasaki spirit di Selat Malaka ditinjau terhadap dampak pencemaran lingkungan laut = The Compensation of sea pollution caused by oil spill according to international convention : a case study on the accident of the ship Nagasaki Spirit at Mallaca strait viewed by the impact of sea pollution environment

Sri Wahyuni, author

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Abstrak

Senyawa hidrokarbon yang bersifat toksik (beracun) di dalam tumpahan minyak merupakan ancaman yang serius bagi biota-biota yang hidup di sekitar lokasi kecelakaan kapal. Kerugian yang ditimbulkan oleh tumpahan minyak ini berakibat jangka panjang yang secara ekologis merupakan bahaya yang mengkhawatirkan.

Kecelakaan kapal tanker Nagasaki Spirit dengan Ocean Blessing mengakibatkan tumpahan minyak di laut. Oleh karena itu negara yang terkena tumpahan minyak dapat meminta ganti rugi kepada pemilik kapal atau asuransi yang menanggung kapal tersebut. Dalam hal ini dipergunakan Intemational Convention on Civil Liability for Oil Pollution Damage 1969 dan International Convention on the Establishment of an Intemational Fund for Compensation of Oil Pollution Damage 1971.

Tujuan dari studi ini adalah mekanisme ganti rugi yang dilakukan oleh Pemerintah Indonesia pada pemilik kapal tanker Nagasaki Spirit di Selat Malaka yang mengalami kecelakaan dan mencemari perairan Indonesia ditinjau dari konvensi internasional.

Berdasarkan uraian tersebut di atas, maka dalam studi ini dapat disusun hipotesis yaitu pembayaran ganti rugi atas dasar prinsip tanggung jawab mutlak (strict liability) pada kasus kecelakaan kapal tanker Nagasaki Spirit di Selat Malaka belum memadai dari segi pemulihan dampak lingkungannya.

Penelitian ini merupakan pendekatan yuridis normatif dengan metode penelitian deskriptif analitis. Data dikumpulkan berdasarkan studi kepustakaan yang dilengkapi dengan wawancara dengan pejabat-pejabat yang berwenang di lingkungan Departemen Perhubungan Direktorat Jenderal Perhubungan Laut, Badan Pengendalian Dampak Lingkungan, Kejaksaan Agung, PT. Polynesia Bhakti, Badan Pusat Statistik, Kesatuan Penjaga Pantai dan Laut, serta Lembaga Minyak dan Gas Nasional.

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The hydrocarbons is a toxicant matter in the oil spill that become a serious danger for the sea biota at the location of the ship accident. The loss that come around because of the oil spill could be for long tenn eH`ect for that ecologically it became a serious danger.

The accident of the Nagasaki Spirit tanker with the Ocean Blessing cargo tanker caused an oil spill in the sea become a lossing for the sea itself as an affected sea. Because of that, the State which affected by the oil spill could request to the owner of the ship a compensation. In this case, The Intemational Convention on Civil Liability for Oil Pollution Damage 1969 and The Intemational Convention on the Establishment of an Intemational Fund for Compensation of Oil Pollution Damage 1971 used for.

The purpose of this study is to see the mechanism of the compensation which have done by the Indonesian

Government to the owner of the Nagasaki Spirit tanker at the Malacca Strait which have accidented and polluted the Indonesian water viewed by The International Convention.

According to the purpose above, In this study can arrange the hypothesis is the compensation is based on the strict liability concept on the Nagasaki Spirit case at Malacca Strait it is not enough for the recovery of the marine environment.

This research uses a normative juridical with the analytical descriptive. The source gathered based on the library study which enriched the interview with the competent instancy such as Ministry of Communication the Directorate General of Sea Communication, the Environment Impact Management Agency, the State Attorney of Indonesia, the Polynesia Bhakti Ltd, the Agency of the State Statistical, the Guard of The Beach and the Sea and also the Agency of the National Oil and Gas.