

Kritik atas mekanisme perhitungan ganti rugi pencemaran laut di Indonesia dengan berpedoman pada international convention on civil liability for oil pollution damage = Criticism over mechanism of environmental damage valuation in Indonesia guided by international convention on civil liability for oil pollution damage

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Abstrak

ABSTRAK

Peraturan Menteri Lingkungan Hidup Republik Indonesia nomor 7 tahun 2014 tentang Kerugian Lingkungan Hidup Akibat Pencemaran dan/atau Kerusakan Lingkungan Hidup merupakan satu-satunya wadah hukum yang mengatur mengenai mekanisme perhitungan ganti rugi kerusakan dan/atau pencemaran lingkungan secara komprehensif dan menyeluruh di Indonesia. Sayangnya, peraturan menteri ini masih memiliki banyak kelemahan yang dapat menghambat proses pemulihan lingkungan hidup dan pelaksanaan sistem kompensasi bagi korban-korban. Beberapa kesalahan konsep yang terdapat dalam peraturan menteri ini adalah penuntutan secara bersamaan antara biaya pemulihan lingkungan hidup dan biaya kerusakan lingkungan hidup, metode perhitungan biaya pemulihan lingkungan hidup yang tidak berdasarkan biaya riil, dan kemungkinan terjadinya perhitungan ganda double counting . Skripsi ini akan menganalisis kesalahan-kesalahan tersebut dan memberikan solusi yang tepat melalui studi kepustakaan, perbandingan dengan The International Convention on Civil Liability for Oil Pollution Damage, wawancara, dan analisis Kasus Montara. The International Convention on Civil Liability for Oil Pollution Damage adalah konvensi internasional yang menyediakan sistem kompensasi bagi korban-korban pencemaran minyak di laut. Secara garis besar, dalam The International Convention on Civil Liability for Oil Pollution Damage, biaya pemulihan lingkungan hidup dituntut berdasarkan biaya riil dengan menyertakan rencana restorasi. Rencana restorasi akan mencegah terjadinya perhitungan ganda. Sistem perhitungan ganti rugi yang diatur dalam The International Convention on Civil Liability for Oil Pollution Damage diharapkan dapat menjadi pedoman bagi Indonesia untuk memperbaiki kelemahan-kelemahan sistem perhitungannya.

ABSTRACT

Regulation of the Minister of Environment Number 7 Year 2014 Regarding Environmental Damage as A Consequence of Pollution and or Damage to the Environment is the only comprehensive law in Indonesia that regulates the mechanism of valuation environmental damage. Unfortunately, this ministerial regulation has several weaknesses which can hamper the environmental recovery and execution of compensation system for the victims. For instances, environmental recovery and environmental damage are compensated jointly, environmental recovery valuation is not based on actual cost, and a possibility of double counting. This thesis discusses about those weaknesses and provides an appropriate solutions through literature studies, comparative approach with the International Convention on Civil Liability for Oil Pollution Damage, interviews, and an analysis of Montara Incident. The International Convention on Civil Liability for Oil Pollution Damage is an international convention that provides compensation for victims of oil spill in the ocean. Basically in the International Convention on Civil Liability for Oil Pollution Damage,

environmental recovery cost valuation is based on actual cost through a restoration plan. This restoration plan helps to prevent double counting. Hopefully Indonesia may improve and rectify all those weaknesses with the International Convention on Civil Liability for Oil Pollution Damage as its guidance.