

Legal Protection of East Coast Fishermen of North Sumatera against Water Pollution Accident of Tanker Ship in Malacca Strait

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Abstract: Marine environment is also a means of connecting, recreational media, and so forth, because it is essential to protect the marine environment. The formulation of the issues to be raised in this research is: How is the regulation and policy of North Sumatera Province, Medan City and Serdang Bedagai Regency about the compensation fund for marine environment contamination from oil spill from Tanker ship in Malacca Strait; and What are the Challenges and Obstacles of North Sumatera Provincial Government, Medan City and Serdang Bedagai Regency in providing legal protection for East Coast fishermen related to compensation for pollution of marine environment originating from oil spill from Tanker ship in Malacca Strait. The research method used is in the form of Descriptive Analytical through empirical research approach by using the interview as the research instrument. The results obtained are the Legal Protection of the Province of North Sumatra, especially Medan City, and Serdang Bedagai Regency still refers to the Indonesian National Arrangement, among others, Presidential Decree No. RI. 18 of 1978, Law No. 17 of 1985, Law No. 32 of 2014, Law No. 7 of 2016 and other relevant national legislation.

1 INTRODUCTION

Protection of the marine environment of Indonesia from the contamination sourced from the vessel in Indonesia is now essential because the marine environment of Indonesia is highly polluted, the existence of international shipping rights through Indonesian waters. (Harald, 1994) (Legal arrangements between marine regimes on pollution are unclear, and law enforcement related to coordination among agencies in handling cases of marine environment pollution. The marine environment is a source of natural wealth, is also a means of connecting, recreational media, etc., because it is essential to protect the marine environment, such as marine environmental protection from pollution sourced from the ship, this is done so that the utilization of wealth resources can be enjoyed sustainably. (Kusumaatmadja, 1992) Since November 16, 1994, the 1982 Sea Law Convention (United Nations Convention on the Law of the Sea 1982) has been effectively entered into force. The enactment of conventions affecting the total area of Indonesia increased to 8,193,163 km², consisting of 2,027,087 km² of land and 6,166,163

km² of ocean. Indonesia's marine sector can be detailed into 0.3 million km² territorial seas, 2.8 million km² of archipelago waters, and 2.7 km² of Indonesia's Exclusive Economic Zone (EEZ). (<http://www.imo.org/imo/convent/pollute>) Efforts to prevent the occurrence of pollution of the marine environment have been conducted by the international community, in this case IMO through various initiatives, including making international provisions, for example by making regulations on the prevention of marine pollution to the requirements on the prevention of contamination of the marine environment in the presence responsibility of liability compensation (Romimoharto. 1990) Based on the records of several studies on the marine environment, sea pollution cases in Indonesia due to collisions or shipments of tankers began to occur since 1967 but only received serious attention from the Indonesian government since the accident of the tanker Showa Maru in 1975 in the Strait of Malacca. In the case of the Showa Maru case, the marine environment of Indonesia experiences pollution or damage which results in losses not only within the marine

Table 1: Accident event of a Tanker ship in the Malacca Strait.

| No. | Year Incident | Ship | Estimated Oil Spill |
|-----|---------------|--|---------------------|
| 1 | 1967 | Tokyo Maru ship collided | Not known |
| 2 | 1971 | Tanker Arabian and Eugenic S. Niarcos | Not known |
| 3 | 1975 | Showu Maru | 730,000 tons |
| 4 | 1975 | Tola Sela | 60 tons |
| 5 | 1976 | Diego Silang | 5,500 tons |
| 6 | 1976 | Mysella | 2000 tons |
| 7 | 1976 | Cita Di Savonna | 1000 tons |
| 8 | 1977 | Asian | 60 tons |
| 9 | 1978 | Tanker US | 1 million gallons |
| 10 | 1979 | Tanker Liberia | 3 million gallons |
| 11 | 1980 | Five | 700 tons |
| 12 | 1981 | MT Ocean Treasure | 1050 tons |
| 13 | 1983 | Tanker Greek Tanker Monenvasia | 1.2 million gallons |
| 14 | 1986 | Bright Duke / MV | No Data |
| 15 | 1987 | MV Stolt Adv | 2000 tons |
| 16 | 1987 | Elhani Platform | 2329 tons |
| 17 | 1988 | Bahama Century Down | 3.1 million gallons |
| 18 | 1988 | Golar Lie | No Data |
| 19 | 1992 | US Hunter Ship and Trade Ship | Not known |
| 20 | 1992 | Royal Pacific Yacht Cruises and Fishing Vessels | Not known |
| 21 | 1992 | Nagasaki Spirit and Ocean Blessing | 2,000 tons |
| 22 | 1993 | Maesk Navigator and Sengko Honor Ship | 250,000 |
| 23 | 1997 | Super Tangker and Cargo Ships Fishermen | Not known |
| 24 | 1997 | Evoikos / Ordin Global | 25,000 tons |
| 25 | 1997 | An tai | 237 tons |
| 26 | 2000 | M.T. Natuna Sea | 4,000 tons |
| 27 | 2017 | Wan Hai 301 Tanger (Singapore) and APL Denver (Gibaltar) | 300 tons |
| 28 | 2017 | US Mc Cain's warship collided with Tanker Alnic's flagged MC Liberia | 0 |

environment but also impacts on the life of fishers. Furthermore, from 1967 until 2017, there have been 28 tanker crashes. In the year 2017 occurred two times collision tanker as in the following table.

2 RESEARCH METHODOLOGY

Research method used is Descriptive Analytical form through empirical research approach by using interviews as the research instrument. The interviewees were fishermen association throughout Indonesia, North Sumatera Province, North Sumatera Provincial Agency of Marine Affairs and Fisheries, the government of Kuala Lama village of Serdang Bedagai Regency, Bagan Deli village administration, and fisherman of Kuala Lama village of Serdang Bedagai Regency.

3 RESULT AND DISCUSSION

North Sumatra Province lies in the geographic coastline between 1-4 North Latitude and 98-100 East Longitude; The province is adjacent to the territory of Nanggroe Aceh Darussalam (NAD) in the north while West Sumatra Province and Riau Province border the west. The west coast of North Sumatra directly faces the Indian Ocean, while the east coast faces directly with the Malacca Strait. The east coast of North Sumatra consists of 7 districts, namely Regency of Langkat, Medan City, Tanjung Balai City, Asahan Regency, Labuhan Batu Regency, Deli Serdang Regency and Serdang Bedagai Regency. The total area of coastal sub-districts in the eastern part of North Sumatra is 43,133.44 km², consisting of 35 coastal sub-districts

with a total of 436 villages (nasional.kontan.co.id). On the east coast of North Sumatra, there are only six small islands. The eastern coast of North Sumatra is facing the Malacca Straits, so the potential for pollution of the marine environment becomes more significant than the west coast of North Sumatra. The regulation and policy of the Provincial Government of North Sumatra in respect of the pollution of the marine environment originating from the tanker on the Malacca Strait in line with the national arrangements of the State of Indonesia. Indonesia ratified the Convention on Marine Law in 1982 with Law no. 17, 1985. Furthermore, International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC 1969) through Presidential Decree Republic Indonesia 18 of 1978 and International Convention on the Establishment of International Fund for Compensation of Oil Pollution Damage, 1971 (Fund Convention 1971) with Presidential Decree No. RI. 19 of 1978. However, Presidential Decree no. 19, 1978 has been revoked through Presidential Decree No. 41 of 1998 because the membership of the Government of Indonesia in the Fund Convention 1971 has been burdened with a heavy contribution to the State budget. So that membership in CLC 1969 through Presidential Decree (Keppres) RI No. 18 of 1978 has been deemed sufficient to be able to provide a guarantee of compensation funds for pollution of the marine environment originating from oil spills from ships including the tanker. (disperindag.sumutprov.go.id). Another exciting development in marine environment protection in Indonesia is the issuance of Law NO.32 of 2014 on Regional Government. The law indicates the existence of provincial authority to manage natural resources at sea in its territory at most 12 nautical miles measured from shoreline towards the open sea or towards archipelagic waters (Article 27 of Law No. 32, 2014). Indonesia as a unitary state, facing the development of circumstances, both at home and abroad, as well as the challenges of global competition, deem it necessary to carry out regional autonomy by granting broad, real, and responsible local authority to the region proportionately by arrangement, and utilization of national resources, including authority on marine areas. To realize the goal of the welfare state of the people, including fishers, On April 14, 2016, Indonesia issued Law no. 7, 2016 on the Protection and Empowerment of Fishermen, Power Fishers, and salt farmers. This law is said to protect fishers because they are very dependent on fish resources and environmental conditions. The intended fishermen include small fishers, traditional fishermen, fishers and fishers

owners who own fishing vessels, both in one unit and in cumulative numbers over ten GT up to 60 GT used in fish catching business. The existence of provisions on protection against pollution of the marine environment will provide many benefits. However, it depends on how Indonesia, both the Central Government and the Regional Government, can implement international provisions relating to the protection of the marine environment within national provisions and how to implement interagency coordination. Likewise with law enforcement problems in maritime law regimes, in the event of pollution of the marine environment also becomes important to observe. Indonesia is only sovereignty in its territorial sea. In ZEE and the Continental Shelf, it has sovereign rights. A country does not have any sovereignty on the high seas. The Ministry of Marine Affairs and Fisheries is targeting by 2018 all provinces have Local Regulations governing Zoning Plan for Coastal Zones and Small Islands. It is time for the Regional Government to regulate the marine zone under its management so that the marine and fishery sector can be done sustainably. Management arrangement of marine area, among others, so as not to have marine pollution. In the arrangement, if done by law it will be valid for 20 years and can be reviewed within five years. It includes various aspects, such as the allocation of space in the area of overall utilization, conservation areas, specific national strategy areas and sea lanes, thereby determining the priority of the marine regions for socio-cultural, economic, marine transportation, strategic and defense and security conservation. Unfortunately, these arrangements are not well socialized, either to the North Sumatra Provincial Government, the old Village Government, the Bagan Deli Belawan Municipal Government of Medan, the Belawan Fisherman Bagan Fisherman Society and the Fishermen Society of Kuala Lama Serdang Bedagai and the Group of Fishermen Association Indonesia Province of North Sumatra. It is also one of the obstacles and challenges of the Provincial Government of North Sumatra, especially Medan City and Serdang Bedagai Regency regarding providing legal protection for the east coast fishermen related to compensation for pollution of the marine environment originating from oil spills from tankers in the Malacca Strait. Other obstacles and challenges include: the absence of accurate, up-to-date and measurable data concerning oil spill events due to the tanker's defenses in the Strait of Malacca; lack of competent Human Resources in the field of environmental pollution damages sourced from oil spills from Tanker ship in Malacca Strait; difficulty

of coordination among government institutions, coordination with community and fishermen association.

4 CONCLUSIONS

Results obtained are the Legal Protection Protection of the Province of North Sumatera, especially Medan City, and Serdang Bedagai Regency still refers to the Indonesian National Arrangement, among others, UU No. 32 Tahun 2009, Presidential Decree No. RI. 18 of 1978, Law No. 17 of 1985, Law No. 32 of 2014, Law No. 7 of 2016 and other relevant national legislation. Challenges and Obstacles experienced by the Provincial Government of North Sumatera in terms of Legal Protection of Fishermen are related to the unavailability of data and human resources that support in terms of Legal Protection of Fishermen; the absence of the North Sumatera Provincial Regulation in the Provincial Regulation of North Sumatera Provincial Government in the case of Legal Protection of Fishermen in the form of compensation for sea pollution due to tanker and difficulty of coordination among government institutions, coordination with community and fishermen association. As for suggestions that will be given is need to be held updating of data and improvement of ability of human resource expert in field of compensation of sea pollution caused by tanker; the need to issue a Regional Regulation of the Provincial Government of North Sumatera in the case of Legal Protection of Fishermen in the form of compensation for sea pollution due to tanker; and the establishment of a system for coordination among government agencies, coordination with communities and fishermen associations can take place well.

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