

**CRIMINAL RESPONSIBILITY FOR MARINE POLLUTION
MANAGEMENT IN A LEGAL PERSPECTIVE**

Makmur Farhan Fahrezi Hrp, Juli Moertiono

Email: makmurfarhan@gmail.com

Universitas Muhammadiyah Sumatera Utara

ABSTRACT

Marine pollution is one of the environmental problems that has a serious impact on marine ecosystems, human health, and the survival of other living things. In the legal context, marine pollution is not only an environmental issue, but also an unlawful act that can be subject to criminal sanctions. This study aims to analyze the form of criminal responsibility for the perpetrators of marine pollution and the effectiveness of criminal law enforcement in efforts to overcome it.

Using a normative juridical approach, this study refers to national laws and regulations such as Law Number 32 of 2009 concerning Environmental Protection and Management as well as relevant international legal instruments.

The results of the study show that criminal liability can be imposed on both individuals and corporations that are proven to have committed marine pollution, with sanctions in the form of imprisonment, fines, and/or administrative actions. However, the implementation of law enforcement still faces various obstacles, including weak supervision, lack of coordination between agencies, and low legal awareness. Therefore, it is necessary to strengthen regulations, consistent law enforcement, and synergy between stakeholders in order to create effective legal protection for the marine environment.

Keywords: criminal liability, marine pollution, environmental law, law enforcement, environmental protection

A. Introduction

The ocean is an integral part of the environment that has an important role in maintaining the balance of the global ecosystem and supporting human life. Indonesia as an archipelagic country with a very large sea area, which is about two-thirds of its total area, is highly dependent on the sea as a source of economy, transportation, tourism, and as a buffer for

biodiversity. These geographical conditions make Indonesia vulnerable to various marine pollution problems that can threaten the sustainability of the environment and the lives of coastal communities.

Marine pollution is a form of environmental degradation that arises from the entry of substances, energy, or other components into the marine environment, either directly or indirectly, which results in a decrease in seawater quality and disruption of marine organisms' life. According to Government Regulation Number 19 of 1999 concerning Pollution Control and/or Destruction of the Sea. Marine pollution is the entry or inclusion of living things, energy substances and/or other components into the marine environment by human activities so that the quality drops to a certain level which causes the marine environment to no longer conform to its quality and/or function standards¹.

The problem of marine pollution is not only an environmental issue, but also a complex legal issue. The state through its apparatus has a constitutional obligation to protect and manage the environment, as stipulated in Article 28H paragraph (1) and Article 33 paragraph (4) of the 1945 Constitution. Therefore, various regulations have been issued as preventive and repressive efforts in overcoming marine pollution. Among these regulations are Law Number 32 of 2009 concerning Environmental Protection and Management (PPLH), Law ²Number 17 of 2008 concerning Shipping³, and other derivative regulations related to the control of marine environmental pollution.

In the legal context, marine pollution control does not only rely on civil or administrative regulations, but also involves aspects of criminal liability. Criminal liability is an important legal instrument because it has a preventive and repressive nature, namely preventing certain parties from committing acts that damage the environment and enforcing sanctions for violators. In Indonesia, the regulation of criminal liability for marine pollution is contained in Law No. 32 of 2009 concerning Environmental Protection and Management, as well as other sectoral regulations such as the Marine Law and government regulations on waste and hazardous materials.

However, the implementation of criminal responsibility for marine pollution perpetrators still faces various challenges. One of them is the difficulty of proving the elements of error and

¹ Government Regulation Number 19 of 1999 concerning Pollution Control and/or Marine Destruction

² Law Number 32 of 2009 concerning Environmental Protection and Management (PPLH)

³ Law Number 17 of 2008 concerning Shipping

the causal relationship between the perpetrator's actions and the damage to the marine environment. In addition, the harmonization of laws and regulations and coordination between law enforcement agencies is often an obstacle in enforcing the law effectively.

Therefore, the study of criminal responsibility in combating marine pollution is very important, not only to strengthen environmental protection, but also to ensure justice for the community and the sustainability of marine resources. The perspective of criminal law provides a framework for strict law enforcement against polluters, while affirming the principle that the environment is a shared right and responsibility.

B. Research Methods

A study cannot be called research if it does not have a research method.⁴ Research methods are one of the factors of a problem that will be discussed. The study was conducted using secondary data which was analyzed qualitatively using the Desk Research Method. The literature materials used in writing this research are several references originating from research results, studies, and reviews of several writings which are then summarized into a scientific paper.⁵

C. Discussion

1. Criminal Responsibility for Ships in Polluting the Sea Based on the Law of the Sea

Indonesia as an archipelagic country has a widespread island structure in the number of more than 13,000 which includes large islands and small islands, with a coastline of 81,000 km.⁶ Indonesia as an archipelagic country has a diversity of tourism potential on various islands spread across the archipelago where to reach the island must be reached by sea transportation⁷. In Indonesia, sea transportation should be the primadonna, because there are islands that can only be connected through sea transportation⁸.

Pollution is the entry or inclusion of living beings, substances, energy and/or other components into the environment by human activities so that it exceeds the environmental

⁴ Hanifah, I., Hariyanto, H., Ginting, L., Koto, I., & Syafriana, R. (2026). Legal Protection of Indonesia's Fisheries from Foreign Investment: A Social-State Approach. *Jurnal IUS Kajian Hukum dan Keadilan*, 14(1).

⁵ Simatupang, R. S. A., Hanifah, I., & Mansar, A. (2025). The Concept of Restitution as Legal Accountability in the Crime of Human Trafficking. *Pena Justisia: Media Komunikasi dan Kajian Hukum*, 24(1), 3554-3462.

⁶ M. Daud Silalahi, Regulation of Indonesian Marine Environmental Law and Its Regional Implementation, (Jakarta: SinarHarapan,), p. 66

⁷ Utomo Day, Journal: Legally Responsible Parties In Ship Accident, <http://e-jurnal.peraturan.go.id/index.php/jli/article/download/75/pdf>, p. 57, accessed July 9, 10:38 a.m.

⁸ Utomo day, ibid p. 58

quality standards that have been set (Law No. 32 of 2009). Marine pollution can also mean changes in the order (composition) of seawater by human activities and natural processes, so that the quality of seawater becomes less or can no longer function according to its intended purpose and can interfere with human life, marine life and marine ecosystems.

To overcome this problem, legal regulation in marine pollution in Indonesia has become very urgent. The national legal framework governing marine pollution in Indonesia consists of various government laws and regulations designed to protect the maritime environment. Indonesia itself has adopted various regulations, such as the PPLH Law, the Shipping Law, Government Regulation Number 19 of 1999 concerning the Control of Marine Pollution and/or Destruction (hereinafter referred to as the Pollution Control and/or Marine Destruction Regulation), and Government Regulation Number 21 of 2010 concerning Maritime Environmental Protection (hereinafter referred to as the Maritime Environmental Protection Regulation). The PPLH Law provides a legal basis for environmental management in general, including environmental pollution control. Article 88 affirms that "everyone who commits pollution is responsible for the losses incurred without the need to prove an element of fault, thus encouraging absolute responsibility for the polluters".⁹ In addition, the Shipping Law also plays an important role in regulating marine pollution because it regulates the responsibilities of ships and crew in preventing and controlling pollution caused by shipping activities. Article 134 of the Shipping Law states that "every ship operating in Indonesian waters must meet the requirements for pollution prevention and control".¹⁰

Law Number 17 of 2008 concerning Shipping regulates so many functions, duties and authorities related to safety and security. Almost all shipping activities are controlled and cannot be separated from the government, in this case syahbandar.

Law Number 17 of 2008 concerning Shipping has regulated all functions, duties and authorities in order to meet safety and security requirements. Syahbandar is responsible which he should have supervised but the syahbandar did not do it in accordance with what was ordered by Law Number 17 of 2008 concerning Shipping.

⁹ Damar Tangguh Rabani, and Agnes Octavia. "Law Enforcement on Marine Pollution Due to Ship Shipping Activities in Indonesian Waters from the Perspective of Environmental Law." *Progressive Politics: Journal of Law, Politics and Humanities* 1, no. 3 (2024): 290–98. <https://doi.org/10.62383/progres.v1i3.561>.

¹⁰ Dimas Hutomo, S.H. "Sanctions for Dumping Waste into the Marine Environment Without the Permission of Online Legal Clinics." *Hukumonline.com*, December 20, 2018 <https://www.hukumonline.com/klinik/a/sanksi-membuang-limbah-ke-lingkungan-laut-tanpa-izin-1t5bc2bcf68f29f/>.

2. How the Law of the Sea, especially the United Nations Convention on the Law of the Sea (UNCLOS), regulates criminal liability for marine pollution

The United Nations Convention on the Law of the Sea, (UNCLOS) in Indonesian is referred to as the International Convention on the Law of the Sea, which is an international agreement resulting from the Third United Nations Conference on the Law of the Sea (*UNCLOS III*) which lasted from 1973 to 1982.

This convention defines the rights and responsibilities of countries in the use of the world's oceans and sets guidelines for business, environment, and management of marine natural resources. The Convention was concluded in 1982, replacing the international treaty on the sea in 1958. *UNCLOS* came into force in 1994, a year after Guyana became the 60th country to sign the treaty. To date 158 countries, including the European Union, have joined the convention.¹¹

As a follow-up to the ratification of *UNCLOS*, Indonesia has now since 2014 has a legal umbrella that emphasizes Indonesia's maritime territory as regulated in Law Number 32 of 2014 concerning Marine Affairs, which was ratified on October 17, 2014, and included in the Statute Book of the Republic of Indonesia Number 294 of 2014, and the Supplement to the Statute Book of the Republic of Indonesia Number 5603.

It is also mentioned in the 1945 Constitution which defines Indonesia as a Unitary State in the form of a Republic¹². Prior to the ratification of the UN Convention on the Law of the Sea on December 10, 1982 in Montego Bay (Yamaica), Indonesia was a coastal country. As an implementation of Indonesia's participation in the 1958 Geneva Convention I of the Law of the Sea, the Government of Indonesia at that time promulgated Law Number 4 PRP. The year 1960 about Indonesian waters¹³.

As an implementation of Indonesia's participation in the UN Convention on the Law of the Sea, the Government of Indonesia on August 8, 1996 promulgated Law No. 6 of 1996 concerning Indonesian Waters. In accordance with the provisions of the Convention and the Indonesian Waters Law, Indonesian waters include Indonesia's territorial seas, archipelago waters, and inland waters¹⁴. These waters which include the airspace above it, the seabed area

¹¹ *United Nations Division for Ocean Affairs and the Law of the Sea.*, “*„The United Nations Convention on the Law of the Sea (A Historical Perspective)*”, accessed September 13, 2022. https://www.un.org/Depts/los/convention_agreements/convention_historical_perspective.htm.

¹² "1945 Constitution Article 1 Paragraph (1)"

¹³ "(Statute Book of 1960 No. 22, Supplement to Statute Book No. 1942)."

¹⁴ "Law No. 6 of 1996 concerning Indonesian Waters, Article 3 Paragraph (1)"

below it according to the provisions of the Indonesian Waters Law are subject to and are under the sovereignty of the Indonesian state.

International recognition that Indonesia is an archipelagic country was finally achieved in the *United Nations Convention on the Law of the Sea (UNCLOS)* in 1982 and has been ratified by Indonesia with the Law of the Republic of Indonesia Number 17 of 1985 and has been effective since 1994. Thus there has been an expansion of sovereign rights to natural resources in the *EEZ* and the continental shelf. Indonesia also still has the right to manage natural resources in the high seas and at the bottom of the ocean¹⁵

According to Article 1 paragraph (1) point 4 of the *UNCLOS* 1982: "Marine pollution is the introduction by humans, directly or indirectly, of substances or energy into the marine environment (including estuaries), which causes or may cause harmful effects such as damage to marine biological resources and life, danger to human health, interference with marine activities, including fisheries and other lawful uses of the sea, as well as a decrease in seawater quality and a decrease in marine attractiveness."

3. Implementation at the National Level Against Marine Pollution That Can Be Subject to Criminal Sanctions Based on the Law of the Sea.

The sea has enormous significance for Indonesia, which is a maritime country with more than 17,000 islands and a sea area of 5.8 million km² ¹⁶. The marine sector has a major contribution to Indonesia's national economy. However, in the midst of the importance of marine functions, the problem of pollution increasingly threatens the ecosystem and its balance. Various things can be the cause of seawater pollution, one of which is oil spills in the sea which are a serious challenge for Indonesia. Oil spills often occur in Indonesian waters, especially in the Strait of Malacca and the Java Sea, which are passed by hundreds of tankers every day. The case of the Montara oil spill in 2009 is a clear example of the impact of marine pollution, where around 40 million liters of oil polluted the waters around Timor and Alor Islands, causing significant economic losses¹⁷.

¹⁵ Sodik, Didik Mohamad. (2011). *International Law of the Sea and Its Regulation in Indonesia*. Bandung: Refika Aditama, p. 45.

¹⁶Uniarto, Hery. "Directorate General of Defense Potential of the Ministry of Defense of the Republic of Indonesia." www.kemhan.go.id, November 22, 2023. <https://www.kemhan.go.id/poahan/2023/11/22/mengembalikan-kejayaan-maritim-indonesia.html>.

¹⁷ "Library of the Ministry of Environment." 2016. [Menlhk.go.id](http://perpustakaan.menlhk.go.id/pustaka/home/index.php?newsid=366&page=detail_news). 2016. http://perpustakaan.menlhk.go.id/pustaka/home/index.php?newsid=366&page=detail_news

To overcome this problem, legal regulation in marine pollution in Indonesia has become very urgent. The national legal framework governing marine pollution in Indonesia consists of various government laws and regulations designed to protect the maritime environment. Indonesia itself has adopted various regulations, such as the PPLH Law, the Shipping Law, Government Regulation Number 19 of 1999 concerning the Control of Marine Pollution and/or Destruction (hereinafter referred to as the Pollution Control and/or Marine Destruction Regulation), and Government Regulation Number 21 of 2010 concerning Maritime Environmental Protection (hereinafter referred to as the Maritime Environmental Protection Regulation). The PPLH Law provides a legal basis for environmental management in general, including environmental pollution control. Article 88 affirms that "everyone who commits pollution is responsible for the losses incurred without the need to prove an element of fault, thus encouraging absolute responsibility for the polluters".¹⁸

Marine pollution is one of the serious environmental problems in Indonesia, considering the very large sea area of the Unitary State of the Republic of Indonesia, the condition of the coastal ecosystem, and the many activities that have the potential to cause pollution (ships, industrial waste, reclamation, etc.).

The national legal framework stipulates that everyone is prohibited from polluting and/or destroying the environment, including the sea, and is subject to criminal sanctions.

The international framework is also relevant: For example, *the United Nations Convention on the Law of the Sea (UNCLOS 1982)* has been ratified by Indonesia and contains provisions for the protection and preservation of the marine environment.

D. Conclusion

Criminal liability for ships that pollute the ocean is an important part of efforts to protect and preserve the marine environment as regulated in national and international law. Based on the 1982 United Nations Convention on the Law of the Sea (*UNCLOS*), every country has an obligation to prevent, reduce, and control marine pollution from various sources, including from ships. *Flag states*, *port states*, and *coastal states* have their respective legal roles in enforcing these responsibilities.

¹⁸ Damar Tangguh Rabani, and Agnes Octavia. "Law Enforcement on Marine Pollution Due to Ship Shipping Activities in Indonesian Waters from the Perspective of Environmental Law." *Progressive Politics: Journal of Law, Politics and Humanities* 1, no. 3 (2024): 290–98. <https://doi.org/10.62383/progres.v1i3.561>.

The United Nations Convention on the Law of the Sea (*UNCLOS*) provides a comprehensive international legal framework for the protection of the oceans, including criminal liability for marine pollution. *UNCLOS* stipulates that every country has an obligation to prevent, reduce, and control marine pollution from various sources, both from land, ships, and exploration and exploitation of marine resources.

The implementation of national laws against marine pollution shows that there are state efforts to protect marine ecosystems through strict regulations. Marine pollution, whether caused by industrial activities, shipping, or other human activities, can be subject to criminal sanctions in accordance with national laws and regulations, such as Law Number 32 of 2009 concerning Environmental Protection and Management and regulations related to marine law. Law enforcement at the national level includes the identification of violations, investigations, and the application of criminal sanctions in the form of fines and prison sentences for those proven to have committed marine pollution. This implementation affirms the state's commitment to preserving the marine environment while upholding the principle of legal responsibility for every party that damages the marine ecosystem.

Bibliography

- Hanifah, I., Hariyanto, H., Ginting, L., Koto, I., & Syafriana, R. (2026). Legal Protection of Indonesia's Fisheries from Foreign Investment: A Social-State Approach. *Jurnal IUS Kajian Hukum dan Keadilan*, 14(1).
- Journal of Community Education and Service 2, no. 4 (2022): 1197–1202
- Mahsur Ali, Basics of Criminal Law, (East Jakarta: Sinar Grafika), p. 156 Fitri Wahyuni, The Basics of Criminal Law in Indonesia, p. 67.\
- Scott, Reivan Fernandez. "LEGAL REMEDIES FOR THE PROTECTION AND PRESERVATION OF INDONESIA'S MARINE ENVIRONMENT BASED ON UNCLOS 1982." *LEX et SOCIETATIS*9, no. 1 (January 12, 2021).
- Silalahi, M. Daud, Regulation of Indonesian Marine Environmental Law and Its Regional Implementation, Jakarta: Sinar Harapan,
- Simatupang, R. S. A., Hanifah, I., & Mansar, A. (2025). The Concept of Restitution as Legal Accountability in the Crime of Human Trafficking. *Pena Justisia: Media Komunikasi dan Kajian Hukum*, 24(1), 3554-3462.
- Utomo, Hari. Journal: Who is legally liable in a boat accident. (*Legally Responsible Parties In Ship Accident*),
- Yaqin, M., & Kabangnga, M. (2015). Ocean Acidification and Its Impact on Marine Ecosystems. *Journal of Marine Science*, 1(1), 12-20.