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CRISIS IN NAMUN VILLAGE: UNRAVELING PT PERTAMINA EP TANJUNG'S LEGAL OBLIGATIONS AMID CRUDE OIL PIPELINE LEAKAGE

Ahmad Iqbal Ubaidillah¹, Berliana Putri Nurhari², Salvia Zahra Shavalysta³, Sekar Tiara Citra Maharany⁴, Tiara Putri Fitriana⁵

¹Faculty of Law, President University, Indonesia. E-mail: ahmad.ubaidillah@student.president.ac.id

²Faculty of Law, President University, Indonesia. E-mail: berliana.nurhari@student.president.ac.id

³Faculty of Law, President University, Indonesia. E-mail: salvia.shavalysta@student.president.ac.id

⁴Faculty of Law, President University, Indonesia. E-mail: sekar.maharany@student.president.ac.id

⁵Faculty of Law, President University, Indonesia. E-mail: tiara.fitriana@student.president.ac.id

Article	Abstract
<p>Keywords:</p> <p><i>Cipta Kerja, Environmental, Oil Leakage, Pertamina</i></p> <p>Article History</p> <p>Received: Apr.,13,2024; Reviewed: Apr.16,2024; Accepted: May,19,2024; Published: Jun.10, 2024</p>	<p>Amidst the serene landscapes of Namun Village in Tabalong District, a rupture in an oil pipeline has disrupted the tranquility, prompting a closer examination of the environmental ramifications and legal accountabilities of PT Pertamina EP Tanjung within Indonesia's regulatory landscape. Through qualitative normative analysis utilizing secondary data, this study delves into the aftermath of the spillage, revealing its profound impact on the local ecosystem and community. It becomes evident that PT Pertamina EP Tanjung bears a significant responsibility in averting future incidents and ensuring adherence to environmental laws. Hence, a nuanced understanding of the legal framework emerges as pivotal in enhancing environmental stewardship, fostering corporate responsibility, and advancing sustainable practices in Indonesia's extractive industries.</p>

1. INTRODUCTION

The recent crude oil pipeline leakage in Namun Village, Tabalong District, has ignited a firestorm of concern and raised profound questions about the environmental sustainability, corporate accountability, and community well-being in regions heavily reliant on extractive industries. This incident, occurring on the evening of Wednesday, January 24, 2024, at approximately 8:30 PM local time, has thrust PT Pertamina EP Tanjung, a prominent player in Indonesia's oil and gas sector, into the spotlight, prompting scrutiny of its operational practices, regulatory compliance, and response mechanisms.

The pipeline, which serves as a critical conduit for transporting crude oil from the Tanjung field in Tabalong Regency to Balikpapan City, East Kalimantan Province, is a lifeline for both the energy sector and the local economy. However, the rupture of this vital infrastructure has not only disrupted the flow of resources but also unleashed a cascade of consequences, ranging from immediate environmental hazards to long-term socio-economic repercussions.¹

According to reports from local authorities and eyewitnesses, the spillage of crude oil onto the village streets and surrounding residential areas unleashed a noxious tide of petroleum, staining the landscape and endangering public safety. The slick, slippery roads posed a hazard to motorists and pedestrians alike, necessitating impromptu measures by residents to manage traffic and minimize the risk of accidents. Moreover, the extent of the spillage's impact became glaringly evident during the preliminary assessment conducted by PT Pertamina EP Tanjung and local officials, revealing damage to approximately one and a half hectares of vacant land, a motorcycle workshop, and a residential property.

Beyond the immediate physical damage, the pipeline leakage has cast a shadow over the environmental integrity of the affected area and raised alarm bells about the long-term ecological consequences. The contamination of soil, water sources, and air quality threatens not only the health and livelihoods of local residents but also the delicate balance of ecosystems in the region. Furthermore, the spillage has ignited fears of a broader environmental catastrophe, underscoring the vulnerability of communities living in proximity to industrial installations.²

¹Jumarto Yulianus, "Satu Desa di Kalsel Terdampak Kebocoran Pipa Minyak Pertamina", <https://www.kompas.id/baca/nusantara/2024/01/25/satu-desa-di-kalsel-terdampak-kebocoran-pipa-minyak-pertamina> accessed on 26 February 2024

²Irfani Rahman, "Aroma Minyak Menyengat di Desa Namun Tabalong, Pipa PT Pertamina Tanjung Field Bocor", <https://banjarmasin.tribunnews.com/2024/01/26/aroma-minyak-menyengat-di-desa-namun-tabalong-pipa-pt-pertamina-ep-tanjung-field-bocor> accessed on 26 February 2024

However, amidst the chaos and uncertainty, questions abound regarding the legal responsibilities of PT Pertamina EP Tanjung and the adequacy of regulatory safeguards to prevent such incidents.³

The incident has reignited debates about corporate liability, environmental protection regulations, and the rights of affected communities to seek redress for harm inflicted upon them. As the fallout from the spillage reverberates through the socio-economic fabric of the region, it becomes imperative to unpack the complex web of legal, environmental, and social factors at play and chart a path forward towards accountability and justice.

In this vein, this research endeavors to delve deep into the labyrinth of legal obligations, regulatory frameworks, and stakeholder dynamics surrounding the pipeline leakage in Namun Village. By meticulously tracing the sequence of events leading up to the incident, analyzing the immediate response efforts, and scrutinizing the subsequent remediation actions, this study aims to unearth critical insights into the root causes, systemic failures, and institutional deficiencies that enabled the spillage to occur.

Moreover, this research seeks to contextualize the incident within the broader landscape of oil and gas operations in Indonesia, exploring the regulatory landscape, industry practices, and socio-economic dynamics shaping the extractive sector's footprint. By unpacking the interplay between corporate interests, governmental oversight, and community resilience, this study hopes to shed light on the structural inequalities, power imbalances, and environmental injustices inherent in resource extraction activities.

Furthermore, this research endeavors to amplify the voices of affected communities, environmental advocates, legal experts, and other stakeholders who are grappling with the aftermath of the pipeline leakage. By centering their perspectives, concerns, and aspirations, this study aims to elevate the discourse on environmental justice, community empowerment, and corporate accountability in the context of industrial accidents.

2. RESEARCH METHODOLOGY

This study employs a qualitative normative legal research approach, supplemented by secondary data analysis, to examine the legal obligations of PT Pertamina EP Tanjung following the crude oil pipeline leakage in Namun Village, Tabalong District. By utilizing this methodological framework, the research aims to provide a comprehensive analysis of the relevant legal provisions, their interpretation, and their application to the case at hand.

³Godang, "Pertamina Benarkan Ada Kebocoran Pipa Penyalur Minyak di Tanjung Kaltim", <https://www.ruangenergi.com/pertamina-benarkan-ada-kebocoran-pipa-penyalur-minyak-di-tanjung-kaltim/> accessed on 26 February 2024

Qualitative normative legal research is chosen for its suitability in investigating legal principles, norms, and regulations governing environmental protection, corporate liability, and industrial accidents. This approach allows for an in-depth exploration of legal doctrines, precedents, and jurisprudence pertinent to the subject matter, facilitating a nuanced understanding of the legal complexities surrounding the incident.

The primary sources of data for this research consist of statutory law, including relevant national legislation and regulations governing environmental protection and the oil and gas industry in Indonesia. Specifically, the study draws upon the following legal instruments:

- 1) Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup (Law Number 32 of 2009 concerning Environmental Protection and Management): This foundational law provides the overarching legal framework for environmental protection in Indonesia. It sets forth principles, standards, and mechanisms for preventing environmental damage, managing natural resources sustainably, and holding accountable parties responsible for environmental harm.
- 2) Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja (Law Number 11 of 2020 concerning Job Creation): This recently enacted omnibus law introduces significant reforms to various sectors, including energy and natural resources. It contains provisions aimed at streamlining regulatory processes, attracting investment, and stimulating economic growth. Analysis of this law is pertinent to understanding any implications it may have on environmental regulations and corporate accountability in the context of industrial accidents.

Secondary data sources include scholarly articles, legal commentaries, government reports, news articles, and other relevant literature addressing similar incidents, legal analyses, and regulatory developments in the field of environmental law and corporate responsibility. These sources provide contextual information, comparative insights, and critical perspectives that enrich the analysis and interpretation of primary legal materials.

The research methodology involves a systematic review and synthesis of the available legal literature and secondary data to identify relevant legal principles, assess their applicability to the case study, and analyze their implications for PT Pertamina EP Tanjung's legal obligations and liability in relation to the pipeline leakage incident. The findings derived from this qualitative analysis will contribute to a nuanced understanding of the legal dimensions of the case and inform recommendations for policy reform, regulatory enforcement, and corporate governance practices aimed at preventing future incidents and promoting environmental justice.

Through this methodological approach, the research endeavors to offer valuable insights into the legal complexities surrounding industrial accidents in Indonesia, stimulate dialogue among policymakers, legal practitioners, civil society actors, and affected communities, and contribute to the advancement of legal scholarship and practice in the field of environmental law and corporate accountability.

3. ANALYSIS AND DISCUSSION

3.1 The Impact of the Oil Pipeline Leakage

The impact of the oil pipeline leakage in Namun Village, Tabalong District, extends far beyond immediate environmental concerns, significantly affecting both local communities and PT Pertamina EP Tanjung's operational context. Pertamina, as a key player in Indonesia's oil and gas sector, holds a critical responsibility for ensuring the safety and integrity of its

infrastructure to prevent such incidents. The leakage not only poses immediate risks to public health and safety but also engenders broader socio-economic and environmental ramifications. Firstly, the spillage of crude oil onto village streets and residential areas jeopardizes the health and well-being of nearby residents, potentially exposing them to toxic pollutants and respiratory hazards.⁴

Moreover, the contamination of soil and water sources can have long-term consequences for agricultural productivity and ecosystem health, disrupting local livelihoods and exacerbating socio-economic disparities.⁵

In the context of Pertamina, the incident underscores the company's accountability in maintaining stringent safety standards and implementing effective risk management protocols across its operations. As a state-owned enterprise entrusted with a vital national resource, Pertamina's failure to prevent such leaks reflects lapses in its operational oversight and regulatory compliance. The reputational damage incurred by the company not only undermines public trust but also raises questions about its commitment to environmental stewardship and corporate responsibility. Additionally, the financial liabilities stemming from cleanup efforts, compensation claims, and potential legal penalties further underscore the significance of robust risk mitigation strategies and proactive environmental

⁴Herlina Lasmianti, "Pertamina Lokalisasi Tumpahan Minyak Agar Tak Meluas ke Persawahan", <https://kalsel.antaranews.com/berita/403092/pertamina-lokalisasi-tumpahan-minyak-agar-tak-meluas-ke-persawahan> accessed on 26 February 2024

⁵ Muhammad Azka Bintang Amffa, et.al., "Analisis Dampak Oil Spill Pada Kehidupan Masyarakat Pesisir Karawang Dalam Perspektif Hukum dan Lingkungan", *SENSISTEK*, Vol. 6, No. 1, 2023, p.89

management practices for Pertamina.

Furthermore, the oil pipeline leakage highlights systemic challenges within Indonesia's regulatory framework, particularly in terms of enforcement mechanisms and oversight mechanisms. Weak regulatory enforcement, inadequate monitoring systems, and bureaucratic inefficiencies contribute to a culture of impunity and lax accountability among industry actors, perpetuating the cycle of environmental degradation and social injustice. By examining the broader systemic factors underpinning the incident, this research aims to contribute to ongoing efforts to strengthen regulatory governance, enhance industry accountability, and promote sustainable development in Indonesia's extractive sectors. Through a multi-dimensional analysis of the impacts of the oil pipeline leakage, this study seeks to generate insights that inform policy reforms, corporate practices, and community empowerment initiatives aimed at fostering a more resilient and equitable socio-environmental landscape.

3.2 The PT Pertamina EP Tanjung's Responsibility

3.2.1 Applicable Law

The applicable laws governing environmental protection and management in Indonesia encompass several key provisions outlined in Law No. 32 of 2009 on Environmental Protection and Management, as well as Law No. 11 of 2020 on Job Creation. Under Article 88 of Law No. 32/2009, individuals or entities engaging in activities involving hazardous and toxic substances (B3), waste management, or posing serious threats to the environment are held strictly liable for resulting damages without the need to prove fault. Furthermore, Article 81 stipulates that failure to comply with government directives may result in fines for responsible businesses or activities. Dispute resolution mechanisms under this law allow for both judicial and extrajudicial methods, with parties opting for amicable settlement before resorting to litigation, as outlined in Article 84.⁶

Similarly, Law No. 11/2020 introduces provisions aimed at regulating various aspects of industrial activities and environmental management. Article 61A mandates environmental assessments (Amdal or UKL-UP) for businesses involved in activities such as waste generation, transportation, and disposal, as well as emissions to air, water, or soil. Additionally, Article 69 prohibits a range of actions detrimental to the environment, including pollution, illegal waste disposal, burning of land, and providing false information related to environmental matters.⁷

⁶ Indonesia, Law on Environmental Protection and Management, Law No. 32 Year 2009, LN No. 140 Year 2009, TLN No. 5059, Article 84

⁷ Indonesia, Law on Job Creation, Law No. 245 Year 2020, TLN No. 6573, Article 69

These laws collectively establish a comprehensive legal framework for environmental protection, defining obligations for businesses, specifying prohibited activities, and delineating mechanisms for enforcement and dispute resolution.⁸

The Environmental Protection and Management Law No. 32 of 2009 serves as a cornerstone of Indonesia's environmental regulatory framework. Enacted to address growing concerns over environmental degradation and pollution, the law outlines a range of measures aimed at safeguarding natural resources, promoting sustainable development, and ensuring public health and safety. One of the key provisions of the law is Article 88, which establishes strict liability for individuals or entities engaged in activities involving hazardous and toxic substances (B3), waste management, or posing serious threats to the environment. This means that those responsible for such activities are held accountable for any resulting damages, regardless of fault or intent. By imposing strict liability, the law aims to incentivize proactive risk management and environmental stewardship among businesses and industries.⁹

In addition to strict liability, Law No. 32/2009 also includes provisions for administrative sanctions and dispute resolution mechanisms. Article 81, for example, empowers government authorities to impose fines on businesses or activities that fail to comply with environmental regulations or directives. These fines serve as a deterrent against non-compliance and help ensure adherence to environmental standards. Furthermore, Article 84 provides for the resolution of environmental disputes through both judicial and extrajudicial means. Parties involved in environmental conflicts have the option to pursue amicable settlement outside of court, with litigation as a last resort if alternative dispute resolution efforts prove unsuccessful. This approach reflects the law's emphasis on promoting cooperation and dialogue among stakeholders to resolve environmental issues effectively.

3.2.2 The Responsibilities

The investigation into the aftermath of the oil pipeline leakage in Namun Village, Tabalong District, necessitates a meticulous analysis of the legal framework governing environmental protection and corporate responsibility in Indonesia. Central to this examination are two pivotal pieces of legislation: Law No. 32 of 2009 on Environmental Protection and Management, and Law No. 11 of 2020 on Job Creation. These statutes serve

⁸ *Ibid.*

⁹ Indonesia, Law on Environmental Protection and Management, Law No. 32 Year 2009, LN No. 140 Year 2009, TLN No. 5059, Article 88

as the cornerstone of environmental regulations and industrial activities in the country, providing a robust legal framework for assessing the responsibilities and liabilities of entities such as PT Pertamina EP Tanjung, the owner of the pipeline in question.

Law No. 32 of 2009, commonly known as the Environmental Protection and Management Law, represents a significant milestone in Indonesia's environmental legislation. Enacted to address the growing concerns over environmental degradation and pollution, this law establishes a comprehensive framework for environmental protection, management, and conservation. One of the key principles enshrined in this law is the principle of strict liability, as outlined in Article 88. According to this provision, individuals or entities engaged in activities involving hazardous substances (B3), waste management, or posing serious threats to the environment are held strictly liable for damages resulting from their actions, operations, or activities. This principle signifies a fundamental shift in the legal landscape, placing the burden of proof on the responsible party to demonstrate compliance with environmental standards and regulations. Moreover, Article 81 empowers regulatory authorities to impose fines on businesses or activities failing to comply with government directives, highlighting the importance of regulatory enforcement in ensuring corporate accountability and environmental protection.¹⁰

Furthermore, Law No. 32 of 2009 provides mechanisms for dispute resolution, both judicial and extrajudicial, as outlined in Article 84. This provision allows parties involved in environmental disputes to seek resolution through amicable settlement or litigation, depending on the effectiveness of non-judicial remedies.¹¹ By offering alternative avenues for resolving conflicts, the law seeks to promote cooperation and dialogue among stakeholders, facilitating timely and effective resolution of environmental disputes.

In the context of the oil pipeline leakage, these legal provisions are particularly relevant in determining the legal responsibilities of PT Pertamina EP Tanjung and other stakeholders involved. The principle of strict liability under Article 88 imposes a duty of care on PT Pertamina EP Tanjung to prevent environmental harm and mitigate the consequences of industrial accidents, such as pipeline leaks. As the owner and operator of the pipeline, PT Pertamina EP Tanjung is expected to adhere to stringent safety standards, implement effective risk management protocols, and invest in preventive measures to minimize the risk of spills and leaks.¹²

¹⁰Indonesia, Law on Environmental Protection and Management, Law No. 32 Year 2009, LN No. 140 Year 2009, TLN No. 5059, Article 81

¹¹ HR Ridwan, (2011), *Hukum Administrasi Negara*, Jakarta: Rajawali Pers, p. 318

¹²Seliyana, et.al., "Pertanggungjawaban Hukum PT. Pertamina Akibat Kebocoran Pipa di Teluk Balikpapan", *Jurnal Lex Supreme*, Vol. 1, No. 11, 2019, p.5

Moreover, Article 81 underscores the importance of timely compliance with government directives and regulations, emphasizing the role of regulatory authorities in enforcing environmental standards and holding businesses accountable for their actions. In the event of non-compliance, regulatory fines may be imposed as a deterrent against future violations, incentivizing companies like PT Pertamina EP Tanjung to prioritize environmental protection and regulatory compliance in their operations.

Additionally, the dispute resolution mechanisms outlined in Article 84 offer a pathway for resolving conflicts and addressing grievances arising from environmental incidents, such as the oil pipeline leakage in Namun Village. Parties affected by the spillage, including local communities, environmental activists, and government agencies, may seek redress through judicial or extrajudicial means, depending on the nature and complexity of the dispute. This legal framework underscores the importance of transparency, accountability, and stakeholder engagement in addressing environmental issues and promoting sustainable development.

In light of these legal principles, it is imperative for PT Pertamina EP Tanjung to take proactive measures to mitigate the environmental and social impacts of the oil pipeline leakage, uphold its legal obligations under Law No. 32 of 2009, and demonstrate commitment to environmental stewardship and corporate responsibility.¹³ This requires comprehensive risk assessments, robust contingency plans, and transparent communication with affected stakeholders to ensure timely response and effective remediation efforts. By aligning its operations with legal requirements and best practices in environmental management, PT Pertamina EP Tanjung can not only minimize the risk of future incidents but also enhance its reputation as a responsible corporate citizen committed to sustainable development.

Moving forward, the analysis of applicable laws and legal principles outlined in Law No. 32 of 2009 provides valuable insights into the legal responsibilities of PT Pertamina EP Tanjung and other stakeholders involved in industrial activities.¹⁴ By examining the legal framework governing environmental protection and corporate responsibility in Indonesia, this investigation seeks to inform policy reforms, regulatory enforcement, and industry practices aimed at enhancing environmental governance, promoting corporate

¹³Stefani Margareta & Widyawati Boediningsih, “Tanggung Gugat Korporasi Akibat Pencemaran Lingkungan Ditinjau Berdasarkan Undang-Undang Perlindungan dan Pengelolaan Lingkungan Hidup”, *Jurnal Hukum Indonesia*, Vol. 2, No. 1, 2023, p. 7

¹⁴ NPM Andriansah, “Penerapan Asas Pertanggungjawaban Mutlak (Strict Liability) Dalam Penanganan Tindak Pidana Lingkungan Hidup”, PhD Thesis, Unpas, 2017, p. 6

accountability, and safeguarding the rights and well-being of affected communities. Through a comprehensive understanding of the legal landscape, stakeholders can work collaboratively to address environmental challenges, mitigate risks, and foster sustainable development in Indonesia's extractive industries.

4. CONCLUSION

Under Law No. 32/2009, individuals or entities engaging in activities with hazardous substances are strictly liable for damages without needing to prove fault, as per Article 88. Regulatory fines can be imposed for non-compliance, as stipulated in Article 81, and dispute resolution mechanisms allow for amicable settlement or litigation, as outlined in Article 84.

Similarly, Law No. 11/2020 introduces provisions mandating environmental assessments for various industrial activities and prohibits actions detrimental to the environment, as seen in Article 61A and Article 69 respectively.

The responsibilities of entities like PT Pertamina EP Tanjung, as highlighted in the context of the oil pipeline leakage, are significant. They include adherence to stringent safety standards, effective risk management, and timely compliance with environmental regulations to mitigate environmental harm and uphold corporate accountability. Additionally, transparent communication and stakeholder engagement are essential for effective environmental governance.

In conclusion, a comprehensive understanding of applicable laws and legal principles is crucial for addressing environmental challenges, enhancing corporate responsibility, and fostering sustainable development in Indonesia's extractive industries. By aligning operations with legal requirements and best practices in environmental management, stakeholders can work collaboratively to minimize environmental risks and promote a more resilient and equitable socio-environmental landscape.

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