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MARITIME SECURITY PERSPECTIVE IN THE CASE STUDY OF DEEPWATER HORIZON

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Abstract

Maritime security still focuses on the territorial sovereignty of a country. Environmental disasters and transboundary humanitarian crimes that occur at sea are a challenge for International Relations academics to reformulate maritime security. British Petroleum (BP) is negligent in implementing safety standards in oil exploration and exploitation in the Gulf of Mexico, the United States resulting in oil leakage on the Deepwater Horizon platform. This research uses the Deepwater Horizon case study in exploring the relevance of maritime security in the prevention and management of marine pollution disasters. Primary data sources were taken from observations of researchers in seminars related to the Deepwater Horizon and secondary data were obtained from journals, electronic news and official reports from the US Government. There are two findings obtained. First, contemporary maritime security is much more complex than traditional maritime security, and second, contemporary maritime security involves an element of justice-seeking as demonstrated by the United States Court's decision against BP regarding negligence in the Deepwater Horizon.

Keywords: Maritime Security, United States of America, Deepwater Horizon, British Petroleum

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1. Introduction

Oil and gas are the main energy commodity choices that humans still need. Oil and gas are used to meet daily needs such as households, transportation, and industry. The high demand for oil and gas products has increased public demand for oil and gas production. The increased demand also encourages the growth and expansion of exploration, exploitation, and oil processing activities by all international actors worldwide. BP (British Petroleum) is one of the world's largest oil companies which is the dominant international actor playing an active role in the sector.

BP is a multinational company that has expanded its operations to many countries. One of BP's most extensive areas of operation is the Macondo Prospect. The Macondo prospect is an oil and natural gas prospect located within the United States Exclusive Economic Zone (EEZ), precisely in the Gulf of Mexico. This prospect is an operational area of an offshore drilling platform known as the Deepwater Horizon.

The Deepwater Horizon is an oil rig owned and operated by the offshore oil drilling company Transocean and leased by the oil company BP. The platform is located in the Mississippi Canyon, a valley on the continental shelf. The oil well lies on the seabed, 4,993 feet (1,522 meters) below the surface, and extends about 18,000 feet (5,486 meters) (Pallardy, Deep Water Horizon Spill). On April 20, 2010, the Deepwater Horizon was reportedly nearing completion of a deep-sea oil well when uncontrolled hydrocarbon gas overflowed and caused an explosion. The accident resulted in the death of 11 crew members from the platform, and the oil well leaked.

United States federal government officials estimate that the well released more than 200 million gallons (or 4.9 million barrels) of crude oil into the surrounding sea level over more than 84 days. This case became the largest maritime oil pollution case in history for both the US and the world. Oil leaks resulting from drilling activities in this area are very detrimental to the environment in the Gulf of Mexico region. The widespread pollution caused by the oil spill affects marine ecosystems, including marine life and water quality along hundreds of miles of the Gulf of Mexico coastline.

This case also brought a loss to the economic condition of the local area, especially people who work as fishermen. The declining fish population due to the impact of pollution in these waters has disrupted the community's welfare and harmed the fishing industry as a whole. The water polluted by the leaked oil also contains toxins that are harmful to public health and plants around the coastline. These losses are evidence of the magnitude of the environmental damage caused by BP.

The deepwater horizon disaster is a question for academics in International Relations regarding the relevance of maritime security. Bueger, Egede, and Palma shared a common perception that maritime security is a complex and vast field of study related to the threat of war at sea and humanitarian and environmental threats that occur at sea. All countries prepare and build the strength of marine guard organizations to prevent violations of territorial sovereignty, criminal acts of human trafficking by sea, and massive damage to the marine environment.

Various cases of marine pollution both on a small and large scale question the relevance of maritime security for the development of International Relations. The Deepwater Horizon disaster is one of the cases of marine pollution that is very detrimental to fishers and the sustainability of marine ecosystems. On January 2, 2015, the ship MT Alyarmouk from Libya, carrying 4,500 tons of crude oil, collided with the MV Sinar Kapuas from Singapore, causing marine pollution in Singapore,

Indonesia, and Malaysia. In 2009, Indonesia and Timor Leste faced a bilateral conflict due to the oil spill from the Montara mine owned by Timor Leste, resulting in oil pollution reaching Indonesia's maritime territory. This study reviews the relevance of the maritime security perspective in protecting marine ecosystems from the negative impacts of oil mining at sea by focusing on handling oil leaks at sea through a case study of the Deepwater Horizon tragedy.

If referring to the 1982 UNCLOS (United Nations Convention on the Law of the Sea) concerning the Protection of the Maritime Environment and the Protection of Human Lives articles 145 and 146, every company that conducts exploration and exploitation of natural resources in the sea must comply with mining procedures and standards so that the risk environmental disasters are small. Articles 145 and 146 in UNCLOS 1982 contain regulations and procedures to ensure effective protection for marine life, nature's balance, and human life from harmful activities. These procedures include the prevention, reduction and control of pollution and other hazards to the marine environment and the ecological balance of the marine environment.

UNCLOS pays special attention to environmental protection from activities such as drilling, dredging, excavation, waste disposal, construction and operation or maintenance of installations, pipelines and other equipment related to mining activities. Made Astiti, Dewa Gede Sudika Mangku, Ratna Artha Windari (2018) conducted a study entitled "Solving International Disputes Related to Pollution of the Timor Sea Due to the Montara Oil Spill Between Indonesia and Australia." to analyze the dispute resolution process between Australia and Indonesia related to the Montara oil spill case in the Timor Sea and the form of Australia's responsibility in this case. The final conclusion of this research is that Australia's liability for the oil spill in the Timor Sea is absolute or strict *liability*. The dispute resolution process between the two countries is at the negotiation stage where Australia rejects Indonesia's claim to compensate for the case so that this dispute has not been resolved until now (Astiti, Mangku dan Windari 2018).

Another study that has a different view on the issue of environmental damage at sea is a study entitled "Greenpeace's Efforts to Save the Arctic from the Interests of Russian Oil and Gas Drilling" written by Andri Zuhdi. Through his research, Zuhdi explained Greenpeace's efforts to save the Arctic from the interests and ambitions of Russia's oil and gas drilling which are considered to threaten environmental ecosystems and have the potential to cause the extinction of the Arctic region as a whole. This study concludes that Greenpeace's efforts to save the Arctic from Russian oil and gas drilling activities include campaign activities entitled "*Save the Arctic*", reprimands against companies, labeling companies, *non-violent action*, negotiations, petitions, and submitting recommendations to stop activities. drilling submitted to the Russian government (Zuhidi 2016).

From these two studies, oil and gas mining at sea is seen as a threat to maritime security. The main threat of oil and gas mining to maritime security is the threat of environmental damage that has an impact on the welfare of fishermen who depend on fish catches and the sustainability of marine biodiversity. Through case studies of deepwater horizon disasters, researchers comprehensively examine the relevance of maritime security in dealing with the impact of deepwater horizon disasters and preventing similar disasters in the future.

2. Literature Review

Maritime security is a keyword that is currently very important in the international world order. At the present time international actors such as states are paying deeper attention and focus on maritime security. The state has a national interest, namely maintaining maritime security. In the last decade, influential actors in maritime policy-making, maritime governance, and international security have also begun to include maritime security in their respective mandates or frameworks in accordance with existing regulatory provisions.

Maritime security itself has many definitions. The first definition of maritime security is "*the combination of preventive and responsive measures to protect the maritime domain against threats and intentional unlawful acts*." (Field, Thiele and Roelle 2013). Mary Ann Palma defines maritime security as a condition where a country is free from various national interests. These threats are in the form of military and non-military threats such as acts of violence to coerce, promote a political interest and goal, challenge the sovereignty of a country, ignore national and international laws, illegal use of marine resources, illegal transportation of goods and people by sea (Palma 2003).

According to Marry Ann Palma, maritime security issues can be divided into two categories. First, maritime security is national security, which aims to protect territorial integrity from sources of internal threats (communal conflict and separatism). Second, maritime security as a security interest with regional impact. Every country must have a policy against external threats (*transnational crime*), in which the national policy or jurisdiction has implications for regional dynamics in a region.

Like keywords and other international issues, maritime security is actively adapting to new and different challenges following the current era of globalization. Discussions on maritime security often refers to the 'threats' that apply to the maritime scope. The maritime scope refers to threats such as disputes between countries, maritime terrorism, piracy, trafficking in narcotics, people and prohibited goods, proliferation of weapons, *illegal fishing*, environmental crimes, or maritime accidents and disasters. The argument from maritime security itself should be defined as *'absence of threats'* (Buerger 2015).

This statement is consistent with the term "maritime security operations" used by the United States to describe operations in the maritime area. In the Report on Ocean and the Law of the Sea 2008 quoted by Richarunia Wenny Ikhtiari, the United Nations mentioned several indications that could be declared a threat to maritime security (Ikhtiari 2011), including:

1. *Piracy and Armed Robbery*
2. *Terrorist acts*
3. *Illicit trafficking in arms and weapons of mass destruction*.
4. *Illicit trafficking in narcotic drugs and psychotropic substances*
5. *Smuggling* and *trafficking of persons*
6. *Illegal, Unreported, and Unregulated* (IUU) *Fishing*

Maritime security can be analyzed similarly by knowing the relationship or relationship with other terms. Maritime security regulates the network of relations, replaces, or classifies old concern built, and also connects itself with newly developed concepts. There are at least four concepts derived from maritime security in different dimensions, namely: *seapower*, *marine safety*, *blue economy*, and *human resilience* . Each of these concepts-connects the author to various dimensions of maritime

security. The idea of *seapower* and *marine safety* is an ancient understanding of the dangers at sea, then the last two concepts emerged more or less at the same time as the concept of maritime security itself.

Based on the maritime security matrix, it can be concluded that maritime security can be related to various international issues, one of which is environmental issues. The author will use the concept of maritime security as a unit of analysis in answering this research problem. Through this concept, the author will present solutions related to the case *Deepwater Horizon* so that environmental impacts or impacts in other sectors in this case do not occur in other similar cases of maritime environmental pollution.

3. Research Methods

According to Porta and Keating, there are four research methodologies: positivist, *post-positivist*, *interpretivist,* and *humanistic*. The four research methodologies are distinguished from the form of knowledge that the researcher wants to achieve. In the positivist methodology, knowledge is absolute and universal because it is obtained using methods that can be tested for reliability and validity. On the other hand, in the humanistic methodology, knowledge is personal because the context of time and place will always affect the knowledge acquired by humans.

This research methodology is in between the methods *positivist* and *humanistic*. Knowledge is obtained by using a method that can be tested for reliability and validity, but there may be changes in research results due to the complexity of the subject and object of research. In detail, Porta and Keating (2008) describe *post-positivists*: "*Mechanisms are governing human affairs that may be unobserved and unobservable, but these are not, therefore, to be discounted*." The methodology *interpretivist* has similarities with *post-positivist* because humans are always looking for the meaning of the actions taken. The factors that motivate these actions become the primary goal of research. There is no perfect law that can analyze the motivation of a person or an organization to act.

The marine pollution disaster on the Deepwater Horizon platform can be studied from the four methodologies, but this study focuses on analyzing the role of the state, corporations, and civil society in mitigating the disaster of marine pollution by crude oil. The dynamics of interaction between states, corporations, and civil society are simplified in a maritime security concept, and many vital explanations and factors are not seen in this study. Primary data was obtained from an observation on an online seminar held on August 18, 2020, regarding marine pollution by ships loaded with crude oil in Mauritania. In this online seminar, Donald Boesch from the University of Maryland presented his views on BP's handling of Gulf of Mexico pollution. Christian Bueger, a maritime security expert, introduced preventive measures for marine pollution. In addition to primary data, this study uses secondary data obtained from electronic news portals, court decisions, and official reports from the United States Government.

4. Results and Discussions

Buerger maps maritime security into four dimensions. The four dimensions are national security, economic security, human security, and the maritime environment.

Through this research, Buerger's maritime security framework was developed to address non-traditional issues in security studies.

The national security dimension rests on the traditional perspective which views national security as an effort to protect the sustainability of the state. Therefore, *seapower*, which is represented by *naval forces*, is seen as the dominant force related to maritime affairs. Thus, the national security dimension sees that maritime security is synonymous with the use of naval power. The next dimension is a blue economy that focuses on the ocean as the main source of ocean-based economic development. Trade routes, marine products, and underwater mining have great commercialization value. This certainly plays an important role in the economic development of the country (Putra dan Hakim 2016).

In the dimension of *human security*, maritime security is closely related as the center of human food and also the human population that lives on the coast and in the middle of the waters. The dimension of *human security* focuses on food, shelter, and sustainable livelihoods. In addition, IUU (*Illegal, Unreported, and Unregulated*) *fishing* also has an impact on human security. Human security also has several maritime dimensions consisting of the safety of seafarers, the vulnerability of coastal populations to broader maritime threats. The last dimension is the maritime environment. This dimension focuses on the concepts of marine ecosystem safety and protection of the maritime environment from natural or man-made disasters such as oil spills at sea.

The sea has an extraordinary wealth of mines stored under the sea. With the right mining exploration method, various countries can take advantage of mining products taken from the sea. The problem is that exploration and exploitation of underwater mines often have a negative impact on fishermen, coastal communities, and underwater habitats. The waste generated by the tin mining in Bangka, the leak of an oil rig in Deepwater in 2010, the United States, and the tanker collision in Singapore in 2015 is bad examples of marine mining management.

There are still few studies that discuss the management of offshore mines from a maritime security perspective. The urgency to research mine management at sea from a maritime security perspective is not only related to the existence of an inclusive Buerger maritime security concept but also that poor mine management is a serious threat to national security. The horizontal conflict between fishermen and my managers on Bangka Island, Indonesia is an example of a case that can show the correlation between national security and mining management at sea.

Edwin Egede became the first researcher to discuss the relevance of maritime security in *deep seabed mining management*. Egede (2020) takes the example of India's suspicion of China's aggressiveness in the Indian Ocean. India states that China's aggressiveness in the Indian Ocean aims to carry out underwater mining. Not only in the Indian Ocean, territorial conflicts in the South China Sea also have motives related to the struggle for the management of mining areas. From this example, Egede said that conflicts between countries related to underwater mining concessions are a major problem in maritime security studies. State security threats arise related to potential attacks from outside countries to seize natural wealth under the sea.

In addition to the threat of inter-*state conflict*, maritime security also needs to assess the potential threat to piracy against tankers and ships supporting underwater mining. Underwater mining requires crew members to operate support vessels and tankers. The location of underwater mining is usually very far from the coast so it is

very vulnerable to piracy. The hijacking of tankers in the Gulf of Aden in Africa demonstrates the vulnerability of tankers to pirate attacks. Security disturbances for tankers can disrupt the distribution of mining management products such as oil.

Egede also emphasized the importance of marine life that is prone to become victims of underwater mining management. The correlation between mine management and *environmental security* becomes relevant for countries that adopt green thinking such as European countries. Along with the implementation of the Paris Agreement, so many countries have started to prioritize policies in mitigating the negative impacts of industrialization and extraction of natural resources, including the mining industry.

On April 20, 2010, the offshore drilling rig *Deepwater Horizon* exploded and caught fire in United States waters in the Gulf of Mexico. The rig is owned by *Transocean* which is leased to *British Petroleum*. On April 22, the rig sank and caused an oil spill until July 15, 2010. An estimated 4.9 million barrels of oil leaked and headed for the Gulf of Mexico. The oil spill led to coastal areas in Louisiana, Mississippi, Alabama, Florida, and Texas. Coastal communities that depend on marine products and the tourism industry have suffered a loss from this incident. In addition, there are health hazards for seafarers and coastal residents as well as the dangers caused by chemicals due to the oil spill.

To evaluate the impact of the disastrous *Deepwater Horizon*, the relevant international law is the *United Nations Convention on the Law of the Sea*. In reality, the United States is not a party to UNCLOS. However, like other countries, the United States has adopted UNCLOS as customary international law, including articles in UNCLOS, namely Articles 192, 194, and 195. There are two elements of customary international law, namely state practice and jury opinion. The United States fulfills both of these elements for international law reflected in UNCLOS. Therefore, the United States complies with articles 192, 194, and 195 (Wilson 2014).

Article 194 of UNCLOS requires that ratifying States “take all necessary steps to prevent, reduce and control pollution of the marine environment from any source” and “ensure that activities under their jurisdiction or control are carried out so as not to cause damage by pollution to the State. – other countries and their environment”. Although the pollution articles in UNCLOS are more dominant in discussing oil pollution regulations from ships, article 194 paragraph 3 states that "installation of equipment used in the exploration or exploitation of natural resources from the seabed and subsoil". This means that the *Deepwater Horizon* is one of the activities regulated in UNCLOS (Smith 2011, 1482-1483). Although UNCLOS directly discusses international regulations on fixed and offshore drilling platforms such as the *Deepwater Horizon*, the weakness lies in that countries must pass domestic laws that monitor pollution from fixed platforms. UNCLOS also “does not have definite procedures for determining liability, guaranteeing compensation, and enforcing the adoption of international rules”. This applies if a spill or explosion caused by one country could affect another country.

In addition, UNCLOS also does not regulate matters relating to coastal countries with jurisdiction over pollution issues or with other special rights. UNCLOS, on the other hand, only relies on domestic laws set by each country (Smith 2011). The United States law that regulates oil pollution is *The Oil Pollution Act 1990 (OPA 1990) – Public Law 101-380*. OPA 1990 regulates the prevention and response to oil spills from ships and facilities by enforcing the transfer of oil spills and

establishing the form of responsibility for cleaning and damage costs, establishing special operating procedures, determining responsible parties and financial responsibilities, implementing processes to measure damage, determine the damages for which the infringer is liable and assign costs for damage, cleaning and removal costs.

In addition to the 1990 OPA, the Deepwater Horizon disaster also violated the *Clean Water Act – Public Law 92-500* (CWA). The CWA is the main United States federal law governing water pollution. The CWA aims to restore and maintain the chemical, physical and biological integrity of state waters, recognizes state responsibilities in tackling pollution, and provides assistance to states including funding for publicly owned treatment works to improve wastewater treatment and maintain wetland integrity.

In August 2010, Louisiana district court judge Carl Barbier was appointed to oversee the consolidation process regarding the oil *Deepwater Horizon spill*. *department of Justice* United States(DOJ) sued *British Petroleum*, *Transocean*, and *Anadarko* in a New Orleans civil court in December 2010 for violating the *Clean Water Act and the Oil Pollution Act*. In March 2012, BP agreed to settle the claims made by the plaintiffs, as a form of the liability to the individual victims of the spill amounting to 7.8 billion dollars. BP attempted to appeal but was rejected by the United States Supreme Court. In November 2012, BP reached an agreement with the DOJ to be found guilty of 14 criminal charges, including 11 counts of premeditated murder, and offenses against *Clean Water and Migratory Bird*. The deal provides for penalties and fines of more than $4.5 billion, of which nearly $1.26 billion will be used for discretionary funds overseen by the DOJ. In addition, BP also agreed to pay more than 1.5 billion dollars to the *Securities and Exchange Commission* as a form of responsibility to shareholders due to the oil spill.

In February 2013, United States Courts established civil penalties based on Section 311(b) of the *Clean Water Act*. CWA Article 311 provides several factors for determining civil penalties for any "owner, operator, or individual responsible for any ship, onshore facility, or offshore facility" where oil is dumped. The first court discussed faults relating to the loss of control of the drill, explosions, and fires to the sinking of the Deepwater Horizon and the onset of the release of oil from drilling. In addition, this first trial discussed whether British Petroleum and others responsible for the spill acted in gross negligence. This is an important factor because it relates to civil law in force in the United States. The first court ruled that the oil spill was "caused by negligence or willful misconduct by BP".

In addition to the judgment on gross negligence, the court also made a decision on comparative error. This means that BP was given 67% responsibility for this disaster and 30% for Transocean. In the second trial, it was found that about 3.19 million barrels of oil spilled into the Gulf of Mexico. Overall at the last trial, the maximum sentence was applied, bringing the total civil sentence to $13.7 billion. *The Clean Water Act is* designed to prevent behavior that could cause environmental damage and to encourage effective response actions. Based on the *Clean Water Act*, the RESTORE ACT was formed which aims to restore economic and ecological activities in the Gulf of Mexico. *The Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act* (RESTORE ACT) were enacted by the United States Congress by establishing *The Gulf Ecosystem Restoration Council*. The Council has an *Initial Funded Priorities*

List (FPL) program, which aims to allocate funds from fines paid by BP to restore and protect natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal material lands, and the region's economy.

The details of the funds used, namely 20% of the funds will be allocated for the oil spill accountability fund which will later be managed by the *US Coast Guard*. Then, 80% of the funds will be allocated for the cost of recovering the Gulf managed by the US. *Treasury Department*. Furthermore, the funds used for the restoration of the condition of the Gulf will be divided into five parts, namely 35% will be distributed equally to the five Gulf countries namely Alabama, Florida, Louisiana, Texas, and Mississippi, 30% to the Gulf Restoration Council which will later be used for ecosystem restoration. Next, 30% for the five Gulf countries, 2.5% for knowledge, observation, monitoring, and technology programs for the restoration of the Gulf ecosystem and, 2.5% for research development centers (Widiastari 2016).

Overall, RESTORE ACT only focuses on efforts to restore the bay with five main objectives to be achieved. The first is the restoration and conservation of habits, restoration of water quality, complementing and protecting underwater life, increasing community spirit, and restoring the economy of communities around the Bay (Widiastari 2016). RESTORE ACT does not control the impact that Deepwater Horizon has on the national security of the United States but rather focuses on restoring the quality of the aquatic environment in the waters around the Gulf.

To look at the case of the Deepwater Horizon, there are two international instruments that discuss the handling of mining in marine areas. The first international instrument is the *United Nations Convention on the Law of the Sea* (UNCLOS) and the second is *the 1990 International Convention on Oil Pollution Preparedness, Response, and Cooperation* (OPRC). UNCLOS establishes the legal framework for cooperation, prevention, and control of pollution in general, which is written in section XII of the convention. While the 1990 OPRC focused on cooperation in handling cases of pollution incidents (Vinogradov 2013).

UNCLOS does not discuss detailed regulations regarding pollution caused by accidents that occur as a result of offshore exploration activities. However, UNCLOS provides guiding principles and emphasizes the things that must be considered by the parties involved in these exploration activities. This is written in Article 194 paragraph 3 (c) which states that the state must take steps designed to minimize pollution as much as possible from the installations and equipment used in the exploration or exploitation of natural resources of the seabed and subsoil. This includes measures to prevent accidents and respond to emergencies, ensure the safety of operations at sea, and regulate the design, construction, equipment, operation, and workmanship of such installations or devices (United Nations, 1982).

The OPRC Convention was drafted within the framework of the International Maritime Organization (IMO) and adopted in 1990 and entered into force in 1995, and the IMO *Manual on Oil Pollution* offers guidance to countries and industry in creating organizational frameworks and preparing contingency plans at local, national and international levels. international. Recommendations regarding safety in carrying out other mining activities can be found in the *International Maritime Organization* (IMO) Code for Construction and Equipment of *Mobile Offshore Drilling Units* (MODU Code). The purpose of the MODU Code is to introduce strict construction and operating standards for offshore installations used in seabed activities.

The response to an oil spill accident requires careful planning to minimize its

impact. This is usually achieved through the use of a contingency plan. The national oil spill contingency plan, as a rule, that aims to establish an operational organization. engage all relevant agencies, identify high-risk and priority coastal areas, provide appropriate equipment, training personnel, and conduct exercises. The contingency plan should define the geographic area covered with reference to supporting regulations and agreements. Countries are encouraged to develop their respective international oil spill preparedness and response plans. National pollution response systems and plans must be consistent with international arrangements.

However, what actually happened was not in accordance with the provisions established by the international legal framework. The accident that happened to *British Petroleum* (BP) shows that the company is not paying attention to the aspects of prevention and safety. Almost all investigative reports following the BP disaster reveal that the company has almost no prevention systems in place and ignores security and safety alerts. A congressional energy and trade investigation revealed that BP did not have the planning, monitoring, testing, and maintenance of a gas explosion preventer that failed to cause an explosion. The investigation also revealed that some of the warning signs of the problem were ignored and indicated a series of equipment failures. In addition, some experts and journalists claim that BP created a series of money-saving shortcuts in the days before the crash. This makes the increasing risk of explosion even worse, the company ignores safety standards to continue drilling despite warnings of gas leaks (Mejri 2013).

The oil *Deepwater Horizon spill* also had a significant impact on several sectors of commercial fishing, the tourism industry, wildlife, and the natural environment. The Gulf of Mexico is one of the most productive fishing grounds in the United States. In addition, the Gulf of Mexico also provided one-third of all seafood consumed by Americans before the oil spill. The response to the Deepwater Horizon oil spill was about 40% of the bay's waters being closed. This causes harm to the servants in the waters around the Gulf. It is estimated that about 4.36 billion dollars in losses are suffered by the fishing industry of the countries around the Gulf of Mexico. The oil spill by the Deepwater Horizon caused disruption to tourism in the Gulf for a minimum of 15 months with a loss of 7.6 billion dollars in revenue to a maximum of 36 months with a loss of 22.7 billion dollars in revenue (Smith, Smith and Ashcroft 2011).

According to *Oxford Economics*, tourism losses are up to 50%. Another sector affected by the Deepwater Horizon oil spill is *real estate*. One example, St. The Joe Company is a large real estate developer with hundreds of thousands of acres in Northwest Florida's Panhandle. When the Deepwater Horizon exploded, its share price dropped to 20.56 dollars which are 42.4%. In total, this incident caused a loss of 4.32 billion dollars in value *real estate*. The total loss caused by the Deepwater Horizon oil spill is estimated at $36.9 billion, including economic and environmental losses.

The accident experienced by BP in addition to having an impact on environmental damage also has an impact on the economic sector. Economic losses occurred in the fishing, tourism, and real estate industries. The waters of the Gulf of Mexico in the United States produce 73% of the domestically harvested shrimp and 59% of the oysters. *The National Marine Fisheries Service* reports that 2008 sales revenue for the commercial fishing industry by the state of Alabama was $445 million, Florida $5.7 billion, Louisiana $2.4 billion, Mississippi $391 million, and Texas $2.

0.0 billion. This brings the total for all the Gulf States of Mexico to $10.9 billion. Based on the length and extent of the spill, the estimated damage from the BP oil spill to the Gulf of Mexico commercial fishing industry was approximately 40% of 2008 sales revenue. Thus the loss to the United States in the Gulf of Mexico was $4.36 billion.

The tourism industry generates $65 billion in annual revenue for businesses in the US coastal Gulf states. Oxford Economics estimates the tourism industry losses in the Gulf states from the BP oil spill by measuring the duration and scale of the negative impact on tourism from comparable previous disasters. The previous specific event studied by Oxford Economics for tourism losses was the 1979 Ixtoc oil spill with 140 million gallons of oil in the Gulf of Mexico which took five years to clean oil from the Texas coast. Then Hurricane Katrina and several other major hurricanes, the 1989 Exxon Valdez oil spill of 11 million gallons. Then the Asian Tsunami of 2004, and the terrorist attacks. The duration and amount of tourism losses in the selected case studies estimated lost revenues of $22.7 billion. However, the oil spill had a smaller impact on the Gulf of Mexico coast than expected. For this reason, a reasonable estimate is 50% of the lower estimate by Oxford Economics, which is $3.8 billion.

Economic losses are also indicated by the falling prices of real estate. St. Joe Company (NYSE: JOE), a major real estate developer owned several hundred thousand acres in the Panhandle of Northwest Florida as of March 31, 2010. The closing stock price of St. Joe was $35.70 on April 20, 2010, when the Deepwater Horizon crash occurred. However, it had decreased to $20.56 on October 15, 2010. Prior to the spill, Florida's coastal land was typically worth $2 million to $8 million per acre.

The moratorium was also imposed for 6 months on 30 May 2010 in response to the BP accident that occurred in the Gulf of Mexico. The moratorium was announced by the US Secretary of the Interior, Ken Salazar. Then in June Louisiana lost more than 25,000 jobs statewide. The loss of 25,000 jobs cannot yet be assumed to be a direct correlation to the BP incidence. However, the increasing number of unemployed is believed to have come from the decline in drilling permits and the slowdown in the oil and gas industry. Unemployment will increase if many coastal businesses in Louisiana choose to lay off their employees. *The Oil Rig Worker Fund was* established with BP funding of $100 million, created to compensate workers unable to work as a direct result of the moratorium. Based in the Baton Rouge Area Foundation, it has received approximately 624 compensation applicants (Greater New Orleans Inc. 2011, 9).

Oil spills cause loss of income and livelihoods for individuals and companies in the commercial fishing, shrimp, and oyster industries. This affects fishermen, boat operators, hotel owners, tourism management agencies, rental property owners, and other businesses in coastal resort areas. Thus, the oil spill is a violation of several principles of international and national law, which seek to protect the rights of individuals to their livelihoods. For example, more than 30,000 individual claims have been filed by businesses and workers in the Gulf region against BP, seeking repayment for profits and income lost due to the oil spill.

A number of international treaties recognize subsistence rights as inherent human rights, which must be protected by states. Paragraph 10(c) of the *United Nations Norms and Responsibilities of Transnational Corporations and other*

Businesses with Regard to Human Rights compels multinational corporations (MNCs) to protect the subsistence rights of individuals in their operations. The right to subsistence was recognized in the Yanomami Case where the Inter-American Commission asked the state to restore, protect and preserve the rights of indigenous peoples to their ancestral territories because they depend on their ancestral territories for farming, hunting, subsistence, and survival.

Similarly, in the case of Maya Toledo, the Commission notes that "development activities must be accompanied by appropriate and effective measures to ensure that they do not proceed at the expense of the basic rights of people who may be negatively and specifically affected, including indigenous peoples. and the environment on which they depend for their physical, cultural and spiritual well-being". To protect subsistence, international environmental law requires polluting companies to pay oil pollution victims adequate compensation for the economic losses incurred. For example, after the Deepwater Horizon explosion, BP announced a $20 billion fund that would be used to compensate businesses and workers in Louisiana, Mississippi, Alabama, Florida, and Texas, whose financial livelihoods suffered as a result of the oil spill (Olawuyi 2012).

The explosion and collapse of BP's Deepwater Horizon oil drilling rig in the Gulf of Mexico in 2010 led to a renewed emphasis on the *Coast Guard* US and national incident management procedures. The National Contingency Plan (NCP) calls for the *Coast Guard to* be the on-scene coordinator (FOSC) for any hazardous pollution incident in the coastal zone. These powers form the basis of the role of the *Coast Guard* in Deepwater, directing all response efforts to contain and clean up oil spills. The NCP also asks the polluter, known as the party responsible to pay for the cleaning fee. *The Coast Guard* is responsible for monitoring polluter efforts (J. Wilson n.d.).

The Coast Guard should fully implement the policy on broad outreach programs through participation with the *Local Emergency Planning Committee*. There is a need to engage national associations of state and local governments to educate and inform them about NCPs and find ways to integrate them into oil spill preparedness efforts and response organizations. *The Coast Guard* should initiate a review of the NCP structure and revise it as necessary to ensure connectivity during a disaster event. This includes better defining the roles of the *Secretary of Homeland Security* (or designated principal federal officer), the White House, and other officials in the Administration.

5. Conclusions and Recommendations

UNCLOS is one form of maritime security implementation but is not effective in preventing oil pollution at sea. The United States did not ratify UNCLOS so that UNCLOS became an irrelevant international law for the United States constitution. It's not just UNCLOS, so many international treaties have not been ratified by the United States. The status and power of the United States as a superpower is a factor in the marginalization of international law in the domestic law of the United States. The United States is not interested in entering into an international treaty that has the potential to harm the United States' national interests.

Maritime security is implemented not only in UNCLOS but also in the form of domestic laws and regulations. A United States court has found BP guilty and must

be held responsible for the damage caused. The effectiveness of maritime security does not depend entirely on military forces such as the navy or coast guard patrols. In the Deepwater Horizon case study, the United States Court is the agency that has the power to determine the form and scheme of implementing United States maritime security. BP provides financial compensation to fishermen, coastal patrol officers, local and national governments in restoring the marine environment.

Nevertheless, the instrument for preventing oil pollution in the sea must be prioritized. Reflecting on the Deepwater Horizon case study, mining company initiatives have a major role in preventing oil pollution at sea. In mining exploration and exploitation, a risk mitigation system must be implemented by all mining companies. The United States has various regulations requiring risk audits of mining exploration and exploitation. The big question that must be answered is how obedient the mining company is to the results of the risk audit that has been carried out? In the era of free economic competition, companies are required to achieve production targets as quickly as possible, including mining companies. The hegemony of the profit motive of the company is one of the factors for the company's negligence in preventing environmental pollution due to the production process. The implementation of sustainable mining becomes an illusion because of the hegemony of the company's profit motive. Various environmental disasters occurred despite warnings from the government, society, and academia. The role of the state in maritime security is minimal.

Maritime security becomes very difficult to determine its permanent construction because the actors who determine the construction of maritime security become more diverse. Companies, civil society, and individuals become new actors with unique identities and behaviors that differ from one another. Economic and socio-cultural globalization minimizes the role of the state and gives a greater role to corporations and transnational activism movements. The Deepwater Horizon disaster is one of the cases that shows the fragility of maritime security which consists of different actors. The state must ensure that the management of natural resources is sustainable but corporations often minimize the sustainability aspect in the operations of the company.

One of the characteristics of contemporary maritime security is the dilemma between economic interests and aspects of sustainability. Apart from the variations in the interests of actors related to maritime security, the dilemma between economic interests and aspects of sustainability is a factor that arises, especially in the management of natural resources at sea. Traditional maritime security is still focused on the state and the defense aspects of the territorial integrity of the sea, while contemporary maritime security is becoming more complex with the involvement of corporations, civil society, and academia. In the Deepwater Horizon case study, United States maritime security is vulnerable to corporate negligence. An interesting finding from the Deepwater Horizon study is the role of the court in finding BP guilty and responsible. The court became an arena of debate between companies and corporations regarding aspects of mining negligence. Despite the complexities and dilemmas in contemporary maritime security, the process of seeking justice is becoming more important for states, corporations, and civil society.

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