

ABSTRAK

Pengelolaan sumber daya minyak dan gas bumi di Indonesia dilaksanakan melalui mekanisme *Production Sharing Contract* (PSC) antara negara dan kontraktor. PSC dengan skema *cost recovery* sering menimbulkan perdebatan terkait keseimbangan pembagian risiko, biaya, dan keuntungan antara para pihak. Penelitian ini bertujuan untuk menganalisis penerapan asas proporsionalitas dalam klausul-klausul penting PSC serta implikasinya terhadap kepastian hukum dan keseimbangan hak serta kewajiban para pihak. Penelitian ini mengkaji penerapan asas tersebut dalam klausul kontrak antara negara dan Badan Usaha Tetap (BUT) X, dengan memperhatikan juga klausul stabilitas kontrak. Metode yang digunakan adalah penelitian hukum normatif dengan pendekatan preskriptif dan spesifikasi deskriptif analitis. Data sekunder diperoleh melalui studi kepustakaan dan dianalisis secara kualitatif dengan menghubungkan norma kontraktual PSC dan prinsip-prinsip hukum perdata, khususnya asas proporsionalitas. Hasil penelitian menunjukkan adanya disproporsionalitas dalam alokasi risiko, di mana kontraktor menanggung seluruh risiko finansial pada tahap eksplorasi, sementara negara tetap memegang kendali dominan atas manajemen dan aset melalui kewenangan SKK Migas tanpa perlindungan hukum terhadap kegagalan. Klausul stabilitas kontrak juga belum sepenuhnya memberikan perlindungan terhadap perubahan regulasi teknis dan administratif, sehingga menimbulkan ketidakpastian hukum bagi investor. Skema *cost recovery* dalam PSC belum sepenuhnya mencerminkan asas proporsionalitas karena masih terdapat pergeseran risiko regulatif secara sepihak kepada kontraktor.

Kata Kunci: *Production Sharing Contract, Cost Recovery, Asas Proporsionalitas*

ABSTRACT

The management of oil and gas resources in Indonesia is carried out through a Production Sharing Contract (PSC) mechanism between the state and contractors. PSCs with a cost recovery scheme often give rise to debates regarding the balance of risk, cost, and profit sharing between the parties. This study aims to analyze the application of the principle of proportionality in important PSC clauses and its implications for legal certainty and the balance of rights and obligations of the parties. This study examines the application of this principle in the contract clauses between the state and Permanent Establishment X (BUT X), while also considering the contract stability clause. The method used is normative legal research with a prescriptive approach and descriptive analytical specifications. Secondary data was obtained through literature study and analyzed qualitatively by linking PSC contractual norms and civil law principles, particularly the principle of proportionality. The results of the study show a disproportionate allocation of risk, whereby contractors bear all financial risks during the exploration phase, while the state retains dominant control over management and assets through the authority of SKK Migas without legal protection against failure. Contract stability clauses also do not fully provide protection against changes in technical and administrative regulations, creating legal uncertainty for investors. The cost recovery scheme in the PSC does not fully reflect the principle of proportionality because there is still a unilateral shift of regulatory risk to contractors.

Keywords: Production Sharing Contract, Cost Recovery, Principle of Proportionality