

Clinical Legal Education in International Environmental Disputes: Lessons from the Montara Oil Spill Dispute

Jursi Hermada Gomang ^a✉, Martitah ^b

^a Faculty of Law, Universitas Negeri Semarang, Semarang, Indonesia
<https://orcid.org/0009-0007-8228-5570>

^b Faculty of Law, Universitas Negeri Semarang, Semarang, Indonesia
<https://orcid.org/0000-0001-7398-1100>

✉ Corresponding email: gomangjursi@students.unnes.ac.id

Abstract

Achieving Sustainable Development Goal (SDG) 14 on Life Below Water requires not only effective environmental governance but also legal education that equips future lawyers to address complex transboundary environmental disputes. Although clinical legal education has increasingly been recognized as an experiential learning approach, limited attention has been given to its application in international environmental disputes involving marine pollution. This study aims to examine the limitations of conventional legal mechanisms in resolving the Montara oil spill dispute between Indonesia and Australia through the perspective of Lawrence M. Friedman's legal

system theory and to formulate a clinical legal education model based on environmental dispute analysis. The research employs a normative legal method using a case-based approach, with the Montara oil spill dispute serving as the primary case study. Data were analyzed through interactive qualitative techniques consisting of data reduction, data presentation, and conclusion drawing. The findings reveal that conventional legal mechanisms remain constrained by weaknesses in the three elements of the legal system, namely legal structure, legal substance, and legal culture, which collectively hinder the effective resolution of transboundary environmental disputes. Building upon these findings, this study develops a conceptual model of environmental clinical legal education that integrates case-based learning with Friedman's legal system analysis to strengthen students' analytical and problem-solving capacities. This research contributes to the development of clinical legal education by demonstrating how international environmental disputes can serve as practical learning instruments for advancing environmental justice and supporting the achievement of SDG 14. As the proposed model is based on a single case study, further research involving comparative environmental disputes is recommended to evaluate its broader applicability across different legal and institutional contexts.

KEYWORDS

Clinical Legal Education, Environmental Disputes, Montara Oil.

Introduction

Based on the 14th Sustainable Development Goals (SDGs) on Life Below Water, Indonesia wants to protect and utilize the ocean, sea and marine resources in a sustainable manner for sustainable development. Rencana Pembangunan Jangka Menengah Nasional (RPJMN)¹ document of the Badan Perencanaan Pembangunan

¹ Kementerian Perencanaan Pembangunan Nasional/Badan Perencanaan Pembangunan Nasional, "Ringkasan Rencana Pembangunan Jangka Menengah Nasional Tahun 2025-2029," 2025.

Nasional (Bappenas) for 2025-2029, the Government has targeted sustainable management of marine ecosystems, including the arrangement of marine space, pollution control and water conservation that are in line with SDGs 14 targets such as 14.1 reduce marine pollution and 14.2 protect and restore ecosystems². This sustainable transformation of the environment in the long term, will bring Indonesia to the resilience of Indonesia's marine ecosystems, support the growth of the blue economy up to 171 billion per year and improve the welfare of coastal communities.

However, in the current conditions, Indonesia faces great challenges, both external and internal. External challenges such as climate change that cause damage to marine ecosystems such as coral reefs due to ocean warming, plus pollution from oil mining activities from the seabed, as well as dependence on international costs and lack of cross-stakeholder cooperation hinder targets such as marine protected areas³. The internal challenges are triggered by the disposal of distribution waste into the sea, marine waste disposal, overfishing and illegal fishing (IUU) threatening fish stocks in 11 Fisheries Management Areas (WPP), with difficulties in accessing fuel and declining fish prices for small fishers⁴.

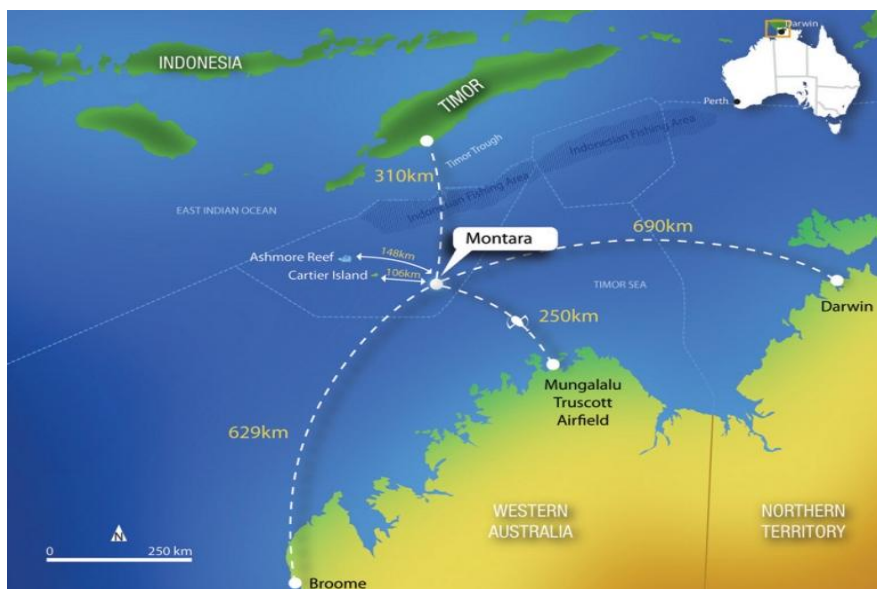
The Montara oil spill dispute occurred in 2009 which was a transboundary marine pollution incident in the Timor Sea involving Australia and Indonesia. On 21 August 2009, the West Atlas drilling rig owned by PTTEP Australasia (a Thai subsidiary) in the Montara Block, Australian waters, suffered a blowout due to a safety valve failure, causing a crude oil spill of approximately 400,000-500,000 barrels over 74 days to November 2009. Oil spread up to 90,000 km², 85% of which flows into Indonesian waters, damaging NTT's coastline in 13 districts/cities.

² "The SDGS in Action," United Nations Development Programme, n.d., https://www-undp-org.translate.goog/sustainable-development-goals?_

³ Humas BRIN, "Tantangan Laut Dan Perubahan Iklim Dibahas Dalam Forum Kerja Sama Maritim Asia Tenggara," brin.go.id, 2024.

⁴ Humas BPPSDM, "KKP Tekankan Pentingnya Kolaborasi Capai SDG 14," Badan Penyuluhan dan Pengembangan Sumber Daya Manusia Kelautan dan Perikanan, 2024.

Figure 1. Map of the Distribution of the Montara Oil Spill in the Timor Sea of NTT



Reference: Kompasiana.com⁵

On the map of the distribution of the Montara oil spill in the Timor Sea of NTT, it can be seen that the Montara point is aimed at the offshore area of Australia which is relatively close to Indonesian waters, especially Timor Island with a distance of 310 km. This map also shows the direction and potential distribution of oil spills in the Timor Sea which is close to the Indonesian fisheries zone in the coastal areas of western Australia and the Northern Territory ⁶. The Montara oil spill has an impact on the death and damage of seaweed in the Rote/Kupang area which disrupts the marine ecosystem. At least about 15,000 seaweed farmers have suffered losses due to pollution that has impacted their livelihoods. The West Tomor Care Foundation estimates that the total losses reached Rp.63.5 billion for seaweed

⁵ Blasius Mengkaka, "Ladang Migas Montara Dibelit Tragedi 2009," Kompasiana.com, 2017.

⁶ Ibid.

farmers in 13 districts/cities between 2009-2015. The total loss of the community due to the loss of livelihood is around Rp.15 trillion ⁷.

Tresna Sastrawijaya in the book on environmental pollution explained that only 15% of the oil spill can be ignited, even though many people are deployed to deal with the oil spill problem ⁸. Furthermore, the oil spill problem has also occurred in the case of the Exxon Valdez tanker which is an oil leak disaster in the United States. The case led to the contamination of 10.8 million gallons of oil in Prince William Sound and the deaths of about 250,000 seabirds, 4,000 seals, 300 sea lions, and more than 20 orca whales, as well as damage to marine ecosystems that have not recovered after 30 years. In addition to its impact on marine ecosystems, these oil leaks also have an impact on economic losses of up to \$286.8 million for the local fishing industry due to pollution that disrupts marine resources ⁹. This case suggests that the impact of marine pollution due to oil spills is very large and long-term for marine ecosystems and economies.

Previously, there were researchers who conducted research on the Montara oil spill dispute in the Timor Sea of NTT which focused on state and corporate accountability, cross-border settlement mechanisms, and the protection of the rights of affected communities. (Ambarwati, 2021) This study explains that there is a form of violation of the principles of marine environmental protection, especially the state's obligation to prevent, reduce and control marine pollution called transboundary pollution¹⁰. Furthermore, research by (Astiti et al., 2019) emphasizes that the principle of absolute responsibility contained in the

⁷ Rini Siti Juariah, "Analisis Putusan Pengadilan Federal Australia Atas Kasus Montara Dan Implikasinya Terhadap Sengketa Pencemaran Laut Lintas Batas Di Masa Depan," *Jurnal Hukum Lex Generalis* 3, no. 11 (2022): 930–52, <https://doi.org/https://doi.org/10.56370/jhlg.v3i11.327>.

⁸ A. Tresna Sastrawijaya, *Pencemaran Lingkungan*, 3rd ed. (Jakarta: PT. Rineka Cipta, 2009).

⁹ Boviatsis M and Vlachos G, "The Implementation of Risk Management Processes as a Contributing Factor to the Minimization of Shipping Disasters through the Study of Previous Shipping Accidents," *CEST*, no. September (2021), <https://doi.org/https://doi.org/10.30955/gnc2021.00541>.

¹⁰ Maya Dwi Ambarwati, "Penyelesaian Sengketa Pencemaran Laut Timor Akibat Kebocoran Sumur Minyak Montara Australia Antara Indonesia Dan Australia," *The Digest: Journal of Jurisprudence and Legisprudence* 2 (2021): 59–90.

1982 UNICLOS is not fully in line with Australia's accountability for the case, so the bilateral negotiation path fails to provide an effective recovery for Indonesia¹¹. (Juariah, 2022) strengthens these findings by showing the lack of guarantees of state accountability for transboundary oil pollution due to the limitations of the international legal regime, especially in the determination of compensation and the enforcement of state obligations¹².

On the other hand, several studies emphasize that clinical legal education plays a strong role in strengthening access to justice and building the sensitivity of law students, such as research by (Wiguna, 2023) explaining that clinical legal education can produce legal experts and practitioners who not only affirm the law procedurally but also consider the values contained in the law, thus making legal practitioners able to be responsive to the developments that are occurs in society, by combining two approaches in clinical legal education, namely doctrinal and non-doctrinal approaches¹³. Then by (Siregar, 2020), emphasizing that clinical legal education is the foundation for students to pursue professional careers with a commitment to ethics and social justice values. So according to this study, clinical legal education is important to be included in the renewal of the legal science curriculum in this era¹⁴.

Although many researchers have researched the Montara oil spill dispute and the importance of clinical legal education for law students, in this study there is a different point of view, which relates it to the development of environmental clinical law education as an instrument for the formation of advocacy skills and environmental justice based on

¹¹ Made Astiti, Dewa Gede Sudika Mangku, and Ratna Artha Windari, "Penyelesaian Sengketa Internasional Terkait Pencemaran Laut Timor Akibat Tumpahan Minyak Montara Antara Indonesia Dan Australia," *E-Journal Komunitas Yustisia Universitas Pendidikan Ganesha* 2, no. 1 (2019): 11–21, file:///C:/Users/HP/Downloads/apsarihadii,+11-21+Astiti.pdf.

¹² Ibid.

¹³ Made Oka Cahyadi Wiguna, "Konsep Pengembangan Clinical Legal Education Berbasis Pendekatan Yang Berkeadilan," *KRTHA BHAYANGKARA* 17, no. 2 (2023): 379–92.

¹⁴ Sahnun Sahuri Siregar, "Pendidikan Klinik Hukum Sebagai Instrumen Penting Dalam Pembaharuan Pendidikan Hukum Di Indonesia," *Swara Justisia* 3, no. 4 (2020): 372–89, <https://www.swarajustisia.unespadang.ac.id/index.php/UJSJ/article/view/124>.

real cases. This study interprets the Montara case as a case-based learning medium in clinical legal education, so that it can open up new space for research that addresses the resolution of natural resource disputes with a legal learning model that is based on experiential learning and substantive justice.

Normatively, international marine protection is contained in UNCLOS 1982. This convention does not specifically regulate environmental pollution, but this convention emphasizes that every country is obliged to use environmentally conscious technology in exploring natural resources in the sea so as not to damage and pollute the environment¹⁵. In Indonesia itself, regulations on marine pollution are regulated in Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup and Peraturan Pemerintah Republik Indonesia Nomor 22 Tahun 2021 Tentang Penyelenggaraan Perlindungan dan Pengelolaan Lingkungan Hidup, in this regulation contains guarantees of legal certainty and provides protection for the right to a good and healthy life as a form of protection for the environmental ecosystem.

The question is, is the regulation effective in providing protection and elections for people affected by cross-border pollution? Hartiwiningsih has noted that there are irregularities in the environmental law enforcement process, causing ineffective efforts to enforce environmental criminal laws. Furthermore, Akhmad Santosa expressed the factors that cause the weak enforcement of environmental laws, namely, law enforcement does not have a clear vision and mission, as well as the skills of advocates, the community, the police and prosecutors and the courts are still very limited in handling natural resource cases (Machmud, 2012)¹⁶. Research by (Mokodompit et al., 2021) concluded that these regulations are oriented to efforts or actions to tackle marine pollution, but do not contain efforts to control marine

¹⁵ Sukanda Husin, *Hukum Lingkungan Internasional*, 1st ed. (Depok: Rajawali Pers, 2016).

¹⁶ Syahrul Machmud, *Penegakan Hukum Lingkungan Indonesia*, 2nd ed. (Yogyakarta: Graha Ilmu, 2012).

natural resources, so the regulations are not effective enough to overcome transnational marine pollution¹⁷.

On the other hand, clinical legal education is present as an approach to learning law that aims to prepare law graduates who not only have the ability to think theoretically but also practical skills in providing legal services to the community. Thus, graduates will be able to solve various legal problems faced by the community. However, in reality there are challenges in its implementation, the phenomenon that occurs in law enforcement practices tends to focus on law enforcement or procedural justice. This condition then causes legal practice education to produce graduates who only function as implementers or even just "funnels of law"¹⁸.

The Montara oil spill dispute provides a space for learning legal practices that cover various dimensions of learning, including aspects of civil law, international environmental law, civil procedural law, science-based evidence, and the concept of ecological justice. In the context of learning, students are not only required to master the elements of legal accountability, but also to be able to study in depth the problems of scientific causality, the authority of jurisdiction between countries and the obstacles faced by the affected communities in obtaining justice. In addition, the analysis of the Montara oil spill dispute can also serve as a place to conduct critical reflection on the direction and goals of legal education.

From the above problems, there are at least two problems that will be studied in this study, namely first, the limitations of conventional legal mechanisms in providing justice for Indonesian coastal communities affected by the Montara oil dispute seen from the perspective of the legal system from Lawrence M. Friedman. Second, how the Montara oil spill dispute can be used in the Case-based clinical legal learning model in Indonesia to show that clinical legal education

¹⁷ Tri Melati Mokodompit, Harold Anis, and Dientje Rumimpunu, "Kajian Tentang Kebijakan Pemerintah Terhadap Pencemaran Laut Menurut Peraturan Pemerintah Nomor. 19 Tahun 1999 Tentang Pengendalian Pencemaran Dan/Atau Perusakan Laut," *Lex Administratum* IX, no. 3 (2021): 176–86, <https://ejournal.unsrat.ac.id/index.php/administratum/article/view/33230>.

¹⁸ Wiguna, "Konsep Pengembangan Clinical Legal Education Berbasis Pendekatan Yang Berkeadilan."

can function as an instrument for students in learning and for the development of an environmental law paradigm that is more responsive to victims of cross-border environmental damage.

This research is a type of normative juridical research with a Case approach, which is an approach carried out by examining cases related to natural resource disputes as a clinical legal education lesson. The data sources are obtained from primary data, namely from Law Number 32 of 2009 concerning Environmental Protection and Management and Government Regulation of the Republic of Indonesia Number 22 of 2021 concerning the Implementation of Environmental Protection and Management, judges' decisions and other legal documents. Meanwhile, secondary data sources are obtained from law books, legal journals, legal principles and the results of previous research¹⁹.

The data obtained will be analyzed using the interaction analysis method which is divided into three, namely data reduction, data display and verification/conclusion withdrawal. In this study, problem analysis uses legal system theory from Lawrence M. Friedman to understand the complexity of Montara disputes and design an appropriate model of environmental clinical legal education. The use of this theory is also based on the need to explain the limitations in conventional legal mechanisms in the settlement of the cross-border Montara oil spill dispute between Indonesia and Australia. This theory contains 3 main components in the legal system, namely the legal structure, the substance of the law and the legal culture. This theory is particularly relevant for cross-jurisdictional cases such as the Montara oil spill dispute, where the various interactions between national and international legal systems require an understanding of how norms from different sources interact and how institutions work together.

A. Limitations of Conventional Legal Mechanisms in the Montara Oil Spill Dispute

¹⁹ Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Pres, 2020).

Conventional law is a set of rules that are determined based on agreement between individuals and groups to regulate interactions and behaviors with each other, either as a complement to or as a substitute for a specific country's general law. Furthermore, international conventional law is an agreement that makes the state the primary subject based on the absolute sovereignty of the state. This law regulates relations between countries through treaties, international customs, and general principles where states have equal rights and full sovereignty to determine sovereignty.

The development of international environmental law began with four (4) phases, namely, the first was a bilateral agreement in the 19th century on fishery resources, the second was the Conference on Environment and Development in Stockholm in June 1972, the third United Nations Conference on Environment and Development (UNCED) in 1972-1992, and the fourth was the period after UNCED 1992 until now which focuses on integrated efforts in environmental management (Husin, 2016). The four phases of this international convention were made to regulate the management of the environment both regarding environmental pollution and air and atmospheric pollution. International conventions on the protection of the marine environment are separated based on the source of pollution, namely (in Husin, 2020)²⁰ and (Pitaloka, 2021)²¹:

1. The 1974 Paris Convention for the Prevention of Marine Pollution from Land-Based Sources

This convention was established in 1974 with a focus on marine pollution from pollutants sourced from land or pollution caused by human activities on land. The Convention consists of 29 articles and 2 Annexes that require participating countries both individually and jointly to prevent marine pollution from land-based materials.

²⁰ Sukanda Husin, *Penegakan Hukum Lingkungan* (Jakarta: Sinar Grafika, 2020).

²¹ Diva Pitaloka, "Implementasi Hukum Lingkungan Internasional Dalam Hukum Nasional Indonesia," *Jurnal Kompilasi Hukum* 6, no. 2 (2021), file:///C:/Users/HP/Downloads/82-Article Text-121-2-10-20220214.pdf.

2. 1976 London Convention on Civil Liability for Oil Pollution Damage Resulting from Exploration and Exploitation of Seabed Mineral Resources

This Convention occurred in 1976 which focuses on pollution that occurs off the coast both from installations and from ships, This Convention obliges each Company to assume financial responsibility for losses suffered by the victim or the victim country. This convention is also the first international convention to consider that the act of polluting the marine environment is an unlawful act.

3. Convention on the Law of the Sea 1982 (UNCLOS 1982)

The convention on the law of the sea is a convention that focuses on the prevention of marine pollution, stating that every country has a sovereign right to take natural resources in the sea and the seabed. This convention requires each participating country to use environmentally conscious technology so that there is no damage during natural resource exploration, so that participating countries are also required to cooperate in creating marine protection technologies and regulations.

Environmental law enforcement efforts are intended to prevent, and overcome environmental damage or pollution. For this reason, there must be strong legal protection and supported by good legal instruments, laws and regulations and community participation²². International environmental law enforcement uses a mechanism in the form of enforcement consisting of, implementation, law enforcement, and dispute resolution. The enforcement of international environmental law focuses on the observance of international law by

²² Muhammad Sood, *Hukum Lingkungan Indonesia* (Jakarta Timur: Sinar Grafika, 2019); Septhian Eka Adiyatma, Ana Silviana, and Dorcas Adesola Thanni, "Criminalizing the Guardians: Eco-Justice and Indigenous Struggles in Indonesia and Nigeria," *Indonesian Journal of Criminal Law Studies* 10, no. 2 (November 2025): 901–50, <https://doi.org/10.15294/ijcls.v10i2.33536>.

each country, where, if a country fails to carry out its obligations under international agreements or international customs, then it can be said that the country has committed an unlawful act in international law. As a consequence, countries that commit unlawful acts and cause losses to other countries must apologize, pay compensation and elect original functions as a form of state accountability²³.

One of the enforcement of international environmental law is dispute resolution. An example of an international environmental dispute case is the Trail Smelter case between the United States and Canada. The case was a cross-border environmental dispute between the United States and Canada in the 1930s and 1940s, involving air pollution from a Canadian-owned metal smelter in Trail, British Columbia whose emissions spread to the Washington area, USA. The dispute was resolved through arbitration with a ruling that Canada must pay damages of US\$78,000 and that the plant was prohibited from causing new damage in the United States.

Another case is the Amoco Cadiz Oil Spill between France and the United States. This case is a marine pollution carried out by the United States' Amoco Cadiz tanker that sank off the coast of France, causing the spill of 223,000 tons of crude oil which then polluted the coast and caused damage to the marine ecosystems of France. The case was settled through the U.S. Federal Court in Chicago based on jurisdiction over the U.S. Company and must award damages of US\$85 million plus interest (the total is US\$2 billion after appeal) including the election of the environment.

Based on the two cases above, the settlement of international environmental disputes can be carried out through agreements or arbitration and through the International Court of Justice or the International Tribunal of the Law of the Sea (ITLOS). Then, what about the settlement of the Montara oil spill dispute between Indonesia

²³ Sri Wartini, *Pengakan Hukum Lingkungan Internasional: Peran Konsumen Hijau Dan Ekolabel* (Yogyakarta: UII Press, 2018).

and Australia? A natural resources dispute involving Indonesia and Australia, occurred on August 21, 2009, the oil spill was triggered by the explosion of an oil refinery head platform located in the Timor Sea. The oil refinery is owned by the Petroleum Authority of Thailand Exploration and Production Australasia (PTTEP AA), a Thai state-owned enterprise that operates in 11 countries including the Americas, Africa, Australia and Southeast Asia ²⁴.

The oil spill that occurred in the Timor Sea caused at least 16,420 square kilometers of the Timor Sea which is in Indonesia's Exclusive Economic Zone (EEZ), so that Indonesia experienced socio-economic losses such as a decrease in fishery yields, disrupting the comfort of coastal residents, and reducing the productivity of seaweed and ecosystems in the sea. Then, environmental impacts such as the disruption of coral reef ecosystems, mangroves, and seagrass beds that function as spawning and rearing places for fish, as well as a decrease in the quality of the aquatic environment. Losses are estimated to reach Rp. 14,050,145,621,561.90, with significant losses in the aesthetics and productivity of fishery resources ²⁵.

The settlement of the Montara oil spill dispute was carried out through the Australian federal court on August 3, 2016, a lawsuit was filed by representatives of the group who claimed that the oil spill caused the death of seaweed cultivated by 15,500 seaweed farmers, which then spread to a decline in production for several years, as a result of the oil spill that reached the coastal base around 81 villages in the Rote/Kupang area. East Nusa Tenggara Province. According to Mr. Sanda (in Ryan

²⁴ Fitria Ade Steybi et al., "Analisis Pencemaran Di Laut Timor Akibat Kebocoran Minyak Montara Antara Australia Dan Indonesia," *Indonesian Journal of Law and Justice* 1, no. 23 (2024): 1–12, <https://doi.org/https://doi.org/10.47134/ijlj.v1i3.2116>.

²⁵ Ni Putu Suci Meinarni, "Dampak Pencemaran Lingkungan Laut Terhadap Indonesia Akibat Tumpahan Minyak Montara Di Laut Timor," *Jurnal Komunikasi Hukum* 2 (2016): 228–35, <https://doi.org/https://doi.org/10.23887/jkh.v2i2.8415>.

& Parry, 2021)²⁶, PTTEP AA has an obligation to be careful with itself and its group members in the process of operating and stopping the Montara well. However, this obligation was actually violated by PTTEP AA which resulted in an oil spill, causing losses for seaweed farmers.

On the other hand, PTTEP AA refused to provide compensation, considering that the oil from Montara never reached the Rote/Kupang area, or even if it was no longer dangerous, it was impossible to damage the seaweed. In addition, the main challenge in resolving this dispute is the limited access to the courts as Indonesian seaweed farmers have to travel to Australia to give testimony, which requires arranging flight visas and accommodation as well as translator support. Then, the lack of contemporary scientific studies poses challenges in proving the impact of oil spills on local communities and there is a significant imbalance between PTTEP AA's large resources and the financial capabilities of seaweed farmers, which is addressed with funding support from Harbour Litigation Funding.

On March 19, 2021, Judge David Yates ruled that PTTEPAA breached its duty of care for negligence in closing the well, proving that the oil reached Rote/Kupang and damaged the seaweed; PTTEP was ordered to pay AUD 22,000 in damages to the main plaintiff plus interest for 2009-2014 losses. The October 25, 2021 ruling confirmed the compensation obligation for the group, although PTTEP considered an appeal. In February-March 2023, the Australian Federal Court approved a settlement worth AUD 192.5 million; payments to 15,500 farmers in 81 villages from December 2023 to April 2025, managed by Maurice Blackburn. This process closes the case after the distribution report is submitted to the court.

²⁶ Richard Ryan and Ellen Parry, "The Montara Class Action Decision and Implications for Corporate Accountability for Australian Companies," *Business and Human Rights Journal* 6:3 (2021): 599–606, <https://doi.org/10.1017/bhj.2021.39>.

Although various dispute resolution mechanisms have been taken in the Montara oil spill case, their effectiveness in providing justice for the affected communities is still questionable. To analyze the factors that affect success and failure, this study uses Lawrence M. Friedman's legal system theory which emphasizes three main elements, namely legal structure, substantive legal, and legal culture.

1. Legal Structure is a pattern that shows how law works in a fixed form as a body system. For example, in a court legal structure is the number of judges, the jurisdiction of the court, how the higher court handles the lower courts, and what their role is. Law enforcement can run ineffectively if law enforcement officials have a weak mentality.
2. Legal Substance is a regulation that consists of substantive regulations and regulations about the various institutions that must act. Substance also means that the product produced by the person who is in the legal system includes the decisions that are issued, as well as the new rules that are drafted. Legal regulation is always related to the process of making a legal product carried out by the lawmaker which is then also influenced by the political atmosphere in a country.
3. Legal Culture is a patterned attitude, values, principles, ideas or opinions that are structured so that they are embraced by every individual, both individuals and groups in society. Legal culture is also the atmosphere of social thought and social forces that determine how the law is used, avoided, or abused.

The following is an analysis of the montara oil spill dispute resolution based on legal system theory from Lawrence M. Friedman (Santiago & Asnawi, 2024) ²⁷.

A. Legal Structure

²⁷ Faisal Santiago and M Natsir Asnawi, *PENGANTAR TEORI HUKUM Dasar-Dasar Dan Perkembangan Teori Hukum Dari Zaman Klasik Hingga Post-Modern*, 1st ed. (Jakarta: KENCANA, 2024).

Friedman's theory of the legal system, legal structure refers to the institutions, mechanisms and law enforcement apparatus. In the context of the Montara oil spill dispute, there are two legal structure issues, namely:

1. Dependence on the State-Centered System

International law places the state as the subject of law. Environmental dispute resolution is generally carried out in two (2) ways, namely diplomatic-political settlement (negotiation, inquiry, mediation, conciliation) and adjudication-legal settlement (arbitration and litigation) (Efendi, 2017)²⁸. Dispute resolution through international courts such as ITLOS and ICJ can only be done if the disputed country agrees to it. In the Montara oil spill dispute, the affected communities do not have direct access to international forums and are completely dependent on state initiatives. The Montara oil dispute was resolved through the Australian federal courts, which are the courts of the countries where the Company operates, rather than international forums such as ITLOS and ICJ, thus limiting victim participation and slowing down access to justice.

2. Weak enforcement mechanisms

The absence of an executive institution in international law is one of the causes of the difficulty of international law enforcement. The absence of a strong law enforcement mechanism in international environmental law makes the realization of compensation judgments highly dependent on the voluntary compliance of the state. Practically, it takes the sacrifice of the state, to create compliance with international agreements in protecting the environment. The absence of "supranational

²⁸ Suparto Wijoyo A'an Efendi, *Hukum Lingkungan Internasional* (Jakarta Timur: Sinar Grafika, 2017).

enforcement authorities" shows structural weaknesses in the resolution of environmental disputes ²⁹.

B. Legal Substance

Legal substance in Friedman's theory is explained as norms, principles, and legal rules that govern human behavior and become the basis for dispute resolution, in the Montara oil spill dispute there is a problem of legal substance, namely:

1. International norms are general and non-operational

The no-harm norm in UNICLOS 1982 requires all countries to use environmentally conscious technology so that there is no damage when excavating natural resources. However, these norms are general and do not specifically regulate the mechanism of accountability techniques, proof of losses, or cross-border compensation schemes. As a result, there are multiple interpretations in its application, the affected countries face difficulties in proof, and the dispute resolution process becomes longer and more complex. In the Montara oil spill dispute, PTTEP is an Australian-registered company but is a subsidiary of a Thai company. The incident occurred at locations under Australian jurisdiction, but the impact crossed multiple jurisdictions. Affected communities include Australian citizens, and the potential impact on neighbouring countries such as Indonesia adds an international dimension to the dispute. However, the dispute resolution mechanisms available are ultimately highly dependent on Australian domestic law, which does not explicitly adopt the principle of no harm as a norm that can be applied directly

2. Absence of the principle of strict liability

Strict liability in international environmental law is a legal principle that stipulates that a party can be held liable for

²⁹ Ibid.

environmental damage or loss arising from hazardous activities carried out, without the need to prove fault or negligence on the part of the party. In reality, this principle is not expressly regulated in international law, so in the Montara oil spill dispute, the affected community experienced difficulties due to the heavy burden of proof, where the causality relationship between the oil spill and the losses of seaweed farmers and fishermen must be proven in detail. In fact, in the principle of strict liability, the burden of proof should be shifted to the perpetrator to show that he has taken all reasonable precautions or that the damage caused by factors beyond his control. Therefore, although this principle is normatively recognized in international environmental law, its implementation does not always result in effective environmental and economic elections.

C. Legal Culture

Legal culture in Friedman's theory refers to attitudes, values, thoughts, and expectations towards the law and the legal system. The law is believed to be a restriction on the authority that is in power, and as a strong counterweight to the threat of disintegration in social life due to a clash of powers that both want to be in power. In the Montara oil spill dispute, there are problems in the legal culture, namely:

1. Low Access and Legal Literacy for Affected Communities

The coastal communities affected by the oil spill have demographic and socio-economic characteristics that affect their level of legal literacy. The affected communities generally have relatively low levels of formal education compared to the average Australian population, so access to quality education and legal services in remote areas is generally limited. Many affected communities work as seaweed farmers and traditional fishermen who generally do not require a high level of formal education. Moreover, the experience of affected people in the Australian legal

system is very limited and there is a lack of understanding of legal rights in the context of international environmental disputes. In short, affected communities have limitations in understanding international legal mechanisms and cross-border litigation procedures, so that communities become dependent on third parties (advocates or legal aid institutions).

2. Corporate and State Orientation to Minimum Compliance Culture

International environmental law practices often emerge with a tendency to minimize compliance. Minimal compliance is an orientation to prioritize the fulfillment of formal legal and regulatory requirements as the primary goal, rather than as a manifestation of social values or responsibilities. In international environmental law regulations, the principles of prudence and the principle of prevention are always used, but when a company or agency adopts minimal compliance, then their focus is only on meeting the formal requirements in the regulations while still carrying out activities that are potentially harmful to the environment and natural resources. In the Montara oil spill dispute, the PTTEP showed a minimal compliance orientation. The dispute resolution process with affected communities, PTTEP shows an orientation of minimizing legal and financial obligations such as, a harsh negotiation approach, inadequate compensation offers, and a denial of responsibility for various categories of losses that reflect the priority of protecting the Company's interests rather than the interests of victims and environmental restoration.

B. Clinical Legal Education in International Environmental Disputes

Clinical legal education is part of the legal education system which is based on the reality that legal education is not just academic or should

not be only fixated on theory, but must prepare students for real practice. This is intended so that students have readiness to have a career as advocates and legal consultants in government agencies, social organizations, and the private sector. After graduation, most law graduates will be involved in the profession, so there is a strong expectation that a new law graduate has a deep understanding of the realm of work, responsibility, and professional ethics.

Some of the studies described earlier show that practice-based learning is the most effective learning method for adults. This method not only provides facilities for mastering new material but also optimizes the potential of students. Philosophically, this approach is often used to recognize a perspective on certain values because learning to use real problems can help students dissect problems from various perspectives. For prospective legal practitioners, this practical experience is ideal if obtained since they are still in college, so that it can become the foundation of student professionalism.

There are three main components in clinical legal education (in Siregar, 2020)³⁰, namely:

1. Planning Components

Law students who take part in the Clinical Legal Education program at this stage, need to prepare a systematic design of the various legal practice skills that they want to master during the learning process. This design includes several important aspects, such as mastery of techniques for providing legal services to the community, in-depth understanding of various forms of legal problems, the ability to develop problematic or unresolved legal cases, and the design of projects that have a direct relationship with the reality of society. Thus, students have a clear direction and measurable goals while participating in clinical law education.

2. Practical Components

Law students who take part in the Clinical Legal Education program at this stage, need to prepare a systematic design of the various legal

³⁰ Siregar, "Pendidikan Klinik Hukum Sebagai Instrumen Penting Dalam Pembaharuan Pendidikan Hukum Di Indonesia."

practice skills that they want to master during the learning process. This design includes several important aspects, such as mastery of techniques for providing legal services to the community, in-depth understanding of various forms of legal problems, the ability to develop problematic or unresolved legal cases, and the design of projects that have a direct relationship with the reality of society. Thus, students have a clear direction and measurable goals while participating in clinical law education.

3. Reflection Components

The reflection component is the evaluation stage carried out by students on all practical activities that have been carried out. To ensure that the evaluation runs objectively and constructively, reflection is carried out under the guidance and supervision of the supervisor. There are various methods for conducting reflection, including through systematic journal writing or written reports, self-evaluation exercises that encourage students to analyze their own performance, peer review processes that allow students to give each other input, and direct evaluation from field supervisors. Through this stage, students can identify strengths and weaknesses in their practice, as well as formulate learning that will be applied in future practice.

Clinical legal education today is required to integrate various other disciplines such as economics, sociology, psychology and the environment. Given the complexity of societal problems that cannot be solved only with a pure legal approach, this cross-border approach is very crucial. The problems faced by society are generally multidimensional, where economic, social, psychological and environmental factors are interrelated and affect each other. So, various law faculties in Indonesia have taken the initiative to establish legal clinics with this kind of model, one example is the Faculty of Law of Semarang State University which established a law clinic with a focus on Women and Children Legal Protection Clinics, Environmental Law Clinics, Intellectual Property Clinics, Human Rights Law and Advocacy Clinics, Employment Law Clinics, Legislative Drafting Law Clinic, Law Clinic and Center for Anti-Corruption Education Studies. This clinic involves lecturers and students to discuss real cases with a more

comprehensive and holistic perspective in analyzing and solving complex legal problems³¹.

Environmental clinical legal education engages in legal advocacy and consultation related to environmental issues, including pollution issues and resource observation in preparing students to face the complexity of legal issues. In clinical law education, students are required to integrate theoretical knowledge with practical skills, which of course is different from conventional legal learning which tends to be doctrinal. In the context of the oil spill dispute, Montara offers a comprehensive learning model for clinical legal education. The dispute is not just an ordinary oil spill issue, but a legal phenomenon that touches on various aspects, ranging from the Company's responsibility, the failure of government regulations, to the impact on the community and marine ecosystem.

Based on the results of the analysis of legal structure, legal substance and legal culture according to the legal system theory from Lawrence M. Friedman, it shows that the Montara oil spill dispute is not only related to the violation of legal norms, but also concerns the work of law enforcers, and public understanding of the national laws of other countries. Lawsuits filed by affected communities in Australian courts show the limitations of domestic legal protection, showing the community's dependence on the legal systems of other countries. Therefore, the integration of legal system theory from Friedman is relevant to be used as a transformation of clinical legal education in helping students to learn why lawsuits are necessary, how the legal system limits justice and how working legal culture affects access to achieve justice.

A. Legal Structure in Clinical Legal Education

Friedman emphasized that the structure of law has internal dynamics that affect how the law is applied and perceived by society. The law is not just a neutral machine, the quality of the legal structure including law enforcement capacity, independence, and effectiveness plays a crucial role in determining whether the rules of

³¹ Titie Rachmiati Poetri, "Model Pendidikan Klinik Hukum Lintas Disiplin Untuk Penguatan Kompetensi Mahasiswa Dalam Menyelesaikan Sengketa," in *Prosiding Seminar Nasional Akademik*, 2024, 195–205.

legal substance run effectively. The Montara oil spill dispute shows that the legal structure for resolving this dispute is dominated by the Australian state. This decision was taken based on the principle of territorial jurisdiction, namely the state has jurisdiction over all problems and events in its territory, so that dispute resolution is carried out in Australia because the oil and gas operations that caused the oil spill are carried out under the authority of Australian law. Thus, all legal processes, both civil and criminal, are resolved through the Australian judicial system.

The implication of this condition is that the affected communities experience enormous structural challenges to access justice. The fact that the victims of the Montara oil spill had to access justice through the Australian federal courts using the class action lawsuit mechanism is a serious manifestation and structural inequality. This inequality is seen in several aspects such as institutional aspects, resources and accessibility.

1. The institutional aspect lies in the dependence of farmers on group representatives and the funding of internal litigation that is vulnerable to the "closed class" requirement. In contrast to PTTEP which is supported by mature Australian legal institutions, including federal courts with environmental class action precedents, while Indonesia lacks a similar mechanism, namely the lack of effectiveness of PERMA No. 1 of 2002.
2. The resource aspect lies in the lack of financial resources such as engineering, lack of strong evidence of losses related to seaweed damage, lack of formal tax records that can be used as proof of income from marine products, and lack of access to basic technology such as computers or digital documentation, while PTTEP has large funds for law enforcement and investigation. Have access to a team of experts and advanced technology for proof and have the resources to extend the litigation process. So as to create an imbalance of power in the legal process, the affected community is in a weak position compared to the Company so that the evidentiary process becomes very uneven.
3. The Accessibility aspect lies in the procedural hurdles in the Australian courts. The Australian courts allowed three years for the affected community to file a lawsuit after the incident, but the

affected community had difficulty meeting the stipulated three-year period due to geographical location and delay in information, so to overcome this a special legal argument was needed to deny or extend the deadline by proving that the delay occurred due to unavoidable factors. This problem arises due to the lack of understanding of the public in understanding their legal rights in environmental disputes.

To understand the legal structure in clinical legal education, students need to conduct comprehensive mapping. This methodology involves the systematic identification of all actors, authorities and power relations operating in this dispute. The goal is for students to be able to identify all actors involved, understand their respective authorities in interacting, analyze the distribution of power in legal structures and identify gaps and structural limitations. An example of application in the Montara case is through three approaches, namely:

1. System Mapping

To equip students in a holistic understanding of the dynamics of the legal system, actors and power relations in the resolution of international environmental disputes, a mapping system is needed in clinical legal education. This approach aims to visualize the network of actors (Government, Victim, Corporation/Company), authority, and structural inequalities, so as to identify weak points of litigation strategies. Furthermore, support the planning stage, map jurisdictional risks before simulating roles or lawsuits and practice systematic thinking and critical reflection to address similar cases. In environmental clinical legal education, this approach is the foundation for students in preparing students to provide effective legal services for the community³².

2. Role Play Simulation

³² Ery Agus Priyono and Kornelius Benuf, "Kedudukan Legal Opinion Sebagai Sumber Hukum," *Suara Hukum* 2 (2020): 55–71, <https://doi.org/https://doi.org/10.26740/jsh.v2n1.p54-70>.

Role simulations can be carried out by students through a mock trial simulation. This simulation allows students to play the role of judges, lawyers (lawyers), victims (plaintiffs), government representatives and companies (defendants). Each role provides a different perspective on the legal structure. This simulation aims to help students understand the dynamics of power in the legal process. According to (Yusnandi, 2026) the moot court here plays a role in getting students used to being professional, ethical and argumentative so as to form a legal culture³³.

3. Jurisdictional Limitations Analysis

To identify the limits of the jurisdiction of courts or state institutions in handling disputes, especially those involving foreign parties or cross-border elements, a systematic legal evaluation process is needed through an analysis of jurisdictional limitations³⁴. In the context of Montara dispute resolution, this approach can be used by students to reveal structural obstacles such as territoriality, legal standing, administrative instruments, relevant to this dispute where Indonesia's jurisdiction is limited. The main components of the analysis that can be studied are jurisdictional boundary mapping, identification of procedural barriers, and evaluation of implications. So that in clinical legal education, this analysis can train students to criticize why domestic lawsuits fail to overcome the dominance of the jurisdiction of the Company's home country.

B. Legal Substance in Clinical Legal Education

Legal substance is described as the norms, principles and rules that govern human behavior. In the Montara oil spill dispute, questions are raised related to the substance of the law, namely about the basis of corporate liability for losses arising from oil and gas operational activities in Australia. In the Australian legal system, one of the avenues used to demand liability is through the duty of care principle in negligence law. The principle of duty of care is the

³³ Yudi Yusnandi, "Efektivitas Peradilan Semu Dalam Meningkatkan Kompetensi," *Jurnal Ilmiah Ilmu Hukum Dan Administrasi Publik* 2 (2026): 1–16, <https://doi.org/https://doi.org/10.64365/muarakum.v2i1.231>.

³⁴ Priyono and Benuf, "Kedudukan Legal Opinion Sebagai Sumber Hukum."

obligation to be careless or a legally recognized obligation on the condition that people act in accordance with a certain measure of behavior to protect others against a risk that reason should not have occurred. The application in this Montara dispute is to assess whether the Company has taken adequate precautionary measures before operations begin. Failure in the application of this principle can be the basis for accountability.

In addition, in the application of legal substance in clinical legal education, students need to pay attention to the application of the principle of strict liability. This principle aims to make companies that cause environmental damage to be held responsible by compensating for all losses without the need to prove negligence. This is intended to reduce the burden of proof on the victim. However, based on the results of the analysis of the limitations of conventional legal mechanisms, it is known that there is a substance of the law that does not work as it should. The existing norms are quite clear, but their implementation has not been effective, in fact the affected communities need to prove the damage experienced and the losses obtained from the oil spill.

The failure of the implementation of these principles in the resolution of the Montara oil spill dispute is a reflection of the weak mastery of strategic advocacy in the practice of clinical legal education. Through clinical legal education, students not only learn the articles of civil liability theoretically, but are also trained to ease procedural obstacles in proving these disputes. There are several approaches that can be taken by students in learning, namely:

1. Preparation of Legal Opinion

Legal opinion is an answer from a legal scholar, regarding the question of a client who is facing legal problems. Furthermore, according to Henry Campbell Black in the Seventh Edition of Black's Law Dictionary (1999:1120) explained that legal opinion is the definition of legal opinion related to various legal issues from related parties in accordance with the facts in the form of a set of written documents that are used as the equivalent of an application for lawyers. The purpose of preparing this legal opinion is to train students in describing a legal context comprehensively, both explicit and implicit. Furthermore,

students can practice in describing written legal rules, expressing values, legal principles and principles that are not written but underlying the application of law in practice, thus providing strategic guidance for stakeholders in understanding the legal implications of a policy³⁵.

2. Analysis of Court Decisions

In clinical legal education, the analysis of court decisions is very important because it connects legal theory with real practice in the development of students' abilities in legal reasoning. In the context of resolving Montara disputes, students can enrich their understanding through real cases such as judges' considerations in filling regulatory gaps.

3. Simulation of the preparation of an environmental lawsuit

The simulation of environmental lawsuit preparation in clinical legal education is to train students in practicing essential skills such as case analysis, argumentation and evidence in complex environmental disputes. The main benefit of this simulation is to develop students' practical skills in the preparation of lawsuits, increase the understanding of applicable environmental law, such as the right to the environment and absolute responsibility. Clinical legal education integrates lawsuit preparation simulations to strengthen cross-disciplinary competencies, especially environmental disputes, where students learn to handle real cases such as monitoring, client interviews, and litigation.

C. Legal Culture in Clinical Legal Education

Legal culture has several characteristics, namely, first, legal culture is dynamic because it continues to develop following social, economic, and political changes. Second, legal cultures are plural, namely societies that are divided into various social, economic and cultural groups. Third, legal culture is contextual in nature influenced by local conditions, history, and people's experiences with the law. Fourth, legal culture is reflective and influenced by how the law is applied, and how the law develops.

One of the manifestations of the legal culture in the settlement of the Montara oil spill dispute is the low access to information from

³⁵ Ibid.

the affected community to the international legal mechanism. Based on research by (Astiti, et.al, 2020) ³⁶ it is revealed that many fishermen and seaweed farmers do not know that they have the right to claim compensation, limited information about legal proceedings in Australian federal courts and ineffective mechanisms in disseminating legal information to affected communities. The Montara dispute also shows the dependence on legal assistants, the community does not have the capacity and ability to use the law independently, so clinical legal education is important to integrate principles in the legal culture so that the law does not work in a vacuum, the success of the lawsuit can depend on the response of the community, understanding the legal culture can help advocates in designing effective strategies.

The learning methods that can be applied by students in clinical legal education through dispute resolution are:

1. Client interview simulation

Through simulated interviews with clients, students can train students to build empathic relationships and encourage students to look at legal issues holistically. In addition, client interviews provide opportunities for students to understand the law in a social context, thereby expanding students' competence to create more equitable and sustainable solutions ³⁷.

2. Legal counseling to coastal communities

This counseling is intended so that students can improve their ability to translate complex legal terminology into easy-to-understand language for coastal communities. The existence of counseling activities by students allows for an increase in public understanding of the importance of legal aspects in social life. According to (Irawansah & Amin, 2025), the success of an intervention is not only determined by formal regulations, but is influenced by the extent to which coastal communities have

³⁶ Astiti, Mangu, and Windari, "Penyelesaian Sengketa Internasional Terkait Pencemaran Laut Timor Akibat Tumpahan Minyak Montara Antara Indonesia Dan Australia."

³⁷ Poetri, "Model Pendidikan Klinik Hukum Lintas Disiplin Untuk Penguatan Kompetensi Mahasiswa Dalam Menyelesaikan Sengketa."

adequate awareness and understanding of the law ³⁸. To build community legal awareness, legal counseling activities are an effective framework, through interactive dialogue, involving village officials, traditional leaders and local fishermen or seaweed farmer groups.

3. Writing a critical reflection on power inequality in international environmental disputes

The purpose of writing this reflection is to build student awareness of structural injustices and the unbalanced position between multinational corporations and affected communities. Writing critical reflections can help students learn to think critically about real social problems such as inequality, discrimination, climate change, poverty, environmental damage and unequal education that require in-depth analysis from various perspectives. Here, the role of universities is very important to prepare students to become highly educated and active people in society. Providing opportunities for students to engage in in-depth investigation and evaluation of information is an effective approach to develop critical thinking skills, respond to intellectual challenges and contribute to community empowerment ³⁹.

Conclusion

The protection of the marine environment is governed by various international legal instruments, with the United Nations Convention on the Law of the Sea (UNCLOS) serving as the principal framework for preventing marine environmental degradation, allocating state responsibility, and promoting international cooperation. However, the analysis of the Montara oil spill dispute demonstrates that conventional

³⁸ Tanto Lailam, "Perbandingan Desain Pengujian Konstitusional Pada Mahkamah Konstitusi Federal Jerman Dan Indonesia," *Arena Hukum* 16, no. 02 (2023): 274–301, <https://doi.org/10.21776/ub.arenahukum.2023.01602.4>.

³⁹ Rika Riwayatiningasih, "Dari Isu Sosial Ke Literasi Kritis : Praktik Inquiry Learning Dalam Penulisan Akademik Mahasiswa," 2025, 1–8, <https://doi.org/https://doi.org/10.29407/dgassb56>.

legal mechanisms remain insufficient to ensure effective access to justice in transboundary environmental disputes. Applying Lawrence M. Friedman's legal system theory, this study finds that limitations in legal structure, legal substance, and legal culture collectively impede the effective resolution of such disputes and contribute to unequal access to justice for affected coastal communities.

Building on these findings, this study argues that clinical legal education offers a practical approach to bridging legal theory and professional practice. Using the Montara oil spill dispute as a case-based learning model enables law students to develop analytical, practical, and ethical competencies through activities such as legal system mapping, jurisdictional analysis, legal opinion drafting, environmental litigation simulations, client interviewing, legal counselling, and critical reflection on power imbalances in international environmental disputes. This experiential learning approach strengthens students' understanding of environmental responsibility while enhancing their capacity to address complex transboundary legal issues.

This study contributes to the development of environmental clinical legal education by proposing a case-based learning model grounded in Friedman's legal system theory. The model may be adopted by university legal clinics, particularly those specialising in international environmental law, to strengthen practical legal education and promote environmental justice. More broadly, the findings highlight the importance of integrating experiential legal education into environmental law curricula as a means of preparing future legal professionals to address increasingly complex global environmental challenges.

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