

JURIDICAL ANALYSIS IN THE IMPLEMENTATION OF THE DUTIES OF THE TRAFFIC, SEA TRANSPORTATION, AND PORT BUSINESS SECTIONS AT THE TANJUNGPINANG CLASS II PORT AUTHORITY AND HARBORMASTER OFFICE

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ABSTRACT

The role of the sea is vital as a unifier of the nation and the territory of Indonesia. Consequently, the government is obliged to govern in the field of law enforcement against the threat of violations of the use of water and to maintain and create safety and security of shipping. As an island country based on Law No. 17 of 1985 on the ratification of the archipelago (Archipelago State) by the United Nations Conference recognized by the international community, Indonesia has sovereignty over the entire Indonesian sea area. Marine problems in Indonesia almost every day become an endless conversation, so it is natural starting from the public or law enforcement officers in the field of shipping to talk about it. This is because many ship accidents result in the loss of life of the crew or passengers. The safety and security of shipping is the most important thing to avoid accidents at sea. To ensure the implementation of security and safety of shipping at sea, the Sea and Coast Guard Union (KPLP) was formed, which is directly responsible to the President. The duties, powers, and other matters relating to KPLP are regulated by Law No. 17 of 2008 on shipping. Based on Article 6 of Law Number 17 of 2008 concerning shipping, the types of transportation in the waters consist of sea transportation, river/lake transportation, and ferry transportation. Article 207, paragraph 1 of Law No. 17 of 2008 on shipping state that Harbormaster carries out the function of safety and security of Shipping which includes the implementation, supervision, and enforcement of laws in the field of transportation in waters, ports, and protection of the maritime environment in ports.

Keyword: *Juridical Analysis, Port Authority, implementation of Traffic Tasks*

1. INTRODUCTION

Indonesia has a sea area of 3,257,483 km² or 2/3 of the entire territory of Indonesia. This vast area has made sea transportation one of the main modes of transportation in this globalization era. Sea transportation has a strategic role for Indonesia, which the world has recognized as an archipelagic country.

As an archipelagic country based on Law Number 17 of 1985 concerning the Ratification of the Archipelagic State by the UN conference, which is recognized by the international community, Indonesia has sovereignty over the entire Indonesian sea area. The role of the sea is crucial in unifying the nation and territory of Indonesia, and consequently, the Government is obliged to administer governance in the field of law enforcement both against threats of violations against the use of waters and to maintain and create shipping safety and security [4]

Indonesia's sea potential has yet to be utilized optimally. In addition to being economically viable, the sea area, which accounts for 70% of Indonesia's total area, still needs to support inter-island connectivity. On the environmental aspect, there is currently no strong regulation governing pollution. With these various obstacles, implementing the 2015-2019 National Medium Term Development Plan (RPJMN) in the maritime sector must be increasingly sharpened [4].

Maritime issues in Indonesia are discussed almost daily, so it's only natural that the public or law enforcement officials in shipping should talk about it because many ship accidents result in the loss of lives of crew

members or passengers. Supervision of shipping must be improved in terms of management of accidents at sea, which must be carried out efficiently and effectively. Shipping safety and security are the most prioritized to avoid accidents at sea. To guarantee the implementation of the Security and Safety of shipping at sea, a Sea and Coast Guard Unit (KPLP) was formed, which is directly responsible to the President. As for the duties, authorities and other matters relating to the KPLP are regulated by Law Number 17 of 2008 concerning Shipping. Based on Article 6 of Law Number 17 of 2008 concerning Shipping, the types of water transportation consist of sea transportation, river/lake transportation, and ferry transportation [4].

In accordance with Article 219 of Law Number 17 of 2008, to carry out shipping activities, every sea transportation (ship) requires a Sailing Approval Letter (SPB) issued by Harbormaster to sail. To obtain a Sailing Approval Letter, every ship that will sail must meet the ship's seaworthiness requirements and other obligations. Harbormaster can give a sailing Approval Letter to the ship owner or operator if the ship has met several necessary conditions as stated in Article 117 of Law Number 17 of 2008 above and other requirements.

The Harbormaster needs data obtained from the Directorate of Shipping and Maritime, which is one of the units/sections under the Directorate General of sea transportation to supervise sea transportation (ships) in terms of designing stability and ship loading lines so that the Harbormaster can issue letters or documents that will be used by sea transportation to carry out shipping.

The duties and functions of the Harbormaster are regulated explicitly in Law Number 17 of 2008 concerning shipping. Article 207, paragraph 1 of Law No. 17 of 2008 on shipping states that the Harbormaster carries out the function of safety and security of Shipping which includes the implementation, supervision, and enforcement of laws in the field of transportation in the waters, ports, and protection of the maritime environment in the harbor [4].

Even though there are regulations governing the role of a harbormaster in issuing a sailing approval letter, it is not uncommon to encounter several sea transportation accidents caused by the negligence of the harbormaster in carrying out their duties, namely by providing shipping permits and ship seaworthiness letters to ships that are unfit to sail and ships that do not pass the seaworthiness test.

The case of ships that are not seaworthy but have a sailing approval letter is an old case that often repeatedly occurs in Indonesia and has become a phenomenon that is considered normal. The importance of safety and security issues, as well as the overall activities in the shipping of sea transport, is the responsibility of the port because one of the biggest problems in ship accidents in shipping is the issue of the ability and expertise of a person performing duties Shahbandar both in carrying out the overall task in the port as well as in cooperation.

Port is everything related to implementing port functions to support the smooth, safe, and orderly flow of ship traffic, passengers, and goods, safety and security of sailing, intra-and/or intermodal transfer places, and encourage the national and regional economy while taking into account regional spatial [4].

Based on the regulation of the Minister of Transportation number KM 62 of 2010 on the organization and work procedures of the port operator Unit office, Article 1 explains that the purpose of the port operator Unit office is a Technical Implementation Unit within the Ministry of Transportation which is under and responsible to the Minister of Transportation through the Director General of [4].

Based on the regulation of the Minister of transportation of the Republic of Indonesia number 51 of 2015 concerning the implementation of seaports, which was then made a second amendment to the regulation of the Minister of transportation of the Republic of Indonesia number 57 of 2020 concerning the Second Amendment to the regulation of the Minister of Transportation number 51 of 2015 concerning the implementation of seaports, a port is a place consisting of land and waters with specific limits as a place for government activities and business activities used as a place for ships to lean, up and down passengers, and loading and unloading of goods, in the form of terminals and ship berths equipped with shipping safety and security facilities and port support activities and as a place for intra-and intermodal transportation transfers [4].

An organization is essential to change in achieving its goals; it can be seen that to realize a goal, the organization must take planning and real action. As is known, the port operator Unit office has a vision, namely the realization of sea transportation services and Port implementation in the working area of the port operator Unit office that is safe, comfortable, and safe.

Meanwhile, its mission is to improve the implementation of security and supervision in the work environment and environmental areas of Port interests, improve management of ship safety and sea freight traffic on DLKP and DLKR ports, ensure the smooth flow of passengers and goods, create employee discipline through a tiered evaluation and supervision system, create an integrated and transparent service system, improve coordination and consolidation with related agencies, and encourage the fulfillment of port facilities and shipping safety facilities [8].

Implementing the regulation of the Minister of transportation of the Republic of Indonesia No. 51 of 2015 on the implementation of an excellent Seaport to the public or service users in need needs an orderly and purposeful

process with guidelines for service standards. As happened in the Traffic Section, sea transportation and Port Business at the harbormaster office and the Class II Tanjungpinang Port Authority, related to the lack of direct socialization from the harbormaster to service users regarding existing SOP, for example, socialization of ship visit costs, and the unavailability of Suggestion Box facilities, making it difficult for service users to submit their complaints. So that on this basis, the authors wish to conduct a study entitled "juridical analysis in the implementation of the task section of traffic, Sea Transport and Port Business at the Office of the harbormaster and Port Authority Class II Tanjungpinang."

1.1 Research Benefits

The benefits of research conducted by the authors as follows:

1. Theoretically

This study is expected to provide an understanding of what efforts have been made by the organizer's harbor manager office and Port Authority Class II Tanjungpinang in implementing the task section of traffic, Sea Transport, and Port Business.

2. Practically

The results of this study are expected to provide an accurate, practical solution to the problems studied. In addition, as input for practitioners who are directly involved and can uncover new theories to develop existing approaches in carrying out a policy of legislation in the field of public order.

1.2 Research Methods

The specification of this study only analyzes only up to the level of detests, which analyzes and presents the facts systematically so that it can be easier to understand and conclude. The specification of this type of research is normative legal research as well as combined with sociological (Empirical) Legal Research using secondary data obtained directly as the first source through field research through interviews and primary data as sources/information materials in the form of primary legal materials, secondary legal materials, and tertiary legal materials. The method of approach in this study is a combination of methods between normative approach " legal research "with empirical approach method" juridical sociologies." The location of this study is in the Office of harbormaster and Port Authority Class II Tanjungpinang. Researchers use informant retrieval techniques with purposive sampling method. For informants used by the author is a random technique that is with the details of 2 (two) people unit harbormaster office and Port Authority Class II Tanjungpinang, 1 (one) office employee, and 5 (five) community users of Port Services.

1.3 Data Analysis

In this study, data analysis is done qualitatively by describing the research, then comparing the data with legal theories, legal experts, and legislation. The analysis starts with data collection, processing, and the last presentation of data. While the conclusions will be used deductive method, the author takes the data, information, and opinions, which are general, and then explicitly draws conclusions

2. RESULTS AND DISCUSSION

2.1 Port Definition

Based on Law No. 17 of 2008 states that the port is a place consisting of land and water with specific limits as a place of business and government activities that are used for up and down passengers, where ships dock and loading and unloading of goods, in the form of terminals and ship berths equipped with safety facilities, security services, port support. Ships as a means of Shipping have a vital role in the sea transport system. Almost all goods imported, exported, and in vast quantities are transported by ship, although among the places where transportation is carried out, there are land and air transportation facilities. This reminds us that the boat has a much larger capacity than other means of transport. For example, in oil transportation that reaches tens of thousands of tons, if tanks must transport it, thousands of vehicles and labor are needed.

Infrastructure in the form of ports is required to support the sea transportation facilities needed. The port is the stopping place (terminal) of the ship after the voyage. In this port, ships carry out various activities such as boarding and disembarking passengers, loading and unloading goods, refueling and fresh water, carrying out repairs, providing supplies, and so on. To be able to carry out these various activities, the port must be equipped with facilities such as breakwaters, docks, mooring equipment, loading and unloading equipment, warehouses, fields for storing goods, offices both for port managers and for shipping airlines, waiting rooms for passengers, refueling equipment and clean water supply.

2.2 Port Service Standards

Based on the regulation of the Minister of transportation of the Republic of Indonesia number PM 39 of 2015 regarding the standard of crossing passenger transport services states that the minimum requirements that the port must own include:

a. Presence / Regularity

Sales service and redemption of ship tickets with the number of counters that adjust to prospective passengers and the average time of a maximum individual 5 minutes per passenger name.

b. Safety

1. Information and health facilities, accidents, or natural disasters, including evacuation route instructions, evacuation gathering points, and fire extinguishers.
2. Health facilities such as P3K equipment.

c. Security

- 1) Lighting lamps with a light intensity of 200-300 lux as a light source at the crossing port to make passengers feel safe.
- 2) Security officers are characterized by the availability of uniformed and easily visible officers in charge of maintaining passengers' smooth and orderly circulation in the passenger terminal.
- 3) Stickers containing phone numbers and SMS complaints are affixed to a strategic place and easy to see to provide information in the event of security disturbances.

d. Comfort

e. Convenience/Affordability

f. Equality

Based on the regulation of the Minister of Transportation No. 119 of 2015 concerning standards of sea transport passenger services, the term describes the means of passenger terminal services that the operator of the sea transport terminal must provide [67]. Safety and security shipping is a state of fulfillment of safety and security requirements relating to transportation in waters, ports, and the maritime environment [80]. At the same time, the safety of the ship is the state of the ship that meets the requirements of materials, construction, building, machinery and electricity, stability, arrangement, and equipment, including equipment and radio auxiliary equipment, Ship Electronics, as evidenced by the certificate after inspection and testing [81].

2.3 Analysis On Cruise Safety

The basic principle of shipping safety states that the ship to sail must be in a seaworthiness or seaworthy condition. That is, the ship must be able to deal reasonably with various cases or natural events in the shipping world [90]. Recognizing the critical role of transportation, sea transportation is one of the driving wheels of the nation's economy; transportation must be organized in an integrated national transportation system and be able to realize the provision of balanced transportation services or in accordance with the level of needs and availability of good transportation services, easily achieved by the needs of passengers [91]. As stated above, the safety and security of Shipping is a condition of fulfilling safety and security requirements concerning transportation in waters, ports, and the maritime environment.

Shipping safety is essential and occupies a central position in all aspects of the shipping world. The inherent elements of shipping safety include the characteristics of attitudes, values, and activities regarding the importance of fulfilling safety and security requirements concerning transportation in waters and ports. Neglect of shipping safety tends to increase economic and environmental costs such as decreased production, medical expenses, pollution, and inefficient energy use. The low safety of shipping can be caused by weak human resource management (education, competence, working conditions, working hours) and process management [92].

2.4 Implementation of the task section of traffic, Sea Transport, and Port Business

Based on Article 208 of Law Number 17 of 2008 on shipping, it is explained that the duties of the Harbormaster are:

- a. Supervise the seaworthiness of ships, safety, security, and order in the port
- b. Supervise orderly ship traffic in Port waters, and shipping lanes

- c. Supervising loading and unloading activities in Port waters
- d. Supervise salvage activities and underwater work
- e. Overseeing ship delay activities
- f. Supervise driving
- g. Supervise the loading and unloading of dangerous goods and waste of hazardous and toxic materials
- h. Supervise refueling
- i. Supervise the order of embarkation and disembarkation of passengers
- j. Supervise dredging and reklamasi
- k. Supervising port facility development activities
- l. Carrying out search and rescue assistance
- m. Lead pollution control and fire fighting in ports
- n. Supervise the implementation of Maritime Environmental Protection

In performing the duties entrusted as the highest leader of the Harbor Harbor has the function, namely:

1. Carry out coordinating Government Activities in ports related to the implementation of supervision and law enforcement in the safety and security of shipping.
2. Carry out supervision and fulfillment of ship seaworthiness, ship safety certification, prevention of pollution from ships, and determination of the legal status of ships.
3. Carry out the provision, regulation, and supervision of inland land and port waters, maintenance of wave containment, port ponds, shipping lanes, road networks, and shipping navigation aids.
4. Harbormaster assist in search and rescue tasks port in accordance with the provisions of the legislation

2.5 The authority of the harbormaster in the implementation of the tasks of the Traffic Section, sea transport, and Port Business

Furthermore, in the provisions of Article 209 of Law Number 17 of 2008 on shipping, it is explained that the Harbormaster has the following authority:

1. Coordinate all government activities in the port;
2. Checking and storing letters, documents, and ship's gazette;
3. Issuing approval of ship activities in the port;
4. Conducting ship inspection;
5. Issue a letter of approval to sail;
6. Conducting ship accident checks;
7. Arrest the vessel by court order; and
8. Execute the crew certificate.

In the framework of the orderly supervision of the port and the safety of the ship, according to the officer Ksop Class II Tanjungpinang explained that the Harbormaster authorized to implement legislation aimed at :

1. Ensuring the smoothness and safety of the entry and exit of a ship.
2. Guaranteed safety of smooth loading and unloading of goods.
3. Guaranteed smoothness and order up and down passengers.
4. Ensuring law and order in the city.
5. Ensuring environmental sustainability in the city.

According to the head of Class II KSOP Tanjungpinang, the supervision function of the ship is very important and carried out by Harbormaster, this concerns the safety of life and cargo.

3. CONCLUSIONS

The following conclusions can the authors convey in this study:

- a. Related to the role and function of the Harbormaster for the enforcement of the sailing safety law to ensure the safety of all passengers and goods at Ksop Class II Tanjungpinang based on the interview results of the officer Ksop Class II Tanjungpinang has carried out the role and function of harbormaster properly in accordance with applicable laws and regulations. However, some obstacles still hinder the duties and roles of Class II Tanjungpinang KSOP officers, especially in the Traffic Section, sea transportation, and Port business in Class II Tanjungpinang KSOP.

- b. Related to the effectiveness of Law No. 17 of 2008 on shipping in the Office harbormaster and Port Authority Class II, Tanjungpinang has been running quite effectively. This can be seen from the findings of the field and the results of interviews with employees of KSOP Class II Tanjungpinang.
- c. Related to the obstacles in the implementation of the duties of the traffic section, sea transportation, and port business at the Harbormaster office and the Class II Tanjungpinang Port Authority, among others, it was found that there were passengers who did not know their rights during the voyage, there were still ship owners and companies that violated the rules of legislation. To overcome these obstacles, the efforts made by the Traffic Section, sea transport and Port Business Harbormaster office, and Port Authority Class II Tanjungpinang is to enforce the rules without discrimination, socialize with all prospective passengers and encourage a firm stance of every officer Ksop Class II Tanjungpinang to obey the laws and regulations for the realization of shipping safety. In addition, KSOP Class II Tanjungpinang periodically strives to improve the quality and professionalism of Ksop Class II Tanjungpinang employees through training and education.

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