

JURIDICAL ANALYSIS OF PREVENTION OF MARINE POLLUTION FROM A PROTECTION PERSPECTIVE CAPABILITY OF SUSTAINABLE ENVIRONMENTAL FUNCTIONS (RESEARCH STUDY AT THE BATAM SPECIAL HARBORMASTER AND PORT AUTHORITY (KSOP) OFFICE)

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ABSTRACT

According to the final report of DKP (Department of Maritime Affairs and Fisheries), shipping activities threaten the occurrence of pollution from ports, oil spills, shipwrecks disposal, garbage disposal from ships, and the direct result of throwing ship anchors and cleaning ship tanks. The purpose of this research is to find out the legal regulation on the prevention of marine pollution in the perspective of protecting the ability of a sustainable environmental function. At the Batam Special Port Authority and Harbormaster Office. and, to find out the implementation of constraints and solutions for preventing marine pollution in the perspective of protecting the ability of the environment to function sustainably. This study uses a type of research using normative. The normative legal research method, commonly referred to as legal research is only aimed at written regulations that are very closely related to the library because it will require secondary data in the library. The results of the study are that first, the legal regulation of prevention of marine pollution, in the perspective of protecting the ability of environmental functions, is regulated in Law Number 32 of 2009 Article 3 letter (a). In addition article 329 of Law Number 17 of 2008 concerning shipping states that anyone who transports B3 waste without regard to the ship's specifications will be subject to a maximum of 2 years in prison and a fine of Rp. 300 million. Second, implementation of obstacle and solution factors, namely lack of public awareness, disobedience of industrial players to the law, increasing population growth, low education level, prevention and control of pollution from ship operations, prevention and control of port activities. For this reason, it is necessary to unify legal regulations so that there is no sectoral ego between each law enforcer at sea regarding handling the problem of seawater pollution. In overcoming the constraint factors, it is necessary to increase public awareness to care about the marine environment, and take firm action against shipbuilding companies in Batam that cause pollution of the maritime environment

Keyword: *Marine Pollution, Protection, Environment*

1. INTRODUCTION

Most of the Republic of Indonesia's territory, especially the Riau Archipelago, is in the form of sea waters that are strategically located. Besides being used as a means of local and international sea transportation, the Riau Archipelago's sea waters also have vibrant and important marine resources, including fishery resources, coral reefs, seagrass beds, mangroves, and in coastal areas that can be used as attractive tourist objects.

The sea also has an essential meaning for the life of living things such as humans, fish, plants, and other marine biotas. This shows that the marine sector has enormous potential to drive current and future development. Therefore, the sea, which is one of the natural resources, really needs to be protected.

This means that it must be used wisely, considering the interests of present and future generations. Activities to control marine pollution or destruction are very important for the sea to be beneficial in a sustainable manner with the desired quality level.

According to Government Regulation no. 19 of 1999, *Marine pollution* is defined as the entry or inclusion of living things, substances, energy, and other components into the marine environment by human activities so that the quality drops to a certain level which causes the marine environment to no longer comply with quality standards or functions. Sea transportation today is proliferating. Ships as a means of sea transportation play an essential role in facilitating safe and efficient sea transportation. The types of commercial ships built today tend to specialize in the type of cargo being transported, for example, cargo ships, tankers, bulk carriers, and others.

When viewed from the point of view of ship operation, it is generally distinguished between "Liner," namely ships that take fixed routes between two or more ports, and "Tramp," namely ships that serve non-fixed routes, usually ships operated in the form of "Charter."

According to the DKP (Marine and Fisheries Service) final report, shipping activities threaten to cause pollution from ports, oil spills, shipwreck disposal, garbage disposal from ships, and the direct result of throwing anchors and cleaning ship tanks.

According to TKT (Coral Reefs at Risk) analysis of threats due to pollution from the sea, based on the location of the main shipping lanes and oil mining infrastructure. The analysis results show that 7% of this area's coral reefs are threatened by sea pollution.

Whereas the cleaning of ship tanks from solid waste can cause accidents for cargo ships entering river channel routes, as follows: Plastic waste and oils from cleaning ships can cause sea pollution, which can cause the death of fish, coral reefs, and other marine biotas. While plastic waste can cause jammed blades or propellers, which result in damage to the ship, wood or beam waste, this waste appears on the surface of the water, which will be fatal for the ship if it hits the garbage, and as a result, the ship breaks or has a large leak and sinks. 2

In almost all seas in Indonesia, the handling of cleaning ship tanks and beam waste has not been controlled, so ships made of fiberglass and wood are significantly at risk from this threat. To manage to overcome the problem of environmental pollution in the sea. Measures to prevent marine pollution, especially pollution caused by tank cleaning services carried out by ship tank cleaning services.

Marine Pollution is a change in the marine environment that occurs as a result of the direct or indirect introduction by humans of materials or energy into the marine environment (including river mouths) which results in such dire consequences that it constitutes a loss of biological wealth, a hazard to human health, disturbance to the sea including fishing and others, reasonable use of the sea, deterioration of the quality of seawater and reduction of residential and recreational areas. The rights of the Indonesian state, which have been disrupted in this case, are related to the right not to be polluted for all activities carried out by other countries in the territory of the country's sovereignty.

So what is meant by the Role of Harbourmaster and Batam Special Port Authority in Preventing Pollution in the Sea is an activity or action carried out by the Local Government in preventing and overcoming marine pollution so that the seas around us are maintained in their beauty, and protect marine life. They were living in the ocean.

In this case, human activities are not friendly to the marine environment, causing pollution and damaging seawater that hurts marine biota. Therefore this destructive human action must be controlled. One means of control is "law," in this case, environmental law. The local government, especially the Harbourmaster and the Batam Special Port Authority, have duties and authorities, one of which is to carry

out other duties and charges, specifically in dealing with the problem of sea pollution due to the cleaning of ship tanks in Batam City waters.

Prevention of marine pollution has been regulated in laws and regulations; however, due to excessive or unwise use of natural resources will still cause various environmental problems. Even though the government has stipulated multiple regulations regarding the prevention of sea pollution, it seems that there are still many people in the Batam City area who are less aware and do not care about maintaining the cleanliness of the sea, such as their habit of throwing garbage into the sea without thinking about the impacts they will face in the future. Hence, there is a need for government intervention to foster and change the mindset of society.³

As for the primary considerations of this research, it can be seen that the habits of sailors who regard the sea as a giant garbage pool that throws garbage around and supervision of cleaning ship tanks are not yet optimal, so the marine environment is indeed very vulnerable to contaminants (exceptional environmental sensitivity).

Thus, supervision of cleaning the tanks of state ships must make special provisions for the marine environment and be accompanied by scientifically justifiable evidence, supporting techniques, and accurate information. Therefore, environmental law stipulates requirements and norms to regulate human actions or deeds to protect the environment from ecological damage and pollution to ensure its sustainability so that it can be continuously used by present and future generations.

Therein lies the existence of environmental law to overcome the problem of environmental pollution and environmental destruction caused by human behavior with all its activities, such as development with technology. Therefore, ecological law regulates provisions regarding behavior in society to be forced to comply with environmental law.

Besides that, the community also has rights and obligations and participates in managing the environment. According to Drupsteen, as quoted by Andi Hamzah, judging from its function, environmental law contains principles regarding positive community behavior towards its environment, either directly or indirectly. Now to the community, ecological law states what is prohibited and what is permitted; indirectly the community members is to provide a basis for those in authority to provide rules to the community.

In carrying out its primary duties, Harbourmaster and Batam Special Port Authority have the following capacities:

- a. Detailed specific strategies in nature administration, executive management, ecological assurance, and management and authorization.
- b. Implementation of government affairs and public administration in natural administration, council waste, ecological guarantees, and supervision and implementation.
- c. Direction and implementation in natural administration, executive waste, ecological guarantees, supervision, and needs.
- d. Implementation, observation, assessment, and report on the implementation of services.

However, in reality, many actors or people's behavior still damages the environment, namely marine pollution due to cleaning ship tanks in the waters of the city of Batam. Sadly, no one is responsible for sea pollution carried out by unscrupulous members of the public or by rogue companies. Even though, according to laws and regional regulations, perpetrators can be punished and regulate this matter, the enforcement and supervision are not carried out correctly.

From the role of the Harbourmaster and the Port Authority, it is still lacking, for the impact that the actors have carried out, it is still not effective; there may be several things that might hinder the role of harbor manager and Port Authority in carrying out prevention and prosecution. As we know, the pollution perpetrators take extraordinary actions because they impact the continuity of human life—marine pollution to protect the preservation of the marine environment. Global and regional cooperation can be carried out through authorized organizations.

FORMULATION OF THE PROBLEM

1. How is the legal regulation of the prevention of marine pollution in the perspective of protecting the ability to function in a sustainable environment?
2. What are the constraints and solutions to prevent marine pollution from the perspective of protecting the ability to function in a sustainable environment?

2. METHODOLOGY

Research Approach

This research is descriptive analysis in nature, namely research that seeks to describe facts and situations relating to the Prevention of Marine Pollution from the Perspective of the Protection of the Capability of Sustainable Environmental Functions.⁴

The approach method used in this study is normative and empirical juridical. This approach is carried out by studying and reviewing applicable legal principles, especially the Prevention of Marine Pollution from the Perspective of Protecting the Capability of Sustainable Environmental Functions.

Data Sources And Data Collection Tools

Sources of data in this study are primary data and secondary data. Preliminary data was sourced from interviews at the Batam Special Port Authority and Harbormaster Office. Secondary data was collected through library research by reviewing books, journals, research results, conventions, laws and regulations, and internet media regarding research problems. Primary data was obtained by conducting field research using interviews at the Batam Special Harbor Authority and Port Authority offices and respondents related to the object of this research.

Data analysis

The data obtained, both primary data from field research and secondary data from library research, are generalized and then analyzed qualitatively. This data analysis aims to find and organize data systematically to increase the researcher's understanding of the problem under study and present it as a research finding.

3. RESULTS AND DISCUSSION

A. Legal Regulations Against Marine Pollution Prevention

According to Ministerial Regulation Transportation of the Republic of Indonesia No. PM 93 of 2018 concerning the Batam Special Port Authority and Harbormaster Offices Organization and Work Procedures. From now on, the Batam Special Port Authority and Harbormaster Office from now on referred to as the Batam Special KSOP is a Technical Implementation Unit within the Ministry of Transportation under and responsible to the Director General of Sea Transportation.

In eradicating marine pollution crimes carried out by the KLHK Investigation team and Batam Special KSOP Investigators of the Ministry of Transportation, this is the commitment and seriousness of the government to maintain and protect the environment and society due to the impact of illegal waste disposal, especially waste from abroad.

This criminal act of marine pollution originated from the suspicion of the Batam City Special KSOP officer who saw a foreign-flagged ship in Batam Waters. When checked, the ship has a Port Clearance with the aim of High seas (high seas), so the ship is asked to leave the Batam Waters area. However, after three days, the ship was still visible in Batam waters, so the Patrol Team conducted another inspection. It was found that the ship was carrying an IBC tank filled with liquid suspected to be B3 waste.

As a result of the actions committed against marine pollution, the judge sentenced this case to the highest sentence ever decided against a violation of the norms prohibiting the import of waste into the territory of the Republic of Indonesia as stipulated in Article 69 paragraph (1) letter d of Law Number 32

of 2009 concerning Protection and Management of the Environment with a maximum penalty of 15 years and a maximum fine of 15 billion rupiahs.

1. Marine pollution

- a. The causes of marine pollution occur due to several things, including:
- b. Entry or inclusion of living things, substances, energy, and other components into the marine environment by human activities so that they exceed the established quality standards of the marine environment.
- c. Marine pollution can be caused by waste from activities or activities on land (land-based pollution). Contamination of the marine environment due to corrosion can be divided into two, namely:
 - 1) Pollution comes from activities on land (land-based pollution).
In general, activities or activities on land that have the potential to pollute the coastal and marine environment include deforestation, disposal of industrial wastes, sewage disposal, and solid waste disposal.), Convention on mangrove and seagrass land (mangrove swamp conversion), and Reclamation in coastal areas (reclamation).
 - 2) Pollution originates from activities at sea (sea-based pollution).
While activities or activities at sea that have the potential to pollute the marine environment include: Shipping, Dumping at sea (ocean dumping), Mining, Oil exploration and exploitation, Marine culture (marine culture), and Fishery (fishing).

2. The role of the Batam Special Port Authority and Harbormaster Office

The role is an action taken by a person or group of organizations that is played in an event. Such as the Harbourmaster and Batam Special Port Authority are organizational units within the regional government which is located as implementing elements of the regional government regarding the prevention of pollution at sea.

Marine pollution is one of the environmental problems faced today and is often caused by human activities or activities. Most of the marine pollution caused by humans is done directly or indirectly. The impact of pollution is not only harmful to biota and the marine environment. However, it can also endanger human health or even cause death, reduce the aesthetic value of the coastal and marine environment, and be detrimental socio-economically.

Various kinds of pollutant materials originating from various industrial, agricultural, and household activities on land can eventually negatively impact river waters and coastal and ocean waters. The impacts are damage to mangrove ecosystems, coral reefs, and the life of various types of biota (fish, shellfish, snails, and others), resulting in abrasion, loss of seed banding, and shrimp.

For years people have not cared about sea pollution because of the large volume of seawater, which can dilute all kinds of foreign substances so that it has almost no effect. Therefore the sea is considered waste disposal. However, this view is starting to change gradually because more and more waste is being discharged into the sea in high concentrations, so if waste disposal continues to be carried out, there is a fear of severe marine pollution. The role of Harbourmaster and Batam, Special port Authority in preventing sea pollution include:

1. Preventing sea pollution in Batam

Namely by providing counseling on the importance of keeping the ocean clean, collaborating with people who care about the environment, procuring community service to collect garbage at sea and then uniting and sorting plastic waste and household waste, recycle plastic waste because this is the most and make creations like flowers from used bottles, lampshades, bags, and clothes.

Preventing marine pollution can be seen from the legal vision session regarding the dangers of polluting the sea by conducting counseling such as the ban on disposing of marine waste, to counseling related to waste management procedures and carried out in the sub-district and even if on

other islands it can be if there are activities from community organizations or students if invited to be resource persons.

Counseling is not carried out on other islands because it is limited by the budget only twice a year, so for effectiveness in cooperating with the local government, invite the whole community to attend whenever there is environmental counseling.

2. Establish a Task Force

The role of Harbourmaster and Batam Special Port Authority encourages us to have many activities in controlling marine pollution, such as advising on the prohibition of throwing garbage, forming a task force, creating a 100-day work program for clean island movements, fostering waste banks, making regulations but sanctions have never been imposed until now and what is in effect is still in the form of a warning because on the island there has never been a complaint about severe marine pollution.

Marine pollution in Batam City Moreover, Riau Islands, in particular, come from not only island communities but also ships that clean their hulls and also come from the shipbuilding industry. Causes of Marine Pollution include the following:

- a. Pollution by oil
Tankers transporting large amounts of crude oil, which results in oil spills in the oceans, frequently occur yearly. Oil pollution significantly affects animals and plants that live in an area.
- b. Pollution by heavy metals are solid or liquid objects weighing 5 grams or more for every cm², while metals weighing less than 5 grams are light metals. Heavy metals, such as mercury (Hg), lead (Pb), arsenic (As), cadmium (Cd), chromium (Cr), zinc (Zn), and nickel (Ni), are forms of inorganic matter that often cause various problems in waters. The cause of heavy metal pollution in waters usually comes from the input of water contaminated by industrial and mining waste.
- c. Pollution by garbage
About 80 percent of the trash in the ocean is plastic. Plastic and other derivatives of plastic waste found in the sea are dangerous for wildlife and fisheries.
- d. Pollution by pesticides Pollution caused by pesticides is accumulative. Pesticides are deliberately spread to control plant pests or other unwanted organisms. Some of the pesticides used come from a group of chemicals called organochlorines.
- e. Pollution due to the eutrophication process
A eutrophication event is an increase in nutrients, usually nitrogen or phosphorus-containing compounds, in an ecosystem. This can increase primary productivity (marked by an increase in excessive plant growth and a tendency to rot quickly). Further effects include decreasing oxygen levels, decreasing water quality, and disrupting the stability of populations of other organisms.
- f. Pollution from noise pollution Marine life can be vulnerable to noise or sound pollution from passing ships, oil exploration seismic surveys, and naval sonar frequencies. Sound travels faster in the sea than in the air. Marine animals like whales tend to have weak eyesight and live in areas determined largely by acoustic information.⁸

B. Obstacle Factors and Solutions to Prevention of Marine Pollution

The obstacles in legal arrangements for preventing marine pollution include:

1. Lack of Public Awareness Making people aware is not instantaneous; it is not like turning the palm of one's hand; it takes much time because people's awareness needs to be improved. If they have not felt the impact yet, they are still indifferent, but we are taking an approach because the people's mindset has to be changed so that the problem is PKS (knowledge, skills, attitudes). So the first thing to change is that throwing garbage pollutes the sea automatically; a fisherman will go far because it is polluted. If you do not want your husband to go far to sea, then maintain the marine system.
2. Industry actors do not comply with the law

The large number of shipbuilding industries in Batam City and the Riau Archipelago, in particular, have an impact on waters in Batam City related to environmental pollution at sea that often occurs; one of the causes is the indifference of industrial business actors to the environment at sea, and in addition, industry players do not comply with regulations. Regulations governing the environment and the sea.

3. Increased Population Growth

The number of residents increases yearly so that the waste generated increases, starting from the household to the sub-district level. Along with population growth, the environmental problems that arise are also increasing, these problems take a long time, and we have yet to be able to prepare a garbage collection ship. These problems take a long time to be resolved, but we can reduce the rate of ecosystem damage by making efforts to preserve the environment

4. Low Education Level.

People throw their garbage into the sea because they think that the safest place to dispose of garbage is the sea. This is caused by low education, where most of the people on the island work as fishermen.

The thing that becomes an obstacle is that there is no transportation, even if there is one. However, the people lack awareness not to throw garbage in the sea, the low education factor so that people can quickly dispose of garbage in the sea with the enactment of Law no. 23 of 2014 concerning Regional Government whose authority is the Province, so the district, if it is related to authority, it does not have full authority, but it is handed over to the local marine fisheries service and the local environmental management service, so that the role of the harbormaster and Batam special port authority in preventing marine pollution has been reduced due to the influence reduced authority, so we only supervise and become a technical team.

In order to achieve the desired goals in the management and utilization and to maintain the sustainability of existing coastal areas, the quality of human resources needs to be improved. One way to go is education.

Through education, human beings who are skilled, knowledgeable, and have a solid mental attitude and personality can be formed. A very dynamic relationship between humans and their environment can be seen from how humans live together, side by side, with all the components around them. The ability of each individual to behave well in their daily life by using their understanding of environmental conditions.

The waters of the Riau Archipelago are frequently passed by large ships, so Pollution from Ships is damage to the waters with all its impacts caused by intentional or unintentional spills or discharges of materials in the form of oil, toxic liquid materials, dangerous cargo in packaging, dirt, garbage, and air from the boat.

4. CONCLUSIONS

After the authors have described and analyzed the Prevention of Marine Pollution from the Perspective of Protecting the Capability of Sustainable Environmental Functions in the discussion of this study, it can be concluded that:

- a. Legal arrangements for preventing marine pollution, in the perspective of protecting the ability to function of the environment, are regulated in Law Number 32 of the 2009 Article. Three letters (a). Also, Law Number 17 of 2008 concerning Shipping Article 329 states that everyone who transports B3 waste without regard to the ship's specifications will be subject to a maximum sentence of Two years in prison, a fine of IDR 300 million.
- b. Implementation of constraints and solutions, namely:
 1. Lack of public awareness;

2. Industry players do not comply with the law;
3. Population Growth has increased;
4. Low education level;
5. Prevention and control of pollution from ship operations;
6. Prevention and control of port activities.

5. ACKNOWLEDGEMENT

After conducting research on the Prevention of Marine Pollution from the Perspective of Protecting the Capability of Sustainable Environmental Functions, the authors suggest several things:

- a. There is a need for unification of legal regulations so that there is no sectoral ego between each Law Enforcement Officer at Sea regarding the handling of seawater pollution problems;
- b. In overcoming the constraining factors, it is necessary to do the:
 - 1) Raising public awareness to care for the marine environment;
 - 2) Take firm action against shipyard companies in Batam that cause pollution of the maritime environment;
 - 3) Providing education based on caring for the marine environment to the community, workers on ships, and shipyard entrepreneurs;
 - 4) Authorized officers must carry out massive supervision of preserving the marine environment, so it is free from pollution.

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