

## THE EFFECTIVENESS OF MARINE LAW ENFORCEMENT IN CENTRAL KALIMANTAN TERRITORIAL WATERS

PITOYO AGUNG YUWONO <sup>1\*</sup>, LAZARUS TRI SETYAWANTA <sup>2</sup> and

AMALIA DIAMANTINA <sup>3</sup>

<sup>1, 2, 3</sup> Doctoral Law Program, Faculty of Law, Diponegoro University, Jl. Prof. Soedarto, SH., Tembalang, Semarang.

\*Corresponding Author Email: [pitoyoagungyuwono@students.undip.ac.id](mailto:pitoyoagungyuwono@students.undip.ac.id)

### Abstract

This study aims to analyze (1) What are the problems of law enforcement on marine and fisheries in the waters of Central Kalimantan?; (2) How is the effectiveness of maritime and fisheries law enforcement in the waters of Central Kalimantan?. This research is a non-doctrinal research or also known as empirical juridical research with a statutory approach, a concept approach, and a case study approach. The results of the study indicate that (1) the problems of maritime law enforcement in the waters of Central Kalimantan include; 1) Non-fulfillment of Shipping Safety and Security Requirements; 2) Compensation Liability Issues in Accidents in Shipping Goods by Sea; 3) Number of Law Enforcement Officials and Overlapping Authorities; 4) Limited Facilities and Infrastructure; 5) Domination of Illegal Fishing as a Violation in the Sea of Central Kalimantan which is very detrimental. (2) The effectiveness of maritime law enforcement in South Kalimantan territorial waters can be achieved through 1) Integrating maritime law so that there is no overlap in laws and regulations; 2) Coordination of marine law enforcement officials so that there is no overlap of authority; 3) Improvement of facilities, infrastructure and number of law enforcement officers in accordance with the area of marine area; 4) Strengthening Human Resources Skills and abilities of Law Enforcement Officers; 5) Increased Public Awareness related to Shipping Safety and Security.

**Keywords:** Effectiveness, Enforcement, Law, Marine, Central Kalimantan.

### A. INTRODUCTION

The dynamics of problems in marine and fisheries in Indonesia need attention from all parties, both the government, the community, law enforcement officials and other parties related to marine and fisheries development. Therefore, the role of law enforcement officials in carrying out law enforcement against certain criminal acts at sea must have clear guidelines and legal bases and have the ability both in personnel and equipment in the form of ships and weapons that can have a law enforcement effect on ships carrying out illegal activities.<sup>1</sup>

Enforcement of Indonesia's national jurisdictional maritime and fisheries law has not been carried out properly. Fisheries law enforcement involves three government agencies, namely the National Police, PPNS Fisheries and the Indonesian Navy. The implementation of fisheries law cannot be implemented properly due to several factors including; duplication of laws and regulations, no restrictions on the area of authority, weak human resources and egosectoral. For this reason, harmonization of the three law enforcement agencies in handling criminal acts in the marine and fisheries sector is needed by synchronizing in various fields, both in terms of laws and regulations and in terms of law enforcement applications. Law enforcement at sea cannot be separated from the problem of enforcing sovereignty at sea. The definition of law

enforcement on the one hand and sovereignty enforcement on the other hand can be distinguished but both cannot be separated because the enforcement of sovereignty at sea includes law enforcement at sea. Enforcement of sovereignty can be carried out not only within the scope of the state, but can also net beyond national borders, while law enforcement at sea is a process of arrest and investigation of a case arising as a result of violations at sea of applicable legal provisions both international and national legal provisions.<sup>2</sup>

Activities and problems faced in law enforcement at sea (Indonesian waters and additional zones) have a broad scope, are cross-sectoral, multi-disciplinary and also international, therefore in its implementation involved various government agencies and related law enforcement officials. The involvement of various agencies and law enforcement officials requires clarity and firmness about the duties and roles of each agency so that there is no confusion that can result in unsmooth law enforcement efforts in Indonesian waters and additional zones.<sup>3</sup> The problem that has been quite serious and has greatly hampered the development of the marine and fisheries sector is the practice of illegal fishing, among others, carried out by foreign-flagged fishing vessels through direct landing to the country of origin (*transshipment*) and Foreign Fishing Vessels (KIA) that steal fish in Indonesian waters and the use of fishermen that are not in accordance with applicable regulations.<sup>4</sup>

In addition, lately there has been an increasing occurrence or commission of crimes in and by sea, such as *drug trafficking*, *smuggling*, *people smuggling*, *women and children trafficking*, *illegal migrant*, *piracy* (armed robbery), *sea piracy* (*maritime piracy*), *arms smuggling* and terrorism that complicate efforts to ensure security at sea.)<sup>5</sup> Central Kalimantan is one of the regions that produce fish production in Indonesia, therefore laws and regulations are needed that support the management and violations that occur in fisheries and maritime law in Central Kalimantan.

**Table 1.1: Capture Fisheries Production of Central Kalimantan Province (ton)**

District/City	Capture Production (Ton)		
	2015	2016	2017
West Kotawaringin	11.364,60	14.792,70	14.470,10
East Kotawaringin	4.815,00	14.688,80	26.107,90
K a p u a s	5.494,50	40.620,00	17.253,00
South Barito	9.674,00	2.547,80	6.482,00
North Barito	1.092,80	1.110,30	1.096,80
Sukamara	4.223,90	3.826,30	4.104,89
Lamandau	1.119,00	1.119,00	1.025,60
Seruyan	63.203,00	46.977,80	15.310,91
Katingan	5.798,30	2.419,90	3.728.79
Home Knife	19.278,90	19.114,50	19.121.32
Mount Mas	535,10	352,50	260.20
East Barito	898,20	887,80	851.21
Murung Raya	611,90	207,50	264.64
Palangka Raya	2.490,00	2.611,60	3.116.72
Central Kalimantan	30.599,20	151.276,50	113.194,10

Source: Marine and Fisheries Service, 2022

Criminal acts in the field of fisheries and marine have been regulated in Law No. 45 of 2009 concerning amendments to Law No. 31 of 2004 concerning Fisheries, to anticipate technological developments and the development of legal needs in the context of management and law enforcement as well as the formulation of sanctions and coordination between law enforcers in the field of fisheries. One factor that must be considered is in terms of the authority to conduct investigations, because the number of agencies that have the authority to conduct investigations will cause stimulants for collusion, and nepotism so that the process of solving fisheries criminal cases does not cause a deterrent effect on perpetrators.

Fisheries law has undergone 3 (three) changes. Starting from the first fisheries law, is Law Number 9 of 1985 concerning fisheries. Then the second, amended by Law Number 31 of 2004 concerning fisheries. The third fisheries law, is Law Number 45 of 2009 concerning amendments to Law Number 31 of 2004 concerning fisheries, and is valid until now.

## **B. DISCUSSION**

### **1. Problems of Law Enforcement on Marine and Fisheries in The Waters of Central Kalimantan**

#### **a. Non-fulfillment of shipping safety and security requirements**

Legal liability in accidents at sea, because the author views that often recurrence of accidents at sea is caused by human error. Accidents at sea in a broad sense, such as ship fires, ship collisions, sinking of ships either due to weather or overload and other disasters involving ships. The author's fundamental question is why accidents at sea occur frequently and who is legally responsible for them.

The fulfillment of shipping safety and security requirements regarding the state of transportation in the waters, the fulfillment of shipping signs to and from ports, and maritime environmental conditions. In order to improve occupational safety and shipping safety, the United Nations in its conference in 1948 agreed to establish an international body specialized in dealing with maritime issues. The agency was first formed under the name International Governmental Maritime Consultative Organization (IMCO).

The ship's certificate can also be canceled if the information in the ship's documents used for the issuance of the certificate is found to be inconsistent with the actual situation or the ship no longer meets the ship's safety requirements, or the certificate is obtained invalidly.<sup>6</sup> This safety certificate was previously known as Seaworthiness Certificate but based on Law Number 17 of 2008 concerning Shipping was changed to passenger ship safety certificate, freighter safety certificate, consisting of freighter construction certificate, freighter equipment safety certificate, and freighter radio safety certificate as well as fishing vessel airworthiness and manning certificates.

In international standards there are three world organizations that regulate ship safety, namely IMO (International Maritime Organization), ILO (International Labour Organization) and ITU (International Telecommunication Union). Indonesia as one of the members of the three

organizations has ratified the conventions. So as a consequence Indonesia must implement these rules properly and proven concretely in an independent certification and always evaluated every 5 years. International conventions governing the safety of ships include:

- a) SOLAS 1974 (Safety of Life at Sea)<sup>7</sup>
- b) MARPOL (Marine Pollution) 1973/1978.<sup>8</sup>
- c) Load Line Convention 1966.<sup>9</sup>
- d) Collreg 1972 (Collision Regulation).<sup>10</sup>
- e) Tonnage Measurement 1966, regulating international standard ship measurements.
- f) STCW 1978 Amendment 95. about the requirements of the Crew.
- g) ILO No. 147 of 1976 concerning Minimum Working Standards for Commercial Crews.
- h) ILO Convention No. 185 of 2008 concerning SID (Seafarers Identification Document) which has been ratified based on Law No. 1 of 2009.

#### **b. Issues of Indemnity Liability in Marine Accidents**

Ship problems with transportation service users in the event of an accident (drowning) due to improper transportation equipment. Default or non-fulfillment of obligations that have been stipulated in the engagement (agreement) there are two possible reasons, namely:

1. Due to the debtor's fault, either due to his intention or negligence.
2. Due to force macht, it is beyond the debtor's ability.

Article 1365 of the Civil Code stipulates that whoever causes harm to another party because of his unlawful actions must compensate for the loss. Furthermore, article 1236 of the Civil Code stipulates that the carrier must compensate for the costs, losses suffered and the interest he deserves, if he is unable to deliver or does not take proper care to save the goods.

From the provisions mentioned above, a conclusion can be drawn that the carrier is responsible for losses arising as a result of destruction, loss or damage to goods, either in part or in whole such as injuries or other losses. The provisions regarding transportation in inland waters are regulated in book I chapter V part III articles 9-98 of the Criminal Code, but only regarding the transportation of goods and goods that have been entrusted with transportation to the carrier. For the carriage of persons (passengers) along with goods under their control or luggage that is not handed over to the carrier, these provisions do not apply.

Article 91 of the Criminal Code states that the carrier may reject the claim of the opposite party, if the event that caused the loss was caused by:

1. defects in the goods themselves;
2. error or negligence of the sender or expeditioner;
3. Force majeure (overmacht).

Matters related to defects in the goods themselves, defects here refer to the nature of the carrying (eigenschap) of the goods themselves that cause damage or burning of the goods in transit. Another case if the damage or burning of the goods is caused by misplacement in the means of transportation or negligence of the carrier.

### **c. The Number of Marine Law Enforcement Officers and Overlapping Authorities**

Shipping companies that are members of the Indonesian National Shipowners Association revealed that overlapping authorities to maintain security at sea have harmed ship operations and cargo quality.<sup>11</sup> There are at least 18 agencies that often stop ships in the middle of the sea. He explained that some of the agencies were the Maritime Security Agency (Bakamla), the Water Police (Polair), the Sea and Coast Guard Unit (KPLP) of the Ministry of Transportation, the Marine Resources and Fisheries Supervision (PSDKP) of the Ministry of Marine Affairs and Fisheries, and the Indonesian Navy. Each agency has the authority to arrest ships in the middle of the sea on the basis of the laws and regulations that overshadow them. The entire agency should be able to merge into one body. It could also be that one body was made into a sea and coast guard and the other was fused.

To maintain and secure the sea area of the Unitary State of the Republic of Indonesia, a strong law enforcement apparatus is needed in the process of enforcing certain criminal acts at sea.<sup>12</sup> As law enforcement officers at sea, in the aspect of legality of law enforcement at sea who have the authority to investigate certain criminal acts at sea include the Indonesian Navy, National Police, Ministry of Transportation, Ministry of Marine Affairs and Fisheries, Ministry of Finance, Ministry of Law and Human Rights Justice, Ministry of Energy and Mineral Resources (ESDM), Ministry of Environment and Forestry and other stakeholders who have the authority to carry out law enforcement against criminal acts that occur at sea.<sup>13</sup>

In accordance with the basis stated above, the Indonesian Navy, the National Police, the Ministry of Transportation, the Ministry of Marine Affairs and Fisheries, the Ministry of Finance, the Ministry of Law and Human Rights, the Ministry of Energy and Mineral Resources (ESDM), the Ministry of Environment and Forestry and other stakeholders as investigators in law enforcement at sea is an attributive authority, namely the authority attached to a position.<sup>14</sup>

In the review of constitutional law, this attributive is shown in the granting of authority to government agencies and/or officials by the 1945 Constitution of the Republic of Indonesia or the Law. This attribution refers to authority based on the constitution or laws and regulations applicable to officials of the Unitary State of the Republic of Indonesia. overlapping authority in law enforcement, but to protect the interests of sovereignty and law enforcement of the Republic of Indonesia, which is an archipelagic State, does require a law enforcement apparatus to minimize the occurrence of criminal acts at sea.<sup>15</sup> Therefore, it is important to coordinate investigation issues related to authority in the law enforcement process, so that economic and trade activities and other activities by sea can run safely, smoothly and sustainably to form good governance and to realize the State of Indonesia as the world's maritime axis.<sup>16</sup>

In addition to the duties and authorities of the law enforcement position mentioned above, then the issuance of Law No. 32 of 2014 concerning Marine Affairs which was then followed up by Presidential Regulation / Presidential Decree number 178 of 2014 concerning the Maritime Security Agency (BAKAMLA), the authority is mainly related to security and law enforcement is one part of the duties and functions of the establishment of the Maritime Security Agency (BAKAMLA), so that clear legal rules regarding law enforcement at sea are needed, especially with the formation of a new BAKAMLA organization regarding duties, functions and authorities as a law enforcement apparatus at sea so as not to cause confusion, doubt and legal uncertainty.<sup>17</sup>

#### **d. Limited Facilities and Infrastructure**

Law enforcement against marine and fisheries crimes, one of which is by sanctioning any person or legal entity that commits violations, against the provisions in the legislation in the field of fisheries. The obstacles of law enforcement officials both in the preventive and repressive sense in handling *illegal fishing cases*, in addition to the very limited number, are also still limited in capacity.

The effectiveness of the Maritime Security Agency in carrying out law enforcement functions in Indonesian marine waters has not been optimal, because it has only been able to achieve 60 percent performance from the initial target of 70 percent; and played a role in only 8.41 percent in the law enforcement process with a total of 27 cases. This is due to the decline in the implementation of Bakamla operations during the 2018 financial year. When compared to the complexity of demands and challenges of security and safety of Indonesia's marine waters which cover an area of approximately 5.8 million km<sup>2</sup> with the geographical conditions of an archipelagic country consisting of 17,054 islands, the effectiveness of Bakamla in carrying out law enforcement functions in Indonesian marine waters and Indonesian jurisdiction gradually and continuously needs to be improved.

From the descriptive analysis of the availability of Bakamla work facilities and infrastructure, a factual picture is obtained that to become the leading sector in the implementation of security and safety systems in Indonesian sea waters and Indonesian jurisdiction, Bakamla requires 255 units of patrol vessels consisting of: 3 110-meter aircraft carriers; 6 80-meter Patrol Boats, 122 48-meter Patrol Boats, and 124 Interceptor Boats. When compared to the number of patrol boats owned by Bakamla which only reached 25 patrol boats with the condition that some ships were not ready for operation, it can be stated that Bakamla only has 9.80 percent of the total patrol boat needs that must be owned.

With the condition of such operational infrastructure, Bakamla is certainly difficult to optimize the implementation of law enforcement functions in Indonesian sea waters and Indonesian jurisdiction effectively. Bakamla is also faced with overlapping authority and sectoral conflicts of interest which make it difficult for Bakamla to become a leading sector in the implementation of security and safety systems at sea.



### **e. Domination of Illegal Fishing as a Very Detrimental Violation at Sea**

In 2016 the number of settlements of marine and fisheries crimes was 10 cases, 2017 there was a very significant increase in the number of criminal cases to 29 cases, 2018 the number of cases and case settlements decreased to 11 cases. In 2019, the number of settlements of marine and fisheries crime cases in Central Kalimantan decreased again, to 4 cases.

Marine and fisheries crime cases resolved in Central Kalimantan are still dominated by illegal fishing cases both in marine waters and inland public waters. The number was 42 cases or 96.30 percent and two cases of water pollution or 3.70 percent.

The locations of violations during 2016-2019 occurred in a number of regencies and cities, including Kapuas, West Kotawaringin, East Kotawaringin, Seruyan, Pulang Pisau, Palangka Raya, North Barito, to Sukamara.

During 2021, the Director General of Marine Resources and Fisheries Supervision arrested 114 Indonesian fishing vessels that violated regulations and 53 foreign fishing vessels that stole fish. In addition, we also arrested 96 perpetrators of destructive fishing. One foreign fishing vessel from Malaysia has even just occurred in WPP 571 Malacca Strait and is currently in the ad hoc process to the Batam PSDKP Base. In addition to cases of illegal fishing and destructive fishing, during 2021, a number of cases of violations in the marine sector, including the use of small islands, water pollution, disputes over ships running aground that damaged coral reefs.

Illegal fishing is an illegal fishing activity or fishery activity that is carried out contrary to the provisions of laws and regulations in the field of fisheries. This definition is contained in the Regulation of the Minister of Marine Affairs and Fisheries Number 37 / Permen-KP / 2017 concerning Standard Operating Procedures for Law Enforcement of the Task Force for the Eradication of Illegal Fishing. As a maritime country whose territory consists mostly of sea, illegal fishing is certainly one of the threats faced by Indonesia. Not only by local fishermen, illegal fishing is also carried out by foreign vessels. As a result, the country suffered no small losses.

### **2. Solutions to the problem of marine law enforcement in Central Kalimantan territorial waters towards legal effectiveness**

The effectiveness of maritime law enforcement in the territorial waters of Kalimantan Tengah can be achieved through: 1) Integrating maritime law so that there is no overlap in laws and regulations; 2) Coordination of marine law enforcement officials so that there is no overlap of authority; 3) Improvement of facilities, infrastructure and number of law enforcement officers in accordance with the area of marine territory; 4) Strengthening Human Resources Skills and abilities of Law Enforcement Officers; 5) Increased Public Awareness related to Shipping Safety and Security

#### **a. Integrating maritime law so that there is no overlap in laws and regulations**

Unclear and unclear regulations will open up opportunities for law enforcement to carry out an interpretation according to their respective train of thought, which can open the door for misinterpretation that interferes with fair law implementation. Especially if the rule of law does

not yet exist, then law enforcement will look for other legal bases that he thinks are more appropriate to apply in that event. In marine law enforcement efforts, compatibility or coherence between various regulations of different degrees is needed. Incompatibility between the rule of law, can affect law enforcement.

To maintain and secure the sea area of the Unitary State of the Republic of Indonesia, a strong law enforcement apparatus is needed in the process of enforcing certain criminal acts at sea.<sup>18</sup> As law enforcement officers at sea, in the aspect of legality of law enforcement at sea who have the authority to investigate certain criminal acts at sea include the Indonesian Navy, National Police, Ministry of Transportation, Ministry of Marine Affairs and Fisheries, Ministry of Finance, Ministry of Law and Human Rights Justice, Ministry of Energy and Mineral Resources (ESDM), Ministry of Environment and Forestry and other stakeholders who have authority in law enforcement against criminal acts that occur at sea.<sup>19</sup>

In accordance with the basis stated above, the Indonesian Navy, the National Police, the Ministry of Transportation, the Ministry of Marine Affairs and Fisheries, the Ministry of Finance, the Ministry of Law and Human Rights, the Ministry of Energy and Mineral Resources (ESDM), the Ministry of Environment and Forestry and other stakeholders as investigators in law enforcement at sea is an attributive authority, namely the authority attached to a position.<sup>20</sup>

In addition to the duties and authorities of the law enforcement position mentioned above, then the issuance of Law No. 32 of 2014 concerning Marine Affairs which was then followed up by Presidential Regulation / Presidential Decree number 178 of 2014 concerning the Maritime Security Agency (BAKAMLA), the authority is mainly related to security and law enforcement is one part of the duties and functions of the establishment of the Maritime Security Agency (BAKAMLA), so that clear legal rules regarding law enforcement at sea are needed, especially with the formation of a new BAKAMLA organization regarding duties, functions and authorities as a law enforcement apparatus at sea so as not to cause confusion, doubt and legal uncertainty.<sup>21</sup> The legality of BAKAMLA mandated by the Law can be the basis of its authority and accommodate synchronization in law enforcement between other apparatuses. That in accordance with the duties and authorities of law enforcement at sea, the responsibility under the law is in accordance with the foregoing to maintain security and order at sea.<sup>22</sup>

#### **b. Coordination of marine law enforcement officials so that there is no overlap of authority**

The Maritime Security Agency (Bakamla) which acts as a *Single Agency Multy Tasks* is a unit of command with various tasks. This marine security agency is expected to function well in law enforcement, security and safety at sea, whose duties consist of aspects of early warning information system services, law enforcement at sea, customs, shipping security and safety, control of biological and non-biological natural resources in the marine environment, search and rescue at sea and national defense in a state of war.<sup>23</sup>



So far, existing institutions carrying out these functions are not integrated in an institution, so they cannot run optimally. Practice so far shows that law enforcement, security and safety at sea carried out by patrol units from various agencies / ministries have not been able to create maritime security in Indonesian waters, this will be difficult to achieve because each relevant agency / ministry has different strategies / policies, equipment (infrastructure), human resources, not in one integrated system, and in command and control units. So it is understandable if in its implementation there is often overlapping authority and friction between agencies and even sectoral egos between agencies or institutions.<sup>24</sup>

By uniting / integrating the authority in one body, it will be easier to coordinate and control because command and control are in one hand (not sectoral). This marine security agency was formed as a forum for integrating all or part of the functions or authorities to carry out law enforcement, security and safety at sea which has been carried out sectorally in stakeholders (relevant ministries / agencies).<sup>25</sup> However, Law number 32 of 2014 concerning marine affairs does not clearly explain who has the right to integrate and control in a unified command. So there needs to be firmness in the form of government regulations that affirm and designate that Bakamla is given the authority to synergize and command law enforcement at sea.<sup>26</sup>

### **c. Increasing facilities, infrastructure and the number of law enforcement officers in accordance with the area of the marine area**

The Indonesian sea is very wide and open, on the other hand, surveillance capabilities, especially the national surveillance fleet (surveillance vessels) are still very limited compared to the need to monitor swampy areas. The vast area of Indonesia's seas and the opening of Indonesia's EEZ bordering the high seas *have* become a magnet for attracting the entry of foreign and local fishing vessels to carry out *Illegal Fishing*.<sup>27</sup>

From the analysis of Bakamla's work facilities and infrastructure, a factual picture is obtained that to become the leading sector in the implementation of security and safety systems in Indonesian sea waters and Indonesian jurisdiction, Bakamla requires 255 units of patrol vessels consisting of: 3 110-meter aircraft carriers; 6 80-meter Patrol Boats, 122 48-meter Patrol Boats, and 124 Interceptor Boats. When compared to the number of patrol boats owned by Bakamla which only reached 25 patrol boats, it can be stated that Bakamla only has 9.80 percent of the total patrol boat needs that must be owned.

With the condition of such operational infrastructure, Bakamla is difficult to optimize the implementation of law enforcement functions in Indonesian sea waters and Indonesian jurisdiction effectively. Bakamla is also difficult to become a leading sector in the implementation of security and safety systems in Indonesian sea waters and Indonesian jurisdiction which covers an area of approximately 5.8 million km<sup>2</sup> with the geographical conditions of an archipelagic country consisting of 17,054 islands that have been identified. Therefore, the increase in facilities, infrastructure and the number of law enforcement officers is adjusted to the area of the marine area.

#### **d. Strengthening Human Resources Skills and abilities of Law Enforcement Officers**

Problems in marine management in Indonesia are basically human resources, namely the skills and abilities of law enforcement officials in management problems and technical problems originating from land and sea. Management has not been implemented in an integrated manner, but it is still sectoral. The implementation of the program is not based on the strategic plan of coastal management which is prepared by involving all stakeholders or there is already a strategic plan, but the implementation of the program or project is not based on the strategic plan that has been made. Poor coordination is also one of the obstacles, some regions have not formed an Integrated Management Technical Team, so the coordinator or leading sector that handles coastal and marine management is not clear. Understanding by the management apparatus has not been evenly distributed or not understood.<sup>28</sup>

Other management problems are the lack of valid data and information or the absence of data base management for management, the existence of sectoral egos, weak law enforcement, low commitment, the absence of sustainable funds, frequent staff movements, the absence of togetherness and integration between sectors, the absence of coastal and marine spatial planning, the legal framework for coastal management in the regions is still weak, The involvement of scientists or experts has not been optimal so that the results of scientific studies have not been used as a basis for decision making, as well as other problems that each region is different.<sup>29</sup>

#### **e. Increased Public Awareness related to Shipping Safety and Security**

Shipping safety has been regulated by international institutions that take care of or handle matters related to the safety of life, marine property, and environmental sustainability. The institution is called the International Maritime Organization (IMO) under the auspices of the United Nations. One important factor in realizing the safety and sustainability of the marine environment is the skills, expertise of humans related to the operation of ship transportation at sea, because no matter how sturdy the construction of a ship and no matter how sophisticated the technology, both auxiliary facilities and equipment placed on the ship, if operated by humans who do not have skills or expertise in accordance with their duties and functions, all will be in vain.<sup>30</sup>

In reality, 80% of accidents at sea are the result of human error. A legal basis has overshadowed the guarantee of security and safety in shipping, namely Law No. 17 of 2008 concerning Shipping which states that shipping safety and security is a condition of fulfillment of safety and security requirements concerning transportation in waters, ports, and the maritime environment.<sup>31</sup>

Article 169 paragraph (91) of the Shipping Law states that: "the owner or operator of a ship operating a vessel of a certain type and size must meet the requirements of safety management and prevention of pollution from the ship". Of course, the ship referred to in the article if it meets the safety management requirements will be given a certificate, namely a certificate of safety management and pollution prevention from the ship. The certificate can be in the form of a Safety Management Adjustment Document (Document of Compliance-DOC).<sup>32</sup>

Therefore, standardization is needed in laws and regulations, in this case Law No. 17 of 2008, for the provision of other safety support tools. This refers to the provisions in the international convention on the safety of life at sea Safety of Life at Sea (SOLAS) 1974, which was agreed on November 1, 1974 and entered into force on May 25, 1980 through Presidential Decree No. 65 of 1980 concerning ratifying the "international convention for the safety of life at sea, 1974" as a result of the international conference on the safety of life at sea 1974.

The statement is also in line with the explanation of Law No. 17 of 2008, namely: Realizing the importance of the role of transportation, sea transportation as one of the modes of transportation must be arranged in an integrated national transportation system and be able to realize the provision of balanced transportation services in accordance with the level of need and the availability of safe, high accessibility, integrated, adequate capacity, Regular, smooth and fast, easy to achieve, timely, convenient, reasonably affordable, orderly, safe, low pollution, and efficient.

Sea transportation that has the characteristics of national transportation and reaches all regions through waters needs to be developed and increased its role as a liaison between regions, both nationally and internationally including across borders, because it is used as a means to support, encourage, and drive national development in an effort to improve people's welfare and become the glue of the Unitary State of the Republic of Indonesia".

Given the importance and strategic role of sea transportation that controls the lives of many people, its existence is controlled by the state whose guidance is carried out by the Government. On this basis, it is appropriate that all matters concerning standardization and management of shipping are regulated and become the responsibility of the government. This responsibility is very important because the security and safety of shipping is already his duty. The actions taken are / in order to increase security and safety supervision of matters related to shipping.<sup>33</sup>

Carrying out the function of shipping safety is not an easy thing that must be followed by all agencies and supported by sufficient funds and awareness of all parties including the user community as well as coastal and marine. For this reason, what needs to be done is to build management and rules, encourage the government to make breakthroughs or reforms, realize shipping safety facilities and infrastructure and build public trust or awareness and spur the formation of umbrella rules. Shipping safety is a necessity so that it needs to be realized immediately and activate shipping safety functions through the establishment of institutions and management as well as facilities and infrastructure.

## C. CONCLUSION

Marine law enforcement issues in Central Kalimantan waters include; 1) non-fulfillment of shipping safety and security requirements; 2) Issue of Indemnity Liability in Accidents of Shipping Goods by Sea; 3) The Number of Marine Law Enforcement Officers and Overlapping Authorities; 4) Limited Facilities and Infrastructure; 5) Illegal Domination of Fishing as a Violation at Sea which is very detrimental.

The effectiveness of maritime law enforcement in South Kalimantan territorial waters can be achieved through: 1) Integrating maritime law so that there is no overlap in laws and regulations; 2) Coordination of marine law enforcement officials so that there is no overlap of authority; 3) Improvement of facilities, infrastructure and number of law enforcement officers in accordance with the area of marine territory; 4) Strengthening Human Resources Skills and abilities of Law Enforcement Officers; 5) Increased Public Awareness related to Shipping Safety and Security

#### Footnote

- 1) Rudy Indratno, "Law Enforcement of Special Crimes at Sea by the Maritime Security Agency of the Republic of Indonesia", Airlangga University Surabaya, p. 3
- 2) Wignyo Handoko, Fisheries and Marine Resources Supervision Policy, Journal of International Law, Special Issue, 2004, pp 108 - 109
- 3) International Maritime Organization "International Convention for the Prevention of Pollution from Ships"
- 4) Dimas Bayu Rakhmatullah, "The Position of the Maritime Security Agency (Bakamla) in Law Enforcement at Sea (Study Based on Law Number 17 of 2008 concerning Shipping)," Badamai Law Journal 2, no. 1 (2022): 39–58.
- 5) Yoyon Mulyana Darusman, "The Influence of the 1982 International Convention on the Law of the Sea on Indonesia's Sea Area," Journal of Legal Mind 6, No. 2 (2018): 343–60.
- 6) Dimas Bayu Rakhmatullah, "The Position of the Maritime Security Agency (Bakamla) in Law Enforcement at Sea (Study Based on Law Number 17 of 2008 concerning Shipping)," Badamai Law Journal 2, no. 1 (2022): 39–58.
- 7) Yoyon Mulyana Darusman, "The Influence of the 1982 International Convention on the Law of the Sea on Indonesia's Sea Area," Journal of Legal Mind 6, No. 2 (2018): 343–60.
- 8) Rakhmatullah, "The Position Of The Maritime Security Agency (Bakamla) In Law Enforcement At Sea (Study Based On Law Number 17 Of 2008 Concerning Shipping)."
- 9) Galih Pambaru Wibawanto, Eddy Mulyono, and Gautama Budi Arundhati, "Renewal of Sovereignty Enforcement and Law Enforcement in Indonesian Waters," Advanced Indonesia Journal 1, No. 1 (2021): 80–96.
- 10) Tjondro Tirtamulia, "The Importance of Sovereign Boundaries and State Territorial Law," Yustika Journal 11, no. 2 (2008): 203–19.
- 11) Joko Subagyo, "Indonesian Law of the Sea," 2005.
- 12) Ibid.
- 13) Rina Yulianti, Mufarrijul Ikhwan, and Nurus Zaman, "The Urgency of Coastal Reclamation Arrangements in the Southern Coastal Area of Madura," Journal of Justicia 4, no. 1 (2015): 103–21.
- 14) A. Hamzah, Territorial Sea of Indonesian Waters, (Jakarta, Akademika Presindo, First Edition, 1994), p.. 33
- 15) Randy Y.C. Aguw, Syahbandar's Responsibility in Shipping Safety Reviewed from Shipping Law No.17 of 2008 concerning Shipping., p. 55

## Bibliography

- 1) A. Hamzah, Territorial Sea of Indonesian Waters, (Jakarta, Akademika Presindo, First Edition, 1994), p.. 33
- 2) Abdul Muthalib Tahar, "Division of Authority in Law Enforcement Against Violations of Laws and Regulations in Indonesian Waters," *Fiat Justisia: Journal of Legal Studies* 6, No. 1 (2012).
- 3) Abidin, Farid Zainal. 2007. *Principles of Criminal Law*. Jakarta: Sinar Grafika
- 4) Ali, Zainuddin. 2016. *Legal Research Methods*. Jakarta: Sinar Grafika.
- 5) Arief, Barda Nawawi. 1992. *The Politics of Criminal Law*. Jakarta: University of Indonesia Postgraduate Program
- 6) Arief, Barda Nawawi. 2008. *Potpourri of Criminal Law Policy (Development of the Drafting of a New Criminal Code)*. Jakarta: Kencana Prenada Media Group
- 7) Arif Budi Kusuma, "Overlapping Law Enforcement in Indonesian Seas," 2021.
- 8) Coordinating Board for Marine Security of the Republic of Indonesia, Special Guidelines for Shipping Safety and Security, (Bakorla RI, Jakarta, 2009), p.. 11
- 9) BPHN, "Research Report on Law Enforcement in Indonesian Waters and Additional Zones", Jakarta: BPHN, 2006, p. 5
- 10) Chapter II International Convention for the Safety of Life at Sea (SOLAS), 1974
- 11) Dikdik Mohamad Sodik, *International Law of the Sea and its Regulation in Indonesia (Revised Edition)* (Refika Aditama, 2014).
- 12) Dimas Bayu Rakhmatullah, "The Position of the Maritime Security Agency (Bakamla) in Law Enforcement at Sea (Study Based on Law Number 17 of 2008 concerning Shipping)," *Badamai Law Journal* 2, no. 1 (2022): 39–58.
- 13) Dina Sunyowati and Enny Narwati, *Law of the Sea Textbook* (Airlangga University Press, 2013).
- 14) Fredy B.L. Tobing, The Role of the State in Tackling the Transnational Pirate Issue in Southeast Asia, p. 154
- 15) Galih Pambaru Wibawanto, Eddy Mulyono, and Gautama Budi Arundhati, "Renewal of Sovereignty Enforcement and Law Enforcement in Indonesian Waters," *Advanced Indonesia Journal* 1, No. 1 (2021): 80–96.
- 16) Hamdan, M. 1997. *The Politics of Criminal Law*. Jakarta: PT RajaGrafindo Persada
- 17) Hamzah, Andi. 2005. *Important Principles in Criminal Procedure Law*. Surabaya: Faculty of Law Universitas Airlangga
- 18) Handoko, Wignyo. 2004. "Fisheries and Marine Resources Control Policy" *Journal of International Law*, Special Issue, 2004.
- 19) Ibrahim, Jhonny. 2006. *Normative Legal Research Theory and Methodology*. Malang: Banyumedia Publishing.
- 20) The Vigil Milinia Kapahese, "A Review of the Settlement of Territorial Boundary Disputes Between States from the Perspective of International Law," *Lex Administratum* 9, No. 3 (2021).
- 21) International Maritime Organization "International Convention on Load Lines Adoption: April 5, 1966; Entry into force: 21 July 1968"
- 22) Jeffrey Rewis. 2004. *Sewing the Torn Sea: The Paradigm of Archipelago State Indonesia*. Jakarta: Malesung Foundation
- 23) Limbong, Bernhard. 2015. *Maritime Axis*. Jakarta: Margaretha Pustaka
- 24) Marpaung, Leden. 2005. *Principles-Theory-Practice of Criminal Law*. Second printing. Jakarta: Sinar Grafika

- 25) Marzuki, Peter Mahmud. 2012. *Introduction to Legal Science*. Jakarta: Kencana Prenada Media Group
- 26) Moleong, Lexy J. 2004. *Qualitative Education Research Methodology*, Bandung: PT Remaja Rosdakarya
- 27) Muhammad, Abdulkadir. 2004. *Law and Legal Research*. Bandung: Citra Aditya Bakti
- 28) Muladi and Barda Nawawi Arief. 2005. *Criminal Theories and Policy*. Bandung: Alumni
- 29) Nasution, Johan. 2008. *Legal Science Research Methods*. Bandung: Mandar Maju
- 30) Government Regulation No. 51 of 2002 concerning Shipping
- 31) Rahardjo, Satjipto. 1987. *Law Enforcement Issues*. Bandung: Sinar Baru.
- 32) Raida L. Tobing and Sriwulan Rios, Sovereignty Enforcement and Law Enforcement in Airspace, *Journal of de jure Legal Research*, Vol.01 No 2, February 1998, p.50
- 33) Rakhmatullah, "The Position of the Maritime Security Agency (Bakamla) in Law Enforcement at Sea (Study Based on Law Number 17 of 2008 on Shipping)."
- 34) Randy Y.C. Aguw, Syahbandar's Responsibility in Shipping Safety Reviewed from Shipping Law No.17 of 2008 concerning Shipping, *Lex Administratum*, Vol. I, No.1, January-March 2013, p.. 48
- 35) Rina Yulianti, Mufarrijul Ikhwan, and Nurus Zaman, "The Urgency of Coastal Reclamation Arrangements in the Southern Coastal Area of Madura," *Journal of Justicia* 4, no. 1 (2015): 103–21.
- 36) Rudy Indratno, "Law Enforcement of Special Crimes at Sea by the Maritime Security Agency of the Republic of Indonesia", Airlangga University Surabaya
- 37) Saptarini, Dian et al. 1996. *Management of Marine Resources and Coastal Areas*. Jakarta: Cooperation between the Ministry of Education and Culture (Research Development and Community Service) and the State Ministry of Environment (Center for Environmental Studies)
- 38) Sentosa Sembiring, *Sea Freight Law* (Shades of Aulia, 2019).
- 39) Soedarto. 1986. *Capita Selecta of Criminal Law*. Bandung: Alumni
- 40) Soekanto, Soerjono. 1983. *Factors Affecting Law Enforcement*. Jakarta: Rajawali Press
- 41) Sri Mas Sari, "It Turns Out There Are 18 Law Enforcement Agencies at Sea, INSA: Need a Single Body!", accessed from <https://ekonomi.bisnis.com/read/20190820/98/1138527/ternyata-ada-18-instansi-penegakan-hukum-di-laut-insa-perlu-badan-tunggal>.
- 42) Shahputra, Irwandi. 2020. *Marine Crime Module*. Tanjungpinang: Raja Ali Haji Maritime University
- 43) The International Maritime Organisation "Convention on the International Regulations for Preventing Collisions at Sea, 1972", (COLREGs), Retrieved 13 February 2006
- 44) Till, Geoffrey. 2009. *Seapower A Guide for the Twenty-First Century*, Routledge London and New York, Frank Cass
- 45) Drafting Team. 2002. *Thoughts on Ocean Security*. Jakarta: Indonesian Navy
- 46) Tirtamulia, Tjondro. 2011. *UNCLOS Marine Zones*. Surabaya: Brilliant International
- 47) Tjondro Tirtamulia, "The Importance of Sovereign Boundaries and State Territorial Law," *Yustika Journal* 11, no. 2 (2008): 203–19.
- 48) Wignyo Handoko, Fisheries and Marine Resources Supervision Policy, *Journal of International Law*, Special Issue, 2004, pp 108 – 109
- 49) Yoyon Mulyana Darusman, "The Influence of the 1982 International Convention on the Law of the Sea on Indonesia's Sea Area," *Journal of Legal Mind* 6, No. 2 (2018): 343–60.