

# IDEAL CONSTRUCTION IN ELECTRONIC - BASED LAW ENFORCEMENT IN THE WATERS OF KALIMANTAN'S MAHAKAM RIVER

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## Abstract

Singgamata. 2023. Ideal Construction in Electronic-Based Law Enforcement in the Mahakam River Water Area, Kalimantan. The purpose of this study is to review and analyze; 1) How is the Application of Water Traffic Law in Indonesia based on applicable laws and regulations? ; 2) Why is the current enforcement of the Mahakam River traffic law not fair?; 3) How is the ideal construction of electronic-based law enforcement in Mahakam river water traffic. This research method and approach uses the constructivist paradigm. Research Approach The approach to this research uses an Empirical Juridical approach. The results of this study are 1) Shipping safety arrangements as stipulated in Law No. 17 of 2008 are government steps in improving the shipping system in Indonesia. In the implementation of law enforcement at sea and waters related to criminal acts of shipping in waters can be carried out with the stages of investigation, investigation, prosecution and examination in court hearings. The application of the crime in its implementation is punishable by imprisonment of up to 10 months and a fine of Rp 1,000,000.00 - 2,000,000.00 which is lighter than the imprisonment provisions contained in Article 312 jo Article 14 5 and Article 310 jo Article 135 of Law Number 17 of 2008 concerning shipping is a maximum imprisonment of 2 (two) years m and a maximum fine of Rp 300,000,000,0 0 (three hundred million rupiah); 2) Traffic Law Enforcement in the Mahakam River Water Area has not been fair, among others, caused by; a) Lack of Responsibility of the Owner and Captain of the Ship for the Safety of the Ship and Passengers that Caused the Accident; b) Public Awareness of Ship Safety and Low Passengers; c) The sailing permit is too loose not in accordance with the Ship and Passenger Safety Eligibility Standards; d) Inadequate facilities and infrastructure in the Mahakam River Water Area; e) There is no specific regulation related to electronic law enforcement in the Mahakam River Watershed. 3) The Ideal Construction of Electronic Law Enforcement in Mahakam River Waters is; a) Strengthen regulations related to Ship and Passenger Safety; b) Provide adequate facilities for shipping channels; c) Tighten the permit to pass in the Mahakam River Water Area in accordance with Ship and Passenger Safety standards; d) Make special regulations related to electronic law enforcement in the Mahakam River Watershed; e) Coordination of the Government, Law Enforcement Officials, and the Community in the Safety of Ships and Passengers in the Mahakam River Waters.

**Keywords:** Reconstruction, Enforcement of Water Transportation, Electronics.

## A. INTRODUCTION

Internal security is the main requirement to support the realization of a just, prosperous and civilized civil society based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Maintenance of internal security through efforts to carry out police functions which include maintaining public security and order, law enforcement, protection, protection and service to the community is carried out by the National Police of the Republic of Indonesia as a State instrument assisted by other components of society by upholding human rights.<sup>1</sup>

Legal regulation of traffic in waters is contained in Law Number 17 of 2008 concerning Shipping; Government Regulation Number 8 of 1962 concerning Peaceful Sea Traffic in Indonesian Waters; and one of the Regional Regulations is Kutai Kartanegara Regency Regional Regulation Number 8 of 2013 concerning River, Lake, and Crossing Transport Traffic.

The technical function of traffic is one of the technical functions of the police that carries out all efforts, activities and work related to traffic functions, identification of captains and ships and assessment of water traffic problems.<sup>2</sup>

Legal awareness in the field of traffic and water transportation is currently felt to be lacking, efforts are needed to improve its quality and quantity. In Indonesian law, every criminal act, whether involving criminal acts or violations, must still be processed with existing legal rules.<sup>3</sup>

Some of these cases are, such as the case on August 30, 2021 at 06.00 WITA a barge hit pillar, number 4 of the Mahakam river bridge. This is because the ship loaded with 7,640 MT of coal was about to mooring to wait for time to pass under the bridge (rescue) which opened every 07.00 WITA. <sup>4</sup>As it approaches the mooring, the ship turns back against the receding current of the river. The tow rope of the barge connected to the tugboat suddenly broke.

In less than 10 minutes, the ship hit pillar no 4 of the Mahakam bridge. The East Kalimantan National Road Implementation Center is still exploring the types and details of bridge damage.<sup>5</sup>

In addition to the barge that hit the pillars of the Mahakam river bridge, there was also a case of a barge that hit a hospital in Mahakam. Takbut Pratama 9 which was pulling an ESPF 2205 Ponton loaded with coal from the Kedang Pahu River, towards the Mahakam River, hit a raft house in RT. 06 Tanjung Laong Village, Muara Pahu District, West Kutai Regency on Sunday, October 25, 2020 at 08.20 WITA.

The incident began when Takbut Pratama 9 passed a ship loaded with sand. To avoid a collision, the ship takes the right lane, and the sand-laden ship takes the left. Due to the rapid flow of the Kedang Pahu river which was overflowing, Takbut Pratama 9, which pulled the ESPF 2205 Ponton, could not be controlled until the right shoulder of the pontoon hit the residents' raft house and was heavily damaged.<sup>6</sup>

If you look at Kutai Kartanegara Regency Regional Regulation Number 8 of 2013 concerning Lake River Transport Traffic and Crossings, both accidents can be subject to Article 51, namely:

- (1) Actions that can result in damage and I or obstruction of shipping channel facilities can include:
  - a. install and/or place something in river and lake shipping channel facilities;
  - b. change the facilities of river and lake shipping lanes;
  - c. damage, destroy or disfigure, damage river and lake shipping channel facilities;
  - d. moving river and lake shipping facilities; and
  - e. mooring ships at river and lake shipping channel facilities
- (2) Actions that may result in damage and/or obstacles to river and lake shipping channel facilities are subject to sanctions in accordance with the provisions of applicable laws and regulations.

Also, Article 52 contains:

- (1) The owner and/or operator of the vessel is responsible for any damage and/or obstruction of river and lake shipping channel facilities caused by the operation of his vessel.
- (2) The responsibility of the owner and/or operator of the ship as referred to in paragraph (1), in the form of an obligation to immediately repair or replace river and lake shipping channel facilities until the facilities can function again as before.
- (3) Repair and replacement as referred to in paragraph (2), shall be carried out within a maximum time limit of 14 (fourteen) calendar days since the damage occurred.
- (4) If within the limit of 74 (fourteen) calendar days as referred to in paragraph (3) repairs or replacements are not carried out, the District Government repairs or replaces river and lake shipping channel facilities at a cost charged to the owner and/or ship operator.

From the description above, the ship owner must be responsible for damage to public facilities caused by operating the ship.

There was also the case of a barge loaded with palm oil that sank in the Mahakam River. Saturday morning, April 10, 2021, the ship sank in the Mahakam II Bridge area, Simpang Paser sub-district, Palaran, Samarinda, East Kalimantan, experiencing a slump due to the current loading the ship at that time was unbalanced. One person is missing and still being searched. Seven others survived. As a result of the sinking of a barge loaded with palm oil<sup>7</sup>, the oily river water spread to the Palaran area, precisely behind the Palaran market to the Container Port, Palaran. The case can be subject to Article 72 of Kutai Kartanegara Regency Regional Regulation Number 8 of 2013 concerning River, Lake and Crossing Transport Traffic. The article states:

"Every Owner, Port, Terminal for Its Own Benefit (TUKS), Tersus, Operator, Captain or Leader of ships, crew and other sailors must prevent the emergence of environmental pollution oieh oil, hazardous and toxic trahan, dirt, garbage and hazardous material waste due to the activities carried out".

Legal awareness is an attitude of knowing or understanding and obeying the rules and provisions of applicable laws and regulations, the law requires peace to create a harmonious life.<sup>8</sup>

The National Police of the Republic of Indonesia has implemented electronic traffic law enforcement on the highway called E-TLE (*Electronic Traffic Law Enforcement*), which is an electronic traffic law enforcement and surveillance system that utilizes supporting tools, namely CCTV. In the era of digitalization, the police must understand IT (*Information Technology*) in various fields of service and the implementation of their duties. Strengthening the effectiveness of water traffic law enforcement urgently needs to be encouraged.

The results of electronic equipment recordings in the form of CCTV cameras on the highway can be used as valid evidence in court. By "electronic equipment" we mean an event recording device to store information.

Then added PERMA Number 12 of 2016 (procedures for solving cases of traffic violators), in article 1 point 2 namely "Settlement of Electronic Traffic Violation Cases is a judicial process of traffic violation cases held in an integrated electronic-based manner through the support of information systems and technology". So it is necessary to monitor traffic violations electronically.

CCTV recording is a medium that can be used to contain recordings of any information that can be seen, and heard. CCTV recordings are used as evidence whose system uses a video camera to display and record images at a certain time and place where this device is installed.<sup>9</sup>

The mechanism in implementing ETLE is:

First, the device automatically captures water traffic violations through cameras that have been installed at certain points and sends electronic evidence to the ETLE *back office* at the Polda Monitoring Centre (MC).

Second, the identification of ship data is carried out using electronic databases owned and manually by officers.

Third, the officer sends a confirmation letter to the violator's address as a confirmation notice of the violation that occurred.

Fourth, violators will confirm and clarify via the website or come directly to the office of the Sub-directorate of Law Enforcement of the Ditpolairud Polda as the schedule has been set in the letter if there is a refutation related to violations then it can be submitted here.

The implementation of ETLE (*Electronic Traffic Law Enforcement*) is a new thing in road traffic law enforcement in Indonesia. As a novelty, ETLE is constantly undergoing improvements and refinements. Especially if ETLE is developed in the existing water traffic law regime, so it is very likely that there will be intersections with other legal aspects in existing laws and regulations in the field of waters.

The research tries to see the existence of ETLE in the development of Indonesian maritime traffic law in the digital era and the compatibility of marine traffic laws in force in Indonesia responding to ETLE as a new mechanism in water traffic law enforcement. Regarding what is written in Article 272 paragraph 2 of the Road Transport Traffic Law that: "The results of the use of electronic equipment as referred to in paragraph (1) can be used as evidence in court" then further regulated in Article 23 of Government Regulation: 80 of 2012, which stipulates that the enforcement of Traffic and Road Transport Violations is based on the results of:

- a) Findings in the process of Inspection of Motor Vehicles on the Road;
- b) Reports; and/or
- c) Recording of electronic equipment.

In simple terms, the degree of compliance of society with the law is one of the indicators of the functioning of the law. That determines how the law is used, avoided, or abused.<sup>10</sup> The main goal and purpose of law is order, this necessity, for order is a fundamental condition for the existence of an orderly human society. Another goal of law is the achievement of justice that varies in content and size according to society and era.<sup>11</sup> Through ETLE, legal expediency is expected. The purpose of law can be seen in its function as a function of protecting human interests, law has goals to be achieved. The implementation of ETLE is expected to be able to create an orderly society in traffic in the waters. The state of order in question can be characterized as follows; predictable, cooperation, violence control, conformity, lasting, steady, tiered, obedience, without dispute uniformity, togetherness, order, order, sequential, birth pattern, and arranged.<sup>12,13</sup>

## **B. RESEARCH METHODS**

The research method used is normative juridical research with a statutory approach and a concept approach.<sup>14</sup>

### **1. Types of Research**

This research is included in the type of doctrinal research, where the approach method used is normative juridical. The study method used in this study is normative legal research, which is a study conducted by examining certain legal problems based on the implementation of applicable laws and regulations or applied to a legal case.<sup>15</sup>

### **2. Research Approach**

- a. *Statute* approach is an approach taken by reviewing laws and regulations related to the legal issues raised.<sup>16</sup>
- b. Conceptual approach (*conceptual approach*) is an approach that departs from the views and doctrines that develop in legal science.<sup>17</sup>

### 3. Data Sources and Data Collection

The research source used in this study is the result of data collection carried out with *library research* data. Secondary data are then grouped into three sources of legal materials used in this study are primary legal materials, secondary legal materials, and tertiary legal materials as follows:

#### a. Primary Legal Materials

Primary legal materials are data that are materials in binding legal research sorted based on the hierarchy of legislation.

#### b. Secondary Legal Material

Secondary legal research is material in the form of all publications on law that are not official documents, including textbooks, legal dictionaries, legal journals, and commentaries on court decisions

#### c. Tertiary Law Materials

Tertiary legal material, is also legal material that can explain both primary legal material and secondary legal material, in the form of dictionaries, lexicons and others related to the focus of research.

### 4. Data Analysis

The research technique in this dissertation is descriptive analytical, where analysis is carried out critically using various theories of research problems. The collected data is analyzed descriptively with a *qualitative approach*, namely by providing a thorough and in-depth presentation and explanation (*holistic / verstelen*) scientifically.

## C. RESEARCH RESULTS AND DISCUSSION

### 1. Application of Water Traffic Law in Indonesia based on Applicable Laws and Regulations

The government aims to realize safe, smooth, safe, smooth, smooth, fast, orderly and orderly, as well as comfortable and efficient traffic and transportation, namely through traffic management systems and traffic engineering. Procedures for traffic on the road are regulated using laws and regulations concerning traffic direction, priority of road use, traffic lanes, and flow control at intersections.

The occurrence of traffic is divided into three parts, namely humans as users, vehicles and roads that have interaction with each other in the movement of vehicles and meet several eligibility requirements to be driven by drivers through predetermined traffic rules, namely based on laws and regulations concerning traffic and road transportation that meet the following requirements:

- a. Humans as users can act as drivers or pedestrians. Under normal circumstances, they have different abilities and dexterity (reaction time, attention, etc.). These differences are still influenced by physical and psychological conditions, age and gender, as well as external influences such as weather, lighting or street lights, and spatial layout.
- b. The vehicle used by the driver has characteristics related to speed, acceleration, deceleration, size and payload that require sufficient traffic space to maneuver in traffic.

Transportation serves as a supporting factor and stimulator of development (the promoting sector) and service *provider* (*the service sector*) for economic development. Freight facilities should be built ahead of other development projects. The expansion of the dock at the port takes precedence over the construction of fertilizers to be built, in order to facilitate the delivery of factory equipment and raw materials and the distribution of production products to the market after the factory is operational.

The problems that gradually occur in the Mahakam River are increasingly concerned about the essence of its bad influence. This can affect the movement of vehicles passing through places of high activity space with the rate of movement that will be hampered by the ship. This condition causes river traffic jams. To overcome that it needs appropriate law enforcement.

Transportation in waters (in this paper is equivalent to sea transportation) is the activity of transporting passengers, and / or goods, and / or animals, through a water area (sea, rivers, and lakes) and certain territories (domestic or foreign), using ships, for special and general services. The water area is divided into:

- a. Crossing: a water area that breaks off a network of roads or railways.
- b. Transport crossings as a driving bridge, connecting lanes. Cruise theorists are divided into:

Domestically, for domestic transportation, from one port to another in Indonesian territory. Overseas, for international transport (export/import), from Indonesian ports (which are open for foreign trade) to overseas ports, and vice versa.

Domestic Transport is organized with Indonesian-flagged ships, in the form of:

1. Special Transportation, which is organized only to serve its own interests as a support for the main business and does not serve the public interest, in marine waters, and sungan and lake areas, by companies that obtain operating permits for the same.
2. Public Transportation, organized to serve the public interest, through: people's shipping, by individuals or legal entities established specifically for shipping business, and having at least one traditional type of Indonesian-flagged vessel (sailing boat, or traditional motor sailing boat or motor boat measuring at least 7GT), operating in sea, river and lake areas within the country.

In national shipping, by legal entities established specifically for shipping business, and which have at least one non-traditional type of Indonesian-flagged vessel, operating in all types of territorial waters (seas, rivers and lakes, crossings) and territories (domestic and foreign). Pioneer voyages organized by the government in all water areas (seas, rivers and lakes, crossings) within the country to serve remote areas (which have not been served by fixed and regular operating shipping services or for which other modes of transportation are inadequate) or undeveloped areas (very low income levels), or which are not commercially yet profitable for sea freight.

In terms of DWT size, the capacity of conventional ships and tankers dominates the aging shipping fleet (the average lifespan of ships in Indonesia is 21 years, 2001, compared to Malaysia which is 16 years, 2000, or Singapore which is 11 years, 2000). However, it is precisely in drybulk and liquid bulk load capacity that the domestic market share of the national fleet is the smallest. Generally, Indonesian vessels carry general cargo, but about half of the dry-bulk and liquid-bulk cargo is carried by foreign ships or foreign-flagged charter vessels. Overall, the national fleet has a 50% domestic market share. Around 80% of liquid-bulk comes from PT Pertamina. Non-ferry sea freight passengers are mainly served by PT Pelni which operates 29 vessels (in the last five years, PT Pelni added 10 vessels).

The private company also increased its fleet from 430 (1997) to 521 units (2001). The People's Shipping Fleet, which consists of wooden ships (e.g. Pinisi type, such as those docked in Sunda Kelapa port) forms a unique marine transportation industry mechanism. Relatively small (but very numerous) vessels serve markets inaccessible to large vessels, either due to financial (less profitable) or physical (shallow port) reasons. The People's Shipping Industry plays a very important role in the distribution of goods and from remote parts of Indonesia. The people's service fleet carries 1.6 million passengers (about 8% non-ferry passengers) and 7.3 million Metric Tons of goods (about 16% general cargo). But the strength of this fleet tends to weaken, seen from a capacity of 397,000 GRT in 1997 to 306,000 GRT in 2001.



## **2. The Current State of Traffic Law in the Waters of the Mahakam River is not Fair**

The problem of inland water ships to users of transportation services if there is an accident 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. Because of the debtor's fault, either due to his intention or negligence.
2. Because of force majeure, it is beyond the ability of the debtor.

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 is obliged to compensate for costs, losses suffered and interest deserved, if he is unable to deliver or does not take proper care to save the goods.

From the above provisions, a conclusion can be drawn that the carrier is responsible for losses incurred 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 related to the transportation of goods and goods that have been entrusted with transportation to the carrier. For the carriage of persons (passengers) along with goods in their control or luggage that is not handed over to the carrier, the provision does 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. Other if the damage or burning of the goods is caused by misplacement in the means of transportation or negligence of the carrier.

Failure or negligence of the sender or expeditioner is another reason for the carrier to reject the claim of the opposite party, in cases related to overmacht, the carrier cannot be blamed because this situation arises beyond the ability of the carrier. Regarding the amount of loss to the service user that must be borne by the carrier, articles 91 and 92 of the Criminal Code state that the carrier must bear all losses suffered during the trip on the goods of transportation, due to damage, reduction, loss or destruction as well as delays in the implementation of transportation.

Restrictions on the amount of compensation in the implementation of transportation in inland waters are not regulated in the KUHD nor in legislation outside the KUHD. However, departing from the principle of open or open system, the release or limitation of the carrier's

liability is allowed, provided there is volitional agreement from both parties in a legally entered into a carriage agreement as required in article 1320 of the Civil Code, namely:

- 1) The existence of an agreement between those who bind themselves;
- 2) The existence of the ability of the parties to make agreements;
- 3) The existence of a certain thing; - the existence of lawful causes.

This is possible because articles 91 and 92 of the Criminal Code are not coercive laws (dwingenrecht), so they can be removed by a clause. It should be remembered that all kinds of agreements must be executed in good faith as stipulated in article 1338 paragraph (3) of the Civil Code.

A passenger ticket is also a sign of the conclusion of the carriage agreement between the passenger and the carrier. If the passenger has become aware of the statement of limitation of liability in the passenger's ticket, but does not resign or cancel it, the passenger is deemed to agree. Therefore, passengers cannot claim compensation if there is a loss in the form of damage, reduction or loss of an item. According to researchers, such a carrier's action is appropriate because the carrier does not know the exact type and amount of goods carried by passengers.

As for the carrier's liability for losses suffered by passengers who may experience injuries, permanent disability or death, in practice there is often a misunderstanding with insurance whose liability problem is identified with insurance problems. Passengers who buy ship tickets are usually accompanied by a "coverage coupon" as a sign of full payment of mandatory passenger accident coverage contributions from PT. Jasa Raharja Accident Insurance. It could also be that a ship ticket contains a sentence "by having this ticket, your journey is under the protection of Law No. 33 of 1964 PT. Jasa Raharja Accident Insurance"

In the case of the transportation of people (passengers) in inland waters, the KUHD does not mention at all, nor in the Civil Code there are general rules. Therefore, the obligations of the carrier cannot be found in the legislation. If the operation of transportation runs unsafely to the destination which means passengers have accidents may be injured or die, then the carrier is liable for losses suffered by passengers or third parties. As formulated in article 1367 paragraph (1) of the Civil Code which reads as follows:

From this formulation, it can be concluded that a carrier is responsible for the consequences of his own actions, employees or subordinate workers who commit unlawful acts or negligence, for example a captain due to negligence in hitting another ship or his ship is not seaworthy resulting in the ship breaking or leaking and sinking, so that several passengers suffer injuries or die. In this event, the carrier is liable for any claim for compensation filed by the passenger or a third party.

Under the principle of Liability, the carrier shall be deemed always liable for losses suffered by a passenger if he is injured or dies, without any obligation on the passenger or his heirs to prove his right to damages, sufficient if he postulates that he suffered injury caused by the

carriage. The presumption only disappears if the carrier can prove that the loss was not due to fault on his part or was unavoidable (*overmacht*) or through the fault of the passenger himself.

As for determining the amount of compensation that can be claimed, the principles stated in article 1246 of the Civil Code apply. Payment of compensation or mourning money from the insurer in this case PT. Jasa Raharja Accident Insurance, according to article 14 PP No. 17 of 1965 does not reduce the liability of the carrier that can be blamed according to criminal, civil law or relevant international agreements for accidents that occur.

The steps taken regarding the issue of liability of inland ship transport entrepreneurs are as follows:

- a. Need to further regulate the liability of inland ship transport entrepreneurs, especially those concerning the issue of limitation of compensation
- b. Before a regulation is made that regulates the issue of limiting the amount of compensation, it is necessary to conduct research on the limit or amount of compensation that must be paid in the form of standards or minimum limits that are in accordance with the sense of justice in society.

For the transportation of people, it is necessary to include the sentence "that the recipient of Jasa Raharja Insurance compensation does not eliminate the right of the transportation service user or his heirs to get compensation from the carrier" in the coverage coupon.

According to transportation safety standards, the number of passengers should not exceed the number of buoys provided, and each ship should have lifeboat facilities.

Most accidents occur due to low concern for the safety and security aspects of the crew. There are four main problems in sea transportation, namely there are no government individuals / agencies responsible for safety and security, tariff policies, quality of human resources, and implementation and enforcement of unclear regulations

### **3. The ideal Construction of Electronic-based Law Enforcement in Mahakam River Water Traffic**

River and lake shipping facilities can be: ship locks, navigation barrages, ship lifts, canals, signs, surveillance posts; bus stops, water height recorders, flow retaining buildings, flow control buildings, soil/river cliff retaining walls and mud storage ponds.<sup>18</sup>

The government, provincial government, or regency/city government in accordance with their authority in carrying out the construction of shipping channel facilities can cooperate with business entities. River and lake transport vessels that sail using the facility are subject to utilization fees as Non-Tax State Revenue or Regional Levies. The owner and/or operator of the vessel shall be liable for any damage and/or obstruction of river and lake shipping facilities caused by the operation of his vessel. The responsibility of the owner and/or operator of the vessel is in the form of an obligation to immediately repair or replace river and lake shipping channel facilities so that these facilities can function again as before.<sup>19</sup>

Sea, river and deep crossing transportation permits are a requirement to do business in the field of sea, river and crossing transportation, this is an effort by local governments to carry out guidance, regulation, control and supervision in order to serve, protect the interests of service user communities in the field of sea, river and crossing transportation where to achieve these objectives it is necessary to regulate the procedures for issuing permits referred to by Research both administrative and physical in the field.

The authority of Kalimantan Province and Regency / City Government as stipulated in the Decree of the Minister of Transportation No. KM. 73 of 2004 concerning the implementation of river and lake transportation is also regulated in the Decree of the Minister of Transportation No. KM. 58 of 2007 concerning amendments to the Decree of the Minister of Transportation No. 73 of 2004, specifically regulated in article 5 and article 6. In fact, the basis of authority between the provincial regional government and the Port Administrator is the same, namely Kepmenhub Number KM 73 of 2004 and Permenhub Number 58 of 2007, but in fact the two institutions often have conflicts regarding the ability to grant permits.

In carrying out the granting of operational permits / route permits for river, lake, and crossing transport vessels, there are obstacles that ultimately affect the implementation of the granting of these permits. For this reason, the government must take strategic and solutive steps so that shipping accidents do not recur, especially river and lake crossings, namely:

1. Reorganize institutional arrangements and enforce shipping rules that apply nationally (Shipping Law No. 17/2018) and its derivatives Presidential Decree No. 57/2017 and Presidential Regulation No. 83/2016 as well as international provisions that have been ratified. If the rules of the game are not yet available, especially traditional water transportation, the government must provide them.
2. Implement certification-based HR competency standards to operate ships in all shipping lanes. This will improve his quality, professionalism, skills and bargaining position. Later, there will be no more ship owners concurrently nakoda. The application of this competence standard is very suitable for ships that sail marine tourism destinations.
3. Re-register ships operating in traditional routes (rivers, lakes and crossings) and between islands related to the availability of supporting facilities. This is important so that the usefulness of the facility can be evaluated.
4. Improve and enforce shipping regulations strictly, because it concerns life safety. Among them are ensuring the implementation of the ISM Code through regular supervision for ships sailing on traditional routes to between islands. Establish standard operating procedures (SOPs) and strict handling of hazardous materials loaded and vehicles entering ships. Implement strict monitoring mechanisms in the use of ship tickets (including people's voyages) on traditional and inter-island routes by making clear passenger manifests.

5. Restoring and improving the quality of safety infrastructure for water transportation (sea, lakes, rivers and crossings) and between islands, both hard infrastructure (ports, ships and supporting facilities) and soft infrastructure (regulations, policies, and governance).

In order to avoid transportation accidents across rivers and lakes later, the Kalimantan Transportation Agency Government must provide some input to the authorities. Improvement of crossing transportation management which includes safety standards, services, enforcement of rules in marine transportation governance. Some of the improvements that need to be made include, improving safety standards through training crew to really know and implement ship safety procedures.

The Government Department of Transportation needs to establish a single authority responsible for the management of river and lake crossing transportation, not as it is today, which is different types of ships, different authorities are in charge. Ship certification rules must also be enforced. If the designation and specifications of the ship do not match the certificate, the ship must be prohibited from operating and the ship owner and the licensing party must be charged with the law.

It is necessary to conduct periodic audits such as the application of ISO standards for river and lake crossing transportation services. Thus, the ship's operating activities will go through rigorous audits by independent and professional management auditors.

Increase the capacity of Kalimantan Transportation Agency employees by conducting various trainings by Marine and Shipping engineers that can help to better understand river and lake crossing transportation.

So that regulators and river and lake crossing transportation businesses stop playing with the safety and lives of passengers. Regulators are required to seriously improve operational management, supervisory systems, and safety standards. Business actors are required to apply safety standards and stop violating rules that endanger safety. Thus, ship accidents by human factors (violation of rules, carelessness) will no longer occur in the future.

#### **D. CONCLUSION**

Shipping safety arrangements as stipulated in Law No. 17 of 2008 are government steps in improving the shipping system in Indonesia. In the implementation of law enforcement at sea and waters related to criminal acts of shipping in waters can be carried out with the stages of investigation, investigation, prosecution and examination in court hearings. The application of the crime in its implementation is punishable by imprisonment of up to 10 months and a fine of Rp 1,000,000.00 - 2,000,000.00 which is lighter than the imprisonment provisions contained in Article 312 jo Article 14 5 and Article 310 jo Article 135 of Law Number 17 of 2008 concerning shipping is a maximum imprisonment of 2 (two) years m and a maximum fine of Rp 300,000,000.0 0 (three hundred million rupiah).

Traffic Law Enforcement in the Mahakam River Water Area has not been fair, among others, caused by; 1) Lack of Responsibility of the Owner and Captain of the Ship for the Safety of

the Ship and Passengers that Caused the Accident; 2) Public Awareness of Ship Safety and Low Passengers; 3) The sailing permit is too loose not in accordance with the Ship and Passenger Safety Eligibility Standards; 4) Inadequate facilities and infrastructure in the Mahakam River Water Area; Lack of facilities and infrastructure such as the absence of navigation beacons for ship guidance, while passing ships are also not equipped with lights, so the potential for collisions between ships is very high; The lack of function of signs in this river causes flow vulnerability. Some signs are missing, sometimes only replaced with emergency signs. While the sailing of large ships is very dependent on guide ships, because they can no longer rely on the function of signs, especially at night. 5) There is no specific regulation related to electronic law enforcement in the Mahakam River Watershed.

The Ideal Construction of Electronic Law Enforcement in Mahakam River Waters is; 1) Strengthen regulations related to Ship and Passenger Safety; 2) Provide adequate facilities for river and lake shipping channels in the form of: ship lock ponds, *navigation barrage* dams, ship lift buildings, canals, signs, surveillance posts; bus stops, water height recorders, flow retaining buildings, flow control buildings, soil retaining walls/river banks and mud holding ponds; 3) Tighten the permit to cross the Territory Mahakam River waters in accordance with Ship and Passenger Safety standards; 4) Make special regulations related to electronic law enforcement in the Mahakam River Watershed; 5) Coordination of the Government, Law Enforcement Officials, and the Community in the Safety of Ships and Passengers in the Mahakam River Basin.

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