

# Realizing Shipping Safety Through Legal Policy for Classification of Seaworthiness of Passenger Ships

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## ABSTRACT

*In realizing shipping safety, the legal policy of ship classification is regulated in Article 126 paragraph (1) of Law Number 17 of 2008 and Regulation of the Minister of Transportation Number 61 of 2014, Implementation of ship classification provisions, especially passenger ships, includes: Inspection of ship construction, supervision and testing; issuance of class certificates, ship registration and offshore construction; Inspection and testing of floating equipment and offshore construction facilities; Testing and certification of materials and components; Testing and Issuing Qualification Certificates for Welders, Welding Inspectors and other welding experts; Examination and certification of the statutory field based on authorization from the government of the Republic of Indonesia as well as from the government of other countries.*

## Preliminary

The role of shipping is very important for the socio-economic life of the community. Likewise for the interests of government administration as well as in the context of national defense and others. If you look at the method of approach to public policy theory<sup>3</sup> in order to improve legal development, it is aspired (*ius constituendum*) related to shipping activities taking place within the boundaries of the country's territorial territory, both national shipping and international shipping.<sup>4</sup> Transportation is a means of expediting the wheels of the economy, strengthening the unity and integrity of the nation in order to strengthen the realization of the archipelago's insight, increasing and supporting the defense and security of the state, further strengthening relations between nations.

The importance of transportation is reflected in the implementation that affects all aspects of the life of the nation and state as well as the increasing need for transportation services for the mobility of people and goods domestically and abroad.<sup>5</sup> The Unitary State of the Republic of Indonesia was awarded as an archipelagic country consisting of thousands of islands, along the equator, flanked by two continents and two oceans, so that it has an important and strategic position and role in relations between nations.

This strategic position must be utilized optimally as a national development based on Pancasila and the 1945 Constitution of the Republic of Indonesia, to create a safe, peaceful, just and democratic Indonesia and to improve people's welfare.<sup>6</sup> This is meant in conceptual theory and in a paradigmatic<sup>7</sup>

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3 Basically, the study of public policy is oriented towards solving real problems in society. Public policy in general is an applied science and acts as a tool or science that seeks to solve problems. Idham, *Urban Land Consolidation in the Perspective of Regional Autonomy to Strengthen Sovereignty and Welfare State*, Alumni, Bandung, 2014, p. 27. Compare with Hassel Nogis S. *Tangkilisan, Grounded Public Policy*, YPAPI, Yogyakarta, 2003, p. 2 which discusses in more detail and clear concepts of public policy.

4 F. D. C. Sudjatmiko, *Pokok-Pokok Pelayaran Niaga*, Akademika Pressindo, Jakarta, 1979, hlm 2.

5 Sapto Sardjono, *Beberapa Aspek Hukum Laut Privat di Indonesia*, Mikamur Express, Jakarta, 1984, hlm 34.

6 <http://www.goldenheart.id/Kemaritiman/indonesia-sebagai-negara-kepulauan.html>

7 Paradigmatic comes from the word paradigm, which means pattern or form. The literal way in the method of writing the word is meant paradigmatic is an action or deed based on very basic things. M. Solly Lubis, *All Things Politics and Law*, Mandar Madju, Bandung, 1998, p 7. As explained by Otje Sal-

approach that looks at the history of Indonesia with its geographical form as an archipelagic country which is a collection of large and small islands with diverse patterns and their own characteristics, so to maintain territorial integrity and protect natural resources, it is necessary for all the island/archipelago must be in a complete whole/unity.

Accidents in the shipping sector have claimed many lives, property and damage, pollution of the marine environment. The legal basis that overshadows the guarantee of security and safety in shipping has actually been regulated in Law Number 17 of 2008. Shipping safety and security is a condition of fulfilling safety and security requirements, regarding transportation in waters, ports, and the maritime environment. However, various accidents at sea are still common.<sup>8</sup> On the way, people ask for guarantees for the safety and security of shipping, in terms of transportation activities so that there is a guarantee of business certainty through the shipping world. Isn't the seaworthiness of a ship to be declared seaworthy if it has the ability to overcome/overcome all dangers that may be experienced while sailing (perils of the sea) with an adequate level of security.<sup>9</sup> Accidents big and small in shipping still essentially contain the risk of loss of life, property and the environment. In an effort to prevent accidents at sea.

The Government, the Directorate General of Sea Transportation of the Ministry of Transportation as the agency for shipping safety, through the Indonesian Classification Bureau, provides regulations to ships (according to the type and size), are required to complete the requirements for the safety and welfare of the crew and passengers and the legal status of the ship as well as ship safety equipment and equipment. matters relating to shipping as outlined in the Regulation of the Minister of Transportation Number PM 61 of 2014 concerning amendments to Ministerial Regulation Number PM 7 of 2013 concerning the Obligation of Classification of Indonesian-flagged Ships at the Classification Board.

Policies for the formation of laws (law making process),<sup>10</sup> On the basis of shipping accidents caused by human error, the ultimate truth causing this is human actions and mistakes that play a role in every shipping accident, including construction damage or equipment damage which is the direct cause, the rest of the accidents are caused by natural and environmental factors.<sup>11</sup>

To be able to create conditions for ships to operate as expected, the ship is in a seaworthy condition, as referred to in Article 1 number 33 of Law Number 17 of 2008 that shipworthiness is the condition of a ship that meets the requirements of ship safety, prevention of water pollution from ships, manning, loading lines, loading, welfare of crew and health of passengers, legal status of ships, management of safety and prevention of pollution from ships, and management of ship safety for sailing in certain waters.

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man, Anthon F. Susanto, for the Indonesian people the paradigmatic thing is Pancasila as the philosophical foundation or ideal foundation and at the same time the foundation and the philosophy of the state and the view of the nation and the 1945 Constitution of the Republic of Indonesia as the basic concept of managing national life. Otje Salman, and Anthon F. Susanto, *Legal Theory of Remembering, Collecting and Reopening*, Rafika Aditama, 2013, p. 67.

8 <http://www.hukumonline.com/berita/baca/lt589822904c131/regulasi-transportasi-laut--sudah-cukupkah-melindungi-konsumen>

9 Eric Sullivan, F. I. C. S, *The Marine Encyclopedia Dictionary*, Second Edition

10 Moh. Mahfud M. D, *Legal Politics in Indonesia*, Raja Grafindo Persada, Jakarta, 2012, p. 363. See Soerya Respationo who explains that the political system adopted has an effect on the formation of law, meaning the mechanism of power to control people's lives through institutions to make law formation. Soerya Respationo, *Legal Politics*, Pistaka Media Perintis Cita, Bandung, 2011, p. 73.

11 Data Direktorat Jenderal Perhubungan Laut Departemen Perhubungan Tahun 2016.

## Formulation of the Problem

The formulation of the problem in this study, namely how to realize shipping safety through the legal policy of passenger classification to meet the seaworthiness of the ship?

## Legal Theory Study

When viewed from a juridical point of view, the implementation in determining a policy in research using legal theory that will be used by researchers in an effort to solve the problems studied is referring to the theory of utilitarianism pioneered by Jeremy Bethem.

In his theory, Betham asserts that a country will in vain give birth and form a product of legislation, if it does not provide guarantees and/or guarantees to its people to create an atmosphere of happiness, Jeremy Betham's theory is famous for the theory of happiness. The theory of utilitarianism emphasizes the importance of the consequences of actions in assessing the good and bad morals.<sup>12</sup> The purpose of enacting the law is to ensure the maximum benefit or happiness for as many people as possible.

This theory was coined by Jeremy Bentham who is famous for his motto of the greatest happiness of the greatest number (the greatest happiness for the most people).<sup>13</sup> By using the term utility to explain the concept of happiness or well-being, Bentham with the principle of utilitarianism argues that something that can cause extra happiness is something good.<sup>14</sup> Government action should always be directed at increasing the happiness of as many people as possible. Bentham's ideas on legal reform, the role of the constitution and social research for the development of social policy made him known as the father of the welfare state.

With political will, commitment and a clear vision regarding social and human investment, developing countries such as Indonesia are able to carry out a welfare development approach. For this reason, good cooperation between the central government and local governments is needed. Therefore, the state is required to play more roles so that its bureaucratic institutional format also reaches wider needs.<sup>15</sup> The legal instruments through their functions will serve as guidelines for the applied principles, certainty for the community in creating harmony between development actions that are continued and improved in order to achieve harmony between development actions that are continued and improved in order to achieve a level of welfare and prosperity on the one hand, with the use of natural resources. limited natural resources on the other hand.

## Discussion

### Seaworthiness of Passenger Ships

The legal regulation of ship's seaworthiness is contained in Chapter IX of Law Number 17 of 2008, is the condition of the ship meeting the requirements of ship safety, prevention of water pollution from ships, manning, loading lines, loading, welfare of ship crew and passenger health, ship legal status, safety management and prevention of pollution from ships, and management of ship safety to sail in

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12 Teguh Prasetyo, *Filsafat, Teori dan Ilmu Hukum*, Raja Grafindo Persada, Jakarta, 2012, hlm 112.

13 Teguh Prasetyo, dan Abdul Halim Barkatullah, *Filsafat, Teori, & Ilmu Hukum Pemikiran Menuju Masyarakat yang berkeadilan dan Bermartabat*. RajaGrafindo Persada, Jakarta, 2014, hlm 29.

14 Lili Rasjidi, *Dasar-dasar Filsafat dan Teori Hukum*, Citra Aditya Bakti, Bandung, 2010, hlm 45.

15 Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara*. Rajawali Pers, Jakarta, 2012, hlm 33.

certain waters.<sup>16</sup>

The government (Directorate General of Sea Transportation of the Ministry of Transportation) as the agency for shipping safety, carries out ship regulations (according to the type and size), to be required to complete the requirements for the safety and welfare of ship crews and passengers and the legal status of ships and ship safety equipment as well as matters relating to shipping.<sup>17</sup> On the way, people ask for guarantees for the safety and security of shipping,<sup>18</sup> from the point of view of transportation activities so that there is a guarantee of certainty in the world of shipping, while only responding to safety and security guarantees, the movement of ships and/or ships that will sail from the port of seaworthiness must be proven through certification. because the law stipulates so, this is explicitly stated in Article 124 of Law Number 17 of 2008, that:

1. Every vessel procurement, construction, and construction including its equipment as well as vessel operation in Indonesian waters must comply with ship safety requirements.
2. Ship safety requirements include: material; construction; building; machinery and electricity; stability; arrangement and equipment including auxiliary equipment and radio equipment; and g. ship electronics.

A ship is declared seaworthy if it has the ability to overcome/overcome all dangers that may be experienced while sailing (perils of the sea) with an adequate level of security.<sup>19</sup> It is not enough for a ship to only have a strong body, it must also be run by a competent and sufficient number of captains and crews according to applicable regulations, and must also be provided with sufficient fuel, food, and other necessities to reach the port of destination.

If the safety and security of shipping transportation in waters, ports and maritime protection speak of shipworthiness, ships should need to be supervised, referring to applicable laws and regulations, the implementation of shipping safety and security is carried out by the government, the context of safety supervision by the government is appointed by institutions such as the harbormaster, the Classification Bureau. for new ship safety measures on ship safety certification.<sup>20</sup> The Ministry of Transportation in this case the Directorate General of Sea Transportation in an integrated and continuous manner continues to improve the quality and quantity of shipping safety, with the aim of carrying out a more detailed and professional physical inspection of ships to achieve optimal targets according to standard procedures in improving the safety system for life and goods at sea. and excellent service to service users.

The government feels the need to improve ship inspection services to ensure ship safety. The provisions are regulated in Article 129 of Law Number 17 of 2008 which states:

1. Ships based on certain types and sizes must be classified in the classification body for the purposes of ship safety requirements.
2. National classification bodies or recognized foreign classification bodies may be appointed to carry out inspections and tests on ships to meet ship safety requirements.
3. Recognition and appointment of classification bodies shall be made by the Minister.
4. The designated classification body is obliged to report its activities to the Minister

16 Pasal 1 angka 33, Undang-Undang Nomor 17 Tahun 2008.

17 Arttonny, *Kertas Kerja Perorangan*, Port State Control, Kantor Pelabuhan Batam, 2017, hlm 23.

18 Transportation functions to move goods or people from one place to another with the aim of increasing usability and value. The process of moving goods is carried out by land, sea, air and land or river water using various types of transportation as needed, Soegijatna Tjakranegara, *Law on the Transport of Goods and Passengers*, Rineka Cipta, Jakarta, 1995, page 15.

19 Wiwoho Soedjono, *Hukum Pengangkutan Laut di Indonesia dan Perkembangannya*, Rineka Cipta, Jakarta, 1995, hlm 22.

20 *Ibid*, hlm 24.

Due to the different forms, functions and activities carried out by each type and type of ship, it is different from one another. All types of ships must be registered with the owner (flagged). The flag state is responsible for the seaworthiness of the ship, which is stated in the form of a certificate consisting of two types, namely;

1. Statutory Certificate, issued by the Government of the Flag State or a Professional Business Entity appointed (recognized) by the Flag State. Certificates are issued by the Government or authorized Entities, after going through various types of requirements that must be met, surveyed by Government officials (Syahbandar) or professional Business Entities (generally the Classification Bureau) which are recognized by the Government and then issued various types of safety, construction, equipment, security certificates, management, environmental protection, Embossing Hull, Measuring Letter and so on.
2. Class Certificates, issued after passing various requirements for strength, construction and equipment, are surveyed by officers of the Classification Bureau of ships recognized by the flag State. The certificates include Hull Certificates, Mechanical and Electrical Certificates and other completeness certificates.

By definition, what is meant by a ship is all water vehicles of any shape and type that are driven by mechanical power, wind power, or tow, including vehicles with dynamic support, vehicles under the water surface, as well as floating equipment and floating buildings that do not move. . All types of water vehicles, both wooden-bodied ships driven by human oars, sailing ships that use wind power to propel the sails, as well as iron-bodied ships driven by engines.<sup>21</sup> Each ship must meet the ship's seaworthiness requirements as evidenced by the existence of a certificate. Internationally the seaworthiness of ships is regulated in the International Safety Management Code (ISM Code), which is intended to ensure safety at sea, prevent human injury or loss of life, and avoid damage to the environment, especially the marine environment, and property.

This code is a reference for each country to regulate efforts to prevent early shipping accidents, with the agreement of the participating countries, this code has become part of the 1974 International Convention for the Safety of Life at Sea (SOLAS), and has legal consequences for every country. This is aimed at realizing an international standard of safe management in ship operation and prevention of marine pollution, so that every ship must have various certificates and safety equipment that must be checked every year to determine the condition of the safety equipment is still good. Other parts that must be checked are steering gear controls, the outside of the hull, the ship's structure, loading and unloading systems and fuel pipes. In addition, all ships can be inspected at any time by the competent authority as long as the certificate is still valid to ensure that the ship and its equipment remain in good condition and can be used safely. The following are the various elements of the ship's seaworthiness.

#### 1. Ship Design

Every ship construction or overhaul, the ship owner is obliged to make a design drawing. The ship's design drawings must be checked and approved by the Ship Safety Inspection Officer under the Ministry of Transportation. Based on the provisions of Article 4 of Government Regulation Number 51 of 2002, before the construction or renovation of the ship is carried out, the Entrepreneur/Owner or shipyard is required to make calculations and drawings of the ship's design and completeness data, but in practice the ship has been completed or the ship has just been remodeled, a design inspection of the design is proposed. ships related to the fulfillment of ship safety, conformity with the designation, standardization, ease of operation and maintenance of ships and the use of technology must be carried out not only processing data submitted by ship owners.

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21 Hasim Purba, *Hukum Pengangkutan Laut Perspektif Teori dan Praktek*. Pustaka Bangsa Press, Medan, 2005, hlm 243.

## 2. Ship Safety Equipment

Every ship is required to meet the ship's seaworthiness requirements, as evidenced by a certificate covering; ship safety; ship manning; management of ship operation safety and prevention of pollution from ships; loading; and the legal status of the ship. In particular, Government Regulation Number 51 of 2002 regulates protection against fire hazards as regulated in Article 68 which states that Ship Design must be constructed in main vertical and horizontal zones for protection against fire hazards and equipped with fire detection devices. Other safety equipment that is mandatory for ship's seaworthiness is the tool used by passengers when an accident occurs during the voyage, where the tool can save the life of the passenger so that it must meet the specifications as stated in Article 70 of Government Regulation Number 51 of 2002, in general the types of safety equipment are: individual life aids (Lifebuoy); lifeboat; inflatable life raft; rigid life raft; lifeboat; floating device; and launcher tools.

## 3. Navigation and Radio

In accordance with Law Number 17 of 2008, Navigation is an activity related to Sailing Navigation Auxiliary Facilities (SBNP), Shipping Telecommunication (Telkompel), Hydrography and Meteorology, Paths and Passages, Buildings or Installations, Guidance, handling of ship hulls and Salvage, and/or Works Underwater (PBA) for the benefit of Shipping Safety.<sup>22</sup> In the interest of sailing safety and smooth ship traffic in areas where there are navigational hazards or activities in the waters that can endanger sailing safety, a safety zone must be established by being marked in the form of SBNP in accordance with applicable regulations and broadcast via coastal radio stations (SROP) and seafarers' news. Indonesia.

In addition, it is necessary to be informed of water and weather conditions such as storms that cause high waves and high currents and their changes.<sup>23</sup> With the issuance of a new regulation in 1990 regarding the need to install Global Maritime Distress and Safety Systems (GMDSS), the implementation of all regulations relating to radiotelegraphy and radiotelephony communications is considered to be the greatest advance in today's maritime communications world.

GMDSS is the result of the development of a distress call system with an automatic system, which can be sent only by pressing a button, replacing the function of the telegraphy station and radio officer so as to save ship operating costs. The basic concept of GMDSS is rescue workers on land, and ships that are around ships in a state of danger (ship distress) receive early warnings, so they can immediately coordinate with SAR. The system also provides immediate and secure communications, providing maritime safety information, navigation information, weather forecasts, severe weather warnings and other safety information for ships.<sup>24</sup>

Ensuring that every ship performs a communication function that is vital to the safety of the ship itself and the ships in its vicinity. This Regulation is an amendment to SOLAS 1974 for radio communications, adopted in London (IMO) on 11 November 1988, and applies to all passenger ships and ships. other types of size 300 GRT or more. SBNP is a shipping safety facility that ensures ships sail safely, efficiently, determines the position of the ship, knows the right direction of the ship and knows the position of danger below sea level in a wide area of marine waters. SBNP as a sign for the navigator that is used since there is a cruise across the sea and along the coast in the context of conducting commercial or war activities.

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22 Wiwoho Soedjono, *Hukum Dagang. Suatu Tinjauan tentang Ruang Lingkup dan Masalah yang Berkembang dalam Hukum Pengangkutan di Laut Bagi Indonesia*. Bina Aksara, Jakarta, 1982, hlm 53.

23 Subandi *Penuntun Claim Angkutan Laut*, Bharata, Jakarta, 1968, hlm 67.

24 *Ibid*, hlm 38.

## Standards and Classification of Passenger Ships

Article 1 number 35 of Law Number 17 of 2008 explains that the Classification Board is a ship classification institution that regulates the strength of ship construction and machinery, guarantees the quality of marine materials, supervises the construction, maintenance, and overhaul of ships in accordance with classification regulations.

For the responsibility of the carrier as a shipping service provider, it is stated in Article 40 paragraph (1) of Law Number 17 of 2008, which states that water transportation companies are responsible for the safety and security of passengers and or goods being transported. The state has the right of control or operation of shipping whose embodiment includes aspects of regulation, control and supervision, Article 5 paragraph (1) of Law Number 17 of 2008, Shipping is controlled by the state and its guidance is carried out by the government.

Passenger ship is a ship specifically built to carry passengers, passenger ships are built with many decks, each deck has a passenger cabin which is divided into various levels/classes. For long-distance cruises across the ocean, passenger ships provide cabin classes, while for short-distance cruises in Indonesian waters, besides cabins, deck classes are also provided which function to provide opportunities for passengers whose ability is limited to pay for travel costs.<sup>25</sup>

The Ministry of Transportation through the Directorate General of Sea Transportation delegates the authority to inspect management and ship security devices or statutory to PT Biro Classification Indonesia. Kemenhub Jakarta Director General of Sea Transportation, Tonny Budiono explained, this delegation, PT Bureau of Classification Indonesia can issue statutory certification to Indonesian ships.

The statutory certification as a sign that the ship has met the safety standards has been set. Meanwhile, President Director of PT Biro Statistik Indonesia, Rudiyanto, said the company welcomes this delegation of authority. Delegation of authority as the company's support to the government in carrying out the authority with full responsibility according to the given task, so that the tasks of PT Biro Classification Indonesia in statutory activities include, among others, maritime safety, protection of the environment and seafarers' welfare, carrying out audits of safety management systems and security management systems. ships and ports. PT Bureau of Classification Indonesia always supports the government to always synergize in providing positive contributions so that the National Nawacita and Indonesia as the world's maritime axis are getting stronger and realized through synergies that occur in various fields of the maritime sector, including trust in the granting of this statutory authority.<sup>26</sup>

The form of regulation in the law covers all aspects including shipping safety, the shape or size of the ship as well as several requirements that must be met by the company and or the ship and the crew or crew of the ship. In the author's note, various shipping accidents that transport people are generally caused by human error both on land and during sailing, and are also caused by companies or ship owners. Many people transport ships have designs that do not take the safety of passengers into account. The fulfillment of shipping safety and security requirements regarding the state of transportation in the waters, the fulfillment of shipping signs from and to the port, and the conditions of the maritime environment. In order to improve occupational safety and shipping safety, the United Nations at its conference in 1948 agreed to establish an international agency specifically dealing with maritime issues. The agency was first formed under the name International Governmental Maritime Consultative Organization (IMCO).

Subsequently, this organization changed its name to the International Maritime Organization (IMO) since May 22, 1982 which gave birth to Safety Of Life At Sea (SOLAS), namely maritime safety

25 F. D. C. Sudjatmiko, *Op, Cit*, hlm 18.

26 Achmad Fauzi, *Kemenhub Limpahkan Sertifikasi Keamanan Kapal kepada PT BKI*, <https://money.kompas.com/read/2017/04/05/193757926>

regulations against the background of increasing number of ship accidents that claimed many lives.<sup>27</sup> The focus of this regulation is on matters relating to the regulation of navigation completeness, in front of the ship's bulkhead walls and communication equipment, then develops on construction and other safety equipment including:<sup>28</sup>

#### 1. Ship safety

Shipping safety is also related to the safety of the ship itself when sailing and arriving or arriving safely at the port of destination, safe in the sense of both the condition of the ship, crew and their cargo while shipping security can be interpreted as a ship sailing in shipping traffic sailing safely. The condition of the implementation of the ship's safety as expected cannot be separated from or related to the implementation of the flag state's policy, related to the control of the ship's administration field according to the ship's administration requirements.<sup>29</sup> However, the fact is that the control of the ship administration sector is not fully implemented, due to the fact that there are still many weaknesses in the human resources of inspectors in fulfilling and controlling ship administration.

The provisions of Article 1 number 34 of Law Number 17 of 2008 concerning Shipping, ship safety is proven by a certificate after inspection and testing, that a safety certificate is given to all types of ships measuring more than 7 GT, except for warships, state ships and ships. used for sporting purposes. The ship safety requirements apply to every procurement, construction, and construction of ships including their equipment and when operating ships in Indonesian waters.<sup>30</sup> For ships of a certain type and size, the ship must be classified at the classification agency for inspection and testing, so that the ship is declared to meet the safety requirements and is given a certificate.

The ship that has obtained the certificate is subject to continuous surveillance until the ship is no longer used, meaning that the ship's certificate is not valid when the validity period of the certificate expires or the ship does not carry out endorsement of the certification (endorsement) or the ship is damaged and is declared not to meet the safety requirements of the ship or the ship changes its name or the ship changes flag or the ship is no longer in accordance with the technical data in the ship's safety certificate or the ship undergoes an overhaul resulting in changes in ship construction, changes in the main size of the ship, changes in the function or type of ship and the ship sinks or is lost or the ship is scrapped. The ship's certificate can also be canceled if the information in the ship's document used for the issuance of the certificate does not match the actual situation or the ship does not meet the ship's safety requirements, or the certificate was obtained illegally.<sup>31</sup>

This safety certificate was previously known as the Seaworthiness Certificate but based on Law No. 17 of 2008 it was changed to a passenger ship safety certificate, a cargo ship safety certificate, which consists of a cargo ship construction certificate, a cargo ship equipment safety certificate, and a freighter radio safety certificate and certificate of airworthiness and manning of fishing vessels. As for the procedure for issuing a ship safety certificate, the ship owner submits an application with prior inspection of the ship's nautical, technical and condition by government officials, namely an inspection of the condition of the ship, safety equipment, radio and ship engine.<sup>32</sup> If the condition of the ship is considered good, the application is accompanied by the following documents or requirements:<sup>33</sup>

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27 Syahrial Bosse, *Memahami Hukum Maritim Indonesia*, Majalah Maritim Edisi Pertama, Agustus 2003

28 Subandi K, *Op, Cit*, hlm 34.

29 H. K. Martono dan Eka Budi Tjahjono, *Transportasi di Perairan Berdasarkan Undang-Undang Nomor 17 Tahun 2008*, RajaGrafindo Persada, Jakarta, 2011, hlm 168.

30 Rustian Kamaludin, *Ekonomi Transportasi: Karakteristik, Teori dan Kebijakan*, Ghalia Indonesia, Jakarta, 2003, hlm 5.

31 Peraturan Pemerintah Nomor 51 Tahun 2002 tentang Perkapalan.

32 Lampiran Peraturan Menteri Perhubungan Nomor : PM 176 Tahun 2015.

33 *Ibid*, hlm 45.



- a. Original application letter from the company;
- b. Fixed measuring certificate;
- c. Sea certificate/annual pass/gross deed;
- d. Ship inspection report consisting of ship construction, ship equipment, radio, Fitness/IMDG/SBC (its designation), dock from the shipyard;
- e. Class certificates consisting of hull certificates, machine certificates, load line certificates;
- f. Image endorsement recommendation.

When all the requirements are complete, a certificate is issued. A safety certificate is only one of the requirements for a ship's seaworthiness, because there are still many other things that still have to be fulfilled in order for a ship to be declared seaworthy. While in the insurance market itself, various definitions are used to explain this condition of seaworthiness. Even in the end, if the ship has a Sailing Approval issued by the harbormaster, the ship is considered seaworthy. Keep in mind that the Sailing Approval Letter is only valid for 24 hours after the sailing approval is given and this letter can also be revoked if it is proven that the ship's seaworthiness requirements are violated.

## 2. International Standards for Ship Safety

The ship is in a seaworthy condition, it is safer to cross people and goods, but on the contrary, the ship is in doubtful condition and tends to encounter obstacles while on the voyage.<sup>34</sup> Of course, it is not easy to maintain the condition of the ship that meets the requirements and safety, prevention of marine pollution, supervision of loading, health, and welfare of the crew, because all of this requires a large amount of capital. In international standards there are three world organizations that regulate ship safety, namely IMO (International Maritime Organization), ILO (International Labor Organization) and ITU (International Telecommunication Union). Indonesia as a member of the three organizations has ratified these conventions.

So as a consequence, Indonesia must implement these rules properly and be concretely proven in an independent certification and always evaluated every 5 years. International conventions governing ship safety include:

- a. SOLAS 1974 (Safety Of Life At Sea)

One of the international conventions contains ship requirements in order to maintain the safety of life at sea to avoid or minimize accidents at sea which include the ship, crew and cargo. To be able to ensure the ship operates safely, it must comply with the above provisions, especially the international convention on SOLAS 1974 which covers the design of ship construction, machinery and electrical installations, fire prevention, safety equipment and communication tools and navigation safety. In its implementation, it needs to be proven by a valid certificate, namely a passenger ship safety certificate which includes the requirements in chapters II-1, II-2, III, IV & V and other chapters in SOLAS;

- b. MARPOL (Marine Pollution) 1973/1978.

Marpol regulates the prevention and control of pollution at sea in the form of oil, hazardous cargo, chemicals, garbage, dirt (sewage) and air pollution contained in the Marpol annex. In this case, passenger ships are closely related to oil spills, dirt and garbage in maintaining the cleanliness of the marine environment. The certificates related to the convention are certificates of prevention of pollution caused by oil (oil), certificates of prevention of pollution caused by dirt (sewage), certificates of prevention of pollution caused by waste (garbage).<sup>35</sup> In relation to ship accidents, Marpol plays an important role, especially regarding the waste that is disposed of in the form of dirty oil, garbage

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34 Tommy H. Purwaka, *Pelayaran Antara Pulau Indonesia Suatu Kajian tentang Hubungan Antara Kebijakan Pemerintah dengan Kualitas Pelayanan Pelayaran*, Pusat Studi Wawasan Nusantara, Jakarta, 1993, hlm 375.

35 *Ibid*, hlm 20.

and sewage (sewage). To find out that the ship has complied with the international convention concerning Marpol 73/78, it is proven by the existence of certification.

c. Load Line Convention 1966.

Ships which are sea transportation facilities have several requirements that can be said to be seaworthy. The ship's requirements include a Certificate Load Line that complies with the Load Line Convention (LLC 1966). In general, all fleets already have a Certificate Load Line, both in the form of cargo ships and passenger ships.<sup>36</sup> The procedure for obtaining the Certificate Load Line is that the ship must go through the inspection<sup>37</sup> and assessment that has been regulated in Law Number 17 of 2008. A ship that has been tested and inspected, if it has met the ship's safety requirements, can be given a Certificate Load Line issued by the Indonesian Classification Bureau issued by the Indonesian Classification Bureau. applies nationally, also applies internationally in accordance with SOLAS 1974.

d. Collreg 1972 (Collision Regulation).

Convention on the Regulations for Preventing Collisions at Sea International 1972. One of the most important innovations in the 1972 COLREGs was the recognition given to traffic separation schemes—the Regulations provide guidance in determining safe speed, risk of collision and the conduct of ships operating in or near traffic separation schemes. The first such traffic separation scheme was established in the Strait of Dover in 1967.<sup>38</sup>

e. Tonnage Measurement 1966.

Conventions governing international standard ship measurements.

f. STCW 1978 Amendment 95

Is a convention about the minimum education or training requirements that must be met by crew members to work as seafarers.

g. ILO Number 147 of 1976 concerning Minimum Work Standards for Crew of Commercial Ships and ILO Convention Number 185 of 2008 concerning SID (Seafarers Identification Document)

Even though there have been regulations regarding the portmaster's role in issuing sailing approval letters, it is not uncommon to find several sea transportation accidents caused by the harbormaster's negligence in carrying out the port's duties, namely giving sailing approval letters and ship seaworthiness letters to ships that are not worthy of sailing and ships that do not pass. class test by the Indonesian Classification Bureau. The case of a ship that is actually not seaworthy but having a sailing approval letter is an old case that often occurs repeatedly and becomes a phenomenon that is considered normal.

## Closing

In realizing shipping safety, the legal policy of ship classification is regulated in Article 126 paragraph (1) of Law Number 17 of 2008 and Regulation of the Minister of Transportation Number 61 of 2014, Implementation of ship classification provisions, especially passenger ships, includes: Inspection of ship construction, supervision and testing; issuance of class certificates, ship registration and offshore construction; Inspection and testing of floating equipment and offshore construction facilities; Testing and certification of materials and components; Testing and Issuing Qualification Certificates for Welders,

<sup>36</sup> International Maritime Organization, *International Convention on Load Lines Adoption*, 5 April 1966; Entry into force, 21 July 1968.

<sup>37</sup> Ship accident inspections include preliminary ship accident inspections and ship accident follow-up inspections. Preliminary examination aims to seek information and/or initial evidence of the occurrence of a ship accident to then proceed to the next stage of examination. Accidents in shipping must be the responsibility of all parties involved in shipping practices

<sup>38</sup> The International Maritime Organisation, *Convention on the International Regulations for Preventing Collisions at Sea, 1972*", (COLREGs), Retrieved 13 February 2006

Welding Inspectors and other welding experts; Examination and certification of the statutory field based on authorization from the government of the Republic of Indonesia as well as from the government of other countries. It is recommended that PT Biro Statistik Indonesia (Persero) strengthen its existence by providing understanding and education to all stakeholders on the importance of ship classification, and in accordance with applicable laws and regulations, and ship owners make efforts to fulfill ship's seaworthiness and classify ships both in terms of engineering, ship manning and ship safety and security management.

## REFERENCES

- Achmad Fauzi, *Kemhub Limpahkan Sertifikasi Keamanan Kapal kepada PT BKI*, <https://money.kompas.com/read/2017/04/05/193757926>
- Adi Sumardiman, *Analisis dan Evaluasi Hukum tentang Pengaturan Skema Pemisah Lalu Lintas Pelayaran*, Badan Pembinaan Hukum Nasional Departemen Kehakiman dan Hak Asasi Manusia, Jakarta, 1999.
- Artonny, *Kertas Kerja Perorangan*, Port State Control, Kantor Pelabuhan Batam, 2017
- Otje Salman, dan Anthon F. Susanto, *Teori Hukum Mengingat, Mengumpulkan dan Membuka Kembali*, Rafika Aditama, 2013.
- F. D. C. Sudjatmiko, *Pokok-Pokok Pelayaran Niaga*, Akademika Pressindo, Jakarta, 1979
- F. N. Hopkins, *Businnes and Law for the Ship Master*, Glasgow, Great Britain, Brown, Son & Ferguson, 1981.
- Hasim Purba, *Hukum Pengangkutan Laut Perspektif Teori dan Praktek*. Pustaka Bangsa Press, Medan, 2005,
- Hassel Nogis S. Tangkilisan, *Kebijakan Publik yang Membumi*, YPAPI, Yogyakarta, 2003.
- H. K. Martono dan Eka Budi Tjahjono, *Transportasi di Perairan Berdasarkan Undang-Undang Nomor 17 Tahun 2008*, RajaGrafindo Persada, Jakarta, 2011.
- <http://ika.ppns.ac.id/pt-biro-klasifikasi-indonesia-bki>.
- <http://www.goldenheart.id/Kemaritiman/indonesia-sebagai-negara-kepulauan.html>
- <http://www.hukumonline.com/berita/baca/lt589822904c131/regulasi-transportasi-laut--sudah-cukupkah-melindungi-konsumen>

<http://maritimnews.com/pelayaran-dan-perdagangan-di-laut-merupakan-inti-dari-maritim>

Idham, *Konsolidasi Tanah Perkotaan Dalam Perspektif Otonomi Daerah Guna Meneguhkan Kedaulatan dan Negara Kesejahteraan*, Alumni, Bandung, 2014.

International Maritime Organization, *International Convention on Load Lines Adoption*, 5 April 1966; Entry into force, 21 July 1968

Jazim Hamidi, *Revolusi Hukum Indonesia Makna, Kedudukan, dan Implikasi Hukum Naskah Proklamasi 17 Agustus 1945 Dalam Sistem Ketatanegaraan Republik Indonesia*, Konstitusi Press, Jakarta & Citra Media, Yogyakarta, 2006

Jemmy Rumengan, *Metode Penelitian*, Citapustaka Media Perintis, Bandung, 2013.

Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara*. Rajawali Pers, Jakarta, 2012.

Koers, Albert W, *Konvensi Perserikatan Bangsa-Bangsa tentang Hukum Laut*, Gajah Mada University Press, Yogyakarta, 1994.

Lemhannas, *Bunga Rampai Wawasan Nusantara Jilid 2*, FaSkala Indah, Jakarta, 1981

Lili Rasjidi, *Dasar-dasar Filsafat dan Teori Hukum*, Citra Aditya Bakti, Bandung, 2010.

Lilli Rasjidi dan Ida Bagus Wyasa Putra, *Hukum Sebagai Suatu Sistem*, Fikahari Aneska, Bandung, 2012.

Mochtar Kusumaatmadja, *Konsep Hukum dalam Pembangunan*, Alumni, Bandung, 2002.

Mochtar Kusumaatmadja, *Pengantar Hukum Internasional*, Bina Cipta, Bandung, 1976.

Moh. Mahfud M. D, *Politik Hukum di Indonesia*, Raja Grafindo Persada, Jakarta, 2012

M. Solly Lubis, *Filsafat Ilmu dan Penelitian*, Mandar Maju, Bandung, 1994.

M. Solly Lubis, *Serba-serbi Politik dan Hukum*, Mandar Madju, Bandung, 1998.

Otje Salman S, *Filsafat Hukum (Perkembangan & Dinamika Masalah)*, Refika Aditama, Bandung, 2012.

Rustian Kamaludin, *Ekonomi Transportasi: Karakteristik, Teori dan Kebijakan*, Ghalia Indonesia, Jakarta, 2003.

- Sapto Sardjono, *Beberapa Aspek Hukum Laut Privat di Indonesia*, Mikamur Express, Jakarta, 1984.
- Soegijatna Tjakranegara, *Hukum Pengangkutan Barang dan Penumpang*, Renika Cipta, Jakarta, 1995.
- Soerya Respationo, *Politik Hukum*, Cita Pustaka Media Perintis, Bandung, 2011
- Soetandyo Wignjosoebroto, *Hukum Konsep dan Metode*, Setara Press, Malang, 2013.
- Subandi *Penuntun Claim Angkutan Laut*, Bharata, Jakarta, 1968.
- Teguh Prasetyo, *Filsafat, Teori dan Ilmu Hukum*, Raja Grafindo Persada, Jakarta, 2012.
- Teguh Prasetyo, dan Abdul Halim Barkatullah, *Filsafat, Teori, & Ilmu Hukum Pemikiran Menuju Masyarakat yang berkeadilan dan Bermartabat*. RajaGrafindo Persada, Jakarta, 2014.
- The International Maritime Organisation, *Convention on the International Regulations for Preventing Collisions at Sea, 1972*”, (COLREGs), Retrieved 13 February 2006.
- Tommy H. Purwaka, *Pelayaran Antara Pulau Indonesia Suatu Kajian tentang Hubungan Antara Kebijakan Pemerintah dengan Kualitas Pelayanan Pelayaran*, Pusat Studi Wawasan Nusantara, Jakarta, 1993.
- Wiwoho Soedjono, *Hukum Dagang. Suatu Tinjauan tentang Ruang Lingkup dan Masalah yang Berkembang dalam Hukum Pengangkutan di Laut Bagi Indonesia*. Bina Aksara, Jakarta, 1982.
- Wiwoho Soedjono, *Hukum Pengangkutan Laut di Indonesia dan Perkembangannya*, Rineka Cipta, Jakarta, 1995.
- W. P. Lumintang, *Dasar-Dasar Pelayaran Niaga*, Ami, Jakarta, 1968
- Peraturan Perundang-Undangan**
- Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.
- Undang-Undang Nomor 17 Tahun 2008 tentang Pelayaran.
- Peraturan Pemerintah Nomor 61 Tahun 2009 tentang Kepelabuhan.
- Peraturan Pemerintah Nomor 51 Tahun 2002 tentang Perkapalan.

Peraturan Menteri Perhubungan Nomor PM 61 Tahun 2014 tentang perubahan atas Peraturan Menteri Nomor PM 7 Tahun 2013 tentang Kewajiban Klasifikasi Kapal Berbendara Indonesia pada Badan Klasifikasi.

Surat Keputusan PY.66/14 Tahun 2003 tentang Tata Cara Pelaksanaan Penyelenggaraan Kelaiklautan Kapal.