



Juridical Analysis Of The Causes Of The Non- Development Of The People's Shipping Industry In Indonesia Due To The Fleet Aging And Extinction Of The Fleet (Research Study In Batam And Tanjung Pinang)

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Abstract, *The artisanal shipping industry in Indonesia, particularly in Batam and Tanjungpinang, has experienced significant stagnation and decline due to the aging fleet and fleet extinction. The background of this study is based on the importance of the artisanal shipping industry in supporting the local and national maritime economy, as well as the major challenges facing the sector in maintaining efficient and sustainable operations. The purpose of this research is to analyze the juridical factors that cause the non-development of the people's shipping industry in the area, as well as identify legal measures that can support the development of this industry. The research method applied combines normative and empirical approaches through case studies in Batam and Tanjungpinang. Data was collected through in-depth interviews with boat owners, fishermen, government officials, and maritime law experts, as well as analysis of relevant documents. The research integrates John Austin's positive law theory, Lawrence M. Friedman's legal system theory, and systems theory to analyze interactions within the maritime legal system. The results show that burdensome regulations, lack of access to financing, declining competitiveness, as well as environmental impacts and socio-economic factors are the main causes of the underdevelopment of the community shipping industry. Strict regulations and high operational costs make it difficult for small boat owners to comply with regulations, while limited access to financing hinders fleet rejuvenation and upgrades. An aging and inefficient fleet lowers the industry's competitiveness, and environmental pollution from old vessels worsens operating conditions. Suggestions include revising regulations to simplify and reduce administrative burdens, providing accessible financing and subsidy schemes, improving port infrastructure, and training and certification programs for ship owners and crew. In addition, international cooperation is also needed to adopt technology and best practices in the shipping industry. The implementation of these recommendations is expected to support the development of the small-scale shipping industry in Batam and Tanjungpinang, improve competitiveness, and make a greater contribution to Indonesia's maritime economy.*

Keywords: *Juridical Analysis, Shipping Industry, Old Fleet*

1. INTRODUCTION

Shipping is a unified system consisting of water transportation, ports, safety and security, and protection of the maritime environment. Article 7 of Law No. 17 of 2008 concerning Shipping states that "sea transportation consists of: domestic sea transportation, foreign sea transportation, special sea transportation and people's shipping transportation". Indonesia is geographically strategically located between the intersection of two oceans and two continents, so that Indonesia's sea area becomes a very important sea lane for world trade routes and national and international shipping traffic. This means that Indonesia functions as the global supply chain system with this geographical position. This position also places Indonesia in an important position and role in relations with the international world as the center of gravity for the Asia Pacific region. Pelayaran Rakyat plays a role in the concept of sea toll initiated by President Joko Widodo's administration, where the aim is to facilitate the distribution of goods, reduce price disparities, which is an important concept in sea

transportation for Indonesia as a maritime country. With small ships, the people's shipping fleet serves hinterland areas that are not entered by large conventional ships.

History shows that Pelayaran-Rakyat sea transportation once controlled the market share for domestic general cargo transportation of around 35% of the total general cargo load by sea. Pelayaran-Rakyat has a route network from Sabang to Merauke. The importance of legal analysis in this study cannot be ignored. The rules and regulations governing the people's shipping sector must be evaluated to see the extent of their impact on the condition of the people's shipping fleet. In addition, it is necessary to find the right legal solution to overcome the problem of the old fleet and the extinction of the fleet. Therefore, this study aims to conduct an in-depth legal analysis related to the causes of the underdevelopment of the people's shipping industry in Indonesia by focusing on case studies of the old fleet and the extinction of the fleet.

This research will involve a review of the applicable rules and regulations, policy implementation, and impacts on the people's shipping industry. The results of this study are expected to provide a comprehensive understanding of the problems faced by the people's shipping sector, as well as recommendations for appropriate policies and legal solutions to support the development and sustainability of this industry in the future.

Based on the background description above, the author raises several problems that will be discussed further. The problems are as follows:

1. How is the legal regulation for the people's shipping industry in Indonesia to develop further than the current condition (old fleet and heading towards extinction)?
2. What are the factors causing the people's shipping industry in Indonesia to not develop due to the old fleet leading to the extinction of the fleet?
3. How are legal steps to support the development of the people's shipping industry in Indonesia due to the old fleet and the extinction of the fleet?

Based on the formulation of the problem stated above, it can be seen that the objectives of this research are:

1. To find out and analyze the legal arrangements for the development of the people's shipping industry in Indonesia due to the old fleet and the extinction of the fleet.
2. To find out and analyze the factors causing the failure of the people's shipping industry in Indonesia due to the old fleet and the extinction of the fleet.
3. To find out and analyze legal steps to support the development of the people's shipping industry in Indonesia due to the old fleet and the extinction of the fleet

2. LITERATURE REVIEW

As a form of activity that affects people's lives, the shipping world requires regulations governing shipping businesses because Indonesia is a country of law and everything must be regulated by law. So to regulate all of that, the government issued Law Number 17 of 2008 concerning Shipping. Shipping is organized of course must provide benefits to all parties, in carrying out business activities in the shipping sector using healthy competition, and also not causing environmental pollution. In accordance with Article 3 of Law Number 17 of 2008 concerning Shipping. Inland water transportation or inland water transportation is another term for River and Lake Transportation (ASD). Law Number 17 of 2008 concerning Shipping is an important legislative document in Indonesia that establishes the legal framework for regulating the shipping sector in the country. This law covers various aspects related to shipping and maritime resource management.

Law Number 17 of 2008 concerning Shipping regulates safety standards for ships, including technical requirements, maintenance, and safety equipment. Establishes criteria and requirements for crew qualifications, including training, certification, and competency standards. Safety and security of shipping is one of the important aspects in Law Number 17 of 2008 concerning Shipping in Indonesia. This law includes various provisions designed to improve safety and security standards in all aspects of shipping. Law Number 17 of 2008 sets out strict safety standards for ships operating in Indonesian waters. This includes requirements on the design, construction, and maintenance of ships to ensure that they are safe to sail. These standards are designed to prevent accidents that may be caused by ship damage or technical failure.

Law Number 17 of 2008 concerning Shipping also emphasizes the importance of crew qualifications. This includes provisions on training, certification, and competency standards that must be met by crew members. Through Presidential Decree (Keppres) No. 60 of 1986 concerning Ratification of International Standards of Training, Certification and Watchkeeping for Seafarers, 1978 The aim is to ensure that all crew members have the knowledge, skills, and experience necessary to operate ships safely and respond to emergency situations at sea. This standard is in line with international conventions. Law Number 17 of 2008 concerning Shipping also regulates the regulation of ship traffic to avoid collisions and incidents at sea. This includes regulations on shipping lanes, maritime traffic management systems, and regulations to prevent accidents at sea. This regulation of ship traffic is very important considering the large number of ships sailing in Indonesian waters.

Law Number 17 of 2008 concerning Shipping also includes provisions on preventive measures and emergency handling at sea. This includes procedures for dealing with emergency situations, such as fires on board ships, leaks, or ships running aground. There are also rules on maritime search and rescue (SAR) operations, which are crucial in saving lives at sea. Law Number 17 of 2008 concerning Shipping reflects Indonesia's efforts to develop its maritime sector in line with domestic needs and global responsibilities. This law plays an important role in ensuring shipping safety, environmental protection, and the sustainability of the maritime sector in Indonesia.

3. RESEARCH METHOD

The specification of this research only carries out analysis up to the level of synthesis, namely analyzing and presenting facts systematically so that they can be more easily understood and concluded. The specification and/or type of this thesis research is normative legal research while combining it with sociological (empirical) legal research using secondary data obtained directly from the first source through field research through interviews and primary data as a source/information material in the form of primary legal materials, secondary legal materials and tertiary legal materials.

The approach method in this study is a combination of the normative approach method "Legal Research" with the empirical approach method "Juridical Sociologies". The research mechanism with this combined approach method is carried out by describing the explanation of the inductive research method leading to the deductive method and vice versa. This is done by the author to help explain the relationship between research variables and research objects so that it can produce an understanding that is very helpful for readers, especially researchers and academics.

The location of this research was carried out in the Riau Islands Province, precisely at the Port of Tanjung Pinang and the Port of Batam City. These two locations were determined based on the number of shipping fleet data that were the objects of this research. The population is all stakeholder elements related to shipping activities at Tanjung Pinang Port and Batam Port. The sample used by the researcher is a random technique to find out for sure related to the research to be studied. As for the sample used by the author is a purposive sampling technique in determining respondents and informants who will be interviewed to meet the primary data needed to complete the research.

4. RESULTS AND DISCUSSION

Legal Regulations for the Development of the People's Shipping Industry in Indonesia Due to the Old Fleet and the Extinction of the Fleet

The people's shipping industry in Indonesia has long been the backbone of the local maritime economy, especially for thousands of fishermen and small boat owners who depend on sea transportation for local fishing and trade. Geographically, Indonesia is located between two oceans and two continents, making it a strategic center in world trade routes and national and international shipping. This geographical position provides great advantages for Indonesia in developing its maritime industry. However, this great potential has not been fully utilized due to various obstacles that hinder the development of the people's shipping industry, one of which is the condition of the fleet which is old and decreasing in number.

Legal regulations regarding the shipping industry in Indonesia are comprehensively regulated in Law Number 17 of 2008 concerning Shipping. This law covers various important aspects in the management and operation of shipping, including safety and security, pollution prevention, and port management. The main objective of this law is to create a legal framework that can support the development of a safe, efficient, and sustainable shipping industry.

a. Safety and Security of Shipping

Safety and security of shipping in Indonesia are regulated in detail in Law Number 17 of 2008 concerning Shipping. One of the main articles that regulates this aspect is Article 3, which sets out the objectives of shipping, including facilitating the flow of people and goods through waters by prioritizing safety and security. Furthermore, Articles 123 to 126 regulate shipping safety, including technical requirements for ships, maintenance procedures, and safety equipment that must be on board.

b. Pollution Prevention and Handling

Law Number 17 of 2008 also regulates the prevention and handling of marine pollution. This law sets strict standards for ship waste management, including ballast water treatment and oil waste disposal, to reduce negative impacts on the marine environment. In addition, this law encourages the use of low-sulfur fuel by ships to reduce exhaust emissions that can pollute the air.

c. Port Management

Port management is regulated in detail in Law Number 17 of 2008 concerning Shipping, which covers various aspects related to port operations, security, and the environment. Articles 72 to 77 set out operational standards for ports, including the infrastructure that must be in place such as docks, warehouses, and loading and unloading equipment.

Article 72, for example, requires every port to have adequate facilities to handle ships and cargo safely and efficiently. This includes technical requirements for the construction and maintenance of docks, as well as equipment for loading and unloading goods and passengers. These standards aim to ensure that ports in Indonesia can support maritime trade and transportation activities efficiently and safely, while minimizing the risk of accidents and damage to goods.

d. Maritime Transportation and Navigation

Maritime transportation and navigation are regulated in detail in Law Number 17 of 2008 concerning Shipping to ensure safety, efficiency, and smooth operations in Indonesian waters. Articles 6 to 11 regulate various types of maritime transportation, including domestic maritime transportation, international maritime transportation, and people's shipping transportation. Article 6 stipulates that maritime transportation must meet the safety and seaworthiness standards set by the government. This includes technical requirements for ships, standard operating procedures, and crew qualifications.

e. Maritime Search and Rescue (SAR)

Maritime search and rescue (SAR) is comprehensively regulated in Law Number 17 of 2008 concerning Shipping to ensure that a rapid and effective response can be provided in emergency situations at sea. Articles 227 to 234 regulate the operational framework for SAR activities in Indonesian waters. Article 227 stipulates that the government is required to establish and operate SAR units equipped with adequate equipment and resources to conduct search and rescue operations. This includes rescue vessels, helicopters, and sophisticated communication technology to ensure effective coordination during SAR operations. This article also emphasizes the importance of training and readiness of SAR personnel to handle various types of emergency situations at sea.

f. Authority and Duties of PPNS

The authority and duties of Civil Servant Investigators (PPNS) are specifically regulated in Law Number 17 of 2008 concerning Shipping, covering various important aspects in maritime law enforcement. Articles 284 to 290 stipulate the authority of PPNS in conducting investigations into crimes related to shipping. Article 284 outlines that PPNS have the authority to conduct investigations, including conducting inspections of ships, port facilities, and personnel involved in maritime operations. PPNS have the authority to collect evidence, interrogate witnesses, and confiscate items

relevant to the investigation. This includes violations of shipping safety, marine pollution, and other violations regulated in the shipping law.

g. Ship Traffic Regulation

Vessel traffic regulation in Indonesian waters is also regulated to ensure safe and efficient shipping lanes. Advanced navigation and communication systems, such as the Automatic Identification System (AIS) and Vessel Traffic Service (VTS), are used to monitor and regulate ship movements, prevent collisions, and respond to emergency situations. These regulations are not only important for shipping safety and efficiency but also to ensure the protection of the marine environment and the sustainability of the shipping industry in Indonesia.

Factors Causing the Lack of Development of the People's Shipping Industry Due to the Old Fleet and the Extinction of the Fleet in Batam and Tanjung Pinang

Some factors that have caused the people's shipping industry in Indonesia to not develop include:

a. Burdensome Regulation

The people's shipping industry in Batam and Tanjung Pinang Ports faces a number of specific challenges that cause stagnation and decline, especially due to the aging fleet that is heading towards extinction. One of the main factors relevant to the conditions in Batam and Tanjung Pinang is strict and burdensome regulations. Burdensome regulations are one of the main factors that cause the people's shipping industry in Batam and Tanjungpinang to not develop.

b. Lack of Access to Financing

Lack of access to financing is one of the main factors hampering the development of the people's shipping industry in Batam and Tanjung Pinang. Small boat owners in this area often have difficulty getting loans or credit from financial institutions. Banks and other financial institutions tend to view the people's shipping sector as a high-risk investment, especially since many ships operate with old technology and the condition of the fleet is old.

c. Declining Competitiveness

Declining competitiveness is one of the critical factors that causes the people's shipping industry in Batam and Tanjung Pinang to not develop. An old and inefficient fleet is one of the main causes of this decline in competitiveness. Old ships tend to have higher fuel consumption and are often damaged, resulting in higher operating costs for ship owners.

d. Environmental Impact

Environmental factors are one of the main causes of the underdevelopment of the people's shipping industry in Batam and Tanjung Pinang. Old ships that are still widely used by small ship owners in this area tend to pollute the environment more than modern ships. High exhaust emissions, fuel leaks, and unmanaged waste disposal are serious problems that damage the surrounding marine ecosystem.

e. Socio-Economic Factors

Socio-economic factors are one of the significant factors that hinder the development of the community shipping industry in Batam and Tanjung Pinang. Many small boat owners in the area come from low-income backgrounds, so they often face difficulties in raising sufficient capital for the rejuvenation and maintenance of their vessels. Limited income and access to financial resources prevent them from investing in new technology or ship improvements, which are essential for improving operational efficiency and safety.

Legal Steps to Support the Development of the People's Shipping Industry Due to the Old Fleet and Fleet Extinction in Batam and Tanjung Pinang

To support the development of the people's shipping industry, several legal steps that can be taken include:

a. Regulatory Revision

The revision of the regulation is a very necessary legal step to support the development of the people's shipping industry in Batam and Tanjung Pinang. One important aspect of the revision of the regulation is the simplification of the regulations and technical requirements that must be met by small ship owners. Existing regulations are often too rigid and burdensome for small ship owners who do not have adequate resources and financial capabilities. The government needs to review the requirements for seaworthiness, safety equipment, and ship maintenance procedures to make them more realistic and affordable for small ship owners. Simplifying licensing procedures and reducing administrative costs can also help reduce operational burdens and allow ship owners to focus more on repairing and upgrading their fleet.

b. Financing and Subsidies

Financing and subsidies are essential legal steps to support the development of the people's shipping industry in Batam and Tanjung Pinang. To start, the government can design a special financing scheme that offers low-interest loans to small boat owners. This program can be facilitated by state banks or state-backed financial institutions,

with more flexible terms than commercial loans.

c. Infrastructure Improvement

Infrastructure improvement is a crucial legal step to support the development of the people's shipping industry in Batam and Tanjung Pinang. One of the main focuses should be on the modernization and development of port facilities. The government needs to invest in the construction of better docks, equipped with efficient and safe loading and unloading equipment. In addition, the provision of adequate storage facilities, such as orderly and safe warehouses, will help smooth the logistics process and reduce operational costs for small ship owners. Investment in this physical infrastructure is essential to increase the port's capacity to handle the flow of goods and passengers, and ensure that port operations can run more efficiently and quickly.

d. Training and Certification

Training and certification are important legal steps to support the development of the people's shipping industry in Batam and Tanjung Pinang. One of the main initiatives that can be taken by the government is to provide a comprehensive training program for ship owners and crews. This program should cover various important aspects such as shipping safety, ship operation and maintenance, and emergency handling at sea. With adequate training, ship owners and crews can improve their skills and knowledge, which in turn will improve operational efficiency and shipping safety. This training can also include education on maritime and environmental regulations, so that they better understand and are able to comply with applicable regulations.

e. International Cooperation

International cooperation is a strategic legal step to support the development of the people's shipping industry in Batam and Tanjung Pinang. By engaging in international cooperation, Indonesia can adopt best practices and global standards applied by developed countries in the shipping industry. For example, cooperation with the International Maritime Organization (IMO) can help Indonesia improve safety standards, seaworthiness, and protection of the maritime environment. Through training and certification programs facilitated by the IMO, ship owners and crews in Batam and Tanjung Pinang can obtain education and skills that meet international standards, which in turn will improve the professionalism and operational quality of the people's shipping industry.

5. CONCLUSION AND SUGGESTION

Conclusion

Based on the discussion in the previous chapter, the following conclusions can be drawn:

- a. Legal regulations for the development of the people's shipping industry in Indonesia, especially in facing the challenges of the old fleet and the extinction of the fleet, are regulated in Law Number 17 of 2008 concerning Shipping, Article 3 which stipulates the objectives of shipping including safety and security, and Article 124 which requires ships to meet safety standards set by the government. In addition, Articles 193 to 196 emphasize the obligation to manage waste and prevent pollution, which is relevant considering the large number of old ships that pollute the environment more. These regulations show that existing regulations seek to create a comprehensive and adaptive legal framework, but require effective implementation support and incentive programs to assist small ship owners in complying with regulations and improving their fleets.
- b. Factors causing the people's shipping industry to not develop due to the old fleet and the extinction of the fleet in Batam and Tanjungpinang are burdensome regulations, lack of access to financing, declining competitiveness, and the negative impacts of environmental and socio-economic factors. Strict regulations and high operating costs make it difficult for small ship owners to comply with regulations, while limited access to financing hinders fleet rejuvenation and improvement. An old and inefficient fleet reduces the competitiveness of the industry, while environmental pollution from old vessels and climate change worsen operational conditions. Socio-economic factors such as limited capital, education, and skills also add to the difficulties for ship owners to develop. All of this creates a cycle that is difficult to break, which hinders the growth and sustainability of the people's shipping industry in both areas.
- c. Legal steps that support the development of the people's shipping industry in Batam and Tanjung Pinang must include more adaptive regulatory revisions, the provision of easily accessible financing and subsidies, and improvements to adequate port infrastructure. Simplified regulations can reduce the administrative and operational burden on small vessel owners, while low-interest financing schemes and subsidy programs can encourage fleet rejuvenation and the adoption of environmentally friendly technologies. Improved infrastructure, including modernization of port facilities and digitalization of administrative processes, will increase efficiency and competitiveness. In addition, training and certification programs and international

cooperation will ensure that ship owners and crews have skills and knowledge that meet global standards. With this comprehensive approach, it is hoped that the people's shipping industry in Batam and Tanjung Pinang can develop more rapidly and contribute more significantly to Indonesia's maritime economy.

Suggestion

From this conclusion, the author can provide several suggestions, namely:

- a. It is recommended that the Ministry of Transportation and the Ministry of Maritime Affairs and Fisheries conduct a more adaptive regulatory review, involving small vessel owners in the consultation process to ensure that the regulations made are in accordance with their conditions and capabilities. In addition, there is a need to improve licensing and certification procedures to reduce administrative burdens.
- b. It is recommended that Vessel Owners and Fishermen actively participate in training and certification programs offered, and take advantage of financing and subsidy schemes provided by the government. Active participation in the regulatory revision process is also important to ensure that their voices and needs are taken into account.
- c. It is recommended that the Regional Government provide financing and subsidy programs specifically designed for local needs in Batam and Tanjung Pinang. In addition, the regional government must play an active role in implementing and supervising training programs and ensuring that regulations applied at the local level are in accordance with local conditions.

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