

# HARBORMASTER'S SUPERVISION OF SHIPPING SAFETY AND SECURITY AT MUARO PADANG PORT

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**Abstract:** *Safety and security in shipping is the responsibility of the Government. The government in this case appoints an official who has the authority to conduct surveillance of the ship's inspection, the official is the harbormaster. The enactment of Law No. 17 of 2008 concerning Shipping, the passenger ship is prohibited from carrying Fuel Oil, this is done so as not to endanger passengers on board. However, there are still many passenger ships carrying Fuel Oil, so it needs to be reviewed about harbormaster's authority against such violations. The formulation of the problems in this study is: 1.How the implementation of harbormaster authority in conducting surveillance of the safety and security of shipping. 2.Prevention of what Harbormaster does against violations that may endanger the safety and security of the cruise. This study uses empirical juridical approach methods. The data collected in the form of primary data obtained from related parties in the Supervision conducted by Harbormaster Pelabuhan Muaro Padang, as well as secondary data obtained from primary, secondary and tertiary legal materials. The results of this study obtained that Harbormaster has great authority in the port, whatever happens at the port becomes his responsibility. This relates to surveillance relating to cargo ships and passenger ships. For special vessels transporting dangerous goods and on dangerous goods must be marked certain according to dangerous goods". Then "one of the dangerous items that cannot be combined with the passenger's cruise is a flammable or flammable liquid which is Fuel Oil" However what happens in the field is found that when the passenger is at once carrying Fuel Oil and there is no action from Harbormaster. Furthermore, Harbormaster's efforts to avoid violations are to sanction the form of: 1.Warning in writing given to the captain of the ship. 2.Administrative fines. 3.Freezing of permissions or freezing of certificates. 4. And the last attempt is the revocation of the license.*

**Key Words:** Authority, Harbormaster, Port.

## 1. INTRODUCTION:

Indonesia is the largest island nation in the world. there are 17,504 islands belonging to the sovereign territory of the Unitary State of the Republic of Indonesia. According to the Deputy of Maritime Sovereignty, of which 16,056 islands have been standardized at the United Nations as of July 2017.[1] Indonesia as a country of the Islander Is juridically stipulated in Article 25A of the 1945 Constitution. Sea transportation is one of the very important means to support all activities in the island nation. One of the means of transportation is ships, ships are water vehicles of a certain shape and type, which are driven by wind power, mechanical power, other energy, towed or delayed, including dynamic support vehicles, vehicles under the surface of the water, as well as floating equipment or floating buildings that do not move around.[2]

The role of sea transportation is a very beneficial part of the economy of a country and nation, therefore it is necessary to support shipping traffic activities. A much needed facility is an adequate port as the anchoring center of sea transportation. With the many islands in the Country of Indonesia, causing each Regency and Province must have its own port, this is of course to facilitate the activities of freight and services transportation contained in the waters of Indonesia, one of the areas that have several ports is in the province of West Sumatra precisely in the city of Padang.

Padang city has several ports, one of which is muara padang port. Muara Padang Port has a high frequency of ship visits. Muaro padang port serves as a gateway between islands mainly to or from mentawai kepulaun regency, Sikai island and surrounding areas. The high activity caused the supervisory tasks carried out by the KeHarbormasteran also increased, with many of these tasks causing many things to be missed so often there is a mistake in carrying out the task and authority.

Safety and security in the Cruise is a shared responsibility. to support the task, the Government in this case the Ministry of Transportation appoints officials who are given the task as an extension of the Ministry of Transportation in the area, the official is called Harbormaster. In Article 1 paragraph (5) and (6) of Government Regulation No. 51 of

2002 concerning Shipping, explains the Government appoints officials who have the highest authority to carry out and supervise ship inspections against the fulfillment of the provisions of such legislation to ensure the safety and security of the cruise and the official is Harbormaster.

At the port of Muara Padang there are many violations related to the transportation of Fuel Oil that is still united with the transport of passenger ships are not even given a warning of danger as stipulated in Article 46 and Article 44 of Law No. 17 of 2008 concerning Shipping, which states that "in dangerous goods must be given a certain mark according to the dangerous goods transported and should not be united with the passenger ship".

Harbormaster's duties and authorities in Ministerial Regulation No. 36 of 2012 concerning the Organization and Work Procedure of Harbormaster's Office and Port Authority is to inspect and supervise ships in an effort to minimize the number of shipwrecks that occur and to create and enforce discipline in shipping in accordance with the Law that has governed and become the basis or basis in shipping in Indonesia. As a technical implementation unit of the Sea Transportation sub-sector, Harbormaster Office serves the technical functions of sea freight traffic and port divided into 3 (three) main tasks and functions, namely traffic and sea transportation section, section supporting sea transportation and loading and unloading labor and supervision section of Muara Padang port facilities and services.[3]

## **2. CONCEPTUAL FRAMEWORK:**

### **a. Authority**

Authority is the so called formal power, the power derived from legislative power (given by law) or from administrative executive power. Authority that usually consists of several authorities is the power of a certain group of people or power over a field of government.[4]

### **b. Harbormaster**

Harbormaster's Office and Port Authority is a technical implementation unit within the Ministry of Sea Transportation that is under and responsible to the Directorate General of Sea Transportation and led by a Harbormaster.

### **c. Port**

According to Article 1 paragraph (16) of Law No. 17 of 2008 concerning Shipping, the Port is "a place consisting of land and/or waters with certain boundaries as a place of government activities and business activities used as a place where ships lean, board and unload goods, in the form of terminals and docking vessels equipped with security and security facilities and port support and as a place of intra-transfer and inter-mode of transportation".

## **3. THEORITICAL FRAMEWORK:**

### **• Theory of Supervision**

The Theory of Supervision is attached to the activities of observing, assessing observations, directing work, authority handed over by superiors to subordinates so that they can be sanctioned against subordinates structurally, which is carried out continuously and continuously.[5] Supervision ensures that all activities carried out in accordance with what has been planned. The word "surveillance" comes from the word "watch out", meaning among others "guard".

### **• Theory of Authority**

The term authority theory comes from the English translation authority of theory, the Dutch term *theorie van het gezag*, while in German, *theorie der autoritat*.[6] The elements that are incorporated in the theory of authority, include, (The existence of power, the existence of government organs, are government tools that have the task to run the wheels of government; and, the nature of the legal relationship, is a relationship that causes legal consequences. The result of the law is the emergence of rights and obligations.

## **4. LITERATURE REVIEW:**

According to Ministerial Regulation No. 36 of 2012 concerning The Organization and Work Procedure of Harbormaster's Office and Port Authority, Harbormaster's Office and Port Authority is a technical implementation unit in the environment of the Ministry of Sea Transportation. Harbormaster is a government official who is authorized to supervise the fulfillment of regulations to maintain the safety, security of shipping, and ship traffic at the port.

George R. Terry's defining term of supervision is to determine what has been achieved, evaluate and implement corrective action, if necessary, ensure the results are as planned.[7] In other words, surveillance can be interpreted as more or less "able to know carefully and carefully", as the form of verbs.[8] Supervision in state administrative law is very closely related to the role of government apparatus and development, so that planning and development programs in the region can run in accordance with what is expected, more effective supervision is required in addition to controlling existing development projects in the region.

According to Prayudi, in achieving the implementation of supervision are required several principles, among others:[9] (Principles of Achieving Goals, Principles of Efficiency, Principles of Responsibility, Principles of Supervision of the Future, Principles of Direct, Principles of Reflection of Planning, Principles of Adjustment with Organization, Principles of Individuals, Principles of Standards, Principles of Supervision on Strategic, Principles of Exception, Principles of Flexible Control).

## **5. METHOD:**

The method used in this study is empirical juridical approach, namely legal research on the application or implementation of normative legal provisions in action on every particular legal event that occurs in society.[10] In this case the approach is used to analyze qualitatively and quantitatively the problems in Muara Padang Port as well as in the Harbormaster Office of Padang city.

## **6. DISCUSSION:**

Padang city has several ports, including teluk bayur port, Bungus port and Muara Padang port. One of the ports that has a high frequency of ship visits is muara padang port, where at this port not only the frequency of ship visits is high but there are also trade transactions and become one of the economic support of the local community. the function of the ship as a mode of transportation both goods and passengers, the condition of the ship in serving the sea transportation services must prioritize the elements of safety and security of the cruise, in order to minimize the danger of accidents at sea that have an impact on the loss of human life, property and against environmental pollution of the sea.

As at the port of Muara Padang, the safety and security of the cruise takes precedence, before the ship sails the officer responsible for carrying out inspection and checking of the ship in advance ensures all aspects of passenger safety and security such as ensuring the absence of Fuel Oil incorporated with the passenger's voyage.

Harbormaster has a common duty to supervise the safety and security of freighters and passengers, but there are still many external factors that hinder the performance of the KeHarbormasteran. The obstacles that occur in the voyage not only come from natural circumstances or weather but can also come from passengers, ships or even related apparatuses that are less careful in conducting surveillance, where harbormaster who has absolute authority to conduct surveillance.

At the port of Muara Padang there are many problems in the cruise, one of which is related to the transportation of Fuel Oil that is still stacked and united with passenger ship transportation is not even given a danger sign in accordance with article 46 of Law No. 17 of 2008 concerning Shipping, which states that "In the transport of dangerous goods must meet the requirements that is safety in accordance with regulations and standards , both nationally and internationally for special vessels transporting dangerous goods and on dangerous goods must be marked certainly according to the dangerous goods transported and should not be united with passenger ships".

Article 44 of Law No. 17 of 2008 concerning Shipping, also states that "One of the dangerous goods that cannot be combined with a passenger's voyage is a flammable or flammable liquid in which Fuel Oil belongs to a hazardous material". While the area of the ship is a smoke-free area and this can certainly trigger the onset of fire and even fire. not only the transport of Fuel Oil that is still united in human shipping. another common problem is that safety standards are insufficient for all passengers.

Harbormaster as the official who has the highest authority is certainly the one who must be responsible for the findings, because all the authority that has been given to him so that such a problem is not found. in accordance with the duties and authorities of Harbormaster in Article 209 of Law No. 17 of 2008 concerning Shipping with negligence of Harbormaster and violations committed by ship transportation is certainly very dangerous because it can cause accidents that can endanger passengers transporting ships.

## **7. ANALYSIS:**

### **A. Harbormaster's Authority in Supervising The Safety and Security of Shipping at Muara Padang Port**

#### **1. Port Control Mechanism**

Port supervision is something very important to do because the Port becomes the entrance of shipping activities using the mode of transportation of passenger ships and goods, therefore the Government appoints one authorized official to do so, namely Harbormaster. Based on article 207 paragraph (1) of Law No. 17 of 2008 concerning Shipping, the Harbormaster has the following duties:[11]

- a. Supervise ship's portmanship, safety, security, and order.
- b. Supervise orderly ship traffic in port waters and shipping lanes.
- c. Supervise loading and unloading activities in port waters.
- d. Supervise the guidance of supervising ship delay activities.
- e. Supervise underwater and salvage work activities.

- f. Supervise the loading and unloading of hazardous goods as well as waste of hazardous and toxic materials.
- g. Keep an eye on refueling.
- h. Supervise ship delay activities.
- i. Supervise the order of embarkation and debarkation of passengers.
- j. Supervise dredging and reclamation.
- k. Supervise the construction of port facilities.
- l. Carry out search and rescue assistance.
- m. Leading pollution management and firefighting in ports, and
- n. Supervise the implementation of maritime environmental protection.

Seeing the importance of harbormaster's duty in a port to support the orderly administration of shipping and shipping safety, the task must be supported by human resources who have discipline and proficiency in the field of the sea. Similarly, for the environment of Muaro Padang Port, which is an area with a heterogeneous population, both religion, ethnicity and livelihood. With these complex circumstances, Harbormaster officers must be able to resolve the issue.

## 2. Duties and Activities of Harbormaster Instrument Supervision

In supervising Harbormaster's Office and Port Authority Muara Padang has an organ susunan to perform its functions refers to Ministerial Regulation No. 36 of 2012 concerning The Organization and Work Procedure of Harbormaster's Office and Port Authority. In performing its functions in accordance with the Organization and Work Procedure Harbormaster's Office and Port Authority has an arrangement of organs or actors supervision. In conducting surveillance of passenger ships that will sail in the port of Muara Padang there are several forms of supervision that must be done Harbormaster on ships, passengers and goods registered as participants in the cruise in order to create a safe voyage, namely Supervision of ships.

There are also forms of surveillance activities carried out including: ship materials, ship construction, ship building, ship machinery and pelistrikan, ship stability, arrangement and equipment including auxiliary equipment and radio, ship electronics. On the ship's supervision a Harbormaster must be careful in conducting surveillance because inside the ship that will sail it carries many lives. The ship is not allowed to carry more than its maximum load. However, the Law has governed very well where in certain circumstances or the sailing season such as the holiday season or religious holidays, the ship is allowed to carry an overload of 5% of the maximum load of the ship, it is stipulated in Ministerial Regulation No. 51 on Shipping that each ship is allowed to transport or carry an overload of 5% of the maximum number of ships and this is under the supervision and permission of a Harbormaster.

Surveillance according to Mockler is a systematic effort to set implementation standards with planning objectives, design feedback information systems, compare real activities with predetermined standards, determine and measure deviations, and take the necessary corrective actions to ensure that all company resources are used in the most effective and efficient way in organizational objectives.

Supervision ensures that all activities carried out in accordance with what has been planned. The word "surveillance" comes from the word "watch out", meaning among others "guard". The term supervision is known in management science and administrative sciences, namely as one of the elements in management activities. George R. Terry defined the term surveillance as "Control is to determine what is accomplished, evaluate it, and apply corrective measure, if needed to ensure results in keeping with the plan". (supervision is determining what has been achieved).

### • Harbormaster's Authority on Shipping Safety and Security at Muara Padang Port

A Harbormaster not only has the authority to supervise ships, passengers or goods but Harbormaster also has the authority to issue a Sailing Approval Letter. Each ship that will sail must have a Sailing Approval Letter and the shipowner or operator must take care of and submit the Sailing Approval Letter in advance to Harbormaster's Office and Port Authority. In the Regulation of the Minister of Transportation No. 82 concerning the procedure of issuing a letter of approval for sailing Article 5 mentions the issuance of a ship's Sailing Approval Letter must meet the requirements of the ship's claim and other obligations. The Sailing Approval Letter can only be valid 24 hours from the time of release by Harbormaster and can only be valid for one cruise in accordance with the article.

To obtain a Sailing Approval Letter, the ship owner or ship operator must meet the existing requirements, namely:

- a. The ship's readiness statement departed from the skipper and was made in the name of the skipper himself. Also included are loaded crew members
- b. Cargo documents and other proofs of fulfillment of ship obligations, namely: proof of payment of port services, proof of payment of navigation services, proof of payment of receipt of shipping money, customs and excise approval, immigration approval, health quarantine approval, animal and plant health quarantine approval.

According to Ridwan HR, every state and government must have legitimacy, namely the authority granted by

the Law. Regarding authority, H.D. Stout said that, authority is a sense derived from the law of government organizations, which can be explained as the whole rules relating to the acquisition and use of government authority by public legal subjects in public legal relations.

From the theory of authority above, it should have been given the widest door for Harbormaster to perform the task with full authority owned. The legitimacy given by the Government through the Transportation Office to Harbormaster should be the capital for supervision so that the implementation of the task does not cause problems such as those in Muaro Padang Port.

## **B. Prevention by Harbormaster Against Violations That May Endanger The Safety and Security of The Cruise**

Violation prevention efforts by Harbormaster Muaro Padang in tackling the Supervision of Ships and Passengers in the Port. To realize the authority of Harbormaster, there needs to be decisive action that must be taken by Harbormaster. In the definition of authority in Article 1 number 5 of Law No. 30 of 2014 concerning Government Administration, that Authority is the right owned by government agencies and/or officials or other state operators to take decisions and/or actions in the administration of government. Furthermore Article 1 paragraph 6 is explained that "The government hereinafter referred to as authority is the power of government agencies and/or officials or other state officials to act in the realm of public law. Authority is defined as the right owned by government agencies and/or officials or other state organizers to make decisions and/or actions in the administration.

Government authority can arise through several sources of authority, either granted by the Law or from the decision of the Regional Head that results in legal consequences. In Article 11 of Law No. 30 of 2014 on Government Administration, it is explained that "Authority is obtained through Attribution, Delegation, and/or Mandate". Such authority is obtained or granted under the laws governing it. Philipus M. Hadjon divided the ways of obtaining authority in two ways, namely:[12]

- a. Attribution; and
- b. Delegation and sometimes Mandates

Theoretically derived from legislation obtained through 3 (three) ways, namely, attribution, delegation and mandate, this is also in accordance with the opinion of H.D Van Wijk/willem konijnenbelt. According to H.D Van Wijk/willem konijnenbelt defines as follows:[15]

- a. Attribution is the granting of government authority by lawmakers to government organs.
- b. Delegation is the delegation of government authority from one organ of government to another.
- c. Mandate occurs when a government organ allows its authority to be exercised by another organ in its name.

Authority as stated by Indroharto is authority in the juridical sense is an ability given by the prevailing laws and regulations to cause legal consequences. Authority obtained by attribution, namely the granting of new government authority by a provision in the legislation. In the delegation there is the delegation of an existing authority by a state administrative body or office that has obtained an authority attributely to another state administrative body or position. So a delegation is preceded by an attribution of authority. In the mandate there is no granting of new authority or delegation of authority from one state administrative body or position to another. Harbormaster obtains authority through attribution under the Cruise Act.

If any ship still does not comply with the established regulations and may endanger the safety and security of the cruise, then Harbormaster must take action and impose strict sanctions for the creation of a safe voyage. The sanctions imposed by Harbormaster's Office and Port Authority Muara Padang refer to and are based on Article 225 of The Shipping Law No. 17 of 2008. then ships that commit violations will be subject to Administrative sanctions, as for the form of sanctions.

From this we can see Harbormaster as a government-appointed official who has the highest authority to supervise the fulfillment and ensure the safety and security of the cruise has not been maximized and effective in carrying out its authority. Should if there is a ship that commits fraud or the ship does not comply with the rules set by the Law that can fish and cause shipwrecks then Harbormaster has the right and obligation to act decisively not only given verbal warning, this of course harms the owner of the ship and harms the people who sail at that time threatened his life and safety.

## **8. CONCLUSION:**

Based on the results of the discussion on "Harbormaster Authority in Conducting Surveillance on The Safety and Security of Shipping Case Study Muara Padang Port" can be concluded as:

1. Harbormaster supervises passengers of cruise participants, Harbormaster conducts inspections of ships and ensures that in passenger ships there is no Fuel Oil, Goods on the cruise do not escape scrutiny. In Articles 46 and 44 of Law No. 17 of 2008 concerning Shipping, it is stated that "special vessels transporting dangerous goods and on dangerous goods must be marked certain according to dangerous goods and must not unite Fuel Oil with Passenger ships". But what happened in the field was found that the passenger ship at the same time carrying fuel which of course this could endanger the ship as well as its passengers.

2. Harbormaster take action and give strict sanctions for the creation of a safe voyage, as for the form of sanctions, namely: Warning in writing is given to ship captains who do not comply with the rules in order to comply with all rules and regulations that have been made and the creation of a safe, comfortable and orderly sea traffic order, administrative fines are carried out if the ship owner does not also listen to the warnings that have been given by Harbormaster's Office and Port Authority and Harbormaster as the highest power holders in the Port is entitled to give administrative fines to ships that violate the rules, but so far in the port of Muara Padang sanctions given new until the warning, license freeze or certificate freezing is granted if the owner does not also ignore the warnings and administrative fines that have been given then Harbormaster reserves the right to freeze the permit or freezing of the ship's certificate, and the last effort to be made by Harbormaster's Office and Port Authority Muara Padang for ships that do not comply with the regulations is revocation of the license.

## 9. SUGGESTIONS:

From the results of the research and discussion as described in the preceding chapters, it can be suggested as follows:

1. Harbormaster can conduct socialization and counseling about the meaning of safety in shipping to ship owners or users of sea transportation services, Harbormaster as the leader of Harbormaster's Office and Port Authority must move its organs in the field of administrative subsections to perform its functions. Surveillance by Harbormaster should not only be done manifestly or examination through documents but directly look at the physicality of the ship in order to get maximum results. Harbormaster's actions should aim to improve the safety and security of shipping-related matters. In order for Harbormaster to remain dedicated to its duties and responsibilities, performance evaluations should be conducted for each Harbormaster conducted every certain period of time.
2. The application of harbormaster sanctions Muara Padang Port must be more assertive in carrying out and sanctioning ships that commit fraud and do not stop only until the warning so that the ship owner or ship captain no longer violates the rules other than negligence. Harbormaster officers should also be sanctioned in the form of Administrative sanctions to make Harbormaster officers more thorough and serious in carrying out their work in supervising passenger ships and freighters. In carrying out the duties of a Harbormaster, it takes a professional attitude in order for supervision to be more intensive in order to maintain safety and security in the cruise so as not to harm the users of sea transportation services.

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