

JURIDICAL ANALYSIS OF LAW ENFORCEMENT OF THE CRIME OF SHIPPING REVIEWED FROM LAW NO 17 OF 2008 CONCERNING SHIPPING FROM A SUPPORTING PERSPECTIVE MARITIME AXIS

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Abstract

In implementing law enforcement at sea, law enforcement activities and maritime security operations are carried out by several institutions including the Water Police, Indonesian Navy (TNI AL), Sea and Coast Guard, Harbor Master, Customs, Immigration. As stated in Law No. 17 of 2008 concerning shipping, which created sea and coast guards, the purpose of which was to enforce regulations in the field of shipping safety and security, and a coordination function in the field of law enforcement outside of shipping safety. The results of the research found that law enforcement in Indonesian maritime areas uses territorial-based jurisprudence. Territorial jurisdiction is also defined as geographical state power which describes the surface of the earth and the space above it as well as the land below which constitutes sovereignty over its territory, including both people and objects within it, for this reason, it is hoped that there will be a need for a regulation/law which comprehensively regulates the integration of various sectoral interests in the sea area so that the obstacles that have occurred so far can be found, both in the scope of planning, utilization, as well as supervision and control for law enforcement at sea. And strengthening enforcement of regulations in the field of shipping crimes cannot yet be implemented in an integrated and well-coordinated manner so that there is no overlapping of law enforcement authority at sea which could reduce Indonesia's image in international relations.

Keywords: *Law Enforcement, Territory, State Sovereignty*

1. INTRODUCTION

Threats to Indonesia's maritime territories can be classified into four forms of threats, namely first, threats of violence (violence threats), namely threats using organized armed force, such as piracy, robbery and acts of terror; second, threats to marine resources (natural resources tribulation), namely threats in the form of pollution and destruction of marine ecosystems and conflicts over the management of marine resources which are politicized and followed by the deployment of military force; Third, the threat of law violation (law transgression threat), namely non-compliance with national and international laws that apply in waters, such as illegal fishing, illegal logging and smuggling; and Fourth, navigational hazards, namely threats arising from maritime geographic and hydrographic conditions due to inadequate navigation aids which can endanger shipping safety. The total national jurisdiction of Indonesia is estimated to be almost 7.8 million km² consisting of 1.9 million km² of land area, 2.8 million km² of archipelagic waters, 0.3 million km² of territorial sea and 2.7 million km² of land area. million km² area of the Exclusive Economic Zone (EEZ). Law Number 17 of 2008 concerning Shipping which contains acts that are subject to criminal sanctions are acts that violate provisions that cannot be sufficiently regulated simply by using administrative sanctions or civil sanctions. Administrative sanctions or civil sanctions are not effective enough to have an effect and prevent other people from committing the same act.

As a member country of the IMO (International Maritime Organization), a world organization that deals with shipping issues, Indonesia is obliged to implement all the rules

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contained in the convention. For the record, Indonesia has ratified at least 15 IMO (International Maritime Organization) conventions. There are 3 main pillars of the IMO (International Maritime Organization) convention which play a very important role in maritime aspects, namely SOLAS (Safety of life at Sea), regulating ship safety aspects, MARPOL (Marine Pollution) regulating environmental pollution problems from ships, and STCW (Standard Training Certification for Watch Keeping) regulates the competency and minimum requirements for manning ships in Indonesia.

The location of Indonesian waters with its strategic position means that if instability occurs in an area due to the emergence of serious threats, it can certainly have a significant impact on one of the areas. As one example, 15.2 million barrels of oil per day, the second largest amount in the world, after the Strait of Hormuz, passes through the Strait of Malacca. The position of the Malacca Strait is close to, and requires transportation via ALKI I, which plays a very important role in ensuring the smooth supply of fuel logistics to various countries. Of the three existing Indonesian Archipelagic Sea Lanes (I, II, and III), ALKI III is considered an area that requires special attention, because it is located far from the center of gravity and central control (Jakarta). The waters of ALKI III are very long and winding, passing through large and small clusters, with various problems and potential threats. In an effort to resolve maritime defense and security problems, there are several obstacles currently faced by Indonesian defense. Based on a statement from the Maritime Security Coordinating Agency (Bakorkamla), each ALKI has various potential threats.

These threats are: a) South China Sea dispute; b) Threat of Conflict in the Ambalat Block; c) Threat of Timor Leste Border Conflict. Among ALKI I, II, and III, ALKI II is the fastest and safest sea lane for shipping. Because ALKI II crosses the sides of West Indonesia and East Indonesia. This happens because of shallowing in the Malacca Strait which makes world shipping vessels prefer the ALKI II route. The importance of ALKI II providing positive value for Indonesian maritime affairs. ALKI II, which includes the Lombok Strait, Makassar Strait and Sulawesi Sea, is a shipping route that plays many roles because as a support for the Malacca Strait which is starting to become shallow and congested in Indonesia, it has a strategic location located between the intersection of two oceans and two continents, making it a very important sea area for Indonesia. important for national and international shipping traffic lanes. This means that several international trade areas such as the Malacca Strait, the South China Sea, and the three sea lanes of the Indonesian archipelago require tighter guarding from threats from irresponsible parties. The national maritime security problems that are currently developing are of various types, ranging from cases of ship piracy, terrorism, illegal fishing, illegal logging, ill-cited people trafficking, illicit drug trafficking, to subversive crimes that can disrupt national security. Factors that can cause these criminal acts to occur are due to the low quality of human resources in carrying out defense against maritime crimes. Apart from that, the limited capabilities of defense equipment means that the soldiers tasked with maintaining Indonesian maritime security are not optimal. Apart from that, there is no evaluation of defense diplomacy policies, which means that maritime criminals can easily carry out their activities in the Indonesian area. Finally, regarding the threat of the Timor Leste border conflict, which is a conflict that occurs in neighboring countries, namely in the north (Philippines) and the south (Timor Leste), which makes the ALKI IIIA area an escape route or other activities that could endanger maritime security.

The safety of shipping at sea concerns various public interests, where the safety of passengers and all their property must be accounted for, so supervision and guidance for this purpose is required which is carried out by a government institution called the harbormaster, led by a harbormaster. As stated in Law number 17 of 2008 concerning Shipping, Ship Seaworthiness is the condition of a ship that meets ship safety requirements, prevention of water pollution from ships, manning, loading lines, loading, welfare of the crew and health of passengers, legal status of the ship, safety management and prevention of pollution from ships, and safety management of

ships sailing in certain waters. In accordance with *ius constitutum*, namely the law that currently applies to a particular community in a particular region or country (positive law). At this time, in the city of Batam itself there are law enforcement agencies at sea with each law serving as its legal umbrella, such as the Indonesian National Navy (TNI AL) covering Batam IV Main Naval Base (Lantamal), the Republic of Indonesia Police including the Maritime Police and Air (Polairud), Port Area Police, High Prosecutor's Office/Batam District Prosecutor's Office; DG. Sea Transportation - The Ministry of Transportation includes the Directorate of the Sea and Coast Guard Unit (KPLP) / Sea and Coast Guard; Batam Harbormaster's Office and Special Port Authority and Tanjung Uban Sea and Beach Guard Base; Directorate General of Immigration, Directorate General of Customs and Excise, Prosecutor's Office including the Batam Type B Customs and Excise Main Service Office; DG. Law Enforcement - Ministry of Environment and Forestry; Ministry of Maritime Affairs and Fisheries Directorate General. Marine and Fisheries Resources Supervisor; task force 115 Coordination related to Illegal Fishing, West Maritime Maritime Security Agency (Bakamla).

Then, in addition, the formation of the Maritime Security Agency (BAKAMLA) as a mandate from the Maritime Law which was legalized by the government through Presidential Regulation Number 178 of 2014 concerning the Maritime Security Agency (BAKAMLA), will result in a large waste of the State budget in terms of ship purchase costs. -New patrol ships and the State will also be burdened with budgets for recruiting personnel and other facilities and infrastructure. Then, with the promulgation of Law Number 32 of 2014 concerning Maritime Affairs, the number of law enforcement agencies increased by one more. The Law on Maritime Affairs mandates the immediate formation of BAKAMLA (Marine Security Agency) which has almost the same main duties and functions as the existing agencies, of course this is very disturbing for shipping entrepreneurs who operate their ships at sea. There will be more and more agencies carrying out inspections of ships sailing in the middle of the sea.

This situation can give rise to differences in perceptions of authority which tend to lead to institutional ego. These differences really allow for miscoordination which ultimately results in inefficient and effective resolution of law enforcement and security problems at sea. Therefore, to guarantee legal certainty, specific law enforcement methods are needed with a clear division of authority so that each agency can exercise its authority without giving rise to sectoral egotism. The most important aspects of society depend to a large extent on the proper functioning of the professions.

Based on this background of thought, the problem can be formulated as follows:

1. How is law enforcement against shipping crimes viewed from Law No. 17 of 2008 concerning Shipping from the perspective of supporting the maritime axis?
2. What is the form of coordination between institutions in carrying out law enforcement against shipping crimes in view of Law No. 17 of 2008 concerning Shipping from the perspective of supporting the maritime axis?
3. What factors are the obstacles/obstacles and solutions to law enforcement against shipping crimes in terms of Law No. 17 of 2008 concerning Shipping from the perspective of supporting the maritime axis?

2. IMPLEMENTATION METHOD

The research method explains the entire series of activities that will be carried out in order to answer the main problem to prove the assumptions put forward. The research method used in this research is combined normative and empirical research with a juridical approach.

3. RESULTS AND DISCUSSION

Law enforcement against shipping crimes is reviewed from Law No. 17 of 2008 concerning Shipping from the perspective of supporting the maritime axis

1. Ordinance (Law) TZMKO (Territoriale Zee En Maritime Kringen Ordonantie) Staatsblad 1939 No 442

The maritime law from the era of the Dutch East Indies government is still in effect, although several of its articles have been revoked and declared invalid. Important provisions regarding procedures for implementing law enforcement at sea according to this ordinance include Article 13, Article 14 and Article 15.

Article 13:

- a. Enforcement and supervision or compliance with the rules of this ordinance are borne by the Commander of the Navy in Surabaya, the commanders of warships of the Republic of Indonesia and Navy air bases, the captains of ships of the Directorate General of Sea Transportation, other people present under the orders of these commanders, commanders, captains, for which they have been given orders, officers of the Directorate General of Sea Transportation who are entrusted with leadership over regional ships, harbor masters and officials on duty as such, scouts, as well as regional ship captains and subsequently people appointed by the Chief of Naval Staff.
- b. To the extent that this is necessary to ensure the entry of state duties, customs officials are also entrusted with the duties of enforcement and supervision as intended in article one.

Article 14:

Apart from the people who are generally tasked with investigating criminal acts, the people mentioned in the previous article are authorized to investigate criminal acts determined by or based on this ordinance, as well as violations of Prohibitive provisions regarding entry, exit and transportation by sea, and criminal acts described in articles 167 and 168, insofar as these articles relate to unlawful entry of pilot station ships, light ships and lighthouses. beach beacons, articles 196 to 199, 324 to 326, 438 to 443, 447 to 451, 473 and 564 to 566 of the Criminal Code.

Article 15: Persons assigned to investigate criminal acts referred to in the previous article, taking into account what is stipulated in article 17, are authorized to detain and inspect ships and crossing vessels whose sailors are suspected of committing or preparing contrary acts. with the rules established by or based on this ordinance, or the violations and crimes referred to in the previous article. As far as ship masters are concerned, this area of authority is limited to fishing vessels and crossing equipment measuring less than 100 cubic meters of gross content. They demanded that they pay attention to the ship's documents to ensure themselves regarding the ship's nationality, the ship's owner, the place where the ship was registered and other information that could be useful for the inspection. They have the authority to confiscate objects – including ships or crossing equipment – with which or with the assistance of which a criminal act is alleged to have been committed, as well as objects which are alleged to have been obtained by means of a criminal act.

2. Law of the Republic of Indonesia Number 5 of 1983 concerning the Indonesian Exclusive Economic Zone

Article 14 paragraph (1) Law No. 5 of 1983: Law enforcement officers in the field of investigations in the Indonesian Exclusive Economic Zone are Indonesian National Army Navy officers appointed by the commander of the Armed Forces of the Republic of Indonesia.

3. UNCLOS (United Nations Convention On The Law Of The Sea) 1982

The Indonesian government has ratified UNCLOS (United Nations Convention On The Law Of The Sea) 1982 through Law of the Republic of Indonesia No.17 of 1985. The following are the provisions in UNCLOS (United Nations Convention On The Law Of The Sea) 1982 which can be used as a legal basis for investigative actions carried out by the Indonesian Navy (in this case the

Republic of Indonesia Ships) as implementing the task of upholding sovereignty and law at sea. Article 29 of UNCLOS (United Nations Convention On The Law Of The Sea) provides limitations on the definition of a warship, namely a ship whose crew acts as an apparatus for enforcing sovereignty and law at sea, these limitations are as follows: For the purposes of this Convention "Warship" means a ship owned by the armed forces of a country bearing external markings indicating the special nationality of the ship, under the command of an officer appointed to it by the government of that country and whose name appears on the appropriate military service list or similar list, and which is manned by crew members subject to regular armed forces. Based on the provisions of this article, UNCLOS (United Nations Convention On The Law Of The Sea) 1982 through national legislation formally provides law enforcement authority for warships against every form of crime, in this case criminal acts at sea. Regarding the results of investigations into criminal acts at sea, TNI AL officers immediately hand them over to the public prosecutor, there is no need to go through Police investigators like Civil Servant Investigators.

4. According to Law Number 17 of 2008 concerning Shipping

In Law Number 17 of 2008, especially Chapter Because it only mentions "Indonesian State Police Investigator Officials", "other investigators", and "certain civil servant officials". Article 282 paragraph (1) of Law Number 17 of 2008 concerning Shipping, states that "apart from investigators from the Republic of Indonesia State Police and other investigators, certain civil servant officials within the agency whose scope of duties and responsibilities are in the shipping sector are given special authority as an investigator as intended in this law." The provisions of Article 282 paragraph (1) state that there are 3 (three) investigating officers. Firstly, investigators from the Indonesian National Police (Polri), secondly, Civil Servant Investigators (PPNS), and thirdly, "other investigators" as defined in the Explanation to Article 282 paragraph (1), that what is meant by "other investigators" are investigators in accordance with the provisions of laws and regulations, including Indonesian National Army Navy Officers"

Another problem is that with the enactment of Law Number 32 of 2014 concerning Maritime Affairs, the existence of the Maritime Security Agency (Bakamla) is also determined, which in Article 63 paragraph (1), states that "In carrying out the duties and functions as intended in Article 61 and Article 62 , the Maritime Security Agency has the authority to:

- a. Perform instant pursuit;
- b. Stop, inspect, arrest, transport and hand over the ship to the relevant authorized agency for further legal proceedings; And
- c. Integrating security and safety information systems in Indonesian territorial waters and Indonesian jurisdictional areas

Bakamla's authority in Article 63 paragraph (1), especially the authority to stop, inspect, arrest, take and hand over ships to the relevant agencies with authority to carry out legal processes, is a series of judicial processes as determined and referred to in the Criminal Procedure Code. According to the author, although it is not clearly determined whether investigations of shipping crimes use the KUHAP, it can be proven that it is true that investigations of shipping crimes use provisions in the KUHAP because they state "Police Investigators" and "Civil Servant Investigators". The proof and justification is the provisions of Article 1 paragraph (1) of the Criminal Procedure Code, which states that "Investigators are: "a. Police officials of the Republic of Indonesia; b. Certain civil servant officials who are given special authority by law."

The provisions and authority of these investigations have resulted in criminal acts occurring, such as collisions of ships which have caused accidents, both to the ships themselves and to the cargo, crew and passengers, indicating that there are problems in the investigation process with the existence of the Shipping Court, according to Article 252 of Law Number 17 of 2008 concerning Shipping, it is stated that "The Shipping Court has the authority to examine collisions that occur between commercial ships and commercial ships, commercial ships and state ships, and commercial ships and warships.

Article 27 paragraph 1 of UNCLOS 1982 states that the criminal or criminal jurisdiction of coastal states cannot be exercised over foreign ships that are passing through the territorial sea to arrest anyone or to conduct investigations relating to crimes that impact the coastal state. Furthermore, article 28 of UNCLOS 1982 states that civil jurisdiction cannot be exercised over foreign ships or persons charged with the ship and also to carry out executions or arrests in accordance with applicable law. Apart from criminal and civil jurisdiction, there are also other jurisdictions such as administrative jurisdiction. There are at least 8 (eight) government institutions that are given authority in maritime areas by each law, namely the Indonesian National Army Navy (TNI AL), the Indonesian Police (Polri), Civil Servant Investigators of the Ministry of Maritime Affairs and Fisheries (PPNS KKP), Investigators Ministry of Transportation Civil Servants (PPNS Kemenhub), Customs and Excise Civil Servant Investigators (PPNS Customs), Immigration Civil Servant Investigators (PPNS Immigration), Ministry of the Environment Civil Servant Investigators (PPNS LH), and Ministry of Civil Servant Investigators Forestry (PPNS Ministry of Forestry). Even if we refer to Law Number 6 of 1996 concerning Indonesian Waters, these eight institutions have the authority to enforce law at sea. Of these eight institutions, there are 3 dominant agencies, each of which has authority and is supported by its own laws, these three agencies are:

- a. The National Police of the Republic of Indonesia, which is based on articles 13 and 14 letter g of Law no. 2 of 2002 concerning the National Police of the Republic of Indonesia, that the police have the authority to carry out investigations into all criminal acts in accordance with the criminal procedural law and other statutory regulations;
- b. TNI Navy, which based on article 9 of Law no. 34 of 2004 concerning the TNI, states that apart from carrying out duties in the defense sector, the TNI Navy is also tasked with enforcing the law and maintaining security in maritime areas of national jurisdiction. Besides that, in article 17 of Government Regulation no. 27 of 1983 concerning the Implementation of the Criminal Procedure Code and its explanation, it is emphasized that investigations in Indonesian waters, additional zones, the continental shelf and the exclusive economic zone of Indonesia, are carried out by TNI Navy officers and other investigators determined by the law that regulates them.
- c. Civil Servant Investigators (PPNS), where based on article 6 paragraph (1) letter b of the Criminal Procedure Code, what is meant by investigators are police officials and civil servant investigators who are given special authority by law. Apart from that, the authority of civil servant investigators to carry out investigations into criminal acts in maritime waters is also expressly stated in various laws and regulations which regulate both Indonesian maritime waters and certain criminal acts in maritime waters.

This situation gives rise to overlapping authority in the field of investigation of certain criminal acts that occur in marine waters, this results in ineffective efforts to eradicate criminal acts in marine waters if law enforcement is handled by relevant agencies sectorally without any coordination.

The form of inter-agency coordination in carrying out law enforcement against shipping crimes is reviewed from Law No. 17 of 2008 concerning shipping in the perspective of supporting the maritime axis.

As a member country of the IMO (International Maritime Organization), a world organization that deals with shipping issues, Indonesia is obliged to implement all the rules contained in the convention. For the record, Indonesia has ratified at least 15 IMO (International Maritime Organization) conventions. There are 3 main pillars of the IMO (International Maritime Organization) convention which play a very important role in maritime aspects, namely SOLAS (Safety of life at Sea), regulating ship safety aspects, MARPOL (Marine Pollution) regulating environmental pollution problems from ships, and STCW (Standard Training Certification for Watch Keeping) regulates the competency and minimum requirements for manning ships in

Indonesia. Law enforcement in the shipping sector since the handover of sovereignty to the Indonesian Government is no longer administered in one unified system, and has been spread across various law enforcement agencies at sea, enforcement of regulations in the field of shipping crimes cannot yet be implemented in an integrated and well-coordinated manner so that there is no overlapping of enforcement authority. laws at sea that can reduce Indonesia's image in international relations. In accordance with *ius constitutum*, namely the law that currently applies to a particular community in a particular region or country (positive law). In the implementation of law enforcement at sea, what is meant here is efforts to carry out law enforcement activities and maritime security operations carried out by government agencies such as (Water Police, Indonesian Navy, Navy), Sea and Coast Guard, Harbormaster, Customs Excise, Immigration and others) in accordance with their respective main duties and functions and authorities based on applicable laws and regulations. The authority referred to here is legal authority, namely actions to take policy on rights used to enforce law at sea.

Law enforcement at sea is still sectoral in nature because many government agencies have the authority to enforce law at sea with various legal bases and have the potential to give rise to many legal problems, including overlapping authority between law enforcement agencies which gives rise to conflicts between law enforcement agencies. According to Capt. Yuzirman Nasution SH, M.Mar syahbandar carries out the task of securing maritime territory based on state obligations and coastal state sovereignty as mandated by UNCLOS (United Nations Convention On The Law Of The Sea) as a Convention on International Maritime Law which has been ratified as national law. The position and role of the harbormaster in the Indonesian maritime law enforcement system is very strategic considering that the area being enforced includes the administrative side related to administrative requirements, correspondence, permits and so on. To achieve law enforcement, the process implemented has a close reciprocal relationship with the community. Soekanto explained that the essence and meaning of law enforcement lies in the activity of harmonizing the relationship between values described in stable rules and attitudes of action as a series of final stages of value elaboration, to create, maintain and maintain peaceful social life. The maritime defense strategy integrates the characteristics of law enforcement agencies with a focus on maritime security which is placed in state political policy, thus providing awareness and responsibility that maritime defense issues are the responsibility of the nation.

In accordance with Article 1 of the Maritime Law, maritime development is carried out with synergy between institutions. Currently, Indonesia has 13 maritime stakeholder institutions, consisting of 7 institutions that have a maritime patrol task force (Satgas) and 6 institutions that do not have a maritime patrol task force. Law enforcement agencies that have patrol task forces at sea are: TNI-Navy; National Police-Directorate of Water Police; Ministry of Transportation-Director General of Transportation; Ministry of Maritime Affairs and Fisheries-Director General of PSDKP; Ministry of Finance-Director General of Customs; Maritime Security Agency, and the Task Force for Eradicating Illegal Fishing (Task Force 115). The seven law enforcement agencies carry out patrols related to maritime security sectorally in accordance with the authority they have based on their respective laws and regulations. Expanding the meaning of marine protection to maritime defense places the Indonesian Navy as the leading sector. Law Number 34 of 2004 concerning the TNI gives five tasks to the Navy. One of the tasks according to Article 9 letter b is to enforce the law and maintain the security of national maritime areas.

When carrying out this task, the Indonesian Navy is given the authority to pursue, arrest, investigate and investigate cases. Indonesia does not yet have an integrated and solid maritime law enforcement agency, as is the case in Japan, China, Australia and the United States which already have one one-stop agency, namely the Coast Guard or Maritime Coast. In Indonesia, the Maritime Security Agency (Bakamla), whose duties, functions and authority are like the Coast Guard, is still not completely strong because its main function is to synergize, monitor and provide technical and operational support for the implementation of water patrols by related agencies (Article 62 letters d and letters e Maritime Law). However, this does not reduce the substance of maritime defense. Me

According to Capt. Yuzirman Nasution SH, M.Mar, in accordance with Article 95 of the PPLH Law, the maritime law enforcement and security system adheres to a coordinative system. This system was built because initially authority was given to many agencies due to consideration of the limited capabilities of each agency in carrying out their duties. "Article 95 paragraph (1): In the context of law enforcement against perpetrators of environmental crimes, integrated law enforcement can be carried out between civil servant investigators, police and prosecutors under the coordination of the Minister." Maritime stability is of course a priority in marine development because if we are careless, potential cases of smuggling and marine exploitation will occur. This gap can be exploited by foreign countries to annex or control the sea in border areas. Industrial growth in East Asia such as Japan, China and South Korea is increasingly rapid. Meanwhile, in the Middle East region, demand for crude oil continues to soar. In line with this, the pattern of relations between nations tends to shift towards economic interests, giving rise to demands for the realization of regional maritime security stability.

Factors of obstacles/constraints and solutions to law enforcement against shipping crimes are reviewed from Law No. 17 of 2008 concerning Shipping from the perspective of supporting the maritime axis

Indonesia's national jurisdiction is very broad and strategic, not only providing positive opportunities for the Indonesian people but also bringing problems that must be faced and efforts that must be made to secure this maritime area from all threats coming from outside and within the country. . Maritime security activities and operations involving guarding, monitoring, preventing and prosecuting legal violations in Indonesian jurisdictional maritime waters are increasingly becoming a national concern due to the influence of the strategic environment in regional and global areas. It must be acknowledged that law enforcement in Indonesia is still weak. This can be seen from the large number of legal cases that are not or have not been completely resolved. This condition gives rise to people's distrust of law enforcement officers, especially maritime security officers. These factors have a neutral meaning, so their positive or negative impact lies in the content of these factors. These factors are:

1. Patrol Boat Limitations

There are still limited facilities and infrastructure, especially patrol boats, as well as the number of elements that can be used in security operations at sea when faced with the large area that must be secured. In fact, the majority of the elements are already old enough to become quite serious obstacles when faced with high-intensity security threats or disturbances. Indonesia's vast maritime area is not accompanied by an adequate budget for monitoring foreign infiltration and various transnational crimes. According to Capt. Yuzirman Nasution SH, M.Mar in overcoming Indonesia's shortage of national defense hard power due to budget limitations, the Harbor Master's Office and the Tanjungpinang Port Authority have made efforts to enforce law at sea through soft power (diplomacy) and confidence building measures with interested countries with Indonesian maritime territory. At the Batam Special Harbormaster and Port Authority Office, up to now there are still many shortages of facilities and infrastructure in law enforcement efforts, such as the absence of investigation rooms and detention rooms for perpetrators of criminal acts in the shipping sector, the absence of an investigation budget, the absence of equipment to protect ship crews, such as firearms, the absence of a pier to dock patrol boats or fishing vessels, then the fleet of ships is inadequate considering the age and technical condition of these ships which are old and have greatly degraded in capability, so their operational range and speed are very limited, considering their size. working area of the Harbormaster's Office and the Batam Special Port Authority where facilities or facilities are very crucial in the law enforcement process.

Not only that, the existence of operational elements of the Indonesian Navy to control and secure maritime areas of national jurisdiction is still far from the minimum standard requirements.

In addition, the average life time of operational elements is quite old, so their mobility and endurance is much reduced, but these limitations do not limit the spirit and determination of the Indonesian Navy to secure the unitary state of the Republic of Indonesia and uphold sovereignty and law at sea. The Ministry of Maritime Affairs and Fisheries said that monitoring vessels, monitoring stations and other related infrastructure are not yet commensurate with the size of the sea area that must be monitored. Apart from that, the Directorate General of Customs and Excise stated that the number of patrol boats and evidence storage for monitoring vessels was inadequate.

2. Human Resources/Personnel

The level of professionalism of law enforcement officers at sea when faced with various modus operandi and forms of security disturbances at sea as well as law violations is increasing not only in quality but also in quantity. Professionalism is the key to an organization's success in achieving its goals. According to Capt. Yuzirman Nasution SH, M.Mar the problem of professionalism is not solely due to the weakness of members but is the behavior of an organization in forming and realizing human resources who are capable, capable of carrying out tasks and are accountable. This greatly influences performance in handling cases that occur in the field. Thus, it is necessary to increase investigative training, both carried out in an integrated manner with Civil Servant Investigators and with Indonesian Navy officer investigators, increase formal education, increase vocational education, especially those related to maritime safety.

The welfare condition of human resources or law enforcers in the field does not yet meet the standard of living sufficient to guarantee peace of mind in carrying out their duties, or in other words is still relatively unsatisfactory even with the performance allowance received every quarter. Such conditions result in the erosion of moral values and the struggle of officers in the field. This is proven by the continued involvement of law enforcement officials who abuse their authority. For this the author has hope. The capacity of law enforcement officers at sea in various government agencies, especially in understanding the relevant laws and regulations, is stated to be sufficient, because each agency has increased the capacity of its law enforcement officers tasked with enforcing law at sea. Within the Ministry of Maritime Affairs and Fisheries and other related agencies, there is a need to increase capacity through related education and training as well as coaching clinics, especially with regard to technical supervision, supervision procedures, investigation procedures and judicial processes related to the maritime and fisheries sector. However, in terms of quantity, it is still limited, especially human resources (HR) for supervision.

3. Sectoral Ego Between Agencies

is of concern to many parties, so there are quite a lot of agencies involved in maritime affairs in Indonesia, around 13 government agencies. The sectoral ego of each institution is the main obstacle in maritime security coordination. This sectoral ego arises because each institution involved has authority on a legal basis. The public complains about this because it is inefficient and confusing for maritime service users, including fishermen. Therefore, the need for a special institution to coordinate Indonesia's maritime security is considered urgent. It is necessary to form an integral sea and coast guard, a single agency institution with multitasks. Based on Law No. 17 of 2008 concerning Shipping, Indonesia must have a sea and coast guard (sea and coast guard). With this agency, it is hoped that the movement of officers at sea will be guaranteed. The government is aware of this, so since 1972 it has formed the Maritime Security Coordinating Agency (Bakorkamla). However, it was only in 2005 that Bakorkamla became empowered by strengthening its institutions through Presidential Regulation Number 81 of 2005. Operationally, Bakorkamla, which was inaugurated by the Coordinating Minister for Political, Legal and Security Affairs as chairman of Bakorkamla on December 29 2006, is committed to providing security and law enforcement at sea. Bakorkamla is intended to be the Indonesian sea and coast guard unit or Sea and Coast Guard.

In carrying out its main tasks and functions as guardian of the archipelago's oceans, Bakorkamla prioritizes coordination in each of its activities with stakeholders with the principle of "one for all" with the authority of stakeholders to complement each other in "filling the gap" so that there is no vacuum in government at sea. It is not easy to form a single agency with many functions to secure Indonesia's maritime territory, because there are still sectoral egos in coordinating maritime security in Indonesia. Bakorkamla itself as an institution consists of 11 stakeholders who have functions and authority in maritime security, including the TNI AL, Polri, Prosecutor's Office and related ministries. In fact, in 2011 the government is targeting to form a special task force with the main function of protecting Indonesia's beaches and sea waters. This special unit will carry out multi-functional tasks (multi-task single agency) to protect beaches and marine waters, such as sea and coast guards in other countries. Every relevant agency that has been authorized at sea will be integrated. This agency still has authority, because in the field cases that are discovered cannot be resolved without law without an investigator, so they will be handed over to the relevant agency. In practice, the role of Bakorkamla in traditional Indonesian fishing communities is not yet popular. Not many people know about this agency, especially the work programs it carries out, such as a call center as a means of liaison for the benefit of the community.

From the research results, it is known that in general the authority of each agency is quite clearly differentiated, and has been outlined in various statutory regulations in accordance with their respective fields and scope of duties. However, in practice in the field, there is still overlap in the exercise of authority, especially in investigating criminal acts or violations that occur in Indonesian waters and additional zones, due to lack of clarity regarding which agency has the authority. Overlapping authority in implementing law enforcement in Indonesian waters and additional zones can of course lead to inefficient implementation, and there is even the possibility that problems or criminal acts and violations that occur in Indonesian waters and additional zones are not handled because there are no relevant agencies in place. feel like they have the authority to handle it.

4. Lack of Sophisticated Navigation Tools

Based on Law 17 of 2008 concerning shipping, it is stated that navigation is activities related to shipping navigation aids (SBNP), shipping telecommunications (Telkompel), hydrography and meteorology, channels and crossings, buildings or installations, guidance, ship frame handling and salvage. , and/or Underwater Work (PBA) for the purposes of Shipping Safety. According to Capt. Yuzirman Nasution SH, M.Mar, for the sake of safe sailing and smooth ship traffic in areas where there are navigation hazards or activities in waters that can endanger sailing safety, a safety zone must be designated, marked in the form of SBNP in accordance with applicable regulations and broadcast via radio stations. coast (SRQP) and Indonesian Seafarers' News.

Apart from that, it is necessary to be informed about water and weather conditions, such as storms which cause high waves and high currents and their changes. News broadcasts are broadcast widely via coastal radio stations (SRQP) and/or coastal earth stations in the shipping telecommunications network in order of priority and must comply with the provisions for news broadcasting, including distress news, meteorology and anchoring time alerts for ships sailing in Indonesian waters. .Installation of SBNP, namely facilities that are built or formed naturally which are outside the ship and function to assist the navigator in determining the position and/or course of the ship as well as notifying dangers and/or obstacles to shipping for the purposes of shipping safety is carried out to provide guidance on prohibited zones which must not be entered. by every ship passing through the area. Shipping Telecommunications Development is intended so that every transmission, delivery or reception of every type of sign, image, sound and information in any form via wire, optical, radio or other electromagnetic systems in the shipping mobile service which is part of shipping safety is immediately conveyed to the party or government related to maritime order and navigation security and safety, every planning of marine activities must be

coordinated with the Directorate of Navigation so that there is no overlap in the placement or construction of marine facilities which could disrupt the smooth running of shipping activities. Therefore, the implementation of navigation needs to be determined. Navigation is carried out to overcome the occurrence of accidents or high waiting times for ships by adjusting the development of port facilities as well as shipping safety and shipping lane facilities to increase traffic density.

4. CONCLUSION

Based on the results of research conducted by the author, the author can draw conclusions including:

1. Article 27 paragraph 1 of UNCLOS 1982 states that the criminal or criminal jurisdiction of coastal states cannot be exercised over foreign ships that are passing through the territorial sea to arrest anyone or to conduct investigations relating to crimes that impact the coastal state. There are at least 8 (eight) government institutions that are given authority in maritime areas by each law, namely the Indonesian National Army Navy (TNI AL), the Indonesian Police (Polri), Civil Servant Investigators of the Ministry of Maritime Affairs and Fisheries (PPNS KKP), Investigators Ministry of Transportation Civil Servants (PPNS Kemenhub), Customs and Excise Civil Servant Investigators (PPNS Customs), Immigration Civil Servant Investigators (PPNS Immigration), Ministry of the Environment Civil Servant Investigators (PPNS LH), and Ministry of Civil Servant Investigators Forestry (PPNS Kemenhut) Even if we refer to Law Number 6 of 1996 concerning Indonesian Waters, these eight institutions have the authority to enforce law at sea. Of these eight institutions, there are 3 three dominant agencies, each of which has authority and is supported by its own laws, namely the Police, TNI AL and Civil Servant Investigators (PPNS).
2. Law enforcement in Indonesian maritime areas uses territorial-based jurisprudence. The territorial principle stipulates that state jurisdiction applies to people, actions and objects within its territory. The application of territorial jurisdiction is based on the sovereignty of the country concerned over its territory. Territorial jurisdiction is also defined as geographical state power which describes the surface of the earth and the space above it as well as the land below which constitutes sovereignty over its territory, including both people and objects within it, for this reason Law No. 17 of 2008 concerning shipping creates safeguards The sea and coast guard, which was formed and is responsible to the president, is technically operational and carried out by the minister. Maritime and coastal guarding has a command function in enforcing regulations in the field of shipping safety and security, and a coordination function in the field of law enforcement outside of shipping safety. Sea and coast guarding is an empowerment of the Maritime Security Coordinating Agency and strengthening of sea and coast guard units.
3. The inhibiting factor is the geographic constellation of Indonesia's national jurisdictional waters which is very broad and strategic, not only providing positive opportunities for the Indonesian people but also bringing problems that must be faced and what efforts must be made to secure these sea areas from all threats. who come from abroad or from within the country, giving rise to obstacle factors including limitations of patrol boats, human resources/personnel; Sectoral Ego Between Agencies and Lack of Sophisticated Navigation Tools.

JURIDICAL ANALYSIS OF LAW ENFORCEMENT OF THE CRIME OF SHIPPING REVIEWED FROM LAW NO 17 OF 2008 CONCERNING SHIPPING FROM A SUPPORTING PERSPECTIVE MARITIME AXIS

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