

Implementation of Legal Sanctions Against Violations of Operating Standards of Fishing Vessels in Tapanuli Tengah Sea

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ABSTRACT

Operational Worthiness Standard (SLO) is one of the instruments in fisheries supervision in accordance with the Regulation of the Minister of Maritime Affairs and Fisheries Number 23 of 2021. PERMEN-KP No. 23 of 2021 is a replacement regulation for PERMEN KP No. 1 of 2017 concerning the Certificate of Operational Worthiness of Fishing Vessels. The vessel is considered unfit for operation because it is proven not to meet the requirements of the provisions set, namely the existence of an expired ship certificate, inadequate safety equipment, the ship's registration mark is not installed, the load is excessive/over draft, the load does not match the cargo document and so on which will have fatal consequences if the ship continues to sail or operate. This study uses a normative juridical legal research type. The results of the study show that the Central Tapanuli Waters Police Headquarters Unit is still seeking action preventive and preemptive when in the middle conducting inspections in waters in the context of sea patrols or by socializing the law to the fishing community or the community when carrying out sambaing activities, then the obstacles for the Water Police Unit in implementing legal sanctions for violations are internal factors from the ranks of the Water Police itself, due to the lack of personnel and ship facilities owned. The personnel of the Tapanuli Tengah Polairud Police only number 8 (eight) people including

Keywords: Operational Worthiness, Fishermen, Violations

INTRODUCTION

Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia (PERMEN-KP) Number 23 of 2021 concerning Operational Eligibility Standards and Fishing Vessel Monitoring Systems requires every fishing vessel to have an Operational Eligibility Standard (SLO) every time it carries out fishing activities. The SLO obligation is only exempted for fishing vessels and fishing transport vessels operated by small fishermen, as well as vessels supporting fish farming operations with the provision that they only have 1 unit or a maximum cumulative size of up to 5 GT (*gross tonnage*). The SLO is issued by the Fisheries Supervisor which functions as a prerequisite for obtaining an SPB (Sailing Approval Letter) from the Harbor Master at the fishing port.

Small fishermen referred to in PERMEN-KP No. 23 of 2021 are fishermen who catch fish to meet their daily needs, whether using fishing vessels or not. Therefore, implicitly PERMEN-KP No. 23 of 2021 requires SLO and SKAT on almost all fishing vessels and fish storage vessels, including those measuring <5 GT. The implementation of PERMEN-KP No.

23/2021, especially regarding the Operational Worthiness Standard (SLO), is still relatively new, and there have not been many studies that reveal the status of its implementation.

The ship is considered unseaworthy because it is proven not to meet the requirements of the provisions set, namely the existence of an expired ship certificate, inadequate safety equipment, no ship registration mark installed, excess cargo/ *over draft* , cargo not in accordance with cargo documents and so on which will have fatal consequences if the ship continues to sail or operate as regulated in the Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia No. 23 of 2021 concerning Operational Eligibility Standards and Fishing Vessel Monitoring Systems.

Operational Worthiness Standard (SLO) is one of the instruments in fisheries supervision in accordance with the Regulation of the Minister of Maritime Affairs and Fisheries Number 23 of 2021. PERMEN-KP No. 23 of 2021 is a replacement regulation for PERMEN KP No. 1 of 2017 concerning the Certificate of Operational Worthiness of Fishing Vessels. Several provisions in PERMEN-KP No. 23 of 2021 are regulated more strictly, such as the obligation of SLO and SKAT (Transmitter Activation Certificate) for the Fishing Vessel Monitoring System (SPKP). The obligation of SLO in PERMEN-KP No. 2017 is excluded for fishing vessels <10 GT while SKAT-SPKP according to PERMEN-KP No. 10 of 2019 is required for fishing vessels >30 GT.

According to PERMEN-KP No. 23 of 2021, the provisions of the Operational Worthiness Standard (SLO) are only exempted for small fishermen, while SKAT is only intended for fishing vessels whose business licenses are issued by the Minister. Small fishermen referred to in PERMEN-KP No. 23 of 2021 are fishermen who catch fish to meet their daily needs, whether using fishing vessels or not. Therefore, implicitly PERMEN-KP No. 23 of 2021 requires the Operational Worthiness Standard (SLO) and SKAT for almost all fishing vessels and fish storage vessels, including those measuring <5 GT. The implementation of PERMEN-KP No. 23/2021, especially regarding SLO, is still relatively new, and there have not been many studies that reveal the status of its implementation.

Police Water and Air Police (POLAIRUD) is one of the state instruments in the field of law enforcement which must be take action against fishermen who carry out activities without ship documents. One of the elements implementing the main tasks of the Police based on Article 10 of the Chief of Police Regulation Number 22 of 2010 concerning the Organizational Structure and Work Procedures at the Regional Police Level includes Ditpolair as an element implementing regional tasks as referred to in Article 7 letter e, namely Polres.

In carrying out its duties, the Marine Police performs functions including law enforcement in water areas, such as taking action against violators of completeness of documents. fishing boats. This is an effort to enforce the law in Indonesian waters, including in the waters of Central Tapanuli Regency.

Based on the provisions of Article 1 of Law of the Republic of Indonesia Number 1 of 2008 concerning State Territory, it is stated that "Water Territory is inland waters, archipelagic waters, and territorial seas" ¹Based on Government Regulation of the Republic of Indonesia Number 13 of 2022 concerning the Implementation of Security, Safety and Law

¹Republic of Indonesia Law Number 1 of 2008 concerning State Territory

Enforcement in Indonesian Waters and Indonesian Jurisdictional Areas, it is stated that "Indonesian Water Territory is the sovereign territory of the state which includes inland waters, archipelagic waters, and territorial seas".²

In simple terms, sea waters can be defined as the part of the earth that is covered by water with a high salt content. Sea waters include bays, straits and oceans. Indonesia is the largest archipelagic country in the world because it has a large sea area and a large number of islands. The length of Indonesia's coastline reaches 95,181 km and the area of its sea waters is 5.8 million km. This potential places Indonesia as a country that is blessed with large marine water resources including the largest marine biodiversity and non-biological wealth.³

Legal regulations regarding Indonesian waters are regulated in Government Regulation of the Republic of Indonesia Number 13 of 2022 concerning the Implementation of Security, Safety and Law Enforcement in Indonesian Waters and Indonesian Jurisdictional Areas.

Fishermen can be defined as people whose main livelihood comes from catching fish in the sea. Fishermen in the Indonesian Encyclopedia are stated as people who actively carry out fishing activities, either directly or indirectly as their livelihood.⁴

In the big dictionary of Indonesian, the definition of a fisherman is a person whose main livelihood and business is catching fish at sea as a source of livelihood.⁵ Fishermen are villagers or coastal residents who utilize sea waters as a source of livelihood.⁶

Fishermen are categorized as someone whose job is to catch fish using simple fishing gear, ranging from fishing rods, nets and nets, bagan, bubu to boats or jukung equipped with fishing gear. However, in its development, fishermen can also be categorized as someone whose profession is to catch fish with more modern tools in the form of fishing boats and their fishing equipment which are now known as the Ship's Crew (ABK). In addition, fishermen can also be interpreted as fish farmers who cultivate fish in ponds and cages on the coast.⁷

According to the Republic of Indonesia Government Regulation Number 15 of 1990 concerning Fisheries Business, "Fishermen are people whose livelihood is fishing." fishing.⁸ In the statistics of public water fisheries, fishermen is a person who actively carries out fishing operations in public waters.⁹

Fishermen actively carry out fishing activities, both directly as net casters and weavers, and indirectly as boat helmsmen, motorized fishing boat captains, ship's sailors, and fishing boat chefs as a means of livelihood.¹⁰

²Government Regulation of the Republic of Indonesia Number 13 of 2022 concerning the Implementation of Security, Safety and Law Enforcement in Indonesian Waters and Indonesian Jurisdictional Areas

³<https://www.merdeka.com/jabar/pengertian-perairan-laut-kenali-jen-jennya-kln.html>

⁴Hasan Shadly, *Sociology for Indonesian Society*, (Jakarta: PT.Pembangunan, 1980), page 23

⁵Department of Education and Culture, Big Indonesian Dictionary, (Jakarta: PT. Balai Pustaka, 1989), p. 612

⁶Suprapti, *The Life of the Fishing Community in Muncar*, (Jakarta: Ministry of Education and Culture, 1991), p. 1

⁷ *Ibid*

⁸Government Regulation of the Republic of Indonesia Number 15 of 1990 Concerning Fisheries Business

⁹ *Ibid*

¹⁰ *Ibid*

RP Suyonoj also stated that to determine the seaworthiness of a ship, maritime countries generally have a Classification Agency. The Classification Agency is an agency that supervises merchant ships so that in their construction and operation they can meet the requirements and standards of seaworthiness and safety of merchant ships for the interests of trade, insurance, and debt guarantees.¹¹ Furthermore, he stated that if a ship is to sail, the ship must be in a seaworthy condition (*seaworthiness*)

Based on PERMEN-KP No. 23 of 2021, SLO is a certificate stating that a fishing vessel has met the administrative requirements and technical eligibility to carry out fishing activities. The fishing activities in question are fishing, supporting fishing operations, fish farming, fish transportation, fish processing, fisheries training, and fisheries research/exploration. The issuance of SLO is valid for one fishing activity trip. The obligation to have an SLO can be exempted and replaced with a replacement SLO certificate if the vessel wants to sail but not in order to carry out fishing activities.

In the State's efforts to provide security and safety guarantees in water and air areas, the State has formed the Water and Air Police or commonly abbreviated as Polairud , which is a unit within the Indonesian National Police that supports police duties through water (rivers/seas) and air . The Water Police is to foster and organize the functions of the Central Water Police in order to serve, protect, serve, and maintain public security and order and law enforcement in Indonesian waters.¹²

According to Article 1 paragraph (22) of the Regulation of the Chief of the Republic of Indonesia National Police Number 23 In 2010, the "Water Police Unit, hereinafter abbreviated as Satpolair, is an element the main task force for the water police function at the Polres level which is under Chief of Police".¹³

METHOD

normative legal ¹⁴research , which is a scientific research procedure to find the truth based on the logic of legal science from a normative perspective. This normative legal research is more focused on examining the application of rules or norms in positive law related to the operational worthiness of fishing vessels in waters.

The data collection techniques and tools used in this research are: *Field Research* and *Library Research* , then analyzed using *qualitative* analysis techniques , namely descriptions of research conducted on the collected data, these descriptions are in the form of sentences that are systematically arranged according to the problems discussed. Furthermore, the data is analyzed by comparing it with applicable laws and regulations with legal theories so that there are adjustments or differences between the two, then the author draws the main problems and draws conclusions.

¹¹RP Suyono, *Shipping: Intermodal Export Import Transportation by Sea* , (Jakarta: PPM, 2005), p . 121.

¹²[https://www.google.com/search?q=polisi+air+dan+udara+\(Polairud\)](https://www.google.com/search?q=polisi+air+dan+udara+(Polairud)) . Accessed, January 21, 2023

¹³Regulation of the Chief of the Republic of Indonesia National Police Number 22 2010 concerning Organizational Structure and Work Procedures Regional Police Level

¹⁴Johnny Ibrahim, *Theory & Methodology of Normative Legal Research* , (Malang: Bayumedia Publishing, 2006), p . 57

RESULTS AND DISCUSSION

Implementation of Legal Sanctions for Violations of Operating Standards of Fishing Vessels in Central Tapanuli Waters

One of the natural resource sectors is quite a mainstay for the people in Central Tapanuli Regency, namely the sector fisheries and marine. Regency Central Tapanuli has an area of sea area 2,195 km² Km², so that It can be said that Central Tapanuli Regency is rich in maritime potential. reliable. With the potential of sources the natural power that is owned makes Many of the residents of Central Tapanuli Regency work as fishermen both traditional and modern fishermen.

Based on data owned by Department of Fisheries and Marine Affairs of the Regency Central Tapanuli in 2020 Until 2023, the number of fishing households using Jukung boats is 269, small boats 585, medium boats 76. **The** data from the results The production of the catch obtained was 463.50 tons. Fishing vessels based in the waters of Central Tapanuli vary greatly in size, from small scale (<5 GT) to large vessels (>30 GT). Large fishing vessels (>30 GT) generally carry out fishing and transportation operations in the waters of Central Tapanuli.¹⁵ **The role** played by Polairud in implementing legal sanctions for violations of the operational standards of fishing vessels in the waters of Central Tapanuli is:

1. Coordinating with fishing community groups

This is done for early detection purposes, usually the fishing community reports if... There are suspicious things happening, such as disturbances at sea, there are fishermen from outside the waters of Central Tapanuli who enter without having ship documents or other things that are still within the scope of scope of authority of the Tapanuli Tengah Police Water Police.

2. Visiting fishermen/visiting the archipelago

Visiting means visiting someone or a group to convey information. something related to the role of the water police. The activity of visiting, is activities that lead to the educational or learning realm. Polair plays a role in socializing something with the hope that the knowledge gained by society becomes clearer or more knowledgeable about something, for example about the importance of taking care of ship documents, fishing gear recommendations and other related matters with the activities of the fishing community. This outreach activity is divided into 2 (two):

- a. Fishermen's Visit

Fishermen's visits were carried out specifically to fishermen, to convey this matter. regarding maritime dangers and safety, standard ship-worthiness documents and related matters with fishing activities.

- b. Visiting the Archipelago

Sambang Nusa is a visiting activity carried out by the Tapanuli Tengah Police Water Police to coastal communities, carried out on land for both fishing communities and families coastal communities who are not fishermen.

3. Conducting Patrol

Patrol is a form of tactical activity in the field to prevent something, monitor something or take action on something in terms of tasks The Marine Police in

¹⁵ <https://www.tapteng.go.id/layanan-skpd.html?id=DKP>, accessed May 22, 2023

particular. The role played by the Police Waters are water patrols. Water patrols are the role played by the Police Waters as a form of presence of law enforcement elements in water areas in order to carry out prevention, to scare people who are going to commit a crime or violation especially in water areas.

Water patrols are conducted almost every day both individual patrols and joint patrols with the Police Directorate North Sumatra Police Waters or with the Special Police (POLSUS) Fisheries Service Fisheries of Central Tapanuli Regency. However, if there is an order from the Head of the Tapanuli Tengah Police, or there is a letter or communication from other law enforcement agencies such as the Special Police (Polsus) Fisheries, then the Tapanuli Tengah Police Polair can coordinate or conduct patrols together. Usually joint patrols with the Directorate The North Sumatra Regional Police's Water Police are carried out once a week and sometimes once a month, while patrols with the Polsus Fisheries are not routine in nature but only wait for the Fisheries Police carry out communication to then carry out joint patrols in certain interests. In patrol activities, the actions taken are preventive supervision actions, namely by checking the completeness of documents and technical feasibility before the ship departs. This supervision aims to check the completeness of ship documents and prevent violations in fishing such as the use of prohibited fishing gear. In this context, ships that do not have complete documents are not allowed to carry out fishing activities. For ships that are declared incomplete, SLO is not issued at that time, but is given the opportunity to complete the requirements.

In addition, other forms of supervision are repressive supervision. The informant explained that supervision using patrol techniques is generally carried out secretly to monitor fishing activities by fishing vessels, fishing vessels that are declared ineligible due to several factors, including:

- 1) SIPI/SIKPI is dead or has expired; There are three fishing vessels whose SIPI/SIKPI have died or have expired.
- 2) Fishing vessels that do not have a Fishing Vessel Monitoring System (SPKP) or *Vessel Monitoring System* (VMS).

Furthermore, related to the implementation of legal sanctions for violations of the operational standards of fishing vessels in the waters of Central Tapanuli . Polair is taking action in the context of monitoring marine resources. maritime affairs and fisheries, because on average fishermen use boats that are not equipped permits or documents. For fishing vessels, the documents that must be obtained include fitting size or The small fitting issued by the harbor master is according to the size of the ship, then for fishing vessels or fishermen must have a Fisheries Business License (SIUP) and Fishing License Fish (SIPI) and for incoming ships or andons it is mandatory to have a SIPI.

Andon is a fishing activity at sea carried out by small fishermen, using fishing vessels measuring up to 30 (thirty) *gross tonnage* with a fishing area according to the andon fishing vessel registration mark or andon fishing certificate .

During a patrol by the Water Police and Special Fisheries Police around the sea coordinates of Central Tapanuli which was carried out on September 19, 2022,

2 (two) fishing vessels from outside the region were found to be fishing. After being stopped and checked on the vessels, no goods were found. suspicious or fishing gear that is against the law, but fishermen the ship's documents are not complete, this matter will be handled immediately by carrying out coaching and direction by informing and conducting data collection that the The fishermen must immediately take care of the completeness of the ship's documents. The tendency of fishermen in Central Tapanuli not to take care of or complete their ship's documents is due to several reasons. The factor is that the administration of OSS (*Online Single Submission*) is still poorly understood by fishermen, and fishermen still feel safe with the current situation.

Police Waters (POLAIR) which in this case is the Tapanuli Tengah Polairud Headquarters Unit as one of the state instruments in the field of law enforcement should take action against fishermen who carry out fishing activities that are not ship-worthy or are not equipped with ship documents, as protectors and guardians of the community, of course this is one of the obligations of the police, especially Polair, to provide guidance to fishermen, especially guidance in the field of document completeness ship. This is what should encourage the Indonesian National Police through The Marine Police (POLAIR) is here to protect the country in the waters. It is the Water Police that strives to prevent criminal acts and take action in an effort to uphold the law and maritime sovereignty of the Unitary State Republic of Indonesia in general.

In the author's opinion, law enforcement such as taking action against violators of the Fishing Vessel Operational Worthiness Standards is an effort to uphold the law in Indonesia. However, as explained by Infoman in the description above, it is better to strengthen the steps first with prevention efforts, coaching and direction for fishermen and coastal communities. to minimize fishermen or people who are active in Central Tapanuli Waters region to create prosperity for fishermen.

Violations of the operational standards of fishing vessels in the waters of Central Tapanuli do exist and are often found. However, until now the Central Tapanuli Waters Police Headquarters Unit is still trying to take action. preventive and preemptive against violations of the operational seaworthiness standards of fishing vessels or those related to the completeness of fishing vessel or ship documents fisheries by using methods such as appeals when in the middle of conducting inspections in waters in the context of sea patrols or by socializing the law to fishing communities or the community when carrying out outreach activities.

On the one hand, the law must be enforced, but on the other hand, in the context of this problem, the author agrees with the efforts made by the Tapanuli Tengah Water Police, that the efforts made... namely by enforcing non-penal law as an effort to provide legal understanding rather than taking action, it is better prevent and continue to provide warnings to the public, because the main objective of the Polairud Polres Central Tapanuli did this solely to avoid conflict between communities. fishermen with the police, protecting the community and creating security and order community, especially fishermen.

Obstacles faced by the Maritime Police Unit in implementing legal sanctions for violations of operational standards for fishing vessels in the waters of Central Tapanuli.

Based on the research results, that the legal sanctions using criminal law (*penal*) as stipulated in the applicable regulations and laws regarding Shipworthiness for violations of the Standards of Seaworthiness of Fishing Vessels in the waters of Central Tapanuli have not been implemented. Based on the results of the author's interview with the Head of the Tapanuli Tengah Polairud Headquarters Unit, Mr. Ipda Dedi Irawan SH, said that there were inhibiting factors for fishermen to obey and comply with The laws and inhibiting factors for the police, especially in this case, are: Central Tapanuli Water Police Unit.

1. Internal Factors

The internal inhibiting factors come from the ranks of the Marine Police itself, namely: The lack of... personnel and ship facilities owned. Polairud Tapanuli Tengah only numbered 8 (eight) people including the Head of Unit. The number of ships owned by Polairud is only 2 ships, namely types A.Kp-2010 and B.Kp-2024, ships Usually only 1 ship will go on patrol, containing 3 to 5 personnel per ship. the big one, then 3 personnel for the small boat, this is done to balance the boat so that it doesn't break due to the waves, but it is difficult This was done because the Tapanuli Tengah Water Police is a unit under the Resort Police which is sometimes called for coordination meetings with other police units together with the Police Chief or sometimes with the water police directorate and the rest make visits, then with personnel 8 (eight) people on duty at the Central Tapanuli Water Police Unit it becomes a bit difficult and really very minimal personnel, sometimes the Patrol also works together with the Fisheries Service or Patrols together with Directorate of Marine Police, North Sumatra Regional Police.

2. External Factors

The external factors referred to are related to the fishermen themselves with the small number of police personnel which is inversely proportional. There are 524 fishermen in the Central Tapanuli waters, it is not impossible that there will be rejection or even commotion or conflict that occurs between the community and the water police. Public order This is what is upheld by the Water Police Unit (Satpolair) of the Tapanuli Tengah District Police, so that rather than triggering conflict between the police and community, then the Tapanuli Tengah Police Water Police Unit prefer a more "subtle" effort to enforce the law through its programs, namely visiting fishermen, visiting the archipelago, visiting the coast and conducting water security patrols, all packaged for the duties of the Republic of Indonesia Police as the maintainer of domestic security.

Apart from the above factors, friction, contact or disputes can also occur between fishermen. Conflicts between fishermen are caused by division or disputes over land, even though it is known that as long as they are in the same territorial waters, each fisherman has the right to carry out fishing activities. The conflict sometimes prolonged and has the potential to trigger large-scale riots between fishermen. representing the region, this has become a matter of concern for Satpolair where Polairud Tapanuli Tengah is obliged to resolve the conflict in order to create security and order.

If the disturbance continues, the Tapanuli Tengah Water Police Unit threatens to... process the law through litigation of the fishermen in conflict, because each of them the party does not have complete documents for the seaworthiness of the fishing vessel or fishing boat, then Satpolair immediately issued an appeal to divide the fishing areas, otherwise non-permanent law enforcement or prioritizing actions such as prevention, namely, patrols, visits, appeals and socialization will be replaced by a penal law enforcement process or enter the legitimacy stage. At least that is what can be resolved by the Tapanuli Tengah Police Water Police Unit.

CONCLUSION AND SUGGESTIONS

Conclusion

The application of legal sanctions for violations of the operational standards of fishing vessels in the waters of Central Tapanuli Regency, until now the Central Tapanuli Waters Police Headquarters Unit is still seeking action preventive and preemptive measures against violations of the operational standards of fishing vessels by using methods such as warnings when in the middle of a conducting inspections in waters in the context of sea patrols or by socializing the law to fishing communities or the community when carrying out outreach activities.

The obstacles faced by the Marine Police Unit in implementing legal sanctions for violations of the operational standards of fishing vessels in the waters of Central Tapanuli are internal factors from within the ranks of the Marine Police itself, because of this... personnel and ship facilities owned. The personnel of the Tapanuli Tengah Polairud Police only number 8 (eight) people including the Head of Unit, while external factors is related to the fishermen themselves, namely the rejection of law enforcement by fishermen so that it often causes unrest and conflict between the community and the water police. So that public order This is what is upheld by the Water Police Unit (Satpolair) of the Tapanuli Tengah District Police.

Suggestion

Based on the conclusions above, the following are some suggestions, the need to increase legal awareness of the fishing community regarding the seaworthiness standards of fishing vessels by increasing the socialization of legislation , and adding personnel to the Tapanuli Tengah waters waters police headquarters unit and improving the necessary facilities and infrastructure so that law enforcement against violations of the seaworthiness standards of fishing vessels in the Tapanuli Tengah waters can be realized as it should.

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