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## LEGAL PROTECTION FOR BOAT PASSENGERS IN RESOLUTION OF DISPUTES OVER SHIP ACCIDENTS

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### Abstract

Impact progress economy in Indonesia towards sector transportation sea, with focus on improvement mobility society and roles important infrastructure transportation in support activity economy . With refers to various existing regulations , studies This explore challenges and accidents faced \_ in transportation sea, as well implications the law to not quite enough answer individual in context safety shipping . Problems inside study This How protection law for passenger experienced ship accident boat . How solution what's the dispute ? only one can used in completion the dispute Through analysis relevant cases and regulations aim For give more understanding deep about protection law and responsibility answer in effort increase safety transportation sea in Indonesia.

Method used in study This is juridical normative, involving analysis to literature or source secondary , which includes material primary law, law secondary, and legal tertiary study Approach Legislation , approach case , approach analysis , approach conceptual implementation as effort For get the necessary data connection with problem . Data used with secondary data and materials law tertiary. Beside It is also used as primary data supporter material secondary data law.

Analysis results confirm that solution dispute on accident boat can started through mediation or negotiation between victims and parties related before enter to track formal law . This matter aim For create protection law preventive with ensure obedience to regulation safety maritime and rights passenger . On the other hand , protection law in a way repressive become choice final in straighten up rule law , with enforce penalty like fine , imprisonment, or punishment addition , as response to violations that have occurred happen . Approach This aim For ensure obedience to law , provide effect deterrent to perpetrator violations , as well protect interest public in a way whole .

### Keywords

Legal Protection, Settlement , Disputes , Ship Accidents .

### Introduction

Economic progress in Indonesia continues to increase, and people's mobility in seeking a living is also increasing. This mobility often requires various types of transportation such as land, sea and air. In general, communities need adequate infrastructure and facilities to support their activities. to meet their needs, especially in terms of transportation. Considering the sustainability of public transportation, many people still depend on public transportation which is inconsistent with the provision of adequate public transportation, resulting in passenger congestion.

Transportation in Indonesia has a significant role in facilitating and increasing domestic and international trade by flowing goods from production sources to consumers and meeting people's mobility needs. This is reflected in the growth of the transportation sector in Indonesia which continues to develop, and many companies are considering utilizing transportation services.

Therefore, the Indonesian government, through the Ministry of Transportation, has emphasized the importance of developing the sea and river transportation sector in this region of the country. This effort includes rehabilitation and increasing the capacity of existing infrastructure, including the procurement of ships for transporting people and goods, improvements to ports, container terminals and docks.

As a result, many individuals choose alternative public transportation which is considered more comfortable and efficient, and able to get them to their destination quickly. Basically, transportation involves a reciprocal agreement between a transportation service provider and a passenger or shipper, where the service provider commits to arrange the transportation of goods or people from one location to the destination location safely, while the passenger or shipper promises to pay the transportation costs.

Indonesia, as an archipelagic country, consists of more than 17,000 large and small islands

stretching from 95 to 141 degrees east longitude and 6 to 11 degrees north latitude, across the equator. Its territory covers an area of approximately 9 million km<sup>2</sup>, which is divided into 3 million km<sup>2</sup> of land between the islands, 3 million km<sup>2</sup> of territorial sea between and around the islands, and 3 million km<sup>2</sup> of sea area around the territorial sea, forming a belt 200 nautical miles wide. With sovereign rights (sovereignty rights over natural resources that exist in the lower layers of the seabed, the surface of the earth and below the seabed. To facilitate connections between islands and other islands, sea transportation is needed.

Maritime transportation is strictly regulated. Starting from the construction of the ship to its commissioning, there are regulations that must be adhered to at all times and continuously monitored during implementation. This is done to meet the safety requirements for water transportation. Ships are a means of sea transportation. A ship is a vessel of a certain shape and type that is driven, towed or towed by wind power, mechanical power or other power, and is capable of transporting vehicles with dynamic carrying capacity, submerged vehicles, floating equipment and including floating buildings. It doesn't move.

Transportation by ship is not always smooth, and ship accidents occur repeatedly in Indonesia. A marine accident is an accident on a ship that can endanger the safety of the ship and/or human life. In the form of a ship sinking, ship fire, ship collision, or ship stranding.

According to the Chairman of the KNKT, Soerjanto Tjahjono, the number of maritime transportation accidents in Indonesia throughout 2022 has decreased compared to 2021. The official KNKT website emphasizes that shipping modes have an important role in driving the economy, strengthening national unity and integrity. The importance of this mode of transportation is reflected in its implementation which has a broad impact on various aspects of community and state life, as well as the increasing demand for transportation services for the mobility of people and goods, both within the country and across national borders.

If a shipping accident occurs, including a ship collision, losses that may occur include cargo that cannot be saved. Article 468 of the Commercial Code requires the carrier in the transportation contract to guarantee the security of the cargo from receipt to delivery.

Before determining and imposing criminal sanctions against the perpetrator of the crime (captain), it is important to establish standards and criteria for individual or more than one person's responsibility regarding maritime accidents. Article 302 of the Shipping Law Number 17 of 2008 begins the concept of responsibility for maritime accidents by using the word "all". The concept of every person in the context of criminal liability is at the heart of the doctrine of guilt, known by the Latin term "mens rea". This principle is based on the principle that an action cannot be considered guilty unless there is evil intent in the mind of the perpetrator. According to this principle, there are two conditions that must be met to be able to punish the perpetrator (skipper): the existence of a prohibited external act/crime (actus reus) and the existence of an evil/shameful inner attitude (mens rea).

Criminal responsibility indicates that individuals who commit criminal acts or violate regulations established by law must be held accountable for their behavior in accordance with the mistakes they have committed. The defendant is proven guilty, that is, he committed a criminal act (illegal), is over a certain age and is capable of taking responsibility, made a mistake intentionally or negligently, and does not have any excuse.

There may be problems with sea transportation at this time. Indonesia has experienced a series of maritime accidents which resulted in many casualties and property losses. Shipping service users are always faced with the threat of maritime accidents, because the causes of maritime accidents are not seriously considered by the authorities.

The case examples in writing this thesis are;

1. Decision Number: No.953/Pid/B/2009/PN.Jkt.Ut
2. Decision Number: 227 K/Pid/2013
3. Decision Number: 24-K/PM.I-06/AD/VII/2020

Based on the background above, this occurred due to the negligence of the captain because he violated the protection for ship passengers as regulated in the 2008 Law Number 17 concerning Shipping, Government Regulations concerning Ship Incident Inspections, Government Regulations concerning Ship Accidents of 2019, and the Fund Law. Passenger Accident Compulsory Coverage of 1964. About the Passenger Accident Compulsory Coverage Fund. The differences between the research conducted by the researcher and previous researchers, a comparison is made with existing theses, including the following:

1. Thomas Narpati Hendrawa, thesis title, "Legal Protection of Ship Crew's Rights in Implementing Employment Agreements, Jayabaya University Postgraduate Student in 2018. This research discusses

the rights of ship crew.

2. T Iskandar, thesis title, Legal Protection for Consumers of Batam Ferry Transport, Tanjung Balai Karimun, Postgraduate Student at the Faculty of Law, Indonesian Islamic University, Yogyakarta, 2005. This research discusses legal protection for consumers when crossing the sea by ship.
3. Ony Surijono, thesis title, "Legal Protection of Ship Crew Working for National Shipping Companies Reviewed from a Labor Law Perspective" Postgraduate Student at Bosowa University in 2010. This research discusses legal protection for ship crew in North Sumatra from a labor law perspective work
4. Edy Frans Pardede, thesis title, "Consumer Protection for Transport Users Crossing Lake Toba at Simasindo Harbor Based on Law Number 8 of 1999 concerning Consumer Protection", Postgraduate Student at the Islamic University of Riau Pekanbaru 2017. This research discusses the protection of consumers who use boat crossing services on Lake Toba according to Law number 8 of 1999 concerning consumer protection.
5. Indra, thesis title "Legal Protection of Ship Crew in the Responsibility of Speedboat Business Owners According to Law Number 1 of 1970 Concerning Work Safety (Case Study of Speedboats Destination from Mandah to Tembilahan), Postgraduate Student at Riau Islamic University Pekanbaru 2017. This research discusses legal protection for crew members in the speedboat business according to Law number 1970 concerning work safety.

What differentiates this writing from the previous writing is that it is more focused on what form of legal protection the ship's passengers receive, whether it is in accordance with the regulated laws or not. Based on the description above, the author chose the title of the thesis entitled "LEGAL PROTECTION FOR SHIP PASSENGERS IN RESOLUTION OF DISPUTES OVER SHIP ACCIDENTS" .

## Method

### 1. Type of Research

Thereby method Can explained as something approach , observation , and explanation to something phenomenon with utilise something framework theoretical .. Study This including in category study law juridical normative , involving analysis to literature or source secondary , which includes material primary law , law secondary , and legal tertiary .

### 2. Approach Study

Approach research used \_ in study This is approach law juridical normative , namely :

a. Approach Legislation is something method research that examines all regulation related laws \_ with mergers , consolidations and takeovers share . In implementation method this , researcher must understand structure hierarchies and principles the basis contained in regulation law .

b. A Case Approach is carried out with analyze related cases \_ with moderate issue \_ researched , which has been decided by the court and has strength permanent law . \_

c. Approach analysis that is approach with do data analysis and reviewing data, information and events

d. Approach conceptual that is refers to approach or method used \_ For understand , define , and apply draft For something context certain .

## Results and Discussion

### A. Analysis Completion To Disputes Over Passengers Ship Accident

Completion theory dispute , according to Pruitt. Dean G & Z. Rubin can concluded that solution dispute is a purposeful process For return connection between the parties to the dispute in circumstances like beginning . This theory rooted from understanding about dispute as difference interest or nonconformity between the parties involved , who can appear in various form and context .

Definition theory solution dispute covers analysis to category or type disputes that arise in society , the factors that cause it emergence disputes , and strategies or method For end dispute the . In context here , there is a number of approach in finish dispute , like court , alternative solution disputes (ADR), and institutions custom .

Approach court involves formal legal processes regulated by the Civil Procedure Law , whereas ADR offers diverse method like consultation , negotiation , mediation , conciliation , and assessment expert . Every method This own advantages and disadvantages separately , as well can chosen in accordance with needs and characteristics from dispute faced . \_

Apart from that , theory solution The dispute also highlights possible strategies adopted by the parties involved in finish conflict . Examples of strategies mentioned including competing (contending), yielding ( yielding), solving problem (problem solving), interesting self (withdrawing), and not do action anything (in action).

Analysis case accident ships involving KM . Tanto Sehati and KM. Heru Jaya II, MT. Norgas Cathinka and KMP Bahuga Jaya, as well as KMC RBB and Longboat Sebangau National Park with focus on theory solution dispute give description comprehensive about various aspects involved \_ in solution conflict the .

In context solution dispute , there are two approaches main thing that can be done used : litigation and non- litigation . In third case above victim or \_ parties who may choose solution conflict what do you want to use ? litigation or non- litigation , the injured party can choose For submit lawsuit to court based on Constitution Protection Consumers , with type customized lawsuit \_ with the number of people harmed and the magnitude losses experienced . \_ Litigation process possible the parties to the dispute For serve argument law them in front court and consider proof as well as information submitted by each party . Temporary that , deep non- litigation approach , the parties involved can choose For finish outside dispute \_ court through mediation , arbitration , or conciliation led by the Settlement Body Dispute Consumer (BPSK).

litigation process This involves dialogue between the parties to the dispute with help of a mediator or BPSK assembly for reach possible agreement \_ accepted by both split party . With notice aspects relevant laws , ethics , and international norms , as well use framework Work theory solution dispute , expected solution conflict on accident boat can reach fair , sustainable and appropriate outcomes \_ with principles justice as well as security sea .

In observing third case it is visible that the settlement process generally leads to use litigation as

method main . This matter caused by facts that in every case , captain ships involved \_ worn Article 359 of the Criminal Code above his negligence resulted accident boat and caused fatalities . \_ \_ Article 359 of the Criminal Code regulates about follow criminal resulting negligence \_ death . In context This is a litigation process become the most suitable choice For handle cases similar Because involve consideration complex laws , incl \_ evidence , testimony , and judgment are mandatory submitted before \_ court . Use litigation also reflects importance enforcement strict and fair laws \_ to the offense that caused impact serious , like accident resulting ship \_ loss soul . With Thus , use litigation as method solution case give solid foundation \_ in ensure proper accountability \_ for the parties involved as well as justice for the victims and affected families impact .

In analyzing case above Solution Theory Dispute as framework relevant work . \_ This theory highlighting effort For return connection between the parties to the dispute to in circumstances like beginning . In the case of this , analysis covers understanding to various factor affecting \_ happen accident , like condition weather , circumstances technical ships , and decisions skipper . Additionally , evaluate \_ impact accident , okay in a way physique and morals, are also necessary For understand dimensions humanity from conflict the . Application of Completion Theory Dispute in context This leads to judgment to approach solution , fine through litigation or non- litigation . This includes analysis the effectiveness and advantages of each approach , as well implications to principles justice and safety sea . With So , solution case accident boat No only involve consideration law , but also consider values ethics , safety , and justice in public .

Need noticed various factor affecting \_ happen accidents and the resolution process . For example , in case accident between KM. Tanto Sehati and KM. Heru Jaya II, aspect decision skipper and suitability steps precautions taken \_ become point evaluation important . Likewise deep \_ case between MT. Norgas Cathinka and KMP Bahuga Jaya, in which role technology navigation such as ARPA and acts preventive to risk crash become focus analysis .

Additionally , impact \_ accident , okay in a way physique and morals, too considered in the process of being resolved dispute . For example , in case accident between KMC RBB and Longboat Sebangau National Park , impact tragic towards fatalities \_ bring up question about not quite enough answer ethical and humanitarian to fellow sailor .

With Thus , analysis case accident boat with use framework theory solution dispute No only involve aspect laws , but also values ethics , security sea , and justice . With consider various factors involved , the resolution process is expected dispute can reach adequate results \_ for all involved and encouraging parties \_ principles safety as well as justice in the waters .

## B. Analysis Legal Protection of disputes on passenger accident boat

Protection theory law according to Philip confirm that . A underlining approach \_ the role of the state in protect rights individual and group in public . According to Hadjon , protection law No only just give guarantee law to individual , but also includes effort preventive and responsive from government For prevent and respond violation rights the .

Writer conclude that theory the mean For highlighting importance the role of the state in protect rights individual and group in public . Approach This covers aspect preventive and responsive , which aims For prevent happen violation rights as well as respond in a way effective when violation the happen . Aspect preventive emphasizes effort \_ prevention through supportive policies and actions \_ existence and dignity individuals and groups , whereas aspect responsive emphasizes enforcement \_ law and protection towards victims of violations rights . With So , theory This emphasize importance protection comprehensive law \_ For ensure sustainability right basic humanity and justice in public .

Protection law passenger boat in a way Preventive is protection intended government \_ For prevent violation before happen . This matter entered in regulation law with objective For prevent offense and give information as well as restrictions to implementation obligation certain .

Analysis case accident ships involving KM . Tanto Sehati and KM. Heru Jaya II, MT. Notgas Cathinka and KMP Bahuga Jaya, as well as the KMC RBB and Long Boat belonging to the Sebangau National Park Office can understood through lens theory protection law put forward by Philipus M. Hadjon . In context This is shown importance apply approach preventive and repressive For handle impact as well as consequences resulting from accidents \_ boat . Approach preventive refers to efforts possible prevention done before accident happens , like enhancement safety ships and strict supervision to operation shipping . On the other hand , approach repressive emphasizes enforcement strict law to possible violations has happen , with ensure that responsible party answer worn appropriate sanctions

. \_ With combine second approach This is expected can created environment more maritime safe and responsible answer for all parties involved in industry shipping .

Approach repressive Philipus M Hadjon who emphasized enforcement strict law to proven party \_ responsible answer on accident , very relevant in situation This . Enforcement strong law \_ to violators rule safety boat can give effect deter and encourage awareness will importance obedience to regulations safety sea . In context this , the proven party do violation safety boat can worn appropriate sanctions \_ with Constitution Number 21 of 1992 concerning Cruise , as arranged \_ in Article 86, which regulates not quite enough answer company water transportation on impact from operation boat .

From the preventive actions in the 3 decisions above some do n't in accordance Because there is one victims already \_ get protection form change loss and that's it someone got it if seen \_ in 2 accidents MT Tanker ship . Norgas Cathinka and KMP Bahuga Jaya and KMC RBB Ship and Sebangau National Park Longboat No discuss about change loss So giving change loss No equally whereas should in accordance regulation article 4 UUPK 1999 consumers entitled get compensation , replace loss , and replacement goods if goods or services received No in accordance with agreement . Inconsistency This reflect exists gap in application law related protection right consumer in context accident boat .

In the 3 cases above Preventive Action Actually It is already done with make regulations on the ship and usual Already stated inside \_ ticket inside the ticket , usually Already There is rule written about things What just not can and may be done above ship for the sake of getting safe and comfortable journey when aboard sail .

As effort For reach equitable and protective justice \_ rights individual in a way equivalent , required review return to mechanism solution dispute and renewal in system ensuring law \_ that every victim gets adequate protection and compensation \_ in accordance with provision applicable law . \_ With So , improvements in the process of being resolved disputes and enforcement law will become step important in ensure that justice and protection law can enforced in a way effective and equitable across all level .

Awareness will importance equal justice and protection rights individual become the more important in face situation sort of This . Therefore that 's necessary exists review return to mechanism solution dispute and renewal in system guaranteed law \_ that every accident victim boat get adequate protection and compensation in accordance with provision applicable law . \_

With do improvements in the process of being resolved disputes and enforcement law , we can ensure that justice and protection law can enforced in a way effective and equitable across all level . This will too strengthen trust public to system law and provide guarantee that rights they will protected with Good in situation anything , including in cases accident ships in need fair and sustainable solutions .

Regulations the role as step preventive For reduce risk happen accident and ensure that every passenger understand not quite enough answer they during was on the ship . With exists rule This is expected every individual who uses service transportation sea will obey provisions that have been established for the sake of safeguarding security together .

However , although action preventive like This has taken , there is need For Keep going increase awareness will importance obedience to rules the . Education to passenger about importance obey regulation safety ships also become crucial aspect \_ in effort prevent happen future accidents . \_ With Thus , a combination between strict regulations and awareness high society will become key in ensure security and safety during journey sea .

If Preventive Action is violated \_ usually according to theory protection law according to Philipus M Hajdon will be given theory Repressive For effort divert disturbance usually with method give penalty to passengers and can also be worn to crewman boat including skipper . Can be deep form change losses , fines , even possible \_ get penalty criminal like confinement in accordance the rules are broken. In the case This all three indicated is the captain is at fault so from it was the captains who were guilty of being charged criminal with article 359 of the Criminal Code because negligence the captain causes another person to die and can be sentenced to a maximum of five years prison .

According to analysis Author , judge's decision in third case the has reflect enough effort \_ For take into account aspect repressive and preventive as explained in theory Philipus M. Hadjon . In context this , enforcement strict law \_ to proven party \_ do violation safety boat is very relevant step . However Thus , in the determination process punishment and reward change loss , necessary considered that accident boat can influenced by a number factors , incl condition bad weather \_ or factors related technical \_ with boat That Alone .

In context this is important for the judge to No only consider mistakes made by the captain , but also various other possible variables influence incident the . This includes obedience boat to standard safety , condition navigation at the moment accident occurred , and the response taken by the captain in

situation emergency . Besides , it is necessary readiness and completeness are also considered equipment safety on board , as well action prevention has been taken previously .

Next , in matter giving change loss , important for the judge to consider the rights of victims and families they in a way comprehensive . This includes in matter ensure that the victim and family they get fair and adequate compensation \_ in accordance with their loss \_ natural , fine in a way physique nor psychological . Apart from that , the judge must also consider other aspects such as factors mitigation and rehabilitation for affected party \_ impact .

With so , though approach repressive important in straighten up rule legal , however in context solution case accident ship , a nature approach holistic and calculating various factor is key For reach fair and sustainable decisions . \_ With Thus , the judge expected capable operate his role as enforcer law with wise and based principles deep justice . \_

## CONCLUSION

1. Settlement of disputes regarding passengers in ship accidents can begin with mediation or negotiation between the accident victim and the captain or ship owner before submitting legal proceedings to the judiciary. It is hoped that resolving disputes through mediation or negotiation is the best way to achieve preventive legal protection, such as socialization and safety regulations, as well as repressive aspects, namely legal sanctions for violations of rules. It is important to ensure compliance with maritime regulations, social responsibility and protection of passengers' rights in the context of ship accidents.
2. Legal protection means that in a dispute preventive legal protection can be carried out with the aim of preventing violations before they occur, such as complying with regulations, signs or restrictions on board the ship and for this reason, repressive legal protection is the final action in enforcement. laws involving the imposition of sanctions, such as fines, imprisonment, or additional penalties, in response to violations that have occurred. These sanctions are imposed after a dispute or violation of law occurs, aiming to enforce compliance with the law, provide a deterrent effect to perpetrators of violations, and protect the interests of society as a whole.

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