

# Shipping Court Become The Indonesia Maritime Court In Comparison Legal Perspective

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**Abstract-** Indonesia is a maritime country with a wider ocean area, namely 2000 Km of land area of 1000 Km which consists of 17,544 islands so it really needs sea transportation as the backbone of the economy and as a unifier of the nation. Since March 1, 1938 (Dutch Colonial era) it has had an institution called the Shipping Court as a professional court whose job is to examine the causes of ship accidents and to impose sanctions on the captain or ship officer who is proven guilty of applying maritime professional standards. The position of the Shipping Court is currently under the Ministry of Transportation so that its authority is very limited and does not yet cover matters arising from ship accidents. The purpose of this study is to analyze the current regulation of the shipping court to become an Indonesian maritime court from the perspective of a comparative study of law. The results of the Court Regulation research are not based on the value of justice, it can be reconstructed into the Indonesian Maritime Court which domiciled under the Supreme Court, has broader authority to be able to handle cases arising from ship accidents in order to realize a fast and low-cost trial, especially for business actors in the shipping sector in particular and the maritime community in general, as well as achieving legal objectives namely certainty, justice and benefit law.

**Index Terms-** Regulation of the Maritime Court, Maritime Court, Indonesia, World Maritime Axis.

## I. INTRODUCTION

The function of the sea conventionally is as a transportation medium that prioritizes convenience and timeliness which is relatively fast, sea transportation facilities are still very much needed to improve people's welfare and equitable development in the entire territory of the unitary Republic of Indonesia which is an Archipelagic State united by the sea. The orderly security, safety and smooth running of sea transportation is highly dependent on awareness ship owners and companies in implementing an effective and implementable safety system in the field, because the ship's seaworthiness is more oriented towards certification which incidentally is supported by careful inspection, as well as supervision carried out by the government on the fulfillment of shipping safety requirements by ship owners or operators, the number and competency of the ship's crew, as well as laws and regulations governing sea transportation and compensation for losses arising in the event of a disaster in sea transportation activities [1].

According to the basic concept of shipping safety, a ship that is about to sail must be in a seaworthiness condition. This means that the ship is worthy of facing various risks and events naturally in shipping. The ship is worthy of receiving cargo and transporting it and protecting the safety of the cargo, the ship, and its crew. Seaworthiness of a ship requires shipbuilding and machinery to be in good condition, the captain and crew must be experienced and certified.

Shipping in Indonesian waters is increasing by ships with Indonesian flags and foreign ships, so the potential for accidents at sea is higher. In accordance with Law number 17 of 2008 concerning Shipping article 245, there are 4 (four) types of ship accidents, namely: (i) sinking ships, (ii) burning ships, (iii) collision ships and (iv) aground ships. Meanwhile, according to the previous Shipping Law, namely Law no. 21 of 1992, there are 5 (five) types of ship accidents, namely, (i) sinking ships, (ii) burning ships, (iii), collision ships, (iv) Accidents that result in material losses and casualties, (v) Ships run aground [2].

The Shipping Court has the function of carrying out follow-up investigations into ship accidents and enforcing the professional code of ethics and competency of the captain and/or ship's officers after a preliminary examination has been carried out by the safety supervisor. The task of the Shipping Court is to investigate the causes of accidents and provide recommendations for punishment or administrative sanctions to the captain or officer of the ship who is proven wrong or negligent in carrying out his duties or obligations

as a good sailor, namely revoking the certificate of competency or maritime profession for a maximum of 2 years in accordance with Article 373a of the Commercial Law Code [3].

Data on ship accidents in the territorial waters of Indonesian jurisdiction in each year are approximately 200-300 cases of ship accidents and which have been tried at the Shipping Court of approximately 30-40 cases, because most of the accident cases are still being processed at the Harbor Master Office or the accident scene, which carry out a preliminary examination.

The Ministry of Transportation/Directorate General of Sea Transportation has analyzed that the cause of accidents is human error, which is more dominant, reaching 80%. From the results of this analysis, it was concluded that there were five parties, both directly and indirectly, who contributed to the occurrence of ship accidents that caused casualties and property losses. The five parties that contributed to the ship accident were the captain and 60% crew members, the ship owner (ship owner) 20%, safety supervisor 5%, classification bureau 5% and guide 10%.

Even though the number of accidents is quite high, the handling of ship accident incidents by the Shipping Court is still administrative and documentary in nature which does not resolve the root causes of shipping safety issues. As the largest archipelagic country in the world, Indonesia does not yet have a Maritime Court or maritime court or Admiralty Court as in other maritime countries such as the Netherlands, Britain, Japan, and others. The current shipping court can only provide disciplinary or administrative action to the ship's captain or officer who is negligent causing a ship accident [4].

The existence of the Shipping Court in Indonesia was inseparable from the role of the Dutch East Indies government, when many Vereenigde Oost Indische Company (VOC) ships were operating in Indonesian waters, so it was deemed necessary to form a body to regulate ships operating in Indonesian waters. The Maritime Court was formed for the first time based on ordinance number 119 of 1873, Ordonantie Raad Van Tucht (Ordinance Council) which was then refined by Ordonantie Raad voor de scheepvaart (Staatsblad No 215 of 1934) which came into force on April 1, 1938. The position of the Maritime Court in during the Dutch East Indies period it was under the van Marine Department and is currently under the Ministry of Transportation [5].

Entering the independence era, this Ordinance remained in effect, and the government paid great attention from the Old Order to the New Order era, this can be seen from the change in the composition of the membership of the Maritime Court which was established through Presidential Decree number 28 of 1971, then renewed by Presidential Decree number 32 of 1984, concerning the Composition of the Membership of the Shipping Court.

Along with the increase in ship accident cases, the role of the Shipping Court is decreasing, this is indicated by the type of ship accident that will be examined in the Shipping Law number 21 of 1992 there are five types, while in the replacement law, namely Law number 17 of 2008, there are only four types of ship accidents, as well as the position of assembly members in PP. Number 1 of 1998, regarding the examination of accidents ships are called Judges while in Law number 17 of 2008 Article 1 point 58, the Shipping Court is an Expert Panelist, so it is not excessive in his first inauguration speech as the seventh President of the Republic of Indonesia Mr. Ir. H. Joko Widodo, said we have turned our backs to the sea for too long.

The Shipping Court is a government institution (executive) tasked with carrying out follow-up investigations into ship accidents, so even though the name of the Court means Judicial (tribunal) this institution does not have jurisdiction to decide cases related to civil, shipping criminal or other matters related to ship accidents. arising from ship accidents such as the authority possessed by the Maritime Court or the Admiralty Court in other maritime countries which have very wide jurisdiction for example the British Admiralty Court has the authority to deal with issues: maritime contracts, errors, losses, injuries of violations and all matters related to maritime crimes [6].

In connection with the matters described above and bearing in mind that the burden of the duties of the Maritime Court in the future will be even heavier, it is necessary to study various aspects related to the duties, functions, and authorities as well as competence of the Maritime Court to become a Maritime Court to resolve various cases that occur at sea related to maritime activities.

## II. RESEARCH PURPOSES AND METHOD

- 1) To analyze the shipping court to become a maritime court has not been based on effective and efficient justice.
- 2) To analyze the weaknesses of the shipping court to become a maritime court based on the principle of justice.
- 3) To analyze laws and regulations in the process of reconstructing shipping courts to become effective and efficient justice-based maritime courts.

The approach method in this study uses normative juridical methods, with secondary data sources in the form of data obtained by conducting literature studies, both on primary legal materials in the form of regulations and other rules, secondary legal sources in the form of literature books, research results and other sources obtained by browse from selected internet media as well as tertiary legal sources in the form of legal dictionaries and encyclopedias. The data obtained were then analyzed using a qualitative descriptive method.

## III. RESEARCH RESULTS

### *A. Regulation Concerning Functions, Duties and Authorities of the Shipping Court in Indonesia*

Regulations governing the functions, duties and powers of the Shipping Court are currently regulated in Law no. 17 of 2008 concerning Shipping, Government Regulation (PP) No. 9 of 2019 concerning Ship Accident Examination, Minister of Transportation

Regulation No. PM.76 of 2017 concerning the Organization and Work Procedure of the Shipping Court, and Minister of Transportation Regulation No. PM. 6 of 2020 concerning Procedures for inspecting ship accidents

In accordance with the above regulations, the function of the shipping court is to carry out follow-up investigations on ship accidents and enforce the professional code of ethics and competency of the captain and/or ship's officers. Furthermore, the task of the shipping court currently is to examine the causes of ship accidents and determine whether there is an error or negligence by the captain / officer of the ship in implementing maritime profession standards and recommending to the Minister of Transportation regarding the imposition of administrative sanctions for errors / negligence of the captain and / or officer's boat [7].

It can be said that in accordance with the functions, duties and authorities of the shipping Court to carry out further investigations into ship accidents, after carrying out a preliminary examination by the safety supervisor to provide recommendations to the Minister in the context of imposing administrative sanctions on the Master and / or ship officers, while other parties who directly or indirectly directly causing a ship accident has not been regulated in the current regulations of the Shipping Court.

In addition to imposing sanctions only on ship crew, the regulations of the Shipping Court also do not provide detailed handling of matters arising from the ship accident so that the victims or the victims' families have not received the values of justice in resolving cases arising from accidents. boat.

### *B. Ship Accident*

1. The definition of a ship accident according to Article 245 of Law number 17 of 2008 concerning Shipping is an incident experienced by a ship, which can threaten the safety of the ship and / human life, and damage to the maritime environment. As meant in the definition above, there are many things that arise from ship accidents that have not been handled optimally, such as compensation for loss or damage to cargo or personal belongings of sailors, which so far have been mostly settled out of court.

2. Types of ship accidents.

Types of ship accidents according to Law no. 21 of 1992 concerning Shipping there are 5 (five), namely: (i). Collision Ships; (ii). ship aground; (iii). Sunken Ship; (iv). Burning Ship; (v). Other accidents/losses. Meanwhile, in Law no. 17 of 2008 concerning Shipping, in lieu of law no. 21 of 1992. There are only 4 (four) types of ship accidents, namely: (i). Collision Ships; (ii). ship aground; (iii). Sunken Ship; (iv). Burning Ship. Referring to the different types of ship accidents, this also influences the authority of the Maritime Court in dealing with matters arising from ship accidents [8].

3. Ship accident reporting procedures

In the shipping law Article 248 it is explained that the obligation of the captain who knows about the accident of his ship or other ship must report to:

- a. Safety supervisor is the nearest port if a ship accident occurs in Indonesian waters.
- b. Representative officials of the closest Republic of Indonesia and local government officials who are authorized if a ship accident occurs outside the territorial waters of Indonesia.

Next in

Article 249 states that ship accidents as referred to in Article 245 are the responsibility of the skipper unless it can be proven otherwise.

In connection with the follow-up examination by the expert panel of the Inner Shipping Court

Article 254 states:

1. In the follow-up examination, the Shipping Court may present government officials in the field of shipping safety and security and other related parties.
2. In the follow-up examination, the owner or operator of the ship must present the captain and/or crew of the ship.
3. Ship owners or operators who violate the provisions referred to in paragraph (2), are subject to sanctions in the form of: (i) a warning; (ii) Freezing of permits; (iii) License revocation.

### *C. Factors Causing Ship Accidents*

There are several things that can cause ship accidents, including:

1. Natural Factors

If the ship accident is caused by extreme natural factors such as a typhoon, it can cause a very serious accident which results in the ship and all its contents not being saved or a total loss, but if it only occurs due to the influence of large weather (wind and waves), the ship can still be saved and only causing damage to ship equipment or loss and/damage to cargo.

2. Human factors (Human Error).

Ship accidents caused by human error, among others

- a. Ship owner

In accordance with Article 124 of the 2008 Shipping Law, the ship owner is responsible for the safety of the ship from procurement, construction and including the equipment and the operation of the ship must meet ship safety requirements, including: (i). material; (ii). construction; (iii). building; (iv). machinery and electricity; (v). stability; (vi). arrangement and equipment including auxiliary equipment, radio; and ship electronics. Entrepreneurs or ship owners who are unable to maintain the safety and seaworthiness of their ship causing a ship accident, the person concerned contributes to the ship accident, for example ship maintenance is not according to schedule so that the ship leaks and sinks, or ship materials and equipment are not marine standard so they are easily damaged or an electric short circuit occurs and catches fire or the safety

equipment is incomplete so that some of the ship's crew and passengers cannot save themselves when a disaster occurs at sea [9].

b. Master

The Commercial Law Code (KUHD) stipulates that the captain after signing a sea work agreement becomes the main worker of the ship entrepreneur, meaning that he has committed himself and can undertake to work under the orders of the ship entrepreneur/shipping company and is paid by the ship entrepreneur.

Whereas the 2008 Shipping Law stipulates that the captain is one of the crew members who is the highest leader on the ship and has certain authorities and responsibilities in accordance with statutory provisions.

In its implementation, as the supreme leader on board a ship, a skipper is fully responsible for the safety and security of the ship, and it is regulated in law that the captain can refuse to depart a ship if he knows that the ship is not seaworthy and is able to control the ship from the loading port to the unloading port.

c. Scout Officer.

In accordance with Law number 17 of 2008 concerning Shipping, it is explained that piloting a ship does not reduce the authority and responsibility of the captain, so that it is further elaborated in Regulation of the Minister of Transportation number PM. 57 of 2015 concerning Ship Guidance, that Pilot is a sailor who has expertise in the nautical field who has fulfilled the requirements to carry out ship guidance, to assist the Master in taking appropriate actions, providing information about the state of the waters, navigation aids, situation or density of ship traffic in ensuring the safety and security of shipping and protection of the maritime environment.

Scout officers in carrying out scouting obligations and making mistakes can be given sanctions in the form of:

a. Written warning.

b. Must not guide for a certain period according to the degree of error.

c. Revocation of pilot certificate.

Even though it has been regulated regarding sanctions if the scouting officer makes a mistake, the Shipping Court only gives recommendations to the Minister of transportation for the imposition of sanctions in accordance with the applicable laws and regulations, so that the shipping court's decision has not reached the scouting officer even though the person concerned has contributed to a ship accident.

d. Supervisor for shipping safety

Safety supervisor is a shipping safety officer appointed by the Minister of Transportation to carry out the function of shipping safety and security which includes implementation, supervision and law enforcement in the field of transportation in waters, ports, and protection of the maritime environment at ports, and assists in the implementation of search and rescue (Search and Rescue/SAR) [10].

Furthermore, in carrying out the function of safety and security in the field of Shipping, Safety supervisor carries out the following tasks:

- a. Supervise the ship's seaworthiness, safety, security, and order in the port.
- b. Supervise orderly ship traffic in port waters and shipping lanes.
- c. Supervise loading and unloading activities in port waters.
- d. Supervise salvage activities and underwater work.
- e. Supervise ship delay activities.
- f. Supervise scouting.
- g. Supervise loading and unloading of dangerous goods and waste of hazardous and toxic materials.
- h. Supervise refueling.
- i. Supervise the order of embarkation and disembarkation of passengers.
- j. Oversee dredging and reclamation.
- k. Supervise port facility construction activities.
- l. Carry out search and rescue assistance.

In carrying out the function as the safety supervisor tasked with supervising the safety and seaworthiness of the ship from the time the ship arrives at a port, while carrying out loading/unloading activities until the ship departs from a port both in the form of a physical ship and administration (ship documents).

Safety supervisor who is not careful in his supervision in assessing the condition of the ship so that the ship is not seaworthy but is allowed to go to the next port, it can be said that Safety supervisor has contributed to the ship accident.

e. Bureau of Classification / Supervisor for ship safety

The Classification Bureau is a ship classification institution that carries out activities for formulating ship construction and machinery strength regulations, guaranteeing marine material quality, supervising the construction, maintenance, and overhaul of ships in accordance with classification regulations. The results of inspection, testing and ship classification certificates are used as the basis for issuing ship safety certificates and other statutory certificates [11].

Officers from the Ship Classification Bureau are tasked with overseeing the construction/building of the ship from the start of construction (laying down the keel), during the operation of the ship until the ship is cut/cut, but due to negligence in supervision it can also cause a ship accident. Due to the negligence or lack of careful supervision of ship bureau ratification officers who contributed

to causing ship accidents, the Shipping Court only gave recommendations to the Minister of Transportation in terms of imposing sanctions.

### 3. Technical Factors

Technical factors that can cause ship accidents, for example, engine damage, damage to electronic and conventional devices, electrical short circuits, and ship hull leaks. A technical factor can arise due to a lack of concern or commitment of the management company / ship owner in terms of fulfilling the completeness of the ship's equipment and the lack of thoroughness of the crew in terms of correct, proper and sustainable ship maintenance in accordance with the provisions of the ISM Code ( International Safety Management ) consistently , such as equipment replacement schedules machinery and electronic equipment, especially dock schedules or repairs at shipyards.

### *D. Matters Arising from Ship Accidents*

Matters arising from ship accidents can be divided into two categories, namely very serious accidents, and serious accidents.

The category of very serious accident is a ship accident which results in the loss of the ship, or the ship cannot be saved (total loss), which causes loss of life and or heavy pollution. The ship can still be saved but can cause things including: hull cracking , hull cracking , suspected hull defects , hull leaks and damage to ship accommodation , damage or non-functioning main engine , the ship is powerless so it requires towage or assistance from land , the ship explodes (bursting) Ship is paralyzed , Unloading equipment is damaged or does not work , Load shifts and or cargo falls into the sea , Sea pollution , Spread of hazardous materials or elements that can injure someone [12].

In addition to the many things that arose from the serious accidents above which resulted in material losses and environmental damage, there were also other things that arose from the above sea incidents in the form of fatalities or injuries that befell the ship's crew and passengers, including:

a. Serious Injury (Serious Injury).

Namely an injury that causes the person concerned to be unable to carry out his duties/obligations for a period of 72 hours from 7 (seven) days from the date of incident.

b. Fatal Injury (Fatal Injury)

Namely injuries resulting in death within 30 days after the accident occurred.

c. Severe Injury (Major Injury)

That is an injury experienced by a person that results in:

1. Fractures (excluding fingers and toes)
2. Loss of a leg, arm, or part of an arm.
3. Displacement of the shoulder (shoulder), hip (hip), knee / knee (knee), spine (spine).
4. Vision loss (temporary or permanent).
5. Penetrating wound to eye.
6. Loss of consciousness (hypothermia).

### *E. Comparison with The British Admiralty Court*

a. position

The Admiralty Court / British Maritime Court is a special court institution, part of the Business and Property Court of the High Court (on the Queen's Bench Division in the High Court of Justice. Basically, the maritime court in England is not a separate institution from other courts but is one of the powers of the High Court of Justice.

England is one of the countries with the longest maritime history in the world. The maritime court or what is known as the Admiralty Court in that country began in the 1300s and still exists today [13].

b. Duties and powers

Maritime courts handle almost all problems in the maritime field, including ship accidents, disputes regarding cargo transportation, ship arrest, shipwrecks, problems regarding cargo, liens on ships, lawsuits over injured passengers, crew employment, to defense of the ship owner to limit the liability (liability) that must be paid.

This institution is authorized to handle shipping issues and disputes in the maritime field, including among others:

- 1). Collisions between ships / collisions between ships
- 2). Disputes over the transport of cargo / Disputes over the transport of goods
- 3). Salvage of a ship, cargo, or crew
- 4). Disputes over goods supplied to a ship / Disputes over goods supplied to a ship
- 5). Disputes over mortgages and other security over ships / disputes about mortgages and security over ships.
- 6). Claims by passengers for injuries suffered
- 7). Claims by ship crew for unpaid wages / claims from ship crew for unpaid wages.
- 8). Claims by shipowners to limit liability for loss or damage

This institution handles the claims of the parties submitted against the ship owner ('in persona' claims) and claims submitted against the ship itself ('in brake' claim), can also 'examine' claims filed against other types of transportation (e.g., airplanes.) and payload.

The Maritime Court Admiralty may confiscate ('detain') ships and cargo to prevent their transfer and /or sale in the territory of England and Wales.

#### *F. Comparison With the Netherlands Maritime Court.*

##### a. position

The Dutch Maritime Court is a division or part of the High Court and is located under the Supreme Court Dutch Maritime Division Queen's Bench in the Court of Appeal; This country has a Maritime Disciplinary Court (Maritime Disciplinary Court or Tuchtcollege voor de Scheepvaart) which has a nature like the Shipping Court in Indonesia. This court replaces the Dutch Maritime Court (Raad voor de Scheepvaart) which was disbanded in 2010. This forum tries ship captains or officers who violate maritime regulations [5].

##### b. Duties and powers

The Dutch Maritime Disciplinary Court performs its functions under Article 55 of the Seafarers Law. This court has the authority to try ship officers, including the Master, Deck and Engine officers, shipping/ marine engineers, and radio operators from Dutch-flagged ships. Cases handled by the Dutch Maritime Disciplinary Court were based on complaints from interested parties (which could be crew members, ship owners or insurers). In addition, the Minister of Infrastructure and the Environment can also submit a case petition to the court. Witnesses given by this court can be in the form of:

- 1) warning
- 2) rebuke
- 3) The fine is not more than €4,500
- 4) Suspension of sailing permits for a period of not more than two years

Apart from the Maritime Disciplinary Court, for other cases which are in the domain of maritime and transport law, the District Court of Rotterdam / Maritime Chamber is appointed as the court which holds exclusive jurisdiction throughout the Netherlands. Some of the claims handled by the Dutch Maritime Court include:

- 1) Claim In rem.
- 2) Claims for damages done by the ship.
- 3) Claims about ownership of the ship.
- 4) Claim under the Commercial Ships Act 1995.
- 5) Claims for loss of life or personal injury.
- 6) Claim by a skipper or crew member for wages.
- 7) Claims in terms of towage.
- 8) Claims in terms of pilotage.

According to rule 30.5 applies to claims in the Maritime Court unless the Maritime Court can order the transfer of claims to other courts including:

- 1) Commercial Court.
- 2) Circuit Commercial Court; or
- 3) ignored
- 4) Other appropriate court.

Referring to Functional Theory (functional theory) is a theory that seeks to functionally trace the factors that cause social change in society until people's dissatisfaction with their social conditions that personally fulfill their lives, as well as the relationship of elements in a society or culture that are interdependent and become a unified whole. To function, it is necessary to empower elements within the shipping operational environment and handle matters arising from ship accidents in a more comprehensive manner in a structure or institution that can adopt the interests of society in general [14].

Meanwhile, according to integrative theory, which is a perspective in organizational theory that explains how people, technology, and the environment as basic concepts of organizational communication integrate with each other to influence everything that happens in the organization, where according to the expert opinion, namely Shokley-Zalak said that in integrative theory There are two approaches, namely the process and environmental approach and the cultural approach. The process and environment approach is an integrative theoretical approach that seeks to describe the complexity of organizational processes as influenced by internal organizational factors and the external environment. Meanwhile, the cultural approach to integrative theory is an approach that explains organizational behavior that is influenced by culture within and outside the organization.

#### IV. CONCLUSION

1. The legal regulation of the Shipping Court to become the Indonesian Maritime Court is not based on the value of justice, because many things arise from ship accidents, namely material and in-material losses and loss of life, but the Shipping Court Regulations regulated in Law number 17 of 2008 only regulate its functions carry out follow-up inspections of ship accidents, tasked with examining whether or not the captain and / or ship's officers have made a mistake, then provide recommendations to the Minister of Transportation for the imposition of administrative sanctions on the captain and / or officers who are proven guilty or negligent in applying maritime profession standards while the losses that arise Both in the form of maritime civil and shipping crimes are borne by the owner or operator of the ship through negotiations or mediation so that there is no sense of justice for business actors in the shipping sector. The imposition of administrative sanctions is only for the ship's crew while other parties who have contributed to causing ship accidents to have not been regulated in the Regulations of the Shipping Court to become the Maritime Court which is currently based on the value of justice.

- Weaknesses in the regulation of the Shipping Court to become the Indonesian Maritime Court are currently not based on the value of justice in terms of institutional aspects according to Law no. 17 of 2008 concerning Shipping The Shipping Court is referred to as a Panel of Experts while in the Regulation of the Minister of Transportation number PM.76 of 2017 concerning the Organization and Work Procedure of the Shipping Court is referred to as a government institution whose domicile is under the Ministry of Transportation, Reduced authority where according to the shipping regulations of the Dutch East Indies era and also the second book of the Criminal Code where the old authority was that a skipper after completing an administrative sentence and if he was going to return to work on a ship the Director General of Sea Transportation would ask for an opinion from the panel of the Maritime Court on the stamp of the skipper or officer while currently according to law number 17 of 2008, his name is mentioned as a panel of experts so that it can only provide recommendations to the Minister of Transportation to impose administrative penalties on the captain or officer who is proven guilty in a ship accident.

## V. ADVICE

- The Government and the Legislative Body (DPR-RI) immediately make laws and regulations or regulations on the Shipping Court based on the value of justice, to support the government's program to realize Indonesia as the world's maritime axis.
- The authority or jurisdiction of the Shipping Court can be expanded so that it can resolve civil cases that arise in ship accidents and special shipping criminal cases, and decisions resulting from the trial of the panel of judges / panel of experts are decisions that are directly conveyed to the suspect, not as a recommendation to the minister.

## REFERENCES

- [1] K. Paramita, "Tort Claim under the Ship Time Charter: The Perspective of Indonesian Law," *Fiat Justitia J. Ilmu Huk.*, vol. 15, no. 3, pp. 233–254, 2021.
- [2] B. Mugito, "Unmanned Maritime Vehicles in Indonesia for Cargo Shipping," vol. 2, no. 1, pp. 1–18, 2022.
- [3] S. E. Wahyuningsih, "The Development Of The Indonesian Criminal Code Derived From The Yudicial Pardon Value In Islamic Law," vol. 11, no. 2, 2017.
- [4] D. A. H. Bakung, M. H. Muhtar, and N. Amer, "Comparative Analysis of Legal Policies Regarding Force Major During Covid-19 Pandemic in Indonesia and China," *Batulis Civ. Law Rev.*, vol. 3, no. 1, p. 8, 2022.
- [5] S. E. Wahyuningsih, "Community Organizational Supervision System in Indonesia," *Int. J. Soc. Sci. Hum. Res.*, vol. 04, no. 08, pp. 2011–2019, 2021.
- [6] A. Mufasirin and A. Witasari, "A Legal Assistance In Criminal Action Trial Process," vol. 3, no. 2, pp. 346–352, 2021.
- [7] A. Safik, "Law-making Process in Indonesia An Analysis On the National Legislation Program (Prolegnas)," *J. Magister Ilmu Huk.*, vol. 1, no. 1, p. 20, 2021.
- [8] S. H. Marnani C.S. Rumambi R.J, "Analysis Of Connectivity Indonesia's Maritime Global Axis Policy With One World One Belt Road China Christine Sri Marnani, Freddy Johannes Rumambi, Haposan Simatupang," *J. Online Indones. Def. Univ.*, vol. 1, no. 11, 2021.
- [9] D. S. Narwastuty, "the Equation on the Justice for Fisherman: the Urgency To Protect Fishermen and Marine Resources in Indonesia," *Dialogia Jurid. J. Huk. Bisnis dan Investasi*, vol. 12, no. 1, pp. 081–096, 2020.
- [10] A. Abraham, "Indonesian Maritime Law Enforcement: Progress and Problems," *Indones. J. Int. Law*, vol. 15, no. 1, 2017.
- [11] I. A. Indrawan, "Ship Arrest in Indonesia and Cross-Border Maritime Dispute," *Indones. J. Int. Law*, vol. 14, no. 4, 2017.
- [12] A. Y. Sulistyawan, E. Indarti, and R. B. Sularto, "Legal enforcement approach by the Indonesia's minister of maritime affairs and fisheries (Period 2014-2019) in combating illegal fishing in Indonesia: A legal philosophy study," *AACL Bioflux*, vol. 13, no. 6, pp. 3300–3308, 2020.
- [13] Y. K. Dewi, F. Law, U. Indonesia, and A. Afriansyah, "COMPARATIVE LAW ENFORCEMENT MODEL AT SEA : LESSON LEARNED FOR INDONESIA," vol. 18, no. 1, 2020.
- [14] D. Nersessian, "The law and ethics of big data analytics: A new role for international human rights in the search for global standards," *Bus. Horiz.*, vol. 61, no. 6, pp. 845–854, 2018.

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