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# JURIDICAL ANALYSIS OF SYAHBANDAR'S RESPONSIBILITY IN REALIZING SAFETY SHIPPING (KSOP Class III Kijang Office Research Study)

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#### **Abstract**

The purpose of this study is to find out and analyze the porter's duties in realizing shipping safety, the porter's responsibility in realizing shipping safety, as well as the factors that become obstacles and alternative solutions to the porter's responsibility in shipping safety at the Port Authority and Class III Kijang Port Authority office. This study uses Grand theory, namely the theory of legal protection by Satjipto Raharjo, middle theory using the rule of law theory by Wirjono Projadikoro and applied theory using the theory of the law of happiness (utilitarianism) by Jeremy Bentham. This study uses a descriptive analysis approach to provide an overview and describe the object of research based on the facts that exist chronologically and systematically by using secondary data to obtain conceptual conceptions of theories, opinions or thoughts that are related to the object under study. Data collection techniques are library research and interviews which are then analyzed descriptively so that in addition to being able to describe and reveal the legal basis, they can also provide solutions to the problems in question. The population in this study were all employees and leaders of the Class III Kijang Harbormaster and Port Authority Office, with a sample of 4 people who were randomly selected and considered to be able to describe the characteristics of the population. The results of the analysis concluded,

Keywords: Syahbandar, Safety, Shipping

#### 1. INTRODUCTION

Transportation is the lifeblood of the economy of the Indonesian people and nation. Transportation development activities in Indonesia which consist of various dimensions (sea transportation and other transportation) are increasing. This is the impact of economic activities and socio-cultural and community activities. In addition, the deregulation process of the regulatory reform process in the national transportation sector has also triggered an increase in transportation activities, one of which is sea transportation.

Shipping is part of the means of sea transportation as mandated by Law Number 17 of 2008 concerning Shipping. Become a very strategic for national insight and become a vital tool that supports the goal of national unity and integrity (Law No. 17 of 2008). Shipping or sea transportation is a part of transportation that cannot be separated from other transportation facilities with the ability to deal with future changes, having the characteristics of being able to carry out mass transportation. Able to connect and reach regions with one another both nationally and internationally so as to be able to encourage and support national development in order to improve people's welfare.

Organizing sea transportation activities, crossing transportation, river and lake transportation to serve the public interest. The Minister of Transportation may grant permits for the operation of sea transportation, ferry transportation, river and lake transportation to serve the public interest. This transportation activity can be carried out using fixed and regular routes or irregular and irregular routes, unless obtaining permission from the harbormaster with the fulfillment of the ship's seaworthiness requirements, the operation of sea transportation, ferry transportation, river and lake transportation using sailing sails that meet the seaworthiness requirements. and is intended

for sea transportation, ferry transportation, river and lake transportation in the waters operation area (Martono, 2011).

In a voyage, it is required to meet the requirements, namely to have a manifest, as data or in the form of a ticket in the departure of passengers and also to obtain permission from the portmaster who is on duty at the port as a supervisor at the port and check whether the ship is fit for sailing and check the ship's overloaded capacity or safety facilities. available on the ship, as experienced by inter-island freighter ships.

Recognizing the importance of the harbormaster's role regarding safety in shipping, Law number 17 of 2008 concerning Shipping is a legal arrangement that regulates portability in terms of its duties and functions at ports. The importance of safety and security issues in shipping, is a responsibility in the port because the biggest problem in shipping is a matter of one's ability and expertise in carrying out the duties of the harbormaster.

Syahbandar is a government official at the port who is appointed by the Minister and has the highest authority to carry out and supervise the fulfillment of the provisions of laws and regulations to ensure the safety and security of shipping (Law No. 17 of 2008, Chapter I Article 1 paragraph 56). The Harbormaster and Port Authority Office or abbreviated as KSOP is a technical implementing unit within the Ministry of Transportation under the Directorate General of Sea Transportation PM No. 36 Th 2017, Article 1). The task of carrying out supervision and law enforcement in the field of shipping safety and security, coordinating government activities at ports as well as regulating, controlling, and supervising port activities at commercially operated ports.

One of the efforts in legal supervision at sea is the supervision of ships sailing in the territorial waters of Indonesia. Ships that meet the seaworthy requirements that can sail in the sea area in Indonesia. In Article 1 number 33 of Law Number 17 of 2008 concerning Shipping, Ship's Seaworthiness is the condition of a ship that meets the requirements of ship safety, prevention of water pollution from ships, manning, loading lines, loading, welfare of ship crew and passenger health, ship's legal status, management of safety and prevention of pollution from ships, and management of ship safety to sail in certain waters. The importance of the Sailing Approval Letter is specifically regulated in Law Number 17 of 2008 concerning Shipping (Nikson Willem, 2009).

The duties and functions of the harbormaster are specifically regulated in Law Number 17 of 2008 concerning Shipping. Article 207 paragraph 1 states that the harbormaster carries out the function of shipping safety and security which includes the implementation, supervision and law enforcement in the field of transportation in waters, ports, and protection of the maritime environment in ports.

#### 2. IMPLEMENTATION METHOD

The research objectives are declarative and are statements about what is to be achieved with the writing (Soerjono Soekanto, 2006). Based on the problems above, the objectives are: declaratively and are statements about what is to be achieved with the writing, To find out and analyze the syahbandar's responsibility in realizing shipping safety, To find out and analyze the factors that become obstacles and alternative solutions to this responsibility. the syahbandar is responsible for shipping safety.

Research is a concrete reflection of scientific activities in processing science (Bahder Johan, 2008). Operationally, research can function as the development of science and technology, support development, develop systems and develop human qualities. Legal research is conducted to find solutions to legal issues that arise. Therefore, legal research is a research within the framework of know-how in law. By making prescriptions about what should be on the issues raised (Peter Mahmud Marzuki, 2011).

Theoretically, it is hoped that it will open insight and paradigm of thinking in understanding and exploring legal issues related to the porter's responsibilities in shipping safety at the Kijang Class III KSOP Office.



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Practically, it is hoped that it will open insight and paradigm of thinking in understanding and exploring legal issues related to the duties and functions of the harbormaster in shipping safety at the Kijang Class III KSOP Office.

The theoretical framework is very important, because within the theoretical framework it contains a description of the theoretical results and related previous research results (Soerjono Soekarno, 2007). Theory must express a thesis or argument about a particular phenomenon that can explain the form of its substance or existence, and a theory must be consistent about what is known about the social world by participants and other experts, at least there must be translator rules that can connect theory with legal science. even other knowledge, scientific work theoretical framework is very important role to provide direction in efforts to solve problems in research. The theoretical framework is a means for researchers who must put forward normative theories that are relevant to the research to be carried out and must explain the research variables and the relationships between the variables that are laid out, while the theoretical framework is a framework of thought or points of theoretical opinion, a thesis on a case or problem (problem) which is the material for comparison of theoretical grips. Explain the theoretical framework that is arranged in the form of Grand Theory, Middle Theory and Applied Theory.

Conceptual framework is the most important part of theory. The role of concepts in research is to connect the world of theory and observation, between abstraction and reality. The concept is defined as a word that expresses a generalized abstraction of specific things, which is called an operational definition. The concept can be seen from both subjective and objective terms. From the subjective point of view, the concept is an intellectual activity to capture something. Meanwhile, from an objective perspective, the concept is something that is captured by the intellectual activity. The result of the capture of the human mind is what is called a concept. Concepts are "tools used by law in addition to others, such as principles and standards. Therefore, the need to form a concept is one of the things that is felt to be important in law. Concept is a mental construction, which is something that is produced by a process that runs in the mind of research for analysis purposes. In the conceptual framework, several conceptions or understandings are expressed that will be used as the basis for legal research. Furthermore, the concept or understanding is the main element of a research, if the problem and the theoretical conceptual framework are clear, usually the facts about the symptoms that are the subject of attention and a a concept is actually a brief definition of a group of facts or phenomena. So the concept is a definition of what needs to be observed, the concept determines between the variables that want to determine the existence of empirical symptoms, that is something that is produced by a process that runs in the mind of the research for the purposes of analysis. In the conceptual framework, several conceptions or understandings are expressed that will be used as the basis for legal research. Furthermore, the concept or understanding is the main element of a research, if the problem and the theoretical conceptual framework are clear, usually the facts about the symptoms that are the subject of attention and a concept is actually a brief definition of a group of facts or phenomena. So the concept is a definition of what needs to be observed, the concept determines between the variables that want to determine the existence of empirical symptoms. that is something that is produced by a process that runs in the mind of the research for the purposes of analysis. In the conceptual framework, several conceptions or understandings are expressed that will be used as the basis for legal research. Furthermore, the concept or understanding is the main element of a research, if the problem and the theoretical conceptual framework are clear, usually the facts about the symptoms that are the subject of attention and a concept is actually a brief definition of a group of facts or phenomena. So the concept is a definition of what needs to be observed, the concept determines between the variables that want to determine the existence of empirical symptoms. In the conceptual framework, several conceptions or understandings are expressed that will be used as the basis for legal research. Furthermore, the concept or understanding is the main element of a research, if the problem and the theoretical conceptual framework are clear, usually the facts about the symptoms that are the subject of attention and a concept is actually a brief

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The research conducted to the author's knowledge has not yet conducted research regarding the title that the researcher is doing, hopefully there will be no duplication of either the title, or the problem that is the focus of the study as well as the location or object of research that will be or is being carried out at the KSOP Class III Kijang Office.

Legal research method in English called legal research method has the essence of thinking about research. When examined from the word research in English, the term re search has the meaning of re = return and search = search so that when combined it produces the meaning of looking again. What is sought again in research is truth, namely non-exoteric truth with the keyword conducting research activities based on research methodology must be scientific, the elements must be objective and systematic. Legal research methodology is very much needed in reviewing research.

Research Specifications and Nature of Research, using legal research by examining library materials (secondary data) which can be called normative legal research or library law research (Mukthi Fajar, Yuliantor Achmad, 2010). Besides the existence of normative legal research, the author connects it with sociological legal research or emperes which mainly examines primary data such as materials that bind legislation. For this reason, it can be concluded that the specifications of the research that will be carried out by the author are normative and emperes legal research which will be followed by a descriptive analysis approach. Descriptive analysis approach is an approach used to provide an overview and describe the object of research based on the facts that exist chronologically and systematically.

Source of Data/Legal Materials, Primary legal materials are binding legal materials, namely: the 1945 Constitution of the Republic of Indonesia, Law Number 17 of 2008. Regarding Shipping (State Gazette of the Republic of Indonesia of 2008 Number 64, Supplement to the State Gazette of the Republic of Indonesia Indonesia Number 4849). Secondary legal materials are legal materials that explain primary legal materials, including books, papers, and others. Tertiary legal materials are legal materials that support primary legal materials and secondary legal materials such as legal dictionaries, internet, interviews, encyclopedias and so on.

Data Collection Techniques and Data Collection Tools, The collection technique used in this research is library research where the data collection tool is a documentation study conducted by selecting data that is related to this research. The data that has been selected is then sorted by linking it to the problem under study for further analysis so as to obtain conclusions, so that the main problems studied in this study can be answered. obtained through data collection tools carried out using Document Studies and interviews.



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#### 3. RESULTS AND DISCUSSION

### Analyzing the Main Duties and Functions of the Harbor Master in Realizing Shipping Security and Safety

The definition of syahbandar, according to etymology, consists of the words Shah and Bandar. Shah means ruler and the word Bandar means ports and rivers that are used as shelters or anchoring points, kepil places on loading bridges and loading bridges, piers and chimneys and other small places that commonly used by ships, as well as areas of the sea which are intended as shelters for ships which, due to their draft or other reasons, cannot fall within the limits of the berths commonly used.

As we all know that the harbormaster is a government official at the port who is appointed by the minister and has the highest authority to carry out and supervise the fulfillment of statutory provisions to ensure the safety and security of shipping. In accordance with its function, the porter's duty is to oversee the seaworthiness of the ship which includes safety, security, and order in the port.

According to Law No. 17 of 2008 concerning Harbor Masters, carrying out the functions 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 in ports. Coordinate all government activities at the port, examine and store letters, documents, and ship reports, issue approvals for ship activities at the port, carry out ship inspections, issue sailing approval letters, conduct ship accident inspections. Based on the above understanding, it can be seen that several elements are directly related to each other, namely the existence of rulers of the sea, rivers, docks, and ships.

Class III Kijang Harbormaster and Port Authority Offices The Kijang Class III Port Authority and Harbor Offices have the task of carrying out supervision and law enforcement in the field of shipping safety and security. George R Terry has defined supervision as Controlling can be dejined as the process of determining what is to be accomplished, that is the standard, what is being accommodated that is the performance, evaluating the performance, and if necessary applying corrective measures so that performance takes place according to plans, that is conformity with the standard (Supervision can be formulated as a process of determining what must be achieved, namely standards, what is being done, namely assessing implementation and if necessary making improvements so that implementation is in accordance with the plan,

Supervision is basically fully directed or the goals achieved through supervision are expected to help implement the policies that have been set to achieve the planned goals effectively and efficiently. In fact, through supervision an activity is created that is closely related to the determination or evaluation of the extent to which work has been carried out. Supervision can also detect the extent to which leadership policies are implemented and to what extent deviations occur in the implementation of the work.

In carrying out law enforcement in the field of safety and security as referred to in Article 207 (paragraph 1) Syahbandar Article 1 point 33 states that the seaworthiness of a ship is a condition of a ship that meets the requirements of ship safety, prevention of water pollution from ships, manning, loading lines, loading, welfare. crew and passenger health, legal status of ships, management of safety and prevention of pollution from ships, and management of ship safety to sail in certain waters (Suryani, 2018). To ensure the safety of shipping as a support for the smooth traffic of ships at sea, it is necessary to have skilled, capable and skilled crew members. Therefore, every ship that will sail must be manned with sufficient and appropriate crew to carry out their duties on board the ship based on their position by taking into account the size of the ship, the arrangement of the ship and the shipping area. Law No. 17 of 2008 concerning Shipping, Article 1 point 40 crew members are people who work or are needed on board the ship by the owner or operator of the ship to perform tasks on board the ship in accordance with their position.

Shipping safety and security is a condition of the fulfillment of safety and security requirements concerning transportation in waters, ports and the maritime environment. Shipping

safety is everything that exists and can be developed in relation to accident prevention measures when carrying out work in the shipping sector. To ensure shipping safety as a support for smooth ship traffic at sea, it is necessary to have skilled, capable and skilled crew members, thus every ship that will sail must be manned with sufficient and appropriate crew to carry out their duties on board the ship based on their position taking into account the the size of the ship, the arrangement of the ship and the shipping area. Law Number 17 of 2008 concerning Shipping,

The increase in ship safety factors is influenced by ship equipment, ship functions, cargo loads and ship driver skills. In order for the safety of passengers and crew to be maintained, the ship's equipment must be adjusted to safety standards. The use of the ship according to its main function, the cargo load does not exceed the required load limit, the ship's driver is really capable of sailing the ship and mastering the shipping lanes in its path. The importance of safety and security issues in shipping is a responsibility in the port because the biggest problem in ship accidents in shipping is a matter of one's ability and expertise in carrying out his duties and functions as harbormaster.

#### The Syahbandar's Responsibilities in Order to Improve Shipping Security and Safety

The Office of the Harbor Master and the Port Authority of Kijang is one of the organizational units of the Directorate General of Sea Transportation which carries out the function of shipping safety. The Class III Kijang Harbormaster and Port Authority Office is a Technical Implementation Unit (UPT) of the regional Directorate General of Sea Transportation and is responsible to the Directorate General of Sea Transportation. The working area of the Kijang public port is the location of the Kijang port on Bintan Island, precisely in Kijang City, East Bintan District, Bintan Regency, Riau Islands Province, at latitude and longitude with coordinates position of 00 51'40 "LU/ 104 36'33" east with the name Sribanyintan Port as public docks and there are still several docks for self-interest (TUKS) and special terminals (TERSUS) along the coast of the Kijang strait. The Kijang Port Working Environment Area (Dlkr) consists of 2 working areas with a land area of +/\_ 1500 ha, namely the Guard Work Area and the Numbing Work Area. Meanwhile, the Environmental Interest Area (DLKp) covers the waters surrounding the water work environment area of +/- 4500 ha.

The Kijang KSOP Office has a vision and mission that must be carried out in carrying out the main tasks and functions to achieve it:

- 1. **Vision**: "The realization of a reliable and competitive national sea transportation operator as infrastructure and the backbone of the life of the nation and state".
- 2. **Mission:**To realize the vision that has been set above and a mission is formulated to be carried out as follows: Business in the field of sea transportation that is able to compete (competitively competent) in the era of globalization. Carry out considerations through restructuring and reform of regulations and institutions in the field of sea transportation in the era of globalization and regional autonomy. And Carry out considerations through restructuring and reform of regulations and institutions in the field of sea transportation in the era of globalization and regional autonomy. And Improving the quality of sea transportation services that are able to meet the needs of the community.

The objective of general safety management is to provide safe practices in ship operations and a safe working environment; to build protection against all identified risks and to continuously improve the safety management skills of ground and on-broad personnel including reparing for emergencies related both to safety and to environmental protection.

The Safety of Life at Sea (SOLAS) regulations are the most important regulations governing maritime safety. At the initial stage, it started by focusing on regulations on navigational equipment, the tightness of ship bulkheads and communication equipment, then progressed to construction and other equipment. The modernization of SOLAS regulations since 1960, replacing the 1918 Convention with 1960 SOLAS where since then the regulations regarding the design to increase factor Ship safety has begun to be included such as: ship construction design, machinery



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and electrical installations, fire prevention, safety equipment and communication and navigation safety tools (Deddy, 2021).

The field of Sailing Safety, Guarding and Patrol, has duties such as supervision of orderly airports and sailing order, ship traffic, scouting, delays, ship activities in port waters, fulfillment of shipworthiness requirements as well as preparing materials for issuance of sailing approval letters, preliminary inspection of ship accidents and handling Disasters at sea prepare materials for the issuance of seafarers' documents, sea work agreements and certification of ship crews. As well as preparing control materials for operational security and port facilities and controlling loading and unloading in the waters, conducting criminal investigations in the shipping sector in accordance with statutory regulations.

In addition to carrying out the functions as referred to in paragraph (1), the harbormaster assists the implementation of search and rescue (SAR) at the port in accordance with the provisions of the legislation. Regarding the existence of a ship accident, the parties who must be responsible for the ship accident are not only the harbormaster, but also the captain of the ship, the responsibility of the shipping company. In the Minister of transportation Regulation Number 6 of 2020 concerning procedures for examining ship accidents (PM No. 6 of 2020). Ship Accident Inspection is a series of investigation activities carried out by authorized government officials to find out the causes and factors supporting the occurrence of Ship Accidents. Ship Accident Preliminary Examination is a series of ship accident inspection activities carried out by the harbormaster or a government official appointed by the Minister on the basis of a ship accident report to seek information and/or initial evidence of an alleged ship accident. Ship accident follow-up inspection is a series of ship accident inspection activities carried out by the Shipping Court as a follow-up to the Ship Accident Preliminary Examination.

When a ship accident occurs, the responsibility of various parties is needed, both the porter, the transport company, and the captain. According to the Big Indonesian Dictionary, responsibility is a state of being obliged to bear everything (if anything happens, it can be prosecuted, blamed, estimated, and so on). Legal responsibility (juridical) has two aspects that are related to one another. Juridical responsibility is always related to rights and obligations that can be regulated in an agreement between the parties concerned or have the power of conduct because it is regulated in the provisions of the legislation (M. Husseyn Umar, 2001). At that time, the principles of liability for compensation were taken into account in order to determine whether or how a loss that gave rise to liability for compensation had a limit. In general, there are four principles of compensation responsibility, namely; The principle of responsibility for compensation based on an element of error (liability based on fault); The principle of responsibility based on the presumption of liability where a person is considered always responsible for the losses that arise due to his actions unless he can prove that he has made every effort to prevent the loss but it still occurs so that it is not because of his fault; The principle of absolute liability that does not question whether or not there is an error;

In Ministerial Regulation No. 20 of 2015 concerning shipping safety standards covering human resources (HR), facilities and/or infrastructure, standard operating procedures (SOP), environment and sanctions. Violations of shipping safety will be subject to criminal sanctions as well as administrative sanctions in the form of dismissal of personnel from office or revocation of permits for operators in accordance with the provisions of laws and regulations. From the HR aspect, sanctions will be imposed on the owner, ship operator and captain in the form of imprisonment for a maximum of six months or a maximum fine of Rp. 100,000,000, article 304 of Law no. 17 of 2008. "In article 128 paragraph 2, ship owners, operators and captains are obliged to assist the implementation of inspections and tests. From the SOP aspect, article 246 of Law Number 17 of 2008 states, in the event of a ship accident, every person on board the ship who knows there has been an accident within his capacity must provide assistance and report to the captain or crew. Violation of this article is subject to imprisonment for a maximum of one year or a maximum fine of one hundred million rupiah in accordance with Article 331 of Law Number 17 of

2008. Meanwhile, PM Number 37 of 2015 concerning Standards for Sea Transportation Services aims to ensure the fulfillment of the type and quality of shipping required entitled to be obtained by users of sea transportation services (PM No. 37 of 2015). The captain and or officer of the ship who is proven to have made a mistake or negligence in the application of the standard of the marine profession shall be subject to administrative sanctions in the form of a warning, as long as it does not result in loss of life or loss of property;

#### Factors That Become Obstacles and Alternative Solutions to Shipping Safety

Basically the factors that pose a threat to the safety and security of ships in sailing come from various sources such as natural hazards such as tidal waves (tsunami), storms (typhoons), earthquakes and extraordinary air temperatures, weather factors and human error factors: Human Error". Fires and pollution can also be considered natural hazards although most of them are caused by humans. The symptoms can be predicted and to overcome them by increasing awareness and avoiding them.

In a voyage there are weather detection devices on board (Maritime Materologi Tools) a weather monitoring tool system on board is used to improve the frequency and accuracy of the global weather monitoring system over the sea. The main purpose of this observation system is not only to report the weather but also to gather information for oceanography, pollution in marine ecosystems and weather forecasts. Each ship is of course usually recommended to have an independent weather monitoring system. Its purpose is to predict the weather especially when it is on its way to its destination. The existence of an independent weather monitoring station on board the ship also aims to make the data collected more accurate, and can match data from the central weather study center (BMKG) because the data obtained from the spot directly on the site from the presence of the ship can usually have slight changes. Here are the tools that must be on board to monitor the weather. The strategy to minimize the incidence of ship accidents involves the role of all parties, namely regulators, operators and facilitators.

Weather is the state of the air at a certain time and a certain area that is relatively narrow and for a short period of time. Weather is formed from a combination of weather elements that last only a few hours. For example, the state of the air in the morning can change during the day, afternoon, and evening. The search for methods to predict the weather is an activity that has recently been carried out by many researchers on the atmosphere or weather. Due to the many demands and various parties who need faster, more complete, and accurate information on atmospheric conditions. Weather conditions are the main safety factor for shipping activities. For that we need a technology system that can accurately determine the national weather conditions. Remote sensing satellite technology is the answer to this problem.

Not only weather factors, human error is often stated as the main factor causing an accident. For ordinary people, news about transportation accidents with human error as the cause is often interpreted as human error by system operators such as machinists, pilots, captains, and others. This perception is actually not quite right, considering that there are many factors and other aspects that can directly or indirectly encourage an operator to take inappropriate actions. Error is an abstract thing whereas taking action or not taking action is a real idea and suggests that it is difficult to provide a general definition of error, even though it is easy to recognize an act (e.g. omission, miscalculation or difference in interpretation) as an error. An error includes an individual error element, which includes a specific sequence of events (eg wrong choice of alternative, omission) or a magnitude associated with its impact.

Basically there is a human error classification to identify the cause of the error. The general classification of the causes of human error is as follows: System Induced Human Error. Where the mechanism of a system allows humans to make mistakes, for example management that does not apply discipline properly and strictly; Design Induced Human Error. The occurrence of errors caused by the design or design of the work system is not good; Pure Human Errors. An error that



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occurs purely comes from within the human itself, for example due to skill, experience, and psychology.

#### 4. CONCLUSION

Syahbandar carries out the function of shipping safety and security which includes, implementation, supervision and law enforcement in the field of water transportation, ports, and protection of the maritime environment in ports. In carrying out safety and security functions.

In carrying out shipping services using sea transportation, of course, it must meet the ship's safety and marine safety requirements. Every now and then, check the arrival and departure of ships, one way to prevent ship accidents, whether the ship runs aground or sinks, due to negligence by the officers who perform the service or the officers in the field, do not ignore the responsibility for the safety of the ship.

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