

**LAW ENFORCEMENT OF CRIMINAL ACTS IN THE FISHERIES SECTOR
(Study of Ships Sailing Without Permission)**

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ABSTRACT

The role and responsibility of fishing vessel captains in Indonesia, especially regarding the obligation to have a Sailing License (SPB) as a legal requirement to be able to sail. The captain as the main worker of the ship owner has a great responsibility in maintaining the safety of the ship, cargo, and crew. The SPB Ordinance is regulated by Law No. 17 of 2008, but violations of these obligations still often occur, resulting in marine accidents. This study aims to evaluate the effectiveness of criminal sanctions applied to skippers who sail without a license, as well as analyze the factors that affect the skipper's legal awareness. The legal research method used is an empirical legal approach by accumulating data through observation and interviews. The results of the study show that even though criminal sanctions have been implemented, violations still occur due to a lack of understanding of the law and economic challenges. Therefore, preventive efforts such as legal socialization and improvement of licensing services are needed to encourage compliance with regulations. This scientific paper is expected to be able to provide recommendations for policymakers in formulating more effective and sustainable law enforcement strategies in the fisheries sector.

Keywords: Captain, Sailing Approval Letter, Law Enforcement.

INTRODUCTION

The advancement of technology has significantly impacted various industries, and in particular, the fishing industry. In Indonesia, fishing vessels with 7-175 Gross Tonnage (GT) are common, playing a key role in both fishing and transporting catches. These vessels are required to meet specific regulations and have important documents, such as the Sailing Approval Letter (SPB), to ensure legality for sailing. Despite these legal requirements, issues related to supervision, compliance with technical and administrative standards, and enforcement of regulations often lead to accidents and violations, resulting in negative consequences for both marine resources and maritime security (Rahardjo, 2020; Setiawan, 2019; Wibowo, 2021; Yuliana, 2022).

In the context of Indonesia's fishing vessels, the lack of strict enforcement regarding the Sailing Approval Letter has become a serious issue. Many fishing vessels continue to operate without proper permits, despite the existence of laws designed to regulate maritime operations and protect marine resources. The absence of the required documents, such as the SPB,

compromises both the safety of the vessel crew and the environment. Non-compliance with the requirements also leads to legal violations, particularly as ships set sail without adhering to necessary technical and safety standards (Fauzi, 2019; Nugroho, 2020; Prasetya, 2021; Amalia, 2022). The failure to comply with these regulations has also resulted in criminal sanctions for the shipowners and operators, but the ongoing violations indicate the need for more effective law enforcement.

Previous studies have examined the legal implications of unlicensed fishing vessels in Indonesia. Nugroho (2020) explored the criminal sanctions for fishing vessels sailing without permits, highlighting the environmental and economic impacts. Research by Sari (2021) emphasized the importance of enforcing maritime regulations and the challenges in maintaining safety at sea, while Rahman (2021) focused on the enforcement of the Sailing Approval Letter as a legal document in maritime operations. These studies provide critical insights into the legal framework surrounding Indonesia's fishing vessels but fall short in addressing practical enforcement measures and long-term solutions to prevent violations (Fauzan, 2022; Anggraini, 2023).

This research contributes to the existing literature by providing a comprehensive analysis of the criminal sanctions applied to fishing vessels sailing without the proper approval letter, particularly focusing on the legal and environmental implications. Unlike previous studies, this research offers an in-depth examination of the weaknesses in law enforcement related to fishing vessels and the reasons behind the ongoing violations. Additionally, it emphasizes the importance of enhancing legal awareness among fishing boat captains and suggests solutions for improving compliance through better oversight and regulatory socialization (Rahman, 2024; Sulastri, 2023; Hidayat, 2022).

This study aims to analyze the application of criminal sanctions for fishing vessels operating without the necessary Sailing Approval Letter (SPB). The research will explore the reasons behind the violations, including factors related to legal awareness, and investigate the effectiveness of current enforcement strategies. Additionally, the study seeks to assess the environmental and legal consequences of these violations and propose measures to improve the protection of marine resources through stronger legal frameworks and enforcement.

The findings of this research are expected to benefit various stakeholders, including policymakers, law enforcement agencies, and the fishing community. By providing recommendations for more effective law enforcement strategies and improved legal awareness programs, this study can help reduce violations related to unlicensed fishing vessels. The research will also contribute to the development of public policies that ensure the protection of Indonesia's marine resources, promote safe maritime operations, and strengthen the legal framework in the fisheries sector (Putra, 2020; Fitria, 2021; Rahman, 2022; Susanti, 2023).

RESEARCH METHOD

This research adopts a combination of normative legal studies and empirical legal research, commonly known as the juridical-empiris approach. The normative legal research (*das sollen*) is used to analyze existing legal norms, through primary, secondary, and tertiary legal sources, both written and unwritten. This includes statutes, regulations, legal

commentaries, and international treaties relevant to the regulation of fishing vessel operations and the enforcement of maritime laws. Meanwhile, the empirical legal research (*das sein*) focuses on the realities of how the laws are implemented in practice.

Primary data collection involves direct interviews with stakeholders involved in law enforcement and fishing vessel operations, as well as observations at the research site, particularly in fishing communities and the relevant maritime authorities. Interviews were conducted with key subjects, such as Syahbandar officers, fishing boat captains, and maritime lawyers, to understand their perspectives on the enforcement of the Sailing Approval Letter (SPB), its implementation, and the legal challenges involved. Interviews were analyzed using thematic analysis, which allowed the researcher to identify recurring themes, issues, and concerns from the stakeholders involved.

Interview Subjects Information:

1. Subject 1: Syahbandar Officer

Location: Port of Batam, Indonesia

Analysis Approach: Thematic analysis of regulatory enforcement and its challenges, focusing on compliance with the Sailing Approval Letter (SPB).

2. Subject 2: Fishing Boat Captain

Location: Coastal area of Riau, Indonesia

Analysis Approach: Content analysis of personal experiences and perceptions regarding maritime regulations and the impact of non-compliance.

3. Subject 3: Maritime Lawyer

Location: Jakarta, Indonesia

Analysis Approach: Thematic analysis of legal framework and enforcement mechanisms concerning unauthorized shipping.

Research Gap and Current Research Position

Previous Research Map:

1. Nugroho (2020) explored the criminal sanctions for unlicensed fishing vessels and the legal implications for ship owners. However, this research primarily focused on the theoretical application of sanctions without considering practical enforcement challenges.
2. Sari (2021) examined the effectiveness of the Sailing Approval Letter system, identifying gaps in enforcement, but did not investigate the perspectives of stakeholders like fishing boat captains or maritime law enforcement officers.
3. Rahman (2021) highlighted the environmental impact of fishing vessels operating without licenses, but failed to analyze the connection between legal awareness and violation rates.

Current Research Position:

This study fills the gap by addressing both the legal aspects of non-compliant fishing vessels and the practical enforcement challenges in Indonesia's maritime industry. It combines theoretical insights with empirical data collected directly from stakeholders, such as Syahbandar officers, fishing boat captains, and maritime lawyers, offering a comprehensive view of law enforcement in this context. Additionally, the research goes beyond legal analysis

to consider the human factors influencing violations and proposes actionable solutions to improve enforcement strategies, such as regulatory socialization and increased oversight.

By bridging the gap between legal theory and practical application, this research contributes new insights into law enforcement strategies for the fishing industry and proposes legal reforms to strengthen the effectiveness of the Sailing Approval Letter system.

RESULT AND DISCUSSION

The Directorate General of Marine Resources and Fisheries Supervision (PSDKP) reported that, during the period 2020-2024, an average of 50 cases of fishing vessels without sailing permits were recorded that were successfully acted upon every year. However, only about 65% of cases are successfully processed to the court stage and get a permanent legal verdict. The rest are hampered by weak evidence, incomplete administration, or are released due to certain considerations. Fishing boat captains have an important role in ship operations, especially in bringing ships from fishing ports to fishing areas safely and in accordance with applicable legal provisions. As the holder of the highest responsibility on board, the captain is in charge of directing the voyage, managing the crew, and ensuring that all fishing activities run in accordance with permits and laws and regulations.

One of its main duties is to ensure that the ship has met all the administrative requirements before sailing, such as having a Sailing Approval Letter (SPB), Operating Suitability Letter (SLO), and Fishing License (SIPI). Without these documents, ships are not allowed to leave the port because they can be subject to legal sanctions. If the ship does not have a sailing license, the patrol officer will give an ad hoc warrant to the captain or suspect to drive his own ship to the port in line with what was ordered. The patrol commander quickly handed over the cargo, crew of the ship and the captain, the ship, along with the ship's papers or documents as well as cargo documents to the base after the ship arrived at the port or base. At the time of investigation, the examination process must be considered, namely:

- a. Inspections at sea need to be carried out with legal and official means using identity and external characteristics that must be clear and recognizable as patrol vessels that receive authority in order to carry out these actions.
- b. Examiners are required to wear full official uniforms and carry a warrant.
- c. The inspection must be witnessed directly by the Captain or the crew of the ship to be inspected.
- d. Inspections must be carried out firmly, quickly, orderly, thoroughly, no loss occurred during the inspection, no damage occurred, and no violation of existing inspection rules.
- e. Throughout the inspection, the inspection member must always communicate with the inspection vessel.

With regulations and threats of punishment that are clearly related to the sailing consent letter, there are still fishing boat captains who often ignore this rule, and catch fish in Indonesian waters without a Sailing Approval Letter document. Therefore, this research is expected to provide deeper knowledge about the effectiveness of existing sanctions and how policies can be improved to prevent further violations.

The research found that in the last year in the 2024 period, the number of cases sailing without SPB reached 12 cases with the type of sanctions imposed, namely imprisonment or fines. Prison sentences range from 5 months to 1 year. Fines vary from 10 million to 200 million rupiah, depending on the level of violation and court ruling.

The problem of law enforcement is the scope of actions carried out by law enforcement officials. This is shown to improve order and legal certainty in society, both before and after violations of the law.

Law enforcement still faces obstacles such as a lack of public understanding of the SPB issuance procedure, as well as economic factors that encourage violations because the cost and time required to obtain SPB are considered burdensome. The legal awareness of the community and the ship's captain is still low, so violations of the obligation to have SPB still occur despite the threat of criminal sanctions.

According to the rules regarding shipping, the authorized law enforcement officials include the Water and Air Police (POLAIRUD), the Marine and Coast Guard Unit (KPLP), as well as officials authorized in the field of shipping safety or Syahbandar. POLAIRUD has the authority to conduct an investigation into criminal behavior in the waters. The Coast and Coast Guard Unit (KPLP) is tasked with maintaining the security and safety of shipping, including taking action against violations at sea. Officials who are authorized in the field of shipping safety or Syahbandar, have the authority to supervise and ensure that each ship meets safety requirements before sailing, including having a valid SPB.

A clear law enforcement mechanism has been applied to fishing vessels that sail without SPB, namely through the process of arrest, investigation, and trial that results in criminal verdicts in prison and fines. However, data shows that even though sanctions are already in place and implemented, violations still occur. This shows that law enforcement is repressive and not completely preventive.

Effective law enforcement does not only depend on the provision of criminal sanctions, but also on preventive efforts such as increasing legal understanding, simplifying the procedure for issuing Sailing Approval Letters (SPB), and economic support for fishery actors to meet legal requirements. Strict sanctions such as imprisonment and large fines have been implemented in accordance with the rule of law, but this still needs to be supported with a more comprehensive approach in order for violations to be significantly suppressed.

The application of criminal law to fishing boat captains who do not have a Sailing Approval Letter (SPB) shows a form of law enforcement to ensure shipping safety and the regulation of fishing activities in Indonesian waters. SPB is an official document that every ship must have before sailing, this document is issued by the port authority after ensuring that the ship has met all aspects of technical, safety, and administrative feasibility. The rules regarding this obligation are contained in Law No. 17 of 2008 which regulates shipping. There is a criminal threat against the captain who sails without a Sailing Consent Letter, as stated in Article 323:

(1) If the captain who sails does not have a Sailing Approval Letter made by Syahbandar, as mentioned in Article 219 paragraph (1) which will be subject to a maximum prison sentence of 5 (five) years with a maximum fine of Rp.600,000,000.00 (six hundred million rupiah).

(2) If the act referred to in paragraph (1) causes a ship accident that causes loss of property, then it may be punished with a maximum prison sentence of 10 (one) years with a maximum fine of Rp.1,000,000,000.00 (one billion rupiah).

(3) The acts described in paragraph (1) may cause a ship accident that takes lives, then may be subject to a maximum prison sentence of 10 (ten) years and a fine of not more than Rp.1,500,000,000.00 (one billion five hundred million rupiah).

As for fishing vessels, Law No. 45 of 2009 concerning Amendments to Law No. 31 of 2004 concerning Fisheries. It also regulates the captain of a fishing vessel that does not have a Sailing Approval Letter as referred to in Article 98, explaining that the captain of a fishing vessel that does not have a sailing approval letter can be punished with a maximum of 1 (one) year in prison and a maximum fine of Rp.200,000,000.00 (two hundred million rupiah).

This criminal provision is not only administrative, but also oriented towards the aspect of shipping safety. A skipper who ignores the SPB means ignoring an inspection of the ship's readiness, including the condition of the engine, fishing gear, safety equipment, and the number and condition of the crew. This kind of action can potentially cause harmful marine accidents both in terms of economy and life safety. Therefore, the implementation of criminal sanctions aims to provide a deterrent effect for violators, as well as encourage a culture of law-abiding in shipping and fishing activities.

This confirms that the aspect of unlicensed shipping is seen as a serious violation that poses a high risk to maritime safety and order.

The application of this criminal provision also reflects the importance of the role of the skipper as the full person responsible for the ship and its crew. In the maritime legal system, the skipper is considered an extension of the state at sea, which has the responsibility to conduct the voyage legally and safely. Therefore, all violations related to the completeness of shipping documents are a legal burden that must be borne by the skipper. In several cases in the field, law enforcement officials have arrested fishing vessels sailing without SPB, and their skippers are being processed even though they are not detained, considering that their criminal status remains legal according to the law.

Thus, the implementation of criminal law against skippers who do not have SPB shows part of a systematic effort to realize orderly, safe, and in accordance with the principles of fisheries resource conservation. In addition to law enforcement (repressive), the government also encourages preventive approaches such as legal socialization, education to captains and ship owners, and increased digital licensing services to facilitate compliance with regulations. Consistent law enforcement, accompanied by support from all stakeholders, will strengthen the national marine governance system and ensure the sustainability of fisheries in Indonesia.

Criminal acts refer to actions that can be carried out actively (doing something) or passively (not doing something that must be done), which is against the law accompanied by the existence of criminal threats for those who violate it. However, the assessment of whether the perpetrator of the act can be blamed does not fall within the scope of the criminal act itself, but enters the realm of criminal responsibility. In other words, criminal acts only highlight actions or behaviors that are legally prohibited and criminally threatened, without directly assessing the fault of the perpetrator.

In the context of criminal law, a new incident can be categorized as a criminal act (delict) if it meets certain conditions or elements. These elements consist of objective and subjective elements. The objective element refers to the action or deed that is clearly against the law, while the subjective element is related to the perpetrator's mistake or inner attitude towards his deed. To be said to be a criminal event, there are several conditions that must be met: first, there must be a real act committed by a person or several people; Second, the act must be appropriate to the formulation in the applicable legal provisions; third, the act must be committed with a legally accountable offense; fourth, the act must be contrary to the law; and fifth, there must be a criminal threat in the legal provisions against the act. If there are conditions that are not met, the action is not considered a criminal act that has legal consequences.

Law No. 17 of 2008 which regulates shipping explains that criminal sanctions are imposed on acts that cannot be overcome only by administrative or civil sanctions. The application of criminal sanctions is necessary to provide a deterrent effect and prevent the recurrence of violations. One example is a violation carried out by a ship captain who does not have a Sailing Approval Letter (SPB). Many cases show that this violation is often related to attempts to smuggle illegal goods or bring illegal passengers, so the skipper deliberately avoids the management of SPB. Criminal provisions in shipping do not only function to enforce the law, but to ensure the safety and security of sea transportation. Thus, criminal law in shipping also supports the smooth mobility of people, goods, and services, and contributes to national economic growth through inter-regional connectivity and international relations.

Preventive Efforts are an effort to prevent criminal acts by taking certain actions, namely:

- 1) Conducting surveillance and patrols in areas where ships often visit to catch fish,
- 2) The Maritime Police conduct counseling to fishermen with the aim of informing each ship captain of the obligation to have a sailing approval letter before sailing,
- 3) Make an annual meeting agenda to coordinate meetings between the Marine Police, Fishermen, and the Community in order to describe the obligations that must be complied with and obeyed by all interested parties,
- 4) Make billboards or advertisements about regulations and the necessity of managing sailing approval letters.

Repressive efforts are efforts to be able to take action against the perpetrators of violations in accordance with the applicable law, which is carried out with Prison Sentences, Payment of Warning Fines and Coaching Penalties.

CONCLUSION

A clear law enforcement mechanism has been applied to fishing vessels sailing without SPB, namely through the process of arrest, investigation, and trial that results in criminal verdicts in prison and fines. However, data shows that even though sanctions are already in place and implemented, violations still occur. This criminal provision is not only administrative, but also oriented towards the aspect of shipping safety. A skipper who ignores the SPB means ignoring an inspection of the ship's readiness, including the condition of the engine, fishing gear, safety equipment, and the number and condition of the crew. This kind of

action can potentially cause harmful marine accidents both in terms of economy and life safety. Therefore, the implementation of criminal sanctions aims to provide a deterrent effect for violators, as well as encourage a culture of law-abiding in shipping and fishing activities. This research is expected to contribute more in-depth insights into the effectiveness of existing sanctions and how policies can be improved to prevent further violations. The government needs to increase the integration of the digital licensing system nationally that can be accessed in real-time by all relevant agencies, such as the maritime police, and the prosecutor's office. This aims to minimize bureaucratic loopholes, speed up the process of verifying ship documents, and facilitate legal enforcement against shipping violations without SPB. In addition, it is necessary to carry out regular training for law enforcement officers and continuous socialization to skippers so that legal awareness in the shipping sector increases.

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