

Gugatan in rem (non-conviction based aset forfeiture) terhadap perampasan aset bandar narkoba di Indonesia = In rem law suit (non-conviction based assets forfeiture) towards the assets forfeiture of narcotics dealer in Indonesia

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Abstrak

Kerugian yang ditimbulkan dari kejahatan Narkotika sangatlah besar dan masif. Pemerintah dipaksa menanggung beban biaya ekonomi (economic costs), biaya manusia (human costs) dan biaya sosial (social costs) pada setiap tahunnya. Di sisi lain, hukuman mati yang diyakini memiliki efek penggentar (general deterrence) ternyata tidak bisa menurunkan aktivitas kejahatan Narkotika. Sedangkan, kebijakan kriminal yang dibangun pemerintah selama ini hanya berfokus pada penghukuman, di sisi lain perampasan hasil kejahatan berupa aset belum menjadi fokus perhatian. Penelitian ini menggunakan analisis yuridis normatif, RUU Perampasan Aset Tindak Pidana yang digagas Pemerintah menjadi landasan utama. Penelusuran bahan hukum baik dalam hukum positif Indonesia maupun beberapa instrumen hukum internasional yang mengatur tentang gugatan In Rem menjadi penting yang digunakan untuk mengetahui urgensi dan kategorisasi aset tercemar dalam gugatan In Rem. Penelusuran bahan hukum tersebut juga digunakan untuk meninjau dukungan aspek yuridis normatif serta beberapa isu penting terkait hak asasi manusia.

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The loss of narcotic crime is enormous and massive. The government is forced to bear the burden of economic costs, human cost and social cost on a yearly basis. On the other hand, the death penalty believed to have a general deterrence was apparently unable to degrade narcotic crimes. Meanwhile, the criminal policy that has been built by the government has only focused on condemnation, on the other hand the seizure of the crime of assets has not been a focus of attention. This research uses normative juridical analysis, the criminal asset deprivation BILL initiated by the government to be the main cornerstone. The search for legal materials in both the positive law of Indonesia as well as some international law instruments governing the In Rem lawsuit are important to be used to know the urgency and categorization of tainted assets in Rems lawsuit. The search for the legal material is also used to review the normative juridical aspects of support as well as some important issues relating to human rights.