

Pertanggungjawaban Pidana Korporasi dalam Tindak Pidana Perikanan di Indonesia = Corporate Criminal Liability on Fisheries Crime in Indonesia

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Abstrak

Korporasi sebagai badan hukum memiliki peranan besar dalam pertumbuhan perekonomian Indonesia. Pertumbuhan ekonomi yang pesat akibat korporasi ini diiringi dengan munculnya modus operandi baru dalam melakukan tindak pidana, khususnya pada tindak pidana perikanan. Dalam tindak pidana perikanan, ketika terjadi suatu tindak pidana yang melibatkan korporasi maka pertanggungjawaban secara pidana terhadap korporasi merujuk kepada peraturan hukum yang berlaku. Penelitian ini berusaha untuk menjawab beberapa permasalahan, yaitu pertama, pengaturan pertanggungjawaban pidana korporasi di bidang perikanan; kedua, penerapan pertanggungjawaban pidana korporasi di bidang perikanan; ketiga, pengaturan yang ideal mengenai pertanggungjawaban pidana korporasi di bidang perikanan. Penelitian ini mendasarkan kepada penelitian hukum normatif, di mana mengacu kepada sumber data sekunder berupa bahan hukum dan bahan non-hukum. Hasil penelitian membuktikan bahwa: pertama, pengaturan mengenai pertanggungjawaban pidana korporasi di bidang perikanan memiliki kelemahan terutama terkait dengan beban pertanggungjawaban pidana korporasi yang dibebankan kepada pengurus dan korporasi; kedua, penerapan pertanggungjawaban pidana korporasi di bidang perikanan belum pernah ditempuh walaupun terdapat kasus tindak pidana di bidang perikanan yang melibatkan korporasi; ketiga, pengaturan pertanggungjawaban pidana korporasi di bidang perikanan yang ideal adalah ketika subjek tindak pidana dibebankan secara alternatif-kumulatif dan dilakukan sinkronisasi terhadap sanksi pidana pada pasal-pasal tindak pidana perikanan. Oleh karena itu, perlu mengambil langkah-langkah penting: (1) mengubah dan menambah rumusan mengenai pertanggungjawaban pidana korporasi di bidang perikanan terkait dengan: subjek, pengaturan dan mekanisme serta sanksi; (2) meningkatkan pengetahuan dan kemampuan aparat penegak hukum; (3) mengoptimalkan koordinasi antar instansi penyidik tindak pidana di bidang perikanan; dan (4) membuat pedoman penanganan perkara tindak pidana perikanan dengan subjek hukum korporasi.

.....A corporation as a legal entity has played a major role in Indonesia's economic growth. The rapid economic growth due to the role of corporations has also been accompanied by the emergence of a new modus operandi in committing criminal acts, especially in fisheries crimes. In this context, when a criminal act involving a corporation occurs, the application of corporate criminal liability should be based on the existing regulations. This research seeks to address several issues: first, the regulation of corporate criminal liability in the fisheries crimes; second, the application of corporate criminal liability in the fisheries crimes; third, the ideal formulation regulating corporate criminal liability in the fisheries crimes. This research is based on normative legal research using secondary data sources consisting of legal and non-legal materials. The findings of the research demonstrate that: first, regulations regarding corporate criminal responsibility in fisheries crimes have some weaknesses, especially in relation to the burden of criminal liability imposed on management and corporations; second, in reality, the concept of corporate liability has never been applied in fishery crimes although there were cases which might have been involving corporate crimes; third, the ideal arrangement regarding corporate criminal liability in fisheries crime is when the subject of a

criminal act is charged in an alternative-cumulative manner and synchronization of criminal sanctions in the articles of criminal acts of fisheries crime. Therefore, it's necessary to take important steps: (1) change and add to the formulation of corporate criminal liability in fisheries crime related to: subject, regulation & mechanism and sanctions; (2) increase the knowledge and capacity of law enforcement officers; (3) optimizing coordination between criminal investigation agencies in fisheries crime; and (4) make guidelines for handling fisheries crime cases with corporate subjects.