

ABSTRAK

Babtista Varani Rocy (22310089). DESKRIPSI PERTANGGUNGJAWABAN PIDANA PELAKU *ILLEGAL FISHING* OLEH KAPAL ASING DI ZONA EKONOMI EKSKLUSIF INDONESIA. Skripsi. Program Studi Hukum, Fakultas Hukum, Universitas Kristen Artha Wacana Kupang. 2025.

Penelitian ini dilatarbelakangi oleh adanya perbedaan putusan hakim dalam memidanakan pelaku illegal fishing oleh kapal asing di Zona Ekonomi Eksklusif Indonesia (ZEEI), dimana terdapat putusan yang hanya menjatuhkan pidana denda dan putusan yang menjatuhkan pidana penjara beserta denda. Permasalahan ini ditujukan untuk mendeskripsikan alasan-alasan di balik perbedaan pemidanaan tersebut.

Penelitian ini merupakan penelitian hukum normatif dengan pendekatan kasus (case approach). Data primer berupa lima putusan pengadilan, yaitu: Putusan Nomor 8/Pid.Sus.PRK/2020/PN Mdn, 5/Pid.Sus.PRK/2020/PN Mdn, 8/Pid.Sus.PRK/2025/PN Mdn, 26/Pid.Sus.PRK/2019/PN Ran, dan 7/Pid.Sus.PRK/2025/PN Mdn. Teknik analisis data menggunakan analisis deskriptif kualitatif.

Hasil penelitian menunjukkan bahwa perbedaan pemidanaan disebabkan oleh interaksi kompleks antara tiga faktor utama. Pertama, pertimbangan hukum internasional, khususnya Pasal 73 Ayat (3) UNCLOS 1982 yang membatasi penerapan pidana penjara di ZEE, menjadi faktor penentu. Kedua, kewenangan diskresi hakim dalam mempertimbangkan unsur pemberat (seperti penggunaan alat tangkap terlarang trawl, upaya melarikan diri, dan modus yang memperparah) dan unsur peringan (sikap kooperatif, pengakuan kesalahan, kondisi pribadi terdakwa). Ketiga, interpretasi yang tidak konsisten terhadap Pasal 102 UU No. 45 Tahun 2009 tentang Perikanan, yang mengadopsi batasan UNCLOS 1982 namun dalam praktiknya penerapan pidana penjara seringkali dilakukan tanpa kejelasan eksistensi perjanjian bilateral dengan negara bendera kapal.

Kesimpulan penelitian ini adalah pertanggungjawaban pidana pelaku illegal fishing di ZEEI telah dilaksanakan, namun bentuknya sangat dipengaruhi oleh penafsiran hakim atas ketegangan antara penegakan kedaulatan nasional dan kepatuhan terhadap hukum internasional. Untuk itu, disarankan perlunya penyusunan pedoman pemidanaan (sentencing guidelines) oleh Mahkamah Agung dan penguatan perjanjian bilateral oleh Pemerintah guna menciptakan kepastian hukum dan konsistensi dalam penegakan hukum.

Kata Kunci: Pertanggungjawaban Pidana, Illegal Fishing, Kapal Asing, Zona Ekonomi Eksklusif Indonesia (ZEEI), Putusan Hakim.

ABSTRACT

Babtista Varani Rocy (22310089). DESCRIPTION OF CRIMINAL LIABILITY OF PERPETRATORS OF ILLEGAL FISHING BY FOREIGN VESSELS IN INDONESIA'S EXCLUSIVE ECONOMIC ZONE. Thesis. Law Study Program, Faculty of Law, Artha Wacana Christian University, Kupang. 2025.

This research is motivated by the differences in judges' decisions in criminalizing perpetrators of illegal fishing by foreign vessels in the Indonesian Exclusive Economic Zone (ZEEI), where some decisions only impose fines and some decisions impose imprisonment and fines. This problem aims to describe the reasons behind these differences in criminal penalties.

This research is a normative legal research with a case approach. The primary data consists of five court decisions: Decisions Number 8/Pid.Sus.PRK/2020/PN Mdn, 5/Pid.Sus.PRK/2020/PN Mdn, 8/Pid.Sus.PRK/2025/PN Mdn, 26/Pid.Sus.PRK/2019/PN Ran, and 7/Pid.Sus.PRK/2025/PN Mdn. The data analysis technique used was qualitative descriptive analysis.

The results of the study indicate that differences in sentencing are caused by a complex interaction between three main factors. First, considerations of international law, specifically Article 73 Paragraph (3) of UNCLOS 1982, which limits the application of imprisonment in the EEZ, are a determining factor. Second, judges' discretionary authority in considering aggravating factors (such as the use of prohibited trawl fishing gear, attempted escape, and aggravating methods) and mitigating factors (cooperativeness, admission of guilt, and the defendant's personal circumstances). Third, inconsistent interpretations of Article 102 of Law No. 45 of 2009 concerning Fisheries, which adopts the limitations of UNCLOS 1982, but in practice, the imposition of prison sentences is often carried out without clarity regarding the existence of bilateral agreements with the flag state of the vessel.

The conclusion of this study is that criminal liability for perpetrators of illegal fishing in the Indonesian Exclusive Economic Zone (EEZ) has been implemented, but its form is heavily influenced by judges' interpretations of the tension between upholding national sovereignty and compliance with international law. Therefore, it is recommended that the Supreme Court formulate sentencing guidelines and the government strengthen bilateral agreements to create legal certainty and consistency in law enforcement.

Keywords: Criminal Liability, Illegal Fishing, Foreign Vessels, Indonesian Exclusive Economic Zone (EEZ), Judge's Decision