

PERTANGGUNGJAWABAN PIDANA KORPORASI DAN PENGURUS DALAM TINDAK PIDANA LINGKUNGAN HIDUP

INTISARI

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Penelitian tesis ini bertujuan untuk menganalisis sistem pertanggungjawaban pidana serta pemidanaan korporasi dan pengurus dalam tindak pidana pencemaran lingkungan hidup yang didasari pada doktrin pertanggungjawaban pidana korporasi kaitannya dengan Pasal 116 Undang-Undang No 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup bahwa pertanggungjawaban pidana dapat dibebankan kepada korporasi dan pengurus tidak hanya salah satu pihak saja. Adapun formulasi sanksi pidana terhadap korporasi dan pengurus dapat diberlakukan baik secara bersama-sama maupun terpisah dalam kasus pencemaran lingkungan hidup.

Penelitian ini menggunakan penelitian normatif dengan sifat penelitian deskriptif-analitis, Adapun pendekatan penelitian ini menggunakan *statute approach* (Pendekatan undang-undang), *conceptual approach* (Pendekatan konseptual), *case approach* (Pendekatan kasus) dengan menganalisis data sekunder yang terdiri dari bahan hukum primer, bahan hukum sekunder dan bahan hukum tersier.

Berdasarkan hasil penelitian diperoleh kesimpulan bahwa, **Pertama**, sistem pertanggungjawaban pidana dalam undang-undang lingkungan hidup dapat ditujukan kepada korporasi dan pengurus secara bersama-sama tidak hanya salah satu pihak saja yang didasari pada doktrin identifikasi, doktrin agregasi, doktrin *individual vicarious liability*, dan *functional dadeerschap* sebagai dasar pertanggungjawaban pidana kepada korporasi dan pengurusnya. **Kedua**, penerapan pertanggungjawaban pidana korporasi dan pengurus oleh hakim dalam putusan PT. Satria Bumintara Gemilang menggunakan doktrin *functional dadeerschap* tetapi hanya menghukum korporasi, serta pemidanaan terhadap PT.Satria Bumintara Gemilang yang akibat tindak pidananya menimbulkan korban jiwa hanya dipidana dengan pidana denda minimal. **Kedua**, putusan terhadap PT. Sumber Sawit Sejahtera pertimbangan hakim tidak membedakan kriteria *actus reus*, *mens rea* korporasi dan pengurus. **Ketiga**, putusan kepada PT. Telaga Biru Semesta hakim keliru dalam menjatuhkan pidana kurungan pengganti terhadap pengurus. **Keempat**, putusan terhadap PT. Nickrome Indojojaya hakim menerapkan doktrin *individual vicarious liability* tanpa mempertimbangkan prinsip *precautionary principle* yang dilanggar oleh korporasi.

Kata Kunci : *Korporasi, Pengurus, Tindak Pidana Lingkungan Hidup.*

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CORPORATE AND MANAGER CRIMINAL RESPONSIBILITY IN ENVIRONMENTAL CRIMES.

ABSTRACT

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This thesis research aims to analyze the criminal liability system and the punishment of corporations and their administrators in criminal acts of environmental pollution which is based on the doctrine of corporate criminal liability in relation to Article 116 of Law No. 32 of 2009 concerning Environmental Protection and Management which states that criminal liability can be imposed on The corporation and management are not just one party. Criminal sanctions against corporations and management can be imposed both jointly and separately in cases of environmental pollution.

This research uses normative research with descriptive-analytical research characteristics. This research approach uses a statute approach (law approach), conceptual approach (conceptual approach), case approach (case approach) by analyzing secondary data consisting of primary legal materials, secondary legal materials and tertiary legal materials.

Based on the research results, it is concluded that, First, the criminal liability system in environmental law can be aimed at corporations and management together, not just one party, based on the identification doctrine, aggregation doctrine, individual vicarious liability doctrine, and functional dadeerschap as a basis for criminal liability to the corporation and its management. Second, the application of corporate and management criminal liability by the judge in the PT decision. Satria Bumintara Gemilang uses the functional dadeerschap doctrine but only punishes corporations, and the punishment of PT. Second, the decision against PT. Sumber Sawit Sejahtera, the judge's consideration did not differentiate between the criteria for actus reus, corporate and management mens rea. Third, the decision to PT. Telaga Biru Semesta judge made a mistake in imposing a substitute prison sentence on the management. Fourth, the decision against PT. Nickrome Indojajaya, the judge applied the doctrine of individual vicarious liability without considering the precautionary principle that was violated by the corporation.

Keywords: *Corporation, Management, Environmental Crime.*

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