

Tinjauan yuridis illegal fishing sebagai transnational organized crime = Juridical review of illegal fishing as transnational organized crime

Arvin Naufal Afrianto, author

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Abstrak

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Praktik illegal fishing di dunia semakin masif dan berkembang melibatkan teknik-teknik yang digunakan untuk mengeksploitasi kelemahan dalam regulasi perikanan dunia. Berbagai kejahatan serius dan bersifat lintas batas negara atau transnational organized crime dilakukan demi melancarkan operasinya. Sejumlah laporan kasus menemukan adanya hubungan erat antara transnational organized crime dengan illegal fishing memunculkan gagasan perubahan paradigma illegal fishing dari permasalahan pengelolaan dan konservasi perikanan atau administratif menjadi kejahatan dan diatur dalam United Nations Convention Against Transnational Organized Crime UNTOC sebagai transnational organized crime. Skripsi ini menggunakan metode penelitian yuridis-normatif yang akan menganalisis berbagai kasus illegal fishing skala besar yang disertai praktik transnational organized crime berdasarkan kriteria transnational organized crime dalam UNTOC. Berdasarkan analisis kasus menggunakan sumber data dari kepustakaan dan wawancara, dapat disimpulkan bahwa illegal fishing dalam skala besar sudah memenuhi kriteria sebagai transnational organized crime. Oleh karena itu illegal fishing tidak dapat dianggap hanya sebagai sekadar isu administratif, namun sebagai kejahatan serius. Hasil penelitian ini menunjukkan bahwa konsepsi fisheries crime dapat menjembatani illegal fishing untuk dapat dikategorikan sebagai transnational organized fisheries crime. Namun, konsepsi ini masih prematur mengingat luasnya cakupan dari fisheries crime dan belum adanya dokumen hukum yang secara eksplisit mengatur definisi jelas dari illegal fishing selain dari IPOA-IUU dibawah naungan FAO. Diperlukan pendekatan multi-door approach untuk mengatasi permasalahan ini, sebab, illegal fishing merupakan kejahatan yang dapat memiliki berbagai modus dan bentuk, sehingga pendekatan multidisipliner dapat membantu untuk dapat mengatasi permasalahan ini bagaimanapun bentuknya.

ABSTRACT

The practice of illegal fishing in the world is massively increasing and growing in which it involves different techniques used to exploit the weaknesses in the world's existing fisheries regulations. A variety of serious crimes that coincidingly crosses between state borders, or what is commonly referred to as a transnational organized crime, takes place in order to ease this operation. A number of case reports indicate a very close link between transnational organized crime and illegal fishing and therefore it brings about the idea for a change in the paradigm of illegal fishing from a fish management and conservation or administrative issue into a crime paradigm to be regarded as a transnational organized crime and to be regulated within the United Nations Convention Against Transnational Organized Crime UNTOC itself. This thesis makes use of a juridical normative research method that will analyze various cases of large scale illegal fishing associated with transnational organized crime practices based on the criteria of a transnational organized crime as stipulated in the UNTOC. Based on a case analysis utilizing several data sources from

literatures and interviews, it can be concluded that illegal fishing on a large scale evidently meets the criteria of a transnational organized crime. Therefore, illegal fishing cannot be regarded as merely an administrative issue, but has to also be viewed as a serious crime. The results of this study indicate that the concept of fisheries crime can become a bridge for illegal fishing to be categorized as a transnational organized fisheries crime. However, this conception is premature given the broad scope of fisheries crime itself and the absence of legal documents explicitly regulating a clear definition of illegal fishing aside from the IPOA IUU under the authority of the FAO. A multi door approach is needed to address this problem, because illegal fishing is a crime that can arise from multiple methods and forms, hence a multidisciplinary approach can help to overcome this problem no matter what form it comes in.