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Criminal Law Protection against Deprivation of Animal Rights in Indonesian Zoos

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Abstract: The state is responsible for protecting animals under conservation organizations. Wildlife can also be utilized to fulfill other needs, such as education and recreation. One place for recreation is a zoo. The establishment and maintenance of animals must follow established procedures and regulations. Zoos in Indonesia were created with the aim of conserving wildlife outside their natural habitat so that they do not become extinct. Apart from being a place of conservation, zoos also serve as a means of recreation, education and research. Therefore, zoos have full responsibility for the survival of the animals they protect, including their nutritional needs and psychological health. Unfortunately, facilities in zoos are deteriorating and the animals in them are not well cared for. Many carnivorous animals are sick and underweight, and many animals die due to the lack of repairs and the lack of legal protection given to animals in zoos.
Keywords: Legal protection; zoos; animals.

1. Introduction

Indonesia is one of the three largest countries that has a diversity of fauna that should be utilized properly. Law No. 41/2014 on Amendments to Law No. 18/2009 on Animal Husbandry and Animal Health. In letters (a) and (b) of Law No. 41/2014, the state is responsible for protecting animal husbandry and animal health. Besides primary needs, animals can also be used to fulfill other needs such as education and recreation. One of the facilities for recreation is the Zoo. The establishment of zoos in terms of animal husbandry must follow the procedures and laws and regulations stipulated.

Basically, a zoo is a family educational tourist spot related to the realm of flora and fauna, but more closely related to the realm of fauna or animals themselves. The definition of an animal park (zoo) according to the Indonesian Zoo Association (PKSBI) is a place or container in the form of a park or green open space or green lane which is a place to collect, maintain the welfare and demonstrate wild animals for the public and which is organized as an ex-situ conservation institution. Wildlife collected in wildlife parks are protected wildlife that are not protected by laws and regulations and will be preserved by keeping them outside their natural habitat.[1]

Unfortunately, the demonstration of protected wildlife is an interesting spectacle for visitors. In the name of education, protected wildlife that normally live in the wild must be kept in cramped cages for the sake of public entertainment. It is not uncommon for animal exhibits in

[1] Nadia Fadila et al., "ZOOVI : SEBUAH PROSES PERUBAHAN," *Cinematology: Journal Anthology of Film and Television Studies* 2, no. 1 (2022): 68.

conservation institutions such as zoos and safari parks to force wild animals to behave in ways that they would not in their natural habitat.[2]

Regarding regulations governing zoos, it can be found in the Minister of Forestry Regulation Number: P. 31/Menhut-II/2012 concerning Conservation Institutions. The Minister of Forestry Regulation No. P. 31/Menhut-II/2012 regulates the criteria or standard provisions for zoos. However, the forestry minister's regulation still has shortcomings in its rules. Although there are sanction provisions in Article 44, their implementation is often ineffective. In addition, this regulation does not provide clear guidelines regarding wildlife attractions in zoos. This has led to confusion in implementation and enforcement, as well as potential violations of wildlife protection.

The frequent exploitation of animals in zoos has led to the endangerment of the animals themselves. Those exploitation has implications for animal abuse and animal neglect. Based on the description above, the author is interested in conducting research related to animal protection in zoos and criminal responsibility for zoos as perpetrators of animal exploitation.

2. Research Methode

This type of research uses a normative juridical method. Normative juridical research discusses doctrines or principles in law.[3] The approach used in this research is a statute approach and a case approach. The legal materials used are relevant laws and regulations as primary legal materials and books, journals and electronic newspapers as secondary legal materials. The legal material is analyzed to answer and explain the formulation of the problem in the form of Criminal Law Protection against Deprivation of Animal Rights in Indonesian Zoos.

3. Discussion

3. 1 Criminal Law Protection of Animals in Indonesian Zoos

Animal cruelty is not only prevalent in communities and illegal hunting and trafficking, but is also prevalent in zoos. Animal rights have also been recognized worldwide, as evidenced by the commemoration of Animal Rights Day every October 15. Animal rights are a form of freedom for animals, where animals as creatures endowed with life, must be respected for their right to life as well as the right to human life. Animal welfare is regulated in Article 1 paragraph 42 of the PKH Law, which defines animal welfare as all forms of actions that ensure the mental and physical health of animals and their freedom from all actions that threaten their lives. To ensure animal welfare in Indonesia, the principles of animal freedom, often referred to as the five principles of freedom, are regulated in Government Regulation No. 95/2012 Article 83 paragraphs 2 and 3. These principles include the freedom of animals from hunger, thirst, pain, injury, disease, discomfort, mistreatment, torture, fear and distress, and the freedom of animals to express their natural behavior.[4] Conditions that lead to animal

[2] Balma Ariagana, "Pertanggungjawaban Pidana Lembaga Konservasi Atas Eksploitasi Satwa Liar Dilindungi Dalam Peragaan Satwa," *Jurist-Diction* 3 (2020): 797.

[3] Zainuddin Ali, *Metode Penelitian Hukum*, ed. Leny Wulandari, 1st ed. (Sinar Grafika, 2022).

[4] Gde Swardhana and Komang Maylina, "PERLINDUNGAN SATWA LIAR TERHADAP EKSPLOITASI MELALUI PERAGAAN SATWA DI LEMBAGA KONSERVASI: PERSPEKTIF HUKUM PIDANA INDONESIA," *Jurnal Kertha Semaya* 9 (2021): 1741.

welfare violations can arise from natural causes, such as animals freezing in their habitat. However, the concept of animal welfare is to prevent humans from causing hunger, thirst, malnutrition, pain and suffering to animals. Therefore, human cruelty to animals, especially in zoos, which are convention institutions, must be addressed to prevent animal conditions from deteriorating.

Animal cruelty can be detrimental to the survival of animals is the responsibility of humans, in this case the animals in zoos. Although these animals are engaged in non-consumptive tourism activities, they are not immune to the negative consequences of poor zoo management or animal cruelty. Poor animal management in zoos leads to negative impacts on animal welfare that can affect animal psychology and behavior, increase mortality rates and decrease breeding success.[5] Therefore, animal protection must go hand in hand with animal management that complies with animal welfare.

Actions categorized as treatment that makes animals unwell can be punished if categorized as criminal acts. For this reason, it is necessary to review or analyze the following matters based on Law No. 18/2009 on Animal Husbandry and Animal Health and Law No. 41/2014 on the Amendment to Law No. 18/2009 on Animal Husbandry and Animal Health:

1. Prohibited actions

Formulated in Article 66A paragraph (1) of Law Number 41 Year 2014 on the Amendment to Law Number 18 Year 2009 on Animal Husbandry and Animal Health, it states that "Every person is prohibited from mistreating and/or abusing animals that result in disability and/or unproductivity."

Based on Article 66 paragraph (2) letter b of Law No. 18 of 2009 Concerning Animal Husbandry and Animal Health, the Law stipulates that placement and housing should be done in a way that allows animals to express their natural behavior.

Article 66(2)(c) of Law No. 18 of 2009 Concerning Animal Husbandry and Animal Health stipulates that the maintenance, security, care, and protection of animals shall be carried out as well as possible so that animals are free from hunger and thirst, pain, mistreatment and abuse, as well as fear and distress.

Article 66(2)(d) of Law No. 18 of 2009 Concerning Animal Husbandry and Animal Health, stipulates that in the transportation of animals, it must be done as well as possible so that animals are free from fear and distress and free from mistreatment;

Article 66(2)(e) of Law No. 18 of 2009 Concerning Animal Husbandry and Animal Health stipulates that the use and utilization of animals shall be conducted in such a way that animals are free from mistreatment and abuse.

[5] Johana Christianti, "PENGGUNAAN PRINSIP INTERGENERATIONAL EQUITY DALAM PERLINDUNGAN HUKUM TERHADAP KESEJAHTERAAN HEWAN DI TEMPAT WISATA DARI KEKEJAMAN," *Belli Ac Pacis* 7, no. 1 (2021): 10–11.

From the formulation of the articles of the Law above, it is sufficient to explain that treatment that causes animals to not prosper in zoos is punishable, unreasonable treatment that is classified as an act that hurts, injures, or endangers the health of animals is also included.

2. Perpetrators of crime

Law No. 18/2009 on animal husbandry and health does not clarify whether any person (human/corporation) can be held criminally liable for their actions.

Another regulation regarding the treatment that makes animals less prosperous is also stipulated in Government Regulation No. 95/2012 on Veterinary Public Health and Animal Welfare:

1. Prohibited actions

Formulated in Article 92 of Government Regulation No. 95/2012 on Veterinary Public Health and Animal Welfare, states that, every person is prohibited from:

a. Use and utilize animals beyond their natural ability that may affect the health, safety, or cause the death of animals;

b. Providing stimulating materials or stimulating the work function of Animal organs beyond normal physiological limits that may endanger the health, safety, or cause the death of Animals;

c. Applying modern biotechnology to produce transgenic Animals or Animal products that endanger the preservation of Animal resources, public safety and peace of mind, and the preservation of environmental functions;

d. Utilizing the physical strength of an Animal beyond its capability; and

e. Utilizing animal body parts or organs for non-medical purposes.

Article 93 of Government Regulation No. 95/2012 on Veterinary Public Health and Animal Welfare, as follows: The application of the principle of animal freedom in the reasonable treatment and care of animals as referred to in Article 83 Paragraph (3) letter f must at least be carried out in: a. a way that does not harm, does not hurt, does not cause stress, and/or death; and b. using clean facilities, infrastructure and equipment.

In addition, in the Explanation of Article 66 Paragraph (2) of Government Regulation No. 95/2012, it is formulated that “What is meant by humane is an action that refers to ethics and human values, such as not committing torture.” Torture here is an action to obtain satisfaction and/or profit from an animal by treating the animal beyond the limits of the animal's biological and physiological capabilities.

2. Perpetrators of crime

Government Regulation No. 95/2012 on Veterinary Public Health and Animal Welfare does not specifically mention whether companies as legal entities can be held criminally liable.

From the description above, it can be seen that zoos, especially private companies that are corporations, are unclear whether or not they can be held liable when there is a lack of welfare for the animals in the zoo.

3. 2 Criminal Liability for Zoos that Fail to Provide Animal Welfare

Law No. 18/2009 on Animal Husbandry and Animal Health and Law No. 41/2014 on the Amendment to Law No. 18/2009 on Animal Husbandry and Animal Health do not contain criminal or administrative sanctions for actions that do not improve animal welfare. The principle of imputation should be applied, which states that if there is a cause, it must be followed by legal consequences. If there is a cause, which is a prohibited act, it must also be followed by a legal consequence, which is the formulation of sanctions for the prohibited act.

As quoted from BBC News Indonesia, two Sumatran tigers and one Bengal tiger have died in the last two months at Medan Zoo in North Sumatra. Their deaths were suspected to be due to illness, which was exacerbated by substandard enclosure conditions. Currently, 10 tigers remain at Medan Zoo. Four of them are seriously ill. Medan Zoo has been experiencing a financial crisis since being hit by the pandemic. There are no operational costs to maintain the facility. Employees have not been paid their full salaries for almost half a year. Then, animal feed is obtained from debt. In recent years, wildlife observers have reported findings of cramped and dirty cages, allegations of animal starvation, high animal mortality, and the absence of cage enrichment at Medan Zoo.[6] Medan Zoo has violated animal welfare regulations. In this case, Medan Zoo management and staff have been negligent in caring for the animals in Medan Zoo, which can be referred to as a case of neglect of protected animals.

Regarding animal management, the North Sumatra KSDA Center has conducted monitoring at Medan Zoo since April 2023 and found that animal management has not met conservation center management standards, especially in terms of animal welfare, enclosure facilities and environmental management, as well as humid enclosure conditions that cause animal health to decline. Following up on the audit results in April 2023, the North Sumatra KSDA Center requested Medan Zoo management in November 2023 to report on the progress of the audit results. Medan Zoo management indicated that there are constraints and problems in operational costs, so there has been no significant progress on the recommendations of the North Sumatra KSDA Center.[7] Quoted from Kompas.id, the Head of Technical Division of the North Sumatra Natural Resources Conservation Center (BBKSDA), Fifin Nopiansyah, said that he could not reveal the results of the evaluation of Medan Zoo. Fifin also did not answer whether the government would relocate the animals and sanction Medan Zoo.[8]

From the above case, it can be seen that law enforcement against zoos that neglect animals is only limited to monitoring. Until now there has been no sanction given to the zoo, either

[6] Muhammad Irham, "Tiga Harimau Mati Di Medan Zoo, Empat Lainnya Sakit Parah - Tinggal Menantikan 'Kabar-Kabar Kematian,'" BBC News Indonesia, 2024, https://www.bbc.com/indonesia/articles/cd177pyx4ldo.

[7] Farhan Chairis and Asliani, "Analisis Hukum Terhadap Matinya Satwa Yang Dilindungi Di Medan Zoo," *Jurnal Ilmu Hukum, Humaniora Dan Politik (JIHHP)* 4 (2024): 1920.

[8] Nikson Sinaga, "Segera Selamatkan Harimau Di Medan Zoo," Kompas.id, 2024, https://www.kompas.id/baca/nusantara/2024/01/30/harimau-di-medan-zoo-perlu-segera-dipindahkan-sanksi-tegas-harus-diberikan.

administrative sanctions or criminal sanctions. Legal protection of animals in zoos is very important for the sustainability of the species of animals in zoos. The effectiveness of law enforcement is closely related to the effectiveness of the law, which means that for the law to be effective, law enforcement officers must enforce sanctions.

4. Conclusion

Animal welfare is enshrined in Indonesian positive law in the Animal Husbandry and Animal Health Act, which legally regulates all forms of actions that maintain the mental and physical health of animals. The Indonesian government also upholds principles relating to animal freedom, which certainly guarantees animal freedom. This is stated in Government Regulation No. 95/2012, specifically in Article 83 paragraphs (2) and (3), which discuss the five principles of animal freedoms. Therefore, anyone who tries to violate animal rights will be penalized. However, law enforcement against animal neglect and abuse in zoos has not been well implemented.

Law enforcement is still limited to the level of formulation. Treatment that violates animal rights in zoos is not clearly and firmly regulated in legislation, both in terms of prohibited acts and in terms of perpetrators who can be held criminally liable.

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