

Legal Protection Against Illegal Orangutan Trade

Aina Nashira Salsabila

Fakulty of Law, Semarang University, Indonesia

ainasalsabila27@gmail.com

ABSTRACT

The archipelago is vast, even become the largest archipelagic country in the world. Having many islands makes Indonesia rich in diversity of flora and fauna, one of which is the orangutan wildlife that lives in the forests of Indonesia. Illegal trade in protected wildlife is still rampant due to the lack of public awareness about the importance of preserving nature so that the population of protected wildlife does not experience extinction. The trade-in wildlife does not only cover the national level, it has even penetrated at the international level. One of the regulations regarding the protection of the international wildlife trade is the Convention on International Trade of Endangered Species of Wild Fauna and Flora (CITES). Legislation regarding the trade-in protected wildlife in Indonesia has been regulated in Law Number 5 of 1990 concerning the Conservation of Biological Resources and Their Ecosystems. The writing of this paper uses data collection methods from various sources such as articles, journals, and some websites on the internet. The novelty of this research is to discuss the legal protection of the orangutan wildlife trade in Indonesia. Ineffective government regulations make there still a lot of illegal wildlife trade.

Keywords: *Orangutan; Legal Protection; Illegal Trade; Wildlife.*

INTRODUCTION

The archipelago with all its beauty and various kinds of wild animals lives in this country. Indonesia is also the largest archipelagic country in the world, with tens of thousands of islands both inhabited and uninhabited. Talking about Indonesia, everyone already knows that our country has a lot of natural wealth. The many islands in Indonesia have various types of wild animals that live there, various primates also inhabit Indonesian territory, thus making the Indonesian people unique in the eyes of other countries, as well as being a natural wealth given by God Almighty for this archipelago. Based on world

conservation monitoring records, the richness of biodiversity in Indonesia includes as many as 3,305 species of amphibians, mammals, birds, and reptiles (Hanif, 2021). The natural wealth that belongs to the Unitary State of the Republic of Indonesia is a gift from God Almighty which must be maintained and continuously preserved, so that the various kinds of plants and wild animals that live in it are not extinct, and the preservation of their lives and their ecosystems is maintained.

The prohibition for any individual to take, destroy, store, maintain, or even trade protected wild animals without a permit has been

contained in Article 21 of Law Number 5 of 1990 concerning the Conservation of Biological Natural Resources and their Ecosystems. It is clear that it is forbidden to even impose hefty fines against the perpetrators of the illegal orangutan trade, but there are still many who ignore the ban and they don't seem to be afraid of it. Apart from that, to preserve plants and animals in terms of preservation, it is regulated in Government Regulation Number 7 of 1999 concerning the Preservation of Plant and Animal Species. Government Regulation Number 8 of 1999 concerning the Utilization of Wild Plants and Animals Species has also stated that wild animals that can be traded are wild animals that are not protected. All forms of efforts to protect various species of wild animals must be implemented, because many species of wild animals in the world, especially in Indonesia, are decreasing every day. There are even several types of wild animals that are threatened with extinction or have become extinct from this earth. These endangered or already extinct wild animals have a significant role in an ecosystem balance. Without realizing it, most of the endangered wild animals are protected species.

One of the protected wild animals in Indonesia that is experiencing extinction is the orangutan, not even just orangutans, many types of wild animals are experiencing extinction such as birds of paradise in Papua, Sumatran tigers, Komodo dragons, Javan rhinoceros,

and many other wild animals. Due to the lack of public awareness about how important it is to preserve nature so that protected wild animals do not become extinct. The Bornean orangutan, also known as *Pongo pygmaeus*, is categorized as endangered by the IUCN as a red list of endangered species (Sherman et al., 2020). Many activities have resulted in the extinction of wild animals, such as poaching, illegal trade, and forest clearing for industrial plantations, agriculture, residential land, and others. Where the forest should be the original home of various wild animals but instead it is damaged by irresponsible persons. In the Kalimantan region, less than 16% of the forest area is protected under Indonesian law (Johnson et al., 2005).

Apart from being a habitat for a variety of protected wildlife species, forests also provide benefits for people with less economic conditions who live around forests depending on their livelihoods by exploiting the abundant natural wealth available in forests. However, the use of the diversity of wild plant and animal species should not be overused. We must pay attention to whether the wild plant and animal populations are classified as protected or not so that we can enjoy the benefits of the forest for future generations.

Threat after threat resulting in the extinction of animals and the decline in populations of protected wild animals is spreading everywhere. Weak public knowledge

of protected and non-protected animals is a factor in the reduced population of wild animals. In addition, the increase in population and economic development has had a significant impact on the narrowing of wildlife habitat. Illegal wildlife trade, for example, is a threat that is detrimental to the population of wild animals, including the orangutan as a protected endemic animal in Indonesia. Orangutans live and breed, especially in the forests of Sumatra and Kalimantan. The breeding of this one animal is relatively slow compared to other animals, where female orangutans can only give birth to their children once every 7-8 years. It takes a long time to wait for a baby orangutan to arrive in this world. Wildlife extinction is not only caused by human actions but also due to natural factors. Natural extinction is caused by natural disasters such as volcanic eruptions, flash floods, earthquakes, and so on. Erratic changes in the climate of the earth due to natural selection can also cause the extinction of various wildlife species.

Another threat that makes orangutans extinct is the rise of conflict between humans and orangutans. They reasoned that frequent conflicts with these animals are due to economic factors. Many hunt orangutans and trade them illegally for a source of income. The damaged original habitat also causes orangutans to enter the homes of residents to look for food, orangutans are felt to be pests because they have disturbed the comfort of residents.

Illegal and unfriendly hunting also destroys natural ecosystems. If this activity continues, it is feared that in the future future generations will only be able to see and get to know these wild animals through photographic documentation.

The high number of cases of wildlife trade is a serious threat. The existence of various types of wild animals in nature is now increasingly threatened, by rampant poaching and illegal wildlife trade due to the increasing demand for various types of wild animals, especially rare types of wild animals that have a higher selling value than ordinary wild animals. Protected wild animals are traded alive, usually to be kept, or to use certain body parts of the animal as a mixture for the manufacture of drugs.

Trade in wild flora and fauna does not only penetrate at the national level, it has even penetrated at the international level. One of the regulations regarding international trade in wild plants and animals is the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The purpose of CITES is to establish control of the international trade in wild plants and animals. This control is motivated by the fact that unlimited trade in wild plants and animals is a threat to the survival of a species.

Regarding the purpose of conducting this research, namely to find out how legal protection or law enforcement applies to the rampant

illegal trade of protected wild animals, what is meant here is orangutans. As well as criminal

sanctions given to perpetrators of crimes against wild animals have been effective or not.

RESEARCH METHOD

This research uses the literature study method by collecting data and information related to the research, which is sourced from journals, articles, and websites on the internet in 2022 which is cross-sectional. This

The method is used to obtain information regarding the theoretical discussion of the research, namely regarding legal protection against illegal trade in protected wildlife.

RESULT AND DISCUSSION

Forms of Legal Protection Against Illegal Orangutan Trade

Reduced forest quality is a threat to the extinction of wild animals in Indonesia. The orangutan population is currently decreasing, even facing the threat of extinction. The main causes of the extinction of orangutans include the decline in their natural habitat due to illegal logging, forest fires, excessive use of forests, poaching, and illegal trade. More than 100,000 km² of their natural habitat will be made into plantations (Nijman, 2017). Hundreds of hectares of forest that used to live and the original habitat of wild animals have now disappeared, all of this due to various human activities that can destroy nature.

The World Wide Fund is an international organization that supports the protection and preservation of biodiversity (Prasetyo et al., 2019). WWF was founded in 1961 with more than 5 million supporters worldwide and an active

network in more than 100 countries. This international non-governmental organization deals with issues of environmental conservation, research, and restoration. WWF Indonesia itself was founded in 1962 and has worked with government agencies, various non-governmental organizations, and community leaders to promote sustainable development and nature conservation in Indonesia. Because Indonesia is a region with various kinds of biological wealth in the world. WWF Indonesia is the largest Program Office in Asia Pacific and has now become a national organization in Indonesia (Ismaya & Harto, 2016). The World Wide Fund formed the Heart of Borneo program in Kalimantan, which is a nature conservation project that aims to protect biodiversity in Kalimantan (Syahputra, 2019).

Orangutans are great apes found in Asia. In our country, these animals are found living in the forests of the islands of Sumatra and Kalimantan. The current status of the orangutan is a protected and

endangered wild animal in Indonesia. Sumatran orangutans, Bornean orangutans, and Tapanuli orangutans are protected species, as stated in the Regulation of the Minister of Environment and Forestry of the Republic of Indonesia Number P.20/MENLHK.SETJEN/KUM.1/6/2018 concerning Species Protected Plants and Animals, this Ministerial Regulation revokes the Appendix to Government Regulation Number 7 of 1999 concerning the Preservation of Plant and Animal Species. Only about 25% of the orangutan population lives in protected areas (Yanuar et al., 2020). The illegal wildlife trade is a major threat to the survival of animals in the archipelago. The aim of the illegal orangutan trade, for example, is to make pets because these animals are considered cute, and orangutans are even used for entertainment such as circuses. When there is a large-scale land clearing and after a forest fire, it will be easy to find orangutans kept in people's homes. The current development of digital technology makes it easier for wildlife traffickers to carry out buying and selling transactions, only by needing internet access and electronic media such as mobile phones and laptops. The high economic value of wild animals being traded is also the reason for traders to carry out large-scale hunting and then to be traded illegally. Illegal wildlife trade occurs directly by meeting and transacting directly between sellers and buyers, and indirectly or in other words online through social media regardless of the consequences of actions that can threaten the

preservation of wild animals and their ecosystems and override sanctions on the crime.

There are several reasons behind a large number of crimes against wildlife in Indonesia, including the high economic value of these animals, increasing market demand, especially for endangered wildlife, economic factors experienced by the community, and weak law enforcement to catch the perpetrators. From the past, until now there have been many cases of illegal trade in wild animals that have occurred in Indonesia, one of which is in Aceh. An orangutan cub was found during the arrest operation. The Sumatran orangutan calf was found sick and had to be rehabilitated to recover. Finally, the police were able to catch the perpetrators, by disguising themselves as someone who wanted to buy these animals. Now the four perpetrators have been arrested by the local police.

Wild animals both protected and unprotected, are one of the natural resources that must be maintained and preserved, one of which is conservation in efforts to preserve wild animals. Conservation efforts can be carried out in situ and ex situ. In-situ conservation is an effort to conserve animals that can be carried out in their natural habitat. For example, wildlife reserves, nature reserves, nature tourism parks, and national parks. While ex-situ conservation is an effort to preserve animals outside their natural habitat, in other words, these animals are

taken from their habitat to be kept in certain places while maintaining their safety. This conservation is carried out by conservation organizations such as zoos, botanical gardens, and safari parks. The purpose of this conservation is to save wild animals from the threat of extinction and to keep biodiversity and their ecosystems in balance because now many disturbances occur due to human activities that carelessly enter forest areas (Swari Dewi, 2016).

In Indonesia, regulations regarding wild animals being protected from illegal wildlife trade have been stated in Law Number 5 of 1990 concerning the Conservation of Biological Natural Resources and their Ecosystems, specifically in Article 21 paragraph (2), which essentially states that every individual is prohibited from trading protected wild animals, alive or dead inside Indonesia and outside Indonesia (Herliyanto, 2019). Illegal trade in protected wild animals is a crime that is very detrimental to the preservation of these animals and is detrimental to state revenues. Criminal sanctions given to perpetrators of illegal trade are already stated in Article 40 paragraph (2) of Law Number 5 of 1990 concerning the Conservation of Living Natural Resources and their Ecosystems, perpetrators who deliberately commit crimes as stipulated in the applicable law, will be subject to imprisonment for a maximum of 5 years and a fine of Rp. 100.000.000,00 (one hundred million rupiah). If the act is committed by

negligence, it is punishable by a maximum imprisonment of 1 year and a maximum fine of Rp. 50.000.000,00 (fifty million rupiahs).

In addition to Law Number 5 of 1990 concerning the Conservation of Living Natural Resources and Their Ecosystems, there is Government Regulation Number 7 of 1999 concerning the Preservation of Plant and Animal Species in which there are protected plant and animal species in Indonesia. The trade-in of protected wild animals is also regulated in Government Regulation Number 8 of 1999 concerning the Utilization of Wild Plants and Animals. Article 3 of Government Regulation Number 8 of 1999 states that the use of wild plants and animals can take several forms, including hunting and trading. But only for certain activities, as explained in Article 17 of the Law on the Conservation of Living Natural Resources and their Ecosystems. Therefore, hunting and trading of wild animals for purposes other than those stated in the provisions of the article is an act that violates the law. Regarding the issue of wildlife trade, based on Article 18 of the Law on the Conservation of Living Natural Resources and their Ecosystems, only wild animals that are not protected are allowed to be traded. Not just anyone is allowed to trade in wild animals, it can only be done by Business Entities that have received a recommendation from the Minister.

Protection of wildlife trade does not always have to depend on the

government as the authority in dealing with problems related to illegal wildlife trade. The role of the community is also needed in dealing with the problem of wildlife trade that occurs around them. If the community doesn't care about the wildlife trade around it, then the wildlife trade will continue to occur at any time. The lack of public awareness regarding the existence of wild animals in nature as a balance of the ecosystem is one of the factors that are still rampant cases of wildlife trade among the community. Among people with a high-level economy, they buy wild animals to be kept as pets, especially if the wild animals are endangered species. Being able to own rare wildlife can provide a special appreciation for them.

Even though there are regulations prohibiting the trade of orangutans because they are classified as protected wild animals, there are still many people who want these animals from within the country and abroad, because orangutans have their own uniqueness and high economic value. The ineffectiveness of law enforcement in Indonesia due to the weak imposition of sanctions given to perpetrators of crimes against people who keep and trade orangutans, makes the perpetrators feel safe and are not afraid to go against the law. In Law Number 5 of 1990 concerning the Conservation of Living Natural Resources and their Ecosystems, the penalty for a maximum imprisonment of only five years many court decisions end less than five years in

prison. This is very disproportionate to the impact caused by the actors on the preservation of wildlife. The law currently in force in Indonesia needs to be revised so that the criminal sanctions aimed at perpetrators of crimes against wildlife are more severe than before and the value of fines must also be higher. To reduce the illegal trade in protected wild animals in Indonesia and there will be no more cases of illegal trade in protected wild animals.

Legal Protection of Wildlife Based on the Convention on International Trade in Endangered Species (CITES)

Humans and wildlife are part of the environment. Humans as living beings have a dependence on the environment including wild animals. No living things can meet their own needs, including humans, because humans are social creatures. Humans must look after each other and other living things, including wild animals that provide benefits for human needs. The benefits of wild animals such as wild animals can be used as a mixture for the manufacture of medicines, wild animals can be used as accessories, wild animals can also be consumed, and certain wild animals have high economic value. Natural wealth is an invaluable asset, therefore it is necessary to protect and regulate wild plant and animal species. The rampant illegal trade in wild animals is not only a problem at the national level, it is also a problem at the international level. If allowed to continue, the trade in wild animals

can result in these wildlife being threatened with extinction, such as the Bornean orangutan, Sumatran tiger, Sumatran rhino, Siberian tiger, and so on. In 1973, a multilateral Convention on International Trade in Endangered Species or CITES was signed to regulate the wildlife trade mechanism. This international agreement prohibits trade in protected wild plants and animals. 180 countries are members of the Convention on International Trade in Endangered Species. The Indonesian government itself ratified CITES with the issuance of Presidential Decree Number 43 of 1978 concerning the Ratification of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, which contains a list of species of wild plants and wild animals that are categorized as endangered. With the ratification of CITES, the convention is binding for Indonesia, obliging Indonesia to protect rare wild plants and animals from international trade. The Convention on International Trade in Endangered Species states that each CITES member country must have national legislation capable of prohibiting trade in specimens that violate the convention's provisions, imposing penalties for violations, and confiscating specimens that are illegally owned or traded.

CITES implements three registered species annexes regarding the protection and trade of wild plants and animals, namely Appendix I, Appendix II, and Appendix III (Swari Dewi, 2016). Species Appendix I is a

list in CITES which according to the IUCN (International Union for Conservation of Nature) includes species of plants and wild animals that are threatened with extinction (EN), so trade in wild plants and animals must be closely monitored and this trade only allowed for purposes that have been excluded in the law and must be with a special permit. Species Appendix II is a list in CITES which contains species of wild plants and animals that are not yet threatened with extinction, but if trade is not controlled or freely carried out it will result in endangered species of wild plants and animals. Species Appendix III is a list containing species whose use by a certain country is strictly controlled and requires international control assistance.

Impact of Illegal Trade in Protected Wildlife

Illegal trade crimes against protected wild animals are included in criminal acts, which have been regulated in Law Number 5 of 1999 concerning the Conservation of Living Natural Resources and their Ecosystems. Crimes against wild animals have caused many losses in various fields, including causing damage to ecosystems, extinction of protected wild animals, and losses to the country's economy.

First, is ecosystem damage. Damage to forest ecosystems is one of the impacts of crimes against wild animals. It is not uncommon for perpetrators to illegally cut forests,

burn the land, carry out large-scale hunting, and take protected wild animals indiscriminately to be kept or sold. These activities certainly cause a lot of damage to the ecosystem. Many forests are modified by humans, for example, forests are converted into oil palm plantations (Tata et al., 2014). The destruction of forest ecosystems does not only have an impact on plants and animals, humans also feel the impact. Forests that are the source of oxygen in the world are experiencing increasingly apprehensive conditions because many trees have fallen due to indiscriminate logging by humans.

Second, the extinction of wildlife. Conservationists estimate that hundreds of thousands of live primates are trafficked each year (Freund et al., 2017). It is unfortunate if the illegal trade in protected wild animals continues in the long term it can lead to the extinction of protected animals, especially endemic animals from Indonesia. For example, the orangutan, an endemic animal from Sumatra and Kalimantan, is much hunted by wildlife collectors to be kept or traded illegally, which has resulted in a reduction in the orangutan population in Indonesian forests, finally, the orangutan is currently a protected wild animal. Conflicts between humans and wild animals often occur, orangutans are one of the wild animals that have many hunting conflicts with humans. Orangutan hunting is considered to be a major factor in the decline in the population of these animals in nature

(Meijaard et al., 2011). Community interest in orangutans as a source of entertainment and objects of philosophical study has never subsided (Minarchek, 2018).

Third, the country's economic losses. The illegal trade in protected wildlife also causes economic losses to the state. Regarding wildlife export activities, it should be managed by the government to increase the state's income, and even then only wild animals are not protected. However, this is misused by irresponsible individuals only to fulfill their interests without paying attention to the condition of these wild animals, whether they are protected animals or not. As a result of the illegal wildlife trade, the state loses around 200 billion rupiahs each year (Ismaya & Harto, 2016).

From some of the impacts arising from the illegal trade in protected wild animals as explained above, it is fitting that all crimes against wild animals become one of the law enforcement targets during the current administration. Crime against wildlife is already alarming. The government as the highest authority of a country, is responsible for the country's natural wealth and in managing the country's natural wealth. Because crimes against wildlife have harmed many parties. As well as in law enforcement, it must also be further developed to catch the perpetrators of crimes against wildlife.

CONCLUSION

Many factors have caused the extinction of orangutans in Indonesia, including poaching, excessive use of forests, illegal logging, forest hunting, and even illegal trade. The illegal trade in wild animals is a threat to the survival of orangutans in nature. This brown-haired primate is widely traded because it has high economic value, and many of these animals are hunted as pets because they are considered cute. Efforts in the form of legal protection against illegal trade in wild animals have been given by the current government through Law Number 5 of 1990 concerning the Conservation of Natural Resources and Their

Ecosystems. Because orangutans are protected wild animals in Indonesia, where the law has been explained in Article 21 paragraph (2), which essentially states that every individual is prohibited from trading protected wild animals whether they are alive or dead. Violators will be subject to criminal sanctions in the form of imprisonment for a maximum of five years in prison and pay a fine of Rp. 100.000.000,00 (one hundred million rupiah). Wildlife trade at the international level is regulated by the Convention on International Trade in Endangered Species. Trafficking of wild animals is a crime that is detrimental to state revenues from the wildlife export sector.

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