

# Legal Aspects Of Illegal Wildlife Trade And Obstacles To Law Enforcement<sup>1</sup>

Sri Rahayu Werdiningsih

Magister Ilmu Hukum Universitas Muhammadiyah Yogyakarta

[ciciwerdi@gmail.com](mailto:ciciwerdi@gmail.com)

## ABSTRACT

Indonesia is home to endemic animals, both protected and unprotected, but the number of rare animals in Indonesia is getting smaller and the population is decreasing, one of which is due to the illegal trade in wildlife at home and abroad, involving other citizens through syndicate networks. This study examines the causes of the rampant illegal wildlife trade, to find out the legal aspects of illegal wildlife trade, identify barriers to combating illegal wildlife trade, and recommend prevention and enforcement. Using normative juridical research methods with qualitative descriptive analysis. The results of the study related to factors causing the rise of illegal wildlife trade due to economic, environmental, weak regulation and low sanctions imposed on criminals. Indonesia has ratified CITES and issued regulations both law and PP, as a follow-up cites for technical arrangements related to the trade of plants and wildlife has been issued by the Decree of the Minister of Forestry. There are three aspects of law related to illegal wildlife trafficking, namely criminal, administrative, and money laundering criminal aspects. In addition, the absence of a comprehensive legal framework for the handling of illegal wildlife trade in conjunction with TPPU resulted in limited jurisdiction of investigations, prosecutions and enforcement of sanctions for perpetrators associated with TPPU. Solutions that must be done are evaluation and regulatory changes, more intensive coordination between institutions and expanding international cooperation.

Keyword : Legal Aspect, Illegal Trading, Wildlife, Transnational

## ABSTRAK

Indonesia merupakan rumah bagi satwa-satwa endemik, baik yang dilindungi maupun yang tidak dilindungi, tetapi jumlah satwa langka yang ada di Indonesia semakin sedikit dan menurun populasinya salah satunya disebabkan perdagangan ilegal satwa liar didalam maupun keluar negeri, melibatkan warga negara lain melalui jaringan sindikat. Penelitian ini mengkaji penyebab maraknya perdagangan ilegal satwa liar, untuk mengetahui aspek hukum perdagangan ilegal satwa liar, mengidentifikasi hambatan pemberantasan perdagangan ilegal satwa liar, serta merekomendasikan pencegahan dan penindakannya. Menggunakan metode penelitian yuridis normatif dengan analisis deskriptif kualitatif. Hasil dari penelitian terkait faktor penyebab maraknya perdagangan ilegal satwa liar disebabkan faktor ekonomi, lingkungan, lemahnya regulasi dan rendahnya sanksi yang dijatuhkan bagi pelaku kejahatan. Indonesia telah meratifikasi CITES dan menerbitkan peraturan baik Undang-undang maupun PP, sebagai tindak lanjut CITES untuk pengaturan secara teknis terkait perdagangan tumbuhan dan satwa liar telah diluarkannya Keputusan Menteri Kehutanan. Ada tiga aspek hukum terkait perdagangan ilegal satwa liar yaitu aspek hukum pidana, administratif, dan tindak pidana pencucian uang. Serta, tidak adanya kerangka hukum yang menyeluruh untuk penanganan perdagangan ilegal satwa liar bersamaan dengan TPPU mengakibatkan terbatasnya yurisdiksi penyelidikan, penuntutan dan penjatuhannya sanksi bagi pelaku dikaitkan dengan TPPU. Solusi yang harus dilakukan yaitu evaluasi dan perubahan regulasi, melakukan koordinasi lebih intensif antar institusi dan memperluas kerjasama internasional.

Keywords : Aspek Hukum, Perdagangan Ilegal, Satwa Liar, Transnasional

---

<sup>1</sup> Dibiayai dengan Dana Kegiatan Penelitian dan Pengabdian kepada Masyarakat Tahun Akademik 2019/2020 oleh Universitas Pamulang No Kontrak : 0131/D5/SPKP/LPPM/UNPAM/XI/2019

## **A. Introduction**

Indonesia is home to endemic animals, both protected and unprotected, whose preservation must be maintained. The protection in question includes a prohibition on hunting, keeping, owning or trading. However, many people still do not understand what protected animals are.

There are around 300,000 species of wild animals in Indonesia or 17% of the world's wild animals, and of this number, approximately 816 endemic species are highly protected, because if these endemic animals become extinct, they will also become extinct throughout the world. (Khoirunnisa and Pricille 2019:80). There are fewer and fewer rare animals in Indonesia, so if left unchecked they will continue to decline and eventually become extinct. The decline in the population of endangered animals in Indonesia is partly caused by natural selection, large-scale forest exploitation, burning of forests to convert them into residential land and illegal hunting and trade in protected wild animals.

The trade in protected wild animals is carried out on the black market, even online via social media and e-commerce platforms (<https://icel.or.id> 2019). The state's losses due to illegal trade in wild animals every year reach Rp. 9 Trillion (<https://icel.or.id> 2019), even based on data available at PPATK, the loss was recorded to be greater, estimated at Rp. 13 trillion per year (<https://www.mongabay.co.id> 2019b). This number is a fantastic figure, and is ironic at a time when the country is in a declining economic condition.

Illegal wildlife trade does not only occur within the country, but also for overseas purposes involving citizens of other countries through syndicate networks. An example is the case of MS being caught by a doctor who was the perpetrator in sending wild animals abroad. Polda Metro Jaya arrested MS at the Animal Quarantine Center at Soekarno Hatta International Airport when he wanted to smuggle rare animals into the plane's cargo hold to be sent to Dubai and Kuwait. For this action, MS received a reward of Rp. 5 million for every animal he can smuggle (<https://www.liputan6.com> 2015a).

Indonesia is home to endemic animals, both protected and unprotected, whose preservation must be maintained. The protection in question includes a prohibition on hunting, keeping, owning or trading. However, many people still do not understand what protected animals are.

There are around 300,000 species of wild animals in Indonesia or 17% of the world's wild animals, and of this number, approximately 816 endemic species are highly protected, because if these endemic animals become extinct, they will also become extinct throughout the world. (Khoirunnisa and Pricille 2019:80). There are fewer and fewer rare animals in Indonesia, so if left unchecked they will continue to decline and eventually become extinct. The decline in the population of endangered animals in Indonesia is partly caused by natural selection, large-scale forest exploitation, burning of forests to convert them into residential land and illegal hunting and trade in protected wild animals.

The trade in protected wild animals is carried out on the black market, even online via social media and e-commerce platforms (<https://icel.or.id> 2019). The state's losses due to illegal trade in wild animals every year reach Rp. 9 Trillion (<https://icel.or.id> 2019), even based on data available at PPATK, the loss was recorded to be greater, estimated at Rp. 13 trillion per year (<https://www.mongabay.co.id> 2019b). This number is a fantastic figure, and is ironic at a time when the country is in a declining economic condition.

Illegal wildlife trade does not only occur within the country, but also for overseas purposes involving citizens of other countries through syndicate networks. An example is the case of MS being caught by a doctor who was the perpetrator in sending wild animals abroad. Polda Metro Jaya arrested MS at the Animal Quarantine Center at Soekarno Hatta International Airport when he wanted to smuggle rare animals into the plane's cargo hold to be sent to Dubai and Kuwait. For this action, MS received a reward of Rp. 5 million for every animal he can smuggle (<https://www.liputan6.com> 2015a).

According to the Center for Transdisciplinary and Sustainability Sciences (CTSES), at the Asian level, large-scale sales of illegal animals are directed to Vietnam, Singapore, Malaysia and Thailand, apart from that, 55% of shipments are also destined for China. Most of the animals sent

were intact and the numbers were quite large, 36% came from Malaysia and 36% from Indonesia. (<https://ctss.ipb.ac.id> 2021).

through its website, OJK reminds that poaching and illegal wildlife trade is an organized crime that falls into the category of transnational crime, and is allegedly a platform for money laundering. Wildlife traders exploit the weaknesses of the financial and non-financial sectors by hiding, transferring and laundering their profits. (<https://www.ojk.go.id> 2021). In connection with the matters mentioned above, this research was conducted with the aim of examining and discussing the factors causing the increasingly widespread illegal trade in wild animals. Furthermore, to understand the legal aspects of illegal wildlife trade, and identify obstacles in eradicating illegal wildlife trade, as well as recommending the concept of prevention and action as alternative solutions that can be taken to overcome this problem.

## **B. Problems**

The problem studied is related to what causes the illegal animal trade to continue to occur? What are the legal aspects of illegal wildlife trade? What obstacles are faced in eradicating illegal wildlife trade? And what is the solution to make prevention and action more effective?

## **C. Research Method**

The research method used is normative juridical, using secondary data in the form of library materials consisting of primary legal materials in the form of statutory regulations, and secondary legal materials such as books, journals, research results. These primary and secondary legal materials are the main references. Then it is arranged systematically and then conclusions are drawn regarding the problems studied (Fajar ND and Achmad 2010:34). Next, the data was analyzed descriptively qualitatively

## **D. Discasion.**

### **1. Fctors causing the rise in illegal trade in wild animals.**

The definition of wild animals according to article 1 number 7 of Law number 5 of 1990, namely "all animals that live on land, and/or in water, and/or in the air that still have wild characteristics, whether free-living or kept by humans. " The existence of wild animals is decreasing and is threatened with extinction, so the Government has made a policy to conserve biological natural resources and their ecosystems, by protecting life support systems, preserving

and utilizing them to ensure their sustainability. These efforts can at least reduce the rate of extinction of wild animals in Indonesia.

The extinction of wild animals is caused, among other things, by natural disasters, wild animal hunting activities, illegal logging in forests, forest fires, residential development, wild animals are considered pests and are killed, and the Wild Animal Trade (Rajagukguk 2014:220). From year to year, illegal wildlife trade always occurs and is increasingly widespread. At least in the last three years, this crime has become increasingly widespread, in fact, according to news uploaded by [icel.or.id](https://icel.or.id) in 2018, this crime was ranked third as a crime that frequently occurs in Indonesia, after crimes of human trafficking and narcotics abuse. The transaction proceeds from this crime per year are approximately Rp. 13 trillion. (<https://icel.or.id> 2018).

Data from the Ministry of Environment and Forestry (KLHK), during 2020 alone the Ministry of Environment and Forestry has succeeded in thwarting the illegal trade of 1733 protected wild animals. Tempo Magazine released that during the 2017-2019 period the police managed to arrest 796 illegal animal sellers and 15,610 animals were confiscated (<https://www.betahita.id> 2020). This data proves that the Government is serious about fighting this crime, but it is also proof that this crime continues to recur and is even more widespread.

The increase in illegal wildlife trade is due to the high demand for wild animals on the world market at very high prices, that is where market law applies, there is supply and demand. The growth of the illegal animal trade market is also influenced by the easier access for sellers and buyers without being limited by space and time through online sites (<https://ketik.unpad.ac.id> t.t.), for example via the WhatsApp and Facebook platforms. Illegal wildlife trade is experiencing very rapid growth in the world and is one of the largest transnational crimes in the world, and is an organized crime at the local, national and international levels (Guntur and Slamet 2019:183). Regarding world wildlife trade, IPB Professor, Ronny Rachman Noor, said that Indonesia is in the vortex of world wildlife trade as one of the world's largest exporters of wildlife products together with Honduras and Jamaica, while the country is recorded as the world's largest importer of wildlife products. namely France, Italy and America. The results of research published in Science Advances recently show that the scale of wildlife trade is very large. From 2006 to 2015, 1.3

million live animals and plants, 1.5 million skins, and 2,000 tons of wild animal meat were legally exported from Africa to Asia (<https://dikti.kemdikbud.go.id> 2021) .

According to the Head of the Illegal Logging and Biodiversity Crime Investigation Section for Region 2, Alvian Sulaiman Harahap, the illegal trade in wildlife is caused by economic and environmental factors. Economic factors are the cause of the trade in wild animals. People who live in areas around forests with low economic conditions are often used by the mafia to hunt protected wild animals for a fee. The use of animals as a tool to make money through attractions (for example monkey masks, snake dances), apart from that there are certain wild animals which are ingredients in drug mixtures, for example pangolins, whose scales can be used as a mixture to make anesthetic which is a substance binding particle psychotropic type methamphetamine (Guntur and Slamet 2019:181). Apart from that, the poverty gap between rich and poor countries is also the cause of illegal wildlife trade between countries. The flow of wildlife trade mostly comes from poor countries selling wildlife to rich countries. Illegal and even legal wildlife trade has become a vicious circle with no end because on the one hand there are those who need it (usually from developed countries whose lives are already prosperous), and on the other hand there are parties who trade in wild animals for various reasons, especially economic reasons. and usually come from poor or developing countries (<https://dikti.kemdikbud.go.id> 2021).

The second cause is environmental factors which consider it normal to hunt wild animals for consumption, for example consuming shark fins or turtle meat. There are also traditions passed down from generation to generation in certain communities where it is considered natural to consume wild animals or use parts of wild animals because of the beliefs held in that society, such as wearing tiger skins to convey authority, wearing bird of paradise feathers which are believed to bring power, there are the belief that consuming tiger testicles and turtle eggs increases sexual vitality/desire (Guntur and Slamet 2019:181).

These two factors (economic and environmental) are interconnected with each other, the existence of traditions formed from environmental factors has created a need for wild animals. On the other hand, there are people who are pressured by economic factors to make ends meet. These two mutually necessary conditions are then exploited by parties who want to make a profit from buying and selling wild animals

Apart from economic and environmental factors, there are other factors that make it difficult to eliminate the trade in protected wild animals, namely regulatory factors and the low level of sanctions imposed on perpetrators of this crime.

## **2. Legal Aspects of Illegal Wildlife Trade**

Law functions as a tool of social engineering (law of tool of social engineering), so its existence is to protect human interests. Regarding this, Rosco Pound said that there are three types of human interests protected by law, namely public interest, individual interest and social interest (Siregar, Nurhayati, and Nurwulan 2019:19).

According to Sudikno Mertokusumo, legal norms do not only talk about the objectives of the law, but also about the function of the law and legal protection. In its function to protect humans, law has clear goals and objectives. The main aim of law is to create order and balance in society, and so that this goal is achieved, law is tasked with dividing rights, obligations and authority, solving legal problems and creating legal certainty in society. (Siregar et al. 2019:19)

All parties have the right to legal protection, including animals and the environment, because basically the law functions to protect society and provide welfare to society. The aim of the law is also to provide protection for the preservation of the environment, including protected animals, wild animals and animals that are kept so that their sustainability is maintained and that extinction does not occur so that it will be beneficial for current and future generations. (Prihatini, Mega Wijaya, and Romelsen 2021:40)

Indonesia is a country with abundant biological riches and is known to have the most wildlife in the world. However, its existence is threatened with extinction, partly due to the large number of wild animal trade practices by irresponsible parties. If this is allowed to happen, it will threaten the ecosystem within it, because there is interdependence, their use influences each other between wild animals and the ecosystem, so that if one of them becomes extinct then the ecosystem will be disrupted (Silalahi 2001:96). Several species of Indonesian wildlife are currently threatened with extinction, so their preservation must be preserved, including several bird species (Bali starlings, Cenderawasih birds, Yellow-crested Cockatoos, Paradise Caerulean birds, Maleo birds), several

fish species (Shark Rays, Toothed Sawfish Large), Green Turtle, Snake-necked Turtle, Komodo, Sumatran Tiger, Javan Rhinoceros, Orangutan, and Anoa. (Prihatini et al. 2021:43). Because Indonesia is a legal country, the trade in wild animals also needs to be given clear, firm and comprehensive legal protection so that there is legal certainty in these trade activities. (Rajagukguk 2014:218)

The Indonesian government has ratified CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) through Presidential Decree no. 43 of 1978. However, even though CITES has been ratified a long time ago, the implementation of CITES regulations has not been carried out optimally to support the sustainable growth of animals and plants. CITES regulations include the obligation to formulate regulations at the national level, determine quotas, control mechanisms for the taking of animals and plants in nature and even control of trade traffic which are still not implemented properly (Panawar 2021:6).

ppendices I, II and III to the Convention on International Trade in Endangered Species of Fauna and Flora (CITES) came into force in 1975, where the legal framework and procedures were established to create international trade regulations for 37,000 species of fauna and flora. The aim of CITES is to ensure that the existence of these flora and fauna species is not threatened by international trade. CITES requires authorization to grant special permits for import, export, re-export and introduction activities from the sea relating to species listed in the three CITES annexes according to their level of protection. Appendix I contains all species that are prohibited from being traded between countries (for example pangolin species), unless non-commercial purposes are permitted with very strict restrictions, for example for education, research or law enforcement. Appendix II contains a list of species that are not threatened with extinction (for example fruit bats), but there are still restrictions on trade so as not to disrupt the survival of these species. Appendix III lists species that are protected in one country at least, and is requested from other countries as part of CITES to help control trade in these species. Import, export or re-export of species specimens on the CITES list can only be carried out if the documents are in accordance with those provided by the CITES Management Authority, these documents must be presented at the port of entry or exit ([www.fatf-gafi.org](http://www.fatf-gafi.org) 2020:12).



Based on applicable international and national laws, illegal wildlife trade is prohibited. Based on CITES article III number 2, the requirements for trading in wild animals are very strict, one of which is that there must be a guarantee from the management authority that the export of wild animals does not harm the survival of the species, apart from that the specimens are not obtained in a way that is contrary to state law. related to the protection of flora and fauna (CITES 1973). Legal methods for collecting specimens include obtaining permission from the competent authorities, captive bred products and must be accompanied by a Wild Plant and Animal Transport Certificate (SATS).

Within the Indonesian legal framework, regulations have been issued to regulate wild animals, both in the form of laws and regulations. Law Number 5 of 1990 concerning Conservation of Biological Natural Resources and their Ecosystems, Article 21 Paragraph (2) clearly and firmly prohibits every person from:

“a. catch, injure, kill, store, own, care for, transport and trade protected animals alive; b. store, own, maintain, transport and trade in dead protected animals; c. removing protected animals from one place in Indonesia to another place inside or outside Indonesia; d. trade, store or possess the skin, body or other parts of protected animals or goods made from these parts or remove them from one place in Indonesia to another place inside or outside Indonesia; e. take, damage, destroy, trade, store or possess eggs and/or nests of protected animals.”

Based on Article 21 paragraph (1), it is clear that trade in protected animals is prohibited. Furthermore, according to the provisions of Article 40 of Law Number 5 of 1990, violations of these provisions may be subject to criminal sanctions in the form of imprisonment for a maximum of 5 years and a fine of a maximum of IDR 100,000,000 (one hundred million rupiah).

One of the considerations for the formation of Law Number 5 of 1990 is to ensure that the utilization of biological natural resources can take place as well as possible, so that conservation measures are needed for biological natural resources and their ecosystems so that they are always maintained and maintained in balance along with ongoing development.

In PP Number 8 of 1999 concerning the Utilization of Wild Plant and Animal Species, Article 2 paragraph (1) regulates the aim of utilizing wild plant and animal species, namely so that they

can be used sustainably for the prosperity of the people. One form of utilization of wild plants and animals is trade. To be able to trade in wild plants and animals according to Article 20 paragraph (1), you must fulfill the requirements: a) there must be a place and storage facilities that meet the technical requirements; b) must prepare an annual business work plan, and c) submit a report on the implementation of the trade. Violations of these provisions fall into the category of administrative violations. Sanctions that can be imposed on violators include administrative fines and/or permit suspension.

As a follow-up to CITES provisions, the Government has issued Decree of the Minister of Forestry of the Republic of Indonesia No. 36/kpts-II/1996 concerning the appointment of the Directorate General of Forest Protection and Forestry as the holder of CITES authority management authority. This authority body formed by the minister has the authority to issue permits and supervise and control the trade in wild plants and animals

To technically regulate the trade in wild plants and animals, Republic of Indonesia Minister of Forestry Decree No. 62/kpts-II/1998 concerning Administration for the Distribution of Wild Plants and Animals. This Ministerial Decree aims to regulate and control the orderly administration of trade in wild plants and animals in the field. Furthermore, technical regulations regarding the procedures for taking or lifting wild plants and animals that are legally justified are issued by Decree of the Minister of Forestry and Plantation No. 104/kpts-II/2000 concerning Procedures for Taking Wild Plants and Catching Wild Animals.

Apart from criminal threats as regulated in Law Number 5 of 1990, as well as administrative sanctions in accordance with the provisions of Government Regulation Number 8 of 1999, assets resulting from criminal acts of trade in wild plants and animals can be threatened with money laundering crimes based on Article 2 paragraph (1) letter w, x and y Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering.

The use of the money laundering crime law is in line with the results of the UN general assembly in September 2019 UN resolution. At the UN general assembly, several resolutions were passed to combat the illegal trade in wildlife. With the aim of demonstrating that these crimes pose a serious threat, it is calling on its members “to amend national legislation, as far as necessary and

appropriate, so that criminal offenses related to the illegal trade in wildlife can be treated as predicate crimes in money laundering” (www.fatf-gafi .org 2020:7)

To identify money laundering crimes (TPPU) is done by tracing financial flows, returning profits and the tools used for the crime. The reason for using this method is that, by tracking financial flows, a wider network of parties funding and syndicate leaders of the crime can be identified. Furthermore, reducing the value of profits obtained from these crimes, will reduce the quantity of wild animals hunted and traded. Another reason is that in some countries, the criminal threat of money laundering is more serious than the crime of illegal wildlife trade. With the possibility of filing multiple charges under the TPPU article and confiscation with the crime of illegal wildlife trade, the perpetrator's perception that illegal wildlife trade is a crime with high profits and low risks will change. The next reason is that illegal wildlife trade syndicates are usually also involved in other crimes. By dismantling and identifying the networks involved in the illegal wildlife trade, similar crimes will be able to be prevented. The final reason, fighting criminal organizations through tracing their money flows as an investigative and legal tool will prevent the illegal trade in wild animals as well as the potential spread of zoonotic diseases that could potentially arise from the spread of wild animals between regions (www.fatf-gafi.org 2020). Based on several regulatory provisions above, it is known that there are three legal aspects related to illegal wildlife trade that can be applied, namely aspects of criminal law, administrative law, and money laundering crimes.

### **3. Obstacles in Eradicating Illegal Wildlife Trade.**

Illegal wildlife trade is difficult to eradicate because public awareness is low. The use of wild animals has been going on for generations and is a normal thing in certain communities, they consider it normal to consume or trade and this is not a violation of the law. According to Zainudin Ali, the effectiveness of a regulation depends on the community. What this means is that the degree of legal compliance depends on the level of public awareness of complying with statutory regulations (Ali 2021).

In terms of regulations, Indonesian laws and regulations regulate prohibitions and sanctions for trade in protected wild animals, but the fines listed in the law are deemed too small for the current era, especially with the high selling prices of protected wild animals, the perpetrators will

easily pay the fine. The ecological and economic losses (state losses) from these crimes are not commensurate with the existing criminal threats.

Another weakness of the regulations is that the law only regulates the legal subjects of people who commit wildlife trade crimes. The law does not yet regulate the crime of trade in protected wild animals committed by corporations, even though in practice, corporations have the opportunity to commit similar crimes. Cases that have occurred involving corporations, for example, the CV Bintang Terang case in Jember, East Java regarding the ownership of 443 protected rare birds (<https://www.greeners.co> 2018), then the illegal zoo case in Padang Lawas involving PT Nuansa Alam Nusantara (<https://www.mongabay.co.id> 2019a). Both cases use the same method, namely under the guise of being a business entity engaged in animal conservation and breeding. In policy brief document 6, TFCA Sumatra together with ICEL and the Indonesian Communication Forum on Community Forestry stated that the methods used include illegal animal possession and trade, activities in non-conservation areas which have an impact on protected species, as well as activities destroying conservation areas (TFCA, ICEL and Indonesian Communication Forum on Community Forestry 2019).

According to Fajar Winarni, regulating corporate accountability is an urgent matter in order to maintain the preservation of wild animals which are part of Indonesia's biodiversity. The aim of requiring corporate accountability is to pursue improvements in impacts and prevent business entities from being used to commit criminal acts again. However, Winarni reminded that the criteria for functional actors who can be charged by law are only administrators who have control (power and control) over criminal acts at the time the criminal act occurs. Management whose management does not have any control or is only limited to representing the corporation in court when the crime occurs cannot be charged as a functional perpetrator (Winarni 2020:272).

Another problem, apart from the formulation of norms for criminal threats and fines which are low and disproportionate to the value of state losses, is that in practice law enforcement is also weak, judges never impose maximum sentences for perpetrators of illegal wildlife trafficking crimes. In the case of Medan, for example, the defendant in the illegal pangolin trade case was only sentenced to 1 year and 5 months in prison and a fine of Rp. 50 million, subsidiary 1 month in prison (<https://www.liputan6.com> 2015b). Another example, the Pelalawan District Court, in

examining the case of killing and taking elephant ivory, only sentenced the perpetrators to a prison sentence of 2 years and 6 months and a fine of Rp. 20 million, with the provision that if the fine is not paid it will be replaced by imprisonment for 3 months (Pelalawan District Court 2015).

The purpose of criminal provisions is to create a deterrent effect for perpetrators of crimes against animals and for other parties who have the potential to become perpetrators of similar crimes, so that they give up their intention to commit these crimes, namely by using the threat of severe punishment. (Zanita 2019:95). If the punishment imposed is light, then the aim of the punishment to have a deterrent effect will not be realized, and what will happen is that there will be a repetition of the same criminal act, either by the same perpetrator or another person.

Even though the illegal trade in wildlife generates very high profits of up to billions of dollars, not many countries have addressed the problem of illegal trade in wildlife by focusing on the financial aspects of the illegal trade in wildlife. Authorities from all over the world have carried out confiscation of wildlife and illegal wildlife products, but they rarely carry out financial investigations at the same time as the confiscation, in prosecuting perpetrators and their accomplices they have not utilized the results of financial investigations in their evidence. This is due, among other things, to the difficulty of tracking illegal activities because criminals mix profits from legal and illegal trade so that illegal activities are difficult to trace. Money laundering that originates from illegal wildlife trade crimes usually hides or disguises the source, ownership of funds and their movement. When compared with other major transnational crimes, the methods, techniques of money laundering and trends in this crime are rarely known to the public, this results in a hampered response (www.fatf-gafi.org 2020:8).

The absence of a comprehensive legal framework for handling illegal wildlife trade and TPPU has resulted in limited jurisdiction for investigation, prosecution and effective sanctions for smuggling perpetrators, their syndicates and illegal wildlife trade perpetrators associated with TPPU (www.fatf-gafi.org 2020: 33).

These obstacles result in law enforcement which is often ineffective and does not have a deterrent effect, so prevention efforts should be prioritized. Apart from that, law enforcement is not the only way to reduce the rate of illegal wildlife trade. In order to prevent criminal acts of

illegal wildlife trade, this cannot be done sectorally. KLHK, in this case the Director General of KSADAE as the Plant and Animal Management Authority in Indonesia collaborates with various parties, including law enforcement officials, the Directorate General of Customs and Excise, the Ministry of Transportation and even Interpol.

This cooperation can only be carried out if there is a common view and perception regarding the need for protection of protected plants and wild animals. Sitting together, working together is the right solution to obtain maximum results. Socialization to the community and early education for children need to be carried out to create future generations who are concerned about protecting plants and animals.

The implementation of CITES by State parties at the national level is adjusted to the provisions and laws of that country. Any trade carried out in the territory of a country contrary to the laws of that country is considered illegal and must be punished. Each country is different in how it applies its laws, for example in some countries there are very strict regulations compared to the provisions in Article XIV<sup>2</sup> CITES, therefore it is important to always refer to a country's national laws.

In the current global order, to overcome several existing problems, according to Jakob Oetama, it must be done together using the abilities that exist within each of us, we cannot just wait for changes in the world. (Kesuma Dinata and Syafruddin 2021:164). In the context of protecting wild animals, Indonesia, apart from ratifying CITES, has also collaborated with other countries and international institutions, including collaboration with USAID, GEF, UNDP and WWF in creating special programs to suppress wildlife trafficking. The collaboration with the American Government through USAID that has been realized is the Build Indonesia to Protect Nature for Sustainability (BIJAK) program. The Indonesian government is also collaborating in ASEAN WEN, this is a regional collaboration to coordinate regulations on violations related to wildlife trade, the focus of which is land wildlife trade. Another form of collaboration is with UNDP and the Global Environment Facility for the Sumatran Tiger program. This collaboration is an effort by the Indonesian Government to help close the obstacles and problems of deficiencies that the Indonesian Government has regarding financial resources and human resources to overcome the practice of wildlife trafficking. (Khoirunnisa and Pricille 2019:97)

## **E. Conclusion**

Indonesia is home to endemic animals, both protected and unprotected. Indonesia has around 300,000 species of wildlife (17% of the world's wildlife), of which approximately 816 endemic species are highly protected, because if these endemic animals become extinct, they will also become extinct throughout the world. The number of endangered species in Indonesia is decreasing, one of the reasons for the decline in the population of endangered animals in Indonesia is the illegal hunting and trade of protected wild animals. The illegal wildlife trade is carried out on the black market and online through social media and e-commerce platforms, not only within the country but also for overseas purposes involving citizens of other countries through syndicate networks. From year to year, wildlife trafficking crimes are increasingly widespread, in fact in 2018 this crime was ranked third as a crime that frequently occurs in Indonesia, after human trafficking crimes and narcotics abuse, with the value of state losses due to illegal wildlife trade every year reaching trillions. Factors causing the rise in illegal wildlife trade are economic, environmental, weak regulations and low sanctions imposed on perpetrators of this crime.

To preserve wildlife, Indonesia has ratified CITES and issued statutory regulations in the form of Law (UU Number 5 of 1990) and PP (PP Number 8 of 1999), and as a follow-up to the CITES provisions, the Government has issued Decree of the Minister of Forestry of the Republic of Indonesia No. 36/kpts-II/1996 concerning the appointment of the Directorate General of Forest Protection and Nature Conservation as the holder of CITES authority management authority, while to technically regulate the trade in wild plants and animals, Decree of the Minister of Forestry of the Republic of Indonesia was issued Decree of the Minister of Forestry No. 62/kpts-II/1998. Based on the Indonesian legal framework, there are three legal aspects related to illegal wildlife trade that can be applied, namely criminal, administrative and money laundering aspects. However, in the practice of eradicating illegal trade in wild animals, there are several obstacles, including weak public awareness of obeying regulations/laws, weak regulations which only regulate legal subjects for individuals and do not include corporations as legal subjects, as well as setting fines that are too small. Another obstacle is weak law enforcement practices, judges never impose maximum sentences on perpetrators so there is no deterrent effect. In addition, to date the absence of a comprehensive legal framework for handling illegal wildlife trade and TPPU has resulted in limited jurisdiction for investigation, prosecution and effective sanctions for smuggling perpetrators, their syndicates and illegal wildlife trade perpetrators linked to TPPU.

## **F. Sugestion**

Illegal trade in wild animals has brought losses to the state, both in the form of economic and ecological losses. Considering the serious impact of the trade in protected wild animals, it is necessary to make improvements in eradicating the illegal trade in protected wild animals so that it is more efficient and successful. uses, including:

1. There is a need to evaluate and change regulations, especially:
  - a. Including heavier criminal sanctions and fines adjusted to the level of state losses.
  - b. Include tougher sanctions related to the threat of punishment for perpetrators of wild plant and animal trade who commit repeat crimes (recidive).
  - c. Including corporate elements as legal subjects for criminal acts of trade in wild plants and animals in the prohibition norms and sanctions.
  - d. 2. Better and more intensive coordination between institutions is needed, especially in equalizing perceptions related to wildlife, as well as regarding investigations into money laundering crimes related to wildlife trafficking.
  - e. Because wildlife trafficking is included in the category of transnational crime, it is necessary to expand international cooperation with other countries, to take both preventive and repressive measures. For example: application of TPPU for wildlife crimes committed abroad to enable investigations and prosecutions within the country, exchange of information on financial flows or products from the illegal wildlife trade.

## **DAFTAR PUSTAKA**

### **Buku**

Ali, Zainuddin. 2021. *Sosiologi Hukum*. Jakarta: Sinar Grafika.

Fajar ND, Mukti, dan Yulianto Achmad. 2010. *Dualisme Penelitian Hukum Normatif & Empiris*, Yogyakarta. Yogyakarta: Penerbit Pustaka Pelajar.



Silalahi, M. Daud. 2001. *Hukum lingkungan dalam sistem penegakan hukum lingkungan Indonesia*. Bandung: Alumni.

TFCA, ICEL dan Indonesian Communication Forum on Community Forestry. 2019. “Policy Brief 6, Proyeksi Penerapan Pertanggungjawaban Korporasi Dalam Kejahatan Konservasi.” *ICEL, Jakarta*.

### **Jurnal**

CITES. 1973. *Convention on International Trade in Endangered Species of Wild Fauna and Flora*.

Guntur, Wildanu S., dan Sabar Slamet. 2019. “Kajian Kriminologi Perdagangan Ilegal Satwa Liar.” *Recidive* Vol 8(2):176–86.

Kesuma Dinata, Muhammad Ruhly, dan Syafruddin Syafruddin. 2021. “Kearifan Lokal Dalam Peningkatan Kesadaran Hukum.” *Rechtsregel: Jurnal Ilmu Hukum Universitas Pamulang* 4(no 2).

Khoirunnisa, Ani, dan Pricille Pricille. 2019. “Upaya Penanganan Tingkat Perdagangan Satwa Liar oleh Pemerintah Indonesia Pada Tahun 2013-201.” *Global Insight Journal* Vol 04(1):80–101.

Panawar, Offel M. 2021. “Pengaturan Internasional Tentang Pencegahan Perdagangan Hewan Dan Tumbuhan Terancam Punah (Cites) Dan Kaitannya Dengan Perlindungan Sumber Daya Alam Hayati Dan Ekosistemnya Di Indonesia.” *Jurnal Lex Et Societatis* Vol IX(1). doi: <https://doi.org/10.35796/les.v9i1.32049>.

Prihatini, Lilik, Mustika Mega Wijaya, dan Debby Novanda Romelsen. 2021. “Aspek Hukum Pidana Terhadap Penegakan Hukum Perlindungan Hewan Di Indonesia.” *Jurnal PALAR, Pakuan Law Review* 7:37–52. doi: <https://doi.org/10.33751/palar.v7i2.3582>.

Rajagukguk, Elisa Vionita. 2014. “Efektivitas Peraturan Perdagangan Satwa Liar Di Indonesia.” *Jurnal Wawasan Yuridika* Vol 31(2).

Silalahi, M. Daud. 2001. *Hukum lingkungan dalam sistem penegakan hukum lingkungan Indonesia*. Bandung: Alumni.

Siregar, Hendrik Fasco, Nurhayati, dan Siti Nurwulan. 2019. “Analisis Perlindungan Hukum Terhadap Geopark Nasional Ciletuh Sebagai Kawasan Geowisata Di Kabupaten Sukabumi Provinsi Jawa Barat.” *Jurnal Surya Kencana Satu* vol 10(1).

TFCA, ICEL dan Indonesian Communication Forum on Community Forestry. 2019. “Policy Brief 6, Proyeksi Penerapan Pertanggungjawaban Korporasi Dalam Kejahatan Konservasi.” *ICEL, Jakarta*.

Winarni, Fajar. 2020. “Urgensi Pengaturan Pertanggungjawaban Pidana Korporasi Dalam Kejahatan Terhadap Satwa Liar.” *Jurnal Mimbar Hukum* vol 32(2):260–74.

### **Internet**

www.fatf-gafi.org. 2020. “LAPORAN FATF Tindak Pidana Pencucian Uang dan Perdagangan Ilegal Satwa Liar.”

<https://ctss.ipb.ac.id>. 2021. “Trenggiling dalam Perdagangan Satwa Liar.” Diambil (<https://ctss.ipb.ac.id/2021/08/12/trenggiling-dalam-perdagangan-satwa-liar/>).

<https://www.ojk.go.id>. 2021. “FATF Report - Money Laundering on Illegal Wild Life Trade.” Diambil (<https://www.ojk.go.id/apu-ppt/id/informasi/hasil-riset/Pages/FATF-Report---Illegal-Wild-Life-Trade.aspx>).

<https://dikti.kemdikbud.go.id>. 2021. “Pakar IPB University: Indonesia Berada di Pusaran Perdagangan Satwa Liar Dunia.” Diambil (<https://dikti.kemdikbud.go.id/kabar-dikti/kampus-kita/pakar-ipb-university-indonesia-berada-di-pusaran-perdagangan-satwa-liar-dunia/>).

<https://icel.or.id>. 2018. “Upaya Perlindungan Terhadap Satwa Liar dalam RUU KUHP Belum Maksimal.” Diambil (<https://icel.or.id/berita/upaya-perlindungan-terhadap-satwa-liar-dalam-ruu-kuhp-belum-maksimal/>).

<https://icel.or.id>. 2019. “Rugi Triliunan Akibat Penjualan Satwa Ilegal.”

<https://ketik.unpad.ac.id>. t.t. “Perdagangan dan Perburuan Liar: Mengeruk Cuan, Menjerat Satwa.” Diambil (<https://ketik.unpad.ac.id/posts/2919/perdagangan-dan-perburuan-liar-mengeruk-cuan-menjerat-satwa>).

<https://www.betahita.id>. 2020. “Tahun 2020, Ada Perdagangan 1700 Satwa Liar Dilindungi.” Diambil (<https://www.betahita.id/news/lipsus/5835/tahun-2020-ada-perdagangan-1700-satwa-liar-dilindungi.html?v=1610321818>).

<https://www.greeners.co>. 2018. “Polisi Amankan Ratusan Burung Langka dari Penangkaran Satwa di Jember.” Diambil (<https://www.greeners.co/berita/polisi-amankan-ratusan-burung-langka-dari-penangkaran-satwa-di-jember/>).

<https://www.liputan6.com>. 2015a. “Selundupkan Satwa Langka, Dokter Hewan Raup Rp 5 Juta per Ekor.” Diambil (<https://www.liputan6.com/news/read/2370382/selundupkan-satwa-langka-dokter-hewan-raup-rp-5-juta-per-ekor>).

<https://www.liputan6.com>. 2015b. “Vonis Rendah Terdakwa 5 Ton Trenggiling Menuai Kekecewaan.” Diambil (<https://www.liputan6.com/news/read/2320391/vonis-rendah-terdakwa-5-ton-trenggiling-menuai-kekecewaan>).

<https://www.mongabay.co.id>. 2019a. “Mabes Polri Bredel Kebun Binatang Diduga Ilegal di Padang Lawas Utara.” Diambil (<https://www.mongabay.co.id/2019/09/10/mabes-polri-bredel-kebun-binatang-diduga-ilegal-di-padang-lawas-utara/>).

<https://www.mongabay.co.id>. 2019b. “Perdagangan Satwa Liar Ilegal Capai Rp13 Triliun, Apa yang Bisa Diupayakan?” Diambil (<https://www.mongabay.co.id/2019/11/05/perdagangan-satwa-liar-ilegal-capai-rp13-triliun-apa-yang-bisa-diupayakan/>).

### **Putusan Pengadilan**

Pengadilan Negeri Pelalawan. 2015. *Putusan Pengadilan Negeri Pelalawan Nomor 231/Pid-Sus/2015/PN.PLW*.

### **Thesis**

Zanita, Henri. 2019. “Penyelesaian Hukum Kasus Tindak Pidana Terhadap Pembunuhan Satwa Yang Dilindungi Berdasarkan Undang-Undang Nomor 05 Tahun 1990 Tentang Konservasi Sumber Daya Alam Hayati dan Ekosistemnya (Studi Di Wilayah Hukum Pengadilan Negeri Pelalawan).” Universitas Islam Riau, Pekanbaru.