

# Enforcement of Criminal Sanctions Against Trafficking of Protected Wildlife in Sorong City

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## Article History

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**Abstract:** This research aims to find out the Enforcement of Criminal Sanctions Against Protected Wildlife Trade in Sorong City To find out the obstacles in the application of Enforcement of Criminal Sanctions Against Protected Wildlife Trade in Sorong City. This type of research is normative juridical research, data sources in this research are primary data and secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Data obtained by library techniques and analyzed descriptively quantitative. The results showed that (1) Positive law in Indonesia distinguishes between "wildlife" and "pets" to protect biodiversity. Based on the Regulation of the Minister of Environment and Forestry Number P.20/MENLHK/SETJEN/KUM.1/6/2018, there are 794 species of animals and 130 species of plants that are protected. Exploitation of protected wildlife is considered a criminal offense, as stated in Article 302 paragraph (1) of the Criminal Code which stipulates penalties for animal protection offenses. (2) Based on interviews with police officers in Sorong, it is known that there are law enforcement efforts against the trade of endangered animals, which involves cooperation between the Sorong Police and the Natural Resources Conservation Center (BKSDA) to ensure animal protection. This effort reflects an active role in implementing animal protection and raising awareness of animal welfare, which is part of moral norms. The effectiveness of law enforcement is also influenced by the structure, substance, and culture of law, in accordance with Lawrence Friedman's theory, as well as the five factors of legal effectiveness according to Soerjono Soekanto. This research shows that strengthening the substance of the law through criminal sanctions can provide a deterrent effect and prevent rare animal trade crimes, but structural and cultural improvements are still needed to achieve optimal success.

**Keywords:** Enforcement; Criminal Sanctions; Wildlife Trade.

**Abstrak:** Penelitian ini bertujuan Untuk mengetahui Penegakan Sanksi Pidana Terhadap Perdagangan Satwa Liar yang Dilindungi di Kota Sorong Untuk mengetahui kendala dalam penerapan Penegakan Sanksi Pidana Terhadap Perdagangan Satwa Liar yang Dilindungi di Kota Sorong. Jenis penelitian ini merupakan penelitian yuridis normatif, Sumber data dalam penelitian ini berupa data primer dan data sekunder yang terdiri dari bahan hukum primer, bahan hukum sekunder, dan bahan hukum tersier. Data diperoleh dengan teknik kepustakaan dan dianalisis secara deksriptif kuantitatif. Hasil penelitian

menunjukkan bahwa (1) Hukum positif di Indonesia membedakan antara "satwa liar" dan "hewan peliharaan" untuk melindungi keanekaragaman hayati. Berdasarkan Peraturan Menteri Lingkungan Hidup dan Kehutanan Nomor P.20/MENLHK/SETJEN/KUM.1/6/2018, terdapat 794 jenis satwa dan 130 jenis tumbuhan yang dilindungi. Eksploitasi terhadap satwa liar dilindungi dianggap sebagai tindak pidana, sebagaimana tercantum dalam Pasal 302 ayat (1) KUHP yang menetapkan hukuman untuk pelanggaran perlindungan satwa. (2) Berdasarkan wawancara dengan aparat kepolisian di Sorong, diketahui adanya upaya penegakan hukum terhadap perdagangan satwa langka, yang melibatkan kerjasama antara Polresta Sorong dan Balai Konservasi Sumber Daya Alam (BKSDA) untuk memastikan perlindungan satwa. Upaya ini mencerminkan peran aktif dalam mengimplementasikan perlindungan satwa dan peningkatan kesadaran akan kesejahteraan hewan, yang merupakan bagian dari norma kesusilaan. Efektivitas penegakan hukum juga dipengaruhi oleh struktur, substansi, dan kultur hukum, sesuai dengan teori Lawrence Friedman, serta lima faktor efektivitas hukum menurut Soerjono Soekanto. Penelitian ini menunjukkan bahwa penguatan substansi hukum melalui sanksi pidana dapat memberikan efek jera dan mencegah tindak pidana perdagangan satwa langka, namun masih diperlukan pembenahan struktural dan kultural untuk mencapai keberhasilan yang optimal.

**Kata Kunci:** Penegakan; Sanksi Pidana; Perdagangan Satwa Liar.

## 1. INTRODUCTION

Indonesia's biological resources are very high in the world (megadiversity), including the diversity of animals / wildlife or fauna. For example, Indonesia ranks first in the world, which has a diversity of mammal species (515 species), has a diversity of birds ranked fourth in the world (1,539 species), below the ranking of Columbia, Peru and Brazil, and has a diversity of reptile species ranked third (600 species), after Mexico and Australia. Moreover, 45% of fish live in Indonesian waters. The distribution of fauna is grouped into three geographic regions, namely the fauna of Western Indonesia, the fauna of Central Indonesia and the fauna of Eastern Indonesia.<sup>1</sup>

The list of new species found in Indonesia will continue to grow, along with intensive research or exploration of nature. Because there are still many places in Indonesia such as Papua that have not been recorded with a complete list of animal and plant species. Despite its richness, Indonesia has received global attention due to the rapid rate of deforestation and forest degradation, which also results in a high rate of species loss, both flora, fauna and microorganisms. Due to the high loss of flora and fauna species, Indonesia is known as a country with a long list of endangered wildlife. Currently, the number of endangered wildlife is 147 species of Mammals, 144 species of Birds, 28 species of Reptiles, 29 species of Fish, and 28 species of Invertebrates (IUCN). If

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<sup>1</sup> Fahmiron and Evi Wansri, "Penerapan Unsur Tindak Pidana Perdagangan Satwa Liar Yang Dilindungi Pada Tahap Penyidikan Di Satreskrim Polres Solok Kota," *Ekasakti Legal Science Journal* 1, no. 3 (2024): 225–33, <https://doi.org/10.60034/4prqjg79>.

there is no effort to save them, the species will be completely extinct from nature, just like the Bali tiger which has been completely extinct since the 70s.<sup>2</sup> There are at least two main causes that threaten the extinction of Indonesia's protected wildlife, one of which is the trade in protected wildlife.<sup>3</sup>

The trade in protected wildlife is a crime against animals that does not respect existing regulations. The trade of protected wildlife poses a serious threat to the preservation of Indonesia's protected wildlife.<sup>4</sup> Due to the high profit and low legal risk faced by the perpetrators, the protected wildlife trade has become a major attraction for perpetrators to commit such crimes.<sup>5</sup> Moreover, more than 95% of the animals sold in the market are wild-caught, not captive-bred. Many protected and endangered species are still traded freely in Indonesia. As many as 40% of traded wildlife die as a result of painful capture, inadequate transportation, cramped cages and inadequate food.<sup>6</sup>

The government has issued laws and regulations to protect protected animals from any crimes that would lead to their extinction.<sup>7</sup> This was marked by the issuance of Law (UU) No. 32 of 2024 on the amendment of Law No. 5 of 1990 concerning the Conservation of Living Natural Resources and their Ecosystems and there are at least two things that are protected in Indonesia, one of which is the trade of protected animals. Trade in protected wildlife is a crime against animals that does not see the rules that already exist. The trade in protected wildlife poses a serious threat to the conservation of Indonesia's protected wildlife. Due to the high profit and low legal risk faced by the perpetrators, the protected wildlife trade is a big attraction for the perpetrators to commit the crime. Moreover, more than 95% of the animals sold in the market are wild-caught, not captive-bred. Various protected and endangered species are still traded freely in Indonesia. As many as 40% of traded wildlife die as a result of painful capture, inadequate transportation, cramped cages and inadequate food.<sup>8</sup>

Although there is a legal umbrella to regulate this, the crime of protected animal trade still occurs. One of them is in Sorong City, Southwest Papua. From several cases that occurred in Sorong City, the author also made observations in the market and on social networks to strengthen the data on the occurrence of protected animal trade cases

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<sup>2</sup> No Direktorat Jendral Bea dan Cukai, *Jaga Alam, Lindungi Flora Dan Fauna Indonesia* (Jakarta: Warta Bea Cukai, 2015).

<sup>3</sup> Dilindungi Dengan and Cara Lelang, "TINJAUAN YURIDIS TERHADAP TINDAK PIDANA PENJUALAN SATWA YANG," *Kabilah: Journal of Social Community* 9, no. 14 (2024): 542–52.

<sup>4</sup> Difa Halimah, "Penegakan Hukum Terhadap Tindak Pidana Perdagangan Satwa Dilindungi Di Sumatera Utara," *RECHTSNORMEN KOMUNIKASI DAN INFORMASI HUKUM* 2, no. 1 (2023).

<sup>5</sup> Fidela Aulia Khairi and Hengki Andora, "Pengawasan Perdagangan Ilegal Terhadap Trenggiling Oleh Balai Konservasi Sumber Daya Alam Sumatera Barat," *UNES Law Review* 6, no. 3 (2024): 9148–71.

<sup>6</sup> ProFauna Indonesia, *Islam Peduli Terhadap Satwa*, (Malang: Al-Hikam, 2010).

<sup>7</sup> Rizki Zakariya, "Penguatan Kerja Sama Lintas Negara Dalam Penegakan Hukum Perdagangan Satwa Liar," *R Zakariya - Jurnal Hukum Lex Generalis* 2, no. 11 (2021): 1039–58.

<sup>8</sup> ProFauna Indonesia, *Islam Peduli Terhadap Satwa*.

in Sorong City. After conducting observations, there are several stalls that sell animals classified as protected animals, such as Cockatoos, Parrots, Birds of Paradise, Honey Birds, Sapsuckers, Shrimps. However, the trade of protected animals is not only through conventional trade, but also through online media. On Facebook, there are many groups and accounts that trade protected endangered animals, such as groups for buying and selling Sorong and surrounding areas, pet trading in Sorong, buying and selling quality animals, and others.

According to research conducted by Nyoman Prajenaya on Criminal Law Enforcement Against Traffickers of Protected Animals (Case Study of Siamang Trade in Bandar Lampung). The results of the research and discussion show that criminal law enforcement against perpetrators of protected animal trafficking is carried out through the formulation stage, the application stage and the execution stage carried out by the implementation of the decision by the court. In addition, factors that can affect law enforcement against animal traffickers that are considered dominant are law enforcement officials and community factors.<sup>9</sup>

## **2. METHOD**

The research method used through a normative juridical approach, namely using normative legal case studies in the form of legal behavior products, for example examining draft laws. The subject of study is law which is conceptualized as norms or rules that apply in society and become a reference for everyone's behavior. So that this type of research focuses on the inventory of positive law, legal principles and doctrines, legal discovery in cases in concreto, legal systematics, the level of legal synchronization, comparative law, and legal history. The empirical juridical approach is carried out through direct research on the object of research by means of interviews. The research approach used in this research is a normative juridical approach, namely examining legal issues as rules that are considered in accordance with written legal education, this approach is carried out through library research by studying theoretical matters concerning legal principles, conceptions, views, and legal regulations relating to law enforcement against perpetrators of siamang-type protected animal trade. Sources and types of data used in this study consist of primary data, secondary data, and data. While data collection and processing techniques are done by means of literature study and field studies.

## **3. DISCUSSION**

### **3.1. Enforcement of Criminal Sanctions Against the Trade of Protected Wildlife in Sorong City**

Positive law in Indonesia distinguishes between "wildlife" and "pets". Referring to

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<sup>9</sup> Nyoman Prajenaya, "Penegakan Hukum Pidana Terhadap Pelaku Perdagangan Satwa Yang Dilindungi (Studi Kasus Perdagangan Siamang Di Bandar Lampung)," in *Jurnal Hukum* (Bandar Lampung, 2021), Hlm.4.

the appendix of the Regulation of the Minister of Environment and Forestry of the Republic of Indonesia Number P.20/MENLHK/SETJEN/KUM.1/6/2018 on Protected Plant and Animal Species, there are 794 animal species and 130 plant species that are protected and registered with the Ministry of Environment and Forestry of the Republic of Indonesia. Types and Number of Protected Animal Species Based on Ministerial Regulation Number P.20/MENLHK/SETJEN/KUM.1/2018 on Protected Plant and Animal Species. The law that regulates wildlife in Indonesia is Law Number 32 of 2024 concerning the Conservation of Living Natural Resources and their Ecosystems. This law stipulates that every person is prohibited from: Capturing protected wildlife, Injuring protected wildlife, Killing protected wildlife, Storing protected wildlife, Transporting protected wildlife, Trading protected wildlife, Holding protected wildlife.<sup>10</sup>

In addition, this law also stipulates that protected wildlife shall not be removed from any place in Indonesia to any other place inside or outside Indonesia. Violation of this law is punishable by imprisonment of up to 5 years and a fine of up to IDR 100 million. Poaching and any form of exploitation of wildlife is a criminal offense. The crime in question is as described in the provisions of Article 302 Paragraph (1) of the Criminal Code is punishable by a maximum imprisonment of three months or a maximum fine of three months or a maximum fine of four thousand five hundred rupiahs for light maltreatment of animals, If the act results in illness for more than a week, or disability or other serious injury, or death, the offender shall be punished by a maximum imprisonment of nine months or a maximum fine of four thousand five hundred rupiahs, for maltreatment of animals.<sup>11</sup>

Based on Article 4 paragraph (1) of PP 7/1999, wildlife is classified into protected wildlife and unprotected wildlife. The classification of protected wildlife is based on a Ministerial decree, in this case the Minister of Environment and Forestry with the recommendation of the Indonesian Institute of Sciences (LIPI) as the scientific authority. The classification aims to create legal certainty for wildlife protection and utilization efforts. The difference also affects which laws and regulations can be used for the legal protection of wildlife.

Protected wildlife is the object of legal protection under the Biological Conservation Law and its implementing regulations. The classification of species with the status of "protected" does not mean that the species cannot be utilized, but can be utilized as long as it is sustainable. As is customary in managing natural resources that can be propagated, wildlife management is carried out on the principles of sustained

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<sup>10</sup> Perlindungan Hukum et al., "Perlindungan Hukum Terhadap Satwa Liar Di Indonesia Berdasarkan Perspektif Aliran Hukum Responsif," *Jurnal Pendidikan Dan Konseling* 4, no. 6 (2022): 10043–51.

<sup>11</sup> Lathifah Hanim, Munsharif Abdul Chalim, and Jawade Hafidz, "PELAKSANAAN PERLINDUNGAN SATWA LIAR YANG DILINDUNGI MENURUT HUKUM INDONESIA DAN HUKUM INTERNASIONAL," *Prosiding Seminar Nasional Penelitian Dan Pengabdian Kepada Masyarakat* 1, no. 1 (2020): 161–68.

yield. The term sustained yield means that protected wildlife can be harvested periodically without compromising their breeding potential, and that more individuals can be harvested in the future.<sup>12</sup>

### **3.2. Constraints in Enforcing Criminal Sanctions Against the Trade of Protected Wildlife in Sorong City**

In connection with the investigation process in the case of criminal acts of animal trafficking in protected animals and Natural Resources Conservation of Sorong City, of course the Sorong City Police Criminal Investigation Unit encountered obstacles. The obstacles referred to in the investigation process in the case of criminal acts of animal trafficking in protected nature, especially the sale of rare animals, are the non-cooperative of the suspect in providing information during the Investigation Report (BAP).

According to the Head of Criminal Investigation Unit of East Sorong City Police, Mr. Arifal Utama, S.T.K., SH, M.H.. Head of Sorong City Criminal Investigation Unit as Head of Pidum (General Criminal) explained: "In practice the perpetrators of these crimes turned out to have an international network in trading protected animals, especially rare animals, at the time of disclosure the inhibiting factor in the running of this case was the non-cooperative of the suspect in providing information on the Minutes of Examination where the information between one perpetrator and another did not correspond so that it made it difficult for investigators to reveal the chain of other perpetrators". Furthermore, according to the perpetrator of the crime of animal trafficking in protected animals said: "We do not know the background of the arrest of protected animals. Criminal Procedure Law is closely related to the existence of criminal law which is a series of regulations that contain how powerful government agencies, namely the Police, the police must act in order to achieve the objectives of the State by establishing Criminal Law. In essence, an act or series of acts to which criminal sanctions are attached in order to be imposed on the perpetrator when violating the specified provisions is the basis of a criminal offense. The formulation of the criminal offense of smuggling of protected animals leads to laws and regulations that regulate efforts to conserve and protect animals protected by the government in order to avoid smuggling. Article 21 Paragraph (2) Letter c of the Natural Resources Conservation Act (KSDA) stipulates that every person is prohibited from removing protected wildlife from a place in Indonesia to another place inside or outside Indonesia. The formulation of the article does not mention the word "smuggling" but only uses the word "removing". The word "removing" is included in smuggling if seen from the concept of smuggling previously described.

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<sup>12</sup> Margo Hadi Pura and Hana Faridah, "Asas Akusator Dalam Perlindungan Hukum Atas Hak Tersangka Berdasarkan Undang-Undang Nomor 8 Tahun 1981 Tentang Kitab Undang-Undang Hukum Acara Pidana," *Jurnal Hukum Sasana* 7, no. 1 (2021): 79–95.



And in Article 42 paragraph (1) of Law of the Republic of Indonesia Number 8 of 1999, which is the implementation of the Natural Resources Conservation Law (KSDA), states that: "Shipment or transportation of wild plant and animal species from one habitat area to another habitat area in Indonesia, or from and to outside the territory of Indonesia, must be equipped with shipping or transportation documents". From the formulation of the article, it can be interpreted that the movement of wildlife from one habitat area to another must be equipped with a valid document.

Article 63 paragraph (1) of Law of the Republic of Indonesia Number 8 Year 1999 states that any person who carries out shipping or transportation of wild plants and or animals without shipping or transportation documents, or deviates from the conditions or does not fulfill the obligations, or falsifies documents as referred to in Article 42 paragraph (1), paragraph (2), or paragraph (3) shall be punished for participating in smuggling and or theft and or attempting to commit environmental destruction. Based on the formulation of the article, the movement of wildlife from one habitat area to another without being equipped with valid documents is categorized as smuggling.<sup>13</sup>

Based on this provision, it can be interpreted that the subject of the criminal offense in the Natural Resources Conservation Law (KSDA) as mentioned above is only addressed to individuals. This can be seen in the criminal provisions which only mention "every person" in the article. However, given the current times, the perpetrators of protected wildlife smuggling have also evolved, including by certain groups and legal entities just for the sake of profit. This shows the weakness of the law, which is no longer able to keep up with the development of legal events in Indonesia.

Before discussing the constraints in enforcing criminal sanctions against protected wildlife trade in Sorong City, it is important to understand that the region has very high biodiversity, including various wildlife species protected by law. However, the high economic value of wildlife and increasing market demand has encouraged illegal trade practices that threaten the sustainability of these species. For this reason, strong law enforcement efforts are needed, although in practice there are various obstacles faced by the authorities.

The following are some of the obstacles in enforcing criminal sanctions against protected wildlife trade in Sorong City: Limited Human Resources: The number of law enforcement officers, such as police and special investigators for environmental crimes, is often limited in the Sorong City area. With the large area to be monitored, this lack of manpower is a major obstacle in conducting surveillance and prosecution, Regional Accessibility: Sorong City has a difficult topography, with many areas that can only be reached through long road trips, or even by air or sea. This geographical condition makes surveillance difficult and costly, Lack of Facilities and Infrastructure: In some areas of Sorong City, facilities and infrastructure that support law enforcement, such as

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<sup>13</sup> Gerson Sem Buinei et al., "Restorative Justice Approach in Dealing with Crimes at Police Level ( A Study at Polresta and Polres Sorong )," *Journal of Law Justice* 2, no. 1 (2024): 1–12.

surveillance posts, transportation, and communication, are often limited. This affects the effectiveness of inter-agency coordination in handling wildlife trafficking cases.

**Low Public Legal Awareness:** Many local communities still lack understanding of the importance of wildlife conservation and related laws. Some of them even see the trade as a source of income without knowing the legal consequences of such activities, **High Market Demand:** High demand for wildlife in both local and international markets is a major driver of the protected wildlife trade. Despite the threat of criminal sanctions, the huge profits earned from this trade make some people tempted to do it, **Lack of Inter-Agency Cooperation:** Addressing wildlife trafficking requires the cooperation of various agencies, such as the police, the Ministry of Environment and Forestry, and other authorities. Lack of synergy and communication between agencies often leads to slow and suboptimal enforcement.<sup>14</sup>

**Lack of Law Enforcement:** In some cases, the sanctions imposed on wildlife traffickers lack deterrence. Relatively light sentences and lengthy legal processes discourage perpetrators from repeating their actions. These constraints indicate the need for increased resources, public awareness, and cross-agency cooperation to improve the effectiveness of law enforcement in protecting wildlife in Sorong City.<sup>15</sup>

#### **4. CONCLUSION**

The provision of criminal sanctions for unlawful exploitation of protected wildlife is already regulated by the provisions of the Indonesian Criminal Code. However, after the enactment of Law No. 5 of 1990 concerning the Conservation of Biological Resources and Ecosystems, all forms of actions related to the exploitation of protected animals must refer to the provisions of the law. The enforcement and protection of criminal law on unlawful exploitation of protected wildlife is found that the law enforcement that takes place must be in accordance with the rules and regulations that apply and regulate it. Legal protection through preventive efforts with supervision carried out on the existence of protected animals such as elephants and their ecosystems as well as repressively through prosecution and law enforcement against the perpetrators of these crimes. constraints in the enforcement of criminal sanctions against protected wildlife trade in Sorong City show that there are many obstacles that complicate efforts to conserve biodiversity. Some of the main obstacles include limited human resources, difficult access to the area due to topography and limited infrastructure, and low legal awareness in the community. In addition, high market demand for wildlife, lack of

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<sup>14</sup> Mochammad Fikri Laudi et al., "PERANAN KEPOLISIAN DALAM RANGKA PENEGAKAN HUKUM TERHADAP MARAKNYA PERDAGANGAN SATWA LIAR DI WILAYAH HUKUM GRESIK JAWA TIMUR," *Jurnal Magister Ilmu Hukum 'DEKRIT'* 14, no. 1 (2024), <https://doi.org/https://doi.org/10.55499/dekrit.v14n1.260>.

<sup>15</sup> Rahul Pieter S Yapen, Wahab Aznul Hidayat, and Muharuddin Muharuddin, "The Role of Correctional Institutions in the Development of Prisoners to Prevent Recidivism of Crimes in Sorong City," *Journal of Law Justice* 2, no. 3 (2024): 162–76, <https://doi.org/https://doi.org/10.33506/jlj.v2i3.3354>.



synergy between relevant agencies, and weak law enforcement that lacks a deterrent effect also exacerbate the situation. These constraints highlight the importance of improved resources, increased public awareness, and cross-agency coordination for effective law enforcement and wildlife protection in the region.

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