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Legal enforcment of illegal trade in protected wild animals in The Region Resor Konservasi XXIII Cirebon

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ABSTRACT

This study aims to analyze the legal enforcment of illegal trade in protected wild animals in the Region Resor Konservasi XXIII Cirebon. Data collection techniques were carried out by interviewing one of the KSDA employees of conservation resorts in the region. The data were analyzed qualitatively and presented descriptively. The results show that the illegal trade of protected wildlife poses a serious threat to the sustainability of animals in Indonesia because illegal trade is a major factor in the decline of protected species in Indonesia. Law enforcement is the government's effort to minimize the occurrence of illegal trading in protected wildlife that needs to be improved by encouraging regulations at the regional and central levels for the protection of species that have not been included in protected status.

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INTRODUCTION

Indonesia is one of the countries that has a large biodiversity or often referred to as megabiodiversity (Sanka et al., 2023; von Rintelen et al., 2017). However, such biodiversity can be a threat to the illegal trade of protected animals. Trade in protected animals poses a serious threat to the sustainability of animals in Indonesia because illegal trade is a major factor in the decline of protected species in Indonesia (Nijman, 2010; Nijman et al., 2019). If there continues to be illegal trade in protected animals freely, these animals will become extinct. Illegal trafficking of protected animals is a crime against protected animals that is carried out neatly organized and has a wide social network, ranging from national and international levels (Van Uhm, 2016; Wyatt et al., 2020). Trade in protected wildlife is one of the factors that can be detrimental both nationally and internationally. Regulations governing animal protection in Indonesia are regulated in Law No. 5 of 1990 concerning the Conservation of Biological Natural Resources and their Ecosystems.

In modern times, illegal trade is mostly done through social media, one of which is Facebook (Sung et al., 2021; Xu et al., 2020). From previous research journals, it was found that there were illegal trade activities of protected wildlife in one of the animal markets in Plered, Weru District, Cirebon Regency with the discovery of wildlife, namely Javan slow loris, long-tailed monkeys, Bali starlings, forest cats, and Javan porcupines (Erni, 2021). In Law Number 5 of 1990 concerning the Conservation of Biological Natural Resources and their Ecosystems, it has clearly prohibited these activities. The high rate of trade in protected wildlife is thought to be directly related to the decline in the number of species in the wild. Protected wildlife is regulated based on the Regulation of the Minister of Environment and Justice Number: P.106/MENLHK /Setjen/Kum.1/12/2018/. Illegal trade in protected wildlife occurs in many regions in Indonesia, including the Ciayumajakuning area.

So, the legal issue that can be taken from this study is to find out how law enforcement against illegal trade in protected wildlife that still often occurs, especially in conservation resorts in region XXIII Cirebon, what are the obstacles in law enforcement, and how are countermeasures to minimize the occurrence of illegal trade in protected wildlife which until now has not been resolved. The decline in the number of protected wildlife populations is influenced by weak law enforcement factors, light sanctions, can be proven by the

existence of illegal trade in protected wildlife that is open in animal markets and through social media Facebook.

This study aims to analyze the legal enforcment of illegal trade in protected wild animals in The Region Resor Konservasi XXIII Cirebon. It is expected to give a wider range of information regarding the topic discussed and become a reference for future studies.

METHOD

This research is a normative juridical law research. The data used are secondary data, namely in the form of previous research journals as the main data and also primary data, namely the Law as supporting data. Data collection techniques were carried out by interviewing one of the KSDA employees of conservation resort area XXIII Cirebon for primary data and document studies and also literature studies for secondary data. The data are analyzed qualitatively and presented descriptively.

RESULTS AND DISCUSSION

Law Enforcement Against Illegal Trade of Protected Wildlife in Cirebon XXIII Conservation Resort Area

According to Soekanto (2016), law enforcement is an activity to harmonize the relationship of values described in solid and manifesting rules, as well as an attitude of action as a series of elaboration of values, to create, maintain and maintain social peace. Law enforcement theory according to Soerjono Soekanto is that law enforcement factors are determined by 5 (Five) factors.

Legal Factor

The practice of implementing law enforcement in the field often conflicts between legal certainty and justice. The same is true in law enforcement of illegal trade in protected animals in the Conservation Resort area of Region XXIII Cirebon. Article 39 of the UUKSDA states that in addition to officials of the National Police of the Republic of Indonesia, also Certain Civil Servant Officials within the department whose scope and duties of responsibility include fostering the conservation of Natural Resources and Ecosystems are given special authority as investigators as stipulated in Law No. 8 of 1981 concerning the Code of Criminal Procedure. But in reality, the Civil Servant Investigator for Natural Resources Conservation in the conservation resort area XXIII Cirbon does not have the authority as an investigator, while the investigation is carried out by the Directorate General of Environmental and Forestry Law Enforcement (Ditjen GAKKUM).

Directorate General of Environmental and Forestry Law Enforcement (Ditjen GAKKUM) is an Environmental and Forestry Law Enforcement established in 2020. The Directorate General of Environmental and Forestry Law Enforcement (Ditjen GAKKUM) is tasked with formulating and implementing policies in the field of environmental and forestry law enforcement. The legal basis for the GAKKUM investigation is regulated in Presidential Regulation No. 92 of 2020 concerning the Ministry of Environment and Forestry and Regulation of the Minister of Environment and Forestry No. P.15 of 2021 concerning Organization and Work Procedures of the Ministry of Environment and Forestry.

Based on the results of interviews that we have conducted with PPNS KSDA Resort Conservation Area XXIII Cirebon, if adjusted to the Regulations and Law Enforcement Theory, the implementation of these provisions will not be implemented with the reality on the ground. Because the KSDA does not have investigative authority and there is a conflict between the hierarchy of regulations in Indonesia where higher laws are enforced.

Law Enforcement Factors

Parties who form or enforce the law. One of the keys to success in law enforcement is the mentality or personality of the law enforcer himself. In order for law enforcement by any law enforcement agency, justice and truth must be stated, felt, seen, and actualized.

Law enforcement in the field of Environmental Conservation, Forestry and Ecosystems based on the information of the Law, Presidential Regulation and Minister Regulation is divided into 3, namely PPNS KSDA, GAKKUM and Police Officials. If realized with these regulations, there is already law enforcement to carry out the orders of these rules. However, all three must run one goal in order to carry out law enforcement in accordance with the theory of Soerjono Soekanto.

Because cases of illegal sale of protected animals still often occur, we can see from the sanctions imposed on perpetrators. The sanctions imposed are too light so as not to make people kapok not to repeat similar things.

Factors of Facilities or Facilities that Support Law Enforcement

Supporting facilities and facilities include educated human labor, adequate equipment, sufficient finances and facilities that can support success in the law enforcement process. If the facilities and infrastructure are not fulfilled, it will be impossible to achieve law enforcement.

At the stage of law enforcement implementation, there are several obstacles experienced by each law enforcement officer, especially in the field of facilities and facilities. If the community hands over protected animals or confiscated animals from evacuation, the judge's decision is that law enforcement authorities do not have adequate facilities and facilities so that when carrying out care or maintenance, not a few animals die.

In addition, because PPNS KSDA does not have the facility to track sales made on social media and the investigation team cannot keep pace with technological developments so that it cannot prevent illegal animal sales on the Internet. Animal sales are encouraged due to booming demand from outside communities and to support the economic needs of sellers, illegal animal breeding will continue to occur. Therefore, it can be concluded that law enforcement carried out by law enforcement officials on this case is still not aligned.

Community Factors

The environment in which the law applies or is applied. The community has a strong influence on the implementation of law enforcement, because law enforcement comes from the community and aims to reach in society. The higher the legal awareness, the more good law enforcement will be possible.

Public awareness will strongly support law enforcement can be carried out, but in fact the community is still apathetic towards the illegal sale of protected wildlife so that law enforcement cannot be carried out as the Law and this theory put forward.

Cultural Factors

As a result of work, creation, and taste based on human charities in the association of life. Indonesian culture is the basis of the enactment of customary law. The enactment of written law (legislation) must reflect values that reflect customary law. In law enforcement, the more adjustments between laws and regulations and community culture, the easier it is to enforce them (Soekanto, 2016).

Culture is one of the factors that can affect the effectiveness of the law. Indonesia has a *very plural society* with various social stratifications. This cultural factor is closely related to the treatment of a rule (Kendi, 2017). By seeing the practice of illegal sale of protected animals has become a habit in the community, so that the activity is considered a common thing and in this practice the community feels that no one is harmed, both buyers and sellers.

Thus, the above factors become a major obstacle in the course of law enforcement against the criminal act of illegal trade in protected animals. The limited facilities and facilities of institutions that have the authority to overcome this crime should be given more attention. Because in this criminal act the object of crime is animals, the things that need more attention in law enforcement are facilities and facilities. Readiness is needed in technology and other supporting facilities in practice, however, institutions authorized to overcome this crime still lack these supporting facilities and facilities. Therefore, the enforcement of this law does not work as this nation has aspired to.

Law Enforcement Barriers to Illegal Trade in Protected Wildlife

In the law enforcement process, it usually happens that the weaknesses, weaknesses and shortcomings inherent in the law itself are precisely the source of the failure of the law enforcement process. This is not impossible, because sometimes there are formulations or rules of law that are not clear and open up opportunities for various interpretations, on the basis of one rule of law with another, on the same thing that is contradictory. Such a legal attitude often raises doubts about the subjects of the law. If there is no problem with the legal factor, then the applicable law is considered good, but the law itself in the form of regulations cannot clearly do itself. This is where the role of law enforcement comes in (Munte, 2020).

Legal factors

In the case of law enforcement, the illegal trade in protected wildlife is enforced using Law No. 5 of 1990 concerning the Conservation of Biological Natural Resources and their Ecosystems ("Law No.5/1990"). The law, which has not been amended in 29 years of publication, is one of the main problems in combating crimes against wildlife (Sembiring & Adzkia, 2021). They argue that Law No.5/1990 has many defects that weaken the eradication of crimes against wildlife, namely: not protecting the circulation of wildlife whose status is not protected but endangered, low criminal sanctions, fines cannot be used as a substitute for ecological losses, there are no detailed provisions regarding exceptions for research, science, and/or rescue purposes, There are no detailed provisions for granting or exchanging wildlife to others abroad with government permits, and no detailed provisions on the capture, mistreatment, and killing of protected animals if they endanger human life (Sembiring & Adzkia, 2021).

Related to the high rate of crimes against protected wildlife, there are allegations that one of the factors that influence the high rate of crime is the low crime imposed so that it does not have a deterrent effect on perpetrators of crime. The allegation that low convictions lead to high rates of crimes against protected animals has actually been answered by a 2015 USAID Report entitled "*Changes for Justice Project Wildlife Crime in Indonesia: A Rapid Assessment of the Current Knowledge, Trends, and Priority Actions*". In the report, it is stated that one of the factors that influence the crime rate against protected animals is law enforcement (United States Agency for International Development (USAID), 2015). Citing the results of a study of illegal poaching in Africa, it was found that law enforcement has a very important role than just criminal threats or criminal convictions (United States Agency for International Development (USAID), 2015). It further stated that if the risk or chance of a crime being revealed is lower, then the hunt will continue even though the threatened crime is high. Conversely, if the risk or chance of being caught is high enough while the criminal threat is low, then society has a tendency to obey the law (United States Agency for International Development (USAID), 2015).

Law Enforcement Factors

In this case, BBKSDA as one of the law enforcers. BBKSDA has an Investigation Section that plays a major role in enforcing the rules of the UUKSDA in accordance with Article 39 of the UUKSDA which reads: "In addition to investigating officials of the National Police of the Republic of Indonesia, also certain civil servant officials within the department whose scope of duties and responsibilities include fostering the conservation of biological natural resources and their ecosystems, are given special authority as investigators as referred to in Law Number 8 of 1981 concerning Law Criminal Procedure, to investigate criminal acts in the field of conservation of biological natural resources and their ecosystems". However, in reality, BBKSDA no longer has the authority to conduct investigations. This is due to the transfer of authority in handling case 21 by the Directorate General of Law Enforcement ("Dirjen Gakkum") of the Ministry of Environment and Forestry as regulated in Presidential Regulation No. 92 of 2020 concerning the Ministry of Environment and Forestry and Government Regulation of Environment and Forestry No. P.15 of 2021 concerning the organization and work procedures of the Ministry of Environment and Forestry.

In accordance with the explanation above, the author argues that there is a discrepancy in the rules governing the authority of investigations between the Natural Resources Conservation Law and the Regulations governing the authority of the Director General of Gakkum. This is not in accordance with the Hierarchy of Rules according to Hans Kelsen, because in the order the Law is higher than the Presidential Regulation and Government Regulation. In the hierarchy of rules, if the rules below conflict with the rules above, then it is null and void.

Facility or Facility Factor

Without certain facilities or facilities, it is impossible for law enforcement to take place smoothly. These facilities or facilities, including: include educated and skilled human labor. Good organization, adequate equipment, sufficient finances, and so on. In addition to the incompleteness or absence of these facilities or facilities, it will be possible for law enforcement to align the role that should be with the actual role (Munte, 2020).

Facilities or facilities that affect law enforcement in Natural Resources Conservation cases. First, because of the lack of PPNS personnel on duty in the Conservation Resort area of Region XXIII Cirebon. Second, based on the results of research that the author conducted on Facebook social media said that many activities of buying and selling protected animals are carried out through social media because sellers are afraid of being caught, so the buying and selling transactions are carried out in *Cash On Delivery (COD)*, this is an obstacle to carrying out law enforcement because it is difficult to detect the existence of sellers where so that buying and selling transactions cannot be prevented, BBKSDA also does not have the facility to reach illegal trade through Facebook.

Community Factors

Law enforcement comes from the community and aims to achieve peace in society. That way, the community can influence law enforcement. Law enforcement is an activity that stands alone, but has a close reciprocal relationship with the community. And it is also known that to achieve peace there must be obedience from the community. And that wholeness, among other things, is determined by legal awareness. Legal awareness is the value that exists in humans about existing laws or laws that are expected to exist. In carrying out legal determination, in addition to the legal awareness factor, the community also needs to pay attention to the value of cultural values of the community (Munte, 2020).

Legal awareness is the awareness or value contained in humans about existing laws or laws that are expected to exist (Soekanto, 2016). Legal awareness is actually also a matter of value, thus legal awareness is a conception in humans of the harmony between order and peace that is desired or appropriate.

In the case of natural resource conservation, public awareness to protect protected wildlife is still lacking, and many people normalize it for the reason of economic sufficiency.

The four factors mentioned above are closely interrelated, because they are the essence of law enforcement, and are also a benchmark rather than the effectiveness of law enforcement.

Efforts to Combat Protected Wildlife Trade Crimes in Cirebon Region XXIII Conservation Resort Area

The occurrence of illegal trade in protected wildlife poses a threat to the diversity of protected wildlife species, especially for endangered animal species. One of the efforts to overcome the crime of illegal trade in protected wildlife is in the form of a law, namely Law number 5 of 1990 concerning the Conservation of Natural Resources and their Ecosystems, which is a law to provide awareness to the public to maintain and preserve natural resources and ecosystems including protected wildlife. The implementation of efforts to combat the illegal trade of protected wildlife is a joint responsibility of the government, law enforcement and the community to deal with and minimize the problem.

Efforts to combat the crime of illegal trade in protected wildlife can be done by, namely:

1. Preventive efforts are steps taken by KSDA conservation resort area XXIII Cirebon namely by counseling which aims to prevent and reduce and close opportunities for individuals and groups to take actions that cause illegal trade in wildlife whose status is protected. The implementation of the counseling was carried out flexibly by bringing speakers from the West Java Natural Resources Conservation Center. This countermeasure is aimed at the community and animal traders, which is carried out to prevent events that have not occurred or are an effort made before a violation occurs.
2. Repressive efforts are social controls carried out after a violation occurs or are efforts made after a violation occurs, which aims to reduce, suppress and stop the rampant trade in protected animals. In this repressive effort, it is expected that the Natural Resources Conservation Center (BKSDA) will carry out operations either independently or in collaboration with law enforcement officials such as the police and the Environmental and Forestry Law Enforcement and Security Center (Gakkum KLHK).
3. Preemptive efforts are prevention efforts if a desire or action violates the law with the occurrence of illegal trade in protected wildlife. Preemptive efforts are efforts or initial steps taken by KSDA in the conservation resort area XXIII Cirebon. In this step, KSDA conservation resort area XXIII Cirebon carried out several activities such as socialization and early understanding of the community about the types of animals whose status has been protected.

Some other efforts in tackling the criminal act of illegal trade in protected wildlife such as having to carry out continuous supervision, must be firm in taking action not only given warnings to the perpetrators of criminal acts and carry out good coordination between law enforcement officials to overcome the criminal act of illegal trade in protected wildlife. On the other hand, control is still needed, namely at the level of prevention, including efforts to increase public awareness and law enforcement.

Law enforcement is the government's effort to minimize the occurrence of illegal trade in protected wildlife that needs to be improved by encouraging regulations at the regional and central levels for the protection of species that have not been included in protected status. Law enforcement with the existence of Law Number 5 of 1990 which is considered still ineffective and does not provide a deterrent effect to perpetrators of illegal trade in protected wildlife, low sanctions and small fines for their crimes. The law is considered no longer relevant to current conditions, besides that the division of supervisory duties between government agencies also needs to be clarified because the current regulations still overlap authority so that there is often a release of responsibility. One way to protect and preserve protected wildlife is by optimal application of laws and regulations relating to protected wildlife. Namely Law Number 5 of 1990 concerning the Conservation of Biological Natural Resources and their Ecosystems. The law, which came into force on August 10, 1990, bases that the elements in biological natural resources and ecosystems are basically interdependent on each other and affect each other, so that damage and extinction of one of these elements will have an impact on the disruption of the ecosystem. The creation of this law aims to regulate the management, protection and preservation of nature in a sustainable manner both for the present and the future (Abdullah, 2016).

The prevention of protected wildlife trafficking is related to the theory of the legal system proposed by Lawrence Friedman. Lawrence Friedman mentions three components of law, namely structure, substance, and legal culture. The structure component relates to law enforcement institutions that play a role in enforcing protected wildlife protection rules. The substance of the law concerns the content and purpose of existing regulations, which should aim to create justice and be effectively applicable in society. Meanwhile, legal culture refers to public awareness in obeying the law and the professionalism of law enforcers in carrying out their duties (Friedman, 1997). Law Number 5 of 1990 concerning the Conservation of Biological Natural Resources and Ecosystems expressly prohibits everyone from taking various actions against protected wildlife.

CONCLUSION

As with the theory of law enforcement according to Soerjono Soekanto, the laws and regulations used with the implementation carried out by special PPNS and the police of the Republic of Indonesia against the Trade of Protected Wildlife in Indonesia can be concluded that there is no harmony between them. This misalignment is caused by several factors that affect one and the other, the first, the legal factors imposed sanctions do not make a deterrent effect on the perpetrators and sanctions that are still light are not in accordance with their actions. Second, law enforcement factors that still run on their own. Third, the factor of facilities and infrastructure is the lack of competence of investigators in keeping pace with technological developments so that they cannot prevent the sale of animals through the internet. Fourth, community factors can influence law enforcement from Soerjono Soekanto's theory because the surrounding community is in fact apathetic towards the illegal trade in protected wildlife. Fifth, cultural factors that make illegal animal sales commonplace due to economic needs. The implementation of efforts to combat the illegal trade of protected wildlife is a joint responsibility of the government, law enforcement and the community. These efforts can be done in 3 ways, namely preventive, repressive and preemptive. Meanwhile, the efforts that have been made by KSDA in the conservation resort area XXIII Cirebon are preventive and preemptive, namely by carrying out counseling and socialization aimed at the community and animal traders. Law enforcement is also one of the government's efforts in minimizing the occurrence of illegal trade in protected wildlife that needs to be improved and strengthened law enforcement, namely in Law Number 5 of 1990 concerning the Conservation of Biological Natural Resources and their Ecosystems which is considered to be still ineffective in its implementation even though the law has long been enforced.

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