



Juridical Analysis of Criminal Acts of Mistreatment of Animals (Based on a Court Judgment Case Study Number 223/Pid. B/2019/PN.Gin)

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Abstract

Mistreatment of animals is a criminal act and it is only natural that the perpetrator gets sanctions for his actions. Law Number 18 of 2009 concerning Livestock and Animal Health, elucidation of Article 66 paragraph (2) letter c, explains that animal abuse is an act to obtain satisfaction and/or profit from animals by treating animals beyond the limits of their biological and physiological capabilities. Mistreatment of animals is basically a criminal act, where the act is included in an unlawful act, which is regulated in regulation in the form of a law, and indeed the act should be punished because persecution is also a mistake. According to Gary Francione who is one of the animal rights defenders stated that animals cannot be used as a resource subject to human control, or rather animals have the right not to be treated as property that is used only to gain an advantage for humans. Provisions on animal abuse are regulated in laws and regulations such as Article 302 and Article 540 of the Criminal Code and other laws and regulations, namely the Law of the Republic of Indonesia Number 41 of 2014 concerning Amendments to Law Number 18 of 2009 concerning Livestock and Animal Health and Government Regulation of the Republic of Indonesia Number 95 of 2012 concerning Veterinary Public Health and Animal Welfare

Keywords: *Animal Abuse; Crime of Abuse; Animal Rights*

Introduction

Animal welfare provides all business in the physical and mental state of animals based on the natural behavior that needs to be applied and strictly implemented in order to protect animals from the treatment of any animal that is not used by humans. (Indonesia republic's 2014 act on changes to 2009's 18th law on breeding and animal health)

In the order of life, there are a number of rules governing animals which are governed in some provisions under section 302 verse (1) and (2), section 406 verse (2) and section 540. In addition to the book of criminal law (criminal law) there are also a few other provisions such as the 1990 number 5 bill

on biological resources and their ecosystems, the 2012 government regulation 95 how to manage veterinary health and animal welfare as well as the 2014 41st act on animal farm and animal health. With so many rules governing animal protection, basically whatever form and reason the abuse must be processed legally because it is contrary to animal welfare principles.

- 1) Here is the principle of animal welfare, which **is**:
- 2) Free from thirst as well as hunger and malnutrition or malnutrition;
- 3) Is free from discomfort and pain;
- 4) Freedom from depression and fear;
- 5) Is free from pain, pain, and sickness; and
- 6) Free to express his normal behavior patterns.¹

In spite of regulations regarding animal welfare, there is still widespread evidence today of animal abuse with a variety of motives. Of the many cases of animal abuse, only a few were prosecuted. Based on the above description the writer found a case of dog abuse perpetrated by the accused I NYOMAN MAWA based in the village market of me bough, district of Gianyar. It all began when a dog entered the defendant's shop, and at the time the defendant tried to chase the dog away with a iron pointed, but the dog hid behind the defendant's merchandise. Annoyed and enraged at the manner of the dog the defendant grabbed the dog's right foot behind him and threw it onto the market's front yard of vaping concrete to stifle the dog, and then the accused returned to beating the dog with twice the weight of iron in his hand until it died. The defendant's actions were reported by one witness at a time asa person caring for and feeding stray dogs around the market where the witness saw the incident. In the legal process the dog was taken to one of the veterinary doctors for examination, the necropsy from the dog's corpse claimed that the dog died of severe head injury and body trauma. The defendant's actions have brought the accused under section 302 verses (2) of criminal law. On the verdict, the accused is declared legally valid and convincingly guilty of committing a crime of animal abuse to the death. The sentence of the accused for 4 (4) months in which the criminal should not be carried out by the defendant unless later it was ruled that another judge was responsible for committing a crime before the 6 (6) month sentence ended.

The above authors are interested in doing research on how Indonesian penal regulations govern animal abuse and how the punishment should be applied to animal abuse in rule 223/Pid.B/1019/Pn Gin with the title **Juridical Analysis Of Animal Abuse (Verdict Case Study Number 223/Pid. B/2019/PN Gin)**

Formulation of the Problem

- 1) What is the setting for criminal sanctions in Indonesia against perpetrators of animal abuse?
- 2) How to apply the punishment of the perpetrator of animal abuse in rule number 223/Pid.B/2019/Pn Gin?

Research Methods

The method of research that the author USES in this research is a method of normative law study, followed by the method of collecting data from libraries and other sources relating to criminal abuse of animals as well as all legislation regulations to complete the data that has been collected from the normatif research. The study approach has taken the law approach of studying legislation that directly correlates with the problem of the study, the case approach (approach) that involves studying cases

¹ FITRIANI, RISCA, et al.

relating to the problem of research, and conceptual approach (approach of approach) is the method that makes use of views as well as of doctrines developing in law science. Then the very source of the law which the author USES is the primary source of the book of criminal law, act no. 41 in 2014 on farms and animal health, the government's rule No. 95 in 2012 on veterinary health and animal welfare and the ruling number 223/Pid.B/2019/Pn.Gin. Secondary and tertiary sources are also required. Secondary legal material in this study includes books, journals, articles, research, websites, and other secondary sources linked to the study and then published material in the study using dictionaries such as a legal dictionary, an Indonesian dictionary, and an English dictionary.

Discussion

1. Criminal Abuse

A felony is an action that is not allowed to be performed (by legislation) in the face of a criminal threat to those who break the rules. Felt (felt) here is a core element in the described criminal practices (lamintang and lamintang). The word crime is a translation of the word strafbaarfelt, on the book of penal law (KUHP) there is no description of the word strafbaarfelt itself. Crime is usually likened to delik, a delictum derived from the Latin. Delik was a punishable act because it was a violation of the law (sudarsono). The concept of criminal wrongdoing on the penal code (criminal law) is commonly called strafbaarfelt and in literature on penal law often USES delik, on the other hand lawmakers formulate a bill using the terminology of criminal events or criminal criminals or criminal actions.²

Of the formula, it is therefore known that criminal actions contain the fundamental requirements in a delic are as follows:

- a. The satisfying of all the delic elements as contained within the delic formula;
- b. Is answerable to the person responsible for his actions;
- c. The works of the perpetrator must be performed either by accident or by accident;
- d. The perpetrator should be punished³

The book of penal law (criminal law) does not explain the definition of what constitutes persecution. According to the jurisdiction of the court, called persecution that is (soesilo) :

- 1) Intentionally causing pain.
- 2) Cause pain.
- 3) Causing the wound

2. Criminal Abuse Of Animals

The most perfect of all other creatures created by god are humans. Thus, it is only natural for humans to be more tolerant and kind to other living creatures, including those that are also living creatures and that often assist in human work and many of those who have the role of human friends. Animals are a creation of god, but without a perfect human intellect, equipped only with instinct to defend themselves but which all animals must understand play a significant role in helping human life. We humans ought to be able to keep or at least not to harm those animals because they are the same creatures of god who have the right to live.

² Poernomo, Bambang. *Asas-Asas Hukum Pidana*. Ghaliaa Indonesia, 1983. Satrio, Tri

³ Lamintang, P. A. ..., and Franciscus Theojunior Lamintang. *Dasar-Dasar Hukum Pidana Di Indonesia*. Sinar Grafika, 2014.

This shows it's true every animal has a right, which covers:

- a. To a decent life.
- b. Secure the freeway.
- c. The right not to live with suffering.

These rights are not vastly different from those of humans. The rights which have been named are included in animal rights. In the human rights of animals it still sounds alien.

Fellow creatures of god as human beings, the rights of animals should be protected and able to coexist with the humans of this world. Advocates of animal rights began to be populated from 1965 to early 1970, the term was identified by expert Richard ryder, brigid brophy, Ruth harrissonn and Robert garner. Animal rights developed over time where humans were thought to be able to still use animals to aid development and civilization. However, regulatory regularity has been enforced by society as well. Such as how a decent farm or an arrangement for protection against a certain type of animal was developed.

We can see that animals have a very large role in helping humans, while the enormous and vital participation in animal benefits does not make up perfect sense for them to protect their rights. On the other hand man was created asa creature of perfect reason and thought ought to have the responsibility to defend the rights of the basic animal asa living creature, since the importance of animal roles in this life must be compatible with the protection afforded. Mistreatment of animals is a criminal act and should reasonably punish the person for it. The 2009 registration act on animal farm and animal health explains article 66 verse (2) letter c, explaining that animal abuse is an act of obtaining satisfaction and/or advantage from animals by acting outside the biological and physiological limitations of animals, such as the dermal enching of cows.⁴

3. Criminal Sanctions In Indonesia Against Perpetrators Of Animal Abuse

Animal welfare and protection are, in a sense, still viewed by Indonesians. This is because there are still many opinions that human rights enforcement (human rights) itself is felt to be defined as "why defend animal rights when human rights are largely ignored in the country" is often heard when, in the case of human rights abuses to animals. The violation of human rights (human rights) itself can be seen in some cases of human abuse even though human abuse has been regulated under criminal law 351. In chapter 351 of the criminal code, the word "human abuse" means:

- a. A deed that causes severe injury.
- b. It's an act that leads to death.
- c. Deliberate abuse is carried out with the aim of damaging health.

Animal abuse is essentially a crime, in which it is a law, is governed by a rule in the form of the law, and is duly convicted because it is an error as well. A person who has committed a crime should be able to answer for what has been done, with a criminal punishment.

It is no stranger to the mistreatment of animals than it is to hear, for with news published in print or in electronic media where news of torture or abuse of animals, it is conducted in a different way, and surely it would be most inappropriate for animals to inflict injuries, traumas on animals, even some to

⁴ Maharani, Alya. "Tinjauan Yuridis Tentang Penerapan Hukuman Terhadap Pelaku Tindak Pidana Penganiayaan Hewan Yang Mengakibatkan Kematian." *National Conference For Law Studies: Pembangunan Hukum Menuju Era Digital Society*, 2020, pp. 675–86.

die.⁵ Man, who should have kept animals well-preserved, but it is unfortunate that in reality man is grossly abusive toward animals by indulging in greedy, greedy hunting, and animal abuse.⁶

Frequent forms of animal abuse include illegal hunting, habitat destruction of animals, physical abuse such as beatings, neglect, isolation, lack of proper care for pets and other kinds of abuses. Animal abuse results in animals being maimed, suffering injuries that are both light and severe and even death. But keep in mind that these effects are not only felt by battered animals, our countries and nations are also experiencing indirect effects. When abused animals are rare animals with fewer populations in nature, they can gradually cause the extinction of the animal species. Extinction of endangered animals can upset the balance of ecosystems and countries will also lose animal species that next generations will no longer see.

One form of realization of the protection of basic animal rights could be done through legal protection for abused animals as well as law enforcement for animal abusers. Mistreatment of animals is a form of criminal activity, and these measures have been formulated into a rule of law, which is punishable and wrongful. The rule of criminal law in itself does not define the definition of animal abuse, but the definition used refers to the duality of human abuse with jurisprudence.

R. Soesilo points out that in order to be said to be the abuse of animals, it must be proved by the elements that the individual deliberately hurts, harms or damages the health of animals and that such ACTS are done in an unusual or past the permissible limit. These elements formed the same substance that was imposed on the jurisprudence of human abuse. Therefore, according to this explanation it can be said that when an animal is abused, the definition is intended to refer to what is in reference to the definition of human abuse because the law itself is not defined by the definition of animal abuse.

The lack of animal law enforcement and protection is the result of ignorance and awareness of societies in which animal abuse has occurred in a number of places. As more animal abuse in Indonesia has introduced a regulation that regulates protection for animals, without exception animals are protected. Animal protection can be seen from some of the rules of the law as well as the regulations of legislation outside the law. As follows:

a. Section 302 verse (1) number 1 and verse (2) code

In this chapter DRS.P.A.F. lamintang.S.H. Explaining the elements of the will of the perpetrators to be met when a prosecutor or judge would demand or pass a verdict on violation in section 302 criminal.

The element about:

- 1) The will of the perpetrator is to inflict pain
- 2) The doing of an offense is the will of the perpetrator
- 3) The doing of the will of the perpetrator is a health hazard
- 4) The perpetrator's knowledge is that the act was committed against an animal.

b. 540 verses 1 point 1, 2 and 3 code

Article 540 of the code is found in the third book on misconduct. It contains prohibitions against overharvesting animals. Section 540 reads:

⁵ Meyser, Yospa. *Pertanggungjawaban.Pidana.Bagi.Pelaku.Tindak.Pidana Penganiayaan.Terhadap.Hewan*. Universitas Sriwijaya, 2018, <https://repository.unsri.ac.id/11945/>.

⁶ Anindya, Aufa Zahra Putri. *Analisis Tindak.Pidana.Penganiayaan.Hewan.D alam Hukum.Positif.Di.Indonesia*. Universitas Muhammadiyah Malang, 2014.

- Threatened with an maximum prison sentence of eight days or a maximum fine of two thousand two hundred and fifty rupiah:
 - 1) "Whoso shall use an animal for work as bright as his strength;
 - 2) "Whosoever shall not use an animal for a work in a painful manner or which is a torment to the animal;
 - 3) Whoever USES a lame or other defective animal, a mangy one, injured or obviously pregnant or lactating for a job that would therefore be inappropriate or painful or a torment to the animal;
 - 4) Whoever transports or directs the transport of animals unnecessarily in a painful or tormenting way that animals are;
 - 5) Whoever transports or directs the transport of animals without being given or told to feed or drink.

- If felony imprisonment had not been past a year after the fact of confinement had been sustained by the same violation as one of the offenses in section 302, it could be sentenced to fourteen days at most.

c. Article 66 verse (2) 2009 article no. 18 on breeding and animal health

The terms of animal welfare as referred to in the verses (1) are humanely carried out:

- 1) The capture and treatment of animals from their habitat must be in accordance with regulations of conservation regulations;
- 2) Placement and view are done to the best of their ability to allow animals to express their natural behavior;
- 3) Maintenance, security, care, and nurturing of animals are best made so that they are free from hunger and thirst, pain, abuse and abuse, and fear and distress;
- 4) The best way to transport animals was that they were free from fear and depression and free from abuse;
- 5) the use and use of animals is done to the best of their ability to free them from abuse and abuse;
- 6) Cutting and killing animals in the best way so that animals are free of pain, fear and depression, persecutions, and abuse; and
- 7) Treatment of animals should be avoided from ACTS of abuse and abuse.

d. Article 83 verses (1) and (2) the government's rule number 95 years 2012 on veterinary public health and animal welfare

- 1) Animal welfare is applied to any kind of animal with a human's survival including vertebrate animals and invertebrates that can feel pain.
- 2) The animal welfare as referred to in the verses (1) is done by applying the principle of free animal freedom:
 - a) Of hunger and thirst;
 - b) Of pain, injury, and illness;
 - c) Of discomfort, abuse, and abuse;
 - d) Of fear and distress; and
 - e) To express his natural behavior.

- e. Article 66a of the republic of Indonesia act number 41 in 2014 on a change to the 2009 statute on farms and animal health
- 1) Everyone is forbidden to abuse and/or abuse animals that cause defects and/or nonproductively.
 - 2) The person who is aware of the actions referred to in the scriptures (I)

4. Application Of Punishment On The Perpetrator Of Animal Abuse In Rule Number 223/Pid.B/2019/PN Gin

Judgment of the house of judges for sentencing the verdict to 223/ pid. B/2019/ pn gin based on some of the following considerations:

Whereas the accused has been accused by the prosecutor on a single charge as prescribed in section 302 verses **(2) legislation with elements as follows:**

- a. Whosoever;
- b. Commit animal abuse that results in more than a week's pain, or disability, or other severe injuries, or death;

In view, that against those elements the panel of judges considers the following:

- 1) The "Whom"

Judging by the reference to the phrase "whoever" indicates to whom the person is responsible for the actions or at least as to whom the person is to be accused in the matter. Strictly, the word "whosoever" according to the book ii exercise manual, the 2004 revision, page 208 of the Supreme Court of RI and the 1994 ruling of RI number: 1398/ k/pid /1994, 1995, the terminology of the word "whosoever" or "hij" as anyone to be held accountable/dader or as a subject of law (advocate of rights and duty) that can be held accountable in all its actions;

Whereas, thus the saying "whoso" in historical chronological order is that human subjects of the law have in itself the capacity for responsibility, unless expressly in other decisive laws;

Considering that the logical consequences of anasirni are, the presence of a responsible ability (toerekeningsvaanbaarheid) is no longer necessary, since each subject of the law is closely attached to the responsible capabilities as defined in memory van toelichting (MvT);

In view that there has been before a defendant by the prosecutor who on the question of the panel of judges, the defendant I NYOMAN MAWA whose full identity has been matched with the identity contained in the indictments, so there is no error in the subject of the law or "error in person", so it is clear that the "whoso" here is the defendant I NYOMAN MAWA, The accused had committed the crimes in question;

Whereas, in view of the facts revealed in the trial, the defendants, as advocates of rights and obligations, had neither the health nor mental condition to which they were referred, as in isa chapter 44 of the criminal code;Menimbang, bahwa berdasarkan pertimbangan tersebut di atas maka unsur "barang siapa" telah terpenuhi;

- 2) The "practice of animal abuse that causes more than a week's pain, or disability, or other severe injuries, or death.

Whereas, because of this element it is an alternative, when one of the sub elements has been met it causes all of the elements to be considered fulfilled.

Whereas persecution refers to deliberate action to cause pain or injury to its victim;

Whereas according to r. soesilo the understanding of the animals referred to in the criminal term is an animal in general, in the non-protected sense of animals; Whereas, that in accordance with the facts of the law, the testimony of the witnesses and the testimony of the accused himself has been revealed that the defendant I NYOMAN MAWA was inflicting the death of a white female ball-dog with characteristic black stripe on the left eye and about 3 (three) months was caused by the defendant's emotion in seeing the presence of dog dung, and the dog in the defendant's stall;

Considering that the accused had initially tried to chase the dog away by dilating the rolling door door opener into the defendant's shop, but because the dog refused to go and instead hid in a pile of produce, had upset the defendant and when the accused managed to catch the dog by the heels of the right rear, Then the accused slammed the dog onto a market yard made of vapping concrete and finally hit the dog on the head 2(two) times with an iron opening to the door of the stall; According to the view, ni nyoman ksid saw firsthand the abuse committed by the accused and was attributed to the necropsy performed by the expert DRH. I MADE PUJI ATMAJA perform necropsy on the dog's corpse, known that the cause of death was due to severe head injury and some body damage, thus reinforcement the results of this voluntary treatment of the accused had battered the dog to death;

Whereas, by virtue of the above considerations, the "inflicting of animal abuse upon death" elements had been fulfilled;

Based on the judgment of the magistrate's council and the facts of the trial, the panel of judges ruled:

- a) Charging the accused I NYOMAN MAWA has been legally and convincingly guilty of criminal "abuse of animals to the death";
- b) Sentenced the accused to prison for 4(4) months;
- c) Stipulating that the criminal should not be committed unless in time a judge ruled otherwise because the convict committed a crime before the 6(6) month sentence ended;
- d) Establishing evidence as:
 - 1(one) a brown cardboard sheet containing blood stains;
 - 1(one) dog collar is made of black and white string
 - 1(one) a rod of iron with a length of 67(sixty-seven) cm.
 - Seized to be destroyed.
- e) Imposing a charge on the accused (\$5.000,000.00);

Based on the verdict for 223/ pid. B/2019/ pn gin which states that the defendant was found guilty and received a 4 month prison sentence. The ruling was made by the magistrate's council because the perpetrators based on facts revealed in the trial had filled elements in section 302 verses (2) of the penal code. The defendant has been severely assaulted, resulting in heavy injuries of swelling of the left eye, broken jaw, broken left fangs, blood coming out of the nose. Moreover, its abdominal hexocytes reveal blood fluid in the abdomen from a torn liver, which eventually resulted in death in the dog, resulting from a severe head injury and impact in the torax. On the basis of the punishment that the perpetrator receives, we can see that the application of the punishment on the perpetrators of animal abuse is based on legislation that is more lenient than on human abuse. When, in reality, violence against animals runs counter to animal rights.

Animal rights are basic rights of animals, they were declared in 1978 at UNESCO headquarters. This has explained that the true animal has the right to live his life as humans does and is free of violence and exploitation. Each animal has five rights as follows :(suherti)

- a) Freedom from hunger and thirst
- b) Freedom from inconvenience, persecution, and abuse
- c) Freedom from pain, injury, and illness
- d) Freedom from fear and depression
- e) And free to express his natural behavior

Such animal rights prove that they are also entitled to the same basic rights as humans. Even so, the rights of animals differ from those of humans, in other words animals have more limited rights than aulia does. According to Gary francione, who is one animal rights fighter, claims that animals cannot be used as resources subject to human control, or rather animals have the right to be treated as property used only to profit humans. (aulia)

Human and animal rights are different. The difference is that animals and humans have different standards of function. However, this does not mean that animals should be treated arbitrarily, that they should adhere to ethical standards. As we know the definition of animal abuse refers to the definition of abuse of man, there are just a few adjustments in the difference between the principal threats where persecution of animals serves less punishment than abuse of humans. That is due to function standards and the presence of cognitive and physical differentiation between animals and humans. Such differences would make a difference in the legal sanction of the perpetrators. The arrangement of human abuse is governed in chapters 351 through chapters 358 of penal code, with penal penal penal code 2 years 8 months and with severe abuse resulting in severe injuries being five years at most.

In addition, the arrangement of abuse in humans is also regulated in some rules such as abuse on children can be sentenced to maximum 3 years in prison under article 80 of 2014 law no. 35. While the regulation of animal abuse is regulated under legislation such as section 302 under a sentence of three months or as much as a fine of Rp 4500, For mauling the star was sentenced to nine months in prison for nine months or as much as a fine \$4500. Then, article 540 of the book of penal law also mentions the inappropriate ban on animal use: the maximum cage of eight days or the maximum fine of two thousand two hundred and fifty rupiah. And there are other legislation on the 2014 article "Indonesia's republic of the republic of Indonesia" for the change to the 18 year 2009 law on veterinary and animal health and the Indonesian republic's 95 year rule on veterinary health and animal welfare.

As such, it still requires awareness and concern of the community as well as law enforcement authorities to carry out legislation on the preservation and protection of animals. Because animals also have freedom or human rights, although animals' rights differ from those of humans. Furthermore, because animals are a creation of god just like humans, animals need protection and security.

Conclusion

The law does not explain the abuse of animals, but it does refer to the subjugation of human jurisprudence. Sanctions governing the treatment of animals contained in section 302 kuhp are also found in section 406 verses 2 and section 540 of the cubhp, act 41 in 2014 on veterinary and animal health and government regulation Number.95 in 2014 on veterinary public-health and animal welfare.

Based on the verdict for 223/Pid.B/2019/Pn Gin which states that the defendant was found guilty and received a 4 month prison sentence. The ruling was made by the magistrate's council because the perpetrators based on facts revealed in the trial had filled elements in section 302 verses (2) of the penal code. In the application of his sentence, criminal penalties between criminal abuse of animals and that of human abuse differ because of some of the factors between the standard function between humans and animals and the existence of the physical as well as cognitive differentiation between animals and humans.

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