

Animal Rights in Indonesian Environmental Law: Case Studies in Disaster Prone Areas



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ABSTRACT

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This research focuses more on analysing the urgency of animal rights protection in Indonesia: case studies in disaster-prone areas and examining the legal status of animals as legal subjects to recognise animal rights in Indonesian Environmental Law. This research is research in the field of law with a normative juridical approach. The study results indicate that the authorised institution must carry out the preparedness phase to ensure animal welfare to deal with emergencies such as natural disaster situations. When animals have become legal subjects, then if actors want to destroy and criminalise habitats, animal life will automatically think twice about doing so. Animals have been recognised, and guaranteed legal certainty will be realised as a situation where previously animals became legal objects now become legal subjects. The House of Representatives and the Government of the Republic of Indonesia are expected to make changes to environmental laws and various policies related to animals in disaster-prone areas.

1. INTRODUCTION

In Romance law, the current categorisation of animal law is rooted in property [1]. This long history of status raises the question of whether it reflects modern society's attitudes. However, this question is difficult to answer because of the lack of empirical evidence of animal legal status attitudes [2]. This paper highlights the need to empirically examine social attitudes regarding the legal status of animals, especially in the State of Indonesia, to achieve animals rights that have not yet been covered by environmental law, due to the widely accepted legal relations and attitudes of society, particularly in democratic societies Indonesia.

Further distinguishing Homo Sapiens from animal species is our ability to cooperate with prominent individuals [3]. Homo Sapiens has the unique ability to form large groups and create social orders among millions of people [4]. This ability, described as part of the Cognitive Revolution, is made possible by creating fiction or being depicted as an imagined reality. For example, nations, companies, and laws do not exist; they envision entities or systems developed to enable many humans to work together. To change how society is governed or how power is distributed, many people must be convinced of new fiction. Herein lies the challenges surrounding the legal status of animals [5]. If successful, the fiction of laws governing human-animal relations can have significant implications for society [6].

One of the essential things in animal protection is, especially in disaster-prone areas. In Indonesia, there are no specific rules governing animal rights, especially in disaster-prone areas. The disaster-prone areas include areas prone to environmental disasters caused by human actions, for example, in areas prone to landslides caused by mining businesses.

For example, several researchers have researched animal rights, the research conducted by Nibedita Priyadarshini Jena in 2017 [7]. The study entitled "*Animal Welfare and Animal Rights: An Examination of some Ethical Problems*" focuses on animals' non-stop use and abuse in various fields. Human efforts have led some humans to formulate animal welfare policies and offer philosophical arguments on rationally defending the human treatment of animals. Research conducted by Saski Stucki in 2020 [8]. The study, entitled "*Towards a Theory of Legal Animal Rights: Simple and Fundamental Rights*", focuses on discussing conceptual, doctrinal and normative issues related to the nature and legal basis of animal rights by examining three key questions: can, do and should animals have legal rights? This would suggest that animals are conceptually possible candidates for the recognition of rights. Research conducted by Kadek Cahya Susila Wibawa and Aga Natalis in 2020 [9]. The research entitled "*Animals Prospectus as a Legal Subject of Environmental Law in Indonesia (A Study of Ecofeminism)*" focuses on knowing and analysing the status of animals as legal subjects in Indonesia. The study of environmental ethics and ecofeminism and to find out and analyse the prospectus of the status of animals as legal subjects of environmental law in Indonesia in the study of ecofeminism. The research was conducted by Prokopis A. Christou and Elena S. Nikiforou in 2021 [10]. The research entitled "*Tourists' Perceptions of Non-Human Species in Zoos: An Animal Rights Perspective*" focuses on revealing tourists' perceptions of non-human species in zoos" while adopting an animal rights perspective.

Based on the several studies carried out, this research focuses more on analysing the urgency of animal rights protection in Indonesia: case studies in disaster-prone areas and examining the legal status of animals as legal subjects to

recognise animal rights in Indonesian Environmental Law. This research is legal research with a normative juridical approach. The results of this study are expected to have theoretical and practical benefits. The expected academic help is adopting the concept of animal law, especially in legal studies in Indonesia. The expected valuable benefit is that the results of this research can be used as a reference for the government in making policies, especially to guarantee animal rights in environmental law, specifically in disaster-prone areas.

2. METHODOLOGY

This research uses normative legal research methods. Normative legal research is a study of law that applies norms or library materials as a basis for argumentation. As a legal force in normative research by applying legal principles, the application in research uses systematic law, research that will synchronise regulations vertically and horizontally, and compares the applicable laws and using legal history [11].

This research uses the approach of legal norms, namely the prevailing laws and regulations. Approach to legislation to comprehensively know the regulations used related to the issue studied, whether there is consistency, difference, or conformity between one legal norm and another legal norm. The juridical approach is based on a normative approach in which research in legal discovery efforts in concreto is feasible to resolve a particular lawsuit and analyse various laws and regulations [12].

The theory used is the theory of animal rights from Lori Gruen [13]. Animal rights for Gruen are a philosophy that holds that all animals have the right to exist and that their most basic interests—such as the need to avoid suffering—should be given equal consideration to the interests of similar human beings. All animal species have the right to be treated as individuals, with their wants and needs, not as unfeeling property.

3. RESULTS AND DISCUSSION

3.1 The urgency of animal rights protection in Indonesia: case studies in disaster-prone areas

Some related steps that must be taken are prevention of animal and zoonotic diseases, enforcement of the veterinary authorities, requirements for the halalness of animal products, and law enforcement actions to prevent animal welfare [14]. Animal welfare is a novelty because animal welfare has been assessed by law since the 1890s. At that time, *Wetboek van Strafrecht* was inaugurated in the Netherlands and implemented in Indonesia. Strengthening the law can be started with equalising the concept of protection of animal welfare laws [15]. We are discussing efforts to improve animal welfare through tax policies, in-laws, and regulations, seeking efforts and breakthroughs in implementing animal welfare in Indonesia. Legal protection under the Criminal Code can be found in the following places: 1) Second book on crimes: Prevention of animal welfare can be found in Articles 170, 241, 302, 363 and 406 (2); and 2). The third book on illegal activities: Protecting animal wallets can be found in Articles 490, 540, 541, 548, and 549.

In general, legal protection and animal welfare-related to

the role of animals: (1) as a commodity, (2) as a human friend, (3) as an assistant who can reduce human workload, (4) as an ecosystem [16]. Continuous socialisation and publicity are needed to increase understanding and awareness of animal welfare [17]. Protection from defined deficiencies stipulated, every animal welfare principle must be subject to appropriate and adequate criminal sanctions, and broader research, especially related to legal reform, needs to be carried out. Protection of animal welfare laws is more in line with the needs of the times or Current situation [18].

There is such discrimination in life that most people do not realise. This discrimination occurs by humans against animals and is known as speciesism [19]. Various assumptions appear to justify this human treatment, one of which is the principle of animal welfare popularised by Peter Singer [20]. This principle opposes discrimination based on a characteristic, namely the capacity to feel pain and favours. However, these characteristics are not only human because animals also have the same abilities [21].

The way to realise animal welfare is to create laws to ensure animal welfare and limit discriminatory human behaviour towards animals [22]. The law was created to regulate and limit society's various activities to form a safe, orderly, and just living order [23]. Indonesia, which is a legal state, regulates citizens in carrying out their rights and obligations as stated in the Constitution of the Republic of Indonesia year 1945 Article 1 paragraph (3), where the law becomes a necessity in the life of the nation and the state because the law is in order to create order and justice in the community [24].

Legal norms should have the power to encourage people to show more concern and respect for animal welfare [25]. In recent years, human civilisation has shown more sympathetic behaviour towards animals based on the belief that humans and animals alike have sentience or the ability to feel pain and suffering [26]. Like the trend of the establishment of Pet Shop, which provides a variety of animal needs. The realisation that animals need the same health as humans because animals can get sick, such as some Pet Shop has a slogan "make your pet happy, clean and healthy," shows a significant change in humans' relationship with non-humans, i.e. animals [9].

While no regulation globally is as specific as governing animal welfare, the EU has established regional animal protections for member states. Various regulations and directives discuss aspects of animal welfare, including welfare, transportation and slaughter of farm animals, maintenance of various farm animals (pigs, cows, laying hens and broilers), and research/experiments involving animals. Article 13 of the Treaty on the Functioning of the European Union (TFEU) stipulates that in formulating and implementing policies in agriculture, fisheries, transport, markets, research, and development of technology as well as space policy, member states must pay full attention to animal welfare requirements because animals are living things that must be respected [27]. The provision ensures that animals do not endure pain or suffering and requires owners or caregivers of animals to respect minimum welfare requirements for animals, especially those relating to religious, traditional, and cultural rituals [28]. An example of a country that has recognised the importance of animal welfare in Germany has included recognising the importance of animal protection in its constitution [29].

The drawback of animal protection arrangements in the European Union is that the agreement only applies to certain countries, namely EU member countries. Outside the regional regions of the European Union, several international treaties

provide arrangements for the protection of wild animals, for example, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) [30]. This agreement provides for the equal treatment of animals humanely. The arrangements in Article VIII of CITES require members to ensure that all species living during transit, storage and delivery periods remain appropriately treated to minimise the risk of injury, health problems and cruel treatment. The agreement is also closely related to the national air transport association. However, states have not explicitly defined what cruel treatment of animals means. In addition, the state's parties have not implemented such regulations into the domestic laws of their respective countries.

On 5-16 June 1972, a United Nations (UN) conference on the Environment was held in Stockholm for the first time. This conference is known as The United Nations Conference on Human Environment or the Stockholm Conference 1972, which raised environmental issues initially discussed among academics [31]. The results of the Stockholm conference set out several instruments related to animal protection efforts, such as the Principle governing that natural resources from the earth, including air, water, soil, flora, and fauna and representative examples of natural ecosystems, must be saved for the benefit of current and future generations through careful planning and recognition [32].

The importance of nature conservation, including protecting animals, is an integral part of a country's national development policy [33]. Economic values attached to nature in its management is not only for the benefit at this time but must pay attention to the interests of future generations [34].

Principle 4 states that humans are responsible for saving and wisely managing the heritage of wildlife and habitats that are now threatened by conflicting factors. This principle demands everyone's responsibility to save animals and their habitats. This principle is also a guideline for the management and utilisation of animals related to the development of biotechnology [35]. Biotech can provide a variety of economic benefits, health, and human well-being. However, biotechnology can harm nature itself, especially if it is linked to the development of Genetically Modified Organisms (GMOs), which are genetically engineered creatures resulting from laboratory trials released into the wild [36].

The World Organization for Animal Health (OIE) has developed disaster guidelines primarily related to the management and reduction of risks related to animal health, animal welfare, and veterinary medicine to strengthen the capacity of State Veterinary Service Members [37]. Recent disaster events have led to commitments regarding the need to bring all disaster management components together in a cohesive disaster response plan at both levels, namely at the national and international levels, using a multidisciplinary approach to achieve optimisation, efficiency, and effectiveness in disaster management [38]. OIE guidelines use all-hazard approaches, especially in managing natural disasters and human-made disasters through technology and advising various stakeholders from governments and communities to use local approaches that suit local needs. OIE advocates integrating disaster management and risk reduction measures through the broader Veterinary Service through a network of responses to policies promoting animal health and welfare, safeguarding human and environmental health, and helping the Member States restore and improve economic and social conditions from disasters [39].

The Sendai Framework for Disaster Risk Management year

2015-2030 was inaugurated at the UN Third World Conference in Sendai, Japan, on March 08, 2015 [40]. This Framework results from consultations between stakeholders whose implementation began on March 12, 2012, and negotiations between countries conducted from July 2014 to March 2015 supported by the United Nations Office for Disaster Risk Reduction at the request of the United Nations General Assembly. The Framework governs Priority 3 on disaster risk reduction, namely investment in disaster risk confinement for resilience at the national, local, and global or regional levels. Concerning animal welfare in disaster-prone areas at the national or local level, one of the prioritised programs is strengthening livelihoods and productive assets, including livestock, working animals, tools, and seeds. At the global and regional level, one of the prioritised programs is strengthening and enhancing cooperation and capacity building to protect productive assets, including livestock, working animals, tools, and seeds [41].

These programs must be aligned with national legislation for disaster management and make provisions for interaction between institutions, official organisations, and private, related to Veterinary Services. Veterinary Services should include mitigation and prevention activities at the national and regional levels by planning and aligning them with other sectors and central government policies. When veterinary services do not have the legal authority to act in disaster situations, specific requirements must be identified, and new laws developed to address those gaps.

The authorised institutions must carry out the preparedness phase to deal with emergencies such as natural disasters to ensure animal welfare. Included in the preparedness phase, namely: details of the type of disaster; information about animal populations; system for rapid assessment of disaster situation awareness; legislation; established chain of command; coordination plan with other parties; financial arrangements; human resource plans; public communication plan for awareness measures; and build sustainable continuity over control plans and recovery plans.

The Veterinary Service will switch to emergency mode during this preparedness phase and begin implementing the relevant command system for rapid response capacity for a catastrophic event. At the beginning of this preparedness phase, veterinary services will review the availability of Human Resources and Financial Resources with adjustments to specific communication strategies for natural disaster events.

3.2 Legal status of animals as legal subjects to recognise animal rights in Indonesian environmental law

Considering growing environmental consciousness, a few rivers, forests, and mountains worldwide have been declared legal persons. Similarly, scientific developments and changing relationships between humans and animals have called into question the appropriateness of the property status of animals. Towards the end of the 20th century, philosophical and legal minds started questioning whether animals should be persons rather than property. I was one of the first to argue that sentient animals should be persons rather than property and that all forms of animal use should be abolished as a result [42]. Since then, various arguments for and against animal personhood have been put forward in a passionate and growing debate. Animals are different from other types of property. Unlike chairs and cars, animals are sentient, living beings. As objects of the law, they are theoretically at the mercy of persons who

are subjects of the law. While there are undoubtedly animal welfare laws that recognise the sentience of animals and seek to curtail the property rights of humans concerning animals, animals are unable to enforce the protections granted to them under those laws [43].

All animals, by nature, are sensitive to pain and pleasure, and they express a wide variety of emotions. It is often assumed that other animals cannot suffer as much as humans, but this idea is weak, and there is no solid science to back it up [44]. Pain is equally adaptive to humans. If animals can feel pain like humans, then imagine if the animals' original habitat that lives in the wild is disturbed and damaged, and its function is changed from its place of life to become an industrial area and a densely economic area. Isn't this the loss of human empathy for animals that live in the wild, even though animals also need a place to live? This should be a big task for policymakers to make legal products so that animals can be used as legal subjects that have implications for recognising animal rights. This is intended so that animals have a clear legal status in Indonesia by recognising that animals are legal subjects so that humans and legal entities will not arbitrarily commit cruelty over the destruction of animals' original habitat. Animals can be used as legal subjects; it is felt that if the parliament can make a law on animals that are used as legal subjects, but back again to the general agreement in the State of Indonesia whether animals can be used as legal subjects and their human rights are recognised, this will undoubtedly lead to debate [45]. Both among experts and the public. However, if animals can be used as legal subjects in this country, this will positively impact the development of law, especially environmental law in Indonesia.

It is because you see a reason when you compassionate a suffering animal. The cry of an animal is painful so that its conditions are altered. Moreover, the cries of an animal cannot be heard as mere noise more than a person's words. Similarly, another animal can force other people to you. So, of course, we have obligations to animals. When we encounter an animal in pain, we recognise their claim on us, and thus beings who can suffer are morally considerable. Animals are regularly treated as though they can reduce their value to other people's usefulness systematically; they are routinely treated systematically and therefore routinely and systematically violating their rights. The position on animal rights is absolute [13]. Any being that is a matter of life has the inherent value and rights to protect such value, and these rights apply equally to all life subjects. Therefore, every practice that does not respect the rights of the animals they have, for example, eating animals, hunting animals, experimenting with animals, using animals for entertainment, is wrong, regardless of human needs, contexts, or culture – to want something and love, to believe, to feel something and to remember and expect something [46].

These dimensions of our lives – including our joy and sorrow, pleasures, sufferings, pleasures, frustrations, and survival or premature death – all change the quality of our lives as we experience them, as individuals, through us [47]. The same applies to animals; subjects with their inherent value must also be seen as subjects experiencing life. Therefore, Indonesia's environmental law needs to renew its legal system, because as stated by the experts above, animals, like humans, have the right to a decent quality of life on this earth [48]. Animals must also be viewed as subjects experiencing life with their inherent value. Moreover, along with the continued development in Indonesia, it will undoubtedly have an impact

on animal life; so far, animals in Indonesia are not considered as legal subjects, so that humans feel innocent if they criminalise animals because of the guarantee of legal certainty for animals is not available until now. Recognition and granting of animal rights status to animals as legal subjects in the State of Indonesia are highly expected for the progress of the nation and state.

Animal rights to the reform of Indonesian environmental law? Especially in its application in Indonesian environmental law requires a new paradigm for all Indonesian people regarding the importance of animals as legal subjects to obtain legal protection. This must be the foundation in the application and recognition of animal rights for animals. In Indonesian environmental law, if the paradigm is not changed, it will be challenging to apply animal law related to the animal rights of animals to be recognised in the State of Indonesia. Why should animal rights be implemented in Indonesian environmental law? This is because it is based on the same principle of protection for regulating human-animal interaction: equal protection of animals. Equal Protection Against Animals combines the insights of vulnerability theorists with the same protection principles and capability theory to create a mechanism to recognise the common claims between humans and non-human animals for protection against suffering. With such an approach, animals will not receive threats and harassment from humans. The position of animals can also be like humans who have claimed food, hydration, shelter, body integrity, friendship, and the ability to exercise and to engage in natural movement behaviours that must be This state guarantees its animal rights so that these animals, especially those in the wild, can continue and carry on their lives without any interference and threats from humans [9].

It is possible to apply human rights to animals in Indonesian environmental law, where the position of animals here is as a legal subject. The first thing to do is to change the paradigm of Indonesian society to recognise and accept animals as legal subjects. Without this paradigm change, it is difficult for the state to recognise animals as legal subjects. If animals are to be made legal subjects in Indonesian environmental law, it will make Parliament busy preparing or revising laws and regulations relating to animals as legal subjects. If the public agrees that animals are made legal subjects, the parliament will automatically discuss this matter at a parliamentary meeting to fight for animals as legal subjects. Nevertheless, back again to the society and the state regarding the recognition of human rights to animals because this is not immediately approved because it will cause many pros and cons among the community.

Based on animal law and human rights law, animal rights arise legally. The theoretical basis for developing these laws can be found in animal legislation rights on the horizon, a systematically established analysis of the conceptual, doctrinal and normative problem. This demonstrates that both legal theory and existing laws have a strong foundation in the idea of animal law, meaning that animal law's legal rights are conceptually based on existing animal welfare legislation. However, it also shows that the so-called 'animal welfare rights' held by animals under favourable legislation do not provide the type of solid regulatory protection generally associated with legal rights. Animal rights laws are expected to institute animal moral rights [49].

The conceptions of animal welfare adopted by scientists have a decisive influence on the types of animal welfare research they carry out and the type of information available

to the public to decide on animal welfare issues. Different concepts of animal welfare, of course, lead to contradictions about how animals should be. This article points out that there are philosopher and animal welfare differences. Environmental ethicists often view animal welfare and animal rights as anti-environmental; ecosystems are sometimes destroyed, and interventions supported by environmentalists are sometimes unforgivable. Although ecosystems and non-animal species have only instrumental value from the point of view of animal welfare or animal rights, this argument does not have to be refuted from an adequately structured environmental ethic. Ecosystems and non-living organisms still have adequate levels of value [50].

Although the term 'rights' is often used freely to address the range of legal safeguards that legislation provides for animals [51]. It allows us to uphold and classify the normative power of fundamental animal rights by exercising the weaker rights. Lastly, it is essential to note that in emerging legal cases, fundamental and straightforward prototypes for animal rights can be seen in courts that obtain legal animal rights from animal welfare law and constitutional, fundamental and human rights law. Christopher Stone once noted that "any successive addition of rights to multiple new entities was a little unthinkable" throughout the history of law; this article suggests that at the moment, there can be witnesses to the creation of legal and fundamental rights for animals [52].

4. CONCLUSIONS

Reform of animals as legal subjects is a positive development for law in the State of Indonesia, because human beings and non-humans such as animals also feel the same suffering both physical and non-physical suffering, it is in this suffering that most of the animals also get from the criminalisation of their natural habitat which has begun to be pluralised by humans and corporate bodies for the sake of economic interests, therefore the guarantee of legal certainty recognises the existence of human rights over animals and making animals a legal subject in Indonesia will undoubtedly have a positive impact on animals to carry on their lives without any threat and interference from humans and corporate bodies, because when animals have become legal subjects can make actors who want to destroy and criminalise habitats and animal life will automatically think twice about doing so, this is because animals have been recognised and guaranteed legal certainty will be recognised as a the situation, where what was originally an animal to become a legal object is now a legal subject.

The House of Representatives and the Government of the Republic of Indonesia are expected to make changes to environmental laws and various policies related to animals in disaster-prone areas. The change in the law must include animal rights. In addition, animal observers are expected to focus their struggle on realising animal rights, primarily through intervention in making laws in the environmental field.

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