



## An Ethical Perspective of Animal Rights Protection in Indonesia

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### ABSTRACT

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An environment is a meeting place for every living creature. They have an important role in respecting each other's rights in the environment. One of the living creatures in the environment is fauna. As part of the environment, fauna also has rights that must be fulfilled in the environment to avoid fauna becoming rare and even extinct. However, nowadays, many types of fauna are becoming rare and even on the verge of extinction. Of course, this is also caused by the pace of human development with all its interests in the environment. Often, human interest underestimates the existence of rare and even endangered fauna. To overcome this, humans must have an awareness of the rights of fauna. One of the steps that can be taken is to incorporate moral awareness into the legal domain. Therefore, to build moral awareness in the conservation of endangered species, it is hoped that there will be regulations that can accommodate all of them. Simply, to build moral awareness of animal rights, a law that specifically guarantees animal rights is needed, if necessary, to guarantee its constitutionality in the state constitution.

## 1. INTRODUCTION

Indonesia is one of the countries that have a rich diversity of fauna [1]. According to the World Conservation Monitoring Center records, the diversity of fauna in Indonesia includes 3,305 species of amphibians, birds, mammals and reptiles, 31.1% of them are endemic, which means they are only found in Indonesia and 9.9% of them are endangered [2]. There are many types of fauna that can be found at several points in Indonesia as their habitat. The wide distribution of fauna throughout Indonesia then creates dynamics in their daily lives [3]. As one of the countries in the world that has a megadiversity of fauna, Indonesia should be able to keep the existing fauna from becoming rare, even extinct. Indeed, there are many steps that can be taken to preserve the fauna in Indonesia, as well as in the world. These steps must be understood not only by the government but also by the people who are close to the habitat of the fauna. All citizens must have the awareness to respect the habitat and preserve the fauna in their country. In order to raise the awareness of all citizens of the existence of fauna, especially endangered, knowledge of this matter is needed first. The existence of endangered animals and all aspects of them must be known by citizens. Through this knowledge and understanding, there will arise awareness and willingness to take part in preserving the fauna.

If we look at the current condition of the fauna in Indonesia, it can be said that fauna conservation has not yet been achieved. This is also due to the fact that there are still many instruments that are not sufficient in the context of rare conservation. A real example is the lack of human ethics in using the environment coupled with a pattern of human interests that do not pay attention to the existence of fauna and causes them to become rare animals. Not apart from that, Goetschel frames animal protection law reform in terms of ethics, which he sees

as shaping human thought and behavior, and as the source of meaningful social justice law reform. In fact, the environment was created not only to meet human needs [4]. More than that, the environment is a habitat for flora and fauna to carry on their lives. The survival of this fauna must be a special concern. The reason is until now; it is not uncommon for the environment, which is the habitat of rare animals, to be used by humans for their own interests. This is also closely related to the development of society which can be said to be high.

Talking about the high rate of community development, this is exactly followed by an increase in the level of community interest in the environment. Therefore, we need a statutory regulation that regulates the existence of rare animals and their preservation. This aims to maintain the existence of rare animals and avoid their extinction. The regulation is expected to be able to accommodate the rights of animals in the environment. Starting from the environment as their habitat, food, and the interests of other animals. The initiation to establish a regulation regarding animals began with the formation of the Stockholm Declaration in 1972. One of the points made in the declaration was that wildlife must be preserved. This is also implemented by Indonesia through laws and regulations. The regulation is the Law of the Republic of Indonesia Number 5 of 1990 concerning Conservation of Biological Natural Resources and Their Ecosystems. This law is national and comprehensive. This regulation is very necessary as a legal basis to regulate the protection of life support systems, the preservation of the diversity of plant and animal species and their ecosystems, and the sustainable use of living natural resources and their ecosystems in order to ensure their use for the welfare of society and the improvement of the quality of human life. However, the unfortunate thing about regulations regarding animals in Indonesia is that there are no regulations that specifically regulate them. Also, there

are expert views that say there is still a lack of sanctions and scope as stated in the regulation.

Many studies that discuss the protection of animal rights have been carried out, for example the research conducted by Sonhaji et al. [5], entitled "Animal Rights in Indonesian Environmental Law: Case Studies in Disaster Prone Areas", focuses on the urgency of protecting animal rights in disaster-prone areas. Another study by Futhazar [6], entitled "Biodiversity, Species Protection, and Animal Welfare Under International Law." This research focuses on the influence of the concept of animal welfare on international biodiversity law. Based on the studies above, this research focuses more on ethics in environmental utilization, habitat for endangered species, and environmental development. In this case, all the aspects that have been mentioned are integral parts that must be kept in balance in the environment. But, of course, in a balanced environment, regulation is needed to deal with the situation. Thus, the purpose of writing this article is a step to publish environmental conditions and all aspects in it, especially the aspect of environmental ethics.

## 2. METHODOLOGY

This research is doctrinal research with a normative legal approach. This doctrinal research examines the law, which is conceptualized as a moral principle of philosophical justice. This study uses secondary data obtained from legal materials, namely laws and regulations, books, results of previous research, and so on. Data was obtained using literature study related to the topics discussed. Literature study is used as a data collection technique by reviewing books, literature, notes, and various reports related to the problem to be solved.

This study uses a deductive data analysis technique. The use of the deduction method according to Mahmud [7] stems from the submission of the major premise (general statement) to the minor premise (specific), which starts from identifying the causes of animal extinction in Indonesia in general, then analyzing how the form of protection for animals should be carried out by the Indonesian government in the future, and then drawn a conclusion.

## 3. RESULTS AND DISCUSSION

### 3.1 The reason of endangered animals become extinct

Talking about the existence of rare animals in the world, nowadays, the existence of rare animals continues to decrease and is even on the verge of extinction [8]. This is motivated by many things. In general, the threat that comes to the safety of the existence of animals in Indonesia is caused by human behavior that is not in accordance with existing ethics and regulations, such as hunting and illegal wildlife trade that can make animals extinct, so it must be regulated in law. In the opinion of one expert, Dr. Jatna Supriatna, Chair of the Institute for Sustainable Earth and Resources (I-SER), there are many threats to the existence of animals as one of the balancers of natural wealth due to poaching of high-value animals, killing/poisoning of wild animals that are considered disturbing human life, forest fires and land that occurs almost every year, as well as forest conversion for various purposes of cultivation, settlement, and national development [9]. Apart from that, he also said that the weak regulations governing this

matter were also one of the causes of the emergence of rare animal conditions. Law No. 5 of 1990 can not take firm action against the hunting, killing and illegal wildlife trade, either because the public does not want to know about the laws or regulations that protect these animals, or because the public does not know about these laws or regulations at all. Therefore, the government needs to make efforts to optimize it by strengthening the regulations that have been made, or providing socialization to the community, both in the form of education and counselling [10].

When talking about the driving factors for animal scarcity, it can actually be divided into 2 (two) major factors. The two factors are loss of habitat and loss of genetic variation. Each also has its own background. First, loss of habitat could occur due to natural disasters so that animal habitats are damaged, and it is possible for animals to be affected. The next background is a factor that is motivated by the rise of various human interests so that the occurrence a use of animal habitats to meet these human interests. The number of human interests in various fields is not uncommon to use animal habitats in nature to fulfill their interests. One of the greatest human interests in the environment is in the economic sphere. Today's economic system is more focused on the economic value of an object rather than its ecological value [11]. The capitalist economic system defines productivity narrowly and only encourages profits in economic progress [12]. As a result, policymakers forget about the bad effects that accompany economic progress on nature. Human domination of nature for the sake of their economy causes the destruction of humans and nature, especially animals [13].

The second factor is the loss of genetic variation. Genetic variation is the diversity that exists within a particular species. This is the same as humans who have characteristics such as blonde, black, or brown hair. Generally, the more the population of these animals, the more genetic variation. In its journey, it is not uncommon for inbreeding to occur in animals that exist in the wild. This is because those who are blood relatives live together and in groups. In fact, even though it is an animal, inbreeding still cannot occur due to the possibility of death of the species. Inbreeding between wild animals also causes the emergence of a situation where these animals become rare. Furthermore, scarcity caused by loss of genetic variation can also occur naturally. For example, there is a species that, from the beginning, there were only a few, and its development was not fast. Also, which includes natural factors as well as the influence of the environment, namely climate change that is not suitable for certain species and results in scarcity. One example of an animal that has become rare due to this factor is the Cheetah. Animals that are often called big cats have only a few genetic variations. Moreover, the Cheetah also has a difficult tendency to adapt to the climate and surroundings quickly [14].

In addition to occurring naturally, loss of genetic variation can also be a factor that occurs due to human activities. Several human activities related to the existence of animals are also the cause of the scarcity of one type of animal. These activities include excessive and illegal hunting. This activity reduces the number of animals in the environment, which would lead to the scarcity of a species. Those are some things from the two factors that influence and are behind the increasing scarcity of animals and even nearing extinction. This is also the reason why regulation takes a big place in protecting animals from becoming endangered and extinct [15].

Talking about the most dominant factor, in this case, habitat loss is one of the biggest causes and threats to animal diversity. Habitats that are gradually becoming extinct due to human activities certainly have a direct impact on the ecosystem of animals and other living things. This becomes a big threat if not addressed immediately. In terms of handling habitats that are slowly becoming extinct, it is the joint task of all levels of society and the government to maintain and improve them [16]. As one of the countermeasures, the Indonesian government itself has made a long-term program that focuses on environmental issues. This program work for the better quality of the existence of endangered animals and their habitats. This will be explained in more detail in the sub-discussion on animal rights protection.

### 3.2 The existence of endangered animal: Especially in Indonesia

The existence of rare animals in Indonesia should be a common concern. The reason is that Indonesia, as a country that has a variety of fauna, must maintain the preservation of animals so that they do not become rare or even extinct. Indeed, actually, animals can become rare on the basis of 2 (two) factors, namely loss of habitat and loss of genetic variation. However, in fact, this can be minimized by forming citizens' awareness of the existence of animals and their accommodation through statutory regulations. If you look at the current situation, it can be said that there is no awareness and regulation regarding the existence of endangered animals in Indonesia. Based on data provided by the Indonesian Central Statistics Agency, it can be concluded that the majority of endangered animals are getting closer to extinction.

**Table 1.** Number of endangered animals, 2015-2017

| Animal Type           | Number of Endangered Animals (Tails) |       |       |
|-----------------------|--------------------------------------|-------|-------|
|                       | 2015                                 | 2016  | 2017  |
| Harimau Sumatera      | 58                                   | 71    | 68    |
| Gajah Sumatera        | 84                                   | 115   | 362   |
| Badak                 | 70                                   | 19    | 80    |
| Banteng               | 45                                   | 381   | 270   |
| Owa                   | 21                                   | 140   | 492   |
| Orang Utan            | 143                                  | 1 153 | 1 890 |
| Bekantan              | 455                                  | 837   | 1 365 |
| Komodo                | 6                                    | 2 919 | 5 954 |
| Jalak Bali            | 7                                    | 38    | 39    |
| Maleo                 | 446                                  | 557   | 1 204 |
| Babi Rusa             | 39                                   | 68    | 616   |
| Anoa                  | 59                                   | -     | 471   |
| Elang                 | 11                                   | 42    | 82    |
| Tarsius               | 82                                   | 82    | 82    |
| Monyet Hitam Sulawesi | 31                                   | 31    | 63    |

Source: Indonesian Central Statistics Agency, 2015.

Besides, Indonesia is a country rich in biodiversity. Even almost every region in Indonesia has animals that characterize the area. However, it is very unfortunate that people in Indonesia do not consider the existence of endangered animals as something that must be paid more attention to in fulfilling their rights. In fact, there are still many people who hunt animals that are already classified as rare. In addition, it is not uncommon for people to know about rare animals, but they are still kept. This is very unfortunate because wild (and rare) animals should live in their natural habitat, not caged.

From the data on Table 1, it can be seen that there has been a significant increase in the number of endangered animals. Komodo is the animals with the most extinctions, drastically increasing from 6 to 2919 and increasing to 5954. The second largest is the Orang Utan, from 143 to 1153 and increasing to 1890, which experienced extinction. the third largest was Bekantan, from 455 to 837 and increased to 1365.

### 3.3 The environmental ethics related to animal rights

Environmental ethics is part of the ethic that consist and define the right and wrong things at ecological level [17]. The environmental itself consist biological and non-biological elements. According to Section 2 (a) of Environment Protection Act 1986, environment includes water, air, and land and the inter-relationship between water, air, land, and human beings, other living creatures, plants, micro-organism, and property [18].

Biological elements are living things consisting of humans, plants, animals, and microorganisms. Non-biological elements consist of sunlight, water, air, and soil. The relationship between biological and non-biological elements must take place in a balanced state as a life support system and therefore needs to be protected. In utilizing biological and non-biological elements, ethics is needed in order to achieve a balance in the environment. This is what we call environmental ethics. This environmental ethics is one of the things that can define the use of living things in the environment. Moreover, environmental ethics is one of the tools of modern environmental conservation and sustainable development. A moral foundation is needed to manifest the sustainability of environmental development. Environmental ethics as a moral foundation functions to control human attitudes, actions, and behavior in interaction with the environment. This is also a global problem in the outcome of development. It is because some people in underdeveloped and developing countries do not know its importance [19].

This condition forced by the increase in economic This condition is forced by the increase in economic activity in these countries to obtain more energy and demand for consumption, which can lead to environmental degradation. Based on research, environmental degradation, in this case, will be resolved after the country develops economically. This is because a country's economic growth allows them to pay for environmentally friendly technologies and pro-environmental regulations and policies. However, based on this research, it is possible that developing countries that are already equipped with environmental policies, legal frameworks, and economic instruments, which are considered very sophisticated by international standards, may face worse environmental conditions [20].

As one of the components of the environment, the development of environmental law based on rights theory is influenced by moral or ethical philosophy. This philosophical study considers actions that cause pollution and environmental destruction as evil acts so that society or the state is obliged to punish the wrong acts. This rights theory also includes two ideas, which are named libertarianism and the study of animal rights [21]. In this case, the author will be more focused on how animal rights exist and must be protected in the environment.

The question of whether animals have rights is not an easy one to answer. On the one hand, many countries in the world do not have legal arrangements that protect animal rights or

recognize the existence of animal rights. Thus, it can be said that the existence of animal rights is not recognized and protected by law. However, there is another way to see the existence of animal rights, namely by realizing that animals also have an inherent value in themselves as humans do [22].

At the beginning of its development, animal rights were framed as moral rights, not legal rights. If legal rights are rights that must be protected by law, it is different from moral rights, which do not have to be protected by law but are governed by ethics and personal experience. Because animals have an inherent value in themselves, even beneficial for humans or other living beings, then animals have certain moral rights, and these rights must be protected no matter what happens [23]. However, over time the need arose to bring the moral rights of animals into the legal domain. Even recently, some pioneering courts have started creating judicial pathways to guarantee animal rights. One country that has actively used judicial channels to guarantee animal rights in India. India's Supreme Court has revoked the Prevention of Cruelty to Animals Act under the Indian Constitution, which has provided for fundamental animal rights. The courts of Argentina and Colombia have extended the basic right of habeas corpus (right to freedom) along with the basic right of freedom for captive animals [24]. The existence of an act of recognition by the court of animal rights illustrates that there is an urgent practical need for animal rights to be guaranteed by law.

Talking about rights, there must be a situation where living things have ethics and respect each other's rights. For example, animals have habitats in the environment that must be preserved by humans. It also includes plants and trees as part of animal habitats. The goal of environmental ethics is to preserve the biological diversity from the human interventions (that could cause the extinction); an animal is one of them [25]. To achieve a safe and prosperous condition for animals, it is necessary to have an awareness of ethics in using the environment, which is also the habitat of animals. Not apart from that, animal rights have originally been framed as moral rights, and they are increasingly articulated as potential legal rights [24]. That is why to save the habitat of human beings, especially animals that ethically utilize the environment, there must be a legal regulation from the government.

Ethics is a reflective and critical process that a government can use in determining its policy choices. As a result of policymaking, legal norms in regulations contain philosophical values that are chosen by lawmakers [26]. There are various theories regarding environmental ethics, one of which is the ethics of anthropocentrism and ecocentrism. Anthropocentrism ethics are generally attached to western philosophy. Anthropocentrism places human interests above all else. Human is the center of this universe. The main challenge of anthropocentrism is biocentrism or zoocentrism. Biocentrism views that the biotic and abiotic elements in the universe/environment have the same value and form as a whole. Meanwhile, zoocentrism puts the interests of animals first. However, ecocentrism goes beyond biocentrism and zoocentrism. Ecocentrism is an umbrella for justice for all environmental components. Ecocentrism views that there is a dependence between biological, geological, and geomorphological elements in the environment. Thus, laws and regulations should not only provide protection for the interests of animals with a biocentrism or zoocentrism approach but also as a place for interaction between animals and other living things, especially humans, as the concept of ecocentrism is [27].

### 3.4 The animal rights protection

Entering animal rights in society, it would be better if the whole community understood correctly what is called animal rights, including its preservation and habitat [28]. Animal rights protection (animal law) has come a long way in the last decade in terms of both public awareness and academic interest [29]. First, animal law is a thing that can refer to the study of laws relating to animals, the conception of its implementation in promoting animal welfare, or the relationship between animals and the positive law [30]. Not apart from that, several experts give their views on the meaning of animal rights. One of these definitions was conveyed by Bernard E. Rollin. He interprets animal rights as an idea that society, in general, is looking for to produce a set of morals for the treatment of animals in today's world [31]. In addition to discussing animal cruelty, animal rights also regulate how human needs such as efficiency, productivity, knowledge, medical advances, and product safety are responsible for a large part of animal suffering. People in society are looking for ways to protect animals and their interests at the same time through state-made policies [32]. This is, of course, closely related to the meaning conveyed in environmental ethics. When the use of the environment is based on the welfare of all living things, that is when it can be said that environmental ethics has been achieved. In the event that a good environmental use ethic has been achieved, it is certain that the welfare of animals will also increase as one of the living creatures. This is because of the fulfillment of an aspect, namely animal rights.

One of the main steps that can be taken to make people understand animal rights is to provide a knowledge space about the existence of animal rights. The formal structure of rights is generally explained in terms of the Hohfeldian typology of rights which notes that the general term 'rights' tends to be used indiscriminately. This means that animals as living beings also have rights. One of the types of rights that animals have is the prosecution of animals against humans or the state. In this case, society bears a correlative obligation to refrain from or perform certain actions. These legal animal rights can be in the form of negative rights (related to negative obligations) not to interfere or positive rights (related to positive obligations) to provide some goods or services [24]. To measure whether the community has properly understood the existence of animal rights can be seen by ensuring that animal rights such as habitat and needs have been fulfilled.

As previously stated, there are actually many aspects that go into animal rights. Starting from the habitat as a place to live and looking for food, to protection from the wildlife trade to sustain life. To be able to realize all animal rights, of course, cannot be achieved if only through appeals or even simple knowledge. More than that, it is hoped that there will always be regulations that can accommodate animal rights as a form of preventing rare and even extinct animals. To realize this, it is necessary to have a regulation that specifically regulates the existence of animals and all their rights. If you look at the international field, the obligation of every country to protect wild animals in their country from scarcity and even extinction has been regulated since the Stockholm Declaration was put forward in 1972. This declaration was the result of the thoughts of the countries at that time. The points conveyed regarding the protection of wild animals are expected to then be implemented in a regulation in each country. This declaration has been made reasoned to minimize the

exploitation so that wildlife plant and especially animals in every country do not keep rare and even extinct [33].

In Indonesia, there are already regulations that also regulate animals as one of the natural animal resource. The regulation is Law Number 5 of 1990 concerning Conservation of Biological Natural Resources and Their Ecosystems. In this regulation, it is regulated regarding animals and wild animals in their existence in Indonesia. In terms of preventing the occurrence of animal scarcity, this regulation decides to establish an area as a form of conservation [34]. For animals, the types of conservation areas that can be built are nature reserves, nature reserves, and wildlife reserves. In Article 1 point 9, it is explained that the nature reserve area is an area with certain characteristics, both on land and in waters that have the main function as an area for preserving plant and animal diversity and their ecosystem which also functions as a life support system area. This is, of course, related to the animal's habitat. Certain animals can only live in areas with certain characteristics. More specifically, this regulation then regulates the establishment of nature reserves.

In Article 1 point 10, a nature reserve can be defined as a nature reserve area because its natural conditions have the peculiarities of plants, animals, and their ecosystems or certain ecosystems that need to be protected and their development takes place naturally. In addition to the two man-made areas, a wildlife sanctuary can also be formed. In that article, wildlife sanctuary is defined as a nature reserve area that has a characteristic in the form of diversity and or uniqueness of animal species which are for their survival, habitat development can be carried out. In the regulation, there is also an article which determines how to protect and treat protected animals. These protected animals include rare animals (nearing extinction) and animals whose populations are rare. In Article 21 paragraph (2), it is regulated several things that are prohibited from being done by the public to animals [35]. Which are:

- (a) catch, injure, kill, keep, possess, maintain, transport, and trade protected animals alive;
- (b) store, possess, maintain, transport, and trade protected animals that are dead;
- (c) releasing protected animals from one place in Indonesia to another place inside or outside Indonesia;
- (d) trade, keep or own the skin, body, or other parts of protected animals or goods made from these parts or release them from one place in Indonesia to another inside or outside Indonesia;
- (e) take, damage, destroy, trade, store or possess eggs and or nests of protected animals.

For all the actions mentioned above, they will be subject to sanctions and sentenced as written in the regulation. However, if you look at the conditions that occur, there are actually many incidents that prove that the presence of these regulations is not fully complied with. As data provided by the Central Statistics Agency, the existence of rare animals is increasingly leading to extinction.

There are several experts who argue that animal rights are regulated in this regulation. The presence of various kinds of threats and pressures on the preservation of biological diversity was basically caused by weaknesses in the management of the conservation of living natural resources and their ecosystems, one of which was Law Number 5 of 1990 concerning Conservation of Biological Natural Resources and the Ecosystem and its implementing regulations. According to the results of a review of experts at

I-SER, Law Number 5 of 1990 concerning Conservation of Biological Natural Resources and their Ecosystems is considered insufficient to encourage the achievement of biodiversity and ecosystem conservation because it has weaknesses such as the provision of low sanctions for criminal violations, low fines for crimes against living natural resources and their ecosystems, weak management institutions, and low management inputs. Through this, of course, it is hoped that the competent institutions will immediately harmonize the regulations with current conditions. Of course, this is nothing but to accommodate various animal rights that exist in the environment. The fact that a civil enforcement mechanism would not reach much of the worst animal suffering is not a good reason not to pursue an amendment that would add a significant weapon to animal advocates' currently-meager arsenal [36].

In responding to the environment where fauna live, the government certainly has a program to maintain a balance in the environment. This is intended for the occurrence of an environmental preservation, for all aspects that exist in the environment. The program to be carried out is written in the National Long-Term Development Plan. Indonesia in 2005-2025 emphasized that in the context of the environment and natural resources, the ultimate goal to be achieved is the realization of the nation's ability to utilize natural resources and protect environmental functions in a sustainable, equitable and sustainable manner for the greatest welfare of the people [37]. Furthermore, in the National Medium-Term Development Plan 2020-2024, the government has four policy directions and strategies in the environmental sector [38]. One of the programmed directions is "Recovery of Pollution and Damage to Natural Resources and the Environment". One of the things that later becomes part of this point is the restoration of habitat for endangered species; and an increase in the population of endangered wildlife species [39].

#### 4. CONCLUSIONS

Endangered animals are one aspect of the environment that also affects the ecological balance. In general, endangered animals are part of natural resources that must be given special attention. This is no exception in Indonesia. However, several things happened that caused rare animals to be pushed to the time of extinction. There are many factors that encourage this, ranging from natural factors such as weather and climate from nature, to factors that occur due to human behavior. To overcome all this, there are actually many steps that can be taken. Of course, these steps are not only required by the government, but also by other communities. In terms of trying to conserve endangered animals, a thorough awareness is needed to be able to make it active. This awareness is called environmental ethics. When people have a good understanding of environmental ethics, in line with that, the existence of rare animals will also be maintained. This is due to the growth of an attitude of mutual respect between humans who use the environment together with animals. However, the truth is that this awareness cannot be obtained only by preaching. More than that, it is hoped that there will be a regulation that is able to specifically regulate the existence of rare animals and all aspects in them.

These aspects of course concern the environment as animal habitat, animal rights that must be fulfilled, and punishments for perpetrators of actions that harm the existence of animals

and encourage rare animals to become extinct. The thing that later became a concern, actually in Indonesia a regulation has been passed in which it also regulates the existence of rare animals. However, these settings have not been specifically set. This is also a weakness, as some experts argue, that the existing regulations in Indonesia still provide relatively light sanctions. Due to the lightness of the sanctions, there are still many behaviors that damage the habitat of endangered animals and take away their rights.

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