

THE CRIMINAL OFFENSE OF SMUGGLING ENDANGERED SPECIES AT I GUSTI NGURAH RAI AIRPORT

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Abstract

This research is backed by the rise of rare wildlife smuggling through the airport line I Gusti Ngurah Rai where the endangered species itself is then traded so that some people commits smuggling actions to benefit him and can result in a rare wildlife smuggled, where endangered animals themselves are protected by Law No. 5 of 1990 on the conservation of natural resources and its ecosystem, then from the background was applied 2 problems of the problem is how the procedure of action against the criminal offenses of endangered animals by PT. Angkasa Pura at I Gusti Ngurah Rai airport? What are the efforts undertaken by PT Angkasa Pura to suppress the number of endangered animal smuggling crimes at I Gusti Ngurah Rai airport? This method of research method used is the empirical research method of empirical research in which the occurrence of rare wildlife smuggling protected by law number 5 of 1990 on the conservation of natural resources and ecosystems refers to the formulation of problems and is held from the objectives of legal research, then in this thesis research using the type of legal research empirical research empirical law is a legal research method that serves to see the law in real sense and examine how it works legally in the community This research is descriptive where the research describes precisely the properties, symptoms with other symptoms in the community

Keywords: smuggling, endangered animals, violating law

1. INTRODUCTION

Every rule of law obliges humans to perform certain actions under certain conditions. These conditions do not have to be in the form of human actions, but can be in many ways, for example natural events. This may seem as if it applies only to the laws of civilized society, in that primitive law, animals and even plants and other inanimate objects are often treated in the same way as humans and, under certain circumstances, can be punished.¹

This must be seen in terms of the animism of primitive man. He assumed that animals, plants, and inanimate objects were gifted with "souls", because it made an attribute of human mental abilities, and sometimes even supernatural powers, to them. The basic differences between humans and other creatures, which are part of the civilized human perspective, are considered non-existent by *primitive* humans. And he was also the member did his legal to nonhuman beings him they are human beings, or at least resemble humans, in this sense primitive law is also an order of human actions, the law does not just stop at the level set of human actions but also change the behavior of his dup humans with all the consequences that exist if done. the limitations of what can and cannot be done with all the consequences, this is what is accepted by criminal law a.²

The difference in distance closer to abroad from the domestic trade center, the striking price difference between the price of goods in the country and the price of goods abroad, the mentality of certain individuals, weaknesses in facilities and infrastructure as well as administrative weakness in

¹ Sampara Said, et al, 2011, *Buku Ajar Pengantar Ilmu Hukum / An Introduction to Law Textbook*, Total Media, Yogyakarta, page. 87

² Soetoprawiro Koerniatmanto, 2014 *Hukum Kewarganegaraan dan Keimigrasian Indonesia / Indonesian Citizenship and Immigration Law*, Second Edition, PT. Gramedia Main Library, Jakarta, page. 56

the form of bureaucratic complications so that they can provide opportunities for parties carrying out export-import activities to commit irregularities and violations. One form of such irregularities and violations is the crime of smuggling.³

The crime of smuggling becomes a serious problem in the implementation of the country's economy, this is because if smuggling is increasing in various forms both physically and administratively, it will cause more and more state money that is not collected so that it will hinder both the target set the country through customs and excise levies which are expected to increase every year.⁴

According to Article 1 number 1 of Law Number 5 of 1990 concerning Conservation of Living Natural Resources and their Ecosystems, it is stated that what is called Wild Animals are all animals that live on land, and / or in water, and / or in the air that still have wild traits , both free-living and nurtured by humans. Protected wildlife is prohibited from being kept, owned, hunted or traded, but the community cannot distinguish between protected and unprotected animals.⁵ This human behavior which can threaten the extinction of endangered species which human ambition wants to own but does not care about the population in their original habitat, *wildlife crime* in Indonesia, in the last ten years, has become a national issue. which is often discussed in various scientific forums, policies and media. There are five basic components that trigger wildlife crime, namely wildlife (*wildlife*), violations and / or crime (offence) , commodity trading of wildlife (*commodity*), levels of trade (*level of trade*), and the value of trade (*value*).⁶ In law there is an element of obligation that must be carried out by every person who is subject to the law concerned.⁷

If it is true that a criminal event will be followed up with an investigation , this action is a series of actions by the investigator in a manner regulated by the Criminal Procedure Law to seek and collect evidence which with this evidence makes clear about the criminal offense that occurred and to find the suspect. Upon arrival at the scene of the crime, the investigator must take appropriate measures as soon as possible in the form of limiting and maintaining the status quo of the crime scene in the sense of closing and guarding the place , delivering notifications and taking necessary actions . The actions above are very important and need to be done so that the situation does not change.⁸

The extinction of these endangered species can be prevented by stipulating legal protection for endangered species. Endangered animals must not be killed, owned, captured, hunted and traded, this is to protect these animals from extinction. This prevention aims to make rare animals that are almost extinct, only to be a story for our children and grandchildren later because of human greed in taking advantage of what they get., Measuring from this background, the writer will discuss "The Criminal Offense Of Smuggling Endangered Species At I Gusti Ngurah Rai Airport".

Based on the description above, the main issues that will be discussed in depth in this study can be formulated, namely What is the procedure for prosecution of the criminal act of smuggling endangered species by PT Angkasa Pura at I Gusti Ngurah Rai Airport? What are the efforts made by

³ Ibid.page 199

⁴ Ibid..page.209

⁵ Leden Marpaung, 2007, *Tindak Pidana Terhadap Hutan hasil Hutan dan Satwa / Criminal Actions Against Forest and Animal Products*, PT Glora Aksara Prata, Jakarta. page. 47

⁶ Ikkal Nurahman, 2010, *Memerangi Perburuan Liar/ Fighting Poaching*, Indograph. Jakarta. page. 12

⁷ Satriana, I. M. W. C. (2015). KAJIAN TEORITIS PENANGGULANGAN PENYALAHGUNAAN NARKOTIKA. *Kerta Dyatmika*, 12(2).

⁸ Satriana, I. M. W. C. (2016). PENYIDIKAN TAMBAHAN DALAM PERKARA PIDANA. *Kerta Dyatmika*, 13(1).

PT Angkasa Pura in reducing the number of criminal acts of smuggling endangered species at I Gusti Ngurah Rai Airport?

I Gusti Ngurah Rai Airport was chosen as the research location because I Gusti Ngurah Rai Airport is an international airport which is the gateway to Bali for tourists around the world. Balinese culture is a manifestation of the creativity, taste and initiative of the Balinese people, such as dance, music and architecture in synergy with the rituals and religions of the Balinese Hindu community which become a special tourist attraction for tourists around the world⁹. Besides providing various positive benefits, the presence of tourists from all over the world also presents a number of challenges, one of which is animal smuggling.

2. METHOD

The research method is a way of working to be able to understand the object that is the target of science. The research method shows the procedure and process of a study carried out to obtain an objective result. This type of research used in this thesis is juridical law research empiric. The nature of this research is descriptive analysis, which reveals laws and regulations relating to legal theories which are the object of research.¹⁰ Descriptive analysis is a method used to describe a condition or situation that is happening or is taking place which aims to provide data as accurately as possible about the object of research so that it is able to explore ideal things, then analyze it based on legal theory or applicable laws and regulations. In empirical legal research, the main data used are primary data and secondary data which can be obtained from literature studies as support.¹¹ Primary data is data obtained directly from sources through interviews with related parties about the object under study, namely the efforts of PT Angkasa Pura at I Gusti Ngurah Rai Airport in Tackling the Crime of Rare Animal Smuggling.

After collecting and processing data, the analysis in this study used qualitative data analysis techniques. According to Neuman, the *illustrative method* is that researchers take several theoretical concepts and treat them in an empty box which will be filled with empirical examples and descriptions.¹² Data analysis will be carried out qualitatively, namely research procedures that produce descriptive data in the form of written or spoken words from people and observable behavior. To activities is expected to be able to facilitate in analyzing the issues to be discussed, interpret and then draw conclusions. So that the material in the form of statutory regulations is analyzed qualitatively by using logical logic in drawing conclusions made deductively that is drawing conclusions from a problem that is general to the concrete problems being faced.

3. RESULTS AND DISCUSSION

The airlines are also responsible for taking further action against passengers whose luggage has problems but who do not receive compensation. There are several reasons passengers do not get compensation, one of which is the improper baggage packaging, for example cardboard because cardboard packaging is not a personal effect item (items needed on the trip) but a category of cargo

⁹ Yanti, A. I. E. K. (2020). Peranan Pramuwisata Dan Pemerintah Dalam Mencegah Pelecehan Kepariwisata Budaya Bali. *KERTHA WICAKSANA*, 14(2), 77-86.

¹⁰ Dwijendra University Denpasar, 2018, *Pedoman Penulisan Usulan Penelitian Hukum*, (Denpasar: Universitas Dwijendra/ Guidelines for Writing Legal Research Proposals Dwijendra University, Denpasar, page.16

¹¹ Peter Mahmud Marzuki, *Penelitian Hukum /Legal Research*, (Jakarta: Kencana Prenada Media Group, 2012), pp. 93

¹² Bambang Sunggono, , *Metodologi Penelitian Hukum/Legal Research Methodology*, (Jakarta: Rajawali Press, 2010), pp. 112-113

items that should not be included in disabled baggage . The airline has a policy of placing cardboard packaging in checked baggage provided that when the embers are damaged, the airline does not provide compensation. However, the airline is not rigid in the rules for giving compensation, sometimes passengers who shouldn't get compensation due to passenger negligence, the airline makes a policy by giving compensation wa lapun only half of it.

Whenever a person smuggling an endangered species occurs or is caught. The first thing to do is the interrogation stage in terms of data collection. Then we interrogated how the process he carried out the infiltration, and of course we also report to the Quarantine animals or animals in the waterpot when it is finished we immediately submit it to the Airport Police for fair action. The officers from the Port Health Office (KKP) as well as from the COVID-19 Task Force Team are always on standby. All steps have been taken in accordance with applicable regulations and SOPs, including handling passengers who show symptoms of illness. A total of 3,408 foreigners have also been repatriated through Bali's I Gusti Ngurah Airport. In addition to returning Indonesian citizens from abroad, I Gusti Ngurah Rai Bali Airport also serves flights of returning or repatriating foreign tourists in Bali to their home countries. Supporting and Inhibiting Factors of Communication Persuasion carried out by *Airport Security* , according to the research results, supporting factors are the skills of personnel in the field, warm and friendly nature, showing motivation and sincerity and charisma of *Airport Security* personnel . Kecak apannya can include language proficiency and penget ahuan of culture. That's all they learn in training. Not all tourists can speak English, so this has become one of the *airport security* concentrations of I Gusti Ngurah Rai Airport, Bali. Their warm nature is shown by their hospitality when service users ask questions or have dialogues in the airport environment. Motivation and charisma are shown when there is a conflict and personnel give an understanding of airport security with Indonesian language or international language which is easily understood.

The disturbance is when there is a technical problem, for example, security equipment is damaged or media that cannot be used. Obstacles in the form of language and cultural factors that occur at I Gusti Ngurah Rai Bali airport are natural things because I remember again that I Gusti Ngurah Rai airport is one of the largest international airports in Indonesia, and the island of Bali is a potential destination for both domestic and international tourists . Therefore, with the occupancy of the services that are very diverse arriving at the airport of Ngurah Rai Bali made obstacles such as factors of language and culture has become a special concentration required personnel *Airport Security* of airport Ngurah Rai Bali to develop the ability language and cultural knowledge. Disturbances of status and interests became obstacles that occurred in the communication process at I Gusti Ngurah Rai Bali airport. This factor is dominated by people who have positions, high social status , officials, and public figures. Because their ego is too high in the end they underestimate the communication that is done, and it is not uncommon for people to argue and argue for a long time.¹³

The formulation of criminal sanctions in Law No. 5 of 1990 concerning the Conservation of Living Natural Resources and their Ecosystems is spread out in article 40 including:

1. Anyone who deliberately violates the provisions referred to in Article 19 paragraph (1) and Article 33 paragraph (1) shall be subject to a maximum imprisonment of 10 (ten) years and a maximum fine of Rp. 200,000,000.00 (two hundred million rupiah).
2. Anyone who deliberately violates the provisions referred to in Article 21 paragraph (1) and paragraph (2) as well as Article 33 paragraph (3) shall be punished with imprisonment of up

¹³ Interviews with Putu Mas and Wayan Edi as Avsec Angkasa Pura on April 1, 2020

to 5 (five) years and a maximum fine of Rp. 100,000,000.00 (one hundred million rupiah).

3. Any person who due to their negligence commits a violation of the provisions referred to in Article 19 paragraph (1) and Article 33 paragraph (1) shall be punished with imprisonment of 1 (one) year and a maximum fine of Rp. 100,000,000.00 (one hundred million rupiah).
4. Whoever, for his negligence, violates the provisions referred to in Article 21 paragraph (1) and paragraph (2) and Article 33 paragraph (3) shall be liable to a maximum imprisonment of 1 (one) year and a maximum fine of Rp. 50,000,000.00 (fifty million rupiah).
5. The criminal acts as referred to in paragraph (1) and paragraph (2) are criminal and criminal acts as referred to in paragraph (3) and paragraph (4) are violations

The provisions concerning the Crime of Protected Animals in Law Number 5 of 1990 are contained in Article 1 40 paragraph 2

a. Elements of Action

In Article 40 verse 2 above, whoever violates Article 21 paragraph 2 which reads, everyone is prohibited from:

- a. catching, injuring, killing, keeping, owning, raising, transporting, and trading protected animals alive;
 - b. keep, own, manage, transport, and trade protected animals when they are dead;
 - c. removing protected animals from one place in Indonesia to another place inside or outside Indonesia;
 - d. trade, keep or own skins, bodies, or other parts of protected animals or goods made from these parts or take them out from one place in Indonesia to another place inside or outside Indonesia
 - e. take, destroy, destroy, trade, keep or have eggs and / or protected animal nests.
- b. Efforts made to tackle the smuggling of protected wildlife are preventive and repressive. Both of these efforts should be planned and carried out as well and optimally as possible. Prioritizing preventive measures will certainly have a more positive impact on efforts to prevent the smuggling of protected wildlife, because preventive efforts will be much more efficient than efforts made when a crime has occurred. However, repressive measures cannot be ruled out, because this step is very important in influencing the crime-fighting process , so that if preventive measures cannot function optimally and the crime still occurs, it is at this stage that these efforts must be carried out properly and as optimal as possible, so that it can be a deterrent effect for the perpetrators who commit the crime of smuggling of protected wildlife.
- c. The animal trafficking case can be said to be the driving factor for the smuggling of protected animals. Because from animal trade to handing over animals that are sold to buyers, smuggling will almost certainly be carried out because the traded animals are illegal. In addition, the police can find out about cases of smuggling of protected animals through quarantine or through AVSE C officers at I Gusti Ngurah Rai airport, the inspection department . The inspectors from AVSEC have the right to carry out an inspection of the suspected smugglers and the suspicious luggage. After being examined and it is true that the person brought the animal, then when asked which item the product belongs to and whether it has legal documents or not but apparently there are no legal documents, AVSEC immediately contacted the quarantine. Then the Quarantine party contacted the Regional Police. The Regional Police will usually request expert assistance from Quarantine to find out whether the act includes smuggling or whether it is to be sent abroad or not. This is because the Quarantine authorities issue a permit for someone who

wants to carry animals from one island to another or from Indonesia to another country. Therefore Polda asked for expert assistance from the Quarantine side. Police investigators also asked the BKSDA to help check whether protected animals were being brought or not. So the BKSDA will explain about the animals. BKSDA has an expert called PEH (Forest Ecosystem Controller) who knows whether the animal is a protected species or not. In addition, the police can find out about cases of smuggling, namely from police intelligence information .

4. CLOSING

4.1 Conclusion

- a. Procedure for prosecution against the criminal act of smuggling endangered species by PT Angkasa Pura at I Gusti Ngurah Rai Airport. The first thing to do is the interrogation stage in terms of data collection. Then interrogate how the process he carried out the infiltration, and of course we also report to the Quarantine animals or animals at the waterpot if it has been completed immediately handed over to the KP3 Police (Port Safety Implementation Unit) I Gusti Ngurah Rai Airport.
- b. The efforts made by PT Angkasa Pura in reducing the number of criminal acts of smuggling endangered species at I Gusti Ngurah Rai Airport are always trying to improve the quality of human resources, especially in AVSEC, then another effort is to increase the number of sensors such as *x-rays*. As an effort to prevent passengers from trying to smuggle endangered species, in addition to these efforts, PT Angkasa Pura also tries to remind passengers of prohibitions that are not allowed to be carried out and violate the law so that they can create self-awareness of passengers who wish to commit illegal acts.

4.2 Suggestion

- a. It is recommended to the I Gusti Ngura Airport Rai Airport, to maintain the quality of safety of the airport so that there is no smuggling of endangered species originating from Bali given the natural wealth and animals that attract tourists' attention which is also of added value to Bali Sendi ri, if necessary existing security has been increased and tightened.
- b. Suggested to the society, to always remind each other and preserve the biodiversity of animal and so there is no smuggling is done by local people and foreign countries

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