

Original Research Article

Similarities in the Protection of Wild Animals in Indonesia and Korea

Rindang Gici^{1*}, Setiyono¹, Nahdiya¹

¹University of Merdeka Malang, Jalan Terusan Dieng No. 62-64 Klojen, Pisang Candi, Kec. Sukun, Kota Malang, Jawa Timur 65146, Indonesia

Article History

Received: 09.01.2023

Accepted: 17.02.2023

Published: 19.02.2023

Journal homepage:

<https://www.easpublisher.com>

Quick Response Code



Abstract: This article aims to examine and analyze the regulation of wildlife protection in Indonesia and South Korea. In this writing, using the Normative Juridical method. Meanwhile, the approach used is the per-statute approach and the comparative approach. The results show that several arrangements regarding the protection of wild animals in Indonesia and South Korea have similarities which have been regulated in-laws and the Criminal Code (KUHP). However, in South Korea, the protection of wild animals (animals) is only regulated by a law known as the Animal Protection Act, but not regulated in the Criminal Code or what is known as the Criminal Code.

Keywords: Wildlife Protection, Legal Analysis, Legal Comparison.

Copyright © 2023 The Author(s): This is an open-access article distributed under the terms of the Creative Commons Attribution 4.0 International License (CC BY-NC 4.0) which permits unrestricted use, distribution, and reproduction in any medium for non-commercial use provided the original author and source are credited.

INTRODUCTION

According to Asia For Animal Coalition, which BBC News Indonesia reported, the main animal abuse cases we often hear about, and it was found that out of 5,840 animal abuse content on social media, 1,626 of them came from Indonesia. Based on report data from AFAC (Asia For Animal Coalition), Indonesia is ranked first in terms of the number of videos uploaded on social media, and 89.6% of them were carried out between July 2020 and August 2021. The case of monkey masks is considered torture because it is not uncommon for the monkeys to be trained with violence, forced to work to earn money, and placed in very inappropriate places with very small cage sizes. Danang's case is one of widespread violence against animals because he dared to show a photo of a cat that he shot dead and uploaded it to his social media.

The opinion of Nielsen for Humane Society International is that as many as 84% of South Koreans do not even want to eat dog meat, and about 59% of South Koreans support the government. Prohibition selling dog meat. There are differences between Indonesia and South Korea regarding the legal system for protecting animals. Even though both of them have regulations that apply in their country. In Indonesia, it has been regulated, for example, in the Criminal Code Articles 302, 406, and 540, as well as Law Number 41 of 2014 concerning Amendments to Law Number 18 of

2009 concerning Animal Husbandry and Animal Health. Whereas in South Korea, it has been regulated in the South Korean Animal Protection Act 2021, which has been amended. Based on the description above, this article examines the arrangements in Indonesia and South Korea regarding Protection Animals Wild.

RESEARCH METHODS

This article is the outcome of normative legal research since it compares and analyzes Indonesian and South Korean laws on protecting wild animals. A statutory approach (statute approach) and a comparative approach are utilized (Comparative approach).

DISCUSSION

Wildlife Regulations in Indonesia

According to Law Number 5 of 1990 concerning the Conservation of Living Natural Resources and their Ecosystems in Article 20, paragraph 1, it has been explained that the classification of animals is divided into two, namely protected animals and non-protected animals. Based on Law Number 18 of 2009 Juncto Law Number 41 of 2014 about concerning livestock and animal health, there are several arrangements for the protection of wild animals that are implemented in Indonesia, including laws and the Criminal Code.

*Corresponding Author: Rindang Gici

University of Merdeka Malang, Jalan Terusan Dieng No. 62-64 Klojen, Pisang Candi, Kec. Sukun, Kota Malang, Jawa Timur 65146, Indonesia

In Law no. 18 of 2009, which has been amended by Law no. 41 of 2014 concerning Animal Husbandry and Animal Health, guarantees and maintains the welfare and maintenance of animals or animals as well as how to treat animals implied in articles 66 and 66 A which reads as follows: 1) In the interest of animal welfare 2) Provisions regarding animal welfare as referred to in number (1) are carried out humanely, which includes catching and handling animals from their habitat must comply with the provisions of laws and regulations in the field of conservation; Containment and placement are carried out as well as possible to enable the animal to express its natural behavior; security, maintenance, care, and protection of animals is carried out as well as possible; Transportation of animals is carried out as well as possible; Slaughtering and killing of animals should be done correctly so that the animals are free from stress, pain and fear, abuse and abuse; Utilization and use of animals is carried out as well as possible so that the animals are free from abuse and abuse; Treatment of animals must be avoided from acts of abuse and abuse. 3) Provisions relating to the implementation of animal welfare are applied to all types of animals with backbones and some non-vertebral animals that can feel pain.

Then it is also regulated in the provisions of article 66A, which essentially prohibits abusing and/or abusing animals which can result in the animal being unproductive, and those who know are obliged to report it to the authorities. Furthermore, according to Article 68 concerning the law on husbandry and animal health, the provisions of article 68 regulate the role of government, namely: administering animal health throughout the territory of the Unitary State of the Republic of Indonesia, and in implementing animal health, the Regional Government is obliged to strengthen the functions, duties, and authorities of the veterinary authority. Then, based on Article 83 paragraph 1 PP RI Number 95 of 2012 concerning Veterinary Public Health and Animal Welfare state that animal welfare is applied to every type of invertebrate and vertebrate animal that can feel pain. That is explained in paragraph 2 of the PP confirms that animal welfare is carried out in a way to apply the principles of animal freedom, which includes: a) pain, injury, and disease; b) hunger and thirst; c) fear and depression; discomfort, abuse, and abuse; and e) To express his natural behavior.

The Criminal Code (KUHP) in article 302 reads as follows: 1) Can be punished with imprisonment for a maximum of three months or a maximum fine of four thousand five hundred rupiahs for committing light abuse of animals. a) Whoever, without proper aim or in excess, intentionally hurts or injures animals or even harms animal health. b) Whosoever with the intention without inappropriate aim or by exceeding the limits necessary to achieve the said purpose intentionally does

not give food to live animals, which are wholly or partly owned and are under the control of his supervision, or to animals that are obliged to maintain. 2) If said act can result in illness for more than a week or disability or suffering from other serious injuries, or death, the offender shall be punished by a maximum imprisonment of nine months or a maximum fine of three hundred rupiahs due to animal abuse. 3) If the animal belongs to the offender, then the animal can be confiscated. 4) the attempt to commit the crime is not punished (Soesilo, 2008). Article 540 of the Criminal Code paragraphs 1 and 2, which regulates the criminal act of torturing animals and the acts referred to in this article, can be punished by imprisonment for a maximum of eight days or by a fine of up to two thousand two hundred and fifty rupiahs. For example, ordering them to work lifting loads that weigh beyond the animal's strength and using spiked whips and so on so that the animal feels pain and runs fast as expected.

In addition to the penalties outlined in Articles 540 and 302 of the Criminal Code, Article 91 B of Law No.41 of 2014 on Amendments to Law No.18 Th. 2009 Concerning Animal Husbandry and Health specifies the number of penalties for perpetrators of animal abuse. According to Article 98B Law Number 18 of 2009 Juncto Law Number 41 of 2014 , the text of Article 91 B is as follows: 1) Whoever abuses and/or abuses animals/animals to the point where they become disabled and/or unproductive, as outlined in Article 66A paragraph (1), is subject to imprisonment for a minimum of one month and a maximum of six months and a fine of at least Rp. 1,000,000.00 and a maximum of IDR 5,000,000.00. (five million rupiahs). 2) Whoever knows that an act described in Article 66A paragraph (1) has occurred and fails to report it to the authorities by Article 66A paragraph (2) is subject to imprisonment for a minimum of one month and a maximum of three months and a fine of a minimum of Rp. 1,000,000.00 and a maximum of Rp. 3,000,000.00. (three million rupiah).

There are several cases of mistreatment of wild animals that have received judgments and punishments in Indonesia, for example, in the case of the perpetrator of pouring caustic soda solution on five puppies and one mother dog. Where the incident occurred around Nov. 3, 2019. The type of dog that became the victim was a pitbull dog. The perpetrator was stated to be in a stable mental condition, was charged under article 302 of the Criminal Code, and received a penalty of 9 months in prison. Whereas Article 66 paragraph 1, in conjunction with Article 91 of Law Number 41 of 2004, carries a penalty of 1 to 6 months. Then there is the dog killer case in Gianyar. The perpetrator who killed the dog was sentenced to one month's probation, which is because the public prosecutor considered various conditions where the defendant was polite. For this reason, several prevention efforts can be carried out, including prevention by increasing awareness of the

whole community through educational processes and repressive prevention. This repressive prevention process is applied by identifying them through various laws and regulations regarding violence or mistreatment of animals.

Regulation Concerning Wildlife Protection in South Korea

According to Animal Protection Act 2017 No.14651, the Ministry of Agriculture, Food, and Rural Affairs issued the South Korean Wildlife (Animal) Protection act. The Animal Protection Act also regulates it. Based on world animal protection, Article 1 promotes the life, safety, and welfare of animals and supports the psychological and emotional growth of humans so they can appreciate animal life by providing many items needed to avoid animal cruelty and protect and manage or take excellent care of animals. In Article II, "creatures" includes cows, pigs, horses, cats, dogs, poultry, rabbits, goats, sheep, deer, foxes, and other animals specified by the Ministry of Agriculture and Forestry. Article III describes how to provide animals with their native habitat. The Minister of Agriculture and Forestry promotes animal rights activism under Article IV. Article V regulates animal breeding administratively. Articles VII, VIII, IX, and X regulate abandoned animals, killing, surgical procedures, and animal research. Based on The 2012 amendment of Animal Protection Act 2012, Act 3 Article XVI shows how ordinary people report such events. In late 2012, the changes increased fines and penalties for animal cruelty violations in article VIII to one year in prison or prison work and 10,000,000 won, or 9,400 US dollars.

According to the March 2017 animal protection act amendment, the following people will be sentenced to two years of forced labor or a 20 million won fine: A person who has received animal welfare certification by deception or other inappropriate means contravention of subparagraph 1 of article 30 (Animal Protection Act, 2017). One of the largest organizations in the world, World Animal Protection (API) Animal Protection International, has been around for a long time and has a vision and mission to protect several animals in various countries. Found an assessment index conducted based on the API between Indonesia and South Korea. Indonesia gets an index value of E, and South Korea gets a value of D. the API carries out several index assessments. For the percentage assessment, the A value has a green color where the country has a perfect constitution and all various aspects of animal welfare protection. Moreover, the worst is the black G value. Several assessments accumulated between Indonesia and Korea.

Implementation of Wildlife Protection

In the countries of Indonesia and South Korea, which have Constitutions and regulations which are, of course, for animal welfare, they will be in harmony with their enforcement. Pay attention to the provisions of Article 91 B of the Law on Animal Husbandry and

Animal Health, which states the imposition of sanctions for perpetrators who are proven to abuse animals resulting in non-productivity/disability. However, even though the article does not explicitly mention which type of animal is protected, referring to Article 1 point 3 of Law no. 41 Years 2014 concerning Amendments to Law no. 18 Yr. 2009 concerning Livestock and Animal Health states that animals are animals or animals whose whole or part of their lives are in water, land, and/or in the air, whether they are kept or in their habitat. Likewise, in South Korea, all rules related to animal welfare have been regulated in the Animal Protection Act. All the rules and sanctions as well as penalties and fines in it.

Animal welfare advocates employ the WSPA (World Society for Protection of Animals) idea. Countries call this "Five Freedom." The notion grants the following rights to domesticated and wild animals: Freedom from hunger, thirst, pain, damage, disease, and discomfort; freedom from dread and distress; Freedom to act normally (free from expressing normal and natural behavior) (Abrianto, 2009). Even though the Animal Protection Act rules had numerous deficiencies at the start, they were revised and amended every few years to fill in many gaps (Andrew Alberro, 2019).

From the description above, there are some similarities and differences in regulating wildlife protection in Indonesia and South Korea. The similarities are as follows: Indonesia and South Korea are unitary states that both have a presidential system and a constitution. In both of these countries, the state of Indonesia has regulations relating to animal welfare. Where one of them is regulated in the Law and the Criminal Code (KUHP). Whereas in South Korea, it is only regulated in the Animal Protection Act and not regulated in the Criminal Code.

In addition, there is a difference between World Animal Protection and API (Animal Protection International) on the Animal Protection Index scale. Indonesia still has worse scores in the system of legal protection for animals than South Korea. However, the value of South Korea can be similar to other countries, where Indonesia gets an E (poor) score scale, while South Korea gets a D (poor) score. From the accumulation of these values, several aspects are related to animal welfare, including the aspect of the form of legislation. Invitation animal welfare, what about the establishment of agencies government related to animal welfare and so on. Which has several different value results in it and is accumulated so that a different result value is obtained.

In addition, Indonesia and South Korea, in this case, need to improve implementation in not maximized. Meanwhile, South Korea has advantages that the Indonesian state does not own. It is accountable for establishing government agencies for animal

welfare, which is considered to have reached a good point when viewed from a comparison of values from the International Animal Protection Index assessment standard.

CONCLUSION

In regulating the protection of wild animals in Indonesia, there are several provisions in the Criminal Code and the Laws and Government Regulations (PP). In the Indonesian Criminal Code, some provisions regulate, among others, articles 302 and 540 concerning the abuse of animals. Meanwhile, in the legislation, among others, is Law no. 18 of 2009 concerning the UUPKH as amended by Law No. 41 of 2014. Meanwhile, South Korea has an amended Constitution for animal welfare, namely The Animal Protection Act. The similarity of the arrangements for the protection of wild animals in Indonesia and South Korea is that the protection of animals is equally regulated and contained in the legislation in Indonesia, one of which is regulated in Law no. 18 Yr. 2009 concerning UUPKH amended by Law no. 41 Years 2014, while in South Korea, it is regulated in The Animal Protection Act. Then what follows is the low number of regulations in Indonesia and South Korea because of the many rules that only certain animal species are regulated in each animal protection law, and animals in these two countries are not considered legal subjects but object laws. Indeed, animals in the country of Indonesia are not included as legal subjects as in South Korea. Moreover, the difference is that in Indonesia, rules regarding animal welfare are also regulated in the Criminal Code (KUHP).

In contrast, South Korea, which has the same Criminal Code as the Indonesian Criminal Code, does not regulate animal protection regulations. The second difference is the assessment taken from the API (Animal Protection Index) on an international scale, it can be concluded that even though the two countries get scores that are not much different or almost at the same level, South Korea is still at a better level about animal welfare than Indonesia. In this case, Indonesia gets an E (poor) score, while South Korea gets a D (poor), which is an accumulation of several aspects of value.

REFERENCES

- Abdulkadir Muhammad, Law and Legal Research, Bandung: Citra Aditya Bakti, 2004.
- Abrianto, Animal Welfare, 2009
- Ade Maman Suherman, Indonesian Civil Law. (Bandung: Citra Aditya Bakti, 2004).
- Agnes Vira Ardian, 2008. Prospects for Legal Protection of Intellectual Property Rights in Indonesian Traditional Arts, Diponegoro University: Faculty of Law, 2008.
- Animal Protection Act 2017, Act No.14651, Mar. 21, 2017, (S. Cor.)
- Arief, Barda Nawawi. 2003. Comparative Criminal Law. Jakarta: PT. King of Grafindo Persada
- Article 68 concerning the law on husbandry and animal health
- Article 83 paragraph 1 RI Government Regulation Number 95 of 2012 concerning Veterinary Public Health and Animal Welfare
- Article 98B Law Number 18 of 2009 Juncto Law Number 41 of 2014 concerning Animal Husbandry and Health.
- Bambang Sunggono, Legal Research Methodology, (Jakarta: PT Raja Grafindo Persada, 2002).
- BAPPENAS, "Community Protection in Environmental Disputes," Jakarta 2015.
- Barda Nawawi Arief, Law Enforcement Issues and Criminal Law Policies in Crime Control, Kencana Prenadamedia Group, Jakarta, 2014.
- Big Indonesian Dictionary, Fourth Edition, PT Gramedia Pustaka Umum, Jakarta, 2012.
- Bryan A. Garner, Editor in Chief, Black's Law Dictionary, Seventh Edition (St. Paul Minn: West Group, 1999).
- CFG Sunaryati Hartono, Legal Research in Indonesia at the End of the 20th Century, (Bandung: Alumni Publisher, 2nd printing, 2006).
- CST Kansil, introduction to Indonesian law and legal system, publishing house, Jakarta 1989.
- Hamzah Rahayu Siti, A brief review of the penal system in Indonesia, first edition, (Jakarta: Akademika Pressindo, 1983).
- Johnny I. Normative Law Research Theory & Methodology. Bayumedia Publishing, Malang. (2007)
- Kipyoo Kim, Overview, in INTRODUCTION TO KOREAN LAW: OVERVIEW 5-6 (Korea Legis. Res. Inst. ed. 2013).
- Koesnadi Hardjosoemantri, Legal Aspects of Community Participation in Environmental Management, (Gadjah Mada University Press 1990).
- Kusumadi Pudjosewojo, Study Guide for Indonesian Law, New Script, Jakarta, 1983.
- Law Number 18 of 2009 Juncto Law Number 41 of 2014 concerning livestock and animal health
- LJ Van Apeldorn, 1985, Introduction to Law; Soepomo's translation, Pradjna Paramita, Jakarta, p. 436-437
- Lawrence M. Friedman, The Legal System A Social Science Perspective, (New York: Russell Sage Foundation, 1975)
- Marie Seong-Hak Kim, Introduction: Searching for the Spirit of Korean Law, in THE SPIRIT OF KOREAN LAW: KOREAN LEGAL HISTORY IN CONTEXT 1, 2, 6 (Marie Seong-Hak Kim ed. 2015).
- Marie Seong-Hak Kim, Law And Custom In Korea: Comparative Legal History 3 (Cambridge Univ. Press 2012).

- Muhammad Nazir, *Research Methods*, Jakarta: Ghalia Indonesia, 1985.
- Mukti Fajar and Yulianto Achmad, 2017, *Dualism of Normative and Empirical Legal Research*, Print IV, Yogyakarta, Student Library.
- Peter Mahmud Marzuki, "Legal Research", (Kencana Prenada Media Group: Jakarta 2013).
- Philipus M. Hadjon, et.all, *Introduction to Indonesian Administrative Law*, Gajah Mada University Press, Yogyakarta, 2011.
- Philipus M. Hadjon, *Legal Protection for Indonesian People*, (Surabaya: Science Development, 1987).
- Philipus M. Hadjon. (1987). *Legal Protection for the People in Indonesia. A Study of the Principles. Handling by the Court within the General Court Environment and the Formation of State Administrative Courts*. Surabaya. PT Bina Ilmu.
- R. Soesilo, *The Criminal Code (KUHP) and its Complete Commentary Article by Article*, Reprint (POLITEIA-BOGOR, 1995).
- Romli Atmasasmita, *Comparative Principles of Criminal Law*, Indonesian Legal Aid Foundation, Jakarta, 1989.
- Romli Atmasasmita. 2000. *Comparative Criminal Law*. Print II. New Cikutra. Bandung.
- Salim and Erlies Septiana, *Comparison of Civil Law*, Raja Grafindo Persada, Jakarta, 2014.
- Satjipto Raharjo, *Law Studies*, Bandung: PT. Citra Aditya Bakti, 2000.
- Setiono, *Supremacy of Law*, (Surakarta: UNS, 2004).
- Sianturi, SR (1983). *Comparative Criminal Law*. Jakarta: AHM-PTHM Alumni.
- Soedarto, *Comparison of Criminal Law (English Criminal Law)*, lecture notes, issued by the Lecture Materials Provision Agency, Faculty of Law, University of Diponegoro, Semarang, 1981.
- Soerjono Soekanto, *Normative Legal Research*, Rajawali, Jakarta, 1985.
- Soerjono Soekanto, *Introduction to Legal Research*, (Jakarta: UI-Press, 2012).
- Soerjono Soekanto, *Introduction to Legal Research*, UI-Press, Jakarta, 1986.
- Soerjono Soekanto, *Comparative Law*, Alumni, Bandung, 1979.
- Soerjono Soekanto, *Comparative law*, Publisher (Bandung: Melati, 1989).
- Soesilo, 2008, *Criminal Code and Criminal Procedure Code (KUHP and KUHAP)*, Buana Press, p.100
- Suharsimi Arikunto, *Research Procedures From Theory to Practice*, Rineka Cipta, Jakarta, 1995.
- Sunarjati Hartono, *Capita selekta comparative law*, (Bandung: PT Citra Aditya Bakti, 1988).
- The 2012 amendment includes five basic principles of animal care that owners must ensure their animals receive. *Animal Protection Act 2012, Act 3*
- The drafting team for the Center for Language Development and Development Dictionary, *Big Indonesian Dictionary*, second edition, cet. 1, (Jakarta: Balai Pustaka, 1991).
- World animal protection, 2022.
- Andrew Alberro, *The State of Modern South Korean Animal Cruelty Law: An Overview with Comparison to Relevant United States and Swiss Law and the Future*, *Washington University Global Studies Law Review* Volume 18 Issue 3, 2019.
- Andi Safriani, *The Nature of Law in the Perspective of Comparative Law*, *Jurisprudence*, Volume 5 Number 2 December 2018.
- Claire Czajkowski, *Dog Meat Trade In South Korea: A Report On The Current State Of The Trade And Efforts To Eliminate It*, *Animal Law*, Vol.21:29.
- Indah Triastuti, "Philosophical Studies on Animal Welfare about Management in Conservation Institutions," *Scientific Journal of the Faculty of Law*, University of Ibn Khaldun Bogor Vol.1 No.1 (Oct. 1 2015): 1Luthvi Febryka, *Integrated Legal Protection Efforts for Indonesian Migrant Workers*, *Journal of the Research Center for the DPR RI Expertise Agency*, Jakarta. 2016.
- Monica Ayu Nugraheni, *Communication Process in Campaigning for Animal Welfare (Qualitative Descriptive Analysis of Communication Process in Campaigning for Animal Welfare by Animal Defenders Indonesia in Society)*, *Journal of Kommas*, Surakarta 2017.
- Rakhyun E. Kim, *Dog Meat In Korea: A Socio-Legal Challenge*, *Animal Law*, Vol.14:201.
- R. La Porta "Investor Protection and Corporate Governance" *Journal of Financial Economics* 58 (Jan. 1) 2000.
- Article 302 of the Criminal Code
- Law 41 of 2014 concerning Amendments to Law Number 18 of 2009 concerning Animal Husbandry and Health
- Law Number 5 of 1990 concerns the Conservation of Living Natural Resources and Their Ecosystems.
- South Korea Animal Protection Act 2017.
- The 1945 Constitution of the Republic of Indonesia.

Cite This Article: Rindang Gici, Setiyono, Nahdiya (2023). Similarities in the Protection of Wild Animals in Indonesia and Korea. *East African Scholars J Edu Humanit Lit*, 6(2), 65-69.
