

## **Legal Analysis of Illegal Animal Trade In Surabaya**

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### **ABSTRACT**

The aim of the research is to determine the legal protection for criminal acts in the trade in protected animals in Surabaya. The research method is normative juridical research, namely research that describes in detail the social phenomena that are the main problems in everyday life in relation to the applicable positive criminal law regulations. The results of criminal law enforcement regarding the protection of protected wild animals, especially those that occurred in the Surabaya District Court area with Case Register Number 2451/Pid.B/LH/2023/PN Sby, show efforts to enforce criminal law, namely declaring defendant I MUHAMMAD SOFYAN UMAR, defendant II INDRI SETIAWAN, and defendant II BENI KRISTANTO have been legally and convincingly proven guilty of committing the criminal act of participating in intentionally keeping and trading in protected animals while alive, guilty and possibly guilty of committing the criminal act of "trafficking in protected animals while alive".

**Keywords:** Law, Crime, Trial, Court, Animals

### **1. INTRODUCTION**

Indonesia is the largest archipelagic country in the world. Indonesia has more than 17,000 islands, of which only around 7,000 are inhabited. Kalimantan, Java, Sulawesi, Sumatra and Papua are the main islands in Indonesia. Apart from that, Indonesia also has small islands such as Bali, Karimunjawa, Gili and Lombok which are local and international tourist destinations. The capital city of Indonesia is Jakarta, which is located on the island of Java (Musik, 2022).

If everyone is given the freedom to do whatever they want, the environment will be threatened. Thus, it is necessary to have various environmental laws and regulations which are intended to prevent actions that are not only detrimental to themselves, but also to society as a whole. The government needs to designate an area as a protected forest or conservation forest, a national park that does not allow logging activities, especially in the core zone. The government also enacted laws regarding animal protection because animals have ecological value.

Animals are all kinds of animal natural resources that come from animals that live on land, water and air (Murti & Maya, 2021). and easy to find. The same understanding is also explained in the large Indonesian dictionary which states that animal is a synonym for animals or beasts. Indonesia is also known as a country that has a list of endangered wild animals (Aristides et al., 2016).

Currently, the number of wild animals that are threatened with extinction is 70 types of mammals, 93 types of birds, 28 types of reptiles, 19 insects, 7 types of fish and 28 types of



invertebrates (PP No. 7 of 1999) (Al Falasifa, 2017). Protected animals are animals whose populations are rarely found or animals that are in danger of extinction. Animals that are not protected are animals or animals whose populations are still large (Eprilurahman et al., 2018).

Indonesia is a country that is blessed with an abundance of animal diversity both on land, in the waters and also in the air. However, Indonesia also has a reputation list of animals that are close to extinction. The destruction of the habitat of wild animals and rare animals due to trade exploitation by irresponsible parties causes the number of animals to decrease every year. This condition is further exacerbated by the still weak public awareness in Indonesia of the importance of preserving wild or endangered animals and their habitats. Regulations regarding trade in protected animals in Indonesia have been formulated in Law no. 5 of 1990 concerning Conservation of Biological Natural Resources and Ecosystems (Hadi et al., 2024).

Indonesia is known as one of the countries with the highest biodiversity in the world, which makes Indonesia play an important role in the animal trade and is one of the largest suppliers of the animal trade in the world. The trade in protected animals by the government does not take into account the regulations that have been made by the existing government (Rajagukguk, 2014). And Surabaya itself is one of the routes of choice for suspects selling illegal animals in Indonesia. In fact, the trade in protected animals is a serious threat to the conservation of animals protected by the Government. In particular, the illegal trade in animals in Indonesia is destroying the animal population by up to 70% in Indonesia, where the animals are obtained from nature and not from captivity.

Regarding the trade in protected wild animals, people cannot differentiate between protected and unprotected animals. This human behavior can pose a threat to the extinction of endangered animals, because there are elements of society who want to own them but do not care about their populations in their natural habitat (Hanim et al., 2020). The extinction of these rare animals can be prevented by establishing legal protection for protected endangered animals.

Rare animals may not be killed, owned, caught, hunted or traded. Basically, people understand and understand the regulations that have been regulated, but some people still do these things, such as through online and/or direct trading, even though they are wild animals. Protected persons may not be hunted, captured, traded alive or dead (Guntur & Slamet, 2019).

Law Number 5 of 1990 concerning Conservation of Natural Resources and Their Ecosystems, has clearly stated criminal sanctions for perpetrators of trafficking in protected animals (Number, 5 C.E.). It is stated in Article 40 Paragraph 2 of Law Number. 5 of 1990 concerning Conservation of Biological Natural Resources and their Ecosystems, if there is a deliberate violation of the provisions as intended in article 21 paragraph 1 and paragraph 2, namely



carrying out activities on protected plants and animals, and Article 33 paragraph 3, namely, carrying out activities that are not in accordance with the function of the utilization zone and other zones of national parks, grand forest parks and natural tourism parks, shall be punished with a maximum imprisonment of 5 (five years) and a maximum fine of IDR 100,000,000 (one hundred million). Illegal animal trade is the trade in protected animals without paying attention to existing regulations. On the other hand, some Indonesians still like to buy and sell protected animals in the wild, either buying and selling them alive to be kept, or in the form of preserved animals.

Based on the background description above, this research will examine the problem with the title: Legal Analysis of the Illegal Trade in Animals in Surabaya (Case Study Decision Number: 2451/Pid.B/Lh/2023/Pn Sby)

## **2. RESEARCH METHODS**

Normative juridical research method, namely research that describes in detail social phenomena that are the main problems in everyday life linked to applicable positive criminal law regulations. A normative legal research is intended to provide data that is as thorough as possible regarding criminal acts committed by convicts, according to Law No. 5 of 1990 concerning Conservation of Biological Natural Resources and Their Ecosystems.

## **3. RESULTS AND DISCUSSION**

### **Law Enforcement and Animal Protection Related to Illegal Trade in Surabaya**

Law enforcement is the process of making efforts to enforce or function real legal norms as a guide for actors in traffic or legal relations in social and state life. Law enforcement is an effort to make legal ideas and concepts that the people hope come true, law enforcement is also a process that involves many things. Viewed from the perspective of the subject, law enforcement can be carried out by a broad subject and can also be interpreted as an effort to enforce the law by the subject in a limited or narrow sense. In a broad sense, the law enforcement process involves all legal subjects in every legal relationship. Anyone who carries out normative rules or does something or does not do something based on the norms of the applicable legal rules, means he is carrying out or enforcing legal rules. In a narrow sense, from the perspective of the subject, law enforcement is only defined as the efforts of certain law enforcement officials to guarantee and ensure that a legal rule operates as it should. The definition of law enforcement can also be viewed from the perspective of the object, namely from the legal perspective.

In this case, the meaning also includes broad and narrow meanings. In a broad sense, law enforcement also includes the values of justice contained in the sound of formal rules and the



values of justice that live in society. However, in a narrow sense, law enforcement only involves enforcing formal and written regulations. Therefore, the translation of the words 'law enforcement' into Indonesian uses the words 'law enforcement' in a broad sense and can also use the term 'regulation enforcement' in a narrow sense. According to Soerjono Soekanto, what is meant by law enforcement is the activity of harmonizing the relationship between values described in rules or a stable value view and attitudes of action as a series of final stages of value translation to create, maintain and maintain peaceful social life. Therefore, it can be said that law enforcement is not merely meaningful implementation of legislation.

According to Sudarto, what is meant by law enforcement is attention to and cultivation of both unlawful acts that actually occur (*onrecht in actu*) and unlawful acts that may occur (*onrecht in potentie*). According to Bagir Manan, law enforcement can also be referred to as maintaining the law, which contains 2 (two) meanings, namely protecting and maintaining the law so that it continues to be obeyed and preventing and taking action if violations occur.

In the working process of law enforcement officials, there are three important influencing elements, namely:

- a. law enforcement institutions as well as various supporting facilities and infrastructure and institutional work mechanisms.
- b. work culture related to its officers, including regarding the welfare of its officers.
- c. a set of regulations that supports both institutional performance and regulates the legal material used as work standards, both material law and procedural law.

Systemic law enforcement efforts must pay attention to these three aspects simultaneously, so that the internal process of law enforcement and justice itself can be realized in a real way.

In providing a legal protection framework for animals, there are principles that serve as guidelines. These principles are also formulated in Law No. 5 of 1990 concerning Conservation of Living Natural Resources and Their Ecosystems, including;

- a. The principle of balance referred to in the conservation of biological natural resources and their ecosystems is based on preserving the ability and utilization of biological natural resources in their ecosystems in a harmonious and balanced manner.
- b. The principle of protection means that protected animals must be maintained so that they remain in their habitat. Therefore, confiscated plants and animals must be returned to their habitat.
- c. The principle of benefit means that the use of animal and plant species must pay attention to the balance of the ecosystem and/or avoid reducing the potential population of animal

and plant species as a manifestation of the principle of conservation of biological natural resources and their ecosystems.

### **Application of Material Criminal Law to the Illegal Trade in Wildlife in Surabaya in Decision No. 2451/Pid.B/LH/2023/PN Sby**

Judges as law enforcers have a very important role in the implementation of the justice system. Judges have freedom or independent power in handing down court decisions.

The law for resolving these problems is in accordance with applicable procedural law standards. According to Article 1 paragraph (1) Law no. 48 of 2009 concerning judicial power, judicial power is the power of an independent state to administer justice to uphold law and justice based on Pancasila and the 1945 Constitution of the Republic of Indonesia, for the sake of implementing the Rule of Law of the Republic of Indonesia.

Judges as a sub-system of justice are the core part that functionally carries out judicial power, because in essence judicial power has a pillar consisting of a judicial body which will be enforced based on statutory provisions. Apparatus consisting of judges, clerks, bailiffs and other non-judge personnel as well as legal facilities, both material law and formal law. In exercising judicial power, judges must understand the scope of their duties and obligations as regulated in statutory regulations. After understanding their duties and obligations, judges must try professionally in carrying out and completing their work. Before the author explains the application of material criminal law to the Illegal Trade in Animals in the city of Surabaya in Decision Number 2451/Pid.B/LH/2023/PN Sby, it is necessary to first know the position of the case, the indictment of the Public Prosecutor, the demands of the Public Prosecutor, and Amar The verdict is as follows:

#### **Case Position**

Based on information from the public regarding the transportation of protected animals in Surabaya waters, on Friday 22 September 2023 at approximately 09.30 WIB, witness NANANG SUBIANTORO, witness HERIYANTO, and witness HARMAWAN arrested defendant I MUHAMMAD SOFYAN UMAR, defendant II INDRI SETIAWAN, and defendant II BENI KRISTIANTO while on board KM. VERIZON in Karang Jemuang Waters, West Surabaya Shipping Channel. During the arrest, a search was also carried out and evidence was found in the form of 1 (one) tree kangaroo in defendant II INDRI SETIAWAN's room, 1 (one) tree kangaroo in defendant III's room. ME KRISTIANTO, then several birds of paradise, mambruk, snakes and lizards were found in the room of defendant I MUHAMMAD SOFYAN UMAR.

That based on the Minister of Environment and Forestry Regulation No. P.106/MENLHK/SETJEN/KUM.1/12/2018 concerning Types of Plants and Animals and



No.P.20/MENLHK/SETJEN/KUM 1/6/2018 concerning Types of Plants and Animals that are protected, namely the Aru Pelanduk/Tree Kangaroo (*Thylogale brunii*) is a protected type of animal, namely number 82, the Papuan cuscus / beach cuscus (*Spilocuscus brunei*) is a protected animal type, namely number 98, the Mambruk Victoria bird (*Goura Victoria*) is a protected type of animal namely, it is found in serial number 312, the Lesser Bird of Paradise (*Paradisaea minor*) is a protected type of animal, namely it is found in serial number 449, the Green Python (*Morelia viridis*) is a protected type of animal, it is found in serial number 715 and the Green Lizard (*Varanus prasinus*) is The types of protected animals are number 728, while the wild animals that are not protected by law are the Panana Lizard (*Tiliqua gigas*), the Ground Mono Snake (*Candoia carinata*), the Viper (*Acanthophis antarcticus*), and the Papuan Brown Python (*Liasis fuscus*) types of animals that are not yet included in the protected bird category in accordance with Article 111 of the Decree of the Minister of Forestry Number 447/Kpts-II/2003 concerning Procedures for the Collection or Capture and Distribution of Wild Plants and Animals. Violation of article 61 which states 'all domestic commercial distribution is mandatory accompanied by a Transport Letter for Wild Plants and Animals (SATS-DN)' then confiscation is carried out;

#### Public Prosecutor's Indictment

The basis for making an indictment must be guided by the investigation report which has been qualified by the investigator for the criminal act. When making an indictment, what must be taken into account are the results of the investigation and the articles of the criminal offense that were violated. The Public Prosecutor carries out the task of prosecuting the indictment based on the minutes provided by the investigator to proceed to the examination stage at trial

In the case of Decision No. 2451/Pid.B/LH/2023/PN Sby The public prosecutor has made charges using an alternative indictment model. The contents of the Public Prosecutor's indictment regarding the crime of theft against children committed by the child defendant which was read out at the hearing of the Panel of Judges at the Surabaya District Court, in essence include:

#### FIRST

That defendant I MUHAMMAD SOFYAN UMAR, defendant II INDRI SETIAWAN, and defendant III BENI KRISTianto on Friday 22 September 2023 at approximately 09.30 WIT or at some time in September or occurred within the year 2023, located on KM.VERIZON in the waters Karang Jamuang Alur Pelayaran Barat Surabaya or somewhere within the jurisdiction of the Surabaya District Court has the authority to examine and adjudicate this case "those who carry out, participate in carrying out, and order to carry out acts of capturing, killing, keeping, keeping, transporting and trading in animals that are protected while alive" carried out by the defendants in the following way:





That defendant I MUHAMMAD SOFYAN UMAR, defendant II INDRI SETIAWAN, and defendant II BENI KRISTIANO are seafarers on KM. 2022 with the responsibility for carrying out guarding and maintenance on the ship, defendant II INDRI SETIAWAN as Oiler III since 16 June 2023 and defendant III ME KRISTIANO as Oiler I since September 12 2022 with the responsibility of defendant II and defendant III assisting the machinist in carrying out maintenance and controlling the ship's engine.

That at a time that the defendants cannot remember, around September 2023 at around 24.00 WIT when KM. VERIZON docked at Manokwari Harbor heading to Surabaya, defendant I MUHAMMAD SOFYAN UMAR agreed to meet with Br. VIKY (DPO) aims to receive deposits in the form of protected animals alive, including:

- 5 (five) birds of paradise packed using paralon with storage space for animals;
- 48 (forty eight) Panamanian lizards packed in white plastic sacks;
- 6 (six) green snake type snakes;
- 1 (one) mono ground snake;
- 1 (one) viper;
- 3 (three) brown pythons, each snake packaged using an "Aqua" plastic bottle.

All these animals were raised by Br. VIKY used a rope from the boat to the top of KM.VERIZON then Br. VIKY climbed to the top of KM.VERIZON using a guide ladder that had been prepared by defendant I, after defendant I MUHAMMAD SOFYAN UMAR succeeded in receiving several protected animals alive then Br. VIKY immediately left the ship and the ship continued its voyage to the next port. That is still the same time around September 2023 at around 24.00 WIT, when KM. VERIZON docked at Biak Harbor, defendant I MUHAMMAD SOFYAN UMAR agreed to meet with Br. FRANKY (DPO) to receive deposits in the form of live protected animals, including:

- 2 (two) kangaroos;
- 5 (five) tails collapsed;
- 1 (one) couscous, each packed in a plastic sack;

Over all these animals, Br. FRANKY (DPO) used a rope from the boat to the top of KM.VERIZON then Br.FRANKY climbed to the top of KM.VERIZON using a guide ladder that had been prepared by defendant I, after defendant I MUHAMMAD SOFYAN UMAR succeeded in receiving several protected animals alive. then Mr. FRANKY immediately left the ship and the ship continued its voyage to the next port.

That the role of defendant I MUHAMMAD SOFYAN UMAR was to store several animals, including: birds of paradise were kept in the hold, mambruk birds and several types of reptiles were



kept in empty rooms not occupied by the ship's crew, while the role of defendant II INDRI SETIAWAN and defendant III BENNY KRISTIANTO namely keeping them in their respective rooms, checking and giving the animals food and drink, namely 2 (two) kangaroos.

That the intent and purpose of defendant I MUHAMMAD SOFYAN UMAR in carrying out this act was to obtain a profit of cash after several of the protected animals in a living condition were successfully received by men sent by Br. VICKY and Br. FRANKY who were not known to defendant I MUHAMMAD SOFYAN UMAR in Surabaya, where the wages will be received by defendant I, with details:

- Bird of Paradise Rp. 500,000 (five hundred thousand rupiah) per bird;
- Mambruk birds amounting to IDR 500,000 (five hundred thousand rupiah) per bird;
- Kangaroo Rp. 1,500,000,- (one million five hundred thousand rupiah) per head;
- Couscous amounting to IDR 300,000 (three hundred thousand rupiah) per head;
- For reptiles in the form of lizards and snakes globally it is IDR 2,000,000 (two million rupiah)

For this wage, Defendant I MUHAMMAD SOFYAN UMAR then gave wages to Defendant II INDRI SETIAWAN and Defendant III BENI KRISTIANTO each in the amount of IDR 1,000,000 (one million rupiah).

Based on information from the public regarding the transportation of protected animals in Surabaya waters, on Friday 22 September 2023 at approximately 09.30 WIB, witness NANANG SUBIANTORO, witness HERIYANTO, and witness HARMAWAN arrested defendant I MUHAMMAD SOFYAN UMAR, defendant II INDRI SETIAWAN, and defendant II BENI KRISTIANTO while on board KM.VERIZON in the Karang Jamuang waters of the West Shipping Channel, Surabaya. During the arrest, a search was also carried out and evidence was found in the form of 1 (one) tree kangaroo in defendant II INDRI SETIAWAN's room, 1 (one) tree kangaroo in defendant III's room. ME KRISTIANTO, then several birds of paradise, mambruk, snakes and lizards were found in the room of defendant I MUHAMMAD SOFYAN UMAR.

That based on the Minister of Environment and Forestry Regulation No. P.106/MENLHK/SETJEN/KUM.1/12/2018 concerning Types of Plants and Animals and No.P.20/MENLHK/SETJEN/KUM 1/6/2018 concerning Types of Plants and Animals that are protected, namely the Aru Pelanduk/Tree Kangaroo (*Thylogale brunii*) is a protected type of animal, namely number 82, the Papuan cuscus / beach cuscus (*Spilocuscus brunei*) is a protected animal type, namely number 98, the Mambruk Victoria bird (*Goura Victoria*) is a protected type of animal namely, it is found in serial number 312, the Lesser Bird of Paradise (*Paradisaea minor*) is a protected type of animal, namely it is found in serial number 449, the Green Python (*Morelia*





viridis) is a protected type of animal, it is found in serial number 715 and the Green Lizard (Varanus prasinus) is The types of protected animals are number 728, while the wild animals that are not protected by law are the Panana Lizard (Tiliqua gigas), the Ground Mono Snake (Candoia carinata), the Viper (Acanthophis antarcticus), and the Papuan Brown Python (Liasis fuscus) types of animals that are not yet included in the protected bird category in accordance with Article 111 of the Decree of the Minister of Forestry Number 447/Kpts-II/2003 concerning Administration for the Collection or Capture and Distribution of Wild Plants and Animals. Violation of article 61 which states 'all domestic commercial distribution must accompanied by a Transport Letter for Wild Plants and Animals (SATS-DN)' then confiscation is carried out;

That the defendants, in carrying out the activities of storing and transporting the above animals, did not include them in the Ship's Manifest and were not equipped with any permits.

That the defendants did not have permits and deliberately committed violations in the form of capturing, injuring, killing, storing, possessing, raising, transporting and trading protected animals while they were alive.

The defendant's actions are as regulated and punishable by crime in Article 40 Paragraph (2) in conjunction with Article 21 paragraph (2) letter a of RI Law No. 5 of 1990 concerning Conservation of Biological Natural Resources and Ecosystems in conjunction with Article 55 paragraph (1) 1 of the Criminal Code;

## SECOND

That they are defendant I MUHAMMAD SOFYAN UMAR, defendant II INDRI SETIAWAN, and defendant III BENNY KRISTIANTO on Friday 22 September 2023 at approximately 09.30 WIT or at some time in September or occurring within the year 2023, located above KM.VERIZON at Karang Jamuang Waters, West Surabaya Shipping Line or at a place within the jurisdiction of the Surabaya District Court has the authority to examine and adjudicate this case "those who carry out, participate in carrying out, and order to carry out the act of removing protected animals from one place in Indonesia to another place inside or outside Indonesia" carried out by the defendants in the following way:

That defendant I MUHAMMAD SOFYAN UMAR, defendant II INDRI SETIAWAN, and defendant II BENI KRISTIANTO are seafarers on KM. 2022 with the responsibility for carrying out guarding and maintenance on the ship, defendant II INDRI SETIAWAN as Oiler III since 16 June 2023 and defendant III ME KRISTIANTO as Oiler I since September 12 2022 with the responsibility of defendant II and defendant III assisting the machinist in carrying out maintenance and controlling the ship's engine.



That at a time that the defendants cannot remember, around September 2023 at around 24.00 WIT when KM. VERIZON docked at Manokwari Harbor heading to Surabaya, defendant I MUHAMMAD SOFYAN UMAR agreed to meet with Br. VIKY (DPO) with the aim of receiving a deposit in the form of protected animals alive, including:

- 5 (five) birds of paradise packed using paralon with storage space for animals;
- 48 (forty eight) Panamanian lizards packed in white plastic sacks;
- 6 (six) green snake type snakes;
- 1 (one) mono ground snake;
- 1 (one) viper;
- 3 (three) brown pythons, each snake packaged using an "Aqua" plastic bottle.

All the animals were lifted by Br. VIKY using a rope from the boat to the top of KM.VERIZON then Br. VIKY climbed to the top of KM.VERIZON using the guide ladder that had been prepared by the defendant, after defendant I MUHAMMAD SOFYAN UMAR succeeded in receiving several protected animals. in this alive condition, Mr. VICKY immediately left the ship and the ship continued its voyage to the next port. - Whereas it was still the same time around September 2023 at around 24.00 WIT, when KM.VERIZON docked at Biak Harbor, defendant I MUHAMMAD SOFYAN UMAR agreed to meet with Dr. FRANKY (DPO) to receive a deposit in the form of live protected animals, including:

- 2 (two) kangaroos;
- 5 (five) tails collapsed;
- 1 (one) couscous, each packed in a plastic sack;

Over all these animals, Br. FRANKY (DPO) used a rope from the boat to the top of KM.VERIZON then Br.FRANKY climbed to the top of KM.VERIZON using a guide ladder that had been prepared by the defendant, after defendant I MUHAMMAD SOFYAN UMAR managed to receive several protected animals alive then Br. FRANKY immediately left the ship and the ship continued its voyage to the next port

That the role of defendant I MUHAMMAD SOFYAN UMAR was to store several animals, including: birds of paradise were kept in the hold, collapsed birds and several types of reptiles were kept in empty rooms not occupied by the ship's crew, while the roles of defendant II INDRI SETIAWAN and defendant III BENNY KRISTIANTO were keep them in their respective rooms, check and give the animals food and drink, namely 2 (two) kangaroos.

That the intent and purpose of defendant I MUHAMMAD SOFYAN UMAR in carrying out this act was to obtain a profit of a sum of cash after several of the protected animals which were alive were successfully received by the person ordered by you. VICKY and Mr. FRANKY, who are not



known to defendant I MUHAMMAD SOFYAN UMAR in Surabaya, where the wages will be received by defendant I, with details:

- Bird of Paradise Rp. 500,000 (five hundred thousand rupiah) per bird;
- Mambruk birds amounting to IDR 500,000 (five hundred thousand rupiah) per bird;
- Kangaroo Rp. 1,500,000,- (one million five hundred thousand rupiah) per head;
- Couscous amounting to IDR 300,000 (three hundred thousand rupiah) per head;
- For reptiles in the form of lizards and snakes globally it is IDR 2,000,000 (two million rupiah)

For this wage, Defendant I MUHAMMAD SOFYAN UMAR then gave wages to Defendant II INDRI SETIAWAN and Defendant III BENI KRISTIANTO each in the amount of IDR 1,000,000 (one million rupiah). Based on information from the public regarding the transportation of protected animals in Surabaya waters, on Friday 22 September 2023 at approximately 09.30 WIB, witness NANANG SUBIANTORO, witness HERIYANTO, and witness HERMAWAN arrested defendant I MUHAMMAD SOFYAN UMAR, defendant II INDRI SETIAWAN, and defendant II BENNY KRISTIANTO while on board KM. VERIZON in Karang Jamuang Waters, West Shipping Channel, Surabaya. During the arrest, a search was also carried out and evidence was found in the form of 1 (one) tree kangaroo in the room of defendant II INDRI SETIAWAN, 1 (one) tree kangaroo in the room of defendant III BENNY KRISTIANTO, then several birds of paradise, mambruk, snakes were found. , and lizards in the room of defendant I MUHAMMAD SOFYAN UMAR.

That based on the Minister of Environment and Forestry Regulation No. P.106/MENLHK/SETJEN/KUM.1/12/2018 concerning Types of Plants and Animals and No.P.20/MENLHK/SETJEN/KUM 1/6/2018 concerning Types of Plants and Animals that are protected, namely the Aru Pelanduk/Tree Kangaroo (*Thylogale brunii*) is a protected type of animal, namely number 82, the Papuan cuscus / beach cuscus (*Spilocuscus Braunii*) is a protected animal type, namely number 98, the Mambruk Victoria bird (*Goura Victoria*) is a protected type of animal namely, it is found in serial number 312, the Lesser Bird of Paradise (*Paradisaea minor*) is a protected type of animal, namely it is found in serial number 449, the Green Python (*Morelia viridis*) is a protected type of animal, it is found in serial number 715 and the Green Lizard (*Varanus prasinus*) is The types of protected animals are number 728, while the wild animals that are not protected by law are the Panana Lizard (*Tiliqua gigas*), the Ground Mono Snake (*Candoia carinata*), the Viper (*Acanthophis antarcticus*), and the Papuan Brown Python (*Liasis fuscus*) types of animals that are not yet included in the protected bird category in accordance with Article 111 of the Decree of the Minister of Forestry Number 447/Kpts-II/2003 concerning Administration for the



Collection or Capture and Distribution of Wild Plants and Animals. Violation of article 61 which states 'all domestic commercial distribution must accompanied by a Transport Letter for Wild Plants and Animals (SATS-DN)' then confiscation will be carried out

That the defendants carried out activities to remove protected animals from one place in Indonesia to another place inside or outside Indonesia without a permit.

The actions of the defendants are as regulated and punishable by crime in Article 40 paragraph (2) in conjunction with Article 21 paragraph (2) letter c Republic of Indonesia Law no. 5 of 1990 concerning Conservation of Biological Natural Resources and Ecosystems in conjunction with Article 55 paragraph (1) 1 of the Criminal Code;

**Public Prosecutor's Demands**

Based on the indictment of the public prosecutor, the Public Prosecutor in the case of the Crime of Illegal Animal Trade in Surabaya, the public prosecutor asked the Panel of Judges at the Surabaya District Court who examined and tried this case to:

Declaring that Defendant I MUHAMMAD SOFYAN UMAR, Defendant II INDRI SETIAWAN, and Defendant III BENI KRISTIANO were legally and convincingly proven guilty of committing the crime of "committing, ordering and participating in committing, intentionally arresting, injuring, killing, keeping, possessing, maintaining, transporting and trading in protected animals while alive" as regulated and punishable by criminal charges in the Public Prosecutor's indictment for violating Article 40 paragraph (2) in conjunction with Article 21 paragraph (2) letter a of Republic of Indonesia Law No. 5 of 1990 concerning Conservation of Natural Resources Biology and its Ecosystem in conjunction with Article 55 paragraph (1) 1 of the Criminal Code;

Sentenced defendant I MUHAMMAD SOFYAN UMAR, Defendant II INDRI SETIAWAN, and Defendant III BENNY KRISTIANO to prison for 9 (nine) months minus the period of detention and arrest with the order that the defendant remain in detention and a fine of Rp. 10,000,000,- (ten million rupiah) subsidiary for 3 (three) months in prison with an order that the defendant remain in detention;

State evidence in the form of:

- 5 (five) Birds of Paradise (*Paradisaea Minor*)
- 6 (six) Green Pythons (*Morelia Viridis*)
- 1 (one) Green Lizard (*Varanus Prasinus*)
- 2 (two) tails of Pelandu Aru (*Thylogale Brunii*)
- 1 (one) Papuan Couscous (*Spilocuscus Maculatus*)
- 2 (two) Mambruk Victoria (*Goura Victoria*) tails
- 48 (forty eight) Lizards (*Tiliqua Gigas*)



- 1 (one) Ground Mono Snake (Candoia Carinata)
- 1 (one) rattlesnake (Acanthophis Antarcticus)
- 5 (five) Papuan Brown Sanca (Liasis Fuscus)

Released into its natural habitat through the East Java BBKSDA, Surabaya City

- 1 (one) unit of Black Oppo 78 cellphone
- 1 (one) unit of Blue Oppo A5S cellphone
- 1 (one) unit of Realme cellphone in Grey
- 1 (one) unit of Red iPhone 11 cellphone
- 1 (one) unit of Black Oppo A31 cellphone

Seized for destruction

Determine that the defendant pay court costs of IDR 2,000 (two thousand rupiah)

Announcement of Decision

Considering, that because the Defendants were sentenced to a crime, they must also be burdened with paying court costs; Pay attention to Article 40 paragraph (2) in conjunction with Article 21 paragraph (2) letter a Republic of Indonesia Law No. 5 of 1990 concerning Conservation of Biological Natural Resources and Their Ecosystems in conjunction with Article 55 paragraph (1) 1st of the Criminal Code and Law Number 8 of 1981 concerning the Criminal Procedure Law and other relevant laws and regulations;

JUDGE

Considering, that because the Defendants were sentenced to a crime, they must also be burdened with paying court costs; Pay attention to Article 40 paragraph (2) in conjunction with Article 21 paragraph (2) letter a Republic of Indonesia Law No. 5 of 1990 concerning Conservation of Biological Natural Resources and Their Ecosystems in conjunction with Article 55 paragraph (1) 1st of the Criminal Code and Law Number 8 of 1981 concerning the Criminal Procedure Law and other relevant laws and regulations;

Sentenced defendant I Muhammad Sofyan Umar, defendant II Indri Setiawan and defendant III Benny Kristianto to prison for 6 (six) months each and a fine of Rp. 10,000,000 (ten million) each. rupiah) provided that if the fine is not paid, it will be replaced by imprisonment for 2 (two) months each;

Determining that the period of arrest and detention that each Defendant has served shall be deducted entirely from the sentence imposed;

Determining that the Defendants remain in detention;

Determine evidence in the form of:

- 5 (five) Birds of Paradise (Paradisaea Minor)



- 6 (six) Green Pythons (*Morelia Viridis*)
- 1 (one) Green Lizard (*Varanus Prasinus*)
- 2 (two) tails of Pelandu Aru (*Thylogale Brunii*)
- 1 (one) Papuan Couscous (*Spilocuscus Maculatus*)
- 2 (two) Mambruk Victoria (*Goura Victoria*) tails
- 48 (forty eight) Lizards (*Tiliqua Gigas*)
- 1 (one) Ground Mono Snake (*Candoia Carinata*)
- 1 (one) rattlesnake (*Acanthophis Antarcticus*)
- 5 (five) Papuan Brown Sanca (*Liasis Fuscus*)

Released into its natural habitat through the East Java BBKSDA, Surabaya City

- 1 (one) unit of Black Oppo 78 cellphone
- 1 (one) unit of Blue Oppo A5S cellphone
- 1 (one) unit of Realme cellphone in Grey
- 1 (one) unit of Red iPhone 11 cellphone
- 1 (one) unit of Black Oppo A31 cellphone

Seized for destruction

Charge the Defendants to pay court costs of IDR 5,000 (five thousand rupiah) each.

## CONCLUSION

Efforts to enforce criminal law regarding the protection of protected wild animals, especially those that occurred in the Surabaya District Court area with Case Register Number 2451/Pid.B/LH/2023/PN Sby, show efforts to enforce criminal law, namely declaring defendant I MUHAMMAD SOFYAN UMAR, defendant II INDRI SETIAWAN, and defendant II BENI KRISTIANTO have been legally and convincingly proven guilty of committing the criminal act of participating in intentionally keeping and trading in protected animals while alive, guilty and possibly guilty of committing the criminal act of "trafficking in protected animals while alive". Sentenced defendant I Muhammad Sofyan Umar, defendant II Indri Setiawan and defendant III Benny Kristianto to prison for 6 (six) months each and a fine of Rp. 10,000,000 (ten million) each. rupiah) provided that if the fine is not paid, it will be replaced by imprisonment for 2 (two) months each

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