

Formulation of Criminal Law Policy for Distribution of Non-Food Animal Meat for Consumption

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Abstract: This study aims to provide an analysis of the many cases of distribution of non-food animal meat for consumption purposes that have recently received attention, such as the rampant sale of cat and dog meat which often occurs in society. Cats and dogs are pets kept by humans. These animals are not included in the consumption of livestock. Consumption of non-food animals is a heinous act that can become a zoonotic vector. This study uses normative legal research methods with several approaches, namely the statutory approach and the conceptual approach. The results obtained are that there are laws and regulations related to the distribution of non-food animal meat for consumption purposes, but some of these regulations do not mention the imposition of sanctions on the distribution of non-food animal meat for consumption purposes. Criminal laws should provide for the torture of animals and the distribution of non-food animal meat for consumption and sanctions. This is considering the dangers of consuming non-food animals which have the potential to harm the wider community.

1. Introduction

In Asia, an estimated 30 million dogs are killed for human consumption each year in a brutal trade involving extreme animal cruelty. In Indonesia alone, there are around 1,000,000 dogs that are killed every year. They are caught and stolen to be transported throughout Indonesia to meet the demand for dog meat. Many family pets are stolen and caught in the streets and villages to be traded illegally. The trade-in of non-food animal meat, such as cats and dogs, for consumption has occurred in several places in Indonesia spread across several cities with particular consumers such as Medan, Jogjakarta, Bandung, Surakarta, DKI, Manado, and Bali. This has attracted public attention, especially from animal-loving groups, and has become a national and international concern. Non-food animals have been slaughtered and consumed by ignoring technical aspects of veterinary public health and animal welfare.

On the other hand, cutting dog meat can potentially transmit zoonotic diseases (rabies) and other diseases such as salmonella and ringworm. The dog meat trade cannot only be viewed from animal welfare reasons. Implementation of animal welfare is a shared responsibility as mandated in Law Number 18 of 2009 concerning Animal Husbandry and Animal Health as amended by Law Number 41 of 2014, Chapter VI Part Two concerning Animal Welfare, specifically Article (67) states that the implementation of animal welfare is carried out by the Government and Regional

Government together with the Community. To address this, the Directorate General of Livestock and Animal Health has issued Circular Letter Number 2286/SE/PK.400/F/03/03/2018 concerning the Improvement of Implementation and Supervision of the Implementation of Animal Welfare and Circular Letter of the Director General of Livestock and Animal Health Number 9874/SE/pk.420/F/09/2018 concerning Increasing Supervision of the Circulation of the Dog Meat Trade.¹

The trade-in of non-food animal meat can severely threaten human and animal health. There is cruelty and brutality involved in the methods of capturing, transporting and butchering dogs or cats. Many consumption dogs come from stolen family pets and are picked up from the streets and settlements. Crammed into cramped cages and sacks, their snouts were so tightly bound they could barely breathe. They are taken on long journeys by motorbikes or overcrowded trucks to be supplied to markets, slaughterhouses and restaurants. Many died from suffocation, dehydration, or heatstroke before reaching their destination. The survivors will witness their friends being brutally murdered in a filthy slaughterhouse while waiting for their turn.

The Food and Agriculture Organization (FAO) states that 70% of new diseases that have appeared in humans in the last decades are diseases of animal origin, mainly due to human efforts to find food sources of animal origin. Therefore, it is necessary to educate the public to break this myth and educate them that dog meat is not only unfit for human consumption (not a food category) but also carries the risk of diseases such as E. Coli, Salmonella, Cholera and Trichinellosis. In addition, handling dogs from capture to slaughter in rabies-endemic areas will increase the risk of exposure to rabies and the spread of rabies.²

2. Method

This study used normative legal research methods. Normative legal research is legal research that places law as a building system of norms. The system of norms built includes principles, norms, rules of law, court decisions, and doctrines (teachings).³ The approach used in this study is a statutory approach and a conceptual approach. Some of these approaches are used to build legal arguments to solve the problem being studied. This research includes normative legal research, so it uses legal materials. Normative legal research relies on library research through studies of primary and secondary legal materials.⁴ Sources of legal materials in normative legal research are primary or primary legal materials and secondary legal materials as complementary or supporting materials. Collecting legal material is carried out first by studying documents, namely by studying, studying, and analyzing legal materials related to this research. Analysis of legal materials was carried out using descriptive qualitative. That is, legal materials are presented descriptively and analyzed qualitatively, namely, based on the quality and correctness of legal materials. Then, conclusions are drawn, which are the answers to the problems in this study.

¹ Puguh Wahyudi, "Situasi Perdagangan Daging Anjing Di Indonesia," (2020). <https://repository.pertanian.go.id/items/8f551084-7d49-477d-b249-4064f792cd56>.

² Jørgen Schlundt, Hajime Toyofuku, John A. Jansen, and Herbst Sa. "Emerging Food-Borne Zoonoses." *Revue Scientifique Et Technique De L Office International Des Epizooties* 23, no. 2 (August 1, 2004): 513-33. <https://doi.org/10.20506/rst.23.2.1506>.

³ Mukti Fajar, and Yulianto Achmad. *Dualisme Penelitian Hukum Normatif Dan Empiris*. Cetakan IV. Yogyakarta, Indonesia: Pustaka Pelayar, (2017), 45-67.

⁴ Terry Hutchinson, "Researching and Writing in Law." In *Researching and Writing in Law*, Second Edition., 1-390. Pyrmont, Sydney, Australia: Thomas Lawbookco, (1998). [https://doi.org/10.1016/s0080-8784\(08\)60138-6](https://doi.org/10.1016/s0080-8784(08)60138-6).

3. Non-food Animal

Talking about non-food animals, there is a need for us to look at some related terms. First, the definition of food as stated in Article 1 point 1 of Law Number 18 of 2012 concerning Food: Food is everything that comes from biological sources the agricultural, plantation, forestry, fishery, livestock, aquatic, and water products, both processed and unprocessed designated as food or drink for human consumption, including food additives, food raw materials and other materials used in the process of preparing, processing or making food or drink.⁵

3.1 Rules Regarding Non-Food Animal

Non-food animals are animals or animals whose entire or part of their life cycle is on land, water, or air, either reared or in their habitat, which is not allowed to be processed or not processed for human consumption. Meat from non-food animals is not food of animal origin suitable for consumption by the public. This is also confirmed by Law Number 18 of 2012 concerning the definition of food. The definition of *food* based on Law No. 18 of 2012 is everything originating from biological sources of agricultural, plantation, forestry, fishery, livestock, and aquatic products, both processed and unprocessed, which are intended as food or drink for human consumption, including food additives, food raw materials, and other materials used in the process of preparing, processing or making food or drink. Referring to this definition, dog meat is not included in the food category because dogs are not in the livestock product category.

In addition, Law Number 18 of 2009 Animal Husbandry and Health, as amended by Law Number 41 of 2014 concerning Amendments to Law Number 18 of 2009 concerning Animal Husbandry and Health, stipulates cattle definition. Livestock is pets whose products are intended as food producers, industrial raw materials, services, or by-products related to agriculture. The above description shows that the meat of pets, such as dogs and cats, is not explicitly recognized as a consumable animal product.

In addition, referring to Part E of the Circular of the Directorate General of Livestock and Animal Health, Ministry of Agriculture Number 9874/SE/pk.420/F/09/2018, it has been emphasized that dog meat is not included in the definition of food. The parties who are the subject of the letter are also advised, among other things: not to issue a Veterinary Certificate (Certificate of Animal Health Products/SKPH) specifically for dog meat if it is known to be for consumption and a Letter of Recommendation for the Importation of Dog Meat for Consumption and to tighten traffic control over the distribution/trade of dog meat; continue to issue a Veterinary Certificate (Certificate of Animal Product Health/SKPH) as a requirement for the administration of live dog traffic and a Recommendation Letter for the Entry of live dogs accompanied by laboratory test results) with at least stating the origin, purpose, and designation (as a pet/pet/hunting dog); make written appeals in their respective areas not to carry out commercial distribution or trading of dog meat.

To guarantee safe, healthy, intact, and halal animal products for those required, the government and regional governments, by their authority, are obliged to carry out supervision, inspection, testing, standardization, certification, and registration of animal products. Supervision, in-

⁵ Vega Vanessa Teodoree, and Tantimin Tantimin. "A Jurisdictional Approach to Indonesia's Wildlife Trade." *Nurani Hukum* 5, no. 1 (July 12, 2022): 34. <https://doi.org/10.51825/nhk.v5i1.14566>.

spection, and testing of animal products are carried out successively at the production site, at the time of slaughtering, storage, and collection, when they are fresh, before preservation, and during distribution after preservation. Increased risk of the trade in non-food animal meat to human and animal health, as well as evidence of cruelty to dogs and criminal acts that occur in the process of trading, producing, and slaughtering dogs for human consumption, of course, must be ended immediately. Strict regulations prohibiting dog meat production, trade, slaughter, and consumption must be enforced urgently. This is done to maintain public health and animal welfare in Indonesia.

In Indonesian law, no specific regulations relating to the capture, trade, slaughter, or consumption of dog meat. However, there are various regulations regarding consumer safety, public violence, livestock transportation, animal abuse, theft of animals and agricultural/garden products, as well as animal welfare and quarantine. Several regions in Indonesia have also issued regional regulations regulating the prohibition of the non-food animal meat trade.

3.2 Prohibition of Distribution of Non-Food Animal Meat in Several Regions of Indonesia

In recent years in Indonesia, there has been a trend among local governments that, one by one, adopted a policy to ban or control the dog meat trade, even though these regions had not previously paid much attention to the trade or consumption of dog meat.⁶ Regencies/cities that have implemented regulations prohibiting dog trading include; Karanganyar through Karanganyar Regency Regulation No. 74/2019 in early March 2021. The Regency Regulation contains a prohibition on consuming dog meat according to Law No. 18/2012 concerning FoodFood. This regulation applies to any person or entity selling or slaughtering raw and processed meat from non-food animals for consumption. Sukoharjo; The Sukoharjo Regency Government has banned dog meat consumption by issuing Regional Regulation No. 5/2020 concerning the Development and Empowerment of Street Vendors. Through this Perda, the Sukoharjo Regency Government prohibits selling and slaughtering non-food animal meat. Animals in the non-food category include dog meat, monitor lizards, snake, and so on. Salatiga City; Apart from Karanganyar and Sukoharjo, the Salatiga City Government also prohibits its citizens from consuming, buying, and selling dog meat. The prohibition is stated in the Salatiga Mayor's Circular Letter No. 510/345/414 concerning the Prohibition of Trafficking of Dog Meat issued on 26 April 2021. Malang; The Mayor of Malang, Sutiaji, also banned the trade in dog meat by issuing SE No. 5 of 2022 concerning Control of the Distribution and Trade of Dog Meat.

In January 2020, Dog Meet Free Indonesia (DMFI) conducted an investigation and found 13 stalls selling dog meat. After the SE was issued, Sutiaji emphasized that all members of the public, butcher traders, business people, restaurants, stalls, and street vendors who provide dog meat are guided by this regulation. Semarang City; The Mayor of Semarang, Hendrar Prihadi, issued Circular Number B/426/524/I/2022 concerning the Supervision of Dog Meat Circulation/Trade. The ban policy refers to a 2018 Ministry of Agriculture circular letter concerning the supervision of the distribution of dog meat. Semarang City is the fourth city to ban the dog meat trade after Karanganyar Regency, Salatiga City, Sukoharjo Regency, and Malang City. Purbalingga Regency;

⁶ Brigitha Prizelia Nanga, and Nadia Yovani. "Tindakan Kolektif Animal Welfare Organizations (AWOS) Untuk Mengakhiri Perdagangan Daging Anjing Di Pasar Tomohon Dari Perspektif New Institutionalism in Economic Sociology (NIES)." *Jurnal Syntax Transformation* 3, no. 2 (February 23, 2022): 213-25. <https://doi.org/10.46799/jst.v3i2.506>.

The Purbalingga Regency Government is trying to stop dog meat distribution by issuing a District Head Circular Letter Number 035/10540 dated 1 October 2018 concerning Increasing Supervision of the Distribution/Trade of Dog Meat. Bali; The Governor of Bali Instruction Number 524/5913/DISNAKKESWAN/2019, concerning the prohibition on the distribution and trade of dog meat, is one of the solutions to prevent the sale and distribution of dog meat in Bali. The instruction emphasizes that dog meat is not Food of animal origin that is fit for consumption by the public.

4. Formulation of Criminal Law Policy for Distribution of Non-Food Animal

There are weaknesses in several regional regulations that have been issued, such as Circular Letter No. 5 of 2022 concerning Control of the Circulation and Trade of Dog Meat issued by the mayor of Malang, in the circular letter only mentions the prohibition for dog meat traders, both those who are active in people's markets, modern markets, other trading places to sell dog meat as well as prohibition for business actors, restaurants, stalls and street vendors (PKL) as well as other food and beverage places to provide FoodFood made from ingredients derived from dog meat. The circular only mentions the prohibition but does not mention clear sanctions if there is a violation of the prohibition. The absence of clear sanctions will undoubtedly make people ignore existing prohibitions and continue selling non-food animal meat. Apart from that, the issued circular letter only mentions a ban on the distribution of dog meat, even though there are still many other non-food animals, such as cat meat which are also often traded for consumption. Circulars from several regions in Indonesia only mention specifically the ban on the distribution of dog meat and do not mention other animals, even though several types of animals are also often traded for consumption purposes.

Likewise in the Criminal Code, Article 302 of the Criminal Code states: (1) Shall be punished by a maximum imprisonment of three months or a maximum fine of four thousand five hundred rupiahs for committing light abuse of an animal: 1) any person who, without proper or excessive means, intentionally hurts or injures animals or harms their health; 2) any person who, without proper aim or by exceeding the limits necessary to achieve that goal, deliberately does not provide the food necessary for life to animals that are wholly or partly his and are under his supervision or to animals he is obliged to look after, 3) If said act results in illness for more than a week, disability or 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 because of the mistreatment of animals.

This article refers to the prohibition of mistreatment of animals, and if it refers to the meaning of abuse in the elucidation of Article 66 letter C of Law no. 18 of 2009 and Law no. 41 of 2014 concerning husbandry and animal health states that abuse is an act to obtain satisfaction and or profit from animals by treating animals beyond the limits of the animal's physical and physiological abilities, for example by barking cows. Does the question arise if someone argues that they do not abuse these non-food animals but slaughter them for consumption? Of course, this cannot fulfill the element of animal abuse in Article 302 of the Criminal Code.

Based on the above matters, it is necessary to have legal rules that can ensnare all parties involved in the distribution of non-food animal meat for consumption. This rule should be enforced nationally and not only regionally, considering the severe impact of consumer behavior on non-food animals. Renewal is needed in the criminal law system to overcome the problem of circulating meat from non-food animals for consumption. Reform of the criminal law system can cover a vast scope, which includes: Renewal of "substance of criminal law," which includes renewal of

material criminal law (KUHP and laws outside the KUHP), formal criminal law and criminal law enforcement; Updating the “criminal law structure,” which includes, among other things, reforming or managing institutions/agencies, management/management systems, and mechanisms as well as supporting facilities/infrastructure of the criminal law enforcement system (criminal justice system); and renewal of the “criminal law culture,” which includes among others issues of legal awareness, legal behavior, legal education. In this case, the author focuses more on substance renewal, namely the renewal of material criminal law.⁷

Substantive renewal is carried out through criminalization. Criminalization is an object of study in substantive criminal law which discusses the determination of an act as a crime (criminal action or crime) that is punishable by certain criminal sanctions. Disgraceful acts that previously did not qualify as prohibited acts are justified as criminal acts that are punishable by criminal sanctions. Criminalization for a new criminal act can originate from social norms that are the source of the formation of criminal law norms, which include moral, religious, and cultural values and principles that live in public awareness.

Criminal law policy is related to the problem of criminalization, namely what actions constitute a crime, and penalization, namely, what sanctions should be imposed on the perpetrator of the crime. Criminalization and penalization are central issues that require a policy-oriented approach to handle. Criminalization (criminalization) covers the scope of acts against the law (*actus reus*), criminal liability (*mens rea*), and sanctions that can be imposed either in the form of punishment (punishment) or action (treatment). Criminalization must be carried out carefully not to create a repressive impression that violates the *ultimum remedium* principle and backfires in social life in the form of overcriminalization, which reduces the authority of the law. Criminalization in material criminal law will also be followed by pragmatic steps in formal criminal law of investigation and prosecution.

Although it has been able to determine what actions are reprehensible in society and have been able to determine what actions do not meet the nature of resistance law, it is also essential to regulate the policy of criminal determination, where the process of forming laws and regulations is a political policy in a country in which sub-systems are regulated so that enforcement is realized law.⁸ So synchronization and harmonization efforts in the formation of law are significant to do, and law enforcers in upholding the law optimally so that legal certainty can be realized in legal politics nationally.⁹

National legal politics determines that the state of Indonesia is a country law as contained in Article 1 paragraph (3) of the 1945 Constitution, where Pancasila is the source of all sources of law. Therefore, the embodiment of legal politics and criminal law should be formed by the soul of the Indonesian nation. Therefore, deep the establishment of laws and regulations must be spelled out by the criminal law system concretely 13 In addition, there is a central problem in criminalization

⁷ Islamia A.A., and R B. Sularto. “KEBIJAKAN HUKUM PIDANA DALAM UPAYA PENANGGULANGAN PROSTITUSI SEBAGAI PEMBAHARUAN HUKUM PIDANA.” *Jurnal Pembangunan Hukum Indonesia* 1, no. 1 (2019): 18-30. <https://doi.org/10.14710/jphi.v1i1.18-30>.

⁸ Suhariyono Ar, “PERUMUSAN SANKSI PIDANA DALAM PEMBENTUKAN PERATURAN PERUNDANG-UNDANGAN.” *Perspektif* 17, no. 1 (January 27, 2012): 20. <https://doi.org/10.30742/perspektif.v17i1.91>.

⁹ Sahat Situmeang, “POLITIK HUKUM PIDANA TERHADAP KEBIJAKAN KRIMINALISASI DAN DEKRIMINALISASI DALAM SISTEM HUKUM INDONESIA”. *Res Nullius Law Journal* 4 (2), (2022): 201-10. <https://ojs.unikom.ac.id/index.php/law/article/view/7166>.

with the use of penal means (criminal law), namely in terms of determining what action which should be used as a crime and what sanctions should be used or imposed on the violator.¹⁰

The decision to criminalize a behavior is a complex matter. Andrew Ashworth's view is that opportunism and political power, both related to the prevailing political culture in a country, are the main determinants. However, two questions have traditionally been asked: Is the behavior harmful to the individual or society? Moreover, is the behavior amoral? If the answer to both questions is 'yes,' then the behavior is considered *prima facie* appropriate for criminalization.¹¹

The answer to the first question of whether this behavior harms the individual in society is yes. The widespread circulation of non-food animal meat can potentially cause certain diseases. When zoonotic diseases spread from animals to humans, human activities are often the cause. The COVID-19 pandemic is undoubtedly not the first time an infectious disease has been linked to human activity. For example, between 2002-2003, Severe Acute Respiratory Syndrome (SARS) resulted in more than 8000 cases in humans in 29 countries and resulted in 774 deaths. Other zoonotic and pathogenic diseases such as Ebola, MERS, HIV, bovine tuberculosis, rabies, and leptospirosis have also been associated with animal transmission. Despite mounting evidence worldwide in recent decades of the risks that current animal production and trade policies pose to public health and safety, little permanent and global change has been undertaken to minimize these risks.

Given that animal management and care have failed to improve, the number of outbreaks of emerging infectious diseases has tripled every decade since the 1980s. Zoonotic origin accounts for approximately 60% of all infectious diseases and 75% of emerging infectious diseases in humans, indicating an increasing occurrence of transmission from animals. Zoonoses are responsible for two billion cases of disease in humans and two million deaths yearly.

5. Conclusion

Consumption of non-food animals is a heinous act that can potentially become a zoonotic vector in society. The potential for zoonoses is evident from consuming non-food animal meat because there is no standardized food safety guarantee. No laws or regulations provide criminal sanctions against the distribution of non-food animal meat for consumption, even though the circulation of non-food animal meat can cause several diseases detrimental to the broader community. A criminal law policy is needed that regulates the distribution of non-food animal meat for consumption. Criminal law should regulate animal abuse and the distribution of non-food animal meat for consumption and sanctions. This is considering the dangers of consuming non-food animals, which have the potential to harm the wider community. Due to the consumption of non-food zoonotic animals, Zoonotic vectors account for about 60% of all infectious diseases and 75% of diseases that occur in humans. Zoonoses are also responsible for two billion cases of disease in humans and two million deaths yearly.

¹⁰ Vivi Ariyanti, "KEBIJAKAN PENEGAKAN HUKUM DALAM SISTEM PERADILAN PIDANA INDONESIA." *Jurnal Yuridis* 6, no. 2 (December 30, 2019): 33. <https://doi.org/10.35586/jjur.v6i2.789>.

¹¹ Lidya Suryani Widayati, "Kebijakan Kriminalisasi Kesusilaan Dalam Rancangan Undang-Undang Tentang Hukum Pidana Dari Perspektif Moral (Criminalization of Decency in The Criminal Code Bill From Moral Perspectives)." *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan*, (January 2, 2019). <https://doi.org/10.22212/jnh.v9i2.1051>.

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