

Eradication of Animal Abuse of Cafe Based on the Instruction of The Governor of East Java No.1/INST/2012

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Abstract

Karapan Sapi is known as a cow racing contest on Madura Island, which has a high selling value when the cow wins. Karapan Sapi is internalized in people's lives and requires protection for cows as (living) animals. The aim of this research is to determine the protection of cow race animals from the perspective of East Java Governor's Instruction No. 1/INST/2012. The research method used is normative legal research. The results of this research state that the protection of animals (cows) in the implementation of the Karapan Sapi is regulated in Article 302 of the Criminal Code; Article 66A of the Animal Husbandry and Health Law; and Article 92 letter b PP 95/2012. East Java Governor's Instruction No. 1/INST/2012 in terms of content is quite effective, but not effective enough to completely eradicate violence and mistreatment of cows, because there is still a gap for minor violence to be carried out.

Keywords: *Karapan Sapi. East Java Governor's Instruction No. 1/INST/2012.*



A. INTRODUCTION

The tradition of "Kerrabhan Sape" or cow racing is still popular in four Madura districts, namely Bangkalan, Sampang, Pamekasan and Sumenep. Karapan Sapi is known as a contest or cow racing event where local Madurese cattle will have a high selling value if they win the Karapan Sapi. The implementation of the cow race is said to be very complex, many parties are involved in it, the motifs and types of cow race are varied. However, in its development, the cow race was then used as a competition event (<https://kebudayaan.kemendikbud.go.id>). The current organization of cattle races can be grouped into two types, namely formal and non-formal types of cattle races. The formal cattle race is held regularly every year by a committee formed by the government to compete for the rotating trophy of the President of the Republic of Indonesia (Kosim, 2007). Meanwhile, non-formal cattle races are not always organized by a particular committee, their implementation is incidental, depending on the needs of the organizer. Included in this category are custom-ordered cow race, customary race and nadzar (Kosim, 2007).

In regional and national livestock maps, Madura Island is a livestock-dense area with a very high-density level. It is no less important that Madurese cattle are one of Indonesia's local cattle breeds (Kutsiyah, 2018). The embodiment of the implementation of animal husbandry and animal protection is Law Number 41 of 2014 concerning Animal Husbandry and Animal Health (hereinafter abbreviated to Law Number 41 of 2014 concerning Animal Husbandry and Animal Health), in the

provisions of Article 91 B paragraph (1) this law regulates that every person is prohibited from mistreating and/or abusing animals which results in the animals becoming disabled and/or unproductive, those who violate will receive imprisonment and fines in accordance with the provisions of this law. Then, continuing with the provisions of paragraph (2), this law also provides sanctions for anyone who knows about animal abuse but does not report it to the authorities, so they can also be subject to imprisonment and a fine. The owner of the Karapan cow gains high prestige when he is able to win this traditional competition. Apart from that, the price of the winning pair of racing cattle immediately soared. For example, the price of the cow that won the Karapan Sapi competition in 2003 soared to IDR. 200,000,000 from the previous two years was only IDR. 40,000,000. million. To form the body of a healthy pair of cows costs up to IDR. 4,000,000 per pair of cows for food and other maintenance. Understandably, Karapan cows are given various herbal medicines and dozens of chicken eggs per day, especially before competing in the Karapan arena.

Based on the tradition of the people who own Karapan cattle, before being thrown into the arena, the animal is injured in the buttocks, that is, it is grated with nails until the skin bleeds so that it can run fast. In fact, the wound is given chili sauce or balm which is smeared on certain parts of the body, including around the eyes. This method makes animal activists protest against this because they believe that the method used can injure animals and cause defects in certain parts of the animal's body. If the cow has a defect that results in death, then the person who abused the cow can be criminalized, however, many of them escape the law. More specific regulations as implementers of Law Number 41 of 2014 concerning Animal Husbandry and Animal Health, in 2012 there was an instruction from the governor of East Java number 1/INST/2012 concerning the implementation of the cow race without violence which basically contained an appeal to the organizers of the cow race not to use violence and/or materials that are harmful to animals during the race.

The role of regional government as part of HTN in guiding the stability of the running of government in the region. Regional Government Law refers to Law Number 23 of 2014 concerning Regional Government which discusses all the main aspects of regional government law in Indonesia. Based on this, it is necessary to carry out legal research on what kind of regulations are needed to optimize the eradication of violence against cows in cattle racing competitions in Madura as well as the need for analysis of East Java Governor's Instruction 1/INST/2012 concerning the Implementation of Non-Violent Cow Racing as implementing regulations of the Law Number 41 of 2014 concerning Animal Husbandry and Animal Health which was formed by the East Java Regional Government.

B. METHOD

This research uses a type of normative legal research. Normative legal research is also known as dogmatic legal research which studies, maintains and develops positive legal buildings with logical legal buildings. There are three (3) approaches used in this research, namely the statutory approach, the conceptual approach and the

historical approach. The Statutory Approach is carried out by reviewing all laws and regulations that are related to the legal issue being handled. Then the conceptual approach is research into legal concepts such as legal sources, legal functions, legal institutions and so on. Meanwhile, the historical approach examines the development of legal products based on the sequence of periodization or the historical facts behind them (Nasution, 2008).

The legal materials used are primary legal materials which are legal materials that have authority, in this case legislative regulations. Then secondary legal materials which are supporting legal materials in this research can be books, journal publications and other legal materials which can provide instructions and explanations for primary legal materials can be books and journal publications, while tertiary legal materials can be non-legal materials which have relevance to the object of the problem being studied. This research also uses an inductive method of analyzing legal materials, namely drawing conclusions from general things to specific things.

C. RESULTS AND DISCUSSION

1. Legal Regulations for the Protection of Cattle Carriage Animals

Cows are animals that are the main object in the cow race, the phenomenon of cow race races has become a tradition that is carried out consistently in Madura. However, it is very unfortunate because this tradition, which is quite popular among Madurese people, contains elements of animal abuse in its practice. Therefore, it is necessary to protect cows in cow racing competitions so that this tradition can be preserved without causing harm to the animals.

The abuse of cows in cow racing competitions is certainly not a new phenomenon, but it is still carried out even though the government has banned animal abuse. This is done so that the cows can run fast and become champions in cow racing competitions. This phenomenon is certainly a cultural shift if observed from the history of the cow race itself. The cow race, which was originally aimed at producing strong cows for plowing the fields and as an event for community celebrations during the harvest period, has actually turned into a competition held to obtain cows with a high selling value even if it means hurting the cow in the process of the cow race.

In fact, mistreatment of cows can actually cause the cow to become disabled or the greatest risk can cause the cow's death. This is certainly not good for the cattle population in the long term, especially local Madurese cattle which should be preserved to avoid extinction. Therefore, there is a need for regulations related to the protection of animals in cow races. Below are several regulations that can be used as a reference for the protection of animals in cattle races, namely Criminal Code (KUHP).

Article 302 of the Criminal Code can be used as a legal basis for the protection of cows in cattle racing competitions because this article essentially contains the following things:

- a. Threat of imprisonment and fines for perpetrators of animal abuse;

- b. There is an element of deliberate harm or harm to animals or things that could be detrimental to animal health;
- c. There is an element of deliberate failure to feed pets;
- d. Maltreatment that causes disability, serious injury and death carries a greater threat of imprisonment and fines than light animal abuse;
- e. Ownership of an animal can be taken over if the owner is proven to have abused the pet;
- f. Attempted abuse is not punishable.

According to S. R. Sianturi (1983) Article 302 of the Criminal Code contains the following elements:

- a. Subject element (who);
- b. Element of error (on purpose);
- c. Elements that are against the law (without a proper goal or going beyond the limits to achieve a permitted goal);
- d. Elements of action (harming, injuring or harming the health of animals in paragraph (1) and not providing the necessities necessary for life in paragraph (2).

Article 302 of the Criminal Code provides a prohibition on mistreatment of animals in general as a form of legal protection for animals for acts of abuse. It does not specifically state the types of animals that are protected, but the provisions of this article place greater emphasis on animals kept by humans. Cows are a type of livestock kept by humans, therefore the provisions of Article 302 of the Criminal Code can also be used as a legal basis for the protection of cattle in cattle racing competitions.

2. Law of the Republic of Indonesia Number 41 of 2014 concerning Amendments to Law Number 18 of 2009 concerning Animal Husbandry and Animal Health

Animal husbandry and animal health initially began to be regulated in Law Number 18 of 2009 concerning Animal Husbandry and Animal Health but this has not yet accommodated the prohibition on animal abuse. Then in 2014 Law Number 41 of 2014 was passed, amendments to Law Number 18 of 2009 concerning Animal Husbandry and Animal Health in which several articles were deleted, the editorial changed and even articles were added according to needs. One of the articles that was added was the insertion of article 66A between articles 66 and 67. Article 66A consists of 2 paragraphs which state that: Article 66A paragraph (1) "Every person is prohibited from mistreating and/or abusing animals which results in them being disabled and/or unproductive." The elements contained in this article are:

- a. Subject elements (everyone);
- b. The element of prohibition (it is prohibited to mistreat and/or abuse animals which results in defects and/or unproductiveness).

Then Article 66A paragraph (2) states that "every person who becomes aware of an act as referred to in paragraph (1) is obliged to report it to the competent authorities". The elements contained in this article are:

- a. Subject elements (everyone);
- b. The element of knowledge of a criminal act (knowing the existence of the act as intended in paragraph (1))
- c. Element of obligation (obligation to report to the authorities).

Law Number 41 of 2014 concerning Animal Husbandry and Animal Health is clearly more specific than Article 302 of the Criminal Code because this law is specifically for livestock in general, because cows are one part of livestock, the provisions of Article 66A of Law Number 41 of 2014 concerning Animal Husbandry and Animal Health can also be used as a basis for regulating legal protection for cattle and cattle racing competitions.

3. Government Regulation Number 95 of 2012 concerning Veterinary Public Health and Animal Welfare

The provisions of Article 92 letter b state that "giving substances that stimulate or stimulate animal work functions beyond normal physiological limits can endanger the health, safety or cause death of the animal." If it is related to the cow race, the prohibition in this article can certainly be used as a legal basis for the protection of cows in cow races, because in the process the cow is given stimulants in certain parts of the body to stimulate the cow to run fast. The stimulant used can usually be a balm on the eye area or spikes on the vital organs to encourage the cow to run fast.

4. Governor's Instruction Number 1/INST/2012 concerning the Implementation of Non-Violent Cow Racing

Governor's Instruction Number 1/INST/2012 concerning the Implementation of Cow Racing without Violence contains specific rules regarding things that are prohibited in carrying out cow racing, this instruction is addressed to the Regent/Mayor in East Java, the Chair of the Indonesian Ulema Council (MUI) throughout Java Timur, a leading figure in East Java and chairman of the East Java Community Association, which basically prohibits things that involve violence or torture of animals (cows) except naturally.

5. Protection of The Cow Race Animals Viewed from the Perspective of East Java Governor's Instruction Number 1/INST/2012 Concerning Implementation of the Cow Race Without Violence

The position of Instructions in the hierarchy of statutory regulations are implementing rules under laws and government regulations as explained in Article 7 of Law Number 12 of 2011 concerning the Formation of Legislative Regulations. This instruction is pseudo-legislation which has binding force but if it is not implemented no criminal sanctions can be imposed. This instruction regulates the prohibition of the use of violence in the implementation of the cow race. However, provisions for

criminal sanctions cannot be included because it is not a law or regional regulation (perda).

The only regulations that prohibit acts of abuse against animals in the Indonesian legal system are the Criminal Code (KUHP) and Law Number 18 of 2009 in conjunction with Law Number 41 of 2014 concerning Animal Husbandry and Animal Health. In accordance with the principle of *lex specialis derogat legi generalis* (specific legal rules will override general legal rules) the *Lex Specialis* of this rule is Law Number 18 of 2009 in conjunction with Law Number 41 of 2014 concerning Animal Husbandry and Animal Health and the Criminal Code as *lex generalis*.

The existence of the East Java Governor's Instruction number 1/INST/2012 concerning the Implementation of the Cow Race Without Violence is due to the element of animal abuse which is increasingly widespread in the implementation of the Cow Race in Madura, which peaked in 2012. The Governor of East Java then gave instructions not to carry out violence and torture against cattle in the implementation of the cow race with the hope of minimizing abuse of cows in the short term and can eradicate abuse of cows in the long term in the cow race event.

However, after the issuance of the Governor's Instruction, the practice of violence and mistreatment of animals was still carried out in cattle race activities. This can be seen, for example, in the cattle racing competition held on May 15 2016 in Galis District, Bangkalan Regency, where violence is still practiced against cattle during the implementation of the cattle race. The forms of abuse of animals (cows) in the cow race at that time were as follows:

Table 1. Forms of Animal Abuse (Cows) in Karapan Sapi

No	Actions	Action taken	The part of the body that was hurt	Tools/materials	The impact caused
1	Hurt and Injure	Hitting a cow using a sharp object	The back of the groin and the tail of the cow	A stick that has been fitted with sharp nails (called rekeng)	The part of the groin at the back bleeds until it flows and sometimes the blood spurts out.
2	Hurt	Attach the clip to the cow's body	Cow's Anus	Battery Clamp	Until feel pain and end up running fast
3	Hurt	Attach the clip to the cow's body	Cow Tail	Pintil Rubber	This pintil rubber causes the cow to feel pain and run fast
4	Hurt	Sprinkling liquids on the cow's body	The cow's entire body, including the injured parts	Mixture of Ginger and Chili Water	Makes the cow's body hot and wounds become more painful so the cow runs faster
5	Hurt	Applying something to	One of the senses of	Balsem	One of the cow's eyes cannot see clearly so

No	Actions	Action taken	The part of the body that was hurt	Tools/materials	The impact caused
		the cow's sensory parts	sight and the entire body of the cow including existing wounds		the cow focuses more on one view and the heat of the balm makes the cow feel hot and run fast.
6	Hurt and Injure	Put the bracelet that has been nailed on the cow's body	Cow Tail	Rekeng Sellop	It makes the cow feel pain and even injures the cow's tail when running. The spikes scratch wounds on the cow's body so that the cow feels pain and runs faster.
7	Harmful to health and hurt	Pouring chemical fluids onto the wounds on the cow's body	The parts of the body that are injured, usually the tail and buttocks of the cow, are bleeding	Spiritus	Cows feel pain, but practitioners think that methylated spirits can dry cow wounds more quickly.

Source: Kusuma (2015)

This is proof that after the enactment of the East Java Governor's Instruction number 1/INST/2012 concerning the Implementation of the Non-Violent Cow Race, it has not been able to eradicate violence against cattle during the implementation of the Cow Race. The prohibitions listed in this Governor's Instruction are:

- a. There is no violence or torture towards animals (cows) except naturally;
This prohibition basically provides a loophole for violence against animals (cows) to continue, because there is no torture that occurs naturally, there are always things (deliberate elements) behind the torture.
- b. For balm use, ginger is permitted provided that it is not placed in the eyes, ears, anus or vital organs of the cow;
Even though it is not applied to sensitive parts of the cow's body, bahsem or ginger that comes into contact with the skin always causes a burning effect, but this prohibition can minimize the occurrence of defects in the cow.
- c. The use of driving equipment for jockeys is only permitted using pak-kopak (bamboo) without nails or other sharp objects;

The jockey's driving tool is a characteristic of the cow race, so it doesn't feel right if this tool is also prohibited from being used in the cow race, therefore the use of this spikeless speed tool can be an intermediate solution between efforts to minimize violence against cows and maintaining the tradition of the cow race by using a tool commonly used from generation to generation in the implementation of cow racing.

- d. The use of whips and other beating tools on the starting line is not permitted. The above prohibitions still provide the potential for violence and torture against cows but can also minimize torture which can cause serious injuries and the potential for disability and even death of the animal (cattle) because the use of sharp objects such as nails is prohibited and the use of balm and ginger on body parts. Certain things that can cause disability are also prohibited. There are only tools left that are used to carry out cow races, even though they can hurt the animal, the risk of disability and death is smaller.

The sanction given to parties who violate the Instruction of the Governor of East Java number 1/INST/2012 concerning the Implementation of the Non-Violent Cow Race is to disqualify the party who violates it as a participant in the cattle race. However, this sanction is apparently not optimal enough to eradicate violence against cows during the implementation of the cow race.

Legally, there is already a Criminal Code and Law of the Republic of Indonesia Number 41 of 2014 concerning Amendments to Law Number 18 of 2009 concerning Animal Husbandry and Animal Health which provides for penalties of imprisonment and fines. Then, more specifically, the East Java Governor's Instruction number 1/INST/2012 concerning the Implementation of the Non-Violent Cow Race is a complement which prohibits torture and violence against animals in the implementation of the Cow Race by providing administrative sanctions. However, it is felt that all these regulations are not optimal enough to eradicate violence against cattle during the implementation of the cattle race.

According to Soejono Soekanto, there are several factors that can influence law enforcement, namely:

- a. Rules
- b. Law enforcement officers
- c. Facilities and facilities owned
- d. Society
- e. Culture.

If there is one factor that does not work optimally then law enforcement will feel less than optimal. In terms of eradicating abuse of animals (cows), in terms of regulations it can be categorized as adequate because from the law to the implementing regulations, in this case the governor's instructions. already available. Law enforcement officers as well as facilities and equipment can be optimized through coordination, but the most difficult factors are society and culture, therefore in terms of eradicating violence against animals (cows) in the implementation of the cow race, society and culture are the main factors hampering enforcement of the rule of law.

D. CONCLUSION

Legal arrangements for the protection of animals (cows) in the implementation of cattle racing are regulated in several regulations, namely Article 302 of the Criminal Code, Article 66A of Law of the Republic of Indonesia Number 41 of 2014 concerning Amendments to Law Number 18 of 2009 concerning Animal Husbandry and Animal Health, Article 92 letter b Government Regulation Number 95 of 2012 concerning Veterinary Public Health and Animal Welfare as well as East Java Governor's Instruction number 1/INST/2012 concerning the Implementation of Non-Violent Cow Races and protection of cattle races viewed from the perspective of East Java Governor's Instruction number 1/INST/2012 Regarding the Implementation of the Non-Violent Cow Race, in terms of content it is effective enough to minimize violence and abuse against animals, but it is not effective enough to completely eradicate violence and abuse of animals (cows) because there is still a gap for light violence to be carried out during the implementation of the Cow Race.

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