

## Implementation of Laws And Animal Relief Livestock Reviewed From Article 549 KUHP

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### Abstract

*The aimed of this study; First, to describe how the implementation of the law on abandoning livestock is reviewed from Article 549 of KUHP. Second, to find out the factors that hinder the enforcement of the law on abandoning livestock. This type of research is normative legal research, namely legal research carried out by examining materials library or secondary data. Data collection techniques in this research are: Literature Study. Furthermore, for data analysis, the researcher uses all data consisting of primary data and secondary data (primary, secondary and tertiary legal materials) which will be processed and analyzed qualitatively. The results of this research are: 1) that the implementation of the law is reviewed from Article 549 of the Criminal Code regarding the abandonment of livestock in Regent Regulation Number 21 of 2021 concerning amendments to Regent Regulation Number 34 of 2018 concerning Control of Livestock Animals, it could be said that appropriate in its application, according to the results of the researcher, namely suitability of objectives, principles that can be implemented, clarity of formulation, law enforcement, analysis process and implementation formulation, appropriate program preparation. In the process of enforcement and action against negligence livestock, as the agency authorized for non-judicial control, Satpol-PP and fire brigade (DAMKAR). The handling and enforcement process follows Article 549 of the Criminal Code, such as fines being given to violators and confiscation of the violators' livestock.*

**Keywords:** *Lettering Of Farm Animals, KUHP 549, Normative legal, and Qualitative.*

### Abstrak

Tujuan dari penelitian ini; Pertama, untuk menggambarkan bagaimana pelaksanaan hukum tentang penelantaran ternak ditinjau dari Pasal 549 KUHP. Kedua, untuk mengetahui faktor-faktor yang menghambat penegakan hukum tentang penelantaran ternak. Jenis penelitian ini adalah penelitian hukum normatif, yaitu penelitian hukum yang dilakukan dengan meneliti bahan pustaka atau data sekunder. Teknik pengumpulan data dalam penelitian ini adalah: Studi Literatur. Selanjutnya, untuk analisis data, peneliti menggunakan semua data yang terdiri dari data primer dan data sekunder (bahan hukum primer, sekunder, dan tersier) yang akan diolah dan dianalisis secara kualitatif. Hasil penelitian ini adalah: 1) bahwa pelaksanaan hukum ditinjau dari Pasal 549 KUHP mengenai penelantaran ternak dalam Peraturan Bupati Nomor 21 Tahun 2021 tentang perubahan atas Peraturan Bupati Nomor 34 Tahun 2018 tentang Pengendalian Hewan Ternak, dapat dikatakan sesuai dalam penerapannya. Dalam proses penegakan dan tindakan terhadap penelantaran ternak, sebagai lembaga yang berwenang untuk pengendalian non-yudisial, Satpol-PP dan pemadam kebakaran (DAMKAR). Proses penanganan dan penegakan mengikuti Pasal 549 KUHP, seperti denda yang diberikan kepada pelanggar dan penyitaan ternak milik pelanggar.

**Kata Kunci:** *Pembiaran Hewan Ternak, KUHP Pasal 549, Hukum Normatif, dan Kualitatif.*

## Introduction

Law as a norm has special characteristics, namely that it wants to protect, regulate and provide balance in safeguarding the public interest. If someone violates legal provisions in the sense of harming, neglecting or disturbing the general balance as intended by the legal provisions, then the violation will receive a reaction from society.

Lack of legal socialization causes people to view the law as something that can be (ignorantly) related to the management of livestock. As we have encountered in various rural areas, districts and even regions urban. People who live in groups are not spared something is wrong, in general people in managing livestock occasionally commit violations of the law which are considered normal where this has a negative impact on the surrounding environment, pets and livestock are released freely, wild are allowed to roam like dogs, poultry, cows and goats. This is something we commonly encounter in several regions.

Animals roaming on people's land area common sight, especially in the area rural. Some communities still allow animals The livestock find their own food, including on their own land others. Regional regulatory policies in the management of livestock are still weak, it is considered a lack of commitment from the local government to implement applicable regulations and a lack of human resources in the management of livestock. In this case, the regional government needs to take steps in the form of firm action to distribute wild livestock which are detrimental to the general public, disrupt the harmony of social life (neighbors) and provide strict sanctions to those who own livestock who neglect their livestock, through the Civil Service Police. When this policy is implemented, farmers will be more aware that their pets will not run across the fields. (Sari et al., 2018).

The livestock owner's negligence in supervising his livestock, causing damage to other people, can be classified as an unlawful act. Article 1365 of the Civil Code (hereinafter referred to as KUHP) states. "Every incident that violates the law and causes harm to other people must compensate for the losses that have been caused by the animal. (Subekti R, 2001).

Based on the article above, it can be understood that an event that can violate the law is declared an unlawful act if the act has 4 elements, including:

1. The event itself violates the law (onrechtmatig);
2. The event results in loss;
3. The action must be initiated or caused by there is an error; and
4. Actions with losses have a causal relationship and consequences.

Regarding livestock maintenance in several regions and areas, the local government has now implemented regulations that ensure a harmonious community life with a sense of security and peace. These regulations are established through regional regulations (PERDA).

According to PERDA regulations on livestock maintenance, certain requirements must be met. These requirements are policies that can impose strict sanctions or fines on livestock owners who neglect their animals, causing harm to the general public.

The issue of wandering livestock (cattle) has been ongoing in Mamuju Regency for a long time. The impact of this problem includes disturbances to public order and tranquility, such as in residential areas and on highways. In response to this issue, the Mamuju Regency Government issued Regent Regulation No. 21 of 2021, which amends Regent Regulation No. 34 of 2018 on Livestock Control, with the hope of resolving the problem.

It is worth noting that the Mamuju Regency Government has issued regulations for handling stray livestock. There are even sanctions in place, including the detention and slaughter of livestock if not reclaimed. However, these cattle continue to roam freely in the center of Mamuju.



This issue has not been resolved, even after the Mamuju Regency Government amended Regent Regulation No. 34 of 2018 on Livestock Control to Regent Regulation No. 21 of 2021 on Livestock Control in 2021. The local government made this change in response to the ongoing problems and complaints from the community caused by freely roaming cattle, which had not been resolved in recent years. The amendment was also expected to address the issues caused by these roaming cattle. However, instead of improving, the situation has led to an increase in reports and complaints about the freely roaming cattle.

Based on this description, the author is interested in conducting a study titled "The Legal Implementation of Livestock Negligence in View of Article 549 of the Indonesian Criminal Code (KUHP)."

## Materials and Methods

### Material

According to the Kamus Besar Bahasa Indonesia (KBBI), the meaning of the word "penindakan" is the process, method, or act of taking action. "Penindakan" is derived from the root word "tindak," which means step or action (KBBI, 2011:1467). In this context, legal action refers to actions taken by authorities in the execution of their governmental functions. According to E. Utrecht, "Government actions are every action carried out by the government with the aim of organizing public interests, including the enactment of regulations or the establishment of provisions or agreements."

According to Law Number 10 of 2004 concerning the Formation of Legislation, a Regional Regulation (Peraturan Daerah or Perda) refers to legislation formed by the Regional People's Representative Council (Dewan Perwakilan Rakyat Daerah) with the joint approval of the Regional Head (Kepala Daerah). Another definition is legislation formed jointly by the Regional People's Representative Council and the Regional Head, whether at the provincial or district/city level.

### Method

This research is a normative legal study, which is conducted by examining library materials or secondary data (Soerjono Soekanto and Sri Mamuji, 2013:13). It is also known as doctrinal research, where the law is often conceptualized as what is written in legislation (law in books) or as norms or rules that serve as guidelines for human behavior (Amiruddin and H. Zainal Asikin 2006:118). According to Peter Mahmud Marzuki (2007:35), normative legal research is a process of finding legal rules, principles, or legal doctrines to address legal issues. (Juliardi, B., Runtunuwu, Y. B., et.al, 2023: 77).

Based on the above definitions, the type of research conducted in this thesis is normative legal research because the researcher primarily uses library materials as the main data to analyze the case, and no field research is conducted. This research is examined using library materials (secondary materials) or library legal research, broadly aimed at studying legal principles, legal systematics, legal synchronization, legal history, and legal comparison (Ediwarman, 2011:94).

The method used in this research is a normative juridical approach. The normative juridical approach, also known as doctrinal approach, involves using literature or document studies and opinions of experts related to relevant laws. The researcher will utilize library data as secondary data.

To obtain objective and verifiable results that can be accounted for, the following data collection methods are used library Research.

This study is conducted by collecting secondary data, including primary legal materials, secondary legal materials, and tertiary legal materials. The data obtained are used as theoretical foundations to analyze primary data obtained from field research.

The entirety of the data, consisting of primary and secondary data (primary, secondary, and tertiary legal materials), will be processed and analyzed qualitatively. Qualitative research is a stage that goes beyond various stages of critical scientific thinking, where research is conducted inductively, uncovering various facts or phenomena obtained from observation, and then analyzing them.

## **Result and Discussion**

KUHP in book one, Article 549 states:

- a. Anyone who, without authorization, allows their livestock to roam in gardens, pastures, or dry grass fields, whether on land that has been sown, planted, or prepared for sowing, planting, or whose produce has not yet been harvested, or on land owned by others who are entitled to prohibit it, shall be punished with a maximum fine of three hundred and seventy-five Indonesian Rupiah.
- b. Livestock that cause violations can be confiscated.
- c. If the violation occurs within one year of a final conviction for the same offense, the fine may be replaced with imprisonment for up to fourteen days.

Article 549 of the Indonesian Criminal Code regulates anyone who does not have the authority to release their livestock onto someone else's land. The penalty is a maximum fine of three hundred and seventy-five Indonesian Rupiah, but it can be replaced with imprisonment for up to fourteen days. Livestock are typically kept in a pen and provided with feed or have access to food (in herds). Some people may not even trap animals or confine cattle (allowing them to roam freely). The livestock pens range from enclosed fences without roofs to tall buildings with roofs and methods to control temperature and humidity (seen from the environment and farm buildings). Sometimes they are simply used as a place for livestock to sleep and eat.

Other types of pens are used for mating and raising chicks. Animals in pens are generally aggressive. Outdoor care is considered impractical because it requires a large area. However, keeping them in pens raises controversy due to various issues such as foul odors, waste management, animal disease epidemics, and animal welfare.

If individuals allow their livestock to roam freely and cause harm to others, it is a result of a crime or violation committed by someone that causes harm to others, whether material or non-material. Consequently, accountability for their actions will be sought, which may include fines or penalties based on the losses or mistakes made according to Article 549 of the Indonesian Criminal Code.

Several factors contribute to the community allowing their livestock to roam freely:

- a. Lack of awareness among the community regarding established regulations by the government.
- b. Insufficient socialization by local government and law enforcement officials to the community.
- c. Lack of self-awareness or concern among the local community to confine their livestock.
- d. Lack of firmness from the government in implementing sanctions.
- e. Releasing livestock without supervision by the owner, leading them to trespass onto others' land.

## **The Implementation of Article 549 of the Indonesian Criminal Code (KUHP) in Mamuju Regency**

The Livestock Article in the Draft Criminal Code (RKUHP) regarding the prohibition of allowing livestock to roam freely on cultivated land has sparked controversy. This is because livestock owners could face fines. This provision is regulated in Article 278 jo. 279 and Article 343, letters d and e of the RKUHP. Such actions are punishable by a fine of up to Category II, which is IDR 10 million, and/or confiscation for the state.

Similar provisions regarding livestock are also found in the Dutch Colonial Criminal Code (KUHP) still in use today. These provisions are listed in Articles 548 and 549 of the KUHP. The difference is that in the KUHP, the fine amount is not as high as in the RKUHP, with a maximum of IDR 225, IDR 375, and the livestock may also be confiscated by the state.

Even at the regional level, such provisions regarding livestock exist in Regional Regulations (Perda). One example is regulation of the Mamuju regency number 21 of 2021 concerning amendments to the Mamuju regency regulation number 34 of 2018 concerning the control of livestock, which regulates the prohibition of livestock wandering freely in the community environment that can cause harm to the community. Loose livestock will be captured, and the owner will be fined.

The legal basis of the Mamuju Regency Regulation (PERBUP) regarding the prohibition of allowing livestock to roam freely follows Article 549 of the Dutch Colonial Criminal Code (KUHP), which is still in effect. However, the implementation of sanctions in this PERBUP is considered mild by the researcher.

The application of criminal sanctions against livestock owners who allow their animals to roam freely on other people's land also finds theoretical justification. Van Hattum mentions that several types of violations are now considered public disturbances. Therefore, their management is seen as a public matter within the jurisdiction of the local government. The affected parties should not be allowed to determine whether the violators causing harm to them should be punished or not.

So far, regulations regarding the prohibition of allowing livestock to roam freely in Mamuju Regency through Regional Regulation No. 21 of 2021 have only been enforced in urban areas. In rural areas, enforcement against violators is limited to warnings issued by local government officials and community leaders. The availability of resources and facilities is one of the factors that contribute to the quality, efficiency, and effectiveness of law enforcement. The regulation on livestock control in Mamuju Regency, as stipulated in Regional Regulation No. 21 of 2021, does not impose imprisonment as a sanction for violators. Instead, violators are only fined, payable in cash as a redemption process. Considering that Article 549 of the Indonesian Criminal Code (KUHP) also imposes fines and confiscation by the state.

The Regional Regulation (PERBUP) articulates several criteria for measuring implementation as follows:

### **1. Clarity of Objectives to be Achieved**

The implementation of Regional Regulation No. 21 of 2021 concerning Livestock in Mamuju Regency has the main goal. Various efforts by local authorities from various regions continue to be developed to achieve these objectives.

The formation of this regulation, as stipulated in Regional Regulation No. 21 of 2021 concerning amendments to Regional Regulation No. 34 of 2018 concerning Livestock Control, is based on considerations such as the need for adjustments, the realization of environmental order and public safety on the roads, necessitating

- guidance and control from livestock wandering disturbances.
2. Feasibility Principle
 

Regulations must consider the conditions of the local community, whether the community can implement the rules or not. In this regard, Regional Regulation No. 21 of 2021 concerning amendments to Regional Regulation No. 34 of 2018 concerning Livestock Control can benefit the people of Mamuju Regency, especially in the Mamuju District. With a maximum fine of IDR 550,000 for large livestock such as cows, the community can implement these rules considering the conditions of the Mamuju community.
  3. Clarity of Formulation Principle
 

The formulation of regulations must consider technical requirements for drafting legislation, systematics, word or term choices, and clear legal language to avoid various interpretations. Regional Regulation No. 21 of 2021 concerning amendments to Regional Regulation No. 34 of 2018 concerning Livestock Control does not use ambiguous language that could lead to various interpretations. The language used in this Regional Regulation is easily understood by the community.
  4. Law Enforcement
 

Law enforcement officers have the responsibility and authority to implement and enforce regulations stipulated in the law or existing regulations. The role of law enforcement is crucial in determining the effectiveness of enforcing a rule. It is important to note that law enforcement plays a very important role in carrying out the tasks outlined in the regulations. Therefore, law enforcement officers must understand and follow Standard Operating Procedures (SOP) or specific techniques in carrying out their duties and authorities.
  5. Analysis and Formulation Implementation Process
 

In the implementation of Regional Regulation No. 21 of 2021 concerning amendments to Regional Regulation No. 34 of 2018 concerning Livestock Control in Mamuju Regency, from the perspective of the analysis and formulation process, it is considered good. It is stated that the dissemination process of regulations throughout the Mamuju Regency area, viewed from the availability of facilities and infrastructure for dissemination, has been perfect through bulletin boards, Radio Suara Manakarra, and mobile information. The allocation of missions and responsibilities in policy-making is very clear on who should be the special officers in various sectors of livestock management and supervision, such as the Civil Service Police Unit (Satpol PP), Fire Department (firefighters), Department of Food Crops, Horticulture, and Livestock Department. In this regard, the success of policy-making is also influenced by the policy itself. This happens when the policy implemented is of good quality or completeness, and how well the implementers implement the policy.
  6. Development of Appropriate Programs
 

In view of the existing regulations with good responses from the community, it is necessary to regulate wandering livestock in Mamuju city to create a sense of security and beauty for those passing through the streets, as Mamuju city is the administrative center of West Sulawesi (the capital of the province).

Based on the indicators outlined above, the Implementation of Law on Abandonment of Livestock as Reviewed From Article 549 of the Dutch Colonial Penal Code (KUHP) must adhere to the established criteria. All of these indicators can be considered to have fulfilled the implementation of the policy as determined by those provisions. However, the effectiveness in law enforcement is still considered weak.



The Livestock Article contained in the Dutch Colonial Penal Code (KUHP) has not caused any counterproductivity to public order and welfare up to now. In fact, the regulation of livestock articles in Regional Regulations (PERDA) and Regional Regulations (PERBUB) is evidence of the recognized and accepted existence of such regulations by the community. This means that the implementation of livestock articles is in accordance with the values of justice, social norms, and legal awareness of the Indonesian society.

In the law enforcement process related to the control of livestock violating Regional Regulation No. 21 of 2021, the Regional Police Enforcement Unit (Satuan Polisi Pamong Praja - Satpol-PP) is responsible for the enforcement of regional regulations against violations. As an authority in non-judicial regulation, Satpol-PP is tasked with sanctioning citizens, officials, or legal entities who violate Regional Regulations and/or Regional Regulations of the Regent/Mayor and sanctioning citizens, officials, or legal entities who disrupt public order and community tranquility.

Law enforcement officers have the responsibility and authority to implement and enforce regulations stipulated in the law or existing regulations. The role of law enforcement is crucial in determining the effectiveness of enforcing a rule. It is important to note that law enforcement officers play a very important role in carrying out the tasks outlined in the regulations. Therefore, law enforcement officers must understand and follow Standard Operating Procedures (SOP) or specific techniques in carrying out their duties and authorities.

The Regional Police Enforcement Unit and Fire Department of Mamuju Regency, as law enforcement agencies, have implemented the provisions of Regional Regulation No. 21 of 2021 concerning amendments to Regional Regulation No. 34 of 2018 concerning Livestock Control.

Actions usually taken by Satpol-PP in enforcing regulations to control wandering livestock include: a) Enforcement, b) Imposition of sanctions, and c) Socialization.

Satpol-PP, in carrying out the control of wandering or released livestock in the city, public roads, government areas, and public facilities, captures and requests maintenance costs and redemption from the livestock owners.

### **Factors Hindering Law Enforcement Processes**

The implementation of sanctions as regulated in the law and regional regulations depends on the readiness of various involved parties. Moreover, adequate knowledge and capability in cattle control are crucial to enhance the implementation of Regional Regulation No. 21 of 2021 on the amendment of Regional Regulation No. 34 of 2018 concerning Cattle Control. Several hindering factors in the realization of enforcement are as follows:

#### **1. Inadequate facilities or resources**

Facilities or resources are essential supportive elements in the quality, efficiency, and effectiveness levels of law enforcement regulated by regional regulations. Without proper facilities or resources, the law enforcement efforts conducted by the Regional Public Order Agency (Satpol-PP) will not yield satisfactory results.

The enforcement of regional regulations cannot be maximized if the supporting facilities or resources are lacking, and the equipment for personnel tasked with cattle control operations is not fulfilled. Law enforcement under regional regulations and the related public order maintenance demands to be executed optimally. Therefore, facilities or resources must be in good condition to support these activities. This is a contributing factor to the enforcement of Regional Regulation No. 21 of 2021 concerning the amendment of Regional Regulation No. 34 of 2018 concerning Cattle

- Control.
2. Public awareness  
The lack of awareness among cattle owners regarding the importance of regional regulations leads them to perceive the regulation as insignificant and not a significant issue. This is also caused by the entrenched tradition of livestock rearing and unrestricted release among the community.
3. Competency of Human Resources  
Regional Regulation No. 21 of 2021 concerning cattle control places full responsibility on the Satpol-PP and the Fire Department. One of the hindering factors in enforcing regional regulations on cattle control is the lack of skills and competence among personnel in executing enforcement tasks and securing cattle. Due to the lack of skills and competency of human resources, capturing cattle becomes challenging, making it ineffective and inefficient.

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