

CRIMINAL LIABILITY IN THE CASE OF POACHING OF ENDEMIC ANIMALS (CASE STUDY OF BALI STARLINGS)

Retno Widyani¹, Arianne Kania Dewi Purnama², Deni Yusup Permana³

¹ Muhammadiyah Cirebon University, West Java, Indonesia. Email retno.widyani@umc.ac.id

² Swadaya Gunung Jati University, Cirebon, West Java, Indonesia, ariannekania@gmail.com

³ Swadaya Gunung Jati University, Cirebon, West Java, Indonesia, deniyusuppermana80@gmail.com

Corresponding Author Email: retno.widyani@umc.ac.id

Abstract:

Background. The Balinese Starling faces the threat of extinction due to widespread illegal trade and illegal hunting.

Aims. The purpose of this investigation is to identify the elements that hinder the efficacy of law enforcement, in addition to analyzing the criminal responsibility of the offender as described by Law No. 5 of 1990.

Methods. The research methodology is characterized by a normative juridical approach that integrates legislative analysis and empirical case studies.

Result. Criminal liability is applied through a one-track system, but it fails to deter because the sanctions imposed are too light compared to the economic benefits of the black market. Law enforcement is hampered by weak legal substance, limited inter-agency coordination, and low public awareness, with wildlife still considered an economic commodity. The current legal system is not optimal in ensuring the protection of national biodiversity.

Conclusion. This underscores the need to reform Law No. 5 of 1990 to enhance the deterrent effect of criminal behavior, incorporate technology-based surveillance, and transition conservation methodologies from a penal paradigm to a socioeconomic framework, thereby preventing the permanent extinction of Bali Starlings in their natural habitat.

Implementation. The findings regarding weak deterrence effects signal the urgent need for legal reform and transformation of protection strategies.

Keywords: Bali Starling, Law No. 5 of 1990, Law Enforcement, Legal Responsibility, Poaching



© 2025 Author. This article is licensed under [the Creative Commons Attribution 4.0 International License](https://creativecommons.org/licenses/by/4.0/), which permits use, sharing, adaptation, distribution, and reproduction in any media or format, as long as you give appropriate credit to the original author and the source.

INTRODUCTION

Indonesia is famous for its rich and abundant biodiversity, flora, and fauna. Among the endemic fauna that have become a national symbol, especially the Island of the Gods of Bali, is the Balinese Starling (*Leucopsar rotschildi*). The main attraction of this bird is its beautiful plumage and melodious voice, which make it an icon of protected wildlife.

However, the Balinese starling is endangered in the wild due to its beauty and uniqueness. The *International Union for Conservation of Nature* (IUCN) has classified it as a critically endangered species due to poaching and illegal trade, which are driving its population decline. Populations in the wild remain very fragile and continue to decline due to persistent habitat destruction and poaching, although conservation efforts through captive breeding have increased populations outside their natural habitats.

To address this problem, the Indonesian government has enacted Law Number 5 of 1990 on the Protection of Biological Natural Resources and Ecosystems. The Act provides criminal sanctions, including fines and imprisonment, and prohibits hunting, capturing, and commercial exploitation of species designated as protected. One of the more complex regulations related to this issue is Government Regulation Number 8 of 1999 concerning the Use of Wild Flora and Fauna Species.

A more general legal framework is provided by Law Number 32 of 2009 on Environmental Protection and Management, which aims to protect biodiversity, endangered species, and various environmental functions. This rule strengthens the legal basis for providing punishment to parties involved in the illegal hunting and trading of endangered animals. Habitat preservation for endangered species, such as the Bali Starling, is intrinsically linked to the law's focus on the need for systematic and integrated strategies to uphold environmental integrity and reduce degradation. Individuals who engage in ecosystem-destructive activities, including illegal poaching, can be prosecuted under the Environmental Protection and Management Act, which also defines criminal offenses related to environmental damage. "It is forbidden for any person to hunt, capture, damage, kill, keep, possess, detain, or transport" protected species in accordance with the provisions listed in the Environmental Protection and Management Act (Article 21 paragraph (2), in the context of changes in relevant laws and regulations).

The issue of Bali starling poaching persists despite the legal framework being established, as evidenced by the ongoing legal crackdown. This condition underscores the need for an in-depth evaluation of criminal law's capacity to fulfill its deterrence function and ensure fair punishment for offenders. In reality, economic factors, limited public awareness, and the limited capabilities of law enforcement officers pose challenges for law enforcement.

This makes this research highly relevant and urgent. The aim is to comprehensively analyze how the principles of criminal liability have been applied to Bali starling poaching

cases processed through the Indonesian judicial system. Through this case study approach, it is hoped that the study will identify various obstacles encountered in the law enforcement process. The results will be used to formulate recommendations to optimize legal protection for endangered animals.

Based on the background information provided, the formulation of the research problem is:

1. What type of criminal sanctions are given to perpetrators who carry out poaching against Bali starlings in accordance with Law Number 5 of 1990?
2. What factors affect the success of law enforcement in the Bali Starling poaching case, both in terms of legal material and court practice?

Based on the studies in this article and related literature, research on the poaching of protected animals in Indonesia currently shows several key trends:

1. Focus on Conservation Legal Framework. Previous research has discussed: Implementation of Law No. 5 of 1990 concerning Conservation of Biological Natural Resources. Derivative arrangements such as Government Regulation No. 7 of 1999 and Government Regulation No. 8 of 1999. Implementation of criminal sanctions against perpetrators of wildlife trafficking. Most studies place criminal law as the primary instrument of animal protection.
2. Evaluation of the Effectiveness of Criminal Sanctions. Previous studies have highlighted that the penal system is a single-track system (only imprisonment and fines). The sanctions imposed are relatively light. The deterrent effect on perpetrators is still low. Conservation law research is more normative and descriptive.
3. Law Enforcement Factor Analysis. The dominant approach using Soerjono Soekanto's theory includes: The substance of the law, Law enforcement officials, Sarana-prasarana, Public awareness, and legal culture. Research shows weak coordination between institutions and low public participation.
4. Limitations of Species-Specific Studies. Most studies have focused on the wildlife trade in general, while studies on Bali starlings have been limited and sporadic.

Thus, the state of the art shows that research on animal protection is still dominated by Normative analysis of the law, Evaluation of criminal sanctions, and institutional study of law enforcement, without in-depth integration of socio-economic and technological approaches.

METHOD

This study uses a normative legal approach by using two techniques to understand the application of sanctions: a legislative approach that includes an analysis of relevant rules and a case approach that examines court decisions related to the illegal hunting of Bali starlings. Data sources include laws, court rulings, and secondary legal information from relevant journals.

A literature review is used as a method of data collection, including document analysis, grouping of legal materials, and inventory and identification of rules. Qualitative-normative analysis techniques are used to analyze the data. The analysis consists of a description of the legal framework, the interpretation of criminal law norms, and the evaluation of the conformity of those norms with practice. This analysis aims to provide a comprehensive answer to the problem formulation and to achieve the research objectives.

RESULTS AND DISCUSSION

The hunting of the Bali Starling is a serious problem that threatens the extinction of this endemic species, due to the beauty of its feathers and melodious voice, so that it becomes a target of the illegal trade as an expensive pet bird, even though it is protected by law. Poachers capture them from the wild, especially in their main habitats of West Bali National Park (TNBB) and Nusa Penida, causing the population to decline dramatically.¹ The Bali starling is still protected from poaching and other threats such as habitat destruction through conservation efforts such as breeding and reintroduction, as well as strict regulations (CITES Appendix I, an endangered species, prohibits commercial international trade except in rare and exceptional cases, requires strict permits for non-commercial trade such as scientific research, and protects iconic animals and plants from threatening trade their survival).²

Government Regulation (PP) Number 8 of 1999 regulates the management of Plants and Wildlife (TSL) in Indonesia, including the Bali Starling. This regulatory structure enforces the provisions of Law Number 5 of 1990 related to the Conservation of Natural Resources and Ecosystems. The Balinese starling is classified as a protected species due to its Critically Endangered status and the risk of extinction in its natural habitat. Examples of

¹ Afriawan Tendiyus, (2025, April), Balinese Starling, The Endangered White Beautie, [Online] Availability: <https://rri.co.id/lain-lain/1481904/jalak-bali-si-cantik-putih-yang-terancam-punah> [December 16, 2025]

² Supardi Ahmad, (2022, August), Hopes that the Balinese Starling Population in the Wild Will Increase, [Online] Availability: <https://mongabay.co.id/2022/08/26/berharap-populasi-jalak-bali-di-alam-liar-meningkat/> [December 16, 2025]

permitted uses include study, research, breeding, trading, and exhibition. The legal basis for Bali starling breeding activities is regulated by this government regulation. Animals bred in captivity are generally equipped with a leg ring and an official certificate from the local Natural Resources Conservation Agency (BKSDA), which allows them to be kept and/or traded. In addition to administrative penalties or revocation of business licenses, Law No. 5 of 1990 provides criminal penalties for the capture, hunting, and trafficking of Bali starlings without the necessary permits from their natural ecosystem.

Law Number 5 of 1990 concerning the Conservation of Natural Resources and Ecosystems, especially Article 40 juncto Article 21 paragraph (2) letter a, describes criminal obligations related to the unlawful hunting of Bali Starlings, including actions such as capture, persecution, lethal acts, storage, possession, maintenance, transportation, and trade of protected species in their natural habitat. Violators may be subject to fines and/or imprisonment.³

Law Number 5 of 1990 uses a single criminal system (*Single Track System*), meaning it focuses solely on criminal punishment and excludes other remedial or rehabilitative sanctions. This accountability is addressed to the individual (individuals).⁴ The types of sanctions are differentiated based on the degree of wrongdoing, namely, intentionality or negligence.

Criminal Provisions:

1. A person can be sentenced to imprisonment with a maximum of 5 (five) years and a fine of up to IDR 100,000. 000.00 (one hundred million rupiah) if you deliberately violate the provisions listed in Article 21 paragraphs (1) and (2) and Article 33 paragraph (3).
2. If a person violates the provisions contained in Article 21 paragraphs (1) and (2) and Article 33 paragraph (3) due to negligence, he can be sentenced to a maximum of 1 (one) year in prison and a fine of up to Rp 50. 000. 000.00 (fifty million rupiah).

³ HAFIZH RAMDANI ABD. (2018), APPLICATION OF CRIMINAL SANCTIONS AGAINST PERPETRATORS OF NATURAL RESOURCE CONSERVATION CRIMES (STUDY OF DECISION NO.68/PID. SUS/2016/PN.Mtr), 8-10

⁴ Panglila Vecky N. (2018), LEGAL SETTLEMENT OF CASES OF PROTECTED ANIMAL CRIMES BASED ON LAW NUMBER 5 OF 1990 CONCERNING BIOLOGICAL NATURAL RESOURCES AND ECOSYSTEMS, Vol.VII(123)

Perpetrators may be subject to additional penalties, such as the confiscation of endangered animals, in addition to the main punishment of imprisonment or detention and fines. The state will accept the confiscated animals and return them to their natural habitat.

Government Regulation Number 7 of 1999 concerning the Conservation of Plant and Animal Species contains further provisions regarding the list of protected animals, including the Balinese Starling. Under this regulation, this native bird from Bali is categorized as an endangered species and can only be traded for breeding or for third-generation offspring.⁵

The determinants that significantly affect the efficiency of law enforcement related to illegal hunting of Balinese starlings can be examined through the law enforcement factors articulated by Soerjono Soekanto, including the substance of the law, available resources, community involvement, and cultural context.⁶

Law No. 5 of 1990 establishes the basis for regulations to protect animals; however, its effectiveness is severely hampered by several shortcomings. In judicial practice, sentences are often light, failing to deter potential offenders because the financial benefits of illegal trade outweigh the associated legal risks.⁷ The discussion on the revision of Law Number 5 of 1990 shows that the existing judicial system is still inadequate. The classification of wildlife trafficking as transnational organized crime requires revision, and the cost of the crime (*cost of crime*) must be significantly increased to be equal to the profits made by the perpetrators. Injustice in sentencing and a decline in public trust in the legal system are caused by inconsistent law enforcement, which often results in lenient prosecutions and laws.⁸

In terms of judicial practice and law enforcement, this factor involves the capacity of the apparatus and the legal operational process in the field. The effectiveness of law enforcement is hampered by limited resources, poor coordination among law enforcement agencies (Forest Police, Police, Prosecutor's Office, and Judges), and integrity issues, including potential corruption and structural weaknesses. The nature of organized crime makes investigation and proof difficult. Perpetrators now use closed communication platforms (private) to transact, making it difficult for the authorities to conduct cyber patrols

⁵ Panglila Vecky N. (2018), LEGAL SETTLEMENT OF CASES OF PROTECTED ANIMAL CRIMES BASED ON LAW NUMBER 5 OF 1990 CONCERNING BIOLOGICAL NATURAL RESOURCES AND ECOSYSTEMS, Vol.VII(123)

⁶ Soerjono Soekanto, (2007), Factors Affecting Law Enforcement, RajaGrafindo Persada, Jakarta, p.5

⁷ Eryan Adrianus, (2024, June), Review on Illegal Wildlife Trade Provisions in Indonesia: Cost-Benefit Analysis and Law Enforcement, Vol.21 51-52

⁸ Rianzar Muhammad & Kusuma Hanif (2025, January), Study on the decline of wildlife population in nature due to illegal breeding and hunting: Implications for biodiversity conservation, Vol.2 129-130

(*Cyber Patrol*) and systematically uncover the network.⁹ Despite increased patrols by national park officials, poaching is still ongoing, especially in areas of the Bali Starling's natural habitat (West Bali and Nusa Penida National Parks), indicating weaknesses in surveillance and security systems at conservation sites. The very high selling price of Bali Starlings on the black market (reaching 400 USD per head) serves as a powerful incentive for the perpetrators to continue acting, despite the threat of legal sanctions that are taken for granted.

Although animal protection is a collective responsibility, awareness and compliance with the law among the community are still low. Ironically, many people, including the younger generation, view Bali starlings solely as a high-value commodity, akin to legal electronic goods, to be traded on the black market, not as a species that must be protected.¹⁰ This article has some elements of novelty as follows:

Specific Focus on Balinese Starlings

1. This study specifically examines:
2. The hunting of Bali starlings as an endemic animal and a national symbol.
3. The legal impact on certain species, not just the trade in animals in general.
4. This reinforces a species-based legal analysis.

Integration of Normative Analysis and Case Studies

1. The study combined:
2. Analysis of the Laws and Regulations,
3. An analysis of the court's decision.
4. Empirical study of hunting cases.
5. This approach provides a more concrete picture of legal practice.

Emphasis on Weak Deterrent Effect

The article asserts that:

1. Criminal sanctions are not proportional to the profits of the black market.
2. The concept of "cost of crime" has not been applied optimally.

⁹ Anggriawan Ferry, (2024, December), Law Enforcement of Wildlife Trade (Lorise) in the Batu City Area, Vol.6 82

¹⁰ Curby Nicole, (2016, July), Bali's endangered starling and the fight against wildlife trafficking, [Online] Availability: https://kbr.id/articles/indeks/bali_s_endangered_starling_and_the_fight_against_wildlife_trafficking [15 December 2025]

3. This focus deepens the study of legal effectiveness from a criminal economics perspective.

Ideas of Transforming Conservation Approaches

1. Another novelty is the recommendation:
2. Shift from the penal paradigm to the socio-economic paradigm.
3. Integration of surveillance technology (cyber patrol).
4. A participatory approach to the community.

This approach goes beyond conventional legal studies that emphasize criminality alone.

Overall, the main novelty of this study lies in An integrated analysis of criminal law, the reality of illegal markets, technological approaches, and a paradigm shift in social-based conservation.

Although this article is comprehensive, there are still some research gaps that have not been optimally addressed:

Methodological Gaps

1. The research is still predominantly normative-qualitative, so it has not:
2. Using quantitative data on recidivism rates,
3. Measuring the effectiveness of sanctions statistically,
4. Analyze the verdict trends in the long term.

Gap: Lack of an empirical-quantitative approach.

Technology Implementation Evaluation Gap

1. The article recommends cyber patrol and surveillance, however:
2. Not examining the effectiveness of existing technology,
3. It does not discuss the readiness of human resources and the budget,
4. Do not compare with the practices of other countries.

Gap: There has been no systematic evaluation of the use of law enforcement technology.

Socio-Economic Analysis Gap of Local Communities

1. Research mentions the importance of a social approach, but:
2. Have not studied the economic condition of the community around the habitat,
3. Have not analyzed the relationship between poverty and poaching,
4. It has not evaluated alternative livelihood models.

Gap: Lack of in-depth studies of economic structural factors.

Gap in Integrated Policy Studies (Policy Integration)

1. The research has not gone into detail:
2. Synchronization of central and regional policies,
3. Integration of conservation law with tourism policy,
4. Linkage to international trade policy.

Gap: There is no integrated cross-sectoral policy model yet.

Ecological Justice Perspective Gap

1. The study still focuses on the perpetrators and sanctions, not yet on:
2. Long-term ecological losses,
3. Impact on the balance of the ecosystem,
4. Environmental rights.

Gap: Lack of ecological justice and green victimology approaches.

CONCLUSION

Two main conclusions can be drawn from research and discussion on law enforcement against illegal hunting of Bali starlings:

First, people involved in the illegal hunting of Bali starlings will be punished in accordance with Law No. 5 of 1990 concerning the Conservation of Natural Resources and Ecosystems. Article 40 juncto Article 21 paragraph (2) regulates a single track system approach, highlighting punitive actions with fines and imprisonment, without any rehabilitation efforts. The level of punishment is determined by the type of offense (*mens rea*): for intentional offenses, the prison sentence can be up to five years and a fine of Rp 100.000.000.00 (one hundred million rupiah). Meanwhile, for negligence, the maximum prison sentence is one year along with a fine of not more than Rp 50.000.000.00 (fifty million rupiah), plus additional penalties in the form of confiscation of animals for the benefit of the state.

Second, according to the idea of legal efficacy, there are three main variables that contribute to the low effectiveness of law enforcement in this regard:

1. Legal substance factor: The sanctions contained in Law Number 5 of 1990 have been criticized because they are considered less firm and too weak, so they do not function optimally as a preventive measure, especially considering the high economic value in the black market related to Bali Starlings.

2. Law enforcement factors: Lack of resources, poor inter-agency coordination (Forestry Police, National Police, Prosecutor's Office), and difficulties caused by new technology-based crime methods that are difficult to detect (cybercrime).
3. Legal cultural factors: There is still a low awareness of the public who view Bali Starlings solely as a high-value economic commodity, not as a biological resource asset that must be preserved.

As a result, the amendment to Law No. 5 of 1990 was critical to the conservation of the Bali Starling, aiming to strengthen law enforcement personnel's collaborative efforts through technology-driven surveillance and improved punitive measures.

Involvement

The findings on weak deterrent effects imply an urgent need for legal reform and transformation of endemic animal protection strategies. The implications of this study can be detailed as follows:

1. The urgency of legislative reform

Law Number 5 of 1990, which provides light punishment, shows that the law is no longer enough to overcome the reality of crimes against animals today. A revision of the law is needed that not only increases the severity of criminal sanctions and fines, but also adopts the principle of handling transnational organized crime. To fulfill its role as an instrument of social engineering, law seeks to ensure that the "cost of crime" far outweighs its potential economic gains.

2. Transformation of law enforcement strategies

The fact that perpetrators are now using information technology implies that conventional law enforcement must be transformed immediately. It is necessary to strengthen the apparatus's capacity to conduct cyber patrols and digital intelligence to break the distribution chain on the black market. In addition, synergy among the Forest Police, the National Police, and the Prosecutor's Office must be strengthened through an integrated coordination system to prevent overlapping authorities and to close loopholes for collusion in handling cases.

3. A shift in conservation approach

The gap between regulation and community compliance implies that conservation strategies cannot rely solely on repressive (legal) approaches. An inclusive economic and social approach is needed for communities around habitats (such as West Bali

National Park). The goal is to change the public perception of the Bali Starling from just an 'economic commodity' to an 'ecological asset' that has national pride value.

4. Risks of extinction and loss of the country

If these weaknesses in legal substance and oversight are not addressed immediately, the worst implication will be the extinction of the Bali Starling in the wild. This is not just the loss of one bird species, but an invaluable loss to global biodiversity and the loss of a symbol of cultural identity and national pride in Indonesia, especially for the Balinese people.

BIBLIOGRAPHY

- Afriawan Tendiyus, (2025, April), Balinese Starling, The Endangered White Beauty, [Online] Availability:
- Anggriawan Ferry, (2024, December), Law Enforcement of Wildlife Trade (Lorise) in the Batu City Area, Vol.6 82
- Batu Cornelius Immanuel Lumban, (2024, August), Criminal Liability for Perpetrators of the Sale of Protected Animals in a Living State (Study of Decision Number 171/Pid.B/LH/2020/PN Gin), 28-29
- Curby Nicole, (2016, July), Bali's endangered starling and the fight against wildlife trafficking, [Online] Availability: https://kbr.id/articles/indeks/bali_s_endangered_starling_and_the_fight_against_wildlife_trafficking . [December 15, 2025]
- Eryan Adrianus, (2024, June), Review on Illegal Wildlife Trade Provisions in Indonesia: Cost-Benefit Analysis and Law Enforcement, Vol.21 51-52
- HAFIZH RAMDANI ABD. (2018), APPLICATION OF CRIMINAL SANCTIONS AGAINST PERPETRATORS OF NATURAL RESOURCE CONSERVATION CRIMES (STUDY OF DECISION NO.68/PID. SUS/2016/PN.Mtr), 8-10 <https://rri.co.id/lain-lain/1481904/jalak-bali-si-cantik-putih-yang-terancam-punah> [December 16, 2025]
- Panglila Vecky N. (2018), LEGAL SETTLEMENT OF CASES OF PROTECTED ANIMAL CRIMES BASED ON LAW NUMBER 5 OF 1990 CONCERNING BIOLOGICAL NATURAL RESOURCES AND ECOSYSTEMS, Vol.VII(123)
- Rianzar Muhammad & Kusuma Hanif (2025, January), *Study on the decline of wildlife population in nature due to illegal breeding and hunting: Implications for biodiversity conservation*, Vol.2 129-130
- Soerjono Soekanto, (2007), Factors Affecting Law Enforcement, RajaGrafindo Persada, Jakarta, p.5
- Supardi Ahmad, (2022, August), Hopes that the Balinese Starling Population in the Wild Will Increase, [Online] Availability: <https://mongabay.co.id/2022/08/26/berharap-populasi-jalak-bali-di-alam-liar-meningkat/> [16 December 2025]