

Criminalization Policy of Animal Testing in Cosmetics Production in Indonesia



Nuragustini¹, Supardi², Handoyo Prasetyo³

^{1,2,3} Master of Law, Universitas Pembangunan Nasional Veteran Jakarta

ABSTRACT: The purpose of this study is to analyze the importance of criminalization in the use of animal testing in the production of cosmetics in Indonesia as well as the right formulation in the formation of policies on animal testing. The problem is why a criminalization policy is needed against producers who conduct animal testing as a product test in the cosmetics production process and how the formulation of criminalization arrangements against producers who conduct animal testing as a test of cosmetics products in the production process. To be able to answer the formulation of the problem, the research used is normative juridical research with a statutory approach and a comparative approach and conceptual approach. The results show that in conducting animal testing there is the concept of 3R (Replacement, Reduction and Refinement). The 3R concept is an ethic that can be used to realize an experiment by looking for possible alternatives. Because many cosmetic companies are competing in creating new innovations in order to meet the needs of consumers, so that not a few companies carry out the innovation process carried out by related parties in developing their products still often use animals for product trials, which in practice this reaps many cons both from an ethical and scientific perspective. For this reason, criminalization is needed with the existence of legal policies, especially criminal law policies with formulations that regulate starting from the procedure for conducting animal tasting, what animals can be used as animal tasting, and what the procedure is after conducting animal testing, and of course whether it is necessary to submit an application to the competent authority before conducting animal testing, finally that in a legislation also regulates how sanctions / penalties are given to everyone who deliberately violates these laws and regulations.

KEYWORDS: policy, animal welfare, criminalization, cosmetics, animal testing.

INTRODUCTION

The development of human needs is also driven by social development, one of which is the need for cosmetics. The cosmetics industry is currently experiencing a continuous increase in economic growth, the function and value of cosmetic products are also growing. Cosmetic products are used not only to fulfill basic needs for beauty, but the use of cosmetics can also be used to explain the status of consumers in society. Based on Article 1 point 1 of the Decree of the Head of the Food and Drug Administration of the Republic of Indonesia Number HK.00.05.4.1745 concerning Cosmetics, what is meant by cosmetics is a material or preparation intended for use on the external parts of the human body (epidermis, hair, nails, lips, and external genital organs) or teeth and oral mucosa, especially for cleaning, fragrance, changing appearance and or improving body odor or protecting or maintaining the body in good condition.

The cosmetics industry is currently not free from ethical issues, namely the use of animals as test materials or what is known as animal testing. Animal testing is an experiment that involves animals as objects of research and experiments for cosmetics where this is done so that it can be known how the results will be in humans.¹ Research for such cosmetics usually uses animals such as rabbits and mice, as experimental objects. The Foundation of Biomedical Research (FBR) suggests that 95% of the animals most commonly used in laboratories are mice. The reason for this is because rodents have a gene structure, and biological systems that are almost similar to humans. The resemblance is great for providing accurate results when it comes to testing drug effects in mice.²

¹ "What is Animal Testing", About Animal Testing, <http://www.aboutanimaltesting.co.uk/what-animal-testing.html>, diakses pada 5 Maret 2024 Pukul 22.48 WIB.

² FBR (Foundation for Biomedical Research). 2016. *Mice and rats: the essential need for animals in medical research*, <https://fbresearch.org/wp-content/uploads/2016/04/Mice-Rats-In-Biomedical-ResearchFBR.pdf>, diakses pada 5 Maret 2024 pukul 19.23 WIB.

Criminalization Policy of Animal Testing in Cosmetics Production in Indonesia

However, one of the problems with animal testing is that after cosmetic trials, many animals experience inconvenience, discomfort, distress, pain, and even death.³ The result of animal testing of cosmetics indicates a violation of animal welfare.⁴

Based on data from the Asia For Animals Coalition in 2021, Indonesia is the first country in the world to post the most animal cruelty content on social media. Of the 5,480 contents collected, 1,626 torture contents came from Indonesia.⁵ In 2018, the Minister of Environment and Forestry (LKH) highlighted that wildlife crime ranked third as the biggest crime case, after drug crime and human trafficking.⁶ Then, based on the Bali Animal Defender report in 2019 cases of animal abuse increased, from 2018 approximately 30 cases of animal neglect and abuse while in 2019 it increased to 50 cases of animal neglect and abuse.⁷

Indonesia has endeavored to protect and ensure animal welfare through the formulation of Law of the Republic of Indonesia No. 18/2009 on Animal Husbandry and Animal Health and Law of the Republic of Indonesia No. 41/2014 on the Amendment to Law No. 18/2009 on Animal Husbandry and Animal Health. Seeing the definition of animal welfare itself in Article 1 point 42 of Law No. 18/2009 on Animal Husbandry and Animal Health which explains that animal welfare is all matters related to the physical and mental state of animals according to the size of the natural behavior of animals that need to be applied and enforced to protect animals from any improper treatment of animals used by humans.⁸

Law of the Republic of Indonesia Number 41 of 2014 on Amendments to Law Number 18 of 2009 on Animal Husbandry and Animal Health has been revised with the issuance of Government Regulation in Lieu of Law (PERPU) Number 2 of 2022 on Job Creation. This amendment is intended to improve and refine the provisions of Law No. 18/2009 to increase effectiveness and efficiency in the management of animal husbandry and animal health in Indonesia. The definition of animal welfare is also listed in the Saunders Comprehensive Veterinary Dictionary which explains that animal welfare is, "Avoiding the abuse and exploitation of animals by humans by maintaining appropriate standards of accommodation, feeding and general care, prevention and treatment of disease and assurance of freedom and harassment, and unnecessary discomfort and pain."⁹

A case in the European Union involving mostly cosmetics manufacturers with at least 80 brands said they were "disappointed" with the government's new position to the High Court which changed animal testing policies to be in line with EU chemical regulations. A Home Office spokesperson told the BBC: "We are pleased that the High Court agreed with the Government's position in this case. The Government is committed to the protection of animals in science". Animal testing for makeup or its ingredients has been completely banned in the UK since 1998. Animal testing is only allowed if the benefits derived from the research outweigh the suffering of the animals, for example for pharmaceuticals. But in 2020, the European Chemicals Agency, an EU body that oversees chemicals regulation, ruled that companies need to test some ingredients used in cosmetics on animals to ensure they are safe for the workers who produce them.¹⁰

Cruelty Free International filed the case, arguing that the move was illegal and violated the ban on animal testing for makeup and ingredients, which has been in place since 1998. Judge Linden ruled in favor of the government, saying that the policy change was within the law although he said it was "unfortunate" that the public was not informed. The government's policy change has been heavily criticized by major beauty and cosmetics brands, including Unilever, Body Shop, and Boots. Ingredients that may be tested on animals include homosalate, a common sunscreen ingredient used in many foundations and skincare products. In low doses homosalate is safe but in higher concentrations, evidence of its impact on the human immune system is inconclusive.¹¹

Judge Linden said that there is nothing to stop governments from implementing an absolute ban on animal testing of makeup products if they wish. Cruelty Free International CEO Michelle Thew said: "This case shows clearly that prioritizing the interests of contract testing companies over the interests of animals and the wishes of the vast majority of the British public who are strongly opposed to cosmetics testing".¹² Based on the case above, it does not rule out the potential for animal testing in Indonesia,

³ Salva Reverentia Yurista, Rafi Andika Ferdian, dan Djanggan Sargowo, Prinsip 3Rs dan Pedoman ARRIVE pada Studi Hewan Coba, *Jurnal Kardiologi Indonesia* Vol. 37 No. 3, 2016, hlm. 160.

⁴ Azhara Devica Risnanda, dan Handar Subhandi Bakhtiar, "Perlindungan Hukum Dalam Klasifikasi Bentuk Kekerasan Terhadap Hewan Di Indonesia", *Res Nullius Law Journal*, Vol. 5 No. 2 (2023), hlm. 123-134.

⁵ <https://www.kompas.tv/nasional/217998/juara-dunia-penyiksa-hewan-indonesia-banyak-unggah-konten-kekerasan-binatang-di-media-sosial/>, Diakses pada 1 Maret 2024 pukul 15.02 WIB.

⁶ <https://news.detik.com/berita/d-3998884/menteri-lhk-kejahatan-satwa-liar-peringkat-ke-3-di-indonesia/>, Diakses pada 1 Maret 2024 pukul 15.04 WIB.

⁷ Alya Maharani, "Tinjauan Yuridis tentang Penerapan Hukuman terhadap Pelaku Tindak Pidana Penganiayaan Hewan yang Menyebabkan Kematian", *National Conference on Law Studies (NCOLS)*, Vol. 2. No. 1. (2020), hlm. 677.

⁸ Pasal 1 angka 42 Undang-Undang Nomor 18 Tahun 2009 Tentang Peternakan dan Kesehatan Hewan

⁹ Studdert, Virginia P., Clive C. Gay, and Kenneth W. Hinchcliff, "Saunders Comprehensive Veterinary Dictionary", Elsevier Health Sciences, 2020, hal. 4.

¹⁰ <https://www.cnnindonesia.com/edukasi/20180103105033-445-266317/sisi-kelam-produk-kosmetik/>, Diakses pada 1 Maret 2024 pukul 15.10 WIB.

¹¹ *Ibid.*

¹² <https://www.bbc.com/news/science-environment-65484552>, Diakses pada 1 Maret 2024 pukul 15.20 WIB.

Criminalization Policy of Animal Testing in Cosmetics Production in Indonesia

considering that Indonesia as a country with a large population is a target in terms of cosmetics sales, where cosmetics are used to care for and beautify themselves.

Animal testing is a form of animal exploitation and abuse. Like humans, animals as creatures created by God should be free from all forms of torture, whatever form it takes. Therefore, animal testing cannot be justified. Actually, Indonesia already has various animal protection regulations. Article 66 paragraph (2) letters e and g of Law of the Republic of Indonesia Number 18 of 2009 concerning Animal Husbandry and Animal Health states that:¹³

1. the use and utilization of animals shall be conducted in the best possible manner so that animals are free from mistreatment and abuse;
2. the treatment of animals must be avoided from mistreatment and abuse.

The article confirms the rule of command that in the use and utilization of animals must be done properly and there should be no abuse of animals.

Furthermore, Article 66A paragraph (1) of Law of the Republic of Indonesia Number 41 Year 2014 on the Amendment to Law Number 18 Year 2009 on Animal Husbandry and Animal Health states that: "Every person is prohibited from mistreating and/or abusing animals that result in disability and/or unproductivity."

Article 336 letter a of Law of the Republic of Indonesia Number 1 Year 2023 on the Criminal Code states that:

"What is meant by 'harassing an animal' is making an animal react in panic so as to cause the animal to be aggressive, causing anxiety, fear in the animal which can endanger humans, animals, and goods."

Meanwhile, the explanation in Law Number 17 of 2023 article 335 paragraph (6) concerning Health states that: "Research utilizing experimental animals must pay attention to the welfare of these animals and prevent indirect adverse effects on human health."

Looking at the sound of the above regulation, there is a prohibition rule, namely that there should be no abuse of animals that can cause animals to feel pain and cause disability. However, what needs to be considered in the Law is whether the act of animal testing on cosmetic products, which as a result of which animals will feel pain that can lead to death, can be qualified as a form of violation of animal welfare as referred to in the Law.

Despite the existence of regulations governing animal welfare and the prohibition of animal abuse, until now there are no regulations governing sanctions against cosmetics manufacturers and distributors who use animals as a means of testing cosmetic ingredients. Based on BPOM Regulation Number 10 of 2022 concerning Guidelines for In Vivo Preclinical Toxicity Tests is an important step in ensuring the safety of pharmaceutical and food products before consumption by the public. The guideline provides a clear and structured framework to direct the process of preclinical toxicity testing in vivo, which involves testing on experimental animals before clinical trials are conducted on humans. Rules regarding the use and maintenance of animals are usually included in the Laboratory Standard Operating Procedure (SOP) that has been issued by BPOM, but not necessarily included in accordance with the 5 principles of animal welfare, namely free from hunger and thirst, free from discomfort, free from pain or injury and disease, free to express normal behavior, and free from fear and stress.

Indonesia as a country with the fourth largest population in the world makes it a great opportunity for the production and distribution of cosmetics. The existence of a legal vacuum regarding the prohibition of the use of animal testing for testing cosmetic products and the distribution of cosmetic products that use animal testing can allow animal abuse to continue to occur. Based on these problems, the author is interested in studying to formulate the problem, namely How is the formulation of criminalization arrangements for producers who conduct animal testing as a test for cosmetic products in the production process?

RESEARCH METHODS

The type of research used by researchers is normative legal research or what is commonly referred to as doctrinal research. This research is legal research obtained from a comparative approach, literature study, by analyzing a legal problem regarding laws and regulations, books and also other literacy materials related to regulations on this research. Research on law using the juridical-normative method is carried out by identifying and conceptualizing the law as a norm of rules, laws and regulations that apply to a certain sovereign state. Legal research with a comparative approach is normative legal research or doctrinal legal research.¹⁴

This research uses a normative juridical approach, namely by examining / analyzing secondary data in the form of legal materials, especially primary legal materials and secondary legal materials, by understanding the law as a set of positive rules or norms in the legislative system that regulates human life. This research uses a method of approach, including:

1. Statute approach; The statute approach is carried out by reviewing all laws and regulations relating to the legal issues under study. The statutory approach is used to study the consistency and compatibility between a law and other laws

¹³ Pasal 66 ayat (2) huruf e dan g Undang-Undang Republik Indonesia Nomor 18 Tahun 2009 tentang Peternakan dan Kesehatan Hewan.

¹⁴ Ronny Hanitijo Soemitro, 1990, *Metodologi Penelitian Hukum dan Jurimetri*, Jakarta: Ghalia Indonesia, hal. 4.

Criminalization Policy of Animal Testing in Cosmetics Production in Indonesia

- or between laws and the Constitution or between regulations and laws. Researchers will look for ratio legis on the basis of the birth of the law to understand the philosophical content of the law.¹⁵
2. Comparative approach, which is an approach taken to compare the law of a country with the laws of other countries. Legal comparison is essentially a philosophical activity. Comparative law is a study or comparative study of the intellectual conceptions behind the main legal institutions of one or several foreign legal systems.
 3. Conceptual approach; This approach departs from the views and doctrines that develop in legal science. This approach is important because an understanding of the views / doctrines that develop in legal science can be a foothold for building a third legal argument to resolve the legal issues at hand. Views or doctrines will clarify ideas by providing legal notions, legal concepts, and legal principles that are relevant to the problem.

DISCUSSION

Formulation of Criminalization Arrangements for Producers Who Conduct Animal Testing as a Test for Cosmetic Products in the Production Process

Not only humans have the right to life, animals also have the same right. Experimental animals play an important role in research and testing to improve human and animal health. The use of animals in research must be balanced between science and the ethical values of animal welfare.¹⁶ The use of experimental animals in research, although beneficial in improving the quality of life of humans and animals, is widely opposed by animal rights groups because animals also have the human right to live as they should, not to be exploited as subjects in research, for consumption, clothing, entertainment, or abused in any way. On the other hand, scientists agree that animal research is allowed, but with the application of animal welfare principles. Animal welfare is a measurable state in an animal that may be related to the adequacy of the animal's ability to cope with its environment.¹⁷

The pharmaceutical industry is the industry that most often uses animals in product testing. Pharmaceutical scientists argue that animal testing can help them understand how products work and determine safe doses for humans. In addition, animal testing is also used to study the effects that will occur on the animals themselves. This is usually used to test the safety of drugs or vaccines for animals. Other than those mentioned above, animals used for animal testing include rats, rabbits, horses, dogs, cats, and primates. Rodent species such as rats are usually used to study basic clinical and physiological issues, while other species are used to test toxicity in animals.

Animal testing is often legalized for the safety of consumers using a product. The impact of animal testing is that animals will experience conditions such as lack of food, paralysis, genetic mutations, and they are deliberately killed so as not to transmit diseases caused by these trials to other animals. Of course, this has drawn a lot of negative responses from the public because animal testing is considered unethical. Therefore, many social movements have emerged to fight for animal rights.

Starting in 1824, Richard Martin founded an organization called the Society for the Prevention of Cruelty to Animals (SPCA). This organization was the first organization to promote animal welfare. From this organization, many similar international organizations emerged to fight for animal rights.

Germany is one of the countries in the European Union where there is an annual increase in animal testing, with the cosmetics and pharmaceutical industries contributing the highest number of animal testing with an average of two million animals per year. Along with the high number of animal use, CFI as one of the global organizations seeks to campaign to the world not to use animals in all types of experiments. CFI was previously named BUAV in 1898 by its founder Frances Power Cobe and in 2015 changed its name to CFI. The organization consists of a team of experts in various fields. They work to lobby governments, investigate animal abuse in laboratories, socialize animal issues through the media, and certify cruelty-free products.¹⁸

Animal testing in German laboratories is regulated by the Laboratory Animal Protection Act (TierSchVersV), which is the implementation of the European Union's scientific animal welfare law Directive 2010/63/EU. The law contains minimum standards for animal welfare in laboratories, such as the size of the cage and the number of animals in each cage, how the healing stage of animals that have been used, and penalties for institutions or companies that violate the animal testing standards that have been set. With the strict regulations in place, in fact there are still many laboratories in Germany that commit violations in conducting animal testing. This then led to movements from local and international organizations, one of which is an international organization called CFI as mentioned above. This organization tries to expose how animal testing violations occur in these laboratories. Until finally in

¹⁵ Peter Mahmud Marzuki, 2013, *Penelitian Hukum*, Jakarta: Kencana Prenada Media Group, hal. 133-134.

¹⁶ Sutiastuti Wahyuwardani, SM Noor dan B Bakrie, *Etika Kesejahteraan Hewan dalam Penelitian dan Pengujian: Implementasi dan Kendalanya*, WARTAZOA, Vol. 30 No. 4, 2020, hal. 211-220.

DOI: <http://dx.doi.org/10.14334/wartazoa.v30i4.2529>.

¹⁷ *Ibid.*

¹⁸ Lis Maesarah ,Frentika Wahyu R., *Peran Cruelty Free International(CFI) Dalam Menangani Kasus Animal Testing di Jerman*, INTERDEPENDENCE JOURNAL OF INTERNATIONAL STUDIES, Volume 5 Nomor 1 Tahun 2024, 39-61.

DOI: <https://doi.org/10.54144/ijis.v5i1.71>.

Criminalization Policy of Animal Testing in Cosmetics Production in Indonesia

2021, a laboratory called LPT no longer used animals as test materials and replaced them with alternative methods. CFI has been a driving force in pushing for changes in animal testing policies and practices in Germany.

Therefore, Indonesia needs a regulation on animal welfare. With the phenomenon of animal testing, a policy is needed which can guarantee the rights of animals as well as animals used for testing. One of the policies in question is criminal law policy, criminal law policy or criminal law politics in essence is how criminal law can be formulated properly and provide guidance to lawmakers (legislative policy), application policy (judicial policy), and implementation of criminal law (executive policy).¹⁹ Legislative policy is a very decisive stage for the next stage because when criminal legislation is to be made, the direction to be headed has been determined, in other words, what actions are deemed necessary to be made an act prohibited by criminal law. This means that it involves the issue of criminalization. Criminalization can be defined as the process of determining an act of a person as a punishable act. This process ends with the formation of a law, where the act is threatened with a criminal sanction.

Finally, animal welfare is defined as a moral expression. All humans are responsible for each animal that is kept or free in nature. It is further explained that in animal welfare theory there are teachings about human care and treatment of each animal and how society can improve the quality of life of the animal. Each type of animal should be allowed to live freely in nature or live a quality life in an environment that is adapted to its behavioral patterns, needs and characteristics of its natural habitat. After all, it is humans who are responsible for making this happen.

The use or handling of animals in various aspects has been studied by several researchers both abroad and in the country. The results of Harm-Benefit Analysis (HBA) found that most studies involved great animal suffering. Many animals suffer severe damage that is not related to the benefits obtained for the benefit of humans.²⁰

Animal welfare has three important aspects, namely: welfare science, welfare ethics and welfare law. It is further explained that welfare science measures the effects on animals in different situations and environments, from the animal's perspective. Welfare ethics is about how humans should treat animals. Welfare law is about how humans should treat animals. Concern for animal welfare is often based on the belief that animals are alive and considerations of their welfare or suffering should be given to them, especially when they are under the care of humans. These concerns can include how animals are slaughtered as a food source, how they are used in scientific research, how they are kept (as pets, in zoos, farms, circuses, etc.), and how human activities affect the welfare and survival of wild species.²¹

Similar to Germany, Cruelty Free International is a British animal protection and advocacy group that campaigns for the elimination of all animal experimentation. Based on data from the crueltyfreeinternational.org website, currently (2013) there are around 500 cosmetic brands around the world that no longer use animals in their cosmetic experiments. The ban on animal testing in the cosmetics industry has been in place in 27 European Union countries since 2009. The sale of cosmetics that use animals for testing has also been banned since March 2013. The Body Shop, which claims to have never tested on animals, is now working with Cruelty Free International to appeal to governments in ASEAN countries to ban the use and testing of cosmetic ingredients on animals.²² This can also be used as a reference that there should be no animal testing practices in Indonesia, especially in cosmetic testing, which is considered to have violated animal rights.

Based on surveys, public support for research using animals in the UK has decreased from 75% to 66%, America from 63% to 51% and Canada only received 44% support in the period 2002-2016. Therefore, the use of animals in research and testing must meet the principles of animal welfare by following the code of ethics of research, ethical use and ethical maintenance. The use of animals as subjects in research must morally respect the animals used in research (respect); beneficial or beneficial to knowledge (beneficiary) and must be fair (justice) in the use of animals in the sense that they should not be used continuously.

The use of animals in research is a privilege granted to researchers through a commission appointed to provide ethical clearance of animals with reference to regulations and guidelines set by policy makers. Approval for the use of animals in research is generally granted by policy makers after a Harm-Benefit Analysis (HBA).²³ Some of the current laws or regulations related to animal care and use are as follows:

- a. *Animal Welfare Act Regulations* (USDA 2005)

¹⁹ Bambang Waluyo, 2021, *Dinamika Kebijakan Hukum Pidana*, Depok: Rajawali Pers, hlm. 1.

²⁰ Pound P, Nicol CJ, *Retrospective Harm Benefit Analysis Of Preclinical Animal Research For Six Treatment Interventions*. PLoS ONE. 13:1-26, 2018.

²¹ Kadek Karang Agustina, 2015, *Kesejahteraan Hewan "Animal Welfare"*, Bali: Laboratorium Kesehatan Masyarakat Veteriner Fakultas Kedokteran Hewan Universitas Udayana, hal. 2.

²² K. Wahyu Utami, Kampanye Body Shop "Againts Animal Testing", Kompas.com, 17/09/2013, 10:09 WIB. Diakses pada Kamis 27 Juni 2024, Pukul 06.34 WIB.

<https://lifestyle.kompas.com/read/2013/09/17/1009461/Kampanye.Body.Shop.Againts.Animal.Testing>.

²³ Bronstad A, Newcomer CE, Decelle T, Everitt JI, Guillen J, Laber K. *Current concepts of Harm-Benefit Analysis of Animal Experiments*. Lab Anim. 50:1- 20, 2016.

Criminalization Policy of Animal Testing in Cosmetics Production in Indonesia

The United States Federal Animal Welfare Act, signed into law in 1966, is the only law that regulates the treatment of animals in research, exhibition, transportation, and treatment in commerce. It is the minimum standard against which other policies and guidelines are developed, including coverage of additional species or specifications for animal care and use.

b. *Public Health Service Policy on Humane Care and Use of Laboratory Animals* (PHS 1985)

The PHS policy is intended to complement the US government's established principles for the care of vertebrates used in testing, research and training. The requirements that have been developed must be followed by all institutions that use animals in research, teaching or testing funded by the National Institutes of Health (NIH). The NIH also requires the use of the Public Health Service Policy on Humane Care and Use of Laboratory Animals (NIH 2015), which is a guide developed for the care and use of laboratory animals.

c. *Association for the Assessment and Accreditation of Laboratory Animal Care – International* (AAALAC-I)

It is a non-profit organization that promotes the humane use of animals in science through a voluntary international accreditation program. AAALAC-I accreditation is recognized worldwide as a symbol of quality care for animals used for research, teaching and testing by applying animal welfare.²⁴

Similar to international regulations, Indonesia has also adopted regulations that are in line with animal welfare theory, as stipulated in Article 74 paragraph 2 of Law No. 18/2009 on Animal Husbandry and Animal Health:

“(2) The application of comparative medical science as referred to in paragraph (1) must be carried out:

- a. under the supervision of a competent veterinarian;
- b. based on animal ethics and veterinary ethics; and
- c. with consideration of animal welfare.”

Then, the animal welfare subchapter is regulated in Article 66, where the contents of the article emphasize the proper treatment of animals, with the realization of the application of the 5F principle. Furthermore, the threat for those who act arbitrarily in the animal testing process is regulated in Article 66A of Law Number 41 of 2014 concerning amendments to Law Number 18 of 2009: “Every person is prohibited from mistreating and/or misusing animals that result in disability and/or unproductivity. Any person who is aware of the act as referred to in paragraph (1) shall report to the competent authority.”

Indonesian laws and regulations only regulate the welfare standardization of animals that are to be used, but the procedure for animal testing itself is not specifically regulated. In other words, Indonesia does not require animal testing, but allows it provided that it does not violate the principles of animal welfare as regulated.

This means that the above laws and regulations have a starting point in animal welfare theory, rather than emphasizing animal rights. Thus, although the animal testing procedure contains various principles of animal welfare, there is no form of prohibition at all on the use of animals as research objects.

In addition, to become a legal basis and provide guidelines, especially in the Unitary State of the Republic of Indonesia on how animal testing can be carried out, it is important to form a special legislation which regulates animal testing related to procedures, conditions and others related to animal rights. The type of legislation in question can be in the form of a law, which of course there is a draft legislation. The formulation of criminalization arrangements must include several important aspects to ensure successful implementation, which include definition and scope. This is done to establish a clear definition of animal testing and the types of cosmetic products covered by the regulation. It also includes statutory arrangements regarding the rights of producers/business actors who in their activities use animals as tests. The obligations of producers as intended, regulate the obligation of producers to adopt recognized alternative testing methods and avoid the use of animals in the testing process, or if only animals are used for product testing, there should be procedures and guidelines on how to use animal testing. Finally, there should be sanctions/punishments and how they are implemented in order to enforce the law against anyone who conducts animal testing.

In addition to what is stated above, it is also important to have cooperation and coordination between institutions. Implementation of criminalization policies requires close cooperation and coordination between various related institutions, supervisory authorities. These include the Food and Drug Administration and relevant ministries that must play an active role in monitoring and ensuring compliance with regulations. Furthermore, non-governmental organizations can collaborate with animal lovers' organizations and independent research institutions to promote and develop alternative testing methods. Also, industry and academia can take collaborative action with the cosmetics industry and academic institutions to research and develop safer and more ethical testing technologies.

The next step is education and socialization. It is important to conduct thorough education and socialization to all stakeholders in various ways including public campaigns in raising public awareness about the importance of avoiding the use of products tested on animals and supporting animal-friendly products. Next is training for manufacturers in providing training for cosmetics manufacturers on alternative testing methods and their business and ethical benefits.

²⁴ Gettayacamin M, Retnam L. 2017. AAALAC *International Standards And Accreditation Process*. Toxicol Res. 33:183-189

Criminalization Policy of Animal Testing in Cosmetics Production in Indonesia

The role of consumers is also very necessary in preventing animal testing for cosmetic needs. Cosmetic products and personal beauty products, labels, and statements on beauty products that state the product is free from animal testing provide references and make customers change their attitudes and behaviors that encourage them to seek products that uphold the principle of “animal cruelty-free”. Even some consumers are convinced that ethical purchasing can make a difference. Based on the research conducted, women are now accustomed to buying cruelty-free cosmetics, the main reason for this is due to the influence of social media and internet usage. The term “cruelty-free” proves that there is no harm to animals and makes beauty products more ethical so that consumers' ethical behavior is conveyed through the purchase of beauty products that have an “animal cruelty-free” label.²⁵

If the above two things have been done, then the next stage is monitoring and evaluation. Continuous monitoring and evaluation is essential to assess the effectiveness of the criminalization policy. Among them, Periodic Assessment is conducting periodic assessments of policy implementation and its impact on the cosmetics industry and animal welfare. In addition, policy adjustment is based on the evaluation results, making policy adjustments to improve effectiveness and ensure better compliance from the industry.

CONCLUSIONS

The existence of animal testing practices, especially in the cosmetics industry, which is increasingly massive, certainly requires legal policy, especially criminal law policy. This can be realized by the existence of legislation on animal welfare, especially animals that are experimented on. The formulation of the legislation in question can regulate starting from the procedure for conducting animal tasting, what animals can be used as animal tasting, and what the procedure is after conducting animal testing, and of course whether it is necessary to submit an application to the competent authority before conducting animal testing, finally, the legislation also regulates how sanctions / penalties are given to anyone who deliberately violates the legislation.

REFERENCES

- 1) “What is Animal Testing”, About Animal Testing, <http://www.aboutanimaltesting.co.uk/what-animal-testing.html>, diakses pada 5 Maret 2024 Pukul 22.48 WIB.
- 2) Alya Maharani. “Tinjauan Yuridis tentang Penerapan Hukuman terhadap Pelaku Tindak Pidana Penganiayaan Hewan yang Menyebabkan Kematian”, *National Conference on Law Studies (NCOLS)*. Vol. 2. No. 1. (2020).
- 3) Azhara Devica Risnanda, dan Handar Subhandi Bakhtiar. “Perlindungan Hukum Dalam Klasifikasi Bentuk Kekerasan Terhadap Hewan Di Indonesia”. *Res Nullius Law Journal*, Vol. 5 No. 2 (2023).
- 4) Bambang Waluyo. 2021. *Dinamika Kebijakan Hukum Pidana*, Depok: Rajawali Pers.
- 5) Bronstad A, Newcomer CE, et.al. *Current concepts of Harm–Benefit Analysis of Animal Experiments*. *Lab Anim*. 50:1–20 (2016).
- 6) FBR (Foundation for Biomedical Research). 2016. *Mice and rats: the essential need for animals in medical research*, <https://fbresearch.org/wp-content/uploads/2016/04/Mice-Rats-In-Biomedical-ResearchFBR.pdf>, diakses pada 5 Maret 2024 pukul 19.23 WIB.
- 7) Gettayacamin M, Retnam L. 2017. *AAALAC International Standards And Accreditation Process*. *Toxicol Res*. 33:183-189
- 8) <https://news.detik.com/berita/d-3998884/menteri-lhk-kejahatan-satwa-liar-peringkat-ke-3-di-indonesia/>, Diakses pada 1 Maret 2024 pukul 15.04 WIB.
- 9) <https://www.bbc.com/news/science-environment-65484552>, Diakses pada 1 Maret 2024 pukul 15.20 WIB.
- 10) <https://www.cnnindonesia.com/edukasi/20180103105033-445-266317/sisi-kelam-produk-kosmetik/>, Diakses pada 1 Maret 2024 pukul 15.10 WIB.
- 11) <https://www.kompas.tv/nasional/217998/juara-dunia-penyiksa-hewan-indonesia-banyak-unggah-konten-kekerasan-binatang-di-media-sosial/>, Diakses pada 1 Maret 2024 pukul 15.02 WIB.
- 12) K. Wahyu Utami, Kampanye Body Shop “Againts Animal Testing”, *Kompas.com*, 17/09/2013, 10:09 WIB. Diakses pada Kamis 27 Juni 2024, Pukul 06.34 WIB.
<https://lifestyle.kompas.com/read/2013/09/17/1009461/Kampanye.Body.Shop.Againts.Animal.Testing>.
- 13) Kadek Karang Agustina, 2015, *Kesejahteraan Hewan “Animal Welfare”*, Bali: Laboratorium Kesehatan Masyarakat Veteriner Fakultas Kedokteran Hewan Universitas Udayana.
- 14) Lis Maesarah ,Frentika Wahyu R., Peran Cruelty Free International(CFI) Dalam Menangani Kasus Animal Testingdi Jerman, *INTERDEPENDENCE JOURNAL OF INTERNATIONAL STUDIES*, Volume 5 Nomor 1 Tahun 2024, 39-61. DOI: <https://doi.org/10.54144/ijis.v5i1.71>.

²⁵ Saputri, M. dan I. N, (n.d.). Komunikasi Retorika oleh Brand Ambassador dalam Kampanye Kosmetik Cruelty-Free. *Jurnal Ilmiah Komunikasi Makna*, Volume 9, Nomor 1. h, hal. 14–20.

Criminalization Policy of Animal Testing in Cosmetics Production in Indonesia

- 15) Pangestu, A., Tan, R. H., Angelia, V., & Hidiyana, V. Tinjauan Etis Dan Ilmiah Mengenai Penggunaan Hewan Sebagai Subjek Uji Coba Dalam Industri Kosmetik. *Nusantara: Jurnal Pendidikan, Seni, Sains Dan Sosial Humaniora*, Volume 2, Nomor 01, 2024.
- 16) Pasal 1 angka 42 Undang-Undang Nomor 18 Tahun 2009 Tentang Peternakan dan Kesehatan Hewan
- 17) Pasal 66 ayat (2) huruf e dan g Undang-Undang Republik Indonesia Nomor 18 Tahun 2009 tentang Peternakan dan Kesehatan Hewan.
- 18) Peter Mahmud Marzuki. 2013. *Penelitian Hukum*. Jakarta: Kencana Prenada Media Group.
- 19) Pound P, Nicol CJ, *Retrospective Harm Benefit Analysis Of Preclinical Animal Research For Six Treatment Interventions*. PLoS ONE. 13:1-26, 2018.
- 20) Ronny Hanitijo Soemitro. 1990. *Metodologi Penelitian Hukum dan Jurimetri*, Jakarta: Ghalia Indonesia.
- 21) Salva Reverentia Yurista, Rafi Andika Ferdian, dan Djanggan Sargowo, "Prinsip 3Rs dan Pedoman ARRIVE pada Studi Hewan Coba". *Jurnal Kardiologi Indonesia*. Vol. 37 No. 3, 2016.
- 22) Saputri, M. dan I. N. (n.d.). Komunikasi Retorika oleh Brand Ambassador dalam Kampanye Kosmetik Cruelty-Free. *Jurnal Ilmiah Komunikasi Makna*, Volume 9, Nomor 1. h, hal. 14–20.
- 23) Studdert, Virginia P., Clive C. Gay, and Kenneth W. Hinchcliff, "*Saunders Comprehensive Veterinary Dictionary*", Elsevier Health Sciences, 2020.
- 24) Sutiastuti Wahyuwardani, SM Noor dan B Bakrie, Etika Kesejahteraan Hewan dalam Penelitian dan Pengujian: Implementasi dan Kendalanya, *WARTAZOA*, Vol. 30 No. 4, 2020, hal. 211-220.
DOI: <http://dx.doi.org/10.14334/wartazoa.v30i4.2529>.



There is an Open Access article, distributed under the term of the Creative Commons Attribution – Non Commercial 4.0 International (CC BY-NC 4.0) (<https://creativecommons.org/licenses/by-nc/4.0/>), which permits remixing, adapting and building upon the work for non-commercial use, provided the original work is properly cited.