



Implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and Law No. 5 of 1990 on the Conservation of Biological Natural Resources and Its Ecosystems in Law Enforcement Efforts and Guarantees of Environmental Rights in Gunung Leuser National Park, Indonesia

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Abstract

Indonesia is renowned for its abundant natural resources and vast biodiversity. However, Indonesia also has wildlife species that are most vulnerable to the threat of extinction. Illegal wildlife trade poses a serious threat to the preservation of wildlife in Indonesia. Wildlife illegally traded based on facts found in the field is mostly a catch from nature, not from captive breeding. Gunung Leuser National Park (Taman Nasional Gunung Leuser, TNGL) as one of the national parks in Indonesia faces problems in the protection of these wildlife. This is triggered by the process of industrialization, illegal logging activities and crimes against protected wildlife. Wildlife protection in Indonesia and internationally is regulated legally through Law No.5 of 1990 and internationally through the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The role of local government, BKSDA TNGL and related agencies in suppressing the extinction rate provides an understanding to the community of TNGL conservation areas in particular to reduce conflicts and clearance of plantation land by utilizing the concept of environmentally sustainable development as well as providing the mitigation measures.

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INTRODUCTION

INDONESIA is a land that has a lot of beauty. From Sabang to Merauke, every corner of the country has an invaluable beauty. One of the beauty of this country is Leuser Mount National Park² or commonly called TNGL (*Taman Nasional Gunung Leuser*). The largest park in Indonesia is one of nature conservation areas that are very exotic with the diversity of living things in it. The park, which takes its name from Leuser Mount, holds two global statuses as Biosphere Reserve in 1981 and as a World Heritage in 2004 endorsed by UNESCO. Its beauty cannot be doubted.

Various types of ecosystems, flora and fauna have coloring the beauty of this Park. TNGL has native ecosystems from coast to high mountains covering tropical rain forests and managed with zoning systems utilized for science, education, aquaculture, tourism, and recreation purposes. Leuser Mount National Park also has several Animal Rehabilitation Centers, such as Orang Utan Rehabilitation Center at Bahorok, Endangered Animal Rehabilitation Center at Sikundur, and Natural Research Center in Katambe, Southeast Aceh.

Leuser Mount National Park is located in two provinces, namely Aceh Province and North Sumatra Province. Formally, the existence of Leuser Mount National Park was first mentioned in Announcement of the Minister of Agriculture No. 811/Kpts/Um/II/1980 on March 6, 1980 on the inauguration of five National Parks in Indonesia, Leuser Mount National Park, Ujung Kulon National Park, Gede Pangrango National Park, Baluran National Park, and Komodo National Park.

Based on the announcement, then the area of TNGL is 792,675 hectares. The announcement was followed up with the Letter of the Directorate General of Forestry Number: 719/Dj/VII/1/80 dated 7 March 1980 addressed to Sub KPA Leuser Mount. In the letter mentioned that the status of authority of TNGL management is given to Sub KPA Leuser KPA.

According to the Minister of Forestry Regulation Number: P.03/Menhut-II/2007, TNGL is currently the Technical Implementing Unit (UPT, *Unit Pelaksana Teknis*) of the Directorate General of Forest Protection and Nature Conservation (DG PHKA) Ministry of Forestry, Main Office of Leuser Mount National Park (BBTNGL, *Balai Besar Taman Nasional Gunung Leuser*) Led by the Head of the Center (echelon II). As an effort to legalize the process of inaugurating the forest area, the Decree of the Minister of Forestry No. 276/Kpts-II/1997 on the designation of 1,094,692 Ha of forest located in the Special Province of Aceh and North Sumatra as TNGL. In the decision, it was mentioned that TNGL consists of a combination of:

² Hereinafter called as TNGL

No	Area	Total Area (hectare)
1	Wildlife Sanctuary of Mount Leuser	416.500
2	Wildlife Sanctuary of Kluet	20.000
3	Wildlife Sanctuary West Langkat	51.000
4	Wildlife Sanctuary South Langkat	82.985
5	Wildlife Sanctuary Sekundur	60.600
6	Wildlife Sanctuary Kappi	142.800
7	Recreation Park of Gurah	9.200
8	Protected Forest and Limited Production Forest	292.707

Source: Decree of the Minister of Forestry No. 276/Kpts-II/1997 on the designation of 1,094,692 Ha of forest located in the Special Province of Aceh and North Sumatra as TNGL

With a vast green area, TNGL is one of the world's lungs that have an important role in maintaining the stability of the Life Support System. TNGL maintains water supply for the four million people living in Aceh Province and North Sumatra Province. Almost nine districts rely on the benefits of TNGL. Among others the availability of water consumption, irrigation water, soil fertility guard system, floods control, and so on.

In addition, there are five watersheds in Aceh and three watersheds in North Sumatra protected by TNGL. Five Watersheds (DAS, *Daerah Aliran Sungai*) in Aceh Province, namely Jambo Aye watershed, Tamiang-Langsa watershed, Singkil watershed, Sikulat-Tripa basin, and New-Kluet watershed, while those in North Sumatera Province are Besitang Watershed, DAS Lelan, and Wampu Sei Ular Watershed.

Leuser Mount National Park also functions as the original habitat of Sumatran wildlife such as Sumatran tiger (*Panthera tigris*), Sumatran Orangutan (*Pongo abelii*), Sumatran rhino (*Dicerorhinus sumatrensis*), Sumatran Elephant (*Elephas maximus sumatranus*), Tapir (*Tapirus indicus*), Owa (*Hylobathes lar*), and Kedih (*Presbytis thomasi*). Not only that, Leuser Mount National Park is the region with the largest list of bird species in the world with 380 species and home to 36 of the 50 species of birds Sundaland.

Nearly 65% or 129 species of mammals from 205 species of large and small mammals in Sumatra are listed in this place. Leuser is the habitat of most fauna, ranging from mammals, birds, reptiles, amphibians, fish, and invertebrates. Therefore, it is not excessive if we call TNGL as a natural laboratory rich in biodiversity.

With all the potential that we have, we should be proud and keep the divine grace deposited to us together. But as white, there must be black. It is

impossible if there is no perverse parties who wants to exploit forest products excessively for personal gain by not taking into account the consequences to the wider community. It can be concluded from the rampant illegal logging cases in some locations that violate the environmental reservation limit, causing landslide and flash floods disaster, as has happened in recent years. Flash floods and Landslide disaster in Bahorok, Besitang, to Southeast Aceh has been devastating and material loss.

Forest encroachment can trigger local climate changes that increase drought in the dry season and increase rainfall in the rainy season. Increased excess water discharge in barren soil becomes the main cause of flash floods and landslides. Thus, the prevalence of illegal logging activities in Langkat, Southeast Aceh and in many other locations in the Leuser Ecosystem area, may have created local climate change. If this linkage is proven by further research, then this can be summarized as the decisive cause of the disaster. Not only that, excessive forest destruction will destroy the habitat of protected animals. The destruction will automatically reduce the number of protected animal populations. If this continues, it is not impossible that Sumatran wildlife that we are proud of will be threatened extinction.

However, based on the results of investigations and surveys conducted by WALHI Aceh with the Foundation of RMTM and YELPED Aceh Tenggara, the average owner of *panglong* business in Southeast Aceh is the officers of the State apparatus in this case among the officials, government officials and members as well as former members of the council.

We should be wise and realize that we were created by God to be the Caliph on this Earth by keeping it, not destroying it. Indeed many benefits that we will be able to keep the forest. A study conducted by Beukering, et al. (2003) indicated that the Total Economic Value of the Leuser Ecosystem, including TNGL in it, is calculated at 4% for 30 years, USD 7.0 billion (when conserved), USD 9.5 billion (when conserved), and USD 9.1 billion (when used sustainably). This shows that Leuser Mount National Park besides has a huge role and function in supporting the Life Support System and Sustainable Development, it also has great economic value if we can process it wisely. But in reality, we are less wise in responding to this grace. The true forest area is the original habitat of various kinds of endangered species, little by little has been destroyed.

According to the problem described above there is no excuse for the government not to be serious in handling illegal logging that occurred in TNGL. The government should be smarter in making policies based on long-term benefits, not for the benefit of investors who can act with borders with permits.³ Remember, once we destroy the existing, it is difficult for us to rebuild it.

³ Retrieved from <http://theglobejournal.com/opini/taman-nasional-gunung-leuser-rahmat-yang-tak-tersyukuri/index.php>

In accordance with the above description, the problems posed in this article is how the implementation of the application of the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES) and the Law No.5 / 1990 on Conservation of Natural Resources and Ecosystems in Efforts of Law enforcement Against Wildlife Crime Hunting Protected in Leuser Mount National Park?

NATURE CONSERVATION AREA OF MOUNT LEUSER

CONSERVATION area is a forest area with certain characteristics, which has the main function of preserving the diversity of plants and animals and their ecosystems. Establishment of conservation areas is the implementation of ecosystem conservation strategies and in-situ conservation strategies that are directed as main functions of protection/asylum and nature conservation. The mandate on the conservation area of both Nature Conservation Area (KSA) and Nature Conservation Area (KPA) is described in Law no. 5 of 1990 on the Conservation of Biological Natural Resources and its Ecosystem, Law no. 41 of 1999 on Forestry, and Government Regulation no. 68 of 1998 on KSA and KPA. One example of a form of conservation area is a national park.

National Park (TN) is a natural conservation area, which has native ecosystem, managed by zonation system which is utilized for research, science, education, supporting cultivation, culture, tourism and recreation purposes. The Conservation Area Nature is defined as a region with certain characteristics, both on land and in waters that have the function of protection of life buffer system, preservation of diversity of plants and wild animals (TSL), and sustainable utilization of biological natural resources and its ecosystem. As a Nature Conservation Area, TNGL serves primarily as a life support system with a management focus to maintain unique and highly biodiversity of Leuser ecosystem representation as well as an important habitat for the existence of some flagship species. However, TNGL is also a hotspot of high biodiversity degradation, caused by illegal logging, encroachment, fire, and other vandalism activities.

The formal juridical existence of TNGL for the first time set forth in Announcement of Minister of Agriculture no. 811 / Kpts / Um / II / 1980 dated March 6, 1980 on the inauguration of 5 (five) TNs in Indonesia, namely; Mount Leuser National Park, Ujung Kulon National Park, Gede Pangrango National Park, Baluran National Park, and Komodo National Park. Based on the Announcement of the Minister of Agriculture, the designated area of TNGL is 792,675 ha. The Announcement of the Minister of Agriculture was followed up with a Letter of the Directorate General of Forestry No. 719/Dj /VII/1/80 dated March 7, 1980 addressed to Sub-Office of KPA Leuser Mount with important contents that is giving the authority

status of TNGL management to KPA sub-district of Leuser Mount. As the basis of legality in the process of inauguration of forest areas has been issued Decree of the Minister of Forestry No. 276/Kpts-II/1997 on the designation of TNGL covering 1,094,692 hectares located in the Special Province of Aceh (now Aceh Province) and North Sumatra Province.

According to Law No. 25 of 2004 on National Development Planning System, Government Regulation No. 44 of 2004 and Regulation of the Minister of Forestry No. 41 of 2008 on Guidelines for the Preparation of Nature Conservation Area Management and Nature Conservation Areas, the management of the National Park should be based on long-term, medium-term, and short-term planning by accommodating the public's aspirations and involving stakeholders and experts to capture the opinions of various sectors and disciplines For material enrichment. TNGL management be designed to provide ecological, economic, social, and cultural optimally and ensure the long-term legitimacy of its existence in the spirit of democratic change, transparent and accountable (accountable), as well as good governance (good governance).

Historically the birth of TNGL originated in the 1920s or the Dutch colonial government era, through a series of research and exploration process of a Dutch geologist named FC Van Heurn in Aceh. In its development there was a positive initiation supported by public figures to urge the Dutch Colonial Government to give the status of the wildlife sanctuary and the protection status of the area that stretches from Singkil (on the Upper Simpang Kiri River) in the south, along Bukit Barisan, The Tripa River valley and the Meulaboh Beach Swamp, in the north. The chronological history of the birth of TNGL and its management unit is presented in the table below.

Chronological History of the Birth of Mount Leuser National Park (TNGL)

Date/Year	Decision	Voice of Decision
1927	-	Local Aceh leaders asked the Dutch East Indies Government to protect the Alas Valley area from logging.
August 1928	-	The first proposal was put forward by Dr. Van Heurn to the Dutch Government to protect the Singkil region (upstream of Simpang Kiri River) south, along Bukit Barisan, towards the Tripa River valley and Meulaboh Rawa Beach, in the North.
February 6, 1934	Tapaktuan Declaration	The determination of local community representatives to preserve the Leuser area forever as well as to set up penal sanctions (prisons and fines). The declaration was signed by the Dutch East Indies Governor.
July 3, 1934	Zelfbestuurs Belsuit (ZB) No. 317/35	The establishment of Leuser Mount Nature Reserve area of 142,800 ha.
August 8, 1935	ZB No.138	Formation of forest group Langkat Sekundur. The boundary was done on August 12, 1936.
October 26, 1936	ZB No. 122 / AGR	Establishment of Kluet Wildlife Reserve area of 20,000 ha.
October 30,	Sultan Langkat's	Determination of Forest Group Langkat Sekundur,

1938	decision	Langkat Selatan, and Langkat Barat as Sekundur Wildlife Reserve with the name Wilhelmina Katen, with total area of 213,985 ha.
December 10, 1976	Minister of Agriculture Decree no. 69 / Kpts / Um / 12/1976	The appointment of SM Kappi is 150,000 ha.
March 6, 1980	Minister of Agriculture Decree no. 811 / Kpts / Um / II / 1980	TN Declaration. Gunung Leuser covering an area of 792,675 ha.
March 7, 1980	SK Dirjen Kehutanan no.719 / Dj / VII / 1/1980	Sub Leaves Protection and Nature Conservation (PPA) of Gunung Leuser is authorized to manage TNGL.
1981		TNGL is designated as a Biosphere Reserve by UNESCO on the Government of Indonesia's proposal.
March 3, 1982	Minister of Agriculture Decree no. 166 / Kpts / Um / 3/1982	Appointment of Forest Lawe Gurah Tourism, which comes from part of SM Kappi (7,200 ha), and Serbolangit Protected Forest (2,000 ha).
1982	Minister of Agriculture Decree no. 923 / Kpts / UM / 12/1982	TNGL in North Sumatra area of 213,985 ha, a combination of SM Langkat Selatan, SM Langkat Barat, SM & TW Sekundur.
1982	Minister of Agriculture Decree no. 924 / Kpts / UM / 12/1982	TNGL in DI Aceh area of 586,500 ha, a combination of SM Kluet, SM GunungLeuser, SM Kappi, and TW Lawe Gurah.
May 12, 1984	SK Minister of Forestry No.096 / Kpts-II / 1984	Establishment of Technical Implementation Unit of TNGL Hall under the Directorate General of PHPA.
December 11, 1984	SK Dirjen PHPA No. 46 / Kpts / VI-Sek / 84	The designation of the TNGL working area, including BC Mt. Leuser, West Langkat, South Langkat, SM Sekundur, SM Kappi, SM Kluet, TW Lawe Gurah, TW Sekundur, Serbolangit Protected Forest and Limited Production Forest Sembabala.
1984		Defined as ASEAN Park Heritage.
1997	SK Minister of Forestry No.276 / Kpts-II / 1997	The designation of TNGL is 1,094,692 ha.
June 10, 2002	SK Minister of Forestry No.6186 / Kpts-II / 2002	Organization and Administration of National Parks, as has been replaced by Minister of Forestry Regulation no. 03 Year 2007.
July 2004	Decisions of the World Heritage Committee	Determination TNGL, TNKS, and TNBBS as group Tropical Rainforest Heritage of Sumatra.
February 1, 2007	PerMenHut No. P.03 / Menhut-II / 2007	Organization and Administration of the National Park Technical Implementation Unit.

The illegal trade of flora and fauna (other than fish and wood) is estimated by various sources valued at US\$ 7-23 billion per year⁴ and US\$ 2.5 billion in East Asia and the Pacific alone⁵, and has led to the decline and local extinction of many species in Southeast Asia, including species within the protected area. This trade includes many species including insects, reptiles, amphibians, fish and mammals.

This trade also includes both dead and living species and their derivatives, used for medicines, food, pets, and ornaments or traditional medicine. All of this has great value not only in the black market, but also on the national economy if it is managed on an ongoing basis. Most of these trades are highly organized and benefit a group of criminal offenders, while costing developing countries billions of dollars in lost income and development opportunities.

Indonesia is one of the top ten “*mega-diversities*” countries and the largest supplier of wildlife products in Asia, both legally and illegally. Despite occupying only 1.3% of the earth's surface, Indonesia has 12% of the world's mammals, 7.3% of the world's amphibians and reptiles, and 17% of the world's birds. Of this total, 1,225 species of fauna and flora threatened with extinction on a global scale⁴, fourth-highest compared to other countries, including mammals (185 species, more than any other country in the world), birds (131 species, the second largest in the world), Amphibians and reptiles (64 species), fish (149 species), mollusks and other invertebrates (288 species), and plants (408 species). In Indonesia, one of the biggest causes of declining species, especially about one-third of bird and mammal species and all reptile species are over-exploitation.

In this archipelago, important species include tigers, rhinoceros, elephants, orangutans, birds, bears, orchids, marine and freshwater fish, turtles, fragrant wood (oak), pangolins, corals, snakes, bats, sharks and rodents Hunted and traded in large quantities. Wildlife trade is the greatest threat (along with habitat loss) for the Sumatran Rhino (nearly extinct, population 100-120), Sumatran tiger (nearly extinct: 650), Asian elephant (endangered) and Sundanese Pangolin (endangered). Due to its geographical and status as a major trading country, Indonesia is also a great source, destination, and transit point for smuggling and concealment of wildlife, such as African Elephant ivory.

The consequences of unsustainable trade are major threats to wildlife that have significant global value. The value of illegal trade in Indonesia alone is estimated at US\$ 1 billion per year. If unsustainable legal trade is also

⁴ Nellemann, C., Henriksen, R., Raxter, P., Ash, N., Mrema, E. (Eds). 2014. *The Environmental Crime Crisis – Threats to Sustainable Development from Illegal Exploitation and Trade in Wildlife and Forest Resources*. A UNEP Rapid Response Assessment. United Nations Environment Programme and GRID-Arendal, Nairobi and Arendal, www.grida.no.

⁵ UNODC. 2013. *Transnational Organized Crime in East Asia and the Pacific. A threat assessment*. United Nations Office on Drugs and Crime.

calculated, this value jumps very high, which means significant economic, environmental, and social losses.

The evidence also points to the decline of previously non-threatened and legally traded species in Indonesia's domestic market, such as the Murai Batu and Cucak Rawa Birds, whose species has now declined to extinction in a national park declared stable. The trade not only directly impacts the species; Removal of ecologically important components can undermine the overall integrity of the ecosystem. This is exacerbated when a species removed from its habitat plays an important role in the ecosystem, such as elephants and tigers.

In Indonesia, hunting is done by local communities and hunter groups, some groups immigrated to Indonesia as some high-value species have become extinct in other countries (*e.g.* tigers and rhinos extinct in Cambodia, Laos and Vietnam). Tigers are also then trafficked when caught in conflict with humans. Local communities benefit very little from wildlife trade, as large profits are gained by traders. Local people bear all the consequences, including the loss of wildlife, tourism revenue potential and social and ecological disruption caused by hunter groups. Trading rhinoceros horn (1 kg worth thousands US Dollar) and pangolin most of the international scale, to East Asia (Vietnam and China). Trade of tigers and ivory (Asia and Africa) of domestic and inter-state scale; Tiger and ivory skin is considered very valuable by the elite in Indonesia. Indonesia also has many groups of animal lovers, run by individuals who maintain species, including protected species such as lemurs or some bird species. These groups often trade or exchange animals online or during closed meetings.

The law enforcement of crimes against wildlife in Indonesia is still very weak. The Ministry of Environment and Forestry Statistics shows that cases of wildlife crimes averaged 100 cases per year between 2005 and 2009, which then dropped to 37 cases in 2010 and 2012, and only 5 in 2013. This misleading, with estimates of wildlife smuggling is estimated to increase (Samedi, 2015, *pers comm*). The eradication of wildlife trade in Indonesia is hampered by limited political will and collaboration between law enforcement agencies and improper implementation of law enforcement procedures.

There are also legal loopholes and inconsistencies that hinder the success of a demands process. For example, in the Indonesian territory, trading and selling of African elephant's ivory and tigers are not native to Indonesia and rhino body parts are allowed. Legal reforms, strengthening government law enforcement agencies, improving intergovernmental collaboration, and building legal and regulatory awareness are critical to addressing the existing issues.

The purpose of this paper is to conduct *desk review* to analyze the policy, legal and regulatory frameworks that exist today and are related to wildlife crime and illegal trade in wildlife. This report includes an analysis of the legal umbrella and its implementing regulations, the implementation of the Convention on International Trade in Endangered Species of Wild Fauna

and Flora (CITES), the gaps or inconsistencies of regulations and their implementation and the gaps in their law enforcement. The report concludes with recommendations on opportunities for policy reform and regulation in Indonesia to effectively combat illegal wildlife trade.

Habitat Destruction

The existence of humans sometimes becomes a disaster for the balance of living things somewhere. Humans sometimes do something to get something worth killing without thinking about the regeneration of animals or plants. Elephants, for example, are killed by hunters only for tusks, tigers for their skins, monkeys for pets, and so on. Changes in forest areas into settlements, agriculture and plantations have also been one of the causes of the acceleration of species extinction. Perhaps in ancient Jakarta there were many local species, but over time the change of many species was lost or moved to other areas more secure.

Many animals take a long time to get into the breeding stage, usually have one child birth, take a long time to take care of the child difficult to mate the child is difficult to survive to adulthood, and so on. This makes it difficult for species that have a low regenerative power to multiply themselves significantly. In contrast to mice, chickens, flies, and rabbits are easy to regenerate.

Competition among predators like leopards with tigers can make weak competitors will be pushed into other areas or even can die of mass starvation that caused extinction. That's why let's keep the endangered animals left in order not to become extinct in time so our children and grandchildren can see the animals and plants directly.

An animal should be properly maintained so as not to become extinct from the earth. Animals are also one of the families in our lives. Keeping the animals and preserving them is a good action to save the animals. It can also do a good strategy to be able to open the eyes of government and society to remain concerned about our animals.

Excessive Exploitation

One of the main causes of the decline of species in Indonesia is excessive exploitation. Although estimates vary, the illegal trade in Indonesian flora and fauna is estimated to be tens of millions of dollars per year, reflecting the substantial losses to the Indonesian economy, and losses that destroy Indonesia's cultural and environmental heritage. Despite comprehensive legal and regulatory frameworks designed to prevent harm, wild hunters, traders, shippers and buyers can still avoid legal proceedings in the form of arrests, investigations and demands by utilizing capacity constraints from forest police, police and the judicial system in enforcing applicable regulations, and by utilizing a number of remaining legal gaps. This

paper was prepared for the purpose of analyzing the policy and regulatory frameworks and other rules relating to crimes against wildlife and wildlife trade in Indonesia, covering the national framework related to the implementation of CITES, gap details and inconsistencies of regulations and practices, Between law enforcement and court decisions, and policy and regulatory reform opportunities in Indonesia to effectively combat wildlife trade.

The recommendations of this assessment can be divided into two important parts: (1) improvements to the existing legal and / or policy framework and planning that refer to it, which may include the development of new laws, policies or plans; And (2) corrections or amendments to the manner in which the legal framework is implemented. Several important opportunities for the amendment of various laws have been identified, in particular in relation to Law No.5/1990, on the Conservation of Biological Resources and Ecosystems, which include:

I. Revise the species protection regulations that are tailored to the CITES list; Ensuring that non-Indonesian species but included on the CITES list (*e.g* African Elephants) are protected equally by indigenous species of Indonesia; Updating the list of protected species and the consideration of grouping species into three protection states: (1) protected species, including endangered and endangered species and all species in Appendix I of CITES; (2) strictly controlled species, including species susceptible to trafficking and species in Appendix II of CITES; And (3) species whose trade should be monitored;

II. Link animal protection and habitat protection to ensure that forest degradation is halted, possibly through the establishment of "critical minimum habitat limits" for endangered species. The preservation of these habitats should be linked to ongoing efforts to improve spatial planning, and there may be changes in provincial governance policies;

III. Higher penalties and minimum and maximum penalties, including criminal sanctions such as imprisonment, fines, revocation of certain civil rights, and confiscation and seizure; and

IV. Improving forest police and investigators the authority civil servants improve training and ensure that there are new rules and regulations in connection with online trading and the use of electronic evidence.

In addition, Indonesia has some biodiversity policies, derivative regulation and action plans aimed at facilitating the implementation of the various action plans that have been developed diversity and special species management

plan. These things often overlap, do not have a clear management authority, or lack of resources.

The action plan for a particular species, for example, are often underused, and should be included deeper into the actions and activities of government, while ensuring that the actions and the activities have sufficient resources and in line with government priorities and the lack of support for the implementation of law enforcement through effective legal framework.

Examples are precautions that can be used to limit or stop the illegal wildlife trade, still less in focus.

Effective prevention efforts that do not require the use of repressive efforts, so the impact on lower costs, and should be given more priority in law enforcement efforts. Recommendations are given including:

1. Increased priority in the field of prevention efforts to reduce the incidence of conflict with wildlife, and to limit poaching and forest encroachment;
2. Building the capacity of civil servant investigators, improve their coordination, and expand the powers of the forest police to investigate and detain suspects wildlife crime;
3. Application of a “*multi-door*” in the prosecution, so apply some charges against several defendants, tracing the illegal activities of the suspect to the main offenders, and use of alternative law where a sentence of longer and larger fines to increase the deterrent effect; and
4. Improved data and information exchange and international cooperation to help stop crimes against wildlife. Data and information plays an important role in the success of law enforcement. Data exchange protocols need to be developed at national and international levels and international collaboration should be improved to facilitate the investigation and extradition of suspects.

In short, there are a number of important opportunities exist to reduce wildlife crime and illegal trade in wildlife in Indonesia. Although legal reforms are needed to provide a solid base for the efforts of law enforcement and ensure the legal framework in Indonesia is able to cope with the growing forms of crime and increasingly sophisticated, but much can be done to improve enforcement and increase the success rate demands.

The huge success that occurred recently, such as the seizure of more than 7,000 turtle pig snout Indonesian ports to be shipped to China⁶, largely a result of the improvement of relations and cooperation between customs, police and special investigators. That success is an indication of the rapid effects of improvements in law enforcement efforts. Along with the legal reforms described in this report, the success of such Issuer will enable Indonesia to make a powerful breakthrough in reducing crimes against wildlife and wildlife trade in the future.

⁶ Retrieved from <http://www.traffic.org/home/2015/1/23/more-than-2300-turtles-seized-at-jakarta-international-airport.html>

High Market Demand against Illegal Wildlife Protected

One of the functions of the forest is home to a wide variety of wildlife as a part of biological resources.⁷ Forest ecosystem is an integrated system in the form of landscape with natural resources dominated by trees in their natural environment one cannot be separated from each other. In the development, forest no longer able to protect the existence of the species due to environmental destruction. Environmental damage can occur due to natural and human actions.⁸ Under the provisions of Article 1 (16) of Law No. 32 of 2009 on the Protection and Management of the Environment, “Environmental damage is an act of people who pose a direct or indirect alteration of the physical properties, chemical and or biological environment that exceeds the criteria of environmental damage”.

Environmental destruction by humans to animals by damaging the natural habitat, poaching or illegal capture and trade increasingly marginalize the existence of endangered species of animals are no exception. Various rare species endemic in Indonesia such as the Sumatran tiger, rhinoceros, Javan eagles, dragons, birds of paradise and other animals that live on land, in water and in the air that its existence is endangered. It is of course contrary to the provisions of Law No. 5 of 1990 on Conservation of Natural Resources and Ecosystems in particular in Chapter V on Preservation of Fauna and Flora, which Article 21 paragraph (2) letter (a) and (b) “states that every person is prohibited to catch, injure, kill, keep, own, maintain, transport, and traded protected animals alive” and “hold, own, maintain, transport, and traded protected animals in a state of death”.

The rise of the trade is illegal to animals caused by the high market demand for the availability of animals such as the material products that use animal skins or fur of animals, as well as pets and others, because of endangered species have the potential economic and commercial value high. Each year the presence of decreased the number of the population (those animals) and are difficult to find in their natural habitat. If this condition is allowed to continue the scarcity and the extinction of endangered species are protected, unavoidable so that the diversity of wildlife in Indonesia will become a story for our grandchildren and disrupt natural ecosystems that will have a negative impact to human life.

⁷ Takdir Rahmadi, 2011, *Hukum Lingkungan di Indonesia*, PT. Raja Grafindo Persada, Jakarta, h.166

⁸ Muhamad Erwin, 2008, *Hukum Lingkungan Dalam Sistem Kebijakan Pembangunan Lingkungan Hidup*, Refika Aditama, Bandung, h. 48.

DECREE OF THE PRESIDENT OF THE REPUBLIC OF
INDONESIA NUMBER 43 OF 1978 ABOUT THE
CONVENTION ON INTERNATIONAL TRADE IN
ENDANGERED SPECIES OF WILD FAUNDA AND FLORA

Convention on International Trade in Flora and Fauna Endangered Species (CITES) is divided into three (3) categories, namely appendices Appendix I, Appendix II and Appendix III. Items included in Appendix I is the kind whose numbers in the wild have been very few and feared to be extinct. A type that is not currently included in the endangered category yet have the possibility of extinction if trade is not stipulated included in the Appendix II. In Annex III, Appendix III has the basic criteria are not much different from Appendix II. The difference is the type that is included in Appendix III Special imposed by a particular country. It is important that Appendix I and Appendix II, these provisions apply to all range country, *i.e.* countries where a species can be found in the Appendix. If there is a difference in opinion between the ranges of the country so that not all of them agree to enter into a kind of appendix, the types included can be analyzed on Appendix III and applies only to countries that want to incorporate that type in the Appendix.

**The International Convention on Trade Fauna and Flora Endangered
Species (CITES)**

Convention on International Trade in Flora and Fauna Endangered Species (CITES) is a multilateral treaty that provides an international mechanism to regulate wildlife trade. There are now 180 countries that participated in CITES. Although CITES is legally binding for countries that participate in this convention. State should implement the CITES Convention, it does not take the place of national laws. The Convention requires countries participating to implement CITES domestic legislation to ensure that CITES is implemented at national level. Indonesia participated in CITES in 1978, and began enacting Law No. 5/1990 and derivatives regulations in connection with this Act as the main national regulations for the implementation of CITES. Each party to this Convention shall delegate one or more than one management entity responsible for implementing the licensing system and one scientific body to provide advice on the impact of trade on the status of the species. Ministry of Environment and Forests (KLHK) is the CITES Management Agency, and the Indonesian Institute of Sciences (LIPI, *Lembaga Ilmu Pengetahuan Indonesia*) is the CITES Scientific Board.

CITES regulate and supervise trading by using the "negative list" as trade all species are allowed and are not regulated unless these species appear in the annex. Protected species listed on one of three attachments:

Appendix I, is about 1,200 species, and the species that are endangered or could be endangered because they are traded. Commercial trading wild-caught species of the species on this list is illegal (only be allowed in special circumstances for a non-commercial purpose). Trade breeding animals or plants are bred artificially in the list Appendix I is considered species included in Appendix II, with their requirements (see below). Trade of these species requires export and import permits, issued by the management body in each country. Management agency of Exporting Countries is expected to check that an import permit has been there and the importing country is expected to maintain the species well. In addition to, scientific bodies exporting countries must make a finding that there is no loss, which ensures that the export of the species will not be a negative impact on wildlife populations.

Appendix II, Approximately 21,000 species, are species that are not endangered, but may be threatened with extinction if trade in such species is not regulated to avoid the use of which is contrary to the survival of the species in the wild. In addition, Appendix II can include species that are physically similar to species already listed in this annex. International trade Appendix II species can be approved by delivering an export permit or re-export certificate by the management body of the exporting countries. No import license is required although several parties required this as a form of domestic regulations more stringent. Before the export licenses granted, export companies should ensure that exports will not adversely affect the population of the species in the wild.

Appendix III, 170 species, are species listed after one country asks for help in controlling the trade of CITES species. Endangered species are not always global. In all member states, the trade of this species is only allowed with the permission of export and certificates of origin from member countries who have registered species.

Law on CITES in Indonesia

Although Indonesia is agree to CITES in 1978, but national implementation legislation was only implemented in 1990. Law No.5/1990, regarding the Conservation of Natural Resources and Ecosystems, is the primary legislation in the implementation of CITES. However, it took until 1999 to issue regulations derivatives required. Regulation of derivatives encompasses Government Regulation No. 7/1999, regarding the Preservation of Flora and Fauna, and Government Regulation No. 8/1999, concerning to the Utilization of Wild Plants and Animals. Further regulation of derivatives included Ministerial Decree No.447/2003, the Administrative Manager Harvest or Capture and Distribution types of wild plants and animals, and the Minister of Forestry No.P.19/2005 concerning Management of Breeding Plants and Wildlife.

In Law No.5 / 1990, breach of the provisions of protected species can be punished with a maximum prison term of five years and / or fined up to 100 million rupees. Law No.5/1990 provides the skeleton, and derivatives regulation, and have been analyzed by CITES to conform to the national implementation of the convention. However, there is a gap large enough in this legislation with respect to species that are not from Indonesia, and the difficulty amend the list of protected species to reflect the latest additions in the appendix of CITES. The Act also does not provide rules for species that are not protected. Although the Government Regulation No.7/1999 and Government Regulation No. 8/1999 provides legal protection for species that are not protected using other laws, such as the General Criminal Law, Customs and Excise and Quarantine Act, the implementation of these regulations so far ineffective.

The regulations establish a licensing system for species listed in CITES, which include crop management, quota setting the arrest, the transport control and management system controls arrest. There are guidelines to make findings that are not detrimental to CITES to implement Article III, IV and V of this Convention. Quota arrests, which began in early 1990 was originally a “guideline harvest”. In the first five years, the export quota is frequently exceeded. But now, the existing protocol to set an annual quota for the species listed in Appendix II are harvested and exported are also in accordance with which to establish an annual quota for the management of wild animal species trafficking are not listed on CITES and is estimated to have improved.

In the face of the absence of wildlife population data on a national scale, the quota system was developed as a response to “adaptive management” which was originally a harvest control mechanism. The quota system in Indonesia is set to broad principles in which the level of better prevention zero quota to encourage smuggling and illegal trade to supply demand. Some workshop in Indonesia focused on the methodology of finding that there was no loss in 2002, the Indonesian CITES Scientific Agency now using IUCN guidelines (Rosser and Haywood, 2002) to assist in finding that there was no loss to the export of Appendix-II. Quotas are set based on analysis of the findings of no harm is as follows:

- Each year in July-August, BKSDA in each province to provide information or data harvesting areas, the total harvest in previous years, and on crop yields in the coming year to the Scientific Board. If there is, BKSDA also provide qualitative data on the results of the survey the number of population in the wild;
- Every year in September, the Agency CITES Scientific hold a seminar (consultation) with all stakeholders, which include government agencies (research, management, commerce, industry), universities, NGOs (local, national, international), and trade associations;

- Additional information is then included in the process of consideration of the seminar, mainly from individuals / organizations in the field of research, and helps make the proper adjustments to the amount of the proposed quotas;
- Agency CITES Scientific can then consult further with other organizations for information related to, and is still open for further submission of the request;
- From the above process, LIPI as Scientific Board then make recommendations to the Management Board, which officially declared the number of annual quota through a decision of the Director General of Forest Protection and Nature Conservation. In the final decision, to accommodate domestic trade, the export quota is allocated 90% of the harvest quota. This decision to inform the number of annual allowable harvest of each species at national level, which is allocated to the various provinces. Ideally, the quota for each province shall be determined in accordance with the "production system" potential in every province, but it is a process that is still running and requires further review, in particular the role of plantation and breeding system in supplying trade. Harvest quotas for each species based on estimates of the data, including: information on the biology and distribution of the species, general land use and potential threats in specific areas.
- At this level, the Director General may still receive additional information that could lead to reduced quota (usually less than recommended by the Scientific Board) before signing the annual list.

Ministerial Decree No. 447/2003 establishes inspection procedures and controls carried out by the competent bodies at all levels (BKSDA and PHKA Central Office) in terms of harvesting, brokers, traders, people who do the removal and exporters and importers, and must comply with the quota allocated. Production-based catches of species get referrals and regulated by the Ministerial Decree No. 19/2005. The decree provides guidelines and arrangements regarding catch captivity in accordance with Article VII of CITES and the Conference Resolutions 10:16.

Although the regulatory framework is very good, there are some significant problems with the legislation the most important is the list of protected species which will be used Annex Government Regulation No. 7/1999. Government Regulation No.7/1999: Protected Species List The essence of this regulatory framework is Government Regulation (PP) No. 7/1999, which provides a list of protected species in Indonesia.

CITES Implementation in Indonesia

CITES implementation, including enforcement of all relevant legislation, requires cooperation and coordination between relevant agencies and the Ministry at the national level. It also requires close cooperation through bilateral, regional and international, including international organizations and non-governmental organizations. At the national level, the CITES Management Agency, KLHK, must coordinate the implementation and enforcement of CITES with a number of agencies, including customs, quarantine, police and other relevant agencies. Some of the training modules, guidelines concerning the identification of species and CITES has been produced.

Training and capacity building for law enforcement of all relevant institutions have been carried out by the CITES Management Agency and bilateral collaboration and non-governmental organizations used to track the illegal trade in wildlife, conduct a review of population and other matters related to CITES. Cooperation with ICPO-Interpol can also help law enforcement at the international level and increase network capacity CITES and law enforcement agencies in Indonesia. At the regional and international level, Indonesia is leading the implementation of the ASEAN—*Wildlife Enforcement Network* (ASEAN-WEN). This network can be used for a variety of information and intelligence related to CITES cooperation with ASEAN member countries. Other than that, the Indonesian Government has also developed bilateral cooperation with some countries such as Vietnam, which is often the main purpose of illegal wildlife products from Indonesia.

In a bilateral MoU with the United States, Indonesia also prioritizes action to eradicate the illegal trade in wildlife. And Indonesia is also a signatory to the London Declaration on Illegal Wildlife Trade in February 2014.

THE CRIMINAL JUSTICE SYSTEM IN INDONESIA IN THE CONTEXT OF PROTECTION OF BIODEIVERSITIES

THE STANDARD procedure for the handling of criminal cases at the level of the implementing agency enacted by Law No.8/1981 of Law Criminal Law (Penal Code). Criminal law is generally applied to all types of crime unless specifically mentioned in other laws, and if this happens then the priority is given to other laws in accordance with the principle of *lex specialis derogate lege generali* (e.g, the Law of Conservation (special crimes) takes precedence over the Criminal Code (general crime). Therefore, in practice, the judiciary crimes against wildlife or conservation violations should use compared Forestry Conservation Act or the Criminal Law, even though some of the crimes

specified in the criminal law can also be used as a secondary or tertiary claims to support the main demands.

Similarly, all the procedures for investigation and criminal prosecution should use the Code of Criminal Procedure unless otherwise stated in the other special laws. Handling legal issues in forest conservation and biodiversity is not only related to criminal law, but also included in administrative law and civil law. Examples of civil lawsuits, including when the government demanded by the public due to a conflict of land ownership, or government sued the company for inappropriate behavior. As a practical example, the government never prosecuted using administrative law because it gives the Nature Reserve plantation in Rawa Singkil Aceh, the Orangutan habitat.

Criminal Investigation against Wildlife Protected

Criminal Procedure Code states that criminal investigations should be carried out by police investigators or civil (Civil Servant Investigators - investigators) who has been given the authority by law to conduct criminal investigations and filed a criminal case compatible with the applicable law. KLHK have some staff that had been trained as a civil servant investigator (investigators) to investigate a special case under the authority of the Ministry of them. Most of the forest police and investigators KLHK placed in a national park or provincial Natural Resource Conservancy Agency (BKSDA, *Badan Konservasi Sumber Daya Alam*). Only some of them are assigned to local offices to help if needed, or when there is a crime that occurred in some provinces. There is a possibility that this arrangement can become more clear when the new KLHK structure together with other Ministries (formerly the Ministry of Environment and the Ministry of Forestry).

Unlike the police investigators, investigators from KLHK only able to investigate specific crimes cases in accordance with the laws governing their jurisdiction, in this case the forestry and wildlife crime, and investigators of the Commission can only investigate crimes fisheries. In addition, civilian investigators who have a national license can conduct investigations throughout Indonesia. If not, they can only conduct an investigation based on a specific work area.⁹

Investigators who have been trained not automatically have the authority to investigate criminal offenses. They must have the Decree of the Ministry of Justice as a "*permit*" to conduct an investigation. Even many investigators who are trained do not have "*permission*", or they have licenses that have expired or they are operating outside their jurisdiction. As a result, and because the police were given the authority to investigate all types of crimes, most cases are handled by police investigators. Customs and

⁹ The Civil Servants/the State Official in Maritime Area has an authority to process the investigation based on the provision of Law No. 27 of 2007.

Quarantine officers can also support wildlife crime investigations to monitor the potential for export/import/transport of wildlife from one place in Indonesia to other countries.

Going forward, the crime investigator recommended for all wildlife should be done by civilian investigators because they have the technical knowledge that is more specific than the national police, especially when conducting the search, evidence gathering, or make the case for crimes related to conservation. The public investigators only require regular training in conducting the search, investigation techniques and management of evidence.

Obstacles and Action Completion of Implementation of Law No. 5 of 1990

Limited human resources leading to difficulties in the management of protected areas TNGL, so will cause duties and functions do not work well. It has an impact on the slow handling crime endangered species in nature TNGL. Procurement of more intensive working meetings in each sector of the region as one of the efforts made to cover the completion of the task is not small. In some areas of employee functions BKSDA TNGL maximized as structural employees also serves as a functional employee. Ideally with a limited number of personnel it each position must be assumed everyone, so there is no order positions which resulted in the duties and functions run less than the maximum, it would require additional staff.

Limited system of coordination and cooperation between sectors can lead efforts to protect endangered species be comprehensive so that it will hamper conservation efforts itself. As for the work done BKSDA TNGL is with continuous coordination and cooperation with various parties such as the police and related agencies. Mobilization efforts among personnel also more frequently improved between agencies or publics.

The utilization regulation of wildlife that are not clear enough cause difficulty in performing their duties and functions according to the rights corridor. In this regard the effort made is that each personnel perform interpretation of the rules according to their respective capabilities while maintaining the existing rules.

Less of experts in the field will certainly hinder the implementation of tasks assigned by an agency. Work done TNGL related BKSDA the above is to conduct training for employees BKSDA conservation TNGL also students, especially students of nature lovers through conservation programs and community cadres, especially those in the surrounding area. This training aims to introduce forest including the plants and wildlife that are expected to enhance the ability of the Human Resources personnel TNGL BKSDA in protecting and safeguarding the forest ecosystem and disseminate to the public.

Lack of public awareness in the efforts of protection directly from BKSDA TNGL in the case of community is not involved should be aware. In anticipation of this BKSDA TNGL make approaches to the public as a first

step to encourage and promote the importance of conservation of endangered species, it is as a preventative measure. Massive exploitation of natural resources, especially endangered species was become the serious problem. In this case, try to reduce reliance BKSDA TNGL society by providing education and skills training in agriculture or development of the tourism sector so as to create economic alternatives for the community effort.

Human hunting of wildlife in essence, among others, aim to meet the needs of everyday life, but with the passing of time and the times nor the culture, the hunting of wild animals now also be done as a hobby or pleasure, exclusivist (preserve wildlife, as a symbol of status) and for products traded in the form of wildlife, for example ivory.

An incorrect understanding of the culture in which people preserve the bird is considered to have a higher social status. This is certainly contrary to the conservation of endangered species because people who raise the birds many of which are not concerned with the status of *appendix* to these animals. Anticipating this from the first BKSDA TNGL further improve supervision of the activities of buying and selling of endangered species, also with the help of the community in the form of reports report the presence of endangered species in the communities will be followed up. In collaboration with community agencies that seeks to form wisdom of community workshops to build deep thinking about conservation.

Arrests are not environmentally friendly to wildlife damage existing ecosystems so that conservation efforts will be hampered. This is certainly an obstacle for the implementation of tasks BKSDA TNGL efforts undertaken by means of preventive is to do outreach to the community around conservation areas. How repressive to conduct joint operations, Collecting materials and information, as well as rare plants and animals the operation carried out with the next stage of Berua evacuation and quarantine. By the cooperation between public and BKSDA TNGL also given warning letters and enforcement firm to the people who commit offenses.

CONCLUSION

THERE are a number of important opportunities exist to reduce wildlife crime and illegal trade in wildlife in Indonesia, particularly in Leuser Mount National Park. Although law reform is needed to provide a solid base in the future for the implementation effort and to ensure that the legal framework Indonesia is still able to solve crimes rapidly evolving and increasingly sophisticated, many also can be done to improve the implementation and improve the success rate the demands of this type of crime. The success of large-scale recently, largely the result of improved relations and cooperation between BKSDA TNGL, police and related agencies. Success like that is indicative of a rapid impact in the improvement of the implementation effort

and, combined with targeted legal reforms, will enable Indonesia to make strong inroads in reducing crimes against wildlife in the future.

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