

CHAPTER I

INTRODUCTION

A. Background

Natural resources are everything that exists in the natural environment that can be utilized for various interests and the needs of human life.¹ As a developing country, Indonesia is currently implementing development in all fields. Development is meant as an effort to improve the living standards by utilizing all the resources it has.² Natural resources must be managed wisely, because the nature is included into non-renewable resources. The public or even the Indonesian government, however, utilizes natural resources extensively without considering any negative impacts.

Indonesia is rich of natural resources compared to other countries. It is very rich in biodiversity of natural resources and ecosystem.³ Then Indonesia also has various types of protected animals.⁴ It is well known as the highest wildlife in the world.⁵ An estimated of 300,000 wild animals are available in Indonesia, equivalent to 17% of the world's animals.⁶ Indonesia, on the other hand, also has the longest list of endangered wildlife.⁷ Habitat destruction and excessive exploitation are the main causes of endangered wildlife or endangered species residing in Indonesia. The number of endangered animals are 147 species of mammals, 114 bird species, 28 species of

¹ Tri Rahayu, "Perlindungan Hukum Terhadap Satwa Liar dari Perdagangan Liar (Studi pada Wildlife Rescue Centre, Pengasih Kulon Progo Yogyakarta)", Under Graduate Thesis Faculty of Sharia'a and Law Universitas Islam Negeri Sunan Kalijaga Yogyakarta, downloaded on Tuesday, November 8, 2016, p.1.

² R.M. Gatot P. Soemartono, 1996, *Hukum Lingkungan Indonesia*, Jakarta, Sinar Grafika, p. 189

³ *Ibid*, p. 2.

⁴ *Ibid*, p. 2.

⁵ Yesika Liuw, "Perlindungan Hukum Terhadap Hewan Lindung Menurut Undang-undang Nomor 5 Tahun 1990", Under Graduate Thesis Faculty of Law Universitas Sam Ratulangi, *Lex Crimen Journal*, Vol. IV/No. 3/Mei/2015, downloaded on Wednesday, November 16, 2016, p. 24.

⁶ Tri Rahayu, *Op.Cit*, p.2.

⁷ Yesika Liuw, *Op.Cit*.

reptiles, 91 species of fish, and 28 types of *interverbrata*.⁸ Those wild animals can be found in their original places such as Bali for beautiful birds, tigers and elephants in Sumatran, the *anoa* in Sulawesi, one-horned rhinoceros in central Java, and many more.

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The endangered condition is worsened by the lack of public awareness of the importance of wildlife conservation or endangered species and their habitats. Because the endangered animals are difficult to be found in their habitat, so the Government issued legislation for the protection of endangered animals. It is marked by the issuance of the Law No. 5 of 1990 on the Conservation of Biological Natural Resources and its Ecosystem. The law also determines the category or area of nature reserves with certain characteristics, both on land and in waters that have a basic function as a protected area for the diversity of endangered species, as well as their ecosystems.¹⁰

Law No. 5/1990 on the Conservation of Biological Natural Resources and its Ecosystem in Chapter V on Preservation of Plant and Animal Species, Article 21, Paragraph 2 (a) states that everyone is prohibited from catching, harming, killing, storing, possessing, maintaining, transporting protected endangered animal.¹¹ The fact that the prohibition in this law does not make the perpetrator to submit and obey the prescribed of regulation; many offenders are still violating the protection of wildlife in Indonesia.

⁸ Tri Rahayu, *Op.Cit.*

⁹ Muhammad Iqbal, Mahendra Putra Kurnia, Erna Susanti, "Tinjauan Yuridis Terhadap Kepemilikan dan Penjualan Satwa Langka Tanpa Izin di Indonesia", Faculty of Law Universitas Mulawarman, *Beraja Niti Journal*, Vol. 3, No. 3, downloaded on Tuesday, November 8, 2016, p. 2.

¹⁰ Yesika Liuw, *Op.Cit.*

¹¹ Arif Budiman, "Pelaksanaan Perlindungan Satwa Langka Berdasarkan Undang-Undang Nomor 5 Tahun 1990 Tentang Konservasi Sumber Daya Alam Hayati Dan Ekosistemnya (Studi Di Seksi Konservasi Wilayah I Surakarta Balai Konservasi Sumber Daya Alam Jawa Tengah)", Under Graduate Thesis Faculty of Law Universitas Sebelas Maret Surakarta, *Gema Journal*, Th. XXVI/48/Februari 2014, downloaded on Tuesday, November 8, 2016, p. 1373.

There are several examples of cases that are still rife in Indonesia. Many perpetrators violate the rules. By 2015, *profauna*¹² has recorded 67 cases of trading and 16 cases of hunting. The trading and hunting on the protected wildlife in the last 5 years is dominated by online transaction. Examples of some cases are the trade of 96 live pangolins of 5,000 kilo grams of frozen pangolins and 77 kilograms of *trenggilling* scales revealed in Medan in April 2015. Smuggling of 10 kilograms of Manta Pari Fishing, 4 bags containing a mixture of shark bone and Manta Pari Fish, 2 bags of Shark Bone and 4 Shark Fin in Flores in July 2015. Smuggling 1 container 40 feet Shell Head Goat worth Rp. 20,422 billion on August 2015 in *Tanjung Priok*, North Jakarta. These illegal goods will be exported to China.

The provision have been established, if there is a criminal in the field of reducing or even taking animals that are within the scope of almost extinct will be given a very strict punishment as provided in the Criminal Code contained in article 302 of the Criminal Code which has a maximum sentence of 5 (five) years and a maximum penalty of Rp. 100,000,000.00 (one hundred million rupiah).

Some cases and provisions of criminal penalty are essential to examine how well or how far the priciple and effectiveness of the endangered animals provisions as listed in Law No. 5 of 1990. The number of cases against protected animals occurs due to several factors such as forest destruction caused by human trafficking presence of animal of infrequent populations or animal in danger of extinction. The animal protection is generally directed to certain characteristics in which the animal must be protected. First, the animal is almost extinct, where the critical level and its habitat have become reduced. Second, the population declines due to excessive exploitation. Third, the animals and their ecosystem as well as their population have been cared.

¹² Profauna Indonesia: “Hukum Belum Berpihak Terhadap Perlindungan Satwa Liar di Indonesia”, available at (<https://www.profauna.net/id/content/catatan-profauna-2016-hukum-belum-berpihak-terhadap-perlindungan-satwa-liar-indonesia#.WO5LdmmGPIU>), accessed on Thursday, April 13, 2017 at 5.26 p.m.

B. Problem Formulation

1. How is the effectiveness of the endangered animals protection under Indonesian Law?
2. What are the obstacles of enforcement of Indonesian Law on the endangered animals protection?

C. Objective of the Research

1. To analyze the effectiveness of the endangered animals protection under Indonesian Law.
2. To identify the obstacles of Indonesian Law on the animals protection and to propose a better recommendation on the protection of the endangered animals under Indonesian Law.

D. Benefits of Research

1. Theoretical Aspect

The research aims to give theoretical understanding on the endangered animal protection under Indonesian Law.

2. Practical Aspect

The research aims to propose the better recommendation for the settlement to protection the endangered animals under Indonesian Law.