Law Enforcement Against Wildlife Poachers is Protected in Bromo Tengger Semeru National Park

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Abstract

This Thesis, the authors intend to find out and analyze law enforcement against perpetrators of poaching of protected wildlife in Bromo Tengger Semeru National Park. This research uses empirical juridical research methods, namely legal research by direct approach to the facts in the field. This approach is carried out in order to obtain information relating to the author's research either in the form of concrete data from agencies or simply information about law enforcement by the law enforcement officers who handle it. The results of the study can be concluded that not all perpetrators who commit the crime of hunting wild animals are protected with criminal penalties, but some perpetrators are only given guidance and make a stamped statement but also return the animals to their habitat. This sentence was carried out for reasons of pity and humanity; this certainly did not give a deterrent effect to the culprit, besides the lack of area guard personnel and a lack of public awareness as the main cause of law enforcement against protected wildlife poachers in Bromo Tengger Semeru National Park.

Keywords: Conservation, Law Enforcement, Wildlife Protected Crime Acts.

I. Introduction

Indonesia is known as a country rich in biodiversity. Biodiversity is a term that contains a variety of non-biological species such as genes and types, both animals and plants that exist in an area. Biological Natural Resources in Law No. 5 of 1990 in the essence namely non-biological which consists of an ecosystem that includes animals and plants that are interrelated and needy and non-biological as a complement to the results of a successful life.

The quality of biological assemblages and the environment is well understood by human behavior. Damage to biodiversity and the environment because humans who are not responsible for management, do not care about the environment and are selfish. In the Environmental Protection and Management Law No. 32 of 2009 article 1 paragraph 2 which basically states: "Environmental protection and management is structured government protection in preserving, preventing the transfer of pollution and environmental damage consisting of planning, utilization, control, maintenance, supervision, and law enforcement.'

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Efforts to preserve and preserve the environment that can be done by the government and the community is maintenance. Efforts to protect and preserve the environment are intended so that ecosystems consisting of non-living and non-living remains managed and complete so that they can be used in the long term. The effort is an improvement effort. For this reason, a legal umbrella was established by the government regarding the replacement of the use and protection of the area from damage caused by irresponsible actions.

Conservation is a special area designated by the government for the purpose of preservation consisting of forests and their contents consisting of liars. In determining an area in accordance with the approved area, the government will determine the approved area and meet the conservation area category. Each category of conservation area has different purposes and purposes so that it is different from different areas.

Generally there are two forms of conservation, namely in situ conservation and ex situ conservation, where in situ conservation is the protection of plants and animals carried out in their natural habitat. Examples of in situ conservation are nature reserves, wildlife reserves and nature conservation areas of national parks, grand forest parks, and nature tourism parks. Whereas ex situ conservation is an effort to protect plants and animals which is not carried out in their natural habitat. Examples of ex situ conservation include botanical gardens, arboretum, zoo, safari park, and storage of animal seeds and sperm.

Bromo Tengger Semeru National Park is one of the National Parks in Indonesia that has been established based on the Decree of the Minister of Forestry to protect and maintain the stability of plants, animals and ecosystems in the area for conservation. Bromo Tengger Semeru National Park is still prone to be a destination for profit from people who are not responsible, besides originating from nature itself also comes from human activities that can cause damage to habitat and biodiversity in the Bromo Tengger Semeru National Park.

Another threat that is no less important is coming from community activities around the National Park area. The level of community dependence on what is in the National Park area.

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2 Ibid., p. 150.
is still high enough so that activities within the conservation area can pose a significant threat. One of these activities is the hunting of protected wildlife both for commercial and personal/own purposes. The threat is a negative access from the interaction of the community with Bromo Tengger Semeru National Park in the form of the utilization of biological natural resources and their ecosystems available for economic reasons, namely fulfilling their lives. The tendency is increasing with increasing population, easier accessibility, uncertain economic conditions, increasing demand for natural resources for various purposes. As a result, efforts should be made to overcome and deal with actions that are destructive to the Bromo Tengger Semeru National Park area so as to create a deterrent for the perpetrators of criminal offenses in the field of conservation, thereby reducing the extent of damage to the National Park area.

II. Method

The research method used by the author in this paper is empirical juridical legal research by direct approach to the facts in the field. This approach is carried out in order to obtain information relating to the author’s research either in the form of concrete data from agencies or simply information about law enforcement by the law enforcement officers who handle it. In exploring data and information, the authors conducted research at the Central Office of Bromo Tengger Semeru National Park and the Office of Safeguard and Law Enforcement of the Environment and Forestry of Java and Nusa Tenggara, with a research period of 1 (one) month each.

III. Main Heading of the Analysis or Results

A. Elements of the Criminal Acts of Wildlife Poachers Protected in Bromo Tengger Semeru National Park

The hunting of protected wildlife in Bromo Tengger Semeru National Park (BTSNP) is a criminal offense where the act is clearly regulated and prohibited in Article 21 paragraph (2) together with the Criminal Threat stipulated in Article 40 of the Law on Conservation of Biological Resources and Its Ecosystem No. 5 of 1990. A person can be said to have committed a criminal act in a conservation area if it has fulfilled the elements of the criminal act stipulated in Law No. 5 of 1990 Article 21 paragraph (2) which in essence is prohibited from making use of animals in the conservation area for individual
or collective interests both living and dead conditions, both in their entirety and parts as well as the eggs and nests of animals that are there. Article 21 Paragraph (2) of Law No. 5 of 1990 basically consists of several elements, namely:

1. Every person is signifying that this rule applies to anyone without exception.
2. Prohibited is the prohibition of everyone in doing something.
3. Prohibition of any person from utilizing animals in conservation areas whether alive or dead, both intact and partly and eggs and nests of protected animals for their own or joint interests.

All of the cases of poaching that occurred have fulfilled the element of criminal hunting for protected wildlife contained in Law No. 5 of 1990 with details as follows:

1. The Element of Everyone
   
   Elements that lead to the subject of a criminal offense. In various cases of successful and unsuccessful hunting, the elements of the subject have been fulfilled, where one or more people have committed hunting poaching in the Bromo Tengger Semeru National Park. In the 2014 case, 4 (four) perpetrators had been convicted based on the decision of an incracht judge, in 2015 a number of 3 perpetrators had been secured by the Pronojiwo Sector Police and had reached the P-21 stage. Furthermore, in 2016 and 2017 unknown number of perpetrators managed to escape while in 2018 a total of 1 (one) person was given sanctions in the form of guidance, making a statement that was known to village officials and families and releasing prey in the area.

2. Purposeful Elements
   
   Elements that describe and reflect the evil intentions of the perpetrators of a crime for an act to violate a previously known regulation prohibiting the hunting of protected wildlife in the Bromo Tengger Semeru National Park. This element is included in the Subjective element derived from within the perpetrators of criminal acts.

3. Elements of catching, injuring, killing, storing, possessing, maintaining, transporting and trading animals that are protected while alive.
This element is an objective element of a criminal act in a conservation area in the form of a variety of activities that are prohibited by anyone without a clear permit and purpose from the Natural Resources Conservation Center.

In some cases hunting for protected wildlife in the Bromo Tengger Semeru National Park conservation area, the perpetrators of the hunting have their reasons for hunting pleasure, consumption, to be owned and maintained, also to be traded to the surrounding community and communities outside the Bromo Tengger Semeru National Park area. After fulfilling the elements of a criminal offense, the offender can be held liable for the criminal.

**B. Responsibility Wildlife Poachers Are Protected In Bromo Tengger Semeru National Park**

The crime of hunting wild animals is protected in the conservation area of Bromo Tengger Semeru National Park. If it is related to the principle of responsibility, liability based on fault applies to protected wildlife hunting actors where the perpetrators will be sanctioned after meeting the criminal elements and there is sufficient evidence of the hunting crime.

According to the Official Civil Investigation Office of Bromo Tengger Semeru National Park, Mr. Cahyo, the sanction does not only apply to perpetrators who are proven to have committed crimes in accordance with article 21 paragraph (1) and (2) of the Law on Conservation of Biological Resources and their Ecosystems, but also applies to the community without the permission and clear activities of the Bromo Tengger Semeru National Park, entered the National Park area. If the community is caught red-handed entering the National Park conservation area, administrative sanctions will be imposed.³

Based on the errors raised by Roeslan Saleh when related to a number of successful cases handled by Forest Police and Civil State Investigation Officers in the Bromo Tengger Semeru National Park conservation area, it can be elaborated on the element of error that ensnared the perpetrators of protected clay hunting namely:

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³ Interview with Mr. Cahyo as the Official Civil Investigation Office of the Bromo Tengger Semeru National Park on December 10, 2019.
1. Elements of Responsibility, namely elements that emphasize the ability to be responsible for the actions that have been done.

2. The element of Deliberation or Negligence is the element that focuses on the intention of someone in committing a crime.

3. Elements of Absence of Forgiving Reasons, namely elements that emphasize the mistakes made by the perpetrators and deserve to be convicted.

4. The regulation of criminal sanctions for those who violate the crime of hunting wild animals is protected in the Bromo Tengger Semeru National Park area specifically regulated in the Law on Conservation of Biological Resources and their Ecosystems Article 40 Paragraph (2) which basically states that anyone who intentionally commits hunting, save, trade protected animals, etc. or carry out activities that are not in accordance with the function of the utilization zone and other zones of the national park, can be sentenced to a maximum of five years imprisonment with a maximum fine of Rp. 100,000,000.

C. Law Enforcement for Wildlife Poachers Protected in Bromo Tengger Semeru National Park

Speaking of law enforcement, it is not far from sanctions for violators if it is reviewed with the title of the author, namely law enforcement against perpetrators of protected wildlife hunting in Bromo Tengger Semeru National Park, criminal sanctions for violators have been clearly regulated in the Source Conservation Act Biodiversity and Its Ecosystem No. 5 of 1990 article 40.

The following is criminal law enforcement for perpetrators of criminal offenses in the field of conservation:\(^4\)

1. Report

2. If there is an indication of Criminal Act then proceed to Investigation

3. If sufficient evidence is found proceed to Investigation

4. If the case file and evidence are deemed sufficient to proceed to Prosecution

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\(^4\) Interview with Mr. Musafa as the Civil Investigation Officer of the Office of Safeguards and Law Enforcement of the Environment and Forestry of the Java-Bali Region of Nusa Tenggara on 19 November 2019.
5. Decision

In addition to criminal law enforcement, there are other efforts undertaken by the Central Office of Bromo Tengger Semeru National Park in preventing and combating the hunting of protected wildlife in the BTSNP area, namely:

1. Formation of Community Police Partners
2. Provision of CCTV in areas prone to hunting protected animals
3. Socialization
4. Coaching or Training

D. Analysis of Law Enforcement for Wildlife Protected Hunters in Bromo Tengger Semeru National Park

Law enforcement against protected wildlife hunting offenders in the Bromo Tengger Semeru National Park area is still lacking and weak so that many of the perpetrators of criminal acts can escape criminal punishment, as evidenced from the case data obtained by the author in 2016 a total of 2 cases the perpetrators managed to escape while in 2017 a number of 3 cases of perpetrators managed to escape. The following are obstacles to law enforcement in the conservation area:

1. There is pity and consideration of humanity
2. Lack of zone guard personnel
3. Lack of public awareness
4. Imposing less strict sanctions
5. There are changes in the structure of law enforcement

The following is a table on the provision of criminal sanctions against perpetrators of protected wildlife hunting in Bromo Tengger Semeru National Park who were caught:

<table>
<thead>
<tr>
<th>Number</th>
<th>Perpetrator’s name and Year</th>
<th>Animal Type</th>
<th>Punishment</th>
</tr>
</thead>
</table>

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5 Interview with Mr. Edwin as Forest Police of the Central Bromo Tengger Semeru National Park on December 17, 2019.
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The following is a table about providing guidance and making statements to perpetrators of protected wildlife hunting in Bromo Tengger Semeru National Park who were caught:

<table>
<thead>
<tr>
<th>Number</th>
<th>Perpetrator's name and Year</th>
<th>Animal Type</th>
<th>Punishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Soleh (2018)</td>
<td>67 Birds</td>
<td>Provision of guidance, making a statement is known to the head of the village and family and release the animals to their habitat. Criminal threat when hunting again.</td>
</tr>
<tr>
<td>2</td>
<td>Siyono and Yuli Andrianto (2015)</td>
<td>2 long tailed apes</td>
<td>1 months in prison and a fine of IDR 1,000,000</td>
</tr>
</tbody>
</table>

Of the 2 cases of animal hunting that were successfully handled, the sanctions imposed were so far from what is contained in article 40 of Law No. 5 of 1990 the sanctions certainly did not have the effect of fear and a deterrent effect on the mistakes they made besides that in imposing sanctions did not consider the number of animals captured and if successfully sold then the country would suffer huge losses.

IV. Conclusion

Based on the results of research and discussion raised by the author regarding law enforcement against perpetrators of hunting for protected wildlife in Bromo Tengger Semeru National Park, the writer can draw conclusions as follows:

Hunting for protected wildlife is an act that is prohibited in the Law on Conservation of Living Natural Resources and Ecosystems. In this case, a person's actions can be considered as a criminal act if they have fulfilled the elements of the crime contained in
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Article 21 paragraph (2) of the KSDAE Law. Besides that, a person can be sanctioned if he enters the Bromo Tengger Semeru National Park without a permit and purpose clear in entering the area of the Bromo Tengger Semeru National Park. The principle of criminal liability that applies to a crime in the field of conservation is the principle of responsibility based on an element of error which explains that a person can be held liable for criminal liability after fulfilling the elements of a criminal offense; justification or forgiveness for a mistake he has done.

Law enforcement in eradicating wildlife hunting is protected in Bromo Tengger Semeru National Park starting from reports, investigations, investigations, submission of case files and evidence to the prosecutors by PPNS, prosecution by prosecutors in court, and ending with reading decisions by judges. In addition to criminal law enforcement, the Central Office of Bromo Tengger Semeru National Park has efforts to prevent and eradicate hunting for protected wildlife in the TNBTS area, namely by establishing community forest police partners, providing CCTV in areas that are prone to protected wildlife hunting, socialization, and coaching / training in the community around the TNBTS area.

Law enforcement against protected wildlife hunting offenders in Bromo Tengger Semeru National Park is still relatively weak and unequivocal, due to pity and humanity which hinders law enforcement and provides a deterrent effect to protected wildlife hunting offenders so that protected wildlife hunting offenders are protected. proven to be caught and for the first time committing the crime will be given guidance and make a stamped statement that is known by the family and the local village head. Criminal law enforcement is carried out for someone who has committed a crime that has been done again in this case someone has violated the stamped statement that has been made previously. In addition to compassion and humanity in law enforcement against protected wildlife poachers in the Bromo Tengger Semeru National Park there are other shortcomings that also make law enforcement in the TNBTS area weak namely lack of law enforcement officers in the area, lack of public awareness in conservation efforts and enforcement structures laws that change.
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References

Undang Undang No. 5 Tahun 1990 tentang Konservasi Sumber Daya Alam Hayati dan Ekosistemnya.

Undang Undang No. 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup.


Interview with Mr. Cahyo as the Official Civil Investigation Office of the Bromo Tengger Semeru National Park on December 10, 2019.

Interview with Mr. Musafa as the Civil Investigation Officer of the Office of Safeguards and Law Enforcement of the Environment and Forestry of the Java-Bali Region of Nusa Tenggara on 19 November 2019.

Interview with Mr. Edwin as Forest Police of the Central Bromo Tengger Semeru National Park on December 17, 20.