The Urgency of Revision of the Law Regarding Conservation of Biological Natural Resources and Its Ecosystems in Indonesia

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Abstract. This paper discusses the importance of revising the law on the Conservation of Biological Natural Resources and Its Ecosystems as a priority for national legislation programs. The three important reasons for the revision are accommodating conservation approaches, adapting to the principles of regional autonomy, and strengthening law enforcement. This revision is vital to deal with the widespread destruction of ecosystems and the theft of illegal species in Indonesia. Protection of biological natural resources is essential because it is one of the elements of environmental resilience. With the normative legal approach, this paper argues the importance of revising the law to ensure implementation in protecting Biological Natural Resources in Indonesia.

1. Introduction
For Indonesia, protecting ecosystems and biological natural resources is always a challenge with economic development. Nevertheless, unfortunately, the massive investment breakthrough has made environmental issues less attention [1]. This can be seen in the course of efforts to revise Law Number 5 of 1990 concerning Conservation of Biological Natural Resources and Its Ecosystems, hereinafter referred to as the “Conservation Law”, proposed since 2016, which the house of Representatives has not passed.

According to National Planning and Development Agency records, Indonesia occupies an essential position on the world's biodiversity map. Indonesia well known as one of the mega biodiversity countries [2]. Furthermore, Indonesia is also included in the ten countries with the highest biodiversity in the world [3]. This is due to the position of Indonesia which stretches and intersects at the confluence of the Asian and Australian continental plates [4]. Indonesia has various animals and plants in each region with a diverse distribution [5].

Unfortunately, the protection of plant and animal species in Indonesia also faces various threats of extinction. One of them is caused by ecosystem damage and conservation. According to the 2016 Directorate General of Conservation of Biological Resources and Ecosystems, conservation areas have four threats [6]. First, there is a threat to the use of biological resources within the conservation area. Second, the reality of population growth, the construction of settlements, and the commercial regions erode conservation areas. Third, modification of natural systems. Fourth, there is human interference or disturbance in the conservation area.
The regulatory material in the conservation law has not responded to various threats to Indonesia’s protection of biodiversity and ecosystems. According to the Financial Transactions Search and Analysis Center (PPATK), trade transactions of wild flora and fauna reached more than Rp. 13 trillion per year, which value continues to increase from year to year. The illegal trade in wild plants and animals is the third-highest crime after drugs and human trafficking [7].

Policy governance within the framework of good governance at the statutory level is considered a solution in dealing with threats to conservation and ecosystems. This is due to the many sectors involved, from various state ministries and local governments to the business world. Therefore, the existence of regulations at the level of the law will make all stakeholders bound and guarantee the certainty of law enforcement.

Three critical aspects must be considered in the revision of the conservation law. The first is a change in approach regarding conservation as a form of complying with several international agreements. The second is to update the mechanism for sharing authority after decentralization in Indonesia. Third, strengthen the guarantee of law enforcement in the application of criminal sanctions and administrative sanctions for corporate actors.

This paper is divided into four parts, beginning with an introduction to recognize the importance of studies in updating the conservation law. The second part discusses the methods and approaches used in analyzing this case. The third section describes the importance of changing the approach to conservation, regional autonomy, and law enforcement in the law on Biological Natural Resources. Finally, the fourth part discusses the conclusions in this paper.

2. Method

The method used in this paper is normative legal research conducted by examining norms in updating Law Number 5 of 1990 concerning Conservation of Biological Natural Resources and Its Ecosystems and positive law in Indonesia [8]. In addition, the statutory approach is also used, which is based on some related international regulations and agreements such as the Convention on Biological Diversity, the Cartagena Protocol, and the Nagoya Protocol.

This paper also summarizes some public discussions and aspirations from many stakeholders. One of them is by reviewing the proposed draft on revised law drawn up by the parliament. This managed to provide a comprehensive perspective on the importance of amendments to the conservation law in Indonesia.

3. Results and discussion

3.1. Conservation Approach Change

Quoted from the academic text of the draft law the conservation law, the conservation paradigm adopted is still more focused on the protection aspect, while the paradigm in the conservation field that is currently developing is no longer prioritizing protection alone but has accommodated aspects of sustainable and sustainable use [9].

This can lead to conflicts and problems in the field, primarily if conservation is implemented with indigenous peoples and communities in and around the conservation area. In addition, the current implementation of conservation activities uses an area-based approach or a species-based approach. This condition has resulted in several problems, including overlapping authorities and unclear who is responsible for conservation. Therefore, it is necessary to have a conservation approach covering all aspects, namely protection with an ecosystem approach.

The current scope of conservation arrangements includes aspects of protection, preservation, and utilization. On the other hand, for conservation areas that have already been damaged, there is no comprehensive arrangement to restore conservation areas to their original condition. Furthermore, a mechanism for sustainable conservation is needed to benefit the community, primarily indigenous peoples.
New approaches to conserving biological natural resources must also carefully involve indigenous and tribal peoples in their implementation. So that conservation does not separate the local wisdom of indigenous peoples by synergizing with the culture of the community. Furthermore, the existence of customary law communities needs to be assessed as a form of collaboration in the role of the community as part of the primary stakeholder.

The regulation of the law focuses on the scope of conservation in the land area. Nevertheless, many other areas such as sea and air areas also need to get detailed arrangements regarding the preservation of their living natural resources. This is also based on the geographical reality of Indonesia, which consists of an archipelago that has many sea areas.

The current arrangements have also not responded to international agreements that have been ratified by Indonesia, such as the Convention on Biological Diversity, abbreviated as CBD. The CBD international agreement on biodiversity conservation has a sustainable, fair, and equitable use approach [10]. The ultimate goal of the CBD is to ensure that each country can develop a national strategy for the conservation of natural resources. The Cartagena Protocol and the Nagoya Protocol are two additional agreements from the CBD that contain clauses on the fair and equitable sharing of benefits arising from using genetic resources [11]. For example, India has set up a profit-sharing model with a CBD scheme regarding intellectual property resources by third parties [12].

3.2. Regional Autonomy

There needs to be a straightforward arrangement that explains the duties and functions of the local government and the central government. In addition, the context of the regulatory approach needs to be adapted to the regional autonomy mechanism currently adopted in Indonesia. Furthermore, there is a need for a division of authority and the provision of a budget that guarantees the protection of the conservation of living natural resources and their ecosystems.

The unclear authority possessed by the government implements natural resource conservation protection overlap. Moreover, the less comprehensive regulations regarding the role of local governments implement conservation a multi-interpretative one. This results in severe obstacles in implementing the protection and utilization of the preservation of biological natural resources in various regions in Indonesia.

There is a need for arrangements regarding the harmonization of institutions related to conservation. This is because conservation and biological natural resources have many institutional sectors that carry out the scope of work with the same object. Therefore, harmonious arrangements at the statutory level are needed to provide coherence in implementing work across related agencies and institutions across sectors.

The good governance approach in implementing the conservation of biological natural resources also needs to be regulated in more detail in the law. One of them is the approach to general principles of good governance in managing the conservation of biological natural resources in Indonesia. Included in the accountability of funding and transparency of policy-making carried out by local and central governments related to conservation areas.

3.3. Law Enforcement

The sanctions approach and law enforcement mechanisms also need to be improved. For example, many criminal law and state administrative law regulations need strict sanctions and reward arrangements. In addition, many ideas regarding incentives and disincentives need to be carried out to provide a basis for law enforcement related to the conservation of biological natural resources in Indonesia.

Various conflicts that often occur are also caused by unclear laws and legal processes that are not pleasing to multiple parties. Existing laws are considered blunt for corporations or corporations. Furthermore, the punishment still focuses on fines and imprisonment, and there are no administrative sanctions that can be given to corporate actors. Administrative sanctions in the form of termination and/or closure of businesses can be an alternative to provide a deterrent effect for corporate actors.
Further discussed in the academic text of the conservation law draft is about the criminal penalties that are still too light. So that many illegal flora and fauna traders are not deterred and still do the same work repeatedly. This, of course, makes law enforcement on the protection of conservation and living natural resources in Indonesia ineffective.

4. Conclusion
The need to revise the Law on Conservation of Biological Natural Resources and Its Ecosystems is urgently needed due to Indonesia’s increasingly threatened condition of flora and fauna. The revision points for the Law on Conservation of Biological Natural Resources and Its Ecosystems are as follows; First, the revision of the law is about a new approach adapted to various international treaty instruments. Second, provide precise arrangements regarding the authorities and responsibilities of local and central governments so that there is no overlapping of policies. Third, improve law enforcement by delivering more severe criminal sanctions and sanctions for corporate actors. This improvement is expected to result in more optimal protection for the conservation of living natural resources in Indonesia. Further research is needed to develop an integrated strategy for cross-sectoral implementation and monitoring in Indonesia.

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