The Protection of Arwana Kelesak As A Native Species of Bangka Belitung

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Abstract

The protection of wildlife should be a concern of international law that is regulated in a legal framework agreed upon by the state by respecting sovereignty in implementing international law. Yet the implementation of sovereignty is a challenge for wildlife protection. In Bangka Belitung region in Indonesia live native species, one of which is the Arwana Kelesak. This species of fish in the fresh waters of Bangka Belitung without human intervention and, yet is not a native species. The priority of local regulations on the Arwana Kelesak species is still negligible. Therefore, the efforts to make this fish endangered status have to begin from the area where they live as long as the regulations are concerned. On the other hand, the application of Indonesian laws is not prioritised. The lack of valid scientific data is another challenge. This article aims to ensure that regional regulation of Arwana Kelesak is a necessity because CITES has listed this species as endangered. International legal regulations must be the basis for protecting species that Indonesia has ratified so that the seriousness of the regulations must be clear. On top of that, scientific information from the region regarding the location of the habitat is difficult to find and cannot be used as evidence to claim the threat of extinction. Whilst, illegal tin mining activities in this area pose an additional challenge to the protection of Arwana Kelesak. It is evidence that the mining pit has damaged freshwater ecosystems, especially such native species as the Arwana Kelesak. This article argues that international law through CITES and IUCN has to be taken into account by Bangka Belitung government. Similarly, local regulations and the attention of the central government as the official management authority of CITES need to be ensured to protect the Arwana Kelesak.

Keywords: Arowana kelesak, Native Spesies, Bangka Belitung, Endangered

A. Introduction

Arwana Bangka fish (keleso or kelesak) known in Latin as Scleropages formosus (Asian Arowana or Green Arowana or Asian Bonytongue) is a native fish species spread across Southeast Asia from Thailand, Myanmar, Malaysia, Kalimantan, Sumatra including Bangka Belitung Islands of Indonesia. The fish inhabit rivers and lakes with calm water. In Bangka Island itself has never been found again with EN (Endangered/Critical/Threatened) conservation status. Meanwhile, based on Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) with
Appendix I category and full protection based on Competent Minister related conservation. Protection status of fish species consists of full protection or limited protection.  

West Bangka region, it can still be found from September to January, because this fish is releasing its young. There is an opinion that this fish is not endemic, but is a native or natural type of fish that already exists in nature without the help of human intervention. However, when compared to other areas, arowana fish in Bangka have a characteristic color, namely slightly greenish. The shape is the same as the super red type, only different in color, a bit greenish. International said that all arowana kelesak found in the world are critically endangered on International Union for Conservation of Nature and Natural Resources (IUCN) Red List endangered. State sovereignty exercise its jurisdiction do connection with create even decide connection even obligation in subjective law. Implementation the principle of state sovereignty for protect wildlife with paradigm international law, is framework carry out in CITES rules where CITES is international law related wild animal. The regulation of the trade in CITES is not restricted to whole animals and plants but also includes readily recognizable parts or derivatives. In implementing CITES in each country with pay attention to the principle of sovereignty implemented by the state jurisdictional area territorial every country enforcement of CITES both internationally and in the USA, actions that have been taken to correct some of these problems and several areas in which there is more work to be done. Country ratify CITES right above is prescriptive jurisdictions. Principle This ratifying country has the authority to make regulations protection of any wild animal that is included in the Appendix group in framework law international. This declaration is aimed at improving the sharing of information in implementing CITES and to raise awareness regarding the protection and conservation of wildlife, which therefore includes joint regulation of trade in bear parts and derivatives between the two countries.

Indonesia is one of the countries that has ratified CITES. Even so, the CITES regulations have not yet been implemented optimally to support sustainable trade in plants and animals. Yet member states are obligated to adopt CITES within their territory through domestic legislation. This fact gives CITES a 'strong' position and makes it one of the few

1 Look article 9 "Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Nomor 35/PERMEN-KP/2013 concerning Procedures for Determining the Protection Status of Fish Species
conventions that is capable of enforcing its provisions through both policy guidelines and directions. It gives it a more binding power compared to other conventions which make it a mixture of both soft and hard laws.\(^5\)

States have discretion as to how they enforce the CITES system within domestic law. Yet, they must enforce punishment over the illegal trade and/or possession of listed specimens and enable the confiscation or return of such specimens to export countries.\(^6\) CITES regulations ranging from the need to have regulations at the national level, determining quotas, control mechanisms for the harvest of plants and animals in nature to monitoring trade traffic are still not implemented properly. The protection classification mechanism is based on the CITES Appendix, animal and plant species that are under CITES supervision are grouped into three groups called Appendix I, Appendix II, and Appendix III. Determination of the list of species per group (Appendix) is determined based on the convention at the conference of the parties (COP). Regulations in Appendix I scientific authority of the importing country has advised that the import is not carried out for the purpose of harming the specimen and. The scientific authority of the importing country is satisfied that the receiving country is ready to provide shelter and care and the management authority ensures that it is not for commercial purposes.\(^7\)

Appendix II regulations trade in this species is unregulated and preventive. In terms of permits for exporting and importing, the provisions that apply to species in appendix II are lighter, namely only by fulfilling all the exporter's requirements, but not requiring imports permit. Last regulations in Appendix III, these species need to be protected and international cooperation is needed to protect them. Utilization of water resources can be done in a sustainable manner. The trade-in endangered animals cause a decline in world biodiversity. This unlicensed trade in rare animals also plays a significant role in the existence of a species. Trade today is not only local or regional, but has gone global across national borders. This change is the emergence of trade which involves the participation or participation of countries in the world to compete and get involved with each other. This is what makes interactions between countries occur because of the desire to fulfill their needs by completing these deficiencies through trade. Commercial and non-commercial trade, the environment can be saved and generate financial benefits. However, restrictions through

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\(^5\) Look Article 38 Statute Of The International Court Of Justice
\(^6\) Radha Ivory, 2020, Corruption Gone Wild: Transnational Criminal Law and the International Trade in Endangered Species, Springer Open, Berlin, p. 82
\(^7\) Look Article 9 "Convention on International Trade in Endangered Species of Wild Fauna and Flora"
existing regulations must be appropriate and implemented with good principles of
governance.\(^8\)

CITES starts from the requirement to have national regulations, quota limits, mechanisms control to supervision. understanding from all stakeholders (stakeholders) regarding CITES and its benefits are still not perfect, so it often gives rise to misunderstandings which of course are not conducive to supporting the implementation of CITES. This evolving role has been associated with advancing political interests in addition to tackling local environmental degradation.\(^9\)

This article aims to elaborate legal issues concerning the effort and protection of international law over Arowana Kelesa as a typical of Bangka Belitung endangered native species. It will also address issues of how the CITIES set the member states to comply with as long as the utilization of Arowana Kelesa as an endangered species. This article employs secondary data to descriptively elaborate the problems and to obtain an perspective of the applicable legal situation.\(^10\) It consists of primary legal materials, secondary legal materials and tertiary legal materials.\(^11\) It seeks to describe and understand the issue by searching for and collecting data and information that are expected to provide answers to the questions. Therefore, literatures such as books, literature, laws and regulations, journals, magazines, research reports, articles and other documents related to the issue of international legal regulations are collected to address the issue regarding the protection of animals in endangered status. It is also supplemented with data sources obtained from the purposive sample in Bangka Belitung Province\(^12\) concerning the CITES to do with the animal that are threatened to extinct.

The protection of endangered animals has been conducted by researchers. Among others are Issues of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Debate over Sustainable Use by Saskia Young. This article is a discussion regarding CITES which limits but can still be used sustainably. The next article is an introductory note to the convention on international trade in endangered species of wild fauna and flora (CITES) compliance procedures. This article explains the

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\(^9\) Annie Young Song dan Yanran Yao, "To Ban or Not to Ban: China's Trade in Endanger Species", Journal Of Contemporary China, Vol. 31 No. 133, 2022, p. 156


\(^12\)Maria S.W, Sumardjono, Metode Penelitian Ilmu Hukum (Bahan Kuliah), Yogyakarta: Universitas Gadjah Mada, 2012, p.16.
procedures for countries to comply with protected species standards. Finally, Global Environmental Governance and North—South Dynamics: The Case of the CITES', this article discusses government as the main factor in CITES management authority in supporting species protection. The writing that the author will explain in this article is related to native species in a damaged ecosystem environment with illegal mining plus local governments not protecting them. However, the issue regarding the role of local government in preserving the typical Bangka Belitung Arwana Kelesak has never been done.

B. International Law Protection over Arowana Kelesak as an Endangered Native Species

Convention on International Trade in Endangered Species of Wild Flora and Fauna next CITES is abbreviated A agreement international Where inside it arranged about trading species certain from wild flora and fauna, namely included species category threatened extinct. CITES has ratified by Indonesia through Presidential Decree No. 43 of 1978 concerning CITES Ratification. CITES is based on reality that Lots happen illegal trade that exploits wild flora and fauna. Mechanism control trading threatened species extinct used by CITES is mechanism classification protection based on the appendix. Animals and plants are considered must protected and regulated entered to in three type appendix: Appendix I CITES regulates protection of flora and fauna is threatened extinct, imported or export allowed throughout No For commercial, only research and breeding. CITES Appendix II lists this contains a list of species in appendix II that do not threatened extinction, but Possible threatened extinct if trading species the No controlled, conditions must attach an export permit or re-export certificate; CITES Appendix III contains a list of flora and fauna species that have been protected in a particular country in boundaries area its habitat with objective For prevent and limit exploitation species.\(^\text{13}\)

Category threat species based on The International Union for Conservation of Nature and Natural Resources (IUCN) Red List of Threatened Species is as following:\(^\text{14}\)

1. Extinct or Extinct (EX). A taxon is said extinct if No There is doubt that individual final has dead. A putative taxon extinct if survey thoroughly in known habitats in adequate time (daily, seasonal or annual) throughout its distribution area No can take notes existence individual;

2. Extinct in nature or Extinct in The Wild (EW). A taxon is said extinct in nature if is known only life as plant, inside pen or developed in nature outside spread original;

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3. Critically Endangered (CR). A taxon is called as critical if fulfil criteria A to E for species critical, so considered face very risky extreme tall for become extinct in nature;

4. In Danger Extinction or Endangered (EN). A taxon is said in danger extinction if fulfil criteria A to E for species in danger extinction so that considered face very risky _ tall for happen extinction in nature;

5. Prone to or Vulnerable (VU). A taxon is said prone to if fulfil criteria A to E for species prone to so can considered face risk tall to extinction in nature;

6. Approach threatened or Near Threatened (NT). A taxon is said approach threatened if has evaluated but No fulfil CR, EN or VU criteria, however approach criteria the or tend for fulfil criteria threatened in points (iii), (iv) and (v);

7. Not threatened / yet need noticed or Least Concern (LC), namely taxon that has evaluated but No fulfil CR, EN, VU and NT criteria. Dispersed species _ spacious and abundant enter in category This;

8. No Sufficient (lack of) data or Data Deficient (DD), namely taxon that does not own enough information _ For do evaluation direct nor No direct. Incoming species _ in category This Not yet Of course in safe position _ from threat extinction.

The country has right sovereignty for exploit sources Alone in accordance with policy the environment. The state is also responsible for ensure that activities within the jurisdiction or supervision No cause loss for the environment of another country or external area environment limit jurisdiction national. The state is obliged For Work The same develop more on law international regulations accountability and compensation for victims of pollution and loss other environmental causes caused by activities similar in areas outside jurisdiction national. relating to responsibility and compensation for victims of pollution and other environmental damage caused by activities within the jurisdiction or under the supervision of a state.\(^{15}\)

Arrangement related prevailing ecosystem _ like Constitution Number 32 of 2009 concerning Protection and Management Environment Life define ecosystem as order element environment life which is One unity intact. The role of humans, animals and plants No Can separated as subject from ecosystem. Wildlife is diversity very alive important for protect interest generation now and will come\(^{16}\)


Protection top wildlife practice illegal trade international very influenced on implementation principle state sovereignty. Trading international Certain will involving parties from at least two countries. Therefore That trading state wildlife one traded by parties who are not responsible answer to another country, then the country of origin will cooperate with the police state of the destination country For done enforcement law For carry out sovereignty in the field law in practice arrest foreclosure even return animal to the country of origin with decision destination country judiciary.

Results of research at the Department Environment Life Regarding the Role of Internal Regional Government Preservation to Arowana Kelesak typical of Bangka Belitung, not yet Once There is done. Besides that, not yet has also been done effort for register fish arowana gasp the as animal rare necessary protected. That's the underlying thing Not yet exists effort protection to fish that, because emptiness umbrella the law. Besides that, For Service Environment Neither does life own authority for do preservation to almost fish extinct. Service Environment Life Regarding the Role of Internal Regional Government Preservation to Arowana Kelesak typical of Bangka Belitung yet Once There is done data collection related population, besides that, not yet has also been done effort for register fish arowana gasp the as animal rare necessary protected. That matter which underlie Not yet exists effort protection to fish that, because emptiness umbrella the law. Service Environment Neither does life own authority for do preservation to almost fish extinct. Effort protection to animal rare in Bangka Belitung is prioritized for looking, fish tempalak and biturong. Important is compile document law to use protection to animal rare. Ecosystem also needs to be protected to Taura with area maximal and awake with challenge management Taura the is exists disturbance from society, activities mine tin unconventional and numerous Garden durian cluck. In Bangka itself. Existence from Fish Arowana Kelesak This found in Jebus. Specifically under typical tin. And Existence fish the No conserved but life in a way natural. Condition This Far different with arowana kelesak in Belitung. Very unfortunate, for arowana kelesak in Belitung, here purchased and cultivated by parties private.

Conservation wildlife as manage source biological for can made use of in meaning wise, sustainable and maintained in a way quality for diversity life. Conservation wildlife is important and necessary things _ implemented to use protection, preservation and utilization. Conservation held with principle sustainable ability with ecosystem balance and harmony natural. Made it happen sustainability biological wildlife and ecosystems is objective in conservation so that become Power support on welfare is most important.

\[17\] Report environmental status of the Bangka Belitung province 2016, April 2017
quality life man as part from ecosystem. Not quite enough answered the internal state manage environment in development for realization development sustainable. The principle of state responsibility also includes hook involving paradigm community based management. Not quite enough the state can answer linked with job and function deep state tools implementing good governance. sovereignty first becomes principle main state guard existence and defense of state territory.¹⁸ Thery of State Law use for is known principle in background framework law CITES International. Principle state sovereignty is principle underlying law international for base in state jurisdiction and efforts in what is done for overcome obstacle in implementation principle sovereignty in protection wildlife, a country can authorized for make something laws and obey them Constitution Regulation the No can intervened on base between sovereignty of any country. With thereby internal state sovereignty its jurisdiction can change, create or stop relationships laws and obligations law with subjective law.¹⁹

C. CITES Regulation and Obedience of Member of State concerning the Protection of Arawana Kelesak as Endangered Native Species

Government has a regulation for protect animal rare This from extinction. This be marked with its Law no. 5 of 1990 concerning Conservation Source Power Natural Biology and Ecosystems. Where is the law This also determine the category or area quota natural with characteristic typical certain, both on land or in existing waters _ function principal as area security diversity animal rare as well as its ecosystem. CITES settings categorize species in 3 classes that is species included in Appendices I, II and III (Non-Appendix). Each Appendix has _ difference clear related limit the trade as following:²⁰

1. Appendix I (Category I) species: viz species animal in threatened IUCN extinct is also included in the category critically endangered (CR), some vulnerable (vulnerable/VU) as well in danger extinction (endangered/ EN) and extinct in the wild;

2. Appendix II (Category II) species: viz species animal moment This Not yet in circumstances threatened extinct. Utilization without control with maximum status can be changed become threatened extinct with quick. Category This can cover IUCN categories VU and NT;

3. Non-Appendix Species (Category III): viz final species animal amounts its population abundant, including those considered by the IUCN to be included Least

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Concerned (LC) category with level sufficient utilization tall so that Enough monitored its use.

Some authority noticed in making regulation legislation by each member country include, among others

1. Make a list of suggestions specimens registered wildlife in CITES Appendices.
2. Make regulation legislation about prohibition or restrictions trading international animal rare set in CITES Appendices.
3. Make regulations about permission export.
4. Make regulation about authority and mechanisms work scientific authority and management authority.
5. Make regulation about foreclosure or return wild animal to the country of origin.

Supervision Then cross circulation animals that become object commodity trade, accordingly with determination allotment catching and taking in nature, carried out with method issue a Letter of Transport Animals, both domestic and abroad. By firm arranged in the Decree of the Minister of Forestry No.447/ Kpt -II/2003. Lots of animal Rarely kept, traded often found in animal markets is animals that are classified as protected or included almost extinct.

Right on environment is right subjective every human must maintain for get protection to exists disturbance from outside. Named rights subjective is the broadest form from protection somebody. Right the gave to those who have it something legitimate demands to use request its interests will something environment good and healthy life That respected, a possible demand supported by procedures law, with protection law by courts and instruments other. appear like contradictory enforcement law refers to interest law, without consider interest development, yes give rise to something exact conditions will hinder implementation development. Even more so Again If the law will enforce That is law environment. Because of that in context This enforcement law environment must place at the point balance and harmony between upright law and continue development insightful environment.

Law no. 5 of 1990 also became material consideration establishment of the Badan Konservasi Sumber Daya Alam (BKSDA) via Minister of Forestry Regulation No. P.02/Minister of Forestry -II/2007. BKSDA in every area given not quite enough answered by the Director General Protection Forests and Conservation Natural as executor for do investigation in the field Conservation Source Power Natural Live it. BKSDA is the Technical Implementation Unit (UPT) which is under Directorate General Conservation Source Power Nature and Ecosystems responsible answer direct under the Ministry of Environment Life and Forestry Republic Indonesia. Directorate General Conservation
Source Nature and Ecosystems have task in organize formulation and implementation policy in the field management conservation source Power nature and its ecosystem.

BKSDA as the Conservation Technical Implementation Unit Source Power Natural have task principal namely organizing conservation source Power natural biology and its ecosystem, management area reserve nature, sanctuary wildlife, parks tour nature and parks hurry as well as coordination technical management park forest highway and forest protect as well as conservation plants and wildlife outside area conservation in the Province based on regulation current regulation. Paradigm Indonesian conservation practices are embraced moment This too put forward protection just related development in conservation has move with paradigm sustainable and sustainable in a way intact. Arrangement in legislation still emphasizes conservation in certain areas especially the land area, us understanding ecosystem as unity intact No Can released to conservation waters even air. In matter conservation waters spread regulation in a number of regulations legislation add challenge. Scattered settings it also came in need accommodate substance and principles conservation. legislation This formed since in 1990 where understanding government very thick will characteristic centralized development moment This government adhere to decentralized government through autonomy area. Policy popping up related activity management conservation more Lots emphasizes aspects _ protection conservation that is top down and not yet give room for participation public through bottom up pattern, part in circumstances life or dead. Provision This very detrimental to society law custom if enforced Because public the hang life in nature21

Classification wildlife is in protected status own meaning the wildlife no can utilized same once, use it done with principle sustainable. Management wildlife do on principles sustainability results understood that wildlife with group protected can utilized in a way period certain must without status occurs reduce potency breeding it natural too potency will obtain more lots amount live wildlife Then can utilize sustainability in the future come. Utilization own meaning amount species animal wild can utilized in a way direct. Arrangement related utilization in a way sustainable this of course will follow paradigm latest is also available changed by authority management own authority see results scientific from level his needs. Scientific results from authority this determine return degrees or level danger threatening extinction type the wildlife. conserve government wildlife emphasizes action cooperation with industry, government, organizations or cross sector private for control danger from threat extinction and trade

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Supervision Then Protected animals actually can also be utilized related activity or condition certain other. Utilization still refers to principles done with notice continuity potential, power support, and diversity type plants and wildlife as it has been regulated.

D. Conclusion

CITES is the main norm for saving endangered species in international law. Wild animals that live in existing ecosystems are the responsibility of international law to protect and protect efforts, especially the arwana kelesa. Arwana kelesa as a native species of the Bangka Belitung region must be a priority. CITES as a protection classification mechanism tool based on the IUCN appendix. Conservation of the Arwana Kelesak fish, typical of Bangka Belitung, has never been done. Apart from that, no effort has ever been made to register arwana kelesak as a rare animal that needs to be protected. Ecosystems damaged by illegal tin mining pose a major challenge for protection. The Bangka Belitung government must make statements and regulations for protection so that it is in accordance with the international legal framework regarding the protection of native species.

CITES categorize species in 3 classes that is species included in Appendices I, II and III (Non-Appendix). Appendix I Category I species: viz species animal in threatened extinct IUCN; Appendix II Category II species: viz species animal moment This Not yet in circumstances threatened extinct; Non-Appendix Species Category III: v Animal species are not currently in danger of extinction. Classification wildlife is in protected status own meaning the wildlife no can utilized same once, use it done with principle sustainable. Management wildlife do on principles sustainability results understood that wildlife with group protected can utilized in a way period certain must without status occurs reduce potency breeding natural.

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