

The Legal Status Plans For Construction Of Roads In The Heritage Of Sumatra's Tropical Rain Forests (Tropical Rainforest Of Sumatera)

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Abstract: The purpose of this study is to determine the Legal Status of the Plan for the Construction of Roads in the Heritage of Sumatra's Tropical Rainforest (TRHS). The type of research used is qualitative descriptive doctrinal normative law or library research. The object of this research study is the internal aspect of positive law. The technique of data collection is done by Neutral, objective and descriptive. The results show that the factors that become obstacles to the implementation of the application of legislation in TRHS include the still inconsistency between legislation both vertically and horizontally in accordance with the hierarchy of laws and regulations as stipulated in Law No. 12 of 2011 concerning the establishment of legislation. This study contributes to the legislation and synchronization of these regulations will lead to overlapping, legal loopholes and legal vacancies. Other factors include the existence of a issuer and the lack of coordination between institutions related to protection and management in the TRHS area.

Keyword : Legal Status, Tropical Rainforest of Sumatra, Convention Concerning the Protection.

1. INTRODUCTION

Muhar et al (2018) states that the Biological natural resources and their ecosystem are the most important part of natural resources which consist of animal nature, plant-based nature or in the form of natural phenomena, both individually and jointly having functions and benefits as forming elements of the environment, whose presence cannot be replaced. Considering that it cannot be replaced and has an important position and role for human life, the efforts to conserve biological natural resources and their ecosystem are the absolute obligations of each generation. Irresponsible actions that can cause damage to the nature reserve area and nature conservation areas or actions that violate the provisions concerning the protection of protected plants and animals are threatened with severe criminal penalties in the form of corporal and fines. Such a severe criminal offense is deemed necessary because the damage or extinction of one element of the living natural resources and its ecosystem will result in a great loss for the community that cannot be judged by the material, while its recovery from its original state is no longer possible (Andono, 2003 and Klein et al., 2018). Considering that the Republic of Indonesia is a country based on law, the management of the conservation of living natural resources and their ecosystems needs to be given a clear, firm and comprehensive legal basis to ensure legal certainty for such management efforts. The Tropical Rainforest Heritage of Sumatra (TRHS) includes three National Parks (Gunung

Leuser/TNGL National Park, Kerinci Seblat National Park/KSNP and Bukit Barisan Selatan National Park/TNBBS) with a total area of ± 2.8 million Ha (Leuser Mountain National Park Office. 2013), Designated as world heritage in the list World Heritage (WH) at the World Heritage Committee (WHC) session 28th Session in Suzhou (UNESCO, 2007) received TRHS as a world natural heritage by considering the existence of Outstanding Universal Value (OUV) in the region which represents the most important forest group in Sumatra for biodiversity conservation in lowland and mountainous forests; b.Has a panoramic beauty; c. Has a very high habitat and flora/fauna diversit.

Based on the results of the Decision of the World Natural Heritage Committee 35 COM 7B.16 in 2011, TRHS was included in the list of world natural heritage in danger (The List of World Heritage in Danger-WHD), Road Development (Road Development); Mining (Mining); Boundary Demarcation; Law Enforcement (Law Enforcement); Management of the Wider Landscape is in accordance with the Committee's Decision at the 35th Session of World Heritage Committee on 19-22 June in Paris until the 39th Session on 28 June-08 July 2015 in Bonn Germany (Ringbeck, 2018), mainly due to development the proposed road and encroachment in the area remains a major threat and has the potential to cause disruption to the Outstanding Values (Outstanding Universal Value) as a result of three monitoring missions carried out by IUCN and WHC in 2006,

The Government of the Republic of Indonesia issues several laws and regulations, including the Republic of Indonesia Law Number; 5 of 1990 concerning conservation of biodiversity and its ecosystem, Law No. 41 of 1999 concerning forestry, Republic of Indonesia Law Number; 32 of 2009 concerning Environmental Protection and Management and Republic of Indonesia Law Number

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18 of 2013 concerning Prevention and Destruction of Forest Areas. Therefore the Faculty of Law of the International Department of the University of North Sumatra will conduct a juridical study in relation to Legal Status Plans for Road Construction in the Sumatra Tropical Rainforest World Natural Heritage Area for legal status 3 expected National Parks in Sumatra (TRHS) the results can be beneficial for the survival of the Sumatra Tropical Rain Forest as one of the World Natural Heritage.

2. LITERATURE REVIEW

2.1. Forest Area

Forest areas are certain areas, designated and determined by the government to maintain their existence as permanent forests. Forest areas need to be established to ensure legal certainty regarding the status of forest areas, the location of boundaries and the extent of a certain area that has been designated as a forest area into a permanent forest area (Pamulardi, 1995, Wiratno. 2015). Determination of forest areas is also intended to safeguard and secure the existence and integrity of forest areas as a driver of local, regional and national economies as well as supporting local, regional, national and global life. Based on Law Number 41 of 1999 concerning Forestry, forest areas are divided into Conservation Forests, Protection Forests and Production Forests. Furthermore, Part Three Forest Control Article 4 paragraph (1) All forests within the territory of the Republic of Indonesia including natural resources contained therein shall be controlled by the State for the greatest prosperity of the people (Santoso, 2016). And article paragraph (2) states that the Forest Control by the State as referred to in paragraph (1) authorizes the government to:

- a. Regulate and manage everything related to forests, forest areas, and forest products;
- b. Determine the status of certain areas as forest areas or forest areas as non-forest areas; and
- c. Regulate and establish legal relations between people and forests, and regulate legal actions regarding forestry

Law Number 41 of 1999 Article 6 paragraph (1) stipulates that the Forest has three functions, namely: a. conservation function, b. protection function, and c. production function. (2) The government determines the forest based on the following basic functions: a. conservation forest, b. protected forest, and c. production forest. Furthermore Article 7 Conservation forest as referred to in Article 6 paragraph (2) letter a consists of: a. nature reserve forest area, b. natural conservation forest area, and c. hunting park. Article 8 paragraph (1) The Government may determine certain forest areas for special purposes. (2) Determination of forest areas with special purpose, as referred to in paragraph (1), is needed for public purposes such as: a. research and development, b. education and training, and c. religion and culture. (3) The

forest area with special purpose as referred to in paragraph (1), does not change the main function of the forest area as referred to in Article 6. The Government shall stipulate Government Regulation Number 68 of 1998 as amended according to Government Regulation Number 28 of 2011 concerning Management of Asylum Areas Nature (KSA) and Nature Conservation Area (KPA) article 5 paragraph (1) states that KSA and KPA as referred to in Article 4 are stipulated by the Minister.

Roads built across this forest area have cut areas with a high distribution of biodiversity. This condition also has other impacts, namely, opening up access for people to steal wood and hunt animals (Rahmawaty, 2015). That, the construction of these roads has the potential to violate several regulations, among others, Law Number 5 of 1990 concerning Conservation and Biodiversity, Law Number 41 of 1999 concerning Forestry, Law Number 26 of 2007 concerning Spatial Planning. Also Law Number 32 of 2009 concerning Environmental Protection and Management.

There are roads that have been built before 2004 and after 2004. Roads built before 2004 can be legally justified, but plans for road construction after 2004 cannot be permitted under legislation even though in some national parks there have been plans to build new roads. For some roads that have been proven illegal because they have not received permission from the competent authorities, the park managers should act decisively, as mandated by Government Regulation Number 28 of 2011, Minister of Forestry Regulation Number; P.85/Menhut-II/2014 and Minister of Environment and Forestry Regulation Number 76 /Menlhk-setjen/2015 (In Rahmawaty, 2015). To realize the objectives of forestry management, there are several articles that have stipulated provisions on State forest control Article 4 paragraph (2) letter b specifies the status of certain areas as forest areas or forest areas as non-forest areas. Forests have three functions, namely: conservation functions, protection functions, and production functions (Article 6 of Law Number 41 of 1999), and the Government determines forests based on the main functions, namely: conservation forests, protected forests, and production forests (Santoso, 2016). Furthermore, the Government can determine certain forest areas for special purposes, needed for public interests such as: a. research and development; b. education and training; c. religion and culture (Article 7 of Law Number 41 of 1999). Furthermore, inauguration of the forest area is carried out to provide legal certainty over the forest area, because if it has not been done, confirmation will result in conflict. Therefore Article 15 of Law Number 41 of 1999 stipulates that the establishment of forest areas is carried out through the following processes: a. appointment of forest area, b. arrangement of forest areas, mapping of forest areas, and establishment of forest areas. Forest gazettement activities include:

- a. Making a referral map that is referring to the outside boundary;
- b. Establishment of temporary boundaries equipped with boundary passages;
- c. Making boundary trenches at vulnerable locations; and
- d. Announcement of planned boundaries of forest areas, especially in locations bordering land rights. (Explanation of Article 15 of Law Number 41 of 1999).

These provisions have been implemented by the Government in accordance with the relevant sectors, and the establishment of forest areas is carried out by taking into account the spatial layout of the region. Article 5 of the Law Number 26 of 2007 concerning Spatial Planning, establishes a system of spatial planning and spatial utilization processes (Rahmawaty and Rauf. 2011). Spatial planning means orderly arrangement of spaces, in a regular word, which includes harmonious and simple understanding so that it is easy to understand and implement, therefore in spatial planning it is a place for various activities and facilities and infrastructure. The description of spatial planning The Government has issued Government Regulation Number 26 of 2008 concerning National Regional Spatial Planning and Presidential Regulation Number 13 of 2012 concerning Spatial Planning of Sumatra Island (Wiratno, 2015).

2.2. Legal Status On Protection and Management of Thrs Based On National and International Law

The World Natural Heritage Site (THRS) was established by WHC in 2004 with an area of ± 2.8 Million Ha Consisting of 3 National Parks (Gunung Leuser National Park, TNNP National Park, and BBS National Park) with criteria fulfilling 3 Outstanding Universal Values (OUV) namely Criteria (II) (Wiratno, 2015): Represents the most important forest group in Sumatra for biodiversity conservation in lowland and mountainous forests Criteria (III): Has a natural panoramic beauty Criteria (IV): Has a very high habitat and flora/fauna diversity. The philosophy of establishing an international conservation area for the Indonesian Nation is a combination of pride (pride, branding, and shared responsibility). Pride (Feeling pride in international recognition of extraordinary achievements by an entity/group/ethnic/ethnic /tribe /for its success in establishing harmonious relations between Man and Nature so that nature remains sustainable and the people live in prosperity), Branding (Very beneficial in promoting /market goods/services produced from sustainable practices in conservation areas) and shared responsibility (all parties are responsible for giving serious attention to threats that will affect the sustainability / preservation of the area that has been designated as an international conservation area) in the hope of appreciation and international commitment to our CoW that will have an impact on the promotion of the potential and sustainability of KK biodiversity (Wiratno, 2011). Catalyst for increasing public awareness of

KK conservation; Open access to international funding /funding sources for the development of management of CoW; Voting/expressing opinions in every international meeting carried out by the convention, so that the position of CoW in Indonesia can be understood globally; Strengthening the promotion of KK potential at the international level in order to increase the utilization of KK's environmental conditions; and Development of cooperation networks for managing KK internationally to support the management of CoW (research, training, benchmarking).

The management of the World Heritage Convention's World Heritage Convention's Operational Guidelines for the Implementation of the World Heritage Convention is not permitted to carry out activities that can negatively impact the value of Outstanding Universal Value (OUV) property without first carrying out EIA activities and reporting it to WHC. Since its establishment at the 28th WHC trial in Suzhou - China in 2004, the WHC has recommended placing TRHS on a list of world heritage in danger due to the continuing threat to the value and integrity of the region. Impact of in danger list for state parties Decreasing the reputation or image of the government in the eyes of the international community in the conservation of living natural resources, being considered in other countries' lobbies related to environmental issues and will hamper the submission of other wardun nominations. Current handling efforts by the Indonesian Government are Strengthening Cross-Sector Coordination, DSOCR Preparation, Corrective Measure and Action Plan, Implementation of DSOCR, Corrective Measure and ActionPlan at the Central and Regional Levels, Arranging and delivering State of Conservation on a regular basis.

2.3. TRHS status as part of a World Natural Heritage Site

Provisions regarding the Implementation Guidelines for the Implementation of the World Heritage Convention (Operational Guideline for implementation of the Word Convention) are periodically revised by the World Heritage Committee. Based on the description above related to world heritage, it is stated:

1. World natural heritage as one of the priceless and irreplaceable assets;
2. The Convention in 1972, the international community has adopted the concept of "sustainable development". Protection and conservation of natural and cultural heritage is a significant contribution to sustainable development";
3. The Convention aims to identify, protect, preserve, present and convey to future generations extraordinary universal values;
4. Properties listed on the Heritage List are threatened by a serious and specific hazard, the Committee may consider including them in the List of World Heritage

that are Endangered. If the extraordinary universal value of the property, which made it confirmed in the World Heritage List, would be damaged, the Committee could consider removing property from the World Heritage List;

5. Permanent protection of this inheritance that is most important to the international community as a whole;
6. There is no truly pure area and that all natural areas are in a dynamic state, and to some extent involve contact with people. Human activities, including people from traditional communities and local communities, often occur in natural areas. This activity may be consistent with Universal Value The position of the area where they are ecologically sustainable;
7. Adequate long-term legislative, regulatory, institutional and/or traditional protection and management to ensure security;
8. Protection can have several management zones;
9. Effective management depends on the type, characteristics and needs of the property nominated and the cultural and natural context. Management systems can vary according to different cultural perspectives, available resources and other factors;
10. Comprehensive understanding of all property by all stakeholders;
11. In some circumstances, management plans or other management systems may not be fully in place when the property is nominated for consideration of the World Heritage Committee. The State Party concerned must then show when the management plan or system will be fully in place, and how it proposes to mobilize the resources needed to achieve this. The State Party must also provide documentation that will guide the management of the site until the management plan or the system is fully completed on site;
12. States Parties must do so in close collaboration with property managers, institutions with management authorities and other partners, and stakeholders in the field of property management;
13. Can support a variety of ongoing uses and propose that it is ecologically and culturally sustainable and that might contribute to the quality of life of the community concerned. does not have a negative impact on Universal Value Position property. Laws, policies and strategies that affect the nature of World Heritage must ensure protection from Universal Outstanding Value, support wider conservation of natural and cultural heritage, and promote and encourage active participation of the community and stakeholders related to property as necessary conditions for sustainable protection, conservation, management and presentation.

3. METHOD

Type of research is a descriptive study with a Normative Law approach. The object of this research study

is the internal aspect of positive law. The technique of data collection is done by Neutral, objective and descriptive. In the study of written legal normative law studied from various aspects such as aspects of theory, philosophy, comparison, structure/composition, consistency, general explanation and explanation of each article, the formality and strength of binding a law and the language used is legal language. So that we can conclude that normative legal research has a broad scope.

4. RESULTS AND DISCUSSION

4.1. Result

4.1.1. Relationship between International Environmental Law and Determination of TRHS Status

Silalahi state (1992) state that International environmental law (International Environmental Law) is a set of methods or norms originating from Article 38 paragraph (1) of the Statute of the International Court of Justice. Based on the sources of international law, in dealing with environmental issues globally countries have agreed to hold meetings in the form of conferences that have succeeded in giving birth to agreements namely:

1. Declaration on Human Environment. (The United Nations Conference on Human Environment, 2007).
From the Conference a special body called the United Nations Environment Program (UNEP) was formed to implement the environmental action plan for humans. UNEP was formed based on UN-Resolution SU 2997 (XXVII)-1972 whose task was: "Developing international cooperation in the field of the environment and advising as appropriate policy for that purpose".
2. On 20 May - 2 June 1982 a session of the UNEP Governing Council in Nairobi which had accepted the Nairobi Declaration ("Nairobi Declaration") consisted of 10 main points of mind as a follow-up to the worldwide meeting to commemorate the 10th anniversary of the Stockholm Conference, 10-18 May 1982. In entering The Second Environmental Decade (1982-1992).
3. Montevideo (Uruguay) Conference, 1981.
The Montevideo conference had an influence on the main points of environmental policy as outlined in the Nairobi declaration, especially regarding the duty of states to advance the development of the legal environment rapidly as stipulated in the declaration number: "... Thus, States should promote the progressive development of environmental law, including conventions and agreements, and expand co-operation in scientific research and environmental management.
4. WCED (The World Commission on Environment and Development).
In 1987 "The World Commission on Environment and Development" (WCED) in its publication "Our Common Future" put forward the idea of sustainable development.

5. Subsequently, the WCED session on February 23-28, 1987 established the Tokyo Declaration.

Which has benefits for the development of national environmental policies through environmental legislation. In addition, as a follow-up to "Our Common Future", WCED produced the work of environmental law experts, namely: "Environmental protection and sustainable development, Legal principles and recommendations", the result of an agreement on the "Environmental Law on the Environmental Law of the World Commission on Environment and Development", which was also published in 1987, the principles of environmental law are very important and innovative and need to be incorporated into environmental legislation in the establishment of a national environmental law system.

6. UCED ("The United Nations Conference on Environment and Development").

Entering the third Environmental Wars, which held "The United Nations Conference on Environment and Development (UCED) on June 3-14, 1992 in Rio de Janeiro which has produced five documents as follows:

- a. Rio Declaration on Environment and Development.
- b. Agenda 21. An 800-page document that contains a "blueprint" for 21st century sustainable development.
- c. Documents on the principles of forestry management.
- d. Convention on climate change. (the Climate Change Convention).
- e. Convention on biodiversity. (the Biodiversity Convention).

7. Vienna Convention and Montreal Protocol

The aim of the Vienna Convention is to protect the ozone layer from damage caused by human activities. The Montreal protocol sets a schedule to eliminate production and limit global consumption of CFCs (Chloro Fluoro Carbon) and Halon, from 5 types of CFCs and 3 Halon groups.

In this regard, the government of the Republic of Indonesia has ratified the Vienna Convention and the Montreal protocol and the attachments to the amendments, through Presidential Decree No. 23 of 1992. Therefore, it has become our commitment to anticipate the phasing out of ODS and its socio-economic implications. In this case, Indonesia is bound to actively take follow-up steps to anticipate and implement the provisions stated in the conventions and protocols.

8. Kyoto Protocol

The main purpose of the convention is to stabilize greenhouse gas (GHG) emissions into the atmosphere at a certain level so as not to endanger the Earth's climate system. Negotiations for negotiations through various

Conference of Parties, CoPs. The Convention on Climate Change was implemented, until finally in CoP3 in 1997 in Kyoto a method for reducing GHG emissions was received which came to be known as the "Kyoto Protocol". Indonesia has ratified through Law Number 17 of 2004 concerning the Ratification of the Kyoto Protocol to the Nations Framework Convention on Climate (Kyoto Protocol on the United Nations Framework Convention on Climate Change).

Through this Protocol the target of reducing emissions by industrialized countries has been scheduled and will be implemented through a transparent mechanism. All members of the Protocol can also oversee reporting and compliance stipulated in the Protocol. Even through the highest institution of the Protocol namely the Conference of the Parties to the Convention which is a meeting of the Parties to the Protocol (CoP), they can also determine the actions that must be taken if one of the Parties does not comply (Daniel, 2003)

To achieve the emission reduction target, it is known as a flexible mechanism or Kyoto mechanism which consists of three activities, namely:

- 1) Joint Implementation (JI) described in Article 6.
- 2) Clean Development Mechanism, CDM (Clean Development Mechanism) described in Article 3)
- Emission Trading (Emission Trading, ET) described in Article.

The provisions of international environmental law mentioned above, as the basis and source of law relating to the determination of the status of conservation protection contained in the National Park. The most frequently discussed problem in the forestry sector, especially TRHS, is a symptom of deforestation, namely the forest area is increasingly narrow due to economic pressure, while the environment remains demanding forest sustainability. The issues that develop in managing TRHS are as follows: opening of road access and evacuation roads; mining (mineral and geothermal); encroachment; illegal logging.

In addition to the above issues there are also several issues that also often occur in the national park area, namely: 1. Regional expansion (Province, District, District and Village) 2. International Pressure (Human Rights Violations, Climate Change, Biodiversity loss) 3. Illegal Poaching and trade in animals The road development plan proposed and planned by the regional government needs to have a serious / in-depth study whether including the strategic development criteria that cannot be avoided or not, which is a serious consideration for the government. 2 (two) things that need to be considered before the road is built, first whether the benefits are greater if it is built on conservation interests. Secondly, if it is forced to be built, the most important thing to consider is conservation issues, considering that the main function of the national park is to save biodiversity and its ecosystem. National roads that cut

off national parks are a form of government denial of the mandate of regulations and provisions in conservation areas. The government is indeed responsible for improving the economy of the community, however, the government is also obliged to protect and preserve biodiversity which is a supporter of the living system and sustainable development capital as a form of Indonesia's commitment to the world community. Road construction is also not without reason, the acceleration of economic growth in the estuary of all reasons, as a developing country is certainly unavoidable because of the need for development space as access, one of which is transportation infrastructure as a regional relationship breaker that needs to be built and the need for appropriate and adequate transportation facilities, reducing poverty, accelerating development.

4.1.2. Legal Implications for the Ratification of International Agreements Relating to the Tropical Rainforest Heritage of Sumatra

Tropical Rainforest Heritage of Sumatra (TRHS) located on the island of Sumatra, Indonesia consists of three parts which are separate National Parks; Gunung Leuser, Kerinci Seblat and Bukit Barisan Selatan are designated as UNESCO world heritage through the 28th Session of the World Heritage Committee (WHC) in 2004, and meet the criteria of natural heritage established by the WHC and in accordance with The Protection of The World Cultural Convention Concerning and Natural Heritage (Wiratno, 2011). The 1945 Constitution Article 11 paragraph 1 states that: "The President with the approval of the House of Representatives declares war, makes peace and agreements with other countries." Republic of Indonesia Law Number 24 Year 2000 Article 3 states that the Government of the Republic of Indonesia binds itself to international agreements through the following methods: a. signing; b. endorsement; c. exchange of diplomatic agreement/memorandum documents; d. lan methods as agreed by the parties in the international agreement. The third preamble: international agreements made by Indonesia that have been ratified in accordance with laws and regulations are very important because they bind the state to certain fields in accordance with the substance/content of the international agreement.

Letter of the President of the Republic of Indonesia Number 2826 /HK/1960, dated August 22, 1960 concerning the Establishment of Agreements with other Countries, specific fields which must be ratified by Law in accordance with Article 4 are: Political questions or questions that can be influencing the direction of the country's foreign policy (friendship agreements, alliance agreements (alliances), regional change or boundary setting). Affect the direction of the country's foreign policy (economic and technical cooperation agreements or money loans). Questions according to the Constitution or the system of laws must be regulated by law (citizenship and justice)

Indonesian national law mandates to comply with agreed international agreements, including the Heritage Convention; Indonesia has become a participating country and ratified the Heritage Convention, thus Indonesia is bound to the provisions of the provisions in the Heritage Convention (legal and moral obligations); Violations of the provisions in the Heritage Convention are not merely a bad reputation for the Government but may also potentially be sued to the ICJ; and therefore, the Government must carry out a comprehensive study of the policy for building roads that will pass through the red zone of TRHS. In this case the Government of the Republic of Indonesia has ratified several conventions relating to TRHS, namely: Presiden Presidential Decree Number 43 of 1978 concerning Ratification of the Convention on International Trade in Endangered Species of Wild Flora and Fauna; Presiden Presidential Decree Number 26 of 1989 concerning Ratification of the Convention Concerning the Protection of the World Cultural and Natural Heritage; Presiden Presidential Decree No. 48 of 1991 concerning Ratification of the Convention on Wetlands of the International Importance Especially as Waterfowl Habitat; Undang Law Number 5 Year 1994 concerning Ratification of the United Nations Convention on Biological Diversity (United Nations Convention on Biological Diversity); In the Indonesian legal system regarding ratification as mandated in Article 11 of the amended 1945 Constitution, it turns out that Indonesia adheres to a mixed ratification system through a presidential decree but can also be through a law. For the presidential decree, a ratification is usually carried out, whose nature is soon to be approved by the DPR In the theory of International Law the ratification system includes: 1. The most dominant role of the executive 2. The most dominant legislative role The application of Ratification by the Indonesian government through the Law and Presidential Decree must remain based on the principles of International Law namely Pacta Sunt Servanda which is affirmed under Article 26 of the Vienna Convention on the law of treaties (Vienna Convention) " Every treaty in force is binding upon the parties to it and must be performed by them in good faith. "This principle is the basic principle of international treaty law and has been accepted as the general principle of law. This principle is a form of obligation of the State's actions in national policy to provide legal guarantees and legal certainty in the association of international relations. In the case of the affirmation of the determination of the TRHS area in accordance with the agreement between the Government of Indonesia and UNESCO, the ratification of the Convention is stated in a Presidential Decree which is then regulated through the relevant ministerial decree so that it can be implemented (UNESCO, 2011). So that the position of the Presidential Decree to be a positive Indonesian legal norm is binding on the Indonesian government, so for that the Indonesian

government is subject to the agreed rules in accordance with the principles and principles of the formation of international agreements.

4.1.3. Law Enforcement in TRHS

The scope of law enforcement in the legal system in Indonesia is vast, because it includes those who directly and indirectly engage in the field of law enforcement, both those which include "law enforcement", and "peace maintenance" and that are strongly influenced by several factors including, role, social position and discretion (wisdom). In law enforcement discretion is very important because:

- a. There is no legislation so complete that it can regulate human behavior;
- b. There are slowness to adjust legislation with developments in society, giving rise to uncertainty;
- c. Lack of costs for establishing legislation as desired by law makers;
- d. There are individual cases that require special handling.

Conceptually, the essence and meaning of law enforcement lies in the activities of harmonizing the relationship of values described in the emperors that are solid and manifest and act as the final stage of value collection, to create, maintain, and maintain the peace of life, people and nature around it.

Besides that, the most important thing in actual law enforcement lies in the factors that influence it and have a neutral meaning, so that the positive or negative impact lies in the contents of these factors, namely:

- a. The legal factor itself, in this case is limited to the law only;
- b. Factors in law enforcement, namely those who form or implement the law;
- c. Factors of facilities or facilities that support law enforcement;
- d. Community factors, namely the environment in which the law applies or applies; and
- e. Cultural factors, namely as a result of work, creativity, and taste based on human work in the association of life.

Factors that also need to be considered are building legal awareness of the community to comply with the National Park (TRHS) legislation, because the provisions governing the National Park come from international community agreements contained in the form of conventions, as well as national legal instruments, so that the parties related to whether each person (individual, business entity whether in the form of a legal entity and non-legal entity) must comply with the rules of law and legislation.

The purpose of enforcement of the law in relation to the protection and management of National Parks (TRHS) in Sumatra is compliance with the requirements set forth in various instruments such as licenses (licenses),

environmental quality standards, and legislation - other invitations are preventive preventive law enforcement before the occurrence of environmental damage related to TRHS, while repressive law enforcement after the occurrence of legal events in this case environmental damage in relation to TRHS both civil and criminal. As the direction in law enforcement in TRHS is guided by what has been set out and outlined in the priority policies of the Ministry of Environment and Forestry, the development of the field of forest protection and nature conservation (PHKA) is prioritized to achieve the next five years strategic:

- a. Suppress illegal logging activities, encroachment of conservation areas, hunting, trade and circulation of illegal forest products and protected wild plants and animals;
- b. Enhance efforts to prevent blackouts, mitigate the impact of forest and land fires;
- c. Improve the management and utilization of national park and other conservation natural resources including Protection Forests and essential ecosystems;
- d. Improving the quality of key protected species and enhancing biodiversity conservation and the value of wild plant and animal products.

In relation to other activities found in the TRHS area, namely road planning and construction, encroachment mining and illegal logging which is an act that is not permitted by law and legislation. In relation to preventive law enforcement refers to article 14 of Law Number 32 of 2009 which contains SEA, Spatial Planning, Environmental Quality Standards, Standard Criteria for Environmental Damage, licensing, environmental economic instruments, environment-based legislation, environment-based budgets, environmental risk analysis, environmental audits and other instruments according to the needs and /or development of science.

Law enforcement activities are repressive (legal process) carried out with the aim of:

- a. Returns the function of the National Park area as a conservation area.
- b. Providing a deterrent effect on the perpetrators of forestry crime.
- c. Give an example to other forest crime offenders, so as to suppress illegal activities in the National Park area;
- d. Realizing the existence of legislation, especially the regulations for managing the National Park area.

The process of enforcing these laws, especially those that are repressive in nature, can be carried out independently by Civil Servant Investigators (PPNS) (now the Ministry of Environment PPNS has been formed, PPNS at the National Park Office and PPNS at other institutions) and cooperates with Police Investigators, and can also with the implementation of integrated law enforcement.

4.1.4. Law Enforcement Evaluation

After several years (decades of 2014), the provisions governing TRHS, it turns out that at the stage of implementation and implementation and law enforcement there is still a lack of effectiveness and legal functions as protection and certainty of society (social control) with the role of "agent of stability". It is more prominent as a means of development (a tool of social engineering) with a role as an "agent of development" or "agent of change", this is due to the existence of several factors that are causes as described. To find out more about a regulation it can function properly if it is observed that there are 4 (four) factors (Seidman, 1978), namely:

- The regulation itself, meaning that the legislation must be planned properly, the rules that work to comply with behavior must be clearly written and can be understood with certainty. So that an obedience or disobedience of citizens to the law can be investigated and seen easily;
- Officers who apply legal regulations must fulfill their duties properly and announce in writing;
- Existing facilities are expected to be able to support the implementation of the law;
- The people who are targeted by the regulation will act in accordance with the regulations that apply to their activities depending on three variables, namely, whether the norms have been conveyed, whether the norms are in accordance with the objectives set for the position, and whether the residents affected by the regulation are deviant motivation.

In accordance with the legal functions mentioned above, if connected with the law enforcement process to be implemented properly, it must run in a system that interrelates with each other, if one element is not fulfilled, law enforcement is very difficult. Some of the results of research that have been carried out, revealed that environmental law enforcement in relation to TRHS has not played an optimal role (good), so law enforcement cannot be a role model in efforts to preserve environmental functions (a series of efforts to maintain the sustainability and capacity of the environment). This is due to several factors including; the level of education, socio-economic, understanding of the legal substance is not yet sufficient, the facilities and facilities needed for maximum implementation of a law are still inadequate.

4.1.5. Legal Gaps and Legal Emptiness

Legal loophole (Recht Vacuum) is a gap that is contained in the provisions of the substance or its contents have not fully been able to adopt all possible occurrences of actions to avoid the intent of these provisions without violating the material provisions. According to the Big Indonesian Language Dictionary (KBBI, 1989), the legal loophole (Recht Vacuum) is a gap that is contained in the provisions or regulations whose contents still cannot fully anticipate any possible occurrence of actions to avoid the intent of these provisions without violating the provisions.

and follow-up efforts from the existence of legal loopholes in TN (TRHS) utilization regulations.

In order to overcome the legal loopholes, opinions from Lon Foller (Dewi, 2013) can be expressed, there are 8 (eight) principles, the main benchmark being a figure as a law, namely:

- General laws require implementing regulations;
- The law in order to fulfill the regulating function must be announced;
- The law may not be retroactive if it is seen as a guiding tool for behavior
- The law must be clear, may not have a dual meaning, in the context of hermeneutical or method of interpretation of the law;
- The law may not be inward conflict, in the sense that the law may not prohibit and allow an act at the same time;
- The law may not require things that are not possible;
- The law must maintain consistency, in the sense that the law may not change frequently, and
- The law does not only apply to the people, but also binds the authorities.

A good rule of law is a law that is manifested and sourced from the Law and must fulfill the 8 (eight) principles mentioned above, because it is very influential for the process of law enforcement in Indonesia which reflects three elements namely (i) justice (justice) (ii) usability, and (iii) legal certainty. The designation of each park management zone is explained in the LHK Minister Regulation Number P.76/Menlhk-Setjen/2015. The allotment of the national park management zone for the utilization of national parks as mentioned earlier in PP No. 108 of 2015 in Article 35 Paragraph (1) can be seen in the following Table 1 :

TABLE 1.
Management Zones for Utilization of National Parks

No	Utilization /National Parks	National Park Management Zone	Legal Reference
1	science research and development	Core zone, jungle zone, utilization zone	Law 5/1990, PP 108/2015, PP 7/1999
2	education and increasing awareness of nature conservation	Core zone, jungle zone, utilization zone	Law 5/1990, PP 108/2015, PP 7/1999
	carbon storage and / or absorption	Core zone, jungle zone, utilization zone	PP 108/2015
3	utilization of water and water energy	Utilization zone	Law 7/2004, Law 32/2009, PP 42/2008, PP 27/2012, Minister of Forestry Regulation P.64 / 2013
	- utilization of geothermal energy	Utilization zone	Law 21/2014, UU 32/2009, PP 27/2012, Permen

No	Utilization /National Parks	National Park Management Zone	Legal Reference
	- utilization of wind energy, solar heat	Utilization zone	LHK P.46 / 2016
	- natural tourism	Jungle zone (limited nature tourism), utilization zone	Law 5/1990, Law 10/2009, PP 36/2010, 108/2015, Minister of Forestry Regulation P.4 / MENHUT-II / 2012
4	utilization of wild plants and animals	Core zone, utilization zone	Law 5/1990, PP 108/2015, PP 8/1999
	utilization of germplasm resources for supporting cultivation	Core zone, jungle zone, utilization zone	Law 5/1990, PP 108/2015, PP 8/1999
5	traditional use by the local community	Other zones (traditional zones)	PP 108/2015

Source: PP Number 108 of 2015 in Article 35 Paragraph (1)

Based on Table 1, The Government has issued Law Number 41 of 1999 concerning Forestry which is based on several laws and regulations, among others, Law Number 5 of 1990 concerning Conservation and Law Number 23 of 1997 concerning Environmental Management which expressly sets goals as stated in article 3 of Act Number 41 of 1999 concerning Forestry that the implementation of forestry aims to maximize the prosperity of the people who are just and sustainable by:

- Guaranteeing the existence of forests with sufficient area and proportional distribution.
- Optimizing various functions of the forest which include conservation functions, protected functions and production functions to achieve balanced and sustainable environmental, social, cultural and economic benefits;
- Increase carrying capacity of watersheds;
- Enhancing the ability to develop community capacity and empowerment in a participatory, fair and environmentally sound manner so as to create national, social and economic resilience and resilience to external change; and
- Ensuring equitable and sustainable distribution of benefits.

Although the objectives have been set, but in fact there has been forest destruction caused by non-synergic regional / land planning between stakeholders, for example between the Ministry of Environment and Forestry with other sector ministries/agencies, local government and the private sector. Coupled with several regulations/regulations issued,

which do not support each other resulting in forest management in uncertain conditions.

5.2. Discussion

Planning definition according to Suandy (2001) is a process of determining organizational goals and then presenting (articulating) clearly strategies (programs), tactics (procedures for implementing the program) and operations (actions) needed to achieve overall organizational goals. The purpose of planning according to Robbins (2006) is (1) giving good direction; (2). reduce uncertainty; (3) minimizing waste; (4) determine the goals and standards used in the next function, namely the process of control and evaluation. Law Number 41 of 1999 concerning Forestry in Article 11 paragraph 1 stipulates that:

Forestry planning is intended to provide guidance and direction that guarantees the achievement of the objectives of forestry management as referred to in Article 3 :

Paragraph 2:

Forestry planning is carried out in a transparent, accountable, participatory, integrated manner, as well as paying attention to regional specialties and aspirations.

Article 12 stipulates that

Forestry planning as referred to in Article 10 paragraph (2) letter a includes:

- forest inventory,
- inauguration of forest areas,
- stewardship of forest areas,
- establishment of forest management areas, and
- preparation of forestry plans.

This is not in accordance with the principle of establishing legislation in Indonesia, because in principle a Law can only be canceled or revoked through a higher rule above it or replaced with a new Law that contains or regulates the same thing or condition. In the event of a legal vacuum, the Government is obliged to establish new legislation to regulate the situation and if a case occurs that has no legal rules governing it, the judge can find a law to decide the case.

5. Conclusion and Recommendation

The legal status of TRHS has been regulated in provisions nationally and internationally. The National Parks are natural conservation areas that have original ecosystems, managed by zoning systems that are used for purposes research, science, education, supporting cultivation, tourism and recreation. Nature conservation areas have the function of protecting the life support system, preservation of plant and animal species diversity, and sustainable use of natural resources and their ecosystems. In order to maintain the legal status stipulates the following prohibitions:

- 1) Everyone is prohibited from carrying out activities which can result in changes to the integrity of the core zone of the national park;
- 2) Changes to the integrity of the national park core zone as referred to in paragraph (1) include reducing, eliminating the function and extent of the core zone of the national park, and adding non-native species of plants and animals;
- 3) Everyone is prohibited from carrying out activities that are not in accordance with the functions of the utilization zone and other zones of national parks, major forest parks, and natural tourism parks.
 - a. Internationally the government of the Republic of Indonesia has ratified several international conventions covering
 - b. Presiden Presidential Decree Number 43 of 1978 concerning Ratification of the Convention on International Trade in Endangered Species of Wild Flora and Fauna;
 - c. Presiden Presidential Decree Number 26 of 1989 concerning Ratification of the Convention Concerning the Protection of the World Cultural and Natural Heritage;
 - d. Presiden Presidential Decree No. 48 of 1991 concerning Ratification of the Convention on Wetlands of the International Importance Especially as Waterfowl Habitat;
 - e. Law Number 5 Year 1994 concerning Ratification of the United Nations Convention on Biological Diversity (United Nations Convention on Biological Diversity, 2007);
 - f. Of the three national parks in TRHS there are roads that were built before 2004 as a means of connecting between regions / regions. Whereas after 2004 the road construction and development plan has not been permitted because it contradicts the concepts or regulations agreed upon in international conventions ratified by the government of the Republic of Indonesia. Especially if it is connected with the laws and regulations contained in Law Number 5 of 1990 and Law 41 of 1999 concerning forestry as well as Law Number 5 of 2009 and the implementation of Government Regulation Number 27 of 2012 and LH 5 candy in 2012 because the road construction plan must follow the provisions in Law Number 26 of 2007 concerning spatial planning.
 - g. Application of laws and regulations as a basis for strengthening TRHS status because of the articles explicitly giving prohibited restrictions that are in accordance with OUV as status rather than THRS.
 - h. Factors that have become obstacles to the implementation of the implementation of legislation in TRHS include the still inconsistency

between legislation both vertically and horizontally in accordance with the hierarchy of laws and regulations as stipulated in Law No. 12 of 2011 concerning the establishment of legislation. so that the synchronization of these regulations will lead to overlapping, legal loopholes and legal vacancies. Other factors include the existence of a issuer and the lack of coordination between institutions related to protection and management in the region.

- i. The functions and roles of institutions in the management of TRHS have not run optimally because coordination between institutions is still sectoral ego. The Indonesian Government's efforts to address legal issues carried out studies of the prevailing laws and regulations and disseminated information to stakeholders to obtain the same perception of equality in dealing with legal issues in TRHS. As a law enforcement effort, the law enforcement process has been carried out in accordance with cases that occur TRHS. Furthermore, understanding the legal structure, legal substance and legal culture is still not running optimally.

Recommendation

1. The government and related institutions are more consistent in managing TRHS to realize the continuity of human life.
2. It is necessary to examine more deeply the legal aspects at the local, district, provincial and national levels related to road development plans in the context of the regulation of protected areas including arrangements regarding zoning in national parks, provincial and district development plans, and WHC Guidelines (The Operational Guidelines for the Implementation of the WH Convention while maintaining the preservation function of TRHS.
3. Determination of zoning should be carried out in-depth study by adopting the principles of SEA (SEA) in accordance with applicable laws and regulations
4. Need for integrated law enforcement (multidoor) on cases that occur in TRHS as an effort to realize maximum law enforcement. And there is a function of conservation in TRHS.
5. Commitment and role of all parties (central government, provincial government, district/city government, universities, NGOs, private sector and community) in the management of international status KKs become very important instruments in ensuring the sustainability of natural resources in them and sustainable development sustainable so TRHS can get out of the red in danger list.
6. Construction of roads as an evacuation route that allows people in the Kerinci Valley to save themselves from the

impact of natural disasters and if it is a strategic and unavoidable thing, it can refer to the provisions as stipulated in the Minister of Forestry Regulation Number: P.85/Menhut-II/2014 concerning procedures for cooperation in the implementation of Nature Reserve Areas and Nature Conservation Areas. Scientifically it does not have a negative impact on OUV to be the main key to the conservation of conservation areas.

REFERENCES

- [1]. Andono, A. (2003). Handling of Forest Security Disorders in the Working Areas of West Java Natural Resources Conservation Center II. Retrieved from <http://www.student.unimaas.nl/a.andono/mklhpjrh2003.pdf>. Accesed on 27 October 2015.
- [2]. Dewi, L. G. L. K. (2013). Socio-Economic Empowerment Effort of Rural Villagers in Sustainable Land Lot Management. *Tourism Analysis*. 13(1). 32-34.
- [3]. Klein, C. A., Cheever, F., Birdsong, B. C., Klass, A. B., & Biber, E. (2018). *Natural resources law: a place-based book of problems and cases*. Wolters Kluwer Law & Business.
- [4]. Law of the Republic of Indonesia (1999). Number 41 Year 1999 Forestry. 30 September 1999. State Gazette of the Republic of Indonesia Year 1999 Number 167. Jakarta.
- [5]. Leuser Mountain National Park Office. 2013. The Leuser Mountain National Park Long-Term Management Plan for 2010-2019 Aceh and North Sumatra Provinces. BBTNGL. Medan.
- [6]. Muhar, A., Raymond, C. M., van den Born, R. J., Bauer, N., Böck, K., Braitto, M., & Mitrofanenko, T. (2018). A model integrating social-cultural concepts of nature into frameworks of interaction between social and natural systems. *Journal of Environmental Planning and Management*, 61(5-6), 756-777.
- [7]. Pamulardi, B. (1995). *Forestry Law & Forestry Development*. Rajawali Grafindo Persada. Jakarta.
- [8]. Rahmawaty and Rauf, A. (2011). Utilization of Land in Old Rubber Plantation At Gunung Leuser National Park, Indonesia. *Science Journal of Agricultural Research and Management*. 12(1): 2-6.
- [9]. Rahmawaty. (2002). Sleep Utilization Plan Based on Ecosystem Approach. Retrieved from <http://repository.usu.ac.id>. Access on April 14, 2002.
- [10]. Rahmawaty. (2002). Sleep Utilization Plan Based on Ecosystem Approach. Retrieved from <http://repository.usu.ac.id>. Access on April 14, 2013.
- [11]. Rahmawaty. (2015). Regulation of the Minister of Environment and Forestry of the Republic of Indonesia Number: P.39 / Menlhk-setjen / 205 on Strategic Plan of the Ministry of Environment and Forestry of the Republic of Indonesia Year 2015-2019. Downloaded on July 15, 2016.
- [12]. Republic of Indonesia. (2015). Regulation of the Minister of Environment and Forestry Number P.76/Menlhk-Setjen/2015 Criteria of National Park Management Zone and Management Block of Nature Reserve, Wildlife Reserve, Forest Park and Nature Park. February 2, 2016. State Gazette of the Republic of Indonesia Year 2016 Number 164. Jakarta.
- [13]. Republic of Indonesia. (1990). Law of the Republic of Indonesia Number 5 of 1990 Conservation of Natural Resources and Ecosystems. August 10, 1990. State Gazette of the Republic of Indonesia Year 1990 Number 49. Jakarta.
- [14]. Republic of Indonesia. (1999). Law Number 41 of 1999 concerning Forestry. Republic of Indonesia. Jakarta.
- [15]. Republic of Indonesia. (2009). Law of the Republic of Indonesia Number 32 Year 2009 Environmental Protection and Management. Jakarta.
- [16]. Republic of Indonesia. (2011). Government Regulation (PP) of the Republic of Indonesia Number 28 Year 2011 Management of Nature Conservation Area and Nature Reserve Area. May 19, 2011. State Gazette of the Republic of Indonesia Year 2011 Number 56. Jakarta.
- [17]. Republic of Indonesia. (2011). Law of the Republic of Indonesia Number 12 Year 2011 Establishment of Laws and Regulations. 12 August 2011. State Gazette of the Republic of Indonesia Year 2011 Number 82. Jakarta.
- [18]. Republic of Indonesia. (2015). Government Regulation (PP) of the Republic of Indonesia Number 108 of 2015 Amendment to Government Regulation Number 28 Year 2011 Concerning the Management of Nature Conservation Area and Nature Reserve Area. 28 December 2015. State Gazette of the Republic of Indonesia Year 2015 Number 330. Jakarta.
- [19]. Ringbeck, B. 2018. The World Heritage Convention and Its Management Concept. In *Aspects of Management Planning for Cultural World Heritage Sites*. (pp. 15-24). Springer, Cham.
- [20]. Santoso, A.M, (2016). Stategic Environmental Assessment (SEA) of the cumulative effects of road development plans in Bukit Barisan Mountain Range, Tropical Rainforest Heritage of Sumatra Planned Road Information. 65800001_planned roads information / yha / 2016-03-24
- [21]. Seidmen, Robert. B., (1978). *The State Law and Development*, Lt. Matines Press Inc

- [22]. Silalahi, D.M. (1992). Environmental Law In Indonesia's Environmental Law Enforcement System, Alumni, Bandung
- [23]. Suandy, E. (2001). Tax Planning, Revised Edition. Salemba Four. Jakarta
- [24]. The Decree of the Minister of Forestry of the Republic of Indonesia No. 399 / Kpts-II / 1990 on Guideline for Forest Inauguration is amended in accordance with Decree of the Minister of Forestry Number 634 / Kpts-II / 1996, after Law Number 41 Year 1999 inauguration of forest area shall be regulated by Minister of Forestry Decree No. 32 / Kpts-II / 2001 on Criteria and standard of Inauguration of forest area, hereinafter referred to Minister of Forestry Regulation Number 50 Year 2011 concerning Forest Area Confirmation.
- [25]. United Nations Educational, Scientific, and Cultural Organization. (UNESCO) (2011). The Convention Concerning The Protection of World Cultural and Natural Heritage (Tirhty-Fifth Session). UNESCO. Paris.
- [26]. United Nations Educational, Scientific, and Cultural Organization. (UNESCO). (2007. Strategic Environment (KLHS), Pilot Project Ciayumajakuning, KMNLH, Jakarta.
- [27]. Wiratno. (2011). Lost on the Right Way: 1,000 Days Managing Leuser. Ministry of Forestry and UNESCO. Jakarta.
- [28]. Wiratno. (2015). Finding and Testing the Strategy and Breakthrough of the Settlement of Encroachment in the Conservation Area. Materials submitted to the Encroachment Resolution Training in Tropical Rainforest Heritage of Sumatra (TN Gunung Leuser National Park, Kerinci Seblat and Bukit Barisan Selatan), Hotel Kemang, UNESCO Jakarta Office, May 21, 2015. Jakarta.