

**FATWA
THE INDONESIAN COUNCIL OF ULAMA
Number 04/2014**

**On
PROTECTION OF ENDANGERED SPECIES TO MAINTAIN THE BALANCED
ECOSYSTEMS**

The Indonesian Council of Ulama, Fatwa Commission, here after:

- CONSIDERING :
- a. That nowadays many endangered species such as tigers, rhinos, elephants, and orangutans as well as various types of mammals, *aves* and reptiles, are on the brink of extinction due to human actions;
 - b. That human is created by God as a vicegerent on earth (*khalifah fi al-ardl*) who carry out the mandate and is responsible for the prosperity of all creatures;
 - c. That all living organisms, including endangered species such as tigers, rhinos, elephants and orangutans as well as various types of mammals, *aves* and reptiles, are created by Allah in order to maintain the balanced ecosystem and subjugated to the interests of sustainable human welfare (*maslaha 'amma*);
 - d. That therefore human must protect and preserve the balanced of the ecosystem so as not to cause damage (*mafsadah*);
 - e. That based on points a, b, c and d MUI Fatwa Commission needs to enact a fatwa/legal opinion on the conservation of endangered species to maintain the balanced of the ecosystem to be used as guiding principles.

- IN VIEW OF :
1. **The Verses of Al-Qur'an**
 - a. **Word of Allah SWT commands to do good deed (*Ihsan*) to all creatures including for endangered species**

وَمَا مِنْ دَابَّةٍ فِي الْأَرْضِ وَلَا طَائِرٍ يَطِيرُ بِجَنَاحَيْهِ إِلَّا أُمٌّ أُمَّتَالِكُمْ مَا فَرَّطْنَا فِي الْكِتَابِ مِنْ شَيْءٍ ثُمَّ إِلَىٰ

رَبِّهِمْ يُحْشَرُونَ

“There is not an animal (that lives) on the earth nor a being that flies on its wings, but (forms part of) communities like you. Nothing have we omitted from the Book, and they (all) shall be gathered to their Lord in the end”
(QS. Al-An'am [6] :38)

وَابْتَغِ فِيمَا آتَاكَ اللَّهُ الدَّارَ الْآخِرَةَ وَلَا تَنْسَ نَصِيبَكَ

مِنَ الدُّنْيَا وَأَحْسِنَ كَمَا أَحْسَنَ اللهُ إِلَيْكَ وَلَا تَبْغِ
الْفُسَادَ فِي الْأَرْضِ إِنَّ اللَّهَ لَا يُحِبُّ الْمُفْسِدِينَ

“But seek, with the (wealth) which Allah has bestowed on thee, the Home of the Hereafter, nor forget thy portion in this world: but do thou good, as Allah has been good to thee, and seek not (occasions for) mischief in the land: for Allah loves not those who do mischief”. (QS. Al-Qasas [28]: 77)

b. Word of Allah affirms that Allah has made and subjecting Allah’s creation for the benefit to human life, such as:

أَلَمْ تَرَوْا أَنَّ اللَّهَ سَخَّرَ لَكُمْ مَّا فِي السَّمَاوَاتِ وَمَا فِي
الْأَرْضِ وَأَسْبَغَ عَلَيْكُمْ نِعْمَهُ ظَاهِرَةً وَبَاطِنَةً...

*“Do you not see that Allah has subjected to your (use) all things in the heavens and on earth, and has made His bounties flow to you in exceeding measure, (both) seen and unseen?”
(QS. Luqman [31]: 20)*

هُوَ الَّذِي خَلَقَ لَكُمْ مَّا فِي الْأَرْضِ جَمِيعًا

“It is He Who hath created for you all things that are on earth” (QS. Al-Baqarah[2] :29)

إِنَّ فِي خَلْقِ السَّمَاوَاتِ وَالْأَرْضِ وَاخْتِلَافِ اللَّيْلِ
وَالنَّهَارِ وَالْفُلِّ الَّتِي تَجْرِي فِي الْبَحْرِ بِمَا يَنْفَعُ
النَّاسَ وَمَا أَنْزَلَ اللهُ مِنَ السَّمَاءِ مِنْ مَّاءٍ فَأَحْيَا بِهِ
الْأَرْضَ بَعْدَ مَوْتِهَا وَبَثَّ فِيهَا مِنْ كُلِّ دَابَّةٍ وَتَصْرِيفِ
الرِّيَّاحِ وَالسَّحَابِ الْمُسَخَّرِ بَيْنَ السَّمَاءِ وَالْأَرْضِ لآيَاتٍ
لِقَوْمٍ يَعْقِلُونَ

“Behold! in the creation of the heavens and the earth; in the alternation of the night and the day; in the sailing of the ships through the ocean for the profit of mankind; in the rain which Allah sends down from the skies, and the life which He gives therewith to an earth that is dead; in the beasts of all kinds that He scatters through the earth; in the change of the winds, and the clouds which they Trail like their slaves between the sky and the earth;- (Here) indeed are Signs for a people that are wise”. (QS. Al-Baqarah [2:] 164)

c. Word of Allah SWT assigns human as the caliph to bring prosperity and maintainance of balanced ecosystem, among other things:

وَإِذْ قَالَ رَبُّكَ لِلْمَلَائِكَةِ إِنِّي جَاعِلٌ فِي الْأَرْضِ خَلِيفَةً
 قَالُوا أَتَجْعَلُ فِيهَا مَنْ يُفْسِدُ فِيهَا وَيَسْفِكُ الدِّمَاءَ
 وَنَحْنُ نُسَبِّحُ بِحَمْدِكَ وَنُقَدِّسُ لَكَ قَالَ إِنِّي أَعْلَمُ مَا لَا
 تَعْلَمُونَ

“Behold, thy Lord said to the angels: "I will create a vicegerent on earth." They said: "Wilt Thou place therein one who will make mischief therein and shed blood? Whilst we do celebrate Thy praises and glorify Thy holy (name)?" He said: "I know what ye know not". (QS. Al-Baqarah [2]: 30)

وَهُوَ الَّذِي جَعَلَكُمْ خَلَائِفَ الْأَرْضِ وَرَفَعَ بَعْضَكُمْ فَوْقَ
 بَعْضٍ دَرَجَاتٍ لِيُبْلُوَكُمْ فِي مَا آتَاكُمْ إِنَّ رَبَّكَ سَرِيعُ
 الْعِقَابِ وَإِنَّهُ لَغَفُورٌ رَحِيمٌ

“It is He Who hath made you (His) agents, inheritors of the earth: He hath raised you in ranks, some above others: that He may try you in the gifts He hath given you: for thy Lord is quick in punishment: yet He is indeed Oft-forgiving, Most Merciful”. (QS. al-An'am[6]: 165)

d. Word of Allah SWT affirms that all human being were created by Allah has benefit including the endangered species, such as:

الَّذِينَ يَذْكُرُونَ اللَّهَ قِيَامًا وَقُعُودًا وَعَلَىٰ جُنُوبِهِمْ
 وَيَتَفَكَّرُونَ فِي خَلْقِ السَّمَاوَاتِ وَالْأَرْضِ رَبَّنَا مَا خَلَقْتَ
 هَذَا بَاطِلًا سُبْحَانَكَ فَقِنَا عَذَابَ النَّارِ

“Men who celebrate the praises of Allah, Standing, sitting, and lying down on their sides, and contemplate The (wonders of) creation in the heavens and the earth, (With the thought): "Our Lord! not for naught Hast Thou created (all) this! Glory to Thee! Give us salvation from the Penalty of the Fire”. (QS. Ali Imran [3]:191)

e. Word of Allah prohibits to mischief on the earth, including the endangered species, such as:

وَلَا تُفْسِدُوا فِي الْأَرْضِ بَعْدَ إِصْلَاحِهَا...

” Do not mischief on the earth, after (Allah) it hath been set in order. (QS. Al-A'raf: 56)”

كُلُوا وَاشْرَبُوا مِنْ رِزْقِ اللَّهِ وَلَا تَعْتُوا فِي الْأَرْضِ
مُفْسِدِينَ

Eat and drink of the sustenance provided by Allah, and do no evil nor mischief on the (face of the) earth. (QS. Al-Baqarah [2]:60)

وَلَا تَبْخَسُوا النَّاسَ أَشْيَاءَهُمْ وَلَا تَعْتُوا فِي الْأَرْضِ
مُفْسِدِينَ

“And withhold not things justly due to men, nor do evil in the land, working mischief”. (QS al-Shuara’ [26]:183)

ظَهَرَ الْفَسَادُ فِي الْبَرِّ وَالْبَحْرِ بِمَا كَسَبَتْ أَيْدِي النَّاسِ
لِيُذِيقَهُمْ بَعْضَ الَّذِي عَمِلُوا لَعَلَّهُمْ يَرْجِعُونَ

“Mischief has appeared on land and sea because of (the deed) that the hands of men have earned, that ((Allah)) may give them a taste of some of their deeds: in order that they may turn back (from Evil)”. (QS. Al-Rum [30]:41)

2.Hadiths, the traditions of the Prophet Muhammad SAW (sallallahu alayhi wa sallam - peace be upon him), such as:

عَنْ جَرِيرِ بْنِ عَبْدِ اللَّهِ قَالَ : قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ
عَلَيْهِ وَسَلَّمَ : " اِرْحَمُوا مَنْ فِي الْأَرْضِ يَرْحَمَكُم مَن
فِي السَّمَاءِ " (أَخْرَجَهُ أَبُو دَاوُدَ وَالتِّرْمِذِيُّ وَالحَاكِمُ)

“Jarir ibn Abdullah ra said: the Prophet (pbuh) said: ‘Love every creature on Earth, and you shall be loved by [God] in heavens’.” (Narrated by Abu Dawud, al-Turmuzi and al-Hakim)

The hadith asserts the instruction to care for creatures on earth, including animals.

عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ أَنَّ رَسُولَ اللَّهِ صَلَّى
اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: بَيْنَا رَجُلٌ يَمْشِي فَأَشْتَدَّ عَلَيْهِ
الْعَطَشُ، فَنَزَلَ بِئْرًا فِشْرَبَ مِنْهَا، ثُمَّ خَرَجَ فَإِذَا هُوَ
بِكَلْبٍ يَلْهَثُ يَأْكُلُ الثَّرَى مِنَ الْعَطَشِ، فَقَالَ: لَقَدْ بَلَغَ
هَذَا مِثْلَ الَّذِي بَلَغَ بِي، فَمَلَأَ خُفَّهُ ثُمَّ أَمْسَكَهُ بِفِيهِ ثُمَّ
رَقِيَ فَسَقَى الْكَلْبَ، فَشَكَرَ اللَّهُ لَهُ فَغَفَرَ لَهُ. قَالُوا: يَا
رَسُولَ اللَّهِ، وَإِنَّ لَنَا فِي الْبَهَائِمِ أَجْرًا؟! قَالَ: " فِي كُلِّ
كَبِدٍ رَطْبَةٌ أَجْرٌ " (رواه البخاري ومسلم)

“Abu Hurairah ra quoted the Prophet (pbuh) as saying: ‘Once upon a time, a man walked and felt thirsty, so he went to a river and drank from it. And then as he was leaving, he saw a dog sticking its tongue out because it was thirsty, and he said: ‘this dog felt [thirsty] as I did’, so he filled his shoe [with water] and held it with his teeth and then rose to give the water to the dog. Allah thanked him and forgave him for his sins.’ They said: ‘O Prophet, is there a reward for us in doing kindness to animals?’ The Prophet replied: ‘there’s a reward for every [kind] heart’.
(narrated by Bukhari and Muslim)

The hadith above tells of appreciation for acts of kindness to animals, for those who help animals fulfill their rights to live.

عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ يَقُولُ سَمِعْتُ رَسُولَ اللَّهِ صَلَّى
 اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «إِلَّا سَفَوسٌ رَجُلٌ مُسْلِمٌ غَرَسَهَا وَلَا
 طَائِرٌ أَوْ شَيْءٌ إِلَّا كَانَ لَهُ فِيهِ

أَجْرٌ" (رواه مسلم)

“Jabir ibn Abdillah ra said: ‘the Prophet (pbuh) said: [Allah] will reward a Muslim who plants a tree, and then a beast or a bird or others eat the fruits.’” (narrated by Muslim)

The hadith encourages us to engage in activities to sustain the lives of animals, including beasts.

عَنِ ابْنِ عَبَّاسٍ قَالَ إِنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -
 نَهَى عَنْ قَتْلِ أَرْبَعٍ مِنَ الدَّوَابِّ النَّمْلَةِ وَالنَّحْلَةِ وَالْهُدُودِ
 وَالصُّرَدِ (رواه أحمد وأبو داود وابن ماجه)

“From Ibn Abbas ra (radi Allahu anhu - may Allah be pleased with him), who said: the Prophet (pbuh) forbade the killing of four animals: ants, bees, hoopoe birds and shrikes.” (narrated by Ahmad, Abu Dawud and Ibn Majah)

Exercising the principle of *mafhum al-muwafaqah* (congruent meaning), the hadith could be interpreted as indicating the need for animal conservation and prohibition on activities that may lead to their extinction.

عَنْ عَمْرِو بْنِ الشَّرِيدِ قَالَ سَمِعْتُ الشَّرِيدَ يَقُولُ
 سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ مَنْ قَتَلَ
 عُصْفُورًا عَبَثًا عَجَّ إِلَى اللَّهِ عَزَّ وَجَلَّ يَوْمَ الْقِيَامَةِ يَقُولُ
 يَا رَبِّ إِنَّا قَتَلْنَا قَتْلَانِي عَبَثًا وَلَمْ يَنْفَعْنِي لِنَفْعَةٍ (رواه

النسائي)

“Amr ibn Sharid said: I heard Sharid ra say: I heard the Prophet (pbuh) say: ‘To whoever killing a bird without purpose, the bird will come before Allah SWT [subhanahu wa ta’ala - Glorified and exalted be He] on the doomsday and report to Him: ‘My Lord, he killed me without purpose, with no intention to use me’.” (narrated by al-Nasa’i)

The hadith asserts the prohibition on killing animals without a purpose allowed under the Islamic law.

عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ عَنِ رَسُولِ اللَّهِ صَلَّى
بِقَرْيَةِ النَّمْلِ فَأُحْرِقَتْ فَأَوْحَى اللَّهُ إِلَيْهِ فِي أَنْ قَرَصَتْكَ
نَمْلَةٌ أَهْلَكَتَ أُمَّةً مِنَ الْأُمَّمِ تُسَبِّحُ وَفِي رِوَايَةٍ: فَهَلَا
نَمْلَةٌ وَاحِدَةً (رواه البخاري)

“Abu Hurairah ra quoted the Prophet (pbuh) as saying that one of messengers of Allah was bitten by an ant and then he ordered a search for an ants’ nest and for it to be set on fire. And then Allah SWT sent down a revelation, asking [him] why he destroyed a population extolling God when he was only bitten by an ant. Another narration said: ‘why not [killing] only that one ant [who bit him]?’” (narrated by Bukhari)

The hadith above asserts the prohibition on killing a whole species of animals, causing it to extinct.

عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا أَنَّ رَسُولَ اللَّهِ
صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ "عُذِبَتْ امْرَأَةٌ فِي هِرَّةٍ
سَجَنَتَهَا حَتَّى مَاتَتْ فَدَخَلَتْ فِيهَا النَّارَ لِأَنَّهَا
أَطْعَمَتَهَا وَلَا سَقَتَهَا إِذْ حَبَسَتْهَا وَلَا هِيَ تَرَكَتْهَا تَأْكُلُ
مِنْ خَشَاشِ الْأَرْضِ" (أَخْرَجَهُ الْبُخَارِيُّ)

“Abdullah ibn Umar ra quoted the Prophet (pbuh) as saying: ‘A woman will dwell and be tortured in hell because of a cat she had kept locked until it died. She did not feed nor give the cat water while it was caged. She did not let it find its own food’.” (narrated by al-Bukhari)

The above mentioned hadith emphasizes a punishment threat for people who assault and kill animals, including those who engage in activities endangering the lives of animals.

عَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا قَالَ قَالَ رَسُولُ اللَّهِ
صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا ضَرَرَ وَلَا ضِرَارَ (رواه أحمد)

والبيهقي والحاكم وابن ماجة

“Ibn Abbas ra said: the Prophet (pbuh) said: ‘One shall not harm oneself and shall not harm others’.” (narrated by Ahmad, al-Baihaqi, al-Hakim and Ibn Majah)

The hadith prohibits activities that may harm oneself and/or others, including animals.

3. Qawaid Usuliyyah (rules of the Islamic law) and Qawaid Fiqhiyyah (principles of Islamic jurisprudence)

الأصلُ في الأشياءِ الإباحةُ إلا ما دلَّ الدليلُ على
خلافه

“Principally, everything (excluding services to God) is permitted, unless there is a daleel (evidence, in the form of Quran verses or hadiths) saying otherwise.”

الأصلُ في النهيِ للتَّحريمِ

“In principal, a prohibition on something indicates that it is haram (forbidden)”

تصرفُ الإمامِ على الرعيةِ منوطٌ بالمصلحةِ

“A policy of a leader [government] concerning its people should be based on whether it will benefit the people.”

الضررُ يُزالُ

“A harm should be removed.”

الضررُ يُدفعُ بقدرِ الإمكانِ

“All harms should be avoided as far as one can.”

الضررُ لا يُزالُ بالضررِ

“A harm should not be rid of by bringing in another harm.”

درءُ المفاسدِ مُقدَّمٌ على جلبِ المصالحِ

“Avoiding a harm should come first before bringing in a benefit.”

يُتحمَّلُ الضررُ الخاصُّ لدفعِ الضررِ العامِّ

“A specific harm should be borne to avoid a general [larger-scale] harm.”

إِذَا تَعَارَضَتِ مَفْسِدَتَانِ أَوْ ضَرَرَانِ رُوِعِيَ أَعْظَمُهُمَا
ضُرْرًا بِارْتِكَابِ أَخْفَهُمَا

"When two harms or dangers are in place, a bigger harm or danger should be avoided by opting on an act carrying the smaller risk of danger."

حُرْمَةُ بَنِي آدَمَ أَعْظَمُ مِنْ حُرْمَةِ الْحَيَوَانَ

“Ensuring the human livelihood should come first before that of animals.”

CONSIDERING: 1. *Ulamas'* (Islamic Scholars') opinions concerning animal conservation, including those of the followings:

a. Imam Ibn Hajar al-'Asqalani in the book *Fath al-Bari*, who said that the hadith on love included love for animals:

قَالَ ابْنُ بَطَّالٍ: فِيهِ (هَذَا الْحَدِيثُ) الْحِضُّ عَلَى
اسْتِعْمَالِ الرَّحْمَةِ لِجَمِيعِ الْخَلْقِ فَيَدْخُلُ الْمُؤْمِنُ
وَالْكَافِرُ وَالْبَهَائِمُ الْمَمْلُوكُ مِنْهَا وَغَيْرُ الْمَمْلُوكِ ، وَيَدْخُلُ
فِي الرَّحْمَةِ التَّعَاهُدُ بِالْإِطْعَامِ وَالسَّقْيِ وَالتَّخْفِيفِ
فِي الْحَمْلِ وَتَرْكُ التَّعَدِّيِّ بِالضَّرْبِ

“Ibn Battal said: ‘The hadith [on God’s order to love] encourages people to care for every creature, including believers and non-believers, and livestock owned and those owned by no one. It also specifies an instruction to feed and give water [to animals], to ease their loads and not overstep the boundary by beating [the animals]’.”

b. Imam al-Sharbini in the book *Mughni al-Muhtaj* (5/527) and (6/37) explained the obligation to protect rare animals and the prohibition on causing them to extinct:

أَمَّا مَا فِيهِ رُوحٌ فَيَجِبُ الدَّفْعُ عَنْهُ إِذَا قُصِرَ إِتْلَافُهُ مَا
لَمْ يَخْشَ عَلَى نَفْسِهِ أَوْ يُضْعُ لِحُرْمَةِ الرُّوحِ حَتَّى لَوْ
رَأَى أَجْنَبِيًّا شَخْصًا يَتْلَفُ حَيَوَانَ نَفْسِهِ إِتْلَافًا
مُحَرَّمًا وَجَبَ عَلَيْهِ دَفْعُهُ (مغني المحتاج 5/527،

للشربيني

“As for animals, which possess souls, one is obliged to protect them from attempts to annihilate them, so long as there is no worry that [the efforts] will harm them. Therefore, if one sees an animal owner attempting to kill the animal under a forbidden circumstance, then that person [who sees the attempt] is obliged to protect [the animal].”

وَيَحْرِمُ اِتِّسَالُفُ الْحَيَوَانِ الْمُحْتَرَمِ لِلنَّهْيِ عَنِ ذَبْحِ
الْحَيَوَانِ اِلَّا لِاَكْلِهِ وَخَالَفَ الشَّجَارَ؛ لِانَّ لِلْحَيَوَانِ
حُرْمَتَيْنِ: حَقَّ مَالِكِهِ، وَحَقَّ اللّٰهِ تَعَالٰى... وَلِذٰلِكَ يُمْنَعُ
مَالِكُ الْحَيَوَانِ مِنْ اِجَاعَتِهِ وَعَطَشِهِ بِخِلَافِ الشَّجَارِ

(مغني المحتاج 6/37، للشربيني)

“It is haram (unlawful) to annihilate honored animals as it is prohibited to slay animals for non-consumption purposes. Animals are different from trees because they have two honored rights: from the owners and from Allah SWT... Therefore, animal owners are prohibited from leaving their animals famished and thirsty; different with trees.”

c. Imam Zakaria in the book *Asna al-Matalib* (1/555) explains the haram status of animal hunting -- which may lead to destruction and extinction -- without an acceptable purpose:

وَقَدْ نَصَّ الْفُقَهَاءُ عَلَى حُرْمَةِ اصْطِيَادِ الْمَأْكُولِ بِغَيْرِ
نِيَّةِ الذَّكَاةِ لِأَنَّهُ يَوُودُ إِلَى إِهْلَاكِهِ بِغَيْرِ مَقْصِدٍ
شَرْعِيِّ، مِمَّا يَجْعَلُ الْفِعْلَ عَبَثًا وَهُوَ مَمْنُونٌ شَرْعًا
(أسنى المطالب شرح دليل الطالب 1/555، لذكريا

بن محمد بن زكريا الأنصاري)

“The Fuqaha (experts of Islamic jurisprudence) have decided it is haram (unlawful) to hunt animals whose meats are halal (permissible), when the hunt is not aimed at slaughtering the animals for consumption. Such activities will lead to extinction, without any excuse that may be allowed under the Islamic law -- vain, meaningless activities. These activities are prohibited under the Islamic law.”

d. Imam Ibn Qudamah in the book *al-Mughni* (4/137) asserts the permission to kill animals endangering one's life, and on the other hand the prohibition on killing animals harming no one.

كُلِّ مَا آذَى النَّاسَ، وَضَرَّهُمْ فِي أَنْفُسِهِمْ وَأَمْوَالِهِمْ،

يُبَاحُ قَتْلُهُ ؛ لِأَنَّهُ يُؤْذِي بِلَا نَفْعٍ ، أَشْبَهَ الذَّنْبَ ، وَمَا لَا مَضْرَرَةَ فِيهِ ، لَا يُبَاحُ قَتْلُهُ (المغني 4/173، لابن

قدامة)

“Every animal that hurts someone or harms their life and their fortune may be killed, because they cause harm without bringing in any benefit, like wolves. Animals harming no one should not be killed.”

e. Imam al-Dardiri in the book of *al-Sharh al-Kabir* (1/162) explains that protecting the lives of animals should be a priority:

إِذَا كَانَ الْمَاءُ الَّذِي يَمْلِكُهُ الْإِنْسَانُ لَا يَكْفِي إِلَّا لِوَضُوءِهِ وَكَانَ هُنَاكَ حَيَوَانٌ مُحْتَرَمٌ مُضْطَرٌّ لِذَلِكَ الْمَاءِ ، فَإِنَّ الْوَاجِبَ عَلَى صَاحِبِ الْمَاءِ التَّيَمُّمُ وَإِثَارُ الْحَيَوَانِ بِالْمَاءِ وَالْعُدُولُ إِلَى التَّيَمُّمِ ، وَلَوْ كَانَ صَاحِبُ الْمَاءِ مَيِّتًا فَإِنَّهُ يَتَيَمَّمُ كَذَلِكَ وَيُدْفَعُ الْمَاءَ إِلَى الْحَيَوَانِ لِيَشْرَبَ ، وَيُعَلِّلُ الْفُقَهَاءُ ذَلِكَ بِالْحَافِظَةِ عَلَى حَيَاةِ الْحَيَوَانِ (الشرح الكبير مع حاشية الدسوقي 1/162، للدرديري)

“When one finds water enough only for him to do wudu (ablution), while an honored animal urgently needs water, the owner of the water should perform a tayammum (dry ablution) instead and give the water to the animal. If the water is intended for a deceased, then he, too, should be treated with tayammum instead; while the water should be given to the animal for it to drink. The fuqaha decided on this because it is necessary to sustain the lives of animals.”

f. Imam Ahmad al-Khattabi in his book of *Ma'alim al-Sunan* (4/289), explains the prohibition on causing animal extinctions entirely:

مَمْعِنَاهُ أَنَّهُ كُرِهَ إِفْنَاءُ أُمَّةٍ مِنْ الْأُمَمِ وَإِعْدَامُ جَيْلٍ مِنَ الْخَلْقِ حَتَّى يَأْتِيَ عَلَيْهِ كُلُّهُ ، فَلَا يَبْقَى مِنْهُ بَاقِيَةٌ لِأَنَّهُ مَا مِنْ خَلْقٍ لَللَّهِ تَعَالَى إِلَّا وَفِيهِ نَوْعٌ مِنَ الْحِكْمَةِ وَضُرْبٌ مِنَ الْمَصْلَحَةِ يَقُولُ إِذَا كَانَ الْأَمْرُ عَلَى هَذَا وَلَا سَبِيلَ إِلَى قَاتِلِهِنَّ فَاقْتُلُوهُنَّ شِرَارَهُنَّ وَهِيَ السُّودُ الْبِهُمُ ، وَأَبْقُوا مَا سِوَاهَا لِتَنْتَفِعُوا بِهِنَّ فِي الْحِرَاسَةِ (معالم السنن 4/289، لأحمد بن حمد بن

محمد الخطابي

“It is understood that the extinction of a people and the annihilation of a generation of a creature, leaving out not a single one of them to live, are very much detested. There is no single creature of Allah SWT created with no purposes and uses. Hence, there is no justification for killing animals entirely (causing their extinction). Kill animals that caused harm on you but let others be alive, so that they may bring about benefits.”

g. Imam ‘Izz ibn Abd al-Salam in the book of *Qawa'id al-Ahkam* (1/167) explained the rights of animals that must be fulfilled by the human being:

حُقُوقُ الْبِهَائِمِ وَالْحَيَوَانَ عَلَى الْإِنْسَانِ، وَذَلِكَ أَنْ
يُنْفِقَ عَلَيْهَا نَفَقَةً مِثْلَهَا وَلَوْ زَمِنَتْ أَوْ مَرِضَتْ بِحَيْثُ لَا
يُنْتَفَعُ مِنْهَا وَلَا يَنْفَعُهَا مِثْلَهَا مِثْلَهَا لَا تُطَبَّقُ وَلَا يَجْمَعُ بَيْنَهَا
وَبَيْنَ مِثْلِهَا وَلَا يَزِيدُ عَلَيْهَا مِنْ جِنْسِهَا أَوْ مِنْ غَيْرِ جِنْسِهَا
بِكَيْسٍ أَوْ نَطْحٍ أَوْ جِرْحٍ ... وَأَنْ يَجْمَعَ بَيْنَ ذَكَورِهَا
وَأُنثَاهَا فِي إِبَانِ إِتْيَانِهَا (قواعد الأحكام 1/167،

للعز بن عبد السلام)

“Among the rights of animals that become the responsibility of the human being are sufficient provision for them, even if they are paralyzed or sick which cause them to be of no use; giving them no loads beyond their capacity; not gathering them with other animals that may harm them, be them animals of the same kind or others; and bring in the males and females together so that they may produce offspring.”

h. Imam al-Shawkani in the book of *Nail al-Autar* (8/100) quoted the view of Imam al-Khatthabi, as follows:

قَالَ الْخَطَّابِيُّ: يُشْبِهُ أَنْ يَكُونَ الْمَعْنَى وَاللَّهُ أَعْلَمُ أَنَّ
الْحُمُرَ إِذَا حَمَلَتْ عَلَى الْخَيْلِ قَلَّ عَدْدُهَا وَانْقَطَعَ
نَمَاؤُهَا وَتَعَطَّلَتْ مَنَافِعُهَا (نيل الأوطار 8/100،
للشوكاني)

“The interpretation - wallahu a'lam (and Allah knows best) - is that if a donkey is impregnated by a horse, then (there will be a lower number of donkeys; their growth will be curbed).”

i. Al-Jahiz, Abu Uthman Amr ibn Bahr al-Fukaymi al-Basri (776-869 AD), stated in His book *al-Hayawan/the Animals* on page 162 that the human beings are not entitled to mistreat animals, as saying the following.

ليس لك أن تحدث في جميع الحيوانات حدثاً من
نقص أو نقض أو إيلاام، لأنك لا تملك النشأة، ولا
يمكنك التعويض له، فإذا إذن لك مالك العين ... حل
لك من ذلك ما كان لا يحل، وليس لك في حجة
العقل أن تصنع بها إلا ما كان به مصلحة.
(الحيوان، ص 162 للجاحظ)

“You are not entitled to cut an organ or to persecute and hurt all kinds of animals because you are not the one who created it and cannot replace it. If the All Owner has permitted, then you are allowed to do harm to the animal which has not been allowed before. You cannot do it with a rational reason, unless there are serious benefits in it.”

j. The working paper of Dr. Ahmad Yasin Al-Qaralah entitled “Huquq al-Hayawan wa Damanatuha fi al-Fiqh al-Islami”, which says:

أَثَبَتَ الْفِقْهُ الْإِسْلَامِيُّ لِلْحَيَوَانَ الْحَقُّ فِي بَقَاءِ نَوْعِهِ،
لِذَلِكَ لَا يَجُوزُ قَتْلُهُ أَوْ ذَبْحُهُ إِذَا كَانَ ذَلِكَ يُؤَدِّي إِلَى
انْقِرَاضِهِ وَفَنَائِهِ (المجلة الأردنية في الدراسات

الإسلامية ص.34)

“The Islamic law rules that an animal has a right to preserve its kind. Therefore, it is forbidden to kill or slaughter them, if the action may cause the species to be extinct or disappear.”

2. The Law of the Republic of Indonesia (RI) Number 5/ 1990 on Conservation of Natural Resources and Its Ecosystem;
3. The Law of the RI No. 41/ 1999 on Forestry, which has been updated by the Law No. 19/ 2004 on the Decision concerning the Government Regulation in Lieu of Law No. 1/2004 on the Changes on Law No. 41/1999 on Forestry;
4. The Government Regulation No. 7/1999 on the Preservations of Plant and Wildlife Species.
5. The Government Regulation No. 8/1999 on the Uses of Plants and Wildlife Species
6. The result of a meeting between the Indonesian Ulama Council (MUI), the MUI Focus Group Discussion, the Ministry of Forestry, the National University, the WWF-Indonesia and the Tiger Conservation Forum (Forum *HarimauKita*) on “Protecting Tigers and Other Endangered Species with Islamic Wisdom” held on June 13, 2013 and July 25, 2013. The

meeting asserted, among other things, that tigers and other endangered species are creation of Allah SWT; their habitats need to be protected so that they may benefit the ecosystems and human well-being. The meeting also concluded that a religious study is needed to support actions to protect and conserve animals.

7. The result of a field trip by the MUI, the National University, WWF-Indonesia and Forum HarimauKita to Tesso Nilo National Park, Riau Province and Rimbang Baling Wildlife Reserve in Riau Province which was held from August 30 to September 1, 2013. The team found that human-wildlife conflict is occurs because of wildlife' habitats loss. They therefore concluded the need for an integrated movement involving legislators, the judiciary, the central government, regional administrations, businesses, *ulamas* and community leaders to support the harmony and balance of biodiversity, including protecting wildlife' habitats so that human and wildlife may live and share the same landscapes in harmony;
8. The result of a follow-up meeting between the Edict Commission of the MUI, the Ministry of Forestry, LPLH-MUI, the National University and WWF-Indonesia on December 20, 2013.
9. Opinions, advice, and inputs developed in the plenary meeting of the Fatwa Commission on January 22, 2014.

By putting trust in Allah SWT,

We **DECIDE**

DECREE : FATWA ON PROTECTION OF ENDANGERED SPECIES TO MAINTAIN THE BALANCED ECOSYSTEMS

***First* : General Guidelines**

In this FATWA, what We mean by:

Endangered species include all kinds of animals living on the ground, in water and or in the air, protected or not, living in the wild or reared, that have a small population and rapidly falling numbers in the wild which will likely become extinct without protection efforts.

***Second* : Legal Guidelines**

1. Every living organism has the right to sustain its life and

may be used for human well-being.

2. Treating endangered species well by protecting and conserving them in order to ensure their wellbeing is mandatory.
3. Protecting and conserving endangered species mentioned in point two shall occur by, among other things:
 - a. Guaranteeing their primal needs, including food, shelter and the need to reproduce;
 - b. Not burdening them with loads (weight) beyond their capacities;
 - c. Not placing them in the vicinity of other animals which may harm them;
 - d. Conserving their habitats;
 - e. Preventing illegal hunting and the illegal wildlife trade;
 - f. Preventing human-wildlife conflict;
 - g. Maintaining animal welfare.
4. Endangered species may be made use of in line with *Shariah* (Islamic law) guidelines and existing regulations.
5. Making use of endangered species as stated in point four is by:
 - a. Maintaining the balanced ecosystems;
 - b. Using them for ecotourism, education and research purposes;
 - c. Using them for security purposes;
 - d. Breeding them for human needs, in line with prevailing regulations;
6. Killing, harming, assaulting, hunting and/or engaging in other activities which threaten endangered species with extinction are forbidden, except for cases allowed under *shariah*, such as self defense;
7. Illegal hunting and/or illegal trading of endangered species

are *haram* (unlawful).

Third

: Recommendations

To the Government

- a. To take measures to protect and conserve endangered species and to prevent their extinction using this *Fatwa* as a guideline;
- b. To perform effective monitoring and reviews of spatial planning and restructuring of forest areas in order to minimize the risk of human-wildlife conflict, as well as to prioritize restoring forest functions;
- c. To review permits issued to companies that cause harm to ecology, social, economic, cultural, area objectives, and threatening endangered species from extinction;
- d. To restore critical lands and carry out collaborative forest conservation efforts by empowering local communities.
- e. To encourage education institutions to instill an awareness of the need to protect endangered species;
- f. To uphold the law against anyone threatening conservation efforts of endangered species; against forest encroachment, especially those involved in illegal logging and illegal wildlife trade.

To Legislators

- a. To review and compose regulations guaranteeing the conservation of endangered species and, protection of the ecosystem while ensuring human well-being and national sovereignty;
- b. To harmonize the laws and policies both central and local government concerning utilizations of forest-covered lands.

To Regional Administrations

- a. Ensuring the protection of forest areas through monitoring and effectively regulating the practices of legalizing settlements, plantations, illegal mines and infrastructure development within forest lands;
- b. Conserving and developing local wisdom, empowering local communities and creating environmentally-friendly sustainable economic development by maintaining the balanced ecosystem.

To Businesses

- a. To run a business that brings benefits to people at large while protecting the environment, particularly wildlife and their habitats;
- b. To comply with all prevailing permits by government;
- c. To contribute to the efforts to protect the ecosystem and environment, to support the establishment of groups concerned with endangered species, and to restore the populations and habitats of endangered species, especially in areas where the companies operate.

To Religious Leaders

- a. To spread religious understanding on the need to maintain the balanced ecosystems, especially by protecting endangered species;
- b. To encourage creation of religious guidelines and the formation of “Environment Preachers” to establish public awareness on the need for environmental protection and conservation of endangered species.

To the Community

- a. To conserve and develop local wisdom and be involved in community empowerment, as well as to create environmentally-friendly sustainable economic development

by maintaining the balanced ecosystem;

- b. To actively participate in the efforts to protect endangered species, including conflict resolution between human and wildlife in the regions (by forming groups concerned with endangered species or teams that deal with human-wildlife conflict resolution) or indirectly (by supporting the authorities).

Fourth

: Closing Guidelines

1. The Fatwa is effective from the date of issued, taking into account that if one day it is found to be flawed, efforts should be made to correct and perfect it, as it should be.
2. Calling on every Muslim and all parties who interested to disseminate the Fatwa.

Issued at : Jakarta, Indonesia

Date : 19 Rabi'ul Awwal 1435 H

J a n u a r y 22, 2014 AD

**THE INDONESIAN COUNCIL OF ULAMA (MUI)
FATWA COMMISSION**

Head,

Secretary,

Signature

Signature

PROF. DR. H. HASANUDDIN AF, MA DR. HM. ASRORUN NI'AM SHOLEH, MA