

Environmental Law and Policy Practices in Malaysia: An Empirical Study

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Abstract: Malaysia is one of the very environmentally rich countries in the world. At present, her traditions and heritage have been facing with numerous environmental problems such as air pollution, water pollution, exploitation of natural resources etc. Although, there are some historic states in Malaysia listed as a UNESCO Heritage Sites in the country. In order to cope with the environmental problems, the Government of Malaysia has passed some important environmental laws and policies such as the Environment Quality Act 1974 and its Regulations 1989, the Environmental Quality Order 1989, the Protection of Wildlife Act, the National Forestry Act 1984, the Fisheries Act 1985, the National Parks Act 1980, the International Environmental Laws etc. In addition to that, the Civil Law Act 1972, the Principles of the English Laws, the Federal Law, Shariah Laws, the Adat Temenggung (Malay Customary Laws) with some international environmental obligations etc; have also been implemented in order to attain sustainable environment and development in the country. But it regrets that these laws and policies have not been properly implemented due to some problems such as non-coordination, weak enforcement, customary attitudes etc. The study will examine potentialities and constraints of the environmental laws and policies in Malaysia consisting of 25 respondents in different criteria such as the professionals including foreigners, local people, old aged people, law enforcing agency, students etc., based on the primary and secondary sources through structured and unstructured in Melaka City, Malaysia.

Key words: Environmental Law, Environmental Governance Mechanisms, Sustainability.

I. Background:

Malaysia is historically one of the environmentally rich and abundant in natural resources and high biodiversity countries in the world consists of renewable and non-renewable resources that may include in every sectors of the country including the mineral resources, forestry, fisheries, agriculture, marine, poultry etc., without which we cannot live. It is one of the fastest growing economies in the ASEAN region. The country provides 41% of world supplies of natural rubber, 39% of hardwoods, 37% of palm oil and 32% of tin. But this rich environment along with natural resource with the heritage and traditions have been facing numerous problems such as climate change, biodiversity degradation, increasing scarcity unwise use of natural resources, hazardous waste management, growing rate of urbanization, weak enforcement and short term policy, instable and defective foreign policy, weak environmental governance, lack of technicalities, lack of environmental accounting, lack of good governance etc.; that are often responsible for depleting our natural resources and has been extinguishing day by day which ultimately goes against the nature (Wikipedia, 2010). That has been stated in the different journals, books, dailies and websites etc (<http://www.env.go.jp>). To materialize and utilize the natural resources, the Government passed a set of laws in the different sectors such as the Sarawak, Natural Resources and Environment Ordinance 1997, the Environmental Quality Act 1974, the Protection of Wildlife Act 1972 Act 76, the Fisheries Act 1985 Act 317, the National Forestry Act 1984, the National Parks Act 1980, the Town and Country planning Act 1976; the new economic policy, environmental laws and policy, different sectoral laws, creation of the Department of the Environment, the Ministry of Science, Technology and the Environment etc; covering international, regional mechanisms in protecting and conserving a sound and healthy environment (Jomo K.S,2005). Moreover, the constitution of our country does not deal with anything directly as the other countries of the world. Consequently, the rights of the flora and fauna people's are not ensured properly. These laws need to be modified immediately with the enhancement of existing punishments, incorporating the environmental provisions, amendment of the constitution, incorporating the ICT application etc; in order to save and conserve the natural resources for achieving sustainability to our generations. But unfortunately, these laws and policy are not properly implemented due to lack of expertise, lack of resources, lack of commitments etc (Wan Portiab Hamzab, 2011).. Consequently, the existing environmental and natural resource mechanisms are not properly implemented. In addition, the shariah law or all the religious laws and guidelines asset that natural resources, as a component of the environment is created by Allah (S.W.T) for man's bounty on earth. He confirms that nobody can damage and disrupt the environment in any forms that goes against the will of Allah for which the abuser will be punished in the world and the hereafter. Shariah law urges everyone boundlessly to live in harmony with others and nature and to act righteously thinking a sacred duty to

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the soil, air, water, plants or animal etc. In deed, the environmental conservation cannot be made possible through the efforts exerted by the State only. In fact, it is an act of worship. It is already proved that the traditional laws never maintain the sound environment but needs the shariah law. Without evaluating the shariah law, the world cannot be healthy. We need to realize and implement the inner meaning of the shariah law as to the conservation environment. Therefore, harmonization of civil as well as the shariah law needs to keep the environment good for man on this earth and the necessary measures may be made in this regard in order to attain sustainable environment and development based on the methodology in this line immediately for our own sake. In order to maintain the environmental issues, the traditional laws and practices have also been used in addition to English common law and statutory laws in Malaysia including Melaka. English Legal system was introduced in Malaysia with the arrival of the British in Malaysia in the year of 1780s. This legal was arbitrary in nature introduced by the English. The persons who were in charge of this law are mostly military personnel and they were not legally trained. But before the arrival of the British, the local people were regulated by the Islamic Law as well as customary law. Besides, the principles of the English Law including equity were applied in Penang in 1807. In the Malay States were also regulated through the Residential System by the Treaty of Pangkor in 1874. Particularly, the main water bodies that have gone across the Straits of Melaka are a plenty of natural resources with rich biodiversities.

II. Literature Review:

According to Lamont C. Hempel (2009) has discussed about the global environmental Governance issues titled '*Environmental Governance: The Global Challenge.*' Many international actors including the IUCN, WWF etc; have been playing critical role in promoting environmental sustainability issues. The study finds some constraints and potentialities towards the sustainability context.

Daniel C. Esty & Arthur Dahl (2005) has discussed the environmental sustainability issues based on its title '*environmental sustainability index.*' In fact, no environmental conservation and laws issues have been discussed. It also includes the environmental pollution issues. The authors discussed the environmental information, transparency and accountability, adequate capacity for credible enforcement and other policies that may promote the better environmental performance of the activities done by the concerned institutions at home and abroad.

Badar A. Iqbal (2002) discussed the state of the natural resources in Malaysia titled '*Development Strategy for Malaysian Natural Resources.*' Malaysia with its wealth of natural resources, is one of the fastest growing economies in the ASEAN region. The country provides 41% of world supplies of natural rubber, 39% of hardwoods, 37% of palm oil and 32% of tin. In 1971, the government developed a New Economic Policy (NEP) which, it was hoped, would bring about a sound and wide base for economic growth. This report aims to describe the basis of NEP and to analyze the development potential of the Malaysian economy.

Sarah Aziz A.G.A (2002) titled '*Science, Law and Conservation of Natural Resources: Some Issues*' Proceedings of the Regional Symposium on Environment and Natural Resources 10-11th April 2002, Hotel Renaissance Kuala Lumpur, Malaysia. Vol 1: 342-348 examines the relationship between the role of the Science and law that both have an important role to play in conservation of natural resources. The former provides the information basis that sets the parameters for conservation efforts, and the latter a legal basis for conservation itself. Scientific information is often sourced in regulating, monitoring, enforcement and litigation. However, the relationship between science and law has never been an easy one, as it is beset with problems ranging from basic understanding to reliability and certainty of the information and interpretation, and limitations such as costs and time. The challenge of interfacing science and law has been laid out in the paper, with suggested remedies to facilitate effective conservation.

Zati Sharip & Salmah Zakaria (2008) titled '*Lakes and Reservoir in Malaysia: Management and Research Challenges*' discussed about the importance of the lakes and reservoir to the contribution of the Malaysian environment. She reported that it had significant effects on the quality of the water body. This paper looks into various studies on the status of lakes and reservoir that have been carried out in Malaysia. It detailed out some of the major issues and problem faced in the areas of lake research, management, governance, capacity building, information management and stake holder participation. The paper concludes with strategies and plans to be consider as the way forward to overcome the issues.

Nopparat Nasuchon (2009) titled '*Coastal Management and Community Management in Malaysia, Vietnam, Cambodia and Thailand, with a case study of Thai fisheries Management*' deals with the coastal and fisheries in Malaysia, Vietnam, Cambodia and Thailand with a case study on fisheries management in Thailand. Malaysia regulates the coastal administration by the federal Government and is strongest in surveillance and enforcement but lacks community based management. Community management in Vietnam established from community needs that they want to protected their resource and also had community traditions to supported resource management.

Ha Huong (1999) titled the '*Environmental Policies and Natural Resource Management in Southeast Asia*' examines the environmental issues that have become a priority in the agenda of ASEAN countries due to

the serious impacts of environmental degradation. Similar to other countries, ASEAN countries have their own strengths and weaknesses in environmental protection, which depend on their policies and law enforcement. This paper consists of three parts. The first part introduces the environmental problems of the region. The second part discusses environmental approaches, namely pricing policy, green tax and community involvement as well as assistance from developed countries to realize the goals of sustainable development. The last part analyzes the shortcomings of these policies and proposes a line of environmental problems and reasoning enhancing the overall quality of life and growth.

A.A. Hear and Mohd. Nordin Hasan (2006) titled '*Towards Sustainable Development? The Evolution of Environmental Policy in Malaysia*' examines the evolution of environmental policy in Malaysia. It analyses the interaction between domestic and international drivers in relation to the broader goal of sustainable development, which is defined here as 'non declining utility' of the natural endowment. While Malaysia's impressive economic achievement has advanced human development and reduced poverty, the impact of rapid environmental change raises doubts as to its sustainability and inter-generational equity. The article argues that the trajectory of Malaysia's policy on natural resources and environmental issues bears the characteristics of path-dependent evolution. This study bears some keywords such as the Environmental policy; Malaysia; Sustainable development; Environmental law; Path-dependency.

Rasyidah M. Khalid, Suhaimi Abd. Rahman (2010) '*Legal Analysis of Sustainable Development and Water Management in Malaysia*' discussed the sustainable development and the role of the Malaysian law and policy issues. Malaysia has the bigger role in conserving its natural resources to mitigate the global warming effects as well as to ensure sustainable development. This paper aims to identify any enabling or hampering structures for effective policies on sustainable water resources management in Malaysia. Analyzing the complex relationship between the federal and state can do this. The paper concludes that the fragmented laws and division of powers over water resources management will impede the implementation of sustainability policies in the country.

The Community-based Natural Resource Management Facility (2008) in Malaysia *Danida Funded programme* has been working and aiming at enhancing the capacity of Malaysian Non-Government Organization and community based organization in influencing sustainable development policies and practices related to natural resource management and biodiversity conservation including the recognition of the importance of indigenous peoples and gender equity.

Jamaluddin Md. Jahi, Kadaruddin Aiyub, Kadir Arifin, Azahan Awang (2009) '*Development, Environmental Degradation and Environmental Management in Malaysia*' argued that there are some relationships in development, environmental degradation, environmental management systems in the world without which the sustainable development cannot be possible in the world. The authors also define the environment and development issues along with the natural resource management and administration. The authors also argue that the role of legislations and policy are essential in this regard.

The UNDP Natural Resource Management Country Studies, Malaysia deals with legal and policy issues on the natural resources to indigenous peoples in Sabah include land, forest, agricultural areas, and Rivers and coastal areas, in which land is central and often understood to encompass all these natural resources collectively. Traditional communities have a close relationship to land and resources and see themselves as part of the whole ecosystem. Natural resources are significant not only as a means of production but also as part of indigenous peoples' spiritual and cultural traditions, giving them their identity as peoples. Indigenous knowledge, innovations and practices on natural resource management is a little understood yet highly complex system, one that is closely interlinked with other indigenous systems. It incorporates a keen awareness of the environment, an appreciation for conservation and continuity, encourages.

Chan N.W., Ibrahim A.L. and Hajar A.R (2002) discussed with water resource management titled '*The Role of Non-governmental Organizations in Water Resources Management* in Malaysia. It also discusses that the water management in Malaysia is based on a top-down approach focusing on supply management. This approach has been found wanting as many river basins have reached their limits of water supply and supply falls short of demand. Despite copious rainfall, the top-down approach, mis-management, abuse, general public apathy and other reasons have resulted in water crises. All these could have been avoided had a more comprehensive approach balancing both supply and demand management been adopted. This paper deals with the effects of abuse of the water resources. Generally, nobody should misuse the water as it is one of the core gifts of God.

Murray Raff (1999) titled '*Pollution Politics and National Competition Policy*' - the national competition policy review of the environmental protection act in Victoria' examines the engagement of conventional economic rationality with the problem of containing environmental degradation, through the lens of Victoria's review of its *Environmental Protection and Litter Acts*. That inquiry was initiated within a national framework for review of all regulation that constrains competition in and between the public and private sectors. The article disputes the place assigned to environmental issues within the contemporary discourse of *economic rationalism*, largely due to its failure to integrate fully the scientifically verifiable facts of *ecology*, and the essential

requirement that ecosystems retain their integrity, regardless of human activity in markets or elsewhere. These defects in human economic organization could be redressed in some measure by invoking *legal liability* to force internalization of environmental costs.

The Role of the WWF (2010) *dealing with the Natural Resource Management Issues* which is one of the world's largest and most respected independent conservation organizations dealing with the earth's natural environment and to build a future in which humans live in harmony with nature, by conserving the world's biological diversity, ensuring that the use of renewable natural resources is sustainable, and promoting the reduction of pollution and wasteful consumption. www.panda.org/media for latest news and media resources.

Jamal b. Othman (2005) titled '*Green GDP and Natural Resources Accounting Perspective for Malaysia*' highlights the role of national income accounts, which take into consideration the depreciation of environmental assets and the resulting environmental impacts as an important indicator of sustainable development. The weakness of the conventional national income accounts, merits of green GDP and how Malaysia would be able to implement this in future were highlighted.

Traffic International for the Government of Malaysia (2004) titled '*Forest Law Enforcement and Governance in Malaysia in the context of Sustainable Forest Management*' examines the state of forest law enforcement in Malaysia, identifying gaps in the legislative framework and institutional responsibility which could affect efforts to curb and prevent the practices of illegal logging and illegal timber trade. Where relevant, the study also looks into elements of environmental, social and economic sustainability in the context of sustainable forest management. The challenge of forest management in the country involves highly complex processes that are linked to land conversion for agriculture and other land uses, dynamics of the logging and timber trade, and the legal framework regulating these processes. Moreover, these processes are embedded within an intricate socio economy framework and the interplay of state and federal politics. The focus of the project is on Sustainable Forest Management (SFM), against the backdrop of the various systems and tools that the government has put into place in terms of policy, law, and administration.

III. Research Objectives:

The broad objectives of this research work are to help the government in policy making for sustainable environmental development and conservation through applying appropriate environment laws and policy in Malaysia. However, there are some specific objectives such as:

- To examine the present state of the environmental laws and policy in Malaysia
- To identify the potentialities and constraints of the environmental laws and policy

IV. Methodology:

This research work includes the primary and secondary sources. The Primary source includes the empirical investigation, case studies, observations etc; through structured and unstructured questionnaire and the secondary source includes the published and unpublished research articles, books, and journals, as mentioned in the abstract of this research work. The sample size of this work will be 25 respondents in different criteria that have also been discussed in this part. It is basically a legal study.

V. Discussion:

In order to evaluate the present state of the environmental legislations, we need to analyze the national legislations first. In this section, only the basic provisions have been discussed:

With the increasing rate of the people in the globe; the natural resources have been facing the numerous problems and the earth capacity is not in sound condition. It is traced back to early attempts to understand the ecological nature of American rangelands in the late 19th century and the resource conservation movement is found at the same time. To understand the nature and natural resources, we need to know about the environment. In fact, environment includes everything in the world as stated Albert Einstein as "Environment is everything that isn't me" and it is also supported by the 'World Commission on Environment and Development known as Brundtland Commission' that reads as Environment as "where we all live". Moreover, some other definitions may be added in this regard. It is noted that the pressure on natural resources is high compared to other countries in the globe particularly in the South Asian countries although the environmental issues are similar to those in most other developing countries. Therefore, natural resources may cover every issue of the environment. The natural environment including the natural resources have been under continuous pressure and depleting due to over weak governance, unplanned industrial development and management, indiscriminate use of pesticides, herbicides and chemical fertilizer, improper management of solid waste in urban areas, unwise use of ground water etc. In addition, it causes different pollution such as air, water, soil and food etc, deforestation, soil degradation, biodiversity, loss of ecosystems, draught etc., and has been depleting the natural resources. To cope with those situations, the government of Malaysia adopted many initiatives such as the creation of the Department of Environment, different divisions, etc.

State of the Sectoral Environmental Issue and Administration:

Malaysia, as high dense resourceful country, is suffering from various environmental problems such as pollution, land degradation, deforestation, biodiversity degradation, depletion of environmental resources, wetland degradation, urban solid waste management, etc. The government of Malaysia has enacted different laws in different period for conserving and developing the environments.

Mineral Resources:

Malaysia is very rich mineral resourceful country in the world but the exploitation rate is also identified. There are mineral resources laws and policy managing and attaining the sustainable development. The Government has adopted policies to attract foreign investment in the mineral sector. Malaysia is a signatory to the Multilateral Investment Guarantee Agency (MIGA) and to the convention setting up the International Centre for Settlement of Investment Dispute (ICSID).

Fisheries Resources:

Fisheries are one of the most important components of the environment and rich in aquatic resources and also sub sector of agriculture. There is a general consensus that inland and coastal or marine capture fisheries are in decline.¹⁵The threat includes the losses of floodplain habitat due to agriculture pollution and urbanization, over fishing, rapidly increasing the industrialization. Some inland fish species are in danger of extinction, and there is a fear that the inland major carps, Indian Salmon and other coastal inshore fisheries, may be in danger of collapse.

Agriculture Resources:

Malaysia is rich in agriculture with biodiversity. Some trend of decline is also observed. The soil quality is degrading due to chemical fertilizers. The agriculture environment is already under severe pressure. The legal foundations for high yielding varieties to grow more food have resulted in the loss of many traditional varieties of rice and other crops. The practice of monocrops has caused serious deterioration of land characteristics and a decline in productivity.

Forest Resources:

The significance of forest resource is enormous in any country of the world. Its degradation and their resources have been occurring due to manifold reasons. It creates some impacts such as rare wildlife and biological diversity that have also reduced quite rapidly, many species have disappeared altogether, human habitat, the life and culture of the forest communities have also be severely affected, and ethnic communities are also seriously affected etc and the deforestation

Wildlife and Domestic Animal Resources:

Malaysia is rich in wildlife and its biodiversities. The wildlife diversity is quite affected with the many ways with a very limited habitat. Many species have been facing different categories of threats, and the status of 223 species has not been ascertained due to scarcity of data. In order to cope with these problems, some laws and policies have been passed.

Air Resource:

Air is an integral part of life and man cannot live even for a minute without air. It is a life sustaining precious natural resource without which mankind cannot survive. It is essential to keep air and atmosphere free from pollution. Air pollutants such as ozone, nitrogen oxides, and sulfur dioxide also have harmful effects on natural ecosystems. They can kill plants and trees by destroying their leaves, and can kill animals, especially fish in highly polluted rivers. In order to protect the air pollution, there are some laws and policies.

Water Resources:

It should be borne in mind the human body is constituted of around 60% water. This resource is exploited and polluted in many ways and in different forms. It affects every nation around the world. Every year, between 1 and 10 billion tons of oil are spilt, killing many species and destroying the ecosystem in the area. Clean up efforts have been weak, as only about 10% of the oil is removed by the most successful efforts. For many years, chemicals were dumped into bodies of water without concern. While many countries have now banned such behavior, it continues to go on today. As the world has industrialized and its population has grown, the problem of water pollution has intensified. The simple fact that millions of people live along coastlines and near rivers means that these bodies of water are likely candidates for heavy and destructive pollution. It kills life that inhabits water-based ecosystems. It affects fish, birds, dolphins and many other animals living in the water. Water pollution disrupts the natural food chain. Ecosystems can be severely changed or destroyed by water

pollution. Many areas are now being affected by careless human pollution, and this pollution is coming back to hurt humans. It is mentioned here that every year, 14 billions pounds of sewage, sludge, and garbage are dumped into the world's oceans 19 trillion gallons of waste also enter the water annually. Across the world, about half of all sewage is dumped into water bodies in its original form. No efforts are made to disinfect the sewage or to remove especially harmful pollutants. Many verses of the Holy Quran mention in great detail that the waters which God brought down from the heavens, then established on the Earth, in the form of springs, streams and rivers, to quench Man's thirst to provide sustenance for animals and plants and to irrigate the soil. All the civilizations of Man have had their origins in the basins of rivers; it is one of the blessings of the Almighty that he allows water to run on the face of the Earth. Furthermore, pollution by Man of the water resources and systems and their wastage are in fact an expression of ingratitude for the blessings bestowed by the Lord. God created water to enable Man and fellow creatures to live, and he should therefore turn towards his Maker and express his thanks and his gratitude for this blessings.

Biodiversity Resource:

As tropical country like Malaysia is very rich with its diversified wild and domestic animals and various plants species than other area of the earth. However, this rich and valuable biodiversity is degrading due to population growth, human interventions etc. It is disappointing that some of species of flora and fauna are in endangered situation and some of them are going to be extinguished. Biological diversity helps prevent extinction of species and helps preserve the balance of nature. At the 1992 United Nations Conference on Environment and Development, over 150 nations, including Malaysia, signed a treaty to preserve the planet's biological diversity. Unfortunately there is no proper inventory of the biological diversity of the country and the primary data for most of the flora and fauna are far from complete. However, the available data on the diversity of the biological resources of Malaysia, both at species and ecosystem level, are discussed below. The Almighty created vast numbers of trees and plants, each playing a role in the natural systems of which they are part, to confirm Man's faith in the majesty of He who created this universe, and for his administration and pleasure. Trees provide not only food, but also wood which Man can use for innumerable purposes. Vegetation and forests have an essential role in natural processes: they are the habitats of animals, they play a part in determining local and regional climates, they assists in keeping water resources and they provide soil cover. Animals constitute an important element of nature, and all have a part to play in the continuation of life until the day that the Lords redeem the Earth and which is on it. Verily, all things have we created in proportion and measures... (54:49). There are some laws prevailing Malaysia to conserve and develop the rich bio-diversity and ecological balance in the country.

Coastal Resources:

The coastal zone of Malaysia is rich in natural resources offering many tangible and intangible benefits to the nation. The mangroves with spectacular wildlife and wide biodiversity, fisheries with 28 species of shrimps, shrimp culture activities, shipping and inland navigations, ship breaking, oil and gas exploration, etc; are some examples of these benefits. There are strong interaction between components of the natural systems (ecotones and gradients), between users and ecosystems; and between various users. Nevertheless, its natural resources face multiple and critical problems including non-sustainable resource uses and natural calamities, set within a human context of wide-spread poverty.

Land Resources:

Land is other major natural resources of Bangladesh. But these resources are degraded in many ways. Therefore, Intensive agriculture with HYV (High Yield Variety) along with imbalance in fertilization has degraded our lands seriously and this mechanism of degradation should be arrested or reversed through practices ensuring balanced fertilization using an integrated soil and nutrient management approach. The soil quality is also degrading. The Holy Quran contains numerous references to the importance of soil and land and their relationships with water and living resources. Soil is a crucial life support system; a living and dynamic medium, it supports plant and animal life and is the origin of the maintain food resources for both Man and animals. As soil is one of the components of the environment entrusted to Man, he must take care to preserve, protect and conserve it. He it is Who hath placed you as viceroys of the earth.. .' (6: 165). So, eat and drink of the sustenance provided by God and do not evil nor mischief on the face.

Cultural and Natural Heritage:

Malaysia is rich in diversified cultural and its heritage. There are many important documentary evidence of cultural heritage such as manuscript, architecture and monuments, cultural and religious festival, craft and art, traditional uses goods etc., which bears historical significance of culture and civilization. Malaysia is also rich in its natural resources and its beauty such as forest, Hill tracks, different plants and animals, great rivers and its soil etc. There some laws passed for collection, preservation, maintenance, display and administration of records

and archives of the cultural and natural assets of the country.

Public Safety and Dangerous Substances Management:

In order to sustain a public health, all kinds of dangerous substance should be protected and regulated and in this regard the government passed some laws attached in the appendix for regulating manufacture, possession, use, sale, transport, import and export of explosives, explosive and poisonous substances etc; for ensuring public safety and maintenance of public order, suppression and prejudicial activities endangering communal harmony or safety, and for maintaining supplies and services essential to the life of the community .

The Role of Judiciary:

The highest judiciary of Malaysia is the Federal Court of Malaysia headed by the Chief Justice. This Court can interpret the Constitution and constitutional provisions. The Court can also settle the disputes between the State and the Federal Governments. Therefore, it seems that this Court bears absolute jurisdiction over the environmental issues in Malaysia due to the constitutional interpretation regarding the environmental issues. It is noted that there is no specific Environmental Courts in Malaysia which is very pressing need of the country like Bangladesh. In Bangladesh, there are several Environmental Courts in the country to settle the environmental issues in Bangladesh. There are some other Courts such as the Federal Court headed by the Chief Justice, the Sessions Courts, Magistrate's Courts, the Village Headmen Courts and the Shariah Court which are also relevant to the indirect environmental aspects in Malaysia. In fact, some environmental case laws have already been done by the Courts of Malaysia which are not very encouraging to all. It needs amendments through the decentralization of the Courts like India. The Government may study the Environmental Court Systems in Bangladesh and India. It may include the role of the judiciary, constitutional aspects, environmental laws and policies, organs of the state etc. It has also been working in line with the sustainability theme based on commonly accepted principles such as freedom, equity, justice, transparency, and accountability like the concept of the good governance including the ecological balance. Some judicial decisions were found between 1992 and 2002 relating to the environmental issues in Malaysia. Some of the decisions are made based on the following case laws:

The Rural Legislation and Entitlement Kendra Dehradun and others Vs State of U.P. and Others (1985) 2 SCC 431, Devaki Nandan Pandey V. Union of India and Others (1985) 3 SCC 614, Tan Tek Seng V. Suruhanjaya Perkhidmatan Pendidikan (1996)1 MLJ 288, Ketua Pengarah Jabatan Alam Sekitar & Anor vs. Kajing Tubek & Ors (1997) 3 MLJ 23, Government of Malaysia vs. Lim Kit Siang, United Engineers (M) Berhad vs. Lim Kit Siang [1988] 2 MLJ 12, The Malaysian Vermicelli Manufacturers (Melaka), Sdn Bhd vs. PP (2001) 7 CLJ etc. The messages of the decisions are as follows:

- To ensure public health in all aspects through all the obstruction such as emitting air pollution, public and private nuisance
- Free Environment and establish human rights through all obstacles
- To ensure social justice for the vulnerable groups from the hands of elite classes
- Enforcement of human rights under constitutional obligation
- To establish environment balance for keeping nature and natural beauties
- Keeping up the provision of the Constitution relating to environmental obligation for ensuring human rights
- To keep the human habitation free from pollution
- Laws relating to air pollution for maintaining ecological balance from the imbalance
- Pollution Free Environment for establishing human rights
- Enforcement of environmental issues should be implemented through Public Interest Litigation

The Role of the Institutional and Administrative Responsibilities:

There are many institutions in the government level dealing with the environmental issues in Malaysia. The National Planning Council headed by the Prime Minister is one of them. It is assisted by the National Development Planning Committee responsible for formulating, overseeing, implementing and review all development plans as well as making recommendations on financial allocations. The Economic Planning Unit (EPU), THE Public Services Department, Manpower Planning and Modernization Unit (MAMPU), various planning sections, of Ministries and agencies represented the Inter-agency Planning Group (IAPG). Planning is also done in collaboration with the private sectors. Besides, a number of councils and committee such as the National Economic Consultative Council and the Malaysian Business Council etc. are notable for environmental conservation and development in Malaysia. The Department of Environment (DOE) was also established in the same year of 1974 giving the charge with the environmental administration under the Ministry of Science, Technology and Environment (MOSTE).

The Role of the Constitution:

The Malaysian Federal Constitution is the supreme law of the land. If any law passed by the parliament inconsistent with the constitution shall be void to the extent of the inconsistency. This constitution does not have any specific provisions with regard to the environmental conservation as a whole. But there are many provisions that are highly influential in the environmental aspects. The Malaysian Constitution prescribes very precisely the powers and functions of the Federal Government and the State Government as per the provisions in Part VI of the Constitutions. Moreover, there are three legislative lists in the constitution are given to the Federal and State Government for making their legislations and Ninth Schedule and a concurrent list where either the Federal or the State Government can make laws. In the meantime, some states passed some laws relating to the protection and conservation of the environment as per the guidelines of the constitution. It is mentioned here that these lists bear effects indirectly on the environment.

The Role of the Coordinating Laws:

In order to work smooth environment, coordination between the Federal and the State Government is essential. Therefore, the coordinating mechanism in the name of 'councils' and committees have been established. The councils are generally consultative bodies established by law to advise the federal and state governments on policy formulation and legislative changes. On the other hand, committees are set up to consider particular issues and are normally short term in nature. The National Council on Land (NCL) was established by the Federal Constitution with a mandate for the promotion and control of the utilization of land in Peninsular Malaysia. The NLC serves as a forum for the federal and State governments to resolve common problems and issues relating to land and forestry policies, administration and management. It is noted that there is no council directly responsible for the environment. The Ministry of Science, Technology and the Environment currently maintains a relationship with states through regular council meetings involving the Minister and State executive Councilors on the Environment.

The Role of Malaysian Environmental Laws:

In the second half of 1970s and in the early 1980s, some hazardous situations relating to palm oil and rubber were identified. The federal and state governments were concerned to face these challenges, which lead to the creation of the laws. There are around 46-50 laws dealing with the sectoral issues such as land, water, forests, marine, fisheries and mining etc., that is tackling the environmental pollution and problems in Malaysia. These laws are basically based on their constitution. These laws are passed and implemented by the federal and state governments. For example, the state of Sabah and Sarawak has been implementing the Natural Resources and Environment Ordinance 1949. The Sarawak Natural Resources and Environment Prescribed Activities Order 1994 relating to the protection of the environment have been implemented. In order to conserve and develop the water sector and the several species of wild birds, the Straits Settlement Ordinance 1894 was passed. This Water law prohibits diversion or abstraction of water, modification of channels, and construction of riverbanks. This was followed by the subsequent legislations such as the Mining Enactment 1929, the Forest Enactment 1934 etc., which had relevance on the environment and development. The Environment Quality Act 1974 is a landmark creating the Department of Environment incorporating the cross-sectoral concerns into the body of legislation. It addresses the overall adverse impacts in the industrialization process, which are reflected in the different Malaysian Year Plans. Currently, around forty to fifty environmental related legislations in the country. Malaysia enacted first its kind the environmental legislation in the form of the 'Environmental Quality Act' 1974 and has given on the charge for the first time for controlling and regulating the industrial pollution, wastewater, air pollution from factories and solid waste management problems (Malaysian Environmental Legislations, 2011). It is mentioned here that this Act has been amended three times since it was first enacted. The preventive measures in the form of environmental impact assessment were introduced in the 1985 amendment. With the change of time and social needs, some legislative changes have been made. The Minister along with the other officials is given powers by amendment of the laws for the environmental conservation. The penal provisions for the wrong doers are also enhanced and therefore, the offenders do not have the dare to commit any offers for the second time, which is quite good compared to other countries. The enforcement mechanisms are also strengthened. It is noted that section 25 of the 1996 has been added that 'Payment of Cess and Environmental Fund' have been created. This Environmental Fund is very important for the environmental conservation and development. Some laws have been done for the Malaysian local government environment and development. The Malaysian judiciary is enough competent to deal with the environmental issues in Malaysia although there are no specific environmental courts like the other countries of the world. Some judicial responses as to healthy life have been made and ensured. In order to execute the decisions of the government, some institutional developments have already been made. It is unique that the coordinating laws are also made in this regard. In order to make more effective of the environmental protection, some international initiatives have also been made along with made some international memberships such as ASEAN for this purpose. In the education system, particularly, in the higher education, many environmental law courses have been taught. The Media education including the role of media is also playing critical role in this regard. Moreover, the Malaysian

civil societies including the non-governmental organizations are also active for playing significant role for the nation building. In terms of the religious education and values, the Malaysian government is also very healthy to the religious education that may be critical role for their governance systems for their sustainable development. The sources of Malaysian environmental law are as follows such as statutes, the principles of the environmental law, the environmental guidelines, subsidiary legislations, the national environmental policy, the principles of the English law, the principles of the public international laws, the principles of the international environmental laws etc.

The Role of International Soft Laws Policy and Compliance:

In order to explain the environmental governance mechanisms, we need to discuss the international environmental governance issues under the public international law. Without ensuring these issues, the environmental communications cannot be made. The government of Malaysia is still very healthy to the international relations including the international environmental laws and legal matters. In the meantime, the government has already passed some environmental instruments to protect the environment. But it regrets that there are constraints and barriers are observed in the compliance issues under the international environmental law and policies in Malaysia as mentioned by Dr. Azmi Sharom in his research work. He is concerned that there are not much written materials available preserved by the government levels. What has been obtained was done largely through contact with the relevant NGOs as well as government departments. The Government Library and the ministry of Science and Technology and the Environment were poorly stocked. Much of the material was out dated. There is simply no date whatsoever. However, the existing literatures support that following issues may be implemented in the legal discourses.

The Role of the Non Governmental Organization:

Malaysia is also rich in Environmental Groups or Non Governmental Organizations. Around at least 20 NGOs have been working for greening the country. Since 1975 to 1984, around fifty five issues or problems were identified by the four major environmental interest groups in the country along with the Environmental Quality Council (EQC). In 1996, a survey was done relating to the public awareness and understanding of the environmental issues. The report reveals that 90% people are aware about the environmental issues and their health impacts. It is also indicated that 80% people are concerned with the negative environmental impacts on the economy and a majority would prefer stricter environmental control. Another survey was also done and reported that the majority of the respondents are not happy about the state of the environment. As for suggestion for good environment, environmental education, transparency in decision making, and increasing in penalties etc. These NGOs have been taking many initiatives such as training, research, environmental education, awareness building activities, publications, environmental protection measures, environmental rights, intellectual property rights etc., for the purposes of developing and conserving the environment of the country. They operated mainly by applying pressure to the authorities through lobbying and public campaigns. It includes the Malaysian Environment Malaysian Nature Society, All Women's Action Society (AWAM) MENGO, Malaysia - Education & Research Association for Consumers Malaysia, Centre for Environment, Technology.

The Role of Malaysian Environmental Policy:

The Malaysian Government passed the National Policy on the Environment. It is sectoral in nature and the policies are the National Forestry Policy 2002, the National Agricultural Policy's (1992-2010), the National Mineral Policy (NMP), the Mineral Development Act 1994, the National Policy on Biological Diversity, the National Coastal Zone Management Policy and the National Policy on the Environment etc., working for the environmental development and conservation. This country is rich in natural resources and therefore, her policy should be made on these resources accordingly for the purposes of economic development. The policy reads as follows: "for continuous economic, social and cultural progress and enhancement of the quality of life of Malaysians, through environmentally sound and sustainable development." There are many policies on the environment. The National Forest Policy (NFP) seeks to ensure the maximize social, economical and environmental benefits through the adoption of sound forest management practices. The National Agricultural Policy's (NAP) (1992-2010) aim is to create a market-led, commercialized, efficient, competitive and dynamic agricultural sector in the context of sustainable development. The National Mineral Policy 1992 aim is to balance the expansion of the mineral industry with the protection of associated environmental and social impacts led to the creation of the Mineral Development Act 1994. The National Policy on Biological Diversity 1998 was formulated to conserve, manage and promote the sustainable utilization of biological resources. The National Coastal Zone Management Policy was formulated in order to protect coastal and marine resources. The national Policy on the Environment (NEP) was passed to serve as a guide to achieving economic, social and cultural progress through environmentally sound and sustainable development. The objectives of the policy are the stewardship of the environment, conservation of nature's vitality and diversity, continuous improvement in the

quality of the environment, sustainable use of natural resources, integrated decision making, and the role of the private Sector, the commitment and accountability and active participation in the international Community etc.

VI. Case Studies:

Most of the respondents think that the environmental laws and policies are not properly implemented due to some causes and problems such as:

- 1) Lack of enforcement
- 2) Lack of trained lawyers to deal with regulating environmental quality.
- 3) Non implementation of the law that "polluter pays"
- 4) Lack of authority in issuing licenses to development projects including industries after formal assessment in the light of environmental considerations
- 5) Lack of monitoring and continuous assessment
- 6) Lack of coordination between legal authorities and technical authorities in framing as well as respecting environmental issues.
- 7) Lack of qualified planners/ policy makers
- 8) Lack of holistic approach
- 9) Procedural and structural weakness of bureaucracy in implementation of policies
- 10) In adequate information of natural resources and scientific research etc.

Lack of Effective Mechanism-It bears little significance due to the fact that there is no effective mechanism for ensuring enforcement mechanisms and compliance. It should be endowed with appropriate powers and responsibilities and should be acting as a form of international administrative agency. This institution will work as a fiduciary role in protecting the environment as supported by Alan E. Boyle discussed in the *saving the World? Implementation and Enforcement of International Environmental Law through International Institutions*. The little attention is paid to the effectiveness of the new body of law. The environmental laws are not self-executing and they cannot function in the absence of the effective implementation. It is evident that the conservation laws which are not carefully adapted to the distinctive political, social, economic, cultural and ecological conditions in each developing nation are likely to prove useless or worse.

Inadequately Designed Legal Mandates-Most of the international environmental laws in developing states have been poorly conceived. They are overly general, deliberately ambiguous, often self contradictory, excessively lenient, lacking in real teeth.

Moreover, an inadequate Political Commitments and Popular Support is also observed in compliance with the laws and policy. Monitoring is also still lacking in this process. Unfortunately, environmental laws are only hortatory words unless they are implemented effectively, yet, non- implementation, non-enforcement and non-compliance are so common that they must be viewed as the norm rather than exception in the great majority of nations.

VII. Recommendations:

In order to attain sustainable environment and development, we need to emphasize these following issues:

Need to Implement the Results of the Case Study:

It is important to note here that we need to implement the results of this case studies and findings that would be very much helpful for sustainable environment and development.

To Implement the Religious Including Islamic Principles of Environmental Laws:

Actually, the man made laws are not adequate to solve the environmental problems in the world. We need to realize and the implement the religious based principles to bring a happy and peaceful life in the world including Malaysia

Environmental Participation:

In order to keep the environment free from pollution and good management, there has to be a level of consciousness with regard to the importance of the environment. It means that awareness building regarding the environmental conservation and development are to be made immediately. More participation is very important for the environmental conservation and development. Good Governance is to be established.

The Rule of Law:

It may be one of the tools for the compliance procedure. Ever one of the state mechanisms should be given importance and placed in the eye of law.

Need to ensure Ethics, Transparency and Accountability:

It may be one of the tools also that may be helpful to the better governance for ensuring the environmental rights to all. In all administration, this element of the good governance is to be made.

Access to Justice:

Access to the courts could also be improved upon. The judicial activism as is done in other common law jurisdictions like India may be taken into consideration and may be taken appropriate action.

Need to Introduce the Freedom of Information Act:

Information should be made freely and the Official Secrets Act ought to be refined. Due to the fact that the information is power and it is storehouse of knowledge may bear a substantial impacts on the governmental functions and its environmental aspects. However, freedom of information may be called the oxygen of democracy. In fact, it is an essential part of a good government. The right to information is crucial to accountability and good governance. It facilitates the greater participation. There should be a freedom of Information Act opening to the public data that would help in an achieving greater efficacy in environmental activism.

Need to do some Institutional Improvements:

In order to implement and comply with the international environmental treaties, some institutional initiatives may be made in this regard. Most of the cases, it is observed that the developing and under developed countries do not able to establish their institutional development and that is why; the environmental compliance with the international treaties are not made.

Need to enhance Coordination:

In many cases, the enforcement of a treaty requires the co-operation of more than one governmental agency. It would be helpful therefore if there is a proper coordinating mechanism that links all the disparate groups together. It is a remarkable that the coordinating laws have been passed to co-ordinate the concerned stakeholders. We need to establish co-ordination among all the authorities in this regard.

Need to provide with Trainings:

Training should be a priority. Training on the importance on the environment and on the technical matters may be given for the interest of the people. Training is vital for the conservation and environment issue. We need to provide training to the relevant sections of people.

Need to strong Political Commitment:

In the quest for grater compliance issue and interest, the common mistake is to blame the lack of political will on the part of the government of the time. We need to be politically motivated to face the environmental challenges.

To Enhance Judicial Trainings:

It is observed that the judiciary is not given any environmental awareness training to the stakeholders.

To comply with the Environmental Issues:

Expert's opinions on Compliance Issues applicable to Malaysia. According to author Terri Mottershead in the concluding remarks in the as mentioned earlier that compliance could be made by two ways such as Enacting Environmental Laws and the Enforcing Environmental Law. This study also suggested the following ways for the compliance with the Environmental Laws such as conciliatory methods, positive incentives and coercive measures. Justice Thornton & Silas Bechwith argued that various powers are important to assist the regulators in discharging their duty to ensure compliance. Alexandre Kiss and Dinah Shelton Editors stated that in the Compliance and Dispute Settlement Chapter argues that the credible monitoring system is required for this purposes. *The writes also said that the Prevention is the 'Golden Rule' for the environment both for ecological and economic reasons due to the fact the environmental damage cannot be measured. Therefore, the compliance procedure should be preventive minded. The writer emphasized that the penal provisions should be made adequately for discouraging violations wherever they occur. It is remarkable that International environmental law emphasizes on mechanisms and procedures that are non-coercive or non contentious. The objective is to prevent any violation of environmental norms and assure respect and promotion of it.*

The control mechanisms considered primarily as forums for observing the behaviour of the parties and only secondly as a means of resolving conflicts through discussion and negotiation. The principles and obligations of International Environmental Law and Policy give guidance to States in their drafting of national and local environmental laws and procedures. The discussed techniques and procedures serve to direct the implementation on international norms and standards. The actual techniques and procedures adopted in each legal system will reflect local priorities and conditions as well as international law. Careful choices and legal drafting will assist in making law an effective tool to protect and preserve the environment.

VIII. Conclusion:

From the above study, it may be mentioned that the government in Malaysia is very conscious about the environmental development and conservation issues. In the meantime, some important environmental laws and policy as mentioned in the above are very much important for environmental development and conservation in Malaysia. The environmental laws and policy issues are quite environmentally healthy compared to other many developing countries in the world in terms of compliance. The government should be more aware in enforcement on the law and order situation in the country. The government should give more emphasis on the transparency and accountability of the administration along with the environmental organizations particularly in the police administration and decision making process. The power and functions of the general administration may be very clearly defined in their activities along with the completing work tenure and defining ranging of their file work. Many foreigners have been working in this country in the different capacity. The government may closely look into their interest and outcomes of the economy. If the government is more healthy and friendly to the foreigners, the country will be developed much very soon. The coordination in all hands should be urgently be made. All rules and regulations in the land should effectively be implemented with clean hands. The Malaysian government has been working in line with some international environmental principles such as the precautionary principles, the environmental impact assessment; the polluter pays principles, English common law principles, global and regional participation, Islamic principles, the principles of the public international laws etc; governing the environmental development and conservation. Moreover, some important legislations as mentioned above such as the Malaysian Quality Act 1974, the Fisheries Act, 1985; the Protection of Wildlife Act 1972; the Pesticides Act 1974; the Petroleum Mining Act 1966; the Land Conservation Act, 1960; the Water Act 1920; the Natural Resource Act 1949; the Forest Enactment 1935; the National Forestry Act, 1984; the Land Development Act 1956; the Stockholm Conference 1972; the Earth Summit Declaration 1992; the Johannesburg Conference 2002 etc; have been working as environmental development tools for Malaysia.

Last but not the least, the recommendations and findings of the study should be carefully studied for the interest of the nation. The recommendations as made in the study should be carried out properly and necessary laws and policy should be formulated in this regard.

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<http://www.env.go.jp/earth/coop/oemjc/malay/e/malaye1.pdf>; accession on 29.09.2010 at 10:58 A.M and Section 2: Current Environmental Issues in Malaysia has been discussed about the status of the environment.

Wan Portiab Hamzab, "Environmental Governance in Malaysia", *Environmental Governance in Asia: Synthesis Report on Country Studies*, Hisakazu Kazu KATO, Project Leader, Environmental Governance Project, Institute for Global Environmental Strategies, pp: 31.

The study will examine potentialities and constraints of the environmental laws and policies in Malaysia consisting of 25 respondents in different criteria such as the professionals including foreigners, local people, old aged people, law enforcing agency, students etc., based on the primary and secondary sources through structured and unstructured in Melaka City, Malaysia. The ISO 14001 manufacturing firms in Malaysia are contributing towards the problems in regards to environment sustainability as result of significant amount of energy and waste being generated. ISO 14001 is essentially a certification for the best practices been adopted for environmental management. Mohammad, N.: Environmental Law and Policy Practices in Malaysia: An Empirical Study. Australian Journal of Basic and Applied Sciences 5(9), 1248-1260 (2011) MathSciNet Google Scholar. 24. Holt, D., Ghobadian, A.: An empirical study of green supply chain management practices amongst UK manufacturers. Journal of Manufacturing Technology Management 20(7), 933-956 (2009) CrossRef Google Scholar. Copyright information. [6] Mohammad N (2011), Environmental law and policy practices in Malaysia: An empirical study. Australian Journal of Basic and Applied Sciences 5, 1248-1260. [7] Sangodoyin AY & Ipadeola SF (2000), Hazardous wastes assessing the efficacy of structures and approaches to management in Nigeria. Environmental Management and Health 11, 39-46. [8] Intra C & Zahn T (2014), Transformation-waves-A brick for a powerful and holistic continuous improvement process of a Lean production system. Procedia CIRP 17, 582-587. [9] Krittanathip V, Rakkran S, Cha-um S & Klamdej I (2013), Development of weighting on self-assessment evaluation for total quality management: A case study of wholesale sectors. Procedia-Social and Behavioral Sciences 88, 49-60. Trade and the environment: an empirical analysis - the case of Malaysia. Mohd Uzir Bin Mahidin. A thesis submitted to the University of Sheffield for the degree of Doctor of Philosophy in Economics. 3.1 Introduction 3.2 Overview of the Country Climate and Rainfall 3.3 Energy Consumption and Its Trend 3.4 Environment Policy and Regulation. ii. 27-30. As basis for environmental law and regulations, policies have been originated to manage and mitigate possible environmental problems in future. Though, governmental economic policies that formulated by government always mentioned as a main reason for the current environmental problems. Initiation of various environmental policies and regulations has not been able to protect upcoming environmental damages. Sarawak Forest Ordinance 1954 There are so many real environmental cases in Malaysia and other countries relevant to this issue, we mention in the present article to two real cases as example: 1- Mitigating the palm oil effluent problem in Malaysia: can be traced back to 1960s when (a) the prices of the competing crop "rubber" began to fall; and (b) the.