
National Biodiversity Policy 1998 (Factual source):
- No single comprehensive legislation;
- Existing legislative framework is sectoral; and
- The provisions of the Constitution of Malaysia 1957 have led to legislative non-uniformity.

Terms and Context:
- Biodiversity
- Conservation
- Biodiversity Conservation

Elements and attributes

Method to profile

Biodiversity Conservation in Malaysia

Policy
- Reviewed the Federal Constitution – determined the link between Biodiversity Conservation with Legislative and Executive Provisions
- Profiled statutes related to Biodiversity, Biodiversity Conservation, and matters related to biodiversity and biodiversity conservation – emphasis to see coverage over the scope and aspects identified which can be related to directly and indirectly to conservation

Law/Statute
- Analysed present position in respect of biodiversity conservation: focusing on policy directions and thrusts
- Revolved the Federal Constitution – determined the link between Biodiversity Conservation with Legislative and Executive Provisions
- Profiled statutes related to Biodiversity, Biodiversity Conservation, and matters related to biodiversity and biodiversity conservation – emphasis to see coverage over the scope and aspects identified which can be related to directly and indirectly to conservation

Gaps/ mismatches

Options
- Key points for integration:
  - ‘What’
    - Consolidate use of terms etc;
    - Clarify mandates, jurisdictions and scopes/ coverage;
    - Facilitate ‘cooperative federalism’
  - ‘How’
    - Identify and set out provisions to encompass information, scientific and technical advice, support and measures;
    - Establish information repository and systems;
    - Develop provisions for measures to aid management and conservation suited to type, locality and scale, whilst acknowledging jurisdictions

Recommendation
Draft statute: structure: General principles; Legislative arrangements; Arrangements to reflect the cooperative federalism approach
Proposed Content: Eight Parts: Part 1: Application of the Act; Part 2: Specific interpretation and use of terms; Part 3: Administrative matters (address mandates, jurisdiction, scopes plus acknowledge other existing statutory instrument and provisions); Part 4: Provisions – information, survey etc related to intelligence gathering; Part 5: Conservation measures (how to as opposed to what to) to be adopted (national, state and local); Part 6: R&D; Part 7: Funding; Part 8: General aspects to powers, offences and penalties.

Concluding Points
- Federal constitution does not specifically provides for biodiversity or biodiversity conservation – but related aspects available (legislative/executive)
- There are multiple statutes related to biodiversity
- A statute that integrates multiple approaches pegged on information and scientific as well as technical advice is possible
- Adoption of the Cooperative Federalism approach when structuring statute is possible
- Structure – General principles of drafting apply – with emphasis on the purpose rather than the intent which will benefit the purposive approach when interpreting in light of there being scientific uncertainty, and regulatory measures to be determined based on existing jurisdiction and mandates

Contribution
- Knowledge:
  - LAW: Drafting theory, method and approaches: Means of integrating science into a statute even with scientific uncertainties; promulgation of an integrative statutory framework that facilitates cooperative federalism
  - SCIENCE: Approaches: Options to translate scientific measures for use in statutes
- Society, Environment and Natural Resources: Means to facilitate regulation of maintenance of ecological systems that will ensure optimum services and functions

Problem statement:
What are the options available to structure a single comprehensive statutory framework that sets out the objective, integrates different approaches across sectors, and introduce uniformity for biodiversity management and conservation?