



PLANNING MALAYSIA:

Journal of the Malaysian Institute of Planners

VOLUME 21 ISSUE 1 (2023), Page 101 – 115

PUBLIC PARTICIPATION IN ENVIRONMENTAL IMPACT ASSESSMENT (EIA) LAW IN MALAYSIA: A CRITICAL ANALYSIS

Loh Ing Hoe¹, Mohd Khairul Amri Kamarudin², Chong Ju Lian³, Roslan Umar⁴ & Ling Chen Yii⁵

¹School of Business and Management,

RMIT UNIVERSITY, HỒ CHÍ MINH, VIETNAM

²Faculty of Applied Social Sciences,

⁴East Coast Environmental Research,

UNIVERSITI SULTAN ZAINAL ABIDIN, TERENGGANU, MALAYSIA

³Faculty of Science and Marine Environment & Institute of Tropical,

Biodiversity and Sustainable Development,

UNIVERSITI MALAYSIA TERENGGANU, TERENGGANU, MALAYSIA

⁵Faculty of Business,

CURTIN UNIVERSITY MALAYSIA, SARAWAK, MALAYSIA

Abstract

Public participation in environmental impact assessment has been recognized under Principle 10 of the Rio Declaration on Environment and Development. According to Principle 10, the public shall have right to access to information, participate in decision making process and their voice shall be heard. Malaysia has implemented environmental impact assessment under Article 34 of Environmental Quality Act 1973, Article 12 of Sabah Environment Protection Enactment 2002 and Section 11A of Sarawak's Natural Resources and Environment Ordinance 1993. This paper will look into the public participation in environmental impact assessment in Malaysia, Sabah and Sarawak. Qualitative methodology with analytical, historical and comparative approaches was used in this study. Result indicates that public participation has been mentioned in all three legislations. However, there is no guideline as to the level of participation by the public and how the information shall be delivered to the public.

Keywords: Public, participation, environmental, impact, assessment

¹ Lecturer at RMIT University. Email: loh.inghoe@rmit.edu.vn

INTRODUCTION

Principle 10 of the Rio Declaration on Environment and Development states: -
“Environmental issues are best handled with participation of all concerned citizens, at the relevant levels... at the national level, each individual shall have appropriate access to information concerning the environment held by public authorities... and the opportunity to participate in the decision-making process. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.”

Principle 10 emphasises that the people should have access to information on the environment held by public authorities, defined as the ability of citizens to obtain environmental information in possession of public authorities. Environmental information” includes information about air and water quality and information about whether any hazardous chemicals are stored at a nearby factory. States should facilitate and encourage public awareness and participation by making information widely available. There should be participation by the people in decision-making processes where participation refers to informed, timely and meaningful input and influence affecting decisions on general policies, strategies, and plans at various levels and on individual projects that have environmental impacts (Rasdi et al., 2022; Azinuddin et al., 2022). There shall be access to judicial and administrative proceedings including redress and remedy. This includes the ability of a citizen to turn to impartial and independent arbiters to resolve disputes over access to information and participation in decisions that affect the environment or to correct environmental harm (Mohd et al., 2019; Wahab et al., 2019). Such impartial arbiters include mediators, administrative tribunals, and courts of law, among others (Janice, 2013).

Malaysia has consented to the context of the Rio Declaration. However, Rio Declaration on Environment and Development is a non-binding document which encourages its members to follow the principles listed down in its document and has no binding effect on its members. Even though Rio Declaration on Environment and Development has no binding effect on its members and is considered a soft law, its role to develop an environmental impact assessment law nationally still proves to be necessary. Malaysia has developed its environmental impact assessment law in compliance with Principle 10 of the Rio Declaration on Environment and Development. Therefore, further research has been done to analyse the public participation in environmental impact assessment in Malaysia.

Public participation in environmental impact assessment has been emphasised in Peninsular Malaysia, Sabah and Sarawak. However, guidelines have yet to be introduced regarding the methods of information to be delivered, the level of participation of the public in the decision-making process, the method to enhance public awareness, and how the public can be involved in judicial and

administrative proceedings. The research objective was to compare public participation in environmental impact assessment in Malaysia, Sabah and Sarawak. This study will be essential to improve the legislation related to public participation in environmental impact assessment in Malaysia.

LITERATURE REVIEW

In his article, namely, Principle 10, the Aarhus Convention and Status of Public Participation in Environmental matters in the Malaysia Law with Special Reference to EIAs, Professor Abdul Hasseb Ansari has stated that the scope of EIAs has further been widened by associating it with social impact assessment, where proposed activities might leave adverse social economic or cultural impact, especially where due to such activities, a sizable number of people will have to be displaced or will otherwise be affected presently or in future. 'Social impacts' include all social and cultural consequences immediate or in the past to the human population of any public or private actions that alter the ways in which people live, work, play, relate to one another, organise to meet their needs, and generally cope as members of the society. Cultural impacts involve a change to the norms, values and beliefs of individuals that guide and rationalise the cognition of themselves and their societies. They, thus, have the potential to positively contribute to planning processes and developmental activities in a positive way in 2009.

Public participation in environmental impact assessment is rather essential. According to Jeremy Water (1996), public participation is crucial in the decision-making for proper enforcement of the law and bringing justice to door steps of a class of people who might, directly or indirectly, be affected by the proposed activity and remain silent sufferers. Projects must sometimes be abandoned because of the strong public opinion against them. For achieving these objectives, public awareness has to be a priority endeavour in matters essential concerning the condition of the environment vis-à-vis developmental activities and strategies required for abatement and control of environmental degradation.

Generally, public participation is considered a relationship between the public and the decision-maker that ranges from the provision of information sharing and reaching consensus on the form and modality of the proposed development planning or developmental project through various forms of interactive consultations. This is because for various reasons, direct public control in the decision-making on all kinds of EIAs, is crucial. Notable among them are: infusing into them the basic idea of environmental democracy as it brings all stakeholders, the proponent, the government authorities and the public, together; linking environmental rights and human rights; ensuring environmental justice. It also provides opportunity to large group of people to think about the possible adverse impact of proposed projects on the environment and society, which will invariably bring in a sense of confidence about development projects and will

suggest certain measures to be taken that were not anticipated by proponents or the experts at the Department of Environment (Abdul, 2009).

According to Glasson, Therival and Chadwick (1999), public participation in decision-making in an EIA process brings together developers, government authorities and the public that helps to clear up misunderstanding and hatches a better understanding of relevant issues, meets public needs, enhances access to environmental information, leads to better development decisions and results in fewer court cases because areas of controversy are identified and most of them are hammered out at the early stage of the development or planning process, minimizes public frustration and anger, potentially enhances public trust of government decision-making, and strengthens credibility of the EIA regime.

According to Paul Stookies (2003), public participation at the initial stage of a project saves both time and money. It was held in the case of *Berkley v. Secretary of State for Environment* that in a decision-making pertaining to an EIA, the public should be properly involved. Lord Hoffman stressed that the directly enforceable right of the citizen under the UK Directive on EIA was not merely a right to a fully informed decision on the substantive issue. It must have been adopted on an appropriate basis and that required the inclusive and democratic procedure prescribed by the Directive in which the public, whoever misguided or wrongheaded its views, would have been given opportunity to express its opinion on the environmental issues.

Professor Lye Lin-Heng, director of Asia-Pacific Centre for Environmental Law stressed that government should consult the public, some of whom may have very specialized knowledge, to make well informed decisions (The Straits Times, 2014). However, implementation of EIAs especially in term of public participation in decision-making has its obstacles. According to Ahmad and Sammy (1984), various perceived issues and problems associated with environmental impact assessment, such as time delays, costs increases, lack of expertise, obstruction to development progress, possible negative effects on economic growth and public participation implications. In their paper namely *Environmental assessment in Singapore: an enigma wrapped up in a mystery*, Clive Briffett and Jamie Mackee (2002) stated that it has been shown through experience, particularly in the East Asia region, that the fears of adverse effects on economic growth are generally unfounded and if long-term issues are accounted for even the economic benefits of using environmental impact assessment far exceed the drawbacks. At the same time, due to the cost hikes and delay of projects, in many cases, proponents are in a hurry and want the projects started soonest possible. In some cases, authorities also want to start certain projects without any delay, and sometimes prefer developments on environment or people.

These cases happened often in Singapore where Joseph Chun (2005) has discussed the tension that arise from inadequacies in Singapore's 'aw,

particularly the lack of a mandatory environmental impact assessment law and the lack of institutionalized avenue for public participation, which have enabled the government to acquire sensitive nature and heritage sites for development.

From the discussion, it can be concluded that public participation in early stage of proposal a project is necessary to minimize the impact of the development to environment as well as the public. For the research design, the qualitative methodology with analytical, historical and comparative approaches was used in this research.

RESULT AND DISCUSSION

Specific Legal Provisions for Environmental Impact Assessment (EIA) (Environmental Legislation)

Malaysia is a federation. The country practices federalism whereby the power to govern the country is divided between two levels of government, namely the federal government and the state governments. Each state has the power to govern themselves and make their own law and policy. The non-interference principle is applicable between the federation and the states whereby the federal government cannot interfere with subject matters of the state, and the state cannot interfere with the subject matter of the federal government.

The territorial jurisdiction of laws made by the state governments and federal government are stated in Article 73 which provided that:- “In exercising the legislative powers conferred on it by this Constitution, (a) Parliament may make law for the whole or any part of the federation and law having effect outside as well as within the federation; and (b) the legislature of a state may make laws for the whole or any part of that state.”

The Parliament makes law for the federal government and legislative assemblies of the states make law for their respective states. The subject matter of legislative jurisdiction for state governments and federal government is based on Article 74 which shall be read together with the 9th Schedule of the Malaysia Federal Constitution. Article 74 which namely ‘Subject matter of federal and state law’ states that Parliament may make laws with respect to any of the matters enumerated in the Federal List (First List of the Ninth Schedule) or the Concurrent List (Third List of Ninth Schedule) and ‘the Legislature of a state may make laws with respect to any of the matters enumerated in the State List (Second List of Ninth Schedule) or the Concurrent List.’

Additionally, Article 77 of the Federal Constitution states ‘the Legislature of a state shall have power to make laws with respect to any matter not enumerated in any of the List set out in the Ninth Schedule, not being a matter in respect of which Parliament has power to make laws.’

In addition to the matter mentioned in the State List and Concurrent List, Article 95 (1) states that, in the case of the states of Sabah and Sarawak: (a) the supplement to List II set out in the Ninth Schedule shall be deemed to form

part of the State List, and the matters enumerated therein shall be deemed not to be included in the Federal List or Concurrent List and (b) the supplement to List III set out in the Ninth Schedule shall, subject to the State List, be deemed not to be included in the Federal List (but not so as to affect the construction of the State List, where it refers to Federal List).

Based on Second List (State List), land which including land tenure, land improvement and soil conservation (2(a)), permits and licenses for prospecting for mines; mining leases and certificates (2(c)), and forest (3(b)) are under the jurisdiction of state and federal intervention is prohibited. However, if the matter is under the First List, the EQA 1974 will be applicable in Malaysia, Sabah and Sarawak.

(a) Federal Legislation for EIA

The Environmental Quality Act (EQA) was formulated in 1974 to prevent, abate, and control pollution and to enhance the environmental quality in Malaysia. Regulations and Orders have been made under the EQA to control and manage various environmental aspects. The administration of the EQA is entrusted to the Department of Environment (DOE) Malaysia. The DOE, an agency of the Ministry of Natural Resources and the Environment, is the authority established under the EQA and plays a key role in the enforcement of the provisions of the Act and its subsidiary regulations. (DOE, 2016).

Environmental Impact Assessment (EIA) is a statutory requirement for activities which have been prescribed under Section 34A of the EQA. Section 34A(2) of the Act stipulates that any person intending to carry out any of the prescribed activities shall, before any approval for the carrying out of such activity is granted by the relevant approving authority, submit a report to the Director General.

The report shall be in accordance with the guidelines prescribed by the Director General and shall contain an assessment of the impact such activity will have or is likely to have on the environment and the proposed measures that shall be undertaken to prevent, reduce or control the adverse impact on the environment. The main highlights of EIA provisions in the EQA 1974 are summarized in Table 1.

Table 1: EIA provisions in the EQA 1974

Section	Description
34 A (1)	The Minister may prescribe any activity which have significant environmental impacts as prescribed activity.
34A (2)	Appointment of qualified person to conduct EIA
34 (2)(A)	Director General shall maintain a list of qualifies persons
34A (2)(B)	Qualified person shall be responsible for the EIA
34A (2)(C)	EIA report shall be in accordance with the guidelines

34A (3)	Director General can approve the EIA report with conditions and inform relevant approving authority
34A (4)	Director General may not approve the EIA report if not consistent with physical plan or fulfil the guidelines
34A (5)	Director General can require the submission of additional reports other than the EIA report
34A (6)	Activity is not to be carried out until EIA report is approved
34A (7)	Responsibility of the proponent to provide proof of compliance with conditions of approval
34A (8)	Fine not exceeding five hundred thousand or imprisonment for contravening section 34A
34AA	Director General may issue prohibition or stop work order

(b)State Legislation

The states of Sabah and Sarawak enacted their own environmental legislations requiring Environmental Impact Assessment for activities which fall within the state jurisdiction. These include activities associated with the exploitation, development and use of land and natural resources including water, soils, minerals, forest, and other resources.

(i)Sabah Environment Protection Enactment 2002

Section 12 of the Enactment provides for the Minister to prescribe any development activities which is likely to have an adverse effect on the environment to be a Prescribed Activity for which an EIA or a proposal for mitigation measures is required to be submitted to the Director of the Environment Protection Department (EPD) for approval.

The Enactment provides powers the Director to not approve environmental impact assessment report or the proposal for mitigation measures if he is of the opinion such report or proposal does not provided for the protection of the environment (Section 12(6)). Two subsidiary Orders have since been established to bring into effect the provisions of this Enactment.

The Environment Protection (Prescribed Activities) Order 2005 spells out the 12 groups of prescribed activities. The Order further categorizes the prescribed activities into First and Second Scheduled which differ in the type of EIA Report submission required to be made to the Director of the EPD. Prescribed activities under First Schedule are required to submit a proposal for mitigating measures while prescribed activities under Second Schedule are required to prepare and submit an EIA Report. The Director of the EPD may by a notice in writing to the project proponent to cease a prescribed activity in the event of non-compliance with the conditions of approval issued for the prescribed activity.

(ii) Sarawak’s Natural Resources and Environment Ordinance 1994

The Natural Resources and Environment (Prescribed Activities) Order, 1994 (Sarawak) made under the Natural Resources and Environment Ordinance 1993 stipulates the types of activities which are subjected to an environmental impact assessment. Activities prescribed under the Ordinance are related to the development of natural resources of the State.

The provision of this Ordinance is quite similar to that of the EQA and the Environmental Protection Enactment in Sabah. Section 11A of the Ordinance confers power to the Natural Resources and Environment Board (NREB) by Order, to require any person undertaking a prescribed activity to submit a report on the impact of such activities on the natural resources and environment to the Board for its approval. A unique feature of the Ordinance is the provision for early commencement of preparatory work for the activity or part of it (such as earthworks) prior to the approval of the EIA Report. (DOE, 2016).

Legal provisions address the issues raised in Principle 10 of the Rio Declaration

Principle 10 of the Rio Declaration states, “Environmental issues are best handled with participation of all concerned citizens, at the relevant levels... at the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities... and the opportunity to participate in the decision-making process. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.”

This principle, thus, has four pillars: appropriate access to information; opportunity to participate in the decision-making process; enhancing public awareness; and effective access to judicial and administrative proceedings.

(a) Federal Environmental Impact Assessment Guideline

In Malaysia, EIA Reports for activities falling under the First Schedule are to be submitted to the respective DOE state offices, while those falling under the Second Schedule are to be submitted to the DOE Headquarters. If a project is located on a site involving two or more states, the Report shall be submitted to the DOE Headquarters. The EIA Report Submission Requirements are summarized in Table 2.

Table 2: EIA Report Submission Requirements

Item	First Schedule Activities	Second Schedule Activities
Submission of EIA Report	DOE State* (*For prescribed activity that traverses across states, the EIA	DOE Headquarters

		report shall be submitted to the DOE Headquarters)		
No. of EIA Report	Five (5) weeks procedure	<ul style="list-style-type: none"> • Minimum twelve (12) hard copies and 1 soft copy to State DOE • Minimum one (1) hard copy and 1 soft copy to DOE HQ 	Minimum thirty fives (35) hard copies and one (1) soft copy	

During submission stage of EIA Report, several individuals and organizations play important and specific roles and shoulder different responsibilities in the EIA procedure. The roles and responsibilities are briefly described.

(i)The Project Proponent

The Project Proponent (PP) is an individual or organization that is proposing to undertake the development of a prescribed activity. The PP may be from the public or the private sector and he may be represented by a consultant. He may delegate the task of conducting the environmental impact assessment of the project to his project consultant or to another organization but he remains ultimately responsible for the content of the EIA Report on hid project.

(ii)The EIA Consultant

The EIA team leader who may work for an EIA consulting firm and the subject matter experts shall be DOE-registered consultants who shall maintain professionalism in conducting a comprehensive EIA study and produce a quality EIA Report that is useful for decision-making purposes.

(iii)The Environmental Related Agencies and Experts

Environmental related agencies and individuals who have vast technical expertise and experience in specific areas have an important role to play in providing relevant inputs on environmental impacts, impact study techniques, and pollution prevention and mitigation measures. The Inputs from these agencies and individuals may be sought by the DOE whenever deemed necessary.

(iv)The Public

Public participation is an essential and integral part of project development to provide an avenue for the public to channel their views on the proposed project. Public engagement is a direct method of obtaining information on the concerns of the impacted community resulting from the project implementation. Some form of public participation to obtain their inputs to the EIA study shall be

implemented which may include public engagement and public display of EIA Reports.

(v) The Technical Review Committee

The review of the EIA Reports is carried out by a committee known as the EIA Technical Review Committee (EIATRC) established both at the DOE state office and at the DOE Headquarters. The EIATRC at the DOE state office reviews the EIA Reports of activities under the First Schedule while the EIATRC at the DOE Headquarters Reviews Reports of activities under the Second Schedule. Members of both EIATRC are the TRC members, representatives from relevant government agencies (GAS), and individuals appointed (Als) from within or outside of the DOE, who have vast technical experiences in the relevant areas related to the proposed project. The technical areas may include potential project environmental impacts, impact study methodologies, and applicable pollution prevention and mitigation measures. Additionally, Non-Governmental Organisations (NGOs) may also be invited to sit on the committees as general representatives or as Appointed Individuals (Als). In the case of the EIATRC at the DOE state offices which reviews EIA Reports of the First Schedule activities, Als will only be appointed when needed on a case to case basis, as described earlier (DOE, 2016). The general requirements on EIA Report review are summarized in Table 3 while the committees involved in the review process are summarized in Table 4.

Table 3: General Requirements on EIA Report Review

Components of EIA Review Process	First Schedule Activities	Second Schedule Activities
Submission of EIA Report	Submit to DOE State Office	Submit to DOE HQ
Public Participation in EIA study	No required	Required
Public display of EIA Report	Not required	Required
Web display of EIA Report	Required. Submit softcopy of the EIA Report to DOE Office	Required. Submit softcopy of the EIA Report to DOE HQ
Advertisement of EIA Report	Not required	Required. Advertise in two major newspapers.

Table 4: Summary of Committees involved in EIA Report Review Process

Details of Review Committee	First Schedule Activities	Second Schedule Activities
Name of Review Committee	DOE State Office	DOE Headquarters

Chairperson of Review Committee	EIA Technical Review Committee (EIATRC) Director of DOE State Office	EIA Technical Review Committee (EIATRC) Director General of Environment
Members of Review Committee	DOE State officers, appointer individuals (Als) – in certain circumstances, representatives from Government Agencies (GAs) and NGOs	DOE Head Office officers, appointed individuals (Als), representatives from Government Agencies (Gas) and NGOs, if required

(b) State Guideline on Environmental Impact Assessment

(i) Environment Protection (Prescribed Activities) (Environmental Impact Assessment) Order 2005

First Schedule of the Environment Protection (Prescribed Activities) (Environmental Impact Assessment) Order 2005 listed down the Prescribed Activities Requiring Proposal for Mitigation Measures Report without requiring environmental impact assessment report while Second Schedule listed down the Prescribed Activities Requiring Impact Assessment Report. Based on the Handbook on Environmental Impact Assessment in Sabah 2005 (Environment Protection Department, 2005), environmental impact assessment studies for the prescribed activities listed in the Second Schedule of the Order are classified into two types, namely Normal-EIA and Special-EIA. Normal-EIAs are usually conducted for projects where the environmental impacts are localized, and the local sensitivities are not significantly affected. Special-EIAs are conducted for projects having special magnitude and sensitivity regarding the environmental impacts which may extend beyond the geographical boundaries of the project site and/or can adversely affect the welfare of local communities. A comprehensive and detailed assessment of the primary and key environmental issues and impacts are required to evaluate mitigation measures and monitoring programme.

The main criteria used to determine the type of environmental impact assessment studies including extent of focus of primary issues of concern; environmental sensitivity of location, magnitude of potential impacts; geographical extent of potential impacts; significance to government policies and guidelines; and local sensitivities such as aesthetic or cultural concern. Public hearing shall be conducted for Special-EIAs. This provides a two-stage opportunity for the public to submit views and comments. In Stage 1 (Term of Reference for special-EIA), a period of 14-days or such period as determined by the director shall be given to the public to submit their views and comments on any pertinent environmental issues and concerns that should be addressed in the EIA study. In Stage 2 (Review of Special-EIA Reports), a period of 30-days or such period as determined by the Director shall be given to the public to comment

on the validity and relevance of the assessment, proposed mitigation measures and monitoring programme.

The public hearing shall be announced in the major local newspapers in at least two major languages, namely Malay and English. The project proponent shall bear the cost for the public announcement. A minimum size of ¼ page is required for the notification. Specific guidelines on the format of the notification can be obtained from the Department. Copies of the Term of Reference and the Special-EIA reports shall be made available at the Department's office and homepage; main branches of the state library; and the environmental consultant office. Written responses to the views and comments by the public shall be made available at the Department's office and home page.

(ii) Sarawak Natural Resources and Environment Ordinance 1993, The Natural Resources and Environment (Prescribed Activities) Order, 1997

Article 2 of the Natural Resources and Environment Ordinance 1993 defines "Board" as the Natural Resources and Environment Board, "Controller" as the Controller of Environmental Quality, appointed by the Board under section 3(9) of the Ordinance, "Ordinance" as the natural Resources and Environment Ordinance, and "Prescribed activities" as any of the activities specified in the First Schedule.

Under Article 3(1) of the Natural Resources and Environment Ordinance 1993, any person who intends to undertake any of the prescribed activities shall submit to the Board a report, which is to be prepared by such expert or authority as may be approved by the Board.

Article 3(2) states that before preparing a report for submission to the Board as required under paragraph (1), the person or authority who undertakes to prepare the report shall consult the controller on the scope and depth of coverage of such report which cover on the impact of such activities on the environment and on the sustainable utilization, preservation and management of natural resources of Sarawak; and on the measures being preventive, mitigating or abatement to be taken for the protection and enhancement of the environment.

Such report shall be submitted to the Board, through the Controller and shall be in the Form prescribed in the Second Schedule hereto, which may be used with such modification as may be required, depending upon the circumstances of each particular case. Some of the important chapters under the Form of Report are listed in Table 5.

Table 5: Main Chapter under Form of Report

Chapter 3	3.3 Social-Economic and Population Characteristics - Settlement and Population - Economic Characteristic - Level of Education
-----------	--

	- Living Standards
	- Public Health
	- <i>People Acceptance of Project</i>
Chapter 4	4.1 Impacts During Preparation and Construction
	4.2 Impacts During Operation and Maintenance
Chapter 5	5.5 Mitigation Measures
	5.2 Environmental Management Plan and Monitoring
Chapter 6	6.1 Identification of Residual Impacts
	6.2 Recommendation for Management

Critical Analysis on the Implementation of Principle 10 of the Rio Declaration into Malaysia Legislation

Principle 10 of the Rio Declaration has four pillars: appropriate access to information; opportunity to participate in the decision-making process; enhancing public awareness; and effective access to judicial and administrative proceedings. How far does Malaysia legislation fulfil the requirement under Principle 10?

Under the Federal Environmental Impact Assessment Guideline, public participation is to be conducted in the Second Schedule Activities. However, under the Guideline, method of conducting public hearing and process of gathering comments and opinions have not been mentioned. The Second Schedule, Form of Report of the Sarawak Natural Resources and Environmental (Prescribed Activities) Order, 1994 has indicated the element of people acceptance of project. Impliedly, public participation is one of the elements which have to be indicated in the Form of Report.

However, no further guideline can be found as to the way to conduct public participation in Sarawak. Therefore, the method to conduct public participation in environmental impact assessment vary from case to case basis. Reference should be made to the Handbook on Environmental Impact Assessment in Sabah because of its comprehensiveness in outlining the process of gathering public views and comments. However, further study on public participation shall be conducted and a guideline on public participation in environmental impact assessment shall be introduced in future.

CONCLUSION

Although Malaysia's environmental impact assessment guideline is quite comprehensive and public participation in decision making has been outlined, the appropriate access to information; opportunity to participate in the decision-making process; enhancing public awareness; and effective access to judicial and administrative proceedings are still blurred. No guideline or handbook has been introduced which should include methods information to be delivered, level of participation of public in decision making process, method to enhance public

awareness, and how the public can involve in judicial and administrative proceeding.

Therefore, one standard guideline shall be introduced in order to make sure every public has equal opportunity to access to the information and their opinions, comments and voices to be heard.

REFERENCES

2004. The Natural Resources and Environment (Prescribed Activities) Order, 1997. State Attorney-General's Chambers, Sarawak.
2005. Handbook on Environmental Impact Assessment in Sabah 2005. Environment Protection Department, Sabah-Malaysia.
2006. Environmental Quality Act 1974, The Commissioner of Law Revision, Malaysia.
2008. Natural Resources and Environment Ordinance 1993. State Attorney-General's Chambers, Sarawak.
2010. Federal Constitution. The Commissioner of Law Revision, Malaysia.
2014. Demand for environment impact studies grows. Available at <http://www.asiaone.com/singapore/demand-environment-impact-studies-grows>
2016. Environmental Impact Assessment Guideline 2016. Department of Environment.
- Abdul, H.A. (2009). Principle 10, the Aarhus Convention and status of public participation in environmental matters in the Malaysian laws with special reference to EIAs. *International Islamic University Malaysia Journal*, 17, 57-97.
- Ahmad, Y. J. & Sammy, G.K. (1984) "Exploding myths", Guidelines to Environmental Impact Assessment in Developing Countries. Hodder and Stoughton.
- Azinuddin, M., Som, A. P. M., Saufi, S. A. M., Zarhari, N. A. A., Amin, W. A. A. W. M., & Shariffuddin, N. S. M. (2022). Investigating overtourism impacts, perceived man-made risk and tourist revisit intention. *Planning Malaysia*, 20(3), 239-254.
- Berkley v. Secretary of State for Environment [2000]3 WLR 420.
- Clive, B. & Jamie, M. (2002). Environmental assessment in Singapore: an enigma wrapped up in a mystery! *Impact Assessment and Project Appraisal* 20(2) 113-125.
- Environment Protection (Prescribed Activities) (Environmental Impact Assessment) Order 2005. Available at <http://ww2.sabah.gov.my/jpas/laws/default.htm>
- Environment Protection Enactment 2002. Available at <http://ww2.sabah.gov.my/jpas/laws/EPE/EPE02.pdf>
- Glasson, J., Therival, R. & Chadwick, A. (1999) Introduction to Environmental; Impact Assessment. London: Spon.
- Janice, M. (2013) Implementation of principle 10 of the Rio Declaration of the United Nations Conference on Environment and Development. Available at https://www.cepal.org/rio20/noticias/paginas/5/48925/2.-Janice_Miller.pdf
- Jeremy, W. (1996) Access to environmental information and public participation in environmental decision-making: UN ECE guidelines- from theory to practice. Brussels. European Environmental Bureau.
- Joseph, C. (2005). Reclaiming the Public Trust in Singapore. *Singapore Academic of Law Journal*, 17, 717-746
- Mohd, F. A., Abdul Maulud, K. N., Karim, O. A., Begum, R. A., Awang, N. A., Ahmad,

- A., Wan Mohamed Azhary, W. A. H., Kamarudin, M. K. A., Jaafar, M., Wan Mohtar, W. H. M. (2019). Comprehensive coastal vulnerability assessment and adaptation for Cherating Pekan coast, Pahang, Malaysia. *Ocean & Coastal Management*, 182, 104948.
- Rasdi, A. L. M., Som, A. P. M., Azinuddin, M., Nasir, M. N. M., & Khan, N. F. A. H. (2022). Local community perspective on responsible tourism and destination sustainability. *Planning Malaysia*, 20(3), 255-269.
- The Strait Times (2014). Demand for environment impact studies grows. Available at <http://www.asiaone.com/singapore/demand-environment-impact-studies-grows>.
- Wahab, N. A., Kamarudin, M. K. A., Toriman, M. E., Juahir, H., Saad, M. H. M., Ata, F.M., Ghazali, A., Hassan, A. R., Abdullah, H., Maulud, K. N., Hanafiah, M. M., Harith, H. (2019). Sedimentation and water quality deterioration problems at Terengganu River basin, Terengganu, Malaysia. *Desalination and water Treatment*, 149, 228-241.

Received: 28th Feb 2023. Accepted: 31st March 2023