

THE EFFECTIVENESS OF THE SARAWAK FOREST ORDINANCE 1958

By

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The student/authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.

CHAPTER 1

INTRODUCTION

1.0 INTRODUCTION

This chapter is to explain the problems surrounding the Sarawak Forest Ordinance 1958. To this end, the chapter will explain the scenario behind the Ordinance. The purpose and objective of this research encompasses the examination of the effectiveness of the Ordinance, to highlight the effects of deforestation due to the Ordinance's effectiveness and to recommend better and more efficient law to the relevant authority. This research will be conducted by virtue of extensive library research as well as through comparison of laws in other countries. This study covers only Sarawak as the Sarawak Forest Ordinance 1958 will be the main law that will be extensively studied.

1.1 BACKGROUND

The problem of deforestation has become a global issue which has been the major concern in several countries especially in Asian countries. As indicated by the 1990 Global Forest Resource Assessment, based on its performance up till end of the 1980s, Malaysia is one of the major countries with over 250,000 hectares deforested annually.¹

Deforestation simply means the clearing of forest area and its replacement by other alternative forms of land use.² This deforestation issue is worldwide, but for the purpose of this research, our scope is narrowed down to the region of Sarawak, Malaysia. This research is aimed at figuring out whether the effectiveness or the lack of the Sarawak Forest Ordinance has contributed in these deforestation issues. Thus in

¹ McMorrow, J.M. & Talip, M.A. *Decline of forest area in Sabah, Malaysia: relationship to state policies, land code and land capability*. Global Environmental Chang: Human and Policy Dimensions. 11 (3): 217-230. 2001

² Ooi Jin Bee. (1993) *Tropical Deforestation: The Tyranny of Time*. Singapore University Press.

this research, besides identifying the effects of deforestation, we are also going to research from the law standpoint. Deforestation can be defined as the transformation of primary closed forests to any other formation; or as the loss of any kind of closed forest; or as the loss of forestland.³ Being one of the biggest timber exporters in the world, the primacy of logging industries and the large-scale exports of timber have catapulted Malaysia into the centre of global media attention.

Malaysia consists of three regions; Peninsular Malaysia and the two Borneo states of Sabah and Sarawak. Peninsular Malaysia has eleven states and is separated from Borneo by 1,932 km of South China Sea. There is a two-tier government – federal and state – and both have different concurrent legislative powers. The federal government has jurisdiction over matters such as foreign affairs, international trade, defence/internal security, finance, communications, transportation and education. The individual states have control over their natural resources such as land, water, forest, agriculture and minerals, and have their own constitutions and executive legislature.

The logging industries is claimed to be the main cause of the problem of deforestation in Malaysia, specifically in the state of Sarawak. In order to undertake the problem of deforestation, the government of Malaysia has implemented various forest policies and regulations and one of them being the Forest Ordinance 1958 for the state of Sarawak. Forest Ordinance 1958, provided the legal framework for the protection and management of the forests and to regulate the taking of forest produces. The Forest Ordinance 1958 also provides for the establishment of three categories of permanent forests, namely Forest Reserves, Protected Forests and Communal Forests. Despite the implementation of this particular ordinance, the issue of deforestation continues to increase and it was reported that by late 1980s, a fifth of the forest area in Borneo had gone. This shows that the solution to the problem of deforestation in Sarawak is still out of reach.

³ Barnes and Allen, No. 234. Deforestation in Postwar Phillipines: Geography Research Paper (The University of Chicago).

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