

STRENGTHENING THE LAW ON WILDLIFE CONSERVATION: THE MALAYSIAN EXPERIENCE

by:

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DESCRIPTION

- Previously Malaysia's main law on wildlife conservation was the Protection of Wildlife Act which was enacted in 1972.
- After more than 30 years, this Act was no longer adequate to safeguard wildlife.
- In 2010 the 1972's Act was revoked and replaced by the Wildlife Conservation Act (WCA).
- The purpose of this presentation is to discuss improvements made within the WCA as compared to the revoked 1972's Act.

MALAYSIA IN GENERAL

- Malaysia covers an area of about 330000 square kilometres and is divided into two parts:
 - the Peninsula Malaysia, and
 - the eastern states of Sabah and Sarawak in Borneo.
- Total population of Malaysia is estimated at 31 million.



MALAYSIA FOREST

- Total land under natural forest is about 18 million hectares, or 54.5% of the land area.
- The three regions of Malaysia –
 - Peninsular Malaysia, has 5.81 million hectares of forest covering 44 % of its land area,
 - Sabah's 4.3 million hectares of forest, covering 57.5 %, and
 - Sarawak's 7.89 million hectares of forest, covering 64.04% of the state.

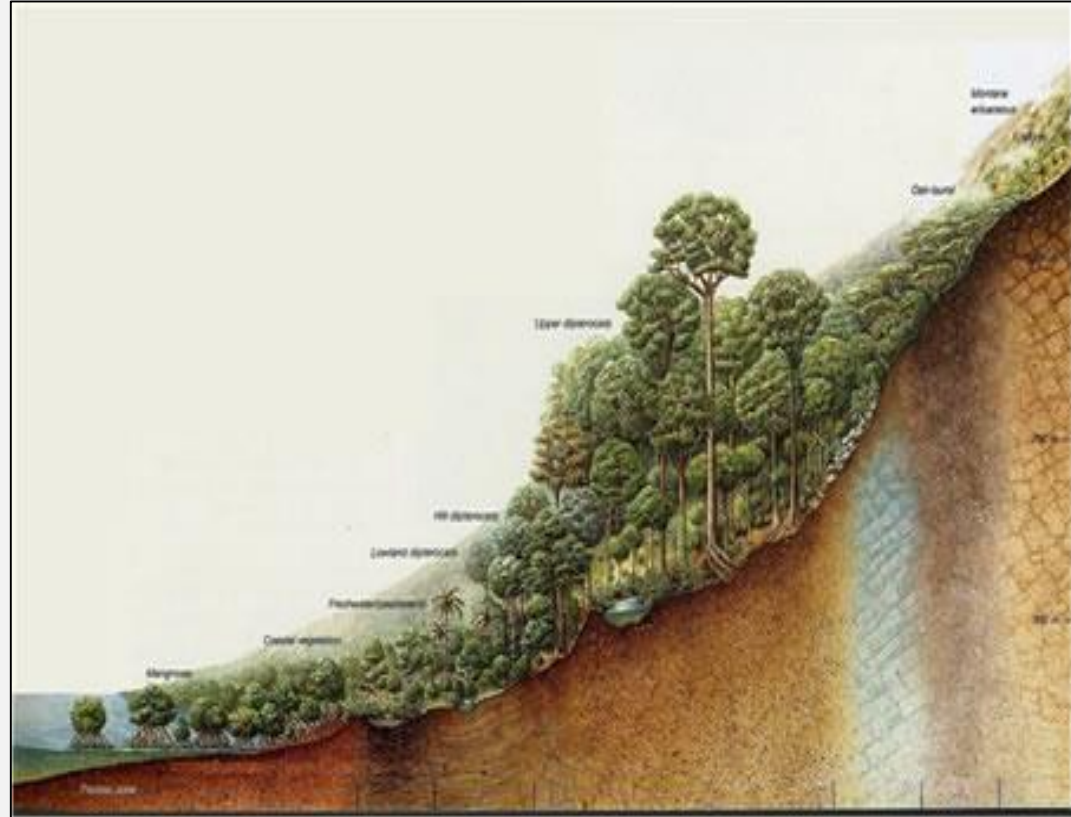
Breakdown of the forested areas in Peninsular Malaysia

Permanent Reserved Forests (PRFs)	1.55 mil. ha
Protected area (National Park/ Wildlife Sanctuary)	1.86 mil.ha
State land forests	1.86 mil.ha

- Source: Ministry of Natural Resources and Environment Malaysia 2016

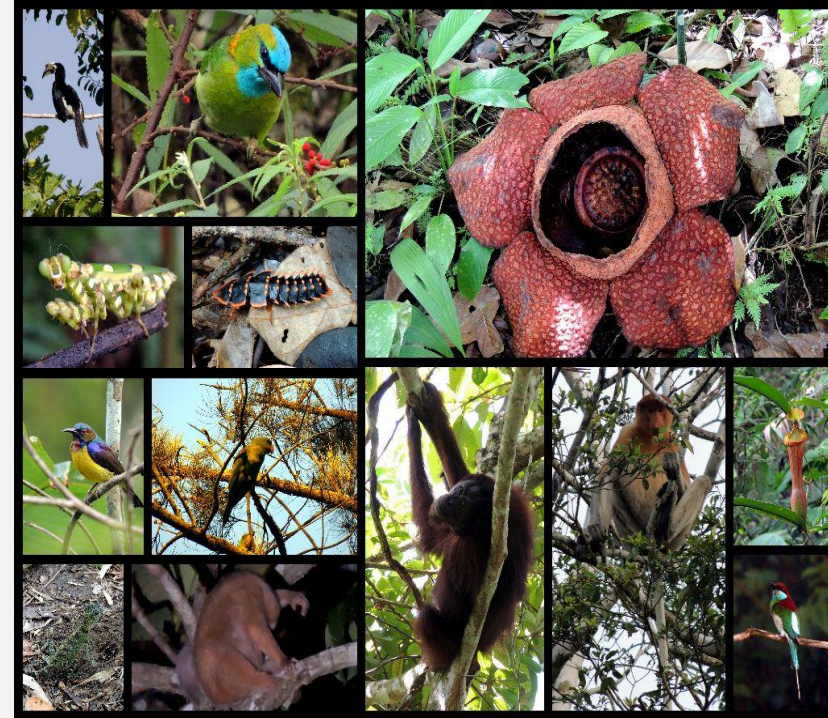
MALAYSIA FOREST

- The major forest type consists of inland forest.
- Another 18 % is peat swamp and mangrove forests.
- The lowland dipterocarp forest is complex, & dense
- It is rich in species and has great value for wildlife conservation and scientific research.



MALAYSIA AS A MEGADIVERSE COUNTRY

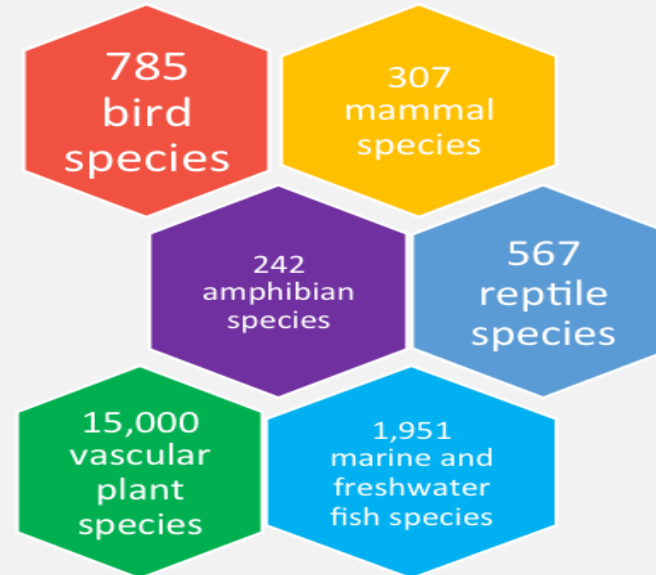
- Malaysia which is one of 17 `megadiverse` countries
- It is rich both in natural resources and biological diversity,
- It is also home to some 185000 species of fauna.



BIOLOGICAL DIVERSITY IN MALAYSIA

- The resulting Malaysia's diversity includes:
 - over 1000 species of butterflies,
 - over 785 species of birds,
 - Over 300 species of mammals,
 - Over 140 species of snakes, and
 - 165 species of frogs and toads

Some of these species are endemic and cannot be found anywhere else in the world.



- Source: National Policy on Biological Diversity 2016-2025

WILDLIFE IN MALAYSIA

- Wild animals were plentiful during early Malaysia in the 1950s.
- Historically, because of the richness of flora and fauna, in the past hunters and animal traders and specimen collectors came to the Malay peninsular and Borneo to hunt and buy variety of wildlife.
- A new era of hunting, sport and exotic food began with the ownership of shotguns with larger mammals, reptiles and birds suffered the greatest loss in numbers.



WILDLIFE IN MALAYSIA

- Poaching of wildlife is a serious issue in Malaysia
- It is one of the leading causes of species depletion.
- Among the targeted wild animals are monitor lizards, pangolins, wild boar, deer, bear, civets, pythons, pheasant and edible birds' nest.



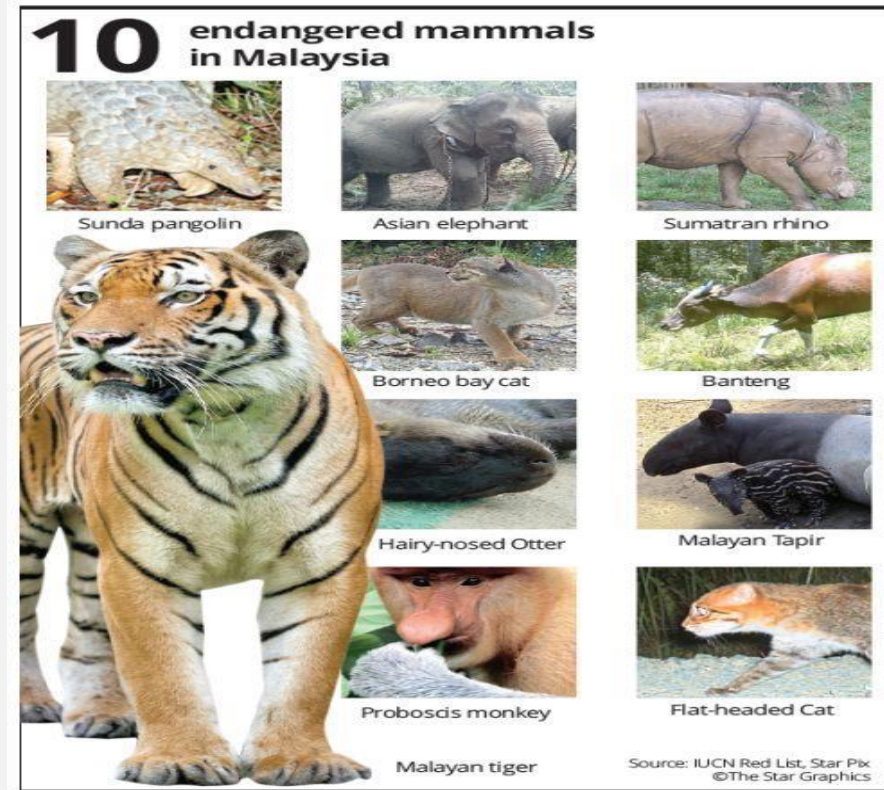
WILDLIFE IN MALAYSIA

- Another main threat to wildlife in Malaysia is the establishment of massive monocrop plantations, particularly rubber and palm oil
- It resulted in extensive loss of natural habitats for nearly all species.
- Destruction of forests coupled with pollution are affecting the survival of wildlife species.



WILDLIFE IN MALAYSIA

- In Malaysia, the list of declining endangered species includes those of mammals, birds, reptiles, amphibians, and fishes.
- The last one-horned Javan rhinoceros is believed to have been shot in 1932.
- the two-horned Sumatran rhinoceros became extinct and has not been found on the Malaysian peninsula since 2007.
- Other extinct animals are the banteng (*Bos javanicus*), Javanese green peafowl (*pavo muticus*).



HISTORY OF WILDLIFE LEGISLATION IN MALAYSIA



HISTORY OF WILDLIFE LEGISLATION IN MALAYSIA

- While legislation on wildlife conservation has existed even before the independence of Malaysia in 1957, administration of wildlife was not uniformed as it came under the respective state governments.
- In 1972 the federal government of Malaysia, after consulting with the state governments, federalized the administration of the states' Department of Wildlife and National Parks, following the enactment of the Protection of Wildlife Act in 1972.
- At present, The Department of Wildlife and National Parks is responsible for the management of national parks and wildlife reserves in Peninsular Malaysia.

THE PROTECTION OF WILDLIFE ACT 1972

- During the time of its enactment, the Protection of Wildlife Act 1972 was considered sufficient in safeguarding endangered species.
- However, over the years, its weak penalties, limited scope of enforcement, and low risk of prosecution created an insufficient deterrent over various wildlife crimes.
- The Act also contained limited provision on animal welfare and conservation.

THE WILDLIFE CONSERVATION ACT 2010

- Subsequently, continuous threats to wildlife, as well as local & international pressure have persuaded Malaysia to re-evaluate its wildlife legislation.
- Finally, after 38 years, the Protection of Wildlife Act 1972 was revoked, and a brand new legislation was passed, known as the Wildlife Conservation Act 2010. (WCA).

THE WILDLIFE CONSERVATION ACT 2010

- The concept of 'protected' and 'totally protected' wildlife
- Animals that are given the totally protected status in under the law are animals that are generally classified as endangered or critically endangered under the IUCN category.
- What's new under the WCA?
 - Totally protected wildlife receive more protection than the protected species through higher fines and habitat protection.

THE WILDLIFE CONSERVATION ACT 2010

- Number of totally protected species are increased to about 40 % in the WCA 2010 as compared to the 1972's Act.
- This includes three additional taxa (amphibians, insects & gastropod) which was not provided in the previous Act.

Class	Protected Wildlife	Totally protected wildlife	Total
Mammals	220	273	493
Birds	383	1007	1390
Reptiles	314	97	411
Amphibians	37	10	47
Arachnida	17	1	18
Insects	82	4	86
Hirudinoidea	1	1	2
Gastropoda	1054	1393	2447
Total			

COMPARISON OF WILDLIFE PROTECTION STATUS OF 'TOTALLY PROTECTED' UNDER THE 1972'S ACT AND THE WCA 2010

Class	Wildlife Conservation Act 2010	Protection of Wildlife Act 1972
Mammals	273	254
Birds	1007	647
Reptiles	97	33
Amphibians	10	-
Insects	4	-
Gastropoda	1	-
Total	1393	934

COMPARISON OF WILDLIFE PROTECTION STATUS OF 'PROTECTED' UNDER THE 1972'S ACT AND THE WCA 2010

- Since a number of species have been upgraded to 'Totally Protected Species,' the number of 'Protected Wildlife' was therefore decreased from 1,650 to 1052 species

Class	Wildlife Conservation Act 2010	Protection of Wildlife Act 1972
Mammals	220	375
Birds	383	1103
Reptiles	314	132
Amphibians	37	-
Arachnida	17	-
Insects	82	40
Hirudinoidea	1	-
Gastropoda	1	-
Total	1054	1650

COMPARISON

- Reduced number of hunted species.
- Example, in the 1972's Act, 76 species can be hunted for food.
- Under the WCA, only 10 species can be hunted.
- Example of wildlife prohibited from being hunted under the WCA are Banded Leaf Monkey (*Presbytis melalophos*) and Long-tailed Macaque (*Macaca fascicularis*).

COMPARISON ON PENALTIES

- Number of penalties is increased from 20 penalties in the 1972's Act to 63 penalties in WCA .
- The minimum and the maximum fine in the 1972's Act are RM1,000 and RM15,000, respectively.
- WCA , the fine is now increased to a minimum fine of RM10,000 and maximum fine of RM500,000.
- For example killing a Sumatran Rhino in 2001 will cost maximum RM15,000 whilst now the maximum fine is up to RM500,000.

Penalties Comparison		
	Act 1972	WCA 2010
Number of penalties	20	63
Minimum amount of fine	RM1000	RM10 000
Maximum amount of fine	RM15000	RM500 000

OFFENCES COMMITTED UNDER THE WILDLIFE CONSERVATION ACT 2010

	Keeping/ Using	Smuggling	Business	Illegal Hunting	Encroachment	Zoo/ Exhibition	Research
2014	1032	56	47	10	6	1	1
2015	1280	34	21	18	11	2	-

OTHER IMPROVEMENTS WITHIN THE WCA 2010

- mandatory jail sentence for setting snares
- providing penalties for products claiming to contain parts of protected species or its derivative,
- preventing zoos from operating without a permit,
- Widening the list of agencies empowered to enforce wildlife laws by including Police and Customs officers, and it protects more species of wildlife.
- Those convicted of a wildlife crime under the new law will be barred from holding any license, permit or special permit for five years from the commencement of a case.

SPECIFIC ISSUES:

1. HUMAN WILDLIFE CONFLICT
2. RIGHTS OF THE INDIGENOUS PEOPLE
3. REGULATIONS ON ZOO

ISSUES PERTAINING TO HUMAN WILDLIFE CONFLICT (HWC)

- The main cause of HWC in Peninsular Malaysia are due to human activities such as land development, improper waste management, and feeding of wildlife.
- Species involved in HWC include mammals and reptiles.
- Highest number of HWC species is the Long-tailed Macaque followed by elephants and wild boar.



- The Human-elephant conflict (HEC) in Peninsular Malaysia causing loss of over RM27 million due to damaged crops.
- Wildlife attacks on humans is another consequences from HWC.
- From 2004 - 2015, 781 cases of attacks on humans by wildlife recorded including 48 fatalities.
- Two fatalities were due to tiger attacks.
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- WCA allows wildlife to be captured or kill if it causes serious damage to crops, vegetables, fruits, growing timber, domestic fowls or domestic animals.
- Condition : after first using reasonable efforts to frighten away the wildlife and failing to do so.
- In such situation, the owner or occupier of land must right away report any officer the details of the occurrence.
- Those who contravenes this section commits an offence and shall, on conviction, be liable to a fine not exceeding RM10000 or jail six months or to both.
- WCA also allows any person to kill any wildlife if the wildlife constitutes an immediate danger to human life. Similar conditions apply.

- In situ wildlife conservation
- The concept of wildlife reserved and wildlife sanctuary under the law
- Elephant translocation programme

ISSUES PERTAINING TO RIGHTS OF THE INDIGENOUS PEOPLE

- Who are the Orang Asli?
- Conflict of issue between the orang asli and wildlife



ISSUES PERTAINING TO RIGHTS OF THE INDIGENOUS PEOPLE

- WCA allows the aborigine to hunt any protected wildlife for his sustenance or the sustenance of his family.
- However any protected wildlife hunted shall not be sold or exchanged for food, monetary gains or any other thing.
- Any aborigine who contravenes this section commits an offence and shall, on conviction, be liable to a fine not exceeding RM10000 or to imprisonment for a term not exceeding six months or to both.

ZOO REGULATIONS UNDER THE WCA

- The need to regulate zoos systematically and to higher standards.
- Wildlife Conservation (Operation of Zoo) Regulations 2012.
- Weaknesses of the 1972's law:
 - Lack of power for the Department of Wildlife and National Parks to act against errant zoos and wildlife parks.
 - No provisions addressing wildlife welfare and cruelty to captive animals.
- Zoo operators have a six-month grace period to comply with the new requirements of the regulation. Those which do will be issued an annual permit. Any person operating a zoo without a permit is liable to a fine not exceeding RM70,000 or/and a prison term not exceeding three years.
- Any person who has totally protected wildlife for his zoo or wildlife exhibition without a permit can be liable to a fine not exceeding RM100,000 or to imprisonment not exceeding 2 years.



NEW REGULATIONS ON ZOO

- The new regulation requires zoos and animal parks to:
- Adhere to minimum cage sizes, which are specified according to various animal groups.
- Have a quarantine area and a veterinary clinic or hospital.
- Employ a full-time consultant veterinarian.
- Provide vaccination of animals by a veterinarian or anyone under his supervision.
- Provide nutritious and sufficient food for the animals, as prescribed by a veterinarian.
- Maintain a record of kept animals and their health care.
- Ensure the cleanliness of the facility.
- Conduct euthanasia of wildlife whenever necessary
- Conduct wildlife shows that involves the animals' natural behaviours only.
- Operators who contravene these provisions are liable to a fine not exceeding RM100,000 or/and a prison term not exceeding five years.
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NEW REGULATIONS ON WILDLIFE CRUELTY

- WCA seeks to ensure the prevention of ill treatment of animals.
- It is an offence for any person to commit an act which can be considered as cruelty to animals such as:
 - - beating,
 - - torturing,
 - -neglecting to supply sufficient food or water, or
 - -keeping wildlife in a manner that causes unnecessary pain or suffering including housing them in premises not conducive to their comfort or health.
- Penalty imposed: fine of not less than RM5,000 and not more than RM50,000 or to imprisonment for a term not exceeding 1 year or both.

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- The success of the new law in protecting wildlife species largely depends on implementation and in bringing poachers and other wrongdoers to justice.
 - The judiciary system must treat wildlife offences as a criminal offence.
 - Offenders must be held liable and be prosecuted to the full extent of the law.
 - For endangered species to be protected, it must be made clear that poaching does not pay.