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## **SOCIAL IMPACT ASSESSMENT: A COMPARISON OF THE LEGAL FRAMEWORKS IN MALAYSIA AND NEW ZEALAND**

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### **Abstract**

Social Impact Assessment (SIA) has been implemented since the early 1990s, and it is a decision-making tool and methodology for determining the benefits or suffering that affect communities through the social outcomes data. This assessment is crucial in the planning phase as well as the development phase to monitor the impact of proposed development projects. Many countries, including Malaysia and New Zealand, have started implementing SIA within their legal framework to respond to the development cycle proactively. Thus, this paper seeks to compare and analyse the legal frameworks of SIA in Malaysia and New Zealand through qualitative methodologies: library research, content analysis, as well as comparative analysis. The findings show that both countries have legislation relating to SIA; however, the method of implementation is not the same, as SIA in New Zealand has emerged with the Environmental Impact Assessment (EIA) while SIA in Malaysia is implemented on a stand-alone basis.

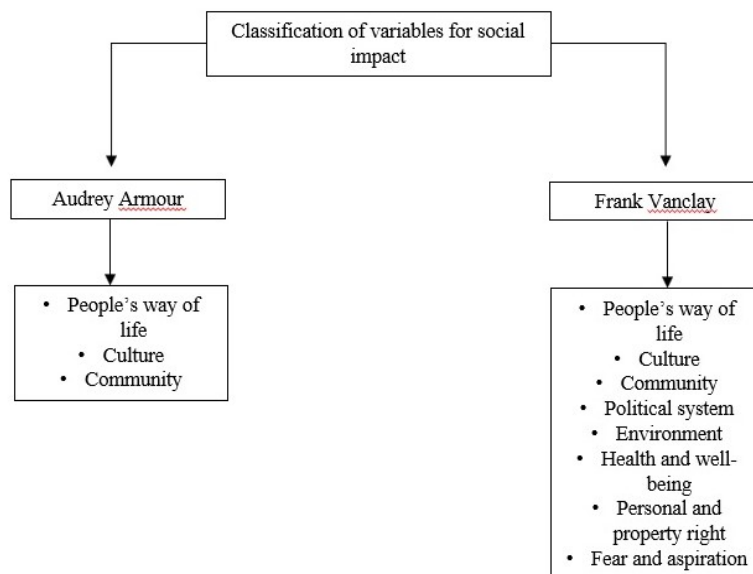
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## INTRODUCTION

Becker (2001) defined Social Impact Assessment (SIA) as a process of identifying the potential impacts caused by current or future actions that affect people, organisations, or the social macro system. It does not merely stop at the analysis of potential impacts; rather, SIA is used to determine strategies to overcome the negative impacts that may arise during proposed development and to enhance more positive impacts (Dale et al., 1997).

Many SIA specialists opine that it is impossible to describe all the social impacts. Nonetheless, Vanclay (2002) has identified several variables that could be considered when assessing the social impact of a proposed development. This is due to different situations and various factors, depending on the weight of the development project. Previously, Audrey Armour derived the classification of variables, which consisted of way of life, culture, and community. Vanclay expanded the boundaries of the classification to include the political system, environment, health and well-being, property rights, and aspirations. Figure 1 illustrates the classification of social impact by Audrey Armour and Vanclay.



**Figure 1:** Classification of variables for social impact

Several academics have updated numerous generic lists of societal impacts over time, including Juslen, Taylor, Branch, Gramling, and Freudenburg.

Additionally, international committees like the Inter Organisational Committee on Guidelines and Principles for Social Impact Assessment have

produced lists of social impact variables (Vanclay, 2002). The implementation of SIA has evolved and has been integrated into the legal framework, as SIA is a process of assessing or estimating, in advance, the social consequences likely to follow from specific policy actions or project development, particularly within the context of appropriate national, state, or provincial environmental policy legislation (Burdge, 1994). The inclusion of SIA within legislation not only legalises the implementation of the assessment but also provides guidance and a clear picture to consultants, project proponents, and relevant stakeholders. The affected community may refer to the legal framework in order to assert their personal and property rights as measured by the variables of social impact (Esteves et al., 2012).

## **DISCUSSION**

### **Legal Framework of SIA in Malaysia Post 2018**

SIA was incorporated into Malaysian national policy during the National Social Council meeting in September 2015, where the outcome was the decision to implement SIA for relevant development projects (Othman et al., 2023). A department under the Ministry of Housing and Local Government, namely the Town and Country Planning Department (PLANMalaysia), has been responsible for implementing SIA. A significant step was taken through the amendment of the Town and Country Planning Act 1976 (Act 172) in 2017, where the statutory requirement for SIA was inserted via the Town and Country Planning (Amendment) Act 2017 (Act A1522) (Suaree et al., 2022).

Previously, SIA had been categorised into three categories: SIA Category 1, SIA Category 2, and SIA Category 3 (Suaree et al., 2023). However, the current classification of development types has been simplified into two categories: SIA Category A and SIA Category B (SIA Manual, 2023). Development projects falling under Category A are under the jurisdiction of PLANMalaysia Federal, while those falling under Category B are determined by PLANMalaysia State (Othman et al., 2023). SIA Category A consists of development projects as expressly stated under section 20B of Act A1522 and section 22(2A) of Act 172. It requires the project proponent or SIA consultant to obtain advice from the National Physical Planning Council (NPPC) during the submission of the SIA report for any large-scale project that crosses the border of two states. Meanwhile, SIA Category B involves any project determined by the state authority (PLANMalaysia State). It is insufficient to submit only the development proposal report, as stated under section 21A (1) (ea) of Act A1522. It also requires the submission of an SIA report. During this stage, the submission does not need to be made to the NPPC.

Table 1 shows the latest categories of SIA under Act 172, Act A1522 and SIA Manual.

**Table 1: Categories of SIA**

Category	Development	Source
A	Coastal reclamation, infrastructure, new township, major utilities, hillslopes, and other infrastructure of nationally important	section 20B (2), Act A1522, section 22(2A), Act A172
B	Prescribed in Manual and determined by State Authority	SIA Manual 2023

*Source: Act 172, Act A1522 & Manual SIA*

Other than the amendment in 2017 through Act A1522, guidelines and manuals also play a significant role in guiding project proponents and stakeholders in preparing the SIA report. Over time, many complaints have been made by them, leading to further amendments and improvements through production of the third manual, namely 'Guidance for the Implementation of SIA for Development Projects,' in 2023 (Othman et al., 2023). Among the issues addressed are the term 'qualified person' and enhancement of the SIA process.

A qualified person is an individual competent to prepare the SIA report. This individual must meet several criteria, such as having relevant academic qualifications and attending competency courses conducted by PLANMalaysia. Section 58(1A) of Act 172 empowers the NPPC to make rules for matters under the Act. Section 2B(1)(d) also supports this provision by enabling the Director-General of PLANMalaysia to advise the NPPC on the matters referred to him. Applying this situation, a competent person for preparing SIA must meet the criteria stated by PLANMalaysia, as it is one of the rules made by the NPPC. PLANMalaysia has prepared two types of modules: Comprehensive Module and Assessment Module (SIA Manual, 2023). The Comprehensive Module is organised for relevant stakeholders and SIA practitioners, while the Assessment Module is focused more on the evaluator.

There is a distinction between a qualified person for SIA practitioners and evaluators. For evaluators, this qualification is limited to SIA consultants who are registered with the Board of Town Planners Malaysia and/or Malaysian Association of Social Impact Assessment (MSIA). These individuals must have more than ten years of experience in impact analysis and at least five years of experience in preparing SIA reports (Othman et al., 2023). The Comprehensive Module courses held are listed in Table 2 below.

**Table 2:** Comprehensive Module for SIA practitioner/stakeholder

<b>Modul</b>	<b>Title</b>
1	Introduction to SIA
2	Screening and physical planning and land use
3	Social impact components on methodology, public participation and SIMP

*Source: Social Impact Assessment Practices and Applications in Malaysia, 2023*

Furthermore, the guidance of the SIA implementation process has been improved in the third manual (Othman et al., 2023). Previously, SIA steps consisted of three stages: preparation of the SIA report, monitoring, and the last step, evaluation and audit (SIA Manual, 2018). Currently, these processes have been simplified into two main stages: the project planning stage and the project implementation stage (SIA Manual, 2023). The project planning stage begins with screening, scoping, data collection and analysis, impact prediction and assessment, refining project designs and options, mitigation measures, and a social impact management plan (SIMP). Meanwhile, the project implementation stage comprises the monitoring and auditing phases. An additional process added into the project planning stage is refining project designs and options, which is now considered as the fifth step. This step should be initiated in the first stage to indicate the best options and modify the necessary designs to maximise the positive impact and minimise the negative impact as much as possible from the findings of the impact analysis.

Other than that, other processes like SIMP, monitoring, and audit have also been improved in the latest manual. For example, the manual provides a more detailed explanation of the implementation process for the SIMP compared to the previous version. Currently, it consists of six important components, namely, implementation mechanism, implementation organisation, monitoring framework, grievance management mechanism, emergency response plan, and reporting and audit framework. Figure 2 illustrates the SIA process in Malaysia.

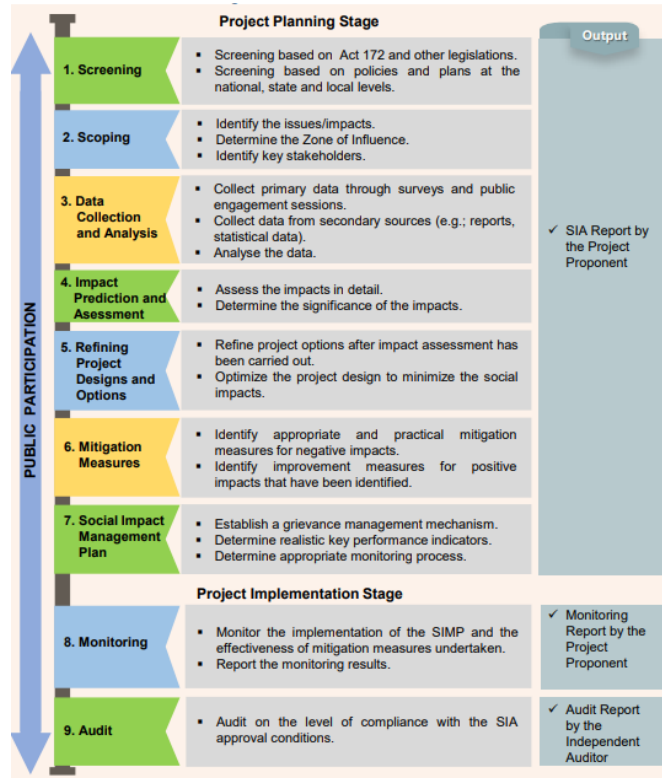


Figure 2: SIA process in Malaysia

Source: Social Impact Assessment Practices and Applications in Malaysia, 2023

The other guidelines, such as 'Panduan Pelaksanaan Akta 13' (Implementation Guidelines for the Act 13) and 'Panduan Pelaksanaan Akta 14,' (Implementation of the Act 14) which assist project proponents, SIA consultants, and stakeholders in applying for permission for development projects under SIA Category A, can still be referred to. Additionally, PLANMalaysia at state level like Selangor, Negeri Sembilan, Malacca, and Kedah have their own state guidelines for implementing SIA (Suaree et al., 2022). They are still practising all these guidelines, and the only significant changes have been made through the third manual of SIA, as stated above.

**Legal Framework of SIA in New Zealand**

According to the United Nations Department of Economic and Social Affairs, New Zealand's population reached 5,253,903 as of February 12, 2024 (UN, 2024). This represents 0.06% of the current world population, with approximately 82.4% of the population residing in urban areas. This population growth indicates a significant need for development to accommodate the people's needs. Social

impact initiatives should be adopted. These initiatives are crucial for addressing the sustainability of society's social, economic, and overall well-being (Buchan et al., 1990).

New Zealand has incorporated SIA into major energy projects since the late 1970s (Taylor, 2016). In 1994, a health professional body in New Zealand planned to develop the healthcare system in the Maori community. They utilised SIA as an alternative approach to facilitate the process of social change (Burdge et al., 1995). Despite lacking experience and formal practice in SIA, they insisted on its implementation, understanding its importance in guiding development decisions.

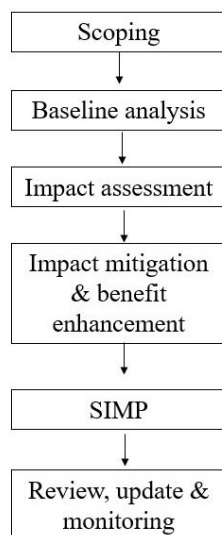
Over time, SIA was developed through a Social Impact Unit established by the State Services Commission between 1986 and 2003. In the 1990s, the government called for implementing social assessment as part of government policy. Land-use planning in New Zealand is governed by the Resource Management Act 1991 (RMA 1991). This legislation is intended to provide for good resource management, enabling the avoidance, remedy, or mitigation of any adverse effects of activities on the environment (James Baines et al., 2012). One of the most significant developments incorporating SIA into land-use planning procedures is the Resource Management Bill that led to the RMA 1991, introduced in Parliament in December 1989. This bill aimed to integrate land use planning, water management, subdivision, and mining into one procedure while also providing greater public input, accountability from decision-makers, and a clear separation between decision-makers and resource users (Buchan et al., 1990). On 1 October 1991, the social element was considered and incorporated into the provisions of the RMA 1991. According to Taylor (2016), this provision mandates SIA implementation. However, James Baines and others (2012) claim that SIA implementation is still not mandatory for all.

Section 2 of the RMA 1991 defines the term 'environment' as not only covering the ecosystem, natural and physical resources, and amenity values but also extending to include social conditions (people and community) (Strogen, 2022). Section 5 expresses the purpose of the Act, which is to promote the sustainable management of natural and physical resources. Sustainable management here means the need to protect resources to enable the community to provide for their social, economic, and cultural well-being, as well as ensure their health and safety. Schedule 4 (Clause 7(1)) of the RMA 1991 also states that the effects on neighbourhoods and communities must be considered when preparing an assessment of environmental effects, including in SIA.

Louise Strogen, one of the SIA practitioners in New Zealand (2022), also explained that SIA has been primarily used as a tool in development projects. It is a part of the environmental assessment package and is widely utilised in the regulatory decision-making process for new development projects. However, a separate assessment of environmental impact, which is a distinct document, is

necessary and is included in the planning process. Despite the statutory requirement of SIA being stated in the RMA 1991 (Taylor, 2016), its necessity is still inconsistent across jurisdictions and organisations (Strogen, 2022). Healy (2022) states that the government has produced the Auckland Plan 2050 as high-level guidance to address population growth and transport issues, aiming to deliver a better standard of living for all people in the region.

The leading organisation for implementing impact assessments, including SIA, is the New Zealand Association for Impact Assessment (NZAIA) (Taylor et al., 2022). This organisation encourages the implementation of impact assessments to protect the values of social, cultural, and environmental aspects. The SIA process in this country starts from the scoping stage and continues through to the update and monitoring stages. Figure 3 illustrates the flow of the SIA process in New Zealand.



**Figure 3:** SIA process in New Zealand

*Source: Current Principles & Practices of SIA: New Zealand's Perspective*

Before submission and approval of the SIA report, an organisation must first apply for and obtain a development permit and an environmental impact assessment (EIA) must be submitted. If the project requires a SIA, it will be included in the application package. The application is then submitted to the responsible authorities. The planning officer of the authorities processes the application and provides recommendations for the project. Part of the recommendation process involves a hearing typically chaired by councillors. If the councillors require technical advice, an expert panel considers the application.



There is an opportunity to appeal to the environmental court if there is a disagreement regarding the application's outcome (Strogen, 2022).

In September 2016, a guideline, namely, the 'Guide to Assessing Social Impacts for State Highway Projects,' was published to provide guidance to all relevant project proponents and agencies in preparing SIAs for state highway projects (Guideline, 2016). Strogen states that the only organisation implementing the SIA guidance is Waka Kotahi NZ Transport Agency (2022). This organisation also refers to the Environmental and Social Responsibility Standard and Environmental and Social Responsibility Screen.

## **METHODOLOGY**

This paper utilizes the qualitative method, employing library research, content analysis, and comparative analysis. According to Fidishun (2002), a library research approach provides an opportunity to explore data in depth and expand further. George (2008) supports the idea that data can be collected through library research, where researchers analyze factual or personal information, as well as expert opinions, related to the paper's objectives from books, journals, articles, online sources, and documents. Books such as "Social Impact Assessment: Practices and Applications in Malaysia" have been analyzed to determine the latest implementation of SIA in Malaysia. Additionally, numerous literature and articles from various high-indexed journals have been analyzed to gather updated information on SIA.

Additionally, content analysis is an important methodology within qualitative research. Hardwood and others (2003) state that content analysis involves analyzing various types of data, including visual and verbal data, to categorize phenomena or events into specific groups, facilitating their analysis and interpretation. Kleinheksel and others (2020) state that this approach can provide valuable insights and can be useful to researchers due to its application in the investigation of a wide variety of data sources, including textual, visual, and audio files. The present paper not only analyzes the content from books or articles but also extends to the interpretation of legislations, manuals, guidelines, and case studies.

Furthermore, the paper employs the comparative analysis methodology in analyzing the basic legal framework of SIA in Malaysia as well as New Zealand. A long time ago, Collier (1993) stated that comparison is a fundamental tool for analysis and strengthens the central role in concept formation by bringing the focus on similarities and contrasts of certain matters.

## **ANALYSIS AND CONCLUSION**

The finding indicates that there are similarities and connections between the implementation of SIA in Malaysia and New Zealand. It has been observed that the implementation processes of SIA in these countries are quite similar. Both

countries have a basic legal framework for implementing the SIA process. In Malaysia, this framework includes Act 172, Act A 1522, and several manuals and guidelines to assist in SIA implementation. In New Zealand, the consideration of social assessment is mentioned under the RMA 1991 and certain guidelines. However, unlike in Malaysia, the requirement to conduct SIA is forms a component of the EIA in New Zealand.

To provide a comparative analysis, Table 2 presents the basic legal frameworks of SIA in Malaysia and New Zealand. This table includes the Acts, manuals, and guidelines that have been analysed in this research.

**Table 2:** Basic legal framework under SIA in Malaysia and New Zealand

Legislation	Malaysia	New Zealand
Act	Act 172, Act A1522	RMA 1991
Manual & Guidelines	Guidance for the Implementation of SIA for Development Projects (2023), ‘ <i>Panduan Pelaksanaan Akta 13 and 14</i> ’, state guidelines and manuals	Guide to Assessing Social Impacts for State Highway Projects, Environmental and Social Responsibility Standard and Environmental and Social Responsibility Screen

*Source: Policies and Frameworks in Malaysia and New Zealand*

Both countries have SIA statutory requirements, but they are limited to certain aspects. Act 172 and Act A1522 in Malaysia require the preparation of the SIA report for SIA Category A only, while the RMA 1991 in New Zealand requires the consideration of social assessment in large-scale projects. The core idea of the SIA preparation process remains similar. For instance, both countries have scoping, baseline analysis, mitigation measures, social impact management plans, and monitoring mechanisms. Public rights in the development planning process have also been addressed in the assessments in both countries. All these processes are vital for achieving the objective of SIA. However, Strogon states that not all these processes are being implemented accordingly (2022). For example, there is no responsible agency to review and monitor the progress of the submitted SIA reports. Although the public is given the right, effective feedback has not been obtained from them. These issues are among the challenges the authority in New Zealand faces in the SIA process.

Other than that, the criteria for a qualified person to prepare and evaluate SIA have been clearly explained within the legal framework of SIA in Malaysia, as mentioned above, and this information has also been included in the Manual (2023). The Manual allows registered town planners and professional members from MSIA, including those with backgrounds in social science, town

planning, engineering, and architecture. In New Zealand, the opportunity to prepare the SIA is quite lenient. Stroger has already emphasised that no qualifications are required to prepare the SIA in New Zealand.

The approval of the SIA report by PLANMalaysia is necessary in Malaysia, as mentioned in the Manual. In contrast, in New Zealand, the SIA framework is appended to the EIA application during the approval process. The planning authorities will assess the application and make any relevant recommendations regarding the proposed projects. Furthermore, the main leading organisation that implements SIA in Malaysia is the Malaysian Association of Social Impact Assessment (MSIA). Other organisations, such as the Malaysian Institute of Planners (MIP), are also involved in SIA implementation related to the planning process. In New Zealand, NZAIA is mostly responsible for SIA implementation.

Table 3 presents a summary of a comparison pertaining to the differences in the implementation of SIA in Malaysia and New Zealand based on their respective Acts and guidelines.

**Table 3:** Distinctive features of SIA according to the respective legislations in Malaysia and New Zealand

Element	Malaysia	New Zealand	Significance
Requirement of SIA	Yes, for SIA Category A only (section 20B, section 22(2A))	Yes (section 2: Interpretation of 'environment', section 5 and Schedule 4, Clause 7(1))	Ensure the accountability of the project proponent, relevant stakeholders and consultant in preparing the report
SIA process	Screening, scoping, data collection and analysis, impact prediction and assessment, refining project designs and options, mitigation measures, SIMP, monitoring and audit	Scoping, baseline analysis, impact assessment, impact mitigation and benefit enhancement, SIMP, review and update and monitoring	To ensure the important element of social impact is considered in implementing SIA
Qualified Person for consultant and evaluator	Pass competency courses, registered town planner, professional member of MSIA, relevant academic qualification	NA	To ensure a high-quality report, only qualified individuals should prepare it

<b>Element</b>	<b>Malaysia</b>	<b>New Zealand</b>	<b>Significance</b>
SIA Approval	Yes, for SIA Category A (Section 20B)	Yes	Approval of report by the Director-General/ relevant authority
Public Participation	Yes (SIA Manual 2023)	Yes	Public interest
Association related	MSIA	NZAIA	Leading organisation for SIA implementation

*Source: Policies and Frameworks in Malaysia and New Zealand*

It is observed that Malaysia has developed a strong foundational framework for SIA implementation over the years since the insertion of its statutory requirement in 2017 through Act A1522. The other core elements of SIA, such as the qualified person, implementation process, SIA approval, and elements of public participation, have been addressed accordingly in the latest manual in 2023. However, the enforcement and monitoring phases still require substantial attention from all groups, especially PLANMalaysia, to ensure that the entire implementation process is effective. Thus, this will contribute to sustainable development in the country.

In New Zealand, there is a fortunate existence of a basic legal framework that legitimises the implementation of SIA. Large-scale projects are beginning to take SIA seriously, and several guidelines have been utilised in these projects. However, there is still a significant need for improvement, whether from the legal framework or other practices, to ensure the contribution to good development there. Further analysis and improvement proposals are needed to strengthen the SIA implementation in the future.

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