Definition, objectives and types of public policy.
Social of policy.
Definition of law and its function.
Federal Constitution.

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Policy reflects values and aspirations of the government in resolving problems and impediments.

Policy is dynamic – changes according to the will of the society and current leadership of the state.

Policy must be in line with the characteristics and need of the state.

Policy making – intervention of the government.

Public policy is complex because it involves various parties with different interest in making the decision (Healy, R.G. & Asher, W., 1995).
DEFINITION

- A policy can be considered as a "Statement of Intent" or a "Commitment". For that reason at least, the decision-makers can be held accountable for their "Policy".

- Thomas A. Birkland: there is a lack of a consensus definition of public policy.

- Public policy is the study of policy making by government. A government's public policy is the set of policies (laws, plans, actions, behaviors) that it chooses.
Since governments claim authority and responsibility (to varying degrees) over a large group of individuals, they see fit to establish plans and methods of action that will govern that society.
EXAMPLE OF SOME DEFINITIONS

- Clarke E. Cochran, et al.: "The term public policy always refers to the actions of government and the intentions that determine those actions."
- Clarke E. Cochran, et al.: "Public policy is the outcome of the struggle in government over who gets what."
- Thomas Dye: Public policy is "Whatever governments choose to do or not do."
Charles L. Cochran and Eloise F. Malone: "Public policy consists of political decisions for implementing programs to achieve societal goals."

B. Guy Peters: "Stated most simply, public policy is the sum of government activities, whether acting directly or through agents, as it has an influence on the life of citizens."
Kilpatrick: “Public policy can be generally defined as a system of laws, regulatory measures, courses of action, and funding priorities concerning a given topic promulgated by a governmental entity or its representatives.”

Kilpatrick: “A major aspect of public policy is law.”
Birkland offers these common traits of all definitions of public policy:

- The policy is made in the "public's" name.
- Policy is generally made or initiated by government.
- Policy is interpreted and implemented by public and private actors.
- Policy is what the government intends to do.
- Policy is what the government chooses not to do.
CONCLUSION

- Public policy is an attempt by a government to address a public issue by instituting laws, regulations, decisions, or actions pertinent to the problem at hand.

- Numerous issues can be addressed by public policy including crime, education, foreign policy, health, and social welfare.
GOALS OF PUBLIC POLICY

- In broad terms, public policy aims at improving:
  - Economic prosperity: more and better jobs, higher wages, and so on
  - Environmental quality: air, water, flora, fauna, and so on.
  - Amenity: mobility, housing, shopping, education, security, recreation, and so on.
Public policy addresses each of these issues by providing public facilities and services to try to make them better.

It does that subject to:

- Constraint of efficiency
- Fairness
- **Constraints of efficiency** - doing so in ways that do not waste money or otherwise increase the cost of living.

- **Fairness** - people should pay for these improvements in proportion to the benefits they receive or the costs they impose, unless society decides through public policy that certain people are in a group that should be treated differently.
- Public policy is made to fulfill socio-economic objectives of a country.
- Policy aimed to benefit both the government and the citizen.
- Policy aimed to resolve public problem and at the same time realizing the objective and vision of the state.
- Policy is a structured plan to resolve conflict between state and citizen.
- Policy provides suitable/practical actions for the government to resolve various social problems.
RELATIONSHIP BETWEEN PUBLIC POLICY AND POLITIC

PUBLIC POLICY
Decision/s of the government made through political system

CLAIM/DEMAND
Desires/voices/interest of the public and associations on matters pertaining to welfare of the society – government may/may not act on it.

SUPPORT
From the public
The government is responsible and have authority to make and implement policy. What ever the risk involve during its implementation will be burdened by the government. The Government must take remedial action if problem occurs.

Every policy are resulted from the public whether for the purpose of resolving problems, fulfilling public demand or developing the society, etc.
TYPES OF POLICY

- Economy
- Social and work ethic
- Foreign relation
TYPES OF PUBLIC POLICY

- Regulatory policy
- Distributive Policy
- Redistributive policy
- Security policy
REGULATORY POLICY

- Regulatory policy targets the behavior of individuals or industry.
- Government limits on individual choice in order to restrict unacceptable behaviour.
- Regulatory policies, or mandates, limit the discretion of individuals and agencies, or otherwise compel certain types of behavior.
These policies are generally thought to be best applied when good behavior can be easily defined and bad behavior can be easily regulated and punished through fines or sanctions.

Pattern: Law enforcement; Business regulation (prices, fraud, unfair practices, monopoly); Limiting access to public goods (air, water, communication); Health and safety.

Eg: Penal Code, Dangerous Drug Act, Food Act, Road Traffic Regulation.
DISTRIBUTIVE POLICY

- Government efforts to distribute benefits to some portion of the population and pay for those benefits from general tax revenues.

- Distributive policies are the most common form of state action to solve public problem.

- Types: Subsidies; Support of research; Collection and dissemination of information; Creation of distributive public goods; Provision of government insurance.

- Example: Model Baharu Ekonomi, highways, public education.
The government taxes one group of people to provide benefits to another group.

Types: Income stabilization (unemployment, retirement); Welfare (head start, food stamps, school lunch programs); Heath care (medicare for the aged, medicaid for the needy); Housing (fair housing); Income distribution (tax code).

Redistributive agencies operate under legislation that anticipates environmental changes and automatically adjusts agency actions to the changes.
SECURITY POLICY

- Policy to foster peace, integration in the state as well as the security of the state internationally.

- **Foreign relations policy**, consists of self-interest strategies chosen by the state to safeguard its national interests and to achieve its goals within international relations milieu.

- The approaches are strategically employed to interact with other countries. In recent times, due to the deepening level of globalization and transnational activities, the states will also have to interact with non-state actors.
The aforementioned interaction is evaluated and monitored in attempts to maximize benefits of multilateral international cooperation.

Since the national interest are paramount, foreign policies are designed by the government through high-level decision making processes.
National interests accomplishment can occur as a result of peaceful cooperation with other nations, or through exploitation.

Usually, creating foreign policy is the job of the head of the government and the foreign minister (or equivalent). In some countries the legislature also has considerable oversight.

Example: Look East, ASEAN, OIC, Commonwealth, ADEAN+3, G15, G77.
<table>
<thead>
<tr>
<th>POLICY</th>
<th>IMPLEMENTATION</th>
</tr>
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| LAW        | ▪ Enacted to resolve social problem.  
▪ Difficult to modify/abrogated - formal process.  
▪ Involve the concept of punishment.  
▪ Act by Parliament; Enactment: DUN, Ordinance: law before merdeka; law in Sabah and Sarawak. |
| PLAN       | ▪ Detailed than law. Encompassing various social problem.  
▪ Comprises various policy.  
▪ Strategy - programme and project. |
| PROGRAMME  | ▪ Made to addressed social problem without applying the concept of punishment. |
| PROJECT    | ▪ Specialized, a part of programme (short term). |
NATIONAL WOMEN POLICY 1989

- Objective: towards the encouragement of wider participation of women in the labour market, the more educational and training opportunities for women, upgrading women's health status, reviewing laws and regulations that discriminate against women.
  - Law: Domestic Violence Act 1994
  - Plan: HAWA
  - Programme: Caring society
  - Project: Women Day.
NATIONAL WOMEN POLICY

LAW: Domestic Violence Act 1994

PLAN : HAWA

Programme: Caring society

Project: Women Day
SOCIAL POLICY

• Guidelines and interventions for the changing, maintenance or creation of living conditions that are conducive to human welfare.

• Implemented to render social justice and to achieve these needs: material, emotional and security, social recognition.

• A part of public policy that deals with social issues.

• Social policy is very much influenced by the ideological leanings of the government.
IMPORTANT AREAS OF SOCIAL POLICY

- The welfare state
- Unemployment insurance
- Pensions
- Healthcare
- Education policy
- Social care
- Social housing
- Social exclusion
- Crime and criminal justice
- Labour regulation
The umbrella policy that encompasses the philosophy and various national social development policies is founded on the Constitutions, Rukunegara (Pillars of Nationhood), Vision 2020 and the national commitments at international level.

The National Social Policy (NSP) is a social development policy founded on noble values and the improvement of human potential to achieve social integrity and stability, national fortitude and well-being for a progressive and established Malaysian society.
OBJECTIVES OF SOCIAL POLICY

- GENERAL OBJECTIVES

✓ To ensure that every individual, family and community, regardless of ethnic group, religion, culture, gender and political belief as well as region is able to participate and contribute to national development as well as enjoy continuous contentment in life.
SPECIFIC OBJECTIVES

- To ensure that the basic necessities of the individual, family and community are provided for.
- To develop and empower humans for life.
- To consolidate and develop the social support system and services.
- To generate multi-sector synergy.
IMPLEMENTATION OF NSP

- Federal Level
  - National Social Council
    - National Social Development Committee
      - Ministerial Level Social Development Working Committee
        - State Development Council
          - State Development Working Committee
            - District/Division Development Working Committee
              - Social Reference Centre (SRC)

- State Level

- District Level

- Community Level
SPECIFIC OBJECTIVES

- To ensure that the basic necessities of the individual, family and community are provided for.
- To develop and empower humans for life.
- To consolidate and develop the social support system and services.
- To generate multi-sector synergy.
WHAT IS LAW?

- There is a great diversity among the Western scholars about the definition of law.
- The question as to ‘what is the true nature of law’ has fascinated legal, political and social scholars for a long time and has led to efforts among them to use the best terms in which to define law.
- Some say that it is the order of the superior to the inferior. Some hold that this law comprises the customs and traditions recognised by the state.
- Others maintain that law is an outcome of the necessity and expression of the will of the society.
WHAT IS LAW?

- However, all agree that law is a set of rules that govern the pattern of behaviour in a given society.
- The difference due to their different views regarding:
  - The basic concepts of law.
  - Dignificance of moral & social rules.
  - Different time and cultures.
  - Different view pertaining to the nature and functions of law.
  - Motive for obedience.
DEFINITION OF LAW

- **Julius Stone**: “Law is an abstract term, and the definer is free to choose a level of distraction; but by the same token, in these as in other choices, the choice must be such as to make sense and be significant in terms of the experience and present interest of those who are addressed.”

- **John Austin (Legal Positivism)**: “law is a command of the sovereign authority in a society” – an objective view of law but ignores its ideal or just aspect, not all law comes from the sovereign, not all law in the form of command, fear is not the only motive behind obedience of law.

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CONTINUE

- John Salmond (Legal Positivism): “Law may be defined as the body of principles recognised and applied by the state in the administration of justice” – there are laws which are unjust and express the ulterior motives of the ruling elite, does not cover international law.

- Historical school: “Law is the collective conscience of a society” – emphasis on custom and tradition, ignored the role of the modern state which introduces social change through law, there are customs and traditions that doo not express the conscience of the society.
Malinowski (antropology): “The rules of law stand out from the rest in that they are felt and regarded as the obligations of one person and the rightful claim of another. They are sanctioned not by a mere psychological motive, but by a definite social machinery of binding force based...upon mutual dependence and realized in the equivalent arrangement of reciprocal services...”

This implies that law operates not only in conflict or dispute situation but also in the realm of common everyday activities.
Hart (Legal Positivism): “Law consists of primary rules (PR) and secondary rules (SR)” – PR impose duties; some norms relate directly to the conduct of a person.

SR explain what the society’s duty imposing rules are, by what procedure new rule can be ascertained or old rules can be abrogated, the issue of whether PR has been violated, who has the authority to impose punishment for breaches of the rules.
O.W. Holmes (Legal Realism): “the prophecies of what the courts will do in fact, and nothing more pretentious, are what I mean by the law” – pragmatic approach to law, emphasis on the important role of judges/courts judges.

Donald Black (Sociology): “Law is essentially a governmental social control” – the normative life of a state and its citizen, such as legislation, litigation and adjudication.
T. Aquinas (Natural Law): “Devine reason dwell in all man. There is one common law of nature based on reason which is valid universally. God had implanted in man a knowledge of natural law and a will to obey it. Law is not considered as something enacted by the will of the king or a legislative but as something unchanging, providing the framework within which man live. It is considered to be above the positive law of the state and the king is also subject to this natural law” – emphasis on the idea of justice, moral.

Any man made law which is in conflict with natural law is not a true law.
CRITERIA OF LAW

- Consistent
- Universal
- Published
- Accepted
- Enforced

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EVOLUTION OF MAN MADE LAW

- Develop into being as soon as the society comes to have certain needs or interests.
- When people live together certain pattern of behaviour emerges.
- Men have got to satisfy their physical, biological and social needs – must seek the cooperation of others living in the community.
- Thus, everyone’s conduct is conditioned by a collectivity or group itself.
- The pattern of behaviour repeated over the years and became customs - customs hardened into strict rules of law - law grew organically with the society.
- Conflict inevitable - necessity to establish dispute resolution mechanism.
- Law comes into being as a result of the cooperation, consensus, common good, peaceful social change and social equilibrium.
SOCIAL FUNCTIONS OF LAW

- Pervasive influence in our life affecting almost everything we do:
  1. Social control
  2. Conflict resolution
  3. Instrument of social change: social engineering and social welfare
SOCIAL CONTROL

- Process of which individual are influenced to conduct themselves in conformity to society’s expectations.
- Conformity to social norms can be explained in terms of 2 social control processes: **internal and external**.
- **Internal control**: those that exist within the individual’s moral and social values of behaviour. Develop through socialisation process – theory of human ecology.
- **External control**: those that come from outside an individual – pressures and sanctions that are applied by others.

- **Informal sanctions**: values, ethics, mores, folkways.

- **Formal sanctions**: explicit rules of conduct, planned use of sanction to support the rules and designated individuals to enforce the rules; criminal law – penal or non-penal sanctions.
CONFLICT RESOLUTION

- To provide legal means by which conflicts can be settled. Methods: formal and informal.

- Law provide sanctions that create an environment of confidence and induce to parties in conflict to enter into transaction's in reliance of law’s ability to protect their interests.
  - Physical force.
  - Self-help.
  - Court adjudication.
  - Administrative adjudication
  - Alternative dispute resolution
INSTRUMENT OF SOCIAL CHANGE

- Factors of social change: natural, demographic, cultural, technological and economic.
- Should law be used to change society?
- Does law lead in the process of social change or does social change originate in the larger society and law simply follows the change by merely adjusting or accommodating itself to changes taking place in society?
- Efficacy of law as an instrument of change?
To render justice.
To recognise and define legal relationship.
To determine legal personality.
To resolve disputes in society.
To balance conflicting individual/societal interest.
To engineer society.
PREREQUISITES FOR EFFECTIVENESS OF LAW

- The source must be authoritative and prestigious.
- The new law must be compatible with established values.
- The law must be viable and practical.
- The aim of the law must be achieved in relatively short time after its enforcement.
- The enforcement individual/agencies must be committed to the behaviour prescribed by the law.
- The enforcement should be uniform.
The law should include positive and negative sanction.

Effective protection should be provided for the rights of those who stand to lose as a result of evasion or violation of the law.

The goal of the law must be attainable.

The law must be clear and precise.

The law must be communicated to the people.

The law must reflect the notion of fairness and justice.
The law must be supported by an efficient judicial system, police force and administrative machinery.

Depends on the extent to which people are motivated to invoke law in support of their interests.

Depends on how law is put into effect.
CONCLUSION

- Law permeates all form of social behaviour.
- Its social significance and prevalence are felt in walks of life. In subtle as well as not so subtle ways, a complex and voluminous set of laws governs our every action.
- Law does not work only by straight forward command; it works alongside the moral, religious and economic forces silently operating in the society. Law has a relationship with other social forces and must be seen as largely dependent on them.
MALAYSIAN LAW

- Mainly based on the English Common Law legal system.
- This was a direct result of the colonization of Malaya, Sarawak and Sabah by Britain between the early 19th century to 1960s.
- The supreme law of the land is the Federal Constitution which sets out the legal framework and rights of Malaysian citizens.
- Federal laws enacted by the Parliament of Malaysia apply throughout the country.
There are also state laws enacted by the State Legislative Assemblies which applies in the particular state.

The constitution of Malaysia also provides for a unique dual justice system - Civil Court and Syariah Court.

The Syariah laws are only applicable to the Muslim.
FEDERAL CONSTITUTION

- The supreme law of the land.
- Any law repugnant to the constitution is invalid.
- **Purpose:** to ensure the smooth running and efficiency of the administration of the government.
- **Importance:** Provide basic laws that determine the direction of the government.
CHARACTERISTICS OF FEDERAL CONSTITUTION

- **Article 1:** Malaysia is a federal state.
- **Article 3:** Islam is the federal religion but other religion may be practised in peace and harmony.
- **Article 32(1) & 40:** Malaysia have Constitutional Monarch - Yang di-Pertuan Agong.
- **Chapter 4, part IV:** Malaysia have Parliamentary Democracy System - separation of powers.
- **Article 152:** Bahasa Melayu is the national language.
- **Article 153:** Special privilege of the Bumiputras (Malays and indigenous people).