

UNIVERSITI TEKNOLOGI MARA

**A LEGAL STUDY ON
FISHERIES ACT 1985 IN
ADDRESSING THE ISSUE OF
ILLEGAL FISHING IN MALAYSIAN
MARITIME ZONE**

**MOHAMAD RAIMI BIN
MOHAMAD NOR**

Disertation submitted in partial fulfillment
of the requirements for the degree of
Master of Enforcement Law

Faculty of Law

January 2018

AUTHOR'S DECLARATION

I declare that the work in this dissertation was carried out in accordance with the regulations of Universiti Teknologi MARA. It is original and is the results of my own work, unless otherwise indicated or acknowledged as referenced work. This thesis has not been submitted to any other academic institution or non-academic institution for any degree or qualification.

I, hereby, acknowledge that I have been supplied with the Academic Rules and Regulations for Post Graduate, Universiti Teknologi MARA, regulating the conduct of my study and research.

Name of Student : Mohamad Raimi Bin Mohamad Nor

Student I.D. No. : 2016219868

Programme : Master of Enforcement Law

Faculty : Law

Dissertation Title : A Legal Study On Fisheries Act 1985 In Addressing
The Issue Of Illegal Fishing In Malaysian Maritime
Zone

Signature of Student :

Date : January 2018

ABSTRACT

The fisheries sector plays a crucial role as a contributor to protein sources, to Gross Domestic Product (GDP), employment, and development of upstream and downstream fishery-based industries. The weaknesses of the Fisheries Act 1985 and regulations that cannot convict the converted cargo vessel involved with illegal fishing (fishing by squid jigging and transferred fish or squid from the local fishing boat) becoming a growing concern as it will be taken advantage by foreigners. Problems arise when a cargo vessel cannot be convicted because it is not categorized as a fishing vessel as provided under any provision of this act. Where, the cargo vessel will proceed under the jurisdiction of the Marine Department of Malaysia. There is an urgent need to improve this act to prevent illegal fishing from stolen of the country's marine revenue. Thus, the effectiveness of this study on the comparison with the Fisheries Management Act 1991 (FMA 1991) from Australia was made to fill the lacunae in law. The purpose of this legal study is to review the effectiveness of the Fisheries Act 1985 and also to compare this act with FMA 1991 for the purpose of improvements to be proposed. It specifically examines the inherent weaknesses (lacunae) in this act that cannot convict the accused. This legal study is based on a doctrinal research, the laws in Malaysia related with illegal fishing by foreign vessel and the current situation of encroachment into Malaysian Maritime Zone were examined and a free flow interview with MMEA person was conducted. The study suggests that some amendments should be made to this Act to ensure that the jurisdiction to investigate and prosecute the converted cargo vessels involved with illegal fishing in the Malaysian Maritime Zone. Hopefully, this study will contribute and add value to efforts to amend this Act towards a powerful and comprehensive act. It is also expected to reduce the encroachment of this type of vessel entered to take the revenue of country's fishery sector.

TABLE OF CONTENTS

AUTHOR'S DECLARATION	i
ABSTRACT	ii
ACKNOWLEDGEMENT	iii
TABLE OF CONTENTS	iv
LIST OF TABLES	vi
LIST OF CASES	vii
LIST OF ABBREVIATIONS	viii
CHAPTER ONE: INTRODUCTION	1
1.1 Introduction	1
1.2 Research Background	2
1.3 Problem Statement	2
1.4 Research Questions	3
1.5 Objectives	3
1.6 Significance Of The Research	4
1.7 Scope And Limitation Of The Research	4
1.8 Research Methodology	5
1.9 Provision Plan	6
1.10 Conclusion	6
CHAPTER TWO: FISHING AND ILLEGAL FISHING	8
2.1 Introduction	8
2.2 History And Legal Development Of Fisheries In Malaysia	10
2.2.1 Early History (1894 - 1945) - Establishment of Fisheries Department	10
2.2.2 After Merdeka (1957 - 1970)	11
2.2.3 1970s Up To Now	13
2.3 Illegal Fishing In Malaysia	14
2.4 Fisheries Sector And Illegal Fishing In Australia	16
2.5 Conclusion	18
CHAPTER THREE: LEGISLATION DEALING WITH FISHING	19
3.1 Introduction	19

3.2 The Fisheries Act 1985	19
3.3 Australia: Fisheries Management Act 1991	22
3.4 Conventions	24
3.4.1 UNCLOS 1982 – Protection the right of fisheries in Malaysia	24
3.4.2 Food And Agriculture Organisation of The United Nations (FAO)	25
CHAPTER FOUR: EXAMINE THE EFFECTIVENESS OF ENFORCEMENT IN MALAYSIA AND AUSTRALIA	28
4.1 Introduction	28
4.2 Enforcement In Malaysia	28
4.2.1 Case of converted cargo	28
4.2.2 Illegal fishing cases	30
4.3 Enforcement In Australia	32
4.4 Conclusion	36
CHAPTER FIVE: RECOMMENDATIONS AND CONCLUSION	39
5.1 Recommendations	39
5.2 Conclusion	43
REFERENCES	45
APPENDICES	49