

**UNIVERSITI TEKNOLOGI MARA**

**THE ADMINISTRATION OF NATIVE  
LAWS AND NATIVE COURTS IN  
SABAH**

**RAFIDAH@MALISSA BINTI SALLEH**

Thesis submitted in fulfillment  
of the requirements for the degree of  
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## **AUTHOR'S DECLARATION**

I declare that the work in this thesis was carried out in accordance with the regulations of Universiti Teknologi MARA. It is original and is the result 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, acknowledged 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 : Rafidah@Malissa Binti Salleh  
Student I.D. No. : 2012842484  
Programme : Doctor of Philosophy in Law - LW991  
Faculty : Faculty of Law  
Thesis Title : The Administration of Native Laws And Native Courts  
In Sabah

Signature of Student :

Date : June 2020

## ABSTRACT

Native law is one of the sources of law recognised by the Federal Constitution in Malaysia. In Sabah, native law was recognised and protected by the British government since 1888. Native law is administered by the native court, presided by the native Chiefs. The Native Courts Enactment 1992 is the important law that governs the native legal system in Sabah. Even though native law and native courts in the state exist hundred years ago, until today, it is submitted that there is not much development or advancement of the laws, the courts' system and the system of administration. There are so many legal and administrative problems that need to be addressed to ensure that native law and the native court system continue to survive for the benefits of the natives of Sabah. The legal problems are among others, no uniform and proper definition for the word 'native', issues pertaining to the jurisdiction of the native court, inadequate laws to govern native family matters, criminal matters, legal issues as to "choice of law" and inherent powers of the native court. In terms of administration, lack of proper and specific body that governs the administration of native laws and the court system is one of the contributing factors to its backwards. No proper system of appointment of the native courts' personnel is also one of the administrative problems that exist. Thus, this research aims to study and examine both the legal and administrative problems in the administration of native laws and native courts in Sabah. This research is adopting the qualitative methodology, and the data were analysed manually. The research suggested that the state of Sabah come up with a specific definition of 'native', amends, repeal and revises the present provisions of laws in the Native Courts Enactments 1992 and also to enact new laws to govern certain areas, for example, native family law. It is also suggested that with relates to the appointment of native courts' personnel, one system needs to be introduced so that the quality of the native judges are guaranteed in dispensing justice among the natives of Sabah. The results of the study also suggested that Native Judicial Department should be set up. It is hoped that the study can contribute to the improvement of native law and native courts system in Sabah.

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