

A LEGAL ANALYSIS ON BREASTFEEDING PROTECTION: A COMPARATIVE STUDY

BETWEEN MALAYSIA AND AUSTRALIA

By

AMIRAH NAJIHAH BINTI ABDUL RAHIM (2009605852)

ATIQA BINTI ANAS (2009610694)

NORFARAH BINTI ZULKORNAIN M.SIA (2009604242)

WAN NURUL JANNAH BINTI WAN MOHAMAD' AZMI (2009487804)

Submitted in Partial Fulfillment of the Requirements

for the Bachelor in Legal Studies (Hons)

Universiti Teknologi MARA

Faculty of Law

December 2011

The students/ authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.

ACKNOWLEDGEMENT

All praises to Allah SWT, by His willing and blessing, we have finally completed this Final Year Project which entitled *A Legal Analysis on Breastfeeding Protection : A Comparative Study between Malaysia and Australia*. This research has been carried out by a team which includes Amirah Najihah Abdul Rahim, Atiqah Anas, Norfarah Zulkornain M.Sia and Wan Nurul Jannah Wan Mohamad Azmi.

First and foremost, we are heartily thankful to our supervisor, Madam Nadia Omar, a lecturer at Faculty of Law, Universiti Teknologi MARA for her encouragement, guidance and support in completing this research. Apart from that, we would like to acknowledge our gratitude to Puan Nor Kamariah Mohamad Alwi, the International Board Certified Lactation Consultant (IBCLC) and founder of the Malaysian Breastfeeding Peer Counselor (MBfPC), the Principle Assistant Director, Nutrition Division, Ministry of Health Malaysia, Encik Ja'afar Mohamed Idris, the Chairperson Emeritus of the World Alliance for Breastfeeding Action (WABA) Professor Dato' Anwar Fazal, Dr. Adlina Suleiman, Dr Jennifer James, Senior Lecturer at Royal Melbourne Institute of Technology and Dr Julie Smith from Australian National University for spending their time to explain and highlight their views regarding breastfeeding protection and related issues through interview.

We would also like to thank the lecturers and staffs of Faculty of Law, Universiti Teknologi MARA for their cooperation, suggestions and guidance in the preparation and compilation of this final year project paper. We also extend our heartfelt thanks and appreciation to our parents, family, colleagues, and others for their moral support and encouragement.

ABSTRACT

Breast-milk is the best food for infants. Notwithstanding this fact, the practice of breastfeeding has been overlooked by people nowadays. Moreover, this practice is threatened by aggressive marketing of designated products and lack of breastfeeding-friendly environment. The absence of comprehensive laws in Malaysia that provide protection on breastfeeding makes it more difficult to protect breastfeeding. This research aims to analyze legal protections of breastfeeding in Malaysia and Australia, to point out the differences of legal protections applied in both countries as well as to recommend legal measures to remedy the flaws in our laws in protecting breastfeeding. From the research, the result shows that legal protections of breastfeeding in both countries are different. Australia has more comprehensive protections than Malaysia. Thus, the laws should be enhanced in order to provide better breastfeeding protections in Malaysia.

TABLE OF CONTENTS

Acknowledgment	ii
Abstract	iii
List of Cases	iv
Table of contents	v

CHAPTER 1 : INTRODUCTION TO THE RESEARCH

1.0	Introduction	1
1.1	Problem Statement	2
1.2	Study Objective	3
1.3	Literature Review	3
1.4	Research Methodology	6
1.5	Significance of Research	6
1.6	Scope and Limitation	7
1.7	Conclusion	7

CHAPTER 2: GENERAL VIEW AND INTERNATIONAL STANDARD ON BREASTFEEDING PROTECTION

2.0	Introduction	8
2.1	Definition	8
2.1.1	Breastfeeding	8
2.1.2	Protection of Breastfeeding	9
2.1.3	Designated Products	9
2.2	Historical Development	10
2.2.1	Breastfeeding	10
2.2.2	Infant Formula Milk	10
2.3	Benefits of Breastfeeding	11
2.4	Drawbacks of Infant Formula Milk	12
2.5	Protection of Breastfeeding at International Level	14

2.5.1	Protection from Aggressive Marketing of Designated Products	14
2.5.1.1	International Code of Marketing of Breast-milk Substitutes	14
2.5.2	Protection by Providing Breastfeeding-friendly Environment Legislation	17
2.5.2.1	Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	17
2.5.2.2	Convention on the Rights of the Child (CRC)	17
2.5.2.3	Innocenti Declaration	17
2.5.2.4	The Baby-Friendly Hospital Initiative (BFHI)	18
2.5.2.5	International Labour Organization on Maternity Protection Convention	19
2.6	Conclusion	21

CHAPTER 3 : COMPARISON BETWEEN MALAYSIA AND AUSTRALIA ON LEGAL PROTECTION OF BREASTFEEDING

3.0	Introduction	22
3.1	Evolution of Breastfeeding Policy in Malaysia	22
3.1.1	Malaysian National Breastfeeding Policy	22
3.1.2	Protection from Aggressive Marketing of Designated Products	23
3.1.2.1	Malaysian Code of Advertising Practice	23
3.1.2.2	Code of Ethics for the Marketing of Infant Foods and Related Products	24
3.1.3	Protection by Providing Breastfeeding-Friendly Environment Legislation	25
3.1.3.1	Maternity Leave	26
3.1.3.2	Breastfeeding in Public Places and Workplaces	27
3.1.3.2.1	Federal Constitution	27
3.1.3.3	Baby-Friendly Hospital Initiative	28
3.1.4	Implementation of Legal Protection of Breastfeeding in Malaysia	29
3.1.4.1	Implementation of Protection from Aggressive Marketing of Designated Products	29