



UNIVERSITI TEKNOLOGI MARA

PROJECT PAPER

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FOREST ORDINANCE (SARAWAK) CAP.126-

ITS EFFECTIVENESS AND WEAKNESSES

BY

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TABLE OF CONTENTS

	<u>TITLE PAGE</u>	<u>PAGES</u>
1.	INTRODUCTION	
1.1	Forest Department and Forest Policy	2
1.2	Forests Ordinance (Sarawak) Cap. 126	2
1.3	Forest Estates and its socio-economic values	3
1.4	Scope of the study	4
1.5	Purpose of the study	5
1.6	Methodology	6
1.7	Constraints and limitations	10
2.	APPLICATION AND LIMITATION OF FORESTS ORDINANCE	
2.1	Points of Law	11
2.2	Points of Fact	14
2.3	Subsidiary legislation and order	15
3.	FOREST OFFENCES	
3.1	Definition and Venues of Forest Offences	16
3.2	Disposal of Forest Offences	17
3.3	Offences Committed in Permanent Forests	18
3.4	Offences Committed in Stateland Forests	20
3.5	Offences Committed in Other Places	20
3.6	Contravention of Licence COnditions	23

## SUMMARY

This study highlights on the effectiveness and weakness of the Forests Ordinance (Sarawak) Cap.126 on its application and limitations, the apprehension of forest offenders, social-economic aspects and some matters related to timber licences.

Focus is given to precedented court cases and to what extent the provisions concerned be effective so far litigated. It also touches on the administrative disposal of forest offences by virtue of quasi-judicial power conferred under Section 70 of the ordinance.

Briefly, it also shows how the ordinance affects the socio-economic aspects especially the natives of Sarawak. Lastly, it examines some economic values and impacts of timber licences on environment and rural dwellers.

Some recommendations are put forward in this study.

Forestry sector contributes to sound economic well being to the state of Sarawak in primary, secondary and tertiary activities. Basically, the primary activities include the extraction and removal of logs as raw materials. The secondary activities include the processing of timber into wide range of commercial products and the tertiary activities include the entrepreneurship of timber business particularly the marketing of logs and semi-finished and finished timber products for both domestic and foreign markets. Other activities, although uneconomical, related to forests include traditional shifting cultivation and taking of forest produce for domestic use.

Towards these activities, the state government imposes certain forms of control on legitimate timber operators and to ensure that these rules and regulations are maintained so as, to a lesser extent, infringements of law could be reduced. Wanton destruction of forests and unlawful disposal of forest produce also become phenomenon whereby forest protection is necessary. Forest protection, <sup>in its</sup> legal aspect, is therefore a protection against man due to a large measure of natural forces of human activities which can be traced to excessive <sup>burning</sup>, excessive cultivation, excessive grazing and excessive exploitation. The enactment of Forests Ordinance (Sarawak) Cap. 126, other than its procedural and legal applications also provides for penalty provisions to apprehend and deter forest offenders from committing offences. The effectiveness and weakness of the Ordinance <sup>will</sup> be discussed later.

2. APPLICATION AND LIMITATION OF FORESTS ORDINANCE

2.1 Points of Law

The definitions of "timber" and "tree" are vitally important in view of the fact that the purposes of the Ordinance are primarily to protect tree for which timber is its product. In the same manner, a definition of term which appears frequently in the Ordinance like "forest produce" declaring certain items inclusive thereof is important so as to avoid a possible danger for a court to confront with the anomaly of interpreting the items in the same category. Thus, the Forests Ordinance divides forest produce into two stated categories of items (a) which are forest produce whenever found and (b) which are only forest produce when found in or brought from a forest reserve or protected forest. Thus, "trees" and "timber" found in or brought from a forest reserve or protected forest is a forest produce. Trees found in a Government reserve, Stateland or Alienated Land is not a forest produce whereas timber brought from the same places is a forest produce.

In the case of PPv Beni ak Drew (case Docket No. 25/82) at Magistrate Court, Simunjan, Beni was charged under Section 21(c) of the Forests Ordinance for felling trees inside Gunong Selang Forest Reserve besides being charged for trespassing. The Court convicted and fined him. Please note that "tree" when found in or brought from a forest reserve is a forest produce.