

**DETERMINING SOVEREIGNTY IN
MARITIME DISPUTED AREAS:
HISTORICAL BACKGROUND AND
EFFECTIVE CONTROL IN THE ICJ
JUDGEMENTS ON CASES
CONCERNING PULAU LIGITAN,
PULAU SIPADAN AND PULAU BATU
PUTEH**



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Problem Statements

01

Objectives

02

Methodology

03

Findings

04

Limitations

05

Importance of the study

06

Implication

07



PROBLEM STATEMENTS

TERRITORIAL DISPUTES:

1

Unclear boundary delimitation between one country and another

2

No clear definition of country sovereignty

3

Unclear language used in developing the agreement or treaty

4

Related to culture, religions, ethnicity and nationalism

OBJECTIVES

01

**Historical Background VS Effective
Control**

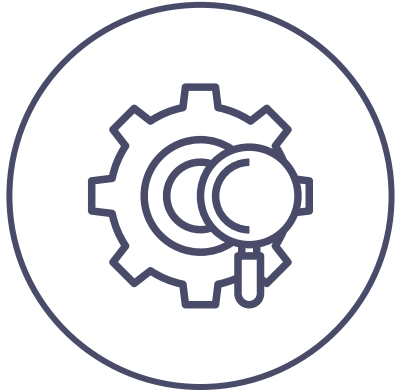
02

Elements of Effective Control

03

Roles of Malaysia Coast Guard

Methodology



Qualitative



1. Pulau Ligitan & Pulau Sipadan (2002)
2. Pulau Batu Puteh (2008)



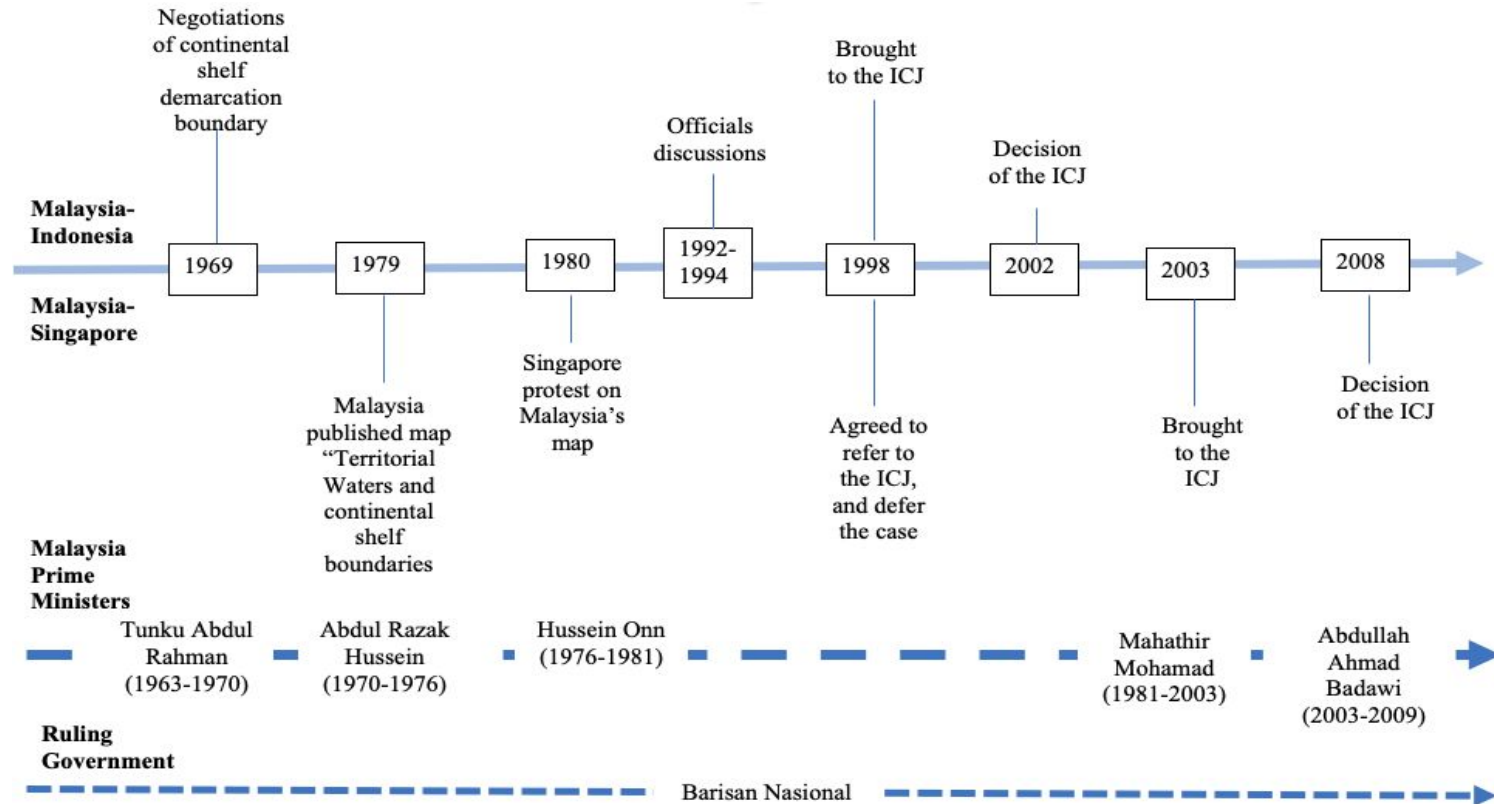
Malaysia

Indonesia

Singapore



Timeline tracing



The Findings



**Effective control is deciding
factor in maritime disputes
cases**



Elements of effective control

- **Legitimization of law**
- **Implementation of law**



**Malaysia Coast Guard have a
roles in managing disputes in
maritime area**

ICJ Judgements: Historical vs Effective Control

	Malaysia	Other country	ICJ's Decisions
Pulau Batu Puteh (A1)	Historical	Effective Control(Singapore)	Singapore
Middle Rock (A2)	Historical + Effective Control	N/A(Singapore)	Malaysia
Pulau Sipadan and Pulau Ligitan (B)	Historical + Effective Control	Historical(Indonesia)	Malaysia

Effective Control

		Legitimization of law	Implementation	ICJ's decision
Pulau Batu Puteh	Malaysia	N/A	N/A	Singapore
	Singapore	Issued permits for Malaysian Officials.	Maintained Horsburgh lighthouse Investigated shipwrecks, Hoisted Singapore flag	
Middle Rock	Malaysia	Fisheries Act 1985 Petroleum concession	N/A	Malaysia* <i>The court decision based on original title of Sultan of Johor</i>
	Singapore	N/A	N/A	
Pulau Sipadan & Pulau Ligitan	Malaysia	Turtle Conservation Ordinance, Birds Sanctuary	Maintained lighthouses	Malaysia
	Indonesia	N/A	N/A	

Malaysia Coast Guard Roles



Sec. 6 “Function of the Agency”



Sec. 7 “Power of the Agency”



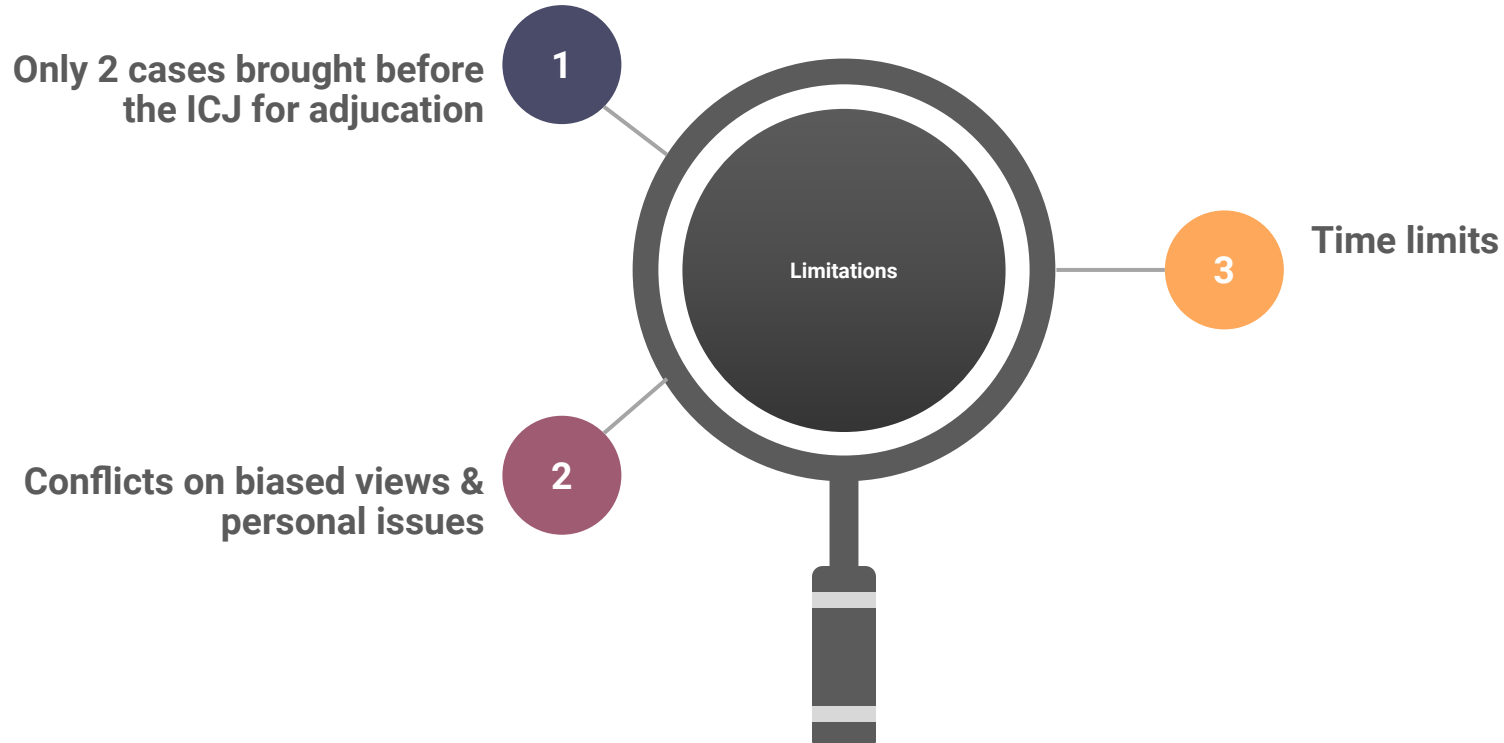
Sec. 16 “Coordination”



Sole Agency at sea (Aug. 2011)



Limitations



Implications

Received 2 x Bay Class and 2x OPVs from ABF (2015); JCG (2017)

Procurements of 6x NGPC and 3x OPVs

Special task force led by former AG

Abu Bakar Maritime Base on Middle Rocks (2009)

Control over Pulau Pisang, Pontian

Interoperabilities between Navy & Coast Guard

Importance of the study

1

Country shouldn't merely depend on historical background

2

Effective control is a deciding factor

3

Legitimization and implementation of the laws

4

The capabilities of the Malaysia Coast Guard

5

Refer the disputes case to the ICJ for settlement should be the last resort.

6

Effective control must be display continuously

7

Objects to any intentions which can compromise sovereignty

8

International arbitration instead of ICJ

Lessons Learned Especially For Policy Makers And Public Officials

1 Cultivates knowledge regarding the importance of country's sovereignty and sovereign rights

2 Multiple set of laws are available; how about implementation (enforcement)?

3 The capability of the agency to carry out enforcement duties continuously

4 Record and compilation of the data should be well maintained

5 Encourage local research agencies to explore and address issues at sea

6 Strengthening the human resource across government to be able to be skilled in diplomacy as diplomacy is the best policy when comes to the maritime disputes



THANK YOU