

ANGLING AND ECO-TOURISM: SYNERGY AND SUSTAINABILITY  
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LEGISLATIVE REQUIREMENTS AND  
CONSTRAINTS IN SPORTS FISHING  
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INTRODUCTION

It is wrong to think that angling is only a past-time for children and old “makciks” in the rural areas. It is a popular sport and a big business. Malaysians of all levels in the society are in it in a big way. They spend thousands of Ringgit every year on fishing trips, local and abroad. Some countries have gone in a big way to provide facilities to attract tourists, including Malaysians. I think it is time that we should start moving. To do so we have to have the proper “infrastructure”. I will only look at the law relating to the subject.

But before going into the substance of the law, a few points about angling should be noted:

- (1) Angling is a healthy sport
- (2) Angling transcends racial, religious, age and social barriers.
- (3) Angling is the least damaging way of catching fish, especially if properly controlled.
- (4) Angling is getting very popular in Malaysia.
- (5) A lot of money is spent by anglers to buy the equipment and to go for fishing trips.
- (6) Many anglers are going abroad on fishing trips. If facilities and good fishing grounds are available in Malaysia, Malaysians as well as foreigners might well be spending their money in Malaysia, fishing.
- (7) Not many anglers can afford to buy and maintain their own fishing boats. A “perahu” suitable for coastal fishing is not suitable for deep-sea fishing. Anglers do not fish at the same place all the time. They like to try other places. Surely they cannot afford to have a boat at every port in Malaysia. Foreigners surely cannot be expected to have their boats stationed in Malaysia or come in their own boats.

LAW AND ENFORCEMENT IN MALAYSIA – A GENERAL OBSERVATION

Tell any foreigner that Malaysia is a country of about 20 million people with 14 “parliaments” (one Federal and 13 State “parliaments”) which make laws, he will be shocked. But that is a fact.

Since Malaysia is a Federation of States, some matters are within the powers of the Federal Legislature and some are within the powers of the State Legislatures to make laws. To make matters worse, “fishing” is under both: maritime and estuarine fishing is a Federal matter, but riverine fishing is a State matter. Whereas it is easier for the one Federal Parliament to make laws on maritime and estuarine fishing. It is not that easy to get all the State Legislatures to make similar laws at the same time on riverine fishing.

When laws are eventually made, they tend to be too strict, too rigid to the point of being unreasonable, impractical so much so that it is not or not strictly enforced. There is little or no follow up e.g. to make Rules or Orders as may be prescribed by the principal law. There is also the problem of enforcement.

### WHAT MAKES A GOOD AND EFFECTIVE LAW?

1. It must achieve its purpose
2. It must not be too wide as to cover areas not intended to be, or should not be covered.
3. It must be reasonable
4. It must be strictly, consistently and persistently enforced.

### LAW ON ANGLING

#### (a) Maritime and estuarine fishing

The law is to be found in the Fisheries Act 1985 and the various Regulations. Not much concerns angling which is understandable. However, I want to highlight a few things:

#### (1) Definition of “fishing”

“Fishing” is defines as follows:

‘ “Fishing” means –

- (a) the catching, taking or killing of fish by any method;
- (b) the attempted catching, taking or killing of fish;

- (c) engaging in any activity which can be reasonably be expected to result in the catching, taking or killing of fish; or
- (d) any operation in support of, or in preparation for, any activity described in paragraph (a), (b) or (c) of this definition.'

To me it is not objectionable so long as it is confirmed to maritime and estuarine fishing. This is because fishing per se is not an offence under the Act. The offence is to operate etc. a fishing appliance. But the problem starts when it is adopted by the State for the purpose of riverine fishing. (I will deal with this later).

(2) Definition of fishing appliances

"Fishing appliance" is defined as follows:

' "fishing appliance" includes a fishing net, a fishing trap, and any gear, with or without floats, buoys or sinkers, designed for capturing fish but does not include:

- (a) any such gear of the hook-and-line type having not more than two hooks; and
- (b) a cast net of the type known as "jala".

My objection is to the limitation of two hooks to a line. The sea is not exhausted of fish by the use of hooks. Most anglers do not use more than two hooks to a line. But the definition also outlaws the use of "jigging set" which anglers normally use to jig for fresh bait or for small fish like selar, tamban, cincaru. I do not think there is the danger that those fish will be depleted because of "jigging".

If you want to outlaw rawai (without a licence) you can always say so.

(2) definition of "fishing vessel"

"Fishing vessel" is defined as follows:

' "fishing vessel" means any boat, craft, ship or other vessel which is used for, equipped to be used for, or of the type used for –

- (a) fishing;'

So, even a car topper which we use for fishing is a "fishing vessel".

(4) definition of "riverine waters"

“Riverine waters” is defined as follows:

‘ “riverine waters” means the waters of any rivers, lakes, streams, ponds and such other waters in Malaysia other than maritime waters, whether natural or man-made, privately owned or otherwise;’

Note that even your man-made, privately owned pond is “riverine water” by this definition.

(5) Section 8 offences

Section 8 provides:

“8. Any person who undertakes any fishing activity, operates, or allows to be operated in Malaysian fisheries waters any local fishing vessel for the purpose of fishing –

- (a) without a valid licence issued under this Part;
- (b) in contravention of any condition in the licence issued in respect of such vessel; or
- (c) in contravention of any direction in writing issued by the Director-General under this Act

shall be guilty of an offence.”

In my article “angling and the Law” I discussed this section at length. I do not intend to repeat it. But I will reproduce the conclusion.

It appears that it is an offence –

- (a) to undertake any fishing activity in Malaysian Fisheries waters;
- (b) to operate any local fishing vessel for the purpose of fishing in Malaysian Fisheries waters; or
- (c) to allow to be operated any local fishing vessel for the purpose of fishing in Malaysian Fisheries waters –
  - (i) without a valid licence issued under Part IV of the Act;
  - (ii) in contravention of any condition in the licence; or

- (iii) in contravention of any direction in writing issued by the Director General of Fisheries.

As I said in the article, I prefer the pre-amended provision. It was confined to the use of boat for fishing and not fishing per se. Even then I prefer to confine it to the use of boat for commercial fishing, not fishing as a hobby or sport. In other words, an angler who uses a boat to fish (angling) as a hobby or sport should not be required to obtain a licence. However, if a person uses a boat to take people to fish for a fee, his boat should be licensed

– licensed to take people to go fishing.

(6) Section 11

Section 11 provides:

“11.(1) The Director General may ... issue a license in respect of any ... fishing appliance ...

(2) ...

(3) Any person who, in Malaysian fisheries waters –

(a) operates, or allows to be operated, any ... fishing appliance ... without a licence in respect thereof;

(b) has under his control or in his possession any fishing appliance without a licence in respect thereof;

(c) ...

(d) ...

Shall be guilty of an offence.”

Under this section if you use more than two hooks to a line, you are “operating” a “fishing appliance”. So you need a licence. If you have it under your control or possession in Malaysian Fisheries waters, you also commit an offence if you do not have a licence. I think this goes a bit too far.

(7) Regulations

I will refer to only one Regulation, i.e. Fisheries (Maritime) Regulations 1967, in particular to regulation 2 which defines “fishing appliances”. Note that it talks about “hooks and line with more than three hooks.” This differs from the definition in the 1985 Act which talks about “having not more than two hooks”. According to regulation 3 if you use more than three hooks you require a licence.

Regulation 8 provides –

“8. Subject to the provisions of regulation 10, no person shall operate or permit or cause to be operated any fishing appliances within a distance of two hundred fathoms of any fishing stakes licensed under three Regulations.”

So, no jigging near the “ujang”, “tuas:” or “kelong”. This is the unfortunate effect of treating hook and line as fishing appliances together with trawler nets, etc.

(b) Riverine Fishing

Riverine fishing is under State jurisdiction. From the survey I have made, I find that –

- (1) Some States have not even adopted the Fisheries Act 1985 regarding riverine fishing. These States are Selangor, Kelantan and Sabah.
- (2) Some States have made Riverine Fishing Rules. These States are Perlis, Kedah, Perak, Negeri Sembilan, Melaka, Pahang, Terengganu and Sarawak.
- (3) Other States have not done so. They are Penang, Selangor, Kelantan, Johore and Sabah.
- (4) Rules made are not uniform.
- (5) All Rules made so far give power to Inland Fisheries Officers to prescribe by way of public notices closed season for fishing for certain species of fish, closed season for fishing in any designated area, and the minimum size of a particular species of fish which may be caught. These are good provisions. Unfortunately, from the response I received from the States, not a single State has issued any such notice.
- (6) Some Rules have also given power to the Inland Fisheries Officer to issue notices for other purposes. For example, the Negeri Sembilan Rules give power to the Inland Fisheries Officers to exempt the requirement of licences in respect of appliances to be specified by him. But no such notice had been given even though the Rules were made in 1977. In view

of the definition of “fishing appliances” in the Negeri Sembilan Rules, one requires a licence even to catch fish using one hook.

- (7) The Rules in some States seem to me to be too rigid. For example, in Perlis, a licence is required even to catch fish at a “parit” along the road side with bare hands. Why? Because the “parit” is not “privately owned”, therefore under the Perlis definition, it is “riverine water”. And rule 3(1) of the respective Rules says:-

“3(1) No person shall –

- (a) catch, collect or cause to be caught or be collected any fish;

...

Without a licence or permit issued under these rules by an Inland Fisheries Officer commits an offence.”

Similarly you require a licence to catch fish with hook and line (even one hook) unless you do so at a “man-made, privately owned ponds”.

- (8) Some States adopt the definition of “riverine water” from the 1985 Act in toto. As a result even a “man-made privately owned pond” is “riverine water” and the Rule applies.

## SUGGESTIONS AND RECOMMENDATIONS

### (a) Maritime and estuarine fishing

1. fishing with hooks and lines (angling), even when a boat is used, should be separated from commercial fishing and fishing by other methods e.g. nets. Hooks and line should be excluded from the definition of “fishing appliance”.
2. There should be no limit to the number of hooks used. If a rawai is to be licensed, it should be so stated.
3. No licence should be required to fish using hooks and line (may be other than “rawai”) whether a boat is used or not.
4. Specific areas should be designated for fishing with hooks and line only. Artificial reefs should be made. A licence may be required to fish (with hooks and line) at those designated areas. (Such “areas” may even be privatised).

5. Licence under paragraph 4, should be for a long term (say, one year) and short term (say, one month) and should be easily available, e.g. at Post Offices, Tourist Information Centres, Fishing Tackle shops.
  6. A private boat used for fishing with hooks and line should not require a licence.
  7. There should be a special category of boats which are licensed to take anglers to fish for a fee. They can be classified under various categories, depending on the size of the boat and the limit that the boats are allowed to operate. Safety equipment must be provided by such boats, e.g. life jackets.
  8. There should be rules pertaining to the type and size of fish which may be taken. Certain types of fish e.g. marlin, sail fish must be required to be released. Other types, e.g. tenggiri, haruan tasik and kerapu over a certain size only, may be allowed to be taken and smaller ones released. There should not be a limit to the number of fish that an angler may catch and take.
  9. There should be no limit to the number of rods an angler can take with him.
- (b) Riverine Fishing
1. "Riverine waters" should not include man-made, privately owned ponds. However dangerous fish e.g. piranha must not be allowed to be kept even in privately owned ponds without a licence.
  2. Use of nets in riverine waters except for jala and tangkul should be discouraged. At the beginning only nets of a certain minimum size may be allowed. Eventually they should be prohibited altogether.
  3. Riverine fishing using hooks and line should be encouraged instead of the use of nets.
  4. As anglers do not use multiple hooks as they do when they "jig" at sea, there is no "necessity" to restrict the number of hooks to a line. "Rawai" is another matter.
  5. There should be no limit to the number of rods an angler can take with him.
  6. No licence should be required to fish with hooks and line in riverine waters.

7. There must be rules prohibiting certain types of fish e.g. kelisa, kelah to be taken. Other types only over a certain size may be taken. Yet others, e.g. puyu, sepat, keli may not be regulated at all.
8. Use of private boats to fish with hooks and line should not require a licence at all. However, a boat used to take anglers to fish for a fee should be licensed and safety equipment provided.
9. Specific areas should be designated for angling only. A licence may be required to fish at such places. Licence should be a long term and short term basis and should be easily available.

Lastly, the law must be enforced, strictly, consistently and persistently and there should be officers on the ground to enforce it.