

Original article

THE IMPORTANT OF UNDERWATER HERITAGE FRAMEWORK TOWARDS NATIONAL MARITIME SOVEREIGNTY

Najmie M.R.^a, Madzli H.^b, Yaakop Y.A.^c, Ahmad Z..^d^a Faculty of Maritime Studies, University Malaysia Terengganu, Malaysia, s55165@ocean.umt.my, Main Author^b Senior Lecturer, Faculty of Maritime Studies, University Malaysia Terengganu Malaysia madzli@umt.edu.my, Corresponding Author^c Assoc. Prof, Faculty of Business, Economics and Social Development, University Malaysia Terengganu Malaysia azizul_yadi@umt.edu.my, Co- Author^d Assoc. Prof, School of International Studies, Universiti Utara Malaysia, mohdzaki@uum.edu.my, Co- Author

Abstract

Underwater heritage is the term commonly used to mean material found underwater. Many states have heightened of underwater heritage remains unprotected. The UNESCO 2001 convention on the protection of the underwater cultural heritage is the foremost international legal reference for the protection or salvage of underwater heritage. To conduct a literature review for this thesis, five keywords were chosen such as UNESCO, under water cultural heritage, marine salvage and sovereignty, exploration, and investigation. The objective is; i) To ensure Malaysia underwater heritage is being well enforced by respective enforcement authorities.; ii) To create an awareness and protection to public and relevant parties.; iii) To identify the relevant implementation of legal enforcement from the respective Malaysia authority) To formulate Malaysia underwater cultural heritage strategic framework for enhancement sustainability development of underwater assets and wealth, and sovereignty. And for the problem statement, i) Lack of proactive measures from operational patrol of underwater cultural heritage for the enforcement from maritime authority.; ii) lack of public disclosure on the importance and existence of underwater heritage in Malaysia by stakeholders.; Iii) Lack of procedures and legal aspects for implementation of underwater cultural heritage in Malaysia water.;iv) None of national underwater cultural heritage strategic framework for sustainability of underwater assets and wealth in Malaysia. Specifically, the component of the underwater heritage is outlined for the protection and conservation of artifacts which have been partially or totally underwater. Qualitative method as main method and data collection from research book, journal article, publish and non-publish report. While expert interviewed via Webex within expert from academician and operational as supportive for this research. Text transcribed has been used for this research and coding system functioned for reference during discussion and findings. This thesis also uses theory of formulation and marine salvage as well as underwater cultural heritage law as a main reference. Finally, underwater cultural heritage strategic framework has been formulated regards to enhancement sustainability development of underwater assets and wealth, and sovereignty. thereby, it shown the Malaysian government commitment and concern to remain national maritime sovereignty.

Keywords: UNESCO, Underwater Cultural Heritage (UCH), Marine Salvage and Sovereignty, Exploration, Investigation

1. Introduction

Ocean is a large area of saltwater that covers more than 70% percent of the Earth's surface and divided into 4 distinct, the Pacific, Atlantic, Indian, and Arctic Oceans. This is another part of the earth that have never ending and continuous project search or exploration. Every country has their own seas and underwater world. Where there is underwater world comes the heritage. This heritage is the witness of our common memory for millennia that contain priceless heritage, largely unknown and underestimated by us. UNESCO set that underwater heritage around the world considered to be of outstanding value to humanity (UNESCO, 2017). Underwater heritage provides the social and historic component to ocean. that has been totally underwater for at least 100 years. There is often confusion in the literature between maritime heritage, nautical heritage, and underwater heritage. It encompasses all traces of human existence that lie or have lain underwater and have its own historical character regardless of their connection to the sea, where it is also a chance towards sustainable development to tourism culture of a country. One of the examples are sunken cities, shipwrecks sites, refuse sites, aircraft wrecks or jettisoned objects (Alvaro, 2019). Hereby, a supportive legal framework that determines the rights and duties of states with respect to their ocean is what being set as the primary objective of the UNESCO efforts. The result or end-product of the effort is "The 2001 UNESCO Convention on the Protection of Underwater Cultural Heritage" by the international agreement on the adequate conduct of member states at sea that this year celebrated it 20 years birthday of implementation. "We love what we marvel at, and we protect what we love" Captain Jacques-Yves Cousteau. However, no one can protect what is unknown, comes the problem. In specific, globally, underwater heritage is threatened by industrial trawling, costal development, commercial exploitation as well as the exploitation of natural resources and the seabed. This historical trace also weakened by the global warming, water acidification and pollution to be true.

The convention provides legal and practical tools for better protection and understand of the unique and fragile heritage that is hidden down there. This can be use by professionals to identify and ensure the lifelong, proper safeguarding, transmission, and management of the heritage for future generations. The conventional shall complimentarily support the United Nations Convention

on the Law of the Sea under international law that includes law of salvage and law of finds for states parties in exercise of their sovereignty. In the other hand, management efforts are what mainly want to directly fight for, to protect the underwater heritage against everything especially treasure hunters. Long before there was systematic archaeology, there was a respected and lawful but very different cultural attitude towards a shipwreck where wreck was a valuable object, to be recovered when it can be, the treasures is gives up for sold an the salvors being rewarded for the success and life risking. Later the attitude change by three main reasons: when archaeologists realized after the searching on the underwater sites, that all the heritage is what it meant by 'unique time capsules. Meaning that it can provide a useful insight into the past because the remains are preserved often in a perfect condition, due to a protective covering of sediment (Hoffman, 2006). Wreck-sites are protected against humans and bacteria by the ocean sludge that protect and guards the treasure, unlike most of the dry-land sites. Pompeii is a famous on land archaeological example of the rare situation where we have intact vestiges captured and preserves from a single moment in time. While this is a very common case study happen to a shipwreck.

Secondly, shipwreck sites contain once-magnificent artefact and human remains. This gave the complete picture of past human civilization. Lastly, the product is essential world history due to the entire continents have been discovered, colonized, invaded, and defended by the sea which the items that has been carried by water. Then only, the underwater cultural heritage become so valuable, and smith and Couper said in their paper 2003 'vast cultural heritage lies beneath the sea' (Hance & Alastair, 2003). According to the 2001 UNESCO Convention on the Protection of Underwater Culture Heritage (UNESCO, 2001) more than three million vessels lying in the oceans around the world as archaeological remains. An investigation on trade items discovered on several historic wrecks in Southeast Asian waters. This proves that scientific analysis on underwater heritage discovery put some established questions into historical facts. Historic wrecks and cargoes found in the Straits of Malacca (Malaysia could be indicator of trade items available during the time offer undisputable proof of certain technological advancement in maritime trade of that period (Mohd Nor & A.Zahid, Competing Interests

in the Underwater Cultural Heritage: A Question of Balance, 2016). This would mean that any discovery that later found traded in any open market would mean an irreparable loss to science and history.

Due to high interest of discovery by many groups like underwater marine archaeologist, commercial salvors, leisure divers, includes States could lead to exploitation of such heritage. Thus, the coordination within UNESCO and enforcement under the maritime organization should hand in hand in making sure underwater heritage are in a good care. The United Nations Convention on the Law of the Sea (“UNCLOS”) provides the basic guideline for disposing Underwater Cultural Heritage (UCH) granting “preferential rights to the State or country of origin, or the State of cultural origin, or the State of historical and archaeological origin.” (Gin, 2015). Meanwhile, the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage(CPUCH) calls for “cooperation among States, international organizations, scientific institutions, professional organizations, archeologist, divers, and other interested parties in a way to support the objective mentioned above. This study will be devoted to National Underwater Heritage of Malaysia although sometimes it will reference to international maritime heritage like shipwreck as for example.

2. Literature Review

2.1 UNESCO

The decades ago, deep water technologies and economic interest have put significant pressure on the preservation of underwater cultural heritage. However, if completely implemented, the 2001 UNESCO convention has the ability to counteract the danger. They must adopt bans, criminal sanctions, and appropriate control over their citizens and vessels. Anna et. al., (2020). The UNESCO convention on the protection of the underwater cultural heritage 2001 came into force in 2009, providing a much-needed international legal framework for the protection of underwater cultural heritage. In this context, it explores the definition of UCH and the convention objective as well as the extension of sovereign immunity for wrecked warship and the risk of coastal state jurisdiction creeping outside the UN convention on the law of the sea competencies. Hayley, (2020). In term of global trade, the Asia Pacific area has grown to be one of the most important. Starting with a vast intra-regional commerce

network that include large maritime powers like the Srivijaya empire. This arose out of the thalassocracy of Sumatra, Java, and the Malay Archipelago. The maritime silk road grew out of greater inters regional trade. China, Japan, South Korea, Taiwan, Vietnam, Cambodia, Philippines, Thailand, Indonesia, Brunei, Malaysia, India, and Sri Lanka were all connected through this commerce with countries in the middle east, Africa and Europe. Bill, (2021).

2.2 Underwater Cultural Heritage

In Malaysia, the evolution of legislative protection for underwater cultural assets has been excruciatingly slow. Although the need to safeguard this vulnerable legacy from human intrusion was recognized as early as the 1980, it was the legal argument at UNESCO(1996-2001) that had significant impact on the current position of marine archaeology in Malaysia. The UNESCO convention on the protection of underwater cultural heritage(2001 UNESCO convention) was enacted to supplement the United Nations convention on the law of the sea, which was ratified in 1982.(1982 UNCLOS). Even though the 2001 UNESCO convention addressed many of the difficulties, exacerbated by a lack of information. The UNESCO convention on the protection of underwater cultural heritage provides a much needed worldwide legal framework for shipwreck and other cultural remnants found in international sea. However, it failed to get the backing of a significant bloc of maritime states when it was adopted in 2001. The regime cannot be fully successful if certain states stay outside of it. Sarah, (2013). Law of the Sea Convention Underwater archaeology and deep-sea salvage are not necessarily the marvels of technical achievement that have brought us face to face with legacy under the waters. At times, people discovered it by chance, and at other times, an act of God brought mankind into contact with a drowned old civilisation.' Without a question, the scope of technical innovation in deep-sea salvage has necessitated the creation of particular norms and regulations for the preservation and conservation of undersea cultural treasures. The reason for this is simple: advances in deep-sea salvage technology, which is largely linked with the recovery of sunken artefacts, have permitted humanity to partake in hitherto unimaginable activities, frequently resulting in the loss of cultural property. With the adoption of the UNESCO 2001 Convention, the need for specific rules and regulations pertaining to the protection and

conservation of underwater cultural heritage is no longer an issue, but the question of how the Convention, as well as other rules of international law relating to underwater cultural heritage, will be applied remains a source of great concern.

2.3 Marine Salvage and Sovereignty

After a shipwreck or other maritime disaster, marine salvage is the process of reclaiming a ship and its cargo. Towing, refloating a vessel, or making repairs to a ship are examples of salvage. Protecting the coastal environment from oil or other pollutant spills is a top responsibility. Prior to the introduction of radio, any ship that happened to be passing by would offer salvage assistance to a stranded vessel. Most salvage now is done by specialized salvage companies with dedicated crews and equipment. In the eyes of recovering party, the law of finds is preferable to the law of salvage because the standard for entire control and ownership of the recovered goods is substantially lower. Christopher, (2014).

Prior to the historical development of the Geneva Conventions in 1958, the movement toward "claiming sovereign rights over the continental shelf" was described as "still in its infancy," with the implications of future technical growth in this area seemingly not completely recognised. The 'aqualung,' which initially allowed humans to enter the underwater realm, was first invented in the 1940s, but access to the seabed was considerably more limited, 'since the human body could only drop to a particular depth and for a short amount of time. With the emergence of astonishing innovations like SCUBA (Self-contained Underwater Breathing Apparatus), as well as sonar, remote-operated vehicles, underwater cameras, and other submersibles, greater access to the deep in search of underwater cultural assets became conceivable. The first systematic survey of the undersea cultural heritage in the United Kingdom was apparently conducted in the 1960s, and the first historic survey was supposedly conducted in the 1970s. Mahmud, (2008)

2.4 Exploration

Underwater Cultural Heritage investigates cases of underwater cultural heritage, exploring ethical issues that have never been studied before. A vast cultural heritage lies beneath the sea, including the archaeological remains of more than three million vessels, as well as historic monuments and whole cities. In addition, climate change, population growth and current events around the world

mean that new underwater cultural heritage is being created faster than ever before. It is, therefore, essential that the ethical issues related to the management of such heritage are considered now, especially as decisions made now will bestow the heritage with a value and will establish legal frameworks that could be used either to protect or harm underwater heritage in the future. There is little question that international legal developments, culminating in the approval of the 2001 Convention, have affected Malaysian legal measures dealing to undersea cultural treasures. The shift in thinking of the law's drafters from considering the subject matter as "historic wrecks" to "underwater cultural heritage" demonstrates this. The term of undersea cultural heritage in the National Heritage Act of 2005 largely resembles the 2001 Convention's definition. Furthermore, the Special Workshop's Recommendations in 2002 were solely critical of matters affecting national security implications. Mahmud, (2008) There were no objections to any of the 2001 Convention's broad aims and principles. As a result, it is critical that the new legislation reflect, at the very least, Malaysia's genuine commitment to conserving underwater cultural heritage, as stated in the 2001 Convention's principles and goals.

2.5 Investigation

Due to the sectorial approach that has prevailed so far when planning in the sea, underwater cultural heritage (hereinafter UCH) represents an invaluable resource that has been inadequately if at all addressed in most spatial planning endeavors. However, now that marine spatial planning (MSP) is being re-launched under a place-based paradigm, the opportunities and difficulties for UCH are vastly different. According to the existing international legislation (UNCLOS), coastal states can only interfere with UCH up to their Contiguous Zone (24 nm from the baseline), whilst beyond that limit UCH is left "abandoned" (unless "flag" or "cultural origin" states claim their protection). Of course, this "freezing" of jurisdictions beyond the CZ, means that for the greatest part of the oceans and seas, UCH protection totally depends on the wise regulation of all other human activities that affect directly or indirectly, cultural heritage. Despite the fact that water covers 71% of the Earth's surface, only around 20% of the seabed has been properly mapped (Mayer et al. 2018). GEBCO Seabed 2030, Norway's MAREANO, Australia's AusSeabed, Ireland's INFOMAR, and the UK's MAREANO are all tackling

seabed exploration as a major task (Thorsnes et al. 2018). According to Horizon Europe, the primary European research and innovation framework project for the period 2021–27, precise maps of the seabed are critical for assessing the condition of the oceans, seas, and coastal waterways, which are one of the world's five most serious issues. Only 0.4 percent of freshwater is present in lakes, rivers, marshes, and shallow groundwater, despite the fact that freshwater makes up only 2.5 percent of global water resources. Lake archaeology is far less common than seabed exploration.

3. Methodology

This section provides an overview of methodology that was followed as a guideline in this research study by a researcher. UNESCO, Underwater Cultural Heritage, Marine Salvage and Sovereignty, Exploration, and Investigation were all highlighted in the preceding section's literature analysis. This section will provide a detailed description of a number of methodologies that can lead to further study, data gathering, data analysis, and approaches. This section also discusses how methodology can assist a researcher in finding a solution to resolve issues. The key components of a research project, such as the research topic area and focus, the research perspective, the research design, and the research methodologies, are all introduced in a research strategy. It describes how researchers plan to respond to the study questions or interview and how researchers will apply the approach. The first half of this course focused on identifying a research topic, developing a research statement, and considering potential research questions. While research projects may already have defined study questions or objectives, it is likely that at this point, the researchers are unsure of the best approach to use to answer those questions. To collect the required data two methods can be used such as qualitative method and quantitative method. These two methods have different ways of data retrieval and data revenue is also in different forms. However, researchers have chosen the qualitative method. This research method is used to describe each data received in a form that is easily understood by the reader. The data for this research study was collected using a qualitative method in order to offer a solution and debate on this topic. It is also to obtain precise and accurate data in a variety of methods. The qualitative technique is one of the methods that does not rely on

statistics to develop a hypothesis and instead focuses on the outcome and conversation. This qualitative technique entails interviewing certain authorities such as the Malaysia Maritime Enforcement Agency (MMEA), the Royal Malaysia Navy, and the Ministry of Tourism to obtain responses to the research study's topic. Furthermore, throughout the interviews, this research study will employ an instrument in the form of a questionnaire to create correct data.

Researcher selected which expert should be to interview and later communicate with potential expert to having an interview session schedule. The session has been used online via Webex. The main concerned by choosing selected expert as per experience, position and related opinion regards to the topic chosen. Even the questions arose as per open-ended question because to allowed expert elaborate and explained their experience and opinion. However, during the session, then it may record and listening particularly and taking notes on the spot, listening and taking notes later, or tape recording the interview (Griffie, 2005). This research study's respondents include officials from the MMEA, Royal Malaysia Navy, and the Ministry of Tourism. This is due to the fact that both authorities had the highest level of accountability in relation to these concerns. They will react to the researcher's question based on what they learned throughout the interview. This authority's responder will collect data and determine the outcome of the issues. A common qualitative research approach is content analysis. Rather of being a single method, content analysis is now used in three different ways conventional, guided, and summative. All three techniques follow the naturalistic paradigm in that they interpret meaning from the content of text data. Coding schemes, sources of codes, and risks to trustworthiness are the key distinctions between the techniques. Coding categories are produced directly from text data in traditional content analysis. The analysis of a directed approach begins with a theory or relevant research results as a guide for first coding. Content analysis was also employed to flesh out the research study's facts and difficulties, all the way to the depths of interviews with authorities. Interviews with MMEA, Royal Malaysia Navy, and Ministry of Tourism officials will be recorded in two ways: video and audio. The text must match the video and audio recordings perfectly. The objective is to make sure they are the same since the researcher has to minimise overlapping

information and inaccuracies while transferring data from the authorities' interviews.

Documenting the relationship between the researcher and his themes is required for content interpretation in qualitative research. To put it another way, each piece of data is categorised into topics based on secondary literature. The seven steps of the study system are as follows. Line-by-line coding is a type of coding that is more focused on themes and patterns. The two phases of the open coding procedure are axial coding and selective coding. In most qualitative methodologies, coding, or data reduction, is a component of data organisation. Different sorts of codes are acknowledged when it comes to coding. Thematic analysis and conceptual code identify key elements, domains of the study phenomenon, and relationship code links between elements, domains, and dimensions; content analysis and thematic analysis and conceptual code identify key elements, domains of the study phenomenon, and relationship code links between elements, domains, and dimensions; The participant's positive or neutral comments about a particular event are identified by the participant's viewpoint code.

4. Analysis, Discussion & Result

The findings gathered from interviews with experts' authority regarding their point of view for the importance of underwater heritage framework towards national maritime sovereignty are revealed in Section 4. The approach utilized for this study, which is qualitative, was discussed in the previous section, and the author performed this research problem using a research question. The outcome will be based on data gathering, and the findings will be in line with the study's research purpose. The primary facts acquired during interviews with authorities and expert concerning the importance of underwater heritage framework towards national maritime sovereignty is highlighted in this section. The expert's comments will highlight the benefits and drawbacks of underwater heritage and sovereignty, and the researcher will apply theory to further reinforce the study's findings.

Table 4.1. Research Problem, Research Question, Research Objective

Research problem	Lack of proactive measures from operational patrol of underwater cultural heritage for the enforcement from maritime authority
Research question	How does operational patrol for the enforcement program from maritime enforcement authority?

Research objective	To ensure Malaysia underwater heritage is being well enforced by respective enforcement authorities
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According to the findings of researchers interviews with all authorities, five essential codes have been established, one of which is UNC, which stands for UNESCO. The 2001 UNESCO Convention, Malaysia needs to work together with UNESCO to make sure underwater heritage is being well and get new updates. Second is the code UCH stands for Underwater Cultural Heritage, according to the researchers. Each Party's Operational Authority is responsible for keeping this information up to current at all times. The department of national heritage are responsible to take this part to make sure the Malaysia underwater heritage and the treasures founded are in good care. The key coding MSS stands for Marine Salvage and Sovereignty. The stakeholders need to give more exposure to the public about underwater heritage. Especially students who are in maritime or marine field. The researcher uses a variety of techniques to assess the quality of this thesis paper. One option is to interview the department of national heritage and expert associate professor dr mahmud zuhdi, which is one-way underwater heritage will provide more information to the public and help them understand how these interviews function. In addition, because of interviews with the Department of National Heritage and Professor Mahmud, the researcher has determined that the code EXP is for exploration. Exploration is the action of some members of the government who work together to enforce the law by identifying, discouraging, rehabilitating, or punishing those who break the society's rules and standards. The word refers to the police, the courts, and the correctional system. Through the utilization of record sharing and mutual collaboration, these three components can work separately or together. In this thesis paper, the researcher strictly asks the department of national heritage because this authority is responsible to take this part. Finally, the last key code is INV stand for Investigation. Taking charge of this investigation might assist researchers in demonstrating the worth of this thesis paper. Proactive researchers are more likely to accept responsibility for their activities and to exhibit characteristics that enable them to generate something related to their thesis. When a researcher takes the initiative to interview a subject matter expert or authority and obtain fresh information on underwater heritage.

4.1. Discussion Research Objective 1

To ensure Malaysia underwater heritage is being well enforced by respective enforcement authorities.

Based on the research study, the first objective was to ensure Malaysia underwater heritage is being well enforced by respective enforcement authorities. In an interview with the department of national heritage expert, the expert reportedly said in the key code RO1JWNUNC01, RO1JWNUNC02, RO1JWNUNC03 about they have their own act to enforce the underwater heritage and have cooperation with UNESCO to protect Malaysia underwater heritage. the respondent also told that they also cooperate with expert in ASEAN to identify the founded archaeology to make sure Malaysia underwater heritage is being well.

“...sebenarnya kami dah ada dalam akta kami seksyen 2 akta warisan aaa... kebangsaan national heritage act2005 aaa.. dia memang dah ada standard dia punya.. ni yang ni kite amik UNESCO punya ni lah aa..tafsiran...”-

RO1JWNUNC01

“...so kami hantar kepada mereka la eh untuk identifi jumpaan2 ni jadi agak mudah untuk kite bekerjasama lah dan kite juga bekerjasama dengan UNESCO...”-

RO1JWNUNC02

“...Biasanya peringkat asia tenggara ni pun kita boleh dapat la sebab kite ada pakar daripada Philippine yang mana dia merupakan salah sorang untuk aa.. wakil UNESCO la di asia...”-

RO1JWNUNC03

Next, based on the interview sessions with Professor Mahmud at the key code RO1PMZUNC01 and RO1PMZUNC02. The expert has their own opinion which is the enforcement not only protect the object but we need protect the site also to make sure the Malaysia underwater heritage are being well.

“...kuasa pesuruhjaya ni is too broad aa.. the government need too look at the kuasa pesuruhjaya ni...”-

RO1PMZUNC01

“...we not only protecting the object we also need protect the sites. Because there is strong relationship between the object and the sites kan.. and this is the emphasis under 2001 unesco convention...”-

RO1PMZUNC02

Based on these interviews statement above with department of national heritage and the expert academia professor Mahmud, both of them have different opinion but the objective still same to ensure Malaysia underwater heritage is being well enforced by respective enforcement authorities. Look at the key code RO1JWNUNC01, they have two types of heritage. The first one is underwater cultural heritage and another one is underwater natural heritage. The department of national heritage only cover underwater cultural heritage. Most of the 2005 act, majority the interpretation is same with the UNESCO convention 2001. The key code RO1JWNUNC02 and RO1JWNUNC03 shows that the department of national heritage said they have experts from Malaysia to

cooperate with UNESCO to ensure the enforce we run follow the UNESCO convention 2001.

Other than that, according to the key code RO1PMZUNC01 the expert professor Mahmud said all of the heritage is under department of national heritage. they don't have the specific area to protect because there is broad. The key code RO1PMZUNC01, the enforcement needs to protect the site also, to ensure Malaysia underwater heritage is being well. This statement already has in 2005 act. But, if we look at the enforcement, we don't know which enforcement are responsible to enforce the underwater heritage either the department of national heritage or navy or APMM. Due to several internal issues, Malaysia's development of conservation and law enforcement for underwater cultural heritage has been slow. Among these include Malaysia's lack of excavation experience, a lack of finance, lack of equipment, and a lack of knowledge of the significance of undersea cultural treasures. When requesting the assistance of the guardians of historical items from every shipwreck discovery in the world, marine still hires foreign specialists like Michael Flecker and Sten Sjostrand. It significantly affects the state of maritime archaeology, particularly when it comes to saving historical artefacts in Malaysia. A treaty on the conservation and preservation of historic underwater items, such as ship frames from ships, aero planes, or any other type of vehicle, including cargo, is the Convention on the Protection of the Underwater Cultural Heritage, adopted by UNESCO in 2001. (Nik Nurhalida Binti Nik Hariry, 2021). Besides that, The Department of National Heritage will make sure all of the object or archaeological underwater heritage are being well under the Malaysia enforcement. The key code RO1JWNUCH01, RO1JWNUCH02 and RO1JWNUCH03 shows the object or anything that more than 100 years under the water, the department of national heritage will be claim as a heritage depends on the location to ensure Malaysia underwater heritage is being well enforced by respective enforcement authorities.

“...ertinya segala kesan kewujudan manusia yang mempunyai sifat kebudayaan, sejarah atau arkeologi yang sebahagiannya atau keseluruhannya di bawah air lahh, dan dia termasuk semua apa saja lah tapak, struktur, bangunan, artifak, vesel, pesawat udara, kapal apa semua lah...”-

RO1JWNUCH01

“...kalau untuk akta warisan kebangsaan dia lebih kepada kapal lama lah ehh..kapal yang 100 tahun kalau di ikut kan dia punya aaa.. tafsiran tu...”-

ROIJWNUCH02

“...kite tengok berdasarkan lokasi dan juga Tarikh kapal tu karam lah...”

-ROIJWNUCH03

The academia Associate Professor Mahmud Zuhdi said at the key code RO1PMZUCH01, RO1PMZUCH02, underwater heritage should be under the department of national heritage. as we know, there are many authorities in maritime field, but we don't know which authority are fully responsible to Malaysia underwater heritage.

“...walaupun kerajaan Malaysia belum lagi ratify this convention tapi actually because we participated during the navigation process the convention, banyak perkara yang I think our government take lessons lah from this aa.. negotiation process...”-RO1PMZUCH01

“...So bila underwater ni ofkos although primarily bila underwater cultural heritage memang suruhanjaya punya kuasa...”-RO1PMZUCH02

It appears that the laws for dealing with underwater cultural heritage vary from one Southeast Asian nation to the next. While some laws imply disregard, others exhibit considerable cultural sensitivity. Shipwrecks and their contents are, in fact, viewed as resources rather than as cultural treasures in certain countries. Within nations, the laws governing underwater cultural heritage sometimes diverge from those governing terrestrial heritage sites and the items connected to them. Such laws frequently come from the Merchant Shipping Act and Admiralty Law, which were designed to cover ships that sank yesterday rather than those that were lost hundreds of years ago (Flicker, 2017) Under the new Convention, the word protection has multiple meanings. First, some actions related to the underwater cultural heritage must be prohibited. Then, the legacy should be conserved and preserved. According to archaeology, there are two types of issues that the underwater cultural heritage must be protected from protection against uninvited and harmful human interferences as well as defense against the environment's own natural degradation. Thus, there are several practical connotations when the phrase "protection" is used. Issues about ownership, use, and disposal of the cultural legacy will arise as a result of protecting it from human meddling. On the other side, defending the legacy against further degradation or destruction raises questions about its protection and preservation, whether in situ or otherwise. Next, for the key code RO1JWNMSS01 and RO1JWNMSS02 shown the enforcement are not only from the department of national heritage, but they collaborated with the other authorities. Both expert shares the same opinion for this part as we can see at the key code RO1PMZMSS01 and

RO1PMZMSS02.

“...collaborations among enforcement agencies like Maritime Malaysian Maritime Enforcement Agency (APMM) and Marine Department Malaysia (JLM) and National Hydrography of Malaysia (PHN)...”-ROIJWNMSS01

“...tapi.. aaa.. kita ada limitation. Untuk akta ni kita ada limitation.. kita tak pakai zon maritim Malaysia ataupun aa.. EEZ. dia akta ni sampai 12 batu nautika je...”-ROIJWNMSS02

“...I don't think jabatan warisan yang pergi enforce dekat laut tu kan mesti ada jabatan laut, apmm so, everybody is involve...”-RO1PMZMSS01

“...dalam yang 12 nautical miles tu memang important ke tak important tu kita punya memang kita akene jaga...”-RO1PMZMSS02

This is good way from department of national heritage collab with other authorities to ensure Malaysia underwater heritage is being well enforced by respective enforcement authorities. Customs also related with heritage under the salvage and sovereignty. They have their own regulation act 1967 under the water heritage. In enforcing relevant regulations pertaining to trade and dealings in antiquities, the division worked in close cooperation with the Royal Customs. In addition, the department of national heritage and Professor Mahmud agreed about the protection under 12 nautical miles at the key code RO1JWNMSS02 and RO1PMZMSS02. In explanation about protection until 12 nautical miles has been add in national act 2005. Because it is geographically impossible to extend Malaysia's territorial sea up to 12 nautical miles without infringing on neighboring governments' rights to extend territory on the same scale, the tight limit of sea areas indicated in the aforementioned articles was made. By agreement with her neighbors, Thailand and Indonesia, Malaysia has defined her borders. Besides that, the department of national heritage said, the new shipwreck also we do inspection to ensure underwater heritage is being well at the key code RO1JWNEXP01. With thousands of shipwrecks off the nation's coast, emphasis will be given to save and better protect the country's heritage and treasures through underwater excavation. “We are now taking more proactive steps in underwater excavation because that is also covered under the National Heritage Act 2005. “We are afraid that these artefacts would be retrieved by individuals illegally,” (Koh, 2017). The key code RO1JWNEXP02, the department of national heritage explain about location and date of the shipwreck. Strictly, the department of national heritage didn't give the specific location, they will give the areas of shipwreck to other authorities monitoring because private and confidential.

“...Kapal baru pun yang karam pun kami buat inventory supaya kami tidak silap lah bila ada kajian-kajian yang dijalankan ataupun operasi-operasi berkaitan dengan exploration kapal ni...”-

ROIJWNEXP01

“...kite tengok berdasarkan lokasi dan juga Tarikh kapal tu karam lah...”

-ROIJWNEXP02

Next, the key code RO1PMZEXP01, While the department of national heritage and Malaysia marine archaeologists collaborate closely and have actively worked to further our knowledge of human civilization, their work on land-based archaeology is more significant than that of their underwater and maritime counterparts. The study of how ships were constructed and equipped as well as the investigation of the cargoes and other artefacts recovered from shipwrecks, are the main areas of concentration in maritime archaeology because they may provide insight into the historical and cultural significance of a specific period.

“...Number 1 is kite akan protect area or site which is designated. Bila dah designated memang kerajaan dah tahu the location...”

-RO1PMZEXP01

After that, both respondents give same ideas at the key code RO1JWNEXP02 and RO1PMZINV01, which is the government should coordinate the shipwreck to ensure Malaysia underwater heritage is being well enforced by respective enforcement authorities. This is not only the coordination object but, include the sites because the enforcement can monitor. And the department of national heritage found 30 sites of shipwreck, the enforcement must keep properly to ensure the Malaysia underwater heritage wellbeing. RO1JWNINV01.

“...terdapat 30 tapak karaman telah direkodkan oleh Jabatan Warisan Negara berdasarkan kajian penyelidikan kapal karam telah dilaksanakan...”

-ROIJWNINV01

“...So dia perlu ada coordination...”-

RO1PMZINV01

“...Tapi sampai sekarang pun takde regulation kan...”

-RO1PMZINV02

One thing that Professor Mahmud said at the key code RO1PMZINV02, Malaysian government need regulation to protect underwater cultural heritage. The Malay States were still separated under British rule into the Federated and the unfederated Malay States, hence there were no uniform regulations governing the finding of treasure troves and ancient treasures there prior to the foundation of Malaya. In truth, there was no rule governing treasure hoards or the discovery of antiquities in the Federated

Malay States or the Straits Settlement prior to World War II.

4.2. Discussion Research Objective 2

To create an awareness and protection to public and relevant parties especially stakeholders on the importance of and existence of Malaysia underwater heritage

Based on the findings of research, according to an interview with expert Department of National Heritage and Associate Professor Mahmud Zuhdi about to create an awareness and protection to public and relevant parties especially stakeholders on the importance of and existence of Malaysia underwater heritage, the researcher identifies at the key code RO2JWNUNC01 and RO2PMZUNC01. Both experts have their own opinion about exposure to the stake holders.

“...maksudnya pendedahan kepada umum tentang apa saja jumpaan tu jadi kite buat penulisan, pameran, dan ada juga buku-buku journal yang kite terbitkan lah berkaitan dengan underwater cultural heritage...”-

RO2JWNUNC01

“...even nanti kalau orang jumpa nak report kepada siapa.. that's why they need the regulation nii...”

”-RO2PMZUNC01

According to the key code RO2JWNUNC01, the Department of National heritage said they give exposure to the stakeholder through from doing some exhibition, release books, journal and many more about underwater heritage. but the researcher but, the researcher realizes there are only some experts in Malaysia take granted for underwater heritage. if we tell the some of the students or public that related with maritime field, they only know about Titanic shipwreck. They don't know about what is the underwater cultural heritage especially in Malaysia. The expert Professor Mahmud said according to the key code RO2PMZUNC01, if someone found something under the water, who should them refers to? Meaning here, government should give more exposure to the public about national heritage act 2005. Treasure trove refers to any money, coin, gold, silver, plate, bullion jewellery, precious stone, or other object or piece of worth discovered concealed in the soil, anything attached to it, or the bottom of a river, lake, or the sea, but excludes any tangible cultural legacy (THE COMMISSIONER OF LAW REVISION, 2005) Next, according to key codes RO2JWNUCH01, RO2JWNUCH02, the Department of National Heritage plan want to do hub training centre which is the center will be at pulau bidong and collaborate with Dr Hasrizal from University Malaysia Terengganu.

This hub training center not only for Malaysia but in ASIA tenggara to give more exposure to the public especially to stakeholders to create an awareness and protection on the importance of and existence of Malaysia underwater heritage.

“...kite nak bina satu hub training untuk underwater cultural heritage aa.. untuk cover asia lah asia tenggara...”-

RO2JWNUCH01

“...kite nak educate bagaimana nak protect underwater cultural heritage...”-

RO2JWNUCH02

“...Bila dia takde proseduer yang jelas kita akan problem...”-

RO2PMZUCH01

This is great opportunity to public to know in details about Malaysia underwater heritage. furthermore, the collaborate with Dr Hasrizal from University Malaysia Terengganu will educated students in University Malaysia Terengganu about underwater cultural heritage. Associate professor Mahmud Zuhdi said at key code RO2PMZUCH01, Malaysia government need procedure about underwater heritage. we need a specific procedure not only just procedure. Meaning here, if Malaysia have a specific procedure, they can decide to put out a precise protocol for conducting study, investigation, excavations, salvage, and conservation of historic shipwrecks in order to guarantee that such operations are conducted in accordance with established professional standards. Expert from Department of National Heritage also agreed about the public do not know Malaysia underwater heritage. according to the keycode RO2JWNMSS01, RO2JWNMSS02, RO2JWNMSS03, its show they have less awareness to public. Thus, 12 nautical miles and above are not under Department of National Heritage its under Malaysian National Security Council (MKN). But, MKN will cooperate with Department of National Heritage as for advisor.

“...apa saja maklumat yang berkenaan warisan bawah air ni tak ramai yang tahu...”-

RO2JWNMSS01

“...bawah 12 batu nautika atas tu sebenarnya kuasa tu dibawah Majlis Keselamatan Negara lah...”-RO2JWNMSS02

“...So kite Kerjasama Cuma bidang kuasa je tak same...”-

RO2JWNMSS03

“...bile kite tahu the rules of the stakeholder, so banyak activity boleh buat kan tetapi pemantauan tu mesti ada, kalau takde pemantauan kang jadi isu pulak...”-

RO2PMZMSS01

“...kita bila buat perundangan, kite kene anggap dia sebagai mechanism kan tools. . Kite kene gunakan dia supaya dia berfungsi untuk kita masyarakat, berfungsi kepada enforcement agency, berfungsi kepada university berfungsi kepada semua stakeholders...”-

RO2PMZMSS02

“...at least akta 2005 tu memang memberi kuasa yang jelas kepada entity kerajaan tu sendiri sebagai boleh jadi salvor, dan boleh initiate the process...”-

RO2PMZMSS03

Besides that, the expert Professor Mahmud said at the key code RO2PMZMSS01, RO2PMZMSS02, RO2PMZMSS03, if we have specific procedure from government, there will give more benefits or advantages to university, enforcement, stakeholders or whoever are related with underwater heritage to create awareness and protection. In this regard, the government's job is to inform the populace of the value of cultural heritage and to properly take into account in situ access as a kind of educational pleasure of the heritage. The public's right of access to underwater cultural heritage does have some restrictions, though. According to the literature review in section 2 Practitioners of the profession should be aware of the significance of their position. Maritime archaeologists must be more numerous, but even more crucially, their knowledge, abilities, and experiences must be improved through education, exposure, and involvement in field projects within the nation as well as cooperation with foreign counterparts abroad in exploration and excavation outside Malaysia. Malaysian maritime authorities have received training from the Underwater Archaeology Division (UAD) of the Thai Fine Arts Department, Ministry of Culture, and the UNESCO Foundation Course on the Protection and Management of Underwater Cultural Heritage in Asia and the Pacific (2009, 2010 and 2011), which was followed by the training course offered by the Southeast Asian Ministers of Education Organization Regional Centre for Archaeology and Fine Arts (SEAMEO SPAFA) (see below). These are the primary training venues at the moment, although more has to be done locally. Public universities must also help set the stage for the provision of degree-level courses in marine archaeology, facilitate research funds for projects involving exploration and excavation, and provide institutional support for people engaged in this field of study. (Ooi, 2015). Nowadays, at the key codes RO2JWNEXP01 and RO2JWNEXP02 mentioned, media social is good platform to learn about or to share something. The Department of National Heritage share news about underwater heritage in media social platform such as Facebook, journal and many more. Other than that, to create an awareness and protection to public and relevant parties especially stakeholders on the importance of and existence of Malaysia underwater heritage, the department of National Heritage have collaborated with university such as University Malaysia Terengganu, University Sains Malaysia and Universiti Malaysia Sabah.

They have expert to collaborate with to make sure keep in touch with new updates about Underwater Cultural Heritage.

“...kite memang ade buat research dan Kerjasama dengan umt,usm dan juga collaboration dengan asia punya team la eh...”-

RO2JWNEXP01

“...apa saja jumpaan berkaitan dengan ni kita akan warwarkan dan kite akan buat live fb biasanya lah untuk masyarakat tahu tentang aa.. bagaimana jumpaan ini dibuat kajian, dijaga dan dipamerkan...”-

RO2JWNEXP02

“...Ada tak dalam instruments yang actually give us legal basis to actually to enforce akta warisan kebangsaan 2005 ni terhadap zon luar daripada territorial water kalau nak enforce...”-

RO2PMZEXP01

As mentioned to the key code RO2PMZEXP01, to answer this question, The UNESCO Convention, which is very significant, puts obligations on any "national, or a vessel flying the flag of a State Party," which "discovers or proposes to participate in activities directed towards undersea "To report such finding or action to it" refers to cultural heritage that is "found in the Area". As is the case with article 9, article 11 stipulates that a State Party Additionally, a party may indicate "its interest in consultation on how to guarantee the effective a "verifiable link" to the submerged cultural heritage and the safeguarding of it Considering the legacy in question while keeping in mind the "preferential rights of States of cultural archaeological or historical origin In addition, the requirement to notify the finding of underwater cultural treasures by persons operating State boats or warships in the exclusive economic zone is relieved by the 2001 UNESCO Convention. This is due to the fact that operating these State-owned vessels involves classified military information, which makes sense given that they have nothing to do with looking for or discovering such cultural heritage. The matter of sunken State ships and battleships, which have themselves turned into underwater cultural heritage, is fundamentally different from this. However, in both cases, the UNCLOS 1982 principles protecting the immunity of State vessels or property must be taken into consideration when interpreting the special status of warships and State vessels under the UNESCO Convention 2001.

As a result, the public and other relevant parties, especially stakeholders, need to create an awareness and protection to public and relevant parties especially stakeholders on the importance of and existence of Malaysia underwater heritage. This is due to the significant responsibilities that the department of National Heritage performed in Malaysia, where they are in charge of our underwater heritage. A responsible authority, such

as Department of National Heritage, must provide greater exposure, particular procedures, and knowledge for the general public in order to guarantee that the general public and pertinent parties, notably stakeholders, are aware of underwater heritage. the experts from university also need to play role to educated students that under the maritime field especially about awareness and protection Malaysia underwater heritage. The Department of National Heritage as authority that responsible to Malaysia underwater heritage should take cognizance of the important role they play. Not only have social media or any alternatives. But also, the importantly is how to give awareness, education, training, participation, exposure and shows public about Malaysia underwater heritage. The fundamental criteria of the UNESCO Convention on the Protection of the Underwater Cultural Heritage, namely the Obligation to Preserve Underwater Cultural Heritage, In Situ Preservation as First Option, and No Commercial Exploitation, have thus far been met by Malaysia's efforts (UNESCO 2001). The government or authorities that responsible to Malaysia underwater heritage need to cooperate with any institute or university to give more exposure to the public especially to the stakeholder. So that, the students are in maritime field know what should they do when do the underwater activities such as scuba diving.

4.3. Discussion Research Objective 3

To identify the relevant implementation of legal enforcement from the respective Malaysia authority towards underwater cultural heritage in Malaysia water.

According to the key code RO3JWNUNC01, RO3JWNUNC02, When an enforcement officer or police officer has reasonable grounds to believe that something that is related to an offence under this Act or any regulations made under this Act is likely to be found in or on any location, premises, person, vehicle, vessel, or conveyance and that because of the delay in obtaining a search warrant under section 100 the purpose of the search is likely to be frustrated, he may, with the consent of the owner of the property, conduct the search (THE COMMISSIONER OF LAW REVISION, 2005)

“...Apa sahaja jumpaan di dalam laut, ataupun di darat, aa.. yang berkaitan dengan objek sejarah objek warisan ni adalah tertakluk dibawah akta warisan kebangsaan...”

-RO3JWNUNC01

“...kite juga ada pakar pakar di bahagian arkiologi ni di jabatan warisan yang telah dilantik oleh UNESCO sebagai teknikal team lah

untuk arkeologi bawah air ni...”

-RO3JWNUNC02

The department of National Heritage also have special technical team for underwater heritage archaeology under the UNESCO Convention 2001. This cooperation such a good way to keep in update about underwater heritage. furthermore, the department of national heritage also collaborate with ASEAN for example they do the monthly meeting and share with others country about new archaeology. Thus, Professor Mahmud are not agreed with the government because at the key code RO3PMZUNC01, some of the object under the water heritage the government just let it be there, so that the object maybe will be damage or steal from the people. But the quite strictly is Malaysia need regulation with UNESCO about underwater heritage. RO3JWNUCH01, our site is too broad for enforcement such as APMM or NAVY to protect because they do not give the specific location to protect.

“...But we cannot be avoided cannot be prevented klau kita biarkan dia lagi rosak lagi orang kacau then maybe we need consider removing some of the object tapi dengan according to the rules specified under the 2001 UNESCO convention...”

- RO3PMZUNC01

“...kita juga akan bangunkan sop underwater cultural heritage so nanti boleh tengok lah kite punye sop yang mana kita ada carta alih kite lah berkaitan dengan jumpaan kita Kerjasama dengan aa. agensi pusat maritim kami tak bagi exact location tapi kami bagi it ani agak luas la untuk dia memantau...”

-RO3JWNUCH01

“...But it shows that, to protect heritage is not cheap...”

RO3PMZUCH01

Professor Mahmud said at the key code RO3PMZUCH01, this is true because we need a lot of money to protect our underwater heritage. The government need to firm about their rules. It will be ease for enforcement to do a salvage or protection if something happens to the object. United Nations Convention on the Law of the Sea, which was signed in 1982 and ratified by the government in October 1996, must be considered in light of the government's commitment to safeguarding underwater cultural heritage in the various maritime zones under its jurisdiction. In particular, the legal framework outlined in Articles 303 and 149 of the Convention must be taken into consideration. Despite the ambiguity that permeates reading these texts, they do serve as the foundation for the actions that States take to safeguard the underwater cultural heritage in the designated marine zones. No archaeological and historical artefacts shall be taken from marine zones under its authority, the government stated in its declaration upon ratifying the Convention.

“...itu memang dibawah jabatan warisan. Apa sahaja jumpaan di dalam laut, ataupun di darat, aa. yang berkaitan dengan objek sejarah objek warisan ni adalah tertakluk dibawah akta warisan kebangsaan...”

-RO3JWNMSS01

“...Sebab kerajaan tak mampu nak protect everything. satu very expensive second kite takde orang nak tolong kita buat...”

RO3PMZMSS01

“...that we need to consider what rules on how do we salvage and bende2 ni akan jadi come to picture. because if we don't do it properly nanti the idea to protect akan jadi hancur...”

”RO3PMZMSS02

According to literature review in section 2, The 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage (CPUCH) aims to deal with various issues apropos those competing interests. Its basic concerns include how UCH should be best protected, how in situ preservation should be practices, whether UCH should be commercialized at all or not, and whether salvage should be included in the UCH law (Nor, 2017). The analysis RO3JWNMSS01, the department of National heritage said, any object under the water heritage is under the heritage act 2005. The analysis RO3PMZMSS01, according to Professor Mahmud, the government need to spend some budgets to the enforcement underwater heritage, The department of National heritage lack of procedures and legal aspects for implementation of underwater cultural heritage in Malaysia water. This is crucial part to the enforcement to make sure they know their specific procedure. The budgets as mentioned is for the dive equipment to enforcement to protect Malaysia underwater heritage. How enforcement can do their responsibility if lack of dive equipment. In addition, Professor Mahmud at the analysis, RO3PMZMSS02, this is because the government compromised the integrity of the sites and then the Government covered the object maybe indifferent. So, its does' mean that protection mean necessary all the protect or all the site that Government have identified do salvage, does not mean that's not the idea of the UNESCO convention. But only if the Department of National heritage so significant, if let it on the site it will be subject to further harmful natural element or whatever interference is not visible for us to protect on site then need to recover. Otherwise, it will be destroyed again.

“...kami akan panggil jabatan kuasa pakar untuk sama2 jadi penasihat untuk setiap jumpaan it ani...”

-RO3JWNEXP01

“...kami menjaga dari segi keselamatan maklumat terutama lokasi...”

-RO3JWNEXP02

This statement points out about the cooperation of the Department of national heritage with experts underwater cultural heritage. Furthermore, according to (Stratigea, 2019) on section 2, exploring the challenges for UCH protection/preservation and sustainable exploitation with emphasis on this sea. UCH is so far dealt with in a “silo” approach by marine archaeologists or heritage professionals, who often ignore its potential for serving local sustainable development goals. This cooperation not only with Malaysian experts, but over the world. Especially the department of national heritage are very active collaborate with Korean which they will share or present about how to protect underwater cultural heritage and the experts come from the Malaysian University. As can see, the analysis RO3JWNEXP02, the Department of National Heritage strictly mention that they protect the location more than anything. This statement will give problems to the enforcement to enforce our underwater heritage because they do not know the specific area to protect. Professor Mahmud already mentioned in section 4 that our government need the specific legal to Malaysian enforcement underwater heritage. Besides, the analysis.

“...So, we have to take look at the our obligation under unclos 1982 as well as related instruments. Ada tak dalam instruments yang actually give us legal basis to actually to enforce akta warisan kebangsaan 2005 ni terhadap zon luar daripada territorial water kalau nak enforce...”

RO3PMZEXP01

States are allowed to control and permit activities directed at the undersea cultural assets within their contiguous zone, according to Article 8 of the Convention. The conditions under which a coastal State fulfils its obligation under this article are without prejudice to the implementation of the duties of the relevant parties over the reporting and notification of the discovery of underwater cultural heritage in the exclusive economic zone and on the continental shelf, as well as in regulating activities directed at the underwater heritage found in the exclusive economic zone. More significantly, article 8 is connected to UNCLOS 1982 in that States shall exercise their authority in complete compliance with UNCLOS 1982. In order to ensure consistency of State practice in the application of acceptable international standards in maritime archaeology, coastal States must regulate or authorise activities directed at underwater cultural heritage within their contiguous zone in accordance with the principles and rules prescribed in the Convention. Additionally, States must make sure that approving such

activities does not conflict with the Conventions goals.

As a result, in general, the need for Malaysia underwater Cultural Heritage was one of the solutions to resolving the lacking of procedures and legal aspects for implementation of underwater cultural heritage in Malaysia water that will give bad impact to Malaysia underwater cultural heritage. It will give bad impact to underwater when the government do not give some budgets to enforcement equipment. And the important thing is the government need to give specific procedure or legal implementation to our enforcement underwater heritage. So, if the issue lack of procedure still happen, Malaysia underwater heritage will be at the lower compared to another countries. In conclusion, the researcher managed to answer the third objective of this research paper which is to identify the relevant implementation of legal enforcement from the respective Malaysia authority towards underwater cultural heritage in Malaysia water. The research also enables to solve the issues of the third problem statement. This research examines the knowledge about factor that led to the lack of procedures and legal aspects for implementation of underwater cultural heritage in Malaysia water that will give bad impact to Malaysia underwater cultural heritage. This study also engages the knowledge about how to solve the problem which is the government or the Department of National Heritage should highlight and know the reason why they do not have the specific procedure until now to Malaysia underwater heritage enforcement. According to the Convention, responsible non-intrusive access to observe or document in situ underwater cultural heritage is encouraged in order to raise public knowledge, appreciation, and conservation of the asset, unless such access is incompatible with its management and protection. The government must carefully analyse activities like scuba wreck diving, which is an expensive pastime for most people and is often performed through a commercialised and regulated activity, since the 2001 UNESCO Convention abhors the commercialization of the underwater cultural heritage. Although some sort of commercialization may be required to maintain the tourism-related businesses, issues with oversight and enforcement in these areas may occur.

4.4. Discussion research objective 4

To formulate Malaysia underwater cultural heritage

strategic framework for enhancement sustainability development of underwater heritage and wealth, and sovereignty.

“...Jadi kita keluarkan semua data kite untuk melindungi keselamatan yang berkaitan dengan perairan negara...”

-RO4JWNUNC01

“...Jadi kalau UNESCO panggil pun kami akan pergi dan apa yang berkaitan. Dengan asean pun kami terlibat...”

-RO4JWNUNC02

The statement from analysis RO4JWNUNC01 and RO4JWNUNC02, was about To formulate Malaysia underwater cultural heritage strategic framework for enhancement sustainability development of underwater heritage and wealth, and sovereignty. The problem in this statement is None of national underwater cultural heritage strategic framework for sustainability of underwater assets and wealth in Malaysia. The underwater heritage is in line with the research objective of this section which is to formulate Malaysia underwater cultural heritage strategic framework for enhancement sustainability development of underwater heritage and wealth, and sovereignty. In RO4PMZUNC01 and RO04PMZUNC0 2,

“...we are member of unesco framework ke kita ad akita punya framework kita sendiri.. us pun tak member but im sure they doing a lot...”

-RO4PMZUNC01

“...first and formers akta 2000 ni tak sebut what is the priority kite nak protect insitu ke tidak tapi kalau UNESCO convention dia akan kata protect in situ dulu...”

-RO4PMZUNC02

The statement above shows that the expert Professor Mahmud said on the interview session, the government has done a lot of initiative to ensure Malaysia underwater heritage was well manage by the good enforcement authority but still cannot resolve this issue. According to (Nor, 2017) The 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage (CPUCH) aims to deal with various issues apropos those competing interests. Its basic concerns include how UCH should be best protected, how in situ preservation should be practiced, whether UCH should be commercialized at all or not, and whether salvage should be included in the UCH law. Our underwater heritage is outdated. The government lack of contribution within parties who involve in salvage or underwater heritage. As know, University Malaysia Terengganu also have done the research near the university and found 100 objects of heritage. However, the academicians and researchers should also be a part of the system. Because they will include the townhall when they establish a policy, the government cannot be solid if just the agencies are

involved. Townhall, we can get it from all sides here, but what is going on right now is not on that level. There is little or very little townhall action to gather the evidence, and the University Malaysia Terengganu itself should not keep the evidence that is already there. It should be delivered back to the department of National Heritage. It is challenging for the underwater cultural heritage to take anything back into the department, though, because there are no laws governing such things.

“...Sebab apa kita ada akta ni sebab kita nak menjaga la eh memelihara dan memulihara warisan kebudayaan bawah air ni la eh...”

-RO4JWNUCH01

“...kite juga ada pakar pakar di bahagian arkiologi ni di jabatan warisan yang telah dilantik oleh UNESCO sebagai teknikal team lah untuk arkiologi bawah air ni...”

-RO4JWNUCH02

“...Boleh lah conserve that's why if we talking about the possibility to remove part of the object...”

-RO4PMZUCH01

“...then maybe we need consider removing some of the object tapi dengan according to the rules specified under the 2001 UNESCO convention...”

-RO4PMZUCH02

This statement analysis RO4JWNUCH01, RO4JWNUCH02, RO4PMZUCH01, RO4PMZUCH02, point out about to formulate Malaysia underwater cultural heritage strategic framework for enhancement sustainability development of underwater heritage and wealth, and sovereignty. Malaysia is therefore very concerned about the sustainability of the marine environment and the sustainable use of marine life resources as a whole. The Council of Europe Report summarizes the issues with some underwater tourism and how they affect underwater cultural heritage, saying that underwater heritage provides a unique mix of issues and potential. A growing number of amateur divers are exploring underwater wrecks as a result of sport diving's rising popularity and the equipment it requires. Some are guilty of small looting when they bring home trinkets for their own collections or unintentional discovery with unexpected economic worth. However, even if they don't take any of the wrecks' related items with them, they could disturb, harm, or erode them just by going there. Cultural and natural heritage sites have the potential to be successful tourism goods in developing nations like Malaysia. Under the direction of the Ministry of Tourist, Malaysia is aggressively encouraging the expansion of its tourism sector.

“...tanggungjawab kami lah jabatan warisan untuk kami protect la bendani eh dengan bantuan kerajaan negeri biasanya kita melibatkan kerajaan negeri sebab tanah 2 tu dibawah dorang kan...”-

RO4JWNMSS01

“...betul lah sebab itu adalah country sovereignty kita...”-

RO4JWNMSS02

“...it does mean that protection mean necessary all the protect all the site yang we have identified we do SALVAGE, tak semestinya that's not the idea of the UNESCO convention...”-RO4PMZMSS01

“...government kene lah ada efforts ataupun initiative strategic to do something about it...”

-RO4PMZMSS02

According to the analysis RO4JWNMSS01, RO4JWNMSS02, RO4PMZMSS01, RO4PMZMSS02, Under the National Assets Act of 2005, the majority of the issues pertaining to underwater cultural heritage have been resolved. It has achieved this by clearly defining the phrase underwater cultural heritage and by offering a control mechanism specifically created for this heritage. The responsibility of maintaining custody of historic wrecks is been transferred to the Heritage Commissioner from the Receiver of Wreck. The Heritage Commissioner is now authorised to possess historic wrecks while the issue of ownership of an unclaimed wreck is being settled during the course of the allotted year, which is a welcome improvement. In order to prevent any such things or artefacts from changing hands without following the proper processes, all objects collected during the excavation or salvage will belong to the Heritage Commissioner. Anyone may come forward during that year to assert their claim to any aspect of the submerged cultural heritage. Any salvage fees or other associated charges are the claimant's responsibility. The federal government assumes ownership of the underwater cultural heritage in cases where no claim is made. These rules are similar to the Merchant Shipping Ordinance of 1952's ownership determination process for wrecks and unclaimed wrecks. The Merchant Shipping Ordinance of 1952, which provides a set of laws primarily intended to deal with commercial salvage operations, is not, however, excluded from applicability by the new Act, it must be highlighted at this point. The Merchant Shipping Ordinance of 1952 is still in effect with regard to salvage matters, provided, of course, that the salvage action has been authorised by the appropriate authority. The National Heritage Act of 2005 just states that salvage or excavation can only be done with a Heritage Commissioner authorization at this time. The Heritage Department is now taking into consideration further rules on the prerequisites for salvage or excavation in order to execute the laws pertaining to underwater cultural heritage under the National Heritage Act 2005. The competent government department is also developing further legislation for the creation of protected zones in marine regions that contain underwater cultural heritage.

Therefore, it is unclear how the rules will work. With certain revisions, it is likely that rules akin to those governing the creation of maritime parks will be established.

“...terutama kita ni terletak betul2 laluan perdagangan maritim antara timur dan barat so amat pentinglah untuk kita tau tentang sejarah kita...”-

RO4JWNEXP01

“...Maybe dorang boleh assist. Then come up la with some kind of MOU ke...”

-RO4PMZEXP01

“...So antara hasil daripada MOU tu lah kita nak menghasilkan satu tatakkerja antara UMT dan jabatan warisan...”

”-RO4PMZEXP02

Based on the analysis RO4JWNEXP01, RO4PMZEXP01, RO4PMZEXP02, the Department of National Heritage said, we need to know about our history and this is very important. The researcher found that the department of National Heritage are lack of exposure about underwater heritage to the public. So, how we will know in deep about Malaysia underwater heritage if they lack of exposure. According to government policy, private businesses may be "commissioned" to search for and recover valuable submerged cultural treasures in Malaysian seas. Such issues frequently have an impact on the policy developed in nations with a shortage of both resources and technology. The government thus finds satisfaction in the issue by taking a balanced stance, arguing that the funding for the recovery effort comes from an act of commissioning rather than the commercialization of such property. Flecker noted that governments cannot afford to excavate ships and display the unearthed artefacts themselves in his views on the trend of shipwreck excavations in Southeast Asia. Typically, they don't have enough competent people. A deal must be struck. Finance must be provided by commercial enterprises. To secure the funding, certain artefacts must be sold. Governments must create legislation that assures commercial excavation companies follow acceptable archaeological standards, share their findings, and preserve fully representative samples for public exhibition. Governments can certainly profit financially from the sale of artefacts, but their stature and credibility would be significantly improved if such funds were reinvested in museums and training programmed so that eventually they would be able to carry out maritime archaeological projects on their own, without the assistance of for-profit businesses.

As a result, The Department of National Heritage will be one of the commissioners in this industry who has a big

responsibility to solve this issue. The department of National heritage are handling and overseeing Malaysia underwater heritage related issue including of national underwater cultural heritage strategic framework for sustainability of underwater assets and wealth in Malaysia. Even Malaysia has been recognized with UNESCO convention 2001, it does not mean that Malaysia have related with underwater heritage under the UNESCO convention 2001. Malaysia is one of the countries that have many heritages under the water. In this research, Malaysia underwater heritage specific policy will be one of the solutions from government to protect our underwater heritage especially in future. In conclusion, the researcher manages to answer the fourth objective of this research. To formulate Malaysia underwater cultural heritage strategic framework for enhancement sustainability development of underwater heritage and wealth, and sovereignty. Although, this underwater heritage is a very serious issue. The government must be do something to make sure underwater heritage are in good care of enforcement. Protection of artefacts and monuments and sites and collections in museums and temples. Here, the working group recognised that there is a 'need to integrate cultural heritage preservation within a wider framework of sustainable development involving living cultural systems, economic advancement and the participation of local communities. Recognised areas of concern include current legislation and enforcement frameworks, public awareness campaigns, training of relevant authorities for example; customs and cultural heritage departments, update on heritage inventories, as well as a special attention to the preservation of the underwater cultural heritage 'through the development of adequate legislation frameworks and the training of personnel.

5. Finding, Conclusion and Recommendation

Referring to the preceding figure, this is the outcome or discovery of this study based on Research Objectives 1, 2, 3, and 4. Mahmud Zuhdi Mohd Nor, an associate professor as a academia expert and the authority Department of National Heritage, utilised formulation theory to examine. The situation of Malaysia's maritime and underwater archaeology should be considered while interpreting legislative developments pertaining to underwater cultural resources. The results of this study show that, despite greater recognition of the significance

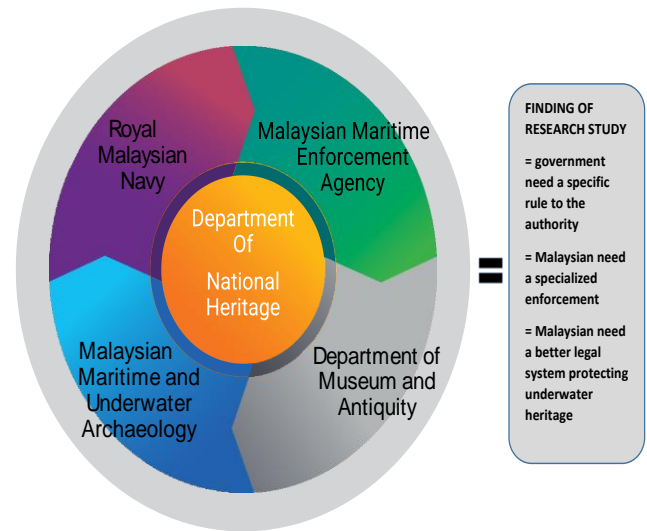


Figure 5.1 Underwater Heritage Strategic Framework Towards National Maritime Sovereignty

and significance of marine archaeology itself as a form of underwater cultural heritage as national heritage In Malaysia, a discipline is still in its infancy. Uncertainty exists in one area of the administration of the underwater cultural heritage. The National Committee on the Management of Historic Wrecks, which already existed, is not specifically positioned or established under the new law, despite the National Heritage Act of 2005 providing for the creation of a Heritage Council, which advises the Commissioner for Heritage and the Minister of Arts, Culture, and Heritage on matters relating to the protection of cultural heritage. The researcher found that The National Heritage Act of 2005 and MSO 1952 relationship issues need to be more thoroughly addressed by the government in order to bring domestic legislative measures in line with the goals and guiding principles of the 2001 Convention should the government decide to seriously consider ratifying the UNESCO Convention on the Protection of the Underwater Cultural Heritage. The application of the Merchant Shipping Ordinance of 1952 is not expressly excluded by the new Act, despite the fact that it expressly forbids any recovery, salvage, or excavation of the underwater cultural heritage without a license, i.e. without first obtaining written permission from the Heritage Commissioner. It is argued that, although if complete exclusion is not required since the 2001 Convention permits the use of salvage law with government approval and if it is consistent with the Convention's goals, it would clear up any ambiguity in the current legal system. After all, the current system of salvage decision has not undergone any significant modifications aside from the Heritage Commissioner

taking over the receiver of wrecks' former responsibility for the custody and management of underwater cultural heritage during and after salvage. The researcher also found that government need a specialized enforcement to Malaysian underwater heritage. and give a specific rule to the enforcement and stakeholders. According to the Associate Professor Mahmud Zuhdi Mohd Nor in section 4, The government's perspective towards the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage was unclear, which lead to the research being done. The study was carried out at a time when the government was still examining the framework of the legislation governing the preservation of cultural assets, including underwater heritage. The legal provisions established by the 2001 UNESCO Convention in order to determine if the Malaysian government's hesitation to ratify the Convention is well-founded or whether it is just the product of a lack of political will. This thesis argues that the administration continues to be somewhat at ease with waiting to take a position on the issue before considering the reactions of the international world, especially those of its neighbors like the Republic of Indonesia. Ratification of any international convention will often only take place when the laws have been revised or modified to comply with the conventions or terms of the treaty criteria. For instance, Malaysia didn't ratify the 1982 UNCLOS until 1996, two years after two implementing laws—the Fisheries Act of 1984 and the Exclusive Economic Zone of 1984. However, as in section 2, it is important to pay attention to the Special Workshop's proposal, which notably urged the Government to reevaluate its "initial" stance on the Convention. The objections to specific provisions of the 2001 Convention that were deemed insufficient to address "national security" needs are among the proposals. This thesis comes to the conclusion that the government was not "fully" advised of the implications of the Convention during the negotiation process of the Convention given that the Recommendations were written and strongly supported by numerous government departments. This is made worse by some government representatives' incapacity to justify the general stance adopted by the government in Paris in 2001 (especially at the time by the Department of Museums and Antiquities). The Government is therefore unlikely to take action to ratify the Convention in the foreseeable future, subject to reconsideration of pertinent paragraphs by the International and Advisory Division.

This research also aimed to investigate whether domestic legislation effectively provides the required legal protection for the undersea cultural heritage. Although the 2001 UNESCO Convention is an international agreement created to address issues related to underwater cultural heritage in various maritime waters outside of the Coastal State's inland waters, it directly affects those waters because its Annex Rules serve as the best industry standard in underwater maritime archaeology. As a result, federal law was examined in the context of the 2001 UNESCO Convention to see if it adhered to the goals and tenets of the Convention. This research discovers that present legislation and government practice regarding underwater cultural heritage do not sufficiently meet the problems intended to be dealt with by the 2001 Convention. Although the new legislation has a particular section on underwater cultural heritage, it does not address several crucial concerns, such as the ban on commercialising such things. This thesis also argues that, in addition to the Malaysian government's above-mentioned unclear and confusing position the country current priority in the regulation of cultural assets poses a potential barrier to the preservation of underwater cultural heritage. Since Malaysia joined the 1972 Convention on World Cultural and Natural Heritage. In finding answers, the researcher faced difficulty in ascertaining the official views of the relevant government departments. For instance, no substantial explanation could be obtained from the Department of National Heritage regarding the government stand on the 2001 Convention during its negotiation process. The former, who served as the primary government representative during the negotiations for the 2001 UNESCO Convention, was unwilling to elaborate more, maybe as a consequence of the criticism directed at them at the special workshop. No response was given to a question from Malaysia's UNESCO, the government is silence is a clear sign that it is unsure of its course and is rethinking its "initial" stance on the 2001 Convention. The main majority of data concerning Malaysia's underwater cultural heritage recovery efforts was obtained through interviews and special workshops, seminars, publications, and reports. The majority of information was kept private, and there was typically no public consultation engaged in the writing of new law, making it very difficult to follow the progress of the legislation.

6. CONCLUSION

United Nations Convention on the Law of the Sea, which was signed in 1982 and ratified by the government in October 1996, must be considered in light of the government's commitment to safeguarding underwater cultural heritage in the various maritime zones under its jurisdiction. In particular, the legal framework outlined in Articles 303 and 149 of the Convention must be taken into consideration. Despite the ambiguity that permeates reading these texts, they do serve as the foundation for the actions that States take to protect the underwater cultural heritage in the designated marine zones. The government underlined that no historical or archaeological artefacts shall be taken from marine zones under its control in its declaration after ratifying the Convention. Perhaps the most universal international treaty, the 1972 Convention for the Protection of the World Cultural and Natural Heritage provides the greatest coverage of heritage concerns spanning from the natural and cultural setting. A participant in this Convention is Malaysia. The 1972 Convention, however, does not particularly address underwater cultural heritage, hence it does not provide a workable answer to problems with underwater cultural heritage. The 1954 UNESCO Convention on the Protection of Cultural Property in the Event of Armed Conflict is another international agreement to which Malaysia is a signatory. Malaysia's position in favor of ratifying the 2001 UNESCO Convention is therefore a significant step towards the good management of cultural heritage in its broader meaning, even if it has only signed up for two international accords. Malaysia is a signatory to the ASEAN Declaration on the Protection of Cultural Heritage 2000 on a regional level. The measures encouraging the protection and preservation of cultural heritage in the broadest sense are included in this Declaration. It doesn't cite ASEAN cooperation on those things particularly. even if certain clauses might be understood to encourage collaboration in this field, underwater cultural heritage. As a nonbinding international legal document, this Declaration is primarily inspiring in nature. The National Heritage Act of 2005's incorporation of intangible assets concerns as a component of the preservation of cultural heritage is its primary influence on domestic legislative development.

7. RECOMMENDATION

This thesis makes the following recommendations for a better legal system protecting Malaysia's underwater cultural heritage, whether it is within or outside of its maritime zones, in light of the findings discussed above and the potential ratification of the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage. There should be clear guidelines for managing any of these operations, including those that do not directly impact undersea cultural heritage, when it comes to handling the discovery or recovery of historic wrecks lying in its marine zones where Malaysia asserts authority. In addition, there must be specific rules or additional laws for any actions that might result in the economic exploitation of undersea cultural assets. The legislation does not currently prohibit the commercialization of undersea cultural heritage. What it does is provide the Heritage Commissioner the freedom to handle the underwater cultural heritage in any way that fits with the Act objectives. Historic wrecks rescue a significant aspect of underwater cultural heritage. In fact, the National Heritage Act 2005 itself needs to be re-examined the light of this issue. And the last recommendation from researcher is Malaysia should think about taking bilateral, regional, or multilateral action. Without being a party to the Conventions, States are also allowed to engage into bilateral agreements with other States to protect their cultural heritage. Even before the Convention was adopted, certain States had already taken this action. On how States might collaborate to protect the underwater cultural heritage outside the bounds of the 2001 Convention shouldn't be stressed enough, nevertheless. Since the preservation of underwater cultural heritage in marine zones devoid of state jurisdiction is the focus of the 2001 Convention, it was specifically written to address this issue. There is presently no explicit legislation in place to regulate foreign recreational diving operations aimed at these World War II wrecks in Malaysia's territorial and exclusive economic zones, for example, and this is especially true of the British and Japanese vessels. Any domestic rules of the home nation that extend protection to areas where its wrecks are situated but outside of their territorial authority would only apply to its citizens and not to foreigners. As a result, multilateral or bilateral cooperation might be predicted to lead to more successful endeavours.

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Received 04 December 2022

Accepted 27 December 2022