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Please note the addition of the Penang Bar Committee report in this issue of Praxis that had been issued on 14 Mar 2025.

Circular No 088/2025
Dated 14 Mar 2025

To Members of the Malaysian Bar

Re-Launched Edition of
Praxis: Chronicle of the Malaysian Bar

The Publications Committee is pleased to present to Members the re-launched edition of *Praxis*: *Chronicle of the Malaysian Bar*.

This re-launched issue of *Praxis* has been published online and can be accessed here (see page 2 onwards).

First published in 1986 as *Infoline*, this Malaysian Bar publication was subsequently repackaged as *Praxis* in December 2006. The magazine was last published in 2019 and the Committee is delighted to have revived *Praxis* this year.

Praxis serves to provide a platform for written discourse on contemporary issues on the law and the legal profession. The issues covered in the magazine range from news and case commentaries to lifestyle matters relevant to lawyers. *Praxis* also serves to inform Members nationally of the events and activities of the Bar Council and its Committees as well as the different State Bars.

It is hoped that the restoration of *Praxis* will be welcomed by Members and the Publications Committee looks forward to your contribution and support.

Should you have any enquiries, please email praxis@malaysianbar.org.my.

Sincerely,

Gregory Das
Chairperson
Publications Committee

Praxis

CHRONICLE OF THE MALAYSIAN BAR

2024/2025



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Praxis
CHRONICLE OF THE MALAYSIAN BAR

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Article contribution

The Malaysian Bar welcomes letters, articles, views and news (including photographs) for possible inclusion in *Praxis*. However, the Malaysian Bar reserves the right not to publish or to edit those published for content, clarity, style and space considerations. Contributions and enquiries may be directed to praxis@malaysianbar.org.my.

Editor's Note



Gregory Das
Chairperson,
Publications Committee

It is with immense pleasure that the Publications Committee presents to you this re-launched edition of *Praxis*, being the chronicle of the Malaysian Bar.

The last edition of this magazine was published in 2019. The intervening years have seen manifold changes. With the changes the profession has seen and with the influx of a number of new members into our profession, it serves well to state the underlying purpose of *Praxis*.

Praxis is founded on the objective of providing a platform for written discourse on contemporary issues on the law and the legal profession. It does not propose to serve as an academic journal. It is however proposed to have a wider scope with coverage that ranges from news and case commentaries to lifestyle matters relevant to lawyers. It also serves to inform members nationally of the events and activities of the different State Bars.

It is with considerable enthusiasm therefore that the Publications Committee embraced the task of reviving the magazine this term. It is consistent with the role of the Publications Committee in maintaining and improving the standards of conduct and learning in the profession.

The revival of *Praxis* has aptly come about in the wake of a year that has been immensely busy for the Bar.

The year 2024 saw the Malaysian Bar host the 37th Annual Conference of LAWASIA in Kuala Lumpur from the 13th to the 15th of October. The Conference attracted the attendance of a total of 476 registered

delegates from 35 different jurisdictions. In view of the advancement of technology in different sectors globally, it was inevitable that the theme of the Conference was *"Navigating the Legal Landscape in the Digital Age"*. A wide range of papers were presented at the Conference that were aligned to the theme, which ranged from matters of business law to the environment.

Another notable event held in 2024 was the inaugural Legal Writing Conference organised by the Publications Committee. It was in fact the first ever Conference held by the Committee. The event was held at the Raja Aziz Addruse Auditorium in Kuala Lumpur and was set against the backdrop of the current dynamics of practice that has seen an increased reliance on a practitioner's written advocacy. The Conference provided a forum for the sharing of best practices on matters such as written advocacy, written opinions, formulation of case theories as well as effective writing for business development for lawyers. The tone was set by an erudite and illuminating opening address by Tan Sri Zainun Ali, Retired Judge of the Federal Court whose speech we are happy to carry in this publication.

Members of the Bar would be pleased to note that there were a very high number of conferences, seminars and webinars held by the Committees of the Bar Council in 2024, indicating the emphasis placed on upgrading skills at the Bar.

An event of significance this term was the National Young Lawyers and Pupils Committee Soiree: Lecture & Dinner 2025. Federal Court Judge Dato' Nordin Hassan delivered an insightful lecture at the event on the importance of developing integrity amongst litigators at the Bar. We are pleased to carry this instructive talk, which is a must-read for all counsel appearing in Courts.

The Malaysian Bar is always mindful of its role and functions toward members and the general public under Section 42 of the Legal Profession Act 1976. These functions include, amongst others, taking steps to ensure the cause of justice and the rule of law is upheld, the sharing of legal knowledge and representing and protecting the interests of members.

The *Praxis* editorial committee saw it appropriate to include a featured article on the role of the Bar in society. The article quite aptly endorses the notion that the Bar has been and continues to be at the vanguard of the promotion and protection of civil liberties in society, amongst other critical public roles related to the law.

Another featured piece in this edition is a well analysed discussion on the recent and consequential decision of the Federal Court in *Obata Ambak Holdings Sdn Bhd v. Prema Bonanza Sdn Bhd & Other Appeals [2024] 8 CLJ 519* on the housing development laws of the country. The decision sought to clarify the apex court's earlier ruling in *Ang Ming Lee & Ors v. Menteri Kesejahteraan Bandar, Perumahan Dan Kerajaan Tempatan & Anor and Other Appeals [2020] 1 CLJ 162*, the scope of which was the subject of much contention in subsequent litigation. This edition also includes a well-reasoned article on the principal recent amendments to the Arbitration Act 2005 related to third-party funding and the structural reforms at the Asian International Arbitration Centre.

A notable feature of this edition is a lifestyle section, which serves as an important reminder to members that allocating adequate time for social activities is indispensable in the current demands of legal practice. The section includes an article on mental health matters relevant to lawyers by a trained expert on the subject as well as an enlightening piece on art collections and lawyers.

The latter part of the edition contains case commentaries on two recent decisions of the Federal Court on corporate litigation and constitutional law respectively, both by senior members of the Bar. The commentary on corporate litigation is focused on the decision in *Low Cheng Teik & Ors v. Low Ean Nee [2024] 9 CLJ 171*, an important ruling on the law of minority oppression. There is also coverage of the widely reported decision of *Dahlia Dhaima Abdullah v. Majlis Agama Islam Selangor & Another Appeal [2024] 5 CLJ 855* on the constitutional law issues that underpin the jurisdiction of the Syariah Courts under our legal framework.

I hope the restoration of *Praxis* will be welcomed by members and we look forward to your contribution and support.

I wish to record my sincere appreciation to the members and officers of the Publications Committee for their industry in the publication of this revived edition of *Praxis*.



Mohamad Ezri b Abdul Wahab

President, Malaysian Bar

It is with great pleasure that I pen this opening message for Praxis, the Malaysian Bar's publication, which serves as a vital platform for sharing knowledge, insights, and updates within our legal fraternity. Since its inception as Infoline in 1986, and later rebranded as Praxis in 2006, this publication has chronicled the evolution of the Malaysian Bar, reflecting both our achievements and the challenges we face.

Today, as we revive Praxis, we reaffirm our purpose under Section 42(1)(c) of the Legal Profession Act 1967: to facilitate the acquisition of legal knowledge by members of the legal profession and others. This principle remains a cornerstone of the Bar's mission and underscores our commitment to fostering an informed, vibrant, and progressive legal community.

The revival of Praxis is part of our broader effort to create avenues for collaborative discussions on pressing legal issues. In this vein, the Malaysian Bar recently hosted the highly successful 37th LAWASIA Conference 2024 in Kuala Lumpur. This flagship event brought together legal luminaries from across the Asia-Pacific to engage on diverse topics, from business law and environmental law to human rights and cross-border dispute resolution. It was a powerful reminder of the importance of dialogue and shared professional values in advancing the rule of law.

Additionally, our record-breaking 67 Committees continue to spearhead initiatives tailored to specific legal and societal issues. From organising forums and workshops to conducting outreach programmes, these Committees embody our collective dedication to knowledge-sharing and advocacy for the public good.

I extend my deepest gratitude to the Bar Council Publications Committee, and especially to its Chairperson, Gregory Das, for their tireless efforts in bringing Praxis back to life in this dynamic digital era. Let this journal be a beacon for meaningful discourse and an enduring testament to the Malaysian Bar's role in shaping the legal landscape.

I invite all Members to actively engage with Praxis, contribute your perspectives, and join us at our upcoming events as we continue to uphold the cause of justice, uninfluenced by fear or favour.

Thank you.

THE PUBLIC ROLE of the MALAYSIAN BAR

Written by
Gregory Das
Chairperson, Publications Committee

The Malaysian Bar has over the years played an active role in promoting the cause of justice and the rule of law in society. This has entailed the taking of positions for the protection of civil liberties and assisting in the administration of justice. The continued role of the Malaysian Bar in society calls for a degree of consideration in the current dynamics of society. There is the statutory duty vested in the Malaysian Bar to uphold the cause of justice which continues to be tested against the frequent public discourse today on matters of the independence of the judiciary, the scope and limits of the Federal Constitution and the exercise of fundamental rights. The present debate takes place in settings and challenges different from the past. This article seeks to address the role that the Malaysian Bar is expected to perform in these matters in the current conditions of society, with particular reference to the manner in which the Bar has acted pursuant to these functions in past years.

The past role of the Malaysian Bar in upholding freedom and democratic values probably enjoyed its best recognition in the enduring remarks of the then Leader of the Opposition Tan Sri Dr Tan Chee Khoon back in 1981 who stated of the Malaysian Bar:

> "...the battle for democracy in this country goes on and we look to the members of the legal profession to be in the vanguard of the fight...The people of the country salute the Bar Council. Continue the good fight.[1]

These observations were made in the wake of the Malaysian Bar's protest in 1981 against the proposed amendments to the Societies Act. The complaint of the Bar was that the amendments were prohibitive of the Article 10 right to free speech and assembly and were also violative of the Article 150 provisions on the declaration of emergencies[2]. More recently, the Malaysian Bar recorded its disquiet on human rights grounds against the public canning of an individual in a particular state[3].

The Malaysian Bar's duties in society have extended beyond the matter of civil liberties and continue to prioritise the defence of the administration of justice and threats to the independence of the judiciary.

It was observed long ago that lawyers in fact perform an essential role in the administration of justice. In a notable address back in 1938, Lord Macmillan spoke of the

1 Article titled "Bravo The Bar Council" in The Star of 15.4.1981.

2 "Justice Through Law: Fifty Years of the Malaysian Bar 1947 – 1997" at pp. 64 to 71.

3 See Press Statement titled "The Malaysian Bar Calls for an End to Public Caning and Corporal Punishment" dated 26.12.2024.

indispensable role of lawyers in these terms:

> "Ever since the State decreed that men must cease to settle their disputes with the arguments of fist and club, the administration of justice has been the prime concern of the State. In order to enable this primary function of government to be efficiently discharged, the experience of every civilised community has shown that it is indispensable to have a class of men skilled in advising and aiding the citizen in the vindication of rights before the courts to which the State delegates the task of dispensing justice in accordance with the law of the law.[4]

The Malaysian Bar on its part continues to be at the forefront in the endeavour to promote and support the administration of justice. A most noticeable effort is the provision of legal aid to impecunious members of the public. The Bar Council spearheaded the establishment of the country's first Legal Aid Centre in August 1982. The Centre provides free legal services to persons who qualify for the service on financial grounds. At the time of its establishment, a total of 86 lawyers volunteered with the cases of the Centre[5]. The total number of lawyers registered with the Centre stands at approximately 1,200 today.

The Bar's legal aid venture is in addition to the robust pro-bono culture at the Malaysian Bar. Senior and successful lawyers of the Malaysian Bar have appeared pro-bono for the Bar in court actions that relate to constitutional rights and matters related to the judiciary. In recent years, the Malaysian Bar has instituted actions on the Proclamation of Emergency and Emergency Ordinances issued in response to the Covid-19 pandemic[6], the decision of the Attorney General not to prosecute the then Prime Minister[7] as well as a suit on the appointment of Judicial Commissioners[8].

The culture of pro-bono work in public cases has a long history in other jurisdictions with established Bars. In the United States, some of the landmark decisions of the Supreme Court were litigated by the country's foremost advocates who appeared pro-bono. The celebrated decision of **Brown** v.

4 See "Law and Other Things" (1938), Macmillan (Lord) at p. 173.

5 Supra n 2 at pp. 96 and 97.

6 Badan Peguam Malaysia v. Yang Berhormat Perdaana Menteri Malaysia, Tan Sri Dato' Mahiaddin Mohd Yasin & Anor [2024] 7 CLJ 181.

7 Bar Malaysia v. Peguam Negara Malaysia & Anor [2017] CLJU 578.

8 Badan Peguam Malaysia v. Kerajaan Malaysia [2008] 1 CLJ 521.



Lawyers at an Annual General Meeting of the Malaysian Bar.

Board of Education 347 US 482 [1954] which struck down racial segregation in public schools was argued by Thurgood Marshall, a leading Supreme Court advocate and later Associate Justice of the Supreme Court. The case of **Gideon** v. **Wainwright** 372 US 335 on the right to counsel for indigent litigants was argued by Abe Fortas, a then leader at the Bar in Washington and later Associate Justice of the Supreme Court[9].

Additionally, the Malaysian Bar through the Bar Council has taken public stands on legislative and governmental action seen as an affront to civil liberties or the administration of justice. This is in accordance with the statutory obligations of the Malaysian Bar under Section 42(1)(d) of the Legal Profession Act 1976 to *"where requested to do so, to express its views on matters affecting legislation and the administration and practice of the law in Malaysia"*.

A brief look at history in this respect is instructive. In October 1958, the Federation Bar Council protested to the Government against the Public Order (Preservation) Bill, which purported to prescribe extensive powers to the Police[10]. The Bar Council had also protested against the Courts of Judicature (Amendment) Bill in July 1965, which sought to limit the scope of appeals to the Judicial Committee of the Privy Council[11].

Notably, was the Malaysian Bar's strident protest against the Essential (Security Cases) Regulations 1975 ("**ESCAR**") between 1975 and 1977. ESCAR sought to amend the law on accused persons rights in matters of evidence and also judicial discretion in sentencing in trials for national security offences. The then Bar Council Chairman Tan Sri V.C. George (later Judge of the Court of Appeal) issued a statement on behalf of the Malaysian Bar questioning the necessity for the amendments and the drastic changes it made to criminal trials. The Bar also issued a memorandum to the Government listing its complaints against ESCAR. Thereafter, following the then Attorney General's criticism of the Bar's position, the Bar at its Annual General Meeting in February 1976 passed a resolution to censure the Attorney General for his *"disparaging remarks on the Bar Council and the legal profession"*. A stand-off and criticism of the Malaysian Bar by the then Attorney General led to the newly elected Bar President Raja Aziz Addrusse pertinently expressing the obligations of the Bar in contributing to the development of the law, in these terms:

> "As the titular head of the Bar, he (the Attorney General) should show more respect for the legal profession, just as members of the Bar are giving him respect due a the Attorney General. As lawyers, we do have a responsibility to contribute towards the development of the law in the country. We are always careful in making statements or comments regarding the law.[12]

9 See "*Role of Non-Judicial and Non-Parliamentary Institutions: The Practicising Legal Profession*", in "*Parliamentary Supremacy and Judicial Independence: A Commonweatlh Approach*" by John Hatchard and Peter Slinn (1999).

10 Supra n 2 at pp. 52 and 52.

11 Supra n 2 at pp. 54 to 56.

12 Supra n 2 at pp. 58 to 59.



Lawyers for Tun Salleh Abas arriving at Parliament House for the Tribunal proceedings.



Lawyers photographed outside Parliament house for second Tribunal proceedings. Back row extreme left, Low Siew Cheang, Robert Lazar, Vinayak Pradan, Arif Yusof and Philip Koh. Front row from left, W. Abraham, Cecil Abraham, Ghazi Ishak, Christopher Fernando, R.R. Sethu and Wong Chong Wah.

Matters on ESCAR escalated to the Bar convening an Extraordinary General Meeting that resolved that all Bar members were advised not to appear in trials under ESCAR. This dramatically resulted in the Legal Profession (Amendment) Bill 1977 being passed in Parliament to, amongst others, empower the Attorney General to issue Special Admission Certificates to foreign lawyers to practice in Malaysian (with a view of appearing in ESCAR trials that the local Bar had begun to boycott). Other far reaching amendments to the Legal Profession Act 1976 were passed such as the increase in the quorum requirements for Annual General Meetings of the Bar. These amendments were met with the expected remonstration from the Malaysian Bar, which resulted in a resolution being passed at the Annual General Meeting held in January 1978 expressing regret against the amendments[13].

13 Supra n 2 at pp. 62 to 64

Apart from an oversight on legislative measures, the Malaysian Bar has repeatedly risen to the defence of the judiciary particularly in matters that affect the independence of judges.

The experience mirrors the approaches of Bar Associations in other jurisdictions with strong democratic values. In the United States, the American Bar Association took steps to defend the judiciary in response to President Franklin D. Roosevelt's proposals in 1937 to 'pack the court' with additional justices of the Supreme Court following a series of decisions that struck down his administration's New Deal legislation[14].

A look back at some decisions of the Courts from across the Commonwealth show a recognition of the right of Bar Associations and lawyers to institute court actions to defend the independence of the judiciary.

14 See "*Mere Words: The Role of Bar Organizations in Maintaining Public Support for the Judiciary*" (2024), Leslie C. Levin at p. 11.

In India, the Supreme Court in **SP Gupta & Ors.** V. **Union of India** AIR 1982 SC 149, when ruling on locus standi of Bar Associations made the observation that Bar Associations had a "vital interest" or "a special interest" in matters adversely affected the independence of the judiciary.

More recently, the Privy Council in **Chief Justice of Trinidad & Tobago** v. **Law Association of Trinidad & Tobago** [2018] 5 LRC 704 PC observed that the right to complain of unlawful acts against the judiciary rests with Bar Associations, who would at times be better placed to litigate such actions. It was noted that *"… as a body of lawyers who have so far proceeded with considerable caution, they might be better able to conduct such an investigation and present its conclusions in a*

responsible manner than many others" (at para. 24).

The Malaysian Bar has likewise played an active role in matters related to the independence of the judiciary. The 1988 judicial crisis stands out and serves as one such occasion. Following the suspension of the Lord President Tun Salleh Abas and five other judges of the Supreme Court, a team of senior lawyers that comprised the best from the Bar was assembled to act on behalf of the affected judges in proceedings before two adhoc tribunals that were constituted under Article 125 of the Federal Constitution.

The Malaysian Bar also convened an Extraordinary General Meeting after the suspension of the judges, and passed a resolution protesting against the tribunal proceedings and also a vote to institute contempt proceedings against the then Acting Lord President for his role in the tribunal proceedings. It resulted in contempt proceedings in turn being instituted against the Secretary of the Bar Council Mr. Manjeet Singh Dhillon for affirming the affidavit in support of the Bar's committal application. Mr. Manjeet Singh was found guilty of contempt by a majority of the Supreme Court and fined RM5,000.00 in default of 3 months imprisonment[15].

A few years back, the Bar instituted proceedings to challenge the constitutionality of the appointments of the Chief Justice and President of the Court of Appeal after their mandatory retirements had set in (see **Bar Council Malaysia** v. **Tun Dato' Seri Arifin Zakaria & Ors and Another Reference; Persatuan Peguam-Peguam Muslim Malaysia (Intervener)** [2018] 10 CLJ 129). Additionally, on 17.6.2022, the Malaysian Bar held an assembly and walk named the "Walk for Independence" as a peaceful protest against what was seen to be acts of interference with the independence of the judiciary[16].

15 Supra n 2 at pp. 76 to 88.

16 See Press Statement titled "*The Walk for Judicial Independence – How the Police Had Failed*" dated 24.6.2022.



Lawyers outside Lake Club before a march to Parliament House on 7.4.1981 to protest against the amendments to the Societies Act.



Lawyers outside Parliament House in protest against amendments to the Societies Act.

The above examples serve as important reminders of the expected role of the Bar in society as the Bar grows in numbers. It could be said that the growth of the profession, as reflected in the current 24,000 strong membership, augments the need for the element of public spiritedness to remain embedded and not displaced within the profession. The growth in numbers naturally results in higher competition and a heightened sense of commercialism amongst members. These are natural consequences of the growth of any profession in modern society. However, it behoves lawyers and the Bar to ensure that, in a profession as closely connected with matters of constitutionalism and civil liberties as ours, the element of public spiritedness remains at the core of the profession and is not diluted by the element of commercialism[17].

17 See "*Lawyers and the Public Good: Democracy in Action?*" (2012), Alan Paterson at p. 9.

History shows that the Malaysian Bar has not recoiled from the need to stand in defence of the rule of law and in protest against excesses of power. In a developing society like ours particularly one which has seen the multiple change of hands at the Federal Government, there is a need for the rule of law not to be compromised at the hands of expediency. The Malaysian Bar is expected to continue to act as a principal institution that serves to promote the rule of law and the independence of the judiciary. In so doing, the Bar would only be discharging the very functions Parliament has legislated it to possess, namely to *"uphold the cause of justice…uninfluenced by fear or favour"*[18].

18 See section 42(1)(a) of the Legal Profession Act 1976.





Lawyers in Court over charges instituted against 42 of the lawyers who were involved in the march to Parliament House against the amendments to the Societies Act.

GOOD LEGAL WRITING: DOES IT MATTER?*

Legal Writing Conference 24 October 2024

Written by
Tan Sri Datuk Zainun binti Ali
Former Judge, Federal Court of Malaysia



Thank you for your generous introduction.

Good morning distinguished members of the Malaysian Bar, honoured participants, friends, ladies and gentlemen.

What a delight it is to be among friends, old and new at an event which is incredibly significant and long overdue!

Congratulations Mr. Gregory Das, Chairman of the Publications Committee and your team for this brilliant initiative to which I am honoured to be invited.

Legal writing is surely one subject which all of us would gravitate towards, for it lies at the very heart of our work as advocates, lawyers, practitioners and judges.

I must say that it is refreshing indeed to see a happy mix of demographics of participants. Given the formidable list of senior lawyers who will carry us through the spectrum of legal writing today, I am sure this exposure will find the juniors richly rewarded.

As for the seniors like me, you might want to allow this program to recalibrate our legal skills, before they become too jaded! We will be alright, because at our age, "Autumn is the mind's true spring!"

* Address delivered at the Legal Writing Conference, 24 October 2024.

Jurisdictions like in the UK and the US have got it right actually – in having their judges stay on for life!

LADIES AND GENTLEMEN

Life is complicated enough at the best of times – but never more than now - when your preferred battlegrounds are the courts. Nothing wrong with them – but the courts are now fraught with crowded dockets and so the constraints on judicial time have become acute. There is now a growing pressure to commit more legal arguments to writing.

In fact, the progression towards a bigger quantum shift in demanding legalwritten advocacy has quickened as the relevant rules in the PracticeDirections of the Court of Appeal and Federal Court have informed.

These Practice Directions makes perfect sense as Justice Michael Kirby had said “On average, the written word can be read 4 times more quickly than thesame word can be spoken”.

LADIES AND GENTLEMEN

For all day and every day, lawyers use words, whether he is framing a conveyance or a contract, advising a client about his affairs, arguing his case or writing an opinion or submissions.

Within this wide ambit of legal writing are the expressions that define the rights and obligations of individuals. All these writings illustrate a broad spectrum of styles, forms, content and structures.

They are informative, persuasive adversarial, cooperative or a combination of either of these, depending on whom the legal writing is intended for.

The legal reader picks up the documents in order to gain information that will help him/her make a decision; an associate reads an opinion in order to better understand the law and to better predict what a court is likely to do in a given factual framework; a partner reads an associate’s memo in order to gain a better understanding of the legal challenges faced by the client; and the judge reads the submissions in order to better understand the facts and thrust of the lawyer’s arguments.

In each of these frameworks, the reader’s objective will be defeated if the reader is unable to understand the writer’s message. Therefore, it is always so important to write so that you are not only understood but that you are never misunderstood!

In any case, concomitantly, always bear in mind that the holy grail of communication is simply to communicate and be understood. So, to inform and facilitate the reader’s decision-making process especially in the reader’s professional duties, is key.

LADIES AND GENTLEMEN

As the legal profession places a huge premium on words and language, I would think that the study of language is at the core of the philosophical inquiry into the nature and transmission of knowledge; it embraces the most subtle of weapons of the lawyers and memorials of the judge.

As a frame of reference, the early development of the language of the law began as early as 53 B.C when Julius Caesar landed in Britain – following the Roman conquest. So, Latin was spoken long before the development of old or Modern English. The Anglo-Saxons from Germany followed suit. Then came St. Augustine with 40 Benedictine monks who set up his episcopal seat in Canterbury. The use of Latin flourished even more. The Norman conquest happened later in 1066. It saw William the Conqueror imposing French as the official language of the law and government. Its influence continues to be felt today.

LADIES AND GENTLEMEN

In view of this antecedent, it is easy to see the essential importance of a lawyer’s knowledge of the origin, development and nuances of words. Having even a smidgen of this knowledge gives a lawyer an advantage or even power given that the principle tools of lawyers and judges are words, whether we like it or not!

So, by the time English was the official language of law, Latin and French had already lodged themselves deep in the legal system.

Lawyers basically took French and Latin, giving the general words very specific meaning. For instance, the word ‘tort’ in French simply means ‘wrong’ - but it very specifically refers to the kind of law that deals with civilcases in English. So, because of how specific legal language is, it is sometimes

difficult to disentangle English law from Latin and French.

Thus, to those in the legal profession, words and their meanings are matters of supreme concern and are in fact their stock-in-trade.

In the course of the lawyer's work, the legal writer would have to navigate these formidable crossings.

So, to work these vineyards of comprehension, what are the rules of engagement?

What would be the theoretical underpinnings of legal writing?

The convention of linguistic rules informs that there are as many pitfalls to avoid as there are virtues to adopt. I shall gather the pitfalls and virtue stogether and simplify them as the - Seven Deadly Sins to avoid and Seven Heavenly Virtues to adopt.

Of course, there are any number of sins or virtues within contemplation - but for our purpose here, I shall mention only the critical ones.

LADIES AND GENTLEMEN

It would appear that topping the list of hazards of legal writing is the legal jargon. We have been conditioned from law school to think that legal jargonsare our best friends - but I'm afraid it may be time to part ways with some.However, sometimes some legal jargon would still have their uses - especially if they go towards giving the opinion in your legal writing an appropriate degree of precision.

The next hazard we encounter are legalese. Legalese, with its gamut of convoluted, tortured meanings, have come up for a good thumping, especially from non-lawyers. Perhaps it is because legalese had so long shielded much legal work from lay scrutiny.

Other linguistic hazards to avoid are imprecise language, verbosity, verbiage,bad grammar and diction and use of the passive voice which makes your writing uninviting and aloof - unless of course you meant to be stuffy!

Now, errors in grammar, punctuations and spelling would suggest that the writer is sloppy and careless. Major errors may even distort the message or make it unintelligible.



Be careful with legal writing in written submissions especially for the court.The pressure placed on judges with their intensive workload would mean thatit is best to avoid verbosity and long-windedness. If you don't, you would have succeeded in making the judge apoplectic!

LADIES AND GENTLEMEN

What then are the virtues of good legal writing?

The supreme virtue is clarity. Use simple language, fresh and clear, free fromturgidity and pretensions. Bring in conciseness, brevity, succinctness as your partners to help you along. Legal writing such as these will greatly facilitate the reader's understanding of the message you wish to impart.

One of the allures of good legal writing is its style. Good legal writing, penned with flair is not a cross to be endured or a club to batter the reader into discipline. In fact, it engages the reader whilst enlightening him.

An engaging writing if you will, is one that is crisp, powerful and captivating -speaking in the Active Voice, having its own cadences and nuances. To have style in your legal writing means that you must have more than a nodding acquaintance with ideas of philosophy, history, art, literature even humour.

A legal writer with style, with all proper grammar, syntax and diction, willreveal his authenticity and his humanity.

Legal writing for the courts - especially in written submissions would have to be meticulous. The gravity of clear writing done with proper research is requisite, enriched with impeccable reasoning and intellectual honesty. It thus compels thinking at its hardest.

Seriously, the usefulness, value and even immortality of written submission can never be understated. In my view, the language of the law should be as dynamic as the society which the law seeks to serve.

Written submissions have far reaching impact since as officers of the court,you are duty bound to assist the courts and endeavour to constantly refine its wisdom. On you, equally lies the burden of determining the quality of our jurisprudence.

LADIES AND GENTLEMEN

What I have said so far represents only the form of legal writing, whether they are clear or clouded, concise or long winded. But the pith of legal writing is its content and its substance. What I can say is, before you even put your pen to paper, it is extremely essential that the legal writer has proficiency,competency, dexterity in the English language. There is no two ways about that.

This requirement of legal writing is at its most basic. The greater the masteryand aptitude in English, with its shades of light and dark, its layers of nuances and subtleties, the greater the ability of the legal writer to express his thought with precision.

In other words, the legal writer's facility of the English language enables him to understand better the difficult legal concepts which are often complex, which now he has the duty or misfortune to write about.

Therefore, the consideration that precedes the communication of writing is the ability to grasp, analyse and synthesize facts and concepts. The processincludes thinking, learning and planning.

LADIES AND GENTLEMEN

Law is said to be an exact and succinct science where legal concepts are readto be understood within the framework of a particular legal system.

Taken together, if law is a science and writing is an art, and of course you protest that you are no Picasso, this seeming paradox is what makes legal writing challenging yet exciting once you come to grips with it.

In this, I can do no better than to impart to you the American jurist Judge Felix Frankfurter's advice. He said:

"The best way to prepare for the law is to be a well-read person. Thus alone can one acquire the capacity to use the English language on paper and in speech..."

I would therefore urge young lawyers to read as many books and as many good judgements as possible because this will develop your critical thinkingand expose you to various writing styles.

Through the years, I had relished the written works of Ernest Hemingway, Alan Bennett, Graham Greene, Jane Austen, Shakespeare and the like – and some poetry; they could enhance your legal writing skills and give them vitality for it will transform the way you approach writing.

LADIES AND GENTLEMEN

You need to see yourself as part of the tradition of luminaries of legal writers.There is a great continuum in this art form, an inheritance that every legalwriter can and should apprentice themselves to.

God Willing, you can and will be a good legal writer – for after all, human nature has the infinite capacity to surprise!

LADIES AND GENTLEMEN

I certainly hope this conference will be the first of many and I am confident every one of us will learn immensely today and the days ahead. I wish everyone an inspiring and stimulating conference!

Thank you.

HONEST ADVOCATES:

Cultivating Integrity in Early Legal Career*

Good evening, my brothers and sisters from the Judiciary, distinguished office bearers of the Malaysian Bar, honoured guests, and fellow legal professionals.



Written by
Dato' Nordin Hassan
Federal Court Judge

I stand before you today, entrusted with the responsibility of delivering a short lecture on a topic at the core of our profession — 'Honest Advocates: Cultivating Integrity in Early Legal Career. Although I now sit on the bench, I was once a member of the bar, having spent 15 years advocating, interpreting the law, drafting contracts, and both defending and prosecuting on behalf of the government of Malaysia. I am truly honoured to share my perspective on the integrity issue within the legal profession with all of you.

At its core, the legal profession is grounded in the principle of justice. It serves as a mechanism by which we uphold the rights, freedoms, and responsibilities of individuals, organizations, and communities. Whether advocating for the innocent, defending the accused, drafting contracts, or interpreting laws, our work shapes how society functions and ensures that the rule of law prevails.

The primary objective of the legal profession is to ensure that justice is accessible to all, irrespective of their background, economic status, or personal circumstances. In a world where injustices often arise from imbalances of power, the legal profession acts as a safeguard, offering counsel and representation to those who need it most. Lawyers are not only advocates in courts, but they are also counsellors, mediators, and negotiators, resolving conflicts before they escalate into disputes that might harm individuals or communities.

* Lecture delivered at the National Young Lawyers and Pupils Committee Soiree: Lecture & Dinner 2025, 3 January 2025.

Our responsibility extends beyond individual cases. The legal profession plays a crucial role in maintaining social order, upholding democracy, and ensuring the proper functioning of government. Legal professionals interpret laws and regulations, contributing to the creation and refinement of legal systems that reflect the evolving needs of society. It is through our dedication to legal ethics and professional integrity that we earn public trust and contribute to the establishment of fair, transparent systems of governance.

Additionally, the purpose of our profession is to safeguard the fundamental rights of individuals, promoting equality and fairness in all aspects of life. We advocate for those whose voices may otherwise go unheard, whether they are marginalized communities, businesses facing regulatory challenges, or individuals seeking protection under the law. We stand firm in the face of adversity, upholding the law with dignity, compassion, and professionalism.

We must also recognize the importance of continuous learning and adaptation. The law is a living, breathing entity that evolves with the times. It is our duty to stay informed, adapt to new developments, and ensure that the laws we practice align with the changing needs of society. Our commitment to excellence, ethics, and lifelong learning defines us as legal professionals and guides us in fulfilling our mission.

The legal profession exists to serve the greater good. It is about more than just winning cases or drafting documents; it is about contributing to a just society where rights are respected, justice is accessible, and individuals are treated with fairness and dignity. The purpose of our work is not just to interpret and apply the law, but to ensure that the law serves the interests of humanity.

The impact of our work can shape lives, resolve conflicts, and protect rights. But what truly makes a lawyer "good"? Is it simply knowledge of the law? Or is there more to it?

A good lawyer possesses a range of qualities—both intellectual and personal—that elevate their practice and make them effective advocates for justice. These qualities not only define our professional success but also guide us in maintaining the public trust and integrity of our profession.

First and foremost, as legal professionals, the lawyer's duty is not only to his or her clients but also to the institution of justice itself. A key component of that duty is the respect that the lawyer shows toward the court, which upholds the rule of law and ensures that justice is administered fairly and impartially.

Respect for the court is not just a formality or a matter of etiquette; it is an essential foundation of our legal system. It reflects our commitment to the integrity of the judicial process and ensures that the legal system functions in a manner that is both fair and effective. As lawyers, you must remember that the court is not simply a venue for legal disputes—it is a vital institution that embodies the principles of justice, equality, and due process.

A good lawyer understands that the authority of the court is integral to the proper functioning of our legal system. Courts exist to interpret the law, resolve conflicts, and ensure that justice is done. The impartiality and fairness with which a court operates must be respected by all parties involved, particularly by those who represent others—the lawyers.

As Raja Azlan Shah CJ once held in **Au Kong Weng v Bar Committee of Pahang [1980] 2 MLJ 89** at page 91; *"There are no closed categories of professional misconduct. One of the most fundamental duties of an advocate and solicitor, recognised for as long as the profession has been in existence, is that he must honour to the utmost the promise or undertaking given by him in a professional capacity to the Court and to members of his profession and failure to honour it is regarded as a breach of professional conduct".*

A good lawyer also must have a deep understanding of the law. Legal expertise is the foundation upon which every case is built. A strong lawyer is well-versed in the statutes, precedents, and procedures that govern their area of practice. But legal knowledge is not static—laws evolve, new challenges arise, and a good lawyer must remain committed to continuous learning and professional development.

The depth of a lawyer's legal knowledge plays a critical role in the courtroom. A lawyer who understands the law thoroughly is not easily swayed by emotion or manipulation. They can argue their case with precision, citing relevant statutes, precedents, and legal principles that support their position. Their arguments are built on a foundation of knowledge, not speculation or guesswork. It is this grounded approach that allows them to advocate effectively and persuasively.

But beyond the practical application of the law, a lawyer's deep understanding serves a higher purpose: the pursuit of justice. A good lawyer must recognize that the law is not just about rules and regulations; it is about the protection of human rights, the pursuit of fairness, and the preservation of societal values. This broader perspective is what separates a competent lawyer from a great one. When a lawyer understands not just the letter of the law but its spirit, they are better equipped to bring about justice in ways that go beyond merely following procedure. They become defenders of truth, protectors of the vulnerable, and champions of fairness.

Beyond knowledge, a good lawyer must also be a skilled analyst. The ability to break down complex issues, spot the key facts, and identify the best course of action is a hallmark of a competent lawyer. This analytical mindset allows us to not only understand the legal complexities of a case but also to develop strategies that are in the best interest of his or her clients.

The legal profession is mostly about problem-solving. Whether you are drafting a contract, preparing for a trial, or advising a client on a legal matter, you are tasked with examining complex information, identifying relevant issues, and formulating solutions. This process requires an exceptional level of analytical ability.

A lawyer must sift through volumes of information, distinguishing between what is essential and what is extraneous. They must quickly identify legal principles, analyse facts, and evaluate evidence. Every case presents a unique puzzle, and a lawyer's job is to piece together that puzzle, ensuring that each piece fits perfectly into the larger picture.

Good lawyers are not only adept at recognizing patterns in the law but also in understanding how these patterns apply to the facts of a particular case. They must ask the right questions, challenge assumptions, and consider all perspectives to find the best path forward. An analytical lawyer is not swayed by emotion or by surface-level arguments—they approach each case with a critical mind, dissecting each element before arriving at a well-reasoned conclusion. Without this skill, even the most skilled advocate would falter, as legal problems are rarely simple, and answers are seldom black and white.

But while analytical skills are crucial, they must go hand-in-hand with strong communication skills. The ability to communicate effectively is what allows a lawyer to put their analysis into action. A great lawyer is not just a brilliant thinker—they are also a master communicator, capable of conveying their thoughts clearly and persuasively, whether in writing or speaking.

In the courtroom, communication is essentially everything. A lawyer must present complex legal arguments in a way that is easily understood by judges, and other parties. They must take dense legal concepts and break them down into digestible pieces, ensuring that their audience follows the logic of their argument. Strong oral communication skills are vital for advocating on behalf of a client, persuading, and making a compelling case in front of a judge.

In a world where the law shapes the very fabric of our society, lawyers hold an influential role. Lawyers are tasked with safeguarding justice, protecting the rights of individuals, and upholding the rule of law. While legal knowledge, analytical ability, and strong communication skills are undeniably important, there is one quality that stands above all others—the quality that defines a lawyer's character, reputation, and lasting impact: integrity.

Integrity is the cornerstone of the legal profession. It is the inner moral compass that guides a lawyer's decisions, actions, and interactions with clients, colleagues, the courts, and society. A lawyer of integrity is someone who consistently acts with honesty, fairness, and transparency, even when no one is watching. Integrity ensures that a lawyer remains true to their professional responsibilities, even when faced with challenges, temptations, or pressure to act in ways that might compromise their ethical standards.

In every aspect of legal practice, integrity is paramount. When lawyers fail to uphold the principles of honesty and fairness, they undermine the trust that is essential to the legal system. The clients trust their lawyers with their most sensitive and personal matters—often at times of vulnerability. They look to their lawyers to provide them with clear, honest advice, and to represent their interests with the highest level of ethical conduct. If the lawyer violates that trust, he or she does not just fail the client; but harm the very essence of justice itself.

A lawyer of integrity does not cut corners, does not engage in deception, and does not manipulate the legal system for personal gain. Whether negotiating a settlement, drafting a contract, or presenting a case in court, integrity compels a lawyer to adhere to the truth,

honour their commitments, and act in accordance with the highest standards of ethical conduct.

But integrity is not only about doing what is right when it's easy. It is about doing what is right when it's hard. It's about having the courage to stand up for justice, even when it means challenging powerful interests or enduring personal sacrifice. Integrity requires a lawyer to speak the truth, even when the truth is uncomfortable, and to prioritize the interests of justice above personal ambition or financial reward.

In tandem with integrity, a lawyer must embody professionalism. Professionalism in the legal field means more than simply adhering to a set of formal rules. It encompasses a lawyer's demeanour, approach, and respect for the legal process and those they interact with. Professionalism is about demonstrating competence, courtesy, and respect for others—whether they are clients, opposing counsel, the court, or the community.

A professional lawyer is someone reliable, responsible, and well-prepared. They approach their work with diligence and commitment, meeting deadlines, maintaining confidentiality, and providing their clients with clear, accurate, and thoughtful legal counsel. A professional lawyer is also someone who demonstrates respect for the law and the legal process, understanding that the practice of law is not just a job, but a solemn duty to the pursuit of justice.

When lawyers act with professionalism, they earn the respect of the Courts, their peers, the trust of their clients, and the confidence of the public.



Professionalism fosters an environment of fairness and mutual respect within the legal system, ensuring that every person, regardless of their background or status, has access to competent and ethical representation.

Together, integrity and professionalism define a lawyer's character and guide them in their service to the law and their clients. They are the foundation upon which the trust that society places in the legal profession is built. Without integrity, a lawyer is merely a technician; without professionalism, a lawyer is just an individual with legal knowledge. But with both, a lawyer becomes a trusted advocate for justice, a role model for future generations, and a beacon of trust in a world that often seeks truth and fairness.

The legal profession, as rewarding and noble as it is, is not without its difficulties. From navigating complex legal systems to maintaining a healthy work-life balance, the road we walk is often filled with obstacles that require resilience, adaptability, and constant learning.

One of the most prevalent challenges in the legal profession is the sheer volume of work and the pressure that comes with it. Lawyers often work long hours, handling multiple cases simultaneously. Whether it's meeting tight deadlines, preparing for trials, or responding to clients' demands, the workload can be overwhelming. The stress that accompanies this work is real and can lead to burnout if not managed properly.

To manage workload and stress, it is crucial to prioritize tasks effectively. Time management and delegation are key to staying organized. It's also important to recognize the signs of stress early on and take steps to maintain mental well-being. Regular breaks, exercise, and pursuing hobbies outside of work can provide the necessary balance. Moreover, learning to say "no" or setting boundaries with clients and colleagues is essential for protecting one's health and maintaining a sustainable practice.

Clients often approach during moments of high stress and emotional turmoil. Their

expectations can be unrealistic, and it's not uncommon for clients to expect immediate results or guarantees of success. Managing these expectations while providing high-quality service can be a delicate balance.

Clear communication is the foundation of managing client expectations. Setting realistic timelines, outlining potential outcomes, and explaining the complexities of legal processes can help clients understand what is achievable. Empathy and active listening are equally important—understanding the emotional stakes for clients allows us to better guide them through challenging situations. Transparency and honesty in all dealings will ultimately build trust and lead to more productive relationships.

Lawyers are often confronted with ethical dilemmas—situations that challenge your moral compass. Lawyers may encounter cases that conflict with their personal beliefs or face clients whose actions they find morally objectionable. Balancing the duty to represent a client's interests with maintaining personal integrity can be one of the most difficult aspects of your work.

When confronted with ethical challenges, you must always refer to the professional codes of conduct and legal ethics that guide your profession. The Legal Profession (Practice and Etiquette) Rules 1978 is one of them and Rule 31 requires all lawyers to uphold the dignity of the profession. It is vital to stay grounded in your commitment to justice and fairness. In cases where conflicts of interest arise, seeking guidance from mentors, peers, or ethics committees can provide the clarity needed to make principled decisions. Upholding integrity and following ethical guidelines, even when it is difficult, ensures that we maintain the respect and trust of the public and your clients.

A lawyer who adheres to high ethical standards and demonstrates integrity will always stand out from the crowd. They are respected by colleagues and opponents as well as the courts. Their reputation precedes them. These are lawyers the country needs to ensure justice is served and increase the public confidence in the profession.

There are times in every legal career when temptation may arise—when shortcuts could seem like an easier path, when bending the truth might offer a more favourable outcome. In these moments, integrity is tested. Yet, it is in these moments that our character is truly revealed. The long-term cost of compromising integrity is far greater than the fleeting gain of a dishonest victory. The repercussions can be severe, not just for your clients, but for your career and the reputation of the entire legal profession.

A legal profession that is divided by dishonesty or mistrust cannot function properly. We must hold ourselves to the same standards we expect of others. We must be fair and just in our dealings, and not let personal rivalries or ambitions cloud our judgment.

But how, specifically, do we cultivate and nurture integrity throughout our careers? It's not just something we are born with—it is something we must actively develop, practice, and uphold at every step of our professional journey.

The first and most powerful way to cultivate integrity is by leading through example. As young lawyers or aspiring legal professionals, you look up to those who have come before you. Our mentors, senior colleagues, and legal role models set the tone for how integrity is demonstrated. If we are to cultivate integrity within ourselves and inspire it in others, we must start by embodying it ourselves.

Whether it's refusing to bend the truth, treating others with respect regardless of their status, or adhering strictly to ethical guidelines, our behaviour serves as a model for the next generation. By setting a high standard in our actions, we help build a culture of integrity that encourages others to do the same.

Integrity begins within. It is about being honest with yourself, about knowing your values and making a commitment to act in accordance with those values—even when it's inconvenient or difficult.

This means regularly reflecting on your decisions and actions. Are you acting with fairness, honesty, and transparency? Are you compromising on your values for short-term gain? Regular self-assessment and self-discipline will allow you to stay grounded in your commitment to integrity, even when faced with tough choices.

Every legal system has a set of professional and ethical standards that guide our practice. These rules are not merely suggestions—they are non-negotiable. Understanding and internalizing these ethical standards is crucial in cultivating integrity. They are designed not only to ensure fairness and justice but also to protect the integrity of the profession itself.

Take the time to fully comprehend these codes of ethics and be diligent in adhering to them. They are the foundation upon which the entire legal profession stands. By following them rigorously, you reinforce the ethical framework that allows the legal profession to function with credibility and trustworthiness.

Clients consult a lawyer for legal advice and representation because they trust you. Maintaining that trust requires transparency, honesty, and clear communication. Sometimes, this means telling clients what they do not want to hear. Sometimes, it means acknowledging when a case may not be as strong as they hope or when a particular legal avenue is not in their best interest. Integrity requires you to be truthful with clients, even when the truth is difficult or disappointing.

Being transparent builds trust, and trust is the cornerstone of the lawyer-client relationship. It also protects your professional reputation and ensures that your decisions are always rooted in honesty.

None of us operates in isolation. We work alongside colleagues, mentors, clients, and even opposing counsel. It is crucial to surround yourself with individuals who share your commitment to integrity.

Build relationships with people who hold you accountable, who are not afraid to call you out when you fall short, and who inspire you to stay true to your ethical standards. Integrity is contagious; aligning yourself with others who uphold similar values makes it easier to maintain your commitment to honesty and fairness.

In the course of any legal career, there will inevitably be moments where shortcuts or ethical lapses seem tempting. Whether it's withholding a piece of evidence, exaggerating facts in a brief, or bending the truth to win a case, these temptations can be hard to resist.

However, integrity requires us to recognize these temptations for what they are: threats to our character and the integrity of the legal profession. In these moments, we must summon the strength to do what is right, not what is easy or expedient. Integrity is often tested when the stakes are high, but it is in these moments that our true commitment to justice is defined.

Integrity is not a static quality—it requires constant vigilance and a willingness to learn and grow. Legal practice evolves, and so must our understanding of ethics and integrity.

Stay engaged in continuing education, not just in legal knowledge, but also in ethical practices. Participate in discussions about integrity in the legal profession. Attend seminars, read relevant materials, and stay informed about developments that affect the ethical landscape of our work. The more we learn, the better equipped we are to make decisions that align with the highest standards of integrity. Continuous learning is the key to staying ahead in this profession.

In conclusion, cultivating integrity in a legal career is not an optional pursuit—it is an essential one. Integrity forms the foundation of trust and credibility, and it guides our actions as we navigate the complexities of the legal world. By leading by example, holding ourselves accountable, understanding our ethical responsibilities, maintaining transparency with clients, and building a network of like-minded professionals, we can ensure that integrity remains a defining feature of our careers.

Let us all commit to cultivating integrity not just as a concept, but as a daily practice. In doing so, we will strengthen our careers and the reputation of the entire legal profession.

I shall end my speech with the observations of the Court in the case of ***Lai Chee Meng v Ong Beng Lai [2011] 10 CLJ 391*** in the following words:

> *[12] ….A lawyer must provide complete and undivided loyalty, dedication, full disclosure, and good faith to all for whom he or she acts. Lawyers are in a unique position because they and their clients enjoy an extremely high level of confidentiality - perhaps lawyers are the only professionals who cannot be compelled to disclose confidential communications* (see s. 126 of the Evidence Act 1950).
>
> *[15] Ultimately, as is so often the case, it is apt to heed the words of Sir Owen Dixon in setting the 'bar': "Unless high standards of conduct are maintained by those who pursue a profession requiring great skill begotten of special knowledge, the trust and confidence of the very community that is to be served are lost and thus the function itself of the profession is frustrated.*

Thank you.

THE 37th LAWASIA CONFERENCE 2024

Navigating the Legal Landscape in the Digital Age

Written by
Gregory Das
Chairperson, Publications Committee



LAWASIA has distinguished itself as a leading regional association of lawyers, judges, jurists and law associations. Throughout its almost 60-year existence, LAWASIA has served as an organisation that has promoted the interests and concerns of the legal profession in the Asia Pacific region.

The flagship event of LAWASIA is its Annual Conference. The Conference provides a forum for the meeting of leading legal practitioners, judges and other stakeholders for the exchange of views and ideas on contemporary and topical issues on the law and legal practice. Prior to 2024, a total of 36 Annual Conferences had been held by LAWASIA across the Asia Pacific region. Past Conferences had been held Ho Chi Minh City, Bali, Seoul, Siem Reap and Bengaluru to name a few prior hosts.

The 37th Annual Conference of LAWASIA was held in Kuala Lumpur from the 13th to 15th October, 2024. The event marked the first time in 16 years that Kuala Lumpur had hosted the Conference.

The theme of the 37th Annual Conference was *"Navigating the Legal Landscape in the Digital Age"*. The advancement of technology globally and the effect technology has had and continues to have in the legal profession had made it unavoidable that the theme of the Conference would be related to the digitisation of the law and legal practice.

The 37th Annual Conference was well attended with a total of 476 registered delegates from 35 different jurisdictions. There were also a total of 110 presentations and papers presented at the Conference by 156 speakers.

The topics covered at the 37th Annual Conference were diverse and were each aligned to the overriding theme of the event. The 3-day event comprised of 5 different topic streams that included *"Business Law", "Tech in Specific Disciplines", "Human Rights & Rule of Law", "Environmental Law" and "Specialist Disputes"*.







The Conference commenced on the 13th of October with a well-received Opening Ceremony. Welcome and Introductory Remarks were delivered by President of LAWASIA Shyam Divan and President of the Malaysian Bar Mohamad Ezri b Abdul Wahab respectively.

The Opening Ceremony also included an Address by the Honourable Chief Justice of Malaysia, Tun Tengku Maimun binti Tuan Mat. Her Ladyship's Address placed particular emphasis on the impact generative artificial intelligence has had on the legal profession. Notably, the Chief Justice observed that the advent of artificial intelligence in legal practice cannot cause the complete displacement of human functionaries in the legal system. It was noted that skills such as critical thinking and clear and compassionate communication remained indispensable and integral to the legal profession.

The Opening Ceremony concluded with the Keynote Address by the Prime Minister of Malaysia, the Right Honourable Dato' Seri Anwar Ibrahim. The Prime Minister spoke of the Government's commitment to an independent judiciary and importantly observed that the development of technological innovation in the law must be simultaneous with justice and equity. Such a development, it was said, would ensure that there is a equal access to quality technology.

A highlight of the Conference was the Plenary Judicial Session on the subject of judicial independence. The session featured distinguished judges and jurists from the Asia Pacific region and was moderated by Justice Julie Ward (President of the Court of Appeal of New South Wales). The speakers included Justice Sundaresh Menon (Honourable Chief Justice of the Supreme Court of Singapore), the Honourable Muntharee Ujjin (Vice-President of the Supreme Court of Thailand), Justice Susan Glazerbrook (Judge of the Supreme Court of New Zealand) and Dato' Mah Weng Kwai (former Judge of the Court of Appeal of Malaysia). Justices Menon and Glazerbrook paid particular regard to the impact of artificial intelligence and technology on the judiciary and the legal system as a whole. Justice Glazerbrook significantly referred to the increase of misinformation in the digital era which has exposed judges to online criticism that adversely affect the integrity of judges. Justice Ujjin explained that the principle of judicial independence had been incorporated into the Constitution of Thailand. Justice Mah spoke of judicial independence from the perspective of judicial appointments in Malaysia and with reference to recent court cases that have notably referred to the principle in this jurisdiction.



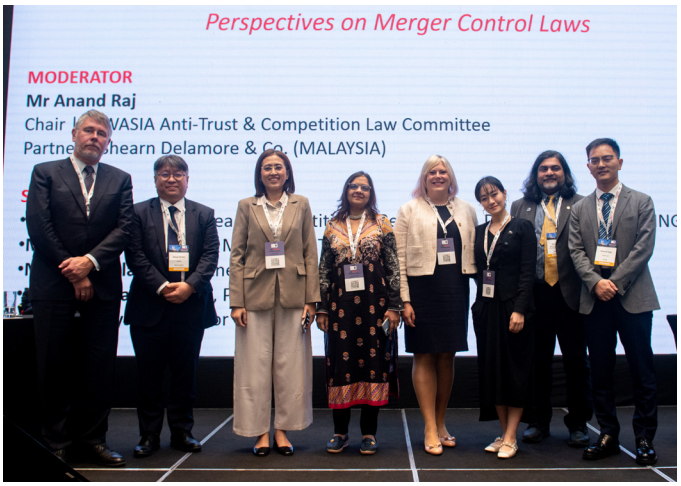




A number of sessions at the Conference featured discussions on the advancement of technology and its effect on human rights related issues. There were discussions on the manner in which artificial intelligence had been used to generate images showing the extent of deforestation and encroachment onto lands in native title disputes. Also featured were discussions on free expression issues in light of the increased reliance on technology to express opinions on public interest matters and the extent to which such forums ought to be regulated.

Notwithstanding the focus on technological advances in the legal profession, the Conference quite rightly featured prominent coverage on the contemporary and pressing issue of the environment. This included discussions on transboundary environmental harm, harm to coastal environments as well as the important topic of animal welfare and rights in modern day society.

The Malaysian Bar looks forward to its continuing participation in the Annual Conferences of LAWASIA.













AUTUMN is the MIND'S TRUE SPRING

The Legal Writing Conference 2024

Written by
Arif Umar Faruq Bin Faiz
Member, Publications Committee



On 24 October 2024, the inaugural Legal Writing Conference was held in the Raja Aziz Addruse Auditorium at Wisma Badan Peguam Malaysia, Kuala Lumpur. Organised by the Bar Council's Publications Committee, the Legal Writing Conference 2024 saw over 200 attendees come together to share their enthusiasm for the written word and the many ways that strong legal writing skills feature in effective legal practice.

The Legal Writing Conference provided an important reminder of the power that language can have when written in a legal context. This was clear from the opening remarks of Publications Committee Chairman, **Gregory Das**, who spoke not only of the reliance placed upon the writing of lawyers by clients to make critical decisions and by judges in their decision-making processes, but also of the multitude of recent efforts to enhance the accessibility of legal writing to the public.

As stated by President of the Malaysian Bar, **Mohamed Ezri b Abdul Wahab** in his address to attendees, the Legal Writing Conference 2024 provided a forum for the sharing of best practices and techniques to develop and enhance legal writing skills to better serve clients and the courts. Guided skilfully by an esteemed panel of nine speakers, the attendees were taught several ways to nurture their writing in modern legal practice. The Legal Writing Conference hosted over 200 attendees of varying backgrounds and levels of seniority – a testament to the fact that the tool of legal writing is a discipline that requires continuous refinement.

The Legal Writing Conference commenced with a keynote address by former Federal Court Justice **Tan Sri Zainun binti Ali**, whose long-standing passion for the topic was apparent throughout her address and set the tone for the day. Reflecting the three virtues of legal writing mentioned to the audience, Tan Sri Zainun presented with **clarity**, **concision** and **style** on the processes and efforts needed for practitioners to cultivate and continuously develop their written skills. To quote Tan Sri Zainun, *"Autumn is the mind's true spring"*. Just as autumn represents a season of patient transition and refinement, preparing the way for the growth of spring, so too does the careful honing of skills in language allow a legal practitioner to express themselves most effectively. Attendees were urged to approach language holistically in that an appreciation for precision and nuances in writing empowers lawyers to express themselves persuasively.

Against this backdrop, the attendees were then taken through a lineup of sessions which mapped out four different phases of a lawyer's career and the approaches to effective writing in each of these phases.

The first session was **'Legal Writing for Business Development'**. With one's digital presence becoming increasingly important in the development of a legal practice, Donovan Cheah (Partner, Donovan & Ho), **Crystal Wong Wai Chin** (Partner, Lee Hishammuddin Allen & Gledhill) and **Santhi Latha** (Dean, Rajah & Tann Asia Academy) offered detailed guidance and tips on writing to build your personal brand and to form trust and relationships with your target audience. Moderated by **Jessie Lee**, the session explored ways that legal writing could be used strategically to enhance your visibility through engaging and informative writing,





while adhering to the bounds of the **Legal Profession (Publicity) Rules** 2001. Attendees were given tips on how to select topics and the considerations to have in mind when posting your writing on platforms like LinkedIn in order to cultivate or reinforce your authority as a thought-leader in your practice area(s). A key takeaway that was emphasised by all three speakers was consistency and the importance of utilising available tools and resources to build your own workable system that ensures regular posting.

Wong Sue Wan (Partner, Wong & Partners) and **Robert Low** (Partner, Robert Low + Ooi) were the speakers in the much-anticipated second session on **'Legal Opinion Writing'**, moderated by **Sandhya Saravanan**. It was an interactive session where attendees were given the perspectives of a corporate law practitioner in Sue Wan and a disputes practitioner in Robert regarding the skill of advising through written opinions. It became clear throughout the session that although the considerations in corporate matters do differ to those in disputes, there is common ground in the way that a practitioner ought to approach the crafting of an effective legal opinion that is fit for purpose. Attendees were taught that the strength of a written legal opinion relies heavily on one's skills in precisely distilling the purpose of the opinion sought by a client. In this regard, attendees were coached on the 'pyramid principle', noting that lawyers often think bottom-up in synthesising their insight and thoughts on a scenario that requires a legal recommendation. That said, as far as presentation goes, Sue Wan and Robert spoke of the effectiveness of top-down communication in written opinions, where the client is provided a clear and concise recommendation at the start of a written opinion, while the foundational ideas that show a lawyer's working can be used to supplement and strengthen the primary recommendation given.







We then moved to the third session, **'Framing a Case Theory'**, delivered by seasoned advocates **Nahendran Navaratnam** (Partner, Navaratnam Chambers) and **Shanmuga Kanesalingam** (Partner, Kanesalingam & Co), moderated by **Voon Su Huei**. Attendees were apprised of the value of a case theory in assembling information in a way that enhances an advocate's ability to present the factual matrix of the case effectively. Nahendran invited attendees to think of a case theory as a film, where your case theory is the entire plotline of the film, guided by the applicable law. Attendees observed live demonstrations of building a case theory based on scenarios put to Nahendran and Shanmuga, making for a lively and engaging discussion on the effectiveness that a 'scene-by-scene' exposition of one's case theory can have in enhancing an advocate's presentation skills. The value of putting your case theory in writing





was emphasised, not only to facilitate consistency for any lawyers who take on the brief after you, but also to refine an advocate's ability to summarise a case theory concisely.

The Legal Writing Conference 2024 culminated with the final session titled **'Written Submissions – Post Trial, Appeals and Leave Applications at the Federal Court'.** The attendees had the privilege of witnessing a back-and-forth discussion between the former Chief Judge of Sabah & Sarawak, **Tan Sri Datuk Seri Panglima David Wong Dak Wah** and renowned counsel **Gopal Sreenevasan** (Member, Endeavour Group Law Practice) on the value of written submissions in three major arenas of litigation, namely trial, appeals and applications for leave to appeal to the Federal Court. Moderated by **Ryan Chu**, the speakers took the attendees through the art of written advocacy, highlighting the balance between the lawyer's role in utilising written submissions to assist the courts in making their judgments, while promoting the strength of one's case most effectively.

Gopal spoke of a written submission as "prime real estate", with the first three pages being the most expensive. In this regard, advocates were encouraged to harness the utility of headings and signposting to strengthen your client's stated position, while providing a roadmap to the judge(s) as to why your client should succeed. Tan Sri Datuk Seri Panglima David Wong Dak Wah's insights into what judges look for in a written submission were invaluable, noting the lawyer's important role in easing a judge's navigation of written submissions. Moving away from submissions on the merits of a dispute, the speakers then addressed the difficult endeavour that is leave applications to the Federal Court. Gopal spoke of the important skills that enhance a party's chances of successfully obtaining leave, namely scholarship and an ability to provide clear reasoning as to why the jurisprudence in question has developed in the way that it has. In this regard, Tan Sri Datuk Seri Panglima David Wong Dak Wah impressed upon the attendees that the DNA of a judge is justice, and if one's submissions can trigger that DNA, that is a crucial step in the right direction.

With the Legal Writing Conference 2024 coming to its conclusion, the attendees were undoubtedly left with a clear understanding of the demands placed on a legal practitioners' written word. In his closing speech, Deputy Chairperson of the Publications Committee, **Nimalan Devaraja**, reiterated the increased importance of legal writing in the current era of Malaysian legal practice, noting that the ever increasing fast-paced nature of legal practice brings with it a need for lawyers to continuously appreciate and develop their ability to utilise language most effectively.

Designed to provide a snapshot of a lawyer's day-to-day responsibilities, the Legal Writing Conference 2024 presented a clear message: know your role and duties as a lawyer, know the purpose of your written product, know your audience, and never lose sight of the importance of continuous learning, recognising that the discussion on how to best enhance your written skills as a lawyer is an on-going discussion that continues to expand alongside the development of modern legal practice.

The Publications Committee extends its gratitude to the speakers and attendees for making the Legal Writing Conference 2024 a success, and we look forward to continuing to foster the culture of knowledge-sharing in the Malaysian Bar.

THIRD-PARTY FUNDING and AIAC STRUCTURAL REFORMS

Key takeaways from the amendments to the Arbitration Act 2005

Written by
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Advocate & Solicitor



The Dewan Rakyat (House of Representatives) and Dewan Negara (Senate) recently passed the Arbitration (Amendment) Bill 2024 (the "Bill"). The Bill introduces sweeping changes to the Malaysian arbitration landscape, from a new President-led Court of Arbitration to the regulation of third-party funding, and even digital signing of arbitral awards—these amendments will shape the future of arbitration in Malaysia, and potentially propel Malaysia to the level of other dispute resolution hubs in the Asia-Pacific region. This article will address the key changes the Bill seeks to introduce, specifically in respect of third-party funding and structural changes to the Asian International Arbitration Centre **(AIAC)**.



How does third-party funding work?

In third-party funding (**"TPF"**), a funder provides financial resources to a claimant to cover legal costs in exchange for a portion of any financial recovery[1]. This (arguably) allows parties with strong claims but insufficient funds to pursue their cases without bearing the financial burden[2]. Third-parties arguably act as funders act like investors by assessing the merits and risks of a case. If the case succeeds, the funder receives a share of the recovery; if not, the funder loses their investment.

In Malaysia (and other jurisdictions), TPF was sometimes misunderstood as supporting vexatious or unmeritorious claims[3]. However, funders typically conduct thorough assessments to ensure a claim is worthwhile. Due to the uncertainty of legal outcomes, TPF can be a high-risk, high-reward investment strategy for funders, who usually diversify their investments to manage this risk.

New Rules on Third-Party Funding in Malaysia

The regulation of TPF in Malaysia is introduced in nine sections of the Bill, notably Sections 46A to 46I. These sections provide definitions, outline the scope of application, and clarify the legal standing of TPF within arbitration.

- Section 46A defines key terms such as "third-party funder" and "funded party." The definitions are broad, suggesting that funding may apply to both claimants and respondents in arbitration.
- Section 46B clarifies that the new regulations will not apply retroactively but will come into force on a date set by the Minister of Law and Institutional Reform.
- Section 46C abolishes the rule against maintenance and champerty in arbitration, aligning with the High Court's ruling in *Quill Construction*[4], which declared these doctrines defunct in Malaysia.
- Section 46D empowers the Minister to issue a Code of Practice for third-party funders, covering areas like funder requirements, conflicts of interest, and the protection of funded parties. However, as of August 2024, no Code of Practice has been published.
- Section 46E explains that non-compliance with the Code of Practice will not automatically expose the funder to legal liability but may influence legal proceedings.

1 Sarah E Moseley, 'Disclosing Third-Party Funding in International Investment Arbitration' (2018) 97 Texas Law Review 1181, 1182.

2 Beibei Zhang, *Third Party Funding for Dispute Resolution: A Comparative Study of England, Hong Kong, Singapore, the Netherlands, and Mainland China* (Springer 2021) 11 <https://link.springer.com/10.1007/978-981-16-1095-0> accessed 1 October 2024.

3 Willem H van Boom (ed), Litigation, Costs, Funding and Behaviour: Implications for the Law (Routledge 2016) 5.

4 Quill Construction Sdn Bhd v. Tan Hor Teng & Anor [2006] 2 CLJ 358

Disclosure Obligations

The Bill also imposes strict disclosure requirements related to TPF, through sections 46F and 46G. These are as follows.

Section 46F – Disclosure of information to third parties

Section 46F allows a party, who would ordinarily be required to keep an arbitration confidential, to approach any potential third-party funder for third party funding. However, such an approach to a potential third-party funder would then itself be caught by the confidentiality clause except for limited circumstances.

This includes instances where the *"disclosure or communication is made to a professional or any other advisers for the purpose of obtaining advice relating to the third-party funding"*. With this, funders would thus be in a position to obtain advice from a law firm unrelated to the potential arbitration in order to be able to better determine whether to fund the proceedings or not.



Section 46G – Disclosure of information to others in the arbitration and when funding ends

Section 46G mandates the existence of TPF and the name of the funder must be disclosed to the opposing party, the arbitral tribunal, and any court involved in related proceedings. This disclosure must be made at the start of arbitration or within 15 days of entering into a funding agreement. However, it remains unclear whether these disclosure requirements extend to post-arbitration court proceedings, such as enforcement.

Once a party is no longer funded, it must communicate this to the other parties, the arbitral tribunal and the Court (in the case of proceedings in respect of the arbitration before a court). The party must also communicate the exact date when the funding agreement ended.

Implications and Challenges

The Bill's amendments to Section 3 of the Arbitration Act extend TPF regulations to both domestic and international arbitration in Malaysia. However, the new Section 3A could create conflicts if Malaysian law firms or funders are involved in international arbitrations, potentially limiting their activities.

Structural Reforms

The amendments also contemplate pivotal structural reforms aimed at modernising the AIAC's governance and improving operational efficiency. These changes mark a significant evolution in the AIAC's history, aligning it with modern standards of corporate governance and enhancing its role as a leading arbitral institution. The reforms follow the signing of a Supplementary Agreement on February 20, 2024, between the Asian-African Legal Consultative Organisation (AALCO) and the Malaysian government. This agreement aims to streamline the AIAC's functions and establish a clear separation between executive and judicial responsibilities, a shift that will involve multiple phases.

Historically, the AIAC began as the Regional Centre for Arbitration, Kuala Lumpur (RCAKL) in 1978, established through a Host Country Agreement between AALCO and Malaysia. Since then, it has transformed into the Kuala Lumpur Regional Centre for Arbitration (KLRCA) and later into the AIAC in 2018, evolving in response to Southeast Asia's

growing demand for alternative dispute resolution. The Supplementary Agreement of 2024 is intended to be a landmark in the AIAC's journey, setting in motion governance reforms and the creation of an Arbitration Court.

The AIAC's restructuring follows a two-phase plan, beginning with the implementation of a Board of Directors, the appointment of a Chief Executive Officer (CEO), and a redefinition of the Director's role to focus exclusively on judicial functions. The Board of Directors, replacing the previous Advisory Board, has a more comprehensive role in the AIAC's strategic management and corporate governance. Chaired by Malaysia's Attorney General, the board has the authority to oversee the institution's strategic development, appoint the CEO, and provide stability to the AIAC's operations. Notably, this structure seeks to ensure neutrality and independence, core principles for the AIAC's operations, by restricting government intervention in the centre's case management activities.

The newly appointed CEO, tasked with administrative responsibilities, will manage the AIAC's day-to-day operations while adhering to the board's strategic directives. This division of roles aims to alleviate the Director's previous burden of administrative duties, allowing for focused attention on arbitration, mediation, and adjudication. Datuk Almalena Sharmila Johan was appointed as the AIAC's first CEO in August 2024, signalling the beginning of a new chapter in the centre's operational management. Meanwhile, the Director's role has been retained temporarily to ensure continuity in case management functions, a responsibility expected to transition to the AIAC Court of Arbitration upon its establishment.

Parallel to these changes, additional developments are shaping the AIAC's legal and structural framework. These include the formation of a committee dedicated to creating the AIAC Court of Arbitration, amendments to Malaysia's Arbitration Act, and the recent appointment of a new Director, former Federal Court judge Dato' Mary Lim Thiam Suan, whose role will continue until the court's official establishment. This restructuring effort underscores the AIAC's commitment to providing effective arbitration solutions while adapting to evolving legal and commercial landscapes.

Observing these changes, the author commends the AIAC's alignment with the maxim of maintaining a culture of transformation while upholding its foundational values. The AIAC's focus on stability, particularly after a history of frequent director turnover, reflects an understanding of the need for continuity to rebuild trust and confidence in its services.

As one of Southeast Asia's largest arbitration centres, handling hundreds of cases annually, the AIAC's shift toward a modernised structure is a positive development. The amendments are expected to improve decision-making and operational efficiency. The authors are optimistic about the AIAC's future and believe these reforms will enhance the institution's role as a trusted arbitration centre in the region.

Conclusion

The Bill marks a transformative moment for Malaysia's arbitration landscape, introducing both regulatory clarity and structural modernisation. With new provisions for third-party funding and a revamped governance framework for the AIAC, Malaysia is poised to strengthen its role as a premier arbitration hub in Asia. These changes not only provide more accessible funding options for parties in arbitration but also create a governance model at the AIAC that emphasises accountability, stability, and independence.

While some challenges remain—such as clarifying disclosure obligations and maintaining independence amid governmental ties—the reforms reflect a commitment to advancing Malaysia's dispute resolution offerings. As these provisions take effect and further developments unfold, the AIAC and Malaysia's arbitration framework are well-positioned to meet the demands of an increasingly complex and globalised market. This evolution signals Malaysia's ambition to elevate its arbitration services to international standards, providing parties with a trusted, transparent, and efficient venue for resolving disputes.

DECODING MALAYSIA'S HOUSING DEVELOPMENT LAWS:

The Obata-Ambak Perspective against Ang Ming Lee Decision

Written by
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The recent Federal Court decision in **Obata-Ambak Holdings Sdn. Bhd. v. Prema Bonanza Sdn. Bhd. & Other Appeals** [2024] 8 CLJ 519 (*"Obata-Ambak Holdings"*) has provided useful clarification on the oft-quoted ruling in **Ang Ming Lee & Ors v. Menteri Kesejahteraan Bandar, Perumahan Dan Kerajaan Tempatan & Anor And Other Appeals** [2020] 1 CLJ 162 (*"Ang Ming Lee"*) in respect of important aspects of housing development laws in Malaysia. This article explores the rationale of the Federal Court decision in *Ang Ming Lee* and *Obata-Ambak Holdings*, discusses the effectiveness of the current law in protecting house buyers, and examines whether amendments may be considered in respect of the **Housing Development (Control and Licensing) Act 1966 ("the Act") and Housing Development (Control and Licensing) Regulations 1989** (*"the Regulations"*) to reflect today's market demand and practice.

At the centre of the *Ang Ming Lee* case was the prescribed sale and purchase agreement (*"SPA"*) under Schedule H of the Regulations between the developer and the purchasers that mandated the delivery of vacant possession within 36 months. On the facts, **after** the execution of the SPA, the developer applied under regulation 11(3) of the Regulations for an extension of time of a further 12 months from the Controller of Housing (*"the Controller"*). This affected the level of liquidated ascertained damages (*"LAD"*) that was claimable by the purchasers under the SPA. The key argument in *Ang Ming Lee* was premised on whether regulation 11(3) of the Regulations was *ultra vires* the Act and that the delegation of power by the Minister to the Controller to waive or modify the Schedule H Contract prescribed under the Regulations.

The purchasers in *Ang Ming Lee* argued that they were deprived of an opportunity to be heard prior to a decision on the extension of time. In response, the developer attributed the need for the extension of time to, amongst others, the stop work orders issued by the local authorities and certain investigations conducted on the piling contractor for the project. Further, the developer contended that the extension of time was necessary to prevent the project being abandoned or not completed and that an abandoned development would cause greater hardship to the purchasers.

In considering these arguments, the Federal Court pointed out an important aspect on the extension of time provision. In delivering the judgment, Tengku Maimun Tuan Mat, CJ held (at page 187),

> "In this regard, we must not lose sight of the purchasers' obligations to pay for progress instalment to their respective housing financier and/or payment of rental to their landlord. It is a matter of balancing the commercial interest of a multi-million housing development company against the life-time loan commitment of a purchaser for a basic living necessity.

This led the apex court to rule that to allow the Controller to waive or modify the terms and conditions of the contract of sale which had the effect of affecting the purchasers' right to claim LAD as prescribed under Schedule H of the Regulations, would not accord with Parliament's intent behind the Regulations as a whole which was designed to protect the interests of purchasers.

Consequently, the Federal Court held that regulation 11(3) of the Regulations was *ultra vires* the Act and the Controller had no power to waive or modify any provision in the Schedule H Contract of Sale under the Act. The Federal Court also decided that section 24 of the Act did not confer power on the Minister to make regulations for the purpose to delegate the power to waive or modify the Schedule H Contract of Sale to the Controller.

The record shows that a series of purchasers in other cases against developers relied on the *Ang Ming Lee* decision to initiate LAD claims for late delivery of their housing parcels due to the purportedly unlawful time extensions granted by the Controller.

Such cases were heard in the *Obata-Ambak Holdings* appeals. In one of the appeals in *Obata-Ambak Holdings*, the developer applied for the modification of the prescribed SPA from 36 months to 54 months pursuant to regulation 11(3) of the Regulations due to the magnitude and the peculiarity of the bespoke design of the project. The Controller had granted the extension of time two years **before** the execution of the SPA with the purchasers. The purchasers subsequently commenced legal proceedings against the developer on the argument that the extension of time granted was inconsistent with the *Ang Ming Lee* decision (which the purchasers in *Obata-Ambak Holdings* argued that it applied retrospectively) and therefore they were entitled to claim additional LAD for vacant possession of the property for the period in excess of 36 months, calculated from the date of the SPA.

The Federal Court in *Obata-Ambak Holdings* deliberated and clarified significant issues which distinguished that case from *Ang Ming Lee*. The first issue considered was when did the cause of action arise and whether it was after the decision of *Ang Ming Lee* or within 6 years after the execution of the SPA (since the contract was modified, thus breach was deemed to have occurred at that point)? Secondly, whether the purchasers have a justifiable cause of action because they had been duly paid LAD and executed a letter of undertaking to waive of any further claims against the developer, thus amounting to unjust enrichment. Thirdly, the issue of whether the decision in *Ang Ming Lee* had retrospective effect for



time extensions granted by the Controller prior to the Federal Court decision.

On the first issue, the Federal Court held that it was trite law that the cause of action for a claim in contract accrued from the date of its breach for limitation purposes. Therefore, the apex court ruled that time commenced from the earliest point when the action could commence, namely the date of the execution of the SPA or from when there was any breach of the terms of the SPA.

On the second issue, the Federal Court ruled that the SPA in question expressly stated that the due date for the delivery of vacant possession was 54 months. As such, where vacant possession was delivered within 54 months, there would be no breach of the terms of the SPA. In addition, the aggrieved purchasers had executed a full and final settlement when they accepted the payment of the LAD from the developer who had duly adhered to the extended time period of 54 months for delivery of vacant possession and completion of common facilities. The purchasers did not raise the issue of the validity of such a clause in the SPA prior to the acceptance of the full and final settlement. Therefore, the apex court reasoned that if the developer was required to pay additional LAD, it would result in the purchasers enjoying a benefit at the expense of the developer. Therefore, the Federal Court aptly pointed out that it was only after *Ang Ming Lee* that the claims were filed years after delivery of vacant possession and payment of LAD. This resulted in the Federal Court's finding that *Ang Ming Lee* was not a carte blanche for purchasers to claim liquidated ascertained damages retrospectively and to enjoy financial windfall, particularly when they did not suffer any losses. On this issue, the Federal Court concluded the *ultra vires* declaration in *Ang Ming Lee* could not be interpreted as giving an opportunity to all that have benefited prior to *Ang Ming Lee* to enjoy further financial gains.

The Federal Court addressed the important controversy that arose from *Ang Ming Lee* on whether the declaration that Regulation 11 (3) HDR was *ultra vires* the Act applied retrospectively or prospectively. After considering the doctrine of prospective overruling and retrospectivity in various cases, the Federal Court held at paras [125 and 126],

> "Undoubtedly, laws must be given their full force and effect until they are declared invalid. An administrative decision made pursuant to a valid legislation before it is declared as ultra vires does not mean that the decision was void ab initio. It remains validly and legally intact… if Ang Ming Lee is to have retrospective effect there would be serious ramifications and repercussions to the housing industry in Malaysia in particular, the developers that had placed reliance on the existing law and diligently complied with the laws which were at that time valid.

The Federal Court decided that the principle in *Ang Ming Lee* would not apply to time extensions granted by the Controller before the *Ang Ming Lee* decision. This was to avoid any great injustice and negative consequences to the housing industry and developers who had diligently complied with the laws before *Ang Ming Lee*.

The decisions in *Ang Ming Lee* and *Obata-Ambak Holdings* reaffirmed the position that the Act was to protect and safeguard the interest of house buyers at all times, particularly on the matter of the time periods in which their homes were to be delivered. Parliament had also intended the Minister in charge of Housing and Local Government and Controller of Housing to ensure the intent and effect of the Act were carried out effectively. Therefore, there had to be strict compliance of the contract of sale made under the Regulations pursuant to the Act prescribing the standard form of agreement and the requirement for approval before any changes could be made to the prescribed agreement. This would ensure that the developers would not extend the time of completion and delivery of vacant possession ad infinitum resulting in abandoned projects.

It is also equally important to note from these cases that the Act ought not to be interpreted to allow any party to make unjustifiable gains from a contract of sale where one party has duly complied with the terms and condition as agreed at the time of execution, particularly when the other party has suffered no losses. However, undeniably the Act which was enacted in 1965 and the Regulations set out in 1989 could be said to be showing its age and no longer reflect the current time period it takes to complete large housing developments undertaken by the developers. Prior to the turn of the millennium, high rise buildings were usually less than 20 storeys with basic common facilities. Today, most projects that fall under the ambit of Schedule H of the Regulations could go beyond 40 storeys with extended common facilities to cater for more luxurious lifestyles.

Therefore, for the purpose of clarity and certainty, it may be timely for lawmakers to consider revisions and amendments to Schedule H of the Regulations to provide for a more acceptable time period to deliver vacant possession of housing parcels. Additionally, the Regulations ought to be amended to provide for the current procedure for an application for a time extension in view of the *Ang Ming Lee* decision (that declared Regulations 11(3) *ultra vires* the Act). It is suggested that such an amendment to the procedure for these applications ought to be in respect of applications for additional time that have arisen for reasons not attributable to the default of the developers and factors beyond the control of the developers. The revised procedure for applications for time extensions should also provide an opportunity for the purchasers to be heard in the process. This is because time is of the essence in the statutory contracts under the Regulations and any extensions of time granted would affect a claim for LAD by the purchasers for losses suffered.

The author submits that it is vital to set clear boundaries of the contract of sale from the onset to minimise the litigation of disputes in court as any frivolous legal proceedings will unnecessarily consume judicial time and resources.



Breaking the Cycle

Overcoming Vacation Guilt and Redefining Self-Worth in a Demanding Legal Career



Written by
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Our jobs and careers are often central to how we define ourselves, shaped from an early age by societal norms, cultural expectations, and personal experiences. From childhood, we are conditioned to link our worth with productivity and achievements, making many feel validated when their professional roles are appreciated or recognized. For example, someone praised for academic success may feel pressured to prove their value through career accomplishments, working long hours, and taking on excessive responsibilities. Similarly, individuals who grew up with financial instability may equate their self-worth with working hard, seeing downtime as laziness or failure.

This conditioning leads to an internalized belief that self-worth is tied to productivity, making professional achievements, job titles, and societal perceptions of one's career core identity elements. In cultures where success is measured by financial status or career advancement, this link between work and self-worth becomes even more ingrained. As a result, many people view their jobs not only as a source of income but to prove their competence, value, and contribution to society. The harder and longer they work, the more valuable they feel, making rest and relaxation challenging to embrace.

> “…taking breaks may seem like a threat to one’s professional standing or a waste of time that could be spent advancing career goals.

Consequently, taking time off often triggers feelings of guilt or worthlessness. People feel as if they are failing to meet their own or others’ expectations, experiencing “vacation guilt”—a complex emotional response where individuals feel uneasy or guilty during or after time off. This guilt arises from the belief that worthiness is tied to constant work. It is particularly prevalent in fast-paced, high-demand industries, where taking breaks may seem like a threat to one’s professional standing or a waste of time that could be spent advancing career goals.

Research supports the idea that vacation guilt is a widespread issue. Studies show that workers who feel guilty about taking time off struggle to mentally detach from work during vacations, preventing them from fully benefiting from the break. This inability to disconnect can lead to lower recovery levels, heightened stress upon returning to work, and even emotional exhaustion. Furthermore, employees often return to work abruptly, immediately resuming their responsibilities without allowing time to adjust, which can undo the positive effects of the vacation and exacerbate stress.

The roots of vacation guilt lie in an unhealthy work-identity formulation tied to a lack of self-worth. When people do not believe they are inherently valuable, they feel the need to constantly “earn” their worth through work. This results in a compulsion to stay busy, leading to feelings of guilt when resting. Guilt, however, is not always maladaptive. In moderate amounts, it can act as a moral compass, guiding individuals to assess their responsibilities. Similarly, anxiety can push people to perform better or avoid risks. But when these emotions become constant or disproportionate, they can lead to burnout, stress, and emotional exhaustion.

To combat these challenges, both organizational support and personal accountability are essential. Employers play a crucial role by promoting mental wellness through policies like encouraging work-life balance, offering mental health days, and providing updates on important events during employees’ time off. However, individuals must also take ownership of their well-being by setting boundaries, practicing self-care, and cultivating self-worth independent of professional achievements.

Individuals can adopt several strategies to reduce vacation guilt and enhance the recovery experience:

1. **Redefine Your Self-Worth:** Redefining self-worth is crucial. Recognizing that self-worth is intrinsic and not solely tied to productivity allows individuals to break the cycle of guilt and view rest as essential for maintaining long-term success. You may also seek professional help to explore ways to break the cycle of guilt and cultivate a healthier, balanced perspective on work and rest.

2. **Prioritize Self-Care:** Prioritizing self-care and framing rest as necessary for emotional, mental, and physical well-being can help reinforce the value of downtime. You may work with your therapists to reframe rest and relaxation as crucial components of your overall well-being rather than obstacles to productivity.

3. **Practice Mindfulness and Set Boundaries:** Engaging in mindfulness and setting clear boundaries between work and personal life can further promote a healthier work-life balance, reducing feelings of guilt. Learn how to set clear boundaries between work and personal life to promote a healthier work-life balance and alleviate feelings of guilt.

4. **Cultivate Passions Beyond Work:** Cultivating interests and activities outside of work fosters a sense of identity beyond professional achievements, breaking the mindset that worthiness is defined by job performance alone. You can build an identity beyond professional achievements by fostering hobbies and meaningful relationships. Counselling can support this journey of self-discovery, helping you break free from the belief that worthiness is solely defined by job performance.

In conclusion, managing work-related stress and vacation guilt requires a shift in perspective. By fostering self-compassion, practicing mindfulness, and integrating recovery activities into daily routines, individuals can redefine their identities beyond their professional roles and develop healthier relationships with work and rest. This shift improves personal well-being and enhances long-term productivity, allowing individuals to recharge fully and return to work refreshed and ready to perform at their best.

Members and their Interactions with Art



Written by
Lucy Lee Zhe Hui
Member, Publications Committee
and
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Member, Publications Committee

What is art?

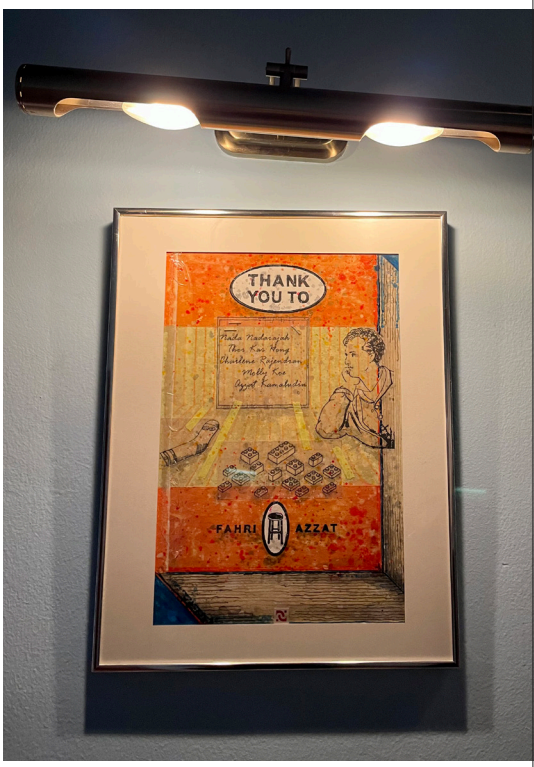
The answer varies. It has different meanings and connotations for every individual. Creative expressions take many forms: painting, writing, photography, music or crafts. It is a general belief that one does not need a formal education in art to appreciate them as this is a personalised experience.

We aim to provide a glance into how lawyers frame their perspective on art. This article is a result of conversations we had with two members of the Bar who interact with art, in their own way.



Fahri Azzat
When Art Meets Law

While we scuttled under the shield of our umbrellas, Fahri Azzat instead embraced the heavy downpour, Titanic-style in the middle of the road. We sit down with the man who sees the essence of art even in everyday life activities, who also happens to have an impressive collection of paintings.



"My acquaintances in the law" by Muhammad Hafiz.

Q: Can you share how you ventured into art collection?

A: I started collecting when I started being more consciously aware of it. It only happened around 6-7 years ago, when I started purchasing my own art and looking for artists that I was interested to collaborate with. But the impetus came much earlier. My parents are art collectors. My father came back from England and even though he didn't have much money as a government servant, he started collecting them. He would go to Ibrahim Hussein and purchase them. My father and I buy art not for investment.

I got into art when I started the blog. I wanted art for my essays. That was when I got serious. You know. Like the subtle pull before the stab. So, I wanted Malaysian artists to interpret my essays and show me what they can make out of them.

You will be greeted by Haron Mokhtar's art piece before entering Fahri's office.





You will be greeted by Haron Mokhtar's art piece before entering Fahri's office.

So, I went on social media on Instagram to find artists I could commission, nothing expensive just something nice and interpretive. I found a few on Instagram showcasing their work. Cold texted them and asked if they were interested. 10% responded. Just to show you the level of my ignorance at the time, I came across this guy called Bingley Sim on Instagram. I texted him and told him I liked his art. He used a lot of words in his art. He said he agreed to do it but would only give me the digital copy, not the original. I agreed immedateily Later, I found out who he was – a very well-known collector and personality in the art world, who enjoyed doodling himself and a banker. This guy usually deals with hundreds of thousands and responded to my query about an RM 500 commission. He didn't do a piece for me. I think he was just having a bit of fun. I thought that was hilarious.

Then, I was introduced to this guy, Fizjedar. He didn›t come cheap, but he said he'd do a special deal for me. I sent him one of my essays. He sent over a physical piece of work wrapped in a beautiful sarong. The moment I saw it, I felt he nailed it! That was around the time I started to entertain how to marry law with art or make law practice artful. I developed a lot of my thoughts from my conversations with Fizjedar. We eventually worked on a project together where I commissioned ten pieces from him that related to the Federal Constitution. This is a project I plan to exhibit in the future when I get my act together.

Another project that strengthened my intuition was when I hired Nicholas Choong to do a mural on my office wall. He spent 3 months doing it. One day, Nicholas brought Marisa Ng, his girlfriend. She asked if I was interested in adding words to the wall art. I said yes. She said, give me ten phrases. I gave her ten phrases. She also sprayed the words Ego on the firm trash can. Loved all of it. I also got Nicholas to do some art for some of my essays. While they worked on the mural, I would watch them work and converse with them.

My conversations with Nick and Marisa resulted in an artwork titled 'Malaysian Bar' that I commissioned Marisa to create and then donated to the… Malaysian Bar.

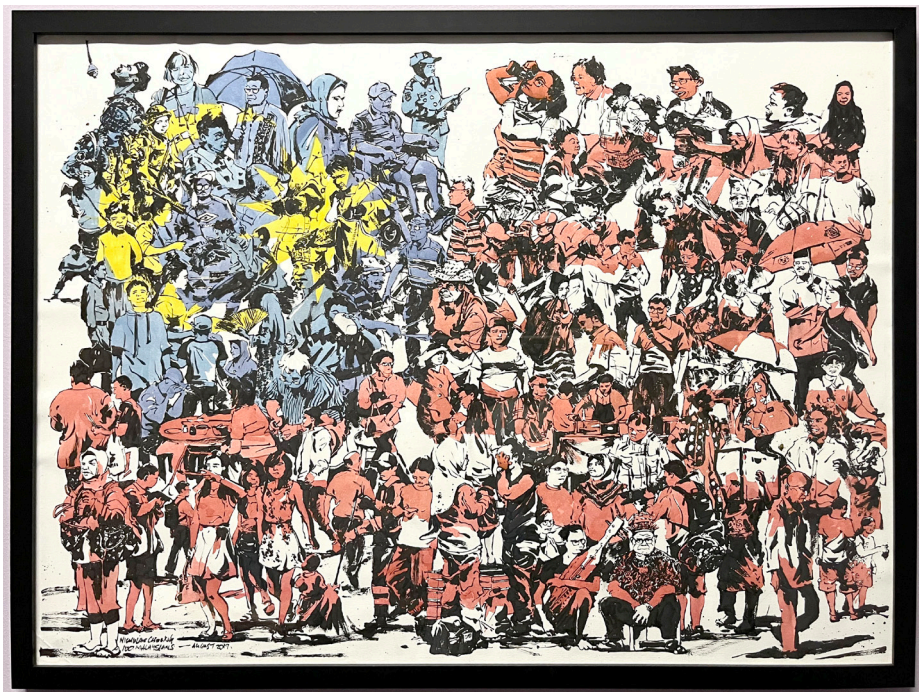
When I buy art, I ask myself is, "Do I like it"? "Does it fit with what I am interested in?" "How can it capture things that are important for me?" "How can it evoke sentiments that are buried under this capitalistic, neo-reformed community?" Over the last few years, I have solidified the art I am interested in. Malaysian-oriented, mostly scenes and things that no longer here– art as a way to preserve the past, to remind us of our humanity.

Q: Going back to the marrying art and law, how do you advise young practitioners to embrace both?

A: One way I have managed to give a sense of that is with the Malaysian Bar piece. This idea came from Marisa, she told me that she had an idea for a stencil art. So, I did a bit of research. You know, old laws were carved on stones and put in communal areas so that everybody would go there and see. I wanted that replicated. You see that as a style and it looks a bit faded. Some words look more prominent than others. The wordings I used in there are from sections 41, 42 and 47 of the Legal Profession Act 1976. I am not sure how much art uses actual words of the law in it. I wanted this to be for the Malaysian Bar, so I donated it to them after it was done. If you walk into the Bar Council, the walls are empty and sad. There's so much wall, so let me do this one.



Ceramic nasi lemak in the meeting room.



One of Fahri's favourite art pieces by Nicholas Choong, "100 Malaysians".

Another way is to recognise there is artfulness in legal practice. Sometimes you see some outstanding advocates performing, submitting and it is so nice to listen to, so compelling. To me, that is an artful performance. Sometimes, the submissions are written so well that you wonder how you answer this now. I really appreciate the details on the font, font size and the page. I call this "page aesthetics". You know sometimes you find people using comic sans for their submissions and that is a no-no. A page has to look nice. It facilitates the reading. Or a contract that is so well-drafted and has such elegance.

Q: What would be your Idiot's Guide to Art Collection?

Buy what you like, don't try to intellectualise it. Don't be so concerned when someone says this piece will not have much value. Does it make you happy when you look at it? You can go to Instagram and search for Malaysian artists. I would suggest going for exhibitions that are now frequently organised on weekends. Go to the National Art Gallery and see what you like, what you are drawn to.

Q: Do you think that art collection is for the rich?

Unfortunately, art has become commodified, and when it becomes commodified, it becomes hierarchical, and so there is the issue of investment, a piece appreciating. If I am looking at art and thinking that it is a RM10,000 piece, I miss its essence. Half of my art is commissioned, so it is not about how much it will be valued later. I am more interested in creating meaning that resonates. The value comes from that. Not the price tag.

END



Ho Kok Yew
and his artwork



"5 Blessings" by Ho Kok Yew. One of his favourite art pieces.

As you walk into his office, you are greeted with vibrant paintings from all directions. But what makes them special is that they are all his creations. We sit down with Ho Kok Yew, a senior lawyer and (now we know) talented artist.

Q: How you started dabbling in art?

A: In the ordinary sense of the word art collector, I am not one. You would think of someone who goes to art galleries and buys art. So, what I do is I browse the Internet and find existing paintings, photographs or any artwork and I reproduce with slight modifications and variations. Then I give credit to the artist and at the same time, I advertise the artists. So, I don't sell my paintings but I have definitely gifted many. Recently, I am into building gundam robots, and I use my airbrush paint to pain over them too. And I have also been doing a bit of modelling (as he shows his proud Wright Flyer airplane model).

Q: Do you think painting has helped you as a lawyer?

A: It has. Painting for me is therapeutic. To create a piece and to see how mistakes unfold, and you recreate as you go is a ritual. It has kept me sane as a legal practitioner. You got to have something outside of law. You know when you meet up with other lawyers and everybody is talking about law, it gets boring! So, yeah, painting helps.

Q: What is your advice to young practitioners who wants to make their debut in painting?

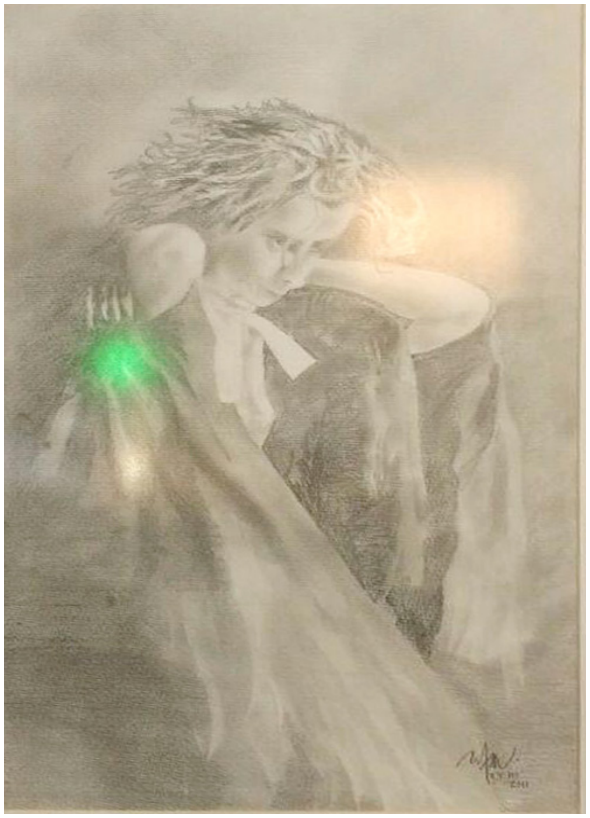
A: Go ahead! Look there is no hard and fast rule about what art really is. You have to think about what resonates with you, what makes you happy.

My advice for those who want to start painting, the first thing to think about is where do you want to display your painting. Then you can choose the size, do you want it big or small. If you want a bird, specifically parrot then you know your colour palettes will be blue, turquoise and yellow. So, it is about discovering the purpose of the painting. Imagine the end product and then it would make getting the supplies easier.

You have to think about having finished your painting, where do you want to keep your creation. The greatest disservice to a piece of art is when they are forgotten and start collecting dust. The value of the art, even to yourself, reduces. Just take for example, if you were to make a painting of your handprint, it may just seem simple and common.



“Wau Bulan” by Ho Kok Yew and its details..



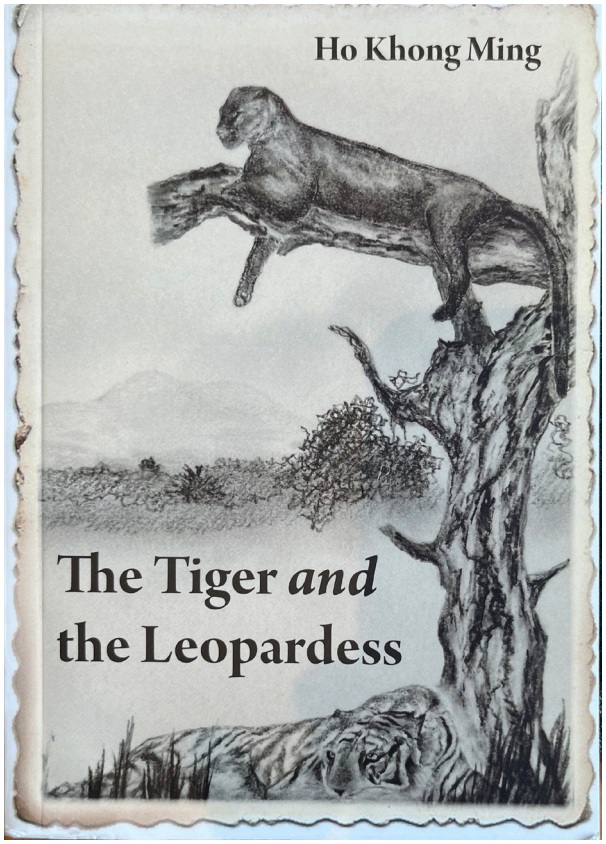
“Intensity before a hearing” by Ho Kok Yew.

But if you frame it up and put it on a wall that you have decided it should be, immediately the value goes up to yourself and to your loved ones. Imagine this, a boy comes to your office and scribbles on the wall. You may think this toddler spoiled your wall. On the other hand, if you frame around the scribbles and make a dedication that a boy visited the office and decided that his work of art was worth the display then suddenly it becomes a piece of art. It is a matter of changing your perspective.

Q: For a beginner in painting, what should I have in my painting kit?

A: Choose the medium of painting first. Start with either water colour or acrylic, oil paintings are usually more difficult. Acrylic is easier as it dries faster, and it is very vibrant. And acrylic is usually painted on canvas. You can go to Art Friend and get all the necessary supplies, that’s where I get them.

Ho Kok Yew showcased his art pieces on his website, at *https://hokokyew.com.my/hky-art/*.



Ho Kok Yew commissioned this piece of cover art for a book authored by his father.

LOW CHENG TEIK & 3 ORS v LOW WEAN NEE

OPPRESSION OR DERIVATIVE ACTION

[94] …the formulation of the legal test [at 93] provides criteria that may be applied to a given fact situation to determine the best cause of action to pursue under the Act, more particularly in relation to shareholder disputes. It does not comprise a blueprint that is set in stone, providing the complete and immutable touchstone for the cause of action an aggrieved party is bound to undertake. Instead, it provides relevant guidance to the court and litigants alike to consider the most appropriate form of action to take in a given situation.

Per Nallini Pathmanathan FCJ

Written by
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The decision of the Federal Court ('FC') in Low Cheng Teik v Low Ean Nee [2024] 5 MLJ 580 attracted debates in the corporate and legal circles. Critics appear to be unmindful that prior to the introduction of the oppression or unfair prejudice remedy, the law did not (a) recognise members' interests as a head of protectable rights; and (b) distinguish corporate misconduct from oppressive or prejudicial management in the affairs of companies. Consequentially, only the company has a cause of action for corporate misconduct, it being the injured party. The common law derivative action was invented by judges to permit the minority to sue in respect of certain types of corporate wrongdoings where the company improperly refuses to sue. In respect of corporate misconduct that infringes upon enforceable legal rights attached to shares, the proper plaintiff rule in Foss v Harbottle has no application, it being a personal wrong.

The oppression remedy (previously s 181) is now housed in s 346 of the Companies Act 2016 ('CA 2016'). The statutory derivative action replacing the common law derivative action which was introduced in 2007 is now housed in s 347. Much learning could have been gained and anxiety spared in the debates had one paid more than cursory attention to paragraphs [84] through [86] and [91] of the decision in Low Cheng Teik – the reason for the existence of two distinct statutory provisions is to prevent shareholders from prosecuting a derivative action in the guise of an oppression action to obtain remedies that are otherwise not available in a derivative action. The legal test formulated in Low Cheng Teik directs attention to the nuanced differences in law between the derivative action and the oppression remedy, and which set of proceedings is appropriate depends on identifying the legal nature of the wrong as characterised from the evidence in each case.

Prudential and reflective loss

After the introduction of the oppression or unfair prejudice remedy, in Prudential Assurance Co Ltd v Newman Industries Ltd (No.2) [1982] Ch 204, the fallback argument of plaintiffs that failing the derivative

action, the action could nonetheless be maintained as a personal action premised upon losses measured by diminution in share value or loss of dividend income was rejected. It was because such losses are not personal but derivative or merely reflective of the company's losses. In short, a personal action on that premise would subvert the proper plaintiff principle in Foss v Harbottle. It was unnecessary for the court in the legal and factual settings of Prudential to discuss the reach of the reflective loss principle in other legal settings. At p. 224C:

> "When the shareholder acquires a share he accepts the fact that the value of his investment follows the fortunes of the company and that he can only exercise his influence over the fortunes of the company by the exercise of his voting rights in the general meeting. The law confers on him the right to ensure that the company observes the limitations of its memorandum of association... if it is right that the law has conferred or should in certain restricted circumstances confer further right on a shareholder the scope and consequences of such further rights require further consideration. In this case it is neither necessary nor desirable to draw any general conclusions.

The decision in Prudential is based on the bedrock principles upon which company law is built, chief of which is corporate personality which has multifaceted statutory attributes.

Low Cheng Teik and reflective loss

The underlying foundation of the decision in *Low Cheng Teik* sparkles with clarity that it is also based on the core principle of corporate personality and its multifaceted attributes. Section 21 of the Act provides for separate corporate personality; s22 confers unlimited corporate capacity. Sections 291 and 292 embody the majority rule principle. It upheld the reflective loss principle in the context of an oppression action where the loss claimed was diminution in share value or loss of dividend income. In addition to the absence of evidence of loss like in *Prudential*, the claimant also failed to characterise from evidence how her loss was separate and distinct from that of the company. An assertion of corporate misconduct accompanied by a mere intuitive statement of loss in share value with a further allegation that the corporate misconduct overlaps with oppressive conduct within the meaning of s 346 are insufficiently appropriate to displace the reflective loss principle. The supporting reasons underlying the legal test formulated in *Low Cheng Teik* at [93] are not far to find.

(1) One of the statutory purposes of the oppression or unfair prejudice remedy is to enable the court in appropriate cases to '*outflank*' or '*abrogate*' the rules in *Foss v Harbottle;* not completely do away with the core principle of corporate personality and its multifaceted attributes: *Re Saul D Harrison & Sons plc* [1995] 1 BCLC 14; *Abdul Rahim bin Aki v Krubong Industrial Park (Melaka) Sdn Bhd* [1995] 3 MLJ 417.

(2) The oppression remedy is not a supermarket trolley, but a hologram and it is a question of perspective: *Re Charnley Davies Ltd* [1990] BCLC 760.

(3) The distinction between a derivative action and the oppression remedy lies in the identification of nature of the complaints and the remedy that is required to put an end to the complaints: *Re Kong Thai Sawmill (Miri) Sdn Bhd* [1978] 2 MLJ 227*; Re Charnley Davies Ltd.*

(4) The derivative action and oppression remedy serves different functions: *Waddington Ltd v Chan Hoo Thomas & Ors* [2009] 2 BCLC 82.

The separate and distinct requirement is not based on the common law policy of preventing double recovery. Instead, it is a rule of law disenfranchising shareholders from a cause of action vested in the company. Appellate decisions from multiple jurisdictions endorse this rationale, some of which are collected in the decision of Ong Chee Kwan JC (now J) in *Bank of Nova Scotia Bhd & Anor v Lion Dri Sdn Bhd & Ors* [2021] 9 MLJ 473, which was approved in *Ho Yau Hong & Ors v How Yau Ming & anor appeal* [2023] MLJU 933. In jurisdictions based on the civil law system as in Quebec, Canada, in the absence of a separate and distinct injury or loss, shareholders have no cause of action because of lack of sufficient interest: *Brunnette v Legault Joly Thiffault* 2018 SCC 55. At 24:

> In certain cases, the civil law produces a conclusion similar to that which would arise under the common law…This similarity, where it is premised on principles proper to each legal system, in no way detracts from the coherence and integrity of either.

Appropriate cases outflanking Foss v Harbottle
The overlapping point

It may be correct but lazy generosity to accept that in cases of corporate misconduct involving diversion or misappropriation of corporate assets, there is automatically in law an overlapping or concurrent wrong - the company suffers a direct injury and that also amounts to an injury suffered by shareholders. This is artificial for the reflective loss principle operates on the requirement that both injuries must be direct and the direct loss or injury suffered by the shareholder must be separate and distinct from the direct injury suffered by the company. In the 6th edition of Gower's Principles of Company Law at p. 738, it was commented that what constitutes an 'appropriate' case to outflank the rules in *Foss v Harbottle* (*per* Lord Hoffmann in *Re Saul D Harrison & Sons plc*) is 'something of a mystery.'

With respect, the mystery, if any, was demystified in *Low Cheng Teik* in the test formulated at [93] and repeated at [137]. The test must be read together with [127] where it was held that the reflective loss principle does not operate in law as an absolute bar against actions under s 346 of the Act. The earlier decision in *Rinota Construction Sdn Bhd v Mascon Rinota Sdn Bhd & Ors* [2018]1 MLJ 131 was overruled. Applying the test, s 346 is an appropriate remedy provided (a) the nature of the complaints is not just about unlawfulness of the acts or corporate misconduct simpliciter; and (b) the complaints are capable of being characterised from evidence as constituting oppressive rule, or rule in disregard of interests or unfairly discriminatory or prejudicial rule *qua* shareholders. In such legal and factual settings, the 'mystery' disappears in that it is an appropriate case for outflanking or abrogating the rule in *Foss v Harbottle*.

The legal test in *Low Cheng Teik* is consistent with the decision in *Re Kong Thai Sawmill (Miri) Sdn Bhd* [1978] 2 MLJ 227. There, the Privy Council rejected in part the appellants' argument (advanced by Peter Millet QC as he then was) that the oppression remedy was not a substitute for a derivative action. In the speech of Lord Wilberforce, this was simply because none of the required elements to maintain an oppression action are necessary ingredients in a derivative action. With respect, it was not coincidence that the learned QC when elevated as a judge held in *Re Charnley Davies Ltd* that the unfair prejudice remedy is not a 'supermarket trolley', and as Lord Millet NPJ in the Court of Final Appeal (HKSAR) in *Waddington Ltd v Chan Hoo Thomas & Ors* held that the two sets of proceedings serve different functions.

The classical case where corporate misconduct also constituted or overlaps with the statutory concept of oppression is *Scottish Co-operative Wholesale Society v Meyer* [1959] AC 324. There, the nominee majority directors of the co-operative (the majority shareholder of the company) pursued a deliberate policy in conflict of interest with the view of destroying the company's business. The majority succeeded and this rendered worthless the shares of the company. The underlying intention was to force the minority into surrender to the plan of the co-operative to turn the company into a branch of the society. A compulsory purchase order was made.

Conclusion

Commencing from *Re Kong Thai (Miri) Sdn Bhd* and culminating in *Low Cheng Teik*, the unmistakable judicial message in cases of diversion or misappropriation of assets is this - do not simply sling in diminution in share value or loss of dividend income intuitively without more and assert that that is a separate and distinct loss. One must forge through evidence and bear the extra burden of satisfying the ingredients in s 346. Shareholders do not have an enforceable right to dividend unless declared nor to an advance return of capital. Rights attaching to shares are primarily housed in s 71 of the Act. In the author's respectful view, there was no need for the FC in *Low Cheng Teik* to rehearse established points of law that have been made many times before. The legal test at [93] is not a blueprint set in stone. Gainsaid the legal test is fact sensitive and much depends upon identifying and characterising the nature of the wrong from evidence. The respondent in *Low Cheng Teik* failed to cross these thresholds. The decision in *Low Cheng Tei*k is welcome. The formulation of the legal test is illuminating.

Dahlia Dhaima Abdullah v Majlis Agama Islam Selangor & Another Appeal*

Written by
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The Earlier Judgment in Rosliza Ibrahim

The Plaintiff in *Dahlia Dhaima* filed the OS in the High Court in May 2021 following the decision of the Federal Court on 5 February 2020 in *Rosliza* Ibrahim v *Kerajaan Negeri Selangor & Anor* [2021] 2 MLJ 181 (***'Rosliza Ibrahim'***). The plaintiff in Rosliza Ibrahim had successfully obtained a declaration 'that the plaintiff is not a person professing the religion of Islam.' In reaching this decision, the Federal Court had first deliberated on whether the civil court had jurisdiction to hear the matter. This was in view of Article 121(1A) of the Federal Constitution which provides that the civil courts *'shall have no jurisdiction in respect of any matter within the jurisdiction of the Syariah Court.'*

The Federal Court in *Rosliza* Ibrahim drew a distinction between a plaintiff who sought a declaration that she was never a Muslim as opposed to a plaintiff who sought a declaration that she was no longer a Muslim. The Federal Court decided that the civil court would have the jurisdiction to hear the application in the former case but not in the latter case. This was as the latter case involves the renunciation of the religion of Islam which is properly within the jurisdiction of the Syariah Court and therefore outside the jurisdiction of the civil court.[1] The Federal Court held further that the issue of whether the plaintiff had never been a Muslim, or had been a Muslim but was renouncing Islam, is a matter to be decided by a careful examination of the facts by the civil court.[2]

Although the Federal Court was unanimous on the foregoing principles, the declaration that Rosliza was never a Muslim was granted by a majority of 7 to 2 with the majority holding that it is a matter of proof that a person affirmatively professed the religion of Islam at the material time and absent such proof, the case may be classified as a 'never was a Muslim' case or loosely referred to as an 'ab initio' case.[3] The majority concluded that there was no proof that Rosliza had been a Muslim.[4] However, the minority did not make any order on the aforesaid declaration sought and observed that the civil court should first seek the opinion of the Fatwa Committee of the State of Selangor by way of a non-binding expert evidence before making the order.[5]

Dahlia's OS and Facts

Like *Rosliza Ibrahim*, the plaintiff in *Dahlia Dhaima* grounded her application on the basis that she had never been a Muslim. Following the approach in the earlier case, the Federal Court in *Dahlia Dhaima* undertook an examination of the facts to determine whether Dahlia had been a Muslim but was renouncing the religion or, as asserted by her, had never been a Muslim, to ascertain whether the civil court had jurisdiction to hear the matter.

Dahlia had been born to non-Muslim parents. She was converted to Islam in 1991 at the age of 5 years old when her mother converted to Islam. After that, Dahlia's parents divorced in 1992. Her mother then married a Muslim man in 1993. Dahlia's biological father passed away in 1996.

1 Paragraphs 108-109, 75-90, 99-103, 143-147 of *Rosliza Ibrahim*

2 Paragraphs 98, 108, 112, 144 of *Rosliza Ibrahim*

3 Paragraph 98 of *Rosliza Ibrahim*

4 Paragraphs 121-123 of *Rosliza Ibrahim*

5 Paragraphs 161-164 of *Rosliza Ibrahim*

* *The Federal Court in Pendaftar Mualaf Negeri Perlis & Ors v. Loh Siew Hong & Another Appeal [2025] CLJU 265 ("Loh Siew Hong") addressed Dahlia Dhaima Abdullah v Majlis Agama Islam Selangor & Another Appeal [2024] 5 CLJ 855 ("Dahlia Dhaima Abdullah"). In Loh Siew Hong, Nallini Pathmanathan FCJ declined to apply Dahlia Dhaima Abdullah, although her Ladyship accepted that the legality of the certificate of conversion was subject to challenge. Abu Bakar Jais FCJ, in a supporting judgment, clarified that his Lordship's decision in Dahlia Dhaima Abdullah ought to be "understood according to the peculiar facts of the case.*

In the OS in the High Court, Dahlia asserted that she was never a Muslim because at the time of her conversion, the law applicable to the conversion of a minor was section 147 of the Selangor Administration of Muslim Law Enactment 1952 (**'1952 Enactment'**) which provided *'no person who has not attained the age of puberty shall be converted to the Muslim religion.'*

However, prior to making the application in the High Court, Dahlia had, in 2013, applied to the Kuala Lumpur (KL) Syariah High Court for a declaration that she was no longer a Muslim. This application was dismissed on 20 July 2017. She appealed to the KL Syariah Appeal Court which dismissed her appeal on 12 January 2021.

In affirming the dismissal of the OS, the majority members of the Federal Court's decision found that in Dahlia's application in the Syariah Court, she had pleaded that she had been a Muslim but was no longer professing the faith. The Federal Court also found that evidence had been led in the Syariah Court that Dahlia was able to utter the two clauses of affirmation of faith in court and that she had carried out practices as a Muslim such as fasting, prayer and attending religious classes and programs although not on a regular basis.

Summary of the Judgment of Abang Iskandar PCA

The learned President of the Court of Appeal (PCA) was a member of the majority which affirmed the dismissal of Dahlia's OS. In making the decision, Abang Iskandar PCA applied the principle and approach in *Rosliza Ibrahim*.[6]

Abang Iskandar PCA held that Dahlia's conversion to Islam in 1991 at the age of 5 was invalid pursuant to section 147 of the 1952 Enactment.[7] Notwithstanding that, His Lordship considered the facts that occurred after that conversion. This included the fact that Dahlia's mother had raised her as a Muslim, and the pleading and the evidence at the Syariah Court. After considering the same, Abang Iskandar PCA concluded that Dahlia was a Muslim who was renouncing the religion.[8] His Lordship also opined that the prior Syariah Court decision was an important distinguishing factor which the civil courts in *Dahlia Dhaima* must consider which had been absent in *Rosliza Ibrahim*.[9] Therefore, the Syariah Court was seized with jurisdiction to deal with the 'no longer a Muslim' application and until and unless the Syariah Court order dismissing her renunciation application was set aside, its findings and order are valid and enforceable.[10]

In this regard, Abang Iskandar PCA held that a collateral attack of a Syariah Court decision and order, as undertaken by Dahlia, cannot be sustained until it is set aside.[11] However, the learned PCA also made it clear, relying on *Indira Gandhi Mutho v Pengarah Jabatan Agama Islam Perak & Ors and Other appeals* [2018] 3 CLJ 145, FC (***'Indira Gandhi'***), that if a matter concerns constitutional or statutory interpretation or judicial review of public authorities' actions, the jurisdiction remains in the civil court, regardless of the effect of the civil court's decision on the Syariah Court's finding.[12]

It was also clarified by Abang Iskandar PCA that that the *Dahlia Dhaima* case did not concern any question of constitutional or statutory interpretation as had been present in *Indira Gandhi* and *Rosliza Ibrahim*. Instead, it was an illustration of the application of *Rosliza Ibrahim* which approach required an assessment of the facts and circumstances to determine whether the applicant fell under the category of *'never was a Muslim' as opposed to 'no longer a Muslim'*.[13]

Summary of the Judgment of Abu Bakar Jais FCJ

Abu Bakar Jais FCJ was the other member of the majority. His Lordship also followed the approach in *Rosliza Ibrahim* by examining the entire factual matrix.[14] It was obvious to His Lordship that Dahlia had been a Muslim and that this was a case of renunciation of Islam and not a case of an applicant who had never been a Muslim.[15] The primary evidence for this was Dahlia's application in the Syariah Court where she applied for a declaration that she was no longer a Muslim, thus indicating that she had been a Muslim previously.[16] The other set of evidence relates

6 Paragraphs 2 and 3 of Dahlia Dhaima

7 Paragraphs 34 and 44 of Dahlia Dhaima

8 Paragraph 49 of *Dahlia Dhaima*

9 Paragraph 64 of *Dahlia Dhaima*

10 Paragraph 53 of *Dahlia Dhaima*

11 Paragraph 55 of *Dahlia Dhaima*

12 Paragraph 56 of *Dahlia Dhaima*

13 Paragraph 57 of *Dahlia Dhaima*

14 Paragraphs 192, 201, 206 of *Dahlia Dhaima*

15 Paragraphs 160-161, 192 of *Dahlia Dhaima*

16 Paragraphs 160-161, 165, 174, 178, 181-185, 194, 203, 204, 206, 211, 212, 217, 222 of Dahlia Dhaima

to her upbringing as a Muslim as found by the Syariah Court.[17]

Consequently, Abu Bakar Jais FCJ decided the appeal based on what His Lordship referred to as the *'issue of jurisdiction'*.[18] There appears to be two aspects to this in His Lordship's grounds of judgment. First, Article 121(1A) read with the State List of the Ninth Schedule of the Federal Constitution dictates that the Syariah Court has jurisdiction in a case where a Muslim was renouncing or had renounced Islam, a position confirmed in *Rosliza Ibrahim* which decided that the Syariah Court had jurisdiction in Muslim apostasy cases.[19] The second, which appears to be the primary ground, refers to fact that the Syariah Courts had dismissed Dahlia's application and made the decision that she was a Muslim.[20] Therefore, it was not open to Dahlia to make a subsequent application in the civil court asserting that she was never a Muslim. Similarly, it was not open to the civil court to reverse the decision of the Syariah Court.

In deciding on the *'issue of jurisdiction'*, Abu Bakar Jais FCJ also discussed the position of the Syariah Court where His Lordship expressed awareness of opinions stating that the Syariah Courts were inferior courts whose decisions were subject to review. The following passage from Indira Gandhi was referred to by His Lordship: *'As has been illustrated, civil and syariah courts are distinct in nature and status: the former are established under the Federal Constitution and vested with inherent judicial powers; whereas the latter are creatures of state legislation under the State List, and akin to inferior tribunals.'* His Lordship departed from these opinions and held that there were authorities which had held that the Syariah Courts were not inferior.[21]

First, His Lordship referred to the Court of Appeal's decision in *Syarifah Nooraffyzza Wan Hosen v Director of Jabatan Agama Islam Sarawak & Ors* [2018] 3 CLJ 620. In holding that the Syariah Courts and civil courts form two separate legal systems, the Court of Appeal agreed with the view of Salbiah Ahmad in her article entitled: "Islam in Malaysia: Constitutional and Human Rights Perspectives ", Muslim World Journal of Human Rights 2, No. 1 (2005) where she stated as follows: *'State Syariah Courts are not Courts inferior to the Federal Courts as the term 'inferior court' is understood in terms of appeal and judicial review by superior courts over inferior courts. The State Syariah Courts are in a separate hierarchy to that of the federal civil courts. There is no right of appeal from the State Syariah courts to the federal civil courts. There is no power of judicial review by the federal high court over the State Syariah Courts.'*

Second, His Lordship referred to the Court of Appeal's decision in *Kamariah Ali lwn. Kerajaan Negeri Kelantan, Malaysia Dan Satu Lagi Dan Rayuan Yang Lain* [2002] 3 CLJ 766 which held: *'... bukanlah dalam bidang kuasa Mahkamah ini untuk mengkaji semula keputusan-keputusan mahkamah syariah yang terletak dalam sistem berlainan itu. Mahkamah ini mesti menerima Mahkamah Tinggi Syariah itu telahpun membuat keputusan fakta itu, mengikut hukum syarak dan mahkamah ini tidak berkuasa campur tangan dalam keputusan itu dan menggubahnya, membatalkannya, mengisytiharkan ia tidak sah atau tidak menghiraukan dan membebaskan perayu-perayu'*

Third, His Lordship referred to the Federal Court's decision in *Subashini Rajasingam v. Saravanan Thangathoray* [2008] 2 MLJ 147 which held: *'Both civil and Syariah courts are creatures of statutes such as the FC, the Acts of Parliament and the State Enactments. These two courts are administered separately and they are independent of each other. Although the Syariah courts are state courts they are not lower in status than the civil courts. I would say, they are of equal standing under the FC. This recognition of the Syariah courts was largely due to Art. 121(1A) of the FC which excludes the jurisdiction of the civil courts on any matter within the jurisdiction of the Syariah courts.'*

Fourth, His Lordship also held: *'…Indira Gandhi also clearly explained that because of marked differences in the establishment and constitution of the Civil and Syariah Courts, the two courts operate on a different footing altogether.'*

Summary of the Judgment of Mary Lim FCJ

Mary Lim FCJ delivered the minority decision. Her Ladyship's grounds of judgment is anchored on the role and position of the civil courts in whom the judicial power of the Federation is exclusively vested as declared in the Federal Constitution and affirmed in the unanimous judgments of Indira Gandhi as

17 Paragraphs 193-194, 196, 198, 199, 200 of *Dahlia Dhaima*

18 Paragraph 188 of *Dahlia Dhaima*

19 Paragraph 151 of *Dahlia Dhaima*

20 Paragraphs 151, 168, 175, 186, 194, 195, 204, 206, 207, 209, 210, 211, 212 of *Dahlia Dhaima*

21 Paragraphs 148 and 218 of *Dahlia Dhaima*

well as *Semenyih Jaya Sdn Bhd v Pentadbir Tanah Daerah Hulu Langat* [2017] 3 MLJ 561 (***'Semenyih Jaya'***). The civil courts have the constitutional role as the ultimate arbiter of the lawfulness of any State action and interpreter of statutes. The judicial power of the civil courts includes the power of judicial review and determination of matters involving constitutional issues and interpretation regardless of the subject matter of the dispute. Therefore, judicial power cannot be removed from the civil courts. Parliament cannot just declare formally that a new court is a superior court or shares the rank of being at the apex of the judicial hierarchy. Should judicial functions be conferred on bodies other the civil courts, this will be an incursion into the judicial power of the Federation.[22]

On the other hand, the Syariah Courts, by constitutional constraints, do not exist until and unless the State Legislature makes law to establish them. Once established, the Syariah Courts do not have jurisdiction until and unless the State Legislature makes law to confer jurisdiction to them and that too only over the limited matters permitted under Item 1 of the State List of the Ninth Schedule of the Federal Constitution, and over Muslims only. Due to the vesting of the judicial power in the civil courts, the Syariah Courts have no jurisdiction where the matter involves judicial review and constitutional issues and interpretation.[23]

Her Ladyship held that in view of Article 11(1) of the Federal Constitution which guarantees the right to profess and practise one's religion, the majority of the Federal Court in *Rosliza Ibrahim* had explained that the question of whether a person is a Muslim or a person 'professing the religion of Islam' necessarily relates to the person's constitutional identity. That is a question of constitutional interpretation that the Syariah Courts are in no position to determine. That interpretation falls squarely within the duty of the Civil Courts to adjudicate as it is one *'which only the superior Courts have the right to address'*. It is only when one's faith is the main subject matter of the dispute does such dispute fall within the jurisdiction of the Syariah Courts. In this regard, there is a significant difference between 'one who no longer professes the religion of Islam' on the one side, and 'one who never professes the religion of Islam' on the other". The former type of cases was referred to as the 'renunciation cases' which fall within the jurisdiction of the Syariah Courts because there is present, both *ratione personae* and *ratione materiae* whereas the latter, is loosely described as the *'ab initio' cases which 'cannot, on a coherent application of the law, fall within the jurisdiction of the Syariah Courts'*.[24]

Mary Lim FCJ decided, putting aside the decisions of the Syariah Court for a moment, that Dahlia was entitled to approach the civil courts for the relief sought on the basis that she had the constitutional right of access to justice and equal protection of the law.[25]

In any event, the decisions of the Syariah Courts neither raised the principles of res judicata nor abuse of process in the civil courts because there is a fundamental difference in the jurisdictional framework, establishment and powers between the Syariah Courts and the civil courts, including that the Syariah Courts were akin to inferior tribunals. Since the issue of renunciation could not be raised in the civil courts and the issues of constitutional identity and *ab initio* cases could never be raised in the Syariah Courts, the principles of res judicata were not engaged. The Syariah Courts did not have the jurisdiction to pronounce that a person is not a Muslim and it could only decide an application to leave Islam.[26]

Her Ladyship held that the Syariah Courts were not acting within jurisdiction in making the decisions they made on Dahlia's application on the further ground that the Syariah Courts of Kuala Lumpur did not have the power and jurisdiction to hear arguments and determine on conversions under any of the Syariah legislation of Selangor. This is because the matters which fall under item 1 of the State List is territorial in that the laws are made by each State and therefore the Syariah Courts of Kuala Lumpur had no jurisdiction and power to interpret, determine or apply the relevant law on administration of Islam in Selangor.[27]

As a result, in this case, the question of reversing any finding of facts by the Syariah Courts did not arise and was irrelevant. On the other hand, as a general principle, where an order of the Syariah Court is a nullity, such order could be collaterally attacked in proceedings before the (civil) High Court.[28]

22 Paragraphs 255 to 258, 261, 264 and 267 of *Dahlia Dhaima.*

23 Paragraphs 259 to 267 of *Dahlia Dhaima.*

24 Paragraph 271 of *Dahlia Dhaima*.

25 Paragraph 279 of *Dahlia Dhaima*.

26 Paragraph 284 of *Dahlia Dhaima*.

27 Paragraphs 285 to 286 of *Dahlia Dhaima*.

28 Paragraph 291 of *Dahlia Dhaima*.

Lastly, the law applicable to the issue of Dahlia's conversion on 17 May 1991 is section 147 of the 1952 Enactment. It provides that no person who has not attained the age of puberty shall be converted into the Muslim religion. Mary Lim FCJ decided that since Dahlia had not attained the age of puberty at that time, her conversion was invalid, null and of no effect. Further, no legal presumption as to Dahlia's Muslim status could apply because, as determined in *Rosliza Ibrahim*, she was never identified as a 'Muslim to begin with'. In the absence of proof that Dahlia affirmatively professed Islam, the case may be classified as a 'never was a Muslim' or ab initio case which must be determined by the civil court. Her Ladyship held that where a muallaf or a convert had never uttered the affirmation of faith (*kalimah syahadah*), her conversion is plainly invalid and she will remain in her original religion. No amount of practising, living or being raised as a Muslim could alter the fact that she needs to be validly converted to Islam before she is a Muslim.[29]

29 Paragraphs 313 to 316 of *Dahlia Dhaima*.

The questions of law

The questions of law prosed to the Federal Court and the answers given by each member of the panel are set out in the following table:

QUESTIONS	ANSWERS		
	Abang Iskandar PCA (majority decision)	**Abu Bakar Jais FCJ (majority decision)**	**Mary Lim FCJ (minority decision)**
1. Is the date of the conversion of a person into Islam the date of his or her actual conversion or the date of issuance of a card confirming the fact of conversion?	The date of the actual conversion: [34].	Decline to answer. Question does not consider the whole decisions made by the Syariah Courts: [218].	The date of the actual conversion: [313].
2. In determining the legality of the conversion of a minor into Islam, is the legality of such conversion to be tested against the applicable law as it stood at the time of when the conversion occurred? Further to this:	Yes: [34]	Decline to answer. Question does not consider the whole decisions made by the Syariah Courts: [218].	Yes: [319]
(a) Can the said minor be deemed to be Muslim notwithstanding, by virtue of provisions akin to the definition of "Muslim" in section 2 of the Administration of the Religion of Islam (State of Selangor) Enactment?	Yes: [49]	Decline to answer. Question does not consider the whole decisions made by the Syariah Courts: [218].	The author has not detected a direct answer. However, the answer appears to be 'No': [316]. But see also [319] where question (2) being the final question dealt with, Her Ladyship stated *'there is no need to answer the remaining questions.*'
(b) Is such definition only applicable to the children of persons born into the religion of Islam such that, where the children of persons who converted into Islam after the birth of such children are concerned, such children must convert into Islam for them to be treated in law as such?	No: [52]	Decline to answer. Question does not consider the whole decisions made by the Syariah Courts. [218].	The author has not detected a direct answer. However, the answer appears to be 'Yes': [316]. But see also [319] where question (2) being the final question dealt with, Her Ladyship stated *'there is no need to answer the remaining questions.'*
3. In any event, does section 74(3) of the Administration of Islamic Law Enactment 1989 (Selangor) oust the jurisdiction of the High Court to determine the validity of a minor's conversion into Islam? Note: s. 74(3) renders the certificate of conversion conclusive proof as to the facts stated therein.	No: [62]	Decline to answer. Question does not consider the whole decisions made by the Syariah Courts. [218].	The author has not detected a direct answer. However, the answer appears to be 'No': [307 to 316]. But see also [319] where the Her Ladyship stated *'there is no need to answer the remaining questions.'*

QUESTIONS	ANSWERS		
	Abang Iskandar PCA (majority decision)	**Abu Bakar Jais FCJ (majority decision)**	**Mary Lim FCJ (minority decision)**
4. Where an order of the Syariah Court is a nullity, can such order be collaterally attacked in proceedings before the High Court pursuant to the rule enunciated by the Federal Court in *Eu Finance Bhd v Lim Yoke Foo* [1982] 2 MLJ 37 and does Article 121(1A) of the Federal Constitution apply?	No: [55] But if the matter concerns constitutional or statutory interpretation or involves judicial review, the jurisdiction remains with the civil courts regardless of the effect of the civil court's decision to the Syariah Court's finding. This is not such a case: [56-57].	Question is irrelevant. The Syariah Court order is not a nullity. [219].	Yes: [291]
5. Whether the Civil Courts have the powers to reverse findings of facts made by the Syariah Court in the determination of matters of Islamic law and doctrine?	Not necessary to answer: [66].	No, having regard to the different and distinct jurisdictions of the syariah Courts and civil courts: [220].	Decline to answer. The question of reversing any findings of fact by the Syariah Court does not arise: [291].
6. Is *Rosliza Ibrahim v Kerajaan Negeri Selangor & Anor* [2021] 3 CLJ 301 limited to have only prospective overruling, based on the principles as enunciated in: (a) *Letchumanan Chettiar Alagappan (As Executor to SI Alameloo Achi (Deceased) & Anor v Secure Plantation Sdn Bhd* [2017] 5 CLJ 418; and (b) The decision of the House of Lords in *Re Spectrum Plus Ltd; National Westminster Bank Plc v Spectrum Plus Ltd and Others* [2005] 4 All ER 209.	Not necessary to answer: [66].	Not necessary to answer, in view of the exclusive jurisdiction of the Syariah Courts under the circumstances of the case: [220].	*Rosliza Ibrahim* applies retrospectively: [277].

Comment

A perusal of the grounds of judgment of each member of the Bench in *Dahlia Dhaima* shows that each of the judges arrived at their respective decisions through different reasonings, including between members of the majority decision namely, Abang Iskandar PCA and Abu Bakar Jais FCJ. This is highlighted by the way the members of the majority decision addressed the questions of law posed to the Federal Court. They also took different views as to which questions were necessary or relevant to be answered.

There was concurrence in the reasoning of the members of the majority decision on the point that the deliberation on whether a person had been a Muslim must not stop at the determination of the invalidity of the conversion from the legal standpoint but must include a consideration of the facts that occurred after the invalid conversion. His Lordships remained in unison on the point that the pleading and the evidence in, and the decision of, the Syariah Court in this case were relevant in determining whether Dahlia had been a Muslim. There is also consistency between their Lordships that a collateral attack on a Syariah Court decision and order cannot be sustained when the decision and order remain a valid order.

However, the members of the majority appear to diverge on the question of whether a Syariah Court's order could be judicially reviewed by the civil courts and whether the civil courts would in any event have the jurisdiction where the matter involves constitutional or statutory interpretation. Abang Iskandar PCA was

explicit in stating that the civil courts had jurisdiction in such matters *'regardless of the effect of the civil court's decision to the Syariah Court's finding.'*

The impermissibility of a collateral attack on Syariah Court's decisions by the civil courts while simultaneously affirming the power of judicial review of the civil courts over such decisions is consistent with the view that the Syariah Court is an inferior tribunal. The decision of an inferior tribunal, if made within jurisdiction, may not be substituted by the civil courts in a judicial review proceeding. Concomitantly, the civil courts retain the power to review the decision of the inferior tribunal on whether it had been made within jurisdiction and in this sense the civil courts are superior to the Syariah Court (see the unanimous judgment of *Indira Gandhi* at paragraphs 80, 91 and 92).

The decision of Abang Iskandar PCA in *Dahlia Dhaima* must thus be seen in the context that the application had been filed by way of an OS and that amounts to a collateral attack on the decision of the Syariah Court rather than a judicial review.

On the other hand, Abu Bakar Jais FCJ expressly departed from the position that the Syariah Courts are inferior tribunals. The highest authority relied on by His Lordship was *Subashini Rajasingam v. Saravanan Thangathoray* [2008] 2 MLJ 147 which held that the civil courts and the Syariah Courts are independent of one another and of equal standing under the Federal Constitution. However, the Federal Court in its unanimous decision in Indira Gandhi expressly referred to the passage in *Subashini Rajasingam* relied on by His Lordship and stated as follows:

> *'[70] It is evident from the marked differences in the establishment and constitution of the civil and Syariah Courts that the two courts operate on a different footing altogether (as was described in Subashini a/p Rajasingam v Saravanan a/l Thangathoray and other appeals [2008] 2 MLJ 147 (at para [23]). Thus the perception that both courts (civil courts and Syariah Courts) should exercise a mutually reciprocal policy of non-interference (see Sukma Darmawan Sasmitaat Madja v Ketua Pengarah Penjara, Malaysia & Anor [1999] 2 MLJ 241 at p 246) may be somewhat misconceived and premised on an erroneous understanding of the constitutional framework in Malaysia'; and*
>
> *'[98] As the above authorities demonstrate, the approach that art 121(1A) excludes or oust the jurisdiction of civil courts (see for instance Subashini (at para [23]) and Mohamed Habibullah bin Mahmood v Faridah bte Dato Talib [1992] 2 MLJ 793 at p 800, is flawed. Article 121(1A) does not constitute a blanket exclusion of the jurisdiction of civil courts whenever a matter relating to Islamic law arises. The inherent judicial power of civil courts in relation to judicial review and questions of constitutional or statutory interpretation is not and cannot be removed by the insertion of cl (1A).'*

The same position as in *Subashini Rajasingam* in the Court of Appeal's decisions of *Syarifah Nooraffyzza* and *Kamariah Ali* must now be read subject to the qualification in *Indira Gandhi* as well as the subsequent judicial pronouncements of the Federal Court in cases such as *SIS Forum (M) v Kerajaan Negeri Selangor (Majlis Agama Islam Selangor, intervener)* [2022] 2 MLJ 356 (***'SIS Forum'***) providing for the primacy of the civil courts over the Syariah Courts when the matter in the civil court involves a judicial review application and/or constitutional or statutory interpretation.

Mary Lim FCJ's holding that it is the civil courts and not the Syariah Court that have jurisdiction where the matter involves judicial review and constitutional issues and interpretation coincides with the holding of Abang Iskandar PCA on the same point. Therefore, the judgments of Abang Iskandar PCA and Mary Lim FCJ constitute the majority judgment on this issue although the majority decision is formed by decisions of Abang Iskandar PCA and Abu Bakar Jais FCJ.

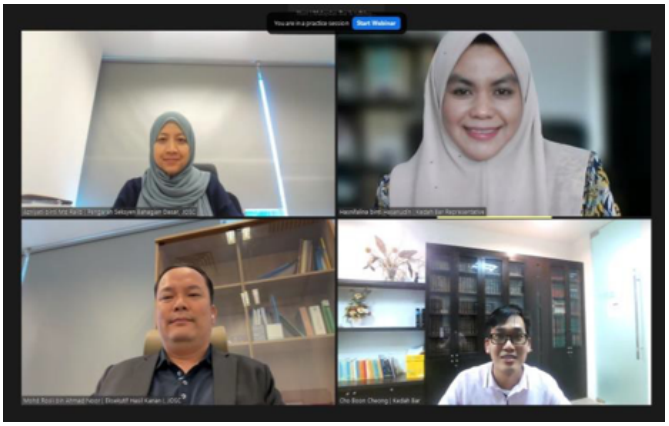
The result is that the decision in *Dahlia Dhaima* has not altered the law and the position of the Syariah Court as provided in *Indira Gandhi* and *SIS Forum*.

Kedah Bar Committee

3 April 2024

Kunjungan Hormat dengan Pengarah Lembaga Hasil Dalam Negeri Malaysia ("LHDN") Cawangan Kedah

- LHDN telah menjemput Badan Peguam Negeri Kedah untuk menyediakan "legal booth" pada "Hari Bersama Peguam — LHDN". Antara masalah-masalah yang sering dihadapi oleh mereka ialah cara pengurusan wang oleh para pekerja LHDN.
- LHDN menyuarakan kesudian untuk membantu dalam urusan-urusan terdesak (urgent matter-basis).
- LHDN juga berbesar hati untuk menerima Perlawanan Persahabatan dengan Badan Peguam Negeri Kedah, terutamanya untuk permainan darts dan ping pong.



24 April 2024

Webinar | Bengkel Duti Setem dan Cukai Keuntungan Harta Tanah ("CKHT")

17 April 2024

Kunjungan Hormat ke atas Pengarah Jabatan Bomba dan Penyelamat Malaysia ("JBPM") Negeri Kedah



- Badan Peguam Negeri Kedah telah bekerjasama dengan JBPM untuk mengadakan sesi latihan kebakaran di bawah OKK (Organisasi Keselamatan Kebakaran) di Alor Setar dan Sungai Petani.
- JBPM telah bersetuju untuk memberi peluang mengadakan Sambutan Hari Jadi Kanak-Kanak di JBPM, di samping merasai pengalaman menaiki jentera bomba.
- JBPM menjemput Badan Peguam Negeri Kedah untuk menyediakan *"legal booth"* pada "Hari Bersama Peguam — JBPM". Antara masalah-masalah yang sering dihadapi oleh mereka ialah cara pengurusan wang oleh para pekerja.
- JBPM juga berbesar hati untuk menerima Perlawanan Persahabatan dengan Badan Peguam Negeri Kedah, terutamanya untuk permainan bola sepak dan darts.

25 April 2024

CPD Roundtable Kedah | Procedures and Practical Aspects When Dealing with Remand Applications

30 April 2024

Hari Raya Aidilfitri Celebration



8 Mei 2024

Hari Bantuan Guaman



9 May 2024

Talk on Dealing with Bail Applications and Mitigation of Sentence



14 Mei 2024

Kunjungan Hormat Jawatankuasa Peguam Negeri Kedah ke atas Pengarah Serta Pegawai-Pegawai Kehakiman, Mahkamah Rendah Alor Setar, Kedah Darul Aman



30 April 2024

Kunjungan Hormat Badan Peguam Negeri Kedah ke atas YA Hakim dan Pesuruhjaya Kehakiman Mahkamah Tinggi Alor Setar



Lawatan ke Penjara (Alor Setar, Pokok Sena, dan Sungai Petanl)"



30 May 2024

Talk on Civil Litigation | Trial Preparation & Conducting Trial



4 Jun 2024

Perjumpaan dengan Pihak Pejabat Tanah Dan Galian ("PTG") Negeri Kedah



5 Jun 2024

Hari Bantuan Guaman



8 June 2024

Yayasan Bantuan Guaman Kebangsaan ("YBGK") Training,
Parts 1 & 2



12 Jun 2024

Kunjungan Hormat ke atas Hakim Wilayah Kedah Selatan dan Hakim-Hakim Mahkamah Tinggi Kompleks Mahkamah Sungai Petani



13 Jun 2024

Jemputan Sesi Perbincangan Peguam Sivil-Syarie Negeri Kedah Darul Aman



12 and 13 July 2024

Inaugural State Bar Summit



28 and 29 June 2024

Interstate Bar Games 2024, Pulau Pinang



10 Julai 2024

Hari Bantuan Guaman (Mahkamah Alor Setar dan Sungai Petani)"



19 and 20 July 2024

Advocacy Training Course



25 July 2024

Talk on "How to Conduct a Sec. 39b DDA1952 Trial?"



28 July 2024

Talk on "Procedure for Civil Appeal"



1 Ogos 2024

Sesi Asas Latihan Kebakaran dan Kawad Hos, Balai Bomba Alor Setar, Jalan Tun Razak



4 August 2024

Seminar on "Islamic Finance | Practical Aspects of Legal Documentation"



14 Ogos 2024

Hari Bantuan Guaman Negeri Kedah (Mahkamah Alor Setar dan Mahkamah Sungai Petani)



15 August 2024

Talk on "Chain of Evidence in Criminal Proceedings"

21 August 2024

Talk on "A Walk-Through Discovery (Order 24 ROC 2012)"



22 Ogos 2024

Sesi Asas Latihan Kebakaran dan Kawad Hos, Balai Bomba Amanjaya, Sungai Petani



1 September 2024

Talk on "Principles and Drafting of Trust Hibah According to Syariah Regulatory and NLC"



5 September 2024

Kunjungan Hormat Persatuan Pegawai Perundangan Pihak Berkuasa Tempatan Negeri Kedah Darul Aman ("KLAS") ke atas Setiausaha Majlis Peguam Malaysia dan Ahli Jawatankuasa Badan Peguam Negeri Kedah

8 September 2024

Talk on "Misconduct in Employment"



11 September 2024

Meet & Greet | The Right Honourable Chief Justice Tun Tengku Maimun bt Tuan Mat

11 September 2024

Hari Bantuan Guaman (Mahkamah Alor Setar dan Sungai Petani)"

29 September 2024

Kunjungan Hormat ke atas Dekan Pusat Pengajian Undang-Undang Universiti Utara Malaysia



12 September 2024

Webinar | "Collaborative Practice — Lawyers As Peacemakers"

2 October 2024

Ceramah Kesedaran Undang-Undang (Dewan Sekolah Menengah Kebangsaaan Tunku Abdul Rahman, Alor Setar



4 October 2024

YBGK Training, Part 3



10 October 2024

Sesi Town-Hall Bersama Peguam YBGK Negeri Kedah



12 October 2024

Kedah Bar Hiking Trip



26 October 2024

Paintball Tournament

17 October 2024

Talk on "Sailing the 7 Cs" by The Honourable Puan Mahazan bt Mat Taib, Judge of the Alor Setar High Court



27 October 2024

"Undang-Undang Berkaitan Tribunal Perumahan dan Pengurusan Strata ("TPPS")"



Kelantan Bar Committee

Professional Standards and Development Committee ("PSDC")

4 August 2024

(1) Masterclass Training: Refining Courtcraft & Skill

The Masterclass Training programme, led by Dato' Mary Lim Thiam Suan, retired Federal Court Judge, took place on 4 August 2024 at the Kelantan Bar Auditorium.

The masterclass aimed to:

(a) provide participants with in-depth knowledge, practical skills, and strategic insights to excel in fundamental aspects of legal practice;
(b) enhance participants' skills in drafting effective written submissions;
(c) improve participants' proficiency in delivering compelling oral submissions; and
(d) provide practical tips and strategies from Dato' Mary Lim's extensive experience.



The participants comprised junior and mid-level lawyers, as well as lawyers looking to refine their litigation skills.





5 August 2024

(2) Meet & Greet: The Honourable Tun Tengku Maimun bt Tuan Mat (Chief Justice of Malaysia)

The Meet & Greet session with The Honourable Tun Tengku Maimun bt Tuan Mat, Chief Justice of Malaysia, with the Kelantan State Bar Committee and Kelantan lawyers took place on 5 August 2024 at Renai Hotel, Kota Bharu.

This session is the seventh for the year 2024 and was attended by 92 Kelantan lawyers led by Roshalizawati Muhammad, Chairman of the Kelantan State Bar Committee. The Chief Justice delivered a lecture about basic structure doctrine. Also present throughout the ceremony were Tuan Dazuki Ali, Director of the Kelantan State Court, and two judicial officers from the Kelantan State Court.

27 August 2024

(3) Seminar on Conveyancing Matters

The Kelantan Bar Committee, in collaboration with the Bar Council Conveyancing Practice Committee ("CPC"), successfully organised a one-day seminar addressing current issues affecting conveyancing lawyers in Malaysia, specifically benefiting Kelantan lawyers.

The seminar took place on 27 August 2024 at Ibis Styles Hotel.

This programme aligns with the CPC's ongoing efforts to conduct road tour seminars across various states with support from State Bars. The Kelantan Bar Committee had committed to promoting continuing legal education and upskilling our members for their present and future benefit. Among the topics covered were:

(a) Managing Risks in Conveyancing Practice;
(b) Solicitors' Duties and Liabilities in Conveyancing — An Overview;
(c) Understanding Real Property Gains Tax;
(d) How to Charge Fees under the Solicitors' Remuneration Order 2023 ("SRO 2023");
(e) Conditional SPS —– Differences from Unconditional SPS and What Lawyers Should Be Aware About; and
(f) Enforcement of SPS-Specific Performance.

This seminar marks the first collaboration between the Kelantan Bar and CPC, and it was a memorable event for all our members.



Laporan Pusat Bantuan Guaman Majlis Peguam Kelantan bagi Program Sekolah (April–September 2024)

- Pihak Pusat Bantuan Guaman Majlis Peguam Kelantan telah berkolaborasi dengan Jabatan Pendidikan Negeri Kelantan untuk mengadakan program di sekolah-sekolah di Kelantan bagi memberi kesedaran undang-undang kepada pelajar-pelajar sekolah.
- Pihak Pusat Bantuan Guaman Majlis Peguam Kelantan telah mengadakan Program Kesedaran Undang-Undang di 17 buah sekolah di Negeri Kelantan dengan topik-topik sebagaimana berikut:

NO	SEKOLAH	TARIKH	TOPIK
(1)	SMK Hamzah, Machang	April 2024	Teenage World: Remaja & Jenayah
(2)	SMK Beris Panchor 2		Kes Jenayah Melibatkan Juvana
(3)	SMK Pintu Geng	Mei 2024	
(4)	SMK Ismail Petra		Isu Buli dan Seksual di Sekolah
(5)	SMK Panji	Jun 2024	Jenayah dalam Dunia Remaja
(6)	SMK Dato Mahmud Paduka Raja 1 Tanah Merah		Cabaran Jenayah dalam Remaja
(7)	SMK Chung Hwa		Undang-Undang dan Jenayah Juvana
(8)	SMK Pengkalan Chepa 1		Jenayah & Juvana
(9)	SMK Kampong Laut		Jerayawara Kes Jenayah Juvana
(10)	SMK Gunung Bachok	Julai 2024	Kesalahan Juvana: Masih Ada Jalan Pulang
(11)	SMK Badak Bachok		Jenayah dalam Dunia Remaja
(12)	SMK Kemumin		Jenayah dan Cabaran Dunia Remaja
(13)	SJK (C) Peir Chih	Ogos 2024	Ceramah Undang–Undang Antibuli & Gangguan Seksual
(14)	SMK Kuala Balah		Kes Jenayah Melibatkan Juvana
(15)	SMK Mahmud Mahyidin		Ceramah Jenayah dan Juvana
(16)	SMK Kubang Kerian 3		Ceramah Kes Jenayah Melibatkan Juvana
(17)	SMU (A) Al–Hasaniah Pangkal Jenereh	September 2024	Ceramah Undang-Undang & Jenayah dan Juvana

- Ceramah bagi setiap program di sekolah tersebut telah diberikan oleh panel peguam-peguam Negeri Kelantan dan dibantu oleh pelatih-pelatih dalam kamar (“pelatih”) negeri Kelantan.
- Para pelatih telah membuat penampilan khas dengan melakonkan pelbagai kes jenayah yang berlaku di negeri Kelantan, seperti jenayah buli dan sebagainya.
- Selain itu, pelatih-pelatih juga berkongsi dengan para pelajar dalam program tersebut mengenai laluan kerjaya (career path) untuk menjadi seorang peguam.

27 Oktober 2024

Majlis Penyampaian Sijil Pentauliahan Pengantara (Mediator) dan perkhidmatan mediasi

1. Pusat Mediasi Kelantan (PMK) telah mengadakan Majlis Penyampaian Sijil Pentauliahan Pengantara (Mediator) di PMK pada 27 Oktober 2024 bertempat di Bangunan Jawatankuasa Peguam Negeri Kelantan.

2. Seramai 15 orang Pengantara telah ditauliahkan oleh Pusat Mediasi Antarabangsa Malaysia (Malaysian International Mediation Centre, "MIMC") selepas lulus dengan jayanya Ujian Penilaian Kelayakan Pengantara yang telah diadakan dari 8 sehingga 12 Sept 2024 di Kota Bharu, Kelantan.

3. Pengantara-pengantara yang telah ditauliahkan mempunyai kelayakan mengendalikan sesi mediasi menurut Akta Mediasi 2012 (Akta 749), yang menetapkan mediasi sebagai satu proses penyelesaian pertikaian alternatif (Alternative Dispute Resolution, "ADR") kepada prosiding Mahkamah.

4. Sesi mediasi akan dijalankan oleh Pengantara dengan persetujuan bertulis dan kehadiran kesemua pihak yang bertikai, serta akan dijalankan secara tertutup dengan memelihara kerahsiaan sepenuhnya ke atas proses serta terma penyelesaian yang dicapai. Pihak-pihak yang mempunyai pertikaian akan dipimpin oleh Pengantara untuk memahami asas serta punca pertikaian masing- masing dan pihak-pihak sendiri mempertimbangkan opsyen-opsyen penyelesaian dengan bantuan Pengantara. Sekiranya pihak-pihak telah mencapai persetujuan, pihak-pihak boleh memasuki perjanjian penyelesaian bertulis yang akan mengikat pihak-pihak di sisi undang-undang.

5. Proses untuk mencapai penyelesaian melalui sesi mediasi akan menjadi lebih produktif apabila pihak-pihak memikirkan dan membentuk opsyen-opsyen penyelesaian yang boleh diterima oleh mereka sendiri dengan bantuan Pengantara bertauliah. Ini akan menjimatkan masa serta kos berbanding dengan prosiding Mahkamah yang terikat dengan proses perbicaraan secara terbuka dan kemungkinan rayuan selepas keputusan perbicaraan.

6. PMK ialah pemberi khidmat mediasi profesional pertama di Negeri Kelantan dengan matlamat utama untuk menawarkan peluang kepada pihak-pihak yang bersengketa agar dapat mencari penyelesaian menang-menang (win-win) dengan kos yang kompetitif, di samping berharap untuk mengekalkan dan meneruskan hubungan silaturahim antara pihak-pihak yang berdamai melalui sesi mediasi.



Kuala Lumpur Bar Committee

12 March to 8 April 2024

Donation Drive in Conjunction with Ramadhan 2024 / 1445H

The Kuala Lumpur Bar Committee ("KLBC") organised a donation drive from 12 March to 8 pril April 2024 in conjunction with the month of Ramadhan. The KLBC managed to raise RM2,700 which was channelled to both the Pertiwi and Kechara Soup Kitchens.

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4 April 2024

Webinar: Basics Of Criminal Appeals

Organised by the KLBC Criminal Law Practice Committee, this webinar was presented by Collin Arvind Andrew.

The webinar covered the following areas:

(i) "Effectiveness of Criminal Revision vs Criminal Appeal — Which Mode to Take?";
(ii) "Navigating Through Rules and Procedures of Criminal Appeals";
(iii) "Exploring Section 310 Criminal Procedure Code — Applications with Examples"; and
(iv) "Appellate Advocacy — Crafting Persuasive Submissions".

The webinar was held via Zoom, with 77 participants.

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18 April 2024

Webinar: Effective Management of IT Disputes

Organised by the KLBC Corporate & Conveyancing Practice Committee, this webinar was presented by G Vijay Kumar and moderated by Aissa Fiyaz Khalid b Azmil Khalili.

The webinar covered the following areas:

(i) "Introduction to the Information Technology (IT) Sector";
(ii) "Drafting Effective IT Contracts";
(iii) "Common Issues Arising in the Implementation of IT Projects"; and
(iv) "Navigating and Effectively Preparing for IT-Related Disputes".

The webinar was held via Zoom, with 59 participants.

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23 April 2024

Seminar: Understanding Annual Reports and Financial Statements

Organised by the KLBC Professional Development Committee, this seminar was conducted by Lim Kien Chai.

The seminar covered the following areas:

(i) "Introduction on importance of annual reports and financial statements";
(ii) "Accounting terms and jargons made understandable for lawyers";
(iii) "What are the components of an annual report?";
(iv) "Why the term 'Trial Balance'?";
(v) "Why the term 'Balance Sheet'?";
(vi) "What are the salient features of a balance sheet?";
(vii) "What are assets and what types are there?";
(viii) "What are liabilities and what types are there?";
(ix) "Are balance sheet liabilities an indication of a 'not good' financial position and/or poor financial management?";
(x) "The relationship between borrowings / debts and Shareholders' Fund";
(xi) "What is 'Debt Equity Leverage'?";
(xii) "What stakeholders, in particulars creditors, lenders, and investors, look for in a company?";
(xiii) "What is depreciation of fixed assets and what is its impact on a company's profit?";
(xiv) "What is an 'income statement?'";
(xv) "What lessons can we learn from the 'reserve accounts' of a company?";
(xvi) "When can Board of Directors declare dividends without running foul of the law?";

(xvii) "Balance sheet and income statement — what do they boil down to?";
(xviii) "What a balance sheet and an income statement can never show?"; and
(xix) "The use of a balance sheet and an income statement: what are their inherent limitations?"

The seminar was held at Kuala Lumpur Bar Auditorium and attended by 81 participants.

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25 April 2024

Webinar: Strata Management Tribunal

Organised by the KLBC Corporate & Conveyancing Practice Committee, this webinar was presented by Valerie Chong and moderated by Richard Teh Tai Sheng.

The webinar covered the following areas:
(i) "The Jurisdiction of the Strata Management Tribunal";
(ii) "The Procedures";
(iii) "Forms"; and
(iv) "Case Studies".

It was held via Zoom and saw the participation of 90 participants.

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29 April 2024

Webinar: The Basics of Family Law

Organised by the KLBC Young Lawyers & Pupils Committee, this webinar was conducted on 29 April 2024 by Tay Kit Hoo.

The webinar covered the following areas:
(i) "Interviewing Client for Family Matters — Fact Finding";
(ii) "Negotiating for Settlement — Resolving Dispute and Exploring Alternative Options";
(iii) "Exploring the Legal Requirements of a Joint Petition"; and
(iv) "Junior Lawyers' Perspective on Joint Petition".

The webinar was held via Zoom and attended by 96 participants.

29 April 2024

Bar Council Legal Aid Centre (Kuala Lumpur) ("LAC KL")'s Pupil's Midterm Review

The Midterm Review ("MTR") for Batch 117/2024 was carried out by the project heads. Pupils were given the opportunity to discuss concerns and offer suggestions to enhance the programme over the following seven weeks. The MTR sessions were held in person, and representatives from the associated non-governmental organisation ("NGO") partners were also present to provide their feedback.

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3 May 2024

Majlis Sambutan Aidilfitri

Organised by the KLBC Social Committee, the Majlis Sambutan Aidilfitri was held on 3 May 2024 at Tigabatu, Wisma E&C, Damansara Heights. The event saw the participation of 39 KL Bar members.

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7 May 2024

Webinar: Understanding *Sukuk*

Organised by the KLBC Corporate & Conveyancing Practice Committee, this webinar was presented by Norbaizurah Abdul Jabar and moderated by Wong Kar Ling.

The webinar covered the following areas:
(i) "Introduction to Sukuk";
- What is Sukuk?
- Why Do We Have Sukuk?"

(ii) "Comparison between Sukuk and Bonds";
(iii) "Parties Involved in Sukuk Issuance:
- Issuer
- Lead Arranger;
- Lead Manager;
- Legal Adviser;
- Shariah Advisers;
- Trustee;
- Regulator"

(iv) "Regulatory Bodies in Malaysia";
(v) "Brief Explanation on Types of Sukuk Usually Issued under the 'Lodge and Launch' Framework;
- Plain Vanilla Sukuk
- Convertible Sukuk
- Exchangeable Sukuk; and

(vi) "Brief Explanation on Common Sukuk Structures Issued".

The webinar was held via Zoom and attended by 88 participants.

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8 May 2024

Webinar: Workplace Investigations: Legal Principles and Practical Guidance

Organised by the KLBC Professional Development Committee, this webinar was conducted by Louis Liaw Vern Xien and moderated by Raymond Kok Kai Ren.

The webinar covered the following areas:
(i) "When Workplace Investigation Is Needed";
(ii) "Role of Legal Counsel";
(iii) "Legal Principles & Practical Considerations"; and
(iv) "Investigation Report and Proposal for Action".

The webinar was held via Zoom and attended by 62 participants.

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10 May 2024

Webinar: Stay of Proceedings in Arbitration: General Principles and Recent Developments

Organised by the KLBC Professional Development Committee, this webinar was conducted by Edward Kuruvilla and moderated by Raymond Kok Kai Ren.

The webinar covered the following areas:
(i) "Scope of s.10 of Arbitration Act 2005";
(ii) "Arbitration Agreements";
(iii) "Steps in Proceedings";
(iv) "How & Where to Apply for a Stay";
(v) "Effect of a Stay"; and
(vi) "Recent Developments".

The webinar was held via Zoom and attended by 54 participants.

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13 May 2024

Webinar: The Basics of Citizenship & Statelessness

Organised by the KLBC Young Lawyers & Pupils Committee, this webinar was conducted by Larissa Ann Louis and moderated by Nur Fathin Farina.

The webinar was held via Zoom and attended by 69 participants.

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14 to 16 May 2024

Reference Proceedings

Reference Proceedings were held for 32 departed members of the KL Bar on 14 to 16 May 2024. The members for whom the proceedings were held are:

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14 May 2024

Datuk Seri Gopal Sri Ram
Sa'adiah bt Din
Sundra Siva a/l Masilamani
Ahmad Hisham b Mohd Arifin
Datin Hajjah Rozita bt Abdul Ghani
Zuraidah bt Hashim
Haji Mohd Rasheed Khan b Mohd Idris
Dato' RR Sethu
S Radhakrishnan (Radhakrishnan, S)
Noor Mousa b Azaddin
Dato' KC Vohrah

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15 May 2024

Benyamin Yean b Abdullah
Datuk Wong Rhen Yen
Nor Balqis bt Ardiansa
Phang Mun Sing
Ameet Kaur Purba a/p Inderjit Singh
Susanah Ng Sing Mei
Kaliparumal a/l Muniandy
Professor R Rajeswaran
Datuk Hj Zul Hasnan Najib (Zul Hasnan Najib b Baharuddin)
Vaanisvary a/p M Subramaniam

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16 May 2024

Goh Thian How
Soo Thien Ming JSM
Datuk Apparao a/l Apana
Puan Sri Datin Seri Alagendra, N Saraswathy Devi
Ramdhari s/o Jang Bahadur Singh
Jason Leong Wai Meng
Muniandy Veeran (Andy)
Paramjit Singh Gill
Wun Qing Yao
Zainudin b Ismail
Datuk Tan Kok Liang

16 May 2024

Webinar: Best Practices for Legal Research: The Tricks & Tips for Finding the Answer

Organised by the KLBC Civil Practice & Court Liaison Committee, this webinar was presented by G K Ganesan Kasinathan ("GK") and Joyce Pang, and moderated by Shugan Raman.

The webinar covered the following areas:

(i) "Sources";
(ii) "Order of approach";
(iii) "Effective research";
(iv) "Time management";
(v) "Finding the answer even if you haven't"; and
(vi) "Legal Writing and how it affects or prejudices legal practice".

The webinar was held via Zoom and attended by 209 participants.

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27 May 2024

Seminar: The Art of Cross Examination in Civil Fraud Matters: A King's Counsel Perspective

Organised by the KLBC Professional Development Committee, this seminar was conducted by Steven Perian KC and moderated by Thulasy Suppiah. It was held at the Kuala Lumpur Bar Auditorium and attended by 56 participants.

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29 May 2024

Webinar: The Basics of Defamation

Organised by the KLBC Young Lawyers & Pupils Committee, this webinar was conducted by Anishaa Sundramoorthy and moderated by Max Kong.

The webinar covered the following areas:

(i) "Elements of the tort of defamation";
(ii) "Defences to defamation";
(iii) "Tips for drafting pleadings — how to avoid common errors which result in claims and defences being struck out"; and
(iv) "Discussion on recent reported judgments".

The webinar was held via Zoom and had 127 participants.

30 May 2024

Webinar: Taking the Government to Court — Perspective from Suing the Taxman

Organised by the KLBC Corporate & Conveyancing Practice Committee, this webinar was presented by Abhilaash Subramaniam and moderated by Wong Kar Ling.

The webinar covered the following areas:

(i) "Judicial Processes: Understand the different legal processes to challenge the Government";
(ii) "FC vs JR: How the powers of the Court operate in the light of the Federal Constitution";
(iii) "Domestic Remedy: Filing Judicial Review notwithstanding the existence of a domestic remedy";
(iv) "Ouster Clauses: Overcoming clauses that prevent challenge against the Government"; and
(v) "Latest Developments: Legal developments that have progressed administrative law in Malaysia".

The webinar was held via Zoom and was attended by 55 participants.

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4 June 2024

Seminar: Franchise Law

Organised by the KLBC Corporate & Conveyancing Practice Committee, this seminar was conducted by Foong Cheng Leong and Pau Ling Hee at the Kuala Lumpur Bar Auditorium. The seminar was attended by 64 participants.

The seminar covered the following areas:

Introduction to Franchise Act 1998

(i) "Basic Terms and Conditions of a Franchise Agreement";
(ii) "Registration of a Franchise in Malaysia";
(iii) "Effects of Failing to Register a Franchise in Malaysia"; and
(iv) "Highlights of the Franchise (Amendment) Bill 2019".

Common Issues and Practical Solutions in Franchising

(i) "Franchise Agreement vs License Agreement";
(ii) "Issues to Look Out for in Franchising";
(iii) "Alternatives to a Franchise"; and
(iv) "Case Study of Malaysian Franchise Cases".

5 June 2024

Webinar: Medical Negligence

Organised by the KLBC Professional Development Committee, this webinar was conducted by Evan Lee Sian Wen and moderated by Raymond Kok Kai Ren. It was held via Zoom and attended by 84 participants.

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7 June 2024

Seminar: Islamic Banking, Syariah Compliant Financing Instruments & Securities Documentation Process

Organised by the KLBC Corporate & Conveyancing Practice Committee, this seminar was conducted by Richard Teh Tai Sheng.

The seminar covered the following areas:

(i) "Syariah Terminology and Concepts";
(ii) "Bai Bithaman Ajil";
(iii) "Commodity Murabahah & Tawarruq";
(iv) "Ijarah";
(v) "Musharakah Mutanaqisah";
(vi) "Bank's Letter of Offer";
(vii) "Legal Charge & Assignment"; and
(viii) "Advising Redemption Sum and Balance Sum".

The seminar was held at the Kuala Lumpur Bar Auditorium and attended by 71 participants.

11 June 2024

Webinar: Dispute Resolution

Organised by the KLBC Professional Development Committee, this webinar was conducted by Nereen Veriah. It was held via Zoom and attended by 42 participants.

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13 June 2024

Seminar: Practical Insight and Tips on Construction Industry Payment and Adjudication Act ("CIPAA")

Organised by the KLBC Professional Development Committee, this seminar was conducted by Darshendev Singh, and held at the Kuala Lumpur Bar Auditorium. It was attended by 19 participants.

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20 June 2024

Meeting with Managing Judge, YA Dato' Sri Hasnah binti Dato' Mohammed Hashim

The meeting between the Managing Judge and the KLBC Civil Practice & Court Liaison Committee ("CPCLC") was held on 20 June 2024 at the Kuala Lumpur Court Complex. KLBC was represented by its Chairman, Alvin Oh Seong Yew; Honorary Secretary and Co-Chairperson of CPCLC, Nimalan Devaraja; Co-Chairperson of CPCLC, Shugan Raman; S Saravana Kumar; and KLBC members, Thulasy Suppiah and Brenda Rangithan.

The purpose of the meeting was to discuss feedback received from both the Bench and the Bar in respect of the Civil High Courts.


20 June 2024

21 June 2024

Webinar: The Basics of Constitutional Law

Organised by the KLBC Young Lawyers & Pupils Committee, this webinar was conducted by Surendra Ananth and moderated by Azfar Asadullah.

The webinar covered the following areas:

(i) "The Supremacy of the Federal Constitution";
(ii) "Fundamental Liberties";
(iii) "The Separation of Powers between the Executive, Judiciary and Parliament";
(iv) "The Role of the Yang Di-Pertuan Agong";
(v) "The Role of Islam as the Official Religion of the Federation and the Power of the States to Make Islamic Laws";
(vi) "The Right to Vote and Democracy"; and
(vii) "The Federalist Structure and the Distribution of Powers between the Federal and State Governments".

The webinar was held via Zoom and attended by 45 participants.

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24 June 2024

Webinar: The Basics of Employment Law

Organised by the KLBC Young Lawyers & Pupils Committee, this webinar was conducted by Louis Liaw and moderated by Azfar Asadullah.

The webinar covered the following areas:

(i) "Basics and Overview of Employment Law";
(ii) "Exploring Employment Law Disputes in the Labour Court, Industrial Court, Civil Court, and Criminal Court";
(iii) "Advising and Litigating"; and
(iv) "Employment Law Disputes".

The webinar was held via Zoom and attended by 114 participants.

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25 and 26 June 2024

Workshop: Basic Conveyancing Practice Workshop

Organised by the KLBC Corporate & Conveyancing Practice Committee, this workshop was held on 25 and 26 June 2024 at the Kuala Lumpur Bar Auditorium.

There were five sessions on 25 June 2024, with sessions presented by Chong Wai Kuan, Dennis Teoh, Sarah Kambali, and R Yogeswari.

There were also five sessions on 26 June 2024, with sessions presented by Sarguna Kumaari, Donny Kwa Soo Chuan, and Susan Joseph.

The workshop was attended by 64 participants and covered the following areas:

(i) "Options to Purchase";
(ii) "Crafting the Final SPA";
(iii) "Conditions, Precedents and Subsequent";
(iv) "Billing";
(v) "Private Caveats & Conflict of Interest";
(vi) "Land Acquisition";
(vii) "CKHT (RPGT) (Act 169)";
(viii) "Compliance — AMLATFAPUA";
(ix) "The Ethical Conveyancer"; and
(x) "Conveyancing Practice A-Z with Emphasis on Client's Interest, Client Management and Completion Delays".

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26 June 2024

Visit by Students from University Utara Malaysia

40 students from University Utara Malaysia ("UUM") visited LAC KL on 26 June 2024. The visit by 3rd year law students was held at the Bar Council Auditorium. In attendance at the briefing were Melissa Chua Su and Narandra Kangatharan from LAC KL.

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27 June 2024

Webinar: Managing Risk In Property Transaction

Organised by the KLBC Corporate & Conveyancing Practice Committee, this webinar was presented by Zemilah Mohd Noor and moderated by Farisya Najwa Kasim.

The webinar covered the following areas:

(i) "Due Diligence in Property Transactions";
(ii) "Identifying Fraud and Scam";
(iii) "Cases on Conveyancing Fraud and Scam";
(iv) "Best Practice to Avoid Fraud and Scam"; and
(v) "Checklist in Property Transactions".

The webinar was held via Zoom and attended by 119 participants.

28 and 29 June 2024

MyBar Games

Organised by the Penang Bar Committee, the following games were played on 28 and 29 June 2024, as part of the MyBar Games:

(1) Badminton;
(2) Basketball (Men's 5v5 and Ladies' 3v3);
(3) Cross-Country;
(4) Darts;
(5) Golf;
(6) Football (Premier and Veterans);
(7) Ladies' Futsal;
(8) Netball;
(9) Nine-Ball Pool;
(10) Volleyball;
(11) Bowling;
(12) Table Tennis;
(13) Swimming (new addition to the Games);
(14) Chess (new addition to the Games); and
(15) E-Sports (new addition to the Games).





The Kuala Lumpur Bar emerged as the overall champion, winning the following games:

(1) Swimming;
(2) Bowling;
(3) Nine-Ball Pool;
(4) Cross-Country;
(5) Netball;
(6) Volleyball;
(7) Badminton;
(8) Football (Veteran);
(9) Chess;
(10) Darts; and
(11) Golf.



2 July 2024

Webinar: Introduction to Will Writing, Grant of Probate and Letters of Administration

Organised by the KLBC Professional Development Committee, this webinar was conducted by Marian Lee.

The webinar covered the following areas:

(i) "Overview of a will and the law of succession in Malaysia";
(ii) "Application to court for grant of probate";
(iii) "Application to court for grant of letters of administration, dispensation of sureties and vesting order";
(iv) "Application to land office pursuant to Small Estates (Distribution) Act 1955 & Small Estates (Distribution) (Amendment) Act 2022";
(v) "Related matters: Transmission of immovable properties, real property gains tax and stamp duties"; and
(vi) "Q&A session".

This webinar was held via Zoom and was attended by 179 participants.

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3 July 2024

Yayasan Bantuan Guaman Kebangsaan ("YBGK") Training for Lawyers (Parts 1 & 2)

Organised by LAC KL, parts 1 and 2 of the YBGK training were held at the Raja Aziz Addruse Auditorium, Wisma Badan Peguam Malaysia, on 3 July 2024. The training focused on the administration of the YBGK, and the procedures for Arrest, Remand, Bail and Mitigation. It was conducted by LAC KL's Chairperson, Morhaneraj Rajakumaran, and Jacky Loi Yap Loong. Forty-two lawyers attended the training.

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4 July 2024

Webinar: Introduction to Commercial Drafting

Organised by the KLBC Corporate & Conveyancing Practice Committee, this webinar was presented by Kenneth Wong Poh Lim and moderated by Nur Fathin Farina bt Mokhtar.

The webinar covered the following areas:

(i) "Basic do's and don'ts in drafting agreements"; and
(ii) "Practical tips / suggestions in drafting agreements for beginners".

The webinar was held via Zoom and attended by 150 participants.

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5 July 2024

LAC KL x ATC Law Student Briefing Session

LAC KL hosted a briefing session for ATC law students regarding their internship programme. The briefing was aimed at providing the students with essential information and guidance for their upcoming internship. The session took place at the Raja Aziz Addruse Auditorium, Wisma Badan Peguam Malaysia. Thirty-two students attended the briefing session, which was conducted by Morhaneraj Rajakumaran.

5 July 2024



10 July 2024

Legal Awareness Campaign for School Students — SMK Wangsa Maju, KL

Organised by LAC KL, the legal awareness campaign is designed for school students with the aim of educating them about Malaysian laws and how these laws may impact them in the event of any wrongdoing. The outreach session took place at Sekolah Menengah Kebangsaan ("SMK") Wangsa Maju. The topics covered included bullying, driving or riding without a licence, sexual harassment, and smoking at school. The speaker was Mohd Radzlan Jalaludin, with assistance from pupils in chambers, Loh Jia Jin, Radha Mohanraj, Venkat Ram V K Dasaratharaj, and Nuradriana Omar.

11 July 2024

Seminar: Amendments to the Evidence of Child Witness Act 2007: Effects on Child's Testimony

Organised by the KLBC Criminal Law Practice Committee, this seminar was conducted by Salim Bashir. It was held at the Kuala Lumpur Bar Conference Room and attended by 10 participants.

17 July 2024

Legal Awareness Campaign for School Students — SMK Taman Maluri, KL

Organised by the LAC KL, the legal awareness campaign took place at SMK Taman Maluri. The topics covered included bullying, driving or riding without a licence, sexual harassment, and smoking at school. The speaker was Ravinder Singh Dhalliwal, with assistance from pupils in chambers, Eunice Soo Jing Sin, Akmal Khuzairi Masri, and Letchumanan Anbalagan.

18 July 2024

Seminar: Introduction to Competition Law

Organised by the KLBC Corporate & Conveyancing Practice Committee, this seminar was conducted by Suren Rajah.

The seminar covered the following areas:

(i) "Brief overview of the Competition Act 2010";
(ii) "Proposed amendments including the merger control"; and
(iii) "Recent case laws".

The seminar was held at the Kuala Lumpur Bar Auditorium and attended by 22 participants.

18 July 2024

Visit by Students from Skrine

25 students from Skrine visited LAC KL on 18 July 2024. They were briefed by Terrence Lee Rohui.

19 July 2024

Seminar: Housing Development: Late Delivery and Defect: Law & Practice

Organised by the KLBC Professional Development Committee, this seminar was conducted by Shamesh Jeevaretnam.

The seminar covered the following areas:

Liquidated Ascertained Damages ("LAD")

(i) "Sale & Purchase Agreement and the Relevant Clauses";
(ii) "Debate between Booking Fee and Sale & Purchase Agreement";
(iii) "Remedies";
(iv) "Extension of Time (EOT) by Developers"; and
(v) "Analysis of Ang Ming Lee & Ors v Menteri Kesejahteraan Bandar, Perumahan Dan Kerajaan Tempatan & Anor And Other Appeals (2020) 1 CLJ 162 And Updates On The Law Accordingly".

Vacant Possession (VP) & Defect Claims

(i) "Validity of Architect Certificate and Admissibility";
(ii) "Applicable Law and Procedures";
(iii) "Role of Expert Witness & Evidence";
(iv) "Defect Liability Period (DLP) & Applicability"; and
(v) "Vacant Possession Validity And Applicability".

The seminar was held at Kuala Lumpur Bar Auditorium and attended by 67 participants.

19 July 2024

The Bar Chronicles Series #1 "Big Law Firms vs Small Law Firms: Navigating Unique Challenges"

Organised by the KLBC Gender Equality & Diversity Committee, the event was held on 19 July 2024. This event was presented by Alvin Tang, Kee Hui Yee, and Hooi Chung Wai and moderated by Marveyn Lingam. The event was attended by 78 participants.

20 July 2024

Pool Competition

The 8th Kuala Lumpur Bar Pool Team Tournament saw a record turnout of 12 teams, which comprise 41 participants, 8 of whom were ladies.

This year's tournament also introduced several new formats, which include playing both 8-ball and 9-ball pool, as well as the scotch triples format, ie three members of a team shall be required to play concurrently within the same frame.



Overall, the tournament was friendly and played in good spirits. The results were as follows:

Champion: CUE & ORDER
Tee Jing Hong
Michael Tan Ching Hooi
VM Vadivelu Muthiah
Ankit R Sanghvi

1st Runner Up: CUESADERS
Elaine Tan Ai Lin
Natasha Louis
Vinesh Mathew Varghese

2nd Runner Up: TEAM KCZ
Koay Chun Li
Christopher Chan
Zhafri Aminurashid

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22 July 2024

Seminar: Construction Dispute Resolution: Evidence Essentials for Variations

Organised by the KLBC Professional Development Committee, this seminar was conducted by Kee Meng Fai. It was held at the Kuala Lumpur Bar Auditorium attended by 24 participants.

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23 July 2024

Webinar: Written Advocacy

Organised by the KLBC Civil Practice & Court Liaison Committee, this webinar was presented by Justice Datuk Vazeer Alam b Mydin Meera, Ira Biswas, and P Gananathan, and moderated by Kang Mei Yee.

The webinar covered the following areas:

(i) "Introduction and principles of written submissions";
- Objective of written submissions
- Why are written submissions important
- Presentation

(ii) "Contents and structure of written submissions";
- Introduction, summary, etc
- Framing the issue
- Addressing the facts
- Addressing the law

(iii) "Difference between appellate and first instance advocacy"; and

(iv) "Common problems and remedies".

The webinar was held via Zoom and attended by 301 participants.

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24 July 2024

Blood Donation

Organised by the KLBC Social Committee, the annual blood donation campaign was held on 24 July 2024 at the Kuala Lumpur Court Complex with the assistance of the National Blood Bank. Members of the Bar, as well as Court staff and members of the public, came forward to participate in this blood donation drive. Sixty-six donors registered — 50 donated, while 16 were rejected.

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25 July 2024

Webinar: Joint Venture — Key Considerations and Legal Issues

Organised by the KLBC Corporate & Conveyancing Practice Committee, this webinar was presented by Cassandra Nicole Thomazios and moderated by Farisya Najwa Kasim.

The webinar covered the following areas:

(i) "Preliminary Considerations of Joint Ventures";
(ii) "Common Structures of a JV — Incorporated vs Unincorporated";
(iii) "Important Clauses under a Joint Venture Agreement"; and
(iv) "Legal Issues".

The webinar was held via Zoom and attended by 123 participants.

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26 July 2024

UNHCR x Kuala Lumpur Legal Aid Centre Legal Awareness Video Project

LAC KL successfully completed the UNHCR x Kuala Lumpur Legal Aid Centre Legal Awareness Video project. To celebrate the completion and to appreciate the contributors, a soft launch / appreciation event was held on 26 July 2024 at the Raja Aziz Addruse Auditorium, Wisma Badan Peguam Malaysia.

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27 and 28 July 2024

YBGK Training for Lawyers (Part 3)

LAC KL organised Part 3 of the YBGK training on 27 and 28 July 2024. The training was held at the LAC KL Training Room, Wisma Badan Peguam Malaysia. The training focused on Criminal Trial Advocacy. The training, conducted by Collin Andrew, was attended by 14 lawyers.

29 July 2024

Webinar: Introduction to Mergers and Acquisitions

Organised by the KLBC Corporate & Conveyancing Practice Committee, this webinar was presented by Shelina Razaly Wahi and moderated by Farisya Najwa Kasim.

The webinar covered the following areas:

(i) "Is this a friendly transaction?";
(ii) "Starting your negotiations";
(iii) "Applicable regulatory requirements";
(iv) "Due Diligence";
(v) "Conditions Precedent / Subsequent"; and
(vi) "Shareholders Agreement — Key provisions to consider".

The webinar was held via Zoom and attended by 103 participants.

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31 July 2024

Webinar: Criminal Law: Remand, Bail and Mitigation

Organised by the KLBC Professional Development Committee, this webinar was conducted by Rajsurian Pillai. It was held via Zoom and attended by 74 participants.

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1 August 2024

KOPI O NIGHT — Financial Scandals in Malaysia: From the Bumiputera Malaysia Finance (BMF) to the 1Malaysia Development Berhad (1MDB)



1 August 2024

LAC KL organised "Kopi O Night", at the LAC KL Training Room. It was held on 1 August 2024 and attended by 32 participants. Chooi Mun Sou from Chooi and Company was the speaker; while the event was moderated by Joachim Xavier. The informal setting allowed active participation and engaging discussions.

2 August 2024

Seminar: Managing a Firm, Finance and Partnerships (Legal Career & Work Life Balance)

Organised by the KLBC Professional Development Committee, this seminar was conducted by Jerald Allen Gomez. It was held at the Kuala Lumpur Bar Auditorium and attended by 20 participants.

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5 August 2024

Webinar: Art Law & Cultural Policies

Organised by the KLBC Professional Development Committee, this webinar was conducted by Ryan Su and was moderated by Thulasy Suppiah.

The webinar covered the following areas:

"Overview of arts and cultural policy";

(i) "Analysis of arts policy impact on production, consumption, and stakeholders (artists, cultural organisations, audiences)";
(ii) "Creative strategies for leveraging arts policy to advance artistic and economic goals";
(iii) "Legislation, rules, and regulations relevant to the arts industry";
(iv) "Discussion of intellectual property issues in the arts";
(v) "Laws related to censorship in artistic expression";
(vi) "Critical examination of contracts in arts and culture, highlighting potential conflict"; and
(vii) "Use of appropriate legal language and terminology in arts and culture contexts".

The webinar was held via Zoom and attended by 43 participants.

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6 August 2024

Webinar: Islamic Estate Planning

Organised by the KLBC Professional Development Committee, this webinar was conducted by Sarah Ali.

The webinar covered the following areas:
(i) "Brief definition and explanation on Hibah, Wasiat, Amanah Islam, Wakaf and Faraid according to the Syariah Principles";
(ii) "Examples of cases on each Islamic Instruments";
(iii) "Advantages and the after effects of executing the Islamic Instruments"; and
(iv) "Stamp Duties and Real Property Gains Tax (RPGT) on Hibah, Wasiat, Islamic Trust (if any) — Transmission on the immovable assets".

The webinar was held via Zoom and attended by 57 participants.

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6 August 2024

Meeting with the Director of Jabatan Agama Wilayah Persekutuan

The meeting between the Director and Enforcement Officers of Jabatan Agama Wilayah Persekutuan ("JAWI") and the LAC KL Syariah Committee was held on 6 August 2024 at Bilik Mesyuarat Utama, JAWI. The Syariah Committee was represented by Zulsyahmi Husaini b Kamarulzaman, the Project Head of the Syariah Committee. Among the issues discussed were collaboration between LAC KL and JAWI, outreach programmes, and client referrals.

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7 August 2024

Seminar: Perspectives of a Counsel in International Arbitration

Organised by the KLBC Civil Practice & Court Liaison Committee, this seminar was presented by Ng Jern-Fei KC and moderated by Anishaa Sundramoorthy.

The webinar covered the following areas:

Legal Strategy
(i) "Developing a case theory"; and
(ii) "Project planning".

Advocacy Skills
(i) "Delivering effective oral submissions"; and
(ii) "Cross-examination".

Practical Considerations
(i) "Prioritising client's commercial objectives"; and
(ii) "Time management".

The seminar was held at the KL Bar Auditorium and attended by 41 participants.

7 August 2024

Webinar: Statutory Agreements Pursuant to the Housing Development (Control and Licensing) Act 1966

Organised by the KLBC Corporate & Conveyancing Practice Committee, this webinar was presented by Pretam Singh Darshan Singh and Surendra Ananth, and moderated by Sukhdev Kaur.

The webinar covered the following areas:

(i) "What are Schedule G and H Agreements?";
(ii) "Is a Deed of Mutual Covenant necessary? Comparison with a Schedule H Agreement under the HDA";
(iii) "The 'Gated and Guarded Community' and issues";
(iv) "Resident Associations — its formation, constitution and responsibilities"; and
(v) "Discussion on recent decided cases on the judicial review of decisions imposed by the local town councils, example MBPJ".

The webinar was held via Zoom and attended by 52 participants.

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9 August 2024

Meeting with Pertubuhan Kesihatan dan Kebajikan Umum Malaysia ("PKKUM")

The meeting between PKKUM and LAC KL was held on 9 August 2024 at the LAC Training Room. LAC KL representatives were Morhaneraj Rajakumaran, Chan Yen Hui, Parvin Kaur, and Sumitra Veeriah. Among the issues discussed were collaboration between LAC KL and PKKUM, client referrals, pupils' training, and outreach programmes.

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9 August 2024

Seminar: Practical Tips on Drafting of LOEs and Opinions and Duties of Counsel

The seminars were presented by Anand Raj. The first session titled "Practical Tips on Drafting of LOEs and Opinions" was attended by 36 participants.

The first session covered the following areas:

(i) "Practical Tips on Drafting Letters of Engagement (LOE)";
(ii) "Possible Template LOE Language";
(iii) "Possible Opinion Formats";
(iv) "Possible Qualifications for Opinions"; and
(v) "Limitations".

The second session titled "Duties of Counsel and the Dangers of Pandering to Clients" was attended by 30 participants.

The session covered the following areas:

(i) "Duties of Counsel";
(ii) "Significance of Being an Officer of the Court";
(iii) "The Interests of Clients and Other Interests";
(iv) "What Constitutes 'Pandering'?";
(v) "Symptoms and Dangers of Pandering"; and
(vi) "Assessing Yourself: Are You a Client Panderer and Do You Need to Be One?".

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16 August 2024

ATC Legal Career Seminar on "What to Expect during Pupillage"

Organised by ATC Law School, Kuala Lumpur Bar Chairman, Alvin Oh Seong Yew, was invited to present a session on "What to Expect during Pupillage" at ATC. Ooi Jia Liang joined him for the panel session.

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17 August 2024

ATC Legal Careers Fair 2024

LAC KL opened a booth at the ATC Legal Careers Fair 2024, organised by ATC Law School, to promote the services provided by LAC to the public. LAC representatives were Jeevanathan Angappan and Shenise Charles Daya, and assisted by pupils Letchumanan Anbalagan and Eless Francis.

Seminar: Power of Presentability

Organised by the KLBC Gender Equality & Diversity Committee, this seminar was held on 17 Aug 2024, and presented by Mandeep Singh Bains and Nadiah Ibrahim, and moderated by Tay Kit Hoo.

The seminar covered the following areas:

(i) "Posture in the office (Physiotherapist)"; and
(ii) "Importance of Professional Appearance (Certified trainer)".

The seminar was held at the KL Bar Auditorium and was attended by 21 participants.

22 August 2024

Webinar: General Considerations in Contractual Negotiations

Organised by the KLBC Corporate & Conveyancing Practice Committee, this webinar was presented by Alden Yeoh Shuen Chun and moderated by Sukhdev Kaur.

The webinar covered the following areas:

(i) "Preliminaries";
(ii) "Practicalities";
(iii) "Good Faith";
(iv) "Strategy";
(v) "Common Issues"; and
(vi) "Takeaways".

The webinar was held via Zoom and attended by 66 participants.

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23 August 2024

Webinar: Analyses of Recent Federal Court Decisions 2023/2024

Organised by the KLBC Professional Development Committee, this webinar was conducted by Vinayak Sri Ram and moderated by Thulasy Suppiah. It was held via Zoom and attended by 73 participants.

23 August 2024

Meeting with the Kuala Lumpur Court Director

The Meeting between the Director of the Kuala Lumpur Courts and KLBC Civil Practice & Court Liaison Committee ("CPCLC") was held on 23 August 2024 at the Kuala Lumpur Court Complex. KLBC was represented by its Chairman, Alvin Oh Seong Yew; Honorary Secretary and Co-Chairperson of CPCLC, Nimalan Devaraja; Co-Chairperson of CPCLC, Shugan Raman; and CPCLC Directors, Aarthi S Jeyarajah and Grace Teng Peck Yin.

The purpose of this meeting was to discuss feedback received from members on facilities and infrastructure at the Kuala Lumpur Courts, including pending issues, ie parking charges outside the Kuala Lumpur Court Complex, renovation of the cafeteria, relocation of the Bar Room, and other related matters.

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24 August 2024

Training of Trainers ("TOT") for Volunteer Lawyers

Organised by LAC KL, this TOT session was presented by Harleen Kaur and Ravinder Singh. It was held on 24 August 2024 at the LAC KL Training Room, with 13 volunteer lawyers in attendance.



23 August 2024

Meeting with the Kuala Lumpur Court Director

3 September 2024

Webinar: Introduction to Income Tax Law

Organised by the KLBC Professional Development Committee, this webinar was conducted by Amira Azhar.

The webinar covered the following areas:
(i) "Overview of Tax Law";
(ii) "General Deductions and Allowances"; and
(iii) "Tax Appeal Process".

The webinar was held via Zoom and attended by 53 participants.

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4 September 2024

Seminar: Caveats and Removal of Caveats

Organised by the KLBC Professional Development Committee, this seminar was conducted by Muralee Menon. It was held at the Kuala Lumpur Bar Auditorium and attended by 35 participants.

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5 September 2024

Seminar: Role of Equity in Commerce and Contract Law in Malaysia

Organised by the KLBC Corporate and Conveyancing Practice Committee, this seminar was conducted by Sudhar Thillainathan and Daniel Lim E Hern. It was held at the KL Bar meeting room and attended by 11 participants.

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5 September 2024

Webinar: Key Considerations When Drafting Shareholders' Agreements

Organised by the KLBC Corporate and Conveyancing Practice Committee, this webinar was presented by Spring Poh Zuan Yin and Neoh Jia Shern. The seminar was moderated by Carolyn Cheah Chew Han.

The webinar covered the following areas:
(i) "When do you need a Shareholders' Agreement?";
(ii) "Things to consider when acting for majority / minority shareholders";
(iii) "Shareholders' meetings: Quorum and resolutions";
(iv) "Board of Directors: Nomination rights, appointments and meetings";
(v) "Reserved matters: Shareholders' and board reserved matters";
(vi) "Transfer of shares: Restrictions and Shareholders' right of first refusal";
(vii) "Issuance of new shares: Managing new share issuances and dilution";
(viii) "Deadlock: How to resolve a shareholders' deadlock"; and
(ix) "Events of default and its consequences".

The webinar was held via Zoom and attended by 185 participants.

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6 September 2024

Seminar: Divorce

Organised by the KLBC Professional Development Committee, this seminar was conducted by Sivanesan Nadarajah and moderated by Jason Kong.

The seminar covered the following areas:
(i) "Court Jurisdiction and Forum in Malaysia"; and
(ii) "Injunctive Relief in Matrimonial Proceedings in Malaysia".

The seminar was held at the Kuala Lumpur Bar Auditorium and attended by 26 participants.

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10 September 2024

Webinar: Ship Sale and Purchase and Financing

Organised by the KLBC Professional Development Committee, this webinar was conducted by Wan Hilwanie Ariff. It was held via Zoom and attended by 54 participants.

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12 September 2024

Seminar: Immigration Law in Malaysia

Organised by the KLBC Criminal Law Practice Committee, this seminar was presented by Harpal Singh.

The seminar covered the following areas:
(i) "Handling Immigration Offences & Challenging the Prosecution's Evidence in Court";
(ii) "Issues Faced by Immigrants After Sentencing";
(iii) "Dependent Visas for Foreign Spouses & Their Children"; and

(iv) "Immigration Law & How It Relates to the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (ATIPSOM).

The seminar was held at the Kuala Lumpur Bar Auditorium and attended by 18 participants.

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13 September 2024

LAC Pupils' Programme Batch 118/2024 Exit Evaluation

Organised by LAC KL, the Exit Evaluation for Batch 118/2024 was conducted by Kenneth Koh Zhong Wey. It was held at the Bar Council Auditorium, Wisma Badan Peguam Malaysia, and participated by 146 participants.

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13 September 2024

Webinar: The Basics of a Good CV, Cover Letter and Interview

Organised by the KLBC Young Lawyers & Pupils Committee, this webinar was conducted by Choo Dee Wei and moderated by Alicia Ng Chui Ling.

The webinar covered the following areas:

(i) "Basics of what constitutes a good curriculum vitae and cover letter (and what to steer clear of)", and
(ii) "Followed by the do's and don'ts at an interview (before, during and after)".

The webinar was held via Zoom and attended by 48 participants.

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18 September 2024

Webinar: The Basics of Drafting Pleadings

Organised by the KLBC Young Lawyers & Pupils Committee, this webinar was conducted by New Sin Yew and moderated by Sarah Yee Chyi Cheng.

The webinar covered the following areas:

(i) "Principles",
(ii) "Practical Advice", and
(iii) "Case Study".

The webinar was held via Zoom and attended by 102 participants.



19 September 2024

19 September 2024

Seminar: How to Assist the Judge Effectively

This seminar was co-organised by the KLBC Civil Practice & Court Liaison Committee and the Malaysian Inner Temple Alumni Association. The seminar was presented by Mr Justice Michael Soole, Justice Dato' Faizah Jamaluddin, and Ariff Rozhan. The seminar was moderated by Raja Eileen Soraya. The seminar was held at the Kuala Lumpur Bar Auditorium and attended by 58 participants.

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26 September 2024

Seminar: Practical Approach to Conduct a Full Criminal Trial

Organised by the KLBC Criminal Law Practice Committee, this seminar was presented by K A Ramu and moderated by Jason Kong.

It was held at the Kuala Lumpur Bar Auditorium and attended by 30 participants.

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28 September 2024

Hiking @ Bukit Gasing, PJ

Organised by the KLBC Social Committee and the KLBC Sports Committee, this hiking activity was held on 28 Sept 2024 at Bukit Gasing, PJ, and participated by 15 participants. The hike was followed by a casual social gathering.

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28 September 2024

Training Programme on Legal Representation for Foreign Nationals

The Kuala Lumpur Legal Aid Centre ("LAC KL"), in collaboration with the Justice Project of Pakistan ("JPP") and the Malaysian Centre for Constitutionalism and Human Rights ("MCCHR"), successfully organised the Training on Legal Representation for Foreign Nationals in Malaysia. This full-day training took place on 28 September 2024 at the KL Bar Auditorium. The speakers were Zainab Zeeshan Malik (Policy and Advocacy Adviser, The Hague Institute for Innovation of Law ("HiiL"); Ravi Chandran Subash Chandran (Co-Chairperson, National Legal Aid & YGBK Committee); Collin Arvind Andrew (Co-Deputy Chairperson, National Legal Aid & YGBK Committee), and Kitson Foong. The event saw the participation of 51 attendees.

30 September 2024

Webinar: The Basics of Corporate Practice Organised by the KLBC Young Lawyers & Pupils Committee, this webinar was conducted by Sheba Gumis and moderated by Nur Fathin Farina bt Mokhtar.

The webinar covered the following areas:

(i) "Overview: Negotiations, Due Diligence and Drafting Process";
(ii) "Commercial Considerations";
(iii) "Practical Pointers Including Common Mistakes during Drafting Stage";
(iv) "Salient Clauses Including Consideration, Conditions Precedent, Completion, etc";
(v) "Covenants and Warranties by Both Vendors and Purchasers";
(vi) "Boiler Plate Clauses"; and
(vii) "Remedies for Breach of Contract".

The webinar was held via Zoom and attended by 127 participants.

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30 September 2024

Meeting with the Managing Judge of the Kuala Lumpur Criminal Courts, Royal Malaysia Police, Malaysia Prisons Department, Attorney General's Chambers of Malaysia, and Malaysian Anti-Corruption Commission

The meeting with the above-mentioned authorities was held on 30 September 2024 at the Kuala Lumpur Court Complex.

KLBC was represented by its Chairman, Alvin Oh Seong Yew; Honorary Secretary, Nimalan Devaraja; KLBC Criminal Law Practice Committee Chairperson, Rajsurian Pillai; Chairperson of LAC KL, Morhaneraj Rajakumar; Executive Director of LAC KL, Sumitra Veeriah; Assistant Executive Director of LAC KL, Jeevanathan Anggapan, and Kuala Lumpur Bar Executive Officers, Noratikah Shaharudin and Rosilawati Ibrahim.

The issues discussed during the meeting concerned the conduct of criminal cases in the Kuala Lumpur Court.

Negeri Sembilan Bar Committee

4 April 2024

Negeri Sembilan Bar Iftar with Orphans, Teratak La Reen

In a gesture of compassion and social responsibility, the Negeri Sembilan Bar Committee hosted an *iftar* gathering for 40 orphans and their escorts. The gathering was not just about breaking fast together but also about fostering joy, thinking and caring about others, and a sense of belonging. It served as a reminder of the profound impact that simple acts of kindness can have on the lives of others. Laughter and excitement filled the air as the children received *duit raya, biskut raya* and gifts. The evening also saw nearly 140 children, including the orphans and students from a nearby school, receiving *duit raya* contributed by our generous members. The evening unfolded with activities to engage and delight our young guests from playing games and quizzes led by pupils, to playing with *bunga api*, making it a truly memorable occasion for all. Beyond the offerings, it was a celebration of compassion and the spirit of giving.

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29 April 2024

Negeri Sembilan Bar Committee Courtesy Call and Meeting with Pengarah Mahkamah Negeri Sembilan, Seremban Court Complex



The meeting was a significant engagement aimed to strengthen the relationship between the Negeri Sembilan Bar and the Bench. The courtesy call fostered mutual understanding and opened channels for ongoing communication and cooperation between the Bar and the Bench.

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30 April 2024

Introduction Session for Pupils



Organised by : Chairperson of the Young Lawyers, Pupils and Welfare subcommittee

The introduction session held at the Negeri Sembilan Bar Auditorium provided an opportunity for pupils in chambers to meet with the Negeri Sembilan Bar Committee members. This session was organised to welcome pupils and share with them what to expect from their pupillage period and provide an opportunity for the pupils to network among themselves. Such efforts are undertaken with the hope that the pupils have an enriching and memorable experience and learn as much as possible during their pupillage period in Negeri Sembilan through activities, talks and events organised by the Negeri Sembilan Bar Committee.



7 May 2024

Negeri Sembilan Bar Hari Raya Aidilfitri Open House, Negeri Sembilan Bar Building

Organised by : Negeri Sembilan Bar Committee



The Hari Raya open house highlights the successful observance of the festivities and a gathering of Negeri Sembilan Bar members. The function was graced by the Pengarah Mahkamah Negeri Sembilan, YBrs Tuan Meor Sulaiman bin Ahmad Tarmizi; Chief Police Officer of Seremban, YDH ACP Tuan Mohamad Hatta bin Che Din; Seremban Sessions Court Judges; members of the Negeri Sembilan Bar and pupils.

The celebration also featured traditional dance performances by students from SMK Puteri. The exchange of well-wishes fostered the spirit of unity, and fraternity amongst members and our guests. Despite the heavy rain, the event was lively, well-attended and members enjoyed the delicious spread and posing at the photobooth. The event was fully sponsored by Muslim lawyers of Negeri Sembilan.

19 and 19 May 2024

Jelajah Kehakiman 2024 | Negeri Sembilan, Mydin Mall

The Negeri Sembilan Bar Committee was invited to participate in the 5th Jelajah Kehakiman together with other stakeholders. This was part of the ongoing effort by the Judiciary to improve the public's legal literacy and awareness of Malaysia's judicial and legal system. Members of the Negeri Sembilan Bar and Negeri Sembilan Legal Aid Centre ("NSLAC") and YBGK volunteers provided free legal advice as well as informative pamphlets on various matters to the public and students to create awareness. The programme was officiated by the Chief Registrar of the Federal Court, Dato' Zamri bin Bakar. The Chief Registrar, President of the Malaysian Bar, Seremban High Court Judge, Sessions Court Judges and many others visited our Committee booth.





5 June 2024

Hari Bantuan Guaman, Kuala Pilah Court

A booth was set up to provide free legal advice and raise awareness about access to justice for members of the public. Members of the Negeri Sembilan Bar, NSLAC and YBGK volunteered their time to be on duty to offer advice and guidance on a variety of legal matters, assisting individuals who may otherwise lack the resources to seek legal counsel. This event was greatly supported by the Kuala Pilah Court.



13 June 2024

Coffee Session 1.0 for Negeri Sembilan Conveyancing Lawyers, Hayyan Huda Opah's Kitchen

Organised by : Conveyancing & Recreation Subcommittee

The session was to provide a networking platform for members practising conveyancing work to meet, share insights, and discuss current developments and challenges. The session aimed to foster collaboration, enhance professional development, and encourage knowledge exchange among conveyancing lawyers in Negeri Sembilan. This opportunity was also used to find out about issues that Negeri Sembilan Bar conveyancing lawyers faced to enable the committee to raise it with Pejabat Tanah dan Galian Negeri Sembilan ("PTGNS").



3 July 2024

Hari Bantuan Guaman, Port Dickson Magistrates' Court

This initiative is part of the ongoing NSLAC efforts to provide accessible legal services to the community. It was an event aimed at providing free legal advice and raising awareness about access to justice for underserved communities. Members of the Negeri Sembilan Bar, NSLAC and YBGK volunteers volunteered their time to be on duty to offer advice, guidance, and support on a variety of legal matters, helping individuals who may otherwise lack the means to seek legal advice.



20 and 21 july 2024

Negeri Sembilan Advocacy Training Course, Seremban Court Complex

The Advocacy Training Course ("ATC") organised by the Bar Council was successfully held in Negeri Sembilan after a long hiatus. The ATC was attended by 18 participants and 8 trainers. The esteemed trainers included, the Honourable YA Dato' Azizul Azmi bin Adnan, Judge of the Court of Appeal, and YA Puan Pravin Jessy, Industrial Court Chairman. The participants benefitted tremendously from the ATC. The knowledge and tips shared by the trainers will be useful throughout the careers of the participants. The good cooperation extended by the Seremban Court Director and his officers for the benefit of the participants and trainers added to the success of the ATC in Negeri Sembilan.



27 July 2024

State Bar Summit, Wisma Badan Peguam Malaysia

The Negeri Sembilan Bar Committee participated in the inaugural State Bar Summit organised by the Bar Council. The theme of the Summit was "Unifying for Excellence: Enhancing Collaboration, Efficiency and Impact".

The slogan, "Many States, One Bar – My Bar" celebrates the power of unity and shared best practices, aimed at fostering a stronger and more cohesive Bar.



7 August 2024

Hari Bantuan Guaman

In conjunction with Hari Bantuan Guaman, NSLAC opened a legal aid counter at the Bahau Court. Negeri Sembilan Bar Committee members, NSLAC and YBGK lawyers volunteered their time and effort to be on duty to provide access to justice.

13 August 2024

Talk on Ethics and Etiquette for Pupils in Chambers, Negeri Sembilan Bar Auditorium

Speaker : Marisa Regina
Organised by : Young Lawyers, Pupils and Welfare Sub-Committee

The Chairman of Negeri Sembilan Bar Committee impressed on the pupils that "a good lawyer knows the law; an outstanding lawyer lives by and practices a code of ethics and exemplifies impeccable etiquette, good manners and is always respectful. Ethics represents your moral compass, guiding you to act with honesty, integrity, and fairness. Etiquette, on the other hand, is the outward expression of respect and professionalism." The Chaiman also impressed upon the pupils to strive to be an outstanding pupil / lawyer with impeccable ethics and etiquette and to always uphold the dignity of the legal profession.





14 August 2024

Joint-Working Committee Meeting ("JWC") Between the Bench and the Negeri Sembilan Bar Committee, Seremban Court Complex

Various issues were raised and discussed by both parties. We presented all the matters that had been brought to our attention, and the Court also raised issues from their side. The exchange was constructive, with both parties contributing towards improving the administration of justice and addressing concerns in a collaborative manner.

21 August 2024

Talk on Criminal Practice and Its Perspectives, Negeri Sembilan Bar Auditorium

Speaker : Karthig Shan
Organised by : Young Lawyers, Pupils and Welfare Sub-Committee



The "Talk on Criminal Practice and Its Perspective" for pupils in chambers provided a comprehensive introduction to the fundamentals of criminal law and practice. The talk aimed to equip pupils with the essential knowledge and skills needed to navigate the complexities of criminal law in their future careers.

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4 September 2024

Hari Bantuan Guaman, PTG Counter, Wisma Negeri

Instead of opening a legal aid counter in Court on the first Wednesday of the month, we tried something different. On 4 Sept 2024, a Legal Aid Clinic was opened at PTGNS. This initiative is part of the NSLAC's ongoing efforts to provide accessible legal services to the community. Setting up the booth at Wisma Negeri was made possible with the great cooperation from Setiausaha Kerajaan Negeri and PTGNS Director, Tuan Mohd Faizal bin Abdul Manap. We also thank YB Puan Nicole Tan Lee Koon, Exco Pelancongan, Kesenian dan Kebudayaan Negeri Sembilan and the PTGNS Director for dropping by at our counter. Everyone's continued commitment to ensuring that legal aid reaches those who need it was apparent.



30 August 2024

Jalinan Mesra Hi Tea, Negeri Sembilan Bar Auditorium

The Jalinan Mesra Hi Tea was a social gathering aimed to foster stronger camaraderie and enhance mutual respect amongst members of the Negeri Sembilan Bar in the spirit of Merdeka and encouraging unity. Held in a relaxed setting, the event featured a talk on what Merdeka and unity meant to our members, recitation of the Rukun Negara, *teka-teki, pantun* and song competition with lots of prizes. Members also enjoyed a variety of local *kuih* and refreshments. It provided an opportunity for members and pupils to engage in meaningful conversations and strengthen the community.

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17 September 2024

Movie Night, AEON Seremban 2

The Movie Night outing was a casual and enjoyable event organised to build connections between Negeri Sembilan members and pupils. The event provided a relaxed environment for members and pupils in chambers to bond outside of their professional roles. It was a successful blend of entertainment and it strengthened ties among members and pupils in chambers.



Complimentary Breakfast at the Bar Room, Negeri Sembilan Bar Room

Complimentary breakfast is served at the Negeri Sembilan Bar Room every first Friday of the month. This is in keeping with tradition that used to be enjoyed at the old Bar Room at Jalan Campbell. This effort is to encourage lawyers to come to the Bar Room, provide opportunities to get to know each other or catch up and speak about a case or two over teh tarik and nasi lemak.

Pahang Bar Committee



30 April 2024

Meeting in Relation to Orang Asli Matters — Mesyuarat Peserta Ladang TSKOA

On 30 April 2024, Hon Kai Ping, Co-Deputy Chairperson of the Committee on Orang Asli Rights and Pahang Bar Representative on the Bar Council, alongside six pupils in chambers, attended a meeting regarding the status of land developed by participants of the Tanaman Semula Komersial ("TSK") programme under RISDA (Rubber Industry Smallholders Development Authority, under the Ministry of Rural and Regional Development) since 1999.

The meeting was attended by two officers from the Department of Orang Asli Development (Jabatan Kemajuan Orang Asli, "JAKOA"), and approximately 50 villagers from Kampung Orang Asli in Gumum, Tasik Chini, most of whom are participants of the TSK programme.

The meeting was to try iron out the issues faced by the participants of the programme.

The six pupils in chambers expressed their gratitude to Hon Kai Ping for involving them in this meeting, as it opened their eyes to the Orang Asli people themselves, as well as their strength, their perseverance in fighting for their rights, and their knowledge on land-related law and matters. The pupils who attended the meeting were:

(1) Aizatul Aina bt Mohamad Nizam *(Wan Farina & Co)*
(2) Nurul Idayu bt Abd Karim *(Andrew-David Wong & Ong)*
(3) Najwa Sophia bt Abdullah Adnan *(Suria Rosmah & Associates)*
(4) Maisarah bt Mohamed Saufi *(Rizal Hashim)*
(5) Aisyah Nur Afiqah bt Aznan *(Wee, Rahiza & Lee)*
(6) Nur Hidayah bt Abdullah *(Siva, Ram & Kong)*





Penang Bar Committee

26 April 2024

Meet, Mix & Mingle

The Social Sub-Committee held a social event at Bailey's Penang on 26 April 2024, for chambering students and lawyers to get together over food and drinks to engage in networking, as well as for the chambering students to meet with members of the Penang Bar Committee. A total of 65 pupils and lawyers gathered for a relaxed evening of laughter, games and conversations.



4 May 2024

Jamuan Hari Raya Kali Ke-23: "Riang Ria Raya"

The annual Hari Raya Aidilfitri dinner was hosted by the Syariah Sub-Committee at the Olive Tree Hotel, Penang on 4 May 2024, with the theme "Riang Ria Raya". The attendees showed up in their best traditional and modern attire.



14 June 2024

Reference Proceedings in Memory of Departed Members

A Reference Proceeding was organised by the Publications and Members' Welfare Sub-Committees on 14 June 2024. The Proceeding was presided by YA Dato' Anand Ponnudurai and YA Tuan Kenneth Yoong Ken Chinson St James and held in memory of departed members of the Penang Bar — Zainal Azhar bin Mohd Zain, Julie Khoo Joo Lee, Chye Ann Lee and Lim Kean Chye at the NCVC2, Penang High Court. The Court was packed with family members and friends of the deceased lawyers, and many senior practitioners, including Tan Sri V C George, who addressed the Court on behalf of the Bar Council in honour of the late Lim Kean Chye. Attendees then adjourned to a tea reception at the Penang Bar Auditorium.



14 June 2024

It's Story Time! (Featuring Tan Sri Dato' V C George)

A get-together lunch was organised by the CPD Sub-Committee on 14 June 2024, at the Penang Club, featuring Tan Sri Dato' V C George sharing anecdotes about his life experiences and reading from his book, *Some Stories I Have Told and Some That I Haven't*. It was a very well attended lunch.







7 and 22 June 2024

Legal Aid Outreach Programme & Legal Aid Clinic Booth



The Chairman and members of the Legal Aid Sub-Committee, including staff of the Penang Legal Aid Centre and pupils, volunteered and provided free legal services to the public. The Legal Aid Outreach Programme and Legal Aid Clinic Booth were held at Taman Tun Sardon on 7 and 22 June 2024.

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12 July 2024

Seminar: Rescue Mechanisms

The speakers for this seminar that took place on 12 July 2024 shared insightful knowledge on key features of Scheme of Arrangement, Judicial Management, and Corporate Voluntary Arrangement, updates on the Companies (Amendment) Act 2024 on rescue mechanisms, lessons from recent landmark cases, and rescue mechanisms in practice through case studies. This talk was organised by the CPD Sub-Committee, and held at the Penang Bar Auditorium.



FROM LEFT TO RIGHT: Leong May Lee, Anoopal Kaur and Jimmy Ng Chwe Hwa, the speakers for the session.

30 July 2024

Seminar: Submission of e-CKHT & e-INVOICING for Law Firms

This seminar was organised by the Conveyancing Sub-Committee on 30 July 2024 at Dewan Sri Hasil, Lembaga Hasil Dalam Negeri Malaysia ("LHDNM") Pulau Pinang. Daniel Lim Khean Hin, Assistant Director of LHDNM Penang, spoke on submission of e-CKHT (Borang Nyata Cukai Keuntungan Harta Tanah or Real Property Gains Tax Return Form) by way of MyTax portal's "Peranan 'Peguam'"; while Muhammad Arif bin Jamal Abd Aziz, Hasil Executive of LHDNM Penang's Tax Education Unit, Customer Service Section, provided an overview of the changes and procedures of the upcoming implementation of e-invoicing by law firms.



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20 July 2024

Hike from Pantai Esen to Rainbow Rock

A popular event with lawyers, the bi-annual hike was moved from its traditional location of Muka Head due to its temporary closure, to a new location, at Pantai Esen, Permatang Damar Laut. A small but very enthusiastic group of 20 spent the morning hiking to the beach and enjoying a sumptuous meal.



28 & 29 June 2024

MyBar Games 2024

The inaugural MyBar Games 2024 (formerly the Interstate Bar Games) was hosted by the Penang Bar Committee, marking one of the largest Bar Games ever held by the Malaysian Bar with over 1,000 participants from different states across the nation. Thereafter, a spectacular awards dinner was held on 29 June 2024 at the JEN Penang Georgetown by Shangri-La with 900 attendees present.



Bowling, Penang Bowl (28 June 2024)



Nine-Ball Pool, Ace Snooker Club (28 June 2024)



Volleyball, Kompleks Belia dan Sukan Pulau Pinang (29 June 2024)



Ladies' Futsal, Futsal Nation (29 June 2024)



Swimming, Universiti Sains Malaysia Swimming Pool (28 June 2024)



Badminton, Kompleks Sukan Universiti Sains Malaysia (29 June 2024)



Veterans' Football, KOPA Arena, Universiti Sains Malaysia (29 June 2024)



Chess, Seminar Room, Universiti Sains Malaysia (29 June 2024)



E-Sports (Mobile Legends, Tetris and FIFA), Penang Bar Auditorium, X Esports Bar Penang (28 June 2024)



Premier Football, KOPA Arena, Universiti Sains Malaysia (29 June 2024)



Golf, Penang Golf Club (29 June 2024)



Darts, Bailey's Penang (29 June 2024)





Cross Country, Penang's UNESCO Heritage Zone (29 June 2024)



Table Tennis, Azman Hashim USM Sports Arena (29 June 2024)





Netball, Azman Hashim USM Sports Arena (29 June 2024)



Men's and Ladies' Basketball, SMJK Convent Datuk Keramat (29 June 2024)



Awards dinner at the JEN Penang Georgetown by Shangri-La (29 June 2024)



5 September 2024

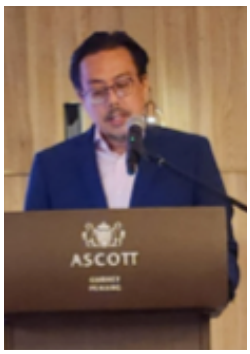
Courtesy Call on the Deputy Chief Minister of Penang 1 and President of the Penang State Islamic Religious Council

The Penang Bar Syariah Sub-Committee paid a courtesy call on the Penang Deputy Chief Minister 1 and President of the Penang State Islamic Religious Council, Dato' Dr Mohamad bin Abdul Hamid on 5 Sept 2024 to discuss issues pertaining to Syariah matters.



24 September 2024

Penang Annual Conveyancing Conference ("PACC")





This annual conveyancing conference was organised by the Conveyancing Sub-Committee on 24 September 2024 at Ascott Gurney Penang. It was officially opened by Mohamad Ezri bin Abdul Wahab, President of the Malaysian Bar; and featured Dr Faizal bin Kamarudin, Director of Pejabat Tanah dan Galian ("PTG") Penang; R Jayabalan, Treasurer of the Malaysian Bar; Dato' Toh Chin Leong, Director of Penang Housing Board; Wan Mansor bin Wan Mohamed (Lua & Mansor); Lee Khai (Ong & Manecksha); Mark Saw, Executive Director of Knight Frank; and Ch'ng Toh Ghee, Managing Director of Alter Domus (MM2H) Sdn Bhd, as speakers.

8 September 2024

Penang Charity Treasure Hunt 2024 | "Raising the Bar: The Treasure in the Adventure"

On an early Sunday morning of 8 September 2024, a total of 13 teams of four in both Open (members of the public) and Closed (members of Penang Bar) categories, took part in a walk hunt around the Georgetown Heritage area deciphering a total of 35 hunt questions, five challenge questions, and five treasure questions, with all teams going away with prizes at the end of the event. This event was organised by the Social Sub-Committee.



25 September 2024

Courtesy Visit on Penang Chief of Police

The Chair and members of the Criminal Sub-Committee paid a courtesy visit on the Penang Chief of Police on 25 September 2024 at the police headquarters in Penang to raise issues pertaining to criminal law matters.





Perak Bar Committee

10 and 24 May 2024

"Written Advocacy — With the Help of Technology" by Babu Raj Raja Gopal



13 June 2024

"Undang-Undang berkaitan Tribunal Perumahan dan Pengurusan Strata (TPPS) — Housing and Strata Management Tribunal" oleh Fariz Irwan b Mustafa



28 June 2024

"Immigration Law and Practice" by C R Selva



19 July 2024

"Non-Muslim Inheritance Law" by Surindar Singh Chain Singh



23 August 2024

"Evolution of the Federal Constitution of Malaysia from 1957 to 1963" by Chan Kok Keong





9 August 2024

"Medical Negligence — *Implications of the Federal Court Case of Siow Ching Yee v Columbia Asia Sdn Bhd* (2024) 3 MLRA 208" by V Vijaya Segaran



27 September 2024

"Child-Centric Family Proceedings: Law and Practice" by Honey Tan Lay Ean





SYARIAH & BAHASA MELAYU COMMITTEE

19 April 2024

Hari Raya Potluck at the Perak Bar Auditorium

CONVEYANCING COMMITTEE

11 June 2024

Meeting with Pejabat Pengarah Tanah dan Galian Negeri Perak



12 May 2024

Kejohanan Bowling 5 Penjuru Tertutup



SPORTS, RECREATION & HEALTH COMMITTEE

11 May 2024

Kejohanan Badminton Persahabatan





28 and 29 June 2024

MyBar Games, Penang







Bowling

- Perak Bar A telah memenangi tempat ketiga keseluruhan setelah mengalahkan pasukan Kelantan Bar yang terikat dengan mata / jatuhan pin yang sama;
- Selain itu, Pasukan Perak Bar telah menenangi kategori berikut:
  - ➢ Perseorangan Wanita: Nur Ezzah bt Zulkifli di tempat kedua dan Zainab bt Yahya di tempat ketiga;
  - ➢ Berpasangan Lelaki: Amir Khusyairi b Mohamad Tanusi dan Abdul Muhaimin b Paiizi di tempat ketiga; dan
  - ➢ Berpasangan Perempuan: Siti Hajar bt Hamzah dan Eirene Nabila bt Amani Williams-Hunt di tempat kedua.

Bola Sepak (Premier)

- Pasukan Perak Bar telah menang dalam saringan Kumpulan.
- Pasukan Perak Bar telah tewas 1-0 kepada Pasukan Johore Bar di peringkat semi-final.
- Bagaimanpun, Pasukan Perak Bar berada di kedudukan ketiga setelah menewaskan Kuala Lumpur Bar dengan sepakan penalti 4-3.







SOCIAL, CHARITY AND MEMBERS' WELFARE COMMITTEE

21 March 2024

Majlis Berbuka Puasa











YOUNG LAWYERS & PUPILS IN CHAMBERS COMMITTEE

CHIT CHAT SESSION SERIES

SESSION 1



SESSION 2



25 September 2024

SESSION 3



26 September 2024

SESSION 4





11 October 2024

SESSION 5

26 April 2024

Movie Night | Ghostbusters: Frozen Empire



27 July 2024

Yoga Class





SOCIAL, CHARITY AND MEMBERS' WELFARE COMMITTEE

19 July 2024

HANG OUT SESSION: Big 5 Professionals



31 August 2024

Career-Sharing Session with Orphanage







13 September 2024

Bowling with Big 5 Professionals





21 September 2024

Blood Donation and Free Health Check at AEON





PUBLICATIONS / LIBRARY / IT

27 December 2024

"Gotong-royong" among Members and pupils in chambers to sort and to arrange law books at the Perak Bar Library



Terengganu Bar Committee

1 May 2024

Rumah Terbuka Hari Raya Aidilfitri Jawatankuasa Peguam Negeri Terengganu 2024

Rumah Terbuka Hari Raya Aidilfitri Jawatankuasa Peguam Negeri Terengganu 2024 was organised on 1 May 2024 at Rembulan Events, Pantai Pandak Chendering, Kuala Terengganu.

The open house was attended by approximately 300 members of the Terengganu Bar and their families. The event also saw the attendance of Tuan Mohd Azhar b Othman, Director of the Terengganu State Court, and other judicial officers.

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20 July 2024

Hiking at Bukit Chendering and Potluck at Pandak Beach

This programme was organised mainly to create a platform to narrow the gap between senior and young lawyers. Some 40 members of the Terengganu Bar participated in this event which commenced with a hike of Bukit Chendering and ended with a potluck session at Pandak Beach, Chendering, Kuala Terengganu.





18 and 19 July 2024

Jelajah Kehakiman Terengganu

Jelajah Kehakiman Terengganu was organised by the Office of the Registrar of the Federal Court of Malaysia on 18 and 19 July 2024 at KTCC Mall, Kuala Terengganu.

The Terengganu Bar was invited to participate as an exhibitor, along with other agencies, including the Malaysian Bar, Royal Malaysia Police (Polis Diraja Malaysa, "PDRM"), Road Transport Department (Jabatan Pengangkutan Jalan, "JPJ"), Jabatan Bantuan Guaman, Ministry of Health (Kementerian Kesihatan Malaysia, "KKM"), Kuala Terengganu City Council (Majlis Bandaraya Kuala Terengganu, "MBKT"), and others.

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2 August 2024

Meet & Greet Session: Terengganu Pupils with Director of Terengganu State Court

This programme is an avenue for pupils in Terengganu to engage with the Judiciary.

Puan Nazlyza bt Mohamad Nazri, Kuala Terengganu Session Court Judge, shared the Judiciary's expectations of the pupils.

2 dan 3 Ogos 2024

Majlis Tahlil dan Program Bubur As-Syura 2024

Program Majlis Tahlil dan Program Bubur As-Syura 2024 telah berlangsung selama dua hari — pada 2 dan 3 Ogos 2024 — bertempat di Kijang Cottage, Bukit Tunggal, Kuala Nerus, Terengganu.

Program ini bermula dengan majlis tahlil dan bacaan Yasin pada malam Jumaat (2 Ogos 2024), diikuti dengan program mengacau bubur As-Syura sempena sambutan tahun baru kalendar Hijri.

Program yang penuh keberkatan dan kemeriahan ini disertai oleh peguam senior, peguam muda, dan pelatih dalam kamar.

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10 August 2024

5km Funwalk dan Beach Clean-Up di Pantai Batu Buruk

Program Funwalk dan Beach Clean-Up ini telah dianjurkan oleh Jawatankuasa Peguam Muda, Jawatankuasa Peguam Negeri Terengganu dengan aktiviti berjalan sejauh 5km di sepanjang Pantai Batu Buruk, Kuala Terengganu, sambil membersihkan kawasan pantai sekitar Pantai Batu Buruk.

Selain itu, kami juga membuka kaunter khidmat nasihat guaman secara percuma untuk memberi khidmat nasihat percuma kepada pengunjung-pengunjung Taman Awam Pantai Batu Buruk, Kuala Terengganu.

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14 August 2024

Briefing on STAMPS & e-CKHT (Real Property Gains Tax or Cukai Keuntungan Harta Tanah)

The briefing was organised by the Terengganu Bar Conveyancing Committee on 14 August 2024 at the Terengganu State Library Auditorium to update members of the Terengganu Bar on the new practice of e-CHKT and Stamp Duty.

15 August 2024

Seminar on Mediation: A concept of Effective Dispute Resolution

A seminar on mediation as a concept of effective dispute resolution was organised by the Malaysian International Mediation Centre ("MIMC") in collaboration with the Terengganu Bar.

The talk was delivered by MIMC Chairman, Abdul Fareed b Abdul Gafoor and Kuthubul Zaman b Bukhari.

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23 and 24 August 2024

Advocacy Training Course

The Advocacy Training Course was organised by the Bar Council Advocacy Training Committee on 23 and 24 August 2024 at the Kuala Terengganu Court Complex.

Eighteen members of the Terengganu Bar attended the course aimed at improving the advocacy skills of lawyers.

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7 September 2024

Terengganu Bar Bowling Tournament 2024

The Terengganu Bar Bowling Tournament 2024 is an annual event organised by the Terengganu Bar, which enables members to explore the importance of engaging in fitness and fun through sports.

The tournament was held on 7 Sept 2024 at Coral Crown Bowl, PB Sentral, Kuala Terengganu. It was participated by 60 members of the Terengganu Bar.

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26 September 2024

Sesi Perbincangan: Masalah Yang Dihadapi oleh Peguam-Peguam Sivil dan Syarie Terengganu

Program ini yang dianjurkan oleh Majlis Peguam dengan kerjasama Jawatankuasa Peguam Negeri Terengganu telah disertai oleh 13 ahli.

Ia membincangkan isu-isu membabitkan permasalahan yang berkait dengan amalan undang-undang Syariah di Terengganu.

Malaysian Bar Events

28 to 29 June 2024

MyBar Games, Penang
































MyBar Games Penang
28-29 June 2024








MyBar Games Penang
28-29 June 2024
SWIMMING • CROSS-COUNTRY • CHESS
VOLLEYBALL • 9-BALL POOL • E-SPORTS
TABLE TENNIS • BOWLING • BASKETBALL
LADIES' FUTSAL • BADMINTON • GOLF
DARTS • NETBALL • FOOTBALL (PREMIER & VETERAN)


BANGUNAN MAJLIS PEGUAM
JAWATANKUASA PEGUAM
PULAU PINANG
PENANG BAR
AUDITORIUM
KEDAH BAR


MyBar Games Penang
28-29 June 2024
BOWLING

JULY 2024

First Meeting between Shipping and Admiralty Law Committee (SALC) and the Ministry of Transport on the proposed Admiralty Jurisdiction Act on 16 July 2024



Courtesy Visit by Jabaran Perlindungan Data Peribadi on 22 July 2024







24 to 26 July 2024

Working Visit to Aceh, Indonesia










APSI


LASERIN
LASESAIG
LAKUKAJIN






PIMPINAN BESERTA SELURUH APARATUR MAHKAMAH SYAR'IYAH BANDA ACEH
SIAP MENDUKUNG, MENERAPKAN DAN MELAKSANAKAN ZONA INTEGRITAS
MENUJU WBK & WBBM
MAHKAMAH SYAR'IYAH



Courtesy Visit and Presentation with External Agencies Together with the Ministry of Education



Bar Council Migrants and Refugees Committee (MRC) meeting with the Geotanyue Foundation APPG for Refugees







Insights from the United Kingdom on Navigating Digital Transformation











Law Awareness Videos by United Nations High Commissioner for Refugees (UNHCR) and Legal Aid Centre Kuala Lumpur (LAC KL)





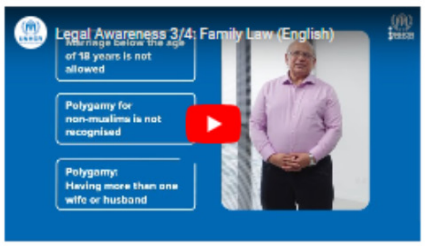
Civil & General Matters

This video provides the basic understanding of getting into contracts, renting a house, dealing with road traffic accidents and more, to better equip yourself with basic legal understanding when dealing with such matters.



Criminal & Immigration Law

Ever wonder what your rights are if you're questioned by the authorities? This video covers the basics of criminal offenses and immigration regulations in Malaysia.



Family Law

This video offers insights on issues like registration of marriage, divorce, and child adoption. It also touches on the topic of domestic violence to raise awareness on the issue.



Employment Law

While refugees and asylum seekers are not able to work formally in Malaysia, it is important to have an understanding on your workplace rights and obligations. This is to ensure you're not being discriminated or exploited, and ensuring you receive fair treatment by your employer.



Youth Exchange Program Courtesy Visit to Bar Council







AUGUST 2024



Meeting with Monash University
(1 August 2024)









Meeting between the President of the Malaysian Bar, National Legal Aid Centre (NLAC) and SUHAKAM (9 August 2024)



Law Awareness Programme by Legal Aid Centre (LAC) Terengganu









Malaysia-Singapore Bench and Bar Games 2024, Singapore (2 to 4 August 2024)
































RASSON




FURAMA


52ND BENCH & BAR GAMES

FURAMA

THE LAW SOCIETY OF SINGAPORE











Community Engagements by Legal Aid Centre (LAC) Selangor (11 August 2024)







Briefing Session on Legal Aid Services by the Legal Aid Department (14 August 2024)











Law Awareness Programme (14 August 2024) and Training on Statelessness Issues (16 August 2024)







Sesi Perbincangan Mengenai Masalah Yang Dihadapi Oleh Peguam Sivil- Syarie Di Kuala Lumpur pada 23 Ogos 2024









Sesi Libat Urus Belanjawan 2025 KESUMA bersama Pihak Industri dan Pemegang Taruh organised by MOHR



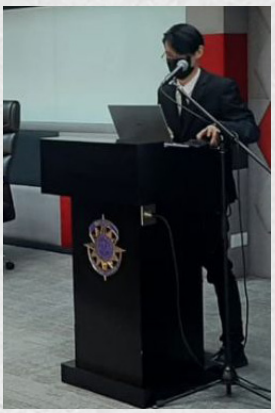






Constitutional Law Committee and Asian Law Students' Association Brickfields Asia College (ALSA BAC) Bar Council Visit and a Talk and Networking Session











Engagement Session on Communications and Multimedia Act

Meeting with Jabatan Kehakiman Syariah Malaysia







Sesi Dialog Belankawan 2025 di Jabatan Perdana Menteri (Hal Ehwal Agama)





SEPTEMBER 2024

Law Awareness Programme organised by Legal Aid Centre (LAC) Perak (18 August 2024) and LAC Selangor (24 to 26 August 2024)











Guardians of the Web – Empowering Children Against Cyberbullying













Basic Conveyancing Seminar






Bar Council Constitutional Law Committee Talk | Should There be a Constitutional Right to Information and Freedom of Information



Small Firms Convention 2024









Engagement Session with Bahagian Sumber dan Teknologi Pendidikan, Kementerian Pendidikan







Bar Council Intellectual Property Committee Meeting with YA Tuan Azlan b Sulaiman





A Comprehensive Guide To Wills, Probate, and Letters Of Administration In Malaysia by Cassandra Lee

Written by
Nimalan Devaraja
Deputy Chairperson,
Publications Committee

A rare find in bookshelves of law libraries in Malaysia is a text on the administration and distribution of non-Muslim estates in Peninsular Malaysia, Sabah and Sarawak. It is important to note that the legislation and rules which govern the administration and distribution of non-Muslim estates in Peninsular and East Malaysia differ.

Cassandra Lee, who originates from Sabah and is a practising lawyer in Kuala Lumpur, has sought to draw from her active probate law practice to prepare a concise practitioners' guide on the procedural rules and substantive legislation that are material to the administration and distribution of non-Muslim estates in Peninsular Malaysia, Sabah and Sarawak. She succeeded with the added bonus of employing her perspective as a litigator which has enabled her to address the topics from both the contentious and non-contentious aspects.

Drawing from three years of industrious research and diligent drafting, Cassandra covers the entire process, beginning from the drafting of a will, to an engaging discussion on the procedure to obtain a grant of probate or letters of administration (both in contentious and non-contentious settings), and ending with the duties, powers and liabilities of an executor or administrator at the end of the process.

In covering these processes, Cassandra breaks down her analysis of each step in detail, drawing a comparison between the different options available at each juncture, while diving into the applicable legislation (whether of Peninsular Malaysia, Sabah or Sarawak) and the judgments which have considered each point. She also goes beyond the viewpoint of the practitioner and takes on the heat of a legislator in identifying areas of reform to be considered for the benefit of Malaysians.

Not merely content with the more common areas faced by practitioners, Cassandra also devoted pages for her analysis to the changes introduced by the Small Estates (Distribution) (Amendment) Act 2022, and the lesser-used Inheritance (Family Provision) Act 1971. She does this with an understanding that it is important for practitioners to be acquainted with all aspects of legislation, whether trite, new, or lesser-known.

As is commonplace with the legislative process, the picture is never as rosy as it seems. Cassandra recognises this by pointing out the difficulties faced by a lack of uniformity across the laws governing wills and administration and distribution of estates in Malaysia due to the differing legislation (or lack of legislation) between Peninsula Malaysia, Sabah and Sarawak. Cassandra has sought to address this by summarising the different legislation and rules under each topic of discussion for each area. However, it cannot be denied that Malaysia would benefit from uniformity across the nation in the laws that concern wills, probates and letters of administration.

In his foreword, Tan Sri Datuk Amar Abang Iskandar bin Abang Hashim quoted Sir Francis Bacon who said *"Some books should be tasted, some devoured, but only a few should be chewed and digested thoroughly"*. Like food, wills and the administration of estates are an ever-present necessity in the lives of all Malaysians. Given its importance, Cassandra's *Comprehensive Guide* is an essential legal resource which should be present in every law firm's library, ready to be chewed and digested thoroughly when a brief lands on the table, or even for weekend reading.

Press Releases

26 March 2024	Amendments to Cyber Security Bill 2024 are Necessary to Ensure Its Just and Meaningful Implementation
17 April 2024	One Story is Far Too Many — Law Reforms for Senior Citizen Rights
17 April 2024	Satu Kisah Sudah Terlalu Banyak — Reformasi Undang-Undang Mengenai Hak Warga Emas
24 April 2024	From Touts to Trust — Promoting the Eradication of Touting
24 April 2024	Mempromosikan Usaha Membanteras Touting
8 May 2024	Rights Unseen: The Urgent Need to Include "Disability" in Malaysia's Federal Constitution
8 May 2024	Keperluan Mendesak untuk Memasukkan "Ketidakupayaan" ke dalam Perlembagaan Persekutuan Malaysia
13 May 2024	Green Horizons — Equipping Malaysian Lawyers to Lead the Way in ESG Excellence
13 May 2024	"Green Horizons" — Melengkapkan Peguam-Peguam Malaysia untuk Meneraju Kecemerlangan ESG
29 May 2024	The Ongoing Fight against Dishonesty in the Legal Profession
11 June 2024	The Importance of Protecting Legal Professional Privilege and the Right to Representation
20 June 2024	World Refugee Day: "Solidarity with Refugees — For a World Where Refugees Are Welcomed"
24 June 2024	Call for the Enactment of National Harmony Bills and Consultation Process by the Ministry of National Unity
24 June 2024	Seruan untuk Menggubal Rang Undang-Undang Keharmonian Nasional dan Proses Rundingan oleh Kementerian Perpaduan Negara
10 July 2024	The Malaysian Bar Calls for Accountability in Custodial Deaths
10 July 2024	Badan Peguam Malaysia Menyeru Kerajaan untuk Memastikan Adanya Kebertanggungjawapan dalam Kematian dalam Tahanan
12 July 2024	The Rule of Law and the Right to Legal Representation
12 July 2024	Kedaulatan Undang-Undang dan Hak untuk Mendapatkan Perwakilan Undang-Undang

12 July 2024	SUHAKAM and the Malaysian Bar Jointly Organise Intensive Human Rights Law and Litigation Training *Joint Press Statement by SUHAKAM and the Malaysian Bar*
12 July 2024	SUHAKAM dan Badan Peguam Malaysia Menganjur Latihan Intensif Undang-Undang dan Litigasi Hak Asasi Manusia *Kenyataan Media Bersama oleh SUHAKAM dan Badan Peguam Malaysia*
16 August 2024	The Unseen Struggles of Malaysia's Legal Guardians
19 August 2024	Ensuring Informed Consent: Protecting Orang Asli Rights in Constitutional Amendments
19 August 2024	Memastikan Persetujuan Termaklum: Melindungi Hak Orang Asli dalam Pindaan Perlembagaan
26 August 2024	Strengthening the Independence and Integrity of the Syariah Judiciary: A Call for Reforms
26 August 2024	Memperkukuh Kebebasan dan Integriti Kehakiman Syariah: Seruan untuk Reformasi
18 September 2024	A Holistic Approach is Needed to Protect the Safety and Welfare of Children
18 September 2024	Pendekatan Holistik Diperlukan untuk Melindungi Keselamatan dan Kebajikan Kanak-Kanak
19 September 2024	There is an Urgent Need to Appoint a New Chief Judge of Malaya
19 September 2024	The Malaysian Bar Demands Immediate Action Following Heinous Assault on Penang Lawyer
12 November 2024	The Malaysian Bar Welcomes the Appointments to the Judicial Appointments Commission, and Appointments of the Chief Judge of Malaya and Attorney General



The Malaysian Bar Calls for Accountability in Custodial Deaths

10 July 2024

The Malaysian Bar takes note of the recent statements made by the Minister of Home Affairs, Datuk Seri Saifuddin Nasution Ismail, that there have been no custodial deaths in immigration and police detention centres that were attributed to the authorities since he took over office. In response to his statements, we wish to express our grave concerns, and emphasise several critical points that need immediate attention and action.

It is paramount to underscore that the determination of the cause of deaths in custody lies exclusively with the Coroner, as stipulated in section 334 of the Criminal Procedure Code. This mandates an inquest into deaths occurring in police custody. Any assertions regarding the causes of these deaths must be made following a thorough and independent investigation by the Coroner to ensure transparency and accountability.

The Minister stated that the recent deaths in custody were all attributed to health reasons, including COVID-19, tuberculosis ("TB"), and heart problems. This raises several critical concerns that need to be addressed promptly. Firstly, it is essential to determine whether these detainees passed away within the detention facilities or in a hospital setting. The location of their deaths is significant in understanding the conditions and care provided within the detention environment.

Furthermore, we must scrutinise the adequacy and timeliness of the medical attention these individuals received. Were they promptly attended to by qualified medical professionals, and was the necessary treatment administered without delay? The health and safety of detainees should be a priority, and any lapses in medical care must be identified and rectified.

It is crucial to investigate whether these deaths could have been prevented. Was there any negligence on the part of the authorities in providing the necessary medical care? The failure to prevent deaths that result from treatable health conditions points to a serious breach of duty and highlights the urgent need for systemic reforms to ensure the well-being of all detainees.

The Malaysian Bar adopted a resolution at its 76th Annual General Meeting in 2022, which highlighted the need for stringent measures to address custodial deaths. The resolution states that the immediate reporting of deaths in custody must be made to the Coroner, who should then visit the site, view the body, and commence independent preliminary inquiries. The resolution asserts that the Coroner shall be the sole determiner of the cause of death, with the police and other public officers refraining from making public announcements regarding the cause of death. The resolution also calls for the enactment of a Coroners' Court Act, with Sessions Court Judges presiding as Coroners; and the establishment of a Coroners Department to ensure independent and effective operations. Additionally, the resolution recommends amending the Criminal Procedure Code to reflect judicial improvements and clarifications, educating public officers about the legal requirements for reporting and inquiring into custodial deaths, and referring the remaining unresolved cases of custodial deaths to the Coroner for inquests. The resolution further calls for the Malaysian Government to annually disclose the number of suspicious deaths, deaths in custody, and the findings of the Coroner.

The authorities and the Government have a duty and responsibility to provide a safe environment for all detainees. This includes not only preventing physical harm but also ensuring access to appropriate medical care. The current state of custodial deaths indicates a failure in fulfilling this fundamental responsibility.

No one should take pride in the absence of suicides or assaults when deaths in custody continue to occur due to health issues. The goal must be to achieve zero deaths in custody. We call upon the authorities to take immediate and effective measures to ensure the safety and well-being of all detainees and to prevent any further loss of life.

The Malaysian Bar asserts that one death in custody is one too many. It is imperative that thorough investigations are conducted, and accountability is established to prevent further tragedies. We urge the Malaysian Government and the relevant authorities — including the Independent Police Conduct Commission ("IPCC") and Enforcement Agency Integrity Commission ("EAIC") — to take decisive action to safeguard the lives and rights of all individuals in custody.

Mohamad Ezri b Abdul Wahab
President, Malaysian Bar

Badan Peguam Malaysia Menyeru Kerajaan untuk Memastikan Adanya Kebertanggungjawaban dalam Kematian dalam Tahanan

10 July 2024

(Versi terjemahan) — Harap maklum bahawa versi yang definitif untuk Kenyataan Media ini adalah versi Bahasa Inggeris yang dikeluarkan oleh Mohamad Ezri b Abdul Wahab, Yang Dipertua, Badan Peguam Malaysia, bertarikh 10 Julai 2024.

Badan Peguam Malaysia mengambil maklum kenyataan terkini yang dibuat oleh Menteri Dalam Negeri, Datuk Seri Saifuddin Nasution Ismail bahawa tiada kematian dalam tahanan direkodkan di pusat tahanan imigresen dan polis yang berpunca daripada pihak berkuasa semenjak beliau mengambil alih jawatan ini. Susulan daripada kenyataan beliau, kami ingin menzahirkan kebimbangan yang mendalam terhadap perkara ini, dan menegaskan beberapa perkara kritikal yang memerlukan perhatian dan tindakan segera.

Adalah amat penting untuk menekankan bahawa penentuan punca kematian dalam tahanan terletak sepenuhnya pada Koroner, seperti yang diperuntukkan dalam seksyen 334 Kanun Prosedur Jenayah. Ini mewajibkan siasatan ke atas kematian yang berlaku dalam tahanan polis. Sebarang pengesahan punca kematian ini mesti dilakukan setelah siasatan yang menyeluruh dan bebas dilakukan oleh Koroner untuk memastikan ketelusan dan kebertanggungjawaban.

Menurut kenyataan Menteri Dalam Negeri, kematian dalam tahanan baru-baru ini dikaitkan dengan sebab-sebab kesihatan, termasuk COVID-19, tuberkulosis ("TB"), dan masalah jantung. Ini menimbulkan beberapa kebimbangan kritikal yang perlu ditangani dengan segera. Pertama, adalah penting untuk menentukan sama ada tahanan-tahanan ini meninggal dunia di dalam kemudahan tahanan ataupun di kawasan hospital. Lokasi kematian mereka adalah signifikan dalam memahami keadaan dan penjagaan yang diberikan di dalam persekitaran tahanan.

Selain itu, kita juga harus meneliti kecukupan dan ketepatan masa rawatan perubatan yang diterima oleh individu-individu ini. Adakah mereka dirawat dengan segera oleh profesional perubatan yang berkelayakan, dan adakah rawatan yang mereka perlukan diberikan tanpa kelewatan? Kesihatan dan keselamatan tahanan haruslah menjadi keutamaan, dan sebarang kelemahan dalam penjagaan kesihatan mesti dikenal pasti dan diperbaiki.

Seterusnya, adalah mustahak untuk menyiasat sama ada kematian-kematian ini boleh dielakkan. Adakah berlakunya kecuaian oleh pihak berkuasa dalam menyediakan rawatan perubatan yang diperlukan? Kegagalan dalam mengelakkan berlakunya kematian-kematian yang disebabkan oleh masalah kesihatan yang boleh dirawat menunjukkan adanya pelanggaran tugas yang serius dan ini menegaskan bahawa perlunya ada pembaharuan sistemik bagi memastikan kesejahteraan tahanan-tahanan.

Badan Peguam Malaysia telah meluluskan satu resolusi pada Mesyuarat Agung Tahunan ke-76 pada tahun 2022, yang menekankan perlunya ada langkah-langkah tegas dalam menangani kematian dalam tahanan. Resolusi ini menyatakan bahawa pemakluman mengenai kematian dalam tahanan haruslah dilaporkan dengan segera kepada Koroner, yang hendaklah melawat lokasi, melihat mayat, dan memulakan siasatan awal secara bebas. Resolusi ini menegaskan bahawa Koroner harus menjadi penentu tunggal punca kematian, dan polis serta pegawai-pegawai awam yang lain tidak harus membuat pengumuman terbuka mengenai punca kematian. Resolusi ini turut menyeru penggubalan suatu Akta Mahkamah Koroner (Coroners' Court Act), dan Hakim Mahkamah Sesyen bertindak sebagai Koroner; di samping penubuhan suatu Jabatan Koroner untuk memastikan operasi yang bebas dan efektif. Selain itu, resolusi ini mengesyorkan pindaan kepada Kanun Prosedur Jenayah untuk mencerminkan penambahbaikan dan penjelasan sistem kehakiman, mendidik pegawai awam tentang keperluan undang-undang untuk melaporkan dan menyiasat kematian dalam tahanan, dan merujuk kes kematian dalam tahanan yang belum selesai kepada Koroner untuk diadakan inkues. Resolusi ini seterusnya mendesak agar Kerajaan Malaysia membuat pendedahan tahunan mengenai jumlah kematian yang mencurigakan, kematian dalam tahanan, dan penemuan Koroner.

Pihak berkuasa dan kerajaan mempunyai tugas dan tanggungjawab untuk menyediakan persekitaran yang selamat untuk semua tahanan. Ini bukan sahaja dapat mencegah kecederaan fizikal malah memastikan akses kepada rawatan perubatan yang sesuai. Keadaan semasa kematian dalam tahanan menunjukkan kegagalan dalam memenuhi tanggungjawab asas ini.

Tiada siapa yang patut berbangga dengan ketiadaan kes bunuh diri atau serangan sedangkan kematian dalam tahanan terus berlaku akibat masalah kesihatan. Matlamat yang harus dicapai adalah sifar kematian dalam tahanan. Kami menyeru pihak berkuasa untuk mengambil langkah segera dan berkesan untuk memastikan keselamatan dan kesejahteraan semua tahanan dan untuk menghalang sebarang kehilangan nyawa.

Dengan ini, Badan Peguam Malaysia menegaskan bahawa satu kematian dalam tahanan adalah terlalu banyak. Siasatan menyeluruh perlu dijalankan dan kebertanggungjawaban perlu ditegakkan untuk mengelakkan berlakunya lebih tragedi. Kami menggesa Kerajaan Malaysia dan pihak berkuasa yang berkaitan — termasuk Suruhanjaya Bebas Tatakelakuan Polis (Independent Police Conduct Commission, "IPCC") dan Suruhanjaya Integriti Agensi Penguatkuasaan (Enforcement Agency Integrity Commission, "EAIC") — untuk mengambil tindakan yang tegas bagi melindungi nyawa dan hak semua individu dalam tahanan.

Mohamad Ezri b Abdul Wahab
Yang Dipertua, Badan Peguam Malaysia

The Rule of Law and the Right to Legal Representation

12 July 2024

The Malaysian Bar refers to a recent social media posting made by Mohd Rafizi bin Ramli ("Rafizi Ramli"), the Minister of Economy, in the lead-up to the Sungai Bakap by-election on 6 July 2024.

In his social media posting, Rafizi Ramli commented on a lawyer representing a foreigner who was arrested and charged in Malaysia for trafficking firearms and possessing ammunition.

The Malaysian Bar finds the comments made by Rafizi Ramli concerning due to the denigrating nature of these comments towards the legal profession. His comments also strike at a deeper issue, which concerns the concept of due process and the need to strike the right balance between the freedom of expression and the right to a fair trial.

There is an existing stigma against lawyers, as exemplified by Rafizi Ramli's comments. Lawyers are seen as providing their services to the highest bidder, and will do everything within their means to get their clients off the hook. Such a perception of the nature of legal work amounts to a misunderstanding of what lawyers actually do.

The duty of a lawyer is to provide a voice to clients in need of representation. This entails building a case for the client within the confines of the law. The lawyer does not add or subtract the facts of a case and only acts on the instructions of the client. As such, the lawyer is completely neutral. While some level of sympathy with a client's case is necessary in order to present the case from the client's perspective, this does not mean that the lawyer identifies with the client.

The concept of due process in the Malaysian context calls for the determination of guilt or liability by a judge (or other officers assuming a judicial capacity), after the hearing of a case has been exhausted. This means that the power to rule over cases lies exclusively with judges. When members of the public or the media comment on the possible outcomes of cases that a judge is currently hearing, it could amount to a breach of the *sub judice* rule. Although the Malaysian Bar is a staunch advocate of the right to free speech, such a right should not come at the cost of prejudicing one's right to a fair trial. By commenting on the lawyer and his foreign client, Rafizi Ramli has prematurely called the innocence of the client into question before the case has been disposed of by the courts.

A key element of the right to a fair trial is the right to legal representation. The right to legal representation is enshrined in Article 5, Clause 3 of the Federal Constitution. This right ensures that any person who is compelled to appear before the Malaysian courts is guaranteed the services of a lawyer.

Other Common Law jurisdictions practise what is known as the "cab-rank" rule, whereby lawyers cannot refuse to represent a client seeking their services, save in very limited circumstances. Although Malaysian lawyers are not required to observe this strict rule, Rule 2 of the Legal

Profession (Practice and Etiquette) Rules 1978 places a positive professional obligation on them to provide their services to a client, if they are proficient in that area of law. Unless there are special circumstances hampering the lawyers' ability to provide their services, lawyers should not reject a client in need of legal representation. To do so would be tantamount to depriving the client of the right to a fair trial.

The fact that the accused in this situation is a foreigner should not deprive him of legal representation. The lawyer named by Rafizi Ramli is merely discharging his duty by providing a voice for his client before the courts of Malaysia.

The principle of the rule of law, which is in our Rukun Negara, requires that the Malaysian criminal justice system runs its due course, regardless of the accused's origin. To do otherwise would be to decide that the accused is guilty before the case is even heard.

The Malaysian Bar calls all parties to cease the mischaracterisation and the insinuation of lawyers as being unethical, while in the course of conducting their regular duties. Lawyers should be able to provide their services without fear or favour, and free of baseless prejudices.

Mohamad Ezri b Abdul Wahab
President, Malaysian Bar

Kedaulatan Undang-Undang dan Hak untuk Mendapatkan Perwakilan Undang-Undang

12 July 2024

(Versi terjemahan) — Harap maklum bahawa versi yang definitif untuk Kenyataan Media ini adalah versi Bahasa Inggeris yang dikeluarkan oleh Mohamad Ezri b Abdul Wahab, Yang Dipertua, Badan Peguam Malaysia, bertarikh 12 Julai 2024.

Badan Peguam Malaysia merujuk kepada hantaran media sosial oleh Mohd Rafizi bin Ramli ("Rafizi Ramli"), Menteri Ekonomi, menjelang pilihan raya kecil Sungai Bakap pada 6 Julai 2024.

Dalam hantaran media sosial tersebut, Rafizi Ramli mengulas tentang seorang peguam yang mewakili seorang warga asing yang ditangkap dan didakwa di Malaysia kerana berdagang senjata api dan memiliki peluru.

Badan Peguam Malaysia mendapati bahawa ulasan yang dibuat oleh Rafizi Ramli membimbangkan kerana ia memburukkan profesion undang-undang. Ulasan beliau juga menyentuh isu yang lebih mendalam, yang melibatkan konsep proses wajar (due process) dan keperluan untuk mencapai keseimbangan yang betul antara kebebasan bersuara dan hak untuk perbicaraan yang adil.

Terdapat stigma yang wujud terhadap peguam, seperti yang ditunjukkan oleh ulasan Rafizi Ramli. Peguam dilihat seperti memberikan perkhidmatan mereka kepada pembida tertinggi, dan akan melakukan apa sahaja mengikut kemampuan mereka untuk melepaskan klien mereka. Persepsi sedemikian tentang kerja-kerja guaman merupakan satu salah faham tentang apa sebenarnya yang dilakukan oleh peguam-peguam.

Tugas seorang peguam adalah untuk memberikan suara kepada klien yang memerlukan perwakilan. Peguam perlu membina satu kes untuk klien dalam batas undang-undang. Peguam tidak menambah atau menolak fakta sesebuah kes dan hanya bertindak atas arahan klien. Oleh itu, peguam adalah pihak yang berkecuali sepenuhnya. Walaupun perlu ada juga rasa simpati terhadap klien untuk membolehkan peguam menghujah kes daripada perspektif klien, ia tidak bermakna peguam mempunyai kaitan dengan kliennya.

Konsep proses wajar dalam konteks Malaysia memerlukan seorang hakim (atau pegawai lain yang mempunyai kapasiti kehakiman) untuk menentukan kesalahan atau liabiliti, selepas sesuatu kes telah selesai didengar sepenuhnya. Ini bermakna kuasa untuk membuat keputusan terhadap kes-kes terletak khusus kepada hakim-hakim. Apabila orang ramai atau media mengulas tentang kemungkinan keputusan yang akan dibuat dalam sesuatu kes yang sedang didengar oleh seseorang hakim, ia boleh dianggap sebagai pelanggaran prinsip *sub judice*. Walaupun Badan Peguam Malaysia adalah penyokong kuat hak kebebasan bersuara, hak tersebut tidak sepatutnya menjejaskan hak seseorang kepada perbicaraan yang adil. Dengan mengulas mengenai peguam tersebut dan klien warga asingnya, Rafizi Ramli telah mempertikaikan klien

tersebut secara pramatang sebelum kes itu diselesaikan oleh mahkamah. Elemen utama hak perbicaraan yang adil adalah hak untuk mendapatkan perwakilan undang-undang. Hak ini termaktub dalam Perkara 5, Fasal 3 Perlembagaan Persekutuan. Ia memastikan bahawa mana-mana orang yang perlu hadir di hadapan mahkamah Malaysia dijamin perkhidmatan peguam.

Negara lain yang juga mempraktikkan *Common Law* mengamalkan apa yang dikenali sebagai *"cab-rank rule"*, iaitu, seseorang peguam tidak boleh menolak untuk mewakili klien yang ingin mendapatkan perkhidmatan mereka, kecuali dalam keadaan yang sangat terhad. Walaupun peguam-peguam di Malaysia tidak perlu mematuhi prinsip yang ketat ini, Peraturan 2 Kaedah-Kaedah Profesion Undang-Undang (Amalan dan Etiket) 1978 meletakkan kewajipan profesional kepada peguam untuk memberikan perkhidmatan kepada klien, jika mereka mahir dalam bidang undang-undang berkenaan. Melainkan terdapat keadaan khas yang menghalang keupayaan peguam untuk memberikan perkhidmatan, mereka tidak seharusnya menolak klien yang memerlukan perwakilan undang-undang. Jika mereka berbuat demikian, ia adalah sama seperti melucutkan hak klien untuk mendapatkan perbicaraan yang adil.

Hakikat bahawa tertuduh dalam situasi ini adalah warga asing tidak seharusnya menghalang dia daripada mendapat perwakilan undang-undang. Peguam yang dinamakan oleh Rafizi Ramli itu hanya menjalankan tugasnya dengan memberikan suara kepada kliennya di hadapan mahkamah Malaysia. Prinsip kedaulatan undang-undang, yang terkandung dalam Rukun Negara kita, memerlukan sistem keadilan jenayah Malaysia berjalan dengan sewajarnya, tanpa mengira asal usul tertuduh. Dengan melakukan yang sebaliknya, samalah seperti memutuskan bahawa tertuduh bersalah sebelum kes itu dibicarakan.

Badan Peguam Malaysia menyeru semua pihak untuk berhenti memberikan tanggapan yang salah dan membuat sindiran bahawa peguam tidak beretika dalam menjalankan tugasan tetap mereka. Peguam seharusnya dapat memberikan perkhidmatan mereka tanpa rasa takut atau pilih kasih, dan bebas daripada prasangka yang tidak berasas.

Mohamad Ezri b Abdul Wahab
Yang Dipertua, Badan Peguam Malaysia

Joint Press Statement by SUHAKAM and the Malaysian Bar

SUHAKAM and the Malaysian Bar Jointly Organise Intensive Human Rights Law and Litigation Training

12 July 2024

The Human Rights Commission of Malaysia (SUHAKAM) and the Malaysian Bar are delighted to announce a collaborative effort to organise a series of Intensive Human Rights Law and Litigation Training programs for young lawyers and SUHAKAM officers. Beginning in August 2024 and extending through mid-June 2026, these training sessions will be held in Sabah, Penang, and Sarawak.

The training programs will cover a diverse array of critical human rights issues relevant to Malaysia's socio-political landscape. Topics to be addressed include Statelessness, Indigenous Peoples' Rights, Land Encroachment, Children's and Women's Rights, Freedom of Expression, Freedom of Information, Right to Life, and Freedom of Religion.

The official launch of the training program took place at SUHAKAM's headquarters in Kuala Lumpur. The ceremony was attended by SUHAKAM Chairman YBhg. Dato' Seri Mohd Hishamudin Md Yunus and Malaysian Bar President Mr Mohamad Ezri Abdul Wahab, who formally inaugurated the training initiative. The event was also attended by SUHAKAM Commissioners, YBhg. Prof. Dato' Noor Aziah Mohd Awal, YBhg. Datuk Mariati Robert and YBrs. Dr Chew Chee Ming; Co-Chairperson and Deputy Chairperson of Bar Council Human Rights Committee, Ms Cassandra Nicole Thomazios and Mr Abang Iwawan; and Mr Eero Oinonen, Political Officer from the Delegation of the European Union to Malaysia.

The primary objective of this training initiative is to instil core human rights values among young lawyers, fostering a commitment to universal human rights principles in Malaysia. Participants will acquire in-depth knowledge of legal frameworks, judicial precedents, and litigation strategies pertinent to human rights issues. SUHAKAM and the Malaysian Bar anticipate that this program will promote engagement with grassroots communities, strengthen civil society organisations (CSOs), and encourage *pro bono* legal support.

This comprehensive training initiative, which aims to benefit approximately 100 young lawyers and selected SUHAKAM officials, represents a financial commitment of approximately RM250,000. The training is wholly funded by the European Union Grant Project titled "Advancing Human Rights in Malaysia via Strategic Approaches in Education and Awareness Raising".

The meeting also discussed increasing access to justice for vulnerable populations, prison reforms including measures to counteract prison overcrowding, as well as the ratification of international human rights treaties such as the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), and the 1951 Refugee Convention. The meeting further discussed strengthening collaboration between SUHAKAM and the Malaysian Bar.

SUHAKAM and the Malaysian Bar are enthusiastic about the positive impact of this training program and are dedicated to nurturing a new generation of human rights advocates committed to advancing social justice and equality in Malaysia.

Kenyataan Media Bersama oleh SUHAKAM dan Badan Peguam Malaysia

SUHAKAM dan Badan Peguam Malaysia Menganjur Latihan Intensif Undang-Undang dan Litigasi Hak Asasi Manusia

12 July 2024

Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM) dan Badan Peguam Malaysia dengan sukacitanya mengumumkan usaha sama untuk menganjurkan satu siri program Latihan Intensif Perundangan dan Litigasi Hak Asasi Manusia bagi peguam muda dan pegawai SUHAKAM. Bermula pada Ogos 2024 dan berlanjutan sehingga pertengahan Jun 2026, sesi latihan ini akan diadakan di Sabah, Pulau Pinang, dan Sarawak.

Program latihan ini akan merangkumi pelbagai isu kritikal hak asasi manusia yang berkaitan dengan landskap sosio-politik Malaysia. Topik yang akan dibincangkan termasuk Kewarganegaraan, Hak-Hak Orang Asal, Pencerobohan Tanah, Hak Kanak-Kanak dan Wanita, Kebebasan Bersuara, Kebebasan Maklumat, Hak untuk Hidup, dan Kebebasan Beragama.

Perasmian program latihan tersebut diadakan di ibu pejabat SUHAKAM di Kuala Lumpur. Majlis ini dihadiri oleh Pengerusi SUHAKAM; YBhg. Dato' Seri Mohd Hishamudin Md Yunus dan Yang Dipertua Badan Peguam Malaysia Encik Mohamad Ezri Abdul Wahab, yang merasmikan inisiatif latihan tersebut. Majlis ini juga dihadiri oleh Pesuruhjaya SUHAKAM, YBhg. Dato' Noor Aziah Mohd Awal, YBhg. Datuk Mariati Robert dan YBhg. Dr. Chew Chee Ming; Pengerusi Bersama dan Timbalan Pengerusi Jawatankuasa Hak Asasi Manusia, Cik Cassandra Nicole Thomazios dan Encik Abang Iwawan; dan Encik Eero Oinonen, Pegawai Politik dari Delegasi Kesatuan Eropah ke Malaysia.

Objektif utama inisiatif latihan ini adalah untuk memupuk nilai-nilai teras hak asasi manusia dalam kalangan peguam muda, serta menggalakkan komitmen kepada prinsip-prinsip hak asasi manusia sejagat di Malaysia. Para peserta akan memperoleh pengetahuan mendalam mengenai rangka kerja undang-undang, doktrin duluan kehakiman, dan strategi litigasi yang berkaitan dengan isu-isu hak asasi manusia. SUHAKAM dan Badan Peguam Malaysia berharap program ini akan mempromosikan penglibatan bersama komuniti akar umbi, memperkuat organisasi masyarakat sivil (CSO), dan menggalakkan sokongan undang-undang secara pro bono.

Inisiatif latihan komprehensif ini, yang bertujuan memberi manfaat kepada kira-kira 100 peguam muda dan pegawai terpilih SUHAKAM, mewakili komitmen kewangan sebanyak kira-kira RM250,000. Latihan ini dibiayai

sepenuhnya oleh Projek Geran Kesatuan Eropah yang bertajuk "Memajukan Hak Asasi Manusia di Malaysia melalui Pendekatan Strategik dalam Pendidikan dan Peningkatan Kesedaran".

Mesyuarat juga membincangkan tentang peningkatan akses kepada keadilan bagi golongan rentan, reformasi penjara termasuk intervensi dalam menangani kesesakan di penjara, ratifikasi triti hak asasi manusia antarabangsa termasuk Konvensyen Menentang Penyeksaan dan Layanan atau Hukuman Lain yang Zalim, Tidak Berperikemanusiaan atau Menjatuhkan Maruah (UNCAT) dan Konvensyen Pelarian 1951 serta memperkukuhkan lagi kerjasama antara SUHAKAM dan Badan Peguam Malaysia.

SUHAKAM dan Badan Peguam Malaysia bersemangat mengenai kesan positif program latihan ini dan berdedikasi untuk memupuk generasi baru peguam bela hak asasi manusia yang komited untuk memajukan keadilan sosial dan kesaksamaan di Malaysia.

The Unseen Struggles of Malaysia's Legal Guardians

16 August 2024

The Malaysian Bar stands as a pillar of justice, advocating the rights of all individuals and upholding the rule of law in our nation. However, the current economic landscape, coupled with the increasing societal pressures on our profession, has placed unprecedented challenges on lawyers across Malaysia.

In recent times, there seems to be an alarming trend which unjustly diminishes the role of lawyers. The focus is no longer on the significant contributions lawyers make to society, but rather on the misconduct of a few, which unfortunately casts a shadow on the entire profession.

Let me be clear: the Malaysian Bar **does not** condone any form of unethical behaviour, and we will continue to take decisive action against those who breach the trust bestowed upon them by the public. However, it is equally important to ensure that the integrity and honour of the vast majority of lawyers, who serve with diligence and dedication, are not tarnished by the actions of a few.

Moreover, the growing demand for discounts and the devaluation of legal services further exacerbates the challenges faced by lawyers today. This trend undermines the value of the critical work we do and threatens the sustainability of legal practices, particularly smaller firms and sole practitioners. Legal services are not a commodity that can be bargained; they are essential services that require specialised knowledge, skills, and a commitment to justice.

The Malaysian Bar remains committed to upholding the principles of justice and ensuring that every citizen has access to quality legal representation. We urge all stakeholders to recognise the challenges we face and to work together to safeguard the future of our profession, and by extension, the administration of justice in Malaysia.

On another note, the Malaysian Bar reaffirms our unwavering stance against dishonesty and fraudulent conduct by our Members. We condemn such actions in the strongest and most unequivocal terms.

During a press conference[1] held at Menara KPJ on 13 August 2024, the Director of the Bukit Aman Commercial Crime Investigation Department ("CCID"), Dato' Sri Ramli Mohamed Yoosuf, informed the media that a total of 33 criminal breach of trust ("CBT") cases involving lawyers were reported nationwide last year. He added that these cases resulted in losses of over RM33 million.

From our records, these 33 cases include a case from Sarawak; 14 involving individuals who are **not** Members of the Malaysian Bar; and eight cases in which the Advocates and Solicitors Disciplinary Board ("ASDB") have issued orders against Members. Additionally, since 2023, the Bar Council has lodged six police reports against individuals impersonating lawyers and/or forging documents to carry out fraudulent and dishonest conduct.

We refer to our previous press release[2] on this issue, which outlined the various mechanisms to combat fraudulent and dishonest conduct, provided under the Legal Profession Act 1976 ("LPA"). The Malaysian Bar further encourages members of the public to lodge a complaint with the ASDB[3] if they are of the view that the conduct of the advocate and solicitor concerned amounts to misconduct.

The Malaysian Bar will not tolerate dishonesty within our profession and will relentlessly pursue its eradication. Pursuant to section 88(1) of the LPA — if the Bar Council has reasonable cause to believe that an advocate and solicitor or his/her employees have been guilty of dishonesty in connection with his/her practice, or in connection with any trust of which he/she is a trustee, the Bar Council may intervene into the law firms to take possession and control of all documents, as well as the clients' account(s) of the firms.

We urge the public to report any concerns regarding the handling of stakeholder or trust monies at the earliest possible opportunity. Timely reporting enables the Bar Council to take swift action, including intervening and taking control of clients' accounts where necessary, to safeguard funds and ensure they are used strictly in accordance with the agreed terms. The integrity and trust placed in legal professionals are paramount, and we remain committed to upholding these standards to protect the public interest.

Dishonest lawyers are a stain on the legal community, and their misconduct diminishes the integrity of the many honourable and diligent Members who uphold our profession's highest standards.

Mohamad Ezri b Abdul Wahab
President, Malaysian Bar

1 "33 CBT Cases by Lawyers Involving Losses of Over RM33 Million Recorded in 2023", Bernama, 13 August 2024.

2 "Press Release | The Ongoing Fight against Dishonesty in the Legal Profession", Malaysian Bar website, 29 May 2024.

3 Lodgement of Complaints, Advocates & Solicitors Disciplinary Board website.

Ensuring Informed Consent: Protecting Orang Asli Rights in Constitutional Amendments

19 August 2024

The Malaysian Bar notes the recent observations made in the Dewan Rakyat (House of Representatives) by Deputy Speaker, Dato' Dr Ramli bin Dato' Mohd Nor ("Dato' Ramli"), regarding a proposed constitutional amendment to move Orang Asli matters from the Federal List to the Concurrent List. The Bar believes that these observations contain legal inaccuracies and omissions.

Firstly, in response to what Dato' Ramli said about the distinctive use of "Orang Asli" and "Orang Asal", indeed the Bahasa Malaysia version of the Federal Constitution (Perlembagaan Persekutuan) uses the terms" Orang Asli" for the aborigines (indigenous peoples) from the Peninsula, and "anak negeri" for the natives of Sabah and Sarawak. Nonetheless, the Malaysian Bar opines that "Orang Asal" is a widely accepted generic term to describe indigenous peoples internationally, including our very own indigenous groups in Malaysia, from both the Peninsula, and Sabah and Sarawak.

It is the Bar's position that State and Federal constitutional arrangements do not cause a legal impasse for the protection and recognition of Orang Asli land and resources in the Peninsula.

With regard to land matters, under Article 83 of the Federal Constitution, the Federal Government has the power to acquire land from the State for Federal purposes, which clearly includes Orang Asli matters.

Additionally, under Article 91 of the Federal Constitution, the Federal Government has the constitutional powers to pass land policies across Peninsular Malaysia through consensus with State Governments at the National Land Council.

The Bar's point of view is that, currently, there are sufficient Federal powers to resolve Orang Asli land issues. Examples of laws and policies that have been passed through the aforementioned National Land Council include the National Land Code, and more pertinently, the policy on Orang Asli land titles in 2009.

We believe that shifting Orang Asli matters to the Concurrent List as proposed would not add much value to the law since each State can still act independently in respect of such matters.

Furthermore, having Orang Asli matters under the Concurrent List can result in potential confusion, disputes, and delays in the efficient administration of these matters.

Even so, we applaud Dato' Ramli for the initiative to consult and engage all parties concerned, especially the Orang Asli themselves. We have also requested a meeting with Dato' Ramli via a letter dated 29 July 2024, to discuss the matter further.

The Malaysian Bar is firm with our view that during engagements with the Orang Asli — in line with the principles of parliamentary democracy and universal best practices of free, prior, and informed consent of indigenous peoples in matters affecting them — the intent and wording of the proposed amendment should be fully disclosed and explained to the Orang Asli as early as possible to enable them to make an informed choice about their destiny.

Thus, we reiterate our call on the Malaysian Government to fulfil its obligations under the United Nations Declaration on the Rights of Indigenous Peoples 2007 ("UNDRIP"). In accordance with Article 19 of UNDRIP, the Government has a duty to "consult and cooperate in good faith" with the Orang Asli, and obtain their "free, prior and informed consent" in matters affecting them.

Mohamad Ezri b Abdul Wahab
President, Malaysian Bar

Memastikan Persetujuan Termaklum: Melindungi Hak Orang Asli dalam Pindaan Perlembagaan

19 Ogos 2024

(Versi terjemahan) — Harap maklum bahawa versi yang definitif untuk Kenyataan Media ini adalah versi Bahasa Inggeris yang dikeluarkan oleh Mohamad Ezri b Abdul Wahab, Yang Dipertua, Badan Peguam Malaysia, bertarikh 19 Ogos 2024.

Badan Peguam Malaysia mengambil maklum pemerhatian yang dibuat oleh Timbalan Yang di-Pertua Dewan Rakyat, Dato' Dr Ramli bin Dato' Mohd Nor ("Dato' Ramli") di Dewan Rakyat baru-baru ini, berhubung dengan cadangan pindaan perlembagaan untuk memindahkan perkara mengenai Orang Asli daripada Senarai Persekutuan ke dalam Senarai Bersama. Badan Peguam percaya bahawa pemerhatian ini tidak tepat dari segi undang-undang dan terdapat perkara-perkara yang tidak dinyatakan.

Pertama sekali, untuk menjawab kepada apa yang dikatakan oleh Dato' Ramli mengenai penggunaan tersendiri istilah "Orang Asli" dan "Orang Asal", sememangnya versi Bahasa Malaysia Perlembagaan Persekutuan menggunakan istilah "Orang Asli" untuk merujuk kepada orang asli di Semenanjung, dan "anak negeri" untuk merujuk kepada anak negeri di Sabah dan Sarawak. Walau bagaimanapun, Badan Peguam Malaysia berpendapat bahawa "Orang Asal" adalah istilah generik yang diterima secara meluas di peringkat antarabangsa untuk merujuk kepada orang asli, termasuklah kumpulan orang asli di Malaysia, di Semenanjung, dan Sabah dan Sarawak.

Badan Peguam Malaysia berpendirian bahawa pengaturan perlembagaan Negeri dan Persekutuan tidak seharusnya menyebabkan kebuntuan undang-undang untuk melindungi dan mengiktiraf tanah dan sumber Orang Asli di Semenanjung.

Berkenaan dengan hal tanah, di bawah Perkara 83 Perlembagaan Persekutuan, Kerajaan Persekutuan mempunyai kuasa untuk mengambil tanah daripada Negeri bagi maksud Persekutuan, yang jelas merangkumi hal-hal Orang Asli.

Di samping itu, di bawah Perkara 91 Perlembagaan Persekutuan, Kerajaan Persekutuan mempunyai kuasa perlembagaan untuk meluluskan dasar tanah di seluruh Semenanjung Malaysia melalui sepersetujuan dengan Kerajaan Negeri di Majlis Tanah Negara.

Badan Peguam Malaysia berpandangan bahawa, pada masa ini, terdapat kuasa Persekutuan yang mencukupi untuk menyelesaikan isu-isu tanah Orang Asli. Contoh undang-undang dan dasar yang telah diluluskan melalui Majlis Tanah Negara yang disebut di atas termasuklah Kanun Tanah Negara, dan yang lebih berkaitan lagi, dasar mengenai hak milik tanah Orang Asli pada tahun 2009.

Kami percaya bahawa cadangan untuk memasukkan perkara berkaitan dengan Orang Asli ke dalam Senarai Bersama tidak akan menambah nilai kepada

undang-undang kerana setiap Negeri masih boleh bertindak sendiri berkenaan dengan perkara tersebut.

Tambahan pula, dengan adanya perkara-perkara berkaitan dengan Orang Asli di dalam Senarai Bersama ia boleh menyebabkan kekeliruan, pertikaian, dan kelewatan dalam pentadbiran perkara-perkara ini.

Pun begitu, kami memuji Dato' Ramli atas inisiatif beliau untuk berunding dan melibatkan semua pihak yang berkenaan, khususnya Orang Asli sendiri. Kami juga telah memohon untuk mengadakan mesyuarat dengan Dato' Ramli melalui surat bertarikh 29 Julai 2024, untuk membincangkan perkara ini dengan lebih lanjut.

Badan Peguam Malaysia tegas dalam pandangan kami bahawa dalam rundingan dengan Orang Asli — selaras dengan prinsip demokrasi berparlimen dan amalan terbaik sejagat mengenai persetujuan yang bebas, awal dan termaklum daripada orang asli dalam perkara yang melibatkan mereka — niat dan perkataan yang ingin digunakan dalam pindaan yang dicadangkan hendaklah didedahkan sepenuhnya dan diterangkan kepada Orang Asli seawal mungkin bagi membolehkan mereka membuat pilihan termaklum tentang masa depan mereka.

Oleh itu, kami mengulangi gesaan kami kepada Kerajaan Malaysia untuk memenuhi kewajipannya di bawah Deklarasi Pertubuhan Bangsa-Bangsa Bersatu Mengenai Hak Orang Asal 2007 (United Nations Declaration on the Rights of Indigenous Peoples 2007, "UNDRIP"). Selaras dengan Perkara 19 UNDRIP, Kerajaan mempunyai kewajipan untuk "berunding dan bekerjasama dengan jujur" dengan Orang Asli, dan mendapatkan "persetujuan yang bebas, awal dan termaklum" dalam perkara yang melibatkan mereka.

Mohamad Ezri b Abdul Wahab
Yang Dipertua, Badan Peguam Malaysia

Strengthening the Independence and Integrity of the Syariah Judiciary: A Call for Reforms

26August 2024

The Malaysian legal system is a unique blend of different legal traditions. This is a result of historical and socio-cultural developments. We have inherited both the common law, which regulates most of our day-to-day affairs; and Syariah law, which regulates specific areas of the affairs of Muslims in Malaysia.

The Syariah Judiciary undoubtedly plays an important role in the administration of justice for Muslims. This is also evidenced by the increasing number of cases registered at the Syariah Courts. Some older statistics[1] provided by Jabatan Kehakiman Syariah Malaysia (Department of Syariah Judiciary Malaysia) on the number of registered non-criminal Syariah cases (referred to as "mal" cases in Syariah law terminology) show an upward trend between 2013 and 2017 — a total of 87,804 cases were registered in 2013, which increased to 105,372 cases registered in 2017.

Due to the increasing workload that the Syariah Judiciary has to undertake, it is vital for this institution to perform its functions as required by law, free from any external influence. In this aspect, there lies an imbalance between the features of the Malaysian Civil Judiciary and the Syariah Judiciary. While the Civil Judiciary has progressed and made a number of important reforms contributing towards greater judicial independence, the Syariah Judiciary has yet to undergo such reforms.

That said, there have been some recent developments which indicate that the Syariah Judiciary is going in the right direction. One such development is a proposal made by the Minister in the Prime Minister's Department (Religious Affairs), Dato' Dr Mohd Na'im Mokhtar, concerning the establishment of a Syariah Judicial Appointments Commission.[2] The establishment of such a commission would go a long way towards promoting the independence of the Syariah Judiciary, and would set out a clear, transparent, and accountable manner of appointing Syariah Judges.

While the establishment of a Syariah Judicial Appointments Commission represents an important step, more could be done to ensure the independence of the Syariah Judiciary. The following are features that could be implemented within the Syariah Judiciary:

(1) Separation of powers: The Syariah Court must be seen as distinct from other branches of Government, particularly the Executive and Legislative branches. With this clear separation, Syariah Court Judges will be seen to be independent of political pressures or Executive influence;

(2) Security of tenure: Syariah Court Judges should have security of tenure, meaning they cannot be easily removed from their positions without proper cause and due process. This prevents unjust dismissals or transfers motivated by dissatisfaction with a Judge's rulings;

(3) Financial independence: The Syariah Judiciary should have sufficient financial resources to operate independently. This includes adequate salaries for its Judges, thereby acting as a deterrent against corruption, which would otherwise compromise judicial impartiality. In this regard, a recent announcement by Prime Minister Dato' Seri Anwar Ibrahim on the introduction of a Syariah Judges' Remuneration Act,[3] is very timely; and

(4) Protection from external pressure: Syariah Court Judges must be protected from external pressures, whether from political leaders, religious authorities, or social influences, to ensure that their decisions are based solely on the law.

With these key reforms in place, we expect to see a revitalisation of the Syariah legal system, which would lead to an improved justice system for Muslims in Malaysia, and elevate Malaysia in the area of administration of Syariah law.

The integrity and independence of both the Civil and Syariah Courts are fundamental to maintaining public confidence in the justice system. Therefore, the Malaysian Bar calls for continuous efforts to strengthen these institutions through meaningful reforms, particularly within the Syariah Judiciary, as reforms to this institution have been few and far between.

In this regard, the Malaysian Bar reaffirms its commitment to upholding the rule of law and the principles of justice within the Malaysian legal system. As we move forward, the Malaysian Bar calls upon all concerned parties within both sides of the Civil and Syariah law divide to work together to preserve the delicate balance between both systems of law, safeguarding the rights and freedoms of **all** Malaysians, within the framework of our legal system.

Mohamad Ezri b Abdul Wahab
President, Malaysian Bar

1 "Pendaftaran Kes MAL - Mahkamah Syariah Tahun 2013-2017" (click on "Muat Turun" to view the data), data.gov.my website.

2 "PM's Dept to propose a syariah judicial appointments commission, says Mohd Na'im", The Star, 15 July 2024.

3 "Govt wants to ensure Syariah and civil court judges salaries balanced", New Straits Times, 15 July 2024.

Memperkukuh Kebebasan dan Integriti Kehakiman Syariah: Seruan untuk Reformasi

26 Ogos 2024

(Versi terjemahan) — Harap maklum bahawa versi yang definitif untuk Kenyataan Media ini adalah versi Bahasa Inggeris yang dikeluarkan oleh Mohamad Ezri b Abdul Wahab, Yang Dipertua, Badan Peguam Malaysia, bertarikh 26 Ogos 2024.

Sistem perundangan Malaysia merupakan gabungan unik daripada pelbagai tradisi undang-undang. Ini merupakan hasil daripada perkembangan sejarah dan sosio-budaya. Kita telah mewarisi undang-undang common law yang mengawal kebanyakan daripada aspek kehidupan harian kita, manakala undang-undang Syariah yang mengawal bidang tertentu urusan umat Islam di Malaysia.

Tanpa sebarang keraguan Kehakiman Syariah memainkan peranan penting dalam pentadbiran keadilan bagi umat Islam. Hal ini terbukti dengan peningkatan jumlah kes yang didaftarkan di Mahkamah Syariah. Berdasarkan statistik lama[1] yang disediakan oleh Jabatan Kehakiman Syariah Malaysia mengenai bilangan kes Syariah bukan jenayah yang didaftarkan (dirujuk sebagai kes "mal" dalam terminologi undang-undang Syariah) menunjukkan trend yang meningkat antara tahun 2013 dan 2017 — sejumlah 87,804 kes didaftarkan pada tahun 2013 meningkat kepada 105,372 kes telah didaftarkan pada tahun 2017.

Dengan peningkatan beban kerja yang perlu ditanggung oleh Kehakiman Syariah, sangat penting bagi institusi ini untuk melaksanakan fungsinya seperti yang dikehendaki oleh undang-undang iaitu bebas daripada sebarang pengaruh luar. Dalam aspek ini, terdapat ketidakseimbangan antara ciri-ciri Kehakiman Sivil Malaysia dan Kehakiman Syariah. Sementara Kehakiman Sivil telah berkembang dan melaksanakan beberapa pembaharuan penting yang menyumbang kepada kebebasan kehakiman yang lebih besar, Kehakiman Syariah masih belum mengalami pembaharuan sedemikian.

Namun begitu, terdapat beberapa perkembangan terkini yang menunjukkan bahawa Kehakiman Syariah sedang bergerak ke arah yang betul. Salah satu perkembangan ini ialah cadangan yang dikemukakan oleh Menteri di Jabatan Perdana Menteri (Hal Ehwal Agama), Dato' Dr Mohd Na'im Mokhtar, mengenai penubuhan Suruhanjaya Pelantikan Kehakiman Syariah.[2] Penubuhan suruhanjaya sedemikian akan membawa kepada peningkatan kebebasan Kehakiman Syariah, dan akan menetapkan cara yang jelas, telus, dan bertanggungjawab dalam pelantikan Hakim Syariah.

Walaupun penubuhan Suruhanjaya Pelantikan Kehakiman Syariah merupakan satu langkah penting, lebih banyak yang boleh dilakukan untuk memastikan kebebasan Kehakiman Syariah. Berikut adalah ciri-ciri yang boleh dilaksanakan dalam Kehakiman Syariah:

(1) Pengasingan kuasa: Mahkamah Syariah harus dilihat sebagai entiti yang berbeza daripada cabang Kerajaan yang lain, terutamanya cabang Eksekutif dan Legislatif. Dengan pengasingan yang jelas ini, Hakim Mahkamah Syariah akan dilihat bebas daripada tekanan politik atau pengaruh Eksekutif;

(2) Keterjaminan jawatan: Perlu ada jaminan bagi jawatan seseorang Hakim Mahkamah Syariah supaya mereka tidak boleh dipecat dengan mudah daripada jawatan mereka tanpa sebab yang sah dan proses yang sewajarnya. Ini untuk mengelakkan pemecatan atau pemindahan yang tidak adil yang didorong oleh ketidakpuasan hati terhadap keputusan Hakim;

(3) Kebebasan kewangan: Kehakiman Syariah harus mempunyai sumber kewangan yang mencukupi untuk bertindak secara bebas. Ini termasuk bayaran gaji yang mencukupi untuk Hakim-Hakim supaya ia menjadi pencegah kepada rasuah yang boleh menjejaskan sikap berkecuali pihak kehakiman. Dalam hal ini, pengumuman Perdana Menteri Dato' Seri Anwar Ibrahim baru-baru ini mengenai Akta Saraan Hakim Syarie[3] adalah sangat tepat pada masanya; dan

(4) Perlindungan daripada tekanan luar: Hakim Mahkamah Syariah mesti dilindungi daripada tekanan luar, sama ada daripada pemimpin politik, pihak berkuasa agama, atau pengaruh sosial untuk memastikan keputusan yang mereka buat hanya berlandaskan undang-undang.

Dengan pelaksanaan reformasi utama ini, kita menjangkakan pemberian nafas baharu kepada sistem undang-undang Syariah yang akan membawa kepada sistem keadilan yang lebih baik untuk umat Islam di Malaysia, dan akan mengangkat kedudukan Malaysia dalam bidang pentadbiran undang-undang Syariah.

Integriti dan kebebasan kedua-dua Mahkamah Sivil dan Syariah merupakan asas untuk mengekalkan keyakinan awam terhadap sistem keadilan. Oleh itu, Badan Peguam Malaysia menyeru usaha berterusan untuk memperkukuh institusi-institusi ini melalui reformasi yang bermakna, terutamanya dalam Kehakiman Syariah kerana reformasi terhadap institusi ini masih sedikit dan jarang dilakukan.

Dalam hal ini, Badan Peguam Malaysia menegaskan komitmennya untuk menegakkan kedaulatan undang-undang dan prinsip-prinsip keadilan dalam sistem perundangan Malaysia. Ketika kita bergerak ke hadapan, Badan Peguam Malaysia menyeru semua pihak yang berkepentingan dalam kedua-dua sistem undang-undang Sivil dan Syariah untuk bekerjasama dalam mengekalkan keseimbangan yang rumit antara kedua-dua sistem undang-undang ini, demi melindungi hak dan kebebasan **semua** rakyat Malaysia dalam rangka kerja sistem perundangan kita.

Mohamad Ezri b Abdul Wahab
Yang Dipertua, Badan Peguam Malaysia

1 "Pendaftaran Kes MAL - Mahkamah Syariah Tahun 2013-2017" (sila klik "Muat Turun" untuk melihat data), laman web data.gov.my.

2 "PM's Dept to propose a syariah judicial appointments commission, says Mohd Na'im", The Star, 15 Julai 2024.

3 "Govt wants to ensure Syariah and civil court judges salaries balanced", New Straits Times, 15 Julai 2024.

A Holistic Approach is Needed to Protect the Safety and Welfare of Children

18 September 2024

The Malaysian Bar is horrified at the distressing revelations following the raids conducted by the Royal Malaysia Police (Polis Diraja Malaysia, "PDRM") on 20 welfare homes in Selangor and Negeri Sembilan, believed to be operated by Global Ikhwan Service and Business Holding.[1]

The reports of systemic sexual abuse, grooming, and exploitation of child victims within these centres are both shocking and heartbreaking. The Malaysian Bar expresses its utmost support for the prompt actions taken by PDRM and other authorities involved, including the Department of Social Welfare (Jabatan Kebajikan Masyarakat, "JKM") and the Ministry of Health Malaysia.

The Malaysian Bar stands with the Children's Commissioner of the Human Rights Commission of Malaysia (Suruhanjaya Hak Asasi Manusia Malaysia, "SUHAKAM"), Dr Farah Nini Dusuki,[2] in condemning the gross violations suffered by the children in these welfare homes. These centres, intended to provide care and protection, have tragically become sites of horrific abuse. This cannot be tolerated in any society that values the safety and well-being of its children.

While we commend the authorities for their intervention, we must acknowledge that the reported cases could be the tip of the iceberg. The fact that care homes have operated for years without proper oversight raises alarming questions about the existing regulatory framework governing these care homes. The Malaysian Bar calls upon all regulatory bodies, not just PRDM and JKM, to enforce stricter compliance measures and ensure that all such centres are diligently monitored and regulated.

It is crucial that we adopt a holistic approach to prevent the recurrence of such tragedies. This includes not only immediate action against the perpetrators, but also undertaking a long-term reform of the systems overseeing these centres. We urge the Government to consider the establishment of a Royal Commission of Inquiry ("RCI"), as proposed by Dr Farah Nini in SUHAKAM's press statement, to thoroughly investigate the shortcomings that have allowed such abuses to continue for years. The findings of the RCI will hopefully lead to meaningful reforms in child protection policies and institutional oversight mechanisms.

The Malaysian Bar also stresses the importance of public awareness and participation. It is essential for the rakyat to realise that unregulated care centres present significant risks, particularly for vulnerable groups such as children. We call on every member of society to cooperate with the authorities, report any suspicious activities, and actively participate in safeguarding the welfare of our children.

The Malaysian Bar wishes to record its appreciation to YB Dato' Sri Azalina Othman Said, for her instruction to the Legal Aid Department to provide legal companion services to the children and their families.[3] In this regard, the Malaysian Bar voices its readiness to provide its unwavering support and assistance to the victims involved.

We cannot afford to allow such horrific abuses to go unnoticed again. The Malaysian Bar will continue to advocate justice for the victims and ensure that proper measures are taken to eliminate these threats to our society. Together, we must work towards creating a safer environment where the rights and dignity of every child are protected.

Mohamad Ezri b Abdul Wahab
President, Malaysian Bar

1 "Media Conference by Inspector-General of Police, Tan Sri Razarudin Husain", 11 September 2024.

2 "Press Statement No. 21-2024 (OCC)_PDRM Raid on GISB's Care Homes: CC Troubled for Child Victims Involved", 13 September 2024, SUHAKAM website.

3 "Legal companion services to be provided, says Azalina", The Star, 14 September 2024.

Pendekatan Holistik Diperlukan untuk Melindungi Keselamatan dan Kebajikan Kanak-Kanak

18 September 2024

(Versi terjemahan) — Harap maklum bahawa versi yang definitif untuk Kenyataan Media ini adalah versi Bahasa Inggeris yang dikeluarkan oleh Mohamad Ezri b Abdul Wahab, Yang Dipertua, Badan Peguam Malaysia, bertarikh 18 Sept 2024.

Badan Peguam Malaysia amat terkejut dan bimbang dengan pendedahan yang mengerikan berikutan serbuan oleh Polis Diraja Malaysia ("PDRM") ke atas 20 rumah kebajikan di Selangor dan Negeri Sembilan, yang dipercayai dikendalikan oleh Global Ikhwan Service and Business Holding.[1]

Laporan mengenai penderaan, pengantunan (grooming) dan eksploitasi seksual yang sistemik terhadap mangsa kanak-kanak di pusat-pusat ini amat mengejutkan dan menyayat hati. Badan Peguam Malaysia menyokong sepenuhnya tindakan segera yang diambil oleh PDRM dan pihak berkuasa lain yang terlibat, termasuk Jabatan Kebajikan Masyarakat ("JKM") dan Kementerian Kesihatan Malaysia.

Badan Peguam Malaysia, bersama Pesuruhjaya Kanak-Kanak Suruhanjaya Hak Asasi Manusia Malaysia ("SUHAKAM"), Dr Farah Nini Dusuki,[2] mengecam keras pelanggaran melampau yang dialami oleh kanak-kanak dalam rumah-rumah kebajikan ini. Rumah-rumah ini, yang sepatutnya memberikan penjagaan dan perlindungan, malangnya, telah bertukar menjadi tempat penderaan yang mengerikan. Apa yang terjadi ini sama sekali tidak boleh diterima dalam mana-mana masyarakat yang mengutamakan keselamatan dan kesejahteraan anak-anaknya.

Dalam kita memuji campur tangan pihak berkuasa, kita mesti mengakui bahawa kes yang dilaporkan ini mungkin hanyalah permulaan. Hakikat bahawa rumah-rumah jagaan ini telah beroperasi selama bertahun-tahun tanpa pengawasan yang sewajarnya menimbulkan persoalan yang membimbangkan tentang rangka kerja kawal selia sedia ada. Badan Peguam Malaysia menyeru agar semua badan kawal selia, bukan sahaja PDRM dan JKM, menguatkuasakan langkah pematuhan yang lebih ketat dan memastikan rumah-rumah ini dipantau dan dikawal dengan teliti.

Adalah penting untuk kita menggunakan pendekatan holistik bagi mengelakkan tragedi tersebut berulang. Ini termasuk bukan sahaja tindakan segera terhadap pelaku, tetapi juga melaksanakan pembaharuan jangka panjang terhadap sistem yang mengawasi rumah-rumah ini. Kami menggesa Kerajaan untuk mempertimbangkan penubuhan Suruhanjaya Siasatan Diraja (Royal Commission of Inquiry, "RCI"), seperti yang dicadangkan oleh Dr Farah Nini dalam kenyataan media SUHAKAM, untuk menyiasat secara menyeluruh kelemahan yang membenarkan penderaan ini berlarutan selama bertahun-tahun. Penemuan RCI diharapkan dapat membawa pembaharuan bermakna dalam dasar perlindungan kanak-kanak dan mekanisme pengawasan institusi.

Badan Peguam Malaysia juga menekankan kepentingan kesedaran dan penyertaan awam. Adalah penting bagi rakyat untuk menyedari bahawa rumah jagaan yang tidak dikawal mempunyai risiko yang besar, terutamanya terhadap golongan rentan (vulnerable group), seperti kanak-kanak. Kami menyeru setiap anggota masyarakat untuk bekerjasama dengan pihak berkuasa, melaporkan sebarang aktiviti mencurigakan, dan berperanan aktif dalam menjaga kebajikan anak-anak kita.

Badan Peguam Malaysia ingin merakamkan penghargaan kepada YB Dato' Sri Azalina Othman Said, atas arahan beliau kepada Jabatan Bantuan Guaman untuk menyediakan khidmat pendamping guaman kepada kanak-kanak serta ahli keluarga.[3] Dalam hal ini, Badan Peguam Malaysia bersedia untuk memberikan bantuan serta sokongan yang tidak berbelah bahagi kepada mangsa-mangsa terbabit.

Kita tidak boleh membiarkan penderaan mengerikan seperti ini terus diabaikan begitu sahaja. Badan Peguam Malaysia akan terus memperjuangkan keadilan untuk mangsa dan memastikan tindakan sewajarnya diambil untuk menghapuskan ancaman ini dalam masyarakat kita. Bersama-sama, kita mesti berusaha mewujudkan persekitaran yang lebih selamat agar hak dan maruah setiap kanak-kanak dilindungi.

Mohamad Ezri b Abdul Wahab
Yang Dipertua, Badan Peguam Malaysia

1 "Sidang Media oleh Ketua Polis Negara, Tan Sri Razarudin Husain", 11 September 2024.

2 "Kenyataan Media No. 21-2024 (OCC)_Serbuan PDRM Rumah Amal GISB: CC Dukacita Terhadap Mangsa Kanak-Kanak Terlibat", 13 September 2024, laman web SUHAKAM.

3 "Legal companion services to be provided, says Azalina", The Star, 14 September 2024.

There is an Urgent Need to Appoint a New Chief Judge of Malaya

19 September 2024

As one of the key stakeholders in the administration of justice, the Malaysian Bar is deeply concerned about the ongoing delay in the appointment of the Chief Judge of Malaya ("CJM"), a post that has remained vacant since the end of February this year.

We acknowledge and appreciate the commendable efforts of YAA Tan Sri Datuk Amar Abang Iskandar Abang Hashim, who has assumed the role of acting CJM,[1] in addition to his role as President of the Court of Appeal. However, it is crucial to recognise that these two positions were designed to be distinct: each with its own responsibilities, focusing on different tiers of the Court system. The fact that these positions have historically been held by different individuals also underscores the importance of maintaining the separation of these critical judicial functions.

The Malaysian Bar has closely followed public discourse on this issue. We share the public's concern that the continued vacancy in this key position could undermine the perception of stability and leadership within the Judiciary. The role of the CJM is not merely symbolic but is essential in overseeing the Judiciary, ensuring the smooth administration of justice, and safeguarding the independence of the courts.

Moreover, we firmly believe that the Malaysian Judiciary is composed of capable, experienced, and highly qualified judges who are more than prepared to assume the role of CJM. Without a doubt, our judges would have spent years in the legal profession and on the Bench developing both the legal and managerial acumen necessary to lead the Judiciary. Hence, there seems to be no good reason for the delay in appointing a new CJM.

The CJM holds many important functions pertaining to the administration of the High Court in Malaya. One of the main responsibilities of the CJM is the delegation of cases between the High Court Judges.2 Case law3 has determined that this power is a discretion of the CJM, and is thus not amenable to judicial review.

The CJM also has a role in the appointment of High Court Judges serving in Peninsular Malaysia. Before tendering advice to the Yang di-Pertuan Agong ("YDPA") on the appointment of a High Court Judge, the Prime Minister is obliged to consult both the Chief Justice and the CJM.4 Even with the transfer of a Judge from one High Court to another, a recommendation may be made by the Chief Justice to the YDPA, after consulting both the CJM and the Chief Judge of Sabah and Sarawak.5

When it comes to regulating and prescribing the procedure in the Courts, the CJM also plays a central role. The CJM sits as one of the members of the Rules Committee, which is responsible for issuing the Rules of Court. The Rules of Court determine matters of procedure and are invaluable for the smooth and effective flow of litigation. Additionally, the CJM has the authority to issue practice directions on the interpretation and execution of the Rules of Court.6

The foregoing is merely a glance at the many responsibilities of the CJM. Although a senior judge may assume the role of acting CJM in the event of a vacancy, this should only be a stop-gap measure when the Office becomes immediately vacant. It should not be a permanent state of affairs. There is an urgent need to fill this vacancy, not only because of the importance of the CJM's Office, but because allowing this vacancy to persist prevents the progression of judges within the system who have spent their entire careers honing their judicial skills and abilities. It would be a great disservice to the Judiciary to withhold the progression of these judges, as they will not be able to make use of their wisdom and skills for the betterment of the Malaysian justice system. This is especially pertinent, considering judges undergo compulsory retirement at the age of 66 years.7

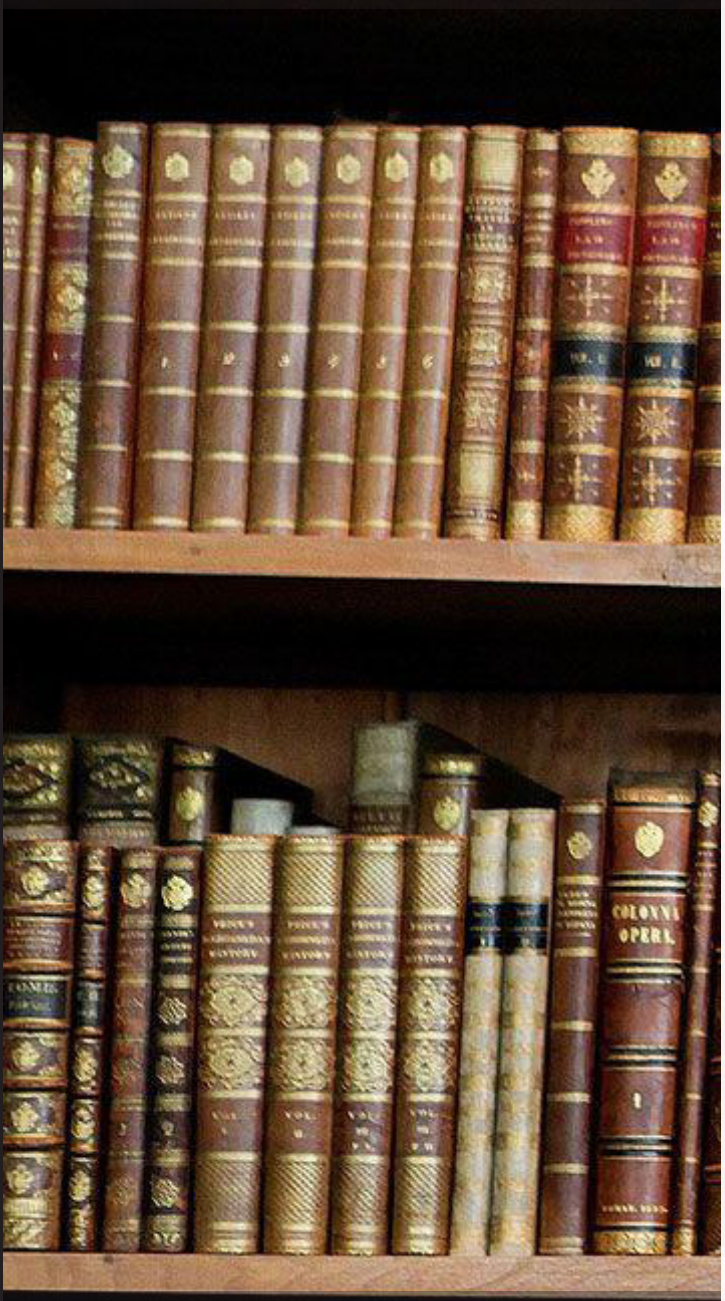
Aside from delaying the progression of judges up the ranks, this stagnancy could also prevent the appointment of new Judicial Commissioners from either the Bar or the Judicial and Legal Services. There are many members of the legal profession who have dedicated their time and energy to becoming leading practitioners, often in niche areas of law, and are willing to further contribute to the development of the law by joining the Bench. Delays in appointing new Judicial Commissioners would result in frustration, and even deter some from applying to join the Judiciary. Such a situation would be to the detriment of our justice system.

In recognising the importance of the role of the CJM in upholding the rule of law and ensuring continued public confidence in our legal system, the Malaysian Bar urges the expedition of the appointment of a new CJM. Any further delay risks undermining the progress our Judiciary has made and could impede the effective administration of justice.

Mohamad Ezri b Abdul Wahab
President, Malaysian Bar

1 "Abang Iskandar appointed acting Chief Judge of Malaya", New Straits Times, 6 March 2024.
2 Courts of Judicature Act 1964, section 20.
3 See, for instance, Mkini Dotcom Sdn Bhd & Ors v Chief Judge of Malaya & Ors [2016] 8 MLJ 357.
4 Federal Constitution, Article 122B.
5 Federal Constitution, Article 122C.
6 Rules of Court 2012, Order 92, Rule 3B.
7 Federal Constitution, Article 125, Clause 1

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