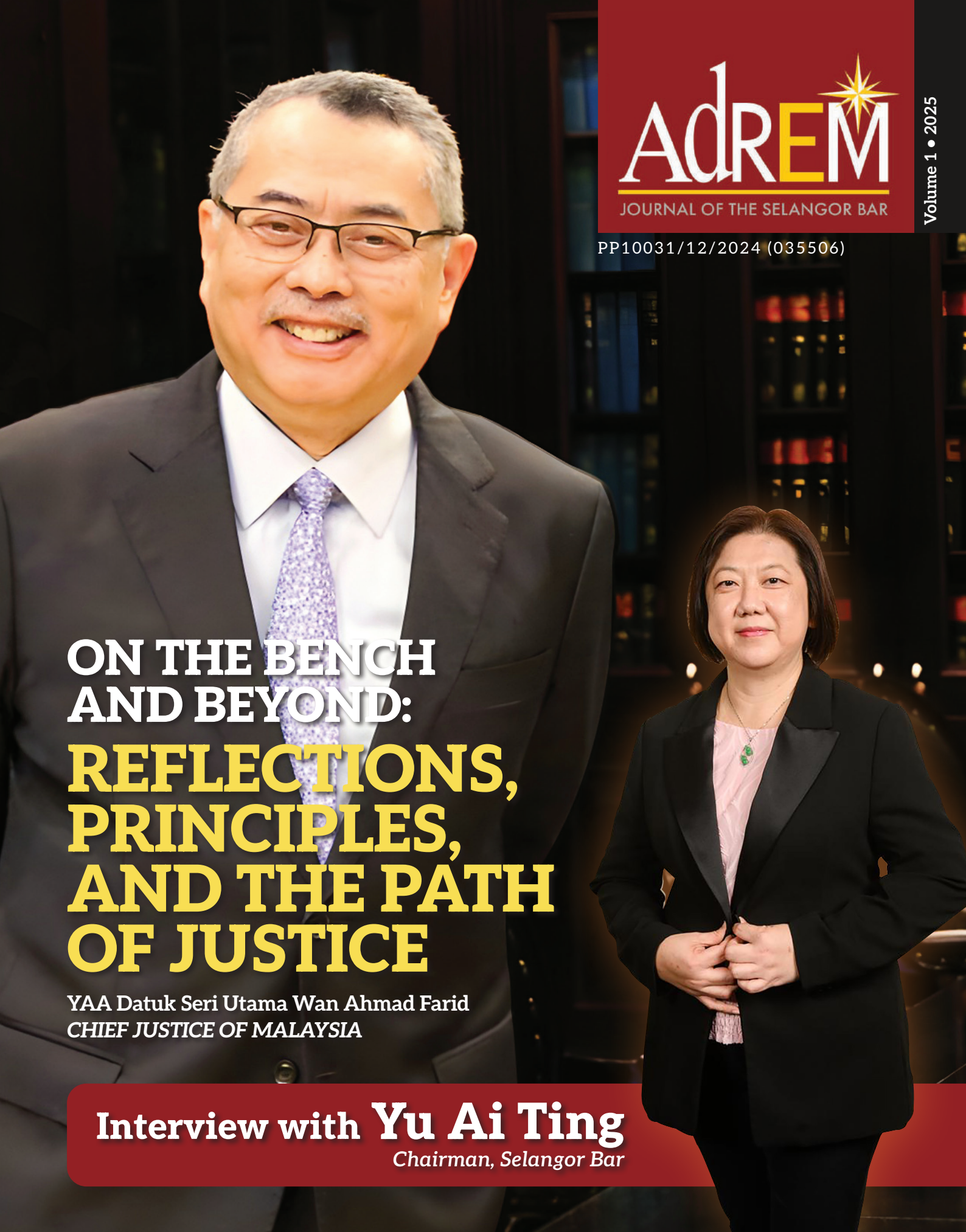
AdREM
JOURNAL OF THE SELANGOR BAR
Volume 1 • 2025
PP10031/12/2024 (035506)



ON THE BENCH AND BEYOND: REFLECTIONS, PRINCIPLES, AND THE PATH OF JUSTICE

YAA Datuk Seri Utama Wan Ahmad Farid
CHIEF JUSTICE OF MALAYSIA

Interview with Yu Ai Ting

Chairman, Selangor Bar

MARSDEN LAW BOOK SDN BHD

[SINCE 1987]

YOUR TRUSTED PUBLISHER | RETAILER | LIBRARY SUPPLIER | DIGITAL PROVIDER

THE LARGEST LAW BOOK SHOWROOM IN MALAYSIA

MARSDEN SUPREME TODAY AI

YOUR 24/7 PERSONAL LEGAL ASSISTANT

Real Time AI-Chat assistance

Ask any legal question and receive responses backed by relevant Malaysian case laws, including suggested prepared arguments, cross-examination questions, risk assessments, strategy and etc.

AI Drafting

Marsden Supreme Today AI facilitates the drafting of various legal documents, including submissions, affidavits, & corporate documents, with seamless translation into Bahasa Malaysia & other languages.

Upload any legal documents

This platform analyses legal documents to produce customisable outputs. Upload your documents to generate case analysis, highlight key points, & suggested memorandum of appeal. You can also upload your documents to draft submissions or reply to submission. Suggested cross-examination questions, arguments, likely judicial outcomes & translate your documents to your preferred language & etc.

Legislation

This platform provides access to statutes, annotated statutes, and legal articles from Malaysia and India.

Words & Phrases

An integrated legal dictionary designed to accurately define terminology.

AI Summarized, Precise, Simplified

Access clear & precise legal summaries in every case law and generate detailed chronologies of dates & events for easy reference.

Parallel Paragraph

Identifies Similar Legal Judgments based on the selected paragraph

Advanced Features:

- **Strategy:** Discover legal strategies for preparing your case.
- **Argument:** Construct strong arguments for your case.
- **Risk:** Identify legal risks in different situations.
- **Cross Examination:** Get suggested resources for preparing cross-examination questions.
- **Trial:** Use a checklist to prepare for trials.

✓ **Access over 11 million cases from 250 law journals across Malaysia, India, UK, Australia, and other Commonwealth countries.**

✓ **Save up to 50% of time on research & drafting. What used to take days for research, now takes hours.**

✓ **Affordable and Standalone: Your Personal Legal Assistant (LA) for just RM2,970 (inclusive SST 8%) per user annually. GOOD REVIEWS FROM USERS.**

Phone | +603 - 6205 4391, 4227, 4228, 4229
Whatsapp @ Edwin Marsden | +60 12-221 1662
marsdenlawbook.com
info@marsdenlawbook.com
MARSDEN LAW BOOK SDN. BHD.
B3-1-5, Publika, No, 1, Jalan Dutamas 1,
Solaris Dutamas, 50480 KL, Malaysia

AdRem
Journal of The Selangor Bar

Volume 1, 2025
PP10031/12/2024 (035506)

Front Cover:

YAA Datuk Seri Utama Wan Ahmad Farid

Yu Ai Ting

FROM THE EDITOR'S DESK

FOREWARD

Hj Zainal Abidin
Publication Co-Chairperson

Dinesh
Publication Co-Chairperson

As we step into 2026, we do so with a renewed spirit of optimism. The beginning of a new year offers an invaluable opportunity for reflection, growth, and the pursuit of excellence. In that spirit, we are pleased to present the latest edition of AdRem, carefully curated to reflect the vibrancy, progress, and aspirations of the Selangor Bar.

This year's issue brings together a diverse collection of articles, interviews, speeches, and features that celebrate the accomplishments and perspectives of our members. It provides thoughtful commentary on contemporary developments, emerging trends, and significant events that continue to shape our legal landscape. We are honoured to feature interviews with several distinguished figures of the Malaysian legal fraternity, including Datuk Seri Utama Wan Ahmad Farid bin Wan Salleh, Dato' Mary Lim Thiam Suan, and Huzir Sulaiman in a special tribute to his late father, Dato' Haji Sulaiman Abdullah. Each interview offers invaluable insight into leadership, integrity, and the evolving nature of the legal profession.

We also include the opening address delivered by the Chief Justice of Malaysia, Datuk Seri Utama Wan Ahmad Farid bin Wan Salleh, at the Selangor Bar Law Conference 2025. His Lordship's remarks confront the res nova challenges posed by artificial intelligence and digital commerce, while underscoring that judicial reasoning and the administration of justice must remain firmly rooted in human judgment. His address examines complex issues arising from cryptocurrencies, smart contracts, and cross-border digital transactions, reminding us that while the law must evolve, it must do so guided by enduring constitutional values; human dignity, the rule of law, and the separation of powers.

Complementing this is the opening keynote delivered by former Chief Justice Tun Tengku Maimun binti Tuan Mat at the Inaugural Selangor Bar Conveyancing Practitioners Forum and Hi-Tea 2025. Her speech reinforces conveyancing as a foundational legal function that gives real effect to the constitutional right to property. Drawing on landmark judicial authorities, she highlights the indispensable role of integrity, diligence, and ethical conduct

in maintaining public trust, while emphasizing the need for cooperation between the Bar, governmental bodies, and institutions as we embrace digital transformation without compromising professional responsibility.

This edition also features an in-depth interview marking the current Chief Justice's first 100 days in office, where His Lordship reflects on memorable moments on the Bench, particularly the admission of new advocates and solicitors. He emphasises that public confidence in the judiciary rests on decisions grounded strictly in fact, law, and integrity. His Lordship's guidance for younger members of the profession; resist temptation, act with a clear conscience, and remain steadfast in ethical principles, remains especially resonant.

In another compelling feature, former Federal Court Judge Dato' Mary Lim Thiam Suan recounts her journey from humble beginnings in Muar to the apex of Malaysia's judiciary and her current leadership at the AIAC. Her reflections on navigating the legal world as a woman and a non-Malay, her commitment to fairness, and her principled approach to decision-making serve as an inspiration to the profession.

Further, Huzir Sulaiman offers a heartfelt tribute to his late father, Dato' Sulaiman Abdullah, describing him as a gentle and reflective figure whose dedication to integrity, manners, learning, and cultural pride shaped both his family life and legal practice. His legacy, as an advocate of dialogue, discretion, and human dignity, continues to leave a lasting imprint on the Malaysian legal landscape.

We also present an interview with the current Chairman of the Selangor Bar, Yu Ai Ting, who shares her vision for cultivating a more accessible and supportive environment for members. Her commitment and tireless efforts to address the concerns of the Selangor Bar exemplify the leadership and dedication that sustain our community.

As we conclude this Foreword and welcome a new year, we extend our sincere appreciation to our editorial team and to every member of the Selangor Bar for your steadfast support, resilience, and contributions throughout the past year. Your collective efforts continue to demonstrate what we can achieve together.

Here's to another year of shared purpose, meaningful progress, and continued collaboration.

The Selangor Bar Committee 2025-2026

Standing (Left to Right) 2nd Row:
N.K. Thinnagaran (Executive Secretary), Ron Ong Kit Wee, Dinesh Nandrajog, Bylian Kuo Yih Shiuan

Standing (Left to Right) 1st Row:
Naveen Chandra Bose, Cyrus Tiu Foo Woei, Christopher Joseph, Haji Zainal Abidin Bin Shaikh Zakaria, Muniandy Vestanathan

Sitting (Left to Right):
Cassandra Nicole Thomazios, Nurul Muhaniza Hanafi (Honorary Secretary), Yu Ai Ting (Chairman), Richard Teh (Treasurer) Dato Rajpal Singh (Bar Representative)

Not in picture: Navin Punj

Editorial Board

Publication Chairpersons:
Dinesh Nandrajog & Hj Zainal Abidin

Editorial Board Members:
Dinesh Nandrajog & Hj Zainal Abidin

Advertising Sales Enquiry:
N.K. Thinnagaran
(+603-5519 6219 or secretariat@sgorbar.org)

All payments towards the advertisements booked are to be crossed and made payable to "Selangor Bar Committee" at least a week prior to publication deadline. Advertisement material to be submitted two weeks before production.

Secretariat Staff

Sitting Up (Left to Right):
S.Gunaalan, Abd Samat bin Muhammad Kassim, Khairul Nizam bin Abd Samad

Sitting Down (Left to Right):
A. Tulasi, Shariza Binti Mohamad, N.K. Thinnagaran, Sree Kumare, Farizan Binti Abdul Satar.

AdRem is the official publication of the Selangor Bar Committee. For correspondence through post:
The Editor,
39-1, Jalan Bola Jaring, 13/15 Section 13, 40100 Shah Alam, Selangor Darul Ehsan, Malaysia
Communication: Tel: +603 5519 6219 | Fax: +603 5519 9037 | Email: secretariat@sgorbar.org

Design & Printing:
Ultimate Print Sdn. Bhd.
Lot 2, Jalan Sepana 15/3, Off Persiaran Selangor, Seksyen 15, 40200 Shah Alam, Selangor

AdREM
JOURNAL OF THE SELANGOR BAR

Contents

INTERVIEWS

05 On the Bench and Beyond: Reflections, Principles, and the Path of Justice
YAA Datuk Seri Utama Wan Ahmad Farid

08 Interview with **Dato' Mary Lim**

17 Interview with **Mr. Huzir Sulaiman**

31 Interview with **Yu Ai Ting**

ARTICLES

35 Law and Practice of Family Law in Malaysia – 2nd Edition
YAA Datuk Seri Utama Wan Ahmad Farid

39 The Role Of Conveyancing In Upholding The Rule Of Law And Public Trust
Tun Tengku Maimun Binti Tuan Mat

47 A Practical Guide To Drafting A Statement Of Case In The Industrial Court
Bernard Scott

55 & 59
- Practical Guide to Cross-Examination
- The Art of Re-Examination

J. Edwin Rajasooria

62 Digital Evidence In Trial
Annou Xavier

72 Challenges Facing the Montevideo Convention on the Rights and Duties of State
Archana Vijai Kumar

81-128 **EVENTS**

129-137 **MEETINGS**

138-144 **LIST OF TALKS**

On the Bench and Beyond: Reflections, Principles, and the Path of Justice

YAA Datuk Seri Utama Wan Ahmad Farid
Chief Justice of Malaysia

On 5 December 2025, the AdRem editorial team from the Selangor Bar Council committee along with journalists from various other local publications such as The Edge, Malaysiakini, The Malay Mail, Utusan, Sin Chiew Daily, and many others attended a joined meeting organised by the office of the Honourable Justice Datuk Seri Utama Wan Ahmad Farid Bin Wan Salleh, Chief Justice of Malaysia (also addressed as Yang Amat Arif in this article) at his office in the Palace of Justice, Putrajaya. This meeting was to commemorate his Lordship's 100th days in office as Chief Justice.

Here, AdRem shall focus on questions brought forth by the Selangor Bar Committee's editorial team to his Lordship.

During your time so far as a judge, what has been the most memorable moment of your judicial service?

Well, the most memorable part in my career as judge is when the Court admits petitioners as advocates and solicitors during a court proceeding better known as the long call proceeding. The excitement in the atmosphere is greatly felt, more so with the parents who are present in court to witness the success of their children. There is a sense of satisfaction not only with the petitioner, but also the members of their families.

I normally take this opportunity to give them advice, either in relation to law practice or life in general, or both

Public trust in the judiciary is crucial. What steps do you believe are essential to enhance transparency and accountability within the judicial system?

Insofar as transparency is concerned, the public trust. Judges can make judgement one way or another. In fact, in a panel of five or even three members of the Court of Appeal for the court, there are of course dissenting judgements sometimes.

The judgement in itself is not important. What is important is that the judgement is based on facts of law. People have different opinions, as do judges. They too, have different views. In fact, not many people know that there will be a lot of discussions going on in the anteroom before we decide. Discussions there could be quite intense. But finally, we will either agree to dissent, or we may have a unanimous decision among ourselves. So, what is more important is the decision on the judgement has to be purely based on facts and law. It should not be influenced by other factors though we do take into consideration the mitigating factors in criminal cases.

These factors include whether this is the accused's first crime, or for example if it involves a mother who stole milk powder because she couldn't feed her baby milk for a few days before she succumbed to committing a crime.

Otherwise, our decision to gain public trust must be solely based on facts and law. So, this is the integrity that we're talking about.

The third question is, what advice would you give to young lawyers and aspiring judges who wish to serve with integrity and excellence?

There is one piece of advice I want to give.

Don't ever succumb to temptation.

As a judge, you have the power, the ability to make judgement one way or another. So of course there are people who will come to see you. If not themselves directly, through a close friend or through members of your family, they will try to appeal to you to decide one way or the other.

The judgement must be based on facts and law. What's more important is to never ever succumb to temptation.

And my next question, Yang Amat Arif concerns outside the courtroom, how do you find talents and maintain perspective amidst the demands of judicial life?

As to what I do outside the courtroom to maintain my perspective while facing the demands of holding a judicial seat, I would come out of my study room quite late, normally around 1.00 am, sometimes 1.30 am; and I will unwind. I don't normally go to sleep right away. I would watch Netflix, or something humorous like Tom & Jerry, or Yes Minister before I call it a night.

You have to unwind. You cannot be serious all the time. I would say these are some of the things I do to help me achieve my judicial wellness.

How do you describe your judicial philosophy and the values that guide your decision?

The simple answer to that question is whatever decision one has to make; the conscience must be clear. So that is the simple answer to a simple question. My philosophy is that so long as your conscience is clear, you will have no doubts whatsoever, and you will not have regrets later.

Looking back at your early years in practice, were there any mentors or experiences that shaped your approach to law and justice?

Yes. Thank you for the question. When I was doing my chambering, my master was the former Court of Appeal President, Tan Sri Dato' Wan Adnan Bin Ismail. He was the one who shaped my philosophy in life as well as in practice. Regretfully, I did not have a longer time to learn from him. Only one or two years before he was elevated to the bench.

He was made the President of the Court of Appeal in September of 2001 . Unfortunately, he passed away shortly while in office just a few months later in the same year. He's quite a straightforward, no-nonsense kind of person, and I learned a lot from him.

AdRem thanks the honourable judge and his office for making the time to entertain questions from Selangor Bar. The Honourable Justice Datuk Seri Utama Wan Ahmad Farid Bin Wan Salleh is an emotionally intelligent and jovial man with principles rooted deeply in the values of those who came before him.

We could see that he is creating a legacy that will continue to inspire others to lead like him where the integrity of the facts of law is honoured and justice remains unbiased with the right decision balanced against what is behind the bigger picture.

Interview with Dato' Mary Lim

Born in the 1960s Muar, Dato' Mary Lim Thiam Suan never suspected that life would take her on a journey through which she was in the position to affect change into the lives of others. Perhaps, what should have clued her in was her propensity to lead.

The sixth child of a big family with eight siblings, she never thought she would one day helm the legal arm of the Asian International Arbitration Centre (AIAC).

When the AdRem editorial team visited her at the AIAC, they were disarmed by her warm and approachable demeanor, something we learned that she finds amusing.

Could you share with us a glimpse into your early life and upbringing?

I am the first in my family to have the luxury of going to the university. I didn't realise the impact this had on my family until my later years. The pride that comes with it to the family, especially a large one like mine. I'm the last three of eight siblings with an extended family of 13. One could say I'm almost at the tail end of the Lim clan. So, it was quite a challenge for us economically.

Things were different in a Chinese community in a small town in Muar back in the 1960s, 70s. My family had no background in higher education, and absolutely no background in government. In a time when nobody wanted to work for the government, there I was, joined the government at the behest of my father who thought I could get familiar with the industry for six months, leave, and then open my own law firm.

My "familiarisation" lasted 28 years.

What inspired you to pursue a career in law?

Truth be told, I never had good grades. If the first position was from the back, that would be my place. I was very comfortable having fun in class and not applying myself. However, that did not stop me from being a class monitor.

But, I remember there was that one year when my class teacher walked into class, and there was a genuine surprise about her. Apparently, I had jumped up at least 40 places. That clicked something in my mind - that I was actually smart and that if I put my heart into it, it can happen.

As to how I actually get inspired?

Though I do not recall this—according to my mother, I had always wanted to do law.

What I do remember was having gone to a lawyer's office in Muar, I noticed how driven he was; and thinking to myself that I, too, could be a lawyer. He was an ex-police officer before he did law. I guess I was also affected by unethical practices, being asked for a bribe by a policeman because I had not put on my bicycle lights. It was before 7 pm and I was probably about 13 then. I told myself that this surely cannot be the law or how it is enforced.

While I probably harboured this ambition when young, until and unless my grades were good, it remained a distant dream. So, when I qualify for Lower Six, my career options were either hotel management in Canada or Secretarial course at Tunku Abdul Rahman (TAR) College.

Then serendipity stepped in - a friend, home for a summer holiday from the UK, suggested that I do my A-levels in Leeds. As it turned out, because I was only 17 years old, my education would be free [At that time, education was free for those under 19 years old].

I decided to give myself a chance and see how far I could go, whether university would ultimately happen. However, my late father refused to sponsor me. My siblings did – my sister, Michelle organised a collection and gave me GBP100 to last me as long as possible.

In those days, my accommodation was only about GBP15 a month. I never took the bus, I walked everywhere. My lunch was 10p. Dinner was cooked meals with my housemates. Somehow, I was able to spend around GBP30 a month.

You learn to make do, wear hand-downs from other students, and shop for the cheapest food. You would go to the marketplace when it was closing time - instead of paying 20p for a cabbage, you probably get 10p for four cabbages, and cabbages will keep! There were no Chinese vegetables like choy sum or kailan in those days; they were only available in London or at the Chinese restaurants. Eating out was not an option.

SB: What happens when the GBP100 ran out?

You send out an SOS (save our souls) and in those days, communication overseas were mostly by letters written in the longhand. There were no handphones then; and telephone calls made at public phonebooths were simply too expensive and arduous. They were planned, at least a week ahead. Thankfully, I'm very close to my family, my sisters, and my brothers, and those times were rare. You just learn to manage.

SB: What did you study during your A-Levels?

I studies Economics, Geography, and Literature. I excelled in Geography for some reason. At that time, unlike our syllabus in those days, many of my classmates, the locals didn't know much outside of their own country. I benefited from and took advantage of our curriculum. I enjoyed my A-levels; so much so I even considered majoring in Geology at university. That thought was quelled quite quickly when I realised what it actually entailed and how there would be very little prospect of making it a career back in Malaysia.

SB: What then draws you to pursue the legal profession?

It was the belief that I am actually a fairly intelligent person.

There were only two professions then I could think of, and Medicine was obviously out. Although a Science streamed student, engineering and the sciences were also out of my depth.

It was down to language, communication and the law. In a small town, then, if you don't choose any of these, you either end up teaching, clerking or doing secretarial work; or get married!

My daughter, my nieces, and the rest who have since followed, they probably could say they looked up to me, and that I inspired them to choose law. But I had nobody except these little pieces of experiences that led me to take up the course.

At the end of the day, it is the 1970s, in a small town, and there were only this or that profession. There weren't too many choices. In my time, the smart students went to the local university and those who didn't do too well would go on to study overseas. I know some people from my school days still wonder how on earth I ever become a lawyer and then a judge! They thought I got lucky with my career. Indeed, I got lucky – I woke up to the possibilities of choice, a huge dose of self-belief and possessing deep seated values of integrity and humility.

What was your first experience working in the legal profession like?

Terrifying and bewildering.

Looking back, I am actually amazed at the little things I did whilst at the Bar. I never stayed in London; I lived in Reading. I spent my Christmas break doing an internship with a Queen's Counsel, somewhere in Leeds. When I think back, the Queen's Counsel was extremely kind despite me not knowing anything.

I also managed to secure a 6-month pupillage in some Chancery chambers. Unfortunately, due to visa issues, I couldn't pursue that choice. And, so I returned, later than the Malaysians called in July.

I was interviewed by Tan Sri Abu Talib Bin Othman, the then AG and also HRH Raja Azlan Shah [as HRH then was]. I was accepted without sight of my certificates.

I started at the Advisory Division of the Attorney General's Chambers. It was not for me; I could not see myself behind the desk 24/7 when I was trained as a barrister. The late Dato KC Vohrah who was then Head of the Advisory Division mentioned that had I been a day earlier, I could have been appointed to the desk handling foreign or international matters.

I was then posted as a Federal Counsel to the Civil Division; and that work kept me sane. I honestly owe a lot to that practice. In the Civil Litigation Division, my opponents were always members of the Bar. They helped me develop best practice, keep high standards from the privileged seat of being a member of the largest law firm in the country – "Abu Talib & Co". Generally, officers from the AGC enjoyed a lot of respect from the Bar, the Bench and the public; and I benefited substantially.

As a woman in a male-dominated field during your early years, what challenges did you face—and how did you overcome them?

Within the AGC, there were many senior women officers who were not afraid to walk up to Tan Sri Abu Talib and tell him off, question him or almost 'direct him to do something'. Two such ladies come to mind: the late Dato Noor Farida and Tan Sri Zainun.

Tan Sri had this practice of summoning an officer to explain should he read anything untoward that was related to our work in the daily newspapers. We learnt to anticipate and alert our bosses. Now, Farida was summoned to explain some headlined about some right of representation by the Legal Aid Bureau, which she headed. Before he could even question her, apparently, she walked in asking- 'What are you, as the Attorney General going to do about Legal Aid's powers?' The late Farida was a trailblazer in that sense, and while she respected the AG, she was a straight talker.

The other person was Tan Sri Zainun. I heard she challenged AG to offer the names of women officers as State Legal Advisors, something never done then. Unfortunately, it was not till the tenure of the late Tan Sri Mohtar before the glass ceiling was breached. *Arwah* has done much for gender diversity in the judicial and legal service. Tan Sri Zaharah Binti Ibrahim was the first woman to be appointed State Legal Adviser [Selangor] followed by Dato' Alizatul Khair [Penang] and myself for Negeri Sembilan.

It wasn't easy for us, and I had the additional challenge of race/religion. I remember what Tan Sri Mohtar said to me, "law is law. You are asked to interpret the law, and that's what you will do". Negeri Sembilan had already anticipated that its State Legal Advisor may not be Muslim, and provisions were in place for an alternative. At least five women followed after me for Negri Sembilan.

Who were your mentors or role models in law and judiciary?

I wouldn't call them my mentors exactly. There were two men who I found had a huge appetite for the law. They really loved the law and had very inquiring minds - the late Dato' Lim Beng Choon; and Rauff Nabi Bax.

Dato Lim was an air traffic controller before studying law. Rauff was a colleague who examined every spectre of a problem before forming any decision or offering any views. Their passion for the law was inspiring. What I appreciated about them and am forever grateful for was their willingness to "discuss/teach" a rookie like me. Their patience was saintlike.

Later, when I started teaching the law, at LLB and then CLP, the learning became easier and more extensive. Everyone around me, including my students, they inspired and propelled me to go further, do better.

What were some of the most memorable or defining cases in your judicial career?

Just as I thought it was this or that case, sometimes life surprises you. Just yesterday, a lady came up to me and said she wanted to thank me on behalf of her friend Aishah. It was the first sexual harassment defamation

case. I looked at her and said I couldn't remember anything about it. She said that my decision made a difference.

Perhaps my 1st CIPAA decision, it was the privilege of writing on the law for the very first time. It was especially memorable because the courtroom was full with standing room only when I read my grounds. I later learnt that many in the construction community wanted to be there when that first judgement was pronounced.

I think to me the defining cases in my judicial career would be the ones I would like to think are those that ultimately did some good for the people involved or impacted by the decision. Especially my dissenting judgements which are too many.

If you ask me to choose, I believe my decisions on citizenship, locus standi, legitimacy or illegitimacy, procedural law, arbitration, the question of duty of care, are at the top of the list. These decisions contribute to the development of the law, ensuring that or Federal Constitution is truly a living instrument.

SB: I've always had the pleasure of reading the judgement because it's not short, nor is it simple. It's good because it starts from where it needs to, and ends where it needs to end. There is jurisprudence, and I can understand your reasoning. I have to say that it's really well-written. So speaking from that, I wouldn't be able to single out just one either.

Thank you. I spent three years at the Federal Court and wrote 30 judgments which were published. There were a few more that didn't have to be delivered for several other reasons, but I am very proud of every single one of them.

It was unfortunate that my very last decision was a dissenting judgment. It would have been nice if any writing is for the majority, and even better if it's unanimous. But,

I'm not sure why, but for some reason, it is actually my decisions at the Court of Appeal that I take a lot more pride in. Particularly when the Court of Appeal decisions and the rationale were sustained.

Now that I am retired from judicial service, I am looking at many of these decisions, but with different lenses. As said earlier, I owe a lot to the Bar. The fearlessness, the fact that you all keep us current and keep us developing. I also owe it to my colleagues who were brave enough to agree with or share my opinion on so many matters; thankfully more in unanimity than in dissent.

You serve in various judicial capacities across different courts. How did these experiences shape your perspective on the law and society?

A lot. It's a maturing process. It's a journey. I took the oath about five times and that is always my North Star, my compass that keeps me grounded.

In my farewell speech to my colleagues at the High Court, I said to them, I started off with this notion that we all know more. And we probably do, because we are applying the law. Datuk Chan Nyarn Hoi (NH Chan) said this in his book. But when you go to the Court of Appeal, you actually know less because now, you're sitting with two others, who are either a lot smarter than you, or you are more familiar with the subject law than them. Then you go to the Federal Court, and you are at "zero" because that's where it's a new area of law for you to develop. Sitting and deliberating with 2 others is tough; guess what it's like when it is 4 or 6 or 8 more.

There should be careful insistence in writing nine judgments, otherwise there may be confusion in finding the ratio decidendi. The ability to work with each other is not easy. To me, I think it's a journey, a humbling process when you come down to zero and start all over again. You must be prepared to be wrong, or humble to hear/see another point of view, see things differently.

You retired from the Bench in May 2024. What do you miss most about being a Judge?

Nothing.

I remember doing a moot shortly after my retirement, and we were all going up to the court in Kajang, and someone asked me, 'Yang Ariff, do you not miss this?' My short answer: No. It remains the same.

Why would I miss this? What is there to miss? Perhaps, if I hadn't gone to all three levels of the judicial hierarchy, I might have missed something, and wonder what it may be like to be a Judge of the Court of Appeal or Federal Court? But I've done all three. I've completed the cycle and I believe I have served my country well, and I have kept, stayed true to my oath under the Federal Constitution.

It has just been a real privilege and humbling experience.

SB: Some people miss the ability to create the jurisprudence to support the law.

That opportunity comes in other ways. I find that, sitting as an arbitrator, that opportunity still presents itself in the kind of matters that come to me.

That opportunity also comes in my speaking sessions, lectures and the like. These occasions sometimes allow for contributions which may shape policy which I couldn't quite do as a judge.

I find that the Malaysian society and even the world out there, extremely courteous and respectful. Until today, I enjoy great respect from members of the community, and not just from the legal fraternity. I like to see this as a reflection of me having served the office well and with integrity.

I didn't set out and never sought to be a popular judge. On the contrary, there are lawyers as well as students who say they are still "terrified" of me; at least until they start speaking with me. So, for me, there's nothing to miss.

In August 2024, you were appointed as Director of the AIAC. AIAC predominantly deals with alternative dispute resolution processes like arbitration and adjudication.

How different is AIAC from the Courts?

Very different, and yet the same, isn't it?

So different because it is doing what the courts can't do. In the way that it is so flexible. It is still the same in the sense that it is still looking to resolve disputes.

SB: Malaysian Bar visited Japan two years ago. When we ask where do they normally refer their arbitration battles to, they said they go to Singapore.

I had a visitor from Nepal earlier, and he was telling me that the last five cases all went down to SIAC (Singapore International Arbitration Centre). They have got 20 cases which would have gone that way because he wasn't aware of the AIAC.

I'll put it this way. I'm not going into competition with Singapore, or anybody else. If I were, and let me get this straight, I am only holding the "fort" until the amendments come into force. I see our strength in domestic arbitrations particularly in construction arbitrations. I'm very grateful that we have at least that capacity and that competency.

I would like to see our domestic arbitrations, both commercial and construction to be at a better, higher level. Together with our case counsel, I like to give our domestic arbitrations that reputation that it is the most efficient, expeditiously administered according to the highest standards, such that international arbitrations will just follow.

I'd like to think that it's more important to celebrate and improve our domestic arbitrations because these are the players who believe in us, have stayed with us. I think you should honour them and promote them because they will then bring the international work home.

What advice would you give to young women entering the legal profession today?

My answer is not in reference to our young women. I am going to direct this to diversity personified. Regardless gender, race, religion, geographical location, the young digital native of today are so well-positioned to embrace that diversity. Don't abuse it.

Positions and recognition are not given because of diversity. And, it should not be because of diversity. Diversity only brings you to that platform to be an equal force or contention. That's what it should be. Diversity should not be abused, it should not be an excuse. It should not be borne out of guilt. Diversity should only be a reminder that you have been overlooked, but your competency remains at par with those who don't have that diversity advantage that you have.

I think everybody should therefore, get their game up to reach competency levels that are world class. This is where Artificial Intelligence (AI) may unfortunately damage your game in that you are going to relegate it to AI to make you look good.

My advice would be to embrace every opportunity and do not be afraid to say yes.

In my time, I went up to Tan Sri Dato' Seri Mohtar Bin Abdullah and asked him, 'Now that you have made me a Legal Advisor, a non-Malay, when is the next one?

He gave me an answer, and it was this: 'It is not about being able to speak Malay. It is being able to speak it well.'

Here, Dato' Mary switched to flawless Bahasa Melayu when she said, "Cara kita bercakap tu, kena fasih. Fasih tu lain tau, dalam telor *[pron. té.lor]* orang boleh rasa awak bukan *non-Malay.*"

You need to be able to communicate, and *ada benda-benda lain-lah (trans. among other things), kata arwah.* I stood up for diversity. Dato Noor Farida for women, I for, non-Malays

SB: You are the only non-Malay State Legal Advisor until today, aren't you?

Yes! Either I have failed so badly, or nobody wants to send another one. *(jokes, laughs)*

No, in all seriousness, let me put it this way.

Dato' Mary switched to Bahasa Melayu without pause, *"Benda ni, orang tak cakap lah." (trans. Something people don't talk about)* I remember, when I went to the social functions, this question will arise. *"I ni nak duduk dengan perempuan ke, dengan lelaki?" (trans. Should I sit with the women, or the men?)*

And the women will all be watching me. So if I was going to sit with the men, the unspoken question would be, *"Awak ni, merendahkan kita ke?" (trans. Are you looking down on us?)*

Then, when you sit with the women, and the men will go, *"Akhirnya duduk dengan perempuan juga." (trans. So in the end, she sits with the women after all).*

You really have to balance it very well. So you see, my advice is you have to stand up and speak up. Not because you are a woman, and therefore need to prove yourself. It is because you are worthy of the appointment.

If you could go back and give one piece of advice to your younger self, what would it be?

I wish I had embraced opportunities earlier. I shouldn't have been so limiting with myself. Bad enough that my grades weren't good, so was my Maths. Those of us who were not good in Maths were sent to the back of the class so that the teacher could concentrate on the better ones. I reached a point where I went before I was directed there! Perhaps I should have "retaliated" instead of consoling myself that perhaps my capacity was elsewhere. But isn't it these hard lessons that

shape who we are today? Be that as it may, in answer to your question, I would say to my younger self, don't hesitate to embrace opportunities. Test yourself early.

Dato' Mary was appointed in 2024 by the His Majesty King Hamad bin Isa Al Khalifa to be a member of the Dispute Resolution Panels of the Bahrain International Commercial Court (BICC). She shall have her first sitting in the BICC in a few months at the time of this interview, to which we wish her all the very best. Dato' Mary's appointment is a reflection of the maturing of the Malaysian judiciary, and it shows that there is respect that the other nations have of us, and how far we have come.

The AdRem editorial team thanks Dato' Mary Lim for sharing her valuable time and regaling us with insights into her journey from her rebellious school days to being recognised for her achievements with the prestigious appointment of a member on the panel of the BICC.

Her accomplishments are an inspiration to everyone who has ever wanted to challenge themselves. In her share, it is evident that there really is no limit to what one can achieve when one so put their heart to it.

Do not wait. The time to embrace opportunities is now.

Interview with
Mr. Huzir Sulaiman

On 9 June 2025, the Selangor Bar's AdRem's editorial team was fortunate to secure a meeting via Zoom with Mr. Huzir Sulaiman, the son of the illustrious lawyer, the late Dato' Sulaiman Abdullah.

A familiar name in the theatre industry, Mr. Huzir Sulaiman, a playwright and director, is no stranger to the spotlight. He is the cofounder and Joint Artistic Director of Checkpoint Theatre along with his wife, Ms. Claire Wong who shares his passion for the performing arts. One of the flagship arts companies in Singapore, they develop and produce original work for the stage.

Malaysia lost one of its most respected lawyers, Dato' Sulaiman Abdullah in December 2023. A lawyer whose reputation preceded him was well-known not only for his high standards of professionalism, but his uncompromising sense of ethics.

A prominent lawyer, Dato' Sulaiman Abdullah had extensive knowledge of both the syariah and civil laws.

His legacy is without a doubt one of the most impactful and memorable to the legal fraternity.

Could you share with us a glimpse into Dato' Sulaiman Abdullah's early life and upbringing from the family's perspective?

What is important to remember is that he was first and foremost a Penang boy. Being a Penang boy was very much in his blood. He was born at Penang Adventist Hospital on 8 July 1946. His father Mr. V.R.G. Iyer was a school teacher and later an Education Officer; and his mother Madam R. Kalyani was a homemaker.

He went to Wellesley Primary School, and then the Francis Light School. Dad joined the Penang Free School in 1958 and I would say it was one of the defining chapters of his life. It was a prestigious school and he was justifiably very proud of being an 'Old Free'. I rather suspect that, for him, if you didn't go to the Penang Free School, then you were somehow not fully human. Unfortunately for me, I was not a Penang boy, and I did not go to the Penang Free School, so I had to redeem myself in other ways.

At Free School he was active in sports, playing rugby among other things.

The other thing he was very much into, was reading. He read an incredible amount, and it became a lifetime habit. Back then, students were required to read one book a week in English, and one book in Malay. He would always take more than that from the library and he would find a place to hide somewhere in school to read them. Otherwise, the prefect would sometimes catch him because he was reading books and eating peanuts outside the canteen. He became fluent in both Malay and English from a very early age, and that was a key aspect of his professional life.

My father was also active in arts. He acted in the school plays, which mygrandfather was not very happy about, and he also edited the school's literary magazine. He would win the Oral English Prize every year.

My grandfather died when my father was 16, so he was able to get more into his literary and theatrical pursuits.

Another highlight from his childhood days had to be when he was 16 and he won an essay competition organised by the International Herald Tribune.

For winning the prize, he was sent to the United States for two months to study in various institutions and meet with politicians and Establishment figures, including President John F. Kennedy. I have a picture in my house of him in a small group photographed with JFK in the centre. My father was in a suit and a songkok, and was perhaps two metres away from the distinguished figure. There's also a newspaper cutting of Dad shaking hands with Kennedy. From that trip,

he gained an affection for American people and culture, but a healthy skepticism about its political system.

I remember him telling me that when the time came for him to enter the university, he didn't know whether he wanted to take up literature— which was one of his great loves— or law. However, his brother Tan Sri G.K. Rama Iyer advised him to take up law, and so he did. He entered what was then, before the Malaysia-Singapore separation, called University of Singapore and earned his Bachelor of Laws there. I remember hearing over the years that he was very relaxed, but he was brilliant. He didn't appear to study very hard, but he did very well.

He really loved the law, and he loved the university life. He met my mother at the university.

There's the famous story of how they met. The story was that the late lawyer, Datuk Seri Utama Karpal Singh was his senior at the university. While there, he came to my father one day and said, 'You must ask this girl out. Her name is Mehrun Siraj.'

And then, my father said, 'Why? I don't know her.' This is when Karpal Singh famously took off his turban, which was very heavy, starched and very solid and whacked my father with it, 'convincing' him to do as he was asked, 'Okay, okay, I'll ask her out.'

It was a very unconventional form of matchmaking, but it succeeded because I within the first year of university, she and my father were already a couple.

They were very close and they got married in 1971, after they had all graduated.

What was he like as a family man? In what ways did his personal values shape the environment you grew up in?

By and large, he was very warm and gentle with me. He almost never shouted at me. And there was definitely no corporal punishment, or anything like that. If he wanted to be strict with me and make me do something when I was a rebellious little kid, he would do this thing where he would count to three in the Turkish language: bir, iki, üç. But he never got to üç because after bir, iki, I would just do whatever I was supposed to do.

His love for sports continued, so we played a lot of badminton together. We'd go to Lake Club and play badminton. When we were in London, and I was very small, he and my mother were doing their Master's at the SOAS (School of Oriental African Studies) University of London.

When I was about six or seven— this was in the late 70s— I remember he came to volunteer at my school one day, teaching the PE (Physical Education) class. The class was playing football that day. I am really not good at sports.

I have never been good at sports, my whole life. But that one day that he happened to be refereeing football, I somehow managed to get the ball which was close to my team's end of the playground and dribbled it all the way down to the other end and I scored a goal!

He was so happy that I managed to do that. So that was my one proud sporting achievement in front of my father. That was good.

He also tried and failed to teach me how to ride a bicycle. He did the thing that his father had done with him, which was where his father would run behind holding the bicycle upright while the kid would pedal and try to balance, and then let go, right?

Well, he didn't caution me that was going to happen. I was going on and he let go without warning, and then I fell over. I was deeply indignant at this. So I just never learned to bike.

What he always did was he always encouraged me to read. He was always taking me to the bookshop, usually it was the Universiti Malaya cooperative bookshop, or MPH, or Times Bookshop. He would also borrow books from the library for me and we had a lot of books at home. I was always encouraged to read my parents' books at a very early age.

I remember days when I missed school because I had a bad bout of asthma as a child, he would insist that I must still be learning something. He would give me tasks where he gave me a topic and I would have to research it in the encyclopedia and other books in the house. He would expect me to present a report to him on the topic he had given. The first topic I remember he gave me was Asia. So I had one day to research and present to him about Asia.

The exercises taught me to teach myself. It taught me to learn, and that was a very important value. All his life, he was reading a wide range of things because he was very curious. He became very knowledgeable. You'd have seen this in the very democratic way of his being able to speak to anybody. He could talk to anybody because he was interested about their life, the job they do, about their views on the world.

The whole value of constantly learning influenced me massively. It's become the main thing in my life.

I grew up without the television ("TV") because when we were in London, and I was a little kid, there was a point when my parents decided I was watching too much TV. I came home one day and the TV just wasn't there anymore. I think this was some time in 1978. I was maybe four or five years old. I even remembered the last thing I watched on TV and that was the 1978 FA Cup Final between Arsenal and Ipswich. That was how I became an Arsenal fan from 1978.

So I didn't have a TV until I was 21 and I bought that TV myself with my own money. They finally relented and got a TV for the house only later in life.

Did you have any other siblings?

No, I am an only child.

Are you putting up in Singapore most of the time now?

I've been working here since 2001. I've had my own theatre company since 2002. That's about 23 years that I have been working together with my wife, Claire Wong, running Checkpoint Theatre in Singapore. I'm still a Malaysian, but I am a Permanent Resident here in Singapore.

Are there any particular lessons or principles he consistently instilled in you and your family?

He was a very correct person. The *'sopan santun-ness'* (well-mannerisms) was very important to him. Speaking properly, being respectful, all that were very important to him.

I remember one occasion, when I was very young, and we were still staying in the university quarters. One day, there was a judge coming to the house; my father was a law lecturer at the time. My father spent about 20 minutes instilling within me how I must address his guest as 'judge'.

'So I don't say, "Yang Arif", or "my lord?"'

He said, 'No, that's not correct either. You say that in court.'

It was important to him that people are correctly addressed as a form of politeness. It was being a responsible member of society. If you are wearing a suit, make sure you wear the correct suit. For him, wearing court clothes was very important. He would use the old-fashioned style of striped trousers and black jacket, and his shoes always had to be shined properly. I remember his boxes of detachable collars, and his starched white cotton bands. I was fascinated by this regalia. I remember him explaining the pocket in the back of the robe stems from the old practice of the client putting their fees in that pocket, so that the lawyer wouldn't directly touch the money.

And as many people know, in his personal life or outside of court, he would also be very deliberate in his choice of sarong, baju Melayu tunic, and *serban*. I think for him, it was important to be proud of our own culture, important that we don't just automatically wear Western clothes. He was post-colonial in the manner of that first generation of people who witnessed and brought about the end of Western colonialism.

I appreciated that.

I don't have exactly the same style. I do normally wear a suit and that's unusual in my line of work, because often people will wear just black, artistic clothes in the arts. But I will often wear a suit and tie because my father taught me that is how you show respect for other people.

When I'm teaching at the university, I will wear a coat and tie. When I'm on duty as a director in my theatre company, I'll be in my suit and tie. And that's very much from my father. You show respect for other people by dressing correctly.

In fact, today when I was preparing for our Zoom meeting, if my father was here, he would be saying, 'Oh, you're being interviewed by the Selangor Bar. Okay, you've got your blazer, your pocket square and you've got a shirt on. Very good.' And then he would ask me, 'Why are you not wearing a tie?'

I would say, 'It's in my house. Do you think I should wear a tie?'

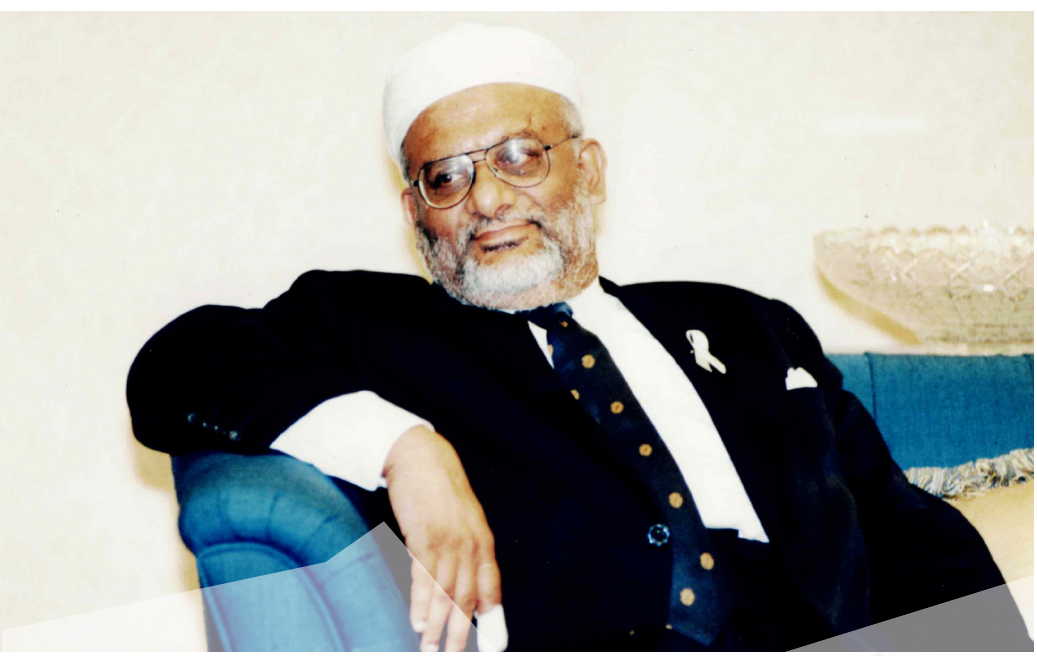
I know what he would say. He would say, 'It's the Bar. You must wear a tie.'

So I apologise for not wearing one.

SB: No problem. Not many modern people will follow the old ways.

Well you see, it was not from the perspective of "the old way is the best way" because in many aspects, his thinking was very progressive. In many ways, his thinking was very modern. It came from a place of deep respect. It was very important to him to be able to show respect to other people, whether it is somebody more important or somebody who is far more junior or younger.

I've always tried to follow that example.



SB: He instilled that quality in you, and that's absolutely fantastic. Hopefully, when young lawyers read this, they would appreciate and gain the insight of the standard at which lawyers from the past held themselves. Today, even when they are wearing a blazer, they are not complete.

People in the olden days, they made sure that the simple thing like you said just now, even their shoes had to shine. You make sure that when you go out, you are well-respected. Not only from the way you talk, but also from the way you dress yourself.

I remember whenever I bumped into him many times in court and he was always the truest gentleman. Always very humble, and at that point in time, I was a young lawyer just fresh off the university and being called to the bar. He would come, and I have seen him and have seen how pleasant he was as a person. Very humble. Even Karpal Singh, he was very humble too. You can be the most senior or the most junior person, and they don't have any distinction for them. If you're part of the bar, then you're a part of the bar.

That was always something I felt very nice about because there are a lot of seniors out there who are not very welcoming to the juniors at the bar.

They were truly exemplary to the young lawyers.

Dato' Sulaiman had an illustrious legal career. From your perspective, what drove his passion for the law?

I think deep down, it was a strong sense of justice that human beings had to treat each other with fairness and equity and correctness and decency. That famous quote, "Justice

must not only be done, but must also be seen to be done," was something I heard a lot, growing up.

It was important to him that the law was there to enable human society to function as it should, and enable a sense of fairness and freedom. Where we should be free, we should also carry the responsibility and obligation to care as human members of society.

For both him and my late mother, it came from a very deep sense of justice as being one of the most important of human qualities. There's that philosophical or almost a very personal psychological approach. If I want to look ahead at one of your later questions, I think he saw the role of the lawyer in society as needing to uphold the rule of law to ensure fairness. It was also to protect citizens from the excesses of the Executive. He needed to defend Malaysians and to defend Malaysian lawyers from interference from the Executive branch of the government, the politicians. He was keen on defending the integrity of the profession.

The idea of being a lawyer had this sense of a calling. The 'poetry' of being called to the bar was for him like something religious. Like how they say about the priests being called to priesthood, there was a sense of a summons that was almost divine.

I think that was how he saw the profession. A very noble and deeply important cause to be a lawyer.

Then there were all these other senses of responsibility that you had to the profession, in terms of serving your clients and doing the best job that you can. This includes the professional courtesy to your colleagues, the gracefulness you throw to your opponents, the respect that you show to the judges, and the rest of the officers of the court. He would speak to them with such kindness and respect no matter what position they held.

It was very telling of how critical it was for him that lawyers upheld the integrity of the profession. I remember he was most disapproving of lawyers who were actually part-time businessmen. He really did not like lawyers who had commercial interests with government-linked companies or these kinds of schemes that they were doing.

He felt that lawyers should be pure lawyers, with a sense of the profession like doctors to medicine as lawyers are to law.

He was obviously interested in public issues. He was interested in policies, but he did not feel like he wanted to go into politics. He was not interested in power or making policy. He only ever wanted to serve the people and serve the profession by just remaining a pure lawyer who is serving the law, the Constitution of Malaysia as he saw it.

He did not want it misinterpreted, he did not want it trampled upon, he wanted it to be upheld. He wanted to maintain the dignity of his fellow Malaysians and maintain a sense of cohesion as well as harmony in society.

SB: Most lawyers want to go into politics because in a way, the profession is like a provision to enter politics.

I know that different people asked him to enter politics, and I was in a very privileged position that he would come and talk to me, ask me for advice. Even from when I was very young, he would trust me to give him an outside perspective. I would remind him that what he really loved was the law and even as an outsider, a non-lawyer, I knew he was so respected and appreciated within the legal profession. So I said, if you want to become a politician, then you spend your time with most people disliking you, and you can never win. No matter what you do, there will always be someone to criticise it. You have a lot of skills within the sphere of law. Why don't you remain a lawyer?

I was basically telling him what he already knew, and he was never seriously tempted to go into politics or anything. I think he was very happy right until the very end, when he was ill and still taking part in the council meetings by Zoom, even from the hospital, while on his dialysis treatment.

He cared about the profession until the very end.

Could you highlight any specific cases or moments in his career that he considered defining or personally significant?

Actually, about one or two years before he passed away, I remember sitting down with him and I asked him what were his most important cases?

His list included the 1985 USM case where he defended the USM staff union against the university authorities. Then, there was the UKM staff union case. The Universiti Teknologi ragging case was also an important case to him.

In 1987, there was the Ops Lalang case that involved habeas corpus hearings. I remember being a teenager of about 14 years old, and there were some other lawyers at the house talking about it and preparing for the case.

In 1996, the APCET II (The Asia Pacific Conference on East Timor) arrests which saw the arrest of 48 local participants.

And of course, the 1998 Anwar Ibrahim sodomy case. My father did most of the preparation and the examination in court.

Then there was the 2009 Perak Constitutional crisis with the Menteri Besar Dato' Seri Ir. Mohammad Nizar Bin Jamaluddin, where he was one of the main lawyers.

Towards the end of his life, when Tan Sri Tommy Thomas was the Attorney-General, my father was appointed as the lead prosecutor of Dato' Seri Najib Bin Abdul Razak for the SRC International Sdn Bhd case. He participated in preparing all of the case documents with the AG's chambers, but then his health became poorer, so he did not actually do the hearing.

It's funny, it was after he passed away and I was going through all his files to return to the bar council and I saw all the case preparation for the public prosecutor against Najib Razak, and all the files had 'Sulit' stamped on them. Everything was stamped, 'Sulit'. I had to return those to Tommy's house.

So those were the important cases. There are a lot more, but those are the ones he listed. I know there are more of his cases that came out in the newspaper.

The important thing to know was that client confidentiality was 1000%. It's always quite bittersweet for me when I talk to his fellow lawyers because you will all know more about that side of him than I do.

Though I am an only child, in my whole life I will only know about the cases he is involved in if it comes out in the newspaper. I will ask him about it and he will not answer any questions because as I said earlier, client confidentiality is absolute. It has to be 1000%. He cannot betray that confidence.

What's interesting is that in the last 10 years of his life, different people will come up to me and the clients will tell me, '…oh, your father helped me with this very difficult divorce.' And these are some of the most high-profile, high society ladies in Kuala Lumpur ("KL"). Very important families with important backgrounds. And they will tell me, '… nobody knows about this, but your father really helped me and he did it in a very gentlemanly way such that my husband and I, even though we were fighting before, and we have the divorce, we remain on good terms because having your father as the intermediary, he negotiated gracefully.'

These are things I didn't know. His clients would come and they would tell me, '…your father got me a habeas corpus, and he got me out of lockup,' those kinds of things. So it has been very surprising and moving for me to discover because as I've mentioned before in my 50 years—I am 52 now, but in the 50 years of my life (of him practising) I have only seen him in open court maybe five or six times. Everything else, I really don't know except for what people are now telling me.

Other lawyers who were his solicitors on a case, they will come and tell me about how good my father was at what he did. He himself was so correct, he wouldn't tell me anything. So when I tell these lawyers, tell me more stories about him and they would tell me, '…actually, I only know the case I did with him because Sulaiman, he will

not gossip. He will not tell me about any other case he's doing with anybody else.'

So, everybody only knows one small bit. The client only knows that case. The solicitor only knows that case. And me, the son, only knows what comes out in the newspapers! He's very 'correct' like that. He really did not want to do publicity either.

In terms of the profession, he didn't like lawyers who were too interested in business. He did not like it when lawyers were self-promoting. He was very strict when it came to the rule of the old Legal Profession Act about no self-promotion.

It was also very important for him to serve the client even when it meant telling them that they were wrong. He respected the world and the institution. He might have a private opinion about another lawyer, like this guy is not very intelligent, or he might be disappointed by a particular judgment, or disappointed with a particular judge individually, but he will always respect the court.

He will always respect protocol. In the last few years of his life, my father used a wheelchair because his knees were bad and he couldn't walk. After he passed away, one of the senior judges said to me that it was amazing that my father would go to court in his condition. He would insist on standing up to address the judge even though the judge had said he did not have to stand, but he did because that was the protocol as showing respect for the institution of the court.

SB: Despite all these wonderful stories of your father, you never wanted to be a lawyer, Mr. Huzir?

This is the interesting thing, because my father had always loved theatre and literature. He had acted in plays when he was at school, when he was chambering in Penang, also when he was working with Lim Kean Siew & Co. He had done plays with the Penang players.

When I decided I was going into literature and theatre, he was very supportive.

My theory is that in a way I was living the life he couldn't. So, he was always very supportive. And then, when I first started producing my own plays in KL in 1996, he would come many times.

I remember for one play I did, he came nine times and on another play I did, he came 11 times. He would sit and he would find new things to appreciate each time. He had a very distinctive laugh, so you could hear him laughing. Sometimes, the joke is quite intelligent and he's the only person laughing because he was the only one who got it.

So yes, he was always very supportive in my whole life. I think he would have been happy if I had become a lawyer, but he was also very happy for me that I went into literature and the arts.

Though I went into literature and arts, law has always felt close to me because growing up, I would always hear my parents talking about law issues at the dinner table.

SB: Are you lecturing now?

My main work is I run a theatre company called Checkpoint Theatre where I develop original plays in Singapore and so I am a playwright and a director as well as a producer. I have also been teaching at the National University of Singapore ("NUS") for many years now, from 2007 and to the pandemic.

By 2021, I was an Adjunct Associate Professor with the NUS University Scholars Programme.

How did he handle challenges or criticism, especially in high-profile matters?

I think it's important to remember that he changed in the course of his career in terms of psychology and the way he dealt with things. I think from when I was about 15, I first started to understand his public role over the 35 years that followed. I definitely saw a change in him.

The thing about my father was, he was extremely intelligent. He really didn't understand how some people cannot comprehend things like he does. He assumes that everybody is as smart as him, to

the point that if you did not understand him, he thought then that you must be deliberately trying to play the fool or something. He would get quite irritated with that. In time, I think he recognised that people genuinely did not understand.

He moved from that to a phase of his life where he understood that it was his duty to explain in order to persuade because when someone doesn't agree with you, it could be because they don't understand. Of course, it could also be that they do understand, but they don't agree because they have different values. And then, if they don't agree because they have different values, he still needs to explain and persuade.

I remember we had a discussion because he always had great respect for Encik Zain, the founder of Zain & Co. He was with Zain & Co. from 1984 to the early 2000s. He had a lot of respect for Encik Zain, and I think he was preparing for one panel where they were talking about a religious issue, it was one of these conversion cases.

And I said, '..what if you think of your opponent as someone you respect a lot, like Encik Zain, but you just need to remind them about the thing that they have forgotten. It was not that the other person was a bad person or deliberately causing problems, just on the basis that the other person was a basically good, intelligent person and you needed to remind them of something they may not realise.'

I saw from then on that's how he began to deal with opponents or people who criticised him. Perhaps realising that if you approach it from a level of basic respect and politeness and try to gently, but firmly with all your powers of persuasion, powers of eloquence and articulation, you get them to see your point of view. That's the better approach.

What do you believe is Dato' Sulaiman Abdullah's most enduring legacy to the Malaysian legal system and civil society?

That would be difficult for me to say. I think people within the legal system and civil society should be able to talk about those contributions. I do, however, know from what people have told me about his contribution to the bar council over the years has been of importance. From 1989 onwards, he was almost every year elected to the top 12 of the bar council. He was, I think, very devoted to the Malaysian Bar as a whole and served on its various committees.

I've been told many times that he will intervene very actively at AGMs, at EGMs, and he will

make very impactful speeches on key moments in Malaysian legal history, specifically like the Malaysian 1988 judicialcrisis, all matters related to Tun Abdul Hamid Omar, and things like that. He has always been active in upholding the integrity of the profession and doing what he thought was right. That's the perspective of somebody outside the profession.

I think I would ask people within the profession for a more accurate response to this question.

What I did see is that he had a sense of respect for someone's integrity and their ability regardless of their seniority. He was very kind to younger people, young lawyers and he was never very impressed with senior lawyers. He would not fawn over them, not excessively. He was more about what are your values, your abilities, what is your integrity?

He could talk to anybody. He was not a snob. He enjoyed talking to taxi drivers, waiters in restaurants, people of every background or educational level, in every community.

He may look serious, and he took work seriously, but he didn't take himself seriously. He was actually a very humorous person. If you were relaxed with him, his family members or a close colleague, you'd know he was always making jokes or saying funny things. But above all, he had a strong sense of respect for his duty and he was not going to play around with the law, with being at court.

He has so much respect for the function of the lawyer, the profession, the responsibilities and duties as an officer of the court. He himself is not a leader. He doesn't have airs and was not arrogant at all.

As I mentioned before that because he was very intelligent, he genuinely couldn't understand why somebody else was not the same way, but I realised that he became a lot more forgiving later in life.

He could not tolerate intellectual dishonesty. If he thought you knew something and you were deliberately deceiving or you were being a hypocrite, or you were being a liar, or you were being irresponsible especially when it was a national issue, you would feel the full weight of his disapproval.

The other thing I realised about him was that he was very gracious about winning. For him, if you win, you must always be gracious with your opponents. I learned that from the way he spoke about winning over the years. It was very important to him to let the other people still have face. You don't make somebody lose face.

He knows that you may win today, but you could just as well lose tomorrow. If you hurt somebody's feelings, make them lose face, they will never forget it. I think that was something he understood well.

As much as he was very strict and so intelligent, he understood the human dimension, which I think is good for other people and those in the profession to remember.

It's not just about, 'I'm right. I want to fight. I want to challenge.'

It's also about negotiation. It's about understanding what happens behind the scenes. Can you talk to them? Can you reach an understanding? Can you settle out of court?

Or if it's some political issue, can you maybe discuss it? You don't always have to challenge. You don't always have to fight. And even if you fight, I think what was important to my father is always to let them keep their face. Don't let somebody lose their face because that can be very damaging for Malaysian society in the long run.

So if you win, it's very important to him to let the other person maintain their dignity. Don't celebrate just because you got the better deal. Even though I am not in the profession, it is something I learn from him. Don't celebrate even if you have the better deal over your opponent. Let the other person keep their pride.

After a few successes, some lawyers may get it in their heads that they are good and there's a danger of a certain amount of arrogance creeping up. As

for my father, though he was proud of what he could accomplish, of the ways he could help others, but because he didn't take himself seriously, I am very happy to say he was not arrogant. He was actually very simple.

SB: His sense of humour was always on point. I remember how we would always look forward to his speeches in the AGMs, the EGMs because he will always say what he needs to say and there was always merit to what he had to say—but then he will always round it off with a line or two of joke that will make everybody laugh. That made him seem like someone senior who was pleasant, someone the juniors could see and realise that you can have a little fun with life.

That is something about him that I will always hold close to my heart. I think it was two or three years ago, and it was over Selangor Bar's AGM that was done via Zoom. I remember how all of us were in a very tense situation because we were like, '..who's going to win?', '..are the votes coming in?' and he was cracking jokes and defused the seriousness of the situation. That was a very comforting thing to have. I will always remember that about him.

What do you personally miss most about him? If he were here today, what message do you think he would wish to leave with the legal community and the Malaysian people?

Well, like everyone who has lost a parent, I miss him as a father, but he was also a very good friend. He was somebody I could talk to about anything.

I miss his advice, his perspective on things. I very much miss his sense of humour. He was very good at puncturing other people's pretensions. He was never rude about people in public, but in private, if somebody was very arrogant, he would say, 'Oh, he thinks a lot of himself,' and that would be quite damning coming from him. I miss his view of the world. I miss his curiosity.

He was still showing me books to read. I remember when he found a live feed from the Gujarat High Court on the internet, and was telling me about this particular lawyer at the court in India. He has this sense of curiosity about the world.

And then there's his devotion to his friends. The last Hari Raya with him, there was a picture of two old Chinese gentlemen and they were basically his best friends from Penang Free School, which meant they have been friends for over 60 years. Both of them came to visit and I missed his friendships in this community, with the young lawyers he kept in touch with.

I miss him and his kindness as a father.

As for the Malaysian legal community, I think he would say, do things properly. Don't cut corners. Prepare, serve your clients honestly.

Respect the integrity and the purity of the profession.

Don't try to make it a business or engage in business dealings.

And for the Malaysian people, he would probably say, uphold justice, understand the need to respect each other in a multi-racial, multi-religious society. I think he would say it is important to negotiate. It is important to talk first.

Negotiate, talk, discuss, and compromise. Do all that first before you think about fighting or confronting. There is a lot to be gained by discussions, mediation, negotiation behind the scenes. It's not glamorous. It doesn't make the headlines in the newspapers and most people won't know about it, but it's important to communicate with each other as human beings.

Whether you are political opponents or people of different religious views or have rival business interests, just talk. I think that's very important.

Thank you for giving me this opportunity to talk about him.

SB: An additional question that is not in the list. Who was his favourite author and what was his favourite book that he would perhaps recommend people to read?

Oh, my God. He read so much. I don't know if he has one favourite author, but I know some authors that he loved a lot. P.G. Wodehouse, the English writer. Then later in life, Dick Francis—I think they are terrible, murder mysteries set in the horse-racing world. He also really liked Alexander McCall Smith, The No. 1 Ladies' Detective Agency series. He and my mother loved those books.

He also read a lot, of course about Malaysian history and culture, politics, and also Asia in general. He has books not only on Malaysia, but South Asia, Indian history, Southeast Asian, Indonesian politics. I think he was very interested in history, politics and cultural geography among other things.

There won't be just one book to recommend. He would probably have a thousand books to recommend.

The AdRem editorial team thanks Mr. Huzir for his time to speak to us about his much beloved and fondly remembered late father.

From this interview, we hope to introduce new lawyers who had not the privilege to meet him during his lifetime to be inspired to follow his uncompromising standards when it comes to maintaining the integrity of the legal profession and not forget to be a mindful member of society.

Interview with Yu Ai Ting

Chairman, Selangor Bar

Ms. Yu Ai Ting has served as Honorary Secretary of the Selangor Bar Committee for the 2023/2024 and 2024/2025 terms, before taking the position as its Chairman for the 2025/2026 term.

She may appear unassuming to the uninitiated, but those who know her will know better not to underestimate her capability.

As Chairman of the Selangor Bar Committee, she leads with clear purpose and foresight, guided by a deep understanding of the role and a steadfast commitment to continuity, integrity, and accountability in advancing the state Bar's long-term vision.

How did you come to join the legal profession? Was it something you had always wanted to do?

I entered the legal profession because my teacher encouraged me to study law. I am from Sitiawan, Perak. After completing my Sijil Pelajaran Malaysia (SPM), I visited my teacher, Siti Aminah, who asked about my future plans. I told her that I intended to join teacher training college, as I had wanted to become a teacher.

She advised to complete my Form 6 and pursue a law degree. She was my history teacher, and I had participated in several history competitions under her guidance. She must have seen something in me that led her to encourage me to pursue law. I met her a few years ago at one of our school reunions.

That is how I became a lawyer, and so far, I have no regrets.

Was there a role model in your life who influenced your journey to where you are today?

Throughout my career, I have been fortunate to have several mentors who significantly influenced my journey toward becoming Chairman of the Selangor Bar.

For instance, early on in my legal career, I worked under a senior lawyer who not only possessed exceptional legal knowledge and skills but also demonstrated unwavering ethical standards and a strong commitment to public service. What set this individual apart was their dedication to the profession beyond personal practice. They actively participated in Bar activities, advocated for access to justice, and mentored young lawyers, myself included always emphasizing integrity, community, and leadership.

The example set by my mentors taught me that leadership is not about holding a title, but about service, responsibility, and making a meaningful impact. This inspiration motivated me to take on greater responsibilities, eventually leading me to my current role. I continue to draw on their example as I work to support our members and uphold the values of the profession.

As this is your first term as Chairman, how would you describe your leadership philosophy? What core values shape the way you lead?

From my first term experience as Chairman, I would say that integrity, accountability, transparency, and teamwork are the core values that guide my leadership, as meaningful progress can only be achieved through cooperation and collective effort.

When I assumed the role of Honorary Secretary three years ago, I was surprised to discover that the State Bar's accounts were in deficit due to very high operational expenses. Having been elected by the members and entrusted with the responsibility of serving over 8,600 members of the Selangor Bar, I knew I had to act responsibly.

I reviewed every expense carefully, particularly unnecessary operating costs, and initiated the development of Standard Operating Procedures (SOPs). This experience shaped my leadership philosophy as Chairman, reinforcing the importance of prudence in managing funds that come from members' subscriptions.

Without careful financial management, the State Bar would inevitably face deficits, which could lead to increased subscription fees. To avoid this, it is essential to manage members' contributions responsibly and transparently.

Throughout this process, I maintained full transparency with the Committee, ensuring that everyone was informed of the steps taken to strengthen the State Bar's financial position. These practices, initiated three years ago, are ongoing and continue to be refined.

I am proud to say that with the support of my Committee and the Secretariat, we have managed to save approximately RM1.2 million without increasing subscription fees over the past two years. Believing it was only right to give back to our members, we used these savings to fund LexisNexis online subscriptions.

Integrity, accountability, and transparency are the core values that guide my leadership.

What were your immediate priorities upon taking office, and how have they evolved?

My immediate priority was continuity. My election motto was "certainty and continuity." We focused on sustaining and strengthening initiatives that had already been implemented over the past two years, ensuring they were executed in accordance with proper governance and administration.

Everything my Committee and I do is for the betterment of the Selangor Bar. It is an honour to be entrusted with this responsibility, and I remain committed to seeing these initiatives through during my tenure as the Chairman.

Selangor is one of the most active Bars in the country. What challenges does it face, and how are you addressing them?

I have heard from members that the Selangor Bar is very active, as they receipt many circulars informing them of the talks or programmes organised by us.

One of our main challenges is managing a large and diverse membership. Lawyers come from different backgrounds, practice areas, and levels of experience, and their needs vary. To address this, we organise a wide range of continuing professional development (CPD) programmes and maintain open communication through conferences, forums, and engagement sessions.

We continue to adapt by listening to our members, collaborating with stakeholders, and proactively addressing emerging issues to uphold the standards of the profession.

Access to justice remains a concern. What role does the Selangor Bar play in strengthening legal aid and public legal awareness?

The Dana Bantuan Guaman Selangor (DBGS) is a state government led initiative providing subsidies to help Selangor resident access justice, particularly in family and employment matters. Initially, the salary threshold was RM3,000.00 with a subsidy of RM1,500.00 for member who take the briefs which made it challenging to secure adequate representation.

With state approval, the threshold was increased to RM5,000.00 and the subsidy was raised to RM3,000.00 resulting in greater utilisation of the fund.

We have also taken steps to recognise members who handle the highest number of legal aid cases through awards, in encouraging greater participation.

Our legal aid initiatives include:

- **Hari Bantuan Guaman booths** at courts offering free legal advice
- **Legal Aid Centre outreach programmes** in rural and underserved communities
- **Legal awareness programmes** in schools, universities, and correctional centres
- **Prison visits** to assist remand detainees at Sungai Buloh Prison
- **Legal Aid Clinics at UTCs** across Selangor on a monthly basis

I would like to express my sincere gratitude to all members who have contributed to DBGS efforts.

How is technology changing the legal profession, particularly for young lawyers?

The rise of artificial intelligence and legal technology has significantly transformed legal practice. AI-powered tools now assist with research, document review, and contract analysis, increasing efficiency but also requiring new competencies.

I often remind young lawyers that technology is a tool, not a replacement. While platforms like AI-assisted research can enhance efficiency, they should be used as guides rather than relied upon entirely.

The legal market is also becoming increasingly competitive, with fewer traditional roles and a growing need for specialisation. Continuous learning, adaptability, and ethical awareness are more important than ever.

What are your views on ethics, mental health, and work-life balance in the profession?

Ethics extends beyond courtroom conduct it governs how we treat our peers and sustain the profession. Today's lawyers are expected to demonstrate integrity, empathy, and social responsibility.

We have enhanced our introductory sessions for pupils-in-chambers to include ethics, basic conveyancing, and professional development. We also organise conferences featuring judges who share their expectations of legal practice, which helps reduce uncertainty and challenge among practitioners.

In addition, we have introduced health initiatives, including free health screening programmes in collaboration with medical professionals and recreational activities such as pickleball tournaments to promote well-being and camaraderie.

To me, work-life balance does not require strict separation. Sometimes, it is as simple as taking time to pause, reflect, and recharge allowing one to return to work with clarity and focus.

What experiences most shaped your journey toward State Bar leadership?

Active participation in Selangor Bar committees exposed me to governance, accountability, and leadership. From early student leadership roles to committee chair positions, these experiences built confidence and practical skills.

I believe that strong structures are essential to effective governance without self-interest, is what motivated me to take on leadership roles.

A solid foundation ensures continuity and sustainability in governance.

What advice would you give to young lawyers aspiring to work towards State Bar leadership?

Get involved early and stay connected with HI (Human Intelligence) i.e. members of the legal fraternity. Participate in Bar activities, join committees, and volunteer. Leadership grows from service.

Build genuine professional relationships and seek mentors. Uphold the highest ethical standards, as trust and integrity are the foundation of leadership.

Understand that Bar leadership is about service, not recognition. Progress may be gradual, but perseverance matters. Focus on integrity, contribution, and continuous growth leadership will follow.

AdRem thanks the Chairman of the Selangor Bar for her time. Her leadership reflects integrity, accountability, and continuity. Her moral courage in prioritising the interests of members over personal gain is evident throughout her service.

We wish Ms. Yu Ai Ting every success in her journey ahead.

OPENING KEYNOTE ADDRESS BY

THE RIGHT HONOURABLE CHIEF JUSTICE OF MALAYSIA DATUK SERI UTAMA WAN AHMAD FARID BIN WAN SALLEH

ON THE OCCASION OF

SELANGOR BAR LAW CONFERENCE 2025 & BOOK LAUNCH BY THOMSON REUTERS

Law and Practice of Family Law in Malaysia – 2nd Edition

Le Méridien Petaling Jaya
3 October 2025

Assalamualaikum warahmatullahi wabarakatuh and good morning.

INTRODUCTION

[1] It is an honour to address you today as we embark upon this conference themed "Res Nova" – a theme that speaks directly to the heart of our judicial mission and the evolving nature of Malaysian jurisprudence.

[2] As Chief Justice, I stand before you as the custodian of the judicial system that must daily confront unprecedented legal questions. More often than not, novel legal questions reaching the Federal Court challenge established precedents, test traditional legal frameworks, and demand innovative judicial responses while preserving the stability and predictability that are the hallmarks of the rule of law.

[3] The Malaysian judiciary faces a unique challenge in our contemporary legal landscape. We must be both guardians of established legal principles and pioneers of legal evolution. This dual role requires us to exercise what I call "principled innovation" – the careful extension of legal reasoning into unexplored realms while remaining anchored to the fundamental tenets of justice, fairness, and constitutional governance.

[4] Almost all of us in this hall must have heard of res judicata – the legal principle meaning a matter "already adjudged". In short it is a final decision that you cannot re-litigate. To the uninitiated, it is the Latin term for "the verdict is final. Go home and take a good rest".

[5] Well, ladies and gentlemen. I am here to talk about a concept that is delicious and optimistic opposite. Res Nova. It literally means "a new thing" or "a fresh matter". In Latin, it is simply this. It is the first draft of your written submission which you hated on Monday. But when you open on Wednesday with fresh eyes and a full glass of good teh tarik, it becomes a fresh start.

[6] Allow me to describe it from another angle. When one puts a pizza in a fridge, it is merely pizza vetus, an old pizza. A sad, cold and rigid monument craving for a better time. However, what will happen when one pulls that pizza out, heat it with reverence it deserves, maybe add a new dusting of oregano and that unmistakable parmesan cheese, and present it to your appreciative late-night self? It is no longer a leftover. It has achieved res nova. It is reborn.

[7] Having that, I must underline that res nova is not just about heating food. It is a fundamental shift in perception. So, as lawyers, the next time that you look at something that seems final, trite and firmly entrenched in the past, remember the power of res nova. This is because, today is a new day, and the world and the Hainanese fried mee in your fridge – is ready for a fresh take.

[8] Even the snail in the bottle case can be reimagined, revisited and remade

AI ISSUE

[9] In our time, one of the most pressing res nova challenges is the rapid advancement of artificial intelligence. From automated decision-making to the use of AI in legal practice itself, we are asked to consider questions of accountability, fairness, and even personhood — matters never foreseen by our predecessors.

[10] I want to address directly one of the most significant res nova facing by our courts: the intersection of artificial intelligence with legal practice and judicial decision-making. Some fear that AI will replace judicial reasoning. I believe the opposite is true – AI will make human judicial wisdom more essential, not less.

[11] AI can process vast amounts of legal data, identify patterns across thousands of cases, and flag relevant precedents speedily. But AI cannot weigh the human factors that lie at the heart of judicial decision-making – the credibility of witnesses, the equitable considerations that justice demands, the constitutional values that must guide our interpretation of law.

[12] Our courts are already using AI tools for case management, legal research, and administrative efficiency. But the core of judicial decision-making – the application of legal principle to human circumstances in the service of justice – remains irreducibly human.

[13] The question is not whether AI will change how we practice law – it already has. The question is how we ensure that these technological tools serve justice rather than substituting it.

CRYPTOCURRENCY

[14] The digital transformation of commerce presents our courts with an endless stream of res nova. Cryptocurrency transactions, smart contracts, algorithmic trading, and digital platform liability cases require us to apply traditional commercial law principles to an entirely new economic realities.

[15] Consider the challenges posed by blockchain technology. When parties enter into smart contracts that execute automatically based on predetermined conditions, how do we apply traditional contract interpretation principles? When cryptocurrency transactions cross multiple jurisdictions instantaneously, how do we determine proper venue and applicable law? Would the Contracts Act become obsolete under the circumstances?

[16] These are not theoretical questions – they are cases requiring immediate judicial resolution. Our responses will shape Malaysia's position in the global digital economy and determine whether our legal system can effectively govern 21st century commerce.

RECONCILIATION

[17] In times of rapid legal change, constitutional values provide our navigation system. The fundamental liberties enshrined in Part II of our Federal Constitution, the separation of powers established in our governmental structure, and the rule of law that underlies our entire legal system remain constant even as specific legal applications evolve.

[18] When we encounter res nova, these constitutional values guide our reasoning. Do proposed legal developments enhance or diminish human dignity? Do they strengthen or weaken the rule of law? Do they promote or hinder justice and equality?

[19] These questions cannot be answered in isolation. They strike at the very core of our Constitution.

[20] Thus, this conference invites us to reflect on how we, as a profession, navigate these uncharted waters: respecting precedent, preserving constitutional fundamentals, and yet finding room for principled innovation. Res nova is not merely about novelty; it is about how the law responds to the future while remaining faithful to its foundations.

ROLE OF THE ADVOCATE AND SOLICITORS

[21] I want to emphasize that addressing res nova is not solely a judicial responsibility – it requires the entire legal profession working together. In our adversarial system, the quality of advocacy, the thoroughness of legal research, and the creativity of legal arguments all contribute to effective judicial responses to novel legal questions.

[22] When you encounter res nova in your practice, you are not just serving individual clients – you are participating in the development of Malaysian law. The arguments you make, the authorities you cite, and the legal principles you advocate will influence how our legal system evolve and this conference represents exactly the kind of professional collaboration that effective responses to res nova require.

CONCLUSION

[23] Ladies and gentlemen, we live in extraordinary times for the legal profession. The res nova we encounter today will define Malaysian jurisprudence for the next generation. The decisions we make, the precedents we establish, and the legal frameworks we develop will shape our society's response to technological advancement, social change, and global interconnection.

[24] This is both an enormous privilege and a weighty responsibility. We have the opportunity to ensure that Malaysian law remains vibrant, relevant, and effective in serving justice. But we also bear the responsibility of ensuring that legal innovation serves the rule of law rather than derogating from it.

[25] I hope the deliberations in this conference will inspire us all to engage deeply with these pressing questions, and to continue shaping a legal system that is both timeless in principle and responsive to change.

[26] The theme "Res Nova" reminds us that the law is not a static monument to past wisdom, but a living system that must evolve to serve each generation's needs while maintaining continuity with enduring principles of justice.

[27] I am confident that the Malaysian legal profession possesses the wisdom, creativity, and commitment to justice necessary to navigate the unmapped terrain that lie ahead. This confidence is based not on wishful thinking, but on daily observation of the excellence with which our courts, our bar, and our legal system address unprecedented challenges.

[28] The res nova awaits our response. Let us respond with the full measure of professional competence, our constitutional commitment, and our dedication to justice under law.

[29] May this conference contribute meaningfully to our collective capacity to serve justice in times of unprecedented legal change.

Thank you.

BOOK LAUNCH - LAW AND PRACTICE OF FAMILY LAW IN MALAYSIA, 2ND EDITION

Ladies and gentlemen,

[1] I'm absolutely delighted to be here celebrating YA Dato' Lee Swee Seng, YA Datin Paduka Evrol Mariette Peters, and everyone who made this book possible. You can tell from reading their preface that these are people who genuinely care about families going through the toughest times of their lives.

[2] What really touched me is how honestly they write about the realities of modern marriage and divorce. They acknowledge that relationships fall apart not because someone's evil, but because two people who once loved each other just couldn't make it work anymore. Their push for no-fault divorce comes from a place of real compassion, recognizing that dragging families through blame games only makes the pain worse, especially for the children caught in between.

[3] This book feels like it was written by people who've sat across the table from heartbroken parents, frustrated spouses, and confused children. They understand that family law isn't really about statutes and precedents. It's about helping people pick up the pieces and move forward. That humanity shines through every page, and I think this book is an invaluable resource for lawyers who want to practice with both excellence and empathy.

[4] It gives me immense pleasure and pride to now officially launch this remarkable publication.

KEYNOTE ADDRESS BY

TUN TENGKU MAIMUN BINTI TUAN MAT, FORMER CHIEF JUSTICE OF MALAYSIA PROFESSIONAL PROFESOR UNIVERSITI KEBANGSAAN MALAYSIA

ON THE OCCASION OF THE

SELANGOR CONVEYANCING PRACTITIONERS' FORUM AND HI-TEA

THE ROLE OF CONVEYANCING IN UPHOLDING THE RULE OF LAW AND PUBLIC TRUST

Delivered At Geno Hotel, Subang Jaya, Selangor.
24 November 2025

SALUTATIONS

Distinguished guests, ladies and gentlemen,

Assalamualaikum warahmatullahi wabarakatuh and a very good morning.

INTRODUCTION

[1] It is both an honour and a privilege to be invited to deliver this keynote address on the occasion of 'Selangor Conveyancing Practitioners Forum and Hi-Tea".

[2] I wish, in this regard, to express my sincere gratitude to Ms Yu Ai Ting and the organising committee, comprising the Jawatankuasa Peguam Selangor and the

Conveyancing Practice Sub-Committee, for this kind invitation.

[3] The invitation to me notes that this is the firsttime such a conference is beingheld. The convening of this inaugural forum is a significant and commendable step. It brings together not only practitioners but also the governmental agencies and private institutions that form the ecosystem of this practice. This provides a vital platform for dialogue, collaboration, and the pursuit of excellence in a field that is fundamental to our economic and social stability.

[4] In delivering this keynote address, I must state at the outset that I have not been directly involved in the practical field of conveyancing. My expertise, if any, stems from my former role as Chief Justice of Malaysia and my time in the Judiciary.

[5] Thus, when I speak today, my intention isnotto delve intothe technical orprocedural details of your practice. Rather, Iwish to offer my perspective on the topic from where our worlds overlap — to comment on the profound importance of conveyancing as it intersects with the Judiciary's core concerns: theupholdingoftheFederalConstitution, the

[6] As such, while no specific topic was provided to me for the purposes of this inaugural keynote, I have – for the sake of clarity –entitledthis keynote address as 'The Role of Conveyancing in Upholding the Rule of Law and Public Trust'.

[7] In accordance with this topic, and in line with myformer role, I have structured my thoughts and the contents of this speech, as follows:

(i) First, I will explore the role of conveyancing not as a mere administrative process, but as a fundamental mechanism for upholding a key constitutional right — the right to property.

(ii) Second, I will discuss the high duty of integrity and diligence requiredofpractitioners, and how this duty forms the bedrock of public confidence, drawing from the judicial perspective on the consequences of its failure.

(iii) Third, I will touch upon the imperative of collaboration between the Bar and the various state and federal agencies, which this forum rightly champions.

(iv) Finally, I will offer some brief thoughts on the challenges of modernization, before formally officiating this event.

CONVEYANCING AND CONSTITUTIONAL RIGHTS

[8] As I have stated on many previous occasions, the foundational principle of our nation is constitutional supremacy, not parliamentary sovereignty. The Federal Constitution is the supreme law of the land.

[9] This principle was unequivocally affirmed in the seminal case of Ah Thian,1[1] where Suffian LP stated:

"The doctrine of the supremacy of Parliament does not apply in Malaysia. Here we have a written constitution. The power of Parliament and of state legislatures inMalaysia islimited by the Constitution, and they cannot make any law they please.".

[10] This supremacy is enforced by the Judiciary, which is vested with the judicial power of the Federation, a power that the Federal Court in the trilogy of cases — Semenyih Jaya,[2] Indira

1 *Ah Thian v Government of Malaysia [1976] 2 MLJ 112, at p.113.*

2 *Semenyih Jaya Sdn Bhd v Pentadbir Tanah Daerah Hulu* ***Langat and another case*** [2017] 3 MLJ 561.

Gandhi,[3] and Alma Nudo[4] — collectively reaffirmed as being inherent and derived from the Federal Constitution itself.

[11] But what does this high constitutional principle have to do with the daily work of aconveyancing practitioner? In my view, the connection is direct and profound. Part II of the Federal Constitution guarantees our fundamental liberties. Among these is Article 13(1), which expressly ensures that "[n]o person shall be deprived of property save in accordance with law."

[12] The phrase "save in accordance with law" is the constitutional anchor for the entire practice of conveyancing. It is the embodiment ofthe Rule ofLawinthe context of property. The "law" in this provision is not just the National Land Code,[5] the Stamp Act 1949,[6] or the Real Property Gains Tax Act 1976;7 it is the entire legal framework thatyou, as practitioners are entrusted to navigate on behalf of the public which trusts and engages you.

[13] You are, in this sense, the stewards of thisprocess. For the vast majority of citizens, the purchase of a home is the largest and most significant financial transaction of their lives. It is often their primary — or only — interaction with the legal profession.

[14] So, for example: when you execute a sale and purchase agreement, a transfer, a charge, or a lease; you are not merely filling in forms.You arethe front-linemechanismby which a citizen's constitutional right to acquire and hold property "in accordance with law" is given life and substance.

INTEGRITY AS THE BEDROCK OF PUBLIC TRUST

[15] I am, of course, aware that within the legal profession itself, conveyancing practitioners are sometimes unfairly perceived as "glorified clerks". This perception is severely misguided as it completely fails to appreciate the crucial constitutional and societal role that you play, which I have just described.

[16] I must also acknowledge the unique economic pressures that define your practice. Unlike in litigation practice, where fees are often open to competition, the remuneration for conveyancing is, as you know, strictly regulated by written law.

[17] For instance, the Solicitors' Remuneration Order 2023,[8] which came into operation on 15 July 2023, continues this framework, stipulating the precise scale fees for sales, transfers, leases, and financing in its Schedules.

[18] The practical consequence of this is that a conveyancing practice often relies on a high volume of work to remain visible and financially viable. It is this very pressure — the need to secure bulk — that creates a unique and significant ethical tightrope.

[19] To achieve this volume, practitioners must engage in extensive networking to secure clients or to be appointed to the panels of large corporations and financial institutions. Hereinliesthechallenge:todraw a clear line between acting as a dignified member of the profession and, if I may be candid, appearing "starved for clients".

[20] This pressure also gives rise to the issue of discounts. The Solicitors' Remuneration Order 2023 itself, in paragraph 6(1), permits a discount of up to twenty-five per cent on fees under the First and Third Schedules.

---

3 *Indira Gandhi Mutho v Pengarah Jabatan Agama Islam Perak & Ors and other appeals [2018] 3 CLJ 145.*
4 *Alma Nudo Atenza v Public Prosecutor and another appeal [2019] 4 MLJ 1.*
5 *Act 848.*
6 *Act 378.*
7 *Act 169.*
8 *P.U.(A)/207.*

[21] This provision, when coupled with the pressure for high-volume work, can create the challenge of providing otherwise unsustainable or ultra vires discounts — a practice that not only undermines the perceived value of your work but also affects the sustainability of fellow practitioners.

[22] This is where you must remember to lookoutfor oneanother. The legal profession is not a solo endeavour. When one conveyancing lawyer flourishes through principledpractice, it elevates the standing of all. A race to the bottom on fees or ethics, conversely, harms the entire community.

[23] This profound responsibility places a heavy burden of integrity upon the practitioner. Public trust is, after all, the cornerstone of the legal profession's legitimacy.

[24] The public, and indeed the entire economy, operates on the assumption that the conveyancing system is secure, reliable, and free from fraud. This assumption rests almost entirely on the diligence and integrity of the lawyers and the agencies involved.

[25] From my former vantage point on the Bench, I can attest that when this trust is breached, the consequences are severe. Cases involving land fraud, forgery, and professional negligence are not mere commercial disputes; they represent a fundamental breakdown of the system and often lead to serious human suffering, consuming finite judicial time and resources.

[26] A key judicial pronouncement on this risk is the Federal Court case of Chang Siew Lan decided in 2009.[9] *The facts are a cautionary tale: a purchaser's solicitor released the full balance of the purchase price to the vendor's solicitor, who had undertaken to redeem the property from a chargee. The vendor's solicitor then misappropriated the funds.*

[27] While the Federal Court found the purchaser's solicitor was not negligent — as she was strictly following the express terms of the sale and purchase agreement — the court issued a powerful and clear observation for the entire conveyancing Bar.

[28] The judgment is particularly unique because, as noted in the judgment itself, the Federal Court actually dismissed an application for leave to appeal against the decision of the Court of Appeal. The unique point was that the Federal Court does not usually author judgments in such cases but deemed it necessary to do so here in order to make these general observations regarding the conveyancing practice – something of public importance.

[29] Citing the *"widespread misappropriation of clients"* monies by solicitors,[10] the apex Court observed that it may well be negligent not to advise a purchaser to insist on inserting a clause requiring direct payment to the chargee. The court defined the core principle, and quote:[11]

"Since protecting one's client's money is the overriding consideration in conveyancing matters, ensuring that the redemptionsumreaches achargee without the intervention of the other side's solicitor may be the answer to avoid charges of negligent practice."'.

[30] This judgment perfectly illustrates the point. It elevates the practitioner from a 'glorified clerk' who robotically follows instructions to a professional advisor whose duty is to apply their legal mind by anticipating and mitigating risks before the contract is signed.

[31] *Chang Siew Lan*, which dealt with safeguarding the redemption sum, is not an isolated example. The court's expectation of proactive, procedural diligence was reinforced in a relatively recent High Court decision in *Huat Siang Hardware*.[12]

---

9 Chang Siew Lan (f) v Loh Chooi Teng (practising as Messrs CT Loh & Co a firm) [2009] 6 MLJ 776.

10 Ibid., at [7].

11 Ibid.

12 Huat Siang Hardware Sdn Bhd v Amir Faezal Norzela & Chong [2024] 8 MLJ 643.

[32] In that case, a solicitor was found negligent for, among other things, failing to ensure that a Power of Attorney ('PA') was properly deposited with the relevant land office before advising the client to execute the Sale and Purchase Agreement and, crucially, before the release of the deposit. The transaction turned out to be fraudulent, and the deposit was lost.

[33] The High Court was unequivocal. It held that the client's purported "urgency" or the fact that the property was a "bargain price" did not, in any way, absolve the solicitor of their professional duty. The court affirmed that a conveyancer's duty extends far beyond "the conducting of land and bankruptcy searches." It noted that ensuring the PA was deposited was a "quick and simple process" that would have allowed the land office to "detect impropriety, raise the necessary alert and avert fraudulent transactions."[13]

[34] This principle of a non-negotiable standard of care was affirmed again by the Federal Court in another case called *Julian Chong*.[14] The facts are another stark illustration of the catastrophic consequences of a failure of basic diligence.

[35] In that case, the lawyers acting for the purchasers in 2004 prepared an SPA which failed to state that the property was subject to any encumbrances; the relevant schedule was left blank. The reason for this omission was simple:thelawyers hadfailedto conduct a land search at the time

[36] For many years, the clients lived in their newhome, unaware ofthe charge. Only later, when they were notified by the bank of an impending auction, did the negligence come to light. When the clients asked their lawyers for the (non-existent) land search, the lawyers were, as the Federal Court put it, "economical with the truth" and engaged in "deliberately covering up their negligence."[15]

[37] The Julian Chong case is a powerful lesson on two fronts. First, it demonstrates that a conveyancer's most basic duty — to conduct a land search and accurately reflect the state of the title — is the very foundation of the transaction. Second, it shows the devastating, decade-long impact of such a failure, which was compounded by a subsequent and, in my view, more serious breach of integrity: the cover-up.

[38] While the main legal issue in Julian Chong was limitation, the Federal Court's decision — that the cause of action accrued not from the negligent act in 2004, but from the date of actual damage when the bank issued its foreclosure notice — serves to protect the public. It affirms that it would be unjust and unreasonable to expect a client to discover adefectthat was actively concealed by their own solicitor.

[39] The Huat Siang Hardware and Julian Chong cases dealt with failures ofprocedural diligence. But the judicial perspective is even stricter when it comes to a breach offiduciary duty. This was made crystal clear in the 2017 Federal Court decision of Ng Siew Lan.[16]

[40] There, a solicitor, while acting for the plaintiff purchaser, also began acting for another company that was desirous of buying the same land. This was a clear and indefensible conflict of interest. The solicitor then deceived his own client, the plaintiff, by pretending to lodge transfer documents while deliberately failing to apply for the necessary permission to transfer — an act the Federal Court labelled "gross negligence."[17]

[41] The solicitor compounded this breach by having the clientsign aletter of disclaimer, all while concealing these material facts. The Federal Court rightly held that the solicitor could not *"serve* two masters at one time" and had engaged in "misrepresentation by silence."[18]

---

13 *Ibid., at [26], [31]-[32].*
14 *Julian Chong Sook Keok & Anor v Lee Kim Noor & Anor [2024] 3 MLJ 544.*
15 *Ibid., at [10] and [13].*
16 *Ng Siew Lan v John Lee Tsun Vui & Anor [2017] 2 MLJ 167. 17 Ibid., at [71].*
17 *Ibid., at [71].*
18 *Ibid., at [64] and [98].*

[42] The court also rendered the disclaimer void and reaffirmed a critical principle: a solicitor "cannot be allowed to benefit from their own wrong" and it would be "totally inequitable and contrary to conscience" to allow reliance on a disclaimer obtained through such deceit.[19] The court also noted the solicitor's failure in "failing to advise the plaintiff to seek independent legal advice" before she signed it.[20]

[43] This burden of integrity, as highlighted in these cases, is not merely a moral suggestion; it is a codified professional obligation. Lawyers, in all matters, are officers of the court. Your conduct is governed by a strict ethical framework, encapsulated in the Legal Profession (Practice and Etiquette) Rules 1978. These Rules demand a duty of candour, fairness, and a commitment to the truth that, in many instances, overrides even the duty to the client.

[44] This is why professional bodies, such as the Malaysian Bar, are not mere associations but guardians of these ethical standards. They are entrusted with thepower to enforce these Rules and to ensure that the title of 'Advocate and Solicitor' remains synonymous with integrity, there by protecting the public from dishonourable conduct.

[45] Conversely, every time a practitioner exercises diligence, verifies an identity, or refuses to take a shortcut in adherence to these Rules, that practitioner is acting as a bulwark against injustice. This duty of integrity is, therefore, not just a professional obligation; it is a public one.

[46] Thisrole asa'bulwark against injustice' has a direct and beneficial impact on the administration of justice. The Judiciary, as I have noted in other forums strongly encourages the trend towards Alternative Dispute Resolution ('ADR'). We do so because the traditional adversarial process, while necessary, is often costly, aggressive, and in many cases, protracted.

[47] This push for mediation and other forms of ADR is a core component of enhancing access to justice. It alleviates the load on the conventional courts, allowing the Judiciary to dedicate its finite resources to the complex constitutional and novel commercial cases that truly require public adjudication.

[48] A diligent conveyancing practitioner is, in this sense, a key partner in this objective. You are the embodiment of the principle of just and expeditious disposal, applied even before a dispute can ever arise. When you perform your duties with integrity — when you advise your client to include a direct payment clause, as suggested in Chang Siew Lan, or verify foundational documents as mandated in Huat Siang and Julian Chong — you promote commerce, you build public trust, and, most critically, you prevent disputes, thereby saving all parties from the evils of litigation.

[49] In doing so, you elevate your role from a simple advocate to that of an advisor, problem-solver and facilitator of resolution from the very inception of the transaction.

[50] And in those unfortunate instances where litigation does become unavoidable, the work of a good conveyancing lawyer becomes invaluable. Alitigator's case is only as strong as the foundation it is built upon. It is the conveyancing practitioner who has prepared that foundation: the solid documentation, the clear correspondence, and the organized files. This preparation is what assists thelitigator —andby extension, the courts — in achieving a speedy, fair, and efficient resolution.

[51] This point, on how a conveyancing lawyer's initial work is so important later in litigation work, in my view, is best driven home by a negative example. That is to say, how poor and shoddy work itself was the central issue in the dispute.

[52] In the 1995 Court of Appeal case of Luggage *Distributors*[21] the entire legal dispute, which was

---

19 Ibid., at [88].

20 Ibid., at [90

21 Luggage Distributors (M) Sdn Bhd v Tan Hor Teng & Anor [1995] 1 MLJ 719.

complex and protracted, arose in large because the foundational tenancy agreement was, in the words of the Court of Appeal, *"a very poorly drafted document."* Gopal Sri Ram JCA (as he then was) noted that it was *"probably drafted by an estate agent"* and that *"there is grave danger in entrusting the drafting of tenancy agreements to non-professionals"*.[22]

[53] That entire case, which turned on the ambiguous meaning of a few words in a recital, is a strong judicial illustration of how a failure of diligence at the conveyancing stage invites litigation. It makes the court's job harder, not easier.

[54] Indeed, His Lordship went on to describe a subsequent lawyer's letter in that dispute as having *"atrocious grammar"* and being a *"wilful attempt to mislead"*.[23] This is the very antithesis of the standard required, and it demonstrates how poor conveyancing work can directly create the acrimonious, costly, and complex conflicts that the judicial system, and ADR, are designed to resolve.

[55] So, be not the reason for litigation as it stands not just to embarrass you but the entire legal profession.

THE IMPERATIVE OF COLLABORATION

[56] This forum, by its very design, recognizes a critical truth: the practitioner does not operate in a vacuum as, I have noted, this event involves not only the gathering of conveyancing lawyers, but also relevant governmental agencies and private institutions.

[57] The constitutional right to property can be frustrated not just by fraud, but by systemic inefficiency, bureaucratic friction, and a lack of coordination between the key actors. A lawyer's diligence is of little avail if the land registry is uncooperative, if the stamping process is opaque, or if the various state agencies and local authorities operate in silos without regard for the end-to-end process.

[58] I therefore commend the Selangor Bar for its leadership in bringing all stakeholders to thetable. This inaugural forum mustbe the start of a new, collaborative spirit. A commitment to break down these silos is not merely a matter of improving efficiency for the sake of convenience; it is a necessary step to ensure that the citizen's right to property is not rendered illusory by a system that is fragmented and cumbersome.

[59] And this collaboration is not just about efficiency; it is about security. The cases I mentioned earlier, such as Huat Siang Hardware, demonstrate this. The courtin that case noted that the simple, procedural step of depositing the PAwould have empowered the Land Office to do its job. This is a clear judicial affirmation that the Land Office is not a mere administrative hurdle, but your most critical partner in diligence and fraud prevention. A failure to engage with them properly, as seen also in the Julian Chong case, is not just a procedural lapse; it is a failure to protect your client.

[60] Likewise, these institutions must remember the crucial roles they each play and must continue to make every effort to remain committed to the Rule of Law and modernity.

THE CHALLENGES OF MODERNIZATION

[61] Finally –and speaking of modernity –a modern practice must confront modern challenges. Wearein anageofdigitalization: e-stamping, online searches, and digital land registries.

---

22 *Ibid., at p. 713.*

23 *23 Ibid., at p. 735. The full passage, for context, reads:*

"Counseldescribedthis letter as disingenuous. I think that he was being charitable. To my mind that letter (quite apart from its atrocious grammar) was nothing less than a wilful attempt to mislead the respondents into believing that their legitimate expectation under the tenancy agreement was at risk.".

[62] In fact, apparently all around the world, people are even engaged in the sale and purchase of virtual land through Non-Fungible Tokens (NFTs) for reasons such as for advertising, socializing, gaming, and work, among other use cases.[24]

[63] With these digital advancements comes the threat of new, more sophisticated forms of fraud, forgery and deceit.

[64] As I remarked on previous occasions, efficiency must not be the sole benchmark of success. As the practice modernizes, we must ensure that the adoption of new technologies serves, and does not supplant, the core principles of security, verification, and integrity. Technology must be our servant in upholding the Rule of Law, not its master.

[65] The tools have changed, but the fundamental duties elucidated by the courts have not; in fact, they have become more critical.

[66] The judicial lessons from the cases I mentioned are not confined to an analogue world. The failure in *Julian Chong* was the failure to conduct a basic land search. The failure in *Huat Siang Hardware* was the failuretoverify a PA with the Land Office.The modern temptation will be to trust a digital portal, a'green check'icon, or an e-stamping receipt as absolute proof. This is the new trap. We must not allow the 'urgency' of a digital transaction, like the 'bargain price' excuse in *Huat Siang Hardware*, to absolve us of our duty. A digital-first world demands more scepticism, not less. Verification remains your paramount duty.

[67] The judicial observations in *Chang Siew Lan* — that a solicitor's role is to be an advisor who anticipates risk — is amplified. The risk is no longer just misappropriation; it is sophisticated identity theft, spoofed payment portals, and deep-faked instructions. Likewise, the 'atrocious grammar'that fuelled the dispute in *Luggage Distributors* finds its modern equivalent in ambiguous digital contracts or automated agreements drafted by non-professionals. Your roleas atrained legal professional, who brings clarity and foresight, is the antidote to this. It is what separates you from the "glorified clerk" who simply processes a digital file.

[68] And above all, the timeless, non negotiable principle from *Ng Siew Lan* —that a solicitor cannot serve two masters and owes an undivided fiduciary duty—becomes the anchor. Technology can automate a task, butit cannot exercise a conscience. It cannot commit the 'misrepresentation by silence' that the Federal Court had expressly condemned. That human values of integrity, honesty and diligence remain your highest value.

[69] Alas, that is the extent to which I can commentonthosetopicssuchas e-stamping and connected subjects as I am not entirely familiar with this field of practice. As such, I will entrust those areas to eminent practitioners who are lined up to speak later.

CONCLUSION

[70] To conclude, the role of the conveyancing practitioner, when viewed through the prism of the Federal Constitution, is far more profound than it may appear. You are not in the slightest 'glorified clerks'or just lawyers; but guardians of a constitutional right, stewards of public trust, and key partners in the administration of justice.

[71] It ismy sincere hope that this inaugural forum will foster a renewed sense of purpose, strengthen the bonds of collaboration between all of you, and set a new standard of integrity and excellence for the practice in Selangor.

[72] On that note, it is with great pleasure that I do hereby officiate this Selangor Conveyancing Practitioners Forum and Hi-Tea.

Thank you.

---

24 Please see the following article here published on 7 January 2022.

Bernard Scott Ll.B (Hons)
Uni of London, CLP, Certified Sports Arbitrator, Panel-Asian Sports Tribunal

Senior Partner - SAULT SCOTT & CO
(ADVOCATES & SOLICITORS)

A practical guide TO DRAFTING A STATEMENT OF CASE IN THE INDUSTRIAL COURT

The Industrial Court may seem like a daunting place to appear in when one has no inkling of what to expect when attending there for the first time.

This guide is to assist and make the initial steps easier and less stressful for practitioners tipping their toes into the Industrial Court for the first time and is primarily based on a presentation I gave at the Selangor Bar on 26.6.2025, where more than 75 participants attended including pupils, members of the Bar, and the public. Names, dates, and facts have been changed for purposes of this article.

Without further ado, let us consider the process how a Statement of Case is drafted

STARTING POINT

We will start with a fictitious scenario of a client named Encik. Ali Bin Kassim. He was employed as a Project Coordinator with Syarikat Bekalan Gas Semalaysia Sdn Bhd.

His legal problem is enumerated below.

CLIENT/EMPLOYEE'S LEGAL PROBLEM

1. En. Ali informs us that he had tendered his resignation when the Company asked him to do so on 31.8.2025, after working with the Company for more than nine (9) years.
2. He had lodged a complaint of unfair dismissal to the Industrial Relations Department on 15.10.2025.
3. Three (3) conciliation meetings at the Industrial Relations Department were held on 10.11.2025,

21.11.2025, and 8.12.2025. However, the Company refused to reinstate him.

4. The dispute was then referred to the Industrial Court.

5. The Statement of Case is to be filed by 15.1.2026 and the first e-Sebutan will be held on the same date.

6. Our firm of Solicitors have been engaged by En. Ali to represent him at the Industrial Court.

THE BRIEF

1. The Client was employed by the Company on 1.10.2015 as Project Coordinator. There is a "Letter of Employment" dated 29.9.2015.

2. The Client was placed on a six (6) months' probation period ending in 1.4.2016.

3. The Company confirmed the Client in his position on 4.4.2016. There is a letter of confirmation dated 4.4.2016. The Client produces a copy of the Organization Chart of the Company, in which his position was designated as Project Coordinator. His superior officer was Mr. Daniel Stephen, the Managing Director.

4. On 1.1.2025, the Company announced to all staff including the Client that the Company had been acquired by Syarikat Gas Asli Tempatan Sdn Bhd.

5. As part of the reorganization of the Company, the Managing Director of the Company, Mr. Daniel Stephen was dismissed by the Company, while the Tools and Precision Manager, Mr. Lee Hock Choo was promoted and appointed as the Warehouse Manager and the Client was made to report to the Warehouse Manager. There was a new Organization Chart of the Company to that effect.

6. On 15.3.2025, the Client was admitted to hospital for a major heart surgery. He was discharged from the hospital on 31.3.2025 and he reported back to work on 01.05.2024, although not fully recovered as certified by his Cardiologist. The Client produces the Cardiologist Report.

7. On 1.6.2025, the Client together with the Quality Control Manager were put on a Personal Improvement Program ("PIP") for a period of two (2) months ending on 31.7.2025, on grounds that the performance of the business was on the decline due to their alleged poor performance.

8. Reviews of the PIP were conducted by the Warehouse Manager with the Client via Microsoft Teams on 31.6.2025, 15.7.2025 and 31.7.2025.

9. On 7.8.2025, the Client received an email from the Warehouse Manager directing the Client to send him the Client's updated PIP tasks status via email, which the Client did on 10.8.2025. The Client produces a copy of his email to the Warehouse Manager attaching the list of projects and current improvement initiatives prepared by the Client.

10. This updated PIP tasks status was reviewed and amended unilaterally by the Warehouse Manager, without consultation with the Client.

11. Via an email sent on 20.8.2025, the Warehouse Manager sent the amended PIP Review Form to the Client requesting the Client to sign the PIP Review Form and return the same to the Warehouse Manager, which was done by the Client on 27.8.2025. The Client produces a copy of the email from the Warehouse Manager, together with the attachment.

12. On 30.8.2025, the Client received a telephone call from the Human Resources Manager, Puan. Aisyah Binti Ahmad at 9.05 a.m. directing the Client to tender his resignation letter immediately.

The Client was informed that the Warehouse Manager had reported that the Client had failed his PIP and recommended that the Client be terminated.

13. The HR Manager gave the Client an option whether to voluntarily tender his resignation with a month's notice and be compensated with four (4) months salary or be terminated forthwith without compensation. The Quality Control Manager was also directed to resign on similar terms.

14. The Claimant being put on the spot for an immediate answer, not knowing nor advised of his legal rights as an employee, thought he had no other option but to resign or face the stigma being terminated as he was reaching the retirement age on 25.06.2026, and may not be able to obtain another job with similar or better perks.

15. The Client's last drawn salary was RM25,000.00 monthly with a Mercedes C250 as a company car, petrol allowance of RM750.00, parking allowance of RM250.00, entertainment allowance of RM1,500.00, and housing allowance of RM1,500.00 monthly.

16. In an email sent by the HR Manager to the Client on the same day at 9.30 a.m., the Client was instructed not to mention the agreed four (4) months' salary in his resignation letter and to state that his last day of service will be on 30.11.2025. The Client duly tendered his resignation via email sent at 11.15 a.m. on the same day attaching his letter of resignation effective 30.11.2025 as requested by the HR Manager. The Client has copies of the said emails and his letter of resignation.

17. By a letter of the same date, the HR Manager confirmed acceptance of the Client's resignation letter, that the Claimant's last day of service would be on 30.11.2025 and that he would be compensated with four (4) months basic salary. The Client produces a copy of the said letter.

18. The Client's pay slip for the month of November 2025 reflects the four (4) months compensation salary promised to the Client at the item labelled as "Compensation Allowance". The Client also received his salary for November 2025.

19. It came to the notice of the Client that a candidate to replace the Client was interviewed in early October 2025 and the said candidate was duly appointed in December 2025 to replace the Client in the Company as Project Coordinator.

20. The Client was in the employment of the Company for more than ten (10) years from 1.10.2015 before he tendered his resignation on 30.11.2025 as Project Coordinator.

21. The Client had an excellent track record of service throughout his tenure of service with the Company and was given annual increments and performance bonus yearly without fail. The Client was sent by the Company for courses both locally and overseas yearly to enhance his knowledge and skill in the industry.

22. The Client is of the view that he was forced to resign by the Company and from what had transpired, it is apparent that the Company had caused the Client to leave the Company after he returned to work from his major surgery by putting him on a PIP on a baseless allegation that the business was not performing due to his alleged poor performance, which were not highlighted at any prior material time to the Claimant, and that the Company used the PIP and the reviews as a means to facilitate the forced resignation of the Client.

23. The Client's forced resignation was victimization and mala fide on the part of the Company.

24. The Client is trying but is unable to secure a new job despite his experience and seniority since he is about to reach the age of retirement in June 2026.

25. The Client is seeking reinstatement to his former position in the Company without any loss of salary, service, seniority or privileges.

NEXT STEP

1. After agreeing with the Client on legal fees & disbursements and payment arrangements, request from the Client the following:

   (a) a copy the documents referred to by the Client in the brief;

   (b) the letter from the Industrial Court to the Client informing that the case is now before the Industrial Court; and

   (c) Forms F and Form H, Forms A and B which would have been accompanied in the letter from the Industrial Court.

   For the various forms, please refer to The Industrial Court Rules 1967:

   Rule 8(1) for Form F (Notice of Mention);

   Rule 9(1) for Form H (Statement of Case);

   Rule 3 for Form A (Application - Permission to be Represented by Legal Practitioner);

   Rule 4 for Form B (Warrant of Authority).

   For Form A and B, please also refer to Section 27, Industrial Relations Act 1967.

2. Forms A and B has to be e-filed with the Industrial Court.

CHECK LIST OF FURTHER DOCUMENTS AND INFORMATION TO OBTAIN FROM THE CLIENT

This check list will enable you to form a more complete opinion on the strengths and weaknesses of the Client's case and assist in the drafting of the Statement of Case as well as the filing of the Claimant's Bundle of Documents.

1. NRIC/PASSPORT (if foreigner)
2. CURRENT ADDRESS
3. HANDPHONE NO
4. EMAIL ADDRESS
5. LETTER OF APPOINTMENT/EMPLOYMENT CONTRACT
6. CONFIRMATION LETTER
7. PROMOTION LETTER
8. LETTERS OF COMMENDATION
9. WHETHER CLIENT HAS BEEN ISSUED WARNINGS/CENSURE BY EMPLOYER,
10. EXCHANGES OF EMAILS/WHATSAPP BETWEEN THE PARTIES PHOTOGRAPHS/VOICE
11. RECORDINGS
12. POLICE REPORTS
13. WAS THERE A DOMESTIC INQUIRY (DI) CONDUCTED? - NOTES OF PROCEEDINGS
14. NOTIFICATION OF OUTCOME FROM EMPLOYER OF THE DOMESTIC INQUIRY
15. LIST OF POTENTIAL WITNESSES FOR THE CLIENT
16. LIST OF POTENTIAL WITNESSES FOR THE COMPANY
17. SALARY SLIPS 3-6 MONTHS
18. KWSP/PERKESO CONTRIBUTIONS?
19. HAS CLIENT FOUND NEW PART/FULL TIME EMPLOYMENT?
20. LETTERS/EMAILS TO/FROM INDUSTRIAL RELATIONS DEPARTMENT

21. LETTER OF REFERENCE FROM THE INDUSTRIAL COURT
22. A WRITTEN CHRONOLOGY OF EVENTS AND DOCUMENTS, CORRESPONDENCES ETC
23. LEADING TO THE DISMISSAL FROM THE CLIENT.

UNDERSTANDING THE TERMINOLOGY

1.	**Claimant**	-	the aggrieved worker/employee.
2.	**Company**	-	the employer.
3.	**Statement of Case**	-	filed by the employee; akin to Statement of Claim in civil cases.
4.	**Statement In Reply**	-	filed by the Company in reply to the Statement of Case; akin to Statement of Defence in civil cases.
5.	**Rejoinder**	-	filed by the Claimant in reply to the Statement In Reply; akin to Reply to Defence in civil cases.
6.	**Unjust Dismissal**	-	dismissal of the employee without just cause or excuse. The burden of proof is with the Company to show that the dismissal was with just cause or excuse.
7.	**Constructive Dismissal**	-	Claimant deems dismissal by the Company due to conduct of the employer. The burden of proof is with the Claimant.

DRAFTING THE STATEMENT OF CASE

In our fictitious legal problem, the Statement of Case is to be filed by 15.01.2026 and a sample draft is appended here below after studying the brief and documents presented by the Client:

.....

IN THE INDUSTRIAL COURT

IN THE MATTER OF INDUSTRIAL COURT CASE NO: .....

BETWEEN

ALI BIN KASSIM

AND

SYARIKAT BEKALAN GAS SEMALAYSIA SDN. BHD

STATEMENT OF CASE

PARTIES

1. The parties to the dispute before this Honourable Court are Ali Bin Kassim ("**the Claimant**") and Syarikat Bekalan Gas SeMalaysia Sdn. Bhd ("**the Company**").

ISSUE

2. The issue before the Honourable Court is the dismissal of the Claimant by way of forced resignation with effect from 30.11.2025.

Chronology of events Leading to Dismissal

3. The chronology of events leading to up to the Claimant being forced to resign by the Company are as follows:

a) The Claimant was employed by the Company with effect from 1.10.2015 as Project Coordinator. A copy of the Letter of Appointment is attached herewith in the Claimant's Bundle of Documents marked as "**A-1**".

b) The Claimant was placed on a six (6) months probation period ending on 1.4.2016, as stated in the said Letter of Appointment. The Company confirmed the Claimant in his position on 4.4.2016. A copy of the Claimant's Letter of Confirmation dated 4.4.2016 is attached herewith in the Claimant's Bundle of Documents marked as "**A-2**".

c) In the Organisation Chart of the Company, the Claimant was designated as the Project Coordinator. The superior officer of the Claimant was the Managing Director, Mr. Daniel Stephen. A copy of the Organisation Chart is attached herewith in the Claimant's Bundle of Documents marked as "**A-3**".

d) On or about 1.1.2025, the company made an announcement to its staff including the Claimant that the Company had been acquired by Syarikat Gas Asli Tempatan Sdn Bhd.

e) As part of the reorganization of the Company, the Managing Director of the Company, Mr. Daniel Stephen was dismissed by the Company, while the Tools and Precision Manager, Mr. Lee Hock Choo was promoted and appointed as the Warehouse Manager and the Claimant was made to report to the Warehouse Manager. The new Organisation Chart of the Company is attached herewith in the Claimant's Bundle of Documents marked as "**A-4**".

f) On 15.03.2025, the Claimant was admitted to hospital for a major heart surgery. He was discharged from the hospital on 31.03.2025 and although not fully recovered as certified by his Cardiologist, he reported back to work on 01.05.2025. A copy of the Cardiologist's letter dated 30.04.2025 is attached herewith in the Claimant's Bundle of Documents marked as "**A-5**".

g) On 1.06.2025, the Claimant together the Quality Control Manager were put on a Personal Improvement Program ("**PIP**") for a period of two (2) months ending on 31.07.2025 on grounds that the performance of the business was on the decline due to their alleged poor performance.

h) Reviews of the PIP were conducted by the Warehouse Manager with the Claimant via Microsoft Teams on 31.6.2025, 15.7.2025 and 31.7.2024.

i) On 7.8.2025, the Claimant received an email from the Warehouse Manager directing the Claimant to update and send his PIP tasks status to the Warehouse Manager via email, which the Claimant did on 10.08.2025. A copy of the email from the Claimant sent to the Warehouse Manager together with the attached list of projects and current improvement initiatives prepared by the Claimant and marked collectively as "**A-6**".

j) The updated PIP was reviewed and amended unilaterally by the Warehouse Manager without consultation with the Claimant .

k) Via an email sent to the Claimant on 20.8.2025, the Warehouse Manager sent the PIP Review Form requesting the Claimant to sign the PIP Review Form and return the same to the Warehouse Manager. This was done by the Claimant on 27.8.2025. A copy of the email from the Warehouse Manager together with the attachment are marked collectively as "**A-7**".

m) The HR Resource Manager gave the Claimant an option whether to voluntarily tender his resignation with a month's notice and be compensated with four (4) months' salary or be

terminated forthwith without compensation. The Quality Control Manager was also directed to resign on similar terms.

n) The Claimant being put on the spot for an immediate answer, not knowing nor advised of his legal rights as an employee, thought he had no other option but to resign or face the stigma being terminated as he was reaching the retirement age on 25.06.2026, and may not be able to obtain another job with similar or better perks.

o) In an email sent by the HR Resource Manager to the Claimant on the same day at 9.30 a.m., the Claimant was instructed not to mention the four (4) months' salary in his resignation letter and to state that his last day of service will be on 31.8.2025. The Claimant duly tendered his resignation via email sent at 11.15 a.m. on the same day attaching his letter of resignation effective 30.11.2025 as requested by the HR Resource Manager. A copy of the said email sent by the HR Resource Manager, the email sent by the Claimant and the Claimant's letter of resignation are attached herewith in the Claimant's Bundle of Documents and marked as "**A-8**", "**A-9**", "**A-10**" respectively.

p) By a letter of the same date, the HR Manager confirmed acceptance of the Claimant's resignation letter, that the Claimant's last day of service would be on 30.11.2025 and that he would be compensated with four (4) months basic salary. A copy of the said letter is attached herewith in the Claimant's Bundle of Documents and marked as "**A-11**".

q) The Claimant's pay slip for the month of November 2025 attached herewith in the Claimant's Bundle of Documents and marked as "**A-12**" reflects the four (4) months compensation salary promised to the Client at the item labelled as "*Compensation Allowance*". The Client also received his salary for November 2025.

r) A candidate to replace the Claimant was interviewed in early October 2025 and the said candidate was duly appointed in December 2025 to replace the Claimant in the Company as Project Coordinator.

Length of Service and Last Drawn Salary

4. The Claimant was in the employment of the company for more than ten (10) years from 01.10.2015 before he was forced to tender his resignation on 31.10.2025 as Project Manager.

5. The Claimant's last drawn salary was RM25,000.00 monthly with a Mercedes C250 as a company car, petrol allowance of RM750.00, parking allowance of RM250.00, entertainment allowance of RM1,500.00 and housing allowance of RM1,500.00 monthly.

Track Record

6. The Claimant had an excellent track record throughout his tenure of service with the Company and was given annual increments and performance bonus yearly without fail. The Claimant was sent by the Company for courses both locally and overseas yearly to enhance his knowledge and skill in the industry.

Claimant's Contention

7. The Claimant contends that:

(a) he was forced to resign by the Company and from what had transpired, it is apparent that the Company had done all it could to force the Claimant to leave the Company after the Claimant returned to work from his major heart surgery, putting him on a PIP on a baseless allegation that the business was declining due to his alleged poor performance which were not highlighted at the prior material time to the Claimant, and used the PIP and the reviews as a means to facilitate the forced resignation and termination of the Claimant; and

(b) his forced resignation was victimization and mala fide on the part of the Company and ought to be struck down as such.

Remedy Sought

8. **WHEREFORE**, the Claimant prays that this Court does find that his forced resignation was dismissal by the Company without just cause or excuse and that he be reinstated to his former position in the Company without any loss of salary, service, seniority or privileges.

Dated this day of , 2026.

.....

Solicitors for the Claimant

THIS STATEMENT OF CASE is filed by Messrs . ..., Advocates & Solicitors, Solicitors for the Claimant, whose address for service is at No. .....

Tel No: ...; Fax No: ...; Email: ...

(File Ref No: ...)

.....

Post Script:

Once we have e-filed Forms A & B and the Statement of Case and at the first e-Sebutan, the registrar will likely give directions to the parties for the filing of the following:

(1) The Statement In Reply by the Company and subsequently, Form J will be issued to the parties. (Please refer to Rule 10(1) Industrial Relations Rule 1967); and

(2) Rejoinder by the Claimant. (Please refer to Rule 11 Industrial Relations Rule 1967).

Practical Guide to Cross-Examination

by **J. Edwin Rajasooria**
Advocate & Solicitor, High Court of Malaya

INTRODUCTION

Cross-examination is the most powerful weapon in a trial lawyer's arsenal. When deployed skilfully, it can dismantle the opposing party's case and discredit adverse witnesses. It is arguably the most essential skill for any counsel conducting trials.

Contrary to cinematic portrayals, trials in real life rarely resemble the courtroom theatrics of films or television. The dramatic collapse of a witness under pressure is largely fictional.

Effective cross-examination is not about dramatic confrontation, however tempting it may be to impress the client or the public gallery, rather, it is rooted in **preparation, precision, and control**.

A successful cross-examination is a calm, methodical exercise, built upon a thorough understanding of the facts, the documents, and the weaknesses in the opposing case. A lack of preparation quickly becomes apparent and may seriously undermine counsel's credibility before the court.

A well-prepared advocate leads the witness with short, clear, and focused questions, maintaining control of the narrative while minimizing opportunities for the witness to digress or embellish.

IN THE COURTROOM

Never step into a courtroom for trial without mastering at least the fundamentals of cross-examination. Even the strongest case may falter if the cross-examination is poor.

Do not be intimidated by your opponent's stature or by the size of the team they bring to court.

Maintain your composure. Be calm, courteous, and firm. Take control of the proceedings when it is your turn to cross-examine, you are in charge.

Judges are often more persuaded by clear, focused questioning rather than by aggressive confrontation. Maintain a respectful tone. Always be courteous to the Bench, your opponent, and the witness. Decorum in the courtroom is not optional, it is essential.

Be mindful of the Legal Profession (Practise and Etiquette) Rules, 1978 particularly the following Rules:

- Rule 13 to guard against insulting or annoying questions;
- Rule 14 not to ask irrelevant questions;

- Rule 15 maintain a respectful attitude towards the court;
- Rule 16 to act with due courtesy but fearlessly uphold the interests of his client, the interest of justice and dignity of the profession.
- Rule 17 not to practice deception on the court;
- Rule 18 to act with candour, courtesy and fairness;
- Rule 19 not to refer to facts not proven;

Rule 24 to be ready on the day fixed for trial, apply for an adjournment only for good and cogent reasons and improper to apply for adjournment unless adverse counsel has been given at least 48 hours' notice.

Even after a robust cross-examination, do not hesitate to thank the witness. Regardless of what your client may think, courtesy leaves a lasting impression.

PURPOSE OF CROSS-EXAMINATION

The primary aim of cross-examination is to elicit concessions, expose contradictions, and reinforce your client's case - one carefully framed question at a time. It serves several key purposes:

- To weaken or dismantle the opposing party's case.
- To test the credibility, memory, and impartiality of witnesses.
- To uncover bias, inconsistencies, or omissions.

It is often overlooked that adverse witnesses, particularly those without a personal stake in the outcome, may confirm facts that support your client's case.

Prior testimony from one witness may be tested against that of another to expose contradictions and diminish the credibility of the opposing case.

When multiple witnesses are called, avoid needless repetition. If favourable concessions have already been obtained, build upon them with subsequent witnesses rather than rehashing the same ground.

Cross examination questions must be closed ended questions and not open ended questions. Avoid asking open ended questions unless introductory in nature. Failure to do so, will cause Counsel to lose control of the witness and the witness may start to stray and embellish his version.

Ask the witness to agree with you that he was speeding while driving on the narrow road. Do not ask him, were you speeding?

Avoid questions in two parts for example, you came late to work because your motorcar broke down. Such double barrel questions will invoke objections and judicial displeasure.

The common law principle in *Browne v. Dunn* remains good law in Malaysia: you **must** put your client's case to the opposing witness. Failing to do so may be fatal.

So counsel must Put to the witness, that your client did not execute the agreement, do you agree?

TYPES OF WITNESSES

Adverse witnesses generally fall into three categories:

1. Expert and Professional Witnesses
2. Witnesses with an Interest
3. 'Impartial' Witnesses (e.g., ex-employees or bystanders)

Each category requires a tailored approach.

EXPERT AND PROFESSIONAL WITNESSES

These witnesses often carry significant weight due to their credentials. Cross examination of medical experts, particularly government doctors, are very challenging. They testify within their specialised field, often drawing from years of experience.

Counsel may not share their technical knowledge and expertise. Before cross-examining a medical expert, consult with a qualified professional to understand the medical terminology, methodology, and possible vulnerabilities.

When cross-examining a fellow lawyer, ensure that their answers are confined to **facts within their personal knowledge** and not their legal opinions or interpretations.

Your goal is not to destroy the expert's credibility but to expose:

- Gaps in their methodology or assumptions;
- Over-reliance on incomplete facts;
- Possible contradictions in prior publications or reports.

Ask whether:

- They were provided with all relevant facts/documents;
- Their opinion would change if assumptions were incorrect;
- Their conclusions are consistent with prior work.

BIASED WITNESS

These witnesses may stand to gain or lose from the outcome. Your aim is to expose **bias**, **inconsistencies**, or **motive to lie**.

Ask about:

Their relationship with the parties;

Any financial or personal interest in the outcome;

Contradictions with documentary or objective evidence.

Highlight any pattern of evasiveness, selective memory, or self-serving answers.

THE 'IMPARTIAL' WITNESS

These include ex-directors or former employees of the opposing party. They often appear credible and neutral to the judge. That perception makes them particularly dangerous if their evidence goes unchallenged.

Test:

- When they left the company or role;
- Their connection to the material facts;
- Whether they were present at the material time;
- Whether conditions (lighting, distance, obstructions) affected their observation;
- How soon after the event they gave their statement.

Your goal is to demonstrate that, while sincere, their account may be incomplete, mistaken, or influenced by others.

STATUTORY FRAMEWORK

The relevant provisions of the **Evidence Act 1950** are as follows:

- **Section 137(2)**: defines cross-examination as examination by the adverse party.
- **Section 138(2)**: cross-examination must relate to relevant facts, not limited to what was said in chief.
- **Section 143(1)**: allows leading questions, but:
    - must not assume unproven facts;
    - cannot suggest the answer directly.
- **Section 143(2)**: prohibits leading questions to a witness biased in favour of the cross-examining party.
- **Section 145**: allows reference to prior written statements, even if not shown to the witness, provided attention is drawn to the parts intended to contradict.
- **Section 146**: permits questions to:
    - test accuracy, veracity, or credibility;
    - discover the witness's background;
    - shake credit by injuring the witness's character, even if it exposes them to penalty or forfeiture.

COMMON OBJECTIONS DURING CROSS-EXAMINATION

"The cross question is outside the Scope of Examination-in-Chief"

Under Section 138(2), questions may extend beyond what the witness stated in chief, so long as they relate to **relevant facts**.

"The Question Tends to Incriminate the Witness"

Refer to Sections 132 and 147. A witness **can** be compelled to answer even if the answer is self-incriminating, though safeguards apply.

"The Question Is not based on the Pleadings"

Cross-examination is **not confined to the pleadings**. While pleadings set the framework, relevant facts may extend beyond what is pleaded. Relevant means relevant and not necessarily pleaded.

"The Question Has Been Asked and Answered"

Repetition is generally discouraged. However, exceptions include:

- **Clarification**: the previous answer was unclear or incomplete;
- **Uncertainty**: the witness answer was vague or the witness was evasive;
- **Testing Credibility**: to expose contradictions or inconsistencies.

Use repetition judiciously. The court values efficiency but will allow it where the issue is material.

CONCLUSION

Cross-examination is not an act of improvisation. It is a disciplined and deliberate craft, one that rewards preparation, clarity, and strategic thinking.

Whether you are challenging an expert, exposing a biased witness, or probing a seemingly neutral bystander, every question should be purposeful and calculated.

Mastery of cross-examination is what separates the competent advocate from the regular one.

The Art of Re-Examination

by **J. Edwin Rajasooria**
Advocate & Solicitor, High Court of Malaya

INTRODUCTION

Re-examination of a witness is one of the most challenging aspects of advocacy. It demands not only technical proficiency but also acute awareness, real-time judgment, and strategic restraint.

Unlike examination-in-chief or cross-examination, re-examination operates within tight constraints yet can have a disproportionate impact on how a witness's testimony is ultimately perceived.

This article explores the principles, risks, and practical techniques of effective re-examination, supported by statutory references and judicial observations.

THE ROLE AND SCOPE OF RE-EXAMINATION

Re-examination requires real-time thinking. Counsel must listen intently during cross-examination, identify points of ambiguity or concern, and frame clarifying questions immediately upon its conclusion.

There is usually no break or pause between the two stages, adding further pressure to Counsel.

Witnesses are often mentally fatigued after prolonged cross-examination. Counsel must be especially clear and purposeful during re-examination.

The objective is not to re-tell the story, but to correct or clarify testimony that may have been misstated, misunderstood, or incompletely explained.

Re-examination is particularly necessary where the witness was restricted to "Yes" or "No" answers and was prevented from elaborating. In such cases, this may be the opportunity to allow the witness to explain and correct misleading impressions.

Notably, some counsels opt to forgo re-examination entirely. This can be a dangerous oversight.

In Public Prosecutor v Tengku Adnan Tengku Mansor [2022] 1 CLJ 917, the Court of Appeal criticised the trial judge for failing to consider the prosecution's omission to re-examine the witness on a pivotal issue, effectively amounting to acceptance of that witness's testimony during cross-examination.

STATUTORY FRAMEWORK

The Evidence Act 1950 provides the legal framework for re-examination:

- Section 137(3) defines re-examination.
- Section 138(1) outlines the sequence: examination-in-chief, followed by cross-examination, then re-examination.
- Section 138(3) limits re-examination to matters raised in cross-examination. Introducing new material requires leave of court and triggers a right of further cross-examination by the opposing party.
- Section 138(4) allows the court to recall a witness for further examination-in-chief or cross-examination, but not expressly for further re-examination.
- Sections 141 and 142 prohibit leading questions during re-examination (as with examination-in-chief), unless the court permits.

In *Alwee Alywin bin Azlim v Muhammad Shahid bin Mohd. Toha* [2020] 1 LNS 308, the High Court held that leading questions during re-examination failed to diminish the admission made under cross-examination.

STRATEGIC CONSIDERATIONS

Unlike cross-examination, which tests credibility and exposes contradictions, re-examination serves a restorative purpose.

The challenge lies in navigating its limited scope, only the issues touched on in cross-examination may be addressed, and only documents referred to during cross-examination may be referred during the re-examination.

If counsel overreaches or strays, objections are likely, and judicial criticism may follow. The line between clarification and improper expansion is a fine one.

A significant risk is that poorly handled re-examination may reinforce damaging cross-examination points. An overzealous "repair" attempt can backfire, drawing attention to weaknesses that might otherwise have gone unnoticed.

PRACTICAL TIPS FOR EFFECTIVE RE-EXAMINATION

1. Prepare in Advance - while re-examination questions cannot be fully scripted, experienced counsel anticipate potential trouble spots and prepare accordingly.
2. Know the Chronology of Events - understanding the timeline of material facts allows counsel to reorient both the court and the witness with confidence and speed during the re-examination.
3. Take Detailed Notes - during cross-examination, take precise notes, leaving space to flag areas requiring clarification. Note any signs of hesitation or confusion or attempt by the witness to elaborate his answers.
4. Keep Questions Focused - re-examination questions should be narrowly tailored to address specific ambiguities or errors.
5. Avoid Redundancy - do not rehash favourable testimony already accepted by the court. Repetition may seem defensive or dilute your message.
6. Documents - only refer to the documents referred to the witness during the cross-examination. Reintroduce the same document only if necessary to clarify a misunderstanding or resolve a contradiction.
7. Know When to Stop - if the damage is minimal or unlikely to sway the court's assessment, the wisest choice may be silence or avoidance. Re-examination should be used surgically, not liberally.
8. Master Courtroom Agility - re-examination demands mental agility under pressure. Counsel must listen actively while simultaneously planning responses, gauging the judge's perception, and managing the witness's clarity and confidence.

CONCLUSION

Re-examination is a powerful yet delicate tool in trial advocacy. When conducted with preparation, restraint, and precision, it can restore context, correct misimpressions, and preserve a witness's credibility. When mishandled, it may cause more harm than good.

It is the final act in the examination of a witness and often, the one that lingers longest in the judge's mind.

Counsel has the right to re-examine a witness on all matters arising from cross-examination, particularly to reconcile discrepancies and remove any suspicion cast on the evidence-in-chief. It also allows the witness to provide his full answer where his earlier answers were curtailed.

In this sense, re-examination is not just a procedural formality, but a vital safeguard in the pursuit of all relevant and material facts.

DIGITAL EVIDENCE IN TRIAL

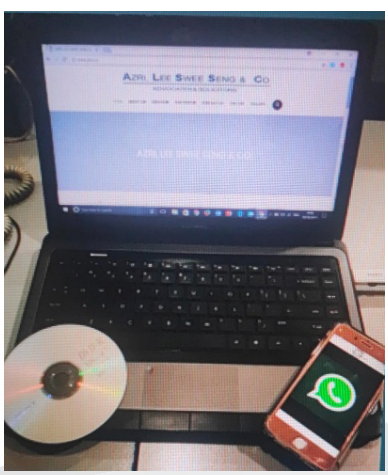
by **Annou Xavier**
Advocate & Solicitor
www.alss.co

PROLOGUE

At the opening address of the International Malaysia Law Conference, 2023, the then Right Honourable Chief Justice of Malaysia, Tun Tengku Maimun Binti Tuan Mat stated the evolving nature and landscape of technology advancement in courtroom and legal profession is inevitable. In the opening address, the Honourable Chief Justice stated:

"[6] ... *The courtroom's transformation reflects the broader digital revolution underway in society. Just as bricks and stones built the courtroom of yesteryears, wires, cables and the internet are building the courtrooms of today...*

[10] *The intersection between access to justice and court technology is evident in various ways. Technology enhances efficiency by automating processes, digitalising documents, and simplifying case tracking, leading to a quicker resolution of cases. Technology improves accessibility by enabling virtual hearings via video conferencing, which bridges the gap for individuals in remote areas and those facing mobility challenges. Costs are also reduced through online filing systems, which minimise physical paperwork and expenses associated with document delivery. Additionally, court technology simplifies procedures for self-represented litigants, providing user-friendly interfaces and guidance, thereby promoting equal access to justice. Technology also facilitates data-driven decision making by collecting and analysing data to identify areas that lack access to justice, which in turn helps policymakers allocate resources effectively and develop targeted interventions.* "



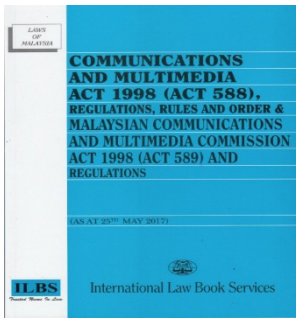
INTRODUCTION

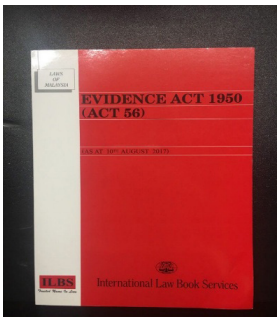
Computer technology in this day and age, has affected almost every aspect of our lives whereby most data and information are now created, stored, received and maintained digitally. Hence, the need for these 'intangible' documents to be regarded as admissible evidence in Court as electronic data has become more valuable than paper-based documents.

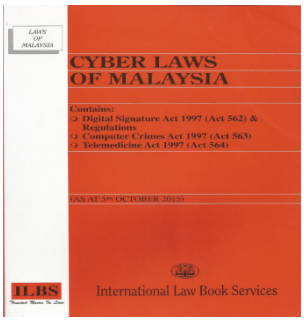
1. **Digital Evidence is governed by,** *inter-alia* **:-**

- ss. 3, 90A, s.90B and s. 90C Evidence Act 1950 (**EA**) (Amendment 2012)
- s. 233 Communication and Multimedia Act 1998

- Computer Crimes Act 1997
- Digital Signature Act 1997







2. What constitutes digital evidence

In Lim Peng Hock & Anor. v Chuah Peng San & Anor. [2021] 1 CLJU 119, Court of Appeal, stated clearly the following :-

"...In Malaysia, digital evidence is admissible as documentary evidence and primary evidence. The admissibility of digital evidence is established under sections 90A, 90B and 90C of the Evidence Act 1950. We cannot view it lightly as to this evidence because digital evidence is also very fragile and could easily be altered. Therefore the issues of authenticity and reliability are important for digital evidence ...

DEFINITION OF A COMPUTER

In s.3 of the Evidence (Amendment) (No.2) Act 2012 Interpretation section, 'Computer': 'an electronic, magnetic, optical, electrochemical, or other data processing device, or a group of such interconnected or related devices, performing logical, arithmetic or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device or group of such interconnected or related devices, but does not include (a) an automated typewriter or typesetter; (b) a portable hand held calculator; (c) a device similar to those referred to in paragraphs (a) and (b) which is non-programmable or which does not contain any data storage facility.'

DOCUMENT PRODUCED BY COMPUTER

Sections 90A, 90B and 90C of EA 1950 relates to documents produced by computers

This section is the exception to the hearsay rule and provides that a document produced by a computer or a statement contained in such document may be admissible as evidence of any fact stated therein by fulfilling conditions – see ss. 73A, 90A EA

Digital records are admissible if they are authentic and unaltered

Digital evidence admissible under s. 90A EA 1950 – Evidence is produced by a computer and it is proven that the computer is in course of its ordinary use

DEFINITION OF A DOCUMENT

Section 3 EA 1950, Interpretation preamble:

"Document" means any matter expressed, described or howsoever represented, upon any substance, material, thing or article, including any matter embodied in a disc, tape, film, sound track or other device whatsoever, by means of –

i) Letters, figures, marks symbols, signals, signs, or other forms of expression, description or representation whatsoever;

ii) Any visual recording (whether of still or moving images);

iii) Any sound recording, or any electronic magnetic, mechanical or other recording whatsoever and howsoever made, or any sounds, electronic impulses or other data whatsoever;

iv) A recording, or transmission, over a distance of any matter by any, or any combination or the means mentioned in paragraph (a), (b) or (c),

Or by more than one of the means mentioned in paragraphs (a), (b), (c) and (d), intended to be used or which may be used for the purpose of expressing, describing, or howsoever representing, that matter;

Definition of a document in s.3 of the EA 1950 now provides that both the displays on the video display unit and printout qualify as document [Gnanasegaran a/l Perarajasingam v PP].

In KTL Sdn Bhd v Leong Oow Lai [2014] MLJU 1405, soft copies of documents are inadmissible as evidence unless data from soft copies has been downloaded and produced by a computer in the form of a document.

This is to fulfil condition of admissibility laid down in s. 90A(1) of EA 1950, namely, document must be produced by computer in the course of the ordinary use of that computer.

In Ahmad Najib Aris v PP [2009] 2 CLJ 800, CCTV tapes fall within definition ie. document produced by a computer

In PP v. Azilah Hadri [2015] 1 CLJ 579, the Federal Court had allowed the location mapping reports to be introduced into evidence on the basis that the witnesses in question were the makers of the reports.

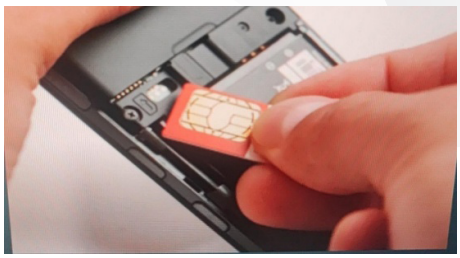
In Ahmad Azhar Othman v. Rozana Misbun [2020] 6 CLJ 314, the question whether the Plaintiff could tender as evidence under s.90A(1) and (2) EA 1950 a copy of the closed circuit television (CCTV) recoding of the second battery.

The copy of the CCTV is a "document" within the meaning of s.3 EA, thus it is admissible.

Secondly, the investigating officer ('IO') had made a copy of PNB's CCTV recording of the second battery in the exhibit. The IO then produced a certificate under s. 90A(2) of the EA which certified that particular exhibit had been produced by a computer in the IO's officer in the course of the ordinary use of the police computer.

Thirdly, the police computer "was in good working order and was operating properly in all respects throughout the material part of the period during which the (exh.P24) was produced".

PP v Lee Kim Seng [2013] 1 CLJ 393, mobile phones and SIM cards were devices for recording, storing, processing, retrieving or producing information within definition of 'computer' under s. 3 EA of 1950 and data retrieved form these devices come within definition of 'document' under EA of 1950.



PP v Pathmanabhan Nalliannen [2013] 5 CLJ 1025, Federal Court dealt into evidence of telecommunications records i.e. records of registered users of mobile number; call detail records; itemized bills were all regarded as falling within the definition of document produced by computer.

Hanafi bin Mat Hassan v PP [2006] 4 MLJ 134, bus ticket produced by a ticket machine was regarded as a digital record admissible as evidence pursuant to s.90A.

Antoine Levar Griffin v State of Maryland [No. 74, Sept. Term, 2010], M*ySpace* profile was deemed to be inadmissible because the State failed to offer any extrinsic evidence describing MySpace, as well as indicating how the paged in question were obtained and failed to adequately link both the profile and the posting to the alleged maker of the MySpace post.

IN THE COURT OF APPEALS OF MARYLAND

No. 74

September Term, 2010

ANTOINE LEVAR GRIFFIN

v.

STATE OF MARYLAND

Bell, C.J.
Harrell
Battaglia
Greene
Murphy
Adkins
Barbera,

JJ.

Opinion by Battaglia, J.
Harrell and Murphy, JJ., dissent.

Filed: April 28, 2011

S. 90A EA 1950

IN THE COURSE OF ITS ORDINARY USE

s. 90A(1): "In any criminal or civil proceeding a document produced by a computer, or a statement contained in such document, shall be admissible as evidence of any fact stated therein if the document was produced by the computer in the course of its ordinary use, whether or not the person tendering the same is the maker of such document or statement."

s. 90A(2): to authenticate the records, a certificate needs to be produced to establish that the document was produced by a computer in the course of its ordinary use.

s. 90A(2) EA 1950

Certificate: Certificate must be signed by a person who is responsible for the management of the operation of that computer; OR

For the conduct of the activities for which the computer was used

Oral Evidence: Person providing oral testimony must be responsible for the management and operations of the computer that had been used to produce the document

It would not be sufficient for the witness to simply state that the computer belonged to him or her

See: Azilah Hadri & Anor v. PP

Gnanasegaran a/l Perarajasingam v PP

The S.90A Certificate:

1. May be signed before or after the production of the document by the computer
2. State to the best of the knowledge and belief of the person
3. State that the document was produced by a computer in the ordinary course of its use
4. Certificate is admissible prima facie proof of all matters stated
5. Where a certificate is tendered, the presumption under s.90A(4) that computer is in good working order and operating properly throughout the material part of the period during which the document was produced will be activated.

In Navi & Map Sdn. Bhd. v Twinice Sdn Bhd & Ors [2011] 7 CLJ 764, Plaintiff tendered a 'skype chat' as evidence and produced a certificate pursuant to s.90A for admission of the print-out of the chat, duly signed by a digital evidence specialist from the Digital Forensic Department in Cyber Security.

However, certificate was held to be not valid under s.90A(2), since it certified that PW4 was not the officer responsible for the management and analysis process of the computer that produced the skype chats.

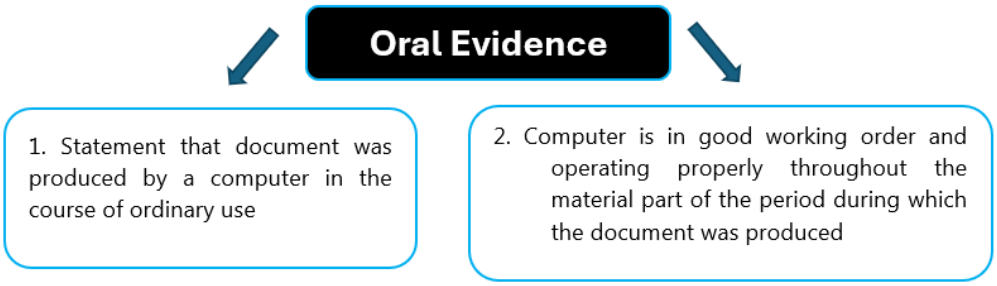
The certificate (in Navi & Map (*supra*)) also did not certify that the document was produced in the course of its ordinary use or that it was in good working order. Portions of the 'skype chat' was missing as well

For these reasons, evidence of the 'skype chat' was deemed inadmissible.

Oral Evidence:

Statement that document was produced by a computer in the course of ordinary use

Computer is in good working order and operating properly throughout the material part of the period during which the document was produced



In RHB Bank Berhad v Lee Kai Shin & Anor (High Court of Sabah & Sarawak at Kuching, July 2008): Court held that account statement tendered by RHB Bank Berhad was documentary evidence and had complied with s. 90A(2) despite the fact that no certificate was produced by RHB Bank Berhad as the oral evidence by the RHB witness was sufficient to consider the reliability and admissibility of the digital evidence.

FAILURE TO PRODUCE REQUISITE CERTIFICATE

Gnanasegaran a/l Pararajasingam v PP [1997] 3 MLJ 1, the Court of Appeal stated the failure to tender the certificate is not fatal as the wording of s. 90A(2) was permissive and not mandatory. Shaik Daud Ismail, JCA clarified under s. 90A(1) there were two ways of proving 'in the course of its ordinary use' in order to admit computer generated documents into evidence:

it may be proved by the production of the certificate as required by subsection (2) – This is permissive and not mandatory. This can also be seen in subsection (4) which begins with the words Where' a certificate is given under sub-section (2)...or

by calling the maker of the document which is the usual method to admit or prove any form of documentary evidence. Therefore a certificate is not required to be produced in every case.

Once the prosecution adduces evidence through a bank officer that the document is produced by a computer, it is not incumbent upon them to also produce a certificate under sub-section (2) as sub-section (6) provides that a document produced by a computer shall be deemed to be produced by the computer in the course of its ordinary use'.

Therefore, if the person responsible for that computer is present then the certificate is not required as oral testimony of that person is sufficient and shall be admissible as evidence.

Ahmad Najib bin Aris v PP [2007] 2 MLJ 505 : -

The court held that a certificate under s. 90A(2) is not the only method to prove that a document was produced by a computer 'in the course of its ordinary use' under s. 90A(1).

The fact that a document was produced by a computer in the course of its ordinary use may be proved by the tendering in evidence of a certificate under s. 90A(2) or by way of oral evidence.

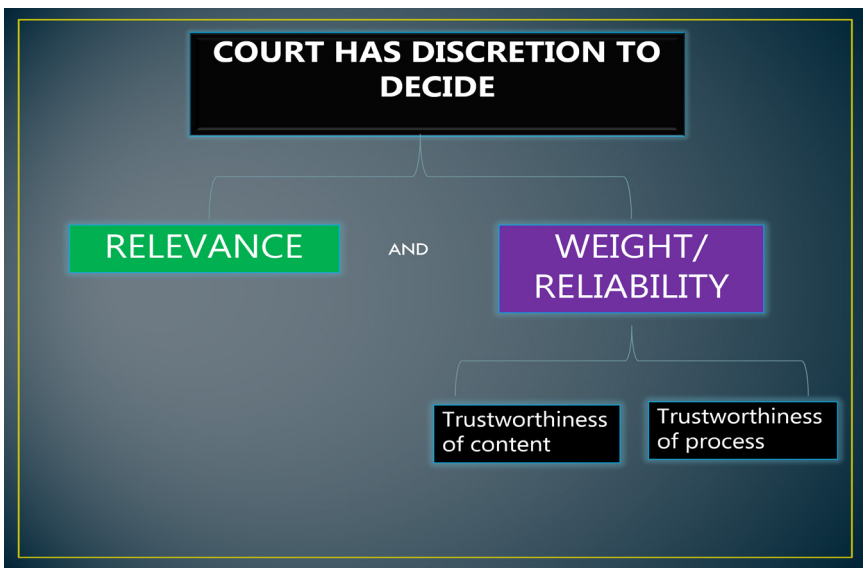
Such oral evidence must consist not only of a statement that the document was produced by a computer in the course of its ordinary use but also of the matters presumed under s. 90A(4).

AUTHENTICATION AND ACCURACY

Digital evidence is more susceptible than paper-based documents to corruption, tampering and unauthorised interception.

In Alliance and Leicester Building Society v Ghahremani [1992] 32 R.V.R 198, the Defendant introduced evidence of a computer printout of a certain directory as evidence of his innocence. The court recognised that "it would be very simple to reset the computer's clock/calendar for the express purpose of making it appear that a file had been saved to disc on any given date".

The Courts have the discretion to decide relevance and weight/reliability : -



S. 90B EVIDENCE ACT 1950: THE PROBATIVE VALUE TO BE ADDED TO DIGITAL EVIDENCE

In Mohamad Fauzi Che Rus v JR Joint Resources Holdings Sdn Bhd [2016] 6 CLJ 266, the Court held that in assessing the weight to be attached to the documentary evidence, guidance may be obtained from s. 90B of the Evidence Act 1950, which permits the court:

to draw any reasonable inference from the relevant circumstances; and

to have regard to whether the supplier of a document has any incentive to conceal or misrepresent any fact or statement contained in the document.

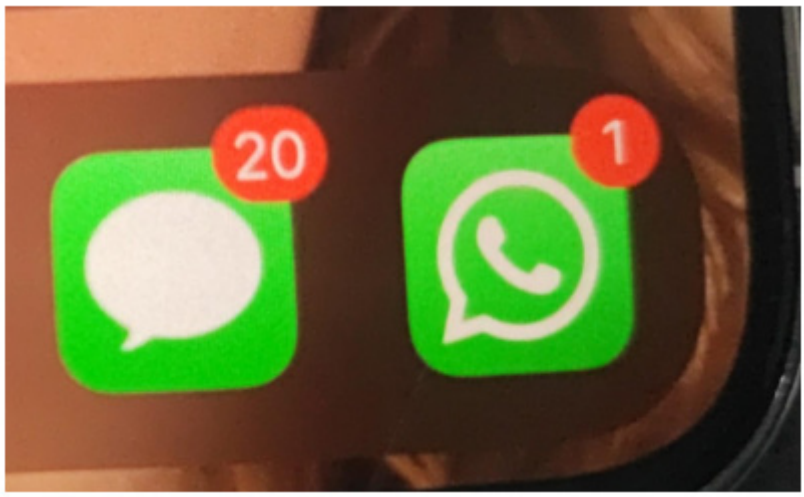
In the present case, the party testifying was a subpoena witness from a client of the defendant. The Court held that the witness has no particular interest in the outcome of the suit thus, it was satisfied that the evidence contained in the invoices were reliable.

Mok Yii Chek v. Sovo Sdn Bhd & Ors. [2015] 1 LNS 448 :-

This is a case where the Plaintiff relied on several emails and *"Whatsapp"* messages to prove the breach of contract, total failure of consideration and unjust enrichment. The High Court held that : -

"*Whatsapp*" messages are documents as defined in s.3 of the Evidence Act and are admissible if the documents are classified as Part B documents OR if they are classified as Part C documents, they fulfill the requirements under s.3 or s.6 to 55, and s. 90A of the Evidence Act.

"Whatsapp" messages were given great weight as they were contemporaneous in nature and such documentary evidence, especially contemporaneous ones, are more reliable than oral evidence.



Vinhnee v American Express Travel Related Services Company, Inc., 336 B.R. 437 (9th Cir. Bankruptcy Appellate Panel 2005), U.S, the Court then explained that the electronic nature of the records necessitated, in addition to the basic foundation for a business record, an additional authentication foundation regarding the computer and software utilized in order to assure the continuing accuracy of the records.

CHALLENGES THAT CAN BE MADE TO THE AUTHENTICITY OF DIGITAL RECORDS

Identity Management Challenge: who is the author of the records?

- Courts look for ways to tie the author to the digital information offered into evidence. It is vital to provide testimony on who the author is.

Is the computer program that generated the records reliable?

- Was the output of the computer what is it purported to be?

Were the records altered, manipulated or damaged after they were created?

- Changes to photographs and videos can be made using Photoshop or graphic design programs, while hackers can alter websites, change databases and other electronic media. Often they cover their tracks by changing log records.

The Court in United States v Jackson, 2007 WL 1381772 (d. Neb. 2007) excluded entirely a "cut-and-paste" version of chat room conversations, finding that the omission made the evidence "not authentic". Further, the computer was upgraded and chats were deleted, although the "screen-shots" and "cut-and-paste" were found but not authenticated.

Hanafi bin Mat Hassan v PP [2006] 4 MLJ 134 :

This is a rape and murder case, where the judge had dispensed with the need to tender in evidence, the certificate required by s.90A(2) as there was evidence to show that the ticket machine that issued the bus ticket was a computer. It produced the ticket in the ordinary course of business of the ticket machine.

Therefore, the presumption in s.90A(6) was sufficient to establish the latter.

Pannir Selvam a/l Sinnaiyah & Anor v Tan Chia Foo & Ors [2021] 7 MLJ 384 :

Whether the WhatsApp messages and deposit transaction records were relevant and admissible?

One of the issues surrounding the WhatsApp message was that counsel contended that the WhatsApp messages were documents produced by a computer in the course of its ordinary use, as stipulated by s.90A(2) EA and such certificate must be tendered.

However, the court admitted the WhatsApp messages on the argument, *inter alia,* that there authorities such as Mohd Khayry Ismail v PP [2014] 1 LNS 412, CA and Mohamad Fauzi Che Rus v JR Joint Resources Holdings Sdn Bhd [2016] 6 CLJ 266 to say that documents produced by a computer may still be admissible in the absence of fulfilment of the requirements under s.90A EA, if it is admissible under another exception to the rule against hearsay. The court applied s.73A EA and admitted the WhatsApp messages and deposit transactions.

Bergamo Development (M) Sdn Bhd v Eck Development Sdn Bhd & Anor [2018] MIJU 555 :-

The Plaintiff here satisfied the pre-requisites by the tendering of a certificate made pursuant to s.90A(2) EA 1950 by the director of P who is responsible for the care and management of the usage of the Samsung Galaxy S6 type mobile phone and a Hewlett-Packed laptop computer.

The messages were generated from his personal WhatsApp account that was registered using his mobile phone as well as extracted and printed from his mobile phone and laptop computer in the course of their ordinary use.

COMPUTER CRIMES ACT, 1997

The following statutes provides that suspects will still be liable as if he has committed the crimes in Malaysia:-

i. s.127A Criminal Procedure Code (liability on offences outside of Malaysia);

ii. s. 9 Computer Crimes Act 1997 ('the Act shall apply to any person who have committedan offence outside Malaysia);

iii. Extra-territorial Offences Act 1976; and

iv. Mutual Assistance in Criminal Matters Act 2002 (MACMA).

In Toh See Wei v Teddric Jon Mohr & Anor [2017] MLJU 704, The Plaintiff asserted his email account was hacked into. He then lodges a complain and reset his password. The Plaintiff was then terminated over emails sent to various people. The Plaintiff suffered distress, loss, and damage to reputation.

The Court (in Too See Wei (*supra*)) relied on s. 8 of the Computer Crimes Act 1997 :-

"*A person who has in his custody or control any program, data or other information which is held in any computer or retrieved from any computer which he is not authorized to have in his custody or control shall be deemed to have obtained unauthorized access to such program, data or information unless the contrary is proved.*"

The Plaintiff also relied on tort of misuse of private information and relied on (Google Inc. v Vidal-Hall [2015] EWCA Civ.311) and Article 5 (1) of Malaysian Federal Constitution on personal liberty and privacy.

Plaintiff's claim dismissed as failed to prove breach of privacy and unauthorised use of information.

WAY FORWARD

Technological revolution and evolving laws have changed the way digital evidence are communicated, stored, adduced and admitted at evidence in Malaysian Courts. When people have begun to use technology and digital platform to store data that would become evidence at a forthcoming Court trial, strict compliance of the Rules and legislation must be adhered to. For a digital document to be tested and admitted as an exhibit, it must not only comply with the governing Court Rules, but also to ensure that the said evidence is not tampered with or altered. The requirement that digital records can be used and relied upon in Court is a key factor in their admissibility as evidence.

References:

Mohamed, Duryana (2011) Computer evidence: issues and challenges in the present and in the future. In: International Legal Conference 2011 (ILC)

Navaratnam, N. (2005) Malaysian Litigation Practice Guide, Sweet & Maxwell Asia

Lucy L. Thomson, (2013) Mobile Devices, New Challenges for Admissibility of Electronic Evidence, American Bar Association, 9(3_), 1-5

Radhakrishna G., (2012), Digital Evidence in Malaysia, Digital Evidence and Electronic Signature Law Review 9 31 - 41

Nurainolmardhiah Bt. Abdul Halim, Ginsim S., & Bahruddin S. K., Case Studies: Admissibility of Digital Records as Legal Evidence in Malaysia, National Archives of Malaysia.

Radhakrishna G., M Zan, DWK Khong., (2013), Computer Evidence in Malaysia: Where are We?.

CHALLENGES FACING THE MONTEVIDEO CONVENTION ON THE RIGHTS AND DUTIES OF STATES

Archana Vijai Kumar,
*LL.B., CLP, LL.M1**

Abstract

The main objective of this research paper is to dissect the requirements for statehood provided under Article 1 of the Montevideo Convention on the Rights and Duties of States, 1933, and challenge their effectiveness in the 21st century, based on state practice and customary international law. It critically analyses the requirements under Article 1 (a permanent population, a defined territory, an independent and effective government and the legal capacity to enter into relations with other states) by highlighting their rigidity and the effects of the right of self-determination on statehood, while considering the controversial but equally vital role the international community plays. Further, it ventures into the different theories of recognition and underscores the issues within each theory, inter alia, the effects of non-recognition by powerful states, admission of states into the United Nations, and the lack of a central authority to govern the recognition of member states. The growing threat of climate change further exposes the inadequacy of Article 1's criteria and its failure to address issues such as the displacement of populations and shifts in territorial boundaries. It emphasizes Article 1's inadequacy in determining statehood by examining its flaws while providing cogent evidence and academic literature to support these arguments. [Ultimately], this research paper concludes that the requirements under Article 1 are not only inadequate but irrelevant in determining statehood in the 21st century, especially in light of climate change.

Keywords

Montevideo Convention on the Rights and Duties of States 1933, Permanent Population, Defined Territory, Independent and Effective Government, Constitutive Theory, Declaratory Theory, Right to Self-determination, State Recognition.

1. INTRODUCTION

Article 1 of the Montevideo Convention on the Rights and Duties of States 1933 has been recognised by numerous scholars as the universally accepted criteria for statehood. Article 1 provides elements for

1 * Archana Vijai Kumar is an international lawyer, scholar, and litigator with expertise in the intersection of international law and gender, who recently graduated with Distinction in an LLM in International Law (Conflict, Security & Human Rights) from the University of Hull.

statehood which are a permanent population, a defined territory, an independent government and the legal capacity to enter into relations with other states. This research paper analyses each of the elements under Article 1, challenges its effectiveness on state practice while recognizing other considerations of statehood and its relevance in determining statehood in light of climate change in the 21st century. In the end, this paper concludes that despite its relevance, the Montevideo Convention does not provide an adequate explanation for the criteria of statehood, other than merely stating elements, and is undeniably flawed in addressing current issues under international law.

2. PERMANENT POPULATION

The first criterion for statehood under Article 1 is the need for a permanent population.[2] However, Article 1 fails to explain this. Oppenheim argues that a population can be viewed as an 'aggregate of individuals of both sexes who live together as a community in spite of the fact that they may belong to different races or creeds, or be of different colour.'[3] Dixon is of a differing opinion, that there must be a 'population linked to a specific piece of territory on a more or less permanent basis.'[4] Oppenheim's argument suggests that a population is a community of residents that reside together but does not mention the notion of permanence. In this sense, the latter view is preferred.

For a state to have a 'permanent population', there must be an intention to establish permanent residency within the state and to be recognised as its inhabitants thereof. Such an attribute can be derived from the nature of livelihood in that state. For instance, Sealand is not recognised as a state as all its citizens have dual citizenship and permanently reside in their home countries. Similarly, the Free Republic of Liberland does not have any permanent population since its formation in 2015, and as such, has not been recognised as a state.[5] Hence, it does seem that there is a strict need for permanency of population within states. However, as seen in *The Western Sahara case*, the ICJ has recognised nomadic tribes as 'population' if they have rights to the land.[6]

Article 1 also does not specify if the population must be considered indigenous in its origin. However, states are recognised despite not having indigenous people as the majority of its population. For instance, the Falkland Islands is recognised by the United Nations as a Non-Self-Governing Territory despite having a population of descendants of UK nationals. Article 1 also fails to lay out the minimum number of populations required. However, inference can be made that there is no minimum population as large states like China (with 1.4 billion people) and small states like Vatican City (with 1,000 people) are equally recognised.

From the above, it seems highly probable that the need for a permanent population is essential as it provides for an organized community to form the basis for the birth of a state. Despite its relevance, Article 1 has failed to explain and provide guidance on the requirements considering migration and dual citizenship.

---

2 Montevideo Convention on the Rights and Duties of States (adopted 26 December 1933, entered into force 26 December 1934) 165 LNTS 263, Art 1.

3 Lassa Oppenheim, *International Law* (8th edn, Oxford University Press 1955), 118.

4 Martin Dixon, *International Law* (6th edn, Oxford University Press 2007), 119.

5 Gabriel Rossman, 'Extremely Loud and Incredibly Close (but Still So Far): Assessing Liberland's Claim of Statehood' (2016) 17(1) CJIL 306, 309.

6 *Advisory Opinion of Western Sahara* (1975) ICJ Reports of Judgments, Advisory Opinions and Orders, 102.

3. DEFINED TERRITORY

The second criterion is the need for a defined territory.[7] Article 1 fails to explain this requirement and in an ironic sense, define the elements of a defined territory. It is silent in its application to disputed territories of states, especially emerging states post-decolonization. The key element is that this requirement sits upon the need for a particular territorial base upon which states can operate.[8] To fulfil this requirement, some defined physical existence must be present to mark it out clearly from its neighbours.[9] However, this requirement is not adhered to strictly by member states.

After World War I, many states were recognised for its territorial consistency even when their boundaries had not been accurately delimited.[10] For instance, Albania was recognised as a state by many countries, although its borders were not defined for a long period.[11] Despite having multiple claims over Palestinian territory, Israel has been accepted by the United Nations as a valid state; because despite the conflicts regarding its borders, there is a clearly marked territory that is solely recognised as 'Israel'. In fact, the UK itself has recognised many states that have disputes over their borders with their neighbours. However, the states mentioned here came into existence after being 'recognised' by other states. Hence, recognition plays a huge role in the circumstances of a state having a disputed territory. In the event there is a void in recognition from other states, this requirement would need to be strictly adhered to. This is explained in detail in Part 6.

Crawford argues that there is a need for the establishment of an effective political community for this criterion to be fulfilled.[12] This argument is humbly disagreed with, as the word 'political' reflects a subjective interpretation and is dependent on the government of the day. The preferred view is that of the importance placed on the presence of a stable community within a certain area.[13] This view places this criterion's fulfilment on stability within a certain area and does not dwell upon the territorial disputes which often occur during decolonization. This requirement, although relevant, is not a strict requirement followed by member states. As argued above, there are instances where recognition plays an important role in recognizing statehood when there is uncertainty of a state in fulfilling this requirement. In this regard, Article 1 has failed to consider the impact recognition plays.

4. AN INDEPENDENT AND EFFECTIVE GOVERNMENT

The next criterion is an independent and effective government.[14] In this regard, Crawford's view of a stable 'political community' is accepted[15] as there is a necessity for an effective government, with central administrative and legislative organs. Although necessary, it is not a condition for the recognition of an independent country but acts as proof of a political structure of independence. For instance, Congo was recognised by other states as having formal independence despite not having an effective government.[16] In this sense, there seems to be a flexible approach to this requirement.

---

7 *Montevideo Convention* (n 1).

8 Malcolm N. Shaw, *International Law* (9th edn, Cambridge University Press 2021), 183.

9 *Dixon* (n 3).

10 *Duestche Continental Gas-Gessellschaft v Polish State* (1929), Annual Digest of Public International Law Cases (Cambridge University Press 2021).

11 *North Sea Continental Shelf Case* (1969) ICJ Reports of Judgments, Advisory Opinions and Orders, 32.

12 James Crawford, *Brownlie's Principles of Public International Law* (9th edn, Oxford University Press 2012), 128.

13 *Shaw* (n 7), 183.

14 *Montevideo Convention* (n 1).

15 *Crawford* (n 11), 128.

16 James Crawford, *The Creation of States in International Law* (Oxford University Press 1979), 42-43.

The government would require a sufficient level of control for it to be independent. For instance, Transkei is not recognised by the United Nations since the majority of its budget was controlled by South Africa.[17] However, Shaw believes that the lack of effective central control may be compensated by significant international recognition, leading to the membership of the United Nations.[18] Such a view is accepted, although any lack of effective control will need to be substituted with recognition that must be 'significant.' It is not known for sure what would amount to 'significant' recognition. However, it is implied that a large number of states would need to confer that recognition. For instance, states like Croatia, Bosnia and Herzegovina were recognised by other states despite facing uncertainty in fulfilling this requirement.[19] Although it does not have an effective government and is not a member of the United Nations, Kosovo is still recognised by states like the U.S., Germany, France and more.

It is argued that such recognition is only valid because it comes from powerful nations as the aforementioned. However, this is not absolute. For instance, Somaliland, a separate state with an effective government was not recognized as a state by the United Kingdom[20] and as such, remains as an unrecognised state. Although external recognition is vital, there are instances where a state possesses a sovereign government due to the internal recognition of it being the highest authority. For instance, Transnistria is a state with internal recognition of its sovereignty despite not having the same kind of external recognition.[21]

Despite the above, membership of the United Nations is not equivalent to statehood as there are states that are recognised without being part of the United Nations (for instance, Vatican City). It is equally incorrect to state that membership of the United Nations is a sign of the existence of the state, as there are entities that are not recognised as an independent state despite being members. For instance, Ukraine and Byelorussia have been members of the United Nations since 1945. Hence, although recognition of the state is important and often results in its membership of the United Nations, it is controversial to conclude that membership of the United Nations automatically gives rise to statehood. Additionally, loss of control by the central government does not lead to the termination of statehood.[22] For instance, Lebanon and Sudan were still recognised as states despite there being an invalid government because of civil wars in those states.

This requirement is crucial as it shows the legal capacity of governments to enter into relations with other states. Equally important is the impact that recognition from other states have. It is necessary for governments to possess effective control over their states and to be viewed as sovereign, since sovereignty signifies independence.[23] However, in the event of diminishing sovereignty, significant recognition can grant states the notion of statehood. Nevertheless, caution must be exercised in this regard, as a significant lack of effective control may not be compensated by international recognition. For instance, in a belligerent occupation, the occupied state is prevented from exercising effective control during the said occupation. In such circumstances, although the existence of the state's sovereignty is not challenged, its governmental and administrative functions are heavily impacted. Here, recognition from other states will not negate the state's lack of effective control and this requirement for statehood will be left unfulfilled.

---

17 Geoffrey E. Norman, 'The Transkei: South Africa's Illegitimate Child' (1977) 12 New England Law Review, 585, 588.

18 *Shaw* (n 7), 185.

19 Robert M. Hayden, 'The 1995 Agreements on Bosnia and Herzegovina and the Dayton Constitution: The Political Utility of a Constitution Illusion' (1995) 4 Euro Const Rev 59, 61.

20 Michael Schoiswohl, 'Status and (Human Rights) Obligations of Non-Recognised De Facto Regimes in International Law: The Case of Somaliland' (Martinus Nijhoff, 2004).

21 Michael Bobick, 'Sovereignty and the Vicissitudes of Recognition: Peoplehood and Performance in a De Facto State' (2017) 40(1) Polar 158, 159.

22 *Dixon* (n 3), 116.

23 *Island of Palmas case* (*Netherlands, USA*) (1928), UN Reports of International Arbitral Awards, 829.

5. LEGAL CAPACITY TO ENTER INTO RELATIONS WITH OTHER STATES

The next criterion is the legal capacity of the state to enter into relations with other States.[24] In this regard, Article 1 has failed to lay out the elements of legal capacity for states to enter into relations with others. Although relevant, it is not specific to states but applies to other entities such as international organizations, including non-governmental agencies, the United Nations and regional bodies like the European Union. However, the key difference here is that states are capable of having full legal capacity, unlike other entities that may have partial legal capacity.[25] Thus, the question is not about the extent of legal capacity but its presence or absence.

It must be emphasized that this is the most important criterion since it goes into the core aspect of the existence of member states, as well as an indication of the importance attached to its recognition by other member states.[26] The most crucial element is the presence of a sovereign state that is not in the direct or indirect control of another.[27] Although this criterion is vital, we must readily acknowledge that no state is entirely independent. States often rely on one another for resources, financial aid, political support and more. For instance, the Czech Republic and Slovakia are heavily dependent on each other for trade despite having achieved individual sovereignty.

Restrictions upon a state's liberty do not affect its independence if such restrictions do not place the state under the legal authority of another.[28] For instance, Austria was recognised as an independent state despite having various restrictions on its economic and military freedom. The ability of another state to control the economic or legislative elements of another would dampen a state's independence. This is seen in *The North Atlantic Coast Fisheries case* wherein allowing the U.S. to have a right in the preparation of fishing legislation would give it a right in the legislative affairs of Great Britain and cause it to be dependent.[29]

A state is independent despite having an external body overseeing its government functions.[30] This is seen in the recognition of Bosnia and Herzegovina, despite having a High Representative appointed to implement the peace settlement, following the end of the Bosnian War.[31] A similar approach was taken in Kosovo where it was seen to have 'independence with international supervision' in the form of an International Civilian Representative.

However, this approach differed when it came to the independence of Lithuania, where it is termed as not truly 'independent' as the Soviets possessed substantive control over it. Although this criterion is essential as it dives deep into the sovereignty of a state, there are certain elements regarding 'independence' which ought to be considered. Drawing from the idea that 'no man is an island', this concept can be critically applied to states as well; no state can be fully independent or self-sufficient, as there is always some degree of dependency on other states for resources, as previously mentioned.

A state need not have full control nor eliminate all forms of dependency on other states to be recognised, but would need to ensure that no other state or entity has effective control over it and that it, in every sense of the term, is truly 'independent.'

---

24 *Montevideo Convention* (n 1).

25 Cecily Rose, *An Introduction to Public International Law* (Cambridge University Press 2022), 35.

26 *Shaw* (n 7), 185.

27 *Dixon* (n 3), 120.

28 *Austro-German Customs Union Case* (1931), PCIJ Rep Series A/B, No 41.

29 *The North Atlantic Coast Fisheries Case (Great Britain, United States)* (1910), XI UN RIAA 167, 186.

30 *Shaw* (n 7), 186.

31 The General Framework Agreement for Peace in Bosnia and Herzegovina (adopted 21 November 1995, entered into force 14 December 1995) UN Doc S/1995/999, Annex 10.

6. THE RIGHT OF SELF DETERMINATION

One of the considerations for statehood, aside from Article 1, is the people's right to self-determination under the UN Charter 1945.[32] The right of self-determination is recognised as a rule of *jus cogens* giving rise to *'erga omnes'* obligations.[33] The right comprises two aspects: internal self-determination which pertains to a people's rights to political, economic, social and cultural development[34] and external self-determination, which encompasses the right to unilateral secession.[35]

The emergence of the right to self-determination has affected the criteria for an independent government in member states undergoing decolonization. In such cases, a lower standard of effectiveness in situations of decolonization has been accepted.[36] As argued above, the requirement of an independent and effective government is a crucial criterion for statehood. However, in instances of decolonisation, the standard for fulfilling the criterion of an effective government is significantly lowered allowing for the self-government of the state and its people, as per Article 73(b) of the UN Charter.

As a result, academics argue that it is now necessary for international law to allow democracies to validate the governance of their states.[37] For instance, Katanga's secession from Congo was recognised by several states and was admitted to the United Nations despite a breakdown of its government. However, the approach differed for the Portuguese colony of Guinea-Bissau. The United Nations recognised the independence of the Republic of Guinea-Bissau through a resolution passed by the General Assembly, which passed with over 93 votes in favour from member states.[38]

Although some Western states including Portugal denied that the criteria for statehood had been complied with, the admission of Guinea-Bissau as a member of the United Nations was in accordance with the decision of the General Assembly under the UN Charter 1945.[39]

Therefore, it can be viewed that the right of self-determination is an additional criterion for statehood. However, it is crucial that there is sufficient recognition from other states regarding the independence of the state based on self-determination. However, the question of how much recognition is required poses a range of complexities. For instance, in the case of Rhodesia, a resolution was passed by the United Nations General Assembly condemning the actions of Rhodesian authorities for independence through illegal methods and called upon other member states to not recognise Rhodesia.[40] It was eventually recognised as Zimbabwe after a civil war. Although Rhodesia had fulfilled the necessary factual requirements of statehood and had a strong movement of self-determination, the absence of total recognition from other states led to it not being recognised.

---

32 Charter of the United Nations (adopted 26 June 1945, entered into force 24 October 1945), Art 55.

33 *Case Concerning East Timor (Portugal v. Australia)* (Judgment) (1995) ICJ Rep 90, 102.

34 United Nations General Assembly Resolution 'Declaration on the Granting of Independence to Colonial Countries and Peoples' (14 December 1960) UN Doc A/RES/1514(XV).

35 *Re Secession of Quebec* (1998) 2 SCR 217.

36 *Crawford* (n 11).

37 Thomas M. Franck, 'The Emerging Right to Democratic Governance' (1992) 86(46) AJIL 47.

38 United Nations General Assembly 'Illegal Occupation By Portugese Military Forces Of Certain Sectors Of The Republic Of Guinea-Bissau And Acts Of Aggression Committed By Them Against The People Of The Republic' (2 November 1973) UN Doc A/RES/3061 (XXVIII).

39 *Charter of the United Nations* (n 31), Art 4.

40 United Nations General Assembly Resolution 'Question of Southern Rhodesia' (11 November 1965) Un Doc A/RES/2024 (XX).

7. RECOGNITION FROM OTHER STATES

In recent years, we have noticed how recognition from other states can give rise to statehood despite the state in question's failure to fulfil the requirements for statehood (for instance, Congo). However, to what extent does recognition 'fill in the void' for states that do not fulfil the requirements? In this regard, there are two theories in place.

7.1. The Constitutive Theory

The constitutive theory asserts that a state gains statehood solely upon recognition. This means that an entity becomes a state, subject to the will of member states. The Montevideo Convention, however, only guides us that recognition allows a state to be a personality with all the rights under international law.[41] However, caution must be exercised since recognition plays a far bigger role than what is maintained in the Montevideo Convention. In this theory, the recognition of a state by another could be more political rather than factual[42]. The decision to recognise a state often depends on the political relationships between states, and more powerful states typically have a greater influence on the recognition of less powerful states. An instance of such a political tug-war is when the U.S. refused to recognise China due to concerns over legal and economic implications, while simultaneously asserting its own sovereignty and influence on the international stage. This demonstrates how recognition can be driven by strategic and political interests, rather than just the fulfilment of statehood criteria.

In the previous paragraphs, we have established that the requirements under Article 1 are not necessarily clear and concise. In situations of uncertainty, the constitutive theory provides that recognition from member states offers clarity in assessing the entity's status internationally. Recognition by other states is crucial for establishing statehood, and the lack of recognition by a majority of states can indicate that the entity has not fulfilled the requirements for statehood. For instance, when states were obligated not to recognise South Africa's presence in Namibia.[43]

However, confusion arises if a member state's admission to the UN signifies recognition of statehood. Dixon argues that votes from member states in favour of a state's admission to the United Nations could imply recognition of statehood.[44] This perspective is illustrated in *The Yugoslav Republic of Macedonia case*, which, following United Nations Security Council Resolution 817, was recognised as a state and admitted as a member of the United Nations.[45] In this regard, it suggests that one can imply statehood recognition when a state is voted into membership of the United Nations.

However, Lauterpacht argues (and it is agreed) that even without admission to the United Nations, a state has the legal duty to recognise another state if the requirements under Article 1 are met.[46] Here, recognition plays no important role.

This theory raises several unresolved doubts. Firstly, in the event the requirements under Article 1 are not met, is there a minimum number of state recognitions needed for one to obtain the status of statehood? Secondly, are there political consequences if a state is not recognised by powerful states including permanent members of the United Nations Security Council? Thirdly, if there is a divide in opinion on recognition between member states, does that give rise to a partial legal personality of an entity? This was observed in Kosovo, wherein the international community was heavily divided in its recognition

41 *Montevideo Convention* (n 1), Art 6.

42 *Shaw* (n 7), 376.

43 *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276* [1970], ICJ Reports of Judgments, Advisory Opinions and Orders.

44 *Dixon* (n 3), 131.

45 United Nations Security Council Resolution 817 (7 April 1993) UN Doc S/RES/817 (1993).

46 Hersch Lauterpacht, 'Recognition of States in International Law' (1944) 53(3) YLJ 385.

and resulted in a conundrum of Kosovo's legal personality. Since Kosovo is not a member of the United Nations, it seems that it is only entitled to diplomatic immunities offered by the member states that recognise it. This merely further complicates the problem. The constitutive theory does not provide clarity in instances of recognition (or lack of thereof) of self-proclaimed states; including Nagorno-Karabakh Republic and the Turkish Republic of Northern Cyprus, which remain unrecognised despite fulfilling the requirements under Article 1.[47] Although the constitutive theory provides brief guidance on the influence recognition may have on statehood, I maintain that it sparks confusion amongst international law thinkers since it fails to clarify the doubts raised above.

7.2. The Declaratory Theory

In contrast, the declaratory theory of statehood provides that when an entity fulfils the requirements under Article 1, recognition simply acknowledges the state's pre-existing legal capacity [48] and admits a factual situation.[49] This theory is more favourable as it is based on the fulfilment of the requirements of Article 1. The Montevideo Convention does consider this theory in recognizing that the political existence of a state is independent of its recognition by other states.[50] A state's refusal to recognise another state does not bear legal effects on its existence.[51]

However, I insist that there are still important questions and ambiguities surrounding the criteria under Article 1. To what extent must these criteria be fulfilled before recognition from other states can be invoked? I agree with Shaw's argument that recognition here is merely an admission of a 'factual situation.' But can a state ever be a fact? A state cannot be a fact without having any legal status attached to it due to the rules and practices that define the entity of that state.[52] This is because a state is an ever-changing entity with various elements at play.

Even if the requirements for statehood are met, there can be uncertainty in the state's fulfilment of the criteria (for instance, the criteria of a defined territory which is currently unclear in the Israel-Palestine conflict). There is also a lack of a central authority that can decide on whether recognition should be afforded to states or not. In circumstances like this, the obligation would probably fall on member states.[53] Here, the arguments on political influence put forth under the constitutive theory (as mentioned above) apply.

8. CHALLENGES FACING THE MONTEVIDEO CONVENTION: CLIMATE CHANGE IN PERSPECTIVE

It has been extensively argued that the criteria under Article 1 is not effective in addressing the challenges of statehood. Nevertheless, how is one of the requirements, namely the requirement for a defined territory, relevant in respect of extinction and re-emergence of states because of climate change? It is argued and strongly echoed that climate change may render a state both factually and legally extinct.[54] As a result,

47 Sascha Dov Bachmann and Martinas Prazauskas, 'The Status of Unrecognized Quasi-States and Their Responsibilities Under the Montevideo Convention' (2019) 52(3) TIL 393, 394.

48 *Dixon* (n 3), 132.

49 *Shaw* (n 7), 382.

50 *Montevideo Convention* (n 1), Art 3.

51 Institut De Droit International, 'Resolutions Concerning the Recognition of New States and New Governments' (2017) 30(4) AJIL 185.

52 *Crawford* (n 11).

53 *Lauterpacht* (n 42).

54 Seokwoo Lee and Lowell Bautista, 'Climate Change and Sea Level Rise: Nature of the State and of State Extinction' in Richard Barnes and Ronan Long (eds), Frontiers in International Environmental Law: Oceans and Climate Challenges (Koninklijke Brill, 2021) 209.

there will be displacement of permanent populations, ambiguity as to the effectiveness of governments and their capacity to enter into legal relations and inevitably, the lack of a defined physical territory. With a lack of precedence regarding this matter, it is obvious we need to redefine the requirements for statehood under Article 1 considering climate change.

Since we have established that a strict approach to the requirements in Article 1 is not required, there is room for flexibility when it comes to climate-threatened states. For a state to maintain its statehood and (as much as possible) adhere to the requirements of Article 1, a submerging state may remain sovereign by purchasing new territories. For instance, Indonesia agreeing to rent out its island to The Maldives.[55]

There could also be a possibility for the construction of man-made islands that would permanently be above the sea level, for the resettlement of citizens of submerging states. However, the challenge is the inadequacy of the United Nations Convention on the Law of the Sea in addressing these concerns.[56] Since recognition from member states play a critical role for statehood, states could still be recognised as legally independent (as compared to factually independent) if they satisfy certain elements in Article 1.

For instance, a state can be recognised as independent while having a largely decreasing number of populations or in the event of full submersion, a state could be independent with the presence of a functioning government situated in another state.[57] It is evident that the Montevideo Convention has significantly failed to consider the relevance of its requirements under Article 1 in light of one of the biggest threats in the 21st century, which is climate change.

9. CONCLUSION

The criteria for statehood as stipulated in Article 1 is vital but there is no clear approach taken in fulfilling such requirements. Article 1 fails to address the concerns attached to each requirement; which begs the need for an academic exploration into the tenets of international law. Although certain requirements simply cannot be ignored (like the requirement for a permanent population), Article 1 is silent on the importance of the right of self-determination and the substantial role played by recognition from other states. Branching from the arguments put forth above, it cannot be denied that recognition amplifies a state's claim to statehood; the more the recognition, the less the need for adherence to the requirements,[58] but it cannot completely replace it. With an increase in climate change and the possible submersion of smaller states, there is an obvious lacuna in the Montevideo Convention in addressing such issues and providing guidance on the statehood of re-emerging states. Therefore, the Montevideo Convention requires an urgent revamp to ensure its relevancy in a post-colonial and ever-changing world like ours.

55 Jane McAdam, *Climate Change, Forced Migration and International Law* (Oxford University Press, 2012) 122.

56 United Nations Convention on the Law of the Sea (adopted 16 November 1982, entered into force 16 November 1994) 1833 UNTS 3.

57 *Crawford* (n 11), 678.

58 *Shaw* (n 7).

Selangor Bar Annual Dinner & Dance 2025
on 15.11.2025


SUNSURIA
GAMUDA GARDENS
STARGAZE
SELANGOR BAR'S ANNUAL DINNER & DANCE 2025


LexisNexis
SUNSURIA
GAMUDA GARDENS
60TH SELANGOR BAR'S ANNUAL DINNER & DANCE 2025
ARABIAN NIGHT
FACE
ALLIANCE BANK

Selangor Bar Annual Dinner and Dance 2025









M K THAS
• He began his service on the Selangor Bar Committee in 2019/20 as the Criminal Sub-Committee Chairperson, a role he held again in 2021/22.
• In 2022/23, he was elected as the Bar Representative, and subsequently served as Chairman of the Selangor Bar from 2023/24 to 2024/25.


SAPRUDDIN BIN HATIBE
• Joined the volleyball team approximately one year before the first Interstate Bar Tournament held in Ipoh, Perak.
• Began representing the Selangor Bar in 2015 and continues to do so to date.


W. ASMALIZA BINTI ABDULLAH
• Began legal practice 12 years ago
• Started undertaking Legal Aid work in 2024


ANNUAL DINNER & DANCE 2025
ARABIAN NIGHT


ANNUAL DINNER & DANCE 2025


TOSHIBA
GREAT TASTE
MATTERS


FABER


LENSONIC

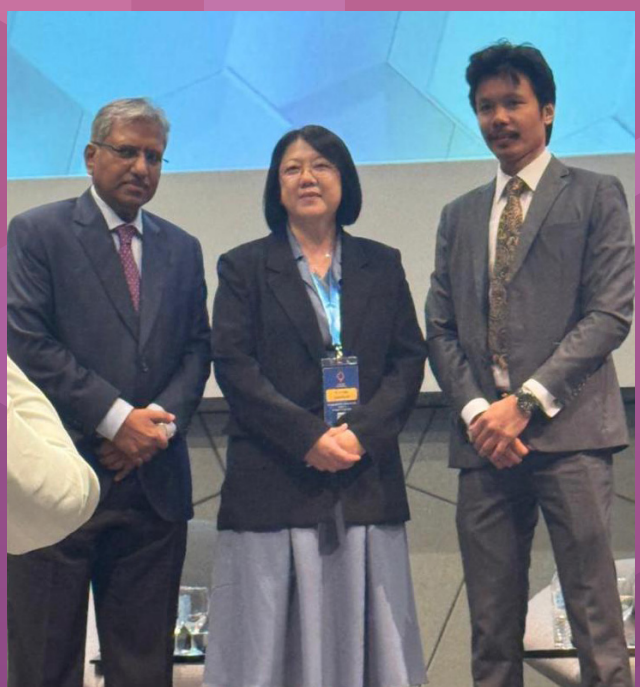

LENSONIC


LENSONIC


LENSONIC


STARGAZE

Selangor Bar Law Conference 2025 on 3.10.2025 & 4.10.2025

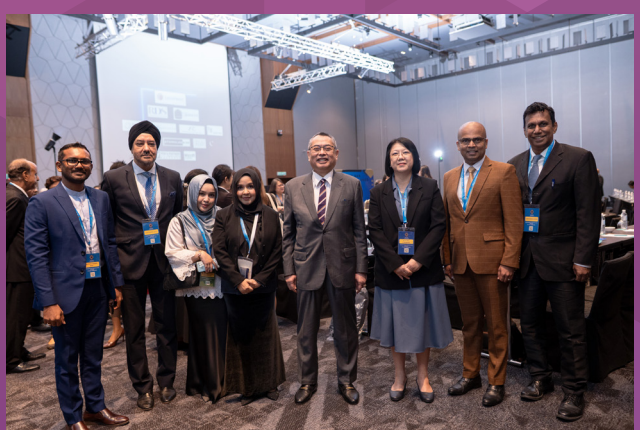



Le MERIDIEN
PETALING JAYA


Le MERIDIEN
PETALING JAYA


Le MERIDIEN
PETALING JAYA


YEW & PARTNERS
Maxift




YEW & PARTNERS
Maxift

Selangor Bar Law Conference 2025


YS LIM & NG
ATHIMULAN & CO
YEW & PARTNERS


SELANGOR BAR
LAW CONFERENCE 2025


SELANGOR BAR
AW CONFERENCE 2025


Protégé
Lexis+ AI


Advocates & Solicitors

Selangor Bar Law Conference 2025


YEW & PARTNERS
Maxift


YEW & PARTNERS
Maxift


SELANGOR BAR
LAW CONFERENCE 2025

Inaugural Conveyancing Practitioners Forum & High Tea 2025 on 24.11.2025


2025


GenoHotel

Inaugural Conveyancing Practitioners Forum & High Tea 2025

Inaugural Conveyancing Practitioners Forum & High Tea 2025


SELANGOR

Members Night (Floral)
on 31.5.2025

Members Night (Floral)

Breaking Of Fast With Orphans
on 18.3.2025

Selangor Bar Hari Raya Open House
on 21.4.2025

Selangor Bar Coffee Morning - Sepang Court
on 21.4.2025

Selangor Bar e-Invoicing For Law Firms Seminar on 7.5.2025

Selangor Bar Coffee Morning - Kajang Court
on 13.6.2025

Reference Proceedings
on 20.6.2025

Seminar Regulatory Framework of Islamic Finance & Commodity Murabahah (Tawarruq) by Dr. Syed Adam on 24.6.2025

Selangor Bar Coffee Morning - Ampang Court
on 22.7.2025

My Bar Games
on 8.8.2025 - 9.8.2025


SELANGOR BAR
GAMERS
EST. 2024


FELET
HEADING TO THE TOP
WWW.FELETSPORTS.COM

Free Health Awareness and Screening – Collaboration with National Cancer Society of Malaysia (NCSM) & Hospital Sungai Buloh
on 16.8.2025

Free Health Awareness and Screening – Collaboration with National Cancer Society of Malaysia (NCSM) & Hospital Sungai Buloh

Selangor Bar Coffee Morning - Kuala Selangor Court
on 26.8.2025

Selangor Bar Coffee Morning - Klang Court
on 29.9.2025

Selangor Bar Coffee Morning - Kuala Kubu Bharu on 15.10.2025

Deepavali Charity
on 17.10.2025

Selangor Bar Coffee Morning - Telok Datok Banting on 19.11.2025

Selangor Bar Coffee Morning - Petaling Jaya
on 8.12.2025

Back To School Programme - Joint Innitiative With Rotary Club Of Klang on 16.12.2025

Christmas & New Year Hi-Tea on 23.12.2025

Selangor Bar Coffee Morning - Shah Alam
on 20.01.2026

Selangor Bar Fraternity Dining
on 23.01.2026

Kunjungan Hormat dengan JPN
pada 12.6.2025

Kunjungan Hormat Dengan LHDN Selangor
pada 21.7.2025

Kunjungan Hormat Dengan LPPSA
pada 24.7.2025

Kunjungan Hormat Dengan Pejabat Tanah Dan Galian Selangor
pada 29.7.2025

Meeting with Gombak Land Office on 1.8.2025

Meeting With Managing Judges on 8.9.2025

Meeting with Ketua Hakim Syariah
on 22.9.2025

DBGS Mesyuarat Penyelarasan Strategik Jawatankuasa Tetap Pemberdayaan Wanita Dan Keluarga, Kebajikan Masyarakat dan Ekonomi Penjagaan pada 11.12.2025 - 14.12.2025

DBGS Sesi Perbincangan Penyelarasan Takwim Di Bawah Jawatankuasa Tetap Pemberdayaan Wanita & Keluarga, Kebajikan Masyarakat Dan Ekonomi Penjagaan pada 20.01.2026

Meeting With Pengarah Pendakwaan Negeri
pada 28.01.2026

Talks/Seminars Conducted by Selangor Bar Term 2025/2026

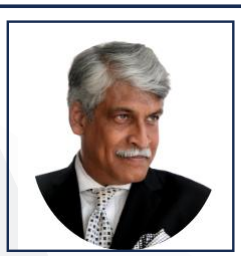
APRIL 2025

Speaker : Jack Loh Chen Wei
Title : Unlawful Termination of Employee
Date : 16th April 2025 Via Zoom Webinar

Speaker : K A Ramu
Title : Criminal Advocacy & Trial
Date : 21st April 2025 at Selangor Bar Auditorium

Speaker : Alyssa Ng Marn-Ling
Title : Real Property Gains Tax And The New E-CKHT Portal
Date : 30th April 2025 Via Zoom Webinar

MAY 2025



Speaker : GK Ganesan Kasinathan
Title : How To Succeed in Federal Court Leave Applications
Date : 20th May 2025 at Selangor Bar Auditorium

Speaker : Ashok Athimulan
Title : Corrupted Company: Scope of Section 17A MACC Act
Date : 23rd May 2025 at Selangor Bar Auditorium

Speaker : Munirah Maarof
Title : Protecting Your Client's Interests: The Indispensable Role of IP Valuation in Mergers & Acquisitions
Date : 29th May 2025 Via Zoom Webinar

JUNE 2025

Speaker : Bani Prakash
Title : Custodial Deaths: The Untold Story of Kugans's Case
Date : 13th June 2025 at Selangor Bar Auditorium

Speaker : Renganathan Kannan
Title : e-Invoicing The Way Ahead
Date : 25th June 2025 at Selangor Bar Auditorium

Speaker : Bernard Scott
Title : Practical Drafting Skills – Statement of Case in the Industrial Court
Date : 25th June 2025 at Selangor Bar Auditorium

Speaker : Agalya J. Munusamy
Title : Malaysian Citizenship: Legal Framework, Challenges and Reforms
Date : 25th June 2025 at Selangor Bar Auditorium

JULY 2025

Speaker : Dr Wong Wai Wai
Title : Discover the World of Cryptocurrency & Blockchain: Exploring Smart Contract and Their Disruptive Influence on Traditional Contract
Date : 3rd July 2025 Via Zoom

Speaker : Annou Xavier
Title : Evidence in the Digital Age
Date : 17th July 2025 at Selangor Bar Auditorium

Speaker : Amira Azhar & S. Saravanan Kumar
Title : Mid-Year Review of Tax Cases
Date : 18th July 2025 Via Zoom

Speaker : Mak Hon Pan
Title : Paths To Resolving Construction Disputes
Date : 23rd July 2025 Via Zoom

Speaker : Puan Hajah Murshidah Mustafa
Title : MyBar Care Initiative
Date : 24th July 2025 Via Zoom

AUGUST 2025

Speaker : LexisNexis
Title : LexisNexis - Webinar training for Selangor Bar Members A Virtual Refresher Training Session
Date : 12th August 2025 Via Zoom

Speaker : Dato' Azmi Mohd Ali
Title : Building A Sustainable Law Firm
Date : 20th August 2025 at SBC Auditorium

Speaker : Ms Sarah Kambali
Title : Solicitors' Remuneration Order
Date : 29th August 2025 at SBC Auditorium

SEPTEMBER 2025

Speaker : Mr Kenny Lam
Title : Exploring The Frontier Of Aviation And Infrastructure Disputes
Date : 17th September 2025 Via Zoom

Speaker : Mr Dinesh Muthal

Title : Remand: Introduction & Strategic Application

Date : 26th September 2025 at Auditorium Selangor Bar

Speaker : Ms Ann Chuah Siew Ean

Title : Practical Approach To Compulsory Land Acquisition (Stage 1 - Enquiry By Land Administrator)

Date : 29th September 2025 at Auditorium Selangor Bar

OCTOBER 2025

Speaker : Mr Richard Teh

Title : Strata Property Management

Date : 28th October 2025 at Auditorium Selangor Bar

Speaker : Tuan Amidon Anan

Title : Justice in the Shadows: Uncovering Truth Through Forensic Science

Date : 31st October 2025 at Auditorium Selangor Bar

NOVEMBER 2025

Speaker : Mr Ron Ong Kit Wee

Title : From Boutique To Breakthrough: Scaling Your Law Firm From Small To Medium In Malaysia

Date : 05th November 2025 at Auditorium Selangor Bar

Speaker : Mr Theivaendran

Title : How To Effectively Utilise Section 51 Of The Criminal Procedure Code In A Criminal Trial

Date : 13th November 2025 at Auditorium Selangor Bar

Speaker : Mr R Jayabalan

Title : Adducing Expert Evidence In Personal Injury Claims: Solicitors' Perspective

Date : 17th November 2025 at Auditorium Selangor Bar

Speaker : Mr Gene M. Tan

Title : Dei & Inclusive Leadership

Date : 28th November 2025 at Auditorium Selangor

DECEMBER 2025

Speaker : Mr Philip Koh & Mr M K Thas

Title : Growth & Purpose in Practice: The Makings of A Good Lawyer

Date : 23rd December 2025 at Auditorium Selangor Bar

JANUARY 2026

Speaker : Dr Shamini K.Ragavan

Title : From Qualification to Practice: Building Resilience and Professional Identity for a Global Legal Career

Date : 05th January 2026 at Auditorium Selangor Bar

FEBRUARY 2026

Speaker : Maggie khon & Tan Jue Ann

Title : Copyright in the Age of AI: Legal Boundaries, Risks and Opportunities

Date : 05th February 2026 at Auditorium Selangor Bar

Speaker : Mr Richard Teh

Title : Conveyancing Process 101

Date : 10th February 2026 at Auditorium Selangor Bar

Speaker : Ron Ong Kit Wee

Title : Effective Business Development doesn't need to be Complex

Date : 12th February 2026 at Auditorium Selangor Bar

Speaker : Maylee Gan

Title : Conveyancing Basic 101

Date : 13th February 2026 at Auditorium Selangor Bar