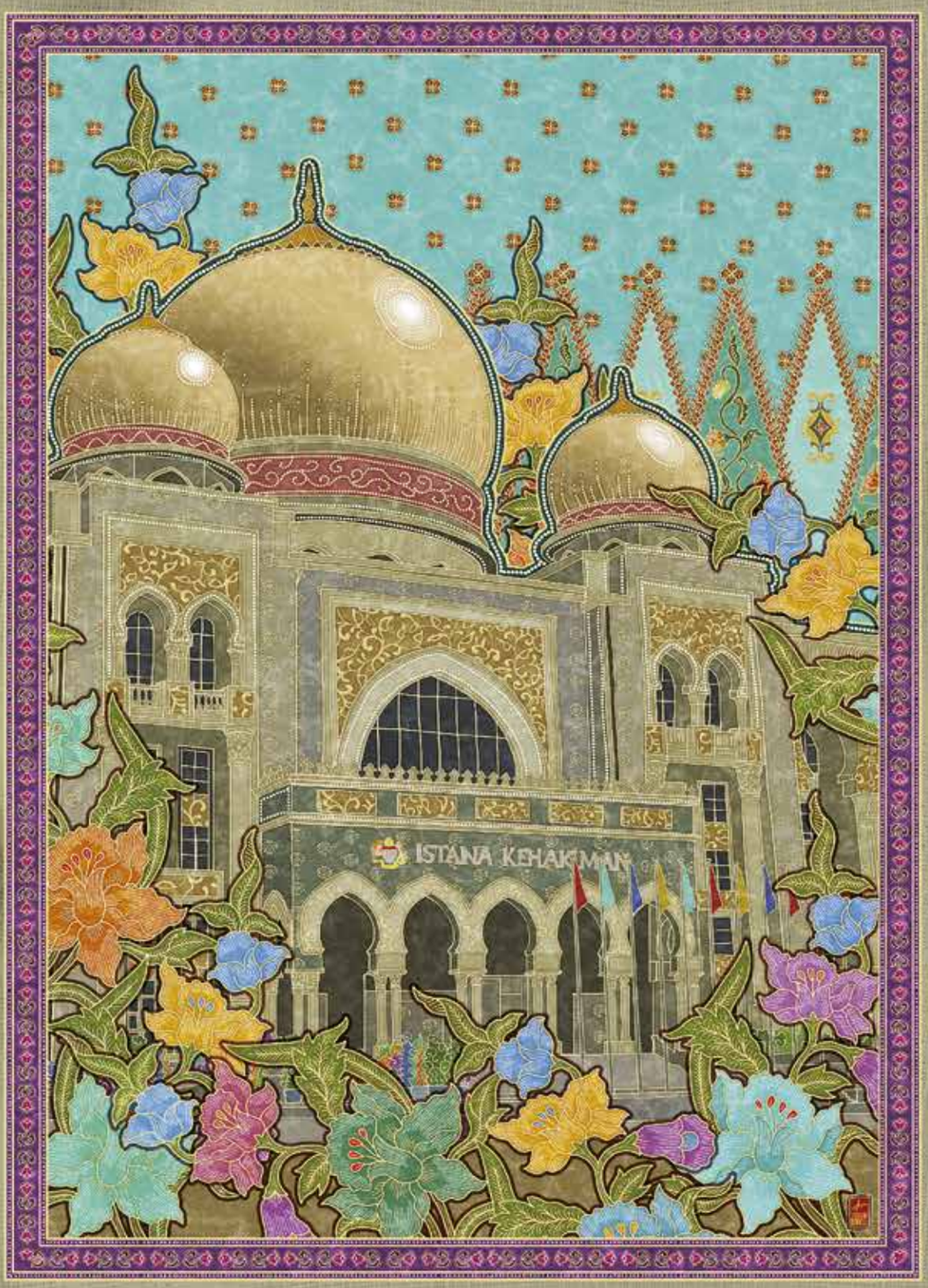
THE MALAYSIAN JUDICIARY



YEARBOOK 2023

20YEAR 23BOOK

THE MALAYSIAN JUDICIARY

Cover

"The Palace of Justice

by Arif Rafhan Othman

Batik *Terap* or Stamped Batik by prisoners at the Machang Prison

Contents

Foreword
1

Preface
5

Chapter 1
The Opening of the Legal Year 2023 & The Opening Ceremony of Kota Bharu Court Complex

10 The Opening of the Legal Year 2023
14 The Opening of the Legal Year Sabah And Sarawak 2023
18 The Opening Ceremony of Kota Bharu Court Complex

Chapter 2
The Federal Court of Malaysia

22 Statement by the Right Honourable the Chief Justice of Malaysia
24 Judges of the Federal Court
25 Performance of the Federal Court

Chapter 3
The Court of Appeal

34 Statement by the Right Honourable The President of the Court of Appeal
37 Judges of the Court of Appeal
39 Performance of the Court of Appeal

Chapter 4
The High Courts

The High Court in Malaya
54 Statement by the Right Honourable the Chief Judge of Malaya
56 Judges and Judicial Commissioners of the High Court in Malaya

The High Court in Sabah and Sarawak
58 Statement by the Right Honourable the Chief Judge of Sabah and Sarawak
61 Judges and Judicial Commissioners of the High Court in Sabah and Sarawak

The Office of the Chief Registrar, Federal Court of Malaysia
62 Statement by the Chief Registrar of the Federal Court of Malaysia

Chapter 5
Judges

70 Judges' Elevations and Appointments
74 Retired Judges

Chapter 6
Judicial Training

90 Courses Organised by the Training Committee of the Judicial Academy: Judicial Appointments Commission
100 Courses Conducted by the Strategic Development and Training Division, Office of the Chief Registrar of the Federal Court of Malaysia

Chapter 7
Conferences/ International Meetings Hosted By The Malaysian Judiciary

112 The 56th Meeting of the Council of Judges
115 The Council of ASEAN Chief Justices (CACJ) Retreat 2023
118 The 14th ASEAN Law Association (ALA) General Assembly

Chapter 8
Special Features

122 The Right Honourable Tun Dato' Sri Ahmad Fairuz Dato' Sheikh Abdul Halim – a Biography
124 The History of Court Orderly Attire: Tradition and Evolution
128 Threads of Tradition: Exploring the Craft and Legacy of Malaysia's Judicial Robes with Vincent Lee

Chapter 9
Cases of Interest

136 Civil
148 Criminal

Appendix Statistics
162

The Editorial Committee
182

Batik *Lukis* or Hand-Drawn Batik by
prisoners at the Pengkalan Chepa Prison

Foreword

By The Right Honourable
Tun Tengku Maimun Tuan Mat
Chief Justice of Malaysia

On behalf of the Malaysian judiciary, I am pleased to present the Judiciary Yearbook for 2023. As in previous years, this publication serves as a comprehensive compendium providing an overview and insights into the judiciary's developments and achievements over the past year.

Alhamdulillah, the preceding year has witnessed significant strides in our endeavour to strengthen the judiciary and enhance its capacity to administer and deliver fair and efficient justice.

At the beginning of 2023, we saw continued resilience shown by all stakeholders in adapting to a post-COVID landscape. The significant transformations seen in all Judiciaries worldwide, including in Malaysia, where technological advancements were employed to meet the difficulties and restrictions due to COVID, has now become integral to the administration of justice.

At the heels of this transformation and to enhance the accessibility, efficiency, and responsiveness of our court systems, considerable investments have been made in both hardware and software to upgrade technological infrastructure and improve physical facilities. A notable example of these efforts is the opening of the Kota Bharu Court Complex, constructed at a cost of RM93,724,392.46. This Complex houses three High Courts, five Sessions Courts, and five Magistrates' Courts, all equipped with state-of-the-art systems and facilities designed to meet the demands of contemporary judicial processes. Additionally, there is ongoing commitment to improve and upgrade physical facilities, including the refurbishment and repair of courts throughout Malaysia.

The Integrated Court System (ICS) has also been redeveloped in the courts of Sabah and Sarawak through the e-Kehakiman Sabah Sarawak (eKSS) project. This project includes several key components, such as enhancing the ICS, integrating it with the e-Court system in West Malaysia and installing video links within the prison department. These initiatives reflect our dedication to providing high-quality services and improving the overall experience for all users.

Further, the judiciary reaffirms its commitment to public education and outreach, aiming to improve the public's understanding of the law and the justice system. In addition to the ongoing judicial tour programme known as "*Jelajah Kehakiman*" which was launched in 2022, the judiciary continues its My Courtroom to Classroom (MYC2C) initiative in several public schools across Peninsular Malaysia. This initiative, introduced in 2019 by the former Chief Justice Tun Richard Malanjum, involves judges and judicial officers visiting schools to provide students with awareness into Malaysia's legal framework, the structure of the courts, and the Federal Constitution, with a particular emphasis on the Rukun Negara. It aims to foster a better understanding of the judicial system amongst students, offering early exposure to legal principles, and seeks to instill a deep respect for the law. Since 2022, the judiciary has expanded the MYC2C initiative to include interactions with university students and various audiences through organised meet-and-greet events. In the past year, several successful meet-and-greet events were conducted, featuring participants from the Malaysian Women Graduates Association (PSWM), the Malaysian radio stations, the Malaysian Full Boarding School Alumni Association, as well as law lecturers and students from the Faculty of Law at Multimedia University.

In 2023, the Malaysian judiciary also had the honour of hosting the Council of ASEAN

Chief Justices (CACJ) Retreat, a significant event which is scheduled to be held once every decade. This retreat serves as an important platform for ASEAN Chief Justices to engage in meaningful discussions, share insights, and outline a strategic agenda that aims to strengthen judicial cooperation and uphold the Rule of Law within the ASEAN region.

Concurrently, the Malaysian judiciary also hosted several events in collaboration with the ASEAN Law Association (ALA) Malaysia. These events included the 14th ALA General Assembly, the 44th ALA Governing Council Meeting, the 2nd ASEAN Law Conference, the 18th ALA Golf Tournament, and the inaugural ASEAN Law Association Moot Competition. Since its inception in 1979, ALA has been recognised as a prominent non-governmental organisation dedicated to fostering regional cooperation and collaboration among legal professionals in the ASEAN region.

During the 14th ALA General Assembly, I was deeply honoured to be elected as the President of ALA, succeeding Justice Sundaresh Menon, the Chief Justice of Singapore. I pledge to devote my utmost effort and dedication in the role of leading this esteemed organisation.

The year 2023 saw several landmark decisions in cases that have shaped our legal framework and set important judicial precedents. One prominent case involved Article 125 of the Federal Constitution, where the Federal Court examined the principle of judicial independence and the boundaries concerning investigative bodies when investigating serving judges. The Apex Court held that criminal investigations involving such judges must adhere to a higher standard in line with the doctrine of judicial independence (*Haris Fathillah Mohamed Ibrahim v Tan Sri Dato' Sri Haji Azam Baki [2023] 3 CLJ 653*). Another significant case concerned Article 147 of the Federal Constitution, focusing on amendments made in 2013 to the Pensions Adjustment Act 1980, which altered pension calculations. The Apex Court acknowledged the potential harm caused by these amendments without requiring concrete evidence of actual loss (*The Government of Malaysia v Aminah Ahmad [2023] 8 CLJ 1*).

I am proud to observe the encouraging performance of all Malaysian courts in 2023. Whilst we have made positive progress, we are committed to continuous improvement. The judiciary will continue to explore opportunities and seek innovative methods to enhance efficiency, accessibility, and the overall quality of justice.

I would like to extend my sincere appreciation to all judges, judicial officers, court staff, enforcement agencies, members of the Bar, the Attorney General, and their respective teams for their invaluable contributions to the success of our judiciary in 2023. It is essential for us to continue executing our responsibilities with the highest level of dedication and efficiency. By maintaining this commitment, we can further enhance the effectiveness of our administration of justice while upholding the integrity and credibility of our judicial system.

I wish to express my heartfelt gratitude to the Yearbook Committee, led by Court of Appeal Judge Justice Azizul Azmi Adnan. I commend his dedicated team and all contributors for their unwavering efforts and commitment to producing this important publication.

All the best for the next succeeding year and *bonne lecture*!

Tengku Maimun Tuan Mat
Chief Justice of Malaysia

Batik *Terap* or Stamped Batik by prisoners at Machang Prison

Preface

By Justice Azizul Azmi Adnan
Judge of the Court of Appeal
Editor of the Malaysian Judiciary Yearbook 2023

This year's Judiciary Yearbook celebrates our rich tradition of batik by featuring works from artists and artisans around the country. The prisons in Pengkalan Chepa and Machang in Kelantan not only produce stunning examples of batik textiles but also provide an opportunity for inmates to learn a craft that may serve to sustain them after their release.

Also featured are photographs of batik textiles from Galleria Artisan, in Kota Kinabalu, Sabah, Butik Nadia Batik, Pasar Batik Kota Bharu and Nysakapas in Kuala Terengganu. The last of these, Nysakapas boutique, is the brainchild of Haniza Hisham, a largely self-taught batik maker who was trained as an architect.

Finally, the Yearbook features the work of Arif Rafhan Othman, whom we commissioned to produce a digital batik painting of the Palace of Justice. Part artist and part social activist, Arif rather modestly describes himself as an illustrator rather than a batik artist, as his work is largely digital. Followers of his work, however, will have no doubt as to his status as a batik artist.

Batik textiles represent but a facet of the craft and tradition of our beloved nation, and have come to be embraced by all its peoples, regardless of creed or lineage. The work of a judge is also imbued with craft and tradition, although the results of the judge's craft—whether it is the deft art of managing the adversarial process in the courtroom, using his or her wiles to get parties to agree to a mutually-beneficial settlement, or the use of a masterful turn of phrase in a judgement—would be less obvious to the untrained observer. I hope that the artwork featured in this year's edition of the Yearbook will resonate with you.

Azizul A Adnan
Editor

Widuri One Directional Batik
by Nysakapas

Batik *Terap* or Stamped Batik
by Nysakapas

Chapter 1

THE OPENING OF THE LEGAL YEAR 2023 & THE OPENING CEREMONY OF KOTA BHARU COURT COMPLEX

THE OPENING OF THE LEGAL YEAR 2023

The Opening of the Legal Year 2023 was held on 9 January 2023 at the Putrajaya International Convention Centre. This year's event, held in full physical attendance, marked a return to normalcy and resilience amid global challenges. The Opening of the Legal Year 2023 was attended by more than 600 distinguished guests from local and international circles.

The event was graced by prominent figures including judges of the Federal Court, Court of Appeal, and High Courts, as well as judicial commissioners. Among the invited guests were former Chief Justices of Malaysia, Tun Arifin Zakaria and Tun Md Raus Sharif, along with Deputy Minister for Law and Institutional Reform, YB Ramkarpal Singh, the Speaker of the House of Representatives, Datuk Johari Abdul, the Deputy Chief of Police, Tan Sri Dato' Sri Razaruddin Husain, the Attorney General of Malaysia, Tan Sri Idrus Harun and the President of the Malaysian Bar, Ms. Karen Cheah Yee Lynn.

Additionally, the judiciary had the privilege of hosting international dignitaries, including the Chief Justice of the Indonesian Constitutional Court, the Right Honourable Dr. Anwar Usman, the High Commissioner of the Philippines, H.E. Charles C. Jose and the British High Commissioner, H.E. Charles Hay MVO.

The Opening of the Legal Year 2023 began with ceremonial procession followed by a speech from the President of the Malaysian Bar Ms. Karen Cheah Yee Lynn, who also represented the Sabah Law Society and the Advocates Association of Sarawak. In her address, Ms. Karen Cheah reflected on the challenges of 2022, a year marked by political instability, the COVID-19 pandemic, lockdowns and a state of emergency. She touched on pressing issues such as threats to judicial independence, restriction on freedoms, unexpected elections, rising extremism, a hung Parliament, deaths in custody and disasters linked to climate change.

▲ The procession of Federal Court judges entering the hall

Ms. Karen Cheah further emphasised the environmental challenges faced by Malaysia, particularly the severe flooding on the East Coast and the Batang Kali landslide. She stressed the urgent need for stronger regulations to enhance community response to these disasters. In an effort to support those impacted, the Malaysian Bar committed to offer free Disaster Legal Assistance through its National Legal Aid Committee and Bar Council Legal Aid Centres.

Ms. Karen Cheah emphasised the remarkable achievements of the Yayasan Bantuan Guaman Kebangsaan (YBGK), or National Legal Aid Foundation, which has actively provided legal assistance since April 2012. Under the leadership of the Attorney General, YBGK has assisted over 222,000 Malaysians and addressed approximately 1.7 million cases related to various legal matters. Recognising the importance of this initiative, Ms Karen Cheah advocated for the expansion of YBGK's services to enhance access to justice for all, including non-citizens, and called on the government to allocate sufficient resources to sustain and improve this essential programme.

Ms. Karen Cheah also touched on the challenges and criticism faced by Malaysia's judiciary over the past year, particularly relating to kleptocracy cases and attacks on its judicial independence. She highlighted the public investigation of a Court of Appeal judge by the Malaysian Anti-Corruption Commission's (MACC) and negative political remarks, which have eroded public trust in the judiciary. To address this concern, the Malaysian Bar called for reforms to reduce executive influence on judicial appointments, the establishment of fair salaries through a Judges Remuneration Tribunal and extension of the retirement age for judges to retain experienced personnel.

In closing, Ms. Karen Cheah stressed that the Malaysian Bar advocates for progress and reform, underscoring the need for unity among all stakeholders in the justice system. She emphasised the importance of improving the relationship between the judiciary and the public as a cornerstone of thriving democracy and called on everyone to work collaboratively to strengthen these essential connections for the betterment of society.

▲ The procession of Court of Appeal judges entering the hall

▲ The procession of High Court judges and judicial commissioners entering the hall

The next speaker was Tan Sri Idrus Harun, the Attorney General of Malaysia, who delivered a speech highlighting significant legal and political developments in Malaysia. He discussed the transformative effects of the 15th General Election (GE-15), including major constitutional amendments. The Attorney General's Chambers (AGC) played a pivotal role in these reforms, particularly in the introduction of anti-party hopping measures in Article 49A of the Federal Constitution and the new Article 119A through the Constitution (Amendment) (No. 2) Act 2022 [Act A1656], which safeguards the political neutrality of Rulers.

Tan Sri Idrus also addressed the necessity for stable governance to strengthen the justice system. He spoke about efforts to abolish the mandatory death penalty and amend citizenship-related provisions in the Federal Constitution. Furthermore, he stressed the importance of collaboration among the judiciary, AGC, and the Bar in maintaining the integrity of justice. He also highlighted the success of the YBGK in improving access to justice, noting a 13% rise in the number of cases handled. However, he urged for increased support beyond government funding to sustain YBGK's operations.

Additionally, Tan Sri Idrus reaffirmed the ongoing discussions regarding reprinting the Federal Constitution to include recent amendments and adopting the national language as the official text. The AGC was recognised for its achievements in handling high-profile cases, privatisation agreements, and international disputes, along with its commitment to integrating advanced ICT into legal processes.

The final speech was delivered by the Chief Justice of Malaysia, The Right Honourable Tun Tengku Maimun Tuan Mat. Her Ladyship

▲ The Right Honourable the Chief Justice Tun Tengku Maimun Tuan Mat delivering the final speech

began by extending her warm welcome and appreciation to all attendees. She specifically thanked Tan Sri Rohana Yusuf, the former President of the Court of Appeal, and Tan Sri Azahar Mohamed, the former Chief Judge of Malaya, as well as all judges who retired in 2022 for their distinguished service to the judiciary. She also congratulated the judges and judicial commissioners promoted in the past year.

The Chief Justice's speech focused on two key themes: upholding judicial independence and defending constitutional supremacy.

First, Her Ladyship addressed the challenges to judicial independence, particularly amid public scrutiny and criticism regarding politically sensitive cases. She stressed that judges must base their decisions solely on the law, without yielding to public opinion, and emphasised that criticisms should not weaken the judiciary's commitment to uphold the Rule of Law. Her Ladyship urged the public to read full judgements before forming opinions and encouraged judges to ensure that their judgement is clear and comprehensible.

Second, the Chief Justice emphasised the need to protect constitutional supremacy. She highlighted the judiciary's duty to ensure the Federal Constitution remains above politics, and reiterated that the judiciary must remain impartial, even when faced with intimidation or undue pressure.

In her closing remarks, the Chief Justice acknowledged the pivotal role of lawyers in supporting the judicial system and maintaining public trust. Her Ladyship commended recent judicial decisions that challenged outdated legal principles and strengthened the supremacy of the Federal Constitution.

Her Ladyship concluded by thanking the judges, court staff, and all stakeholders for their dedication and support, particularly during challenging times, and reaffirmed the judiciary's unwavering commitment to fair and impartial adjudication.

The ceremony concluded with a video montage showcasing the accomplishments of the Bar, the AGC and the judiciary in 2022.

▲ Opening of the Legal Year 2023 in Sabah and Sarawak

THE OPENING OF THE LEGAL YEAR SABAH AND SARAWAK 2023

The Opening of the Legal Year Sabah and Sarawak 2023 took place on 13 January 2023, in Miri, Sarawak. The 19th edition of the event marked a return to tradition with a formal procession attended by about 500 participants, including the Chief Justice of Malaysia, Tun Tengku Maimun Tuan Mat, and judges from various courts, along with legal officers and practitioners.

Among the invited guests at the event were former Chief Justice Tun Md Raus Sharif, Deputy Minister in the Prime Minister's Department (Law and Institutional Reform) YB Ramkarpal Singh, Solicitor General I of Malaysia Datuk Ahmad Terrirudin Mohd Salleh, the State Attorney General of Sabah, Deputy State Attorney General of Sarawak, the President of the Malaysian Bar, the President of the Advocates Association of Sarawak, the President of the Sabah Law Society, representatives from the Brunei Law Society, the US Department of Justice's OPDAT, the United Nations Development Programme (UNDP), and the Mayor of Miri.

The event began at 7:00 a.m. with a group photography session at the Pullman Hotel lobby upon the Chief Justice's arrival. Members of the legal fraternity gathered to prepare for the procession, which included a lion dance performance. Led by the SJK(C) Chung Hua Miri marching band, the procession covered a 1.3km route through the city centre and took about half an hour to complete.

Upon arriving at the Miri Court Complex, the procession was welcomed with a traditional Sarawak ethnic dance. It concluded with a gathering in front of the court for a flag-raising ceremony, followed by the singing of the national and state anthems led by the Miri Courts choir. This was followed by the recitation of a *doa* and the *Rukun Negara*. Delegates then entered the courtrooms, with the main proceedings held in High Court 1, which was broadcast live to three other courtrooms and an online platform.

▲ Judges and guests at the Opening of the Legal Year 2023 in Sabah and Sarawak assembling in front of the Miri Court Complex

The open court proceedings commenced with a speech by Mr. Gurvir Singh Sandhu, President of the Advocates Association of Sarawak (AAS). He reflected on the significant impact of the pandemic on legal practice, noting positive shifts, especially in the adoption of technology.

Mr. Gurvir then discussed the Malaysian Agreement 1963 (MA63), highlighting recent constitutional amendments that recognize it within the Federal Constitution. While acknowledging some governmental progress, he asserted that more could be done to address shortcomings related to MA63. He proposed amendments to Article 46(1) of the Federal Constitution to ensure no single territory can dominate the Dewan Rakyat, and suggested changes to the Courts of Judicature Act 1964 to require the inclusion of judges with Borneo judicial experience on appellate panels. He also called for restoring the Head of State's powers in Sabah and Sarawak to appoint judicial commissioners.

Emphasizing the importance of the rule of law and judicial independence, Mr. Gurvir argued for necessary amendments to the Judicial Appointments Commission Act 2009 and the Federal Constitution to strengthen judicial integrity and uphold the separation of powers.

He highlighted the AAS's commitment to social responsibility, particularly through initiatives like the Yayasan Bantuan Guaman Kebangsaan (YBGK), which provides legal representation to those in need. He noted a rise in advocates handling YBGK cases and collaboration with the Sarawak judiciary to ensure representation in the High Court.

Mr. Gurvir also addressed the challenges of access to justice for children in rural areas, urging amendments to the Sexual Offences Against Children Act 2017 to avoid criminalizing children in prosecutions. He called for specialized training for prosecutors, judges, and interpreters in handling child-related cases.

◀ (L-R) The Honourable Justice Rhodzariah Bujang, FCJ, The Right Honourable Justice Abang Iskandar Abang Hashim, President of the Court of Appeal, YB Ramkarpal Singh, Deputy Minister in the Prime Minister's Department (Law and Institutional Reform), The Right Honourable Chief Justice Tun Tengku Maimun Tuan Mat, The Right Honourable Abdul Rahman Sebli, Chief Judge of Sabah and Sarawak and Datuk Ahmad Terrirudin Mohd Salleh, Solicitor General I of Malaysia

▶ Judges and guests at the Opening of the Legal Year 2023 in Sabah and Sarawak

Following him, Mr. Roger Chin, President of the Sabah Law Society (SLS), spoke on the importance of the basic structure doctrine of the Federal Constitution. He referenced two key Federal Court cases, Semenyih Jaya (2017) and Indira Gandhi (2018), which reaffirm these constitutional principles.

Discussing the Malaysian Agreement 1963 (MA63), Mr. Chin welcomed Sabah's regained control over electricity supply and addressed issues related to the Territorial Sea Act, which has limited revenue from local resources. He emphasised that any agreement must respect Sabah's constitutional rights.

Mr. Chin supported proposals for appointing Judicial Appointments Commission members from professional organisations rather than solely by the Prime Minister. He advocated for a minimum representation of judges from Sabah and Sarawak in Appellate Courts and called for elevating the status of Native Courts to be equal with Syariah Courts.

He also noted the need to recognise advocates from Sabah and Sarawak who are qualified in Commonwealth jurisdictions. Chin urged support for public interest litigation and referenced the SLS's legal actions against the Federal Government concerning constitutional violations.

Mr. Chin called for a Freedom of Information Act to enhance accountability and public discourse. He announced plans for the Borneo International Centre for Arbitration and Mediation (BICAM), inviting support from local governments and legal associations to establish it as a key dispute resolution centre in East Malaysia.

Next to deliver his speech was the State Attorney General of Sabah, Datuk Nor Asiah Mohd Yusof. In her speech, she highlighted two key achievements of the State Attorney General's Chambers.

First, she announced the establishment of a new Enforcement Unit aimed at alleviating the enforcement burden on the Federal Government regarding state laws.

Second, she emphasised the restoration of Sabah's status in relation to the MA63, noting that Parliament unanimously approved amendments to Article 1(2) and Article 160(2) of the Federal Constitution, which redefine the Federation.

The Right Honourable Chief Judge of Sabah and Sarawak began his speech with an overview of the courts' performance in 2022, highlighting a notable achievement: a disposal rate exceeding 50% across most Civil and Criminal Courts in the region. Specifically, the High Courts in Sabah recorded a 51% disposal rate from 6,219 cases and 61% for 840 criminal cases, while the High Courts in Sarawak achieved a 50% rate from 8,349 cases and 23% from 1,259 criminal cases.

The Sessions Courts showed even higher rates, with Sabah disposing of 67% of 2,527 civil cases and 75% of 4,595 criminal cases, and Sarawak disposing of 63% of 2,702 civil cases and 85% of 3,962 criminal cases. The Magistrates' Courts in both states maintained a disposal rate over 80%.

The Chief Judge also recognised the proactive efforts of the Sarawak and Kota Kinabalu Court Working Groups on Environment in organising programmes following COVID-19 restrictions, such as wildlife crime sentencing guidelines and environmental conservation events.

He outlined ongoing digitalisation initiatives aimed at modernising the justice system, including the introduction of the Artificial Intelligence in Court Sentencing (AiCOS) system and upgrades to the Integrated Court System through the e-Kehakiman Sabah Sarawak (eKSS) project. He noted the implementation of the eCourt Finance (ECF) system to streamline monetary transactions.

Addressing facility limitations in some courthouses, he assured a commitment to improving safety and convenience. He emphasised the importance of the Mobile Court Programme and ongoing judicial capacity-building initiatives.

His Lordship underscored that these efforts support principles of open justice and judicial independence, quoting Jeremy Bentham and the Chief Justice of Malaysia on the importance of publicity in justice. He affirmed that judicial independence must prevail without external pressures and acknowledged the media's role in maintaining transparency.

The event concluded with a Gala Dinner at the Pullman Hotel in Miri, officially opening the Legal Year 2023 for Sabah and Sarawak.

▲ (L-R) The Right Honourable Justice Abang Iskandar Abang Hashim, President of the Court of Appeal, The Right Honourable Chief Justice Tun Tengku Maimun Tuan Mat, The Right Honourable Mohamad Zabidin Mohd Diah, Chief Judge of Malaya

▲ Tengku Mahkota Kelantan, His Royal Highness Tengku Muhammad Fa-iz Petra ibni Almarhum Sultan Ismail Petra, Che Puan Mahkota Kelantan, Her Royal Highness Che Puan Sofie Louise Johansson Petra, Her Royal Highness Tengku Anis Almarhum Tengku Abdul Hamid and Tengku Bendahara Kelantan, His Royal Highness Tengku Muhammad Fakhry Petra ibni Almarhum Sultan Ismail Petra during the Opening Ceremony of the Kota Bharu Court Complex

THE OPENING CEREMONY OF KOTA BHARU COURT COMPLEX

The new Kota Bharu court complex was officially opened by Tengku Mahkota of Kelantan, His Royal Highness Tengku Muhammad Fa-iz Petra ibni Almarhum Sultan Ismail Petra, on 14 March 2023. Located in Bandar Baru Tunjong, Kota Bharu, this new complex spans approximately 2.7 hectares and was constructed at the cost of RM93.7 million. It took 46 months to complete and was officially handed over on 23 July 2019.

The first Kota Bharu court complex was established at Padang Gimlate near Jalan Doktor in 1957. On 9 October 1969, the court complex was relocated to Jalan Hospital. Since then, various courts in Kelantan have been inaugurated, including the Pasir Puteh Magistrates' Courts officiated (28 April 1975), Machang Court (28 August 1976), Tanah Merah Court (6 May 1978), Bachok Court (10 June 1978), Gua Musang Complex Court (4 July 2001), Kuala Krai Magistrates' Courts (2 September 2007), Jeli Magistrates' Courts (5 July 2007) and Pasir Mas court complex (3 July 2012).

▲ Opening Ceremony of the Kota Bharu Court Complex

▲ Speech by Tengku Mahkota Kelantan, His Royal Highness Tengku Muhammad Fa-iz Petra ibni Almarhum Sultan Ismail Petra

The new court complex comprises three High Courts, five Sessions Courts and five Magistrates' Courts, all equipped with modern systems and facilities.

Specific facilities include dedicated rooms for child witnesses and comfortable spaces for both the public and lawyers.

The design of the court complex incorporates elements of local culture, with its central courtyard featuring the design of the Wau Bulan, a traditional Kelantanese kite. The improved facilities and advanced technologies of the new complex are expected to elevate the standards and efficiency of the justice system in the state of Kelantan.

Batik Leeka Fern handcrafted using the
Double Handblocking method by Nysakapas

2 Chapter

THE FEDERAL COURT OF MALAYSIA

STATEMENT BY THE RIGHT HONOURABLE THE CHIEF JUSTICE OF MALAYSIA

Tun Tengku Maimun Tuan Mat

The Federal Court continues to uphold the rule of law and ensure that justice is delivered fairly and efficiently. As in previous years, the Federal Court adjudicates three main categories of cases: applications for leave to appeal, civil appeals, and criminal appeals.

In 2023, there were 792 newly registered cases, and 650 cases were brought forward from 2022, making a total of 1,442 cases. At the end of the year, 905 cases were disposed of, leaving 537 cases pending. This represents a disposal percentage of 62.76%. This was slightly less than the previous year of 2022, where out of 2,008 cases, the Federal Court disposed of 1,358 cases, leaving 650 cases pending, representing a disposal rate of 67.63%.

Out of the 792 newly registered cases, 467 cases were leave applications, 102 cases were civil appeals, 102 cases were criminal appeals, and 36 cases were *habeas corpus* appeals. The remaining 85 cases fell within the original and consultative jurisdiction of the Federal Court.

For leave applications, apart from the new registration of 467,335 applications were carried forward from 2022. At the end of the year, 553 applications were successfully disposed of, accounting for 68.95%, while 249 applications were carried forward to January 2024. The number of newly registered leave applications declined from 624 in 2022 to 467 in 2023, reflecting a 1.74% reduction.

There was also a decrease in newly registered civil appeal cases, with 102 cases in 2023 compared to 164 cases in 2022. The Federal Court successfully disposed of 146 out of 243 civil appeals, comprising 102 newly registered cases and 141 cases carried over from 2022. Consequently, only 97 cases were carried forward to January 2024.

Similar to previous years, the majority of leave applications and civil appeals were related to general civil matters, followed by cases involving commercial, insolvency, bankruptcy, admiralty, and family law. In terms of the subject matter of the cases, the disposal rates ranged from 60% to 100%. Notably, admiralty cases had the highest disposal rate at 100%, followed by family cases at 86.67%, constitutional cases at 78.57%, bankruptcy cases at 76%, commercial cases at 69.85%, and general civil cases at 64.20%.

For criminal appeals, excluding *habeas corpus* cases, a total of 238 appeals were registered, comprising 102 new appeals and 136 appeals carried forward from the previous year. Out of the 238 appeals, 108 appeals were disposed of, yielding a disposal rate of 45.38%, while 130 appeals remain pending as of January 2024. Regarding *habeas corpus* appeals, the Federal Court disposed 53 out of 59 appeals, resulting in an 89.83% disposal rate, with only six cases remaining pending at the end of the year. Registration of new criminal appeals and *habeas corpus* appeals also declined in 2023, with 102 criminal appeals and 36 *habeas corpus* appeals, compared to 128 criminal appeals and 96 *habeas corpus* appeals in 2022.

With regard to drug-related matters in criminal appeals, criminal applications, criminal references, and *habeas corpus* appeals, the Federal Court disposed 112 out of 133 cases, achieving an applaudable 84.21% disposal rate.

In contrast to the decrease in newly registered cases across the categories highlighted above, there was a significant increase in the number of cases falling within the original and consultative jurisdiction of the Federal Court. The number of such cases rose from 47 cases in 2022 to 85 cases in 2023. The total number of cases for 2023 was 100 cases, with 85 newly registered and 15 carried forward from 2022. At the close of the year, 45 cases were disposed of, leaving 55 pending, resulting in a disposal rate of 45%.

The Federal Court will continue to enhance its efficiency and effectiveness in case disposal, to ensure timely administration of justice. On this note, I would like to express my gratitude to judges, judicial officers, court staff and all stakeholders for their dedication, hard work, and continuous support, which resulted in the performance as reflected in the above statistics.

In 2023, several notable appointments were made within the Malaysian judiciary. Justice Abang Iskandar Abang Hashim became the first judge from Sarawak to be appointed as the President of the Court of Appeal. The retirement of Justice Azahar Mohamed led to the appointment of Justice Mohamad Zabidin Mohd Diah as the new Chief Judge of Malaya, while Justice Abdul Rahman Sebli was appointed as the Chief Judge of Sabah and Sarawak, succeeding Justice Abang Iskandar Abang Hashim. Additionally, Justice Nordin Hassan, Justice Abu Bakar Jais and Justice Abdul Karim Abdul Jalil were promoted to the Federal Court. Their expertise and commitment will undoubtedly strengthen our judicial system. Heartfelt congratulations to all on their well-deserved appointments.

In the same year, the Federal Court bid farewell to Justice Vernon Ong Lam Kiat. I deeply appreciate his invaluable contributions to the development of our legal jurisprudence and justice system and I wish him the very best in his future endeavours.

Tun Tengku Maimun Tuan Mat
Chief Justice of Malaysia

JUDGES OF THE FEDERAL COURT

Chief Justice
Tengku Maimun Tuan Mat

Justice Abang Iskandar
Abang Hashim

Justice Mohamad Zabidin
Mohd Diah

Justice Abdul Rahman Sebli

Justice Nallini
Pathmanathan

Justice Vernon Ong Lam Kiat

Justice Zabariah Mohd Yusof

Justice Hasnah Mohammed
Hashim

Justice Mary Lim
Thiam Suan

Justice Harmindar Singh
Dhaliwal

Justice Rhodzariah Bujang

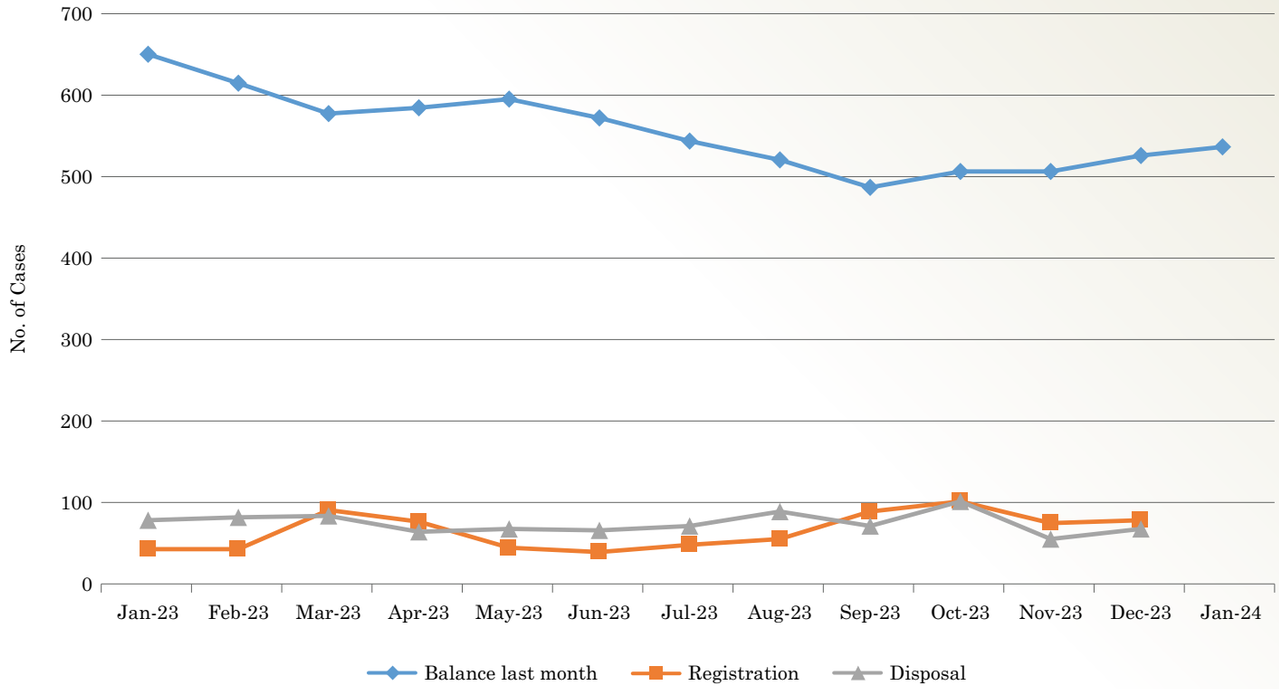
Justice Nordin Hassan

Justice Abu Bakar Jais

Justice Abdul Karim
Abdul Jalil

PERFORMANCE OF THE FEDERAL COURT

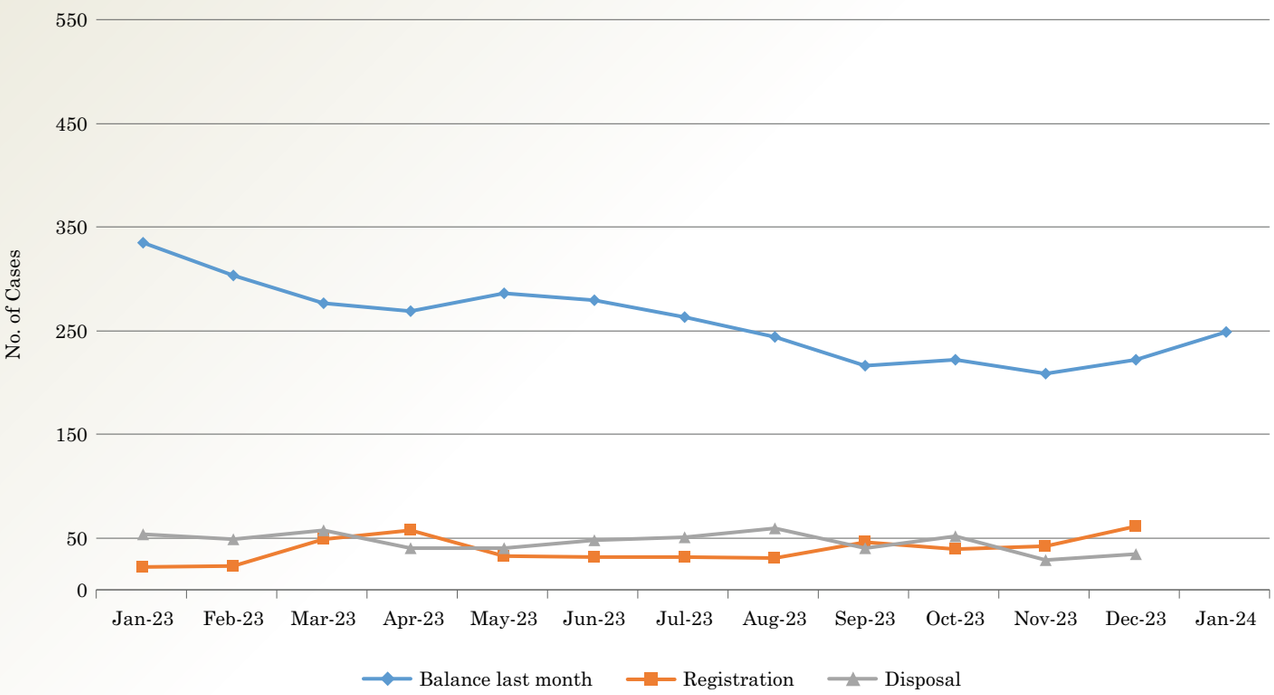
NUMBER OF CASES REGISTERED AND DISPOSED OF IN 2023



Months	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan-24
Balance Last Month	650	615	577	584	596	572	544	521	488	506	506	527	537
Registration	44	44	92	77	45	39	48	56	90	102	76	79	
Disposal	79	82	85	65	69	67	71	89	72	102	55	69	

The three main categories of cases in the Federal Court are applications for leave to appeal, civil appeals and criminal appeals. From 1 January to 31 December 2023, 792 new cases were registered and 650 cases were brought forward from 2022. Of these cases, 905 cases were disposed of, leaving only 537 pending at the end of the year. The disposal rate was 62.76%. The graph shows the overall performance of the Federal Court in 2023.

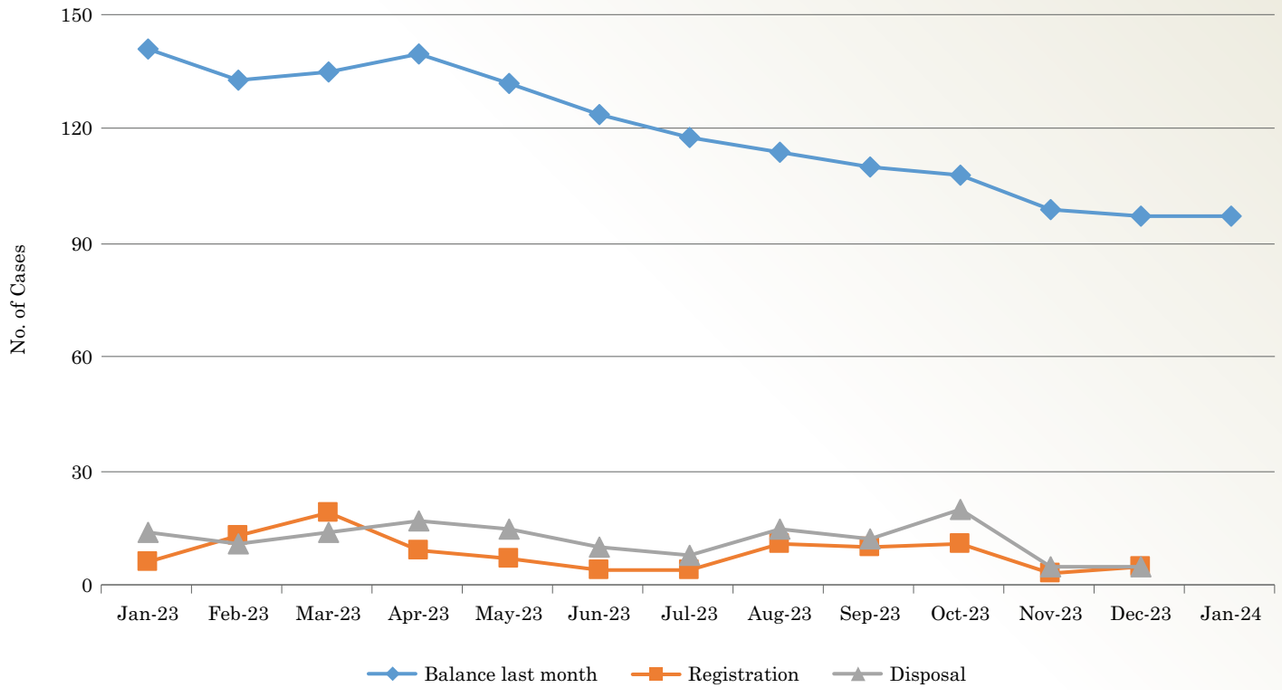
LEAVE APPLICATIONS IN 2023
NUMBER OF CASES REGISTERED, DISPOSED OF AND PENDING



Months	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan-24
Balance Last Month	335	303	277	269	286	279	263	244	216	222	209	222	249
Registration	22	23	49	57	33	32	32	31	46	39	42	61	
Disposal	54	49	57	40	40	48	51	59	40	52	29	34	

The total registration of leave applications in 2023 was 467 cases. There was a decrease in the number of cases registered as compared to 2022, which was 624 cases. The Federal Court managed to dispose of 553 cases in 2023. As shown in the graph, the disposal rate of leave applications was 68.95%. There was a decrease of 1.74% as compared to 2022.

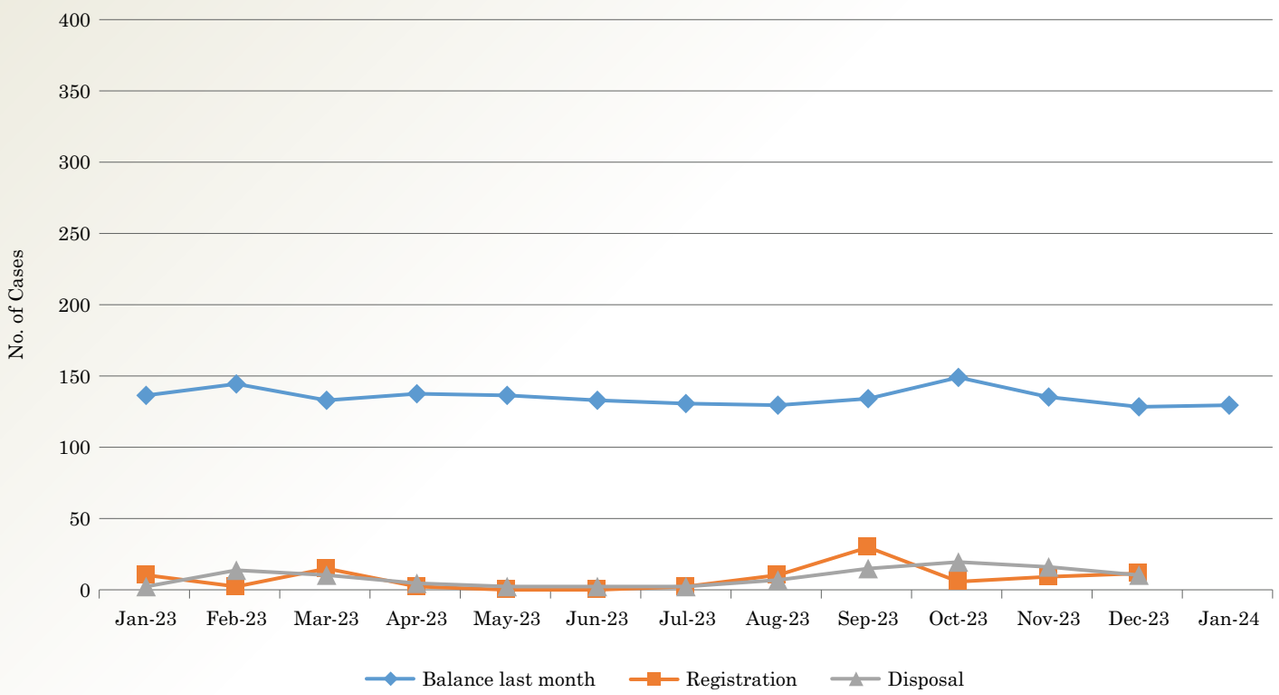
CIVIL APPEALS IN 2023
NUMBER OF CASES REGISTERED, DISPOSED OF AND PENDING



Months	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan-24
Balance Last Month	141	133	135	140	132	124	118	114	110	108	99	97	97
Registration	6	13	19	9	7	4	4	11	10	11	3	5	
Disposal	14	11	14	17	15	10	8	15	12	20	5	5	

For civil appeals, a total of 102 cases were registered in 2023 and 141 cases were brought over from the previous year. Of this number, 146 cases were disposed of within the year. As shown in the graph, the disposal rate of civil appeals was 60.08% and 97 cases were brought forward to January 2024.

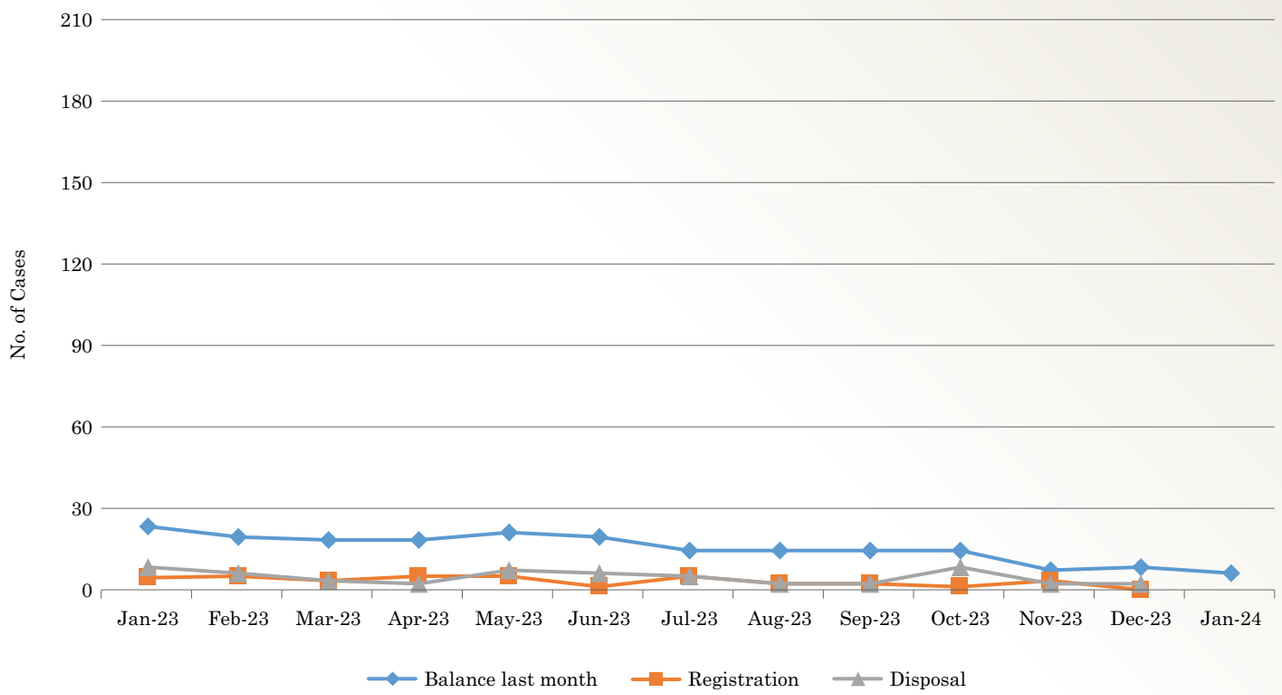
CRIMINAL APPEALS IN 2023
NUMBER OF CASES REGISTERED, DISPOSED OF AND PENDING



Months	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan-24
Balance Last Month	136	144	133	138	136	133	131	130	134	149	135	128	130
Registration	11	3	15	3	0	0	2	11	30	6	9	12	
Disposal	3	14	10	5	3	2	3	7	15	20	16	10	

For criminal appeals, 102 appeals were registered in 2023. A total of 108 cases were disposed of leaving a balance of 130 appeals by 31 December 2023. As shown in the graph, the disposal rate of criminal appeals was 45.38%.

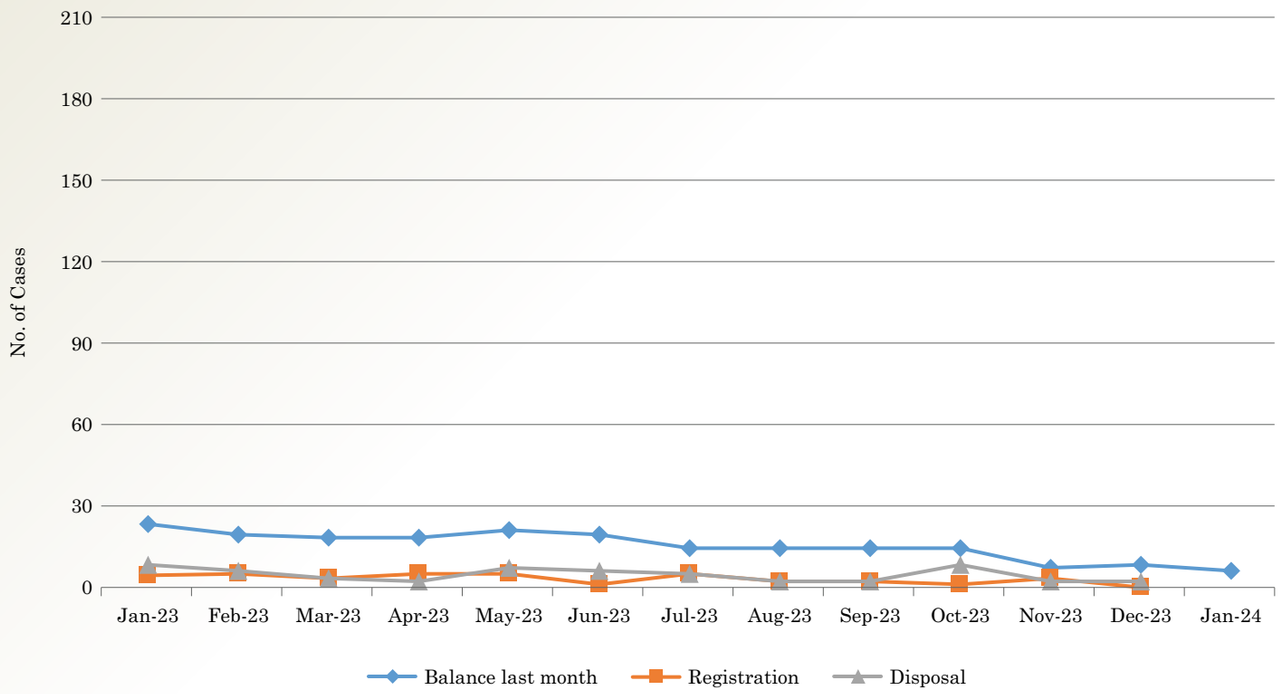
HABEAS CORPUS APPEALS IN 2023
NUMBER OF CASES REGISTERED, DISPOSED OF AND PENDING



Months	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan-24
Balance Last Month	23	19	18	18	21	19	14	14	14	14	7	8	6
Registration	4	5	3	5	5	1	5	2	2	1	3	0	
Disposal	8	6	3	2	7	6	5	2	2	8	2	2	

For *habeas corpus*, 36 appeals were registered and 53 appeals were disposed in 2023 leaving only 6 cases pending at the close of year. As shown in the graph, the disposal rate of *habeas corpus* appeals was 89.83%.

ORIGINAL JURISDICTION/CIVIL REFERENCE/CRIMINAL REFERENCE/CRIMINAL APPLICATION/CIVIL OR CRIMINAL REVIEW APPLICATION IN 2023 NUMBER OF CASES REGISTERED, DISPOSED OF AND PENDING



Months	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan-24
Balance Last Month	15	16	14	19	21	17	18	19	14	13	56	72	55
Registration	1	0	6	3	0	2	5	1	2	45	19	1	
Disposal	0	2	1	1	4	1	4	6	3	2	3	18	

For other matters comprising original jurisdiction, reference (civil dan criminal), criminal applications and review applications (civil and criminal), a total of 85 cases were registered. 15 cases were brought over from the previous year. A total of 45 cases were disposed of leaving a balance of 55 cases at the end of 2023. As shown in the graph, the disposal rate was 45%.

Batik crafted using the screen technique
at the Machang Prison, Kelantan

Batik *Terap* or Stamped Batik by Nysakapas

Chapter 3

THE COURT OF APPEAL

STATEMENT BY THE RIGHT HONOURABLE THE PRESIDENT OF THE COURT OF APPEAL

Tan Sri Datuk Amar Abang Iskandar Abang Hashim

The Court of Appeal was established as the intermediate appellate court for cases originating from the High Court, and the final appellate court for cases originating from the subordinate courts. I noted that the Court of Appeal recorded a persistent increase in the registration of new appeals from 4082 cases in 2020, to 4,993 cases in 2021 and 5,219 cases in 2022. Nevertheless, by applying the existing mechanisms that were laid down by my predecessors, all pending cases are dealt with systematically, such that they are managed and disposed of effectively and efficiently. For that, I must record my sincere gratitude to them for putting in place the best and realistic approach to address the backlog of cases. Having said that, the effort to further enhance the delivery system is a work in progress. The perennial search for the elusive "silver bullet" that can ensure that the number of disposals supersedes the number of registrations looks set to continue.

Appeals and performance

When I was appointed as the President of the Court of Appeal on 17 January 2023, there were 6,300 cases brought forward from the previous year. With the addition of the newly registered appeals of 4,722 cases, the Court of Appeal recorded a total of 11,022 appeals for 2023.

New Civil Court Appeals ranked the highest case-type registered for the year (1,652), followed by Criminal Appeals (1,131), Commercial (657), Full Trial Civil Appeals (571), Leave Applications (483 civil and criminal), Interlocutory Appeals (320), Construction (263), Intellectual Property (57), Muamalat (53) and Admiralty (17).

Regardless, all the judges of the Court of Appeal have been working hard to hear and dispose of the appeals so as to ensure that the number of pending cases are substantially reduced. That manifested through the reduction of the number of cases from 11,022 cases to 6,053 cases by the end of December 2023. My heartiest congratulations and thanks to my learned brother and sister judges of the Court of Appeal for their industrious and relentless efforts to hear and dispose of the appeals while also conscientiously preparing their numerous written judgements.

However, acknowledging that the balance figure was still high, and in anticipation of the further increase of newly registered cases,

we had, in three meetings that were held in 2023, decided to increase the number of cases to be fixed per panel. That arrangement had been agreed upon to take effect in January 2024. With that, we hope to see a substantial reduction in the number of pending cases in the years to come.

The year 2023 had also witnessed the hearings of a number of public interest cases. Several issues were dealt with, such as the revisionary power of the court in the case of *Moktar bin Raden v PP* and *Zizie Izette binti A Samad*; false prophets in *JAIS & Ors v Abdul Kahar & Ors*; vernacular schools in *Zainal Abidin v KPM*; fatwa of liberalism and pluralism in *SIS Forum & Ors*; and, religious status in *Dahlia Dhaima* and *Roshini Ochie*, to name a few.

Participation in intellectual discourses

Throughout 2023, judges of the Court of Appeal have also contributed in various intellectual discourses, conferences and trainings, domestically and at the international level, whether as participants, speakers, trainers, facilitators or moderators.

Programmes such as international conferences on constitutional justice, focus group discussions on cross-border disputes involving children, roundtable discussions on the best practices relating to the handling of the child victims or witnesses in the criminal trial, construction claims and ADR conferences, CIPAA conferences, appellate advocacy, workshops on international property law and practice, and writing better judgements were among the events that had taken place in 2023. Those avenues proved to be effective platforms for knowledge-sharing among the members of the legal and judicial fraternity.

> Personally, I have always been and will always be supportive of judges' involvement in legal trainings or intellectual courses organised by the Judicial Appointments Commission, universities and other organisations both locally and abroad. Training provides continuous learning for the judges so critically necessary in order that they may acquire new skills and knowledge so that they will be able to perform better as appellate judges.

Elevation and retirement

The large number of pending cases surely requires a sufficient number of judges to hear and dispose of those appeals. In 2023, a total of 11 judges were elevated to the Court of Appeal. They are Justices Azman Abdullah, Azimah Omar, Lim Chong Fong, Collin Lawrence Sequerah, Mohamed Zaini Mazlan and Wong Kian Kheong who were all elevated to the Court of Appeal on 17 January 2023, which was the same day of my appointment as the President of the Court of Appeal. On 13 June 2023, five more judges were elevated. They are Justice Azizul Azmi Adnan, Justice Azmi Ariffin, Justice Azhahari Kamal Ramli, Justice S.M. Komathy Suppiah and Justice Dr. Choo Kah Sing. My congratulations to all the justices. I wish them a fulfilling and rewarding tenure on the Appeal Bench.

Also, in 2023, we witnessed the departure of four judges of the Court of Appeal upon them

reaching the age of mandatory retirement. They are Justice Lee Heng Cheong, Justice Haji Ahmad Nasfy Haji Yasin, Justice Has Zanah Mehat, and Justice Gunalan Muniandy. I would like to record my sincere gratitude and appreciation to all of them for their commitment, determination and perseverance in discharging their oath of office, and for their contributions to the Malaysian judiciary in the various activities beyond the courtroom.

The support system

Finally, I fully acknowledge that in performing their judicial duties, judges truly need a good supporting team. Apart from the individual judge's officer and staff in chambers, the registry of the Court of Appeal plays a vital role in ensuring that cases are managed efficiently, and that all other matters are dealt with effectively. In this regard, I must thank Puan Jumirah Marjuki, the Registrar of the Court of Appeal and her team for the strong support they provided to the judges and me throughout the year 2023.

Indeed, a team is not just a group of people who work together. According to Simon Sinek, it is more than that. A team is a group of people who trust each other.

Likewise, it is only with the cooperation and mutual support of all parties and stakeholders that the Court of Appeal would be able to achieve the *raison d'etre* for its establishment. It is almost, if not wholly symbiotic.

Moving forward

Looking forward, on a positive note, I hope to see a marked improvement in our case management system and efficient disposal of cases while always adhering to the notion of fairness and justice. And to look closely at mediation as a complementary mode of disposal of cases at the appellate level.

Tan Sri Datuk Amar Abang Iskandar Abang Hashim
President of the Court of Appeal

JUDGES OF THE COURT OF APPEAL

Justice Yaacob Haji Md. Sam

Justice Abdul Karim Abdul Jalil

Justice Hanipah Farikullah

Justice Kamaludin Md. Said

Justice Has Zanah Mehat

Justice Lee Swee Seng

Justice Hajah Azizah Haji Nawawi

Justice Vazeer Alam Mydin Meera

Justice Ravinthran N. Paramaguru

Justice Hadhariah Syed Ismail

Justice Abu Bakar Jais

Justice Nantha Balan E.S. Moorthy

Justice Supang Lian

Justice Lee Heng Cheong

Justice Haji Ahmad Nasfy Haji Yasin

Justice Che Mohd Ruzima Ghazali

Justice Gunalan Muniandy

Justice Nordin Hassan

Justice Ahmad Zaidi Ibrahim

Justice Mariana Haji Yahya

Justice See Mee Chun

Justice Hashim Hamzah

Justice Mohd Nazlan Mohd Ghazali

Justice Haji Azman Abdullah

Justice Azimah Omar

Justice Lim Chong Fong

Justice Collin Lawrence Sequerah

Justice Mohamed Zaini Mazlan

Justice Wong Kian Kheong

Justice Azizul Azmi Adnan

Justice Azmi Ariffin

Justice Azhahari Kamal Ramli

Justice S.M Komathy Suppiah

Justice Dr. Choo Kah Sing

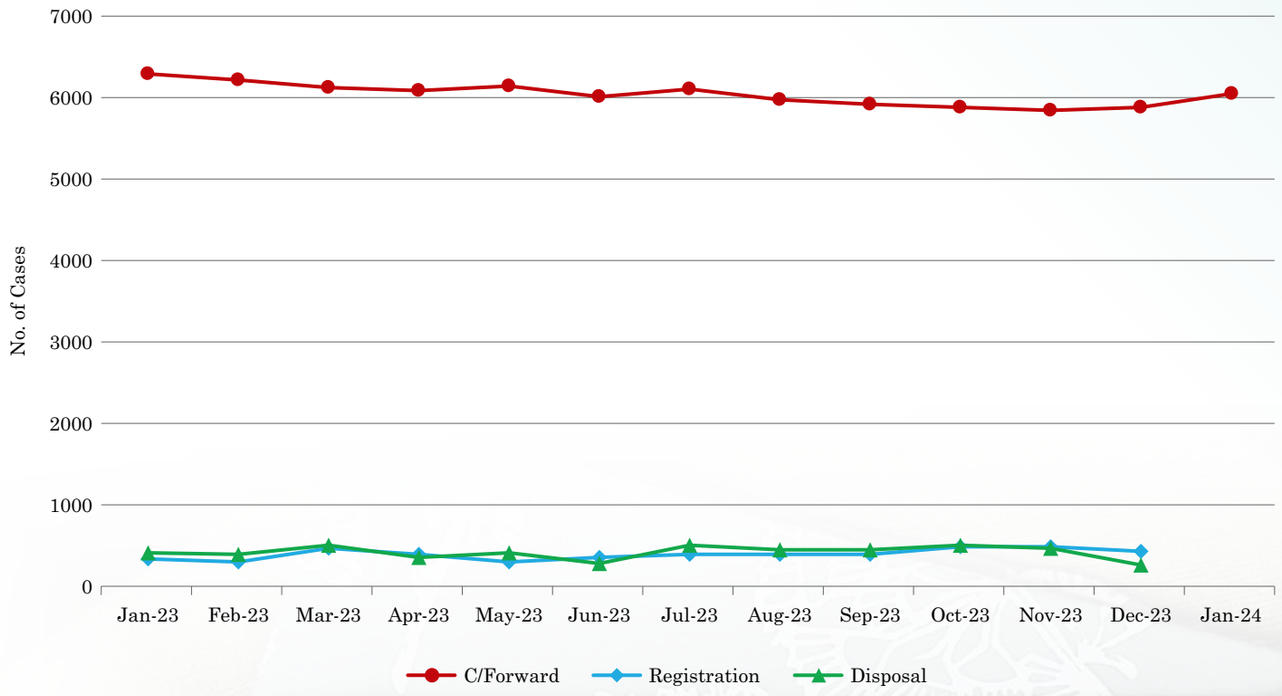
PERFORMANCE OF THE COURT OF APPEAL

As at 31 December 2023, there were 6,053 appeals pending in the Court of Appeal. Out of the 6,053 appeals pending, 36.04% were pre-2023 appeals. The rest were 2023 appeals, which constituted 63.96% of the appeals pending.

In 2023, the Court of Appeal saw a registration of 4,722 new appeals. There was a reduction of 497 appeals from the previous year. There were 6,300 appeals brought over from 2022, making it a total of 11,022 appeals to be heard in Court of Appeal in 2023. The Court of Appeal disposed a total of 4,969 appeals in 2023, at a rate of disposal of 45.08%.

The overall performance of the Court of Appeal in 2023 can be seen in Graph A:

GRAPH A
NUMBER OF APPEALS REGISTERED AND DISPOSED OF IN 2023



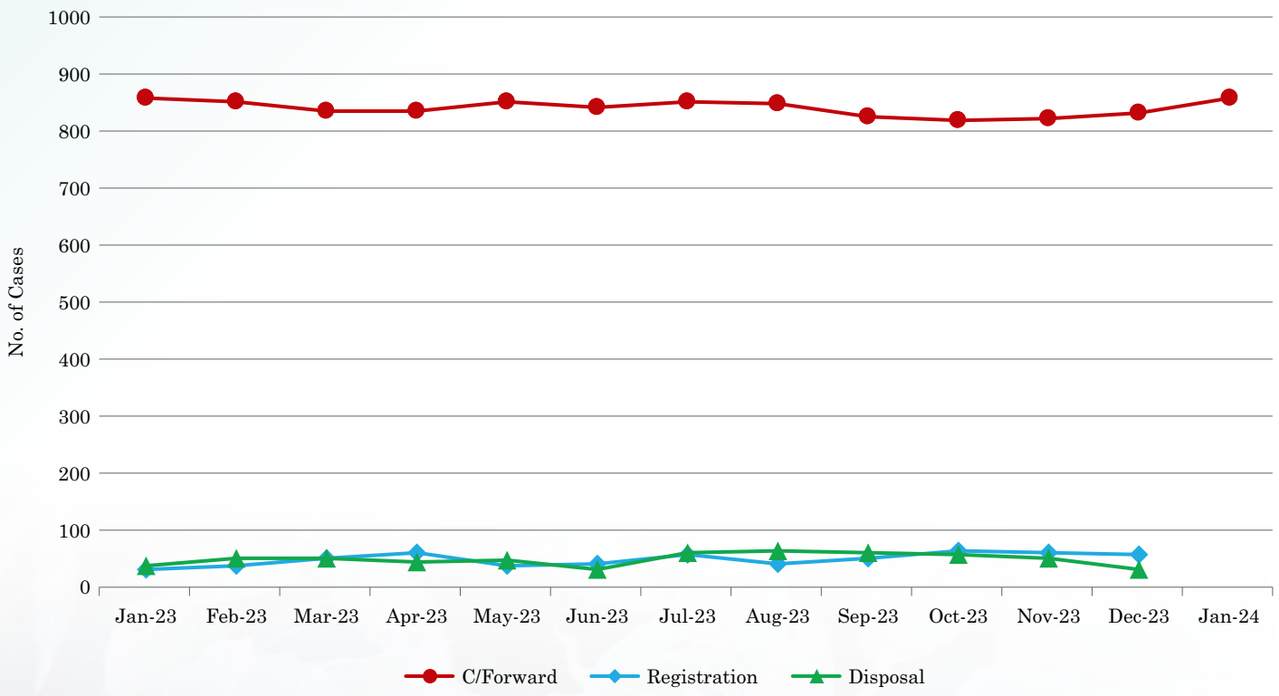
Months	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan-24
C/Forward	6,300	6,217	6,128	6,084	6,135	6,015	6,102	5,978	5,924	5,882	5,853	5,883	6,053
Registration	327	305	462	396	289	362	386	395	399	476	488	437	
Disposal	410	394	506	345	409	275	510	449	441	505	458	267	

FULL TRIAL CIVIL APPEALS

Full Trial Civil Appeals (FT Appeals) are appeals which do not fall under the categories of New Commercial Court Appeals (NCC), New Civil Court Appeals (NCvC), Muamalat Appeals, Intellectual Property Appeals (IP), Admiralty Appeals, and Construction Appeals.

In 2023, a total of 571 Full Trial Civil Appeals were registered. There were 855 FT Appeals carried forward from 2022 making a total of 1426 FT appeals in 2023. A total of 568 appeals were disposed of leaving 858 appeals on the list at the end of the year. Out of these 858 appeals, 365 are pre-2023 FT Appeals. The performance in relation to FT Appeals is shown in Graph B.

GRAPH B
NUMBER OF FULL TRIAL CIVIL APPEALS REGISTERED, DISPOSED OF AND PENDING IN 2023



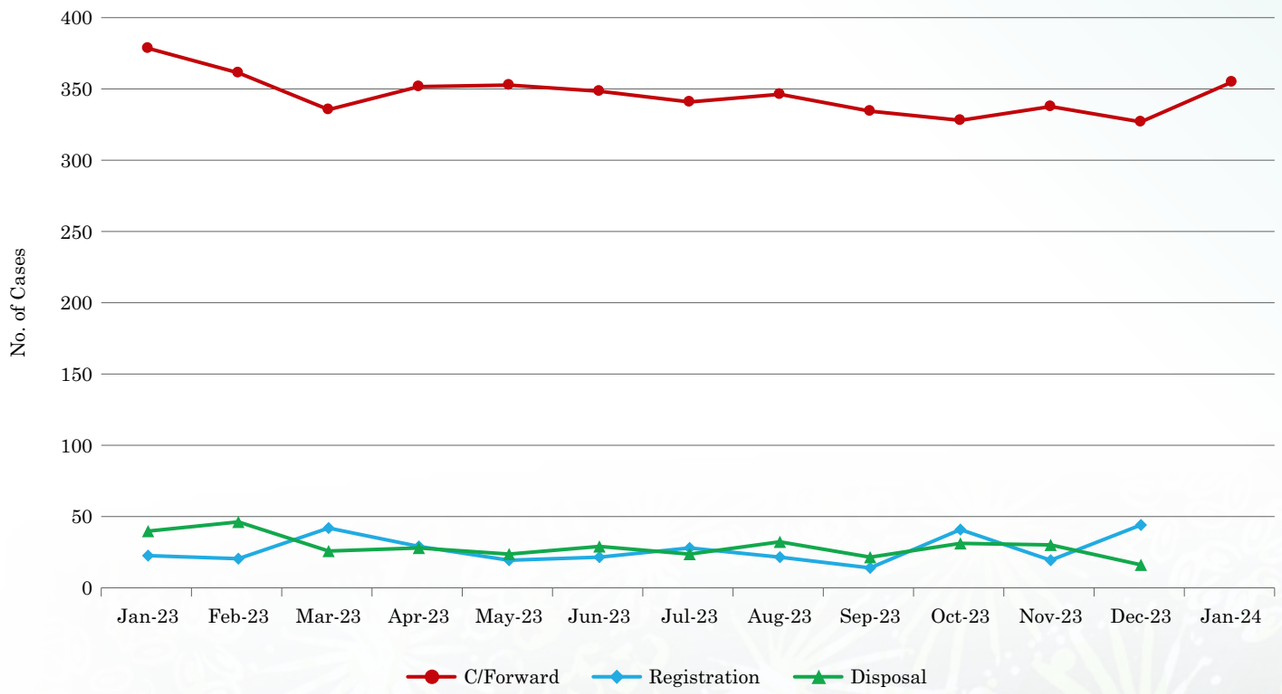
Months	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan-24
C/Forward	855	849	835	833	850	839	851	846	824	816	820	830	858
Registration	29	35	48	59	36	41	55	40	50	61	60	57	
Disposal	35	49	50	42	47	29	60	62	58	57	50	29	

INTERLOCUTORY APPEALS

Interlocutory Appeals (IM Appeals) are appeals which originate from an interlocutory application at the High Court and do not fall under the categories of NCC Appeals, NCvC Appeals, Muamalat Appeals, IP Appeals, Admiralty Appeals, and Construction Appeals.

In 2023, a total of 320 IM Appeals were registered. Add to that, there were 379 IM Appeals carried forward from 2022 making it a total of 699 IM Appeals in 2023. By the end of 2023, 344 appeals were disposed of leaving 355 appeals still pending. Out of this figure, only 95 were pre-2023 appeals. The figure of the IM Appeals registered, disposed of and pending for the year 2023 are shown in Graph C.

GRAPH C
NUMBER OF INTERLOCUTORY APPEALS REGISTERED, DISPOSED OF AND PENDING IN 2023

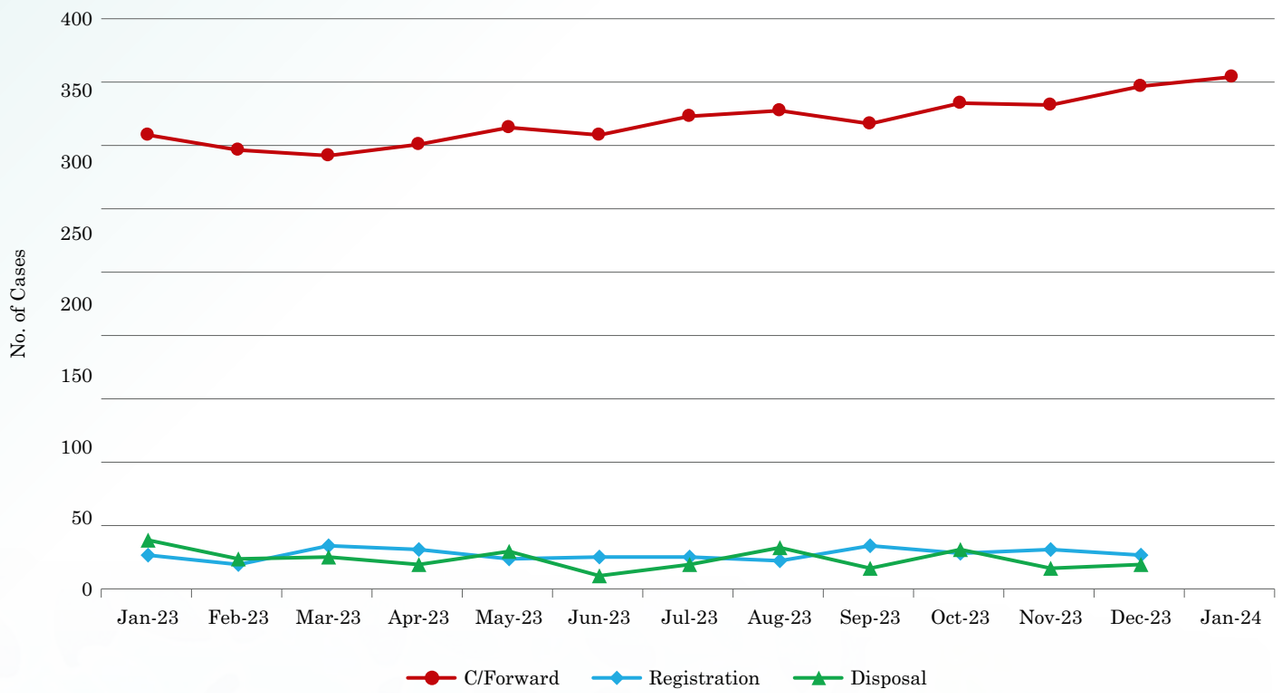


Months	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan-24
C/Forward	379	362	336	352	353	349	341	346	335	328	338	327	355
Registration	22	20	42	29	19	21	28	21	14	41	19	44	
Disposal	39	46	26	28	23	29	23	32	21	31	30	16	

COMMERCIAL COURT APPEALS

In 2023, a total of 657 Commercial Court Appeals (NCC Appeals) were registered. This number is inclusive of NCC Appeals after a full trial and appeals from interlocutory applications. A total of 716 appeals were carried forward from 2022. Out of these 1,373 appeals, 566 appeals were disposed of. At the end of 2023, there were 807 appeals which were still pending before the Court of Appeal. Out of this figure, 271 cases are pre-2023 cases. The number of NCC Appeals registered, disposed of and pending in 2023 is shown in Graph D below:

GRAPH D
NUMBER OF COMMERCIAL COURT APPEALS REGISTERED, DISPOSED OF AND PENDING IN 2023

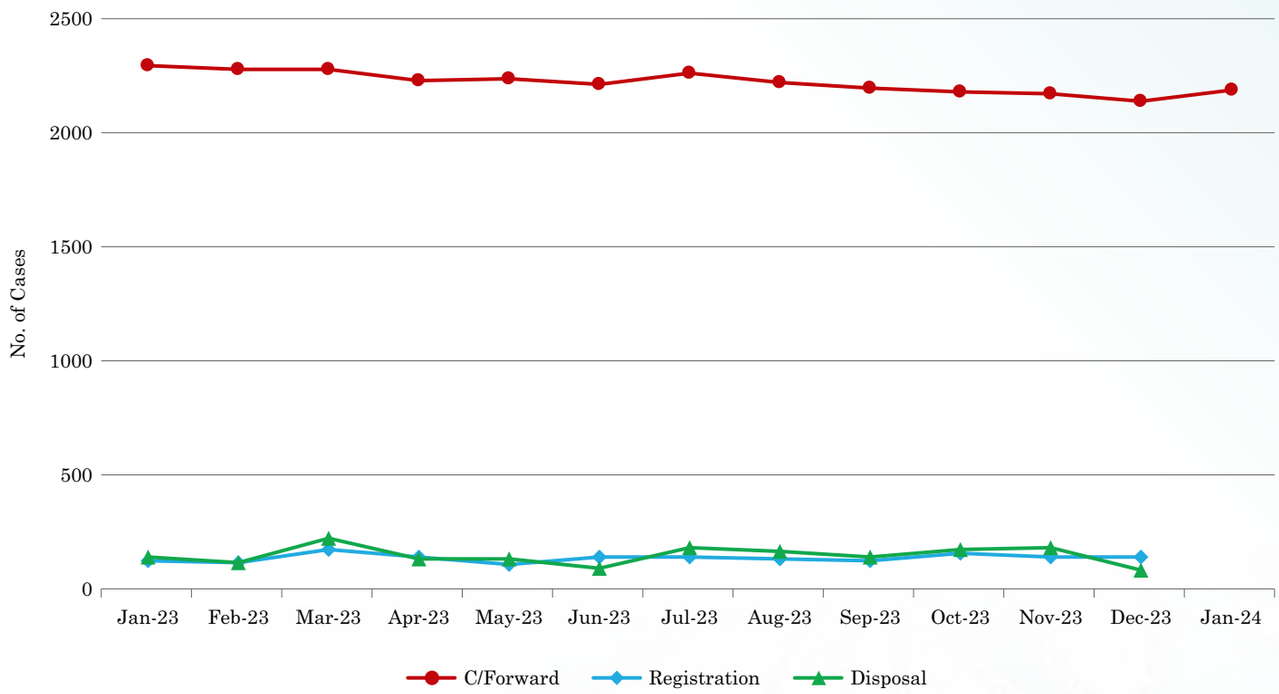


Months	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan-24
C/Forward	716	693	684	702	727	715	744	754	733	767	762	792	807
Registration	54	38	69	63	48	50	50	44	68	57	63	53	
Disposal	77	47	51	38	60	21	40	65	34	62	33	38	

NEW CIVIL COURT APPEALS

There were 1,652 New Civil Court Appeals (NCvC Appeals) registered in 2023. This number is inclusive of NCvC Appeals after a full trial and appeals from interlocutory applications. A total of 2,301 appeals were carried forward from 2022 making it a total of 3,953 NCvC Appeals at the Court of Appeal in 2023. Out of these appeals, 1,758 were disposed of by the end of the year, leaving a balance of 2,195 cases, of which 809 appeals were pre-2023 appeals. The number of NCvC appeals registered, disposed of and pending in 2023 can be seen in Graph E.

GRAPH E
NUMBER OF NEW CIVIL COURT APPEALS REGISTERED, DISPOSED OF AND PENDING IN 2023



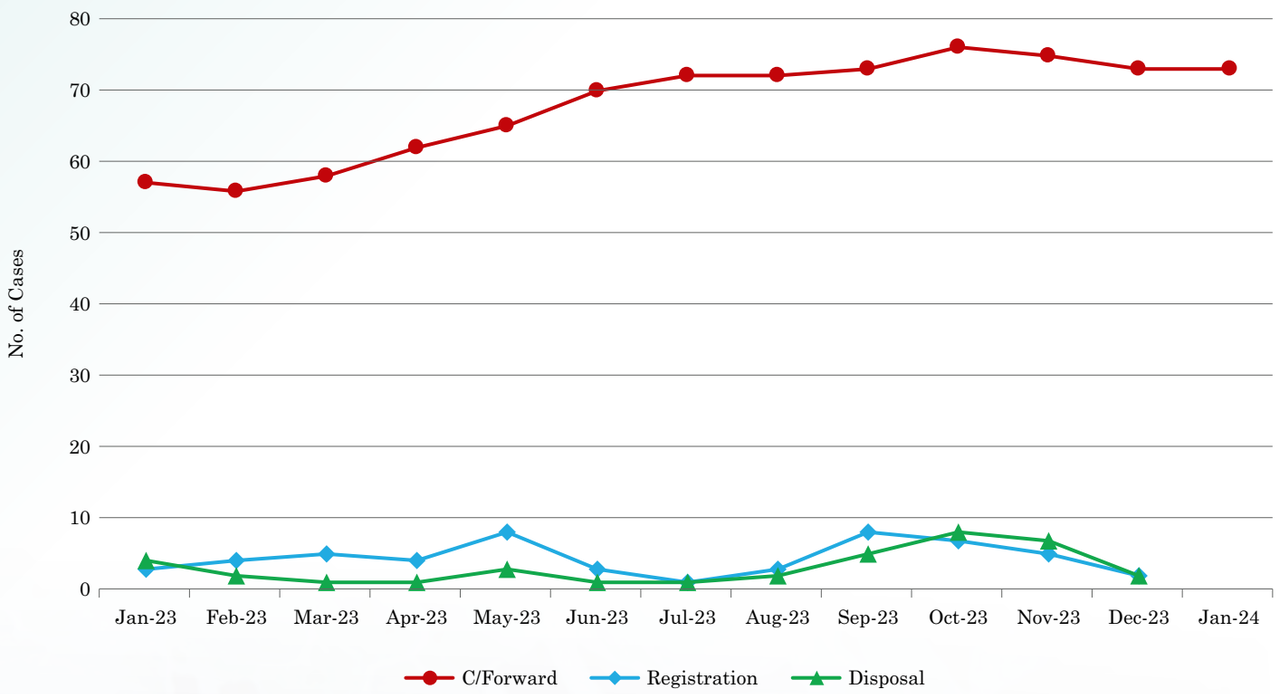
Months	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan-24
C/Forward	2,301	2,279	2,282	2,233	2,244	2,217	2,265	2,226	2,196	2,186	2,175	2,138	2,195
Registration	122	116	172	145	108	138	141	137	129	160	142	142	
Disposal	144	113	221	134	135	90	180	167	139	171	179	85	

MUAMALAT APPEALS

A total of 53 Muamalat Appeals were registered in 2023. This number is inclusive of Muamalat Appeals after a full trial and appeals from interlocutory applications. In addition, there were 57 appeals carried forward from the previous year. A total of 37 appeals were disposed of leaving a balance of 73 appeals pending before the Court of Appeal at the end of the year. Twenty four out of the 73 appeals were pre-2023 appeals. The number of Muamalat appeals registered, disposed of and pending in 2023 can be seen in Graph F.

GRAPH F

NUMBER OF MUAMALAT APPEALS REGISTERED, DISPOSED OF AND PENDING IN 2023

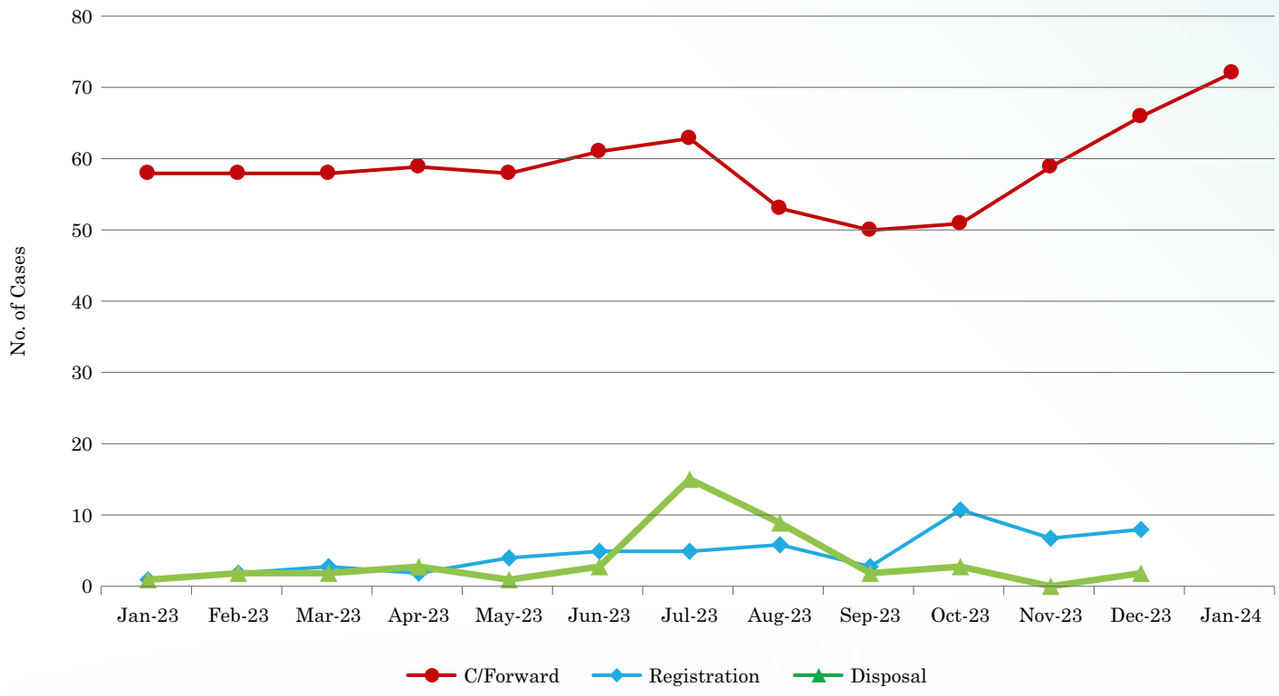


Months	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan-24
C/Forward	57	56	58	62	65	70	72	72	73	76	75	73	73
Registration	3	4	5	4	8	3	1	3	8	7	5	2	
Disposal	4	2	1	1	3	1	1	2	5	8	7	2	

INTELLECTUAL PROPERTY APPEALS

There were 58 Intellectual Property Appeals (IP Appeals) carried forward from 2022. In addition to that, there were 57 appeals registered in 2023. This number is inclusive of IP Appeals after a full trial and appeals from interlocutory applications. Out of these appeals, 43 appeals were disposed of, leaving a balance of 72 appeals still pending at the end of the year. Out of this figure, only 24 appeals were pre-2023. These figures are shown in Graph G below:

GRAPH G
NUMBER INTELLECTUAL PROPERTY APPEALS REGISTERED, DISPOSED OF AND PENDING 2023



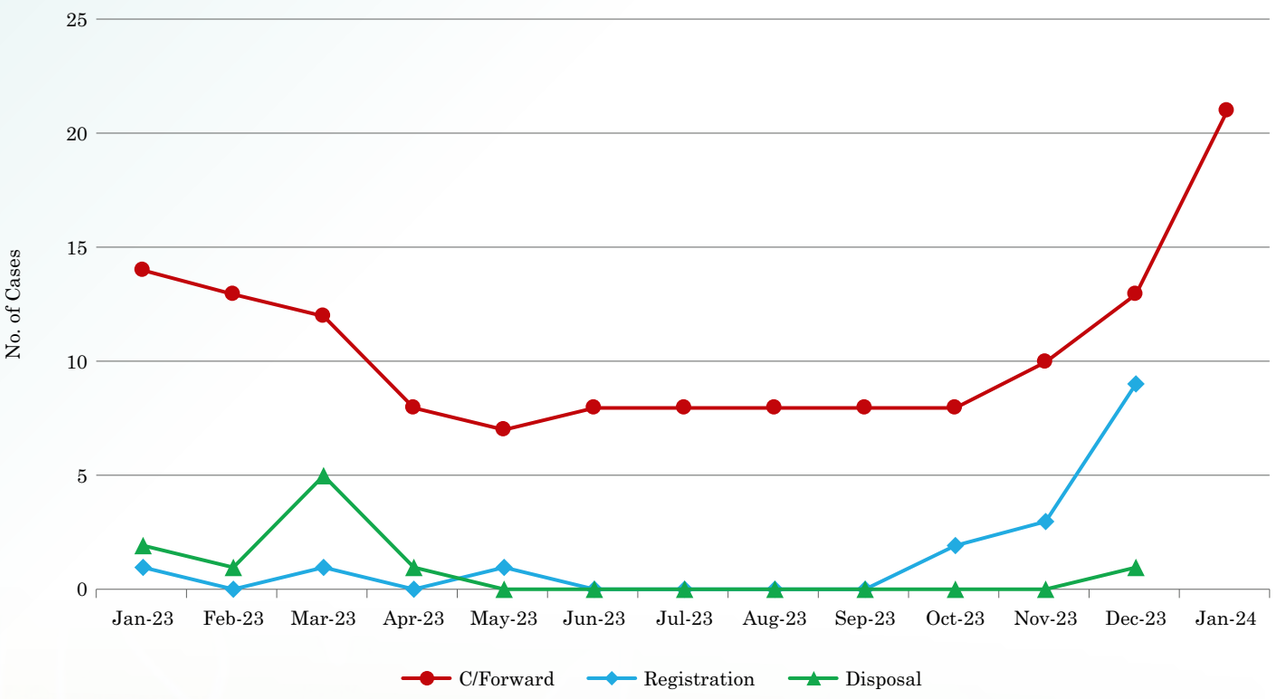
Months	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan-24
C/Forward	58	58	58	59	58	61	63	53	50	51	59	66	72
Registration	1	2	3	2	4	5	5	6	3	11	7	8	
Disposal	1	2	2	3	1	3	15	9	2	3	0	2	

ADMIRALTY APPEALS

In 2023, 17 appeals relating to admiralty were registered. This number is inclusive of Admiralty Appeals after a full trial and appeals from interlocutory applications. In addition to that, there were 14 appeals carried forward from 2022. There were 10 appeals disposed of, leaving a balance of 21 appeals pending of which five appeals were pre- 2023 appeals and 16 appeals were registered in 2023. The performance is as illustrated in Graph H below:

GRAPH H

NUMBER OF ADMIRALTY APPEALS REGISTERED, DISPOSED OF AND PENDING IN 2023

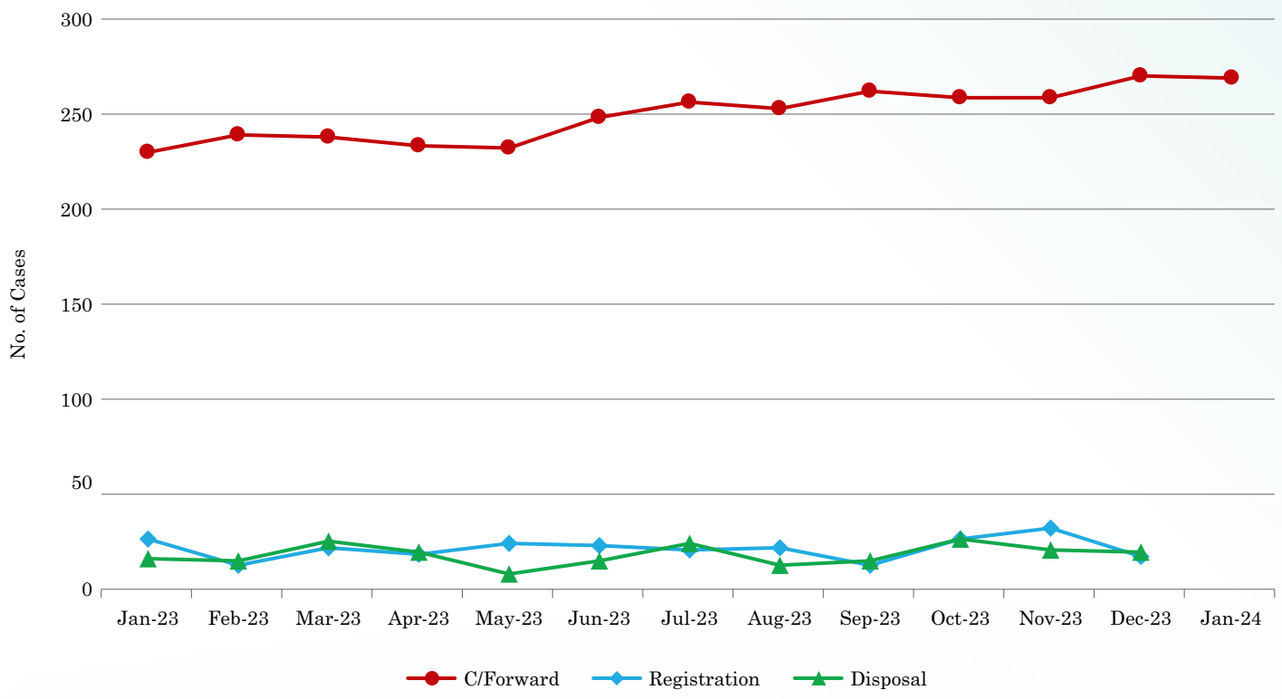


Months	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan-24
C/Forward	14	13	12	8	7	8	8	8	8	8	10	13	21
Registration	1	0	1	0	1	0	0	0	0	2	3	9	
Disposal	2	1	5	1	0	0	0	0	0	0	0	1	

CONSTRUCTION COURT APPEALS

In 2023, 263 Construction Court Appeals were registered. This number is inclusive of Construction Court Appeals after a full trial and appeals from interlocutory applications. 230 appeals were carried forward from 2022. A total of 224 appeals were disposed of leaving a balance of 269 appeals. Out of these 269 appeals, 77 appeals were pre-2023. The performance is as illustrated in Graph I below:

GRAPH I
NUMBER OF CONSTRUCTION COURT APPEALS REGISTERED, DISPOSED OF AND PENDING IN 2023

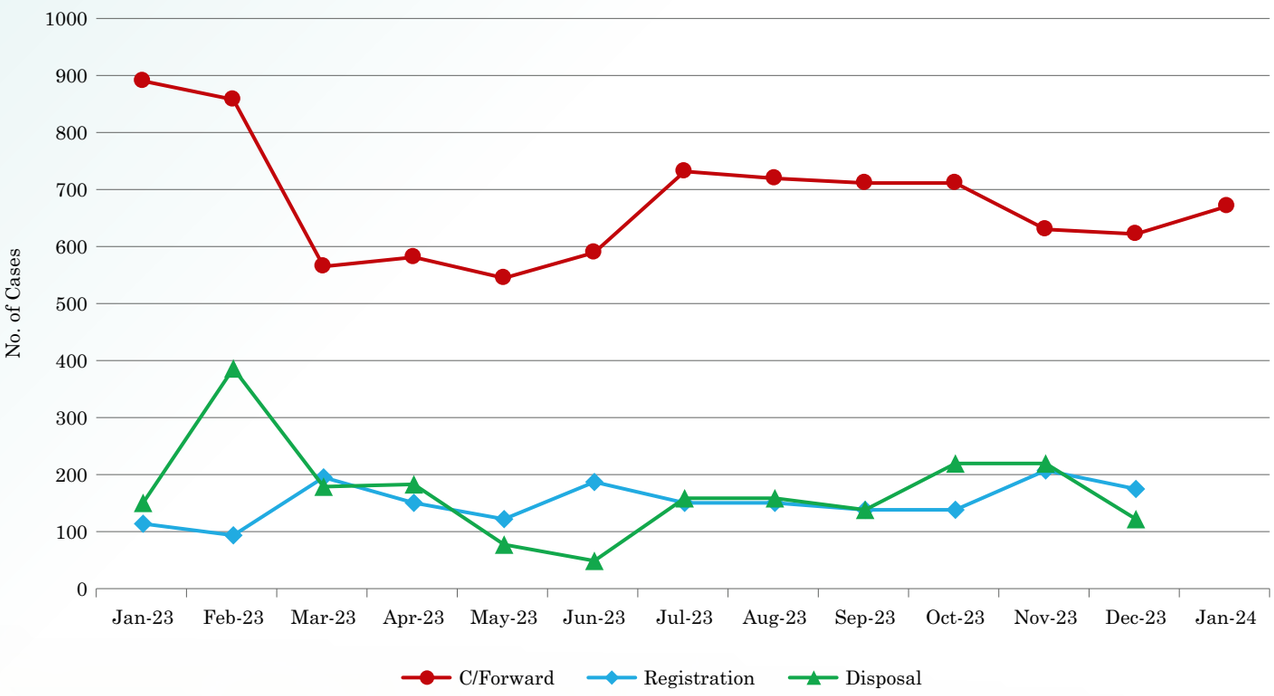


Months	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan-24
C/Forward	230	240	238	234	233	249	257	253	262	259	259	271	269
Registration	27	13	22	19	25	23	21	22	13	27	33	18	
Disposal	17	15	26	20	9	15	25	13	16	27	21	20	

CIVIL LEAVE APPLICATIONS

In 2023, 367 Civil Leave Applications were registered. In addition to that, 178 Civil Leave Applications were carried forward from the previous year. A total of Civil 411 Leave Applications were disposed of leaving a balance of 134 applications. The number of registered, disposed and pending Civil Leave Applications in 2023 can be seen in Graph J.

GRAPH J
NUMBER OF CIVIL LEAVE APPLICATIONS REGISTERED, DISPOSED OF AND PENDING IN 2023



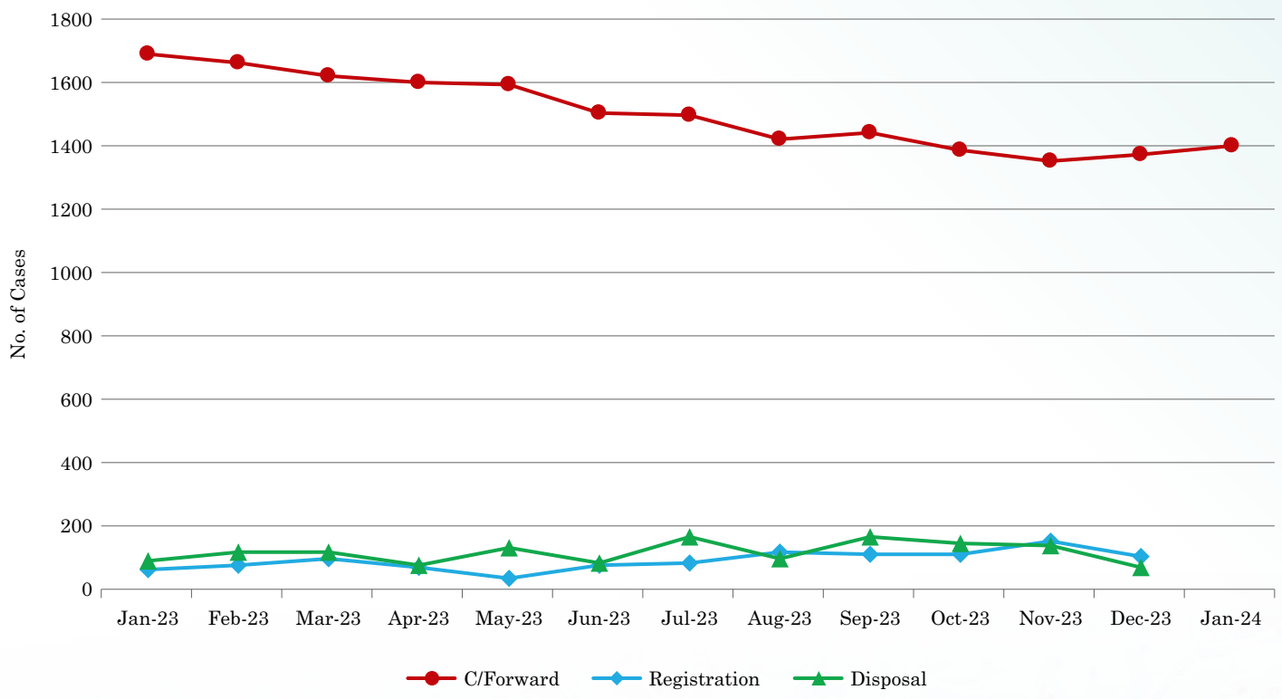
Months	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan-24
C/Forward	178	171	113	116	109	118	146	144	142	142	126	124	134
Registration	23	19	39	30	25	38	30	30	28	28	42	35	
Disposal	30	77	36	37	16	10	32	32	28	44	44	25	

CRIMINAL APPEALS

A total 1,131 Criminal Appeals were registered in 2023. There were 1,690 Criminal Appeals carried forward from 2022 making a total of 2,821 criminal appeals in 2023. A total of 1,418 appeals were disposed of leaving a balance of 1,403 appeals pending. Out of these 1,403 appeals, 512 were pre-2023 appeals. The number of criminal appeals registered, disposed of and pending in 2023 is shown in Graph K below:

GRAPH K

NUMBER OF CRIMINAL APPEALS REGISTERED, DISPOSED OF AND PENDING IN 2023

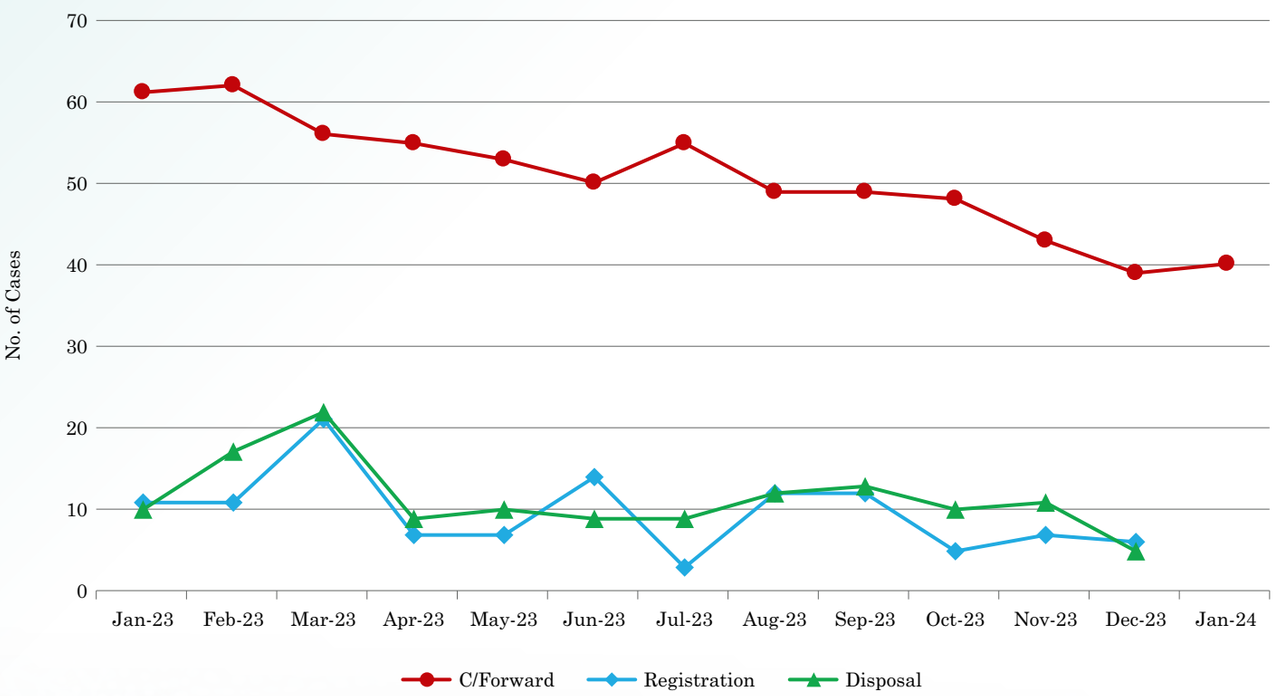


Months	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan-24
C/Forward	1,690	1,667	1,625	1,601	1,598	1,507	1,501	1,420	1,443	1,391	1,355	1,373	1,403
Registration	68	77	99	75	40	81	85	122	114	110	156	104	
Disposal	91	119	123	78	131	87	166	99	166	146	138	74	

CRIMINAL LEAVE APPLICATIONS

In 2023, 116 Criminal Leave Applications were registered. In addition to that, 61 Criminal Leave Applications were carried forward from the previous year. A total of 137 Criminal Leave Applications were disposed of leaving a balance of 40 applications. The number of registered, disposed of and pending Criminal Leave Applications in 2023 can be seen in Graph L.

GRAPH L
NUMBER OF CRIMINAL LEAVE APPLICATIONS REGISTERED, DISPOSED OF AND PENDING IN 2023



Months	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan-24
C/Forward	61	62	56	55	53	50	55	49	49	48	43	39	40
Registration	11	11	21	7	7	14	3	12	12	5	7	6	
Disposal	10	17	22	9	10	9	9	12	13	10	11	5	

Batik *Terap* or Stamped Batik by prisoners at the Marang Prison

Batik *Terap* or Stamped Batik by Nysakapas

Chapter 4

THE HIGH COURTS

STATEMENT BY THE RIGHT HONOURABLE THE CHIEF JUDGE OF MALAYA

Tan Sri Mohamad Zabidin Mohd Diah

It is with great pleasure that I present this Statement for the High Court in Malaya.

Alhamdulillah, we began our 2023 calendar year with the COVID-19 pandemic behind us. Nevertheless, the sizable backlog of cases accumulated during the past lockdowns and movement control restrictions continued to hound us during the endemic year 2023. As at January 2023, we had a total of 33,991 civil and 5,016 criminal cases pending in the High Courts. In the Sessions Courts, we had 22,442 civil cases and 11,794 criminal cases. Magistrates' Courts had 311,444 criminal and departmental summon cases and 37,344 civil cases.

Our immediate aim for 2023 was to deal with the backlog of cases and to ensure the simultaneous speedy disposal of the newly registered cases within the prescribed time. We focused on and tried to dispose of all pre-2021 cases.

As at January 2023, there were 5,073 pre-2021 cases in the High Courts. Judges and judicial commissioners were tasked to dispose of all pre-2021 cases by the end of June 2024. The statistics show that judges and judicial commissioners worked hard toward achieving this goal. Judges and judicial commissioners continued to work at full capacity both physically and virtually.

I am happy to state that for the period January to December 2023, our judges and judicial commissioners managed to dispose of 120,384 civil cases and 4,700 criminal cases. Out of the cases disposed of, a total of 3,072 cases were pre-2021 cases comprising 2,085 civil cases and 987 criminal cases, leaving a balance of 2,853 civil cases and 1,098 criminal cases for pre-2021 cases.

The disposal rate of cases in the subordinate courts in Peninsular Malaysia for the year 2023 was equally impressive. A total of 42,467 criminal cases were registered in all Sessions Courts in Peninsular Malaysia and 45,066 cases were disposed of. As for civil cases, a total of 45,339 were registered and 44,923 cases were disposed of.

Similarly, the Magistrates' Courts throughout Peninsular Malaysia showed an impressive performance. A total of 2,036,274 criminal, departmental and traffic summons cases were registered and 2,057,680 cases were disposed of.

In the quest for speedy disposal of cases, the judges and judicial commissioners were constantly reminded of not only the often-quoted phrase "*Justice delayed is justice denied*" but also the phrase "*Justice hurried is justice buried*". During meetings and through Managing Judges, it was emphasised to the judges and judicial commissioners that although we would like to see the pre-2021 cases be disposed of before June 2024, it must not be at the expense of justice. Justice must not be compromised in the quest for speedy disposal of cases.

Judges and judicial commissioners were also reminded of the Chief Judge of Malaya Circular 1/2020 that states judges and judicial commissioners should conduct their own case management conferences so that they could help to reduce the number of issues for trial; to fix the subsequent proceeding date after getting consent from parties and to avoid passing unnecessary remarks. We believe good and strong case management greatly contributes to more efficient conduct and running of hearings to meet the stipulated time frame.

The year 2023 saw the appointment of several new judicial commissioners namely, Judicial Commissioner Zaharah Hussain, Judicial Commissioner Sumathi Murugiah, Judicial Commissioner Suzana Muhamad Said, Judicial Commissioner Evawani Farisyta Mohammad, Judicial Commissioner Wendy Ooi Su Ghee, Judicial Commissioner Choong Yeow Choy, Judicial Commissioner Haldar Abdul Aziz, Judicial Commissioner Indra Nehru Savandiah, Judicial Commissioner Roszianayati Ahmad, Judicial Commissioner Yusrin Faidz Yusoff, Judicial Commissioner Moses Susayan, Judicial Commissioner Raja Rozela Raja Toran, Judicial Commissioner Arziah Mohamed Apandi, Judicial Commissioner Hazizah Kassim, Judicial Commissioner Kan Weng Hin, Judicial Commissioner Mohd Rosli Yusoff, Judicial Commissioner Gan Techiong and Judicial Commissioner Suriyati Hasimah Mohd Hashim. I would like to welcome them to the judiciary. It is a common practice for the newly appointed judicial commissioners to undergo an induction course conducted by the Judicial Appointments Commission in addition to the scheduled courses conducted for judges and judicial commissioners.

During the induction course, it was emphasised to the newly appointed judicial commissioners that judges and judicial commissioners must adhere to the principle of *stare decisis* in order to ensure certainty and consistency in the application of law; they were advised to adhere to *Surat Penting Ketua Pendaftar* dated 1 November 2020 and not to force lawyers to be robed in open court attire for chamber matters conducted in open court. They were also reminded to be careful in giving orders as to costs especially on costs to be paid by the lawyer. They were to anonymise the names and details of children in cases where there are children involved before uploading grounds of judgement in e-judgement or sending grounds of judgement for publication.

Newly appointed judicial commissioners were reminded that online hearings are here to stay. The courts now have the power to determine which cases ought to be conducted physically, and which cases can be conducted online.

On a personal note, since this is my last and only statement as Chief Judge of Malaya, I wish to take this opportunity to thank the Chief Justice, President Court of Appeal, Chief Judge of Sabah and Sarawak and all Federal Court judges and the Managing Judges who have guided, supported, and assisted me while I was in the Federal Court. I would also like to thank everyone who supported and assisted me while I was in the High Court and Court of Appeal. It is not possible to mention each and every one here but they include all the judges of the Court of Appeal, judges of the High Courts, the Chief Registrar, Deputy Chief Registrar, Registrar of the Court of Appeal, Registrar of the High Courts, Registrar of the Subordinate Courts and all their respective staff and officers.

I wish everyone a fruitful 2024.

Tan Sri Mohamad Zabidin Mohd Diah
Chief Judge of Malaya

JUDGES OF THE HIGH COURT IN MALAYA 2023

1. Justice Abdul Halim Aman
2. Justice Zainal Azman Ab Aziz
3. Justice Halijah Abbas
4. Justice Akhtar Tahir
5. Justice Nik Hasmat Nik Mohamad
6. Justice Mohd Zaki Abdul Wahab
7. Justice Noorin Badaruddin
8. Justice Ab Karim Ab Rahman
9. Justice Ahmad Bache
10. Justice Mohd Firuz Jaffril
11. Justice Rozana Ali Yusoff
12. Justice Abu Bakar Katar
13. Justice Hayatul Akmal Abdul Aziz
14. Justice Faizah Jamaludin
15. Justice Ahmad Kamal Md Shahid
16. Justice Roslan Abu Bakar
17. Justice Abdul Wahab Mohamed
18. Justice Hassan Abdul Ghani
19. Justice Chan Jit Li
20. Justice Muhammad Jamil Hussin
21. Justice Wan Ahmad Farid Wan Salleh
22. Justice Khadijah Idris
23. Justice Tun Abdul Majid Tun Hamzah
24. Justice Azmi Abdullah
25. Justice Rohani Ismail
26. Justice Anselm Charles Fernandis
27. Justice Ahmad Fairuz Zainol Abidin
28. Justice Mohd Radzi Harun
29. Justice Aliza Sulaiman
30. Justice Meor Hashimi Abdul Hamid
31. Justice Ahmad Shahrir Mohd Salleh
32. Justice Latifah Mohd Tahar
33. Justice Amarjeet Singh Serjit Singh
34. Justice Muniandy Kannyappan
35. Justice Shahnaz Sulaiman
36. Justice Evrol Mariette Peters
37. Justice Ong Chee Kwan
38. Justice Mohd Radzi Abdul Hamid
39. Justice Aslam Zainuddin
40. Justice Julie Lack
41. Justice Nadzarin Wok Nordin
42. Justice Quay Chew Soon
43. Justice Atan Mustaffa Yussof Ahmad
44. Justice Annand Ponnudurai
45. Justice Norsharidah Awang
46. Justice Tee Geok Hock
47. Justice Alice Loke Yee Ching
48. Justice Azhar Abdul Hamid
49. Justice Arik Sanusi Yeop Johari
50. Justice Bhupindar Singh Gurcharan Singh Preet
51. Justice Mahazan Mat Taib
52. Justice Ahmad Murad Abdul Aziz
53. Justice Liza Chan Sow Keng
54. Justice Wan Muhammad Amin Wan Yahya
55. Justice Nurulhuda Nur'aini Mohamad Nor
56. Justice Norliza Othman
57. Justice Hasbullah Adam
58. Justice Shamsulbahri Ibrahim
59. Justice Roslan Mat Noor
60. Justice Julia Ibrahim
61. Justice Mohd Arief Emran Arifin
62. Justice John Lee Kien How @ Mohd Johan Lee
63. Justice Adlin Abdul Majid
64. Justice Mohamad Abazafree Mohd Abbas

JUDICIAL COMMISSIONERS OF THE HIGH COURT IN MALAYA 2023

1. Judicial Commissioner Su Tiang Joo
2. Judicial Commissioner Azizan Md. Arshad
3. Judicial Commissioner Narkunavathy Sundareson
4. Judicial Commissioner Noor Ruwena Md. Nurdin
5. Judicial Commissioner Jamhirah Ali
6. Judicial Commissioner Rozi Bainon
7. Judicial Commissioner Noor Hayati Mat
8. Judicial Commissioner Azlan Sulaiman
9. Judicial Commissioner Kenneth Yoong Ken Chinson St. James
10. Judicial Commissioner Leong Wai Hong
11. Judicial Commissioner Noor Hisham Ismail
12. Judicial Commissioner Roz Mawar Rozain
13. Judicial Commissioner Fathiyah Idris
14. Judicial Commissioner Wan Fadhilah Nor Wan Idris
15. Judicial Commissioner Rofiah Mohamad
16. Judicial Commissioner Wong Mee Ling
17. Judicial Commissioner Raja Ahmad Mohzanuddin Shah Raja Mohzan
18. Judicial Commissioner Suria Kumar Durairaj Johnson Paul
19. Judicial Commissioner Zaharah Hussain
20. Judicial Commissioner Sumathi Murugiah
21. Judicial Commissioner Suzana Muhamad Said
22. Judicial Commissioner Evawani Farisyta Mohammad
23. Judicial Commissioner Wendy Ooi Su Ghee
24. Judicial Commissioner Choong Yeow Choy
25. Judicial Commissioner Haldar Abdul Aziz
26. Judicial Commissioner Indra Nehru Savandiah
27. Judicial Commissioner Roszianayati Ahmad
28. Judicial Commissioner Yusrin Faidz Yusoff
29. Judicial Commissioner Moses Susayan
30. Judicial Commissioner Raja Rozela Raja Toran
31. Judicial Commissioner Arziah Mohamed Apandi
32. Judicial Commissioner Hazizah Kassim
33. Judicial Commissioner Kan Weng Hin
34. Judicial Commissioner Mohd Rosli Yusoff
35. Judicial Commissioner Gan Techiong
36. Judicial Commissioner Suriyati Hasimah Mohd Hashim

STATEMENT BY THE RIGHT HONOURABLE THE CHIEF JUDGE OF SABAH AND SARAWAK

Tan Sri Dato' Abdul Rahman Sebli

INTRODUCTION

It is a great honour for me to present this statement for the Yearbook 2023 on behalf of the judiciary in Sabah and Sarawak. I would like to congratulate the editorial committee for having successfully completed this Yearbook. I believe that it provides the opportunity to reflect on the progress of the judiciary over the past year. It is my sincere hope that this annual publication will continue to flourish, serving as a record of the judiciary's hard work and as motivation for its readers.

CONGRATULATORY REMARKS AND WELCOMING THE NEW JUDICIAL COMMISSIONERS

I take this opportunity to extend my heartiest congratulations to Justice Azahari Kamal Ramli on His Lordship's appointment as Judge of the Court of Appeal on 13 June 2023. I also extend a warm welcome to our new judicial commissioners, Judicial Commissioner Maslinda @ Linda Mohd Ainal, who serves at the Kota Kinabalu High Court and Judicial Commissioner Saiful Azian Mokhtar who is stationed at the Sandakan High Court.

ENHANCEMENT OF DIGITALISATION

As we reflect on the year 2023, I want to commend the judges, judicial commissioners, officers and the court staff of Sabah and Sarawak for their dedication in ensuring smooth operation of our delivery system. Although the digitalisation of the Sabah and Sarawak Courts began over 12 years ago, we remain committed to continuously improving the system. The Integrated Court System (ICS) has been redeveloped through the e-Kehakiman Sabah Sarawak (eKSS) project in 2023. I am proud to know that our Artificial Intelligence in Court Sentencing (AiCOS) system in Sabah and Sarawak won the first prize in the national level competition organised by the *Majlis Anugerah Inovasi dan Kecemerlangan Jabatan Perdana Menteri* held on 15 June 2023, in the

ICT category. Nevertheless, I want to emphasise that the judiciary in Sabah and Sarawak welcomes constructive feedback from all stakeholders on the effectiveness and efficiency of the enhanced system.

THE PERFORMANCE OF SABAH AND SARAWAK COURTS

In 2023, the High Courts of Sabah disposed of 73% of the registered civil cases and 55% of the criminal cases while in Sarawak, the High Courts disposed of 74% of the registered civil cases and 53% of the criminal cases.

In the Sessions Courts of Sabah, 74.67% of registered civil cases and 80.5% of criminal cases were disposed of last year. In the Sessions Courts of Sarawak, 66% of registered civil cases and 87% of criminal cases were disposed of.

As for the Magistrates' Courts in Sabah, 80% of civil cases and 72% of the criminal cases were disposed of. In Sarawak, 78% of the registered civil cases and 91% of the criminal cases were disposed of.

The percentages of disposed cases include those carried over from previous years. It is important to recognise that all courts in Sabah and Sarawak exhibited commendable performance across the board in 2023. However, it is also essential to acknowledge that there is always room for improvement. To pursue continuous enhancement, we need to concentrate on specific areas for refinement. Some cases that could not be resolved within the set timelines were affected by factors beyond the court's control.

All judges and magistrates are urged to take a proactive approach to case management. Efficient and expeditious disposal of cases can be achieved through effective pre-trial case management conducted by judges and magistrates themselves. This will go a long way in ensuring the smooth running and expeditious disposal of cases.

IMPROVEMENTS TO COURTS' PHYSICAL INFRASTRUCTURE

There have been significant improvements in the physical infrastructure of our court buildings, including the repair work at the Tawau and Kuching Courts, supported financially by the Minister in the Prime Minister's Department (Law and Institutional Reform). The highlight of the infrastructure improvements is the establishment of the child witness room at the Bintulu Court in October 2023. This room has been designed to create a calming environment, recognising the need to conduct trial proceedings involving child witnesses with the utmost sensitivity to minimise emotional distress caused by appearing and giving evidence in court.

MOBILE COURT AND OUTREACH PROGRAMMES

In 2023, the mobile court programme continued to extend its services to those in need, particularly focusing on the residents of rural and remote areas of Sabah and Sarawak. We are grateful for the addition of 17 new vehicles – four Golden Dragon vans, five Nissan X-trail SUVs, seven Nissan Navara trucks and one 3-tonne Isuzu lorry. These vehicles enable us to navigate the challenging off-road terrain of Sabah and Sarawak to provide our services beyond the courtroom.

In October last year, we had the privilege of engaging with school children at SK Batu Bungan, SK Long Panai and SK Penghulu Baya at Mulu, Sarawak and we were honoured to have the Right Honourable the Chief Justice of Malaysia, the Right Honourable the President of the Court of Appeal and the Right Honourable the Chief Judge of Malaya accompanying us on this trip. It is my sincere hope that we can continue with our outreach programmes in both Sabah and Sarawak with the support and blessing of the Right Honourable the Chief Justice of Malaysia. By assisting those in need in the rural areas, we not only enrich ourselves but also contribute to the well-being of our community.

ENVIRONMENTAL CAUSES

Judges and judicial officers in Sabah and Sarawak are dedicated to environmental causes. On 2 November 2023, the 3rd Borneo Colloquium on Environmental Justice was held in Kota Kinabalu. By convening members of the Bar and experts from various fields, we are confident that they can come up with resolutions that will serve to enhance cooperation among all stakeholders in safeguarding the environment.

However, it is important to acknowledge that the power of the judiciary in the enforcement of environmental laws has its limitations. Sustainable and long-term solutions are more effectively achieved through legislative action and executive measures.

CONCLUSION

2023 has been a fruitful and productive year for the judiciary in Sabah and Sarawak, thanks to the collaboration between all stakeholders in the legal fraternity. By fostering unity, cooperation, and shared commitment to upholding the rule of law, we have contributed to a legal system that is deserving of public trust and confidence.

Tan Sri Dato' Abdul Rahman Sebli
Chief Judge of Sabah and Sarawak

JUDGES OF THE HIGH COURT IN SABAH AND SARAWAK

1. Justice Azhahari Kamal Ramli
2. Justice Dr. Haji Alwi Haji Abdul Wahab
3. Justice Ismail Brahim
4. Justice Dean Wayne Daly
5. Justice Celestina Stuel Galid
6. Justice Dr. Lim Hock Leng
7. Justice Duncan Sikodol
8. Justice Christopher Chin Soo Yin
9. Justice Wong Siong Tung
10. Justice Leonard David Shim
11. Justice Hajah Zaleha Rose Datuk Haji Pandin

JUDICIAL COMMISSIONERS OF THE HIGH COURT IN SABAH AND SARAWAK

1. Justice Alexander Siew How Wai
2. Justice Amelati Parnell
3. Justice Faridz Gohim Abdullah
4. Justice Saiful Azian Mokhtar
5. Justice Maslinda @ Linda Mohd Ainal

STATEMENT BY THE CHIEF REGISTRAR OF THE FEDERAL COURT OF MALAYSIA

Dato' Hasbi Hasan

The year 2023 marked a pivotal chapter for Malaysia's judicial system as it sought to recover from the far-reaching effects of the COVID-19 pandemic. Following the challenging year of 2022, court administration and judicial management prioritized restoring momentum, with a particular emphasis on providing efficient access to justice and enhancing service delivery. A key element of this recovery was the judiciary's focused efforts to resolve the backlog of cases registered between 2019 and 2021, demonstrating a steadfast commitment to ensuring that justice was not only maintained but also accessible, despite the extraordinary challenges of the pandemic.

Digitalisation remained a cornerstone of the Malaysian judiciary's agenda in 2023, with the ongoing enhancement of the e-Kehakiman system. These upgrades aimed at improving both the infrastructure and the quality of services, streamlining the judicial processes and increasing accessibility for all parties. Despite this digital advancement, the judiciary also promoted the return of physical hearings in courtrooms, striking a balance with a hybrid approach. This flexible model allowed suitable cases to proceed online, while those requiring physical presence could be conducted in the courtroom.

This strategy proved to be a game-changer in enhancing the judiciary's efficiency. By fostering innovation in trial execution and case management, the judiciary was able to maximise existing resources and handle a higher volume of cases in a shorter period without compromising the quality of legal proceedings. Furthermore, this flexibility played a crucial role in addressing the backlog of cases that had accumulated during the pandemic, marking a significant step forward in the judicial recovery process.

Beyond boosting efficiency, this hybrid approach introduced by the Malaysian judiciary in 2023 added significant value to various stakeholders. Lawyers, for instance, benefited from reduced time and costs by attending certain hearings online. Justice seekers, especially those from rural or remote areas, gained greater access to legal processes through online participation. Judges and court staff also experienced more efficient management of time and resources under this system.

ACTIVITIES UNDER THE OFFICE OF CHIEF REGISTRAR, FEDERAL COURT OF MALAYSIA

The key activities undertaken in 2023 under the auspices of the Office of the Chief Registrar are listed below:

No.	Dates	Activities
1.	9 January 2023	*Majlis Pembukaan Tahun Perundangan 2023* Opening of the Legal Year 2023
2.	13 January 2023	*Majlis Pembukaan Tahun Perundangan Sabah & Sarawak 2023* Opening of the Legal Year Sabah and Sarawak 2023
3.	15 February 2023	*Program Hakim (MyC2C) ke Sekolah Menengah Kebangsaan Ghafar Baba, Melaka* Judges Programme (MyC2C) at Sekolah Menengah Kebangsaan Ghafar Baba, Malacca
4.	27-28 May 2023	*Jelajah Kehakiman Melaka* Judicial Tour of Malacca
5.	12 May 2023	*Majlis YAA Ketua Hakim Negara Bersama Warga Istana Kehakiman* The Right Honourable Chief Justice's Gathering with the judges, officers and staff of the Palace of Justice.
6.	8-11 June 2023	*Mesyuarat Majlis Hakim-Hakim Malaysia kali ke-56 Tahun 2023* 56th Meeting of the Council of Judges 2023
7.	20-22 July 2023	7th Joint Judicial Conference
8.	26 July 2023	*Program Hakim (MyC2C) ke Sekolah Menengah Kebangsaan St Michael, Ipoh, Perak* Judges Programme (MyC2C) at Sekolah Menengah Kebangsaan St Michael, Ipoh, Perak
9.	12-13 August 2023	*Jelajah Kehakiman Ipoh, Perak* Judicial Tour of Ipoh, Perak
10.	14 August 2023	*Lawatan Kunjungan Hormat Duta Besar Sweden kepada YAA Ketua Hakim Negara* Courtesy Visit of the Swedish Ambassador to the Right Honourable Chief Justice
11.	16 August 2023	Meet & Greet *YAA Ketua Hakim Negara Bersama Persatuan Siswazah Wanita Malaysia (PSWM)* The Right Honourable Chief Justice's Meet & Greet with the Malaysian Women Graduates Association (PSWM)
12.	25 September 2023	Meet & Greet *YAA Ketua Hakim Negara Bersama Fakulti Undang-Undang* Multimedia University The Right Honourable Chief Justice's Meet & Greet with the Faculty of Law, Multimedia University
13.	10 October 2023	*Sesi Kunjungan Mahabbah YAA Ketua Hakim Syarie* Mahabbah Visit Session with The Right Honourable Chief Syariah Judge
14.	28-29 October 2023	*Jelajah Kehakiman Kota Kinabalu, Sabah* Judicial Tour of Kota Kinabalu, Sabah
15.	17-22 October 2023	Council of ASEAN Chief Justices Retreat & 14th ASEAN Law Association Meeting
16.	29 November 2023	*Program Hakim (MyC2C) ke Sekolah Menengah Kebangsaan Tinggi Kajang, Selangor* Judges Programme (MyC2C) at Sekolah Menengah Kebangsaan Tinggi Kajang, Selangor
17.	7 December 2023	Meet & Greet *YAA Ketua Hakim Negara Bersama Stesen-Stesen Radio Malaysia* The Right Honourable Chief Justice's Meet & Greet with Malaysian Radio Stations
18.	18 December 2023	Meet & Greet *YAA KHN Bersama Pegawai Kehakiman Mahkamah Selangor* The Right Honourable Chief Justice's Meet & Greet with Selangor Court Judicial Officers
19.	20 December 2023	Meet & Greet *YAA KHN Bersama Gabungan Persatuan Alumni Sekolah Berasrama Penuh Malaysia* The Right Honourable Chief Justice's Meet & Greet with the Malaysian Full Boarding School Alumni Association

NEW COURT COMPLEX

The opening of the new court complex was as follows:

No.	Dates	Particulars
1	14 March 2023	*Majlis Perasmian Mahkamah Kota Bharu, Kelantan* Opening Ceremony of the Kota Bharu Court Complex

EXTERNAL AND INTER-DEPARTMENT TRAINING

The list of agencies that provided training to judicial officers and staff for the year 2023 is as follows:

No.	Agencies
1.	Prime Minister's Department (JPM)
2.	Attorney General's Chambers (AGC)
3.	Judicial and Legal Training Institute (ILKAP)
4.	Justice for Wildlife Malaysia (JWM)
5.	United Nations High Commissioner for Refugees (UNHCR)
6.	United Nations Children's Fund (UNICEF)

IN-HOUSE TRAINING

The list of training activities for 2023 carried out under the Office of the Chief Registrar is as follows:

No.	Courses
1.	*Kursus Penterjemahan dan Penguasaan Bahasa Jurubahasa* Course on Interpretation and Language Proficiency for Court Interpreters
2.	*Kursus Pengurusan Statistik Bagi Mahkamah Rendah* Course on the Management of Statistics for Subordinate Courts
3.	Course on "Justice for Silent Victims 13 (J4SV13)" organised by Justice for Wildlife Malaysia (JWM) together with the Office of the Chief Registrar of the Federal Court
4.	UNHCR (United Nations High Commissioner for Refugees) Engagement Workshop organised by UNHCR together with the Office of the Chief Registrar of the Federal Court
5.	High-Level Roundtable Regarding Best Practices Relating to the Handling of the Child Victims/Witnesses in the Criminal Justice System organised by United Nations Children's Fund (UNICEF) together with the Office of the Chief Registrar of the Federal Court
6.	Seminar on Sharing Good Practices from the UK in Handling Child Victims in the Criminal Justice System organised by United Nations Children's Fund (UNICEF) together with the Office of the Chief Registrar of the Federal Court
7.	*Kursus Pengendalian Kes Secara* "Remote Communication Technology" *selaras pindaan Sek. 15A Akta Mahkamah Kehakiman 1964 dengan penggunaan teknologi terkini* Case Management Course using "Remote Communication Technology" in line with the Amendment of Sec. 15A of the Courts of Judicature Act 1964 with the use of latest technology
8.	*Kursus Menangani Isu Kesihatan Mental dan Emosi* Course on Managing Mental Health and Emotional Issues
9.	*Lawatan ke Penjara* Visit to the Prison
10.	*Kursus Penyelidikan Undang-Undang bagi tujuan Penyediaan Ringkasaan Kes* Legal Research Course in Preparing Case Summaries
11.	*Sesi Perkongsian Ilmu 1/2023: Pengendalian Kes-Kes LA Probate dan Kebankrapan dan Penggulungan Syarikat* Knowledge Sharing Session 1/2023: Handling LA Probate Cases, Bankruptcy, and Company Liquidation

No.	Courses
12.	*Sesi Perkongsian Ilmu 2/2023: Pengendalian Kes-Kes Halang Tebus dan Pelaksanaan* Knowledge Sharing Session 2/2023: Handling Foreclosure and Execution Cases
13.	*Kursus Pengurusan Stress dan Pengurusan Pejabat serta Kemahiran Komunikasi* Stress Management, Office Management and Communication Skills Course
14.	Arm-Chair Discussion *bagi Pengendalian Kes yang Melibatkan Saksi Kanak-Kanak dan Pengendalian Kes-Kes Keganasan Rumah Tangga* Arm-Chair Discussion on Handling Cases Involving Child Witnesses and Domestic Violence Cases
15.	Refresher Course on the Sexual Crimes Against Children Court
16.	Refresher Course on Anti- Trafficking in Persons and Anti-Smuggling of Migrants
17.	*Kursus Penulisan Alasan Penghakiman bagi Hakim Mahkamah Sesyen dan Majistret di Mahkamah Rendah Malaya* Judgment Writing Course for Sessions Court Judges and Magistrates in the Subordinate Courts in Malaya
18.	*Kursus Mengenai Perintah Perlindungan Interim dan Perintah Perlindungan di bawah Akta Antipemerdagangan Orang dan Penyeludupan Migran 2007 kepada Majistret* Course on Interim Protection Orders and Protection Orders Under the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 for Magistrates
19.	*Bengkel Penyediaan Nota Jemaah Menteri (NJM) & Memorandum Jemaah Menteri (MJM)* Workshop on Preparing Cabinet Notes (NJM) & Cabinet Memorandums (MJM)
20.	*Kursus Dasar Negara Bagi Amalan Baik Peraturan* National Policy Course on Good Regulatory Practices
21.	*Kursus Pengaduan Awam (SISPAA)* Public Complaints Course (SISPAA)
22.	*Bengkel Pengendalian dan Pengacaraan Majlis* Workshop on Event Management and Hosting
23.	*Bengkel Pentadbir Lokasi E-Kehakiman* e-Judiciary Location Administrator Workshop
24.	*Latihan Penggunaan Sistem RVT & Penyediaan Nota Mahkamah Prosiding Mengunakan Fungsian VTT (Zon Utara)* Training on the Use of the RVT System & Preparation of Court Proceeding Notes Using the VVT Function (Northern Zone)
25.	*Latihan Penggunaan Sistem RVT & Penyediaan Nota Mahkamah Prosiding Mengunakan Fungsian VTT (Zon Selatan)* Training on the Use of the RVT System & Preparation of Court Proceeding Notes Using the VVT Function (Northern Zone)
26.	*Latihan Penggunaan Sistem RVT & Penyediaan Nota Mahkamah Prosiding Mengunakan Fungsian VTT (Zon Tengah)* Training on the Use of the RVT System & Preparation of Court Proceeding Notes Using the VVT Function (Central Zone)
27.	*Latihan Penggunaan Sistem RVT & Penyediaan Nota Mahkamah Prosiding Menggunakan Fungsian VTT (Zon Timur)* Training on the Use of the RVT System & Preparation of Court Proceeding Notes Using the VVT Function (Eastern Zone)
28.	*Kursus Pesuruhjaya Sumpah Tahun 2023* Commissioner for Oaths Course 2023
29.	*Kursus Pesuruhjaya Sumpah Tahun 2023 (Secara dalam Talian)* Commissioner for Oaths Course 2023 (Online)
30.	*Kursus Kejurubahasaan Jurubahasa Asing Lantikan Mahkamah (JBALM) Dengan Kerjasama ITBM* Foreign Language Court Interpreter Course (JBALM) in Collaboration with ITBM
31.	*Kursus Akreditasi Mediasi* Mediation Accreditation Course
32.	Workshop "Awareness Audit ABMS ISO 2021" *bagi PKPMP (Zon Tengah)* Workshop on 'Awareness Audit ABMS ISO 2021' for PKPMP (Central Zone)
33.	*Bengkel Memulakan Tindakan Tatatertib Terhadap Pegawai* Workshop on Initiating Disciplinary Actions Against Officers
34.	*Kursus Pengkelasan Bahan Perpustakaan Perundangan* Library of Congress Classification (LCC) Legal Library Material Classification Course: Library of Congress Classification (LCC)

No.	Courses
35.	*Kursus Sistem Pengurusan Perpustakaan (KOHA)* Library Management System Course (KOHA)
36.	*Program Kewangan Berhemat* Prudent Finances Programme
37.	*Kursus Pembangunan Rakan Pembimbing Perkhidmatan Awam (PRA-AKRAB) Tahap 1* Public Service Mentoring Partner Development Course (PRA-AKRAB) Level 1
38.	*Kursus Pembangunan Rakan Pembimbing Perkhidmatan Awam (PRA-AKRAB) Tahap 2* Public Service Mentoring Partner Development Course (PRA-AKRAB) Level 2
39.	*Kursus Pasca AKRAB (Pemantapan AKRAB)* Post-AKRAB Course (AKRAB Consolidation)
40.	*Hari Psikologi dan AKRAB PKPMP* Psychology and AKRAB Day for PKPMP
41.	*Kursus Keselamatan Perlindungan* Protection Security Course
42.	*Kursus Pengurusan Dokumen Rahsia Rasmi dan Latihan Amal* Official Secret Document Management Course and Practical Training

OVERSEAS TRAINING / COURSES / SEMINARS

No.	Dates	Particulars	Number of Judges and / or Officers Involved
1	13 February 13 2023	International Conference dedicated to the 100th Anniversary of the Supreme Court of the Republic of Azerbaijan	2
2	15-18 February 2023	Workshop on Judging and Social Cohesion in Asia: Insiders' Perspective	1
3	5-9 March 2023	23rd Commonwealth Law Conference in Goa, India	3
4	8-10 March 2023	IIJ Juvenile Justice Initiative: Southeast Asia Regional Workshop on Justice for Children in a Counter – Terrorism Context in Manila, Philippines	1
5	16-17 May 2023	International Trademark Association's Annual Meeting 2023 in Singapore	1
6	22-24 May 2023	The 2nd Meeting of the International Judicial Dispute Resolution Network in New York, United States of America	2
7	29 May to 1 June 2024	4th International Symposium of the AACC SRD in Bangkok, Thailand	2
8	4-23 June 2023	28th Annual Intensive Study Programme For Judicial Educators in Halifax, Canada	1
9	8-17 June 2023	Study Tour to Japan on Community Correction	1
10	13-17 June 2023	John H. Jackson Moot Court Competition in Switzerland	1
11	14-19 July 2023	Society of Construction Law, North America, 2nd Annual Conference 2023 in Boston, United States of America	1
12	17-18 July 2023	Three Council of ASEAN Chief Justices (CACJ) Working / Study Group Meeting on Cross-Border Disputes Involving Children	5
13	25-27 July 2023	Indo-Pacific Judicial Colloquium on Intellectual Property, Innovation and Technology in Virginia, United States of America	5
14	8-30 August 2023	Human Trafficking and Child Exploitation – Executive Policy and Development Symposium on Transnational Organized Crime in New Mexico, United States of America	2
15	10-11 August 2023	The AACC International Short Course in Jakarta, Indonesia	2
16	4 September to 13 October 2023	Young Southeast Asian Leaders Initiative Professional Fellows in Washington, United States of America	1

No.	Dates	Particulars	Number of Judges and / or Officers Involved
17	7-8 September 2023	International Conference on Constitutional Justice: Dignity, Freedom and Justice for All	2
18	12-13 September 2023	Asia Judicial Round Table on Insolvency – Developments in Asia, Tokyo, Japan	1
19	17-23 September 2023	11th Summer School of the Association of Asian Constitutional Courts and Equivalent Institutions (AACC) 2023 in Ankara, Turkiye	2
20	18-22 September 2023	Trafficking in Persons Session 2 in Bangkok, Thailand	2
21	24-28 September 2023	6th UNODC Southeast Asia Cryptocurrencies Working Group Meeting in Jakarta, Indonesia	1
22	10-13 October 2023	IIJ Juvenile Justice Initiative: Child-Sensitive Approaches for Southeast Asian Practitioners in a Counter-Terrorism Context	2
23	14-15 October 2023	1st China-ASEAN Regional Legal Cooperation Forum in Nanning, China	1
24	23 October to 4 November 2023	Asia Pacific Judicial Training on Environment and Climate Law Adjudication: Judges in a Triple Planetary Crisis World in Bogor, Indonesia	2
25	29 October to 4 November 2023	Asia Pacific Judicial Training Program on Environment and Climate Law Adjudication: Judges in a Triple Planetary Crisis World in Ciawi, Indonesia	1
26	31 October to 2 November 2023	Enhancing Oversight and Accountability Mechanisms of Counter-Terrorism Operations in Southeast Asian Countries in Jakarta, Indonesia	1
27	2 November 2023	Technology and Construction Court 150th Anniversary Conference – The Future of Construction Law and Dispute Resolution in London, United Kingdom	1
28	6-13 November 2023	Working Visit to the Saudi Arabian Ministry of Justice and Judiciary of Saudi Arabia	6
29	11-15 November 2023	INSOL / World Bank Group Judiciary Insolvency Programme in Cambodia	1
30	14-17 November 2023	2023 WIPO Intellectual Property Judges Forum in Geneva, Switzerland	1
31	29 November to 1 December 2023	Working Visit to the Judiciary of England and Wales	6
32	13-15 December 2023	17th Good Governance Seminar anjuran United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders ("UNAFEI") in Tokyo, Japan	1

CONCLUSION

In closing, I want to extend my heartfelt gratitude to the Honourable judges for their unwavering support and trust in this Office. I am profoundly thankful to all the officers and staff for their tireless efforts and outstanding performance throughout the year. A special thank you goes to the Attorney General and his dedicated team, the Malaysian Bar, the Sabah Law Association, the Advocates Association of Sarawak, and all the other agencies and stakeholders who have been instrumental in the success of our Judicial Tour Programmes.

As we look to the future, I am eager to embark on the next phase of our journey. While there remains much work to be done, I am confident that together we will achieve our vision for the judiciary, marking one of our most significant accomplishments in the years to come.

Dato' Hasbi Hasan
Chief Registrar
The Federal Court of Malaysia

Batik *Terap* or Stamped Batik by Nysakapas
captured with the stamp used to craft the pattern

Chapter 5

JUDGES

JUDGES' ELEVATIONS AND APPOINTMENTS

The year 2023 witnessed a total of 59 elevations and appointments to the superior courts. This includes the appointment of the President of the Court of Appeal, the Chief Judge of Malaya and the Chief Judge of Sabah and Sarawak.

There were 35 judges elevated to the Federal Court, Court of Appeal and the High Courts in Malaya, and in Sabah and Sarawak. Apart from these elevations, there were also 21 judicial commissioners appointed from the Judicial and Legal Service as well as the Malaysian Bar.

The list of judges elevated and judicial commissioners appointed in 2023 is as follows:

Position	Date of Appointment	Name
President of the Court of Appeal	17 January 2023	Justice Abang Iskandar Abang Hashim
Chief Judge of Malaya	17 January 2023	Justice Mohamad Zabidin Mohd Diah
Chief Judge of Sabah and Sarawak	17 January 2023	Justice Abdul Rahman Sebli
Judge of the Federal Court	17 January 2023	Justice Nordin Hassan
	13 June 2023	Justice Abu Bakar Jais
		Justice Abdul Karim Abdul Jalil

▲ Group photo of judges who were elevated to the Federal Court and Court of Appeal, judicial commissioners who were confirmed as High Court judges as well as judicial commissioners who were appointed on 17 January 2023

L-R (seated): Justice Mohamed Zaini Mazlan; Justice Lim Chong Fong; Justice Haji Azman Abdullah; Justice Abdul Rahman Sebli, Chief Judge of Sabah and Sarawak; Justice Abang Iskandar Abang Hashim, President of the Court of Appeal; The Right Honourable Tengku Maimun Tuan Mat, Chief Justice of Malaysia; Justice Mohamad Zabidin Mohd Diah, Chief Judge of Malaya; Justice Nordin Hassan; Justice Azimah Omar; Justice Collin Lawrence Sequerah and Justice Wong Kian Kheong

L-R (standing, 1st row): Justice Liza Chan Sow Keng; Justice Mahazan Mat Taib; Justice Dr. Arik Sanusi Yeop Johari; Justice Alice Loke Yee Ching; Justice Tee Geok Hock; Justice Norsharidah Awang; Justice Hajah Zaleha Rose Datuk Haji Pandin; Justice Azhar Abdul Hamid; Justice Bhupinder Singh Gurcharan Singh Preet; Justice Ahmad Murad Abdul Aziz and Justice Wan Muhamad Amin Wan Yahya

L-R (standing, 2nd row) - Judicial Commissioners: Evawani Farisyta Mohammad; Sumathi Murugiah; Zaharah Hussain; Dr. Suzana Muhamad Said and Dr. Wendy Ooi Su Ghee

Position	Date of Appointment	Name
Judges of the Court of Appeal	17 January 2023	Justice Haji Azman Abdullah
		Justice Azimah Omar
		Justice Lim Chong Fong
		Justice Collin Lawrence Sequerah
		Justice Mohamed Zaini Mazlan
		Justice Wong Kian Kheong
	13 June 2023	Justice Azizul Azmi Adnan
		Justice Azmi Ariffin
		Justice Azhahari Kamal Ramli
		Justice S.M Komathy Suppiah
		Justice Dr. Choo Kah Sing
Judges of the High Court	17 January 2023	Justice Norsharidah Awang
		Justice Tee Geok Hock
		Justice Hajah Zaleha Rose Datuk Haji Pandin
		Justice Alice Loke Yee Ching
		Justice Azhar Abdul Hamid
		Justice Dr. Arik Sanusi Yeop Johari
		Justice Bhupinder Singh Gurcharan Singh Preet
		Justice Mahazan Mat Taib
		Justice Ahmad Murad Abdul Aziz
		Justice Liza Chan Sow Keng
		Justice Wan Muhamad Amin Wan Yahya

▲ Group photo of judges who were elevated to the Federal Court and Court of Appeal, judicial commissioners who were confirmed as High Court Judges as well as judicial commissioners who were appointed on 13 June 2023

L-R (seated): Justice S.M Komathy Suppiah; Justice Azmi Ariffin; Justice Abu Bakar Jais; Justice Mohamad Zabidin Mohd Diah, Chief Judge of Malaya; Chief Justice Tengku Maimun Tuan Mat; Justice Abang Iskandar Abang Hashim, President of the Court of Appeal; Justice Abdul Rahman Sebli, Chief Judge of Sabah and Sarawak; Justice Abdul Karim Abdul Jalil; Justice Azhahari Kamal Ramli and Justice Dr. Choo Kah Sing

L-R (standing, 1st row): Justice Adlin Abdul Majid; Justice Mohd Arief Emran Arifin; Justice Roslan Mat Nor; Justice Hasbullah Adam; Justice Nurulhuda Nur'aini Mohamad Nor; Justice Norliza Othman; Justice Shamsulbahri Haji Ibrahim; Justice Julia Ibrahim; Justice John Lee Kien How @ Mohammad Johan Lee and Justice Mohamad Abazafree Mohd Abbas

L-R (standing, 2nd row) - Judicial Commissioners: Yusrin Faidz Yusoff; Indra Nehru Savandiah; Haldar Abdul Aziz; Faridz Gohim Abdullah; Roszianayati Ahmad and Moses Susayan

Position	Date of Appointment	Name
Judges of the High Court	13 June 2023	Justice Nurulhuda Nur'aini Mohamad Nor
		Justice Norliza Othman
		Justice Hasbullah Adam
		Justice Shamsulbahri Haji Ibrahim
		Justice Roslan Mat Nor
		Justice Julia Ibrahim
		Justice Mohd Arief Emran Arifin
		Justice John Lee Kien How @ Mohammad Johan Lee
		Justice Adlin Abdul Majid
		Justice Mohamad Abazafree Mohd Abbas

◄ Group photo of judicial commissioners who were appointed on 8 December 2023
L-R (seated): Justice Mohamad Zabidin Mohd Diah, Chief Judge of Malaya; Chief Justice Tengku Maimun Tuan Mat; Justice Abang Iskandar Abang Hashim, President of the Court of Appeal and Justice Abdul Rahman Sebli, Chief Judge of Sabah and Sarawak
L-R (standing, 1st row) - Judicial Commissioners: Mohd Rosli Yusoff; Hazizah Kassim; Raja Rozela Raja Toran; Arziah Mohamed Apandi; Gan Techiong and Kan Weng Hin
L-R (standing, 2nd row) - Judicial Commissioners: Suriyati Hasimah Mohd Hashim; Maslinda @ Linda Mohd Ainal and Saiful Azian Mokhtar

Position	Date of Appointment	Name
Judicial Commissioners	17 January 2023	Judicial Commissioner Zaharah Hussain
		Judicial Commissioner Sumathi Murugiah
		Judicial Commissioner Dr. Suzana Muhamad Said
		Judicial Commissioner Evawani Farisyta Mohammad
		Judicial Commissioner Dr. Wendy Ooi Su Ghee
	17 March 2023	Judicial Commissioner Dr. Choong Yeow Choy
	13 June 2023	Judicial Commissioner Haldar Abdul Aziz
		Judicial Commissioner Faridz Gohim Abdullah
		Judicial Commissioner Indra Nehru Savandiah
		Judicial Commissioner Roszianayati Ahmad
		Judicial Commissioner Yusrin Faidz Yusoff
		Judicial Commissioner Moses Susayan
	8 December 2023	Judicial Commissioner Raja Rozela Raja Toran
		Judicial Commissioner Arziah Mohamed Apandi
		Judicial Commissioner Hazizah Kassim
		Judicial Commissioner Kan Weng Hin
		Judicial Commissioner Mohd Rosli Yusoff
		Judicial Commissioner Gan Techiong
		Judicial Commissioner Suriyati Hasimah Mohd Hashim
		Judicial Commissioner Saiful Azian Mokhtar
		Judicial Commissioner Maslinda @ Linda Mohd Ainal

▼ President of the Court of Appeal Justice Abang Iskandar Abang Hashim receiving the letter of appointment from the Yang di-Pertuan Agong XVI Al-Sultan Abdullah Ri'ayatuddin Al-Mustafa Billah Shah Ibni Almarhum Sultan Haji Ahmad Shah Al-Musta'in Billah

▼ Chief Judge of Malaya Justice Mohamad Zabidin Mohd Diah receiving the letter of appointment from the Yang di-Pertuan Agong XVI Al-Sultan Abdullah Ri'ayatuddin Al-Mustafa Billah Shah Ibni Almarhum Sultan Haji Ahmad Shah Al-Musta'in Billah

▼ Chief Judge of Sabah and Sarawak Justice Abdul Rahman Sebli receiving the letter of appointment from the Yang di-Pertuan Agong XVI Al-Sultan Abdullah Ri'ayatuddin Al-Mustafa Billah Shah Ibni Almarhum Sultan Haji Ahmad Shah Al-Musta'in Billah

▼ Justice Abu Bakar Jais

▼ Justice Nordin Hassan

▼ Justice Abdul Karim Abdul Jalil

RETIRED JUDGES

DATUK VERNON ONG LAM KIAT

Datuk Vernon Ong Lam Kiat was born on 9 October 1956 in Teluk Intan, Perak. He obtained a Bachelor of Arts from Ealing College of High Education at Thames Valley University, London, in 1980. He was the Barrister of the Honourable Society of Lincoln's Inn. He was admitted to the English Bar on 23 July 1981 and the Malaysian Bar on 23 October 1982. In 1993, he earned his Master of Laws degree from the University of Hong Kong and acquired a certificate in taxation from HELP College in 1995.

Datuk Vernon Ong, a prominent lawyer and advocate, began his career in 1982 as an advocate and solicitor at the High Court of Malaya. He later practiced as a partner under the name M/s Vernon Ong Zainab & Partners and served at the United Nations High Commissioner for Refugees in Hong Kong and Malaysia from 1990 to 1993. He held various positions, including Appeals Counsellor, Senior Appeals Counsellor, Head of Appeals Unit, and Legal Consultant. He later resumed his legal practice in Malaysia and became the sole proprietor of M/s Vernon Ong & Associates. He also served as a committee member of the Kuala Lumpur Bar from 1996 to 2000 and the Selangor Bar from 2002 to 2003. During his tenure, he spearheaded the KL Bar Chambering Pupils Affairs Committee and the Continuing Legal Education Committee.

Datuk Vernon Ong has served on various Bar Council committees, including the Law Reform and New Legislation/ Special Areas Committee, Alternative Dispute Resolution Committee, Bahasa Melayu Committee, Ethics Lecture/ Professional Standards & Development Committee, Commonwealth Law Conference Committee, and the 12th Malaysian Law Conference Committee. He has delivered lectures for the Ethics Lecture Programme since 1995 and has spoken at various conferences and presented papers at seminars hosted by the Malaysian Bar Council, the Malaysian Association of Company Secretaries, the Malaysian Institute of Accountants, and the Asian Professional Security Association.

In 2007, Datuk Vernon Ong was appointed to the role of judicial commissioner and later served as a judge in the High Court of Malaya in Johor Bahru, Johor. He was elevated as judge of the Court of Appeal in 2014 and was elevated to the Federal Court in 2019.

Datuk Vernon Ong's vast knowledge, experience, and dedication to justice make him an exemplar in the legal field, having had a profound impact on the Malaysian legal system and contributed significantly to the evolution of law in the country.

DATO' SURAYA OTHMAN

Dato' Suraya Othman was born on 24 April 1958 in Johor Bahru, Johor. In 1982, she obtained an LL.B (Hons) from the University of Malaya.

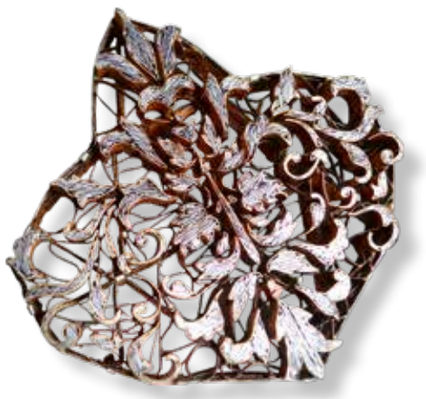
Prior to her appointment to the Malaysian judiciary, Dato' Suraya had a distinguished and illustrious legal career, spanning nearly 25 years in the Judicial and Legal Service. She commenced her legal profession as a Deputy Public Prosecutor at the Attorney General's Chambers on 3 May 1982, and subsequently held various positions throughout her career, including Legal Advisor in the Ministry of Works, Federal Counsel and Senior Federal Counsel of the Civil Division of Attorney General's Chambers, Legal Advisor in the Ministry of Energy, Telecommunications and Posts, and Senior Parliamentary Draftsman. In addition, she has held positions as a Sessions Court judge and magistrate in Kuala Lumpur, Pahang and Selangor.

Dato' Suraya was appointed as a judicial commissioner on 2 October 2006, in the High Court in Malaya in Kuala Lumpur. Thereafter she was transferred to the Kuantan High Court on 15 February 2007. She was appointed as High Court Judge on 5 September 2007, and subsequently held positions at the Kuala Lumpur High Court from March 2008 to December 2008, Kuala Lumpur High Court (Family Division) from January 2009 to December 2009, and Shah Alam High Court from January 2010 to April 2017. On 3 April 2017, she was empanelled to sit at the Court of Appeal, before being elevated as a judge of the Court of Appeal on 23 September 2017. Dato' Suraya's term as a judge in the Court of Appeal concluded on 3 January 2023.

DATO' HAS ZANAH MEHAT

Dato' Has Zanah Mehat was born in Kedah on 10 August 1957. In 1981, she obtained an LL. B (Hons) from the University of Malaya.

Dato' Has Zanah has had a distinguished and illustrious legal career, lasting almost 27 years in the Judicial and Legal Service prior to joining the Malaysian judiciary. In 1982, she began her career as an Administrative Officer at the School of Housing and Planning at Universiti Sains Malaysia. Subsequently, she served as an Assessor at the Alor Setar, Kedah Branch of the Inland Revenue Board of Malaysia. In 1982, she served as a magistrate in the Magistrates' Court in Jawi, Penang, before being appointed Senior Assistant Registrar in the High Court in Penang. She then held the position of magistrate for an additional two years in the Magistrates' Court in Kuala Lumpur.



Thereafter, Dato' Has Zanah was appointed as Legal Adviser at the Ministry of Education in 1990. Subsequently, she served as the first Registrar of the Court of Appeal from 1994 to 2000. She then went on to be a Programme Director at the Judicial and Legal Training Institute (ILKAP). She was later appointed as Deputy Treasury Solicitor in 2004 and Deputy Commissioner of Law Revision and Law Reform at the Attorney General's Chambers in 2006. Dato' Has Zanah then served as Secretary to the Putrajaya Corporation from March 2007 to January 2009, before reassuming the mantle of Registrar of the Court of Appeal.

On 14 August 2009, Dato' Has Zanah was appointed as a judicial commissioner and served in the High Court in Malaya at Kuala Lumpur. She was confirmed as a judge of the High Court on 10 August 2011. Dato' Has Zanah was elevated to the Court of Appeal on 26 November 2018. She served as the judge of the Court of Appeal until reaching the mandatory retirement age of 66 years on 10 August 2023.

DATO' LEE HENG CHEONG

Dato' Lee Heng Cheong was born on 29 January 1957, in Kuching, Sarawak. He graduated with an LL.B (Hons) from the Thames Valley University, London in September, 1980. He was admitted as Barrister-at-Law at Lincoln's Inn, London, in 1981. He was further admitted to the Sarawak Bar on 6 September 1982.

Dato' Lee Heng Cheong began his career as a Deputy Public Prosecutor based in Kuching, Sarawak, from July 1982. He then took up employment as a legal advisor with Shell Malaysia Trading Sdn Bhd based in Kuala Lumpur. In 1996 he set up his own legal firm under the name and style of H.C Lee & Partners Co., in Kuching, Sarawak.

Dato' Lee Heng Cheong was appointed judicial commissioner of the High Court in Sabah and Sarawak on 29 October 2009, serving at the Sandakan High Court. On 15 March 2012, he was transferred to the High Court in Kuala Kinabalu, Sabah and thereafter to the Kuala Lumpur High Court. He was appointed as a judge of the High Court in Malaya on 30 July 2013. In May 2014, he served the Sibu High Court before returning to the Kuching High Court on 1 January 2019. On 25 March 2020, Dato' Lee Heng Cheong was elevated as a judge of the Court of Appeal. He retired on 28 January 2023.

Dato' Lee Heng Cheong was known for demonstrating utmost respect, understanding and kindness towards both officers and staff alike. He would be remembered as being good-natured, consistently manifesting genuine care and concern in everything he does.

DATUK WIRA HAJI AHMAD NASFY HAJI YASIN

Datuk Wira Haji Ahmad Nasfy Haji Yasin was born on 30 May 1957 in Kg Ruat, Yan in Kedah. Datuk Wira Ahmad Nasfy obtained his LL.B (Hons) in 1981 from the University of Malaya.

Datuk Wira Haji Ahmad Nasfy served in various positions in the Judicial and Legal Service, such as judicial officer in the Magistrates' Court Kuala Lumpur (1982), Balik Pulau, Penang (1982) and Tapah, Perak (1984). He was a Deputy Public Prosecutor in Penang (1984) and served as a Federal Counsel at the Road Transport Department Malaysia (1986). In 1987, he was appointed as a member of the Royal Commission of Inquiry tasked with investigating the train derailment in Kulai, Johor. In addition, he held the position of magistrate in the Magistrates' Court in Kota Bharu, Kelantan (1988) and Kangar, Perlis (1989). From 1 June 1990 to 13 August 2009, he served as a Sessions Court judge in various locations, including Butterworth, Penang, Shah Alam, Selangor, Kuantan, Pahang, Kota Bharu, Kelantan, Ipoh, Perak, Johor Bahru, Johor. Datuk Wira Haji Ahmad Nasfy has served as Malaysia's representative at international conferences.

Datuk Wira Haji Ahmad Nasfy was appointed as a judicial commissioner on 14 August 2009, at the High Court in Malaya in Seremban, Negeri Sembilan. In 2011, he was appointed to serve in Muar, Johor and subsequently in Taiping, Perak, in 2012. On 12 September 2014, he was confirmed as a High Court Judge. In 2015, he was transferred to the High Court in Shah Alam, and in 2018, he moved to the High Court at Malacca. On 25 March 2020, after presiding as a judge in the High Court for more than 11 years, Datuk Wira Haji Ahmad Nasfy was elevated to the Court of Appeal. He officially retired on 30 May 2023.

Datuk Wira Haji Ahmad Nasfy is renowned not just for his achievements but also for his unwavering commitment to advancing legal reforms and championing individual rights. His compassion and principled approach has earned him much respect from the legal fraternity.

DATO' GUNALAN MUNIANDY

Dato' Gunalan Muniandy was born on 10 December 1957 in Klang, Selangor. In 1981, he graduated with a Bachelor of Laws LL. B (Hons) from the University of Malaya.

Dato' Gunalan commenced his legal career as a magistrate in the Magistrates' Court in Kuala Lumpur in 1981. Throughout his career, Dato' Gunalan had a diverse career, serving as a magistrate in Temerloh, Pahang, as well as holding posts as a Senior Assistant Registrar and Deputy Registrar. In addition, he held the positions of Sessions Court judge in Alor Setar, Kedah (1989), Malacca (1992), Tawau, Sabah (1995), George Town, Penang (1996) and Klang, Selangor (2003). On 4 February 2008, Dato' Gunalan was designated as the Director of the Selangor State Court.

Dato' Gunalan was appointed judicial commissioner of the High Court in Malaya on 10 May 2010. He initially served in the High Court in Malaya at Johor Bahru, Johor and subsequently at the High Court in Malaya at Shah Alam, Selangor, starting 1 January 2015. He was confirmed as a High Court judge on 30 January 2017. Dato' Gunalan was elevated as a judge of the Court of Appeal on 25 March 2020. On 10 December 2023, Dato' Gunalan ended his tenure on the bench as he reached the mandatory retirement age.

DATO' SRI HAJI ABD HALIM AMAN

Dato' Sri Haji Abd Halim Aman was born on 10 March 1957 in Kampung Alai, Malacca. He obtained his LL.B (Hons) degree from the University of Malaya in 1982 and pursued his LL.M at the University of Hull, United Kingdom, in 1996.

Dato' Indera Haji Abd Halim had a long and illustrious career with the Judicial and Legal Service spanning almost 22 years from 1982 to 2005. He held several positions throughout his tenure, such as Federal Counsel, Attorney General's Chambers (1982); magistrate, Kluang, Johor (1983); senior assistant registrar, High Court in Malaya at Malacca (1985); senior magistrate, Muar, Johor (1987); Sessions Court judge, Tawau, Sabah (1990); Sessions Court judge, Sandakan, Sabah (1992); deputy registrar of the Federal Court (1992); Sessions Court judge, Kuala Lumpur (1992); Senior Federal Counsel, Inland Revenue Board (1993); Sessions Court judge, George Town, Penang (1994); Senior Federal Counsel, Attorney General's Chambers (1995); Official Assignee, *Jabatan Pemegang Harta* (currently known as Malaysian Department of Insolvency (MdI)) (1996); Pahang State Legal Advisor (1997); Deputy Public Prosecutor, Attorney General's Chambers (2003); Sessions Court judge, Ampang, Selangor (2003); and Head of the Research Division, Office of the Chief Justice (2003).

On 1 September 2005, Dato' Sri Haji Abd Halim was appointed as a judicial commissioner and served the High Court in Malaya at Temerloh, Pahang and subsequently at the High Court in Malaya at Kuantan, Pahang, on 1 February 2006. He was appointed as a High Court judge on 11 April 2007. On 1 January 2009, he served the Penang High Court and later served as High Court judge in Johor Bahru, Johor on 1 November 2010. He served as a High Court Judge in Shah Alam, Selangor, until reaching the mandatory retirement age of 66 years in March 2023.

DATO' HAJI ZAINAL AZMAN AB. AZIZ

Dato' Haji Zainal Azman Ab. Aziz was born on 28 October 1957, in Raub, Pahang. He graduated with an LL.B degree from the University of Malaya in 1981.

He began his legal career as a magistrate in the Magistrates' Court in Kuala Lumpur on 2 May 1981. Later, he held the position of Assistant Director at the Legal Aid Department in both Malacca and Pahang. Throughout his career, he has held multiple positions, including Deputy Public Prosecutor and Assistant Legal Advisor at the Pahang Legal Advisor Offices from 1986 to 1989. From 1989, he held the position of Sessions Court judge in various locations, including Kota Bharu, Kelantan, Kuala Terengganu, Terengganu, Johor Bahru, Johor and Kuantan, Pahang. Additionally, he served as the Director of the Pahang State Court.

Dato' Haji Zainal Azman was appointed as a judicial commissioner of the High Court in Malaya in Kuala Lumpur (Criminal Division) on 10 August 2007. He was subsequently appointed as a High Court judge on 14 April 2010 while serving at the High Court in Malaya at Shah Alam, Selangor (Civil Division). Thereafter, he served at the Muar High Court in 2013 and Kuala Terengganu High Court in 2015. Dato' Haji Zainal Azman's last posting was at the Kuantan High Court before he retired on 28 October 2023.

DATO' WIRA HALIJAH ABBAS

Dato' Wira Halijah Abbas was born on 21 November 1957 in Rantau, Seremban Negeri Sembilan. In 1981, she earned her LL.B (Hons) degree from the University of Malaya.

Dato' Wira Halijah had a long career in the Judicial and Legal Service, spanning from 1982 to 2009. She commenced her professional journey at the Drafting Division of the Attorney General's Chambers in 1982. Subsequently, she held the position of senior assistant registrar at the Kuala Lumpur High Court in 1984. From 1987 to 1989, she served as a magistrate in Magistrates' courts in Malacca, Petaling Jaya, and Shah Alam. In 1990, she was appointed as a Sessions Court judge in Shah Alam. In 1991, she assumed the role of Senior Federal Counsel at the Ministry of Investment, Trade and Industry. Dato' Wira Halijah was designated as a Senior Federal Counsel at the Malaysian Treasury, now known as the Ministry of Finance, in 1992. She then resumed her previous position as a Sessions Court judge in Malacca. Thereafter, in 2003, she held the position of Official Assignee at the Department of Insolvency. In the subsequent year, she was made the Deputy Director General of the Legal Aid Department. Years of dedication to the Judicial and Legal Service saw Dato' Wira Halijah rise to helm the Chief Registrar's Office as the Chief Registrar in 2008.

Dato' Wira Halijah was appointed as a judicial commissioner of the High Court in Malaya on 5 January 2009, serving in Malacca. On 9 August 2010, she was promoted to the position of a judge in the High Court in Malaya. She was transferred to the High Court in Malaya in the Civil Division, Shah Alam High Court, on 15 June 2012. Dato' Wira Halijah served at the Muar High Court on 1 January 2015, until reaching the mandatory retirement age of 66 in November 2023.

DATO' SRI TUN ABD MAJID TUN HAMZAH

Dato' Sri Tun Abd Majid Tun Hamzah was born on 12 November 1961 in Mentakab, Pahang. He obtained a Bachelor of Laws (Hons) from the University of Malaya in 1985.

Dato' Sri Tun Abd Majid Tun Hamzah has had vast experience during his tenure in the Attorney General's Chambers. In 1985, he commenced his legal career as a Deputy Public Prosecutor, serving in Putrajaya, Perak, Kedah, and Kuala Lumpur for about a decade. Throughout his career, he held multiple positions, including the role of Senior Assistant Draftsman in the Drafting Division of the Attorney General's Chambers. In 1997, he was appointed as Special Officer to the Attorney General. In addition, he held the positions of Senior Federal Counsel at the Sarawak State Attorney General's Chambers, Deputy Public Prosecutor, Deputy Head of the Prosecution Division, Head of the Civil Division and Head of the Prosecution Division of the Attorney General's Chambers. Years of dedication to the legal service saw Dato' Sri Tun Abd Majid rise to helm the position of Solicitor General II and Solicitor General I of Malaysia from 2 April 2012 to 31 July 2016.

Dato' Sri Tun Abd Majid was appointed as a judicial commissioner of the High Court in Malaya on 1 August 2016 serving first in Johor Bahru and then the Shah Alam High Court. On 8 August 2019, he was appointed as a High Court Judge, serving in Shah Alam and Penang High Court. He ended his tenure on the Bench on 1 September 2023.

Dato' Sri Tun Abd Majid consistently demonstrated a solid commitment to upholding judicial integrity and maintaining a disciplined mind, having spearheaded prominent and high-profile cases throughout his early years as a Legal Officer and subsequently on the Bench. He consistently undertook a rigorous analysis of the facts, legal matters and arguments in all the cases presented to him.

DATUK CHRISTOPHER CHIN SOO YIN

Datuk Christopher Chin Soo Yin, born on 4 August 1957, in Kota Kinabalu, formerly known as Jesselton, is the son of a Sabah-born government servant father and a midwife mother originally from Singapore. He graduated with a Bachelor of Laws (External) from the University of London in 1980 and was called to the Bar of England and Wales in 1981 and then to the Sabah Bar in May 1982.

Datuk Chris was in continuous legal practice from 1982 in Kota Kinabalu with a focused emphasis on conveyancing. He also undertook an advisory role under the (then) Sabah Law Association to the State Government, which work included land and land development law revision.

On 3 May 2019, he was appointed as a judicial commissioner and was stationed at the Kuching High Court. In July 2020, he was transferred to the Sibu High Court. While sitting in Sibu, he was appointed as a High Court Judge on 27 April 2022. On 1 November 2022, he was transferred to the Kota Kinabalu High Court, where Datuk Chris served until his retirement in December 2023.

Being in the High Court in Sabah and Sarawak, Datuk Chris had to hear many cases outside his field of expertise while in private practice. Indeed, the first few of his judgements reported by the law journals were outside his area of expertise. This, however, did not deter him and he took the challenge in his stride. Datuk Chris has since resumed private practice.

Datuk Chris was well regarded by the officers and staff as exemplary in his service: a kind and approachable person who fostered a pleasant working relationship, encouraging them to be productive and to have a positive attitude. He will be cherished for his devotion and affection for the environment, as exemplified by the nature walks, hikes, and bike rides that he organised. In addition, he actively engaged in mentoring pupils and young lawyers by delivering lectures on issues that were pertinent to them as they embarked into the legal profession. His dedication to work and judicial duties set an excellent example for others to follow.

MS LIZA CHAN SOW KENG

Ms Liza Chan Sow Keng was born in Kuala Lumpur on 26 November 1957. In 1980, she obtained an LL. B (Hons) degree from the University of Wales, Institute of Science and Technology, currently known as Cardiff University. In June 1981, she was admitted as a Barrister-at-Law at Lincoln's Inn in London. She was admitted as an Advocate and Solicitor of the High Court in Malaya in 1982.

Ms Liza Chan commenced her legal practice in August 1982 at Messrs. Megat Najmuddin, Leong & Co in Kuala Lumpur, where she worked as a Legal Assistant. In January 1985, she joined Messrs. Yip Yeo & Nasrim as a partner. With several years of litigation experience, in 1988, Ms Liza Chan established, eventually became the sole proprietor of, Messrs. Liza Chan & Co in Petaling Jaya, Selangor. Ms. Liza Chan had an extensive career spanning more than 35 years, during which she often appeared in the appellate courts and the High Court. The primary fields in which she specialised were commercial, company, arbitration and family law.

During her tenure at the Bar, Ms Liza Chan actively participated in pro bono work, particularly in instances involving deserted women and children. She was a trainer in the Advocacy Training Course organised by the Bar Council's Professional Standards and Development Committee. Additionally, she served as a member of the Advocate & Solicitor's Disciplinary Board for over a decade.

Ms Liza Chan was appointed as a judicial commissioner on 10 July 2020. She was appointed as a judge of the High Court on 17 January 2023, serving at the High Court in Malaya at Kuala Lumpur. She retired as a High Court judge on 26 November 2023.

DATO' ROHANA ABD MALEK

Dato' Rohana Abd Malek was born in Bahau, Negeri Sembilan on 19 December 1959. She obtained her Diploma in Law from the Institut Teknologi Mara, Shah Alam. She subsequently earned her Advanced Diploma in Law from the Mara University Technology in 1986. She holds a Master's Degree (LL.M) in Resource Law and Policy in 1998 from the Centre for Energy, Petroleum, Mineral Law and Policy at the University of Dundee in Scotland.

She began her career as a Customs Enforcement Officer in the Royal Customs & Excise Department in 1984. She continued to hold several posts during her career, amongst others, as Federal Counsel for the Attorney General's Chambers; Federal Counsel for the Ministry of Primary Industries (MPI); Senior Federal Counsel of the Inland Revenue Board of Malaysia; Legal Adviser for the Ministry of Human Resources; Legal Adviser of the Ministry of Investment, Trade and Industry; Head of the Domestic Trade Section and International Finance of International Affairs Division of the Department of International Affairs (BHEA); Director General of Insolvency, Department of Insolvency; and Perak State Legal Adviser.

Dato' Rohana served as a judicial commissioner of the High Court in Malaya at Shah Alam from 3 January 2020 until 2 January 2023.

Unidirectional Batik *Legundi* and *Cengkeh*
by Nysakapas

Chapter 6

JUDICIAL TRAINING

COURSES ORGANISED BY THE TRAINING COMMITTEE OF THE JUDICIAL ACADEMY, JUDICIAL APPOINTMENTS COMMISSION

In 2023, the Training Committee of the Judicial Appointments Commission organized the following courses:

1. INDUCTION PROGRAMME FOR JUDICIAL COMMISSIONERS 2023

The Judicial Commissioners Induction Programme 2023 took place from 7 to 10 February 2023, at the Conference Hall, Palace of Justice, Putrajaya. The goal of this programme was to familiarize participants with the scope of their responsibilities and best practices necessary for fulfilling their duties as judicial commissioners. Thirteen judicial commissioners attended the course, which covered 13 topics pertinent to their judicial roles. The opening ceremony was presided over by The Right Honourable the Chief Justice Tun Tengku Maimun Tuan Mat. The topics included:

No.	Topics	Speakers
1.	Judges' Code of Ethics	The Right Honourable Justice Abang Iskandar Abang Hashim President of the Court of Appeal
2.	Joint Session with Chief Judge of Malaya and Chief Judge of Sabah and Sarawak	The Right Honourable Justice Mohamad Zabidin Mohd Diah Chief Judge of Malaya The Right Honourable Justice Abdul Rahman Sebli Chief Judge of Sabah dan Sarawak
3.	Conducting Civil Cases – Challenges and Pitfalls (Part 1 and Part 2)	Justice Hasnah Dato' Mohammed Hashim Judge of the Federal Court Justice Mary Lim Thiam Suan Judge of the Federal Court
4.	Virtual Hearings	Justice Wong Kian Kheong Judge of the Court of Appeal

▼ Induction Programme for Judicial Commissioners 2023 was held from 7 to 10 February 2023, at the Conference Hall, Palace of Justice, Putrajaya

No.	Topics	Speakers
5.	Case Management in Civil Cases and Court – Annexed Mediation (Part 1 and Part 2)	Justice Vernon Ong Lam Kiat Judge of the Federal Court
6.	When to Recuse	Justice Zabariah Mohd Yusof Judge of the Federal Court
7.	Criminal Trials and Applications	Justice Harmindar Singh Dhaliwal Judge of the Federal Court Justice Yaacob Haji Md Sam Judge of the Federal Court
8.	Reading Statutes	Justice Hasnah Dato' Mohammed Hashim Judge of the Federal Court
9.	Managing Judicial Review and Family Cases	Justice Mary Lim Thiam Suan Judge of the Federal Court
10.	Judgment Writing Workshop: Issues Based Approach in Judgment Writing	Justice Vazeer Alam Mydin Meera Judge of the Court of Appeal
11.	Judgment Writing Workshop: Challenges in Judgment Writing	Justice Lee Swee Seng Judge of the Court of Appeal
12.	E-Court System and e-Review	Mr. Muhamad Faizal Ismail Deputy Registrar, E-Court Division Office of the Chief Registrar of the Federal Court of Malaysia
13.	Salary, Allowance and Benefits for Judges	Ms. Laila Khalidah Ismail Director, Management Division Office of the Chief Registrar of the Federal Court of Malaysia

▼ The opening ceremony was presided over by The Right Honourable the Chief Justice Tun Tengku Maimun Tuan Mat

▲ Group photo taken after the Induction Programme

2. WRITING BETTER JUDGMENTS COURSES 1/2023 AND 2/2023

The Writing Better Judgments Course 1/2023 took place from 9 to 10 March 2023, at The Saujana Hotel, Kuala Lumpur, while Course 2/2023 was held from 21 to 23 September 2023, at Zenith Hotel, Putrajaya. The aim of these courses was to introduce fundamental concepts for improving the quality of grounds of judgement using the 5C framework: clear, concise, comprehensive, coherent, and convincing.

Course 1/2023 was attended by six High Court judges and 24 judicial commissioners, whereas Course 2/2023 was attended by 12 High Court judges and eight judicial commissioners. The opening ceremony of Course 1/2023 was led by The Right Honourable Tan Sri Datuk Amar Abang Iskandar Abang Hashim, President of the Court of Appeal.

The participants were assigned the task of revising their own grounds of judgement using the 5C concept, which were then reviewed by their respective group facilitators. The participants were grouped into teams of three to six members, each guided by one of three facilitators who were judges of the Federal Court and the Court of Appeal.

The schedule for the three-day course included the following sessions:

No.	Topics	Speakers
1.	Why Good Judgments Matter?	The Right Honourable Justice Abdul Rahman Sebli Chief Judge of Sabah dan Sarawak
2.	The Judge	The Right Honourable Justice Abdul Rahman Sebli Chief Judge of Sabah dan Sarawak
3.	Issues Based Approach to Judgment Writing: The Conceptual Framework	Justice Lee Swee Seng Judge of the Court of Appeal Justice Vazeer Alam Mydin Meera Judge of the Court of Appeal
4.	The First Page and Creating Headings	Justice Hasnah Dato' Mohammed Hashim Judge of the Federal Court
5.	Challenges of Judgment Writing	Justice Hasnah Dato' Mohammed Hashim Judge of the Federal Court Justice Hajjah Azizah Haji Nawawi Judge of the Court of Appeal
6.	The Structural Construct of an Issues Based Judgment	Justice Vazeer Alam Mydin Meera Judge of the Court of Appeal
7.	The Road to Judgment	The Right Honourable Justice Abang Iskandar Abang Hashim President of the Court of Appeal
8.	Issues Based Approach Judgment Writing in Criminal Cases: Section 39B of the Dangerous Drugs Act 1952	Justice Nordin Hassan Judge of the Federal Court Justice Abdul Karim Abdul Jalil Judge of the Federal Court
9.	Managing Procrastination and Competing Priorities	Justice Harmindar Singh Dhaliwal Judge of the Federal Court

▼ Justice Zabariah Mohd. Yusof, Justice Nordin Hassan and Justice Hanipah Farikullah, the facilitators at the Writing Better Judgements Course

▼ Justice Hasnah Dato' Mohammed Hashim presenting a lecture titled "Challenges of Judgment Writing"

◄ The Right Honourable Justice Abdul Rahman Sebli, Chief Judge of Sabah and Sarawak, delivering a lecture titled "The Judge"

▲ A group photograph of the facilitators and participants of the Writing Better Judgements Course 2/2023

3. SECTION 302 OF THE PENAL CODE COURSES 1/2023 AND 2/2023

Section 302 of the Penal Code Courses 1/2023 and 2/2023 were held on 30 May 2023 and 8 September 2023, respectively, at the Conference Hall, Palace of Justice, Putrajaya. The objective of these courses was to enhance understanding of Section 302 of the Penal Code.

Course 1/2023 was attended by 20 High Court judges and five judicial commissioners, while Course 2/2023 was attended by five Court of Appeal judges, 22 High Court judges, and two judicial commissioners. Justice Hasnah Dato' Mohammed Hashim, Federal Court Judge and Chairman of the Training Committee of the Judicial Academy, presided over both courses. Facilitating the courses were Justice Nordin Hassan, Justice Abu Bakar Jais, and Justice Abdul Karim Abdul Jalil, Federal Court judges.

During Course 1/2023, five participants presented discussions on the following topics:

No.	Topics of Discussion	Presenter
1.	The Offence of Murder and the Offence of Culpable Homicide Not Amounting to Murder Under the Penal Code – Concept and Elements of the Offences	Justice Azhahari Kamal Ramli Judge of the High Court, Kuching
2.	Sections 34 and 149 of the Penal Code	Justice Faizah Jamaludin Judge of the High Court, Shah Alam
3.	Evidence of Forensic Pathologist - Causation - Cause of Death	Justice Nadzarin Wok Nordin Judge of the High Court, Kuala Lumpur
4.	Witnesses - Accomplice - Interested Witness	Justice Noor Hayati Haji Mat Judicial Commissioner, High Court of Johor Bahru

During Course 2/2023, participants were organised into groups of seven to eight members. Each group conducted presentations on the following discussion topics: "The Offence of Murder and the Offence of Culpable Homicide Not Amounting to Murder Under the Penal Code – Concept and Elements of the Offences", "Distinguishing Features and Application of Section 34 and 149 of the Penal Code", "The Defence of Insanity Under Section 84 of the Penal Code" and "Treatment of Expert and Corroborative Evidence".

▲ Justice Hasnah Dato' Mohammed Hashim, Federal Court Judge and Chairman of the Training Committee of the Judicial Academy, presided both Section 302 of the Penal Code Courses 1/2023 and 2/2023

▼ A group photograph of the facilitators and participants of the Section 302 of the Penal Code Course 1/2023

▲ A group photograph of the facilitators and participants of the Section 302 of the Penal Code Course 2/2023

▼ A group photograph of the participants at the Section 39B of the Dangerous Drugs Act 1952 Course

▼ Participants at the Section 39B of the Dangerous Drugs Act 1952 Course

4. COURSE ON SECTION 39B OF THE DANGEROUS DRUGS ACT 1952

A course on Section 39B of the Dangerous Drugs Act 1952 was held on 4 August at the Conference Hall, Palace of Justice, Putrajaya. The programme aimed to provide a thorough understanding of Section 39B of the Dangerous Drugs Act 1952.

Five Court of Appeal judges and 25 judicial commissioners participated in the course. Justice Hasnah Dato' Mohammed Hashim, Federal Court Judge and Chairman of the Training Committee of the Judicial Academy officiated the course.

A total of three lecture topics were presented namely, "Duty of Trial Judge at the End of the Case for the Prosecution and at the Conclusion of the Trial – Part 1 and 2" and "Common Mistakes Made by a Trial Judge". The presentations were delivered by Justice Zabariah Mohd Yusof, Justice Harmindar Singh Dhaliwal and Justice Nordin Hassan, judges of the Federal Court, and Justice Hashim Hamzah, judge of the Court of Appeal.

▼ Course on Section 39B of the Dangerous Drugs Act 1952

▼ A group photograph of the delegates from the Pakistan Supreme Court-Led ADR Taskforce, experts from Singapore, the United States and Malaysia with the Right Honourable the Chief Justice Tun Tengku Maimun Tuan Mat

5. COMMERCIAL LAW DEVELOPMENT PROGRAM (CLDP), ALTERNATIVE DISPUTE RESOLUTION (ADR) COUNTRY EXCHANGE

From 20-21 August 2023, CLDP, in collaboration with the Malaysian judiciary held a Judicial Exchange on Alternative Dispute Resolution (ADR) at the Palace of Justice, Putrajaya. The exchange was inaugurated by The Right Honourable the Chief Justice Tengku Maimun Tuan Mat and brought together judges from Malaysia, the Pakistan Supreme Court-Led ADR Taskforce, and experts from Singapore and the United States. The primary objective of the programme was to offer a comprehensive understanding of alternative dispute resolution.

The topics of discussion were "Overview of ADR System and Development", "Developing Culture of ADR", "Mediation and the Judiciary, Court Procedures and Court-Supported Mediation Centres", "Mediation Centres and the Development of Private ADR Institutions", "Human Resource, Capacity Building and Training" and "Technology and Other Approaches to Alleviate Court Backlog".

▼ The Right Honourable the Chief Justice Tun Tengku Maimun Tuan Mat officiated the Commercial Law Development Program (CLDP), Alternative Dispute Resolution (ADR) Country Exchange

6. JUDICIAL WORKSHOP ON INTELLECTUAL PROPERTY LAW AND PRACTICE: EMERGING ISSUES ON TRADEMARK LAW

On 26 October 2023, the Judicial Academy in collaboration with the International Trademark Association (INTA) hosted a Judicial Workshop on Intellectual Property Law and Practice: Emerging Issues on Trademark Law at the Palace of Justice, Putrajaya. The workshop was officiated by Justice Hasnah Dato' Mohammed Hashim, Federal Court Judge and Chairman of the Training Committee of the Judicial Academy. This workshop was conducted in a hybrid format and was attended by judges of the Federal Court, the Court of Appeal and the High Court, as well as judicial commissioners. Topics covered in the workshop were:

No.	Topics of Discussion	Moderators/Presenters
1.	Emerging Technologies and IP: AI, NFTs, Block Chain and its Relevance for and Impact on IPR	Moderator: Justice Mohamed Zaini Mazlan Judge of the Court of Appeal Presenters: Dr Stanley Lai SC: Allen & Gledhill Mr Bahari Yeow RDS Law Partners
2.	Bad Faith in Trademark Cases: Prosecution, Judicial Proceedings, Online Implications; INTA's Board Resolution	Presenters: Ms Iris Gunther Director Brand Enforcement and Sustainability International Trademark Association (INTA) Mr Nick Redfearn Principal Global Head of Enforcement Rouse-Jakarta
3.	Case Discussion Bad Faith: Triple D Trading Pte. Ltd. v. Fanco Fan Marketing Pte. Ltd.	Moderator: Justice Azlan Sulaiman Judicial Commissioner Presenter: The Hon. Justice Dedar Singh Gill High Court Judge Supreme Court of Singapore
4.	IP Enforcement – Dynamic Blocking Injunctions – Process, Requirements, Case Examples	Moderator: Justice Dr. Choo Kah Sing Judge of the Court of Appeal Presenters: Dr. Nicolas Schmitz Grunecker Munich Law Firm, Germany The Hon. Justice Manmohan Delhi High Court
5.	Bad Faith International Comparison (Sky v. SkyKick)	Moderator: Justice Mohd Nazlan Mohd Ghazali Judge of the Court of Appeal Presenter: The Hon. Lord Justice Richard Arnold Court of Appeal of England and Wales

▼ A group photograph of the participants at the Judicial Workshop on Intellectual Property Law and Practice: Emerging Issues on Trademark Law

▲ Justice Mohamed Zaini Mazlan, Judge of the Court of Appeal moderating a session in the workshop
◄ Justice Hasnah Dato' Mohammed Hashim, Federal Court Judge and Chairman of the Training Committee of the Judicial Academy officiating the workshop

COURSES CONDUCTED BY THE STRATEGIC DEVELOPMENT AND TRAINING DIVISION, OFFICE OF THE CHIEF REGISTRAR OF THE FEDERAL COURT OF MALAYSIA

The following courses were conducted by the Strategic Development and Training Division, Office of the Chief Registrar of the Federal Court of Malaysia in 2023:

1. COURSE ON INTERPRETATION AND LANGUAGE PROFICIENCY FOR COURT INTERPRETERS/*'KURSUS PENTERJEMAHAN DAN PENGUASAAN BAHASA JURUBAHASA'*

This course was held from 28 until 30 October 2023 at Adya Hotel, Langkawi. The course was attended by 58 court interpreters from all states in Malaysia.

The objective of the course was to enhance the court interpreters' accuracy in interpreting court documents from Malay to English and vice versa. The course also aimed to equip participants with the knowledge and skills to perform court duties professionally.

The course featured talks from several senior judicial officers such as Ms. Wan Aima Nadzihah Wan Sulaiman, Ms. Noraisyah Mohd Yusof and Mr. Muhammad Iskandar Zainol, as well as a senior interpreter, Mr. Awais Al-Qarni Omar.

2. COURSE ON MANAGEMENT OF STATISTICS FOR SUBORDINATE COURTS/ *'KURSUS PENGURUSAN STATISTIK BAGI MAHKAMAH RENDAH'*

A total of 55 participants attended the course held from 27 until 29 November 2023 at Klana Resort Seremban, Negeri Sembilan.

The objective of this course was to share the best practices in the management of statistics including ad-hoc statistics for the subordinate courts. This course also aimed to enhance participants' understanding and knowledge regarding the preparation and management of statistics. This course was delivered by experienced judicial officers such as Ms, Rafiah Yusof, Ms. Diannee Ningrad Nor Azahar, Mr. Zuhair Rosli and Ms. Tuan Ruzuaini Tuan Lah.

In the final session of the course, participants participated in a discussion and exchange of effective practices and solutions to current challenges. The session was led by the Director of the Strategic Development and Training Division.

3. COURSE ON "JUSTICE FOR SILENT VICTIMS 13 (J4SV13)" ORGANISED BY JUSTICE FOR WILDLIFE MALAYSIA (JWM) TOGETHER WITH THE OFFICE OF THE CHIEF REGISTRAR OF THE FEDERAL COURT OF MALAYSIA

This course was held from 3 to 7 August 2023 at the Royal Belum Rainforest Gerik, Perak in which over 40 judges from both superior and subordinate courts participated together with officers from the Department of Wildlife and National Parks Peninsular Malaysia (PERHILITAN). Judges from Indonesia, Thailand and the Philippines were also invited to participate in this course. The course was a joint effort between the Malaysian judiciary, Justice for Wildlife Malaysia (JWM) and the U.S. Department of Justice and Law Enforcement Affairs (INL) through Panthera Malaysia. The objective of this course was to gather judges, wildlife enforcement officers, wildlife crime prosecution officers, wildlife conservationists and deputy public prosecutors in field-to-courtroom immersive training and knowledge-sharing sessions. Apart from that, the course included formal presentations, interactive scenario-based enforcement operations and court case run-throughs as well as a demonstration of wildlife crime by Panthera Malaysia.

4. UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR) ENGAGEMENT WORKSHOP ORGANISED BY UNHCR TOGETHER WITH THE OFFICE OF THE CHIEF REGISTRAR OF THE FEDERAL COURT OF MALAYSIA

This two-day workshop was held from 25 to 26 September 2023. The first day of this workshop was held at UNHCR Malaysia at Bukit Petaling and the second day was held at the Palace of Justice, Putrajaya. A total of 25 Sessions Court judges and magistrates from Peninsular Malaysia attended the workshop. The workshop was officiated at UNHCR Malaysia by Mr. Mohammed Mokhzani Mokhtar, Registrar of the Subordinate Courts of Malaya. The main objectives of this workshop were to hold a dialogue session with the Sessions Court judges and magistrates on UNHCR's mandate on the international protection needs of refugees and to provide further knowledge on the method of verification of documentation issued by UNHCR. At the end of the workshop, participants embarked on a sharing session where a lively discussion ensued on handling cases involving refugees.

5. HIGH-LEVEL ROUNDTABLE REGARDING BEST PRACTICES RELATING TO THE HANDLING OF CHILD VICTIMS/WITNESSES IN THE CRIMINAL JUSTICE SYSTEM ORGANISED BY THE UNITED NATIONS CHILDREN'S FUND (UNICEF) TOGETHER WITH THE OFFICE OF THE CHIEF REGISTRAR OF THE FEDERAL COURT OF MALAYSIA

The programme took place as a discussion forum featuring the Chief Justice of Malaysia, the Minister in the Prime Minister's Office (Law and Institutional Reform), the Attorney General, the Chief Registrar of the Federal Court of Malaysia, the President of the Malaysian Bar, the President of the Sabah Law Society, the President of the Advocates Association of Sarawak and Registrars of the Subordinate Courts of Malaya and Sabah and Sarawak. It also included selected Sessions Court judges, representatives from UNICEF, the Ministry of Women, Family and Community Development, the Legal Affairs Division, judges from the Judiciary of England and Wales, and representatives from law firms in the United Kingdom. The focus of the discussion was on the best practices for handling criminal cases involving child victims and witnesses. This event was held on 22 November 2023 at Le Meridien Putrajaya.

6. SEMINAR ON SHARING GOOD PRACTICES FROM THE UK IN HANDLING CHILD VICTIMS IN THE CRIMINAL JUSTICE SYSTEM ORGANISED BY THE UNITED NATIONS CHILDREN'S FUND (UNICEF) TOGETHER WITH THE OFFICE OF THE CHIEF REGISTRAR OF THE FEDERAL COURT OF MALAYSIA

This one-day seminar was held on 23 November 2023 at Le Meridien Putrajaya. A total of 30 Sessions Court judges from Peninsular and East Malaysia participated in this seminar. The main objective of this seminar was to share knowledge on international and regional norms, standards and principles involving handling child victims in criminal cases.

JUDGES TRAINING PROGRAMMES (INTERNATIONAL)

The following are some of the major conferences and trainings attended by members of the judiciary in the year of 2023:

1. INTERNATIONAL CONFERENCE DEDICATED TO THE 100th ANNIVERSARY OF THE SUPREME COURT OF THE REPUBLIC OF AZERBAIJAN

Following an invitation from the President of the Supreme Court of the Republic of Azerbaijan, Ramiz Rzayev, the Right Honourable the Chief Justice Tun Tengku Maimun Tuan Mat accompanied by Ms. Radzilawatee Abdul Rahman, judicial officer from the Chief Registrar's Office attended the International Conference dedicated to the 100th Anniversary of the Supreme Court of the Republic of Azerbaijan in Baku. The conference was held on 13 February 2023. The objective was to provide a suitable venue for discussing the common challenges faced by the judiciary and finding effective solutions. The event was addressed by the Chairman of Azerbaijan's Constitutional Court Farhad Abdullayev, Azerbaijani Prosecutor General Kamran Aliyev, Azerbaijani Minister of Justice, Chairman of the Judicial-Legal Council, Fikrat Mammadov. They highlighted the path of development of Azerbaijan's Supreme Court, as well as achievements gained in the judicial-legal sphere.

2. 23rd COMMONWEALTH LAW CONFERENCE

From 5 to 9 March 2023, The Right Honourable the Chief Justice Tun Tengku Maimun Tuan Mat, The Honourable Justice Tan Sri Datuk Nallini Pathmanthan, Federal Court Judge, and Dato' Edwin Paramjothy Michael Muniandy, Director of the Research Division of the Chief Justice's Office, attended the 23rd Commonwealth Law Conference 2023. This prestigious event gathers legal practitioners from across the Commonwealth to discuss current issues impacting the profession and to share insights and experiences. Held at The Grand Hyatt Hotel in Goa, India, the five-day conference was themed "Commonwealth Lawyers – Common Challenges in Uncommon Times." During the event, The Right Honourable Tun Tengku Maimun, CJ delivered a keynote speech as part of a plenary panel on "Safeguarding and Strengthening the Independence of the Judiciary".

3. 4th INTERNATIONAL SYMPOSIUM OF THE AACC SRD

The Right Honourable the Chief Justice Tun Tengku Maimun Tuan Mat and Ms. Firdaus Md Isa, judicial officer from the Chief Registrar's Office represented the Malaysian judiciary at the 4th International Symposium of the AACC Secretariat for Research and Development (AACC SRD) held in Seoul, South Korea on 29 May to 1 June 2024. The 4th conference held wide-ranging discussions on the topic of *Access to Justice: Constitutional Perspectives* that enabled the Malaysian delegation to gain insight into current best practices relating to:

- *Individual access to constitutional justice*
- *Current issues on access to justice*
- *Constitutional rights ensuring access to justice*

4. WORKING VISIT TO THE JUDICIARY OF ENGLAND AND WALES

Following the invitation from The Right Honourable Lord Burnett of Maldon, Lord Chief Justice of England and Wales, The Right Honourable Tun Tengku Maimun Tuan Mat, Chief Justice of Malaysia visited the Judiciary of England and Wales and the Supreme Court of the United Kingdom on 29 November to 1 December 2023. The delegation included The Honourable Justice Tan Sri Datuk Nallini Pathmanathan, Judge of Federal Court, and The Honourable Justice Dato' Sri Hasnah Dato' Mohammed Hashim, Judge of Federal Court accompanied by three judicial officers from the Chief Registrar's Office, Ms. Wan Fatimah Zaharah Wan Yussof, Dr. Noradura Hamzah and Mr. Shazali Dato' Hidayat Shariff. The principal objectives of the programme were to acquire an understanding of and act as a medium for discussions, exchange of ideas and solutions for effective commercial and online dispute resolution and other related matters and to create opportunities for dialogue and cooperation that strengthen the wider bilateral relationship between the Malaysian judiciary and the Judiciary of England and Wales.

5. WORKING VISIT TO SAUDI ARABIAN MINISTRY OF JUSTICE AND JUDICIARY OF SAUDI ARABIA

The Right Honourable the Chief Justice Tun Tengku Maimun Tuan Mat led the Malaysian delegation on a Working Visit to the Saudi Arabian Ministry of Justice and Judiciary of Saudi Arabia from 6 to 13 November 2023. The delegation included The Right Honourable Tan Sri Dato' Mohamad Zabidin Mohd Diah, Chief Judge of Malaya, Justice Dato' Haji Azman Abdullah, Judge of Court of Appeal and three judicial officers from the Chief Registrar's Office: Dato' Hasbi Hasan, Mr. Mohamad Kamil Nizam and Dr. Noradura Hamzah. The agenda featured a discussion session with His Excellency Dr. Walid Mohammed Al-Samaani, Minister of Justice, Kingdom of Saudi Arabia and a series of visits to selected courts of Saudi Arabia. This programme was initiated mainly for the purpose of strengthening collaboration between the Malaysian judiciary and the Judiciary of Saudi Arabia and to act as a medium for discussions, exchange of ideas and solutions on the development of court administration and judicial systems.

6. IIJ JUVENILE JUSTICE INITIATIVE: SOUTHEAST ASIA REGIONAL WORKSHOP ON JUSTICE FOR CHILDREN IN A COUNTER-TERRORISM CONTEXT

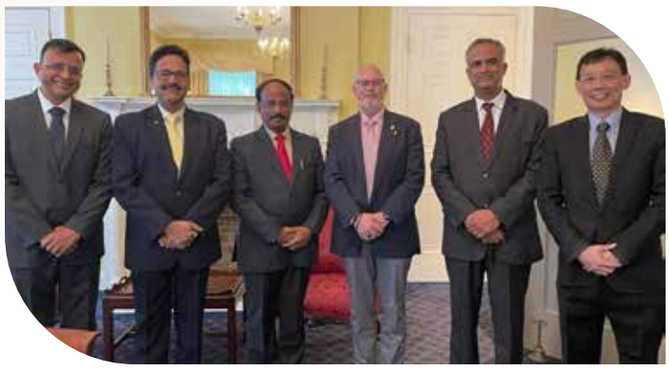
As part of the judicial training programme, a delegation from the Malaysian judiciary participated in the IIJ Juvenile Justice Initiative: Southeast Asia Regional Workshop on Justice for Children in a Counter-Terrorism Context from 8 to 10 March 2023, in Metro Manila, Philippines.

Approximately 50 attendees, including IIJ staff and various subject matter experts took part in the workshop, which included investigators, judiciary representatives, prosecutors, public defenders, social workers and other relevant participants from Indonesia and Malaysia. The workshop aimed to achieve the following outcomes:

- Enhance the capacity of criminal justice actors to better support children affected by terrorism.
- Present and analyze the findings of the JJWC baseline study.
- Promote the principles outlined in the IIJ Practitioners' Notes and the Neuchatel Memorandum.
- Involve each national delegation in developing practical recommendations tailored to their national contexts, ensuring the best interests of the child in situations involving terrorism.

7. 28th ANNUAL INTENSIVE STUDY PROGRAMME FOR JUDICIAL EDUCATORS

The Malaysian judiciary nominated Justice Dato' Lim Chong Fong, Judge of Court of Appeal to attend the 28th Annual Intensive Study Programme for Judicial Educators from 4 to 23 June 2023 in Halifax, Ottawa and Toronto, Canada. The three week intensive programme was conducted by the Commonwealth Judicial Education Institute (CJEI) and it was established to provide support for the creation and strengthening of national judicial education bodies; to encourage regional and pan-Commonwealth networking and exchange of human and material resources; to train core judicial education faculty; to develop programme modules for the use of all Commonwealth countries; and to design judicial education programmes to support judicial reform. The purpose of the training was to create and support sustainable judicial education capacity to support judicial reform.



8. INDO-PACIFIC JUDICIAL COLLOQUIUM ON INTELLECTUAL PROPERTY, INNOVATION AND TECHNOLOGY

From 25 to 27 July 2023, Justice Dean Wayne Daly, Justice Celestina Stuel Galid, Justice Adlin Abd Majid and two officers from the Chief Registrar's Office, Ms. Norhasniah Abd Razak and Ms. Dana Arabi Wazani, participated in the Indo-Pacific Judicial Colloquium on Intellectual Property, Innovation, and Technology. The in-person event was held at the USPTO Campus in Alexandria, Virginia and was attended by judges from Indo-Pacific Economic Framework countries, including over 20 judges from the United States. The programme focused on discussing issues and exchanging ideas to advance the theory and practice of law in the field of intellectual property.

9. IIJ JUVENILE JUSTICE INITIATIVE: CHILD-SENSITIVE APPROACHES FOR SOUTHEAST ASIAN PRACTITIONERS IN A COUNTER-TERRORISM CONTEXT

Justice Hasbullah Adam attended the IIJ Juvenile Justice Initiative: Child-Sensitive Approaches for Southeast Asian Practitioners in a Counter-Terrorism Context in Bali, Indonesia. The sub-regional workshop was held from 10 to 13 October 2023 and aimed to:

- Provide relevant actors with in-depth child-sensitive investigative and interviewing approaches; and
- Enhance their understanding of and capacity to explore alternatives to prosecutions and detention in the treatment of children thought to be associated with terrorist, violent extremist, and armed groups.

About 50 participants, including IIJ staff and other subject matter specialists attended this programme which comprised investigators, military, representatives from the judiciary, prosecutors, public attorneys (public defenders), social workers and other relevant officials from Indonesia, Malaysia and the Philippines.

Batik *Terap* or Stamped Batik by Nysakapas

7 Chapter

CONFERENCES/INTERNATIONAL MEETINGS HOSTED BY THE MALAYSIAN JUDICIARY

▲ The 56th Meeting of the Council of Judges' at the Magellan Sutera Resort, Kota Kinabalu Sabah

THE 56th MEETING OF THE COUNCIL OF JUDGES

8 - 11 June 2023

The 56th Meeting of the Council of Judges convened from 8 to 11 June 2023 at The Magellan Sutera Resort, Kota Kinabalu, Sabah, in accordance with Section 17A of the Courts of Judicature Act 1964 [*Act 91*], which mandates that a Council of all the Judges meeting shall convene as and when necessary but there shall be at least one meeting in each year.

A total of 134 judges of the superior Courts in Malaysia attended this important event, focused on discussing key issues affecting Malaysian judges.

The meeting kicked off on the evening of 8 June 2023 with a grand 'Beach Barbecue Grill' Welcoming Dinner. This event fostered camaraderie and provided a delightful culinary experience with a menu that celebrated both local cuisine and international flavours.

The second day commenced with the Right Honourable Chief Justice of Malaysia, Tun Tengku Maimun Tuan Mat, welcoming the council of judges to the State of Sabah. Her Ladyship highlighted the importance of timely case disposal, referencing a briefing by Tun Zaki Tun Azmi on the Court Backlog and Delay Reduction Programme in 2011, specifically, a target of nine months for civil cases and 12 months for criminal cases. Her Ladyship also discussed the potential abolition of the death penalty and emphasized judicial discretion in sentencing.

Following the Right Honourable the Chief Justice's opening remarks, the minutes from the 55th Meeting of the Council of Judges held on 15 October 2022 in Kuala Lumpur, were approved.

The 56th Meeting of the Council of Judges addressed several significant issues affecting the judiciary. Key topics included judges' remuneration and the need for a periodic review of judges' remuneration to ensure fair compensation. The Council also proposed the establishment of a "*Kelab Pesara*", an official platform for maintaining connections among judges.

Additionally, the Council deliberated on granting High Court judges the authority to independently transfer civil cases to lower courts, aiming to enhance efficiency.

The Council also discussed on the potential to raise the mandatory retirement age for judges, allowing the retention of experienced legal professionals within the judiciary.

▲ Mr. Borhan Isman from the Social Security Organisation (SOCSO) delivering his presentation

▲ Ms. Shariffah Rashidah Syed Othman from the National Cyber Security Agency (NACSA) giving a presentation on Cyber Hygiene. Also shown in the picture are Justice Ahmad Fairuz Zainol Abidin (center) and YM Raja Azrina Raja Othman from Telekom Malaysia (right)

The meeting featured a presentation from the Social Security Organisation (SOCSO), conducted by their representatives Mr. Edmund Cheong Peck Huang and Mr. Borhan Isman, which focused on relevant social issues. Lastly, a session on Cyber Hygiene was led by Justice Ahmad Fairuz Zainol Abidin, featuring panellists Ms. Shariffah Rashidah Syed Othman from the National Cyber Security Agency (NACSA) and YM Raja Azrina Raja Othman from Telekom Malaysia, emphasizing the importance of cybersecurity practices within the judiciary to protect sensitive information and maintain public trust.

The second day concluded with a memorable Native Fusion Dinner at the Grand Ballroom of The Magellan Sutera. This event, celebrated cultural diversity, featuring a menu that blended indigenous ingredients with modern culinary techniques. Cultural performances such as traditional bamboo instrument music and lively dance routines further enriched the evening.

On the third day of the 56th Meeting of the Council of Judges, the agenda commenced with breakout sessions tailored for the Federal Court, Court of Appeal, High Court in Malaya and High Court in Sabah and Sarawak. These sessions provided a platform for judges to engage in focused discussions on relevant issues affecting their respective courts. Following these sessions, Prof. Dr. Helen Benedict Lasimbang delivered an insightful presentation on "Work-Life Balance: Healthy and Active at All Ages," emphasizing the importance of maintaining well-being amidst the demanding nature of judicial responsibilities.

▲ The Right Honourable Justice Abdul Rahman Sebli, Chief Judge of Sabah and Sarawak, demonstrates the use of a *sumpit*, a traditional hunting tool once commonly used by the indigenous people of Sarawak at the Native Fusion Dinner

The 56th Meeting of the Council of Judges concluded with a grand Gala Night Dinner themed "Saturday Night Fever" which celebrated the vibrant spirit of the 1970s and the golden age of disco. The Gala Night shifted the focus from legal formalities to entertainment, with judges showcasing their musical talents on stage. This lively event highlighted the multifaceted nature of justice, paralleling it to a disco ball that reflects various facets of society, thereby reinforcing the notion that the judiciary is not only about law but also about community and connection. Overall, the night served as a reminder of the importance of camaraderie and balance in the judicial profession.

The 56th Meeting of the Council of Judges was not only a platform for serious discussion on judicial matters but also a celebration of unity, cultural diversity, and the multifaceted nature of justice, setting a positive precedent for future gatherings.

▲ The Federal Court judges at the Native Fusion Dinner at the Grand Ballroom of The Magellan Sutera with the Right Honourable the Chief Justice Tun Tengku Maimun Tuan Mat
(L-R): Justice Hasnah Mohammed Hashim. Justice Zabariah Mohd Yusof, Justice Mary Lim Thiam Suan, the Right Honourable Chief Justice Tun Tengku Maimun Tuan Mat, Justice Rhodzariah Bujang and Justice Nallini Pathmanathan

THE COUNCIL OF ASEAN CHIEF JUSTICES (CACJ) RETREAT 2023

19 - 20 October 2023

The Malaysian judiciary played a pivotal role in hosting the CACJ Retreat, which saw the participation of all ASEAN Chief Justices and Heads of Delegation. This landmark retreat, agreed upon in the previous year and scheduled to take place once every decade, served as a unique platform for fostering strategic planning and fostering unrestricted dialogue among leaders of the judiciary. The retreat provided an invaluable opportunity for the top judicial officials in the ASEAN judiciaries to engage in comprehensive discussions, exchange views, and chart a strategic agenda aimed at deepening judicial cooperation and upholding the Rule of Law within the ASEAN region. This momentous gathering not only reflected the maturation of the CACJ as a forum for judicial cooperation but also demonstrated a concerted commitment towards advancing the rule of law and enhancing judicial collaboration within ASEAN.

The CACJ Retreat began with a Commemoration Ceremony on 19 October 2023 to mark the CACJ's 10th Anniversary. This ceremony, held in the iconic Palace of Justice in Putrajaya, witnessed the launch of the Compilation of the Model Rule on Service of Civil Processes and the Model Rule on the Taking of Evidence for Foreign Proceedings in Civil or Commercial Matters. Additionally, the compilation of the Governance Framework on the Use of Artificial Intelligence in the ASEAN Judiciaries (AI Governance Framework) was also inaugurated. These pivotal instruments were the fruits of laborious work undertaken by both the CACJ Working Group on Facilitating Service of Civil Processes within ASEAN and CACJ Working Group on Case Management and Court Technology which is helmed by Malaysia. The momentous ceremony was further enhanced with the Plumeria tree planting ceremony by the Right Honourable Tun Tengku Maimun Tuan Mat, the Chief Justice of Malaysia and Chair of the CACJ, and the Honourable Sundaresh Menon, the Chief Justice of Singapore who is also one of the founding members of the CACJ. In reverence of a remarkable decade, the CACJ 10th Anniversary special commemorative stamp collection was also unveiled.

▼ The Plumeria tree planting ceremony by the Right Honourable Tun Tengku Maimun Tuan Mat, the Chief Justice of Malaysia and Chair of the CACJ, and the Honourable Sundaresh Menon, the Chief Justice of Singapore

▲ The ASEAN Chief Justices and Heads of Delegation with the Right Honourable Tun Tengku Maimun Tuan Mat, the Chief Justice of Malaysia in Palace of Justice

The second part of the CACJ Retreat took place on 20 October 2023 where the ASEAN Chief Justices congregated in a more intimate and informal setting. The second part of the Retreat presented the ASEAN Chief Justices with a valuable occasion to assess the CACJ's triumphs and tribulations in a comprehensive manner, and to ponder on how the CACJ can stay pertinent and reactive to imminent developments and tribulations. Five key areas were the centre of focus in the second part of the Retreat, namely, capacity building, the ASEAN judiciaries portal, judicial and court excellence, cooperation frameworks within ASEAN, and outreach and external relations.

The culmination of the CACJ Retreat was the Gala Dinner which was concurrently held in conjunction with the 14th ASEAN Law Association (ALA) General Assembly, ASEAN Law Conference and 44th ALA Governing Council Meeting.

▲ ASEAN Chief Justices holding the special commemorative stamp collection featuring iconic apex courthouses of each ASEAN member state, curated by the Malaysian judiciary as significant memorabilia to mark a decade of the CACJ at the 10th Anniversary Commemoration Ceremony held on October 19 2023 at Palace of Justice, Putrajaya. L-R: H.E. Nguyen Tri Tue (Standing Deputy Chief Justice of the Supreme People's Court of the Socialist Republic of Viet Nam); The Hon. Anocha Chevitsophon (President of the Supreme Court of the Kingdom of Thailand); The Hon. Sundaresh Menon (Chief Justice of the Supreme Court of Singapore); The Hon. Alexander G. Gesmundo (Chief Justice of the Philippines); The Hon. U Thar Htay (Chief Justice of the Union of Myanmar); The Right Hon. Tun Tengku Maimun Tuan Mat (Chief Justice of Malaysia and Chair of CACJ); H.E. Khoun Phasouk (Vice President of the People's Supreme Court of Lao PDR); The Hon. Prof. Dr. Muhammad Syarifuddin (Chief Justice of the Supreme Court of the Republic of Indonesia); H.E. Justice You Ottara (Vice-President of the Supreme Court of the Kingdom of Cambodia); and The Hon. Dato Seri Paduka Steven Chong Wan Oon (Chief Justice of Brunei Darussalam)

CACJ RETREAT 2023

19-20 October 2023

Chief Justices and Heads of Delegation in Attendance

(a) The Right Honourable Tun Tengku Maimun Tuan Mat
Chief Justice of Malaysia and Chair of CACJ

(b) The Honourable Dato Seri Paduka Steven Chong Wan Oon
Chief Justice of the Supreme Court of Brunei Darussalam

(c) H.E. You Ottara
Vice-President of the Supreme Court of the Kingdom of Cambodia

(d) The Honourable Prof. Dr. Muhammad Syarifuddin, SH. MH
Chief Justice of the Supreme Court of the Republic of Indonesia

(e) H.E. Khoun Phasouk
Vice President of the People's Supreme Court of Lao PDR

(f) The Honourable U Thar Htay
Chief Justice of the Supreme Court of the Union of Myanmar

(g) The Honourable Alexander G. Gesmundo
Chief Justice of the Supreme Court of the Republic of the Philippines

(h) The Honourable Sundaresh Menon
Chief Justice of the Supreme Court of Singapore

(i) The Honourable Anocha Chevitsophon
President of the Supreme Court of the Kingdom of Thailand

(j) H.E. Nguyen Tri Tue
Standing Deputy Chief Justice of the Supreme People's Court of the Socialist Republic of Viet Nam

▲ Chief Justices of ASEAN Member States at the CACJ Retreat on October 20 2023 held at Shangri-La Kuala Lumpur, Malaysia.
L-R: H.E. Nguyen Tri Tue (Standing Deputy Chief Justice of the Supreme People's Court of the Socialist Republic of Viet Nam); H.E. Khoun Phasouk (Vice President of the People's Supreme Court of Lao PDR); The Hon. Dato Seri Paduka Steven Chong Wan Oon (Chief Justice of the Supreme Court of Brunei Darussalam); The Hon. Alexander G. Gesmundo (Chief Justice of the Philippines); The Hon. Sundaresh Menon (Chief Justice of the Supreme Court of Singapore); The Right Hon.Tun Tengku Maimun Tuan Mat (Chief Justice of Malaysia and Chair of CACJ); The Hon. Anocha Chevitsophon (President of the Supreme Court of the Kingdom of Thailand); The Hon. Prof. Dr. Muhammad Syarifuddin (Chief Justice of the Supreme Court of the Republic of Indonesia); H.E. Justice You Ottara (Vice-President of the Supreme Court of the Kingdom of Cambodia); and The Hon. U Thar Htay (Chief Justice of the Supreme Court of the Union of Myanmar)

▲ The ASEAN Chief Justices and Heads of Delegation, the Right Honourable Chief Justice of Malaysia with the Honourable Prime Minister of Malaysia YAB Dato' Seri Anwar Ibrahim during the Opening Ceremony

14th ASEAN LAW ASSOCIATION (ALA) GENERAL ASSEMBLY, 2nd ASEAN LAW CONFERENCE AND 44th ALA GOVERNING COUNCIL MEETING, 18th ALA GOLF TOURNAMENT AND THE ALA MOOT COMPETITION (ASEAN MOOT 2023)

18 - 21 October 2023

The 14th ALA General Assembly, hosted by ALA Malaysia, was held on 18 to 21 October 2023. The event also included the 44th ALA Governing Council Meeting, the 2nd ASEAN Law Conference, the 18th ALA Golf Tournament, and the inaugural ASEAN Law Association Moot Competition ("ASEAN Moot 2023").

ALA, established in 1979, is a non-governmental organisation aimed at fostering regional cooperation within the legal fraternity of ASEAN – bringing together representatives from Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam. These events serve as a key platform for judges, Bar organisations, legal scholar and similar institutions within the ASEAN to collaborate on advancing legal standards and principles within the region.

The ALA events commenced on the 17 October 2023 with the highly anticipated 18th ALA Golf Tournament 2023 held at scenic Tropicana Golf and Country Resort. The tournament attracted 133 golf enthusiasts from across the ASEAN member states, including representatives from Indonesia, the Philippines, Singapore, and Malaysia. The standout golfer Mr. Nandang Sunandar Tarmudin, from Indonesia, was crowned the ALA Championship Golf Tournament Gross Winner and the Indonesian team clinched the prestigious Tun Dzaiddin Trophy.

The following day, 18 October 2023, the delegates were welcomed at a Reception held at the Shangri-La Kuala Lumpur hosted by YB Dato' Sri Azalina Othman Said, the Minister in the Prime Minister's Department (Law and Institutional Reform).

The Opening Ceremony of the 14th ALA General Assembly on 19 October 2023 at the Shangri-La Kuala Lumpur commenced with welcoming speeches from the President of ALA Malaysia, the Right Honourable the Chief Justice Tun Tengku Maimun Tuan Mat and the ALA President, the Honourable Chief Justice Sundaresh Menon, Chief Justice of Singapore. The event was graced by the Prime Minister of Malaysia YAB Dato' Seri Anwar Ibrahim who delivered the Keynote Address. In his speech, Prime Minister praised ALA's pivotal role in intertwining the principles of justice with the rule of law while highlighting the importance of unity in resolving common issues amidst the diversity of legal system within the ASEAN region.

The General Assembly continued with reports and updates from each Chairs and Heads of Delegation of the ALA National Committees, further strengthening regional legal cooperation and setting the tone for future developments.

▲ The Right Honourable Chief Justice of Malaysia Tun Tengku Maimun Tuan Mat with the Honourable Prime Minister of Malaysia Dato' Seri Anwar Ibrahim

▲ The ASEAN Moot 2023 Finals

The 2nd ASEAN Law Conference, held from October 19 – 20 October 2023 gathered legal minds from diverse ASEAN jurisdiction under the theme "ASEAN Tapestry – Our Pride". The conference featured five illuminating sessions that pivoted on the theme, namely; Our Women and Children - From Nominalism to Significance, Our Marginalised Heritage - The ASEAN Solution, Our ASEAN Sentinels, Our Environment - UN's Code Red for Humanities and last but not least, Artificial Intelligence - We Innovate and Survive.

In tandem with these intellectual discussions, the ALA Accompanying Person's Programme offered an opportunity to explore the scenic and culturally rich landmarks of Kuala Lumpur and Putrajaya.

The inaugural ASEAN Moot 2023 held at the Asian International Arbitration Centre ("AIAC") featured seven teams from across ASEAN competing through five preliminary rounds, two semi-final rounds. Singapore emerged victorious as the champions, while Malaysia secured the runner-up position. The Best Memorial award was also claimed by the Singapore's team, and Ms Abby Si Xinyi from Malaysia was named the Best Mooter. This event showcased the region's promising legal talent and emphasized the importance of moot competition in nurturing future legal professionals.

The 44th ALA Governing Council Meeting initiated the concluding day with the approval of the minutes of the 43rd ALA Governing Council Meeting, reports of the ALA Secretary General, ALA Standing Committees, ASEAN Law Institute, ALA Foundation, ALA Golf Chapter and updates on ALA Concept Notes. The Right Honourable the Chief Justice of Malaysia was elected as the President of ALA and Ms. Bharti Seth assumed the role of Secretary General of ALA. This milestone underscored Malaysia's growing leadership within the ASEAN legal community.

The culmination of the 14th ASEAN Law Association (ALA) General Assembly, 2nd ASEAN Law Conference, and 44th ALA Governing Council Meeting was the prestigious Gala Dinner. This event was held concurrently with the Council of ASEAN Chief Justices (CACJ) Retreat 2023 bringing together prominent legal figures from across the ASEAN region. The Gala Dinner served as a fitting conclusion to the series of high-profile events, celebrating the achievements and unity of the ASEAN legal fraternity.

▲ The Right Honourable Chief Justice of Malaysia with the winners of the ASEAN Moot 2023

Batik *Terap* or Stamped Batik by Nysakapas

Chapter 8

SPECIAL FEATURES

THE RIGHT HONOURABLE TUN DATO' SRI AHMAD FAIRUZ DATO' SHEIKH ABDUL HALIM

By Adlin Abdul Majid J

A cornerstone of any strong democracy is a righteous and independent judiciary. And while it is imperative that the judiciary must remain self-reliant, the onus to safeguard judicial independence does not rest in the hands of its members alone. The engines of the Federal Constitution and its constituent machinery must share this weighty responsibility, and it is only with their unwavering commitment that the judiciary can effectively discharge its duties as the last bastion of defence for democracy.

The late 1990s to early 2000s marked a low point for judicial independence, a period which was also notable for the dominance of the executive, not just over the other organs of state but also over the day-to-day lives of ordinary Malaysians.

It was at this nadir that Tun Dato' Sri Ahmad Fairuz Dato' Sheikh Abdul Halim, the fourth Chief Justice of Malaysia, assumed the helm of the Malaysian judiciary. Tun Ahmad Fairuz was appointed as Chief Justice on 16 March 2003, and remained as the head of the Malaysian judiciary for more than four years, until his retirement on 30 October 2007.

Tun Ahmad Fairuz was born on 1 November 1941 in Alor Setar, Kedah. He was a student of the elite Malay College Kuala Kangsar, a testament to his excellent academic credentials. He then obtained a degree in Law from the National University of Singapore, graduating in 1966. Immediately after graduation, he joined the Judicial and Legal Service, serving briefly at the Kuala Lumpur High Court, and then as a Magistrate in Penang in 1967.

Tun Ahmad Fairuz's career in public service spanned an impressive 40 years, until his retirement in 2007. During his career in the Judicial and Legal Service, he served in various capacities, including as a Senior Assistant Registrar at the Kuala Lumpur High Court, a Sessions Court Judge at Johor Bahru, an Assistant Parliamentary Draftsman and a Senior Federal Counsel at the Ministry of Defence.

It is also notable that while Tun Ahmad Fairuz was in the Judicial and Legal Service, he successfully secured a Masters' Degree in International and Comparative Law at the University of Brussels, Belgium, in 1980.

On 1 December 1988, Tun Ahmad Fairuz was appointed as a judicial commissioner, serving at the Kuala Lumpur High Court. He was transferred to the Kuala Terengganu High Court soon thereafter and was elevated as a High Court Judge on 1 August 1990, while still serving in Kuala Terengganu. Tun Ahmad Fairuz remained in Kuala Terengganu for a further three years, before moving to the Ipoh High Court. He then went full circle, returning to the Kuala Lumpur High Court, where his judicial journey had begun.

On 1 December 1995, five years after his confirmation as a High Court Judge, Tun Ahmad Fairuz was elevated to the Court of Appeal. This was followed by his elevation to the Federal Court on 1 September 2000. Prior to his appointment as Chief Justice on 16 March 2003, Tun Ahmad Fairuz was appointed as the Chief Judge of Malaya on 1 September 2001 and the President of the Court of Appeal on 1 December 2002.

One of the main focus areas during Tun Ahmad Fairuz's time as Chief Justice was to clear the backlog of outstanding cases, and improve the disposal rates of cases. This was done through structural enhancements, for example by introducing specialised appeals panels hearing criminal, civil and commercial cases, and also through the improvements in the physical infrastructure of the courts. Tun Ahmad Fairuz oversaw the development and construction of the Kuala Lumpur Courts Complex, the largest courts complex in Malaysia, and the second largest in Asia. Construction of the complex began in March 2004 and was completed in three years, in April 2007.

It is reported that under Tun Ahmad Fairuz's leadership, pending cases, both civil and criminal – in the Magistrates' Court, the Sessions Court and the High Court – were reduced from over 25,000 as at 1 December 2003 to just 2,795 as at 1 July 2005.

In one of his earliest speeches as Chief Justice, delivered on 28 April 2003 on the occasion of the appointment of judicial commissioners to the judiciary, Tun Ahmad Fairuz highlighted paragraph 2 of the United Nations' Basic Principles on the Independence of Judiciary, which provides that:

"The judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason."

He advised judicial commissioners to act in line with this principle, and observed that:

> *"... kebebasan kehakiman bukan terletak atas keputusan yang memihak si miskin dalam kesnya dengan si kaya; kebebasan kehakiman bukan terletak atas keputusan yang mengecundangkan kerajaan dalam kesnya dengan rakyat individu atau korporat. Kemenangan si miskin atau kekalahan kerajaan tidak boleh dan tidak wajar menampilkan Yang Arif atau mana-mana hakim sebagai wira atau jaguh kebebasan kehakiman. Pematuhan dan pelaksanaan antara lainnya, perenggan 2 Prinsip-Prinsip Asas Pertubuhan Bangsa-Bangsa Bersatu itulah yang memartabatkan Yang Arif ke takhta kebebasan kehakiman."*

A poignant reminder, and perhaps a harbinger for the future, given the events that unfolded towards the end of Tun Ahmad Fairuz's tenure as Chief Justice. These events led to the establishment of the Royal Commission of Inquiry into the VK Lingam Videoclip, which in turn prompted a reform of the judiciary. Ultimately, history will be the final arbiter of whether a more virtuous and independent judiciary has emerged from this lowest point, and whether those in positions of power within the machinery of the Federal Constitution will continue to discharge their responsibilities in the true interest of justice and judicial independence.

Tun Ahmad Fairuz retired on 31 October 2007. He is married to Toh Puan Sri Mazni Mohamed Noor, and they are blessed with two children.

▲ A court orderly during the inauguration ceremony of the Supreme Court of Kelantan in 1957

THE HISTORY OF COURT ORDERLY ATTIRE: TRADITION AND EVOLUTION

Dr. Noradura Hamzah, Syahrin Jeli Bohari and Ainul Suhaina Abdul Razak

Court orderlies, often unsung heroes in the judicial system, play a pivotal role in maintaining the smooth operation of court proceedings. They are tasked with preparing and organising all necessary materials for judges, from case records to relevant documents required on trial days. Their duties also extend to managing the judge's notebook and accompanying the judge to and from the courtroom. Additionally, they handle correspondence, both official and classified, and perform other duties as assigned from time to time.

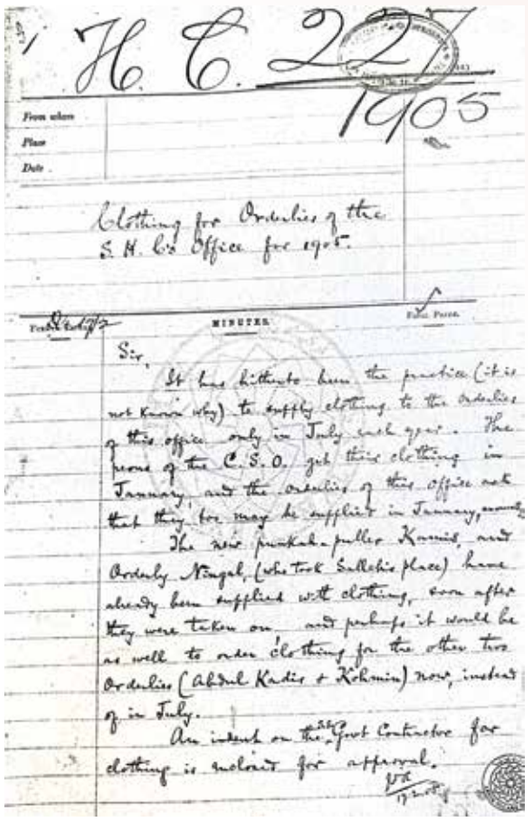
HISTORY AND DEVELOPMENT OF COURT ORDERLY UNIFORMS

The court orderly attire, which may appear merely functional to some, carries a rich history that reflects both tradition and evolution in the legal world.

EARLY BEGINNING

The tradition of court orderlies wearing distinctive uniforms dates back to the early formalisation of the court systems across the world. In Malaysia, for example, the requirement for court orderlies to wear uniforms was established as part of the early formal court system. While detailed historical documentation remains scarce, the earliest known directive dates to Circular No. 1 of 1905 dated 1 January 1905, issued by the Colonial Secretary's Office in Singapore, which mandated uniforms for government departments in the Malay States, including those for court orderlies. Although the specific details of these uniforms were not clearly outlined, this circular laid the foundation for uniformity.

Further insight into the initial uniform requirements is provided by a memorandum dated 17 February 1905, from the Secretary to the High Commissioner of the Federated Malay States. This document specified that court orderlies were to be issued "white drill suits, one hat (red and white) and one sash" or alternatively, "white drill suits and one black cap."



H. C. 227
1905

From whom
Place
Date

Clothing for Orderlies of the S. H. C's Office for 1905.

MINUTES

Sir,

It has hitherto been the practice (it is not known why) to supply clothing to the orderlies of this office only in July each year. The issue of the C.S.O. jubi this clothing in January, and the orderlies of this office not that they too may be supplied in January, more

The new punkah-puller Kamid, and Orderly Mangal (who took Sallehs place) have already been supplied with clothing, even after they were taken on, and perhaps it would be as well to issue clothing for the other two Orderlies (Abdul Kadir & Rahmin) now, instead of in July.

An indent on the Govt Contractor for clothing is enclosed for approval.

▲ A memorandum from the Secretary to the High Commissioner of the Federated Malay States dated 17 February 1905

KERAJA-AN NEGRI KEDAH.

1.1/53.

Registry Mahkamah Besar A.Star
Pada 9th Chaban, 1953.

Maalumkan kepada tuan Under Secretary Kerajaan Kedah di Alor Star.

Adapun maka saya di perentah oleh yang berhormat tuan Hakim Mahkamah Besar Bahagian I. dan tuan tuan Hakim Mahkamah Besar Bahagian II. supaya mendalu maalumkan kepada Kerja-an adalah pada pendapatan yang berhormat tuan-tuan Hakim itu akan 4 orang orderly Mahkamah Besar Alor Star ini patut lah Kerajaan benar di beri kepada merika itu pakai-an puteh (White Drill Suits) seperti ka-ada-an pakai-an orderly2 didalam Mahkamah Besar di Colony dan Negri-negri Malayu yang bersekutu kerana pakai-an puteh itu tampak lebeh elok dan bersih . Maka jika tiada ketegahan deripada Kerajaan di chadang mahu di beri setahon 2 pasang pakai-an puteh kepada sa-orang orderly dengan satu kopiah Malayu yang mahu di perbuat dengan kain puteh semachan dengan kain pakai-an itu juga dengan di bubok pita kain merah keliling kopiah itu, dan selindang kain merah dengan badge seperti yang di pakai sekarang ini.

Maka tentang perbelanja-an di dapati harga pakai-an puteh itu pon tiada berapa banyak lebeh deripada harga pakai-an kain kuning (Khaki). Hal inilah di maalomkan pehon mendengar hukom adanya tamat.

Registrar,
Mahkamah Besar Alor Star.

◀ A copy of the letter from the Registrar of the Supreme Court of Alor Star

EVOLUTION OF UNIFORMS

The evolution of court orderly uniforms in Malaysia reflects a broader trend of adapting traditional attire to meet contemporary needs. The uniform of the Court Orderlies in Malaysia has evolved in accordance with administrative directives and regional practices. In 1953, a significant change occurred when the Registrar of the Supreme Court of Alor Star announced the replacement of khaki uniforms with "White Drill Suits". This change was aimed to conform court orderly attire in Kedah with those in the courts of the former Federated Malay States.

The uniforms continued to evolve over the decades. By 1995, court orderlies were seen wearing white uniforms with black trousers and no sash. However, starting from 1996, the uniforms reverted to the traditional white attire with red sashes and songkoks, which remain in use to this day. This continuity highlights the judiciary's commitment to tradition while maintaining professional standards.

The white uniform symbolises professionalism and integrity, while the songkok and sashes represents the importance that tradition plays in the culture of the legal and judicial profession. These indicia of local culture also reflect the fact that, while the court system traces its genesis to the legal system of the Commonwealth, it has been adapted to suit the circumstances of Malaysian society.

◀ The Court Orderlies during the procession to the Special Hearing of the Federal Court in 1963

INTERNATIONAL PERSPECTIVE

Court orderlies in jurisdictions around the world have their own version of court attire.

United Kingdom: In the UK, the court orderly is known as a "macer" or "court usher." The uniform of macers has undergone significant changes, evolving from traditional attire to more ceremonial outfits that vary depending on the type of court proceedings. Historical photographs reveal a range of styles, from simpler attire to elaborate ceremonial dress. Today's uniforms reflect a blend of tradition and formality suited to different judicial ceremonies.

Australia: Court orderlies in Australian courts are part of the court staff and are assigned tasks similar to those of court orderlies in Malaysia and macers or court ushers in the United Kingdom. Court orderlies in Australia wear uniforms that include a white shirt and black trousers, aligning closely with modern standards while maintaining a professional appearance. This attire reflects a balance between tradition and practicality, suitable for the varied responsibilities of court orderlies.

India: In India, court orderlies are known as "mace bearers" and are responsible for escorting judges to the courtroom. Mace bearers wear a uniform that includes a white shirt and trousers, a red belt with yellow stripes, and a hat. This attire is designed to reflect the ceremonial role of mace bearers in escorting judges and maintaining decorum.

▼ The Court Orderly, dressed in full *Baju Melayu*, greeted the Chief Justice

▲ The fully dressed Court Orderly in *Baju Melayu* (far left) pictured together with the secretary (middle) and the judge's driver (far right) around the year 1993

▼ A Court Orderly in uniform pictured at the procession at the Opening Ceremony of the Legal Year in Sabah and Sarawak 2001 at Sandakan High Court

▼ A group of court orderlies in uniform pictured before the procession at the Opening Ceremony of the Legal Year 2009

▲ The court orderlies of the Court of Appeal photographed together with the judges of the Court of Appeal in 2010 (from left Justice Zainun Ali, Justice Zaleha Zahari, and Justice Zaharah Ibrahim)

CONCLUSIONS

The history of court orderly attire illustrates a fascinating journey from early formalisation to contemporary practice. These uniforms not only serve a practical purpose but also carry significant historical and cultural value. As courts around the world continue to evolve, the traditional elements of court orderly attire persist, symbolising the judiciary's ongoing dedication to maintaining dignity and respect in the pursuit of justice.

▲ A Court Orderly at the appointment of judicial commissioners on 3 May 2019

THREADS OF TRADITION: EXPLORING THE CRAFT AND LEGACY OF MALAYSIA'S JUDICIAL ROBES WITH VINCENT LEE

Dr Noradura Hamzah, Syahrin Jeli Bohari and Learani Augustine

▲ Vincent sharing some of his happiest memories serving members of the judiciary

INTRODUCTION

The tradition of judges wearing robes is a time-honoured practice deeply embedded in the legal systems of many nations, serving as a powerful symbol of judicial authority, impartiality, and dignity. This custom has persisted through centuries, evolving alongside legal frameworks to mirror cultural and historical changes while preserving its symbolic essence.

Historically, robes have been a mark of judicial neutrality and solemnity, a tradition that dates back to medieval Europe. During this period, judges adopted formal attire to distinguish themselves from the public and to underscore the gravity and impartiality of their role. In common law jurisdictions, these robes serve to indicate that judges act not as individuals but as representatives of the law, embodying the authority granted by the state.

In Malaysia, the tradition of judicial robes was introduced during the British colonial era. The British legal system, with its rich traditions, included specific judicial attire, which was adopted by Malaysian courts. Despite Malaysia's independence, this practice has remained entrenched in the judicial culture, with Malaysian judges donning robes similar to those of their British counterparts. Over time, while the basic design of these robes has stayed true to British traditions, they have also evolved to reflect Malaysia's unique legal and cultural identity.

The significance of judges' robes extends to public perception, enhancing the formality and gravitas of court proceedings. This attire reinforces the notion that judges operate within a framework of law and principle, free from personal bias.

▲ Vincent explaining the different materials used to craft judicial robes

Thus, the craftsmanship of judges' robes is a specialized art that blends tradition with precision. These garments are meticulously designed to embody the dignity and authority of the judiciary. In Malaysia, the tailoring of these robes is a highly specialized profession, with skilled artisans like Vincent Lee of Vincee's Tailor in Kuala Lumpur playing a crucial role. Vincent is one of the only few experts entrusted with tailoring judicial robes, a testament to his exceptional skill and dedication to preserving this important tradition.

THE ARTISTRY BEHIND JUDICIAL ROBES

Meeting Vincent Lee is an experience that leaves a lasting impression. At 58, his infectious positivity and warm demeanour shine brightly, revealing a man who is deeply passionate about his craft. Vincent's journey into the world of tailoring is one marked by both practicality and an unconventional choice. Originally hailing from Labu, Seremban, Vincent didn't follow the traditional academic route after completing his secondary education at SMK Dato' Mohd Said in Nilai. Instead, he decided to pursue a career in tailoring, driven by both his aversion to academic studies and the financial practicality of learning a trade.

Vincent's journey into tailoring began in 1992 with a two-year apprenticeship at House of Lords in Pusat Bandar Damansara, a well-known tailoring establishment at the time. This apprenticeship honed his skills and provided him with the technical foundation he needed to embark on a successful career in the industry. After completing his apprenticeship, Vincent partnered with a friend to open their own House of Lords shop near Dataran Merdeka, a significant location in Kuala Lumpur known for its historical and legal importance.

After about five years of co-managing the business, Vincent felt the urge to venture out on his own. This led him to establish Vincee's Tailor, a solo endeavour located in the Straits Trading building, adjacent to Bangunan Sultan Abdul Samad, which then housed the Supreme Court. The shop's name, is a blend of his first and last names. Vincee's Tailor started as a boutique that primarily served judges and lawyers, a niche market that required the highest level of precision and professionalism in tailoring.

Over the years, Vincent's reputation for excellence grew. Despite his growing success, Vincent has remained grounded, continuing to approach his craft with the same level of dedication and care that he did when he first began his career. His journey from a young apprentice to the go-to tailor for Malaysia's legal and judicial elite is a testament to his skill, perseverance, and passion for the craft.

Through his work, Vincent Lee has become an essential figure in preserving the tradition of judicial attire in Malaysia. His dedication to his clients and his commitment to maintaining the highest standards of craftsmanship have made him a trusted name in the world of legal tailoring, ensuring that judges and lawyers are not only properly attired but that they wear robes that reflect the solemnity and authority of their roles.

OUTFITTING THE SUPERIOR COURT JUDGES

When Vincent Lee first embarked on his tailoring business, his expertise was primarily focused on crafting suits and robes for lawyers. However, his journey into the specialized realm of tailoring robes for Superior Court judges was a fortuitous twist, facilitated by the judges themselves. With his shop located near the Supreme Court in Kuala Lumpur, Vincent often encountered judges who would ask whether he was capable of crafting their particular robes. At the time, Vincent would politely admit that while he had mastered the art of lawyers' robes, he was unfamiliar with the intricacies of judges' attire.

This changed thanks to an act of generosity and mentorship. One day, Tan Sri Dato' Sri Hj. Lamin Hj. Mohd. Yunus, a well-respected judge, approached Vincent with an offer that would change the course of his career. Recognising Vincent's potential and dedication, Tan Sri Lamin generously provided Vincent with one of his own robes to use as a reference. This act of mentorship opened the door for Vincent to study the design, structure, and details of judicial robes up close, allowing him to better understand the craftsmanship involved in their creation.

▲ Vincent explaining the differences between the various types of judicial attire he tailors

Vincent's immersion into this specialised area of tailoring was not one of trial and error alone. Eager to further refine his skills and ensure the highest quality of craftsmanship, he sought out a mentor to guide him through the nuances of creating judges' robes. He found Master See, an experienced tailor who graciously agreed to teach him the finer details of crafting these garments, as well as the accompanying accessories, such as jabots—the decorative lace collars that are traditionally worn with the robes. Under Master See's tutelage, Vincent honed his craft, learning not only the technical aspects of robe-making but also the historical and symbolic significance behind each element of the attire.

EARLY CLIENTELE AND MILESTONES

With his newfound knowledge and skills, Vincent began tailoring for members of the Malaysian judiciary. His earliest clients included Tan Sri Lamin himself, as well as Tan Sri Dato' Sri Wan Adnan Wan Ismail and Dato' Haji Abu Mansor Ali. These early clients were instrumental in helping Vincent build his reputation as a trusted tailor for judicial robes, a niche market that requires impeccable attention to detail and adherence to tradition.

Vincent fondly recalls the warmth and support he received from these early clients. Their confidence in his abilities allowed him to flourish in a highly specialized area of tailoring. One of the milestones in his career was when he tailored a robe for Dato' Umi Kalthum Abdul Majid, the first female judge he had the privilege of outfitting. This experience, in particular, holds a special place in Vincent's heart, as it symbolized the diversity and progress within the judiciary and his role in outfitting a new generation of judges.

THE ATTIRE, THE MATERIALS, THE CRAFT

Courtroom robes, which are worn by judges during regular court sessions, follow a standardized design across the board for all judges. These daily robes are designed with simplicity and formality in mind. However, the ceremonial robes worn by Superior Court judges are far more intricate, marked by unique adornments that signify their rank within the judiciary.

One of the key distinguishing features of ceremonial robes is the Queen's Lace trim, a decorative element that varies in width depending on the judge's rank. Traditionally, the lace came in varying thicknesses: one inch for High Court judges, two inches for Court of Appeal judges, and three inches for Federal Court judges. Recently, however, there has been a shift in this practice. Court of Appeal judges' robes have been updated to include the three-inch lace, aligning them with Federal Court judges. This change was introduced to reduce costs and create a more versatile ceremonial robe that judges can retain and use throughout their career, regardless of promotions to higher ranks. This decision highlights the judiciary's practicality while maintaining the ceremonial gravitas of the robes.

In addition to the Queen's Lace, ceremonial robes are further distinguished by Gold Rosettes, which indicate a judge's rank based on the number displayed. Vincent's expertise extends to the meticulous incorporation of these rosettes, ensuring that each robe accurately reflects the wearer's rank and status within the judiciary.

The materials Vincent uses in crafting these garments are sourced from around the world, chosen for their quality and historical significance. The core fabric for the robes is Worsted Wool, imported from Italy, known for its durability, elegance, and comfort. The

▲ Vincent highlighting the intricate details of a judge's ceremonial robes

Epaulettes for mess kits are embroidered in Pakistan, while the Gold Rosettes and Queen's Lace, essential for ceremonial robes, are imported from England. Vincent suspects that these intricate laces contain actual gold, reflecting their exceptional quality and cost.

Given the high price and long lead times required for these materials, Vincent and his team manage each element with the utmost precision. The weight and texture of the accessories, especially the Gold Rosettes and lace, demand careful handling. In fact, the hand-sewing process for these heavy accessories is so delicate that Vincent's seamstresses have occasionally injured themselves while working with the thick needles required to attach them.

Vincent emphasized that Vincee's Tailor does not offer off-the-rack options. Every garment is crafted to the specific measurements and preferences of the client, ensuring a perfect fit and bespoke finish. To accommodate judges who may need courtroom robes while theirs are being tailored, Vincent maintains a reserve collection of temporary robes, ensuring that no judge is left without the proper attire during the tailoring process.

The custom tailoring process at Vincee's typically takes around two weeks for a complete set of robes. Vincent personally handles the measuring, pattern drawing, and cutting of the garments, with assistance from one other team member. The actual sewing is done by the remaining five members of his team. Every garment undergoes a meticulous quality control process before being delivered to the client.

Once delivered, if any alterations or updates are needed, Vincent's team is capable of making these changes within two to three days, provided they have the necessary materials on hand. This efficiency is particularly important for the judiciary, where timelines are often tight, and judges rely on having their attire ready for important ceremonies or court sessions.

VINCENT'S JOURNEY AND NAVIGATING CHALLENGES AND UNEXPECTED HURDLES

While Vincent has experienced many heart-warming moments, his work is not without its challenges. One of the more significant hurdles he faces is when judges are unable to attend fittings in person. In such cases, he has to rely on measurements alone and hope the garments will fit perfectly, which can be quite stressful given the stakes.

Vincent shared one memorable incident where he had to prepare a mess kit for a judge on short notice. The situation was complicated by the fact that the judge was on a Hajj pilgrimage and stationed in East Malaysia. With only a brief stopover at Kuala Lumpur International Airport before returning to East Malaysia, Vincent and his team had to work quickly and efficiently to prepare the kit and ensure its timely delivery. The logistical difficulties of this task underscored the pressure and urgency that sometimes accompany his tailoring work.

Another challenge Vincent discussed was the rising cost of materials. For over fifteen years, he has kept his prices stable, despite significant increases in the cost of fabric and accessories. He often absorbs these financial losses himself, prioritizing his clients' satisfaction over profit. One striking example involved a sudden change in the thickness of Queen's Lace for Court of Appeal judges' robes, which rendered his existing stock unusable. This unanticipated change resulted in a financial loss of around RM50,000.

CONCLUSION

Vincee's Tailor has established itself as a vital institution for the Malaysian judiciary, offering an extensive range of bespoke garments including courtroom robes, ceremonial robes, mess kits, and their accompanying accessories such as jabots and lace cuffs. Vincent's work in crafting judges' robes goes far beyond tailoring fabric. Through his mastery, Vincent continues a centuries-old tradition of providing garments for those involved in court proceedings.

In a world where many traditional crafts are fading, Vincent's work stands as a testament to the importance of maintaining cultural and historical continuity through craftsmanship. His robes are not just garments—they are symbols of justice, crafted with care, expertise, and a deep understanding of the traditions they represent.

➤ L-R: Shazali Dato' Hidayat Shariff, Dr. Noradura Hamzah, Syahrin Jeli Bohari and Learani Augustine with Mr Vincent Lee

Batik *Terap* or Stamped Batik by Nysakapas

Chapter 9

CASES OF INTEREST

CASES OF INTEREST:

CIVIL (FEDERAL COURT)

1. **TAN KAH FATT v. TAN YING [2023] 2 CLJ 169, [2023] 2 MLJ 583, [2023] 1 AMR 829**

This case emphasised the preference of the purposive rule over the literal rule of construction when interpreting statutes, and the need to favour a construction that promotes the purpose, object, or intent of the legislation.

The case at hand revolved around the inheritance rights of an illegitimate child under Malaysian intestacy laws, notably the Distribution Act 1958 and the Law Reform (Marriage and Divorce) Act 1976. It underscored the delicate balance between safeguarding legitimate heirs and acknowledging the rights of illegitimate children. The court also addressed ancillary issues such as the recognition of polygamous unions and the interpretation of the term "child" in inheritance laws.

The Federal court definitively ruled that the illegitimate child, being a natural offspring of the deceased father, is entitled to inherit under the Distribution Act 1958. Furthermore, it emphasised the significance of adhering to statutory interpretation principles, particularly highlighting the purposive approach outlined in section 17A of the Interpretation Acts 1948 and 1967. This approach prioritised discerning the legislative purpose, object, or intent over a strict literal interpretation, a principle deemed applicable not only in cases of ambiguity but also in clarifying the meaning of terms within legislation.

2. **SEE TEOW KOON v. KIAN JOO CAN FACTORY [2023] 5 CLJ 316, [2023] 2 AMR 757**

While the Federal Court holds the inherent power to prevent miscarriages of justice or procedural abuses, it should exercise this power cautiously. It should refrain from reviewing its own decisions based solely on their merits, as doing so would undermine the principle of finality in litigation.

This civil review case involved See Teow Koon as the applicant and Kian Joo Can Factory Berhad and Kian Joo Packaging Sdn. Bhd. as respondents. The dispute centred on the termination of the applicant's employment as an executive director and a disagreement over retirement age. The applicant sought to review the earlier decision of the Federal Court in striking out his appeal, alleging a denial of his right to appeal and a lack of a fair hearing. He argued that the absence of reasoned grounds in the decision violated principles of natural justice. However, the Federal Court unanimously rejected the review application, stressing the rare circumstances required for such a review.

The court determined that none of the applicant's grounds constituted the exceptional circumstances necessary for a review. While it acknowledged its power to prevent injustice or process abuse, the absence of full written grounds for the decision did not justify a review, especially when the applicant was aware of the reasons at the time. What was lacking were merely detailed written justifications. Thus, the review application was dismissed.

3. HARIS FATHILLAH MOHAMED IBRAHIM v. TAN SRI DATO' SRI HJ AZAM BAKI [2023] 3 CLJ 653, [2023] 2 MLJ 296, [2023] 3 AMR 109

While superior court judges in active service are not shielded from criminal inquiries or legal proceedings, and can be investigated or prosecuted without pre-emptive suspension or removal, their status as serving judges demands a higher standard in any criminal investigation. This ensures the preservation of judicial independence.

This constitutional reference pertained to the investigation of a serving judge of the Court of Appeal. The appellants sought clarity on whether bodies, such as the Malaysian Anti-Corruption Commission (MACC) had legal authority to investigate serving judges and if the Public Prosecutor may initiate proceedings against them. The judgement scrutinised Article 125 of the Federal Constitution, examining its implications for judicial independence and legal boundaries.

The apex court emphasised judicial independence and the need for investigations on serving judges to adhere to the law and be conducted in good faith. It highlighted that investigative bodies are held to a higher standard and stressed consulting with the Chief Justice before launching investigations. Overall, the case emphasized upholding judicial independence, meticulousness in investigations, and proper consultation with the Chief Justice.

4. GENISYS INTEGRATED ENGINEERS v. UEM GENISYS (IN LIQUIDATION) [2023] 5 CLJ 1, [2023] 3 MLJ 627, [2023] 5 AMR 353

This case provides valuable insights into the legal responsibilities and authority of liquidators, as well as the application of the Limitation Act concerning proof of debts. It also underscores the significance of adhering to statutory procedures and contractual terms throughout the liquidation proceedings.

This appeal examined a liquidator's duties regarding creditors' proof of debts. The first issue addressed was the applicability of the Limitation Act 1953 to accept proof of debts not formally rejected by a liquidator, with the Federal Court concluding it did not apply.

The second issue concerned whether liquidators can unilaterally impose interest without contractual agreement. The apex court ruled they are not allowed to, restricting their actions to the subcontract terms.

Ultimately, the Federal Court allowed the appeal, overturning the Court of Appeal's decision and reinstating the High Court's ruling due to the liquidators' non-compliance with statutory procedures, particularly in their imposition of interest beyond contractual terms.

5. DATUK BANDAR KUALA LUMPUR v. PERBADANAN PENGURUSAN TRELLISES [2023] 5 CLJ 167, [2023] 3 MLJ 829, [2023] 4 AMR 221

This case highlighted the importance of public participation in the town planning process as well as the town planner's duty to provide reasons for decisions, with the aim of ensuring proper urban development.

This case centred on urban planning in Kuala Lumpur, with the apex court highlighting the pivotal role of public participation in the process. Emphasising community involvement ensures that statutory development plans reflect public interests.

The case underscored the necessity of adhering strictly to development plans and regulations when granting planning permissions. This adherence would guarantee decisions that are aligned with the legal framework and which have considered socio-economic and environmental factors.

For instance, authorities like the Datuk Bandar must provide thorough explanations for any deviations from established structure plans, along with full disclosure of relevant facts and documents. Transparency and accountability uphold public trust and promote responsible urban development.

6. SARMIINA v. GERRY HO [2023] 7 CLJ 349, [2023] 4 MLJ 870, [2023] 6 AMR 237

Non-compliance with the Customs Act 1967 is fatal as it equates to depriving a person of property, which is protected under Article 13(1) of the Federal Constitution.

This appeal involved the ongoing seizure of liquor by the Royal Malaysian Customs Department at Port Klang. The appellant sought a declaration that the seizure was unlawful and claimed damages. The appeal raised questions about the interpretation of the Customs Act 1967, particularly regarding the authorities' duty to refer claims to the Magistrate Court.

The apex court critically examined the appellant's claim and the respondents' compliance with statutory requirements, highlighting the authorities' failure to refer the appellant's claim to the Magistrates' Court as mandated by the Customs Act 1967. The court found the continuous seizure of goods unlawful due to this non-compliance. Consequently, the court allowed the appellant's appeal and ordered damages to be paid.

This judgement sets a precedent emphasising the importance of adhering to legal procedures and protecting property rights in similar cases involving the seizure of goods by authorities.

7. N CHANTHIRAN NAGAPPAN v. KAO CHE JEN [2023] 7 CLJ 677, [2023] 5 MLJ 284, [2023] 6 AMR 73

Prior leave from the winding-up court is required before initiating legal proceedings against a court-appointed liquidator for transactions conducted during the liquidation process under Divisions 1 and 2 of Part IV of the Companies Act 2016.

This decision overturned the Court of Appeal's ruling, reaffirming that a liquidator, as an officer of the court, should not face legal actions without the court's permission to protect the winding-up process.

The Federal Court emphasised that the winding-up court's control over the liquidator ensures an orderly liquidation process. The court ruled that "subject to the control of the court" in the Companies Acts 1965 and 2016 requires obtaining leave before suing a liquidator. The Companies (Winding-up) Rules 1972 also recognise the liquidator as a court officer, underscoring the need for leave.

The Federal Court reaffirmed that leave is required to sue a liquidator, protecting them from vexatious litigation and preserving the integrity of the winding-up process. The court disagreed with the Court of Appeal's literal interpretation of the Companies Act, emphasising the need to consider the broader context and purpose of the winding-up process.

8. MDSA RESOURCES v. ADRIAN SIA KOON LENG [2023] 7 CLJ 843, [2023] 5 MLJ 900

A scheme of arrangement helps financially burdened companies manage their debts, continue operations, and avoid liquidation. However, courts will not automatically sanction the scheme.

This appeal involved the rejection of a property developer's proposed scheme of arrangement under the Companies Act 2016, dismissed by the High Court and affirmed by the Court of Appeal. The scheme, aimed at addressing financial distress and avoiding liquidation, involved waiving significant debt and transferring assets to a special-purpose vehicle (SPV) for creditors. It was criticised for unfair treatment of related-party creditors, lack of disclosure, and unfairness to third-party creditors.

The High Court found the scheme prejudicial to third-party creditors, as it would eliminate almost all debts, leaving them without recourse. The court also criticised the scheme for failing to disclose material facts and for its significant uncertainties.

The Federal Court upheld the lower courts' decisions, stressing fair creditor representation, full disclosure, and the scheme's reasonableness. It ruled the appellant's scheme failed these standards and dismissed the appeal with costs.

This judgement provides a comprehensive guide on scheme of arrangement principles, covering creditor classification, related-party votes, material facts disclosure, and the fairness test.

9. THE GOVERNMENT OF MALAYSIA v. AMINAH AHMAD [2023] 8 CLJ 1, [2023] 5 MLJ 32, [2023] 6 AMR 102

Article 147 of the Federal Constitution requires that any adjustment or amendment to pension legislation must not result in a less favourable outcome for pensioners. Actual loss or damage to pensioners is not necessary for such a law to be considered contrary to Article 147.

The appeal by the Government of Malaysia and the Director General of Public Services against the decision of the Court of Appeal, centred on amendments to the Pensions Adjustment Act 1980 in 2013, which changed pension calculations from a variable rate based on salary scale revisions to a fixed 2% increment annually, affecting retirees' pensions from January 1, 2013.

In finding that the amendments were disadvantageous to pensioners and contradicted established principles of pension entitlements, the Court of Appeal overruled the High Court, and declared the amendments null and void.

In examining whether the amendments violated Article 147 of the Federal Constitution and the pension scheme framework, the Federal Court agreed with the Court of Appeal, and recognised the potential harm as a result of the amendment, without requiring concrete evidence of actual loss.

10. MOHD NAJIB HJ ABD RAZAK v. GOVERNMENT OF MALAYSIA [2023] 10 CLJ 329, [2023] 6 MLJ 483, [2023] 7 AMR 865

Section 106(3) of the Income Tax Act 1967 is constitutional. A summary judgement obtained under this section does not constitute a final resolution of the taxpayer's rights. The taxpayer retains the right to appeal to the Special Commissioners of Income Tax and subsequently to the court on points of law.

In this appeal by Dato' Seri Mohd Najib Haji Abd Razak and Mohd Nazifuddin Mohd Najib, the main issue concerned the constitutionality of section 106(3) of the Income Tax Act 1967. The appellants argued that this section usurped judicial power and contravened the Federal Constitution by restricting the courts from considering certain defences available to taxpayers challenging a summary claim by the Inland Revenue.

The Federal Court carefully reviewed the constitutional principles under Articles 4(1) and 121 of the Federal Constitution. It upheld the decisions of the High Court and Court of Appeal, affirming that sections 103 and 106 of the Income Tax Act serve enforcement purposes and do not suspend judicial power. Judicial authority remains with the courts, and deferral of taxpayer disputes aims to ensure timely payment. The apex court highlighted that review and appeal processes prevent the provisions from creating an uncontested tax burden.

11. FIMBANK PLC v. PEMILIK DAN/ATAU PENCARTER DEMIS KAPAL ATAU VESEL "NIKA" KINI DIKENALI SEBAGAI "BAO LAI" [2023] 10 CLJ 165, [2023] MLJU 2286, [2023] 8 AMR 117

Although a plain reading of O 6 r 7(2) of the Rules of Court 2012 suggests a limit of five renewals for a writ, the intention behind O 6 r 7(2) of the Rules is not to defeat the appellant's statutory right of action *in rem*.

This case addressed the interpretation and application of Order 6 rule 7(2) of the Rules of Court 2012, in particular the number of times an admiralty writ *in rem* may be renewed.

The court emphasised that although the rule is aimed at preventing abuse by plaintiffs who fail to take serious steps to serve the writ, the cap on renewals is inapplicable when it is impossible for a plaintiff to effect personal service of an admiralty writ *in rem*. The judgement highlighted the court's discretion in allowing the renewal of the writ in the interests of justice, and addressed the practical difficulties faced by plaintiffs in effecting the service of a writ *in rem*. The court ultimately concluded that the rule does not place an absolute cap on the number of times the admiralty writ *in rem* may be renewed.

Additionally, the court addressed Fimbank's request for anonymisation of certain information in the judgement and ultimately denied the request as there were no compelling circumstances to grant the orders sought by Fimbank.

12. WIRAMUDA (M) v. KETUA PENGARAH HASIL DALAM NEGERI [2023] 8 CLJ 21, [2023] 4 MLJ 753, [2023] 5 AMR 967

Section 4C of the Income Tax Act 1967 is unconstitutional because it undermines Article 13 of the Federal Constitution. It taxes compensation received by landowners for compulsory land acquisition, thereby reducing the compensation and violating the guarantee of adequate compensation under Article 13.

The Federal Court addressed the constitutionality of section 4C of the Income Tax Act 1967, which taxed compensation for lands compulsorily acquired by the government. The court found section 4C unconstitutional, as it violated Article 13(2) of the Federal Constitution (which guarantees adequate compensation for such acquisitions).

Wiramuda (M) Sdn Bhd's lands were acquired by the State Government of Selangor for the SUKE Highway. After receiving compensation, the Director General of Inland Revenue informed them it was taxable under

sections 4C and 24(1)(aa) of the Income Tax Act. Wiramuda challenged this, arguing it infringed on their constitutional right to adequate compensation.

The High Court and the Court of Appeal upheld the tax provisions as valid. However, the Federal Court allowed the appeal, ruling that section 4C was flawed because it treated compensation as profit, reducing the compensation to the landowner, thus violating the constitutional guarantee.

13. FIVE STAR HERITAGE v. PEGUAM NEGARA MALAYSIA [2024] 2 CLJ 167, [2024] 1 AMR 129

The failure to comply with the mandatory requirements in section 9 of the Government Proceedings Act 1956 was fatal and would render any action or suit instituted unsustainable.

This case concerned the interpretation of the Attorney General's consent under section 9 (*Public, religious, social or charitable trusts*) of the Government Proceedings Act 1956, particularly in the context of various legal proceedings related to the division and development of a trust land. This land was originally established in 1845 for the Burmese and Siamese communities in Penang.

In 1845, a trust was established by the East India Company on behalf of Queen Victoria, creating a Burmese-Siamese Trust over Lot 104 in Georgetown, Penang. The trust land was intended for the management of a temple serving these communities. The terms of the trust explicitly prohibited the alienation of the land.

Despite such prohibition, the trustees partitioned the land into Lots 2102 and 2103 in 1994, with the temple remaining on the Siamese trustees' land. In 2002, funds collected from the temple were divided, effectively creating two separate trusts.

The Burmese trustees then executed a new trust deed in 2006, which allowed for joint venture agreements for development.

In 2006, the Burmese trustees entered into a joint-venture agreement for the commercial development of Lot 2103, which was subsequently subdivided into Lots 10029 and 10030.

Legal challenges arose when Nai Ninn Sararaksh and Ho Choon Teik filed a suit in 2014, arguing that the joint-venture agreement and the subdivision of the land were unlawful without the Attorney General's consent.

The Federal Court found that the consent given by the Attorney General was invalid as it was granted after the commencement of the suit. The Court emphasised that the consent must be obtained before the commencement of any suit as per section 9 of the Government Proceedings Act and that the consent of the Attorney General cannot be given retrospectively.

This judgement underscored the importance of compliance with the Government Proceedings Act and the role of the Attorney General in safeguarding public, religious, social, or charitable trusts from abuse. This aims to ensure that legal proceedings do not proceed without proper consent to prevent unnecessary waste of trust funds.

CASES OF INTEREST:

CIVIL (COURT OF APPEAL)

1. LOW EAN NEE v. SNE MARKETING [2023] 8 AMR 801

A company director has the absolute right to inspect a company's records and that this right must be exercised for the benefit of the company, irrespective of allegations of ulterior motives or lack of involvement in the company's day-to-day management.

This was an appeal to the Court of Appeal against the refusal of the High Court to grant a company director the right to inspect its records, on the basis that the director had ulterior motives.

On appeal, the Court of Appeal emphasised that the company director has the absolute right to inspect the company's records, which is a concomitant of their fiduciary duties to the company. A director is not required to demonstrate any particular ground or "need to know" as a basis for inspection. The court also held that the appellant's conduct of lodging a police report and initiating an oppression suit, could not be construed as an ulterior or improper motive against the respondent itself.

The court emphasised that the company director's right to inspection remains despite allegations of hostility or adversity, as long as it is exercised for the benefit of the company.

2. DATUK SERI ANWAR IBRAHIM v. MOHD KHAIRUL AZAM ABDUL AZIZ [2023] 2 CLJ 236, [2023] 2 MLJ 545

The exercise of executive powers, such as the prerogative of mercy, is not justiciable and cannot be challenged in court. Any party seeking to challenge the pardon must have *locus standi* to sustain the action.

In this case, the respondent Mohd Khairul Azam Abdul Aziz, sought declarations to challenge the validity of the full pardon granted by the Yang di-Pertuan Agong (YDPA) to the first appellant Datuk Seri Anwar Ibrahim. The appellant's

application to strike out the respondent's claim at the High Court was dismissed. Hence, this appeal arose at the Court of Appeal.

The first appellant contended that the respondent's claim was frivolous and an abuse of the court process, as the prerogative of mercy can only be exercised by the YDPA and was not subject to the supervisory jurisdiction of the courts.

The Court of Appeal allowed the appeals, set aside the High Court's order and struck out the respondent's writ and amended statement of claim.

The appellate court found that the respondent's claim did not disclose a cause of action against the appellants, and that the respondent had not pleaded any infringement of private or public rights or special injury resulting from the pardon.

3. ACE HOLDINGS v. NORAHAYU RAHMAD [2023] 6 CLJ 159, [2023] 4 MLJ 768

The Industrial Court retains the jurisdiction to entertain unfair dismissal claims from claimants/employees even if they pursue only financial compensation. Its jurisdiction remains intact even if the claimant does not request for reinstatement.

The case involved Norahayu Rahmad, who was appointed by ACE Holdings Bhd but whose employment was subsequently terminated. She claimed unfair dismissal and sought monetary compensation without praying for reinstatement. The Industrial Court dismissed her claim, stating it lacked jurisdiction to decide on claims that did not seek reinstatement. Norahayu applied for judicial review in the High Court, which ruled in her favour, quashing the Industrial Court's decision. ACE Holdings Bhd then appealed to the Court of Appeal.

The Court of Appeal held that the Industrial Court does not lose jurisdiction over a matter simply because the claimant did not seek reinstatement.

It distinguished the present case from *Unilever (M) Holdings v. So Lai*, where the claimant in that case had already retired at the time of filing the claim. The Court of Appeal had also affirmed the decision in *Sanbos (Malaysia) v. Gan Soon Huat* to the effect that the Industrial Court must hear a claim referred by the Minister of Human Resources, regardless of whether reinstatement is sought.

The "floodgates argument" was also addressed by the Court of Appeal, where it was contended that allowing pure monetary claims in the Industrial Court would lead to an influx of cases.

The Court of Appeal rejected this argument, emphasising that the Industrial Relations Act 1967 is a social legislation aimed at providing employees with more effective remedies and that the Industrial Court is a specialised tribunal to adjudicate such claims. The Court also noted that hearing these claims in the Industrial Court would reduce the workload of the civil courts.

Furthermore, the Court of Appeal endorsed a joint hearing approach, where the Industrial Court should hear and decide both the preliminary objection and the claim together, rather than in separate stages.

In the final analysis, the Court of Appeal upheld the principle that the Industrial Court has jurisdiction to hear unfair dismissal claims seeking only monetary compensation and that the Minister's reference to the Industrial Court cannot be rendered ineffective by the claimant's abandonment of reinstatement remedy in their statement of case.

4. TANG LOON PAU v. MOHD SALIHIN KOTNI [2023] 8 CLJ 105 [2023] 2 PIR [1]

If the insured motor-vehicle is not involved in the accident, the tortious claim against the insured remained unproved and the insurer is absolved of any liability under section 96(1) of the Road Transport Act 1987.

The plaintiffs, Tang Loon Pau and the dependants of the deceased, sought damages for a motor-vehicle accident involving a motorcycle and a car. They alleged

that the car, owned by the first defendant and insured by the second defendant, was involved in the accident. The Sessions Court found both defendants fully liable, but the High Court reversed this decision, ruling the car was not involved in the accident. The plaintiffs appealed to the Court of Appeal.

In affirming the decision of the High Court, the Court of Appeal addressed the insurer's liability under section 96(1) of the Road Transport Act, and held that if the insured motorcar was not involved in the accident, the tortious claim against the insured remained unproved. As such, the insurer was absolved of liability under section 96(1) of the Road Transport Act.

The Court of Appeal also affirmed that the insurer had the right to intervene and appeal against the finding of liability, regardless of the insured's actions.

5. MOHD ZAI MUSTAFA v. MENTERI PENDIDIKAN MALAYSIA [2024] 2 MLJ 384

The appeals challenging the use of languages other than *Bahasa Malaysia* in national-type schools were dismissed, as schools are not public authorities and the use of Tamil or Chinese language as a medium of instruction did not violate the Federal Constitution.

These appeals concerned the legality and constitutionality of the vernacular school system in Malaysia, and the challenge of use of languages other than *Bahasa Malaysia* as a medium of instruction in national-type schools.

The dismissal of the application by the High Court led to an appeal to the Court of Appeal.

The Court of Appeal ruled that the use of languages other than *Bahasa Malaysia* in national-type schools did not violate the Federal Constitution, because vernacular schools are not public authorities, and thus the use of Tamil or Chinese language as a medium of instruction is not considered an "official purpose" within the meaning of the Federal Constitution.

The Court of Appeal also highlighted the distinctions between universities and schools, emphasising that the characteristics and public elements pertinent to universities do not apply to schools.

6. LOW OOI HOI v. PENTADBIR TANAH WILAYAH PERSEKUTUAN KUALA LUMPUR [2023] 5 CLJ 376, [2023] 3 MLJ 412

Reasoned judgements are important to ensure fairness and transparency in the decision-making process.

This case concerned the acquisition of a piece of land for an expressway project where the appellant objected to the compensation awarded by the respondent.

The main issue in the appeal was whether the High Court Judge erred in law and fact by failing to consider the sale and purchase of a comparable lot, Lot 388, and whether there were two valuations from the same source at the same period of time given by the Government valuer.

The Court of Appeal dismissed the appeal and held that the High Court Judge (HCJ) had abdicated his judicial function by failing to provide reasons for rejecting the appellant's objection. The absence of proper grounds of judgement hindered the appellate court from deciding the appeal, necessitating a reconsideration of the material on record. The appellate court thus proceeded to hear the substantive appeal, while emphasising the importance of judges providing reasoned judgements to ensure fairness and the dispensation of justice.

CASES OF INTEREST: CIVIL (HIGH COURT)

1. MUHAMMAD RIFQI AMZAR FAIZO (A CHILD AND BRINGING THIS ACTION THROUGH HIS LITIGATION REPRESENTATIVE, FAIZO YAACOB) v. DR SIVAKUMAR SIVALINGAM [2023] 9 CLJ 609, [2023] 8 AMR 961

The parties to an action do not have an unconditional right to withdraw a case on their own terms. The court holds the authority to manage every case filed, ensuring the proper administration of justice. It can, when necessary, reject any settlement terms proposed by the parties if it deems it in the interest of justice.

This case addressed the issue of the withdrawal of a case due to the impecuniosity of the litigation representative. The plaintiff, who had suffered the amputation of his right hand and both legs below the knees following surgeries performed by the defendants, sought to withdraw the action due to financial constraints. The defendants, however, sought a consent order with the condition that the withdrawal be 'without liberty to file afresh.'

The court held that it has the jurisdiction and power to scrutinise and vary consent orders in the interest of justice, especially when the rights of a minor are at stake. The court emphasised its duty to act as *loco parentis*, ensuring the welfare of the minor and deciding in the best interest of the child. It also considered the Limitation Act 1953, which protects the rights of minors under disability, stating that the limitation period for the plaintiff to bring an action would only commence upon reaching the age of majority.

The court found that the impecuniosity of the litigation representative should not deprive the minor plaintiff of his right to bring an action within one year of ceasing to be a minor. It rejected the condition 'without liberty to file afresh' as it would result in severe injustice to the plaintiff. The court altered the consent order by removing this condition, allowing the minor to potentially refile the claim in the future.

The judgement highlights the importance of access to justice for all, including minors and those with disabilities, and underscores the court's role in preventing injustice, even when parties agree to terms that may not be in the best interest of all involved. The court's decision is a reminder that the law must provide a remedy for every right that is breached, and that the court has a duty to ensure justice is done, not only for the parties involved but also for the community at large.

2. RUSIAH SABDARIN v. MOHD JAINAL JAMRAN [2023] 8 CLJ 603, [2023] 12 MLJ 531

Every school is legally obligated to prepare its students for examinations. This responsibility primarily lies with the teacher, who must ensure that students are adequately taught according to the school's curriculum. A teacher who is frequently or continuously absent for extended periods without valid reasons is violating this legal duty. Such behavior not only undermines the students' chances of achieving good grades and receiving a quality education but also infringes on their constitutional right to access education.

This case involved a group of students from SMK Taun Gusi, Sabah, Malaysia, who sued their English teacher, the school principal, the Director General of Education, the Minister of Education, and the Government of Malaysia for breach of statutory duty and misfeasance in public office. The students claimed that the teacher's prolonged absenteeism from March to October 2017, without valid reasons, deprived them of the opportunity to learn English properly, thus affecting their performance in the Sijil Pelajaran Malaysia (SPM) examination and future educational prospects. They also alleged that the teacher leaked exam questions to make up for his absences, which was considered unprofessional conduct.

The High Court in Kota Kinabalu found that the teacher and the principal breached their statutory duties under the Education Act 1996 and the Public Officers (Conduct and Discipline) Regulations 1993 by failing to ensure the students were properly taught and prepared for examinations. The court also determined that the higher-level education officers and the government were vicariously liable for the actions of the teacher and principal. However, the claim for misfeasance in public office was not established as there was no evidence of targeted malice or intention to harm the students.

The court ruled in favor of the students, awarding nominal damages of RM30,000 each for the loss of opportunity to obtain good grades and for the loss of a good opportunity in their lives to receive better education. Additionally, aggravated damages of RM20,000 each were awarded due to the emotional and psychological injury and trauma suffered by the students. No exemplary damages were awarded as the court did not find the defendants' actions to be oppressive or malicious. The court also declared that the defendants had violated the students' constitutional right to education under Article 5, read together with Article 12 of the Federal Constitution.

The case highlights the importance of teachers fulfilling their duties to provide students with the necessary education and preparation for examinations, and the consequences of failing to do so, including potential liability for damages.

3. HARRIS MOHD SALLEH v. CHIEF SECRETARY, GOVERNMENT OF MALAYSIA [2023] 4 CLJ 744, [2023] 10 MLJ 520

The case discussed issues related to freedom of speech, the right to information, and the Minister's discretion to classify or declassify documents. It highlighted the need to balance government powers and individual rights, emphasizing the implications for public interest and democratic principles.

This case concerns judicial review application seeking the declassification of the investigation report into the 1976 Nomad Aircraft crash that killed 11 people, including the then Chief Minister of Sabah. The applicant, Harris Mohd Salleh, who succeeded the deceased Chief Minister, argued that the continued classification of the report under the Official Secrets Act 1972 infringed on the public's right to information, which is a corollary to the right to free speech guaranteed by the Federal

Constitution. He contended that the suppression of the report fueled speculation and affected his reputation, as he was implicated in the accident.

The respondents argued that Salleh lacked *locus standi*, as he had won a defamation suit related to the accident, and that he was out of time according to the Rules of Court 2012. The respondents further maintained that the decision to keep the report classified was within the Minister's discretion and that the conditions for *mandamus* had not been met.

The High Court ruled in favor of Salleh, stating that the right to information is a fundamental right and that the classification of the report was disproportionate to the objective it sought to achieve, especially after 47 years. The court found that the Minister's decision not to declassify the report was not reasonably exercised and that the continued suppression lowered the sense of legitimacy of the executive in the eyes of the public. The court ordered the respondents to declassify the report by June 8, 2023, and to take steps to procure any necessary action by the Australian Government for the report's disclosure. No order was made regarding costs due to the unique nature of the case.

4. UNITED OVERSEAS BANK v. THE OWNERS AND/OR DEMISE CHARTERERS OF AND/OR OTHER PERSONS INTERESTED IN THE SHIP OR VESSEL "LIMIN ROSMINA"; PETRONAS CARIGALI SDN BHD (INTERVENER) [2023] 8 CLJ 649

This case raised questions about the acceptance of bids and the process of conducting multiple rounds of tenders. The judgement outlines that a court-ordered judicial sale of a vessel can proceed with the acceptance of a bid below the appraised value if the bid is valid, open, and capable of acceptance, and if the sale is justified by the need to avoid further costs and the low likelihood of a higher bid in subsequent rounds of tenders.

In an admiralty action *in rem* against the ship "LIMIN ROSMINA", the plaintiff, United Overseas Bank Limited (Singapore), sought to sell the vessel to ARC Offshore India Pte Ltd for RM6,399,999.00, which was below the appraised value.

The plaintiff had obtained summary judgement against the defendant for USD2,794,278.82, which the defendant failed to satisfy. The court ordered the vessel to be appraised and sold, but two rounds of tenders yielded bids below the appraised value. The plaintiff proposed selling to ARC Offshore India, the third-highest bidder across both rounds, which has confirmed interest in continuing with the sale.

The defendant opposed this proposal, suggesting the vessel be sold to Proactive Ship Management Pvt Ltd, which offered an "indicative sum" in the "range" of RM7 million, despite not participating in the tenders.

The court found that Proactive Ship Management's offer should not be considered as it was not part of the bidding process and could compromise the fairness and transparency of the judicial sale. The court disagreed with the Sheriff and the defendant that a second round of tenders invalidated the first ound bids, as the conditions of sale allow for further rounds without prejudice to the original offers. The court held that ARC Offshore India's offer was valid, open, and capable of acceptance.

The court also found that selling the vessel below its appraised value was justified, considering the costs of maintaining the vessel and the unlikely prospect of a higher bid in a third round of tenders, as supported by expert evidence. The court granted the plaintiff's application, allowing the sale of the vessel to ARC Offshore India for RM6,399,999.00.

CASES OF INTEREST:

CRIMINAL (FEDERAL COURT)

1. PETER CHANG NYUK MING v. TIMBALAN MENTERI DALAM NEGERI [2023] 7 CLJ 521

There are no specifications of the presence of a substantial body of persons, be it in the detention order or the grounds of detention, as is required under the terms of Article 149 of the Federal Constitution under which Act 316 was enacted. The stark absence of this requisite renders the detention of the appellant invalid.

This case concerns the power of the court to hear an application for a writ of habeas corpus when a detention order was suspended upon issuance of a suspension order issued by the Deputy Minister.

The appellant was initially detained pursuant to a detention order. The order was suspended by a suspension order issued by the Deputy Minister, leading the appellant to be "detained for a period of two years at Mukim Chin-Chin Daerah Jasin, Melaka" on a list of eight restrictions or conditions concerning his movement and the need to report to the local police. The appellant challenged the detention order in the High Court, which was eventually dismissed on the basis that he was no longer imprisoned or detained in any detention centre, apart from the fact that he was free to move within the district of Jasin. He appealed to the Federal Court.

The Federal Court held that, after a detention order had been issued, the operation of the detention order was suspended, and a list of restrictions was imposed. Although the place of detention has changed, the appellant is no less serving under a detention order. It is only the operation of the detention order that has been suspended, not the detention order itself. That detention order remained in place and was never revoked. Upon concession by the Senior Federal Counsel that the detention order suffered from serious deficits, the appeal was allowed, and a writ of *habeas corpus* was issued by the Federal Court.

2. LAI HEN BENG v. PP [2024] 1 CLJ 681, [2024] 1 MLJ 225

> We fully agree with the appellant that s 498 is an archaic and anachronistic provision which comes from an unfortunate bygone Victorian era when women were regarded as the personal property of men or even an extension of men not unlike how slaves were treated for a long time until abolished in the last century. It took humankind many years to accept that slavery of men and discrimination against women was wrong. So, to suggest that a man or a woman could be considered as property of each other is a regressive step and going back in time to a dark era. We would state and that too without much hesitation that this concept is, to our minds, obsolete. In the modern era, men and women are both capable of being independent and making their own decisions. They can hardly be considered as victims of enticement.

In this case, the constitutionality of section 498 of the Penal Code was challenged. The section concerns the offence of enticing, or taking away, or detaining with a criminal intent, a married woman.

The appellant was charged with an offence under section 498 of the Penal Code in the Magistrates' Court. He referred the constitutional question to the High Court, which then transmitted the case to the Federal Court.

The Federal Court held section 498 to be unconstitutional for it unlawfully discriminates only on the grounds of gender, which is violative of Article 8(2). Being a pre-Merdeka law, though it could be modified under Article 162 of the Federal Constitution, the provision of section 498 was so intricately drafted that amending it without changing its base legislative intent was judicially impossible. Thus, the section was ordered by the Federal Court to be repealed under Article 162.

CASES OF INTEREST:

CRIMINAL (COURT OF APPEAL)

1. WAN JI WAN HUSSIN v. PP [2024] 1 MLJ 142

The appellant was charged with publishing offensive words and insulting the Sultan of Selangor via the web application Facebook.

> Nevertheless, we find that the appellant had failed to rebut the presumption and also failed in his defence to cast any reasonable doubt on the prosecution's case. There are plenty of evidences which show that the appellant is the owner of the said Facebook's account. The name, picture and phone number are all refer to the appellant himself. In the same vein we held that the prosecution has succeeded in proving its case against the accused beyond reasonable doubt. Therefore, we find no merit in the appellant's appeal on conviction, the conviction is safe. As such the appeal on conviction is dismissed.

In the course of the trial and appeal, the constitutionality of the Sedition Act 1948, as well as section 114A of the Evidence Act 1950, was brought up for consideration of the court. The Court of Appeal held the issue of the constitutionality of the Sedition Act, particularly section 4, was resolved by the Federal Court in *Public Prosecutor v. Azmi Bin Sharom* [2015] 8 CLJ 921 and the constitutionality of presumption under section 114A was settled by the Federal Court in *Peguam Negara Malaysia v. Mkini Dotcom* [2021] 3 CLJ 603; [2021] 2 MLJ 625. It was further held that there was ample evidence showing the appellant was the owner of the Facebook account where the impugned words were published. The conviction was affirmed, while the sentence of 12 months imprisonment passed by the High Court was set aside by the Court of Appeal, and the sentence of nine months imprisonment imposed by the Sessions Court was restored.

2. SAM KE TING v. PP [2023] 5 CLJ 704

Kami bersimpati dengan keluarga 8 penunggang basikal yang meninggal dunia. Walaupun kes kemalangan maut ini mendapat liputan media yang luas, setiap kes harus diputuskan mengikut lunas undang-undang. Untuk kes ini, sabitan terhadap perayu adalah tidak selamat kerana dibuat atas pertuduhan yang cacat, menyalahi undang- undang dan tidak sah. Selebihnya, kemalangan maut ini bukan berpunca daripada perayu.

The accused was charged in the Magistrates' Court under section 41(1) of the Road Transport Act 1987 ("RTA") for causing death by reckless or dangerous driving. It was the prosecution's case that the accused while driving her car at 3.20 in the morning, had run into a group of young bicycle riders riding *basikal lajak*, which caused the death of eight of the riders.

She was initially acquitted and discharged by the Magistrates' Court at the end of the prosecution's case. The High Court set aside the acquittal order and ordered her to enter defence. The Magistrates' Court then once again made an order of acquittal, which was reversed by the High Court, which convicted her of the offence and found her guilty.

On appeal, the Court of Appeal held that there was duplicity in the charge which caused confusion to the accused, the prosecution and the court. A charge could only contain an offence as provided under section 163 of the Criminal Procedure Code, and the duplicity in the present case could not be cured under section 422 of the Code. Therefore, it caused a miscarriage of justice. It was also held that speeding by itself is not necessarily dangerous, and the inability to apply brake instantly when one encounters a dangerous situation, could not be said to be driving dangerously. Considering the situation where and how the incident took place, the accused should have been acquitted and discharged, and the Court of Appeal ordered so.

3. PP v. MUHAMMAD ARIF FIRDAUS JURAINI [2023] CLJU 1915

This case is widely known as the "Tahfiz case," where 21 students and two wardens of Darul Quran Ittifaqiyyah died as a result of a fire that broke out at the premises of the *tahfiz* building. Two accused persons, both were children ("Child 1" and "Child 2") at the material time, were charged with the murder of all 23 persons under section 302 of the Penal Code. The High Court found Child 1 to be guilty and acquitted Child 2.

Two pertinent issues were argued on appeal, namely, on the evidence of an accomplice, which was rejected by the trial judge and the information leading to the discovery.

The Court of Appeal held the High Court was correct in rejecting the evidence of an accomplice who turned hostile during the trial. The information leading to the discovery of the lighter was properly admitted alongside with other evidence presented by the prosecution. The finding of guilt and the order made by the High Court that Child 1 be detained at the pleasure of Yang di-Pertuan Agong under section 97(2) of the Child Act 2001 was affirmed by the Court of Appeal. Similarly, the order of acquittal of Child 2 was also upheld since the evidence against Child 2 was circumstantial in nature, and there was more than one inference that could be drawn from it, which warranted the inference most favourable to the accused to be adopted.

4. PAIMAN SHAKIMON (ALDRIN PRATAMA WIDJAJA) v. PP [2023] CLJU 2225

In this case, a warrant of committal under the name of Paiman Shakimon (Paiman) was sought to be enforced against one Aldrin Pratama Widjaja (Aldrin), who denied being the person named in the warrant.

One Paiman Shakimon was convicted by the Sessions Court of four charges of cheating under section 420 of the Penal Code, and he was sentenced to a cumulative imprisonment term of 13 years. The sentence was stayed pending hearing of Paiman's appeal, with a bail set at RM700,000 with one surety. Paiman did not turn up during the appeal proceedings in the High Court, and on 11 October 2012, Paiman's appeal was struck

out. A warrant of committal was issued against Paiman. Some nine years later, on 29 November 2021, one Aldrin Pratama Widjaja was arrested by the police. Aldrin was brought to the National Registration Department for his fingerprint to be scanned, and the National Registration Department issued a document called JPN.KP10, stating the fingerprint of Aldrin Pratama Widjaja, shows that he is the same individual as Paiman Shakimon.

Aldrin was brought before the High Court in Kuala Lumpur, and the document JPN.KP10 was produced by the prosecution from the Bar, upon which the High Court issued a warrant of committal in the name of Paiman Shakimon, to be enforced against Aldrin.

In the Court of Appeal, it was held that the document JPN.KP10 was irregularly produced from the Bar by the prosecution in the proceeding before the High Court. It was also held, that the refusal of the High Court to hold an inquiry as requested by Aldrin had violated his right to be heard. Accordingly, the Court of Appeal ordered the case to be remitted to the High Court to hold an inquiry into whether Aldrin is indeed Paiman Shakimon before the warrant of committal issued against Paiman Shakimon can be enforced against him.

5. MOHD ZUHAILI ZAINAL v. PP [2023] CLJU 2647

In this case, the issue was whether a sealed court order adduced through the Registrar of the Subordinate Court could be admitted for the purpose of proving previous convictions under section 400 of the Criminal Procedure Code.

The appellant was charged and convicted in the Sessions Court for the offence of self-administration of drugs under section 15(1)(a) of the Dangerous Drugs Act 1952, punishable under section 39C(1) of the Act. On appeal, the High Court upheld the conviction.

The Court of Appeal, in affirming the decision of both courts, held that although the register of previous conviction is kept by the Registrar of Criminals under the Registration of Criminals and Undesirable Persons Act 1969 (RCUPA), it does not exclude other modes to be employed to prove previous convictions for the purposes of section 400 of Criminal Procedure Code, in this case, sealed court order. The Court of Appeal further elaborated that oral evidence of the Registrar of the Subordinate Court could be admitted under sections 59 and 60 of the Evidence Act 1950, and the court could take judicial notice of the sealed order of the court under section 57(1)(g) and (m) of the Evidence Act 1950.

6. LEE CHEE SOON v. PP [2023] CLJU 2426

In this case, Lee Chee Soon and two others were charged with two drug trafficking charges and two drug possession charges under the Dangerous Drugs Act 1952 (DDA 1952), one charge under the Poison Act 1952 and one charge under the Arms Act 1960 for possession of a pistol and 72 rounds of ammunition.

For the purpose of the hearing of the appeal, there were two grounds of judgement prepared by the High Court judge, as all of the accused persons initially appealed against the sentence only and later, after amending their notices of appeal, they were appealing against the conviction as well. The first judgement on the sentence was dated 30 September 2019, and the second judgement on the conviction was dated 5 January 2023.

The crux of the complaint was the stance taken by the trial judge as to the applicability of the presumption, which was invoked in the first judgement, whereas in the second judgement, the judge made a finding of direct trafficking without invoking any presumption.

The Court of Appeal held that the High Court judge did not err when he applied double presumptions in ordering the accused to enter their defence, as at that

material time, the prevailing law permitted it, yet after considering the defence, the trial judge had changed his stance by holding the three had failed to cast reasonable doubt to the prosecution's case on direct trafficking without any reliance on any presumptions under DDA 1952. Despite the change of stance, the Court of Appeal held it was only a technical error and did not amount to a miscarriage of justice. Nevertheless, after scrutinising the evidence, it was held that the trial judge placed too much reliance on the conduct of the accused persons while no circumstantial evidence was available to tie all three to the drug trafficking activity. As such, the conviction was unsafe. The Court of Appeal allowed the appeal and ordered the appellants to be acquitted and discharged.

7. GENNEVA v. DATO' VENGADASALAM LETCHUMI KANDAN [2024] 2 CLJ 827

This stands to reason as it cannot be gainsaid that it would be an absolute waste of judicial time if the forfeiture application and the claims of the third parties are heard simultaneously and, at the conclusion of the proceedings it is found that the properties are not forfeitable properties.

In this case, the issue raised was whether an application for forfeiture of property under section 55 of Anti-Money Laundering, Anti-Terrorism, Financing and Proceeds Of Unlawful Activities Act 2001 is separate and independent from the ancillary proceedings (i.e. third party claim) under section 61 of the Act.

The facts show that the Public Prosecutor filed an application for a forfeiture order under section 55 of the Anti-Money Laundering, Anti-Terrorism, Financing And Proceeds Of Unlawful Activities Act 2001 ("the Act") in respect of properties seized from the appellant and four others. The Sessions Court then issued a statutory notice under section 61 of the Act by way of Gazette calling upon third parties who claimed an interest in the said properties to show cause why the properties shall not be forfeited to the government. The respondent responded to the notice and filed affidavits to contest the Public Prosecutor's application. On 27 August 2021, the Sessions Court dismissed the Public Prosecutor's application, and since the application for forfeiture was dismissed, the Sessions Court was of the view that section 61 no longer empowered the court to adjudicate the respondents' (third party) claim. Both the Public Prosecutor and the respondents appealed to the High Court.

The High Court exercised its revisionary jurisdiction and remitted the case to the Sessions Court for the Sessions Court to adjudicate the respondents' claim. In respect of the Public Prosecutor's appeal, the High Court stayed the hearing of the appeal until the disposal of the respondents' claim in the Sessions Court. The Public Prosecutor appealed to the Court of Appeal against the order of the High Court remitting the case to the Sessions Court.

It was held by the Court of Appeal that the court must be satisfied the seized properties were forfeitable properties first before it could make a preliminary forfeiture order. Only then the requisite notice under section 61(2) of the Act ought to be published in the Gazette to commence the ancillary proceedings to determine the rights of the third parties to the forfeited properties. On this premise, the Court of Appeal allowed the Public Prosecutor's appeal and directed the High Court to first hear the prosecution's appeal against the dismissal of its forfeiture application by the Sessions judge. If the said appeal was dismissed and the decision of the Sessions Court is affirmed, it would follow that the respondents/third party claimants' appeals would fail without prejudice to their rights to institute separate civil proceedings against the appellant in respect of their respective legal rights to the properties in question. However, if the appeal is allowed, then the respondents' claims would be remitted to the Sessions Court for adjudication in accordance with the provisions of the Act.

8. GAN BOON AUN v. PP [2023] CLJU 2328

It is trite law that courts have no authority to act in contravention of written law and where an order of such a court is made in breach of statute, it is made without jurisdiction and may, therefore, be declared void and set aside in proceedings brought for that purpose.

The appellant was charged with an offence of giving a misleading statement to Bursa Malaysia Securities Berhad in Transmile Group Berhad's "Quarterly Report on Unaudited Consolidated Results for the Financial Year Ended 31 December 2006", an offence under section 122B(a)(bb) read together with section 122(1) of the Securities Industry Act 1983. He was convicted by the Sessions Court and sentenced to one day's imprisonment and a fine of RM2.5 million in default 18 months imprisonment. He served the imprisonment sentence and paid the fine.

Nonetheless, the appellant and the Public Prosecutor appealed to the High Court. The appellant was appealing against the conviction and sentence, whereas the Public Prosecutor's complaint was against the adequacy of the sentence. In the High Court, the appellant did not attend the case management sessions and was absent during the hearing of the appeal. The High Court was informed by the prosecution that the attempt to locate the appellant had come to nought. The High Court then proceeded to hear the appeals and enhanced the one-day imprisonment to 24 months imprisonment.

A notice of appeal was filed by the appellant's solicitor upon instruction from the appellant's family member. The prosecution took preliminary objection, stating the instruction to file the notice of appeal ought to come from the appellant himself and not from the family.

The Court of Appeal held there is no law prohibiting a family member of the appellant from giving instruction to a solicitor to file an appeal in a situation where the appellant could not be located. On the other hand, on the decision of the High Court, which was made in the absence of the appellant, the Court of Appeal held that the notice of appeal was supposed to be served personally on the appellant. The service of the notice on the appellant's solicitor was held to be bad in law, and it followed that the High Court's order enhancing the sentence of imprisonment from one day to 24 months to be null, void and illegal, and ought to be set aside.

9. CIMB BANK v. TAN HOO ENG [2024] 3 CLJ 669

If the contempt proceedings are initiated by an aggrieved or affected party against a party in breach to enforce the order, then, it would with limited exception, be inevitably a civil contempt and the proceedings are civil in nature. Thus, O. 52 of the Rules of Court 2012 is applicable.

The issue in this case is, whether civil or criminal procedure should govern a contempt appeal that emanates from a criminal proceeding.

In this case, the respondent's accounts with the first appellant, CIMB Bank Berhad, were frozen through two freezing orders. The Public Prosecutor then issued a seizure order, which was successfully challenged by the Respondent in the High Court.

The respondent then sent a letter to the appellant seeking release of the account. The appellant, in turn, filed an application to the High Court to clarify the ambit of the order.

Aggrieved by the omission on the part of the appellant to release the account, the respondent filed two ex-parte applications and was granted leave to commence committal proceedings against the appellants. The Appellants then filed two applications (enclosure 47 and enclosure 71) to set aside the order for leave, which were eventually dismissed by the High Court. The appellants then appealed to the Court of Appeal.

In the Court of Appeal, the appellant prepared the record of appeal in accordance with civil procedure, pursuant to provisions of the Rules of Court 2012. Later, another set of records of appeal was prepared by the High Court, as usually done in criminal appeals. In the Court of Appeal the respondent took objection against the delay in filing the petition of Appeal, stating the record of appeal prepared by the High Court ought to be used and not the one prepared by the appellant pursuant to civil procedure.

The Court of Appeal dismissed the respondents' preliminary objection and held that the committal proceedings against the appellants were civil in nature, as criminal contempt is where the Public Prosecutor initiates the action or where the contempt is in the face of the court, in the sense that the conduct in question interferes with the due administration of justice. A complaint of civil contempt is governed by order 52 of the Rules of Court 2012. The mere fact that the contempt complained of emanates from a criminal proceeding does not, without more, make it criminal contempt.

10. CHAN KOK MING v. PP [2023] 1 LNS 2507

As for ourselves, we are prepared to say that being a feng shui expert who depends on his professional skill for his livelihood, he has a business duty to perform, but these duties must not clash with the duty of the court to proceed with the trial. Hence, to bar him now from leaving the country when he has shown to us valid and legitimate reason to be in Singapore for a feng shui business plan would be unfair to him. The ends of justice will not be met by preventing the appellant from leaving Malaysia at this stage. In addition, the respondent has not shown any evidence of him being a flight risk when he is out of the court's jurisdiction.

The case revolves around factors to be considered in an application for the release of an international passport.

The appellant was charged at the Ipoh Sessions Court for filing false claims on goods and services tax refunds amounting to RM481,417.50 under section 89(1)(b) of the Goods and Services Tax Act 2014. He filed an application at the Ipoh Sessions Court for the temporary release of his international passport so that he could travel to Singapore to handle his business affairs. The application was allowed by the Sessions Court, and the prosecution filed a revision application in the High Court. The High Court allowed the prosecution's application and set aside the decision of the Sessions Court. The appellant appealed to the Court of Appeal.

The Court of Appeal allowed the appeal and, apart from agreeing with the reasons canvassed by the appellant on the nature of his business, observed that the appellant had never missed his days in court, and the prosecution had not shown any evidence of the appellant being a flight risk when he is out of the court's jurisdiction.

11. ALOWONLE OLUWAJUWON GILBERT v. PP [2023] CLJU 2391

This appeal elaborates on the factors to be considered in imposing the death penalty or 35 to 40 years of imprisonment, for the offence of murder under section 302 of the Penal Code.

The accused was charged for the murder. He was found guilty, convicted of murder, and sentenced to death.

In the Court of Appeal, the conviction was upheld. However, the death sentence was substituted with a sentence of imprisonment for 35 years and 12 strokes of the cane.

Until recently, the death sentence was the mandatory punishment prescribed by law for the offence of murder under section 302 of the Penal Code. Thus, there was one sentence only which could be judicially pronounced upon a person convicted of murder, and that was sentence of death. It was the only sentence the court could impose in every conviction of murder, regardless of any mitigating circumstances. The Court was not given any discretion regarding the sentence to be imposed for an offence of murder.

However, on 4 July 2023, the mandatory death penalty for murder under section 302 of the Penal Code was amended when the Abolition of Death Penalty Act (Act 846), came into force. The effect of the amendment was to convert the mandatory death penalty into a discretionary death penalty. This means that it is now no longer incumbent on the Court to impose the death penalty to everyone convicted for murder. Not every convicted murderer becomes a candidate for the death sentence. It is easy to discern the reason for this amendment. All killings which satisfy the definition of murder are by no means equally heinous. The factual circumstances surrounding murders differ so greatly from each other that it is wrong that they should all attract the death penalty.

We are of the view that the change in law, conferring the Court the discretion to impose either the sentence of death or sentence of imprisonment of not less than 30 years and not more than 40 years is intended to reserve the sentence of death for the more serious and exceptional murders. Unfortunately, there are no explanations or illustrations to s. 302 of the Penal Code to indicate the factors which the judge is to take into account in determining whether or not to impose the death penalty. Looking at the provision, we are of the view that the legislative purpose of the amendment is intended to make the sentence of imprisonment of 30 to 40 years the rule for an offence of murder and to limit the sentence of death for the most exceptionally serious, foul, shocking murders that are callous to an almost unbelievable degree.

CASES OF INTEREST:

CRIMINAL (HIGH COURT)

1. PP v. AHMAD ZAHID HAMIDI [2022] 9 CLJ 713

> In passing, I remind myself, that I have arrived at this decision of the court after having carefully considered and assessed the evidence led and adduced by the prosecution in totality as well as the submissions of both parties again and again. I myself certainly have refrained from day one to be swayed or influenced by any comments of the public made outside of this courtroom. It was my solemn duty to uphold justice without favour and fear or prejudice. I am also reminded of the sanctity of the oath I took as a judge to decide based on evidence and to defend the Federal Constitution.

The accused faced 33 charges under section 16(a)(B) of the Malaysian Anti-Corruption Commission Act 2009 ('MACC Act') for 33 offences of corruptly receiving gratification from a company known as Ultra Kirana Sdn Bhd ('UKSB'), a contractor appointed by the accused's Ministry, 33 alternative charges under section 165 of the Penal Code for 33 offences in the accused's capacity as a public servant for receiving a valuable thing without consideration, and seven alternative charges under section 165.

At the end of the prosecution's case, the High Court acquitted and discharged the accused. The High Court observed the evidence of the material witnesses, namely PW15 and PW16, on many accounts, were not reliable, apart from serious omission in the charge as to the names of the person delivering the monies, rendering the charge defective and fatal to the prosecution's case.

2. JEFFY ANAK LEPA v. PP [2023] CLJU 1544

The continuing operation and application of section 41B of the DDA are not inconsistent with or repugnant to the amendments introduced by section 54 of the AMDPA to section 39B of the DDA.

The issue in this case is, following the amendment to section 39B of Dangerous Drugs Act 1952 ("DDA") by the Abolition of Mandatory Death Penalty Act 2023 ("AMDPA"), whether the amendment impliedly repealed section 41B of DDA that prohibits bail in certain cases?

The accused was charged with the offence of drug trafficking under section 39B of DDA. Counsel for the accused contended section 41B of the DDA no longer applies to prohibit bail for an offence under section 39B(1)(a) of the DDA. It was argued the coming into force of AMDPA made the death penalty cease to be the only punishment for drug trafficking, as the court could impose imprisonment for life and whipping of not less than 12 strokes. It was argued the prohibition of bail under section 41B no longer applied and the accused was entitled to bail.

The High Court dismissed the application and held that the prohibition under section 41B of DDA does not apply exclusively for cases punishable by death but also for offences that carry imprisonment for more than five years.

3. MOHD FAIZ ISMAIL v. PP [2023] 4 CLJ 949

In this case, the issues of defective charge, the proof of age of the child and alibi were raised during the hearing of the appeal.

The appellant was charged in the Sessions Court under section 14(a) of the Sexual Offences Against Children Act 2017. The act was alleged to have taken place in one of the counselling rooms at the school. The appellant was convicted in the Sessions Court. The appellant appealed to the High Court.

On the issue of defective charge, instead of citing "section 14(a)", the prosecution stated "section 14(A)" in the charge. On this issue, the High Court referred to sections 156 and 422 of the Criminal Procedure Code and held that it was a mere technical irregularity, and the appellant was in no way misled by the typographical error. Nonetheless, after scrutinizing the prosecution's case, no evidence was led to prove the age of the child victim, an element which was germane and its omission was held to be fatal. On top of that, the main witness was unable to ascertain the real place where the alleged offence took place. Adding more salt to the injury, there was no evidence showing investigation was done towards disproving the appellant's alibi. On these premises, the High Court set aside the conviction, and the appellant was acquitted and discharged.

4. EBIT IRAWAN BIN IBRAHIM LEW v. PUBLIC PROSECUTOR [2023] MLJU 184, [2023] CLJU 1573

It is premature for the High Court to interfere with the proceedings which are still pending before the Magistrates' Court at this stage. If the aggrieved party is dissatisfied with the decision or ruling by the Magistrates' Court, he/she is at liberty to appeal to the High Court after the conclusion of the trial. Otherwise, it could disrupt the smooth running of the trial or lead to usurpation of the jurisdiction and power of the Magistrates' Court.

During the trial in the Magistrates' Court, the defence raised an objection against the calling of one Insp. Yip, who at the material time, was a forensic analyst from the police force. He was the analyst of data in the San Disk 256GB Pendrive, which had data extracted from the applicant's phone. The objection was overruled. The defence filed an application for revision in the High Court, which sought to reverse the ruling of the Magistrate, with additional two prayers, seeking the prosecution to provide section 112 of the Criminal Procedure Code statements of Ywai Shu Rong and Hoo Kah Yan, and for the prosecution to comply with the procedure under section 51A should there be any documents in the future that are to be supplied to the defence well before the trial.

On the calling of Insp. Yip, the High Court held it was premature for the High Court to interfere with the proceedings in the Magistrates' Court, especially when the time for objection and further argument regarding the tendering of the pen drive has not taken place. As to the application to obtain section 112 statements, it was held that the application should be filed before the Magistrates' Court first, whereas on compliance with the procedure under section 51A, the matters should be dealt with by the Magistrate, who was in the position to know at what stage, what directions on discovery of documents given and what documents were to be produced. The application was dismissed by the High Court.

Batik *Terap* or Stamped Batik by Nysakapas
in multiple motifs and colours

Appendix

GLOBAL PERFORMANCE OF CIVIL CASES IN YEAR 2023

Courts	2023					
	Civil					
	Balance Brought Forward From Pre-2022	Registrations	Disposals	Balance Carry Forward	Rate of Disposals	Backlog %
Federal Court	489	578	714	353	66.9%	33.1%
Court of Appeal	4,610	4,129	3,942	4,797	45.1%	54.9%
High Court	36,709	133,552	130,263	39,998	76.5%	23.5%
Sessions Court	24,283	65,430	60,985	28,728	68.0%	32.0%
Magistrates' Court	41,245	227,594	218,494	50,345	81.3%	18.7%
Total	107,336	431,283	414,398	124,221	76.9%	23.1%

Explanatory Notes:

- *The Federal Court disposed of 714 civil cases leaving 353 cases pending disposal. This translates to a disposal rate of 66.9%.*
- *The Court of Appeal cleared a total of 3,942 cases leaving a total of 4,797 cases pending disposal. This is a disposal rate of 45.1%.*
- *The two High Courts globally disposed of a total of 130,263 civil cases and 39,998 cases remain pending disposal. This is a disposal rate of 76.5%.*
- *The Sessions Courts throughout Malaysia disposed of a total of 60,985 civil cases. A total of 28,728 cases remain pending disposal. That is a disposal rate of 68.0%.*
- *As for Magistrates' Courts, a total number of 218,494 civil cases were disposed of and 50,345 remain pending disposal. The disposal rate is a very healthy 81.3%.*

GLOBAL PERFORMANCE OF CRIMINAL CASES IN YEAR 2023

Courts	2023					
	Criminal					
	Balance Brought Forward From Pre-2022	Registrations	Disposals	Balance Carry Forward	Rate of Disposals	Backlog %
Federal Court	161	214	191	184	50.9%	49.1%
Court of Appeal	1,690	1,304	1,548	1,446	51.7%	48.3%
High Court	5,643	5,694	5,460	5,877	48.2%	51.8%
Sessions Court	13,463	48,948	48,547	13,864	77.8%	22.2%
Magistrates' Court	330,148	2,558,710	2,534,056	354,802	87.7%	12.3%
Total	351,105	2,614,870	2,589,802	376,173	87.3%	12.7%

Explanatory Notes:

- *As for criminal cases in Federal Court, 191 were disposed of leaving 184 cases pending disposal. This is a disposal rate of 50.9%.*
- *In terms of criminal cases, the Court of Appeal disposed of 1,548 cases. There remains 1,446 cases pending disposal. This is a disposal rate of 51.7%. This rate is particularly acute in relation to criminal appeals as the presence of the accused is necessary especially so for capital offences.*
- *As for criminal cases, the two High Courts globally disposed of 5,460 cases. 5,877 cases remain pending disposal. The disposal rate is 48.2%.*
- *The Sessions Courts throughout Malaysia, disposed of a total of 48,547 criminal cases. Leaving a balance of 13,864 cases pending disposal. This is a disposal rate of 77.8%.*
- *As for Magistrates' Courts, the total number of criminal cases disposed of is 2,534,056 though a staggering 354,802 cases remain pending disposal. The disposal rate is a healthy 87.7%.*

GLOBAL PERFORMANCE TRAFFIC CASES IN YEAR 2023

Courts	2023					
	Civil					
	Balance Brought Forward From Pre-2022	Registrations	Disposals	Balance Carry Forward	Rate of Disposals	Backlog %
Magistrates' Court	252,383	2,027,163	2,010,416	269,130	88.2%	11.8%
Total	252,383	2,027,163	2,010,416	269,130	88.2%	11.8%

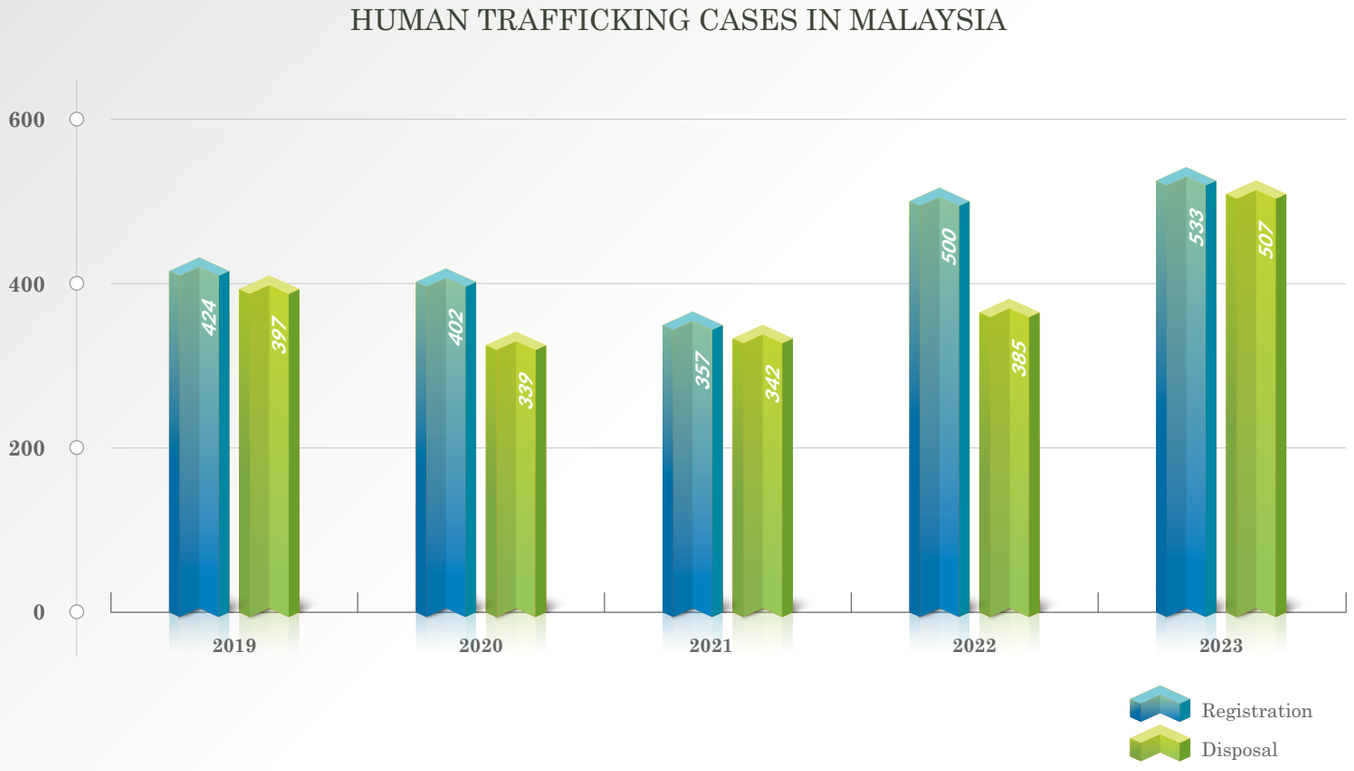
Explanatory Notes:

- *The large number of criminal cases registered in the Magistrates' Courts in 2022, namely 2,027,163 cases, is largely attributable to the sizeable number of traffic summons cases in those Courts comprising about 531,547 (76%) of the total number of criminal cases registered.*
- *Not all of the traffic offences registered can be resolved via the ePG system but the number of cases that can be resolved by fully digitalising the conviction and sentence aspect of traffic summons should greatly alleviate the load on such Courts, as well as provide better access to justice for the public.*

DRUGS CASES IN MALAYSIA

Explanatory Notes:

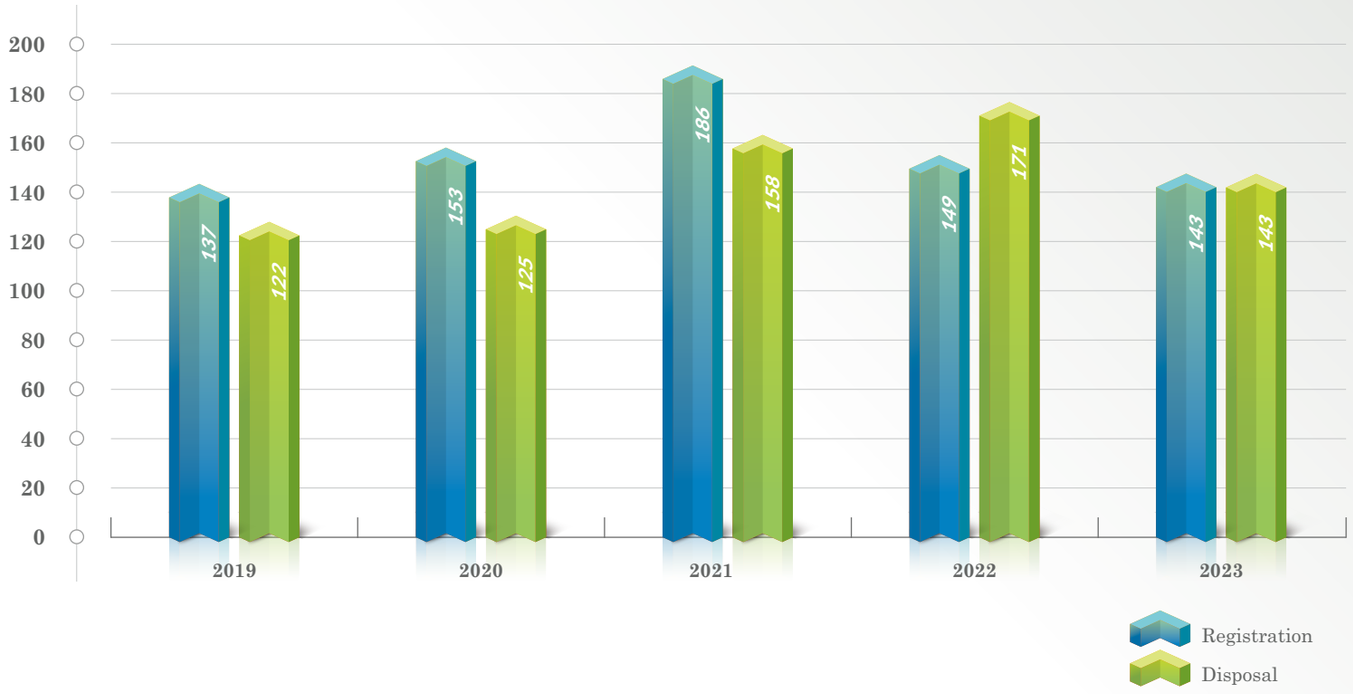
- *The graph shows the registration and disposal of drugs cases in Malaysia from 2019 to 2023.*
- *There has been a major change in the number of drugs cases recorded. In 2020, the registration declined by -17.0% as compared to 2019.*
- *However, there was a large increase in registrations between 2021 and 2022 about 28.6% and the number kept increasing to 5.0% in 2023.*



Explanatory Notes:

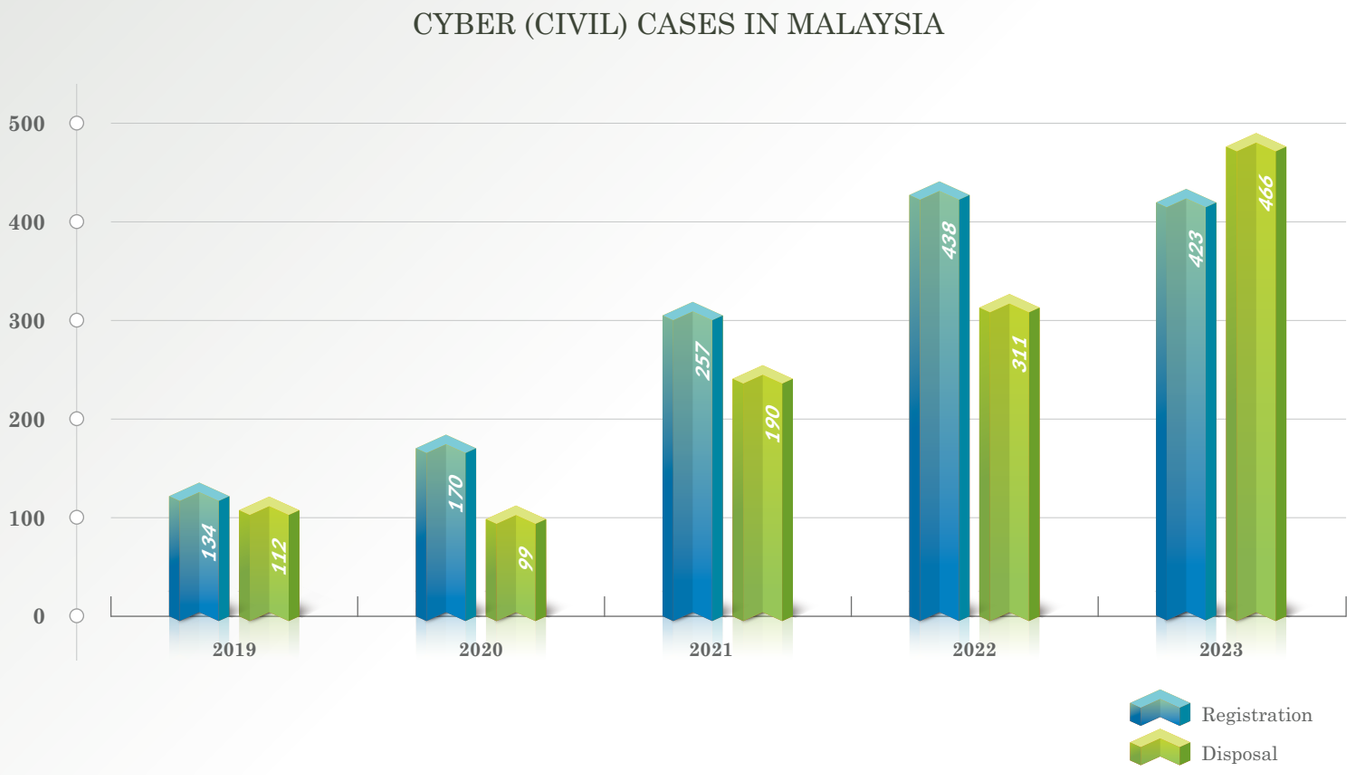
- *The figures are between the years 2019 and 2023. Over that three-year period, the number of cases appear not to deviate too much from year to year although the trend appears to show a decline in the number of registrations. The pandemic has greatly reduced movement in and out of the country and it is possible that the decline in the number of cases from 424 cases in 2019 to 357 cases in 2021 is attributable to the pandemic.*
- *However, the statistics show that there was also a major increase between 2022 and 2023. It is understood that in an adversarial system, the Courts are, by constitutional design, incapable of taking active measures to weed out human trafficking. Even when such cases are before the Courts, judges must decide them according to the law, the facts and evidence.*

CYBER (CRIMINAL) CASES IN MALAYSIA



Explanatory Notes:

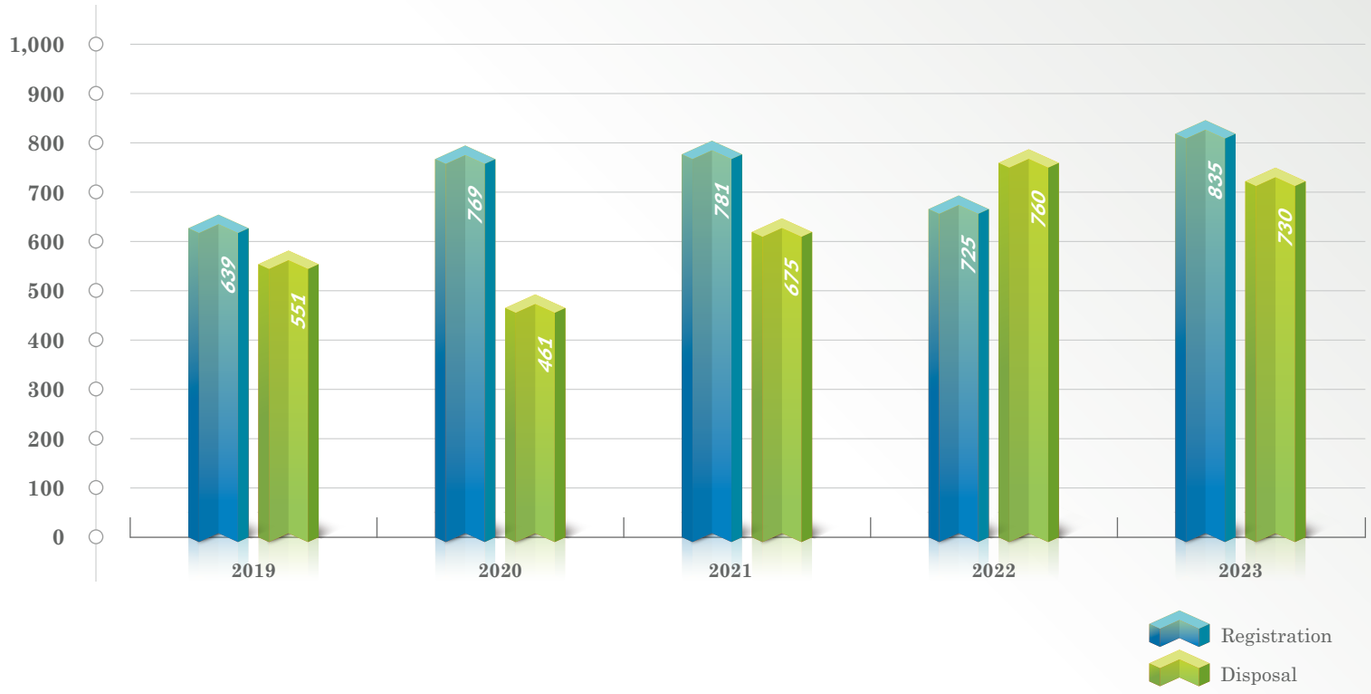
- *The criminal cyber cases have been consistently increasing as well. The steady rise of such cases reflects the greater use of social media and perhaps the greater tendency to misuse it.*
- *However, in 2023 there was a slight decrease from 2022 by 4.0%.*



Explanatory Notes:

- *Civil cyber cases, refer mostly to cyber defamation cases. There was a large increase of 70.4% of civil cyber cases between 2021 and 2022 and a slight decrease of 3.4% in 2023.*

CORRUPTION CASES IN MALAYSIA



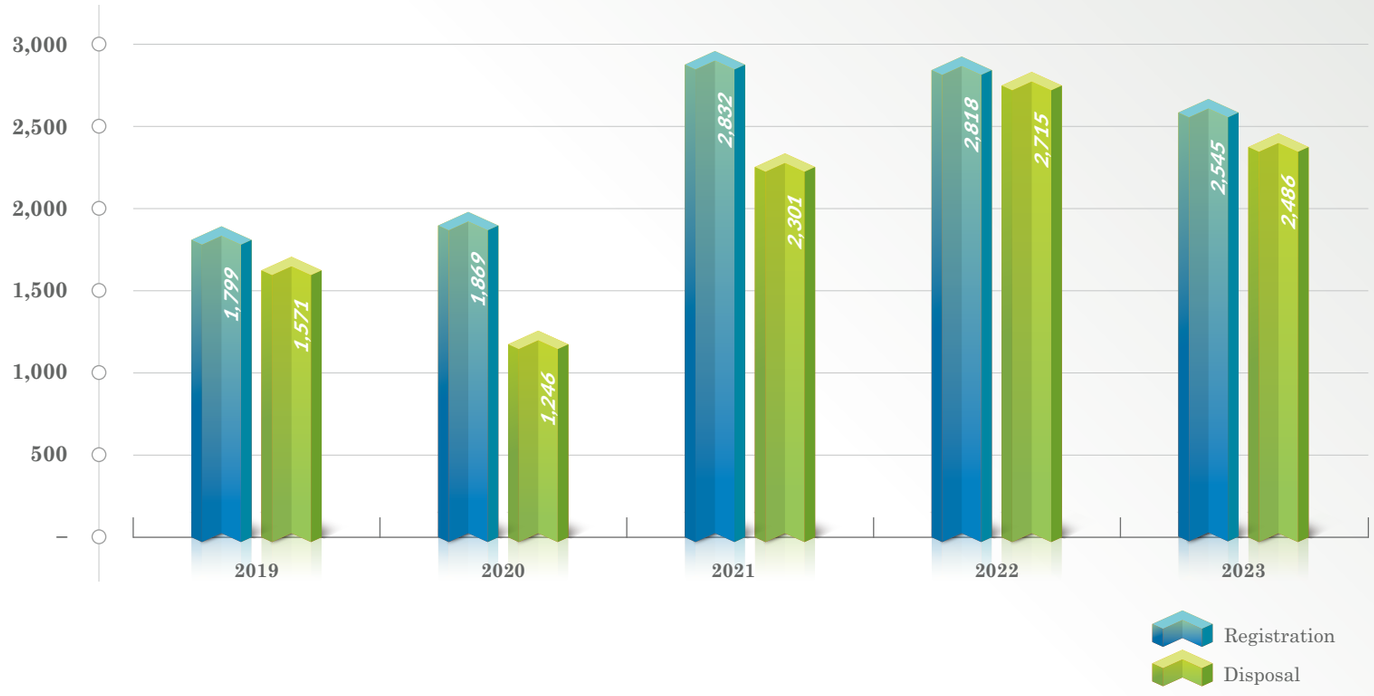
Explanatory Notes:

- *The number of corruption cases registered between 2019 and 2023 has not been consistent, with some years recording more cases than others. However, the total number of cases registered in 2021 and 2022 shows a small decrease. As corruption is a scourge, it is important that this area is closely monitored as it is a measure of the nation's health and image, both domestically and internationally.*

Explanatory Notes:

- *Street crime cases have been on a steady decline from 2020 to 2022. Perhaps the imposition of the various movement control orders and the resulting lockdowns left few on the streets to commit such crimes which might explain the reason for the drop. The trend has also carried through to 2023.*

SEXUAL OFFENCES CASES AGAINST CHILDREN IN MALAYSIA



Explanatory Notes:

- *Sexual offences against children. By and large, there was a slight decrease in the number of registrations by 9.7% between 2022 and 2023.*

SEXUAL OFFENCES (GENERAL CASES) IN MALAYSIA

Explanatory Notes:

- *General sexual cases on the other hand appear to be recording a decreasing trend of registration for the period between 2019 to 2020. However, there was a slight increase in 2021 and 2023.*

BANKRUPTCY CASES IN MALAYSIA

Explanatory Notes:

- *Bankruptcy cases have seen a drop in the number of registrations between the years 2020 and 2021. However, 2022 and 2023 recorded an increase of 23.1% and 13.6% in registrations.*
- *The amendments to bankruptcy laws that increased the threshold for bankruptcy claims along with other amendments has naturally reduced the number of such cases filed.*

INSOLVENCY CASES IN MALAYSIA

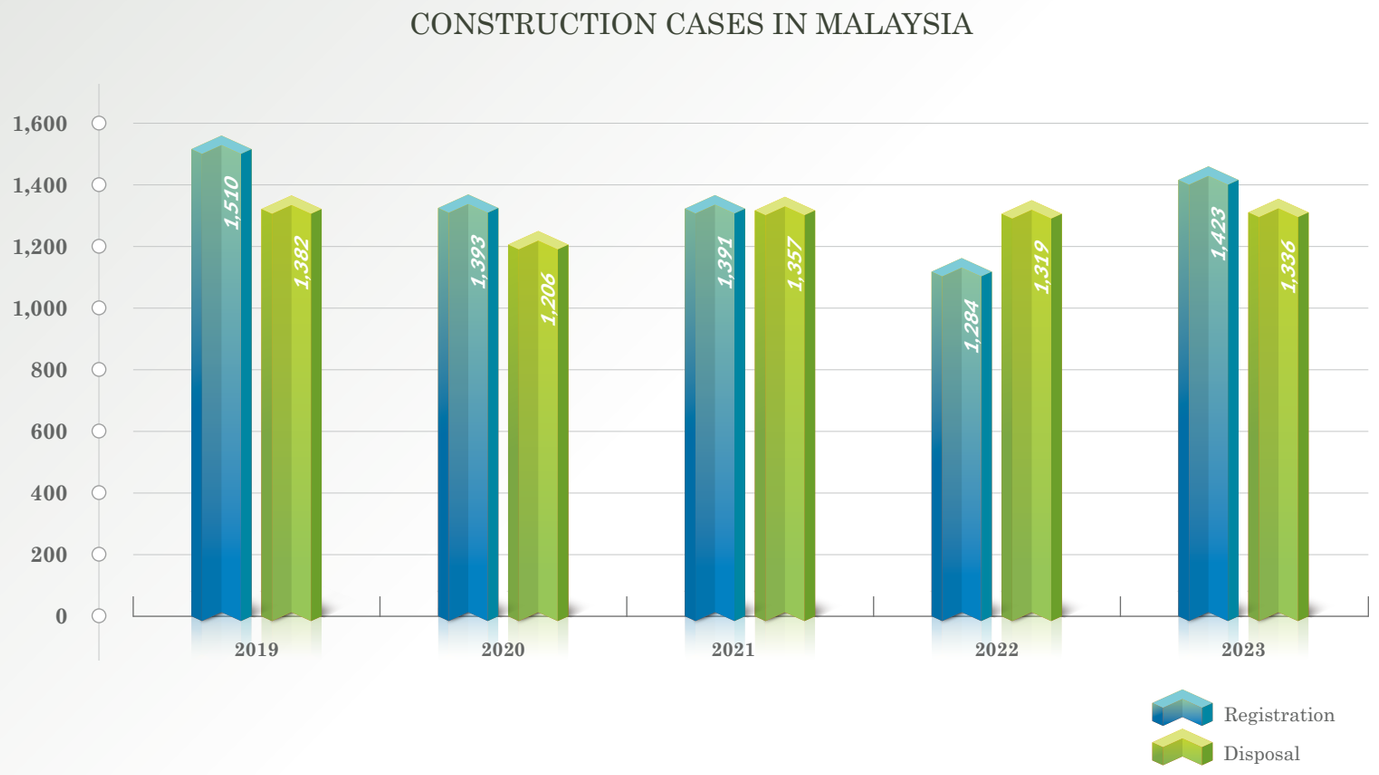
Explanatory Notes:

- *In terms of corporate insolvency cases, a similar trend can be seen in that the number of cases registered yearly between 2019 and 2021 has been on the decline.*
- *The period between 2021 and 2022 recorded the highest increase in registrations which is up to 48.1%.*

COMMERCIAL CASES IN MALAYSIA

Explanatory Notes:

- *Commercial cases are of significance, as they are, to some extent, an indicator of the country's economy as disputes are some measure of active business and trade.*
- *The registration number of commercial cases has been on the decline between 2019 and 2020.*
- *The registration figures slightly rose in 2021.*
- *However, 2023 recorded an increase in registrations of 10.8%.*



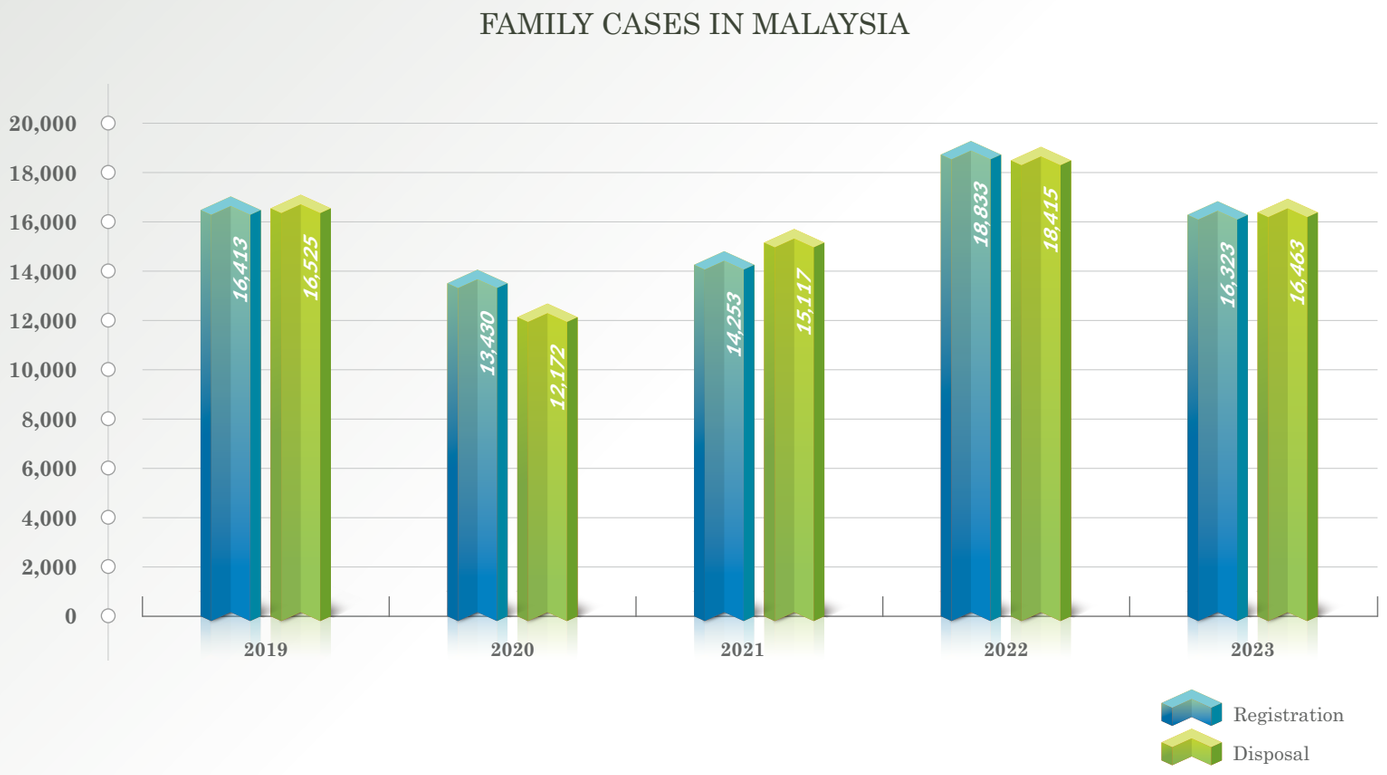
Explanatory Notes:

- *The number of construction cases over the same period of time also shows a minimal drop with registrations averaging about 1,200 cases a year.*
- *This may well be traceable to the pandemic as well as the construction payment industry mechanism and the other alternative dispute resolution mechanisms in place.*

NEW CIVIL COURT (NCVC) CASES IN MALAYSIA

Explanatory Notes:

- *General civil cases also appear to have increased by 0.5% in 2023 compared to 2022.*



Explanatory Notes:

- *The number of family cases decreased by 13.3% in 2023 compared to the previous year. However, this figure may not be reflective of the toll taken on numerous households during the pandemic period as reported by the media.*

ENVIRONMENTAL CASES IN MALAYSIA

Explanatory Notes:

- *As for environmental cases, registration has also been on the decline for the period between 2020 and 2021.*
- *2019 recorded the highest registrations whereas 2023 recorded only 749 cases or a decrease by 1.7% from 2022.*
- *However, the registration figures rose slightly in 2021.*

Showcase of Batik in different techniques
and colours by Nysakapas

The Editorial Committee

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Nysakapas, Terengganu
Pengkalan Chepa Prison, Kelantan

Batik *Terap* or Stamped Batik by
prisoners at the Marang Prison

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