



SUB-COMMITTEE REPORTS

CRIMINAL LAW & HUMAN RIGHTS



Suraj Singh

Chairperson	:	Suraj Singh
Deputy Chairperson	:	MK Thas
Members	:	Salim Bashir Vasudevan Vijayan Ariff Azami Bin Hussein K. Ramu Jayamurugan Halim Ashgar Bin Hilmi Teoh Lib Peng Muhammad Rafique Bin Rashid Ali Imran Hadzalie Bin Abdul Hamid Varghese Onny Thiru Kumar Shamini
Ex-Officio	:	Rajpal Singh Sumathi Murugiah

Introduction

The Selangor Bar, Criminal Law and Human Rights Sub-Committee for the year 2010/2011, were selected from a selection process based on the locality of the members that are currently in active practice and / or appearance in the courts in a particular district in the state of Selangor. The sub-committee members are lawyers who are currently very active and highly experienced in the field of criminal law and human rights.

Similar to the years before, most of these members were involved in the previous sub-committee and have participated in most of the committee's programme.

Since they had shown keen interest and support to the current agenda and issue and also very keen to be part of the sub-committee for the current year, I had invited most of them to participate in this year's sub-committee. It was a very difficult task a head of me, since I had taken over from Salim B. Bashir who had set a high standard for this year's committee to follow in regards to the activities he had carried out in the previous year.



But with Salim B. Bashir's support, guidance and also with the help and effort by my Deputy Chairperson, M K Thas we managed to participate actively in various meetings and discussions held with the Police, AG Chambers and the Judiciary for the year 2010/2011. My sub-committee members have been very supportive and had taken effort and time to attend the various meetings held with the Police.

I must thank all my sub-committee members and the members of the Bar who have been very supportive of our agenda and have given us the encouragement to proceed without fear or favour to meet the challenges in the field of human rights and especially in the rapid development of the Criminal Law especially in regards to the amendments of the Criminal Procedure Code and its current issue on Plea Bargaining.

Objectives

An advocate and solicitor plays a very crucial role in the upholding of the Rule of Law in any democracy and has to ensure that Human Rights are not violated in anyway whatsoever. It is the role of the advocate and solicitor to ensure that the laws are strictly adhered to and is nurtured in this society that is currently developing rapidly in to the theme of "1 Malaysia" especially with the recent abuse of powers by certain government agencies and the increase crime rate. This committee had to play a very active role during this challenging times.

As such this committee decided to resolve issues by having numerous discussions and meetings with the government agencies to discuss and dilebrate on all complaints received by lawyers and the public including current issues concerning criminal laws and human rights.

Mr Rajpal had indeed advised us that there is definitely a need to create an effective working relationship and effective networking with these government agencies to discuss current issues and complaints and also to explore the development of Human Rights and the effective implementation of the amendments to the criminal law at the respective police stations and lockups. This is essential to the current topic of the right of an arrested person during detention. We honestly believed that creating a networking system with the relevant police district would allow all parties concerned to exchange views and to resolve problems rather than running to the press or lodging unnecessary reports. With this approach, time was saved in facilitating the legal practitioners in their various challenges when faced with problems and therefore were able to understand and respect the nature of work of all parties concerned.

Courtesy Calls

As a start, we had short listed several district police stations and other government organizations for the sole purpose of having interactive open discussions and meetings on problems raised by lawyers during the course of the duties in relation to criminal law and human rights. Whilst we have attempted to arrange for courtesy calls, we must admit that few of these government bodies, although initially were willing to meet up, somehow had



to cancel of the meetings due to unavoidable circumstances. But we were not hindered by this but rather more determined to proceed further until February 2011, to meet our objectives.

The courtesy calls are:-

- a) The OCPD Shah Alam together with all the Departmental Heads and Officers on 28th April, 2010;
- b) The OCPD Petaling Jaya together with all the Departmental Heads and Officers on 29th April, 2010;
- c) The OCPD Gombak together with all the Departmental Heads and Officers on 19.11.2010;
- d) Head of Prosecution Department and the DPP's of Selangor on 26.05.2010;
- e) The Pengarah Mahkamah Shah Alam and the Senior Judicial Officers of the Criminal Courts on 6.1.2011; and
- f) The Joint Forum on Plea Bargaining and the current Amendments to the Criminal Procure Code with the Judiciary and the AG'S Chambers on 14.1.2011.

OCPD Shah Alam

Most of our committee members attended this meeting. When we arrived, all senior officers of the Shah Alam District Police Station greeted us upon our arrival. The meeting was chaired by Tuan ACP Noor Azam Bin Jamaludin, the OCPD of Shah Alam. He assured us that the crime rate in Shah Alam have reduced and also gave us an over view picture of his future plans for the prevention of crime in Shah Alam. Issues that were deliberated at length were complaints by lawyers of not being informed by the Investigations Officers of the "time" of remand proceedings of an arrested person held during detention.

Difficulty in contacting the investigating officers and also investigating officers refusing to cooperate with the lawyers. No rooms allocated for lawyers to interview or obtain instructions from clients was also raised. The OCPD then gave us his assurance that the complaints brought up would be addressed immediately. He then advised lawyers to contact the Ketua-Ketua Bahagian Siasatan Daerah of the respective departments if they have problems. He also informed us that the door is always open, to discuss problems faced by lawyers in his district.

He also informed us that the new IPD is under construction and would be ready in 2011 and rooms to meet the inmates would be arranged. We also discussed about the summonses issued to lawyers for parking their vehicle along the road side of the Shah



Alam Court Complex. Issues of investigation papers not sent to the courts on time for trial were also raised.

Issues relating to “bogus lawyers” was raised wherein the Police needed information from the Bar to verify the status of the lawyers. We informed the Police that the Selangor Bar secretariat is constantly updating and readily provides information upon request.

OCPD Petaling Jaya

This meeting was chaired by Tuan ACP Arjunaidi Bin Mohamed, the OCPD of Petaling Jaya. Most of our members attended the meeting. Also present were various and senior departmental heads of all the divisions in the Petaling Jaya District Police Stations. It was a lengthy meeting and all parties concerned participated in the dialogue. Issues raised were the fact that lawyers were not informed by investigation officer, as to when their client is going to be charged in court.

Other issues raised were the detention of foreign nationals and the time needed to verify their passports at the Immigration Department. Also discussed were investigation papers not being produced in court and police officers not turning up in court as witnesses. The OCPD assured us that he will look into the matters raised and also agreed to allocate more officers in courts for security purposes. The committee also inquired on complaints by the courts (as mentioned in the press) of “Ah Longs” and “touts” currently at the corridors of the court complex. The OCPD stated that action will be taken and the Police is currently monitoring the said matters.

OCPD Gombak

This meeting was chaired by the OCPD himself, Tuan ACP Abd Rahim Bin Abdullah and it was attended by all the heads of department and the officers in charge of all the District Police Stations (25 officers attended this meeting).

The OCPD gave us a preview of the entire working strategy and also preventive actions taken by his District to “combat” the increasing crime index. The focus is more on violent crimes and armed robbery.

All issues and complaints by the police and lawyers were looked into and discussed. The OCPD had requested lawyers facing any problems in his district to approach him directly at his office for further information. He and his team assured us of their fullest cooperation and understanding.



Meeting with the New Head of Prosecution

We had several meetings with the Attorney General's Chamber at Shah Alam. The previous Head, Tuan Roslan had resolved many issues and complaints by lawyers in relation to problem and format required for representations by lawyers.

The new head Tuan Azari agreed to look into the problems faced by lawyers especially in obtaining the results of representations. The issues of bail with regards to quantum, where there appear to be no uniformity in offering bail by DPP'S was raised. Issues of delaying 39 (B) DDA cases being transferred to the High Court and the delay in obtaining Chemist, Medical and DNA Reports were discussed.

Issues of foreigners charged in court where bail was not offered as the police had not obtained the verification of the accused's passport and visa at the Immigration Department was also highlighted.

Issues raised regarding the conduct and etiquette of lawyers and DPP'S and DPP'S seeing Magistrate and Judges in Chambers without the presence of lawyers to discuss cases, were also raised. Issue of plea bargaining was raised, especially in situations where parties (lawyer and DPP) had achieved an understanding and after the sentencing by court, the AG's Chamber decided to appeal the said decisions was also deliberated at length. The head of prosecution had given us the assurance that he would personally look into this matter.

The Joint Forum organised by the Judiciary, AG's Chamber and Selangor Bar's Criminal Law & Human Rights Committee on the Amendments to the Criminal Procedure Code was held on 14th January, 2011 at the Royal Selangor Club, Bukit Kiara

Topics per discussion:

1. Pre-trial Conference S172A
2. Case Management S172B
3. Plea Bargaining S172C
4. Disposal of the Case S172D
5. Finality of the Judgment S172E
6. Victim Impact Statement S183A
7. Reinstatement of Trial after Discharge S254A
8. Notice of Alibi S402A

Senior Speakers of the Judiciary, AG's Chamber and the Bar turned up. About 200 people registered for this event.



Conclusion

My committee members have been very committed and supportive with regard to all the issues and topics raised. I wish to thank them for their tireless commitment in discharging their duties. Their views, ideas and deliberations had contributed during the discussions held during the various meetings and had been very encouraging indeed. We hope that this committee has contributed effectively on the relevant and current issues pertaining to Criminal Law and Human Rights.

It has been very difficult for some members who had to juggle between their work commitments and sub-committees meetings. But it was a memorable term for us. During our term we had meetings on 25th March, 2010, 15th July, 2010 & 28th October, 2010. I also wish to thank Rajpal Singh, the Selangor Bar Committee and members of the Selangor Bar for their trust and support bestowed upon me to Chair the Criminal Law and Human Rights Committee for 2010/2011. It was due to the tremendous encouragement and courage of my sub-committee members that made us achieve our goals greatness during a short span of time.

Special thanks to M K Thas for his great support as the Deputy Chairperson and to Salim B. Bashir and also to all my sub-committee members who have spent a lot of time and effort in making this year a meaningful one.

We look forward to better our efforts and contributions for the years ahead.

Report submitted by

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Criminal Law & Human Rights Sub-Committee