

EMERGENCY RESCUERS: DUTIES AND LIABILITIES

By

Mohd Royzal bin Abdul Razak	2007294396
Norhuda binti Mohamad Hamidi	2007294234
Intan Nordiana binti Ab. Talib	2007294186
Megat Aiman Taher bin Megat Mohd Ghazali	2006200692

Submitted in Partial Fulfillment of the Requirements
for the Bachelor in Legal Studies (Hons)

Universiti Teknologi MARA

Faculty of Law

October 2009

The students/authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to work of others.

Abstract

This project paper is a study on the duty and liability of the rescuers in Malaysia. During disasters and emergencies, rescue teams have actively participated in the rescue operations to save the lives of the victims who are in peril. In Malaysia, there are two types of the rescue teams; namely government and its agencies and the non-government agencies. The liability of the government rescue bodies is covered by the Government Proceedings Act 1956, Public Authorities Protection Act 1948, and any other related provisions in Malaysia. However, there is no specific legislation and provision that covers the liability of the volunteer rescuers in Malaysia.

This project paper has referred to the legislation of Canada to consider the duty and liability imposed on the rescuers. There has two type of legislation that covers the liability of the rescuers in Canada, namely The Quebec Charter of Human Right and the Good Samaritans Act. In United Kingdom, the rule of Common law applies the neighbourhood principle which derived from the case of *Donoghue v Stevenson* [1932] AC 562. However, there is no legal obligation imposed to the rescuers concerning their duty and liability during the rescue operation.

The outcome of the project paper is the proposed recommendations of law concerning the duty and liability of volunteer rescuer in Malaysia.

TABLE OF CONTENTS

Acknowledgement	ii
Abstract	iii
Contents	iv
List of Cases	vii
List of Statutes	viii

CHAPTER 1: INTRODUCTION

1.0 Background	1
1.1 Problem Statement	3
1.2 Research Questions	4
1.3 Research Objectives	4
1.4 Methodology	4
1.5 Limitation of Research	5
1.6 Significance of Research	6
1.7 Provisional Plan of Research	6

CHAPTER 2: LITERATURE REVIEW

2.0 Introduction	8
2.1 Conclusion	19

CHAPTER 3: EMERGENCY RESCUE TEAMS IN MALAYSIA

3.0 Introduction	20
3.1 Concept of Rescue and Duty to Rescue	20
3.1.1 Morality Concept of Rescue and Duty to Rescue	20
3.1.2 Islamic Concept of Rescue and Duty to Rescue	23
3.2 Policy and Mechanism of National Disaster Management in Malaysia	25
3.2.1 Structure of Disaster Management	27

3.3 Establishment of Rescue Teams	28
3.3.1 Government Rescue Teams	29
3.3.1.1 Fire and Rescue Department	29
3.3.1.2 Civil Defence Department	31
3.3.1.3 Ikatan Relawan Malaysia (RELA)	32
3.3.1.4 Malaysia Armed Forces	33
3.3.2 Non Governmental Rescue Teams	33
3.3.2.1 Red Crescent Society	34
3.3.2.2 MERCY Malaysia	35
3.4 Framework of Coordination and Integration of Rescue Teams	36
3.5 Framework of Rescue Operation	37
3.5.1 Fire and Rescue Department	38
3.5.2 Civil Defence Department	38
3.5.3 Ikatan Relawan Malaysia (RELA)	39
3.5.4 Red Crescent Society	39
3.6 Conclusion	39
CHAPTER 4: DUTY AND LIABILITY OF EMERGENCY RESCUERS	40
4.0 Introduction	40
4.1 Duty and Liability of Emergency Rescuers in United Kingdom	44
4.2 Duty and Liability of Emergency Rescuers in Canada	47
4.2.1 Quebec Charter of Human Rights and Freedom	48
4.2.2 Good Samaritan Act	49
4.3 Duty and Liability of Emergency Rescuers in Malaysia	51
4.3.1 Liability of Government Emergency Rescuers	54
4.3.1.1 Public Authorities Protection Act 1948	57
4.3.2 Volunteer's Liability	57
4.3.2.1 MERCY Malaysia	58
4.3.2.2 Malaysian Red Crescent Society	58

CHAPTER 1

INTRODUCTION

1.0 Background

For the past twenty years, Malaysia has experienced many tragic disasters. According to the Fire and Rescue Volunteers Association of Malaysia among the tragic disasters in Malaysia is the collapse of Sultan Abdul Halim Ferry Terminal at Butterworth, Pulau Pinang on July, 31st 1988 which caused 32 deaths and 1674 injured.¹ The following disaster is the explosion of Bright Sparkles Sdn. Bhd. at Sungai Buloh, Selangor on May 7th 1991 causing 22 deaths and 103 injured. Later, on June 20th 1992, the explosion of oil tanker Choon Hong III at Klang Port causing 22 deaths. In the following year, on December 11th 1993, Malaysia is surprised with the collapse of Highland Towers Condominium in Hulu Kelang, Selangor causing the death of 48 people. The tragic disasters is continued to happen in this country. A landslide at kilometer 34 feeder road to Genting Highlands, Pahang happened on June 30th 1995, where 20 people were killed and 22 sustained injuries. The Post Dipang mudslide on August 29th, 1996 ravaged an Aborigine Settlement village at Kampong Sahom, Mukim Kampar, Perak, claiming 44 lives and destroying 30 houses. In the same year which is on December, 26th 1996, the tropical storm Greg hit the west coast of Sabah, killing more than 230 people and destroyed more than 4925 houses. Next, on December 26th, 2004, Malaysia was affected by the Indian Ocean earthquake which caused a tsunami. Then, on December, 6th 2008, landslide was happened in Bukit Antarabangsa, Ulu Kelang, Selangor where 5 people were killed and more than 8 others were buried in the landslide.

¹ "Malaysia Disaster Profile", available at <http://www.mvfra.org/Tragic.htm>, accessed on 26 July 2009.