

SENTENCING THE DRUG OFFENDER -
PRACTICE IN THE MAGISTRATES' COURTS IN MALAYSIA.

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A Project Paper Submitted In
Partial Fulfilment For The
Requirements For The
Diploma In Law
At The
MARA INSTITUTE OF TECHNOLOGY
SHAH ALAM, SELANGOR
JUNE, 1986.

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CHAPTER ONE.

1.1. DEFINITION OF TERMS.

Different interpretation can be given and to some of the terms used in this paper and to avoid confusion, ambiguity and misunderstanding the meaning attributed to this paper or terms for the purpose of this paper will be defined and laid down here.

1.2. SENTENCE AND SENTENCING.

A 'sentence' is a disposition which the court order after a person is found guilty and or the convicted of an offence. 'Sentencing' refer to the process in a trial after a person is found guilty and or convicted of an offence. Sentencing thus involves a consideration of pre-sentence reports, consideration of extenuating and aggravating circumstances, and consideration of other matter pertaining to deciding an appropriate sentence.

1.3. DRUG OFFENDER AND DRUG DEPENDENT OFFENDER.

A drug offence is any offence which is

related to drug. Any infringement of the law relating to drug would constitute a drug offence.

Therefore under the Dangerous Drugs Act 1952 unlawful possession, peddling, trafficking and manufacturing of drug are prohibited and anyone who contravenes these provision is guilty of an offence against the Act. Such offender, though not specifically provided for in any statute are generally called drugs offender. Though they may also be drugs dependent, this need not be so for a non-drug addict can commit a drug offence.

A drug dependent is defined in section 2 of the Dangerous Drugs Act 1952 to mean a person who through the use of any dangerous drugs undergoes a psychic and sometimes physical state which is characterised by behavioural and other responses including the compulsion to take the drugs on a continuous or periodic basis in order to experience its psychic effect and to avoid the discomfort of its absence.