

## **AN OVERVIEW OF THE JURY SYSTEM IN MALAYSIA**

By

**Siti Khadijah Mohd Pisol (2005756736)**

**Nurul Nasihin Ariffin (2005756352)**

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

**University Teknologi MARA  
Faculty of Law**

**April 2008**

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

## ACKNOWLEDGEMENT

In the name of ALLAH (s.w.t), the most Gracious and Merciful for giving us the fullest strength and courage to complete this project paper.

There are many people to whom we should like to express our gratitude and appreciation for helping us during our study. Firstly we would like to convey our gratitude to Associate Professor Ibrahim Lamat who is our supervisor. We owed most important debt for the steady advice and constructive criticism throughout mixed with encouragements in times of need and times of in doubt to him.

Secondly, we would like to express our appreciation to Kangar High Court's and Besut Magistrate Court's staff, for their contribution to serve us with valuable information. For suggestions and answers to queries, we would like to thank to Mr Joseph, and equal gratitude to the Bar Council Staff gave us both verbal and non verbal aids of which we kept record of.

Thirdly to Tetuan Jamil b Syafie & Advocates for their contribution on providing us sources in the completion of this project paper. Not to forget, our friends, Shuhaida, Akmah, Shahira, Shahrul, Hilmie, and Varnesa who were always there to support us during our hectic semester.

Last but not least, deepest thanks and precious love to our family who supported and guided us in completing this project paper. Thank you so much for the love and encouragement. This project would not have been completed without the support of our family.

May ALLAH (s.w.t) bless you all.

## ABSTRACT

This research is about an overview of the jury system in Malaysia. Jury system was applied in Malaysia during the British colonial days until 1<sup>st</sup> March 1995. Jury trial is the traditional mode of determining issues of fact at Common Law. Its development dates back far into the sixteenth century.

Basically the roles of the jurors include listening to witnesses, determining documents and determining the credibility and weight of the evidence based upon common sense and experience. Jurors are required to follow the law of the case as the judge instructs, and apply the facts to the law, separating out relevant facts from unimportant material. Jurors, as determiners of the facts must be impartial and objective.

The application of the jury system is hotly debated recently. Some critics embrace the concept of jury trial. However due to the increase in courtroom technology, and complex litigation, some argue that the system is no longer able to deal with the complexities of modern litigation.

This research seeks to out the problems that a rose behind the application of jury trial. The problems were encountered after evaluating the procedure of jury system. However it cannot be denied that jury trial may have its benefit and advantages. Beside that, criminal justice in Malaysia is also being analysed.

In conclusion, the elimination of jury trial had resulted in a positive impact in judicial system in Malaysia obviously.

## TABLE OF CONTENTS

Acknowledgement	ii
Abstract	iii
Contents	iv
List of Cases	viii

### **CHAPTER ONE: INTRODUCTION**

1.0 Introduction	1
1.1 Problem Statement	4
1.2 Objectives of the Study	4
1.3 Literature Review	5
1.4 Methodology	11
1.5 Limitation	11
1.6 Significance of the Study	11

### **CHAPTER TWO: ANALYZING CRIMINAL JUSTICE IN MALAYSIA**

2.0 Introduction	12
2.1 Problems in Criminal Justice System	13
2.1.2 Delay in Criminal Proceedings	13
2.1.2 Transparency of Decisions Made by Judges	14
2.2 Conclusion	15



## CHAPTER ONE

### INTRODUCTION

#### 1.0 INTRODUCTION

Jury trials have been a cornerstone of the English legal system. This system was also introduced to its colonial possessions.<sup>1</sup> The jury system was initially introduced in Penang in 1807, until after the independence in 1987 in the form of a Grand Jury comprising between 13 to 23 people.<sup>2</sup> In 1873, the Grand Jury was replaced by the seven-man jury which is still being used in Peninsular Malaysia for the trial of a murder charge for which the punishment is the death penalty.<sup>3</sup> Other offences for which capital punishment may be imposed are governed by other statutes and trials by a single judge. Sabah and Sarawak never had a formal jury system. In these two states, a single judge tries a case with the advice of two assessors.<sup>4</sup>

Today, Malaysians are hotly debating the issue on whether to bring back the jury system or not. Pertaining to this issue, it had actually opened the eyes of society at large with different levels of background to give their thought on the relevancy of applying the jury system. With regards of this study, the definition of jurors and the procedure that jurors need to follow during the proceeding should be taken into consideration.

Initially, in all cases where punishment of death was authorized by law, the accused had to be tried by jury.<sup>5</sup> The provision on trial by jury before the High Court in Chapter XXII (ss 199A-235) of Criminal Procedure code (Act 593) (Revised 1999) has been deleted by Criminal Procedure Code (Amendment) Act 1995 (Act A908) s 11 wef 17 February 1995. Therefore, juries are no longer required in the administration of Malaysian criminal justice: (2) 1 Criminal Law & Procedure.<sup>6</sup> During those days, there

<sup>1</sup> Wu Min Au, *The Malaysian Legal System* (Longman Malaysia 1990) p 258

<sup>2</sup> Wikipedia website, at p 2, source available from, <<http://www.jurysystem/wikipediaonjurysystem.htm>> (8 August 2007)

<sup>3</sup> Ibid

<sup>4</sup> Ibid

<sup>5</sup> The Annotated Statutes of Malaysia, 2001 Issue

<sup>6</sup> A. Halim Sidek (ed), *The Annotated Statutes of Malaysia*, (Malayan Law Journal 2001)