

THE JUDICIARY IN MALAYSIA :  
ITS ROLE AND CHALLENGES

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## PREFACE

This project paper has been prepared as part of academic requirements of the Diploma In Law course.

The main purpose of this project paper is to examine whether the Judiciary has effectively discharge its role of protecting and defending the Constitution and dealing with justice in accordance with law.

In determining whether the Judiciary has effectively discharge its role, its independence, duty, function and power will first be discussed and then proceed to the fundamental issue that is the role of the Judiciary and the challenges and problems faced in dealing with justice.

When examining the role of the Judiciary three things will be touched:-

- (1) judicial approach on the concept of the supremacy of the Constitution.
- (2) the extend of fundamental liberties in Malaysia.
- (3) the courts role in times of emergency, its attitude towards the exercise of emergency powers by Government.

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3. Mahan Singh v The Government of Malaysia (1978) 2 MLJ, 133
4. Minister of Home Affairs v Fisher (1979) 3 AER 21
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8. Surinder Singh Kanda v The Government of Malaya (1962) 1 MLJ 169.
9. Aminah v Superitendent of Prison, Pengkalan Chepa (1968) 1 MLJ 92
10. Public Prosecutor v Dato Harun bin Haji Idris (1977) 1 MLJ, 180
11. The Attorney General, Malaysia v Chow Thuan Guan (1983) 1 MLJ 51
12. Ooi Ah Phua v Officer In Charge Criminal Investigation, Kedah/Perlis (1975) 2 MLJ, 198
13. Hashim bin Said v Yahaya bin Hashim (1977) 2 MLJ, 116
14. Minister Of Home Affairs v Chu Choon Yong & Anor (1977) 2 MLJ 20
15. Andrew s/o Thamboosamy v Superitendent Of Pudu Prisons, Kuala Lumpur (1976) MLJ, 156

## CHAPTER I

### INTRODUCTION

This project paper concerned with the role of the Judiciary and its challenges. The Judiciary occupies the highest position in our system of administration of justice. They play an effective role in protecting and defending the Constitution and dispensing justice in accordance with law.

The Judiciary today has the power to interpret the Constitution and lay down what the Constitution means. It is the guardian of the Constitution which is the supreme law of the land. By the nature of their oath judges are to preserve, protect and defend the Constitution,

The Constitution divides the authority of the federation  
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into three kinds:-

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I. Tun Mohamed Suffian Hashim, An Introduction To The Constitution of Malaysia (1972), pg. 79.