

MILITARY JUSTICE:

THE RIGHTS OF AN ARRESTED SOLDIER

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CHAPTER 1

INTRODUCTION

A. GENERAL

Little is known about the system of military justice which exists in our Armed Forces. To a few, "persons who are subjected to service laws(1)" themselves, the system may seem to be familiar. But, to most, admittedly, totally strange. Thus, it is not blameworthy that most civilians are ignorant of the system except for some lawyers and Judge Advocates. Presumably, this is because of the closed nature of the service not usually understood by "persons not subjected to military law"(2).

The lack of knowledge of the system of military justice amongst the Military officers and personnel has resulted in the miscarriage of justice. Ignorant of the system themselves have resulted in them losing their rights available under the law. The law as regard to the Armed Forces may seem to be adequate, however, it could be a practical misnomer.

1 See definition - S 209 AFA.

2 Kolonel Hj Wan Nordin Hj Wan Mohamed, The Independence of Military (1983) 2 MLJ xliii.

B. BACKGROUND

The Idea of writing this paper arises from a remark passed by a prosecution witness (who is an ex-serviceman) in a court-martial proceeding. He was discharged from the service after his conviction on an abetment of a service offence with the accused. In the course of the examination:

Counsel: "I put it to you that you were convicted of that offence?"

Witness: "Yes Your Honour."

Counsel: "Did you plead guilty at the trial?"

Witness: "Yes Your Honour."

Counsel: "Why then, now, do you contradict your statement?"

Witness: "Your Honour, I am now a civilian. I am no more subjected to military law. Even if I pleaded not guilty during my trial with the commanding officer (CO), he would have found me guilty. There is no justice in the army!"

His evidence may not be of importance. However, such remarks has driven the author to think : "Are these allegations true; is the system of military justice being