

Intoxication As A Defence Under The Malaysian
Penal Code

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CHAPTER I

INTRODUCTION

The law of intoxication as a defence for a criminal charge is dealt with by section 85 and 86 of the Malayan Penal Code. Only intoxication caused by alcohol or drugs is recognised as a defence for a criminal charge. Intoxication caused by alcohol is often known as drunkenness. The English law dictionary by Earl Jowit, published by Sweet and Maxwell Limited, 1959, defined drunkenness as intoxication with strong liquor, habitual inebriety.

There are so many kind of alcohol and drugs which existed today. Some examples of drugs are opium, Indian hemp, morphine, heroin, cocaine, ugonine, and L.S.D. Some example of alcohol are Carlsberg, Remy Martin, C.O. Cognac, brandy, Special Brew and Guinness Stout.

Certain people can consume five bottle of alcohol and still remain sober, but to some people two bottle of alcohol can already intoxicated him. When a man is intoxicated either by alcohol or drug, he may sometimes do not know what he may be moved to do. The Malay Law Journal (1939) 8 M.L.J. X on

a topic of Drunken Freaks by Justice for Peace reported this:-

"A short time ago The Times recorded the extraordinary violence under anaesthetics of a quiet and respectable man. He behaved like an angry gorilla, on one occasion biting clean through the watchchain of the anaesthetist. Another day we have from the Cardiff Magistrate's court the report of a Latvian seaman getting on to a locomotive engine with the steam up, and setting it in motion till it crashed into a stop block. It might, said a witness have got out on to the main line. This instance is matched by one years ago, where a young ship's officer overtaken with drink, took a hansom cab and solemnly drove it round and round a street refuge, till the police came and dismounted him from his high perch."

In Lee Wong Tiang v P.P.¹ the appellant was convicted of murder and sentenced to death. The prosecution case against him was that he intentionally caused the death of a young woman Esther Chen in his house at Pontian on the night of July 6, 1969. The accused did not deny the killing. His defence was that he did not know what he was doing by reason of intoxication. In his defence he said drank a glassful of the intoxicating concoction from the wine jar in his house.