

**GAMING DEBTS OF MALAYSIANS IN CASINOS: ISSUES ON
VALIDITY AND JURISDICTION**

By

Izahairani bt Izani (2005365393)
Alliff Benjamin b Suhaimi (2005365322)

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

**Universiti Teknologi MARA
Faculty of Law**

April 2008

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

Acknowledgement

This research project has been carried out by a team which has included Alliff Benjamin B. Suhaimi and Izahairani Bt. Izani. Alliff Benjamin's contribution to the project has been carrying out internet based research for the research project through. He was also responsible for the preliminary pages, the third chapter of the research project and the final editing of the research project.

Izahairani Bt. Izani contributed by finding material for the research project. She also contributed her penmanship in chapter two, four and five of the project paper. Other than that, she scouted for relevant individuals to interview and consequently interviewed Mr Rueben Mathiavararam from B.H. Lawrence & Co. and Ms Shoba Magimay from Zaid Ibrahim & Co.

We would like to take this opportunity to express our gratitude to all the people who have helped us in completing this project paper prior to its submission.

Firstly, we would like to thank Allah S.W.T. for endowing us with the diligence to proceed with this topic. We would also like to thank our family, friends and significant others for all their support throughout the entire process of completing this project paper.

To our supervisor, Puan Rohani Mohd Shah, we thank for her guidance throughout the fabrication and completion of our project paper, we value the enriching experience as it was a true eye-opener into the process of writing a research paper.

We also would like to convey our deepest gratitude to Mr Rueben Mathiavararam from B.H. Lawrence & Co. and Ms Shoba Magimay from Zaid Ibrahim & Co for the time they spared to aid us in our research. Their insights were both extremely interesting and helpful to our study.

Lastly, to all those who contributed in any way, shape or form to our project paper, we appreciate every input and opinion given.

Abstract

We discuss the validity of the gambling activities and gambling contracts under Malaysian law. This is because in our opinion, there is some ambiguity in certain Malaysian legislations concerning the validity of both gambling activities and gambling contracts. We also focus on the issues related to the registration of a foreign judgement in the Malaysian courts for the recovery of gambling debts owed by a Malaysian gambler. This is important because the gambler may transcend into different territorial boundaries which would make it difficult to enforce the judgment on that person. This is because there may be multiple jurisdictions involved when the gambler goes to another country after incurring the gambling debts.

The purpose of this research is to discover the possible reasons for such ambiguity to exist in the Malaysian legislations. Apart from that, this research is also aimed at determining the proper jurisdiction which will be applicable to the Malaysian gambler when a claim is made for recovery of that person's gambling debts. We have also made some recommendations that may help avoid any such problems in the future.

TABLE OF CONTENTS

Acknowledgement	ii
Abstract	iii
Contents	iv
List of Cases	vi
List of Statutes	vii

CHAPTER ONE: INTRODUCTION

1.1	Background	1
1.2	Problem Statement	3
1.3	Objective of the Study	4
1.4	Literature Review	5
1.5	Methodology	8
1.6	Limitations	9
1.7	Significance of the Study	10
1.8	Provisional Plan of Research	11

CHAPTER TWO: AMBIGUITY OF GAMBLING LAWS IN MALAYSIA

2.1	Gambling Laws in Malaysia	12
	2.1.1 Section 27A of the Common Gaming Houses Act 1953	12
	2.1.2 Section 26 of the Civil Law Act 1956	13
	2.1.3 Section 31 of the Contracts Act 1950	14
2.2	Comment on the Law	14
2.3	How Parties Have Tried to Circumvent the Law	17
2.4	Ambiguity of the Gambling Laws	20
	2.4.1 Contextual Meaning of gambling and Section 27A Of the Common Gaming Houses Act 1953	20
	2.4.2 Issues of Public Policy	21
	2.4.3 Reasons the Courts Refuse to Deal with Claims for Gambling Debts	22
	2.4.4 Ripple Effects of Valid Gambling Contracts	23

CHAPTER THREE: ISSUES ON JURISDICTION

3.1	Malaysian Gambler in Foreign Land	25
	3.1.1 The proper interpretation of public policy	29
3.2	Malaysian Gambler at Sea	31
	3.2.1 Territorial Sea	32
	3.2.2 Exclusive Economic Zone (EEZ)	33
	3.2.3 Continental Shelf	35
	3.2.4 High Seas	36
3.3	Legal Analysis of the Issues on Jurisdiction	37

CHAPTER FOUR: GAMBLING AS A “NECESSARY EVIL
AND THE AMBIVALENCE SURROUNDING IT

4.1	The Economic Activity Gambling Generates	41
4.2	Revenue Received by the Government from Gambling	42
4.3	Weighing the Social Costs and the Benefits of Gambling	43
4.4	Ambivalence Towards Gambling	45

CHAPTER FIVE: CONCLUSION

5.1	Define “Gaming” and “Wager” in Section 26 of the Civil Law Act	47
5.2	Providing Statutory Illustrations for Enactments Concerning Gambling Contracts and Debts	49
5.3	The Effects of Including Unlicensed and Licensed Gaming in the Definition of “Gaming” and “Wager” in Section 26 of the Civil Law Act	50
5.4	Recommended Interpretation of Public Policy in Section 5 Of the Reciprocal Enforcement of Judgments Act 1958	51
5.4	The Prospect of Clearer and More Comprehensive Gambling Laws	53
	Bibliography	54
	Appendices	56
	Appendix 1: Interview Questions	56