



Kuala Lumpur Bar

Thursday 1st March 2001
10.00 AM
Grand Ballroom
The Legend Hotel
Kuala Lumpur

14TH ANNUAL GENERAL MEETING

KUALA LUMPUR BAR COMMITTEE 2000/2001



L to R: Encik Mohamad Ariff bin Md Yusof (Rep. to Bar Council), Mr Christopher Foo, Cik Yasmeen bt Hj Muhamad Shariff (Hon Secretary), Mr M Puravalen (Chairperson), Mr Rangunath Kesavan, Ms Mary Tan (Executive Secretary), Mr Oommen Koshy, Mr R Shanmugam (JLR), Ms Jayaletchumi Rajaretnam, Ms S Ambiga, Mr K H Koh

CHAIRPERSON'S REPORT

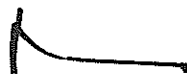
The Committee resolved that it would focus on the delivery of services to its membership as its priority. It proceeded to co-opt Mr KH Koh, a person with considerable expertise in IT. Our decision proved to be invaluable.

Close to 3,000 members are on our e-mail database. Our membership is 4,896. E-forums have been set up. The level of interaction with the membership has quantum leaped.

The Committee has through Ambiga Sreenevasan and KH Koh produced a Memorandum on the Administration of Justice. The Legal Aid Centre has been a 'thorn in the flesh' to many stakeholders on the issue of JUVENILE DETENTIONS. Relevant has had its share of brickbats and bouquets.

The achievements have been highlighted above. Our not so successful efforts are hidden in the following Report.

Thank you.



M PURAVALEN
Chairperson

ANNUAL REPORT 2000/2001

AS AT 10.2.2001

1. 8TH ANNUAL GENERAL MEETING

The 8th Annual General Meeting was held on Wednesday 15th March 2000 at 10:00 a.m. at the Grand Ballroom, Grand Seasons Hotel, Kuala Lumpur. It was adjourned from 9th March 2000 due to the lack of a quorum.

2. OFFICE BEARERS

At the 8th Annual General Meeting the following office bearers were elected:

a) Bar Committee 2000/2001

Chairman: Mr M Puravalen

Members: Ms Ambiga Sreenevasan
Mr Christopher Foo Kah Foong
Mr Rangunath Kesavan
Cik Yasmeen bt Hj Muhamad Shariff
Ms Jayaletchumi Rajaretnam
Mr Oommen Koshy

b) Representative to the Bar Council for 2000/2001

Encik Mohamad Ariff bin Md Yusof

3. HONORARY SECRETARY

Cik Yasmeen bt Hj Muhamad Shariff was appointed by the Committee as Honorary Secretary for the year 2000/2001.

4. CO-OPTED MEMBER

Mr Koh Kek Hoe was co-opted as member of the Bar Committee under Section 73(vii) of the Legal Profession Act 1976 at the 2nd Committee meeting for the year.

5. COMMITTEE MEETINGS

a) As at 10.2.2001 the Committee met 11 times and the attendance of each member was as follows:

Mr M Puravalen	- 9
Ms Ambiga Sreenevasan	- 9
Mr Christopher Foo Kah Foong	- 7
Mr Rangunath Kesavan	- 10
Cik Yasmeen bt Hj Muhamad Shariff	- 11
Ms Jayaletchumi Rajaretnam	- 11
Mr Oommen Koshy	- 11
Mr Koh Kek Hoe	- 9

b) Encik Mohamad Ariff bin Md Yusof, the representative to the Bar Council, was invited to attend the Committee meetings as observer and also to report to the Bar Council on relevant matters as and when pertinent and necessary. He attended a total of 6 meetings.

6. FINANCE

The financial position of the Committee remains stable with a sum of RM246,162.00 in Fixed Deposit. Details of the financial position are as set out in the Audited Accounts ending 31.12.2000.

7. SUBSCRIPTIONS

7.1 The subscription for the year 2000 was fixed at RM100.00 at the 8th Annual General Meeting of the Kuala Lumpur Bar held on 15th March 2000.

7.2 At the closing of the Committee's financial year on 31.12.2000, 34 members were in arrears of the 2000 subscription.

Members would note that the number of members in arrears of the year 2000 subscription has decreased tremendously as compared to previous years. This was due to the efforts made by the secretariat staff in trying to reach all the members who were owing the Committee their subscription to ascertain if they were still in practice and is so, to remind them to pay up.

8. NUMBER OF MEMBERS

As at 10.2.2001, the Kuala Lumpur Bar has a total of 4896 members.

9. SUB-COMMITTEES AND LEGAL AID MANAGEMENT PANEL

9.1 The following Sub-Committees were set up to facilitate the organisation of the Committee's various activities and to cater to the needs of the Bar and were headed by the following Committee members:

- i) Pupils' Welfare : Mr Christopher Foo
- ii) Information Technology (IT) : Mr K H Koh
- iii) Legal Aid : Mr Ragunath Kesavan
- iv) Publications : Mr Ragunath Kesavan
- v) Social & Public Relations : Cik Yasmeen bt Hj Muhamad Shariff
- vi) Sports : Mr Oommen Koshy

9.2 The Junior Lawyers Representatives (JLR) continued to play an active role in the Committee. Mr R Shanmugam who heads the JLR was invited to sit in the Committee as observer.

9.3 During the year under review, the Sub-Committees, the Legal Aid Management Panel and the JLR respectively have been active. Their respective activities and reports appear in pages 22 to 59.

10. MEMORANDUM ON THE ADMINISTRATION OF JUSTICE

In response to a general invitation by YB Dato' Dr Rais Yatim, Minister in the Prime Minister's Department, for feedback on the issue of "The Administration of Justice in Malaysia", the Committee prepared and submitted to the Minister a Memorandum on the issue. The Committee is also making arrangements to meet the Minister to discuss the Memorandum.

Copies of the Memorandum were also extended to the new Chief Justice, the new Attorney General and the President of the Malaysian Bar.

The Memorandum is reproduced for members' perusal in pages 104 to 126.

11. FORUM ON THE "NO-DISCOUNT RULE"

In view of the controversy over the "No-discount Rule" in the Solicitors Remuneration Order, the Committee organised a Forum on 2.12.2000 for members to have an open discussion on the issue. Speakers were invited to advance arguments on both sides of the issue. About 70 lawyers attended the Forum and there was a fair dissemination of both schools of thought for and against the "No-discount Rule".

The Committee would want to gather more feedback and views on the issue before making any recommendation to the Bar Council. In this respect a Discussion eGroup was set up for members to express their views and discuss the issue. So far, 21 members have joined this Discussion eGroup.

It is hoped that more members will join in the discussion of this issue at www.yahogroups.com/subscribe/klbarNoDiscount.

The eGroup is open to all members of the Malaysian Bar. Members can also apply to join by sending an e-mail message to klbarNoDiscount-subscribe@yahoo.com.

12. BAR COMMITTEE DOCUMENT BOXES

In view of the demand for the Bar Committee Document Boxes, additional boxes were installed at all the three Courts i.e. the Wisma Denmark High Court, Jalan Raja Sessions and Magistrates Courts.

As it was still not quite possible yet to implement the system of "communication by e-mail only", the Committee would continue to place all its circulars, notices and bulletins for circulation to members of the Kuala Lumpur Bar in the document boxes at Jalan Raja Magistrates Courts. Members are advised to check their respective boxes frequently so as not to miss out on any information and/or activities of the Kuala Lumpur Bar Committee.

13. CONGRATULATORY MESSAGES

Congratulatory messages were sent by the Committee on behalf of the Kuala Lumpur Bar to various legal personalities who were appointed to high office and who were bestowed titles.

14. OBITUARIES

The Committee records with deep sorrow the passing away of the following members of the Kuala Lumpur Bar during the year under review:

- Mr Subramaniam Komban on 9.5.2000
- Encik Zainal Abidin bin Mohamed Wazir on 13.7.2000
- Mr Joseph Loo Shin Mun on 10.8.2000
- Mr Shukanta Choudhury on 21.9.2000
- Mr Balakrishnan Shanmugam on 9.10.2000
- Mr Peter Yeoh Keat Choon on 20.10.2000
- Ms Hoh Pau Yu on 5.11.2000
- Mr Philip Adolphus a/l Cruz Philip Fernandez on 22.11.2000

15. ACKNOWLEDGEMENTS

We acknowledge the co-operation and assistance received from the Chief Judge, High Court Judges, Registrar of the High Court of Malaya, Deputy Registrar of the KL High Court, Pengarah of Tanah & Galian Selangor and YB Dato' Dr Rais Yatim.

We thank all our members for their continuous support and co-operation. We hope that members will continue to extend the same to the incoming Committee.

KUALA LUMPUR BAR COMMITTEE

INFORMATION TECHNOLOGY (IT)

1. New Sub-Committee on IT

Finally, in year 2000, the Kuala Lumpur Bar Committee has created a new Sub-Committee on Information Technology. The main objective of the new Sub-Committee has been to get the members of the KL Bar connected and communicating with each other by e-mail.

2. eGroups

We started with ourselves, the members of the Committee, and set up the first of our KL Bar electronic discussion groups ("eGroups"). The way eGroups work is quite straightforward. Instead of writing to all members of our group, we create an eGroup with an address like *klbar@egroups.com*. Using the facilities offered by *www.egroups.com* (now, *www.yahogroups.com*), all messages to the eGroup will be forwarded to the members of the group. This creates a virtual "discussion" in which our e-mail messages are read by all members of the Committee. Each member can read and reply to any message, rather like being in a meeting, listening to everyone else speaking and deciding to join in the conversation. By this means, the Committee has been discussing issues long before they reach the agenda for their meetings.

3. klbarInfo

Once our Committee eGroup was up to speed, we extended the idea by creating *klbarInfo@yahogroups.com* which has since served as our channel for dissemination of information to members of the KL Bar. The Secretariat started by collecting e-mail addresses from our members. At our last count, we have close to 3,000 e-mail addresses (including those belonging to pupils) and are continuing to add to the database. The result is that all members whose e-mail addresses have fallen into the hands of the Committee are now receiving our own brand of junk mail.

The klbarInfo eGroup can also be used as a channel for firms looking for lawyers. It is proposed that situations vacant can be announced on klbarInfo through the Secretariat.

4. Cost Savings

One immediate benefit of the klbarinfo eGroup being set up is the cost savings in postage, printing and stationery. Comparing figures in 1999 (RM36,000) and 2000 (RM23,000), it does appear that some RM13,000 may have been saved, even with the yearly increase in membership.

5. Other klbar eGroups

Once the klbarInfo eGroup was operational, we used it to announce the others, *klbarMembers*, *klbarPupils*, *klbarJuniors* and *klbarNoDiscount*. The first is set up for discussions on matters of general interest to members, the others on the topics

which are self-evident from the eGroup names. Response from members has been slow but steady. We expect that these eGroups will become active once the move of the eGroups site to Yahoo settles down. Members are also just emerging from the Christmas, Hari Raya and Chinese New Year holiday stretch. The Committee has recently made a decision to open up all (with one exception) the eGroups to members of the other state Bars.

6. PC Purchase Offer

With the object of encouraging our members who have yet to buy their first computer, the Committee persuaded a PC distributor to give a special offer to the KL Bar members on their range of personal computers. Unfortunately, there was very little response to the special offer although it was publicised with a full colour brochure in Relevan.

7. IT Training

The Committee also arranged for a leading IT training institution in Kuala Lumpur to conduct a special introductory course for KL Bar members learning how to use the PC for the first time. The response from our members was sufficient to hold one teaching session, with another pending.

8. KL Bar Website

The KL Bar website remains in a state of neglect. This is one area which the IT Sub-Committee has not attended to.

9. Summary

The IT Sub-Committee has taken the initial steps towards getting the members of the KL Bar connected. Much needs to be done and the KL Bar Committee invites all members of the KL Bar who wish to contribute to IT development to volunteer their services. We need people to moderate our electronic discussions and maintain eGroup membership. We also need people to write our web pages. But mainly, we need you, our members, to get involved and be heard in our little corner of cyberspace.

PUBLICATIONS

RELEVAN
newsletter

Members of the Editorial Board:

R Kesavan
S Ambiga
N Surendran
Sharmini Thiruchelvam
R Shanmugam
Sarjeet Singh Sidhu
Kamraj Nayagam
Nicole Fiona Wee

1. Three issues of RELEVAN were published for the year 2000/2001.
2. We are attempting to give members a newsletter that provides information on KLBC activities and alternative views on various national issues.
3. The shortcomings we would like to highlight is the lack of response or criticism on the articles published or alternative views on the issues we have raised. We are open to criticism and would definitely welcome ideas, views, articles and abuse!
4. We would like to thank all parties and members for their assistance, contributions and tolerance.

SOCIAL & PUBLIC RELATIONS

1. SOCIAL

1.1 Blood Donation Campaign 2000

The Annual Blood Donation Campaign for year 2000 was held on 26.9.2000. This Campaign was again done jointly with the University Hospital. The turnout this time was more encouraging. 64 people donated blood at this Campaign. However, with a membership of close to 5,000, we were expecting a very much bigger turnout for the Campaign. We hope to be able to at least touch the 100 mark at the next Campaign in year 2001 and are sure that all members would help us achieve that.

A big thank you to all those who donated blood at this Campaign and not forgetting those who turned up but could not donate due to health reasons.

1.2 Buka Puasa with Orphans

Once again, the Committee organised a Buka Puasa with the children at the Darul Kifayah Orphanage. This was held on 21.12.2000. The support from members was overwhelming. The Committee collected close to RM14,000.00 in donation. Besides being treated to dinner, the children were each given Duit Raya.

There is a surplus of about RM7,000.00 and it would be used to sponsor some of the projects that Darul Kifayah would be carrying out for the benefit of the children.

To all the members who helped to make this occasion possible, we thank you for your generosity and support. Your contribution and concern has made a world of difference to these children.

1.3 Aerobics

Aerobics classes were organised for members, at a nominal fee, to help them relieve their tension, stress and increase their level of fitness. A professional instructress was engaged to conduct the classes, which started in August 2000. The classes were held in the Committee's very own seminar room at Wisma Kraftangan. For the first month there were 21 participants and by the third month, the class grew to 28. The instructress was extremely popular with the participants. Unfortunately she had to leave for East Malaysia and the classes came to an abrupt end, as the Committee was unable to find a good replacement instructress.

We apologise to all the participants for the inconvenience caused due to the cancellation of the classes.

2. PUBLIC RELATIONS

2.1 During the year under review, the Committee had a number of meetings with the Registrar of the High Court Malaya, Tuan Mat Zaraai, to thrash out various

problems encountered by members of the Bar. At one of the meetings with Tuan Mat Zaraai, Tengku Maimum, the Deputy Registrar of the High Court at Wisma Denmark and Tuan Hj Sulaiman, Sessions Court Judge were present and problems at the Lower Courts were also raised and discussed.

- 2.2 The Committee also met up with the officer in charge of the filing department at the High Court at Wisma Denmark to iron out a few problems pertaining to the filing system.
- 2.3 Meetings were also held with the Pengarah of Tanah & Galian Selangor to discuss the problems relating to searches at the Shah Alam Land Office. These meetings were held jointly with the Selangor Bar Committee.

The Committee is making every effort to address the acute problem regarding land searches at the Shah Alam Land Office.

- 2.4 The Committee further attended a number of meetings with the Selangor Sessions Court Judges and Magistrates at the invitation of the Selangor Bar Committee.
- 2.5 The Committee attended a meeting with YB Dato' Dr Rais Yatim, Minister in the Prime Minister's Department, at the invitation of the Legal Aid Bureau. The Committee took the opportunity to raise with the Minister a number of issues including the issue of juveniles in prison.
- 2.6 The Chairperson attended a number of meetings with various authorities together with the President of the Malaysian Bar on issues of concern to the Bar one of which was in respect of the arrest and detention of Mr Cheah Kah Peng, a member of the Malaysian Bar.
- 2.7 There are still some problems referred to the Committee by members that have yet to be resolved. The Committee would endeavour to sort them out with the relevant authorities before the end of its term of office. In the event we are unable to do so, we are sure that the incoming Committee would address them.

SPORTS

1. MEMBERS

The Sports Section comprised the following members:-

Chair : Oommen Koshy
Members : Rueben Mathiavararam
Anand Ponnudurai

2. CONVENORS

The following convenors were appointed to assist in the organising of the respective games:

- i. Athletics - Muhendaran Suppiah
- ii. Badminton - Arthur Wang
- iii. Cricket - Rueben Mathiavararam
- iv. Darts - Koh Yew Chong
- v. Golf - Sarbjit Singh
- vi. Hockey - Anand Ponnudurai
- vii. Netball - Kathleen Nunis
- viii. Soccer - M Sooriabalan
- ix. Squash - Jayne Koe
- x. Table-Tennis - Aimee Liew
- xi. Tennis - Kenny Lee
- xii. Volleyball - Wan Nadhri

3. ANNUAL SERIES

3.1 Inaugural KL/Selangor Bar Games

(Lall Singh Muker Challenge Trophy donated by Mr SS Muker)

The KL Bar played host to the Selangor Bar in this Inaugural KL/Selangor Bar Games. The Series was held on 4 & 5.8.2000.

The KL Bar emerged the overall winner winning 7 out of the 8 games played. Results as follows:

Golf - 339 - 320
*[Challenge Trophy donated
by Kandiah Chelliah]*
Badminton - 4 - 1
Netball - 21 - 3
Volleyball - 2 - 0
Hockey - 5 - 0
Soccer - 2 - 1
Darts - 3 - 1
"Boat Race" - won by Selangor Bar

The games ended with a dinner, which was well attended by both sides. We were honoured to have Mrs Lall Singh Muker give away the Challenge Trophy donated by her son, Mr SS Muker, a member of both the Kuala Lumpur and Selangor Bar and a former Chairperson of the Selangor Bar. The Trophy was named in memory of his late father, Mr Lall Singh Muker who was a prominent member of the Selangor Bar.

4 KL Bar Open Competitions

4.1 8th KL Bar Badminton Competition

Men's Singles

Main Event

Champion : Law How Chong
Runner-up : Chia Weng Chow

Plate Event

Champion : Hakimhan Hafiz

Men's Doubles (*Challenge Trophy donated by Shook Lin & Bok*)

Main Event

Champions : David Gan & Francis Ng
Runners-up : A Iyanathan & V Stanislaus

Plate Event

Champion : Yuhairi Yusof & Hakimhan Hafiz

4.2 13th Thayalan Memorial Cup 7-A-Side Football Tournament (*Challenge Trophy donated by Skrine & Co*)

Champions : Kanaga Suresh & Co
Runners-up : Zizou Dot Com

4.3 6th KL Bar Tennis Competition

Men's Doubles

Champions : Kenny Lee & Kevin Goh
Runners-up : Edward Saw & Peh Khaik Kee

5. NOTE OF THANKS

The Committee wishes to place on record its thanks to all convenors for sacrificing their time and effort in organising their respective games. The Committee also wishes to thank all donors of challenge trophies. Last but not least, the Committee wishes to thank all "sporting" members for their participation and support.

JUNIOR LAWYERS REPRESENTATIVES

1. The Junior Lawyers Representatives (JLR) of the KL Bar turned (3) three at the Annual General Meeting of the Kuala Lumpur Bar. The following members of the Bar were elected from the floor during the said AGM:-

Adi Azhar
R Balakrishnan
S Bala Subramaniam
Gurpreet Singh Sidhu
B Murugayah
Noor Suhaida Kasri
Ravi Muniandy
Saiful Izham Ramli
Saravanan Annamalai
R Shanmugam
Shan Theivanthiran

2. **Objective**

The objective of the JLR for the year under review was to tackle every matter that is of concern to junior lawyers generally which includes issues on human rights, areas of practice, social problems and supporting the objectives of the leadership of the Bar.

3. **Areas of Practice**

- 3.1 Recognising the fact that licensing of software programmes may be costly for small and medium sized firms, the JLR organised a talk on Licensing of Software to introduce alternative cost effective and equally efficient programmes.
- 3.2 Further to enhance knowledge and skills in the everyday practice of lawyers and in view of the recent amendments to the Rules of the High Court to meet the demands of "Justice", efforts are being made to hold a seminar on the amendments to the High Court Rules and its implications.

4. **Signature Campaign**

We consider it absolutely imperative that the President and the leadership of the Bar is duly supported in all necessary and correct actions that they take on behalf of the Bar and society generally, particularly when attempts were made to intimidate and to pressure the Bar from pursuing actions that they deem necessary and just. It was with this in mind that the JLR launched a signature campaign in support of the President and the leadership of the Bar when he was threatened with contempt of court for carrying out his statutory duties fearlessly. Similarly, the JLR also campaigned to mobilise support for the EGM called by the Bar Council on 23.6.2000.

However we wish to put on record that our support was premised on the principle that irrespective of the merits or demerits of the Motions proposed by the Bar Council, we nevertheless have the right to discuss and debate the Motions proposed by the Bar Council at a private general meeting of the Bar.

5. Human Rights

Recent times have been vastly exciting for the development of human rights in our nation; socio-political changes have wrought in serious changes with the attitude of Malaysians in relation to the universal rights of mankind. It is axiomatic that the Bar plays a key role in both the enhancement and protection of human rights. Every breach of fundamental liberties is a matter for the Bar!

We note with some concern also the increasing authoritarianism of the State in recent times. Hand in hand with this, the citizen looks to the Bar for succour to a degree never before seen in the history of independent Malaya. In this regard the JLR has linked up with Amnesty International to look into ways to improve the climate of rights protection in this country. One important outcome of this collaboration was the launching of the campaign against torture on 5.11.2000.

6. Social Problem

The JLR has been acutely aware of the need to address various social problems increasingly encountered by our rapidly developing society. We recognise the need to move away from dispensing traditional legal services and to look increasingly towards empowering the affected or disadvantaged groups. One of areas of social concern addressed by the JLR was the problem of sexual harassment encountered at work places, in view of which a workshop cum forum on sexual harassment was organised together with the AWAM Legal Aid Clinic.

7. Finally, the JLR hopes to be of greater service to the Junior Lawyers in KL in the best traditions of the Bar.

LEGAL AID

THE PANEL

Mr R Kesavan (Chairperson)
Mr S Muhendran (Honorary Secretary)
Ms Sharmini Thiruchelvam (Assistant Honorary Secretary)
Mr M Puravalen
Cik Yasmeen Haji Mohd Sharif
Mr Sivarasa Rasiah
Ms Jayaletchumi Rajaretnam
Mr Ngooi Chiu-Ing
Ms Devika Sothinathan
Cik Sa'adiyah Din
Mr N Surendran
Mr Stanley Sinnappen
Mr Francis Pereira
Mr R Shanmugam

Mr Ravi Nekoo
Cik Noorsuhaida Kasri
Cik Elina Mohamed
Ms M Kamalam
Mr S Balasubramaniam
Mr B Murugayah
Ms Mary Manickam
Ms Kasthuri Krishnan
Ms K Parameswary
Mr Jason Lee Kay Sim
Mr Balakisnan Appalanaido
Mr Ramesh Lachmanan

INTRODUCTION

The Centre has over the years achieved so much with limited resources and very few dedicated volunteers. The Management Panel of the Centre decided that we would consolidate our efforts and restructure some of our projects to ensure that there would be a more meaningful and complete provision of services to our clients within the limited budget and human resources available.

The statistics we have provided on the following pages indicates that the Centre has reached out to approximately the same number of clients as in the last year. In terms of providing direct legal assistance, we may have reached our maximum capacity in terms of the limited budget and human resources available. Our main source of funding, The Legal Aid Fund of the Bar Council is itself constrained by its budget and it is therefore unlikely to be able to increase our funding by any significant amount. In these circumstances, the Centre is attempting to consolidate its secondary role of promoting legal awareness and issues affecting marginalized communities towards empowerment of these communities. The move towards this objective was envisaged and initiated in the last five years through our NGO partnerships with Tenaganita, Pink Triangle/Ikhlas and AWAM. The details of these joint projects are provided in the following pages.

The new sub committees set up consists of the following; Law Reform, Fund Raising, Audit and Quality Control and Training and Skills Development.

The Committees have developed very well in the short spell of time and in the coming year, we hope that these committees would continue to contribute towards legal aid and assist in achieving our objectives.

The Law Reform Committee was set up to propose changes in laws, conducting research, suggesting drafts on areas which would require new laws.

The focus on laws affecting women and society in Malaysia is the current focus and we hope that something positive can be achieved.

The Fund Raising Committee was set up to raise funds for the Centre. At the moment we are fully funded by the Malaysian Bar and we understand that budget constraints exists and therefore we are seeking funding from any other source available.

The Audit and Quality Control Committee and the Training Committees were set up to enhance and improve the level of competence in services rendered by the Centre.

This last year has been significant to us in many ways. The issue involving juvenile incarceration in prisons made headline news in our newspapers. We were involved in this "expose" resulting from our years of involvement in providing assistance to juveniles in remand through our Sungai Buloh Prison Project. The Prison Authorities had alerted us to this growing problem sometime back in 1997. We sought the assistance of the Courts and managed to overcome the backlog and delay and proceeded to obtain early hearing dates to dispose these cases. The Centre realizing the impact and importance of this issue had over the years sought long term solutions through dialogue with various authorities. Unfortunately, our approaches only provoked sympathy and nothing more. The continuous and relentless

pressure in the newspapers from the expose by the Centre seems to have worked for the moment. We may have ruffled a few feathers along the way but generally we have received support and assistance from all quarters.

We prepared a working paper and which was presented to the Cabinet through the Bar Council and we received a letter of appreciation from Dato Rais Yatim for our efforts in this matter.

We have highlighted this matter to dispel the notion in some quarters that the KL Legal Aid Centre is mainly involved in defending the Reformasi movement in public assembly issues. The activities of the Centre and the nature of our involvement are purely based on public interest and human rights violations and unfortunately because of the high profile nature of these Reformasi issues and the adverse portrayal of these issues in the mainstream media, one tends to overlook all other activities of the Centre.

We continue to maintain close working relationship with our NGO partners, AWAM, Tenaganita, Pink Triangle/Ikhlas and also Kolej Damansara Utama. The close cooperation between the Centre and all these parties have in fact increased our awareness and developed our skills and also enhanced the services we provide to various marginalized communities. We have in the last year started a legal services clinic on a monthly basis at the Ikhlas drop in center at Chow Kit. This clinic caters specifically for drug users, transsexuals and sex workers. We consider the opening of this clinic as a major step forward towards our aim of providing effective service and empowerment to the marginalized communities.

Our working relationship with AWAM involves the running of a legal clinic at the AWAM premises. This clinic has been expanded from 2 days a week to 5 days in a week. In the last year, we have expanded the scope of project to include creating greater awareness of issues affecting women and discriminatory laws amongst lawyers. The first project carried out under this expanded objective was a workshop on Sexual Harrassment held on 10 August 2000. This workshop was very well attended and actively participated by lawyers. We hope to organise this workshop bi annually for the benefit of lawyers and pupils.

We are also seeking to revamp the training programme for pupils for their compulsory 14 days stint with legal aid. Our objective is to ensure that pupils would be in a position to provide adequate and effective service. We intend to create and promote greater awareness amongst pupils on gender and sexuality issues, human rights, rights of migrant workers and the need for legal aid for marginalized sectors of our community without any form of prejudice or judgmental views.

We would like to emphasise once again that what we have achieved to date would not be possible if not for the tremendous support of many dedicated volunteers and pupils. We believe that with greater support from members of the KL Bar, the Centre would be able to scale greater heights and provide assistance, create and promote awareness, and provide legal aid to more marginalized sectors of our community.

We understand and accept time constraints most of us face in our careers. We therefore have initiated various projects and sub committees wherein lawyers may contribute without taking on assigned files. Our legal literacy, fund raising and law reform committees operates mainly outside working hours and requires greater participation. Lawyers and pupils unable to take up assigned cases because of time constraints or because they are not in litigation practice are encouraged to participate in various other activities of the Centre, including legal literacy, fund raising and law reform committees. You may contact the Centre for more information and details.

We would also like to thank the full time members of the Centre, under the guidance of Ms.Letchimi Devi, the Office Administrator for their commitment and dedication in carrying out their duties and the Management Panel acknowledges their role and consider the relationship as an equal and important working partnership in achieving our common goals and objectives.

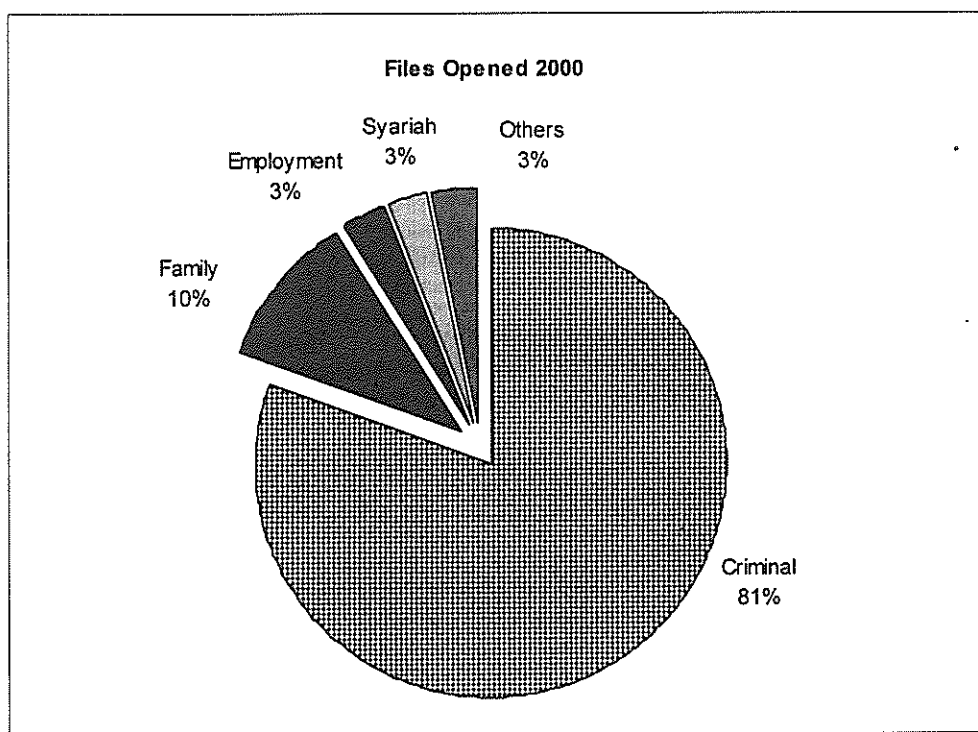
The following pages enclose the various project reports and accounts.

R Kesavan
For and on behalf of the Management Panel
Bar Council Legal Aid Centre (KL)

Statistics for the persons assisted:

PERSONS ASSISTED	2000	1999	% INCREASE
Legal Aid Centre/Syariah Clinic	1819	2045	-11%
Dock Brief Program	4050	3503	16%
Sungai Buloh Prison Clinic	870	724	20%
Kajang Women's Prison Clinic	120	118	2%
Urgent Arrest/Remand Program	250	431	-42%
OUTREACH CLINICS	737	723	1.9%
LAC/AWAM Clinic	246	285	-13.7%
Migrant Workers Clinic	481	438	10%
LAC/PT//KHLAS	10	Nil	Not Applicable
TOTAL	7846	7603	3.2%

LEGAL REPRESENTATION	
Criminal	632
Family	82
Syariah	22
Employment	24
Dock Brief	4050
Others	24
Misc	10
Housing/Tenancy	6
Consumer	1
Hire Purchase	1
Civil	2
Probate	1
Land	2
Imigration	1
TOTAL	4838



LEGAL AID CENTRE CLINIC

Committee Members

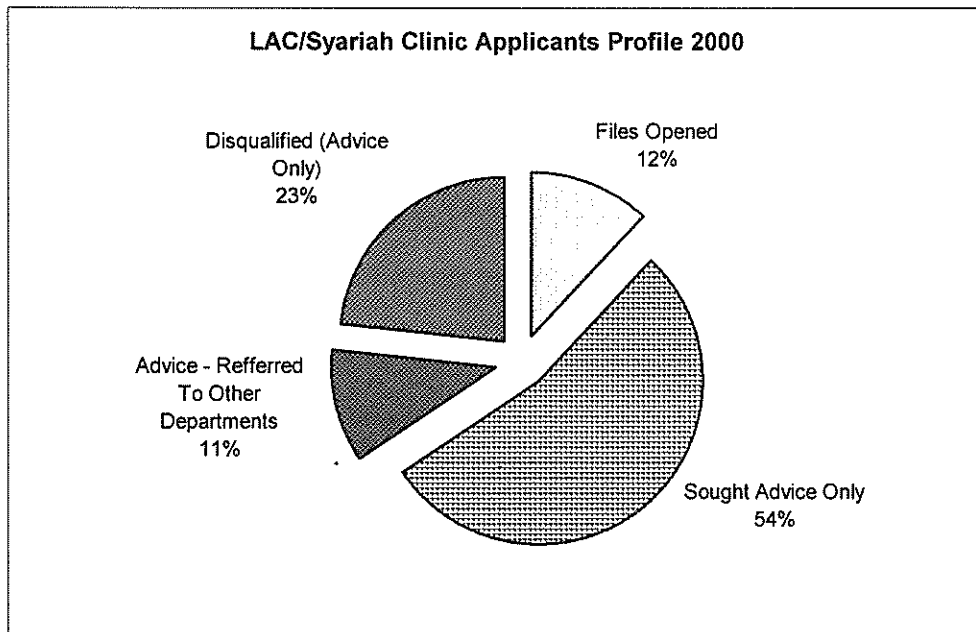
Mr Jason Lee
Mr Ong Chin Siong
Mr S. Balasubramaniam
Ms Jayaletchumi Rajaretnam
Mr Andrew Teh
Mr Anil Joshi
Mr Satvinder Singh
Mr Ramesh Lachamanan

The Legal Aid Centre/Syariah Clinic ("The clinic") caters to members of the public who qualify for legal representation under the means test. The clinic is open to the public, Monday to Friday from 10.00 am to 4.00 pm and open only on the 2nd and 4th Saturdays from 10.00 am to 12.30 pm.

At its inaugural meeting in April 2000 the new management panel decided that the clinic will only cater to members of the public who qualify for legal aid, be it for legal representation or those that seek advice only. This policy decision was implemented in September 2000.

The figures below reflect the drop in numbers as a result of this change in policy.

YEAR	2000	1999
Legal Aid Centre /Syariah Clinic Total No. of Applicants 2000	1810	2045
Files Opened	216	312
Sought Advice Only	973	1062
Advice – Referred To Other Departments	198	134
Disqualified (Advice Only)	423	537



The Legal Aid Centre/Syariah clinic is manned by pupils in chambers who do legal aid service as part of the Bar Council Ruling on Legal Aid Service. Each pupil do 3 hours once a week over a period of 3 months, 40 pupils are on duty.

The pupils in chambers interview applicants and give advice and in cases where legal representation is required, files are opened. The pupils are also encouraged to accompany applicants who qualify for legal assistance to the various government departments or the police to render whatever assistance necessary that gets the job done.

Applicants who come to the Centre seeking assistance for their myriad of problems are also directed to the appropriate channels as required. Please see the figures below.

Referred To Other State Legal Aid Centres	39	20%
Referred To Other Clinics	99	50%
Referred To Urgent Arrest Program	52	
Referred To Sungai Buloh Prison Clinic	31	
Referred To Migrant Workers Clinic	4	
Referred To DockBrief Program	10	
Referred To Kajang Women's Prison Clinic	2	
Others	60	30%
Referred To Marriage Tribunal	24	
Referred To IRD	10	
Referred To Biro Bantuan Guaman	7	
Referred To Labour Office	3	
Referred To Amanah Raya	2	
Referred To Disciplinary Board	7	
Referred To Welfare Dept	3	
Referred To EPF Dept	1	
Referred To Tenaganita	3	
Total	198	100%

The pupils in chambers are given a one-day training before they commence duty at the clinic. The training focuses on interviewing techniques, role-play and talks on the 3 main areas of law that the Clinic handles, i.e. Criminal Law, Employment and Family Law, both Civil and Syariah Law. The training is conducted by the committee with the assistance of volunteers and the Centres NGO partners.

The training is designed to equip the pupils with sufficient know how to facilitate their handling of clients walking into the Centre. The clinic is also supposed to have volunteers who act as supervisors however supervisors are a rare commodity at the Centre. More often than not pupils attend to clients without the assistance of supervisors. There are volunteers who act as supervisors who make themselves available via the telephone.

The lack of supervisors present at the Centre has affected the quality of the service provided by the Centre. The Centre has made appeals to the Kuala Lumpur Bar for volunteers to act as supervisors a number of times over the last few years but the response has not been encouraging. Hence the Centre looking at alternative means to raise the quality of the service provided by the Centre.

The clients walking into the Centre does not have problems relating only to employment, family or the criminal law but their problems includes just about any issue under the sun. It is thus not an easy task to equip pupils to handle all the various problems.

This committee is thus looking into the training module, as in its present form it is found to be lacking. The committee hopes to formulate a more inter-active module stressing on the role-play and the interviewing techniques with the assistance of the Skill Development sub-committee under the Training Committee. The committee hopes that a better formulated training given to the pupils will help them handle clients better without the assistance of the volunteer supervisors.

This Committee had also organised a talk by Yang Arif Ustaz Naim Bin Mokhtar on 15 April 2000 on the Syariah Court procedures. Tuan Naim is a judge of the Syariah Courts at Petaling Jaya and he shared with our Syariah volunteers his experiences on the bench and also the procedures in the Syariah Courts. The talk was well attended by Muslim and Non-Muslim volunteers and there were a number of questions raised during questions and answers time.

The response to this talk was overwhelming and was attended mainly by junior Syariah practioners at the Bar. The participants were not hesitant in asking question and the session was lively.

The committee had also organised a discussion among some of the new volunteers who handle family files for the Centre. The discussion was helpful as it was a sharing of experiences and assisted volunteers in handling of their respective files.

The Committee would like to express it's appreciation and thanks to the staff of the Centre for their unceasing support to the Committee which has largely contributed to the success of Legal Aid Centre Clinic.

DOCK BRIEF PROGRAM

Report submitted by Project Head, B.Murugayah

Committee Members

Ramiah Begum
Gabriel Seneviratne
Sharazi bin Sheriff
S.Muhendaran
Balasubramaniam

Jessica Liew
Saadiyah Din
Raja Segaran
Nordin Othman
K Vasandhi

Suria Preba
Suraj Singh
Loh Thiam Fook
Joseph Mathews

The general atmosphere of the Dock Brief Programme in the year 2000 was very hectic. Participating pupils handled about 4050 cases made up of the following :-

Advice given (Fresh Cases)	1243
Bail Application	21
Advice, Representation & Mitigation	2774
Files Opened	12
Total	4050

About 300 pupils have participated in batches of 60 pupils each Batch for a duration of for 13 weeks respectively. Various factors had contributed immensely to the increase in the number of cases handled :-

- I. The Dock Brief Committee members have had regular meetings with the Kuala Lumpur Magistrates and Sessions Court Judges handling Criminal cases, and as a result the general attitude and reception of the Magistrates when cases are presented by participating pupils has vastly improved and changed. Some Magistrates have even advised unrepresented clients who plead guilty to seek the assistance from the pupils and had stood down cases to facilitate the pupils to prepare their mitigation. However the Magistrates have regularly voiced out their opinions as to the poor quality of representations by pupils and this prompted the Committee to revamp the existing method of training participants and also introduce new rules to maintain discipline.
- II. Senior practitioners were invited to give talks on their experience in the courts when handling criminal cases. In this respect the committee takes this opportunity to thank the following:-
 - Tuan Ananth Namasivayam, former Magistrate, Magistrate's Court 2, Kuala Lumpur.
 - Mr. Rajadevan of Messrs Rajadevan & Associates.
 - Tuan Kamarul Zaman, former Magistrate, Magistrate's Court 3, Kuala Lumpur.
 - Mr. Baljit Singh Sidhu of Messrs Shukor & Baljit.
 - Mr Ravi Nekoo, of Messrs Ravi Nekoo & Partners.

The contribution by the above practitioners have greatly improved the quality of performances by the participating pupils and the feedback from the Magistrates and prosecuting officers have been very encouraging.

The Project Head had several meetings with the respective prosecution officers who after some persuasion have agreed to co-operate fully with the participating pupils by allowing them to have access to the Court Diary and by providing appropriate information to pupils to help them to mitigate on behalf of the unrepresented accused persons. Generally, the co-operation between the participating pupils and the respective prosecution officers has been very encouraging.

However the Committee is still concerned about the lack of enthusiasm and commitment amongst the pupils. To increase the commitment of the participating pupils, the Committee has planned to introduce a point system whereby pupils performing well are selected and given recognition in form of appreciations and letters of commendation.

In addition, the Committee plans to introduce a proper name-tag with the Bar Council logo for participating pupils to replace the existing ones.

Plans to co-ordinate training of participating pupils are at hand with the assistance of the Training Committee of the L.A.C.

The Committee also has plans to aggressively campaign for volunteer lawyers to supervise pupils on a daily basis. The willingness shown by pupils participating are encouraging and the L.A.C can have a regular supply of volunteers from this source to continue to serve the Programme. It is stated that this can be the regular pool to get volunteer lawyers to assist in the Programme in the future.

The Dock Brief Programme Committee takes this opportunity to thank all participants and also the staff of the Legal Aid Centre for the immense help which has made this Programme a very successful one.

LAC/AWAM LEGAL INFORMATION SERVICE CLINIC

Report submitted by Project Head, Ms Sharmini Thiruchelvam

Committee Members

Ms. Leena Ghosh (Alternate)
Ms. Manohari Subramaniam
Ms. Ruzana Udin
Ms. Jayaletchumi Rajaretnam
Ms. Devika Sothinathan
Ms. Imtiaz Begum

The Clinic

This clinic is run in co-operation with a voluntary non-profit, non-government women's organization, All Women's Action Society (AWAM), at AWAM's premises. Hence, pupils man the legal sessions and provide advice and assistance to women personally and/or via the telephone. We believe that these sessions are extremely important because they provide a two-fold benefit, not only does it provide women with information on their legal rights and the legal process but in the long term equips and sensitises pupils towards issues faced by women in general. Due to the great demand for the legal clinic, the clinic is now running everyday from Tuesday to Saturday from 10.00 am to 4 pm. This is a giant improvement from the previous twice weekly clinics.

The Committee

The committee consists of both LAC volunteers as well as representatives from AWAM, members of which are listed out above. One person who is not named as a committee member for bureaucratic reasons, but who must be mentioned for initiative, hard work and support is Chitrah Rajandran. We would like to thank the entire committee for their active participation and support.

The Millennium Year

The following are some highlights of the major projects and developments noted throughout the year,

a) Outreach Programme held in Rumah Panjang, Jinjang Utara

- This was one of our more ambitious projects and we are happy to say despite a few administrative hitches the programme ran smoothly.
- Thanks is also due here to the Legal Literary Clinic as well as the members of Rumah Panjang Jinjang Utara community.

b) Women's Agenda For Change

- The Women's Agenda For Change was launched on 23rd May 1999, which is actually an invitation of 7 women's organisation to put forward 11 critical issues of concern pertaining to women.
- We are happy to say that we, the Legal Aid Centre was one of the 76 endorsing bodies, which have given their full support and endorsement to this Agenda, and representatives of the committee were present on the launch of this much needed Agenda.

c) Talk on Sexual Harassment Awareness

- This was one of our more successful programmes, in the sense that we were overwhelmed with the participation of lawyers and chambering students alike.
- The Talk was very illuminating and the committee has decided to embark on another similar venture in the upcoming year.

d) Family Law Talk at Serdang Chinese New Village Community Centre

- Our volunteer, Ms. Alice Liew gave a talk on family law to women in this community to empower and equip them with relevant information on their rights.

e) Chambering Students Affairs

- As mentioned earlier, we have now extended the clinic from twice weekly to a daily basis. We have also undertaken to render assistance to Women's Aid Organisation (WAO) and the One Stop Crisis Centre (OSCC) whenever the need arises.
- After numerous brainstorming sessions, together with input from the chambering students themselves. We have revamped our Training Programme. For the legal aspect we have now have a joint training with LAC clinic, whereas AWAM volunteers concentrate on issues like gender, sex, sensitivity and other techniques on a separate day.
- Finally, we have upgraded our manuals wherein amongst other adjustments, we have included a summary of Immigration Law, courtesy of Mr. Ravi Nekoo. We also now have a separate manual on Domestic Violence, which includes a flowchart on procedure.

f) Talk on Incest

- This was a joint effort with AWAM, wherein we had an incest survivor speaking of her struggles as a victim and a discussion and provoking insights into this "hardly talked" about area.

g) Setting up of a Family Court in Malaysia

- This was seminar held recently here, and the committee felt that as a group that deals greatly with family law, a few of us should attend.
- The seminar was an eye-opener to many of us, listening to various speakers sharing their experiences of family courts in their respective countries.

Shortcomings

- i) More training is still needed for the pupils, as there are still complaints as to the quality of the assistance rendered by the pupils.
- ii) Lack of supervisors at AWAM premises to render any form of assistance that the chambering students may need.

LAC'S MIGRANT WORKERS CLINIC

Report by Project Head: Mr Francis Pereira

Committee Members

- Mr S. Muhendaran
- Ms Uma Devi
- Mr A Balakisnan
- Ms Aegile Fernandez

Rapid economic development over the last decade made Malaysia an attractive option for workers from the region especially Indonesia, Philippines, Bangladesh, Myanmar and Thailand. The increasing numbers of these workers in our society cannot be ignored.

The aim of the Migrant Workers Clinic is to provide legal assistance and advise to this marginalized group.

The Migrant Workers Clinic working jointly with Tenaganita's Migrant Desk addresses complaints by workers, which include fraud by employers and agents, unpaid wages, unfair dismissals, migrant workers being arrested for failing to produce valid documents which are invariably held by their employers etc.

There is a serious lack of volunteer lawyers for Migrant Workers Clinic but with pupils in chambers who undergo compulsory 14 weeks duty this problem is reduced. Pupils during a comprehensive two-day training jointly conducted by LAC and Tenaganita are trained in documenting, drafting and lodging of police reports, drafting letters to relevant government, department, filing of complaints at the Labour and Industrial Relations department, negotiations with employers in wage disputes etc.

STATISTICS	Bangladesh	Indian	Indonesia	Pakistani	Others	Total
No. of cases/files Handled by pupils	83	15	14	8	5	125
No. of complaints Handled by pupils	297	20	18	10	11	356

This year the Migrant Workers Clinic also participated at the Regional Summit on Pre-Departure, Post Arrival and Reintegration Programmes for Migrant Workers from September 11-13, 2000 at Genting Highlands Malaysia.

Finally, there is definitely much room for improvement of the Migrant Workers Clinic. The pace of growth of the Migrant Workers Clinic and increase in efficiency is largely dependent on lawyers volunteering their time and effort, as the saying goes "more hands make light work".

LEGAL AWARENESS PROGRAM

Report prepared by Project Head, C I Ngooi

During the year, the Legal Literacy Program ("LLP") was re-named the Legal Awareness Program ("LAP"), to reflect a change in emphasis. Through the publication of leaflets and booklets in plain English and user-friendly "Frequently Asked Questions" (FAQs) format on various areas of the law, the LLP has enabled the public to find the answers to common legal problems by themselves or by seeking legal assistance via a sound understanding of their legal rights. We believe the publications have also lessened the inconvenience to the public of needing to come to the Bar Council Legal Aid Centre, thus reducing the workload of the Centre.

During this year, the following publications have been prepared or are being prepared:

- A leaflet on "Arrest and Bail" (already in the four major Malaysian languages) is being translated into Bangladeshi by Tenaganita
- A Training Manual on "Employment Law" has been prepared and distributed to pupils and partner NGOs
- Leaflets on "Divorce and Marriage Problems" and "Domestic Violence" have been prepared and are undergoing review
- Leaflets on "Buying and Selling a Property", "Consumer Claims" and "Hire Purchase" have been finalised
- A Training Manual on "Family Law/Domestic Violence" has been prepared and is undergoing review
- A Training Manual on "Arrest, Proceedings, Bail & Mitigation" is being prepared for use by the Dock Brief Program and Sungei Buloh/Kajang Prisons Clinic pupils.

As most of the objectives of the LLP were achieved during the year, despite some outstanding publications, the LAP moved on to emphasise the following:

- Dissemination of the prepared publications and materials. Most of the publications, which are targeted for those more privileged, will only be in on-line form and available through the KL Bar Committee/Bar Council Legal Aid Centre (Kuala Lumpur) website
- Preparation of training manuals for pupils and partner NGOs (please see the Training Program, Subcommittee on Skills Development report)
- Increase public awareness through outreach clinics, seminars and talks.

An outreach clinic was conducted jointly by our partner NGO All Women's Action Society ("AWAM"), LAC/AWAM Legal Information Service and the LAP, with the invaluable assistance and cooperation of the community leaders of the Rumah Panjang, Jinjang Utara. The clinic was held on 9 April 2000 (Sunday) at the Rumah Panjang, Jinjang Utara. 45 residents attended the clinic. There were 15 volunteer lawyers and 5 pupils (performing their duty under the LAP), 5 representatives from AWAM and a representative from FOMCA.

Another outreach clinic is planned before the expiry of the Program's term.

SUNGAI BULOH PRISON CLINIC

Report submitted by Project Head, Mr S Muhendaran

Introduction

The Sg. Buloh Prison Clinic started its operation since December 1997. The objective of the clinic is:

- i) To provide legal services to remand prisoners at the Sg. Buloh Prison.
- ii) To improve the level of competency of lawyers (chambering students).
- iii) To provide permanent mechanisms to monitor the progress and to consider the improvement and expansion of existing services.
- iv) To compile statistics from the clinic.

Implementation

To achieve the above aim, pupils are rostered for duty every alternate Saturday for a period of three months to visit the Sg. Buloh prison to interview remand prisoners. During each term, the pupils are trained and provided with training manuals, which contains information on the courts, guideline on common offences and other relevant information. A team of 20 pupils with 2 volunteer supervisors interview an average of 60 detainees each session. The pupils also do follow-up action at the Center based on the interviews conducted. The follow-up actions are as follows:

- contacting family members on matters related to bail
- referring relevant cases to the Dock Brief Clinic
- referring cases from other states to the respective state Legal Aid Center.
- referring capital offences cases to the Court Assigned Counsel Scheme.
- liaising with volunteer lawyers on the status of files.

Meanwhile the prison authorities has also approached the center for donations such as television sets, a video player and reading materials for the inmates. Cik Yasmeen Shariff has assisted the center to get donors to provide the said items.

Strength & Weakness

This year, the clinic has reached out to 870 remand prisoners. Relatively, it shows an increase of 20.2% compared to last year. Out of the 870 persons interviewed, only 238 files were assigned to volunteer lawyers to represent the accused in court. 462 cases were referred to the Dock Brief Clinic for mitigation and bail application. 150 cases were referred to the other state Legal Aid Centers and only advice was given to the remaining 20 cases. The clinic has enabled us to compile the following statistics:

- Number of juveniles assisted

Age 13	Age 14	Age 15	Age 16	Age 17	Age 18	Total
2	2	13	16	26	53	112

- Number of detainees who complained of ill treatment by officials at police lock-up and prison.

Juveniles (18 & below)	43	38.4 %
Young Person & Adults (Above 18)	304	40 %

- Types of offences allegedly committed.

Category	Offence Against Property	Offence Against People	Sexual Offence	Drugs Offence	National Registration Offence	Traffic Offence	Others	Total
Juveniles	69	5	3	18	-	8	9	112
Young Person / Adults	333	49	9	270	24	22	51	758

The clinic is also facing some shortcomings in the quality of services provided to the remand prisoners in the following scope:

1. Pupils' inability to extract proper facts from the detainees, facts not in order and Interview Sheets not completed.
2. Pupils' inability to give adequate advice to the detainees.
3. The center is unable to cope with the number of cases to be assigned to volunteer lawyers for court representation due to the shortage of volunteer lawyers.
4. The center seldom gets feedback on the cases referred to other state Legal Aid Centers.

The center organised a half day session for 2 Saturdays in September on "Criminal Cases - Pre-Trial Preparation", conducted by Mr. Ravi Nekoo. 16 volunteer lawyers attended the training. Its purpose was to recruit more volunteer lawyers to volunteers to handle LAC criminal files.

The center has via the KLBC News letter 'Relevan', made a plea to the members of the K.L. Bar to volunteer in its Sg. Buloh Clinic programme by handling some of its criminal files.

The Skill Development Training Committee was set up by the center to encounter the pupils' weaknesses and in providing quality services to the remand prisoners. It is in the midst of formulating improvised training methods and training manuals. The committee has included interviewing and documenting skills in its latest training, which was started in December 2000.

Besides that, the center also faces administrative problems due to the frequent resignation of its officers in charge. During the year 2000, three staffs assigned to the clinic has resigned. Nevertheless, with the aid of the remaining LAC staff who are committed to the programme the clinic is managed effectively. The center would like to thank all the staff who has given their assistance untiringly during the period.

Impact

Since statistics shows that many juveniles have been remanded unlawfully the Juvenile Task Force was formed as it was considered a violation of human rights. On 18 September 2000, the center has highlighted this issue in the media and the continuous coverage of these incidents has alerted many parties such as namely public, non-governmental organisations, the Prime Ministers Department, Malaysian Human Rights Commission (SUHAKAM) and the BAR itself. As a result, the government has instructed the relevant authorities to send all the juveniles remanded in the Sg. Buloh prison to be housed at the welfare homes. This became a national concern.

Recommendation

The clinic should look into long term objectives of the program:

- ❖ To compile statistics on the economical and social background of the remand prisoners so that the center could make recommendations to the relevant authorities in a move to reduce the number of offenders.
- ❖ To reform laws, which relates to the conditions of remand inmates.
- ❖ To lobby for a better implementation and enforcement of the law.

LAC/PT/IKHLAS LEGAL INFORMATION SERVICE CLINIC 2000

Report submitted by Project Head, Leena Ghosh

Committee Members

Mr Soh Chien Hao
Ms Preetam Kaur

As a background, Pink Triangle ('PT') was founded in 1987 to provide telephone counseling about HIV/AIDS and sexuality. It has since then expanded its services responding to the needs and concerns of various communities that are discriminated against because of HIV, AIDS and /or sexuality. Today, PT works with people living with HIV/AIDS, drug users, sex workers, transsexuals and homosexual men and women.

This clinic has been set up for several years now.

The clientele of the clinic are transsexuals, sex workers, rehabilitating drug-users, homosexual men and women. This clinic is a very special clinic as it deals with the most marginalized and least understood communities. I believe that most of the members of the legal profession do not understand the pressures and discrimination that these communities face daily. I too, did not understand or appreciate until I actually attended the seminars organized by PT and made a conscious effort to mingle with the communities. This was to help me understand and may be appreciate their problems more than just at surface level. Each of the communities face similar problems as society as a whole but their problems are often aggravated and more hostile due to their belonging to one of the communities mentioned above. The discrimination that they face due to their sexuality or sexual orientation is almost criminal as society is prejudiced against them.

For this clinic to run successfully, lawyers have to be educated and sensitized in gender and sexuality issues. One of the biggest hurdle the LAC has to overcome is simply 'manpower' (personpower). Translated means lawyers who are sensitized and are willing to take on these communities legal problems. There are a few but certainly not enough to go around and in particular syariah lawyers. Syariah lawyers who are willing to assist these communities and who are unafraid to take on these cases are desperately needed.

Identifying that there is a lack of understanding from some of the members Management Panel of the LAC as to what PT does and the legal problems faced by the communities, the Management Panel decided that a briefing session should be organized between the PT representatives (officials) and the management panel members on the 26th July 2000 at the LAC. This was the first time such a session was being organized. It was truly ground breaking because it exposed the other members of the Management Panel to what the LAC/PT/Ikhas is and has been about. It was an exercise in exposure and knowledge for both parties. It gave an opportunity for both parties to ask each other what each other organizations do and how both organizations could come to a common understanding and common goal. The other objective of the session was to iron some major problems concerning the PT/Ikhas Clinic and maybe to extend the clinic to other areas. The clinic primarily has been to provide legal advise and representation on an adhoc or on a need-to basis and legal workshops providing specialist legal knowledge on sexuality matters and empowerment (hopefully) to the communities.

The session went on successfully, PT chairperson Ms. Ann Lee and Julian Jayaseelan the Executive Director of PT expressed the other areas that they would like legal assistance in particular law reform. The LAC's Law Reform Committee is looking into some of the areas requested and have been approached to come up with a document that lists the laws affecting / discriminating the 6 communities abovementioned, together with the laws dealing with name change on identity cards' of transsexuals. At that session, Kasthuri Krishnan suggested a site visit to Ikhas Drop In Centre by the management panel members to have an idea of the type of outreach work done by PT/Ikhas for the transsexuals, drug users and sex workers. 10 management panel members including LAC's staff, visited the Ikhas Drop In Centre. The session held was open and we had frank discussions on all matters and a stimulating discussion ensued. It was decided that the clinic be regularized in the sense that lawyers be stationed at the Ikhas Drop In Centre once a month for a duration of 3 hours to deal with the communities legal problems.

A sub committee to oversee the regularized clinic consisting of myself (Project Head), So Chien Hao (Alternate Project Head), Sulastri (Main Coordinator from PT/IKHLAS) and Preetam Kaur (Sub committee member).

The clinic was launched on the 24th November 2000 from 4.00 pm till 7.00 pm. At the Ikhas Drop In Centre at Chow Kit.

List of activities undertaken:

- a) Fact-Finding, Documentation and Monitoring of HIV/AIDS related Rights Violations - a training workshop organised by the Malaysian Aids Council (MAC) held from 22nd till 26th June 2000 at Vistana Hotel in Jalan Ipoh Kuala Lumpur.
- b) On 10th June there were 7 Transsexuals (TS) was arrested at the Ship, Damansara and 2 were arrested at the Colours, Damansara under the Syariah Criminal Offences Selangor No 9 of 1995 Act. The TS were charged under section 10 and 30 of the above Act. After some intervention of the press and members of the public, all were released without charge. At the LAC, we had discussions with the TS involved, gave them legal advice and had a follow-up on the charges with the Syariah Court with the assistance of our volunteer lawyers, Mr Vazeer Alam, Saadiah Din and Leena Ghosh.
- c) Leena Ghosh gave an informal legal workshop to the women's group of PT .
- d) A talk on laws affecting "Mak Nyah" (transsexuals) was presented by Leena Ghosh at a closed door workshop organized by the transsexual community of Malaysia at Vistana Hotel.
- e) Few LAC staff and some panel members attended an inaugural documentation/film titled Bukak Api at Actors Studio. This film was horrifying for some of the staff who attended who found out that in Malaysia, TS and sex workers appear not to be able to enjoy or have basic human rights and how they are discriminated against and exploited by the authorities.

It is uplifting that the LAC/PT/Ikhlas Clinic has regularized into a monthly legal advice session but we have to work hard in order to maintain and sustain the Clinic. My appeal is to all members of the Bar and management panel members to assist the Clinic.

Shortcomings

1. Since the majority of the legal problems faced by the communities involve syariah offences, the Centre is currently facing difficulty in getting syariah practitioners both in Kuala Lumpur and Selangor who have the necessary licenses to practice in Kuala Lumpur/Selangor. The issues pertaining to the communities are sensitive both to the lawyers and to the communities. Though currently we are not facing major crisis but if this matter is not addressed soon, the Clinic above will fail. Some of the lawyers that have been approached for their assistance with the communities have laughed and ridicule the communities.
2. Getting volunteer lawyers to act as supervisors for the regularized Clinic is already a problem as the Clinic starts at 4.00 pm and often the lawyers call up last minute informing that they are unable to come to the Clinic because they have to complete their work.
3. Due to the above the LAC/PT committee face a tough struggle in law reform or even assisting the communities in representing them in legal matters.
4. Despite our appeal for volunteer lawyers via the Kuala Lumpur Bar Committee newsletter, Relevan, no lawyers responded.

Our suggestion would be as follows:

- ♣ Establish communications between the LAC Syariah Clinic and the LAC/PT/Ikhlas Clinic so that they may come to some solution to the problems faced. Our idea is to propose to the LAC Syariah Clinic to assist us in representing TS matters. We are requesting for a sharing of knowledge and for some syariah practitioners who are willing to assists the TS.
- ♣ We also requesting the LAC Syariah Project Head, to mobilizes lawyers of their own and to have sensitization sessions to be able to understand better the issue of transsexualism. We will assist them in providing resource persons.
- ♣ LAC Law Reform to look at lobbying for a change in the syariah laws and civil laws including the Federal Constitution.
- ♣ We also need to hold discussions and seminars to educate the authorities and members of the public on the problems faced by the TS.
- ♣ It took 10 years to pass the Domestic Violence Act in Malaysia after tremendous struggle to make people realise that domestic violence is not a mere household issue. So maybe it will take another 10 years to make people recognized the existence of TS and thereafter-another 20 years to make the necessary law reform. I

pray and hope not. But the road is long with a many a winding ways. We need to take the first steps now. We hope for the best for the year coming.

Thanks for all the support, criticisms, comments, arguments and the encouragement given towards me by all persons of the Bar Council Legal Aid Centre.

I would like to record my sincere and deep felt appreciation for my assistant Chitrah Rajandran, who works tirelessly and helped the development of this Clinic in uncountable ways. She is my anchor.

LAC/TENAGANITA TRIAL PROGRAMME

Report prepared by Sivarasa Rasiah

Coordinator: Ms K Moganambal

This is an ad hoc programme set up to help document the highly publicised trial of the director of Tenaganita, Irene Fernandez, at which the Bar Council is holding a watching brief. Though the clinic does not reach out directly to the public it has been instrumental in highlighting the plight of the migrant workers and the conditions experienced in the migrant detention centres. The trial also highlights the question of restriction to freedom of expression in laws such as the Printing Presses and Publications Act 1984.

This programme also provides a valuable opportunity for a small group of pupils to be involved for about two weeks in a criminal trial. A total of 27 pupils were involved in the documentation of the trial across the last year. A total of 7 briefings (3 hours each) were held to equip each fresh batch of pupils with the necessary information and background to document these trial proceedings

URGENT ARREST TASK FORCE & REMAND PROGRAM

Report submitted by Project Head, Cik Saadiah Din

Committee Members

Mr N Surendran	Mr Sivarasa Rasiah	Ms Sharmini Thiruchelvam
Mr R Kesavan	Mr R Shanmugam	Mr Ramid Khan
Mr B Murugayah	Cik Noorsuhaida Kasri	Mr Charles Hector
Mr Tabian Tahir	Mr Noor Amran	Mr Stanley Sinnappen

Introduction

The initial objective of the task force was as follows:

- to provide legal assistance to groups of people or individuals facing violation of their basic rights such as freedom of assembly, freedom of speech and freedom of religion.
- to provide legal assistance and to render legal awareness to the communities facing eviction such as the urban settlers in a move to seek communities right to own a decent shelter/home.

However a mass arrest of peaceful street demonstrators in September and October 1998 has inaugurated the Urgent Arrest & Remand Task Force.

Accomplishment

In the year 2000, the task force has moved one step ahead in highlighting issues pertaining to police brutality and violation of basic human rights such as freedom of assemble and freedom of speech.

- On 15 April 2000, the center released a press statement on report of police brutality in relation to the arrest of 48 persons. The center represented the 48 who were accused of being involved in demonstrations to mark "Black 14" in the city on April 14 and 15. The center called for a through investigation into the allegations of police brutality and the deplorable conditions at the lock-up such as overcrowding and denial of medical attention to those detainees who were badly bashed up/injured.

Six volunteer lawyers assisted in the remand hearing for the above 48 persons. 8 persons were charged and the rest were released on police bail. The center continuous to represent the eight whom was charged under Section 27(5) of the Police Act for trial.

- On 17 April, the center with Mr. N. Surendran's initiative has conducted a signature campaign to protest the arrest and detention of Mr. Cheah Kah Peng, a member of the Malaysian Bar. He was arrested while representing his client at the Petaling Jaya, IPD. A memorandum together with the signatures was later submitted to the OCPD of Petaling Jaya, demanding a firm assurance that the police would not resort to such conduct in future.

- On August 4 and 8, the center with full support from the Bar Council has organised 24 volunteer lawyers as a observers to monitor the proposed "Judgement Day" rally for Dato Seri Anwar Ibrahim's trial. The Bar Council has also offered to assist Suhakam. The observation team that was headed by Mr. N.Surendran has recorded the events of both the days without interfering in any way in the public rally. The observers were wearing armbands with the words "*Pemantau Majlis Peguam*". The center also released a press statement stating improvement in police conduct during the rally, nevertheless condemned the police for not adhering to the Article 10 of the Federal Constitution.

However seven persons were arrested on the 4 August and ten persons were arrested on 8 August. Three volunteer lawyers from the center have had provided legal assistance during the remand hearing for 17 of the detainees. All of them were charged under the Police Act.

- On 5 November 2000, a gigantic public assembly took place at Jalan Kebun, Bandaraya Shah Alam along Kesas highway. Unfortunately, the police had acted unprofessionally in treating the public gathering. The police force has once again breached the Federal Constitution and has detained illegally around 125 persons in the assembly. The detainees were not only denied the access to their counsel, the family members were also not allowed to see them. As such the center has taken the lead to represent all 125 persons and compiled the allegations of ill-treatment and injuries suffered by the detainees and it was later reported to the court, Suhakam, and to the press.

Around sixteen (16) volunteer lawyers have come forward to represent the 125 detainees. 124 of them were released under police bail after five days of remand and only one were charged under Minor Offence Act.

- Suhakam (The Human Rights Commission of Malaysia) has taken a firm decision to hold a public inquiry over the allegation of assault by the police during the public gathering on 5 November. Suhakam has decided that it would conduct a full inquiry on police brutality against the public. Bar Council Legal Aid Center is also sending its representatives as observers during the open hearing, which is still on going since 29 November 2000. The most appalled case reported in the inquiry was of the detention of 17 years old girl who was due to sit for the SPM examination in the following week and the police refuse to release her even after knowing the fact. The center via En Hamidzun Khairuddin has filed a revision over the decision made by Tuan Magistrate Iskandar to remand her for 5 days under the Section 117 of the Penal Code. As a result, the High Court has dismissed the Magistrate's decision and ruled that the girl is a juvenile and for minor offences can be only remanded for two days.

Detention under Internal Security Act.

- SUARAM (Suara Rakyat Malaysia), in September has referred three cases of individuals who were detained under the draconian Internal Security Act for a unknown reason till today. The center assigned a counsel to assist them and two of the detainees were released after 57 days in detention while the other was sent to Kamunting Detention Centre for 2 years under the provisions of ISA.
- In July 2000, family members of the arrested persons in Sauk, Perak, also approached the task force during remand under section 117 and detention under ISA. The center only provided advice and directions to the family members, as the matter was not within our jurisdiction.

Shortcomings

Some of the serious shortcomings in the task force are:

- ◆ No committee members in the programme and an attempt was made to call the existing volunteer lawyers for a meeting in May 2000 also failed to bring in many volunteer lawyers.
- ◆ There is a noticeable lack of commitment by the existing volunteers as most of them are "uncontactable" when their service is urgently needed and some of the files, which were formerly assigned, to them were returned to the Center. As such, the existing few volunteer lawyers are forced to take up most of the urgent arrest cases.

Plan of Action

The Project Head, Cik Saadiah's proposal to change the task force name to **Remand Programme** was accepted by the center. Under the remand programme, the following is being planned:

- I) To initiate a dialogue with the court representatives with a fresh working paper on the Remand Procedure to start the remand programme on a daily basis.
- II) To have a training programme for volunteer lawyers on remand procedures.
- III) To initiate another meeting to form a committee to work on this programme.

Statistics

No. of persons approached	235
No. of remand hearings for illegal assembly	236
No. of remand hearings for other charges	11
Advice Only	18

Trials

No. of trials (trial dated in 1998)	3
No. of trials (trial dated in 1999)	11
No. of trials (trial dated in 2000)	11
Detention under the ISA	3
High Court Appeal Matter	2

PRIVATE COLLEGE PROGRAMME

Report prepared by Mr. Kingston K Knight

The Private Colleges Programme has been in existence since 1998. Since then 124 students have participated in visits to the Legal Aid Centre and other affiliated institutions. It was set up with the objective of exposing undergraduate law students to the operation of Legal Aid in Kuala Lumpur, the philosophy behind Legal Aid and to inculcate a sense of moral duty to help participate in legal aid once students have been called to the Bar. It was set up to counter what was then seen as apathy amongst certain quarters about the importance of legal aid. Since then, it is encouraging to note that an overwhelming majority of students who have participated have realised the importance of legal aid, and the need of undertaking such work pro bono.

Today the Private Colleges Programme works on the basis of a partnership between the Legal Aid Committee (Kuala Lumpur) and the Kolej Damansara Utama (KDU) Law School. At KDU, all undergraduate students are required to study the subject of "Legal Skills" (Code: DIL 1005). This course has the objective of developing various legal skills at undergraduate level. This includes the skill of *interviewing*. Students are taught how to conduct an interview successfully. Theory covered includes understanding:

- a) factors which inhibit an interview
- b) factors which facilitate an interview
- c) important skills (listening, attending behaviour questioning, and interpretation)
- d) advising the client (options)
- e) stages in an interview.

Students then visit the Legal Aid Centre to observe lawyers at the Centre interview clients. This provides practical exposure as to how an interview is conducted. Students do not under any circumstances interview clients. They are also advised on the importance of keeping all exchange of information confidential.

In the year 2000, 45 students have participated in this programme where they observe interviews being conducted by lawyers. Apart of observing the interviews at the Legal Aid Centre (Kuala Lumpur), students have also accompanied lawyers to the Sungei Buloh Prison. Another aspect involved students observing the operation of the Dock Brief Programme, again accompanied by volunteer lawyers.

In September Mr. Fancis Pereira, Advocate & Solicitor, visited KDU to talk about the operation of Legal Aid in Malaysia. The talk was attended by 72 students.

That concludes the report for the year 2000

KAJANG WOMEN PRISON CLINIC
 Report submitted by Mr.S.Balasubramaniam

Committee Member: Ms. Mabel Yong

Introduction

The clinic was launched in May 1999. The objectives of the Kajang Women's Prison Clinic are to provide legal advice, information and representation to all female remand detainees from the northern and southern regions.

Implementation

The pupils selected for this clinic are provided with training prior to their 14 days duty in order to equip them with the necessary skills. A team of 6 chambering pupils is rostered for duty on Friday's once every three weeks. Averages of 10 remand prisoners are interviewed under the supervision of volunteer supervisors at each session. They are required to follow-up the Interview Sheets given at the Center. Further to this they assist in:

- i) contacting relatives of the remand detainees to facilitate visiting rights and posting bail
- ii) liaising with Dock Brief pupils for mitigation and to assist in assigning files
- iii) liaising with volunteer lawyers on the status of the files assigned.

Cases from other states are referred to the respective Bar Council Legal Aid Center for their action. The center also assists foreign remand prisoners within the Klang Valley by contacting the respective embassies to take necessary action. The centre has received donations such as cloths for adults and babies besides monetary donations for the prison inmates.

The Kajang Women Prison authorities are co-operative and friendly in making the clinic a success. In most of the prison visits, they would take the pupils for a tour around the prison. Various courses are offered to the inmates such as Batik printing, electrical, catering, laundry, handicraft, sewing which serves as income generating to the administration of Kajang Women Prison. It was learned that out of an average of 900 inmates in the prison (doubled its capacity), only about 200 are Malaysians. The rest are foreigners.

Strength & Weaknesses

In 2000, the clinic has rendered legal advice to 120 persons. Breakdowns of types of services rendered are:

Persons Approached	120
Referred to Dock Brief (Mitigation & Bail Application)	25
Cases Assigned to Counsel	18
Referred to other state legal aid centers	50
Advice only	20
Own Counsel	7

Breakdown of types of offences relate to the accusers age are:

AGE	Offences Against Property	Offences Against People	Drug Offences (39B)	Drug Offences (39A<)	Offences on Syariah matter	Other Offences	Total
15	1						1
16	1						1
18	2		2	1	1		6
19	1	2	3				6
20			1	2	1		4
21	2		2	1			5
Above 21	18	7	12	37	2	21	97

2 major issues were identified in Kajang Women Prison, which are juvenile and foreign remand prisoners. The center has taken the initiative to hold a dialogue with the authorities to address the problem. The meeting was held on 28 September 2000 and the center has since taken responsibility to assist prison authorities in clearing up both juvenile and foreign remand cases. The prison authorities also provide us with statistics on both. The center is planning to undertake the task by arranging for interpreters through Tenaganita (partner organisation) by early next year.

Since last year, lack of proper follow up on interviews conducted still persists. In a way it has causes reluctance to the remand prisoners to seek LAC's assistance. One of the major reasons for the flaw is the insufficient feedback from the other state legal aid centers to which 41.7% cases were referred.

To avoid any form of incompetence on part of the center, perhaps the National Legal Aid Committee should bring up the matter with other state legal aid center. A guideline should be structured for all centers to adhere.

Another imminent problem is the pupils' inability to extract proper facts from the detainees and inaccurate information. This causes difficulty for the center to take proper action. As such the Skill Development Training Committee is seriously looking into providing a better training for all pupils generally.

The clinic has also brought into some media attention on the following issues:

(A) Marie Claire

- Is to make a study on the babies born in the Kajang prison.
- To work together with the Government in order to make a proposal to set up a Home in the Kajang Prison. This is to enable the babies to grow together with their mothers, as babies need their mothers' care and attention.

(B) Cleo Magazine

- Had conducted an interview with Mr. S. Balasubramaniam, the Head of the Kajang Women's Prisoners Clinic on how foreign women are smuggled into Malaysia with a promise to offer legitimate jobs but to find later that they are being lured into prostitution.

Recommendation

Since the clinic is still new, more effort is needed to establish our credibility. Since there are less local remand prisoners compared to foreigners, a one off interview session is not sufficient. A more viable program with an aim to reduce foreign remand prisoners need to be drafted. The prison authority themselves seems unable to cope with the situation, as such Legal Aid Center has the potential to play a more proactive role.

AUDIT QUALITY CONTROL COMMITTEE ("A Q C")

Report submitted by, Balakishnan Appalanaido (Project Head)

Committees:

Ngooi Chiu-Ing (Supervisor)
Balakishnan Appalanaido (Project Head)
Uma Devi (Secretary)
Ramesh Lachmanan
K Amutha
Samundeswari Gopal (Suri)

The Audit Quality Control ("A Q C") committee was established from the year 2000, 22 April meeting as part of the Bar Council Legal Aid Centre Kuala Lumpur ("Centre") delivering distinguish services to the members of the public mainly the underprivileged.

We would like to thank Ngooi Chiu-Ing, who has been supervising and contributing from the beginning towards the success of the committees' role.

Though the committee was partly viewed with apprehension by some quarters, even amongst volunteer lawyers in the beginning, slowly through out the year 2000 we received overall consensus and a warm welcome from the each and every member of the LAC Management Panel.

The objectives of the committee are has follows:

- ⊗ Acting on the recommendations from the proposals and resolutions arising from he LAC workshop held on April 22, 2000.
- ⊗ evaluating and ascertaining whether the Centre runs all program/projects as proposed and whether there are shortcomings and proposing alternatives to overcome those shortcomings.
- ⊗ improving the training and program of all activities conducted by Centre.
- ⊗ Analyzing the exit evaluation form filled by pupils after their 14 days legal aid service.
- ⊗ attending all programs run by the Centre
- ⊗ to prepare auditing brief and reporting back to the Management Panel

Action taken by the A Q C committee members/Achievements

The committee so far had audited 10 programs/clinics from the pupils and supervisors point of view, which was as follows:

- i) LAC/AWAM Legal Information Service Clinic
- ii) Kajang Women Prison Clinic
- iii) Sungai Buloh Prison Clinic
- iv) Legal Aid Centre Clinic
- v) Legal Aid Centre Administration
- vi) Urgent Arrest Program
- vii) Legal Awareness Program
- viii) Dock Brief Program
- ix) Syariah Clinic
- x) LAC/Migrant Workers Clinic- *still pending*
- xi) LAC/Tenaganita Trial Program

The A Q C committee would like to propose the following:

- ◆ the Centre should conduct mini lectures to the pupils, volunteer lawyers and supervisors on issues pertaining to the sub committees of each clinics/program.
- ◆ to present certificate of appreciation to overwhelm programs/clinics, supervisors, volunteer lawyers and pupils as an encouragement (for their dedication and volunteering services contributed to the Centre)

Shortcomings of the A Q C committee:

The committee faces problems in getting access into certain clinics/programs to audit. Therefore it is proposed that a better networking system be implemented, as Project Heads should play an important role in explaining the purposes of the committee to their respective coordinators/supervisors.

The pupils, staff, supervisors, volunteer lawyers and management panel members should realise that the main objective of the A Q C committee is to recommend constructive criticism as the clients who seek our services should obtain and receive quality service.

Future Planning

- ♣ the Centre should provide systematic and quality service
- ♣ all clinics/programs should have at least one supervisor present during their sessions.
- ♣ all Project Heads should provide status reports every year and guidelines of their respective clinics/programs for the A Q C committee as this would avoid any misunderstanding.
- ♣ the A Q C committee to attend training session on all clinics/programs

In concluding the above, I would like to take this occasion to thank the management panel, volunteer lawyers, supervisors and lastly my hard working committee members who had made the A Q C committee a team of well groomed auditors at last and hope for the best next year.

TRAINING COMMITTEE

Skills Development Sub-committee

Report prepared by Project Head, Mr C I Ngooi

Members:

Ngooi Chiu-Ing, Ms Jeyaletchumi Rajaretnam, S Muhendaran, Ms Mary Manickam and A Balakishnan.

Objective:

The objective is to develop/enhance skills by rationalising and improving skills development training. This is to improve the quality of services delivered to our deserving clients, and also to help motivate pupils to perform well in delivering the services.

Initially, the Sub-committee will focus on skills development of pupils, and then move on to our partner NGOs and lawyers who commit to serve in our programs.

Goals:

- Equip pupils with adequate skills and exposure.
- Rationalise training for the various programs to avoid duplication/overlap.
- Improve quality of training, including the trainers' skills.

Progress made:

- Cross-training of pupils from different programs. AWAM Program pupils and Dock Brief Program pupils attended LAC Clinic training modules.
- The "Interviewing and Documentation" skills module for the LAC Clinic training has been expanded, and was presented by Tenaganita. Dock Brief Program and Sungai Buloh Clinic pupils attended this module. The Audit and Quality Control Program had found serious deficiencies in pupils' interviewing and documentation skills.
- Increased emphasis on skills development and training on law through scripted role-plays for the LAC Clinic training.
- The Legal Awareness Program has/will draft and distribute manuals to be read by pupils prior to their training and used during their compulsory duty. The manuals are intended to reduce the time (and tedium) of training and for reference during the compulsory duty. The Employment Manual has been prepared and distributed to pupils serving in the LAC Clinic, Tenaganita and AWAM programs, and to our partner NGOs.
- Quality audits were conducted of the Sungai Buloh/Kajang Prisons Clinic and the Dock Brief Program training sessions. These included evaluations by the participating pupils of the training and trainers.
- A "Tips for Trainers" handout was drafted in consultation with a professional training consultant and distributed to trainers.

Future plans:

- Greater emphasis on role-plays for skills development and training on law for all programs.
- Sungai Buloh/Kajang Prison's Clinic and Dock Brief Program should have common training. The Sub-committee believes that the two programs comprise a continuous process, and the pupils will benefit from exposure to the entire process and perform better if they are aware of the interdependence of the two programs.
- Further eliminate overlaps and duplications, eg Employment law and Criminal law modules for different programs.
- Compile a list of preferred trainers.

BAR COUNCIL LEGAL AID LAW REFORM COMMITTEE

Report submitted by Ms. M Kamalam

Committee Members

Ms K Nachammai	Ms Ivy Josiah	Ms K Moganambal
Mr R Kesavan	Ms Aegile Fernandez	Ms Tanuja Rani
Ms Leena Ghosh	Ms Shakila	Ms Ruzana Udin
Ms Manohari Subramaniam	Ms Lee Shook Foong	

Introduction

The Bar Council Legal Aid Law Reform Committee (LRC) was formed by the Bar Council Legal Aid Center on April 2000. The primary objective of its formation is to:

- Look into the problems of the enforcement of certain section of the existing laws in Malaysia such as the CPC, Family, Syariah and Juvenile.
- To offer legal input, statistics or any other form of resources to bodies such as the NGOs and GOs, which intend to amend or reform laws which have loopholes such as the Domestic Violence Act., the Rape law and the Employment law.
- To recommend and to propose to the Bar Council and the government, views on any new laws or amendments proposed by the above mentioned bodies.

For a start, the committee is working with the NGOs in trying to resolve their problems by adopting a practical approach.

Implementation

Women Aid Organisation

The sub-committee had its first meeting with the Women Aid Organisation on 16 May 2000 to discuss the shortcomings in the Domestic Violence Act 1994. The center has agreed to compile:

- i) Statistics of DV cases from the court, which is yet to be implemented.
- ii) Statistics from LAC (K.L.) on DV cases which is being compiled from the year 2000.

The WAO has done an extensive research on the DVA and a memorandum recommending and proposing amendments to the Act has been submitted to the relevant Ministry 2 years ago and no response has been received yet. It was proposed that another memorandum should be submitted with the additional Amendments.

With that in mind, a **brainstorming session** was organised on 11.11.2000. It was suggested that Regulations could be formulated to circumvent the loopholes found in the DVA. It was further suggested that a better and comprehensive Interim Protection Order (IPO) be drafted based on foreign precedent and that a comparative study of foreign DVA laws should be done. The session ended with some lawyers' volunteering to be in the team to assist in the drafting of the proposed Regulation and/or the DVA.

In a move to look into possible reforms of the DVA, on November 2000, 2 LRC members attended a two days seminar on the setting of a Family Court in Malaysia.

The following tasks has been assigned and the work is in progress:

- AWAM (All Women's Action Society) to draft a protocol on how victims could obtain protection from the police, in a move to encourage all the police stations to adhere with a standard procedure.
- WAO to conduct research and forward proposal on a comprehensive IPO.
- LAC to complete a comparative study of DV cases of other countries.

AWAM (All Women's Action Society)

The center organised a get together session with AWAM at their center on 5 July 2000 to enhance our working relationship and to understand better their objectives and role. During the discussion, it was agreed that both parties would put up a joint paper on funds for the appointment of an officer who be able to look into the legal and gender issues at the center. There was also a proposal for an Anti-Sexual Harassment Act.

TENAGANITA

A similar get together session was conducted at the center on 22 August 2000 with Tenaganita. The increase in the number of trafficking of women and children in Malaysia was highlighted. Tenaganita was of the view that a Trafficking in Women and Children Act was imminent to curb this vice, which is rampant in Malaysia. Thus, the center's proposal to appoint a full time programme officer to research and to draft laws on Women and Child Trafficking which is currently non-existent in Malaysia was agreed. Both the center and Tenaganita is in the process of drafting a proposal for funds required for the appointment of the officer and the research work.

PINK TRIANGLE/IKHLAS

On 26 July 2000, a joint meeting between representatives of the Pink Triangle and the center was held. The meeting has instilled a better understanding of their contributions to the six main communities such as drug users, sex workers, transsexuals, homosexuals and people infected with HIV/AIDS.

The committee initiated a study/exposure visit to Ikhlas drop in center on 6 October 2000 at Chow Kit, Kuala Lumpur. Meanwhile the committee, which has representatives from Ikhlas, gave input on the problems faced by these communities, especially police abuse and their inability to automatically change the identity cards as soon as they have undergone a change of sex operations.

The LRC has suggested that PT should start compiling their own statistics of such cases so that the LAC could take them up as 'test' cases. To start the ball rolling, the LRC together with LAC/PT Clinic initiated a monthly legal clinic at Ikhlas center.

Recommendations

The committee needs expertise in the following field to run its program effectively:

- i) Criminal lawyers with experience in handling Domestic Violence cases to provide legal opinions for the amendment in DVA and assist in the drafting of the regulation.
- ii) Volunteer Individuals/ organisations to prepare funding proposals for the relevant projects.

Besides that, the committee also needs to establish a network with other relevant organisations such as the courts, police and the welfare departments since most issues raised involve them.

JUVENILE TASK FORCE COMMITTEE

Report submitted by Cik Yasmeen Shariff

Committee Members

Mr Christie Soosay Nathan
Mr Ravi Nekoo
Ms K Parameswary

Mr S Balasubramaniam
Cik Normaizaida Ahmad Narihan
Mr Wong Leong Hong

Introduction

The task force was set up on 29 August 2000 by the Management Panel. The main purpose of the task force was to address the ongoing and acute problem of Juveniles being remanded at Sg. Buloh and other prisons nationwide. In its' first meeting, the committee comprising of seven members has affirmed the following objectives: To urge the government to provide alternate homes or remand centres or halfway homes for the juveniles instead of prison. To pressure the government to review the roles of the bodies involved in the whole administration of the legal system,

1. which ends up remanding the juveniles in prison. The relevant authorities are the A.G. Chambers, the Judiciary (courts), KDN, Police, Jabatan Kebajikan Malaysia and the Prison authorities.
2. To obtain early hearing dates for juvenile cases.
3. To urge the government not to impose any bail except one surety for cases involving juveniles.
4. To study/review the offences committed by the juveniles.
5. To look into the issue of juvenile abuse while in police lock ups.

The task force also embraced the issue of Juveniles being abused in lock-up and would take it up with the relevant authorities.

Implementation

The committee, which meets once a month, has undertaken the following and is in the midst of scheming them:

- ❖ To initiate a dialogue session with the A.G. Chambers, Welfare Department Courts and other relevant authorities involved in the welfare of juveniles.
- ❖ Report on the mental and psychological development of juveniles placed in police custody or penitentiary institutions.
The committee has approached YB Prof. Dr. Kasmini Kassim, Professor of Psychiatry at Medical Faculty, University Kebangsaan Malaysia to prepare the report on a pro-bono and voluntary basis.

Meanwhile, through the prison visit program the center has interviewed 112 juveniles in remand from Sg. Buloh prison and 8 juveniles from Kajang Women Prison. The center has compiled the following statistics on juvenile abuse while in remand in police lock-up for future reference:

- ❖ Case studies of juveniles abused in police lock-up.

Category	Age 13 (2 cases)	Age 14	Age 15 (6 cases)	Age 16 (5 cases)	Age 17 (13 cases)	Age 18 (18 cases)	Total (43 cases)
Slapped (Hit)	1		2	1	9	7	46.5%
Punched				1	4	5	23.3%
Kicked	1		1		4	5	25.6%
Stepped					2	2	9.3%
Hit with objects			3	3	4	8	41.9%

- ❖ Types of offences and the bail imposed on juveniles.

Bail Amount (RM)	Offence Against Property	Offence Against People	Sexual Offence	Drugs	Traffic Offence	Others
500-4,000	73					
8,000			3			
6,000-10,000		5				
3,000-5,000				21		
5,000-7,000					8	
1,000-2,000						10

The committee wrote to all state legal aid centers for statistics on number of juveniles being detained at the respective state prisons. The centre has received statistics from Pahang & Perak Legal Aid Centre. The Kajang Women's and Sungai Buloh Prison has also kindly forwarded the required statistics to the centre. The statistics has been very useful for the center's documentation to pursue the matter with the relevant authorities.

The committee at a dialogue brought the juvenile issue to the attention of Y.B. Dato Rais Yatim, the minister in the Prime Minister's Department and a report was submitted to him. The Prime Minister's Department recognised the center's effort and invited the head of Juvenile Task Force, for a meeting to discuss the juvenile remand prisoners' issue on 28 September 2000.

Following the meeting and wide media coverage, Y.B. Dato Rais Yatim, together with several of his officers and the head of the juvenile task force held on remand in prison (except serious offenders) to be transferred to welfare homes by October 2000.

Nevertheless during the center's prison visit on 11 November 2000, about 7 juveniles were found detained at the Sg. Buloh Prison. Once again the committee highlighted the issue to the media and alerted the prison authorities.

Meanwhile, the committee also wrote in to the DG of the Welfare Department seeking access to the juveniles in remand under their custody. The DG has agreed to meet the committee to discuss the matter in further detail on 9/2/01.

Shortcomings

The committee currently comprises of only 6 volunteer lawyers. The committee is looking outside Legal Aid to hope in more volunteers to assist and also to improve and establish a wider networking system to look into the issue of juveniles on remand.

Recommendations

In a report submitted to the Dato Rais Yatim, the minister in the Prime Minister's Department, the following action plan was acclaimed:

- The Juvenile Task Force under the Legal Aid Centre (K.L.) would conduct researches and recommends long term and short terms solutions. Short-term solutions would be to reduce juvenile remand prisoners with the co-operation from the courts (expedite their cases and the Welfare Dept to).
- Long term plan is to ensure no juveniles are detained at prison or police lock-up. The task force would recommend law reform by conducting study on the relevant laws pertaining to juveniles such as Juvenile Court Act. 1947, Penal Code and "Kaedah Lokap" under the Police Act. 1967

The taskforce need to open the membership to members of NGO, police officials and other relevant organisations in order to achieve the said recommendations.

FUND-RAISING PROGRAM

Report prepared by Project Head, Mr Francis Pereira

Committee Members

Mr. R. Kesavan

Mr. Sivarasa Rasiah

Mr. Ngooi Chiu-Ing

Cik Yasmeeen Shariff

Mr. Julian Jeyaseelan (Iklas Pink Triangle)

Mr. Jeyaveeran Naicker

Mr. R. Kanakaraj

Ms. Srividhya G.

Ms. Mary Manickam

Ms. Lee Shet Mei

Ms. Uma Devi

Ms. Adeline A C Lee

Ms. Ramanaambigai Marimuthu

This committee is still at its infancy being the latest addition to the growing Legal Aid Clinic family. With growth in terms of work done by the Centre but without corresponding increase in financial resources to the Centre, this committee was formed on 22 April 2000 to assist in sourcing and obtaining funds needed for the running of current projects and for future plans of the Centre.

Todate the Committee is in the process of drawing up a profile of the Centre with much assistance from Sil Ad (KL) Sdn Bhd an established yet friendly advertising company. The first major project proposed by the Committee is a Charity Movie Premier to be held sometime in April 2001.

If readers of this report know any person or organisation who may be of assistance to us or whom we may approach for funds, please contact Ms Sheena at the Legal Aid Centre, Tel: 26913005.

MANAGEMENT AND ADMINISTRATION

1. Finance

A sum of RM358,294.28 was approved by the National Legal Aid Committee for the Centre's operations for the year 2000.

2. Annual Accounts

Copies of the Annual Accounts and profile of expenditure are provided in Annexure "A".

ACKNOWLEDGEMENT

We wish to record our heartfelt thanks and appreciation to International Law Book Services, Hitachi Transport System Malaysia Sdn Bhd, Sil Ad (K.L.) Sdn Bhd, Mr. Patrick Teoh, Lian Huat Stationers and Sekretariat Pintas Negara for their generous contribution and assistance to the Bar Council Legal Aid Centre (Kuala Lumpur).

ANNEXURE "A"

BAR COUNCIL LEGAL AID CENTRE (KUALA LUMPUR)

FINANCIAL STATEMENTS – 31 DECEMBER, 2000

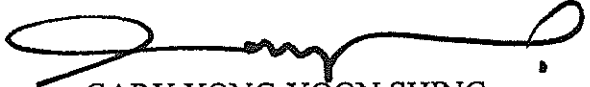
REPORT OF THE AUDITORS

We have audited the accompanying Balance Sheet and Income and Expenditure Account of BAR COUNCIL LEGAL AID CENTRE (KUALA LUMPUR) in accordance with approved auditing standards.

In our opinion, the accompanying Balance Sheet and Income and Expenditure Account, together with the accompanying notes, give a true and fair view of the state of affairs of BAR COUNCIL LEGAL AID CENTRE (KUALA LUMPUR) as at 31 December, 2000 and of its income and expenditure for the year ended on that date.



SINGAM & YONG
No. AF 0040
Public Accountants



GARY YONG YOON SHING
No. 633/3/01 (J/PH)
Partner

Kuala Lumpur,
19 January, 2001.

BAR COUNCIL LEGAL AID CENTRE (KUALA LUMPUR)

BALANCE SHEET – 31 DECEMBER, 2000

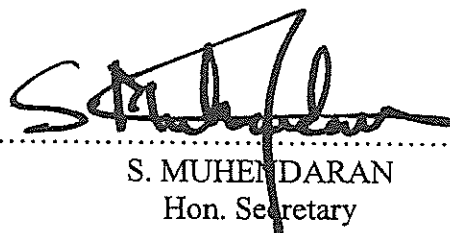
	<u>Note</u>	<u>2000</u>	<u>1999</u>
		RM	RM
FIXED ASSETS	2	47,925	53,977
CURRENT ASSETS			
Sundry debtors, deposits and prepayments	3	14,757	10,430
Disbursements recoverable		35,251	34,757
Cash and bank balances	4	37,063	35,759
		87,071	80,946
Less:			
CURRENT LIABILITIES			
Clients' account	5	19,692	19,709
Sundry creditors and accruals		8,021	5,335
		27,713	25,044
NET CURRENT ASSETS		59,358	55,902
		107,283	109,879
Represented by :		RM	RM
ACCUMULATED FUND	6	107,283	109,879

The accompanying notes form an integral part of, and should be read in conjunction with, these financial statements.

We certify that the above Balance Sheet and accompanying Income and Expenditure Account, together with the accompanying notes, give a true and fair view of the state of affairs of BAR COUNCIL LEGAL AID CENTRE (KUALA LUMPUR) at 31 December, 2000 and of its income and expenditure for the year ended on that date.



R. KESAVAN
Chairperson



S. MUHENDARAN
Hon. Secretary

BAR COUNCIL LEGAL AID CENTRE (KUALA LUMPUR)

NOTES TO THE FINANCIAL STATEMENTS – 31 DECEMBER, 2000

1. SIGNIFICANT ACCOUNTING POLICIES

1.1 Accounting basis

The financial statements have been prepared under the historical cost convention and are in compliance with applicable approved accounting standards in Malaysia.

1.2 Depreciation

Depreciation is calculated to write off the cost of fixed assets in equal annual instalments over the estimated useful lives of the assets. The principal annual rate used is 10%.

1.3 Cash and cash equivalents

Cash and cash equivalents represent cash in hand and bank balances.

2. FIXED ASSETS

	Air-conditioners and office <u>equipment</u>	Furniture and <u>fittings</u>	<u>Renovation</u>	<u>Total</u>
<u>2000</u>	RM	RM	RM	RM
<u>Cost</u>				
As at 1 January, 2000	88,755	11,763	11,764	112,282
Additions	-	2,000	-	2,000
Disposal	-	(5,340)	-	(5,340)
As at 31 December, 2000	<u>88,755</u>	<u>8,423</u>	<u>11,764</u>	<u>108,942</u>
<u>Accumulated depreciation</u>				
As at 1 January, 2000	46,245	8,531	3,529	58,305
Current depreciation	6,162	714	1,176	8,052
Disposal	-	(5,340)	-	(5,340)
As at 31 December, 2000	<u>52,407</u>	<u>3,905</u>	<u>4,705</u>	<u>61,017</u>
Net Book Value	<u>36,348</u>	<u>4,518</u>	<u>7,059</u>	<u>47,925</u>

BAR COUNCIL LEGAL AID CENTRE (KUALA LUMPUR)

NOTES TO THE FINANCIAL STATEMENTS – 31 DECEMBER, 2000
(CONT'D)

2. FIXED ASSETS (Cont'd)

	Air-conditioners and office equipment	Furniture and fittings	Renovation	Total
<u>1999</u>	RM	RM	RM	RM
<u>Cost</u>				
As at 1 January, 1999	81,715	10,974	11,764	104,453
Additions	7,040	789	-	7,829
As at 31 December, 1999	<u>88,755</u>	<u>11,763</u>	<u>11,764</u>	<u>112,282</u>
<u>Accumulated depreciation</u>				
As at 1 January, 1999	40,083	7,822	2,353	50,258
Current depreciation	6,162	709	1,176	8,047
As at 31 December, 1999	<u>46,245</u>	<u>8,531</u>	<u>3,529</u>	<u>58,305</u>
Net Book Value	<u>42,510</u>	<u>3,232</u>	<u>8,235</u>	<u>53,977</u>

3. SUNDRY DEBTORS, DEPOSITS AND PREPAYMENTS

	<u>2000</u>	<u>1999</u>
	RM	RM
Rental deposit	11,262	8,004
Utility deposit	1,000	1,000
Telephone deposit	950	950
Staff insurance prepaid	451	326
Staff loan	1,094	150
	<u>14,757</u>	<u>10,430</u>

BAR COUNCIL LEGAL AID CENTRE (KUALA LUMPUR)

NOTES TO THE FINANCIAL STATEMENTS – 31 DECEMBER, 2000
(CONT'D)

4. CASH AND BANK BALANCES

	<u>2000</u>	<u>1999</u>
	RM	RM
Office account	17,547	16,350
Clients' account	19,095	19,113
Cash in hand	421	296
	<u>37,063</u>	<u>35,759</u>

5. CLIENTS' ACCOUNT

	<u>2000</u>	<u>1999</u>
	RM	RM
Balance brought forward	19,709	145,505
Amount received from clients during the year	-	3,309
	<u>19,709</u>	<u>148,814</u>
Less : Amount disbursed during the year	(17)	(129,105)
Balance carried forward	<u>19,692</u>	<u>19,709</u>

6. ACCUMULATED FUND

	<u>2000</u>	<u>1999</u>
	RM	RM
Balance brought forward	109,879	123,271
Deficit for the year	(2,596)	(13,392)
Balance carried forward	<u>107,283</u>	<u>109,879</u>

BAR COUNCIL LEGAL AID CENTRE (KUALA LUMPUR)

**INCOME AND EXPENDITURE ACCOUNT
FOR YEAR ENDED 31 DECEMBER, 2000**

	<u>2000</u>	<u>1999</u>
	RM	RM
INCOME		
Allocation from Bar Council	333,519	325,612
Donation received	4,028	19,656
Fixed deposit interest	-	4,077
Other income	4,384	2,562
Gain on disposal of fixed assets	199	-
	<u>342,130</u>	<u>351,907</u>
Less :		
EXPENDITURE		
Salaries, overtime and allowance	158,794	167,185
Rental	42,876	41,287
Training	32,813	35,578
Urgent arrest task force	24,281	20,181
E.P.F.	17,132	18,630
Telephone	14,426	10,320
Printing and stationery	10,995	19,591
Depreciation	8,052	8,047
Volunteers meeting	5,298	5,061
Electricity and water	4,586	3,878
Upkeep and maintenance of office	3,440	2,210
Storage charges	3,236	2,412
Medical expenses	2,996	2,551
Refreshments	2,711	2,602
SOCSO	2,662	2,516
Staff insurance	2,166	1,712
Despatch charges	2,109	3,166
Maintenance of office equipment	1,725	1,840
Auditors' remuneration	1,500	1,500
Postage	1,061	1,670
Miscellaneous	885	1,568
Advertisement	377	173
Repair and maintenance of motorbike	340	-
Balance carried forward	344,461	353,678

BAR COUNCIL LEGAL AID CENTRE (KUALA LUMPUR)

INCOME AND EXPENDITURE ACCOUNT
FOR THE YEAR ENDED 31 DECEMBER, 2000
(CONT'D)

	<u>2000</u>	<u>1999</u>
	RM	RM
Balance brought forward	344,461	353,678
Bank charges	177	106
Travelling	88	-
Bonus	-	9,620
National Legal Aid Conference	-	1,895
	344,726	365,299
DEFICIT FOR THE YEAR	(2,596)	(13,392)

The accompanying notes form an integral part of, and should be read in conjunction with, these financial statements.

LAPORAN TAHUNAN 2000/2001

SETAKAT 10.2.2001

1. MESYUARAT AGUNG TAHUNAN KE-8

Mesyuarat Agung Tahunan Ke-8 telah diadakan pada hari Rabu 15hb Mac 2000 jam 10:00 pagi di Grand Ballroom, Hotel Grand Seasons, Kuala Lumpur. Ianya telah ditangguhkan daripada 9hb Mac 2000 kerana ketiadaan korum.

2. PEMEGANG-PEMEGANG JAWATAN

Pada Mesyuarat Agung Tahunan Ke-8 ini, pemegang-pemegang jawatan berikut telah dipilih:

a) Jawatankuasa Peguam 2000/2001

Pengerusi: Encik M Puravalen

Ahli-ahli: Cik Ambiga Sreenevasan
Encik Christopher Foo Kah Foong
Encik Ragunath Kesavan
Cik Yasmeen bt Hj Muhamad Shariff
Cik Jayaletchumi Rajaretnam
Encik Oommen Koshy

b) Wakil ke Majlis Peguam 2000/2001

Encik Mohamad Ariff bin Md Yusof

3. SETIAUSAHA KEHORMAT

Cik Yasmeen bt Hj Muhamad Shariff telah dilantik oleh Jawatankuasa sebagai Setiausaha Kehormat bagi tahun 2000/2001.

4. AHLI LANTIKAN

Encik Koh Kek Hoe telah dilantik sebagai ahli Jawatankuasa Peguam di bawah Seksyen 73(vii) Akta Profesion Undang-Undang 1976 pada mesyuarat Jawatankuasa yang kedua bagi tahun tersebut.

5. MESYUARAT-MESYUARAT JAWATANKUASA

a) Sehingga setakat 10.2.2000 Jawatankuasa bermesyuarat sebanyak 11 kali dan kehadiran setiap ahli adalah seperti berikut:

Encik M Puravalen	- 9
Cik Ambiga Sreenevasan	- 9
Encik Christopher Foo Kah Foong	- 7
Encik Ragunath Kesavan	- 10
Cik Yasmeen bt Hj Muhamad Shariff	- 11
Cik Jayaletchumi Rajaretnam	- 11
Encik Oommen Koshy	- 11
Mr Koh Kek Hoe	- 9

b) Encik Mohamad Ariff bin Md Yusof, wakil ke Majlis Peguam, telah dijemput untuk hadir mesyuarat-mesyuarat Jawatankuasa sebagai pemerhati dan juga untuk melaporkan kepada Majlis Peguam terhadap perkara-perkara yang berkaitan apakala ianya penting dan memerlukan. Beliau menghadiri sejumlah 6 mesyuarat.

6. KEWANGAN

Kedudukan kewangan Jawatankuasa kekal stabil dengan sejumlah RM246,162.00 berada di dalam Akaun Deposit Tetap. Perincian bagi kedudukan kewangan adalah sepertimana yang dibentangkan di dalam Akaun Teraudit berakhir pada 31.12.2000.

7. YURAN

Yuran bagi tahun 2000 telahpun ditetapkan sebanyak RM100.00 di Mesyuarat Agung Tahunan Ke-8 Bar Kuala Lumpur yang diadakan pada 15hb Mac 2000.

Pada akhir tahun kewangan pada 31.12.2000, seramai 34 orang ahli masih belum menjelaskan yuran bagi tahun 2000.

Jumlah ahli yang bertunggak yuran tahunan bagi tahun 2000 telah turun dengan begitu ramai. Ini adalah akibat usaha-usaha kakitangan secretariat menghubungi ahli-ahli yang belum menjelaskan yuran mereka untuk memastikan samada mereka masih mengamal dan jika masih mengamal, meningkatkan mereka supaya menjelaskan yuran.

8. JUMLAH AHLI

Sehingga setakat 10.2.2001, Bar Kuala Lumpur mempunyai sejumlah 4896 orang ahli.

9. JAWATANKUASA-JAWATANKUASA KECIL DAN PANEL PENGURUSAN BANTUAN GUAMAN

9.1 Jawatankuasa-Jawatankuasa Kecil berikut telah ditubuhkan bagi membantu menganjurkan pelbagai aktiviti Jawatankuasa dan untuk menyelenggara kehendak-kehendak Bar Kuala Lumpur dan adalah diketuai oleh ahli-ahli Jawatankuasa berikut:

- | | | |
|----|---------------------------|--------------------------------------|
| 1) | Kebajikan Pelatih | : Encik Christopher Foo |
| 2) | Teknologi Maklumat (IT) | : Encik K H Koh |
| 3) | Bantuan Guaman | : Encik Ragunath Kesavan |
| 4) | Penerbitan | : Encik Ragunath Kesavan |
| 5) | Sosial & Perhubungan Awam | : Cik Yasmeeen bt Hj Muhamad Shariff |
| 6) | Sukan | : Encik Oommen Koshy |

9.2 Perwakilan Peguam-Peguam Muda (JLR) terus memainkan peranan yang aktif dalam Jawatankuasa. Encik R Shanmugam yang mengetuai JLR dijemput menyertai Jawatankuasa sebagai pemerhati.

9.3 Sepanjang tahun dalam kajian, Jawatankuasa-Jawatankuasa Kecil ini, Panel Pengurusan Bantuan Guaman serta JLR telah bergiat aktif. Aktiviti-aktiviti serta laporan-laporan mereka masing-masing terdapat di mukasurat 63 hingga 96.

10. MEMORANDUM TENTANG PENTADBIRAN KEADILAN

Atas undangan am YB Dato' Dr Rais Yatim, Menteri di Jabatan Perdana Menteri, untuk maklum balas mengenai isu "Pentadbiran Keadilan di Malaysia", Jawatankuasa menyediakan dan menyampaikan kepada YB Dato' suatu Memorandum mengenai isu tersebut. Jawatankuasa juga sedang menguruskan mesyuarat dengan YB Dato' untuk membincangkan Memorandum tersebut.

Salinan Memorandum tersebut dihantarkan kepada Ketua Hakim Negara dan Peguam Negara yang baru dilantik dan kepada Presiden Bar Malaysia.

Memorandum tersebut diterbitkan untuk maklumat ahli-ahli di mukasurat 104 hingga 126.

11. FORUM TENTANG "PERATURAN MELARANGKAN DISKAUN"

Memandangkan kontroversi mengenai peraturan yang melarangkan diskaun dibawah Perintah Persaraan Peguamcara, Jawatankuasa menganjurkan suatu Forum pada 2.12.2000 untuk perbincangan terbuka mengenai isu tersebut di antara ahli Bar.

Penceramah-penceramah dijemput untuk mengemukakan hujah-hujah kedua-dua belah isu tersebut. Lebih kurang 70 orang peguam menghadiri Forum tersebut dan kedua-dua aliran fikiran yang memihak dan menentang "Peraturan Melarangkan Diskaun" disebarkan dengan sepenuhnya.

Jawatankuasa berhasrat mendapatkan lebih banyak maklum balas dan pandangan tentang isu ini sebelum membuat sebarang cadangan kepada Majlis Peguam. Berhubung dengan ini, suatu forum perbincangan elektronik (Discussion eGroup) telah diwujudkan supaya ahli-ahli boleh mengemukakan pandangan-pandangan mereka dan membincangkan isu ini. Setakat ini, 21 ahli menyertai forum perbincangan elektronik.

Adalah diharapkan lebih ramai ahli akan menyertai perbincangan isu ini di www.yahogroups.com/subscribe/klbarNoDiscount.

Perbincangan ini adalah dibuka untuk semua ahli Bar Malaysia. Ahli-ahli boleh memohon untuk menyertai eGroup ini dengan menghantarkan mesej e-mel kepada klbarNoDiscount-subscribe@yahogroups.com.

12. PETI-PETI DOKUMEN JAWATANKUASA

Memandangkan permintaan untuk Peti Dokumen Jawatankuasa kian meningkat, peti-peti dokumen tambahan telah dipasang di ketiga-tiga Mahkamah iaitu Mahkamah Tinggi di Wisma Denmark, Mahkamah Sesyen dan Mahkamah Majistret di Jalan Raja.

Oleh kerana system "komunikasi melalui e-mel sahaja" belum dapat dilaksanakan, Jawatankuasa akan terus menyampaikan surat pekeliling, notis serta buletin kepada ahli-ahli Bar Kuala Lumpur melalui Peti-Peti Dokumen di Mahkamah Majistret di Jalan Raja. Ahli-ahli dinasihatkan sering memeriksa peti masing-masing supaya tidak ketinggalan dalam maklumat dan/atau aktiviti anjuran Jawatankuasa Peguam Kuala Lumpur.

13. UCAPAN-UCAPAN TAHNIAH

Jawatankuasa, bagi pihak Bar Kuala Lumpur, telah menyampaikan ucapan tahniah kepada beberapa orang tokoh bidang undang-undang yang baru dilantik ke jawatan tinggi atau dianugerahkan dengan bintang-bintang kebesaran atau gelaran.

14. OBITUARI-OBITUARI

Jawatankuasa merakamkan takziah diatas kematian ahli-ahli Bar Kuala Lumpur berikut sepanjang tahun dalam kajian:

- Encik Subramaniam Komban pada 9.5.2000
- Encik Zainal Abidin bin Mohamed Wazir pada 13.7.2000
- Encik Joseph Loo Shin Mun pada 10.8.2000
- Encik Shukanta Choudhury pada 21.9.2000
- Encik Balakrishnan Shanmugam pada 9.10.2000
- Encik Peter Yeoh Keat Choon pada 20.10.2000
- Cik Hoh Pau Yu pada 5.11.2000
- Encik Philip Adolphus a/l Cruz Philip Fernandez pada 22.11.2000

15. PENGHARGAAN-PENGHARGAAN

Kami menghargai kerjasama dan bantuan yang diterima daripada Hakim Besar, Hakim-Hakim Mahkamah Tinggi, Pendaftar Mahkamah Tinggi Malaya, Timbalan Pendaftar Mahkamah Tinggi Kuala Lumpur, Pengarah Tanah & Galian Selangor dan YB Dato' Dr Rais Yatim.

Kami mengucapkan terima kasih kepada semua ahli di atas sokongan serta kerjasama berterusan mereka. Kami berharap agar mereka akan meneruskan sedemikian kepada Jawatankuasa yang baru.

1. Jawatankuasa Kecil baru mengenai Teknologi Maklumat

Akhirnya, pada tahun 2000, Jawatankuasa Peguam Kuala Lumpur telah membentuk suatu Jawatankuasa Kecil baru mengenai Teknologi Maklumat. Matlamat utama Jawatankuasa Kecil baru ini adalah untuk membolehkan ahli-ahli Bar Kuala Lumpur berkait dan berhubungan di antara satu sama lain melalui e-mel.

2. eGroups

Bermula dengan kami sendiri, ahli-ahli Jawatankuasa, kami telah membentuk kumpulan perbincangan elektronik Bar KL yang pertama ("eGroup"). Cara eGroup berfungsi bukan rumit sangat. Sebagai ganti kepada menulis kepada semua ahli kumpulan, kami telah membentuk sebuah eGroup dengan alamat seperti *klbar@egroups.com*. Dengan menggunakan kemudahan yang ditawarkan oleh *www.egroups.com* (kini, *www.yahogroups.com*), semua mesej kepada eGroup akan disampaikan kepada para ahli kumpulan. Ini membentuk suatu perbincangan melalui mesej e-mel yang di baca oleh semua ahli Jawatankuasa. Setiap ahli boleh membaca dan menjawab kepada sebarang mesej, seolah-olah sedang berada di dalam sesuatu mesyuarat, mendengar orang lain bercakap dan kemudiannya menyertai perbualan. Ini bermakna, pihak Jawatankuasa selalu membincangkan isu-isu terlebih dahulu sebelum bertemu mengenai agenda yang sama di dalam mesyuarat.

3. klbarInfo

Sebaik sahaja eGroup Jawatankuasa kami berfungsi dengan licin, kami melebarkan idea ini dengan membentuk *klbarInfo@yahogroups.com* yang kini beroperasi sebagai saluran untuk menyebarkan maklumat kepada ahli-ahli Bar KL. Pihak Sekretariat bermula dengan mengumpulkan alamat-alamat e-mel daripada ahli-ahli. Menurut bilangan terakhir, kami mempunyai hampir 3,000 alamat e-mel (termasuk alamat-alamat pelatih) dan masih terus menambahkan kepada database. Hasilnya adalah semua ahli yang alamat e-mel mereka berada di dalam tangan pihak Jawatankuasa, kini dibanjiri dengan mel, termasuk mel "sampah" ciptaan kami.

eGroup klbarInfo juga boleh digunakan sebagai satu saluran untuk iklan-iklan jawatan kosong untuk peguam-peguam. Adalah dicadangkan agar iklan jawatan kosong boleh diumumkan di dalam klbarInfo melalui pihak Sekretariat.

4. Penjimatan Kos

Satu manfaat pembentukan eGroup klbarInfo adalah penjimatan kos pengeposan, percetakan serta alatulis. Dengan membandingkan statistik bagi tahun 1999 (RM36,000) dan tahun 2000 (RM23,000), kelihatan bahawa sejumlah RM13,000 telah dijimatkan, sekalipun dengan kenaikan tahunan jumlah ahli-ahli.

5. Lain-lain eGroups klbar

Sejurus selepas eGroup klbarInfo mula beroperasi, kami menggunakannya untuk mengumumkan *klbarMembers*, *klbarPupils*, *klbarJuniors* dan *klbarNoDiscount*.

klbarMembers dibentuk bagi tujuan perbincangan tentang perkara-perkara yang berkepentingan kepada ahli-ahli, manakala yang lain-lain adalah mengenai topik-topik sepertimana yang dicerminkan dalam nama eGroup berkenaan. Penyertaan oleh ahli-ahli adalah agak perlahan namun kian meningkat. Kami menjangkakan bahawa ke semua eGroup ini akan menjadi aktif sebaik sahaja urusan pemindahan laman eGroup ini ke Yahoo disempurnakan. Ahli-ahli juga baru kembali daripada tempoh cuti umum perayaan Krismas, Hari Raya dan Tahun Baru Cina. Pihak Jawatankuasa baru ini telah membuat keputusan untuk membuka ke semua (kecuali satu) eGroup kepada ahli-ahli Bar daripada lain lain negeri.

6. Tawaran Pembelian PC

Bersandarkan matlamat untuk menggalakkan ahli-ahli kita yang masih belum membeli komputer pertama mereka, pihak Jawatankuasa telah berjaya meyakinkan seorang pengedar PC untuk memberikan suatu tawaran istimewa kepada ahli-ahli Bar KL. Malangnya, penyertaan terhadapnya adalah agak dingin meskipun tawaran ini telahpun diumumkan melalui satu sisipan berwarna penuh di dalam Relevan.

7. Latihan IT

Pihak Jawatankuasa juga telah mengatur agar suatu institut latihan Teknologi Maklumat yang ternama di Kuala Lumpur dapat menjalankan suatu kursus pengenalan khas kepada ahli-ahli Bar KL yang sedang belajar menggunakan PC buat kali pertama. Penyertaan oleh ahli-ahli adalah memadai untuk diadakan satu sesi pelajaran, dengan satu lagi bakal dilaksanakan.

8. Laman Web Bar KL

Laman web Bar KL kekal dalam keadaan tidak terurus. Ini adalah merupakan satu ruang lingkup yang tidak dikendalikan oleh jawatankuasa kecil Teknologi Maklumat.

9. Ringkasan

Bahagian Teknologi Maklumat telah mengambil langkah-langkah permulaan ke arah menjadikan ahli-ahli Bar KL berhubung kait. Banyak yang perlu dilakukan dan Jawatankuasa Peguam KL menjemput semua ahli Bar KL yang berhasrat untuk menyumbang kepada pembangunan Teknologi Maklumat untuk menawarkan khidmat mereka. Kami memerlukan tenagakerja untuk menjadi moderator kepada perbincangan-perbincangan elektronik serta untuk menguruskan keahlian eGroup. Kami juga memerlukan tenagakerja untuk menggubal kandungan laman web kita. Namun yang paling utama, kami memerlukan anda, ahli-ahli kami, untuk melibatkan diri dan bersuara di sudut kita didalam alam siber.

PENERBITAN

RELEVAN
surat berita

Ahli-ahli Sidang Pengarang:

R Kesavan
S Ambiga
N Surendran
Sharmini Thiruchelvam
R Shanmugam
Sarjeet Singh Sidhu
Kamraj Nayagam
Nicole Fiona Wee

1. Tiga keluaran RELEVAN telah diterbitkan bagi tahun 2000/2001.
2. Kami sedang merangka untuk memberikan ahli-ahli suatu makalah yang memperuntukkan maklumat mengenai aktiviti-aktiviti Jawatankuasa Peguam Kuala Lumpur dan pandangan-pandangan alternatif tentang pelbagai isu nasional.
3. Kekurangan-kekurangan yang ingin kami ketengahkan adalah berkenaan kekurangan maklumbalas ataupun kritikan ke atas artikel-artikel yang diterbitkan ataupun pandangan-pandangan alternatif berhubung isu-isu yang telah kami bangkitkan. Kami bersikap terbuka terhadap kritikan dan pastinya mengalu-alukan idea, pandangan, artikel mahupun herdikan!
4. Kami ingin mengucapkan terimakasih kepada semua pihak dan ahli-ahli di atas bantuan, sumbangan serta toleransi mereka.

1. SOSIAL

1.1 Kempen Menderma Darah 2000

Kempen Menderma Darah Tahunan bagi tahun 2000 telah diadakan pada 26.9.2000. Kempen ini telah sekali lagi dianjurkan secara bersama dengan Hospital Universiti. Sambutan kali ini adalah lebih menggalakkan. 64 orang telah menderma darah pada Kempen ini. Walaubagaimanapun, dengan keahlian hampir 5,000 orang, kami menjangkakan suatu sambutan yang lebih besar untuk Kempen ini. Kami berharap untuk sekurang-kurangnya berupaya mencecah angka 100 orang sewaktu Kempen akan datang pada tahun 2001 dan pasti bahawa semua ahli akan membantu kami mencapai hasrat tersebut.

Kami merakamkan ucapan terimakasih kepada semua yang menderma darah dan tidak juga dilupakan kepada mereka yang tampil tetapi tidak dapat menderma darah di atas alasan-alasan kesihatan.

1.2 Buka Puasa dengan Anak-Anak Yatim

Sekali lagi, Jawatankuasa ini menganjurkan suatu Majlis Buka Puasa dengan kanak-kanak di Rumah Anak Yatim Darul Kifayah. Majlis ini telah diadakan pada 21.12.2000. Sokongan daripada ahli-ahli adalah amat menggalakkan. Pihak Jawatankuasa mengumpulkan hampir RM14,000.00 dalam bentuk sumbangan. Selain daripada disajikan dengan jamuan makan, setiap orang kanak diberikan Duit Raya.

Terdapat dana berlebihan berjumlah lebih kurang RM7,000.00 dan ianya akan digunakan untuk membiayai sebahagian daripada projek-projek yang akan dijalankan oleh Darul Kifayah demi manfaat kanak-kanak ini.

Untuk semua ahli yang telah membantu menjadikan Majlis ini satu kenyataan, kami mengucapkan terima kasih di atas kemurahan hati serta sokongan anda. Sumbangan dan keprihatinan anda telah menyuntik suatu kelainan di dalam kehidupan kanak-kanak ini.

1.3 Aerobik

Kelas-kelas aerobik telah dianjurkan untuk ahli-ahli, menurut kadar bayaran yang nominal, bagi membantu mereka meredakan tekanan, ketegangan serta untuk meningkatkan tahap kecergasan mereka. Seorang jurulatih profesional telah dilantik untuk mengendalikan kelas-kelas ini, yang bermula pada bulan Ogos 2000. Kelas-kelas berkenaan telah diadakan di bilik seminar Jawatankuasa ini sendiri di Wisma Kraftangan. Pada bulan pertama terdapat seramai 21 orang peserta dan menjelang bulan ketiga pelancarannya, penyertaan meningkat kepada 28 orang. Jurulatih berkenaan adalah amat popular dikalangan para peserta. Malangnya beliau terpaksa berhijrah ke Malaysia Timur dan kelas-kelas aerobik ini terpaksa ditamatkan secara mendadak memandangkan pihak Jawatankuasa tidak berupaya menemui seorang jurulatih gantian yang baik.

Kami memohon maaf kepada semua peserta di atas kesulitan yang diakibatkan oleh pembatalan kelas-kelas ini.

2. PERHUBUNGAN AWAM

- 2.1 Sepanjang tahun dalam kajian, Jawatankuasa ini telah mengadakan beberapa pertemuan dengan Pendaftar Mahkamah Tinggi Malaya, Tuan Mat Zaraai, untuk membincangkan secara terperinci pelbagai masalah yang dihadapi oleh ahli-ahli Bar. Pada salah satu daripada pertemuan sedemikian dengan Tuan Mat Zaraai, Tengku Maimun, Timbalan Pendaftar Mahkamah Tinggi Kuala Lumpur di Wisma Denmark dan Tuan Hj Sulaiman, Hakim Mahkamah Sesyen, turut hadir dan masalah-masalah di Mahkamah Rendah juga telah dibangkitkan serta dibincangkan.
- 2.2 Jawatankuasa ini turut menemui pegawai yang bertanggung jawab ke atas bahagian pemfailan di Mahkamah Tinggi, Wisma Denmark untuk menguruskan beberapa masalah berkaitan system pemfailan.
- 2.3 Mesyuarat-mesyuarat juga diadakan dengan Pengarah Tanah dan Galian Selangor untuk membincangkan masalah berhubung carian-carian di Pejabat Tanah Shah Alam. Mesyuarat-mesyuarat ini telah diadakan secara bersama dengan Jawatankuasa Peguam Selangor.

Pihak Jawatankuasa sedang mengambil setiap usaha untuk menangani masalah meruncing berkaitan carian-carian tanah di Pejabat Tanah Shah Alam.
- 2.4 Pihak Jawatankuasa seterusnya telah menghadiri beberapa mesyuarat dengan Hakim-Hakim Mahkamah Sesyen Selangor serta Majistret-Majistret di atas jemputan Jawatankuasa Peguam Selangor.
- 2.5 Pihak Jawatankuasa menghadiri suatu pertemuan dengan YB Dato' Dr Rais Yatim, Menteri Di Jabatan Perdana Menteri, di atas undangan Biro Bantuan Guaman. Jawatankuasa ini mengambil kesempatan tersebut untuk membangkitkan dengan YB Menteri beberapa isu termasuk isu juvana di dalam penjara.
- 2.6 Pengerusi Jawatankuasa telah menghadiri beberapa mesyuarat dengan pelbagai pihak berkuasa bersama dengan Presiden, Bar Malaysia mengenai isu-isu yang menyentuh keprihatinan Badan Peguam, salah satu daripadanya adalah berkaitan penangkapan dan penahanan Encik Cheah Kah Peng, seorang ahli Bar Malaysia.
- 2.7 Masih lagi terdapat beberapa masalah yang dirujuk kepada pihak Jawatankuasa oleh ahli-ahli yang belum dapat diselesaikan. Pihak Jawatankuasa akan berusaha untuk menyelesaikannya dengan pihak-pihak berkuasa yang berkaitan sebelum tamat tempoh jawatannya. Dalam keadaan di mana kami tidak berupaya untuk berbuat demikian, kami pasti pihak Jawatankuasa baru akan menanganinya.

SUKAN

1. AHLI-AHLI JAWATANKUASA KECIL

Jawatankuasa Kecil Sukan terdiri daripada ahli-ahli berikut:-

Pengerusi : Oommen Koshy
Ahli-ahli : Rueben Mathiavaranam
Anand Ponnudurai

2. KONVENOR-KONVENOR

Konvenor-konvenor berikut telah dilantik untuk membantu Jawatankuasa Kecil Sukan dalam mengadakan acara-acara tersebut:

- i. Athletics - Muhendaran Suppiah
- ii. Badminton - Arthur Wang
- iii. Kriket - Rueben Mathiavaranam
- iv. Baling Damak - Koh Yew Chong
- v. Golf - Sarbjit Singh
- vi. Hoki - Anand Ponnudurai
- vii. Bolajaring - Kathleen Nunis
- viii. Bolasepak - M Sooriabalan
- ix. Skuash - Jayne Koe
- x. Ping-Pong - Aimee Liew
- xi. Tennis - Kenny Lee
- xii. Bolatampar - Wan Nadhri

3. SIRI TAHUNAN

3.1 **Sukan Bar KL/Selangor Yang Pertama**

(Piala Pusingan Lall Singh Muker Challenge disumbangkan oleh Encik SS Muker)

Bar KL menjadi tuan rumah kepada Bar Selangor dalam Sukan Bar KL/Selangor yang Pertama ini. Siri ini diadakan pada 4 & 5.8.2000.

Bar KL muncul sebagai juara keseluruhan dengan memenangi 7 daripada 8 acara yang dipertandingkan. Keputusannya adalah seperti berikut:

Golf	-	339 - 320
<i>[Piala Pusingan disumbangkan oleh Kandiah Chelliah]</i>		
Badminton	-	4 - 1
Bolajaring	-	21 - 3
Bolatampar	-	2 - 0
Hoki	-	5 - 0
Bolasepak	-	2 - 1
Baling Damak	-	3 - 1
"Lumba Perahu"	-	dimenangi oleh Bar Selangor

Siri ini berakhir dengan majlis makan malam yang dihadiri oleh kedua-dua Bar. Kami berbesar hati dengan kehadiran Puan Lall Singh Muker yang menyampaikan Piala Pusingan sumbangan anaknya, Encik S S Muker, seorang ahli kedua-dua Bar Kuala Lumpur dan Selangor. Piala ini dinamakan untuk memperingati jasa mendiang ayahnya, Encik Lall Singh Muker yang merupakan seorang ahli terkenal Bar Selangor.

4. PERTANDINGAN-PERTANDINGAN TERBUKA BAR KL

4.1 *Pertandingan Badminton Bar KL Ke-8*

Perseorangan Lelaki

Johan : Law How Chong
Naib Johan : Chia Weng Chow

Acara Plate

Johan : Hakim Hafiz

Bergu Lelaki (*Piala Pusingan disumbangkan oleh Shook Lin & Bok*)

Johan : David Gan & Francis Ng
Naib Johan : A Iyanathan & V Stanislaus

Acara Plate

Johan : Yuhairi Yusof & Hakim Hafiz

4.2 *Pertandingan Bolasepak Piala Memorial Thayalan 7-Sebelah Ke-13*
(Piala Pusingan disumbangkan oleh Skrine & Co)

Johan : Kanaga Suresh & Co
Naib Johan : Zizou Dot Com

4.3 *Pertandingan Tennis Bar KL Ke-6*

Bergu Lelaki

Johan : Kenny Lee & Kevin Goh
Naib Johan : Edward Saw & Peh Khaik Kee

5. UCAPAN TERIMAKASIH

Jawatankuasa merakamkan ucapan terima kasih kepada semua konvenor yang mengorbankan masa dan tenaga dalam menganjurkan acara-acara masing-masing. Jawatankuasa juga berterimakasih kepada semua penyumbang piala pusingan. Akhirkata, Jawatankuasa berterimakasih kepada semua ahli yang bersemangat kesukanan di atas penyertaan serta sokongan mereka.

PERWAKILAN PEGUAM-PEGUAM MUDA

1. Jawatankuasa Peguam-Peguam Muda Bar KL (JLR) mencapai usia 3 tahun menjelang Mesyuarat Agung Tahunan Bar Kuala Lumpur. Ahli-ahli berikut telah dipilih oleh hadirin semasa Mesyuarat Agung tersebut:-

Adi Azhar
R Balakrishnan
S Bala Subramaniam
Gurpreet Singh Sidhu
B Murugayah
Noor Suhaida Kasri
Ravi Muniandy
Saiful Izham Ramli
Saravanan Annamalai
R Shanmugam
Shan Theivanthiran

2. **Objektif**

Matlamat JLR bagi tahun dalam kajian adalah untuk menangani setiap perkara yang menyentuh keprihatinan peguam-peguam muda secara amnya, termasuklah isu-isu berhubung hak-hak asasi manusia, perihal amalan, permasalahan sosial serta menyokong objektif-objektif kepimpinan Badan Peguam.

3. **Perihal Amalan**

- 3.1 Menyedari hakikat bahawa perlesenan program-program software adalah mahal bagi firma-firma kecil dan sederhana, JLR telah menganjurkan suatu ceramah tentang "Licensing of Software" untuk memperkenalkan program-program alternatif yang lebih kos efektif serta berkecekapan setanding.
- 3.2 Selanjutnya demi mempertingkatkan pengetahuan dan kemahiran di dalam amalan harian peguam-peguam serta mengambilkira pindaan-pindaan yang dibuat ke atas Kaedah-Kaedah Mahkamah Tinggi baru baru ini untuk memenuhi tuntutan-tuntutan "Keadilan", usaha usaha telah diambil untuk menganjurkan suatu seminar mengenai pindaan-pindaan ke atas Kaedah-Kaedah Mahkamah Tinggi serta implikasinya.

4. **Kempen Tandatangan**

Kami menyifatkannya sebagai amat penting bagi Presiden serta kepimpinan Badan Peguam diberi sokongan wajar didalam segala tindakan perlu dan betul yang ambil oleh mereka bagi pihak Badan Peguam dan masyarakat amnya, khususnya bilamana usaha usaha dibuat untuk menakutkan dan untuk mengenakan tekanan ke atas Badan Peguam daripada meneruskan tindakan-tindakan yang mereka anggap perlu serta adil. Di atas landasan fikiran inilah maka JLR telah melancarkan suatu kempen tandatangan menyokong Presiden dan kepimpinan Badan Peguam apabila beliau diancam dengan tindakan penghinaan terhadap Mahkamah kerana menjalankan kewajipan-kewajipan

statutorinya secara berani. Begitu juga, JLR telah berkempen untuk menggerakkan sokongan bagi Mesyuarat Agung Luarbiasa yang dipanggil oleh Majlis Peguam pada 23.6.2000.

Walaupun kami ingin menyatakan bagi tujuan rekod bahawa sokongan kami adalah dipremiskan di atas prinsip bahawa tanpa mengambilkira merit ataupun sebaliknya Usul-Usul yang dicadangkan oleh Majlis Peguam, kita mempunyai hak untuk membincang serta memperbahaskan Usul-Usul yang dicadangkan oleh Majlis Peguam di suatu mesyuarat agung persendirian Badan Peguam.

5. Hak-Hak Asasi Manusia

Kebelakangan ini adalah merupakan waktu yang amat menarik bagi perkembangan hak-hak asasi manusia di negara kita; perubahan-perubahan iklim sosio-politik telah memperkenalkan perubahan-perubahan yang serius terhadap sikap rakyat Malaysia berhubung dengan hak-hak asasi manusia sejagat. Adalah jelas terbukti bahawa Badan Peguam memainkan peranan utama di dalam memaju dan melindungi hak-hak asasi manusia. Setiap pelanggaran kebebasan-kebebasan asasi adalah merupakan keprihatinan Badan Peguam!

Kami menyatakan dengan penuh keprihatinan tentang "authoritarianism" Kerajaan yang semakin meningkat sejak kebelakangan ini. Selaras dengan ini, rakyat berpaling kepada Badan Peguam untuk bantuan sehingga ke tahap yang tidak pernah dilihat sebelum ini di dalam sejarah Malaysia merdeka. Berhubung perkara ini, JLR telah menjalinkan persefahaman dengan Amnesty International untuk meninjau cara-cara memperbaiki iklim perlindungan hak di dalam negara kita. Satu hasil penting daripada usahasama ini adalah perancangan kempen menentang penyiksaan pada 5.11.2000.

6. Permasalahan Sosial

JLR secara tepatnya menyedari keperluan untuk menangani pelbagai permasalahan sosial yang semakin meningkat yang dihadapi oleh masyarakat membangun kita ini. Kami mengiktiraf keperluan untuk berpaling daripada pemberian khidmat-khidmat guaman secara tradisional dan sebaliknya menumpukan ke arah mempersiapkan golongan-golongan yang tertindas dan terbahit. Salah satu bidang berkeprihatinan sosial yang ditangani oleh JLR adalah masalah gangguan seksual yang dialami di tempat kerja yang mana sehubungan dengannya, suatu bengkel/forum berkenaan gangguan seksual telah dianjurkan bersama dengan Klinik Bantuan Guaman AWAM.

7. Akhirkata, JLR berharap agar dapat memperuntukkan khidmat lebih meluas kepada Peguam-Peguam Muda di Kuala Lumpur menurut tradisi terbaik Badan Peguam.

BANTUAN GUAMAN

PANEL PENGURUSAN

Encik R Kesavan (Pengerusi)
Encik S Muhendaran (Setiausaha Kehormat)
Puan Sharmini Thiruchelvam (Penolong Setiausaha Kehormat)
Encik M Puravalen
Cik Yasmeen Haji Mohd Sharif
Encik Sivarasa Rasiah
Cik Jayaletchumi Rajaretnam
Encik Ngooi Chiu-Ing
Cik Devika Sothinathan
Cik Sa'adiyah Din
Encik N Surendran
Encik Stanley Sinnappen
Encik Francis Pereira

Encik R Shanmugam
Encik Ravi Nekoo
Cik Noosuhaida kasri
Cik Elina Mohamed
Puan M Kamalam
Encik S Balasubramaniam
Encik B Murugayah
Cik Mary Manickam
Cik Kasthuri Krishnan
Cik K Parameswary
Encik Jason Lee Kay Sim
Encik balakisnan Appalanaido
Encik Ramesh Lachmanan

PENGENALAN

Pusat Bantuan Guaman (Kuala Lumpur), telah mencapai kejayaan yang memuaskan dalam peredaran masa yang singkat dengan sumber yang terhad. Pihak Panel Pengurusan telah mengabung usaha untuk menstruktur semula sebahagian daripada projek-projek kita untuk memastikan perkhidmatan yang lebih bererti dan menyeluruh diberikan kepada klien kita walaupun sumber tenaga manusia dan kewangan kita terhad.

Perangkaan yang disediakan pada mukasurat berikut jelas menunjukkan bahawa perkhidmatan yang diberi kepada orang ramai adalah lebih kurang sama seperti tahun lalu. Dari segi bekalan bantuan guaman secara langsung, kita telah mencapai tahap yang maksima dari segi penggunaan sumber tenaga manusia mahupun kewangan yang sediaada. Sumber kewangan utama kami adalah daripada Tabung Bantuan Guaman Majlis Peguam di mana pihak Majlis Peguam sendiri menghadapi masalah kewangan, dan justeru itu tidak mungkin kita akan dapat lebih dana yang signifikan di masa depan.

Dalam situasi ini, Pusat ini sedang mengambil langkah untuk meneguhkan lagi peranan sekundernya iaitu mempromosi kesedaran undang-undang dan kesedaran hak asasi segolongan masyarakat yang tertindas. Langkah kearah objektif ini adalah visi yang bermula 5 tahun lalu dimana Pusat telah bekerjasama dengan organisasi-organisasi bukan kerajaan seperti Tenaganita, Pink Triangle/Ikhlas dan AWAM. Penerangan lanjut tentang projek-projek gabungan dengan badan-badan ini diberikan dalam mukasurat-mukasurat berikutnya.

Pusat ini juga telah menubuhkan beberapa jawatankuasa kecil pada tahun 2000 untuk memantapkan lagi perkhidmatan pusat, iaitu:

1. Pembaharuan Undang-undang
2. Pengumpulan Dana
3. Kawalan Audit & Kualiti
4. Latihan Pembangunan & Kemahiran

Jawatankuasa-jawatankuasa ini telah menunjukkan perkembangan yang baik dalam masa yang singkat dan kami berharap ia akan terus memberi sumbangan dalam mencapai objektif Pusat Bantuan Guaman di masa hadapan.

Jawatankuasa Kecil Pembaharuan Undang-Undang ditubuhkan untuk mencadangkan perubahan dalam undang-undang disamping menjalankan kajian dan mengilhamkan draf undang-undang baru dalam bidang yang diperlukan. Pada masa ini, jawatankuasa ini menumpukan pada undang-undang yang menjejaskan kaum perempuan dan masyarakat secara amnya di Malaysia dan kami berharap sesuatu yang positif dapat dicapai.

Jawatankuasa Pengumpulan Dana pula ditubuhkan untuk mencari sumber kewangan untuk Pusat ini memandangkan Majlis Peguam tidak dapat membekalkan sumber kewangan yang secukupnya untuk aktiviti-aktiviti kami, maka kami terpaksa mencari alternatif lain.

Jawatankuasa Kecil Kawalan Audit dan Kualiti serta Jawatankuasa Latihan Pembangunan dan Kemahiran pula ditubuhkan untuk mempertingkatkan dan memperbaiki tahap kecekalan perkhidmatan yang disediakan oleh Pusat ini.

Tahun 2000 merupakan tahun yang signifikan kepada kami dari pelbagai aspek. Salah satunya ialah isu tahanan juvana di penjara yang telah menjadi tajuk berita utama di suratkhbar-suratkhabar tempatan. Kami terlibat dalam 'mendedahkan' isu ini yang merupakan hasil penglibatan kami dalam menyediakan bantuan kepada juvana-juvana dalam tahanan reman melalui Projek Penjara Sg. Buloh. Pihak penjara sendiri telah membawa isu ini ke perhatian kami

pada tahun 1997. Kami telah mendapatkan bantuan pihak mahkamah untuk menyelesaikan kes-kes juvana yang tertunggak dan tertangguh ini dan berjaya mendapatkan tarikh bicara awalan untuk menyelesaikan kes-kes ini. Pusat ini yang sedar akan kesan penjarahan terhadap juvana, telah cuba mencari jalan penyelesaian jangka panjang dengan mengadakan dialog dengan pihak berkuasa tertentu. Malangnya pendekatan kami hanya mendapat simpati daripada mereka. Sebaliknya, tekanan yang berterusan daripada pihak media akibat daripada pendedahan isu ini oleh pihak Pusat kami, nampaknya lebih berkesan buat masa ini. Kita mungkin telah 'mengeser' beberapa pihak dengan memilih jalan ini, namun kami telah mendapat sokongan dan bantuan dari semua golongan masyarakat.

Kami telah menyediakan satu kertas kerja di mana ia telah dibentangkan kepada kabinet melalui Majlis Peguam dan kami juga telah menerima surat penghargaan daripada Dato Rais Yatim untuk segala usaha kami dalam isu ini.

Kami juga telah mengutarakan isu juvana ini untuk menghapuskan pandangan segolongan bahawa Pusat Bantuan Guaman Kuala Lumpur ini hanya tertumpu dalam pembelaan gerakan Reformasi dalam isu perhimpunan awam. Pusat ini sebenarnya melibatkan diri dalam isu-isu kepentingan awam dan isu-isu yang mencabul hak asasi manusia. Malangnya, publisiti yang banyak dan gambaran salah yang diberi oleh beberapa media tempatan terhadap gerakan Reformasi telah menyebabkan seseorang itu bertanggapan bahawa Pusat ini tidak menjalankan aktiviti lain.

Kami juga telah meneruskan hubungan rapat dengan pertubuhan-pertubuhan bukan kerajaan seperti AWAM, Tenaganita, PT/Ikhlas dan juga KDU (Kolej Damansara Utama). Kerjasama erat antara Pusat dan semua pihak ini telah meningkatkan lagi kesedaran kami tentang pelbagai isu dan masalah masyarakat. Ia juga telah membantu memperkembangkan kemahiran kami dan memperbaiki mutu perkhidmatan yang disediakan kepada masyarakat tertindas. Dalam tahun 2000, kami juga telah memulakan klinik bantuan guaman bulanan di Pejabat Ikhlas, berhampiran Chow Kit. Klinik ini khasnya untuk pengguna dadah, golongan Mak Nyah dan pekerja-pekerja seks. Kami berpendapat, pembukaan klinik ini satu langkah besar ke arah menyediakan perkhidmatan yang berkesan dan kami percaya ia akan memberi kuasa dan keyakinan diri kepada golongan tertindas ini.

Hubungan kami dengan AWAM melibatkan pengurusan klinik bantuan guaman di pejabat AWAM sendiri. Klinik ini yang dijalankan 2 hari seminggu telah ditambahkan kepada 5 hari. Pada tahun lalu, kami juga telah meluaskan skop projek ini dengan menyelitkan unsur kesedaran tentang isu-isu dan undang-undang yang menindas dan mendiskriminasi kaum perempuan kepada golongan peguam. Bengkel 'Ancaman Seksual' merupakan projek pertama yang bersifat sedemikian, diadakan pada 10 Ogos 2000. Bengkel ini berjaya menarik penglibatan aktif dan minat ramai peguam untuk membincangkan isu ini. Kami bercadang untuk mengadakan bengkel sebegini 2 kali setahun untuk kebaikan peguam-peguam dan pelatih-pelatih dalam kamar.

Kami juga sedang meneliti untuk menstruktur semula program latihan yang disediakan untuk pelatih-pelatih dalam kamar yang wajib menjalankan 14 hari tugas di Pusat Bantuan Guaman. Objektif kami adalah untuk memastikan pelatih-pelatih ini mempunyai bekalan ilmu yang secukupnya dan kecekalan dalam memberi bantuan guaman yang berkesan kepada orang awam. Kami juga bertekad untuk memupuk kesedaran dalam isu-isu yang berkaitan dengan 'gender', keseksualan, hak asasi, hak pekerja migran dan masyarakat dari sektor lain yang diabaikan dan ditindas kepada pelatih-pelatih dalam kamar agar mereka tidak bersikap prejudis atau 'judgemental'.

Kami juga ingin menekankan sekali lagi bahawa pencapaian kami hari ini adalah hasil usaha dan sokongan daripada pelatih-pelatih dalam kamar dan peguam-peguam yang dedikasi. Kami percaya jika sumbangan dan sokongan dari ahli Majlis Peguam berterusan, Pusat ini pasti akan mencapai ke peringkat yang lebih mantap dalam menyediakan perkhidmatan dan memupuk serta menggalakkan kepentingan bantuan guaman kepada golongan masyarakat dari sektor yang terabai dan ditindas.

Kami juga faham dan menerima hakikat bahawa 'masa' merupakan suatu penghalang dalam kerjaya kita. Oleh itu, kami telah memulakan beberapa projek dan jawatankuasa kecil di mana peguam-peguam dan pelatih-pelatih dalam kamar boleh menyumbang tenaga kepada Pusat ini tanpa mengambil kes-kes yang memerlukan anda hadir ke mahkamah pada waktu pejabat. Program-program seperti kesedaran undang-undang, pengumpulan dana dan perubahan undang-undang beroperasi di luar waktu kerja dan memerlukan penglibatan dari lebih ramai peguam. Oleh itu peguam-peguam yang berminat digalakkan menyertai aktiviti-aktiviti sebegini dan anda boleh menghubungi Pusat ini untuk sebarang maklumat lanjut.

Kami juga ingin mengambil kesempatan ini untuk mengucapkan terima kasih kepada ahli-ahli Pusat ini yang bekerja sepenuh masa di bawah panduan Pn. Letchimi Devi, Pentadbir Pejabat atas komitmen dan dedikasi mereka dalam menjalankan tanggungjawab mereka. Pihak pengurusan juga menghargai peranan ahli-ahli Pusat ini yang setanding dan penting dalam menayakan matlamat dan objektif bersama kami.

Mukasurat-mukasurat berikut mengandungi laporan lengkap pelbagai projek dan laporan akaun.

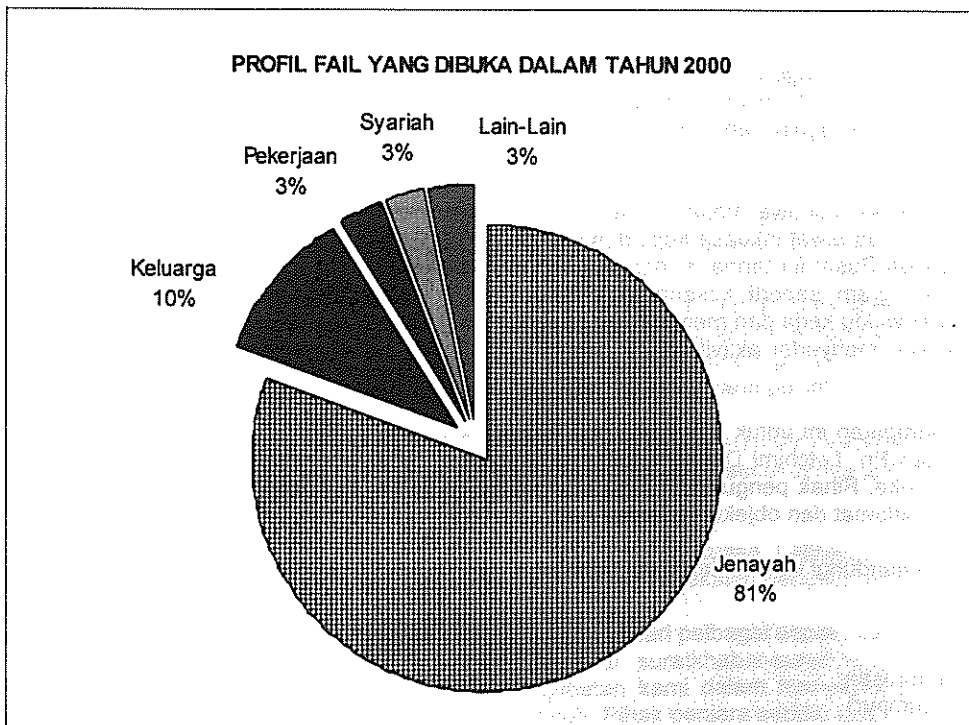
R Kesavan

Untuk dan bagi pihak Panel Pengurusan
Pusat Bantuan Guaman (Kuala Lumpur)

Rajah dibawah menunjukkan perangkaan bagi pemohon-pemohon yang telah dibantu:

BILANGAN INDIVIDU YANG DIBANTU	2000	1999	PENINGKATAN DALAM %
Klinik Pusat Bantuan Guaman/Syariah	1819	2045	-11%
Program Dock Brief	4050	3503	16%
Klinik Penjara Sungai Buloh	870	724	20%
Klinik Penjara Wanita Kajang	120	118	2%
Program Urgent Arrest /Reman	250	431	-42%
KLINIK-KLINIK LUAR (OUTREACH CLINICS)	737	723	1.9%
Klinik LAC/AWAM	246	285	-13.7%
Klinik Pekerja Migran	481	438	10%
Klinik LAC/PT/IKHLAS	10	-	-
JUMLAH	7846	7603	3.2%

PERWAILAN GUAMAN	
Jenayah	632
Keluarga	82
Syariah	22
Pekerjaan	24
Dock Brief	4050
LAIN-LAIN	24
Misc	10
Perumahan/Penyewaan	6
Penguna	1
Sewa Beli	1
Sivil	2
Probate	1
Tanah	2
Imigrasi	1
TOTAL	4838



KLINIK PUSAT BANTUAN GUAMAN

Ahli Jawatankuasa

Encik Jason Lee Kay Sim
 Encik Ong Chin Siong
 Encik S. Balasubramaniam
 Cik Jayaletchumi Rajaretnam

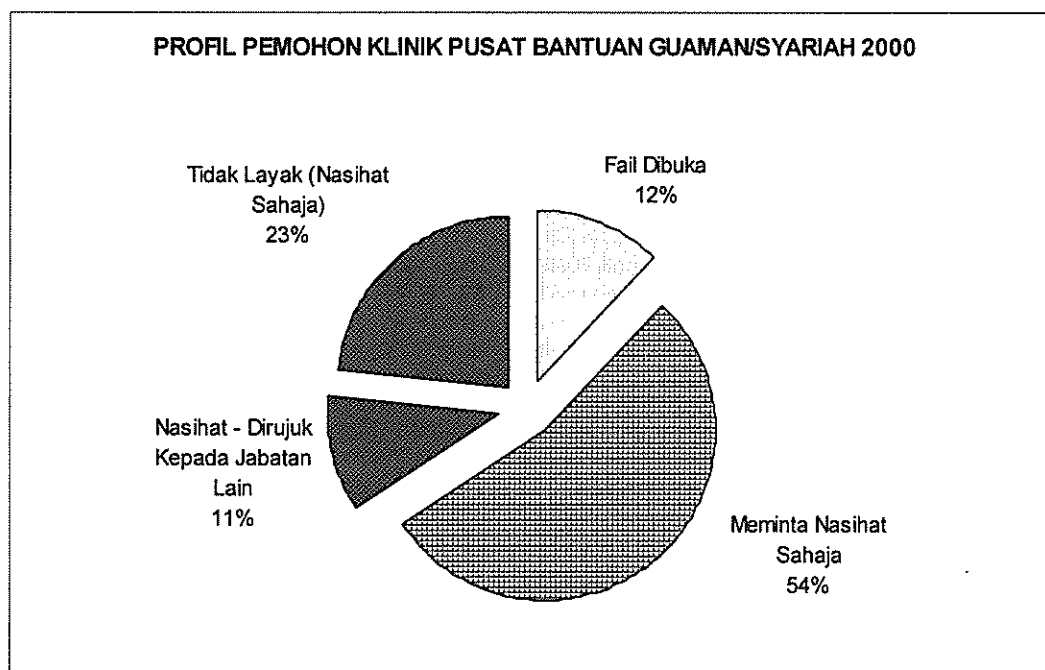
Encik Andrew Teh
 Encik Anil Joshi
 Encik Satvinder Singh
 Encik Ramesh Lachmanan

Klinik Pusat Bantuan Guaman/Syariah LAC (dirujuk sebagai "Klinik") membekalkan bantuan guaman kepada orang awam yang layak di bawah ujian kelayakan yang ditetapkan. Klinik ini beroperasi pada hari Isnin hingga Jumaat dari 10.00 pagi hingga 4.00 petang dan pada Sabtu ke-2 dan ke-4 setiap minggu dari pukul 10.00 pagi sehingga 12.30 tengahari.

Pada mesyuarat pertama di bulan April 2000, pihak panel pengurusan baru telah memutuskan bahawa perkhidmatan klinik ini hanya akan diberi kepada orang awam yang layak untuk bantuan guaman, samada untuk diwakili di Mahkamah atau sekadar mendapatkan nasihat. Keputusan tentang polisi baru ini telah berkuatkuasa sejak bulan September 2000.

Perangkaan di bawah jelas menunjukkan kejatuhan di dalam bilangan akibat perubahan tersebut:-

Tahun	2000	1999
Jumlah Pemohon Klinik Pusat Bantuan Guaman/Syariah 2000	1810	2045
Fail Dibuka	216	312
Meminta Nasihat Sahaja	973	1062
Nasihat - Dirujuk Kepada Jabatan Lain	198	134
Tidak Layak (Nasihat Sahaja)	423	537



Klinik Pusat Bantuan Guaman/Syariah dikendalikan oleh para pelatih dalam kamar yang dikehendaki memberikan khidmat bantuan guaman sebagai sebahagian daripada syarat latihan yang ditetapkan oleh Peraturan Majlis Peguam tentang khidmat Bantuan Guaman. Setiap pelatih berkhidmat selama 3 jam seminggu dalam jangka masa 3 bulan dan lebih kurang 40 orang pelatih dalam kamar akan bertugas.

Para pelatih ini akan menemuduga pemohon dan berikan nasihat. Sekiranya perwakilan guaman diperlukan, fail akan dibuka. Para pelatih juga digalakkan menemani pemohon-pemohon yang layak ke Jabatan-jabatan kerajaan atau balai polis untuk memberi sebarang khidmat yang diperlukan bagi membantu menyelesaikan masalah pemohon.

Pemohon-pemohon yang datang ke Pusat ini untuk mendapatkan bantuan bagi pelbagai masalah yang dihadapi akan juga di rujuk kepada saluran-saluran tertentu, bergantung kepada keperluan/masalah pemohon. Sila rujuk maklumat berikut: -

Dirujuk kepada Pusat Bantuan Guaman Negeri Lain	39	20%
Dirujuk kepada Klinik-Klinik Lain	99	50%
Dirujuk kepada Program "Urgent Arrest"	52	
Dirujuk kepada Klinik Penjara Sungai Buloh	31	
Dirujuk kepada Klinik Pekerja Asing	4	
Dirujuk kepada Program "Dock Brief"	10	
Dirujuk kepada Klinik Penjara Wanita Kajang	2	
Lain-Lain	60	30%
Dirujuk kepada Tribunal Perkahwinan	24	
Dirujuk kepada IRD	10	
Dirujuk kepada Biro Bantuan Guaman	7	
Dirujuk kepada Pejabat Buruh	3	
Dirujuk kepada Amanah Raya	2	
Dirujuk kepada Jawatankuasa Disiplin	7	
Dirujuk kepada Jabatan Kebajikan	3	
Dirujuk kepada Bahagian KWSP	1	
Dirujuk kepada Tenaganita	3	
Jumlah	198	100%

Pelatih-pelatih dalam kamar akan diberi latihan selama sehari sebelum mereka mula bertugas di klinik. Latihan yang diberi tertumpu kepada teknik temuduga, lakonan watak dan ceramah yang meliputi 3 aspek undang-undang yang sering dikendalikan oleh klinik ini iaitu Undang-undang Jenayah, Buruh dan Keluarga, yang mencakupi kedua-dua bahagian iaitu Sivil dan Syariah. Latihan dikendalikan oleh Ahli Jawatankuasa Klinik Pusat Bantuan Guaman (dirujuk sebagai "AJK") dengan bantuan para sukarelawan Pusat dan rakan dari pertubuhan-pertubuhan bukan kerajaan.

Latihan ini direka khusus untuk melengkapkan diri para pelatih dengan ilmu yang cukup bagi membantu mereka mengendalikan klien-klien yang datang ke klinik. Klinik ini sepatutnya mempunyai sukarelawan sebagai penyelia. Malangnya, kami kekurangan penyelia seumpama ini.

Seringkali, pelatih-pelatih mengendalikan masalah klien tanpa bantuan penyelia. Walaubagaimanapun terdapat juga sukarelawan Pusat yang membantu pelatih melalui telefon.

Kekurangan penyelia di Pusat Bantuan Guaman telah menjejaskan mutu perkhidmatan Pusat Bantuan Guaman. Pihak Pusat Bantuan Guaman telah acapkali merayu kepada Majlis Peguam Kuala Lumpur untuk mendapatkan penyelia sejak beberapa tahun lagi. Namun maklum balas yang diterima tidak begitu menggalakkan. Oleh itu, Pusat Bantuan Guaman sedang mencari langkah alternatif untuk meningkatkan mutu perkhidmatan.

Klien-klien yang datang ke Pusat Bantuan Guaman bukan sahaja mempunyai masalah berkaitan dengan undang-undang buruh, keluarga atau jenayah tetapi merangkumi segala jenis masalah yang lain. Maka agak sukar untuk melengkapkan diri pelatih dengan kemahiran mengendalikan semua jenis masalah.

Oleh itu, pihak AJK akan mengkaji semula modul latihan yang kini didapati kurang sempurna. Pihak AJK berharap dapat merangka modul yang lebih interaktif dengan menekankan "lakonan-peranan" (role-play) dan teknik temuduga dengan bantuan Jawatankuasa Kecil Pembangunan Kemahiran di bawah Jawatankuasa Kemahiran. AJK berharap bahawa dengan memberi latihan yang baik kepada pelatih, akan membantu mereka mengendalikan masalah klien dengan lebih baik, tanpa bantuan penyelia.

AJK ini juga telah menganjurkan ceramah oleh Y.A. Ustaz Naim Bin Mokhtar pada 15 April 2000 tentang Tatacara Mahkamah Syariah. Tuan Haji Naim merupakan Hakim Mahkamah Syariah di Petaling Jaya dan beliau telah sudi berkongsi pengalaman sebagai hakim dan juga tentang tatacara mahkamah Syariah bersama sukarelawan.

Ceramah ini telah dihadiri oleh sukarelawan muslim dan bukan muslim. Pelbagai soalan telah diutarakan sewaktu sesi soal-jawab.

Sambutan terhadap ceramah ini amat menggalakkan. Peserta ceramah kebanyakannya terdiri daripada para peguam Syarie muda. Memandangkan para peserta tidak segan silu untuk bertanya, sesi soal-jawab menjadi hangat.

Selain daripada itu, AJK juga telah mengadakan perbincangan antara sukarelawan baru yang mengendalikan fail keluarga di Pusat Bantuan Guaman ini. Perbincangan ini telah memanfaatkan peserta-peserta kerana sukarelawan-sukarelawan telah berkongsi pengalaman mengendalikan fail masing-masing.

AJK ingin merakamkan setinggi-tinggi penghargaan dan terima kasih kepada kakitangan pusat ini untuk sokongan yang tidak berbelah bagi kepada AJK dimana sokongan tersebut telah menyumbang ke arah kejayaan Pusat Bantuan Guaman, Majlis Peguam (Kuala Lumpur).

PROGRAM DOCK BRIEF

Laporan dikemukakan oleh Ketua Projek, B. Murugayah

Ahli Jawatankuasa

Ramlah Begum	Jessica Liew	Suria Breba
Gabriel Seneviratne	Sa'adiah Din	Suraj Singh
Shahrazi Bin Sheriff	Raja Segaran	Loh Thiam Fook
S. Muhendaran	Nordin Othman	Joseph Mathews
S. Balasubramaniam	Vasandhi K.	

Atmosfera, Program Dock Brief bagi Tahun 2000 adalah amat sibuk sekali. Pelatih-pelatih dalam kamar yang mengambil bahagian telah mengendalikan sebanyak 4050 kes yang terdiri daripada: -

Memberi nasihat (Kes baru)	1243
Permohonan Jamin	21
Nasihat, Perwakilan dan Mitigasi	2774
Fail dibuka	12
Jumlah	4050

Lebih kurang 300 orang pelatih dalam kamar telah mengambil bahagian di dalam program ini di mana setiap kumpulan mempunyai seramai 60 orang pelatih. Program ini mengambil masa selama 13 minggu. Terdapat beberapa faktor yang menyumbang kepada peningkatan jumlah kes yang dikendalikan: -

- I. Jawatankuasa Program Dock Brief seringkali mengadakan mesyuarat bersama Majistret-majistret dan Hakim-hakim Mahkamah Sesyen yang mengendalikan kes-kes jenayah. Oleh itu, persepsi dan penerimaan Majistret-majistret tersebut bila kes-kes ini dikendalikan oleh pelatih-pelatih yang terlibat menjadi semakin baik. Sesetengah Majistret telah menasihati anak guam yang tidak di wakili dan telah mengaku salah supaya mendapatkan bantuan daripada pelatih-pelatih tersebut. Majistret-majistret ini sanggup menanggungkan sebentar kes untuk membolehkan pelatih menyediakan mitigasi mereka. Walaubagaimanapun Majistret akan memberikan pandangan mereka secara lisan jika pembentangan kes yang dibuat oleh pelatih-pelatih adalah rendah mutunya. Ini telah menyebabkan jawatankuasa merombak program latihan pelatih yang sedia ada untuk memperkenalkan peraturan-peraturan baru bagi memantapkan lagi disiplin pelatih.
- II. Pengamal undang-undang yang lebih berpengalaman telah dijemput untuk memberi ceramah tentang pengalaman mereka di mahkamah di dalam mengendalikan kes jenayah. Di dalam hal ini jawatankuasa mengambil kesempatan untuk mengucapkan terima kasih kepada yang berikut: -
 - Tuan Ananth Namasivayan, Bekas Majistret, Mahkamah Majistret 2, Kuala Lumpur
 - Encik Rajadevan. Tetuan Rajadevan & Associates
 - Tuan Kamarul Zaman, Bekas Majistret, Mahkamah Majistret 3, Kuala Lumpur
 - Encik Baljit Singh Sidhu, Tetuan Shukor & Baljit
 - Encik Ravi Nekoo, Tetuan Ravi Nekoo & Parames

Sumbangan daripada pengamal tersebut telah banyak memperbaiki kualiti persembahan para pelatih. Maklum balas daripada Majistret dan Pegawai Pendakwa juga amat menggalakkan. Ketua Projek telah mengadakan beberapa mesyuarat bersama pegawai pendakwa di mana mereka telah bersetuju untuk memberi kerjasama penuh kepada para pelatih dengan membenarkan mereka untuk melihat Dairi Mahkamah dan juga dengan memberikan maklumat yang berkenaan dalam membantu mereka untuk menyediakan mitigasi bagi pihak OKT yang tidak diwakili. Secara amnya kerjasama diantara para pelatih dan pegawai pendakwa semakin menggalakkan.

Walaubagaimanapun Jawatankuasa masih lagi bimbang mengenai kekurangan minat dan komitmen daripada para pelatih. Bagi meningkatkan lagi komitmen para pelatih Jawatankuasa telah bersetuju untuk memperkenalkan sistem mata di mana pelatih yang menunjukkan perlakuan yang baik akan dipilih dan diberikan penghargaan di dalam bentuk surat kepujian.

Tambahan lagi, Jawatankuasa juga mempunyai rancangan untuk memperkenalkan tanda nama yang lebih baik yang mempunyai logo Majlis Peguam bagi menggantikan tanda nama yang sedia ada.

Rancangan untuk menyelaraskan latihan para pelatih juga sedang berjalan dengan bantuan Jawatankuasa Latihan Pusat Bantuan Guaman.

Jawatankuasa juga mempunyai perancangan untuk berkempen secara agresif bagi mendapatkan peguam sukarela untuk menyelia para pelatih secara harian. Minat yang ditunjukkan oleh pelatih-pelatih semakin meningkat dan Pusat Bantuan Guaman boleh mendapatkan sumber sukarelawan yang berterusan untuk menyumbang kepada program ini. Adalah jelas bahawa ini boleh menjadi kumpulan yang baik untuk mendapatkan peguam sukarelawan untuk membantu program di masa akan datang.

Jawatankuasa Program Dock Brief ingin mengambil kesempatan untuk mengucapkan terima kasih kepada semua pelatih dan juga kakitangan Pusat Bantuan Guaman di atas pertolongan mereka yang telah membolehkan program ini berjalan dengan jayanya.

KLINIK PERKHIDMATAN INFORMASI GUAMAN LAC/AWAM

Laporan disediakan oleh Ketua Projek Puan Sharmini Thiruchelvam

Ahli-ahli Komiti

Ms Leena Ghosh (Penolong Ketua Projek)
Ms Manohari Subramaniam
Ms Ruzana Udin
Ms Jayaletchumi Rajaretnam
Ms Devika Sothinathan
Ms Imtiaz Begum

Perkhidmatan yang dibekal oleh klinik ini

Klinik ini dikendalikan melalui kerjasama suatu badan kebajikan, bukan-kerajaan, sukarela. Persatuan "All Women's action Society (Awam)", dikendalikan dari premises AWAM. Oleh demikian, perkhidmatan Persatuan ini diberikan melalui pelatih-pelatih dalam Kamar yang mengendalikan sesi-sesi guaman dan memberi nasihat, pertolongan dan sokongan kepada wanita-wanita dalam keperluan secara sendiri atau melalui telephon. Kami percaya bahawa sesi-sesi ini adalah amat penting kerana ia dapat memberikan dua kelebihan, iaitu pertamanya, ia dapat memperkenalkan kaum wanita tentang hak-hak mereka dari segi undang-undang dan process undang-undang. Selain itu, perkhidmatan ini, secara jangka masa panjang dapat memperkenalkan kepada pelatih-pelatih dan menjadikan mereka peka kepada isu-isu wanita. Oleh disebabkan permintaan ramai, klinik ini sekarang dikendalikan setiap hari dari hari Selasa hingga Sabtu dari 10-00 pagi hingga 4-00 petang. Ini adalah suatu perkembangan dari masa dulu di mana klinik-klinik hanya dijalankan dua kali seminggu.

Jawatankuasa

Jawatankuasa ini terdiri daripada sukarelawan LAC dan wakil-wakil daripada AWAM. Seorang daripada ahli Jawatankuasa tidak disenaraikan di atas tetapi patut dinamakan sebagai pengakuan sumbangannya iaitu Chitrah Rajandran. Ucapan terima kasih juga didahului kepada seluruh ahli-ahli jawatankuasa atas sumbangan masing-masing.

Tahun Millennium

Berikut adalah beberapa projek-projek penting dan perkembangan sepanjang tahun ini:

- a) **Program "Outreach" yang dijalankan di Rumah Panjang, Jinjang Utara**
 - Ia adalah salah satu daripada projek yang telah dijayakan bersama dengan "Legal Literacy" dari Jawatankuasa Peguam Kuala Lumpur. Kami berharap besar dan kami dengan sukacita memaklumkan bahawa selain daripada sedikit masalah pentadbiran, segala-galanya berlangsung dengan baik.
 - Ucapan terima kasih kami juga didahului kepada ahli-ahli komuniti Rumah Panjang Jinjang Utara.
- b) **Agenda Perkembangan Wanita**
 - Agenda Perkembangan Wanita dilancarkan pada 23 Mei 1999 di mana kami telah mempelawa 7 badan wanitanya untuk mengariskan 11 isu-isu wanita yang kritikal.
 - Dengan sukacita, kami memaklumkan bahawa, kami, sebagai "Legal Aid Centre" adalah satu daripada badan-badan yang mengindoskan dan memberikan sokongan sepenuhnya kepada Agenda ini dan wakil-wakil kami telah hadir dalam pelancaran Agenda ini.

- c) **Satu ceramah tentang Gangguan Seksual ("Sexual Harassment")**
- Ini merupakan suatu daripada projek-projek kami yang lebih berjaya dan projek ini di jayakan bersama "Junior Lawyers Representatives of Kuala Lumpur Bar Committee". Kami terharu dengan sokongan dan penyertaan peguam-peguam dan pelatih-pelatih dalam kamar.
 - Syarahan ini amat memberi pengetahuan dan kami bercadang untuk menjalankan suatu program yang sama tahun hadapan.
- d) **Ceramah kekeluargaan di Pusat Komuniti Kampung Baru Cina Serdang**
- Sukarelawan kami Cik Alice Liew telah memberikan suatu ceramah tentang undang-undang kekeluargaan kepada wanita-wanita komuniti ini untuk menyampaikan kepada mereka tentang fakta-fakta relevan mengenai hak mereka.
- e) **Perihal Pelatih-Pelatih dalam Kamar**
- Seperti yang disebutkan di atas, kami telah melanjutkan perkhidmatan klinik dari 2 kali seminggu kepada setiap hari. Kami juga telah memberi akujanji untuk menghulurkan bantuan kepada "Women's Aid Organisation" (WAO) dan One Stop Crisis Centre (OSCC) jika mereka memerlukan bantuan.
 - Selepas beberapa kali berbincang, bersama dengan cadangan daripada pelatih-pelatih sendiri, kami telah menggubalkan suatu Program Latihan baru. Dari segi perkara-perkara mengenai Undang-undang, kami sekarang akan mengendalikan latihan bersama dengan Klinik LAC, manakala sukarelawan AWAM akan menumpukan perhatian terhadap isu-isu seperti "gender", seks, kepekaan kepada isu wanita dan teknik-teknik lain pada hari yang berlainan.
 - Akhirnya, kami telah mempertingkatkan manual-manual kami untuk disesuaikan kepada cadangan di atas, di mana beberapa daripada penyesuaian tersebut adalah ringkasan undang-undang Imigresen yang disumbangkan oleh En. Ravo Nekoo. Kami juga telah menggubalkan suatu manual tentang keganasan domestik ("domestic violence") yang berasingan yang mengandungi suatu 'flowchart' tentang aturcara ("procedure").
- f) **Ceramah mengenai kesalahan sumbang kadim ("incest")**
- Ini adalah suatu kerjasama dengan AWAM di mana Ms. Grace Poore (seorang mangsa kesalahan ini) telah memberi pandangan dalamnya tentang perkara yang jarang diheboh-hebohkan ini. Klip-klip video juga ditunjukkan dalam ceramah ini.
- g) **Penubuhan satu Mahkamah Keluarga di Malaysia**
- Seminar ini telah diadakan baru-baru ini sahaja , dan jawatankuasa kami berpendapat bahawa sebagai suatu badan yang terlibat dengan banyak tentang undang-undang bersentuh dengan keluarga, ahli-ahli kami patutlah hadir dalam ceramah ini.
 - Ceramah ini merupakan satu pembuka mata terutamanya selepas mendengar pelbagai penceramah tentang pengalaman mereka tentang mahkamah keluarga di negara-negara mereka masing-masing.

Kelemahan

- i) Lebih latihan perlu diberi kepada pelatih-pelatih kerana masih terdapat aduan tentang kualiti pertolongan yang diberi kepada pelatih-pelatih.
- ii) Kekurangan dari Pengawas di premis AWAM untuk memberi bantuan kepada pelatih-pelatih yang memerlukan pertolongan

Di bawah ini adalah kes-kes yang telah di bantu oleh Klinik Perkhidmatan Informasi Guaman LAC/AWAM sepanjang tahun 2000.

MEREKA YANG TELAH DI DEKATI	NOMBOR
Nasihat Sahaja	232
Klinik "Outreach", Jinjang Utara	8
Buka Fail	6
JUMLAH	246

KLINIK PEKERJA MIGRAN

Laporan disediakan oleh Ketua Projek: Encik Francis Pereira

Ahli Jawatankuasa

En S Muhendaran
Cik Uma Devi
En A Balakisnan
Cik Aegile Fernandez

Pembangunan ekonomi Malaysia yang pesat menjadi daya tarikan kepada pekerja-pekerja dari rantau Asia khususnya dari Indonesia, Filipina, Bangladesh, Myanmar, Thailand dan sebagainya. Peningkatan bilangan pekerja-pekerja ini di negara kita adalah sesuatu yang tidak boleh di abaikan.

Tujuan Klinik Pekerja Migran adalah untuk memberi khidmat nasihat dan bantuan guaman kepada golongan yang tertindas ini.

Klinik Pekerja Migran bekerjasama dengan Tenaganita untuk membantu pekerja-pekerja Migran yang mengadu tentang masalah mereka. Ini termasuklah penipuan oleh agen dan majikan, tidak dibayar gaji, diberhentikan kerja dengan cara paksa, penahanan pekerja migran kerana tidak dapat mengemukakan dokumen yang sah dimana ia sebenarnya dipegang oleh majikan mereka dan sebagainya.

Sebenarnya, pihak Klinik Pekerja Migran menghadapi masalah kekurangan peguam sukarela tetapi masalah ini dapat diatasi dengan bantuan pelatih-pelatih dalam kamar yang dikehendaki menjalani satu program wajib selama 14 minggu. Pelatih-pelatih dalam kamar ini telah diberikan kursus intensif selama 2 hari dimana kursus ini dikelolakan oleh Pusat Bantuan Guaman dan Tenaganita. Dalam kursus ini, mereka dilatih kaedah merencana, menulis dan membuat laporan polis, menulis surat kepada Kementerian atau Jabatan yang terbabit, menfaikan aduan di Jabatan Buruh dan Perusahaan, berunding dengan majikan dalam soal pembayaran gaji dan sebagainya.

Tahun ini, Klinik Pekerja Migran telah mengambil bahagian dalam 'Regional Summit on Pre-Departure, Post Arrival and Reintegration Programmes' untuk pekerja-pekerja asing dari 11 - 13hb September 2000 di Tanah Tinggi Genting, Malaysia.

Akhir kata, perkembangan dan keberkesanan klinik ini bergantung kepada bilangan peguam sukarela yang sanggup meluangkan masa dan usaha, seperti kata pepatah "lebih ramai, lebih mudah kerja".

STATISTIK	Bangladesh	India	Indonesia	Pakistani	Lain-lain	Jumlah
No. kes/fail yang diawasi oleh pelatih-dalam-kamar	83	15	14	8	5	125
No. aduan yang diawasi oleh pelatih-dalam-kamar	297	20	18	10	11	356

Program Kesedaran Undang-Undang

Laporan disediakan oleh Ketua Program, Encik C I Ngooi

Pada tahun ini, Program Celik Undang-Undang telah dinamakan semula sebagai Program Kesedaran Undang-Undang untuk melambangkan perubahan yang berlaku dari segi penekanan yang diberi di dalam program ini.

Melalui penerbitan risalah dan makalah di dalam Bahasa Inggeris yang mudah serta format "Tanya-Jawab" bagi persoalan-persoalan umum di dalam pelbagai bidang perundangan, Program Celik Undang-Undang telah membantu orang awam untuk mendapatkan jawapan/penyelesaian dengan sendiri untuk masalah perundangan yang biasa dihadapi atau dengan mendapatkan bantuan dari segi undang-undang berdasarkan kefahaman yang baik mengenai hak-hak mereka dari segi undang-undang.

Kami percaya bahawa penerbitan tersebut dapat mengurangkan kesukaran orang awam untuk datang ke Pusat Bantuan Guaman di bawah kelolaan Majlis Peguam. Secara tidak langsung penerbitan seumpama ini dapat mengurangkan beban kerja Pusat ini.

Pada tahun ini juga, penerbitan-penerbitan yang berikut telahpun disiapkan atau sedang disiapkan:

- Satu risalah mengenai "Tangkap dan Jamin (sekarang ini di dalam 4 bahasa utama Rakyat Malaysia) sedang dialih bahasakan ke Bahasa Bangladesh oleh Tenaganita
- Satu Panduan kemahiran mengenai "Undang-Undang Pekerjaan" telah pun disediakan dan diedarkan kepada pelatih dalam kamar/peguam pelatih dan Badan-Badan Bukan Kerajaan
- Risalah mengenai "Penceraian dan Masalah Rumahtangga" dan "Keganasan Rumahtangga" telah pun disediakan dan kini sedang dikaji semula
- Risalah mengenai "Pembelian dan Penjualan Harta", "Tuntutan Pengguna" dan "Sewa Beli" telah pun disediakan
- Satu Panduan Kemahiran mengenai "Penahanan, Prosidings, Jaminan dan Rayuan" sedang disediakan untuk kegunaan Peguam Pelatih bagi Program "Dock-Brief" dan Klinik Penjara Sungai Buloh/Kajang.

Memandangkan hampir keseluruhan objektif Program Celik Undang-Undang telah berjaya dicapai sepanjang tahun ini (walaupun terdapat beberapa penerbitan yang lebih menonjol), Program Kesedaran Undang-Undang telah ditingkatkan dengan memberi penekanan kepada perkara-perkara berikut:

- Penyebaran bahan-bahan penerbitan dan bahan-bahan lain yang telah disediakan. Kebanyakan penerbitan tersebut yang cuma diperuntukan kepada orang-orang yang tertentu sahaja hanya terdapat di dalam bentuk "on

- Jumlah tahanan yang mengadu diberikan layanan kasar oleh pihak berkuasa semasa dalam tahanan polis dan penjara.

Juvana (18 dan di bawah)	43	38.4%
Remaja Muda dan Orang Dewasa (18 ke atas)	304	40%

- Jenis Kesalahan yang dituduh dilakukan

Kategori	Kesalahan Harta Benda	Kesalahan terhadap orang	Kesalahan Seksual	Kesalahan Dadah	Kesalahan Pendaftaran Negara	Kesalahan Trafik	Lain-lain	Jumlah
Juvana	69	5	3	18	-	8	9	112
Orang Muda/Dewasa	333	49	9	270	24	22	51	758

Klinik ini juga ada beberapa kelemahan dari segi kualiti perkhidmatan yang disediakan kepada tahanan reman. Antaranya ialah:-

- 1) Kegagalan pelatih mendapatkan fakta yang betul dari tahanan, fakta tidak tersusun dan borang temuduga tidak lengkap.
- 2) Kegagalan pelatih dalam memberikan nasihat yang secukupnya pada tahanan.
- 3) Pusat ini juga tidak dapat menanggung beban bilangan kes yang kian bertambah dan memerlukan bantuan perwakilan guaman akibat kekurangan peguam sukarela.
- 4) Pusat juga jarang mendapat maklum balas mengenai kes-kes yang dirujuk kepada pusat bantuan guaman di negeri lain.

Pusat ini juga telah menganjurkan sesi latihan mengenai 'kes jenayah-persediaan bagi perbicaraan' yang dijalankan oleh En.Ravi Nekoo pada bulan September. 16 orang peguam sukarela telah menghadiri kursus tersebut. Tujuannya adalah untuk mendapatkan lebih ramai peguam sukarela untuk mengendalikan fail-fail jenayah pusat bantuan guaman.

Pusat ini juga telah merayu kepada ahli-ahli KL Bar melalui surat berita (Relevan) KLBC untuk membantu Klinik Sungai Buloh dengan cara mengambil beberapa kes-kes jenayah.

Jawatankuasa Latihan Kemahiran telah ditubuhkan oleh pusat ini untuk mengatasi kelemahan pelatih-pelatih dan untuk menyediakan perkhidmatan yang berkualiti kepada tahanan reman. Jawatankuasa tersebut sedang membuat pengubahsuaian untuk memperbaiki cara-cara latihan dan manual latihan. Jawatankuasa ini telah memperkenalkan latihan kemahiran seperti keadah menemuduga dan keadah mengumpulkan maklumat di dalam latihan yang terkini, iaitu pada Disember 2000.

Tambahan pula, pusat ini telah menghadapi saat-saat kritikal dalam mengendalikan program ini kerana kekerapan perletakan jawatan pegawai yang terbabit. Di dalam tahun 2000 sahaja, pusat ini menghadapi masalah perletakan jawatan 3 pegawai di bawah klinik ini. Walaubagaimanapun dengan adanya pegawai-pegawai lain yang berkomitmen tinggi, program ini masih berjaya dilaksanakan. Pusat ini ingin mengucapkan ribuan terima kasih kepada semua pegawai yang telah memberikan bantuan mereka tanpa mengira penat dalam saat-saat genting.

Keberkesanan

Perangkaan menunjukkan ramai tahanan juvana dipenjara Sg. Buloh yang ditahan secara tidak sah dan ia adalah satu pencabulan hak asasi. Ia telah membawa kepada penubuhan "Juvenile Task Force". Pada 18 September 2000, Pusat ini telah membawa isu ini ke perhatian pihak media dan liputan yang berterusan telah menyedarkan banyak pihak seperti orang awam, organisasi bukan kerajaan, Jabatan Perdana Menteri, SUHAKAM (Suara Hak Rakyat Malaysia) dan Majlis Peguam Malaysia (BAR) sendiri. Dan kesannya, pihak kerajaan telah mengarahkan pihak-pihak yang tertentu untuk menghantar kesemua juvana yang di dalam tahanan reman di penjara Sg. Buloh ke rumah kebajikan. Isu ini menjadi perhatian utama pihak kerajaan.

Cadangan

Klinik ini harus fokus kepada objektif jangka panjang seperti berikut:

- Untuk mengumpulkan statistik-statisitk mengenai latarbelakang ekonomi dan sosial setiap tahanan reman untuk memudahkan pusat bantuan membuat cadangan kepada pihak yang terbabit. Ia adalah bertujuan mengurangkan tahanan reman dan pesalah-pesalah keseluruhannya.
- Untuk membuat perubahan undang-undang yang berkaitan dengan syarat-syarat tahanan reman dan kelemahan-kelamahanannya.

line" melalui laman web Jawatankuasa Majlis Peguam Kuala Lumpur/Pusat Bantuan Guaman Majlis Peguam (Kuala Lumpur)

- Penyediaan Panduan Kemahiran untuk peguam pelatih/Pelatih Dalam Kamar dan Badan-Badan Bukan Kerajaan (Sila lihat Program Latihan, Jawatankuasa Kecil, di dalam laporan Pembangunan Kemahiran)
- Meningkatkan kesedaran awam melalui klinik-klinik Umum (Outreach), seminar dan ceramah umum.

Satu Klinik Umum "Outreach" telah dijalankan secara usahasama oleh Badan Bukan Kerajaan AWAM, LAC/AWAM – Perkhidmatan Maklumat Undang-Undang dan Program Kesedaran Undang-Undang dengan bantuan dan kerjasama yang tidak ternilai daripada ketua-ketua masyarakat Rumah Panjang, Jinjang Utara.

Klinik tersebut telah diadakan pada 9 April 2000, pada hari Ahad di kawasan Rumah Panjang, Jinjang Utara. Seramai 45 orang penduduk Rumah Panjang telah menghadiri klinik tersebut. Terdapat 15 orang peguam sukarela dan 5 orang pelatih peguam (menjalankan tugas mereka di bawah Program Kesedaran Undang-Undang) 5 orang wakil AWAM dan seorang wakil daripada FOMCA.

Satu lagi klinik Umum "Outreach" telah dicadangkan sebelum tempoh program tersebut berakhir.

KLINIK PENJARA SUNGAI BULOH

Laporan disediakan oleh Ketua Program, Encik S Muhendaran

Pengenalan

Klinik Penjara Sungai Buloh telah memulakan operasinya sejak Disember 1997. Objektif utama klinik ini adalah:-

- (i) Untuk menyediakan Perkhidmatan Undang-Undang kepada tahanan-tahanan reman di Penjara Sungai Buloh.
- (ii) Untuk memperbaiki tahap kelayakan Peguam-Peguam (Pelatih dalam kamar).
- (iii) Untuk menyediakan satu mekanisma yang boleh mengawasi perkembangan dan memperbaiki serta memperluaskan perkhidmatan yang sedia ada.
- (iv) Untuk mengumpul statistik- statistik tertentu dari klinik ini.

Perlaksanaan

Demi menjayakan tujuan di atas, peguam-peguam pelatih dijadualkan untuk melawat penjara Sg. Buloh untuk menemuduga tahanan-tahanan reman pada setiap selang ganti hari Sabtu selama 3 bulan. Setiap 3 bulan peguam-peguam pelatih diberikan latihan dan juga dibekalkan dengan buku panduan, yang mengandungi maklumat-maklumat berkaitan dengan mahkamah, panduan-panduan bagi kesalahan-kesalahan yang biasa dilakukan dan maklumat-maklumat yang lain. Setiap lawatan akan melibatkan sekumpulan yang dianggotai oleh 20 orang pelatih dalam kamar yang diletakkan di bawah pengawasan 2 orang penyelia untuk mengendalikan temuduga dengan lebih kurang 60 orang tahanan. Pelatih-pelatih juga melakukan tindakan susulan di Pusat berdasarkan kepada temuduga yang telah dijalankan. Tindakan susulan tersebut adalah:-

- Menghubungi ahli-ahli keluarga untuk tujuan menjamin keluar OKT;
- Merujuk kes-kes tertentu kepada "Klinik Dock Brief";
- Merujuk kes-kes dari negeri lain ke Pusat Bantuan Guaman negeri-negeri tertentu;
- Merujuk kesalahan-kesalahan berat kepada Skim Peruntukkan Peguam oleh Mahkamah.
- Mendapatkan status kes-kes yang telah dirujuk kepada peguam-peguam sukarela.

Sementara itu, pihak berkuasa penjara juga telah merujuk Pusat untuk memperoleh ehsan dalam bentuk televisyen, perakam video dan bahan bacaan bagi tahanan-tahanan di Penjara tersebut. Cik Yasmeeen Sharif telah membantu Pusat mendapatkan ehsan tersebut.

Kekuatan dan kelemahan

Tahun ini sahaja, klinik ini telah memberikan khidmatnya kepada 870 orang tahanan penjara. Secara langsung, ia menunjukkan peningkatan sebanyak 20.2% berbanding dengan tahun lepas. Daripada 870 tahanan yang ditemuduga, hanya 238 fail telah diserahkan kepada peguam-peguam sukarela untuk diwakili di Mahkamah. 462 kes dirujuk terus ke klinik Dock Brief untuk tujuan mitigasi dan membuat permohonan jamin. 150 kes lagi telah dirujuk ke Pusat Bantuan Guaman negeri-negeri lain dan sebanyak 20 kes lagi hanya diberikan perkhidmatan nasihat sahaja. Klinik ini membolehkan kami mengumpul statistik berikut:-

- Jumlah tahanan reman juvana yang dibantu

Umur 13	Umur 14	Umur 15	Umur 16	Umur 17	Umur 18	Jumlah
2	2	13	16	26	53	112

- Untuk menganjurkan cara betul pelaksanaan dan penguatkuasaan undang-undang.

KLINIK PERKHIDMATAN PENERANGAN UNDANG-UNDANG LAC/PT/IKHLAS

Laporan ini dikemukakan oleh Ketua Projek, Leena Ghosh

Ahli Jawatankuasa:

Encik Soh Chien Hao
Cik Preetam Kaur

Sebagai latar belakang, Pink Triangle ("PT") telah di asaskan pada 1987 untuk menyediakan perkhidmatan rundingcara melalui telefon berhubung dengan HIV/AIDS dan perkara-perkara yang berkaitan dengan seksualiti. Sejak itu, perkhidmatan ini telah di perembangkan setelah mengambilkira keperluan dan keprihatinan pelbagai lapisan masyarakat yang telah mengalami diskriminasi akibat gejala HIV, AIDS dan/atau seksualiti.

Sekarang ini PT bekerja rapat dengan orang-orang yang hidup dengan HIV/AIDS, pengambil dadah, pekerja-pekerja seks, transeksual dan homoseksual baik lelaki mahupun wanita.

Klinik ini telah ditubuhkan sejak beberapa tahun yang lalu. Klien-klien kepada klinik ini adalah kaum lelaki dan wanita yang terdiri daripada transeksual, pekerja-pekerja seks, pengguna dadah yang sedang menjalani proses pemulihan dan homoseksual. Klinik ini sangat istimewa kerana ianya berhubung dengan hampir semua masyarakat yang di pinggirkan dan yang kurang berpengetahuan.

Saya percaya bahawa kebanyakan ahli-ahli di dalam profesyen perundangan tidak begitu memahami tekanan-tekanan dan diskriminasi yang di hadapi oleh golongan masyarakat ini setiap hari. Begitu juga dengan saya yang dahulunya tidak begitu memahami dan menghargainya sehinggalah saya menghadiri seminar-seminar yang telah dianjurkan oleh PT dan telah melaksanakan usaha-usaha untuk bercampur-gaul dengan golongan masyarakat ini.

Kedua ini telah dapat membantu saya memahami dan seterusnya menghargai masalah-masalah yang sama sebagaimana masyarakat keseluruhannya tetapi masalah-masalah mereka seringkali di perbesarkan di sebabkan mereka seringkali di perbesarkan dari salah satu komuniti yang dinyatakan di atas. Diskriminasi yang mereka hadapi di sebabkan oleh seksualiti atau orientasi seksual adalah hampir kepada jenayah kerana masyarakat terlalu prejudis terhadap mereka.

Untuk klinik ini berjalan dengan jayanya, peguam-peguam hendaklah di tunjuk ajar dan sensitif terhadap isu-isu seksualiti dan "gender". Salah satu halangan yang besar yang perlu di atasi oleh LAC ialah "tenaga manusia" (Person power). Ini bermakna para peguam yang prihatin dan bersedia untuk mengambil masalah undang-undang yang dihadapi oleh golongan masyarakat ini. Walaupun ada segelintir yang berkesanggupan tetapi sudah tentunya tidak mencukupi terutamanya peguam-peguam Syarie yang bersedia untuk membantu golongan masyarakat ini dan tidak takut untuk mengambil kes-kes sebegini adalah sangat mendesak.

Setelah mengenalpasti terdapat kekurangan kefahaman di kalangan kebanyakan ahli-ahli Panel Pengurusan LAC tentang apa yang dibuat oleh PT dan juga masalah-masalah yang dihadapi oleh golongan masyarakat ini, Panel Pengurusan telah memutuskan supaya satu sesi taklimat diadakan di antara wakil-wakil PT dan ahli-ahli Panel Pengurusan pada 26 Julai, 2000 bertempat di LAC.

Ini adalah pertama kali sesi seperti itu dianjurkan. Ianya telah benar-benar menjadi titik permulaan kerana ia telah dapat memberi pendedahan kepada lain-lain ahli Panel Pengurusan tentang apa yang dilakukan oleh LAC/PT/Ikhlas. Ia adalah satu latihan pendedahan dan pengetahuan kepada semua pihak untuk bertanya di antara satu sama lain tentang apa yang dilakukan oleh setiap organisasi dan bagaimana semua organisasi-organisasi berkenaan boleh mencapai satu persefahaman dan satu matlamat yang sama.

Objektif yang lain diadakan di sesi tersebut adalah untuk mencari dan menyelesaikan masalah-masalah utama berkenaan dengan klinik PT/Ikhlas dan kemungkinan untuk memperluaskan klinik tersebut ke lain-lain kawasan.

Fungsi utama klinik ini adalah untuk memberi nasihat perundangan dan perwakilan secara 'ad-hoc' atau mengikut keperluan dan bengkel-bengkel perundangan yang menyediakan pakar-pakar yang berpengetahuan dari segi perundangan berhubung dengan perkara-perkara seksualiti dan seterusnya (adalah diharapkan) dapat memberi nafas baru kepada golongan masyarakat berkenaan.

Sesi tersebut telah berjalan dengan jayanya. Pengerusi PT Ms Ann Lee dan Pengarah Eksekutif PT, Julian Jayaseelan telah mengutarakan beberapa aspek lain di mana mereka mahukan bantuan undang-undang terutamanya perubahan undang-undang. Komiti pembaharuan undang-undang LAC sedang meneliti kebanyakan bidang yang telah di utarakan dan di minta akan menyediakan satu dokumen menyenaraikan undang-undang yang menyentuh/mendiskriminasikan 6 golongan masyarakat yang disebutkan di atas bersama-sama dengan undang-undang yang berhubungan dengan penukaran nama kepada kad pengenalan golongan transeksual.

Di dalam mencadangkan sesi tersebut, Kasthuri Krishnan telah mencadangkan satu lawatan ke "Ikhlas Drop-In Centre" oleh ahli-ahli Panel Pengurusan untuk mendapatkan idea tentang jenis kerja yang dilakukan oleh PT/Ikhlas untuk golongan transeksual, pengguna-pengguna dadah dan pekerja-pekerja seks.

10 ahli Panel Pengurusan termasuk kakitangan Pusat Bantuan Guaman telah melawat "Ikhlas Drop-In Centre." Sesi yang telah diadakan adalah merupakan satu sesi yang terbuka, dan perbincangan-perbincangan mengenai semua perkara telah diadakan secara terbuka yang seterusnya menghasilkan perbincangan yang memberangsangkan.

Pada masa sesi tersebut kami telah memutuskan supaya klinik di adakan secara berjadual dan teratur dalam ertikata peguam-peguam akan ditempatkan sekali dalam sebulan untuk tempoh 3 jam di "Ikhlas Drop-In Centre" untuk berurusan dengan masalah perundangan yang dihadapi oleh golongan komuniti tersebut.

Satu komiti kecil untuk melihat perjalanan klinik secara teratur dan berjadual yang terdiri daripada saya sendiri (Ketua Projek), So Chien Ho (Ketua Projek Ganti), Sulastri (Penyelaras Utama dari PT/IKHLAS) dan Preetam Kaur (Ahli Komiti Kecil) telah dibentuk.

Klinik tersebut dilancarkan pada 24 November 2000 dari jam 4.00 - 7.00 petang di Ikhlas Drop-In Centre di Chow Kit.

Senarai aktiviti-aktiviti yang telah dijalankan

- a) Pengumpulan fakta, Dokumentasi dan memantau Pencabulan Hak-hak yang berkait dengan HIV/AIDS - satu bengkel latihan telah dianjurkan oleh Majlis AIDS Malaysia dan diadakan pada 22 hingga 26 Jun 2000 bertempat di Vistana Hotel, Kuala Lumpur.
- b) Pada 10 Jun, seramai 7 orang transeksual (TS) telah ditangkap di Restoran "The Ship", Damansara dan 2 lagi ditangkap di "The Colours", Damansara di bawah Akta Kesalahan-kesalahan Jenayah Syariah Negeri Selangor No. 9, Tahun 1995. Mereka telah di tuduh di bawah Seksyen 10 dan 30 Akta tersebut. Selepas campurtangan pihak akhbar dan orang awam, mereka telah dilepaskan tanpa tuduhan. Di Pusat Bantuan Guaman, kami telah mengadakan perbincangan dengan mereka yang terlibat, memberi mereka nasihat undang-undang dan telah membuat susulan kepada mahkamah Syariah terhadap tuduhan-tuduhan tersebut dengan peguam-peguam sukarela Encik Vazeer Alam, Sa'adiah Din dan Leena Ghosh.
- c) Leena Ghosh telah mengadakan bengkel perundangan secara tidak rasmi kepada kumpulan wanita PT.
- d) Satu ceramah tentang undang-undang yang menyentuh golongan "Mak Nyah" (transeksual) telah disampaikan oleh Leena Ghosh di dalam satu bengkel tertutup bertempat di Vistana Hotel yang dianjurkan oleh Komuniti Transeksual Malaysia.
- e) Beberapa orang kakitangan Pusat Bantuan Guaman dan sebahagian ahli-ahli Panel telah menghadiri pertunjukan filem/dokumentasi bertajuk "Bukak Api" di Studio Actors. Filem ini telah membuka mata sebilangan besar kakitangan yang hadir di mana mereka mendapati TS dan pekerja-pekerja seks di Malaysia nampaknya tidak boleh menikmati atau mendapatkan hak-hak asasi manusia dan bagaimana mereka telah di diskriminasikan dan dieksploitasikan oleh pihak berkuasa.

Adalah sesuatu yang membanggakan kepada klinik PT/IKHLAS kerana mengadakan klinik yang teratur dan berjadual kepada sesi nasihat perundangan bulanan tetapi kita mesti bekerja keras untuk mengurus dan mengekalkan klinik tersebut.

Kelemahan-kelemahan

- 1) Oleh kerana sebahagian besar masalah perundangan yang dihadapi oleh komuniti-komuniti ini melibatkan kesalahan-kesalahan syariah, pusat ini sedang menghadapi masalah untuk mendapatkan khidmat peguam-peguam syarie yang mempunyai lesen yang diperlukan untuk beramal di Kuala Lumpur dan Selangor. Isu-isu yang berhubungan dengan komuniti-komuniti ini sangat sensitif baik kepada para peguam mahupun kepada komuniti-komuniti tersebut.

Walaupun, kita tidak menghadapi krisis yang besar pada masa ini tetapi jika perkara ini tidak diketengahkan segera, Klinik di atas akan gagal. Sebilangan para peguam yang telah diminta untuk mendapatkan bantuan mereka dengan komuniti ini telah bertindak mentertawakan serta memalukan golongan komuniti tersebut.

- 2) Untuk mendapatkan para peguam sukarela untuk bertindak sebagai penyelia untuk klinik ini telah menjadi masalah kerana klinik ini bermula pada jam 4.00 petang dan sering kali para peguam membuat panggilan pada saat-saat akhir memberitahu mereka tidak dapat hadir ke klinik di sebabkan mereka terpaksa menyiapkan kerja-kerja mereka di pejabat.
- 3) Disebabkan perkara-perkara di atas komiti LAC/PT menghadapi satu perjuangan yang kuat di dalam pembaharuan undang-undang atau di dalam membantu komuniti-komuniti ini dengan mewakili mereka di dalam perkara-perkara perundangan.

- 4) Biarpun kami telah membuat rayuan untuk mendapatkan khidmat para peguam sukarela melalui surat-surat edaran Komiti Peguam Kuala Lumpur, Relevan, namun tiada seorang pun para peguam yang memberi tindakan positif.

Cadangan-Cadangan kami adalah seperti berikut:

- Mewujudkan dan mempertingkatkan komunikasi di antara klinik Syariah LAC dan Klinik LAC/PT/Ikhlas, dengan itu mereka mungkin boleh mendapatkan beberapa keputusan kepada masalah-masalah yang dihadapi. Idea kami adalah untuk mencadangkan kepada klinik Syariah LAC supaya membantu kami di dalam mewakili perkara-perkara berhubung dengan TS. Kami meminta untuk berkongsi pengetahuan dan juga peguan-peguam syarie yang bersedia untuk membantu golongan TS.
- Kami juga meminta Ketua Projek Syariah LAC, untuk menggerakkan para peguam mereka dan mengadakan sesi-sesi sensitiviti untuk membolehkan lebih pemahaman tentang isu-isu transeksualisma. Kami akan membantu mereka di dalam menyediakan sumber manusia.
- Komiti Pembaharuan Undang-undang Pusat Bantuan Guaman bertindak melobi untuk penukaran undang-undang Syariah dan Undang-Undang Sivil termasuklah Perlembagaan Persekutuan.
- Kita juga perlu mengadakan majlis-majlis untuk mendidik pihak-pihak berkuasa dan ahli-ahli masyarakat berhubung dengan masalah-masalah yang di hadapi oleh golongan TS.
- Akta Keganasan Rumahtangga telah mengambil masa selama 10 tahun sebelum diluluskan, itupun setelah perjuangan yang sengit untuk menyedarkan orang ramai bahawa keganasan rumahtangga bukanlah satu isu rumahtangga berkenaan semata-matanya. Dari itu, mungkin isu masalah kominiti TS akan mengambil masa selama 10 tahun lagi untuk orang ramai mengiktiraf kewujudan golongan TS dan selepas itu, ia akan mengambil masa selama 20 tahun lagi berikutnya untuk mengubal undang-undang yang perlu. Saya memohon dan berharap untuk mendapatkan yang terbaik untuk tahun yang akan datang.

Terima kasih atas segala sokongan, kritikan, komen, perdebatan dan dorongan yang telah diberikan kepada saya oleh semua orang dari Pusat Bantuan Guaman, Majlis Peguam.

Saya ingin melahirkan rasa keikhlasan saya dan penghargaan yang mendalam kepada pembantu saya Chitrah Rajandren yang bekerja tanpa jemu dan memberi bantuan tidak ternilai untuk kejayaan klinik ini.

PROGRAM PERBICARAAN LAC/TENAGANITA

Laporan disediakan oleh Ketua Program, Encik Sivarasa Rasiah

Kodinator: Ms K Moganambal

Program ini merupakan program yang ditubuhkan secara "ad-hoc" bagi membantu perbincangan Pengarah Tenaganita, Irene Fernandez, yang telah menerima publisiti yang meluas di mana Majlis Peguam juga menjadi pemerhati. Walaupun klinik ini tidak secara langsung disasarkan kepada masyarakat umum namun ianya memainkan peranan yang instrumental bagi mengenengahkan nasib pekerja-pekerja imigran dan keadaan yang dialami di pusat tahanan imigran. Perbincangan ini juga mengenengahkan persoalan halangan kebebasan fikiran dalam undang-undang seperti Akta Pencetakan Akhbar dan Penerbitan 1984.

Program ini juga menyediakan kesempatan yang bernilai bagi sekumpulan kecil pelatih-pelatih dalam kamar untuk melibatkan diri selama dua minggu dalam perbincangan jenayah. Sejumlah 27 orang pelatih telah terlibat dalam proses mendokumentasikan perbincangan sepanjang tahun lepas. 7 taklimat (setiapnya 3 jam) telah dianjurkan bagi menyediakan setiap kumpulan peguam pelatih dengan maklumat dan latar belakang untuk mendokumentasikan prosiding perbincangan jenayah.

PASUKAN PETUGAS BAGI "URGENT ARREST" DAN PROGRAM REMAN

Laporan disediakan oleh Ketua Projek, Cik Sa'adiyah Din

Ahli Jawatankuasa

Encik N Surendran
Encik R Kesavan
Encik B Murugayah
Encik Tabian Tahir

Encik Sivarasa Rasiah
Encik R Shanmugam
Cik Noorsuhaida Kasri
Encik Noor Amran

Cik Sharmini Thiruchelvam
Encik Ramid Khan
Encik Charles Hector
Encik Stanley Sinnappen

Pendahuluan

Tujuan asal pasukan petugas ini adalah seperti berikut:

- Untuk menyediakan bantuan guaman kepada kumpulan-kumpulan atau individu-individu yang menghadapi masalah pencabulan hak-hak asasi seperti kebebasan untuk berkumpul, kebebasan bersuara dan kebebasan beragama.
- Untuk menyediakan bantuan guaman di samping memberi kesedaran undang-undang kepada golongan masyarakat yang menghadapi masalah pengusiran secara paksa seperti peneroka-peneroka bandar yang memperjuangkan hak untuk memiliki rumah/tempat perlindungan yang sesuai.

Akan tetapi, tangkapan beramai-ramai para penunjuk perasaan yang melakukan demonstrasi secara aman pada September dan Oktober 1998 telah melahirkan "Urgent Arrest & Remand Task Force" dengan rasminya.

Pencapaian

Dalam tahun 2000, pasukan petugas ini telah maju setapak lagi ke hadapan dalam mengutarakan isu-isu berkaitan dengan kekejaman pihak polis dan pencabulan hak-hak asasi manusia seperti kebebasan berkumpul dan kebebasan bersuara.

- pada 15 April 2000, pusat ini telah mengeluarkan satu kenyataan akhbar tentang kekejaman pihak polis berhubung dengan penangkapan seramai 48 orang awam. Pusat ini telah bertindak mewakili kesemua 48 orang tersebut yang dituduh melibatkan diri dalam demonstrasi-demonstrasi yang telah diadakan di dalam bandar pada 14 dan 15 April sebagai menandakan "Black 14". Pusat ini telah menuntut agar satu siasatan yang menyeluruh dijalankan terhadap tuduhan kekejaman yang dilakukan oleh pihak polis dan juga keadaan yang tidak memuaskan di lokap-lokap seperti kesesakan dan rawatan perubatan segera yang gagal diberikan kepada tahanan yang di dapati cedera.

Seramai 6 peguam sukarela telah membantu kesemua 48 orang di atas. Seramai lapan dari mereka telah dituduh dan baki selebihnya telah di bebaskan atas jaminan polis. Pusat ini selanjutnya mewakili lapan tertuduh tersebut yang dituduh di bawah Seksyen 27(5) Akta Polis untuk percabaran.

- Pada 17 April, pusat ini atas inisiatif Encik N. Surendran telah mengadakan kempen mengumpul tandatangan sebagai membantah penangkapan seorang ahli majlis Peguam En Cheah Kah Peng. Beliau telah ditangkap di Ibu Pejabat Polis Daerah, Petaling Jaya ketika sedang mewakili pelanggan beliau. Satu memorandum bersama-sama dengan tandatangan-tandatangan tersebut kemudiannya telah diserahkan kepada OCPD Petaling Jaya, meminta jaminan tindakan seperti itu tidak berulang di masa depan.

- Pada 4 dan 8 Ogos, pusat ini dengan sokongan penuh Majlis Peguam telah mengatur seramai 24 orang peguam sukarela bertindak sebagai pemerhati untuk memantau perarakan "Judgement Day" berhubung dengan percabaran Datuk Sri Anwar Ibrahim. Pihak Majlis Peguam telah menawarkan diri untuk membantu Suhakam. Kumpulan pemerhati tersebut yang diketuai oleh En N.Surendran telah merekodkan peristiwa pada kesemua hari-hari tersebut tanpa mengganggu perarakan tersebut. Para pemerhati telah memakai "armbands" dengan perkataan "Pemantau Majlis Peguam". Pusat juga telah mengeluarkan satu kenyataan akhbar menyatakan adanya kemajuan di dalam tindak tanduk pihak polis sepanjang perarakan tersebut, walaupun begitu, tindakan pihak polis yang tidak memberi perhatian kepada peruntukan Artikel 10 Perlembagaan Persekutuan dikecam.

Walaubagaimanapun, seramai 7 orang telah ditangkap pada 4 Ogos dan pada 8 Ogos seramai 10 lagi telah ditangkap. Tiga peguam Sukarela telah memberi bantuan khidmat guaman sepanjang percabaran reman untuk 17 tahanan tersebut. Kesemua mereka dituduh di bawah Akta Polis.

- Pada 5 November 2000, satu perhimpunan awam yang besar diadakan bertempat di Jalan Kebun, Bandaraya Shah Alam di sepanjang Lebuhraya Kesas. Malangnya pihak polis telah bertindak secara tidak profesional di dalam mengendalikan perhimpunan awam tersebut. Pasukan polis sekali lagi telah melanggar Perlembagaan Persekutuan dan lebih kurang 125 orang yang menyertai perhimpunan tersebut telah ditahan secara tidak sah. Tahanan-tahanan tersebut bukan sahaja dinafikan hak untuk berjumpa peguam malah ahli-ahli keluarga mereka juga tidak dibenarkan berjumpa. Oleh itu, Pusat ini telah mewakili kesemua 125 orang dan telah mengumpul butir-butir kecederaan dan dakwaan layanan yang kurang wajar yang dialami oleh tahanan-tahanan tersebut di mana kemudiannya telah dilaporkan kepada Mahkamah, Suhakam dan pihak akhbar.

Lebih kurang 16 peguam sukarela telah tampil ke hadapan untuk mewakili 125 tahanan tersebut. Seramai 124 mereka telah dibebaskan atas jaminan polis selepas direman selama 5 hari dan hanya seorang dari mereka telah didakwa di bawah Akta Kesalahan Kecil.

- Suhakam (Suruhanjaya Hak Asasi Manusia Malaysia) telah mengambil satu keputusan tegas untuk mengadakan satu siasatan awam ke atas tuduhan serangan oleh pihak polis semasa perhimpunan awam pada 5 November. Suhakam telah memutuskan akan mengadakan satu penyiasatan penuh berhubung dengan kekejaman polis terhadap orang awam. Pusat Bantuan Guaman, Majlis Peguam juga menghantar wakil-wakilnya sebagai pemerhati sepanjang percabaran terbuka tersebut, di mana ianya masih berjalan sejak 29 November 2000. Kes yang paling

memeranjatkan yang dilaporkan di dalam penyiasatan tersebut adalah penahanan seorang pelajar perempuan berumur 17 tahun yang akan menduduki peperiksaan SPM pada minggu berikutnya dan pihak polis pula enggan membebaskannya walaupun telah mengetahui kedudukan tersebut. Pihak pusat ini melalui En Hamidzun Khairuddin telah memfailkan untuk semakan ke atas keputusan yang dibuat oleh Tuan Magistret Iskandar yang memerintahkan pelajar perempuan berkenaan direman selama 5 hari di bawah Seksyen 117, Kanun Keseksaan. Keputusannya, Mahkamah Tinggi telah menolak keputusan Magistret tersebut dan memutuskan bahawa pelajar perempuan berkenaan adalah juvenil dan bagi kesalahan-kesalahan kecil ianya hanya boleh direman selama 2 hari.

Penahanan di bawah Akta Keselamatan Dalam Negeri

- SUARAM (Suara Rakyat Malaysia), telah merujuk tiga kes yang melibatkan individu-individu yang di tahan di bawah Akta Keselamatan Dalam Negeri tanpa sebab yang tidak diketahui sehingga ke hari ini. Pihak Pusat ini telah menugaskan seorang peguam untuk membantu mereka dan dua dari tahanan tersebut telah dibebaskan selepas 57 hari dalam tahanan sementara seorang lagi telah dihantar ke Pusat Tahanan Kamunting untuk tempoh 2 tahun di bawah peruntukan-peruntukan ISA.
- Pada Julai 2000, anggota keluarga kepada mereka yang ditangkap di Sauk, Perak, juga telah berjumpa dengan Pasukan petugas semasa si tahan direman di bawah Seksyen 117 dan tahanan di bawah ISA. Pihak Pusat hanya memberi nasihat dan panduan kepada anggota keluarga berkenaan kerana perkara berkenaan bukanlah di bawah bidangkuasa pusat ini.

Permasalahan

Kelemahan-kelemahan yang ketara di dalam pasukan Petugas adalah:-

- Ketiadaan ahli-ahli Komiti di dalam program dan satu usaha telah dibuat dengan memanggil para peguam sukarela yang sedia ada untuk satu mesyuarat pada Mei 2000 namun ianya gagal untuk membawa masuk seramai mungkin para peguam sukarela.
- Seperkara yang ketara adalah kekurangan komitmen di kalangan sukarelawan sedia ada kerana kebanyakan dari mereka tidak dapat dihubungi bilamana perkhidmatan mereka diperlukan segera dan kebanyakan fail-fail yang dahulunya telah diagihkan kepada mereka telah dikembalikan kepada pihak Pusat. Dengan itu, sebilangan kecil peguam-peguam sukarela terpaksa mengendalikan kebanyakan kes-kes tangkapan "Urgent".

Pelan tindakan

Cadangan ketua Projek, Cik Saadiah untuk menukar nama "Pasukan Petugas" kepada "Remand Programme" telah di terima oleh Pusat ini. Di bawah "Remand Programme", perkara-perkara berikut telah dirancang:-

1. Untuk memulakan satu dialog dengan wakil-wakil Mahkamah dengan satu kertas kerja yang baru berkenaan prosedur reman untuk memulakan program reman secara harian.
2. Untuk mengadakan satu program latihan untuk peguam-peguam sukarela behubung dengan prosedur-prosedur reman.
3. Untuk mengusahakan satu lagi mesyuarat untuk membentuk satu komiti untuk melaksanakan program-program tersebut.

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PROGRAM KOLEJ SWASTA

Laporan disediakan oleh Encik Kingston K Knight

Program Kolej Swasta telah wujud sejak tahun 1998. Sejak itu sebanyak 124 pelajar telah mengambil bahagian dalam lawatan ke Pusat Bantuan Guaman dan institusi - institusi lain yang berkaitan dengannya. Program ini telah diasaskan bertujuan untuk mendedahkan operasi serta falsafah Biro Bantuan Guaman di Kuala Lumpur kepada graduan undang-

undang. Ia bertujuan untuk memupuk sikap tanggungjawab moral di kalangan graduan supaya mereka dapat memberi khidmat guaman di Biro Bantuan Guaman setelah mereka didaftar sebagai peguam. Program ini juga bertujuan untuk memberi kesedaran tentang peranan dan kepentingan bantuan guaman di kalangan orang ramai kepada mereka. Sejak program ini diasaskan, adalah amat menggalakkan untuk melihat majoriti pelajar yang menyertai program ini telah menyedari kepentingan bantuan guaman dan peranan mereka dalam memberi khidmat guaman.

Kini, Program Kolej Swasta dengan kerjasama Jawatankuasa Pusat Bantuan Guaman (Kuala Lumpur) dan Kolej Damansara Utama (KDU) Bahagian Undang- Undang. Di KDU semua mahasiswa dan mahasiswi dikehendaki mempelajari subjek "Kemahiran Undang-Undang" (Legal Skills) (Code: DIL 1005). Subjek atau kursus ini adalah bertujuan untuk meningkatkan pengetahuan pelajar dengan pelbagai kemahiran undang-undang pada tahap graduan. Ini termasuk kemahiran menemuramah klien. Pelajar diajar cara-cara untuk mengendalikan temuramah dengan berjaya. Teori termasuklah pemahaman terhadap:-

- a) Faktor-faktor yang membantutkan temuramah;
- b) Faktor-faktor yang memudahkan temuramah;
- c) Kemahiran-kemahiran penting (mendengar, "attending behaviour questioning" dan menterjemah);
- d) Menasihati klien (dengan memberi mereka pilihan); dan
- e) Peringkat-peringkat temuramah.

Pelajar juga melawat Pusat Bantuan Guaman untuk memerhati kaedah-kaedah menemuramah klien yang dikendalikan oleh peguam-peguam. Ini secara langsung mendedahkan pelajar-pelajar terhadap kaedah-kaedah menemuramah klien secara praktikal. Walaubagaimanapun pelajar-pelajar tidak menemuramah klien dalam sebarang keadaan. Pelajar-pelajar juga dinasihati bahawa sebarang penukaran maklumat adalah sulit.

Dalam tahun 2000, 45 pelajar telah mengambil bahagian dalam program ini, di mana mereka telah memerhati temuramah yang dikendalikan oleh peguam-peguam. Selain memerhati pengendalian temuramah di Biro Bantuan Guaman (Kuala Lumpur), pelajar juga menemani peguam - peguam ke Penjara Sungai Buloh. Selain dari itu pelajar – pelajar juga diberi peluang untuk memerhati pengendalian program "Dock Brief", di mana mereka diletakkan di bawah pengawasan peguam-peguam sukarela.

Pada bulan September, Mr Francis Pereira, Peguambela dan Peguamcara, telah melawat KDU untuk memberi satu ceramah tentang pengendalian Bantuan guaman di Malaysia. Seramai 72 pelajar telah menyertai ceramah tersebut.

KLINIK PENJARA WANITA KAJANG

Laporan disediakan oleh Ketua Projek, Encik S. Balasubramaniam

Ahli Jawatankuasa: Cik Mabel Yong

Pengenalan

Klinik ini telah dilancarkan pada bulan Mei 1999. Objektif Klinik Penjara Wanita Kajang adalah untuk memberi nasihat perundangan, maklumat serta representasi kepada semua wanita dibawah tahanan reman dari seluruh negara.

Pelaksanaan

Pelatih-pelatih yang dipilih untuk klinik ini diberi latihan bagi melengkapkan mereka dengan pengetahuan dan kemahiran yang diperlukan sebelum tugas mereka bermula selama 14 hari. Kumpulan yang terdiri daripada 6 orang pelatih dalam kamar digilirkan pada hari Jumaat setiap tiga minggu. Secara purata, seramai 10 orang tahanan reman ditemuduga oleh pelatih-pelatih ini pada setiap sesi dibawah pengawasan peguam-peguam sukarela. Pelatih-pelatih dikehendaki mengikuti perkembangan temuduga mereka di Pusat Bantuan Guaman dengan:

- i) menghubungi ahli-ahli keluarga tahanan reman supaya mereka dapat melawat dan menjamin orang yang ditahan
- ii) merujuk kes-kes mitigasi kepada pelatih-pelatih daripada Program Dock Brief dan membantu mendapatkan peguam sukarela kepada tahanan reman yang meminta bicara.
- iii) menghubungi peguam-peguam yang membantu secara sukarela untuk mendapatkan perkembangan terkini fail-fail yang diperuntukkan.

Kes-kes dari negeri-negeri lain akan dirujuk kepada Pusat Bantuan Guaman negeri masing-masing. Pusat Bantuan Guaman ini juga membantu tahanan-tahanan reman asing di sekitar Lembah Kelang dengan menghubungi pihak Kedutaan masing-masing. Pusat ini juga menerima sumbangan-sumbangan seperti pakaian untuk orang dewasa dan bayi disamping sumbangan kewangan untuk para tahanan di penjara.

Pihak berkuasa di Penjara Wanita Kajang amat bekerjasama dalam menjayakan klinik ini. Dalam kebanyakan lawatan yang dibuat, pihak penjara akan membawa pelatih-pelatih melawat sekitar penjara. Pelbagai kursus di tawarkan kepada tahanan penjara seperti percetakan batik, elektrik, katering, perkhidmatan dobi, kraftangan dan jahitan yang menjadi

salah satu punca pendapatan kepada Penjara Wanita Kajang. Adalah dimaklumkan bahawa daripada kadar purata 900 orang tahanan di penjara ini hanya lebih kurang 200 orang merupakan warganegara Malaysia. Tahanan-tahanan lain adalah warganegara asing.

Keberkesanan dan kelemahan

Dalam tahun 2000, klinik ini telah memberi nasihat guaman kepada seramai 120 orang. Pecahan kepada jenis-jenis perkhidmatan yang diberikan adalah seperti berikut:

Orang Yang Di Temuduga	120
Di rujuk kepada Program "Dock Brief"	25
Kes-kes yang dirujuk kepada peguam sukarela	18
Kes-kes yang dirujuk kepada Pusat Bantuan Guaman Negeri lain	50
Khidmat Nasihat sahaja	20
Melantik Peguam sendiri	7

Pecahan kepada jenis-jenis kesalahan yang dilakukan oleh orang kena tuduh mengikut umur:

Umur	Kesalahan Melibatkan Harta Benda	Kesalahan Terhadap Orang Lain	Kesalahan Dadah (39B)	Kesalahan Dadah (39A<)	Kesalahan Di bawah Syariah	Lain-lain kesalahan	Jumlah Keseluruhan
15	1						1
16	1						1
18	2		2	1	1		6
19	1	2	3				6
20			1	2	1		4
21	2		2	1			5
Lebih 21	18	7	12	37	2	21	97

Dua isu utama yang dikenal pasti di Penjara Wanita Kajang adalah masalah juvana dan masalah tahanan-tahanan reman asing. PBG telah mengambil inisiatif untuk mengadakan perbincangan dengan pihak berkuasa penjara untuk mengutarakan masalah ini. Perbincangan telah diadakan pada 28hb September 2000 dan pihak PBG telah mengambil tanggungjawab untuk membantu pihak berkuasa penjara dalam memantau kes-kes juvana dan tahanan-tahanan reman asing. Pihak berkuasa penjara juga membekalkan kami dengan statistik-statistik bagi kedua-dua kes tersebut. PBG juga telah bersetuju untuk membantu mempercepatkan kes-kes tahanan reman asing dengan membekalkan penterjemah-penterjemah melalui Tenaganita (pertubuhan sepakat) mulai awal tahun hadapan.

Semenjak tahun lepas, kami mendapati masalah megikuti perkembangan temubual yang telah dikendalikan masih lagi wujud. Ini telah menyebabkan tahanan-tahanan reman ini ragu-ragu dalam mendapatkan bantuan daripada Pusat Bantuan Guaman. Salah-satu daripada sebab utama ialah kurangnya maklumbalas daripada Pusat-pusat Bantuan Guaman Negeri lain di mana sebanyak 41.7% kes-kes telah dirujuk kepada mereka pada tahun 2000 sahaja. Untuk mengelak ketidakberkesanan peranan yang dimainkan oleh pihak Bantuan Guaman ini, Jawatankuasa Kebangsaan Pusat Bantuan Guaman sewajarnya mengutarakan masalah ini kepada Pusat Bantuan Guaman Negeri-negeri berkenaan. Selain itu satu panduan am patut digubal untuk semua Pusat Bantuan Guaman mematuhi. Satu lagi masalah ialah ketidakupayaan pelatih-pelatih dalam kamar mengambil maklumat betul daripada tahanan-tahanan reman. Ini menyukarkan PBG untuk mengambil tindakan sewajarnya terhadap kes-kes berkenaan. Oleh itu, Jawatankuasa Latihan Kemahiran sedang meneliti kaedah-kaedah latihan yang lebih baik dan sesuai untuk pelatih-pelatih dalam kamar.

Dalam pada itu, klinik ini juga telah menarik perhatian media dalam isu-isu berikut:

(A) Majalah Marie Claire

- akan membuat kajian tentang bayi-bayi yang dilahirkan di Penjara Kajang.
- akan bekerjasama dengan pihak Kerajaan untuk mencadangkan agar sebuah rumah khas ditubuhkan di Penjara Wanita Kajang. Ini adalah untuk membolehkan kanak-kanak tersebut membesar di bawah jagaan dan kasih sayang ibu mereka.

(B) Majalah Cleo

- telah mengadakan temuramah dengan En. S. Balasubramaniam, ketua projek klinik Penjara Wanita Kajang untuk mengetahui bagaimana wanita-wanita asing di bawa masuk ke Malaysia secara haram dengan janji-janji manis menawarkan kerja sah tetapi sebaliknya di tolak ke kancah pelacuran.

Cadangan

Memandangkan klinik ini masih baru, pusat harus berusaha untuk mengukuhkan kredibilitinya. Oleh kerana tahanan reman asing berkali ganda lebih ramai daripada tahanan warga Malaysia, maka satu program yang lebih berkesan perlu digubal untuk tujuan mengurangkan tahanan reman asing tersebut. Malahan, pihak penjara sendiri didapati tidak dapat mengelakkan situasi kelebihan tahanan reman ini. Oleh itu pihak Pusat Bantuan Guaman mempunyai potensi untuk memainkan peranan yang lebih pro-aktif.

JAWATANKUASA KAWALAN KUALITI AUDIT

Laporan diserahkan oleh: Balakisan Appalanaido (Ketua Projek)

Ahli Jawatankuasa:

Encik Ngooi Chiu-Ing (Penyelia)

Encik Balakisan Appalanaido (Ketua Projek)

Cik Uma Devi (Setiausaha)

Encik Ramesh Lachmanan

Cik Samundeswari Gopal (Suri)

Cik K. Amutha

Jawatankuasa Kawalan Kualiti Audit ditubuhkan pada April 2000 sebagai satu bahagian daripada Pusat Bantuan Guaman Kuala Lumpur yang memberi perkhidmatan kepada orang-orang awam, terutama yang kurang berkemampuan.

Penghargaan khas harus diberikan kepada Encik Ngooi Chiu-Ing yang merupakan tulang belakang program ini, di mana beliau telah menyelia dan memberi sumbangan dari mula lagi untuk menjayakan jawatankuasa ini.

Walaupun penubuhan jawatankuasa ini tidak disenangi oleh sesetengah peguam sukarela, namun demikian, lambat laun sepanjang tahun 2000, kami telah mendapat persetujuan dan juga penubuhan kami mula dialu-alukan oleh setiap ahli Pusat Bantuan Guaman.

Objektif Jawatankuasa ini adalah seperti berikut:

- Untuk menyusuli cadangan-cadangan daripada idea-idea yang diperolehi daripada bengkel Pusat Bantuan Guaman pada 22 April 2000.
- Menilai dan menentukan sama ada Pusat Bantuan Guaman akan mengendalikan semua program/projek yang telah dicadangkan dan samada terdapat kelemahan dalam cadangan-cadangan yang dibuat. Jawatankuasa ini juga dikehendaki mencadangkan alternatif-alternatif lain untuk mengatasi kelemahan-kelemahan daripada mana-mana klinik/program.
- Untuk memperbaiki dan memajukan program serta latihan bagi semua aktiviti-aktiviti yang dikendalikan oleh Pusat Bantuan Guaman.
- Mempertimbangkan 'exit evaluation form' yang perlu diisikan oleh pelatih-pelatih dalam kamar
- Untuk menghadiri semua program yang dikendalikan oleh Pusat Bantuan Guaman
- Untuk menyediakan 'auditing brief' dan selalu membuat laporan kepada panel pihak pengurusan.

Langkah-langkah yang diambil oleh ahli-ahli Jawatankuasa A Q C/Pencapaiannya

Jawatankuasa kami, sehingga kini telah mengaudit 10 program/klinik untuk pelatih-pelatih dalam kamar dan penyelia, seperti yang berikut:

- (i) LAC/AWAM Klinik Servis Informasi Guaman
- (ii) Klinik Penjara Wanita kajang
- (iii) Klinik Penjara Sungai Buloh
- (iv) Klinik Pusat Bantuan Guaman
- (v) Pentadbiran Pusat Bantuan Guaman
- (vi) Program Tangkapan Genting
- (vii) Program Kesedaran Undang-undang
- (viii) Program Dock Brief
- (ix) Klinik Syariah
- (x) LAC/Migrant Workers Klinik- masih menunggu
- (xi) LAC/Tenaganita Trial Program

Jawatankuasa A Q C ingin menyatakan/mencadangkan bahawa:

- Pusat ini patut mengadakan kuliah untuk pelatih dalam kamar, peguam sukarela dan penyelia atas isu-isu berhubung dengan klinik-klinik atau program-program yang dirujuk di atas.

- Untuk menyampaikan Sijil Penghargaan sebagai galakan kepada penyelia, peguam sukarela serta pelatih dalam kamar (untuk dedikasi serta perkhidmatan yang disumbangkan kepada Pusat)

Kelemahan Jawatankuasa A Q C:

Jawatankuasa ini menghadapi masalah bagi menyertai beberapa klinik atau program untuk audit kerana pentadbiran sesetengah program/klinik adalah ketat. Oleh itu, adalah dicadangkan bahawa satu sistem 'networking' diasaskan agar Ketua Projek dapat memainkan peranan yang penting dalam menjelaskan tujuan-tujuan serta objektif-objektif jawatankuasa kami kepada penyelia-penyelia masing-masing.

Para penyelia, pelatih dalam kamar, peguam sukarela serta ahli panel pengurusan sepatutnya sedar bahawa kriteria jawatankuasa A Q C adalah untuk mencadangkan kritikan yang membina dan bukannya secara peribadi kerana klien yang ingin mendapatkan perkhidmatan kita patut mendapat perkhidmatan kualiti daripada perkhidmatan Pusat, atau lebih baik daripada klien yang mampu membayar.

Cadangan untuk Masa Hadapan

- Pusat perlu menyediakan perkhidmatan yang sistematik dan dengan kelayakan berteknologi tinggi.
- Sepatutnya terdapat seorang penyelia yang hadir di premis semasa semua klinik atau program dijalankan
- Semua Ketua Projek dikehendaki menyediakan satu laporan status setiap tahun dengan jadual panduan untuk klinik/program masing-masing yang dikendalikan oleh mereka untuk A Q C. Ini dapat mengelakkan sebarang salah faham dan menggalakkan persefahaman di antara ahli persatuan.
- Jawatankuasa A Q C dikehendaki menghadiri satu sesi latihan untuk semua klinik/program dan mereka mestilah dijemput secara rasmi

Akhir kata, saya ingin mengambil kesempatan ini untuk mengucapkan ribuan terima kasih kepada panel pengurusan, peguam sukarela, penyelia-penyelia serta ahli-ahli jawatankuasa yang telah menjadikan A Q C satu pasukan ahli audit yang bertauliah dan juga mengharapkan yang lebih baik untuk tahun hadapan.

Jawatankuasa Latihan

Jawatankuasa Kecil Pembangunan Kemahiran

Laporan disediakan oleh Ketua Projek Encik C I Ngooi

Ahli-ahli:

Ngooi Chiu-Ing, Jayaletchumi Rajaretnam, S Muhendaran, Mary Manickam dan A Balakishnan

Objektif:

Objektifnya adalah untuk membangunkan/menambahkan kemahiran melalui pengajian dan meningkatkan latihan pembangunan kemahiran. Ia juga untuk meningkatkan kualiti perkhidmatan yang akan disampaikan kepada anakguam-anakguam yang berhak dan juga untuk membantu memberi motivasi kepada pelatih-pelatih dalam kamar supaya mereka boleh menjalankan penyampaian perkhidmatan dengan baik.

Pada mulanya Jawatankuasa kecil ini akan memberi perhatian kepada latihan pembangunan kemahiran pelajar-pelajar dan seterusnya kepada rakan-rakan Badan-Badan Bukan Kerajaan (NGOs) dan peguam-peguam yang berkhidmat untuk program-program kami.

Matlamat-matlamat:

- Melengkapkan pelatih-pelatih dengan kemahiran dan pendedahan yang sepenuhnya
- Mengkaji semula latihan-latihan dari program-program yang berlainan untuk mengelakkan penduaan/pertindihan
- Meningkatkan kualiti latihan, termasuk kemahiran jurulatih

Kemajuan yang dicapai:

- Latihan bercampur pelajar-pelajar daripada program-program yang berlainan. Pelatih-pelatih dari Program AWAM dan pelatih-pelatih dari Program Dock Brief telah menghadiri latihan untuk mengikuti Modul-Modul Latihan Klinik LAC
- Modul Kemahiran "Temubual dan Dokumentasi" untuk Klinik latihan LAC telah berkembang dan ia disampaikan oleh pihak Tenaganita. Pelatih-pelatih Program Dock Brief dan Klinik Penjara Sungai Buloh telah menghadiri latihan untuk modul ini. Program Audit dan Kawalan Kualiti mendapati kemerosotan dalam kemahiran "Temubual dan Dokumentasi" pelatih-pelatih.

- Menitikberatkan latihan pembangunan kemahiran dalam undang-undang melalui lakonan bertulis Klinik Latihan LAC
- Program Kesedaran Undang-undang telah/akan menggubal dan mengedar buku panduan untuk dibaca oleh pelajar-pelajar sebelum mereka menghadiri latihan. Pelajar-pelajar juga boleh menggunakan buku panduan ini ketika mereka menjalankan tugas wajib. Tujuan buku panduan ini ialah untuk mengurangkan masa (dan kesusahan) latihan dan juga sebagai rujukan ketika menjalankan tugas wajib. Buku panduan pekerjaan sudah siap dan telah diedar kepada pelajar-pelajar Klinik LAC, Tenaganita, Program AWAM dan juga kepada rakan sekerja dalam Pertubuhan-Pertubuhan Bukan Kerajaan.
- Audit-audit berkualiti telah dijalankan dalam sesi latihan Klinik Sungai Buloh/Penjara Kajang dan Program Dock Brief.
- Satu risalah "Tips for Trainers" telah dideraf di atas nasihat se-orang perunding pelatih dan telah diedarkan kepada pelatih-pelatih program-program.

Rancangan masa hadapan:

- Perlu menitikberatkan lakonan dalam latihan membangunkan kemahiran dan latihan dalam undang-undang bagi semua program-program.
- Klinik Penjara Sungai Buloh/Kajang dan Program Dock Brief patut mempunyai latihan yang sama. Jawatankuasa kecil ini percaya bahawa kedua-dua program ini merupakan satu proses penyambungan, dan pelajar-pelajar akan bermanfaat daripada pendedahan terhadap proses sepenuhnya dan dapat menjalankan perkhidmatan dengan lebih baik jika mereka mengetahui tentang persamaan diantara kedua-dua program tersebut.
- Selain daripada itu ia juga untuk mengelakkan pertindihan/penduaan, sebagai contoh modul-modul Undang-undang Pekerjaan dan Undang-undang Jenayah bagi program-program yang berlainan.
- Mengumpul satu senarai pelatih-pelatih yang berpengalaman/berdedikasi

JAWATANKUASA KECIL MENGUBAH UNDANG-UNDANG BANTUAN GUAMAN MAJLIS PEGUAM (LRC)

Laporan disediakan oleh Ketua Projek, Puan M Kamalam

Ahli Jawatankuasa

Ms K Nachammai	Ms Ivy Josiah	Ms K Moganambal
Mr R Kesavan	Ms Aegile Fernandez	Ms Tanuja Rani
Ms Leena Ghosh	Ms Shakila	Ms Ruzana Udin
Ms Monohari Subramaniam	Ms Lee Shook Foong	

Pengenalan

(LRC) telah diwujudkan oleh Pusat Bantuan Guaman Majlis Peguam pada April 2000. Tujuan utamanya adalah untuk: -

- Mengkaji masalah-masalah yang dihadapi dalam penguatkuasaan beberapa seksyen dalam Malaysia yang sediaada seperti Kanun Acara Jenayah, Keluarga, Syariah dan Juvana.
- Memeri maklumat perundangan, statistik atau sebarang bentuk sumber yang lain kepada badan-badan seperti Badan-badan bukan kerajaan dan badan-badan kerajaan, yang ingin meminda atau memperbaharui semula undang-undang-
- Mengesyorkan untuk cadangan kepada Majlis Peguam dan Kerajaan, tentang pandangan-pandangan atas undang-undang baru untuk pindaan-pindaan yang telah di saran oleh badan-badan tersebut.

Penguatkuasaan

Women Aid Organisation (WAO)

Jawatankuasa kecil telah mengadakan mesyuarat pertama dengan Organisasi Bantuan Wanita pada 16 May 2000 untuk membincangkan kecacatan yang wujud di dalam Domestic violence Act 1994. Pusat tersebut telah bersetuju untuk mengumpul: -

- (i) Statistik kes-kes Domestic Violence (DV) daripada mahkamah, yang belum dikuatkuasakan.
- (ii) Statistik dari Pusat Bantuan Guaman (KL) tentang kes-kes DV yang sudah bermula dari tahun 2000. Statistik kes-kes DV telah mula dikumpulkan oleh Pusat Bantuan Guaman sejak tahun 2000.

WAO telah membuat penyelidikan yang extensif tentang DVA dan satu memorandum yang mengesyorkan dan mencadangkan pindaan-pindaan keatas Akta tersebut telah dihantarkan kepada Kementerian yang berkenaan 2 tahun yang lalu, tetapi masih belum menerima sebarang maklum balas. Oleh itu telah diputuskan bahawa satu lagi memorandum patut diserahkan dengan pindaan-pindaan tambahan.

Dengan itu satu sesi "*brainstorming*" telah diadakan pada 11.11.2000. Adalah dicadangkan bahawa peraturan-peraturan boleh dibentuk untuk mengatasi masalah kelemahan yang terdapat di dalam DVA. Adalah juga dicadangkan bahawa satu Perintah Perhidupan Sementara ("*Interim Protection Order*") yang lebih sempurna dan komprehensif dederakkan berdasarkan kes-kes dahuluhan dari luar negara dan bahawa satu kajian perbandingan undang-undang dari luar negara dijalankan. Sesi tersebut tamat dengan sebahagian peguam memasuki kumpulan tersebut dengan sukarela untuk menderakkan Peraturan yang dicadangkan dan atau DVA.

Sebagai satu langkah untuk meneliti kemungkinan penyemakan/pentadbiran semula DVA pada November 2000, 2 ahli LRC telah menghadiri satu seminar yang bertemakan penubuhan mahkamah keluarga di Malaysia selama 2 hari.

Kerja-kerja yang berikut telah pun diagihkan dan adalah masih berjalan:

- AWAM (All Women's Action Society) untuk menderaf satu protokol atau prosedur tentang bagaimana mangsa keganasan rumah tangga boleh mendapat perlindungan daripada polis. Ini bertujuan supaya semua balai polis mengikut satu protokol standard.
- WAO untuk menjalankan dan menyediakan Perintah Perlindungan Interim yang komprehensif.
- LAC untuk melaksanakan satu kajian perbandingan dengan kes-kes dari negara-negara lain.

AWAM (All Women's Action Society)

Pusat tersebut telah mengadakan satu sesi perjumpaan dengan AWAM di Pusat mereka pada 5hb Julai 2000 untuk memupuk hubungan dan untuk memahami dengan lebih baik tujuan mereka dan watak-eatak mereka. Semasa perbincangan, adalah dipersetujui bahawa kedua-dua pihak akan menghasilkan satu kertas bersama dana-dana untuk perlantikan seorang pegawai yang boleh menyelidik tentang isu-isu perundangan dan jantina di pusat itu. Terdapat juga satu cadangan untuk satu (Anti-Sexual Harassment Act).

TENAGANITA

Satu sesi perjumpaan yang sama telah di adakan di Pusat itu pada 22 Ogos 2000 dengan Tenaganita. Peningkatan dalam jumlah pendedaran wanita-wanita dan kanak-kanak patut ada untuk menghentikan maksiat ini, yang telah berleluasa di Malaysia. Oleh kerana itu, cadangan oleh Pusat itu untuk melantik satu pegawai rancangan penuh masa untuk menyelidik dan untuk menderaf undang-undang tentang kedua-dua Pusat itu dan Tenaganita adalah dalam proses menderaf satu cadangan untuk dana-dana yang diperlukan untuk perlantikan pegawai penyelidikan.

PINK TRIANGLE/IKHLAS

Pada 26 Julai 2000, satu perjumpaan bersama antara wakil-wakil Pink Triangle dan Pusat itu telah diadakan. Perjumpaan itu telah menjalinkan satu persefahaman yang lebih baik tentang khidmat-khidmat mereka kepada 6 golongan-golongan utama penagih dadah, pekerja seks, transsexuals, homosexuals dan orang-orang yang dijangkiti AIDS/HIV.

Jawatankuasa itu telah memulakan satu kajian/lawatan pendedahan ke Pusat Ikhlas pada 6 Oktober 2000 di Chow Kit, Kuala Lumpur.

Sementara itu Jawatankuasa itu, yang mempunyai wakil dari Ikhlas, telah memberi maklumat tentang masalah-masalah yang dihadapi oleh golongan-golongan tersebut, terutamanya kesalahgunaan Polis dan ketidakupayaan mereka untuk secara automatik mengubah kad pengenalan mereka seterusnya selepas mereka telah menjalankan pembedahan-pembedahan perubahan jantina.

LRC telah mencadangkan bahawa satu PT permulaan patut bermula dalam pengumpulan statistik mereka sendiri tentang kes-kes sedemikian supaya LAC boleh menjadikan mereka sebagai kes-kes 'cubaan' sebagai permulaan. LRC bersama dengan klinik LAC/PT telah memulakan satu klinik Perundangan bulanan di Pusat Ikhlas.

Cadangan-cadangan:

Jawatankuasa perlukan kemahiran dalam arena berikut untuk mengendalikan programnya dengan efektif:

- (i) Peguam-peguam Jenayah yang berpengalaman dalam pengendalian kes-kes DV untuk memberi nasihat-nasihat perundangan untuk pindaan dalam DVA.
- (ii) Individu-individu/organisasi sukarela untuk menyediakan cadangan pemungutan dana untuk projek-projek yang relevan.

Disambil itu, jawatankuasa juga perlu menjalinkan satu perhubungan dengan organisasi relevan yang lain seperti mahkamah dan pejabat polis kerana kebanyakan isu-isu yang bangkit adalah berkenaan dengan mereka.

JAWATANKUASA BERTINDAK Pengerak Juvana

Laporan disediakan oleh Ketua Projek, Cik Yasmeeen Shariff

Ahli Jawatankuasa

Encik Christie Soosay Nathan
Encik S Balasubramaniam
Encik Ravi Nekoo
Cik Normaizaida Ahmad Narihan
Encik K Parameswary
Encik Wong Leong Hong

Pengenalan

Badan penggerak ini telah ditubuhkan pada 29 Ogos 2000 oleh Panel Pengurusan. Tujuan utama Jawatankuasa ini adalah untuk meneliti masalah terkini yang dihadapi oleh Juvana yang direman di Penjara Sg. Buloh dan di penjara-penjara lain di seluruh negeri. Di dalam mesyuarat pertamanya, Jawatankuasa ini dianggotai oleh 7 orang ahli telah meluluskan objektif-objektif berikut: -

1. Mendesak pihak kerajaan untuk membekalkan rumah atau tempat tahanan atau perumahan sementara untuk juvana, menggantikan penjara.
2. Mendesak pihak kerajaan untuk mengkaji semula peranan-peranan yang dimainkan oleh badan-badan yang terikat di dalam keseluruhan pentadbiran undang-undang yang terlibat dalam penahanan juvana-juvana di dalam penjara. Badan-badan yang terlibat adalah Jabatan Peguam Negara, Mahkamah, KDN, Polis, Jabatan Kebajikan Malaysia dan Pihak Penjara.
3. Untuk mendapatkan tarikh-tarikh bicara yang awal bagi kes-kes juvana.
4. Mendesak pihak kerajaan supaya tidak mengenakan sebarang jaminan wang kecuali seorang penjamin untuk kes-kes yang melibatkan juvana.
5. Meneliti/mengkaji semula kesalahan-kesalahan yang dilakukan oleh juvana.
6. Meneliti isu-isu di mana juvana telah dipukul semasa berada di dalam lokap polis.

Badan penggerak telah juga menyedari isu di mana juvana telah dipukul semasa berada di lokap dan akan merujuk perkara ini kepada badan-badan yang berkenaan.

Implementasi

Jawatankuasa ini yang bertemu sebulan sekali telah mengambil langkah-langkah berikut dan sedang dalam proses melaksanakannya: -

- ❖ Memulakan satu dialog dengan Jabatan Peguam Negara, Jabatan Kebajikan, Mahkamah dan Badan-badan berkenaan lain yang terlibat di dalam kebajikan juvana-juvana.
- ❖ Menyediakan laporan berhubung keadaan mental dan perkembangan emosi juvana-juvana yang diletakkan di bawah tahanan pihak polis atau Institusi-institusi akhlak. Jawatankuasa ini telah bertemu dengan YB Professor Dr. Kasmini Kassim, Professor of Psychiatry di Fakulti Perubatan, Universiti Kebangsaan Malaysia untuk menyediakan satu repot atas dasar pro-bono dan secara sukarela.

Sementara itu, melalui program lawatan penjara, pihak Pusat telah menemuramah 112 juvana di dalam tahanan reman di Penjara Sg. Buloh dan 8 juvana di Penjara Wanita Kajang. Pihak pusat telah mengumpulkan statistik berhubung juvana yang dipukul semasa di dalam tahanan polis lokap untuk rujukan masa hadapan.

- ❖ Kajian Kes Juvana diberi layanan kasar di dalam lokap polis

Kategori	Umur 13 (2 kes)	Umur 14	Umur 15 (6 kes)	Umur 16 (5 kes)	Umur 17 (13 kes)	Umur 18 (18 kes)	Jumlah (43 kes)
Dipukul	1		2	2	9	7	46.5%
Ditumbuk				1	4	5	23.3%
Ditendang	1		1		4	5	25.6%
Dipijak					2	2	9.3%
Dipukul dengan objek			3	3	4	8	41.9%

❖ Jenis kesalahan dan jaminan wang yang dikenakan terhadap Juvana

Jumlah Jaminan (RM)	Kesalahan Terhadap Harta Benda	Kesalahan Terhadap Orang	Kesalahan Seksual	Kesalahan Dadah	Kesalahan Trafik	Lain-lain
500 – 4,000	73					
8,000			3			
6,000 – 10,000		5				
3,000 – 7,000				21		
5,000 – 7,000					8	
1,000 – 2,000						10

Jawatankuasa ini telah menulis kepada semua Pusat Bantuan Guaman seluruh negara untuk mendapatkan statistik berhubung jumlah juvana-juvana yang ditahan di dalam penjara negeri-negeri berkenaan. Pihak pusat telah menerima statistik dari Pusat Bantuan Guaman Pahang dan Perak. Penjara Wanita Kajang dan Sungai Buloh juga telah memberi statistik yang diperlukan. Statistik tersebut adalah untuk tujuan dokumentasi dalam usaha Pusat ini meneruskan usahanya untuk memulihkan masalah yang dihadapi oleh Juvana.

Dalam satu dialog bersama YB Dato rais Yatim, Menteri di dalam Jabatan Perdana Menteri, jawatankuasa ini telah membawa isu juvana ke perhatian beliau dan satu laporan juga diserahkan kepada beliau. Pihak Jabatan Perdana Menteri yang menyedari usaha pihak pusat telah mempelawa Pengetua Badan Penggerak Juvana untuk hadir ke satu mesyuarat untuk membincang isu Juvana dalam tahanan reman pada 28 September 2000.

Berikutan pertemuan tersebut dan liputan pihak media yang luas, arahan telah dikeluarkan untuk memindahkan semua juvana (kecuali pesalah-pesalah yang melakukan kesalahan serious) ke rumah kebajikan sebelum Oktober, 2000.

Walaupun bagaimanapun semasa lawatan pihak Pusat ke Penjara pada 11 November 2000, 7 juvana didapati ditahan di Penjara Sungai Buloh. Sekali lagi, Jawatankuasa telah mengutarakan isu tersebut ke perhatian pihak media dan pihak penjara.

Di samping itu, Jawatankuasa telah juga menulis kepada DG, Jabatan Kebajikan memohon kebenaran untuk menemuduga juvana-juvana di bawah pengawasan mereka. Pihak DG telah bersetuju untuk bertemu dengan pihak Jawatankuasa untuk membincang perkara ini selanjutnya pada 9 Februari 2001.

Kesulitan

Jawatankuasa sekarang hanya mempunyai 6 peguam sukarela. Jawatankuasa sedang mencari sukarelawan dari luar Bantuan Guaman dalam usaha untuk membantu dan juga memajukan dan memperluaskan sistem kerjasamanya untuk meneliti isu juvana di dalam tahanan reman.

Cadangan

Di dalam satu laporan yang telah diserahkan kepada Dato Rais Yatim, Menteri di dalam Jabatan Perdana Menteri, langkah-langkah berikut telah dipersetujui: -

- Badan Penggerak Juvana di bawah Pusat Bantuan Guaman (Kuala Lumpur) akan membuat kajian dan mengesyorkan langkah-langkah penyelesaian jangka panjang dan jangka pendek. Langkah jangka pendek adalah untuk mengalihkan banduan juvana dalam tahanan dengan kerjasama dari Mahkamah termasuk Jabatan Kebajikan dengan mempercepatkan kes mereka.
- Pelan jangka panjang adalah untuk memastikan tiada juvana ditahan di dalam penjara atau lokap polis. Badan Penggerak ini akan mengesyorkan supaya undang-undang yang berkaitan dengan juvana seperti Akta Juvana 1947, "Akta Kanun Keseksaan" dan "Kaedah Lokap" di bawah Akta Polis 1967 dikaji semula.

Badan Penggerak perlu membuka keahliannya kepada ahli-ahli Badan Bukan Kerajaan, pegawai polis dan organisasi lain agar kedua-dua objektif tersebut tercapai.

PROGRAM PENGUMPULAN DANA

Laporan disediakan oleh Ketua Projek, Encik Francis Pereira

Ahli Jawatankuasa

Encik R Kesavan
Encik Sivarasa Rasiah
Encik Ngooi Chiu-Ing
Cik Yasmeen Shariff

Cik Srividhya G.
Cik Mary Manickam
Cik Lee Shet Mei
Cik Uma Devi

Encik Julian Jeyaseelan (Iklas Pink Triangle)
Encik Jeyaveeran Naicker
Encik R. Kanakaraj

Cik Adeline A C Lee
Cik Ramanaambigai Marimuthu

Jawatankuasa ini yang masih dalam peringkat awal dan merupakan 'ahli' terbaru dalam "keluarga" klinik Pusat Bantuan Guaman yang semakin membesar.

Memandangkan beban kerja yang dilakukan oleh Pusat ini semakin bertambah tanpa peningkatan dalam sumbangan kewangan, Jawatankuasa ini telah ditubuhkan pada 22 April 2000 bertujuan untuk membantu mengumpul sumber kewangan yang mencukupi supaya segala program yang sedang dijalankan dan bagi rancangan masa hadapan oleh Pusat Bantuan Guaman dapat berjalan dengan lancar.

Sehingga kini, Jawatankuasa ini berada dalam proses menyediakan profil bagi Pusat Bantuan Guaman dengan bantuan daripada Sil Ad (KL) Sdn. Bhd., sebuah syarikat pengiklanan yang terkemuka namun ramah.

Projek besar yang pertama yang dicadangkan oleh Jawatankuasa ini adalah Tayangan Amal Perdana. Tayangan ini dicadangkan pada bulan April 2001.

Sekiranya pembaca laporan ini tahu akan sesiapa / sebarang organisasi yang boleh membantu kami atau sesiapa yang boleh kami tampil bagi mendapatkan sumbangan / derma, sila hubungi Cik Sheena di Pusat Bantuan Guaman, Tel: 03-26913005.

PENGURUSAN DAN PENTADBIRAN

1) Kewangan

Sejumlah RM358,294.28 telah diluluskan oleh Jawatankuasa Bantuan Guaman Kebangsaan untuk operasi pusat ini bagi tahun 2001.

2) Akaun Tahunan

Sila rujuk kepada penterjemahan Inggeris (Annexure "A").

PENGHARGAAN

Pihak kami juga ingin merakamkan penghargaan yang setinggi-tingginya kepada International Law Book Services, Hitachi Transport System Malaysia Sdn Bhd, Sil Ad (K.L.) Sdn. Bhd., Encik Patrick Teoh, Lian Huat Stationers dan Sekretariat Pintas Negara yang telah memberi sumbangan kewangan dan tenaga kepada Pusat Bantuan Guaman Majlis Peguam (Kuala Lumpur).

The Administration of Justice in Malaysia

A Memorandum from the Kuala Lumpur Bar Committee¹

Most citizens regard law as a mystery: a mystery which is within the comprehension of only the lawyers and the judges. Yet, as all of us are aware, there is no mystery to the law: law regulates all of our lives—it makes us citizens, it protects us, it confers rights and obligations on us—in fact it governs every facet of our lives.²

The Importance of Institutions

1. What is the point of having an independent judiciary if it will only hold back the objectives of the government? Where is the need for an independent press? What benefit is there to having an independent Bar, an independent Attorney-General? Or any independent institution?
2. The answer is Credibility. Because each nation is judged by the strength of its institutions.
3. Independent institutions are not a sign of weakness of the government but a sign of its strength. A government which seeks to control the institutions of the nation will command fear, and not respect. For example, endorsement from a controlled press or a compliant judiciary has no value and, if anything, may have the opposite effect to that intended.
4. Of all the institutions of a country, the administration of justice is perhaps the most fragile and vulnerable. It is all too easy in the pursuit of economic well-being to dismiss the importance of an institution that appears to be preoccupied with words and intangibles.
5. But it is the administration of justice which is the key to a first world economy. All first world nations, without exception, have rule of law, sophisticated legal systems

¹ Location of the *Reference Materials* accompanying this Memorandum are shown by page numbers in bold within square brackets.

² HRH Sultan Azlan Shah, Sultan of Perak, former Lord President of the Federal Court, in *Creativity of Judges*, the Royal Address delivered at the Official Opening of the *Fourth International Appellate Judges Conference* and the *Third Commonwealth Chief Justices Conference* in Kuala Lumpur, 1987. [1]

and a strong human rights agenda. To ignore the importance of the administration of justice is to forfeit our place amongst them. And not only that, it is to court anarchy:

We who uphold the rule of law play an important part in nation-building. When law and order breaks down—as you can see it happening in even the most affluent of states—one major contributory cause is to be found in the failure somewhere in the machinery connected with administration of justice.³

Public Confidence

6. A nation with aspirations in its Multimedia Super Corridor and the K-Economy must expect its people to have enquiring minds. To inspire the confidence of such a public in the administration of justice, justice must not only be done, but must be seen to be done:

It is not enough for Government to have confidence in the judiciary if the public does not. It is not enough for courts only to go through the motion of a trial. It is not enough if justice seems to be done if in fact justice has not been done.⁴

7. Never before has there been so much adverse comment on the administration of justice in Malaysia, from our own citizens as well as the international community. The most recent comprehensive report on the state of affairs by an independent commission is the “Justice in Jeopardy” report by the International Bar Association⁵. The same concerns are expressed in various other reports and articles⁶. And perhaps the most damning indictment comes from a former Lord President of the Federal Court, the late Tun Suffian, when he said:

... I wouldn't like to be taken to today's judiciary, especially if I am innocent.⁷

8. Critics looking for justification for adverse comment find support in the happenings of the last decade:
- a. “mega defamation suits”⁸

³ The Honourable Tan Sri H T Ong, Chief Justice of Malaya, at the Third Magistrates' Conference, Petaling Jaya, 4 October 1971, [1971] MLJ xlv. [5]

⁴ Tun Mohamed Suffian, former Lord President of the Federal Court, at the *Reference in Honour of the Memory of the Late Justice Tan Sri Dato' Wan Suleiman*, (2000) XXIX No 2 INSAF 85, at 87. [7]

⁵ *Justice in Jeopardy: Malaysia 2000*, reproduced in a Special Issue of INSAF, the Journal of the Malaysian Bar.

⁶ See, for example, *Society & Justice, Transparency & Good Governance for a Just Society: Issues & Challenges*, Chooi Mun Sou, (2000) XXVIX No 3 INSAF 58. [10]

⁷ Tun Mohamed Suffian, former Lord President of the Federal Court, at the *Reference in Honour of the Memory of the Late Justice Tan Sri Dato' Wan Suleiman*, (2000) XXIX No 2 INSAF 85, at 86. [7]

⁸ The following cases are catalogued by Arfa'eza A Aziz in *The Sun*, 26 December 2000, page 12: *Vincent Tan v MGG Pillai & others*, [1995] 1 MLJ 39, [1995] 2 MLJ 493, RM10 million awarded in total; *DP Vijandran against*

- b. spate of contempt of court cases with custodial sentences against lawyers, journalists and litigants⁹
- c. injunctions against the Bar holding its own general meeting (in one case, it was held, *inter alia*, that a resolution proposed to be put to the meeting was clearly contemptuous as it contained an assertion that there was a need to fully restore the public's confidence in the Malaysian judiciary¹⁰)
- d. unprecedented awards of costs with a distinct punitive element¹¹
- e. cases being contested or dealt with on mere technicalities¹²

Karpal Singh, RM900,000 awarded in total; Datuk Chua Jui Meng against Hoo Kok Wing, businessman, RM3 million awarded; March 2000, Datuk Wan Mustapha Ali, PAS legal adviser, against the Kelantan state government, for RM20 million; April 2000, Dawani @ Nolsalmah Yusof against her husband, Samsu Baharun Abdul Rahman, for RM5 million; May 2000, Tan Sri Abdul Rahim Tamby Chik against Ruslan Kassim, of Parti Keadilan Nasional, for RM15 million; May 2000, Lt Cdr (Rtd) Zalil Mohd Mess against the Royal Malaysian Navy, for RM10 million; July 2000, Datuk Seri Ling Liong Sik against Krishna Kumar (solicitor of Soh Chee Wen), for RM200 million; August 2000, Badrul Zaman Md Zakaria against Utusan Melayu and Datuk Aseh Che Mat, DG of Immigration, for RM10 million; October 2000, Zainal Rampak, MTUC President, against Sun Media Corporation, for RM250 million; October 2000, Datuk Abdul Kadir Sheikh Fadzir against Eksklusif newspaper, for RM20 million, settled for RM700,000; December 2000, John Ng, Chief Executive against John Hancock Life Insurance, for RM60 million; Low Wei Yuen, lawyer, against Major Indah, developer, for RM100 million; Umni Hafilda against Bacaria magazine, RM300,000 awarded; Abdullah Sani Hishan against Sharma Kumari and her husband, Pradeep Kumar, RM1.8 million awarded. [43]

See also, recently: January 2001, Badrul Zaman Md Zakaria against Datuk Aseh Che Mat, DG of Immigration, RTM, the Government and TV3, for RM100 million each; January 2001, Datuk Seri Lim Yong Tong against Standard Chartered Bank (M) Bhd and others, for RM160 million. [44, 45]

⁹ *Re Zainur Zakaria* [1999] 2 MLJ 577 (solicitor sentenced to 3 months' imprisonment for filing a notice of motion with a supporting affidavit which contains scandalous and contemptuous matters); [46]
Leong Siew Fung v Leong Shan Nam [1998] 4 MLJ 352, *Re Tai Choi Yu* [1999] 1 MLJ 416 (solicitor sentenced to 1 month's imprisonment for application for disqualification of the judge); [49, 58]
Chandra Sri Ram v Murray Hiebert [1997] 3 MLJ 240, [1999] 4 MLJ 321 (journalist sentenced to 3 months' imprisonment, reduced on appeal to 6 weeks, for writing an article on a pending case and thereby scandalising the court); [60, 64]
MBf Capital Bhd v Tommy Thomas [1999] 1 MLJ 139 (litigant sentenced to 6 months' imprisonment for issuing a press statement "in breach" of his own statement read in open court); [67]
Re Lee Chan Leong [2000] 1 MLJ 371 (solicitor sentenced to a fine of RM10,000 to be paid by 1.30 pm on the same day or 3 months' imprisonment in default for writing a letter to the Chief Judge stating that a matter "...telahpun diselesaikan dengan sewajarnya oleh Yang Arif..." which was held to have given the impression that the judge had settled the matter with the solicitor). [69]

¹⁰ *Raja Segaran v Bar Council* [2000] 1 MLJ 1. [83]

¹¹ In *Bar Council v Datuk V Kanagalingam* [2000] 3 AMR 3383, [2000] 3 CLJ 697, RM600,000 costs awarded on a disciplinary matter, excessive even when reduced to RM120,000 by the Federal Court. [109]

¹² See, for example: *Han Euu Tiam v Phang Kui Fatt* [1999] 4 MLJ 683 (affidavit was struck down because jurat did not reproduce the descriptive words given in statutory form). [122]
Court rejecting documents not complying strictly with rule requiring a one inch margin.

- f. unusual court orders and proceedings¹³
 - g. controversial exercise by Attorney General of discretion in prosecution and conduct of criminal proceedings¹⁴
 - h. cases perceived to have been given undue priority
 - i. backlog of appeals in the courts
 - j. appeals cases disposed of without grounds of decision
 - k. lack of mutual respect between bench and bar
 - l. uncertainty and unpredictability in the law
 - m. administrative delays in court
 - n. declining standards of advocacy
9. The mega defamation suits and the wielding of the power to punish for contempt in recent years has been perceived by the public as means to stifle fair comment and free speech¹⁵.
10. There has arisen a trend in these cases of litigants naming large sums of damages, a distinct departure from the practice in other Commonwealth jurisdictions not to quantify these general damages, but which has been given judicial sanction in Malaysia¹⁶. The result of this trend now is that:
- a. Plaintiffs name such sums not just to stipulate the amount of damages claimed but to stipulate them in large sums *in terrorem*
 - b. Defendants facing such claims can suffer serious consequences even before judgment is pronounced

¹³ See for example, *Ayer Molek Rubber Co. Bhd v Insas Bhd* [1995] 2 MLJ 734, *ex parte*, interlocutory, mandatory injunction for registration of shares in public company, fixing of hearing date and refusal of stay by judge effectively prevented defendant from setting aside the order before shares were registered, which prompted three judges in the Court of Appeal to censure the judge; the censure to be later expunged by the Chief Justice and 2 other judges [1995] 2 MLJ 833. [128, 139]
Consider also the *Sharma Shukla* cases which some perceive to have a persecution element.

¹⁴ See, for example, the cases involving Rahim Tamby Chik, Anwar Ibrahim, Lim Guan Eng and Karpal Singh (sedition charge for statement made in court).

¹⁵ See also concerns raised in *Effects of Defamation Suits on Free Speech*, a memorandum of the Malaysian Bar to the Prime Minister, although the recommendations in that memorandum are not adopted here. [156]

¹⁶ *Dato' V Kanagalingam v Tommy Thomas* [1997] 5 MLJ 229; *MBf Capital Bhd v Tommy Thomas (No 2)* [1997] 3 MLJ 403; *Skrine & Co v MBf Capital Bhd* [1998] 3 MLJ 649 (CA). [429]

- c. It is perceived that the courts can be used by the rich and powerful to terrorize those who dare criticize them.
11. There is also a perception of a lack of appreciation of the concepts of conflict of interest and of apparent (as opposed to actual) bias.¹⁷
12. The perception extends also to the Attorney General when he declared the case closed for the time being relating to the photographs of the Chief Justice on holiday with a lawyer¹⁸ when similar photographs of the Attorney General himself were brought to light.¹⁹

The Economic Fallout

13. The loss of credibility will affect the national economy.
14. Investors and businessmen expect to be able to enforce their contracts and other economic rights quickly and fairly. They make their own assessment²⁰ on whether the legal system can be trusted to protect their interests.
15. If the legal system is perceived as weak, investors are bound to look for a higher return to cover contingencies. Whilst they may continue to invest, the country gets a smaller share. In time, they will see that it is cheaper to go elsewhere.
16. From a lawyer's point of view, the writing on the wall is when businessmen insist on adjudication of disputes outside the Malaysian jurisdiction or else on arbitration, rather than court proceedings in Malaysia.

Assault on Human Dignity

17. Many aspects of the administration of criminal justice are contrary to the expectations and values of a civilised society.

¹⁷ Although, in fact, the Federal Court of Malaysia has accepted the principle of apparent bias: *MPPP v Syarikat Berkerjasama-sama Serbaguna Sungai Gelugor* [1999] 3 MLJ 1. [164]
See also the House of Lords decision in *R v Bow Street Metropolitan Stipendiary Magistrate, ex parte Pinochet Urgate (No 2)* [1999] 1 All ER 577. [172]

¹⁸ *No case against CJ in "controversial" NZ holiday*, Malaysiakini 17 November 2000. [195]

¹⁹ The photographs have been accessible to the public via the internet for some time at www.malaysia.net/special. [197]

²⁰ See, for example, *MSC bound to fail under present climate*, a statement by the futurist and author, Alvin Toffler, 17 November 1998. [204]

18. The current state of the criminal justice system in Malaysia does not convince its citizens that the following principles are held sacred:
- a. that a person is presumed innocent until proven guilty
 - b. that the life and liberty of the individual citizen is paramount
 - c. that the personal dignity of the individual is inviolate.
19. The system requires a complete overhaul, not just in procedure and infrastructure but also in the mind set of all those involved in its administration.

Access to Counsel

20. Every person under arrest has the right, enshrined in the Federal Constitution, to consult and be defended by counsel:

Where a person is arrested he shall be informed as soon as may be of the grounds of his arrest and shall be allowed to consult and be defended by a legal practitioner of his choice.²¹

21. Despite the constitutional entrenchment of the right of access to legal counsel, reiterated in the Lockup Rules, access by arrested persons to counsel is denied in almost all cases.²² This is further exacerbated by the courts and police denying counsel the right to take instructions prior to legal proceedings (for example, remand hearings).

Remand Procedures

22. All criminal proceedings must be conducted in public:

Courts to be open. The place in which any criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open and public Court to which the public generally may have access.²³

23. However, this is not applied in practice to remand hearings. Remand hearings are carried out in chambers and in special rooms allocated for that purpose, effectively keeping out the public.
24. The remand proceeding is meant to facilitate police investigation. The cardinal prerequisite which the police must establish is that the investigation cannot be carried

²¹ Article 5(3), Federal Constitution.

²² It has even been said that access to client by Counsel prior to remand hearings would interfere with police investigations: see *Press Statement* of the KL Bar Committee dated 1 October 1999.

[205]

²³ Section 7, Criminal Procedure Code.

out **unless** the suspect is in detention.²⁴ This requirement is hardly ever seen to be complied with in practice.

25. The procedures governing remand applications are such that the judiciary has to rely completely on the submission made by the police. Further, the law does not give the defence any right to examine what is put by the police before the magistrate.
26. It is therefore incumbent on the magistrate to protect the liberty of the individual and to demand that the police satisfy the strict requirements of the law.²⁵ The police must be called upon to show in every case why the particular investigation cannot be proceeded with without the suspect being held in custody. The onus is on the police to show that the remand is necessary.²⁶

Right of Information and Access by Family

27. The right of access by family members to persons held in remand is virtually non-existent.
28. It is next to impossible to obtain information on persons detained or arrested, even if it is only to determine that he is in fact in custody. Problems faced by family and friends seeking information on persons detained or under arrest are notorious.

Conditions in Detention

29. Conditions in which arrested persons are held in detention are appalling. Minimum standards for treatment of prisoners²⁷ are not complied with, nor are the Lockup Rules 1953.
30. The current practice of subjecting detainees to providing "intelligence statements" and information unconnected with the offence for which the remand order is made must be stopped.

²⁴ *Re the Detention of Sivarasa* [1997] 1 CLJ 471; *PP v Audrey Keong Mei Cheng* [1997] 3 MLJ 477. See also *Protocol for Magistrates*, a paper prepared by the Kuala Lumpur Legal Aid Centre. [339, 348, 355]

²⁵ *Re the Detention of Sivarasa* [1997] 1 CLJ 471 *PP v Audrey Keong Mei Cheng* [1997] 3 MLJ 477. See also *Protocol for Magistrates*, a paper prepared by the Kuala Lumpur Legal Aid Centre. [339, 348, 355]

²⁶ *Dasthigeer Mohamed Ismail v Kerajaan Malaysia* [1999] 6 CLJ 317. [368]

²⁷ See *United Nations: Standard Minimum Rules for the Treatment of Prisoners*, 30 Aug ust 1955. [383]

31. There is a disturbing number of allegations of custodial violence and abuse in detention, for example:
- a. Mohd Anuar bin Sarip, aged 31, allegedly beaten to death while in detention at the Selayang Police lockup (August 1999)²⁸
 - b. How Soon Hock, aged 24, blinded by a bullet fired during an interrogation session during which, he said, the police were playing "Russian roulette" with him (October 2000)²⁹
 - c. Tian Chua, aged 37, allegedly assaulted while in police custody (August 2000)³⁰
 - d. Norazimah Mohd Nor, aged 25, allegedly asked to strip naked and was humiliated (November 2000)³¹
 - e. Munawar Ahmad Anees, aged 50, alleged to have been systematically humiliated, brainwashed and threatened until he appeared in court shivering and disorientated³²
 - f. Anwar Ibrahim, aged 51, assaulted by the then Inspector-General of Police whilst in custody.
32. Overall, there is little understanding or regard for the liberty and personal dignity of the individual or for the principle that persons are presumed innocent until proven guilty.
33. The culture of intimidation and fear that pervades the entire criminal justice system must be eliminated. Logistics problems and lack of human and financial resources are not acceptable excuses for the present state of affairs.

²⁸ *Beaten to Death*, Malaysiakini 19 May 2000; *Widow files suit over husband's death in police custody*, Malaysiakini 14 December 2000. [208, 210]

²⁹ *Suspect allegedly shot during Russian roulette-style interrogation*, Malay siakini 16 October 2000; *Gunshot victim told to lie to doctor*, Malaysiakini 17 October 2000; *Parliament urged to censure Home Minister and IGP*, Malaysiakini 23 October 2000. [212, 214, 217]

³⁰ *Police to probe alleged assault*, Malaysiakini 18 August 2000. [218]

³¹ *Abused female detainee to sue police*, Malay siakini 15 November 2000. [220]

³² See *Statutory Declaration* dated 7 November 1998 of Dr Munawar Ahmad Anees. [222]

Reckless Shootings

34. There are just too many reported cases³³ of the reckless use of firearms by the police, putting the lives of innocent civilians at risk:

The alarming increase in the number of suspected criminal fatalities bespeaks the possibility of a police force that has forgotten the 2 crucial principles that define all legal and justified use of force—proportionality and discrimination.³⁴

35. Although there are existing procedures³⁵ for investigating all police shootings these do not appear to be strictly enforced.

Selective Prosecutions

36. Just as the law of defamation has been used to muzzle criticism in other areas, certain prosecutions are perceived as having been brought primarily to stifle criticism of the actions of the police and other authorities.³⁶

Arresting the Decline

37. The administration of justice in Malaysia is in its darkest hour since independence. Never before have the generally conservative population been confronted with such harsh examples of abuse, incompetence and corruption.
38. A country which has to contend with inefficient, unjust and corrupt enforcement of law is crippled, incapable of realising its full potential in nation building.
39. Reform of the administration of justice will create the necessary environment for growth and development in business, industry, public administration and improvement in the quality of life.

³³ *Average of 1.3 persons shot dead by police a week, says memo to PM*, Malay siakini 17 October 2000; *Fatal police shootings (1997-2000)*, Malaysiakini 17 October 2000; *Reduce the kill rate by our police force*, Malay siakini 20 October 2000; *Bang! Bang! You're dead!* Malaysiakini 14 November 2000. See also *Memorandum on Cases of Death by Shooting in the Course of Police Operations* by the Bar Council, 10 March 1999. [242, 245, 246, 248, 401]

³⁴ Raja Aziz Addruse, *Shoot to Kill*, edited version published in *The New Straits Times*, 11 April 1998, under the title *Police cannot assume the roles of judge, jury and executioner*. [413]

³⁵ See s.329(1)(b), s.329(5), s.330, s.333(2), s.334 of the Criminal Procedure Code.

³⁶ See for example the prosecution of *Irene Fernandez* (under s.8A(1) of the Printing Presses and Publications Act 1984) and *Lim Guan Eng v PP* [1998] 3 MLJ 14, [2000] 2 MLJ 577. [250, 254]

Back to Basics

40. The basics are already there. A good place to start is the Oath of Office of the judges of the Federation:

I,, having been appointed to the office of do solemnly swear that I will faithfully discharge my judicial duties in that office to the best of my ability, that I will bear true faith and allegiance to Malaysia, and will preserve, protect and defend its Constitution.³⁷

41. The allegiance of Judges is not to the Executive or to the Prime Minister but to the nation and it is the sworn duty of a judge to uphold the Constitution.
42. If the judiciary are true to their oath of office, there is bound to be a certain tension between parliament and the judiciary as to who the lawmakers are. This is the essence of a separation of powers and is accepted in all healthy democracies. In upholding the Prime Minister's right to criticise the judiciary, Salleh Abas LP held:

When we speak of government it must be remembered that this comprises three branches, namely, the legislature, the executive and the judiciary. The courts have a constitutional function to perform and they are the guardian of the Constitution within the terms and structure of the Constitution itself; they not only have the power of construction and interpretation of legislation but also the power of judicial review - a concept that pumps through the arteries of every constitutional adjudication and which does not imply the superiority of judges over legislators but of the Constitution over both...³⁸

43. In a speech on the opening of a Magistrates' Court the former Lord President of the Federal Court, Tun Azmi bin Haji Mohamed, suggested that judicial officers in Malaysia should adopt certain principles of justice which he called the *Rukun Keadilan*, namely:
- a. A Judge must be independent
 - b. A Judge must have no interest in any matter he has to try
 - c. Justice must be seen to be done
 - d. A Judge must act on evidence
 - e. A Judge must give reasons for his decision

³⁷ Federal Constitution, Sixth Schedule.

[257]

³⁸ *Lim Kit Siang v Dato Seri Dr Mahathir Mohamad* [1987] 1 MLJ 383, at 3861.

[258]

f. A Judge must conduct himself well whether in the course of his judicial duties or in his private life.³⁹

44. A strong judiciary is the nation's defence against corruption and abuse of power.

Accountability

45. A judiciary faithful to these ideals will have no fear of criticism. Discouraging criticism and comment with charges of sedition, contempt and libel is a sign of weakness. In the words of a great judge, Lord Denning:

Let me say at once that we will never use this jurisdiction as a means to uphold our own dignity. That must rest on surer foundations. Nor will we use it to suppress those who speak against us. We do not fear criticism, nor do we resent it. For there is something far more important at stake. It is no less than freedom of speech itself.⁴⁰

46. For criticism, within limits, is vital to accountability:

Accountability is also secured through a vibrant media and a critical academia. Law academics and well-informed journalists often provide comments and criticisms on judgments delivered by the Judiciary. They act as watchdogs, anxious to ensure that the judicial process moves in the right direction and serves the needs of the community. Thus, whenever a judgment is delivered which is contrary to constitutional values and adverse to the interests of society, law academics and journalists must criticise it strongly and point out how the Judiciary failed to discharge its accountability to the people. Of course, the criticism should be in temperate language and directed at the judgment and not against the Judge, for the credibility of the Judge must not be affected.⁴¹

Role of the Bar

47. The independence of the Bar is vital to the rule of law. Tun Dr Mohamed Suffian on the occasion of appointment as a High Court judge on 30 October 1961 said:

I yield to no one in recognition of the difficulty and importance of the high office I hold. In evenly balancing the scales of justice, I will help to maintain the rule of law and the two essentials of that rule are the independence of the Bar and the independence of the Judiciary. In our separate tasks we both strive to seek the light of truth. But let us not forget that our tasks will be made much easier if we all try to discharge our duty—you to your client and—I to my conscience—in as dispassionate a manner as possible, each respecting the other's integrity and intelligence, with the

³⁹ Tun Azmi bin Haji Mohamed, Lord President, at the Third Magistrates' Conference, Petaling Jaya, 4 October 1971, [1971] 2 MLJ xliii. [263]

⁴⁰ Lord Denning MR, in *R v Commissioner of Police of the Metropolitan Police, ex parte Blackburn* (No 2) [1968] 2 QB 150, at 154, cited with approval in *Lim Kit Siang v Dato Seri Dr Mahathir Mohamad* [1987] 1 MLJ 383. [258]

⁴¹ Anthony A R Gubbay, Chief Justice of Zimbabwe, in *Independence of the Judiciary and Judicial Accountability: The Latimer House Guidelines*, a paper presented at the 12th Commonwealth Law Conference, Kuala Lumpur 1999. [264]

maximum courtesy, with no bickering, with little or no loss of temper, for much heat seldom produces much light.⁴²

48. The Malaysian Bar is not an NGO. There is a misconception over the role of the Bar and its comments are frequently treated with disdain as that of a pressure group or political lobby.

49. As a matter of fact, the Malaysian Bar is a statutory body established by the Legal Profession Act 1976. The Act expressly provides that:⁴³

The purpose of the Malaysian Bar shall be:

- (a) to uphold the cause of justice without regard to its own interests or that of its members, uninfluenced by fear or favour
- ...
- (g) to protect and assist the public in all matters touching ancillary or incidental to the law

50. The Bar is therefore bound by law to speak out against what they see as transgressions against the cause of justice no matter whose wrath it may incur. Doing any less would be a betrayal of its *raison d'être*.

51. On this the record speaks for itself. The Bar has proven itself true and faithful to these duties and has consistently spoken out at considerable risk to itself and its members, for instance:

- a. the Malaysian Bar has been injuncted on 2 occasions from holding its general meeting
- b. the Malaysian Bar has incurred liability under extraordinary orders for costs
- c. members and office bearers have in the course of their duties exposed themselves to punishment for contempt
- d. many were arrested when protesting encroachments on liberty by the amendments to the Societies Act⁴⁴

52. The muzzling of the Bar by judicial orders gives the impression to the public that there is an inability or unwillingness to be transparent by engaging in fair and open dialogue.

⁴² [1961] MLJ lxxxiii. [273]

⁴³ Section 42(1), Legal Profession Act 1976. [297]

⁴⁴ *Siva Segara v PP* [1984] 2 MLJ 212. [275]

53. It is not possible to have an independent Bench without an independent and competent Bar and all judges should recognise this. In the words of that most eminent Chief Justice, PN Bhagwati:

The essential truth is that the judiciary is an institution. Its business as an institution of governance is larger than the individual profile of a judge. But, it is important to reflect on the constituent elements of this great institution. This institution consists of the *Bar* and the *Judges*. While we maintain our personal integrity, it is the Bar that fiercely supports the independence of the judiciary. While we pronounce judgment, it is the diligence and research of the Bar that unfolds in our work. While we express our commitment to the people, it is the Bar that fiercely [sic] selects the courses of action which we pronounce upon. Those that fight zealously for the independence of the judiciary must surely know that is not enough. We need to be equally over-zealous to fight for the independence of the Bar. To those who said "hands off the judiciary" I add "hands off the Bar".⁴⁵

Role of the Attorney General

54. The Attorney General is entrusted under Article 145 of the Federal Constitution with the duty of:
- a. advising the Yang diPertuan Agong, the Cabinet and any minister on legal matters
 - b. performing legal duties referred or assigned by the Yang diPertuan Agong or the Cabinet
 - c. discharging functions conferred by the Constitution or other written law.
55. The Attorney General also has discretionary power over the conduct of criminal proceedings.
56. In the performance of these duties and the exercise of discretionary powers, the Attorney General is bound by the same oath of office to uphold the Constitution.
57. It behoves the Attorney General, without fear or favour, to advise in accordance with the law even if it means disagreeing with the views of the Executive. Otherwise the Attorney General will be seen to be merely a rubber stamp for the Executive.
58. Similarly in the exercise of the discretion on prosecutions, the Attorney General cannot act arbitrarily. In a judgment relating to the Attorney General's discretion over prosecutions, the Federal Court held that:

The public of whose interest he is the guardian has a right to expect him to act honestly, without fear of powerful national and local figures or of the consequences to him personally or politically, and without favouring his relatives and friends and

⁴⁵ Justice PN Bhagwati, Former Chief Justice of India, in *Role of the Judiciary in Developing Societies: New Challenges*, a keynote address at the *Fourth International Appellate Judges' Conference*, Kuala Lumpur, 1987. [281]

supporters, his principal concern being to maintain the rule of law so that there will be no anarchy and to maintain standards in public life and the private sector⁴⁶

Proposals for Reform

59. The members of the judiciary must re-awaken to the onerous responsibility and far reaching effects of the judicial role:
- a. Of all human beings, only the judge is given the power by law to decide the fate of his fellow man, be it with regard to his property or even his life.
 - b. For that reason, any abuse of such power and any lack of understanding of the judicial role will have serious consequences on society.
 - c. Judicial power is power held in trust for the people to be exercised with utmost care and humility, without fear or favour, to achieve the ends of justice.
 - d. The judiciary is the only check on any abuse of power.
60. There must be a striving for judicial excellence in all areas of the law:
- a. clear and comprehensive reasons must be given for all judgments and decisions
 - b. arguments advanced on behalf of litigants must be honestly and adequately dealt with and counsel given the opportunity to address any new points raised by the judge
 - c. grounds of judgment must reflect scholarship and thinking
 - d. the doctrine of precedent must be followed with respect for the wisdom of the past and any departures should be taken with care but without fear where the law is wrong
 - e. counsel must be allowed to perform his role
 - f. criticism must be appreciated and valued as an aid to the difficult and onerous role of the judge
 - g. the law must keep up with changes and evolution in society and values

⁴⁶ *Johnson Tan Han Seng v Public Prosecutor* [1977] 2 MLJ 66, per Suffian LP at 71.

- h. intemperate language and unnecessary personal remarks with reference to litigants and counsel should be eschewed.
61. The judiciary must be allowed to perform its functions in the correct environment and with adequate support, free from interference by the Executive. In particular, there must be removed encroachments on judicial independence such as:
- a. fear of repercussions (for example, transfers, lack of promotion prospects, unfair removal from office) from decisions not favouring the Executive or others in power
 - b. treating the Judiciary as subservient to the Executive
 - c. treating the Judiciary as a branch of the Executive.
62. The Latimer House Guidelines for the Commonwealth⁴⁷ should be implemented.
63. The Guidelines relate to good practice governing relations between the Executive, Parliament and the Judiciary in the promotion of good governance, the rule of law and human rights to ensure the effective implementation of the Harare Principles⁴⁸.
64. The proposals that follow have their basis in the Latimer House Guidelines.

Judicial Appointments

65. To ensure judicial independence, all judicial appointments should be:
- a. on merit
 - b. by a judicial services commission
 - c. permanent.

⁴⁷ The Latimer House Guidelines was a joint project of the *Commonwealth Lawyers Association*, the *Commonwealth Legal Education Association*, the *Commonwealth Magistrates and Judges Association* and the *Commonwealth Parliamentary Association*. The project was the result of a renewed commitment at the 1997 Commonwealth Heads of Government Meeting (CHOGM) to the Harare Declaration. [311]

⁴⁸ The Harare Principles are: [319]

- democracy
- democratic processes and institutions which reflect national circumstances, the rule of law and the independence of the judiciary
- just and honest government
- fundamental human rights, including equal rights and opportunities for all citizens regardless of race, colour, creed or political belief
- equality for women, so that they may exercise their full and equal rights.

66. Competence and integrity are qualities never to be compromised in the individual appointee:

The societal perception of judges as being detached and impartial referees is the greatest strength of the judiciary and every judge must ensure that this perception does not receive a setback. The courts act for the people who have reposed confidence in them and therefore the greatest threat to the independence of the judiciary is the erosion of its credibility in the public mind, for whatever reasons.⁴⁹

67. The judicial services commission should be established by law, with a majority of its members from the senior judiciary⁵⁰.
68. Representatives appointed by the Bar⁵¹ from amongst its members should sit as members of the judicial services commission.
69. The commission must be clear on the qualities necessary or desirable in a candidate

What is required of a judge is the rendering of an honest unbiased opinion based on the law and the facts. This task is far from simple. It demands wisdom as well as knowledge, conscience as well as insight, a sense of balance and proportion; and if no absolute freedom from bias and prejudice, at least the ability to detect and discount such feelings so that they do not becloud the fairness of the judgment.⁵²

Funding

70. Sufficient funding should be provided to enable the Judge to perform its functions to the highest standards. This would entail providing:
- a. appropriate salaries for judges
 - b. adequate support staff, resources and equipment
71. Judicial salaries and benefits should be set by an independent commission.

⁴⁹ The Honourable Dr Justice A S Anand, Chief Justice of the Supreme Court, India, *The Indian Judiciary in the 21st Century - IV*, Bhavan's Journal, 15 April 2000. [417]

⁵⁰ In Canada, the independent advisory committee on judicial appointments are comprised of members of the Bench, the Bar and the general public: see *Federal Judicial Appointments Process* from the Office of the Commissioner for Federal Judicial Affairs, Canada. [323]

⁵¹ In Zimbabwe, two experienced legal practitioners from the private sector sit on the Judicial Service Commission: see *The Independence of the Judiciary with Special Reference to Parliamentary Control of Tenure, Terms and Conditions of Service and Remuneration of Judges: Judicial Autonomy and Budgetary Control and Administration*, a paper by A R Gubbay, Chief Justice of Zimbabwe, delivered at the Latimer House Conference 1998. [329]

⁵² A R Gubbay, Chief Justice of Zimbabwe, in *The Independence of the Judiciary with Special Reference to Parliamentary Control of Tenure, Terms and Conditions of Service and Remuneration of Judges: Judicial Autonomy and Budgetary Control and Administration*, a paper delivered at the Latimer House Conference 1998. [329]

72. The administration of the funds allocated should be under the direct control of the judiciary.
73. The rationale for these guidelines is obvious. It does not promote independence from the Executive if salaries and benefits of judges are determined and controlled by the Executive. It is also vital to ensure sufficient funding for the judiciary not only because they should have an efficient and modern support system but also to ensure the Judges are receiving their just rewards in carrying out their onerous tasks.
74. These measures will also attract the best and the brightest from the Bar and the Judicial and Legal Services and discourage corruption.

Training

75. A culture of judicial education should be developed.
76. Training should be organised, systematic and ongoing and under the control of an adequately funded judicial body. The training:
 - a. should include the teaching of the law, judicial skills and the social context, including ethnic and gender issues
 - b. should be carried out by an adequately funded judicial body
77. Preparation of judges for their role is one of the most important aspects that should be brought into practice. Training is essential in ensuring that the judiciary is dynamic and able to meet the challenges of the modern world:

Not only do the interests of Justice require competent judges who are fully abreast of the latest developments in law and practice, but mistakes avoided at first instance prevent time wasted on appeal.⁵³
78. Examples of judicial training initiatives worthy of note include:
 - a. The Judicial Studies Board in the United Kingdom (since 1979)
 - b. The Judicial College in Zimbabwe (since 1995).

Healthy Management Practices

79. Management practices in the judicial administration must be in keeping with the dignity and office of the judges.
 - a. the current practice of clocking in should be reviewed.

⁵³ *Report of the Royal Commission on Criminal Justice 1993, United Kingdom.*

- b. the measure of judicial performance by reference to the number of cases disposed of is wrong and may be a cause of an increase in the number of cases disposed of on technicalities rather than merit.
80. There must be some consistency of practice by judges in the management in their own courts. For example, some judges hear chamber matters in open court, some go further and require counsel to be robed in these instances.
81. The use of recording equipment and stenographers should be re-introduced. This will free the judges from having to keep full handwritten notes of proceedings which not only burdens them but slows down proceedings.⁵⁴
82. Attitudes of members of the Bench must rise above considerations of seniority and hierarchy in service, for example, a magistrate should not feel intimidated if his senior in service appears before him.

Specialisation

83. The current infrastructure in the administration of justice must keep up with the changing needs of our modern society.
84. It is timely to consider the setting up of specialist courts, with the necessary ancillary facilities, such as:
- a. family courts
 - b. cyber courts
 - c. employment appeals tribunals
 - d. intellectual property courts.

Support from the Bar

85. The role and contribution of counsel in the administration of justice cannot be understated:

While we pronounce judgment, it is the diligence and research of the Bar that unfolds in our work.⁵⁵

⁵⁴ In *H & R Johnson Tiles Ltd v H & R Johnson (M) Bhd* [1998] 4 MLJ 13, a computerized transcription system already in use in Hong Kong and the United Kingdom was adopted with the consent of the judge and had the effect of expediting the proceedings as noted by the judge. [332]

⁵⁵ Justice PN Bhagwati, Former Chief Justice of India, in *Role of the Judiciary in Developing Societies: New Challenges*, a keynote address at the *Fourth International Appellate Judges' Conference*, Kuala Lumpur, 1987. [281]

86. The Malaysian Bar must also re-awaken to the importance and far reaching effect of their role. There must also be a striving for excellence in the conduct and practice of the Bar.
87. There is obviously a competence problem that must be remedied. This is especially acute with the increase in numbers at the Bar and the expansion of the industry. The current paucity in standards is evident in the types of arguments advanced and which find their way into the law reports.
88. If the research and arguments of lawyers are the raw material of the judgments handed down by the judges, the Bar bears an equal responsibility for criticisms levelled at the quality of judgments in which they have played a part.
89. It is recommended that the Bar Council establish:
 - a. a system of post qualification legal education and training to ensure that certain minimum standards are maintained in the practice and conduct of its members
 - b. informal procedures for receiving comments from the Bench regarding the conduct of counsel appearing in court (not necessarily amounting to misconduct) and for addressing any issues arising with the particular advocate concerned.
90. The Bar Council should also bring to account all those among its members who have contributed to the undermining of the administration of justice.

Relationship between Bench and Bar

91. The relationship of mutual respect between the Bench and the Bar must be restored, with a proper understanding of each other's role:

In my relations with the Bar, I treat them respectfully. They are also independent, but just as they are obliged in their own interest to treat the Bench with respect so I treat them respectfully. The administration of justice depends on cooperation between the Bench and the Bar. The two must exist side by side, and nothing is lost by friendliness and cordiality. It is unfair to treat a lawyer so harshly in public that he avoids appearing in your court or even abandons private practice altogether.

Junior members of the Bar deserve special consideration. They don't have enough experience, they are eager to learn to do the best they can for their client. I treat them tenderly and like senior members of the Bar I help them along.⁵⁶

⁵⁶ Tun Mohamed Suffian, as quoted at page 47 in the book *Lord President Suffian* by J Victor Morais.

92. Mutual respect does not mean that there must be agreement on everything. It is the very essence of the professional relationship that both demand the highest from each other in the performance of their respective duties
- a. the high standards of one will engender improvement in the other
 - b. respect must be earned and not demanded by either.

Contribution from the Academia

93. Scholastic analysis and comment on judicial pronouncements should be encouraged.
94. The academia have a vital role to play and can be a powerful force in shaping the standards of legal scholarship in the country both in and outside the court room.
95. To fulfill their role, the academia must themselves achieve standards of research and thinking exceeding those of the Bench and the Bar.
96. The academia are also the incubator of future generations and have a direct impact on society for good or bad.

Criminal Justice System

97. A separate set of measures is necessary for the reform of the criminal justice system in Malaysia.

Remand

98. On remand procedures:
- a. there should be a mandatory requirement that the police must ensure that the arrested suspect is given access to counsel within 24 hours
 - b. all remand hearings must be held in open court
 - c. every arrested person must be given legal representation at the remand hearing
 - d. remand hearings must also be held on rest days and public holidays consonant with the right of liberty of the individual
 - e. counsel must be given access to the investigation diary for purposes of the remand hearing
 - f. the arrested person must be given an automatic right to have his remand order reviewed by way of rehearing before a superior tribunal to be heard and disposed of within 6 hours of the original order

- g. family members must be allowed right of access to the arrested person as of right within 2 hours of arrest
 - h. the arrested person must be allowed medical treatment as of right, including equal access to private medical attention of his choice.
99. Legal precedent already makes it clear that orders for remand must be applied for only when absolutely necessary. Education and training of police officers is required to enable them to appreciate the seriousness of depriving an individual of his liberty. It must be emphasized as part of their training that the liberty of the citizen must not be tampered with save in exceptional situations.

Conditions in Detention

100. Minimum standards in respect of the following matters must be implemented forthwith:
- a. congestion in the cells far exceed permitted number of occupants per cubic foot
 - b. ventilation and lighting (circulation of air, adequate lighting)
 - c. sewage (functioning and clean toilets, toilet paper and water for washing)
 - d. personal hygiene (toothbrushes, toothpaste, clean blankets, mattresses and pillows, including special provision for the needs of women prisoners)
 - e. bathing facilities (privacy, towels, soap, sufficient water)
 - f. change of clothing (without prohibition on clothes supplied by family)
 - g. food and water (quality, quantity, frequency, without prohibition on food supplied by family)
 - h. access to medical treatment (including access to medical practitioner of choice)
 - i. prayer facilities
 - j. communication with counsel and family (personal visits and by telephone)
 - k. privacy (prohibit close circuit television monitoring of detainees in the cells)
 - l. access to detainees by persons in authority (restrict access to identified and authorised personnel).

101. An independent Board of Visitors must be constituted forthwith to monitor conditions of detention on remand.
102. The arrested person must be given the right to have his counsel present during interrogation.

Death, Injury and Abuse

103. An independent Coroner's Office should be established to investigate all cases of death occurring in connection with law enforcement.
104. A permanent independent commission of inquiry or ombudsman should be appointed to investigate into all allegations of:
 - a. indiscriminate use of firearms by the police and other enforcement agencies
 - b. violence by or injury at the hands of the police and other law enforcement agencies
 - c. abuse and humiliation of persons held in custody.
105. The law must be amended to provide for a presumption against the police or other enforcement agency in the event of any death or injury of a person held in custody.

Commission for Law Reform

106. It is recommended that a Commission for Law Reform (with representation from all relevant quarters) be established to monitor the laws of the country to ensure that they are effective and consonant with the needs and interests of various sectors of society.

Human Rights Agenda

107. A clear human rights agenda is fundamental to a civil society. The setting up of the Human Rights Commission is a step in the right direction.
108. The Human Rights Commission has declared that it will undertake the examination of and make recommendations on certain crucial issues:
 - a. police brutality
 - b. the Internal Security Act and other repressive legislation⁵⁷
 - c. the right of peaceful assembly of citizens.

⁵⁷ There are calls from many quarters for the repeal of such legislation. See, for example, *Memorandum on the Repeal of Laws Relating to Detention without Trial* of the Bar Council.

109. The Human Rights Commission should also examine the following:
- a. orang asli rights
 - b. environmental issues (economic exploitation of natural resources and the environment)
 - c. protection and promotion of women's rights
 - d. children's rights
 - e. rights of challenged communities (visual, mental, physical)
 - f. migrant workers' rights and protection
 - g. marginalised communities (drug users, sex workers, sexual minorities, persons living with AIDS, persons affected by AIDS).

Restoring Confidence

110. The process of restoring confidence in the administration of justice begins with redressing the wrongs of the past.
111. An independent commission should be appointed immediately with the specific task of investigating all allegations of wrongdoing in the administration of justice, including the judiciary. This will have the effect of:
- a. demonstrating that no one is above the law
 - b. convincing the public that wrongdoing will no longer be allowed to go unpunished
 - c. vindicating in the eyes of the public all those persons involved in the administration of justice, including members of the judiciary, who may have been unfairly accused.
112. This may necessitate the re-opening of cases which have been declared or regarded, in one way or another, as closed.

The Kuala Lumpur Bar Committee

8 January 2001

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