



THE CRIMINAL JUSTICE SYSTEM IN BRUNEI DARUSSALAM: AN OVERVIEW

Public Officers' Law Seminar :
Understanding the Law
11th and 13th November 2017

*Dk Hazirah binti Pg Mohd Yusof
Counsel & Deputy Public Prosecutor*

www.agc.gov.bn



Scope of Presentation

- Requesting for Information from AGC concerning a Criminal Case
- Social Media and the Government Officer



Requesting for Information from AGC

Criminal Cases involving Your Employee/Department/Ministry



Death for Filipino man in Kg Rimba murder

Syazwan Sadikin
BANDAR SERI BEGAWAN

THE High Court has sentenced a Filipino man to death by hanging after it found him guilty of murder.

In 2013, Cyrille Navarro Tagapan, 31, was charged with the murder of Abdullah Hj Hamid on August 1, 2012.

"In our judgment, the event bears all the hallmarks of a brutal murder and the defendant is convicted of the charge accordingly," the High Court judges said. "The sentence we are obliged to pass is death and we order that it be in accordance to section 239 of the Criminal Procedure Code." The said section states: "When any person is sentenced to death the sentence shall direct that he be hanged by the neck till he is dead, but shall not state the place where, nor the time when, the sentence is to be carried out."

Tagapan claimed trial to the charge of murder of Abdullah Hj Hamid on grounds that it was self-defence and an accident. He, however, pleaded guilty to the other charges of intention to burn down the deceased's house and two counts of theft.

The prosecution argued that the defendant intended to kill when he used a knife to inflict the injuries on the neck of Abdullah.

In their judgment, panel judges Justice Dato Paduka Steven Chong and Justice Dato Paduka Hairol Arni, said the court was satisfied beyond reasonable doubt that Tagapan, in using a knife with considerable force to inflict three deep cuts on Abdullah's neck, clearly intended to cause death.

The court accepted the pathologist's findings that the pattern of these injuries shown they were caused in a systematic manner and not haphazardly. The court said that the cut to the main blood vessels of Abdullah's



The Law and Court building. Picture: BT file

neck would have bled profusely rendering him unconscious and death would have occurred "within a matter of minutes".

It further accepted that the cause of death was shock and haemorrhage following multiple cut injuries, and that Tagapan did not have, during examination upon arrest, recent scars on his body indicative of any defence injuries.

"Having seen and heard the defendant testify and balancing our observation of his demeanour against the evidence in totality, our conclusion is that the defendant was not a truthful witness," said the judges.

They rejected a narrative given by the defendant of how he "accidentally and unintentionally stabbed" Abdullah's neck in self-defence.

They cited evidence from the pathologist's report that these fatal injuries to the neck

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could not have been inflicted as described by Tagapan as the doctor said that the injuries were parallel to each other and had been in "a systematic manner and not haphazardly".

"We believe that (Tagapan) having overpowered (Abdullah) either by physical force or by threatening him with a knife he armed himself with, first tied up (Abdullah) with shoelaces to render him defenceless before inflicting the fatal injuries on the neck of the deceased," said the judges.

Tagapan's story of self-defence and accident in the face of a knife attack by Abdullah was undermined by the evidence that the latter suffered deep cuts on his left hand, indicating that he was the one who was attempting to defend himself from being knifed by Tagapan, the judges said.

The Brunei Times

03 July 2015

AT THE COURTS WITH FADLEY FAISAL

Surveyor-General, Malaysian jailed four years for graft

THE Surveyor-General of Brunei Darussalam and a Malaysian businessman, who were found guilty of corruption and graft, were each ordered by the Bandar Seri Begawan Magistrate's Court yesterday to serve four years' jail, which came into immediate effect.

The now former public figure was also ordered to pay back \$7,479.31 to the government, being the amount he had received in gratifications, within three weeks or serve an additional two months' jail in default.

Chief Magistrate Haji Abdullah Soefri bin Pehin Dato Haji Abidin passed his sentences yesterday after finding Deputy Public Prosecutor Aldila binti Haji Mohd Salleh proved elements on each of the 40 charges against both defendants to be beyond reasonable doubt.

The court also heard mitigation from defence counsel Ahmad Basuni Abas, who represented Surveyor-General Haji Mohd Jamil bin Haji Mohd Ali and defence counsel Shazale Haji Mohd Salleh, who represented

businessman Puah Heng Yew, last Saturday.

The trial which spanned about three years saw 15 witnesses testifying for the prosecution whilst in their defense, Haji Mohd Jamil and Puah provided four witnesses.

Haji Mohd Jamil had accepted a total of \$7,479.31 in gratifications as inducement or reward from Puah Heng Yew, who ran Selective Powertech Consulting company, for applying to the State Tender Board to vary the specifications in respect of the supply, delivery, installation, development, testing, commissioning and maintenance of the E-Map project and submitting SPC's progress payment claims to the Ministry of Development with regard to the same.

The gratifications, which were accepted by Haji Mohd Jamil from Puah, are payments for registration, installation and monthly service charges of e-Speed at Haji Mohd Jamil's residence; payments for the repairs and servicing of Haji Mohd Jamil's cars; six return airplane tickets to Kuala Lumpur, Malaysia; and payment of Haji Mohd Jamil's mobile

phone bills.

All the offences were committed in 2007 and 2008.

The Anti-Corruption Bureau yesterday issued a statement regarding the case.

The statement said that Selective Powertech Consulting company, with Puah as its Manager, was selected in 2007 as primary contractor for the \$9,526,593.8 E-Map project led by Haji Mohd Jamil, who was then the Surveyor-General, as its Project Director.

The E-Map project is one of the many under the National Development Plan under the Ministry of Development that was being carried out by three government departments, namely the Survey Department, the Land Department and the Department of Town and Country Planning.

The Anti-Corruption Bureau investigations also revealed that the variation on the specifications had contributed to the failure of the E-Map project where Selective Powertech Consulting company had been paid \$4,378,624.48.

Customs officer jailed for 30 months over bribes

A FEMALE customs officer was sentenced to 30 months' imprisonment after she was convicted of accepting bribes by the Magistrate's Court, Bandar Seri Begawan.

The sentence took effect yesterday. The court also ordered the defendant to pay a fine of \$1,800 within a month, failing which she will face an additional two months' imprisonment.

Aieni binti Abdullah, a Customs Officer with the Royal Customs and Excise Department, was convicted of nine offences under Section 6(a) of the Prevention of Corruption Act (Chapter 131) and nine offences under Section 153(1)(b) of the Excise Order 2006.

Investigations conducted by the Anti-Corruption Bureau (ACB) revealed that on February 11 to May 15, 2011, the defendant

did corruptly obtain gratification on 12 occasions from a Bruneian national in the form of loan deduction of \$200 owed by the defendant to the Bruneian national, the ACB said in a statement.

The gratifications were accepted as inducement or reward for forbearing to take action against the Bruneian national for committing an offence under the Excise Order 2006 relating to cigarette smuggling offences, the ACB said.

The ACB said that Aieni pleaded not guilty to a total of 12 charges under Section 6(a) of the Prevention of Corruption Act (Chapter 131) and 12 charges under Section 153(1)(b) of the Excise Order 2006 on March 27, 2014. The prosecution had withdrawn four charges, while the court acquitted the defendant of two charges. 00-12-2-16

12 months for misappropriating zakat

BANDAR SERI BEGAWAN

A RELIGIOUS officer was sentenced to 12 months in prison yesterday for misappropriating over \$11,000 in zakat funds.

Intermediate Court Judge Hj Nabil Daraina PDH Badaruddin further ordered 49-year-old Junaidi Hj Duraman to serve an additional nine months in prison if he fails to pay compensation within a three-month grace period for all the zakat funds he misappropriated.

In meting out the sentence, the court said they can't overlook the defendant's overall criminality as it had deprived the poor of the timely distribution of the Zakat Fitrah.

He said a public servant should have high integrity in carrying out their duty and any deviation must

be regarded as a serious matter, especially where zakat collection is concerned.

"Imposition of a fine isn't a suitable sentence in the public's interest," said the court.

The court further noted that Junaidi, who is still working for the Ministry of Religious Affairs but at a different post, has yet to make any compensation for the zakat funds since his indictment.

The court document filed by Deputy Public Prosecutor Hjh Rozaimah Hj Abd Rahman stated that Junaidi was investigated by the Anti-Corruption Bureau (ACB) after an internal probe at the Department of Islamic Religious Council (MUIB) found that the defendant never deposited the \$11,707.40 in Zakat Fitrah collected in 2010 from Kg Pandan Mosque into MUIB's bank account.

Upon being confronted by his superiors, Junaidi made up a story that the cash was stolen from his car, but he was unable to respond when asked why he did not report the matter to the police.

The matter was brought to the ACB's attention after Junaidi was not able to pay back the missing funds despite being given a grace period. It was during the ACB's investigation that Junaidi admitted to misappropriating the funds for his personal use. He had used the money to pay for car repairs, his daily expenses and paying off a Filipino loan shark.

The issue came to light after the billal of Kg Pandan Mosque lodged a complaint to MUIB in 2011 that he had not receive his fees for his work as an *amil* nearly a year after the funds were collected.

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The Brunei Times



The Media

- The first point of obtaining information about a criminal case
- The media actively reports on criminal cases and possesses up to date information
- Borneo Bulletin and Media Permata have assigned reporters who are dedicated to report on the cases that are prosecuted in court
- Generally, all criminal proceedings in court are public and open to reporting
- However, there are a number of restrictions on what can be reported based on the Laws of Brunei Darussalam



Requesting Information on Criminal Cases from AGC

- Requests have to be written in officially
- Addressed to the Attorney General/Public Prosecutor or to the Head of the Criminal Justice Division
- Provide all of the relevant details whenever possible e.g. name and IC number of persons involved, date of incident, brief facts of the case, case report number



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Jabatan Siasatan Jenayah, Polis Diraja Brunei

List of Investigation Papers

✓ Report No IP No Enforcement Agency No Date Received

▷ **Year Received : 2013** (632)

▷ **Year Received : 2014** (803)

▷ **Year Received : 2015** (1046)

▷ **Year Received : 2016** (909)

▷ **Year Received : 2017** (646)

**Year Received : 2017 (646)**

BKS/CR/1454/2017 TIED WITH LMS/CR/248/2017	NIL	NIL	30-Sep-2017
BKS/CR/1455/2017	NIL	BKS/UPWKK/31/17	30-Sep-2017
BKS/CR/1516/2017	NIL	NIL	30-Sep-2017
BSB/CR/1209/2014	752	NIL	30-Sep-2017
BSB/CR/1482/11	957	NIL	30-Sep-2017
BSB/CR/2530/2017	NIL	NIL	30-Sep-2017
BSB/CR/514/2013	490	NIL	30-Sep-2017
KB/CR/584/2017 KB/CR/228/2014	NIL	NIL	30-Sep-2017
MP/CR/88/2017	NIL	NIL	30-Sep-2017
BKS/CR/1516/2017	NIL	NIL	28-Sep-2017
BKS/CR/1576/2017	NIL	NIL	28-Sep-2017
BSB/CR/1367/2015	NIL	NIL	28-Sep-2017
BSB/CR/2475/2017	NIL	NIL	28-Sep-2017
BSB/CR/2510/2017	NIL	NIL	28-Sep-2017
BSB/CR/591/2017	NIL	NIL	28-Sep-2017
BSB/CR/2493/2017	NIL	NIL	27-Sep-2017
BSB/CR/581/2017 TIED WITH BSB/CR/1026/2017 BSB/CR/2494/2017	NIL	BSB/UPWKK/18/17	27-Sep-2017
SR/CR/209/17	156/2017	NIL	27-Sep-2017
BSB/CR/2191/2017	NIL	NIL	25-Sep-2017
BSB/CR/2457/2017 TIED WITH BSB/TR/627/2017 BSB/TR/628/2017 BSB/CR/2458/2017 TT/CR/396/2017	NIL	NIL	25-Sep-2017
BSB/CR/2473/2017	NIL	NIL	25-Sep-2017
BGR/CR/38/2017	NIL	BGR/UPWKK/07/17	21-Sep-2017
BKS/CR/1281/2016 TIED WITH BKS/CR/673/2017	NIL	BKS/UPWKK/39/16 BKS/UPWKK/14/17	21-Sep-2017
BKS/CR/1383/2017	NIL	BKS/UPWKK/28/17	21-Sep-2017
BKS/CR/1505/2017 RELATED WITH IMMIGRATION IP.	BPGN/K215/2017/A2	NIL	21-Sep-2017
BKS/CR/1562/2017	NIL	NIL	21-Sep-2017
BKS/CR/811/2017	NIL	BKS/UPWKK/15/17	21-Sep-2017
BKS/CR/859/2017	NIL	BKS/UPWKK/16/17	21-Sep-2017



The Information We Can Provide

- Updates on the current case status i.e. Has the file reached our office? What stage of proceedings is it in? Has the accused been sentenced?
- Result of cases – The verdict or the sentence imposed
- Charge Sheet involving the accused person
- Statement of Facts if the accused pleaded guilty
- Judgment of the Court if it is in our possession



The Information We Cannot Provide

- Notes of Proceedings (Court's notes on the case)
- Judgment of the Court if it is not in our possession – Please note that the Magistrates Court does not issue out written judgments for all cases
- Any confidential information about victims
- Any confidential records that may be in the Court's possession
- Any information if the case is still under investigation i.e. if the case is still with the enforcement agency and has not yet been received by AGC



Public Officers' Law Seminar: Understanding the Law

11th and 13th November 2017

Social Media and the Government Officer



Overview

- Based on AITI's Telecom Stats and Indicators for 2017, Brunei Darussalam has over 520,000 prepaid and postpaid mobile subscribers and over 37,000 fixed broadband subscribers
- Digital in 2017 Global Overview – Brunei Darussalam has the third highest social media penetration in the world with 86% of the total population
- Generally social media is used in a positive and beneficial way
- However, there are a few issues that need to be addressed



Keyboard Warriors

- It is generally acceptable to participate in discourse on the Internet via message boards, social media forums, etc.
- However, it is important to bear in mind that the information that you convey or use is:
 - Accurate
 - Not misleading
 - Non defamatory



The Case of Mr S

- Mr S posted on a Facebook Group Forum regarding his dissatisfaction about the outcome of a case that involved a family member
- His post contained threats to cause physical injury to police officers and an attack on the integrity and independence of the Court.
- “As for the CID named Awang X who uses the ugly orange Lancer, it is not just one person who is after you but thousands. See how you die later”
- “For Puan Y, the DPP from CID who abused her power. Just you wait and see what your family life is like after this... Be prepared with what you have started”
- He was prosecuted for committing criminal intimidation.
- He was sentenced to 6 months imprisonment.



Viral WhatsApp Messages

- Nowadays everyone with a mobile phone has WhatsApp and uses it on a day to day basis
- Regularly being used as a platform to share photos, media, messages
 - Weather reports
 - Photographs of accidents and deaths
 - Details of alleged crimes, suspicious vehicles, road blocks
 - Videos of incidents
 - False information



Sempena sambutan 5 Oktober, kami menyediakan perkhidmatan ambil & hantar, Sekepala 50 sen. Sila private jika berminat.



princesspreciousszie,
ehehe
llahiwainailahirajiun..
Jiran ku mendapat bala..
rga indonesia pagi tadi.. di ikat
sedangkan yg dikat ani wanita
ngandung ampir hari.. sungguh ku
kekajutan.. Ya Allah Kau lindungilah kami dri
bahaya.. aamiin..

(Video) Anak kena hukum, bapa berbadan sado datang sekolah pukul c...

Buletin Viral

BANDAR SERI BEG
Monday, March 30, 2015



- There has been reports lodged and police investigations have been carried out
- It is possible to trace the digital footprints i.e. find the users who first send these messages and the subsequent users who forward them
- Law enforcement can even recover messages you deleted, cleared or archived
- These messages can be funny and informative to an extent but always think of the consequences before you forward messages



- If the information you forward is not true and humiliates or imputes the reputation of another person, you can be charged in court for criminal defamation
- Criminal defamation under Section 501 Penal Code carries the maximum penalty of 5 years imprisonment and a fine
- The person who is defamed can also bring a civil suit against you
- If you circulate information which is false and is likely to cause public alarm, you can be charge under Section 34 of the Public Order Act and will be liable to imprisonment for 3 years and a fine of \$3,000



Borneo Bulletin

THE INDEPENDENT NEWSPAPER IN BRUNEI DARUSSALAM, SABAH AND SARAWAK

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National

Two foreign women under probe for causing alarm over 'plastic rice' claim

June 19, 2017

| Azaraimy HH |

TWO women aged 53 and 46 were arrested for making a video falsely claiming that the nation's rice is made out of plastic – a public order offence, the Central Police Station reported early yesterday.

Preliminary investigations revealed the two women are foreigners.

The one-minute-forty-second-video, which has gone viral on social media throughout the country, shows a woman commenting in a foreign language about the nation's rice being made from plastic.

The video was allegedly recorded by the woman's friend and then circulated via WhatsApp.

The video has caused alarm among public in the country.



Official Secrets Act

- Section 5 OSA – Wrongful Communication of Information
- Anyone who has in his possession or control any secret official code word, countersign, password, photograph, plan, document, information which he obtained through his position in the government
- Discloses it directly or indirectly to any person other than whom he is authorized to communicate it to
- Imprisonment for a term not exceeding 2 years and a fine not exceeding \$10,000



“Office under the Government”

- Any office or employment in or under any department of the Government or any specified organization
- Specified organization includes:
 - Authority for Info-communications Technology Industry of Brunei Darussalam
 - Brunei Economic Development Board
 - Brunei Gas Carriers Sdn Bhd
 - BLNG Bhd
 - DataStream Technology Sdn Bhd
 - Information Technology Protective Security Services Sdn Bhd
 - Royal Brunei Airlines Sdn Bhd
 - Royal Brunei Technical Services Sdn Bhd
 - Setia Protective Security Services Sdn Bhd
 - Tabung Amanah Pekerja



Points to Note

- No cases prosecuted under OSA in Brunei Darussalam yet
- However, Malaysia and Singapore have actively prosecuted cases under this law and may provide guidance and reference to Brunei Darussalam
- OSA does not require the information or document to be classified as “secret”, “confidential” or “restricted” (Sulit/Rahsia/Terhad) before it is considered under this Act
- Even if the information contained in the document is out in the public domain
- There is no requirement to sign a statement to the effect that they agree to abide by the restrictions of OSA – individuals are bound by OSA, whether or not they have signed such document



Manu Bhaskaran and 4 Others

- First defendant, Bhaskaran was found to have sighted some government estimate figures produced by the Ministry of Trade and Industry concerning growth of Singapore economy on the “messy” desk of the Director of Economics Department of Monetary Authority of Singapore
- Bhaskaran communicated to his colleague, Raymond Food, who passed it on to Kenneth James, a journalist of the Business Times
- James emailed his editor Patrick Daniel who published these figures prior to its official release
- The Director was charged for endangering the secrecy of classified documents, the other four for communicating information before it was officially released
- All of them received SGD 2,000 max fine



Sedition

- To bring into hatred or contempt or to excite disaffection against His Majesty the Sultan and Yang Di-Pertuan or the Government
- To bring into hatred or contempt or to excite disaffection against the administration of justice in Brunei Darussalam
- To raise discontent or disaffection amongst the inhabitants of Brunei Darussalam
- To promote feelings of ill-will and hostility between different classes of the population of Brunei Darussalam
- To directly or indirectly lower or adversely affect the standing or prominence of the National Philosophy of Melayu Islam Beraja



D THE COURTS

Government employee charged with sedition

A GOVERNMENT employee has been charged in court under Chapter 24 of the Sedition Act for posting inflammatory comments regarding the Ministry of Religious Affairs' Halal Certification policy.

Shahiransheriffuddin bin Shahrani Muhammad was charged with one count under Section 4 (1) (c) of the Sedition Act, which alleges that he had made a seditious post on his personal Facebook page on July 16.

The defendant, who was represented

by defence counsel Pengiran Khairul Nizam bin Pengiran Haji Mohd Yassin, understood the sole charge against him.

However, no plea was recorded against the defendant at this stage, as the defence counsel has asked for time to receive instructions from his client, in addition to obtaining documents from the prosecution.

Having considered the defence's application, Magistrate Hajah Ervy Sufitriana binti Haji Abdul Rahman adjourned the case to August 31.

The court further ordered for the defendant to be released on court bail of \$5,000, or one local surety, with the additional condition that he abstains from posting any adverse comments against the Brunei Government on social media.

If found guilty, the defendant faces a maximum fine of \$5,000 and two years' imprisonment.

Deputy Public Prosecutor Muhammad Qamarul Affyian bin Abdul Rahman appeared on behalf of the Public Prosecutor for the case.



- Under Section 4 (1) (c) of the Seditious Act, it is an offence for any person who prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication by which the penalty for the first offence would be a fine of \$5,000 and imprisonment for 2 years
- Section 32 of the Public Order Act, Chapter 148, makes it an offence for any person who imports, makes, prints, publishes, sells, offers for sale, issues, distributes, circulates or reproduces and subversive article shall be guilty of an offence. The penalty is imprisonment for up to 10 years and a fine of not less than \$10,000



QUESTION AND ANSWER SESSION

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THANK YOU

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