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Contents

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ARTICLES

- Junayed Ahmed Chowdhury Lost In The Jurisdictional Jungle And Interpretational Maze: Powers Of Bangladesh Courts In Relation To Foreign Seated Arbitrations 1

SHORTER ARTICLES AND NOTES

- Ng Seng Yi Legal Effect Of No Oral Modification Clause In Malaysia: A Quest For Freedom Of Contract 25
- Haezreena Begum Binti Abdul Hamid Understanding The Impact Of DNA Evidence In The Criminal Justice System 43
- Damilola Osinuga Determining The Jurisdiction Of Courts In A Multimodal Transport Carriage Under Nigerian Law – Cardinal In An African Continental Free Trade Area 59

Editorial Note

We end the year 2022 with the second issue of Volume 49 of the *Journal of Malaysian and Comparative Law* (JMCL). We are pleased to announce that starting from the first issue of Volume 49 published in June this year, JMCL is now available fully online via subscription. The previous volumes are fully accessible online without any subscriptions. This is to give JMCL more accessibility and visibility. Most importantly, it is to ensure that our articles reach audiences far and wide so as to impart, spread and share the valuable research and knowledge contributed by our authors.

In this issue, we travel to Bangladesh in the first article, where Junayed Chowdhury assesses the jurisdiction of the Bangladesh courts in foreign seated arbitrations in his riveting piece entitled ‘Lost in the Jurisdictional Jungle and Interpretational Maze: Powers of Bangladesh Courts in relation to Foreign Seated Arbitrations’. The author does not mince words when he refers to the Arbitration Act (Act No. 1) 2001 (Bangladesh) as a ‘legislative drafting debacle’, and argues that the Bangladesh courts have further exacerbated the issue of the applicability of the Act to foreign seated arbitrations by erroneously misinterpreting the Act.

From Bangladesh to the shores of Malaysia, Ng Seng Yi critically analyses the effect of a ‘no oral modification’ clause in a contract, in his article entitled ‘Legal Effect of a No Oral Modification Clause in Malaysia: A Quest for Freedom of Contract’. Comparing Malaysian cases with other jurisdictions, namely, the United Kingdom and Singapore, the author seeks to resolve the question of what happens when parties in a contract orally agree to vary their original agreement notwithstanding the existence of a ‘no oral modification’ clause in the contract.

Haezreena Begum Abdul Hamid’s article ‘Understanding the Impact of DNA Evidence in the Criminal Justice System’ explores the pervasive reach of Malaysia’s Deoxyribonucleic Acid (DNA) Identification Act 2009 in terms of the rights of persons accused in criminal prosecutions in Malaysia. The Act establishes a Forensic DNA Databank to legally store DNA profiles to be used for human identification in forensic investigations, and empowers the authorities to forcefully take DNA samples from suspects, detainees and prisoners. The author argues that this infringes a person’s right to privacy and autonomy. More importantly, the author argues that whilst DNA evidence may point to the donor as the source of the sample, it cannot confirm the donor’s participation in a crime, and therefore his guilt beyond reasonable doubt, in a criminal trial.

We end this issue in Nigeria, where Damilola Osinuga in ‘Determining the Jurisdiction of Courts in a Multimodal Transport Carriage Under Nigerian Law – Cardinal in an African Free Trade Area’ considers the jurisdiction of the Nigerian courts in a multimodal transport carriage. The author argues that it is pivotal for Nigeria to determine

the jurisdiction of the court hearing a claim in a multimodal transport carriage, so that consistent judicial interpretation is applied when dealing with such a claim. This is especially important as multimodal transport carriage is becoming increasingly abundant in the African continent in the light of the establishment of the African Continental Free Trade Area to enhance intra-African trade and market integration.

Dr. Sheila Ramalingam
Managing Editor