



Kamarul Hisham Kamaruddin

LL.B (Newcastle), LL.M (King's College, London), Barrister at Law, Gray's Inn Partner

Educated at Newcastle University (LL.B) and King's College, University of London (LL.M), Kamarul also qualified as Barrister at Law of Gray's Inn. He has been practicing as an advocate and solicitor since 1995.

Specializing in criminal defence, civil and public interest litigation, he is a highly-regarded practitioner in top-end criminal defence trials & appeals and is experienced in all types of claims relating to public authorities, including judicial reviews and regulatory works. He is actively engaged as counsel in a wide range of notable cases, both at trial and appeal level.

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In 2000, after a vigorous defence in the highly publicised case of **Al Maunah**, he was offered special tenure as a **Deputy Public Prosecutor (DPP)** and **Senior Federal Counsel (SFC)** by the Government of Malaysia, the first in the history of Attorney General's Chambers.

In his capacity as DPP and SFC, he headed prosecution in several notorious and widely publicised cases, such as the **extradition** prosecution of Ottavio Quattrocchi over the alleged Bofors arms scandal involving the Government of India as requesting state, and the prosecution of the Director of Legal Qualifying Board, Datuk Khalid Yusof. He also led prosecution's successful defence of the deportation of terror suspects to the US.

Before forming this firm, Kamarul was a **Partner** at **Shook Lin & Bok**, one of the largest law firms in Malaysia, charged with **civil and criminal litigation** and **judicial review in employment** cases.

At Shook Lin & Bok, Kamarul handled the appeal of the intestacy dispute in the highly publicised estate case of Raja Nong Chik at the Court of Appeal.

In addition he successfully defended, in both civil and criminal areas, directors and partners of corporations and legal firms on tax offences against the Inland Revenue Department and related civil disputes.

Upon setting up of this firm, Kamarul was called to the defence in **Dato' Sri Koh Kim Teck's** notorious **murder trial** which led to an acquittal in 2005.

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He has led the defence of several **Securities Commission** cases dealing with market manipulation and offences of misstatements in the course of public listing of corporations. He has also taken the sphere of corporate defence into the areas of **corporate injunctions** and **shareholders' disputes**.

His expertise in criminal & corporate litigation places him in the enviable position of vetting and drafting corporate agreements in order to maximise advantage and reduce risks in potential corporate disputes.

He was lead defence counsel for Korporal Sirul Azhar Hj Umar in the 2007 **murder** case of **Mongolian** national **Altantuya Shaariibu**. The case went on to appeal at the Court of Appeal where Korporal Sirul Azhar was acquitted in August 2013. The case is now pending appeal by the Prosecution at the Federal Court.

Law practice aside, Kamarul writes and lectures on various areas of criminal law and extradition to Judicial and Legal service officers, lawyers and law students. He is a frequent speaker at the Bar Council ***Criminal Advocacy and Ethics*** programme. He is a co-author of ***Mallal's Criminal Law Practice*** (published by Malayan Law Journal, 2001). He is also **Adjunct Lecturer of HELP University College**.

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Reported Cases handled by Kamarul

EXTRADITION AND INTERNATIONAL MUTUAL LEGAL ASSISTANCE

- **PP v. Ottavio Quattrocchi**, Criminal Appeal No. 05-19 of 2003 (W), Federal Court (Kuala Lumpur), [2004] 3 MLJ 149
- **PP v. Ottavio Quattrocchi**, Criminal Application No. W-09-37 of 2002, Court of Appeal (Kuala Lumpur), [2003] 3 MLJ 123
- **PP v. Ottavio Quattrocchi**, Criminal Review No. 43-11 of 2002, High Court (Kuala Lumpur), [2003] 1 MLJ 225
- **Ottavio Quattrocchi v. Minister of Home Affairs of Malaysia & Ors**, Application for Judicial Review No R1-25-10 OF 2001, High Court (Kuala Lumpur), [2003] 5 MLJ 20

In all the above cases surrounding the **Bofors scandal** which led to the downfall of the Indian Congress Party in India, Kamarul led the extradition prosecution of the respondent through 7 courts including a victory in judicial review in the High Court and a challenge to the constitutionality of the limitation of the powers of the appellate Courts. With the Government of India as the requesting State led by Dato' Dr Cyrus Das and the respondent by Tan Sri Shafee Abdullah, the case was ranked by the media as the leading notorious case of 2002/2003.

EMPLOYMENT LAW

- **Erect Engineering Press Work Sdn Bhd v. Kesatuan Pekerja-Pekerja Perusahaan Alat-Alat Pengangkutan dan Sekutu & Anor**,
Originating Motion No R1-25-86 of 1999,
High Court (Kuala Lumpur) [2001] 6 MLJ 193
- **Perusahaan Otomobil Kedua Sdn Bhd v. Ketua Pengarah Kesatuan Sekerja & Anor**,
Originating Motion No. R3-25-43-1999
High Court (Kuala Lumpur) [2000] 5 CLJ 351

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DANGEROUS DRUGS ACT 1952

- **Chan Chor Shuh v. PP**, Criminal Appeal No. C-05-45 of 1996, Court of Appeal (Kuala Lumpur), [2003] 2 MLJ 26
- **K Saravanan a/l S Karuppiah v. PP**, Criminal Appeal No A-05-18 OF 2000, Court of Appeal (Kuala Lumpur), [2002] 3 MLJ 465
- **Hasamuddin Bin Talena v. PP**, Criminal Appeal No J-05-28 of 1995, Court of Appeal (Kuala Lumpur), [2002] 2 MLJ 408
- **PP v. V Kanapathy a/l Kupusamy & Anor**, Criminal Trial No 45-5 OF 2000, High Court (Kuala Lumpur), [2001] 5 MLJ 20

Although the above are merely a sampling of the numerous trials resulting in acquittal handled by Kamarul, they are especially important as having marked a change in the substantive law as applied in drug trafficking cases and represent in all, constitutional and philosophical challenges to the status quo of the law as it stood before the challenges. With the exception of the last, all the above cases were won in his tenure as DPP and stood for prosecutorial interests in legal paradigm-shifts.

EMERGENCY (PUBLIC ORDER AND PREVENTION OF CRIME) ORDINANCE 1969

- **Kam Teck Soon v. Deputy Minister of Home Affairs of Malaysia & Ors**, Criminal Appeal No(s) 05-25, 26, 27, 28, 29, 30, 31 and 32 of 2001(A), Federal Court (Kuala Lumpur), [2003] 1 MLJ 321

EMERGENCY (ESSENTIAL POWERS) ACT 1979

ESSENTIAL (SECURITY CASES) (AMENDMENT) REGULATIONS 1975

- **Abdul Ghani Bin Ali & Ors v. PP**, Criminal Appeals No 05-10 of 2000(W) and NO 05-11 of 2000(W), Federal Court (Kuala Lumpur), [2001] 3 MLJ 561

The **Al-Maunah** case was a highly publicised case in 1999 and 2000. Together with Mr. Karpal Singh, Kamarul led the defence of all 29 accused persons and in its wake brought to the Federal Court a challenge against the legality of the trial under the Essential (Security Cases) (Amendment) Regulation 1975 cases (Communist Laws).

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His aggressive defence through 2 appellate courts caught the attention of the Attorney-General and resulted in his offer of employment on the first contractual basis in the history of the **Attorney-General's Chambers**. Whilst at the Attorney-General's Chambers Kamarul ironically was invited by the **Government of the United States Criminal Justice Department** to lead a team of prosecutors from Asia in a co-operative formulation of anti-terrorist laws in the wake of the September 11 tragedy.

EMPLOYEES PROVIDENT FUND ACT 1993

- **Ang Theam Choom v. PP**, Criminal Appeal No. R09-16 of 2001, Court of Appeal (Kuala Lumpur), [2002] 4 MLJ 401

Here, on special assignment Kamarul was specifically sent by the Prosecution division to a successful restoration of the inviolable power of the Attorney-General to institute and discontinue criminal proceedings under article 145(3) of the Federal Constitution in the wake of the **Repro challenge** to the Attorney-General's prosecutorial powers.

TREASON (S.121 PENAL CODE)

- **PP v. Mohd Amin Bin Mohd Razali & Ors**, Criminal Trial No 45-34 OF 2000, High Court (Kuala Lumpur), [2002] 5 MLJ 406

INTERNAL SECURITY ACT 1960

- **Ketua Polis Negara v Abdul Ghani Haroon**, Criminal Applications No 07-1 OF 2001(B) and 07-2 OF 2001(B), Federal Court (Kuala Lumpur), [2001] 4 MLJ 11

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HABEAS CORPUS

- **Abdul Ghani Haroon v. Ketua Polis Negara and Another Application**, Criminal Applications No 44-9 OF 2001 and No 44-10 of 2001, High Court (Shah Alam), [2001] 2 MLJ 689,
- **Mohamad Ezam Mohd Nor & Ors v. Inspector General of Police**, Criminal Application No. 44-15 of 2001, High Court (Kuala Lumpur), [2001] 2 MLJ 481

The above 2 cases represent Malaysia's first successful challenge against wide powers of the Minister of Home Affairs and by extension the Federal Government which resulted in a confirmation of the right to challenge certain aspects of Ministerial discretion in a detention without trial. In both Kamarul successfully argued against irrelevant and malicious questioning of suspects in police interrogations.

- **Ahmad Ibrahim Bilal v. Ketua Polis Negara & Ors**, Criminal Application No. 44-55-2002 High Court (Penang) [2004] 1 LNS 10

LAND LAW/PLANNING LAW/STATE AUTHORITY AND/OR LOCAL AUTHORITY

- **Sentul Murni Sdn Bhd v. Ahmad Amirudin Bin Kamarudin & Ors**, Civil Appeal No. W-02-593 OF 1998, Court of Appeal (Kuala Lumpur), [2000] 4 MLJ 503
- **Shamsudin Bin Che Mat & Ors v. Datuk Bandar Kuala Lumpur**, Originating Motion No R2-25-27 of 2000, High Court (Kuala Lumpur), [2000] 4 MLJ 177

The long standing assumption that the squatters in this country has no legal rights whatsoever over land occupied by them over many years came to halt in the first of the above case which was ultimately won in the Federal Court. These 2 cases represent some of En. Kamarul's long standing efforts in defence of the rights of the oppressed classes in Malaysian legal jurisprudence.

He continues today to seek to argue by extension the rights of citizens to natural resources including coral reefs and marine life in the ongoing case involving the

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destruction of coral reefs by the building of a marina and proposed airport strip over the island of Tioman's coastal waters, and also spearheaded a challenge to the legality and constitutionality of the 9 billion **Kelau Dam** construction in Lakum, Pahang Darul Makmur.

Kamarul also was the lead counsel in the Royal Commission of Inquiry in the Inquiry into the allegations of judicial misconduct with respect to the involvement of VK Lingam, representing the former **Chief Justice, Tun Ahmad Fairuz Sheikh Abdul Halim**.

Altantuya's murder appeal in the Court of Appeal

Kamarul Hisham was the lead counsel, together with Hasnal Rezua Merican in the successful appeal at the Court of Appeal against the conviction of the 2nd accused, Sirul Azhar Umar in the case of the murder against Mongolian national Altantuya Shariibuu. The case is now pending appeal by the Prosecution at the Federal Court. He and Hasnal were also part of the defence team for Sirul Azhar during the trial at the High Court of Shah Alam.