LIAAM - SELANGOR BAR

Lincoln's Inn Alumni Association of Malaysia (LIAAM)
&
Selangor Bar
present

e-MOOT COMPETITION 2021

31st JULY & 1st AUGUST 2021

SHIELD FOR
THE RIGHTEOUS

TUN
AZMI
FOUNDATION

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ABOUT THE COMPETITION

This is the first ever e-Moot Competition co-hosted by the Selangor Bar together with the Honourable Society of Lincoln's Inn Alumni Association of Malaysia (LIAAM). The e-Moot Competition will deal with two Criminal Law scenarios. The first, a Bail application and the second, a Mitigation fact pattern. The issues arising from these legal scenarios include, amongst others, issues such as causation, mens rea, loss of control, gender and diplomatic immunity. Interestingly, the e-Moot will be conducted in Bahasa Malaysia.

The participants of the e-Moot Competition comprise of young practitioners and young Deputy Public prosecutors (DPPs) who would each be mooting twice, once as Prosecution and once as Defence counsel which entails a role-reversal scenario. The e-Moot Competition will see 20 teams going up against each other with a total of over 50 judges presiding over the Preliminary Rounds, Semi-Finals and Finals. The top four teams from the Preliminary Rounds will advance to the Semi-Finals and subsequently, the top two teams from the Semi-Finals will advance to the Finals.

The aim of this e-Moot Competition is to provide a forum for lawyers to familiarize themselves with how remote hearings are conducted, especially since this has become a norm today. It is an ideal platform to provide all participants with valuable training, experience and feedback. It will surely enhance the analytical, preparatory and advocacy skills of the participants in their respective practice.

The structure of the awards and prizes for the winners are as follows:-

Champion	RM2,500.00 + Trophy + Certificate
1st Runner Up	RM1,500.00 + Trophy + Certificate
Best Oralist	RM1,000.00 + Trophy + Certificate
Best Team Written Submissions	RM1,000.00 + Trophy + Certificate

We wish the teams the very best of luck.

ORGANISING COMMITTEE
LIAAM-SELANGOR BAR E-MOOTS COMPETITION 2021

FOREWORD BY THE RIGHT HONOURABLE CHIEF JUSTICE OF MALAYSIA

Mooting, which has its root in the ancient medieval inns of court provides an arena for law students/young lawyers to engage and deliberate on legal issues, improve on their legal research and writing skills, and enhance their advocacy.

While legal practice is one of the more traditional industries where the deployment of technological tools has not always found a comfortable fit, the current pandemic has forced us to step out of our comfort zone and embrace inevitable changes. Court proceedings are now no longer confined to the physical courtroom but are also being conducted virtually online.

This change is embraced to ensure that access to justice is not hindered due to the various restrictions imposed by the Government to curb the Covid-19. The change, I believe is timely and much needed in this age of digitalization.

It is foreseeable that this trend will accelerate further and most likely will lead to lasting changes in the legal industry. This signals a need for continuous upskilling of modern lawyers wishing to remain competitive in a post-coronavirus world. There is certainly a need to adapt and move forward in tandem with changes brought about by the new norm created by the Pandemic.

With this in mind, the Lincoln's Inn Alumni Association of Malaysia (LIAAM)-Selangor Bar e-Moot Court Competition 2021 is a fantastic means to familiarise our lawyers not only with the art of advocacy in the traditional sense, but also within the context of this technologically savvy era.

For that, I congratulate LIAAM and Selangor Bar Committee for recognising the evolution of our system of advocacy and for playing their part in the positive development of the future of our justice system.

I am certain that our young lawyers will benefit from this practical and stimulating exercise with the guidance and support from fellow members of the Bar.

With that, it is with great pleasure that I welcome and wish the best of luck to all participants, coaches, guest-judges, facilitators and everyone else involved in the LIAAM-Selangor Bar e-Moot Court Competition 2021.

YAA TUN TENGKU MAIMUN BINTI TUAN MAT
Chief Justice of Malaysia

FOREWORD BY THE PRESIDENT OF THE HONOURABLE SOCIETY OF LINCOLN'S INN ALUMNI ASSOCIATION, MALAYSIA

One of the many objectives of the Lincoln's Inn Alumni Association of Malaysia (LIAAM) is to support the rule of law and the effectiveness of the Bar through education, scholarships, training programmes and other upskilling activities.

In line with this objective, LIAAM is delighted to be collaborating with the Selangor Bar in organizing the Lincoln's Inn Alumni Association of Malaysia (LIAAM)-Selangor Bar e-Moot Court Competition 2021. I am pleased to know that there are over 20 teams registered this year, made up of not only law students, but also young practitioners and Deputy Public Prosecutors.

I am reliably informed that this moot competition involves the concept of role reversal in criminal proceedings. Each team is allowed to participate twice, first as the Deputy Public Prosecutor and then subsequently representing the Accused. I must say, this is an excellent way for participants to experience and prepare from different perspectives in a case and to think from different or other viewpoints. I have no doubt this will greatly enhance the analytical, preparatory and advocacy skills of these young participants. The virtual platform for this moot competition will no doubt be challenging, but it is timely and necessary and may just be the preferred mode for the years to come. This e-moot will contribute towards better preparation of the participants in their respective practice.

I therefore must commend the organisers for their foresight and willingness to adapt and adopt for the sake of more efficient administration of justice.

LIAAM's Tun Azmi Foundation has contributed a sum of RM6,000.00 in support of this competition. My late father, Tun Azmi, the 3rd Chief Justice of Malaysia (formerly known as Lord President) in whose honour the Tun Azmi Foundation is named would have been most proud of this endeavour. Thank you.

My dear young friends, fluency and clear enunciation are particularly important aspects for a lawyer. Taking part in moots will no doubt help you in these respects, and also give you experience in the art of persuasion and of putting forward a case, succinctly and intelligibly. After all, the mark of a great lawyer is not only the profundity of their knowledge, but also their ability to persuade or convince.

Whilst this is a competition, I invite you to take this opportunity to interact and get to know your opponent. As fellow members of the Bar, it would not be a stretch to say that a sense of fidelity and "brotherhood" in the way members communicate with one another is vital to preserving the good name, uniqueness and strength of the profession as a whole.

With that, I wish all participants good luck in the competition. The world awaits your important contributions and I am confident, you will all leave your marks.

TUN ZAKI BIN TUN AZMI
President of The Honourable Society Of Lincoln's Inn
Alumni Association, Malaysia

MESSAGE FROM THE CHAIRMAN OF THE SELANGOR BAR COMMITTEE

On behalf of the Selangor Bar Committee, I humbly welcome all participants to the inaugural Lincoln's Inn Alumni Association of Malaysia (LIAAM)-Selangor Bar e-Moot Court Competition 2021.

The aim of this e-Moot Court Competition is to provide a forum for young lawyers to familiarize themselves with how remote hearings are conducted, especially since this has become a norm today. It is an ideal platform to provide all participants with valuable training, experience and feedback.

I would like to thank the Chief Justice of Malaysia, YAA Tun Tengku Maimun binti Tuan Mat, for supporting this competition and the Members of the Judiciary who have devoted their time and expertise to this competition amidst their tight schedule. The esteemed guidance given by the Judiciary for this competition is invaluable and irreplaceable.

I also wish to extend my heartfelt gratitude to Lincoln's Inn Alumni Association of Malaysia (LIAAM) for being a vital partner in collaborating for this event. I also thank all sponsors, without which this event would not have been possible.

To the organizing committee, I am so grateful and fortunate to have such a passionate and dedicated team who has helped organise this competition amidst the pandemic. I am confident that the e-Moot Court Competition will be a successful one and will undoubtedly offer all participants a fruitful learning experience.

Finally, I wish all participants the very best in the competition. There may be only one team which may emerge as a winner, but I am confident that for each participant, the exposure gained through this competition would bring in victories in the future. I wish you great success for your bright and glorious career. Moot on Mooters while staying safe.

KOKILA VAANI VADIVELOO
Chairman
Selangor Bar Committee

SCHEDULE

SATURDAY (31ST JULY 2021)

TIME	DESCRIPTION
9.00am – 9.45am	Opening Ceremony & Speeches
10.00am – 12.30pm	Preliminary Rounds 1
1.00pm – 2.15pm	Lunch Break
2.30pm – 5.00pm	Preliminary Rounds 2
5.30pm – 6.00pm	Announcement of Semi-Finalists & Release of Addendum to Moot Problem

SCHEDULE

SUNDAY (1ST AUGUST 2021)

TIME	DESCRIPTION
9.00am – 10.45am	Semi-Finals Round 1
11.00am – 12.45pm	Semi-Finals Round 2
1.00pm – 2.15pm	Lunch Break
2.30pm – 2.45pm	Announcement of Finalists
3.00pm – 5.00pm	Finals
5.30pm – 6.00pm	Closing Ceremony & Prize Giving

Permohonan Ikat Jamin

Lily Lee telah didakwa atas tuduhan membunuh dan tuduhan ini boleh dihukum di bawah seksyen 302 Kanun Keseksaan di Mahkamah Tinggi. Beliau merupakan seorang transgender dan berusia 25 tahun. Beliau dilahirkan sebagai seorang lelaki tetapi telah menjalani pembedahan menukar jantina tiga tahun yang lalu.

Fakta kes pendakwaan adalah bahawa pada 1 Jun 2021, semasa di sebuah pub di Petaling Jaya, Cik Lee telah menghentak gelas pint kaca ke atas kepala Teresa Lim. Ketika Cik Lim jatuh ke tanah, kepalanya telah terhantuk di pinggir bar. Beliau tidak pernah kembali sedar dan telah meninggal dunia di hospital sehari kemudian.

Semasa dalam perjalanan ke hospital, pemandu ambulans telah mengambil jalan yang salah dan berakhir di Seremban. Akibatnya, terdapat kelewatan selama tiga jam untuk Cik Lim menerima rawatan perubatan. Ianya juga selanjutnya diketahui bahawa kepala Cik Lim rentan terhadap kecederaan (*'abnormally susceptible to injury'*), akibat suatu kemalangan kereta yang berlaku 10 tahun yang lalu.

Pada masa kejadian, Cik Lee merupakan seorang diplomat negara Amerika Syarikat. Namun, sejak kejadian itu, beliau telah ditamatkan daripada perkhidmatannya.

Kes pembelaan adalah Cik Lee telah memukul Cik Lim dengan perasaan marah, tanpa niat untuk membunuh. Cik Lim pada ketika itu sedang berpacaran dengan Andrew Tan. Encik Tan adalah bekas teman lelaki Cik Lee. Pertembungan di bar tersebut adalah kebetulan semata-mata. Cik Lim telah mengejek Cik Lee dan memanggilnya "pelacur yang gemuk dan jelek" (ini juga didengar oleh orang lain di bar). Akibatnya, Cik Lee kehilangan kawalan diri, meraih objek terdekat di bar, dan memukul Cik Lim.

Namun wujudnya bukti bahawa Cik Lim merupakan pelangan tetap di pub tersebut, dan Cik Lee menyedari perkara ini. Sebenarnya, di sinilah Cik Lim dan Encik Tan telah bertemu. Cik Lee hanya mengetahui perkara ini semasa dia menelusuri Instagram Encik Tan sehari sebelumnya. Encik Tan telah menyiarkan foto mereka di pub, dengan kapsyen "feeling very blessed to have met you love, right here, one year ago".

Hujahan-hujahan perlu disediakan bagi kedua-dua pihak Pendakwaan dan Pembelaan atas isu adakah tertuduh (Cik Lee) layak diikat jamin?

Isu-isu yang perlu dipertimbangkan:

⇒ Adakah terdapat alasan yang munasabah untuk mempercayai Cik Lee bersalah membunuh?

- Sebab (Causation)
  - Cik Lim terhantuk kepalanya dihujung bar
  - Kelewatan dalam menerima rawatan perubatan
  - Kepala sering terdedah kepada kecederaan (‘*abnormally susceptible to injury*’)
- Mens Rea
  - Keterangan bukti pre-meditasi/balas dendam
- Kerelevanan perihal kehilangan pengecualian kawalan (‘*relevance of loss of control exception*’)

⇒ Adakah Cik Lee seorang wanita?

⇒ Bolehkah Cik Lee bergantung atas kekebalan diplomatic (‘*diplomatic Immunity*’)?

[N.B. Membunuh adalah kesalahan yang tidak boleh dijamin yang boleh dihukum mati]

Mitigasi

Pihak pendakwaan selanjutnya telah mengubah pertuduhan itu menjadi "culpable homicide not amounting to murder" yang boleh dihukum di bawah seksyen 304(a) Kanun Keseksaan. Pada mulanya, Cik Lee mengaku tidak bersalah. Bagaimanapun, pada hari kedua perbicaraan Cik Lee berubah fikiran dan telah mengaku bersalah.

Pengakuan bersalah ini dibuat setelah Mahkamah Tinggi mendengar keterangan saksi pendakwaan pertama iaitu bekas teman lelaki Cik Lee, iaitu Encik Tan. Beliau memberi keterangan bahawa terdapat pemusuhan di antara kedua-dua wanita itu kerana Cik Lee mengetahui bahawa beliau telah berlaku curang dengan Cik Lim sebelum perpisahan mereka. Pada suatu ketika semasa Encik Tan dan Cik Lim sedang makan malam dalam suasana romantis di sebuah restoran mewah, Cik Lee telah muncul entah dari mana, menangis dan menjerit, dan memanggil Cik Lim dengan nama yang kurang sopan.

Pihak Pembelaan telah memperolehi laporan psikiatri, yang menyatakan bahawa Cik Lee menderita daripada gangguan keperibadian serius ('serious personality disorder') yang mempengaruhi kemampuannya mengendalikan emosinya. Gangguan keperibadiannya juga menyebabkan belia dipecat sebagai diplomat negara Amerika Syarikat walaupun pada masa kejadian itu, beliau merupakan seorang diplomat Amerika Syarikat.

Cik Lee juga mempunyai satu sabitan lampau ('*previous conviction*') atas kesalahan assault di Amerika Syarikat di mana beliau telah menampar seorang wanita, dua kali, kerana menggoda teman lelakinya ketika itu. Beliau hanya berusia 20 tahun pada masa itu.

Pada pendengaran hukuman ('*sentencing hearing*'), Cik Lee menundukkan kepalanya, nampak sangat menyesal. Dia mengakui bahawa dia mempunyai masalah kawalan diri, dan bersedia menghadiri terapi untuknya. Dia pernah mencuba terapi sebelum ini tetapi tidak menyelesaikan programnya, tetapi kali ini beliau bertekad untuk melakukannya.

Hujahan-hujahan perlu disediakan bagi kedua-dua pihak Pendakwaan dan Pembelaan atas mitigasi Cik Lee?

⇒ Isu-isu yang perlu dipertimbangkan:

- Kesan pengakuan bersalah lewat ('*late guilty plea*')
- Kesan gangguan keperibadian ('*personality disorder*')
- Kesan sabitan sebelumnya ('*previous conviction*')
- Kesan penyesalan ('*remorse*')
- Kesan pengakuan bersalah oleh seseorang yang menikmati kekebalan diplomatic ('*plea of guilt by a person enjoying diplomatic immunity*')

JUDGES

YA Dato' Mary Lim Thiam Suan

YA Datuk Noorin Binti Badaruddin

YA Tuan Mohamed Zaini Bin Mazlan

YA Datuk Wong Kian Kheong

YA Dato’ Wan Ahmad Farid Bin Wan Salleh

YA Dato' Sri Tun Abd Majid Bin Dato' Haji Tun Hamzah

YA Tuan Anselm Charles Fernandis

YA Tuan Awang Armadajaya Bin Mahmud

YA Puan Evrol Mariette Peters

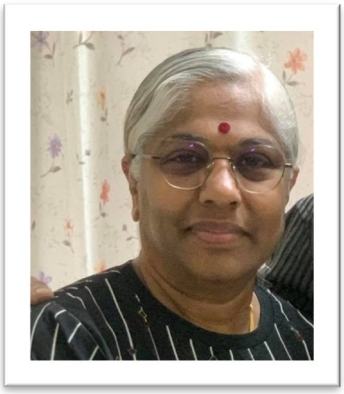
JUDGES

YA Dato' Fredrick Indran X.A. Nicholas

YA Puan Liza Chan Sow Keng

YA Puan Julia Binti Ibrahim

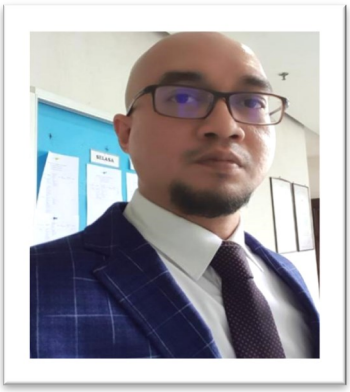
Dato' Mah Weng Kwai



Narkunavathy Sundareson

Puan Hakim Hamidah Binti Mohamed Deril

Puan Hakim Mabel Sheela A/P Victor Muttiah



Tuan Hakim Muhamad Anas Bin Mahadzir

Tuan Arun A/L Noval Dass

JUDGES

Puan Sarulatha A/P Paramavathar

Salim Bin Bashir Bhaskaran

A.G. Kalidas

Datuk N. Sivananthan

Dato' Setia Salehuddin Bin Saidin

Dato' Rajpal Singh

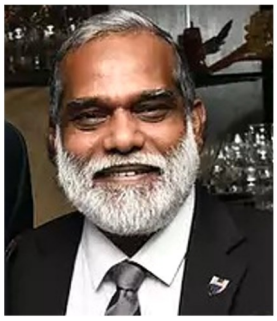
Dato' Haniff Bin Hashim

Dato' Syed Azimal Amir Bin Syed Abu Bakar

Dato' Suraj Singh Singh

JUDGES

Roz Mawar Rozain



Silva Velu

M. Visvanathan

Sreekant Pillai

M K Thas

Ashok Athimulan

Pushpa Ratnam

Tuan Haji Azman Bin Hj Zakaria

Muhammad Rafique Bin Rashid Ali

JUDGES

Ridha Abdah Subri

Hasshahari Bin Johari Mawi

K. Theivaendran

Varghese Onny

Rosly Khady Bin Ayub

Zulfahami Bin Abu Bakar

Yohendra Nadarajan

Halim Ashgar Bin Mohd Hilmi

Nik Mohamed Ikhwan Bin Nik Mahamud

JUDGES

Mohd Hezri Bin Shaharil

Nur Aminahtul Mardiah Md Nor

Chetan Jethwani

Cheow Wee

Esther Tan Siew Choo

Afifudin Ahmad Hafifi

Alex Netto

Komathi A/P Arunasalam

Renuka Devi Krishnasamy

PARTICIPATING TEAMS

L1	L2
Nadia Syaza Rahizam Muhammad Aliff Shafiq Bin Maskor	Kee Hui Yee Adly Zulfadhly Zulkefly
L3	**L4**
Surenthiran Raj Sreetharan Vallithan	Pavithira Rajendran Vitthiyeswary A/P R. Shanmuganathan
L5	**L6**
Thamarah A/P Sudhir Low Carmen	Gurbinder Singh Gill Choo Lee Zing
L7	**L8**
Gajelan a/l Rajakumar Tevaasiny a/p Vijayakumar	Tripatjit Singh Roshvinder Singh
L9	**L10**
Mohd Rusnizam Bin Abdullah Nur Afiqah Binti Mohamad Sakri	Wan Norfarhan Liyana Binti Wan Baharuddin Azimah Binti Abdullah

PARTICIPATING TEAMS

L11	L12
Wardah Yumna binti Yunus Muhammad Husni Mubarrak bin Ghazali	Amellia Ong Siew Ling Teh Yi Mei
P13	**P14**
Manjira a/p Vasudevan Rajdeep Singh a/l Bhupinder Singh	Chow Yin Yen Noor Shakira Aliana Binti Alias
P15	**P16**
Aliff Asraf Binti Anuar Shaharuddin Reetha a/p Parawa Karan	Muhammad Shahrezal Bin Mohd Shukri Kalaivaanan a/l Murty
P17	**P18**
Pavitra a/p Satha Sivam Nurul Natasha Rizal	Anis Najwa Binti Nazari Mohd Nabilalif Bin Mohd Rosli
P19	**P20**
Siti Hajar Binti Mazlan Adibah Binti Saiful Bahri	Rishan Kumar Ragandaran Nurfadzlin Mahmad Zulhasnan

ORGANISING COMMITTEE

ORGANISING CHAIRPERSON

Dinesh Nandrajog

ORGANISING COMMITTEE

- *Kokila Vaani Vadiveloo*
- *M K Thas*
- *Richard Teh*
- *Teeruvarasu*
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- *New Sin Yew*
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- *Henna Nandrajog*
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- *Ambiga*
- *Darshana*
- *Sarinah Begum*
- *Akif Rusli*
- *Alan Lim Wei Lun*
- *Thinnagaran*
- *Priya Dharshini*
- *Vasantha*
- *Rosemary*
- *Shasmeetha Nair*
- *Lydia*

ACKNOWLEDGEMENTS

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ADVOCATES AND SOLICITORS

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ADVOCATES

SPECIAL THANKS

The Organising Committee takes this opportunity to express our heartfelt gratitude and appreciation to the following members for their support and personal assistance who had worked in an enormous way to make this Competition a huge success.

1. **YA Dato' Mary Lim Thiam Suan**
   Judge, Federal Court
   Hon. Secretary of LIAAM

2. **Desmond Ho Chee Cheong**
   Hon. Secretary of Selangor Bar

3. **Tuan Mohamed Ruhizat Bin Abdullah**
   Special Officer II to the Rt. Hon. Chief Justice of Malaysia

4. **Puan Rohaiza Bt Abd Rahman**
   Deputy Public Prosecutor, Attorney General's Chambers

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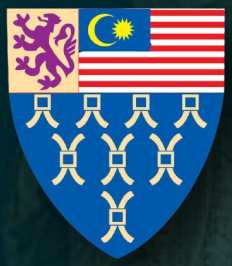
THE RIGHTEOUS



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