



THE MISUSE OF DRUGS IN MALAYSIA: PAST AND PRESENT

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ABSTRACT

This paper gives a historical insight on how drugs first came to be commercially introduced into South East Asia including Malaysia, and the early measures taken to control and regulate their usage. It also explains the origin of their usage in Malaysia up to a stage when it became cancerous to the country, requiring the government to take drastic measures to combat them. Accordingly, this paper primarily discusses the Dangerous Drugs Act 1952 which is the foremost statute on the dangerous drugs laws of Malaysia, and the Malaysian government's stance or policy over the misuse of narcotic drugs.

ABSTRAK

Kertas kerja ini bertujuan menjelaskan dari sudut sejarah bagaimana dadah mula diperdagangkan dan diperkenalkan di negara-negara Asia Tenggara termasuk Malaysia serta langkah-langkah awal bagi mengawal dan menghadkan penggunaannya. Melalui kertas kerja ini, asal usul penggunaan dadah di Malaysia dijelaskan sehinggalah membawa kepada tindakan drastik kerajaan bagi memeranginya. Akta Dadah Berbahaya 1952 sebagai sumber perundangan utama yang berkaitan dengan dadah merbahaya turut dibincangkan selain daripada dasar-dasar dan polisi kerajaan yang berkaitan dengan penyalahgunaan dadah.

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The History of Drugs Commercialization in South East Asia

Drug use in Malaysia (then Malaya) dates back to the early nineteenth century with the British's presence in the Far East including Malaya.² Opium was then an important commodity, which the British Company forcefully used in exchange for goods such as spices and others from the Malay Archipelago to be used for purchasing tea from China. The British in India were becoming masters of an empire and to pay for that empire, there was urgency to the profits of their trade with China, largely a tea trade to London. China's enormous population offers the British, unlimited possibilities for her commercial expansion. Chinese junks had before 1819, collected a variety of products from Siam (Thailand), the Malay Peninsula, and the archipelago: rattan, pepper, mother-of-pearl, tin, birds' nests, and betel nut from Malaya: tin from the Bangka island; occasionally rice from Manilla; coral, amber, and sandalwood from the Moluccas and Micronesia.³ To find goods to sell to the Chinese (China) in exchange - pepper and tin in particular - the British moved into South East Asia.⁴ Singapore⁵ served as a depot for British goods, principally textiles, metals, Indian opium, and piece-goods for distribution in the Malay Peninsula, Borneo and Sulu; pepper, gold, and tin from Pahang and Trengganu; tin from Perak and Selangor; and spices, dragon's blood, sago, betel, coffee, and camphor from Sumatra.⁶ Based on a contemporary account by H.M. Elmore, Professor Parkinson described the patterns of trade prevailing in the early 19th century in South and South-East-Asia:

These *opium ships* (my emphasis)...from Bengal..[touched] Junk Ceylon (Ujung Salang: Phuket), Penang, Selangore, Malacca, Lingin, Palembang, and ... Batavia... At all these ports of call the ships would get rid of her cargo, taking tin, ivory and

² Read the thesis - Kamarudin, A.R (2002) *Legal Aspects of the Control and Prevention of Dangerous Drugs Misuse: Comparative Study of Malaysian and English Laws*, in Chapter 2: *Historical Perspective* & Chapter 3: *Drugs Misuse in Malaysia*, for the details of British involvement in the Far East in the distribution of opium.

³ Desai, D.R. Sar. (1977) *British Trade And Expansion in South East Asia 1830-1914*, at pg. 26-27 & 30, Allied Publishers Private Limited, India; Tarling, N. (1962) *Anglo-Dutch Rivalry in the Malay World 1780 - 1824*, at pg. 3, Cambridge University Press / University of Queensland Press.

⁴ Tregonning K.G. (1965) *Malaysia*, at pg. 15, Angus & Robertson - for Australian International Affairs, London.

⁵ Sir Thomas Stamford Raffles claimed he founded Singapore on the 6th of February 1819. In June 1823, he left Singapore for good and arrived in England in 1824. He died at his house at High Wood, near Hendon on Wednesday, 5th July 1826 - see John Bastin, *Sir Thomas Stamford Raffles*, at pg.14, published by The Ocean Steam Ship Company Ltd, Liverpool, 1969.

⁶ Desai (1977) *British Trade And Expansion in South East Asia 1830-1914*, at pg. 43.



[Mexican] dollars in exchange. Any cargo left over was then disposed of on the West Coast of Borneo, for gold, and the ship would then collect more tin, and pepper, and proceed to the Straits of Banca to meet the Company's ships, due there about August. These would take on board much of the tin and pepper, on payment of freight, giving a loan of dollars in exchange. The ship was then to buy more tin, pepper, rattan, wax and betel nuts, and then follow the China ships towards the end of September. It was necessary to discharge and load the return cargo with extraordinary speed in order to sail again in November and reach Calcutta in the following month, ready to begin the voyage again.⁷

The crucial role of opium in the British imperial edifice was underlined as follows:

From the *opium trade* (my emphasis) the Honourable Company has derived for years immense revenue and through them the British Government and nation have also reaped an incalculable amount of political and financial advantage. The turn of the balance of trade between Great Britain and China in favour of the former, has enabled India to increase tenfold her consumption of British manufactures, contributed directly to support the vast fabric of British dominion in the East, to defray the expenses of His Majesty's establishment in India, and by the operation of exchanges and remittances in teas, to pour in abundant revenue into the British Exchequer and benefit the nation to an extent of £6 million yearly without impoverishing India.⁸

⁷ C. Northcote Parkinson (1937) *Trade in the Eastern Seas, 1793-1813*, at pg. 350-351, quoted by Desai (1977) *British Trade And Expansion in South East Asia 1830-1914*, at pg. 30; Holden Furber (1948) *John Company at Work*, in Chap. 5: The Country's Trade of India, quoted by D.G.E.Hall (1955) *A History of South-East Asia*, at pg. 424, London, Macmillan & Co. Ltd

⁸ Great Britain, House of Commons, *The Means of Improving and Maintaining the Foreign Trade*, Parliamentary Papers, C.746, VI, (1821), pg. 280 - quoted in Desai (1977) *British Trade And Expansion in South East Asia 1830-1914*, at pg. 29; This revenue rose from £39 837 in 1773-4 to £78 300 in 1783-4, and in 1793 reached a quarter of a million sterling which went some way to balance the silver sent to China to pay for silk and tea; See Beeching, J. (1975) *The Chinese Opium Wars*, at pg. 26, Hutchinson & Co. (Publishers) Ltd, London; Brian Harrison (1995) *South-East Asia - A Short History*, at pg. 151, Macmillan & Co., Ltd, London.



How Drugs Began To Be Misused In Malaysia

Malaya, as it was then known, was being carved-out of the rugged terrain and jungles in the early 19th century. In opening up the country and developing its tin mines, rubber and pepper estates, the British brought in huge numbers of Chinese and Indian workers into Malaya to work in the tin mines, rubber plantations and pepper estates respectively.⁹ The Chinese were the first people who introduced into the country the habit of opium smoking. Employment in the new country brought them enough money to spare. There was some period of leisure after a gruelling day's work, but there were no amenities with which they could occupy themselves. Most of them had left their families behind in their homeland. Opium smoking thus became one of the outlets. Some smoked it as a medicine, to cure aches and pains and ward off diseases (opium was believed to have a beneficial effect on tuberculosis of the lungs, diarrhoea, and malaria). At that time, it was not considered harmful and there was no restriction or taboos as to its usage. It has been recorded that opium consumption among some of the Chinese in Singapore and the Straits Settlements was evident since 1867.¹⁰ The use of morphine was also prevalent during that period of time. Supply involved illegalities because the importation and exportation of deleterious drugs like morphine and cocaine for example, would require the written permission of the State Surgeon or in his absence the Government Medical Officer.¹¹ There was no way of ascertaining how widespread the misuse of morphine was then; since the government did not control it in the way it controlled opium. In addition to this problem, there were also indications that Indian immigrants particularly the dockworkers, used cannabis.¹² The use of drugs among the natives, however, was initially rare.¹³

⁹ Malaysia attained independence on the 31st day of August 1957 from the British.

¹⁰ Tong, Teck Ing (1975) "Opium in the Straits Settlements -1867-1909," quoted by Syed M.Haq (1990) *Three Decades of Drugs Abuse on The Malaysian Scene*, at pg. 10, Universiti Kebangsaan Malaysia, Bangi.

¹¹ See (i) Section 4 of Deleterious Drugs Enactment, 1907 (Enactment No.22 of 1907), Federated Malay States - State of Selangor. Published in the Selangor Government Gazette of 20th December, 1907, No. 31, Vol. XVIII, Notification No. 908; (ii) Section 5 and 6 of Deleterious Drugs Enactment No.15 of 1938 (Government of Kelantan); (iii) Section 5 and 13 of Deleterious Drugs Enactment No.16 of 1928 (Chapter 183) - Federated Malay States as amended by the Deleterious Drugs (Amendment) Enactment No.36 of 1936 (Federated Malay States).

¹² Central Narcotics Bureau, Malaysia (1977), *The Drug Abuse Problem in Malaysia*, pg. 2 and 3.

¹³ Rule 7 to the Chandu Shops Enactment, 1906 - 26th February, 1906 (Selangor Govt. Gazette of 2nd March, 1906, No.5, Vol. XVII, Notification No.119); Rule 7 of the Chandu Shops Enactment, 1906 - 24th April 1906 (Perak); Rule 7 of the Chandu Shops Enactment, 1906 - 13th May, 1906 (Pahang): - The preceding Enactments for example permitted only an adult male Chinese into the chandu smoking shop. Section 11(i)(e)(1) & 14 of The Opium and Chandu Enactment



Early Legislations In Regulating Drugs Use

In 1910, the British Government took over the importation, sale and distribution of opium. The Government licensed all retail shops, while mine owners and other large employers of Chinese labour imported their own opium, converted it into *chandu*, and dispensed it to their own employees. After a good many years the Government, in some states, collected their own taxes on opium, and while that policy did not make the slightest difference to the consumers, it enabled the Government to calculate this source of revenue for each successive period of three years.¹⁴ The Geneva Convention on Drugs held on the 19th day of February 1925, prompted the British to impose restrictions on the sale and consumption of opium. Registered opium smokers or authorised consumers however continued to 'enjoy' this privilege. By 1929, the Federated Malay States had 52,313 registered opium users. A further restriction was imposed in 1934, as a result of a treaty signed in Bangkok on the use of opium. Only those who had a doctor's recommendation were allowed to use it.¹⁵

1919 (Enactment No.19 of 1919 - as amended by Enactment No.4 of 1920) states that a licence holder of a chandu smoking shop was not allowed to sell or offer for sale or delivers any chandu except to male Chinese of not less than 21 years of age - Johore Govt. Gazette, 15th December, 1919. Rule 12 of The Opium and Chandu Enactment 1919 as amended by Enactment 1 of 1929 (Johore Govt. Gazette, 29th May, 1929, Notification No.308) states that no person other than an adult Chinese shall be registered as a registered smoker. Section 15(h) & 18 of The Opium And Chandu Enactment, 1931 (Enactment No. 10 of 1931) - Johore Government Gazette of 16th September, 1931 as Notification 578 - prohibited the employee in a Government chandu shop from permitting or allowing any person other than an adult male Chinese to enter any Government chandu smoking shop, and unless so authorised, any person other than an adult male Chinese who entered the Government chandu smoking shop shall be guilty of an offence. Rules No.7 of the Chandu Shops Enactment, 1906 (Enactment No.4 of 1906) - 23rd February 1906 (Negeri Sembilan Govt. Gazette of 23rd February, 1906, No.5, Vol.XI, Notifications No.59) prohibited the licensee of licensed premises from permitting any person into the smoking shop other than adult male Chinese. The Opium and Chandu Enactment, 1931 (Cap 134) as amended by Enactment No.5 of 1931 & Enactment No.36 of 1934 defined registered smoker as any adult Chinese registered under this Enactment or Rules made thereunder as a consumer of chandu.

¹⁴ Sir Frank Swettenham (1948) *British Malaya: An Account of The Origin and Progress of British Influence in Malaya*, at pg. 255, George Allen & Unwin Ltd., London

¹⁵ See for example, (a) Rule 2 & 3 of the Opium and Chandu Enactment (Cap 134 of the Revised Edition) - Federated Malay States Government Gazette of 21st August, 1936, No.19, Vol.XXVIII, Notification No.3603, (b) The Chandu Enactment, 1347 of Kedah - Notification 2048 in Gazette 24th March, 1934, No.36, Vol.10, whereby the Registers of Chandu smokers, introduced under the Rules for the Registration of Chandu Consumers published as Gazette Notification 398, 23rd November, 1929 and subsequently amended from time to time was finally closed on 31st December, 1934, except for persons who were certified by a medical practitioner duly registered in accordance with the provisions of the Medical Practitioners Enactment, 1336, to require chandu for reasons of health, (c) The Opium And Chandu Enactment, 1931 (Johore Govt. Gazette, 28th February, 1934, as Notification No.176), whereby the Registers for Chandu Smokers kept under the Rules in Gazette Notification No.792 of 25th November, 1931 was closed finally on the 31st December, 1934, except for a persons who were certified by a



By 1941, there were 75,000 opium users and it was estimated that the number of those who were not registered might well be double. After World War Two, the British prohibited the unauthorised use of opium. On the 1st day of November 1943, Tan Cheng Lock wrote:

Throughout the history of Malaya during perhaps the last one hundred years or more, a very substantial portion of its revenue was derived from the opium consumed by the Chinese population of the country. The pernicious habit of opium smoking should be completely done away with, and more drastic step should be taken to eradicate the evil, which has caused a marked deterioration in the character and physique of the Chinese who indulge in it...¹⁶

In order to prohibit the possession, use, manufacture, sale, and importation of dangerous drugs, the Dangerous Drugs Ordinance of 1952 was promulgated by the High Commissioner with the consent of the Rulers in Council of the Federation of Malaya.¹⁷

The Early Causes of the Outbreak in Drug Misuse

Opium abuse continued, but mainly amongst men in their late fifties, particularly old Chinese males. The attitude at the time seemed to have been that the death of these older generations would end the drug addiction problem. The combination of the "hippy culture" and the consequences of the Vietnam War in the late 1960s and early 1970 saw a change in the pattern of drug usage in Malaysia. The drug taking habits

registered medical practitioner to require chandu for reasons of health, (d) The Registers of Chandu smokers introduced under the authority of the rules for the registration of chandu smokers, published as Notification No.525 in the Gazette of 28th January, 1929 and amended from time to time, was finally closed on the 31st December, 1934, except for persons who were certified by a registered medical practitioner to require chandu for reasons of health - The Opium And Chandu Enactment, 1931 (Federated Malay States Government Gazette of 29th December, 1933, No.27, Vol.XXV, Notification No.9315, (e) The Opium And Chandu Enactment (Cap 134) - rule 4 (g) Chandu Rules, 1939 (Supplement to the Government Gazettes of the Federated Malay States and each of the States of Perak, Selangor, Negeri Sembilan and Pahang of 30th June, 1939, No.14, Vol.LXXXI, Notification No. 3073) where a certificate from a Government Medical officer that he requires chandu for reasons of health was required to enable him to be registered as a chandu smoker.

¹⁶ Tan Cheng Lock (1947) *Malayan Problems, from a Chinese Point of View*, pg. 36 - quoted by Mimi Kamariah Majid (1995) *Dangerous Drugs Laws*, at pg. 1; Trocki (1990) *Opium and Empire: Chinese Society in Colonial Singapore, 1800-1910*, at pg. 183.

¹⁷ F.M. Ordinance No. 30/1952 w.e.f. 1.11.1952 (L.N. 544/52). It repealed previous ordinances and enactments on drug control laws. See also Malaysia's Sale of Food and Drugs Act 1952, and the Poison Act, 1952.



of the American soldiers who were in Malaysia for 'rest and recreation' influenced Malaysian youths. Youths of all races began abusing a wider range of drugs. Cannabis was an all-time favourite with this group, which moved on to the abuse of heroin, *morphine* and other dangerous drugs. Psychotropic substances like *methaqualone*, *amphetamine*, *barbiturate* and others were also abused. The American withdrawal from Vietnam made the drug syndicates realise that there would be a reduction in the demand for drugs. The syndicates, therefore, began to expand their network of drug trafficking activities to the South East Asian countries. Malaysia unwittingly was used as a transit for the 'exportation' of drugs for new markets in Asian and Western countries. Even though, Malaysia is not a drug 'producing country', it is nevertheless beset by the drug menace. The notorious 'Golden Triangle' area that comprised the common borders of Burma, Thailand and Laos is a drug-cultivation region. The drug abuse scenario in South East Asia changed, and the rate of drug addiction increased dramatically in the late 1960s. There was an explosion of what had been originally a contained habit of opium smoking by the Chinese immigrants, and later cannabis smoking by the Indian immigrants for 'therapeutic purposes'. Addicts were no longer confined to the traditional group (elderly Chinese opium addicts), and drug abuse among all racial and age groups was on the increase. Youths, in particular, were the most at risk and more and more types of drugs were available illicitly.¹⁸

When Malaysia attained its independence in 1957 from the British, it thus inherited the burden of checking the scourge caused by the abuse and misuse of drugs. Given that the nation was still young, no serious efforts were actually made to address these problems. The immediate threat from communists ended on 30th July 1960 when the state of emergency was ended, but the security of the Federation was still very much an issue.¹⁹ In fact, it was only on 24th December 1989, that terrorism from the Malayan Communist Party ceased altogether.²⁰ Communal tension that resulted in racial riots on 13th May 1969 led to another state

¹⁸ Central Narcotics Bureau, Malaysia (1977), pg. 2 - 4; Syed M.Haq (1990), pg. 10 - 12; National Narcotics Agency (1998), *Laporan Dadah* 1997, pg. 4 - 5, & (1996), *Narcotics Report* 1996, pg. 1 - 2; Anti Narcotics Task Force (1995) *Narcotics Report* 1995, pg. 1 - 2, & (1994), *Narcotics Report* 1994, pg. 1.

¹⁹ House of Representatives, Parliamentary Debate, 21st June 1960; A state of emergency was declared on 12th January 1949 under the Emergency Regulations Ordinance 1948 [7th July 1948-Federation of Malaya Government Gazette, No.12 of 1948]. It was repealed (Act A25/1963) when the emergency ended [Legal Notification 185/1960].

²⁰ The Bangkok Accord between Malaysia, the CPM and Thailand on 24th December 1989; Berita Harian Online (1999), 8th August 1999, *Rahim Noor Letak Jawatan*.



of emergency. The Parliament that was dissolved on 20th March 1969 did not reconvene until 1972. Hence, the prevailing drug problems unsurprisingly continued quite unabated until the early to mid seventies. The notion that the drug problems, typically associated with the older generation who were mostly Chinese, would gradually dissipate with the passage of time did not become a reality. On the other hand, youths of all ages had already started to take drugs in 1960. It was in 1973 that tough steps were taken by increasing the penalties for various offences under the Act. The efforts continued to gain momentum in 1975 with the introduction of treatment and rehabilitation facilities and the inclusion of trafficking as an offence. Nevertheless, for whatever reasons, the response of the Malaysian Government in curbing the drug menace can be said to be pathetic or 'too little too late'.

The Gravity of Drugs Misuse

On 19th February 1983, the drug menace was declared to be the main threat to national security. The declaration was made because drug addiction could reach epidemic proportions if a tough stand was not taken to address the menace. 65% of the addicts were young men between the ages of 20 to 29. They represented the backbone and the hope of the nation's future. The adverse effect on the uncontrolled drug addiction and trafficking could threaten the socio-economic wellbeing, spiritual and natural culture of the nation's population, hence undermining national resilience and national security.²¹ The then Home Affairs Minister, Dato Musa Hitam when tabling the Dangerous Drugs (Amendment) Act A553/83 before the House of Representatives on 24th March 1983, spoke of the growing seriousness of the drug problem that threatened national security and integrity - it was not merely a social problem. The Prime Minister, Dato Seri Dr Mahathir Mohammed (as he then was), on the 10th of September 1983, following a Cabinet decision signed the National Security Council Directive number 13.²²

²¹ National Narcotics Agency, *Laporan Dadah*, 1997, at pg. 12, Ministry of Home Affairs, Malaysia; National Narcotics Agency (1997) *Kenali Dan Perangi Dadah*, at pg. 48, Ministry of Home Affairs, Malaysia; National Narcotics Agency, *Narcotics Report* 1996, at pg. 7, Ministry of Home Affairs, Malaysia; Anti Narcotics Task Force, *Narcotics Report* 1995, at pg. 9, Ministry of Home Affairs, Malaysia; Anti Narcotics Task Force, *Narcotics Report* 1994, at pg. 5, Ministry of Home Affairs, Malaysia.

²² Anti Narcotics Task Force, *Narcotics Report* 1995, at pg. 4 - 5, Ministry of Home Affairs, Malaysia; Anti Narcotics Task Force, *Narcotics Report* 1994, at pg. 2 - 4, National Security Council, Prime Minister's Department, Malaysia.



The Current Dangerous Drugs Law

The Dangerous Drugs Act 1952 (previously known as the Dangerous Drugs Ordinance 1952)²³ is the foremost statute in Malaysia on drugs control, covering penal, procedural and evidential matters, as well as regulating the importation, exportation, manufacture, sale and use, possession, cultivation, the use of premises of certain dangerous drugs and substances mentioned in the schedule to the Act. Malaysia's other major statutes on drugs are; Poisons Act 1952, Drug Dependents (Treatment and Rehabilitation) Act 1983; Dangerous Drugs (Special Preventive Measures) Act 1985; and Dangerous Drugs (Forfeiture of Property) Act 1988.

The Dangerous Drugs (Special Preventive Measures) Act 1985, the Dangerous Drugs (Forfeiture of Property) Act 1988, and the Poisons Act 1952 would not be discussed due to the extreme length of time required if they are to be duly discussed. Suffice to say that the Dangerous Drugs (Special Preventive Measures) Act 1985 is an Act designed primarily for detaining or restricting preventively any person (drug traffickers) where there are grounds to believe that they are involved in drug trafficking activities: It is akin to the Internal Security Act 1960. The Dangerous Drugs (Forfeiture of Property) Act 1988 deals with the procedure of forfeiting the illegal proceeds of drug trafficking, prohibiting the use of property for drug trafficking activities and money laundering of the illegal proceeds of drug trafficking. The Poison Act 1952, on the other hand, regulates the importation, possession, manufacture, compounding, storage, transport, sale and use of poisons. It regulates the use of drugs that are not covered under the First Schedule of the Dangerous Drugs Act 1952. The types of poisons that fall under the control of the Poison Act include substances used for industrial, medical and agricultural purposes. Certain poisons are categorised as psychotropic substances and its supply, possession or administration, as the case may be, are done through medical practitioners, veterinarians, and dentists. Members of a local authority or public authority, members of the governing body of a public hospital, registered medical practitioners, registered dentists, registered nurses, midwives, registered pharmacists, chemists and wholesalers and retailers of poisons licensed under the Poisons Act 1952 are also exempted to a similar extent.²⁴

²³ F.M. Ordinance 30/1952. w.e.f. 1.11.1952 [L.N.544/52]. The Ordinance was revised in 1980 (Act A491/80) and henceforth assumed the name Dangerous Drugs Act 1952 (Act 234). The Act was extended to Sabah and Sarawak vide P.U. (A) 157/1978.

²⁴ Section 7, 8, 12, 15, 18, 19, 20, 21, 22 & 23 of the Poison Act 1952 - Malaysia.



Similar category of persons or bodies are also authorised or licensed under the Dangerous Drugs Act 1952, to deal, administer, possess or supply controlled drugs.²⁵ The Minister of Health is empowered to withdraw the authorisation given to a person in the medical profession whereby a license or authorisation was acted upon irresponsibly.²⁶ The Dangerous Drugs (Hospital, etc.) (General Exemption) Order, 1952, exempts public hospitals, public infirmaries, public clinics, public mental hospitals or public sanatoriums supported by any public authority, public funds, charity or voluntary subscription where dangerous drugs are dispensed by a registered pharmacist, or in his absence, by a registered medical practitioner. That Order also provides provisions for the safe custody, handling and records of the dangerous drugs in question.²⁷ With respect to the Drug Dependents (Treatment and Rehabilitation) Act 1983, the treatment and rehabilitation policy is discussed here rather than the legal aspect of the Act.

Dangerous Drugs Act 1952

The Dangerous Drugs Act 1952 is the foremost statute in Malaysia on drugs control which covers penal, procedural and evidential matters, as well as regulates the importation, exportation, manufacture, sale and use of opium and of certain other dangerous drugs and substances. The Act even provides for the mandatory death penalty to convicted drug traffickers, while the offence of cultivation and production is punishable with life imprisonment.²⁸ An offence under the Act is generally not bailable and seizable (arrestable) in that the police may arrest without a warrant any person, if they have reasonable suspicion that he or she is concerned in the commission of any offence under the Act. The punishment under the Act is undeniably deterrent in nature in the sense that the punishment is more punitive in relation to the offence (please see Table 1).

²⁵ Section 6B(2), 7(1), 9(1)(b), 12(2), 14, 15(a), 16 and 47 Dangerous Drugs Act 1952; See also Regulation 5, 6, 7 and 8, Dangerous Drugs Regulations, 1952.

²⁶ Regulation 10 of the Dangerous Drugs Regulations, 1952.

²⁷ L.N. 556 of 1952.

²⁸ See Section 39B and 6B of the Dangerous Drugs Act 1952.

**Table 1: Types of Offences under the Dangerous Drugs Act, 1952**

Note: not less than (>), not exceeding (<); Amd= Amendment;
Add= Addition

Type of Offence	Section	Type of Drugs/ Matters	Punishments
Importation	4(1)	Raw opium, coca leaves, poppy straw and cannabis	3-5 years imprisonment
	9(1)(a)	Prepared opium	<5 years imprisonment or <RM 20,000 fine or both.
	12(1)(a)	Other dangerous drugs (Part iii, iv and v of First Schedule)	<5 years imprisonment or <RM 20,000 fine or both.
	20	Dangerous drugs - breach of the terms and conditions of authorisation	3-5 years imprisonment
	38(1)	Dangerous drugs through ship or aircraft	<RM10,000 fine (Detention of ship and aircraft or <RM 10,000 is furnished as security).
Exportation	5(1)	Raw opium, coca leaves, poppy straw and cannabis	3-5 years imprisonment
	9(1)(a)	Prepared opium	<5 years imprisonment or <RM 20,000 fine or both.
	12(1)(b)	Other dangerous drugs (Part iii, and iv of First Schedule)	<5 years imprisonment or <RM 20,000 fine or both.
	19	Dangerous drugs - breach of the terms and conditions of authorisation	3-5 years imprisonment
	38(1)	Dangerous drugs through ship or aircraft	<RM10,000 fine (Detention of ship and aircraft or <RM10,000 is furnished as security).



Type of Offence	Section	Type of Drugs/ Matters	Punishments
Possession	6	Raw opium, coca leaves, poppy straw and cannabis or the respective seeds of the plants	<5 years imprisonment or <RM 20,000 fine or both.
	9(1)(b)	Prepared opium	<5 years imprisonment or <RM 20,000 fine or both.
	10(2)(a)	Pipe or other utensils for smoking prepared opium, or for the preparation of opium for smoking, consumption or otherwise	<\$2,000 fine or <1 year imprisonment (FM 30/52); <RM 5,000 fine or <2 years imprisonment or both. (Amd: A112/72)
	12(2)	Other Dangerous Drugs (Part iii, iv & v of First schedule)	<RM 20,000 fine or <5 years imprisonment or both.
	39(A)(1)	Prescribed amount of certain dangerous drugs (2 <5g heroin or morphine or monoacetylmorphine [or mixture of any of them]; 5 <15g cocaine; 20 <50g cannabis or cannabis resin [or mixed]; 100 <250g raw & prepared opium [or mixture of any of them]; 250 <750g coca leaves	2-5 years imprisonment and 3-9 strokes of whipping
	39A(2)	Prescribed amount of certain dangerous drugs (5g> heroin or morphine or monoacetylmorphine [or mixture of any of them]; 15g> cocaine; 50g> cannabis or cannabis resin [or mixed]; 250g> raw opium or prepared opium [or mixed]; 750 > coca leaves	>5 years imprisonment to imprisonment for life, and >10 strokes of whipping
Trafficking	39B(1)	Traffic or offer to traffic or any act preparatory thereto	Death penalty - 39B(2)
Planting or Cultivating	6B(1)	Any plant where raw opium, coca leaves poppy-straw or cannabis may be obtained directly or indirectly	Imprisonment for life and >6 strokes of whipping.



Type of Offence	Section	Type of Drugs/ Matters	Punishments
Manufacture/ sale/ distribution	16(1)	Dangerous drugs (Part iii, iv & v of First Schedule)	General penalty: Section 39 (<RM5,000 or <2 years imprisonment or both)
	9(c)	Prepared opium	<RM20, 000 or <5 years imprisonment or both
Consume	10(2)(b)	Prepared opium	<RM 5,000 fine or <2 years imprisonment or both
Administration on others	14(1)	Dangerous drugs (Part iii & iv of the First Schedule)	<RM 10,000 fine or <3 years imprisonment or both
Self-administration	15(a)	Dangerous Drugs (Part iii & iv of the First Schedule)	<RM 5,000 fine or <2 years imprisonment or both
Premises	10(a)	Owner/occupier permits its use; or is concerned in its management, for making or sale or smoking or consumption or otherwise of prepared opium	<\$5,000 fine or <2 years imprisonment or both (FM30/52); <RM 10,000 fine or <3 years imprisonment or both (Amd: A112/ 72)
	13	Occupier keeping or using it for unlawful administration of dangerous drugs (Part iii & iv of First Schedule); owner or occupier permits its use to other person for purposes of administration on a human being or for smoking, consuming or otherwise of the same	<RM 10,000 fine or <5 years imprisonment or both
	15	Being in any premises kept or used for any purposes specified in section 13	<RM 5,000 fine or <2 years imprisonment or both
Trading	17	Products with phenanthrene alkaloids of opium or ecgonine alkaloids of coca leaf	<RM 10,000 fine or <5 years imprisonment or both
Transit	21	Dangerous drugs without first having authorisation from the respective export and import authority	<RM 20,000 fine or <5 years imprisonment or both



Type of Offence	Section	Type of Drugs/ Matters	Punishments
	22(1)	Moving of dangerous drugs from the conveyance or moving of the same after removal from the conveyance without a removal licence	<RM20, 000 fine or <5 years imprisonment or both
	23(1)	Tampering of dangerous drugs and undermining the packaging	<RM20, 000 fine or <5 years imprisonment or both
	24(1)	Causing or procuring the diversion of dangerous drugs to any destination other than its original consigned destination	<RM20, 000 fine or <5 years imprisonment or both
General	28	Obstructing an inspection, entry and or search of premises or conveyance, or seizure of anything for which there is reasonable ground for suspecting that an offence under the Act has been or is being committed	<RM 2,000 fine or <1 year imprisonment or both
	32	Making false declaration for purposes of obtaining a licence/ permit under the Act	<RM 2,000 fine or <1 year imprisonment or both
	33	Abetting and attempting the commission of an offence under the Act or act preparatory thereto	As provided for such offence
	34	Abetting in Malaysia the commission of an offence abroad or act preparatory thereto of a corresponding law that would be constituted an offence if committed in Malaysia	As provided for such offence
	35	Liability of every officers/person concerned in the management of the company; liability of principal for acts committed by his agents or servants in the course of his employment, and the liability of the servant and agent themselves	As provided for such offence



Procedures and Evidence

In 1983, drug enforcement officers were given added power under the Dangerous Drugs Act 1952, by the introduction of Section 27A to intercept (with the consent of the Public Prosecutor) communications; the evidence so obtained shall be admissible at a criminal trial.²⁹ The Dangerous Drugs Act 1952 is in reality designed to facilitate investigation and conviction. The admissibility of the evidence obtained by interception of communication, the credibility of the evidence of an agent provocateur, the protection that is accorded to an informer, the use of presumptions, and the fact that most offences under the Act are not bailable (unbailable), were all aimed towards combating the drug menace. (See Table 2)

Table 2: Amendments to Procedures and Evidence

SECTION	PROCEDURE
30 (2)	- Seizure and forfeiture of dangerous drugs and goods used in the offence (Add: Act 64/ 1966);- Seizure and forfeiture of all conveyances used in the commission of drug offences irrespective of knowledge, consent or connivance (Amd: A194/1973)
37A	- Procedural admissibility of statements made under the Act at trial (Add:293/75);- Procedural admissibility of statements made under the Criminal Procedure Code to be admissible under the Dangerous Drugs Act 1952 (Amd: 553/83)
41A	- Abolish jury trial and preliminary inquiry in the High Court. Trial is by a judge sitting alone. (Add: 426/78)
41	- Amendments giving Sessions Court jurisdiction to try all drug offences except for trafficking cases that carry the death penalty (Amd. Act 426/78) - Amendment to give Magistrate like jurisdiction with custodial sentence limited to 5 years (Amd: Act 553/83)
41B	- Certain drug offences were made unbailable (Add: 426/78)
31A	- Medical examination of arrested person (Add: 553/83)
31B	- Further detention (up to 15 days) of suspected offender where investigation could not be completed within 24 hours. (Add: 553/83)

²⁹ Dangerous Drugs (Amendment) Act A553/83.



SECTION	PROCEDURE
27A	- Intercept any postal article or telegraphic message or telephonic conversations (Add: 553/83)
31	- Offences under the Act are deemed seizable and arrest could be effected without a warrant (Amd: Act 553/83)
40A (1)	- Agent provocateur shall not be presumed unworthy of credit (Add: 390/77) and (Amd: 596/84)
40A(2)	- Statements made to agent provocateur who is a police officer by person subsequently charged to be admissible (Add: Act 596/84)
27A Add:553/8 3	- Power to intercept communication and the admissibility of such evidence at trial (Add: 553/83)

Trafficking

Trafficking was introduced in 1975 as an offence under Section 39B of the Dangerous Drugs Act 1952, but then the punishment was life imprisonment and (or) whipping or death.³⁰ It is an offence to traffic or offer to traffic in dangerous drugs, including any act preparatory thereto. Due to the gravity of the charge, prosecution under the section requires the consent of the Public Prosecutor.³¹ In 1983, the Malaysian government, contemporaneously with its declaration that drug misuse is a threat to its national security, amended Section 39B of the Dangerous Drugs Act 1952, making the death penalty the only punishment for trafficking. The government when moving the Bill noted that life imprisonment and whipping were not an effective deterrent against drug trafficking activities, which were increasing between 1980 and 1983. The government took note that the drug menace had spread wide and affected people of all races and ages. It leads to moral decadence, loss of self-respect and drug-related crimes. To the government, drug traffickers were nothing more than heinous human beings who commit murder and long-term torture. The drug traffickers were considered as traders of death, destruction and misery. Their acts were regarded as acts of treason, and hence could not be pardoned or sympathised.³²

³⁰ Section 39B(3), Dangerous Drugs Act 1952: Dangerous Drugs (Amendment) Act A293/75 (no.1).

³¹ Section 39B(3), Dangerous Drugs Act 1952: Dangerous Drugs (Amendment) Act A293/75 (no.1).

³² Read the House of Representatives (Parliamentary Debate), 2nd and 3rd Reading of the Dangerous Drugs (Amendment) Act, 24th March 1983, pg. 7404-7460.



Possession

In 1973, a new Section 39A was added in the Dangerous Drugs Act 1952, prescribing a minimum of three years to a maximum of fourteen years imprisonment for unauthorised import or export of dangerous drugs, namely morphine or heroin of 5 grammes or more in weight.³³ Additional punishment of whipping of not less than six strokes was added to Section 39A in 1975. Section 39A was substituted in 1983 for offences under the Act where the subject matter is heroin or morphine of 5 grammes or more in weight, or prepared opium or raw opium weighing 250 grammes or more in weight. Imprisonment is between 5 years to life with whipping of not less than six strokes.³⁴

In 1986, Section 39A was refined and restated as Section 39A(2) for offences under the Act where the amount of prohibited drugs in possession is material. Complementarily, Section 39A(1) was introduced, and is meant for offences where the quantities of prohibited dangerous drugs in possession are less or nominal, and which do not warrant the same kind of treatment or punishment provided by Section 39A(2). For Section 39A(1), the punishment is less severe with imprisonment of two to five years and mandatory whipping of three to nine strokes.³⁵ Whether the offender will be sentenced under 39A(1) or 39A(2) will depend on the amount of dangerous drugs that was involved.

Presumptions of Trafficking

Sections 36 to 37A of the Dangerous Drugs Act 1952 relate to evidence. The burden of proof that one has a licence, authorisation, exception or defence lies on him.³⁶ The use of presumption to aid proof is basically in Section 37. Section 37(d) presumes (until proven otherwise) that a person, who has dangerous drugs in his custody or control, has possession and knows the nature of such drugs. If the prosecution proves that the defendant has custody or control of the dangerous drugs, the onus is then on the accused to rebut the presumption on the balance of probabilities that he was not in possession of the dangerous drugs or that he did not know the nature of such drugs.³⁷

³³ Dangerous Drugs (Amendment) Act A194/73.

³⁴ Dangerous Drugs (Amendment) Act A553/83.

³⁵ Dangerous Drugs (Amendment) Act A659/86.

³⁶ Section 36, Dangerous Drugs Act 1952; See also Section 105 and 106, Malaysian Evidence Act.

³⁷ *PP v. Yuvaraj* [1970] AC 913.



The presumption that a person with unlawful possession of certain quantities of controlled drug is trafficking in it was introduced in 1977 as Section 37(da). If the accused succeeded in rebutting Section 37(d), it follows that the presumption of trafficking (where the possession is of certain quantities) under Section 37(da) does not apply. It also follows that if he failed in rebutting Section 37(d) but succeeded on Section 37(da), the proper sentence for him, if he is convicted for possession will be under Section 39A, unless the prosecution proves (persuasive burden) the contrary. Even when the defendant failed to rebut both presumptions under Section 37(d) and (da), the presumption of trafficking does not become irrefutable, as the court is obliged (albeit awkwardly) as a separate exercise to consider whether the evidence of the defence as a whole has rebutted the presumption of trafficking under Section 37(da).³⁸

The quantities of controlled drugs required to attract the presumption of trafficking were reduced a number of times to ensure that a drug addict who possessed more controlled drugs than he needs for his own personal consumption, must necessarily be presumed to be trafficking in it. Other types of drugs were added to the lists in the schedule from time to time. The Malaysian government, from her experience found the amount required to trigger the presumption of trafficking was too high in light of the prevailing circumstances. The Dangerous Drugs (Amendment) Act 553/83 assumed that a gram of heroin could make 100 to 200 hundred injections whilst an addict normally required about 4 to 5 injections a day. It was further emphasised that a straw or tube of heroin weighs between 0.05 to 0.06 grammes and an addict usually didn't possess more than 10 tubes or straws for his personal consumption unless for the purposes of illicit trafficking. Thus, a heroin addict would at the most only need between 5 to 10 grammes for personal use. Likewise, a similar calculation was possible in the case of others. Therefore, reducing the weight from 100 grammes to 15 grammes, for example, to attract the presumption of trafficking was justified to redress the known defects in the law towards combating the drug menace.³⁹ (See Table 3 in bold).

³⁸ Mohamad Radhi bin Yaacob v. Public Prosecutor [1991] 3 MLJ 169, at pg. 172 - Supreme Court.

³⁹ House of Representatives, Parliamentary Debate, 2nd & 3rd reading of the Drugs Dependents (Treatment & Rehabilitation) Act 1983 Bill, 25th March 1983, at pg. 7552-7588.



Table 3: Presumption of Trafficking

Section	Matters: Presumption of trafficking
37(da) Add: 390/77	<p>100g or more in weight of heroin or morphine; 1,000g or more in weight of prepared opium; 5kg or more in weight of raw opium; 200g or more in weight of cannabis or cannabis resin (Add: 390/77);</p> <p>15g or more in weight of heroin (Amd: 553/83); 15g or more in weight of morphine (Amd: 553/83); 15g or more in weight of heroin and morphine (Amd: 553/83); 1,000g or more in weight of prepared opium (Amd: 390/77); 1,000g or more in weight of raw opium (Amd: 553/83); 200g or more in weight of cannabis or cannabis resin (Amd: 390/77)</p> <p>15g or more in weight of heroin (Amd: 553/83); 15g or more in weight of morphine (Amd: 553/83);</p> <p>15g or more in weight of monoacetylmorphines (Amd: 596/84); 15g or more in weight of heroin, morphine and monoacetyl-morphines or from any of those two (Amd: 596/84); 1,000g or more in weight of prepared opium (Amd: 390/77); 1,000g or more in weight of raw opium (Amd: 553/83); 1,000g or more in weight of prepared opium and raw opium (Amd: 596/84); 200g or more in weight of cannabis; 200g or more in weight of cannabis resin; or 200g or more in weight of cannabis and cannabis resin (Amd: 596/84); 40g or more in weight of cocaine (Amd: 659/86); or 2,000g or more in weight of coca leaves (Am 659/86)</p>

Treatment and Rehabilitation of Drug Dependants

Since 1977, the treatment and rehabilitation concept practised in Malaysia has been the 'cold-turkey' approach i.e. without the use of substitute drugs. Its strategy is to rehabilitate drug dependants to be effective members of society, by severing their dependency on illicit drugs and preventing recidivism. Hence, it works towards sustaining the attitudinal and behavioural changes of the recovering addicts to remain free of illicit drugs. Treatment and rehabilitation in Malaysia through opiate maintenance was stopped in 1977, because it did not eradicate the dependence but instead could be abused. A drug dependant may have



built up remarkable tolerance, hence may need a higher dosage which can then lead to increased health risks from overdose and respiratory problems. Furthermore, it could also cause the patient to look for other drugs, the moment the substitute drugs lose their effect (it may well be due to a smaller dosage of the *methadone* itself). There is also no guarantee especially for drug addicts who were undergoing outpatient maintenance treatment that they would abstain from taking drugs illicitly. Similarly, providing needles and syringes to addicts is not a guarantee that they will not be shared or used more than once. Such a policy could even convey wrong signals as far as drug taking was concerned. Moreover, such a move is incompatible with Malaysia's policy of promoting a lifestyle free of drugs.⁴⁰ Moreover, maintenance on *methadone* would also not work with non-opiate misusers (e.g. *cocaine*) or multi-drug misusers thus making the in-patient detoxification the only solution.

The move to reconsider the "cold turkey" method to maintenance on drug prescription (such as *methadone*, *subutex*) was because the current treatment and rehabilitation of drug dependants was considered a failure, and the Prime Minister Datuk Abdullah Ahmad Badawi was unhappy that the relapse rate was almost as high as 90%.⁴¹ Treatment and rehabilitation centres have been in Malaysia for quite a long period of time, but yet the relapse rate at times were 75%⁴² and at times even higher i.e. 85%.⁴³ It is now conceded that 75% to 80% of drug dependants relapse after their discharge from rehabilitation centres. There are now an estimated of 293,000 identified drug addicts between the ages of 21 and 29 years old despite a stupendous budget of RM200 million spent in 2005 on treatment and rehabilitation, and a whopping RM 92 million within the first 4 months of 2006.⁴⁴ Datuk Wira Abu Seman, the Deputy

⁴⁰ National Narcotics Agency (1997) *Kenali Dan Perangi Dadah*, at pg. 27, 63 – 67; See also Hough, M. (1996) *Drugs Misuse and the Criminal Justice System: A Review of the Literature*, Home Office Drugs Prevention Initiative, Paper 15 at pg. 2 of 3 of Executive Summary, and pg. 3 of 11 of Chapter 4: Communities Penalties.

⁴¹ Berita Harian, *Malaysia Timbang Kaedah Baru Pulih Penagih*, at pg. 1, 21st January 2004

⁴² Berita Harian Online, *Mahkamah Berhak Tentukan Hukuman*, Wednesday, 6th January 1998; Singapore Straits Times, *Spruce up offices to curb drug abuse*, August 29, 1999: http://straitstimes.asia1.com.sg/reg/mal4_0829.html; Singapore Strait Times, *400,000 workers lost to drug abuse: KL*, August 30, 1999: http://straitstimes.asia1.com.sg/reg/mal9_0830.html

⁴³ Parliamentary Debate, House of Representatives, *Melanjutkan Tempoh Kuat Kuasa Akta Dadah Berbahaya (Langkah-Langkah Pencegahan Khas) 1985*, 25th April 2000, pg. 39 - 89; at pg. 78-82 – the Deputy Home Affairs Minister disputed the survey by PEMADAM on 24,000 residents that the relapse rate is 85%.

⁴⁴ Berita Harian (Rohana Mohd Nawawi reporting) Tuesday, 27th June 2006, at pg. 17, *Hanya 25 Peratus Pelatih Pusat Serenti Dipulihkan*, in interview with Deputy Minister of Internal Security, Datuk Mohd Johari Baharun, after the launching of the International Anti Narcotics and State Anti Narcotics Carnival in Kota Baru, Kelantan.



Minister of Federal Territories said the campaign against the misuse of drugs for the past 20 years which amounted to RM 1.3 billion, failed to achieve its goal primarily due to the society's attitude of 'dumping' the problem solely on the government.⁴⁵

The government has turned around its policy almost 360 degrees so as not to only treat addicts on maintenance of drug therapy prescriptions but also to supply needles and condoms to drug dependants in its efforts to control the spread of HIV. The Deputy Prime Minister, Datuk Najib Tun Razak, when opening the 30th National PEMADAM (non-governmental organization on anti drugs misuse) annual general assembly in Perak Darul Redzuan on 25th June 2005 said that harm reduction is a drastic step, which is necessary under dire conditions and is allowed under the Islamic Law. He said that there were 64,000 people infected with HIV and if drastic actions were not taken, an estimated 200,000 to 300,000 people would be infected within the next two or three years.⁴⁶ The Health Minister, Datuk Dr Chua Soi Lek on 4th September 2005 said that treatment and rehabilitation based on harm reduction *vis a vis* the distribution of free needles and condoms which was supposed to commence in October 2005 was rescheduled for January 2006 in order to lay down more systematic rules, training of staffs and the implementation of the programme itself. However, prescribing problematic drug dependants with drug prescriptions on *methadone* took off as planned in October 2005. This method of treatment and rehabilitation was done in a few major cities and was to be monitored after six months, and if proven successful, it would be implemented nationwide.⁴⁷ The Deputy Health Minister, Datuk Dr Abdul Latiff Ahmad also said that drug addicts who had voluntarily undergone replacement therapy treatment with *methadone* could continue doing so for the rest of their lives. The therapy treatment on *methadone* was to help addicts re-enter society. There were 1,200 drug addicts who had undergone the treatment nationwide since October 2005 with 18 centres in government hospitals, health clinics and selected private clinics. This maintenance on *methadone* drug prescription scheme is expected to cater for 15,000 drug addicts by 2010. The Deputy Health

⁴⁵ Utusan Malaysia (Norizan Abdul Muhid reporting), *Kempen Anti Dadah Gagal, Kerajaan Rugi RM 1.3 Billion*, at pg. 30, Tuesday 27th June 2006.

⁴⁶ The Star Newspaper, *Islamic Way for Needle, Condom Programme*, at pg. 2, Monday 27th June 2005.

⁴⁷ Utusan Malaysia (by Sadatul Mahiran Rosli), *Jarum, Kondom Percuma Mulai Januari*, at pg. 1 & 4, Monday, 5th September 2005.



Minister also said that based on the National Anti- Narcotics Agency, there were some 130,000 registered drug addicts in the country.⁴⁸ However the doctors who were given permission by the Ministry of Health to lawfully prescribe drug dependants on drug maintenance such as *subutex* and *methadone* should not act irresponsibly by selling them to non-drug dependants.⁴⁹

It is a fact now conceded by the Malaysian government that many and probably most drug dependent individuals take a long time to learn to live without drugs. In other words, subtle physiological and psychological changes may last long after drug withdrawal, thus predisposing the individual to relapse.⁵⁰ Detoxifying is the first part of the treatment and is not substantially difficult to accomplish. However, the real problem lies in the prevention of a relapse or recidivism. This relapsing condition is even acknowledged by a local drug expert, Dr Mahmud Mazlan, that the craving for drugs seems to be permanent, and a former drug addict may easily be tempted into taking drugs again even though he may have been free of drugs for 100 years: Drug taking, he warned, even on a few occasions, is a sure ticket to hell. He claimed that drug dependants, who were undergoing the maintenance treatment on the drug *Buprenorphine* prescription, achieved 65 % success within 6 to 12 months as compared to the "cold turkey" method's success rate of 20%. More importantly, the drug dependants are able to work and be with their family members.⁵¹ Dr Rusli Ismail of the Molecule Medication Research Institute, Universiti Sains Malaysia, Kelantan also shares the view that the maintenance on drug prescription is a pragmatic and effective mode of treatment and rehabilitation for drug dependence cum harm reduction.⁵² Prof Dr James Scorzelli of the Department of counselling and Applied Educational Research, Northeastern University, Boston said;

⁴⁸ The Star Newspaper, *Lifelong Meth Treatment for Addicts*, Friday, 10th February 2006, at pg. 21.

⁴⁹ New Straits Times, *New Programme to Help Addicts Kick the Habit*, at pg. 13, Tuesday, 25th May 2004; Berita Harian, *Perangi Gejala Dadah Usaha Berterusan*, at pg. 17, Tuesday 27th June 2006

⁵⁰ See Bucknell and Ghodse (1991) *Misuse of Drugs*, at pg. 71, Waterlow Publishers. London

⁵¹ Laporan Shafinaz Sheik Maznan, *Ketagihan Dadah Ubah Fungsi Otak dengan pakar penagihan dan psikiatri*, Dr Mahmud Mazlan, *Mingguan Malaysia*, at pg. 27, Sunday, 1st February 2004.

⁵² Rusli Ismail, *Tukar Paradigma Tangani Dadah*, *Utusan Malaysia*, at pg. 6, Thursday, 9th December 2004.



...Relapse is a normal part of the disease process and can be expected since it may take many relapses before a person is able to maintain sobriety. ...high relapse rate should be expected because addiction is a disease. Another view, which I adhere to, is that addiction is a learning process.⁵³

Conclusion

Malaysia's zero-tolerance policy on drugs is justified legally and morally, and is inevitable if the society is to prosper. The social, economic and health costs of allowing the drug-related problems to grow unabated is too formidable for any developing country like Malaysia to bear. The law reflects the sentiment of the people that drugs are evil and calls for tough measures; drug taking as a sub-culture cannot be allowed to take root in Malaysia's society, which is understandable given the long history of drug usage in Malaysia (Malaya). The Dangerous Drugs Act 1952 provides part of the tools needed to crack down on the availability of illicit drugs. Enforcement should also suppress and disrupt demand for drugs, by making street markets more hazardous and less predictable for both users and dealers. In that way 'heavy' users, user-dealers and novice users will be deterred, thus producing a preventive effect. Enforcement could make an impact by making it difficult for anyone to get illicit drugs. Communities need to be protected as well from drug-related anti-social and criminal behaviour by reducing the damage that drug addicts cause to communities, and the enormous pressure it places upon local policing and criminal justice services, social care and health budgets.

It can be seen particularly for Malaysia that legalising and decriminalizing the misuse of drugs is not viewed upon as an answer to the drug problem. The risk is thought to be too great, as the use of soft drugs could be the first step towards dependency or chronic dependency on hard drugs. The Malaysian government's approach that the drug problem has to be treated as a threat to its national security has had positive results in that the Malaysian public now perceives drug taking as wrong, whatever the circumstances may be. Even then, the misuse of drugs, till this day, still looms menacingly over the Malaysian society.

⁵³ Scorzeli, James F. (2006) *Relapse Prevention: Strategies and Techniques*, at pg. 3-4, a paper presented in the International Counselling Symposium on Drug Prevention and Rehabilitation 2006, 5th - 7th September 2006, organised by Islamic College University of Malaysia in collaboration with the Ministry of Higher Education of Malaysia & the National Anti-Drug Agency of Malaysia, in Crown Princess Hotel, Kuala Lumpur, Malaysia.



The Prime Minister, Datuk Seri Dr Mahathir Mohamad (as he then was) said in May 2003 that the inculcation of good values and proper education is the key to success in eradicating the misuse of drugs among the younger generation, and severe punishment alone could not possibly wipe out the drug menace in the society. He emphasized that parents must inculcate in their children the heinous nature of narcotic drugs if misused or unlawfully used.⁵⁴

⁵⁴ New Straits Times, *Dr Mahathir on the Only Way to Rid the Country of Drug Scourge*, at pg. 2, 20th May 2003.