

# PREPARING DATA PROTECTION PROFESSIONALS FOR THE DIGITAL ERA

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الجامعة الإسلامية العالمية ماليزيا  
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA  
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Garden of Knowledge and Virtue

GUEST LECTURE AT UNIVERSITAS MUHAMMADIYAH PURWOKERTO  
(UMP), 22 DEC 2020

# Agenda



**01**

**Reality Check on the Digital Economy**

**02**

**The Rise of Personal Data Protection Laws**

**03**

**Reasons for Data Protection Professionals**

**04**

**Tasks & Skillset for Data Protection Professionals**

**05**

**The Roadmap Ahead**



## DIGITAL ECONOMY

Emergence of five key drivers for the digital economy, namely (1) Datafication; (2) Social Media; (3) IoT; (4) Machine learning; (5) Synchronisation

## WHO MISUSE YOUR DATA?

Three BIGS around us: (1) BIG Brother; (2) BIG Data Aggregator; (3) BIG Fans, for good or less-good reasons.



## RISKS OF PERSONAL DATA BREACHES

With (1) Increasing reliance to cyber system and data analytics in both private and public infrastructure; (2) Abundant data in public domain; (3) Increasing non-state actors in data breaches and cyber terrorism.

**DATA BREACH IS A MATTER OF WHEN, NOT IF!**



# Data Protection in International Fora

Insert the title of your subtitle Here



  
**Global Trade**  
PDP is now inseparable from global trade issues, therefore triggers lots of debate internationally

  
**Good Governance**  
Data governance is about managing trust and accountability

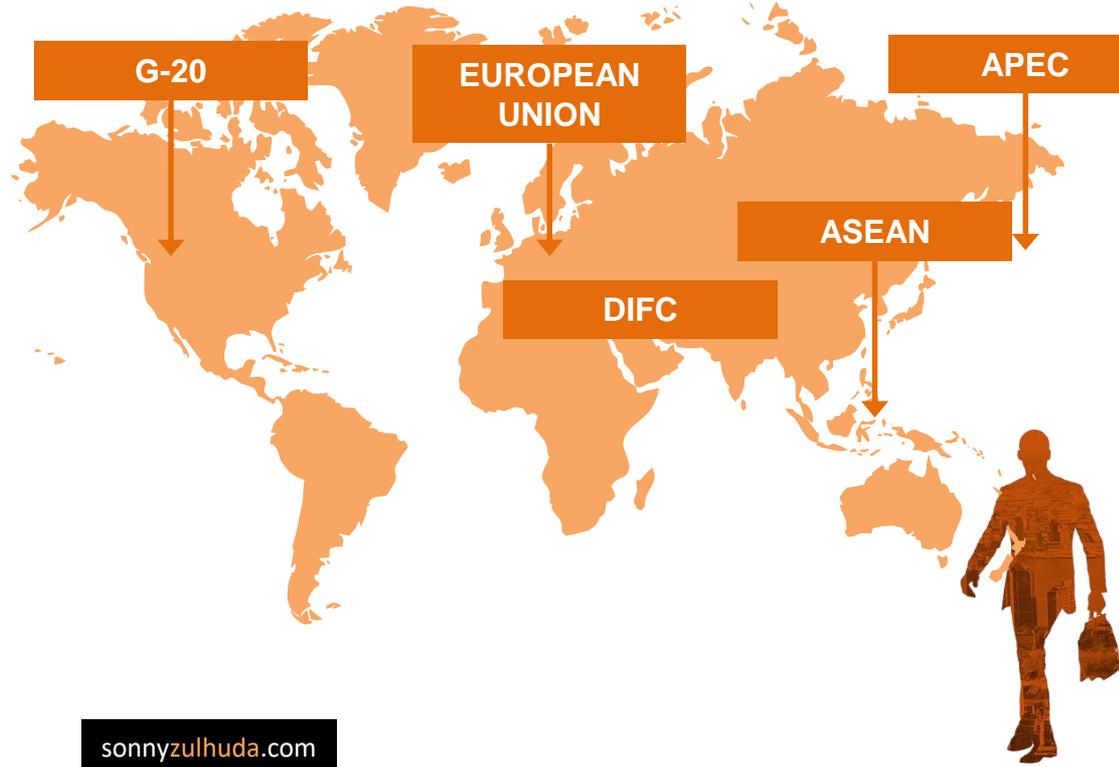


# The Rise of Global Laws on Data Governance

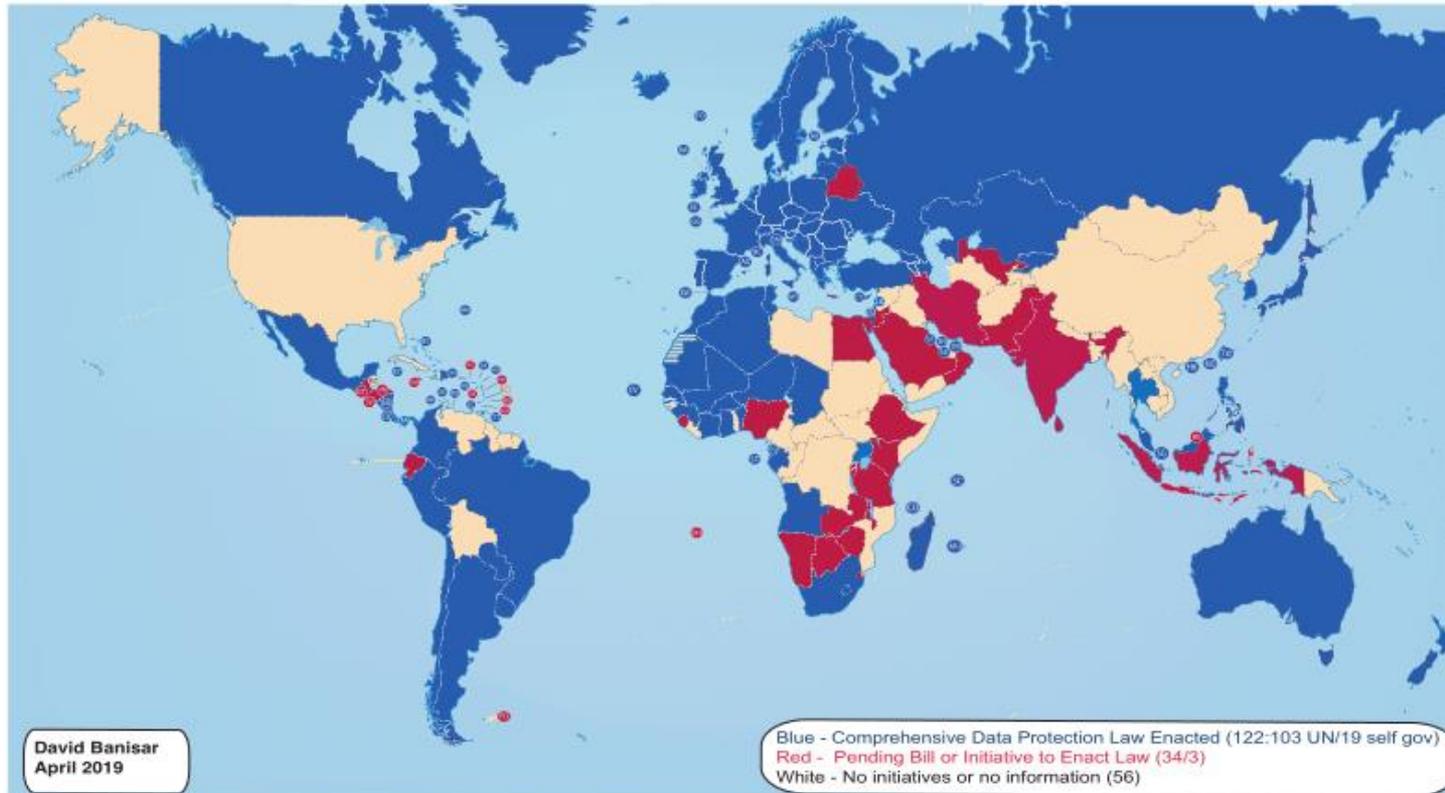
## Not Legislating is Not an Option

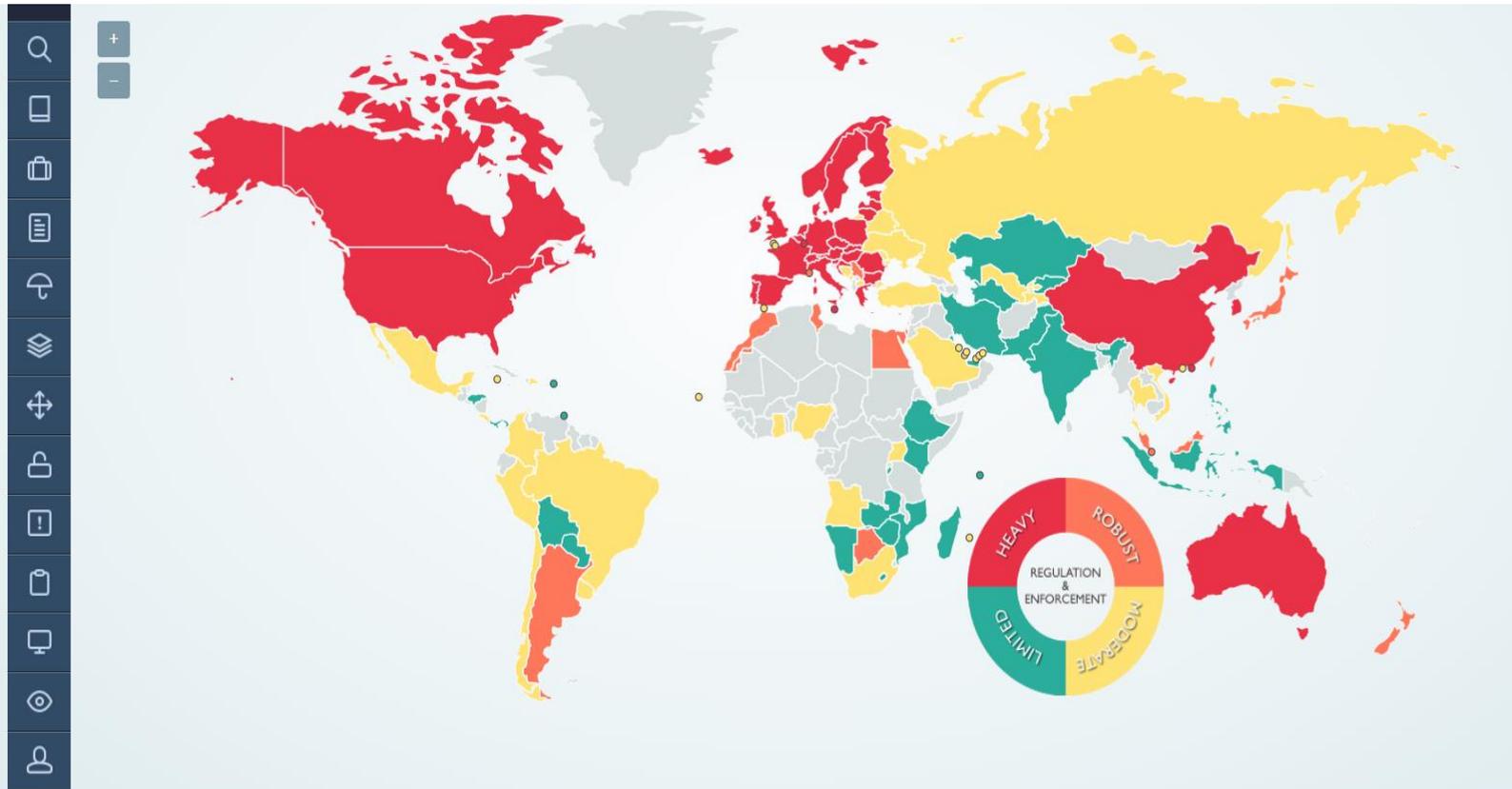
By 2019, 132 countries already have certain special and comprehensive laws on personal data protection. 4 ASEAN countries have it: Malaysia, Singapore, Philippines, Thailand.

Some notable and reputable international organisations and multilateral treaties already include PDP in their agenda.



## National Comprehensive Data Protection/Privacy Laws and Bills 2019





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# APEC Privacy Framework (2015)



**Preventing  
Harm**



**Notice**



**Collection  
Limitations**



**Uses of  
Personal  
Information**



**Choice**



**Integrity of  
Information**



**Security  
Safeguards**



**Access and  
Correction**



**Accountability**

# ASEAN FRAMEWORK

## On Personal Data Protection 2015



# Why Data Protection Officers



LEADERSHIP



DUE DILIGENCE



TRUST MANAGEMENT



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RISK MANAGEMENT



LEGAL COMPLIANCE



SHIELD AND SWORD

According to the Europe's WP29:

DPO is a **cornerstone of accountability** while appointing a DPO facilitates compliance and **competitive advantage for businesses**. In addition to facilitating compliance through the **implementation of accountability tools** (such as facilitating data protection impact assessments and carrying out or facilitating audits), **DPOs act as intermediaries** between relevant stakeholders.

# SINGAPORE

It is **mandatory** for each organization to appoint one or more DPOs to be responsible for ensuring the organization's compliance with the Act.

Once appointed, the DPO may in turn delegate certain responsibilities, including to non-employees of the organization.

The business contact information of the DPO must be made available to the public.

Failure to appoint a DPO may lead to a preliminary investigation by the Commission. If an organization or an individual fails to cooperate with the investigation, this will constitute an offence. As a result, an individual may be subject to a fine of up to SGD 10,000 or imprisonment for a term not exceeding 12 months, or to both. An organization may be subject to a fine of up to SGD 100,000.

# PHILIPPINES

The Personal Information Controller of an organisation must appoint a person or persons who shall be accountable for the organisation's compliance with the Act, and the identity of such person or persons must be disclosed to the data subjects upon the latter's request.

The Act does not specifically provide for the citizenship and residency of the data protection officer. The Act likewise does not specifically provide for penalties relating to the incorrect appointment of data protection officers.

# THAILAND

The Data Controllers and the Data Processors shall appoint a data protection officer (DPO) inside their organizations when it appears, under one of the following circumstances, that:

- the Data Controller or the Data Processor is a public authority as prescribed and announced by the Committee;
- the activities of the Data Controller or the Data Processor in the collection, use, or disclosure of the Personal Data require a regular monitoring of the Personal Data or the system, by the reason of having a large number of Personal Data as prescribed and announced by the Committee;
- the core activity of the Data Controller or the Data Processor is the collection, use, or disclosure of the Sensitive Personal Data.

# MALAYSIA

## “Data user to appoint a Data Protection Officer”

- Currently, there is no provision in the Act which mentions the obligation of a data user to appoint Data Protection Officer (DPO). In a normal situation, a compliance officer in an organisation will take charge of the personal data protection matters.
- DPO is responsible to oversee data protection strategy and implementation in an organisation which enable to increase the level of compliance with Act 709.
- PDP Commissioner is **considering to add a new provision in Act 709** to make it obligatory for a data user to appoint a DPO, and to issue a guideline on the mechanism of having a DPO.
- Points to be considered:
  - The proposed requirement to appoint a DPO.
  - The elements to be considered in the guidelines on DPO (ie. categories of data users that must appoint DPO, based on size of data user or amount of data held).

# EU GDPR

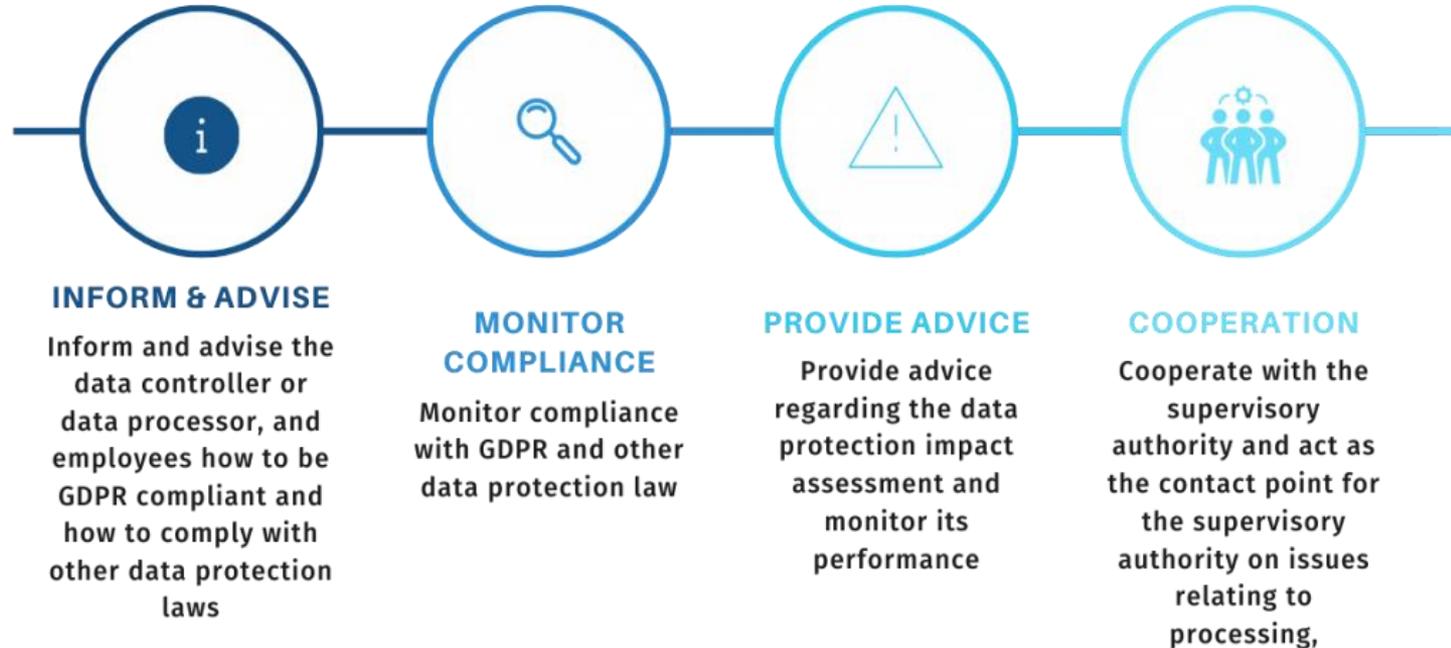
(GENERAL DATA PROTECTION RULES)

The controller and the processor shall designate a data protection officer in any case where:

1. the processing is carried out by a public authority or body, except for courts acting in their judicial capacity;
2. the core activities of the controller or the processor consist of processing operations which, by virtue of their nature, their scope and/or their purposes, require regular and systematic monitoring of data subjects on a large scale; or
3. the core activities of the controller or the processor consist of processing on a large scale.

# Data Professionals Duty Sets

## TASKS OF THE DATA PROTECTION OFFICER



# WP29 Guidelines on the Expertise required

The required level of expertise is not defined but it must be commensurate with the sensitivity, complexity and amount of data that the organisation processes.

Expertise must also be taken into account if the organisation systematically transfers personal data outside of the European Union. Regarding professional qualifications, it is relevant that the DPO has expertise in national and European data protection laws and practices and an in-depth understanding of the GDPR.



The DPO must also have knowledge of the business sector of the organisation and understand any processing activities, IT systems, and security and data protection needs of the organisation.

Organisations should proactively decide on the qualifications and level of training required for the DPO

# Group Data Privacy Senior Legal Counsel Standard Chartered Bank Singapore Posted on 19-Dec-20 (JobStreet Singapore)

- Must be a qualified lawyer in a common law jurisdiction with in-depth post qualification experience as a specialist lawyer advising on data protection, banking secrecy and cyber security data management issues, including:
- **knowledge and understanding of EU/UK General Data Protection Regulation and data protection laws & regulations in other jurisdictions, such as Singapore and Hong Kong;**
- ability to draft privacy statements/notices/contract terms to meet requirements;
- ability to independently advise on data privacy/cyber security data management legal issues;
- ability to coordinate and work with teams across multiple timezones
- experience of training staff on data privacy/cyber security data management legal issues; and
- understanding of banking secrecy requirements





## Study: GDPR's global reach to require at least 75,000 DPOs worldwide

Enter The EU's General Data Protection Regulation will take effect in May 2018. Under its own terms, the Regulation governs the privacy practices of any company handling EU citizens' data, whether or not that company is located in the EU. Because the EU's 28 member states together represent the world's largest economy and the top trading partner for 80 countries, many companies around the globe buy and sell goods to EU citizens and are thus subject to the GDPR.



## INDONESIAN LAW?

Ketentuan DPO di  
bawah RUU PDP  
Indonesia



### Pejabat atau Petugas Yang Melaksanakan Fungsi Pelindungan Data Pribadi

Dalam hal tertentu  
Pengendali Data  
Pribadi dan Prosesor  
Data Pribadi wajib  
menunjuk seorang  
pejabat atau petugas  
yang melaksanakan  
fungsi pelindungan  
Data Pribadi.  
(Art 45)



### Penjelasan “Seorang Pejabat..”

pejabat atau petugas  
yang bertanggung  
jawab untuk  
memastikan  
pemenuhan  
kepatuhan atas  
prinsip pelindungan  
Data Pribadi dan  
mitigasi risiko  
pelanggaran  
pelindungan Data  
Pribadi.

# Indonesian PDP Draft Bill

Keadaan diwajibkan DPO

pemrosesan Data Pribadi untuk kepentingan pelayanan publik;

kegiatan inti Pengendali Data Pribadi memiliki sifat, ruang lingkup, dan/atau tujuan yang memerlukan pemantauan secara teratur dan sistematis atas Data Pribadi dengan skala besar; dan

kegiatan inti Pengendali Data Pribadi terdiri dari pemrosesan Data Pribadi dalam skala besar untuk Data Pribadi yang bersifat spesifik dan/atau Data Pribadi yang berkaitan dengan tindak pidana.



# Criteria & Consequence of Non-Compliance

## Pasal 45

“Pejabat atau petugas yang melaksanakan fungsi perlindungan Data Pribadi sebagaimana dimaksud pada ayat (1) harus ditunjuk berdasarkan **ku alitas profesional, pengetahuan mengenai hukum dan praktik pelind ungan Data Pribadi**, dan kemampuan untuk memenuhi tugas-tugasnya.”

## Pasal 50

Pelanggaran terhadap ketentuan (*antara lain*) Pasal 45 ayat (1) dikenai sanksi administrative, yaitu: a. peringatan tertulis; b. penghentian sementara kegiatan pemrosesan Data Pribadi; c. penghapusan atau pemusnahan Data Pribadi; d. ganti kerugian; dan/atau e. denda administratif.



# Roadmap to Creating PDP Professionals



**Capacity Building**

**Lifelong Education**

**Networking**

**Data Culture**

# Training Need Analysis



# THANK YOU

**FEEDBACK:**

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## INTERNATIONAL GUEST LECTURE

### Lecture Series #5

*“Preparing Data Protection Professionals for The Digital Era”*

## PEAKER

Soc. Prof. Sonny Zulhuda, Ph.D.  
International Islamic University Malaysia

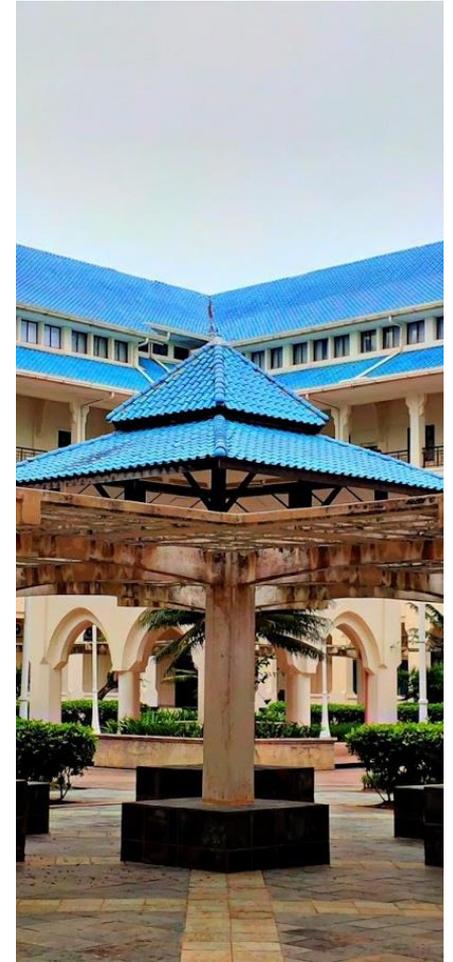
**Zoom Meeting**  
Meeting ID: 666 169 0141  
(No Passcode)

**22 December 2020**  
10.00 - finish (Jakarta Time)

**Registration**  
<https://bit.ly/lectureseries5ump>

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International Islamic University Malaysia

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