

First ASEAN Justice Innovation Week Hosted by TIJ and WJP

Topic:

**Access to Justice and the Rule of Law – The
need for a paradigm shift**

Speaker: Mr. Richard Malanjum

Former Chief Justice of Malaysia

Date: 17th August 2023

Venue: Virtual

Contents

- Access to Justice
- The Malaysian Experience – The Mobile Court
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Access to Justice

- Resolution adopted by the United Nations General Assembly 60/177 - (20.03.2006), a follow-up to the Eleventh United Nations Congress on Crime Prevention and Criminal Justice:
 - Endorses the **Bangkok Declaration on Synergies and Responses:**
 - Strategic Alliances in Crime Prevention and Criminal Justice, especially paragraph 18 thereof, in which Member States are called upon to take steps, in accordance with their domestic laws, to promote access to justice, to consider the provision of legal aid to those who need it and to enable the effective assertion of their rights in the criminal justice system,...

Access to Justice

- Access to justice is a basic principle of the rule of law. In the absence of access to justice, people are unable to have their voice heard, exercise their rights, challenge discrimination or hold decision-makers accountable - The Declaration of the High-level Meeting on the Rule of Law – United Nations.

Access to Justice

- The National Center for Access to Justice (NCAJ), New York (Fordham Law School) –
 - Access to justice:
 - helps to preserve human dignity
 - a means of assuring good and effective government
 - helpful in efforts to grow civil society and to reduce and end poverty
 - determines whether basic human needs for food, shelter, family relationships
 - means everything to a person in crisis

Access to Justice

- Justice systems fail to resolve justice problems for 1.5 billion people, finds a new report by the Task Force on Justice. The report, released by the World Justice Forum in The Hague, points to a hidden epidemic of injustice that affects all countries but hits the poorest hardest. – Report by the Task Force on Justice (an initiative of the Pathfinders for Peaceful)
 - Whether they are victims of violence, seeking a divorce, facing harassment at work, dealing with debt, or in need of a business permit, people have nowhere to turn. They are deterred by cost and complicated procedures, a lack of trust that they will be treated fairly, or a lack of justice services that are able to meet their needs.
- In East Malaysia – there are fairly large numbers of the local population who were not citizens though no fault of theirs

The Malaysian Experience – The Mobile Court



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True or Not

Moderate Malaysia

Mobile court in the pipeline

NATION

Thursday, 27 Jul 2006

12:00 AM MYT



By Raphael Wong

PUTRAJAYA: A proposal to set up a mobile court in the interior areas of Sabah and Sarawak to increase the quality of the operations and administration of the courts there is in the pipeline.

Newly appointed Chief Judge of Sabah and Sarawak Datuk Richard Malanjum said the mobile court would enable the judiciary as well as the people living in the interior areas of these two states to save substantial costs.



JUDGES IN A ROW: (from left) Malanjum sharing a light moment with Ahmad Fairuz, Siti Norma and Chin after the swearing-in ceremony at the Palace of Justice, Putrajaya, yesterday.

The Malaysian Experience – Mobile Court

- The needs:
 - Stateless person problems – denial of their basic human rights
 - Section 22 of the Registration of Births and Deaths Ordinance (Sabah Cap. 123)
 - Poverty driven – access to justice is illusory
 - Rural poor
 - Logistics issues to access justice
 - Availability, Accessibility and Costs
 - Other goods and services required
 - Medical care
 - Food and clothing
 - Books
 - Educational Opportunities for members of the Judiciary – the mind set
 - Community understanding
 - Public relations
 - Crimes and poverty – change of mindset
 - Justice tempered with mercy

The Malaysian Experience – The Mobile Court

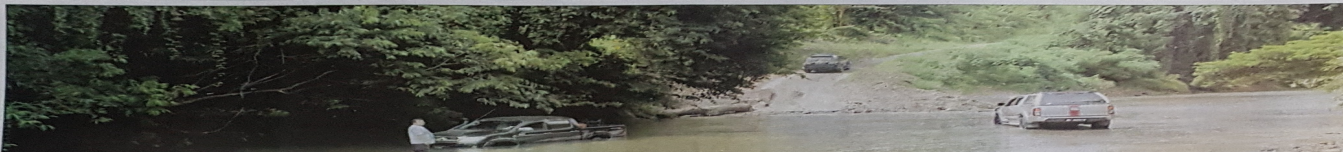
Mobile court brings citizenship to ‘stateless’ Sabah villagers

- 19 May 2015

KINABATANGAN: Owning an identification card seemed like a distant dream for Maurin Binti Punchak until the Mobile Court reached her village of Kampung Kuamut, a remote settlement in the Kinabatangan district of Sabah.

The court’s approval was needed for the 25-year-old woman of Sungai ethnicity to get another copy of her birth certificate in order to obtain an identification card from the National Registration Department (NRD).

The Malaysian Experience



Vehicles of the Mobile Court team crossing one of the rivers leading to Saliku.

Spending RM600 just to become Malaysians

Sherell Jeffrey

MOST Malaysians will not think twice of forking out RM600 for a return trip from Kota Kinabalu to Kuala Lumpur by air.

This was what a villager in Kg Limas, Nabawan, spent on transport for herself and three nephews to get to Kg Saliku, where a mobile court team had parked overnight at SK Saliku to help endorse the late birth registration of villagers there — the crucial next step to being considered a Malaysian.

"I have three nephews, aged between seven and 13, who needed to get their late birth registration certificates endorsed."

"It took us three hours to travel from Nabawan to Saliku. It is not easy, nor cheap to charter a car to get here. But all that was worth it and we are indebted to the Chief Hakim (then Sri Richard Malanjum, Chief Judge of Sabah and Sarawak) who we were told would be personally present to assist us," said Mallin Liman, 69.

Like Mallin, Tujuh Guna and her family also knew they had to make the trip no matter the cost because it was unlikely they would get the opportunity again.

With her was her 12-year-old son who needed to get his late birth certificate registration endorsed by the mobile court officials in order to obtain a MyKad from the National Registration Department.

The trip from their village in Kg Limas involved braving the weather and travelling on dirt road through Sapulut Forest Development Sdn Bhd to reach the SK Saliku grounds.

There was no telecommunication line or no streetlights along the way and barely anyone around to call in case of an emergency. But these risks were not enough to discourage them.

Tujuh, 42, was initially unsure if the mobile court could help but decided it was better than having to regret later at not being able to do something for the sake of her son's future when she could.

The lack of a document confirming Malaysian citizenship hit her son hard when his hopes of being selected for the school soccer team were dashed.

The teenager was so upset that he even told his parents he wanted to quit school, thus giving the family even more reason to make the long journey to Sa-



Bringing justice to the have-nots
Third of a four-part series



Aping showing some of the trophies won by the school's athletes.

liku. Tujuh said a heavy downpour forced them to spend the night near a bridge which linked to the village.

"It was not easy (making the trip). You have to be tough not to give up, but it was worth the journey," said the mother of eight, who felt a burden lifted off her chest when her son's late registration document endorsed by the court.

Her older children all have MyKads, except for three younger children, in-

cluding the 13-year-old. Their births were registered late because her husband was away working in Sarawak when they were born.

"Now that the document has been endorsed, everything will be easier for my children," she said.

Unlike many children in developed parts of Sabah who are motivated to do well in their exams with promises of the latest gadgets or a trip abroad as reward, children in Saliku are driven to score good grades so they can get into a Technical Mara Junior Science College (MRSJ).

For them, doing well in education and sports is a ticket to a better life.

It is, therefore, not surprising that despite being in a remote part of the State, SK Saliku under the guidance of headmaster Aping Moutis, a Murut, is among schools in the interior with a high UPSR passing rate.

One of its students scored 6As in her UPSR last year and is now studying at MRSJ in Inuan.

The school, which has 84 pupils, has seven students currently studying at the MRSJ in Sandakan and three at the MRSJ Kota Kinabalu.

"Our children have also represented the interior at State level in track and field. Four of our athletes represented Sabah at national level," said Aping who has been the headmaster for the past 23 years.

He holds strong to the school motto "Ain asio hivo arulal" (in Murut dialect means he who is brave will excel).

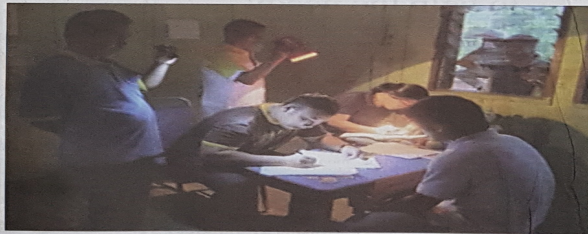
One of the challenges faced by the mobile courts is attempts by illegal immigrants to seek late birth registration endorsement through deceit, especially in the East Coast, which was reported in the *Daily Express* that police had to be called in to control the situation where the crowds became unruly when the legal officers decided the applicants failed to meet the conditions in one case.

There were times when the illegals would travel to other areas in the interior upon getting word that a mobile court would be visiting the area.

"Ketua kampung and chairmen of the Village Security and Development committees (KSKK) have to be vigilant when endorsing the applications for these documents to prevent the sale of birth certificates to illegals," said Malanjum.



Happy moment for Mallin and her nephew after getting his document endorsed by the court. She spent RM600 on transport to get to the centre.



Cases proceeded even without electricity in Pegalungan.



Malanjum in conversation with Aping, headmaster of SK Saliku.



UPSR candidates given free tuition by the judicial team who took part in the mobile court programme.

The Malaysian Experience – The Mobile Court



The Malaysian Experience – The Mobile Court

MOBILE COURT A NOBLE EFFORT TO BE CLOSER TO RURAL FOLKS -

Wartawan Berita Sabah

~2 minutes



BELURAN: Malaysia's Chief Justice Tan Sri Tengku Maimun Tuan Mat (*pic*) described the mobile court in Sabah as a noble effort to be closer to the people in the interior areas.

She said it facilitated efforts by the Sabah court to resolve the people's problems in obtaining their personal documents.



The Malaysian Experience –The Mobile Court

MOBILE COURT PROCESS

Court representative meets with community leaders to understand the number and types of registration cases. Community leaders are briefed on the registration requirements.

1

Community leaders communicate registration requirements, and the date and location of the mobile court, to the community to avoid no-shows by applicants.

Applicants attend the mobile courts with their documents and two witnesses who can testify to the identity of the child.

2

3

Lawyers review Applicant's documents and draft Statutory Declaration ('SD') based on the facts of the birth and reasons for late registration. The SD is standard form in both English and BM.

The Malaysian Experience – Mobile Court

- **The Challenges:**
 - Scepticisms from all sides:
 - The urban mindset
 - The perception of how the Court functions – a temple of justice?
 - Budget issues:
 - Low priority – the rural folks can wait
 - Expenditure vs returns
 - Logistics problems:
 - The distances, security, mode of transport, etc
 - Implementation obstacles:
 - Winning the minds of the members of the Judiciary and the legal fraternity – the fixed mindset syndrome
 - Scheduling issues
 - Administrative tasks
 - Setup and operational issues

The Malaysian Experience – Mobile Court

- **The Results:**

- The Receptions:

- Rural folks love it
 - Other agencies and associations joined in
 - Donations from charitable bodies

- The Beneficiaries:

- The unfortunate rural folks – the Rule of Law felt by all
 - Members of the Judiciary and legal fraternity – mind and eye opener
 - Government officials – grounding effects
 - Medical officers and their staff – practice preventive medicine

The Malaysian Experience – The Mobile Court



Malanjum and his team pose for a photo with several villagers during the mobile court programme in Saliku.



Villagers who came for the mobile court programme waiting for their turn.



Malanjum and his team at a river near SK Saliku where they made a brief stop to help a motorist who got his vehicle stuck between the rocks.

Judiciary succeeds where others have failed

Sherell Jeffrey

HAVING been raised in a remote kampung in Tawau, Chief Justice of Sabah and Sarawak, Tan Sri Richard Malanjum, is all too familiar with the problems of rural folks. Perhaps even more than the politicians who do not live there.

It is right, it should be the obligation of politicians of the constituent states, people living on the fringes of the nation's database are located to ensure they are properly accounted for statistically.

It is a problem unique to both Sabah and Sarawak due to logistics and geographical reasons, among others, but the solution was from the least expected branch of government – the Judiciary.

That the bulk of these people actually resided in areas represented mainly by Kadazan Dusun leaders in the ruling party was the bigger irony.

Today, over 30,000 villagers who fell into this category throughout Sabah have claimed their birthright to be Malaysians since 2007 – thanks to the mobile court system.

Malanjum was long aware that many in these villages do not possess any form of identification due to the failure of parents to register births on time, and which had far reaching legal implications for the family tree for generations to come.

Because they lacked birth certificates, these villagers existed only physically but not legally. It reduced them to being stateless in their own land.

They were aware of untold numbers from neighbouring countries who somehow managed to lay their hands on these documents, due to corrupt staff at the National Registration Department (NRD) working hand-in-glove with syndicates and a mysterious "Project IC" as revealed in a Royal Commission of Inquiry (RCI) report.

They spoke the native dialects and should have been Malaysians from day one enjoying Bumiputera rights and privileges but without the all-important document they had no rights, got no help from



Malanjum and his team set up camp at SK Saliku overnight where the mobile court programme was held.

relevant authorities in health care, education, land ownership, etc.

It was a lifetime punishment for being born poor and far from officials.

Even if they made the trip to town, it was often an unpleasant experience. They did not know where to go and who to look for help. Most times, they were made to wait or asked to return another day. Some have been scolded or turned away by little

napoleons manning the counters.

Malanjum knew he had to do something and it helped that the judiciary he headed in both Sabah and Sarawak was mandated and well-placed to help them.

Thus a mobile court that would function as a "Justice on Wheels" as well as validate the status of these people came to his mind.

So determined was he in this endeavor

that he announced the setting up of the mobile court on the very day he was sworn in as the Chief Judge of Sabah and Sarawak.

The courts must go to them," he said. Although officially launched in Penampang in 2011, it was in Long Pasa that it debuted in 2007, led by Magistrate Arzena Azli.

Malanjum also knew that it was not en-

tirely the NRD's fault for the predicament these people were in, as it had constraints of its own.

In rising to the challenge the judiciary was also fulfilling a Sabah requirement that where late registration is due to any person's "neglect" the authorities are required to do so with the assistance of a Magistrate.

The land mass of Sabah and Sarawak is bigger than the peninsula.

Transportation is difficult, especially where rivers are widely. A mobile court would bring justice to their doorstep," he said. Several modes of transportation were considered, including boats and buses.

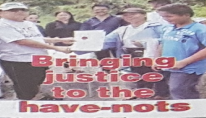
In the 10 years that followed, the mobile court has traversed to the remotest parts of Sabah to resolve late birth registration, cases requiring new registration and cases relating to citizenship documents. It has also assisted in land and other matters that required approval from the court.

In Nabawan, in the latest exercise last month, 50 villagers become proud Malaysians in Saliku on September 16 – the 24 years of Sabah's independence through Malaysia.

Signs were put up at the school's classroom, directing villagers to which room they should go to if they wanted to meet the mobile court team or those from the medic team that accompanied the trip.

Many more could not make the trip to Sekolah Kebangsaan Saliku where the exercise was held due to transport strains. Some who came spent RM600 for the trip from their village to SK Saliku.

One family who missed their transport and showed up late nearly went home dejected. Malanjum stopped his convey to administer the oath to them by the dirt track.



The family who nearly went home dejected if not for Malanjum stopping the vehicles to administer the oath by the roadside.



Oath at the roadside for a family who nearly went home dejected.



Malanjum and his team administer the oath at an outdoor badminton court for a family who came late for the mobile court programme.



It was all smiles for the family who finally had their birth late birth registration certification endorsed by the mobile court team led by Malanjum.

The Malaysian Experience – The Mobile Court

8 | Special Report

YOUR LOCAL VOICE | SUNDAY, NOVEMBER 12, 2017

dailyexpress

Making those forgotten rurals Malaysians

First of a four-part series.

Shereff Jeffrey
SABAH in the Murut dialect means "frontier" and Kg Saliha in the Paganan sub-district of Nabawan, was discovered from this side of Indonesia's long Kalimantan border close to this billing.

There is still no electricity or clean water supply except for the school compound which is helped by a hybrid solar generator given by the government. Before the dirt road leading to the paman in the aptos, the only link to other villages was via the Simanabun River.

For the first time one morning recently, the 28 villagers comprising Murut, Iqad and other indigenous people who break the law to jail. It was also about them being entitled to the full ambit of the law that also applied to everyone who is deemed to be legally Malaysian.

If not for the Chief Justice of Sabah and his team to claim their birth right that was denied to them since 50 years of independence through Malaysian citizenship, many among these villagers would have remained as "foreigners" instead of Malaysians.

Thankfully, there were some 50 of them who seized the opportunity that morning with some making a three-hour trip upon getting word that the law had registered a vehicle would be no longer be bypassed by the system and the greater justice to them and government to come if they continue not to have a peaceful piece of democracy that defined them as Malaysians.

Justice is not only about fixing someone guilty in the public eye but also about ensuring every citizen or human being has his or her right protected or what is due.

It is only this conviction that propelled Malaysia to launch the mobile court system. In the Paganan sub-district by having trials in converted buses. To the people in Kg Saliha, until the mobile team came along, it looked like it was their family who had been taken from their families when the law was the sovereignty of government man-made to make them citizens of Malaysia.

Until Malaysia and his team showed up, they had been in a legal catch-22 situation of being near and yet so far. While they considered themselves Malaysians, they lacked the means of proving it, hence there was no document to show as evidence. In some cases, it may be that their notes did not matter as politicians in such constituencies usually won with conditions that would result in them when the next elections arrived.

But somehow he had to be done and Malaysia knew that where the politicians failed, it was possible to make these people living on the periphery citizens by getting the judiciary involved.



Malajum and his cohorts of dedicated staff. Here Judicial Commissioner Datuk Douglas Primus is seen celebrating his birthday.

Villager, Tujah Gura, who came all the way to Kg Saliha together with her husband taking the oath, a process needed to get their son's law birth registration certificate endorsed by the court.

(Below) All smiles for Tujah and her son after getting his law birth certificate registration endorsed by the court.

Villagers' protests, which can only be seen the day, due to the lack of electricity in the village.

The team from the judiciary making their way along the dirt road leading to Kg Saliha.

Insert: A tractor creating a path while some damaged by rough weather.

A village getting documents checked by the judiciary team.

Next week: Helping in many ways

Women talk in Kg Saliha. Paganan is an important village.

"When I started the mobile programme 10 years ago, people thought I was mad or stupid. But unless you go down to the ground, you won't know what is happening," said Malajum.

"We also wanted to change the people's perception of the court – that we don't deal only with cases."

"It is about ensuring every human being gets what he or she deserves in terms of their right being protected. That is what justice is also about."

"To do the right thing to people, about helping them. That is justice. Imagine how else are unable to do anything because they don't understand or don't know how. It is our duty to help them to sign what we should do, where they can go to help. That is the function of a first lawyer."

Malajum and his cohorts of dedicated staff have been sacrificing their time and energy during the during mobile court programme for years, doing what little we can to help. Nothing is impossible to the eyes he led by, he said. Having laid the groundwork, he expects the younger generation of judiciary staff to take over.

"Villagers in remote areas, how many have seen lawyers and judges. Some think lawyers and judges are confined to the courtroom. This is why we are changing the public's perception of the court in the Sabah and Sarawak."

Malajum in the course of the effort also realised that to these law doing people, getting their birth registered late is not the end of the problem. They were often malnourished, were of poor health and lacked decent clothes.

"School children with no books, don't you think that is significant to them? They are poor, they have no money to buy books, don't you think that is injustice?" he asked, adding that the media had an important role in highlighting their problem.

The Malaysian Experience – The Mobile Court

Mobile court has helped sort of 40,000 birth certification cases in Sabah

By [Olivia Miwil](#) - September 28, 2018 @ 1:43am



The Malaysian Experience- The Mobile Court



The Malaysian Experience -The Mobile Court



The Malaysian Experience – The Mobile Court



The Malaysian Experience – The Mobile Court

US delegates arrive in Sabah to study mobile court system



By Avila Geraldine - November 9, 2017 @ 5:46am



Judge Ravintran N Paramaguru shaking hands with US Federal Court Judge Richard Boulware

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The Malaysian Experience –The Mobile Court

Sunday, 26 November 2017, 9:57 PM

Hosting Americans the native way

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By **AVILA GERALDINE** - November 26, 2017 @ 12:41pm

WHEN Richard Franklin Boulware hit the dance floor in a remote Paitan village in Beluran, he is undoubtedly the star for the night in the eyes of rural villagers.

Ditching his court dress, the United States federal court judge dressed casually in a simple T-shirt, long pants and sport shoes, mingling with the local community and dancing to the beat of Kadazandusun and Sungai songs.

Children screamed with excitement each time Boulware stepped up to the dance floor, while bystanders loosened up and joined in the evening entertainment.

The 49-year-old judge was among seven delegates from the United States, who arrived in the state capital of Kota Kinabalu on Nov 9 and travelled more than 230km to Kampung Matanggal to witness a mobile court programme the next day.

Arriving at SK Matanggal compound at 9pm, the delegates received a warm welcome from the local community, who were from various villages. The villagers stayed the night at the school, where the legal service programme was held.



United States federal court judge Richard Franklin Boulware (centre) dancing with villagers at SK Matanggal in Beluran recently.
PIX BY MALAI ROSMAH TUAH

The US delegates joined the camp with judges, magistrates, government officials and non-governmental organisation members involved in the programme.

Boulware described the mobile court service as an eye-opener and relevant.

"I learn how important it can be for judges to leave courthouses and see the people so they can feel that judges and government officials care about them receiving access to law and to the court.

"I think it's important in any country for the people to live and feel that the law is helping and supporting them. These villagers have come a long way and they appreciate the fact that these officials are coming.

The Malaysian Experience – Mobile Court



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Malaysia's Mobile Court - Judging in the Still of the Forest



By: Judge Zainun Ali

Judge Zainun Ali is a Judge of the Federal Court of Malaysia. She has held various positions in the legal and judicial service, including positions as Judicial Commissioner of the High Court of Malaysia, High Court Judge and Court of Appeal Judge. Judge Zainun Ali recently shared her views on Malaysia's mobile courts with UNODC, as part of the Organization's ongoing work to promote equal access to justice. All opinions expressed in this piece are solely those of

the author as an external expert and do not necessarily reflect the official position of UNODC.

As exotic as it may sound, judging issues and problems in the far reaches of Malaysia's interior is certainly no mean feat.

The Malaysian Experience – The Mobile Court- Other Services Rendered



The Malaysian Experience –The Mobile Court- Other Services Rendered



Other Innovative Programs

- **Environmental Justice:**
 - Through a committee set up called the Environmental Working Group, programs were initiated:
 - The planting of one million trees within 12 months in Sabah
 - This program was followed by the Government later on
 - The cleanup of slums areas
 - The authorities did subsequent cleaning up

Environmental Justice

| Court launches program to plant a million trees

BY SAFRAH MAT SALLEH ON FEBRUARY 4, 2017, SATURDAY AT 1:12 AM

SABAH

For the freshest news, join [The Borneo Post's Telegram Channel](#) and [The Borneo Post on Newsway](#).



At the launching of one million trees planting project 2017 are (front row, from right) Sessions Court judge Abu Bakar Manat, Sabah Law Association (SLA) president Brenndon Keith Soh, Ravinthran, Indra and Sabah Legal Department representative Mohd Ikhwan.

KOTA KINABALU: With 999,889 more trees to go, the Kota Kinabalu Court here launched One Heart One Tree campaign to support environmental awareness by planting one million trees all over Sabah throughout 2017.

ADVERTISEMENT

Environmental Justice

Sabah targets to plant 36 million trees in five years



By [MUGUNTAN VANAR](#)

NATION

Tuesday, 05 Jan 2021 2:17 PM MYT



Chief Minister Datuk Seri Hajiji Noor with deputy chief minister Datuk Seri Bung Moktar Radin at the launching of the state level 100mil tree planting campaign in Kota Kinabalu on Tuesday.

Environmental Justice

- 26 Jul 2016



Judge Ainul Shahrin (second from left) at the garbage-strewn Kampung Sembulan.

Conclusion

- **Take Away:**

- Justice is only real when the whole community feels it
- The Judiciary is not a temple to be visited but a missionary to spread the meaning of 'justice and fairness' to all, irrespective of status and powers
- The Judiciary has a larger role than just a mere arbiter of disputes

- Thank you for listening