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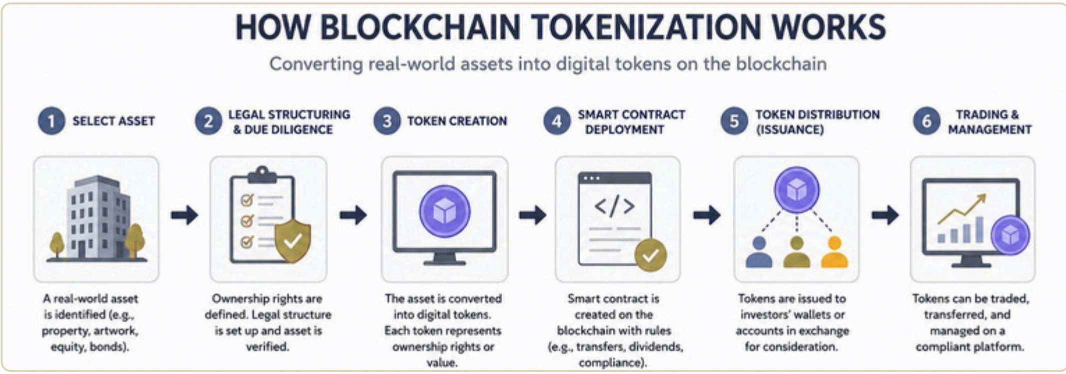
Tokenization is Reshaping Global Finance

OVERVIEW

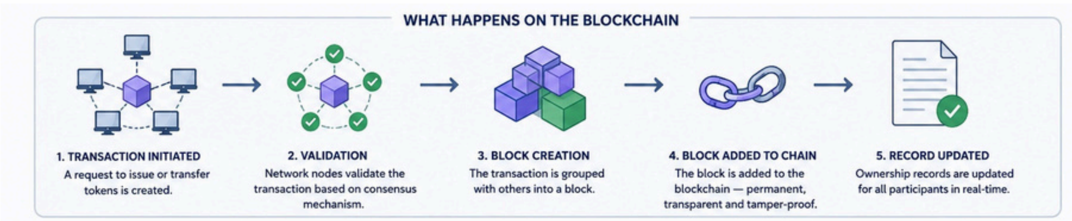
The Digital Asset Revolution

‘Asset Tokenization’ is revolutionizing conventional financial thinking, challenging the traditional concepts of ‘ownership’ - by digitalizing it: This means transforming real-world assets (RWA), like real estate, stocks, bonds, intellectual property, tangible or intangible, digital or physical - into digital tokens – with each token representing a ‘fraction of ownership’ - an encoded right to an asset - set on a digital blockchain and - ready for sale.



This transforms the marketplace into a vast global digital economy where claims to a digital twin of high-value assets are traded by the transfer of these digital units, securely recorded, within smart contracts, carried out within seconds, without intermediaries, on a blockchain.

While many countries are still undecided on this topic, juggling with the implications of this disruption, or vigilantly assessing the high-wire risks to their financial stability; others are heralding this next evolution in finance, ensuring that a stable set of rules will create a conducive environment for digital assets and which will bring early-bird, high returns, ensuring them a premier place in the new investment landscape.



For sure, varying regulatory approaches range from comprehensive and firm prescriptive models to more flexible ones, such as regulatory sandboxes that allow companies to test tokenized asset products under supervisory guidance.

This article explores why clear regulatory frameworks are crucial, examines how different jurisdictions are shaping their approach to Tokenization, comparing leading markets based on regulatory clarity, licensing requirements, and overall market shifts.

Malaysia’s Tokenization Platform:

Leveraging Islamic Finance

By: Datuk Dr Abdul Raman Saad | Senior Partner & Sabreena Abdul Raman | Partner

‘Tokenization’ is transforming financial services by converting traditional assets – such as bonds, deposits, and sukuk – into ‘programmable digital tokens’ on a blockchain. If harnessed effectively, this technology can drive efficiency, financial inclusion, and sustainable growth.

Malaysia is uniquely positioned to dominate asset tokenization, as Islamic finance’s intrinsic principles – asset-backing, risk-sharing, and avoidance of gharar (uncertainty) – are a perfect philosophical match for blockchain’s transparency and real-world asset (RWA) tokenization.

Harnessing Tokenization's Potential

Malaysia’s approach is defined by targeted ‘*use cases’* & coordinated regulatory development:

- Combining Benefits with Pilot Use Cases:
  - Efficiency and Savings: Tokenization enables real-time, 24/7 settlement and smart contract automation, cutting operational friction. Cross-border wholesale payments require pre-funding of ‘nostro’ and ‘vostro’ accounts, which lock liquidity across jurisdictions. Settlement timing mismatches between different systems force banks to hold liquidity buffers that would not be needed under continuous settlement. Reconciliation across fragmented post-trade systems adds cost and operational complexity, particularly in large-value transactions and capital markets activity. These frictions persist in well-regulated markets and become acute as cross-border activity grows.[1]
  - Access and Inclusion: Through fractional ownership, investment thresholds for retail and SME participants in high-value assets like bonds and sukuk[2] is lowered - thereby permitting more opportunities for small enterprises to participate in larger offerings by acquisition of small token-ownership.
  - Transparency and Growth: A digital, immutable record of ownership reduces counterparty risk and fraud, helping develop the green and digital finance sectors.[3]

- A Step-by-Step Regulatory Roadmap: A dual-regulator system: (i) Securities Commission for capital market conduct issued a Public Consultation Paper on 6 May 2025 to obtain public feedback from the industry on the 'Proposed Regulatory Framework for Offering and Dealing in Tokenized Capital Market Products'; and (ii) Bank Negara Malaysia also issued a discussion paper on 30 October 2025 setting out its proposed approach to exploring asset tokenization in the financial sector and in obtaining feedback from financial industry players under a structured three-year plan:
  - Phase 1 (2025) laid the groundwork;
  - Phase 2 (2026) controlled 'sandbox pilots' launched with CIMB, Maybank, and Standard Chartered; and
  - Phase 3 (2027) analyzes results to influence and create future policy. [4]

Safeguarding Stability and Trust

Maintaining public trust is a foundational principle in Malaysia's tokenization strategy:

- A Permissioned Regulated Ecosystem: Only licensed intermediaries, for example, banks will operate within BNM's "permissioned" environment[5]: The BNM-SC dual-regulator approach conducts rigorous risk assessments[6], including strict Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) checks that treat tokenized assets like traditional ones with "no exemption or exception",[7] preventing regulatory arbitrage.

- Safeguarding Against New Risks:

  - Stability and Sovereignty: BNM is exploring MYR-denominated tokenized deposits and systems to preserve "singleness of money" to uphold monetary sovereignty.[8]

  - Speed of Market Crises: The International Monetary Fund (IMF) warns that tokenized crises could outrun central bank interventions. To counter this, Bank Negara Malaysia (BNM) is explicitly assessing pilot impacts on monetary and financial stability to inform preventative policies.[9]

- A "Structural Shift" in Trust: Because risk management shifts from regulated institutions to automated smart contracts,[10] the IMF advocates for robust governance of code and legal certainty.[11] Following this, BNM requires strict technology risk management, including cybersecurity covers for operational resilience. Advanced continuous monitoring, intrusion detection and proactive threat intelligence are amongst the measures required to protect tokenization infrastructure against extreme but plausible cyberattacks.[12]

- Collaboration on Interoperability: Recognizing that tokenized systems can become fragmented, BNM aims for interoperability between networks and is aligning with Asian regulators, like Singapore's MAS, to modernize financial infrastructure together.[13]

Malaysia’s two-pronged approach is essential: pairing a proactive, phased strategy for adoption with robust risk-mitigation frameworks.

As a renowned global leader in Islamic finance, Malaysia must be the first adopter of Islamic tokenization in financial services. By ‘tokenizing’ Sukuk and other Shariah-compliant products, combined with accessibility and governance in accordance with Shariah principles, Malaysia will be taken into a higher league in the deliverable of global Islamic finance products.

In fact, Malaysia has demonstrated its capability in this sphere after successfully launching its first tokenized sukuk: a RM100 million issuance by Danum Capital Berhad, Khazanah Malaysia’s funding conduit on April 2026, in a pilot program supervised by the Securities Commission Malaysia.[14]

The Major Competitors in Asia

As Malaysia embarks on this tokenization platform, it should take heed of the regional players in Asia that have already launched their tokenization program earlier. This precautionary measure will assist it to avoid some pitfalls and, allow revision and improvement in its own program.

Among the regional players that have started tokenization are Singapore, Japan, Hong Kong and South Korea.

- Singapore

  Singapore is widely recognized as having one of Asia's most advanced and commercially focused tokenization policies. Its main initiatives include:

- *Project Guardian*: Launched in 2022 by the Monetary Authority of Singapore (MAS). It is a large-scale collaborative initiative with over 40 financial institutions and 28 industry pilots in six currencies. The goal is to boost liquidity and efficiency in financial markets through asset tokenization.[15]
- *Guide on Tokenisation*: Issued in 2024, this guide provides industry participants with a clear, technology-neutral framework. It bridges the gap between regulatory theory and practical applications, translating principles into real-world interoperability.[16]
- *Commercialization Drive*: In 2024, MAS announced plans to move tokenization beyond experimentation into commercialization. This includes developing common settlement facilities by developing digital market infrastructures to support the seamless trading and managing of tokenized financial assets.[17]

- <u>Japan</u>:
  - Japan is taking a systematic, dual-track approach focused on building infrastructure. The Financial Services Agency (FSA) is advancing three major pilots, including yen-based stablecoins and 24/7 tokenized securities settlement, while simultaneously enhancing investor protection.[18]

- <u>Hong Kong</u>:
  - Hong Kong is accelerating adoption of tokenization, encouraging commercial banks to launch tokenized deposits and has a comprehensive stablecoin licensing ordinance in effect.[19]

- <u>South Korea</u>:
  - South Korea is building a legal framework for security token offerings (STOs) by amending its Capital Markets Act. This will bring tokenized securities trading into a regulated environment, overseen by licensed intermediaries, with laws scheduled to take effect in 2027.[20]

Conclusion

- Notwithstanding other countries in Asia that are deploying tokenization programs, China by contrast, has taken a different stance wherein it remains focused on its sovereign Digital Yuan. The government has explicitly criticized and cracked down on other forms of tokenization, including real-world asset (RWA) and private stablecoins, reaffirming its ban on most crypto-related activities.[21]

- Singapore is a notable financial centre in this region with vibrant commercial tokenization policies whilst Malaysia, renowned for its global leadership in Islamic finance can complement and supplement Singapore by leveraging on its tokenization policies on sukuk and other shariah-compliant products.

- Malaysia's model of tokenization ecosystem must prioritize practical, real-world benefits and regulatory rigor although there are crucial challenges to mitigate, namely:
  - Shariah divergence – to ensure the national Shariah board issues a definitive, globally recognized fatwa on tokenization to prevent rejection by Gulf nations.
  - Settlement finality – to ensure tokenized assets are legally recognized as Mal (tangible wealth) in Malaysian civil courts, not just digital entries, to enforce ownership in bankruptcy cases.

- Ultimately, Malaysia should host the "Global Islamic Tokenization Exchange" (GITEX) in Labuan IBFC, operating 24/7. By pairing its regulatory heft with its scholarly authority, Malaysia can transition from being a manager of Islamic funds to the architect of the digital Islamic economy.

The writers are members of ARSA's Financial Services Regulation team and can be contacted for advice on *regulatory frame-work and structuring compliant tokenized offerings.* Please contact:

Datuk Dr Abdul Raman Saad | Senior Partner | dars@arsa.com.my | HP: +6012 7181949

Sabreena Abdul Raman | Partner | sabreena.raman@arsa.com.my | HP:+6012-389-8466

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Waqaf & Infaq are encouraged in Islam

– however, when Campaigns go Online and Crowdfund –

There are Rules to Follow

By: Datuk Dr Abdul Raman Saad | Senior Partner & Zainursyazwani Zakaria | Associate

Islamic charitable bodies in Malaysia are encouraged to conduct public fundraising in accordance with current applicable regulatory framework, ensuring Transparency, Accountability, and Public Confidence.

While asset donations are expressly supported in Islam - via *waqf* [permanent endowment in perpetuity] - and *infaq* [charity for specific causes]- and are considered deeply virtuous acts, contributing to, for instance, - the maintenance of a local mosque or perhaps building a small madrasah, these personal public fundraising initiatives, although Shariah-compliant instruments, are, nevertheless, not exempted from complying with Federal and State laws.

For decades, such 'charitable solicitations' were rarely noticed. They were modest.

And further, no State - let alone Federal Government - paid much attention to the age-old small, somewhat quaint, rather intimate practice of religious fundraising events: a typical individual giving a waqaf gift to a community without any expectation of financial return, profit-sharing - and definitely no transferable rights traded!

All this has taken a seismic shift because:

now a 'waqaf' has evolved into an instrument of mass contribution.

- Take for instance:

big-scale, structured 'Cash W*aqaf*' with Crowd-fund-raising campaigns, posted Online- that are open to the public at large -on platforms. In other words:

Digital asset offerings– with cash contributions sanctioned by the *Fatwa of 2007*- which exhibit '*investment-like features*' such that donors might be seen, not as 'a donor for a mosque upkeep', but as 'Investors of an enterprise', and so, might potentially fall within the regulatory ambit of the *Capital Markets and Services Act 2007 (CMSA)*, thus, triggering security laws.

In much the same way, although the Securities Commission ("SC") has, historically, not targeted traditional neighbourhood mosque-based fundraising exercises under State Islamic Religious Council (SIRC) supervision: *This casual lack of scrutiny has now sharpened.*

How so? **As fundraising scale-up to the public domain - moving into online platforms with wider public appeal - the risk of crossing into regulated territory increases materially.**

Cash - Predominant Mode of Donation:

- 'Waqaf-in-cash'. The Fatwa of 2007 permitting 'waqaf-in-cash' has led to the accumulation of massive public funds now moving at an unprecedented speed.
- Predominant mode. It should not be a surprise that Cash has become the predominant mode of waqaf donations for many fundraising campaigns.
- Massive amounts accumulated. Because of this structural shift from traditional 'immovable property donations' to *highly liquid assets* /cash, anyone can now *contribute instantly* via digital and social media platforms, allowing religious organizations to accumulate massive amounts of public funds.

- However, the solicitation of donations from the public is subject to a complex, multi-layered legal framework that intersects:
  - State Islamic religious law, Federal Securities regulation, and Anti-money Laundering legislation.

Like an 'IPO'. When a religious body begins to operate like an 'IPO' – an Initial Public Offering on large-scale public donation campaigns, it inevitably starts to run on a different set of rules.

Attracting SC attention. Crowdfund-raisers must adhere to strict controls regarding accepting public donations, or else risk running afoul of stringent federal and state oversight laws, attracting SC attention.

This article examines *the regulatory landscape governing waqf and infaq fundraising* by Islamic Charitable Bodies in Malaysia.
It illustrates how massive public collections can *inadvertently trigger severe breaches* of federal capital market laws and Islamic Laws' state enactments.
Particular attention is given to the interplay between:
State-level Islamic religious authority & Federal Capital Market Regulations in determining whether such fundraising is permitted.

The Whirlwind of Donations

Putting in place Controls on Charitable Donations

- Offer to the Public. While a small-scale wakaf appeal within a friendly mosque congregation is unlikely to attract SC attention, today's widely publicised online campaigns, pooling significant sums may cross the threshold of an 'offer to the public'.
- Creating a Grey Area. However, to-date, the SC has not issued specific guidance on social media fundraising platforms, as such. And this creates a grey area for Muslim bodies conducting digital campaigns.
- Money via WhatsApp, Facebook, TikTok, YouTube. The bottom line is that, with no regulations controlling '*Informal Online Fundraising*', it should not be surprising that this would lead to a proliferation of online donation campaigns via social media platforms - such as WhatsApp, Facebook, TikTok and YouTube.

- This inevitably led to novel regulatory situations:
  - **Embezzlement. It came to a head in the recent controversy regarding the alleged embezzlement of RM230 million Fund - resulting from the lack of regulatory oversight by the State Islamic Religious Council (SIRC):**
    - RM230m Misappropriated Funds. This most recent controversy occurred in April 2026, when the Malaysian Anti-Corruption Commission (MACC) arrested the leaders of a prominent Islamic NGO who were alleged to have misappropriated Zakat Funds (obligatory alms) amounting to RM230 million, and funnelled it into personal and corporate accounts to fund luxury cars, houses and properties, branded watches etc..
    - Subsequent Clarification: However, notwithstanding the missing funds, the MACC Chief Commissioner Tan Sri Azam Baki made an explicit statement that the alleged embezzled funds were entirely public donations & not from an official Zakat institution & also, that the collections were managed by a private NGO.[2] The investigation is ongoing. Its scope is being expanded.
- **Based on this clarification provided by the MACC, it has become clear that the Zakat collection system in Malaysia is on the MACC radar and remains subject to extensive auditing and regulatory oversight**.
  - RM4b-RM5 billion annually. And this would stand to reason because the Zakat system has enormous annual collections, for instance, 'in a few states in the Peninsula, annual collections now exceed RM1b, with total nationwide Zakat contributions estimated at over RM4 billion-RM5 billion annually.'[2b]
  - Reputational Damage. Further, the above clarification was important to make - to prevent public misconception or cause reputational damage to offical state Zakat institutions.

- Continued Unauthorised Capital Market Offerings. However, inspite of the close surveillance, some Muslim bodies, nevertheless, continue to conduct fundraising through conventional donation drives without SC oversight, risking SC intervention.

- Scrutiny under Anti-Money Laundering & Counter-Terrorism Financing
  It goes without saying that in the course of accepting the collection of large-scale cash donations, specifically those conducted without proper documentation, charitable organisations might rouse suspicion and attract scrutiny under the *Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA)*.

  - In short, charitable organizations are not exempt from filing '*suspicious transaction reports'* where applicable, under AMLA.
  - Thus, condoning a lack of proper Transparency and loose Governance may result in a multitude of charges.

Controls on the Proliferation of Cash Donations

1. 2007 Fatwa: Waqaf-in-Cash is Permitted

- The 77th Fatwa Committee of the National Council for Malaysian Islamic Religious Affairs, which convened on 10–12 April 2007 at Primula Beach Resort, Kuala Terengganu, issued a fatwa declaring that:
  - **waqaf in cash form is allowed (*harus*) in Islam**[3].
  - Diversifying Cash Waqaf Schemes. This national fatwa has since facilitated the introduction of numerous *cash waqaf schemes* by local banks, federal agencies and SIRCs, thereby diversifying the range of waqaf properties and making waqaf accessible to a broader segment of the Muslim public.
  - Transformation to Big Cash. Therefore, what used to be localized, low-risk donation-drives have now transformed into large-scale public fundraising exercises.
  - Unwarranted Exposure. This has led to critical legal consequences, such that, as these digital cash campaigns expand, they become exposed to:
    - running a significantly higher risk of breaching Federal laws,
    - pooling massive amounts of public money which can easily
      - cross the legal threshold into an *unauthorized capital market product* under the *CMSA* or
      - trigger strict money-laundering scrutiny under *AMLA* if conducted without official State religious & Federal regulatory oversight.

2. Who Governs Waqaf? Properties Under Trusteeship

The Legal Framework

Constitutional Foundation and State Jurisdiction

- Waqaf is an Islamic charitable endowment where assets like land, buildings, or cash are dedicated, in perpetuity, for religious and communal purposes, such as funding mosques and madrasahs under a trustee's management.
  - State Management. The administration and management of waqaf fall under state authority by virtue of the Ninth Schedule of the Federal Constitution.

    List II (State List) [4] provides:

    The State Islamic Religious Council (SIRC) as Sole Trustee:

    > "Wakaf and the definition and regulation of charitable and religious trusts, the appointment of trustees and the incorporation of persons in respect of Islamic religious and charitable endowments, institutions, trusts, charities and charitable institutions operating wholly within the State" are matters exclusively within the legislative competence of each State.

  - Sole Trustee. Each SIRC acts as the sole trustee (*mutawallī*) for all waqaf properties within its respective state[5].
  - Asset Manager. The SIRC is responsible for managing waqaf assets and ensuring their usage aligns with the terms stipulated by the *waqif* (settlor).
  - Private Waqaf. This centralised control means that no private body or Muslim organisation may independently establish a waqaf without the permission and oversight of the relevant SIRC.
  - Ownership. The ultimate ownership of all waqaf funds and projects lies with the respective SIRC.
  - Tax Exemption Available. A corporate entity may contribute to waqaf, and non-Muslims are also permitted to contribute, with any applicable tax exemption being available to donors[6].

As Zakat financial flow grows, it raises fundamental questions:

- Are traditional, *trust-based models* equipped to handle modern financial realities?
  - Recent cases might reveal deeper *structural vulnerabilities* - rather than simple cases of misconduct;
  - Perhaps the core issue lies in its *institutional design;*
  - Specifically, how to *re-structure the system* to control large, trust-based flows of massive funds with transparency.[2b]

3. Infaq as Fundraising Instrument -Ready Cash for one-off projects

- Immediate Utilisation. Infaq is distinct from Zakat (obligatory alms) and waqaf (permanent endowment) because infaq funds are typically collected for an immediate, defined project and is fully consumed upon utilisation.

- Ready Cash. Infaq has become important because it really means '***ready cash***' **-all of which can be spent at one go, right away**. This gives charities the quick flexibility to fund an urgent project, something that *waqaf* cannot match.

- State-level Oversight. The regulatory oversight for public infaq campaigns, like waqaf, requires state-level authorisation. A recent example illustrating this principle is the MoU signed between Agrobank and the Negeri Sembilan Islamic Religious Council (MAINS) on 26 December 2025, making Agrobank the official account for infaq collection in Negeri Sembilan through the launch of the Negeri Sembilan Mosque Infaq Fund (Dana Iman9)[7].

- Free from usury, *gharar* (uncertainty) & *maysir* ensuring 'Halal' use. Funds "Dana Iman9" are used specifically for the development of mosque institutions as centres for religious activities, education and community. The agreement ensures that transactions are free from elements of usury, *gharar* (uncertainty) & *maysir* (gambling/speculation), guaranteeing the use for halal purposes.

4. Securities Regulation and Capital Market Considerations

Beyond the state-level Islamic religious governance framework, Muslim bodies conducting waqaf or infaq fundraising must also navigate the Federal regulatory terrain overseen by the SC & the Capital Markets and Services Act 2007 (CMSA).

5. The Prohibition Against Unauthorized 'Capital Market Product' Offerings

- **Potential for income-generation or benefit.** — While waqaf donations are primarily charitable, some waqaf structures may involve income-generating assets **such as waqaf land developed into a commercial property** where the surplus income is used for the administration costs of the Islamic Charitable Bodies.

- **Ownership or Beneficial Interest**. If the fundraising arrangement involves the issuance of any document representing an ownership or beneficial interest in a project, or if donors are promised any form of financial return, the arrangement may constitute an 'offer of capital market products to the public', thereby triggering the prospectus and authorisation requirements under the CMSA.
  - Section 212 of the CMSA prohibits any person from offering or issuing any capital market product to the public without the prior authorisation of SC.
  - The Minister of Finance has the power under Section 5 of the CMSA, to prescribe any investment as 'a security', and to prescribe any undertaking, scheme, enterprise, contract or arrangement as a prescribed investment.

- **Prescribed Investment Schemes**. This power is critical because "prescribed investments" and "prescribed investment schemes" are regulated capital market products under the CMSA, with implications for any structured waqaf fundraising that carries investment features.

- **Managed by *Nazir***. Some characteristics that merit 'regulatory scrutiny':
    - Cash Collection. When Islamic Charitable Bodies collect cash waqaf or infaq contributions from multiple members of the public, and
    - pool those funds into a single endowment fund,
    - which is then managed by a *nazir* (waqaf manager) or the SIRC for the purpose of constructing or maintaining a mosque or social welfare premises, the arrangement exhibits several characteristics that merit regulatory scrutiny.

  - Specifically, such arrangements involve a Nazir/SIRC:
    1. **Pooling contributions**—Donors contribute cash into a *common fund*.
    2. **Discretionary Management by an Operator** — The N*azir* or SIRC exercises *discretionary control* over how the pooled funds are deployed, including acquiring land, procuring construction materials, engaging contractors.
    3. **Lack of day-to-day control** — Donors do not direct the management of the project; Their funds are entrusted to the N*azir* or SIRC.

6. Distribution of Zakat Collection

The *Wakalah Zakat Scheme*

- Incentivizing the Wealthy. Officially known as the Wakalah Zakat Scheme, this policy incentivizes wealthy individuals and corporations to pay Zakat directly to a State Zakat Institution under SIRC by returning a percentage of their payment to them. The payer then acts as the state's official agent (*wakil*) to distribute this refunded portion directly to the poor and needy within their own communities.
- Eligible wakalah percentage rate is based on the total Zakat payment of the entity/individual person. For instance, Lembaga Zakat Selangor (LZS) returns up to 50.0% depending on the exact quantum paid.[8]
- ‘Amil Zakat Fitrah is a zakat fitrah collector appointed by SIRC. The remuneration for ‘amil zakat from part of the zakat collection is allowed in Islam and the portion of the remuneration is fixed by the law.

Waqaf & infaq

Infaq: In the Alquran the term infaq to command believers to spend from what Allah has provided them –

Al Quran (Surah Al Baqarah 2:254 – “O you who have believed, spend them that which We have provided for you before there comes a Day in which there is no exchange, no friendship and no intercession”

Al Quran (Surah Al Baqarah 2:261) – “The example of those who spend their wealth in the way of Allah is like a seed of grain which grows seven spikes, in each spike is a hundred grains…”

Al Quran (surah Al-Hadid 57:18) – “Indeed the men who give charity and the women who give charity and they have loaned Allah a goodly loan-it will be multiplied for them, and they will have a noble reward”.

Waqaf - the term is not explicitly mentioned in the AlQuran. However its concept is derived from the general command to compete in good deeds. The primary legislative source is the Sunnah.

Hadith (Sahih Muslim, Book 13Hadith 40005) the famous narration of Umar ibn Al-Khattab (RA) who acquired land in Khyabar and asked the Prophet (PBUH) what to do with it the Prophet replied: “If you wish,you may retain the property as an endowment (waqaf) and give its produce in charity”.[1]

Conclusion

The law is unequivocal on two fundamental points:

- 1. Centralised control lies with the State Islamic Religious Councils as the sole trustees of all waqaf affairs. Any Muslim body or individual wishing to fund a project must first obtain the relevant state approval. Failure to do so renders the fundraising impermissible, regardless of the religious merit of the cause.
- 2. Securities regulation imposes additional compliance layers for larger, structured or investment-like fundraising arrangements.

Securities law enforcement still remains unlikely for most waqaf fundraising conducted by Islamic Charitable Bodies within a local community under SIRC supervision. However, as fundraising scales up or moves online, the prudent course is to engage with the SC's regulated frameworks.

The choice of pathway depends on the scale, structure and objectives of the specific project. In all cases, early legal advice addressing both State Islamic law and Federal securities and Capital Market law is strongly recommended before any public fundraising commences.

Contact:
Datuk Dr Abdul Raman Saad | Senior Partner | Email: dars@arsa.com.my
Zainursyazwani Zakaria | Associate | Email: zainur@arsa.com.my

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Landmark

Challenging the Minister of Health and Winning in Court

Overturned: 2023 AMENDMENT THAT CHANGED LIST OF "POISONS": Releasing 'Nicotine'-based gels/liquids from the 'Poisons List' – which made Vaping accessible to Youth

By: Rohana Binti Ngah | Partner

One of the most significant High Court landmark decisions played out on 15 May 2026 when the court declared "unlawful" the Ministry of Health's 2023 Amendment to the 'Poisons List', which had effectively created a regulatory gap, allowing nicotine-containing products to be legally sold to Youth under 18 years of age.

In one fell swoop, the court censured the Ministry by declaring that it had not given sufficient, meaningful consideration to the unanimous objections of the Poisons Board, thereby breaching its mandatory duty to do so.

At its core, the argument was not merely:

> '*Whether nicotine used in vape products should be regulated differently, or taken off the Poisons List*'
>
> ***but***
>
> *'Whether the Minister of Health had complied with mandatory statutory safeguards enacted by Parliament before making a decision that could directly affect millions of Malaysians, particularly young adolescents.'*

The case attracted considerable public attention because it lay at the intersection of Governmental Accountability, Administrative Law, and Public Health.

- *Removing Restrictions on liquid & gel nicotine*
  - The controversy arose following the Government's singular decision:
    - to remove liquid and gel nicotine used in electronic cigarettes and vape products from the First Schedule of the Poisons List under the Poisons Act 1952 (Poisons Act) – a restrictive legislative regulation that had been in place for more than 70 years – and thereafter giving easy access to products containing nicotine to anyone, so that, even a minor would have access to nicotine through vaping and electronic cigarettes.
- Protecting Children from accessing Nicotine
  - From as far back as 1952, the Poisons Act 1952 established a statutory framework for the regulation and control of poisons. Nicotine had long been regulated as a poison under the First Schedule of the Poisons List, which meant that: products containing nicotine were subject to strict controls under the Poisons Act.
  - In other words, its sale or usage, especially to minors, was strictly prohibited unless permitted for medical use.

- Legislative Recognition of Addictive Nature.
  - This legislative framework reflected the recognition that nicotine was a substance requiring close regulation because of its addictive nature and the significant health risks associated with its consumption.
- The Gravity of this recognition cannot be underestimated:
  - Nicotine is classified as a Group C poison under the First Schedule of the Poisons Act. It regulates the importation, possession, manufacture, compounding, storage, transport, sale & use of poisons.
- Stiff Penalties Reflects Seriousness of Offense.
  - Under Section 17 of the Poisons Act, any person selling or supplying poison to a minor other than for purpose of the medical/dental treatment shall be guilty of an offence against the Poisons Act.
    - RM50,000+5. Penalties ranged from: a fine of up to RM50,000, imprisonment for up to five years, or both;
    - RM200,000+10. a fine of up to RM200,000, imprisonment for up to ten years, or both for culpable negligence that endangers or is likely to endanger human life.

The sudden 2023 Amendment to the *Poisons List* after so many decades of child protection was, as the High Court judge said, "irrational".

- The Poisons List changed when the Poisons (Amendment of Poisons List) Order 2023 came into force on 31st March 2023. In amending the First Schedule of the Poisons List the Government exempted or took out the following items from the list under the Poisons List:
  - "(1) Tobacco;
  - (2) Product in the form of patch or gum to be used as an aid for smoking cessation, which is registered under the Control of Drugs and Cosmetics Regulations 1984;
  - (3) Preparation of a kind used for smoking through electronic cigarettes & electric vaporizing devices, in the form of liquid or gel."

- The sale of *e*-cigarettes & vape products with gel/liquid-based nicotine to children could proceed with no controls.
  - The above exemption allowed *e*-cigarettes & vape products with gel/liquid-based nicotine to be sold openly and legally to anyone, including children and youth aged below 18 years, without any form of regulation or control, as there was no regulation or legislation regulating e-cigarettes and vape products with nicotine before the Control of Smoking Products for Public Health Act 2024 ('the 2024 Act') came into force on October 1 2024, bridging the regulatory gap.

Called Out by the High Court: Was a 'done deal' from the start

- Driven by Excise Duty. It should therefore not come as a big surprise that the High Court, in one of its findings, went so far as to say that:
  - 'the exemption appeared to have been driven primarily by the Government's intention to impose excise duty on nicotine vape products, rather than public health considerations.'
- 'Economic Considerations' instead. In other words, the government's decision to exempt liquid and gel nicotine from the Poisons List was driven, at least in part, by what the Court characterised as "economic considerations". To put it bluntly:
  - Tax revenue generated from nicotine-containing vape liquids and gels were seemingly too lucrative to forgo. Unfortunately, the 2023 exemption had the effect of leaving these products accessible to minors.
- Ignored Objections. This lure was strong enough for the Minister of Health to ignore the unanimous objections of the proposed amendment by the Poisons Board, let alone to have a face-to-face meeting with the Board to discuss their P.Health objections.

- Taxes on e-cigarettes and vape commenced almost immediately after Amendment was made.
  - Following the said exemption, **the Excise Duties (Amendment) (No. 2) Order 2023**, was gazetted, and came into operation on 1 May 2023, in which the Excise Duties Order 2022 was amended to allow the tax on e-cigarettes and vape liquids containing nicotine to be imposed at 40 cent per ml.
  - The Applicants raised the issue that the exemption was made for the purpose of enabling excise duties to be imposed on electronic cigarette and vape liquids containing nicotine.

Challenging the Health Minister & Government
Judicial Review Application - for 'Removal of the '*Nicotine*' Amendment'

- The legality of the exemption approved by the Minister of Health and the Government of Malaysia was challenged in court by Malaysian Council for Tobacco Control (MCTC), Malaysian Green Lung Association (MGLA) and Voice of the Children (VoC), through a judicial review application filed at the High Court of Malaya in Kuala Lumpur on 30 June 2023.

- The Applicants contended that:
  - The Minister's decision to exempt the liquid nicotine from the Poisons List was unlawful, irrational and made without proper consultation, particularly with the Poisons Board, as required under Section 6 of the Poisons Act 1952.
  - the exemption would weaken the Public Health safeguards: vape products were widely available in the market including to children.
  - the exemption of the liquid or gel nicotine from the Poisons List created a regulatory gap, that would allow nicotine vape products to be sold more freely, during the duration before any new regulation under the Poisons Act 1952 could be enacted.
  - the statutory consultation requirement was not a procedural formality but intended to ensure that decisions affecting Public Health where expert scientific advice is sought.
  - the Minister failed to undertake meaningful consultation and instead disregarded the unanimous objections raised by the Poisons Board.

Respondents' Rebuttal

- The Respondents maintained that the Minister had acted within the statutory powers conferred under the Poisons Act 1952;
- Further, the consultation with the Poisons Board had been undertaken before the amendment order was made; and
- that Section 6 merely required consultation & did not oblige the Minister to follow the Board's recommendations.

High Court Judgment: The 2023 Amendment was 'irrational, unlawful'

- No proper and meaningful consultation. Justice Datuk Aliza Sulaiman in her decision made on 15th May 2026, held that the Government's decision to exempt liquid and gel nicotine used in vape and e-cigarette products from the Poisons List under the Poisons (Amendment of Poisons List) Order 2023 was 'irrational, unlawful'.
- Contrary to Act. Further, it was also made without proper and meaningful consultation with the Poisons Board, contrary to S6 of the Poisons Act 1952.

The Court found that:

- consultation with the Poisons Board was not carried out as a "conscious, meaningful, purposeful and effective" consultation as required by law - but as a mere formality.
- the Poisons Board had unanimously opposed the proposed exemption, but its views were not genuinely considered; and
- the exemption appeared to have been driven primarily by the Government's intention to impose excise duty on vape products, rather than Public Health considerations, despite recognizing that e-cigarettes & vape liquids were dangerous to health and that Malaysia is obliged to regulate and restrict their supply, sale and use.

The Exemption Order 2023 was Set Aside

The Court set aside the exemption order. No order as to costs was made because the matter was brought as public interest litigation.

Appeal. The Government has lodged an appeal to the Court of Appeal against the said decision.

Other Voices

Khairy Jamaluddin. Before all this, during his tenure as Minister of Health from August 2021 to November 2022, Khairy Jamaluddin championed proposals to prohibit the sale to & use of tobacco & vape products by persons under 18. He also supported more comprehensive measures to regulate the advertising & promotion of such products. He also promoted the **Generational End Game** (**GEG**) proposal, aimed at creating a future smoke-free generation by prohibiting the sale of tobacco and vape products to individuals born on or after 1 January 2007. All this was lost after Khairy Jamaluddin left the Ministry.

Sponsorships: Sports & events. Trite reason but Sports bodies & event organizers have expressed concern over restrictions on sponsorship & advertising by tobacco & vape-related companies. Historically, heavy financial reliance on such industries have, for long, moved the scale in their favor, thus, outweighing the Government's paramount job to safeguard Public Health.

Setting the Record Straight

Fortunately, the Control of Smoking Products for Public Health Act 2024 ('the 2024 Act') came into force on October 1 2024. The 2024 Act comprehensively governs cigarettes, vaping devices & nicotine products, regulating the sale, supply, possession & use of smoking products & to reduce nicotine exposure among youth: prohibiting the sale of such products to persons under 18 years.

So why continue with the 2023-JR-Application against the MOH/Government?

To set the record straight. 1. It is important to correct, in writing, that nicotine-based gels & liquids are 'Poisons' on the Poisons List & will now be subject to close judicial scrutiny & protection. 2. It reinforces a fundamental principle of administrative law - that statutory powers must be exercised strictly. 3. So that Malaysia's stand is stated clearly: It is a society that protects its children.

The focus should now shift towards:
Educational initiatives such as addressing nicotine addiction, peer pressure, digital marketing strategies targeting youths, mental health considerations and the broader social consequences associated with long-term dependency.

Early age Vaping/e-cigarette smoking had raised concerns for many years:

- Increasing popularity of vaping by adolescents was alarmingly high.
- With attractive flavours, sleek designs and misconception regarding its safety, it had contributed to increased numbers of young users.
- Often marketed as a 'safer alternative' to conventional cigarettes, in truth, vape goods expose users to nicotine addiction, at an early age.
- Undeniably, nicotine consumption was one of the leading causes of preventable disease like lung cancer or cardiovascular illnesses.

Conclusion - A Wake-up Call

The High Court's decision on 15th May 2026 serves as a wake-up call that effective regulation must be achieved through lawful means. The debate on banning cigarettes and vaping among minors is no longer merely a question of Health Policy. It is also a question of legality and good governance. It strengthens the principles of accountability, transparency and evidence-based policymaking: A reminder to public authorities that decisions affecting Public Health must be supported by lawful administrative processes.

Ultimately, the protection of future generations requires more than political commitment. It requires legislation that is comprehensive, administration that is transparent, consultation that is genuine and enforcement that is effective. Only through this combination can Malaysia develop a regulatory framework that safeguards Public Health while upholding the rule of law.

Contact: Rohana Binti Ngah | Partner | Email: rohanangah@arsa.com.my

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The Rising Cost of Online Harm

Banning Social Media for Children Under 16?
... and Lessons from Australia

By: Nasyitah Ruzanna Abdul Raman | Partner & Hartini Hawari | Senior Associate
Anis Amirah Amran | Associate & Firzana Mahirah | Associate

In March 2026, a California jury found *Meta and Youtube* liable for designing addictive platforms. The Court determined that features like infinite scrolling & algorithmic recommendations led to compulsive use, contributing to a young 20 year old woman's anxiety, depression and body dysmorphia.
She was awarded USD$6 million in damages.

Tragedies linked to cyberbullying, harmful viral challenges, online predators and algorithmic manipulation underscore a stark reality:

- social media is no longer merely a communication tool. It has become a powerful influence on children's behaviour, mental health and decision-making.
- This influence is not incidental – it is by design.

- The question is no longer whether social media affects children, but rather whether governments should intervene more aggressively to protect them.

1. Voices are Rising

- **Curating and Recommending Content**
  - 'Unlike traditional media, social media platforms actively curate and recommend content through sophisticated algorithms. Consequently, children are often exposed to material they never actively searched for, creating a heightened risk of harm.'
- **Global Debate**
  - Australia makes the first move. In December 2025, Australia became the first country in the world to introduce its 2024 legislation prohibiting children under the age of 16 years from holding social media accounts on major social media platforms. The move sparked global debate and prompted policymakers worldwide to reconsider the balance between children's access to digital technologies and their right to safety.
  - France has followed suit, banning children under 15 years from creating social media accounts; & age-verification to start in January 2027.[1]
  - The United Kingdom & Greece follows this year.
- **Malaysia is increasingly becoming part** of that conversation, as concerns over online harm, youth violence and the adequacy of existing regulatory safeguards continue to grow.

- **Public Outrage**
  - Fatal Stabbing. The voices became louder after October 2025, when the nation was shaken by the fatal stabbing of a 16-year-old schoolgirl at a secondary school in Bandar Utama by a 14-year-old male student.[2]
  - Online Footprint. During the course of investigation, authorities scrutinized the suspect's online footprint, examining specific social media platforms and digital content he had accessed. Their inquiries revealed that the weapons used in the attack - two knives & a kerambit (small curved knife) were purchased online, and the suspect was also noted to have worn gloves, which police believe was part of his premeditated preparation.
  - Reignited Debate. These findings have reignited public debate over the influence of the online environment on vulnerable adolescents. The incident highlighted the growing concern that - largely unregulated exposure to digital platforms may contribute to harmful behaviour among young users.
- The question is therefore no longer whether social media affects children, but rather whether governments should intervene more aggressively to protect them from its potential harm.

2. Australia's Groundbreaking Social Media Ban

- Australia's Online Safety Amendment (Social Media Minimum Age) Act 2024 requires social media platforms to take reasonable steps to prevent users under 16 years from creating or maintaining accounts. The legislation targets major platforms such as *TikTok, Instagram, Facebook, Snapchat* and *X*.
  - Insufficient Self-Regulation. The legislation was justified on the basis that children are increasingly exposed to cyberbullying, harmful content, online predators and algorithmic manipulation during crucial stages of their development. Mounting evidence linked social media use to declining mental health and wellbeing among young Australians. The public had grown extremely frustrated with the perceived failure of social media companies to self-regulate and enforce their own age limits.
  - Shifting Responsibility. Introduction of this law effectively shifts responsibility from parents to technology companies by requiring platforms to implement age-verification rules & safety mechanisms.
  - Growing Consensus. The legislation reflects a growing international consensus that self-regulation by social media companies has been insufficient and self-serving.

3. The Malaysian Reality:

- **Growing Concerns Over Children's Online Safety**
  - Troubling Statistics. Between January and October 2025, the Malaysian Communications and Multimedia Commission (MCMC):
    - removed 27,704 cyberbullying-related posts – approximately 3.4 times higher than all content removed throughout 2024; and
    - nearly three-quarters (75%) of secondary school students admitted to having been exposed to pornographic material.[3]
  - Pre-teen Social Media Accounts. Malaysia has undoubtedly witnessed a significant increase in social media usage among minors – with children often gaining access to platforms well before reaching their teenage years. Concerns have intensified following reports linking online behaviour to worrying incidents involving young individuals.:
    - In particular, the Melaka gang rape and Kedah statutory rape cases which unfolded in 2025 illustrate how digital culture has fundamentally transformed crimes against minors.
    - According to reports, the sexual assault of a 15 year old female student by two senior students were recorded by two other senior male students on a mobile phone. The case came to light after a teacher informed the victim's mother about the existence of the video which had been circulated among students in the school.[4]
      - This digital dimension transformed a physical atrocity into a permanent, shareable spectacle, extending the victim's trauma indefinitely.
    - Similarly in Kedah, a statutory rape case involving a 15 year old girl and four teenage boys was exposed after a video of the violent acts were circulated online.[5]
  - Toxic Ecosystem. These cases demonstrate how digital platforms have become active instruments in amplifying the problems. It is precisely this toxic ecosystem – where violence is performed for an audience and 'trauma' becomes 'content' – that Malaysia's under-16 social ban seeks to dismantle.
  - Disturbing Cases Fueled Action. This incident occurred parallel to the Bandar Utama stabbing case, which consequently fueled public debate on 'how digital platforms affect young children'. While responsibility ultimately lies with the perpetrators of such conduct, the technological ecosystem, which enables such behaviour, cannot be ignored.

Malaysia Joins the Forefront

Perhaps the most troubling aspect of social media is its capacity to facilitate relentless harassment beyond school grounds. Cyberbullying follows victims home: Harmful messages, public humiliation & targeted harassment can continue nonstop, often before a limitless online audience.

- Recognizing these growing concerns, Malaysia has taken a significant regulatory step:
  - Setting Age Limit. Effective 1 June 2026, social media platforms, operating in Malaysia, are prohibited from allowing children under the age of 16 to register for or maintain social media accounts, unless permitted under applicable regulatory requirements.[6]
  - Operators' Involvement. The new framework under the *Online Safety Act 2025 ("ONSA 2025")*[7] places greater responsibility on platform operators to implement age-verification measures and safeguard minors from online harm.
  - Policy Shift. This development reflects an emerging policy shift and places Malaysia among the jurisdictions adopting more stringent approaches to children's access to social media.

4. Why Governments Are Taking Action

- Control Structures. For years, governments largely relied on parents & schools to manage children's social media use. However, increasing evidence has shown that online harm is becoming more severe & more difficult to control – requiring stronger structures in place.
- List of Problems. Among the most significant concerns are:
  - Cyberbullying and online harassment;
  - Exposure to self-harm and suicide-related content;
  - Dangerous viral challenges;
  - Online grooming and exploitation;
  - Mental health deterioration;
  - Addiction and excessive screen dependency; and
  - Algorithmic amplification of harmful content.

5. Can Social Media Platforms Be Held Legally Liable?

- In March 2026, a California jury found Meta and Youtube liable for designing addictive platforms. The Court determined that features like infinite scrolling & algorithmic recommendations led to compulsive use, contributing to a 20 year old woman's anxiety, depression and body dysmorphia. She was awarded USD$6 million in damages.[8].
- A particularly significant legal development emerging globally is the increasing willingness of parents to pursue claims against social media companies for designing addictive platforms that harm children's

mental health & for failing to protect minors from exploitation & harmful content.

- In the United States, families of children who lost their lives while participating in viral social media challenges have commenced legal proceedings against platforms such as TikTok, alleging that recommendation algorithms actively promoted dangerous content to minors. Courts have increasingly been asked to determine whether platforms may be held liable where their systems foreseeably expose children to harmful material and where algorithmic design, rather than user-generated content, is the basis for the claim.

No Definitive Precedents or Claims in Malaysia yet, however:

- Applying similar principles, it is conceivable that parents in Malaysia could explore civil claims where:
    - A platform negligently recommends harmful content to a child;
    - Dangerous content remains accessible despite foreseeable risks;
    - The platform fails to remove harmful material within a reasonable period; or
    - Algorithmic recommendations contribute substantially to a child's injury or death.
- Potential causes of action may include negligence, breach of statutory duty (where applicable), failure to implement adequate safeguards, or other tortious claims.
- The above course of action would of course be additional to the regulations newly in force under the ONSA 2025.
    - The ONSA 2025 establishes a regulatory framework that requires *social media and online messaging service providers:*
        - *to actively manage online risks rather than merely respond to complaints after harm has occurred.*
    - It empowers the Malaysian Communications and Multimedia Commission ("**MCMC**") to impose duties on platform operators, including the implementation of safety measures, content moderation systems, user reporting mechanisms, risk assessments and procedures to restrict access to harmful content.
        - For example, platform operators must analyze platform features and assess how recommendation algorithms, design features and user behaviour could increase risks.
    - Platforms with services accessed by children will face stricter requirements such as safer default settings, stronger privacy safeguards and greater control over interactions.[9]

    - Through regulatory oversight, enforcement powers and compliance obligations, ONSA 2025 seeks to form a qualified risk assessment team, to consider how design features and algorithms may expose users to harm and maintaining written records which are reviewed annually.
- The Child Protection Code (CPC) places strict duties on platforms to safeguard minors.
    - Platforms with over 8 million users in Malaysia must verify that new account holders are 16 and above by using their MyKad/Passport.
    - Platforms must enable parental control features for parents to monitor their children's online activities, and must provide privacy default settings, limit communications between unrelated adults and children and ensure algorithms and search functions are suitable and appropriate for child users.
- Social media and online messaging service providers may face fines of up to RM10 million for non-compliance with online safety requirements, including risk mitigation and child protection measures. In addition, failure to comply with directions issued by the MCMC, such as orders to remove harmful content, may result in fines of up to RM1 million.

Although Malaysian courts have yet to establish definitive precedent in this area, developments overseas suggest that the era of blanket immunity for social media companies may be gradually narrowing.

6. Conclusion

- Australia's landmark legislation signals a significant shift in global thinking.
- For Malaysia, the question now is to see whether the new regulations will be sufficient to curb online and/or social media driven crimes.
- While it is still early days, the results so far are a bit of a mixed bag. In the early months of 2026, the government reported that 90% of requests to take down harmful online content were complied with by the platforms, which included financial fraud, obscene harassment and immoral content.
- However, the government itself admitted that it was still too early to see a clear downward trend in sensitive content related to race, religion or royalty and hate speech.

- So, to the question: 'Can Social Media Platforms Be Held Legally Liable?' While the impracticality of reviewing every single content posted by billions of users everyday is acknowledged, using that, as a basis to limit liability to 'design', afford platform operators undue leniency regarding harmful content. This approach largely absolves them from their core responsibility. Rather than reducing their obligation, the legal framework should place affirmative duty on platforms to develop scalable, effective content governance solutions. The onus must be on them to innovate their modern capabilities, rather than on regulators to excuse their operational failures.
- Social media platforms can and must be held accountable for:
  - how their product or system works,
  - oversight and response to known risks, for instance, allowing a platform to continue to engineer addiction and profit from the harm it causes children is unacceptable.
- At the same time, education, parental awareness and digital literacy are just as critical. Whilst platforms can be held legally liable, parents and schools also have a role to play in teaching children how to navigate the online world safely.

Contact: Nasyitah Ruzanna Abdul Raman | Partner | Email: nasyitah@arsa.com.my

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Behind the Briefcase: *Mental Health Challenges for Lawyers*

By Bawany Chinapan, Registered and Licensed Counsellor

The legal profession is often viewed through a lens of prestige, intellectual prowess, and financial success. While these aspects are certainly part of the picture, there's a deeper, often hidden reality that many in the field face: the profound mental health challenges that have become more widely recognised in recent years. Behind the polished exterior of the legal world, lawyers are grappling with stress, anxiety, depression, and other mental health struggles. Understanding and addressing some of these issues are essential to not only support the well-being of those in the profession but also fostering a more compassionate and sustainable work environment.

Having had the privilege of serving remarkable individuals for the past three years under the Board of Counsellors Malaysia (Lembaga Kaunselor Malaysia) for Members of the Malaysian Bar, I have witnessed first-hand their incredible resilience and courage to seek help. Despite the immense challenges they face, they remain committed to their personal growth and self-care, showing determination in striving for better mental health amidst the pressures of their demanding careers.

The Weight of Stress

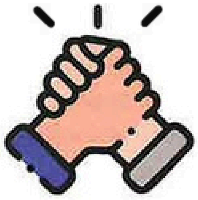
One of the most overwhelming challenges many lawyers face is stress. The legal field is naturally competitive, demanding, and fast-paced, requiring practitioners to confront high-stakes situations and complex conflicts regularly. The constant push to meet deadlines, serve clients well, and maintain billable hours adds layers of pressure. Many lawyers work on cases that require an immense amount of preparation and precision, further heightening the stress they carry. Over time, this stress can manifest in anxiety, burnout, and a sense of mental exhaustion that makes both professional and personal life difficult to navigate. Worries about making mistakes or not delivering the best possible outcome can lead to sleepless nights, irritability, and a constant feeling of being under pressure. This issue is further intensified by unsupportive bosses who prioritise meeting deadlines over addressing the concerns of their staff who are often juggling both work and home responsibilities. Harsh comments and sometimes apathetic attitudes from these bosses contribute to relational stress in the workplace. Over time, this accumulates into chronic stress, which eventually leads to various physical or emotional symptoms.

A Silent Struggle: Anxiety and Depression

Anxiety and depression are sadly too common among lawyers. The demanding nature of legal work, the long hours, and the competitive environment create a perfect storm for mental health struggles. Many lawyers hold themselves to impossibly high standards, striving for perfection and fearing the potential consequences of a misstep. This pursuit of perfection often fuels anxiety, while the pressure of constant responsibility can lead to feelings of sadness, isolation, and despair. Studies show that lawyers experience depression at higher rates than many other professions, with the high-stakes, isolating nature of the work often contributing to these feelings. With rigid hierarchies and limited support within firms, lawyers often feel isolated, lacking the connection and understanding that could help alleviate their emotional burdens. Therefore, fostering a healthy work environment and a caring atmosphere can ease this sense of isolation. Building a strong sense of teamwork provides much-needed support and protection, especially for younger lawyers.

The Struggle to Find Balance

For many lawyers, achieving a healthy work-life balance can feel like an unattainable goal. Long hours, often including nights and weekends, can make it difficult to find time for relaxation, personal interests, or meaningful connections with loved ones. This imbalance can lead to feelings of isolation, and the absence of time for self-care can exacerbate stress and depression. Many lawyers find themselves sacrificing their personal happiness for the sake of their careers, perpetuating a culture that prioritises productivity over well-being. Unfortunately, this pressure to constantly perform can strain relationships and leave lawyers feeling disconnected from their own lives and the people they care about. Many lawyers are facing challenges in their personal relationships, due to long hours of work, which only exacerbate the conflicts they experience, further increasing the relational stress they must manage. Finding a balance between work and life, along with prioritizing self-care, becomes crucial to maintaining their mental health and well-being.



Breaking the Silence: Stigma and the Need for Support

A major barrier to addressing mental health challenges in the legal field is the stigma surrounding it. In an environment that values resilience and toughness, admitting to struggling emotionally can feel like a sign of weakness. Many lawyers may fear that seeking help could harm their professional reputation or even jeopardise their careers. Additionally, many law firms lack the support structures needed to help their employees cope with mental health issues. Without proper resources, lawyers may feel isolated in their struggles, unable to find the help they so desperately need. The memorandum of understanding ("MOU") between the Board of Counsellors Malaysia and the Malaysian Bar has paved the way for lawyers to find a safe space to obtain help. Hence, overcoming this stigma and creating a culture where seeking support is seen as a strength, not a weakness, is crucial to improving the mental health landscape for lawyers.

A Path Toward Healing and Hope

While the mental health challenges facing lawyers are real and complex, there is hope for change. By fostering a supportive and understanding environment, offering resources like mental health programs, and encouraging open conversations about well-being, we can begin to shift the culture within the legal profession. It's time for lawyers to be given the same care and compassion that they so often extend to their clients. By acknowledging the emotional toll that the profession can take, and by supporting each other through the tough times, we can help ensure that those who dedicate their lives to serving justice also receive the care they need to live fulfilling, healthy lives. Together, we can break the silence, reduce stigma, and create a profession that values not only the mind but also the heart.

As a registered and licensed counsellor, I firmly believe in the power of hope and the possibility of transformation. The courageous individuals who seek help understand that their mental health is worth prioritising. Self-awareness and functionality are essential to maintaining overall well-being. It's important that we shift our mindset and seek support early, instead of letting distress build over time. Therapy is not just about resolving issues — it's about creating positive change and strengthening personal agency, allowing individuals to thrive and live more fully.

The Malaysian Bar Counselling Services Programme, established in 2021 in collaboration with the Board of Counsellors of Malaysia, offers up to five free counselling sessions to support both Members and pupils dealing with stress and anxiety, whether personal or professional. The programme ensures confidentiality and the identity of the Member or pupil seeking counselling is only known to the panel counsellor and the Board of Counsellors. For more information, individuals are encouraged to review the Frequently Asked Questions ("FAQ") on the Malaysian Bar website by clicking here or contact the Board of Counsellors at 03-8323 2522.

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Karen Kraal | Editor-in-Chief | Design & Lay-out
karen_kraal@arsa.com.my

CONTACT US

Abdul Raman Saad & Associates — www.arsa.com.my

Head Office

KUALA LUMPUR
C-2-1, Pacific Place Commercial Centre
Jalan PJU 1A/4
Ara Damansara
47301 Petaling Jaya
Selangor Darul Ehsan
Malaysia
Tel: +603-7859-9229
Fax: +603-7734-5777
Email: arsakl@arsa.com.my

Branch Offices

JOHOR BAHRU
No. 3, Jalan Permas 10/3
Bandar Baru Permas Jaya
Masai, 81750 Johor
Malaysia
Tel: +607-388-6363
Fax: +607-388-2020 / 386-3030
Email: arsajb@arsa.com.my

MELAKA
240A & B, Jalan Melaka Raya1 Taman Melaka Raya
Malaysia
Tel: +606-282-1446 / 283-3793
Fax: +606-284-7868
Email: arsamk@arsa.com.my

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& ASSOCIATES