Introduction

This chapter discusses current developments in education law in Malaysia based on recent litigation in national courts. In examining cases within the time frame of 2011-12, the chapter consists of five sections that encompass a spectrum of the law from various perspectives. The chapter discusses cases related to the government's language policy; administrative and constitutional law; criminal law and the evidence of a child in sexual offences; revenue law; and employment law.

Language Policy

In 2009, the Ministry of Education (MOE) abolished its earlier policy of teaching of mathematics and science using English as the medium of instruction in accordance with an order of the Federal government. As a result, the medium of instruction for the two subjects reverts back to the Malay language, a change that created great disappointment among parents and teachers.

In *Marcel Jude Joseph v. The Minister of Education, Ministry of Education, Malaysia,* the plaintiff applied for leave for judicial review. The plaintiff sought the following relief: an order of certiorari to quash the decision of the MOE; an order of mandamus directing the MOE to continue to implement the previous policy; an order prohibiting the MOE from abolishing the policy; and a declaration that abolishing the previous policy was an ultra vires and unlawful act.

The court dismissed the claim because the applicant failed to show that his personal right would have been injured if it failed to grant the order within section 44(1) of the Specific Relief Act 1950; that he was adversely affected by the MOE’s order; and that he failed to seek judicial review within the time prescribed, namely forty days after the Ministry’s action. The court also ruled that the MOE’s action was a non-justiciable order. In addition, the court recognized that the resolution was beyond its competence because it would have required the judiciary to step outside of its traditionally entrenched constitutional role. The court thus rejected the application as frivolous and lacking substance. The case is important not only because it showed courts were of the opinion that actions taken by the MOE are non-justiciable orders in nature but also because it indicated that the judiciary seldom interferes with policies set out by the MOE.

Administrative and Constitutional Law

In *Peguam Negara Malaysia v. Dr. Michaeal Jeyakumar Devaraj,* the respondent, a Member of Parliament, applied for resources from the federal government for projects for his constituency, including funding for Parent-

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1 [2012] 1 MLJU 104.