

INTRODUCTION TO ADMINISTRATIVE LAW

TOPIC 1:

ADMINISTRATIVE LAW AND ADMINISTRATIVE AGENCIES

Lesson 1.1 – Administrative Law: An introduction to Law and Courts, How to Read Legal Cases, How to Write Legal Brief? What is Rule of Law?



Rationale/ Importance of the Subject

- The course introduces students to administrative law. Students are taught about the scope and purpose of administrative law, statutory inquiries and other administrative powers.



Learning Outcomes

- At the end of the course, students should be able to:
 - Identify the importance of administrative law.
 - Demonstrate comprehension of various aspects of administrative law.
 - Apply administrative law to law enforcement issues.
 - Demonstrate administrative law understanding in work.

Lesson 1.1: Learning Outcomes

- At the end of the lesson, students should be able to:
 - Define administrative law.
 - Demonstrate the basic knowledge of scope and purpose of administrative law.
 - Develop communication, verbal and written skills, which play an important part in administrative law.
 - Describe about administrative law in Malaysia.

Lesson Outline

1. Definition and Types of Law
2. Definition, Scope, and Purposes of Administrative Law
3. Courts Structure in Malaysia
4. How to Read Legal Case
5. How to Write a Legal Brief
6. Rule of Law
7. Tutorial

Definition of Law

- Law is a **system** of **rules** that are **enforced** by public agency to **govern behavior**.
- **Effects** of not following the law:
 - **Penalty**
 - **Sanction**



Types of Law

Criminal Law	Civil Law	Public Law
Laws that define offences & punishment	Laws that provide remedies when people come into conflict	Laws that guide the relations between the government & people
Example – murder is an offence punishable with death penalty	Example – breach of contract entitled a person to get damages	Example – Constitutional law & administrative law

Relation between administrative law and constitutional law

Constitutional Law	Administrative Law
<ol style="list-style-type: none">1. Constitutional law is genus.2. Constitutional law deals with various organs of the state.3. It deals with the structure of the state.4. It is the highest law.5. It gives the guidelines with regard to the general principles relating to organization and powers of organs of the state, and their relations between citizens and towards the state. It touches almost all branches of laws in the country.6. It also gives the guidelines about the international relations.	<ol style="list-style-type: none">1. Administrative law is a species of constitutional law.2. It deals with those organs as in motion.3. It deals with the functions of the state.4. It is subordinate to constitutional law.5. It deals in details with the powers and functions of administrative authorities.6. It does not deal with international law. It deals exclusively the powers and functions of administrative authorities.

Definition of Administrative Law

- Administrative law is a **branch of law** that deals with **legal control of government power**, including **law enforcement agency**.



Scope of Administrative Law

- **Structure** of the government department
- **Functions** of the government department
- **Powers** of the government department
- **Limits on powers** of the government department
- **Procedures** for government department to **exercise** their **powers**
- **Legal control** on the government department powers
- **Remedies** for **abuse** of the government department **powers**

Purposes of Administrative Law

1. Control purpose

- Administrative law **controls** the government power.
- Administrative law **puts limits** to the government power.
- To **protect** the **people** from **abuse** of **power** by the government.



2. Command purpose

- Administrative law **commands/instruct** the government department to **exercise**:
 - **Power**
 - **Duty**
 - **Discretion**
- Law **forces** the department to:
 - **Do something/**
 - **Stop** doing something



3. Good governance purpose

- Administrative law **promotes positive** principles such as:
 - Fairness
 - Transparency
 - Accountability
 - Responsiveness
 - Rule of law
 - Efficiency



4. Public participation purpose

- Administrative law **allows** the public/**interested parties** to:
 - Be heard
 - Be consulted
 - Give feedback/ comment
 - Give recommendation
 - Lodge complaint



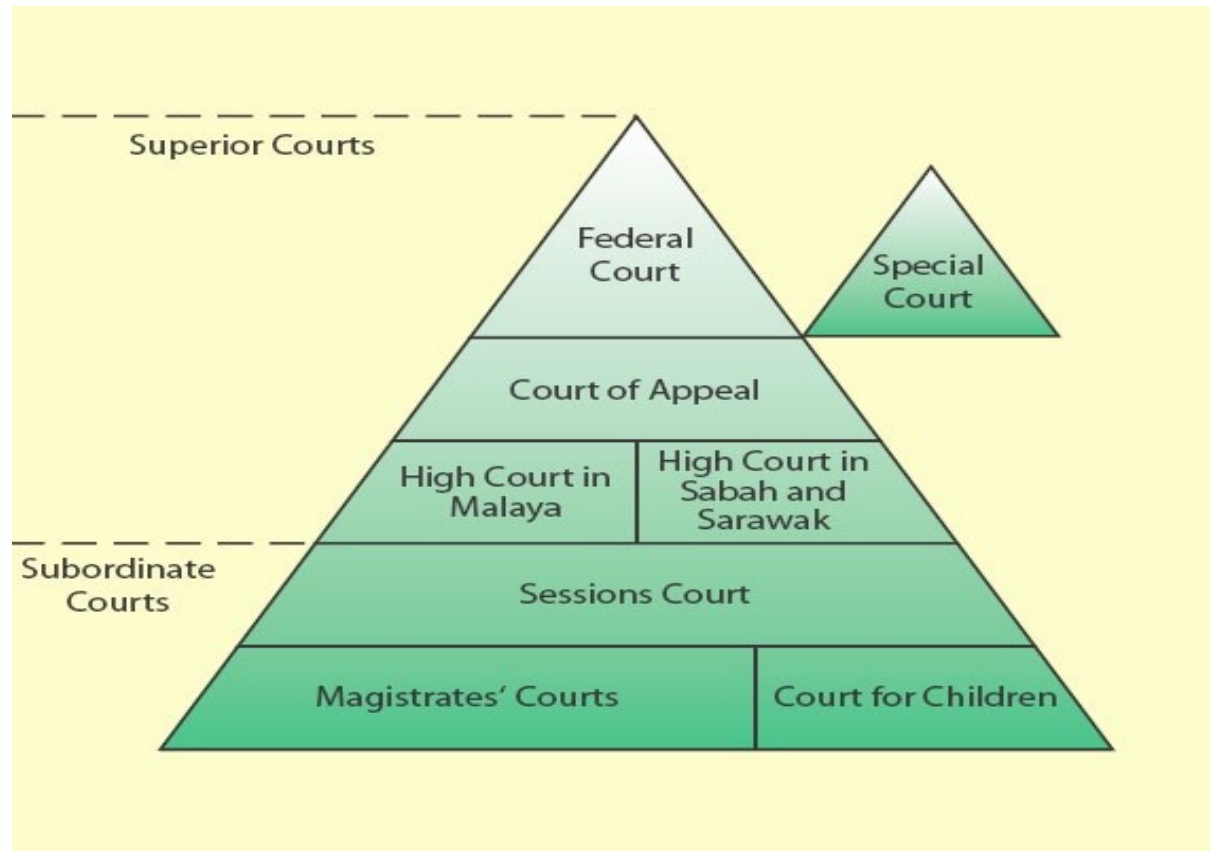
5. Remedial purpose

- Administrative law **allows** individual/ public to **challenge** the **action/ decision** of government department.
- The individual/ public may **claim remedy** to:
 - Enforce rights
 - Impose penalty
 - Get compensation



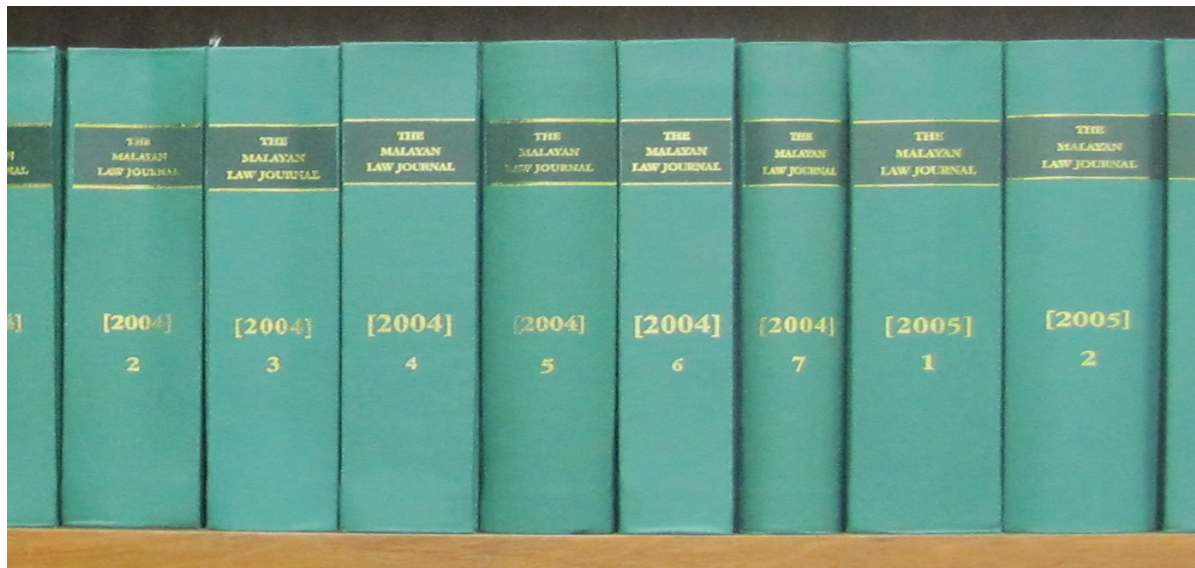
Courts in Malaysia

- **Court structure in Malaysia:**



What is legal case?

- A legal case is a **dispute** between **opposing parties** that is solved in court.
- Case reports contain **collection** of legal cases.



How to read legal cases?

- Contents of a case report:

Content	Explanation
Name of the case	Parties to the case: <ul style="list-style-type: none">•Criminal case – Public Prosecutor v. Accused•Civil case – Plaintiff v. Defendant•Appeal case – Appellant v. Respondent
Citation	<ul style="list-style-type: none">•Year, Volume, Law report & Page. Example – [2016] 1 MLJ 100.•2 types of law report – Current Law Journal (CLJ) & Malayan Law Journal (MLJ)
Headnotes	Brief summary of the case
Full judgment	Full facts, issues and decision of the court

How to write legal brief?

- Legal brief is a **document** that **summarizes** the **issues** in dispute, the **facts** of the matter, and **decision** of the court.



Contents of Legal Brief

1. Name of the case
2. Brief facts of the case
3. Issues in the case
4. Decision of the court:
 - Civil case: who win the case? Plaintiff or defendant
 - Criminal case: guilty/ innocent?
5. Rationale: reason for the decision of the court
6. Personal commentary

What is rule of law?

- **Rule of law** means the **principle of legality**
– **no one is above the law.**
- Elements of rule of law:
 1. Absence of arbitrary power
 2. Equality before the law
 3. Individual liberty



1. Absence of arbitrary power

- **Absence of arbitrary power** means the **government** cannot **abuse** its **power**.
- **Arbitrary power** means **unlimited, uncontrolled & unchecked power**.
- Use of power by **government** must be **controlled by law**.



2. Equality before the law

- No one is above the law, regardless of:
 - Class
 - Status
 - Sex
 - Religion
 - Race
 - Political belief
 - Colour
- Everyone should be subject to the same law, without fear or favour.



3. Individual liberties

- Law protects individual liberties such as:
 - Personal liberty
 - Freedom of speech
 - Freedom of religion
 - Freedom of association
 - Right to property
 - Right to education



Thank You.