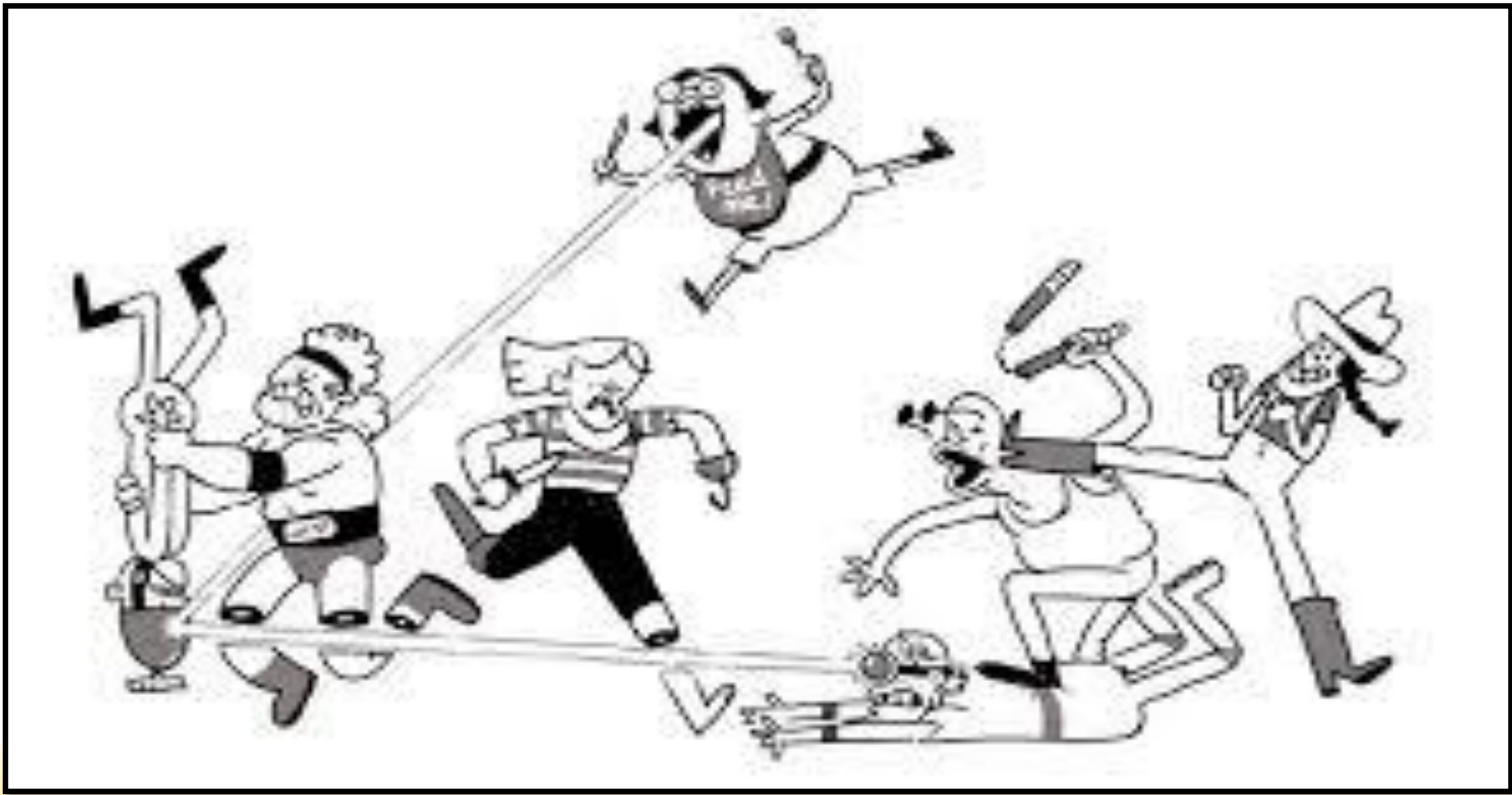




**UNDERSTANDING THE LAW :  
ROLE AND RESPONSIBILITIES OF THE GOVERNMENT**

**WHY DO WE NEED LAW?**







## WHY DO WE NEED LAW?

1. To regulate people's behaviour in accordance with the norms of the society eg. regulatory laws, prohibitory laws, contract laws etc. So law changes with the change in the norms of our society.

Before 1988



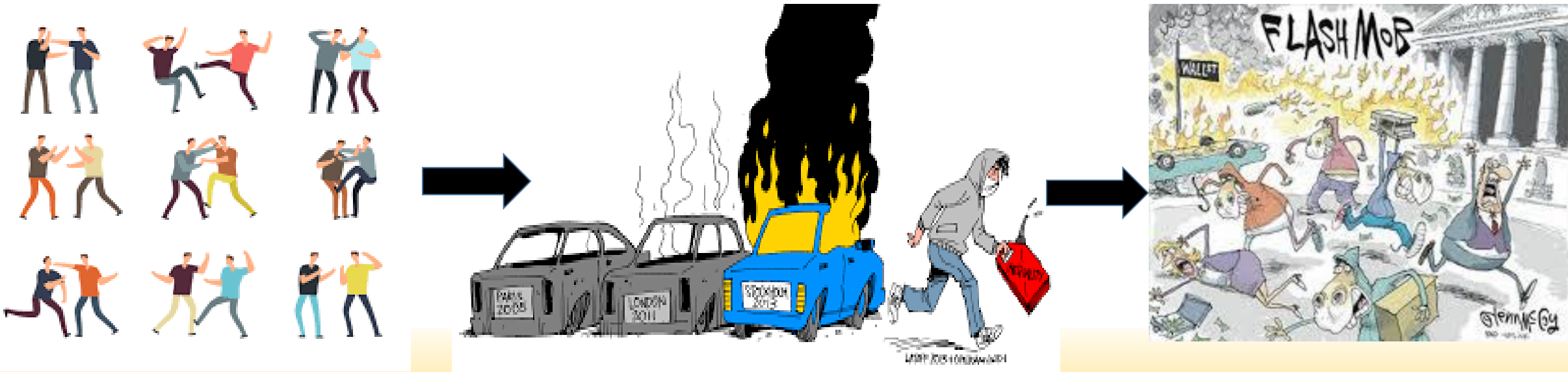
Motor Vehicles (Seat Belts) Regulations 1988





## WHY DO WE NEED LAW?

2. To deal with the harm done by the offender against the individual and society at large. Everyone is aware of HOW to act in the society we live in and we can live with each other peacefully. A country without rule of law result in total chaos and the destruction of a civilised society because you are allowed to do whatever you wish to do.





## WHY DO WE NEED LAW?

3. To collect and generate revenue eg. taxation laws.







## WHY DO WE NEED LAW?

### ■ Private individual

- Laws regulate the behavior of each member of society



### ■ Government

- Government is also subject to law
- Laws govern what a government can or cannot do





## HOW DOES THE LAW WORK?

### LEGISLATURE

- Legislative Council
- His Majesty the Sultan and Yang Di-Pertuan

### JUDICIARY

INTERPRETATION, PROCEEDINGS  
AND SENTENCING  
Civil Courts and Syariah Courts

### EXECUTIVE AUTHORITY

ENFORCEMENT AGENCIES  
Ministries, Departments, Statutory Bodies  
and Royal Brunei Police Force



## LEGISLATE ONLY WHEN NECESSARY

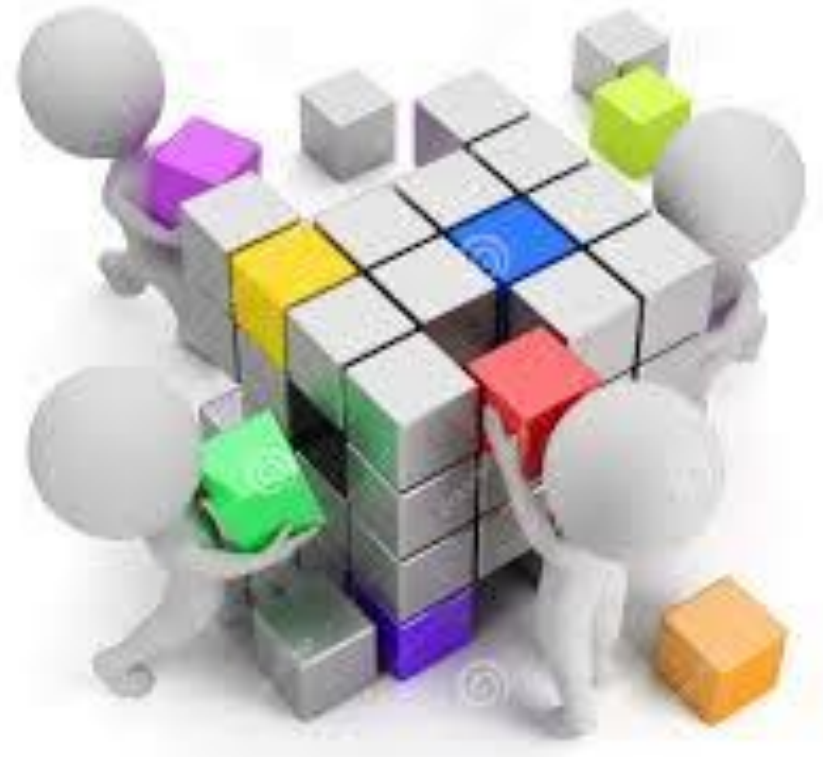
1. Legislation should be last resort, not first resort.
2. Legislation can lead to red tape. Laws are intrusive, high cost and high maintenance. DO NOT over-regulate.
3. Balance the measures to be taken : only such level of legislation for optimum effect. Consider other alternatives to work hand-in-hand with legislation or none at all.







## WHEN TO LEGISLATE?





- To create new obligations or modifying existing obligations (eg. imposing statutory duties; create offences)

No. S 44

CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under Article 83(3))

WORKPLACE SAFETY AND HEALTH ORDER, 2009

Duties of persons at work.

15. (1) It shall be the duty of every person at work —

(a) to use in such manner so as to provide the protection intended, any suitable appliance, protective clothing, convenience, equipment or other means or thing provided (whether for his use alone or for use by him in common with others) for securing his safety, health and welfare while at work;

(b) to co-operate with his employer or principal and any other person to such extent as will enable his employer, principal or the other person, as the case may be, to comply with this Order.

(2) No person at work shall wilfully or recklessly interfere with or misuse any appliance, protective clothing, convenience, equipment or other means or thing provided (whether for his use alone or for use by him in common with others) pursuant to any requirement under this Order for securing the safety, health or welfare of persons (including himself) at work.

(3) Any person at work who, without reasonable cause, wilfully or recklessly does any act which endangers the safety or health of himself or others is guilty of an offence.

(4) Any person who contravenes subsections (1) or (2) is guilty of an offence and liable on conviction to a fine not exceeding \$1,000 and, in the case of a second or subsequent conviction, to a fine not exceeding \$2,000.



- To create new legal rights or modifying existing legal rights (eg changing rules of evidence : presumptions)

No. S 25

CONSTITUTION OF BRUNEI DARUSSALAM  
(Order made under Article 83(3))

FISHERIES ORDER, 2009

Presumption other than as to maps etc.

55. (1) Subject to subsection (2), where —

(a) any fish; or

(b) any fishing appliance or other equipment for fishing,

is found on board a foreign fishing vessel in Brunei Darussalam waters, the fish, fishing appliance or equipment shall be presumed, unless the contrary is proved —

(i) to have been caught in Brunei Darussalam waters; or

(ii) to have been used for fishing in Brunei Darussalam waters without a licence.





## ➤ To impose taxes

### CHAPTER 35 INCOME TAX

#### PART III IMPOSITION OF INCOME TAX

##### Charge of income tax.

8. (1) Income tax shall, subject to the provisions of this Act, be payable at the rate or rates specified hereinafter for each year of assessment upon the income of any person accruing in, derived from, or received in, Brunei Darussalam in respect of—

(a) gains or profits from any trade, business, profession or vocation, for whatever period of time such trade, business, profession or vocation may have been carried on or exercised;

(b) gains or profits from any employment including the estimated annual value of any quarters or board or residence or of any other allowance other than a subsistence, travelling or an entertainment allowance which is proved to the satisfaction of the Collector to have been expended for purposes other than those in respect of which no deduction is allowed under section 12 granted in respect of employment whether in money or otherwise;

(c) the net annual value of land and improvements thereon used by or on behalf of the owner or used rent free by the occupier, for the purpose of residence or enjoyment, and not for the purpose of gain or profit;

(d) dividends, interest or discounts;

(e) any pension, charge or annuity;

(f) rents, royalties, premiums and any other profits arising from property.

(2) Any sum realised under any insurance against loss of profits shall be taken into account in the ascertainment of any profits or income.

(3) Where, under the provisions of section 14, 17 or 18, a balancing charge falls to be made, the amount thereof shall be deemed to be income chargeable with tax.

##### Tax on exports.

8A. (1) Subject to this Act, a tax shall be imposed, at the rate of one per cent, on every person deriving income from approved exports.

(2) The tax imposed under subsection (1) shall be computed by applying the prescribed rate of tax to the gross proceeds of export, liable to be assessed to tax under this Act.

(3) The total turnover of the exporter shall be treated as exports for the purposes of this section if the local sales do not exceed 20 per cent of the total turnover.

(4) In case the local sales are —

(a) more than 20 per cent of the total turnover; and

(b) the person cannot separately prove the extent of the expenses relating to the local sales,

then allocation of expenses may be made on a *pro-rata* basis in the same ratio as the turnover not covered by this section bears to the export sales.

(5) The tax imposed under this section shall be a final tax on the amount in respect of which the tax is imposed and such amount shall not be further chargeable to tax under any other provision of the Act in computing the chargeable income of the person who derives it for any year of assessment.

(6) (a) No deduction shall be allowable under this Act for any expenditure incurred in deriving the amount in respect of which the tax is imposed.

(b) Such amount shall not be reduced by —

(i) any deductible allowance; or

(ii) the set-off of any loss.

(7) The tax payable by a person under this section shall not be reduced by any tax credit allowed under this Act.

(8) Capital allowances shall be deemed to have been availed at the rates prescribed under the Act for the relevant period.

(9) In this section, “approved” means approved by the Minister.

[S 30/2012]



## ➤ To impose taxes

No. S 39

### CONSTITUTION OF BRUNEI DARUSSALAM

(Order under Article 83(3))

#### CUSTOMS ORDER, 2006

##### Power of Minister to fix customs duties by order.

9. [1] The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by order published in the *Gazette*, fix the customs duties to be levied on any goods imported into or exported from Brunei Darussalam and to be paid by the importer or exporter, as the case may be.

(2) Any such order may impose different rates of import duty upon goods which are shown to the satisfaction of the Controller to have been consigned from one of the prescribed countries and either —

(a) to be the produce of one of the prescribed countries; or

(b) to have been manufactured in one of the prescribed countries.

(3) Notwithstanding subsection [2], no goods shall be admitted under the preferential tariff unless the importer shall comply with any regulations made under this Order in that behalf.

(4) Without prejudice to any other remedy, any customs duty payable under this Order may be recovered as a civil debt due to the Government.

(5) In this section, "prescribed country" means a country which has been specified as a prescribed country by an order made under this section.



## ➤ To charge public funds

### CHAPTER 208

#### SUSTAINABILITY FUND ACT

##### **Allocations to and from Sustainability Fund and Trust Sub-Funds.**

7. (1) In advance of each forthcoming financial year, the Sustainability Fund Board shall apply to withdraw from the Consolidated Fund a sum of money determined by the Board, after considering advice from the Fund Allocation Committee.

(2) In advance of each forthcoming financial year and based on its analysis of the sum of money the respective Trust Sub-Fund requires that year to accomplish its purpose under this Act, the respective Executive Boards of the Fiscal Stabilisation Reserve Fund, the Retirement Fund and the Strategic Development Capital Fund shall determine the sum of money necessary and suitable to accomplish that purpose and shall communicate that sum and the underlying rationale for the same to the Fund Allocation Committee. That Committee shall then confer internally and with the Sustainability Fund Board regarding the sum, if any, that the Sustainability Fund shall allocate to each Trust Sub-Fund with respect to that financial year.

(3) After considering the annual requests of each Trust Sub-Fund Board, the analysis and advice of the Fund Allocation Committee and the sum that the Sustainability Fund expects to obtain from the Consolidated Fund with respect to that financial year, the Sustainability Fund Board shall annually determine the amount of money, if any, it shall allocate to each of the Trust Sub-Funds and shall then allocate it. Whatever amount, if any, the Sustainability Fund Board allocates to a Trust Sub-Fund shall be accounted for in the Consolidated Trust Account and shall be transferred to that Trust Sub-Fund.

(4) After determining the amount of the Oil Revenue Shortfall for each applicable quarter, the Minister shall, with the approval of His Majesty the Sultan and Yang Di-Pertuan, certify a sum which may be less than or equal to (but not more than) that amount and cause that sum to be transferred

from the Fiscal Stabilisation Reserve Fund to the Consolidated Fund for the purpose of meeting some or all of the Oil Revenue Shortfall.

(5) The assets of the Retirement Fund shall be used and applied solely for the purposes set out in section 5(4).

(6) The Minister may authorise the transfer to the Consolidated Fund of assets of the Strategic Development Capital Fund resulting from dividends, distributions, sale of equity, other return on capital or return of capital to the Strategic Development Capital Fund from investments that it had previously made.





## ➤ To introduce certainty of legal effect

### CHAPTER 196

### ELECTRONIC TRANSACTIONS ACT

#### Acceptance of electronic filing and issue of documents.

47. (1) Any department or ministry of the Government, organ of State or statutory body that, pursuant to any written law —

(a) accepts the filing of documents, or requires that documents be created or retained;

(b) issues any permit, licence or approval; or

(c) provides for the method and manner of payment,

may, notwithstanding anything to the contrary in such written law —

(i) accept the filing of such documents, or the creation or retention of such documents in the form of electronic records;

(ii) issue such permit, licence or approval in the form of electronic records; or

(iii) make such payment in electronic form.

(2) In any case where a department or ministry of the Government, organ of State or statutory body decides to perform any of the functions in subsections (1)(i), (ii) or (iii), it may specify —

(a) the manner and format in which such electronic records shall be filed, created, retained or issued;

(b) where such electronic records have to be signed, the type of electronic signature required including, if applicable, a requirement that the sender use a digital signature or other secure electronic signature;

(c) the manner and format in which such signature shall be affixed to the electronic record, and the identity of or criteria that shall be met by any certification authority used by the person filing the document;

(d) control processes and procedures as appropriate to ensure adequate integrity, security and confidentiality of electronic records or payments; and

(e) any other required attributes for electronic records or payments that are currently specified for corresponding paper documents.

(3) Nothing in this Act shall by itself compel any department or ministry of the Government, organ of State or statutory body to accept or issue any document in the form of electronic records.



- To introduce certainty of legal effect

## CHAPTER 217

### ISLAMIC FAMILY LAW

**Subsisting valid marriages deemed to be registered under this Act and dissolvable only under this Act.**

7. (1) Nothing in this Act shall affect the validity of any Muslim marriage solemnised under any law wheresoever prior to 26th March 2001, being the date of commencement of this Act.

(2) Such marriage, if valid by the law under which it was solemnised, shall be deemed to be registered under this Act.



- To implement international obligations

No. 561

CONSTITUTION OF BRUNEI DARUSSALAM

{Order under Article 83(3)}

MARITIME OFFENCES (SHIPS AND FIXED PLATFORMS) ORDER, 2007

Citation and long title.

1. (1) This Order may be cited as the Maritime Offences [Ships and Fixed Platforms] Order, 2007.

(2) The long title of this Order is "An Order to give effect to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, all signed at Rome on 10 March 1988".





- To impose new power (eg. coercive tactics : furnishing of information)

No. S 43

CONSTITUTION OF BRUNEI DARUSSALAM  
(Order made under Article 83(3))

RECORD KEEPING (BUSINESS) ORDER, 2015

ARRANGEMENT OF SECTIONS

Section

1. Citation and long title.
2. Non-derogation.
3. Interpretation.
4. Competent Authority.
5. Duty to keep and maintain records.
6. Language of records.
7. Power to require records.
8. Power to call for further records, books etc.
9. Power to access information.
10. Penalties.
11. Admissibility of evidence.
12. Disclosure of information.
13. General penalty.
14. Composition of offences.
15. Exemption.
16. Regulations.



## ➤ To modify existing law (amendments)

### CONSTITUTION OF BRUNEI DARUSSALAM (Ordermade under Article 83{3})

#### ALLIED HEALTH PROFESSIONS OF BRUNEI DARUSSALAM (AMENDMENT)ORDER, 2017

In exercise of the power conferred by Article 83{3} of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

#### Citation and commencement

1. This Order may be cited as the Allied Health Professions of Brunei Darussalam (Amendment)Order, 2017 and shall commence on the same date as the Allied Health Professions of Brunei Darussalam Order, 2017.

#### Amendment of section 5 of S 1012017

2. Section 5 of the Allied Health Professions of Brunei Darussalam Order, 2017 is amended —

- (a) in subsection (2), by deleting "the Chairman and";
- (b) in subsection (3), by inserting "{a}" immediately after "(l)";
- (c) in subsection (4), by inserting "{a}" immediately after "(1)".

Made this 22nd. day of Rabiulawal, 1439 Hijriah corresponding to the 11th. day of December, 2017 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY  
THE SULTAN AND YANG DI-PERTUAN  
BRUNEI DARUSSALAM



- For policy implementation  
(eg. to create statutory  
body)

CONSTITUTION OF BRUNEI DARUSSALAM  
(Order made under Article 83(3))

MARITIME AND PORT AUTHORITY OF BRUNEI DARUSSALAM ORDER, 2017

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

PART 1

PRELIMINARY

Citation, commencement, long title and application

1. (1) This Order may be cited as the Maritime and Port Authority of Brunei Darussalam Order, 2017 and shall commence on such date or dates to be appointed by the Minister, with the approval of His Majesty and Yang Di-Pertuan, by notification published in the *Gazette*.

(2) Different dates may be appointed under subsection (1) for different provisions of this Order or for different purposes of the same provision.

(3) The long title of this Order is “An Order to establish and incorporate the Maritime and Port Authority of Brunei Darussalam and for matters connected therewith and incidental thereto”.

(4) (i) Subject to subsection (ii), this Order does not apply to vessels belonging to or for the time being in the service of His Majesty the Sultan and Yang Di-Pertuan or of the Government.

(ii) The Minister may, by notification published in the *Gazette*, direct that any provision of this Order or any regulations made thereunder apply to any such vessels referred to in subsection (i) as may be specified in the notification.





## ➤ To override common law

### CONSTITUTION OF BRUNEI DARUSSALAM

(Order made under Article 83(3))

#### LAND CODE (AMENDMENT) ORDER, 2016

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

##### Citation and commencement

1. This Order may be cited as the Land Code (Amendment) Order, 2016 and shall commence on a date to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification in the *Gazette*.

##### Insertion of new section 1A into Chapter 40

2. The Land Code in this Order referred to as the Code, is amended by inserting the following new section immediately after section 1 —

##### “Interpretation

1A. In this Code, unless the context otherwise requires —

“claim to or interest in any land” includes a legal or equitable estate established in the land and a right, power or privilege over, in relation to, that land;

“non-citizen” means any person who is not a subject of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam;

“to transfer”, with reference to land means to convey, sell, assign, settle, create by declaration of trust, assent or in any manner dispose of any estate or interest in land, and includes the vesting of any estate or interest in land, but does not include a transfer by way of charge, lease or sub-lease and “transfer” includes a conveyance, sale, assignment, settlement, declaration of trust, assent, disposition of whatever nature, the vesting of any estate or interest in land by an instrument or under a vesting order of court and every instrument capable of vesting any estate or interest in land upon registration of such instrument in the Register, but does not include a charge, lease or sub-lease.”.



## WRONG REASONS TO LEGISLATE

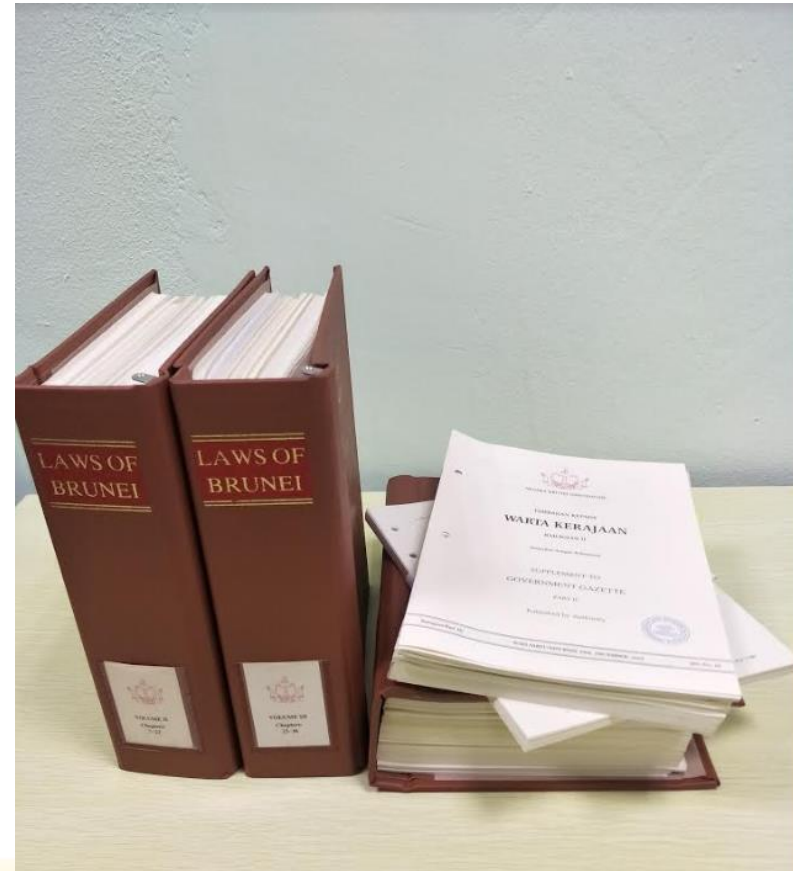
1. Publicity
2. Just to make a point
3. Administrative convenience and comfort
4. Creation of new positions or office





## ALTERNATIVES TO LEGISLATION

1. Use existing law including laws under purview of other Ministries eg. Penal Code (Chapter 22); Minor Offences (Chapter 30)







# Minor Offences

## CHAPTER 30 MINOR OFFENCES ACT

### Indecent or abusive words etc.

19. Any person who uses any indecent, threatening, abusive or insulting words, or behaves in a threatening or insulting manner, or posts up, affixes or exhibits any indecent, threatening, abusive or insulting written paper or drawing with intent to provoke a breach of the peace, or whereby a breach of the peace is likely to be occasioned, is guilty of an offence and liable on conviction to a fine of \$500.

## Court fines foreigner for insulting national flag

March 17, 2017

| Fadley Faisal |

THE Magistrate's Court yesterday ordered an Indian national to pay a fine of \$250, or serve a week's jail in default of payment, for behaving in an insulting manner to which is likely to cause a breach of peace.

Mohd Asgar, 30, employed as a driver for a locally owned company, pleaded guilty to the charge yesterday.

DPP Azmeena binti Mohiddin's facts of the case stated that the defendant was at home watching his friend paint a bus on March 14, 2017.

When his friend asked him to find something that could be used to cover the tyres to avoid getting the tyres dirty from the paint, the defendant went to the side of his rented house and found a box full of yellow cloths bearing Brunei Darussalam's State Crest.

The defendant then proceeded to take the three pieces of cloth back to the bus and placed one cloth on the front left tyre and the other two cloths on the rear left tyre.

A member of the public saw the bus and took a photograph of it which soon became viral on social media. A police report was subsequently lodged at the Central Police Station which led to the defendant's arrest.

The Prosecution further informed Magistrate Dewi Norlelawati binti Haji Abdul Hamid that the defendant's behaviour of using the yellow cloths bearing Brunei Darussalam State Crest was insulting and caused public outcry concerning the lack of respect to it.

The Attorney General's Chambers, in a press release, reminded the public to protect the integrity of the national flag at all times, otherwise, actions will be taken by the authorities.





## ALTERNATIVES TO LEGISLATION

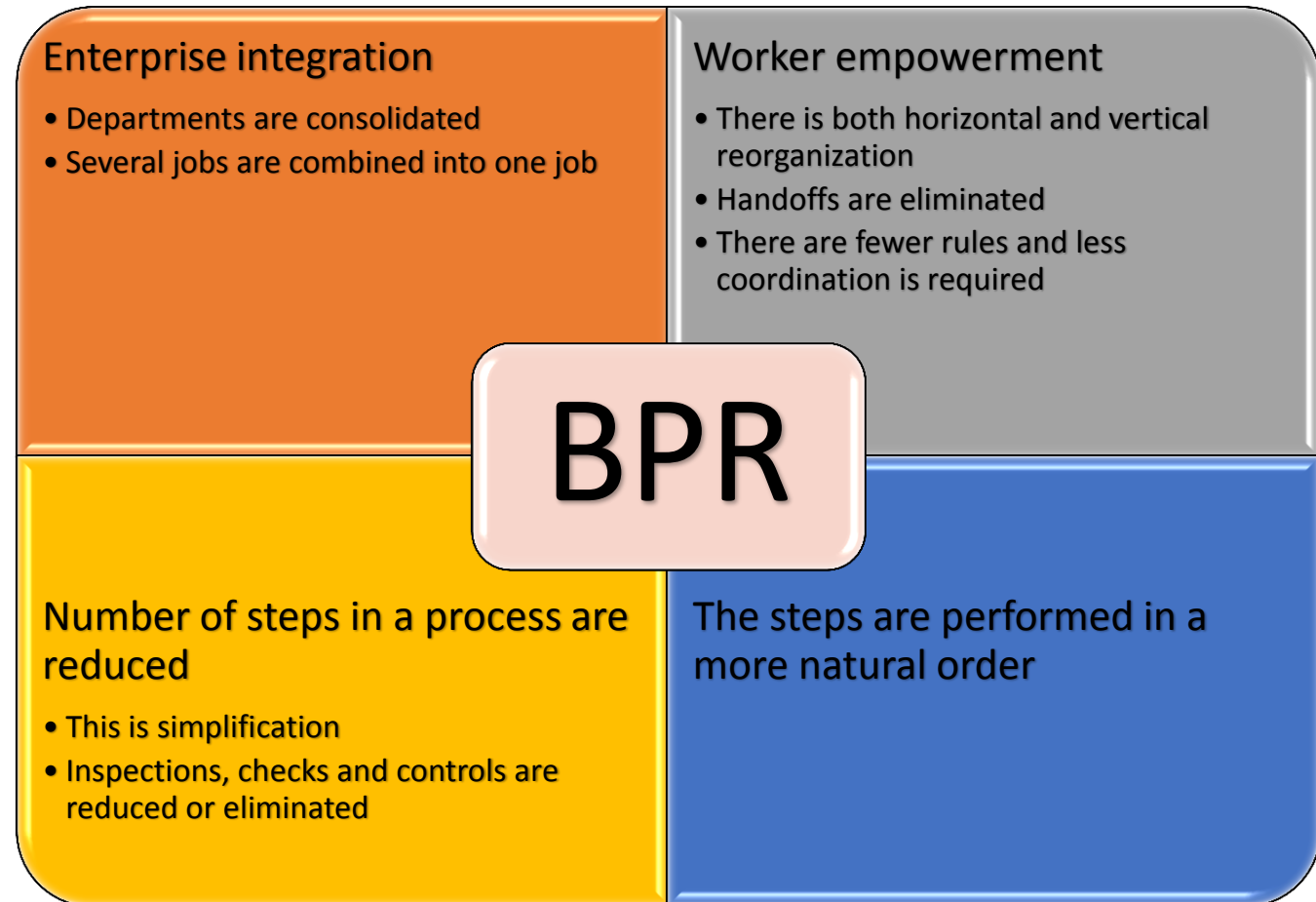
2. Step up enforcement eg use of surveillance camera; frequency of compounding offences; neighbourhood watch; training of enforcement officers; strategic covert operation





## ALTERNATIVES TO LEGISLATION

3. Administrative arrangements eg. tighten licence conditions but subject to reasonableness test and within the parameters of the law; business process re-engineering (BPR)





## ALTERNATIVES TO LEGISLATION

4. Best practices eg. quasi law : issue Code of Practice; Standard Operating Procedures; Guidelines; Directives, and monitor and inspect
5. Awareness programme :  
To advice, guide, direct, persuade or threaten regulation by wide dissemination of information; no plastic bag day (Go Green initiatives); littering







## ALTERNATIVES TO LEGISLATION

### 6. Use of economic measures :

To negotiate and offer incentives by means of tax inducements, grants, loans or subsidies



### 7. Voluntary arrangements : contracts including Memorandum of Understanding; community service





## ALTERNATIVES TO LEGISLATION

### 8. Status quo : Take no action

To rely on market forces (halal), social forces (hijab), self-regulation







# THANK YOU