



THE MALAYSIAN JUDICIARY

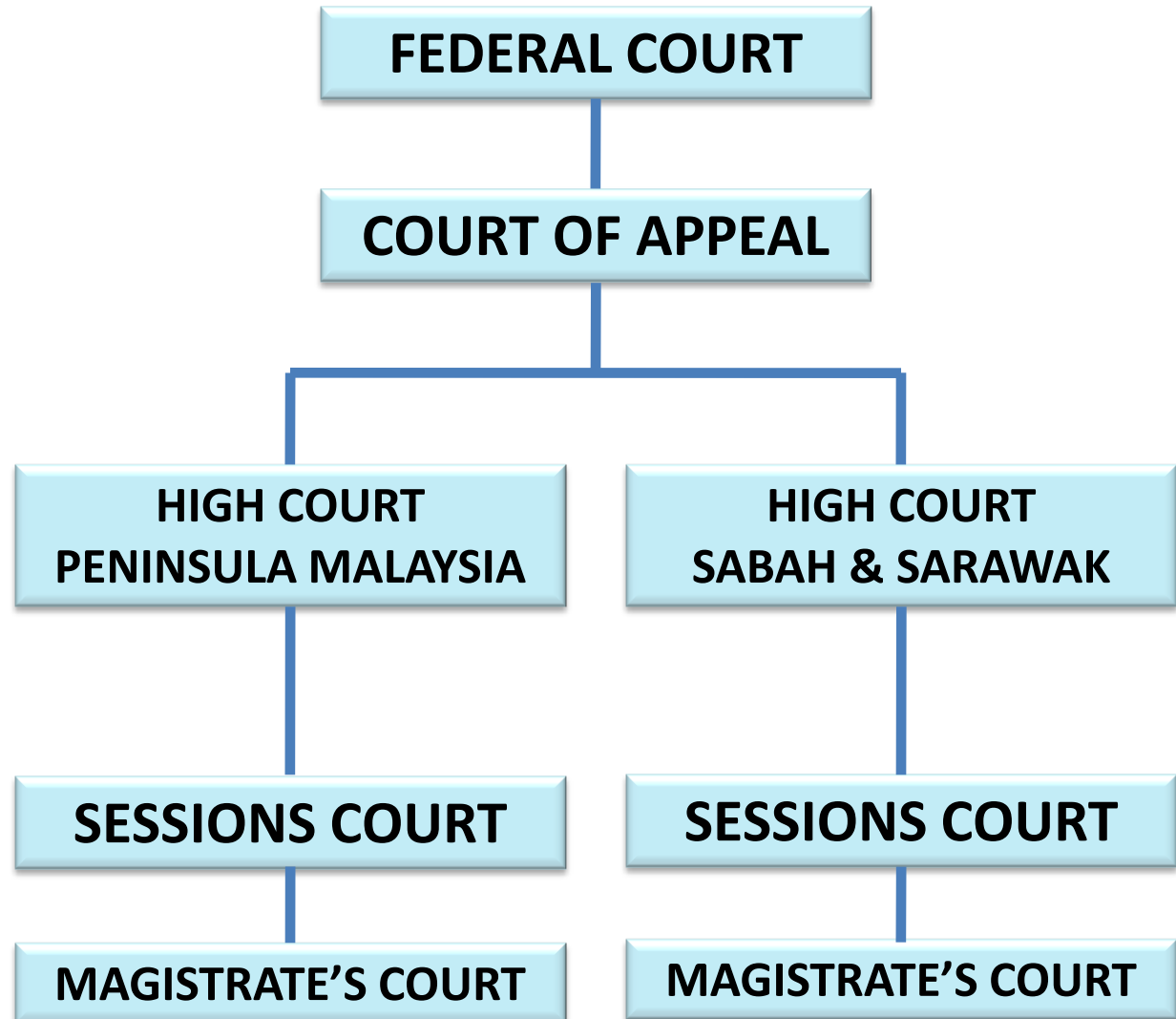
Court Backlog and Delay Reduction Program

Presented by

Zaki Tun Azmi
Former Chief Justice of Malaysia



STRUCTURE OF COURTS IN MALAYSIA



Palace of Justice in Putrajaya which houses the Federal Court(Supreme Court) and the Court of Appeal



Court Complex which houses the High Court, Session Court & Magistrate Court at Kuala Lumpur opened in 2007





Our Problem

COURT		CASES	CASES PENDING AS AT 1ST JANUARY 2009
HIGH COURTS	CIVIL		93,523*
	CRIMINAL		4,544*
SESSIONS COURTS	CIVIL		94,554*
	CRIMINAL		8,750*
MAGISTRATES' COURTS	CIVIL		156,053*
	CRIMINAL		65,221*

* Unaudited



903,000 cases still pending in lower courts... Mediation might be answer



Friday, 09 May 2008 10:18am

•[Zaid: Diverse representation 'Judicial commission will be balanced'](#)

©[New Straits Times](#)

KUALA LUMPUR: Mediation may be the answer to the mounting backlog of civil cases in the lower courts nationwide.

Minister in the Prime Minister's Department Datuk Zaid Ibrahim said mediation was widely practised in the banking, insurance and medical sectors, and reduced the number of litigants turning up in courts. He said such practice was accepted in the United States and the United Kingdom as going to court to settle disputes was an expensive affair.

"I believe many of the cases registered in the lower courts here could be disposed of through mediation. It is no more business as usual but business in a hurry because we have to resolve the matter in hand." However, he said parties to a dispute must agree to abide by the mediation exercise carried out by an independent party. Zaid said this measure must be looked into seriously because of the alarming number of pending cases in the lower courts. There are more than 900,000 unresolved cases in the lower courts alone. At the High Courts, the number of cases stands at more than 91,000. "Enough studies have been carried out by the government, the Bar Council and the Human Rights Commission on causes for the backlog. It is time we see results," he said, adding he has given himself six months to reduce the number of unresolved cases. "It is cause for concern because most of the cases involving the layman is in the lower courts."

Zaid said criminal cases could not proceed mainly because chemists' reports were not ready, shortage of court staff and postponements.

Zaid said he would be chairing a high-level implementation committee to execute specific plans to dispose of the cases in arrears. The committee would look into:

- restructuring of all positions in the judicial department from the post of chief registrar of the Federal Court and below.

- Increasing the number of judges in all courts.



Undertaking Comprehensive Judicial Reform

By Brendan Navin Siva

I have had the benefit and pleasure of reading the lead article by Raja Aziz Addruse and Logan Sabapathy. I do not disagree with any of the points put forward by them. I agree that the overriding objective must be the reinstatement of the Rule of Law in Malaysia and a revamp of the process of appointment of judges. Everything else flows from there.

Any efforts aimed at reforming the Judiciary and improving the administration of justice in Malaysia must first understand that the problem in Malaysia is a multi-layered and multi-dimensional one. In this article, I wish to deal only with reform of the civil justice system in Malaysia. Any attempt at judicial reform of the civil justice system must first comprehensively identify the problems faced in the administration of justice and their root causes, before even considering what measures ought to be taken to address them. I say this because amongst the various stakeholders - the members of the Malaysian Bar, the Judiciary, the Attorney-General's Chambers and the Government - there is no consensus as to what the problems actually are and what or who are the cause of such problems. More importantly, it would appear that members of the public do not have a real understanding of the complexity of the process. The public believe that the courts should be able to decide cases quickly. There is clearly an expectation gap between what the public believe they are entitled to and what the system can actually deliver, even if operating at efficient levels.

Source: <http://www.projectmalaysia.org/articles/undertaking-comprehensive-judicial-reform.html#.Txvmjv75ubw.mailto>



AGEING LISTS FOR CRIMINAL AND CIVIL CASES IN ALL TRIAL COURTS IN MALAYSIA

2009 - 2011



COMPARISON OF AGEING LISTS FROM 2009-2011 FOR ALL HIGH COURTS IN MALAYSIA (CIVIL CASES)

Year of Filing	2009	2010	2011
Pre 2000	217	82	28
2000	256	35	10
2001	343	87	21
2002	604	144	23
2003	972	261	59
2004	1,503	401	76
2005	2,179	480	104
2006	3,016	738	206
2007	4,710	1,117	385
2008	8,673	2,354	855
2009	22,400	4,039	1,220
TOTAL	44,873	9,738	2,987
2010		23,901	2,600
2011			17,962



COMPARISON OF AGEING LISTS FROM 2009-2011 FOR ALL HIGH COURTS IN MALAYSIA (CRIMINAL CASES)

Year of Filing	2009	2010	2011
2000		1	
2001	1		
2002	6	1	
2003	17	1	
2004	53	5	5
2005	70	9	3
2006	125	7	3
2007	249	27	12
2008	503	87	22
2009	2,490	404	66
TOTAL	3,514	542	111
2010		2,771	646
2011			3,076



COMPARISON OF AGEING LISTS FROM 2009-2011 FOR ALL SESSIONS COURTS IN MALAYSIA (CIVIL CASES)

Year of Filing	2009	2010	2011
2000	68	6	2
2001	128	14	4
2002	332	23	6
2003	577	29	3
2004	1,060	39	4
2005	2,120	126	9
2006	3,339	237	6
2007	5,870	577	21
2008	11,995	2,500	49
2009	36,135	7,394	178
TOTAL	61,659	10,947	282
2010		36,894	2,956
2011			35,752



COMPARISON OF AGEING LISTS FROM 2009-2011 FOR ALL SESSIONS COURTS IN MALAYSIA (CRIMINAL CASES)

Year of Filing	2009	2010	2011
2000	11	2	
2001	9	2	
2002	30	1	
2003	72	4	5
2004	174	30	8
2005	325	55	2
2006	596	91	7
2007	1,155	203	43
2008	2,182	799	151
2009	4,814	1,793	250
TOTAL	9,377	2,984	466
2010		5,014	1,292
2011			4,964



COMPARISON OF AGEING LISTS FROM 2009-2011 FOR ALL MAGISTRATES' COURTS IN MALAYSIA (CIVIL CASES)

Year of Filing	2009	2010	2011
2000	3		
2001	3		
2002	12		
2003	47		
2004	109	3	
2005	249	8	
2006	511	21	1
2007	1,251	41	3
2008	4,169	201	2
2009	65,324	898	20
TOTAL	71,681	1,173	26
2010		65,618	173
2011			50,458



COMPARISON OF AGEING LISTS FROM 2009-2011 FOR ALL MAGISTRATES' COURTS IN MALAYSIA (CRIMINAL CASES)

Year of Filing	2009	2010	2011
2000	4		
2001	34	7	6
2002	58	2	
2003	170	8	
2004	498	7	
2005	1474	41	1
2006	2975	118	1
2007	6363	389	10
2008	10,815	2,162	44
2009	30,696	5,509	137
TOTAL	53,087	8,243	199
2010		20,677	889
2011			17,895



TRACKING CHARTS



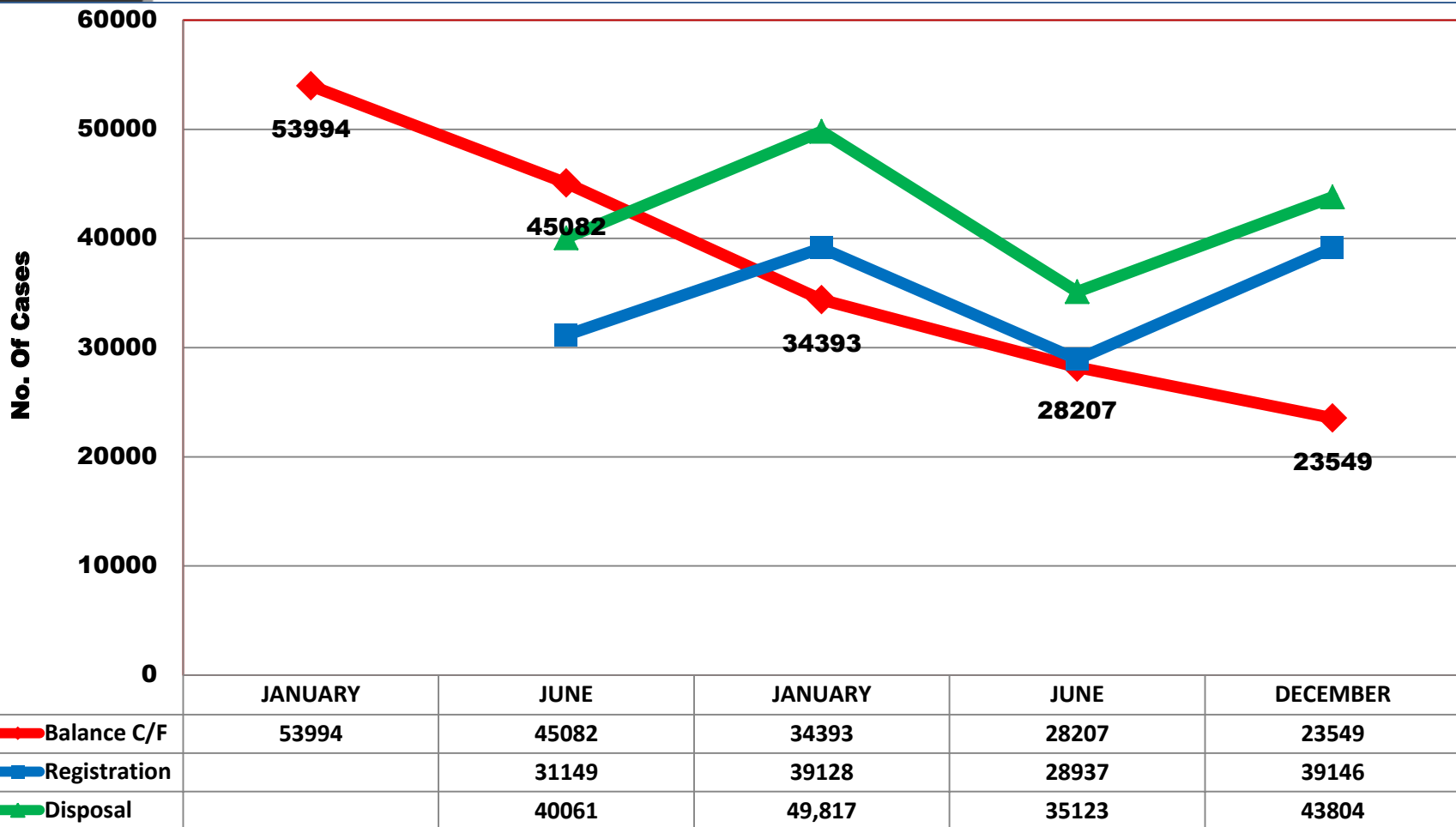
HIGH COURTS



MALAYSIA

TRACKING CHART HIGH COURT IN MALAYSIA (FROM JANUARY 2010 TO DECEMBER 2011)

CIVIL CASES



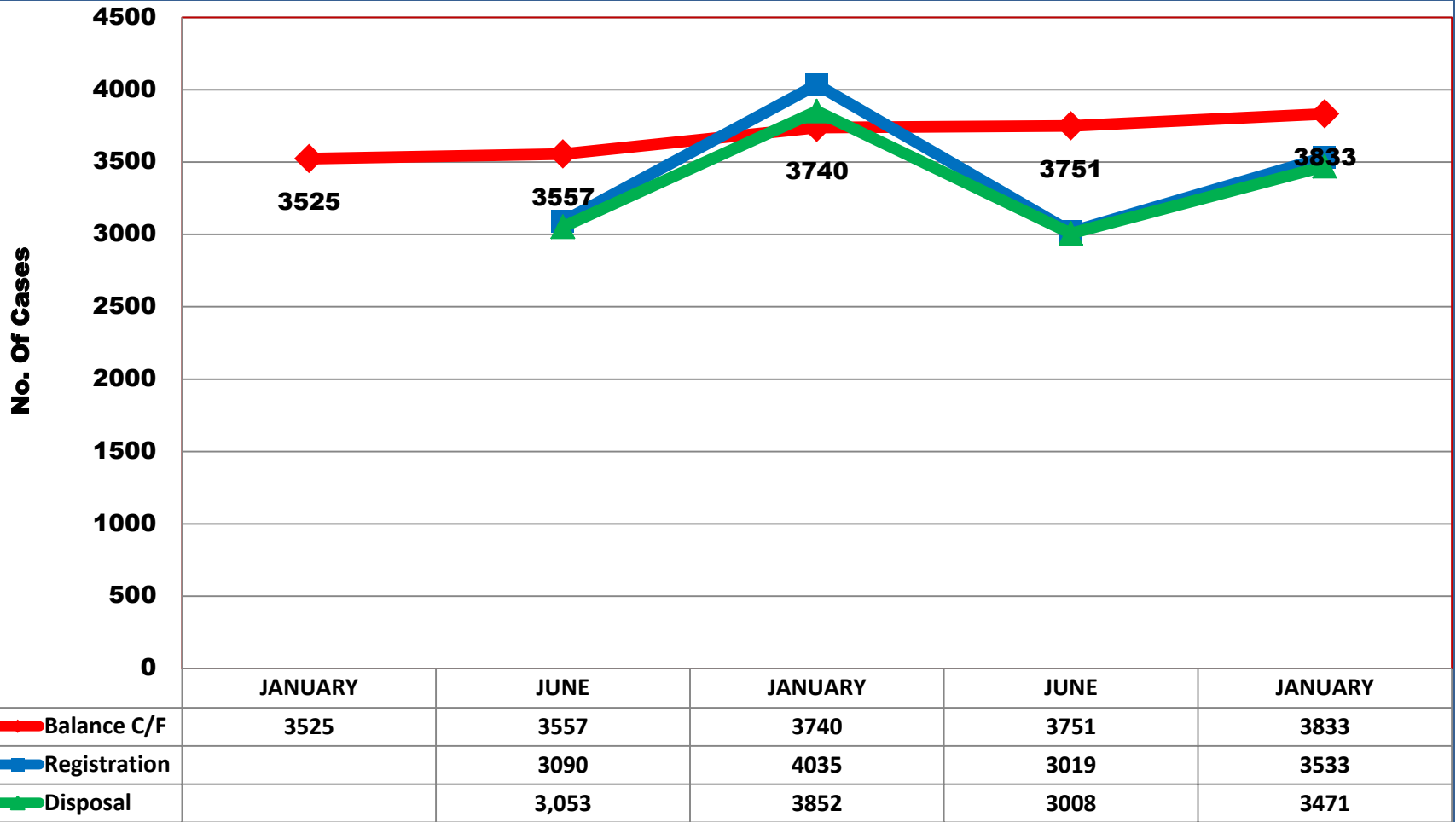
*Note : Exclude cases under codes 29, 31 & 32



MALAYSIA

TRACKING CHART HIGH COURT IN MALAYSIA (FROM JANUARY 2010 TO DECEMBER 2011)

**CRIMINAL
CASES**



*Note : Exclude cases under codes 29, 31 & 32



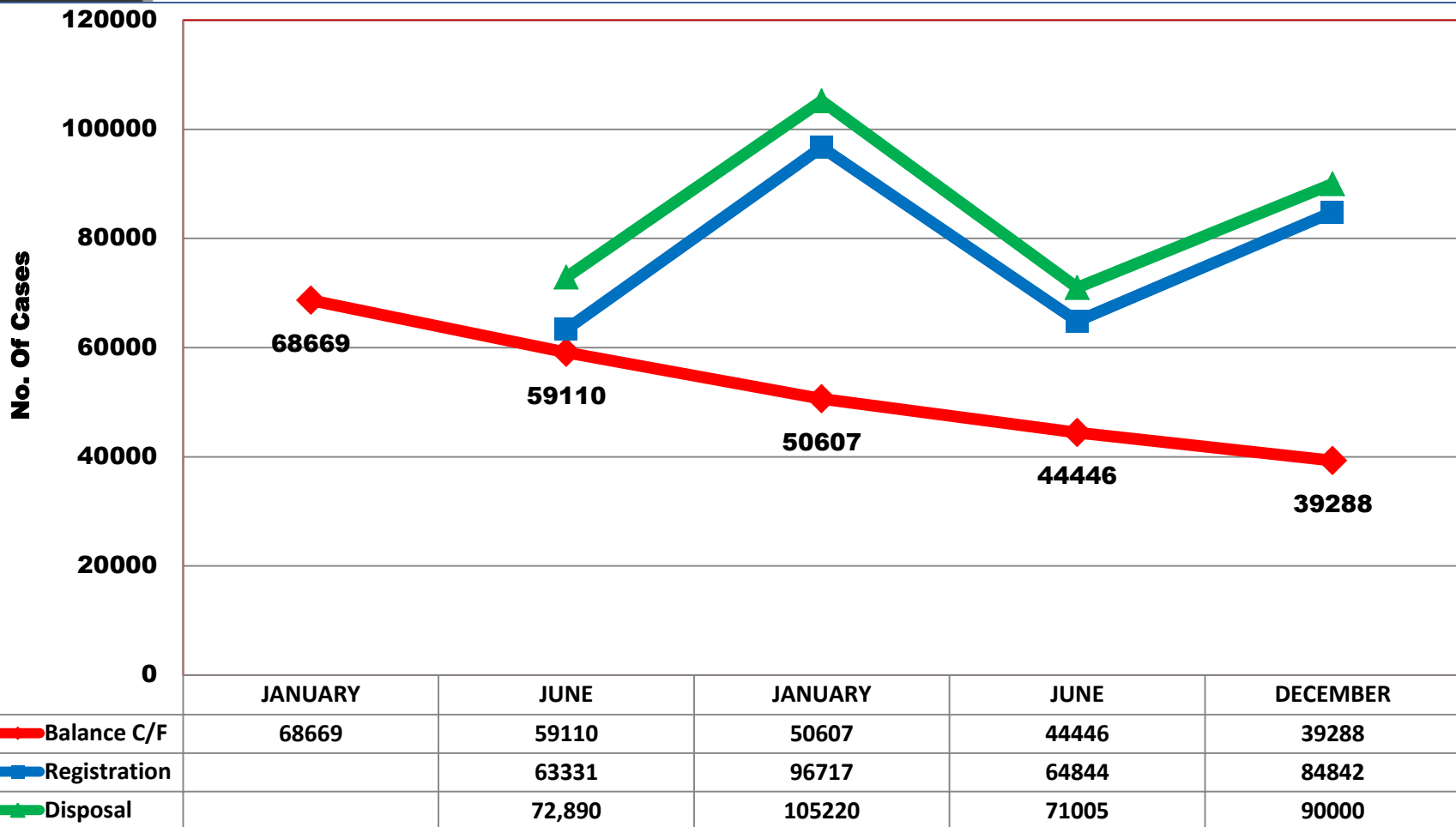
SESSIONS COURTS



MALAYSIA

TRACKING CHART SESSIONS COURTS IN MALAYSIA (FROM JANUARY 2010 TO DECEMBER 2011)

CIVIL CASES



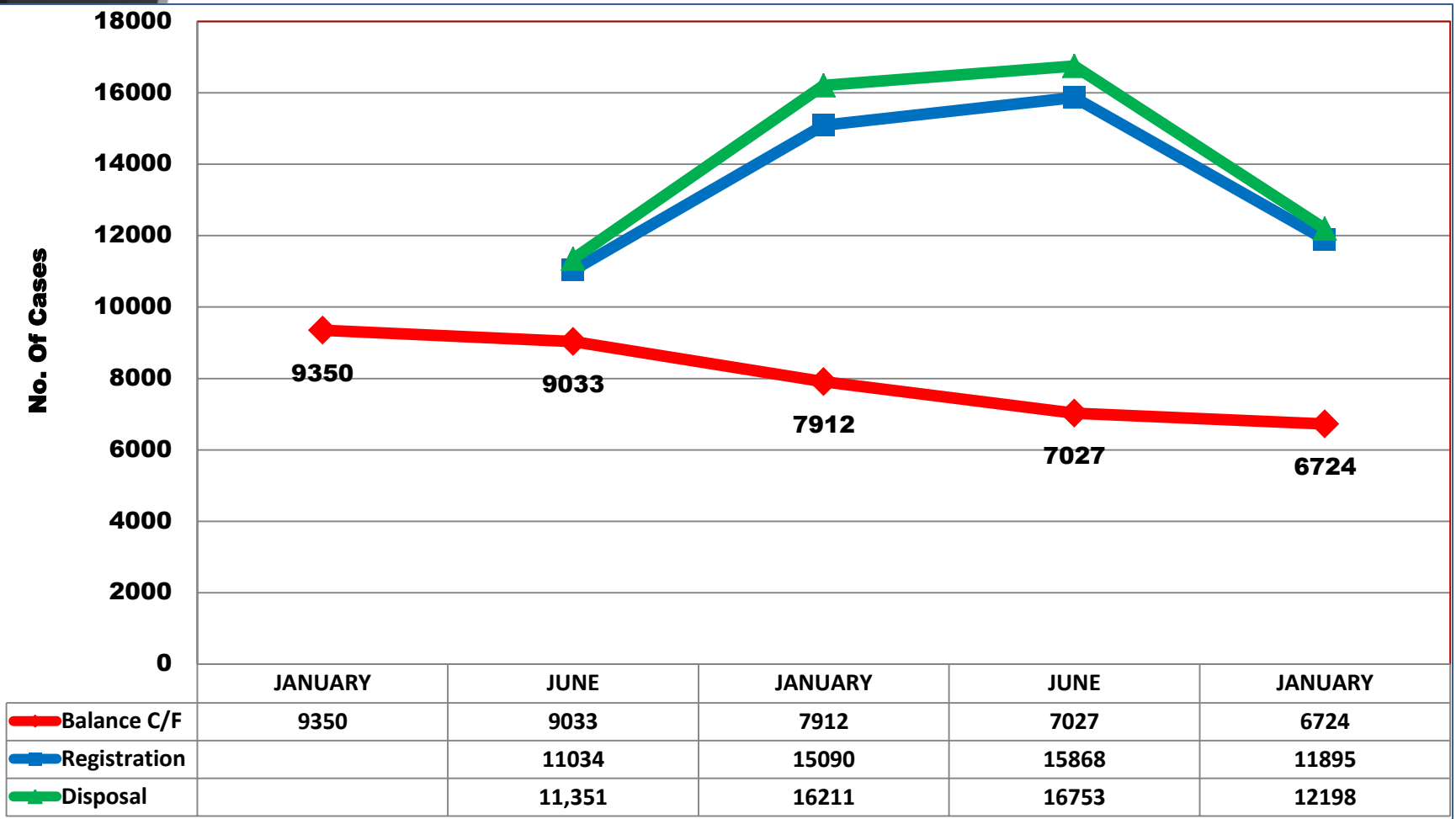
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MALAYSIA

TRACKING CHART SESSIONS COURTS IN MALAYSIA (FROM JANUARY 2010 TO DECEMBER 2011)

**CRIMINAL
CASES**



*Note : Exclude cases under codes 29, 31 & 32



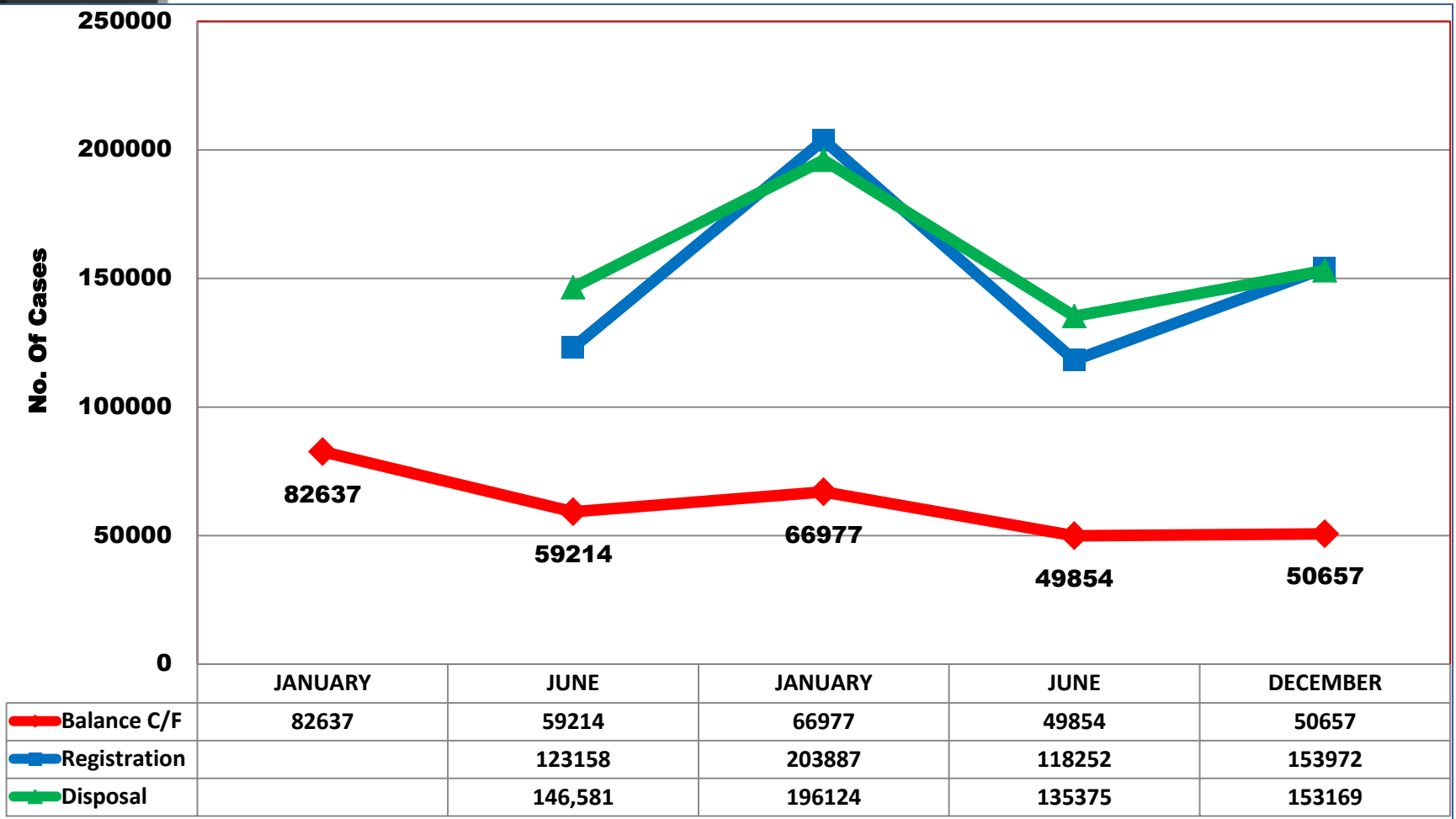
MAGISTRATES' COURTS



MALAYSIA

TRACKING CHART MAGSITRATE'S COURTS IN MALAYSIA (FROM JANUARY 2010 TO DECEMBER 2011)

CIVIL CASES



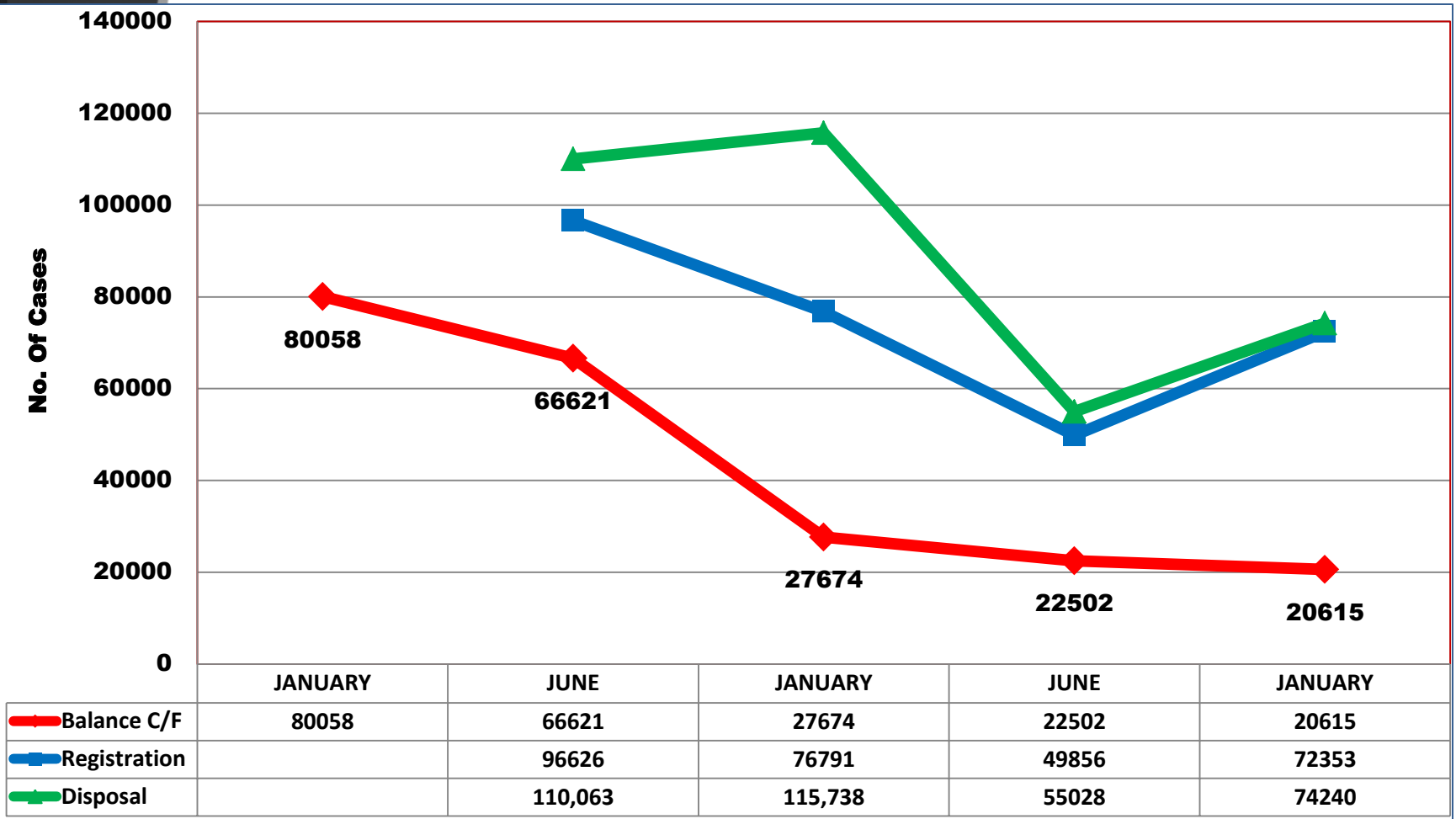
*Note : Exclude cases under codes 29, 31 & 32



MALAYSIA

TRACKING CHART MAGISTRATE'S COURTS IN MALAYSIA (FROM JANUARY 2010 TO DECEMBER 2011)

**CRIMINAL
CASES**



*Note : Exclude cases under codes 29, 31 & 32



NEW COMMERCIAL COURTS (NCC)



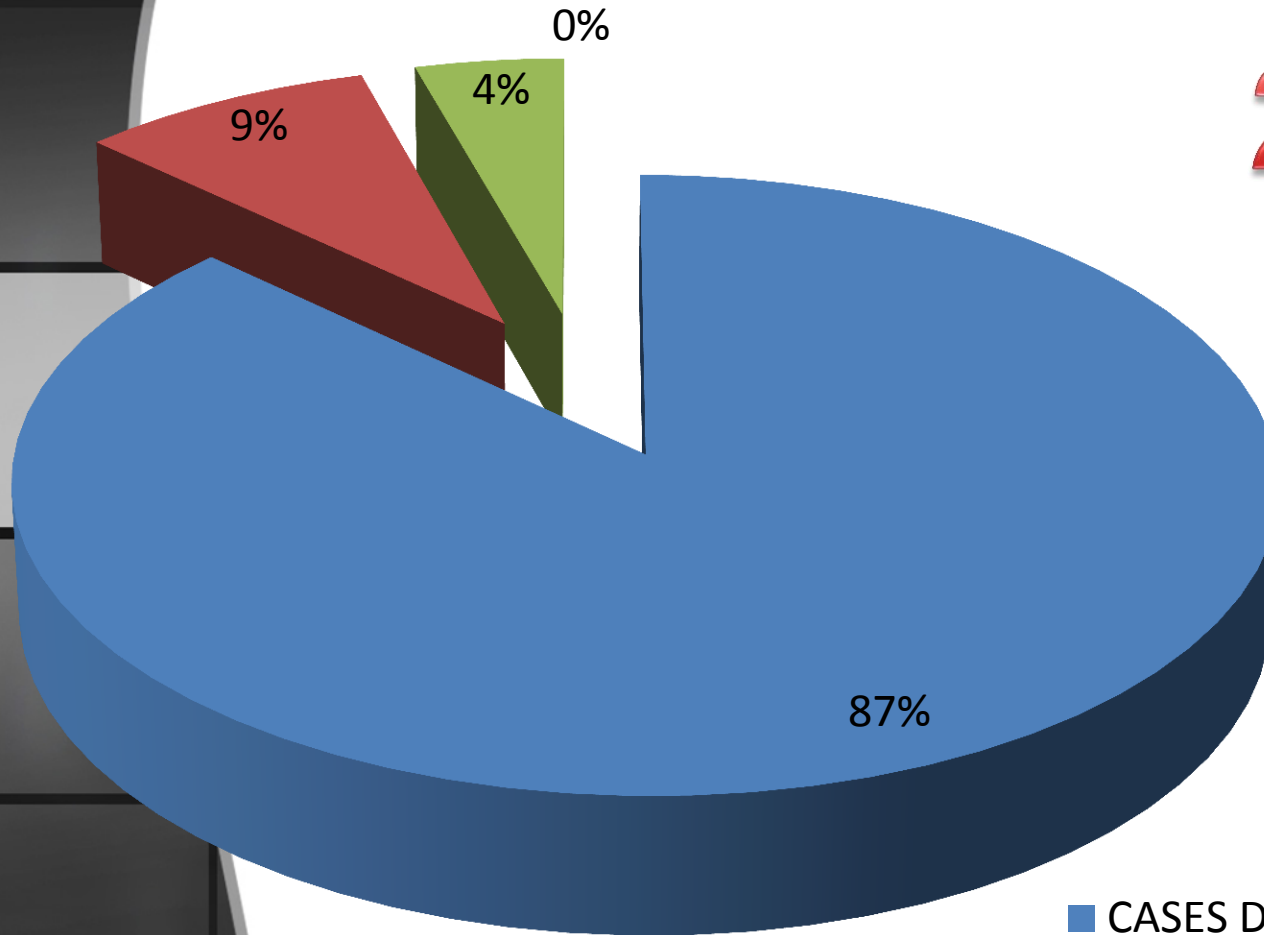
PERCENTAGE OF DISPOSAL OF CASES FOR NEW COMMERCIAL COURTS 2010

REGISTRATION MONTH FOR 2010	CASES REGISTERED	DISPOSED WITHIN 6 MONTHS	DISPOSED WITHIN 7-9 MONTHS	BALANCE AFTER 9 MONTHS	PERCENTAGE OF DISPOSAL WITHIN 9 MONTHS
JANUARY	289	227	45	17	94.12
FEBRUARY	299	237	40	22	92.64
MARCH	426	339	58	29	93.19
APRIL	370	318	36	16	95.68
MAY	367	308	38	21	94.28
JUNE	361	307	36	18	95.01
JULY	345	295	34	16	95.36
AUGUST	352	304	24	24	93.18
SEPTEMBER	317	304	11	2	99.37
OCTOBER	345	337	8	0	100
NOVEMBER	357	332	16	9	97.48
DECEMBER	373	348	16	9	97.59
TOTAL	4201	3656	362	183	95.64



PERCENTAGE OF DISPOSAL OF CASES FOR NEW COMMERCIAL COURTS

2010



- CASES DISPOSED WITHIN 6 MONTHS
- CASES DISPOSED WITHIN 7-9 MONTHS
- BALANCE OF PENDING CASES AFTER 9 MONTHS



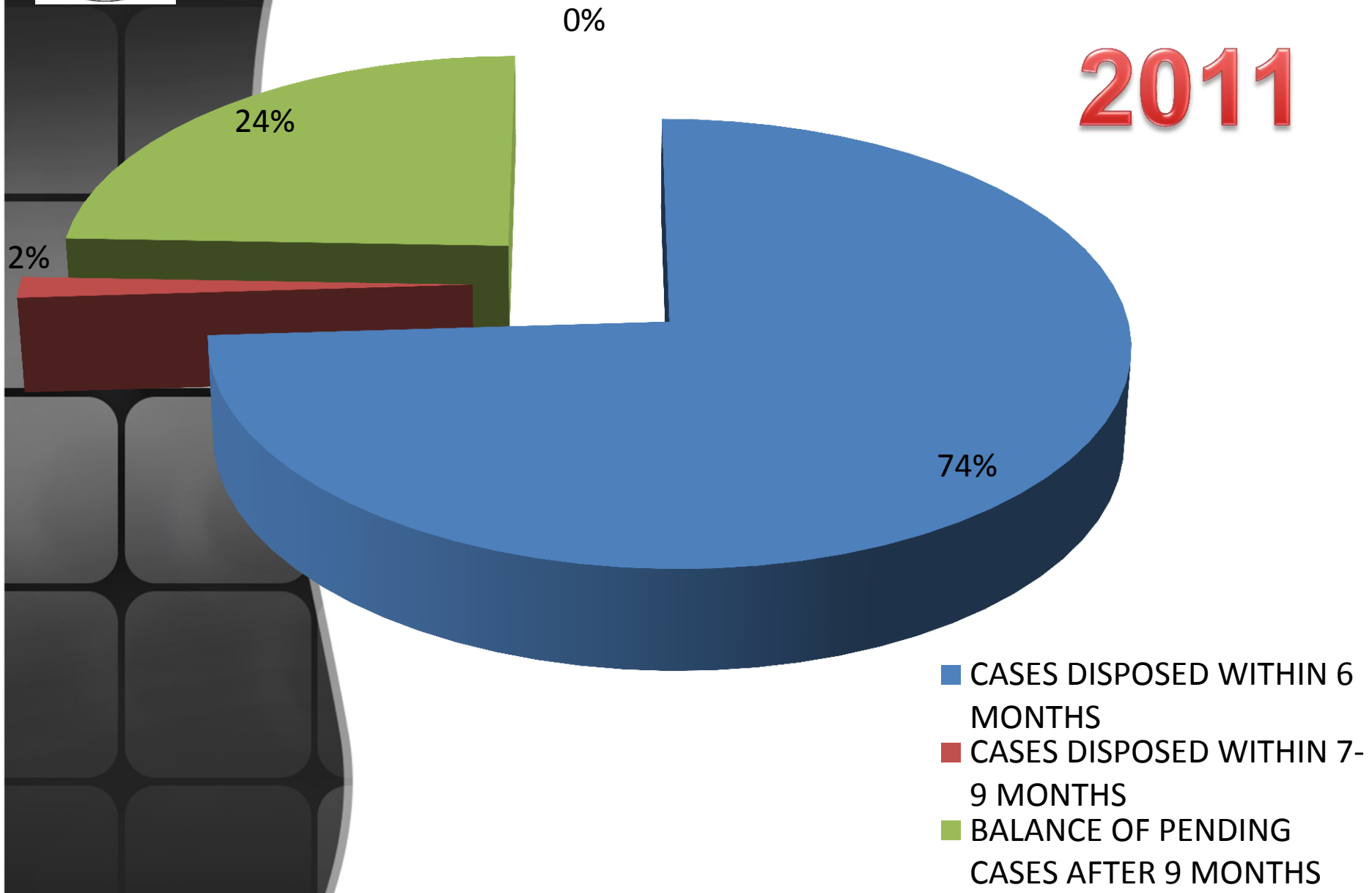
PERCENTAGE OF DISPOSAL OF CASES FOR NEW COMMERCIAL COURTS 2011

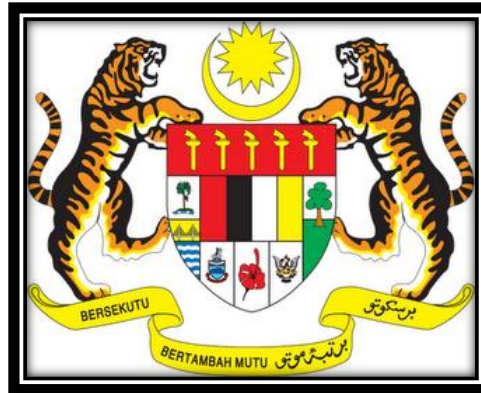
REGISTRATION MONTH FOR 2011	CASES REGISTERED	DISPOSED WITHIN 6 MONTHS	DISPOSED WITHIN 7-9 MONTHS	BALANCE AFTER 9 MONTHS	PERCENTAGE OF DISPOSAL WITHIN 9 MONTHS
JANUARY	336	311	19	6	98.21
FEBRUARY	222	195	19	8	93.40
MARCH	362	359	3	0	100
APRIL	315	287	10 (8 MONTHS)	18	94.29
MAY	304	267	6 (7 MONTHS)	31	89.80
JUNE	320	297	-	23	92.81
JULY	285	244 (5 MONTHS)	-	41	85.61
AUGUST	349	296 (4 MONTHS)	-	53	84.81
SEPTEMBER	290	231 (3 MONTHS)	-	59	79.66
OCTOBER	289	132 (2 MONTHS)	-	157	45.67
NOVEMBER	297	97 (1 MONTH)	-	200	32.66
DECEMBER	332	24(REG. MONTH)	-	308	7.23
TOTAL	3701	2740	57	904	75.57

PERCENTAGE OF DISPOSAL OF CASES FOR NEW COMMERCIAL COURTS



2011





NCC & OCC CASES

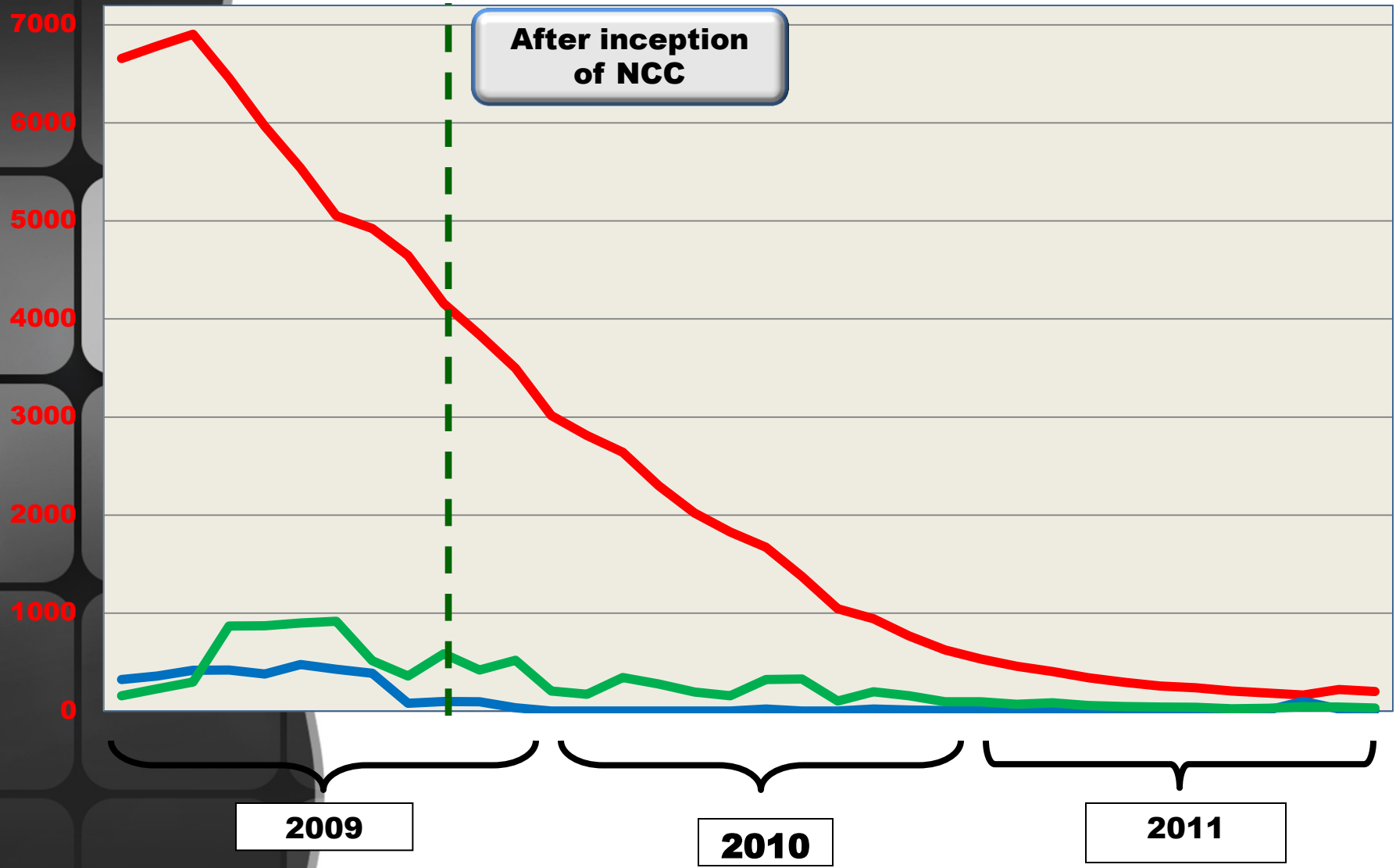
HIGH COURT, KUALA LUMPUR

[DECEMBER 2011]

YEAR	MONTHLY REGISTRATI ON		NCC : MONTHLY DISPOSAL																								BALAN CE	
			From September 2009 to December 2011																									
			Jan	Feb	Mac	Apr	May	Jun	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mac	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
2010	Jan	289	4	30	87	41	22	29	14	21	10	14	7	1	1	0	2	1	1	0	1	2	0	0	1	0	0	
	Feb	299		12	35	92	21	51	18	8	25	11	4	8	6	1	2	2	0	3	0	0	0	0	0	0	0	
	Mac	426			14	57	82	72	40	25	49	29	17	12	16	3	1	1	0	2	1	4	0	1	0	0	0	
	Apr	370				14	20	95	71	45	40	33	13	9	14	11	3	0	1	1	0	0	0	0	0	0	0	
2011	Jan	336													7	70	124	57	27	17	9	8	6	5	0	2	4	
	Feb	222														7	66	71	27	14	6	4	5	12	2	0	8	
	Mac	362																22	106	113	58	32	20	8	2	1	0	0
	Apr	315																	23	60	75	58	51	10	10	5	5	18
	May	304																		26	73	69	67	17	1	14	6	31
	Jun	320																			21	104	73	42	32	18	7	23
	Jul	285																				24	77	59	48	28	8	41
	Aug	349																					21	115	109	46	5	53
	Sep	290																						29	61	97	44	59
	Oct	289																							23	92	17	157
	Nov	297																								28	69	200
	Dec	332																									24	308
TOTAL		9271																										

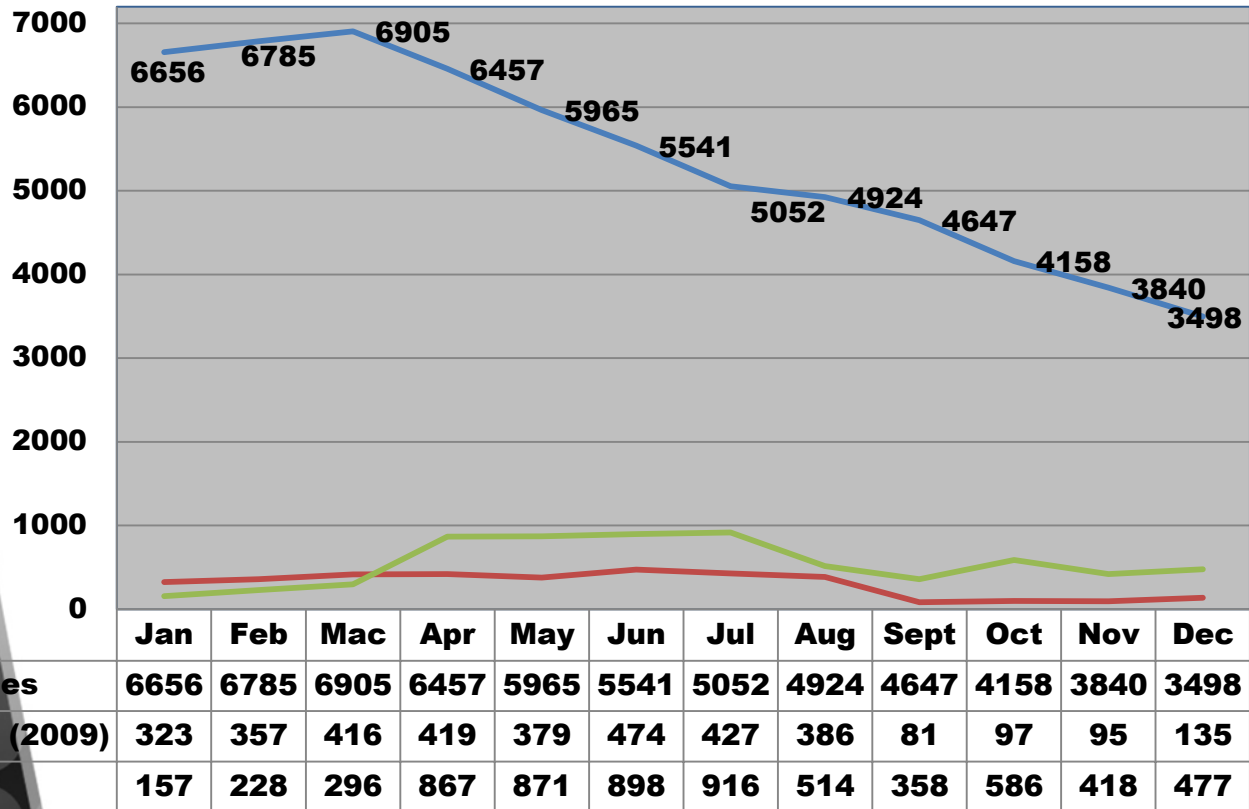
YEAR	MONTHLY REGISTRATI ON		NCC : MONTHLY DISPOSAL																								BALANCE					
			From September 2009 to December 2011																													
			Sep	Oct	Nov	Dec	Jan	Feb	Mac	Apr	May	Jun	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mac	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
2009	Sep	289	7	30	78	60	26	12	37	13	11	11	0	0	1	1	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0
	Oct	389		17	38	75	128	32	22	29	16	17	10	2	2	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0
	Nov	328			22	29	40	134	29	21	19	22	7	2	1	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Dec	363				21	34	42	121	55	33	17	21	8	6	2	2	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
2010	Jan	289				4	30	87	41	22	29	14	21	10	14	7	1	1	0	2	1	1	0	1	2	0	0	1	0	0	0	
	Feb	299					12	35	92	21	51	18	8	25	11	4	8	6	1	2	2	0	3	0	0	0	0	0	0	0	0	
	Mac	426						14	57	82	72	40	25	49	29	17	12	16	3	1	1	0	2	1	4	0	1	0	0	0	0	
	Apr	370							14	20	95	71	45	40	33	13	9	14	11	3	0	1	1	0	0	0	0	0	0	0	0	
	May	367								19	40	76	64	44	40	25	19	11	8	6	1	5	1	2	0	0	1	1	1	1	3	
	Jun	361									20	45	61	87	40	22	32	17	11	8	10	7	0	1	0	0	0	0	0	0	0	
	July	345										18	62	66	80	29	23	17	11	10	13	5	3	1	2	1	1	0	0	0	3	
	Aug	352											13	33	96	93	32	24	13	6	7	11	1	4	4	3	0	1	0	0	11	
	Sep	317													29	61	100	41	35	25	13	8	2	1	2	0	0	0	0	0	0	
	Oct	345														30	61	91	69	42	26	18	4	4	0	0	0	0	0	0	0	0
	Nov	357															30	53	126	44	33	26	20	9	4	3	1	0	0	0	0	8
	Dec	373																9	67	121	74	39	18	20	11	4	1	5	2	0	0	3
2011	Jan	336															7	70	124	57	27	17	9	8	6	5	0	2	4	4		
	Feb	222																7	66	71	27	14	6	4	5	12	2	0	0	8		
	Mac	362																	22	106	113	58	32	20	8	2	1	0	0	0		
	Apr	315																		23	60	75	58	51	10	10	5	5	5	18		
	May	304																			26	73	69	67	17	1	14	6	6	31		
	Jun	320																				21	104	73	42	32	18	7	7	23		
	Jul	285																						24	77	59	48	28	8	8	41	
	Aug	349																								21	115	109	46	5	53	
	Sep	290																									29	61	97	44	59	
	Oct	289																										23	92	17	157	
	Nov	297																											28	69	200	
	Dec	332																											24	308		
TOTAL		9271	7	47	138	185	232	262	345	322	243	374	320	311	393	437	405	331	412	368	396	383	327	303	329	340	297	311	336	188	930	
			8342																													

OLD COMMERCIAL COURTS



Registration and disposal of cases (january – december 2009)

No. Of Cases



Balance from 2008	Registration (Jan-Dec 2009)	Disposal (Jan-Dec 2009)	Pending (Dec2009)
6490	3589	6586*	3498**

*(Disposal of files in April - July also include administrative disposal and show cause)

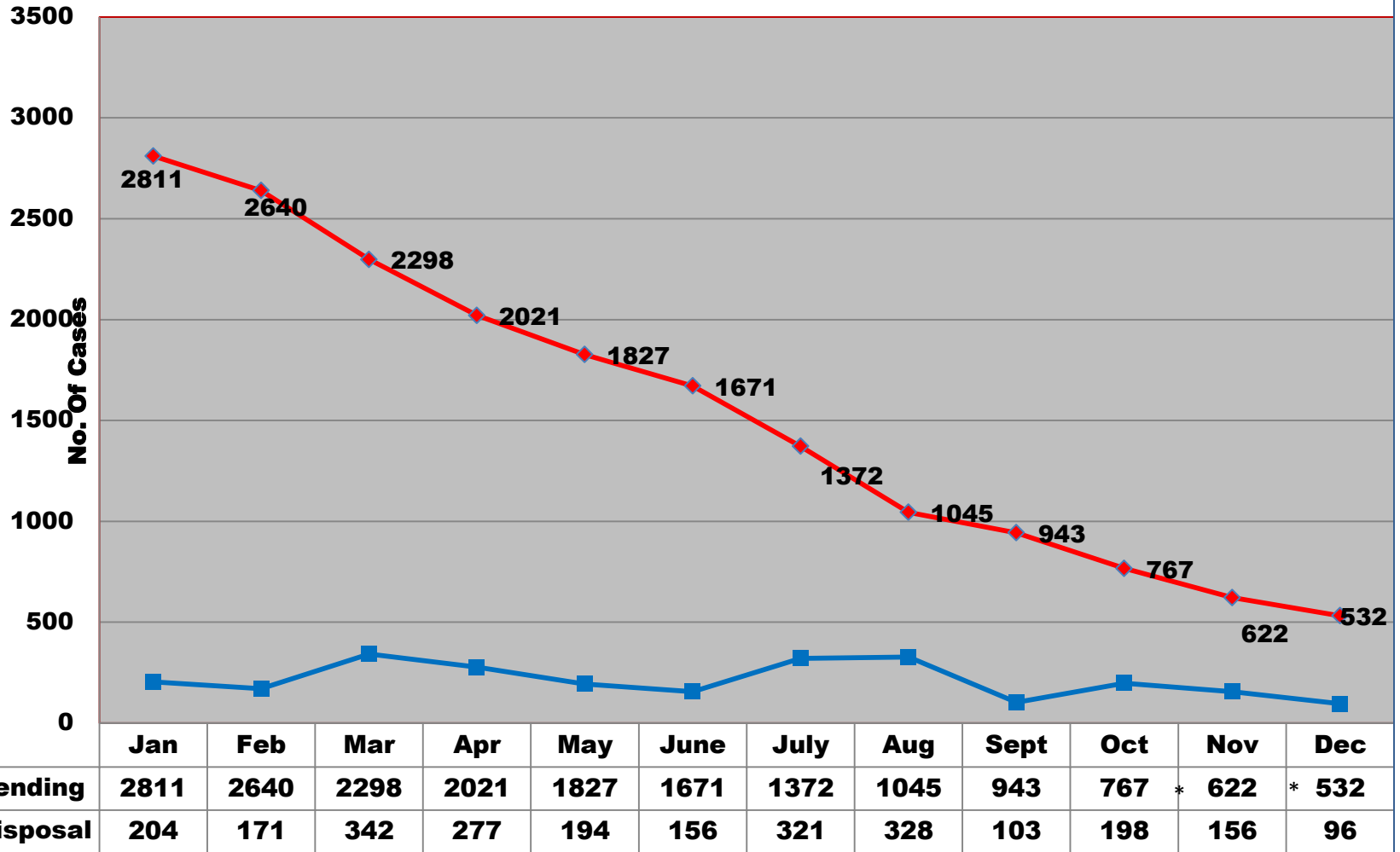
** (Including 5 cases which have been reinstated)



KUALA LUMPUR

TRACKING CHART HIGH COURT OF KUALA LUMPUR (AS AT 31ST DECEMBER 2010)

**ORIGINAL
COMMERCIAL
CASES**



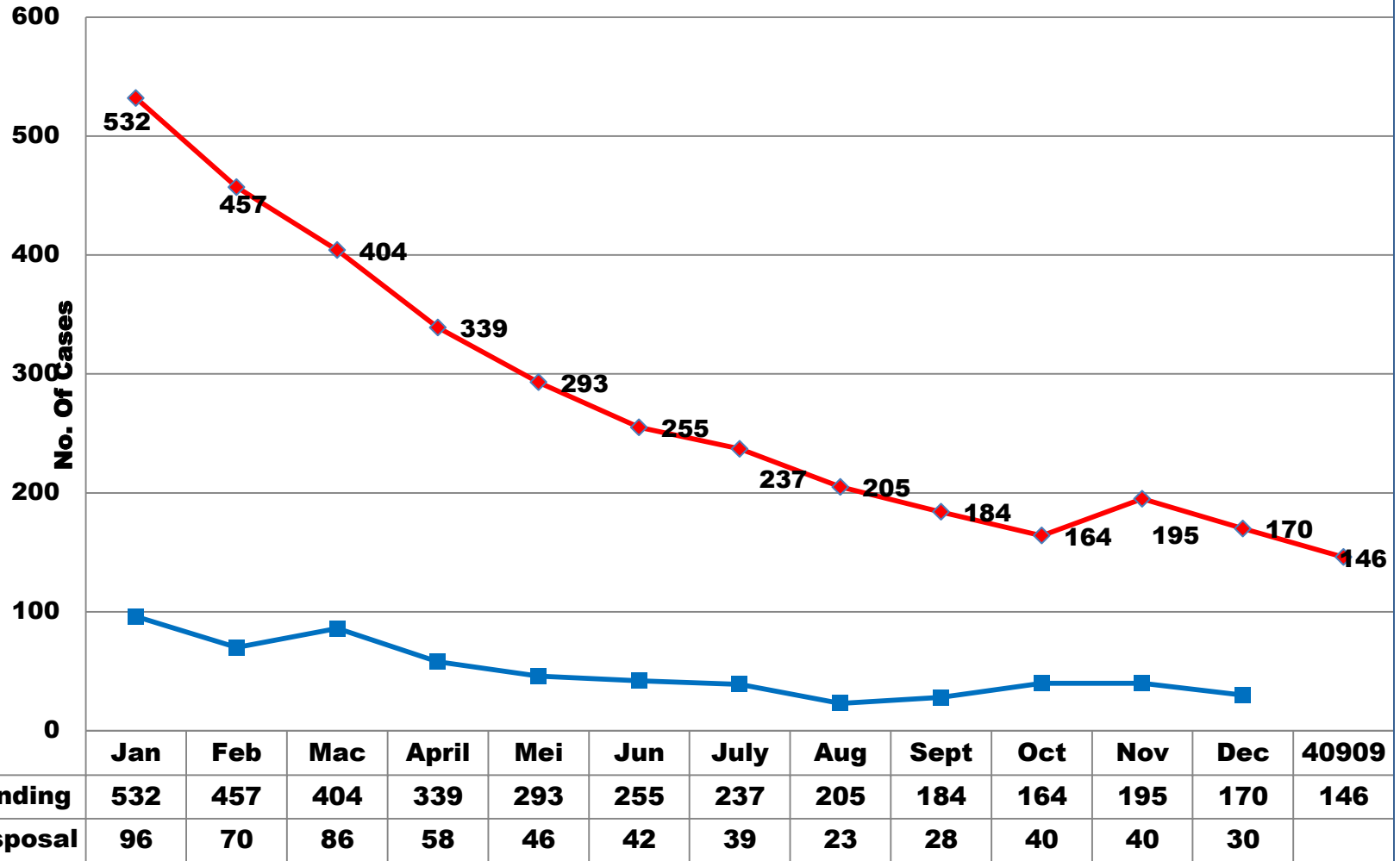
Note : Exclude cases under codes 29, 31 & 32

*Include reinstatement and remittance



TRACKING CHART HIGH COURT OF KUALA LUMPUR (DECEMBER 2011)

ORIGINAL
COMMERCIAL
CASES



Note : Exclude cases under codes 29, 31 & 32
*Include reinstatement and remittance



NCC CASES AT THE APPELLATE COURTS

- Court of Appeal
- Federal Court



COURT OF APPEAL
NCC APPEALS 2010
PENDING AS AT 31st DEC 2011

CASES REGISTERED		DISPOSED	TOTAL PENDING APPEALS
MONTH (2010)			
<i>JAN</i>	13	13	0
<i>FEB</i>	7	7	0
<i>MAR</i>	18	18	0
<i>APR</i>	13	12	1*
<i>MAY</i>	14	14	0
<i>JUNE</i>	23	23	0
<i>JUL</i>	36	36	0
<i>AUG</i>	30	30	0
<i>SEPT</i>	22	22	0
<i>OCT</i>	19	19	0
<i>NOV</i>	24	24	0
<i>DEC</i>	36	36	-
TOTAL	255	254	1

Note: * FT(AFFIDAVIT)(Federal Court on 15.7.2011 ordered rehearing of Appeal No. W-02(NCC)-1307-38
10.Fixed for hearing on 10.1.2012)



COURT OF APPEAL

NCC APPEALS 2011

PENDING AS AT 31ST DEC 2011

CASES REGISTERED		DISPOSED	TOTAL PENDING APPEALS
MONTH(2011)			
<i>JAN</i>	42	40	2
<i>FEB</i>	44	32	12
<i>MAR</i>	35	33	2
<i>APR</i>	37	37	0
<i>MAY</i>	48	39	9
<i>JUNE</i>	35	32	3
<i>JUL</i>	25	23	2
<i>AUG</i>	24	19	5
<i>SEPT</i>	31	7	24
<i>OCT</i>	26	5	21
<i>NOV</i>	27	9	18
<i>DEC</i>	34	0	34
TOTAL	408	276	132



FEDERAL COURT
NCC APPEALS 2010

PENDING AS AT 31ST DEC 2011

CASES REGISTERED		DISPOSED	TOTAL PENDING APPEALS
MONTH (2010)			
<i>MAY</i>	1	1	0
<i>JUNE</i>	-	-	-
<i>JUL</i>	1	0	1
<i>AUG</i>	6	6	0
<i>SEPT</i>	1	1	0
<i>OCT</i>	5	5	0
<i>NOV</i>	3	3	0
<i>DEC</i>	4	3	1
TOTAL	21	19	2



FEDERAL COURT

NCC APPEALS 2011

PENDING AS AT 31ST DEC 2011

CASES REGISTERED		DISPOSED	TOTAL PENDING APPEALS
MONTH (2011)			
JAN	4	4	0
FEB	7	7	0
MAR	8	7	1
APR	2	2	0
MAY	4	4	0
JUNE	5	3	2
JUL	7	5	2
AUG	6	4	2
SEPT	9	3	6
OCT	4	0	4
NOV	2	0	2
DEC	5	0	5
TOTAL	63	39	24



NEW CIVIL COURTS (NcVC)

NEW CIVIL COURTS (NCVC) AT KUALA LUMPUR COURTS

COURTS	MONTH OF REGISTRATI ON	TOTAL REGISTRATI ON	TOTAL DISPOSAL	TOTAL PENDING AFTER 9 th MONTH	BALANCE AS AT 31 st DEC 2011	DURATION FROM DATE OF FILING UNTIL 31 st DEC 2011	CLEARANCE RATE WITHIN 9 MONTH FROM DATE OF REGISTRATION
NCvC 1 & NCvC 2	OCT 2010	610	608	2	1	9 MONTH	99.6%
	NOV 2010	515	510	5	1	9 MONTH	99.0%
	DEC 2010	576	575	1	0	9 MONTH	99.8%
NCvC 3 & NCvC 4	JAN 2011	615	598	17	7	9 MONTH	97.2%
	FEB 2011	387	382	5	3	9 MONTH	98.7%
	MAC 2011	635	624	11	11	9 MONTH	98.2%
NCvC 5 & NCvC 6	APRIL 2011	600	585		15	8 MONTH	97.5%
	MAY 2011	639	615	-	24	7 MONTH	96.2%
	JUNE 2011	672	635		37	6 MONTH	94.4%
NCvC 1 & NCvC 2	JULY 2011	677	645		32	5 MONTH	95.2%
	AUG 2011	727	627	-	100	4 MONTH	86.2%
	SEPT 2011	548	456		92	3 MONTH	83.2%
NCvC 3 & NCvC 4	OCT 2011	646	505		141	2 MONTH	78.1%
	NOV 2011	609	380	-	229	1 MONTH	62.3%
	DEC 2011	685	110		575	CURRENT	16.0%

TOTAL REGISTRATION : 9141

TOTAL DISPOSAL : 7873



NCvC CASES AT THE APPELLATE COURTS

- Court of Appeal
- Federal Court



COURT OF APPEAL
NCvC APPEALS 2011
PENDING AS AT 31ST DEC 2011

CASES REGISTERED		DISPOSED	TOTAL PENDING APPEALS
MONTH			
<i>JAN</i>	2	2	0
<i>FEB</i>	6	6	0
<i>MAR</i>	8	8	0
<i>APR</i>	11	11	0
<i>MAY</i>	30	29	1
<i>JUNE</i>	32	25	7
<i>JUL</i>	26	17	9
<i>AUG</i>	48	18	30
<i>SEPT</i>	40	12	28
<i>OCT</i>	31	1	30
<i>NOV</i>	79	13	66
<i>DEC</i>	52	0	52
TOTAL	365	142	223



Judges sitting in Federal Court





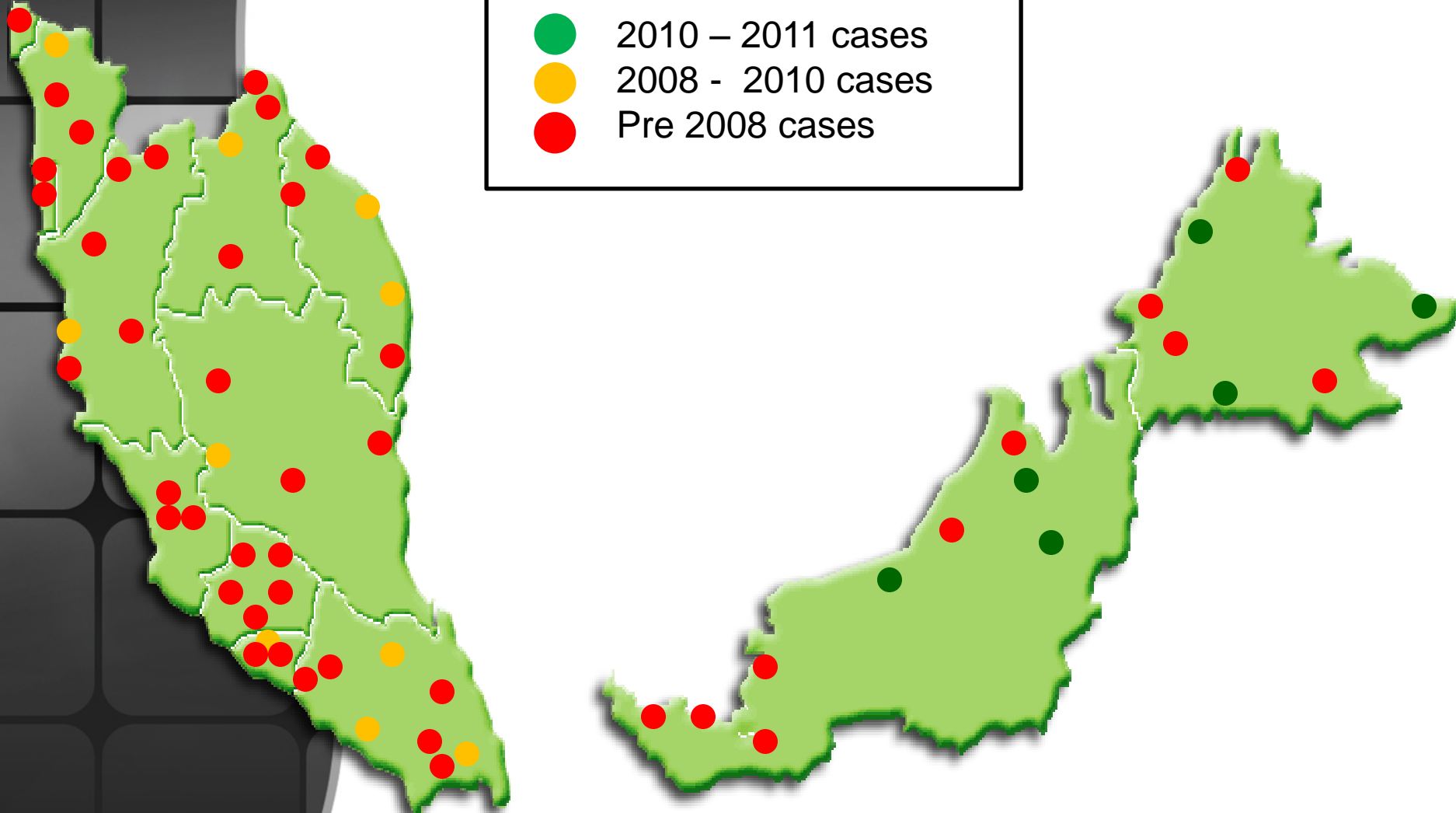
FEDERAL COURT
NCvC APPEALS 2011

PENDING AS AT 31ST DEC 2011

CASES REGISTERED		DISPOSED	TOTAL PENDING APPEALS
MONTH			
<i>JAN</i>	-	-	-
<i>FEB</i>	-	-	-
<i>MAR</i>	-	-	-
<i>APR</i>	1	1	0
<i>MAY</i>	-	-	-
<i>JUNE</i>	2	2	0
<i>JUL</i>	5	2	3
<i>AUG</i>	2	0	2
<i>SEPT</i>	5	3	2
<i>OCT</i>	-	-	-
<i>NOV</i>	8	0	8
<i>DEC</i>	5	0	5
TOTAL	28	8	20



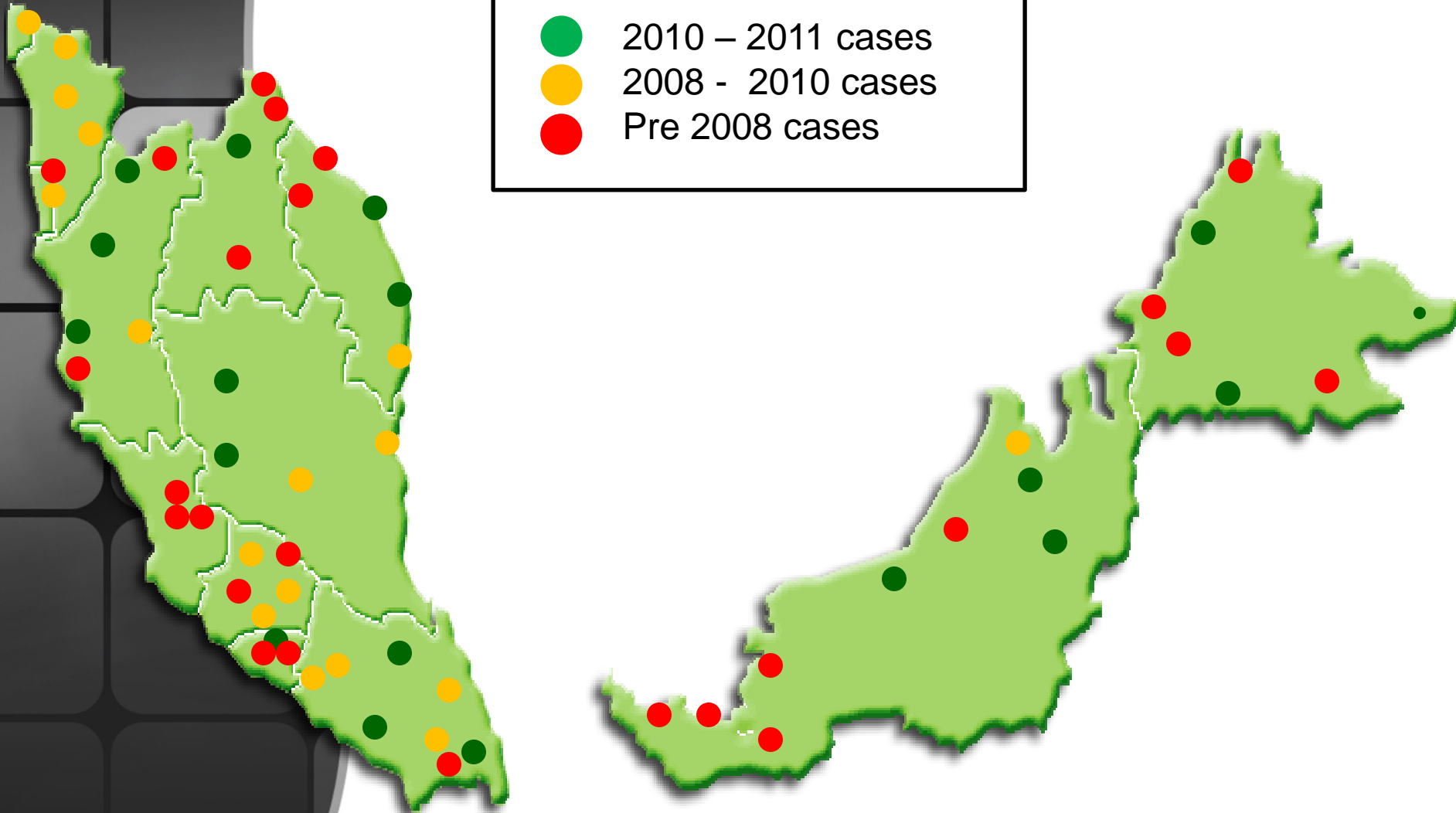
Before Reform (Pre 2009)





Mid-Reform (Mid-2010)

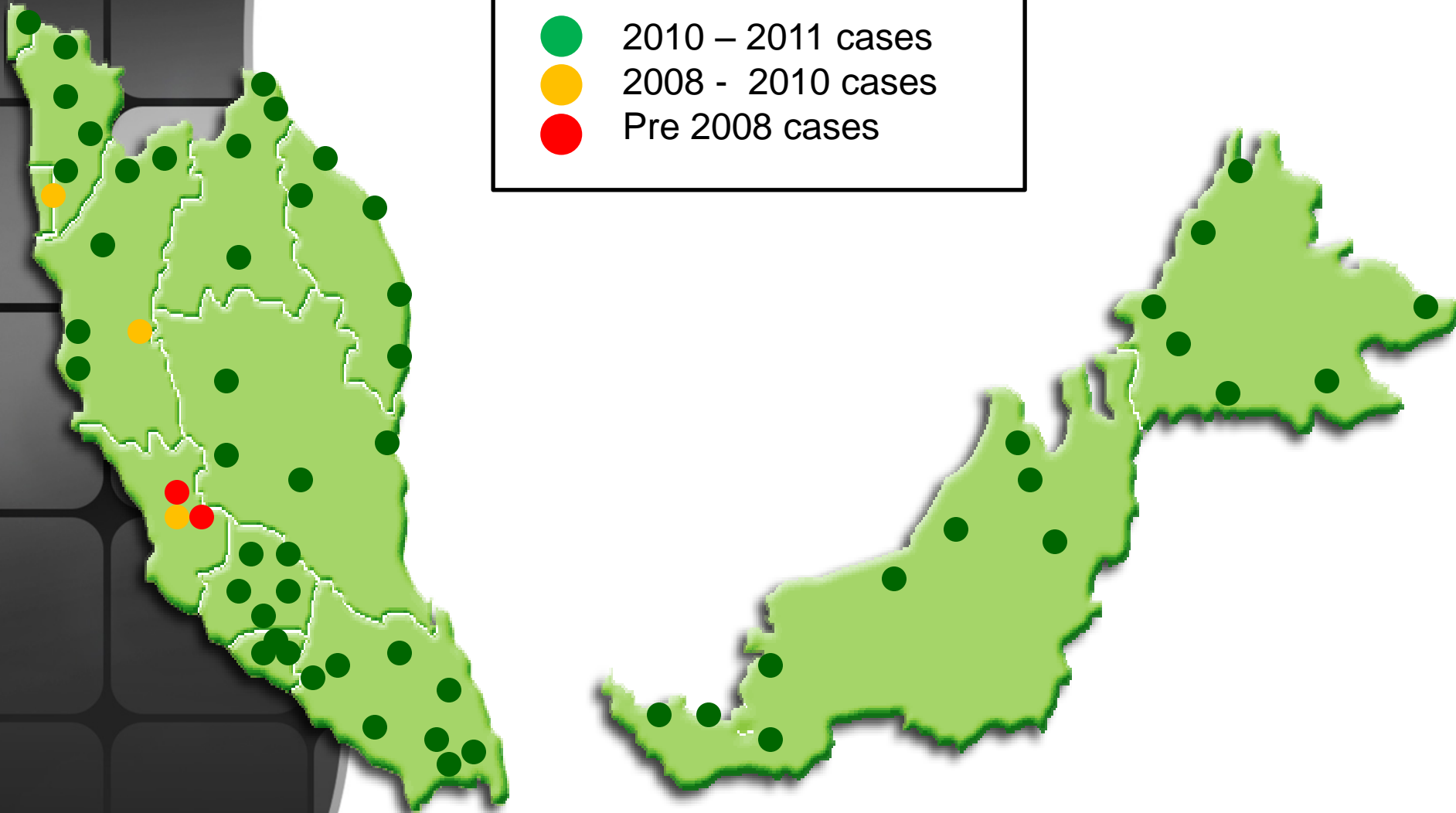
- 2010 – 2011 cases
- 2008 - 2010 cases
- Pre 2008 cases





Now (as at Dec 2011)

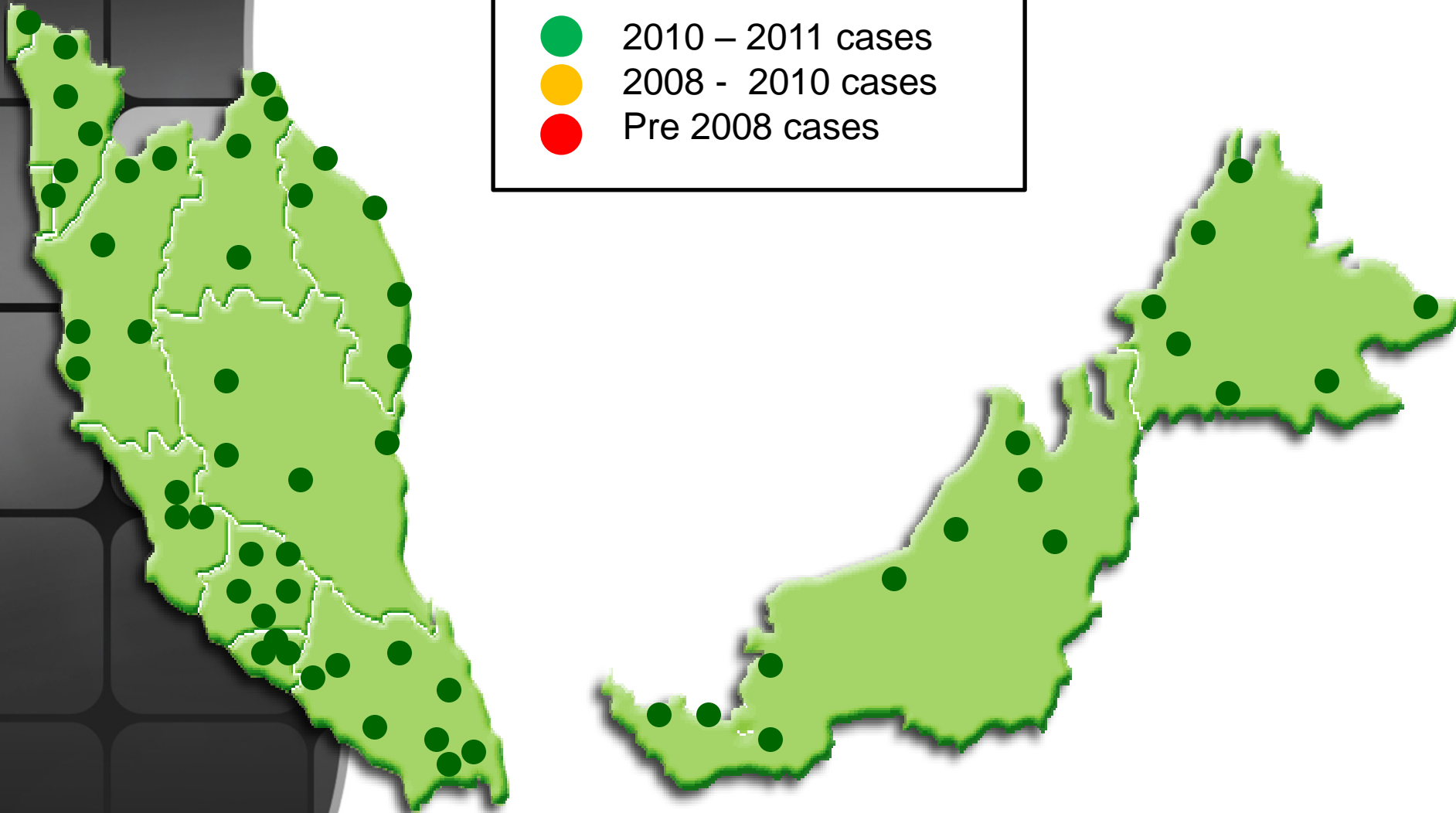
- 2010 – 2011 cases
- 2008 - 2010 cases
- Pre 208 cases





Post Reform(2012-?)

- 2010 – 2011 cases
- 2008 - 2010 cases
- Pre 2008 cases

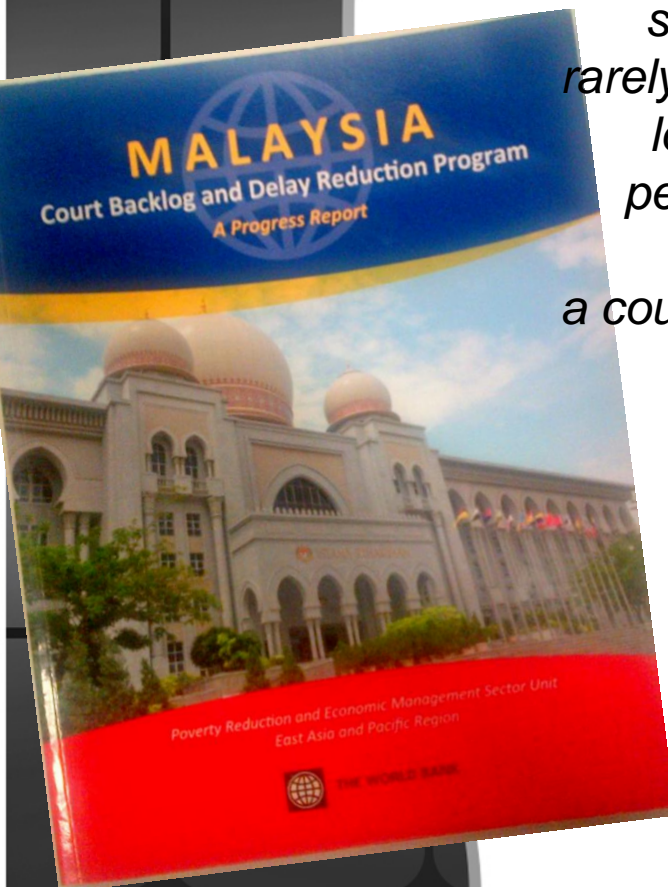




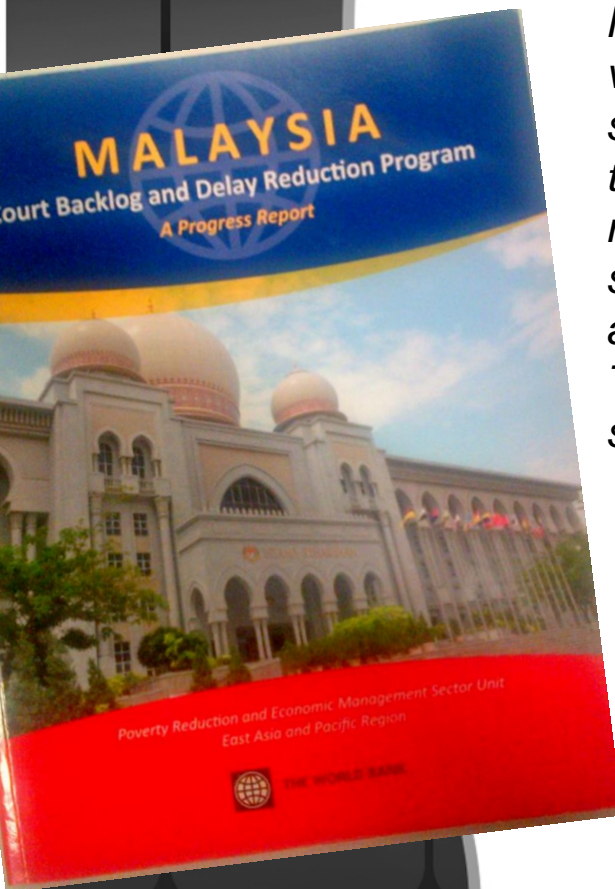
Excerpts from the Report

“The present study reviews a reform designed and implemented by the Malaysian Judiciary during the period from late 2008 to early 2011. Although conducted over a very short period, this reform has been able to produce results rarely reached even in programs lasting two or three times as long. It thus provides a counter-example to contemporary pessimism about the possibility of the judicial improving its own performance. Moreover it did so in a country which faces many of the usual contextual obstacles said to have inhibited from elsewhere.”

[page 1, para 2]

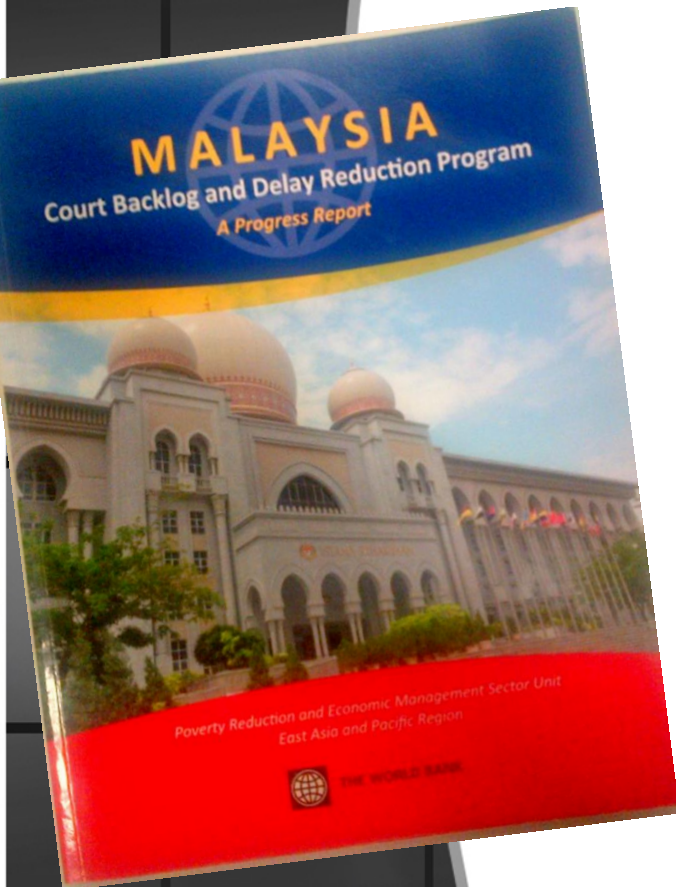


“The Malaysian Judiciary’s recent program offers an interesting model for other countries attempting a backlog and delay reduction program, and in fact for those pursuing other goals in their reforms. The Malaysian model is not radical in its content so much as in its ability to follow best practices, something which few countries in its position manage to do.” **[page viii, para 24]**



“These are only a few of the lessons that might be derived from the experience. A further recommendation is that countries embarking on judicial reforms, especially, but not solely thus emphasizing efficiency, take a closer look at the experience, if possible by visiting the Malaysian courts and talking with the participants. The Malaysians designed their program on the basis of many such visits, and the experience clearly paid off. They selected what they saw working in other countries and then tailored the approaches to their own situation. Successful imitation with an eye to appropriate modifications allowed them to move ahead with extraordinary speed. Thus a final lesson is to learn from others, and so to take advantage of being a late-comer by building on existing examples. Those who are only starting or who are revising “failed programs” should take heed” [page 56, para 198]

“Committed leadership is essential and it is also important to ensure such leadership persists over the longer run. Broadening the reform team (to include the President of the Court of Appeal, the two Chief Judges and more members of the Federal Court) as was done in Malaysia is thus recommended strategy. Reforms have progressed with only one high-level leader, but they are easier to reverse when that is the major source of their momentum” [page 56, para 197 (m)]



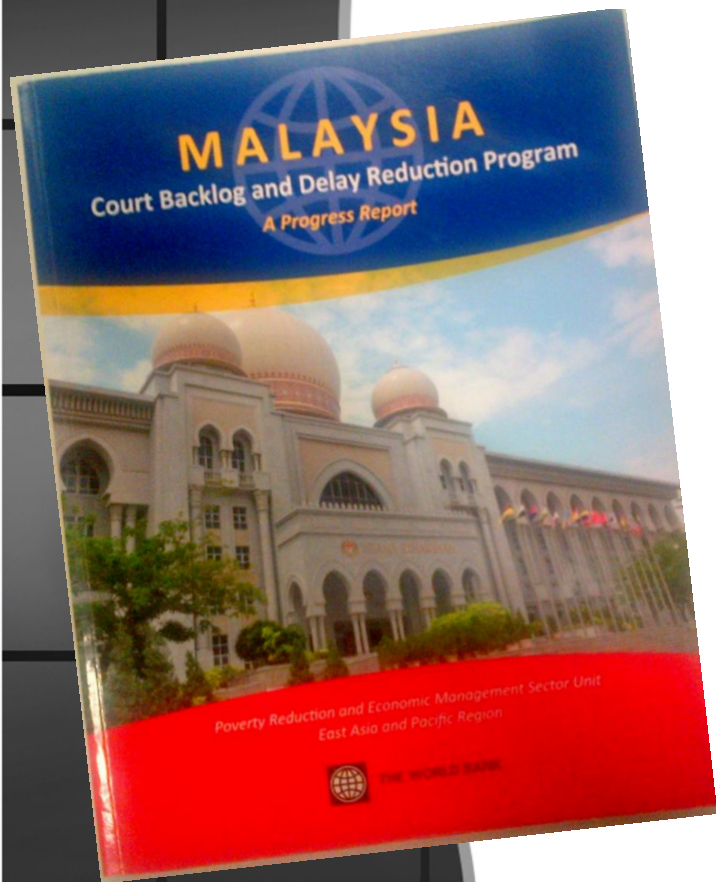
“The aims of the first stage program were to reduce backlog and delay in processing cases. Owing to the lack of an automated database and, in the beginning, of much automation beyond word processing, the Court monitored progress with its own variations on the usual court efficiency indicators. For backlog reduction the Court used two measures:

(a) End-of-year comparisons of cases carried over to the next year, starting with a baseline for the end of 2008; a decline in the number of cases carried over indicates a decline in “backlog.”

(b) An ageing list, tracking the years of filing for cases remaining in the inventory of each court. The goal is to eliminate older cases so that any carryover (and carryover is inevitable even in the most efficient courts) would only be recently filed cases” **[page iv, para 13]**



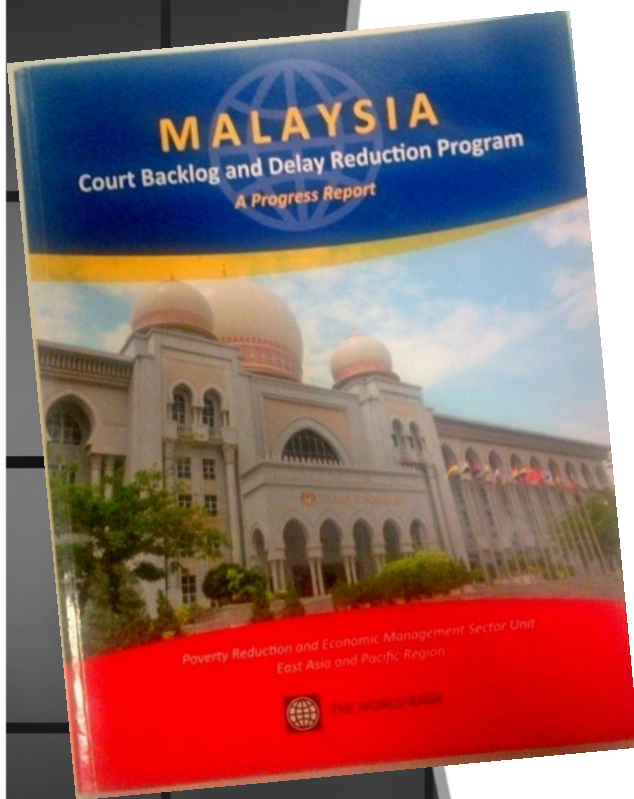
“In combination, the two measures provide ample evidence that the efforts have been successful in advancing their goals. The initial inventories (based on statistics already kept by the Court) indicated a carryover from 2008 to 2009 of 422,645 cases in the High, Sessions, and Magistrates courts; by May 2011, the carryover (to the next month) was only 162,615 or roughly 38 percent of the initial figure. Since the initial carryover was probably underestimated and was unaudited unlike the more recent figures, the percentage of the actual reduction may be still greater. In some sense, the Court undercut its own measure of success by counting older cases discovered in subsequent inventories as “new entries” rather than as backlog. However, this only affects the percentage of backlog reduction, not the total of cases disposed or carried over to later years” **[page iv, para 14]**

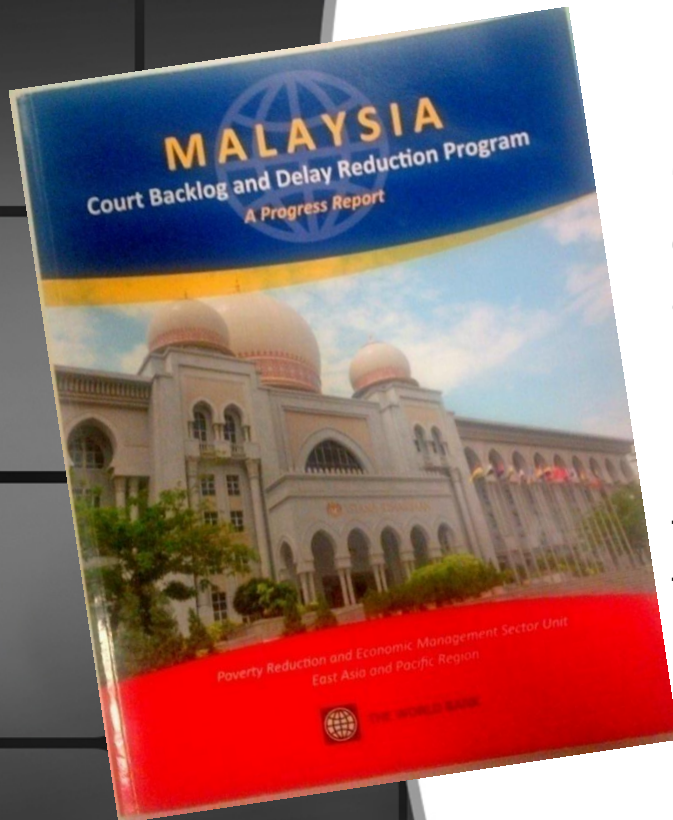


*“Ageing lists also show a substantial reduction (varying by court) in the older pending cases, thus indicating that the carryover is largely new cases (as would be expected if the program is working). The ageing lists are important in demonstrating that the courts have been eliminating older cases (the backlog) at a significant rate, rather than simply, as probably happened before, only processing the easy new filings. The data shows that the total number of cases filed in 2009 or earlier still being processed in the High, Sessions and Magistrates Courts (country-wide) had dropped from 192,569 in December 2009 to 15,497 in May 2011. As of the latter date, among the country’s 429 sessions and magistrates’ courts, 120 were completely current – processing only cases filed in 2010 and 2011” **[page iv, para 15]***



“Delay reduction is more difficult to measure without an automated database (and sometimes even with one). Lacking this tool, the Court’s strategy has been to set targets for courts – the processing of all new cases within a given time (usually 9 to 12 months depending on the court and material) – and monitor compliance. Results indicate the program is working, especially in the new courts (NCC and NCvC) where monitoring is facilitated by the process used to distribute cases. Once a new court is set up in either the commercial or the civil area, it receives all new cases filed during the next four months. After this, another court is created (with judges transferred from the old commercial or civil courts, as they run out of work) to receive the next round of cases, while the first court processes what entered earlier. The Judiciary now tracks and produces reports and tables to check whether each court is meeting its target of processing all its allotment within nine months of the cutoff date. Data presented in Chapter III demonstrate both the progress and the monitoring mechanism. Since neither the manual nor computerized system tracks the duration of each disposition, the target is a sort of average. Some cases may take a year and others six months, but so long as 90 percent of them are closed in 9 months, the performance is deemed satisfactory. Since their creation the NCCs and NCvCs have been reducing their caseloads at a fully adequate pace and in fact are ahead of the schedule. The growing number of courts that are fully current (i.e., no longer handling cases entered before 2010) also indicates (logically) that their disposition times have improved as well.” [page v, para 16]





“The program has also been successful in discouraging some of the usual causes of delays – and especially the frequent adjournments of hearings. Adjournments are not systematically monitored, although they are included in the daily reports. However, the pressure on judges to meet their quotas appears to be sufficient incentive for them to be firm on hearing and trial dates.” **[page v, para 17]**



Closure of Courts / Reduction of Staff and financial implications

Courts	Number of Courts Closed / Staff Reduction	Approximate Yearly Expenditure Per Court (Approx)	Total Cost Saved
High Court	9 + 7 (retired)	RM 1,100,000	RM 17,600,000
Sessions Court	4	RM 500,000	RM 2,000,000
Magistrates' Court	23	RM 220,000	RM 5,060,000
Staff Reduction	241 + 60	RM 3,500,000 + RM 900,000	RM 4,400,000
Total		RM 6,220,000	RM 29,060,000

TARGET : ALL HIGH COURT

- 1. 9 MONTHS ACHIEVED NCC & NCvC
(90 PERCENT NINE MONTH)**
- 2. IP AND ARBITRATION ACHIEVED 6 MONTH**

TARGET : SESSSIONS COURT (CIVIL)

- 1. 9 MONTH**
- 2. ACHIEVED 90 PERCENT OF CASES ACHIEVED**

TARGET : MAGISTRATE (CIVIL)

- 1. 6 MONTH**
- 2. ACHIEVED 95 PERCENT OF CASES**
- 3. CRIMINALS – LESS SUCCESSFUL**



Problems and Challenges

Lawyers up in arms over fast-tracking of cases

■ **By Sharanjit Singh**
sharanjit@nst.com.my

GEORGE TOWN: The legal fraternity's discontent over strict directives given to judges not to allow adjournments is set to boil over.

Lawyers, who have so far only been grumbling, are now set to take more drastic action.

The latest to join in the fray is the Penang Bar Committee which has called for an extraordinary general meeting to discuss the rigid instructions given to judges.

A notice of the EGM, which is scheduled to be held on Friday, has been sent to members of the Penang Bar.

It is learnt that the Johor Bar Committee is set to do the same soon.

The motions that would be tabled at the EGM include the issue of unrealistic targets set by Chief Justice Tun Zaki Azmi by way of key performance indicators (KPIs) for disposal of cases.

Also up for discussion is the directive for judges not to allow postponements except in instances of "death or near death".

The committee is disturbed that such a directive has caused the courts to give priority to meeting the KPIs without regard to the fair and just disposal of cases.



THIS PRACTICE WILL NOT ONLY LEAD TO THE DEATH OF ADVOCACY BUT ALSO RESULT IN HASTILY AND POORLY CONSIDERED DECISIONS.

— Penang Bar member on the new rules for written submissions.

A senior member of the Penang Bar, who declined to be named, said lawyers were concerned and dissatisfied with the manner in which courts were fixing hearings and rushing through them.

Another motion to be discussed is the issue of courts directing parties to simultaneously file written submissions not exceeding five pages. This denies either party the right to reply.

Oral submissions before judgment are also to be disallowed.

"This practice will not only lead to the death of advocacy but also result in hastily and

poorly considered decisions as there will be no opportunity for clarification or amplification of the written submissions," said another member of the Penang Bar.

The committee is also concerned that the haste to clear cases has resulted in cases proceeding or being struck out even when counsel or witnesses have been admitted to hospital or have a valid medical certificate.

The Penang Bar feels that the administration of justice has been undermined with the introduction of such drastic measures which were introduced to clear the backlog of cases.

The EGM is expected to see three resolutions being passed:

- to object to the disposal of a minimum number of cases as a measure of KPIs for the judiciary and judicial officers as this compromises the quality of the administration;
- to send a memorandum to the chief justice and relevant authorities with details, examples and illustrations on how the new court system and directives have undermined the administration of justice; and,
- to urge the Bar Council to take up the issue with the chief justice and government and find a solution to improve the administration of justice without compromising its quality.

Bar: Don't rely too much on KPI

By B. Suresh Ram
sureshram@nst.com.my

KUALA LUMPUR: The Malaysian Bar Council has called for the speedy disposal of cases at both lower and higher courts to be tempered with the need for justice and fairness.

While welcoming the move for early hearing and disposal of cases, the council, however, is against the over-emphasis on the Key Performance Index (KPI) as the main criteria in the disposal of cases by judges.

It fears that the current disposal of cases, if based solely on the over-reliance on KPI, will be at the expense of fairness and overall quality of justice.

"We welcome the speedy disposal of cases but justice must never give way to speed," council chairman Ragunath Kesavan said after the council's extraordinary general meeting here yesterday.

More than 560 lawyers attended the EGM.

Two motions were passed at the EGM: the first on the issue of KPIs proposed by Ragunath and Tommy Thomas, and the second on parking lots

at court complexes proposed by Jason Kay.

The motion on the KPIs was moved after the Bar received complaints from members on the recent trend which they described as "no matter what, cases in court must go on and no postponement would be allowed".

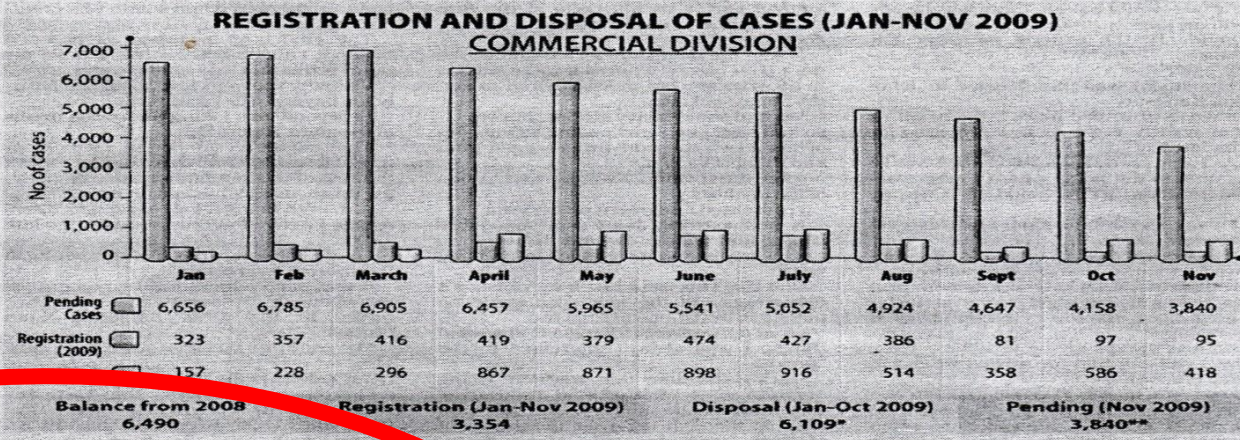
Ragunath said strict adherence to the KPI would eventually see the quantity of cases disposed overtaking the quality of judgment dispensed.

To ensure the effectiveness of the speedy disposal of cases, he said, there was also a need to enhance the existing support system and competency of staff in the judicial system.

The call to reduce the backlog of cases is part of Chief Justice Tun Zaki Azmi's initiative to reform the judiciary but concern has been raised that the KPI also reduces judicial independence in ensuring justice.

Ragunath stressed that the EGM should not be seen or perceived as the legal fraternity being on a collision course with the judiciary.

"We want to work with the bench to resolve the issue," he said.



Ragunath said the council would seek an appointment with Zaki to present the resolutions adopted by the EGM, as well as urge him to re-look administrative directives which would impede the im-

plementation of justice. The EGM was told to address complaints by lawyers that judges were not willing to grant postponements even for valid reasons. The council chairman also

called on the judiciary to provide some leeway with regard to the postponement of cases. Ragunath said the council noted that some judges had stopped exercising their judi-

cial discretion on when to adjourn cases. "Judges must not be judged based only on how fast they dispose their cases but also on their impartiality and the quality of judgment."

Going down to the grassroots to put years of 'neglect' in order

BACKED by senior superior court judges, Chief Justice Tun Zaki Azmi went to every registry in every court in Peninsula Malaysia, counted the files and put them in order.

Then, they started excising the dead files. In Shah Alam alone, they removed 25,000 out of 45,000 files.

"The problem is huge!" Zaki told the *New Sunday Times* in an interview together with Federal Court judge Datuk James Foong Cheng Yuen.

"We had to ensure that the files were arranged and marked properly so that anybody could go and look for the case. Previously, the king of the file room is the file searcher. If he is not around, nobody knows how to look for the files."

"We are putting our house in order and taking stock of what we have," said Zaki.

"We want to know the size of the backlog so that we know how many judges to send to which court," said Zaki.

"My immediate problem is



Chief Justice Tun Zaki Azmi says his immediate problem is to clear the backlog of cases

to clear the backlog, to come to a point where we can dispose of a case in one or two years. We can do that, it would be a big achievement."

However, clearing a back-

log efficiently requires an efficient system. The chief justice introduced a central case management system, which was implemented in the Kuala Lumpur and Shah Alam courts in February, in

Penang in October and in Johor Baru in November.

"Previously, the judge himself manages. He calls the lawyers up, asks whether they are ready to proceed," said Foong, who is the man-

There is a huge backlog of cases in the courts, and it must be cleared. But how to do it? And at what cost? NIZA DAMIS looks at the issues involved

aging judge of the Civil Division.

"So, instead of hearing his case, he's doing all this. His time is wasted by two to three hours a day."

The main problem with the old "system" was that there was a disparity of methods and approaches. And not all judges were good managers.

So, the new case management system freed the judges from administrative duties. The task of managing a case to a point where it was ready for trial goes to a centralised administration system.

"This allows the judge to concentrate on the cases which we fix for him," said Foong.

The system has met with protests by lawyers, who claimed that rather than ensuring that justice was done, the speeding up of cases was burying it.

"Now, we demand that lawyers cooperate with us because we manage the cases first, and request from them whether the date is suit-

able. If they are agreeable, there should be no postponement - they should get their witnesses ready," said Foong.

"Postponement is allowed for 'death or near death'," said Zaki.

Civil and commercial court judges are expected to dispose of at least five full cases a month, and have no more than 10 part-heard cases at any one time.

"The Key Performance Index given is not arbitrarily fixed by the chief justice or chief justice of Malaya. It was reached at by common consensus at a meeting with all the judges, and based on a three-month trial that we did in the KL courts," said Zaki.

"So, it's not like we fixed those figures overnight."

"They have been achieving this target. Before this, the disposal rate was one or two a month."

"Now, it's seven to 10, and some are pushing to 12."

Just how big is the backlog, and how much has been cleared with this system?



THE REFORM STRATEGIES

1. Case Inventory (File Room Audit) and Improved Filing System

Before: Workspace surrounded by files





After: Computerized File Searching





2. Increase number of judges

3. Tracking System (case management).

Before: Delivering files





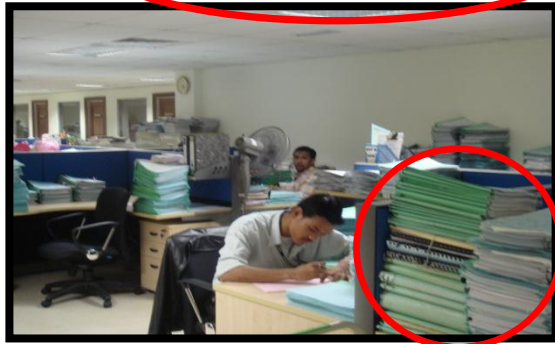
After: All information entered into computers



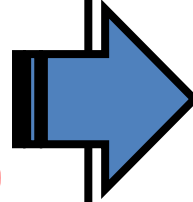
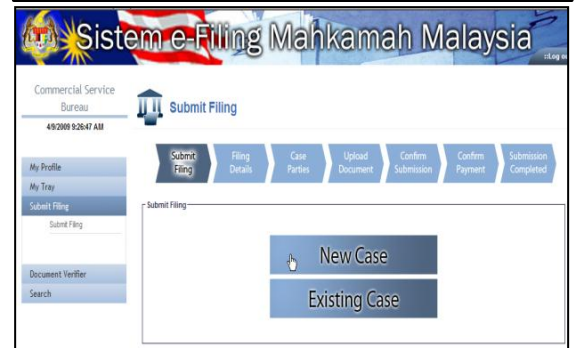
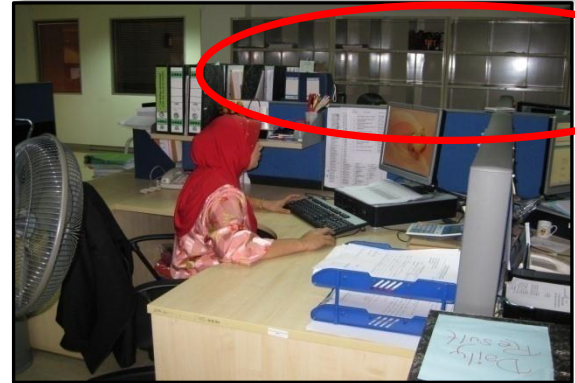


E- FILING

BEFORE



AFTER





4. E-Court programme (CMS, QMS, CRT and E-Filing).

Court Recording & Transcription System (CRT)

CaseViewer 3.3

File Edit View Play Audio Help

D5-22-1078-2002 Case Log

Time	Event Text
10:15:50 AM	Case Started
12:03:33 PM	Case Recessed
12:10:25 PM	Case Resumed

Event Notes

CaseQueue

The plugin failed to load.

Show Error

Video

Playback Speed 1.0 Backstep 2

Judge

11:23:21 AM

MAR 02 2010

Normal

Audio

1 2 3 4 5

Playlist

- 10h15m49s.wmv 01:47:42
- 12h10m24s.wmv 00:44:51

Paused

01:07:31

03/02/2010 11:23:20

Ready

EN 04:37 PM 02/03/2010



Court Recording & Transcription System (CRT)



Court Recording & Transcription System (CRT)





5. Appointment of managing judges.

6. Strict granting of postponements.

7. Spot checks/surprise visits to courts.

Surprise Visits



Surprise Visits



8. Mediation



9. Better utilisation of judicial time.

10. Close monitoring from the Top Management

11. Establishment of Specialised Courts.

**12. Regular meetings with, and support of the Bar , AG & other Govt. Depts
(*Chemistry Dept, Health Ministry, RTD, Police, Bank Negara, SC, etc.*)**

13. Amendments of Legislations.

14. Fair Orders are released within 4 days

15. Grant of Letter of Administration and Probate within two weeks

16. Introduction of the NCC and NCvC

17. Reduction of staffs and officers

THE Reform continues.....

- 1. Combined Rules**
- 2. Green Court**
- 3. Case management in criminal cases**
- 4. Quality of judgment and decision (*at the Federal Court 5 member panel instead of 3 members*)**
- 5. Judicial Academy**
- 6. Increase of subordinate court jurisdiction**



THANK YOU