

**Liew ticks off Sabah lawyers resisting SD reforms**  
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Deputy Minister in the Prime Minister's Department V K Liew is outraged that lawyers in fraud-plagued Sabah, like those elsewhere in the country, are against changes to the Statutory Declaration Act 1960, among others. Liew wants the commissioners of oaths (CO) to be held responsible for the contents of statutory declarations (SD) for which they attest.

The Sabah Law Association (SLA) argued in a public statement last week that the job of a CO is merely to attest that the person who signed the SD is the same person mentioned in the SD.

"This argument does not hold water. We have too many cases of people forging signatures on SDs and getting COs to attest to them," said Liew, who is responsible for law reform. "In such cases, the COs doesn't even bother to verify the identity of the deponents."

Liew (left), continuing, stressed that the SLA like the Bar Council and their counterparts in Sarawak were aware that there were hundreds of cases in the country where the courts ruled, after evidence was adduced, that the signatures of the persons on SDs were forged. This raises questions about the COs who attested to the signatures, added Liew. "Surely, the COs have been negligent in carrying out their duties."

The deputy minister, drawing from personal experience and complaints, cited as an example that sometimes there were hundreds of signatures of kampung residents in one power of attorney (PA). The PA purportedly gives their rights and powers to a company or person to transact their lands. At the end of the PA, noted Liew, there would be the signature of a CO with an official claiming to have witnessed the signatures of the villagers.

"In almost every single case that I am aware of, the PA would be accompanied by an SD to claim that what they say in the PA is true," said Liew. "In almost all the cases that I handled as a lawyer, their signatures were found to be forged. This was verified by handwriting experts."

Often, according to Liew, even Justices of the Peace (JPs) attested to the SD and claimed that they had witnessed the villagers before them. To add insult to injury, there were quite a few cases where the JPs and COs purportedly witnessed the signatures of landowners, when in fact those landowners had already passed on several years earlier.

'Laws outdated'

Liew conceded that his personal experience was limited to that as a lawyer in Kota Kinabalu before he took up public office in 2008. He reckons that Kota Kinabalu was just the tip of the iceberg and that the situation in other parts of Sabah and, "indeed the whole country", could be a whole lot worse. He cited the Adorna case - involving a forged land title - as just one of the hundreds of instances where genuine landowners lost their land and properties to fraudsters.

The deputy minister also noted the irony that JPs in Malaysia were described as at least 2nd class magistrates but were not allowed by the judiciary to hear cases, not "even traffic cases" and other non-contentious ones, as had been proposed at one time.

In one recent case, said Liew, a JP's appointment was withdrawn after it was discovered that he was unable to read the Oath of Office. The problem is that JPs do not necessarily possess a legal background, and their appointments are generally recommended by political parties.

"In fact, both the SD Act and the PA Act, as well as the powers conferred on the JP under the JP Act must therefore be reviewed," said Liew. "The laws in these Acts were introduced in the late 1950s and early 1960s and they are deemed outdated."

The "crooks", reminded Liew, are getting "very smart these days" and the poor and innocent kampung folks become the losers and victims of these unscrupulous people.

Liew disclosed that the Law Reform Committee headed by him basically wants to ensure that SDs are not abused for the purpose of defamation, fraud or forgery.

'Current laws adequate'

The SLA is not buying any of Liew's arguments, and still insists that COs, or JPs, should not be made liable for the contents of SDs or PAs. If fraud is a problem, the right approach would be to tighten the laws against any form of cheating, says SLA president John Sikayun.

Sikayun warned that some COs, if not many, are either not qualified or not qualified enough to give advice regarding the contents of a SD. "If the COs are now supposed to give advice to deponents, then their fees must also be enhanced," said Sikayun. "At present, the duty of a CO is only to attest to the SD."

Kota Kinabalu lawyer PJ Perira described the Law Reform Committee's proposed amendments to the SD Act as "detrimental to the COs if they are made liable for the declaration prepared by the deponents".

"Deponents have the right to make the declarations whether it's criminal in nature, bankruptcy, their status; or loss of identity cards, licence, land titles, passports and proof of debts which are within their knowledge," said Perira.

The lawyer said that there are adequate laws to nail any deponents who make false declarations, whether under criminal or civil remedies. He cited Sections 199 and 200 of the Penal Code as examples of other remedies available in the case of defamation, fraud and forgery.

Perira also feels that it's also up to agencies like the Land and Survey Department, National Registration Department and Immigration - generally swamped with SDs - "to verify the contents of such declarations made in front of a CO".

COs in Kota Kinabalu generally echo the views of the SLA and lawyers like Perira.

'Move positive'

Senior Kota Kinabalu lawyer Chin Tek Ming, however, begs to disagree with Sikayun and Perira.

"The proposed amendments are a positive move to curb forgeries and fraud," said Chin. "There are quite a number of forgery or commercial crime cases in the country involving

documentation or witnessing of signatures.”

Chin agrees that the proposed amendments, if passed, would reduce the number of cases that COs would handle “since they would need to be extra careful when witnessing signatures”. He hopes that the new laws will be user-friendly and easy to understand, and take into consideration that “COs were not legally qualified”.

Most JPs in Kota Kinabalu also welcome the proposed new laws, and claim that they “don't attest to documents without reading them first and verifying the contents”.

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