



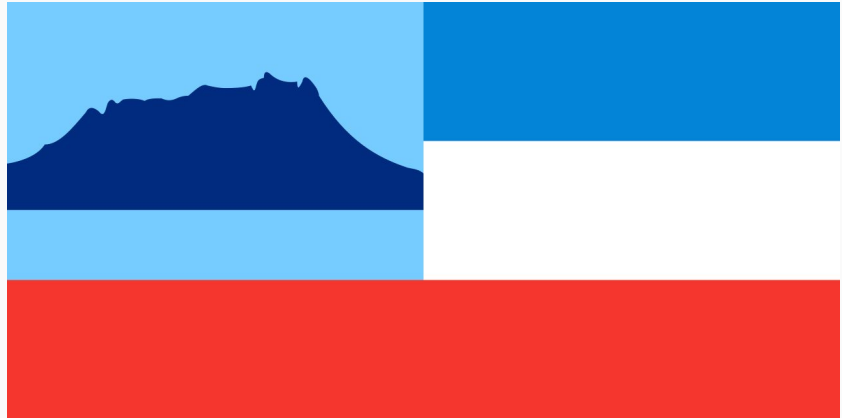
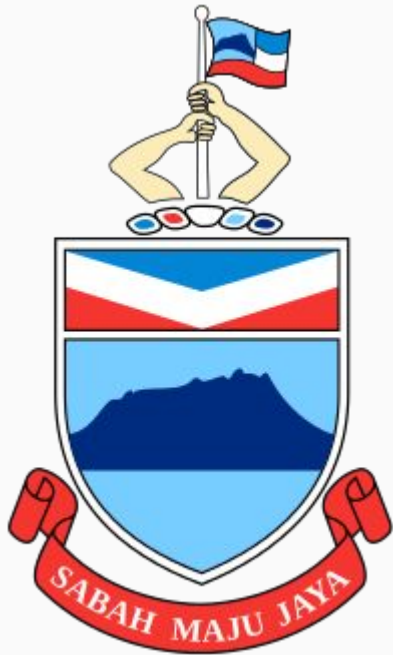
# PERLEMBAGAAN NEGERI SABAH

ENCIK KIERAN LUKE LAMUDIN  
BACHELOR OF LAWS (LL.B HONS)  
PEGAWAI UNDANG-UNDANG  
JABATAN PEGUAM BESAR NEGERI  
24 FEBRUARI 2021

# Topik-topik Ceramah

- Perlembagaan Negeri
- Tuan Yang di-Pertua Negeri
- Ketua Menteri
- Badan Eksekutif
- Ciri-ciri Ahli DUN
- Badan Perundangan
- Perkhidmatan Awam

# PERLEMBAGAAN NEGERI SABAH



# Apakah kepentingan dan ciri-ciri Perlembagaan Negeri?

- Diiktiraf oleh Perlembagaan Persekutuan di bawah Perkara 71.
- Perkara 27 Perlembagaan Negeri, merupakan Undang-undang Sabah tertinggi.
- Perkara 43(2), Hanya boleh dipinda dengan pengundian  $\frac{2}{3}$  Ahli Dewan Undangan Negeri
- Ada beberapa perkara perlu persetujuan persekutuan , sebagai contoh lantikan TYT , undang-undang negeri yang diiktiraf sebagai undang-undang persekutuan.

# TUAN YANG di-PERTUA NEGERI (TYT)



# TYT

- Perkara 1, Ketua Negeri Sabah
- Perkara 1(1), Pelantikan oleh YDPA menurut budi bicara setelah berunding dengan Ketua Menteri Sabah
- Perkara 1(2) Pemecatan TYT, oleh YDPA atas permintaan  $\frac{2}{3}$  ahli DUN

## PART I

### THE STATE GOVERNMENT

#### *Chapter 1 - The Head of State*

#### **Yang di-Pertua Negeri**

1. (1) There shall be a Head of State for Sabah, to be called the Yang di-Pertua Negeri, who shall be appointed by the Yang di-Pertuan Agong acting in his discretion but after consultation with the Chief Minister.

(2) The Yang di-Pertua Negeri shall be appointed for a term of four years but may at any time resign his office by writing under his hand addressed to the Yang di-Pertuan Agong, and may be removed from office by the Yang di-Pertuan Agong in pursuance of an address by the Legislative Assembly supported by the votes of not less than two-thirds of the total number of the members thereof.

# Apakah Kelayakan dan Larangan sebagai TYT?

## Perkara 2

- Mestilah warganegara, tidak boleh dari natualisasi
- Tidak boleh memegang jawatan berpendapatan
- Tidak boleh terlibat aktif berniaga



## Qualifications and disabilities of Yang di-Pertua Negeri

2. (1) A person who is not a citizen or is a citizen by naturalization shall not be appointed as Yang di-Pertua Negeri.

(2) The Yang di-Pertua Negeri shall not hold any office of profit and shall not actively engage in any commercial enterprise.

(3) *[Deleted by En.11/2018]*

# Tanggungjawab TYT

- Perkara 10, Membuat keputusan berdasarkan nasihat daripada Jemaah Negeri.
- Perkara 21, Membuka sidangan DUN
- Perkara 41(1), Melindungi kedudukan istimewa Anak Negeri dan kepentingan kaum lain.
- Perkara 41 (3), Memastikan penyertaan Anak Negeri dalam perkhidmatan awam, pemberian biasiswa, dermasiswa, dan keistimewaan pendidikan .

# Apakah Kuasa Budi Bicara TYT?

Perkara 10 (2) menyatakan:-

- a. Melantikkan Ketua Menteri
- b. Boleh tolak permintaan untuk pembubaran DUN

## Yang di-Pertua Negeri to act on advice

10. (1) In the exercise of his functions under this Constitution or any other law, or as a member of the Conference of Rulers, the Yang di-Pertua Negeri shall act in accordance with the advice of the Cabinet or of a member thereof acting under the general authority of the Cabinet, except as otherwise provided by the Federal Constitution or this Constitution; but shall be entitled, at his request, to any information concerning the government of the State which is available to the Cabinet.

(1A) In the exercise of his functions under this Constitution or any other law or as a member of the Conference of Rulers where the Yang di-Pertua Negeri is to act in accordance with the advice or on advice, the Yang di-Pertua Negeri shall accept and act in accordance with such advice.

(2) The Yang di-Pertua Negeri may act in his discretion in the performance of the following functions –

- (a) the appointment of a Chief Minister;
- (b) the withholding of consent to a request for the dissolution of the Legislative Assembly.

# KETUA MENTERI SABAH

16



15



14



13



9



10



11



12



8



7



6



5



1



2



3



4



# Bagaimana Ketua Menteri dilantik?

- Perkara 6 (3), TYT mempunyai kuasa budi bicara untuk melantik seorang ahli DUN sebagai KM di mana TYT berpuas hati bahawa ahli DUN tersebut mempunyai keyakinan yang besar di kalangan DUN
- Perkara 6 (7), ketua parti politik yang berjaya mendapat kerusi DUN yang paling banyak akan dilantik sebagai KM.

### State Cabinet

6. (1) There shall be a State Cabinet to advise the Yang di-Pertua Negeri in the exercise of his functions.

(2) The Cabinet shall consist of a Chief Minister, and not more than ten nor less than four members, (to be styled "Ministers") appointed in accordance with Clause(3).

(3) The Yang di-Pertua Negeri shall appoint as Chief Minister a member of the Legislative Assembly who in his judgement is likely to command the confidence of a majority of the members of the Assembly and shall appoint the other members mentioned in Clause (2) in accordance with the advice of the Chief Minister from among the members of the Assembly.

(7) For the purpose of Clause (3) of this Article, where a political party has won a majority of the elected seats of the Legislative Assembly in a general election, the leader of such political party, who is a member of the Legislative Assembly, shall be the member of the Legislative Assembly who is likely to command the confidence of the majority of the members of the Assembly.

# Apakah kuasa dan tanggungjawab KM?

- Perkara 11, Melantik Setiausaha Kerajaan Negeri dan Peguam Besar Negeri.
- Perkara 1, Pemilihan TYT melalui perundingan dengan YDPA
- Perkara 6, Melantik ahli Jemaah
- Perkara 21, Bersidang DUN
- Perkara 36, Melantik ahli Suruhanjaya Perkhidmatan Awam



# Bagaimanakah KM hilang kuasa?

- Di mana KM telah hilang kepercayaan majoriti DUN

## **Datuk Amir Kahar v Tun Mohd Said Keruak, YDPN Sabah**

Apabila seseorang KM telah hilang kepercayaan majoriti DUN, hal ini dapat dibuktikan oleh beberapa keadaan. Ia boleh melalui pengetahuan KM sendiri atau pengundian di DUN. Tiada dalam Perlembagaan Negeri yang menyatakan hanya boleh dibuktikan oleh pengundian di DUN.

# Bagaimanakah KM hilang kuasa?

- Vote of no confidence
  - dibuat melalui sidang DUN
  - Perkara 7(1), Jika KM tidak lagi mendapat kepercayaan majoriti Ahli-ahli DUN, maka KM hendaklah meletakkan jawatan Ahli-ahli Kabinet , melainkan jika atas permintaan DUN dibubarkan oleh TYT
  - Contoh: 4hb Dec 2020, MB Perak hilang kepercayaan majoriti ahli-ahli DUN

# BADAN EKSEKUTIF NEGERI



# Apakah ciri-ciri Badan Eksekutif Negeri?

- Perkara 5, Ketua Eksekutif terletak kepada TYT tetapi fungsinya boleh melalui undang-undang diberikan oleh orang lain
- Perkara 5A, Agama Islam adalah agama rasmi, tetapi agama lain boleh diamalkan dengan aman
- Perkara 5B1, YDPA adalah Ketua Agama Islam bagi Negeri Sabah
- Perkara 5B2, DUN boleh membuat undang-undang dan mengawal selia agama Islam dan menasihati YDPA

### **Executive authority**

5. The executive authority of the State shall be vested in the Yang di-Pertua Negeri but executive functions may by law be conferred on other persons.

### **Religion of the State**

5A. Islam is the religion of the State; but other religions may be practised in peace and harmony in any part of the State.

### **Head of religion of Islam**

5B. (1) The Yang di-Pertuan Agong shall be the Head of the religion of Islam in the State.

(2) The Legislative Assembly shall be responsible for making provisions for regulating the Islamic religious affairs and for constituting a Council to advise the Yang di-Pertuan Agong in matters relating to the religion of Islam.

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# Apakah ciri-ciri Badan Eksekutif Negeri?

- Perkara 6(1), Kabinet Negeri ditubuhkan bagi menasihati TYT pada menjalankan fungsi-fungsinya.
- Perkara 6(2), Kabinet Negeri terdiri daripada seorang Ketua Menteri dan tidak melebihi 10 tetapi tidak kurang daripada 4 anggota lain.
- Perkara 6(3), TYT akan melantik Menteri-menteri dari kalangan ahli DUN.
- Perkara 11, Setiausaha Kerajaan Negeri dan Peguam Besar Negeri dilantik oleh TYT mengikut nasihat Ketua Menteri yang terdapat di dalam senarai cadangan Suruhanjaya Perkhidmatan Awam. Bagaimanapun sebelum dilantik, Ketua Menteri hendaklah berunding terlebih dahulu dengan Kerajaan Persekutuan .

# Apakah ciri-ciri Menteri dan Pembantu Menteri?

- Perkara 7(2), Menteri boleh meletakkan jawatan pada bila-bila masa melalui surat yang ditandatangani sendiri ditujukan kepada TYT dan mengosongkan jawatannya jika pelantikannya dibatalkan oleh TYT.
- Perkara 7A, Tidak lebih daripada 18 pembantu menteri dilantik oleh TYT mengikut nasihat KM dan bukan terdiri daripada anggota Kabinet
- Perkara 9(1), TYT atas nasihat KM boleh menyerahkan kepada seseorang Menteri tanggungjawab apa-apa urusan Kerajaan Negeri dan Pentadbiran Jabatan Kerajaan.

Cabinet.

(2) A member of the Cabinet may at any time resign his office by writing under his hand addressed to the Yang di-Pertua Negeri, and a member of the Cabinet other than the Chief Minister shall also vacate his office if his appointment thereto is revoked by the Yang di-Pertua Negeri acting in accordance with the advice of the Chief Minister.

(3) Subject to Clauses (1) and (2), a member of the Cabinet other than the Chief Minister shall hold office at the pleasure of the Yang di-Pertua Negeri.

### **Assistant Ministers**

**7A.** (1) The Yang di-Pertua Negeri shall appoint not more than eighteen Assistant Ministers in accordance with the advice of the Chief Minister from among the members of the Assembly, but the Assistant Ministers so appointed shall not be members of the Cabinet.

Provided that if an appointment is made while the Legislative Assembly is dissolved a person who was a member of the last Assembly may be appointed but shall not continue to hold office after the first sitting of the next Legislative Assembly unless he is a member thereof.



## **Allocation of portfolios and provision regarding private business interests**

9. (1) The Yang di-Pertua Negeri may, in accordance with the advice of the Chief Minister, assign to a member of the Cabinet responsibility for any business of the Government of the State, including the administration of any department of government.

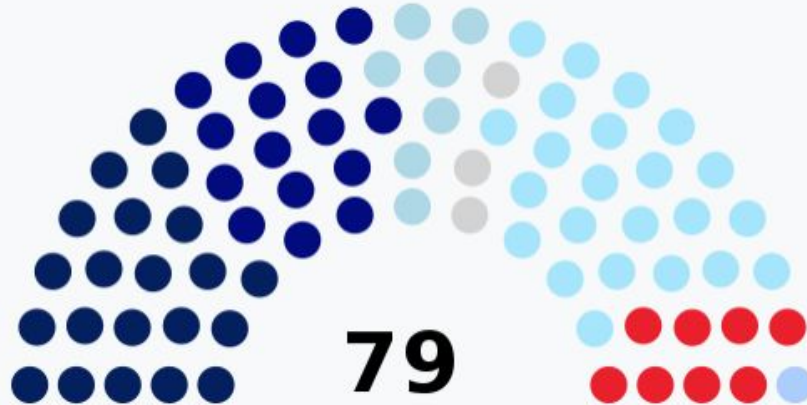
(2) A member of the Cabinet shall not engage in any trade, business or profession connected with any subject or department of government for which he is responsible, and shall not, so long as he is engaged in any trade, business or profession, take part in any decision of the Cabinet relating to that trade, business or profession or in any decision likely to affect his pecuniary interests therein.

- Perkara 9(2), Menteri tidak boleh melibatkan diri dalam apa-apa perniagaan atau profession yang berkaitan dengan Jabatan yang bertanggungjawab atau melibatkan diri dalam mengambil keputusan Kabinet yang mungkin menyentuh kepentingannya dalam perniagaan atau professionnya.

# Ciri-ciri seseorang Ahli DUN

**Seats**

73 elected and up to 6  
nominated



**Political groups**

(As of 17 November 2020)

# Kelayakan ahli Dewan

## Perkara 16

- Warganegara yang berumur lapan belas tahun.
- Bermastautin di Negeri Sabah.

## Qualifications of members

16. Every citizen of or over the age of eighteen years who is resident in the State is qualified to be elected as an elected member or appointed as a nominated member of the Legislative Assembly, unless he is disqualified for being a member by the Federal Constitution or this Constitution or by any such law as is mentioned in Article 17.

# Hak keistimewaan ahli DUN

## Perkara 25

Tertakluk kepada Perkara 72 Perlembagaan Persekutuan, Badan Perundangan Negeri boleh menentukan dan mengawal-selia melalui undang-undang keistimewaan, kekebalan tetapi keistimewaan dan kekebalan itu tidak boleh melebihi keistimewaan, kekebalan atau kuasa Dewan Rakyat Persekutuan.

## Privileges of the Legislative Assembly and members

25. Subject to Article 72 of the Federal Constitution, it shall be lawful for the Legislature by law to determine and regulate the privileges, immunities or powers of the Legislative Assembly; but no such privileges, immunities or powers shall exceed those of the Federal House of Representatives.

# Kehilangan kelayakan menjadi ahli Dewan

## Perkara 17

- A. Tidak sempurna akal,
- B. Seorang bankrap yang belum lepas,
- C. Dia memegang sesuatu jawatan berpendapatan selain jawatan Ketua Anak Negeri dan Pemimpin Pembangunan Masyarakat,
- D. Pernah bertanding pilihanraya Parlimen atau Negeri; atau telah bertugas sebagai agen pilihanraya tetapi gagal menyerahkan laporan perbelanjaan pilihanraya,



E. Telah disabitkan kesalahan oleh mana-mana Mahkamah Persekutuan dan dihukum penjara tidak kurang RM2,000.00 dan dia tidak mendapat pengampunan bebas kesalahan itu,

F. Hilang kelayakan berkaitan dengan kesalahan-kesalahan pilihanraya sama ada Parlimen atau Negeri,

G. Mempunyai kewarganegaraan asing atau ada membuat akuan taat setia kepada suatu Negara asing.

# Tempoh Memegang kerusi sebagai ahli Dewan

## Perkara 18

- A. Dia tidak layak dipilih atau dilantik sebagai Ahli DUN;
- B. Dia meletakkan jawatannya melalui surat di bawah tandatangannya yang ditunjukkan kepada Speaker; atau
- C. Dia tidak hadir di setiap persidangan DUN sebanyak 3 kali berturut-turut tanpa kebenaran Speaker.

## Tenure of seats of members

18. (1) Every elected or nominated member of the Legislative Assembly shall vacate his seat in the Assembly on a dissolution of the Assembly.

(2) An elected or nominated member shall also vacate his seat in the Assembly if -

(a) he ceases to be qualified for election or appointment as such a member of the Assembly;

(b) he resigns his seat by writing under his hand addressed to the Speaker; or

(c) he is absent without the leave of the Speaker from every sitting of the Assembly for three consecutive meetings.

(d) *(Deleted by En. No. 11/1995).*

(e) *(Deleted by En. No. 11/1995).*

(3) For the purposes of paragraph (c) of Clause (2), "meeting" means any sitting or sittings of the Assembly commencing when the Assembly first meets after being summoned at any time and terminating when the Assembly is adjourned *sine die* or at the conclusion of a session.

# BADAN PERUNDAGAN NEGERI



# Apakah Badan Perundangan Negeri Sabah?

- Perkara 13, Badan Perundangan Negeri terdiri daripada TYT dan Dewan Undangan Negeri
- Perkara 14, Dewan Undangan Negeri terdiri daripada Speaker dan Ahli Dewan Undangan Negeri
- Perkara 14 (2), Bilangan Ahli Dewan Undangan Negeri yang dipilih sebanyak 73 orang dan 6 ADUN lantikan. oleh TYT

## THE LEGISLATURE

### Constitution of Legislature

13. The Legislature of the State shall consist of the Yang di-Pertua Negeri and one House, to be known as the Legislative Assembly.

### Composition of Legislative Assembly

14. (1) The Legislative Assembly shall consist of –
- (a) the Speaker;
  - <sup>\*</sup>(b) such number of elected members as the Legislature may by law prescribe, elected in such manner as may be provided by Federal or State law;
  - (c) such number of other members (hereinafter referred to as “nominated members”), not being more than six, as the Yang di-Pertua Negeri may appoint each of whom shall, subject to the

# Badan Perundangan

- Perkara 15, Speaker dilantik oleh TYT dari kalangan orang yang mempunyai kelayakkan tertakluk kepada Perkara 17 untuk dilantik sebagai Ahli dalam DUN.

## The Speaker

15. (1) The Speaker shall be appointed by the Yang di-Pertua Negeri from among persons not subject to any of the disqualifications for appointment as nominated members of the Legislative Assembly set out in Article 17.

(2) The Speaker shall hold office for such period as may be specified in the instrument by which he is appointed, but shall vacate his office –

- (a) if he resigns it by writing under his hand addressed to the Yang di-Pertua Negeri; or
- (b) if he becomes subject to any of the disqualifications for appointment as a nominated member of the Legislative Assembly set out in Article 17; or
- (c) if after three months of his appointment to such office or at any time thereafter he is or becomes a member of any board of directors or board of management, or an officer or employee, or engages in the affairs or business, of any organization or body, whether corporate or otherwise, or of any commercial, industrial or other undertaking, whether or not he receives any remuneration, reward, profit or benefit from it:

Provided that such disqualification shall not apply where such organization or body carries out any welfare or voluntary work or objective beneficial to the community or any part thereof, or any other work or objective of a charitable or social nature, and the person does not receive any remuneration, reward, profit or benefit from it.

(3) Any question whether a person is qualified to be appointed as Speaker shall be determined by the Yang di-Pertua Negeri whose decision shall be final.



# Badan Perundangan: Ciri-ciri Speaker

## Perkara 15 (2)

Speaker hendaklah memegang jawatan bagi tempoh yang ditetapkan dalam surat perlantikannya. Speaker hendaklah mengosongkan jawatannya:-

- A. Jika ia meletakkan jawatan melalui surat ditujukan kepada TYT; atau
- B. Hilang kelayakan untuk dilantik sebagai Ahli Dilantik menurut Per. 17; atau
- C. Jika 3 bulan selepas ia dilantik sebagai atau pada bila-bila masa selepas itu dia adalah menjadi ahli mana-mana Lembaga Pengarah atau seorang Pegawai Kerajaan atau melibatkan diri dalam perniagaan.

# SURUHANJAYA PERKHIDMATAN AWAM



# Suruhanjaya Perkhidmatan Awam

## Perkara 36 (1)

Kerajaan Negeri Sabah mempunyai satu Suruhanjaya Perkhidmatan Awam Negeri mengandungi satu orang pengerusi dan tidak kurang 3 orang Ahli atau tidak lebih 8 orang Ahli. Mereka ini dilantik oleh TYT selepas berunding dengan Ketua Menteri.

THE PUBLIC SERVICE

**The Public Service Commission**

36. (1) There shall be a Public Service Commission for the State which shall consist of a Chairman and not less than three nor more than eight other members, each of whom shall be appointed by the Yang di-Pertua Negeri after consultation with the Chief Minister.

(2) The Yang di-Pertua Negeri may after consultation with the Chief Minister, designate any member of the Commission, other than the Chairman, as a Deputy Chairman of the Commission:

Provided that the number of members of the Commission so designated shall not at any time exceed two.

(3) A person shall not be appointed to be a member of the Commission if he is, and shall cease to be such a member if he becomes -

# Apakah kelayakkan ahli Suruhanjaya Perkhidmatan Awam?

Perkara 36(3),Ahli Suruhanjaya Perkhidmatan Awam tidak dilantik jika ia:-

- a. Seorang pegawai awam (sedang bercuti sebelum bersara boleh dilantik);
- b. Seorang Ahli Parlimen atau DUN;
- c. Seorang ahli,pegawai atau pekerja pihak berkuasa tempatan;
- d. Seorang mana-mana ahli kesatuan sekerja;
- e. Pemegang apa-apa jawatan dalam parti politik;

# Apakah Fungsi-fungsi Suruhanjaya Perkhidmatan Awam?

## Perkara 37

1. Melantik, mengesahkan, memasukkan ke dalam perjawatan tetap atau perjawatan berpencen, menaikkan pangkat, menukarkan dan menjalankan kawalan tatatertib ke atas anggota-anggota perkhidmatan awam.
2. Boleh menjalankan fungsi lain melalui undang-undang dibuat oleh Badan Perundangan.
4. TYT boleh menetapkan jawatan khas apa-apa jawatan dalam perkhidmatan awam yang dipegang oleh ketua sesuatu jabatan dan dibuat oleh TYT atas syor Suruhanjaya

## Functions of Commission

37. (1) Subject to the provision of the Federal Constitution and of this Constitution, it shall be the duty of the Commission to appoint, confirm, emplace on the permanent or pensionable establishment, promote, transfer and exercise disciplinary control over members of the public service.

(2) The Legislature may by law provide for the exercise of other functions by the Commission.

(3) In Clause (1), "member of public service" does not include any person whose remuneration is calculated at a daily rate, and "transfer" does not include transfer without a change of rank within a department of Government.

(4) The Yang di-Pertua Negeri may designate as special posts any posts in the public service held by the head or deputy head of a department or by an officer who in his opinion is of similar status, and an appointment to any post so designated shall not be made in accordance with Clause (1) but shall be made by the Yang di-Pertua Negeri on the recommendation of the Commission,

(5) Before acting, in accordance with Clause (4), on the recommendation of the Commission, the Yang di-Pertua Negeri shall consider the advice of the Chief Minister and may once refer the recommendation back to the Commission in order that it may be reconsidered.

# Kesimpulan

- Perlembagaan Negeri merupakan dokumen rasmi yang menentukan corak pentadbiran Kerajaan Negeri Sabah.
- Perlembagaan Negeri adalah *living dokumen* di mana peruntukkan yang terdapat dalam perlembagaan ini berkembang mengikut kesesuaian masa.