

SPEECH BY MOHAMAD EZRI B ABDUL WAHAB
PRESIDENT, MALAYSIAN BAR

OPENING OF THE LEGAL YEAR 2025

PUTRAJAYA INTERNATIONAL CONVENTION CENTRE

8 JANUARY 2025

Yang Amat Arif,

Demi manfaat para hadirin yang datang dari negara-negara asing, pada pagi ini, saya dengan rendah diri memohon izin Yang Amat Arif untuk meneruskan ucapan saya dalam Bahasa Inggeris.

Much obliged, My Lady.

I am honoured and privileged to address Your Ladyship and this esteemed assembly on the occasion of the Opening of the Legal Year 2025. It is my distinct pleasure to do so on behalf of the Malaysian Bar, the Advocates Association of Sarawak, and the Sabah Law Society. My esteemed colleagues, Gurvir Singh Sandhu and Mohd Nazim Maduarin, are in attendance, serving as Presidents of the Advocates Association of Sarawak and the Sabah Law Society, respectively.

We take this opportunity to congratulate:

1. YAA Dato' Sri Hasnah Dato' Mohammed Hashim for Her Ladyship's appointment as the Chief Judge of Malaya;
2. YAA Datuk Hanipah binti Farikullah, YAA Datuk Vazeer Alam bin Mydin Meera, and YAA Tan Sri Ahmad Terrirudin Mohd Salleh for their elevation to the Federal Court;

3. The eight judges for their elevation to the Court of Appeal;
4. The nineteen judges for their elevation and appointment to the High Court;
5. The four Judicial Commissioners for their appointment;
6. Dato' Mohd Dusuki bin Mokhtar for his appointment as the Attorney General; and
7. Former Attorney General, Tan Sri Idrus Harun; Retired Federal Court Judge, Tan Sri Datuk Zainun Ali; Former Sarawak Attorney-General, Dato Sri Talat Mahmood Abdul Rashid; and Universiti Teknologi MARA (UiTM) Legal Adviser, Associate Professor Dr. Hartini Saripan, for their appointment to the Judicial Appointments Commission (JAC).

These appointments come at a pivotal moment, reaffirming the importance of a transparent and merit-based process in selecting leaders for key legal and judicial institutions. The continued strengthening of judicial independence, accountability, and effectiveness is not only foundational to upholding the rule of law and ensuring public confidence in the Malaysian judicial system but also serves as a cornerstone for fostering trust and stability within the broader framework of governance. Such trust resonates beyond our borders, reinforcing Malaysia's standing in the international community and creating an environment conducive to long-term growth, innovation, and collaboration, where future opportunities—legal and otherwise—may thrive.

Additionally, My Lady, in attendance this morning are our esteemed colleagues from foreign bars, law societies, and law associations. We have with us:

1. The President of LAWASIA;
2. International Association of Lawyers (UIA);
3. Law Society of Singapore;
4. The Law Society of Hong Kong;
5. Hong Kong Bar Association;
6. Taiwan Bar Association;
7. Bar Association of India;
8. Integrated Bar of the Philippines (IBP); and
9. Law Society of Brunei Darussalam.

We express our utmost appreciation for your presence this morning.

Reflections on Justice and Conflict

My Lady,

I begin with a truth that resonates deeply within our justice system—a truth encapsulated in the Malay proverb, “*Sedangkan lidah lagi tergigit*”, which reminds us that even the closest of relationships can experience discord.

Conflict, it seems, is an inevitable companion in the pursuit of justice. We are no strangers to these challenges. They emerge in the courtroom, within our institutions, and, at times, in society’s very perception of justice. This reality is not a failure but a reflection of the complexity of human interactions and the diverse interests we are called to balance.

The phrase “*fighting for justice*” resonates deeply with us all. Advocacy, by its very nature, is adversarial. It is through the robust contestation of arguments, evidence, and interpretation of the law that we seek the truth and ensure fairness. Yet, this adversarial

process, while necessary, must be tempered. Advocacy must be marked not by acrimony but by integrity, professionalism, and an unwavering focus on the higher purpose—the administration of justice for the greater good.

This is where we see the contrast with mediation. Mediation is not a replacement for litigation; rather, it complements our adversarial system by offering a platform grounded in empathy and reasoned dialogue. It reminds us that justice can also be achieved through understanding, collaboration, and resolution that respects the interests of all parties.

Litigation and mediation serve distinct purposes, but they share common principles: fairness, dignity, and resolution. As custodians of justice, we must ask ourselves a crucial question: *Are we building a system that promotes solutions with compassion and fairness, or one that exacerbates division?*

It is incumbent upon us to resolve disputes in a manner that not only upholds the rule of law but also preserves relationships, restores trust, and strengthens society. For in doing so, we fortify the people’s confidence in our legal system and uphold justice in its truest sense.

Judicial Independence

As we reflect on the pursuit of justice, it is imperative to underscore the paramount importance of judicial independence. The adage, *“Justice must not only be done but must also be seen to be done”*, serves as a timeless reminder that the judiciary must remain beyond reproach, embodying integrity and impartiality. Society’s trust hinges on this perception, and it is our collective duty to ensure that the judiciary remains, as the saying goes, *“whiter than white”*.

To achieve the ideal of “whiter than white”, we must confront the overlap between politics, the judiciary, and the rule of law in Malaysia. Public trust in our

institution is fragile, and restoring it requires transparency and decisive reforms. One critical step is the proposed separation of the roles of Attorney General and Public Prosecutor, a reform I had the privilege of contributing to during its consultation phase. This change is crucial for ensuring impartiality and rebuilding confidence in our legal system.

As Lord Denning wisely remarked:

*'Law does not stand still. It moves continually. Once this is recognized, then the task of a Judge is put on a higher plane. He must consciously mould the law so as to serve the needs of the time. He must not be a mere mechanic, a mere working mason, laying brick on brick without thought to the overall design. He must be an architect-thinking of the structure as a whole-building for society, a system of law which is strong, durable and just. It is on his work that civilized society depends.'*¹

This is particularly relevant to us in Malaysia and across the Commonwealth. Our legal frameworks are inherited, but their interpretation and application must reflect the realities of our society. Judges bear the solemn duty of interpreting laws with wisdom, discernment, and fairness, ensuring that justice is served in both spirit and form.

Let us reaffirm that the independence of the judiciary is not negotiable. It is the bedrock upon which justice stands.

Reforming the Prison System

On to the point on reforms My Lady, just as slavery is now viewed with shock and incomprehension, it is not difficult to imagine that in 100 years, society might look at the current prison system with a similar sense of disbelief. Confining human beings in

¹ As observed in the Patna High Court decision of Nathuni Mian And Ors. vs Amir Hussain And Ors. 1995(2)BLJR1407. Paragraph 16

isolated spaces, often under conditions that fail to rehabilitate or respect basic dignity, may come to be seen as archaic and ineffective.

Given these challenges, alternatives to incarceration, such as restorative justice, community service programmes, and rehabilitation-focused initiatives, present promising options. These models emphasize healing for victims, accountability for offenders, and, crucially, the possibility of redemption. Countries like Norway, which prioritize humane treatment and rehabilitation, report significantly lower recidivism rates, underscoring the efficacy of these approaches.

For Malaysia, the time is ripe to consider serious reforms. A shift towards restorative justice could address underlying issues that lead to crime, such as poverty, lack of education, and mental health struggles. Legislative changes to promote alternative sentencing, investments in community-based programmes, and a focus on rehabilitation over punishment could pave the way for a more compassionate and effective justice system.

The question before us is this: *Do we wish to perpetuate a system that confines individuals to their worst mistakes, or do we seek one that recognizes their potential for redemption?*

Reforming our prison system is not merely a matter of policy; it is a matter of principle. A just society does not merely punish; it seeks to rehabilitate and restore.

Conclusion

As we move into 2025, the Malaysian Bar remains resolute to our duty, as enshrined in the Legal Profession Act 1976. We seek not only to serve the profession but to champion the cause of justice and advocate for necessary legal reforms.

My Lady, allow me to share an observation—one that reflects the evolution of society and norms:

First, we were warned to not get into a car with strangers.

Later, we were warned to not engage with strangers on the internet.

But today, we summon strangers via e-hailing apps and get into a car with them.

This is illustrative of an evolving society. As guardians of justice, let us rise to the challenge of ensuring that our legal system meets the demands of an evolving society while remaining true to its foundational principles of fairness and equity.

A final point My Lady, though the Malaysian Bar has often been accused of being political, as some claim our statements lack neutrality, alleging we either oppose or support the government of the day. The reality, however, is far more nuanced.

We are over 24,000 members strong, with expertise in legal matters that we practise daily. Logic dictates that we are uniquely positioned to assist in shaping and advising on laws that serve society. Yet, we see efforts to marginalize us—either by dismissing our input or consulting us without genuine regard for our views. Even worse, some significant laws are being passed without any consultation with us. This disregard undermines our collective expertise.

Let it be clear: The opinions and contributions we provide are always aimed at ensuring that fairness prevails and that the rule of law is upheld. If this trend continues, these issues will inevitably find resolution in the courts. That is another reason why the independence of the judiciary is paramount—ensuring that society is not led astray by shortsighted objectives, if any, but instead guided by principles of justice and the rule of law.

The Bar remains steadfast in its mission, not for politics, but for the people. Our role is not just to interpret the law but to advocate for laws that are just, inclusive, and reflective of societal needs. Ignoring our voice is a disservice to the very people whom the laws are meant to protect.

To end with a short poem:

In halls where law and truth converge,
Justice stands, its call an urge,
Not to punish, but to restore,
A chance for grace, and something more.

The scales may tip, the times may change,
Yet principles must not estrange,
For as we rise to meet the day,
Justice must lead, come what may”

On behalf of the Malaysian Bar, the Advocates Association of Sarawak, and the Sabah Law Society, I wish members of the Judiciary, the Attorney General’s Chambers, and Members of the Bar a healthy, fruitful, successful, and peaceful year ahead.

Thank you.

Mohamad Ezri b Abdul Wahab
President
Malaysian Bar